



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

AGENDA TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, JANUARY 18, 2017, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum

Election of 2017 Officers

Explanation of Public Hearing Procedures

And Presentation of Exhibits by the Administrator

Governing Statutes

Public Hearing:

Emerald Pointe, LLC – Appeal

Review and Action:

Minutes, December 2016

Old and New Business:

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT

APPEAL STAFF REPORT

HEARING DATE: January 18, 2017

CASE NUMBER: 2016-0002A

APPLICANT: Emerald Pointe, LLC – Shane Naugher

REPRESENTATIVES: Vincent O’Flaherty, Attorney
Bruce Menke

LOCATION: The subject property is the road rights-of-way within the Final Plat of Emerald Point Phase XII; located near the southwest intersection of State Highway 265 and Hill Haven Road, Hollister, MO; Oliver Township; Section 36, Township 22, Range 22.

REQUEST: The applicant, Emerald Pointe, LLC – Shane Naugher is seeking to appeal the Planning Administrator’s decision to place a Stop Work Order on all on-going road construction activities within the Emerald Pointe Subdivision, until such time that a form of security is provided to Taney County that is in compliance with the provisions of both RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations.

BACKGROUND and SITE HISTORY:

On December 20, 1993 the Taney County Planning Commission approved Division III Permit # 1993-0225, granting conceptual approval of a multi-use residential development on approximately 604 acres. Over the next eighteen (18) years, the developer (Gary Snadon) sought Planning Commission approval for additional Division III Permits for each phase of this residential subdivision.

On July 26, 1994 a contractual agreement was executed between Gary & Patsy Snadon and the Taney County Planning Commission, referenced as a Performance Guarantee. This Performance Guarantee was to act as the security ensuring the construction of improvements within the Emerald Pointe Subdivision; such as streets, water sewer and utility services. Mr. & Mrs. Snadon placed 37,500 shares of stock of in a privately held company (Roark Club, Inc.) in escrow to serve as the infrastructure security in question. This original Performance Guarantee was signed by Gary & Patsy Snadon, the Acting Planning Administrator, John Soutee and the Escrow Agent, Marvin Motley. The initial Performance Guarantee was to either be mutual terminated by the Parties (Mr. & Mrs. Snadon and Taney County Planning) or would expire in five (5) years from the date of the execution (July 26, 1999).

On September 27, 1999 the Performance Guarantee was amended allowing for the extension of the agreement for a period of ten (10) years from the initial execution. This extended the agreement through July 26, 2004. This amendment was signed by the Mr. & Mrs. Snadon and also the Acting Planning Administrator, Robert C. Hall.

On May 19, 2008 the Planning Commission approved Division III Permit # 2008-0029, approving a request by Emerald Pointe, LLC to plat fifty (50) acres more or less into 160 residential lots, as Phase XII of the Emerald Pointe Subdivision.

On September 17, 2008 Gary & Patsy Snadon signed a Second Amendment to Performance Guarantee. However, the second amendment to the original agreement was not signed or accepted by a representative of Taney County. The intent of this second amendment was to extend the period of the agreement to the July 26, 2009. However, an agreement is only binding upon all parties with the proper execution of an agreement by all parties.

On September 18, 2008 the Final Plat of Emerald Point Phase XII was signed by the Planning Administrator and filed with the Recorder of Deeds office.

On February 22, 2016 Bruce Menke provided the Taney County Planning Department office with a PDF copy of a Third Amendment to the Performance Guarantee. However, once again, the third amendment to the original agreement was not signed or accepted by a representative of Taney County. The intent of this second amendment was to extend the period of the agreement for five (5) years from July 26, 2014 (July 26, 2019). As stated previously, an agreement is only binding upon all parties with the proper execution of an agreement by all parties.

On May 4, 2016 the Planning Administrator wrote a letter to Mr. Menke indicating that the most recent amendment was not signed or accepted by a representative of Taney County. The letter further indicted that both the Taney County Subdivision Regulations and the Missouri Revised Statutes spell out in great detail the forms of security for infrastructure improvements that may be accepted by the Planning Commission on behalf of the County Commission. Simply put, a security based upon stock in a private company is not acceptable to the County, pursuant to both the provisions of Missouri Revised Statutes (RSMo 64.820) and also Article 8, Section 6 of the Taney County Subdivision Regulations.

After several months and no response from the representatives from Emerald Point, LLC, on August 9, 2016 the Planning Administrator sent a Notice of Violation to the representative. This Notice of Violation requested that the developer provide a form of security to Taney County in compliance with the provisions of both RSMo. 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations.

Following the sending of the Notice of Violation, representatives from Taney County met with and corresponded with representatives from Emerald Point, LLC, at various times throughout August, September and October. The written correspondence has been included in the Board of Adjustment Packet.

On September 21, 2016, after discovering that construction was continuing on the roadways within Phase XII of the Emerald Pointe Subdivision without the provision a valid security to Taney County, the Planning Administrator issued a Stop Work Order for any road construction activities within the Emerald Point Subdivision.

Now Emerald Pointe, LLC – Shane Naugher is appealing said Stop Work Order. This appeal application was originally scheduled to be heard by the Board of Adjustment on December 21, 2016. However, the applicant requested to postpone the hearing until January 21, 2017, in order to ensure that all parties representing the applicant are able to attend the public hearing.

GENERAL DESCRIPTION:

The subject property is the road rights-of-way within Phase XII of the Emerald Pointe Subdivision.

REVIEW:

The applicant, Emerald Pointe, LLC – Shane Naugher is appealing the Planning Administrator’s decision on September 21, 2016 to place a Stop Work Order on all on-going road construction activities within the Emerald Pointe Subdivision, until such time that a form of security is provided to Taney County that is compliant with the provisions of both RSMo. 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations. Copies of RSMo 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations have been provided in the BOA packets. Please note that even the performance bond requirements of the Development Guidance Code in place in 2008 reference RSMO 64.825 for surety requirements.

The Stop Work Order has been enacted for all on-going road construction activities within the Emerald Pointe Subdivision due to the developer’s failure to provide a proper security that complies with State Law and County Regulations.

The Taney County Legal Department has indicated that the road infrastructure currently being constructed shall be constructed in compliance with the current Road Standards. The Legal Department has further indicated that the approval of Division III Permit # 2008-0029 by the Planning Commission and the filing of the Final Plat with the Recorder of Deeds office does **NOT** absolve the developer from the requirement of constructing the roads in compliance with the current Taney County Road Standards. Simply put, the roadways within Phase XII of the Emerald Pointe Subdivision are currently being constructed; therefore said road infrastructure shall be constructed in compliance with the current regulations.

The developer has refused to submit road construction plans, making it impossible for a valid cost estimate to be preformed for the infrastructure costs. Please note that in my email to the developer on October 13, 2016, the step by step process for submitting the infrastructure security was enumerated. There are three steps that must be taken prior to the submission of the infrastructure security:

1. The applicant shall submit **Engineering Construction Plans** for the streets and storm sewers to the Taney County Road & Bridge Department.
2. Once the Engineering Construction Plans have been reviewed and approved by the Taney County Road & Bridge Department, the applicant shall submit an **Itemized Cost Estimate** for the improvements in question.
3. Once the Itemized Cost Estimate has been reviewed and approved by the Planning Department office, in conjunction with the Road & Bridge Department, the applicant shall then submit a **Performance bond** from a qualified insurance or bonding company, an **Irrevocable Letter of Credit** from a certified lending institution or **cash bond** in an amount sufficient to pay the estimated cost of the required improvements plus ten percent (10%).

Please note that in both Section 11.2.9 (c) and also 11.1.8 of the September 2008 Development Guidance Code states the following: "***The design and construction of all roads shall be in accordance with the requirements of Appendix L and the standards defined by the Taney County Road and Bridge Department.***" In September 2008, Appendix L was the Road and Access Standards. Not only would the current roadways under construction within Emerald Point Phase XII not meet the minimum requirements enumerated within the current Taney County Road Standards, they would not even comply with the minimum standards as enumerated within Appendix L of the September 2008 Development Guidance Code. For example, Section 8.3.11. of Appendix L requires that no street grade be in excess of 15%. Randy Haes, the Road & Bridge Administrator and I have measured the grade of many of the proposed roadways within Emerald Point Phase XII. Some of the roadways in question have a grade in excess of 34%. The developer has made no attempt to comply with any of Taney County's Road Standards, whether those standards are from today or 1993.

STATUTORY REQUIREMENTS OF APPROVAL OF AN APPEAL:

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

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

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

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

STAFF RECOMMENDATIONS:

If the Taney County Board of Adjustment approves the appeal of the Planning Administrator's Stop Work Order issued for all on-going road construction activities within the Emerald Pointe Subdivision, the following requirements shall apply, unless revised by the Board:

1. The Stop Work Order issued for all on-going road construction activities with the Emerald Pointe Subdivision shall be released in writing by the Planning Administrator.
2. The applicant shall submit **Engineering Construction Plans** for the streets and storm sewers within Phase XII of the Emerald Pointe Subdivision to the Taney County Road & Bridge Department.
3. Once the Engineering Construction Plans have been reviewed and approved by the Taney County Road & Bridge Department, the applicant shall submit an **Itemized Cost Estimate** for the improvements in question to the Taney County Planning Department office.
4. Once the Itemized Cost Estimate has been reviewed and approved by the Planning Department office, in conjunction with the Road & Bridge Department, the applicant shall then submit a **Performance bond** from a qualified insurance or bonding company, an **Irrevocable Letter of Credit** from a certified lending institution or **cash bond** in an amount sufficient to pay the estimated cost of the required improvements plus ten percent (10%).
5. Compliance with all of the other provisions of the Taney County Development Guidance Code.
6. The Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Chapter 7.3.4 Taney County Development Guidance Code).

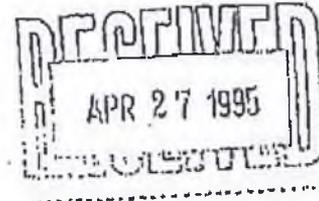
MARVIN MOTLEY
Residence: (417)334-2099

MOTLEY & MOTLEY

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Branson, Missouri
65615-6760
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THOMAS MOTLEY
Residence: (417)335-3199

*1 copy
Richard
Morton*



April 26, 1995

Chris Hall
Taney County Planning & Zoning Commission
P.O. Box 383
Forsyth, Missouri 65653

Dear Chris:

Enclosed is copy of agreement between Gary W. Snadon and Patsy A. Snadon, husband and wife and Taney County Planning Commission.

Pursuant to the terms and provisions of said agreement, I hold as Escrow Agent 500 shares of common stock of Roark Club, Inc. registered in the name of Gary W. Snadon and Patsy A. Snadon, husband and wife as joint tenants with right of survivorship and not as tenants in common and 37,500 shares of common stock of Roark Motor Lodge Interval Sales Corporation, evidenced by 5 certificates, all of which are registered in the names of Gary W. Snadon and Patsy A. Snadon.

The stock certificates which I hold are kept in safe keeping at my safety deposit box at Ozark Mountain Bank, Branson, Missouri.

Very truly yours,

Marvin Motley
Marvin Motley

MM:dar

Enclosure

PERFORMANCE GUARANTEE

This PERFORMANCE GUARANTEE, made this 26th day of July, 1994, by Gary W. Snadon and Patsy A. Snadon, husband and wife, hereinafter referred to as the GUARANTORS, and Taney County Planning Commission, hereinafter referred to as GUARANTEEES;

WHEREAS, the GUARANTORS have applied to Taney County Planning Commission for permission to file and record improved plats of certain lands in Taney County, Missouri, as contemplated and described in an application filed with the GUARANTEE and approved on December 20, 1993, said approval being designated Division III Permit Number 93-225, and incorporated by references herein as Exhibit A and attached hereto; and

WHEREAS, it is contemplated by the GUARANTORS that they will put in certain improvements such as streets, water, sewer and utility services to be provided to the purchasers and possessors of said lots, parcels, or pieces of land as covered in said permit; and as required from time to time by the GUARANTEE so long as this PERFORMANCE GUARANTEE is effective; and

WHEREAS, it is the intention of the parties that this PERFORMANCE GUARANTEE shall assure the purchasers and occupiers of said lands that they shall have these facilities available to them:

BE IT THEREFORE AGREED:

1. That the GUARANTORS do hereby promise that they shall, from time to time, and in phases to be approved by the GUARANTEEES, complete and place into operation on the Emerald Point Development in Taney County, Missouri, all such utility facilities including roads, water, and central sewer facilities in accordance with the requirements of Taney County Planning Commission and Taney

County Regional Sewer District for a period of five (5) years from date,

2. This PERFORMANCE GUARANTEE shall last until mutually terminated by the parties or five (5) years from date, whichever occurs first.

3. To guarantee performance by the GUARANTORS, they shall place in escrow certain shares of stock now owned solely by the GUARANTORS in Club Roark, Inc., a Missouri corporation, being certified number 1 for 500 shares, and Roark Motor Lodge Interval Sales Corporation, a Missouri corporation, for a total of 37,500 shares being certified numbers 2, 3, 5, 17, and 18; that said shares are free and clear of any liens or encumbrances and are now in the possession of Mr. Marvin Motley, Attorney at Law, Branson, Missouri, the shares being put in number and valued at this time in the sum of \$2,700,000.00.

4. That the Escrow Agent, Marvin Motley, shall hold said shares in escrow until full performance of this Guarantee and shall only release such shares in accordance with the terms hereof.

5. So long as the GUARANTORS carry out the terms hereof, the escrow agent shall retain possession and when performance has been completed, he shall release said shares to the GUARANTORS.

6. In the event the GUARANTORS do not make the improvements in accordance with the time schedule and requirements of the Guarantee, then upon written demand made to the Escrow Agent, he shall surrender said shares to the GUARANTEE who is authorized to sell same and apply the proceeds to put the improvements in place, and thereafter, any funds left over shall be returned to the GUARANTORS.

7. In the event the GUARANTORS enter into any contract to place the sewer services into a county or separate plant in accordance with a future plan not yet in place, this shall be considered by the parties in determining any default in performance.

8. The Escrow Agent, by signing this agreement, agrees to act as Escrow Agent and abide by the terms hereof.

9. The GUARANTEES, Taney County Planning Commission, by approving the Performance Guarantee, assents to the terms hereof.

Dated this 26th day of July, 1994.

Gary W. Snadon
Gary W. Snadon
Patsy A. Snadon
Patsy A. Snadon
Guarantors

Taney County Planning Commission

BY John Souttee
John Souttee, Acting Administrator

Marvin Motley
Marvin Motley, Escrow Agent

STATE OF MISSOURI)
) ss.
COUNTY OF TANEY)

Before me, the undersigned, Notary Public, appeared Gary W. Snadon and Patsy A. Snadon, his wife, and did acknowledge that they did sign the above Performance Guarantee and that the facts stated therein are true according to their best knowledge, information, and belief. In testimony whereof, I hereunto set my hand as Notary Public this 26th day of July, 1994.

Tanya Pembley
Notary Public

TANYA PEMBLEY
Notary Public - Notary Seal
STATE OF MISSOURI
Taney County
My Commission Expires July 14, 1996

~~DK~~
RK

AMENDMENT TO PERFORMANCE GUARANTEE

On July 26, 1994, Gary W. Snadon and Patsy A. Snadon, husband and wife, as Guarantors and Taney County Planning Commission entered into a Performance Guarantee, a copy of which is attached hereto and incorporated herein by reference.

Paragraph 2 provides that the Performance Guarantee shall last until mutually terminated by the parties or five (5) years from date, whichever occurs first.

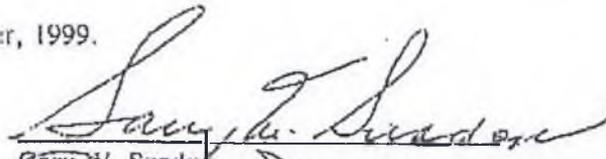
The parties desire to extend the period of the agreement for an additional period of ten (10) years from the 26th day of July, 1999.

1. The words "for a period of five (5) years from date" at the end of paragraph numbered 1 is changed to read "for a period of ten (10) years from the 26th day of July, 1999".
2. Paragraph numbered 2 is cancelled and the following substituted to read:

"2. This PERFORMANCE GUARANTEE shall last until mutually terminated by the parties or ten (10) years from July 26, 1999, whichever occurs first".

The parties ratify and reaffirm said PERFORMANCE GUARANTEE dated July 26, 1994 as herein amended.

Dated this 27th day of September, 1999.



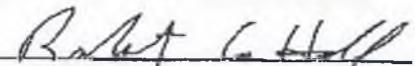
Gary W. Snadon



Patsy A. Snadon

GUARANTORS

Taney County Planning Commission

By: 

Chris Hall, Acting Administrator

STATE OF MISSOURI)
) §§
COUNTY OF TANEY)

Before me, the undersigned, Notary Public, appeared Gary W. Snadon and Patsy A. Snadon, his wife, and did acknowledge that they did sign the above Amendment to Performance Guarantee and that the facts stated herein are true according to their best knowledge, information, and belief. In testimony whereof, I hereunto set my hand as Notary Public this 27 day of September, 1999.

LEZLIE FRAN PARKER
Notary Public - Notary Seal
STATE OF MISSOURI
Taney County
My Commission Expires May 22, 2001

Lezlie Fran Parker

Notary Public, Taney County, Missouri

My commission expires: _____

SECOND AMENDMENT TO PERFORMANCE GUARANTEE

On July 26, 1994, Gary W. Snadon and Patsy A. Snadon, husband and wife, as Guarantors and Tancy County Planning Commission entered into a Performance Guarantee, a copy of which is attached hereto and incorporated herein by reference.

Paragraph 2 provides that the Performance Guarantee shall last until mutually terminated by the parties or five (5) years from date, whichever occurs first.

On the 27th day of September, 1999, said agreement was amended to extend the period of the agreement to the 26th day of July 2009, a copy of which amendment is attached hereto and incorporated herein by reference.

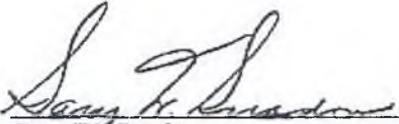
The parties desire to extend the period of the agreement for an additional period of five (5) years from the 26th day of July, 2009.

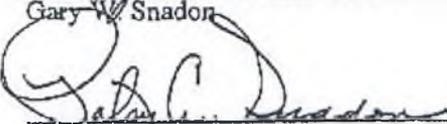
Paragraph 2 of the original agreement dated July 26, 1994 and as substituted by the Amendment To Performance Guarantee dated September 27, 1999 is amended to read:

"2. This PERFORMANCE GUARANTEE shall last until mutually terminated by the parties or five (5) years from July 26, 2009, whichever occurs first".

The parties ratify and reaffirm said PERFORMANCE GUARANTEE dated July 26, 1994 and amended September 27, 1999 as herein amended.

Dated this 17 day of September, 2008.



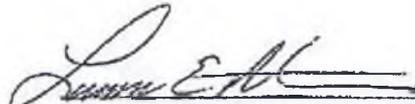
Gary W. Snadon


Patsy A. Shadon

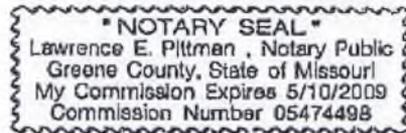
GUARANTORS

STATE OF MISSOURI)
)
COUNTY OF TANEY)

Before me, the undersigned, Notary Public, personally appeared Gary W. Snadon and Patsy A. Snadon, his wife, and did acknowledge that they did sign the above Second Amendment to Performance Guarantee and that the facts stated therein are true according to their best knowledge, information, and belief. In testimony whereof, I have hereunto set my hand and affixed my official seal at my office in Taney County as Notary Public this 17 day of September, 2008. My term of office as Notary Public will expire 5/10/2009.



Lawrence E. Pittman, Notary Public



THIRD AMENDMENT TO PERFORMANCE GUARANTEE

On July 26, 1994, Gary W. Snadon and Patsy A. Snadon, husband and wife, as Guarantors and Taney County Planning Commission entered into a Performance Guarantee, a copy of which is attached hereto and incorporated herein by reference.

Paragraph 2 provides that the Performance Guarantee shall last until mutually terminated by the parties or five (5) years from date, whichever occurs first.

On the 27th day of September, 1999, said agreement was amended to extend the period of the agreement to the 26th day of July 2009, a copy of which amendment is attached hereto and incorporated herein by reference.

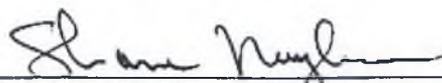
On the 17th day of September, 2008, said agreement was amended to extend the period of the agreement to the 26th day of July 2014, a copy of which amendment is attached hereto and incorporated herein by reference.

Paragraph 2 of the original agreement dated July 26, 1994 and as substituted by the Amendment to Performance Guarantee dated September 27, 1999 and the Second Amendment to Performance Guarantee dated September 17, 2008 is amended to read:

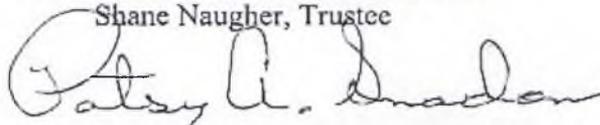
“2. This PERFORMANCE GUARANTEE shall last until mutually terminated by the parties or five (5) years from July 26, 2014, whichever occurs first”.

The parties ratify and reaffirm said PERFORMANCE GUARANTEE dated July 26, 1994 with subsequent amendments dated September 27, 1999 and September 17, 2008 as herein amended.

Dated this 25th day of September, 2014.



The Gary W. Snadon Trust, Guarantor
Shane Naugher, Trustee



The Patsy A. Snadon Trust, Guarantor
Patsy A. Snadon, Trustee

STATE OF MISSOURI)
)
COUNTY OF TANEY)

Before me, the undersigned, Notary Public, personally appeared Shane Naugher, Trustee of The Gary W. Snadon Trust and Patsy A. Snadon, Trustee of The Patsy A. Snadon Trust, and did acknowledge that they did sign the above Third Amendment to Performance Guarantee and that the facts stated therein are true according to their best knowledge, information, and belief. In testimony whereof, I have hereunto set my hand and affixed my official seal at my office in Taney County as Notary Public this 25th day of September, 2014. My term of office as Notary Public will expire MAY 10, 2017.

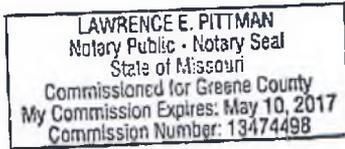
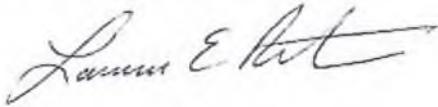


TABLE 2
Mobile Home Park Setbacks

Front Yard (measured from center line of road)	50'
Side Yard (separation including all appurtenances)	14'
Rear Yard (separation including all appurtenances)	20'
Side Corner (measured from center line of road)	35'

9.3. Easements

Permits will not be issued for any structure that encroaches on any recorded easement (utility, drainage, ingress/egress, etc.). The easement may be recorded on either a plat / survey or by a separate recorded instrument. The structures can be permitted immediately adjacent to an easement, but in no circumstance will a structure be allowed within an easement. These requirements apply to any structure whether defined as permanent or non-permanent.

10. PERFORMANCE GUARANTEES

Upon approval of one or more required Technical Plans and before the issuance of an associated permit, the developer may, as a good-faith Performance Guarantee, be required to post a bond with good and sufficient sureties (as set out in sections 64.825 and 107.080 RSMo 1996 incorporated herein by reference with such provisions) as will guarantee the faithful performance of all required work to be done in accordance with the submitted plans.

10.1. Sediment and Erosion, Stormwater Management, Re-vegetation Bonds

10.1.1. POSTING REQUIREMENTS

The developer shall provide the necessary surety through certified check, establishment of an escrow account, or one-hundred (100) percent bond for the estimated cost of the required improvements, plus twenty (20) percent, as a guarantee that all improvements will be installed in accordance the Technical Plan submitted (at most within two years) in the amount of all required work to be done under the submitted Plan(s). Any work shown in the submitted plans that is considered above and beyond minimum county standards may be deducted from the required financial posting.

Note: Bonds for land grading are addressed in section 10.2, below.

10.1.2. AMOUNT OF BOND

The amount of the surety for the Performance Guarantee is specific to the type of work to be performed and will be based on cost estimates provided by a certified engineer.

10.1.3. RELEASE OF FUNDS

Prior to a release of funds, either partial or in full, a statement of plan compliance shall be submitted. The statement of compliance shall establish what portions of the plan have been met and to what standard. Up to ninety (90) percent of the funds can be released after all code requirements are met and approved by the Designated Official. Ten (10) percent will be held until the public improvements are accepted by the County to ensure that the required control measures are satisfied.

10.1.4. FAILURE TO PERFORM

If all planned improvements are not been completed on time and in compliance with the submitted and approved plan(s), the County will call the account or bond for completion. The Commission may, with sufficient proof of cause, extend the completion deadline, however no additional phase of the development shall be permitted to begin if an extension has been granted.

- (b) Oversize Mains
Where adequate future water or sewage service necessitates the installation of mains larger than those needed to serve a development, the installation of the larger mains is required.
- (c) Roads
The design and construction of all roads shall be in accordance with the requirements of Appendix L and the standards defined by the Taney County Road and Bridge department.
- (d) Pedestrian Circulation
Residential developments shall provide adequate school bus loading and turn-around areas and to link school bus loading points into their pedestrian circulation system.
- (e) Parking and Loading Areas
Parking spaces and loading areas shall be provided in accordance with Appendix K, which controls the number, size, layout, and construction of required parking and loading areas.

Relative Policies

- (a) Water Systems
 - All developments should be served by a central water system that meets the capacity, storage, design, and construction requirements of the State of Missouri.
 - All central water systems are encouraged to include fire hydrants capable of delivering adequate firefighting pressures and flows throughout the development.
- (b) Pedestrian Circulation
 - Developments are encouraged to provide a complete system for pedestrian circulation.
 - The separation of pedestrian ways from roads is encouraged.
- (c) Bicycle Circulation
The provision of an adequate system of bicycle circulation, including signage, bike lanes or separated bike trails, and bike racks at all places intended for public use is encouraged.
- (d) Underground Utilities
All utility lines are encouraged to be underground.

11.1.9. OPEN SPACE - DENSITY

There are several ways of assessing a development's density or intensity of land use. Lot size, lot coverage, and floor area ratio are the most common. For rural areas where water quality, the scenic beauty that supports tourism, and other environmental concerns are the major planning issues, lot coverage in impervious surfaces is an excellent measure of land use intensity. It reflects a development's potential impact on its environment more directly than other land use intensity measures and has the added advantage of applying equally well to all kinds of development - residential, commercial, and industrial.

Absolute Policies

- (a) Density (with on-site sewage disposal)
Developments using septic tank and leach field sewage disposal systems must be a minimum of two (2) acres per parcel or lot.

- (c) Emergency Services
Building heights are encouraged to be limited to those serviceable by existing firefighting equipment.
- (d) Right of Way of Existing Roads
Developments that are accessed by public roads shall have a right of way of no less than fifty (50) feet. However, right-of-ways greater than 50 feet are preferred.

11.2.9. INTERNAL IMPROVEMENTS

Taxpayers should not be required to subsidize the activities of land developers, but they often do so in communities where developers are not required to provide adequate improvements. The construction, warranty, dedication, maintenance, and financing of improvements are addressed in section 11, and require the installation of all improvements in a project at the developer's expense and before occupancy.

Absolute Policies

- (a) Water Systems
Where individual water supplies are proposed, the developer shall provide evidence that the proposed water supply is adequate in terms of both quantity and quality.
- (b) Oversize Mains
Where adequate future water or sewage service necessitates the installation of mains larger than those needed to serve a development, the installation of the larger mains is required.
- (c) Roads
The design and construction of all roads shall be in accordance with the requirements of Appendix L and the standards defined by the Taney County Road and Bridge department.
- (d) Pedestrian Circulation
Residential developments shall provide adequate school bus loading and turn-around areas and to link school bus loading points into their pedestrian circulation system.
- (e) Parking and Loading Areas
Parking spaces and loading areas shall be provided in accordance with Appendix K, which controls the number, size, layout and construction of required parking and loading areas.

Relative Policies

- (a) Water Systems
 - All developments are encouraged to utilize a central water system that meets the capacity, storage, design, and construction requirements of the State of Missouri.
 - All central water systems are encouraged to include fire hydrants capable of delivering adequate firefighting pressures and flows throughout the development.
- (b) Pedestrian Circulation
 - Developments are encouraged to provide a complete system for pedestrian circulation.
 - The separation of pedestrian ways from roads is encouraged.
- (c) Bicycle Circulation
The provision of an adequate system of bicycle circulation, including signage, bike lanes or separated bike trails, and bike racks at all places intended for public use is encouraged.

#16-2A

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

(Circle one)

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

PLEASE PRINT

DATE 11-21-16

Applicant Emerald Pointe, LLC Phone (417) 332-1099

Address, City, State, Zip 118 State Dr., Hollister, MO 65672

Representative Vincent O'Flaherty, Atty. Phone (816) 931-4800
Bruce Menke Phone (417) 332-1099

Owner of Record Emerald Pointe, LLC Signature: [Signature]

Name of Project: Emerald Point Phase X11

Section of Code Protested: (office entry) Appeal of Stop Work Order

Address and Location of site: Emerald Pointe subdivision; Hwy 265;

P Hwy; Hill Haven Rd.

Subdivision (if applicable) Emerald Pointe

Section 36 Township 22 Range 22 Number of Acres or Sq. Ft. 9.81 ac - streets
(7.86 ac) approx 50 acres (overall)
(1.95 ac)

Parcel Number 18-7.0-36-001-003-001.000; 18-7.0-36-002-003-001.000

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:

Appeal the decision of Mr. Bob Atchley to issue a Stop Work Order regarding the completion of roads in Phase XII of Emerald Pointe. Mr. Atchley is applying 2016 Road Standards to a 2008 approved project. Significant financial damages have been and will continue to be incurred due to this action.

"See Attached E-mail History"

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.

Shawn Naugher
Signature of Applicant

11-21-16
Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY)

S.S. On this 21st day of November, 2016.

Before me Personally appeared Shawn Naugher, 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~~ 4/8/19.

Karin W. Foreman
Bonita Kisse, Notary Public



KARIN W. FOREMAN
My Commission Expires
April 8, 2019
Taney County
Commission #15384299

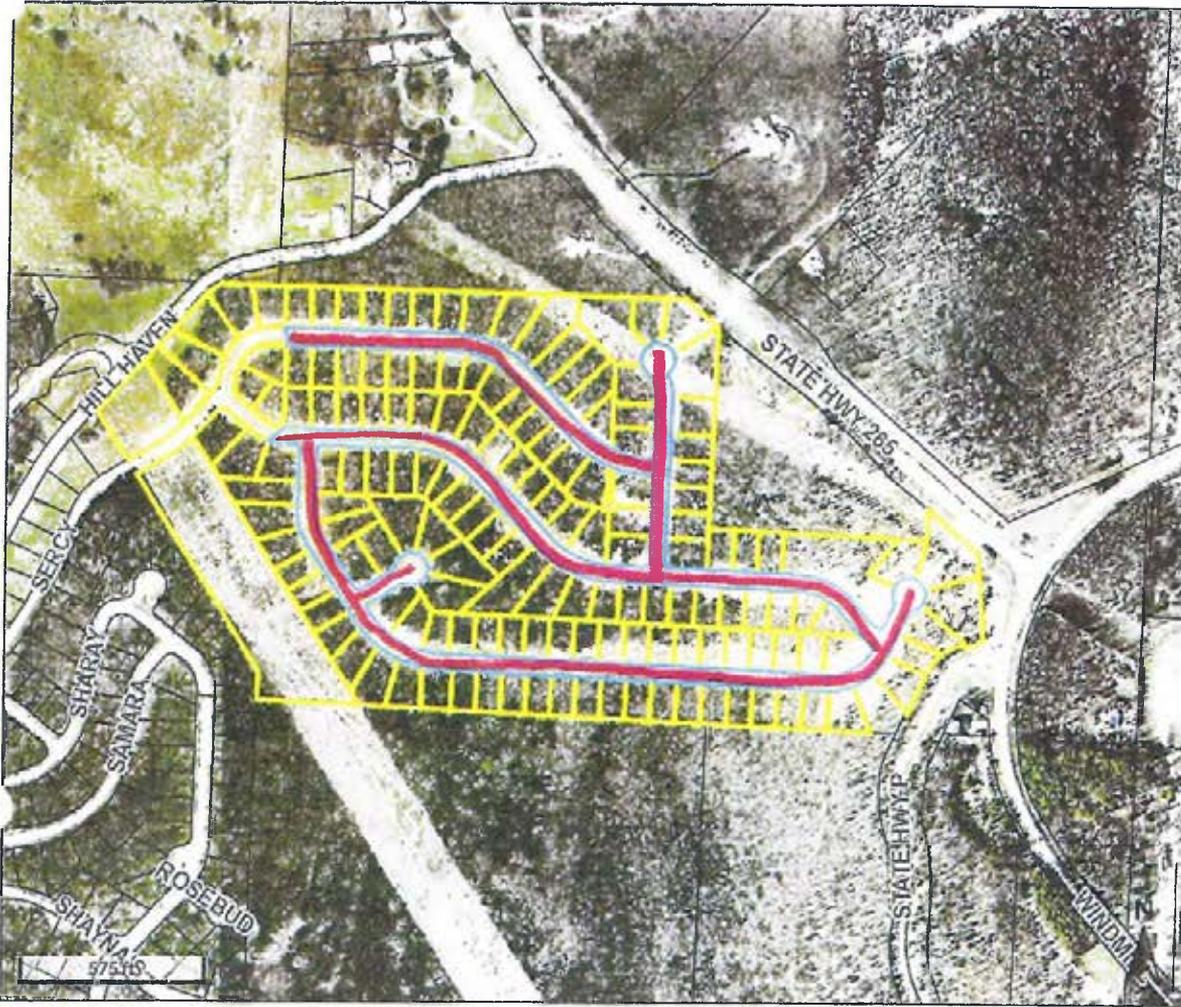
All of the Southwest Quarter of the Northeast Quarter of Section Thirty-six (36), Township Twenty-two (22) Range Twenty-two (22), Taney County Missouri. Less and except any part deeded, taken or used for public use.

Together with: All that part of the SE1/4 of the NE1/4 in Section 36, Township 22 North, Range 22 West, lying West of former U.S. Highway 65 and South of M.S.H. 265 and North and West of M.S.H. "P" excepting therefrom the following described tract; Starting at the SW corner of said SE1/4 of the NE1/4, Thence North 600 feet for a Point of Beginning, Thence East 660 feet; Thence North 98 feet to the South R/W line of said M.S.D. 265; Thence Northwesterly along said South R/W line of M.S.D. 265 to the West line of said SE1/4 of the NE1/4; Thence South to the Point of Beginning.

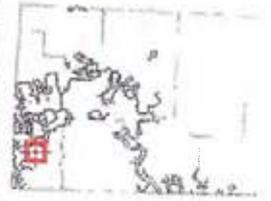
And Together with: A tract of land situated the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section 36, Township 22 North, Range 22 West of the fifth principal meridian, Taney County, Missouri, being more particularly described as follows:

Commencing at an existing stone marking the center of said Section 36; Thence North $02^{\circ}24'57''$ East a distance of 86.73 feet to an existing iron pin marking a corner of Lot 253 of Emerald Point Phase VIII, as subdivision plat recorded in Plat Book/Slide "G" at Pages 194 and 195 of the Recorder's Office of Taney County, Missouri; Thence North $31^{\circ}33'25''$ West a distance of 941.05 feet to the Northern most corner of Lot 339 of said Emerald Point Phase 8, said point being on the South right-of-way line of Hill Haven Road; Along the southerly right-of-way line of said Hill Haven Road as follows: Thence North $42^{\circ}30'46''$ East a distance of 445.76 feet; Thence Northeasterly along a segment of a curve to the right having an arc length of 83.53 feet, (said segment having a chord bearing and distance of North $50^{\circ}10'18''$ East, 83.28 feet and a radius of 312.45 feet) to a point on the North line of the SE1/4 of the NW1/4 of Section 36; Thence South $87^{\circ}49'24''$ East, along the North line of the SE1/4 of the NW1/4, a distance of 177.09 feet to an existing bolt marking the Northeast corner of the SE1/4 of the NW1/4; Thence South $02^{\circ}24'57''$ West, along the East line of the SE1/4 of the NW1/4, a distance 1178.14 feet to the said Point of Beginning, Containing 7.98 acres of land, more or less, Subject to all easements and restrictions of record.

Said land has been surveyed and subdivided in the manner shown hereon and said Subdivision is hereafter to be known as the "FINAL PLAT of EMERALD POINT PHASE XII", a subdivision in Taney County, Missouri. All streets as shown hereon are not dedicated to the public and shall be private. Access along said road from public lake road #265-20 or Hill Haven Road and Sercy Drive to the subdivision, is hereby granted to all existing future lot owners. The county or local authorities shall assume no responsibility for improvement or maintenance thereof. All other easements are hereby dedicated to the public.



Overview



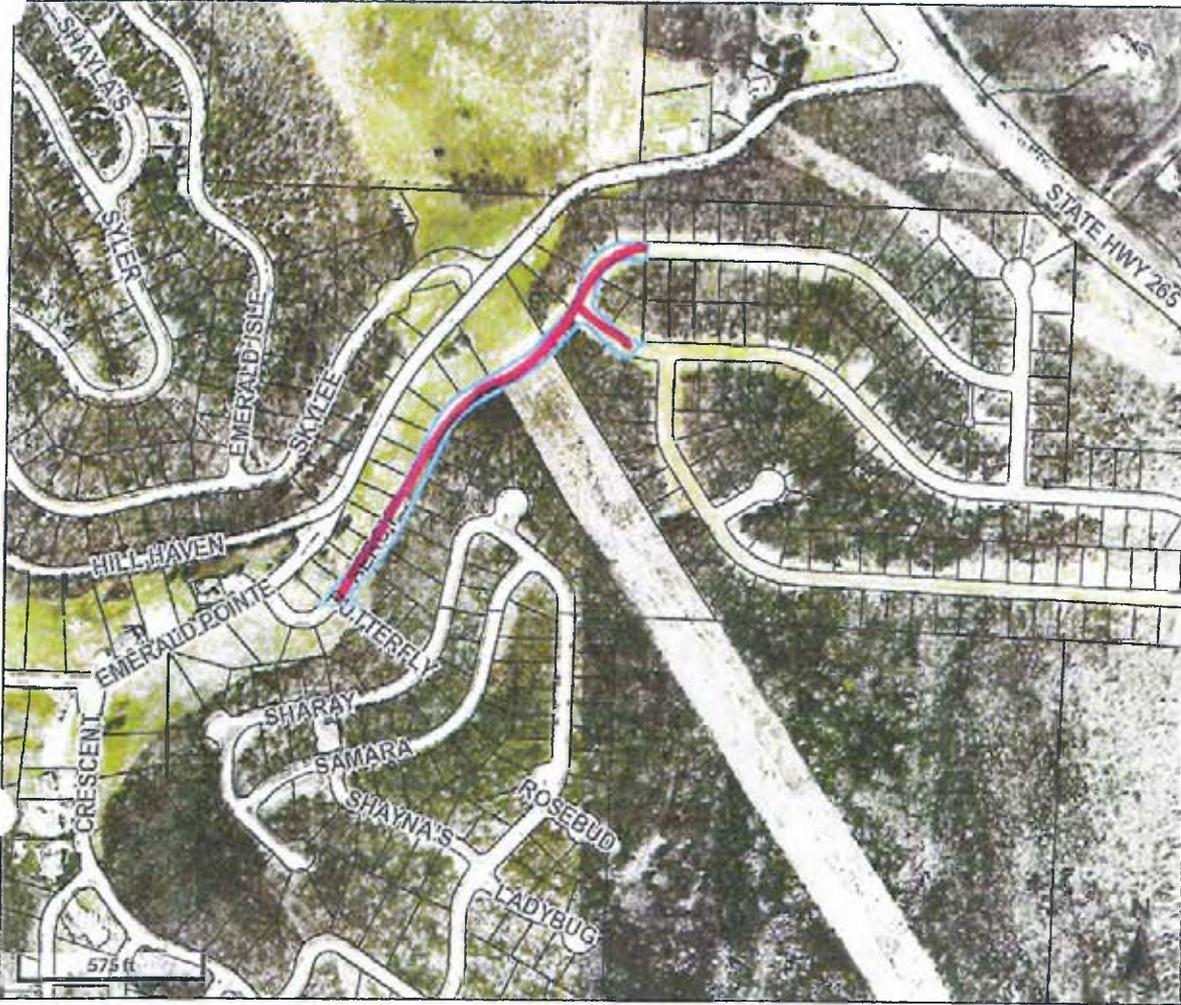
Legend

-  Parcels
-  Roads
-  Lakes
-  Corporate Limits

Parcel ID	18-7.0-36-001-003-001.000	Alternate ID	n/a	Owner Address	EMERALD POINTE LLC
Sec/Twp/Rng	36-22-22	Class	n/a		118 STATE DR
Property Address		Acreage	7.8600001335144		HOLLISTER MO 65672-
District	5CWX				
Brief Tax Description	EMERALD POINT - PH XII EMERALD POINT - PH XII SEARCY DR ALSO SAYER CIR, & (Note: Not to be used on legal documents)				

Date created: 11/17/2016
 Last Data Uploaded: 5/20/2013 10:17:09 PM

 Developed by
 The Schneider Corporation



Overview



Legend

- Parcels
- Roads
- Lakes
- Corporate Limits

Parcel ID	18-70-36-002-003-001.000	Alternate ID	n/a	Owner Address	EMERALD POINTE LLC
Sec/Twp/Rng	36-22-22	Class	n/a		118 STATE DR
Property Address		Acreage	1.95000004768372		HOLLISTER MO 65672-
District	5CWX				
Brief Tax Description	EMERALD POINT - PH VIII EMERALD POINT - PH VIII SERCY RD & SAYER CIRCLE IN (Note: Not to be used on legal documents)				

Date created: 11/17/2016
 Last Data Uploaded: 5/20/2013 10:17:09 PM

Developed by
 The Schneider Corporation



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

May 4, 2016

Bruce Menke
Chief Operations Officer
Shepherd of the Hills Entertainment Group
118 State Drive
Hollister, MO 65672

Dear Mr. Menke:

I sincerely appreciate you providing me with a copy of the original Performance Guarantee for the Emerald Point Subdivision and also copies of each of the three (3) Amendments to the Performance Guarantee. However, the Performance Guarantee is not acceptable to the County.

Apparently, on September 25, 2014, Shane Naugher and Patsy Snaden signed the notarized Third Amendment to the Performance Guarantee, as trustees of The Gary W. Snadon Trust. However, this most recent amendment to the original agreement was not signed or accepted by a representative of Taney County. An agreement is only binding upon all parties with the proper execution of an agreement by all parties.

The Taney County Subdivision Regulations and also the Missouri Revised Statutes for regulation of subdivisions within the unincorporated county both spell out in great detail the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the County Commission. RSMo 64.825 states, "*Such regulations (Subdivision Regulations) may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety bond, cash bond, cash deposit with county treasurer, letter of credit, or certificate of deposit and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the bond, surety bond cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit by all proper remedies.*" The document in question does not comply with either the requirements for Security for Public Improvements provided by either Missouri Revised Statute or within the Taney County Subdivision Regulations. A Performance Agreement backed by stock in a private company is simply not enumerated within either the Subdivision Regulations or the Missouri Revised Statutes as an acceptable form of security.

Bruce Menke
Chief Operations Officer
May 4, 2016
Page 2

The Taney County Planning Department is now requesting that the Gary W. Snadon Trust provide a form of security to Taney County, Missouri, that is in compliance with the provisions of both RSMo. 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations. For your convenience, I have enclosed a copy of RSMo 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations. Please note that per the provisions of Article 8, Section 6 of the Subdivision Regulations the amount of the security shall be established by first submitting detailed plans and drawings of the portions of the development, in which the infrastructure (roads and sewer mains) has yet to be constructed, with an itemized cost estimate for these public improvements. The amount of the security is to be sufficient to pay the estimated cost of the required public improvements plus ten percent (10%).

Thank you for your time and immediate attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Bob Atchley". The signature is written in dark ink and is positioned above the printed name.

Bob Atchley
Taney County Planning Administrator
enclosures

Missouri Revised Statutes

Chapter 64

County Planning--Zoning--Recreation--Natural Streams and Waterways

[←64.820](#)

Section 64.825.1

[64.830→](#)

August 28, 2015

Regulation of subdivisions in unincorporated areas--procedure--bonds.

64.825. The county planning commission may also prepare, with the approval of the county commission, as parts of the official master plan or otherwise, sets of regulations governing subdivisions of land in unincorporated areas, and amend or change same from time to time as herein provided, which regulations may provide for the proper location and width of streets, building lines, open spaces, safety, recreation, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may also include the extent to which and the manner in which streets shall be graded and improved, and the extent to which water, sewer and other utility services shall be provided, to protect public health and general welfare. Such regulations may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of the improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the bond, surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit by all proper remedies. The subdivision regulations shall be adopted, changed or amended, certified and filed as provided in section [64.815](#). The subdivision regulations shall be adopted, changed or amended only after a public hearing has been held thereon, public notice of which shall be given in the manner as provided for the hearing in section [64.815](#).

(L. 1965 p. 178 § 6, A.L. 2004 H.B. 795, et al. merged with H.B. 1362)

[1991](#)[Top](#)

Missouri General Assembly

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Section 6. Security for Public Improvements

Installation of required public improvements in a development or any phase of a development shall be required or guaranteed by any one of the following methods:

- A. The developer shall install all of the required improvements prior to the approval and subsequent recording of a final plat.
- B. The Planning Commission shall require that all public improvements be installed and dedicated prior to the Planning Administrator authorizing the recording of the final plat.
- C. **Security for Public Improvements**

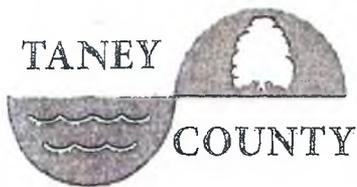
Should the Planning Commission determine it to be unreasonable to require the permit recipient to comply with all of the requirements of these Regulations with respect to the installation and dedication of all public improvements before the filing of the final plat, the permit recipient shall establish a Performance Bond from a qualified insurance or bonding company, an Irrevocable Letter of Credit from a certified lending institution or cash bond, utilizing a form approved for use by the Planning Department to guarantee the cost for the completion of the required public improvements. The amount of the security shall be established by the following method:

- 1. The permit recipient shall submit detail plans and drawings of the development(s) with an itemized cost estimate for public improvements (see Table 1 for standard cost estimate form), the amount of security to guarantee the completion of the required public improvements shall be established by the Planning Administrator in an amount sufficient to pay the estimated cost of the required public improvements plus ten percent (10%).

Section 7. Performance by the County of Developer's Obligations

Should the developer fail to perform the developer's obligation to construct and correct defects in public improvements as required by the Taney County Road Standards, the Taney County Subdivision Regulations, the Taney County Development Guidance Code or any other County regulations or requirements, the County may liquidate any performance security in the County's possession and use the proceeds to construct or correct the improvements in whole or in part as the County in its sole discretion deems appropriate.

- A. The developer is to pay all costs if defective. Notwithstanding the amount of the Subdivision Performance Bond, Irrevocable Letter of Credit or cash bond, the owner of the subdivision shall pay all costs that Taney County actually incurs in designing and constructing improvements or correcting defects in any improvements the developer is required to install pursuant to the Taney County



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

August 9, 2016

Bruce Menke
Chief Operations Officer
Shepherd of the Hills Entertainment Group
118 State Drive
Hollister, MO 65672

Notice of Violation

Dear Mr. Menke:

As was previously indicated in my letter to you dated May 4, 2016, the Gary W. Snadon Trust has failed to provide Taney County, Missouri with an appropriate security that may be accepted for the remaining infrastructure improvements and utilities yet to be completed within the Emerald Pointe Subdivision. As you know, the Performance Guarantee that you provided is not acceptable to the County. The most recent amendment, signed by Shane Naugher and Patsy Snaden on September 25, 2014, was not signed or accepted by a representative of Taney County and is therefore not binding upon Taney County.

The Taney County Planning Department is once again requesting that the Gary W. Snadon Trust provide a form of security to Taney County, Missouri, that is in compliance with the provisions of both RSMo. 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations. For your convenience, I have once again enclosed a copy of RSMo 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations.

Please note that pursuant to Article 8, Section 6 of the Subdivision Regulations the amount of the security shall be established by first submitting detailed plans and drawings of the portions of the development, in which the infrastructure (roads and sewer mains) has yet to be constructed, with an itemized cost estimate for these public improvements. The amount of the security is to be sufficient to pay the estimated cost of the required public improvements plus ten percent (10%).

The Taney County Subdivision Regulations and also the Missouri Revised Statutes for regulation of subdivisions within the unincorporated county both spell out in great detail the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the County Commission. RSMo 64.825 states, "*Such regulations (Subdivision Regulations) may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety bond, cash bond, cash deposit with county treasurer, letter of credit, or certificate of deposit and*

Bruce Menke
Chief Operations Officer
August 9, 2016
Page 2

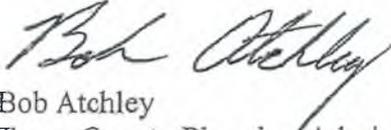
conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the bond, surety bond cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit by all proper remedies.

You are being given ten days from the date of service to seek compliance with the provisions of the Taney County Subdivision Regulations and RSMo 64.825. If you do not take the appropriate actions within the next ten (10) days it shall be my duty to bring this violation to the attention of the Taney County Prosecuting Attorney.

Pursuant to Missouri Revised Statute RSMo 64.895, "Any owner, lessee or tenant who, having been served with an order in writing signed by the officer or official to correct or remove any such violations, shall fail to comply with the order within ten days after service, or who shall continue to violate any of the regulations or orders made under the authority of section 64.850 to 64.880 in the respect named in the order, shall be guilty of a misdemeanor."

Thank you for your immediate attention to this matter.

Sincerely,



Bob Atchley
Taney County Planning Administrator
enclosures

Section 6. Security for Public Improvements

Installation of required public improvements in a development or any phase of a development shall be required or guaranteed by any one of the following methods:

- A. The developer shall install all of the required improvements prior to the approval and subsequent recording of a final plat.
- B. The Planning Commission shall require that all public improvements be installed and dedicated prior to the Planning Administrator authorizing the recording of the final plat.
- C. **Security for Public Improvements**

Should the Planning Commission determine it to be unreasonable to require the permit recipient to comply with all of the requirements of these Regulations with respect to the installation and dedication of all public improvements before the filing of the final plat, the permit recipient shall establish a Performance Bond from a qualified insurance or bonding company, an Irrevocable Letter of Credit from a certified lending institution or cash bond, utilizing a form approved for use by the Planning Department to guarantee the cost for the completion of the required public improvements. The amount of the security shall be established by the following method:

- 1. The permit recipient shall submit detail plans and drawings of the development(s) with an itemized cost estimate for public improvements (see Table 1 for standard cost estimate form), the amount of security to guarantee the completion of the required public improvements shall be established by the Planning Administrator in an amount sufficient to pay the estimated cost of the required public improvements plus ten percent (10%).

Section 7. Performance by the County of Developer's Obligations

Should the developer fail to perform the developer's obligation to construct and correct defects in public improvements as required by the Taney County Road Standards, the Taney County Subdivision Regulations, the Taney County Development Guidance Code or any other County regulations or requirements, the County may liquidate any performance security in the County's possession and use the proceeds to construct or correct the improvements in whole or in part as the County in its sole discretion deems appropriate.

- A. The developer is to pay all costs if defective. Notwithstanding the amount of the Subdivision Performance Bond, Irrevocable Letter of Credit or cash bond, the owner of the subdivision shall pay all costs that Taney County actually incurs in designing and constructing improvements or correcting defects in any improvements the developer is required to install pursuant to the Taney County

Missouri Revised Statutes

Chapter 64

County Planning--Zoning--Recreation--Natural Streams and Waterways

[←64.820](#)

Section 64.825.1

[64.830→](#)

August 28, 2015

Regulation of subdivisions in unincorporated areas--procedure--bonds.

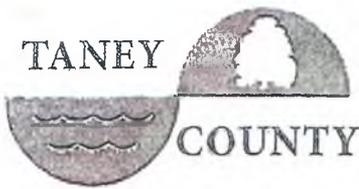
64.825. The county planning commission may also prepare, with the approval of the county commission, as parts of the official master plan or otherwise, sets of regulations governing subdivisions of land in unincorporated areas, and amend or change same from time to time as herein provided, which regulations may provide for the proper location and width of streets, building lines, open spaces, safety, recreation, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may also include the extent to which and the manner in which streets shall be graded and improved, and the extent to which water, sewer and other utility services shall be provided, to protect public health and general welfare. Such regulations may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of the improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the bond, surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit by all proper remedies. The subdivision regulations shall be adopted, changed or amended, certified and filed as provided in section [64.815](#). The subdivision regulations shall be adopted, changed or amended only after a public hearing has been held thereon, public notice of which shall be given in the manner as provided for the hearing in section [64.815](#).

(L. 1965 p. 178 § 6, A.L. 2004 H.B. 795, et al. merged with H.B. 1362)

[1991](#)[Top](#)

Missouri General Assembly

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TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

September 21, 2016

Shane Naugher
Emerald Pointe, LLC

Bruce Menke
Emerald Pointe, LLC
118 State Drive
Hollister, MO 65672

STOP WORK ORDER

Dear Mr. Naugher and Mr. Menke:

This letter is to serve as a Stop Work Order for all on-going road construction activities within the Emerald Pointe Subdivision. All road construction activities shall immediately cease.

Prior to resuming any road construction activities within the Emerald Pointe Subdivision, you shall first provide a form of security to Taney County, Missouri, that is in compliance with the provisions of RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations. As you know, on August 9, 2016 I sent a letter to your attention indicating that you will be required to comply with the infrastructure security requirements of both Missouri Revised Statute and the Taney County Subdivision Regulations. This previous correspondence included copies of RSMo 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations as enclosures. The aforementioned documents enumerate, in great detail, the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the Taney County Commission.

If you do not cease roadway construction immediately, I will be forced to forward this violation to the attention of the Taney County Prosecuting Attorney for prosecution.

Pursuant to Missouri Revised Statute RSMo 64.895, "*Any owner, lessee or tenant who, having been served with an order in writing signed by the officer or official to correct or remove any such violations, shall fail to comply with the order within ten days after service, or who shall continue to violate any of the regulations or orders made under the authority of section 64.850 to 64.880 in the respect named in the order, shall be guilty of a misdemeanor.*"

Thank you for your time and immediate attention to this matter.

Sincerely,

Bob Atchley
Taney County Planning Administrator

Bruce Menke

From: Bob Atchley [boba@co.taney.mo.us]
Sent: Thursday, October 13, 2016 11:07 AM
To: 'Shane Naugher'; 'craig.richards@centralbank.net'
Cc: Bruce Menke; 'Frank Cottey'; 'kathi.cotteymediation@gmail.com'; Nikki Lawrence; Randy Haes
Subject: Required Steps Allowing for the Release of the Emerald Pointe Infrastructure Stop Work Order
Importance: High
Attachments: Section 8 of Section 3 (Grade & Curves) Road Standards.pdf; Section 9 of Section 3 (Minimum Right-of-Way & Roadway Widths) Road Standards.pdf; Standard Detail - High Density Residential Streets.pdf; Appendix C (Itemized Cost Estimate) Subdivision Regulations.pdf

Hello Shane and Craig,

I am writing this email to serve as a detailed enumeration of the steps which shall be taken in order to allow for the written release of the Stop Work Order for the road construction within the Emerald Pointe Subdivision.

As you know, Missouri Revised Statute RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations enumerate, in great detail, the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the Taney County Commission. For your convenience, I have attached a copy of both RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations. In speaking with you, it is my understanding that you are planning to submit an Irrevocable Letter of Credit via the Central Bank of Branson. I have forwarded your request for a standard form for an Irrevocable Letter of Credit to the Taney County Legal Department. Once I have received this form, I will immediately forward it to your attention.

However, prior to submitting the infrastructure security to Taney County, there are a number of steps that must first be taken pursuant to the Taney County Road Standards and the Taney County Subdivision Regulations. I have enumerated these steps as follows:

1. Pursuant to Section 1 of Section 2 of the Taney County Road Standards, you shall submit **Engineering Construction Plans** for the streets and storm sewers to the Taney County Road and Bridge Department. These engineering construction plans will ensure that the streets and storm sewers in question are designed to be built in compliance with the minimum Taney County Road Standards.

Please note that pursuant to the Road Standards, the streets in question would be viewed as high density – residential streets. Pursuant to Table 3.9 (Right-of-Way Width) a High-Density –Residential street shall have a roadway width of 31' from back of curb to back of curb. ***For your convenience, I have attached a copy of a standard detail for High-Density –Residential streets.*** Please note that it indicates a 5" minimum compact aggregate base course, a 3" minimum plant mix aggregate base course and finally a 2" minimum plant mix bituminous pavement (final surface). Please also note that pursuant to Section 7 of Section 3 the maximum grade on local streets is fifteen percent (15%) (***this section has also been attached***).

2. Once the Engineering Construction Plans have been reviewed and approved by the Taney County Road and Bridge Department, you shall then submit an **Itemized Cost Estimate** for the improvements in question. ***For your convenience, I have attached a copy of Itemized Cost Estimate for Public Improvements.***

Once the Itemized Cost Estimate has been reviewed and approved by the Planning Department office, in conjunction with the Road & Bridge Department, you shall then submit a **Performance bond** from a qualified insurance or bonding company, an **Irrevocable Letter of Credit** from a certified lending institution or **cash bond** in an amount sufficient to pay the estimated cost of the required improvements plus ten

10/13/2016

percent (10%).

Once you have complete the aforementioned steps, then I will immediately release the stop work order.

I'd like to thank you both for your continued cooperation as we seek to resolve this matter.

Thank you both for your continued time and assistance.

Sincerely,

Bob Atchley

Faney County Planning Administrator

P.O. Box 383

107 David Street

Forsyth, MO 65653

Phone: (417) 546-7225

Fax: (417) 546-6861

Section 7. Sight Distance:

1. Proper sight distance shall be provided with respect to horizontal and vertical alignment. Measured along the center line, four feet (4') above grade, this shall be six hundred sixty feet (660') for a primary arterial, three hundred feet (300') for secondary arterials, three hundred feet (300') for collectors, and one hundred twenty five feet (125') for local streets. Where two (2) streets of different classification intersect, the sight distance for the higher classification shall prevail.
3. Intersections shall be approached on all sides by leveling areas where the grade exceeds seven percent (7%). Such leveling areas shall have a minimum length of 75 feet measured from the intersection of the center lines within which no grade shall exceed a maximum four percent (4%).

Section 8. Grade and Curves:

1. The minimum grade on curb and gutter streets shall be one-half percent (1/2%). The maximum grade shall be eight percent (8%) on arterials, twelve percent (12%) on collectors and fifteen percent (15%) on local streets.
2. Vertical curves shall be used in changes of grade exceeding two percent (2%) for local roads; all other classifications shall have vertical curves. The length of vertical curve shall be no less than that determined by the formula:

L equals K A, where: L equals length of vertical curve. 'A' equals algebraic difference in grades, 'K' shall be determined by the following table:

	Crest	Sag
Local	28	35
Collector	50	50
Arterial	80	60

**TABLE 3.8
K-VALUES**

Section 9. Minimum Right-of-Way and Roadway Widths:

1. Minimum right-of-way widths and width of roadway shall be as follows:

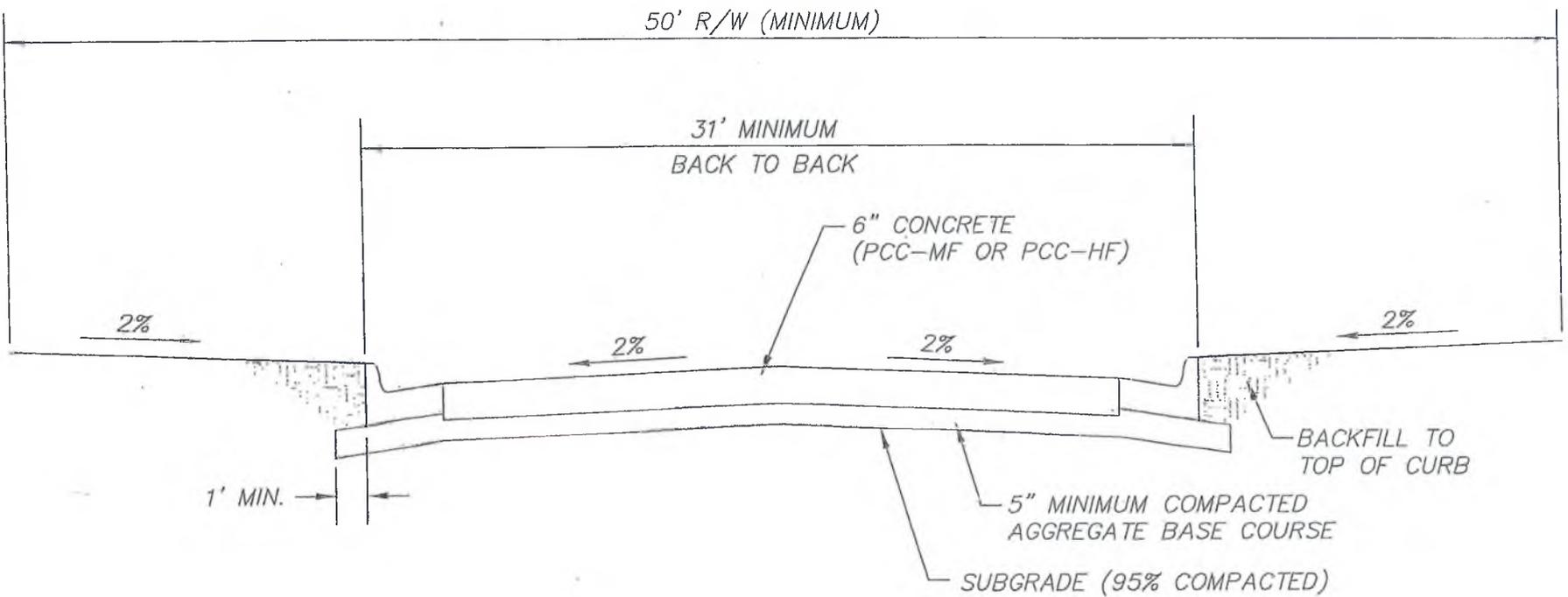
	Type of Street	Right-of-Way	Roadway Width
Local	Residential	50'	24'
	High Density Residential	50'	31'
	Industrial/Commercial	60'	36' - 49'
	(Provides access to industrial/commercial properties.)		
Collector	Residential	60'	31' - 49'
	Industrial/Commercial	60'	39' - 49'
	(Typical residential collector is 31 feet. Could go up to 49 feet depending on conditions; i.e. three (3) lanes or four (4) lanes.		
Minor Arterial		70' - 80' +	To be determined individually
Primary Arterial		100' +	To be determined individually
Expressway		130' +	To be determined individually

**TABLE 3.9
RIGHT-OF-WAY AND WIDTH**

2. Provisions for additional street right-of-way width may be required by Taney County in specific cases for the reasons of public safety and convenience. Additional off-street parking in industrial, commercial,

and residential areas may also be required by Taney County.

3. Additional street right-of-way is required when:



CROSS SECTIONS
(CONCRETE W/CURB)
MINIMUM RESIDENTIAL STREET STANDARDS

30

APPENDIX C. ITEMIZED COST ESTIMATE FOR PUBLIC IMPROVEMENTS

Subdivision Name _____

Final Plat File Code _____

ITEM	QUANTITY	UNITS	AMOUNT
Temporary gravel const. Entrance and upkeep		EA	
Straw / hay bale dike		LF	
Sediment basin		LS	
(List other initial sediment controls)			
Detention basin grading		LS	
Detention basin outlet structure		LS	
Detention basin trickle channel		LF	
Seed & mulch sediment/detention basin berms		AC	
Rough grade streets		LF	
Rough grade lots		LS	
Rough grade drainage channel, (Line A, 1,etc)		LF	
Sanitary sewer mains, off- site		LF	
Sanitary sewer mains, on- site		LF	
Sanitary sewer laterals		EA	

Faney County Subdivision Regulations
Appendix C – Itemized Cost Estimate for Public Improvements

Water mains, off-site.		LF	
Water mains, on-site		LF	
Water line service laterals		EA	
Gas main, off-site		LF	
Gas main, on-site		LF	
Gas line service laterals		EA	
Electric facilities, off-site			
Electric facilities, on-site			
Storm sewer Line A			
15" RCP		LF	
Etc, pipe size & type		LF	
Junction Box		EA	
SS-6 inlet		EA	
DI-1 inlet		EA	
XX" Flared end section		EA	
Grouted riprap		SF	
Etc for each storm sewer line			
Fine grade subgrade		LF	
Curb & gutter		LF	
Aggregate base course		LF	
Asphalt base course		LF	
Asphalt surface course		LF	
Initial Double Coat Chip & Seal surface		LF	
Final Double Coat Chip & Seal surface		LF	
Concrete pavement		LF	
Sidewalks		LF	
Backfill curbs			
Seed & mulch right-of-		LF	

Bruce Menke

From: Bob Atchley [boba@co.taney.mo.us]
Sent: Tuesday, October 25, 2016 2:30 PM
To: 'Shane Naugher'; Bruce Menke
Cc: Shane Naugher; Mr. Craig Richards ; Randy Haes; 'Frank Cottey'; Nikki Lawrence; 'kathi.cotteymediation@gmail.com'
Subject: RE: Emerald Pointe Roads
Importance: High

Hello Shane and Bruce,

On October 13, 2016 I sent you each an email containing a detailed enumeration of the steps which must be taken in order to allow for the written release of the Stop Work Order for the road construction within the Emerald Pointe Subdivision, pursuant to the provisions of RSMo. 64.825 and the Taney County Subdivision Regulations.

Pursuant to the Taney County Subdivision Regulations the road infrastructure within Phase XII of the Emerald Pointe Subdivision shall be built in compliance with the Taney County Road Standards.

As stated on October 13th, I have once again enumerated the steps that are to be followed below:

1. **Submit Engineering Construction Plans.** Pursuant to Section 1 of Section 2 of the Taney County Road Standards, you shall submit **Engineering Construction Plans** for the streets and storm sewers to the Taney County Road and Bridge Department. These engineering construction plans will ensure that the streets and storm sewers in question are designed to be built in compliance with the minimum Taney County Road Standards.

Please note that pursuant to the Road Standards, the streets in question would be viewed as high density – residential streets. Pursuant to Table 3.9 (Right-of-Way Width) a High-Density –Residential street shall have a roadway width of 31' from back of curb to back of curb. ***For your convenience, I have attached a copy of a standard detail for High-Density –Residential streets.*** Please note that it indicates a 5" minimum compact aggregate base course, a 3" minimum plant mix aggregate base course and finally a 2" minimum plant mix bituminous pavement (final surface). Please also note that pursuant to Section 7 of Section 3 the maximum grade on local streets is fifteen percent (15%) (***this section has also been attached***).
2. **Submit Itemized Cost Estimate.** Once the Engineering Construction Plans have been reviewed and approved by the Taney County Road and Bridge Department, you shall then submit an **Itemized Cost Estimate** for the improvements in question. ***For your convenience, I have attached a copy of Itemized Cost Estimate for Public Improvements.***
3. **Submit a Security in Compliance with RSMO 64.825.** Once the Itemized Cost Estimate has been reviewed and approved by the Planning Department office, in conjunction with the Road & Bridge Department, you shall then submit a **Performance bond** from a qualified insurance or bonding company, an **Irrevocable Letter of Credit** from a certified lending institution or **cash bond** in an amount sufficient to pay the estimated cost of the required improvements plus ten percent (10%).

I would like to thank you both for your continued cooperation as we seek to resolve this matter.

10/25/16/2016

Thank you both for your continued time and assistance.

Sincerely,

B. Atchley
 Taney County Planning Administrator
 P.O. Box 383
 207 David Street
 Forsyth, MO 65653

Phone: (417) 546-7225
 Fax: (417) 546-6861

From: Shane Naugher [mailto:snaugher@dazzee.com]
Sent: Monday, October 24, 2016 11:55 PM
To: Bruce Menke; Bob Atchley
Cc: Shane Naugher; Mr. Craig Richards
Subject: Re: Emerald Pointe Roads

Bob,
 I just wanted to follow up with this and see if we can proceed with getting this stop work order released based on this information. We have a very short window before the asphalt plants shut down due to temperatures and if that happens before we get the base down we will most likely lose the curbing we have put in thus far before next Spring.

Let me know.

Thanks,
 Shane

Shane Naugher | President | [mailto:snaugher@dazzee.com]
 Office 417.334.0494 | Fax 417.339.2676 |
 18 State Dr. | Hollister, MO | 65672

From: Bruce Menke <bmenke@snadonproperties.com>
Date: Friday, October 21, 2016 at 11:55 AM
To: Bob Atchley <boba@co.taney.mo.us>
Cc: "shane@snadonproperties.com" <shane@snadonproperties.com>, "Mr. Craig Richards" <craig.richards@centralbank.net>
Subject: Emerald Pointe Roads

Bob,

Tom Boyce had a meeting with Randy Haes regarding the roads at Emerald Pointe. Apparently Randy indicated to Tom that he thought the roads were platted as PUBLIC which put them under the County guidelines. As you can see from the attachment, the roads are platted as PRIVATE. As is clearly addressed on the Plat Map recorded September 18, 2008 "All streets as shown hereon are not dedicated to the public and shall be private." And, "The county or local authorities shall assume no responsibility for improvement or maintenance thereof." This is the case for every phase of Emerald Pointe development. It is a private, gated community with no dedication of any roads to the Public.

10/16/2016

According to my conversation with Tom, Randy indicated that if the roads were platted PRIVATE there would be no issue that would involve the County. Hopefully, this resolves the issues whereby the County feels they have authority over the roads within the Emerald Pointe development.

Bruce

Bruce D. Menke

Chief Operations Officer

Shepherd of the Hills Entertainment Group

(417) 332-1099 ext. 4103 (office)

(417) 335-4473 (fax)

menke@snadonproperties.com (e-mail)

Bruce Menke

From: Bob Atchley [boba@co.taney.mo.us]
Sent: Wednesday, October 26, 2016 2:04 PM
To: 'Shane Naugher'; Bruce Menke
Cc: Shane Naugher; Mr. Craig Richards ; Randy Haes; 'Frank Cottey'; Nikki Lawrence; 'kathi.cotteymediation@gmail.com'; Vince O'Flaherty
Subject: RE: Emerald Pointe Roads

Shane,

Randy Haes has indicated to me that he in no way indicated to Tom Boyce that the roads within phase XII of the Emerald Pointe Subdivision would not be subject to the requirements of the Taney County Road Standards. The lack of best construction practices and the nearly thirty-five percent measured grade for a portion of these roadways may present an imminent life / safety issue to the residents of the Emerald Pointe Subdivision and even the general public, that cannot simply be overlooked.

Please also note that I do not wish to see any damage occur to the curbing that has been poured onsite. However, it is my understanding that any damage that may occur to the curbs could be a direct result of there being no provision for proper stormwater drainage and also improper construction of the curbs. It is best to discuss the exact storm drainage and curb specifications within the Road Standards with Randy Haes.

Thank you again for your continued time and assistance.

Sincerely,

Bob Atchley
 Taney County Planning Administrator
 P.O. Box 383
 107 David Street
 Forsyth, MO 65653

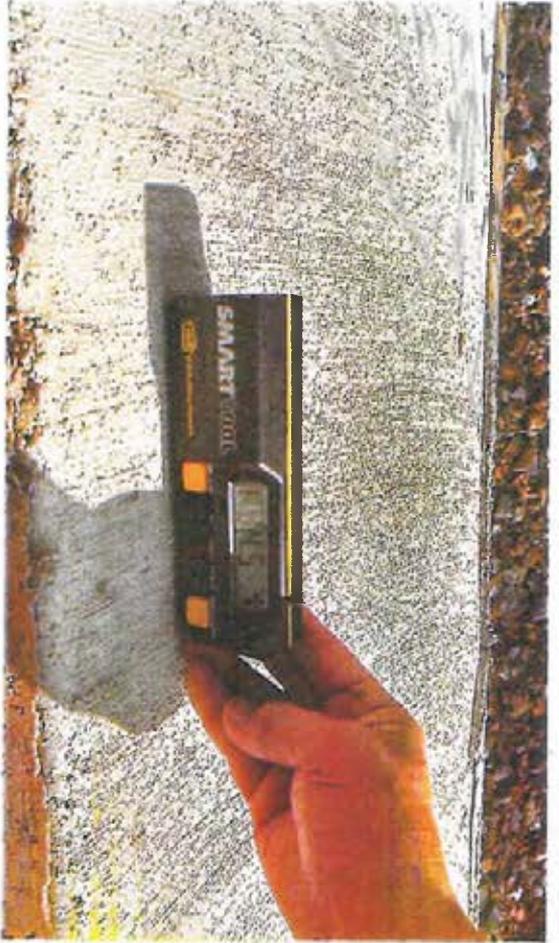
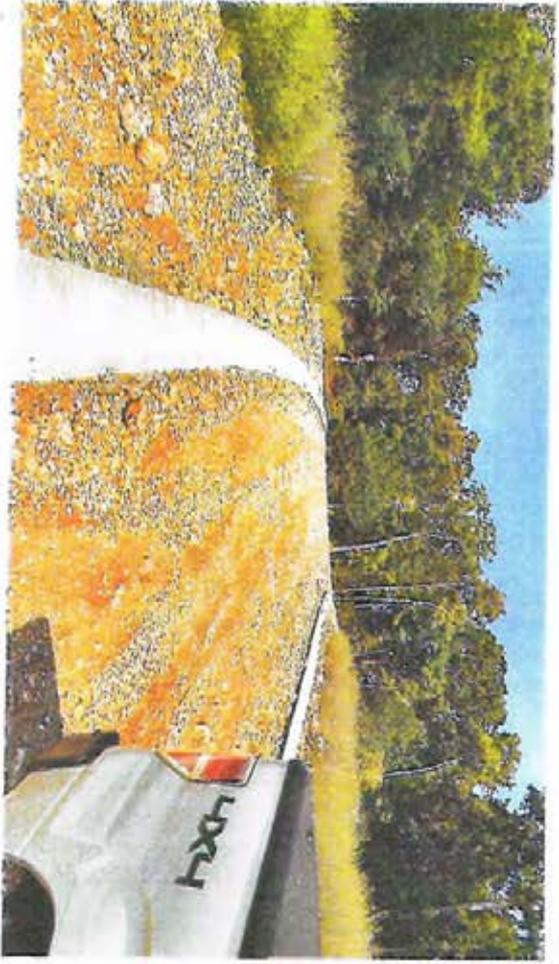
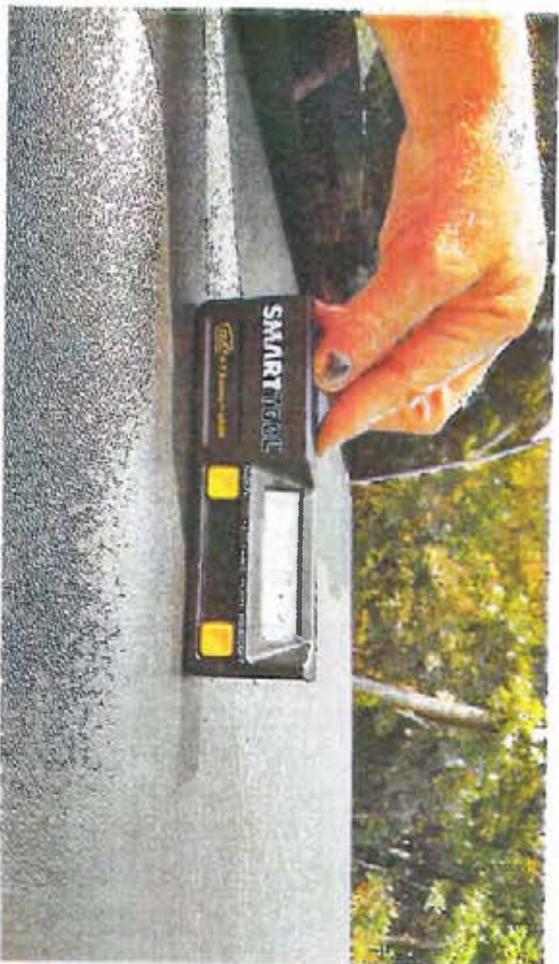
Phone: (417) 546-7225
 Fax: (417) 546-6861

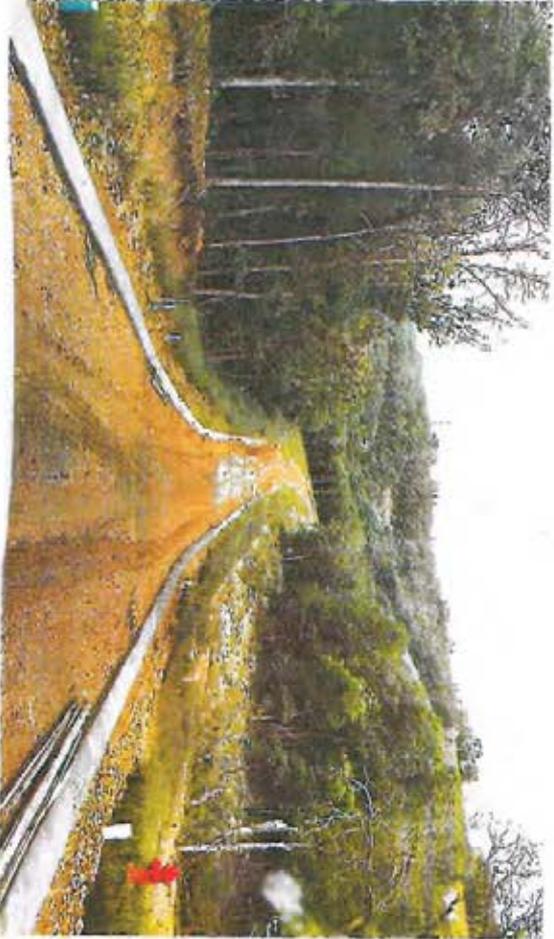
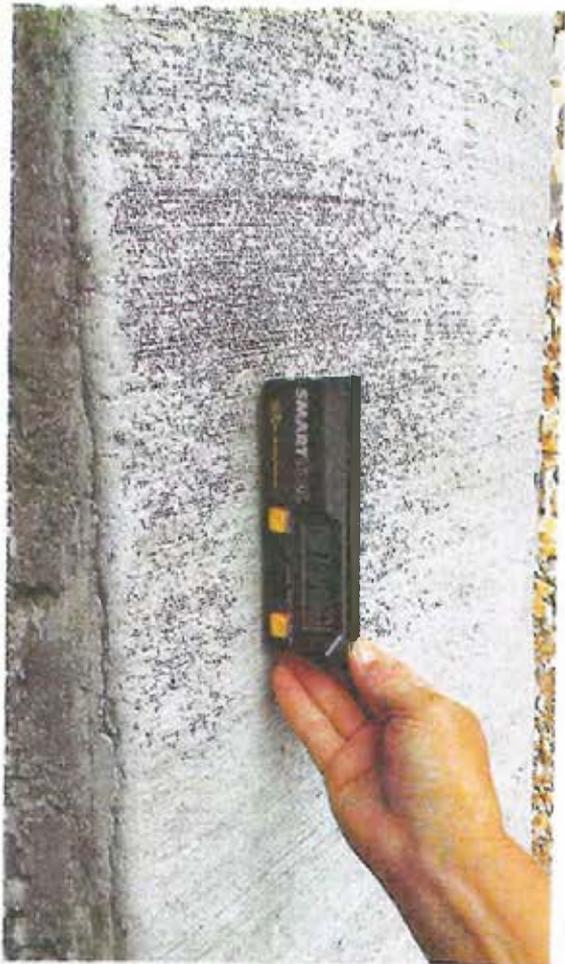
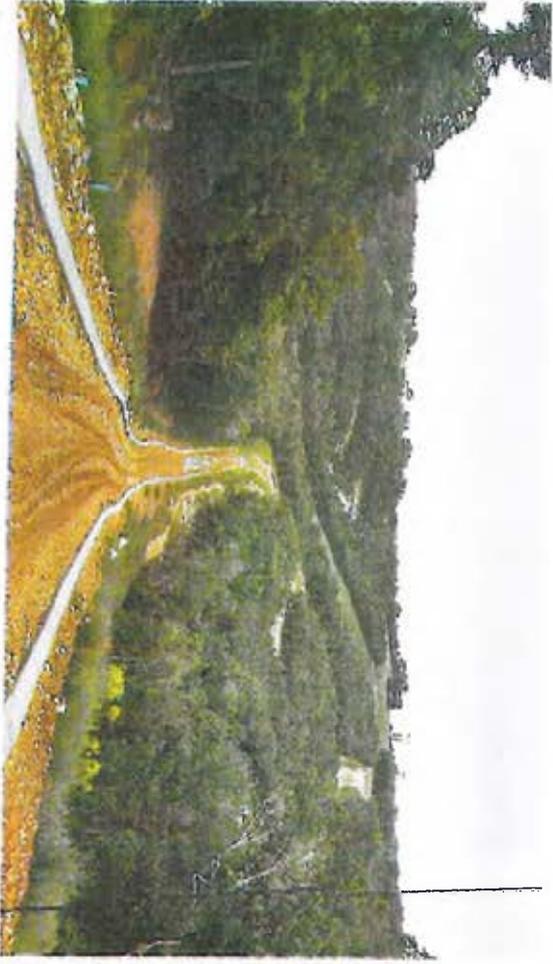
From: Shane Naugher [mailto:snaugher@dazzee.com]
Sent: Tuesday, October 25, 2016 4:31 PM
To: Bob Atchley; Bruce Menke
Cc: Shane Naugher; Mr. Craig Richards ; Randy Haes; 'Frank Cottey'; Nikki Lawrence; 'kathi.cotteymediation@gmail.com'; Vince O'Flaherty
Subject: Re: Emerald Pointe Roads

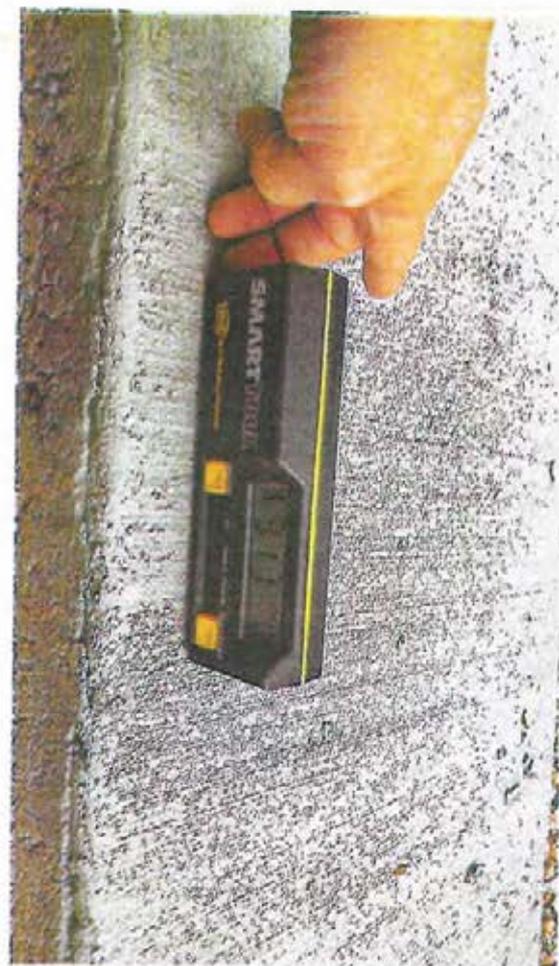
Shane,
 I am confused. Randy indicated to Tom Boyce that the issue was that he understood these roads were platted as PUBLIC roads and that if they were in fact actually platted as PRIVATE roads there was not an issue. That was the email that Bruce sent showing that these roads along with all of the other roads at Emerald Pointe are in fact platted as private.

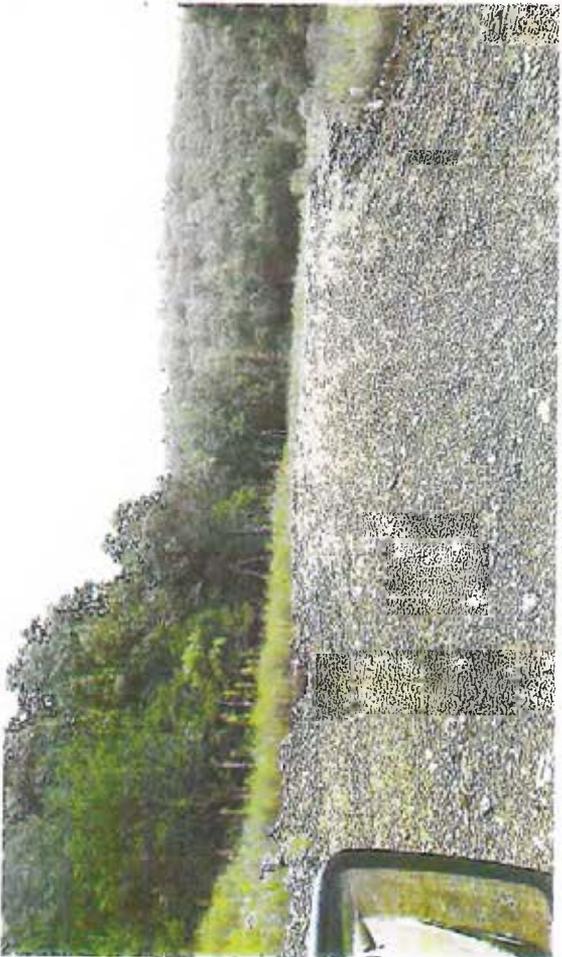
Are you saying that is not the case now?

Shane

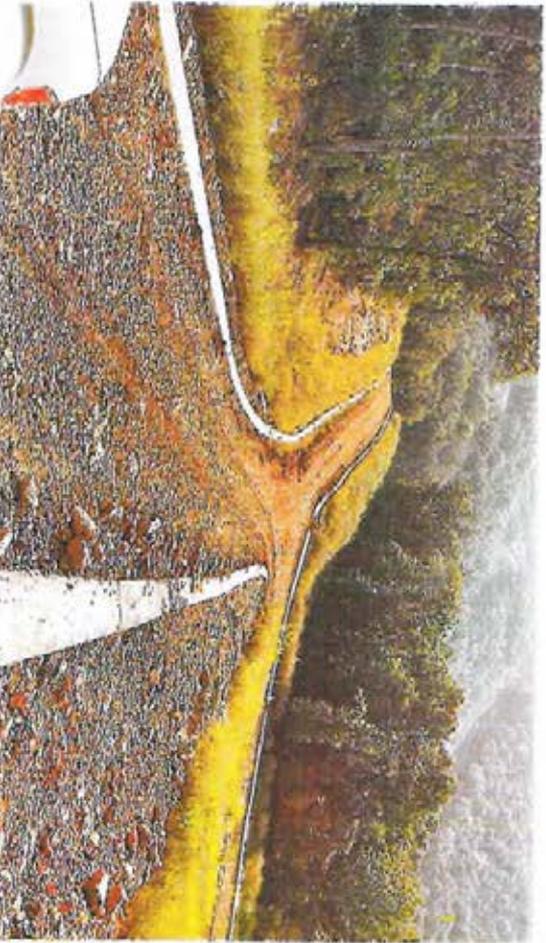
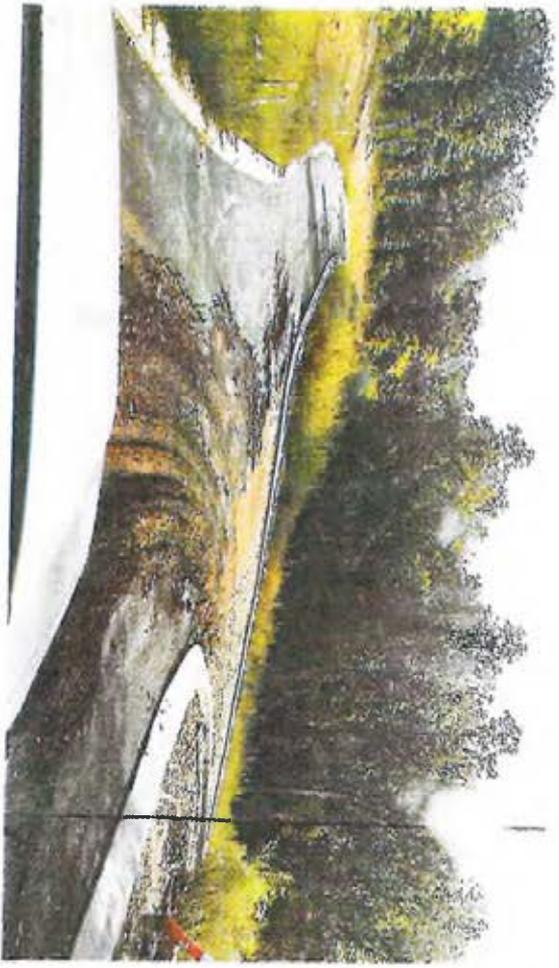




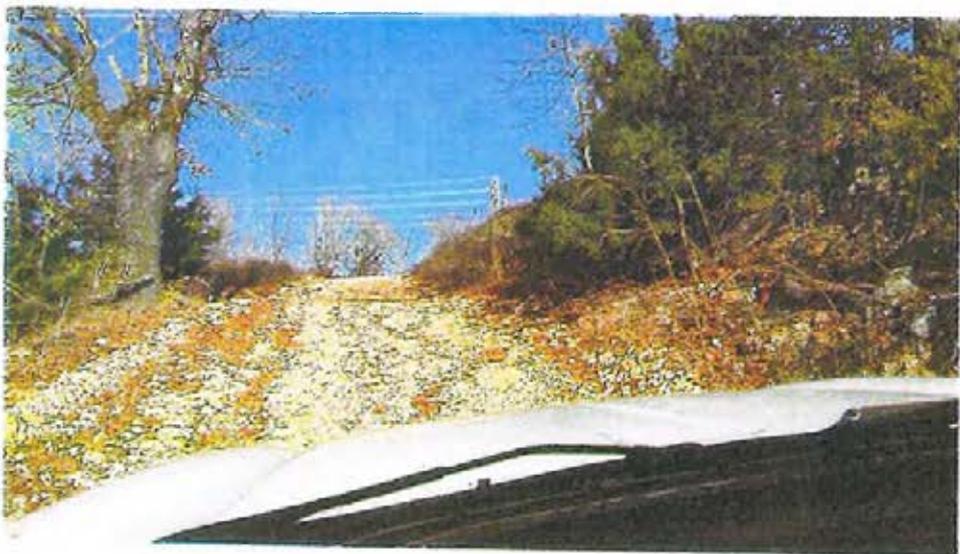


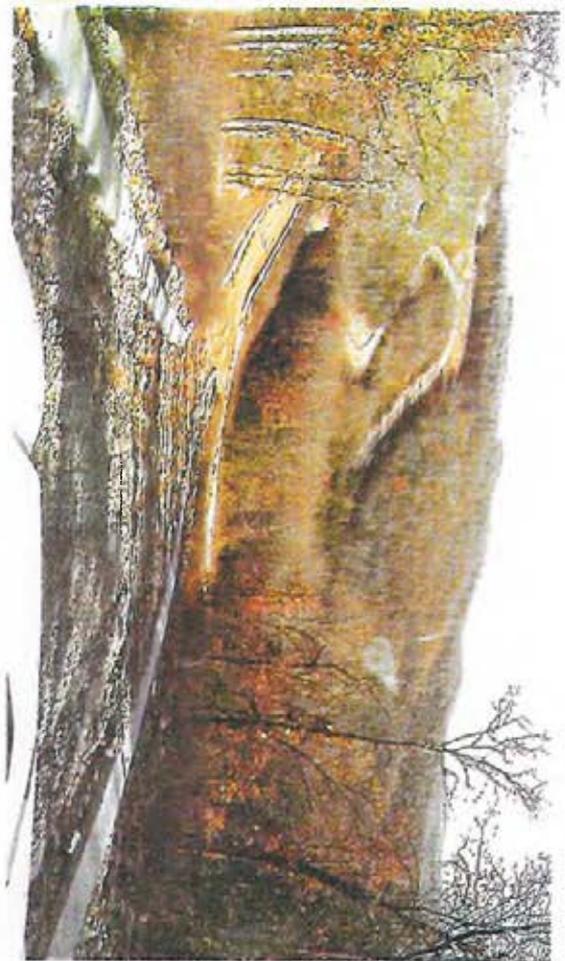


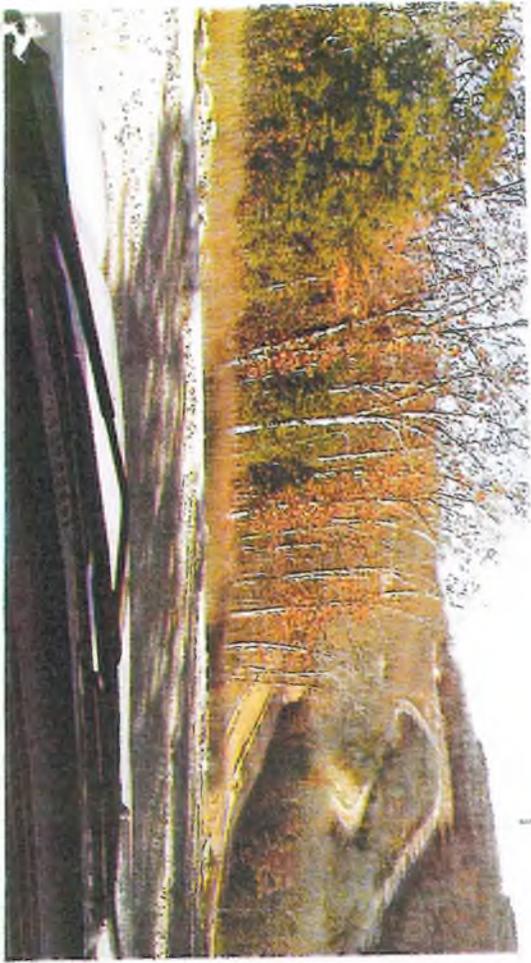












**SUBMISSION TO TANEY COUNTY PLANNING COMMISSION
OF EMERALD POINTE, LLC TO WITHDRAW STOP WORK ORDER ISSUED
SEPTEMBER 21, 2016**

December 21, 2016

Emerald Pointe, LLC ("EP") requests that the Taney County Planning Commission withdraw the Stop Work Order (Attachment 1) issued September 21, 2016 by Bob Atchley, Taney County Planning Administrator and allow for EP to proceed forward with final road paving at Phase XII of the Emerald Pointe subdivision.

In support of this request, EP asserts that the Stop Work Order is based upon an improper and illegal retroactive application of the Taney County Subdivision Regulations (Regulations) that were not in place at the time the final plat was approved and filed on September 18, 2008. EP stands ready, willing and able to provide the necessary infrastructure security required by Section 64.825 R.S.Mo. as shown by the attached letter and commitment from Central Bank to issue an appropriate letter of credit in the amount of the estimated cost to complete construction plus 10%.

The Stop Work Order is an improper and illegal retroactive application of the Regulations for the following reasons:

1. The Stop Work Order was issued to prevent paving at Phase XII of the EP subdivision.
2. Phase XII was brought before the Taney County Planning Commission (Planning Commission) on April 21, 2008. (Taney County Planning Commission Agenda for Regular Meeting; Attachment 2)
3. A public hearing was held on the Phase XII application before the Planning Commission on May 19, 2008. At the public hearing the Planning Commission unanimously approved EP's request to plat 50 acres more or less into 160 residential lots. (Attachment 3)
4. The Planning Commission's decision of record on the EP request and plat for Phase XII was filed with the Taney County Recorder's office on August 21, 2008. (Attachment 3) During 2008 the Taney County Development Guidance Code that was in force was the version adopted and approved on December 13, 1984. There were not in force and effect any Subdivision Regulations in Taney County. Those Subdivision Regulations were not adopted until July 19, 2012. Therefore, the Subdivision Regulations were not in effect, and have no application to, the approved application and filed plat from 2008.
5. Likewise, the Taney County Road Standards were not in force and effect in 2008. They were adopted by the Taney County Commission on July 16, 2009. These road standards have no application on the approved application and plat for Phase XII from 2008.
6. EP filed the final plat for Phase XII on September 18, 2008 with the Taney County Recorder of Deeds. (Attachment 4)

7. As of September 18, 2008, the Planning Commission stated on the face of the filed plat "This survey does not violate the rules and regulations of the Taney County Development Guidance Code." This representation was signed off by Sarah Klinefelter, Chairman of the Commission and by Eddie Coxie, Administrator for the Commission.

8. Thereafter, EP proceeded forward with implementing and constructing all infrastructure for Phase XII. All necessary permits for construction were issued and extended.

9. From 2008 until May, 2016 no one from the Planning Commission or its staff ever took the position or advised EP that the 2012 Subdivision Regulations and any amendments thereto or the 2009 Road Standards and any amendments thereto applied to any of the infrastructure construction, roads or other improvements in Phase XII.

10. On May 4, 2016 Mr. Atchley, on behalf of the Planning Commission, raised for the first time dissatisfaction by the Planning Commission with the performance guaranty provided by EP for any of the construction performed in Phase XII. Also on that date, for the first time Mr. Atchley stated that 2012 Subdivision Regulations applied and that new detailed plans and drawings of the development needed to be provided. (Attachment 5)

11. During August, 2016 representatives of EP met with Mr. Atchley to inform him that time was of the essence for purposes of getting in the final road paving as required by the original Development Guidance Code in place in 2008. Unfortunately, at that time the representatives of the Planning Commission imposed construction requirements under the Subdivision Regulations and Road Standards as additional grounds for why a performance guaranty would not be approved. Specifically, Mr. Atchley indicated that Design Criteria and Standard Section 8 having to deal with grade of roads contained in the 2009 Standards had to be complied with in order to proceed. EP objected to the same as imposing requirements that were not in place in 2008 and not required as part of the approval of the final plat also filed in 2008.

12. Thereafter, without any prior notice, on September 21, 2016 Mr. Atchley, on behalf of the Planning Commission, issued a Stop Work Order for all ongoing road construction activities in Phase XII. (Attachment 1)

13. Since September 21, 2016 EP has supplied written proof of the financial ability to complete the final paving. Central Bank has committed in writing to make sure the improvements were funded. (Attachment 6)

14. Mr. Atchley has continued to retroactively apply the road standards and the subdivision regulations as evidenced by his email of October 13, 2016. (Attachment 7) As shown in Mr. Atchley's October 13 email the Planning Commission is requiring current roadway standards for hi-density residential streets that were not in effect in 2008.

15. Under Missouri law ordinances and regulations, as a general rule, are to operate prospectively. Therefore, a political subdivision and its acting bodies are prohibited from retroactively applying regulations or standards to previously approved projects unless there is an express declaration of intent. This is because an ordinance or regulation is operative from its effective date and has no retroactive effect, unless the ordinance expressly so states. Fleming v. Moore Brothers Realty Co., 251 S.W.2d 8 (Mo. 1952), Barker v. City of Springfield, 403 S.W.3d

600, 605 (Mo.App. S.D. 2011). Nowhere in the 2012 Subdivision Regulations or 2009 Road Standards is there any express declaration that they can be imposed retroactively.

16. The Planning Commission's issuance of the Stop Work Order is improper because in 2008 when the final plat was approved the Taney County Development Guidance Code contained section 9.1.8 related to "Internal Improvements." There was an absolute policy on roads as follows:

- (c) Roads: The design and construction of all roads shall be in accordance with the requirements of Appendix L and the standards defined by the Taney County Road and Bridge Apartment (Attachment 8). Appendix L dealt with mobile homes. (Attachment 9).

There were no other regulations related to roads in place in 2008 that applied to Phase XII.

17. We do note, however, that the County Guidance Code contained Appendix K dealing with road and access standards. (Attachment 10). Nothing in Appendix K contains any of the requirements being imposed by Mr. Atchley presently. Nor were there any published standards in 2008 that required what Mr. Atchley and the Planning Commission are now requiring in Phase XII.

18. Under Missouri law if the Planning Commission continues to impose the requirements to release the Stop Work Order as noted by Mr. Atchley on October 13, 2016 then the County has acted arbitrarily and capriciously thereby causing damage to EP by preventing it from timely completing the paving thereby exposing the County to damages and injunctive remedy for its wrongful acts.

EP respectfully requests that the Stop Work Order be withdrawn and that upon delivery of the attached letter of credit from Central Bank that final paving be permitted to be completed.



TANEY COUNTY PLANNING COMMISSION

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

September 21, 2016

Shane Naugher
Emerald Pointe, LLC

Bruce Menke
Emerald Pointe, LLC
118 State Drive
Hollister, MO 65672

STOP WORK ORDER

Dear Mr. Naugher and Mr. Menke:

This letter is to serve as a Stop Work Order for all on-going road construction activities within the Emerald Pointe Subdivision. All road construction activities shall immediately cease.

Prior to resuming any road construction activities within the Emerald Pointe Subdivision, you shall first provide a form of security to Taney County, Missouri, that is in compliance with the provisions of RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations. As you know, on August 9, 2016 I sent a letter to your attention indicating that you will be required to comply with the infrastructure security requirements of both Missouri Revised Statute and the Taney County Subdivision Regulations. This previous correspondence included copies of RSMo 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations as enclosures. The aforementioned documents enumerate, in great detail, the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the Taney County Commission.

If you do not cease roadway construction immediately, I will be forced to forward this violation to the attention of the Taney County Prosecuting Attorney for prosecution.

Pursuant to Missouri Revised Statute RSMo 64.895, "*Any owner, lessee or tenant who, having been served with an order in writing signed by the officer or official to correct or remove any such violations, shall fail to comply with the order within ten days after service, or who shall continue to violate any of the regulations or orders made under the authority of section 64.850 to 64.880 in the respect named in the order, shall be guilty of a misdemeanor.*"

Thank you for your time and immediate attention to this matter.

Sincerely,

Bob Atchley
Taney County Planning Administrator



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 PLANNING COMMISSION
REGULAR MEETING
MONDAY, APRIL 21, 2008, 7:00 P.M.
ASSOCIATE CIRCUIT COURT, DIVISION II COURTROOM
TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum
Explanation of Meeting Procedures

Review and Action:

Minutes, March 2008

Final Votes:

Soup Shop
Ron's Storage and Sales Lot
Crossland Storage
Bee Creek Multi-Use Complex
Verizon Wireless
Tri-Lakes Utilities
165 Multi-Use Complex

Concepts:

Holiday Hills Condo Assoc.
Hwy. 248 Business Park
B.A. Guns
165 Commercial
Emerald Pointe
Combs-Redfern Apartments
Walnut Hill Spirits
Verizon Wireless

Old and New Business:

Adjournment.



2 0 0 8 L 3 9 5 4 4 4

BOOK PAGE

2008L39544

08/21/2008 02:03:38PM

REC FEE:33.00

NON-STD FEE:

PAGES: 4

REAL ESTATE DOCUMENT
TANEY COUNTY, MISSOURI
RECORDERS CERTIFICATION

Robert A. Dixon
ROBERT A. DIXON



TANEY COUNTY PLANNING COMMISSION
DIVISION III DECISION OF RECORD
MAY 19, 2008
EMERALD POINTE
#08-29

On May 19, 2008 the Taney County Planning Commission (grantor) approved a request by Emerald Pointe, LLC (grantee) to plat 50 acres more or less into 160 residential lots. In accordance with this approval a Division III Permit #08-29 is issued for the property located at the attached legal description.

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

Emerald Pointe, LLC is authorized to develop 50 acres into 160 single family residential lots located off Hill Haven Road and Mo. St. Hwy. 265. With six Planning Commissioners present the vote to approve was unanimous. The following conditions shall be complied with:

1. Compliance with the provisions of the Taney County Development Guidance Code that include plans for the following:
 - a. Sediment and erosion control (Appendix B Sec. VI Item 2)
 - b. Stormwater management (Appendix B Item 3)
 - c. Land grading permit (Appendix B Item 3)
 - d. Delineation of the 100 year floodplain (Taney County Floodplain Management Ordinance 60.3b Sec. A)
 - e. Utility easements and building line setbacks (Table 12)
 - f. Foliage screening around the property for commercial area that adjoins residential tracts (Appendix C)
 - g. Improvements with scale of buildings, streets, onsite parking and utilities (Table 6)
2. Compliance letter from the Fire, Electric, Sewer and Water Districts. (Chapter VI-VII).
3. No outside storage of equipment or solid waste materials.
4. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
5. There will be no other access through Hill Haven Road into the property except through Emerald Pointe Subdivision.
6. This decision is subject to all existing easements.
7. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).

Legal description attached

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

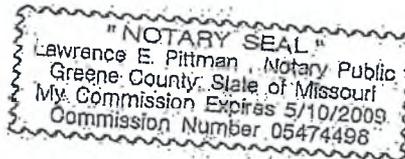
Signature

Gary W. Snadon
Gary W. Snadon

Before me personally appeared Gary W. Snadon 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 Taney County the day and year first above written. My term of office as Notary Public will expire 5/10/2009.

Lawrence E. Pittman
Lawrence E. Pittman
Notary Public



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

Eddie Coxie

Eddie Coxie, Administrator

STATE OF MISSOURI)

S.S. On this 20 day of Aug., 2008

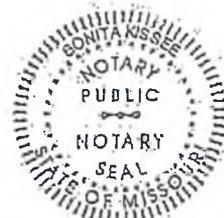
COUNTY OF TANEY)

Before me personally appeared Eddie Coxie 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 2/6/10.

Bonita Kisse

Bonita Kisse
Notary Public



BONITA KISSEE
NOTARY PUBLIC - TANEY CO., MISSOURI
COMMISSION OS-140057
MY COMMISSION EXPIRES FEB. 6, 2010

~~END OF DOCUMENT~~

File No. 58602-04

EXHIBIT "A"

Tract 1

All that part of the SE1/4 of the NE1/4 in Section 36, Township 22 North, Range 22 West; lying West of Former U.S. Highway 65 and South of M.S.H. 265 and North and West of M.S.H. "P" excepting therefrom the following described tract: Starting at the Southwest corner of said SE1/4 of the NE1/4; thence North 600 feet for a Point of Beginning; Thence East 660 feet; thence North 98 feet to the South R/W line of said M.S.D. 265; thence Northwesterly along said South R/W line of M.S.D. 265 to the West line of said SE1/4 of the NE1/4; thence South to the Point of Beginning.

Tract 2

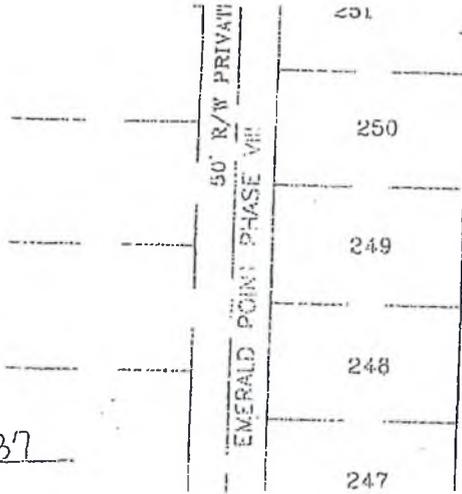
ALL OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION THIRTY-SIX (36), TOWNSHIP TWENTY-TWO (22), RANGE TWENTY-TWO (22), TANEY COUNTY, MISSOURI. LESS AND EXCEPT ANY PART DEEDED, TAKEN OR USED FOR PUBLIC USE.

Subject to easements and Restrictions of Record, if any.
18-7.0-36-000-000-011.000

2005L20444

END OF DOCUMENT

50' R/W



SLIDE T PAGE 237

**CERTIFICATE OF APPROVAL BY
PLANNING AND ZONING COMMISSION:**

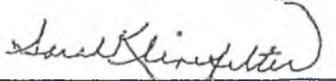
Approved by the Taney County Planning and Zoning
Commission this 17th day of September, 2008.

RECORDING FEE 565.00
 STATE USER FEE \$ 4.80
 TOTAL \$69.00

This survey does not violate the rules and regulations of the
Taney County Development Guidance Code.

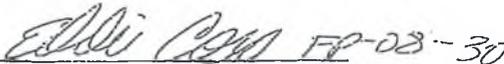
FILED
TIME 11:45 AM

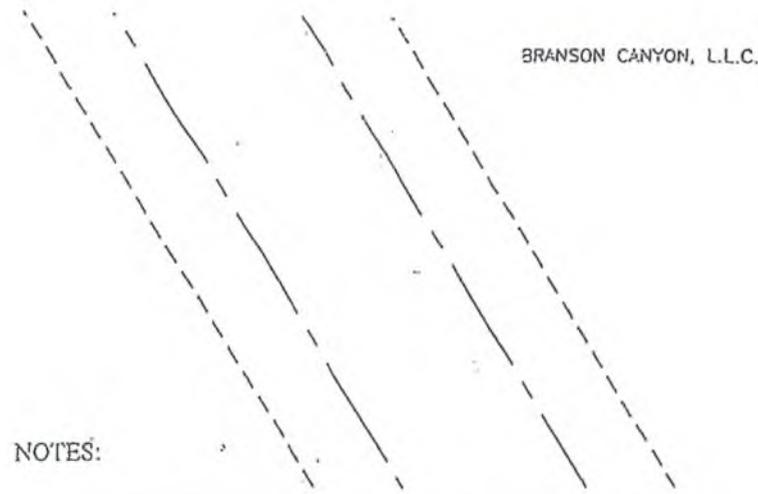
SEP 18 2008


 Sarah Klinefelter, Chairman

Robert A. Dixon
 Recorder of Deeds
 TANEY COUNTY

DOCUMENT 200890116


 Eddie Coxie, Administrator

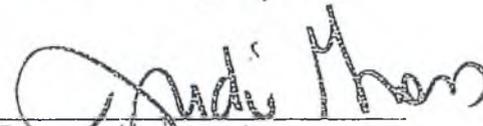


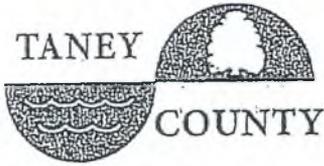
NOTES:

All lots have a 25' building setback along all roads. All lot
 have a 7.5' sideyard setback and a 10' rear setback. All lots
 have a 15' utility easement along all roads. All lots are
 subject to setback lines and utility easements by Taney
 County Planning Commission, Taney County, Missouri.
 No access is permitted directly onto Hill Haven Road from
 the lots adjoining said Hill Haven Road.

Restrictive covenants are filed for record and are
 recorded in the records of Taney County recorder's office
 in Book _____, at Page _____.
 OFFICE OF TANEY COUNTY 911 ADMINISTRATOR

Approved by the Office of Taney County 911 Administrator
 this 18th Day of Sept., 2008.


 911 Representative.



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

May 4, 2016

Bruce Menke
Chief Operations Officer
Shepherd of the Hills Entertainment Group
118 State Drive
Hollister, MO 65672

Dear Mr. Menke:

I sincerely appreciate you providing me with a copy of the original Performance Guarantee for the Emerald Point Subdivision and also copies of each of the three (3) Amendments to the Performance Guarantee. However, the Performance Guarantee is not acceptable to the County.

Apparently, on September 25, 2014, Shane Naugher and Patsy Snaden signed the notarized Third Amendment to the Performance Guarantee, as trustees of The Gary W. Snadon Trust. However, this most recent amendment to the original agreement was not signed or accepted by a representative of Taney County. An agreement is only binding upon all parties with the proper execution of an agreement by all parties.

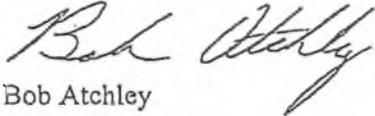
The Taney County Subdivision Regulations and also the Missouri Revised Statutes for regulation of subdivisions within the unincorporated county both spell out in great detail the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the County Commission. RSMo 64.825 states, "*Such regulations (Subdivision Regulations) may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety bond, cash bond, cash deposit with county treasurer, letter of credit, or certificate of deposit and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the bond, surety bond cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit by all proper remedies.*" The document in question does not comply with either the requirements for Security for Public Improvements provided by either Missouri Revised Statute or within the Taney County Subdivision Regulations. A Performance Agreement backed by stock in a private company is simply not enumerated within either the Subdivision Regulations or the Missouri Revised Statutes as an acceptable form of security.

Bruce Menke
Chief Operations Officer
May 4, 2016
Page 2

The Taney County Planning Department is now requesting that the Gary W. Snadon Trust provide a form of security to Taney County, Missouri, that is in compliance with the provisions of both RSMo. 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations. For your convenience, I have enclosed a copy of RSMo 64.825 and also Article 8, Section 6 of the Taney County Subdivision Regulations. Please note that per the provisions of Article 8, Section 6 of the Subdivision Regulations the amount of the security shall be established by first submitting detailed plans and drawings of the portions of the development, in which the infrastructure (roads and sewer mains) has yet to be constructed, with an itemized cost estimate for these public improvements. The amount of the security is to be sufficient to pay the estimated cost of the required public improvements plus ten percent (10%).

Thank you for your time and immediate attention to this matter.

Sincerely,



Bob Atchley
Taney County Planning Administrator
enclosures

Missouri Revised Statutes

Chapter 64

County Planning--Zoning--Recreation--Natural Streams and Waterways

←64.820

Section 64.825.1

64.830→

August 28, 2015

Regulation of subdivisions in unincorporated areas--procedure--bonds.

64.825. The county planning commission may also prepare, with the approval of the county commission, as parts of the official master plan or otherwise, sets of regulations governing subdivisions of land in unincorporated areas, and amend or change same from time to time as herein provided, which regulations may provide for the proper location and width of streets, building lines, open spaces, safety, recreation, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may also include the extent to which and the manner in which streets shall be graded and improved, and the extent to which water, sewer and other utility services shall be provided, to protect public health and general welfare. Such regulations may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of the improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the bond, surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit by all proper remedies. The subdivision regulations shall be adopted, changed or amended, certified and filed as provided in [section 64.815](#). The subdivision regulations shall be adopted, changed or amended only after a public hearing has been held thereon, public notice of which shall be given in the manner as provided for the hearing in [section 64.815](#).

(L. 1965 p. 178 § 6, A.L. 2004 H.B. 795, et al. merged with H.B. 1362)

1991

[Top](#)



Missouri General Assembly

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Section 6. Security for Public Improvements

Installation of required public improvements in a development or any phase of a development shall be required or guaranteed by any one of the following methods:

- A. The developer shall install all of the required improvements prior to the approval and subsequent recording of a final plat.
- B. The Planning Commission shall require that all public improvements be installed and dedicated prior to the Planning Administrator authorizing the recording of the final plat.
- C. Security for Public Improvements

Should the Planning Commission determine it to be unreasonable to require the permit recipient to comply with all of the requirements of these Regulations with respect to the installation and dedication of all public improvements before the filing of the final plat, the permit recipient shall establish a Performance Bond from a qualified insurance or bonding company, an Irrevocable Letter of Credit from a certified lending institution or cash bond, utilizing a form approved for use by the Planning Department to guarantee the cost for the completion of the required public improvements. The amount of the security shall be established by the following method:

- 1. The permit recipient shall submit detail plans and drawings of the development(s) with an itemized cost estimate for public improvements (see Table 1 for standard cost estimate form), the amount of security to guarantee the completion of the required public improvements shall be established by the Planning Administrator in an amount sufficient to pay the estimated cost of the required public improvements plus ten percent (10%).

Section 7. Performance by the County of Developer's Obligations

Should the developer fail to perform the developer's obligation to construct and correct defects in public improvements as required by the Taney County Road Standards, the Taney County Subdivision Regulations, the Taney County Development Guidance Code or any other County regulations or requirements, the County may liquidate any performance security in the County's possession and use the proceeds to construct or correct the improvements in whole or in part as the County in its sole discretion deems appropriate.

- A. The developer is to pay all costs if defective. Notwithstanding the amount of the Subdivision Performance Bond, Irrevocable Letter of Credit or cash bond, the owner of the subdivision shall pay all costs that Taney County actually incurs in designing and constructing improvements or correcting defects in any improvements the developer is required to install pursuant to the Taney County

LAW OFFICES OF VINCENT F. O'FLAHERTY,
ATTORNEY, LLC

2 EMANUEL CLEAVER II BLVD.
SUITE 445

KANSAS CITY, MISSOURI 64112

TELEPHONE: (816) 931-4800
FAX: (816) 756-2168

VINCENT F. O'FLAHERTY
email: vofflaherty@vofflaw.com
"fortuna favel fortibus"

October 6, 2016

Via Facsimile: 417-546-6861

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

Re: Stop Work Order dated September 21, 2016 issued to
Emerald Pointe, LLC

Dear Mr. Atchley:

Please be advised we represent Emerald Pointe, LLC ("Emerald Pointe"). Your letter titled "Stop Work Order" dated September 21, 2016 issued to Emerald Pointe in care of Shane Naugher and Bruce Menke has been received by our office.

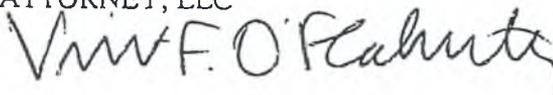
We request that Taney County and you rescind the Stop Work Order and permit the planned road construction activities and other construction work to proceed immediately while weather conditions are favorable.

Emerald Pointe has the financial backing of Central Bank to immediately undertake the remaining curb/guttering/roadwork necessary to complete Phase 12. Attached please find the letter of Central Bank's President and CEO, Craig Richards, confirming available funds to proceed.

We look forward to your immediate confirmation that work may proceed.

Very truly yours,

LAW OFFICES OF VINCENT F. O'FLAHERTY,
ATTORNEY, LLC



Vincent F. O'Flaherty

VFO:cd
Enc.



September 30, 2016

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

Dear Taney County Planning Commission:

Central Bank of Branson has agreed to loan Emerald Point, pursuant to the terms of the existing loan agreement with Central Bank of Branson, up to \$200,000.00 to complete the remaining curb/guttering and three-inch blackbase compacted paving for the road to complete the Phase 12 project of Emerald Point. The Bank is requiring that the same be completed within the next 30 days in order for the Bank to provide the funding. Feel free to contact me if you have any additional questions or concerns.

Sincerely;

A handwritten signature in black ink, appearing to read "Craig Richards", with a long, sweeping horizontal stroke extending to the right.

Craig Richards,
CEO/President

CR:eg

LAW OFFICES OF VINCENT F. O'FLAHERTY ATTORNEY, LLC

2 EMANUEL CLEAVER II BLVD., SUITE 445, KANSAS CITY, MO 64112

TELECOPIER TRANSMITTAL COVER SHEET

Telecopy No. (816) 756-2168

Phone No. (816) 931-4800

TO: Mr. Bob Atchley

FAX NUMBER

417-546-6861

ADDRESS: Taney County Planning Commission

FROM: Vincent F. O'Flaherty

RE: Emerald Pointe LLC

NUMBER OF PAGES INCLUDING THIS COVER PAGE: 4

PERSON SENDING FAX IS: Carla AT EXT.:

MESSAGE:

DATE: October 6, 2016

TIME SENT:

PLEASE NOTIFY THE ABOVE PERSON IF TELECOPY YOU RECEIVE IS INCOMPLETE OR ILLEGIBLE.

The information contained in this facsimile message is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this fax in error, please immediately notify us by telephone, and return the original message to us at the above address via U.S. Postal Service.

Fax Confirmation Report

Date & Time : OCT-06-2016 01:55PM THU
Fax Number : 8167562168
Fax Name : Vincent O'Flaherty Law
Model Name : WorkCentre 4250

Total Pages Scanned: 4							
No.	Remote Station	StartTime	Duration	Page	Mode	Job Type	Result
001	14175466861	10-06 01:54PM	00' 25	004/004	EC	HS	Success

Abbreviations:

HS:Host Send PL:Polled Local EC:Error Correct TS:Terminated by System
HR:Host Receive PR:Polled Remote MP:Mailbox Print RP:Report
WS:Waiting Send MS:Mailbox Save TU:Terminated by User G3:Group3

LAW OFFICES OF VINCENT F. O'FLAHERTY, ATTORNEY, LLC

3 EMANUEL CLEAVER II BLVD, SUITE 405, KANSAS CITY, MO 64112
TELECOPIER TRANSMITTAL COVER SHEET
Teletcopy No. (816) 756-2168
Phone No. (816) 931-4800

TO: Mr. Bob Atchley
FAX NUMBER: 417-546-6861
ADDRESS: Taney County Planning Commission
FROM: Vincent F. O'Flaherty
RE: Emerald Pointe LLC
NUMBER OF PAGES INCLUDING THIS COVER PAGE: 4
PERSON SENDING FAX IS: Carla AT EXT.:
MESSAGE:

DATE: October 6, 2016 TIME SENT:

PLEASE NOTIFY THE ABOVE PERSON IF TELECOPY YOU RECEIVE IS INCOMPLETE OR ILLEGIBLE.

The information contained in this facsimile message is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this fax in error, please immediately notify us by telephone, and return the original message to us at the above address via U.S. Postal Service.

Vincent F. O'Flaherty

From: Shane Naugher [snaugher@dazzee.com]
Sent: Thursday, October 13, 2016 11:11 AM
To: Vincent F. O'Flaherty; Daryl Snadon
Subject: FW: Required Steps Allowing for the Release of the Emerald Pointe Infrastructure Stop Work Order
Attachments: Section 8 of Section 3 (Grade & Curves) Road Standards.pdf; Section 9 of Section 3 (Minimum Right-of-Way & Roadway Widths) Road Standards.pdf; Standard Detail - High Density Residential Streets.pdf; Appendix C (Itemized Cost Estimate) Subdivision Regulations.pdf
Importance: High



Shane Naugher

President

DaZZee Integrations

p: 417-334-0494

a: 118 State Dr.
Hollister, MO 65672

w: www.daZZee.com e: shane@daZZee.com



From: Bob Atchley <boba@co.taney.mo.us>
Date: Thursday, October 13, 2016 at 11:06 AM
To: Shane Naugher <snaugher@dazzee.com>, "craig.richards@centralbank.net" <craig.richards@centralbank.net>
Cc: Bruce Menke <bmenke@snadonproperties.com>, 'Frank Cottey' <cotteymediation@gmail.com>, "kathi.cotteymediation@gmail.com" <kathi.cotteymediation@gmail.com>, Nikki Lawrence <nikkil@co.taney.mo.us>, Randy Haes <RandyH@co.taney.mo.us>
Subject: Required Steps Allowing for the Release of the Emerald Pointe Infrastructure Stop Work Order

Hello Shane and Craig,

I am writing this email to serve as a detailed enumeration of the steps which shall be taken in order to allow for the written release of the Stop Work Order for the road construction within the Emerald Pointe Subdivision.

As you know, Missouri Revised Statute RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations enumerate, in great detail, the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the Taney County Commission. For your convenience, I have attached a copy of both RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations. In speaking with you, it is my understanding that you are planning to submit an Irrevocable Letter of Credit via the Central Bank of Branson. I have forwarded your request for a standard form for an Irrevocable Letter of Credit to the Taney County Legal Department. Once I have received this form, I will immediately forward it to your attention.

Attachment 7

However, prior to submitting the infrastructure security to Taney County, there are a number of steps that must first be taken pursuant to the Taney County Road Standards and the Taney County Subdivision Regulations. I have enumerated these steps as follows:

1. Pursuant to Section 1 of Section 2 of the Taney County Road Standards, you shall submit **Engineering Construction Plans** for the streets and storm sewers to the Taney County Road and Bridge Department. These engineering construction plans will ensure that the streets and storm sewers in question are designed to be built in compliance with the minimum Taney County Road Standards.

Please note that pursuant to the Road Standards, the streets in question would be viewed as high density – residential streets. Pursuant to Table 3.9 (Right-of-Way Width) a High-Density –Residential street shall have a roadway width of 31' from back of curb to back of curb. *For your convenience, I have attached a copy of a standard detail for High-Density –Residential streets.* Please note that it indicates a 5" minimum compact aggregate base course, a 3" minimum plant mix aggregate base course and finally a 2" minimum plant mix bituminous pavement (final surface). Please also note that pursuant to Section 7 of Section 3 the maximum grade on local streets is fifteen percent (15%) (*this section has also been attached*).

2. Once the Engineering Construction Plans have been reviewed and approved by the Taney County Road and Bridge Department, you shall then submit an **Itemized Cost Estimate** for the improvements in question. *For your convenience, I have attached a copy of Itemized Cost Estimate for Public Improvements.*
3. Once the Itemized Cost Estimate has been reviewed and approved by the Planning Department office, in conjunction with the Road & Bridge Department, you shall then submit a **Performance bond** from a qualified insurance or bonding company, an **Irrevocable Letter of Credit** from a certified lending institution or **cash bond** in an amount sufficient to pay the estimated cost of the required improvements plus ten percent (10%).

Once you have complete the aforementioned steps, then I will immediately release the stop work order.

I would like to thank you both for your continued cooperation as we seek to resolve this matter.

Thank you both for your continued time and assistance.

Sincerely,

Bob Atchley
Taney County Planning Administrator
P.O. Box 383
207 David Street
Forsyth, MO 65653

Phone: (417) 546-7225
Fax: (417) 546-6861

Section 7. Sight Distance:

1. Proper sight distance shall be provided with respect to horizontal and vertical alignment. Measured along the center line, four feet (4') above grade, this shall be six hundred sixty feet (660') for a primary arterial, three hundred feet (300') for secondary arterials, three hundred feet (300') for collectors, and one hundred twenty five feet (125') for local streets. Where two (2) streets of different classification intersect, the sight distance for the higher classification shall prevail.
3. Intersections shall be approached on all sides by leveling areas where the grade exceeds seven percent (7%). Such leveling areas shall have a minimum length of 75 feet measured from the intersection of the center lines within which no grade shall exceed a maximum four percent (4%).

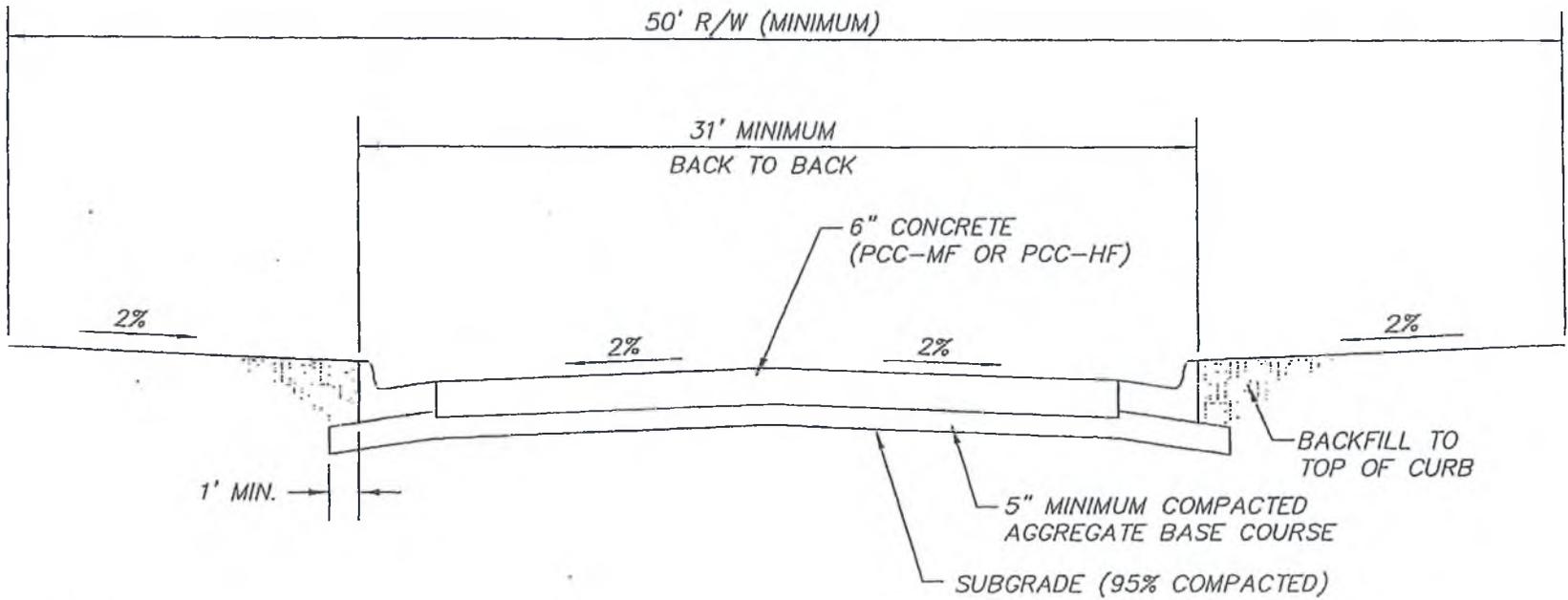
Section 8. Grade and Curves:

1. The minimum grade on curb and gutter streets shall be one-half percent (1/2%). The maximum grade shall be eight percent (8%) on arterials, twelve percent (12%) on collectors and fifteen percent (15%) on local streets.
2. Vertical curves shall be used in changes of grade exceeding two percent (2%) for local roads; all other classifications shall have vertical curves. The length of vertical curve shall be no less than that determined by the formula:

L equals K A, where: L equals length of vertical curve. 'A' equals algebraic difference in grades, 'K' shall be determined by the following table:

	Crest	Sag
Local	28	35
Collector	50	50
Arterial	80	60

**TABLE 3.8
K-VALUES**



CROSS SECTIONS
(CONCRETE W/CURB)
MINIMUM RESIDENTIAL STREET STANDARDS

30

Section 9. Minimum Right-of-Way and Roadway Widths:

1. Minimum right-of-way widths and width of roadway shall be as follows:

	Type of Street	Right-of-Way	Roadway Width
Local	Residential	50'	24'
	High Density Residential	50'	31'
	Industrial/Commercial	60'	36' - 49'
	(Provides access to industrial/commercial properties.)		
Collector	Residential	60'	31' - 49'
	Industrial/Commercial	60'	39' - 49'
		(Typical residential collector is 31 feet. Could go up to 49 feet depending on conditions, i.e. three (3) lanes or four (4) lanes)	
Minor Arterial		70' - 80'+	To be determined individually
Primary Arterial		100'+	To be determined individually
Expressway		130'+	To be determined individually

**TABLE 3.9
RIGHT-OF-WAY AND WIDTH**

2. Provisions for additional street right-of-way width may be required by Taney County in specific cases for the reasons of public safety and convenience. Additional off-street parking in industrial, commercial, and residential areas may also be required by Taney County.
3. Additional street right-of-way is required when:

APPENDIX C. ITEMIZED COST ESTIMATE FOR PUBLIC IMPROVEMENTS

Subdivision Name _____

Final Plat File Code _____

ITEM	QUANTITY	UNITS	AMOUNT
Temporary gravel const. Entrance and upkeep		EA	
Straw / hay bale dike		LF	
Sediment basin		LS	
(List other initial sediment controls)			
Detention basin grading		LS	
Detention basin outlet structure		LS	
Detention basin trickle channel		LF	
Seed & mulch sediment/detention basin berms		AC	
Rough grade streets		LF	
Rough grade lots		LS	
Rough grade drainage channel, (Line A, 1,etc)		LF	
Sanitary sewer mains, off-site		LF	
Sanitary sewer mains, on-site		LF	
Sanitary sewer laterals		EA	

Taney County Subdivision Regulations
Appendix C – Itemized Cost Estimate for Public Improvements

Water mains, off-site.		LF	
Water mains, on-site		LF	
Water line service laterals		EA	
Gas main, off-site		LF	
Gas main, on-site		LF	
Gas line service laterals		EA	
Electric facilities, off-site			
Electric facilities, on-site			
Storm sewer Line A			
15" RCP		LF	
Etc, pipe size & type		LF	
Junction Box		EA	
SS-6 inlet		EA	
DI-1 inlet		EA	
XX" Flared end section		EA	
Grouted riprap		SF	
Etc for each storm sewer line			
Fine grade subgrade		LF	
Curb & gutter		LF	
Aggregate base course		LF	
Asphalt base course		LF	
Asphalt surface course		LF	
Initial Double Coat Chip & Seal surface		LF	
Final Double Coat Chip & Seal surface		LF	
Concrete pavement		LF	
Sidewalks		LF	
Backfill curbs			
Seed & mulch right-of-		LF	

Vincent F. O'Flaherty

From: Shane Naugher [snaugher@dazzee.com]
Sent: Thursday, October 13, 2016 12:01 PM
To: Bob Atchley; 'craig.richards@centralbank.net'
Cc: 'Bruce Menke'; 'Frank Cottey'; 'kathi.cotteymediation@gmail.com'; Nikki Lawrence; Randy Haes; Vincent F. O'Flaherty
Subject: Re: Required Steps Allowing for the Release of the Emerald Pointe Infrastructure Stop Work Order

Bob,
Once again the scenario is changing. In the conversation you and I had on Monday, you indicated that if we could get a formal Letter of Credit from Central Bank and if Tom Boyce would sit down with Randy, the county would try to work with us to release the Stop Work Order and avoid damages to Emerald Pointe Development in regards to the approximately \$150,0000 worth of concrete curbing that was recently poured. Now you are asking for Engineering Construction Plans and Itemized Cost Estimates which has never been discussed. In fact, it is my understanding that Emerald Pointe has NEVER had to submit any construction plans since the inception of the development. However, now that we are in the final stages of getting the last phase(Phase 12!) completed this is being request in order for us to be allowed to complete was has already been platted, approved, and accepted by the county over 8 years ago?

I again ask that we come to some sort of at least partial agreement to allow us to get the asphalt base down before concrete curbing is washed out and destroyed, which could be catastrophic for all parties involved.

Respectfully
Shane Naugher

From: Bob Atchley <boba@co.taney.mo.us>
Date: Thursday, October 13, 2016 at 11:06 AM
To: Shane Naugher <snaugher@dazzee.com>, "'craig.richards@centralbank.net'" <craig.richards@centralbank.net>
Cc: Bruce Menke <bmenke@snadonproperties.com>, 'Frank Cottey' <cotteymediation@gmail.com>, "'kathi.cotteymediation@gmail.com'" <kathi.cotteymediation@gmail.com>, Nikki Lawrence <nikkil@co.taney.mo.us>, Randy Haes <RandyH@co.taney.mo.us>
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Hello Shane and Craig,

I am writing this email to serve as a detailed enumeration of the steps which shall be taken in order to allow for the written release of the Stop Work Order for the road construction within the Emerald Pointe Subdivision.

As you know, Missouri Revised Statute RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations enumerate, in great detail, the forms of security for infrastructure improvements and utilities that may be accepted by the Planning Commission on behalf of the Taney County Commission. For your convenience, I have attached a copy of both RSMo. 64.825 and Article 8, Section 6 of the Taney County Subdivision Regulations. In speaking with you, it is my understanding that you are planning to submit an Irrevocable Letter of Credit via the Central Bank of Branson. I have forwarded your request for a standard form for an Irrevocable Letter of Credit to the Taney County Legal Department. Once I have received this form, I will immediately forward it to your attention.

However, prior to submitting the infrastructure security to Taney County, there are a number of steps that must first be taken pursuant to the Taney County Road Standards and the Taney County Subdivision Regulations. I have enumerated these steps as follows:

1. Pursuant to Section 1 of Section 2 of the Taney County Road Standards, you shall submit **Engineering Construction Plans** for the streets and storm sewers to the Taney County Road and Bridge Department. These engineering construction plans will ensure that the streets and storm sewers in question are designed to be built in compliance with the minimum Taney County Road Standards.

Please note that pursuant to the Road Standards, the streets in question would be viewed as high density – residential streets. Pursuant to Table 3.9 (Right-of-Way Width) a High-Density –Residential street shall have a roadway width of 31' from back of curb to back of curb. *For your convenience, I have attached a copy of a standard detail for High-Density –Residential streets.* Please note that it indicates a 5" minimum compact aggregate base course, a 3" minimum plant mix aggregate base course and finally a 2" minimum plant mix bituminous pavement (final surface). Please also note that pursuant to Section 7 of Section 3 the maximum grade on local streets is fifteen percent (15%) (*this section has also been attached*).

2. Once the Engineering Construction Plans have been reviewed and approved by the Taney County Road and Bridge Department, you shall then submit an **Itemized Cost Estimate** for the improvements in question. *For your convenience, I have attached a copy of Itemized Cost Estimate for Public Improvements.*
3. Once the Itemized Cost Estimate has been reviewed and approved by the Planning Department office, in conjunction with the Road & Bridge Department, you shall then submit a **Performance bond** from a qualified insurance or bonding company, an **Irrevocable Letter of Credit** from a certified lending institution or **cash bond** in an amount sufficient to pay the estimated cost of the required improvements plus ten percent (10%).

Once you have complete the aforementioned steps, then I will immediately release the stop work order.

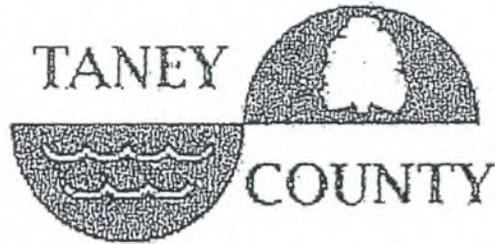
I would like to thank you both for your continued cooperation as we seek to resolve this matter.

Thank you both for your continued time and assistance.

Sincerely,

Bob Atchley
Taney County Planning Administrator
P.O. Box 383
207 David Street
Forsyth, MO 65653

Phone: (417) 546-7225
Fax: (417) 546-6861



DEVELOPMENT GUIDANCE CODE

Adopted by the Taney County Commission
November 13, 1984

Taney County Planning Commission

P.O. Box 383

Forsyth, Missouri 65653

Phone: (417) 546-7225 / (417) 546-7226

Fax: (417) 546-6861

This Code is implemented on a daily basis by the staff of the
Taney County Planning Commission.

Developments for which landfill or solid waste collection capacity is unavailable are prohibited.

(d) Capacity Provision

The utility, road, or other service capacity required to accommodate a development may be provided at the expense of the developer in compliance with the requirements established for the construction, warranty, dedication, and financing of improvements established in section 12.

(e) Future Roads

The dedication of all easements and rights-of-way for future expansion of county roads (including additional right-of-way width along existing roads) necessary for implementation of the county's Major Road Plan and for adequate local linkage of and circulation through individual developments is required.

Relative Policies

(a) Traffic

Developments that will contribute traffic in excess of current rated capacity to a public road or highway are discouraged.

(b) Emergency Services

Accessibility for emergency vehicles is encouraged.

(c) Right-of-Way of Existing Roads

Developments that are accessed by public roads shall have a right of way of no less than fifty (50) feet. However, right-of-ways greater than 50 feet are preferred.

9.1.8. INTERNAL IMPROVEMENTS

Taxpayers should not be required to subsidize the activities of land developers, but they often do so in communities where developers are not required to provide adequate improvements. The construction, warranty, dedication, maintenance, and financing of improvements are addressed in section 12, and require the installation of all improvements in a project at the developer's expense and before occupancy.

Absolute Policies

(a) Water Systems

Where individual water supplies are proposed, the developer shall provide evidence that the proposed water supply is adequate in terms of both quantity and quality.

(b) Oversize Mains

Where adequate future water or sewage service necessitates the installation of mains larger than those needed to serve a development, the installation of the larger mains is required.

(c) Roads

The design and construction of all roads shall be in accordance with the requirements of Appendix L and the standards defined by the Taney County Road and Bridge department.

(d) Pedestrian Circulation

Residential developments shall provide adequate school bus loading and turn-around areas and to link school bus loading points into their pedestrian circulation system.

(e) Parking and Loading Areas

Parking spaces and loading areas shall be provided in accordance with Appendix J, which controls the number, size, layout, and construction of required parking and loading areas.

APPENDIX L Mobile Homes

1. PURPOSE

These policies ensure safe and healthful occupancy of mobile homes and the compatibility of mobile home developments with neighboring uses. Mobile homes that meet the standards of the county's adopted codes shall be treated the same as other dwellings and shall not be subject to these special policies except when located in a mobile home park.

2. REQUIREMENTS

2.1. Permits

A Division I permit is required for the installation or replacement of each mobile home in all mobile home parks. The Division I permit shall be obtained prior to the placement of the mobile home.

2.2. Area

No mobile home park shall be constructed on a parcel of property that has an area of less than three (3) acres.

2.3. Buffer

There shall be a minimum twenty-five (25) foot landscaped buffer strip along all roads bordering a mobile home park. These buffers shall be considered required improvements, subject to the requirements of the applicable Zoning District (Western District or Eastern District).

2.4. Storage Parking

A combined/storage parking area of at least two hundred (200) square feet for each mobile home space shall be provided for the storage of boats, campers, etc. Such storage parking areas are subject to the screening requirements of Appendix J, Parking Area Buffers. Any storage type building placed within this area must be temporary in construction and placement.

2.5. Limits on Occupancy and Use

2.5.1. Only one mobile home shall be allowed on any one space or lot.

2.5.2. Travel trailers, campers, boats, and similar vehicles shall not be allowed on any mobile home space, but shall be stored in the area defined in the Buffer section of this appendix.

2.5.3. Mobile home parks shall comply with the density requirements of the applicable Zoning District (Western District or Eastern District). In any case the maximum density shall not exceed eight (8) homes per acre.

2.5.4. Within any mobile home park, specific setbacks and separations shall be used.

2.6. Covenants / Regulations

Mobile home park regulations / covenants shall be filed with the Taney County Recorder's Office.

2.7. Recreational Area

For developments that include twenty-four (24) or more lots or spaces, a minimum of ten (10) percent of the total area must be developed and maintained for recreational purposes. This area will count as part of the total open space provided.

APPENDIX K
Road and Access Standards

1. GENERAL PROVISIONS

County road standards and requirements are defined and managed by the Taney County Road and Bridge department. All construction must adhere to the current published standards set for the in the Taney County Road Standards.

2. CLASSIFICATION OF STREETS AND RIGHTS-OF-WAY

Minimum right-of-way widths and width of roadway shall be as follows:

	Type of Street	Right-of-Way	Roadway Width
Local	<u>Residential</u>	50'	24'
	<u>High Density Residential</u>	50'	31'
	<u>Industrial/ Commercial</u>	60'	36' – 49'
	(Provides access to industrial/commercial properties.)		
Collector	<u>Residential</u>	60'	31' – 49'
	<u>Industrial/ Commercial</u>	60'	39' – 49'
	(Typical residential collector is 31 feet. Could go up to 49 feet depending on conditions; i.e., three (3) lanes or four (4) lanes.		
Minor Arterial		70' – 80'+	To be determined individually
Primary Arterial		100'+	To be determined individually
Expressway		130'+	To be determined individually



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, DECEMBER 21, 2016, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dan Boone called the meeting to order and established a quorum with three members present. They were: Dan Boone, Howard Kitchen, and Tony Mullen. Staff present: Bob Atchley and Bonita Kisse-Souttee.

The statutes which govern the Board of Adjustment were read and the speakers sworn in before their respective hearing.

Mr. Atchley read a statement explaining the public hearing 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.

Public Hearings:

Emerald Pointe, LLC, Appeal postponed until next month.

Pete and Elizabeth Capko; a request for a variance from the required front property line setback requirement. The applicants are seeking a 3' front setback variance allowing for the construction of a new covered deck to be constructed 22' from the front property line adjoining Black Bear Way. Mr. Atchley read the staff report and presented maps, pictures and a video of the site. Mr. & Mrs. Capko were present to address questions from the Board. Five people signed up to speak including the Capko's. All were in favor of the request except Robert Anderson who is president of the homeowners association. After discussion a motion was made by Mr. Mullen to approve based upon the decision of record. Seconded by Mr. Kitchen. The vote to approve was unanimous of the three members present.

David Hawkins; a request for a variance from the front property line setback 10' allowing for the construction of a new garage to be constructed 15' from the front property line. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. No one from the neighborhood signed up to speak. Mr. Hawkins was present to address questions from the Board. After discussion a motion was made by

Mr. Kitchen to approve based upon the decision of record, and stated that he did not feel that the placement of the single-vehicle garage would have a negative effect on life/safety issues or visibility. Mr. Mullen seconded. The Vote to approve was unanimous of the three members present.

Jeffery & Kelly Shaw; a request for a variance from the side property line setback on the eastern side of the lot 2' allowing for the construction of a new shop building to be constructed with the building eaves being located 5' from the eastern-most side property line. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. No one from the neighborhood signed up to speak. Mr. and Mrs. Shaw were present to address questions from the Board. After discussion a motion was made by Mr. Mullen to approve based upon the decision of record. Mr. Kitchen seconded. The vote to approve was unanimous of the three members present.

Review and Action:

Minutes; November 16, 2016, with no additions or corrections a motion was made by Mr. Kitchen to approve the minutes as written. Seconded by Mr. Mullen. The vote to approve the minutes was unanimous.

Old and New Business:

Discussion regarding the Planning Commission January 9, meeting regarding Code Amendments on nightly rental. Mr. Boone asked staff to check into if the County has insurance that protects Board members in case they are sued.

Adjournment:

With no other business on the agenda for December 21, 2016 the meeting adjourned at 7:05.