

SMITHVILLE PLANNING COMMISSION

REGULAR SESSION

February 14, 2023

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 (arrived at 7:48 pm), Rob Scarborough, Dennis Kathcart, Deb Dotson, Billy Muessig & Mayor Damien Boley.

Staff present: Jack Hendrix and Brandi Schuerger.

2. MINUTES

The January 10, 2023, Regular Session Meeting Minutes were moved for approval by SCARBOROUGH, Seconded by DOTSON.

Ayes 6, Noes 0. Motion carried.

3. STAFF REPORT

HENDRIX reported:

Stated that it's been a slow start to the year. Starting in January the residential building permit count is reset. As of now we have issued 0 new permits this year. We have received building plans for a couple of new homes but are waiting for the rest of the paperwork from the builder.

Stated that general construction on the commercial side is moving forward. We have a tenant finish permit that will be issued soon for the old Clay County Tractor building that is set to become a microbrewery.

At our April Planning and Zoning meeting we will have a single phase final plat application coming forward for a tract of land located in the center of town which will create 6 new lots for single family homes.

The City's Attorney John Reddoch spoke to the commission about items # 4 and 5 from tonight's agenda and a lawsuit that has been filed in Clay County, Missouri. He explained that the City of Smithville has not been named in this lawsuit and we do not have any court order of any kind. He provided advice to the commission about how to proceed with these agenda items from a zoning standpoint.

4. PUBLIC HEARING:

- **REZONING NE CORNER OF SECOND CREEK BRIDGE RD. AND LOWMAN RD. FROM A-1 TO R-1B AND R-3.**

Public Hearing Opened

HENDRIX gave an overview of the proposal. This is the same application associated with your work from December on this property where you made a recommendation for rezoning. At some point prior to 2019 Clay County switched the zoning of a parcel on their map from B-3 to R-3. It was clearly an error and was brought to his attention by the owner of that land Mr. Lowman. Staff was able to go through the process and verify that the 3 acre property on the corner is zoned B-3. This zoning occurred around 30 years ago and there has been no action to change that. The staff report provided to the commission includes the necessary changes.

Roberta Lowman—16251 Lowman Rd—Stated that she was not planning to announce the lawsuit tonight. Mr. Cox and LMW Investments are also included in the lawsuit. She was not looking for a court of law and only wanted to present her case regarding the way the land was sold and the only way it would have been sold was based on the plat by Mr. Hartman. She is not opposed to development or progress in this city. She would have never sold the property if she was. She is opposing the way the land is being proposed to be rezoned. The contract specifically stated that it was to be an R-1 zoning with single family homes between \$400,000 -

\$500,000. She brought paperwork that she provided to the commission for them to review (plat provided to her by Mr. Hartman and front page of the contract) and explained it's relevance. She asked that the commission delay a decision based on what is absolutely right.

Pat Luce—300 Maple Lane Apt 1—Stated that her family has lived in Smithville for well over a century and her father owned businesses here from 1947 to 2012 when he passed away. States that she shares this with the commission because she is personally invested in this community. She asked that the commission vote yes on the proposed zoning changes so that the Second Creek Meadows project can move forward. She listed the reasons why she is in support of this. She asked that they adhere to the Findings of Facts and the Comprehensive plan in all of their decisions tonight.

HENDRIX informed that he spoke with someone today who wanted to speak tonight but couldn't make it to the meeting. This person wrote a letter addressed to the commission and a copy of that letter was provided to them.

Public Hearing Closed

5. REZONING NE CORNER OF SECOND CREEK BRIDGE RD. AND LOWMAN RD. FROM A-1 TO R-1B AND R-3

SCARBOROUGH motioned to approve Rezoning NE Corner of Second Creek Bridge Rd. and Lowman Rd. from A-1 to R-1B and R-3. Seconded by MUESSIG.

DISCUSSION:

MAYOR BOLEY asked Mr. Hendrix a question about the plat provided to them by Ms. Lowman. He stated that part of this plat was separated off and brought to Planning and Zoning in August 2022 for Hildebrand Estates.

HENDRIX explained the area on the plat that is now Hildebrand Estates which is an 11 acre tract that this commission approved months ago. The south portion is still identified in here.

WILSON read aloud the Findings of Facts and noted where changes were made by staff.

MAYOR BOLEY had a question for Mr. Hendrix about #1 in the Findings of Facts document. B-3 is our densest commercial zoning that we have, correct?

HENDRIX stated yes.

MAYOR BOLEY asked if Mr. Lowman has any intent to change this?

HENDRIX stated that he has not express any intent. He wanted to make sure it stayed B-3.

MAYOR BOLEY stated this was rezoned back in 1989?

HENDRIX stated he believed it was 1989 and his mother did this.

THE VOTE: SCARBOROUGH-AYE, DOTSON-AYE, KATHCART-AYE, MAYOR BOLEY-AYE, MUESSIG-AYE, WILSON-AYE.

AYES-6, NOES-0. MOTION PASSED

6. SITE PLAN REVIEW – 14600 N 169 HWY – KCI RV

• AMEND EXISTING SITE PLAN TO ALLOW 5 BUILDINGS

WILSON stated that she was informed that this item needs to be postponed because they are still working out some issues with the property owner.

HENDRIX stated that is correct. We need to postpone indefinitely and bring it back once it's resolved.

MAYOR BOLEY motioned to postpone item # 6 Site Plan review for KCI RV. Seconded by KATHCART.

VOICE VOTE:

AYES-6, NOES-0. MOTION PASSED

7. PUBLIC HEARING:

- **CONCEPTUAL PLAN FOR FAIRVIEW CROSSING NORTH, A COMMERCIAL SUBDIVISION**

Public Hearing Opened

HENDRIX gave an overview of the proposal. The staff report has been provided to each commission member. For all intents and purposes this would be an extension of the conceptual plan to the south. This property is already zoned commercial so this conceptual plan concept is one of the things required associated with our zoning regulations.

Constance Scott—308 Killarney Ln—Stated that she is the current President of the Hills of Shannon HOA and is here tonight to discuss some of the concerns that are still present with the proposed development off of 169 Hwy and Commercial Street. Mr. Crees has reached out and we have started a dialogue in regards to our concerns and questions. Their 2 biggest concerns are water runoff and privacy loss. The HOA board would like to see in writing the assurances that have been made or suggestions regarding the landscaping and or natural barrier that will be enforced once the building begins. We do encourage progress and growth but our main concern is for the residents and homeowners of Hills of Shannon, their property and their privacy.

Tonja Palmer—14702 Shamrock Way—Stated she would start off with some information she pulled from the City of Smithville webpage. She quoted several current and former aldermen Steve Sarver, Melissa Wilson and Marvin Atkins on the small town feel that Smithville provides and balancing growth. She also read several through several sections of the 2030 Comprehensive Plan.

Randall Palmer—14702 Shamrock Way—Stated that he is one of the immediate people who will be affected by this zoning process. He would like for the buildings to stay close to the street. He informed that Mr. Crees had a Zoom meeting with the Hills of Shannon board members today. He spoke

about items Mr. Crees discussed at this meeting and stated his option on these items. Mr. Randall stated that the previous property owner did not take care of the property. He has kept and maintained a portion of the neglected property in excess of 10 years, he has evidence of this and entitles him to seek council on adverse possession.

Matt Cross—Kaw Valley Engineering--8040 N Oak Trfy KCMO—

Stated he is the Civil Engineer for this project. Provided information to the commission about this site and the processes they used to get them where they are this evening and how it meets all requirements of the city's codes. He also explained that Google Earth shows that this property has functioned commercially since at least 1990.

Public Hearing Closed

8. CONCEPTUAL PLAN APPROVAL – FAIRVIEW CROSSING NORTH

• A CONCEPTUAL PLAN FOR A NEW 6 LOT COMMERCIAL SUBDIVISION

SCARBOROUGH motioned to approve the Conceptual Plan for Fairview Crossing North. Seconded by DOTSON.

DISCUSSION:

MAYOR BOLEY asked Mr. Hendrix if the southern road connection connects into what we approved 6 months ago or so south of Central Bank.

HENDRIX stated yes and that is what has taken this process a while. This had to have a traffic study that incorporated a lot of the stuff from the original Fairview Crossing South. It had to go through MODOT's procedures as well because it's a new public street onto a state hwy. Because of this there have been a lot of balls in the air about the traffic flow. The developer acquired some land from the bank and the existing bank driveway on the south side will be expanded to handle a public street through there.

MAYOR BOLEY stated that once this is complete and if by chance there is an accident at 169 Hwy and Commercial St this would allow for emergency services but also allow for traffic to not back up on 169.

HENDRIX stated yes, that is what the traffic information appears to indicate. This will be a street to use for rerouting traffic in these events.

MAYOR BOLEY stated that this is in our Comprehensive Plan correct?

HENDRIX stated yes and in our Transportation Master Plan as well.

MUESSIG asked if there are any rules on B-3 butting up to R-1? Is fencing or anything required?

HENDRIX stated that landscape buffering is required as it relates to the trees and landscaping. In the event that any of those trees go away then when the buildings go in they will have to at least meet the minimum standards. The current set of trees in that area are probably 7 or 8 times what minimum standards are.

MAYOR BOLEY asked about the utility easement.

HENDRIX said that the city services for water and sewer will be up front. Usually, the back easements are for cable lines.

MAYOR BOLEY stated that they wouldn't be cutting down trees then.

HENDRIX stated that he can't say for sure. He has seen them do crazier things. The good thing is that we have a procedure in place that anyone who uses a public easement must make restoration. He also clarified that this conceptual overlay is the maximum density (square footage of buildings) that could happen here.

WILSON had a question about the traffic study and the new street coming off on Commercial Street. Since this is really close to the curve was there any thought process on as the city grows and the possibility of more traffic, would a traffic light or something go in there since it's so close to that corner?

HENDRIX stated that the sight distances were taken into account. He also wanted to clarify that the 15 mile an hour zone that was mentioned earlier would apply to the north/south street within the shopping center and not Commercial Street itself.

WILSON asked if it's possible that a stop light would need to go in there to slow people down coming around that corner?

HENDRIX stated no.

DOTSON asked about the landscaping requirements and if anymore landscaping could be built into that area to provide a little more peace and quiet?

HENDRIX stated that the difficulty would be that it's a drainage area and it's low. Staffs goal was for them to keep as much of the existing trees and this was their goal as well. They were aware that this would be a big concern from the adjacent property owners.

WILSON stated that earlier Mr. Hendrix mentioned that 2 of the lots would be under the 300 foot required street frontage.

HENDRIX stated yes, lots 4 and 5. All of the other lots have double frontage.

DOTSON asked what the distance is between the back of lots 4, 5 and 6 from the back side of the buildings to the Hills of Shannon property line?

HENDRIX stated that there is an easement area of 30 feet. It appears that the closest building is on lot 6 and it sets probably 70 feet away if he had to guess.

DOTSON also asked about security lighting.

HENDRIX stated that under our code the buildings can have security lighting on them directly and should be shining down. There is not a hooding requirement for security lighting. If they have parking lot lighting there is a substantially larger requirement and would have to provide a photometric plan which is an evaluation of the lighting and tells you how many footcandles it radiates out.

DOTSON explained that she is just looking for ways to lessen the impact.

HENDRIX explained to the commission about the entrances to this development and why they are placed where they are. The Commercial Street entrance is being moved farther east but the 2 entrances off of 169

Hwy basically stay the same. The farthest entrance to the south on 169 Hwy will become larger because it now becomes a public street.

MAYOR BOLEY stated that the detention pond looks to be about 15 feet deep.

HENRDRIX stated that it is a dry bottom pond. It won't be a big lake or pond. If we get substantial rain it will fill up and then slowly drain it all out.

DOTSON asked if we have a requirement on fencing around detention ponds?

HENDRIX stated no. He also explained more about the stormwater plans and the city's requirements.

THE VOTE: MAYOR BOLEY-AYE, MUESSIG-AYE, KATHCART-AYE, WILSON-AYE, DOTSON-AYE, ALDERMAN CHAVALIER-ABSTAIN, SCARBOROUGH-AYE.

AYES-6, NOES-0, ABSTAIN-1. MOTION PASSED

9. PUBLIC HEARING

- **SINGLE PHASE FINAL PLAT – FAIRVIEW CROSSING NORTH, A COMMERCIAL SUBDIVISION TO CREATE 6 LOTS**

Public Hearing Opened

HENDRIX gave an overview of the proposal. The staff report has been provided to each commission member.

Randall Palmer—14702 Shamrock Way—Stated that all he has heard tonight is "could be", "might be" and "we don't know". He spoke about the following: sight distances/safety concerns for the entrance to Commercial Street, drainage concerns and questioned who will be responsible for any property damage that may occur, distances from the buildings to their property lines, commercial use of property for 30 years is false, nuisance of security and parking lighting, property not designed for this kind of infrastructure and no fencing around retention pond.

Jennifer Justus—13317 Mount Olivet Rd—Thanked the commission and the City for the thoughtfulness that goes into allowing the public comment and allowing our citizens to come forth. She stated many Cities or Counties don't allow public comment at all. Also applauded our local investors for reaching out to the community.

Bradley Scott—418 Shannon Ave—Stated that he has lived in Smithville and Hills of Shannon for 23 years. Stated that he is not opposed to development but is not ok with this development. The front end of this property should be developed and has been developed in the past and has been used commercially. The back half of the property has never been commercial. His concern is not only about the 5 homes directly affected by this but also the 261 homes in Hills of Shannon. He is concerned about the loss of property value from this development being so close. Suggested making that back half of the property a greenspace or a park. Asked that instead of thinking about 1 persons economics to please think about the other 261 households economics as well.

Kristine Bunch—18608 Primrose St—Stated that she wasn't going to speak tonight but somethings were said by Mr. Hendrix that concerned her. She asked why this was being given a pass and fast tracking something that was just purchased in December. She asked that the city slow down with the whole process.

Shane Crees—13530 Mt. Olivet Rd—Stated that he is the applicant on the project. The design and engineering for this project has been in the works for many months. Much longer than when he closed on the property in December. The property went under contract in July of 2022. He invested in an engineering design to try and develop this in a manner that meets the city's long term comprehensive plan and city requirements. The site is currently zoned B-3, is commercial and has been there longer than any neighboring adjacent residential subdivision.

Public Hearing Closed

10. SINGLE PHASE FINAL PLAT – FAIRVIEW CROSSING NORTH

- **SUBDIVISION WOULD CREATE 6 RETAIL COMMERCIAL LOTS**

MUESSIG motioned to approve the Single Phase Final Plat for Fairview Crossing North. Seconded by SCARBOROUGH.

DISCUSSION:

ALDERMAN CHEVALIER asked Mr. Hendrix if there were any steps that have been skipped or not thought of throughout this process?

HENDRIX stated no. The extra steps that were mentioned and talked about was based upon a question associated with a variance and it's a long drawn out process and actually wouldn't take place in front of this commission. He also confirmed that the city and its engineers have been speaking with Mr. Crees and his engineers about this project since long before December.

ALDERMAN CHEVALIER stated that the sale date is really immaterial at this point.

HENDRIX stated that if a property reaches closing and sells it tells him that the developer has done enough of the evaluation that knows they can make this work financially if they meet all of our standards.

MAYOR BOLEY stated that a lot of these that come to us have not closed. That's usually a condition of closing is to have a plan or have rezoning done. MODOT doesn't work fast and engineering is backed.

THE VOTE: ALDERMAN CHEVALIER-AYE, WILSON-AYE, MUESSIG-AYE, MAYOR BOLEY-AYE, KATHCART-AYE, DOTSON-AYE, SCARBOROUGH-AYE.

AYES-7, NOES-0. MOTION PASSED

11. ADJOURN

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

VOICE VOTE: UNANIMOUS

CHAIRMAN WILSON declared the session adjourned at 8:46 p.m.