



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

Phone: 417546-7225/7226 • Fax: 417546-6861

website: www.taneycounty.org

AGENDA

**TANEY COUNTY BOARD OF ADJUSTMENT
WEDNESDAY, NOVEMBER 21, 2007, 7:00 P.M.
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM
TANEY COUNTY COURTHOUSE**

Call to Order:

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

Public Hearings:

*Arthur Finch
Joni Glessner
Bob Mabe
Kathleen Beachner*

Old and New Business:

Review and Action:

Minutes, October 2007

Adjournment.



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TANEY COUNTY BOARD OF ADJUSTMENT

STAFF REPORT

NOVEMBER 21, 2007

ARTHUR FINCH

#07-23

Public Hearing for Arthur Finch located at 2214 Mountain Grove Road, in the Scott Township, Sec. 5 Twp. 23 Rng. 20.

The applicant requests a variance for the reduction of the side setbacks for two buildings.

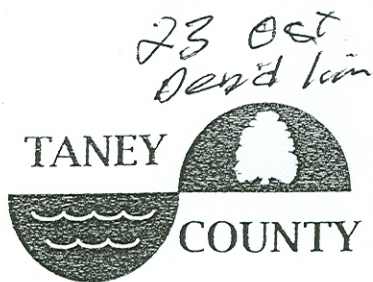
History: The property is part of Paradise Shores Estates which was developed by Mr. Finch who plans to form a sewer and water company. The well house is located 10 feet from an existing shop building and must be separated.

General Description: The subject property contains 5.19 acres and is located off the east and west sides of Mountain Grove Road approximately 2 miles south of the intersection of St. Hwy. T. The adjoining properties to the development consist of residential and multi-family to the north and the east and Lake Taneycomo to the south and west.

Review: The variance request will consist of a survey line being drawn between the well house and shop building resulting in both buildings encroaching into the side setback.

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

1. Variance is for the setback of 5' from each building (Appendix H, Table 12, Setbacks, Taney County Development Guidance Code).
2. 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).



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TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT
FOR VARIANCE OR APPEAL

(Circle one)

Variance (\$25.00) Appeal (\$75.00)

PLEASE PRINT

Applicant Arthur Finch Phone 417-327-2790 cell
417-334-4466

Address, City, State, Zip 2214 Mtn. Grove Rd Branson, Mo 65616

Representative _____ Phone _____

Owner of Record Paradise Shores Estates Signature: Arthur Finch

Name of Project: Paradise Shores Estates

Section of Code Protested: (office entry) _____

Address and Location of site: 2214 Mountain Grove Road Branson

Mo

Subdivision (if applicable) _____

Section 5 Township 23N Range 20W Number of Acres or Sq. Ft. _____

Parcel Number _____

(Parcel # **MUST** be on permit. Example: 00-0.0-00-000-000-000.000. # on top left hand corner of property tax statement.)

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

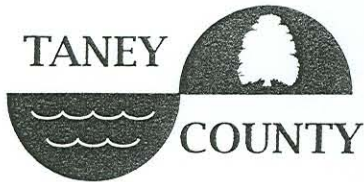
Required Submittals:

- ☒ Typewritten legal description of property involved in the request
- ☐ Alphabetical list of all property owners within 600 feet of the request
- ☐ 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:

I plan to convey the well house, property which is shown on Paradise Shores Estates plot map to Mountain Grove Road Sewer and Water Company (not yet formed) for the purpose of consolidating our efforts and expense into one entity and wish to divide the well house, and existing shop building that is presently 10 feet apart, with the pending survey line being drawn 5' off from each building. The shop building will be included in lot #6 on the final plat.



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TANEY COUNTY BOARD OF ADJUSTMENT

STAFF REPORT

JONI GLESSNER

#07-6

OCTOBER 17, 2007

Public Hearing for Joni Glessner located at 588 Crestview Dr. Ridgedale Missouri in the Scott Township Sec. 2 Twp. 21 Rng. 22.

The applicant requests an appeal of the Taney County Planning Commission decision of June 18, 2007 to approve a permit to Big Cedar Wilderness club to construct condominiums.

History: The Planning Commission approved the request by Big Cedar Wilderness Club to place a condominium project at the corner of Crestview and McMeen Roads in the Oakmont Subdivision.

General Description: The project consists of a three story 18 unit lodge building and 4 cabins on land adjacent to the resort consisting of up to 300 units. The adjoining properties to the development consist of single family residential and the Big Cedar Resort.

Review: The appeal is for the permit to be denied and the Planning Commission decision to approve overturned.

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

1. Permit #07-20 revoked.
2. 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).

Oct. 17, 2007

07-6

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

(Circle one)

Variance (\$25.00) Appeal (\$75.00)

PLEASE PRINT

Applicant Joni Glessner Phone 417-335-0352
Address, City, State, Zip 588 Crestview Dr. Ridgedale, MO 65739
Representative _____ Phone _____
Owner of Record Joni Glessner Signature: Joni Glessner
Name of Project: Big Cedar Wilderness Club
Section of Code Protested: (office entry) Chap. II pg. 5 & 13, Chap. VI pg. 42, Sec. III
Address and Location of site: Crestview & McMeen
19-1.0-11-001-010-002.000 / 19-1.0-02-004-015-003.000
19-1.0-02-004-018-001.000 / 19-1.0-02-004-015-001.000
19-1.0-02-004-015-004.000
Subdivision (if applicable) OAKMONT
Section 02 Township 21 Range 32 Number of Acres or Sq. Ft. 4.47
Parcel Number _____

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

Required Submittals:

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

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

Describe in detail the reason for your request:

The decision of the Taney County Planning Commission (Commission) issued in this matter on June 18, 2007, including the "*TANEY COUNTY PLANNING COMMISSION, DIVISION III DECISION OF RECORD, JUNE 18, 2007, BIG CEDAR WILDERNESS CLUB, #07-20*", should be overturned and is hereby requested to be overturned and the permit request denied and permit and/or approval issued denied for reasons including but not limited to that the decision granting said permit was improper, arbitrary and capricious, not decided or issued pursuant to applicable law, and is in violation of applicable law, including the Taney County Development Guidance Code (the "Code"), the Master Plan of Taney County (the "Master Plan"), the statutes and Constitution of the State of Missouri, and other law and authority, and further including but not limited to the following reasons:

1. The project is incompatible with existing land uses (residential) and surrounding land uses (residential), and thus was improperly approved.
2. The project has a negative impact on the water supply of the community including neighboring homes and taxpayers, and thus was improperly approved.
3. The project has a negative impact on the road traffic on existing roads in the neighborhood, including neighboring homeowners and taxpayers and thus was improperly approved.
4. The project has a negative impact on quality of life and nuisance issues in the neighborhood including causing additional trash, noise and increased crime, and thus was improperly approved.
5. The project has a negative impact on the boat and other water traffic on the lake in the neighborhood, and thus was improperly approved.
6. The project has a negative impact on the property values of neighboring homes, and thus was improperly approved.
7. The project has a negative impact on the natural environment of the surrounding neighborhood, and thus was improperly approved.
8. The project has a negative impact and was improperly approved by replacing previous single family residential land use with commercial land uses.
9. This project has a negative impact and was improperly approved by replacing previously platted single family residential land uses, such uses that had been platted as residential in the Recorder's Office of Taney County, Missouri for approximately 40 years, with commercial land uses.
10. The project is in violation of existing land use covenants which were platted as residential

uses and not commercial uses for the property, and thus was improperly approved.

11. This project was improperly approved in that the property could be used for other legal uses by the developer that are more compatible with existing uses and/or the surrounding uses and the platted nature of the land (residential development for sale, or residential for employees or executives of developer).

12. This project was improperly approved in that the property could have been approved for a less severe use or lower density use that is more compatible with existing residential and neighborhood residential land uses (e.g., single family, or single cabin on single lot).

13. This project was improperly approved in that the property is not appropriate for this project in that the developer has other property more suitable for commercial use and that is not platted residential uses.

14. This project was improperly approved in that the property is not appropriate for this project as the developer has other property where this project could be placed where the other property does not border adjacent residential land uses.

15. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter I, page 1, Purposes of these Codes, Paragraph A, and the Master Plan, and State Statute Section 64.825, "to promote the health, safety, convenience, prosperity, and general welfare of its inhabitants", in that the approval fails to consider and/or promote the safety, convenience, prosperity, and general welfare of the inhabitants as required.

16. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter I, page 1, Purposes of these Codes, C., and the Master Plan, and State Statute Section 64.850, "to . . . protect property and building values", in that the approval fails to consider and/or protect property values and building values of neighboring and existing uses as required.

17. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter VI, page 43, Off-site Nuisances, in that the approval fails to consider and/or meet off-site nuisance standards as required, in that the use approved allows for noise and light to leave the project to the detriment of adjacent landowners.

18. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter VI, page 43, Compatibility Factors, Paragraph A., "Use compatibility is encouraged", in that the approval fails to consider and/or meet use compatibility standards as required, in that the use approved is incompatible with existing residential and neighboring residential uses.

19. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter VI, page 43, Compatibility Factors, Paragraph A., "Use compatibility is encouraged", in that the approval fails to consider and/or meet use compatibility standards as required, in that the approved use (as compared to the residential use existing and on adjacent property) is not within the uses that is approved to be compatible with each other in Appendix M, Page 126, or appendix N, Page 131.

20. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter VI, page 43, Compatibility Factors, Paragraph B., "Building height compatibility is encouraged", in that the approval fails to consider and/or meet compatibility standards as required, in that the building height approved is for taller buildings and thus incompatible with existing residential and neighboring residential uses.

21. The approval of the permit was improper for violation of the Code, Master Plan, and State Law by not complying with the Code, Chapter VI, page 43, Compatibility Factors, Paragraph C., "Lot coverage compatibility is encouraged", in that the approval fails to consider and/or meet compatibility standards as required, in that the lot coverage approved is more dense and thus incompatible with existing residential use and neighboring residential uses by placing multi-story, large, commercial buildings on the property.

22. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter VI, page 43, Relative Policies, Compatibility Factors, Paragraph D., "Building bulk and scale compatibility is encouraged", in that the approval fails to consider and/or meet compatibility standards as required, in that the building bulk and scale approved is larger and thus incompatible with existing and neighboring residential uses) by placing multi-story, large, commercial buildings on the property.

23. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with Code, page 46, Chapter VI, Section VI, Commercial Development, Relative Policies, 1.1. Commercial Development Patterns, "commercial development is encouraged to be clustered so as to share parking facilities and to minimize road frontage, the number of access points needed, and the number of signs required to direct attention to the development", in that the approval fails to consider and/or meet commercial development pattern standards as required, in that the project approved is not clustered with existing commercial development of developer as it could have been done to share parking facilities, minimize the road frontage, minimize the number of access points needed, and minimize the number of signs required to direct attention to the development.

24. The approval of the permit was improper for violation of the Code, Master Plan, and State Law, by not complying with the Code, Chapter VI, page 47, Section VII, Services: Capacities and Access, Relative Policies, 1. Traffic, "developments that will contribute traffic in excess of current rated capacity to a public road or highway are discouraged", in that the approval fails to properly consider and/or meet traffic standards as required, in that the project approved

contributes excessive traffic.

25. The approval of the permit was improper for the reason that it was not in conformity with nor properly issued pursuant to the procedures of the Taney County Master Plan, which per Section 64.815, RSMo. "shall promote the health, safety, convenience, prosperity and general welfare of the inhabitants" of Taney County, and per "Chapter 11" of the Master Plan, the Master Plan "... is a guide to assist decision-makers ... take actions to achieve the County's goals ... , and should be considered in daily decision-making on issues affecting the County's future"; this approval failed to consider and/or follow the Master Plan in that the decision failed to follow and implement the "Residential Land Use Goals", "Objective 1: Protect the viability of existing neighborhoods and residential areas", by not "[m]aintaining the integrity of existing residential areas", and by failing to consider and/or follow "Action 1: Ensure that incompatible non-residential uses are not located adjacent to residential areas in order to maintain the viability of existing residential neighborhoods"; said decision did not consider and/or protect the viability of the existing residential neighborhoods in that it approved incompatible commercial use.

26. The approval of the permit was improper for the reason that it was not in conformity with nor properly issued pursuant to the procedures of the Taney County Master Plan, which per Section 64.815, RSMo. "shall promote the health, safety, convenience, prosperity and general welfare of the inhabitants" of Taney County, and per "Chapter 11" of the Master Plan, the Master Plan "... is a guide to assist decision-makers ... take actions to achieve the County's goals ... , and should be considered in daily decision-making on issues affecting the County's future"; this approval failed to consider and/or follow the Master Plan in that it failed to consider and/or follow and implement the "Land Use and Growth Management Goals", and the policy specified under "Goal" by not issuing a decision that "protects the quality of life in the Taney County community", and that does not consider and/or meet "Objective 3" to "Protect and preserve rural areas from incompatible urban development", in that such decision adversely affects the health, safety, convenience, prosperity and general welfare of the neighboring homeowners in the area, by contributing noise, road traffic congestion, lake traffic congestion, water level deterioration, adverse property values, and other matters, and by converting rural areas to urban.

27. The approval of the permit was improper for the reason that it was not in conformity with nor properly issued pursuant to the procedures of the Taney County Master Plan, which per Section 64.815, RSMo. "shall promote the health, safety, convenience, prosperity and general welfare of the inhabitants" of Taney County, and per "Chapter 11" of the Master Plan, the Master Plan "... is a guide to assist decision-makers ... take actions to achieve the County's goals ... , and should be considered in daily decision-making on issues affecting the County's future"; this approval failed to consider and/or follow the Master Plan in that it failed to consider and/or follow and implement the "Commercial Land Use Goals", called for under "Goal: Promote the development of ... commercial ... uses ... that are compatible with the natural environment and adjacent land uses", and it that it failed to consider and/or follow the policy called for in "Objective 1" of requiring commercial uses to be designed "... to have a minimum impact on adjacent, lower intensity land uses", as the permit as approved allows commercial uses

incompatible with adjacent residential land uses, and that do have a negative impact on adjacent lower density residential land uses.

28. The approval of the permit was improper for the reason that it was not in conformity with nor properly issued pursuant to the procedures of the Taney County Master Plan, which per Section 64.815, RSMo. "shall promote the health, safety, convenience, prosperity and general welfare of the inhabitants" of Taney County, and per "Chapter 11" of the Master Plan, the Master Plan "... is a guide to assist decision-makers ... take actions to achieve the County's goals ... , and should be considered in daily decision-making on issues affecting the County's future"; this approval failed to consider and/or follow the Master Plan in that it failed to consider and/or follow and implement the "Commercial Land Use Goals", called for under "Goal: Promote the development of ... commercial ... uses ... that are compatible with the natural environment and adjacent land uses", and it that it failed to consider and/or follow the policy called for in "Objective 2" of requiring commercial developments to be designed "... minimize negative impacts of lights, traffic, and noise on residential properties", as the permit as approved allows commercial uses that do have a negative impact of lights, traffic, and noise on residential properties.

29. The approval of the permit was improper and invalid for the reason that it was not issued according to law, in that the Taney County Development Guidance Code, Chapter III, Page 26, "4. Step 4 - Action", allows approval of a project only if the project "... complies with each of the absolute policies, is awarded a score of zero (+/-0) rating or higher on the relative policies ... ", and as also specified in Chapter II, page 9, 48. Relative Policies; however, this project was not approved according to this procedure, in that no such approval of all absolute policies was considered and/or established, and in that no score of zero or higher was obtained on the relative policies, and the permit therefore should have been denied.

30. The approval of the permit was improper and invalid for the reason that it was not issued according to law, in that the Taney County Development Guidance Code, Chapter III, Page 26, "4. Step 4 - Action", authorizes approval of a project only if the project "... complies with each of the absolute policies, is awarded a score of zero (+/-0) rating or higher on the relative policies ... ", and as also specified in Chapter II, page 9, 48. Relative Policies; however, this project was not approved according to this procedure, in that no such approval of all absolute policies was established, and no score of zero or higher was obtained on the relative policies, and due to the failure to follow this procedure as required by law, the decision and approval was arbitrary and capricious and unlawful, in that apparently no standard for approval or denial actually applies to the decision process and result reached, or at least no standard that is determinable in advance by interested persons.

31. The approval of this permit was improper and unlawful for the reason that the decision therein is arbitrary and capricious and unlawful, in that the decision is not in conformity with similar precedent established and similar cases established and decided by the Planning Commission, wherein the same and/or similar facts and issues were presented, but the opposite

result was ordered by the Planning Commission (e.g., the Monkeys and More Exotic Animal Rescue / Donald and Bonnie Manson request, #07-41, on T Hwy., Branson), resulting in arbitrary and capricious action, especially in view of not following the procedure for the obtaining a zero or higher score on the relative policies, in that apparently no standard for approval or denial actually applies, or at least no standard that is determinable in advance by interested persons.

32. The decision is invalid in that the alleged scheme of zoning in use in Taney County, the Code, referred to as performance based zoning, was not used properly applied and used, in that the internal mechanisms and procedures for the approval or denial were not properly followed, or were ignored, including but not limited to the reasons set forth elsewhere which are incorporated herein by reference, and as such, if the zoning scheme is valid on its face, it is invalid in its application and use, including in the instant case, including but not limited to being applied arbitrarily and capriciously.

33. The decision is invalid in that the alleged scheme of zoning in use in Taney County, the Code, referred to as performance based zoning, is not properly authorized by Missouri law, in that it is not traditional zoning, or sufficiently similar to traditional zoning, and thus not authorized and is therefore invalid, and the decision rendered thereunder is invalid.



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TANEY COUNTY BOARD OF ADJUSTMENT

STAFF REPORT

BOB MABE

NOVEMBER 21, 2007

#07-07

Public Hearing for Bob Mabe located at 211 Parkside Dr. in the Oliver Township, Sec. 27 Twp. 22 Rng. 22.

The applicant Bob Mabe requests an appeal of the Taney County Planning Commission decision to deny approval to operate a nightly rental business from a residential structure.

History: The request was denied by the Planning Commission for a nightly rental business, and then for a bed and breakfast.

General Description: The subject property is 100 x 125 and is located on the corner of Parkside Dr. in the Parkview Beach Subdivision Lot 6 Block 4. The adjoining properties to the request consist of residential and commercial.

Review: The proposed site consists of an existing single family dwelling which is serviced by central sewer and water. The appeal is to overturn the Planning Commission decision to deny nightly rental on the property.

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

1. Compliance with the provisions of the Taney County Development Guidance Code as applies to the original Decision of Record dated September 10, 2007.
2. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire. (Chapter II Item 6).



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TANEY COUNTY BOARD OF ADJUSTMENT

STAFF REPORT

NOVEMBER 21, 2007

KATHLEEN BEACHNER

#07-22

Public Hearing for Kathleen Beachner located at 1311 Skyview Dr. in the Branson Township, Sec. 11 Twp. 22 Rng. 22.

The applicant requests a variance for both sides of her property for a house which is under construction.

History: The property was surveyed to show the correct house location, but after construction began there was only 5' on the right side and 2' on the left side.

General Description: The subject property contains 12,500 sq. ft and is located in Skyline Subdivision. The adjoining properties to the development consist of residential.

Review: The variance request will consist of a 2' variance on the right side and a 5' variance on the left side of the property.

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

1. Variance is for the setback difference of 2' on the right and 5' on the left (Appendix H, Table 12, Setbacks, Taney County Development Guidance Code).
2. The Decision of Record shall be filed with the Taney County Recorder's Office with 120 days or the approval shall expire. (Chapter II Item 6)



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07-22

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

(Circle one)

Variance (\$25.00) Appeal (\$75.00)

PLEASE PRINT

Applicant KATHLEEN BEACHNER Phone 365-1444
Address, City, State, Zip 305 Wimbledon Dr, Branson, MO 65616
Representative Kathleen Beachner Phone 365-1444

Owner of Record KATHLEEN Beachner Signature: [Signature]

Name of Project: _____

Section of Code Protested: (office entry) _____

Address and Location of site: 1311 Skyview Drive

Subdivision (if applicable) Skyline

Section 11 Township 22 Range 22 Number of Acres or Sq. Ft. 12,500 sq ft

Parcel Number 18-1.0-11-003-002-010-000
(Parcel # **MUST** be on permit. Example: 00-0.0-00-000-000-000.000. # on top left hand corner of property tax statement.)

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

Required Submittals:

- ☒ Typewritten legal description of property involved in the request on Deed
- ☒ Alphabetical list of all property owners within 600 feet of the request
- ☐ 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:

In spite of meticulous planning, things didn't
go right. The house was pinned to show the
house location and the front porch location. I
believe one of the pins got confused. I have
5 feet on the Right side (beige house) and only
2 feet on the left side (brown house). The
curve in the road doesn't help measuring. The plans
called for a 5 ft front porch. I've shortened &
smaller to 4½ feet. Basically, I need a 2½ foot
variance for the left side of the house.
Please be merciful and grant this variance
I am begging for your kindness and
understanding in this matter

Brown House

My house
1311
Skyview
Porch

Beige House

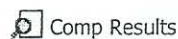
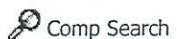
271

321

Left end

Right end

Overview



Layers



Scale: 1in=53ft

☒ Parcel Dimensions

☐ Parcel Numbers

☒ Parcels



☒ Roads

☐ Tax Annotation

☐ Name Annotation

☐ Legal Annotation

☐ District Annotation

☐ PLS Annotation

☐ Water Annotation

☐ School Districts

☐ Fire Districts

☐ Ambulance Districts

☒ Lakes

☒ Corporate Limits

☐ Urban Imagery

☐ Urban Imagery (200 Scale)

☐ Rural Imagery

☒ Townships

Legend

