



## TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: [www.taneycounty.org](http://www.taneycounty.org)

### **AGENDA TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, NOVEMBER 19, 2014, 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:

*Gary and Trecie Loyd, variance request*

#### Review and Action:

*Minutes, October 2014*

#### Old and New Business:

*Tentative*

#### Adjournment.



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### **MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, OCTOBER 15, 2014, 7:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE**

#### Call to Order:

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

Mr. Weisz reported that since the Chairman resigned he would hear nominations for Chairman. Tom Gideon nominated Shawn Pingleton as Chairman. Mr. Pingleton moved that nominations cease. The vote to elect Mr. Pingleton as Chairman was unanimous.

Mr. Pingleton asked for nominations for Vice-Chairman. Mr. Gideon nominated Mr. Weisz as Vice-Chairman. Mr. Pingleton moved that nominations cease. The vote to elect Mr. Weisz as Vice-Chairman was unanimous.

Mr. Pingleton informed the applicants that since there were only three board members present, they could opt to table the meeting until a full board was present. The applicants chose to continue with the meeting.

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.

The speaker was sworn in before the hearing.

#### Public Hearing:

Brenda Marshall and Billy Tsai; a request for 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' front of lot setback requirement, in order to allow for the existing carport to remain. The property is located

at 342 Amherst Road. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. Mr. Tsai explained the reason for the request and some history of the area. There was discussion regarding where the road right of way is because there is no survey of the property line. Mr. Tsai stated that to his knowledge, the property line is on the other side of the roadway. Mr. Atchley stated that the right of way ends at the end of the road. Mr. Pingleton wondered if utility trucks could even get through there if they needed to. Mr. Tsai stated that they could. There are no other homes past Mr. Tsai's house and he owns that property. Discussion followed regarding removing #2 from the proposed decision of record regarding obtaining a survey. After discussion Mr. Weisz made a motion to approve based upon the decision of record removing #2. Seconded by Mr. Gideon. The vote to approve the request was unanimous.

#### Review and Action:

Minutes, July 2014; with no additions or corrections a motion was made by Mark Weisz to approve the minutes as written. Seconded by Tom Gideon. The vote to approve the minutes was unanimous.

#### Old and New Business:

Mr. Atchley reported that there may be a request for next month. He asked the Board to update themselves on the flood plain ordinance.

#### Adjournment:

With no other business on the agenda for October 15, 2014 the meeting adjourned at 7:41 p.m.



# TANEY COUNTY BOARD OF ADJUSTMENT FLOODPLAIN MANAGEMENT ORDINANCE VARIANCE STAFF REPORT

**HEARING DATE:** November 19, 2014

**CASE NUMBER:** 2014-0007V

**PROJECT:** Gary & Trecie Loyd Floodplain Management Ordinance Variance Request

**APPLICANTS:** Gary & Trecie Loyd

**REPRESENTATIVE:** George Cramer

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

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

## **BACKGROUND and SITE HISTORY:**

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

On September 18, 2014 George Kramer submitted a Division I Permit application seeking to construct a 36' x 60' (2,160 square foot) structure to be utilized for the storage of the applicants' motor home and fishing boats. The approval of this Division I Permit was to be contingent upon the approval of a Floodplain Development Permit. At this time, the applicants have not met the minimum requirements of the Floodplain Management Ordinance and have yet to submit a Floodplain Development Permit application.

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

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

#### **GENERAL DESCRIPTION:**

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

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

#### **REVIEW:**

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

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

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

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

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

#### **STATUTORY REQUIREMENTS OF VARIANCE APPROVAL:**

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

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

## **FLOODPLAIN MANAGEMENT ORDINANCE VARIANCE CRITERIA:**

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

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

**CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENET VARIANCES:  
(As enumerated within the Floodplain Management Ordinance)**

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

## **STAFF RECOMMENDATIONS:**

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

1. Approval of a variance from the provisions of Article 4, Section B (b) of Taney County Floodplain Management Ordinance, allowing for the construction a 36' x 60' (2,160 square foot) non-residential structure which is allowed to be built utilizing the "wet" floodproofing methods enumerated specifically within the Tate Engineering Consultants Letter and accompanying Schematic Floor Plan that were submitted to the Planning Department office, dated September 11, 2014.
2. The applicant acknowledges that the issuance of this variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage. The applicant further recognizes that such construction below the base flood level increases risks to life and property.
3. Compliance with all of the other provisions of the Taney County Development Guidance Code and the Taney County Floodplain Management Ordinance.
4. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 of the Taney County Development Guidance Code).

## Floodplain Management Variances

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

### Local Floodplain Development Permit

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

### Appeals

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

### Local Variance Procedure

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

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

### State Variance Procedure

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

### Considerations and Conditions

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

### Good and Sufficient Cause

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

### Exceptional Hardship

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

### Minimum Variation Necessary

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

### Regulatory Floodway

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

### When Might a Variance Be Warranted?

Special circumstances may justify granting a variance:

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

### Impact of Increased Risk on Flood Insurance Rates

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

### Additional Resources

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

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

**FLOODPLAIN MANAGEMENT ORDINANCE (AMENDED)**  
**60.3(d)**

**ARTICLE 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES**

**SECTION A. STATUTORY AUTHORIZATION**

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

**SECTION B. FINDINGS OF FACT**

1. *Flood Losses Resulting from Periodic Inundation*

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

2. *General Causes of the Flood Losses*

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

3. *Methods Used To Analyze Flood Hazards*

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

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

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

#### SECTION C. STATEMENT OF PURPOSE

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

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

#### ARTICLE 2 GENERAL PROVISIONS

##### SECTION A. LANDS TO WHICH ORDINANCE APPLIES

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

##### SECTION B. FLOODPLAIN ADMINISTRATOR

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

[Article 2, Section C]

#### SECTION C. COMPLIANCE

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

#### SECTION D. ABROGATION AND GREATER RESTRICTIONS

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

#### SECTION E. INTERPRETATION

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

#### SECTION F. WARNING AND DISCLAIMER OF LIABILITY

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

#### SECTION G. SEVERABILITY

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

### **ARTICLE 3 ADMINISTRATION**

#### SECTION A. FLOODPLAIN DEVELOPMENT PERMIT **(REQUIRED)**

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

[Article 3, Section B]

## SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

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

## SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

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

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

[Article 3, Section D]

#### SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

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

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

### ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

#### SECTION A. GENERAL STANDARDS

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

[Article 4, Section A]

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

5. *Agricultural Structures*

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

6. *Storage, material, and equipment*

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

## 7. Accessory Structures

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

[Article 4, Section B]

### SECTION B. SPECIFIC STANDARDS

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

- a. *Residential Construction*

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

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

- b. *Non-Residential Construction*

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

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

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

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

[Article 4, Section C]

#### SECTION C. MANUFACTURED HOMES

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

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

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

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

[Article 4, Section D (1)]

### 1. *AO Zones*

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

### 2. *AH Zones*

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

## SECTION E. FLOODWAY

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

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

[Article 4, Section E (3)]

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

#### SECTION F. RECREATIONAL VEHICLES

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

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

### **ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES**

#### SECTION A. ESTABLISHMENT OF APPEAL BOARD

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

#### SECTION B. RESPONSIBILITY OF APPEAL BOARD

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

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

#### SECTION C. FURTHER APPEALS

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

[Article 5, Section D]

#### SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

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

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

#### SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

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

[Article 5, Section E]

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

#### SECTION F. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES

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

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

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

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

#### SECTION G. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES

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

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

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

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

## **ARTICLE 6 PENALTIES FOR VIOLATION**

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

## **ARTICLE 7 AMENDMENTS**

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

## ARTICLE 8 DEFINITIONS

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

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

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

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

**"Administrator"** means the Federal Insurance Administrator.

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

**"Agricultural Commodities"** means agricultural products and livestock.

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

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

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

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

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

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

**"Building"** *see "structure."*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The term does not apply to:

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

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

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

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

**ARTICLE 9 CERTIFICATE OF ADOPTION**

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

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

This 21st day of February, 2012 .

Place seal here.



Ronald D. Houseman

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

ATTEST:

Donna Neeley

Donna Neeley, Taney County Clerk



TANEY COUNTY PLANNING COMMISSION

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

#147

TANEY COUNTY BOARD OF ADJUSTMENT

APPLICATION and AFFIDAVIT

FOR VARIANCE OR APPEAL

(Circle one)

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

PLEASE PRINT

DATE 10-16-14

Applicant GEORGE CRAMER Phone 417-331-9740

Address, City, State, Zip 2214 FRANK BEA Rd. KISSEE MILLS MO 65680

Representative SELF Phone ABOVE

Owner of Record GARY TREKIE LOYD Signature: Trekie A. Loyd

Name of Project: GARAGE

Section of Code Protested: (office entry) Va. Co. Floodplain Mng. Ord - Art 4 Sec. B1

Address and Location of site: 415 Hoggy River Road

Subdivision (if applicable) Riverside Est.

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

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

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

Required Submittals:

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

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

# CRAMER CONSTRUCTION

2214 Frank Rea Rd. Kissee Mills Mo. 65680

417-331-9740

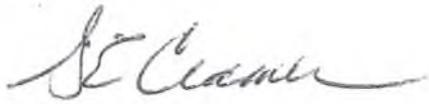
It is my clients desire to construct a garage on property adjacent to their home on Foggy River Rd. The purpose of the building is to store their motor home and fishing boats. The size of the building, as needed for this use, is larger than the current regulations allow.

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

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

Please contact me for any additional information needed.

Thank you for your consideration.



George Cramer

417-331-9740

VERIFICATION

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

Trecie A. Loyd  
Signature of Applicant

10/16/14  
Date of Application

STATE OF MISSOURI )

S.S. On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

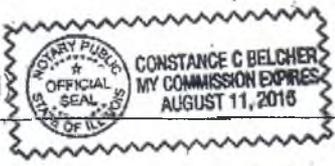
COUNTY OF TANEY )

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

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

\_\_\_\_\_  
Bonita Kissee, Notary Public

State of Illinois  
 County of Johnson  
 This instrument was acknowledged before me on 10/16/14 (date)  
 by Trecie A. Loyd (name/s of person/s.)  
 \_\_\_\_\_  
 (Signature of Notary Public)

(Seal) 

September 11, 2014

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

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

Mr. Atchley:

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

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

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

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

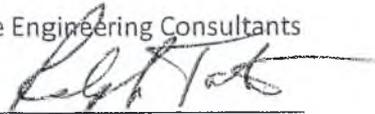
As stated above the building will be totally constructed of steel and concrete. With a total floor area of 2160 square feet, the building will require a total of 2160 square inches of opening in the side walls consisting of at least two openings.

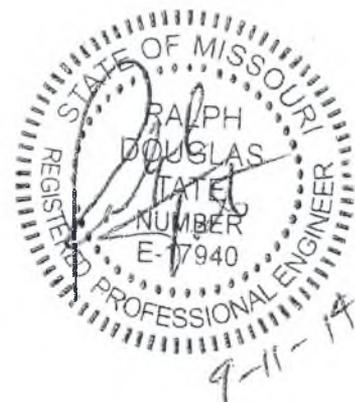
We propose to install four louvered and screened vents in the side walls of the building. The vents will be located on the north and south walls. Each vent will be 3' wide by 1.5' tall. The base of the vents will be a maximum of 1' above finish floor elevation. The vents will be louvered on the exterior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

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

If you have any questions please contact me.

Tate Engineering Consultants

By   
Ralph D. Tate, P. E.

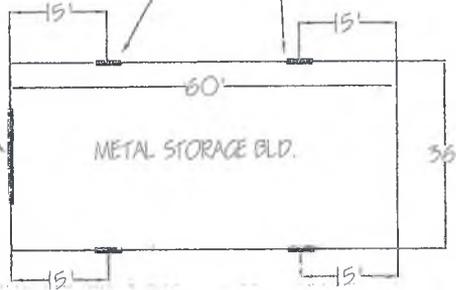


FOGGY RIVER ROAD

R/W

PL

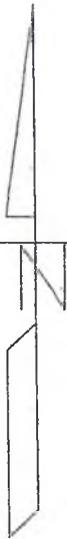
18' WIDE X 14' TALL  
OVERHEAD DOOR



INSTALL 3' WIDE X 1.5' TALL VENTS  
4 TOTAL AS INDICATED  
EACH VENT BASE MAX. 1' ABOVE FINISH FLOOR  
EACH VENT LOUVERED ON OUTSIDE AND  
WITH STEEL SCREEN ON INSIDE  
TYP.

FL

PL



NOT TO SCALE



4054 W. PAGE PLACE  
SPRINGFIELD, MO. 65802

TEL (417) 862-5684



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

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

© TATE ENGINEERING CONSULTANTS 2013

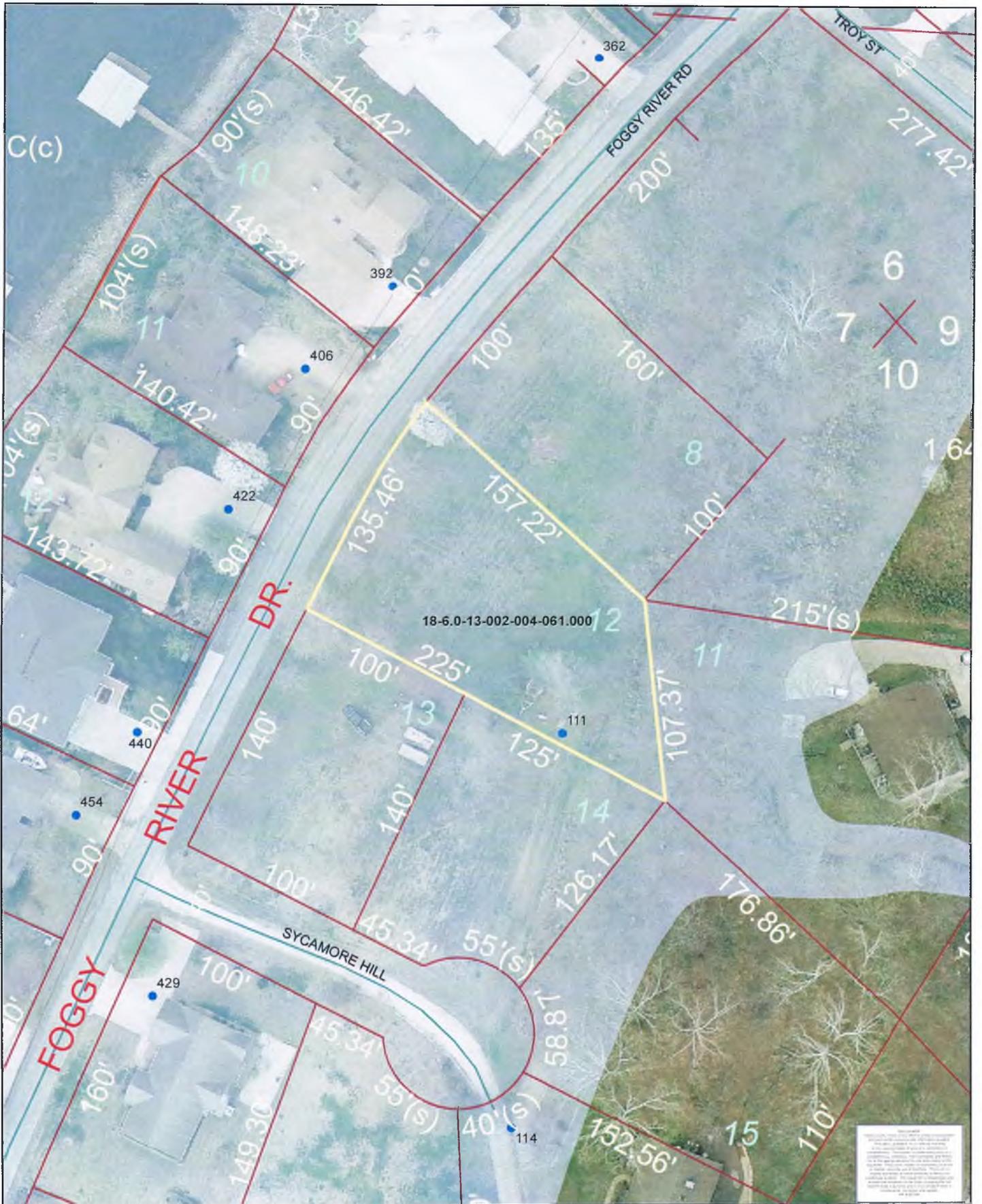
RALPH D. TATE, P. E. E-17940

Length: 617.9 feet  
Area: 0.465 acres





# BOA Gary Loyd



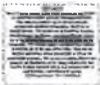


18-6.0-13-002-004-064.000  
18-6.0-13-002-004-064.000  
2 Foot Contours  
Taney County, Missouri

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



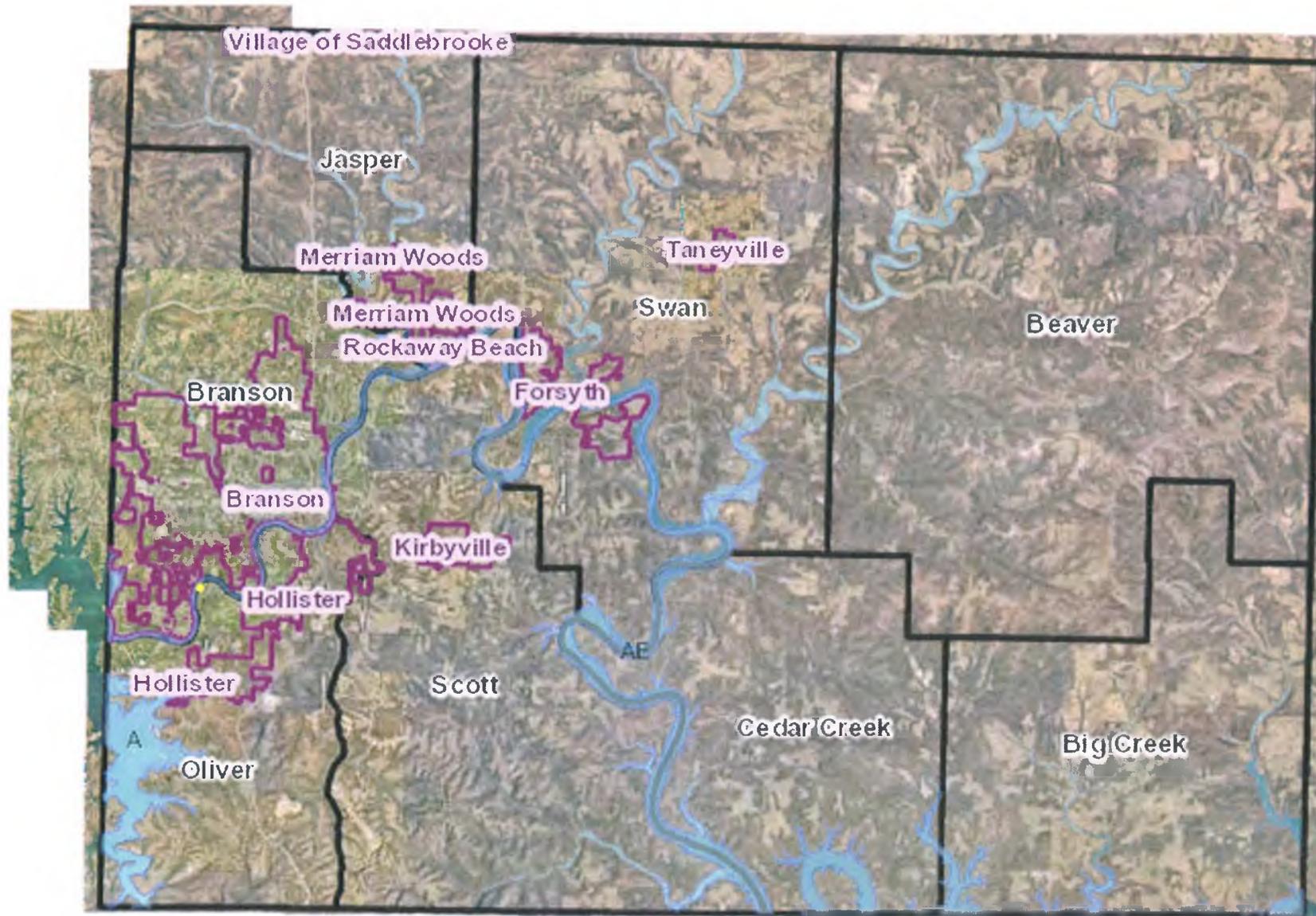
1 inch = 13.21 feet



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

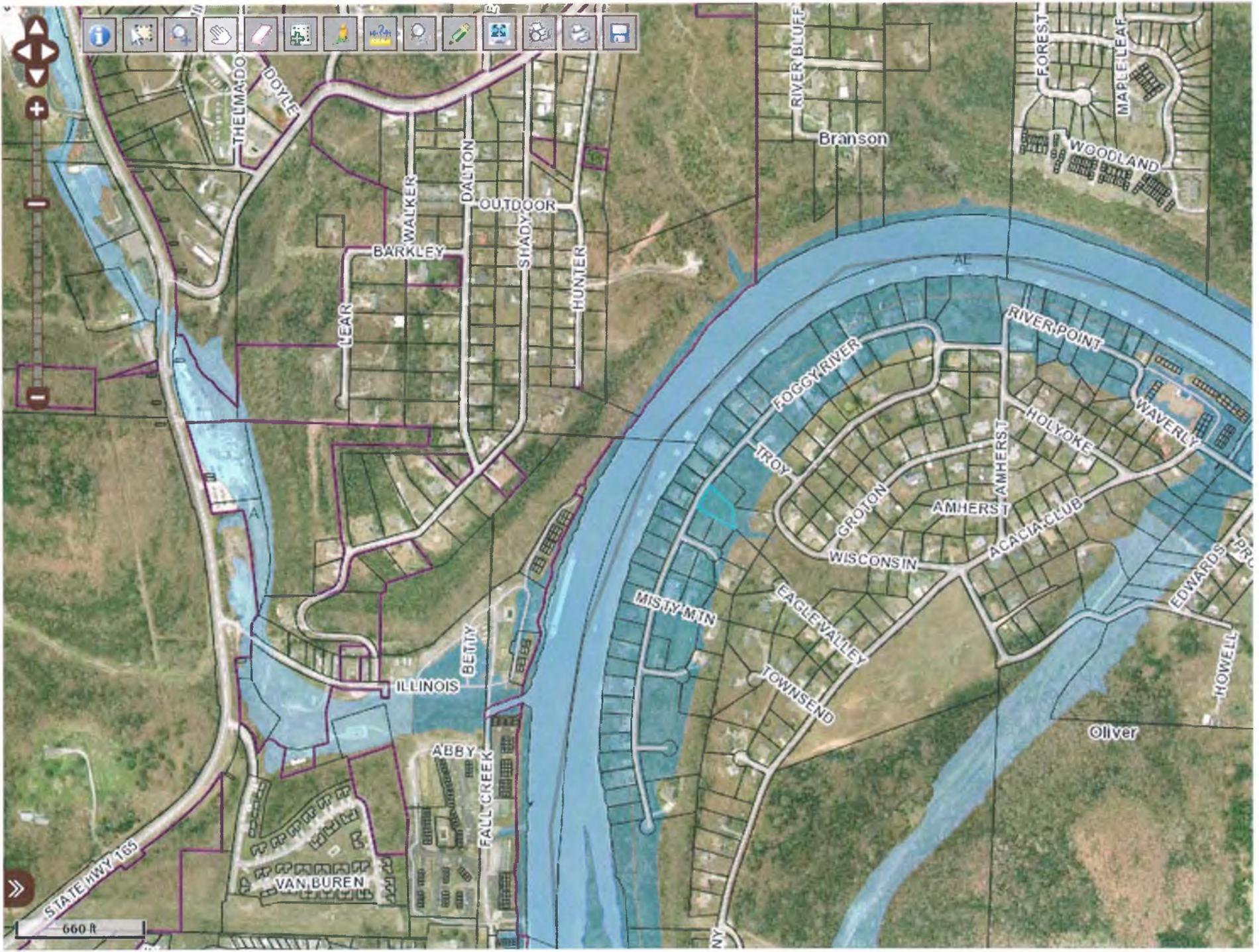


1 inch = 13.21 feet



**Gary & Trecie Loyd Floodplain Management Ordinance Variance Request  
415 Foggy River Road, Hollister, MO  
Taney County GIS - Beacon**





660 R

STATE HWY 165

THELMA DO

DOYLE

LEAR

BARKLEY

WALKER

DALTON

OUTDOOR

SHADY

HUNTER

Branson

RIVER BLUFF

FOREST

MAPLE LEAF

WOODLAND

AL

RIVER POINT

FOGGY RIVER

HOLYOKE

WAVERLY

TROY

GROTON

AMHERST

ACACIA CLUB

WISCONSIN

EDWARDS

HOWELL

MISTY MIN

EAGLE VALLEY

TOWNSEND

ILLINOIS

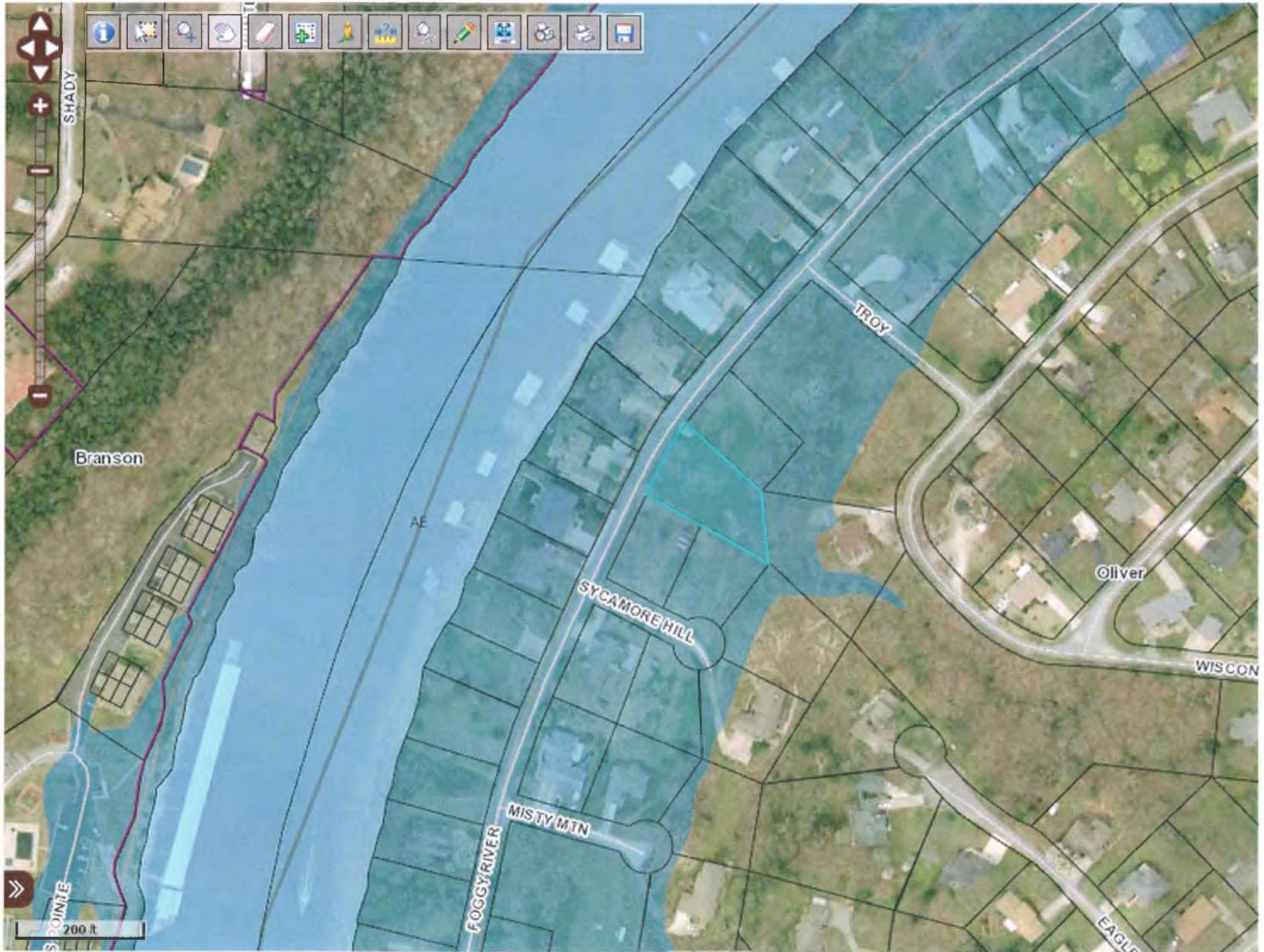
BETTY

ABBY

FALL CREEK

VAN BUREN

Oliver



200 ft

SHADY

Branson

AE

SYCAMORE HILL

TROY

Oliver

WISCON

MISTY MTN

FOGGY RIVER

EAGLE

POINTE



# NOTICE OF PUBLIC HEARING

## *THE TANEY COUNTY BOARD OF ADJUSTMENT*

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

Applicant: Gary & Tracie Loyd

Request: Variance from Floodplain  
Mgmt. Ord. Article 4 Sec. B1

Property Location: 415 Foggy River  
Road

Hearing Location: Taney County Courthouse

Time: 7:00pm Date: Wednesday, 11-19-14

Phone: (417) 546-7225

10/29/2014 13:11

**NOTICE**  
IN PUBLIC AREAS  
...  
...  
...

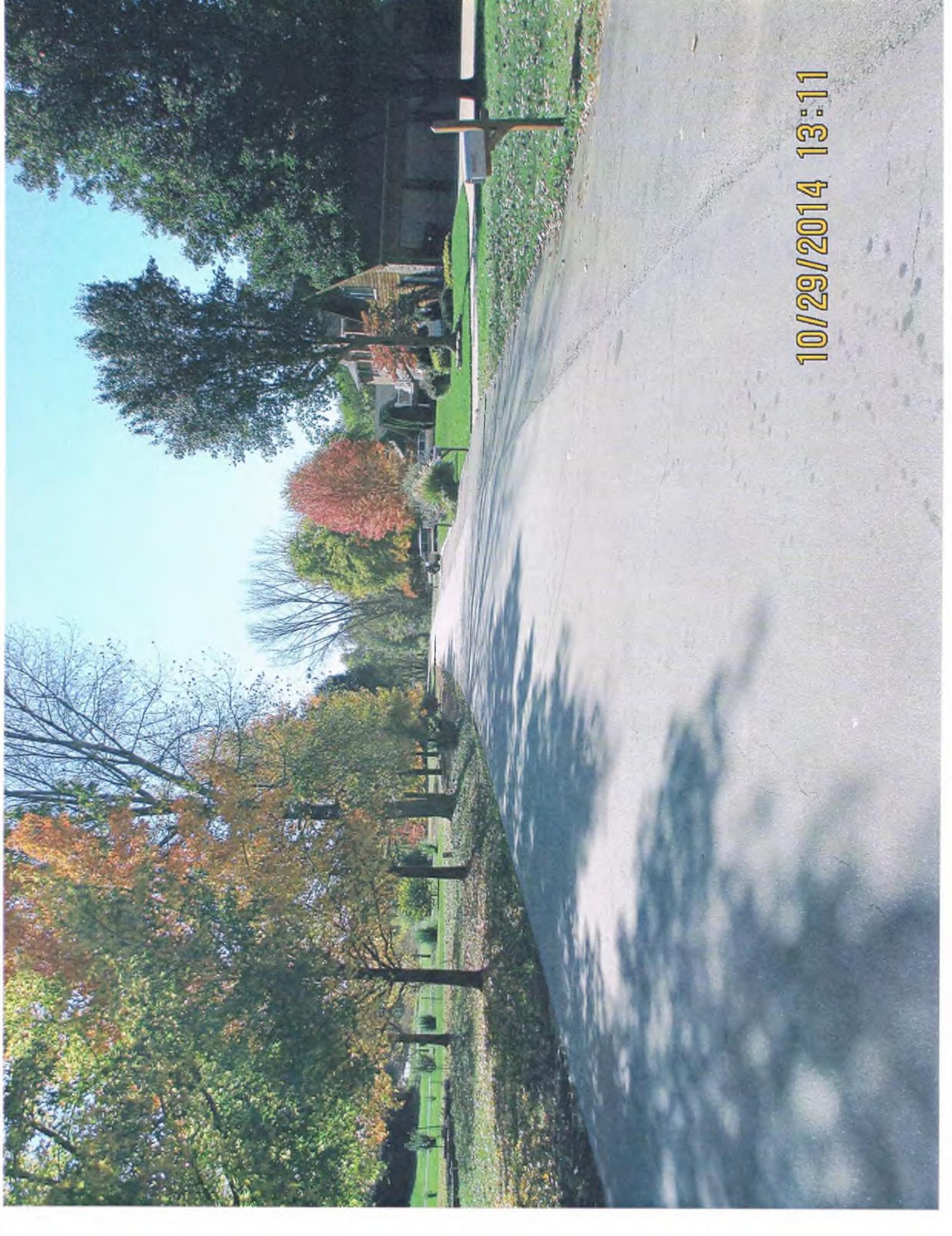


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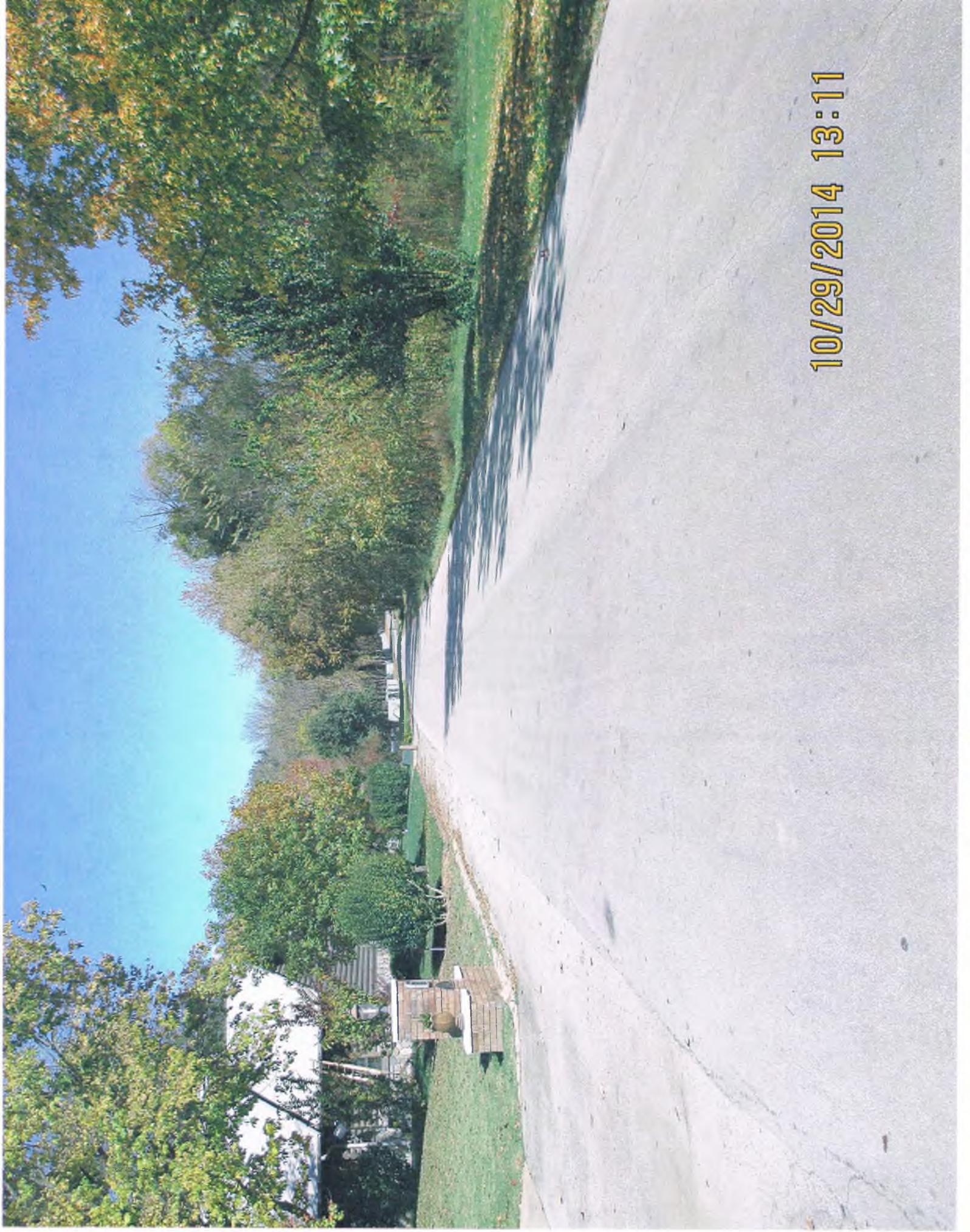
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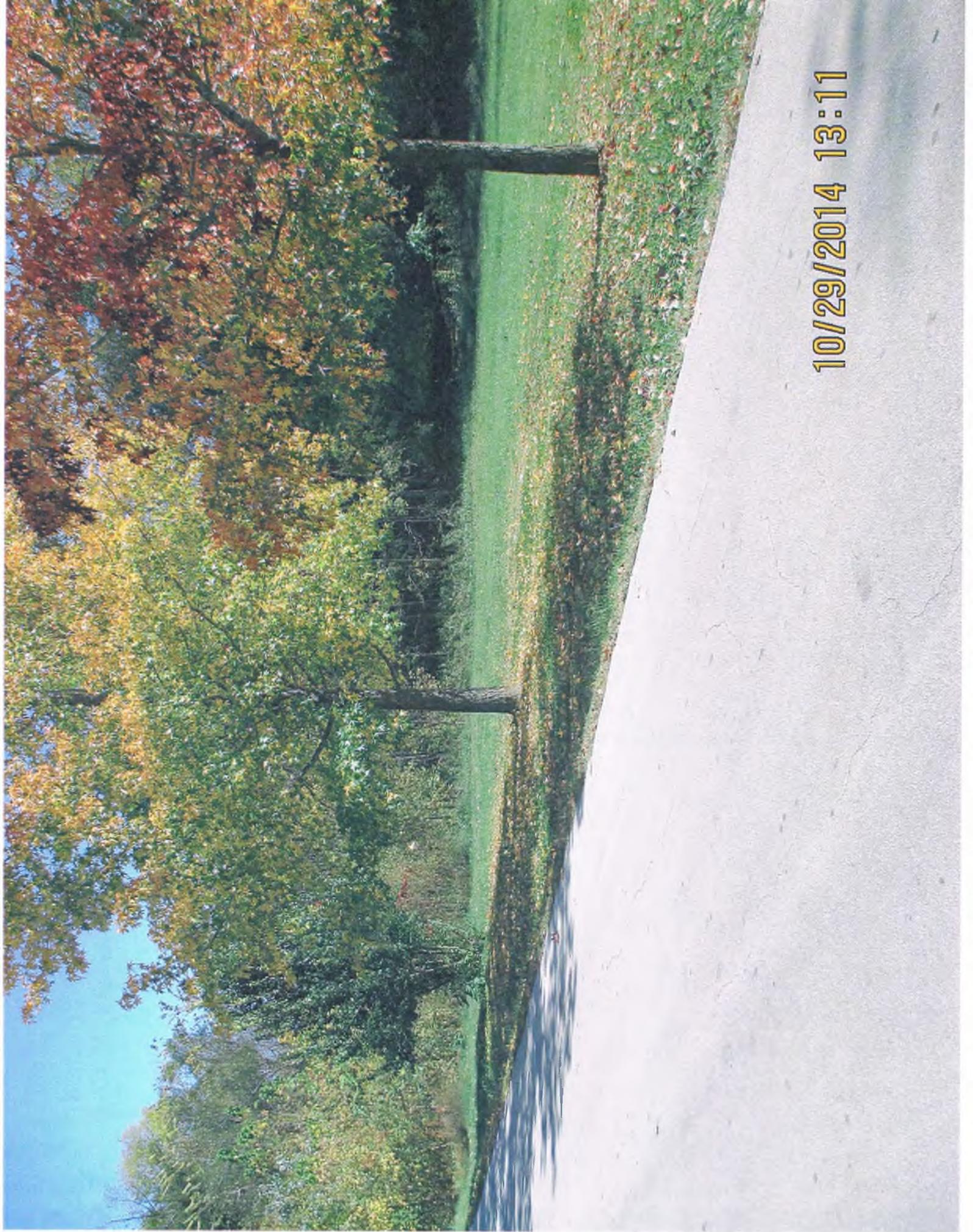
NOTICE



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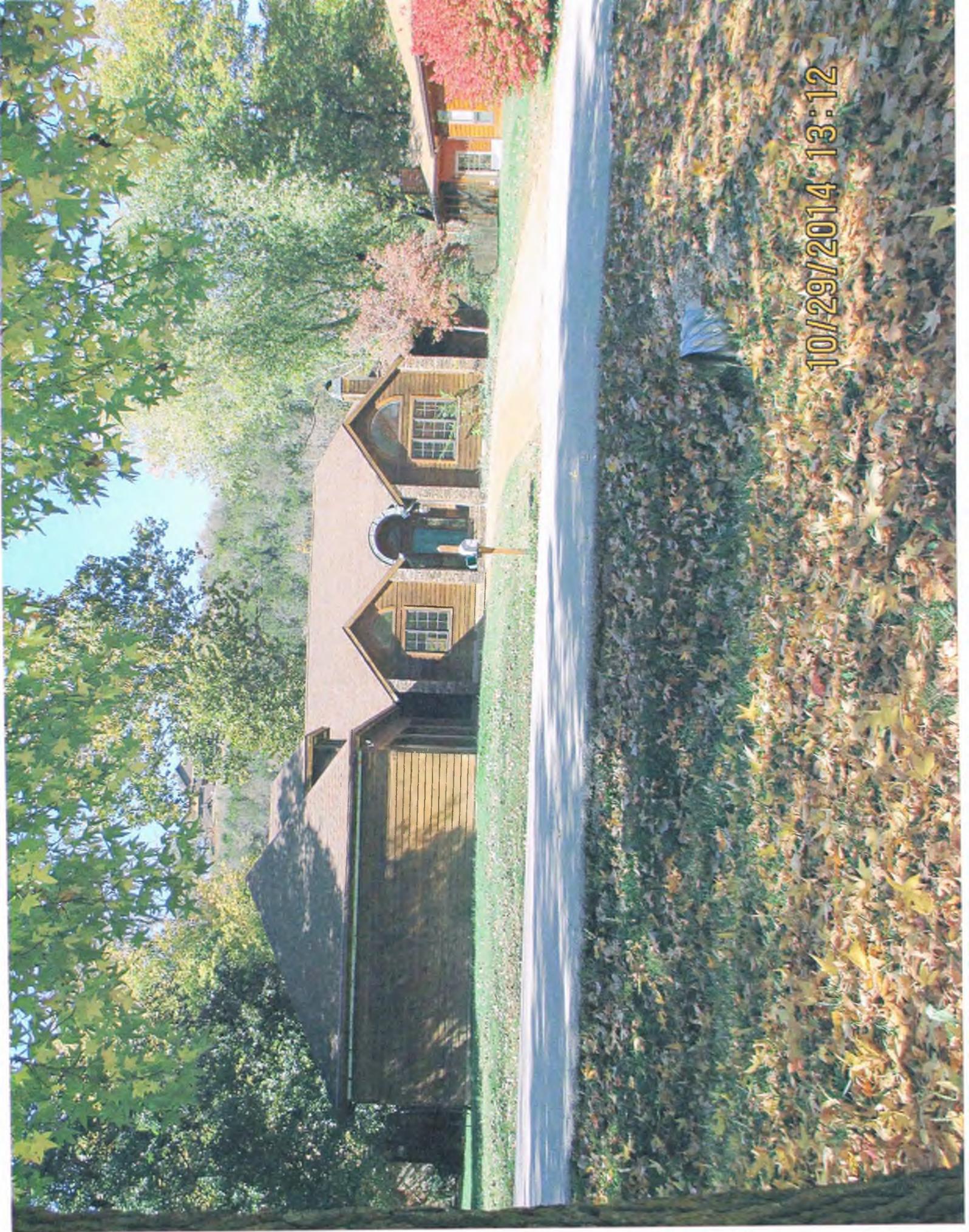
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