



# Oakley City Planning Commission Staff Report

## ZONING CHANGE – OT-117

### Applicant: Daniel and Chandler Smith

**To:** Oakley City Planning Commission  
**From:** Stephanie Woolstenhulme, City Planner  
**Date of Meeting:** November 2, 2022  
**Type of Item:** Zoning Change – Public Hearing, Possible Recommendation  
**Process:** Administrative Review

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**RECOMMENDATION:** Staff recommends that the Planning Commission hold a public hearing, review and forward recommendation of the OT-117 zoning change to Oakley City Council according to the findings of fact, conclusions of law and any condition set forth by the Commission.

### PROJECT DESCRIPTION

**Project Name:** OT-117 Zoning Change - Smith  
**Applicant(s):** Daniel and Chandler Smith  
**Property Owner(s):** Daniel and Chandler Smith  
**Location:** 4685 N. Millrace Road  
**Parcel Number(s):** OT-117  
**Size:** 2.13 acres  
**Zone District:** RR-1  
**Adjacent Land Uses:** Residential/Agricultural  
**Existing Uses:** Residential/Pasture  
**Public Hearing:** Public notice was given for a public hearing at this Planning Commission meeting

### PROPOSAL:

The applicant wishes to amend zone district map and change parcel OT-117 from RR-1 zoning to CR-2 zoning.

### FINDINGS OF FACT

1. Located at approximately 4685 N Millrace Road.
2. Property is currently RR-1.
3. See related maps below.
4. Legal Description of property

- a. Commencing at a point that is 2 rods South of the Northeast corner of Section 30, Township 1 South, Range 6 East, Salt Lake Base and Meridian, and running thence West 11 rods, thence South 31 rods, thence East 11 rods, thence North 31 rods to the place of beginning.

## **CITY CODE REGARDING ZONING MAP AMENDMENTS**

### **13-8-1 Authority**

The City Council may from time to time amend, supplement or repeal the provisions and regulations of this Title and the zone district map of Oakley City. No change to the text of this Title which affects a portion, or all of the real property regulated by this Title and no rezoning of a specific parcel of real property by a change in zoning classification resulting in a change to the zone district map shall be valid unless approved by the City Council pursuant to the provisions set forth herein, except that an application for amending an approved MPD plan shall be processed pursuant to the provisions of chapter 5 of this Title.

### **13-8-2 Initiation Of Amendments**

Any amendment to the text of this Title or the zone district map may be initiated in the following ways:

1. By a motion of the City Council;
2. Upon the request of the Planning Commission;
3. By the City Planner; or
4. Upon the request of the individual having deed title of real property within the area to be rezoned.

### **13-8-3 Amendment Procedures**

1. Amendment to Text of Code: Whenever there is initiated an amendment to the text of this Title, such amendment shall be accomplished in the following manner:
  1. A copy of the proposed amendment shall be delivered to the Planning Commission for its review and recommendation. Prior to making a recommendation, the Planning Commission shall hold a public hearing regarding the proposed amendment.
  2. The Planning Commission's recommendation shall be delivered to the City Council. The City Council shall hold a public hearing on the proposed amendment. Following the public hearing, the City Council shall either approve or deny the amendment.
2. Amendment to Zone District Map (Rezoning):
  1. If the applicant is a private landowner:
    1. An application for an amendment to the zone district map shall be submitted to the City Planner or designated planning staff member. **The City Council may permit the rezoning of the property only after it has determined that said rezoning is generally consistent with the goals and**

**objectives of the general plan, all other criteria and considerations described in this Title, and said action is necessary to promote the public health, safety and welfare of the residents of Oakley City.**

2. The application must be authorized by each owner of the real property that is located within the area to be rezoned or a duly authorized representative of each owner.
3. **Approval of an amendment to the zone district map shall not be granted until both the Planning Commission and City Council have reviewed the specific development proposal, have each held a public hearing, and determined:**
  1. **The amendment is generally consistent with the goals of the General Plan;**
  2. **The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community;**
  3. **The specific development plan is in compliance with all applicable standards and criteria for approval as described in chapter 5 of this Title; and**
  4. **The amendment does not adversely affect the public health, safety and general welfare.**
4. All rezoning approvals will require that the proposed project be processed as a Master Planned Development (MPD).
2. The City Council may initiate the action on its own motion or upon request of the Planning Commission or City Council.
  1. When the amendment is proposed by the City Council, the application shall contain the following:
    1. An accurate survey map or other sufficient legal descriptions.
    2. The names and addresses of all owners of real property within the area to be rezoned, or if on a large scale, clearly identifiable property lines followed upon the map.
    3. The proposed nature of the amendment.
  2. The Planning Commission shall review the proposed amendment. The Planning Commission must find that the proposed amendment is consistent with the requirements in subsection B1c of this section. Prior to making a recommendation, the Planning Commission shall hold a public hearing regarding the proposed amendment.
  3. The Planning Commission's recommendation shall be delivered to the City Council. The City Council shall hold a public hearing regarding the proposed amendment. Following the public hearing, the City Council shall either approve or deny the amendment. In order to approve the amendment, the City Council must find that the proposed amendment is consistent with the requirements in subsection B1c of this section.
3. Amendments by Ordinance: All amendments to the text of this Title and to the zone district map shall be authorized by ordinance, in the manner prescribed by state law.

**13-1-15-E**

There is no right to appeal a recommendation by the Planning Commission, a legislative action, including the granting or denial of a request for a zoning amendment or rezone, or any action by the Planning Commission or City Council that does not result in a final action or decision.

**NOTES OF CONSIDERATION**

I had a conversation with Chandler on approximately October 7, 2022 explaining the process and pro/con of zoning change. I told her, with the support of administration, I would give written verification of 3 development rights as the property arguably had 3 development rights prior to zoning map change. I also explained that other avenues (development agreement and/or conservation easement especially in relation to the historic barn on property) could be explored that may offer the additional density. She declined and asked to proceed with the zoning change application.

**CONCLUSIONS OF LAW**

1. Planning Commission must find that neither the public nor person are materially injured by the proposed subdivision.

**CONCLUSIONS**

Recommendations to City Council may include any of the following options:

1. Recommend adoption of zoning map amendment to CR-2 for parcel OT-117
2. Recommend agreement with Oakley City for 3 units of density to restore density that was previously zoned to parcel.
3. Recommend denial of zoning map amendment to CR-2 for parcel OT-117.

The Planning Commission is empowered to require additional and reasonable improvements to mitigate any detrimental effects to surrounding property and residents and to safeguard the general welfare of the future inhabitants of the subdivision.

***PUBLIC COMMENT***

#1

*I would desire to make my objections known on the proposed zoning application for 4685 N. Millrace Road for the following reasons:*

1. *The current zoning is 1 acre single family residence . which in any agricultural community is quite small compared to the 1/40 acre zone. To downsize to .5 acres will simply increase the already overcrowded area and bottleneck the entrance from SR-32 to Millrace Road.*

2. *There is already a substantial water shortage in Oakley to the point a moratorium is in place. It makes no sense to add zoning decreases to further exacerbate that water issue.*
3. *The one acre zoning, as it currently exists is more than generous and will allow the owners of the property to substantially increase the value, and return on their investment, in the property from where they purchased it.*
4. *The south side of the property contains a fairly wide and scenic section of irrigation ditch that will be impacted by any building/construction on the south end of the property, even with the current zoning. To double that density makes no sense.*
5. *If any zoning density on this property is doubled, you will also create an difficult argument to be made in the future for any other property owner that wants to change their density as well. Setting any precedent for future development with such small density is not in the best interests of Oakley City.*
6. *Any zoning change, regardless of decrease or increase, according to the newest master plan for the City, must be necessary and in the best interests of all of Oakley City, not just the property owners. I do not believe either one of those criteria have been met or will be meet with this application being approved.*

*Thank you for your consideration and attention to this objection.*

*Les F. England  
1210 Cow Alley Circle*

*#2*

*To Oakley City Gov't/City Council/Planning Commission,*

*I am STRONGLY OPPOSED to an increase in density in town and particularly with 4685 Millrace Rd.*

*I know these folks are trying to petition the decision made to double the housing on this property and they're crying that they want it tripled – NO WAY.*

*There is already enough traffic, housing and water consumption here. The fact that they're trying to use their kids to guilt the zoning committee into making a decision in their favor is just sad.*

*Your neighbor,  
Signature illegible*

*#3*

*Thank you for the letter notification to area residents and the opportunity to submit input on a zone change request on Millrace Road, potentially dividing the 2.13 parcel into 4 residential lots.*

*This parcel contains a creek with sensitive wetlands and riparian areas. Oakley City code rightly protects these areas, recognizing the value and importance of wetlands in Chapter 13-15-12 of*

*the city's municipal code.\* After the required 100 ft. buffer around the creek and wetlands is established, there would likely not be enough room for 4 half-acre lots.*

*The barn on the property is also of historical significance, and with its sturdy green metal roof, is ready to stand up to the elements to serve as shelter for a good long time into the future. The former owner invested a big chunk of his life savings in his later years to install that barn roof, graciously thinking past his own lifespan and would definitely not approve of this rezone. The scenic and agricultural value of this beautiful parcel would be totally lost if it were allowed to be severed into 4 residential lots.*

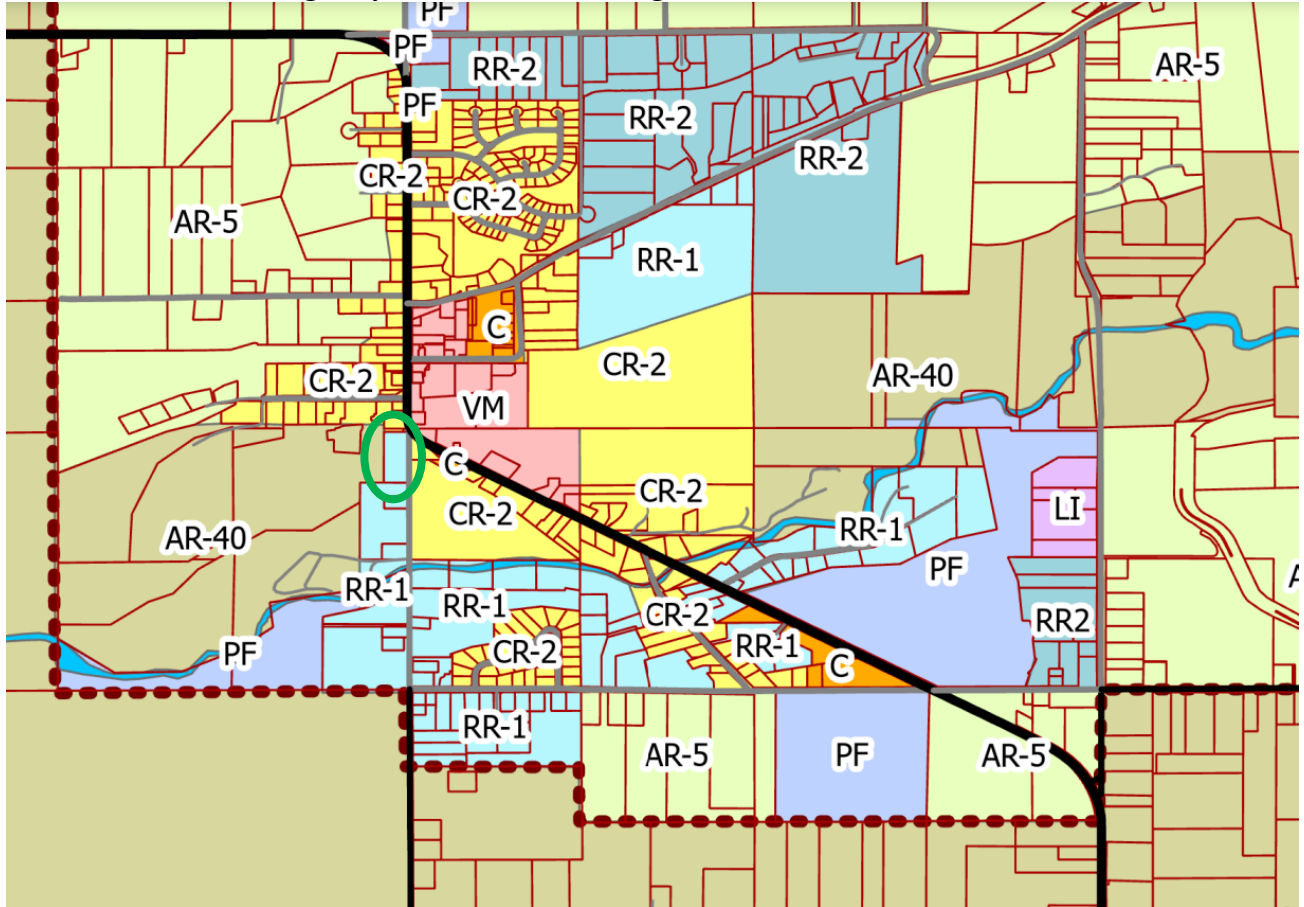
*In addition to being home to one of Oakley's iconic barns, this pastureland serves as an important floodplain during the spring runoff, naturally absorbing floodwaters and sediments with its sedge and rush pastures, while supporting frogs and birds and fireflies as well as cows and horses for generations.*

*These agricultural benefits and ecosystem functions can not, do not happen in subdivisions with their houses and yards and fences. This is a particularly important, high profile parcel, a stone's throw from downtown Oakley and off SR32, it would be a huge loss to the whole town's look and feel. I do not think this zoning change request should be granted.*

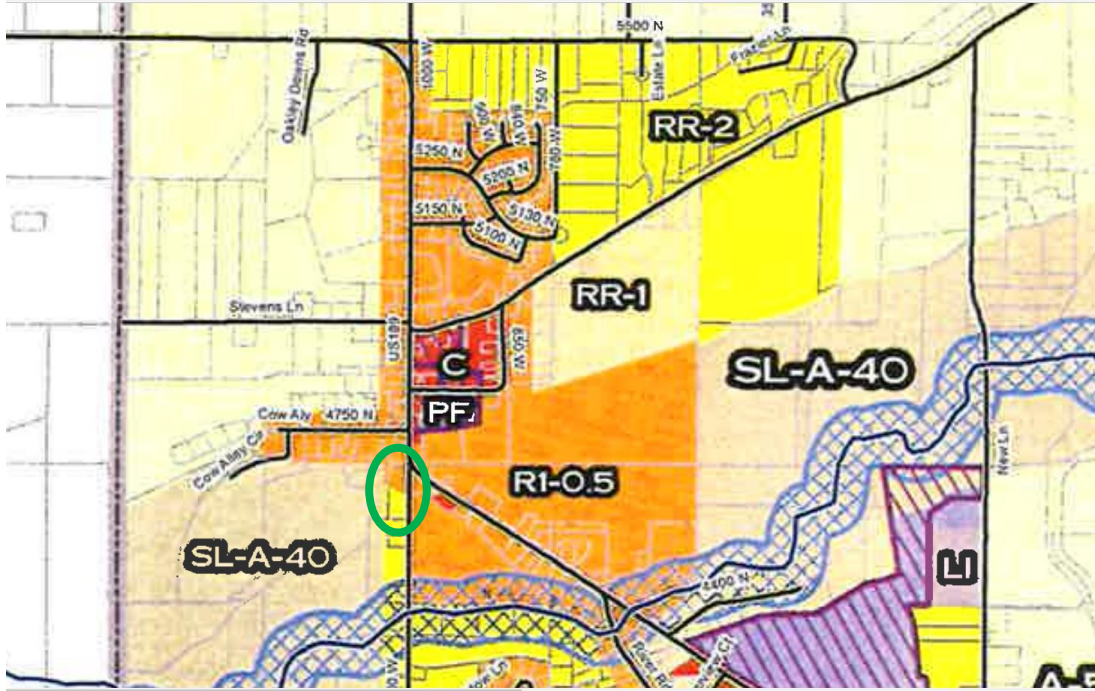
*Paula Trater  
1074 Cow Alley  
435-255-0486*

*\*From Oakley Municipal Code Section 13-15: Sensitive Lands Regulation:  
"Achieve no net loss in the quantity, quality, functions and biological diversity of wetlands, riparian areas, and watercourses"*

**MAP 1 – Current Zoning Map – shows RR-1 zoning**

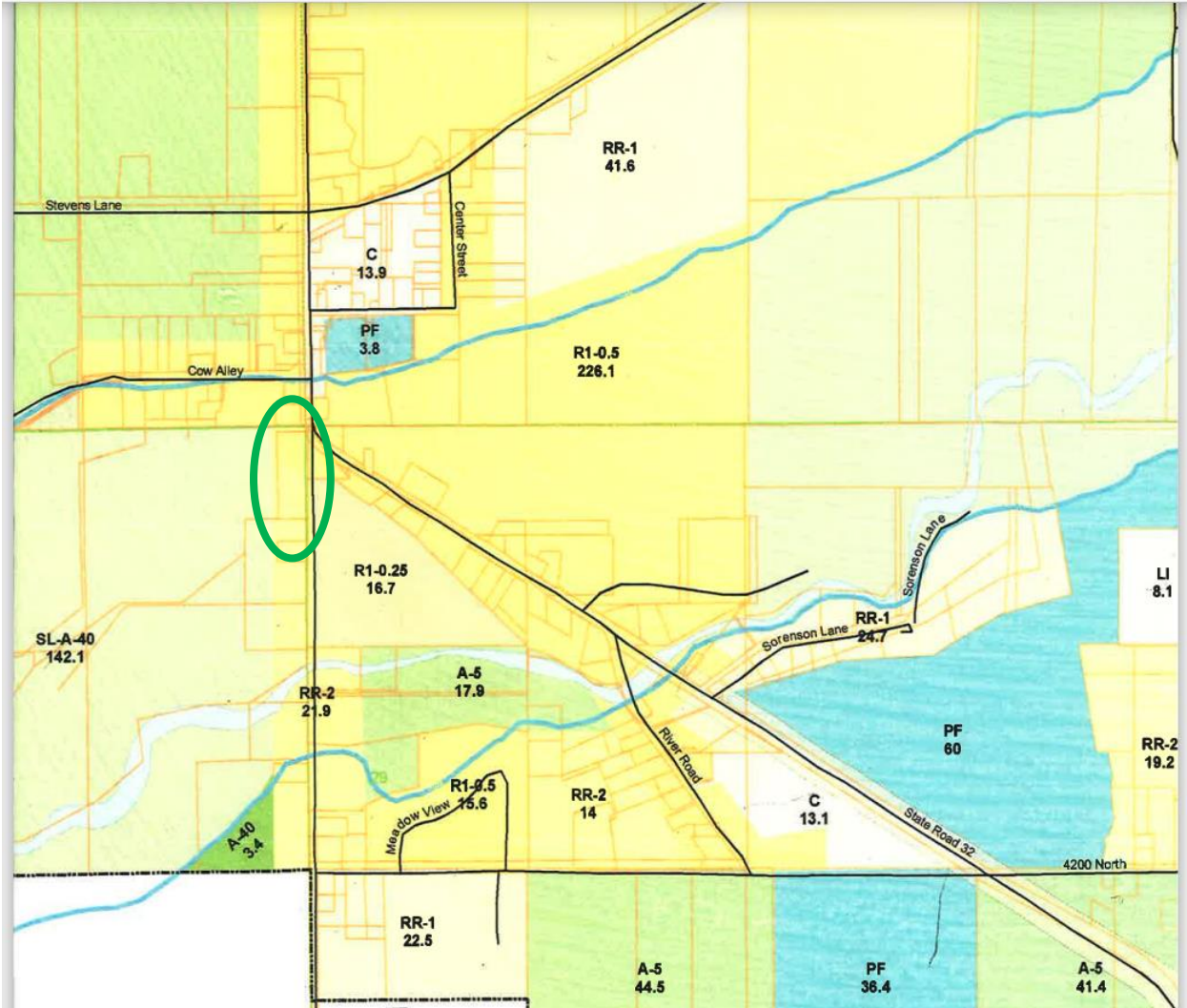


**MAP 2 – Previous Zoning Map – shows split zoning of RR-2 and RR 1-0.5**



**MAP 3: Previous Zoning Map – Sept. 30, 2004 Zoning map of Smith Parcel: Difficult to see zoning line dividing parcel. RR-2 and RR 1-0.5 split zoning.**





Map 4: March 14, 1995 zoning map of Smith Parcel: RR-2 and RR 1-0.5 split zoning.

