



# Report to Planning & Zoning Commission

Clay County, Missouri

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<b>Case Number</b>	<b>Nov. 11-117 V</b>
<b>Case Type</b>	<b>Vacation</b>
<b>Project Name</b>	<b>Vacation of two (2) Ingress/Egress (“I/E”) Easements – Portions of Lot 1A of <u>Replat Lot 1 Porter Farms</u></b>

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Applicants	Worleybird Aviation, Inc. (Andy Worley, President) 704 Quincy Blvd Smithville, MO 64089-8614
Owners	SAME
Request	<b>Vacation</b> of two (2) I.E. on Portions of Lot 1A of <u>Replat Lot 1 Porter Farms</u>

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Application Submittal	2011-09-30
Public Notice Published	2011-10-13
Neighbor Letters Sent	2011-10-14
Report Date	2011-10-26
Public Hearing Opened	2011-11-01

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REPORT AUTHOR(S)	Matt Tapp, Director Debbie Viviano, Planner
Recommendation	APPROVAL with conditions



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Clay County, Missouri

## General Information

**Site Location:** Portions of Lot 1A, Replat Lot 1 Porter Farms  
Approximately 1014 W 92 Hwy.

Section 27 | Township 53 | Range 33

**Site Size:** See below legal descriptions & attachments

**Existing Landuse & Zoning:** Porter Farms, Lot 2 and Replat of Lot 1B-Agricultural (AG) and Porter Farms, Replat of Lot 1A –  
Community Services District (C-3)

### Zoning/Platting History:

Porter Farms, recorded 3/16/2000; Replat Lot 1 Porter Farms, recorded 8/27/2009; Lot 1A - Rezoned to Community Services District (C-3), 02/23/2009, Res# 2009-70; Rezoning Res#2009-70 Rescinded 12/13/2010 by Res#2010-358; Lot 1A - Rezoned to Community Services District (C-3), 04/11/2011, Res# 2011-87.

### Surrounding Landuse & Zoning:

- North* – Agricultural (AG) Zoned Land, City of Smithville [1/4 mile]
- East* – City of Smithville [Adjacent]
- South* – Agricultural (AG) Zoned Land, Kullman Farm (R-1A), C-2 Zoning
- West* – Agricultural (AG) Zoned Land, Porter Farms, Lot 2 (AG)

### Current Conditions:



Scale: 1 inch = 500 feet



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## Assessment

Andy Worley, President of Worleybird Aviation, Inc., seeks to vacate or remove two (2) Ingress/Egress (henceforth known as "I/E") easements on portions of Lot 1A of Replat Lot 1 Porter Farms.

The first requested vacation involves an existing 20-foot (approximately) wide I/E for public roadway access from Lot 2 of the original Porter Farms subdivision, legally described below. See **Attachment A** for graphical representation.

(to be vacated) 20 foot Ingress Egress Easement

A tract of land located in the Southwest Quarter of Fractional Section 27, Township 53, North Range 33, in Clay County, Missouri being more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of Fractional Section 27; thence North 00 degrees 00 minutes 02 seconds East along the East line of the Southwest Quarter of said Section 27, a distance of 344.71 feet to a point on the Northerly right of way line Missouri Highway No. 92; thence North 72 degrees 06 minutes 24 seconds West along the Northerly right of way line Missouri Highway No. 92, a distance of 217.72 feet to the POINT OF BEGINNING; thence North 17 degrees 53 minutes 36 seconds East a distance of 70.00 feet; thence North 72 degrees 06 minutes 24 seconds West to the west line of Lot 1, PORTER FARMS a subdivision in Clay County, Missouri a distance of 545.58 feet; thence South 00 degrees 00 minutes 02 seconds West along the west line a distance of 21.02 feet; thence South 72 degrees 06 minutes 24 seconds East a distance of 519.12 feet; thence South 17 degrees 53 minutes 36 seconds West a distance of 50.00 feet to a point on the Northerly right of way line Missouri Highway No. 92; thence South 72 degrees 06 minutes 24 seconds East along the Northerly right of way line Missouri Highway No. 92 a distance of 20.00 feet to the POINT OF BEGINNING.

Containing 11,847 square feet or 0.27 acres more or less

The second requested vacation involves an existing 60-foot wide I/E for public roadway access from Lot 1A to Lot 1B of the Replat Lot 1 Porter Farms, legally described below. See **Attachment B** for graphical representation.

(to be vacated) 60 foot Ingress Egress Easement

A 60 foot wide Ingress / Egress easement lying 30.00 feet either side of the following described centerline and whose sidelines are extended or foreshortened to terminate at their respective property lines, being all of Lot 1A, REPLAT OF LOT 1, PORTER FARMS, Recorded in Book "G", Page 193, located in the Southwest Quarter of Fractional Section 27, Township 53, North Range 33, in Clay County, Missouri being more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of Fractional Section 27; thence North 00 degrees 00 minutes 02 seconds East along the East line of the Southwest Quarter of said Section 27, a distance of 344.71 feet to a point on the Northerly right of way line Missouri Highway No. 92; thence North 72 degrees 06 minutes 24 seconds West along the Northerly right of way line Missouri Highway No. 92, a distance of 466.33 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 73.56 feet to the POINT OF BEGINNING of said Centerline; thence North 00 degrees 00 minutes 00 seconds East a distance of 697.85 feet to a point of termination.

Containing 41,871 square feet or 0.96 acres more or less

Mr. Worley is seeking to vacate the 2 existing I/E and establish 2 new I/E easements in their place so they better align with his future development plans on Lot 1A of Replat Lot 1 Porter Farms. More specifically, Mr. Worley intends to construct a new private street in the future with a 50-foot wide right-of-way (ROW) within the new I/E to serve prospective commercial development and still provide public road access for Lot 1B of Replat Lot 1 Porter Farms to the north and Lot 2 of the original Porter Farms to the west. **Attachment C** represents the new proposed I/E for Lot 2, and **Attachment D** the new proposed I/E for Lot 1B.



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## **2008 Comprehensive Plan Considerations**

Not Applicable (N/A).

## **Character of the General Neighborhood**

The City of Smithville abuts the East subject property line, along 92 Highway. Platte County is approximately ¼ mile to the West along 92 Highway. Agriculturally zoned land is to the North and South in each direction of the property, including Kullman Farm (R-1A) and Porter Farms, Lot 2 (AG). Community Commercial District (C-2) zoned property is to the Southeast of the property.

## **Code Considerations**

Chapter 3 of the 2003 Clay County Land Development Code (“LDC”) last amended March 8, 2010 sets out the required review and approval procedures for vacations of any street, avenue, road, alley, public easement, ingress/egress, utility easement, public square or common area included as part of a recorded plat, in accordance with the Missouri Revised Statutes (“RSMo”) Chapter 71.270.

The applicant for a vacation must meet the approval criteria as noted in Section 151-3.12 (F) of the LDC:

### **F. Approval Criteria**

A Vacation application shall be approved by the County Commission if they determine that all of following approval criteria have been met:

1. Due and legal notice has been provided as required by this section;
2. No private rights will be injured or endangered by the Vacation;
3. The public will suffer no loss or inconvenience from the Vacation; and
4. In justice to the applicant, the Vacation should be approved.

The requested vacations of 2 I/E for portions of Lot 1A of Replat Lot 1 Porter Farms appears to substantially comply with the LDC. The vacation application was properly noticed in the Kearney Courier on October 13, 2011, and will be posted in five (5) public places in the county prior to the County Commission meeting on November 21 or 28, 2011. Adjacent property owners within 1,000 foot distance were notified by means of a letter dated October 14, 2011 even though state law does not mandate such notice for easement vacations.

## **Outside Agency Review**

The Clay County Planning & Zoning Department sent out notices of the vacation request to all utility providers and other agencies for their comments and possible objections to the vacation. Replies with no objection to the request have been received from electrical (*KCP&L*), water (*Platte County PWSD#4*), phone (*CenturyLink*), gas (*Missouri Gas Energy*), and fire district (*Smithville Fire*) agencies.



# Report to Planning & Zoning Commission

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## Findings

Due to current Missouri Department of Transportation (“MoDOT”) sight distance requirements for driveways, the 2 new proposed I/E easements would access 92 Highway to the east of the existing 20-foot wide I/E and driveway. It is the intentions of the owner/applicant to construct a dust-free, paved entrance in the near term and phase in a private street that will traverse most of the new 50-foot wide I/E and new 20-foot wide I/E until the existing gravel driveway continues on westerly to serve Lot 2. At that point in the alignment, the new 50-foot wide I/E and private street would curve due north in order to continue to serve prospective commercial development and Lot 1B. New shared driveway maintenance agreements will need to be recorded with the dedication of new I/E and the resolution for Vacation.

## Recommendations

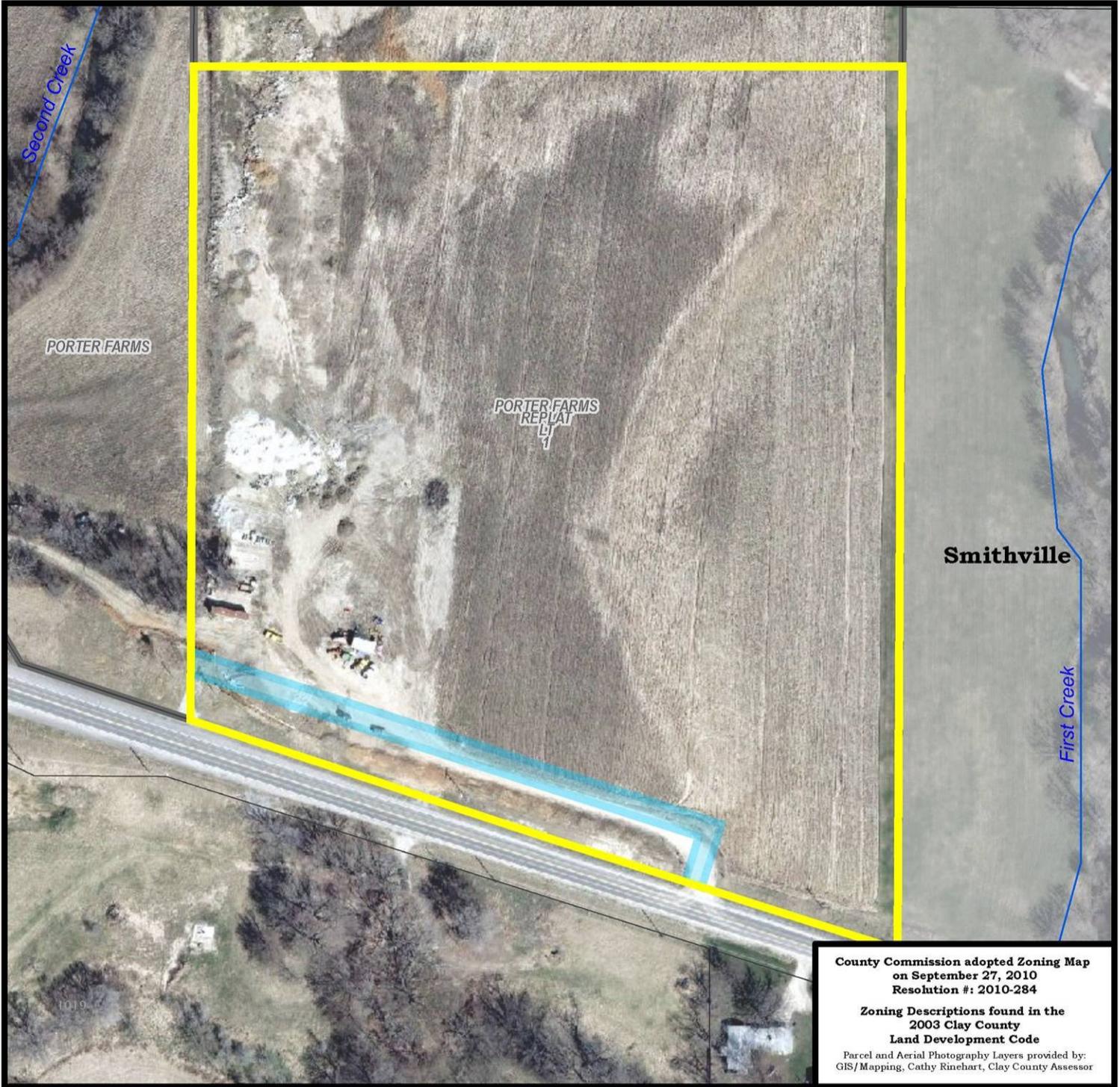
Based upon the lack of founded objection by any outside agencies or neighbor, that the 2 existing I/E would be adequately replaced by the establishment of 2 new I/E, along with general compliance to the LDC, staff recommends **approval** of this vacation requests with the following conditions as shown on Exhibit A:

### Exhibit A

1. The **Resolution for Vacation** recorded, if approved by the County Commission.
2. The **dedication of new Ingress/Egress (“I/E”) Easements by way of recorded documents** with the Clay County Recorder of Deeds that is sufficient enough to accommodate the new I/E easements for Lot 1B of Replat Lot 1 Porter Farms and Lot 2 of Porter Farms, if approved by the County Commission.
3. New **shared driveway agreements** recorded simultaneously with the recording of Resolution for Vacation and new I/E’s dedications.

# Nov. 11-117V - Replat Porter Farms-Vacation

## Attachment A - Existing 20' Easement



**County Commission adopted Zoning Map on September 27, 2010**  
**Resolution #: 2010-284**

**Zoning Descriptions found in the 2003 Clay County Land Development Code**

Parcel and Aerial Photography Layers provided by: GIS/Mapping, Cathy Rinehart, Clay County Assessor

Map Document: (G:\GIS\Project\_Files\Vacinity Map - 8 x 11 P.mxd) 10/26/2011 -- 03:48:58 PM



**Planning & Zoning Department**



1 inch = 150 feet  
1 inch = 0.03 miles

**LEGEND**

- LT1A Property Line
- Existing 20' Easement
- parcel
- Streams (EPA)
- Railroads

**Roads CLASS**

- Interstates
- State Highways
- Local Roads
- Highway Ramps

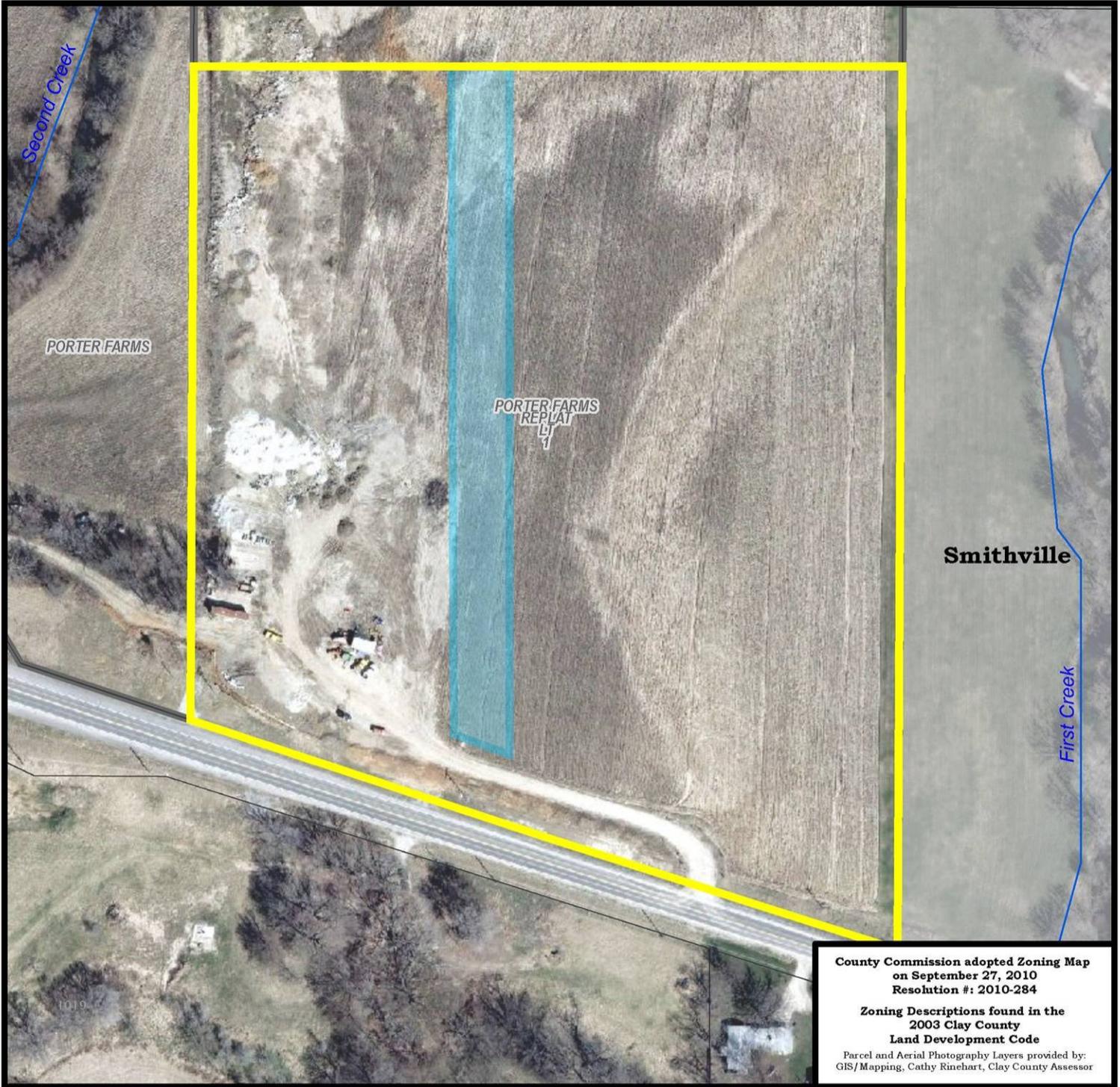
**Overlay Districts**

- CD (Conservation District)
- PUD (Planned Unit Development)

- Subdivisions
- County Boundaries
- 2011 City Limits
- Parks

# Nov. 11-117V - Replat Porter Farms-Vacation

## Attachment B - Existing 60' Easement



**County Commission adopted Zoning Map on September 27, 2010  
Resolution #: 2010-284**

**Zoning Descriptions found in the 2003 Clay County Land Development Code**

Parcel and Aerial Photography Layers provided by:  
GIS/Mapping, Cathy Rinehart, Clay County Assessor

Map Document: (G:\GIS\Project\_Files\Vacinity Map - 8 x 11 P.mxd) 10/26/2011 -- 03:58:59 PM

**Planning & Zoning Department**

1 inch = 150 feet  
1 inch = 0.03 miles

**LEGEND**

- LT1A Property Line
- Existing 60' Easement
- parcel
- Streams (EPA)
- Railroads

**Roads CLASS**

- Interstates
- State Highways
- Local Roads
- Highway Ramps

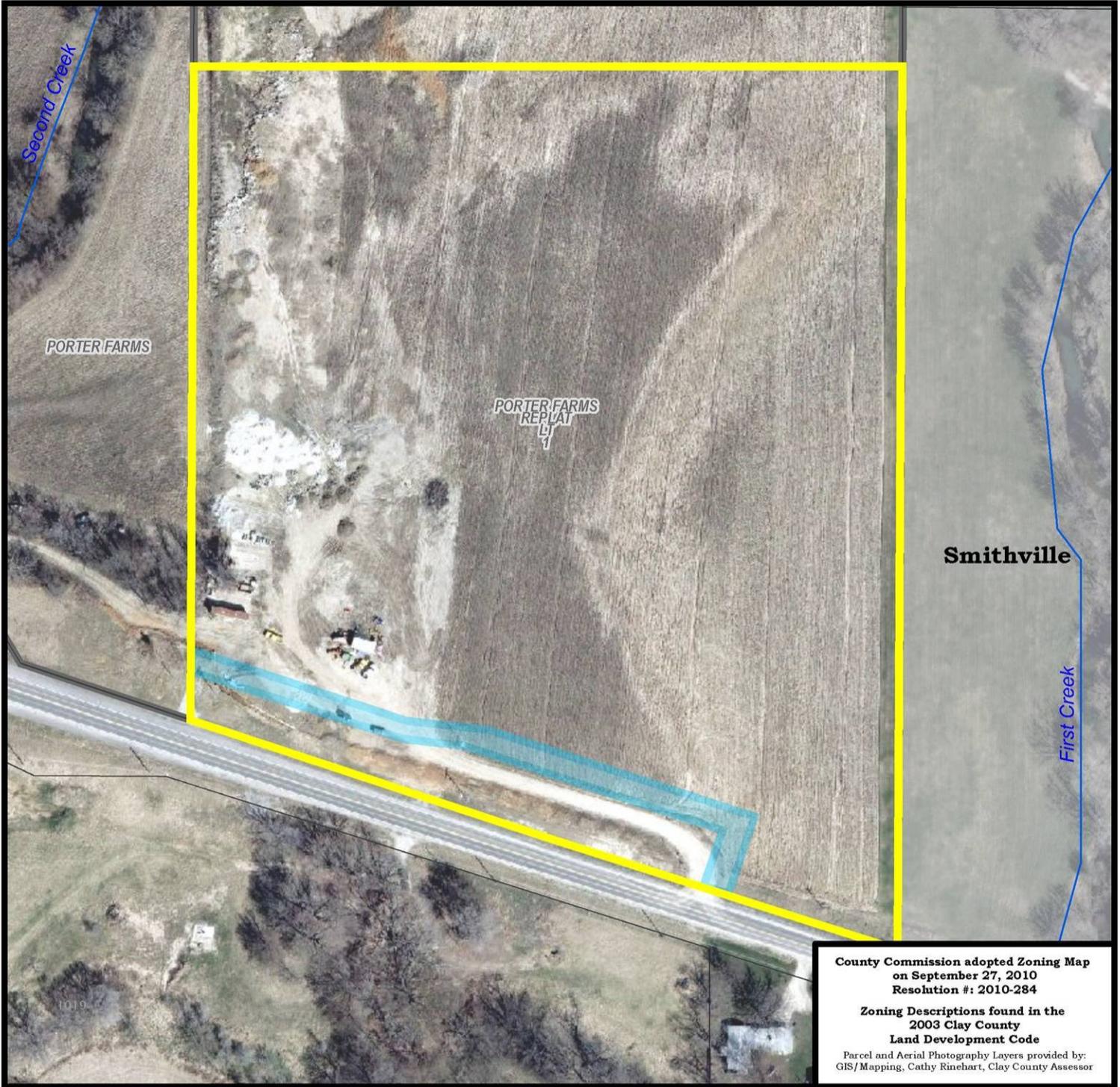
**Overlay Districts**

- CD (Conservation District)
- PUD (Planned Unit Development)

- Subdivisions
- County Boundaries
- 2011 City Limits
- Parks

# Nov. 11-117V - Replat Porter Farms-Vacation

## Attachment C - Proposed 20' Easement





**Planning & Zoning Department**



1 inch = 150 feet  
1 inch = 0.03 miles

**LEGEND**

- LT1A Property Line
- Proposed 20' Easement
- parcel
- Streams (EPA)
- Railroads

**Roads CLASS**

- Interstates
- State Highways
- Local Roads
- Highway Ramps

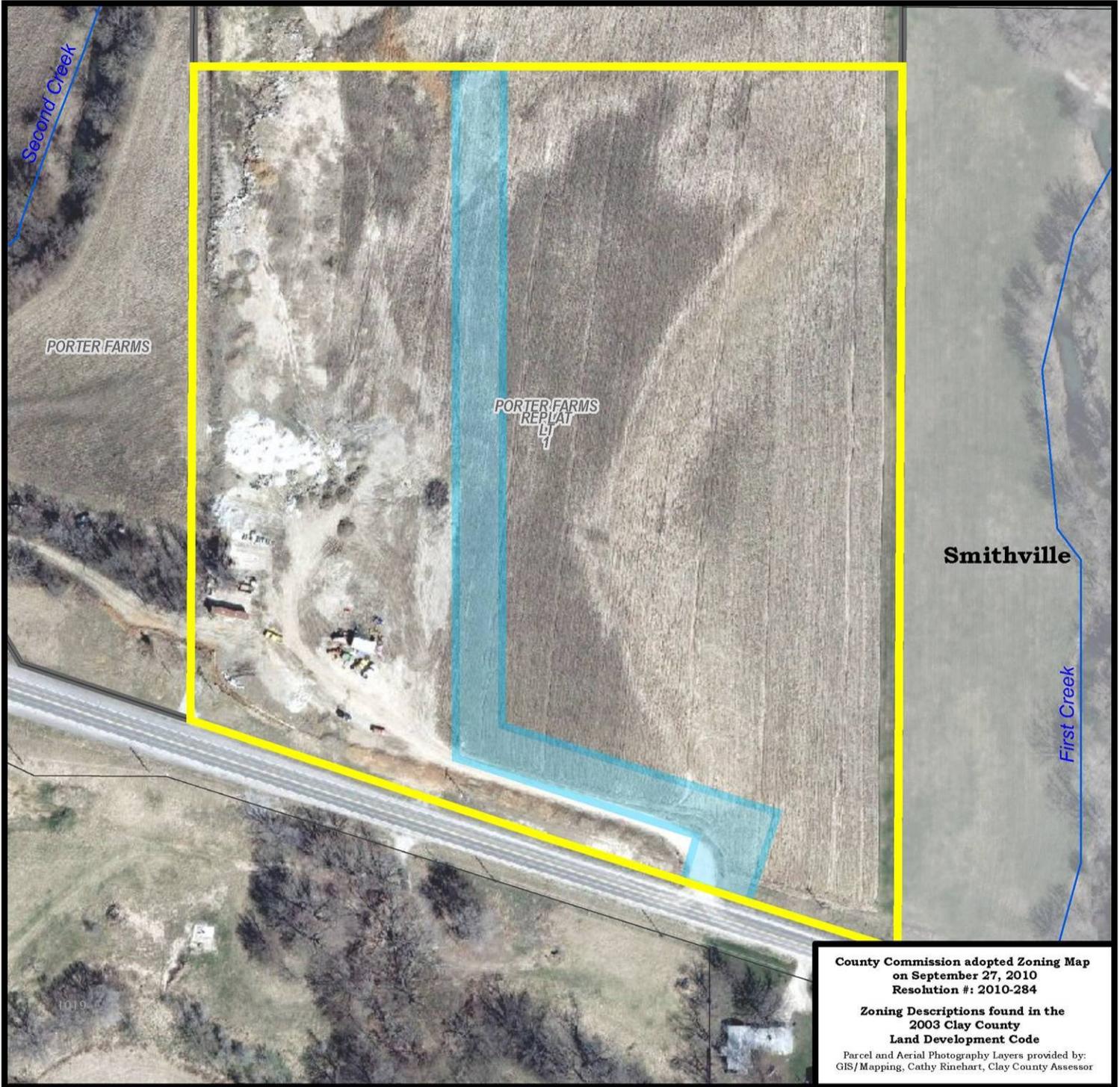
**Overlay Districts**

- CD (Conservation District)
- PUD (Planned Unit Development)

- Subdivisions
- County Boundaries
- 2011 City Limits
- Parks

# Nov. 11-117V - Replat Porter Farms-Vacation

## Attachment D - Proposed 50' Easement



County Commission adopted Zoning Map on September 27, 2010  
 Resolution #: 2010-284  
 Zoning Descriptions found in the 2003 Clay County Land Development Code  
 Parcel and Aerial Photography Layers provided by: GIS/Mapping, Cathy Rinehart, Clay County Assessor

Map Document: (G:\GIS\Project\_Files\Vacinity Map - 8 x 11 P.mxd) 10/26/2011 -- 04:18:58 PM

**Planning & Zoning Department**

1 inch = 150 feet  
1 inch = 0.03 miles

**LEGEND**

- LT1A Property Line
- Proposed 50' Easement
- parcel
- Streams (EPA)
- Railroads

**Roads CLASS**

- Interstates
- State Highways
- Local Roads
- Highway Ramps

**Overlay Districts**

- CD (Conservation District)
- PUD (Planned Unit Development)

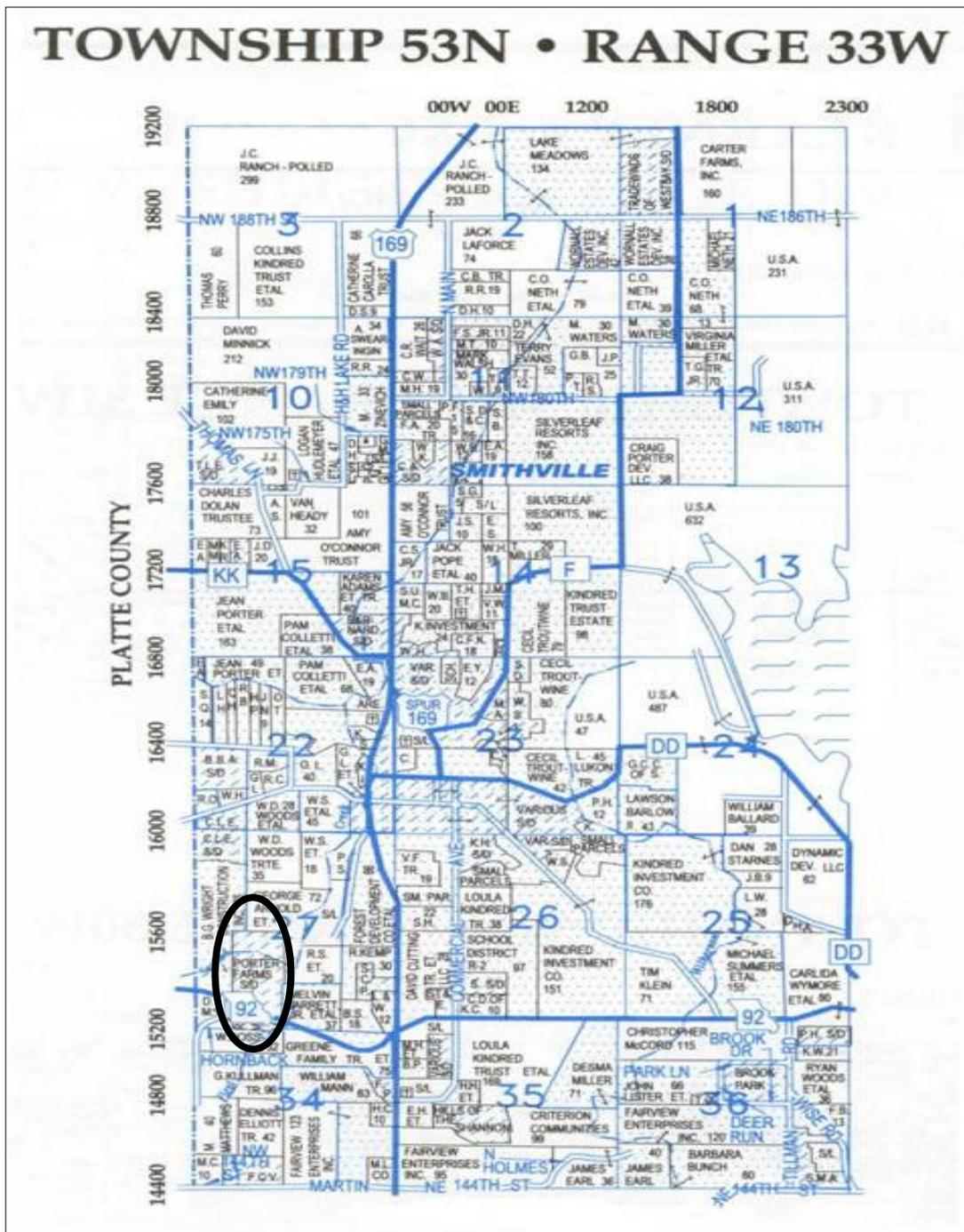
- Subdivisions
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- Parks



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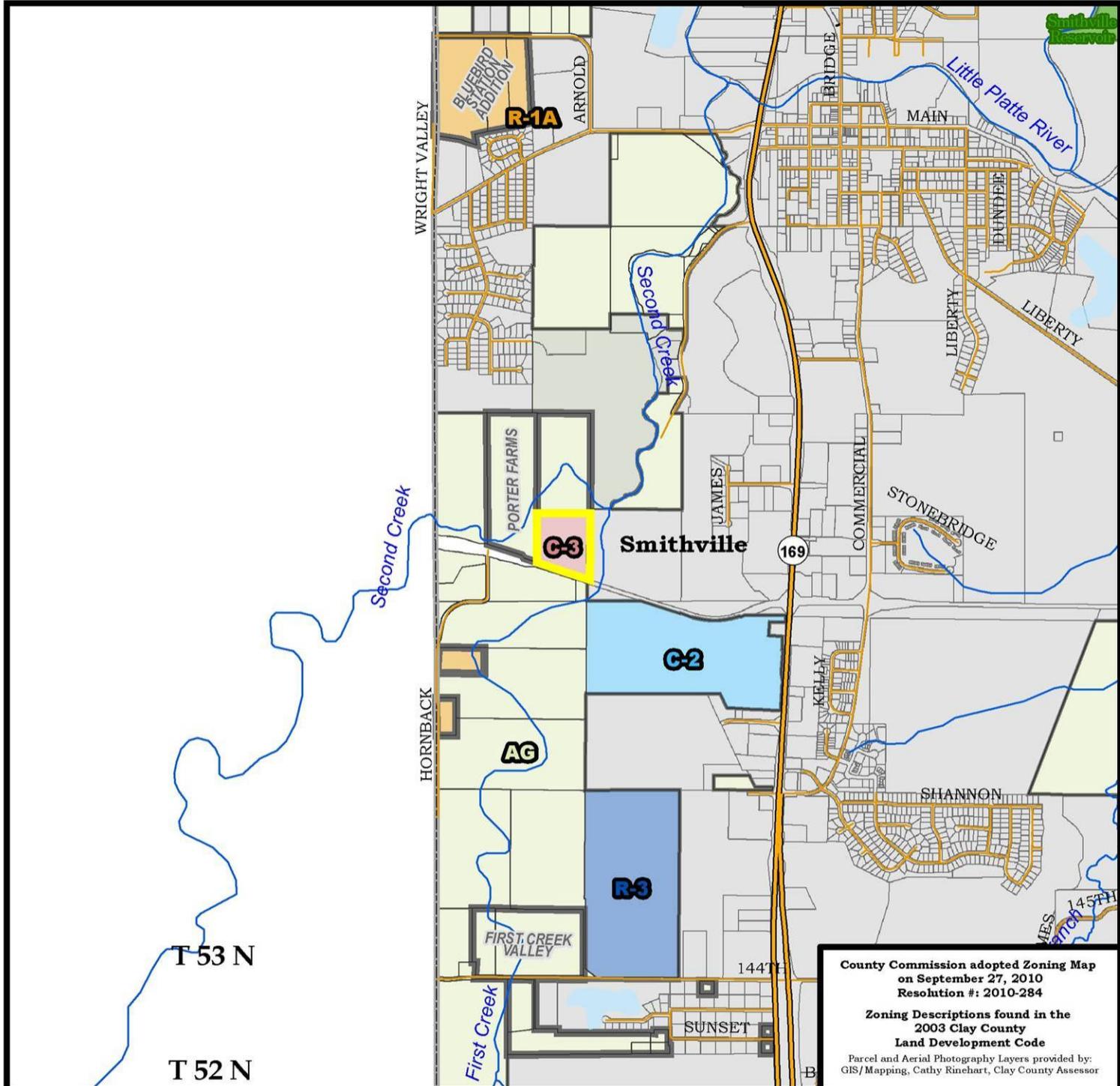
Clay County, Missouri

## Nov. 11-117V – I/E Vacation on Lot 1A of Replat Lot 1 Porter Farms Attachment E – Vicinity Map



# Nov. 11-117V - Replat Porter Farms-Vacation

## Attachment F - Existing Conditions Map



**County Commission adopted Zoning Map**  
**on September 27, 2010**  
**Resolution #: 2010-284**  
**Zoning Descriptions found in the**  
**2003 Clay County**  
**Land Development Code**  
Parcel and Aerial Photography Layers provided by:  
 GIS/ Mapping, Cathy Rinehart, Clay County Assessor

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**Planning & Zoning Department**

1 inch = 2,000 feet  
1 inch = 0.38 miles

**LEGEND**

- LT1A Property Line
- parcel
- Streams (EPA)
- Railroads

**Roads CLASS**

- Interstates
- State Highways
- Local Roads
- Highway Ramps

**Overlay Districts**

- CD (Conservation District)
- PUD (Planned Unit Development)

**Subdivisions**

- County Boundaries
- 2011 City Limits
- Parks

**Zoning Districts**

- AG
- R-1
- R-1A
- R-1B
- R-3
- C-1
- C-2
- C-3
- I-1
- I-2
- OP