



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

AGENDA TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, JANUARY 18, 2012, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Establishment of Quorum.

Election of 2012 Officers.

Call to Order:

Explanation of Public Hearing Procedures

Presentation of Exhibits

Governing Statutes

Public Hearings:

Jeffery Bourk

Judith Haun

Branson Sports Entertainment Complex

Review and Action:

Minutes.

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT VARIANCE STAFF REPORT

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

HEARING DATE: January 18, 2012

CASE NUMBER: 2011-0010V

APPLICANT: Jeffery Bourk

LOCATION: The subject property is located at 335 and 337 Parkside Drive; Oliver Township; Section 27, Township 22, Range 22.

REQUEST: The applicant, Jeffery Bourk is requesting a variance from Section 9, Table 1 (Property Line Setbacks) of the Taney County Development Guidance Code.

BACKGROUND and SITE HISTORY:

The subject property consists of Lot 6 of the Parkside Beach Subdivision. The approximately 18,104 square foot (+/- .41 acre) lot contains two existing residences. The residence located at 337 Parkside Drive was constructed in 1962 and the residence at 335 Parkside Drive was constructed in 1993. The two existing residences are currently, approximately 8 feet apart.

GENERAL DESCRIPTION:

The applicant is planning to subdivide Lot 6 into two separate lots (Lot 6A – 9,232 square feet and Lot 6B – 8,872 square feet). Each of the two proposed lots would contain a single residence. The applicant is requesting a variance from the side setback requirements between each of the existing single-family residences and the newly created property line between Lots 6A and 6B.

REVIEW:

Per the provisions of Section 9, Table 1 (Property Line Setbacks) of the Taney County Development Guidance Code a 7' property line setback is required from the sides of the lot. Per the submitted plat of Lot 6A & 6B of Paradise Beach, the existing residence located on Lot 6A (337 Parkside Drive) would be +/- 3.4' from the newly created property line and the existing residence on Lot 6B (335 Parkside Drive) would be +/- 5.0' from the newly created property line.

STATUTORY REQUIREMENTS OF APPROVAL:

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

"Where, by reason of exceptional narrowness, shallowness, shape or topography or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under sections 64.845 to 64.880 would result in peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property as an unreasonable deprivation of use as distinguished from the mere grant of a privilege, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the demonstrable difficulties or hardships, provided the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map."

SUMMARY:

If the Taney County Board of Adjustment approves this variance request, the following requirements shall apply, unless revised by the Board:

1. Approval of a variance from Section 9, Table 1 (Property Line Setbacks) of the Taney County Development Guidance Code in order to allow for a +/- 3.6' side property line setback variance on Lot 6A (337 Parkside Drive) and a +/- 2.0' side property line setback variance on Lot 6B (335 Parkside Drive).
2. Compliance with all of the other provisions of the Taney County Development Guidance Code.
3. 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 of the Taney County Development Guidance Code).

mtg. date
1-18-12



TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT

FOR VARIANCE OR APPEAL

(Circle one)

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

PLEASE PRINT

DATE

Applicant Jeffery Bourk Phone 417-334-8017

Address, City, State, Zip 4000 BRANSON AIRPORT BLVD, Hollister, MO. 65672

Representative Jack Houseman Phone 417-334-8820

Owner of Record Jeffery Bourk Signature: Jeffery A. Bourk

Name of Project: Parkside Beach Lot 6, Block A

Section of Code Protested: (office entry) Side lot Line Setback

Address and Location of site: 335 and 337 PARKSIDE DR, Hollister, MO

Subdivision (if applicable) Parkside Beach Lot 6, Block A

Section 27 Township 22 Range 22 Number of Acres or Sq. Ft. 18,103 sq ft

Parcel Number 18-8.0-27-003-001-023.000

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:

There are 2 houses on subject property that are only 8 feet apart, we are requesting a variance on side lot line setback after which we would go thru division III to replat lot.





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

HEARING DATE: January 18, 2012

CASE NUMBER: 2011-0007A

APPLICANTS: Donald and Judith Haun

LOCATION: The subject property is located at 798 Parkview Drive, Hollister, MO, in the Oliver Township; Section 27, Township 22, Range 22.

REQUEST: The applicants, Donald and Judith Haun are seeking to appeal the Planning Commission denial of a Special Use Permit (Case # 2011-0023) requesting to utilize an existing, grandfathered, single-family residence for "nightly rental".

BACKGROUND and SITE HISTORY:

According to the Assessor's information, the home was constructed in 1983. The property was purchased by Donald and Judith Haun in 1984. The applicants have indicated that this single-family residence has been utilized as a rental home since the time of purchase.

In 2007 there was a Special Use Permit proposal that came before the Planning Commission, in the Poverty Point area for both "nightly rental" and a bed & breakfast which experienced a large amount of opposition. That application was denied and later unsuccessfully appealed to the Board of Adjustment. According to the attached Planning Commission Meeting Minutes for Monday, June 16, 2008, "Mr. Preston presented a new sign regarding nightly or weekly rental in any single family residence being against the Code. This new sign has been posted once so far. Mr. Herschend stated that this was done to protect the public." The sign in question is located at the corner of Dale Road and Winkle Drive and states, "NOTICE Nightly or Weekly Rental Of Any Residence Violates County Codes And May Be Prosecuted". However, the Taney County Development Guidance Code does **not** indicate that "nightly rental" violates any of the adopted regulations so long as a Special Use Permit is obtained.

On November 21, 2011 the Taney County Planning Commission denied a Special Use Permit request by Donald and Judy Haun seeking to utilize the existing, grandfathered rental home at 798 Parkview Drive, Hollister, MO for "Nightly Rental". The Planning Commission voted to deny this request by a unanimous vote of 7-0. The Planning Commission based its decision upon the unanimous belief that the proposed nightly rental of the home at 798 Parkview Drive, Hollister, MO would **not** be compatible with the surrounding residential area.

GENERAL DESCRIPTION:

The subject property (approximately 120' x 170' lot) contains an approximately 1,356 square foot single-family residence (per the Assessor's information) located at 798 Parkview Drive, Hollister, MO, in the Parkview Beach Subdivision.

REVIEW:

The applicants have stated that the exterior appearance of the single-family home will remain the same. The Taney County Development Guidance Code defines nightly rental as "A residential building, structure, or part thereof that may be rented for any period of time less than thirty (30) days." Currently, the applicant would have the ability to rent the residence for a period of thirty (30) days or greater.

The applicants are proposing to rent the home on a weekly basis and have indicated that only a single family will be allowed to rent the proposed property, with no more than 6 adult guests being allowed to stay at one time.

The property is currently served by a private well and the Taney County Regional Sewer District. The residence is in compliance with the setback requirements. The existing parking area is approximately 20' x 70' and will accommodate six parking spaces, exceeding the requirements of the Taney County Development Guidance Code. During the Planning Commission public hearing process the applicants further indicated that they would construct a circle drive, with a second access to the east of the existing driveway, allowing for cars pulling either boats or RVs to turn around on site. This would enable these vehicles to exit onto Parkview Drive without having to back. There is an existing privacy fence along the back of the property. A letter has been provided by the Western Taney County Fire Protection District indicating that, "Water for fire suppression operations would be obtained from an established water supply system or water tanker shuttle."

The project received a score of -5 on the Policy Checklist, out of a maximum possible score of 29. The relative policies receiving a negative score consist of emergency water supply, solid waste disposal service and use compatibility.

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.

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

(Circle one)

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

PLEASE PRINT

DATE 12/12/11

Applicant Judith A. Ham Phone (417) 840-2531

Address, City, State, Zip PO Box 10885 Springfield MO 65808

Representative Jani Taylor Phone (417) 839-1593

Owner of Record Donald + Judith Ham Signature: Judith A. Ham

Name of Project: Special Use Permit Appeal

Section of Code Protested: (office entry) _____

Address and Location of site: 798 Parkview dr. Halester, mo

Subdivision (if applicable) Poverty Point

Section 27 Township 22 Range 22 Number of Acres or Sq. Ft. _____

Parcel Number 18-8.0-27-004-003-008.000

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.

December 12, 2011

Taney County Board of Adjustments
P.O. Box 383
Forsyth, Missouri 65653

Dear Sirs,

We are filing an appeal to a decision rendered by the Taney County Planning and Zoning Commission on November 21, 2011. The original request to the Planning and Zoning Commission was for a "Special Use" permit. The permit was denied based on the premise that a nightly/weekly rental "is not compatible with the surrounding residential area". The property is a single family dwelling located at 798 Parkview drive, Hollister, Mo., full legal description: Parkview Beach LT 18 and W2 LT 17; 1/29 INT LT 10 BLK 2.

The property was purchased in 1984 by Donald and Judy Haun as an investment/rental property. Since the time of purchase, the property has been rented on an annual lease contract. The Special Use permit is being sought in order to rent the home on a weekly basis as a vacation destination rental. County guidance code regulations were addressed and satisfied in regards to fire, sewer, easement and parking regulations. At the public hearing opposition would only state that they did not want this in their neighborhood, offering no other valid reason to oppose. We have spoken to our neighbors whose properties would be most closely affected and little to no opposition was voiced. Mr. Ken Westfall, our neighbor to the west, voiced concern regarding upkeep of the property, we assured him that the property would be maintained in a safe, clean manner in keeps with the Poverty Point neighborhood. The Planning and Zoning Commission voiced concerns regarding neighbor privacy, and recommended a privacy fence be placed between our property and the adjacent neighbors, both neighbors adamantly opposed this idea. Guests would be instructed on property boundaries and expected to act accordingly. Guests found not in compliance with any rules or regulations would be asked to vacate the property immediately, as would be with any business.

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 denial of the Decision of Record for Division III Permit # 2011-0023 (Special Use Permit) shall be reversed. If the Taney County Board of Adjustment approves this request, the following requirements shall apply, unless revised by the Board:

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. No outside storage of equipment or solid waste materials.
3. This decision is subject to all existing easements.
4. A circle drive shall be constructed, with a second access being provided east of the existing driveway.
5. A privacy fence shall be provided upon the western property boundary, between the property in question and the adjacent single family residence.
6. 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).

As for Poverty Point being strictly a residential neighborhood, that is just not the case. Within the Poverty Point neighborhood are two motels which offer, nightly and weekly rentals. These are both large commercial businesses. In our plan, the property would not be rented to a party any larger than a single family, six adults maximum. In doing this we would not create any more traffic or neighborhood disruption than renting the home to a family of six. This property has always been used as a business investment. We are requesting the Board of Adjustments to consider this request for a Special Use Permit based on the facts that this type of business already exists in the Poverty Point neighborhood and all requirements set forth in the Taney County Guidance Code regarding nightly rentals have been satisfied.

We take great pride in belonging to the Poverty Point neighborhood, we are committed to maintaining it's integrity. Being responsible property owners and a good neighbor is our commitment to our immediate neighbors as well as those who live in the vicinity. Thank you for reconsidering the issuance of the Special Use Permit.

Sincerely,



Tami Taylor
Personal Representative for Judy Haun

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 14th DATE OF Dec. A.D. 20 11



NOTARY PUBLIC STATE OF MISSOURI

MY COMMISSION EXPIRES 7/29/2014

COUNTY OF: Greene





TANEY COUNTY PLANNING COMMISSION

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website: www.taneycounty.org

→ **Please refer to Page 4 regarding the nightly rental sign**

MINUTES

TANEY COUNTY PLANNING COMMISSION

REGULAR MEETING

MONDAY, JUNE 16, 2008, 7:00 P.M.

ASSOCIATE CIRCUIT COURT, DIVISION II COURTROOM

TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Sarah Klinefelter called the meeting to order at 7:00 p.m. A quorum was established with eight members present. The were: Sarah Klinefelter, Joey Staples, Jim Brawner, Frank Preston, Ray Edwards, Shawn Pingleton, Mark Blackwell, and Randall Cummings. Staff present: Eddie Coxie, Marla Pierce, Bonita Kisse, Dan Nosalek, Keith Crawford, and Bob Paulson.

Mr. Coxie read a statement explaining the meeting procedures.

Review and Action:

Minutes, May 2008: with no additions or corrections a motion was made by Ray Edwards to approve the minutes as written. Seconded by Joey Staples. The vote to approve was unanimous.

Final Votes:

Branson Storage: Gus Dahlberg requests approval to split an existing parcel into two lots with improvements on one lot located off St. Hwy. 248. Mrs. Klinefelter clarified the project. Eddie Wolfe represented the applicant. After discussion a motion was made by Jim Brawner to approve based upon the decision of record. Ray Edwards seconded. The vote to approve was unanimous.

Addition to Forest Lake at Stonebridge Village: Missouri Partners, Inc. request to develop a single family subdivision and 9 hole golf course located off Limestone Dr. Mrs. Klinefelter and Eddie Wolf clarified the project. There will be an access off Keystone Road which is to the north. Fire protection will come from Stone County. There is a question if Taney County will provide fire protection on their side. After discussion a motion was made by Ray Edwards to approve based upon the decision of record. Jim Brawner seconded. The vote to approve was unanimous.

RKC Properties: New Horizons Community Church request to construct a gym, office, and warehouse located at 1192 Bird Road. Eddie Wolfe represented the developer. Mrs. Klinefelter clarified the project. After discussion a motion was

made by Randall Cummings to approve based upon the decision of record with the addition of a temporary turn around in the form of a gravel hammerhead in place of the current cul de sac. Seconded by Mark Blackwell. The vote to approve was unanimous.

Wildflower Learning Center: Carla and Rick Quincey request to operate a small private school located at 160 Old Glory Road. This project withdrew.

Highway 65 Project: This project was tabled at the April 2008 final vote until a noise study could be done. A motion was made to remove this from the table by Shawn Pingleton. Seconded by Jim Brawner. The vote to place the request back on the table was unanimous. Mr. Coxie read the staff report again to update the Commission on the project. Mrs. Klinefelter clarified the request. Bob Allen representing the developer addressed questions from the Commission. Mr. Allen stated that the first phase would amount to approximately eighty five million dollars. Mrs. Klinefelter reported that letters from surrounding property owners opposing the project have been received. Information in the form of reports on noise have been done and the Planning Commission now feels they are well informed enough to make a decision. Mr. Allen reported that the developer will make sure that all rules will be followed and the developer plans to be a good neighbor to the surrounding residents. He also reported on all the studies that have been done on the project. Mr. Paulson clarified that the entire project was applied for so the Planning Commission must approve or disapprove the entire plan, not just part of it. Mr. Edwards discussed the Condominiums being privately owned. Mr. Allen stated that these would be controlled by management. Plans are that phase one will be built out by July 2010. Discussion has begun with MoDot by the developer. Eddie Wolfe reported that there is an existing road which will be tied to the outer road to Hwy. 160 in the first phase. This will be done by the developer at his cost. Mr. Preston discussed the race track and how it would benefit the area, and why the Planning Commission must approve the entire project and not be able to remove the racetrack from the plan. Mr. Allen stated that the race track is the major element and would take away from the attractiveness of the project. Discussion followed regarding the number of businesses in the area of the project. Thirty eight letters were sent out to property owners. There is a bed and breakfast within 1000 feet. Mr. Allen stated that the developer plans to monitor the decibel level of the race track. Mr. Pingleton was concerned that the County does not have any authority to enforce a noise ordinance. Mr. Wolfe stated that if the project is approved it contains some residential and multi-family, which the developer would want to protect as well. Mr. Allen stated that the developer does not want to build an offensive project. Mr. Brawner stated that even though there has been a lot of information, he still has a lot of questions before he could make a decision. Mr. Edwards stated that they still don't know what kind of cars would be using the track. Mr. Allen stated that the track would be dirt, limiting the types of racing

that could be done. Mr. Wolfe stated that the Commission can't enforce the noise anyway. Mrs. Klinefelter asked about protecting the crawfish that are endangered in Emory Creek. Mr. Allen stated that all DNR regulations will be followed regarding this matter and that every effort will be done to protect the species. No problem is insurmountable in Mr. Allen's opinion. Mr. Wolfe stated that the Corps of Engineers would be issuing the final permit on the dam. Mr. Pingleton made a statement that the project in his opinion is not compatible and there are too many questions in his mind that have not been answered. Mr. Wolfe reminded the Commission that they approved a revision of the Cross project which is a commercial venture and that it is just north of this one. Further discussion followed regarding noise. Mr. Allen stated that if they could make a certain decibel reading in the decision of record, they could comply with it. After discussion a motion was made by Shawn Pingleton to deny. Seconded by Ray Edwards. The vote to deny was six in favor, and one against. Mr. Pingleton asked that all studies be included in the file for future reference.

Concepts:

Burns Storage: K. Dan and Mary E. Burns request approval to construct ten 10 x 20 storage units and move in six sea crates 8 x 40 for storage on property located at 13839 St. Hwy. 160. Mrs. Burns explained her project and location. Mrs. Klinefelter asked for location of access, buffering, and accessibility to the units be presented before the public hearing. Mr. Pingleton suggested the applicant contact MoDot regarding the entrance. This project will proceed to public hearing next month.

Parkside Storage: Michael L. Patton requests approval to construct a metal storage building with office space located at the corner of St. Hwy. 165 and Dale Avenue. Mr. Patton explained his request. He has spoke with the sewer district regarding hooking the office to the existing wastewater system. The application included an additional building but Mr. Coxie explained that this request would include the one building and office for now. This project will proceed to public hearing next month.

Grannemann Vacation Home: Chad and Adriana Grannemann request to operate a vacation home as weekly rentals from a single family dwelling located at Winkle Road. Mr. Grannemann explained the request and presented location maps and other information on the project. This property is the log cabin on the corner across from a previously approved project for condominiums. This property has been operating for three years as a nightly rental. The applicant purchased the property as a single family dwelling then began renting but did not know he needed a permit. Discussion followed. A motion was made by Randall Cummings to cease operations until approval is given. Discussion followed regarding enforcement. The applicant asked to be able to proceed through the next month with his rental. Ron Herschend representing his

constituents stated that if the applicant had responded when first notified he would not be in this situation, and asked that the Commission require the applicant to cease and desist by the end of the week. Further discussion followed regarding other nightly rentals in the neighborhood. Mr. Preston explained some concerns voiced to him from some of the neighbors. Mr. Grannemann reported that they have never had any trouble from any of the people he has rented to and he and his family and friends also stay in the house. Shawn Pingleton seconded the motion by Mr. Cummings. The motion was unanimous for the applicant to cease and desist in ten days from this meeting. This project will proceed to public hearing next month.


Jernigan Subdivision: Barbara Jean Jernigan requests to subdivide a 1.07 acre lot into 3 residential lots located at 232 Bent Oak Road. Ms. Jernigan explained her request. There is an existing residence on one lot. Discussion followed. This project will proceed to public hearing next month.

Universal Auto and Accessories: Brian Karn requests to operate a used car lot from an existing car wash located at 1225 Ridgedale Road. This project postponed until next month.

Old and New Business:

Height Amendment: Mr. Coxie presented the new height amendment revisions and explained how they were arrived at. This was presented to the Commission a month ago, but the vote was postponed so the public could attend before being sent to the County Commission for their approval. Discussion followed regarding the policy checklist. Shawn Pingleton made a motion to send the draft amendment to the County Commission for their approval. Seconded by Mark Blackwell. The vote to approve was unanimous.

Mr. Coxie reported his findings on the nightly rental approval at Branson Canyon as requested by the Commission last meeting.



Mr. Preston presented a new sign regarding nightly or weekly rental in any single family residences being against the Code. This new sign as been posted once so far. Mr. Herschend stated that this was done to protect the public.

Adjournment:

With no other business on the agenda for June 16, 2008 a motion was made by Ray Edwards to adjourn. Seconded by Jim Brawner. The vote to adjourn was unanimous. The meeting adjourned at 9:10 p.m.



TANEY COUNTY PLANNING COMMISSION

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website: www.taneycounty.org

TANEY COUNTY PLANNING COMMISSION
DIVISION III DECISION OF RECORD
NIGHTLY RENTAL – 798 PARKVIEW DRIVE
CASE NUMBER 11-23

On November 21, 2011 the Taney County Planning Commission denied a Special Use Permit request by Judy Haun seeking to utilize an existing, grandfathered rental home at 798 Parkview Drive, Hollister, MO for "Nightly Rental". The Planning Commission voted to deny this request by a unanimous vote of 7-0. The Planning Commission based its decision upon the unanimous belief that the proposed nightly rental of the home at 798 Parkview Drive, Hollister, MO would **not** be compatible with the surrounding residential area.

Per the provisions of the Taney County Development Guidance Code and Missouri Revised Statutes (RSMo 64.870), "Appeals to the board of zoning adjustment may be taken by any owner, lessee or tenant of land, or by a public officer, department, board or bureau, affected by any decision of the administrative officer in administering a county zoning ordinance." Per the provisions of Section 7.3 of the Taney County Development Guidance Code, "Appeals must be filed within ninety (90) calendar days of the original decision."



TANEY COUNTY PLANNING COMMISSION
DIVISION III STAFF REPORT
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226

Public Hearing for the nightly rental of a single-family residence located at 798 Parkview Drive, Hollister, MO, in the Oliver Township; Section 27, Township 22, Range 22.

Request: The applicants, Donald and Judith Haun are requesting approval of a Special Use Permit to utilize an existing, grandfathered, single-family residence for nightly rental.

Hearing Date: November 14, 2011

History: According to the Assessor's information, the home was constructed in 1983. The property was purchased by Donald and Judith Haun in 1984. The applicants have indicated that this single-family residence has been utilized as a rental home since the time of purchase.

In 2007 there was a Special Use Permit proposal that came before the Planning Commission, in the Poverty Point area for both "nightly rental" and a bed & breakfast that experienced a large amount of opposition. The application was denied and later unsuccessfully appealed to the Board of Adjustment. According to the attached Planning Commission Meeting Minutes for Monday, June 16, 2008, "Mr. Preston presented a new sign regarding nightly or weekly rental in any single family residence being against the Code. This new sign has been posted once so far. Mr. Herschend stated that this was done to protect the public." The sign in question is located at the corner of Dale Road and Winkle Drive and states, "**NOTICE Nightly or Weekly Rental Of Any Residence Violates County Codes And May Be Prosecuted**". However, the Taney County Development Guidance Code does **not** indicate that "nightly rental" violates any of the adopted regulations so long as a Special Use Permit is obtained.

The current application was approved for Concept on October 17, 2011.

General Description: The subject property (approximately 120' x 170' lot) contains an approximately 1,356 square foot single-family residence (per the Assessor's information) located at 798 Parkview Drive, Hollister, MO, in the Parkview Beach Subdivision.

Review: The exterior appearance of the single-family home will remain the same. The Taney County Development Guidance Code defines nightly rental as "A residential building, structure, or part thereof that may be rented for any period of time less than thirty (30) days." Currently, the applicant would have the ability to rent the residence for a period of thirty (30) days or greater.

The applicants are proposing to rent the home on a weekly basis and have indicated that only a single family will be allowed to rent the proposed property, with no more than 6 adult guests being allowed to stay at one time.

The property is currently served by a private well and the Taney County Regional Sewer District. The residence is in compliance with the setback requirements. The existing parking area is approximately 20' x 70' and will accommodate six parking spaces, exceeding the requirements of the Taney County Development Guidance Code. There is an existing privacy fence along the back of the property. A letter has been provided by the Western Taney County Fire Protection District indicating that, "Water for fire suppression operations would be obtained from an established water supply system or water tanker shuttle."

The project received a score of -5 on the Policy Checklist, out of a maximum possible score of 29. The relative policies receiving a negative score consist of emergency water supply, solid waste disposal service and use compatibility.

Summary: 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.
2. No outside storage of equipment or solid waste materials.
3. This decision is subject to all existing easements.
4. A privacy fence shall be provided upon the western property boundary, between the property in question and the adjacent single family residence.
5. 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).



Western Taney County Fire Protection District

221 Jefferson Road • Branson, MO 65616 • Office 417.334.3440 • Fax 417.334.3446

Proudly serving
the Citizens of

- Bull Creek
- Hollister
- Kirbyville
- Merriam Woods
- Mincy
- Ridgedale
- Rockaway Beach
- Walnut Shade

and the
unincorporated
areas of
Western Taney County

October 28, 2011

TO: Taney County Planning and Zoning

FROM: Western Taney County Fire Protection District
Prevention Division

RE: Judy Haun, 798 Park View, Hollister, Mo.

The property for Judy Haun, 798 Park View, Hollister is within the bounds of the Western Taney County Fire Protection District. Water for fire suppression operations would be obtained from an established water supply system or water tanker shuttle.

Should you have any questions concerning this matter contact me Monday through Friday 8am to 5pm at 334-3440.

James K. Single
Assistant Chief
Prevention Division



TANEY COUNTY REGIONAL SEWER DISTRICT
BILLING DEPARTMENT
P. O. Box 563 • Forsyth, Missouri 65653
Phone: 417/546-7221

November 10, 2011

Taney County Planning
PO Box 383
Forsyth, Mo 65653

To whom it may concern:

Tammy Taylor has inquired about the sewer service for a possible nightly rental in the Poverty Point area. We have reviewed with the understanding this property will sleep a maximum of six (6) adults and the existing equipment will be adequate to handle this flow. The account will need to be changed to non-residential and a meter will need to be installed to facilitate billing for the property. These issues will need to be resolved before operation begins. Thank you for your attention to these matters.

A handwritten signature in cursive script that reads "Eddie Coxie".

Eddie Coxie
Operations Manager
Taney County Regional Sewer District
417 546-7220



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

HEARING DATE: January 18, 2012

CASE NUMBER: 2011-0006A (Reconsideration of Condition # 4
Decision of Record Division III Permit #11-16)

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 a reconsideration
of the Board of Adjustment decision on Condition # 4
in order to modify this specific condition 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 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 November 16, 2011 the Board of Adjustment heard five (5) separate appeal applications, in which each of the applicants' appealed the Planning Commission's decision to approve Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC). The Board of Adjustment voted to deny each of these appeal applications by a unanimous vote of 4-0 with 1 abstention. The Board did **not** find, beyond a reasonable doubt, that there was an error of law that had been committed by the Taney County Planning Commission in the approval of Division III Permit # 2011-0016.

On November 16, 2011 the Board of Adjustment also heard an appeal application from the Branson Sports Entertainment Complex / Russell Cook seeking to modify specific conditions placed by the Planning Commission upon Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC). The Board of Adjustment voted to modify Condition Numbers 7, 8 and 10 of Division III Permit # 2011-0016. The Board voted to deny the request of the Branson Sports Entertainment Complex to modify Condition Numbers 4 and 9 of Division III Permit # 2011-0016.

On December 21, 2011 the Board of Adjustment heard a request from the Branson Sports Entertainment Complex / Russell Cook requesting that the Board reconsider Condition Number 4 of the Decision of Record for Division III Permit #11-16. The Board of Adjustment voted to rehear Condition Number 4 on January 18, 2012 by a unanimous vote of 4-0 with 1 abstention. The Board based its decision to reconsider its original decision on Condition Number 4 upon new evidence that was presented (Project Schedule) that was not in existence at the time of the original hearing and felt that the applicant had demonstrated that a substantial injustice would result as a refusal to grant such a reconsideration request. The Board directed the Administrator to ensure that appropriate notice was given for the rehearing to be held on January 18, 2011.

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, the Branson Sports Entertainment Complex is seeking to modify Condition Number 4 placed by the Planning Commission upon the Decision of Record for Division III Permit # 2011-0016. Condition Number 4 currently states, "Prior to the issuance of Certificates of Conformance (C of Cs), the developer shall install **all** of the required infrastructure improvements." The applicant is requesting that the language for Conditions Number 4 be modified to state, "Prior to the issuance of Certificates of Conformance (C of Cs) the developer shall install **all** of the required infrastructure improvements specifically related to the issued Division II Permits for which the developer is requesting a Certificate of Conformance."

The applicant submitted a project schedule for the Branson Sports Entertainment Complex, to the Board of Adjustment as new evidence submitted as a part of the reconsideration process. This project schedule outlines the conceptual development plan for each of the phases of the Branson Sports Entertainment Complex which will require the issuance of Division II Permits and Certificates of Conformance.

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.

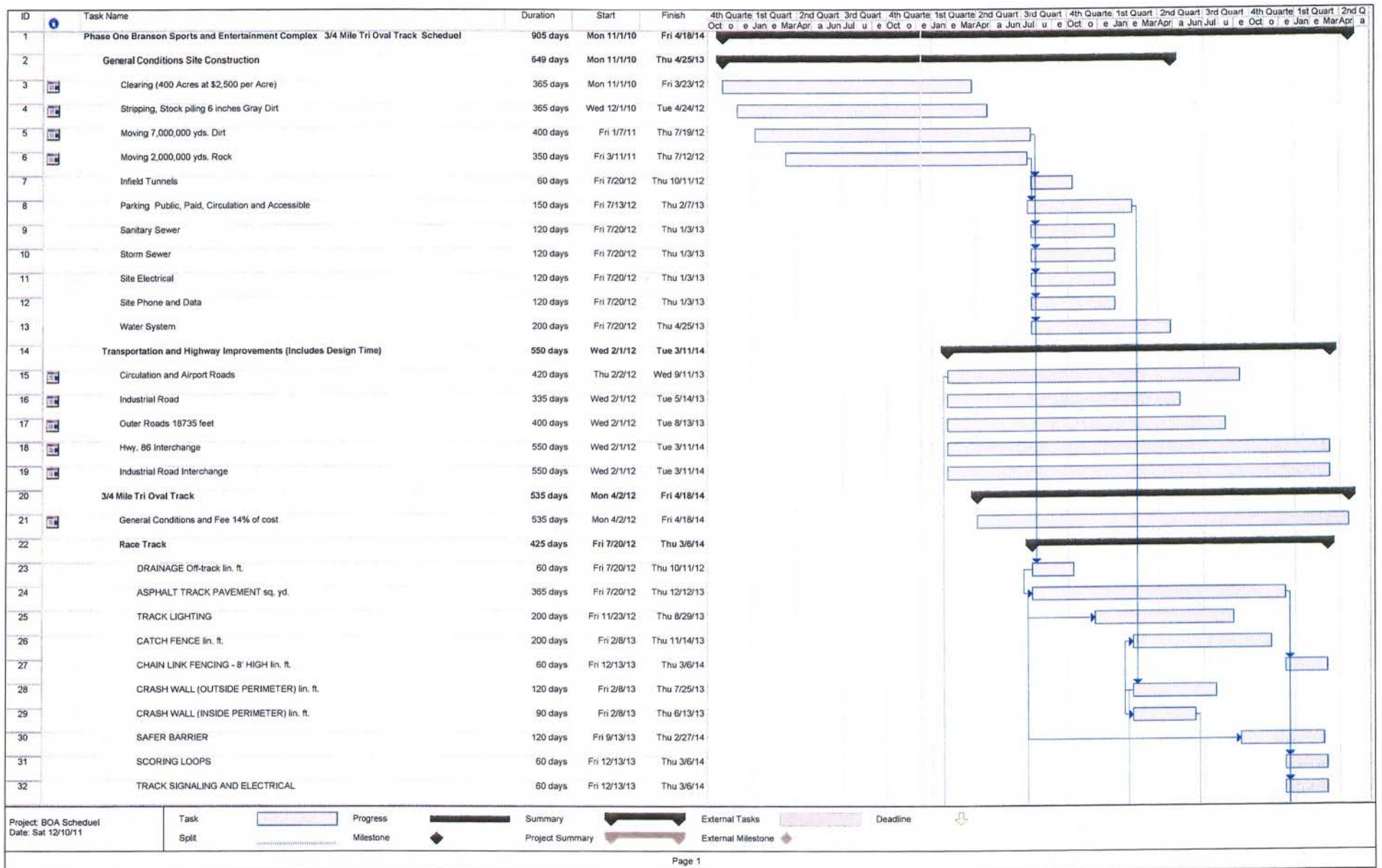
SUMMARY:

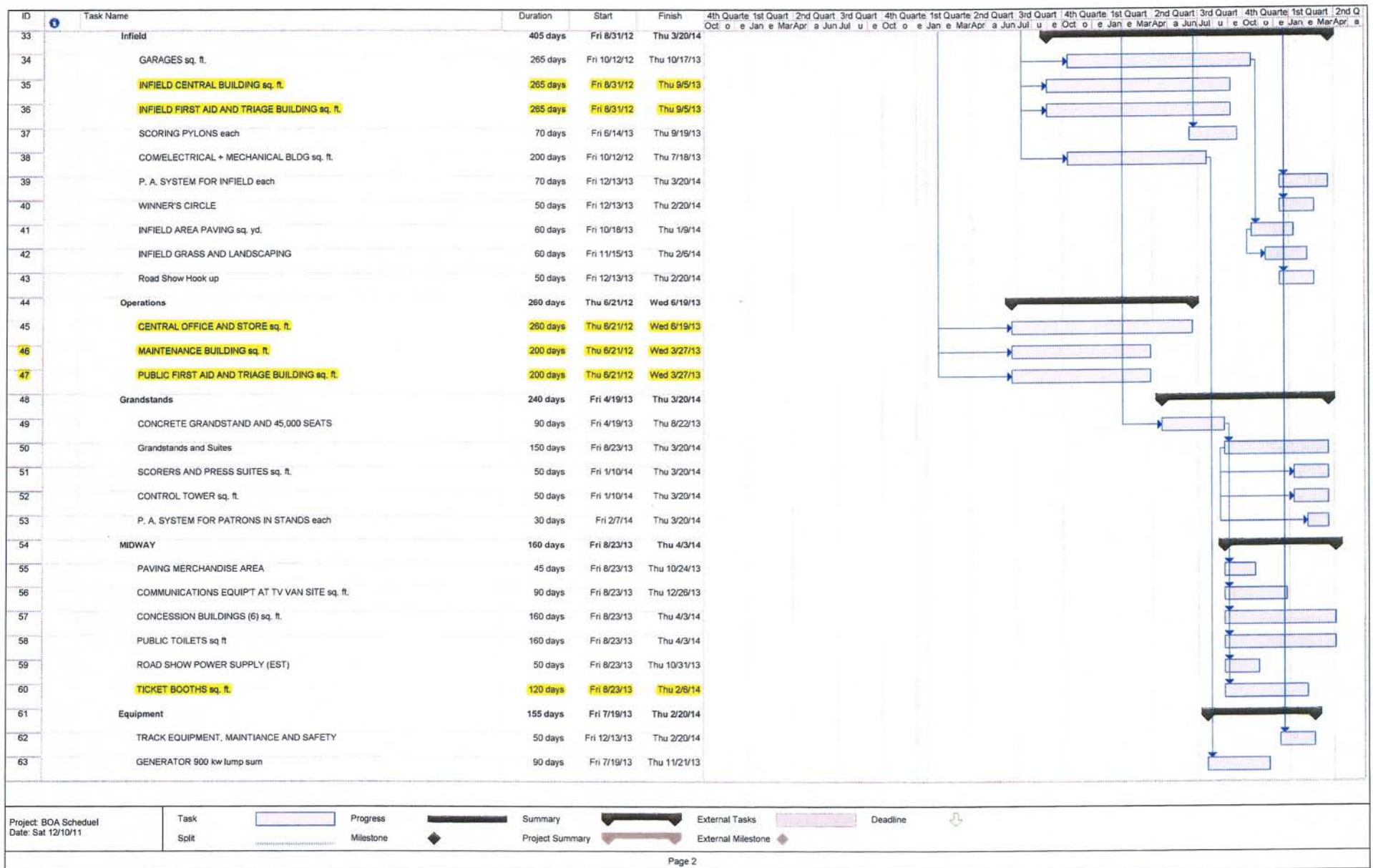
If the Taney County Board of Adjustment approves this appeal request seeking to modify Condition Number 4 placed by the Planning Commission on Division III Permit # 2011-0016 – Decision of Record for the Branson Sports Entertainment Complex (BSEC). Condition Number 4 will be modified to state the following:

1. Prior to the issuance of Certificates of Conformance (C of Cs) the developer shall install **all** of the required infrastructure improvements specifically related to the issued Division II Permits for which the developer is requesting a Certificate of Conformance.

Justification for Request for Reconsideration of Condition No. 4 of the Decision of Record for the Branson Sports Entertainment Complex (BSEC)

1. BSEC is requesting reconsideration for clarification to identify that Certificates of Conformance can be obtained by the developer for each Division II permit (phase) of the construction. Each Division II permit will require approval from the applicable regulatory body (i.e. Taney County Planning and Zoning, MoDOT, MoDNR, Taney County Regional Sewer District, Taney County Health Department,...) to ensure that the required infrastructure is in place prior to receiving a Certificate of Conformance for that Division II permit.
2. As has been discussed, the development is expected to be prepared for its first event in the late Spring of 2014, but some of the buildings will need to be occupied prior to that opening. A Division II permit will be applied for each of these buildings separately to allow them to be occupied and used prior to the first major event. These are as follows:
 - a. Maintenance Building March 2013
 - b. Public First Aid and Triage Building March 2013
 - c. Central Office and Store June 2013
 - d. Infield Central Building September 2013
 - e. Infield First Aid and Triage Building September 2013
 - f. Ticket Booths February 2014
3. The attached project schedule outlines the conceptual development plan for these Division II permits and request for Certificates of Conformance.







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

HEARING DATE: January 18, 2012

CASE NUMBER: 2011-0006A (Reconsideration of Condition # 9
Decision of Record Division III Permit #11-16)

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 a reconsideration
of the Board of Adjustment decision on Condition # 9
in order to modify this specific condition 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 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 November 16, 2011 the Board of Adjustment heard five (5) separate appeal applications, in which each of the applicants' appealed the Planning Commission's decision to approve Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC). The Board of Adjustment voted to deny each of these appeal applications by a unanimous vote of 4-0 with 1 abstention. The Board did **not** find, beyond a reasonable doubt, that there was an error of law that had been committed by the Taney County Planning Commission in the approval of Division III Permit # 2011-0016.

On November 16, 2011 the Board of Adjustment also heard an appeal application from the Branson Sports Entertainment Complex / Russell Cook seeking to modify specific conditions placed by the Planning Commission upon Division III Permit # 2011-0016 for the Branson Sports Entertainment Complex (BSEC). The Board of Adjustment voted to modify Condition Numbers 7, 8 and 10 of Division III Permit – Decision of Record. The Board further voted to deny the request of the Branson Sports Entertainment Complex to modify Condition Numbers 4 and 9 of Division III Permit # 2011-0016.

On December 21, 2011 the Board of Adjustment heard a request from the Branson Sports Entertainment Complex / Russell Cook requesting that the Board reconsider Condition Number 9 of the Decision of Record for Division III Permit #11-16. The Board of Adjustment voted to rehear Condition Number 9 on January 18, 2012 by a unanimous vote of 4-0 with 1 abstention. The Board based its decision to reconsider its original decision on Condition Number 9 upon new evidence that was presented (Sound Study – December 2011) that was not in existence at the time of the original hearing and felt that the applicant had demonstrated that a substantial injustice would result as a refusal to grant such a reconsideration request. The Board directed the Administrator to ensure that appropriate notice was given for the rehearing to be held on January 18, 2011.

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, the Branson Sports Entertainment Complex is seeking to modify Condition Number 9 placed by the Planning Commission upon the Decision of Record for Division III Permit # 2011-0016. Condition Number 9 currently states, **"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 upon 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."** The applicant is requesting that the language for Condition Number 9 be modified to state, **"Decibel readings at three of the four measuring stations shall not exceed a sound pressure level of a Leq 77 dBA and an Lmax of 83 dBA for Motorsports and Concert noise within ½ mile of the event location. Noise emitted by other sources, i.e. thunder, aircraft, fireworks and other off site influences shall be exempt."**

Taney County upon the receipt of a report indicating that the set levels have been exceeded shall issue a Notice of Violation to the owner / operator. The owner / operator shall have 60 days to present to Taney County a report identifying the cause and noise mitigation options to alleviate the reoccurrence."

The applicant submitted an additional Sound Study which was prepared in December of 2011, to the Board of Adjustment as new evidence submitted as a part of the reconsideration process.

As stated earlier, on November 16, 2011, the Board of Adjustment voted to modify Condition Number 8 of the Division III Permit - Decision of Record. This modified condition now requires the creation of a mutual agreement between the Branson Sports Entertainment Complex and Taney County which shall establish the specific criteria for the testing and monitoring of sound pressure levels.

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 seeking to modify Condition Number 9 placed by the Planning Commission on Division III Permit # 2011-0016 Decision of Record for the Branson Sports Entertainment Complex (BSEC). Condition Number 9 will be modified to state the following:

9. Decibel readings at three of the four measuring stations shall not exceed a sound pressure level of a Leq 77 dBA and an Lmax of 83 dBA for Motorsports and Concert noise within ½ mile of the event location. Noise emitted by other sources, i.e. thunder, aircraft, fireworks and other off site influences shall be exempt.

Taney County upon the receipt of a report indicating that the set levels have been exceeded shall issue a Notice of Violation to the owner / operator. The owner / operator shall have 60 days to present to Taney County a report identifying the cause and noise mitigation options to alleviate the reoccurrence.

BSEC Branson Sports Entertainment Complex

JANUARY 10, 2012

BOB ATCHLEY
ADMINISTRATOR
TANEY COUNTY PLANNING AND ZONING
P.O. BOX 383
FORSYTH, MISSOURI 65653

Re: *Request for Reconsideration
Condition No. 9
Branson Sports Entertainment Complex*

Dear Mr. Atchley:

This submittal is to provide you with the information regarding the Request for Reconsideration for Condition No. 9.

The new information being presented is as follows:

- Requested Language for Condition No. 9
- Sound Study prepared by HNTB for the proposed development (July, 2011)
- Additional Study (December 2011)
 - Study Base Map
 - 5 Car Sound Study
 - 10 Car Sound Study
 - 25 Car Sound Study
 - 33 Car Sound Study
 - 43 Car Sound Study
 - 43 Car Sound Study with Track at Elevation 1340
 - Concert

We appreciate the opportunity for this issue to be reconsidered, and look forward to a successful project. If you have any questions or need additional information, please feel free to contact me at (417) 225-2892.

SINCERELY,



TOM GAMMON
DIRECTOR OF DEVELOPMENT
BRANSON SPORTS ENTERTAINMENT COMPLEX



Request for Reconsideration of Condition No. 9 of the Decision of Record for the Branson Sports Entertainment Complex (BSEC)

Proposed Language Condition Number 9.

9. Decibel readings at three of the four measuring stations shall not exceed a sound pressure level of a Leq 77 dBA and an Lmax of 83dBA for Motorsports and Concert Noise within ½ mile of the event location. Noise emitted by other sources i.e. thunder, aircraft, fireworks and other off site influences shall be exempt.

Taney County upon the receipt of a report in exceeding the set levels shall issue a Notice of Violation to the owner/operator. The owner/operator shall have 60 days to present to Taney County a report identifying the cause and noise mitigation options to alleviate the reoccurrence.

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[®]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 ± 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
Page 3 of 3

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.

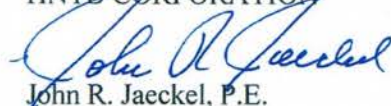
It is understood that the Taney County Planning and Zoning Commission is considering a noise restriction for the Branson Sports Entertainment Complex. In 2008 the Planning and Zoning Commission proposed a noise restriction of "83 decibels" based on event noise measurements at "2000' from the center of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



Track Location Selection:

The current track location and elevation was selected early in the project. Both the location and the elevation of the $\frac{3}{4}$ mile track were selected on the following criteria: cost of construction, ease of access and NOISE MITIGATION. The northeast orientation of the track is an industry standard. The elevation of the track was set at Elevation 1213. The two maps in this section illustrate the Noise Mitigation based solely upon the track elevation, as compared to the other prime track location elevation which would have been at Elevation 1340.



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, DECEMBER 21, 2011, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dave Clemenson called the meeting to order at 7:00 p.m. A quorum was established with five members present they were: Dave Clemenson, Bob Hanzelon, Dave Nelson, Tom Gideon, and Mark Weisz. Staff present: Bob Atchley and Bonita Kisse.

Mr. Atchley read a statement explaining the meeting procedures and placed the Taney County Development Guidance Code as Exhibit A, the staff report as Exhibit B, and the staff files including all pertinent information as Exhibit C, and the Board of Adjustment Bylaws as Exhibit D. The state statutes that empower and govern the Board of Adjustment were read.

Mr. Clemenson swore in the speakers before each hearing.

Public Hearings:

Branson Development, LLC: a request for a variance of the road right of way requirement through platted condo's to plat four residential lots located at Legend's Circle Branson Creek. Mr. Atchley read the staff report and presented pictures and a video of the site. Eddie Wolfe representing the applicant addressed questions from the Board. No one signed up to speak. Mr. Wolfe explained that the developer platted the property with less density than was originally approved by the Planning Commission. He stated that because of this there is not room for the roads. If the variance isn't granted there won't be any more room for the lots. There isn't enough room between the houses and the road to have a right of way or cul-de-sac. Mr. Hanzelon asked what kind of vehicles travel the roads. Mr. Wolfe answered that only the residents, school buses do not drive into the subdivision. Mr. Clemenson asked if the other portion of the property could meet the guidelines. Mr. Wolfe stated that it could and this is the only part of the development that can't meet the right of way requirements. Mr. Weisz asked if the property owners who lived there wished to get out of the condominium style of ownership. Mr. Wolfe stated that all of them do. After discussion a motion was made by Mark Weisz to approve based upon the decision of record. Seconded by Bob Hanzelon. Tom Gideon abstained. The vote to approve the motion carried.

Lianne Milton: a request for a variance to place a 6' fence along property line instead of a vegetative buffer as required by the Code on property located at 121 Yale Street. Mr. Atchley read the staff report and presented pictures and a video of the site, and reported that the Planning Commission had approved amendments to the Code regarding the vegetative buffer to be sent to the County Commission. Mr. Wolfe explained that because of the restraints of the property a wood fence would fit in better. There is a well in the corner of the property hindering parking and the vegetation. Plans are to seek approval of the Planning Commission to utilize this property as commercial, if the Board approves the variance. Mr. Weisz asked if the Milton's owned the sign, and pointed out this is already an established commercial use. Mr. Wolfe stated that they do own the sign. After discussion Dave Nelson made a motion to approve based upon the decision of record. Seconded by Bob Hanzelon. The vote to approve was unanimous.

Branson Sports Entertainment Complex: a request for a reconsideration of the Board's decision on condition numbers 4 and 9 of the July 18, 2011 Decision of Record. Mr. Clemenson stated that the vote on two of the items were a tie. Mr. Weisz stated at this point he would abstain from voting on this request and left the room. Spencer Jones with Great River Associates and Tom Gammon representing the applicant were sworn in by Mr. Clemenson. Mr. Jones gave a brief presentation explaining that condition #4 states that the developer must have all the infrastructure in place before a c of c is issued. Mr. Jones asked that the developer be allowed to place the required infrastructure for each phase during the Division II process as it is built. He gave a timeline for the required phase of the project. He stated that in his opinion the word all in the item could be misinterpreted. Mr. Gammon spoke to condition #9 and added that on item #4 they prepare a year ahead of time for events. Condition #9 addresses noise, Mr. Gammon stated that the decibel #68 should be defined at dba, and stated that this is unmanageable and cannot be complied with because it is unmeasurable. He compared this noise level to the decision of record for the Emory Creek Project and the decibels were set for 6 cars at a time and that this is not an equal comparison to BSEC's project. The cars at the Emory Creek project were 600 hp and their cars will be 800 hp with a higher decibel level. He presented a scale of the property showing where the decibels are expected to be and where single family dwellings fall within this site. Mr. Clemenson discussed the two reports presented both at the Planning Commission meeting and the Board of Adjustment meeting. Mr. Gammon stated that if this request is granted, there will be a study presented by BSEC. Mr. Hanzelon asked if the reason this project is asking for the reconsideration, is that there are no County provisions addressing these issues. Mr. Clemenson stated that in his opinion the Planning Commission has addressed the issues. Mr. Gideon stated that in his opinion the noise issue cannot be addressed because there are no County regulations governing it. Mr. Nelson discussed if the applicant had proven a hardship, then made a motion to approve the reconsideration of item #9. Tom Gideon seconded. The vote to approve the reconsideration request for #9 was unanimous. Condition #4 was discussed and Mr.

Gideon and Mr. Nelson both felt that this was not worded properly and that they were uncomfortable not having this information before the hearing. Mr. Gideon feels that it is a good idea to do the phasing and Mr. Nelson agreed and stated that the wording in his opinion is vague. With bringing the information back before the Board regarding each phase would be new information. Mr. Hanzelon asked where the triage building would be. Mr. Gammon explained where it would be, discussion followed. Mr. Gideon made a motion to rehear condition #4. Mr. Hanzelon seconded. The vote to rehear #4 was unanimous. Mr. Clemenson stated that this would nullify the previous decision on condition #4 and #9, and the staff will notify the public of the new hearing.

Review and Action:

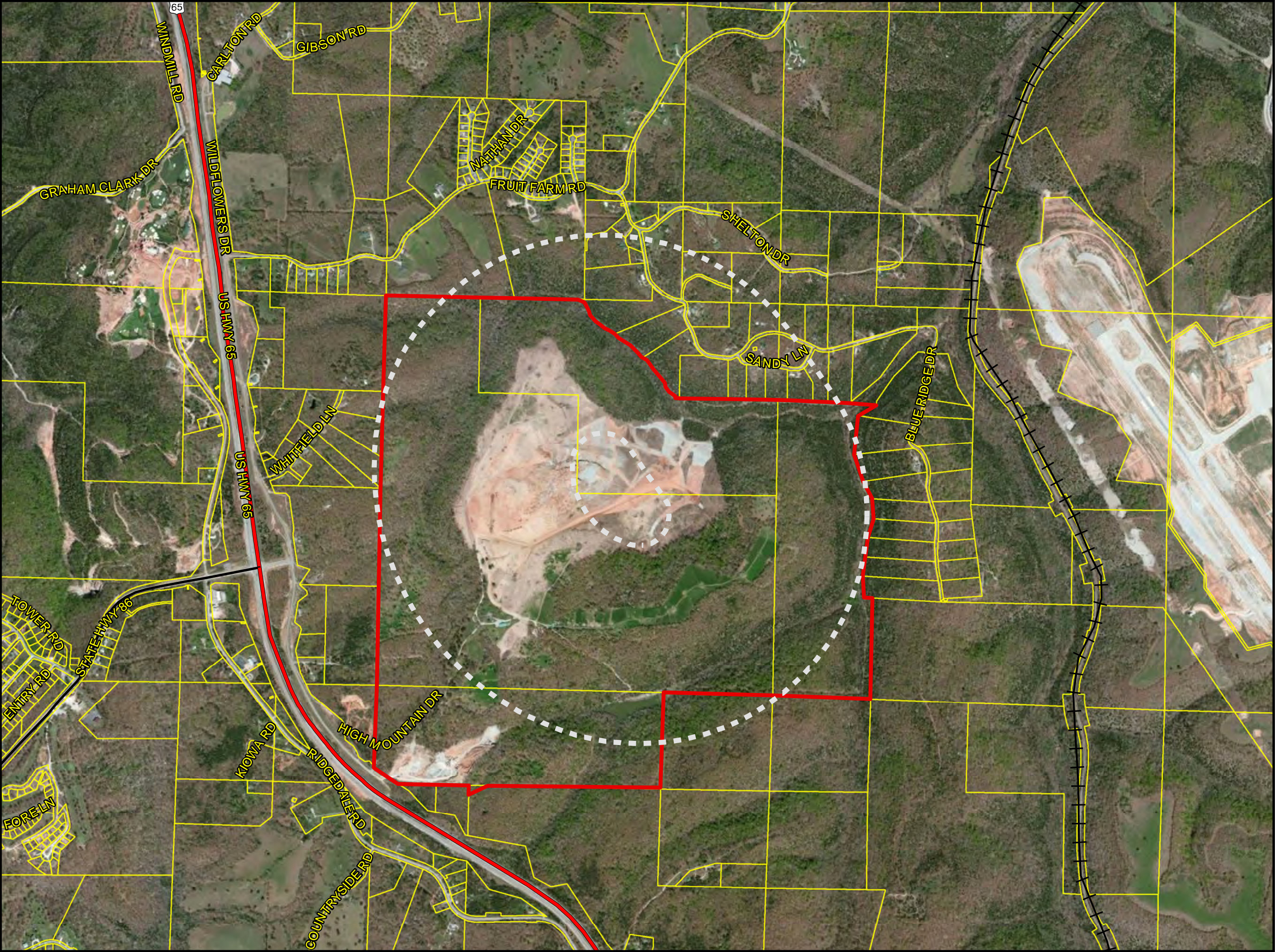
Minutes; November 2011, with no additions or corrections a motion was made by Dave Nelson to approve the minutes as written. Seconded by Tom Gideon. The vote to approve the minutes was unanimous.

Old and New Business:





Mr. Atchley reported to the Board that the Water Quality Lab has been placed under the Planning Department umbrella, and that the Sewer District would not be under the County after the first of the year.

Adjournment:

With no other business on the Agenda for December 21, 2011 the meeting adjourned at 7:55 p.m.



SOUND STUDY BASE

-  HalfMileBuffer_of_Track
-  Race Track Area
-  Railroad
-  Parcels

1 inch = 1,200 feet

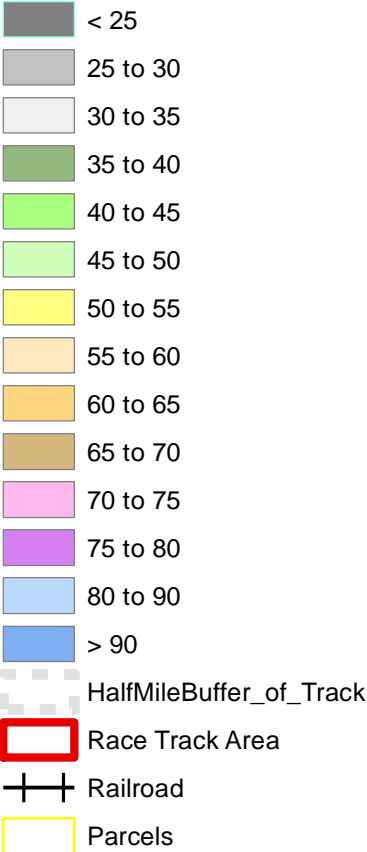
0 295 590 1,180 Feet



SOUND STUDY

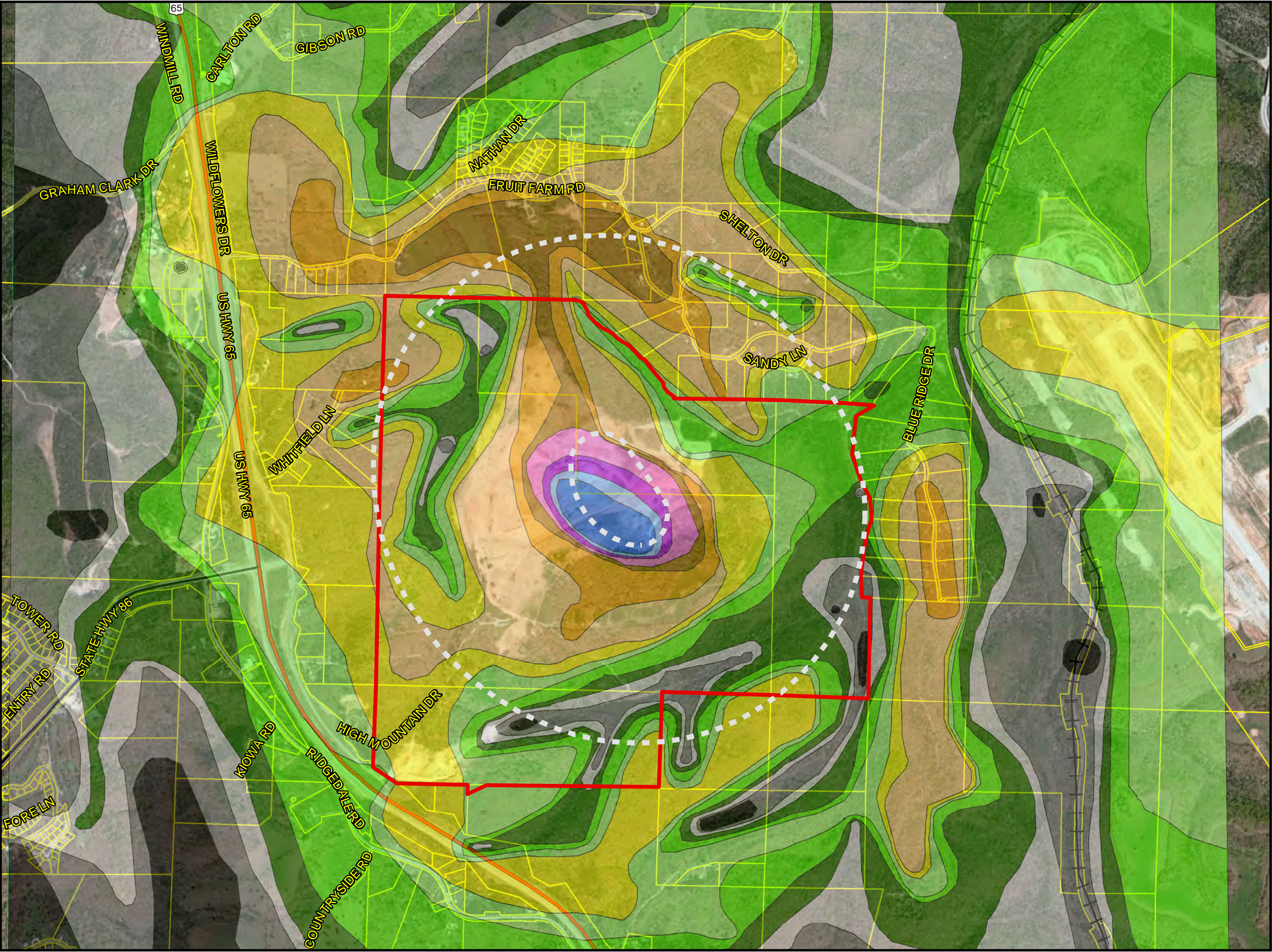
Proposed Track at 1213 Elev
Neutral Meteorological Cond.

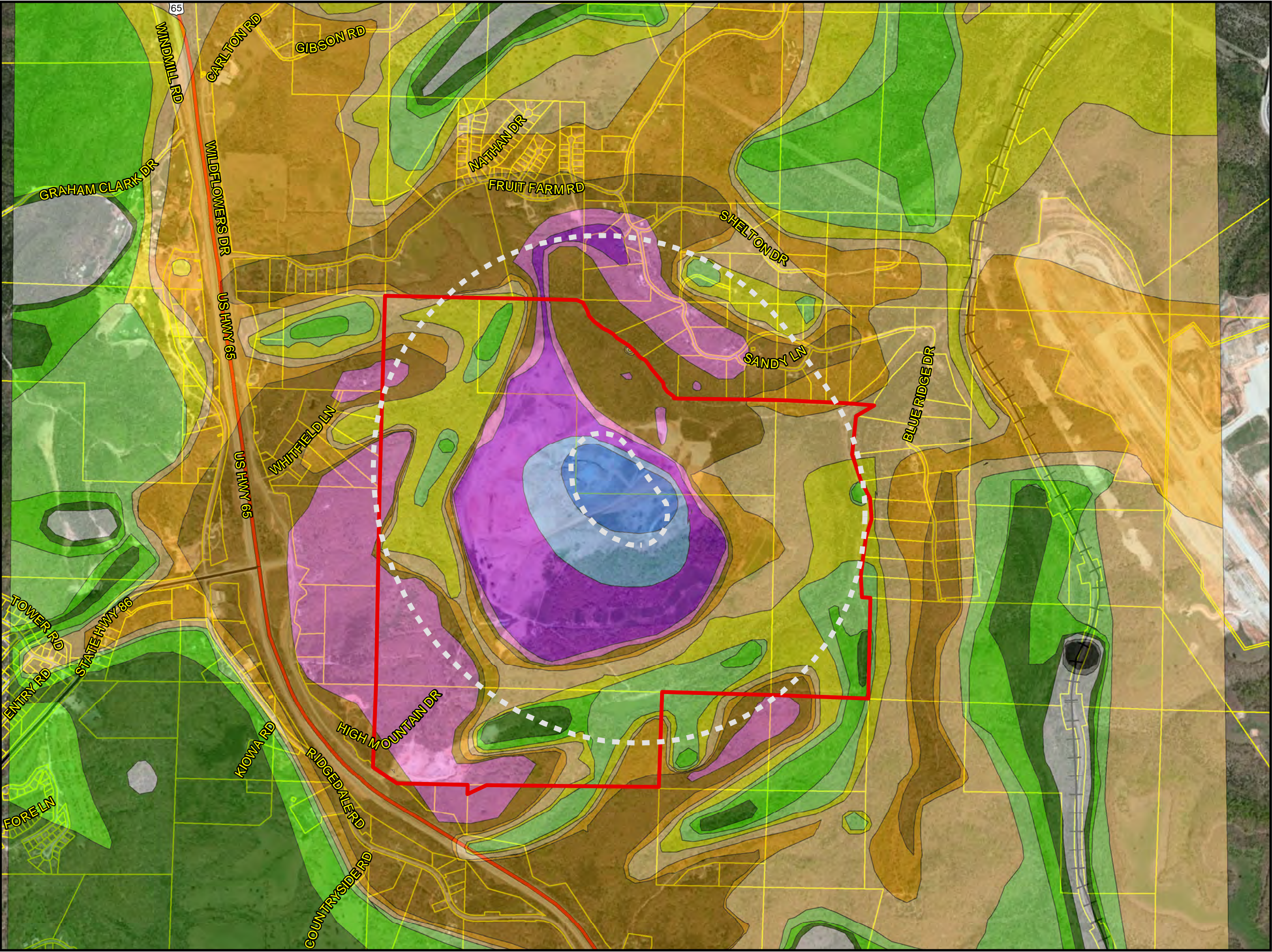
Concert dB(A), Leq



1 inch = 1,200 feet

0 295 590 1,180 Feet





SOUND STUDY

Proposed Track at 1340 Elev
Neutral Meteorological Cond.
800 hp vehicles

43 car dB(A), Leq

- < 25
- 25 to 30
- 30 to 35
- 35 to 40
- 40 to 45
- 45 to 50
- 50 to 55
- 55 to 60
- 60 to 65
- 65 to 70
- 70 to 75
- 75 to 80
- 80 to 90
- > 90

HalfMileBuffer_of_Track

Race Track Area

Railroad

Parcels

1 inch = 1,200 feet

0 295 590 1,180 Feet





SOUND STUDY

Proposed Track at 1213 Elev
Neutral Meteorological Cond.
800 hp vehicles

43 car dB(A), Leq

- < 25
- 25 to 30
- 30 to 35
- 35 to 40
- 40 to 45
- 45 to 50
- 50 to 55
- 55 to 60
- 60 to 65
- 65 to 70
- 70 to 75
- 75 to 80
- 80 to 90
- > 90

HalfMileBuffer_of_Track

Race Track Area

Railroad

Parcels

1 inch = 1,200 feet

0 295 590 1,180 Feet





SOUND STUDY

Proposed Track at 1213 Elev
Neutral Meteorological Cond.
800 hp vehicles

33 car dB(A), Leq

- < 25
- 25 to 30
- 30 to 35
- 35 to 40
- 40 to 45
- 45 to 50
- 50 to 55
- 55 to 60
- 60 to 65
- 65 to 70
- 70 to 75
- 75 to 80
- 80 to 85
- > 85

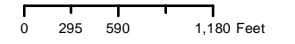
HalfMileBuffer_of_Track

Race Track Area

Railroad

Parcels

1 inch = 1,200 feet





SOUND STUDY

Proposed Track at 1213 Elev
Neutral Meteorological Cond.
800 hp vehicles

25 car dB(A), Leq

- < 25
- 25 to 30
- 30 to 35
- 35 to 40
- 40 to 45
- 45 to 50
- 50 to 55
- 55 to 60
- 60 to 65
- 65 to 70
- 70 to 75
- 75 to 80
- 80 to 85
- > 85

HalfMileBuffer_of_Track

Race Track Area

Railroad

Parcels

1 inch = 1,200 feet

0 295 590 1,180 Feet





SOUND STUDY

Proposed Track at 1213 Elev
Neutral Meteorological Cond.
800 hp vehicles

10 car dB(A), Leq

- < 25
- 25 to 30
- 30 to 35
- 35 to 40
- 40 to 45
- 45 to 50
- 50 to 55
- 55 to 60
- 60 to 65
- 65 to 70
- 70 to 75
- 75 to 80
- 80 to 85
- > 85

HalfMileBuffer_of_Track

Race Track Area

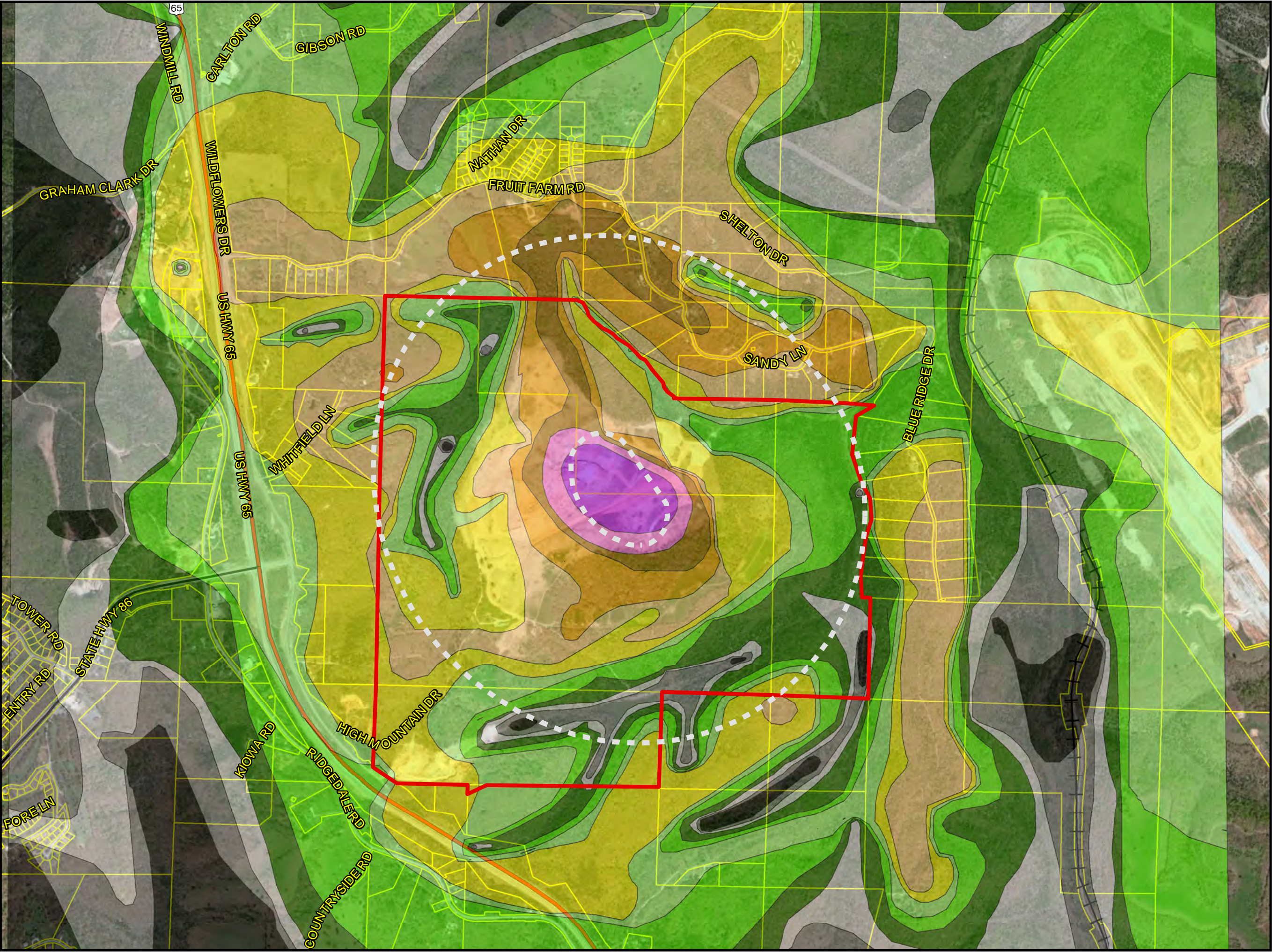
Railroad

Parcels

1 inch = 1,200 feet

0 295 590 1,180 Feet





SOUND STUDY

Proposed Track at 1213 Elev
Neutral Meteorological Cond.
800 hp vehicles

5 car dB(A), Leq

- < 25
- 25 to 30
- 30 to 35
- 35 to 40
- 40 to 45
- 45 to 50
- 50 to 55
- 55 to 60
- 60 to 65
- 65 to 70
- 70 to 75
- 75 to 80
- 80 to 85
- > 85

HalfMileBuffer_of_Track

Race Track Area

Railroad

Parcels

1 inch = 1,200 feet

0 295 590 1,180 Feet

