



Planning and Zoning Commission Meeting

December 13, 2022

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

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 November 8, 2022, Planning Commission Minutes**
3. **Staff Report**
4. **Revision to Fencing Regulations – Final Draft**
5. **Site Plan Review – 122 N. 169 (former Price Chopper Building)**
6. **Public Hearing**
Rezoning NE corner of Second Creek Bridge Rd. and Lowman Rd. from A-1 to R-1B and R-3.
7. **Rezoning NE corner of Second Creek Bridge Rd. and Lowman Rd. from A-1 to R-1B and R-3.**
8. **Public Hearing**
Preliminary Plat for Second Creek Meadows - **Postpone to January 10, 2023**
9. **Preliminary Plat for Second Creek Meadows – Postpone to January 10, 2023**
Subdivision would create 53 Single Family lots and *17 – multifamily lots
10. **Public Hearing**
Rezoning a portion of 18601 N. 169 Hwy from R-1B to R-3 with a conceptual Plan overlay
11. **Rezoning a portion of 18601 N. 169 from R-1B to R-3 and conceptual plan**
12. **Public Hearing**



Herzog Educational Center Subdivision (1 lot)

13. Herzog Educational Center Final Plat

14. Adjourn

Join Zoom Meeting

[https://us02web.zoom.us/j/8652481
0216](https://us02web.zoom.us/j/86524810216)

Meeting ID: 865 2481 0216

Passcode: 447132



SMITHVILLE PLANNING COMMISSION

REGULAR SESSION

November 8, 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, Billy Muessig, Dennis Kathcart, Deb Dotson, Mayor Damien Boley & Rob Scarborough.

Staff present: Jack Hendrix and Brandi Schuenger.

2. MINUTES

The October 11, 2022, Regular Session Meeting Minutes were moved for approval by MUESSIG, Seconded by KATHCART.

Ayes 6, Noes 0, Abstain 1 (Mayor Boley). Motion carried.

3. STAFF REPORT

HENDRIX reported:

We are at 57 single family residential building permits since January 1, 2022.

The Eagle Ridge subdivision by the high School has sold 2 units and 4 more have contracts.

There has been no change with commercial construction. They are all still trying to finish up construction on the permits that we issued from last year.

Our December Planning and Zoning meeting will consist of: The Herzog Lodge will be back and are requesting to change the zoning with a different

type of conceptual layout. A new residential subdivision on the north side of Second Creek Road will be coming forward as well.

McBee's Coffee N Carwash and Richardson Street Plaza are both under construction.

4. PUBLIC HEARING:

- **REVISIONS TO FENCE REGULATIONS**

Public Hearing Opened

HENDRIX stated that a request was made by a couple of Alderman to put the fence regulations up for discussion related to primarily the definition of decorative fences and whether or not vinyl coated chain link fences should meet that definition. While preparing for this meeting I did a statutory interpretation review of this ordinance which was written in 2003 or 2004. Several other issues were found so if we are going to have this discussion lets fix all of it now. A draft was provided in the packet for the meeting with yellow highlights indicating items that need to be discussed for potential changes. Also, at the Board of Alderman meeting last week someone came in and spoke about electric fences and this is also an item we will discuss.

Patricia Ward—400 Maple Ave—Spoke about the existing fence on her property and provided pictures she had taken of her fence to the commission for them to look at. She has lived in the home her son purchased for her since 2013. She had a black vinyl coated chain link fence installed. She chose this over a grey chain link fence because she didn't like the look of the grey fencing. The black vinyl chain link fence matches the roof and shutters on her house. She didn't need or want a fancy or more decorative fence and thinks it would have looked out of place in her neighborhood. 9 years later we have been notified that a permit was never pulled for the fence installation. I have never had a fence installed and didn't think about asking for a permit. Why must I be penalized 9 years later for this. Many neighbors have told her how nice the fence looks. Did installing this fence deter from the value of the property? I think not. I live on social security and can't afford to tear down this fence and install another

one. Can't I pay the permit fee and any penalty and be allowed to keep my fence? I would also like to ask for a review and a change to the fence code.

Adam Ward—9901 N Revere Ave Kansas City, MO 64154—Stated that he is disappointed that there is no statute of limitation or grandfathering in. He feels that the fence looks great and there are other properties in Smithville that look terrible. They have done nothing but put money into this house and improve it and it doesn't seem fair to wait almost 9 years to audit our location and send a letter in the mail stating we must comply within 30 days. He requested that the commission change the rules and he also ask for an audit of some of the other properties around Smithville.

Public Hearing closed

5. REVISION OF FENCING REGULATIONS

DISCUSSION:

HENDRIX gave a historical explanation of how the fence ordinance in existence today came to be. The packet provided to the commission included the 1966 ordinance, the 1997 electric fence ordinance, and the 2004 ordinance. When he did his statutory interpretation of this code to prepare for this meeting he found several issues that would need to be addressed. As initially indicated, now would be the time to address these issues with a new ordinance regulating fences. The issues to be addressed are as follows:

1. Define the phrase "Decorative Fences" to include or exclude those provisions deemed appropriate.
2. Determine if front yard fences on all lots is allowable if they meet the new "Decorative Fences" definition.
3. Describe the circumstances when lots with multiple "front yards" may vary the decorative fences provisions.
4. Should the electric fence provision be incorporated into the overall fence regulation scheme?
5. If it is incorporated, should the electric fence provisions be amended?

6. Should the ban on barbed wire fences in all districts except agricultural be adjusted to include industrial and/or commercial?

WILSON suggested the commission discuss Item # 1: Define the phrase "Decorative Fences" to include or exclude those provisions deemed appropriate.

ALDERMAN CHEVALIER stated that from the pictures Mrs. Ward passed around he doesn't feel that the vinyl coated chain link fence looks bad.

KATHCART agreed.

ALDERMAN CHEVALIER stated that he would like to see that this type of fence is allowed but only as long as we have provisions that require they maintain it.

KATHCART stated only specifically vinyl coated chain link. You can't have vinyl coated wire mesh.

WILSON agreed. She thought the fence in the pictures looked very nice.

HENDRIX asked if we will only allow black vinyl coating or are other colors ok?

ALDERMAN CHEVALIER asked if people could paint a picket fence other colors?

HENDRIX stated yes. We don't regulate that.

ALDERMAN CHEVALIER stated that there is no difference then.

KATHCART stated that we need to state commercially coated and not painted.

SCARBOROUGH stated that he doesn't want to bog us down with specifying certain colors.

ALDERMAN CHEVALIER stated that we should just say "well maintained professionally vinyl coated chain link fence".

HENDRIX stated that we have a property maintenance code that requires that fences be maintained and it would be addressed that way. We are now seeing 2" or 3" square cattle panels being used for guards on decks and are now also being used in fences and are completely encased in wood. In these scenarios they are not vinyl coated. Wire mesh would be chicken or rabbit fencing. There is also safety fencing which is green and orange in color.

DOTSON stated that all of the materials he just mention would not be considered decorative.

HENDRIX stated that is the question. Is it decorative or is it not? Generally, depending on the person putting it up everything would be considered decorative. It's another one of this vague terms. What I need to know is if you have problems with all wire or wire mesh.

MAYOR BOLEY and SCARBOROUGH stated that it looks good on decks.

KATHCART stated that it should not be allowed on fencing.

HENDRIX stated that he just wants to be sure that we are excluding what we want to be excluded. These wire cattle panels are starting to become more popular and if we are going to allow or exclude them now is the time to do that. If adding vinyl coated chain link as an approved material is the only change he can do that very easily.

DOTSON stated that in her opinion it should be the only change.

WILSON stated that she believes we have given the answer to Item # 1. Let's move on to Item # 2: Determine if front yard fences on all lots is allowable if they meet the new "Decorative Fences" definition.

HENDRIX stated that with our current code if you live in the middle of a block you are not allowed to have a fence in the front yard. It was never intended to do that because they were issuing permits for fences in front yards when I got here. They even allowed them to be chain link. Non decorative. The decorative only applied to corner lots. Everything they tried to do they screwed up in that ordinance and in enforcement afterward. Adding the vinyl coated stuff will allow us to clean it up. The definition of a front yard fence in the draft ordinance I have provided you is: A decorative or ornamental fence located in a front yard that contains or abuts an

adjacent lot that contains, the primary entrance to the building or a driveway access to the lot, or both.

DOTSON believes it would be fine as long as it meets the decorative standards.

The rest of the commission agreed.

HENDRIX stated that the commission has also provided what he needs for Item # 3: Describe the circumstances when lots with multiple "front yards" may vary the decorative fences provisions. By the direction he was given for Items # 1, # 2. Item # 3 has been answered as well.

WILSON moved on to discuss Item # 4: Should the electric fence provision be incorporated into the overall fence regulation scheme?

HENDRIX stated that this one was a head-scratcher to him. It never went to the Planning Commission in 1997 and went straight from the Board of Alderman. I didn't see anything in the minutes of the meetings before it and I don't know where it came from. There's no record of how it was brought forward but it went directly to the Board of Aldermen and interestingly enough they use all kinds of references to the zoning code in it but it's not a zoning ordinance because it's a different type of construction ordinance. With that being said it would make sense bring it into the zoning ordinance if we want to go there. The reason it is on the agenda is because at a recent Board of Alderman meeting a local business owner who has a business in the Industrial district spoke and would like to install an electric fence. He recently had a break in and they stole a bunch of parts off of cars in his lot. He said that electric fences in other communities are allowed and asked why he can't do it. Both times he has asked over the last 8 years we informed him because electric fences aren't allowed unless you have a farm and even then it's got to be 75 ft away from your property.

ALDERMAN CHEVALIER asked if with this electric fence he is looking to install is it 75 ft away from his property or what does that mean exactly?

HENDRIX stated that he is not a hundred percent certain and the secondary aspect of it is I can't answer that question because the business owner doesn't even know. He just said that he wanted to install one. He said that he could install it inside the existing chain link fence or wherever. I told him he could do it if it was allowed.

DOTSON stated that she could understand why someone would want to install it but on the other hand we don't want someone getting hurt.

HENDRIX stated that it's security versus safety. He understands the debate. How do other communities handle it? It's literally all over the board.

ALDERMAN CHEVALIER stated that we also run into this issue in an agricultural area too, right? If the ag space is next to a neighborhood you can still have people and kids wandering off to touch an electric fence.

DOTSON stated that her neighborhood borders some ag property with mules and horses. It has an electric fence. It's not going to hurt anybody it's just going to give somebody a good strong tingle but it won't kill them or give them a heart attack.

MUESSIG asked if he is wanting something like an electric prison fence?

HENDRIX stated that all he has requested is to be allowed to have an electrified fence.

ALDERMAN CHEVALIER stated that from what I gather he's going to continue to have the regular fence but he wants to also have an inside perimeter electric fence.

MAYOR BOLEY stated that if you can cut through one fence can't you cut through another. Wouldn't insulated cutters cut through an electric fence?

HENDRIX stated that there is a secondary aspect of it that I want to highlight. If we're drafting an ordinance for one piece of property were falling down a trap that will come back and bite us. We need to look at it from a broader perspective.

MAYOR BOLEY stated that if you have the equipment to cut off converters in minutes to get in and out you probably have the equipment to get through an electric fence. So what is this solving?

ALDERMAN CHEVALIER asked if this ordinance is somehow prohibiting others from wanting to bring a business to the industrial area of Smithville.

MUESSIG stated that he doesn't think we should have any fences in Smithville that will do damage to a person if they touch it.

ALDERMAN CHEVALIER stated that we don't have to allow a fence that is that severe right? What is the plan? Can we not have it the same as an ag fence or similar in scope?

DOTSON stated that an ag fence won't slow anyone down.

ALDERMAN CHEVALIER stated that to be honest he doesn't really know what this business owner wants.

MUESSIG stated that he doesn't either. An ag fence is a pulsating 15,000 volt fence and is .0003 of an amp. So, no it's not going to kill you but you will feel it. You can hold on to it and it does hurt but you can move on about life. But if we are talking about a prison fence, that's about 12,000 volts and about 100 amps. You will not walk away from that.

HENDRIX stated the other aspect of it is a security fence has multiple meanings and in addition to the electric provisions there's barbed wire and razor wire scenarios that could be added. The draft that I've provided incorporates the potential of using barbed and razor wire in an industrial district and barbed wire only in commercial districts. With Industrial we generally won't have any single family housing or apartments immediately adjacent to it. We will with commercial but commercial has security concerns as well. So, if they have one can they put a barbed wire security fence around the top as long as it leans in?

MAYOR BOLEY stated like the 3 lines of barbed wire along the top.

MUESSIG asked if it could lean out as well.

HENDRIX stated that if it leans out it's over onto the next door neighbor's property.

MUESSIG stated that when they build a fence they would need to make sure to set the fence inside a little.

ALDERMAN CHEVALIER asked if whatever decision is made here it can still go to the Board of Alderman and they can make a determination or is this going to be the final answer?

HENDRIX explained that everything this commission does is a recommendation only. It then goes to the Board for final approval. The

Board can say that they disagree and can change it all they want. Ultimately they just need to take your recommendation into consideration.

ALDERMAN CHEVALIER asked Mayor Boley what the direction from the Board was? Was it to have it come here first and then go to the Board?

MAYOR BOLEY stated that with electric fences we weren't really going to discuss that today. What Jack is saying is that electric fences isn't a part of the current Planning and Zoning code. It's part of the Board of Alderman and their decision. What Jack is asking is should the electric fence provisions be incorporated into the overall fence regulations. Because right now it's not.

ALDERMAN CHEVALIER said if we say no here then the Board is still going discuss this.

MAYOR BOLEY said yes.

SCARBOROUGH asked if this would include buried fences?

MAYOR BOLEY stated like dog remote fences.

HENDRIX stated from his perspective they are electrified but they would not be included. If you read the ordinance on electric fences they are a danger to people. Those fences are not.

WILSON asked the commission if the consensus on electric fences is no?

All commission members agreed.

HENDRIX stated that electric fences will stay under the miscellaneous construction ordinances and not under the Planning and Zoning purview. Moving on, if the answer to Item # 4 is no, then Item # 5 is irrelevant.

WILSON moved on to discuss Item # 6: Should the ban on barbed wire fences in all districts except agricultural be adjusted to include industrial and/or commercial?

HENDRIX stated we have numerous commercial and industrial type fences currently that have the barbed wire on them.

MAYOR BOLEY stated doesn't the storage facilities have them? Doesn't CPC have to have them due to the State regulations?

HENDRIX stated yes, the state regulations in industrial require it to a certain extent.

WILSON asked if at the storage facilities are they 6 foot or are they taller?

HENDRIX stated that some are 6 foot and some are 8 foot tall.

WILSON asked if 6 foot was tall enough or if they needed to be taller.

HENDRIX stated that the other aspect of it is, in my definitions in here it's 8 foot in industrial and 6 foot in commercial. The security apparatus couldn't be farther out than the fence and that it leaned in. I have heard tonight from several of you that those fences should lean out. If this is the case I can change the language to state that it cannot be farther out than the property line which means they will have to set their fence back so that the security apparatus doesn't lean into the neighbor's property. If the apparatus hangs out 18 inches then the fence has to be installed 18 inches inside the property line. These provisions related to barbed wire, etc., would not change the other regulations so a 4-foot fence in the front yard applies across the board. All of that still is the same.

MAYOR BOLEY asked that we make sure if we do go forward with this we exclude the B-4 district. That is still considered commercial but we don't want barbed wire downtown.

HENDRIX stated yes. He would suggest that we only allow it in B-3 because they are the ones that will most likely use it. Also, in any Industrial district. B-2 is offices and B-1 is real low impact stuff that's going to be right in the middle of residential.

DOTSON asked if barbed wire included razor wire.

MAYOR BOLEY said no.

HENDRIX asked if razor wire is something they would allow in Industrial?

WILSON stated that she doesn't think it matters.

MAYOR BOLEY agreed. You just want security.

MUESSIG he feels it doesn't matter if it's industrial. Gerber Collision and Glass on 169 Hwy has a chain link fence with wire on the top of it. I don't know that it's razor wire.

MAYOR BOLEY stated that he doesn't think that it's razor wire.

HENDRIX stated that this highlights an issue. Any fence built prior to 2004 when the ordinance came in and started requiring permits for them, it was kind of Katy bar the door because there was no permit required. There was literally two people in that entire department. One was the building inspector and the other was the Development Director. So, the ability to check the 9 1/2 miles for new fences as they popped up just didn't happen.

WILSON stated that if we allow razor wire in B-3 should the fence height be raised to 8 foot. With Item # 5, do we need to change it or is it ok?

MAYOR BOLEY stated that we just need to give Jack some parameters and let him give us a draft.

HENDRIX stated if the commission doesn't want razor wire it will be removed out of the language in all aspects of it. If the security apparatus part of the fence sticks out we will adjust it to where that doesn't hang over onto the neighbor's property.

MUESSIG stated that he doesn't think it matters in the B-3 district since you won't have residential people walking by. I just don't think it's much of an issue.

HENDRIX stated that from his perspective I don't think razor wire is necessary.

MAYOR BOLEY stated that he thinks razor wire would be more of a deterrent if it's on the ground in front of you than an electric fence.

HENDRIX stated that if we eliminate razor wire we are then talking about allowing barbed wire only with a security apparatus at the top of the fence that leans out so that it's harder to climb. We will also require that the fence is installed in a manner that doesn't allow that security apparatus to go over

on the neighbor's property. The last question is if a maximum height of 8 foot for the fence and then have the security apparatus on top in B-3 is ok only if it's a security fence. Or a maximum height of 6 foot for the fence and then have the security apparatus on top.

MUESSIG stated that he thinks 8 foot maximum should be allowed.

KATHCART stated up to 8 foot maximum.

HENDRIX stated it will be 8 foot maximum in Industrial and B-3 only with a security apparatus including barbed wire.

MUESSIG stated that he believes the security apparatus should be limited to 18" to 24". If we don't limit that as well someone will take advantage of that.

HENDRIX stated that he has enough information to have a draft ready for the commission's final review at our December Planning and Zoning meeting.

8. ADJOURN

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

VOICE VOTE: UNANIMOUS

CHAIRMAN WILSON declared the session adjourned at 7:59 p.m.



Date:	December 8, 2022
Prepared By:	Jack Hendrix
Subject:	Fence Ordinance Revisions

Following the November Planning and Zoning Commission meeting, I consolidated all of the comments provided at that meeting. I have attached for your final review and recommendation the attached draft ordinance. Here is a summary of those changes:

We've added a definitions section inside this ordinance that allows for a consistent method to apply the "front yard" rules we've discussed.

Changed the layout of the provisions to clarify the true intent of the decorative or ornamental restrictions to apply to ALL front yard fences.

Added provisions to allow barbed wire fencing in the Industrial and B-3 districts, but only as a component of security fences. Several other barbed wire specific provisions were added to ensure the security fencing did not cross boundary lines in any measure.

Clarified the maximum fence height provisions as 8 feet in industrial areas, six feet in all other areas, except if a B-3 property would install barbed wire security components, that then the fence can be 8 feet tall, with barbed wire above that height. The intent is to allow security fencing, but to keep the height of the barbed wire portions at 8 feet or higher.

Clarified the 15% rule on repairs was specifically intended to vary from the standard rules in the non-conforming structures provisions later in the code.

Section 400.350. Fences

- A. Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:
1. As used in this Chapter, the following terms shall have the meanings indicated:
 - a. Fence, decorative or ornamental
A fence constructed of wood, metal, vinyl, vinyl coated chain link or a combination of such materials that is not more than four (4) feet in height and is at least fifty percent (50%) open OR is a stone or brick wall that does not exceed three (3) feet in height. Non-coated chain-link, or wire, wire mesh, snow fences or fences constructed in any part with such materials shall not be considered decorative or ornamental.
 - b. Front Yard Fence
A decorative or ornamental fence located in a front yard that contains or abuts an adjacent lot that contains, the primary entrance to the building or a driveway access to the lot, or both.
 2. All fences erected in the City of Smithville must have a permit, except those in the agricultural districts. Applications for a fence permit shall be accompanied by a general layout of the property indicating the location of the fence to be erected on the lot.
 3. All fences shall conform to the requirements of the sight triangle as defined by these regulations. For purposes of these fence regulations, an alley shall also be subject to the sight triangle regulations at an intersection with a public street.
 4. No fence shall be constructed which will constitute a traffic hazard nor shall be constructed within one (1) foot of any street right of way.
 5. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous. This would include barbed wire, electrically charged or otherwise detrimental to persons, except as stated herein. Barbed wire fences may be constructed in the agricultural districts; and barbed wire may be used in the industrial districts and the B-3 district, but only as a component of security or anti-climb fences with such component not less than eight (8) feet above the outside adjacent grade. The use of barbed wire arms are limited to those not larger than 18", and upon attachment of the arm, the extended portion of the arm and wire shall not extend beyond any property lines.
 6. No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than eight (8) feet *in the industrial districts*, not including barbed wire arm attachments on security fences, which may extend an additional two feet. In the business and residential districts, fences shall not exceed six (6) feet in height, except for hedges and shrubs, which do not have a height restriction, except as noted otherwise in this Chapter. In the B-3 district, any security or anti-climb

fence that includes barbed wire tops may be constructed up to eight (8) feet tall and the barbed wire security component may extend an additional two (2) feet above the standard height.

7. All fences shall be constructed to face the neighboring property with its structural elements on the building side of the fence. A shadow-box style fence shall be considered compliant with this provision.
8. On lots with more than one Front Yard (e.g., Corner lots or double frontage lots) as defined in this Chapter shall construct a front yard fence as defined herein where required and rear and side and rear yards may have other fences that meet the standards of this section.
9. These fence regulations are independent of any rules or regulations imposed by homeowners' associations or other agencies not affiliated with the City of Smithville.
10. Any provision of §400.575.C. to the contrary notwithstanding, the repair or replacement of fifteen percent (15%) or more of any portion of an existing fence shall trigger the requirement that the entire fence be brought into compliance with this section.

	STAFF REPORT
Date:	12-19-22
Prepared By:	Jack Hendrix
Subject:	122 N. 169 (Old Price Chopper bldg.) Site Plan

Applicant has submitted plans to make changes to the façade of the existing Price Chopper building. The proposed changes would include adding seven new entrances along the east façade to accommodate 7 new tenant sites, along with new entrances west of the original entrance on the south façade for an additional tenant. The original entrance area is currently used as the entrance into the new auto parts store. In addition, the existing canopy and color scheme will be changed.

There will also be changes to the current paved areas. On the street side, a paved “front walk” area will be created to allow access into the building with ADA compliance. This involves adjusting the parking spaces back a few feet. To accommodate the needed room, the curb on the east side of that area will also be adjusted. ADA complaint parking will be added facing the building on the north and the south areas in order to access the new tenant areas as well. Lastly, the proposed colors of the EIFS siding is earth toned, meeting the current requirements. Due to the limited area and ingress/egress visibility, no landscaping trees and shrubs is recommended.

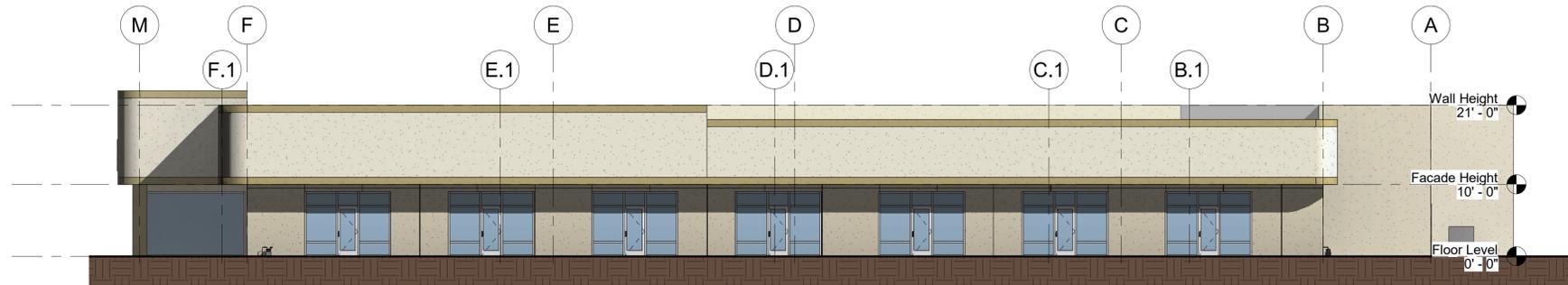
In an addition or modification scenario, the purpose of this review is to verify the addition will not bring the overall building/project out of compliance with the code. In this case, the contrasting style, material and color scheme actually upgrade the buildings’ compliance with the code.

Staff recommends approval of the proposed additional in accordance with he plans. This approval is solely for the site plan portion of the project. The building construction plans will be subject to both City and Fire District review and approval.

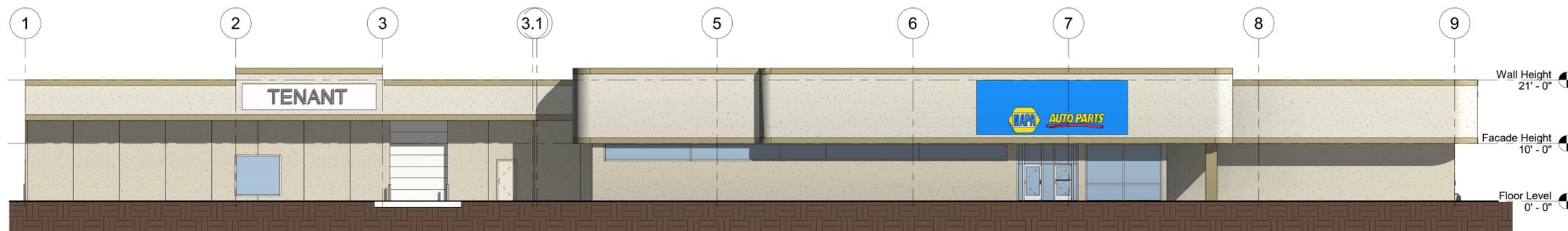
/s/

Jack Hendrix

Development Director



① East Color
3/32" = 1'-0"



② South Color
3/32" = 1'-0"

Scharhag
HERMANA SCHARHAG COMPANY ARCHITECTS

6247 Brookside Blvd, #204 Kansas City, Mo 64113
Phone: 816-656-5055 Scharhagarch@gmail.com

WHITE BOX TENANT WORK FOR

PRICE CHOPPER REMODEL

122 US 169 HIWAY, SMITHVILLE, MO

JOSEPH A. TOWNS MO. LIC. E 22017
LORAC DESIGN GROUP
CERT. OF AUTHORITY E-2005032846-D



No.	Description	Date
Revision Schedule		

Colored Elevations

Project number 2296
Date 10.31.2022

A202

Scale 3/32" = 1'-0"

10/31/2022 2:23:49 PM



STAFF REPORT
December 9, 2022
Rezoning of Parcel Id # 05-504-00-01-010.01

Application for a Zoning District Classification Amendment

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: Second Creek and Lowman Rd.
Owner: LMW Investments
Current Zoning: A-1
Proposed Zoning: R-1B and R-3

Public Notice Dates:

1st Publication in Newspaper: November 24, 2022
Letters to Property Owners w/in 185': November 28, 2022

GENERAL DESCRIPTION:

The applicant seeks 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.

EXISTING ZONING:

The existing zoning predates the annexation into the city limits.

CHARACTER OF THE NEIGHBORHOOD *400.560.C.1*

The surrounding area is generally large parcel agricultural land with a total of 3 houses adjacent to the overall parcel. In addition, the zoning map shows

unincorporated county land to the south, commercial to the east, and R-3 multifamily to the west, across Lowman Road. The existing houses are all located on lots larger than 3 acres.

CONSISTENCY WITH COMPREHENSIVE PLAN AND ORDINANCES *400.560.C.2*

The existing Comprehensive Plan was approved on November 10, 2020 and adopted as the Board policy on November 17, 2020. This parcel adjoins what is identified as the Downtown District Overlay with intended increased density and uses. This parcel would meet the infill recommendations of vacant land between existing developments by approaching the Stone Creek Villas and Cedar Lakes Estates developments to the west. It would also improve connectivity between the areas.

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

Streets and Sidewalks:

An development would be required to improve the adjacent streets, and depending upon the timing of any construction, would also be responsible to install some of the proposed 8' multiuse trail/sidewalk along Second Creek in the City's near future plans.

Water, Sewer and Storm water

The city recently completed the South Sewer Interceptor project through a portion of this parcel, so the land is ideally located for sewers. Water is located on both street sides of the lot, and any upgrades needed will be the developer's responsibility. The property includes both floodplain and floodway areas, so all stormwater will flow directly into the floodplain and not impact adjacent properties. Any such impacts will be handled in the normal subdivision platting process, but the existing systems are more than adequate.

All other utilities

Future Development will be conditioned upon installation of all other needed utilities at the cost of the development.

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

The current use is A-1, agricultural that was recently sold and divided off of the original owner's house. The property's location is ideal for residential

development with the new sewer interceptor, with new users assisting in paying for those improvements.

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

The property was zoned to its' existing district classification when annexed. Only a couple of houses, on septic systems, were constructed. The property is also just south of the city's sewer treatment plant, so the land has only been used as farm ground.

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

The proposed districts would, at full build out, have a density of 2.7 units per acre, which is less dense than most of the new developments over the last several years. This density (which includes the 17 multifamily lots) has not shown to be incompatible with larger lot housing anywhere in the city and when viewed on a larger scale, is very compatible with the entire area.

EXTENT WHICH THE AMENDMENT MAY DETRIMENTALLY AFFECT NEARBY PROPERTY *400.560C.7*

No detrimental effects are known.

WHETHER THE PROPOSAL HAS A DISPROPORTIONATE GREAT LOSS TO ADJOINING PROPERTY OWNERS RELATIVE TO THE PUBLIC GAIN *400.560.C.8*

With no detrimental effects known, no great loss is expected.

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed district based upon compliance with the Comprehensive Plan recommendations.

Respectfully Submitted,

Zoning Administrator

FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: LMW, Inc.

Land Use Proposed: R-1b and R-3

Zoning: A-1

Property Location: NE corner of Second Creek and Lowman Roads

Pursuant to the provisions of Section 400.560(C) of the Smithville Code, the Planning Commission does hereby make the following findings of fact based upon the testimony and evidence presented in a public hearing of the Planning and Zoning Commission of the City of Smithville, held on December 10, 2022, and presents these findings to the Board of Aldermen, with its' recommendations on the application.

Finding of Facts

1. *Character of the neighborhood.*
The surrounding area is a mix of a few single-family houses on agriculturally zoned land, R-3 land to the west across Lowman Road and farmland in unincorporated Clay County to the south. Significantly larger residential subdivisions lie just west of the parcel, and the proposed Downtown overlay district is to the east.
2. *Consistency with the City's Comprehensive Plan and ordinances.*
A. The existing Comprehensive Plan was approved on November 10, 2020 and calls for an overlay district for expanding downtown to just east of the boundary with Second Creek itself. The proposed density in the proposed subdivision is less than most other new subdivisions proposed in the recent past and completes infill development between the expanded downtown and the dense subdivisions to the west.
3. *Adequacy of public utilities and other needed public services.*
The application is to rezone to allow a 53 single-family and 17 multifamily lot subdivision to be constructed. All utilities and services are available currently, but must be extended through this facility at the applicant's sole cost and expense.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*
The current use is farm/pasture, but the subject portion of the land is undeveloped.

5. *Length of time the property has remained vacant as zoned.*
The property was zoned to the existing district classification when annexed into the city. With the recent completion of gravity sewers along the property near the river, the land has become more developable.
6. *Compatibility of the proposed district classification with nearby properties.*
The adjacent land (other than 3 houses on lots larger than 3 acres) is undeveloped farm or pasture land. Nearby is commercial land on the east, R-3 multifamily across Lowman Road with two larger subdivisions to the west of that land. The city's sewer treatment plant is just north of the subject parcel as well.
7. *The extent to which the zoning amendment may detrimentally affect nearby property.*
No detriment is anticipated to the adjacent housing or vacant lands.
8. *Whether the proposed amendment provides a disproportionately great loss to the individual landowners nearby relative to the public gain.*
No loss to landowners is expected.
9. That in rendering this Finding of Fact, testimony at the public hearing on December 10, 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 R-1B and R-3 is governed by Section 400.620 of the zoning ordinance of Smithville, Missouri.
- B. The proposed zoning is compatible with the factors set out in Section 400.560(C) of the zoning ordinance.
- C. The Planning and Zoning Commission of the City of Smithville, Missouri does recommend approval of rezoning the property to R-1b and R-3 as shown on the proposed preliminary plat.

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 the property at the northeast corner of Second Creek and Lowman Roads on October 14, 2022; and

WHEREAS, the public was notified by publishing in the CT paper on November 24, 2022 and notices were mailed to adjoining property owners more than 15 days prior to the December 10 hearing.

WHEREAS, a Public Hearing was conducted before the Planning Commission on December 10, 2022; and

WHEREAS, the rezoning is to create a residential subdivision with both R-1b single family and R-3 lots for a total of 87 dwellings on 32.04 acres; and

WHEREAS, the Planning Commission presented its' findings to the Board of Aldermen and recommended approval of the rezoning request; and,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI, THAT:

Section 1. Having received a recommendation from the Planning Commission, and proper notice having been given and public hearing held as provided by law, and under the authority of and subject to the provisions of the zoning ordinances of the City of Smithville, Missouri, by a majority council vote, the zoning classification(s) or district(s) of the lands legally described hereby are changed as follows:

The property legally described as:

Beginning at the Center of Section 22, Township 53 North, Range 33 West, Smithville, Clay County, Missouri: thence along the West line of the Northeast Quarter South 00 degrees 14 minutes 39 seconds West, 891.19 feet to the Point of Beginning; thence departing from said line North 86 degrees 33 minutes 30 seconds East, 158.95 feet; thence North 71 degrees 05 minutes 54 seconds East, 32.66 feet; thence North 60 degrees 12 minutes 57 seconds East, 32.75 feet; thence North 46 degrees 27 minutes 34 seconds East, 32.75 feet; thence North 26 degrees 21 minutes 27 seconds East, 34.42 feet; thence North 02 degrees 30 minutes 52 seconds West, 81.85 feet; thence North 42 degrees 49 minutes 26 seconds East, 107.94 feet; thence North 15 degrees 12 minutes 59 seconds East, 33.30 feet; thence North 10 degrees 37 minutes 40 seconds West, 80.63 feet;

thence North 35 degrees 27 minutes 45 seconds West, 21.62 feet; thence North 59 degrees 42 minutes 09 seconds West, 76.49 feet; thence North 02 degrees 32 minutes 45 seconds West, 178.55 feet; thence South 88 degrees 26 minutes 47 seconds East, 141.04 feet; thence North 77 degrees 48 minutes 48 seconds East, 79.58 feet; thence North 54 degrees 21 minutes 27 seconds East, 148.47 feet; thence North 72 degrees 21 minutes 17 seconds East, 54.97 feet; thence North 81 degrees 50 minutes 29 seconds East, 104.14 feet; thence South 84 degrees 13 minutes 11 seconds East, 45.70 feet; thence South 16 degrees 43 minutes 53 seconds West, 42.65 feet; thence South 69 degrees 55 minutes 24 seconds East, 294.94 feet; thence North 84 degrees 13 minutes 27 seconds East, 380.00 feet; thence South 35 degrees 57 minutes 59 seconds East, 181.79 feet; thence South 58 degrees 23 minutes 08 seconds East, 195.06 feet; thence South 72 degrees 51 minutes 44 seconds East, 218.40 feet; thence South 36 degrees 05 minutes 11 seconds West, 223.71 feet; thence South 44 degrees 41 minutes 46 seconds West, 76.13 feet; thence South 56 degrees 48 minutes 44 seconds West. 50.08 feet; thence South 42 degrees 13 minutes 07 seconds West, 204.68 feet; thence South 11 degrees 53 minutes 00 seconds East, 114.56 feet; thence North 88 degrees 46 minutes 08 seconds West, 301.07 feet; thence South 05 degrees 07 minutes 36 seconds West, 223.86 feet; thence North 89 degrees 59 minutes 07 seconds West, 269.20 feet; thence North 00 degrees 28 minutes 10 seconds West, 330.01 feet; thence North 89 degrees 59 minutes 13 seconds West, 330.22 feet; thence South 00 degrees 30 minutes 25 seconds East, 330.00 feet; thence North 89 degrees 59 minutes 07 seconds West, 639.40 feet to the West Quarter Corner of the Southeast Quarter; thence along said West line of the Northwest Quarter of the Southeast Quarter North 00 degrees 14 minutes 39 seconds East, 436.76 feet to the Point of Beginning.

is hereby changed from A-1 to R-1B and R-3 in accordance with the attached proposed plat.

Section 2. Upon the taking effect of this ordinance, the above zoning changes shall be entered and shown upon the "Official Zoning Map" previously adopted and said Official Zoning Map is hereby reincorporated as a part of the zoning ordinance as amended.

Section 3. This ordinance shall take effect and be in full force from and after the approval.

PASSED THIS _____ DAY OF _____, 20_____

Damien Boley, Mayor

ATTEST:

Linda Drummond, City Clerk

First Reading: / /

Second Reading / /



STAFF REPORT
December 9, 2022
Rezoning portion of Parcel Id # 05-301-00-01-005.00

Application for Rezoning District Classification Amendment and Overlay District

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: NE corner of 18601 N 169 Hwy
Owner: Diocese of Kansas City-St. Joseph
Current Zoning: R-1B
Proposed Zoning: Part of R1B to 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 has a contract to purchase an 8-acre parcel from the current Catholic Church site for the purpose of constructing what is now described as an education center and dormitory. The facility would include both dormitory rooms for students attending the facility's training and classes, as well as some meeting rooms. The property is along N. Main Street and lies south of the Stanley M. Herzog Charitable Foundation offices and the cabins. Currently, the Foundation lot is zoned B-2, but the proposed use of a dormitory and educational facility can be constructed on R-3. This will require rezoning this new lot to R-3.

In order to accommodate some of the identified neighbor and commissioner concerns from its' previous B-3 request, the applicant has submitted a conceptual plan overlay to be included. That overlay specifically restricts the permitted uses by eliminating all uses listed in the R-3 district permitted uses,

paragraph 5, except dormitories, as well as excluding all conditionally permitted uses except those identified in paragraph #2 related to religious, educational and social facilities.

The overlay also adjusts the setbacks from 55' (front) and 7.5' (side) to 100' and 40' respectively.

EXISTING ZONING:

The existing zoning is R-1B with a church constructed on the lot.

CHARACTER OF THE NEIGHBORHOOD *400.560.C.1*

The surrounding area is a mix of R-1 single family housing to the south of the Catholic Church, as well as many acres of undeveloped land to the south and east. The lot north is B-2 and houses the Foundation offices and the four cabin buildings.

CONSISTENCY WITH COMPREHENSIVE PLAN AND ORDINANCES *400.560.C.2*

The new Comprehensive Plan was approved by the Planning Commission on November 10, 2020 and adopted as the Board policy on November 17, 2020. This Comprehensive plan was adopted following the change in zoning of the current Herzog Foundation to B-2. This new plan is like previous versions of the Comprehensive Plan in that it describes the process of using the plan in rezoning decisions. "When property owners and developers request zoning changes, th[e] Future Land Use Map is one of the key considerations for the zoning recommendation with the Planning and Zoning Commission's and the Board of Aldermen's decisions and other principles in this Comprehensive Plan." *Comprehensive Plan 2030*, pg. 43.

The new Comprehensive Plan includes a new Future Land Use Map shown below, with a color-coded key to the side.



The property subject to this rezoning request is roughly the area located with the black outlined mark and contained in land described as Institutional, Civic. "Civic and Institutional uses include, but are not limited to, educational facilities and campuses, libraries, places of worship, and other community-oriented areas." *Comprehensive Plan 2030*, pg. 46-47. Please note that the B-2 property to the north originally included a B-3 parcel that was down-zoned to B-2 and increased from 2.25 to 8 acres. This proposal would increase the size of the developed area by its' proposed 8 acres and increase the zoning level to R-3 (previous submittal was B-3) with a conceptual plan. With its' conceptual plan submittal, the applicant clearly identifies how it proposes to develop the area. The proposed conceptual plan does not seek nor will it be granted site plan approval of any buildings. Any actual construction would again be subject to the site plan review process. That process also now includes off-street and on site public improvements triggered by the subdivision code. These facts are what must be used to determine if the suggested change meets the definition of Civic or Institutional Uses as described in the Comprehensive Plan or that meets the overall intent of the plan is a decision that the Planning Commission must evaluate and decide prior to its' recommendation to the Board of Aldermen.

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

Streets and Sidewalks:

The adjacent street (N. Main St.) is an open ditch chip seal street that is otherwise unimproved. There will be a sidewalk along the west side of N. Main St. on the Herzog Foundation Lot that this lot can access. If approved, the site plan review process, which now incorporates all aspects of the subdivision code requirements should be used for guaranteeing upgrades to those streets and sidewalks.

Water, Sewer and Storm water

The city has adequate water supply on the east of the parcel and sewer bisects the property already. A storm study will be required as a part of the site plan process prior to any construction.

All other utilities

Future Development will be conditioned upon installation of all other needed utilities at the cost of the development.

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

The current use is as a church facility to the west, but the subject property is undeveloped land.

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

The property was zoned to the existing district classification of R-1B in 2004 for the Rock Creek Subdivision. In 2009, after the housing bubble burst no construction occurred in the brand-new residential development, the future development area of the subdivision was acquired by the Catholic Church and the church was constructed.

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

The adjacent land (except the church and applicants' other facilities to the north) is either residential, or vacant, undeveloped land, with a future land use designation of either agricultural or residential. The intended district will expand the impact of the uses from the original impacted area of 188th St. and 169 Hwy, but proposed gates on the Main Street side will limit the traffic impact.

EXTENT WHICH THE AMENDMENT MAY DETRIMENTALLY AFFECT NEARBY PROPERTY *400.560C.7*

To the extent that the adjacent land is undeveloped but intended to be either residential or agricultural in use, any detrimental effects are not known, but it could impact the future development of that land due to the proximity of the use. Again, the compliance with the Comprehensive plan and its' Future Land Use Map is the up to the Commission for its' recommendation to the Board

WHETHER THE PROPOSAL HAS A DISPROPORTIONATE GREAT LOSS TO ADJOINING PROPERTY OWNERS' RELATIVE TO THE PUBLIC GAIN *400.560.C.8*

Without a specific determination as to Comp plan compliance, any detrimental effects would be prospective and any loss would be to a future development plan, so, no great loss is expected.

STAFF RECOMMENDATION:

Staff recommends that the Commission base its' decision using the decision-making infrastructure included in both the zoning ordinance and the Comprehensive Plan. The question is whether increasing the intensity of use of land that is further away from the high traffic of 169 and 188th St. meets the new Comprehensive Plan 2030 recommendations on density. Staff's findings and recommendations are based upon the current code requirements contained in the Site Plan Review provisions of the code that identifies street improvements and storm water protections be constructed in accordance with the Subdivision Code requirements.

Respectfully Submitted,

Zoning Administrator



Herzog Education Center

Planned Development Overlay: Concept Design

December 13, 2022



FOUNDATION MISSION:

ADVANCING CHRISTIAN EDUCATION

The Stanley M. Herzog Charitable Foundation's mission is to catalyze and accelerate the development of quality Christ-centered K-12 education so that families and culture flourish.





HERZOG EDUCATION CENTER:

We provide training, events, and conferences to better train leaders who are molding the next generation. These events will be a time to share best-practices and cutting-edge ideas from national thought leaders. Focuses will include institutional management, classroom management, civics education for public and private school educators, and leadership training for civic leaders.





STABLE AND RELIABLE PRESENCE

The mission and activities of The Herzog Foundation and Herzog Education Center will be a stable and reliable presence in the community.

MISSION DRIVEN

- The Herzog Education Center is a mission driven, non-profit organization focused on advancing Christian Education.
- The Center will not be used as a commercially oriented, profit-driven, facility.



HERZOG GRANTEES



COMMUNITY ENGAGED

- The Herzog Foundation and Herzog Education Center will be a resource for local Community Groups, Schools and Non-profits by providing places to meet and congregate.
- The Herzog Foundation will host a variety of local groups to engage in conversations important to the local and regional community.



LOCAL BUSINESS PARTNERS



**HUMPHREY'S
SPORTS BAR &
GRILL**



Attic Storage



Aroma Bistro



Donut Palace

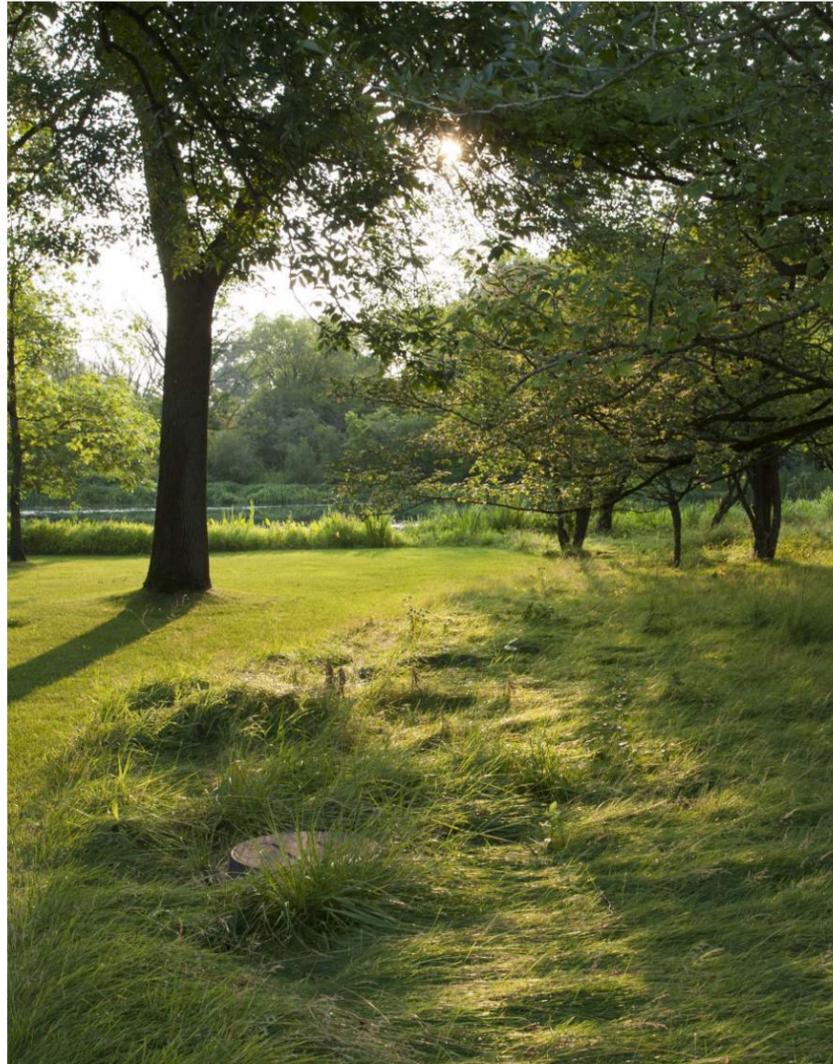


POSITIVE ECONOMIC IMPACT

- The Herzog Education Center will boost many local business by purchasing their products and services to serve its mission.
- The staff and visitors coming to the Herzog Education Center will be daily patrons of local businesses.

JOB CREATOR

28 new jobs have been created at the current Herzog Foundation, with an additional 15 jobs planned to support The Herzog Education Center.



GOOD NEIGHBOR

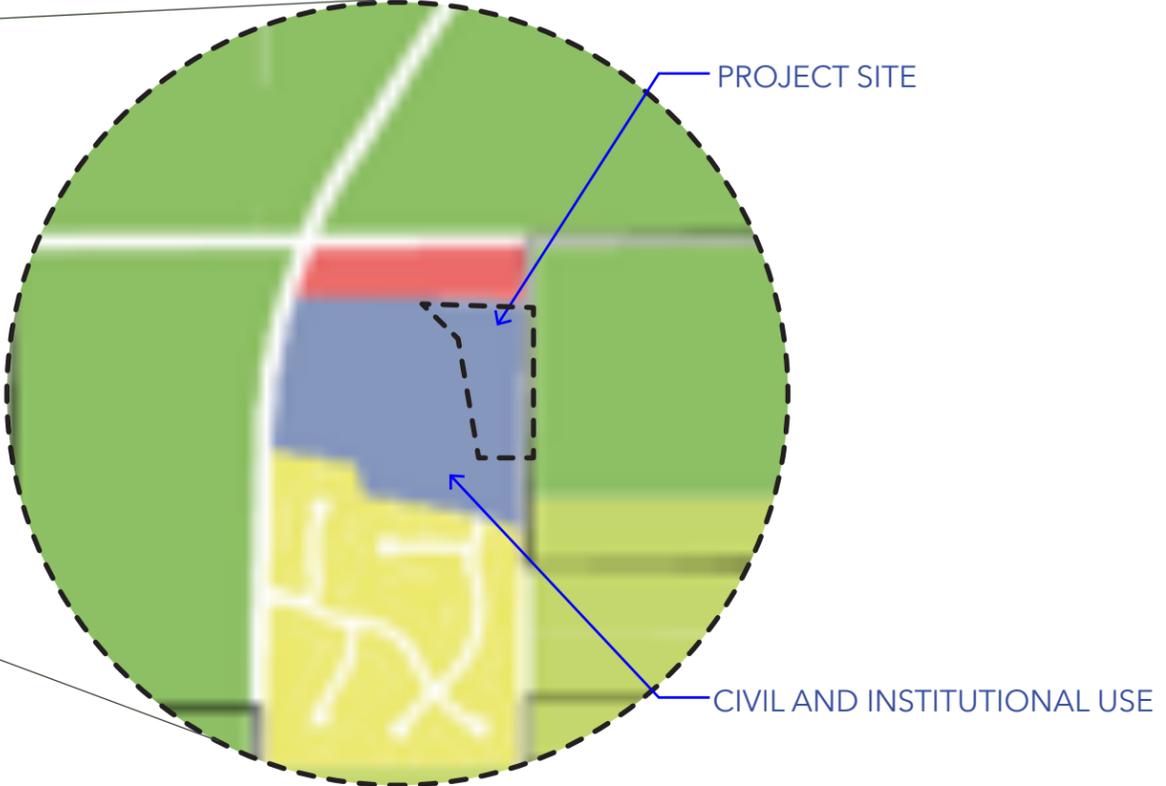
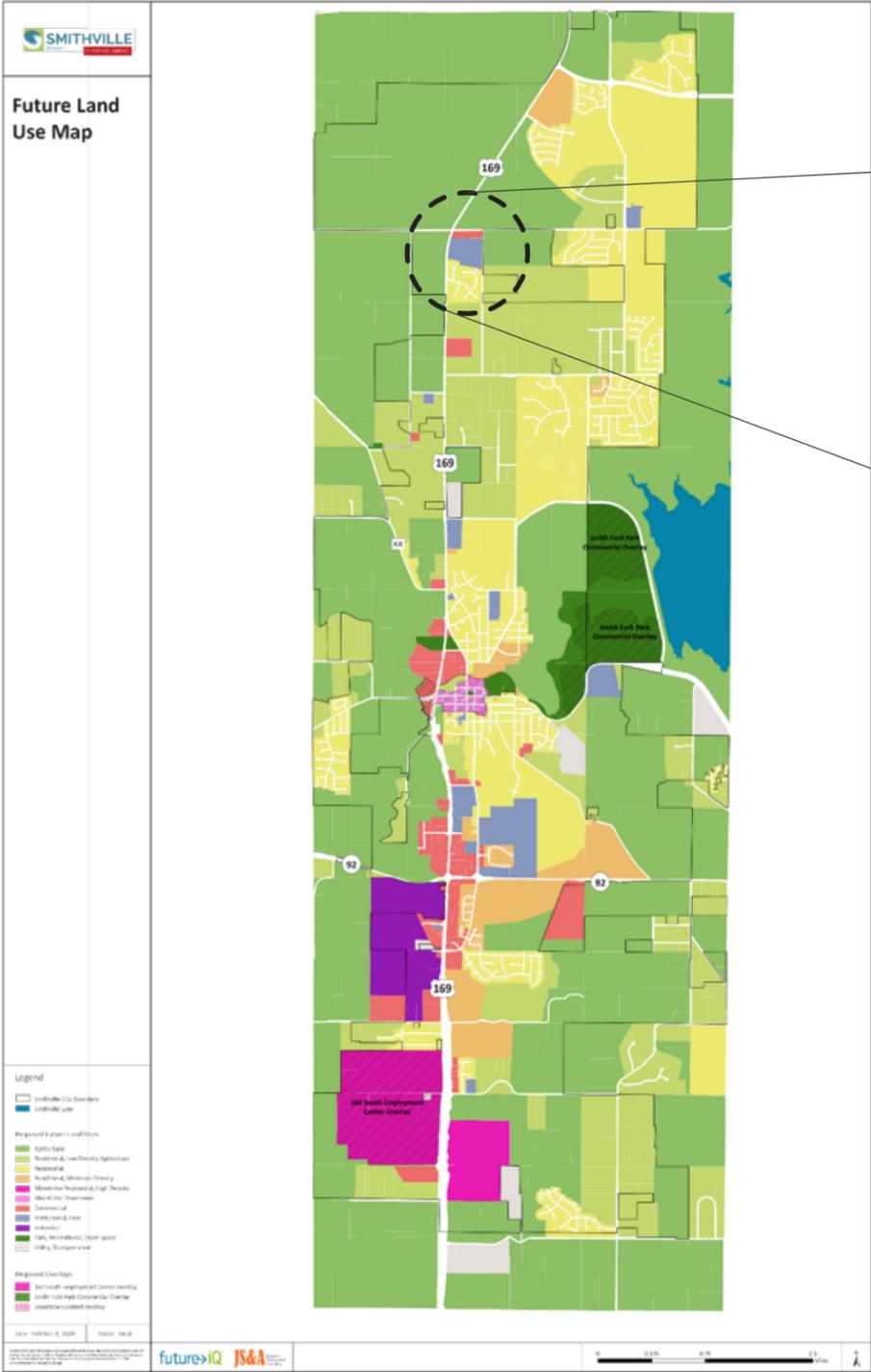
- The Herzog Foundation staff and operating budget will allow their facilities and grounds to be maintained at the highest level of attention and care.
- The design of the public utilities will be engineered by best-in-class design professionals and will not create a negative load or burden to the public water, gas or electric systems.
- The Herzog Education Center will meet all local requirements for storm water management and improve existing conditions along Main St.
- The Herzog Education Center will be a quiet neighbor with a majority of the on-site activity shielded from adjacent land owners to the south, west and east.



ARCHITECTURE AND DESIGN

- The building and grounds of the Education Center will be designed to be in-keeping with the surrounding agricultural character of Northwest Missouri buildings and landscapes.
- The building design is inspired by barns and agricultural structures from the surrounding area.
- The landscape design will use all native species and blend seamless with the surrounding prairies, fields and trees.

CITY'S COMPREHENSIVE PLAN FUTURE LAND USE MAP



Civil and Institutional uses include, but are not limited to, educational facilities and campuses, libraries, places of worship and other community-oriented areas.

*Definition from City's Comprehensive Plan Document

CURRENT ZONING DISTRICT 'R-1B'

Permitted Uses:

1. Detached, single-family dwellings.
2. Fire and Police protection and related activities.
3. Historic sites and monuments.
4. Parks, playgrounds, primary and secondary schools.
5. Signs, as provided in Sections 400.470 – 400.520 of this Code.
6. Accessory uses customarily incidental to permitted uses and otherwise conforming to the provisions contained in Section 400.370.

Conditionally Permitted Uses: *The following uses may be conditionally permitted provided they obtain a conditional use permit in accordance with Section 400.570 of this Code:*

1. Cemeteries and mausoleums.
2. Museums, libraries, accessory buildings associated with religious worship facilities.
3. Athletic fields, golf courses, tennis, handball, squash and basketball courts.

Height Regulations: The maximum height shall be thirty-five (35) feet.

Lot Coverage: The maximum lot coverage area shall be thirty percent (30%).

Setbacks

Front: 55 feet.
Side: 7.5 feet.
Rear: 20 feet.

PROPOSED ZONING DISTRICT 'R-3'

 Indicates item to be modified by Planned Development Overlay

Permitted Uses:

1. Single-, two- and multi-family dwellings.
2. Fire and Police protection and related activities.
3. Historic sites and monuments.
4. Parks, playgrounds, primary and secondary schools.
5. Retirement, convalescent, nursing, and rest homes; convents, monasteries, orphanages, dormitories, fraternity, and sorority houses; boarding and rooming houses.
6. Signs, as provided in Sections 400.470 – 400.520 of this Code.
7. Accessory uses customarily incidental to permitted uses and otherwise conforming to the provisions contained in Section 400.370.

Restrict all uses except for dormitories

Signage as outlined in Planned Development Overlay Submittal

Conditionally Permitted Uses: *The following uses may be conditionally permitted provided they obtain a conditional use permit in accordance with Section 400.570 of this Code:*

1. Recreational and entertainment uses, including amphitheaters, athletic fields, campgrounds, country clubs, golf courses and driving ranges, fairgrounds, recreation centers, resorts, riding stables, swimming clubs, tennis clubs and zoos.
2. Religious, educational, and social facilities, including museums; charities; accessory uses associated with houses of worship; colleges and universities (public and private); educational and scientific research services; libraries; schools for primary, secondary, vocation and higher education, daycares with more than five (5) children.
3. Public health and safety facilities, including, clinics, health centers, hospitals and counseling, treatment, and correctional centers.
4. Transportation, communication, and utility facilities, including electrical power stations and substations; railroad stations, depots and maintenance facilities, so long as adjacent to an existing railroad line; postal services; sewage treatment plants; telephone exchange stations and relay towers; and towers for communications transmission.

Restrict Uses

Restrict Uses

Restrict Uses

Height Regulations: The maximum structure height shall be five (5) stories.

Restrict maximum structure height two (2) stories

Lot Coverage: The maximum lot coverage area shall be thirty percent (30%).

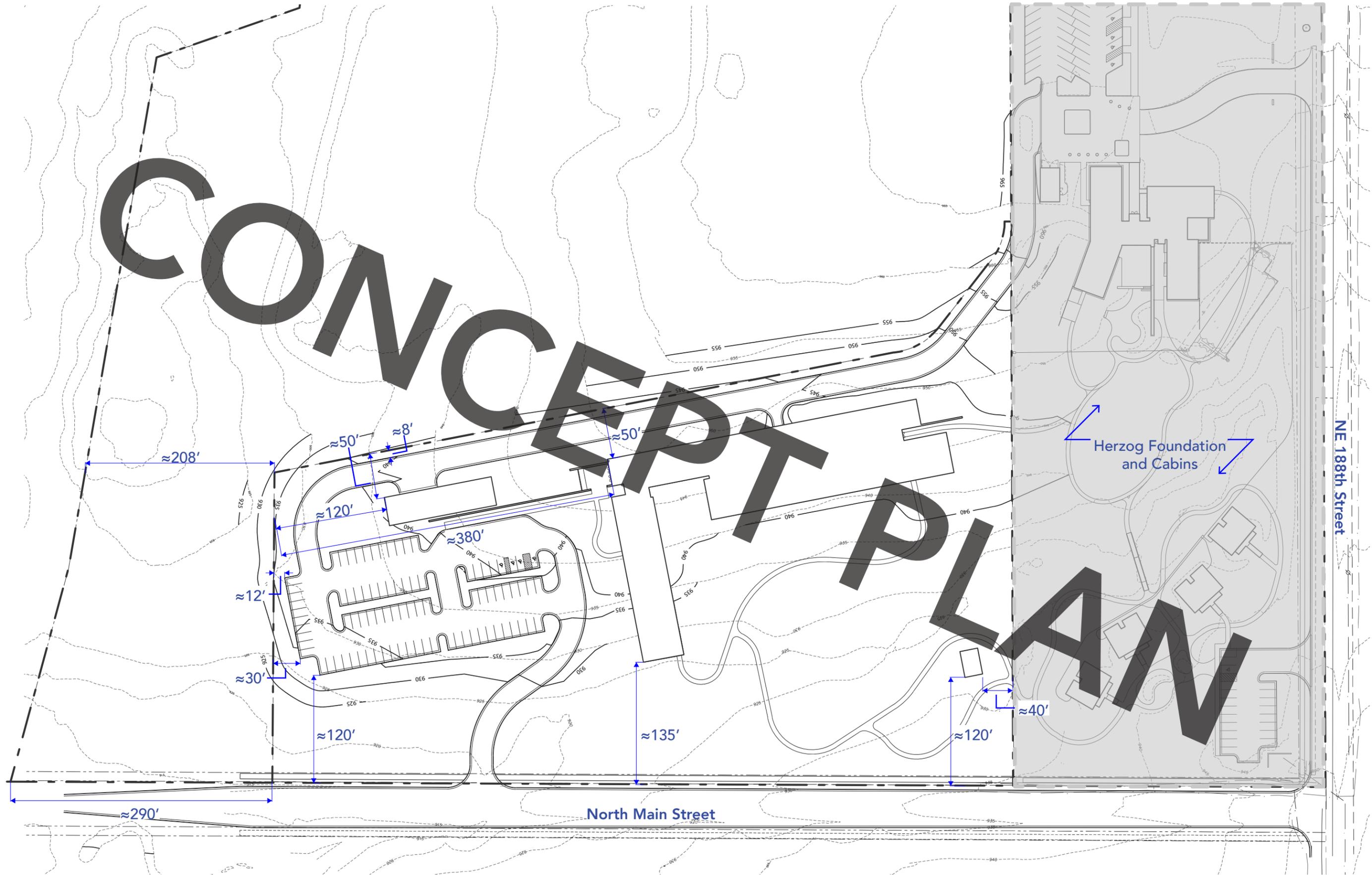
**Increase lot coverage to 35%.
Allows a shorter building.**

Setbacks
Front: 55 feet.
Side: 7.5 feet.
Rear: 20 feet.

Revised Setbacks
Front: 100'
Side: 40'



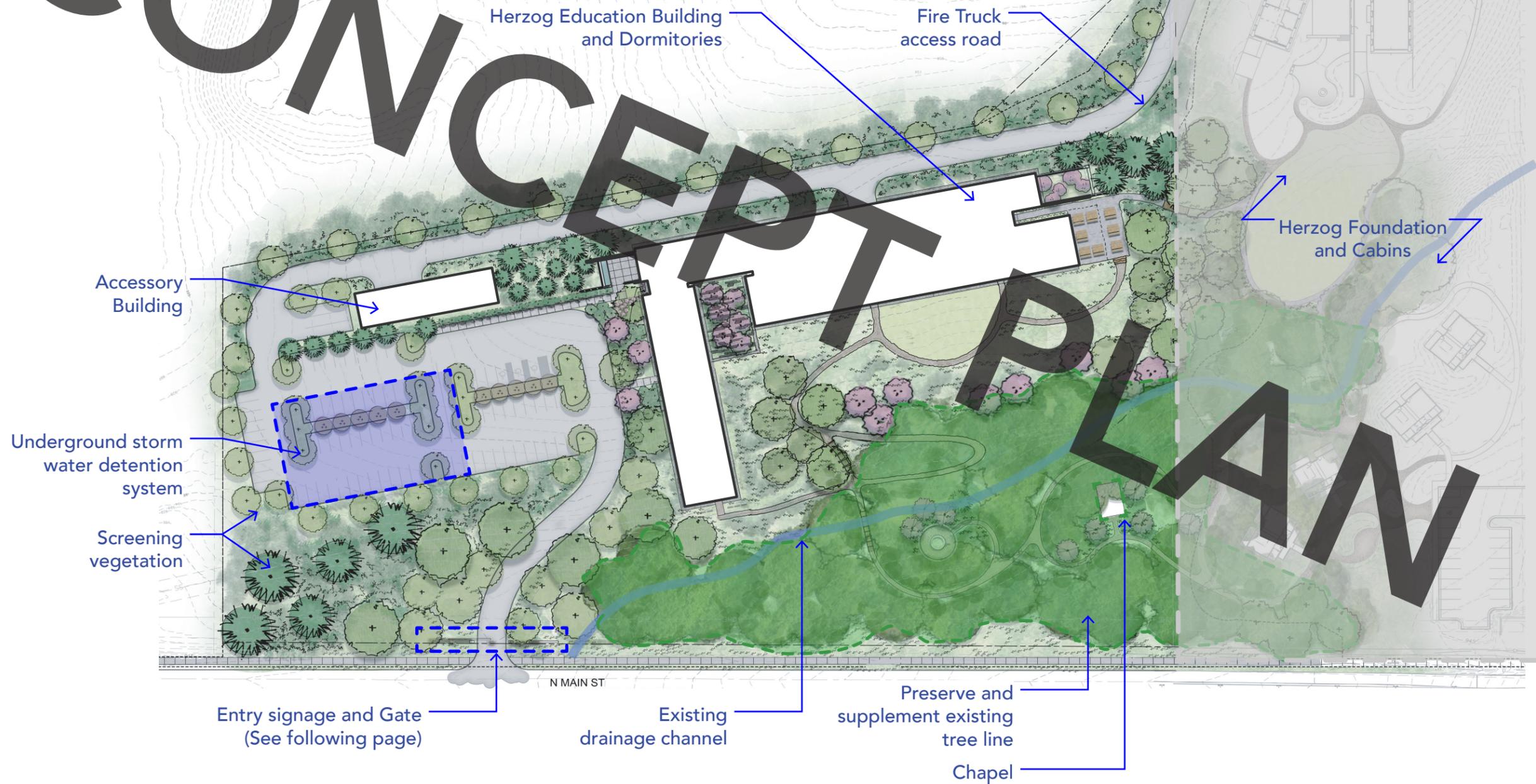
CONCEPT PLAN



Scale: 1" = 100'-0"

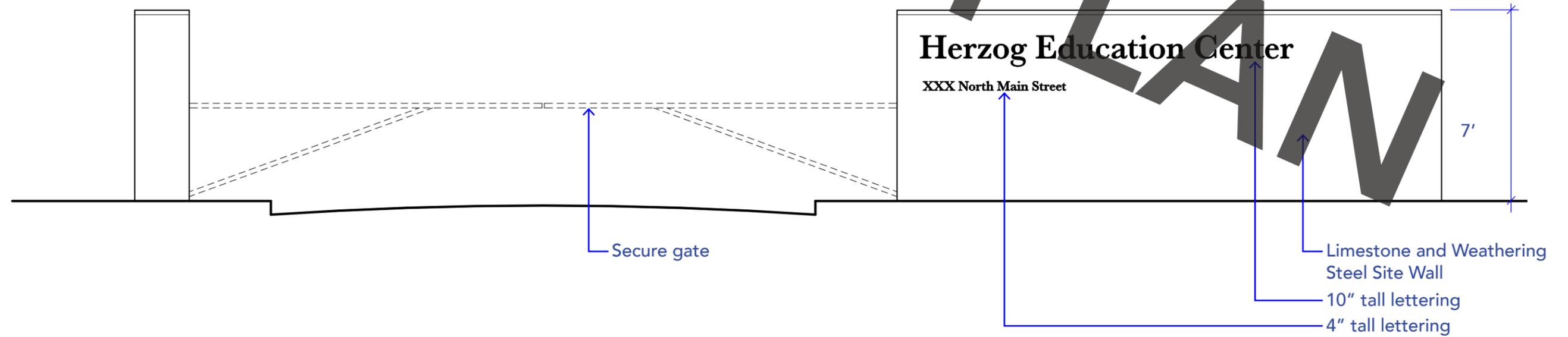


CONCEPT PLAN



Scale: 1" = 100'-0"

















HF



FINDING OF FACTS AND CONCLUSIONS OF LAW

Applicant: Focal Design Studio, Agent for Diocese of KC-St. Joseph and Herzog Foundation

Land Use Proposed: R-3 with a conceptual plan overlay

Zoning: R-1B

Property Location: 18601 N. 169 Hwy

Pursuant to the provisions of Section 400.560(C) of the Smithville Code, the Planning Commission does hereby make the following findings of fact based upon the testimony and evidence presented in a public hearing of the Planning and Zoning Commission of the City of Smithville, held on December 10, 2022, and presents these findings to the Board of Aldermen, with its' recommendations on the application.

Finding of Facts

1. *Character of the neighborhood.*
The surrounding area is a mix of R-1 single family housing to the south of the Catholic Church, as well as many acres of undeveloped land to the south and east. The lot north is B-2 and houses the Foundation offices and the four cabin buildings.
2. *Consistency with the City's Comprehensive Plan and ordinances.*
A. The existing Comprehensive Plan was approved on November 10, 2020 and calls for this area to remain Civic or Institutional. Civic and Institutional uses include, but are not limited to, educational facilities and campuses, libraries, places of worship, and other community-oriented areas. The conceptual plan proposes an educational facility and dormitory building for the support of the Herzog Foundation to the north meets this definition in that it can be considered part of the larger campus.
3. *Adequacy of public utilities and other needed public services.*
The application is to allow an 8-acre portion of the land to be used for constructing an educational and dormitory facility. All utilities and services are available currently, but must be extended to this facility at the applicant's sole cost and expense.
4. *Suitability of the uses to which the property has been restricted under its existing zoning.*

The current use is as a church facility to the west, but the subject portion of the land is undeveloped.

5. *Length of time the property has remained vacant as zoned.*
The property was zoned to the existing district classification of R-1B in 2004 for the Rock Creek Subdivision. In 2009, after the housing bubble burst no construction occurred in the brand-new residential development, the future development area of the subdivision was acquired by the Catholic Church and the church was constructed.
6. *Compatibility of the proposed district classification with nearby properties.*
The adjacent land (except the church and applicants' other facilities to the north) is either residential, or vacant, undeveloped land, with a future land use designation of either agricultural or residential. The intended district will expand the impact of the uses from the original impacted area of 188th St. and 169 Hwy significantly.
7. *The extent to which the zoning amendment may detrimentally affect nearby property.*
A. No detriment is anticipated to the adjacent nearby undeveloped land.
8. *Whether the proposed amendment provides a disproportionately great loss to the individual landowners nearby relative to the public gain.*
A. No loss to landowners is expected.
9. That in rendering this Finding of Fact, testimony at the public hearing on December 10, 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-1B to B-3 is governed by Section 400.620 of the zoning ordinance of Smithville, Missouri.
- B. The proposed zoning is compatible with the factors set out in Section 400.560(C) of the zoning ordinance.
- C. The Planning and Zoning Commission of the City of Smithville, Missouri does recommend approval of rezoning the property to R-3 with the submitted Conceptual Plan overlay and future compliance with the Site Plan Ordinance when development occurs.

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 18601 169 Hwy on October 14, 2022; and

WHEREAS, the public was notified by publishing in the CT paper on November 24, 2022 and notices were mailed to adjoining property owners more than 15 days prior to the December 10 hearing.

WHEREAS, a Public Hearing was conducted before the Planning Commission on December 10, 2022; and

WHEREAS, the rezoning is to create a single R-3 lot for development of an educational facility and dormitory to support the adjacent Herzog Foundation; 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:

All that part of the West half of the Southwest Quarter of Section 2, Township 53 North, Range 33 West of the Fifth Principal Meridian, located in the City of Smithville, Clay County, Missouri, being more particularly described as follows: Commencing at the West Quarter corner of said Section 2; thence North 89 degrees 41 minutes 40 seconds East along the North line of the Southwest Quarter of said Section 2, a distance of 1296.87 feet to the Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 2; thence South 00 degrees 17 minutes 14 seconds West along the East line of said Northwest Quarter, a distance of 343.83 feet to the Easterly prolongation of the South line of Lot 1, Final Plat Herzog Foundation, a subdivision of land located in Smithville, Clay County, Missouri recorded at Instrument Number 2020016029 in Book I at

Page 98.4 and the Point of Beginning of the tract of land herein to be described, said point also being on the Westerly right-of-way of North Main Street, as now established; thence South 89 degrees 42 minutes 14 seconds West along said South line and it's Easterly prolongation, a distance of s Easterly prolongation, a distance of 620.26 feet; thence South 00 degrees 17 minutes 46 seconds East, a distance of 7.00 feet; thence along a curve to the right, having a chord bearing of South 71 degrees 07 minutes 08 seconds East, a chord length of 44.02 feet and a radius of 67.00 feet, a distance of 44.85 feet; thence South 51 degrees 56 minutes 26 seconds East, a distance of 96.63 feet; thence along a curve to the right, having a chord bearing of South 31 degrees 26 minutes 30 seconds East, a chord length of 46.93 feet and a radius of 67.00 feet, a distance of 47.94 feet; thence South 10 degrees 56 minutes 32 seconds East, a distance of 704.56 feet; thence South 89 degrees 42 minutes 22 seconds East, a distance of 340.17 feet to the Westerly right-of-way North Main Street, as now established; thence North 00 degrees 17 minutes 14 seconds East along said Westerly right-of-way line, a distance of 817.56 feet to the point of beginning.

is hereby changed from R-1B to R-3 with a conceptual plan overlay.

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
December 9, 2022
Platting of Parcel Id # 05-301-00-01-005.00

Application for a Plat Approval – Herzog Educational Center - 1 lot

Code Sections:

400.560.C Zoning District Classification Amendments

Property Information:

Address: NE corner of 18601 N 169 Hwy
Owner: Diocese of Kansas City-St. Joseph
Current Zoning: R-1B
Proposed Zoning: Part of R1B to 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 property is currently a 26.11-acre parcel owned by the Diocese of Kansas City-St. Joseph and is the location of the Good Shepherd Catholic Church. The application is to divide the northeast 8 acres from the 26.11-acre tract and create a subdivision of 1 lot, to be titled the Herzog Educational Center subdivision. The subdivision will be for a new lot to be zoned R-3 in order to construct a large educational facility and dormitory complex to support the foundation offices to the north.

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 to the east and north, and the Comprehensive Plan pattern is for the property to remain Civic/Institutional.***
- c. The development shall be laid out in such a way as to result in:
- (1) Good natural surface drainage to a storm sewer or a natural watercourse. ***The property is bisected by a natural drainage area. To the extent that the proposed subdivision is for a single, R-3 lot, the storm drainage is subject to a storm study and protective measures in accordance with and during the Site Plan Review process.***
 - (2) A minimum amount of grading on both cut or fill and preservation of good trees and other desirable natural growth. ***Again, a single R-3 lot is subject to the Site Plan Review process which contains the same protections as this subdivision provision, so the ultimate design must meet this standard.***
 - (3) A good grade relationship with the abutting streets, preferably somewhat above the street. ***In most of the lot, the grade meets this standard. The exception is the natural drainage course across the property.***
 - (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. ***Yes.***
 - (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 roadways, but the Site Plan Review process will require a traffic study concerning access, and there are adjacent street and sidewalk improvements by the applicant included in assumptions made for this staff report.***
- f. The plat is served or will be served at the time of development with all necessary public utilities and facilities, including, but not limited to, water, sewer, gas, electric and telephone service, schools, parks, recreation and open space and libraries. ***Yes, the development lot includes gravity sewers already***

in place, and water, power and all other utilities are on the existing parcel.

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 will meet this standard at the time of Site Plan Review, and the minimum standards of this provision are met during that process.***

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. ***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. ***Yes, the plat includes the required dedications.***

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. ***Staff's recommendation is based upon the new requirements of the Site Plan Review process that specifically requires upgrades to all facilities subjected to the process.***

STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed Final Plat based upon adherence the understanding that the Site Plan Review process will require all subdivision improvements.

Respectfully Submitted,

Director of Development

Final Plat of HERZOG EDUCATION CENTER

A subdivision in the West half of the Southwest Quarter of Section 2, Township 53 North, Range 33 West of the Fifth Principal Meridian, located in the City of Smithville, Clay County, Missouri.



PARCEL DESCRIPTION:

All that part of the West half of the Southwest Quarter of Section 2, Township 53 North, Range 33 West of the Fifth Principal Meridian, located in the City of Smithville, Clay County, Missouri, being more particularly described as follows:

Commencing at the West Quarter corner of said Section 2; thence North 89 degrees 41 minutes 40 seconds East along the North line of the Southwest Quarter of said Section 2, a distance of 1296.87 feet to the Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 2; thence South 00 degrees 17 minutes 14 seconds West along the East line of said Northwest Quarter, a distance of 343.83 feet to the Easterly prolongation of the South line of Lot 1, Final Plat Herzog Foundation, a subdivision of land located in Smithville, Clay County, Missouri recorded as Instrument Number 2020016039 in Book 1 at Page 96.4 and the Point of Beginning of the tract of land herein to be described, said point also being on the Westerly right-of-way of North Main Street, as now established; thence South 89 degrees 42 minutes 14 seconds West along said South line and it's Easterly prolongation, a distance of 620.26 feet; thence South 00 degrees 17 minutes 46 seconds East, a distance of 7.00 feet; thence along a curve to the right, having a chord bearing of South 71 degrees 07 minutes 08 seconds East, a chord length of 44.02 feet and a radius of 67.00 feet, a distance of 44.85 feet; thence South 51 degrees 56 minutes 26 seconds East, a distance of 96.63 feet; thence along a curve to the right, having a chord bearing of South 31 degrees 26 minutes 30 seconds East, a chord length of 46.93 feet and a radius of 67.00 feet, a distance of 47.94 feet; thence South 10 degrees 56 minutes 32 seconds East, a distance of 704.58 feet; thence South 89 degrees 42 minutes 22 seconds East, a distance of 340.17 feet to the Westerly right-of-way North Main Street, as now established; thence North 00 degrees 17 minutes 14 seconds East along said Westerly right-of-way line, a distance of 817.56 feet to the point of beginning. The above described tract of land contains 348,486.39 square feet or 8.00 acres of land more or less.

EASEMENTS:

An easement is hereby granted to Smithville, Missouri, to locate, construct and maintain or to authorize the location, construction and maintenance of poles, wires, manholes, conduits and/or structures for water, gas, sanitary sewer, storm sewer, surface drainage channel, electricity, telephone, cable television, or any other necessary public utility or service, any or all of them upon, over, or under those areas outlined or designated upon this plat as "Utility Easement" (U/E) or within any street or thoroughfare dedicated to public use or private alley on this plat.

RIGHT OF ENTRANCE:

The right of entrance and egress in travel along any street or drive within the boundaries of the property is hereby granted to Smithville, Missouri, for the purpose of fire and police protection, maintenance of water mains, sanitary and storm lines, collection of garbage and refuse and to the United States Postal Service for the delivery of mail; provided, however, contribute for any damage to private street or drive by virtue of the exercise of the right stated herein and specifically, neither Smithville, Missouri nor the United States Postal Service shall incur any liability by virtue of the exercise of such rights.

BUILDING LINES:

Building lines or setback lines are hereby established, as shown on the accompanying plat, and no building or portion thereof shall be located or built between this line and the lot line nearest thereto.

FLOODPLAIN:

The subject parcel of land lies within a flood zone designated, Zone X per FEMA Map Community Panel Number 2304700012E, Map Revised August 3, 2015, Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

DEDICATION:

Catholic Diocese of Kansas City—St. Joseph, a Missouri nonprofit corporation, declare that they are the sole owners of the above described tract of land and have caused the same to be divided into streets and lots of the sizes, dimensions and locations as shown on this plat, which said plat was drawn by authority of and under their direction. Said plat shall hereinafter be known as:

"HERZOG EDUCATION CENTER"

IN TESTIMONY WHEREOF, the undersigned have caused these presents to be signed as follows:

David A. Malanowski, Treasurer

STATE OF _____)
COUNTY OF _____) SS.

Be it remembered that on this _____ day of _____, 2022, before me, a notary public in and for said County and State, came _____ to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my seal the day and year written.

My Commission Expires: _____

PLANNING COMMISSION:

"HERZOG EDUCATION CENTER" was submitted to and approved by the Smithville Planning Commission on the _____ day of _____, 2022.

Chairman Secretary

BOARD OF ALDERMEN:

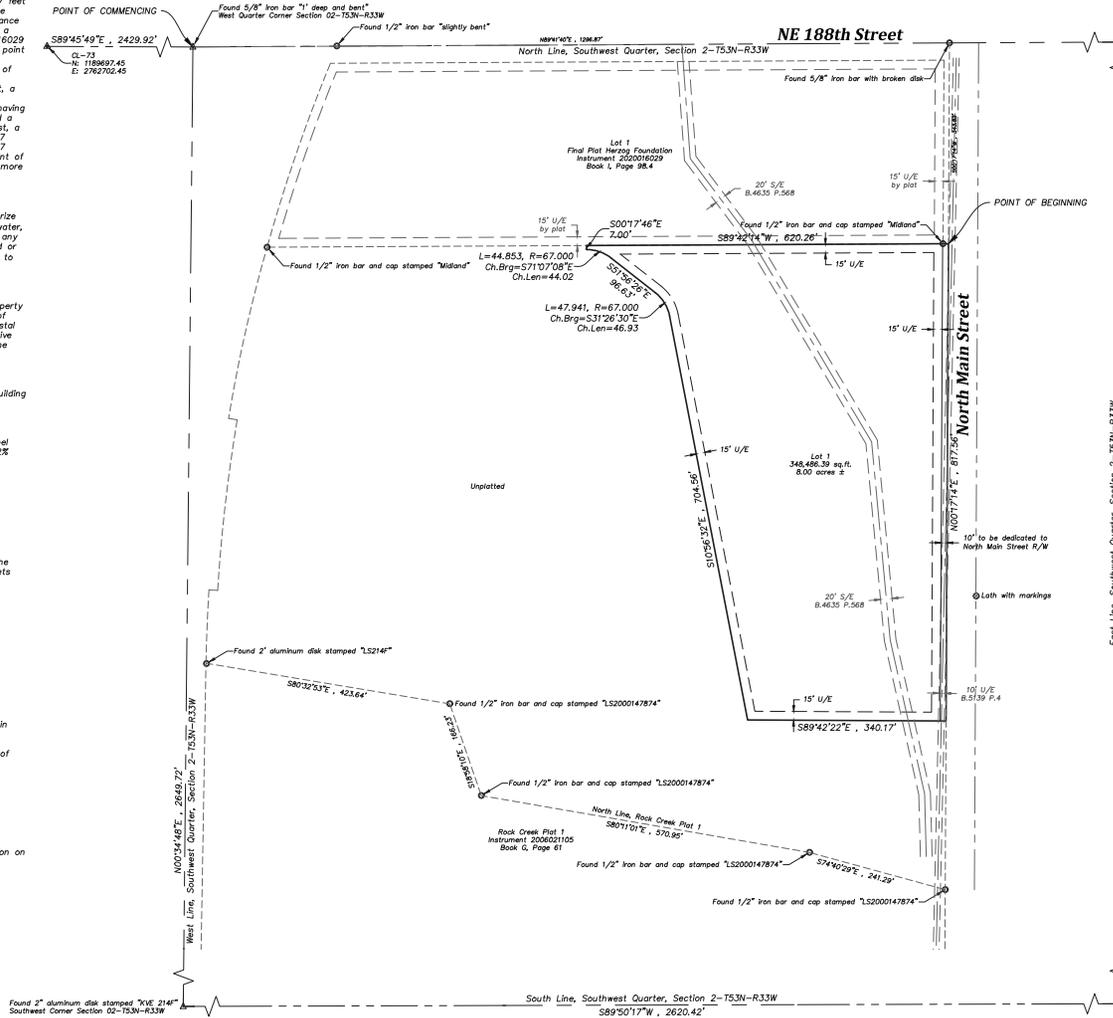
This final plat approved _____ by the Board of Aldermen of Smithville, Missouri, this _____ day of _____, 2022.

Mayor Attest: City Clerk

RECORDER OF DEEDS:

Entered on transfer record this _____ day of _____, 2022.

County Recorder



BASIS OF BEARINGS:
Bearings shown hereon are based on the Missouri State Plane Coordinate System, NAD83, Missouri West Zone, US Foot

LEGEND:
The following standard symbols and notations can be found on this plat.

- ▲ Section corner
- Found survey monument
- Set survey monument
- U/E Utility easement
- S/E Sewer easement

CLOSURE REPORT:

Total Traverse Length	= 2678.98
Error in Closure	= 0.006
Closure is one part in	= 722,981.43
Error in North	= 0.0056
Error in East	= -0.0025
Direction of Error	= N22°49'09"W

PLAT CERTIFICATION:
"HERZOG EDUCATION CENTER"
I hereby certify that the plat of "CENTER" is based on an actual survey made on the ground by me or under my direct supervision and that said plat meets or exceeds the current Minimum Standards for Property Boundary Surveys as adopted by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects. I further certify that I have complied with all statutes, ordinances and regulations governing the practice of land surveying and all plotting of subdivisions to the best of my professional knowledge and belief at this time.

Ronald E Schroer, MO PLS 2569
CFS Engineers Corporate Authority
CF&S CLS 1999141100

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Date	Revisions

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