

PLANNING AND ZONING BOA MARCH 2006 PACKET

**AGENDA
TANEY COUNTY BOARD OF ADJUSTMENT
WEDNESDAY, MARCH 15, 2006, 7:00 P.M.
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM
TANEY COUNTY COURTHOUSE**

Call to Order:

*Establishment of Quorum
Explanation of Public Hearing Procedures
Presentation of Exhibits
Governing Statutes*

Public Hearings:

*James Wesley Godwin
Robert and Corrine Abel
Friendly Hills Property Owners Association
Robert Morrissey*

Old and New Business.

Review and Action:

Minutes, February 2006

Adjournment.

TANEY COUNTY PLANNING COMMISSION

STAFF REPORT

ROBERT V. & CORRINE A. ABEL

#06-5

Public Hearing for Robert and Corrine Abel located at 411 Santa Fe Ave. in the Branson Township Sec. 3 Twp. 22 Rng. 22.

The applicant's request to divide Lot 7 in the 1st Addition of Hummingbird Hills Estates into two lots.

History: The property contains an existing residence.

General Description: The subject property contains 2.43 acres and borders Santa Fe Ave. on the front and Starling Circle on the back. Starling Circle is not a finished road to the lot.

Review: The property is a long narrow lot and has the possibility of road frontage at both ends. The section with the residence is in the First Addition of Hummingbird Hills Estates and the other end is in the Second Addition of Hummingbird Hills Estates. The First Addition will consist of 1.48 acres and the Second Addition will consist of .95 acres. The .95 acres will be serviced by a private sewer treatment plant.

Summary: 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 as it applies to this request.
2. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

TANEY COUNTY BOARD OF ADJUSTMENT

STAFF REPORT

JAMES WESLEY GODWIN

#06-4

Public Hearing for James Wesley Godwin located at 162 Oak Knoll Dr. in the Branson Township Sec. 29 Twp. 23 Rng. 21.

The applicant requests an approval for a variance for a side setback requirement due to a lot split.

History: The parcel contains an existing residence and two apartment buildings.

General Description: The subject property contains 1.55 acres and is located off Bird Road and Oak Knoll Rd. The property is serviced by a private sewer treatment plant. The adjoining properties to the development consist of residential, a church, and multi-family.

Review: The request is for a variance due to the apartment building roof overhang would encroach over the side set back 2.18' at the south corner and 1.67' at the north corner. Additionally, the garage at it's northeast corner will encroach 2.78' to the property line if the property is split.

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

1. Compliance with the provisions of the Taney County Development Guidance Code that apply to this request.
2. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

TANEY COUNTY BOARD OF ADJUSTMENT

STAFF REPORT

FRIENDLY HILLS PROPERTY OWNERS ASSOCIATION

#06-1

Public Hearing for Friendly Hills Property Owners Association, located 265 Gunner Hills Road, in the Branson Township, Sec. 10 Twp. 22 Rng. 22.

The applicants, request an appeal of the approval by the Planning Commission for a 345-unit condominium timeshare project under the name of Greer Condominiums.

History: Approved by the Planning Commission on January 17, 2006 under the name of Tri-Lakes Properties LLC.

General Description: The subject property contains 19.4 acres accessed from Gunner Hill Road and and State Hwy. 265 across from Animal Safari Road. The adjoining properties to the development consist of residential and undeveloped.

Review: The site will consist of 345 units with lockouts, which will be sold as timeshares, and a condominium hotel, and 524 parking spaces.

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

1. Permit #05-61 issued to Greer Condominiums, LLC will be revoked.
2. This Decision of Record shall be filed with the with the Taney County Recorder's Office within 120 days or the approval shall expire.

TANEY COUNTY BOARD OF ADJUSTMENT

STAFF REPORT

ROBERT D. MORRISSEY

#06-3

Public Hearing for Robert Morrissey located at Park Place Dr. Lot 16A Big Bear Estates in the Oliver Township, Sec. 36 Twp. 22 Rng. 22.

The applicant Robert D. Morrissey requests a variance of 18' from the Taney County Development Guidance Code front setback requirements and from the frontage requirements.

General Description: The property contains 5,334 sq. ft. and is a triangular shaped lot at the end of Park Place Dr.

Review: The property is shaped in such a way that it would make construction of a house difficult, and the lot slopes toward the back. Telephone poles and lines border two of the three sides of the triangular shaped property. The street dead ends at the site.

Summary: 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. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire.

**MINUTES
TANEY COUNTY BOARD OF ADJUSTMENT
WEDNESDAY, JANUARY 18, 2006, 7:00 P.M.
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM
TANEY COUNTY COURTHOUSE**

Call to Order:

Chairman Dave Clemenson called the meeting to order at 7:00 p.m. A quorum was established with three members present. They were: Dave Clemenson, Bob Anderson, and Alan Lawson. Staff present: Kurt Larsen, Bonita Kisee, Larry Rowland, and Bob Paulson. Mr. Clemenson gave the applicants the opportunity to table until a full board is present. No one chose to do so. Bob Anderson made a motion to postpone the election of officers for 2006 until next meeting when all members are present. Alan Lawson seconded. The vote to postpone the election was unanimous.

A statement explaining the meeting procedures was read and the Taney County Development Guidance Code was placed into evidence as Exhibit A, the Staff Report as Exhibit B, and the staff files, including all pertinent information, as Exhibit C, and the Taney County Board of Adjustment bylaws as Exhibit D. The State Statutes that empower and govern the Board of Adjustment were read. The speakers were sworn in before each case was heard. Mr. Paulson excused himself during the Besser case, because as a resident of the area, he had received a notice of the request and is opposed to it.

Public Hearings:

Friendly Hills Property Owners: a request for reconsideration of the decision of the board of Adjustment taken at the December 2005 meeting to void the original permit for the construction of a condominium project, the Majestic at Table rock, LLC. Mr. Clemenson polled the members if they wanted to hear the reconsideration. Mr. Anderson asked for an update on this request. Discussion followed. After discussion the Board decided unanimously not to reconsider this decision.

Randall Besser: a request for appeal of the Taney County Planning Commission decision of December 18, 2005 to deny a request to operate a restaurant. Harry Styron attorney representing Mr. Besser, offered to wait until last for this project so the Friendly Hills Project could be heard first. After discussing the Friendly Hills project, Mr. Larsen read the staff report and

presented pictures and a video of the Besser site. Two property owners signed up to speak. Mr. Styron presented the case, and handed out applicant's Exhibit A, which was the original decision of record for Holiday Hills, and Country Club Heights. He proceeded to discuss each of the approvals. Mr. Styron pointed out that right across the street was a multi-use development and to deny Mr. Besser a 30 seat restaurant is not treating him fairly. Mr. Styron stated that in his opinion the guidelines of the point system as addressed in the development code was not followed. Mr. Larsen stated that the point system had not been used since 1996 and was not used for Holiday Hills or Country Club Heights and explained why it was no longer used. A petition was presented by Mr. Oliver a property owner opposing the request, who voiced concerns regarding traffic safety, noise and sight nuisance, compatibility, property values, road conditions, smell, adequate water and wastewater. Bob Paulson addressed the Board regarding case law as it applies to the decision of the Planning Commission. He pointed out the section of the Code, which addresses compatibility factors and stated that commercial uses are not compatible with residential uses. His concern was that if this property is rezoned there is nothing to prevent another more detrimental business to be operated there in the future. Also he pointed out that if approval for this use was given, precedence would be set for the rest of the subdivision. Mr. Styron addressed the concerns of Mr. Paulson and Mr. Oliver. Discussion followed. Bob Anderson made a motion to deny the appeal on grounds that sufficient evidence had not been presented to prove compatibility. Alan Lawson seconded. The vote to deny the appeal was unanimous.

Old and New Business:

Mr. Pennel made the Board aware that the Planning Commission discussed a new master plan, and that Feb. 27, 2006, Diane May, would discuss master planning at a joint open meeting. He also reported that building codes will be placed on the April 2006 ballot. Discussion followed. Mr. Pennel also reported that Mr. Larsen is now the Administrator, and this day someone was hired to replace Kurt as the Division II Inspector.

Having an alternate member was discussed. Mr. Paulson reported that there is no provision in the State Statutes allowing this.

Review and Action:

Minutes, December 2005: with no additions or corrections a motion was made by Bob Anderson to approve the minutes as written. Seconded by Alan Lawson. The vote to approve was unanimous.

Adjournment:

With no other business on the agenda for January 18, 2006 a motion was made by Bob Anderson to adjourn. Seconded by Alan Lawson. The vote to adjourn was unanimous. The meeting adjourned at 8:10 p.m.