



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, AUGUST 21, 2013, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

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

Public Hearing:

*Yokeley's Towing, Variance
Branson Canyon, Appeal
Nick Byma, Appeal*

Review and Action:

Minutes, July 2013

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT

VARIANCE STAFF REPORT

HEARING DATE: August 21, 2013

CASE NUMBER: 2013-0006V

PROJECT: Yokeley's Towing Setback Variance

APPLICANTS: Rick and Robb Yokeley

LOCATION: The subject property is located at 13797 U.S. Highway 160, Forsyth, MO; Swan Township; Section 20, Township 24, Range 20.

REQUEST: The applicants, Rick & Robb Yokeley are requesting a variance from the provisions of Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. The applicants are requesting a variance from the required 25' side of lot setback requirement, in order to allow for the reconstruction of the Yokeley's Towing building, in the same location as the existing structure.

BACKGROUND and SITE HISTORY:

The subject property is described as All of Lots Four (4), Five (5), Six (6), Seven (7) Eight (8) and Twelve (12) in the J.N. Simmons – Joy Houseman Survey, containing a total of approximately 1.61 acres (Utilizing the Assessor's information via Beacon). The property currently contains the existing Yokeley's Towing building, a double wide mobile home, a second mobile home and an accessory building.

According to the Assessor's information, a portion of the original structure now utilized for Yokeley's Towing was originally constructed in 1950, prior to the adoption of Planning and Zoning and is therefore viewed as a legally non-conforming (grandfathered) structure. However, upon the demolition of the Yokeley's Towing building, the new structure will be required to be built in conformance with the requirements of the Development Guidance Code, including all setback requirements, unless a variance is granted.

According to a recent boundary survey (as enclosed), the existing Yokeley's Towing building is located +/- 4.3' (at the closest point) from the southern property boundary (right-of-way of Mayflower Road).

GENERAL DESCRIPTION:

The subject property is located at 13797 U.S. Highway 160, Forsyth, MO and is described as All of Lots Four (4), Five (5), Six (6), Seven (7) Eight (8) and Twelve (12) in the J.N. Simmons – Joy Houseman Survey.

The applicants, Rick & Robb Yokeley are seeking a variance from the provisions of Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. Per the provisions of Section 7, Table 1, a structure is required to be setback 25' from the side property line if the property is located on a corner lot, adjoining a State or Federal Highway. Measurements to the structure are made to the portion of the structure that is closest to the property line, which in this instance is the exterior wall, because the roof has no overhang. The applicant is requesting a 20.7' setback variance from the south property line (adjoining Mayflower Road); allowing the new Yokeley's Towing structure to be reconstructed 4.3' (at the closest point) from the south side property line.

REVIEW:

The applicants are seeking a 20.7' setback variance from the south property line (adjoining Mayflower Road); allowing the Yokeley's Towing structure to be rebuilt 4.3' (at the closest point) from the south, side property line.

The applicants have indicated that the existing building serving the Yokeley's Towing business has fallen into a state of disrepair. The applicants have further stated that their contractor has indicated that the repairs to the existing building would cost nearly as much as constructing a new building. Based upon these factors, the applicants are proposing to demolish the existing 3,084 square foot building and build a new, similarly sized building in the same location.

The applicants have stated that it will not be feasible to relocate the building to meet the 25' side lot setback because the Yokeley's Towing business currently utilizes the northern portion of the tract of land for tractor trailer parking for the towing business. This northern parking area is the only other part of the property that would be of adequate size and slope to allow for the parking of semi-trucks. The applicants are not proposing to relocate the existing gas island and canopy which are currently located closer to Mayflower Road than the existing building. The applicants have stated that the relocation of the new building would not allow for access to the shop bays and would limit the applicants' future ability to install gas pumps. The applicants have indicated that the new building will need to be constructed in the same location as the current structure, in order to ensure that the building will continue to allow for the continued repair of automobiles and semi-trucks.

STATUTORY REQUIREMENTS OF APPROVAL:

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

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

STAFF RECOMMENDATIONS:

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

1. Approval of a setback variance of 20.7' from the south property line (adjoining Mayflower Road); allowing the new Yokeley's Towing building to be reconstructed 4.3' (at the closest point) from the south, side property line.
2. Compliance with all of the other provisions of the Taney County Development Guidance Code.
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 of the Taney County Development Guidance Code).



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

(Circle one)

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

PLEASE PRINT

DATE 7-23-13

Applicant Rick Yokeley - Robb Yokeley Phone 417 230 1984

Address, City, State, Zip 13797 US Hwy 160 Forsyth MO 65653

Representative Rick Yokeley Phone

Owner of Record Rick + Robb Yokeley Signature: [Signature]

Name of Project: Yokeley's Towing Setback Variance

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

Address and Location of site: 13797 US Hwy 160
Forsyth, MO 65653

Subdivision (if applicable) Simmons - Houseman Subdivision

Section 20 Township 24 Range 20 Number of Acres or Sq. Ft. 1.61 AC

Parcel Number 04-4.0-20-001-002-003.000

Does the property lie in the 100-year floodplain? (Circle one) Yes [checked] 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.

New- 60'x100'
Old-60'x105'

20 1/2 variance

Need to put the new building where the old one sits due to room on the north end of the lot to park tractor and trailers, if we move the building over the 25' it will take up the room in the lot we now park semis on and wouldn't be able to get around the lot. Also we are not removing the gas island and canopy and need to keep this in line with the corner of the building, otherwise you can't get in the shop bays and in the future for putting gas pumps in this to be in line with the new building. As it sits now we've had the property surveyed to see where the building sits now, we are asking for a 20 1/2' variance to the south, off of Mayflower to keep the new building right where the old building sits giving us room with the 100' x 60' new building to get in and out with semis like we do now, if moved the 25' we wouldn't be able to get in with losing that 25 foot. The new building isn't going to be bigger than the old one. We just need it in the same spot as the old one sits now to make the new improved building function for our needs of working on cars as well as tractor trailers like the old shop.

Thank you for you time

Robbie Yokeley

VERIFICATION

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

[Signature]
Signature of Applicant
Robbie Yekeley

7-23-13
Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY)

S.S. On this 23 day of July, 2013

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

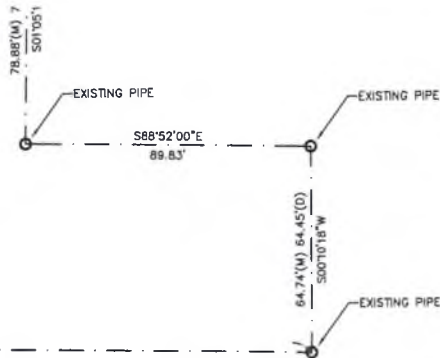
In testimony Whereof, I have hereunto set my hand and affixed my official seal, at my office in Forsyth, Mo. The day and year first above written. My term of office as Notary Public will expire 2/6/2014.

[Signature]
Bonita Kissee, Notary Public

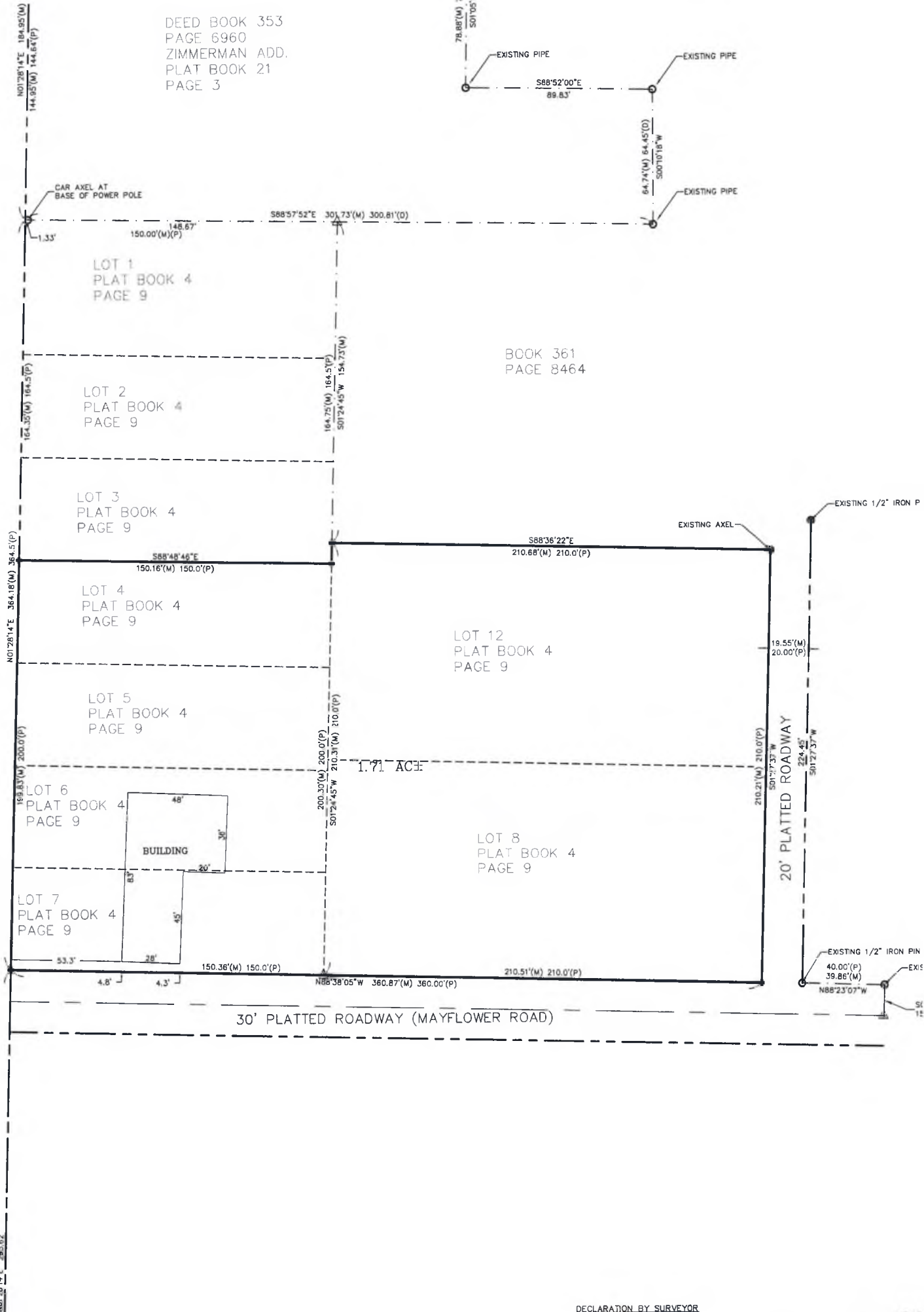


BONITA KISSEE
My Commission Expires
February 6, 2014
Taney County
Commission #10440057

DEED BOOK 353
PAGE 6960
ZIMMERMAN ADD.
PLAT BOOK 21
PAGE 3



MISSOURI STATE HIGHWAY "160" R/W VARIES



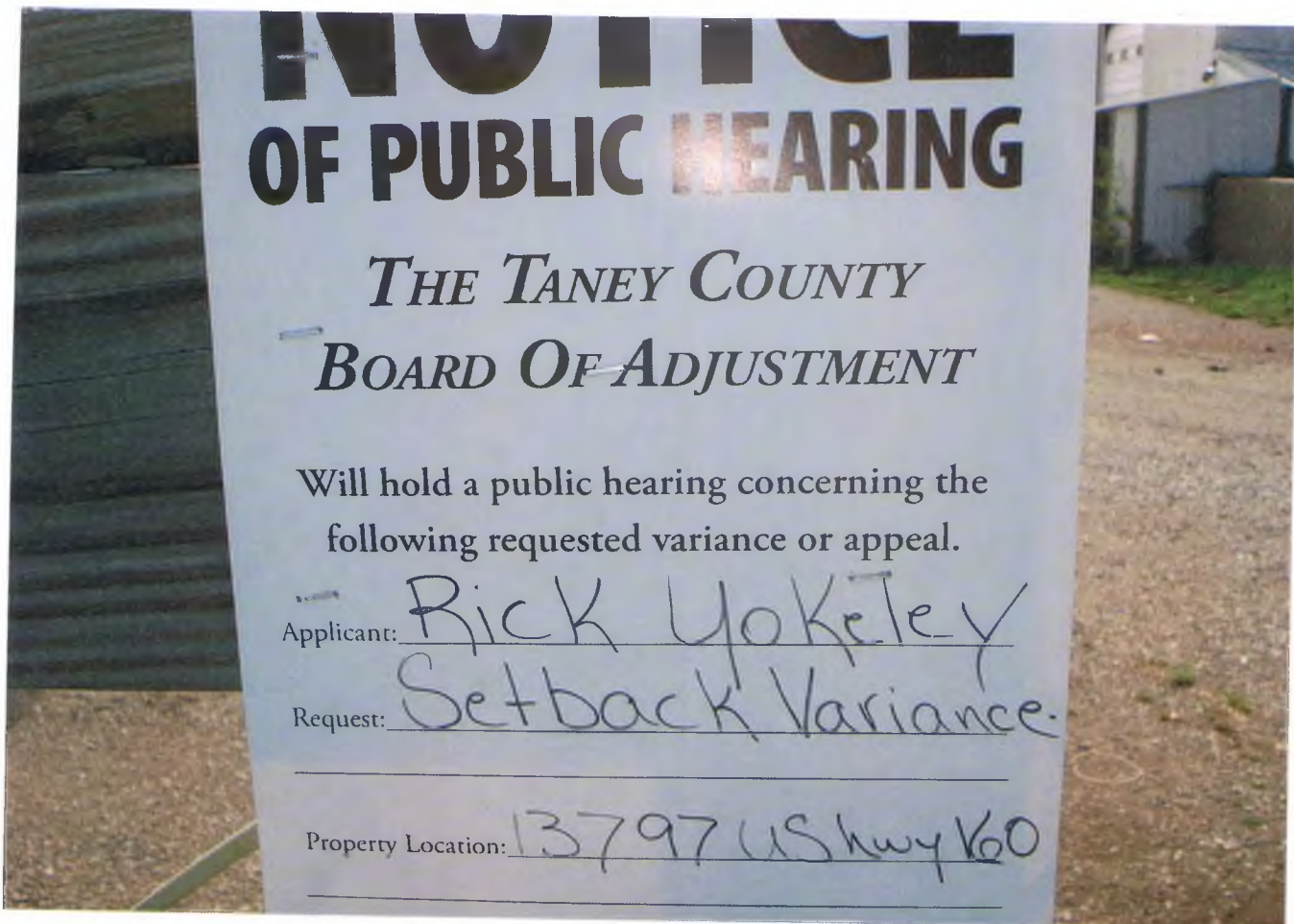
DECLARATION BY SURVEYOR



BOA Rick & Robb Yokeley



DISCLAIMER
This document is a computer-generated map and should not be used for legal purposes. It is intended for informational purposes only. The user assumes all responsibility for the accuracy and completeness of the information shown on this map. The Board of Assessors is not responsible for any errors or omissions on this map. The user assumes all responsibility for the accuracy and completeness of the information shown on this map. The Board of Assessors is not responsible for any errors or omissions on this map.













TANEY COUNTY BOARD OF ADJUSTMENT APPEAL STAFF REPORT

HEARING DATE: August 21, 2013

CASE NUMBER: 2013-0003A

PROJECT: Branson Canyon Condominiums – Nightly Rental Amendment

APPLICANT: Phil Lopez

LOCATION: The subject property is located in the 800 Block of State Highway P, Hollister, MO; Oliver Township; Section 36, Township 22, Range 22.

REQUEST: The applicant, Phil Lopez is requesting to appeal the Planning Commission's denial of Division III Permit 2013-0005 in order to modify the original Division III Permit Decision of Record (#2003-0049), allowing for up to 281 permitted condominium units (Branson Canyon Condominiums) to be utilized for nightly rental.

BACKGROUND and SITE HISTORY:

On November 17, 2003 the Taney County Planning Commission approved Division III Permit # 2003-0049, authorizing a mixed-use development for residential and commercial use; consisting of 281 single-family cottages and nightly rental cabins, a clubhouse and sales office, boat, RV and mini-storage, and park and open space. Condition # 5 on Division III Permit # 2003-0049 Decision of Record currently limits the development to a, "Maximum number of nightly rental cabins shall not exceed 84 units (30%)." The applicant is now seeking the Planning Commission approval of a Division III Permit which would modify the original Decision of Record allowing the total number of nightly rental cabins within Branson Canyon Condominiums to be increased from 84 units (30%) to a total of up to 281 units (100%).

On May 20, 2013 the Taney County Planning Commission denied Division III Permit # 2013-0005 request by Phil Lopez seeking to modify the original Division III Permit Decision of Record (#2003-0049), allowing for an increase in the total number of permitted nightly rental units from 84 units (30%) up to 281 permitted nightly rental condominium units (100%), located in the 800 Block of State Highway P, Hollister, MO. The Planning Commission voted to deny this request by a unanimous vote of 8-0. The Planning Commission based its decision upon the belief that the applicant had not demonstrated the present need for additional nightly rental units, based upon the fact that the developer has yet to construct all 84 of the nightly rental structures as previously authorized via Division III Decision of Record # 2003-0049. The Planning

Commission advised the applicant to seek the future approval of a Division III Permit upon demonstrating a need for the additional nightly rental units.

GENERAL DESCRIPTION:

The approximately eighty-seven (87) acre subject property (per the Assessor's information) contains a total of 37 existing, platted condominium units and a clubhouse & sales office building. The applicant has indicated that the majority of the existing condominium units are currently being utilized for nightly rental.

REVIEW:

The applicant, Phil Lopez is seeking to appeal the decision of the Planning Commission to deny Division III Permit # 2013-0005. This Division III Permit application sought approval of an amendment of the number of nightly rental units allowed within the Branson Canyon Condominiums development, located within the 800 Block of State Highway P, Hollister, MO.

The Taney County Development Guidance Code defines nightly rental as "A residential building, structure or part thereof that may be rented for any period of time less than thirty (30) calendar days, counting portions of days as full days. The term – Nightly Rental shall not include hotel, motel or bed and breakfast establishments."

Per the provisions of Appendix E, Section 4.7 (Nightly Rental), "The nightly rental of **all** residential structures shall require the issuance of a Special-Use Permit." Please note however, that this requirement refers to **residential** structures. Structures constructed within a development held in a condominium style of ownership have historically been viewed by the Planning Commission and Planning Department as being commercial structures requiring the issuance of a Division II (Commercial Construction) Permit. In fact, all of the existing condominium structures within the Branson Canyon Condominium development have been issued Division II Permits. The applicant, sought a new Division III Permit in order to modify a Condition Number 5 within the original Division III Permit (2003-0049) Decision of Record relating to the number of Nightly Rental units that will be allowed within the Branson Canyon Condominium development. Therefore, the Staff recommended to the Planning Commission that the issuance of a Special-Use Permit not be required for each new nightly rental dwelling unit, so long as a valid Division II (Commercial Construction) Permit and Certificate of Compliance are issued for each these units, establishing compliance with both the provisions of the Taney County Development Guidance Code and the Conditions of the Decision of Record. However, the Staff further recommended that the owners of all nightly rental dwelling units within the development comply with all of the provisions of the Taney County Development Guidance Code, including all other Nightly Rental provisions.

The Branson Canyon Condominium development is served with both water and sewer service via the Emerald Pointe Utility Company. The sewage is ultimately treated via the Hollister municipal wastewater treatment plant.

The development is served by private roads which access State Highway P. The original Decision of Record requires covenants and restrictions, which provide for the continued maintenance of the streets, stormwater drainage, common area and open

space. All existing streets within the development have been platted as common space and are owned and maintained by the Branson Canyon Owners Association.

The project received a total score of 10 on the Policy Checklist, out of a maximum possible score of 33. The relative policies receiving a negative score consist of emergency water supply, solid waste disposal service and use compatibility.

The Planning Commission based its decision to deny Division III Permit 2013-005 upon the belief that the applicant had not demonstrated the present need for additional nightly rental units, based upon the fact that the developer has yet to construct all 84 of the nightly rental structures as previously authorized via Division III Decision of Record # 2003-0049. The Planning Commission advised the applicant to seek the future approval of a Division III Permit upon demonstrating a need for the additional nightly rental units.

The applicant has indicated that Branson Canyon was always planned to be a maintenance-provided community of homes to be used primarily for nightly rental.

The applicant has further stated that Phase 2 will include up to 60 additional home sites, increasing the total number of developed home sites to over 120. The current nightly rental limit is 84 homes.

The applicant expects the pace of construction to increase dramatically over the next few years. Discussions are underway with investor groups who would build up to 20 new homes at one time. Related to this, the developers intend to engage a management company for the community at such time that professional management is required.

Finally the applicant has stated that nightly rental ownership has a strong positive impact on the community.

STATUTORY REQUIREMENTS OF APPROVAL:

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

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

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

Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the county commission, respectively, under the provisions of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit court of the county in which the property affected is located, a petition, duly verified, stating that the decision is illegal in whole or

in part, specifying the grounds of the illegality and asking for relief therefrom. Upon the presentation of the petition the court shall allow a writ of certiorari directed to the board of adjustment or the county commission, respectively, of the action taken and data and records acted upon, and may appoint a referee to take additional evidence in the case. The court may reverse or affirm or may modify the decision brought up for review. After entry of judgment in the circuit court in the action in review, any party to the cause may prosecute an appeal to the appellate court having jurisdiction in the same manner now or hereafter provided by law for appeals from other judgments of the circuit court in civil cases.

SUMMARY:

If the Taney County Board of Adjustment approves this appeal request, the Planning Commission denial of the Decision of Record for Division III Permit # 2013-0005 shall be reversed. The following requirements shall apply, unless revised by the Board:

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. A Special-Use Permit shall not be required for each new nightly rental dwelling unit, so long as a valid Division II (Commercial Construction) Permit and Certificate of Compliance are issued for each these units, establishing compliance with both the provisions of the Taney County Development Guidance Code and the Conditions of the Decision of Record. However, the owners of all nightly rental dwelling units shall comply with all other provisions of the Taney County Development Guidance Code, including all other Nightly Rental provisions.
3. Compliance letters from the Western Taney County Fire Protection District, the Taney County Assessor's Office, the Taney County Collector's Office and Missouri Department of Revenue; including all other entities which have requirements governing a development of this nature shall be provided to the Planning Department office (Chapter VI-VII).
4. The maximum occupancy for each Nightly Rental unit shall be two (2) persons per dwelling unit, plus two (2) persons per bedroom (e.g., a two (2) bedroom dwelling unit is permitted a maximum occupancy of six (6) persons). The maximum occupancy may be further limited by the Western Taney County Fire Protection District.
5. One (1) off-street parking space shall be provided for each two (2) persons of occupancy in each Nightly Rental unit. All Nightly Rentals shall provide clearly marked and appropriately situated parking spaces for the handicapped, one (1) such space in each parking area.
6. The management company or a waste collection provider shall provide weekly solid waste collection during all months that each of the Nightly Rental units is available for rent.
7. Outdoor lighting shall be downward lit, subdued and have minimal off-site impacts to adjoining properties.

8. All Nightly Rentals units shall contain a minimum of one operable fire extinguisher, operable smoke alarms and operable carbon monoxide alarms in compliance with the Western Taney County Fire Protection District regulations.
9. A copy of a valid Western Taney County Fire Protection District Construction Permit and Certificate of Occupancy (C of O) shall be submitted to the Planning Department Office for all new Nightly Rental units, prior to the issuance of each Division II Permit Certificate of Conformance (C of C).
10. An on-site manager shall be designated and located within the existing Branson Canyon Condominium Clubhouse / Sales building.
11. A name plate shall be posted within five (5) feet of the main entrance of each Nightly Rental dwelling unit, both on the inside and on the outside of the dwelling unit, containing the following information:
 - (a) The Division II Permit number.
 - (b) The name and telephone number of the on-site Branson Canyon Condominium manager.
 - (c) The name and address of the owner of the Nightly Rental dwelling unit .
 - (d) The contact information for the Planning Department and the Taney County Sheriff's Department.
 - (e) The maximum occupancy permitted.
 - (f) The name and telephone number of all local emergency personnel (police, Fire and medical personnel).
 - (g) The number of off-street parking spaces provided on the property, and the maximum number of vehicles allowed to be parked on the property.
 - (h) The solid waste disposal collection day if provided by a solid waste company.
12. No outside storage of equipment or solid waste materials.
13. This decision is subject to all existing easements.
14. This Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Chapter II Item 6).



TANEY COUNTY PLANNING COMMISSION

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13-2A

TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT

FOR VARIANCE OR APPEAL

(Circle one)

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

PLEASE PRINT

DATE 7/23/2013

Applicant BRANSON CANYON LLC Phone 913-269-6565

Address, City, State, Zip PO Box 3016 Oxon Hills MO 64663

Representative Phil Lopez Phone 913-269-6565

Owner of Record BRANSON CANYON LLC Signature: Phil Lopez

Name of Project: Nightly Rental Agreement for Branson Canyon

Section of Code Protested: (office entry) Appeal of Planning Commission Denial

Address and Location of site: 140 Canyon Crossing Hollister MO

Subdivision (if applicable) BRANSON CANYON

Section 36 Township 22 Range 22 Number of Acres or Sq. Ft. 87 Acres

Parcel Number 18-7.0-36-000-000-021.000 = 66.91 AC + many more

Does the property lie in the 100-year floodplain? (Circle one) Yes [checked] 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.


Case Number 2013-0005: Reasons for Appeal

This appeal of the decision of the Taney County Planning Commission on May 20, 2013, is being made for the following reasons:

1. Branson Canyon was always planned to be a maintenance-provided community of homes to be used primarily for nightly rentals. That is still the case.
2. Of the 41 existing homes at Branson Canyon, 38 are authorized for nightly rentals. The developers fully expect this trend to continue in the remainder of the development.
3. To be successful and fulfill its original mission, the development will continue to be built and sold on the assumption that most or all homes will be nightly rentals. The developers and prospective owners must be able to rely on this assumption.
4. All Phase 1 building permits have now been purchased. Design of Phase 2 is underway, and construction is set to begin as soon as plans are finalized and approved.
5. Phase 2 will include up to 60 additional home sites, increasing the total number of developed home sites to over 120. The current nightly rental limit is 84 homes.
6. The developers expect the pace of construction to increase dramatically over the next few years. Discussions are underway with investor groups who would build up to 20 new homes at one time. Related to this, the developers intend to engage a management company for the community at such time that professional management is required.
7. Nightly rental ownership has a strong positive economic impact on the community. Homeowners contribute tax revenue, and visitors bring significant spending to the community. Homeowners use of local resources is limited mostly to utilities.
8. Because Branson Canyon is a maintenance-provided community of nightly rental homes, the development will continue to be maintained in a high quality manner. All new homes will continue to be high quality structures that comply with new nightly rental requirements including fire sprinkler systems.

VERIFICATION

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



Signature of Applicant

7/23/2013

Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY)

S.S. On this 23rd day of July, 2013.

Before me Personally appeared Phil Lopez, 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. The day and year first above written. My term of office as Notary Public will expire November 29, 2016.



Linda Todd, Notary Public





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TANEY COUNTY PLANNING COMMISSION

DIVISION III - DECISION OF RECORD

PHIL LOPEZ

BRANSON CANYON CONDOMINIUMS – NIGHTLY RENTAL AMENDMENT CASE NUMBER 2013-0005

On May 20, 2013 the Taney County Planning Commission denied a Division III Permit request by Phil Lopez seeking to modify the original Division III Permit Decision of Record (#2003-0049), allowing for an increase in the total number of permitted nightly rental units from 84 units (30%) up to 281 permitted nightly rental condominium units (100%), located in the 800 Block of State Highway P, Hollister, MO. The Planning Commission voted to deny this request by a unanimous vote of 8-0. The Planning Commission based its decision upon the belief that the applicant had not demonstrated the present need for additional nightly rental units, based upon the fact that the developer has yet to construct all 84 of the nightly rental structures as previously authorized via Division III Decision of Record # 2003-0049. The Planning Commission advised the applicant to seek the future approval of a Division III Permit upon demonstrating a need for the additional nightly rental units.

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



REC. FEE: \$0.00
NON-STD FEE:
PAGES: 3

ROBERT A DIXON, RECORDER
OF TANEY COUNTY, DO HEREBY
CERTIFY THAT THE WITHIN
INSTRUMENT OF WRITING, WAS
ON 11/26/2003 AT 03:49:09PM
DULY FILED FOR RECORD AND IS
RECORDED IN THE RECORDS OF
THIS OFFICE. IN BOOK 430
AT PAGE 5648-5650 IN TESTIMONY
WHEREOF, I HAVE HEREUNTO
SET MY HAND AND AFFIXED MY
OFFICIAL SEAL AT FORSYTH, MO,

Aimee Spurgeon DEPUTY

TANEY COUNTY PLANNING COMMISSION
DIVISION III DECISION OF RECORD
BRANSON CANYON
PERMIT #03-49
NOVEMBER 17, 2003

On November 17, 2003 the Taney County Planning Commission (grantor) approved a request by Bill Yung (grantee) to develop a mixed-use development for residential and commercial use. In accordance with this approval, a Division III Permit #03-49 is issued for the property located at the attached legal description.

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

Conway Bank is authorized to develop 87 acres into a mixed-use development consisting of 281 single-family cottages and nightly rental cabins, clubhouse and sales office, boat, RV and mini storage, park and open space. With five out of nine Planning Commissioners present, the vote to approve was three in favor, one against, and one abstention. The following requirements shall be complied with:

1. Compliance with the Taney County Development Guidance Code (Divisions I, II, and III), that includes plans for the following:
 - a. Sediment and erosion control
 - b. Stormwater management
 - c. Land grading permit
 - d. Delineation of the 100 year floodplain
 - e. Utility easements and building line setbacks
 - f. Improvements with scale of streets, parking, utility and structures
 - g. Foliage screening or fencing for commercial lots that adjoins residential tracts
2. Compliance letters from the Fire, Sewer, and Water Districts, DNR, MoDot.
3. Covenants and restrictions, which provide for the continued maintenance of the streets, stormwater drainage, common area and open space.
4. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days.
5. Maximum number of nightly rental cabins shall not exceed 84 units (30%).
6. Access easement for parcel that is landlocked.

Legal Description attached

2003L56764

LEGAL DESCRIPTION

PARCEL #1

All of the Northwest Quarter of the Northeast Quarter lying North and West of County Road "P"-10 as now located, all situated in Section 1, Township 21 North, Range 22 West.

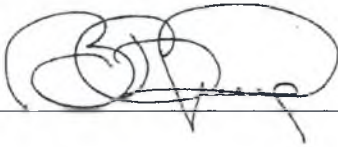
PARCEL #2

All of the W1/2 of the SE1/4 of Section 36, Township 22 North, Range 22 West, EXEPT: (1) that part lying South and East of Highway "P", and (2) commencing at the intersection of the South line of the SW1/4 of said SE1/4 and the West line of Highway "P"; thence South 89° 59' 48" West 435 feet to the POINT OF BEGINNING; thence North 03° 30' 00" West 150.00 feet; thence South 89° 59' 48" West 300.00 feet; thence South 03° 30' 00" East 150.00 feet to a point on the South line of said SW1/4 of the SE1/4; thence North 89° 59' 48" East 300.00 feet along said South line to the point of beginning; and (3) any part thereof on Highway "P", all as shown on survey recorded in Plat Book 14, page 51 of the Taney County Recorder's Office.

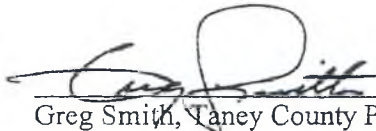
2003L56764

In signing this record of decision I understand that any breach in the terms of the Division III 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 Guidance Code.

Signature _____



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



Greg Smith, Taney County Planning Administrator

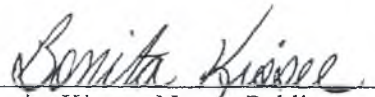
STATE OF MISSOURI)

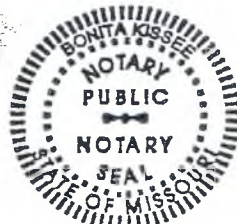
S.S. On this 26th day of Nov., 2003

COUNTY OF TANEY)

Before me personally appeared Greg Smith and Chris Anderson to me known to be the persons 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, Missouri the day and year first above written. My term of office as Notary Public will expire 2/6/06


Bonita Kisse, Notary Public



BONITA KISSEE
NOTARY PUBLIC - STATE OF MISSOURI
TANEY COUNTY
MY COMMISSION EXPIRES FEB. 6, 2006



**TANEY COUNTY PLANNING COMMISSION
DIVISION III PERMIT
STAFF REPORT**

HEARING DATE:

May 13, 2013

CASE NUMBER:

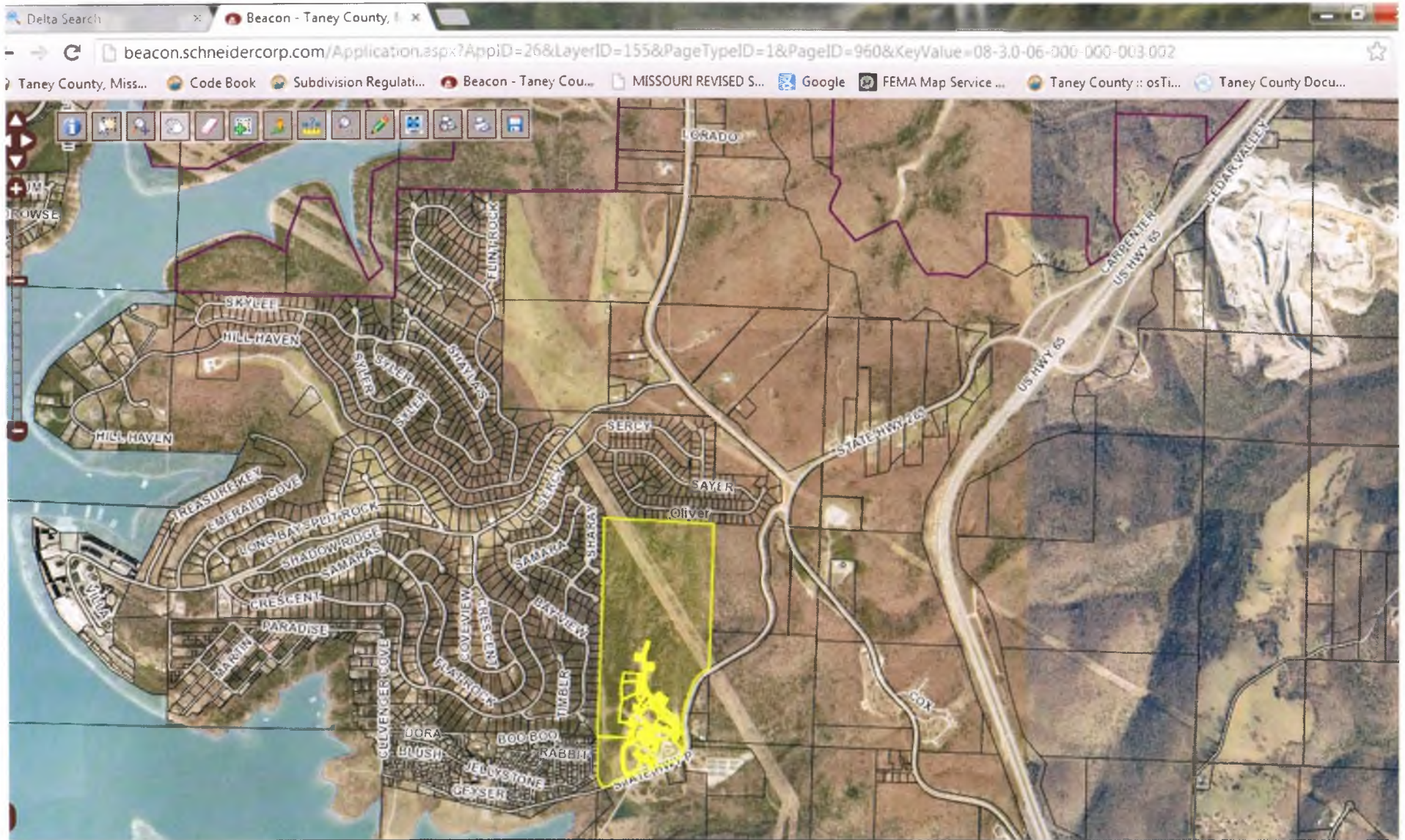
2013-0005

PROJECT:

Branson Canyon Condominiums – Nightly
Rental Amendment

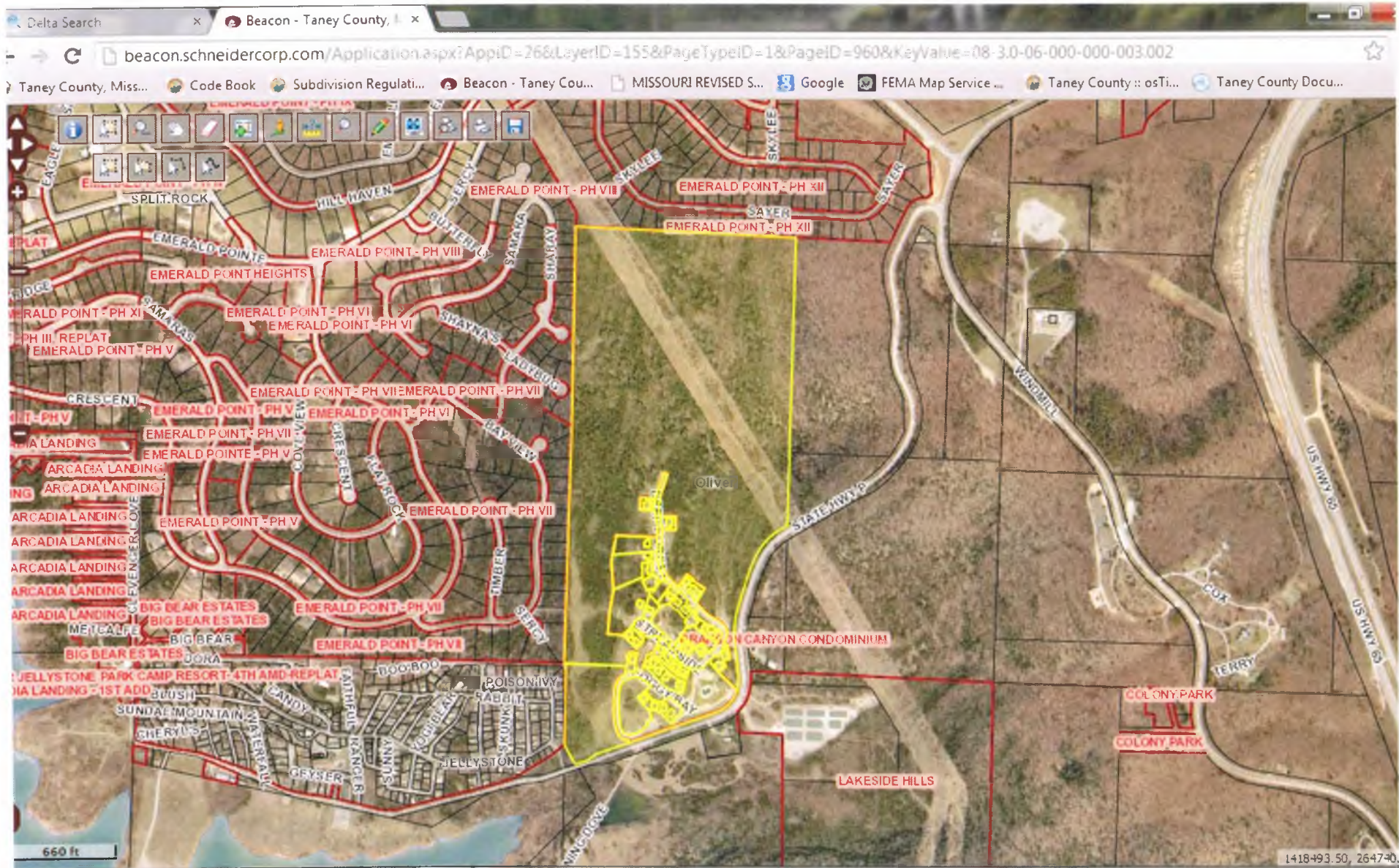
APPLICANT:

Phil Lopez



LOCATION:

- 800 Block of State Highway P, Hollister, MO
- Oliver Township
- Section 36, Township 22, Range 22



Branson Canyon – Nightly Rental Units
Division III Permit 2013-0005
Taney County GIS - Beacon

REQUEST:

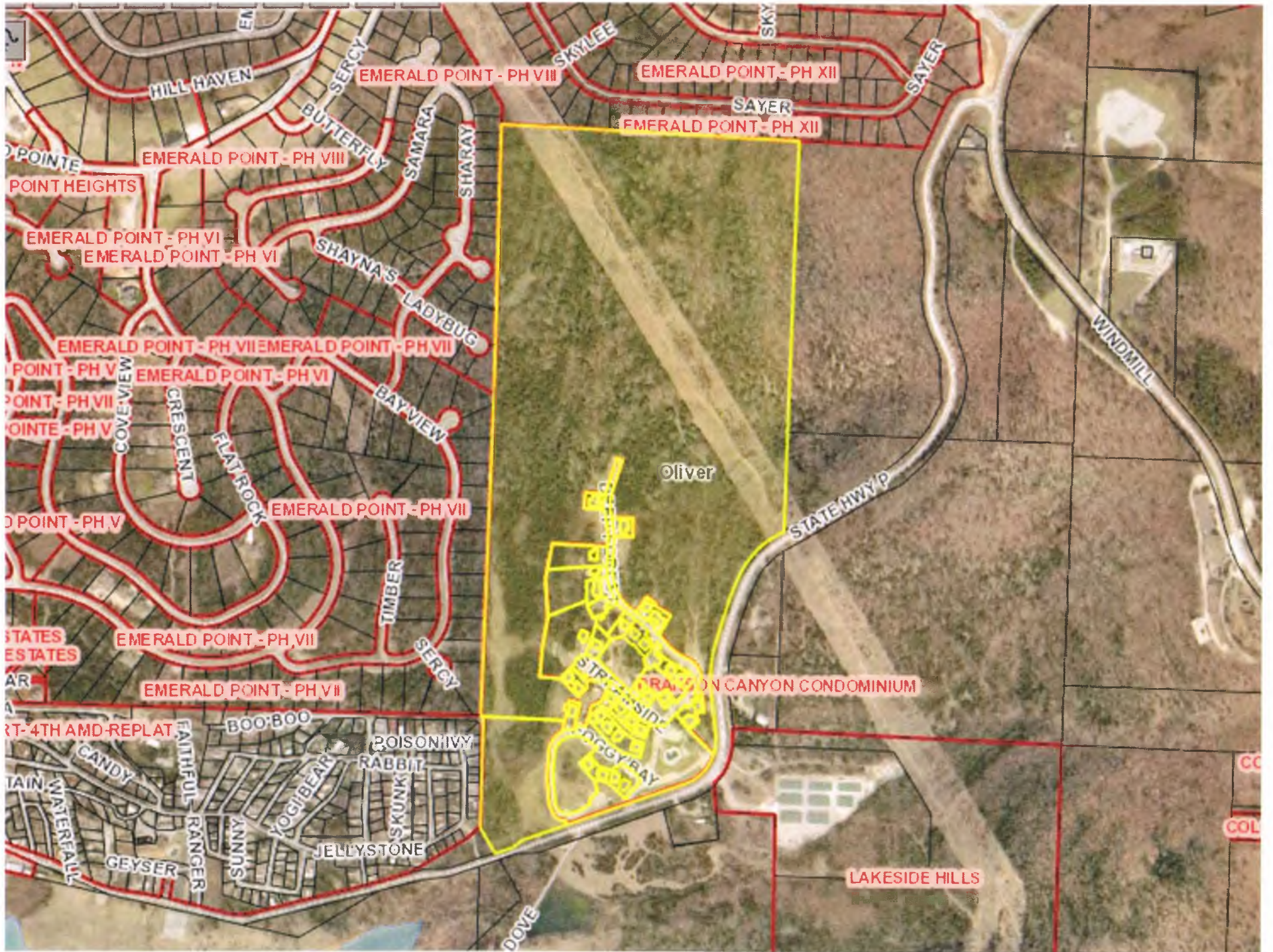
The applicant, Phil Lopez is requesting the approval of a Division III Permit in order to modify the original Division III Permit Decision of Record (#2003-0049), allowing for up to 281 permitted condominium units to be utilized for nightly rental.



BRANSON CANYON

BRANSON, MISSOURI





BACKGROUND and SITE HISTORY:

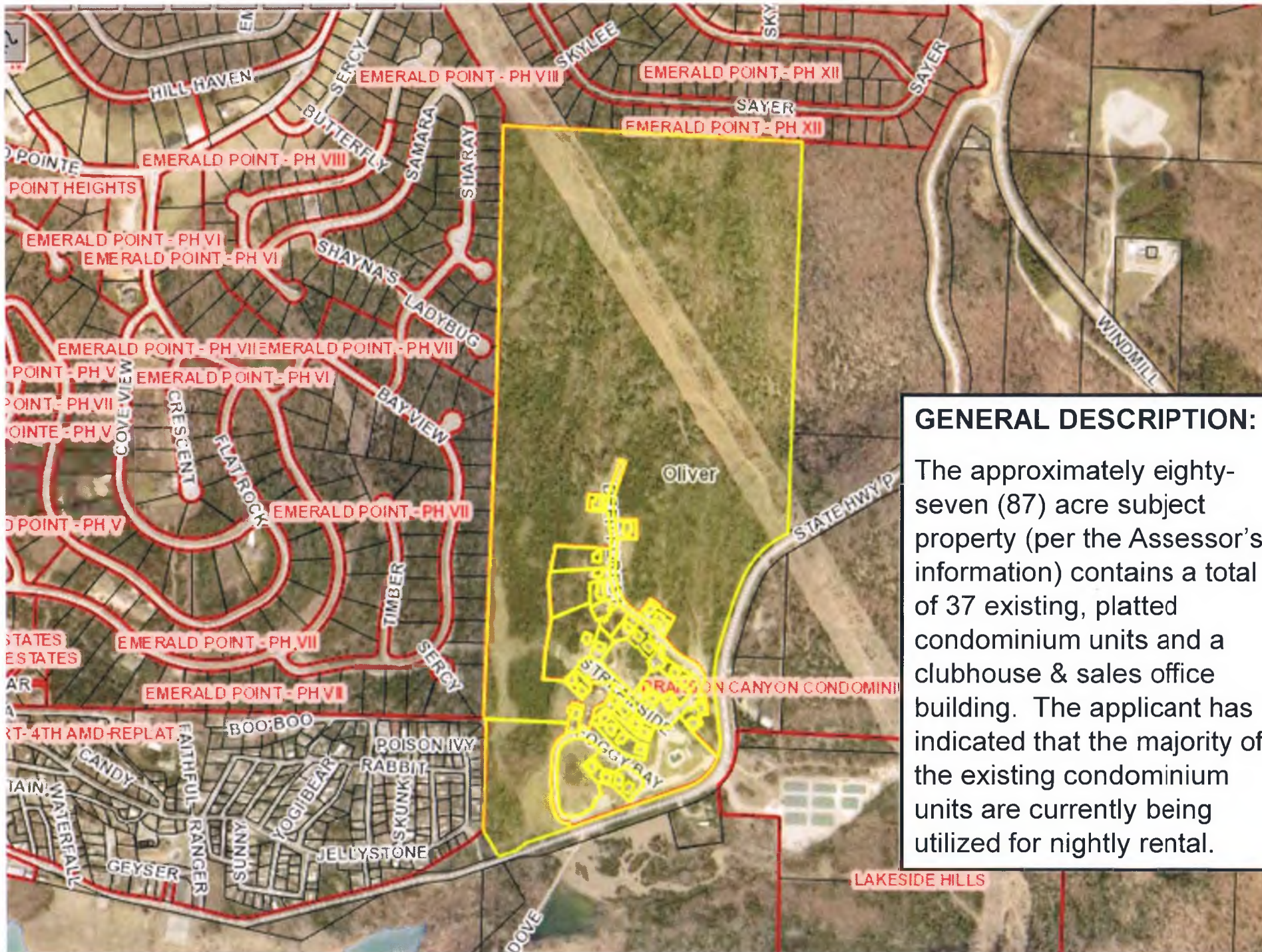
On November 17, 2003 the Taney County Planning Commission approved Division III Permit # 2003-0049, authorizing a mixed-use development for residential and commercial use; consisting of 281 single-family cottages and nightly rental cabins, a clubhouse and sales office, boat, RV and mini-storage, and park and open space. Condition # 5 on Division III Permit # 2003-0049 Decision of Record currently limits the development to a, "Maximum number of nightly rental cabins shall not exceed 84 units (30%)." The applicant is now seeking the Planning Commission approval of a Division III Permit which would modify the original Decision of Record allowing the total number of nightly rental cabins within Branson Canyon Condominiums to be increased from 84 units (30%) to a total of up to 281 units (100%).

The current application was approved for Concept on April 15, 2013.









GENERAL DESCRIPTION:

The approximately eighty-seven (87) acre subject property (per the Assessor's information) contains a total of 37 existing, platted condominium units and a clubhouse & sales office building. The applicant has indicated that the majority of the existing condominium units are currently being utilized for nightly rental.

REVIEW:

The Taney County Development Guidance Code defines nightly rental as “A residential building, structure or part thereof that may be rented for any period of time less than thirty (30) calendar days, counting portions of days as full days. The term – Nightly Rental shall not include hotel, motel or bed and breakfast establishments.”

Per the provisions of Appendix E, Section 4.7 (Nightly Rental), “The nightly rental of **all** residential structures shall require the issuance of a Special-Use Permit.” Please note however, that this requirement refers to *residential* structures. Structures constructed within a development (such as the Branson Canyon Condominium) held in a condominium style of ownership have historically been viewed by the Planning Department as being commercial structures requiring the issuance of a Division II (Commercial Construction) Permit. In fact, all of the existing condominium structures within the Branson Canyon Condominium development have been issued Division II Permits. The applicant, via the current Division III Permit application, is seeking to modify a condition within the original Division III Permit Decision of Record relating to the number of Nightly Rental units that will be allowed within the Branson Canyon Condominiums development. Therefore, the Staff is recommending that the issuance of a Special-Use Permit not be required for each new nightly rental dwelling unit, so long as a valid Division II (Commercial Construction) Permit and Certificate of Compliance are issued for each these units, establishing compliance with both the provisions of the Taney County Development Guidance Code and the Conditions of the Decision of Record. However, the Staff is further recommending that the owners of all nightly rental dwelling units within the development comply with all of the provisions of the Taney County Development Guidance Code, including all other Nightly Rental provisions.

REVIEW Continued:

The Branson Canyon Condominium development is served with both water and sewer service via the Emerald Pointe Utility Company. The sewage is ultimately treated via the Hollister municipal wastewater treatment plant.

The development is served by private roads which access State Highway P. The original Decision of Record requires covenants and restrictions, which provide for the continued maintenance of the streets, stormwater drainage, common area and open space. All existing streets within the development have been platted as common space and are owned and maintained by the Branson Canyon Owners Association.

The project received a total score of 10 on the Policy Checklist, out of a maximum possible score of 33. The relative policies receiving a negative score consist of emergency water supply, solid waste disposal service and use compatibility..



STAFF RECOMMENDATION:

If the Taney County Planning Commission approves this request, the following requirements shall apply, unless revised by the Planning Commission:

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. A Special-Use Permit shall not be required for each new nightly rental dwelling unit, so long as a valid Division II (Commercial Construction) Permit and Certificate of Compliance are issued by the Planning Department for each these units, establishing compliance with both the provisions of the Taney County Development Guidance Code and the Conditions of the Decision of Record. However, the owners of all nightly rental dwelling units shall comply with all other provisions of the Taney County Development Guidance Code, including all other Nightly Rental provisions.
3. Compliance letters from the Western Taney County Fire Protection District, the Taney County Assessor's Office, the Taney County Collector's Office and Missouri Department of Revenue; including all other entities which have requirements governing a development of this nature shall be provided to the Planning Department office (Chapter VI-VII).
4. The maximum occupancy for each Nightly Rental unit shall be two (2) persons per dwelling unit, plus two (2) persons per bedroom (e.g., a two (2) bedroom dwelling unit is permitted a maximum occupancy of six (6) persons). The maximum occupancy may be further limited by the Western Taney County Fire Protection District.
5. One (1) off-street parking space shall be provided for each two (2) persons of occupancy in each Nightly Rental unit. All Nightly Rentals shall provide clearly marked and appropriately situated parking spaces for the handicapped, one (1) such space in each parking area.

STAFF RECOMMENDATION Continued:

6. The management company or a waste collection provider shall provide weekly solid waste collection during all months that each of the Nightly Rental units is available for rent.
7. Outdoor lighting shall be downward lit, subdued and have minimal off-site impacts to adjoining properties.
8. All Nightly Rentals units shall contain a minimum of one operable fire extinguisher, operable smoke alarms and operable carbon monoxide alarms in compliance with the Western Taney County Fire Protection District regulations.
9. A copy of a valid Western Taney County Fire Protection District Construction Permit and Certificate of Occupancy (C of O) shall be submitted to the Planning Department Office for all new Nightly Rental units, prior to the issuance of each Division II Permit Certificate of Conformance (C of C).
10. An on-site manager shall be designated and located within the existing Branson Canyon Condominium Clubhouse / Sales building.

STAFF RECOMMENDATION Continued:

11. A name plate shall be posted within five (5) feet of the main entrance of each Nightly Rental dwelling unit, both on the inside and on the outside of the dwelling unit, containing the following information:
 - (a) The Division II Permit number.
 - (b) The name and telephone number of the on-site Branson Canyon Condominium manager.
 - (c) The name and address of the owner of the Nightly Rental dwelling unit.
 - (d) The contact information for the Planning Department and the Taney County Sheriff's Department.
 - (e) The maximum occupancy permitted.
 - (f) The name and telephone number of all local emergency personnel (police, Fire and medical personnel).
 - (g) The number of off-street parking spaces provided on the property, and the maximum number of vehicles allowed to be parked on the property.
 - (h) The solid waste disposal collection day if provided by a solid waste company.
12. No outside storage of equipment or solid waste materials.
13. This decision is subject to all existing easements.
14. This Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Chapter II Item 6).

**Division III Relative Policy Scoring Sheet:
Western Taney County**

Performance Value	Importance Factor	Score	Section Score
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Water Quality

SEWAGE DISPOSAL	n/a=			
centralized system		2	5	2
on-site treatment system(s) with adequate safeguards to mitigate pollution		1		
septic system of adequate design and capacity		0		
proposed system may not provide adequate capacity		-1		
proposed solution may cause surface and/or ground water pollution		-2		
			10	

Environmental Policies

SOIL LIMITATIONS	n/a=			
no known limitations		0	3	
potential limitations but mitigation acceptable		-1		
mitigation inadequate		-2		

SLOPES	n/a=			
NOTE: if residential, mark "x" in box.....		x	4	
development on slope under 30%		0		
slope exceeds 30% but is engineered and certified		-1		
slope exceeds 30% and not engineered		-2		

WILDLIFE HABITAT AND FISHERIES	n/a=			
no impact on critical wildlife habitat or fisheries issues		0	2	
critical wildlife present but not threatened		-1		
potential impact on critical wildlife habitat or fisheries		-2		

AIR QUALITY	n/a=			
cannot cause impact		0	2	
could impact but appropriate abatement installed		-1		
could impact, no abatement or unknown impact		-2		

Land Use Compatibility

OFF-SITE NUISANCES	n/a=			
no issues or nuisance(s) can be fully mitigated		0	5	0
buffered and minimally mitigated		-1		
cannot be mitigated		-2		
			0	

Compatibility Factors

USE COMPATIBILITY	n/a=			
no conflicts / isolated property		0	4	-1
transparent change / change not readily noticeable		-1		
impact readily apparent / out of place		-2		
				-4

**Division III Relative Policy Scoring Sheet:
Western Taney County**

	Performance Value	Importance Factor	Score	Section Score
LOT COVERAGE n/a=	x			
lot coverage compatible with surrounding areas	0	1		
lot coverage exceeds surrounding areas by less than 50%	-1			
lot coverage exceeds surrounding areas by more than 50%	-2			
BUILDING BULK AND SCALE n/a=	x			
bulk / scale less than or equivalent to surrounding areas	0	3		
bulk / scale differs from surrounding areas but not obtrusive	-1			
bulk / scale significantly different from surrounding areas / obtrusive	-2			
BUILDING MATERIALS n/a=	x			
proposed materials equivalent to existing surrounding structures	0	2		
proposed materials similar and should blend with existing structures	-1			
materials differ from surrounding structures and would be noticeable	-2			
STRUCTURAL SCREENING OF ROOFTOP EQUIPMENT & VENTS n/a=	x			
no rooftop equipment or vents	2	1		
blocked from view by structure design	1			
blocked from view using screening	0			
partially blocked from view	-1			
exposed / not blocked from view	-2			
STRUCTURAL SCREENING OF SOLID WASTE CONTAINERS n/a=	x			
no on-site waste containers	2	3		
blocked from view by structure design	1			
blocked from view using screening	0			
partially blocked from view	-1			
exposed / not blocked from view	-2			
STRUCTURAL SCREENING OF OUTDOOR EQUIP, STORAGE, ETC. n/a=	x			
no outdoor storage of equipment, materials, etc., or outdoor work areas	2	3		
blocked from view by structure design	1			
blocked from view using screening	0			
partially blocked from view	-1			
exposed / not blocked from view	-2			
LANDSCAPED BUFFERS -- RESIDENTIAL n/a=	x			
approved landscaped buffer between homes and all streets / roads / highways	2	2		
approved landscaped buffer from major roads / highways only	1			
minimal landscaped buffer, but compensates with expanse of land	0			
no landscaped buffer between residences and local streets	-1			
no landscaped buffer from any road	-2			

**Division III Relative Policy Scoring Sheet:
Western Taney County**

	Performance Value	Importance Factor	Score	Section Score
LANDSCAPED BUFFERS - INDUSTRIAL	n/a= x			
approved landscaped buffer from public roads	0	3		
minimal landscaped buffer, but compensates with expanse of land	-1			
no landscaped buffer from public roads	-2			
Local Economic Development				
RIGHT TO FARM	n/a= x			
does not limit existing agricultural uses / does not cause nuisance, predation	0	3		
does not limit existing agricultural uses, but may result in minor nuisance	-1			
potential impact(s) on existing agricultural land	-2			
RIGHT TO OPERATE	n/a= x			
no viable impact on existing industrial uses by residential development	0	3		
potential impact but can be mitigated	-1			
potential impact on existing industrial uses with no mitigation	-2			
DIVERSIFICATION	n/a= x			
creates >=5 full-time, year-round jobs outside of recreation / resort sector	2	5		
creates full-time, year-round and seasonal jobs	1			
creates seasonal jobs only	0			
Site Planning, Design, Occupancy				
RESIDENTIAL PRIVACY	n/a=			
privacy provided by structural design, or not applicable	2	2	0	0
privacy provided by structural screening	1			
privacy provided by landscaped buffers	0			
privacy provided by open space	-1			
no acceptable or effective privacy buffering	-2			
MIXED-USE DEVELOPMENTS	n/a= x			
uses / functions are compatible or not applicable	2	3		
uses / functions are integrated and separated based on compatibility	1			
uses / functions differ minimally and are not readily apparent	0			
uses / functions poorly integrated or separated	-1			
uses / functions mixed without regard to compatibility factors	-2			
Commercial Development				
DEVELOPMENT PATTERNS	n/a= x			
clustered development / sharing of parking, signs, ingress, egress, or not applicable	2	3		
some clustering and sharing patterns with good separation of facilities	1			
some clustering and sharing patterns with minimal separation of facilities	0			
clustered development with no appreciable sharing of facilities	-1			
unclustered development with no sharing or ability to share facilities	-2			

**Division III Relative Policy Scoring Sheet:
Western Taney County**

	Performance Value	Importance Factor	Score	Section Score
DEVELOPMENT BUFFERING n/a=	x			
approved and effectively designed landscaped buffers between structures and all roads	2	3		
minimal landscaped buffering, but compensates with expanse of land	1			
minimal landscaped buffering	0			
no landscaped buffering, but utilizes expanse of land	-1			
no or inadequate buffering or separation by land	-2			
Services - Capacity and Access				
TRAFFIC n/a=				
no impact or insignificant impact on current traffic flows	0	2	0	0
traffic flow increases expected but manageable using existing roads and road accesses	-1			
traffic flow increases exceed current road capacities	-2			
EMERGENCY SERVICES n/a=	x			
structure size and/or access can be serviced by emergency equipment	0	5		
structure size and/or access may impede but not hinder serviceability	-1			
structure size and/or access could be problematic or non-serviceable	-2			
RIGHT-OF-WAY OF EXISTING ROADS n/a=				
greater than 50 ft. right-of-way	1	5	1	5
50 ft. right-of-way	0			
40 ft. right-of-way	-1			
less than 40 ft. right-of-way	-2			
Internal Improvements				
WATER SYSTEM SERVICE n/a=				
central water system meeting DNR requirements for capacity, storage, design, etc.	2	3	2	6
community well / water system meeting DNR requirements	1			
private wells meeting DNR requirements	0			
private wells not meeting any established standards	-1			
individual / private wells	-2			
EMERGENCY WATER SUPPLY n/a=				
fire hydrant system throughout development with adequate pressure and flow	0	5	-2	-10
fire hydrant system with limited coverage	-1			
no fire hydrant system	-2			
PEDESTRIAN CIRCULATION INFRASTRUCTURE n/a=	x			
paved and dedicated walkways (no bicycles) provided throughout development	2	4		
paved walkways provided throughout development / maybe shared with bicycles	1			
designated walkways provided but unpaved	0			
no pedestrian walkways, but green space provided for pedestrian use	-1			
no designated pedestrian walkway areas	-2			

**Division III Relative Policy Scoring Sheet:
Western Taney County**

	Performance Value	Importance Factor	Score	Section Score
PEDESTRIAN SAFETY n/a=	x			
separation of pedestrian walkways from roadways by landscape or structural buffer	2	2		
separation of pedestrian walkways from roadways by open land buffer	1			
pedestrian walkways abut roadways with no buffering / protection	0			
BICYCLE CIRCULATION n/a=	x			
dedicated / separate bike-ways with signage, bike racks, trails	2	1		
bicycle lanes shared with pedestrian walkways but separated by markings / signs	1			
no designated bike-ways	0			
UNDERGROUND UTILITIES n/a=				
all utilities are provided underground up to each building / structure	2	4	2	8
all utilities traverse development underground but may be above ground from easement	1			
utilities above ground but / over designated easements	0			
utilities above ground and not within specific easements	-1			
no specific management of utilities	-2			
Open-Space Density				
USABLE OPEN SPACE n/a=	x			
residential developments (>25 units) include more than 25% open recreational space	2	2		
residential developments (>25 units) offer >10% but <25% open recreational space	1			
recreational area provided, but highly limited and not provided as open space	0			
no designated recreational space provided, but open space available	-1			
no open recreational space provided	-2			
Solid Waste Disposal				
SOLID WASTE DISPOSAL SERVICE AVAILABILITY n/a=				
weekly service is available and documentation of availability provided	0	5	-1	-5
weekly service reportedly available but not documented	-1			
centralized, on-site trash collection receptacles available	-2			
SOLID WASTE DISPOSAL SERVICE COMMITMENT n/a=	x			
restrictive covenants provide for weekly disposal for each occupied structure	0	5		
services available but not a requirement documented in covenants	-1			
not applicable / no pick-up service provided	-2			

Total Weighted Score= 10

Maximum Possible Score= 33

Actual Score as Percent of Maximum= 30.3%

Number of Negative Scores= 3

Negative Scores as % of All Applicable Scores= 30.0%

Scoring Performed by:

Bob Atchley / Bonita Kissee

Date:

April 25, 2013

Project: Branson Canyon Condos - Nightly Rental Amend.

Permit#: 13-05

Policies Receiving a Negative Score	
Importance Factor 5:	emergency water supply waste disposal service
Importance Factor 4:	use compatibility
Importance Factor 3:	none
Importance Factor 2:	none
Importance Factor 1:	none

Scoring by: Bob Atchley / Bonita Kissee

Date: April 25, 2013

Project: Branson Canyon Condos - Nightly Rental Permit: 13-05

	Max. Possible	As Scored	%	Total Negative Scores	
Scoring	33	10	30.3%	3	30.0%

	Max. Possible	As Scored	Negative Scores	
			Number of	Percent
Importance Factor 5			2	40.0%
sewage disposal	10	10		
off-site nuisances	0	0		
diversification				
emergency services				
right-of-way/roads	5	5		
emergency water supply	0	-10		
waste disposal service	0	-5		
waste disposal commitment				
Importance Factor 4	8	4	1	50.0%
slopes				
use compatibility	0	-4		
pedestrian circulation				
underground utilities	8	8		
Importance Factor 3	6	6		
soil limitations				
building bulk/scale				
waste containers screening				
outdoor equip storage				
industrial buffer / screening				
right to farm				
right to operate				
mixed-use developments				
development patterns				
development buffering				
water system service	6	6		
Importance Factor 2				
wildlife habitat and fisheries				
air quality				
building materials				
residential buffer / screening				
residential privacy	4	0		
traffic	0	0		
pedestrian safety				
usable open space				
Importance Factor 1				
lot coverage				
rooftop vents / equipment				
bicycle circulation				

Scoring by: Bob Atchley / Bonita Kissee

Date: April 25, 2013



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 PUBLIC HEARINGS MONDAY, MAY 13, 2013, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Rick Treese called the meeting to order at 6:00 p.m. A quorum was established with seven members present. They were: Rick Treese, Ronnie Melton, Steve Adams, Dave Stewart, Mike Scofield, Randy Haes, and Ray Edwards. Staff present: Bob Atchley and Bonita Kissee.

Mr. Atchley read a statement outlining the procedures for the meeting and presented the exhibits.

Public Hearings:

→ **Branson Canyon;** a request by Phil Lopez to modify the original Division III permit to allow for up to 281 permitted condominium units to be utilized for nightly rental located in the 800 Block of St. Hwy. P. Mr. Atchley read the staff report and presented pictures and a video of the site. Mr. Treese asked Mr. Atchley if all the existing condos complied with the current requirements of the Code. Mr. Lopez stated that when he took over in 2008 he was working from the regulations at the time. Another property owner who owns property in Big Bear, voiced concerns regarding noise, compliance with the Code, number of people in the confined area, availability of parking, and adequate water and wastewater. She asked that the request be denied. Mr. Lopez stated that this property was developed specifically for this type of use and they do not allow RV's to park there. Jeremy Worley who is a real estate agent for Branson Canyon, and is familiar with the neighborhood, stated that the development constructs approximately 5 homes per year. They want to address the market of people who do not want to rent a motel room. He stated that most of his clients are nightly rental buyers or renters and there is a large market for these at this time. He stated that in these types of neighborhoods there is not a lot of noise or disruption. He is actually the onsite manager of the site, and that most of the calls he receives regard sewage issues. In his opinion, Branson Canyon is the only place in Taney County that is growing and selling at this time. He stated that because these people are renting their own homes, this isn't a party atmosphere. Mr. Treese asked if he was available 24 hours a day. Mr. Worley stated that he was not, that he only has an office onsite, and he hasn't received any calls past 7:00 p.m. about four times in the past year. Mr. Edwards asked who rents the properties out. Mr. Worley stated that you would go

online to do this, the developer does not rent out units. Mr. Atchley stated that each unit/property owner is responsible for adhering to the rules of the Code. Mr. Worley stated that they act as the individual managers of their own properties. Mr. Edwards pointed out that the Code requires someone to be onsite or able to get to the property if needed in a short time. Mr. Stewart asked why they want to add so many more units at this time when they have enough to maintain for several years. Mr. Worley stated that they wanted to make the use available to property owners who want to build now and retire here later. Mr. Melton asked if an individual owns more than one home, would the owner not have to apply for a nightly rental permit themselves. Mr. Atchley stated that this is for a blanket request. Mr. Worley stated that these are detached condominiums not single family homes. Mr. Atchley stated that the approval was for condominiums not single family individual homes. Mr. Edwards was concerned that if the unit sells it would be sold as a nightly rental and the Department would not have control. Discussion followed regarding the sale of condominium units, and what qualifies it as such. Vickie Hales who is the president of the Big Bear Homeowners Association voiced concerns regarding noise, on-site management, maintenance of Corps land, and parking. Mr. Treese asked her if they had approached Branson Canyon about helping to maintain these areas. She stated that they had not because whatever is on Corps land anyone can use it. David McCorkendale from Big Bear Park, had a concern about density, traffic, parking, boat storage, and availability of services. With no other questions the public hearing was closed for this project.

Apex Practical Firearms; a request by Lowell Miller for a special use permit to operate a firearms assembly and sales business within his existing single-family residence as a home occupation, located at 2750 Victor Church Road. Mr. Atchley read the staff report and presented pictures and a video of the site. David Gilkerson who lives across the street, read a prepared statement regarding; lowered property values, traffic, and noise. Tom Goldsworthy voiced concerns regarding; fire, neighboring houses catching fire, the school being in close proximity, security, and compatibility to the surrounding area. Mr. Miller addressed the concerns, and stated there will be some traffic but he doesn't want it to become a nuisance so he will limit advertising. When or if the traffic should become a nuisance he will move the business. The school is a mile and a half from his house. There will be no firing of guns on the property. Mr. Miller stated that he doesn't store loose powder and any other firearms or ammunition will be stored safely according to the requirements of the sheriff's office and the ATF. Mr. Stewart discussed signage. With no other questions the public hearing was closed.

Sycamore Creek Family Ranch; this request was withdrawn.

Kenny Bear Event Center; a request by Kenneth Portz to operate an event center to consist of a saloon, motorcycle rallies, outdoor concerts, on-site tent and RV camping, a farmers market, community garage sales, special event rental and nature trail area. This property is located at 3971 St. Hwy. 176. Mr. Atchley read the staff report and presented pictures and a video of the site. Mark Whitlock who lives in

Merriam Woods was concerned about density, food safety, adequate wastewater facilities, ADA accessibility, lighting, hours of operation, noise, and the shooting range still being utilized even though not commercially operated. Lyle Munsterman who lives in Merriam Woods west of the request, stated that the operation is disruptive to the neighborhood, including shooting of guns and loud music. Dean Paul who is the representative of the request presented information regarding the project. He stated that they plan to stop the music at 10:00 p.m. Camping will be primitive tent situations. Mr. Portz stated that he shut the shooting range down for public use. He uses the site for private practice. Mr. Portz stated that he had been in touch with the DNR regarding the wastewater requirements. Mr. Adams discussed concerts and number of people expected on the amount of land available. Mr. Paul addressed the concerns. Mr. Edwards informed the applicant that since he cannot meet the County Requirements, he should annex into the City of Rockaway, to hook to their sewer system. Mr. Stewart pointed out that to annex a property should be contingent, and this one isn't. The applicant was provided with the recommendations to address before the vote next week. This concluded the public hearing on this project.

Old and New Business:

Mr. Atchley presented the new Code books with the new amendments.

Adjournment:

With no other business on the agenda for May 13, 2013 the meeting adjourned at 8:11 p.m.



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 PLANNING COMMISSION
REGULAR MEETING
MONDAY, MAY 20, 2013, 6:00 P.M.
COUNTY COMMISSION HEARING ROOM
TANEY COUNTY COURTHOUSE**

Call to Order:

Chairman Rick Treese called the meeting to order at 6:00 p.m. A quorum was established with eight members present. They were: Rick Treese, Randy Haes, Dave Stewart, Mike Scofield, Steve Adams, Ronnie Melton, Ray Edwards, and Rick Caudill. Staff present; Bob Atchley and Bonita Kissee.

Mr. Atchley read a statement outlining the procedures for the meeting and presented the exhibits.

Review and Action:

Minutes; April 2013, with no additions or corrections a motion was made by Ronnie Melton to approve the minutes as written. Seconded by Steve Adams. The vote to approve the minutes was unanimous.

Final Votes:

→ **Branson Canyon;** request by Phil Lopez to increase nightly rental from 84 to 281 units at the existing Branson Canyon resort located in the 800 block of St. Hwy. P. Mr. Atchley read the proposed decision of record. Jeremy Worley representing the applicant addressed questions from the Commission. Mr. Caudill asked if they could meet all the items of the decision of record. Mr. Worley stated that they could. Mr. Caudill asked if all of the nightly rentals were owned by individuals how could they make sure that all of them would comply with the rules. Mr. Worley stated that would be the job of the onsite manager. However, at this time they don't have someone who lives close enough, but everyone who owns and lives there have Mr. Lopez's phone number, and Mr. Lopez will call Mr. Worley. Mr. Edwards stated that it is the owner's responsibility, to obtain insurance and the other requirements. Mr. Melton felt this is a sales gimmick. Mr. Worley addressed this comment by stating that they are just trying to satisfy the property owners. Mr. Caudill asked if the project complied with the requirements when they were first approved. Mr. Atchley stated that it did. Mr. Stewart and Mr. Edwards stated that in their opinion the project should stay where it is at, and in the future when it is sold out, they come before them for the approval for the additional units. Mr.

Worley discussed the need for nightly rentals, and the reason he advised his client to request this approval. Mr. Edwards stated that he felt in the future when the approval would come back, it would likely receive approval. Then, Mr. Edwards made a motion to deny. Mr. Stewart seconded. Mr. Treese asked how the condos on Lakeshore Drive differed from this request. Mr. Stewart stated that those were not nightly rentals. The vote to deny was unanimous. Mr. Edwards stated that in his opinion real estate agents should not hand out certificates regarding planning and zoning, and made a motion that they individually come before the Planning Commission for approval. Mr. Stewart stated that they could do a referendum. Mr. Worley clarified that the form used is a way for the homeowners association to know who was doing nightly rental and who is not. They are not giving them permission to do anything with that. Mr. Edwards suggested they add a sentence informing them they must seek Planning Commission approval. Discussion followed.

Apex Practical Firearms; request by Lowell C. Miller to assemble and sell firearms and related products from his residence located at 2750 Victor Church Road. Mr. Atchley read the decision of record. Mr. Caudill clarified that the applicant will not be firing weapons onsite, and asked why he wanted the hours extended to 8:00 p.m. Mr. Miller stated that he works a full time job and that he needed to allow customers to pick up weapons after he comes home from work. Mr. Edwards clarified that there will be no reloading onsite or ammunition sold. After discussion Mr. Stewart made a motion to approve based upon the decision of record. Mr. Caudill seconded. The vote to approve was unanimous.

Sycamore Creek Family Ranch; withdrawn.

Kenny Bear Event Center; request by Kenneth Portz to operate an event center on property located at 3971 St. Hwy. 176. Mr. Atchley read the decision of record, and presented a document from the applicant received after the previous meeting re-stating his plans for the project. Mr. Treese asked if the applicant will have music in the saloon, and if so allowing him to be open past 10:00 p.m. Mr. Portz addressed questions from the Commission and stated that he plans to use porta-potties and there will be no dumping of wastewater on the property. Mr. Caudill asked if the property had been in compliance in the past. Discussion followed, with Mr. Portz stating that he would no longer shoot firearms on the property. Mr. Adams asked if his business grew in the future where he would expand it to. Mr. Portz stated that he would come back before the Commission for their approval, and that there isn't anywhere else on the property to expand to. Mr. Adams clarified how many cars there would be per number of people planned on the site. Mr. Caudill stated that he would be more comfortable with permitting in phases. Mr. Portz stated that he would be in favor of applying for special event permits as needed. Discussion followed regarding rules for special events. Mr. Atchley stated that on the document presented this day, it stated that there are only 5 events planned per year. After discussion a motion was made by Rick Caudill to approve

based upon the decision of record. Dave Stewart seconded. The vote to approve was unanimous.

Terry Filczer: The Planning Commission gave a time frame for the applicant to bring additional information to this meeting. Mr. Filczer was not present, and did not comply with the request. Mr. Edwards made a motion to deny based upon the requirements not being met. Mr. Caudill seconded. The vote to deny was unanimous.

Concepts:

Gee Jay Ranch Arena and Campground; a request by George Cramer to operate an equine oriented campground, arena with restrooms located at 160-220 Frank Rea Road. No one was present to represent the project. Mr. Stewart made a motion to table. Randy Haes seconded. The vote to table until June 17, concept hearing was unanimous.

Veteran's Victory Village; a request by Marie Fulkerson to allow Nick Byma to purchase and subsequently construct apartment structures on 139.4 acres located off Sunset Inn Road. A power point presentation was presented by the applicant. Mr. Treese asked about traffic. The representative stated that the traffic issue has been addressed and information will be presented. Mr. Haes reported that he has visited the site and asked about employees to the property. The applicant stated that they plan to employ as many of the veterans as they can that will live there. Plans are to train the veterans to do various things concerning the property. The construction will begin at the same time on the domes. Mr. Stewart asked about funding. The applicant stated that it would be a humanitarian loan. Wastewater will be a private system permitted by DNR. It is a Schaeffer system. Mr. Treese informed the applicant that the public hearing will be next month.

Old and New Business:

No discussion.

Adjournment:

With no other business on the agenda for May 20, 2013 the meeting adjourned at 7:42 p.m.



OF PUBLIC HEARING

THE TANEY COUNTY BOARD OF ADJUSTMENT

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

Applicant: Branson Canyon ^{LLC}

Request: Appeal of PC
decision to deny add. Nightly
Rental

Property Location: 40 Canyon Crossing







TANEY COUNTY BOARD OF ADJUSTMENT APPEAL STAFF REPORT

HEARING DATE: August 21, 2013

CASE NUMBER: 2013-0006A

APPLICANTS: Nick & Jo Byma

REPRESENTATIVE: Scott Beanland

LOCATION: The subject property is located at 2657 Sunset Inn Road, Branson, MO; Scott Township, Sections 15 & 22, Township 23, Range 21.

REQUEST: The applicants, Nick & Jo Byma are seeking an appeal in order to further clarify Condition Number 7 of the Decision of Record for Division III Permit # 2013-0011, as placed by the Planning Commission on the development of the Veterans Victory Village. Condition Number 7 currently states, "***Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road in compliance with Taney County Road & Bridge Standards.***"

BACKGROUND and SITE HISTORY:

On June 17, 2013 the Taney County Planning Commission approved Division III Permit 2013-0011 authorizing the development of the Veterans Victory Village, an approximately 245 unit residential housing complex, held in a condominium style of ownership, providing housing for disabled veterans and their families, via a total of seven (7) monolithic dome structures. In conjunction with this approval, a number of multi-purpose domes will also be constructed providing year-round activities and services primarily for disabled veterans and their families.

Throughout the Division III Permitting process Mr. & Mrs. Byma publically indicated that they are committed to the completion of the necessary upgrades to Sunset Inn Road. The County Commission did not wish to garner an opinion regarding the project prior to the completion of the Division III Permitting process. However, the County Commission indicated at that time that they would meet with the developers regarding upgrades to Sunset Inn Road and also the possible acquisition of additional rights-of-way along this corridor, upon the culmination of the Planning Commission Division III Permitting process.

On July 11, 2013 the County Commission held a public hearing, attended by Scott Beanland, Randy Haes and Bob Atchley, concerning discussion of the necessary private upgrades that would be required by the County for Sunset Inn Road at the costs of the developers of the Veterans Victory Village. During the Hearing the County Commission expressed concern that the verbiage of Condition Number 7 may actually still require the acquisition of additional rights-of-way by the developers of the Veterans Victory Village, because the condition specifically requires the upgrades of Sunset Inn Road to be made in compliance with Taney County Road & Bridge Standards. The Taney County Road & Bridge Standards require a minimum 50' right-of-way width. During the public hearing the County Commission requested that I seek clarification from the Planning Commission, as to the requirements of Condition Number 7 of the Decision of Record. The County Commissioners indicated that the phrase "***in compliance with Taney County Road & Bridge Standards***" would indicate that a minimum 50' right-of-way width would be required in order to gain compliance with the Road & Bridge Standards. The County Commission further advised that I consult with the Taney County Attorney regarding the matter.

On July 12, 2013, upon consultation with the Taney County Attorney regarding this matter, the counselor verbally indicated that Condition Number 7 may still be construed in such a manner to indicate that the upgrade of Sunset Inn Road, in compliance with Taney County Road & Bridge Standards may actually be inferred to also require the acquisition of additional rights-of-way along Sunset Inn Road, because the condition currently states that the Sunset Inn Road upgrades shall be made in compliance with the Taney County Road & Bridge Standards, which require a minimum 50' wide right-of-way. It was the County Attorney's opinion that the only way in which the verbiage of Condition Number 7 may be legally amended is via an appeal process before the Taney County Board of Adjustment. The County Attorney has also verbally indicated that the Decision of Record may only be amended via an advertised, public hearing process. Therefore, the only venue that would allow for further clarification of Condition Number 7 is the Board of Adjustment Appeal process. The County Attorney has indicated that the Board of Adjustment has the authority to consider any appeal, including the specific verbiage and interpretation of the full meaning of the requirements associated with Condition Number 7 of the Decision of Record in question. Therefore the applicants, Nick & Jo Byma are now requesting Board of Adjustment clarification of Condition Number 7 of the Decision of Record for Division III Permit # 2013-0011.

GENERAL PROJECT DESCRIPTION:

The Veterans Victory Village will be located on a total of +/- 139.39 acres. This phased development project will be designed specifically to provide housing for Disabled Veterans and their families. Upon completion, the development will include a total of seven (7) residential monolithic dome structures (including one dome which will provide housing to retired veterans), each with a diameter of 220', containing approximately 35 units each (depending on the types of units); for a total of approximately 245 residential units.

The applicants have indicated that the retirement dome will be built for retired veterans, who will be employed to assist the veterans and their families as mentors, tutors, therapists, coaches, teachers and counselors. This development will be held in a condominium style of ownership, in which the grounds and infrastructure will be owned and maintained via either a condominium owners association or a corporation, as common elements. The applicants have indicated that the residential units will be 1, 2 and 3 bedroom units that tenants will be able to lease or purchase. The applicants have indicated that the development will be a multi-functional residential and recreational park.

The applicants plan to utilize the vast amount of open space for multiple outdoor activities for both resident and non-resident disabled veterans and their families, allowing for participation in a wide variety of sports, games, competitions and tournaments. The site plan indicates areas for such uses as: baseball fields, lawn bowling, croquet, badminton, paddle tennis, volleyball, handball, tennis courts, field events, RV camping, and a nature trail area for hiking, biking and horseback riding.

The proposed development will also include a number of multi-purpose dome structures that will be interspersed throughout the site for year round activities; including a Welcome Dome, Grow Dome, Social Activity Dome, Aquatic Dome, Therapy Domes and Childrens' Play Domes.

CONDITION NUMBER 7 DESCRIPTION:

At the Planning Commission Regular Meeting the Planning Staff reads aloud the recommended Division III Permit Conditions. During the July 11, 2013 Planning Commission Regular Meeting the verbiage of Condition Number 7 as initially read by the staff was as follows, "***Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road, including the acquisition of additional rights-of-way along this corridor, in compliance with Taney County Road & Bridge Standards.***" Rick Caudill made a motion to delete the following verbiage from Condition Number 7, "***including the acquisition of additional rights-of-way along this corridor***", as reflected within the enclosed meeting minutes. This motion was seconded by Dave Stewart, followed by a lengthy discussion among the Planning Commission membership. The vote to exclude the aforementioned verbiage was approved by a vote of four (4) in favor and three (3) opposed, with the Chairman abstaining. The Division III Permit was approved by the Planning Commission with the following verbiage being enumerated for Condition Number 7, "***Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road in compliance with Taney County Road & Bridge Standards.***"

REVIEW:

The applicants, Nick & Jo Byma are seeking clarification specifically regarding Condition Number 7 placed by the Planning Commission on the Decision of Record for Division III Permit # 2011-0016.

The Planning Commission Final Vote involved a great deal of debate among the membership of the Planning Commission specifically regarding both the language and requirements that were to be imposed via Condition Number 7. However, the majority of the Planning Commission (four (4) in favor and three (3) against) specifically voted to delete verbiage that would have required the developers to acquire additional rights-of-way on Sunset Inn Road. The majority of the Planning Commission (four members) expressed concern about the authority of the Planning Commission to require the acquisition of additional rights-of-way by a private developer located at the end of the County maintained roadway (Sunset Inn Road). During the public hearing process the Road & Bridge Administrator indicated that the County records indicate that the majority of Sunset Inn Road has an existing 40' right-of-way width.

The applicants have also indicated that the Taney County Road Standards do not show any details and do not mention any requirements that would apply to the improvement of existing roads. The applicants are proposing the installation of curb and gutters with a new asphalt surface at their cost, with no financial impact on the County.

STATUTORY REQUIREMENTS OF APPROVAL:

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

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

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

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

SUMMARY:

If the Taney County Board of Adjustment approves this appeal request seeking to modify Condition Number 7 placed by the Planning Commission on the Decision of Record for Division III Permit # 2013-0011 for the Veterans Victory Village, the following requirements shall apply, unless revised by the Board:

1. Condition Number 7 of the Decision of Record for Division III Permit # 2013-0011 shall be modified to state the following: "Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road, within the existing road right-of-way, in compliance with Taney County Road & Bridge Standards.
2. Compliance with all requirements of Conditions 1-6 and 8-15 of the original Decision of Record for Division III Permit # 2013-0011 and all provisions of the Taney County Development Guidance Code.
3. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 Taney County Development Guidance Code).

13-4A

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

(Circle one)

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

PLEASE PRINT

DATE July 23, 2013

Applicant NICK BYMA Phone 360.354.0110

Address, City, State, Zip 8053 FLYNN RD. LYNDEN WA 98264

Representative SCOTT BEANLAND Phone 417.294.7366

Owner of Record Marie Fulkerson Signature: Marie Fulkerson

Name of Project: VETERANS VICTORY VILLAGE

Section of Code Protested: (office entry) _____

Address and Location of site: 2657 SUNSET INN ROAD

BRANSON, MO

Subdivision (if applicable) _____

Section 15021 Township 23 Range 21 Number of Acres or Sq. Ft. +/- 139.39 Acres

Parcel Number 08-5.0-22-000-000-003.000 | 08-5.0-15-000-000-034.000
08-5.0-22-000-000-002.000 | 08-5.0-15-000-000-034.001

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.

Veterans Victory Village

An Interim Housing and Rehabilitation Project for Disabled Veterans

Taney County Board of Adjustment – July 23, 2013

Clarification of Condition #7 of Division III Permit #2013-0011 Decision of Record

Request

We respectfully request that Condition #7 of Division III Permit #2013-0011 Division of Record will be amended such that the existing 40 feet R.O.W. easement of Sunset Inn Rd. will remain 40 feet and will not be increased to 50 feet, as is required by Taney County Road & Bridges Standards (See letter to Nick & Jo Byma from Bob Atchley, 7-18-13).

Reason for Request

As you may know, widening the R.O.W. to 50' is not merely a matter of trying to buy a strip of land from a number of land owners along Sunset Inn Rd; *on the contrary*, it will be equivalent to opening a Pandora's Box – releasing the emotional responses of two types of individuals: those who are willing to make a deal at a price *they* will determine, regardless of what is fair and what isn't; and those who have *no intention* to accommodate our needs.

Potentially, the result may very well end up in a long, drawn-out personal and legal battle with each of the residents affected by this change which, without any doubt, would result in some serious delays and far greater expense to the project's construction than anticipated. Ultimately, these extra costs, *plus* our inability to establish deadlines, will invalidate our funding application, resulting in terminating our Victory Village project in Taney County.

In other words, our application for the Humanitarian Loan for this project, which is in the process of being drafted, will have to be discontinued due to the fact that the loan amount requested will no longer be correct, and a definitive deadline can no longer be guaranteed.

Explanation and Details describing Request

- Sunset Inn Road is an *existing* "county maintained" road with an *existing* 40' easement.
- After careful research, Taney County Road Standards do not show any details, and do not mention any requirements, that would apply to the *improvement of existing roads*.
- Considering the absence of any specific requirements for existing road improvements, it stands to reason that our interpretation of the Standards should be well within reason
- Therefore, common sense should prevail when an *existing* road needs to be 'overhauled', and should not be confused with 4-year old Standards for *constructing brand-new* roads.
- We have found no examples of the County requiring previous developers to purchase R.O.W.'s from 3rd party property owners in order to get a land-use permit.

Taney County Board of Adjustment – July 23, 2013

Clarification of Condition #7 of Division III Permit #2013-0011 Decision of Record

Explanation and Details describing Request (continued)

- Developer agrees to make required improvements to Sunset Inn Road as determined in collaboration with County Commission, Road & Bridges Dept, and Civil Engineers.
- Developer agrees to a traffic study to identify possible improvements to make Sunset Inn Road as safe as possible, within existing conditions.
- *Note:* Unlike the traffic increase expected to happen from a regular subdivision, with people driving to work and so on, the Veterans and their families will be residing at the Village for an *interim period* during which they need the time to heal, recuperate, and adjust, in the peaceful and tranquil surroundings of our park, *without much traveling*.
- Developer suggests installing curbs and gutters with a new bituminous pavement over the existing road surface as indicated in the Taney County Road Standards cross section detail for residential streets, leaving ample room for existing utilities.
- Developer agrees to absorb costs for the suggested road improvement, with *no* financial impact on the County.
- *Note:* Consideration should be given to the fact that existing developments existing on Sunset Inn Road, and any future developments along Sunset Inn, will unfairly reap the benefits, at no cost to them, from the improvements the developer is making at *his* cost.
- Therefore, the developer asks the County to consider extra care when determining the length of the required improvement of the road, starting at the entrance of the property.

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.

Nick Byma Jo Byma
Signature of Applicant

July 23/13
Date of Application

STATE OF WASHINGTON)

S.S. On this 23rd day of July, 2013.

COUNTY OF WHATCOM)

Before me Personally appeared Nick Byma and Jo Byma, 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. The day and year first above written. My term of office as Notary Public will expire

05-31-2015

Joshua M. McCullough
Joshua M. McCullough, Notary Public



TANEY COUNTY PLANNING COMMISSION
DIVISION III PERMIT - DECISION OF RECORD
APPLICANT: MARIE FULKERSON
REPRESENTATIVES: NICK & JO BYMA
VETERANS VICTORY VILLAGE
JUNE 17, 2013
PERMIT# 2013-0011

On June 17, 2013 the Taney County Planning Commission (grantor) approved a Division III Permit request by Marie Fulkerson (grantee) (Represented by Nick & Jo Byma) authorizing the development of the Veterans Victory Village, an approximately 245 unit residential housing complex, held in a condominium style of ownership, providing housing for disabled veterans and their families, via a total of seven (7) monolithic dome structures. In conjunction with this approval, a number of multi-purpose domes will also be constructed providing year-round activities and services primarily for disabled veterans and their families. In accordance with this approval, Division III Permit #2013-0011 is issued for the property located at the attached legal description.

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

Nick & Jo Byma are authorized to develop the Veterans Victory Village, an approximately 245 unit residential housing complex, held in a condominium style of ownership, providing housing for disabled veterans and their families, via a total of seven (7) monolithic dome structures and a number of multi-purpose dome structures attending to the condominium units, located at 2657 Sunset Inn Road, Branson, MO. With eight (8) out of nine (9) Planning Commissioners present, the Planning Commission voted four (4) to three (3) to approve Division III Permit # 2013-0011. The following conditions shall be complied with:

1. Compliance with the provisions of the Taney County Development Guidance Code and the Taney County Road Standards that include plans for the following:
 - a. Sediment and erosion control (Section 4.1.1).
 - b. Stormwater management (Appendix B Item 3).
 - c. Land Grading Permit for all disturbances of over one acre (Appendix F).
 - d. Utility easements and building line setbacks (Table 12).

- e. Improvements with scale of buildings, streets, onsite parking and utilities (Table 6).
 - f. A complete landscape and buffering plan showing the location, size and planting materials for all buffer yards, both adjacent to public rights-of-way and residential properties.
 - g. A lighting plan showing the location, height and other specifications on the lighting to be provided for the development.
 - h. A traffic impact study shall be submitted to the Taney County Road & Bridge Department and the Missouri Department of Transportation (MoDOT).
 - i. An engineering public improvement plan shall be submitted to and approved by the Taney County Road and Bridge Department prior to the completion of road improvements to Sunset Inn Road.
2. Compliance letters from the Taney County Road & Bridge Department, the Western Taney County Fire Protection District, the Missouri Department of Natural Resources (MoDNR) and the Missouri Department of Transportation (MoDOT) shall be submitted to the Planning Department Office, including all other entities which have requirements governing a development of this nature (Chapter VI-VII).
 3. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
 4. A valid MoDNR Construction Permit for the wastewater treatment system, providing for the applicable wastewater flows within the Veterans Victory Village shall be submitted to the Planning Department Office prior to the issuance of applicable Division II Permits.
 5. The installation of sewer service lines shall be inspected by the Onsite Wastewater Permitting Division of the Taney County Planning Department in conjunction with the Missouri Department of Health and Senior Services.
 6. Prior to the issuance of Division II Permits, the representatives shall submit a MoDNR Construction Permit for a well(s), providing service to the Veterans Victory Village, to the Planning Department Office.
 7. Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road, in compliance with Taney County Road & Bridge Standards.
 8. Prior to the issuance of Division II Certificates of Conformance (C of Cs), the developer shall first present a Certificate of Occupancy (C of O) from the Western Taney County Fire Protection District to the Taney County Planning Department Office.
 9. Stormwater containment shall be managed via permeable paving and sub-surface water detention as proposed within the submitted project description.

10. Waste water treatment shall be managed via a non-discharging waste water treatment system as proposed within the submitted project description.
11. All common elements shall be maintained via either a condominium owners association or a corporation in perpetuity.
12. All light sources within the facility shall be arranged so that no direct illumination leaves the site toward adjacent residential areas or any roadways
13. No outside storage of equipment or solid waste materials.
14. This decision is subject to all existing easements.
15. This Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Chapter II Item 6).

Legal description attached



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 PLANNING COMMISSION
REGULAR MEETING
MONDAY, JUNE 17, 2013, 6:00 P.M.
COUNTY COMMISSION HEARING ROOM
TANEY COUNTY COURTHOUSE**

Call to Order:

Chairman Rick Treese called the meeting to order at 6:00 p.m. A quorum was established with eight members present. They were: Rick Treese, Randy Haes, Dave Stewart, Mike Scofield, Steve Adams, Ronnie Melton, Ray Edwards, and Rick Caudill. Staff present; Bob Atchley and Bonita Kissee.

Mr. Atchley read a statement outlining the procedures for the meeting and presented the exhibits.

Review and Action:

Minutes; May 2013, with no additions or corrections a motion was made by Ronnie Melton to approve the minutes as written. Seconded by Steve Adams. The vote to approve the minutes was unanimous.

Final Votes:

→ Veterans Victory Village: a request by Marie Fulkerson to allow Nick Byma to purchase and subsequently construct condominium structures on 139.4 acres located off Sunset Inn Road. Mr. Atchley read the proposed decision of record. The Byma's were represented by Scott Beanland. Mr. Melton clarified that item #7 of the proposed decision of record would need to be complied with before a Division II and landgrading permits were issued. Mr. Stewart stated that he didn't think the Planning Commission had the authority to request the developer to acquire additional right of way on a county road. Discussion followed with Mr. Edwards stating that in his opinion the taxpayers should not have to pay for widening a road for a development. Mr. Caudill agreed with Mr. Stewart that the developer should not have to acquire additional right of way on a county road. Mr. Stewart stated that if the developer could not get all property owners to agree to give up the land to widen the road the project would not move forward. Mr. Treese stated that he thought it would be impossible for the developer to acquire all the land needed. Roads are built as the need arises in Mr. Stewart's opinion. Mr. Atchley asked if there would be a consensus from the Planning Commission regarding the stipulation on item #7. Mr. Haes stated that the burden

should be carried by the developer, because he is creating the added traffic. Mr. Beanland, representing the developer stated that they are willing to share in the burden of the added traffic on the road. Mr. Haes stated that studies should be done for the county showing what improvements would need to be done to the road. Mr. Beanland questioned compliance with the new county road standards, as opposed to the standards when the road was first built. Discussion followed regarding if improvements can be made to widen the existing road as it is without obtaining additional property. Rick Caudill made a motion to delete the added language to #7, seconded by Dave Stewart. Discussion followed. The vote to exclude the proposed addition was four in favor and three against. The vote to remove the addition carried. Rick Caudill also made a motion to approve the project based upon the decision of record, with three in favor and three against. Discussion followed with another vote held with four in favor and three against. The project was approved.

Concepts:

Gee Jay Ranch Arena/Campground: a request by George Cramer to operate an equine oriented campground, and arena with restrooms located at 160-220 Frank Rea Road. Mr. Cramer explained his plans to the Planning Commission. This project will proceed to public hearing next month.

Verizon Wireless: a request by Rodney Sullins to allow Verizon to place a wireless telecommunications facility consisting of a 300' self support tower, and equipment shelter within a 6' chain link fence located at 3271 Ridgedale Road. The representative Frank Manzina explained the plans and location of the project, and explained how the tower is designed if it fell. A letter will be provided for the file addressing this. This project will proceed to public hearing next month.

In His Precious Sight Daycare: a request by Rick Anderson to allow Patricia Mondt to operate a day care facility on property located at 291 Curtis Drive. Ms. Mondt explained her plans. The driveway was discussed. This project will proceed to public hearing next month.

Old and New Business:

Mr. Atchley discussed having name plates for each member so the public and press can distinguish who makes motions. The Commission directed Mr. Atchley to do as he saw fit.

Adjournment:

With no other business on the agenda for June 17, 2013 the meeting adjourned at 7:00 p.m.



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 PLANNING COMMISSION PUBLIC HEARING MONDAY, JUNE 10, 2013, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Rick Treese called the meeting to order at 6:00 p.m. A quorum was established with eight members present. They were: Rick Treese, Ronnie Melton, Steve Adams, Dave Stewart, Mike Scofield, Randy Haes, Ray Edwards, and Rick Caudill. Staff present: Bob Atchley, and Bonita Kissee.

Mr. Atchley read a statement outlining the procedures for the meeting and presented the exhibits.

Public Hearing:

→ Veterans Victory Village: A request by Marie Fulkerson to allow Nick and Jo Byma to develop a 245 unit residential housing complex held in a condominium style of ownership providing housing for disabled veterans and their families via a total of seven monolithic dome structures. A number of multi-purpose domes will also be constructed providing year-round activities and services primarily for the disabled veterans and their families. The project is located at 2657 Sunset Inn Road. Mr. Atchley read the staff report and presented pictures and a video of the site. Mr. Treese clarified that this property is at the end of Sunset Inn Road. The applicant made a statement addressing the cost of the project stating that it is not a 70 million dollar project and that they have no idea what the cost will be. They are aware of the enormity of the project and that according to maximum density they could easily have 2000 families, quite a bit different from 250 that they are requesting in her opinion. She stated that the important issue is why this is being done, and that a project of this type is very necessary, because the occupants will have fought and died for our freedom. Mr. Treese asked if the recreational area is for the public or just for the occupants. Mrs. Byma stated that it is for the residents, but that they can have guests. Mr. Caudill asked if the condos will be for sale or if they are only for veterans. She stated that they are focusing on veterans and veterans families at this time. Mr. Treese asked if what was presented is a complete site plan. She stated that it is as best as they can make it for now.

At this time the public was allowed to speak. Mr. Bob Schanz was the first to speak. He stated that he is favor of veterans, and stated that his parents were in WWII, and he has donated money to them. However, he feels this is not the right place for this type of project. He feels it should be closer to hospitals and other necessary things. He wanted to know who is putting up the money, and feels that it is being planned to make money on. He had a concern about the size of the road and that school busses would not be able to pass or turn around. He felt it would not be safe for children or people walking along the road, with cars passing. He asked the Commissioners to drive down the road and see for themselves. He did not feel land should be taken from the property owners there to widen the road for this project. Mr. Treese asked Mr. Haes what the width of the road right of way is. Mr. Haes said it is 40' and that additional property would be needed.

Will Gay who lives in the neighborhood, had concerns regarding the size of the road and stated that school buses could not drive down there because of the size.

Darrell Moore who also lives in the neighborhood stated that his dad owned property there before his death, and he and his siblings inherited the property. He was concerned that they would be forced to give up property for widening the road. Mr. Melton asked if there would be land taken away for road right of way. The applicant stated that of course the road issue would have to be dealt with. Mr. Treese stated that the road issue would have to be addressed. Mr. Moore stated that years ago his father was turned down by the Planning Commission for a business.

Mr. Caudill asked if the applicant had discussed the road issues with any of the property owners. Mrs. Byma stated that she has talked to Mr. Haes, but not the property owners until the County decides how wide the road right of way needs to be. Mr. Haes stated the road would have to fall under county road standards, which calls for a 50' right of way. Some would have to be surveyed.

There being no other questions, the public hearing was closed. This request will be voted on next Monday.

Old and New Business:

No discussion.

Adjournment:

With no other business on the agenda for June 10, 2013 the meeting adjourned at 6:46 p.m.



TANEY COUNTY PLANNING COMMISSION

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

July 18, 2013

Nick & Jo Byma
8053 Flynn Road
Lynden, WA 93264

Re: Clarification of Condition Number 7 of Division III Permit # 2013-0011
Decision of Record

Dear Nick & Jo Byma:

As you know, on June 17, 2013 the Taney County Planning Commission approved Division III Permit # 2013-0011 authorizing the development of the Veterans Victory Village. This Final Vote Hearing involved a great deal of debate among the membership of the Planning Commission specifically regarding both the language and requirements that were to be imposed via Condition Number 7. Initially members of the Planning Commission had requested that Condition Number 7 be written to state the following, ***“Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road, including the acquisition of additional rights-of-way along this corridor, in compliance with Taney County Road & Bridge Standards.”*** However, the Planning Commission ultimately voted, during the hearing, to remove the following language from Condition Number 7, ***“including the acquisition of additional rights-of-way along this corridor”*** by a vote of four (4) in favor and three (3) against. The majority of the Planning Commission (four members) expressed concern about the authority of the Planning Commission to require the acquisition of additional rights-of-way by a private developer located at the end of the County maintained roadway (Sunset Inn Road).

On July 11, 2013 the County Commission held a public hearing, attended by Scott Beanland, Randy Haes and myself, concerning discussion of the necessary private upgrades that would be required by the County for Sunset Inn Road at the costs of the developers of the Veterans Victory Village. During the Hearing the County Commission expressed concern that the verbiage of Condition Number 7 may actually still require the acquisition of additional rights-of-way by you as the developers of the Veterans Victory Village, because the condition specifically requires the upgrades of Sunset Inn Road to be made in compliance with Taney County Road & Bridge Standards. The Taney County Road & Bridge Standards require a minimum 50' right-of-way width. During the public hearing the County Commission requested that I seek clarification from the Planning Commission, as to the requirements of Condition Number 7 of the Decision of Record. The County Commissioners indicated that the phrase ***“in compliance with Taney County Road & Bridge Standards”*** would indicate that a minimum 50' right-of-way width would be required in compliance with the Road & Bridge Standards. The County Commission further advised that I consult with the Taney County Attorney regarding the matter.

Nick & Jo Byma

July 18, 2013

Page 2

Upon consultation with the Taney County Attorney regarding this matter, the counselor verbally indicated that Condition Number 7 may still be construed in such a manner to indicate that the upgrade of Sunset Inn Road, in compliance with Taney County Road & Bridge Standards may actually be inferred to also require the acquisition of additional rights-of-way along Sunset Inn Road, because the condition currently states that the Sunset Inn Road upgrades shall be made in compliance with the Taney County Road & Bridge Standards, which require a minimum 50' wide right-of-way. It was the County Attorney's opinion that the only way in which the verbiage of Condition Number 7 may be legally amended is via an appeal process before the Taney County Board of Adjustment. The County Attorney has also verbally indicated that the Decision of Record may only be amended via an advertised, public hearing process. Therefore, the only venue that would allow for further clarification of Condition Number 7 is the Board of Adjustment Appeal process. As I have previously indicated the next available Board of Adjustment Public Hearing will be held on August 21, 2013. The County Attorney has indicated that the Board of Adjustment has the authority to consider any appeal, including the specific verbiage and interpretation of the full meaning of the requirements associated with Condition Number 7 of the Decision of Record in question.

Please feel free to contact me with questions or concerns. Thank you for your time and assistance.

Sincerely,

A handwritten signature in blue ink that reads "Bob Atchley". The signature is written in a cursive style with a long, sweeping underline.

Bob Atchley
Taney County Planning Administrator



**TANEY COUNTY PLANNING COMMISSION
DIVISION III PERMIT
STAFF REPORT**

HEARING DATE:

June 17, 2013

CASE NUMBER:

2013-0011

PROJECT:

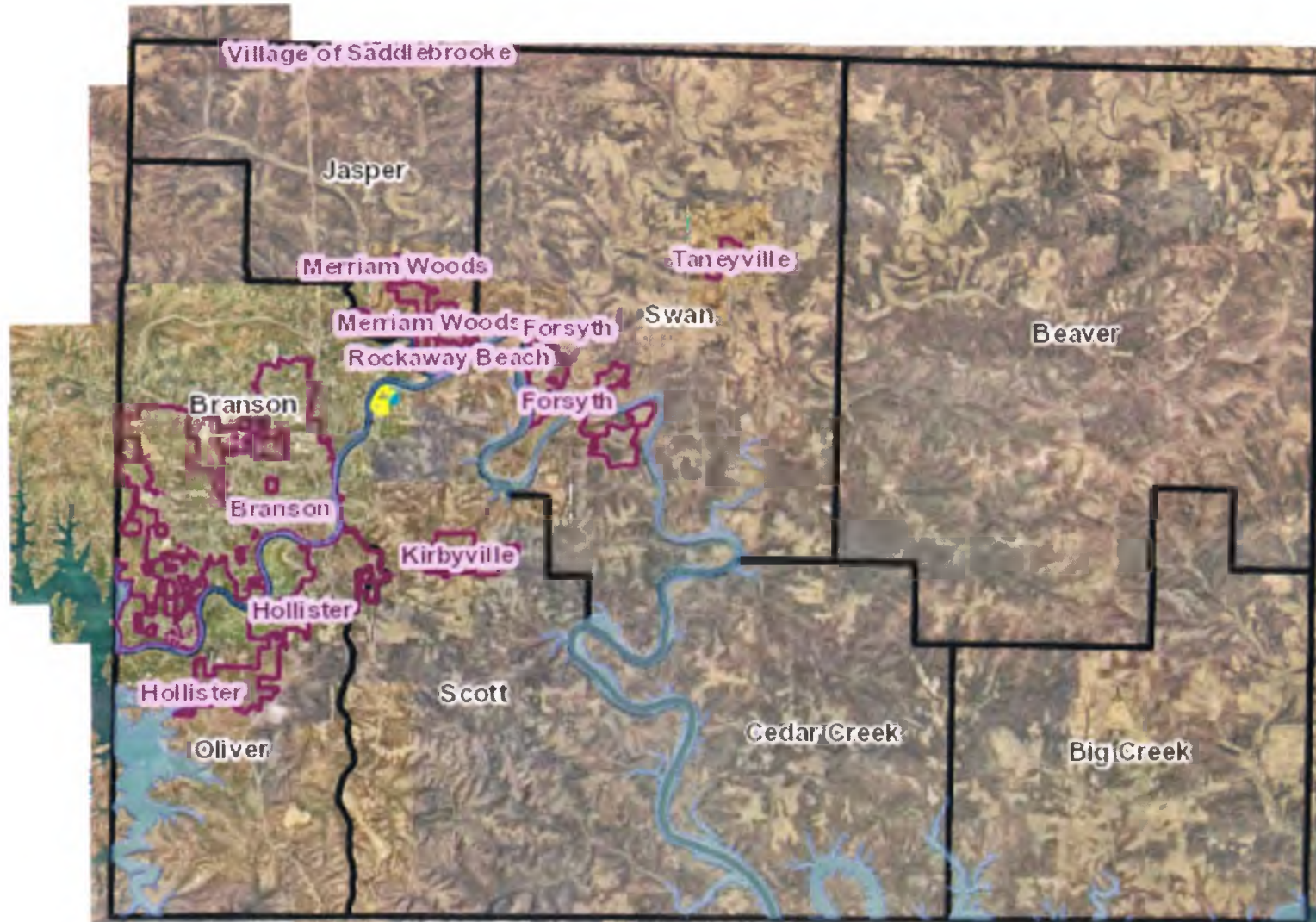
Veterans Victory Village

APPLICANT:

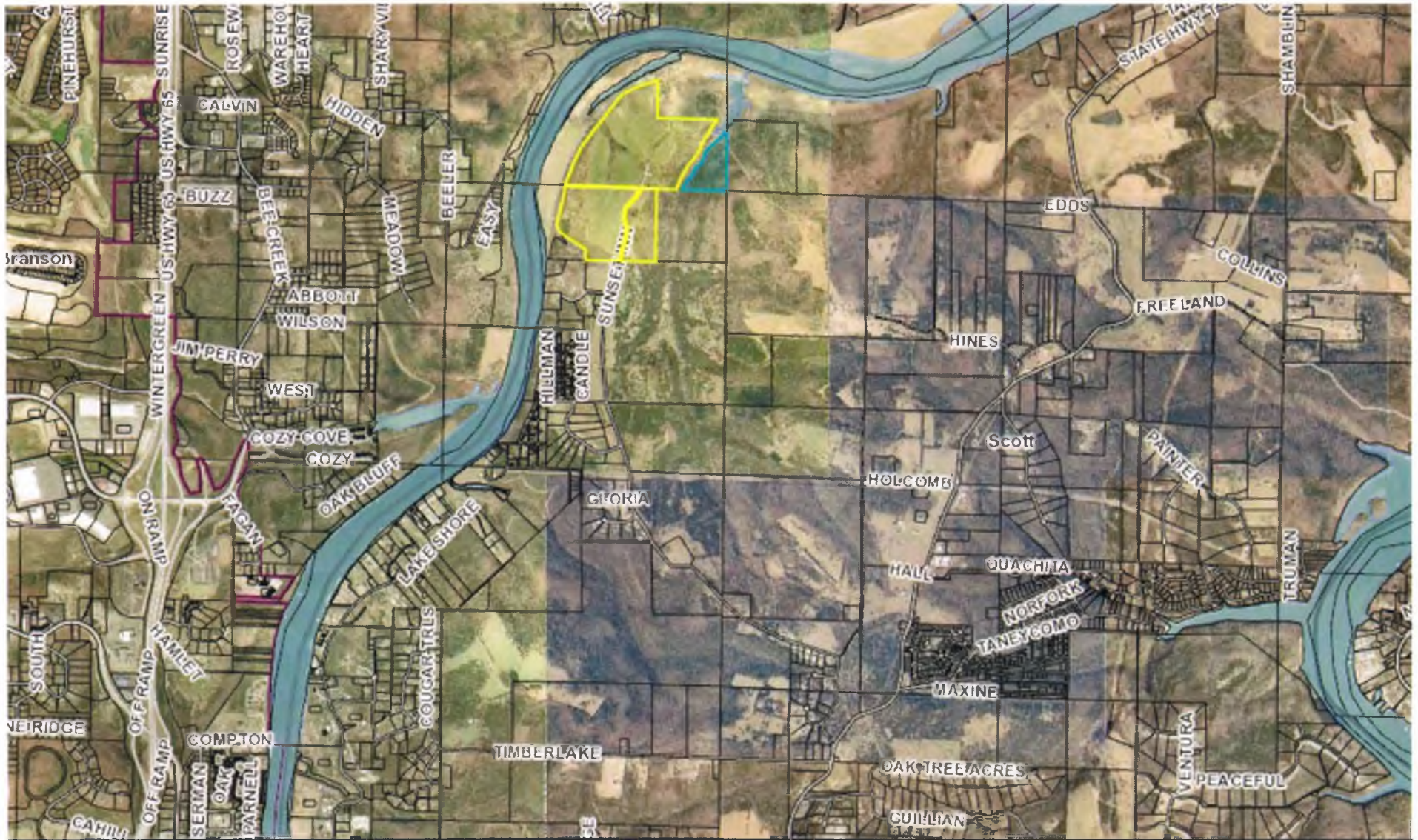
Marie Fulkerson

REPRESENTATIVES:

Nick & Jo Byma



**Veterans Victory Village
Division III Permit 2013-0011
Taney County GIS - Beacon**



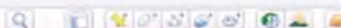
LOCATION:

- 2657 Sunset Inn Road, Branson, MO
- Scott Township
- Sections 15 & 22, Township 23, Range 21

Google Earth

File Edit View Tools Add Help

2657 Sunset Inn Road, Branson, MO



Sunset Inn Rd, Branson, MO 65616, USA



© 201

Tour Guide



Sign in



3 Google

Google earth

Imagery Date: 10/4 2011 36°40'39.11" N 93°11'22.92" W elev 799 ft eye alt 14773 ft

REQUEST:

The representatives, Nick & Jo Byma are requesting approval of a Division III Permit authorizing the development of the Veterans Victory Village, an approximately 245 unit residential housing complex, held in a condominium style of ownership, providing housing for disabled veterans and their families, via a total of seven (7) monolithic dome structures. A number of multi-purpose domes will also be constructed providing year-round activities and services primarily for disabled veterans and their families.



Veterans Victory Village

Two Styles of Domes





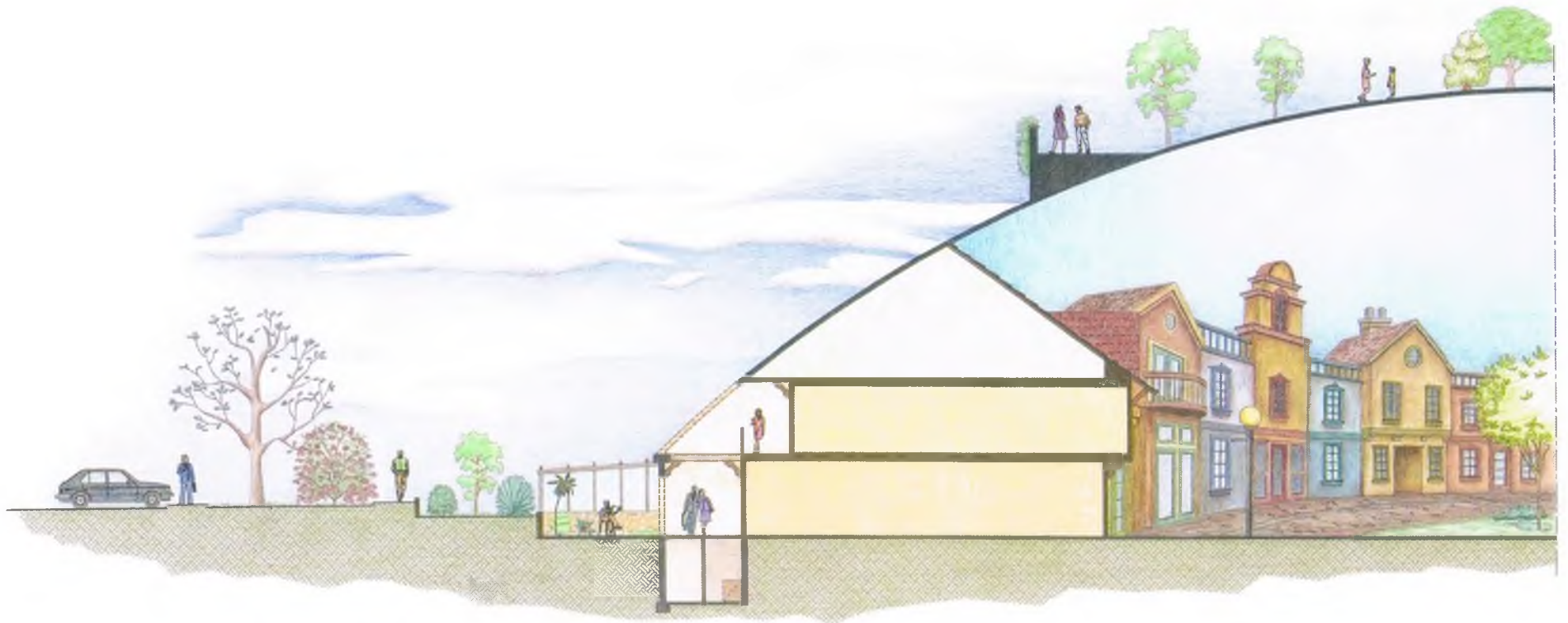
INTERIOR ELEVATION A



INTERIOR ELEVATION B



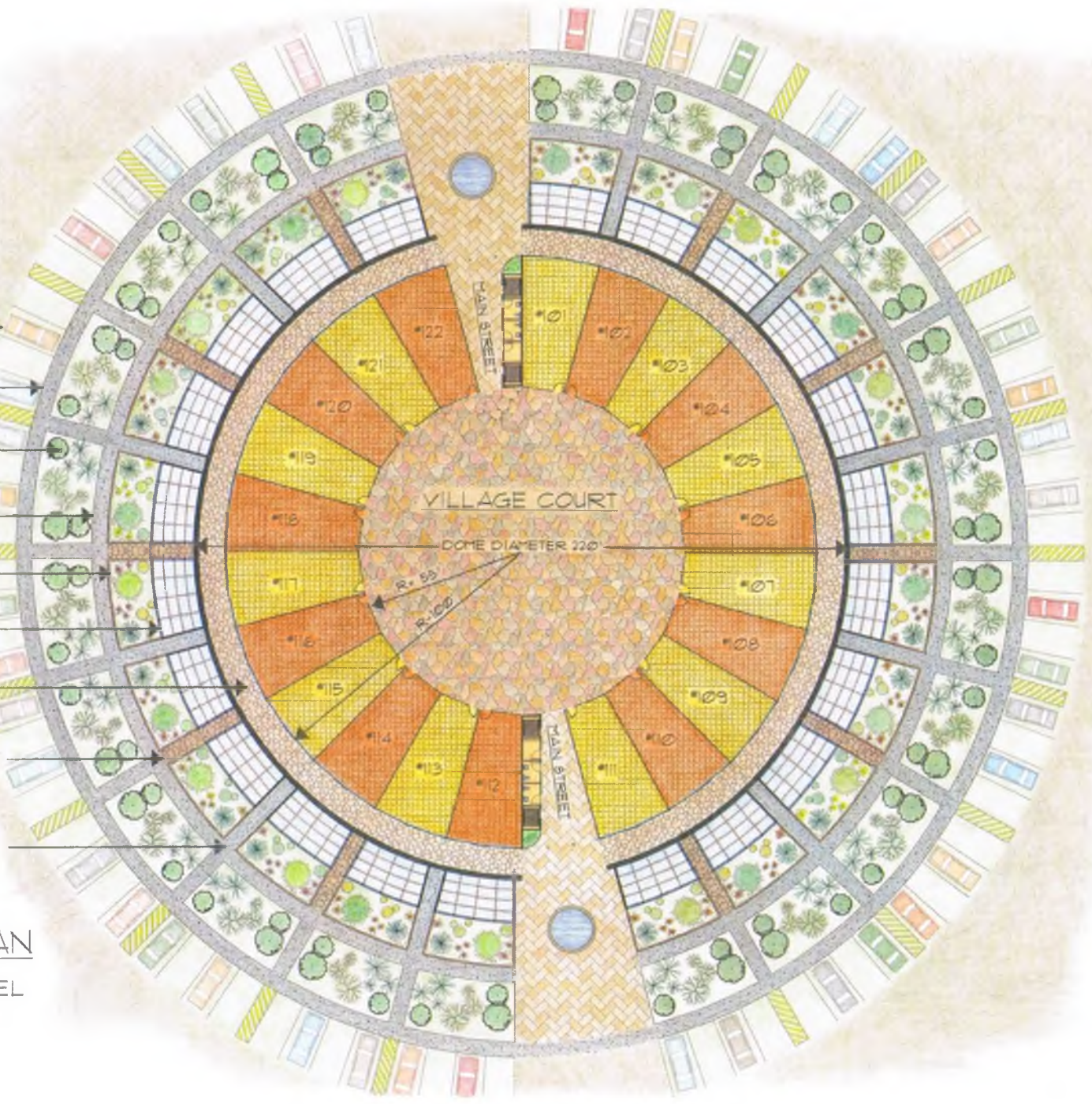
INTERIOR ELEVATION C



TYPICAL SECTION
(THROUGH SOLARIUM)

SCALE: 3/16" = 1'-0"

- PARKING
- PERIMETER WALK
- GREEN BELT
- POWER WALK
- PLANTERS
- SOLARIUMS
- LOWER PROMENADE
- RAMP TO GROUND LEVEL
- RAMP TO UPPER LEVEL



DOME PLAN
 GROUND LEVEL
 SCALE: 1/16"=1'-0"

BACKGROUND and SITE HISTORY:

The representatives have indicated that the Veterans Victory Village will be located upon four (4) adjoining parcels of land, with a total acreage of approximately 139.39 acres (per the Assessor's information). The first parcel of land (08-5.0-22-000-000-003.000) is an approximately 32.4 acres (per the Assessor's information) agricultural parcel of land, containing an existing residence. The second parcel of property (08-5.0-22-000-000-002.000) is an approximately 17 acre agricultural parcel of property (per the Assessor's information). The third parcel of property (08-5.0-15-000-000-034.000) is an approximately 78.42 acre agricultural parcel of property, containing an existing residence and two barn structures (per the Assessor's information). The fourth parcel of property (08-5.0-15-000-000-034.001) is an approximately 11.57 acre agricultural parcel of property (per the Assessor's information).





BEELER

EASY

ELLA

SUNSET INN

Scott

GENERAL DESCRIPTION:

The proposed Veterans Victory Village will be located on a total of +/- 139.39 acres. This proposed phased development project will be designed specifically to provide housing for Disabled Veterans and their families. Upon completion, the development will include a total of seven (7) residential monolithic dome structures (including one dome which will provide housing to retired veterans), each with a diameter of 220', containing approximately 35 units each (depending on the types of units); for a total of approximately 245 residential units.



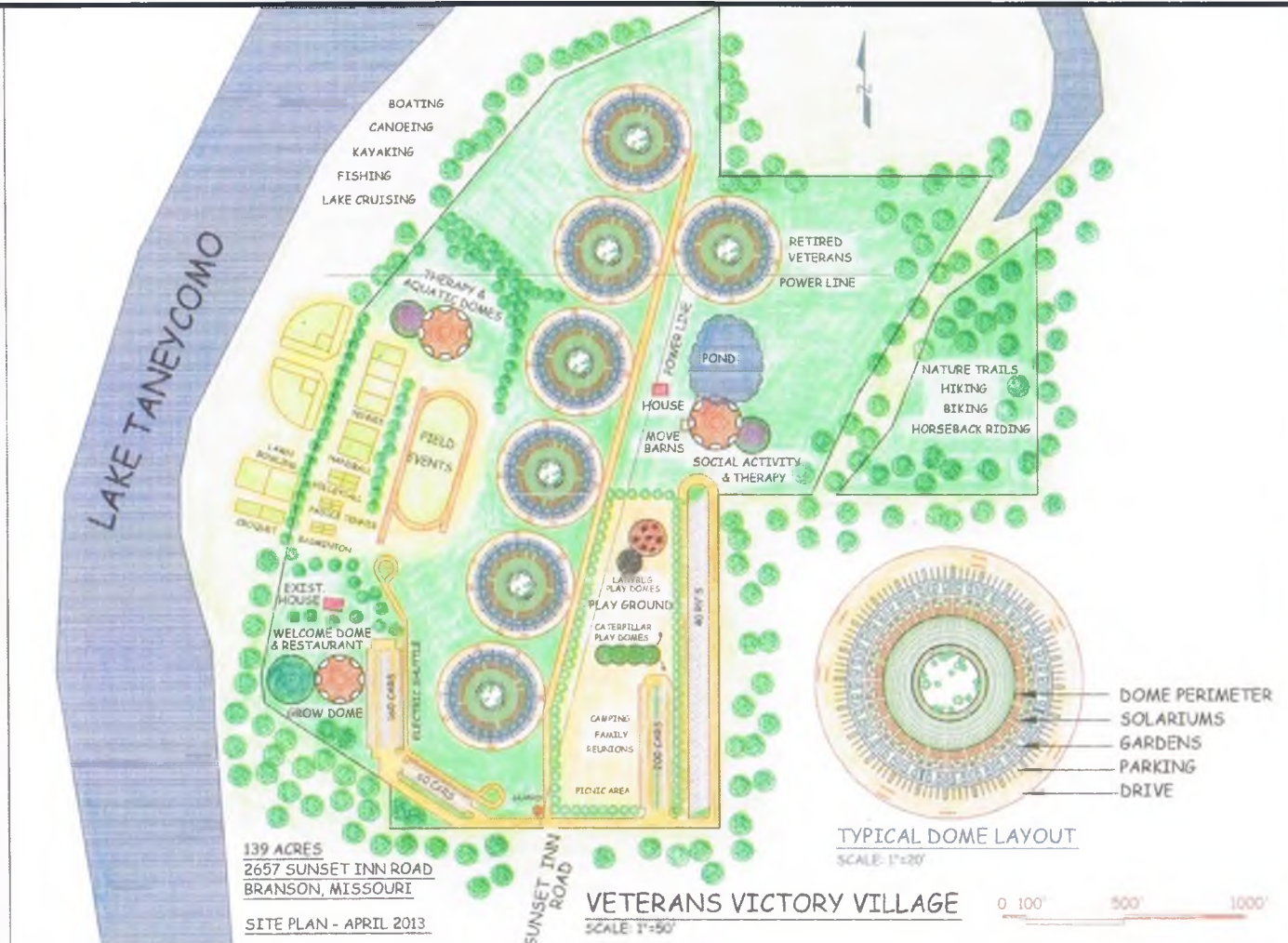
GENERAL DESCRIPTION Continued:

The representatives have indicated that the retirement dome will be built for retired veterans, who will be employed to assist the veterans and their families as mentors, tutors, therapists, coaches, teachers and counselors. This development will be held in a condominium style of ownership, in which the grounds and infrastructure will be owned and maintained via either a property owners association or a corporation, as common elements. The representatives have indicated that the residential units will be 1, 2 and 3 bedroom units that tenants will be able to lease or purchase. The representatives have indicated that the development will be a multi-functional residential and recreational park.



GENERAL DESCRIPTION Continued:

The representatives plan to utilize the vast amount of open space for multiple outdoor activities for both resident and non-resident disabled veterans and their families, allowing for participation in a wide variety of sports, games, competitions and tournaments. The site plan indicates areas for such uses as: baseball fields, lawn bowling, croquet, badminton, paddle tennis, volleyball, handball, tennis courts, field events, RV camping, and a nature trail area for hiking, biking and horseback riding.

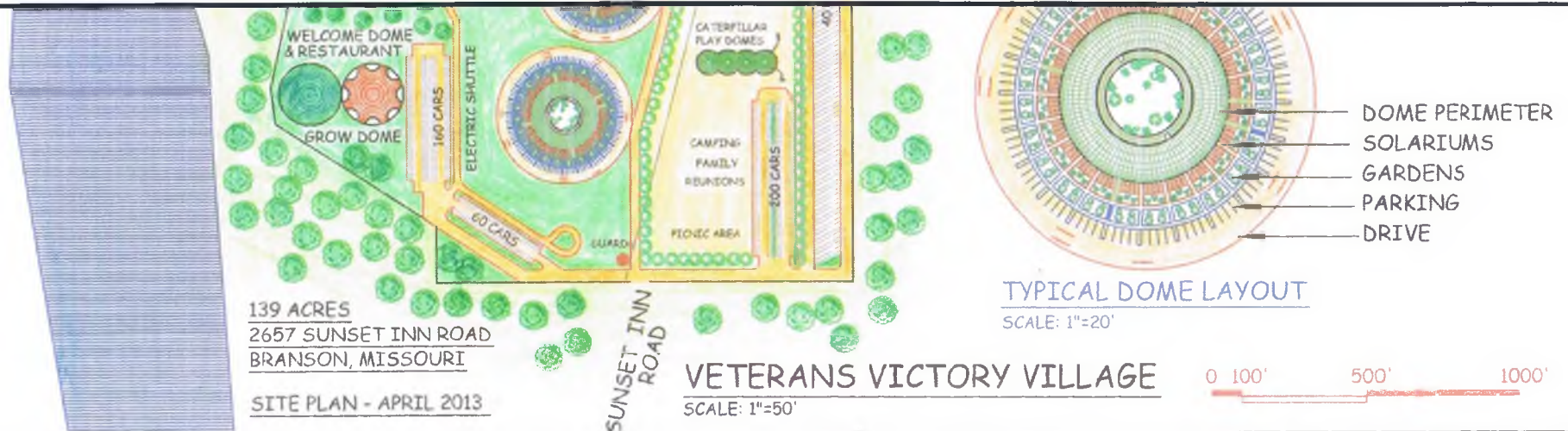


GENERAL DESCRIPTION Continued:

The proposed development will also include a number of multi-purpose dome structures that will be interspersed throughout the site for year round activities, as enumerated in the following:

❖ **Welcome Dome** – This will be a dome that is utilized to make introductions to the families of the disabled veterans, explaining the purpose of the Veterans Victory Village. Informational and educational material will be displayed, PowerPoint presentations will be made to small and large group gatherings and guided tours will be taken of the site. The Welcome Dome may house a restaurant which would cater primarily to the village residents and visitors. The restaurant would employ primarily residents of the village.

❖ **Grow Dome** – The dome will be adjacent to and function in conjunction with the restaurant within the Welcome Dome. The representatives have indicated that the Grow Dome will function as an ultra-green indoor environment, specifically designed as a walk-through educational garden, with hydroponic, aquaponic and vertical farming systems; operated and maintained by resident gardeners, with the assistance of college students. The representatives have indicated that this area will also include a market for the sales of the fruits and vegetables grown on site.



GENERAL DESCRIPTION Continued:

❖ **Social Activity Dome** – Designed for family activities and celebrations for residents and their visitors, with several small shops and dining facilities. The dome will include a deck overlooking a pond, featuring a roof top garden for private and social parties with neighbors.



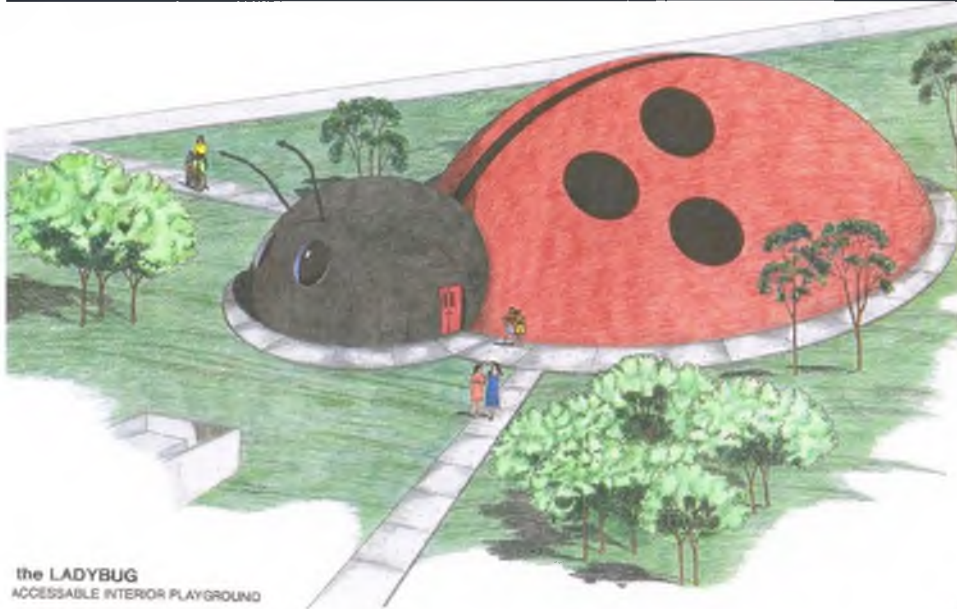
GENERAL DESCRIPTION Continued:

❖ **Therapy Domes** – Two domes will be designed and made available to accommodate the needs of the disabled veterans for their therapy and treatment.



GENERAL DESCRIPTION Continued:

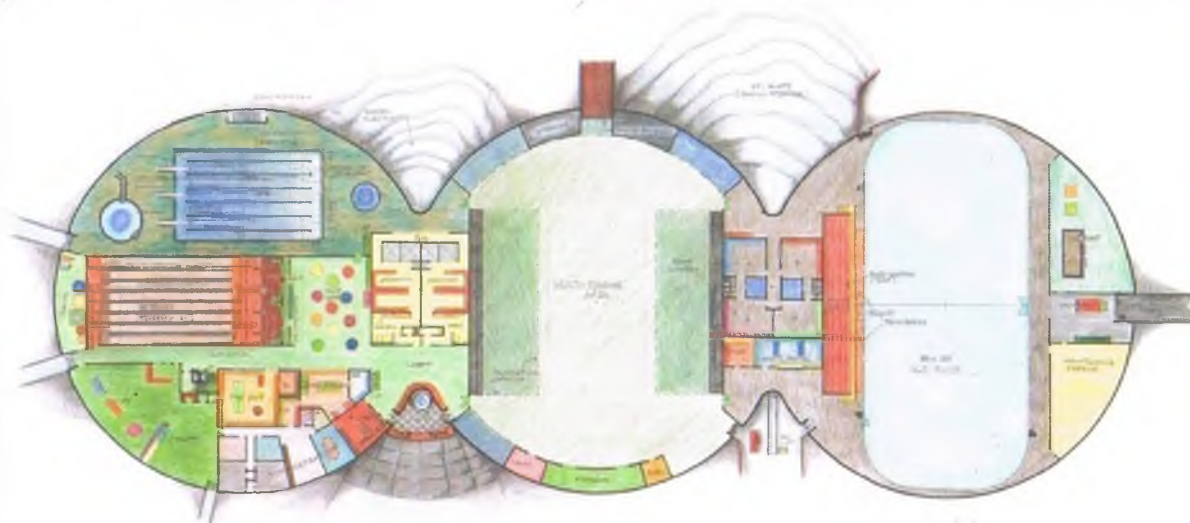
❖ **Ladybug and Caterpillar Dome** – Two domes containing a multitude of equipment, play things and activities for disabled and non-disabled children.



the LADYBUG
ACCESSIBLE INTERIOR PLAYGROUND



the LADYBUG
ACCESSIBLE INTERIOR PLAYGROUND



FIRST FLOOR PLAN

REVIEW:

The Veterans Victory Village is a large scale development proposal that will be developed in phases over a number of years, with the submitted Site Plan indicating the development upon completion.

The primary use of the property would be viewed via the parking requirements of the Development Guidance Code as being high-density residential. However, since mixed uses are proposed, the on-site parking space requirements will be required to be determined on a proportional basis, based upon the proposed uses. The parking area will have to be designed based upon these specific uses. Table J-1 of the Development Guidance Code requires 1.5 spaces per two-bedroom dwelling unit with $\frac{1}{2}$ spaces added for a lockout bedroom and $\frac{1}{2}$ spaces added for each additional bedroom. A restaurant use will require 1 space for every 3 fixed seats and/or 30 square feet of floor area used for seating. However, the representatives will have adequate property area to ensure adequate parking. The issuance of each Division II (Commercial Construction) Permit will require the provision of a specific number of parking spaces for that specific use or set of uses being issued a construction permit.



REVIEW Continued:

The area in question is not currently served by sewer so as the representatives develop the Veterans Victory Village the wastewater flows will rapidly exceed 3,000 gallons per day wastewater flow, requiring the approval of a wastewater treatment system via the Missouri Department of Natural Resources (MoDNR). The representatives are proposing to utilize a non-discharging wastewater treatment system, in which the gardens, grassland and athletic fields will be irrigated with the treated water from the treatment system.

The area in question is also not currently served by a public water supply. The development will require the construction of a well(s) via the MoDNR permitting process.

REVIEW Continued:

The representatives have indicated that the Veterans Victory Village will be created as a *green park*, utilizing a number of very environmentally friendly technologies, including permeable paving in parking and roadway areas; basins for sub-surface water detention, retention and pollution filtration and treatment, water reuse and recycling; non-discharging wastewater treatment system and energy efficient monolithic domes.



REVIEW Continued:

The representatives have indicated that they are committed to the completion of the necessary upgrades to Sunset Inn Road. The County Commission does not wish to garner an opinion regarding the project at this time. However, the County Commission has indicated that they will meet with the representatives regarding upgrades to Sunset Inn Road and also the possible acquisition of additional rights-of-way along this corridor, upon the culmination of the Planning Commission Division III Permitting process.

The representatives have indicated that the Veterans Victory Village will be LEED (Leadership in Energy and Environmental Design) certified. Developed by the U.S. Green Building Council, LEED consists of a suite of rating systems utilized for the design, construction and operation of high performance green buildings, homes and neighborhoods. The monolithic domes will be extremely energy efficient.

REVIEW Continued:

The adjoining property to the north and west is vacant property owned by the Empire District Electric Company and also Lake Taneycomo. The adjoining property to the south is the National Institute of Marriage. The adjoining property to the east is vacant property owned by the Empire District Electric Company and the College of the Ozarks.

The project received a score of 11 on the Policy Checklist, out of a maximum possible score of 93. The relative policies receiving a negative score consist of road right-of-way, emergency water supply, solid waste disposal service, use compatibility, underground utilities, right to farm, traffic and agricultural lands.



STAFF RECOMMENDATION:

If the Taney County Planning Commission approves this request, the following requirements shall apply, unless revised by the Planning Commission:

1. Compliance with the provisions of the Taney County Development Guidance Code and the Taney County Road Standards that include plans for the following:
 - a. Sediment and erosion control (Section 4.1.1)
 - b. Stormwater management (Appendix B Item 3)
 - c. Land Grading Permit for all disturbances of over one acre (Appendix F)
 - d. Utility easements and building line setbacks (Table 12)
 - e. Improvements with scale of buildings, streets, onsite parking and utilities.(Table 6)
 - f. A complete landscape and buffering plan showing the location, size and planting materials for all buffer yards, both adjacent to public rights-of-way and residential properties.
 - g. A lighting plan showing the location, height and other specifications on the lighting to be provided for the development.
 - h. A traffic impact study shall be submitted to the Taney County Road & Bridge Department and the Missouri Department of Transportation (MoDOT).
 - i. An engineering public improvement plan shall be submitted to and approved by the Taney County Road and Bridge Department prior to the completion of road improvements to Sunset Inn Road.
2. Compliance letters from the Taney County Road & Bridge Department, the Western Taney County Fire Protection District, the Missouri Department of Natural Resources (MoDNR) and the Missouri Department of Transportation (MoDOT) shall be submitted to the Planning Department Office, including all other entities which have requirements governing a development of this nature (Chapter VI-VII).

STAFF RECOMMENDATION Continued:

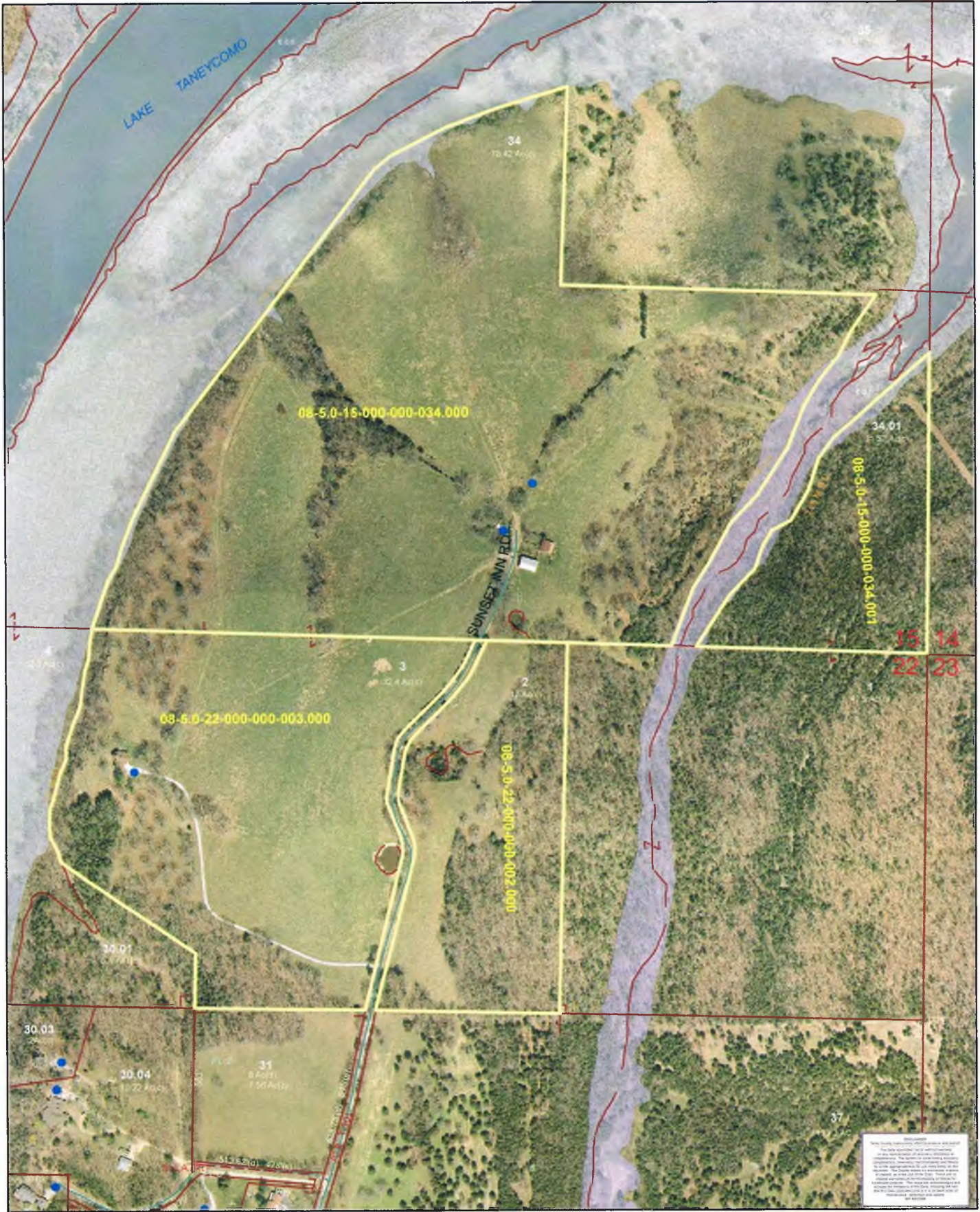
3. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
4. A valid MoDNR Construction Permit for the wastewater treatment system, providing for the applicable wastewater flows within the Veterans Victory Village shall be submitted to the Planning Department Office prior to the issuance of applicable Division II Permits.
5. The installation of sewer service lines shall be inspected by the Onsite Wastewater Permitting Division of the Taney County Planning Department in conjunction with the Missouri Department of Health and Senior Services.
6. Prior to the issuance of Division II Permits, the representatives shall submit a MoDNR Construction Permit for a well(s), providing service to the Veterans Victory Village, to the Planning Department Office.
7. Prior to the issuance of on-site Land Disturbance Permits and Division II Permits, the developer shall make the necessary upgrades to Sunset Inn Road, in compliance with Taney County Road & Bridge Standards.
8. Prior to the issuance of Division II Certificates of Conformance (C of Cs) for all applicable structures within the development, the developer shall first present a Certificate of Occupancy (C of O) from the Western Taney County Fire Protection District to the Taney County Planning Department Office.
9. Stormwater containment shall be managed via permeable paving and sub-surface water detention as proposed within the submitted project description.

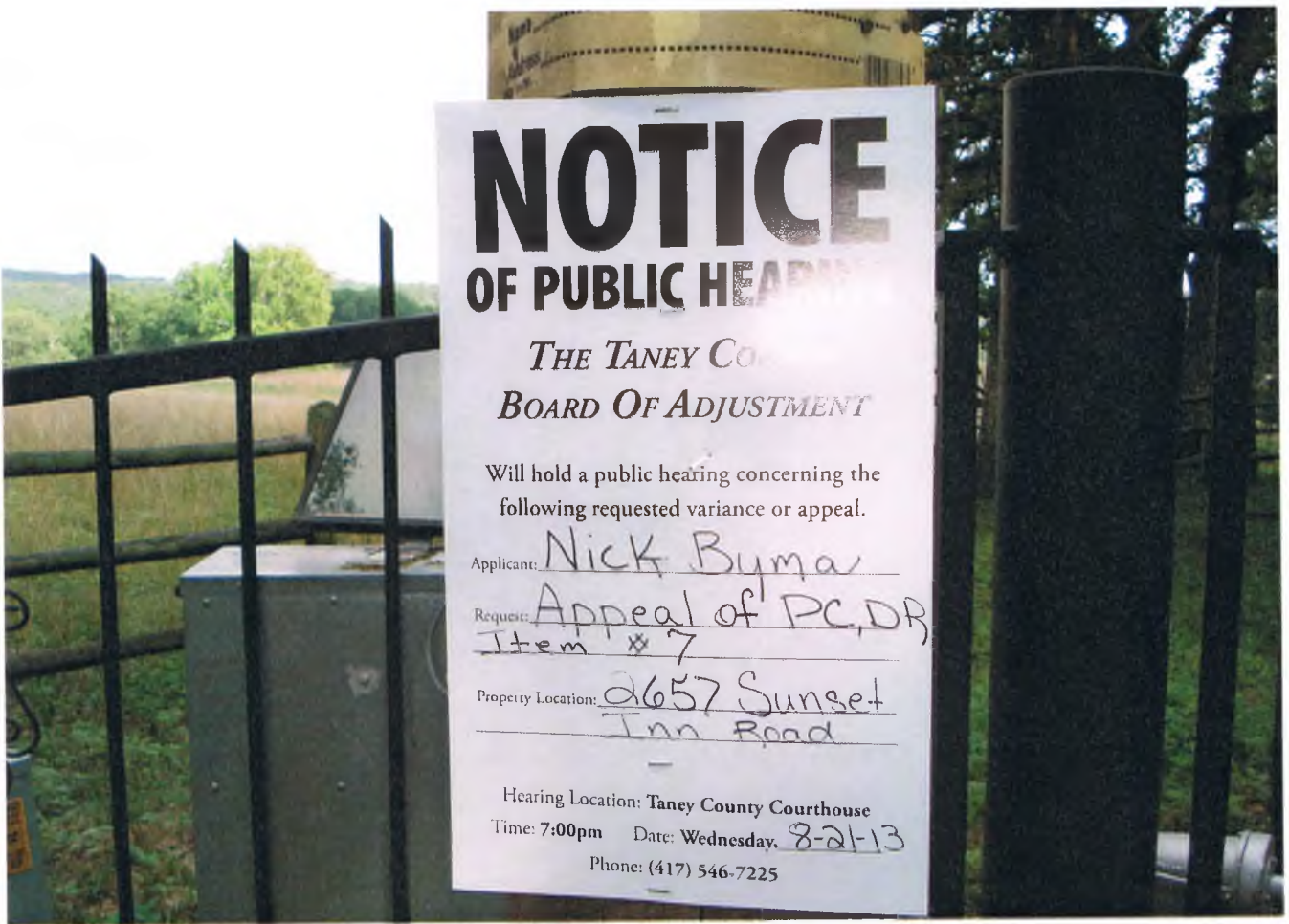
STAFF RECOMMENDATION Continued:

10. Waste water treatment shall be managed via a non-discharging waste water treatment system as proposed within the submitted project description.
11. All common elements shall be maintained via either a condominium owners association or a corporation in perpetuity.
12. All light sources within the facility shall be arranged so that no direct illumination leaves the site toward adjacent residential areas or any roadways.
13. No outside storage of equipment or solid waste materials.
14. This decision is subject to all existing easements.
15. This Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Chapter II Item 6).



BOA Veterans Victory Village













TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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website: www.taneycounty.org

MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, JULY 17, 2013, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Vice-Chairman Dave Nelson called the meeting to order. A quorum was established with four members present. They were: Tony Mullen, Tom Gideon, Mark Weisz, and Dave Nelson. Staff present, Bob Atchley and Bonita Kissee.

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

The speakers were sworn in before each hearing by Mr. Nelson.

Public Hearing:

Lake Taneycomo Woods Association; A request for a variance from the provisions of Section 7 Table 1 (setbacks) and Section 7.3 (easements) of the Taney County Development Guidance Code. The applicants are requesting a variance from the required 7' side of lot setback requirement and a variance from the required 25' front of lot setback requirements and also a variance from the requirement that permits will not be issued for any structure that encroaches on any recorded easement in order to allow for the issuance of a Division II Permit authorizing the rebuilding of the clubhouse. Mr. Atchley read the staff report and presented pictures and a video of the site. David Herd representing the association explained that they want to rebuild the clubhouse with a safe room. They would like to be able to have as much room on the property as possible to make the safe room as large as possible to fit everyone in, that lives in the subdivision. The back wall beside the pool is a retaining wall and they would like to protect it because it serves the adjoining property. They are working with an architect to properly maintain FEMA standards. Mr. Gideon asked where the easement is and Mr. Herd pointed it out that it is the retaining wall directly on the property line. He also asked if it had been recorded this way from the beginning and Mr. Atchley stated that it had. Mr. Herd stated that there will be 5' between the structure and the wall. The

proposed structure will be concrete, with wainscote and brick, restrooms and no kitchen facilities. It will be for meetings only. Anyone in the association will be able to use it.

Kay Holland, who is a member of Lake Taneycomo Woods Dev. and is the secretary stated the number of members, and wants the members to be able to use the pool, boatdock, and picnic area. If anyone in the area wants or needs to use the safe room they would be welcome.

Barbara Grisham, who lives behind the property in a house built in 1910, has lived there since 2002. She is not in favor of this construction, because she feels it infringes on her privacy. She also stated that the clubhouse in her opinion is on her property. Mr. Nelson reminded Ms. Grisham that at the present time there isn't a clubhouse on the property. Her son is remodeling the other residence next to her property to live in and that the sewer and water is on his property.

Brandon Grisham, who is Ms. Grisham's son, reported that there is a lot of drug activity and discharging of firearms on the association property. The association does not keep their gate closed allowing anyone to drive onto the property. Mr. Nelson reminded that this Board is here only to hear the variance request. Mr. Weisz commented that there are ways to deal with association business such as the bylaws. Mr. Nelson stated that it is not the Boards business to enforce private bylaws.

Mr. Nelson closed the public portion of the hearing for deliberation. There was no other discussion. Mr. Weisz made a motion to approve the request based upon the decision of record. Seconded by Mr. Mullen. The vote to approve was unanimous.

Review and Action:

With no additions or corrections a motion was made by Tom Gideon to approve the minutes as written. Seconded by Tony Mullen. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Atchley reported that at this time there were no requests for next month but the deadline is in a week.

Adjournment:

With no other business on the agenda for July 17, 2013, the meeting adjourned at 7:42 p.m.