



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, NOVEMBER 18, 2015, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum

Governing Statutes

Explanation of Public Hearing Procedures/Presentation of Exhibits

Public Hearings:

Maple Hill Ceramics

Asher Holdings, LLC

Gary Loyd

Daryl Soukup

Review and Action:

Minutes; July 15, 2015

October 21, 2015

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT SETBACK VARIANCE STAFF REPORT

HEARING DATE: November 18, 2015

CASE NUMBER: 2015-0010V

APPLICANT: Thellsia Surber

REPRESENTATIVE: Freeman Payne

LOCATION: The subject property is located in the 9009 U.S. Highway 160, Walnut Shade, MO; Jasper Township; Section 34, Township 24, Range 21.

REQUEST: The applicant, Thellsia Surber is requesting variances from Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. The applicant is requesting a variance from the required 50' front property line setback requirement (State or Federal Highway) and also the 7' side of lot setback requirement, in order to allow for the construction of a new 35' x 70' (2,450 square foot) building to be utilized in conjunction with the existing Maple Hill Ceramics business. The applicant is requesting a 25' front setback variance allowing the new structure to be constructed 25' from the front property line. The applicant is requesting a 7' side setback variance allowing the new structure to be built up to the southwest side property line at the corner of the building. The representative has indicated that the new building will be utilized for storage and classroom space and will include additional restrooms.

BACKGROUND, SITE HISTORY and GENERAL DESCRIPTION:

The subject property is +/- 1.35 acres in size (per the Assessor's information - Beacon) and is described as all of Lots Two (2) and Three (3) of Plats 9, 11 and 12 Bull Creek Valley Camp Subdivision. The replat of Bull Creek Valley Camp Subdivision was filed with the Recorder of Deeds office on May 17, 1960.

The property in question contains the Maple Hill Ceramics building, which was constructed in 1957 (per the Assessor's information - utilizing Beacon) and also the applicant's mobile home which was placed on-site in 2005 (per Beacon).

REVIEW:

The applicant, Thellsia Surber is requesting a 25' front property line setback variance, in order to allow for the construction of a 35' x 70' (2,450 square foot) building, 25' from the front property line. The proposed new building would be in line with the existing Maple Hill Ceramics structure. The applicant is further requesting a 7' side of lot setback variance allowing the new building to adjoin the southwest side property line at a single point.

Section 7.1 of the Development Guidance Code requires, ***"Measurements to the structure shall be made to the part of the structure that is closest to the property line. As an example, if the structure has a roof with an overhang, the measurement is made to the overhang and not the foundation of the wall of the structure."***

The applicant and representative have indicated that the setback variance is being requested due to both the location of the existing septic system and propane tank (immediately behind the existing Maple Hill Ceramics building) and also due in large part to the topographic concerns of the property in question. The property in question drops off sharply from the area behind the two structures to the rear of the lot.

The applicant has recently had both the property and the location of the existing building surveyed. At its closest point the existing building is approximately 25' from the front property line.

As indicated by the representative, should the setback variance be granted the new building would fall in line with both the existing building and also other buildings in the area.

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."

STAFF RECOMMENDATIONS:

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

1. Approval a setback variance of 25 feet from the front property line adjoining U.S. Highway 160, allowing for the construction of a new Maple Hill Ceramics building which will be located 25 feet from the front property line.
2. Approval a setback variance of 7 feet from the southwest side property line, allowing for the construction of a new Maple Hill Ceramics building which will adjoin the western property line at one (1) location.
3. Compliance with all of the other provisions of the Taney County Development Guidance Code.
4. 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 8/26/15

Applicant Thellisa Scarber/Maple Hill Ceramics Phone 417-561-8166

Address, City, State, Zip 9009 Hwy 160 Walnut Shade MO 65771

* Representative Freeman Payne Phone 417-838-3039

Owner of Record Thellisa Scarber Signature: Thellisa Scarber

Name of Project: Maple Hill Ceramics Building Project Setback Variance

Section of Code Protested: (office entry) Section 7, Table 1 (Setbacks) Development Code

Address and Location of site: 9009 Hwy 160 Walnut Shade MO 65771

Parcel ID 05-8.0-34-000-000-040.000

Subdivision (if applicable) Bull Creek Valley Camp

Section 34 Township 24 Range 21 Number of Acres or Sq. Ft. 1.35 Acre

Parcel Number ID 05-8.0-34-000-000-040.000

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:

We are requesting a Variance from the 50' Setback. The Current building located on the property is Approx 25' from the Property line. The variance requested is About 25 Feet.

The Variance is requested due to the existing septic system, the location of Propane tank and most importantly the Step grade behind where the building will be located.

The Front of the New building will be in line with the Front of the Existing building and other buildings in the Area.

VERIFICATION

In signing this application, I fully understand, and will comply with, the responsibilities given me by the Taney County Development Guidance Code. I certify that all submittals are true and correct to the best of my knowledge and belief, and that my request may or may not be approved by the Taney County Planning Commission's Board of Adjustment.

Thellia Susher

Signature of Applicant

Thellia Susher

8-26-2015

Date of Application

STATE OF MISSOURI)

S.S. On this 26th day of Aug., 2015.

COUNTY OF TANEY)

Before me Personally appeared Thellia Susher, to me know to be the person described in and who executed the foregoing instrument.

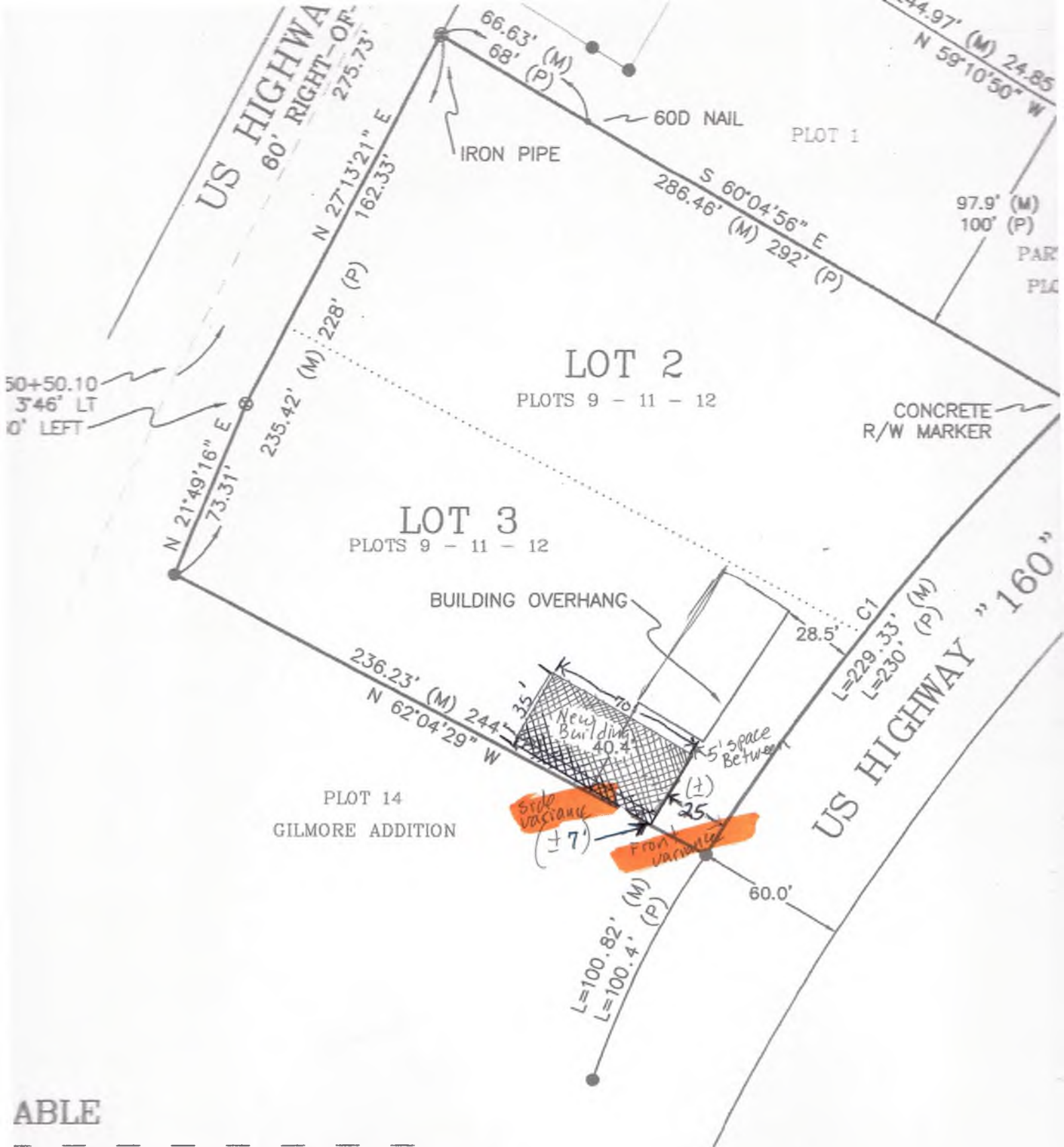
In testimony Whereof, I have hereunto set my hand and affixed my official seal, at my office in Forsyth, Mo. The day and year first above written. My term of office as Notary Public will expire 2/6/2018.

Bonita Kisse-Soutee

Bonita Kisse-Soutee, Notary Public



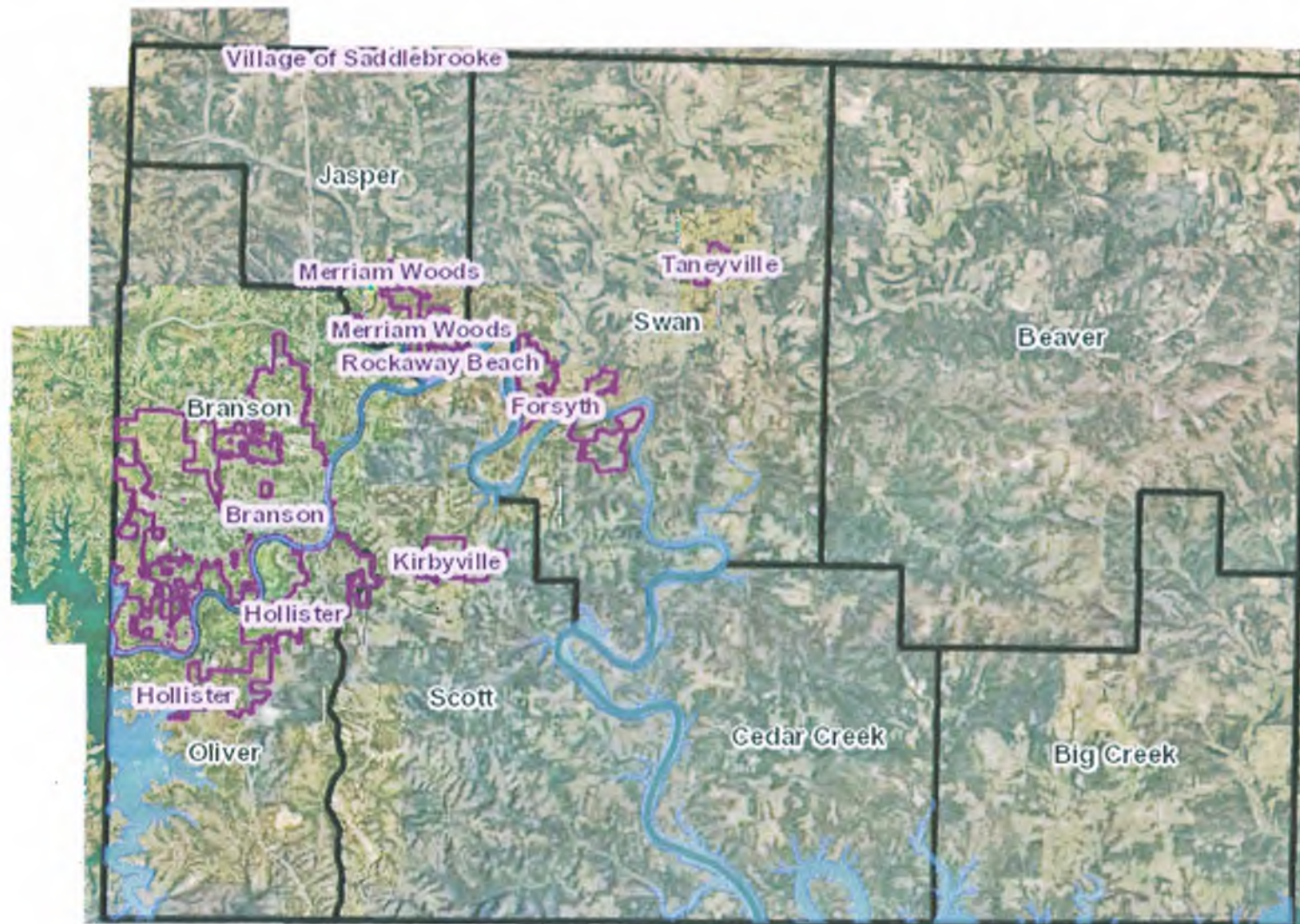
BONITA KISSE-SOUTEE
My Commission Expires
February 6, 2018
Taney County
Commission #19440057



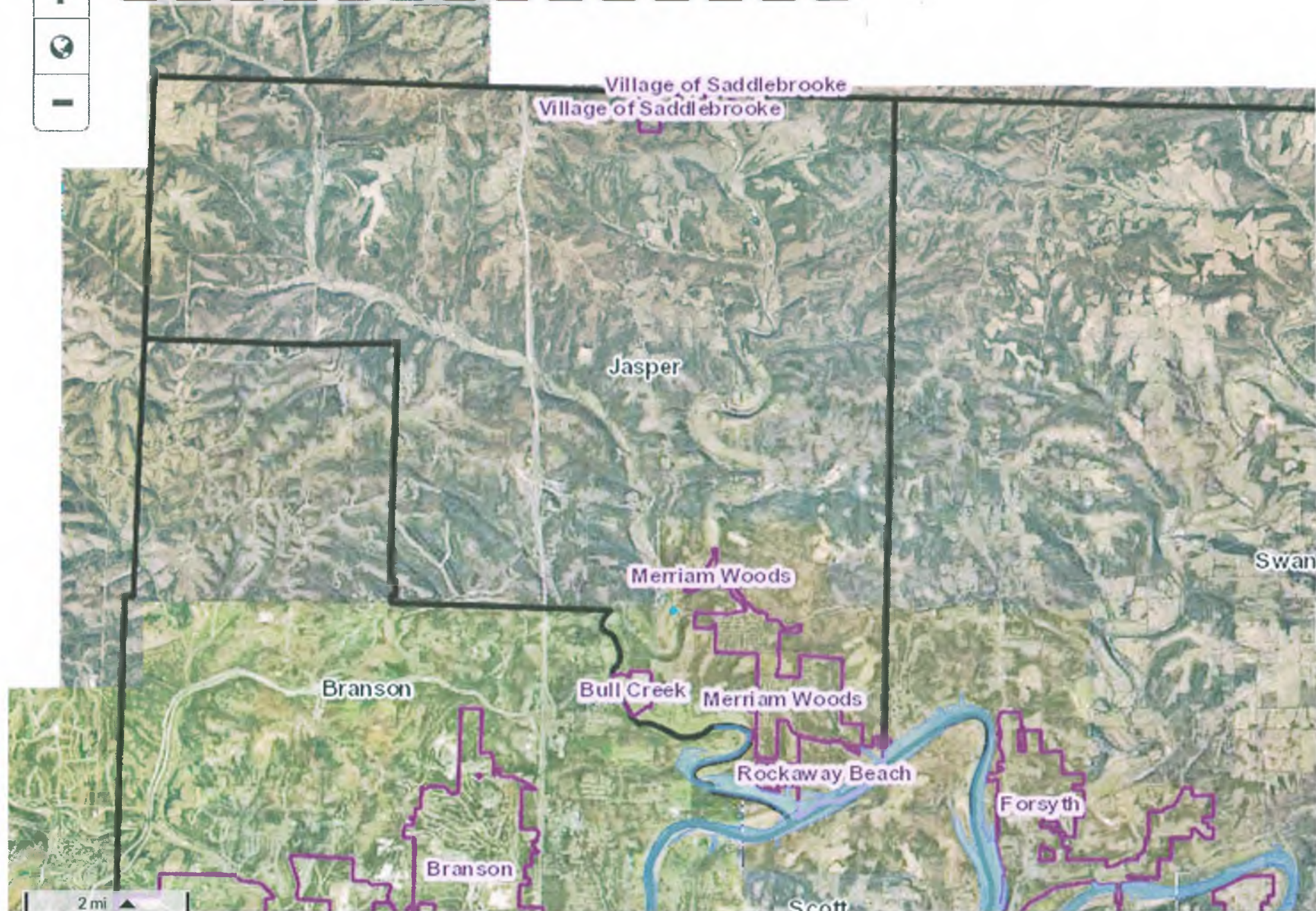
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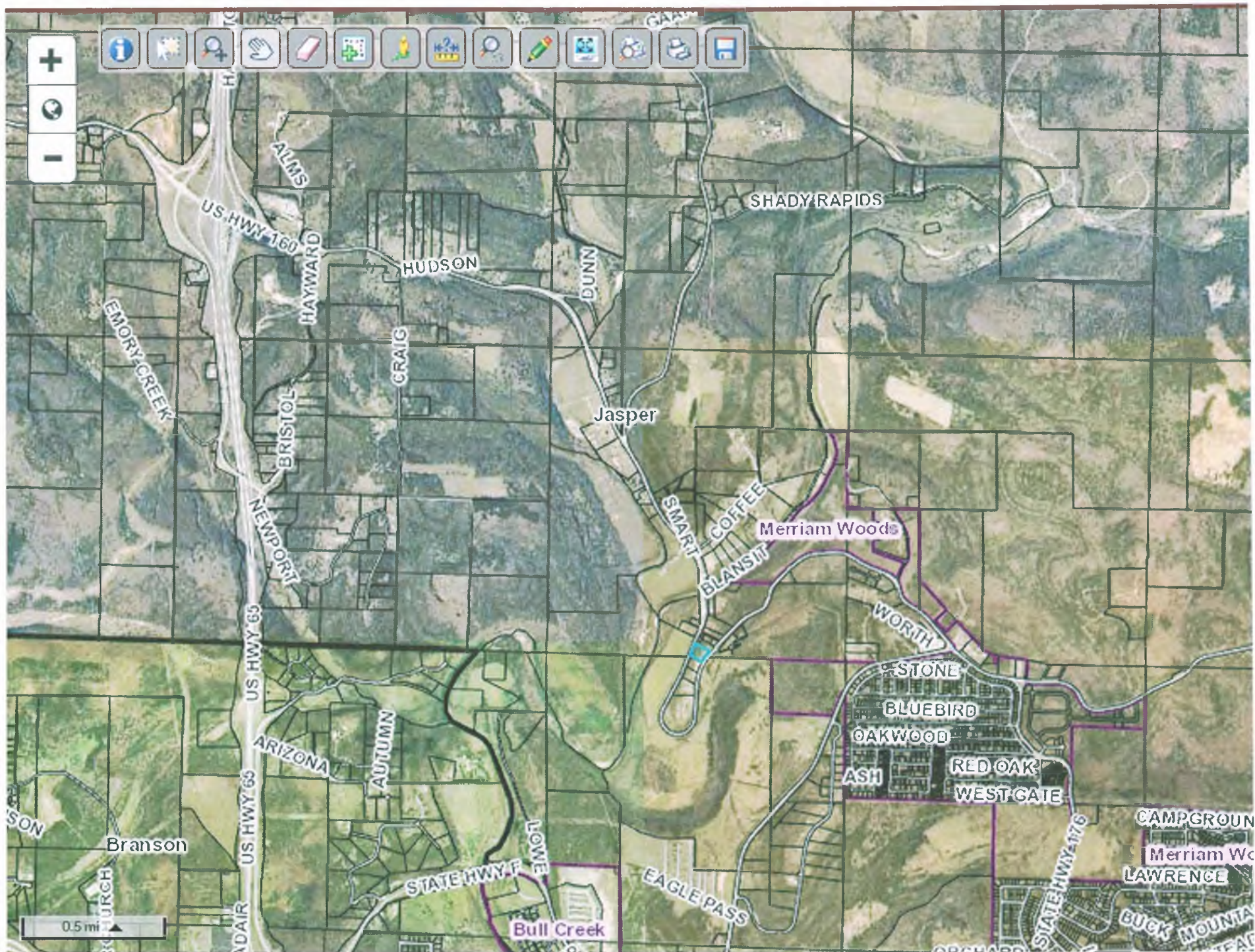
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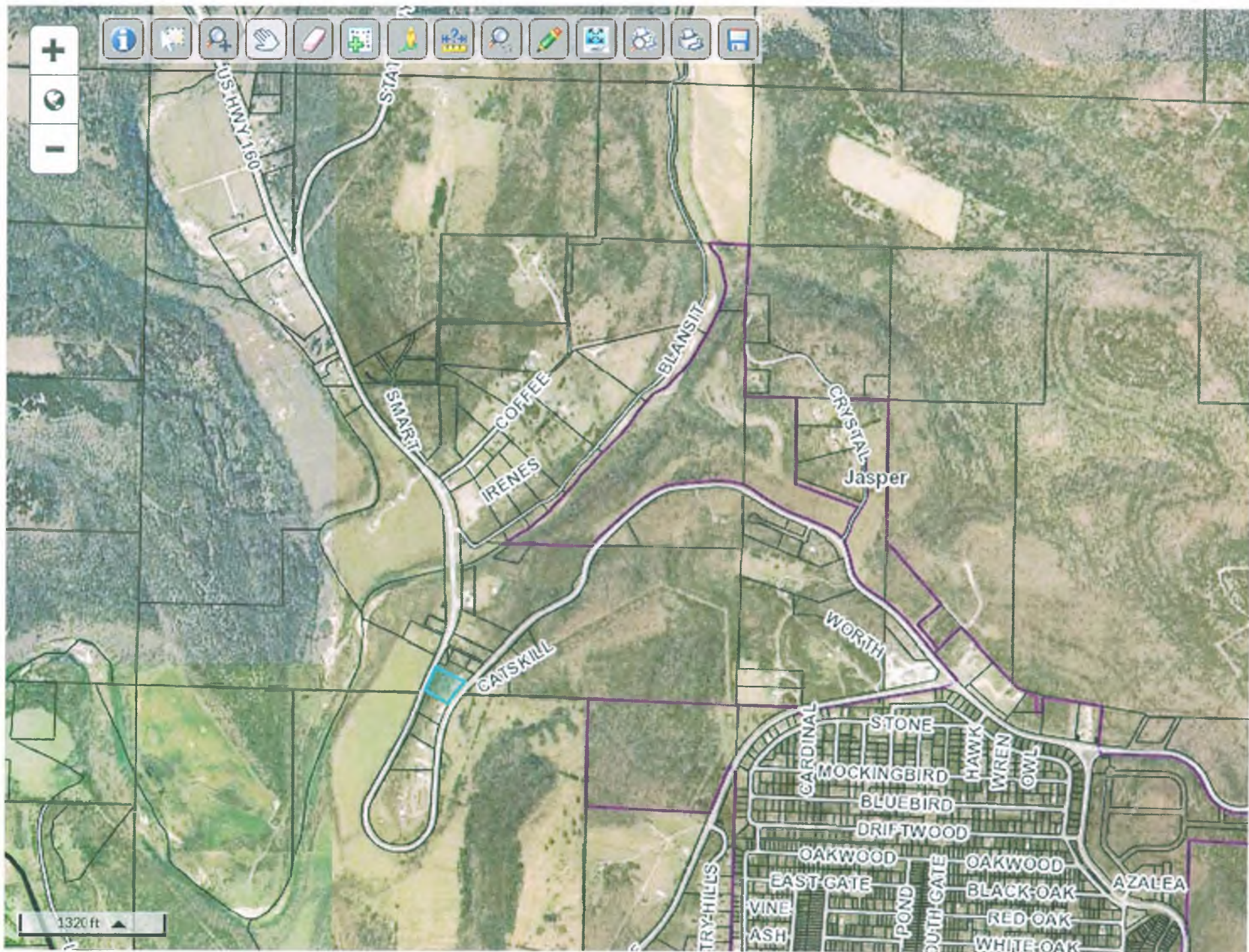


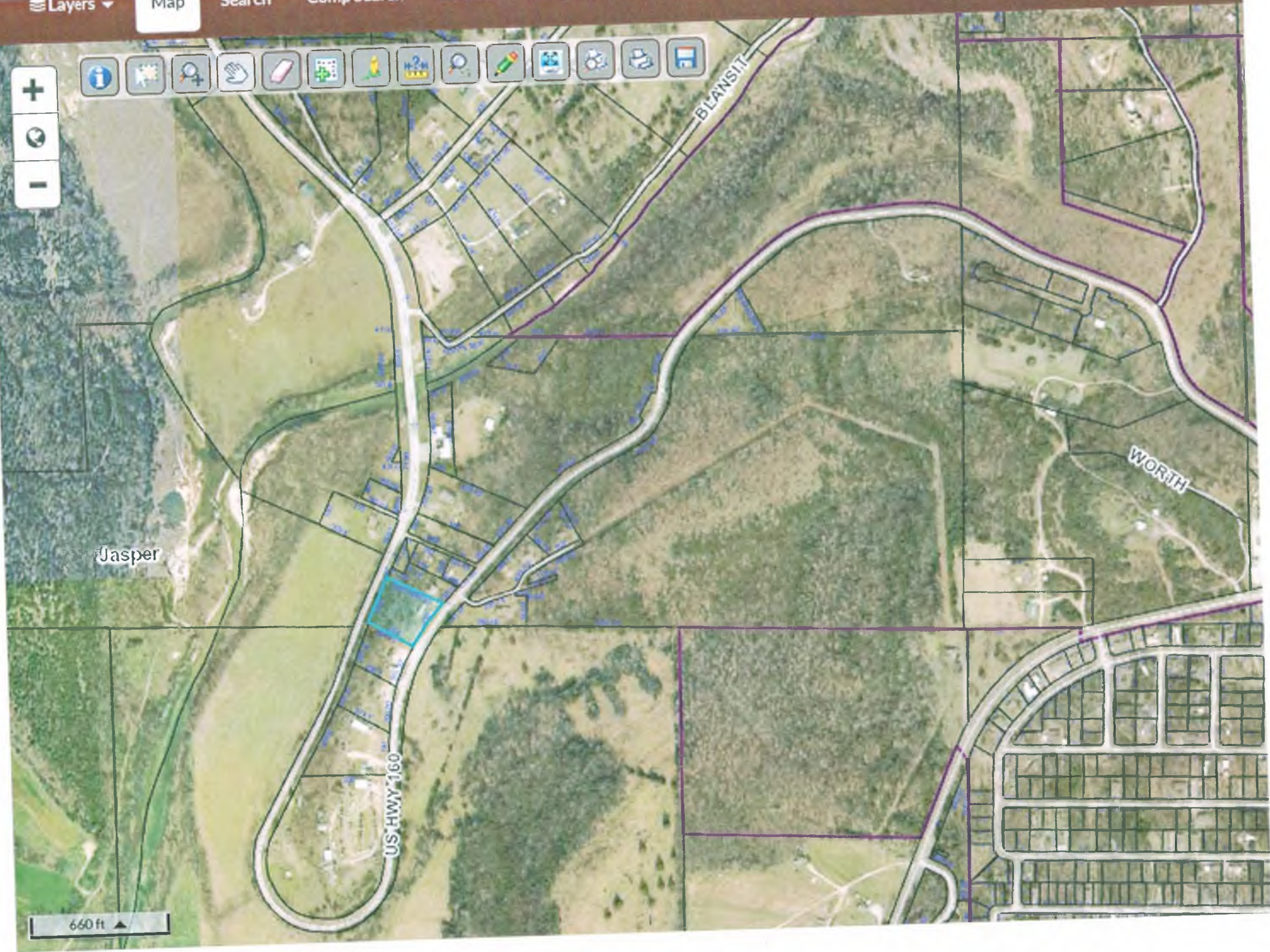


**Maple Hill Ceramics – Thellsia Surber
Board of Adjustment Variance Case # 2015-0010V
Taney County GIS - Beacon**

















**Maple Hill Ceramics – Thellsia Surber
Board of Adjustment Variance Case # 2015-0010V
Pictometry – View from North**



**Maple Hill Ceramics – Thellsia Surber
Board of Adjustment Variance Case # 2015-0010V
Pictometry – View from South**



**Maple Hill Ceramics – Thellsia Surber
Board of Adjustment Variance Case # 2015-0010V
Pictometry – View from East**

**Maple Hill Ceramics –
Thellsia Surber
Board of Adjustment
Variance Case # 2015-
0010V
Pictometry – View from
West**













TANEY COUNTY BOARD OF ADJUSTMENT SETBACK VARIANCE STAFF REPORT

HEARING DATE: November 18, 2015

CASE NUMBER: 2015-0011V

APPLICANT: Chad Ellis – Asher Holdings, LLC

LOCATION: The subject property is located at 325 Mesquite Drive, Branson, MO; Branson Township; Section 23, Township 23, Range 22.

REQUEST: The applicant, Chad Ellis is requesting a variance from Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. The applicant is requesting a variance from the required 25' front property line setback requirement (county & subdivision roads), in order to allow for the construction of a new single-family residence. The applicant is requesting an 8' front setback variance, allowing the new structure to be constructed 17' from the front property line.

BACKGROUND, SITE HISTORY and GENERAL DESCRIPTION:

The subject property is +/- 0.28 acres (12,196.80 sq. feet) in size (per the Assessor's information - Beacon) and is described as all of Lot 231, Horizon Hills Subdivision Neighborhood One, Phase 8B.

On September 16, 2015 Division I Permit # 2015-0119 was issued authorizing the construction of a 2,000 sq. foot single-family residence, to be located at 325 Mesquite Drive, Branson, MO (Lot 231, Horizon Hills Subdivision Neighborhood One, Phase 8B).

On September 25, 2015 the applicant applied for the setback variance. The applicant indicated that he was seeking a setback variance because the basement area had been excavated and the footers had been poured based upon the 25' front setback measurement being taken from the edge of the road surface versus the property / road right-of-way line.

On September 30, 2015 a Board of Adjustment public hearing sign was posted on-site and a video was produced showing the property in question. During this on-site visit the staff noted that the basement area had been excavated and a construction crew was assembling the forms, allowing for the foundation to be poured.

On October 2, 2015 a Stop Work Order and Revocation of Division I Permit # 2015-0119 was issued to Mr. Ellis, upon receipt of a complaint from the City of Branson indicating that the foundation was being poured prior to the approval of a setback variance. The Planning Staff has indicated to Mr. Ellis that all construction activities are to cease until such time that either the setback requirements are met or the setback variance is approved by the Board. Mr. Ellis has indicated to the staff that he had no intention of continuing construction beyond the pouring of the foundation, until such time that a setback variance is granted.

REVIEW:

The applicant, Chad Ellis – Asher Holdings, LLC is requesting an 8' front property line setback variance, in order to allow for the construction a new single-family residence, which would be located approximately 17' from the front property line.

Section 7.1 of the Development Guidance Code requires, ***“Measurements to the structure shall be made to the part of the structure that is closest to the property line. As an example, if the structure has a roof with an overhang, the measurement is made to the overhang and not the foundation of the wall of the structure.”***

The applicant has indicated that he solely misunderstood the setback requirement, which he understood as being 25' from the road surface versus being 25' from the front property / road right-of-way line. The applicant has indicated the basement area was excavated and the footers poured based upon the 25' distance from the road surface.

The applicant has stated that based upon the steepness of the slope of this lot, the required 25' front setback from the front property line would either make the lot unbuildable or the drive would be set well below the grade of the adjoining roadway. The property in question drops off sharply from the road to the rear of the lot.

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.”

STAFF RECOMMENDATIONS:

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

1. Approval a setback variance of 8 feet from the front property line adjoining Mesquite Drive, allowing for the construction of a new single-family residence which will be located 17 feet from the front property line.
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 Taney County Development Guidance Code).

#15-11

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

(Circle one)

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

PLEASE PRINT

DATE 9-22-15

Applicant Chad Ellis Asher Holdings, LLC Phone (417) 598-9077

Address, City, State, Zip 119 Grand Summit PT Branson, Mo 65616

Representative Chad Ellis Phone (417) 598-9077

Owner of Record Asher Holdings, LLC Signature: Chad Ellis

Name of Project: Front Setback Variance

Section of Code Protested: (office entry) Section 7, Table 1 (Setbacks)

Address and Location of site: 325 Mesquite Dr. Branson Mo 65616

Subdivision (if applicable) Horizon Hills

Section 23 Township 23 Range 22 Number of Acres or Sq. Ft. .28 Acres

Parcel Number 07-6.0-23-001-010-004.000

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.

Dear BOA,

I'm seeking an 8' variance setback at 325 Mesquite Dr, Branson Mo in the Horizon Hills subdivision. I solely misunderstood the setback for 25' from the road instead of the property line. We have dug out for a basement and have poured footers based on the 25' from the road setback and the front of the house would actually be 30' feet from the road and instead of the required 35'. However, based on the steepness of the slope of this lot, the required 35' foot setback would not make the lot buildable or the drive would set way below the grade of the road. I would greatly appreciate your consideration in this, because of the amount of funds are ready spent.

Thanks,

Chad Ellis
Asher Holdings, LLC

VERIFICATION

In signing this application, I fully understand, and will comply with, the responsibilities given me by the Taney County Development Guidance Code. I certify that all submittals are true and correct to the best of my knowledge and belief, and that my request may or may not be approved by the Taney County Planning Commission's Board Of Adjustment.

[Signature]
Signature of Applicant

9/25/15
Date of Application

STATE OF MISSOURI)

S.S. On this 25th day of September, 2015

COUNTY OF TANEY)

Before me Personally appeared Zamery Chael Ellis, to me known to be the person 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, Mo. The day and year first above written. My term of office as Notary Public will expire 2/6/2014.

4-27-2016

[Signature]
~~Bonita Kisse~~, Notary Public

Sara Perryman

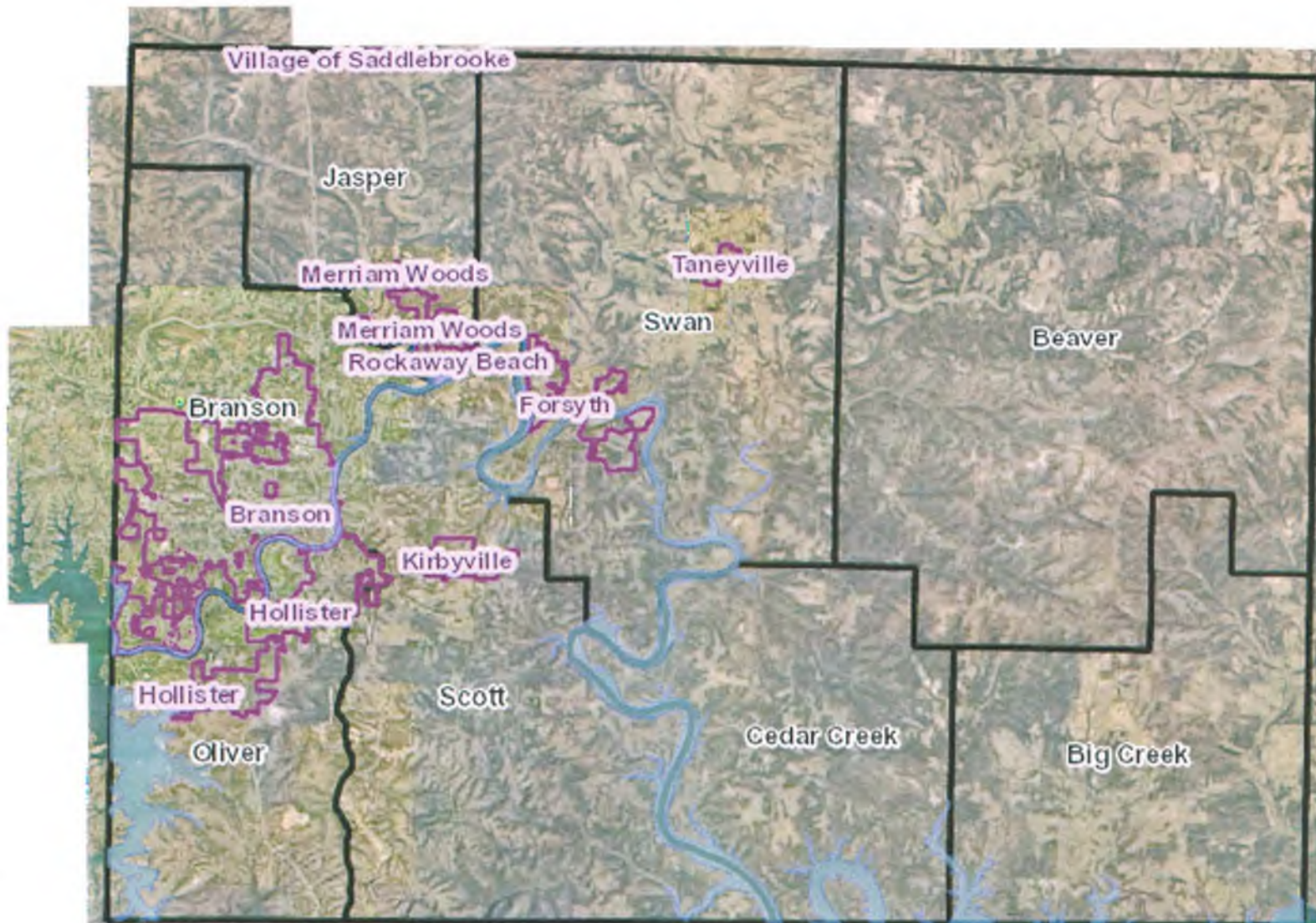


SARA PERRYMAN
My Commission Expires
April 27, 2016
Taney County
Commission #12544027

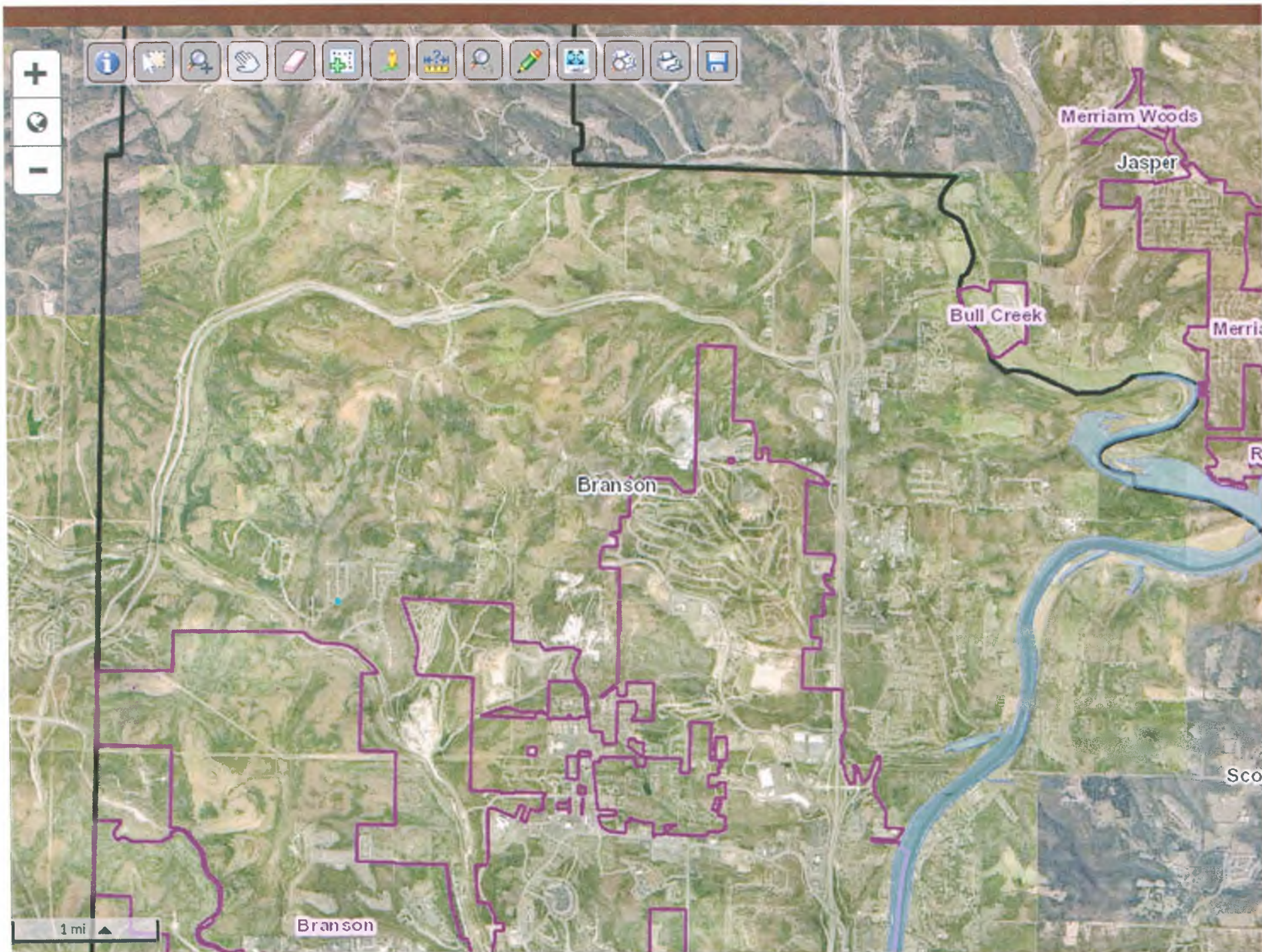


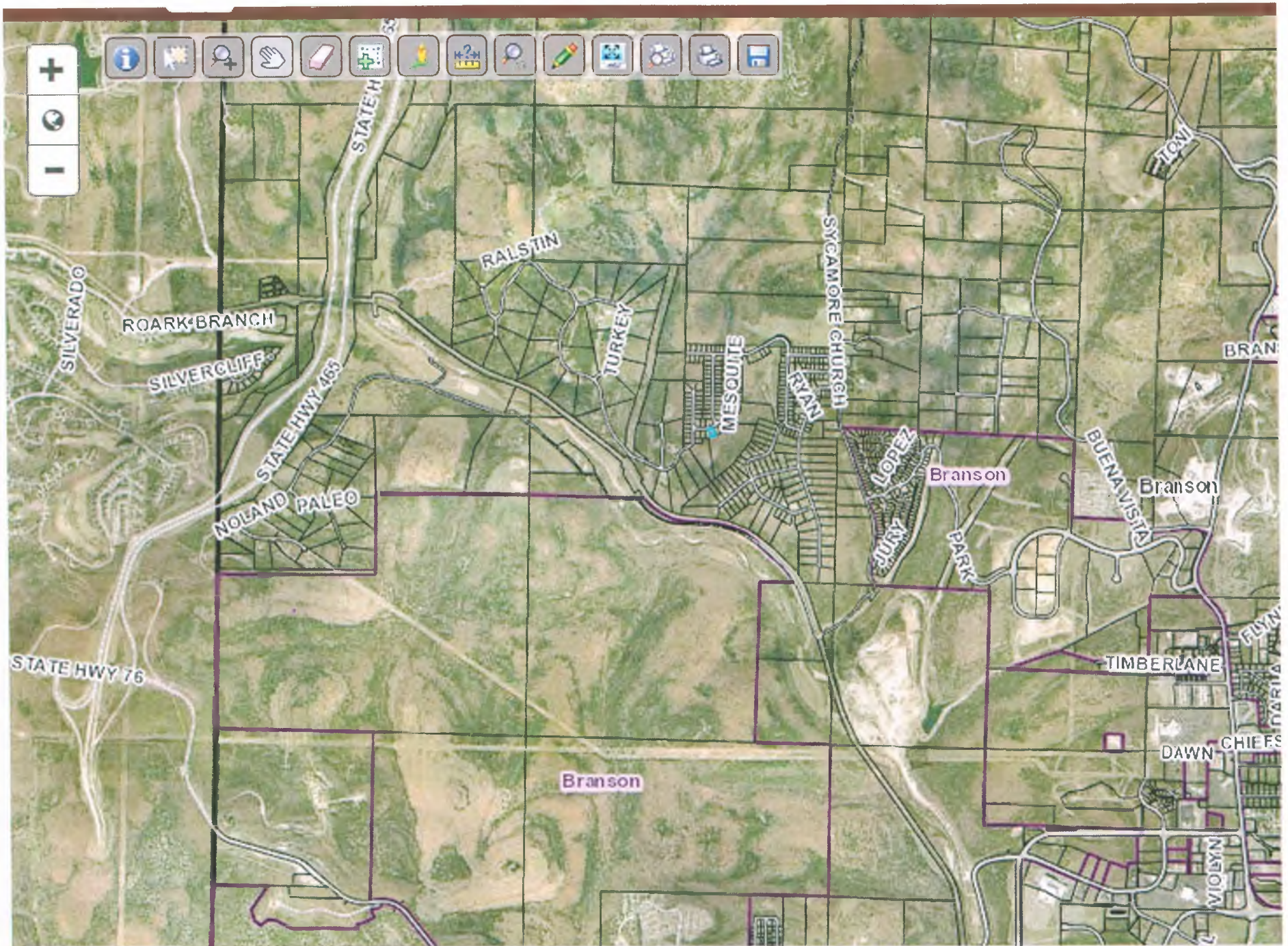
BOA Chad Ellis

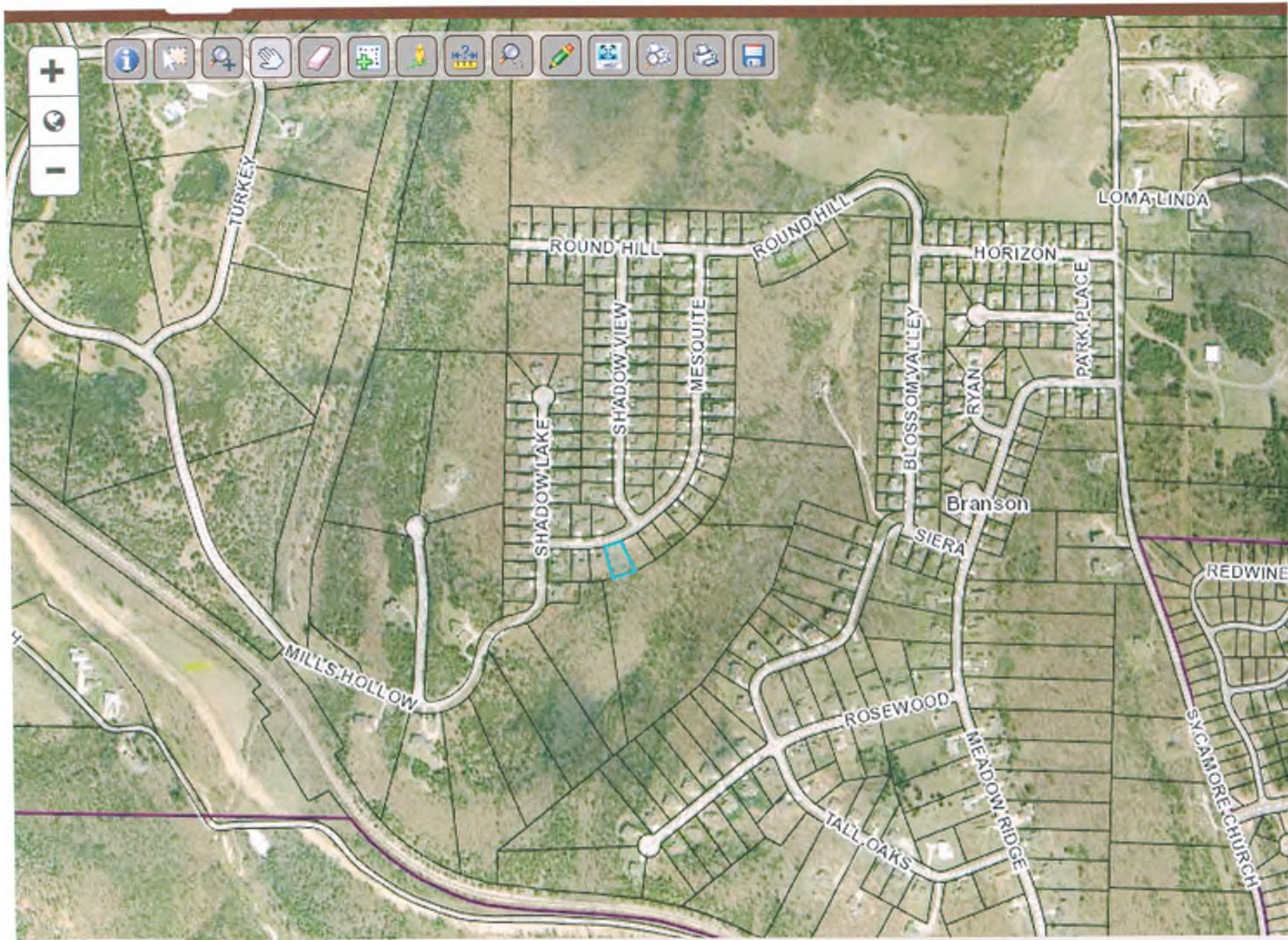


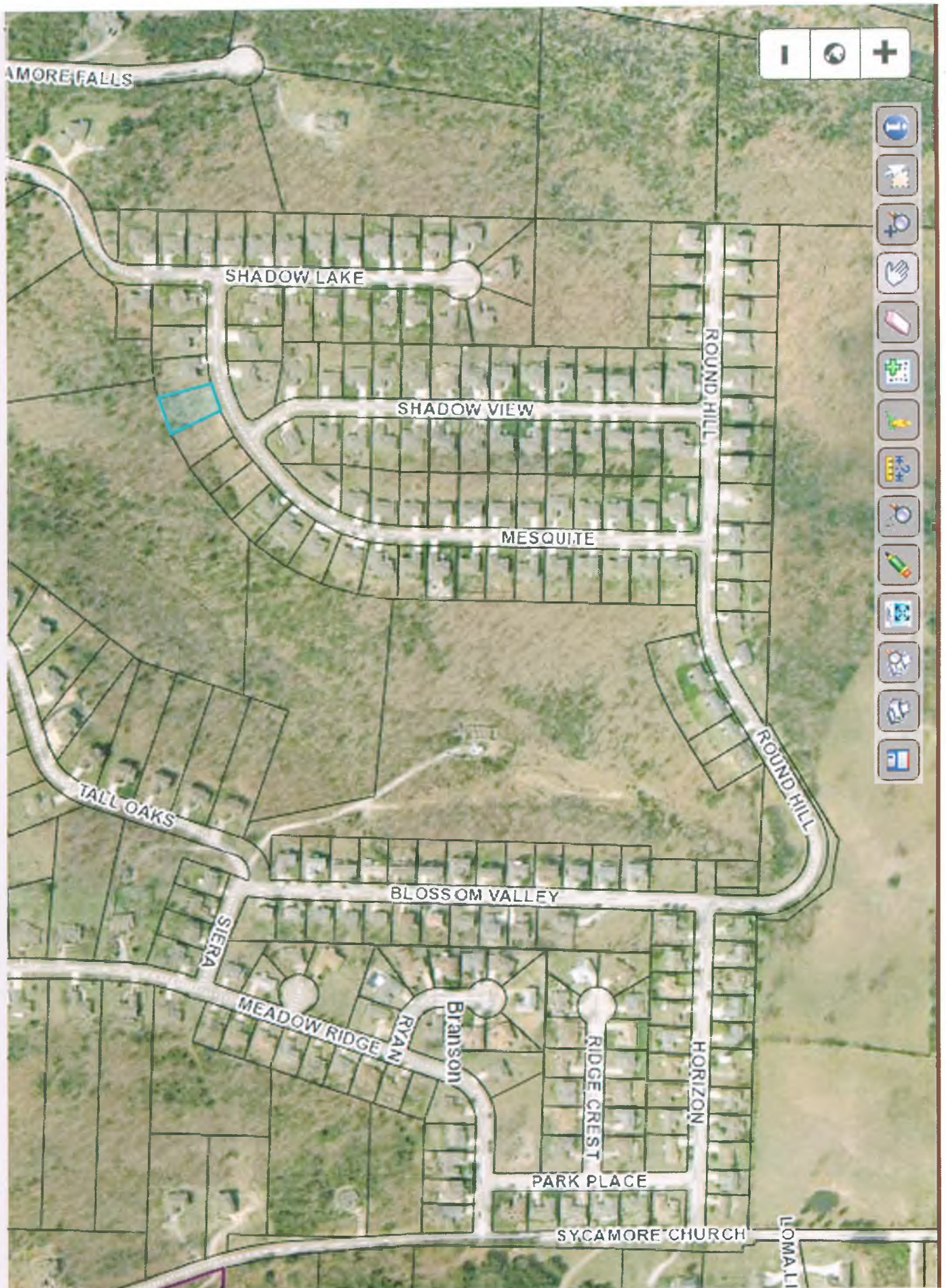


Asher Holdings, LLC – Chad Ellis
Board of Adjustment Variance Case # 2015-0011V
Taney County GIS - Beacon

















Asher Holdings, LLC – Chad Ellis
Board of Adjustment Variance Case # 2015-0011V
Pictometry – View from the North



Asher Holdings, LLC – Chad Ellis
Board of Adjustment Variance Case # 2015-0011V
Pictometry – View from the South

**Asher Holdings,
LLC – Chad Ellis
Board of
Adjustment
Variance Case #
2015-0011V
Pictometry – View
from the East**





Asher Holdings, LLC – Chad Ellis
Board of Adjustment Variance Case # 2015-0011V
Pictometry – View from the West









NOTICE OF PUBLIC HEARING

*THE TANEY COUNTY
BOARD OF ADJUSTMENT*

Will hold a public hearing concerning the
following requested variance or appeal.

Applicant: Chad Ellis
Request: Setback Variance

Property Location: 325 Mesquite

Hearing Location: Taney County Courthouse

Time: 6:00pm Date: Wednesday, 11-18-15

Phone: (417) 546-7226



TANEY COUNTY BOARD OF ADJUSTMENT

FLOODPLAIN MANAGEMENT ORDINANCE

VARIANCE STAFF REPORT

HEARING DATE: November 18, 2015 (Continued from November 19, 2014)

CASE NUMBER: 2014-0007V

PROJECT: Gary & Trecie Loyd Floodplain Management Ordinance Variance Request

APPLICANTS: Gary & Trecie Loyd

REPRESENTATIVE: George Cramer

LOCATION: The subject property is located at 415 Foggy River Road, Hollister, MO; Oliver Township; Section 13, Township 22, Range 22.

REQUEST: The applicants, Gary & Trecie Loyd are requesting a variance from the provisions of Article 4, Section B, (Provisions for Flood Hazard Reduction) of the Taney County Floodplain Management Ordinance. The applicants are requesting a variance from the floodplain requirements for non-residential construction. The Floodplain Management Ordinance requires the proposed non-residential structure to either be elevated to one (1) foot above the base flood elevation or together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

BACKGROUND and SITE HISTORY:

The subject property is described as Lot 12, Block B of the Riverside Estates Subdivision and contains a total of approximately .47 acres (Utilizing the Assessor's information via Beacon). The property in question is currently vacant.

On September 18, 2014 George Kramer submitted a Division I Permit application seeking to construct a 36' x 60' (2,160 square foot) structure to be utilized for the storage of the applicants' motor home and fishing boats. The approval of this Division I Permit was to be contingent upon the approval of a Floodplain Development Permit. At this time, the applicants have not met the minimum requirements of the Floodplain Management Ordinance and have yet to submit a Floodplain Development Permit application. Please note that the representative has indicated that the size of the building will now be reduced to 30' x 40' (1,200 square feet).

The applicants own the residence located across the street from the property in question, at 406 Foggy River Road (Lot 11, Block A, Riverside Estates Subdivision) and also the adjoining lot immediately to the northeast of the property in question (Lot 8, Block B, Riverside Estates Subdivision).

On September 18, 2014, the representative provided the Planning Department office with a copy of an engineering letter from Ralph Tate (Tate Engineering Consultants) and accompanying Schematic Floor Plan for the metal storage building in question. In the letter Mr. Tate states that, "We propose to install four louvered and screened vents in the side walls of the building." Mr. Tate then goes on to specify the size of the vents and to further describe the "wet" floodproofing methods that will be utilized. "Wet" floodproofing is methods which allow flood water to enter the enclosed areas of a structure. In contrast, "dry" floodproofing prevents the entry of flood waters. Article 4, Section B, of the Taney County Floodplain Management Ordinance would require the structure in question to be "dry" floodproofed.

On November 19, 2014 the Board held a public hearing regarding a variance request from the provisions of Article 4, Section B of the Taney County Floodplain Management Ordinance. The November 19th Hearing concluded with the Board voting to table the request until such time that the Planning Department Staff is able to obtain a written opinion from FEMA, regarding FEMA's course of action should said variance from the Floodplain Management Ordinance be granted.

On December 16, 2014 I received a written opinion from Todd Tucker, Natural Hazards Program Specialist with FEMA via email. In this email Mr. Tucker states, "In this case, the conditions for approving a variance as described in Article 5, Section E, 1-6 of the local flood hazard reduction ordinance do not appear to have been met."

The representative has now requested that the variance application in question be placed back upon the Board of Adjustment agenda.

GENERAL DESCRIPTION:

The subject property is described as Lot 12, Block B of the Riverside Estates Subdivision.

The applicants, Gary & Trecie Loyd are seeking a variance from the provisions of Article 4, Section B of the Taney County Floodplain Management Ordinance, allowing for the use of "wet" floodproofing methods versus the required "dry" floodproofing methods.

REVIEW:

As previously indicated, Todd Tucker has stated, ***"In this case, the conditions for approving a variance as described in Article 5, Section E, 1-6 of the local flood hazard reduction ordinance do not appear to have been met."***

As indicated within a guidance document provided to the Planning Department office by the Missouri State Emergency Management Agency (SEMA), ***"Although a county or municipal appeals board has the authority to decide whether or not a variance is granted, the Federal Emergency Management Agency (FEMA) may review the community's findings. If that review indicates a pattern inconsistent with the objectives of sound floodplain management, the community can be subjected to probation or suspension from the National Flood Insurance Program."*** If Taney County's floodplain program were to be placed on probation, the residents of the

unincorporated area of Taney County would be required to pay higher premiums for their FEMA backed flood insurance policies. If Taney County's floodplain program were to be placed on suspension, the residents of the unincorporated area of Taney County would NOT be eligible for FEMA backed flood insurance.

As stated above, the applicants, Gary & Trecie Loyd are requesting a variance from the provisions of Article 4, Section B, (Provisions for Flood Hazard Reduction) of the Taney County Floodplain Management Ordinance. The applicants are requesting a variance from the floodplain requirements for non-residential construction. The Floodplain Management Ordinance states that, "New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 3, Section C (9)".

FEMA and the Missouri State Emergency Management Agency (SEMA) refer to the aforementioned requirements as being "dry" floodproofing methods for **non-residential** structures, because they would prevent the entry of flood waters into the structure. "Wet" floodproofing methods, such as the proposed vents, shall only be utilized in the non-living portion of **residential** structures. Per the provisions of the Floodplain Management Ordinance the structure in question would be required to either be "dry" floodproofed or elevated to one (1) foot above the base flood elevation (BFE). According to Taney County's LIDAR contour data the site in question sits at an approximate elevation of 710 – 712. The approximate Base Flood Elevation for the site is 729. This would indicate that the structure would be required to be "dry" floodproofed or elevated to an elevation approximately 20 feet above the existing ground surface. If the structure is to be "dry" floodproofed, essentially the entire structure would be required to be watertight, with structural components resisting hydrostatic and hydrodynamic loads and the effects of buoyancy, as certified by a registered professional engineer or architect.

The Floodplain Management Ordinance allows for "structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than **400 square feet**, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design" **only if a variance has been granted from the standard floodplain management requirements of this ordinance**. The Floodplain Management Ordinance requires a variance, even in instances where a small (no larger than 400 square feet) accessory structure is proposed to be erected within the floodplain.

The provisions of the Floodplain Management Ordinance would only allow for the large storage structure in question to be "wet" floodproofed if the applicant chose to construct the storage area beneath the living area of a residential structure.

STATUTORY REQUIREMENTS OF VARIANCE 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.”

FLOODPLAIN MANAGEMENT ORDINANCE VARIANCE CRITERIA:

Per the requirements of Article 5, Section D of the Taney County Floodplain Management Ordinance, the Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of the Floodplain Management Ordinance and the following criteria:

1. “the danger to life and property due to flood damage;
2. the danger that materials may be swept onto other lands to the injury of others;
3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the necessity to the facility of a waterfront location, where applicable;
6. the availability of alternative locations, not subject to flood damage, for the proposed use;
7. the compatibility of the proposed use with existing and anticipated development;
8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. the safety of access to the property in times of flood for ordinary and emergency vehicles;
10. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.”

CONDITIONS FOR APPROVING FLOODPLAIN MANAGMENT VARIANCES:
(As enumerated within the Floodplain Management Oridinance)

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2 through 6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

STAFF RECOMMENDATIONS:

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 the provisions of Article 4, Section B (b) of Taney County Floodplain Management Ordinance, allowing for the construction a 30' x 40' (1,200 square foot) non-residential structure which is allowed to be built utilizing the "wet" floodproofing methods enumerated specifically within the Tate Engineering Consultants Letter and accompanying Schematic Floor Plan that were submitted to the Planning Department office, dated September 11, 2014.
2. The applicant acknowledges that the issuance of this variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage. The applicant further recognizes that such construction below the base flood level increases risks to life and property.
3. Compliance with all of the other provisions of the Taney County Development Guidance Code and the Taney County Floodplain Management Ordinance.
4. 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).

Bob Atchley

From: Tucker, Todd [Todd.Tucker@fema.dhs.gov]
Sent: Tuesday, December 16, 2014 11:12 AM
To: Bob Atchley
Cc: Karen CFM McHugh (Karen.McHugh@sema.dps.mo.gov); Dale Schmutzler (Dale.Schmutzler@sema.dps.mo.gov); Ownby, Dean; Wisniewski, Connie
Subject: FW: Seeking FEMA Guidance Regarding Variance Request from the Taney County Floodplain Management Ordinance
Attachments: Staff Report - Gary & Tracie Loyd - Floodplain Management Ordinance Variance.pdf; Gary & Trecie Loyd - Floodplain Management Ordinance Variance Request - 2014-0007V.pdf; Taney County Floodplain Management Ordinance - Effective March 15, 2012.pdf; FEMA variances - July 2014.pdf
Importance: High

Mr. Atchley,

Thank you for your e-mail and inquiry requesting an opinion from FEMA regarding the proposed variance request to "wet-flood proof" a 36'x 60' detached outbuilding / garage for storage of a motor home and fishing boats on a vacant parcel of land. In this location the BFE is about 20 feet above grade.

44 CFR 60.3 provides the bases for the local flood plan development ordinance, which allows for the wet-flood proofing of non-residential *accessory* structures as detailed on pages 14 - 15 of http://www.fema.gov/media-library-data/20130726-1502-20490-4764/fema_tb_2_rev1.pdf. With the exception of accessory structures, note that wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings (or dry floodproofing of nonresidential buildings in A Zones). The only exception is for limited accessory structures as noted below.

The term "accessory structures" is defined by FEMA as "Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the *same parcel of property as a principal structure* and the *use of which is incidental to the use of the principal structure*. For example a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings. National Flood Insurance Program (NFIP) regulations for new construction generally apply to new and substantially improved accessory structures." (see <https://www.fema.gov/national-flood-insurance-program/accessory-structures>). In addition, pages 3 and 4 of Technical Bulletin 7-93 (see http://www.fema.gov/media-library-data/20130726-1511-20490-8042/tb_7_complete_scan.pdf) provide additional guidance on the construction requirements for detached garages and storage sheds, see also technical bulletins 1 and 2 at <https://www.fema.gov/national-flood-insurance-program-2/nfip-technical-bulletins>.

Supplemental Information for Accessory Structures

Under *limited circumstances* communities may issue variances to permit construction of wet-floodproofed accessory structures. These accessory structures must be low value and not be used for human habitation. They must also meet the following requirements:

1. Accessory structures shall be designed to have low flood damage potential.
2. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

3. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
4. Service facilities such as electrical and heating equipment shall be elevated or floodproofed.
5. Accessory structures shall have openings as required under 60.3(c)(5).
6. Floodway encroachment provision of 60.3 (d) (3) must be met.

Under limited circumstances, a detached wet-flood proofed accessory structure may be permitted provided it complies with the guidance, criteria, and the local ordinance. In addition, the local land use authority should ensure that all applicable regulations are met, including but not limited to local zoning and land use controls that govern accessory uses, building permits requirements, etc. Furthermore, while FEMA does not specifically define “small” the proposed accessory use should be subordinate to and incidental to the principal use of the subject property, as noted above and in TB-7-93 (i.e. “...*two-car detached garages or smaller*...”). In addition, the community has defined the appropriate size for a detached garage in the local ordinance as 400 square feet, which is consistent with FEMA’s guidance. The community and applicant should consider too, that to receive a flood insurance rate based on 100 year flood protection, the structure must be dry flood proofed to an elevation at least one foot above the BFE, which is about 21 feet above grade for this property.

Note that a “good and sufficient” cause for a variance occurs when a parcel of land possesses physical characteristics so unusual that complying with NFIP regulations in a local ordinance would create an exceptional hardship related to the property, the surrounding property owners, or the community in general. In addition, the unusual physical characteristics must be unique to that property and not be shared by adjacent parcels or be typical of other lots in the community. In addition, the “exceptional hardship” that would result from failure to grant a requested variance must be exceptional, unusual, and specific to the property involved, not the personal circumstances of the applicant. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, the disapproval of one’s neighbors, or homeowners association restrictions do not qualify as exceptional hardships. This applies even if the alternative means of construction are more expensive or complicated than building the structure with a variance, or if they require the property owner to use the parcel differently than originally intended or build the structure elsewhere.

As described in the information provided, the proposed detached garage is not “accessory” to the principal use of the subject parcel (vacant). Moreover, the request for a 2,160 sq. ft. detached garage fails to meet the other applicable hardship criteria detailed in the local ordinance; “(w)here, 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.”

In this case, the conditions for approving a variance as described in Article 5, Section E, 1-6 of the local flood hazard reduction ordinance do not appear to have been met. In particular, it does not appear that the criteria in items 4 and 5 can be achieved. In short, the proposed accessory structure is not on *same parcel of property as a principal structure* and the *use of which is not incidental to the*

use of the principal structure, because there is no principal structure on the subject parcel of real property. In addition, the proposed garage is not historic, is not the minimum necessary to afford relief, there is no good and sufficient cause related the principal use of the property or its unique physical characteristics, there is no exceptional hardship related to the unique circumstances of the land, and there is a potential for the structure, once built, to result in a threat to public safety and property from debris related to the established 20 foot flood depth to BFE, and there is also an evident potential for a change in use for the 2,160 sq. ft. structure from non-residential to residential by a subsequent owner since there is no principal use on the vacant parcel of land, which would be in violation of the principals of sound floodplain management, the local ordinance, and the requirements of the NFIP.

The proposed 2,160 sq. ft. structure is 5.4 times the maximum allowable size set by the community (400 sq. ft.), and is not consistent with the communities criteria for a hardship or FEMA's guidance regarding a two-car garage or smaller, the request variance is not a "minimum" to afford relief, and there is no demonstration of "good and sufficient cause, or exceptional hardship" related to the unique circumstances of the land for consideration in granting approval of for non-conforming structure as described in the application, staff report, local land use code, or the provisions of the NFIP.

Additional guidance regarding variance from the floodplain development may be found at:

FEMA P-993 FPM Bulletin Variance - Variances and the National Flood Insurance Program:
http://www.fema.gov/media-library-data/1415994328968-8a331cb33b4b5aeb3ab26f9d382a7f68/FEMA_P_993_FPM_Bulletin_Variance.pdf (see also attached).

Please let me know if I can be of additional assistance.

Kind regards,
Todd

Todd Tucker AICP
Natural Hazards Program Specialist

Office: (816) 283-7528 | Fax: (816) 283-7018 | Todd.Tucker@FEMA.DHS.GOV
DHS FEMA Region VII | Mitigation Division - FM&I Branch | 9221 Ward Parkway, Suite 300 | Kansas City, MO. 64114-3372

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From: Bob Atchley [<mailto:boba@co.taney.mo.us>]

Sent: Friday, December 12, 2014 12:45 PM

To: Tucker, Todd

Cc: 'McHugh, Karen'

Subject: RE: Seeking FEMA Guidance Regarding Variance Request from the Taney County Floodplain Management Ordinance

Importance: High

Hello Mr. Tucker,

On November 19, 2014 the Taney County Board of Adjustment (BOA) held a public hearing regarding a variance request from the provisions of Article 4, Section B of the Taney County Floodplain Management Ordinance. The applicant is seeking a variance from the Ordinance, allowing for the proposed 36' x 60' (2,160 square foot) non-residential structure to be constructed utilizing "wet" floodproofing methods versus the required "dry" floodproofing methods. The November 19th Hearing concluded with the BOA voting to table the request until such time that the Planning Department Staff is able to obtain a written opinion from FEMA, regarding FEMA's course of action should said variance from the Floodplain Management Ordinance be granted.

Please note that I have attached a PDF copy of the Planning Department Staff Report, the PowerPoint Presentation that was utilized during the public hearing and the Taney County Floodplain Management Ordinance. I have also created a link to the BOA Packet as presented to the four (4) sitting members of the Taney County Board of Adjustment, as available on the Planning Department page of the Taney County website below:

http://www.taneycounty.org/CountyWeb/sources/pdf/15/Board_of_Adjustments/2014/2014_11_19_BOA_Packet.AFR.pdf

(Please note that the photos of flooding occurred within the area in question in April & May of 2011 as indicated to the BOA members during the hearing)

I have attempted to briefly enumerate the history of this case below:

On September 18, 2014 George Kramer (the contractor) submitted a Division I Permit (Building Permit) application seeking to construct a 36' x 60' (2,160 square foot) structure to be utilized for the storage of the applicants' motor home and fishing boats. The approval of this Division I Permit (Building Permit) was to be contingent upon the approval of a Floodplain Development Permit. At this time, the applicants have not met the minimum requirements of the Floodplain Management Ordinance and have yet to submit a Floodplain Development Permit application. Please note that the applicants own the residence located across the street from the property in question, at 406 Foggy River Road (Lot 11, Block A, Riverside Estates Subdivision) and also the adjoining lot immediately to the northeast of the property in question (Lot 8, Block B, Riverside Estates Subdivision).

On September 18, 2014, Mr. Kramer (the contractor) provided the Planning Department office with a copy of an engineering letter from Ralph Tate (Tate Engineering Consultants) and accompanying Schematic Floor Plan for the metal storage building in question (**as found within the BOA packet that I have included above**). In the letter Mr. Tate states that, "We propose to install four louvered and screened vents in the side walls of the building." Mr. Tate then goes on to specify the size of the vents and to further describe the "wet" floodproofing methods that will be utilized. I immediately sent an email to Mr. Tate in which I both quoted and explained the provisions of Article 4, Section B of the Taney County Floodplain Management Ordinance. I informed Mr. Tate that the structure would be required to be "dry" floodproofed to the Base Flood Elevation (BFE) or elevated one (1) foot above the BFE. According to Taney County's LIDAR contour data the site in question is between 710' – 712' with the approximate BFE being 729'. As you know, essentially the entire structure would be required to be "dry" floodproofed "**..structure is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.**"

Mr. Kramer (the contractor) then informed me that he was building a (2,160 square foot) residential structure. He proposed to construct the same large, metal structure with the addition of a small copula within the upper portion of the structure that was to act as the "residence". After consulting with SEMA staff we were unable to find a definitive FEMA definition of what constitutes a residential structure. However per the provisions of the Taney County zoning regulations, "To be considered a Residential Structure, at least 51% of the total structure must be actively used residentially." I informed Mr. Kramer that per the zoning regulations at least 51% of the structure would be required to be used residentially. At that point, Mr. Kramer contacted SEMA personnel to ask for their opinion regarding the FEMA definition of a residential structure. SEMA informed Mr. Kramer that he could seek a variance from the provisions of the Taney County Floodplain Management Ordinance.

During the BOA Hearing I repeatedly indicated to the Board members the following: "**Although a county or municipal appeals board has the authority to decide whether or not a variance is granted, the Federal**

Emergency Management Agency (FEMA) may review the community's findings. If that review indicates a pattern inconsistent with the objectives of sound floodplain management, the community can be subjected to probation or suspension from the National Flood Insurance Program."

The BOA Hearing concluded with a unanimous vote from the Board, requesting to table the variance request until such time that the Planning Department Staff is able to obtain a written opinion from FEMA, regarding FEMA's course of action should said variance from the Floodplain Management Ordinance be granted. I reminded the Board that FEMA's course of action would likely vary depending upon the Board's reasoning for the approval of the variance request. I continued to remind the Board that any such variance would be required to be consistent with the objectives of sound floodplain management. I continued to indicate to the Board that the applicant would be required to show good and sufficient cause that a failure to grant said variance would result in exceptional hardship to the applicant, without additional threats to public safety.

Therefore, I am now seeking your written opinion regarding the Federal Emergency Management Agency's course of action should said variance from the Floodplain Management Ordinance be granted.

Please let me know if you have any questions or concerns. Thank you in advance for both your time and assistance.

Thanks Again,

Bob Atchley

Taney County Planning Administrator / Taney County Floodplain Administrator

P.O. Box 383

207 David Street

Forsyth, MO 65653

Phone: (417) 546-7225

Fax: (417) 546-6861

From: Tucker, Todd [<mailto:Todd.Tucker@fema.dhs.gov>]

Sent: Monday, December 01, 2014 10:12 AM

To: Bob Atchley

Cc: McHugh, Karen

Subject: RE: Taney MO

Good morning,

How may I assist you?

Todd Tucker

Natural Hazards Program Specialist

Office: (816) 283-7528 | Fax: (816) 283-7018 | Todd.Tucker@FEMA.DHS.GOV

DHS FEMA Region VII | Mitigation Division - FM&I Branch | 9221 Ward Parkway, Suite 300 | Kansas City, MO. 64114-3372

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From: McHugh, Karen [<mailto:Karen.McHugh@sema.dps.mo.gov>]

Sent: Monday, December 01, 2014 9:52 AM

To: boba@co.taney.mo.us

Cc: Tucker, Todd

Subject:

Todd Tucker's email address!

Karen L McHugh, CFM

Floodplain Management Officer

State Emergency Management Agency

PO Box 116

Jefferson City, Missouri 65102

Ph: (573) 526-9129

Fax: (573) 526-9198

FLOODPLAIN MANAGEMENT ORDINANCE (AMENDED)
60.3(d)

ARTICLE 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Missouri has in Missouri Revised Statute – 49.600 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the County Commission of Taney County, Missouri ordains as follows:

SECTION B. FINDINGS OF FACT

1. *Flood Losses Resulting from Periodic Inundation*

~~The special flood hazard areas of Taney County, Missouri are subject to inundation which results in~~ loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2. *General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. *Methods Used To Analyze Flood Hazards*

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.

- a. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials for Taney County, Missouri dated March 15, 2012 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

- d. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
- e. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B (1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this ordinance to:

- 1. restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- 2. require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- 3. protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

ARTICLE 2 GENERAL PROVISIONS

SECTION A. LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of Taney County identified as numbered and unnumbered A zones and AE zones, on the Flood Insurance Rate Map (FIRM) for Taney County Index Panel 29213CIND0B dated March 15, 2012 as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the County Commission or its duly designated representative under such safeguards and restrictions as the County Commission or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

SECTION B. FLOODPLAIN ADMINISTRATOR

The Planning Administrator is hereby designated as the Floodplain Administrator under this ordinance.

SECTION C. COMPLIANCE

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION D. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

SECTION E. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

SECTION F. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of Taney County, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION G. SEVERABILITY

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

ARTICLE 3 ADMINISTRATION

SECTION A. FLOODPLAIN DEVELOPMENT PERMIT (REQUIRED)

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Planning Administrator is hereby appointed to administer and implement the provisions of this ordinance.

SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Planning Administrator shall include, but not be limited to:

1. review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. ~~review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;~~
4. issue floodplain development permits for all approved applications;
5. notify adjacent communities and the Missouri State Emergency Management Agency (SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse.
7. verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. when floodproofing techniques are utilized for a particular non-residential structure, Planning Administrator shall require certification from a registered professional engineer or architect.

SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
 2. identify and describe the work to be covered by the floodplain development permit;
 3. indicate the use or occupancy for which the proposed work is intended;
 4. indicate the assessed value of the structure and the fair market value of the improvement;
 5. specify whether development is located in designated flood fringe or floodway;
 6. identify the existing base flood elevation and the elevation of the proposed development;
-
7. give such other information as reasonably may be required by the Planning Administrator;
 8. be accompanied by plans and specifications for proposed construction; and
 9. be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

[Article 4, Section A]

4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 - a. design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. construction with materials resistant to flood damage;
 - c. utilization of methods and practices that minimize flood damages;
 - d. all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - e. new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
 - f. subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (1) all such proposals are consistent with the need to minimize flood damage;
 - (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - (3) adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (4) all proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

5. *Agricultural Structures*

Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

6. *Storage, material, and equipment*

- a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

7. Accessory Structures

Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

[Article 4, Section B]

SECTION B. SPECIFIC STANDARDS

1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where **base flood elevation** data have been provided, as set forth in Article 4, Section A(2), the following provisions are required:

- a. *Residential Construction*

New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation.

*[*In all unnumbered and numbered A zones and AE zones, the FEMA, Region VII office recommends elevating to one foot above the base flood elevation to accommodate floodway conditions when the floodplain is fully developed.]*

- b. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 3, Section C(9).

*[*The FEMA, Region VII office recommends elevating to one foot above the base flood elevation to qualify for flood insurance rates based upon floodproofing.]*

- c. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
- (2) the bottom of all opening shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

[Article 4, Section C]

SECTION C. MANUFACTURED HOMES

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
 - a. outside of manufactured home park or subdivision;
 - b. in a new manufactured home park or subdivision;
 - c. in an expansion to an existing manufactured home park or subdivision; or
 - d. in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C(2) of this ordinance, be elevated so that either:
 - a. the lowest floor of the manufactured home is at one (1) foot above the base flood level; or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

*[*In all unnumbered and numbered A zones and AE zones, the FEMA, Region VII office recommends elevating to one foot above the base flood elevation to accommodate floodway conditions when the floodplain is fully developed.]*

SECTION D. AREAS OF SHALLOW FLOODING (AO and AH zones)

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

[Article 4, Section D (1)]

1. *AO Zones*

- a. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

2. *AH Zones*

- a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.
- b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

SECTION E. FLOODWAY

Located within areas of special flood hazard established in Article 2, Section A are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

[Article 4, Section E (3)]

3. If Article 4, Section E(2) is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article 4, Section A(2).

SECTION F. RECREATIONAL VEHICLES

1. Require that recreational vehicles placed on sites within all unnumbered and numbered A zones, AO, AE, and AH zones on the community's FIRM either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use*; **or**
 - c. meet the permitting, elevation, and anchoring requirements for manufactured homes of this ordinance.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

SECTION A. ESTABLISHMENT OF APPEAL BOARD

The Taney County Board of Adjustment as established by Taney County shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the Planning Administrator, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Article 5, Section A.

The Taney County Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Planning Administrator in the enforcement or administration of this ordinance.

SECTION C. FURTHER APPEALS

Any person aggrieved by the decision of the Taney County Board of Adjustment or any taxpayer may appeal such decision to Taney County Circuit Court as provided in Missouri Revised Statute – 49.615.

SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Taney County Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. the danger to life and property due to flood damage;
2. the danger that materials may be swept onto other lands to the injury of others;
3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the necessity to the facility of a waterfront location, where applicable;
6. the availability of alternative locations, not subject to flood damage, for the proposed use;
7. the compatibility of the proposed use with existing and anticipated development;
8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. the safety of access to the property in times of flood for ordinary and emergency vehicles;
10. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2 through 6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.

[Article 5, Section E]

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

SECTION F. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
 6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article 4, Section B (1)(c) of this ordinance.
 7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E(2) of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
 8. Major equipment, machinery, or other contents must be protected from any flood damage.
 9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
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10. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
 11. Wet-floodproofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

SECTION G. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES

Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
 3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
 4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
 5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article 4, Section B (1)(c) of this ordinance.
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6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E (2) of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
 7. Equipment, machinery, or other contents must be protected from any flood damage.
 8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
 9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
 10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

ARTICLE 6 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000.00 , and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Taney County Commission or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 7 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Taney County. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.

ARTICLE 8 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

"100-year Flood" *see "base flood."*

"Accessory Structure" means the same as *"appurtenant structure."*

"Actuarial Rates" *see "risk premium rates."*

"Administrator" means the Federal Insurance Administrator.

"Agency" means the Federal Emergency Management Agency (FEMA).

"Agricultural Commodities" means agricultural products and livestock.

"Agricultural Structure" means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

"Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"Appurtenant Structure" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the structure having its floor subgrade (below ground level) on all sides.

"Building" *see "structure."*

"Chief Executive Officer" or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

"Community" means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Elevated Building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Eligible Community" or "Participating Community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

"Existing Construction" means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

"Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards.

"Flood Fringe" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (*see "flooding"*).

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

"Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

"Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Floodway Encroachment Lines" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* **does not include** a *"recreational vehicle."*

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

"Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

"New Construction" means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

"(NFIP)" means the National Flood Insurance Program (NFIP).

"Participating Community" also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

"Recreational Vehicle" means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Remedy A Violation" means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

"Repetitive Loss" means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five percent of the market value of the structure before the damage occurred.

"Risk Premium Rates" means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

"Special Flood Hazard Area" *see "area of special flood hazard."*

"Special Hazard Area" means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

"Start of Construction" includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

"Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

"Substantial-Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any combination of reconstruction, alteration, or improvement to a building, taking place, in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

- a.) any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
 - b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure." Or
-
- c.) Any building that has been damaged from any source or is categorized as repetitive loss.

"Variance" means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

ARTICLE 9 CERTIFICATE OF ADOPTION

This Floodplain Management Ordinance for the County of Taney, of the State of Missouri is:

ADOPTED AND APPROVED by the Taney County Commission, the Governing Body of Taney County, Missouri.

This 21st day of February, 2012 .

Place seal here.



Ronald D. Houseman

Ronald D. Houseman, Presiding Commissioner
County Commission of Taney County, Missouri

ATTEST:

Donna Neeley

Donna Neeley, Taney County Clerk

Floodplain Management Variances

A variance is a grant of relief from the terms of a floodplain management regulation. This generally involves allowing development that is contrary to good floodplain management practices. Because the result can be an increased risk to life and property, the granting of floodplain variances should be rare.

Local Floodplain Development Permit

Responsibility for issuing or denying Floodplain Development Permits lies with the Local Floodplain Administrator (usually the Code Enforcement Officer). If a proposed project does not comply with the municipality's floodplain development standards, the Local Floodplain Administrator should deny the permit and provide a written summary of project deficiencies. The applicant may then revise and resubmit the application or request a hearing from the designated appeals board (usually the Zoning Board of Appeals).

Appeals

If the applicant alleges an error in the decision or determination made by the Local Floodplain Administrator, the appeal is heard and decided by the designated appeals board. If the applicant requests a variance from local floodplain development requirements, the variance request must be supported by a written justification. The request for variance should never be an after-the-fact request for a non-compliant project.

Local Variance Procedure

The appeals board considers a variance request at one or more public meetings at which they seek (1) testimony from the Local Floodplain Administrator about how the proposed activity fails to meet local floodplain development standards and (2) testimony from the applicant as to why it is infeasible or impossible to make the proposed development conform. Complete records should be kept of all deliberations and actions of the board. (Use of a *Floodplain Variance Findings & Decision* form is recommended.)

Although a county or municipal appeals board has the authority to decide whether or not a variance is granted, the Federal Emergency Management Agency (FEMA) may review the community's findings. If that review indicates a pattern inconsistent with the objectives of sound floodplain management, the community can be subjected to probation or suspension from the National Flood Insurance Program.

State Variance Procedure

Because floodplain management requirements are specified in the NYS Building and Residential Codes, it may be necessary to obtain a Variance to the Uniform Fire Prevention and Building Code from the NYS Department of State. This is in addition to a local variance from the municipality.

Considerations and Conditions

Each municipality's Flood Damage Prevention regulations specify factors that must be considered and conditions that must be met prior to granting a floodplain variance. Both the applicant and the appeals board should refer to these regulations to ensure that each issue is addressed in the applicant's written justification and carefully considered during the board's deliberations. Key issues are discussed below.

Good and Sufficient Cause

Because floodplain management regulations do not anticipate every imaginable situation, the variance process allows a developer to seek permission to vary from the letter of the rules because of a special situation. However, ***the variance must pertain to the land itself – not to the structure, its inhabitants, or the property owner.*** A variance should not be granted for a problem that can be resolved through other means, even if the alternative is more expensive, more complicated, requires that the parcel be put to a different use, or requires the applicant to build elsewhere.

Exceptional Hardship

Federal regulations state that a community can only issue a variance upon “a determination that failure to grant the variance would result in exceptional hardship to the applicant.” Additional guidance states: “***The applicant has the burden of proving unnecessary hardship.*** Reasons for granting the variance must be substantial; the proof must be compelling. The claimed hardship must be exceptional, unusual and peculiar to the property involved. Financial hardship, inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of one’s neighbors do not qualify as exceptional hardships.”¹

Minimum Variation Necessary

The variance must be the minimum necessary, considering the flood hazard, to afford relief. A variance is a request to vary from the rules, not to ignore them. Any variance should allow only minimum deviation from the local requirements. The approved project should provide as much flood protection as is possible.

Regulatory Floodway

Variances shall not be issued within any regulatory floodway if any increase in flood levels during the base flood discharge would result. Because the community should not be exposed to higher flood risks, federal standards prohibit variances from the requirements concerning floodway encroachments.

When Might a Variance Be Warranted?

Special circumstances may justify granting a variance:

- **Deviation from Higher Standards:** When a municipality’s floodplain management standards exceed the minimum federal requirements, some situations may warrant deviation from those higher standards.
- **Small Lot:** Although variances are strongly discouraged, the technical justification required for a building that fails to meet elevation requirements is lower if it is erected on a lot of one-half acre or less and surrounded by lots with existing structures constructed below the base flood elevation.
- **Wet Floodproofing:** Variances that allow protection from flood damage using wet floodproofing techniques may be issued for structures that are: functionally dependent on close proximity to water (such as boat houses), historic buildings (if the historic character is preserved), accessory structures, and certain agricultural structures. The variance may be contingent on limited use of the structure (for storage, parking, or agricultural purposes). In all cases, the variance must be the minimum necessary.

Impact of Increased Risk on Flood Insurance Rates

A variance is for floodplain management purposes only. It does not alter flood insurance purchase requirements or the mechanism for determining insurance costs. The increased risk for a non-compliant structure will be reflected in higher annual flood insurance premiums, which can be as high as \$25 for \$100 of insurance coverage. This may create severe financial consequences for the property owner who applied for the variance and for any future owners. Although a variance may save money in the short term, over the long run the owner may pay much more in insurance premiums or, if uninsured, in flood losses. If a variance is issued for a building with the lowest floor below the base flood elevation, the municipality must notify the applicant of the potentially high flood insurance premiums and the increased risks to life and property.

Additional Resources

- *Appeals, Special Uses and Variances*, in Unit 7: *Ordinance Administration* of FEMA 480: *National Flood Insurance Program (NFIP) Floodplain Management Requirements: A Study Guide and Desk Reference for Local Officials* (2005), available at <http://www.floods.org/index.asp?menuid=388&firstlevelmenuid=180&siteid=1>.
- *Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas*, Technical Bulletin 7-93, FEMA FIA-TB-7 (1993), available at <http://www.fema.gov/library/viewRecord.do?id=1720>, specifies variance conditions and provides technical guidance for wet floodproofed buildings.

¹ *National Flood Insurance Program (NFIP) Floodplain Management Requirements*, FEMA 480 (2005), page 7-46.



TANEY COUNTY PLANNING COMMISSION

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

#147

TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT

FOR VARIANCE OR APPEAL

(Circle one)

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

PLEASE PRINT

DATE 10-16-11

Applicant GEORGE CRAMER Phone 417-331-9740

Address, City, State, Zip 2214 FRANK BEAR Rd KESSEE MILLS MO 65660

Representative SELF Phone ABOVE

Owner of Record GARY & TRECE LOYD Signature: Treice A. Loyd

Name of Project: GARAGE

Section of Code Protested: (office entry) Ya. Co. Floodplain map. Ord - Art 4 Sec. B 1

Address and Location of site: 415 Horry River Road

Subdivision (if applicable) Riverside Est.

Section 13 Township 22 Range 22 Number of Acres or Sq. Ft. 135 x 225

Parcel Number 18-6.0-13-002-004-061.000

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.

CRAMER CONSTRUCTION

2214 Frank Rea Rd. Kissee Mills Mo. 65680
417-331-9740

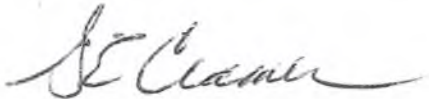
It is my clients desire to construct a garage on property adjacent to their home on Foggy River Rd. The purpose of the building is to store their motor home and fishing boats. The size of the building, as needed for this use, is larger than the current regulations allow.

It is our intention to construct this building according to construction guidelines as provided by FEMA for non residential appurtenant structures, located in a flood plain. It will actually exceed the requirements, in that the structure would be non organic. Note the attached engineered plans.

There is not room on the lot where the home is located to construct this as an attached garage, which would be allowable under the current guidelines. It is our considered opinion that having this building across the street, instead of attached to the home would not be detrimental in any way to the spirit of flood plain regulations, hence our request for a variance.

Please contact me for any additional information needed.

Thank you for your consideration.



George Cramer
417-331-9740

VERIFICATION

In signing this application, I fully understand, and will comply with, the responsibilities given me by the Taney County Development Guidance Code. I certify that all submittals are true and correct to the best of my knowledge and belief, and that my request may or may not be approved by the Taney County Planning Commission's Board Of Adjustment.

Trecie A. Loyd
Signature of Applicant

10/16/14
Date of Application

STATE OF MISSOURI)

S.S. On this _____ day of _____, 201__.

COUNTY OF TANEY)

Before me Personally appeared _____, to me known to be the person 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, Mo. The day and year first above written. My term of office as Notary Public will expire 2/6/2014.

Bonita Kisse, Notary Public

State of Illinois
County of Johnson

This instrument was acknowledged before me on 10/16/14 (date)
by Trecie A. Loyd (name/s of person/s.)

(Seal)



Constance C. Belcher
(Signature of Notary Public)



Jeannie Cramer <jcramer55@gmail.com>

RE: Fema Requirements Accessory structures

1 message

Tucker, Todd <Todd.Tucker@fema.dhs.gov>

Wed, Aug 26, 2015 at 2:52 PM

To: Jeannie Cramer <jcramer55@gmail.com>

Hi George –

I think you are talking about an accessory structure. Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings. National Flood Insurance Program (NFIP) regulations for new construction generally apply to new and substantially improved accessory structures.

For development requirements, please see: <http://www.fema.gov/accessory-structures>

Please note that the local government may have adopted a higher standard, such as elevate construction to one or two feet above BFE, which would prevail.

If it's the principal use of the property, such as commercial storage building or commercial warehouse, the same development standards would apply, i.e. reasonably safe from flooding, flood resistant materials, etc.

Todd Tucker AICP
FEMA Region VII | FM&I Branch

Desk: (816) 283-7528

From: Jeannie Cramer [mailto:jcramer55@gmail.com]**Sent:** Wednesday, August 26, 2015 2:32 PM**To:** Tucker, Todd <Todd.Tucker@fema.dhs.gov>**Subject:** Fema Requirements

Todd:

September 11, 2014

Mr. Bob Atchley
Taney County Planning Administrator
Taney County Planning & Zoning
Forsyth, MO

Re: Storage building construction in flood plain
Loyd property
Across street from 415 Foggy River Road, Hollister, MO

Mr. Atchley:

George Cramer, the contractor on the project, contacted me concerning the above referenced project. He requested I look at the requirements to build in the flood plain.

The building in question is to be constructed in the flood plain across the street from the above referenced property. The building is to be a 36' wide by 60' long metal building bearing on a concrete foundation and floor. The building roof ridge will run essentially east west with the 36' wide walls facing east and west. The 60' long walls will face north and south. An 18' tall by 14' wide overhead door will be installed on the west wall facing Foggy River Road.

The building is to be an accessory building for the referenced house. The building is to be utilized as a parking area for boats and vehicles and for limited storage.

This building falls within the requirements of Article 4, Section B, 1, c of the Taney County Floodplain Management Ordinance.

As stated above the building will be totally constructed of steel and concrete. With a total floor area of 2160 square feet, the building will require a total of 2160 square inches of opening in the side walls consisting of at least two openings.

We propose to install four louvered and screened vents in the side walls of the building. The vents will be located on the north and south walls. Each vent will be 3' wide by 1.5' tall. The base of the vents will be a maximum of 1' above finish floor elevation. The vents will be louvered on the exterior with a steel screen installed on the inside. Four vents 3' by 1.5' gives a total of 18 square feet, 2592 square inches.

Attached is a sketch of the building indicating the location of the vents.

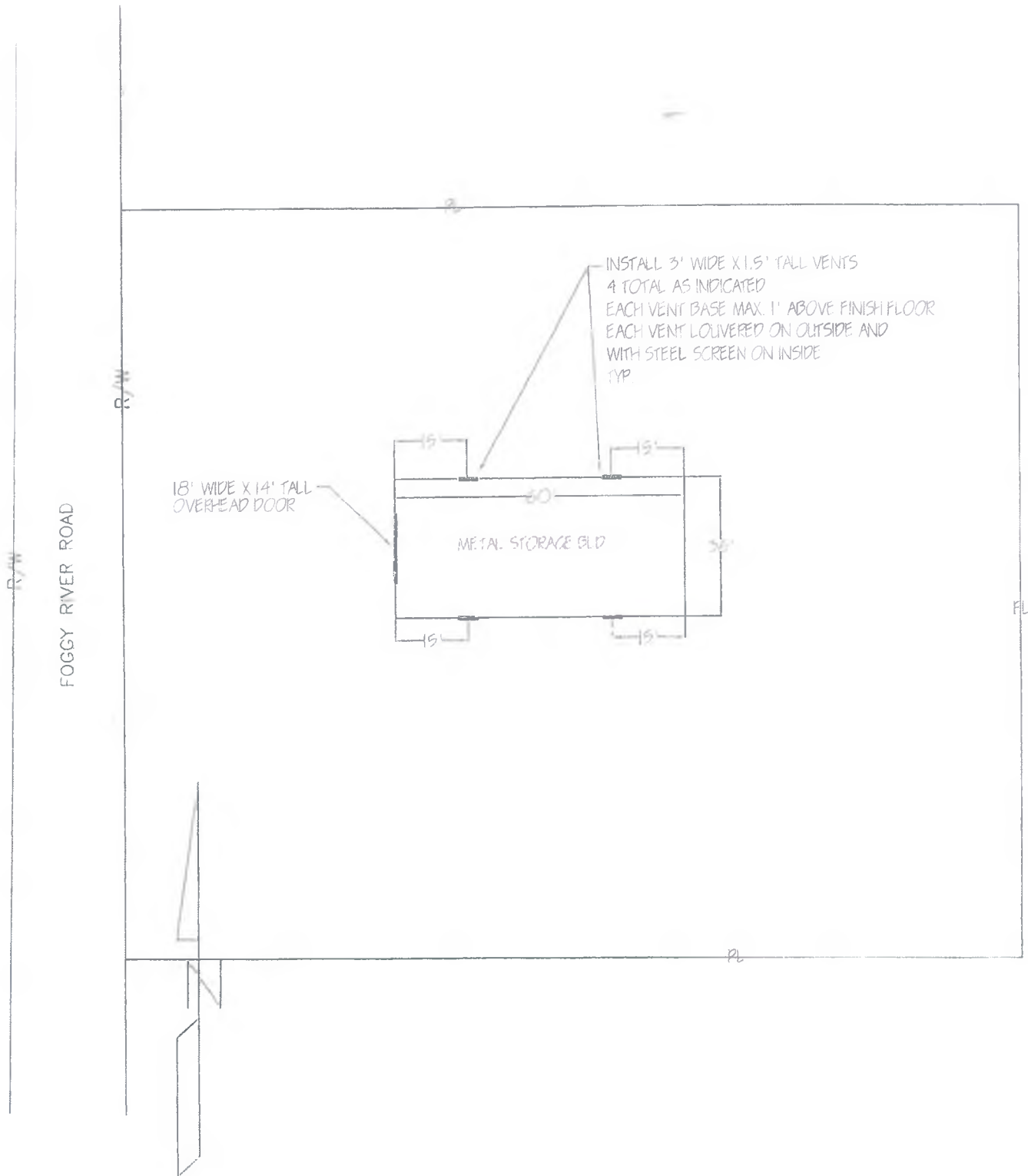
If you have any questions please contact me.

Tate Engineering Consultants

By

Ralph D. Tate, P. E.





4054 W. PAGE PLACE
SPRINGFIELD, MO. 65802

TEL (417) 862-5684



SCHEMATIC FLOOR PLAN
METAL STORAGE BUILDING
LOYD PROPERTY
415 FOGGY RIVER ROAD
HOLLISTER, MO.

This drawing is the property of Tate Engineering Consultants
Do not print, photograph, copy or use for any purpose
other than that for which it is specifically furnished.

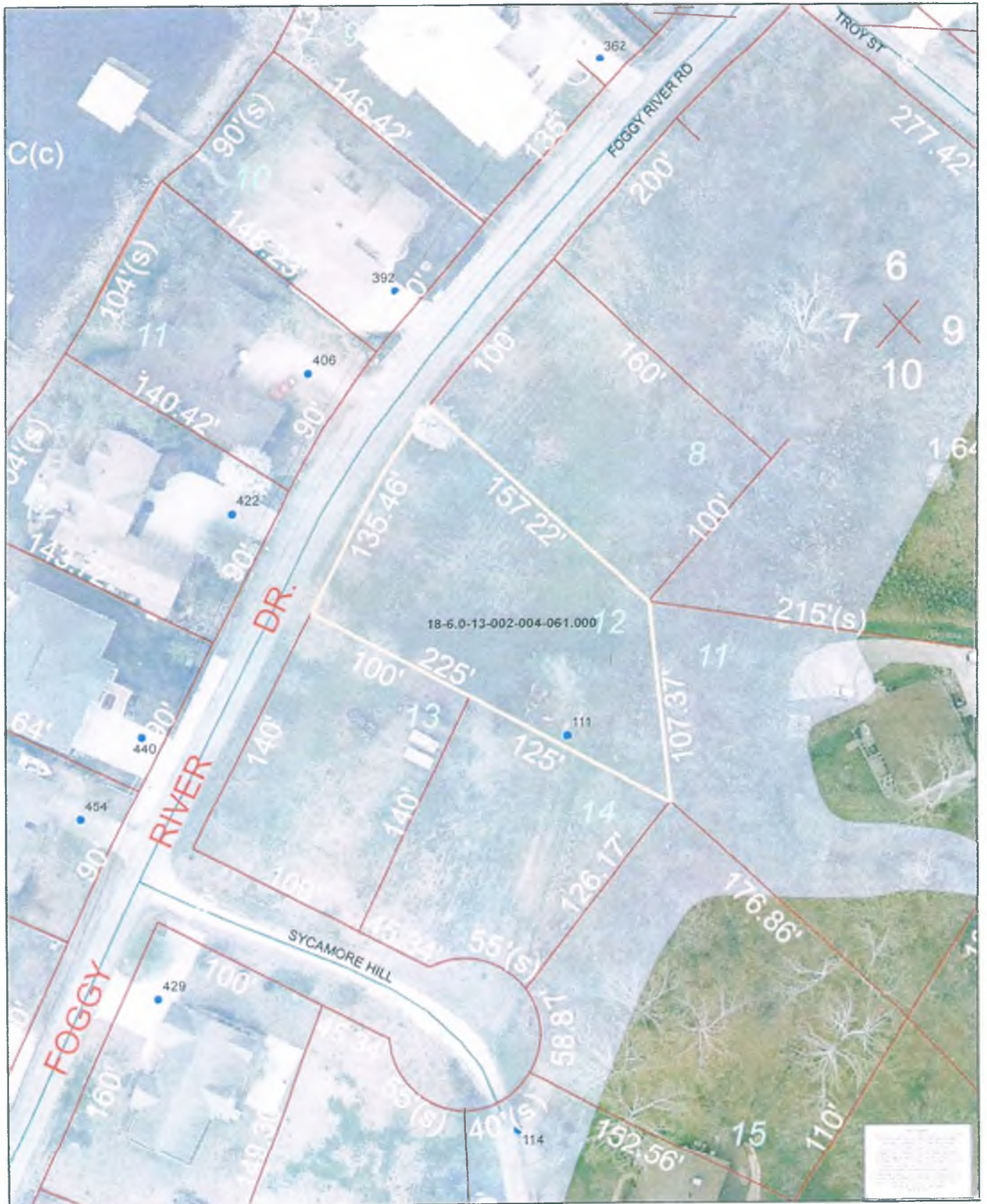
© TATE ENGINEERING CONSULTANTS 2013

RALPH D. TATE, P. E. E-17940





BOA Gary Loyd



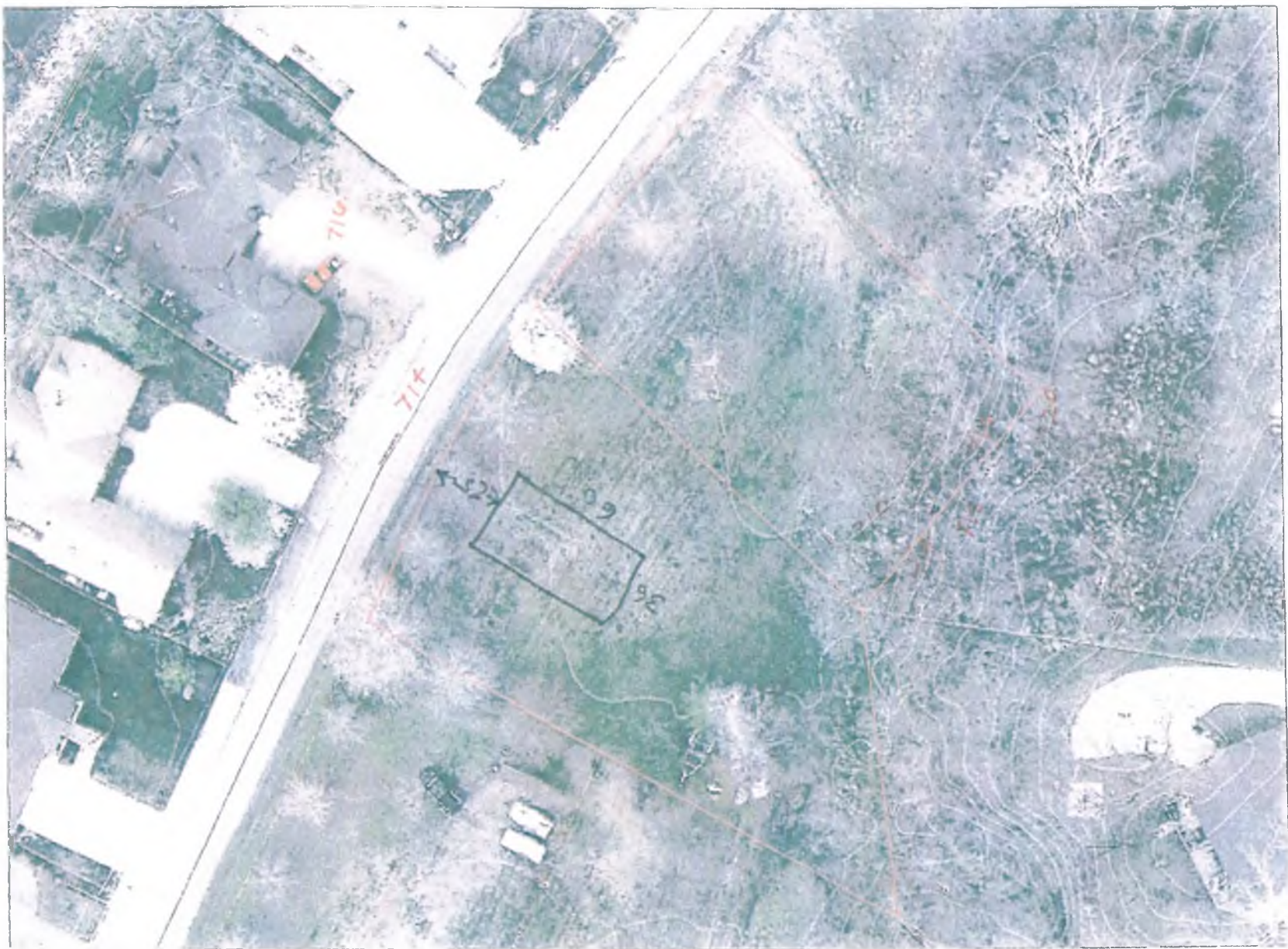


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18-6.0-13-002-004-064.000
2 Foot Contours
Taney County, Missouri

18-6.0-13-002-004-064.000
18-6.0-13-002-004-064.000
2 Foot Contours
Taney County, Missouri



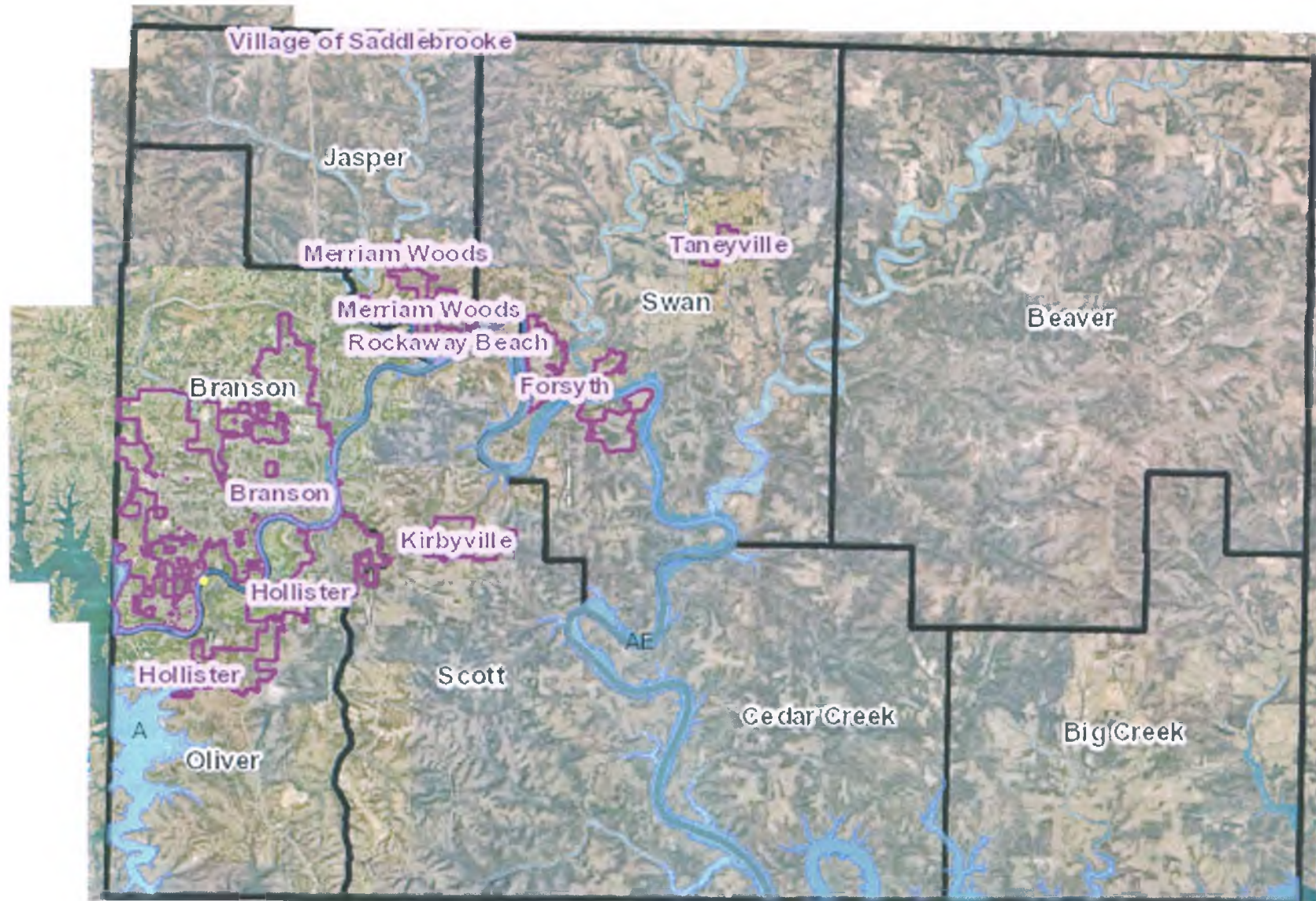
1 inch = 13.21 feet



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18-6,0-13-002-004-064,000
2 Foot Contours
Taney County, Missouri



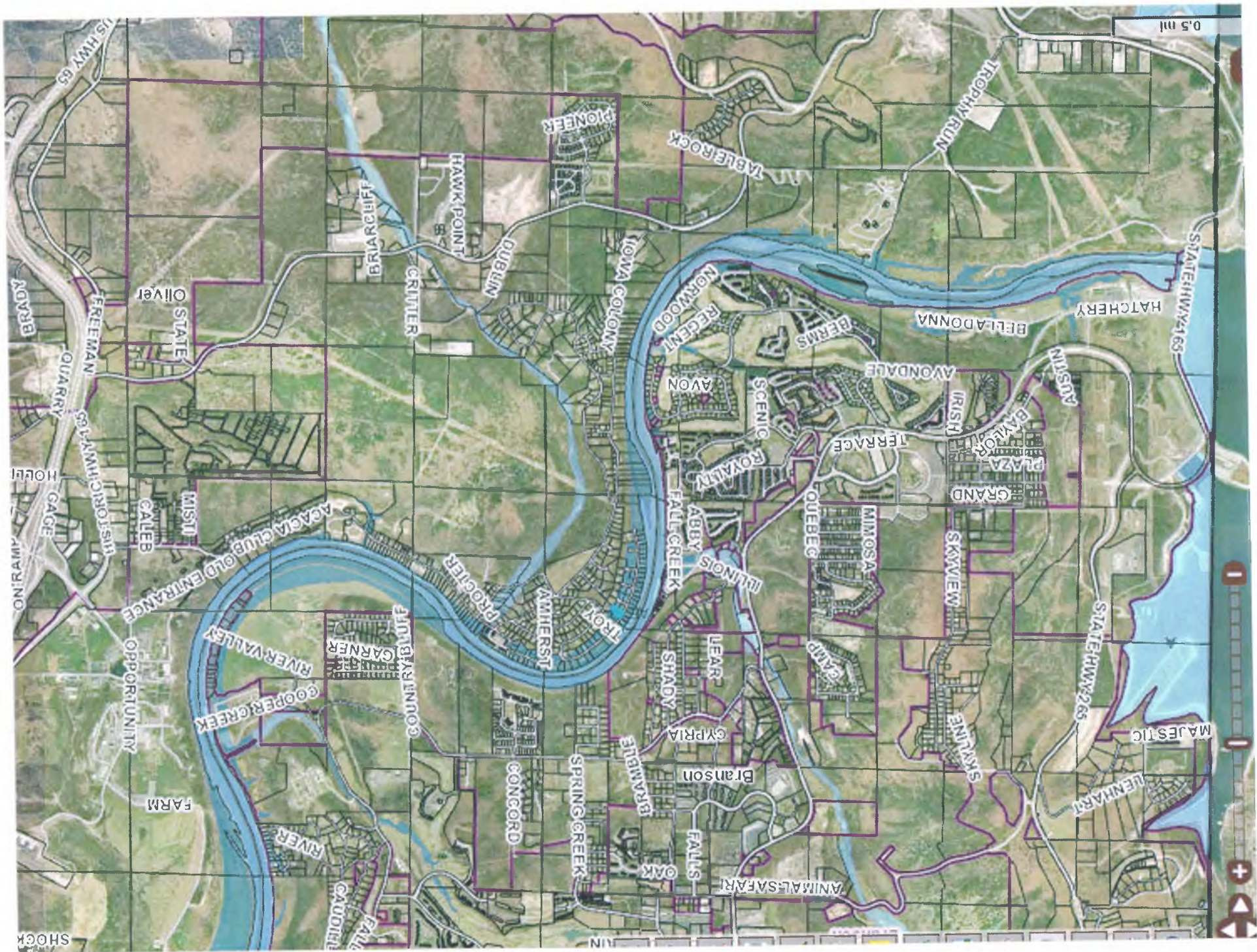
1 inch = 13.21 feet

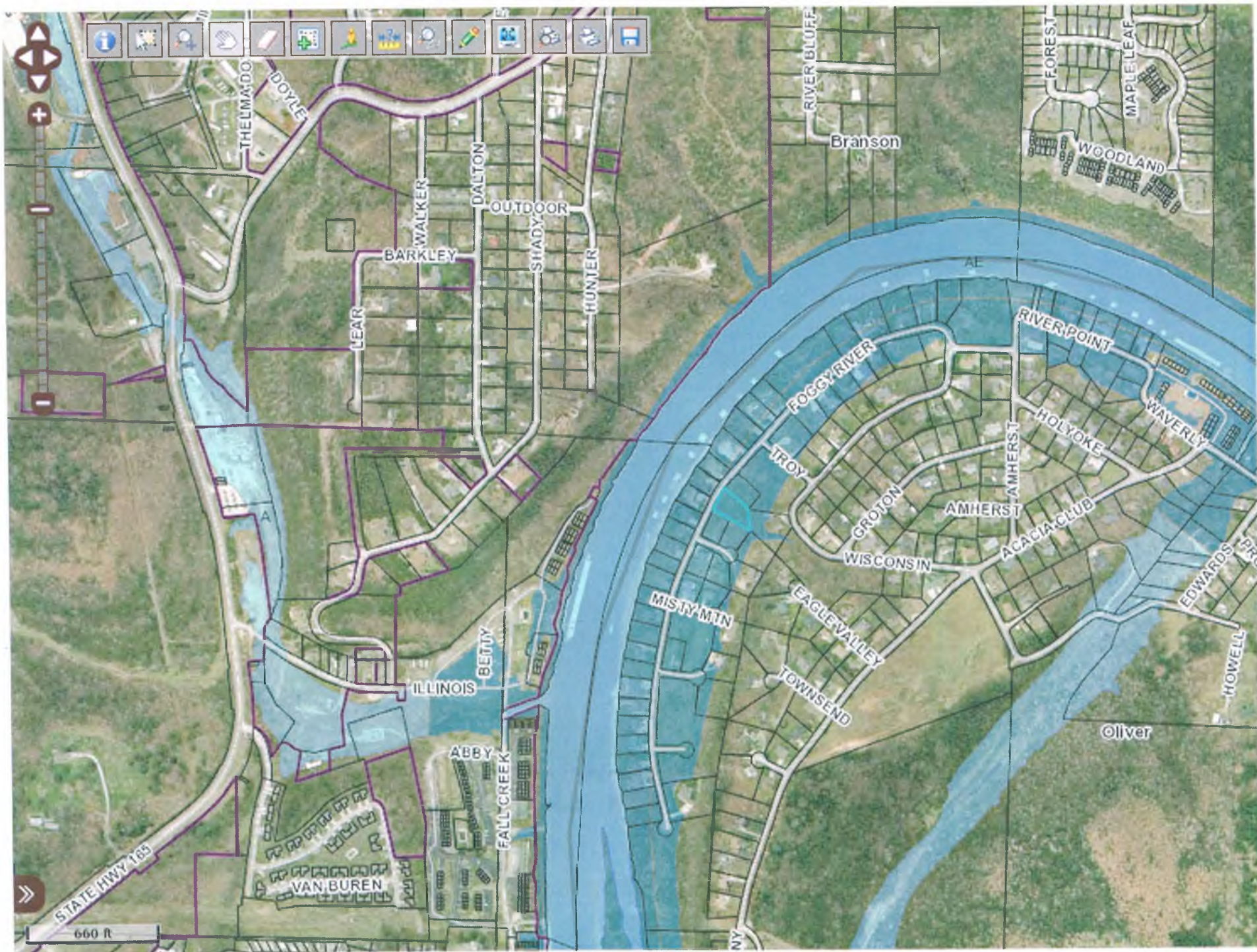


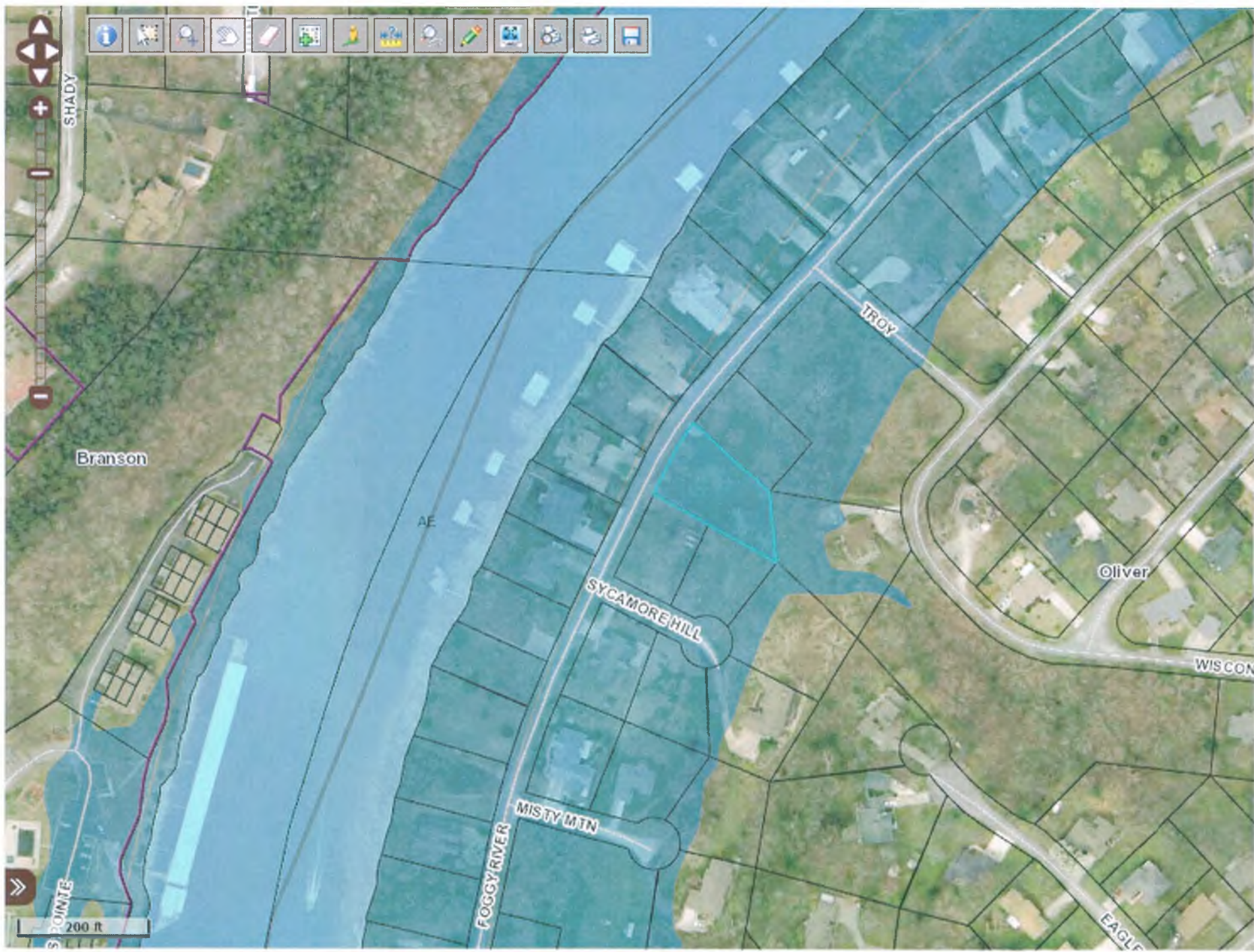
**Gary & Trecie Loyd – Floodplain Management Ordinance
Variance Request**

Variance Application 2014-0007V

Taney County GIS - Beacon











**Gary & Trecie Loyd – Floodplain Management Ordinance
Variance Request
Variance Application 2014-0007V
Pictometry – View from the North**



**Gary & Trecie Loyd – Floodplain Management Ordinance
Variance Request
Variance Application 2014-0007V
Pictometry – View from the South**



**Gary & Trecie Loyd – Floodplain Management Ordinance
Variance Request
Variance Application 2014-0007V
Pictometry – View from the East**



**Gary & Trecie Loyd – Floodplain Management Ordinance
Variance Request
Variance Application 2014-0007V
Pictometry – View from the West**







**NOTICE
OF PUBLIC HEARING**
*THE TANEY COUNTY
BOARD OF ADJUSTMENT*
Will hold a public hearing concerning the
following requested variance or appeal.
Applicant: Gary Tracie Loyd
Request: Variance from the Taney
County Floodplain Mgmt. Ord.
Property location: 415 Fanny River Rd
Hearing Location: Taney County Courthouse
Time: 6:00pm Date: Wednesday, 11-18-15
Phone: (417) 516-7226





TANEY COUNTY BOARD OF ADJUSTMENT SETBACK VARIANCE STAFF REPORT

HEARING DATE: November 18, 2015

CASE NUMBER: 2015-0012V

APPLICANT: Daryl Soukup

LOCATION: The subject property is located at 612 Iowa Colony Road, Hollister, MO; Oliver Township; Section 13, Township 22, Range 22.

REQUEST: The applicant, Daryl Soukup is requesting a variance from Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. The applicant is requesting a variance from the required 25' front property line setback requirement (county & subdivision roads). The applicant is requesting a 10' front setback variance allowing the new structure to be constructed 15' from the front property line.

BACKGROUND, SITE HISTORY and GENERAL DESCRIPTION:

The subject property is +/- .48 acres in size (per the Assessor's information - Beacon) and is described as all of Lot One A (1A), in the Amended Plat of Lots 1 and 2 of Escher Subdivision. The Amended Plat of Lots 1 and 2 of Escher Subdivision was filed with the Recorder of Deeds office on August 25, 2005.

The property in question is currently vacant. According to the Assessor's information - utilizing Beacon the property once contained a single-family residence which was constructed in 1942.

REVIEW:

The applicant, Daryl Soukup is requesting a 10' front property line setback variance, in order to allow for the construction of a 40' x 72' single-family residence which will setback 15' from the front property line adjoining Iowa Colony Road. The proposed new building would be in line with the existing Maple Hill Ceramics structure.

Section 7.1 of the Development Guidance Code requires, "***Measurements to the structure shall be made to the part of the structure that is closest to the property line. As an example, if the structure has a roof with an overhang, the measurement is made to the overhang and not the foundation of the wall of the structure.***"

The applicant has indicated that the setback variance is being requested due to the unusual shape and topography of the buildable part of the lot. The property in question drops off sharply from the front to the rear of the lot.

The applicant has indicated that the setback variance will allow for the construction of the new residence outside of an area in which the rock appears to be unstable.

Should the setback variance be granted the new single-family would fall in line with other residences adjoining Iowa Colony Road.

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.”

STAFF RECOMMENDATIONS:

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

1. Approval a setback variance of 10 feet from the front property line adjoining Iowa Colony Road, allowing for the construction of a new single-family residence which will be located 15 feet from the front property line.
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 Taney County Development Guidance Code).

15-12

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

(Circle one)

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

PLEASE PRINT

DATE 10/15/2015

Applicant Daryl Soukup Phone 817-688-0341

Address, City, State, Zip 110 Haley Way Hollister, Mo 65672

Representative _____ Phone _____

Owner of Record Daryl J Soukup Signature: _____

Name of Project: 612 Iowa Colony

Section of Code Protested: (office entry) Section 7, Table 1 (Setbacks)

Address and Location of site: 612 Iowa Colony, Hollister Mo 65672

Subdivision (if applicable) ESCHER ESCHER LT 1A AMD PLT LTS 1 & 2

Section 13 Township 22 Range 22 Number of Acres or Sq. Ft. 0.480

Parcel Number 18-6.0-13-003-004-015.000

Does the property lie in the 100-year floodplain? (Circle one) _____ Yes _____ no _____ 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:

The house is going to be 72' long and 40' wide tentatively. The reason for the setback is the unusual shape/topography of the buildable part of the lot.

On the left hand lakeside of the lot you can see the loose rock that creates an unusual and unstable condition. By moving the house a few feet toward the street it creates a stable foundation condition.

Pictures are enclosed showing the rugged edge and loose rocks.

VERIFICATION

In signing this application, I fully understand, and will comply with, the responsibilities given me by the Taney County Development Guidance Code. I certify that all submittals are true and correct to the best of my knowledge and belief, and that my request may or may not be approved by the Taney County Planning Commission's Board Of Adjustment.

Daryl Soukup
Signature of Applicant

10/15/2015
Date of Application

STATE OF MISSOURI)

S.S. On this 15th day of Oct., 2015

COUNTY OF TANEY)

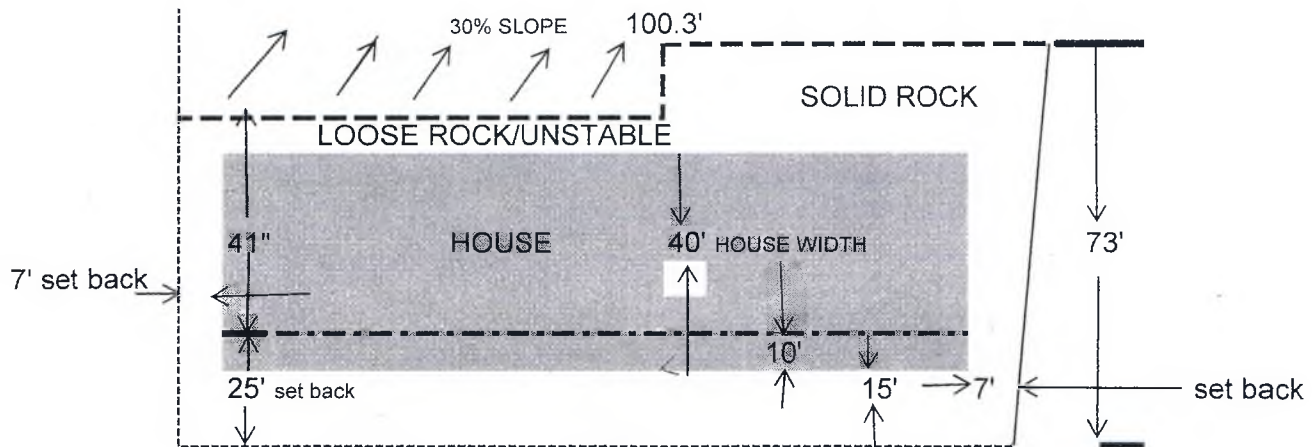
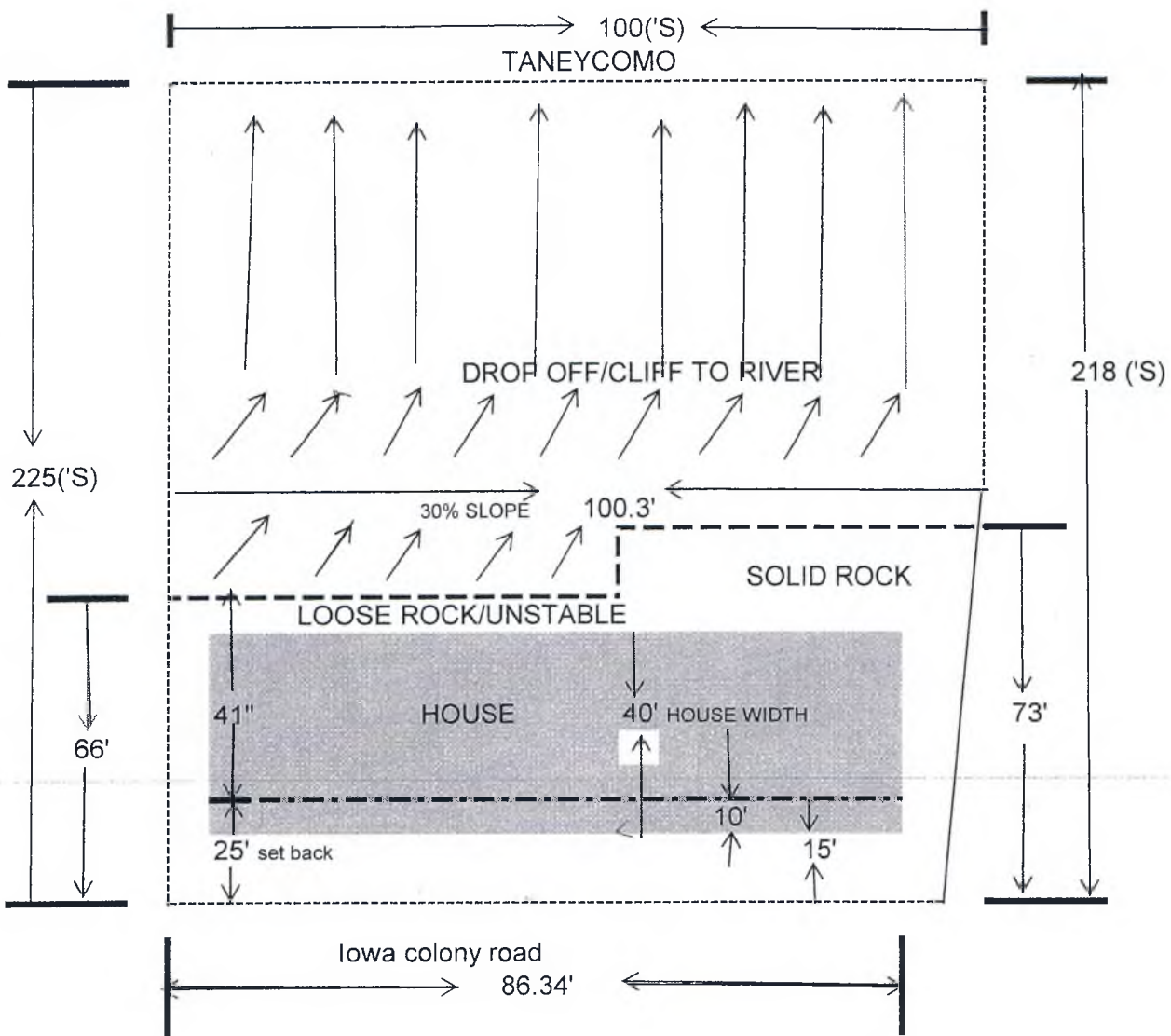
Before me Personally appeared Daryl Soukup, to me known to be the person described in and who executed the foregoing instrument.

In testimony Whereof, I have hereunto set my hand and affixed my official seal, at my office in Forsyth, Mo. The day and year first above written. My term of office as Notary Public will expire 2/6/2014.

Bonita Kisse-Sauter
Bonita Kisse, Notary Public



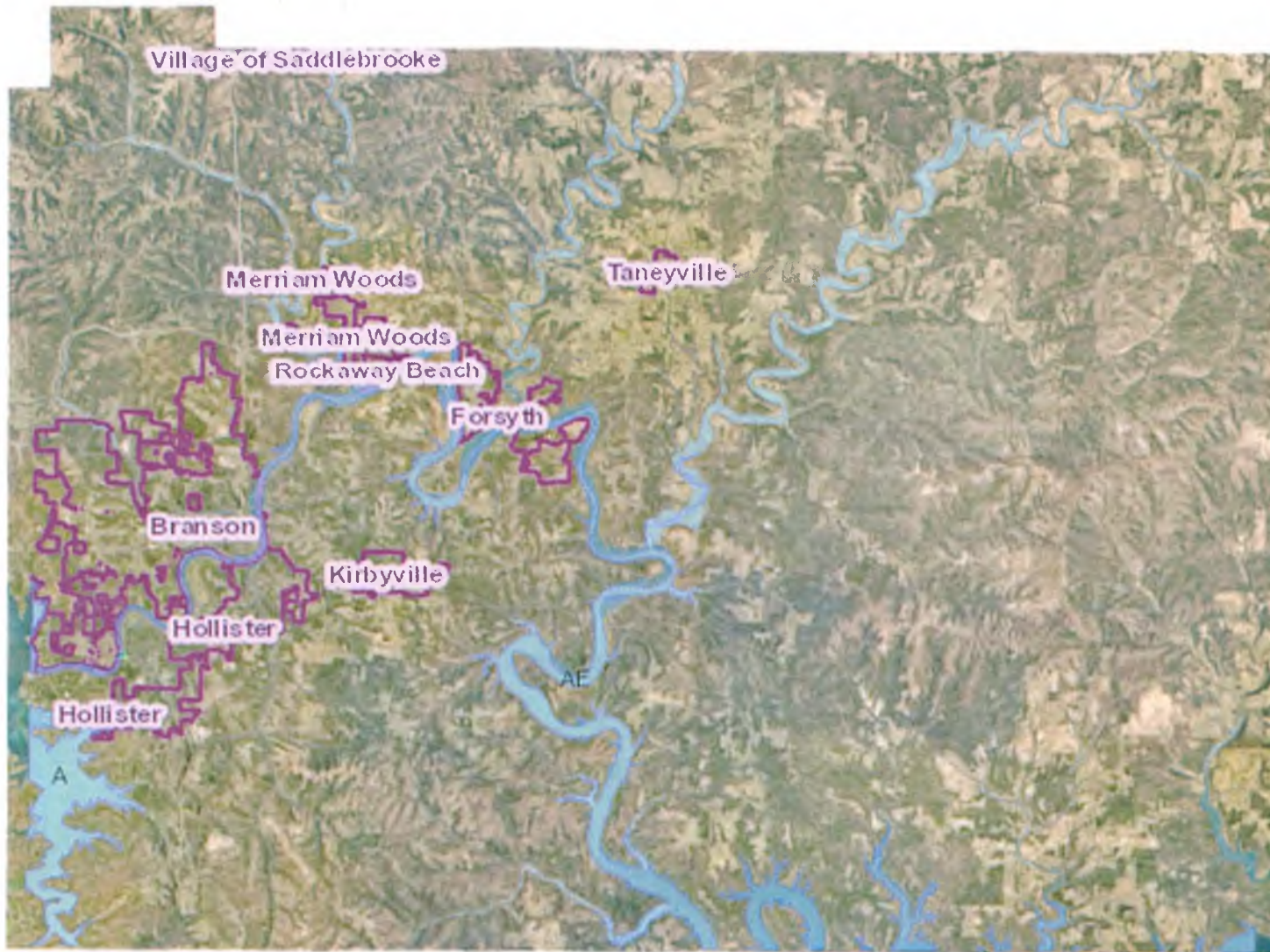
BONITA KISSEE-SAUTER
My Commission Expires
February 6, 2018
Taney County
Commission #10440057





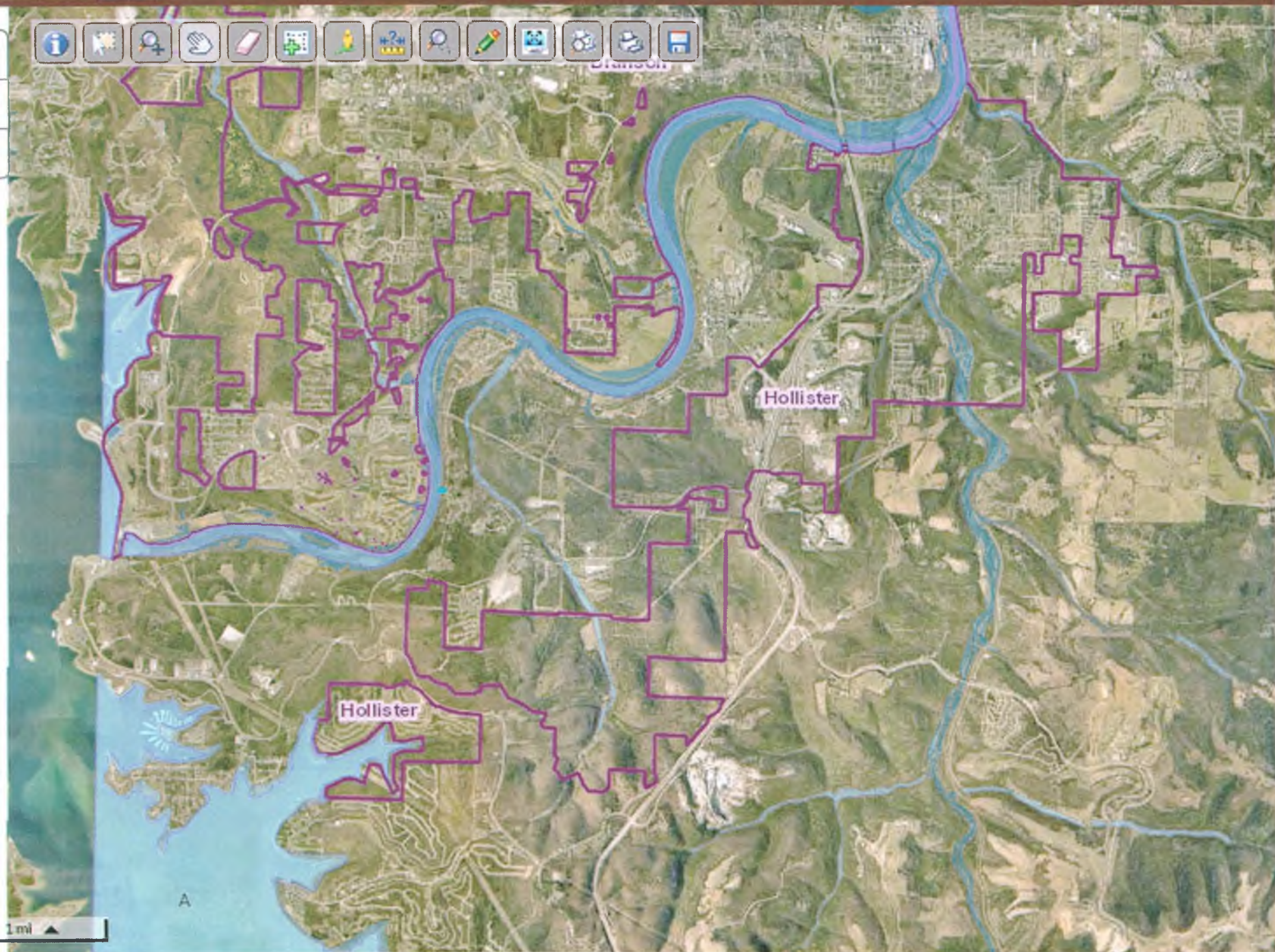
BOA Daryl Soukup





**Daryl Soukup Setback Variance Request
Board of Adjustment Variance Case # 2015-0012V
Taney County GIS - Beacon**

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1mi









POVERTY GULCH

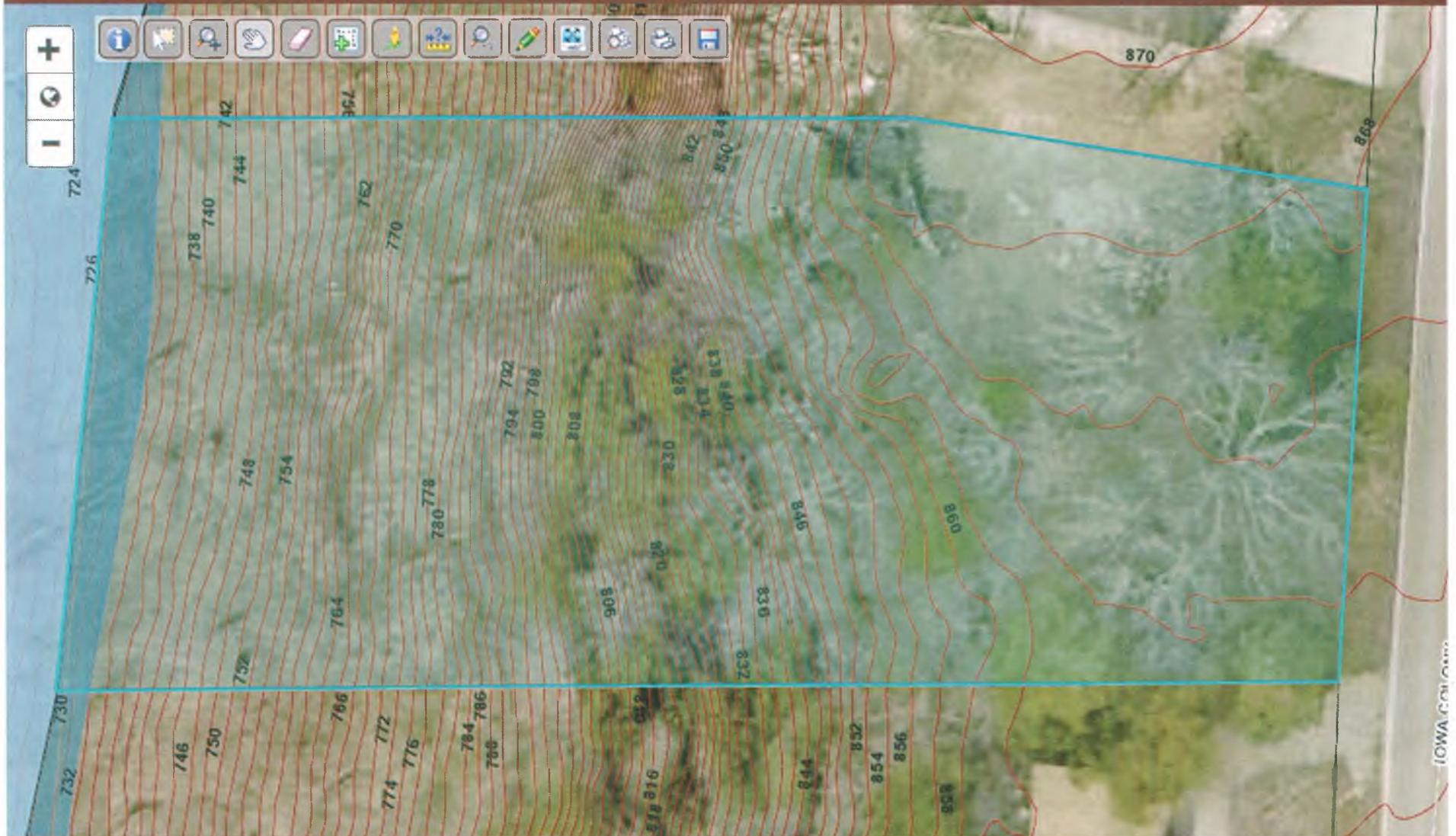
IOWA COLONY

100 ft

AE

Beacon™ Taney County, MO

Layers Map Search Comp Search Results Comp Results Report







**Daryl Soukup Setback Variance Request
Board of Adjustment Variance Case # 2015-0012V
Pictometry – View from the North**

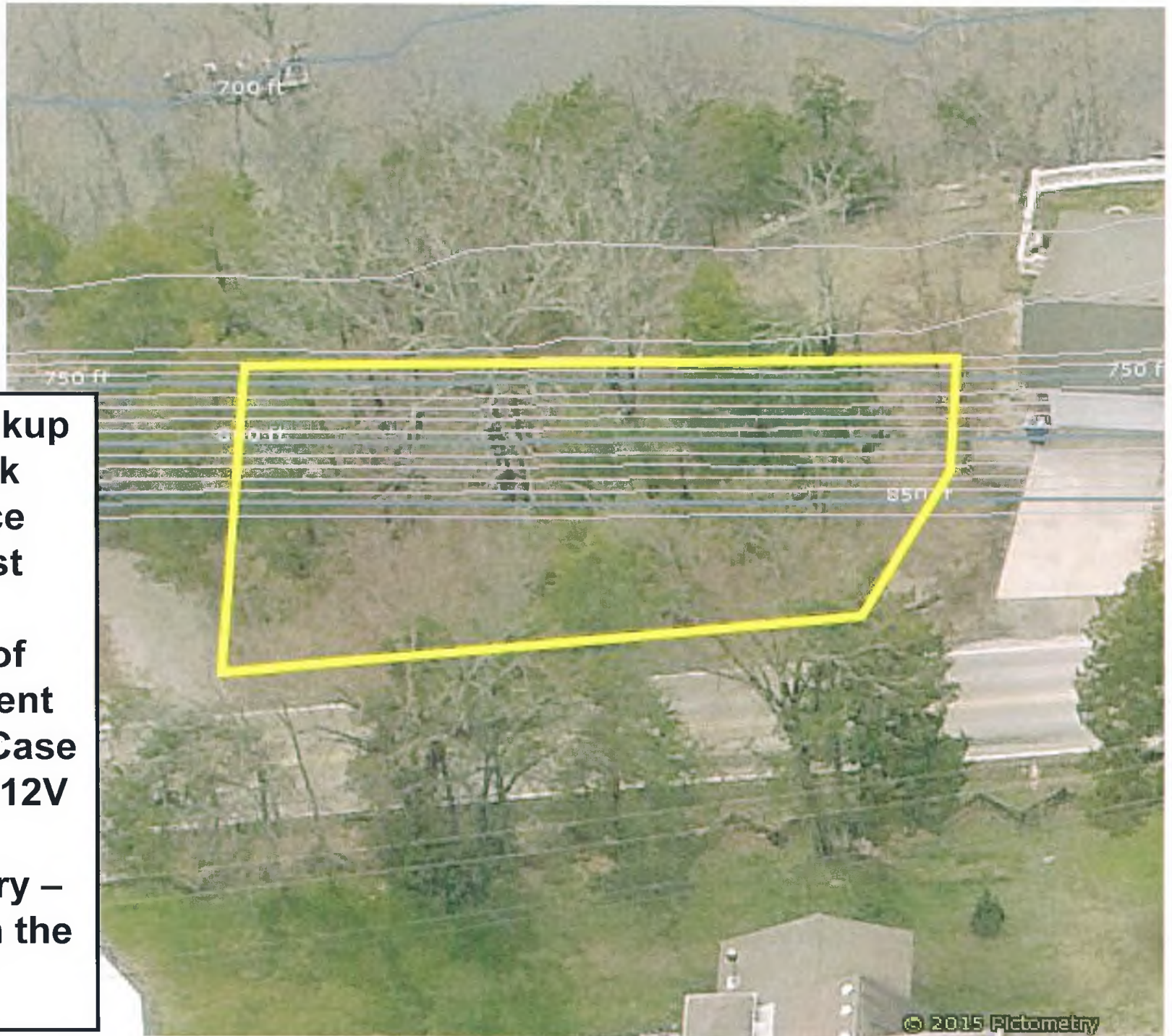


**Daryl Soukup Setback Variance Request
Board of Adjustment Variance Case # 2015-0012V
Pictometry – View from the South**

**Daryl Soukup
Setback
Variance
Request**

**Board of
Adjustment
Variance Case
2015-0012V**

**Pictometry –
View from the
East**



**Daryl Soukup
Setback
Variance
Request**

**Board of
Adjustment
Variance Case
2015-0012V**

**Pictometry –
View from the
West**











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, JULY 15, 2015, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Shawn Pingleton called the meeting to order. A quorum was established with three members present. They were: Shawn Pingleton, Mark Weisz, and Tony Mullen. Staff present; Bob Atchley and Bonita Kisse-Souttee.

Mr. Pingleton informed the applicants that since there were only three members present they would have the option to postpone until a full Board could be present. No one chose to do so.

Mr. Atchley read a statement explaining the meeting procedures and placed the Taney County Development Guidance Code into evidence as Exhibit A, the staff report as Exhibit B, and the staff files including all pertinent information as Exhibit C, the Board of Adjustment Bylaws as Exhibit D, and the Taney County Road Standards as Exhibit E. The state statutes that empower and govern the Board of Adjustment were read by Mr. Weisz. Mr. Pingleton swore in the speakers before their respective hearings.

Public Hearings:

SMBZ, LLC; a request by Steve Creedon for a variance from Sec. 7 Table 1, setbacks of the Taney County Development Guidance Code. The variance is for the required 25' setback for Lots 20 through 38 of the Woodbridge Estates Subdivision in order to allow for the construction of single family residences which would be located 10' more or less from the front property line. Mr. Atchley read the staff report and presented pictures and maps of the site. Mr. Creedon was represented by his legal counsel Tim Davis. No one else signed up to speak. Mr. Davis stated that the applicant needed to place the houses closer to the road because they all drop off toward the back and in his opinion would make the new structures further away from the houses behind the lots. Mr. Davis also presented further evidence in the form of pictures and maps. He reported that infrastructure is in place. Mr. Pingleton asked if the road conformed to the standards. Mr. Davis answered that it did. With no other discussion, Mr. Weisz made a motion to approve based upon the decision of record and stated that his motion was based upon the topography. Mr. Pingleton agreed. Mr. Mullen seconded. Mr. Weisz

suggested that the decision of record be re-written to state 10' should not be any less. The vote to approve was unanimous, with the chairman voting in favor.

Thomas A. and Mary K. Kraft; a request for a variance from Sec. 7 Table 1 setbacks of the Taney County Development Guidance Code. The variance is from the required 25' front property line setback requirement in order to allow for the construction of a 36' x 49' storage garage to be located 15' more or less from the front property line located in the 900 Block of Lakeview Drive, Ridgedale, MO. Mr. Atchley read the staff report and presented pictures and maps of the site. Eddie Wolfe represented the applicants. No one else signed up to speak. Mr. Wolfe stated that because the lot is irregularly shaped it would be difficult to build on and the applicant wants to store his boats and the structure needs to be a certain size. Mr. Mullen pointed out that the future plans for building a house on the same lot and that without the house, setback requirements could be met. With no other questions Mr. Weisz made a motion to approve based upon the decision of record. Seconded by Mr. Mullen. Mr. Pingleton voted in favor. The vote to approve was unanimous.

Profund Capital, LLC; a request by Steve Shepherd for an appeal of conditions #5 and #9 of Division III Special Use Permit #15-11 Board of Adjustment. The property is located at 290 Lone Pine Road. Mr. Atchley read the staff report and presented pictures and maps of the site. Mr. Shepherd was present to address questions from the Board. No one else signed up to speak. Mr. Shepherd pointed out that he was not the builder of the house and he bought it from the bank as a foreclosure. His plans were to sell it initially then decided he wanted to keep it and operate it as a nightly rental until such time they could move into it. The issue is with the wastewater system which is in good operation at this time, however in case it needed work, it is impossible to get to it in the back yard. Mr. Shepherd also pointed out that the house only uses half its capacity, and that can be controlled through the water meter. He stated that he can provide the department with reports on this whenever specified. Certain months out of the year it won't even be rented and plans are to only rent it on weekends anyway. Mr. Shepherd is happy to pump whenever the department suggests, it is just difficult to get to it. He also discussed the stipulation of the privacy fence and stated that because of the elevation a privacy fence would not be private. Mr. Pingleton stated that to put up a privacy fence would keep the nightly rentals off the neighbor's property. Mr. Shepherd stated that the property next door is an unapproved nightly rental. Mr. Atchley stated that the intent was that the fence would separate residential from commercial, and read what the Code stated. The Code states "buffer" and doesn't specify fence. Mr. Pingleton also asked how many people were planned at a time to stay there. Mr. Shepherd stated he would abide by what the Code required. With no other discussion a motion was made by Mr. Wiesz to approve based upon the decision of record. Seconded by Mr. Mullen. Mr. Pingleton voted yes. The vote to approve was unanimous.

7M Development, LLC; Request for Reconsideration; Mark Miller, president of 7M Development is requesting the Board to reconsider their decision not to consider a

portion of his request pertaining to the roadway thickness of June 17, 2015. Mr. Miller stated that he felt he should be reheard because he missed his plane and could not attend the meeting, and communications between himself and his representative broke down. He actually did not want to have to place the top two inches of asphalt on the road because the rest of the road surfaces are not that thick. He pointed out that he has been maintaining the roads to this point. Mr. Pingleton asked what their previous decision was. Mr. Weisz stated that in his opinion the Board could not rehear because the regulations stated that they can't because the bylaws state that anyone who was not present at the hearing could not request a rehearing. Mr. Pingleton pointed out that they made the best decision they could based upon the information they were given. After discussion a motion was made by Mr. Mullen not to grant the rehearing. Mr. Weisz seconded. Mr. Pingleton voted in favor of the motion. The vote not to rehear was unanimous.

Review and Action:

Minutes, June 2015; with no additions or corrections a motion was made by Mr. Mullen to approve the minutes as written. Seconded by Mr. Weisz. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Atchley reported that at this time there are no requests for next month. The deadline is not up until the 21st, so we could still have a request.

Adjournment:

With no other discussion the meeting adjourned at 7:20 p.m.



TANEY COUNTY PLANNING COMMISSION

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MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, OCTOBER 21, 2015, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Mr. Atchley called the roll. A quorum was not established at this meeting. Members present: Mark Weisz. Staff present; Bob Atchley, Bonita Kisse-Souttee. Mr. Atchley announced that this meeting will be held November 18, 2015. Mr. Weisz offered apologies for the lack of a quorum and reported the options to the applicants if only three members are present at the next meeting.

Public Hearings:

Maple Hill Ceramics; a request by Thellsia Surber to construct an addition to the existing business within the front setback area at 9009 US Hwy. Hearing postponed until November. Representative present.

Asher Holdings, LLC; a request by Chad Ellis for a variance from the required 25' front property line setback requirement to allow for the construction of a new single-family residence. Property Owners Association present. No representative present. Hearing postponed until November.

Review and Action:

Minutes; July 15, 2015 action postponed until November.