



TANEY COUNTY PLANNING COMMISSION
P. O. Box 383 • Forsyth, Missouri 65653
Phone: 417 546-7225 / 7226 • Fax: 417 546-6861
website: www.taneycounty.org

09-2

Taney County Board of Adjustment
APPLICATION AND AFFIDAVIT
FOR VARIANCE OR APPEAL

NOTE: You can complete this application form on your computer and then print a copy. Use your TAB key to move from line to line, and then type in the required information. Print the completed form and submit it to the Planning & Zoning office.

SELECT ONE: Variance (\$25) Appeal (\$75)

Name of Applicant: Fountains on Fall Creek Phone: 417.348.1055 x255

Address: 245 S. Wildwood Dr.

City: Branson State: MO Zip Code: 65616

Representative: Mark Ruda Phone: 417.336.8242

Owner of Record: Fountains on Fall Creek, LL Signature: [Handwritten Signature]

Project Name: Fountains on Fall Creek

Section(s) of Code Protested (P&Z office entry): _____

Site Address / Location: approx. 3855 Fall Creek Rd. Branson MO 65616

Subdivision (if applicable): na

Section: 12 Township: 22N Range: 22W

Parcel #: 18-1.0-12-004-001-002.000 and adj. Acres or Sq.Ft.: 52.12+5.9=approx. 58.02

Does the property lie in the 100-year Floodplain? Yes No

Required Submittals Checklist:

- typewritten legal description of the property involved in this request
- proof of public notification in a newspaper of county-wide circulation
- proof of ownership or approval to proceed with request from the property owner
- site plan or survey of the project that completely demonstrates this request

Board of Adjustment Application (continued)

JUSTIFICATION FOR REQUEST

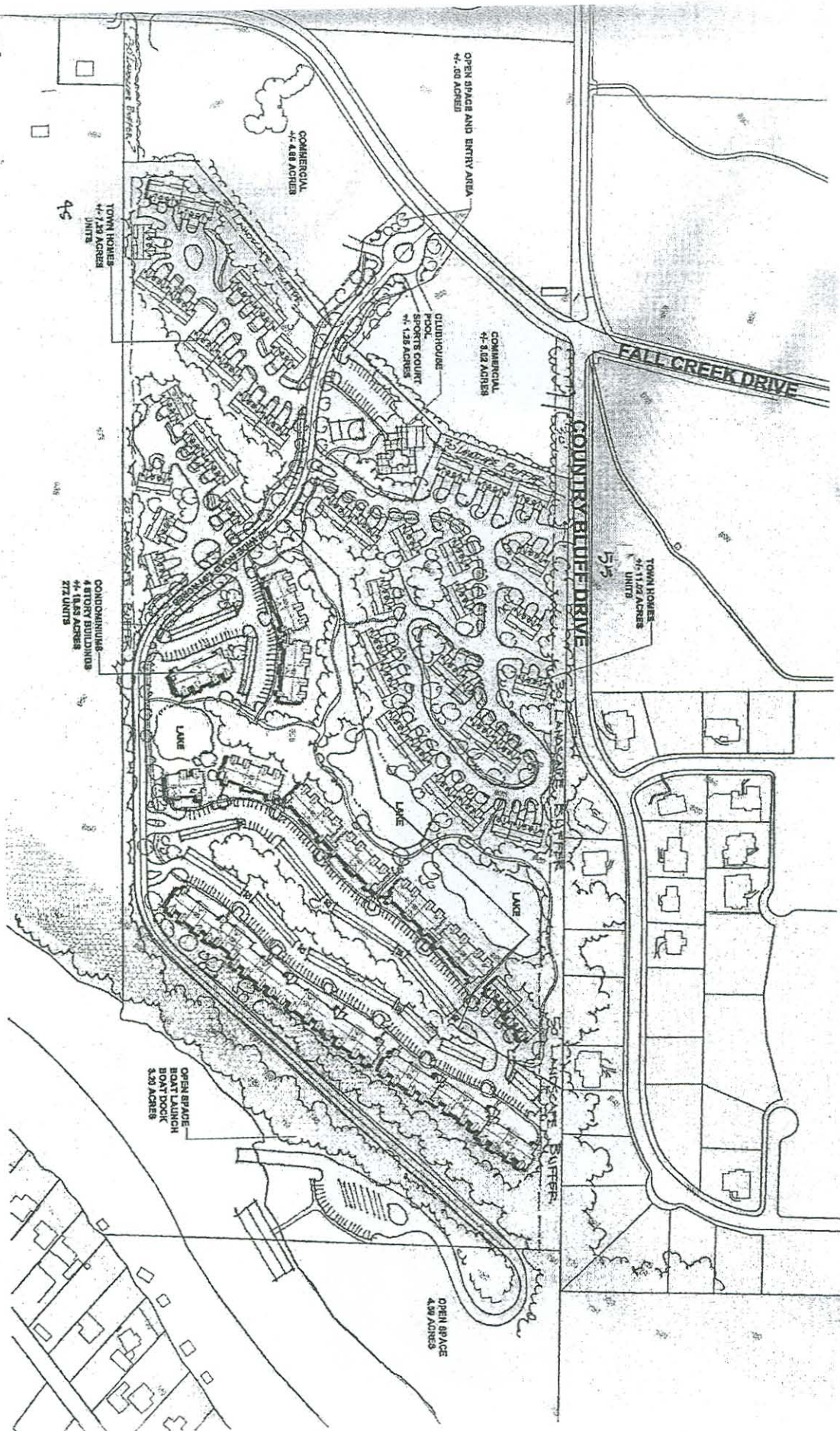
Please provide a detailed description of your request and reason(s) supporting your request.

Property previously zoned commercial allowing timeshare. Previous application was completed approximately June 28, 2006 and a zoning decision of record was filed approximately September 22, 2006 zoning the property commercial specifically allowing condominiums, nightly rental, and timeshare. A few concessions were made such as increasing green space between multi-story and adjacent residential, etc. The property was then purchased by Fountains on Fall Creek, LLC approximately October 11, 2006 via a Real Estate Purchase Contract subject to prior zoning approval. Due to economic conditions the property has not been developed and a new zoning application was presented by Fountains on Fall Creek, LLC nearly identical to the previously approved application specifically including previously approved concessions. While Taney County development guidance code has changed minimally in the interim, a "relative" scoring system has been implemented and/or re-implemented. Staff initially scored this project negative six (-6) based on limited application information. Applicant addressed scoring during public hearing meeting having self scored the project positive 47 (47) based on additional information provided. The commission seemed un-concerned with the scoring of the project as it was never discussed in any detail by the commission in either the public hearing or regular meeting even after the Applicant stated separately in each meeting that certain items in question having significant positive impact on score could be included in the decision of record (i.e. underground utilities are planned increasing the score of the project 16 points on this issue alone)

In summary, arbitrary zoning appears to be in practice. When property is purchased based on current zoning and future zoning is changed based on very little change in circumstance, at very least, a hardship is created. When the County has Absolute factors and Relative factors in place to determine zoning, it seems reasonable that approved weighted measures should be considered in determining zoning. i.e. use compatibility is only one of many factors (which in itself is subjective depending on the definition of surrounding area as Thousand Hills Resort contiguous to the North is commercial specifically including timeshare and nightly rental, the property contiguous to the west is/ was for sale at a price only feasible with commercial use, Lake Taneycomo includes commercial activities specifically including electrical generation, and Acacia Club road includes commercial areas) and per the relative scoring sheets provided does not appear to over-ride all other considerations. If ultimate consideration was given to adjacent compatibility, all property would forever remain agricultural.

The Applicant asks zoning be approved as initially requested.

LAND USE	ACRES	UNITS	UNITS/ACRE
COMMERCIAL	7.9		
TOWN HOMES	18.31	100	5.46
CONDOMINIUMS	18.53	212	11.46
SUB TOTAL	36.74	312	10.01
PUBLIC ROAD ROW	1.91		
CLUBHOUSE	1.38		
OPEN SPACE	8.39		
TOTAL	58.3	312	6.61



MOUNTAINS ON FALL CREEK

