



## TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653  
Phone: 417 546-7225 / 7226 • Fax: 417 546-6861  
website: [www.taneycounty.org](http://www.taneycounty.org)

### **AGENDA** **TANEY COUNTY BOARD OF ADJUSTMENT** **WEDNESDAY, NOVEMBER 16, 2011, 7:00 P.M.** **FORSYTH HIGH SCHOOL** **MULTI-PURPOSE ROOM**

#### Call to Order:

*Establishment of Quorum*  
*Explanation of Meeting Procedures*  
*Presentation of Exhibits*

#### Public Hearings:

*Appeals of the Branson Sports Entertainment Complex*  
*Paul Vozar*  
*Anthony and Nyla Espey*  
*Stacy Whitfield*  
*Country Farm Estates Homeowners Association*  
*Big Cedar Lodge*

*Branson Sports Entertainment Complex*  
*Appeal of Specific Conditions of the Decision of Record*

#### Old and New Business:

*Tentative*

#### Adjournment.



**TANEY COUNTY BOARD OF ADJUSTMENT  
APPEAL STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**HEARING DATE:** November 16, 2011

**CASE NUMBER:** 2011-0001A

**APPLICANT:** Paul Vozar

**LOCATION:** The subject property is located east of the intersection of Thunderbird Road and U.S. Highway 65; Oliver Township, Sections 8, 9 & 17, Township 21, Range 21.

**REQUEST:** The applicant, Paul Vozar is seeking to appeal the Planning Commission approval of Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC).

**BACKGROUND and SITE HISTORY:**

The subject property consists of approximately 809 acres currently containing a single-family residence and has served as fully guided deer and elk hunting facility.

On February 22, 2011 a Notice of Violation was sent to Russell Cook from the Missouri Department of Natural Resources (MoDNR) concerning land disturbance activities of over one acre without a Missouri State Operating Permit. On February 22, 2011 Taney County Land Disturbance Permit # 11-01 was obtained for 75 acres of disturbance, with a security of \$750.00 per acre of disturbance (\$56,250 cash bond) being submitted to the Planning Department. The applicant also received a Missouri State Operating Permit from the MoDNR for the 75 acre land disturbance. On July 14, 2011 the BSEC filed a Taney County Land Disturbance Permit Application for 325 acres of disturbance, along with the required Stormwater Pollution Prevention Plan. The applicant self reported to the MoDNR indicating that the disturbed area had exceeded the original 75 acre permitted area. On July 28, 2011 a letter of warning was sent from Kevin Hess of the MoDNR to the applicant stating, "To eliminate the violations of the Missouri Clean Water Law and Department regulations the Department requests that the land disturbance activities cease in any areas outside of the boundaries of the permitted 75 acres until a permit is issued covering the extended area."

On August 18, 2011 the MoDNR informed the Planning Department that the U.S. Army Corps of Engineers had sent a notice to Russell Cook concerning the unauthorized placement of fill material in two unnamed tributaries to Turkey Creek without a 404 Permit, associated with the development of the Branson Sports Entertainment Complex.



On August 19, 2011 correspondence was sent from the Planning staff to the BSEC engineer indicating that, "Prior to issuing the current land grading permit for 325 acres Taney County will require some assurances that the development has obtained the proper permits through the Corps." The Planning office is also requesting the submission of the required Erosion and Sedimentation Control Plan and a \$243,750.00 Land Disturbance Bond (\$750.00 per acre of disturbance) prior to the issuance of the 325 acre Land Disturbance Permit. On September 14, 2011 representatives from the U.S. Army Corps of Engineers (Corps), the BSEC and the Planning Department met on site in order to discuss the requirements of the 404 permitting process. The BSEC representatives are currently working directly in conjunction with the Corps in obtaining the required 404 Permit. The developer has not resumed any grading activities on site since prior to the approval of the Division III Permit by the Taney County Planning Commission (June 23, 2011).

On July 18, 2011 the Taney County Planning Commission approved Division III Permit # 2011-0016 allowing the Branson Sports Entertainment Complex to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings. On October 17, 2011 the notarized Division III Decision of Record for Permit # 2011-0016 was signed and filed with the Taney County Recorder of Deeds office.

#### **GENERAL DESCRIPTION:**

The proposed Branson Motorplex development will be located on a total of approximately 809 acres. The proposed complex will showcase a three-quarter-mile asphalt racetrack with seating for 65,000 spectators with provisions for future expansion.

The applicant has stated that this proposed project will include:

- ¾ mile asphalt track suitable for all standards of racing
- Stadium seating for 65,000 fans
- A road course suitable for a variety of types of racing
- Luxury Suites
- Hospitality Village
- Media Center
- Concessions Concourse with food, beverage, gifts and other amenities
- Welcome plaza with areas for souvenir trailers, corporate displays and entertainment
- Fan accessible infield which will contain garages for the race teams and technical inspection facilities for the sanctioning bodies.
- RV and camping facilities for participants and fans
- Concerts, car shows, trade shows, food, retail, commercial development, public events and faith based and community gatherings



## **REVIEW:**

The applicant (Paul Vozar) is appealing the Planning Commission's decision to approve Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC), believing that the proposed project does not meet all of the requirements of the Taney County Development Guidance Code.

The applicant believes that the approval of Division III Permit # 2011-0016, will not conserve and protect property and building values as identified as a purpose for the Taney County Development Guidance Code and is contrary to the absolute and relative policies related to Section 11.1.3 of the Development Guidance Code (Land Use Compatibility).

The applicant has stated that the Planning Commission decision to approve should also be reversed because of the grading and clearing that has taken place in excess of the permitted grading limits.

As a part of the Division III approval process, the project received a score of 24 on the Policy Checklist, out of a maximum possible score of 87. The relative policies receiving a negative score consist of off-site nuisances, right-of-way on existing roads, slopes, use compatibility, wildlife habitat & fisheries, building materials and traffic.

The Planning Commission approved Division III Permit # 2011-0016 (by a vote of four in favor and two against) with a total of 18 conditions, based upon the belief that this proposed development would comply with the Absolute and Relative Policies of the Taney County Development Guidance Code. The conditions were placed upon this permit in order to mitigate the concerns of the neighboring property owners and also to ensure compliance with the Absolute and Relative Policies of the Development Guidance Code.

## **STATUTORY REQUIREMENTS OF APPROVAL:**

Per the requirements of the Missouri Revised Statutes the Board of Adjustment shall have the following powers and it shall be its duty:

To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official in the enforcement of the county zoning regulations;

In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.



Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the county commission, respectively, under the provisions of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Upon the presentation of the petition the court shall allow a writ of certiorari directed to the board of adjustment or the county commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case. The court may reverse or affirm or may modify the decision brought up for review. After entry of judgment in the circuit court in the action in review, any party to the cause may prosecute an appeal to the appellate court having jurisdiction in the same manner now or hereafter provided by law for appeals from other judgments of the circuit court in civil cases.

#### **SUMMARY:**

If the Taney County Board of Adjustment approves this appeal request, the Planning Commission approval of the Decision of Record for Division III Permit # 2011-0016 shall be reversed and shall be considered null and void. The following requirements shall apply, unless revised by the Board:

1. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 Taney County Development Guidance Code).



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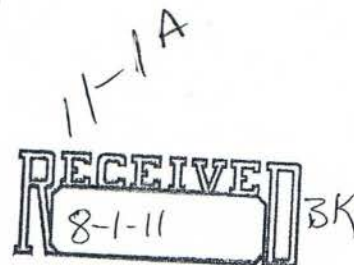
## TANEY COUNTY BOARD OF ADJUSTMENT

### APPLICATION and AFFIDAVIT

### FOR VARIANCE OR APPEAL

(Circle one)

Variance (\$125.00) Appeal (\$125.00)



PLEASE PRINT

DATE 8-1-11

Applicant Paul Vozar Phone 417-555-4558

Address, City, State, Zip Hollister, Mo. 65672-4045

Representative Grant D Johnson LLC Phone 417-541-2779

Owner of Record Russell Cook/BESC Signature: Paul Vozar

Name of Project: Branson Entertainment Sports Complex

Section of Code Protested: (office entry) all attached

Address and Location of site: 689 High Mountain Dr

Subdivision (if applicable) NA

Section 89.17 Township 21 Range 21 Number of Acres or Sq. Ft. 809 ac.  
20-4-17-0-0-5 20-3-8-0-0-1.12

Parcel Number 20-2-9-0-0-12.1 20-3-8-0-0-2

Does the property lie in the 100-year floodplain? (Circle one) Yes No.

Required Submittals:

- ☐ Typewritten legal description of property involved in the request
- ☐ Postage for notifying property owners within 600 feet of the project
- ☐ Proof of public notification in a newspaper of county-wide circulation
- ☐ Proof of ownership or approval to proceed with request by the owner
- ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.



***Describe in detail the reason for your request:***

Proposed multi-use BSEC project was approved by the Taney County Planning & Zoning Commission at the July 18, 2011 meeting.

Applicant (Paul Vozar) is appealing the Commission's decision to approve the Division III permit, believing the proposed project does not meet all requirements of the Taney County Development Guidance Code as follows:

1.) According to section 1 of the developmental code: whose purpose is among other things "to conserve and protect property and building values." This type of development would greatly reduce the property values of more than 200 residences and therefore should be denied as stated in the code book.

2.) Section 11.1.3 Land Use Compatibility-Can a racetrack and a neighborhood be compatible? Taney County's policy is to encourage land use compatibility. Does this fit that interpretation? Even in it's loosest definition, no where can I find that these two types of uses are compatible, therefore should be denied as stated in the code book.

3.) Section 11.1.3 The section marked Relative Policies- begins with "off site nuisances which include dust, smoke, odors, noise vibration, light etc." the code states "that potential off site nuisances are to be mitigated by appropriate means." These means were to be submitted with the application, they were not submitted and therefore the project should have been denied.

4.) Section 11.1.3 According to the code, "where it cannot be demonstrated, that an off site nuisance will be acceptably mitigated the development generating that nuisance, shall be discouraged by the board", and thus far has not been acceptably mitigated; therefore this in direct violation of the Taney County Developmental Codes and should have been denied.

5.) Knowing the liberties that have been taken by exceeding the amount of agricultural land clearing that has been done this project should have been halted by the Taney County Planning and Zoning for violations against the developmental codes, and therefore, should have been denied.

6.) At the concept meeting May 10, 2011, the developer was asked to submit documents from the Modot and the Missouri Economic Development Departments. Then asked for additional documentation ie; land disturbance survey. These documents were not provided in time or not at all, for the board to accurately research prior to the public hearing, therefore this project should not have been on the agenda for a public hearing. Therefore, could not be approved or denied.

7.) It is my belief that the Taney County Planning and Zoning has violated their own policies as set forth in the Taney County Developmental Code and actions should be taken against all parties involved for these violations, and therefore should be denied.

8.) Board member-Susan Martin pointed all of these out at the voting meeting, no denial from any board member as to the legality to her objections, therefore, one can assume she is correct and this project should never have been voted on or approved thus should be denied.

Respectfully Submitted-



Paul Vozar





**TANEY COUNTY BOARD OF ADJUSTMENT  
APPEAL STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**HEARING DATE:** November 16, 2011

**CASE NUMBER:** 2011-0002A

**APPLICANT:** Anthony and Nyla Espey

**LOCATION:** The subject property is located east of the intersection of Thunderbird Road and U.S. Highway 65; Oliver Township, Sections 8, 9 & 17, Township 21, Range 21.

**REQUEST:** The applicants, Anthony and Nyla Espey are seeking to appeal the Planning Commission approval of Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC).

**BACKGROUND and SITE HISTORY:**

The subject property consists of approximately 809 acres currently containing a single-family residence and has served as fully guided deer and elk hunting facility.

On February 22, 2011 a Notice of Violation was sent to Russell Cook from the Missouri Department of Natural Resources (MoDNR) concerning land disturbance activities of over one acre without a Missouri State Operating Permit. On February 22, 2011 Taney County Land Disturbance Permit # 11-01 was obtained for the 75 acres of disturbance, with a security of \$750.00 per acre (\$56,250 cash bond) being submitted to the Planning Department. The applicant has also received a Missouri State Operating Permit from the MoDNR for the 75 acre land disturbance. On July 14, 2011 the BSEC filed a Taney County Land Disturbance Permit Application for 325 acres of disturbance, along with the required Stormwater Pollution Prevention Plan. The applicant self reported to the MoDNR indicating that the disturbed area had exceeded the original 75 acre permitted area. On July 28, 2011 a letter of warning was sent from Kevin Hess of the MoDNR to the Russell Cook stating, "To eliminate the violations of the Missouri Clean Water Law and Department regulations the Department requests that the land disturbance activities cease in any areas outside of the boundaries of the permitted 75 acres until a permit is issued covering the extended area."

On August 18, 2011 the MoDNR informed the Planning Department that the U.S. Army Corps of Engineers had sent a notice to Russell Cook concerning the unauthorized placement of fill material in two unnamed tributaries to Turkey Creek without a 404 Permit, associated with the development of the Branson Sports Entertainment Complex.



On August 19, 2011 correspondence was sent from the Planning staff to the BSEC engineer indicating that, "Prior to issuing the current land grading permit for 325 acres Taney County will require some assurances that the development has obtained the proper permits through the Corps." The Planning office is also requesting the submission of the required Erosion and Sedimentation Control Plan and a \$243,750.00 Land Disturbance Bond (\$750.00 per acre of disturbance) prior to the issuance of the 325 acre Land Disturbance Permit. On September 14, 2011 representatives from the U.S. Army Corps of Engineers (Corps), the BSEC and the Planning Department met on site in order to discuss the requirements of the 404 permitting process. The BSEC representatives are currently working directly in conjunction with the Corps in obtaining the required 404 Permit. The developer has not resumed any grading activities on site since prior to the approval of the Division III Permit by the Taney County Planning Commission (June 23, 2011).

On July 18, 2011 the Taney County Planning Commission approved Division III Permit # 2011-0016 allowing the Branson Sports Entertainment Complex to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings. On October 17, 2011 the notarized Division III Decision of Record for Permit # 2011-0016 was signed and filed with the Taney County Recorder of Deeds office.

#### **GENERAL DESCRIPTION:**

The proposed Branson Motorplex development will be located on a total of approximately 809 acres. The proposed complex will showcase a three-quarter-mile asphalt racetrack with seating for 65,000 spectators with provisions for future expansion.

The applicant has stated that this proposed project will include:

- ¾ mile asphalt track suitable for all standards of racing
- Stadium seating for 65,000 fans
- A road course suitable for a variety of types of racing
- Luxury Suites
- Hospitality Village
- Media Center
- Concessions Concourse with food, beverage, gifts and other amenities
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- RV and camping facilities for participants and fans
- Concerts, car shows, trade shows, food, retail, commercial development, public events and faith based and community gatherings



## **REVIEW:**

The applicants (Anthony and Nyla Espey) are appealing the Planning Commission's decision to approve Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC), believing that the proposed project is not compatible with the adjacent properties and that the BSEC has not provided sufficient proof of economic growth.

As a part of the Division III approval process, the project received a score of 24 on the Policy Checklist, out of a maximum possible score of 87. The relative policies receiving a negative score consist of off-site nuisances, right-of-way on existing roads, slopes, use compatibility, wildlife habitat & fisheries, building materials and traffic.

The Planning Commission approved Division III Permit # 2011-0016 (by a vote of four in favor and two against) with a total of 18 conditions based upon the belief that this proposed development would comply with the Absolute and Relative Policies of the Taney County Development Guidance Code. The conditions were placed upon this permit in order to mitigate the concerns of the neighboring property owners and also to ensure compliance with the Absolute and Relative Policies of the Development Guidance Code.

## **STATUTORY REQUIREMENTS OF APPROVAL:**

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In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the county commission, respectively, under the provisions of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Upon the presentation of the petition the court shall allow a writ of certiorari directed to the board of adjustment or the county commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case. The court may reverse or affirm or may modify the decision brought up for review. After entry of judgment in the circuit court in the action in review, any party to the cause may prosecute an appeal to the appellate court having jurisdiction in the same manner now or hereafter provided by law for appeals from other judgments of the circuit court in civil cases.



**SUMMARY:**

If the Taney County Board of Adjustment approves this appeal request, Planning Commission approval of the Decision of Record for Division III Permit # 2011-0016 shall be reversed and shall be considered null and void. The following requirements shall apply, unless revised by the Board:

1. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 Taney County Development Guidance Code).



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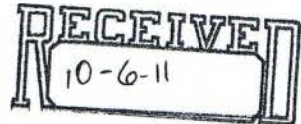
## TANEY COUNTY BOARD OF ADJUSTMENT

### APPLICATION and AFFIDAVIT

### FOR VARIANCE OR APPEAL

(Circle one)

Variance (\$125.00) Appeal (\$125.00)



PLEASE PRINT

DATE 10-6-11

Applicant ANTHONY ESPEY NYLA ESPEY Phone 417-334-0929

Address, City, State, Zip PO BOX 729 BRANSON MO 65615

Representative MO Phone MO

Owner of Record NA Signature: \_\_\_\_\_

Name of Project: Branson Ent. Complex

Section of Code Protested: (~~office entry~~) PC approval of racetrack

Address and Location of site: 689 High Mtn. Dr.

Ridgedale, MO 65739

Subdivision (if applicable) NA

Section 89, 17 Township 21 Range 21 Number of Acres or Sq. Ft. 809.19  
20-3.0-08-000-000-003.000 012.001 / 20-3.0-08-000-000-001.012

Parcel Number 20.2.0-09-000-000-012.001, 20-3.0-08-000-000-001.012

Does the property lie in the 100-year floodplain? (Circle one) Yes ☐ No ☒

#### Required Submittals:

- NA ☐ Typewritten legal description of property involved in the request
- ☐ Postage for notifying property owners within 600 feet of the project
- ☐ Proof of public notification in a newspaper of county-wide circulation
- NA ☐ Proof of ownership or approval to proceed with request by the owner
- NA ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.



Describe in detail the reason for your request:

REFUSE PLANNING ZONING DECISION  
FOR APPROVAL OF RACE TRACK.

REASONS ARE: COMPATIBILITY AND PROVE  
OF ECONOMIC GROWTH.



# **TANEY COUNTY BOARD OF ADJUSTMENT APPEAL STAFF REPORT**

**P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**HEARING DATE:** November 16, 2011

**CASE NUMBER:** 2011-0003A

**APPLICANT:** Stacy Whitfield / Hidden Oaks

**LOCATION:** The subject property is located east of the intersection of Thunderbird Road and U.S. Highway 65; Oliver Township, Sections 8, 9 & 17, Township 21, Range 21.

**REQUEST:** The applicant, Stacy Whitfield (representing Hidden Oaks) is seeking to appeal the Planning Commission approval of Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC).

## **BACKGROUND and SITE HISTORY:**

The subject property consists of approximately 809 acres currently containing a single-family residence and has served as fully guided deer and elk hunting facility.

On February 22, 2011 a Notice of Violation was sent to Russell Cook from the Missouri Department of Natural Resources (MoDNR) concerning land disturbance activities of over one acre without a Missouri State Operating Permit. On February 22, 2011 Taney County Land Disturbance Permit # 11-01 was obtained for the 75 acres of disturbance, with a security of \$750.00 per acre (\$56,250 cash bond) being submitted to the Planning Department. The applicant also received a Missouri State Operating Permit from the MoDNR for the 75 acre land disturbance. On July 14, 2011 the BSEC filed a Taney County Land Disturbance Permit for 325 acres of disturbance, along with the required Stormwater Pollution Prevention Plan. The applicant self reported to the MoDNR indicating that the disturbed area had exceeded the original 75 acre permitted area. On July 28, 2011 a letter of warning was sent from Kevin Hess of the MoDNR to Russell Cook stating, "To eliminate the violations of the Missouri Clean Water Law and Department regulations the Department requests that the land disturbance activities cease in any areas outside of the boundaries of the permitted 75 acres until a permit is issued covering the extended area.

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- Concerts, car shows, trade shows, food, retail, commercial development, public events and faith based and community gatherings



## **REVIEW:**

The applicant (Stacy Whitfield) is appealing the Planning Commission's decision to approve Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC), believing that the proposed development does not meet all of the requirements of the Taney County Development Guidance Code.

The applicant believes that the approval of Division III Permit # 2011-0016 does not meet the objectives stated in the *Purpose* (Page 5, #1) of the Taney County Development Guidance Code.

The applicant believes that the approval of Division III Permit # 2011-0016 is contrary to the absolute and relative policies related to Sections 11.1.1, 11.1.3, 4.2, 4.3, Appendix D, Appendix O and Appendix Q of the Development Guidance Code, as detailed in the attached application.

As a part of the Division III approval process, the project received a score of 24 on the Policy Checklist, out of a maximum possible score of 87. The relative policies receiving a negative score consist of off-site nuisances, right-of-way on existing roads, slopes, use compatibility, wildlife habitat & fisheries, building materials and traffic.

The Planning Commission approved Division III Permit # 2011-0016 (by a vote of four in favor and two against) with a total of 18 conditions based upon the belief that this proposed development would comply with the Absolute and Relative Policies of the Taney County Development Guidance Code. The conditions were placed upon this permit in order to mitigate the concerns of the neighboring property owners and also to ensure compliance with the Absolute and Relative Policies of the Development Guidance Code.

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Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the county commission, respectively, under the provisions of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Upon the



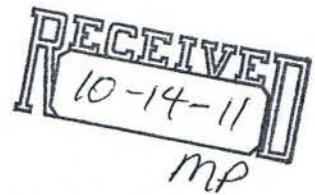
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**TANEY COUNTY BOARD OF ADJUSTMENT  
APPLICATION and AFFIDAVIT  
FOR VARIANCE OR APPEAL**

(Circle one)

**Variance (\$125.00)** **Appeal (\$125.00)**

11-3

**PLEASE PRINT**

**DATE** 10/14/11

**Applicant:** Stacy Whitfield

**Phone:** (417) 334-9277

**Address, City, State, Zip** 354 Whitfield Lane, Hollister, MO 65672

**Representative:** Stacy Whitfield

**Phone:** (417) 334-9277

**Owner of Record:** Stacy & Duanne Whitfield

**Signature:** Stacy Whitfield

**Name of Project:** Russell Cook – Branson Sports Entertainment Complex

**Section of Code Protested:** (office entry) \_\_\_\_\_

**Address and Location of site:** 689 High Mountain Dr, Ridgedale, MO. East of the intersection of  
Thunderbird Road and U.S. Highway 65; Oliver Township, Sections 8,9 &  
17. Township 21, Range 21.

**Subdivision (if applicable)** \_\_\_\_\_

**Section** 8,9 & 17 **Township** 21 **Range** 21 **Number of Acres or Sq. Ft.** Approximately 809 acres

**Parcel Number** 20-3.0-08-000-000-002.000 20-3.0-08-000-000-001.012  
20-2.0-09-000-000-012.001 20-4.0-17-000-000-005.000

**Does the property lie in the 100-year floodplain?** (Circle one) \_\_\_\_\_ Yes \_\_\_\_\_ No.

**Required Submittals:**

- ☐ Typewritten legal description of property involved in the request
- ☐ Postage for notifying property owners within 600 feet of the project
- ☐ Proof of public notification in a newspaper of county-wide circulation
- ☐ Proof of ownership or approval to proceed with request by the owner
- ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.



***Describe in detail the reason for your request:***

To appeal Taney County Planning & Zoning's approval of the zone change from Residential and Agricultural to Commercial, thus allowing the building of a racetrack on the property of Russell and Wanda Cook.

I have found several codes and appendix's that have not been followed from the "Taney County Development Guidance Code"

Please see attached.

My name is Stacy Whitfield. I am representing Hidden Oaks, located on Whitfield Lane. Directly adjacent to the property of Russell and Wanda Cook, the property designated for the proposed racetrack.

We are requesting that the Board of Appeals overturn the decision made by the P&Z Board regarding the change of zoning of Russell and Wanda Cook's property from residential and agricultural to commercial for the following reasons.

1) According to the "Purpose" (page 5, #1) of the Taney County Development Guidance Code These Codes are designed to manage the growth and development of Taney County so as to achieve the objectives authorized by law, those being:

- To conserve the natural resources of the county, to ensure efficient expenditure of its public funds, and to promote the health, safety, convenience, prosperity, and general welfare of its inhabitants.
  - *I read in the paper that BSEC is paying for the county to file again for the TIGER III grant, that if it is granted will be used for the traffic infrastructure to make this racetrack possible. Is it in the best interest of Taney County to use these funds for the furtherment of a private enterprise and not to use it for the roads of the county?*

***Therefore this project should have been denied***

- To provide for the proper location and size of streets, building lines, open spaces, safety, recreation and for the avoidance of congestion, including minimum width and area of lots in subdivisions
  - *The congestion of the traffic alone would make it difficult if not near impossible for the over 200 residents of all streets north of 86 on the east side of 65 to reach their homes. This would happen even with a new interchange and the permits that BSEC has said they would like to issue to the residents in order to allow them access to their homes.*

***Therefore this project should have been denied***

- To conserve and protect property and building values, to secure the most economical use of the land, and to facilitate the adequate provisions of public improvements.
  - *A racetrack located on the property of Russell and Wanda Cook would lower the value of the residential properties that almost completely surround it.*

***Therefore this project should have been denied***

2) Policies for Western Taney County (Pg 26)

➤ 11.1.1 Water Quality

Absolute Policies (definition: A **requirement** of the Code that if not met or satisfied will result in the application for a permit being rejected)

1) Erosion and Sedimentation Control

Developments will submit erosion and sedimentation plans for approval "PRIOR" to any clearing done on said project



Permits were not acquired prior to land disturbance. The land disturbance had been going on for several months (as stated in the DNR Violation) before DNR went in (2/16/11) and cited Mr. Cook with a violation (copy enclosed). Mr. Cook acquired a permit for 75 acres on 2/22/11 (copy enclosed). BSEC was to provide a survey that would outline the acres that were disturbed before the P&Z Meeting on July 17<sup>th</sup>. This was not done. Russell Cook and BSEC were also sent a letter from the Army Corps of Engineers for doing unauthorized work performed in two unnamed tributaries to Turkey Creek (copy enclosed)

### ***Therefore this project should have been denied***

The following were reasons that Susan Martin on the P&Z Planning Board voted against the Zone Change. 4.2, 4.3 and 11.1.3

#### 3) 4.2 Representations (Pg 15)

All representations made in an application for a permit and that are necessary for compliance with any Absolute Policy or to secure a positive rating on any Relative Policy are binding. Failure to fulfill any representation during construction or occupancy of the development may result in suspension or revocation of the development's Certificate of Occupancy /Compliance

#### 4.3 Conditions of Permit Approval and Issuance (Pg 16)

Conditions of Approval may be imposed on the issuance of any permit. These may include, but not limited to, submission of Technical Plans, Performance Guarantees, and the implementation of one or more of the policies adopted under section 11 "Zoning Districts", and shall be clearly stated in the Decision of Record. Failure to fulfill any condition imposed during construction or occupancy of the development may result in suspension or revocation of the Certificate of Occupancy/Compliance.

1) Traffic Study Requested - "The Branson Motorplex Traffic Report that we received last Friday (July 8<sup>th</sup>) is nothing more than a report containing a general discussion of things that may be relative to a thorough traffic management plan, but it is by no means a traffic study. This traffic report contained references to implementation of transportation via high occupancy vehicles, intelligent transportation systems along highway 65 and the construction of new highway interchanges. The design and construction of these three items alone would cost tens of millions of dollars"

2) Request for Independent survey of actual site that has been to date disturbed without a land disturbance permit – This was not provided.

3) Requested economic development plan and economic impact study on the community. – This was not provided

4) Requested Acoustic study – Given the night of the P&Z Meeting for the vote – "In the final paragraph on page 3 there was still an allocation for some wiggle room before they would be considered in violation of noise restriction.

5 ) Creation of new jobs – Without transcribing the whole quote here, in short, she questioned the validity of the creation of 2000 jobs. She stated that 80% of the jobs



for the Branson Landing were not newly created position but fulfilled by contactors that already had the staff in place to complete the job.

6) "Site excavation for this project began under false pretenses." This was planned for a Racetrack prior to the first application filed for land disturbance permit.

7) A DNR Form E application was not filed for until July 14<sup>th</sup>. This was three days after the P&Z meeting on July 11<sup>th</sup>. "On the third page of that application it asks if any part of the area being disturbed is discharging into a jurisdictional water of the United States. Mr. Cook (who signed the application) marked the answer yes. The application goes on to read, if yes, have you received a CWA section 404 permit for this site from the US Army Corps of Engineers. That box has been left blank. The application stipulates that the DNR permit cannot be issued until the site is under a 404 or nationwide general permit if one is required."

The points above lend to the concerns of the validity of this project.

### ***Therefore this project should have been denied***

\*All Quotes above are from Susan Martins address at the P&Z meeting July 18th

3) 11.1.3 Land Use Compatibility – addresses the compatibility of the surrounding land. BSEC states that the residences will be separated from the development by distance, Our home is less than a mile from the furthest point of the proposed racetrack, Blue Ridge and Shady Lane homes are much closer. The road course is proposed to be right off our property line. It addresses off site nuisances: of which, in BSEC's proposal they state that "No off-site nuisances have been found"

Definition of Compatibility – Land usage and/or improvements that are similar to that of the land usage and/or improvements that are within 1000 feet, whether directly adjoining or not.

*There is not business similar to a noisy racetrack or other high volume traffic activity in the area. Please see enclosed Appendix O (Commercial Zoning Compatibility List) and Appendix Q (Rural Residential Compatible Uses)*

### ***Therefore this project should have been denied***

Definition of Nuisances - Off-Site Nuisance Any potential nuisance (i.e., noise, vibration, light, heat, glare, odor, smoke, dust, etc.) that adversely affects properties other than that on which it originates.

Noise – The sound of an announcer over a PA System that must be heard over the roaring cars, racing around a track Starting with the highest DB of up to and exceeding 140 inside the car to 130 in the pit area, 96 in the stands according to the National Institute for Occupational Safety and Health. The maximum DB threshold for human hearing is 85DB when damage starts to occur. In comparison A Whisper is 30DB Normal Conversation is 55DB An Alarm Clock is 80DB



Light - There will be stadium lighting to light up the Race Track and other venues held there. Those lights will pollute the night sky that we enjoy looking into. These lights may even require residents to purchase black out curtains.

Odor –There will be thousand of vehicles coming and going into this venue for whatever event might be on the schedule, and the race cars, motorcycles, etc themselves will be emitting their own fumes. These fumes will be at much higher concentrations than what is currently permitted by federal law on the roads of the United States.

Dust - How much of the rubber on a racecar tire remains on the tire? The rubber that is lost, is lost onto the track and into the atmosphere, as residents anywhere around the racetrack, there will be rubber dust throughout our homes. This rubber in the atmosphere will be breather by the people, domestic animals and wildlife who live there. It will be coating the leaves of the trees and the plants, impairing their health, and covering the beauty of the area in layers of ugly black dust. Residents will be cleaning it from their homes (including their kitchens) their yards, their cars and anything else they may have on their property.

4) Appendix D (Division III Permit Application Requirements)

There are 7 steps to this before Land Grading can begin.

- 1) Pre-Application conference
- 2) Filing– Done on 4/28/11 *at this point, when it was known what the land disturbance was being done for, the land disturbance should have been halted pending the completion of these steps and the approval of a land grading permit*
- 3) Concept Hearing
- 4) Application for Public Hearing
- 5) Public Notice
- 6) Public Hearing
- 7) Decision of Record –*This is where, if everything is done correctly, the applicant would start applying for the Permits to begin Land Grading.*

Please remember that Russell Cook and BSEC started their land disturbance several months before it was reported in January 2011.

***Therefore this project should have been denied***

Misinformation and direct statements that are false have been circulated in support of this project. Examples are:

- 1) Nathan Adams at a meeting with local residents “We have done our research and no homes in this area have sold in the last 6 years”

Homes sold in the last 6 years:

<u>Addresses</u>	<u>Date of Sale</u>
354 Whitfield Lane	09/2005
368 Whitfield Lane	02/2006
380 Whitfield Lane	04/2009
310 Whitfield Lane	11/2010

This is out of the 11 houses in our development alone. I did not go out to the other developments around the proposed property to check, but I was told that there is someone buying up properties out there as well.

- 2) In Mr. Morris's letter he states that Russell Cook and BSEC are using misleading statements such as "United We Stand" with pictures of his Bass Pro Race Cars, when in fact Mr. Morris is against this project and has not given permission to use these images.
- 3) The BSEC's rendition of the map used to show the fly over's (Interchanges off of 65) for MoDot do not match the maps of the unapproved 2003 proposal that MoDot has provided. BSEC's map shows that they would be taking our neighborhood associations pump house and two properties from our neighborhood. The owners of these two properties and our neighborhood association have not been consulted or contacted about this.
- 4) In BSEC's Planning Report they state that as of May 2011 the unemployment rate in Taney County is at 20.1%. I have pulled from two different sources ALFRED (Archival, Federal Reserve Economic Data) and FRED (Federal Reserve Bank of St. Louis) that show that the unemployment rate in Taney County as of May 2011 is 10.6%

Everything I have stated so far leads one to believe that anything that Russell Cook or BSEC continue to do will be at their will and that they will continue to disregard all rules, regulations and people that might object.

### ***Therefore this project should have been denied***

These are the codes and appendix's that I have found within the "Taney County Development Guidance Code" that have not been followed in P&Z's approval of this Zone Change to build a Racetrack on the property of Russell & Wanda Cook.

- 1) Purpose ...Page 5
- 2) 4.2 Representations...Page 15
- 3) 4.2 Conditions of Permit Approval and Issuance...Page 16
- 4) 11.1.1 Water Quality...Page 26
- 5) 11.1.3 Land Use Compatibility...Page 27
- 6) Appendix O (Commercial Zoning Compatibility List)...Page 94
- 7) Appendix Q (Rural Residential Compatibility Uses)...Page 102

These are the very reasons that this adjustment board should vote to overturn P& Z's approval.

Thank you for your time and patience.





Jeremiah W. (Jay) Nixon, Governor

Sara Parker Pauley, Director

## DEPARTMENT OF NATURAL RESOURCES

[dnr.mo.gov](http://dnr.mo.gov)

February 22, 2011

### NOTICE OF VIOLATION #13492SW

Mr. Russell Cook  
P. O. Box 235  
Hollister, MO 65673

Dear Mr. Cook:

An investigation of the land disturbance activities on your property, located off of Thunderbird Drive in Taney County, Missouri, was conducted on February 16, 2011. The investigation was conducted in response to several environmental concerns filed with the Department. These land disturbance activities were also observed from neighboring properties on January 3, 2011 and January 14, 2011. It was apparent that the land disturbance activities were well underway prior to the first observation on January 3, 2011. Based on information found in various news articles (enclosed) and statements made by you to Mr. Charles Greeson and Ms. Tina White during the investigation, it appears that the intent of the current land disturbance activity is preliminary site work for a motor speedway with your backup plan being to revert the site back to an agricultural use. Please note that the Missouri Department of Natural Resources (Department) does not consider the locally zoned use of the property in determining compliance with Missouri Clean Water Law and Clean Water Commission Regulations, the Department only considers the **intent** of the activities. It is the Department's determination that the land disturbance activities at this site do not qualify for an agricultural exemption and therefore, is in violation of Missouri Clean Water Law and Clean Water Commission Regulations. A Notice of Violation (NOV) #13492SW is enclosed for disturbing greater than one acre of land prior to obtaining a Missouri State Operating Permit and placing a water contaminant (sediment) in a location where it is reasonably certain to cause pollution of waters of the state. The site is considered to be in violation until such time that a Missouri State Operating Permit (MSOP) has been issued.

Based on the amount of exposed soil and the topography of the area observed during the investigation the Department is compelled to point out the inevitable difficulty of preventing erosion and sediment loss when such a large area has been disturbed and more confined phasing of disturbance is not being implemented. Be aware that there are **no** exemptions in the MSOP excusing sediment loss during larger rainfall events. The current settleable solids limit for stormwater discharging from a land disturbance site is 0.5 mL/L/hour. It will be very difficult to prevent sediment loss from this site in its current state, especially with the upcoming spring rains, and will take a **very** diligent effort on your part.



## NOTICE OF VIOLATION

VIOLATION NUMBER

13492SW

## DATE AND TIME ISSUED

February 22, 2011

## SOURCE (NAME, ADDRESS, PERMIT NUMBER, LOCATION)

Russell Cook

Thunderbird Drive

Not Applicable

Sec. 8, T21N, R21W, Taney County

## MAILING ADDRESS

P. O. Box 235

## CITY

Hollister

## STATE

MO

## ZIP CODE

65673

## NAME OF OWNER OR MANAGER

Russell Cook

## TITLE OF OWNER OR MANAGER

Owner

## LAW, REGULATION OR PERMIT VIOLATED

Missouri Clean Water Law Section 644.051.1(1), RSMo

Missouri Clean Water Law Section 644.051.2, RSMo

Missouri Clean Water Law Section 644.076.1, RSMo

Missouri Clean Water Commission Regulation 10 CSR 20-6.200(1)(A)

## NATURE OF VIOLATION

## DATE(S):

## TIME(S):

Since/On January 3, 2011, Mr. Cook operated, used, disturbed land or maintained a water contaminant source -- land disturbance site -- which intermittently discharges to an unnamed tributary to Turkey Creek, waters of the state, without a Missouri State Operating Permit.

Mr. Cook caused pollution of an unnamed tributary to Turkey Creek, waters of the state, or placed or caused or permitted to be placed a water contaminant --sediment-- in a location where it is reasonably certain to cause pollution of waters of the state.

## SIGNATURE (PERSON RECEIVING NOTICE)

Sent Via US Mail

## SIGNATURE (PERSON ISSUING NOTICE)

Charles Greeson

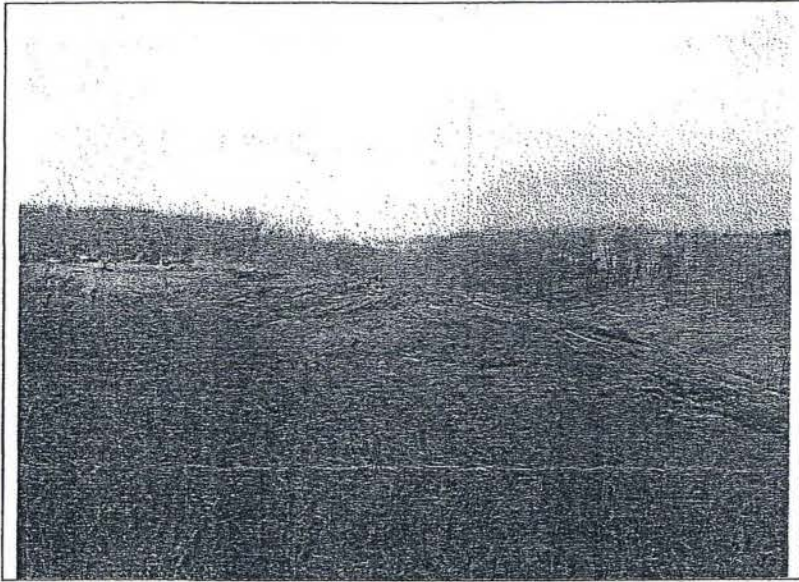
## TITLE OR POSITION

## TITLE OR POSITION

Environmental Specialist/SWRO

DISTRIBUTION: SOURCE CENTRAL OFFICE REGIONAL OFFICE



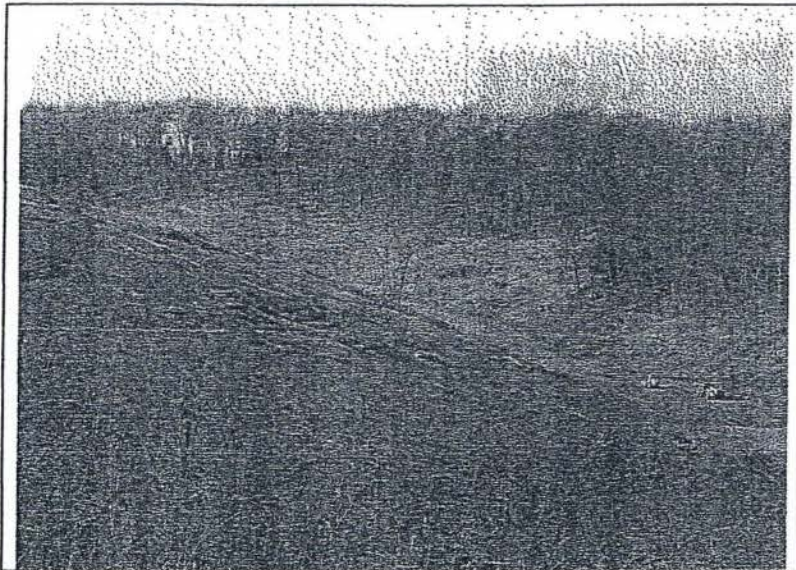


Location: Russell Cook Property

Photographer: Charles Greeson

Photograph Date: January 3, 2011

Comments: Observations from surrounding properties show that land disturbance was already well underway on January 3, 2011.



Location: Russell Cook Property

Photographer: Charles Greeson

Photograph Date: January 3, 2011

Comments: Observations from surrounding properties show that land disturbance was already well underway on January 3, 2011.

**TANEY COUNTY PLANNING COMMISSION  
APPLICATION FOR LAND DISTURBANCE PERMIT**

NAME OF APPLICANT ~~Branson Sports Entertainment Complex~~ RWICK CONSTRUCTION, LLC

ADDRESS 689 High Mountain Dr. CITY/STATE/ZIP Ridgedale, MO 65739

TELEPHONE (417) 334-3535 SEC 8, 9, 17 TWP 21 RNG 21

PROPERTY # 20-3.0-08-000-000-002.000 20-3.0-08-000-000-001.012  
20-2.0-09-000-000-012.001 20-4.0-17-000-000-005.000

NAME OF PROPERTY OWNER Russell & Wanda Cook

SUBDIVISION NAME \_\_\_\_\_

LOCATION see attached location figure

PROPERTY ACCESS (Street Name) 689 High Mountain Dr.

NUMBER OF ACRES TO BE DISTURBED 270 TS AC (PHASE 1)

DOES THE PROPERTY LIE IN THE 100-YEAR FLOODPLAIN? (CIRCLE ONE) YES \_\_\_\_\_ NO X

THE FOLLOWING SUBMITTALS MUST BE INCLUDED:

1. **\$75.00 APPLICATION FEE (CHECK ONLY)**
2. **DESCRIPTION OF WORK TO BE DONE IN YOUR OWN WORDS.**
3. **SUBMITTAL OF PLAN IN ACCORDANCE WITH APPENDIX B AND I, TANEY COUNTY DEVELOPMENT GUIDANCE CODE.**
4. **IF AREA OF LAND DISTURBANCE EQUALS 1 ACRE OR MORE, AN N.P.D.S. PERMIT FROM THE MISSOURI DEPARTMENT OF NATURAL RESOURCES SHALL BE REQUIRED.**
5. **PROOF OF OWNERSHIP OF THE PROPERTY.**

**BOND REQUIREMENT:** Upon approval of a plan and the issuance of a Grading Permit, the Official Designated by both the County Commission and the Planning Commission shall require the developer to Post a surety bond with good and sufficient sureties as set out in sections 64.825 and 107.080 RSMo 1996 Incorporated within the Taney County Development Guidance Code by reference with such provisions as Will guarantee the faithful performance of all required work to be done under the submitted plan or a Certified check in the amount of all required work to be done under the submitted plan.

LANDGRADING PERMIT# 11-01 BOND AMOUNTS 56,250.00 Check # 10189

**READ BEFORE SIGNING:**

In signing this application, I understand that if the information provided here is not true, my permit will Be revoked. I understand and agree to abide by the requirements of the Taney County Commission and the Taney County Planning Commission. I agree to all inspections on my property necessary to secure compliance With all county codes relevant to this application. Property owner is responsible to adhere to all private Restrictions and easements.

Russell L Cook  
PROPERTY OWNERS SIGNATURE

DATE 2-22-11

AMENDED 10/1/04



Company Name: KLICK Construction Subject: BRANSON

**Taney County Planning Commission**

**Landgrading**

**PERMIT #** 11 - 01

Legal 8,9,17-21-21 Date 2-24-2011



Jeremiah W. (Jay) Nixon, Governor

Sara Parker Peuley, Director

## DEPARTMENT OF NATURAL RESOURCES

[dnr.mo.gov](http://dnr.mo.gov)

July 28, 2011

### LETTER OF WARNING

Mr. Russell Cook  
RWCK, LLC  
689 High Mountain Drive  
Ridgedale, MO 65739

Dear Mr. Cook:

Based upon discussions with yourself, your engineer, and Mr. Tom Gammon of Branson Sports Entertainment Complex, LLC during the follow-up visit on July 11, 2011, it appears you have disturbed beyond the permitted 75 acres. It is noted that land disturbance activity on the site had ceased and had been since the Department's previous visit on June 23, 2011, as stated by yourself, your representatives and Mr. Gammon.

**To eliminate the violations of the Missouri Clean Water Law and Department regulations the Department requests that the land disturbance activities cease in any areas outside the boundaries of the permitted 75 acres until a permit is issued covering the extended area. A new permit must be obtained to include the unpermitted disturbed areas. Please submit a written response within 10 days of the date of this letter detailing what actions will be taken to address this issue including a proposed timeframe by which you plan to have the proper applications submitted to the Department.**

If you have any questions regarding this letter, please contact Mr. Charles Greeson, of my staff. If you have questions regarding permit applications or the permitting process you may contact our Water Pollution Permitting staff, by calling 417-891-4300 or via mail at Southwest Regional Office 2040 West Woodland, Springfield, Missouri 65807-5912.  
Sincerely,

SOUTHWEST REGIONAL OFFICE

A handwritten signature in black ink, appearing to read "Kevin Hess", is written over the typed name.

Kevin Hess, Chief  
Water Pollution Section

Handwritten initials "KDH" in black ink, followed by the typed name "KDH/cgs".

c: Mr. Spencer Jones, P.E., Great River Engineering  
Mr. Thomas Gammon, Branson Sports Entertainment Complex, LLC  
Mr. Bob Atchley, Taney County Planning & Zoning

213.wpcp.RWCK.mor109fv8.x.2011.07.28.fy12.low.x.ccg.doc





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS  
POST OFFICE BOX 867  
LITTLE ROCK, ARKANSAS 72203-0867  
[www.swl.usace.army.mil/](http://www.swl.usace.army.mil/)

Regulatory Division

FILE NO. 2011-00438

Mr. Russell Cook  
Branson Sports Entertainment  
689 High Mountain Drive  
Ridgedale, Missouri 65739

Dear Mr. Cook:

This is in regard to unauthorized work performed in two unnamed tributaries to Turkey Creek associated with proposed development of a motor speedway complex. The work involved the discharge of fill material in the two streams along a total of approximately 4,300 linear feet. The land between the streams has been leveled to prepare a construction site. The project area is in section 8, T. 21 N., R. 21 W., in Ridgedale, Taney County, Missouri. The enclosed map shows the location of the unauthorized work.

Under Section 404 of the Clean Water Act (33 U.S. Code 1344) (CWA), this type of work in "waters of the United States" requires prior approval from the Corps of Engineers. Failure to obtain such approval puts the existing work in violation of Section 301 of the Clean Water Act.

In order to comply with the provisions of the CWA, you must either remove the unauthorized fill material from the streams or apply for an after-the-fact permit (pamphlet and application forms are enclosed). We understand that you intend to submit a permit application for development of the proposed motor speedway complex.

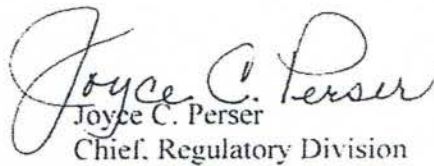
Please read the enclosed "Notification of Administrative Appeal Options and Process and Request for Appeal" which describes your options regarding this action.

You should be aware that our acceptance of a permit application does not insure it will be approved, and that further enforcement action could be required. If you submit an after-the-fact application, you also must sign and return the enclosed agreement to toll the statute of limitations until one year after the final Corps decision on the application.

By copy of this letter, I am requesting other affected governmental agencies to furnish comments, if any, on the unauthorized work within 30 days of the date of this letter. If these offices do not respond, I will assume they have no current comment regarding this matter.

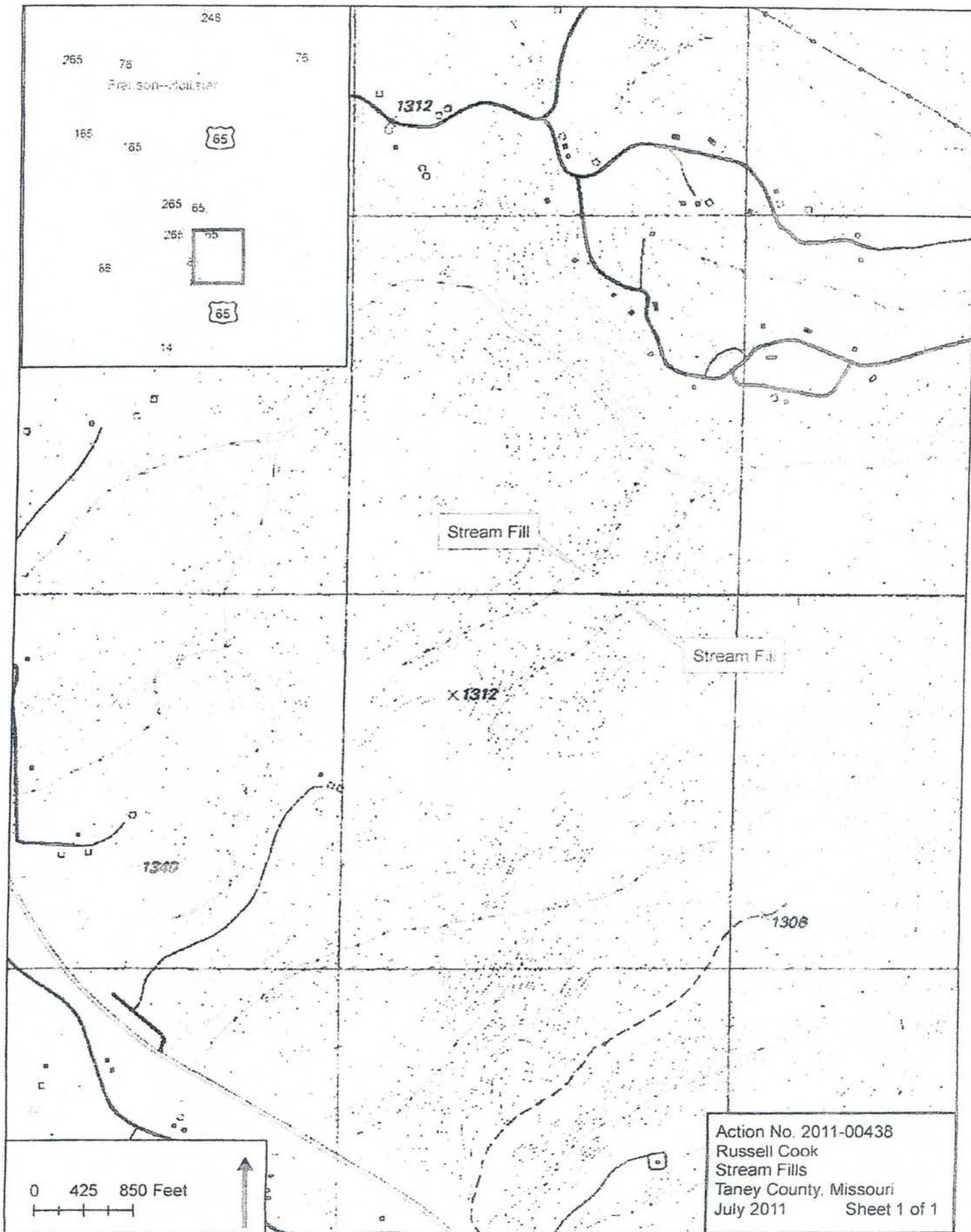
Any further questions you have may be directed to Mr. Rocky Presley at (417) 334-4101 ext. 3009.

Sincerely,

  
Joyce C. Perser  
Chief, Regulatory Division

Enclosures





### **APPENDIX O (Commercial Zoning Compatibility List)**

The following uses are considered compatible with existing commercial uses when located within 1000 feet of a zoning request.

- 1. Offices and Office Buildings**  
Offices and office buildings to be used only for the administrative functions of companies, corporations, and social or philanthropic organizations or societies.
- 2. Medical Clinics**
- 3. Savings and Loan Institutions, Credit Union Offices and Banks**
- 4. General Offices**  
Office uses including and limited to: accounting, architects, brokers, engineers, dentists, insurance, lawyers, physicians, osteopaths, chiropractors, planners, and real estate.
- 5. Radio and Television Studios**  
Broadcast studios, provided no broadcasting towers are located on the premises.
- 6. Photography Studios**
- 7. Automotive Service Stations**
- 8. Animal Hospital or Clinic**  
Facilities appropriate for small animals only.
- 9. Hospitals**
- 10. Mortuaries**
- 11. Retail Stores and Shops**  
Retail operations including and limited to the following:
  - antique shop
  - appliance store
  - art school, gallery, museum
  - artist materials, supply studio
  - auto supply
  - baby shop
  - bakery goods
  - barber
  - beauty shop
  - book and stationery store
  - camera
  - candy
  - catering establishment
  - cleaning, pressing, laundry collection agency
  - clothing or apparel
  - curio or gift shop
  - dry goods
  - dairy products or ice cream store
  - delicatessen
  - department store
  - florist
  - furniture store
  - grocery store or supermarket
  - hardware store



- jewelry or notion
  - lodge hall
  - meat market
  - medical facility
  - messenger or telegraph service
  - musical Instrument sales
  - newspaper or magazine sales
  - optical sales and service
  - package liquor store
  - paint and decorating shop
  - pharmacy
  - radio and television sales and service
  - restaurant
  - self-service laundry or dry cleaning
  - sewing machine sales, instruction
  - sporting goods sales
  - shoe store or repair shop
  - tailor shop
  - variety store
- 12. Auditorium and Theater**  
Excludes open-air drive-in type theaters.
- 13. Bowling Alleys and Amusement Arcades**
- 14. Drive-through Establishments**
- 15. Food Storage Lockers**
- 16. Hotels, Motels and Motor Hotels**
- 17. Membership Clubs / Organizations**
- 18. Printing, Publishing and Engraving Firms**  
Includes newspaper publishing operations, provided the operation is principally a retail business.
- 19. Taverns**
- 20. Appliance Repair Shop**
- 21. Car Wash**
- 22. Drive-in Restaurant**
- 23. Dyeing and Cleaning Works**
- 24. Farm Machinery Sales and Service**  
Includes equipment storage yard.
- 25. General Service and Repair Establishments**
- 26. Lumber Yard**
- 27. Motor Vehicle Sales, Service and/or Repair**  
Automotive sales may be for new or used vehicles.
- 28. Paint Shop**
- 29. Pay-Per-Use Parking Lots**
- 30. HVAC Shop**

- 31. Tire Sales and Service  
Excludes tire manufacturing.
- 32. Trailer and Mobile Home Sales
- 33. Recording Studio

THERE is nothing LIKE this within  
1000 FEET of the property of this  
PROPOSED RACETRACK.

THERE ARE HOWEVER RESIDENTIAL <sup>PROPERTIES</sup> ENCOMPASSED  
within 1000 FEET in ANY AND ALL DIRECTION  
Surrounding this property.



## **APPENDIX Q (Rural Residential Compatible Uses)**

1. Agricultural Use
2. Single-Family Detached Dwellings
3. Churches and parish halls, temples, convents and monasteries
4. Schools
5. Public Parks, Playgrounds, and Community Buildings
6. Home Occupations

The following residential uses are considered to be compatible if another similar use currently exists within a 1000-foot radius of the proposed use or the use has been previously recorded on an existing plat.

7. Two family dwellings
8. **Condominiums, Townhouses**  
Excludes nightly rentals. Nightly rentals are a commercial use and must be permitted as such. Nightly rentals constitute any condominium or townhouse that may be rented for any period of time less than 30 days in duration. Assurance of classification will be made through the filing of restrictive covenants when the plat is recorded.
9. **Apartment Complexes**
10. **Multiple-Family Dwellings**

Mobile Homes as Residential Structures Compatible Uses

11. **Mobile Home**
12. **Mobile Home Parks**

*RACETRACKS ARE NOT MENTIONED HERE*



**TANEY COUNTY BOARD OF ADJUSTMENT  
APPEAL STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**HEARING DATE:** November 16, 2011

**CASE NUMBER:** 2011-0004A

**APPLICANT:** Country Farm Estates Home Owners Association

**LOCATION:** The subject property is located east of the intersection of Thunderbird Road and U.S. Highway 65; Oliver Township, Sections 8, 9 & 17, Township 21, Range 21.

**REQUEST:** The applicant, Country Farm Estates Home Owners Association is seeking to appeal the Planning Commission approval of Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC).

**BACKGROUND and SITE HISTORY:**

The subject property consists of approximately 809 acres currently containing a single-family residence and has served as fully guided deer and elk hunting facility.

On February 22, 2011 a Notice of Violation was sent to Russell Cook from the Missouri Department of Natural Resources (MoDNR) concerning land disturbance activities of over one acre without a Missouri State Operating Permit. On February 22, 2011 Taney County Land Disturbance Permit # 11-01 was obtained for the 75 acres of disturbance, with a security of \$750.00 per acre (\$56,250 cash bond) being submitted to the Planning Department. The applicant also received a Missouri State Operating Permit from the MoDNR for the 75 acre land disturbance. On July 14, 2011 the BSEC filed a Taney County Land Disturbance Permit for 325 acres of disturbance, along with the required Stormwater Pollution Prevention Plan. The applicant self reported to the MoDNR indicating that the disturbed area had exceeded the original 75 acre permitted area. On July 28, 2011 a letter of warning was sent from Kevin Hess of the MoDNR to Russell Cook stating, "To eliminate the violations of the Missouri Clean Water Law and Department regulations the Department requests that the land disturbance activities cease in any areas outside of the boundaries of the permitted 75 acres until a permit is issued covering the extended area."

On August 18, 2011 the MoDNR informed the Planning Department that the U.S. Army Corps of Engineers had sent a notice to Russell Cook concerning the unauthorized placement of fill material in two unnamed tributaries to Turkey Creek without a 404 Permit, associated with the development of the Branson Sports Entertainment Complex.



On August 19, 2011 correspondence was sent from the Planning staff to the BSEC engineer indicating that, "Prior to issuing the current land grading permit for 325 acres Taney County will require some assurances that the development has obtained the proper permits through the Corps." The Planning office is also requesting the submission of the required Erosion and Sedimentation Control Plan and a \$243,750.00 Land Disturbance Bond (\$750.00 per acre of disturbance) prior to the issuance of the 325 acre Land Disturbance Permit. On September 14, 2011 representatives from the U.S. Army Corps of Engineers (Corps), the BSEC and the Planning Department met on site in order to discuss the requirements of the 404 permitting process. The BSEC representatives are currently working directly in conjunction with the Corps in obtaining the required 404 Permit. The developer has not resumed any grading activities on site since prior to the approval of the Division III Permit by the Taney County Planning Commission (June 23, 2011).

On July 18, 2011 the Taney County Planning Commission approved Division III Permit # 2011-0016 allowing the Branson Sports Entertainment Complex to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings. On October 17, 2011 the notarized Division III Decision of Record for Permit # 2011-0016 was signed and filed with the Taney County Recorder of Deeds office.

#### **GENERAL DESCRIPTION:**

The proposed Branson Motorplex development will be located on a total of approximately 809 acres. The proposed complex will showcase a three-quarter-mile asphalt racetrack with seating for 65,000 spectators with provisions for future expansion.

The applicant has stated that this proposed project will include:

- ¾ mile asphalt track suitable for all standards of racing
- Stadium seating for 65,000 fans
- A road course suitable for a variety of types of racing
- Luxury Suites
- Hospitality Village
- Media Center
- Concessions Concourse with food, beverage, gifts and other amenities
- Welcome plaza with areas for souvenir trailers, corporate displays and entertainment
- Fan accessible infield which will contain garages for the race teams and technical inspection facilities for the sanctioning bodies.
- RV and camping facilities for participants and fans
- Concerts, car shows, trade shows, food, retail, commercial development, public events and faith based and community gatherings



## **REVIEW:**

The applicant (Country Farm Estates Home Owners Association) is appealing the Planning Commission's decision to approve Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC), believing that the proposed development does not meet all of the requirements of the Taney County Development Guidance Code. However, the reason for the request is not stated in the application.

As a part of the Division III approval process, the project received a score of 24 on the Policy Checklist, out of a maximum possible score of 87. The relative policies receiving a negative score consist of off-site nuisances, right-of-way on existing roads, slopes, use compatibility, wildlife habitat & fisheries, building materials and traffic.

The Planning Commission approved Division III Permit # 2011-0016 (by a vote of four in favor and two against) with a total of 18 conditions based upon the belief that this proposed development would comply with the Absolute and Relative Policies of the Taney County Development Guidance Code. The conditions were placed upon this permit in order to mitigate the concerns of the neighboring property owners and also to ensure compliance with the Absolute and Relative Policies of the Development Guidance Code.

## **STATUTORY REQUIREMENTS OF APPROVAL:**

Per the requirements of the Missouri Revised Statutes the Board of Adjustment shall have the have the following powers and it shall be its duty:

To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official in the enforcement of the county zoning regulations;

In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the county commission, respectively, under the provisions of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Upon the presentation of the petition the court shall allow a writ of certiorari directed to the board of adjustment or the county commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case. The court may reverse or affirm or may modify the decision brought up for review. After entry of judgment in the circuit court in the action in review, any party to the cause may prosecute an appeal to the appellate court having jurisdiction in the same manner now or hereafter provided by law for appeals from other judgments of the circuit court in civil cases.



**SUMMARY:**

If the Taney County Board of Adjustment approves this appeal request, the Planning Commission approval of the Decision of Record for Division III Permit # 2011-0016 shall be reversed and shall be considered null and void. The following requirements shall apply, unless revised by the Board:

1. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 Taney County Development Guidance Code).

11-4

**TANEY COUNTY BOARD OF ADJUSTMENT**  
**APPLICATION and AFFIDAVIT**  
**FOR VARIANCE OR APPEAL**

(Circle one)

**Variance (\$125.00) Appeal (\$125.00)**

**PLEASE PRINT**

**DATE** 10.17.11

Applicant Country Farm Estates Home Owners Association, Inc. Phone 417.294.5050

Address, City, State, Zip 130 Ashford Drive Hollister Missouri 65672

Representative D. Todd Aeschlman - President Phone 417.294.5050

Owner of Record B.S.C.C. Signature: [Signature]

Name of Project: Same

Section of Code Protested: (office entry) PC approval of the racetrack

Address and Location of site: 689 Highmountain Dr.

Subdivision (if applicable) NA

Section 8, 9, 17 Township 21 Range 21 Number of Acres or Sq. Ft. 809 ac.  
20-4-17-0-0-5 20-3-8-0-0-1.12

Parcel Number 20-2-9-0-0-12.1 20-3-8-0-0-2

Does the property lie in the 100-year floodplain? (Circle one) Yes No.

Required Submittals:

- ☐ Typewritten legal description of property involved in the request
- ☐ Postage for notifying property owners within 600 feet of the project
- ☐ Proof of public notification in a newspaper of county-wide circulation
- ☐ Proof of ownership or approval to proceed with request by the owner
- ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.



**Describe in detail the reason for your request:**

Country Farm Estates Home Owners Association, Inc. is appealing the decision of the Taney County Planning & Zoning Commission Meeting Made on July 18, 2011.



**TANEY COUNTY BOARD OF ADJUSTMENT  
APPEAL STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**HEARING DATE:** November 16, 2011

**CASE NUMBER:** 2011-0005A

**APPLICANT:** Big Cedar Lodge

**LOCATION:** The subject property is located east of the intersection of Thunderbird Road and U.S. Highway 65; Oliver Township, Sections 8, 9 & 17, Township 21, Range 21.

**REQUEST:** The applicant, the Big Cedar Lodge is seeking to appeal the Planning Commission approval of Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC).

**BACKGROUND and SITE HISTORY:**

The subject property consists of approximately 809 acres currently containing a single-family residence and has served as fully guided deer and elk hunting facility.

On February 22, 2011 a Notice of Violation was sent to Russell Cook from the Missouri Department of Natural Resources (MoDNR) concerning land disturbance activities of over one acre without a Missouri State Operating Permit. On February 22, 2011 Taney County Land Disturbance Permit # 11-01 was obtained for the 75 acres of disturbance, with a security of \$750.00 per acre (\$56,250 cash bond) being submitted to the Planning Department. The applicant also received a Missouri State Operating Permit from the MoDNR for the 75 acre land disturbance. On July 14, 2011 the BSEC filed a Taney County Land Disturbance Permit for 325 acres of disturbance, along with the required Stormwater Pollution Prevention Plan. The applicant self reported to the MoDNR indicating that the disturbed area had exceeded the original 75 acre permitted area. On July 28, 2011 a letter of warning was sent from Kevin Hess of the MoDNR to Russell Cook stating, "To eliminate the violations of the Missouri Clean Water Law and Department regulations the Department requests that the land disturbance activities cease in any areas outside of the boundaries of the permitted 75 acres until a permit is issued covering the extended area."

On August 18, 2011 the MoDNR informed the Planning Department that the U.S. Army Corps of Engineers had sent a notice to Russell Cook concerning the unauthorized placement of fill material in two unnamed tributaries to Turkey Creek without a 404 Permit, associated with the development of the Branson Sports Entertainment Complex.



On August 19, 2011 correspondence was sent from the Planning staff to the BSEC engineer indicating that, "Prior to issuing the current land grading permit for 325 acres Taney County will require some assurances that the development has obtained the proper permits through the Corps." The Planning office is also requesting the submission of the required Erosion and Sedimentation Control Plan and a \$243,750.00 Land Disturbance Bond (\$750.00 per acre of disturbance) prior to the issuance of the 325 acre Land Disturbance Permit. On September 14, 2011 representatives from the U.S. Army Corps of Engineers (Corps), the BSEC and the Planning Department met on site in order to discuss the requirements of the 404 permitting process. The BSEC representatives are currently working directly in conjunction with the Corps in obtaining the required 404 Permit. The developer has not resumed any grading activities on site since prior to the approval of the Division III Permit by the Taney County Planning Commission (June 23, 2011).

On July 18, 2011 the Taney County Planning Commission approved Division III Permit # 2011-0016 allowing the Branson Sports Entertainment Complex to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings. On October 17, 2011 the notarized Division III Decision of Record for Permit # 2011-0016 was signed and filed with the Taney County Recorder of Deeds office.

#### **GENERAL DESCRIPTION:**

The proposed Branson Motorplex development will be located on a total of approximately 809 acres. The proposed complex will showcase a three-quarter-mile asphalt racetrack with seating for 65,000 spectators with provisions for future expansion.

The applicant has stated that this proposed project will include:

- ¾ mile asphalt track suitable for all standards of racing
- Stadium seating for 65,000 fans
- A road course suitable for a variety of types of racing
- Luxury Suites
- Hospitality Village
- Media Center
- Concessions Concourse with food, beverage, gifts and other amenities
- Welcome plaza with areas for souvenir trailers, corporate displays and entertainment
- Fan accessible infield which will contain garages for the race teams and technical inspection facilities for the sanctioning bodies.
- RV and camping facilities for participants and fans
- Concerts, car shows, trade shows, food, retail, commercial development, public events and faith based and community gatherings



## **REVIEW:**

The applicant (Big Cedar Lodge) is appealing the Planning Commission's decision to approve Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC), believing that the proposed development does not meet all of the requirements of the Taney County Development Guidance Code.

The applicant believes that the approval of Division III Permit # 2011-0016, has failed to satisfy multiple absolute and relative policies of the Development Guidance Code, including Sections 4.12.2, 4.12.3, 11.1.1, 11.1.2, 11.1.3, 11.1.7, 11.1.8, Section 12.4, Appendix F and Appendix I, as detailed in the attached application.

As a part of the Division III approval process, the project received a score of 24 on the Policy Checklist, out of a maximum possible score of 87. The relative policies receiving a negative score consist of off-site nuisances, right-of-way on existing roads, slopes, use compatibility, wildlife habitat & fisheries, building materials and traffic.

The Planning Commission approved Division III Permit # 2011-0016 (by a vote of four in favor and two against) with a total of 18 conditions based upon the belief that this proposed development would comply with the Absolute and Relative Policies of the Taney County Development Guidance Code. The conditions were placed upon this permit in order to mitigate the concerns of the neighboring property owners and also to ensure compliance with the Absolute and Relative Policies of the Development Guidance Code.

## **STATUTORY REQUIREMENTS OF APPROVAL:**

Per the requirements of the Missouri Revised Statutes the Board of Adjustment shall have the have the following powers and it shall be its duty:

To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official in the enforcement of the county zoning regulations;

In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the county commission, respectively, under the provisions of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Upon the presentation of the petition the court shall allow a writ of certiorari directed to the board of adjustment or the county commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case.

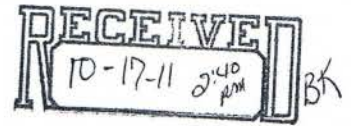


The court may reverse or affirm or may modify the decision brought up for review. After entry of judgment in the circuit court in the action in review, any party to the cause may prosecute an appeal to the appellate court having jurisdiction in the same manner now or hereafter provided by law for appeals from other judgments of the circuit court in civil cases.

**SUMMARY:**

If the Taney County Board of Adjustment approves this appeal request, the Planning Commission approval of the Decision of Record for Division III Permit # 2011-0016 shall be reversed and shall be considered null and void. The following requirements shall apply, unless revised by the Board:

1. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 Taney County Development Guidance Code).



**TANEY COUNTY BOARD OF ADJUSTMENT**  
**APPLICATION and AFFIDAVIT**  
**FOR VARIANCE OR APPEAL**

11-2

(Circle one)

**Variance (\$125.00)    Appeal (\$125.00)**

**PLEASE PRINT**

**DATE**

Applicant Big Cedar Lodge Phone 417-335-2777

Address, City, State, Zip 612 Devil's Pool Road Ridgedale, MO 65739

Representative Bryan O. Wade Phone 417-268-4000

Owner of Record \_\_\_\_\_ Signature: \_\_\_\_\_

Name of Project: Branson Sports Entertainment Complex

Section of Code Protested: (office entry) \_\_\_\_\_

Address and Location of site: 689 High Mountain Drive, Ridgedale, MO - East of the  
Intersection of Thunderbird Road & US Highway 65; Oliver Township

Subdivision (if applicable) \_\_\_\_\_

Section 8,9, Township 21 Range 21 Number of Acres or Sq. Ft. 809 acres

17  
Parcel Number \_\_\_\_\_

Does the property lie in the 100-year floodplain? (Circle one) \_\_\_\_\_ Yes \_\_\_\_\_ No.

Required Submittals:

- ☐ Typewritten legal description of property involved in the request
- ☒ Postage for notifying property owners within 600 feet of the project
- ☐ Proof of public notification in a newspaper of county-wide circulation
- ☐ Proof of ownership or approval to proceed with request by the owner
- ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.



Big Cedar, LLC hereby appeals the Division III permit #11-16 issued to Branson Sports Entertainment Complex and/or Russell Cook by the July 18, 2011 Decision of Record. Big Cedar, LLC is aggrieved by the issuance of the permit because it is one of Taney County's largest resort developments supporting Taney County's economy. Taney County's economy will suffer direct harm from Branson Sports Entertainment Complex's existing and continuing damage to the water quality of Taney County's streams and lakes. Further, Big Cedar, LLC is located in close proximity to the proposed development and the developer's proposed off-site roads and highway improvements and admitted off-site nuisances will adversely affect Big Cedar's guests, resort, golf course, and restaurants. Big Cedar, LLC, for the reasons set forth below, requests this Board reverse the Decision of Record and deny the issuance of a Division III permit to Branson Sports Entertainment Complex and/or Russell Cook.

1. The Taney County Planning Commission (the "Commission") erred in approving the Division III Permit #11-16 (the "Permit") for Branson Sports Entertainment Complex ("BSEC") at the request of Russell Cook ("Cook") to operate a motorsports facility because BSEC failed to meet the Relative Policy of Section 11.1.3(a)<sup>1</sup> in that it failed to demonstrate a potential off-site nuisance (e.g., dust, smoke, odors, noise, vibration, light, glare, or heat) would be acceptably mitigated; thus, the "development generating that nuisance is discouraged." *See also Lee v. Rolla Speedway, Inc.* et al., 539 S.W.2d 627 (Mo.App. 1976).

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<sup>1</sup> All section and appendices references are to the Taney County Development Guidance Code. SPH-2047680-3

2. The Commission erred in approving the Permit for BSEC because the development violates Section 11.1.3 in that its use is incompatible with the neighboring land uses, which are residential.

3. The Commission erred in approving the Permit for BSEC because Conditions 7, 8, and 9 are incompatible with the neighboring land uses in violation of Section 11.1.3 in that the self-enforced mitigation is inadequate and the 60-day "return to compliance" period is an unreasonable, unnecessary, and arbitrary burden on residents suffering from BSEC and/or Cook's noncompliance.

4. The Commission erred in approving the Permit for BSEC because it is undisputed BSEC was in violation of Absolute Policy Section 11.1.1(1) and Appendix F at the time of the request for the Permit in that it had cleared significant acreage without approval, and in fact, had significantly exceeded its later-issued Land Disturbance Permit without authorization and only provided a soil and erosion plan post-clearing in violation of Absolute Policy Section 11.1.1(1), Appendix F, and Appendix I which require pre-permit plan submission.

5. The Commission erred in approving the Permit for BSEC because BSEC was already in violation of Sections 11.1.1 and 11.1.2 at the time of the Commission hearing and has already violated Condition 2 of the Permit in that it had discharged fill material into two streams without prior approval from the Corps of Engineers. *See also* Dept. of the Army Correspondence attached hereto and labeled "A."



6. The Commission erred in approving the Permit for BSEC because BSEC failed to meet or satisfy the Absolute Policy of Section 11.1.8(c) in that it failed to provide a road plan in accordance with the Commission's *Development Guidance Code, Appendix L* or the Taney County Road and Bridge department standards, or any road plan at all, for the proposed outer road from the proposed new interchange.

7. The Commission erred in approving the Permit for BSEC because BSEC failed to meet or satisfy the Absolute Policy of Section 11.1.7(e) in that it failed to provide dedication of all easements and rights-of-way for future expansion of county roads and adequate local linkage.

8. The Commission erred in approving the Permit for BSEC because BSEC admitted it will violate Section 4.12.2 in that certain improvements would exceed Taney County's height restrictions for new construction yet failed to produce to the Commission plans specifying where and how the proposed complex will violate the height restrictions.

9. The Commission erred in approving the Permit for BSEC because BSEC admitted it will violate Section 4.12.2 in that certain improvements would exceed Taney County's height restrictions but BSEC failed to meet or satisfy Section 4.12.3, which incorporates the Relative Policies set forth at Section 4.12.4 requiring pre-permit approvals of plans.

10. The Commission erred in approving the Permit for BSEC because the Condition 11 light plan cannot be adequate protection for the area residents until BSEC

produces the site plan demonstrating where and how the development violates Section 4.12.2 height restrictions.

11. The Commission erred in approving the Permit for BSEC because BSEC did not meet or satisfy Section 12.4 in that it failed to produce a surety bond or irrevocable letter of credit for the requisite improvements.

12. The Commission erred in approving the Permit for BSEC because BSEC and/or Cook failed to satisfy multiple Absolute Policies and cannot meet multiple Relative Policies, all of which are prerequisites to the issuance of a Division III permit in Taney County.





**TANEY COUNTY BOARD OF ADJUSTMENT  
APPEAL STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**HEARING DATE:** November 16, 2011

**CASE NUMBER:** 2011-0006A

**APPLICANT:** Branson Sports Entertainment Complex (BSEC) /  
Russell Cook

**LOCATION:** The subject property is located east of the intersection  
of Thunderbird Road and U.S. Highway 65; Oliver  
Township, Sections 8, 9 & 17, Township 21, Range  
21.

**REQUEST:** The applicant, the Branson Sports Entertainment  
Complex / Russell Cook is seeking an appeal in order  
to modify specific conditions placed by the Planning  
Commission on Division III Permit # 2011-0016 for the  
Branson Sports Entertainment Complex (BSEC).

**BACKGROUND and SITE HISTORY:**

The subject property consists of approximately 809 acres currently containing a single-family residence and has served as fully guided deer and elk hunting facility.

On February 22, 2011 a Notice of Violation was sent to Russell Cook from the Missouri Department of Natural Resources (MoDNR) concerning land disturbance activities of over one acre without a Missouri State Operating Permit. On February 22, 2011 Taney County Land Disturbance Permit # 11-01 was obtained for the 75 acres of disturbance, with a security of \$750.00 per acre (\$56,250.00 cash bond) being submitted to the Planning Department. The applicant has also received a Missouri State Operating Permit from the MoDNR for the 75 acre land disturbance. On July 14, 2011 the BSEC filed a Taney County Land Disturbance Permit Application for 325 acres of disturbance, along with the required Stormwater Pollution Prevention Plan. The applicant self reported to the MoDNR indicating that the disturbed area had exceeded the original 75 acre permitted area. On July 28, 2011 a letter of warning was sent from Kevin Hess of the MoDNR to Russell Cook stating, "To eliminate the violations of the Missouri Clean Water Law and Department regulations the Department requests that the land disturbance activities cease in any areas outside of the boundaries of the permitted 75 acres until a permit is issued covering the extended area."

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On August 19, 2011 correspondence was sent from the Planning staff to the BSEC engineer indicating that, "Prior to issuing the current land grading permit for 325 acres Taney County will require some assurances that the development has obtained the proper permits through the Corps." The Planning office is also requesting the submission of the required Erosion and Sedimentation Control Plan and a \$243,750.00 Land Disturbance Bond (\$750.00 per acre of disturbance) prior to the issuance of the 325 acre Land Disturbance Permit. On September 14, 2011 representatives from the U.S. Army Corps of Engineers (Corps), the BSEC and the Planning Department met on site in order to discuss the requirements of the 404 permitting process. The BSEC representatives are currently working directly in conjunction with the Corps in obtaining the required 404 Permit. The developer has not resumed any grading activities on site since prior to the approval of the Division III Permit by the Taney County Planning Commission (June 23, 2011).

On July 18, 2011 the Taney County Planning Commission approved Division III Permit # 2011-0016 allowing the Branson Sports Entertainment Complex to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings.

#### **GENERAL DESCRIPTION:**

The proposed Branson Motorplex development will be located on a total of approximately 809 acres. The proposed complex will showcase a three-quarter-mile asphalt racetrack with seating for 65,000 spectators with provisions for future expansion.

The applicant has stated that this proposed project will include:

- ¾ mile asphalt track suitable for all standards of racing
- Stadium seating for 65,000 fans
- A road course suitable for a variety of types of racing
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- Media Center
- Concessions Concourse with food, beverage, gifts and other amenities
- Welcome plaza with areas for souvenir trailers, corporate displays and entertainment
- Fan accessible infield which will contain garages for the race teams and technical inspection facilities for the sanctioning bodies.
- RV and camping facilities for participants and fans
- Concerts, car shows, trade shows, food, retail, commercial development, public events and faith based and community gatherings



## REVIEW:

The applicant (Branson Sports Entertainment Complex) is seeking to modify condition numbers 4, 7, 8, 9 and 10 placed by the Planning Commission on the Decision of Record for Division III Permit # 2011-0016.

The sound pressure level of 68 decibels that was proposed by the Planning Staff during the Planning Commission public hearing process, later becoming Condition 9 of the Decision of Record, was arrived at based largely upon the Noise Analysis: Emory Creek Ranch "Racetrack" Development. This analysis was completed in 2008 by Keith Crawford, the Taney County Planning Compliance Inspector for presentation to the Planning Commission. In that analysis it was found that the calculated data for the combined sound pressure level (SPL) of the existing highway noise, the proposed racetrack noise and the audience noise would be 69 dbA at 3,200 feet (~0.6 miles) from the track (*Page 12 - Noise Analysis: Emory Creek Ranch "Racetrack" Development*). Mr. Crawford also presented a data report indicating actual car racing sound measurements recorded at Route 66 Speedway in Joplin, MO (*Page 9 - Noise Analysis: Emory Creek Ranch "Racetrack" Development*). The actual measured decibel (dbA) reading for super modified cars at the Route 66 Speedway was 68 dbA at 0.5 miles from the race track. This 68 dbA measurement was obtained from cars that were producing an average measure SPL of 98 dbA at 100 feet from the track. The staff believed that if an actual decibel reading of 68 dbA was measured at the Route 66 Speedway, without mitigation measures being put in place (i.e. sound control apparatus such as sound walls / barriers, and other acoustic sound treatments) that potentially the SPL could be lowered even further by utilizing various means of absorbing, redirecting and diffusing the sound. The Noise Analysis for the Branson Sports Entertainment Complex was not submitted by the applicant's engineer until the afternoon of July 18, 2011, the date of the Planning Commission final vote on the Division III application.

As a part of the Division III approval process, the project received a score of 24 on the Policy Checklist, out of a maximum possible score of 87. The relative policies receiving a negative score consist of off-site nuisances, right-of-way on existing roads, slopes, use compatibility, wildlife habitat & fisheries, building materials and traffic.

The Planning Commission approved Division III Permit # 2011-0016 (by a vote of four in favor and two against) with a total of 18 conditions, based upon the belief that this proposed development would comply with the Absolute and Relative Policies of the Taney County Development Guidance Code. The conditions were placed upon this permit in order to mitigate the concerns of the neighboring property owners and also to ensure compliance with the Absolute and Relative Policies of the Development Guidance Code.



## **STATUTORY REQUIREMENTS OF APPROVAL:**

Per the requirements of the Missouri Revised Statutes the Board of Adjustment shall have the following powers and it shall be its duty:

To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official in the enforcement of the county zoning regulations;

In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the county commission, respectively, under the provisions of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Upon the presentation of the petition the court shall allow a writ of certiorari directed to the board of adjustment or the county commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case. The court may reverse or affirm or may modify the decision brought up for review. After entry of judgment in the circuit court in the action in review, any party to the cause may prosecute an appeal to the appellate court having jurisdiction in the same manner now or hereafter provided by law for appeals from other judgments of the circuit court in civil cases.



## SUMMARY:

**Bolded Items** - Applicant's Proposed Additions

~~Strikethrough~~ - Applicant's Proposed Deletions

If the Taney County Board of Adjustment approves this appeal request seeking to modify specific conditions placed by the Planning Commission on Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC) The following conditions shall be complied with, unless revised by the Board:

1. Compliance with the provisions of the Taney County Development Guidance Code and the Taney County Road Standards that include plans for the following:
  - a. Stormwater management (Appendix B Item 3)
  - b. Utility easements and building line setbacks (Table 12)
  - c. Improvements with scale of buildings, streets, onsite parking and utilities.(Table 6)
  - d. A complete landscape and buffering plan showing the location, size and planting materials for all buffer yards, both adjacent to public rights-of-way and residential properties.
  - e. A lighting plan showing the location, height and other specifications on the lighting to be provided for the development.
  - f. A traffic impact study shall be submitted to the Taney County Road and Bridge Department.
  - g. An engineering public improvement plan shall be submitted to the Taney County Road and Bridge Department prior to the construction of a new access road to the Branson Airport.
2. Compliance letters from the Fire, Sewer and Water Districts, Missouri Department of Transportation (MoDOT), Missouri Department of Natural Resources (MoDNR), including all other entities which have requirements governing a development of this nature.(Chapter VI-VII)
3. Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall upgrade the existing transportation system and provide the necessary capacity to serve this development, as required by both Taney County and the Missouri Department of Transportation (MoDOT). These transportation improvements may include:
  - Construction of a new access road to the Branson Airport.
  - Constructing the three new interchanges previously called out in the MoDOT Long Range Transportation Plan which will remove the signalized intersections on U.S. Highway 65 at Highways 265 and 86 to allow the north and south bound traffic to continue without interruption.



- Construction of the remaining portions of the U.S. Highway 65 east outer road called out in the MoDOT Long Range Transportation Plan.
4. ~~Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall install all of the required infrastructure improvements.~~ **Prior to the issuance of Certificates of Conformance (C of Cs) for any Division II permitted structure or permitted use of the property, the developer will show that the necessary infrastructure to support the specific Division II Permit is in place.**
  5. A 200 foot wildlife and riparian corridor shall remain along the branch of Turkey Creek and shall be left in its natural state. Areas at the perimeter of the riparian corridor shall require additional vegetative plantings where natural vegetation is non-existent or insufficient to meet the county's bufferyard requirements, as found within the provisions of Appendix J of the Development Guidance Code.
  6. A minimum of a 40 foot natural vegetative buffer, meeting all of the requirements of Appendix J of the Taney County Development Guidance Code, shall be established between the road course (including any accessory structures) and the adjoining property to the west. The plantings shall be established per the provisions of Table J-1 for commercial facilities.
  7. Four (4) sound pressure (decibel levels) measuring stations shall be established, **which use Type I integrating sound level meters**, located ½ mile from the center of the track. The location of these stations is to be determined by **mutual agreement between Taney County and the developer.** ~~based upon need.~~ **If there are no incidents of violation over a three year timeframe, where BSEC is not found in violation of the established monitoring levels then the monitoring shall cease.**
  8. Decibel readings shall be taken by an independent contractor and submitted to Taney County. The independent contractor shall be **selected** ~~specified~~ by Taney County **and the Branson Sports Entertainment Complex through mutual agreement**, with the contractor's fees being paid by the owner / operator of the Motorplex. **This mutual agreement shall establish the specific criteria for the testing and monitoring of sound pressure levels.**
  9. **The noise level measurements shall be continuous in 15 minute increments from the start of the race or concert event to the end of said event. The  $L_{eq}$  (constant, average sound level) shall not exceed 77dbA and the  $L_{max}$  shall not exceed 83 dbA during the entire measurement period. Decibel readings at any of the four (4) measuring stations shall not exceed a sound pressure level of 68 decibels. Three of the four sound level meters must show an exceedance of both criteria in order for the Branson Sports Entertainment Complex to be considered in violation of the noise condition. The Certificate of Compliance shall be suspended for any readings exceeding 68 decibels the aforementioned criteria. A written notice of suspension shall be**



served on the owner or operator of the development, requiring that the development return to compliance within 60 calendar days or be revoked. The Certificate of Compliance shall be revoked for any readings exceeding 68 decibels **the aforementioned criteria** within the 60 day non-compliance period.

- ~~10. Racing or concert events shall not begin before noon. Testing, practice or hot laps shall not begin before 9:00 AM.~~
11. All light sources within the development shall be arranged so that no direct illumination leaves the site toward adjacent residential areas or any roadways.
12. Due to the height and size of the stadium seating (in excess of the 70 foot height limitation) the structure will be constructed in compliance with current edition of International Building Codes, with an independent third party completing a code compliance review.
13. No outside storage of equipment or solid waste materials.
14. This decision is subject to all existing easements.
15. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
16. Prior to issuing Certificates of Compliance (C of Cs) a copy of the MoDNR operating permit for the water supply shall be presented to the Taney County Planning Department.
17. The required land reclamation bond shall be submitted to the Taney County Planning Office, allowing for the issuance of a Land Disturbance Permit for 325 acres, ensuring compliance with the absolute policies of the Development Guidance Code.
18. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).

**TANEY COUNTY BOARD OF ADJUSTMENT**  
**APPLICATION and AFFIDAVIT**  
**FOR VARIANCE OR APPEAL**



(Circle one)

**Variance (\$125.00)    Appeal (\$125.00)**

**PLEASE PRINT**

**DATE** 10-17-11

Applicant Branson Sports and Entertainment Complex - Russell Cook Phone 417-334-3535

Address, City, State, Zip 689 High Mountain Drive, Ridgedale, MO 65739

Representative Tom Gammon Phone 417-334-3535

Owner of Record Russell Cook Signature: \_\_\_\_\_

Name of Project: Branson Sports and Entertainment Complex

Section of Code Protested: (office entry) \_\_\_\_\_

Address and Location of site: 689 High Mountain Drive

Ridgedale, MO 65739

Subdivision (if applicable) N/A

Section 8-91/7 Township 21N Range 21W Number of Acres or Sq. Ft. Approx. 809.19

Parcel Number 20-2.0-09-000-000-012.001; 20-3.0-08-000-000-001.012  
20-3.0-08-000-000-002.000; 20-4.0-17-000-000-005.000

Does the property lie in the 100-year floodplain? (Circle one) Yes No

Required Submittals:

- ☒ Typewritten legal description of property involved in the request
- ☒ Postage for notifying property owners within 600 feet of the project
- ☐ Proof of public notification in a newspaper of county-wide circulation
- ☐ Proof of ownership or approval to proceed with request by the owner
- ☐ Sketch plan/survey of the project which completely demonstrates request

Please give a complete description of your request on page two.



1. Branson Sports and Entertainment Complex - Russell Cook ("BSEC") is filing an Appeal of Specific Conditions of the Division III Decision of Record Division III Permit #11-16. BSEC requests modification of the following Specific Conditions:
  - a. Condition Number 4. "Prior to the issuance of Certificates of Conformance the developer shall install all of the required infrastructure improvements." This is a large development is large and will be completed in phases. Some of the smaller phases will be completed first. BSEC proposes this Specific Condition be changed to the following:
    - i. Prior to the issuance of Certificates of Conformance for any Division II Permitted Structure or permitted use of the property, the developer will show that the necessary infrastructure to support the specific Division II permit is in place.
  - b. Conditions Number 7, Number 8, Number 9 and Number 10. In part or in whole, these provisions impose a special noise ordinance only specific to BSEC. BSEC, along with several other independent legal experts, do not believe The Taney County Planning Commission has the legal authority to create ordinances for the county, monetary fines and to write conditions outside of the county code. This authority, according to statutes, clearly resides with the County Commission.
    - i. BSEC is not opposed to voluntary monitoring sound pressure readings around the track. In 2008, the Taney County Planning Commission granted Division III approval of a racing facility at Emory Creek. The noise restriction of that location was at 83 decibels. There was considerable work done by the county staff and independent sound experts in developing the 83 decibel restriction. That work and recommendation were apparently overlooked and the clear precedent ignored.
    - ii. BSEC is agreeable to a similar, but more definitive, voluntary noise restriction. Based on the analysis to date, the noise restriction should consider both the  $L_{eq}$  and  $L_{max}$  noise levels at 0.5 miles from the center of the track. The noise levels should be monitored at 4 locations using Type 1 integrating sound level meters. The measurements should be continuous in 15-minute increments from the start of the race to the end of the race. The  $L_{eq}$  noise level from race vehicle noise should not exceed 77dBA, and the  $L_{max}$  noise level should not exceed 83 dBA during the entire measurement period. The attenuation due to ground over, wind, temperature lapses, and temperature inversions can have significant influences on noise levels 0.5 miles from a source; therefore, three of the four sound level meters must show an exceedance of both criteria for the Branson Sports and Entertainment Complex to be considered in violation of the noise restriction.
  - c. BSEC has specific objections to each of the four above listed conditions

- i. Number 7. "The locations of these stations is to be determined by Taney County based upon need."
  - 1. BSEC proposes the locations be determined by mutual agreement between Taney County and the developer. The location of the sensors must be secure to avoid tampering and not leave the developer open to uncontrollable noise occurrences.
  - 2. BSEC proposes that there be a sunset on the length of time the monitoring must continue. If there are no incidents of violation over a given period of time, i.e. three years, where BSEC is not found in violation of the established monitored levels then monitoring can cease.
- ii. Number 8. "Decibel readings shall be taken by an independent contractor and submitted to Taney County. The independent contractor shall be specified by Taney County with the contractor's fees being paid by the owner/operator of the Motorplex."
  - 1. The independent contractor selected must be qualified to perform the sampling and the reporting. There are no requirements of professional qualifications in the condition. BSEC strongly feels that because of the level of investment it is making in Taney County any selection of the independent contractor should be through mutual agreement and that there be established criteria for testing and monitoring of sound pressure levels. This mutual agreement needs to be in place to protect both Taney County and the investment of BSEC.
- iii. Number 9. "Decibel readings at any of the four (4) measuring stations shall not exceed a sound pressure level of 68 decibels."
  - 1. Appeal the 68 dBA to the criteria listed above. 68 dBA is the sound pressure level of normal human conversation; US Highway 65 has sound pressure levels of equal to 65 dBA and Interstate Highway noise commonly runs between 75 and 80 dBA.
  - 2. The 68 decibels level is undefined, unenforceable and arbitrary.
  - 3. The Special Conditions do not indicate whether this is dBA or dBC. The Special Conditions do not indicate what is to be monitored.
  - 4. The Special Conditions do not indicate what frequencies would be monitored. Any other noise could affect the reading in a frequency that is not emitted by motorsports. BSEC has on record readings of the Cicadas this past summer of over 75 dBA in the neighborhood of the BSEC development.
  - 5. The Special Conditions do not indicate whether this is a monitored level, an average over a time interval or peak pressure level reading. Thunder, a passing train, fireworks, a person tampering with a single device or other such circumstances could easily render a reading above 68 dBA or dBC.



6. The location of the monitoring devices should be mutually agreed to by Taney County and BSEC and inspected by both the Taney County and BSEC prior to and after each event to prevent tampering.
7. The Special Conditions do not indicate what was the basis of the recommendation and approval of 68 dB.
  - a. BSEC believes it was an arbitrary recommendation and decision made without the benefit of expert information. BSEC provided two experts that both spoke to sound levels at the track during the public comment hearing. BSEC was not allowed to speak at the subsequent hearing, even though one of the commissioners asked BSEC a direct question. Typically, the applicant is allowed to answer questions at the final Division III hearing; and apparently, the expert testimony was not taken into or given consideration during in the decision.
- iv. Number 10. The restriction of "Racing or Concert events shall not begin before noon," stands against normal racing facility management practices. This restriction is again based upon a lack of understanding of noise and misleading information presented by the opposition that intentionally skewed sound pressure readings and levels. None of this information presented by the opposition at the Planning Commission was presented by a qualified sound expert; however, the misleading information was apparently taken into consideration in the Planning Commission's Decision of Record.
  1. One of the best tools to manage traffic congestion prior to a race is to present entertainment, specifically concerts, prior to the start time of the race. This tool encourages fans to arrive early so all of the traffic does not arrive at the tack in the hour before the racing event.
  2. Racing Sanctioning Bodies try to include all racing over the planned days, typically a weekend. If there is a rainout BSEC needs to be able to work the lower tier series into an early start time to allow the fans that purchased tickets to experience all of what they paid to see.
  3. BSEC does not believe that Taney County Planning Commission has the legal ability, nor does it have the legal authority, to limit the hours of operation for businesses. Statute is very clear that this power is solely the responsibility of the County Commission.

## Bonita Kisse

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**From:** Janet Gard [janet.gard@hospicecom.com]  
**Sent:** Thursday, November 03, 2011 4:33 PM  
**To:** P&Z  
**Cc:** rpgard@juno.com  
**Subject:** Comments on Branson Sports Complex

Taney County Planning Commission  
P.O. Box 383  
Forsyth, MO. 65653

November 3, 2011

Dear Sirs:

Very soon you will be looking, once again, at the zoning issues surrounding the Branson Sports Complex. As land owners of 80 acres and two homes adjacent to Russell Cook's property (which includes our personal residence of 30 years) we would like you to know that we SUPPORT moving forward with the construction of the Branson Sports Complex.

Although we understand that there is a process that you must go through to assure no one's rights are being violated, we believe that this appeal is ludicrous and a waste of your time and taxpayer money. We are offended that our friends from Big Cedar somehow believe that because they have more money and resources, that they should have more influence over this decision than the homeowners who are most affected.

WE are writing this to say that we WANT the Branson Sports Complex to be built because we love this county, its unique culture and its economic stability. We have lived here 50+ years and have watched and participated as this county has changed. Yes, we do love our wilderness areas, the trees, waterfalls and beautiful countryside and know that those elements are this area's our strongest asset. We also know that our economic stability is teetering on the edge of disaster and if we do not find ways to boost our tourism industry it's not going to matter how beautiful everything is because no one will be here to enjoy it.

Please stay with your decision to allow the construction of the Branson Sports Complex and we encourage you to provide as much support as possible to move this project forward.

We also would ask that you consider changing the stipulations concerning noise control. We were told by the same naysayers that the Branson Airport should not be built because the airplanes would be so loud that property values would plummet and our quality of life would significantly change. That has been so wrong. Our property values have increased and the sounds of commercial aircraft taking off and landing is not noticeable and has had no impact on our quality of life. In fact we believe that your approval of the airport was one of the best decisions P and Z has made.

Once again from two life-long residents of Taney County, who actually owns and lives on property adjacent to the construction zone, we want you to SUPPORT the Branson Sports Complex.

Thanks for your consideration

Robert and Janet Gard  
102 Ravenwood Way  
Ridgedale Missouri 65739  
417-334-4450

*Janet Gard*



*Executive Director*



Branson (417)335-2004  
Monett (417) 235-9097  
Joplin (417)623-8272  
Pittsburgh (620)232-9898  
Cell (417)593-3974

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BOOK PAGE

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PAGES: 6

REAL ESTATE DOCUMENT  
TANEY COUNTY, MISSOURI  
RECORDERS CERTIFICATION

*Robert A. Dixon*  
ROBERT A. DIXON

**TANEY COUNTY PLANNING COMMISSION**

**DIVISION III DECISION OF RECORD**

**JULY 18, 2011**

**✓ BRANSON SPORTS ENTERTAINMENT COMPLEX**  
**#11-16**

On July 18, 2011 the Taney County Planning Commission (grantor) approved a request by Russell Cook (grantee) to operate a motorsports facility. In accordance with the approval a Division III Permit #11-16 is issued for the property located at the attached legal description.

The following Decision of Record details this approval and lists all applicable conditions:

Russell Cook/ Branson Sports Entertainment Complex is authorized to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings. With seven out of nine Planning Commissioners present the vote to approve was four in favor and two against. The following conditions shall be complied with:

1. Compliance with the provisions of the Taney County Development Guidance Code and the Taney County Road Standards that include plans for the following:
  - a. Stormwater management (Appendix B Item 3)
  - b. Utility easements and building line setbacks (Table 12)
  - c. Improvements with scale of buildings, streets, onsite parking and utilities.(Table 6)
  - d. A complete landscape and buffering plan showing the location, size and planting materials for all buffer yards, both adjacent to public rights-of-way and residential properties.
  - e. A lighting plan showing the location, height and other specifications on the lighting to be provided for the development.
  - f. A traffic impact study shall be submitted to the Taney County Road and Bridge Department.



- g. An engineering public improvement plan shall be submitted to the Taney County Road and Bridge Department prior to the construction of a new access road to the Branson Airport.
2. Compliance letters from the Fire, Sewer and Water Districts, Missouri Department of Transportation (MoDOT), Missouri Department of Natural Resources (MoDNR), including all other entities which have requirements governing a development of this nature.(Chapter VI-VII)
3. Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall upgrade the existing transportation system and provide the necessary capacity to serve this development, as required by both Taney County and the Missouri Department of Transportation (MoDOT). These transportation improvements may include:
  - Construction of a new access road to the Branson Airport.
  - Constructing the three new interchanges previously called out in the MoDOT Long Range Transportation Plan which will remove the signalized intersections on U.S. Highway 65 at Highways 265 and 86 to allow the north and south bound traffic to continue without interruption.
  - Construction of the remaining portions of the U.S. Highway 65 east outer road called out in the MoDOT Long Range Transportation Plan.
4. Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall install **all** of the required infrastructure improvements.
5. A 200 foot wildlife and riparian corridor shall remain along the branch of Turkey Creek and shall be left in its natural state. Areas at the perimeter of the riparian corridor shall require additional vegetative plantings where natural vegetation is non-existent or insufficient to meet the county's bufferyard requirements, as found within the provisions of Appendix J of the Development Guidance Code.
6. A minimum of a 40 foot natural vegetative buffer, meeting all of the requirements of Appendix J of the Taney County Development Guidance Code, shall be established between the road course (including any accessory structures) and the adjoining property to the west. The plantings shall be established per the provisions of Table J-1 for commercial facilities.
7. Four (4) sound pressure (decibel levels) measuring stations shall be established, located ½ mile from the center of the track. The location of these stations is to be determined by Taney County based upon need.
8. Decibel readings shall be taken by an independent contractor and submitted to Taney County. The independent contractor shall be specified by Taney County, with the contractor's fees being paid by the owner / operator of the Motorplex.

9. Decibel readings at any of the four (4) measuring stations shall not exceed a sound pressure level of 68 decibels. The Certificate of Compliance shall be suspended for any readings exceeding 68 decibels. A written notice of suspension shall be served on the owner or operator of the development, requiring that the development return to compliance within 60 calendar days or be revoked. The Certificate of Compliance shall be revoked for any readings exceeding 68 decibels within the 60 day non-compliance period. A fine of \$5000.00 shall be levied per each offence over 68 decibels.
10. Racing or concert events shall not begin before noon. Testing, practice or hot laps shall not begin before 9:00 AM.
11. All light sources within the development shall be arranged so that no direct illumination leaves the site toward adjacent residential areas or any roadways.
12. Due to the height and size of the stadium seating (in excess of the 70 foot height limitation) the structure will be constructed in compliance with current edition of International Building Codes, with an independent third party completing a code compliance review.
13. No outside storage of equipment or solid waste materials.
14. This decision is subject to all existing easements.
15. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
16. Prior to issuing Certificates of Compliance (C of Cs) a copy of the MoDNR operating permit for the water supply shall be presented to the Taney County Planning Department.
17. The required land reclamation bond shall be submitted to the Taney County Planning Office, allowing for the issuance of a Land Disturbance Permit for 325 acres, ensuring compliance with the absolute policies of the Development Guidance Code.
18. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).

Legal description attached



*In signing this record of decision I understand that any breach in the terms of the Division III Record of Decision will result in the revocation of this permit. I further agree to abide by and comply with all the requirements of the Taney County Planning Commission and the Development Guidance Code.*

Signature Russell L Cook

As the Designated official for the Taney County Planning Commission, I hereby issue the foregoing document as the permit and decision of record as detailed above.

Bob Atchley  
Bob Atchley, Administrator

STATE OF MISSOURI )

S.S. On this 17, day of Oct, 2011

COUNTY OF TANEY )

Before me personally appeared Bob Atchley, and Russell Cook to me known to be the persons described in and who executed the foregoing instrument.

In testimony Whereof, I have hereunto set my hand and affixed my official seal, at my office in Forsyth, Missouri the day and year first above written. My term of office as Notary Public will expire 2/6/14

Bonita Kisse  
Bonita Kisse, Notary Public



BONITA KISSEE  
My Commission Expires  
February 6, 2014  
Taney County  
Commission #10440057

BK0406PG9257

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REC. FEE: 26.00  
PAGES: 2

KATHERINE CLARKSON, RECORDER  
OF TANEY COUNTY, MO. DO HEREBY  
CERTIFY THAT THE WITHIN  
INSTRUMENT OF WRITING, WAS,  
ON 11-12-2002 AT 8:34:08 AM  
DULY FILED FOR RECORD AND IS  
RECORDED IN THE RECORDS OF  
THIS OFFICE, IN BOOK 406  
AT PAGE 9257.2252 IN TESTIMONY  
WHEREOF, I HAVE HEREUNTO  
SET MY HAND AND AFFIXED MY  
OFFICIAL SEAL AT FORSYTH, MO.

Sue Clatter, DEPUTY

Exhibit A

**SPECIAL WARRANTY DEED**

038984

**THIS INDENTURE**, made on the 30th day of October, 2002, by and between RUSSELL L. COOK and WANDA F. COOK, husband and wife, of Taney County, Missouri, as Grantors, and RUSSELL L. COOK, TRUSTEE under Revocable Trust Agreement dated December 13, 1995, as amended and completely restated on October 30, 2002, of Greene County, Missouri, as to an undivided one-half (1/2) interest, and WANDA F. COOK, TRUSTEE under Revocable Trust Agreement dated December 13, 1995, as amended and completely restated on October 30, 2002, of Taney County, Missouri, as to an undivided one-half (1/2) interest, as Grantees. (Mailing Address: P.O. Box 235, Hollister, Missouri 65672).

**WITNESSETH**, Grantors, for and in consideration of the sum of Ten Dollars (\$10) and other good and valuable consideration to them paid by Grantees, the receipt of which is hereby acknowledged, do by these presents, Bargain and Sell, Convey and Confirm, unto Grantees, their successors and assigns, the following described Lots, Tracts or Parcels of land, lying, being and situate in the County of Taney and State of Missouri, to-wit:

NW¼ OF THE NW¼, NE¼ OF THE NW¼, AND NW¼ OF THE NE¼ OF SECTION 17; AND THE W¼ OF THE NW¼, THE SE¼ OF THE NW¼, AND THE S¼ OF SECTION 8, ALL IN TOWNSHIP 21, RANGE 21 EXCEPT THAT PORTION DEEDED TO THE STATE OF MISSOURI, STATE HIGHWAY COMMISSION OF MISSOURI, IN BOOK 237 AT PAGE 257, TANEY COUNTY RECORDERS OFFICE, CONTAINING 546.31 ACRES, MORE OR LESS.

Subject to easements, reservations, restrictions, covenants, building lines, plats, prohibitions, agreements and limitations of record; leases to current tenants (if any) which Grantees assumes and agrees to hold Grantors harmless; zoning, building, subdivision, and all other applicable municipal, county, state and federal ordinances and regulations; property taxes not payable as of the date hereof; and any encroachments, overlaps, boundary line disputes, and any other matter which would be disclosed by an accurate survey and inspection of the premises.

**TO HAVE AND TO HOLD** the premises aforesaid, with all and singular the rights, privileges, appurtenances, and immunities thereto belonging or in anywise appertaining unto



EXHIBIT A

A TRACT OF LAND SITUATED IN SECTION 8 AND 9, TOWNSHIP 21 NORTH, RANGE 21 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
ALL OF THE NE1/4 OF THE NW1/4, THE SW1/4 OF THE NE1/4, THE SE1/4 OF THE NE1/4, AND ALL THAT PART OF THE NW1/4 OF THE NE1/4 OF SAID SECTION 8 MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF SAID NW1/4 OF THE NE1/4, THENCE N39°27'34"W 661.15 FEET, THENCE N48°52'15"W 334.78 FEET, THENCE N55°51'45"W 394.55 FEET, THENCE N54°11'40"W 224.02 FEET, THENCE N21°11'04"W 257.84 FEET TO THE NW CORNER OF SAID NW1/4 OF THE NE1/4, THENCE SOUTH ALONG THE WEST LINE OF SAID NW1/4 OF THE NE1/4 TO THE SOUTHWEST CORNER OF SAID NW1/4 OF THE NE1/4, THENCE EAST ALONG THE SOUTH LINE OF SAID NW1/4 OF THE NE1/4 TO THE POINT OF BEGINNING, ALL BEING IN SECTION 8, TOWNSHIP 21 NORTH, RANGE 21 WEST, AND THE SW1/4 OF THE SW1/4 OF SAID SECTION 9, AND ALL THAT PART OF THE SW1/4 OF THE NW1/4, THE NW1/4 OF THE SW1/4 AND THE NE1/4 OF THE SW1/4 OF SAID SECTION 9, BEING DESCRIBED AS BEGINNING AT THE NE CORNER OF THE SW1/4 OF THE NW1/4, THENCE S57°39'17"W 276.87 FEET, THENCE S05°53'39"W 502.18 FEET, THENCE S18°19'10"E 372.27 FEET, THENCE S25°08'30"E 258.38 FEET, THENCE S04°50'03"E 275.89 FEET, THENCE S14°53'10"W 262.44 FEET, THENCE S08°52'55"W 269.49 FEET, THENCE S09°22'49"W 254.24 FEET, THENCE S40°16'00"E 285.45 FEET TO A POINT ON THE SOUTH LINE OF SAID NW1/4 OF THE SW1/4, THENCE WEST ALONG SAID SOUTH LINE TO THE SOUTHWEST CORNER OF SAID NW1/4 OF THE SW1/4, THENCE NORTH ALONG THE WEST LINE OF SAID NW1/4 OF THE SW1/4 AND THE SW1/4 OF THE NW1/4 TO THE NORTHWEST CORNER OF SAID SW1/4 OF THE NW1/4, THENCE EAST ALONG THE NORTH LINE OF SAID SW1/4 OF THE NW1/4 TO THE POINT OF BEGINNING, ALL IN SECTION 9, TOWNSHIP 21 NORTH, RANGE 21 WEST.

END OF DOCUMENT



## **TANEY COUNTY PLANNING COMMISSION DIVISION III STAFF REPORT**

**HEARING DATE:** July 18, 2011

**CASE NUMBER:** 2011-0016

**APPLICANT:** Russell Cook – Branson Sports Entertainment Complex

**LOCATION:** 689 High Mountain Drive, Ridgedale, MO. East of the intersection of Thunderbird Road and U.S. Highway 65; Oliver Township, Sections 8,9 &17, Township 21, Range 21.

**REQUEST:** The applicant is requesting to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings.

### **BACKGROUND AND SITE HISTORY:**

This site consists of approximately 809 acres currently containing a single-family residence and has served as fully guided deer and elk hunting facility. On February 22, 2011 a Notice of Violation was sent to Russell Cook from the Missouri Department of Natural Resources (MoDNR) concerning land disturbance activities of over one acre without a Missouri State Operating Permit. On February 22, 2011 Taney County Land Disturbance Permit # 11-01 was obtained for the 75 acres of disturbance, with a security of \$750.00 per acre being submitted to the Planning Department. The applicant has also received a Missouri State Operating Permit from the MoDNR for the 75 acre land disturbance. The Planning Staff has requested that the applicant amend the Land Disturbance Permit and required security for the amount of land that has been disturbed.



## **PROJECT DESCRIPTION:**

The proposed Branson Motorplex development will be located on a total of approximately 809 acres. The proposed complex will showcase a three-quarter-mile asphalt racetrack with seating for 65,000 spectators with provisions for future expansion.

The applicant has stated that this proposed project will include:

- ¾ mile asphalt track suitable for all standards of racing
- Stadium seating for 65,000 fans
- A road course suitable for a variety of types of racing
- Luxury Suites
- Hospitality Village
- Media Center
- Concessions Concourse with food, beverage, gifts and other amenities
- Welcome plaza with areas for souvenir trailers, corporate displays and entertainment
- Fan accessible infield which will contain garages for the race teams and technical inspection facilities for the sanctioning bodies.
- RV and camping facilities for participants and fans
- Concerts, car shows, trade shows, food, retail, commercial development, public events and faith based and community gatherings

## **ABSOLUTE & RELATIVE POLICY ANALYSIS:**

### **1. Water Quality**

#### *Stormwater and Sediment & Erosion Control*

The site does not fall within the FEMA Floodplain. The site drains generally to an unnamed branch of Turkey Creek. The applicant's engineer has indicated that there is no significant concentrated flow from upstream of this property. The applicant's engineer has also stated that Best Management Practices will be utilized so that the development will not accelerate off-site stormwater runoff. The applicant has indicated that he will provide a 200 foot wide riparian corridor along the unnamed branch of Turkey Creek. This wooded corridor will be left undisturbed to help protect the creek from erosion and sedimentation. On February 22, 2011 a Land Disturbance Permit was issued by the Taney County Planning Department and the Missouri Department of Natural Resources (MoDNR) allowing for the disturbance of 75 acres. The Planning Staff has requested that the applicant amend the Land Disturbance Permit and required security for the amount of land that has been disturbed. The applicant's engineer has indicated that his staff is conducting a survey of both the graded and cleared area of the site. A new Land Disturbance Permit was submitted to the Planning Department Office and the MoDNR on July 14, 2011, along with the Stormwater Pollution Prevention Plan and a letter from the applicant's bonding company, stating that he is in the process of working with the applicant to obtain a land reclamation bond.

The required bond amount will be \$243,750 at \$750 per acre of disturbance. The applicant's engineer has further stated that the project will incorporate water quality measures into the design for both the construction phase and also permanent measures including: bioswales, rain gardens, bioretention basins, detention basins and grass buffer strips.

*Sewage Disposal:*

A sanitary sewage collection facility will be provided on the site which will be connected to the Taney County Regional Sewer District via a proposed trunk line to be constructed parallel with Turkey Creek. The trunk line will connect to the City of Hollister Wastewater Treatment Plant. The sanitary sewer main line will be dedicated to the public, with the collection lines and laterals remaining private. On July 5, 2011 the Taney County Regional Sewer District Board voted unanimously to enter into contract negotiations with the BSEC to extend a trunk sewer within the Turkey Creek Watershed.

## **2. Environmental Policies**

*Soil Limitations:*

There are no known limitations based on the soils in the area.

*Slopes:*

The applicant's engineer has stated that the developed area is designed well below a 30% slope but has indicated that any area which exceeds a 30% slope will be designed by a licensed professional engineer with demonstrated experience in the field of slope stabilization and will be certified as creating no hazard of slope failure or excessive erosion. The applicant has also indicated that all earthwork for the construction will be monitored by a geotechnical engineering company. The areas which exceed the 30% slope are generally scenic vistas, such as within the 200 foot wide riparian corridor which is being left undisturbed and protected.

*Wildlife Habitat and Fisheries:*

The developer has indicated that a 200 foot wide wildlife and riparian corridor will be provided through the property along the unnamed branch of Turkey Creek. There is no documentation of any protected wildlife species located on the property.

*Air Quality:*

The applicant's engineer has stated that the proposed development will not have an effect on the overall air quality in the area. Taney County does not fall within an air quality attainment area as defined by the EPA.



### **3. Off-Site Nuisances**

#### *Noise:*

The construction of the Motorplex will take advantage of the topography to place the racetrack in a sixty-foot deep bowl-like configuration with the surrounding terrain being at a higher elevation. This may help mitigate the sound waves from the Motorplex complex. The existing, undisturbed trees and vegetation in the area will tend to soften, mute and disrupt the sound waves and help control noise levels. The staff is proposing that the sound levels be both monitored and controlled off-site.

A sound analysis is currently underway. The applicant's engineer has indicated that this information will be presented at the public hearing.

#### *Lighting:*

The applicant's engineer has stated that exterior lighting within the Motorplex will be arranged to minimize light spillover onto any adjacent property and so that lighting sources will be shaded, shielded or directed so that the light intensity or brightness will not adversely affect adjoining property.

### **4. Compatibility Factors**

#### *Use Compatibility:*

The proposed Motorplex is located in a rural area south of Hollister between U.S. Highway 65 and the Branson Airport. Adjoining residential areas to the north and east will be separated from the development by distance and by maintaining the existing natural vegetation buffer which will be left undisturbed. The primary area of concern is noise mitigation.

#### *Lot Coverage, Building Bulk and Scale & Building Materials:*

There is a considerable amount of open space within this development. Conversely, the amount of building coverage is relatively small compared to the overall size of the site.

The applicant's engineer has indicated that the stadium seating will exceed the 70 foot height limitation. However per the provisions of 4.12.3 of the Development Guidance Code structures may be erected exceeding 70 feet, subject to the structure not lying within 300 feet of an existing single family residence or within 200 feet of a multi-family residence and when the maximum portion of the structure that may be built below Base Plane shall not exceed 40% of the height of the structure.

#### *Structural Screening of Rooftop Equipment and Vents:*

The rooftops of the Motorplex buildings will be approximately 1,600 feet from any public street or highway and approximately 1,700 feet from any existing residential structure. It is doubtful that any rooftop equipment will be noticeable from those locations. The applicant's engineer has indicated that all rooftop equipment or vents will be screened from sight with parapet walls and other architectural screening.

#### *Structural Screening of Solid Waste Containers:*

The applicant's engineer has indicated that the development will screen all solid waste containers (i.e., dumpsters) from view by the public. Individual trash cans within the racetrack area will be aesthetically appropriate and will be located in plain sight of the participants to encourage use. The applicant has further indicated that the development will utilize and encourage a recycling program for the separation and responsible reuse of waste materials.

#### *Structural Screening of Outdoor Equipment, Storage, Etc.:*

Outdoor storage of equipment or materials will be screened from street level or placed inside buildings.

#### *Landscaped Buffers - Nonresidential:*

The applicant has indicated that bufferyards will be provided in accordance with the standards found in Appendix J of the Taney County Development Guidance Code both adjacent to public streets and residential properties. Existing, natural vegetation in bufferyard areas will be left whenever practicable, with additional vegetation being added where natural vegetation is non-existent or insufficient to meet the county's bufferyard requirements. BSEC will be responsible for maintaining and replanting the bufferyards in accordance with the original design. The 200 foot wildlife and riparian corridor along the branch of Turkey Creek will be left natural.

## **5. Local Economic Development**

#### *Right to Farm:*

The proposed development will not limit the viability of any existing agricultural uses.

#### *Right to Operate:*

The proposed development will not limit the viability of any existing industrial operations.



### *Diversification and Economic Development:*

The applicant has indicated that the Motorplex will create hundreds of year-round jobs. The jobs created by the planning, design and construction of the project include: architects, engineers, surveyors, skilled construction workers, laborers, heavy equipment operators, material suppliers, associated delivery and shipping personnel of the construction materials. Secondary jobs related to supporting these workers include: restaurants for meals, goods and services offered by local businesses and other accommodations. The other component of job creation and economic stimulus is the potential for growth in the surrounding area. The expanded opportunities for business growth and development will result in new jobs and a larger employment base.

## **6. Site Planning, Design, Occupancy**

Provision will be made for common driveways, circulation and parking. The applicant's engineer has indicated that the off-street parking, including handicapped access, will be provided to meet or exceed Taney County standards. A portion of the parking area will be paved and striped while the larger portion will be maintained as grass which will help reduce storm water runoff and reduce the heat island effect of paved parking areas during summer months. Treed walkways for pedestrians will provide shade as well as communicate the divided circulation system. The recreational vehicle parking area and camping areas will be designed in accordance with Taney County standards.

This applicant has stated that he also plans to self-impose building codes (current edition of International Building Codes) for all structures constructed with this project and hire an independent third party for code compliance review.

## **7. Commercial Development**

### *Development Patterns:*

The uses within the proposed development are clustered into one area, rather than being located along a long strip of highway. All the uses will share common access points to the highway and will share parking. The development will function as a coherent unit rather than separate units functioning at random.

### *Development Buffering:*

The applicant has indicated that landscaped bufferyards will be provided both by preserving existing vegetation and by adding vegetation adjacent to public roads which will meet or exceed Taney County standards.

## 8. Services – Capacity and Access

### *Traffic:*

The applicant's engineer has indicated that a traffic impact study is being prepared and coordinated with MoDOT for the development. The applicant has requested financial participation on a state and local level in upgrading the existing transportation system and expanding it to provide the necessary capacity. These transportation improvements include:

- Construction of a new access road to the Branson Airport.
- Constructing the three new interchanges previously called out in the MoDOT Long Range Transportation Plan which will remove the signalized intersections on U.S. Highway 65 at Highways 265 and 86 to allow the north and south bound traffic to continue without interruption.
- Construction of the remaining portions of the U.S. Highway 65 east outer road called out in the MoDOT Long Range Transportation Plan.

MoDOT has previously identified the aforementioned improvements within their long range plans for the area. The applicant has stated that BSEC will work in conjunction with MoDOT on a cost-share basis to advance the construction of these projects. MoDOT has requested the submittal of traffic impact study and employment projections. The applicant has been in discussion concerning the proposed project with both the Missouri Department of Economic Development and MoDOT.

### *Emergency Services:*

The applicant has indicated that will a public safety building will be constructed on site that will house fire, ambulance, sheriff and highway patrol sub-stations. This facility will also house a traffic management center (TMC). This TMC will serve to manage traffic during periods of high traffic volumes to safely and efficiently manage traffic flow.

### *Right-of-way of Existing Roads:*

The development has access to existing roads which have been identified to need more substantial improvements the right-of-way will have to be provided in accordance with MoDOT and Taney County standards.



## 9. Internal Improvements

### *Water System Service:*

The development will be served by a central water system permit by the Missouri Department of Natural Resources (MODNR). Water for drinking and fire protection will be provided by drilling multiple small wells, an elevated storage tank and adequately sized distribution lines. The applicant's engineer has indicated that these facilities will be designed to meet fire fighting requirements for storage and flow.

### *Emergency Water Supply:*

The development will include fire hydrants capable of delivering adequate firefighting pressures and flows throughout the development. Individual buildings may be equipped with sprinkler systems as required. Fire protection will be coordinated with the Western Taney County Fire District.

### *Pedestrian Circulation Infrastructure:*

The applicant has indicated that the development will include adequate internal sidewalks and pedestrian access to all facilities from the parking lots and between facilities within the development to encourage pedestrian access so that fans and visitors will not have to return to their vehicles to move between venues and activities on the site.

### *Pedestrian Safety:*

The applicant's engineer has indicated that all sidewalks will be separated from vehicular traffic to provide safe means of pedestrian access to all facilities.

### *Parking and Loading Areas:*

All parking spaces and loading areas will be provided in accordance with the provisions of the Taney County Development Guidance Code. The development will provide parking spaces based on the seating capacity of the 65,000 seat stadium (one parking space for each 2.5 seats provided) which would be the largest seating capacity within the development.

### *Bicycle Circulation:*

Provision will be made for bicycle access and parking within the development to allow the bicycling public to access the development in safety and convenience.

*Underground Utilities:*

All utilities will be located underground. Electric service can be provided by one of two providers. Letters indicating their ability and capacity to provide service to this development have been provided to the Planning Department.

**10. Solid Waste Disposal**

Solid waste will be collected on site in appropriate receptacles. The developer will investigate the feasibility of providing for recycling within the development. The developer will contract with a licensed waste removal company for regular (weekly) disposal of all solid waste. A letter of intent to provide solid waste disposal services has been provided to the Planning Department.



## RECOMMENDATIONS:

If the Taney County Planning Commission approves this request, the following requirements shall apply, unless revised by the Planning Commission:

1. Compliance with the provisions of the Taney County Development Guidance Code and the Taney County Road Standards that include plans for the following:
  - a. Stormwater management (Appendix B Item 3)
  - b. Utility easements and building line setbacks (Table 12)
  - c. Improvements with scale of buildings, streets, onsite parking and utilities.(Table 6)
  - d. A complete landscape and buffering plan showing the location, size and planting materials for all buffer yards, both adjacent to public rights-of-way and residential properties.
  - e. A lighting plan showing the location, height and other specifications on the lighting to be provided for the development.
  - f. A traffic impact study shall be submitted to the Taney County Road and Bridge Department.
  - g. An engineering public improvement plan shall be submitted to the Taney County Road and Bridge Department prior to the construction of a new access road to the Branson Airport.
2. Compliance letters from the Fire, Sewer and Water Districts, Missouri Department of Transportation (MoDOT), Missouri Department of Natural Resources (MoDNR), including all other entities which have requirements governing a development of this nature.(Chapter VI-VII)
3. Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall upgrade the existing transportation system and provide the necessary capacity to serve this development, as required by both Taney County and the Missouri Department of Transportation (MoDOT). These transportation improvements may include:
  - Construction of a new access road to the Branson Airport.
  - Constructing the three new interchanges previously called out in the MoDOT Long Range Transportation Plan which will remove the signalized intersections on U.S. Highway 65 at Highways 265 and 86 to allow the north and south bound traffic to continue without interruption.
  - Construction of the remaining portions of the U.S. Highway 65 east outer road called out in the MoDOT Long Range Transportation Plan.
4. Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall install **all** of the required infrastructure improvements.

5. A 200 foot wildlife and riparian corridor shall remain along the branch of Turkey Creek and shall be left in its natural state. Areas at the perimeter of the riparian corridor shall require additional vegetative plantings where natural vegetation is non-existent or insufficient to meet the county's bufferyard requirements, as found within the provisions of Appendix J of the Development Guidance Code.
6. A minimum of a 40 foot natural vegetative buffer, meeting all of the requirements of Appendix J of the Taney County Development Guidance Code, shall be established between the road course (including any accessory structures) and the adjoining property to the west. The plantings shall be established per the provisions of Table J-1 for commercial facilities.
7. Four (4) sound pressure (decibel levels) measuring stations shall be established, located ½ mile from the center of the track. The location of these stations is to be determined by Taney County based upon need.
8. Decibel readings shall be taken by an independent contractor and submitted to Taney County. The independent contractor shall be specified by Taney County, with the contractor's fees being paid by the owner / operator of the Motorplex.
9. Decibel readings at any of the four (4) measuring stations shall not exceed a sound pressure level of 68 decibels. The Certificate of Compliance shall be suspended for any readings exceeding 68 decibels. A written notice of suspension shall be served on the owner or operator of the development, requiring that the development return to compliance within 60 calendar days or be revoked. The Certificate of Compliance shall be revoked for any readings exceeding 68 decibels within the 60 day non-compliance period.
10. Racing or concert events shall not begin before noon. Testing, practice or hot laps shall not begin before 9:00 AM.
11. All light sources within the development shall be arranged so that no direct illumination leaves the site toward adjacent residential areas or any roadways.
12. Due to the height and size of the stadium seating (in excess of the 70 foot height limitation) the structure will be constructed in compliance with current edition of International Building Codes, with an independent third party completing a code compliance review.
13. No outside storage of equipment or solid waste materials.
14. This decision is subject to all existing easements.
15. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
16. Prior to issuing Certificates of Compliance (C of Cs) a copy of the MoDNR operating permit for the water supply shall be presented to the Taney County Planning Department.



17. The required land reclamation bond shall be submitted to the Taney County Planning Office, allowing for the issuance of a Land Disturbance Permit for 325 acres, ensuring compliance with the absolute policies of the Development Guidance Code.
18. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).

**MINUTES  
TANEY COUNTY PLANNING COMMISSION  
PUBLIC HEARING  
MONDAY, JULY 11, 2011, 6:00 P.M.  
FORSYTH HIGH SCHOOL**

Call to Order:

Chairman Shawn Pingleton called the meeting to order at 6:00 p.m. A quorum was established with seven members present. They were: Shawn Pingleton, Randall Cummings, Susan Martin, Dave Stewart, Ray Edwards, Rick Treese, and Rick Caudill. Staff present: Bob Atchley, Scott Starrett, and Bonita Kisse.

Mr. Atchley read a statement outlining the procedures for the public hearing and presented the exhibits.

Public Hearings:

Hickory Ridge: a request by Homestead Branson Properties to develop some five acre lots to become phase 2 and 3 or Hickory Ridge Subdivision located at Chapel Hill Road and Hwy. 160. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. No one signed up to speak to the request. Eddie Wolfe representing the request addressed questions from the Commission. Mr. Treese asked about the rest of the subdivision and Mr. Wolfe stated that it was developed except the Hickory II project. This project will proceed to final vote next week.

Hickory II: a request by Homestead Branson Properties to create smaller lots than Hickory Ridge to construct smaller homes. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. Mr. Wolfe addressed questions from the Commission. No one signed up to speak. Mr. Wolfe stated that he would be providing lot numbers to the staff later. He also reported where the lot lines were located. This project will proceed to final vote next week.

Branson Sports Entertainment Complex: a request by Russell Cook to develop a motorsports facility to include automobile, motorcycle, BMX bike racing, concerts, car or other trade shows and associated food, retail and commercial uses located at 689 High Mountain Dr. Mr. Atchley read the staff report and presented pictures and maps of the site. The video was not shown as all of the Planning Commissioners except one, had been to the site. Tom Gammon one of the project team presented first and stated



what the project could offer the area. He stated that the male/female ratio to the area was 40 % male and 50% female. The project would add much needed jobs to the area in his opinion. Mr. Gammon introduced the project team members as follows; Bob Stockdale presented the site plan and other ways of utilizing the property. He explained that the location of the site makes the project compatible with commercial uses. Bob Carlson discussed the master plan and seating and that the track is sunk into a "bowl" to minimize noise. He explained they will have a "third party review" of their plans. Curtis Grey discussed the events planned for the project and usage. There will be 20,000 to 60,000 people on race days which will not be every weekend according to Mr. Grey. Spencer Jones discussed environmental aspects of the project. He explained the stormwater plans, runoff, and usage of recycled material, wastewater treatment and sewerage. They have met with the Regional Sewer District and will continue to meet again until an agreement can be finalized regarding the plans. Mr. Jones also discussed water and waste management and the plans for infrastructure improvements. Kip Strauss discussed traffic impact, traffic management plans, and infrastructure improvements. John Jaeckel discussed noise and presented an analysis. He pointed out the noise changes from all sides around the project. The study showed what the decibels would be from the track to each subdivision surrounding the property. Mr. Gammon discussed economic development. He stated that this project would add business, but not enough the area could not accommodate or handle it. There will be both full time and seasonal employees.

Bryan Wade representing Big Cedar and Blue Green Inc. presented a power point presentation showing the business as a big part of the area providing jobs, and bringing in over a million people per season to the area. He pointed out that over half of the population of the county lives within the vicinity of this project. He explained all the aspects of the business that exist in Taney County and what other things are planned in the future. Mr. Wade reported that in the past the applicant did not finish some of his projects and that this one did not obtain the proper permits when land grading began. He then discussed the Development Code as it applies to this project, concerning; height restrictions as it applies to the light structures planned; land use compatibility and the request is not compatible with the surrounding area; noise study that was done at the Emory Creek project, and other organizations around the country that have done their own studies. He brought up various news articles addressing roads within the project and discussions with MoDot. Other race tracks around the country which failed were pointed out by Mr. Wade, and in his opinion there isn't enough information for this project to gain approval. Mr. Wade presented a letter from Joe White also opposing the project.

Tom Aley, president of Ozarks Underground Laboratory gave a presentation regarding an evaluation of the environmental impacts this project would create. This study was done for the Country Farm Estates property owners, and a copy was provided to the staff and Planning Commission. Section 4.4.7 of the Taney County Development Guidance Code was pointed out by Mr. Aley, as well as other sections of



the Code applicable to this request. Mr. Aley's study showed no flow within the channel which means there is a losing stream situation and he explained the connotations of that. He also explained a study he did surrounding the Talladega Speedway, and how solid waste affected the groundwater in that area. He stated that this project would have the same issues. He then discussed noise and that because the property is now shaped as a bowl it would be like a megaphone effect to the surrounding neighborhood. In Mr. Aley's opinion 2 to 4 miles away would be affected by the noise. He asked that the Planning Commission deny this request and gave several reasons why. Dave Coonrod who works with Mr. Aley, and was Presiding Commissioner for Greene County in the past, posed questions to the Planning Commission regarding, if the request complied with the Development Code. He pointed out that the applicant had not applied for the land grading permit in a timely manner, and other infractions of the rules and regulations of the Planning Department. Mr. Coonrod read a statement of the Master Plan which addressed protecting the environment, and pointing out the applicant now wants to amend their application. He also asked that the application be denied.

Keith Crawford, a property owner within the 1/2 mile radius of the racetrack, presented a power point presentation regarding noise. He gave an analysis and comparison of lawnmower noise, vacuum cleaner, normal conversation, jet engine, and rock concert. He reported the Bristol Motor Speedway also has the same shape of layout as this proposal, and that it is the noisiest race track in the circuit. He continued to point out other sources of noise generated from the track such as the PA system, crowd, exhaust systems from the traffic, car doors slamming. The noise level from Mr. Crawford's house was measured as typically 40 db range with the stock car race as 60 to 70 db. He pointed out the section of the code 11.1.3 land use compatibility, and that this request is not compatible with the area.

LoAnn Gardner, a local real estate agent, presented some letters and examples from people who live around other race tracks across the country and how they feel about it. The letters she presented were in favor of the track.

Tara Shipman representing the "tea party" of Branson MO reported that they are in favor of the jobs the track will provide. They don't feel the noise would be a nuisance, or the wastewater a problem. She continued to cover the various items which in her opinion would not be a problem.

Connie Crawford asked about a cease and desist order served on the project which was not conformed with. There was a time table placed on the property by the County Commission for hours of work, which was also not complied with in her opinion. She also discussed other areas of the country she has lived which had race tracks, and football fields and other noise nuisances. She asked the question, if approval of this project would be worth destroying 240 homes and lives.



George Cristofferson another property owner who lives on the corner of 65 Hwy. discussed how noisy the traffic is from the Highway and that he does not oppose the race track.

Robert Rasmussen is in favor of the race track because he thinks it won't be any more noise than the highway or the airport, and that Silver Dollar City also has a traffic problem. Big Cedar Lodge in his opinion property owners were also against that when it was proposed. He wants to give other people a chance to keep the revenue coming into the County. He also stated that in his opinion noise goes up. If Taney County is going to grow in his opinion we have to allow businesses to come in.

Harold Huffman a local contractor feels this is a great opportunity for jobs in the area which are needed. He also stated that he has known Mr. Cook for years and that even though Mr. Cook has been involved in some projects that didn't work out, they were beyond his control and everyone makes mistakes. He has also been involved in some that did work out.

Ken Baltz who lives in Cedar Creek spoke against the approval of the race track. He pointed out that if the jobs were hired locally, those people would already live here. He was concerned about the serving of alcohol at the facility and people driving afterwards. He lived close to a race track previously and stated that the sound doesn't only go up it goes all over. He was also concerned about the trees and hills being destroyed.

A resident of Omaha Arkansas who worked in Missouri stated that she had been unemployed for 6 months and wanted the project to be approved for the creation of more jobs. Don Everly was in favor of the race track.

Jack Tobin lived in an area previously, close to a race track, and reported that the houses in the surrounding area had to have noise proof windows installed. He was also concerned about wild life, traffic, wastewater, water, trees, and noise.

Tony Espy who lives on Fruit Farm Road in Hollister, had some information from a person who worked with some popular bands doing sound, who stated that in his opinion the noise would be great to the people who live there. He was also concerned about air pollution, hours of operation, full time or part time jobs, water and wastewater.

Eddie Coxie who lives on Fruit Farm Road reiterated portions of the Code regarding compatibility to residential areas. He asked that if the Planning Commission approves this request, that they mitigate potential problems before they start. He discussed some projects the Planning Commission did not approve and the reasons why they were not approved.



Stacy Whitfield pointed out that some of the property owners would be given passes to get to their homes, proving there will be a traffic problem. She stated that this would mean visitors to their homes could not get there during times when events were taking place. She was also concerned with water, wastewater, traffic and noise. She also reiterated some other concerns that property owners had already discussed.

Judy Cornell had some of the same concerns as the others. Stacy Whitcomb is her daughter and she is concerned with being able to get in to her house. She doesn't feel that the creation of jobs is a fair trade to destroy the ways of life of others.

Glen Admundson who lives in Walnut Shade stated he is a race fan from way back, and that he has seen some raceways succeed and some fail. He stated that whatever decision is made by the Planning Commission that they don't violate anyone's civil rights.

Tammy Pasco who lives close to the project is not in favor, and asked that the Planning Commission protect the value of her home with their decision. She also pointed out what the Code says regarding the Division III procedure and landgrading. She also asked them if they would want it in their back yard.

Dale West president of a homeowners association reported that they are not in favor of the request.

Wynn Simmons lives on Fruit Farm Road and not in favor of the project, stated some of the same concerns of the other property owners, adding crime rates to the list. She stated that they have already been living with the noise of the work going on, and the dust from the grading, finishing with the statement that, their land is their future.

Dave Ward who lives in the area had a concern with traffic and how emergency vehicles would access their property. He reported on a conversation with MoDot who stated they had not met with the applicant. He suggested utilizing secondary roads to handle the traffic.

Jim Ostwinkle agreed with the concerns of the other property owners. He lost his home in Hurricane Katrina and came to this area to stay in a motel for 6 months. He and his wife were told that his chances of selling his home here were slim.

Archie Pinnell who owns property 3/8 of a mile from the race track property wants the option of more jobs in the county.

Terry Greeners who lives on Fruit Farm Road, stated that she must keep her windows closed because of the dust from the work at the track. She is also concerned with property values.



Joe Duncan who lives on Whitfield Lane stated he is a racing fan, but is concerned with noise, roads, traffic, and condemnation of property.

Michael Hill who is in favor of the race track, stated that this project is a win/win situation because of the revenue, but had a concern with noise. He worked at a race track for a number of years and stated that he wore ear plugs for years to work.

Debbie Boulware was in favor of economic diversity in the area and the creation of more jobs, but that the jobs might only be part time, and the track might not be successful. She stated that there are jobless people living in motels with children, and that there could be a better way to create year round jobs. She wants something approved that would benefit the whole county not just a part of it.

At 9:30 p.m. the Planning Commission voted to extend their meeting. Rick Caudill made the motion to extend, Susan Martin seconded. The vote to extend the meeting was unanimous.

Bev Burres was concerned about traffic congestion because she lived near a track in Chicago. She discussed traffic coming from Silver Dollar City and other roads in the county with a lot of traffic. She feels the quality of life will be destroyed for a lot of residents. She asked that the Planning Commission not approve the race track.

Don Phillips, State Representative, stated that he was in favor of the house bill #1008 which would open the door and pave the way for discussions with MoDot. He asked that the Planning Commission remember what affects one affects all of us.

Wayne Jones discussed the Johnny Morris letter and pointed out some differences between the race track and Mr. Morris's business. Mr. Jones was in favor of the project.

Landon Jones was in favor of the request because of the creation of more jobs.

Pete Tsahiridis who lives in the neighborhood stated that where Bristol is, there is a high unemployment and crime rate. He pointed out the negative health rates for the young and elderly. He stated that taxes would have to be increased to support the track, and in his opinion a negative impact on the environment.

Pete Savell is president of an audio business in the area, he has installed most of the sound systems in the theaters in Branson. He explained that some issues regarding high frequencies in the past don't exist anymore, and that speakers are focused in the direction of the audience. He pointed out the misconceptions of the noise of the track. He was in favor of the track because he thought it would bring in more business to the theaters.

Elizabeth Jones was in favor of the request because she thinks the area is dying and we need more jobs, and if we have to put up with more noise to get them we should.

Lyle Rowland State Representative of the 143<sup>rd</sup> District, stated that the request is in his district. He feels this is one project that would create jobs in the area. He stated that he is aware of the changes it would cause, but is still in favor of the request.

Ray Weter discussed house bill 1008 and that he is a race fan. He is in favor of the track because he thinks this would create more jobs in a sensible way.

J. Michael Niner discussed national debt. He is in favor of positive growth.

Mike Dunn supports the race track because he thinks we need "things like this".

Ken Carter lives on Fruit Farm Road, asked that the Planning Commission make sure the project meets the Code, and to think about the children who live in the neighborhood.

Russ Rupert says it seems like fun to have a race track, but is concerned about the noise, and traffic.

Todd Aeschliman serves on the Board at Country Farm Estates Homeowners Association was concerned with noise, environment, water supply, property values, traffic, and conflicting information from the representatives of the development. It is their feeling that there isn't enough information provided for the Planning Commission to make an accurate decision and this decision would determine the credibility of the Planning Commission.

Bill Ramsey thinks the racetrack would be a great opportunity for the BMX racing and Taney County which would provide good economic growth.

Jeff Holden who lives in Country Farm Estates stated that even though he lives in the neighborhood is in support of the track because of the creation of jobs. He doesn't think the noise will be that great.

Jim Stevenson representing realty executives and lives in Country Farm Estates, feels the best equity a person has is in his home. He is in favor of more jobs but is concerned with noise. He explained how many decibels of noise would decrease the value of a sale of a home.

Ronnie Page columnist, who lives in the neighborhood is not in favor of the project, and stated that the racetrack people are not bad people they just have a bad



idea. His concern was noise and suggested giving the track a fine if they go over 60 decibels.

Myra Ward lives on Fruit Farm Road was concerned about the foundation of her home and the noise from the races because she works at night. She is also concerned about lives being negatively affected, and traffic.

Courtney Kirkpatrick who is a native of Stone County moved here because the area was booming. He is in favor of the track because he does a face book page in support of the race track. He says they have 622 followers. He would like the race track to be built for the economy and jobs he thinks it would create. He was also representing 80 other people in favor of the race track. He only had two people on his website that opposed the race track.

Mike Long who lives in Shell Knob and currently works for Kansas Speedway, reported on the number of jobs provided by that race track. He also stated that the noise isn't as bad as some people say it is.

Mark Weiss supports the project and would like the Planning Commission to approve it. He reported that the roads and interchanges were planned many years ago and that the developer would not be taking any property away from anyone. He feels that this attraction would create more jobs as well as more business for the many theaters and restaurants and motels in the area. Many of the properties surrounding race tracks traditionally rise in value according to Mr. Weiss. He stated that the interchanges are already planned and will be built.

At this point the Planning Commission directed questions to the representatives of the applicant. The first question was from Mr. Pingleton who asked about the roads planned for ingress and egress. Mr. Gammon and Mr. Jones addressed the question by stating the number of cars per day and how this would affect the proposed interchange. Two lanes must be open at all times according to MoDot.

Lori Beebe granddaughter of the applicant, and in charge of payroll for Mr. Cook's construction business, stated that no dirt has been moved for two weeks. Hours of operation are from 7:00 a.m. until 5:30 p.m. She also stated that her grandfather does not live in Omaha Arkansas.

Mr. Pingleton asked about RV's being next to the property lines. Mr. Gammon answered that a 10' high fence would surround the entire property.

Mr. Gammon stated that there will be family zoned seating to prevent problems. There will be enough security to keep problems from occurring.

Most events will be over by 10 to 10:30 at night. There might be three events per month lasting until 11:00 p.m. If a car race lasts long it will be called by 1:00 a.m. according to Mr. Gammon. He stated that the cars on the track as well as the cars coming to the race all have exhaust, which cannot be mitigated.

Mr. Pingleton asked how many jobs would be permanent and how many would be full time. Mr. Gammon answered that they want all the local participation they can get. The construction site jobs will be full time until the project is done. All other jobs will be used locally if the applicants are qualified. The raceway will employ 40 full time positions and several part time seasonal positions.

Rick Caudill asked if permits had been obtained for all dirt work. Mr. Gammon stated that they are in the process of obtaining additional permits for the added work. He stated MoDot would dictate the parameters of the roads. Mr. Caudill asked exactly what the noise levels would be at a specific distance. Mr. Gammon answered that they use the standard physical equations, and add topography. He continued to explain that it is hard to figure on a track that is not complete.

Mrs. Martin asked about the credentials of the current staff, and the ripple effect of the economy during construction and after opening. Mr. Gammon stated that they are in the process of doing a full economic study which should be done in approximately 4 weeks.

Mrs. Crawford stated that she has a video of work going on the property outside of the hours agreed upon. Mr. Gammon stated that there is no cease and desist order placed on the property, only a letter from the lawyer.

Anthony Gosslin who is part of the race track team, spoke in regard to the integrity of Mr. Cook, and addressed some of the points made by the property owners.

Old and New Business:

There was none. Mr. Pingleton thanked Forsyth High School and support staff for helping with this meeting.

Adjournment:

With no other business on the agenda for Monday, July 11, 2011 the meeting adjourned at 12:00 a.m.





## TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

Phone: 417 546-7225 / 7226 • Fax: 417 546-6861

website: [www.taneycounty.org](http://www.taneycounty.org)

**MINUTES  
TANEY COUNTY PLANNING COMMISSION  
REGULAR MEETING  
MONDAY, JULY 18, 2011, 6:00 P.M.  
FORSYTH HIGH SCHOOL  
MULTI-PURPOSE ROOM**

**Call to Order:**

Chairman Shawn Pingleton called the meeting to order at 6:00 p.m. A quorum was established with seven members present. They were Shawn Pingleton, Randall Cummings, Susan Martin, Dave Stewart, Ray Edwards, Rick Caudill, and Rick Treese. Staff present: Bob Atchley, Scott Starrett, and Bonita Kisse.

Mr. Atchley read a statement outlining the procedures for the meeting.

**Review and Action:**

Minutes: June 2011, with no additions or corrections a motion was made by Susan Martin to approve the minutes as written, Seconded by Ray Edwards. The vote to approve the minutes was unanimous.

**Final Votes:**

Hickory Ridge: request by Homestead Branson Properties to develop five acre lots to become phase 2 and 3 of Hickory Ridge Subdivision located at Chapel Hill Road and Hwy. 160. Mr. Atchley read the staff report again. With no discussion a motion was made by Rick Caudill to approve based upon the decision of record. Seconded by Rick Treese. The vote to approve was unanimous.

Hickory II: request by Homestead Branson Properties to create smaller lots than Hickory Ridge to construct smaller homes. Mr. Atchley read the staff report again. With no discussion a motion was made by Randall Cummings to approve based upon the decision of record. Seconded by Rick Caudill. Mr. Pingleton questioned the representative Jack Houseman about where the wastewater treatment plant would be located. The vote to approve was unanimous.

Branson Sports Entertainment Complex: request by Russell Cook to develop a motorsports facility to include automobile, motorcycle, BMX bike racing, concerts, car or other trade shows and associated food, retail and commercial uses located at 689 High

1 RM



Mountain Dr. Mr. Atchley read the staff report again with additions to the staff recommendations #9, 10, and 17. Mr. Pingleton asked for a motion. Mr. Edwards stated there were five items he wanted to discuss, and then made a motion to approve based upon the decision of record. Rick Caudill seconded. Mr. Edwards discussed water and sewer and that staff depends on the DNR guidelines and as far as he could see those have been complied with. Traffic will be controlled by MODot and any discussion regarding that will be between the developer and Modot. Mr. Edwards feels that the guidelines set aside in the recommendations are enough to mitigate sound. He feels that the jobs created by the project cannot be controlled by the Planning Commission; however this project will bring in much needed jobs to the area. With all these things in consideration, Mr. Edwards feels it would be a mistake not to approve this request.

Susan Martin stated that she has given serious thought to her vote and addressed the following items; the traffic study was not sufficient in her opinion, and would like to know more about that; the independent study regarding the site has not been received as well as the impact study; the noise study allows "wiggle room", the project in Mrs. Martins opinion would not allow enough additional jobs to the area, site excavation began under false pretenses and permits were obtained after the area had already been disturbed, she also discussed the process of obtaining permits from DNR, and Corps of Engineers, and County Planning and Zoning. She finished by stating that she cannot vote in favor of the request.

Mr. Pingleton discussed the first paragraph of the development code, and how it applies to this request. He also discussed the additional jobs for the county and that it is a land use issue and they should look at compatibility. He pointed out that there is already a race track project approved in the county. Chapter 2 off site nuisances was discussed by Mr. Pingleton and if approval is given #9 should be given stricter guidelines. He wondered who will implement the guidelines, and would like to see a fine placed per decibel over the requirements.

Mr. Edwards stated that enforcement should be over seen by staff. Discussion followed regarding enforcement and how would the project operate if they aren't in compliance. Mr. Caudill discussed sound and if the rules are violated how it would be regulated. Mr. Atchley discussed placing measures each time a violation occurs which gives the owner/operator a certain amount of time to come into compliance. Mr. Caudill feels this project will generate a lot of support jobs to the area, and bring tourists into the area to help support the existing businesses. Mr. Cummings discussed the governing body mitigating the fines and any rules placed on it should follow the race track.

The motion to approve made by Ray Edwards representing Cedar Creek township, is based upon the previously read decision of record with additions as follows: item #9; a fine of \$5000.00 shall be levied per each offence over 68 decibels.

QRM



The motion is seconded by: Rick Caudill.

The vote to approve is four in favor and two against, with the chairman not voting. The Division III application was approved.

Concepts:

Jake's Lake Storage: a request by Resort Installation Systems to construct storage units off Quebec Road. Mr. Atchley presented aerial photos of the site, and Jack Houseman representing the applicant explained the request. Concerns regarding detention area were discussed by Mr. Atchley. Other discussion followed regarding access width and location. The project abuts a residential area. The Planning Commission asked that more information be provided by the next meeting, including a more up to date aerial map. This project will proceed to public hearing next month.

Besser Corner: a request by Randy Besser to construct an 8,070 sq. ft. building for light commercial, real estate office, beauty shop etc. located off St. Hwy. 76. Jack Housemen also representing the developer addressed questions by the Planning Commission. Discussion followed regarding location, uses, parking, sewer, water, and compatibility to the surrounding area. This project will proceed to public hearing next month.

Old and New Business:

Mr. Pingleton and Mr. Atchley reported on discussions with the new County Counselor.

Adjournment:

With no other business on the agenda for Monday, July 18, 2011 the meeting adjourned at 7:05 p.m.

B RM



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RECORDERS CERTIFICATION  
*Robert A. Dixon*  
ROBERT A. DIXON

**TANEY COUNTY PLANNING COMMISSION**

**DIVISION III DECISION OF RECORD**

**JULY 18, 2011**

✓ **BRANSON SPORTS ENTERTAINMENT COMPLEX**  
**#11-16**

On July 18, 2011 the Taney County Planning Commission (grantor) approved a request by Russell Cook (grantee) to operate a motorsports facility. In accordance with the approval a Division III Permit #11-16 is issued for the property located at the attached legal description.

The following Decision of Record details this approval and lists all applicable conditions:

Russell Cook/ Branson Sports Entertainment Complex is authorized to operate a motorsports facility for automobile, motorcycle and BMX bike racing, concerts, car or other trade shows, food, retail, commercial, public events and faith based and community gatherings. With seven out of nine Planning Commissioners present the vote to approve was four in favor and two against. The following conditions shall be complied with:

1. Compliance with the provisions of the Taney County Development Guidance Code and the Taney County Road Standards that include plans for the following:
  - a. Stormwater management (Appendix B Item 3)
  - b. Utility easements and building line setbacks (Table 12)
  - c. Improvements with scale of buildings, streets, onsite parking and utilities.(Table 6)
  - d. A complete landscape and buffering plan showing the location, size and planting materials for all buffer yards, both adjacent to public rights-of-way and residential properties.
  - e. A lighting plan showing the location, height and other specifications on the lighting to be provided for the development.
  - f. A traffic impact study shall be submitted to the Taney County Road and Bridge Department.

✓



- g. An engineering public improvement plan shall be submitted to the Taney County Road and Bridge Department prior to the construction of a new access road to the Branson Airport.
2. Compliance letters from the Fire, Sewer and Water Districts, Missouri Department of Transportation (MoDOT), Missouri Department of Natural Resources (MoDNR), including all other entities which have requirements governing a development of this nature.(Chapter VI-VII)
  3. Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall upgrade the existing transportation system and provide the necessary capacity to serve this development, as required by both Taney County and the Missouri Department of Transportation (MoDOT). These transportation improvements may include:
    - Construction of a new access road to the Branson Airport.
    - Constructing the three new interchanges previously called out in the MoDOT Long Range Transportation Plan which will remove the signalized intersections on U.S. Highway 65 at Highways 265 and 86 to allow the north and south bound traffic to continue without interruption.
    - Construction of the remaining portions of the U.S. Highway 65 east outer road called out in the MoDOT Long Range Transportation Plan.
  4. Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall install **all** of the required infrastructure improvements.
  5. A 200 foot wildlife and riparian corridor shall remain along the branch of Turkey Creek and shall be left in its natural state. Areas at the perimeter of the riparian corridor shall require additional vegetative plantings where natural vegetation is non-existent or insufficient to meet the county's bufferyard requirements, as found within the provisions of Appendix J of the Development Guidance Code.
  6. A minimum of a 40 foot natural vegetative buffer, meeting all of the requirements of Appendix J of the Taney County Development Guidance Code, shall be established between the road course (including any accessory structures) and the adjoining property to the west. The plantings shall be established per the provisions of Table J-1 for commercial facilities.
  7. Four (4) sound pressure (decibel levels) measuring stations shall be established, located ½ mile from the center of the track. The location of these stations is to be determined by Taney County based upon need.
  8. Decibel readings shall be taken by an independent contractor and submitted to Taney County. The independent contractor shall be specified by Taney County, with the contractor's fees being paid by the owner / operator of the Motorplex.

9. Decibel readings at any of the four (4) measuring stations shall not exceed a sound pressure level of 68 decibels. The Certificate of Compliance shall be suspended for any readings exceeding 68 decibels. A written notice of suspension shall be served on the owner or operator of the development, requiring that the development return to compliance within 60 calendar days or be revoked. The Certificate of Compliance shall be revoked for any readings exceeding 68 decibels within the 60 day non-compliance period. A fine of \$5000.00 shall be levied per each offence over 68 decibels.
10. Racing or concert events shall not begin before noon. Testing, practice or hot laps shall not begin before 9:00 AM.
11. All light sources within the development shall be arranged so that no direct illumination leaves the site toward adjacent residential areas or any roadways.
12. Due to the height and size of the stadium seating (in excess of the 70 foot height limitation) the structure will be constructed in compliance with current edition of International Building Codes, with an independent third party completing a code compliance review.
13. No outside storage of equipment or solid waste materials.
14. This decision is subject to all existing easements.
15. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
16. Prior to issuing Certificates of Compliance (C of Cs) a copy of the MoDNR operating permit for the water supply shall be presented to the Taney County Planning Department.
17. The required land reclamation bond shall be submitted to the Taney County Planning Office, allowing for the issuance of a Land Disturbance Permit for 325 acres, ensuring compliance with the absolute policies of the Development Guidance Code.
18. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).

Legal description attached



**Noise Analysis:  
Emory Creek Ranch "Racetrack" Development**

**PURPOSE**

This paper addresses the issues of the public relative to noise levels associated with the proposed racetrack in the Emory Creek development, by providing the basics of sound engineering and acoustical physics. It is not possible to give precise data for a facility of such complexity that has yet to be designed or constructed. Therefore, this paper can only bring to the forefront the degree of noise impact on the areas surrounding the proposed racing facility and a review of methods to help mitigate such impact. In no way is it intended for this report to act in support of or against the construction of the proposed racing facility.

**EXECUTIVE SUMMARY**

An analysis of the potential sound impact of the racetrack facility was performed using basic sound engineering and acoustic principles. The physics of sound propagation, the attenuation of sound over distance, human hearing and perception of sound, additive sound levels, and data specific to car racing and rock concerts were all key factors in the determination of impact to areas surrounding the proposed facility. However, since there is no facility in place and no specific facility design available, any analyses performed was, at best, theoretical and requires the consideration of numerous assumptions. And one major assumption made, and considered a worst-case scenario, is that no significant physical objects stand between the source of the generated sound (i.e., the racetrack facility) and those concerned with noise intrusion (i.e., homes, businesses, etc.), where such objects would diffuse, absorb, and/or attenuate the sound coming from the racetrack. While considerable detail of the analyses performed is documented further in this report, the points of key interest are summarized as follows.

The closest residences to the racetrack facility, based on the supplied concept drawing, would be those planned for construction as part of this proposed project and would be located due-west of the racetrack. These residences would experience sound levels equivalent to that of a noisy office during a typical racing venue and levels comparable to a running vacuum cleaner (as heard from a distance of 10 feet) during a typical rock concert. At the very western edge of the proposed park area, the noise levels would be comparable to that of a running vacuum cleaner (at 10 feet) during a race event and equivalent to conversational speech during a typical rock concert.

Areas east of State Highway 65 and within a 750-foot radius of the racetrack facility would experience sound levels likened to a very noisy office or that of heavy traffic during a racing event and that of a generally noisy office during a concert. It is to be noted that as part of these estimations are the combined sound levels of the event occurring at the facility, the noise generated by traffic on Highway 65, and the sounds of the audiences in attendance at these events.

While sound levels can be calculated and defined in familiar terms, the sounds heard actually become an issue of human perception of and reaction to such sound. Studies have been performed that show that under the worst-case conditions described above, 54% of the people affected would be "annoyed" and 15% would actually complain. As the perceived noise levels decrease, so do the annoyance and complaint levels.

Considering the construction of such a facility requires the use of highly complex acoustical design techniques necessary to manage the transmission of sound from the facility into the surrounding areas. The design process is paramount in ensuring that all practical sound control methodologies, treatments, materials, etc., are utilized in the best possible manner, and there must be consideration for the types of events that will occur, the size of audiences in attendance, the design and configuration of the sound reinforcement (PA) system, the facility's physical configuration, surrounding terrain and landscaping, etc. Then the design of sound control apparatus, such as barriers and other acoustic sound treatments, for absorbing, redirecting, and diffusing sound, can be appropriately applied.

**1. BACKGROUND**

A recent proposal to construct a multi-use, open-air facility in the Emory Creek subdivision area has raised significant concern by the general public. The intended uses for this facility, as reported by the developer, include car races and musical concerts, both of which represent sources of potentially high



# Noise Analysis: Emory Creek Ranch "Racetrack" Development

levels of noise generation. The many residences in that general vicinity would be exposed to some degree of event-related noise.

Typically, a stadium of this type has a permanently installed sound reinforcement system (i.e., public address system) that is used for announcements, event commentary, and amplification of artists' performances. Such systems must provide sound levels necessary to overcome the background noise, such as commentaries over the roar of race vehicles and the noise generated by the audience. Also, modern musical concerts are produced using sound systems that generate sound pressure levels that are considered dangerous and potentially damaging to human hearing. In both scenarios, volume level is not the only parameter of concern. Ensuring adequate coverage of the audience areas, in both the horizontal and vertical planes, while having the capability to reproduce the broadest frequency spectra (range) possible are required system features.

Aside from eliminating the source of the noise, there are positive and effective methodologies that can be employed that can limit the sound pressure level (SPL) and intensity of the source and can also help buffer and/or contain the sound generated by such events. There is a multitude of contributing factors, both man-made and natural, that can either aid in the reduction of sound generation and transmission or can actually worsen the problem. Therefore, proper facility design is crucial.

## 2. DISCUSSION OF SOUND BASICS

### 2.1. Basics of Sound

When a physical action occurs that causes the movement of air, changes in air pressure result. Once the eardrum is subjected to these air pressure changes, we perceive sound. The amount of pressure exerted on the eardrum by these sound waves determines the level or volume of the sound, and the rate at which these sound waves strike the eardrum determines the frequency of the sound. The combination of the sound level and the range of frequencies (i.e., bandwidth) will determine the sound's overall power level.

Our hearing has limitations on the range of audio frequencies we can perceive, and thresholds and limits associated with the volume level. Humans can hear frequencies as low as 20 Hz (Hertz or cycles per second) and as high as 20,000 Hz. However, human hearing is most sensitive to sounds not at these frequency extremes, but to frequencies more in the middle of this range where human speech occurs. Specifically, the "voice range" is defined as approximately 175 Hz to 5,600 Hz, being the bandwidth, and having the "articulation center" frequency at 2,000 Hz<sup>1</sup>. As for sound level, there is a lower threshold of hearing below which we cannot perceive sound regardless of the sound's frequency. Similarly, there is an upper threshold of sound level where pain is experienced, and beyond which damage to our hearing can occur.

As individuals, our ability to hear certain frequencies and to perceive and tolerate sounds of differing levels varies from person-to-person, therefore all data presented herein are based on "typical" or "average" conditions found in the literature.

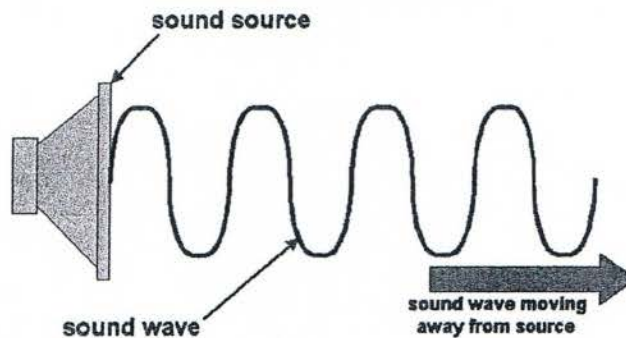
### 2.2. Propagation of Sound Waves

The movement, or propagation, of sound waves through air has commonly been described by observing the movement of waves in a pool of water after a pebble has been dropped into the water. What is seen are a series of rolling waves emanating outward from the point where the pebble entered the water; this point is analogous to the source of a sound. Figure 1 depicts the propagation of a sound wave from a sound source. (Note: there are *point* sources and *line* sources of sound; only *point* sources will be discussed herein, as a *point* source is more applicable to the subject of this report.)



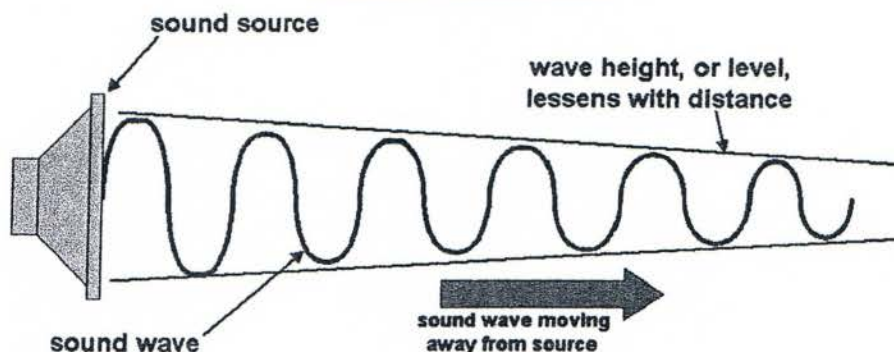
# Noise Analysis: Emory Creek Ranch "Racetrack" Development

**Figure 1**  
**Sound Wave Propagation**



As these waves propagate (move) outward and away from the source, they will slowly decrease in height (i.e., amplitude), or attenuate, as do the waves in the pool of water, until at a certain distance from the source of the sound, we can no longer perceive their presence; see Figure 2. But as long as we stay within a range where we can sense or hear the sound, and the closer we are to the source, the louder the sound. Conversely, as we move away from the source, the level of the sound decreases. How far the sound travels away from the source while remaining audible is dependent on many factors (see below), but it can be assumed for the most part, that the louder the source sound, the further the sound waves will travel.

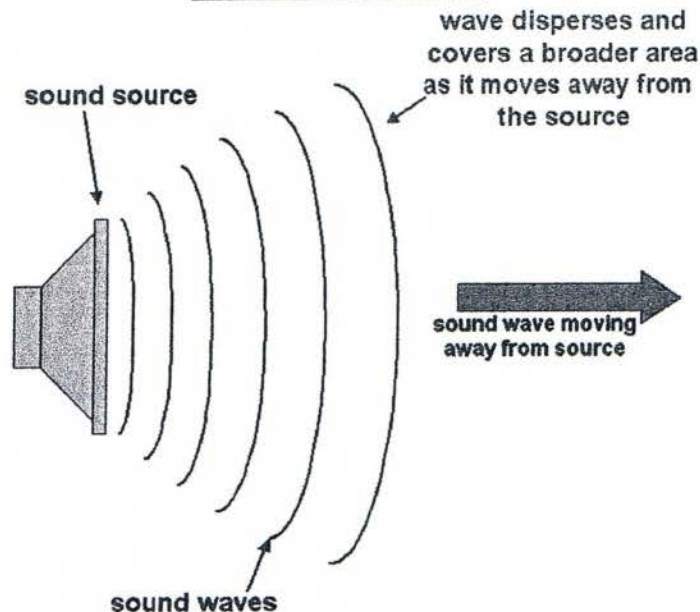
**Figure 2**  
**Sound Wave Attenuation**



In addition to the attenuation of sound waves as they move away from the source, sound waves will also disperse and cover a broader area as they move away from the source; see Figure 3.

# Noise Analysis: Emory Creek Ranch "Racetrack" Development

**Figure 3**  
**Sound Wave Dispersion**



## **2.3. Impacts on Sound Transmission**

As described above, sound waves travel away from the source over some distance and, if unimpeded, they emanate from the source and travel equally in all directions (i.e., omnidirectionally). However, there are many factors that will dictate how far sound waves will travel, in what direction they will travel, what frequencies of sound are affected more than other frequencies, and how fast the sound waves will attenuate in level as they propagate further and further from the source of the sound. The following is a listing of the most salient factors that will impact the propagation of sound waves; however, this list should not be considered absolute.

- the type of source sound
- intensity of the source sound
- frequency of the source sound
- duration of source sound
- transient / impulse attack (slew rate) of source sound
- air density (i.e., temperature, humidity, etc.)
- cloud cover
- contaminants in the air
- physical objects, their material composition, and their shape, orientation and number
- frequency of the sound (the higher the frequency, the faster a sound attenuates)

Each of these factors, as obvious or as obscure as they may be, will differ in the amount of impact on the sound that will result. Weather is a particularly notable factor in sound propagation; different days, different times of the day, and different times of the year will affect sound transmission differently; the impact of air and weather on sound propagation is known as "atmospheric absorption", which is also frequency dependent.



## Noise Analysis: Emory Creek Ranch "Racetrack" Development

To complicate matters a bit, the above listed "factors" may not necessarily attenuate a sound's transmission, but instead may actually increase the transmission distance and/or dispersion of the sound. As an example, wind speed and direction can "carry" a sound wave further than it would travel if the air was calm. Physical objects can reflect and disperse sounds in various directions, and if there are many reflections, the sound wave may carry on for long periods of time, such as what occurs from the reverberations in a gymnasium. The configuration of objects can actually focus and concentrate sound waves, resulting in a perceived amplification of the sound (e.g., use of horns, a trumpet, cupping one's hands around the mouth, etc).

Of course, controlling the level and dispersion of sound is possible. However, how this is accomplished and how well the outcome is very complex and there are so many variables involved that they cannot realistically be addressed within this document. Suffice it to say, sound management is both a physical science and an art.

### 2.4. Sound Control

The art and science of acoustics and sound control are so broad that this section will only touch on the most pertinent aspects. While many methodologies are common for controlling sound, whether the source is within a structure or outside in 'free air', there are many more differences.

There are four (4) key elements of sound propagation and control: (a) diffusion, (b) absorption, (c) reflection, and (d) transmission. Each of these parameters taken separately or in combination will impact the level and dispersion of sound, and how each of these sound control methods are implemented will be dictated by the problem to be solved. As methods of controlling sound, the *diffusion* of sound is the breaking up of the sound wave into many smaller sound waves and then randomly re-distributing these smaller sound waves in many directions. Sound *absorption* is the method by which the sound wave attempts to pass through an object but is stopped from exiting the object. *Reflection* of sound is when sound strikes a surface at an angle and "bounces" off at the angle of incidence. Lastly, the *transmission* of sound is where the sound is allowed to pass from the area of concern into another area where the sound is of no issue.

None of these four sound control techniques, *diffusion*, *absorption*, *reflection*, or *transmission*, is ideal or absolute, individually or collectively, in managing sound. Instead, these are sound control treatments, hopefully applied effectively so that the sound level and degree of sound dispersion are brought to within acceptable limits.

### 2.5. Sound Levels

Since the eardrum reacts to air pressure changes created by sound waves, the intensity of a sound is based on the amount of air pressure. Therefore, to quantify the level or loudness of a sound, we measure the sound pressure and compare it to a reference level, where the reference level is the threshold of human hearing. The resulting measurement is known as the Sound Pressure Level (SPL) and is denoted in units called decibels (db). Also, since human hearing is not linear across all frequencies, measurements made of SPL are typically performed using a weighted scale that mocks the way we humans hear. This weighting method is known as "A" weighting, thus giving a unit of measure of *dba*.

There are many published data tables that scale the SPL of common sounds; Table 1 below presents one such listing. Often these data are listed without indicating the distance from the sound source where the measurement was taken, thereby reducing the usefulness of these data; so is the case with the data in this table.

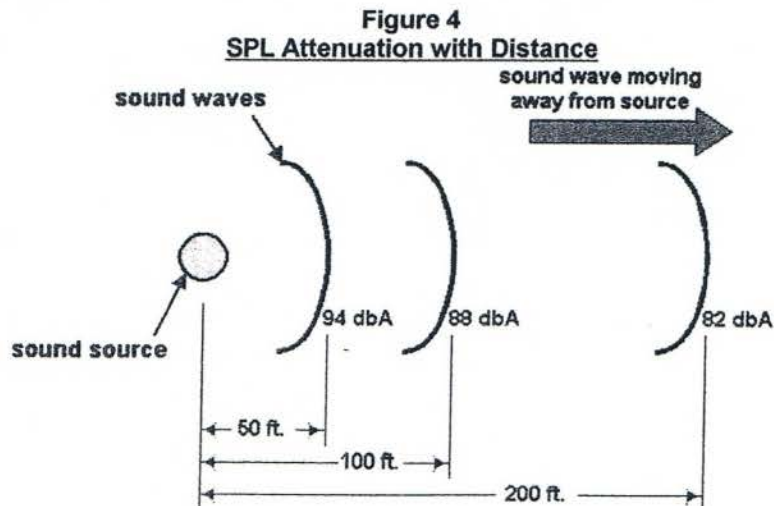
# Noise Analysis: Emory Creek Ranch "Racetrack" Development

**Table 1**  
**Common Sound Pressure Levels (SPL)<sup>2</sup>**

Sound Source	SPL (dbA)
Saturn rocket	194
Ram jet	160
Propeller aircraft	140
Threshold of pain*	135
Rock concert, riveter	120
Heavy truck	100
Heavy traffic, noisy office	80
Conversational speech	60
Private office	50
Quiet residence	40
Recording studio	30
Rustling leaves	20
Hearing threshold, good hearing	10
Threshold of hearing (reference)	0

There are two very important physical elements of sound that are the basis for what follows in this report; these are (1) how distance affects the attenuation of sound and (2) how multiple sources of sound add together and impact what we hear.

As mentioned above, as the distance from the sound source increases, the level of the sound decreases. Typically, and for purposes of this report, the SPL decreases by 6 db for every doubling of the distance from the source; this is known as the inverse square law. (Note that since there are many conditions, particularly atmospheric, terrain, and physical objects, that can impact the propagation of sound, we will consider sound attenuation using this accepted standard.) Figure 4 gives a graphical representation of the inverse square law.





## Noise Analysis: Emory Creek Ranch "Racetrack" Development

So as we move away from the source of a sound, every time we double our distance, the sound level drops by 6 db.

As Figure 4 depicts, if a sound has a sound pressure level of 94 dbA when measured 50 feet from its source, then for every doubling of the distance {from the source}, the level will drop by 6 db. Eventually, the level will drop below the threshold of our hearing or, more likely, the level of the sound will become lower than the background, or ambient, noise. But what does a 6 db decrease actually mean? Table 2 provides a comparison of decibel changes relative to the subjective nature of human hearing. From this table, most humans will not perceive a change in sound level of 1 db, while most will notice a change in level of 3 db. But while a 6 db change in sound level represents 50% of the level of the sound's source, most humans do not perceive a 6 db change in sound to be half as loud; most people perceive a sound that has decreased to half of its original level after there has been a 10 db change. Again, it must be stressed that these data are subjective and differ from person-to-person.

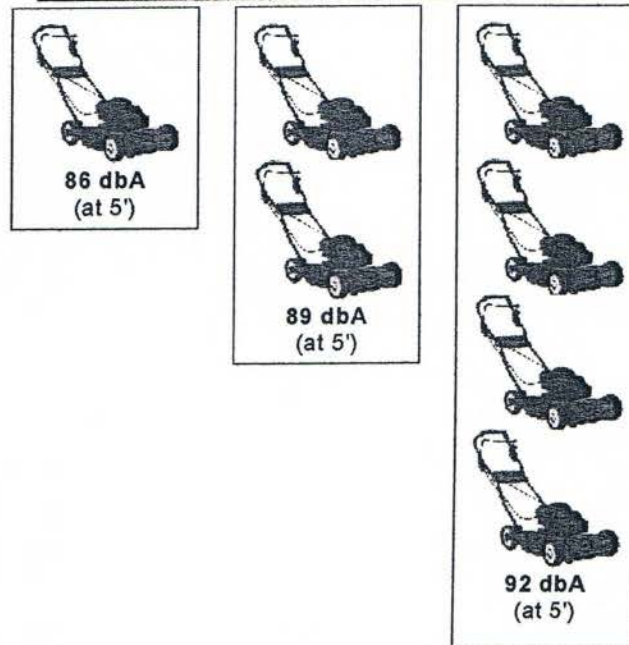
**Table 2**  
**Human Perception of SPL Changes<sup>3</sup>**

<b>Subjective Change -- Perception</b>	<b>% of Original SPL</b>	<b>db Change</b>
<b>Threshold of hearing</b>	<b>100</b>	<b>0 db</b>
<b>Barely perceptible</b>	<b>89</b>	<b>1 db</b>
	79	2 db
<b>Noticeable change by most</b>	<b>71</b>	<b>3 db</b>
	63	4 db
	56	5 db
<b>Typical goal for systematic changes in level</b>	<b>50</b>	<b>6 db</b>
	45	7 db
	40	8 db
	36	9 db
<b>Twice as loud (or half as loud)</b>	<b>32</b>	<b>10 db</b>
	10	20 db
	3	30 db
<b>Limits of audibility</b>	<b>1</b>	<b>40 db</b>
	0.3	50 db
	0.1	60 db

So far we've been discussing a single source of sound. But what happens if there are additional sources of sound coming from the same location? As Figure 5 shows graphically, if we have a sound source of a specific level and then add a second and equal sound source, the overall SPL increases by 3 db.

# Noise Analysis: Emory Creek Ranch "Racetrack" Development

Figure 5  
Impact from Increasing Number of Sound Sources



As shown above, if we have a lawn mower producing a SPL of 86 dbA<sup>4</sup> and we add a second {identical} lawn mower, the sound level increases by 3 db to 89 dbA. If we again double the number of lawn mowers to a total of four, the overall sound level increases by 3 db to 92 dbA. Again, for every doubling of the sound source, the SPL will increase by 3 dbA.

### 3. RACETRACK AND ROCK CONCERT DATA ANALYSES

#### 3.1. Racetracks

As noted above, the main issue of contention for the proposed development at Emory Creek revolves around excessive noise generation during car races. Undoubtedly, there is significant complexity and many variables involved in determining the sound levels produced during such events, including, but not limited to, the type of car race and cars used, whether the cars must use mufflers or not, the type of racing surface, the number of cars on the track at the same time, the number of audience members, the sound reinforcement system used for announcing, the surrounding terrain, the physical design and configuration of the facility, etc. Therefore, it must be cautioned that with so many variables and assumptions involved, and the fact that there is no existing facility at this location, the accuracy and applicability of this analysis is, at best, an engineering judgment. In an effort to add a degree of viability to this analysis, data taken from the literature and empirically, as applicable, will be used.

Since the real issue of concern is the noise levels impacting nearby residences and not the acoustical design of the facility itself, the following assumptions will be made for the purposes of this analysis.

- (a) the "racetrack" facility is a single-point sound source
- (b) the sound radiates from the source in a hemispherical pattern
- (c) atmospheric absorption will be not be considered in the analysis (a worst-case condition)



## Noise Analysis: Emory Creek Ranch "Racetrack" Development

- (d) once the sound radiates from the facility, it will not be impeded by any physical structures that will absorb, transmit, reflect, or diffuse the sound

### 3.1.1. RACETRACK SOUND LEVELS

As noted above, there are a multitude of variables associated with the types of cars used for racing and what limitations, if any, are imposed on these cars that will play a role in the sound generated. Data for street and highway related traffic are readily available, and with Highway 65 adjacent to the planned location of this facility, these data will add to the overall sound levels. However, data for racecars is less available in the literature and with the many different types of car racing venues, any sound-related data will be quite varied as well. Adding to the overall sound levels, it can be expected that amplified announcements will occur at the time of racing; the volume levels of such announcements will need to overcome the "background" noise generated by the racecars, the audience, and traffic on Highway 65. Every perceptible sound is additive and will increase the degree of noise impact.

#### 3.1.1.1. Measured Racetrack Noise Levels

The following tables show actual car racing sound measurements recorded at a clay-surfaced venue in Joplin, MO:

**Table 3**  
**Super Modified Racing Class Data**<sup>5</sup>

Average Measured SPL (dbA)	Distance from Track
98	100 ft.
84	528 ft. (0.1 miles)
75	528 ft. (0.1 miles)
74	1,056 ft. (0.2 miles)
73	1,584 ft. (0.3 miles)
68	2,640 ft. (0.5 miles)

**Table 4**  
**Miscellaneous Race Data**<sup>5</sup>

Average Measured SPL (dbA)	Distance from Track	Car Class
97	100 ft.	Bombers
96	100 ft.	Modified

#### 3.1.1.2. Analysis of Racetrack Data

Utilizing the sound propagation methods defined earlier in this paper and the data presented in Table 3 above, a SPL of 98 dbA measured at 100 feet from the racetrack would, under the worst-case conditions, would translate to the following sound levels based on distance from the sound source (i.e., racetrack):

## Noise Analysis: Emory Creek Ranch "Racetrack" Development

Table 5a  
SPL vs. Distance Calculations

Distance from Racetrack	SPL (dbA)
200 ft.	92
400 ft.	86
800 ft.	80
1,600 ft. (~ 0.3 miles)	74
3,200 ft. (~ 0.6 miles)	68
6,400 ft. (~ 1.2 miles)	62
12,800 ft. (~ 2.4 miles)	56
25,600 ft. (~ 4.8 miles)	50

The calculated data of Table 5a above clearly shows reasonably good agreement with the measured values presented in Table 3. The slightly lower sound levels seen in Table 3 for comparable distances in Table 5a would clearly be the result of "real world" conditions such as sound diffusion, absorption, reflection, and transmission. But more specifically, these data indicate that within 1¼ miles of the racetrack, the sound level would be equivalent to that of conversational speech, and equivalent to the noise level in a private office at 5 miles from the racetrack (comparisons based on Table 1).

If we do the same type of analysis using the data of Table 4 we will see the following:

Table 5b  
SPL vs. Distance Calculations

Distance from Racetrack	"Bombers" Class SPL (dbA)	"Modified" Class SPL (dbA)
200 ft.	91	90
400 ft.	85	84
800 ft.	79	78
1,600 ft. (~ 0.3 miles)	73	72
3,200 ft. (~ 0.6 miles)	67	66
6,400 ft. (~ 1.2 miles)	61	60
12,800 ft. (~ 2.4 miles)	55	54
25,600 ft. (~ 4.8 miles)	49	48

The data of Tables 5a and 5b are quite similar, and these sound levels can be compared with those of Table 1 to see how they compare with common sounds at increasing distances from the racetrack.



## Noise Analysis: Emory Creek Ranch "Racetrack" Development

### 3.1.1.3. Combined Noise Levels

For residents in the area of the proposed racetrack, and particularly those located east of Highway 65, the presence of highway traffic will play a role in the total noise level generated and heard. Using available data, the following table shows the sum of the average highway noise level and the racetrack noise level. For simplicity, the highway sound source and the racetrack sound source is considered a combined, single-point sound source.

Table 6  
**SPL of Highway 65 and Racetrack**

Distance from Racetrack	Highway SPL (dba)	Racetrack SPL (dba)	Combined SPL (dba)
100 ft.	78 <sup>6</sup>	98	98
200 ft.			92
400 ft.			86
800 ft.			80
1,600 ft. (~ 0.3 miles)			74
3,200 ft. (~ 0.6 miles)			68
6,400 ft. (~ 1.2 miles)			62
12,800 ft. (~ 2.4 miles)			56
25,600 ft. (~ 4.8 miles)			50

Note: Racetrack data taken from Table 3.

Note: Highway SPL based on 1,000 cars / hour, driving at 65 mph, 25% heavy vehicles, 3% grade, 0-degree angle of incidence.<sup>6</sup>

The data of Table 6 shows that with the summing of sound levels of Highway 65 and the proposed racetrack, the overall noise level will not be measurably greater than the racetrack alone. If, for example, the highway noise level approached that of the racetrack, then the total noise level would increase to the point of being perceptible; if the highway noise level became equal to the noise level generated by the racetrack, the total SPL would then be 3 db greater; in the case shown in Table 6, the 98 dbA level (at 100') would combine to a total of 101 dbA.

Considering that the race event will involve an audience, this must be added as a significant contributor to the overall level of noise being produced. Typical crowd-generated noise in a sports stadium has been documented to be in the 90 dbA range<sup>7</sup>. As a result, we now must consider three main sources of sound generation: the racecars, the audience, and the traffic on Highway 65; these data are presented in Table 7.

## Noise Analysis: Emory Creek Ranch "Racetrack" Development

Table 7  
SPL of Highway 65, Racetrack and Audience

Distance from Racetrack	Highway SPL (dbA)	Racetrack SPL (dbA)	Audience SPL (dbA)	Combined SPL (dbA)
100 ft.	78 <sup>6</sup>	98	90 <sup>7</sup>	99
200 ft.				93
400 ft.				87
800 ft.				81
1,600 ft. (~ 0.3 miles)				75
3,200 ft. (~ 0.6 miles)				69
6,400 ft. (~ 1.2 miles)				63
12,800 ft. (~ 2.4 miles)				57
25,600 ft. (~ 4.8 miles)				51

Using the 90 dbA stadium audience SPL level in combination with the highway and racetrack data shown in Table 7, there is less than a 1 db increase (i.e., 0.7 db) in the overall sound level. As described in Table 2, a 1 db change is barely perceptible to most humans and is, therefore, not considered significant.

### 3.1.2. ROCK CONCERT SOUND LEVELS

Musical concerts, particularly rock music venues, are produced using extremely high sound levels. Typically, all instruments and vocalists are routed through a centralized sound reinforcement system that can, when properly designed and installed, produce incredibly high sound pressure levels and can cover a broad area necessary to ensure that the entire audience can hear the performance. Table 2 shows that typical rock concerts produce a SPL in the 120 dbA range. According to the American Speech-Language-Hearing Association (ASHA)<sup>8</sup>, sound pressure levels of rock concerts typically fall into the range of 110 to 120 dbA (at 4 – 6 feet), with peak instantaneous sound levels reaching as high as 150 dbA. Using these data, Table 8 lists the sound levels at increasing distances from the concert source.

Table 8  
SPL of Amplified Rock Concerts

Distance from Racetrack	Continuous SPL (dbA)	Peak SPL (dbA)
5 ft.	120	150
10 ft.	114	144
160 ft.	90	120
640 ft.	78	108
1,280 ft.	72	102
5,120 ft. (~ 1 mile)	60	90
10,240 ft. (~ 2 miles)	54	84
20,480 ft. (~ 4 miles)	48	78



## Noise Analysis: Emory Creek Ranch "Racetrack" Development

At sustained levels approximately 1 mile from the racetrack, the rock concert SPL would be equivalent to conversational speech (i.e., 60 dbA per Table 1), with peak instantaneous levels equivalent to that produced by a semi-truck. At 2 miles, these levels drop to the equivalents of a private office (continuous level) and noisy office (peak instantaneous level). In contrast to the sounds generated by a car race, a rock concert will produce peak sound levels and over a significantly wider frequency range.

#### 4. HUMAN PERCEPTIONS AND LOCAL IMPACT

Irrespective of the SPL values listed in the tables above, what is of most significance is what people perceive as an annoyance and when they will formally complain. Accordingly, studies have been performed that show the equivalent "day / night" noise levels that result in complaints and legal actions by the public in general. Table 9 summarizes these data (as adopted by the EPA).

Table 9  
Public Annoyance Levels<sup>9</sup>

Day / Night Noise Level ( $L_{DN}$ )	% Public Highly Annoyed	% of Complaints
50 dbA	13	<1
55 dbA	17	1
60 dbA	23	2
65 dbA	33	5
70 dbA	44	10
75 dbA	54	15
80 dbA	62	>20

##### 4.1. Public Reaction to Racing

If we analyze the degree of impact on the public by comparing the data of Table 7 with that of Table 9, we see that 54% of the individuals living within a ¼ mile of the racetrack would be annoyed by the noise, while 15% of those individuals would complain. Similarly, 44% of the public living within ½ mile of the racetrack would be annoyed and 10% would complain. Lastly, at 1¼ miles from the racetrack, the noise level would annoy 33% of the public and 5% would complain; at 1½ miles, the noise level would not be significantly greater than that of conversational speech.

##### 4.2. Public Reaction to Rock Concerts

As in section 5.1 above, we can see from the data of Table 9 that under the conditions of a typical rock concert, 54% of the public located within ¼ mile of the concert would feel annoyed by the noise and 15% would complain. At 1 mile from the concert site, 23% of the public would feel annoyed and 2% would complain; at this distance, the SPL would be equivalent to that of conversational speech.

##### 4.3. Residential Impacts

The following data are based on scaled dimensions taken from the artist's rendition of the proposed Emory Creek Ranch entertainment complex, as dated April 11, 2008. Therefore, measurements of distances taken from this concept drawing may be of limited accuracy. Also, the sound level estimates below are based on an unimpeded path from racetrack to the point of

## Noise Analysis: Emory Creek Ranch "Racetrack" Development

measurement and assuming, as a worst-case, the track surface is at the same ground level as the surrounding areas (0-degree angle of incidence).

### 4.3.1. EMORY CREEK DEVELOPMENT

#### 4.3.1.1. Racing Venue

Scaled from concept drawing, the straight-line distance from the western edge of the racetrack facility to the closest living complex (to the west) is approximately 1,800 feet. From the data presented in Table 7 above, the sound level of a race event at this location would be in the range of 75 dbA. This level would be comparable to a noisy office or listening to soft music.

Estimating the distance to the nearest western edge of the proposed park area gives approximately 4,300 feet. Performing the same analysis using the data in Table 7, the SPL at this location would be estimated at 67 dbA, being equivalent to a running vacuum cleaner at a distance of 10 feet.

#### 4.3.1.2. Concert Venue

Using the same distance estimations as in 4.3.1.1 above, a concert venue based on the data of Table 8 would result in sound levels at 1,800 feet of approximately 70 dbA (equivalent to a running vacuum cleaner at a distance of 10 feet) and at a distance of 4,300 feet a sound level of approximately 62 dbA (comparable to conversational speech).

### 4.3.2. EAST SIDE OF STATE HIGHWAY 65

#### 4.3.2.1. Racing Venue

Scaled from the concept drawing, the straight-line distance from the eastern edge of the racetrack to the eastern side of Highway 65 is approximately 750 feet. Using the data of Table 7, the sound level at this point would be 81 dbA. From Table 1, this sound level would be comparable to a noisy office or heavy traffic.

#### 4.3.2.2. Concert Venue

At the location described in 4.3.2.1, the SPL of a concert would be in the range of 76 dbA and be an equivalent sound level to that of a noisy office.

## 5. MINIMIZING THE NOISE IMPACT

As was discussed above, these sound level analyses are based on unimpeded sound propagation. In actuality, however, there will be many physical conditions and objects that will impact the transmission of sound. Locating the racetrack facility in a pit-like configuration, as has been proposed, may help reduce the propagation of sound, definitely at a 0° (horizontal) angle of incidence with the track's surface. But the pit-like configuration could also resonate at and excite certain frequencies, thus being perceived as actually amplifying those frequencies (e.g., modal resonances in enclosed spaces, also known as the Helmholtz effect, standing waves, nodes and anti-nodes, etc.).

### 5.1. Sound Buffers

The terrain of the racetrack area and the landscaping used in the area of the racetrack should act as sound buffers and will provide some attenuation of sound levels. Suggestions have been made to include barrier walls to aid in restricting the transmitted sound, and while these have been used in many similar situations, their design and placement are critical. Hard-surfaced barrier walls will reflect most of the sound waves that impact the barrier wall, while some percentage of the sound will pass through. As for the reflected sound waves, placement of the wall is critical for ensuring the sound is reflected back into the racetrack area and not out into the surrounding areas. The material composition of the walls is very important. The types of materials used for barrier walls (to manage reflection and absorption of sound) and the shape of



## **Noise Analysis: Emory Creek Ranch "Racetrack" Development**

the walls (to diffuse sound), as with any other form of acoustic sound treatments, will dictate the amount of sound reflected, diffused, absorbed, and transmitted through. Materials are rated using a Sound Transmission Classification (STC); this rating is based on the material's composition and physical size and structure. Therefore, the use of barrier walls for sound propagation management can be effective when design, materials and placement are executed properly.

### **5.2. Other Acoustical Treatment Methodologies**

As noted above, barrier walls are commonly used and can be effective to some degree. However, even if a barrier wall reflects sound back into the racetrack area, the issue of reducing the sound level still has not been addressed. Reverberation of the sound can result, whereby the sound waves bounce around and interfere with newly generated sounds, thus resulting in a continuous buildup of sounds that becomes uncontrollable and unintelligible. Reverberant sound must be managed to ensure intelligibility and the buildup of sound levels; therefore, it may be necessary to apply other forms of acoustical treatments. These include acoustical treatments designed to diffuse and absorb sound waves, and can treat a wide spectra of frequencies or narrow ranges of frequencies depending on the problem to be solved. The material composition of these treatments and how and where these treatments are placed are crucial, and cannot always be determined until after the facility is constructed and sound profile studies have been performed.

### **5.3. Sound Reinforcement System Design**

The proposed facility will include a sound reinforcement (public address) system for purposes of announcing during races and amplification of concerts. Today's sound reinforcement systems are technical marvels that can produce incredible sound levels across and exceeding the frequency range of human hearing. How such systems are designed and implemented can be extremely effective (by using distributed sound systems with digital signal processing that invokes time delays across the system, thus reducing the need for extreme volume levels) or poorly implemented and minimally effective using a "brute force" method of blasting the area with as much volume as possible. The latter solution is often chosen due to cost constraints and ease of system design and installation. Therefore, the type of system specified and installed in the facility can have a significant impact on the sound levels generated and what acoustical treatments will then be required.

### **5.4. Source Control of Sound**

Applicable to the car racing aspect of the proposed facility, one of the most effective methods for controlling the level of sound generation and transmission is to limit the amount of sound being created at the source. That is, adopting regulations that limit the maximum sound levels that race cars can produce. Secondly, defining the maximum allowable sound level, overall, that can be produced during any race event and monitor the actual sound levels during each event to ensure that this limit is not being exceeded. These methods of controlling the noise generation at its source has become commonplace in most racing venues. Research has shown that many venues have adopted a SPL limit of 100 dbA at 100 feet from the racetrack. If this limit is exceeded, the event is stopped.

## **6. SUMMARY**

The goal of this study was give the reader a basic understanding of sound generation, transmission and control relative to the concerns for the proposed "racetrack" facility at Emory Creek Ranch, and to make clear the complexity of the overall issue. More specifically, what has been explained herein included: (1) the levels and types of sound that will be generated by the proposed facility from both car racing venues and musical concerts, (2) how sound can and will propagate from its source into the surrounding areas, (3) what other sources of sound will come into play, (4) how this noise will be perceived by the residents in the surrounding communities, and (5) what actions that can be taken to

## **Noise Analysis: Emory Creek Ranch "Racetrack" Development**

manage the sound levels produced. However, no attempt has been or will be made about the positive or negative aspects of these data, nor is there any bias in the presentation of these data intended to sway the Planning Commission's decision. All data are presented as facts only; again, the determination of data considered acceptable versus unacceptable lies with the public and the Planning Commission.

### **7. STATEMENT OF LIABILITY**

While the information provided herein is considered accurate and applicable to its intent, the author assumes no responsibility or liability for any decisions rendered in the acceptance or rejection of the proposed "racetrack" as part of the Emory Creek Ranch entertainment development project. Similarly, the author assumes no liability for any facility and/or sound management designs based on the content of this document. Any errors or omissions in the information presented herein are strictly unintentional and without prejudice.

### **8. AUTHOR'S QUALIFICATIONS**

A curriculum vitae of the author's credentials specific to this subject matter is as follows:

#### **Education**

- B.S. Electrical Engineering, University of Pittsburgh
- M.B.A. in Operations Management, National University
- Extra-curricular studies in Acoustical Physics and Sound Engineering, University of Pittsburgh
- Extra-curricular studies in Analytical Statistics, National University

#### **Related Experience**

- Professional musician, 40-years performing and recording experience
- Front-of-House (FOH) sound mixing engineer and assistant engineer
- Designer / builder and owner / operator of a state-of-the-art commercial recording studio

#### **Other**

- Certified Configuration Manager
- U.S. Patent assignee (medical device design)



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- <sup>5</sup> Gallagher & Associates, Gallagher, Clark T., Route 66 Speedway Decibel Readings, data report, August 11, 2001 (attached as an Appendix)
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- <sup>9</sup> Schomer, Paul Ph.D., Schomer & Associates, A White Paper: Assessment of Noise Annoyance, Champaign, IL, April 22, 2001

Appendix  
**Data Report: Route 66 Speedway Decibel Readings**

Route 66 Speedway Decibel Readings

August 11, 2001

<u>Distance</u>	<u>Decibels</u>	<u>Car Class</u>	<u>No. of Cars</u>
200 feet	83 db	No Racing	0
100 feet	97 db average	Bombers	6
	101 db peak		
200 feet	102 db, top of stands		
100 feet	96 db average	Modified	6
	103 db peak		
200 feet	106 db, top of stands		
100 feet	98 db average	Super Modified	9
	103 db peak		
200 feet	106 db, top of stands		
.1 mile	75 db	No Racing	0
.1 mile	84 db	Super Modified	6
.2 mile	74 db	Super Modified	6
.3 mile	73 db	Super Modified	6
.5 mile	68 db	Super Modified	6



**HNTB Corporation**  
The HNTB Companies  
Engineers Architects Planners

11414 West Park Place  
Suite 300  
Milwaukee, WI 53224-3526

Telephone (414) 359-2300  
Facsimile (414) 359-2314  
www.hntb.com



July 18, 2011

Thomas D. Gammon  
Branson Sports Entertainment Complex LLC  
689 High Mountain Dr.  
Ridgedale, MO 65739

**Re: Branson Sports Entertainment Complex LLC  
Noise Analysis**

Dear Mr. Gammon:

HNTB Corporation (HNTB) has completed the noise analysis for the proposed 3/4 mile paved race track at the Branson Sports Entertainment Complex in Ridgedale, Taney County, MO. The analysis was based on the following information:

- Existing contour mapping within 3-miles of the site and proposed contour mapping of the site as of June 23, 2011, mapping did not include height of the grandstand;
- Historical noise monitoring data collected by HNTB at the Tamiami Park street course in Miami, FL;
- Historical noise monitoring data collected by HNTB at the Mid-Ohio race track in Lexington, OH;
- The Noise Technical Study for the California Speedway, prepared by LSA Associates, Riverside, CA; and
- The Acoustical Study and Impact Analysis, Proposed Cooper Stadium Redevelopment Motorsports Complex, The Noise Consultancy, LLC, Flemington, NJ.

Noise is a form of vibration that causes pressure variations in elastic media such as air and water. The ear is sensitive to this pressure variation and perceives it as sound. The intensity of these pressure variations causes the ear to discern different levels of loudness. These pressure differences are most commonly measured in decibels.

The decibel (dB) is the unit of measurement for noise. The decibel scale audible to humans spans approximately 140 dB. A level of zero decibels corresponds to the lower limit of audibility, while 140 decibels produces a sensation more akin to pain than sound. The decibel scale is a logarithmic representation of the actual sound pressure variations. Therefore, a 26 percent change in the energy level only changes the sound level one dB. The human ear, in the natural environment, would not detect this change. A doubling of the energy level would result in a three-dB increase, which would be barely perceptible in the natural environment. A change of ten-dB would be apparent.

The human ear has a non-linear sensitivity to noise. To account for this in noise measurements, electronic weighting scales are used to define the relative loudness of different frequencies. The "A" weighting scale is used in environmental work because it closely resembles the non-linearity of human hearing. Therefore, the unit of measurement for an A-weighted noise level is dBA.

Noise from a race track is not constant. It varies depending upon position of the vehicle on the track and the number of vehicles. The time-varying characteristics of this type noise are analyzed statistically to determine the duration and intensity of noise exposure. In a rural environment, noise is made up of two distinct parts. One is ambient or background noise. Wind noise and distant traffic noise make up the acoustical environment surrounding the project. These sounds are not readily recognized, but combine to produce a non-irritating ambient sound level. This background sound level varies throughout the day, typically being lowest at night and highest during the day. The other component of rural noise is intermittent and louder than the background noise. Traffic on local roads, construction equipment, and airplanes are examples of this type of noise. It is for these reasons that environmental noise is analyzed statistically.

The statistical descriptor used for environmental noise is  $L_{eq}$ .  $L_{eq}$  is the constant, average sound level, which over a period of time contains the same amount of sound energy as the varying levels of the noise levels. The  $L_{eq}$  correlates reasonably well the effects of noise on people. It is also easily measurable with integrating sound level meters. The time period used in the California Speedway Study was 15-minutes. The  $L_{eq}$  for a race track could also be the time from the start of the race to the end of the race. Therefore, the unit of measure for the equivalent noise is  $L_{eq}$  dBA.

The  $L_{max}$  noise level is the maximum noise level that occurs during a given time period. The unit of measure is  $L_{max}$  dBA.

The noise analysis looked at  $L_{eq}$  noise levels modeled with the FHWA Traffic Noise Model (TNM<sup>®</sup>2.5) and  $L_{max}$  noise levels developed using the following classical propagation equation:

$$L_{max} = L_{ref} - (A_{div} + A_{barrier} + A_{atm} + A_{excess}) \text{ dBA}$$

where  $L_{ref}$  = the reference sound level at a know distance

$A_{div}$  = attenuation due to divergence,  $20\log_{10}(d/d_{ref})$ , dBA

$A_{barrier}$  = 0, attenuation due to physical barriers

$A_{atm}$  = 0, attenuation due to atmospheric absorption of sound energy, and

$A_{excess}$  = 0, attenuation due to ground cover, wind and temperature.

The  $L_{eq}$  noise levels developed by TNM are based upon a uniform atmosphere, no wind. The model as defined included terrain lines between the track and the various receivers defining the rugged terrain surrounding the proposed track. The track was defined as three line sources following the shape of the proposed track, with volume and speed adjusted such that at the beginning and end of the back stretch straight, 800 feet away from the track, the  $L_{eq}$  noise levels were  $\pm 1$  dBA of 77 dBA  $L_{eq}$ . The 77 dBA 15 minute  $L_{eq}$  noise level was the loudest and only full green flag noise level reported in the measurements used for the Noise Technical Study for the California Speedway. All other 15 minute measurements included caution periods, with the  $L_{eq}$  noise dropping as low as 64 dBA with a 15 minute caution period.



Mr. Thomas Gammon  
Branson Sports Entertainment Complex  
July 18, 2011  
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The  $L_{max}$  noise level, as based upon the above equation, was based only on the divergence of the noise from the source at the rate of 6 dB per doubling of distance. Therefore, a noise source of 100 dBA at 50 feet would be 94 dBA at 100 feet, 88 dBA at 200 feet, etc.

Based on the large distances from the proposed track to the various receivers and the variances in topography, a range of noise levels are presented for both the  $L_{eq}$  and  $L_{max}$  noise levels. The results of the noise analysis are presented in Table 1 included with this letter.

Information has been presented to the public that noise levels from the track would require the use of hearing protection at 10 miles, since it would exceed 85 decibels. This appears to be based on a noise source of 150 decibels. The Acoustical Study and Impact Analysis for the Proposed Cooper Stadium Redevelopment Motorsports Complex took noise measurements during time trials at a NASCAR sanctioned facility. Based on those measurements the race cars created an average 117.5 dBA  $L_{max}$  at 54 feet. The report concluded that the modeled  $L_{max}$  noise level at 9,000 feet would be 51.2 dBA for one vehicle. Using the unrealistic assumption that all 43 race cars at a NASCAR sanctioned facility passed the same point simultaneously, the  $L_{max}$  noise level at 9,000 feet would be 68 dBA, well below the 85 decibel value reported to be probable at 10 miles.

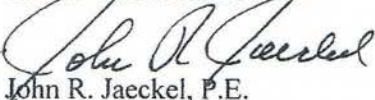
It is understood that the Taney County Planning and Zoning Commission is considering a noise restriction for the Branson Sports Entertainment Complex. In 2008 the Planning and Zoning Commission proposed a noise restriction of "83 decibels" based on event noise measurements at "2000' from the center of the track" for the Highway 65 Multi-Use Complex at Emory Creek Ranch.

The Branson Sports Entertainment Complex is agreeable to a similar but more definitive noise restriction. Based on the analysis to date, the noise restriction should consider both the  $L_{eq}$  and  $L_{max}$  noise levels at 0.5 miles from the center of the track. The noise levels should be monitored at 4 locations using Type I integrating sound level meters. The measurements should be continuous in 15-minute increments from the start of the race to the end of the race. The  $L_{eq}$  noise level from race vehicle noise should not exceed 77 dBA and the  $L_{max}$  noise level should not exceed 83 dBA during the entire measurement period. The attenuation due to ground cover, wind, temperature lapses, and temperature inversions can have significant influences on noise levels 0.5 miles from a source. Therefore, three of the four sound level meters must show an exceedance of both criteria for the Branson Sports Entertainment Complex to be considered in violation of the noise restriction.

It has been a pleasure to provide you with our services, and we look forward to working with you as you develop this exciting project.

Very truly yours,

HNTB CORPORATION



John R. Jaeckel, P.E.

Principal Engineer - Environmental Quality

Enclosure

Table 1  
 $L_{eq}$  and  $L_{max}$  Noise Levels, dBA  
 Branson Sports Entertainment Complex  
 Ridgedale, MO

Rec ID	Location Description	Leq dBA	Lmax dBA	Distance from Center of Site, ft
Rec 1	Residence east end of Ravenswood Way, south of site	56 - 61	71 - 77	5234.0
Rec 2	Residence west of Ridgedale Rd, south of site	56 - 60	70 - 76	6234.7
Rec 3	Residence between Ridgedale Rd. and US 65, southwest of site	61 - 62	71 - 77	5543.9
Rec 4	Residence east of Devils Pool Rd. and north of Entry Rd., west of site	54 - 58	68 - 74	7873.1
Rec 5	Top of the Rock, northwest of site	53 - 60	69 - 75	6554.7
Rec 6	Residence east end of Thunderbird Dr., southwest of site	63 - 69	73 - 79	4374.1
Rec 7	Residence east of Thunderbird Rd. and south of Thunderbird Dr, west southwest of site	63 - 65	73 - 79	4485.1
Rec 8	Residence east of Thunderbird Rd. and north of Thunderbird Dr, west of site	58 - 68	73 - 79	4257.3
Rec 9	Residence east of Thunderbird Rd. eastern end of private drive, west of site	61 - 73	74 - 80	3862.4
Rec 10	First residence east of US-65 on the south side of Winfield Rd. west of site	63 - 64	73 - 79	4531.4
Rec 11	Eastern most residence on Winfield Rd. northwest of site	60 - 68	74 - 80	3656.5
Rec 12	Residence south of Fruit Farm Rd, 1600' east of Thunderbird Rd, northwest of site	62 - 68	72 - 78	4767.3
Rec 13	Residence south of Fruit Farm Rd, 2400' east of Thunderbird Rd, west northwest of site	58 - 72	73 - 79	4106.9
Rec 14	Residence north of Fruit Farm Rd, 500' west of Alysse Ln., north northwest of site	55 - 69	72 - 78	4645.1
Rec 15	Residence south of Fruit Farm Rd, 270' east of Ashford Dr., north northwest of site	64 - 72	74 - 80	3736.0
Rec 16	Residence northeast end of Nathan Dr., north northwest of site	55 - 61	71 - 77	5206.5
Rec 17	Residence north of Fruit Farm Rd, 450' east of Ashford Dr., north northwest of site	56 - 71	73 - 79	4060.0
Rec 18	Residence west of Blue Ridge Dr. and 700' south of Shelton Drive, north of site	67 - 77	77 - 83	2804.4
Rec 19	Residence north of Shelton Dr., 60' east of Blue Ridge Dr., north of site	65 - 72	75 - 81	3528.2
Rec 20	Residence south of Sandy Ln., 500' south of Blue Ridge Dr., north of site	68	77 - 83	2720.1
Rec 21	South end of Blue Ridge Dr as the road turns east, east southeast of site	58 - 70	73 - 79	4526.4
Rec 22	Big Cedar Lodge, west of site	30 - 45	64 - 70	12563.4



# NOISE ANALYSIS

•dBA – Decibel A weighted  
(what the human ear hears)

•Conversation – 65 dBA

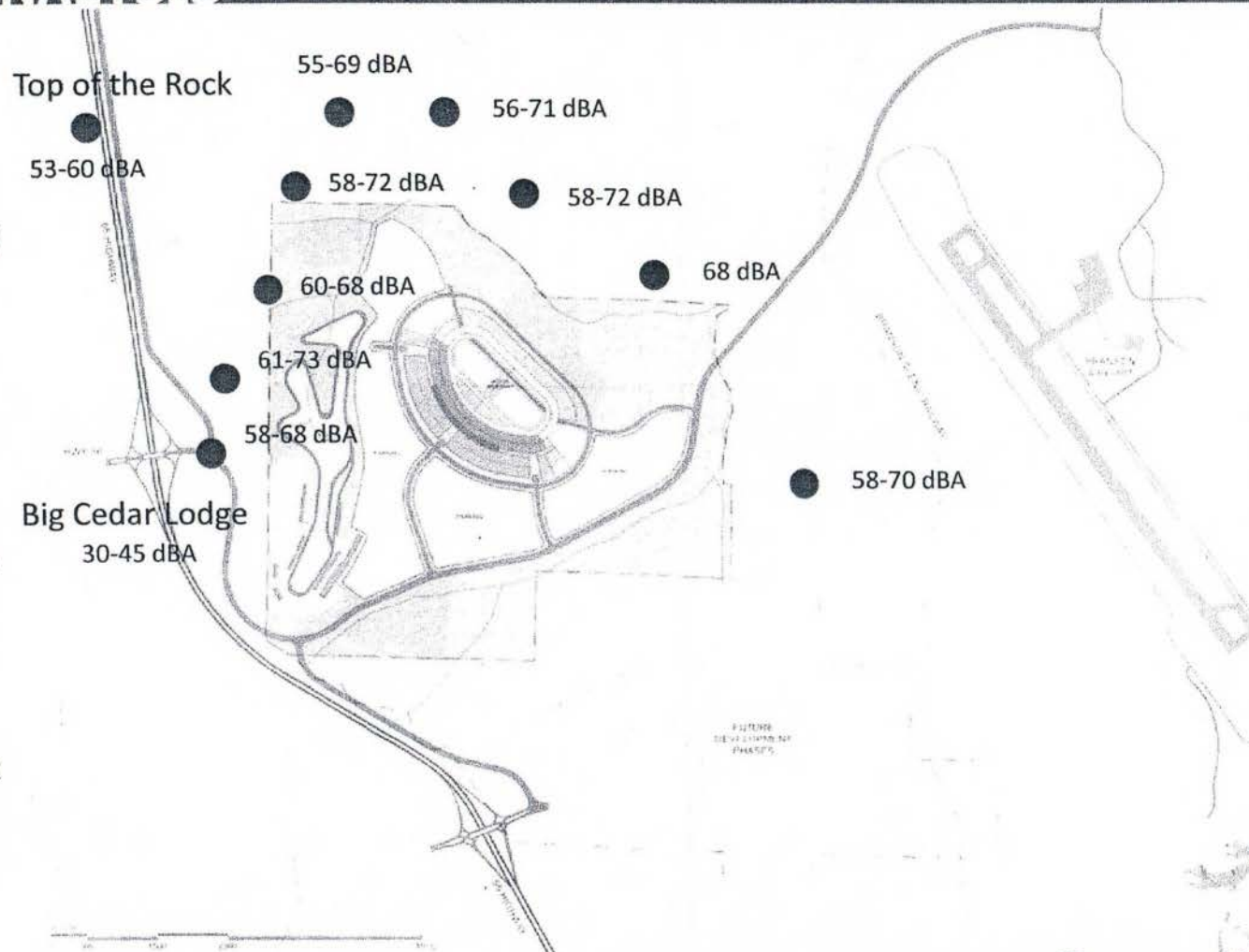
•Interstate Noise – 75-80  
dBA (at ROW)

•Highway 65 – 60 dBA

•Plane taking off – 100 dBA

•Meteorological Conditions  
(Wind, Clouds, Temp)  
impact +/- 10 dBA

•Noise Levels shown do not  
take into consideration the  
Grandstands.



Missouri  
Department  
of Transportation



Becky Baltz, District Engineer

Southwest District  
3025 East Kearney Street  
M.O. Box 868  
Springfield, MO 65801  
(417) 895-7600  
Fax (417) 895-7716  
[www.modot.org](http://www.modot.org)  
Toll free 1-888 ASK MoDOT

July 7, 2011

Mr. Robert Atchley  
Administrator  
Taney County Planning Commission  
P. O. Box 383  
Forsyth, MO 65653

Re: Branson Motorplex Proposal  
Route 65, Taney County

Dear Mr. Atchley:

The purpose of this letter is to advise you of the Missouri Department of Transportation's status regarding to the proposed Branson Motorplex project on Route 65 between Hollister and Ridgedale.

We have had several meetings with the Branson Sports Entertainment Complex (BSEC) group. They have provided us with general information about the project and have requested assistance from MoDOT to construct highway improvements that are necessary to accommodate traffic associated with the project.

BSEC has asked for MoDOT's financial participation in the project. The only possible funding program for this project at this time is our Economic Development program. This is a competitive program that will provide a maximum of \$20 million for state highway improvements to support job creation. To compete for these funds, BSEC will need to submit job creation data for analysis by the Missouri Department of Economic Development (MoDED). If MoDED finds that the project will have a positive economic impact to the state of Missouri, the developer can then submit an application to compete for economic development funding. BSEC has told us that we can expect the job generation analysis by the end of August.

We are also waiting on a traffic study to help determine if the proposed roadway improvements are appropriate for the expected traffic generated by the project. The type and extent of improvements will also impact the overall cost for highway infrastructure associated with the project.

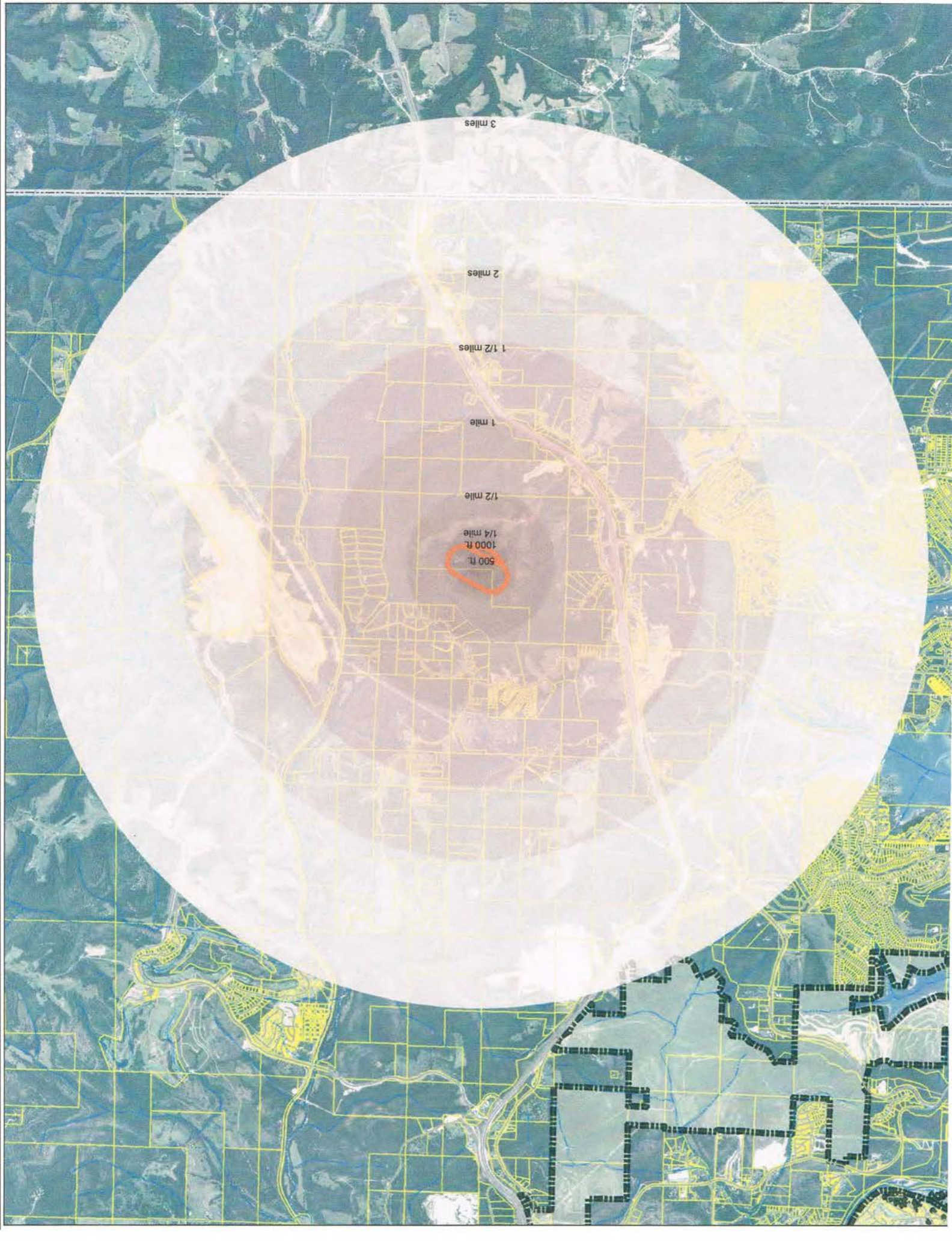
MoDOT has not made any commitment to fund or approve the construction of roadway improvements at this time. While MoDOT is supportive any project that will bring jobs to our state, we still need to see the detailed information before we determine what participation, if any, that MoDOT will have in the project.

Sincerely,

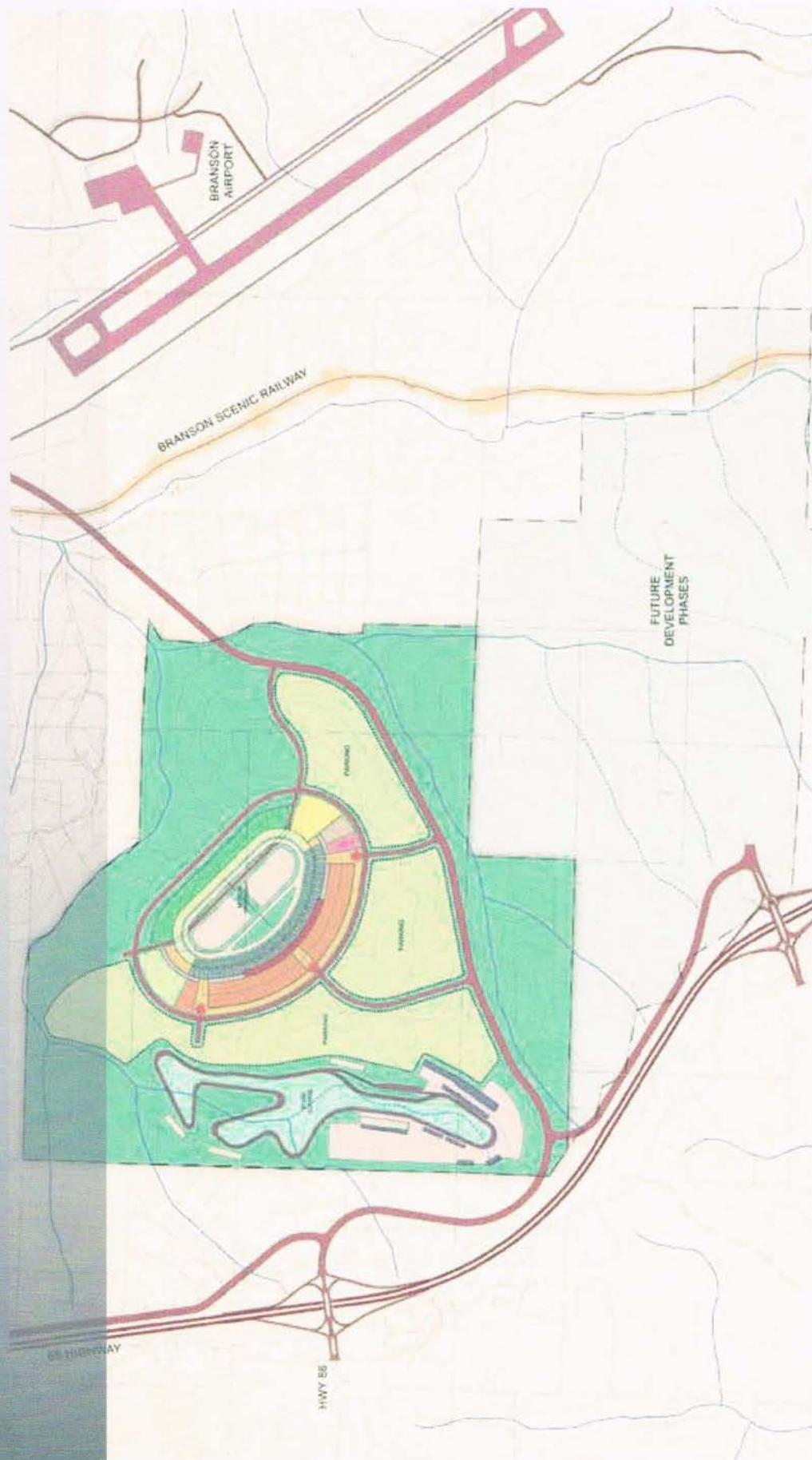
Becky Baltz, P.E.  
District Engineer

Copy: Spencer Jones, Great River Associates  
Brenda Morris, Director of Financial Services





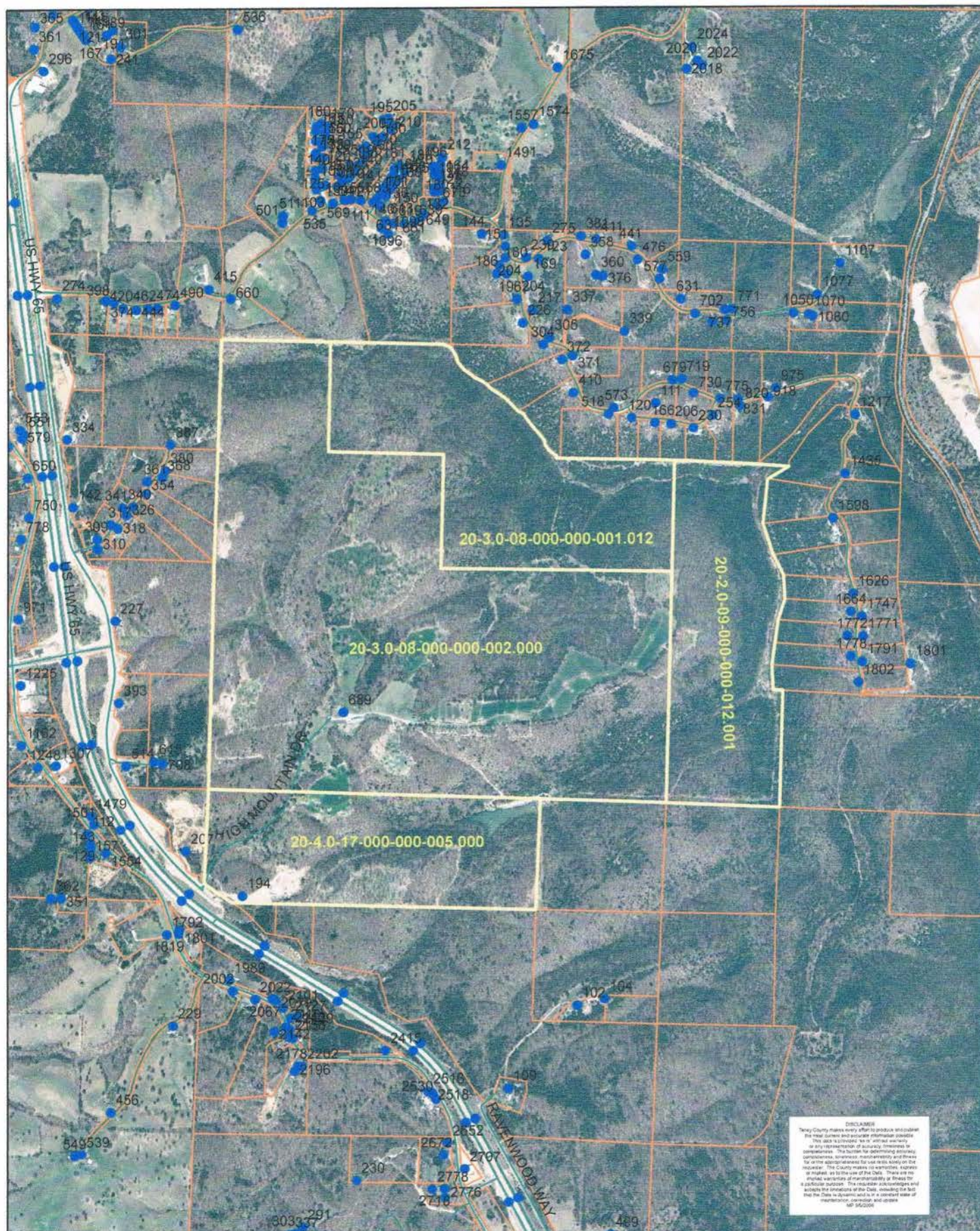








# BOA Branson Sports and Entertainment Complex





Branson Sports Entertainment Complex		Permit#:	11-16		
Division III Relative Policy Scoring Sheet: Western Taney County		Performance Value	Importance Factor	Score	Section Score
<b>Water Quality</b>					
SEWAGE DISPOSAL		n/a=			
centralized system	2	5	2	10	
on-site treatment system(s) with adequate safeguards to mitigate pollution	1				
septic system of adequate design and capacity	0				
proposed system may not provide adequate capacity	-1				
proposed solution may cause surface and/or ground water pollution	-2				
<b>Environmental Policies</b>					
SOIL LIMITATIONS		n/a=			
no known limitations	0	3	0	0	
potential limitations but mitigation acceptable	-1				
mitigation inadequate	-2				
SLOPES		n/a=			
<b>NOTE:</b> if residential, mark "x" in box.....					
development on slope under 30%	0	4	-1	-4	
slope exceeds 30% but is engineered and certified	-1				
slope exceeds 30% and not engineered	-2				
WILDLIFE HABITAT AND FISHERIES		n/a=			
no impact on critical wildlife habitat or fisheries issues	0	2	-1	-2	
critical wildlife present but not threatened	-1				
potential impact on critical wildlife habitat or fisheries	-2				
AIR QUALITY		n/a=			
cannot cause impact	0	2	0	0	
could impact but appropriate abatement installed	-1				
could impact, no abatement or unknown impact	-2				
<b>Land Use Compatibility</b>					
OFF-SITE NUISANCES		n/a=			
no issues or nuisance(s) can be fully mitigated	0	5	-1	-5	
buffered and minimally mitigated	-1				
cannot be mitigated	-2				
<b>Compatibility Factors</b>					
USE COMPATIBILITY		n/a=			
no conflicts / isolated property	0	4	-2	-8	
transparent change / change not readily noticeable	-1				
impact readily apparent / out of place	-2				



Branson Sports Entertainment Complex		Permit#:	11-16		
Division III Relative Policy Scoring Sheet: Western Taney County		Performance Value	Importance Factor	Score	Section Score
LOT COVERAGE		n/a=			
lot coverage compatible with surrounding areas		0	1	0	0
lot coverage exceeds surrounding areas by less than 50%		-1			
lot coverage exceeds surrounding areas by more than 50%		-2			
BUILDING BULK AND SCALE		n/a=			
bulk / scale less than or equivalent to surrounding areas		0	3	0	0
bulk / scale differs from surrounding areas but not obtrusive		-1			
bulk / scale significantly different from surrounding areas / obtrusive		-2			
BUILDING MATERIALS		n/a=			
proposed materials equivalent to existing surrounding structures		0	2	-1	-2
proposed materials similar and should blend with existing structures		-1			
materials differ from surrounding structures and would be noticeable		-2			
STRUCTURAL SCREENING OF ROOFTOP EQUIPMENT & VENTS		n/a=			
no rooftop equipment or vents		2	1	1	1
blocked from view by structure design		1			
blocked from view using screening		0			
partially blocked from view		-1			
exposed / not blocked from view		-2			
STRUCTURAL SCREENING OF SOLID WASTE CONTAINERS		n/a=			
no on-site waste containers		2	3	1	3
blocked from view by structure design		1			
blocked from view using screening		0			
partially blocked from view		-1			
exposed / not blocked from view		-2			
STRUCTURAL SCREENING OF OUTDOOR EQUIP, STORAGE, ETC.		n/a=			
no outdoor storage of equipment, materials, etc., or outdoor work areas		2	3	0	0
blocked from view by structure design		1			
blocked from view using screening		0			
partially blocked from view		-1			
exposed / not blocked from view		-2			
LANDSCAPED BUFFERS -- RESIDENTIAL		n/a=			
approved landscaped buffer between homes and all streets / roads / highways		2	2		
approved landscaped buffer from major roads / highways only		1			
minimal landscaped buffer, but compensates with expanse of land		0			
no landscaped buffer between residences and local streets		-1			
no landscaped buffer from any road		-2			

Branson Sports Entertainment Complex		Permit#:		11-16		
Division III Relative Policy Scoring Sheet: Western Taney County		Performance Value	Importance Factor	Score	Section Score	
LANDSCAPED BUFFERS - INDUSTRIAL		n/a=				
approved landscaped buffer from public roads		0	3	0	0	
minimal landscaped buffer, but compensates with expanse of land		-1				
no landscaped buffer from public roads		-2				
Local Economic Development						
RIGHT TO FARM		n/a=				
does not limit existing agricultural uses / does not cause nuisance, predation		0	3	0	0	
does not limit existing agricultural uses, but may result in minor nuisance		-1				
potential impact(s) on existing agricultural land		-2				
RIGHT TO OPERATE		n/a=	x			
no viable impact on existing industrial uses by residential development		0	3			
potential impact but can be mitigated		-1				
potential impact on existing industrial uses with no mitigation		-2				
DIVERSIFICATION		n/a=				
creates >=5 full-time, year-round jobs outside of recreation / resort sector		2	5	2	10	
creates full-time, year-round and seasonal jobs		1				
creates seasonal jobs only		0				
Site Planning, Design, Occupancy						
RESIDENTIAL PRIVACY		n/a=				
privacy provided by structural design, or not applicable		2	2	0	0	
privacy provided by structural screening		1				
privacy provided by landscaped buffers		0				
privacy provided by open space		-1				
no acceptable or effective privacy buffering		-2				
MIXED-USE DEVELOPMENTS		n/a=				
uses / functions are compatible or not applicable		2	3	2	6	
uses / functions are integrated and separated based on compatibility		1				
uses / functions differ minimally and are not readily apparent		0				
uses / functions poorly integrated or separated		-1				
uses / functions mixed without regard to compatibility factors		-2				
Commercial Development						
DEVELOPMENT PATTERNS		n/a=				
clustered development / sharing of parking, signs, ingress, egress, or not applicable		2	3	2	6	
some clustering and sharing patterns with good separation of facilities		1				
some clustering and sharing patterns with minimal separation of facilities		0				
clustered development with no appreciable sharing of facilities		-1				
unclustered development with no sharing or ability to share facilities		-2				



Branson Sports Entertainment Complex		Permit#:		11-16		
Division III Relative Policy Scoring Sheet: Western Taney County		Performance Value	Importance Factor	Score	Section Score	
DEVELOPMENT BUFFERING		n/a=				
approved and effectively designed landscaped buffers between structures and all roads		2	3	2	6	
minimal landscaped buffering, but compensates with expanse of land		1				
minimal landscaped buffering		0				
no landscaped buffering, but utilizes expanse of land		-1				
no or inadequate buffering or separation by land		-2				
Services - Capacity and Access						
TRAFFIC		n/a=				
no impact or insignificant impact on current traffic flows		0	2	-2	-4	
traffic flow increases expected but manageable using existing roads and road accesses		-1				
traffic flow increases exceed current road capacities		-2				
EMERGENCY SERVICES		n/a=				
structure size and/or access can be serviced by emergency equipment		0	5	-1		
structure size and/or access may impede but not hinder serviceability		-1				
structure size and/or access could be problematic or non-serviceable		-2				
RIGHT-OF-WAY OF EXISTING ROADS		n/a=				
greater than 50 ft. right-of-way		1	5	-2	-10	
50 ft. right-of-way		0				
40 ft. right-of-way		-1				
less than 40 ft. right-of-way		-2				
Internal Improvements						
WATER SYSTEM SERVICE		n/a=				
central water system meeting DNR requirements for capacity, storage, design, etc.		2	3	1	3	
community well / water system meeting DNR requirements		1				
private wells meeting DNR requirements		0				
private wells not meeting any established standards		-1				
individual / private wells		-2				
EMERGENCY WATER SUPPLY		n/a=				
fire hydrant system throughout development with adequate pressure and flow		0	5	0	0	
fire hydrant system with limited coverage		-1				
no fire hydrant system		-2				
PEDESTRIAN CIRCULATION INFRASTRUCTURE		n/a=				
paved and dedicated walkways (no bicycles) provided throughout development		2	4	1	4	
paved walkways provided throughout development / maybe shared with bicycles		1				
designated walkways provided but unpaved		0				
no pedestrian walkways, but green space provided for pedestrian use		-1				
no designated pedestrian walkway areas		-2				

Branson Sports Entertainment Complex		Permit#:	11-16		
Division III Relative Policy Scoring Sheet: Western Taney County		Performance Value	Importance Factor	Score	Section Score
PEDESTRIAN SAFETY		n/a=			
separation of pedestrian walkways from roadways by landscape or structural buffer		2	2	1	2
separation of pedestrian walkways from roadways by open land buffer		1			
pedestrian walkways abut roadways with no buffering / protection		0			
BICYCLE CIRCULATION		n/a=			
dedicated / separate bike-ways with signage, bike racks, trails		2	1		
bicycle lanes shared with pedestrian walkways but separated by markings / signs		1			
no designated bike-ways		0			
UNDERGROUND UTILITIES		n/a=			
all utilities are provided underground up to each building / structure		2	4	2	8
all utilities traverse development underground but may be above ground from easement		1			
utilities above ground but / over designated easements		0			
utilities above ground and not within specific easements		-1			
no specific management of utilities		-2			
<b>Open-Space Density</b>					
USABLE OPEN SPACE		n/a=			
residential developments (>25 units) include more than 25% open recreational space		2	2		
residential developments (>25 units) offer >10% but <25% open recreational space		1			
recreational area provided, but highly limited and not provided as open space		0			
no designated recreational space provided, but open space available		-1			
no open recreational space provided		-2			
<b>Solid Waste Disposal</b>					
SOLID WASTE DISPOSAL SERVICE AVAILABILITY		n/a=			
weekly service is available and documentation of availability provided		0	5	0	0
weekly service reportedly available but not documented		-1			
centralized, on-site trash collection receptacles available		-2			
SOLID WASTE DISPOSAL SERVICE COMMITMENT		n/a=			
restrictive covenants provide for weekly disposal for each occupied structure		0	5		
services available but not a requirement documented in covenants		-1			
not applicable / no pick-up service provided		-2			

Total Weighted Score= 24

Maximum Possible Score= 87

Actual Score as Percent of Maximum= 27.6%

Number of Negative Scores= 7

Negative Scores as % of All Applicable Scores= 25.0%

Scoring Performed by:

Bob Atchley / Bonita Kissee

Date:

June 20, 2011



**Project: Branson Sports Entertainment Complex**

**Permit: 11-16**

	Max. Possible	As Scored	%	Total Negative Scores	
Scoring	87	24	27.6%	7	25.0%

	Max. Possible	As Scored	Negative Scores	
			Number of	Percent
<b>Importance Factor 5</b>	<b>25</b>	<b>5</b>	<b>2</b>	<b>33.3%</b>
sewage disposal	10	10		
off-site nuisances	0	-5		
diversification	10	10		
emergency services				
right-of-way/roads	5	-10		
emergency water supply	0	0		
waste disposal service	0	0		
waste disposal commitment				
<b>Importance Factor 4</b>			<b>2</b>	<b>50.0%</b>
slopes	0	-4		
use compatibility	0	-8		
pedestrian circulation	8	4		
underground utilities	8	8		
<b>Importance Factor 3</b>	<b>36</b>	<b>24</b>		
soil limitations	0	0		
building bulk/scale	0	0		
waste containers screening	6	3		
outdoor equip storage	6	0		
industrial buffer / screening	0	0		
right to farm	0	0		
right to operate				
mixed-use developments	6	6		
development patterns	6	6		
development buffering	6	6		
water system service	6	3		
<b>Importance Factor 2</b>	<b>8</b>	<b>-6</b>	<b>3</b>	<b>50.0%</b>
wildlife habitat and fisheries	0	-2		
air quality	0	0		
building materials	0	-2		
residential buffer / screening				
residential privacy	4	0		
traffic	0	-4		
pedestrian safety	4	2		
usable open space				
<b>Importance Factor 1</b>	<b>2</b>	<b>1</b>		
lot coverage	0	0		
rooftop vents / equipment	2	1		
bicycle circulation				

Scoring by: Bob Atchley / Bonita Kissee

Date: June 20, 2011

**Project:** Branson Sports Entertainment Complex

**Permit#:** 11-16

Policies Receiving a Negative Score	
Importance Factor 5:	off-site nuisances right-of-way/roads
Importance Factor 4:	slopes use compatibility
Importance Factor 3:	none
Importance Factor 2:	wildlife habitat and fisheries building materials traffic
Importance Factor 1:	none

Scoring by: Bob Atchley / Bonita Kisse

Date: June 20, 2011