



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

AGENDA

TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, MARCH 16, 2016, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum

Election of 2016 Officers

Governing Statutes

Explanation of Public Hearing Procedures/Presentation of Exhibits

Public Hearings:

SMBZ, LLC, Appeal

Gary Deeke, Variance

Review and Action:

Minutes; December 16, 2015

Old and New Business:

Tentative

Adjournment.



TANEY COUNTY BOARD OF ADJUSTMENT APPEAL STAFF REPORT

HEARING DATE: March 16, 2016

CASE NUMBER: 2016-0001A

APPLICANT: SMBZ, LLC – Steve Creedon

REPRESENTATIVE: Tim Davis

LOCATION: The subject property is located on Jamie Court and Woodbridge Estates, Branson, MO; Scott Township; Section 33, Township 23, Range 21.

REQUEST: The applicant, SMBZ, LLC – Steve Creedon is seeking to appeal the Planning Commission's denial of Division III Permit Case # 2015-0022. The Division III Permit application sought Planning Commission approval, allowing the nineteen (19) lots within Woodbridge Estates, Phase 2 to be utilized for nightly rental.

BACKGROUND and SITE HISTORY:

On December 10, 2004 the Final Plat of Woodbridge Estates, Phase 1 was signed by the Planning Administrator and filed with the Recorder of Deeds Office, creating a two (2) lot subdivision.

On December 20, 2004 the Taney County Planning Commission approved Division III Permit # 2004-0064, authorizing the development of a forty-five (45) lot medium density residential subdivision, to be known as Woodbridge Estates.

On September 28, 2005 the Final Plat of Woodbridge Estates, Phase 2, was filed with the Recorder of Deeds Office, upon being signed by the Planning Administrator, creating a thirty-seven (37) lot subdivision.

On July 15, 2015 the Board of Adjustment approved a setback variance request by SMBZ, LLC – Steve Creedon. The Board approved a 15 foot setback variance allowing the future residences to be setback from the front property line adjoining Woodbridge Estates Drive and Jamie Court 10 feet.

On November 16, 2015 the Taney County Planning Commission denied Division III Permit Case # 2015-0022. The Planning Commission voted to deny this Division III Permit request by a unanimous vote. The Planning Commission based its decision to deny Case Number 2015-0022 upon the belief that the nightly rental of the nineteen

(19) future residences to be constructed upon Lots 20 through 38 of Woodbridge Estates, Phase 2 would **not** be compatible with the adjoining single-family residential uses within the neighboring subdivisions.

GENERAL DESCRIPTION:

The subject property is described as Lots 20 through 38 of Woodbridge Estates, Phase 2. All nineteen (19) subdivision lots in question are currently vacant.

REVIEW:

The applicant, SMBZ, LLC – Steve Creedon is appealing the November 16, 2015 decision of the Planning Commission to deny Division III Permit Case Number 2015-0022. This Division III Permit application sought the ability to market and ultimately utilize Lots 20 through 38 of Woodbridge Estates, Phase 2 (19 lots) for nightly rental.

The applicant argues that the Taney County Planning & Zoning Commission lacked authority to deny the request; and such denial is arbitrary, capricious, ultra vires and void. The applicant goes on to make the following arguments:

- “1. *The Records of the Taney County Commission do not show tat the county adopted the “current” Development Guidance Code. Both records of votes and text of the Code are missing.*
2. *Taney County never followed the statutory procedure to enact a zoning ordinance.*
3. *Even if Taney County could prove that it enact the “current” Development Guidance Code, the substance of the Code departs from the zoning ordinance authorized by state statute.*
5. *The substance of the “current” Code violates the sepeartion of powers because it delegates a legislative function to an administrative entity.”*

Per the provisions of RSMo 64.870, ***“The board of adjustment shall have the following powers and it shall be its duty:***

(1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official in the enforcement of the county zoning regulations”. However, the Board of Adjustment is **not** granted the authority via statute to determine whether the Planning Commission has the authority to deny the applicant’s request Division III Permit request. Nor is the Board of Adjustment granted the authority to make a determination regarding the validity of the Development Guidance Code. Only the court system is granted the authority to make a determination regarding the validity of the Development Guidance Code or to make a subsequent determination as to whether the Planning Commission has the authority to deny a Division III Permit request.

The applicants fourth argument states the following:

- “4. *Taney County’s application of the Development Guidance Code is inherently arbitrary and capricious.”* However, the applicant does not demonstrate exactly what factors he feels make the County’s application of the Development Guidance Code arbitrary and capricious.

The applicants final argument states the following:

“6. *Among specific complaints, the determination whether a project (including the one proposed) is compatible with the surrounding area is standardless and arbitrary because it depends largely on the reaction of neighbors, as well as, the identities of persons who might be in favor or opposed; and the conversations where local opinion is expressed tend to be informal off-the-record statements about which the applicant is never informed and which he or she has no opportunity to rebut.*”

In this case, the Board of Adjustment is tasked by statute strictly with making a determination as to whether or not the Planning Commission made an error of law in denying Division III Permit Case # 2015-0022 based upon the Planning Commission's unanimous belief that the nightly rental of the nineteen (19) future residences to be constructed upon Lots 20 through 38 of Woodbridge Estates, Phase 2 would **not** be compatible with the adjoining single-family residential uses within the neighboring subdivisions.

STATUTORY REQUIREMENTS OF APPROVAL OF AN APPEAL:

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

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

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

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

STAFF RECOMMENDATIONS:

If the Taney County Board of Adjustment approves the appeal of the Planning Commission's denial of Division III Permit Case Number 2015-0022, the following requirements shall apply, unless revised by the Board:

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. Compliance letters from the Western Taney County Fire Protection District, the Missouri Department of Revenue and the Taney County Regional Sewer District; including all other entities which have requirements governing a development of this nature shall be provided to the Planning Department office.(Chapter VI-VII)
3. A valid Missouri Department of Revenue Sales Tax License shall be provided to the Planning Department prior to the issuance of a Certificate of Compliance.
4. No outside storage of equipment or solid waste materials.
5. This decision is subject to all existing easements.
6. No residence constructed within Lots 20 through 38 of Woodbridge Estates, Phase 2 shall contain more than three (3) bedrooms.
7. All residences utilized for nightly rental shall accommodate (sleep) no more than two (2) persons per dwelling unit, plus two (2) persons per bedroom. The total occupancy may be further limited based upon the provisions of the Western Taney County Fire Protection District requirements and regulations.
8. A deed restriction shall be placed upon all deeds within Lots 20 through 38 of Woodbridge Estates, Phase 2, requiring all residences which are to be used for nightly rental to utilize a single property management company, meeting the minimum requirements of Appendix E, Section 4.7.14 of the Taney County Development Guidance Code. The language of said deed restrictions shall be reviewed by the Taney County Legal Department.
9. No boats, watercraft, trailers or recreational vehicles (RVs) shall be parked or stored on-site, upon any lot within Lots 20 through 38 of Woodbridge Estates, Phase 2, in conjunction with the nightly rental of the properties in question.
10. One (1) off-street parking space shall be provided for each two (2) persons of occupancy within each Nightly Rental cabin.
11. This Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Chapter II Item 6).

#16-1

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

(Circle one)

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

PLEASE PRINT **DATE** 22 January 2016

Applicant SMBZ, LLC Phone 417.294.4549

Address, City, State, Zip PO Box 1700, Hollister, MO 65673

Representative Tim Davis Phone 417.294.1083

Owner of Record SMBZ, LLC Signature: [Signature]

Name of Project: Woodbridge Estates

Section of Code Protested: (office entry) _____

Address and Location of site: Jaime Court & Woodbridge Estates Drive
Branson, Lots 20 to 38

Subdivision (if applicable) Woodbridge Estates

Section 33 Township 23 Range 21 Number of Acres or Sq. Ft. Lots 20 to 38

Parcel Number multiple parcel numbers 08-8.0-33-004-014-015.003 to .022

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

Required Submittals:

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

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

Describe in detail the reason for your request:

The Taney County Planning & Zoning Commission denied
SMBZ's request for a Division III Permit to operate
nightly rentals on Lots 20 to 38 of the Woodbridge Estates
Subdivision. The P & Z Commission lacked authority to
deny the request; and such denial is arbitrary, capricious,
ultra vires and void. Here is why:

1. The Records of the Taney County Commission do not show
that the county adopted the "current" Development Guidance
Code. Both records of votes and text of the Code are missing.
2. Taney County never followed the statutory procedures to
enact a zoning ordinance.
3. Even if Taney County could prove that it enacted the "current"
Development Guidance Code, the substance of the Code departs
from the zoning ordinance authorized by state statute.
4. Taney County's application of the Development Guidance Code
is inherently arbitrary and capricious.
5. The substance of the "current" Code violates the separation
of powers because it delegates a legislative function to an
administrative entity.

(appeal continued on next page)

Describe in detail the reason for your request:

(continued from page 2)

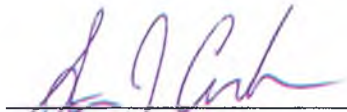
6. Among specific complaints, the determination whether a project (including the one proposed) is compatible with the surrounding area is standardless and arbitrary because it depends largely on the reaction of neighbors, as well as, the identities of persons who might be in favor or opposed; and the conversations where local opinion is expressed tend to be informal off-the-record statements about which an applicant is never informed and which he or she has no opportunity to rebut.

For all these reasons, the applicant SMBZ asks the Board of Zoning Adjustment to grant its request to use Lots 20 to 38 Woodbridge Subdivision, Phase II, for houses that are rented for periods of time less than 30 consecutive days.

Timothy Dain
Mo. Bar No. 57050

VERIFICATION

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



Signature of Applicant

1/25/16

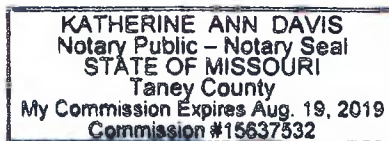
Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY)

S.S. On this 25 day of January, 2016

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

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





Bonita Kisse, Notary Public

THE FINAL PLAT WOODBIDGE ESTATES PHASE 2

LOCATED IN THE NE1/4 SE1/4
SEC. 33, T23N, R21W
OF THE 5th PRINCIPAL MERIDIAN
TANEY COUNTY, MISSOURI
OWNED AND DEVELOPED BY
THE LONG COMPANY

LAKE SHORE DRIVE ESTATES
PLAT BOOK 11, AT PAGE 17

POINT OF BEGINNING
EX. ALUM. MONUMENT
CAPPED LS 1450
NORTHEAST CORNER
NE1/4 SE1/4
SEC. 33, T23N, R21W

EAST LINE NE1/4 SE1/4

NEW POINT OF BEGINNING
EX. 1/2" IRON PIN
CAPPED LS 1450
SOUTHEAST CORNER
LOT 27 LAKE SHORE
DRIVE ESTATES

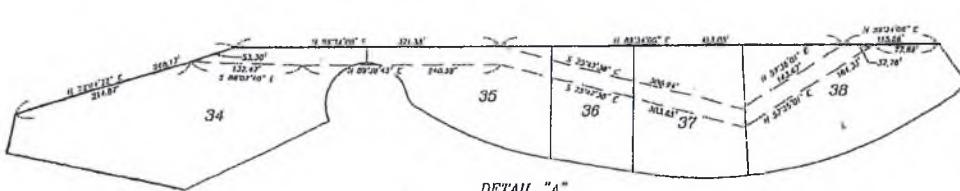
FILED

SEP 2 0 2005

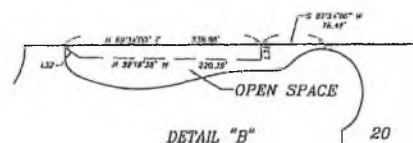
Robert A. Dixon
Recorder of Deeds
TANEY COUNTY

LINE	LENGTH	BEARING
L1	100.00	S 88°15'21" E
L2	20.00	S 12°39'11" E
L3	46.50	S 68°41'18" E
L4	14.22	N 76°01'49" E
L5	55.11	S 60°44'26" W
L6	5.00	S 08°30'23" W
L7	11.74	N 51°50'44" E
L8	28.00	N 88°34'00" E
L9	4.85	N 66°41'18" W
L10	44.92	N 76°01'49" E
L11	36.26	N 88°34'00" E
L12	9.51	N 88°34'00" E
L13	16.23	N 88°34'00" E
L14	20.67	S 56°19'29" W
L15	86.00	S 34°30'19" W
L16	25.02	N 02°32'44" W
L17	25.02	N 02°32'44" W
L18	25.02	N 02°32'44" W
L19	28.54	S 56°19'29" W
L20	4.11	N 68°41'18" W
L21	11.19	S 08°30'23" W
L22	18.06	N 02°32'44" W
L23	55.91	S 38°22'22" E
L24	150.21	S 00°18'09" W
L25	158.12	S 03°07'55" E
L26	78.60	N 31°25'24" W
L27	8.28	N 07°16'14" E
L28	19.01	S 05°40'22" W
L29	21.40	N 01°20'27" W

CURVE	LENGTH	RADIUS
C1	42.96'	200.00'
C2	31.00'	25.00'
C3	31.00'	25.00'
C4	25.11'	50.00'
C5	21.03'	25.00'
C6	21.03'	25.00'
C7	21.03'	25.00'
C8	10.77'	125.00'
C9	10.77'	125.00'
C10	10.77'	125.00'
C11	10.77'	125.00'
C12	10.77'	125.00'
C13	10.77'	125.00'
C14	10.77'	125.00'
C15	10.77'	125.00'
C16	10.77'	125.00'
C17	10.77'	125.00'
C18	10.77'	125.00'
C19	10.77'	125.00'
C20	10.77'	125.00'
C21	10.77'	125.00'
C22	10.77'	125.00'
C23	10.77'	125.00'
C24	10.77'	125.00'
C25	10.77'	125.00'
C26	10.77'	125.00'



DETAIL "A"



DETAIL "B"

Surveyor's Certification

I HEREBY CERTIFY THAT AT THE REQUEST OF:
LANCE LONG, THAT I HAVE MADE AN ACTUAL
AND ACCURATE SURVEY OF THE LAND DESCRIBED HEREON
AND FOUND THE CONDITIONS TO BE AS INDICATED. IN MY
OPINION THIS SURVEY WAS PERFORMED IN ACCORDANCE
WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR
PROPERTY BOUNDARY SURVEYS.

ALL PLATS THAT DO NOT SHOW
A SEAL IMPRINT IN BLUE INK
MAY HAVE BEEN FRAUDULENTLY
ALTERED. ALL INFORMATION
SHOULD BE DISREGARDED UNLESS
VERIFIED BY THE PROFESSIONAL
LAND SURVEYOR WHOSE SIGNATURE
APPEARS BELOW.

EDDIE D. WOLFE P.L.S. 2190

SECTIONAL MAP
R 21 W

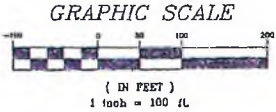
LEGEND
○ - SET IRON PIN
● - EX. 1/2" IRON PIN
□ - EXISTING STONE
△ - CORNER MONUMENT
○ - P.C., P.T., P.L.
— RIGHT-OF-WAY
— MARKER

DATE: 03-25-05
SCALE: 1" = 100'

Surveyed for
LANCE LONG

WOLFE SURVEYING, INC.
EDDIE D. WOLFE P.L.S. 2190
3000 Green Mountain Drive Suite 102-103 Benson, MO 65616
Phone: 417-334-8829 Fax: 417-334-5151

SHEET: 1 OF 2
DATE: 03-25-05
DRAWN BY: JLD
REV



THE FINAL PLAT WOODBRIDGE ESTATES PHASE 2

LOCATED IN THE NE1/4 SE1/4
SEC. 33, T23N, R21W
OF THE 5th PRINCIPAL MERIDIAN
TANEY COUNTY, MISSOURI
OWNED AND DEVELOPED BY
THE LONG COMPANY

FILED
SEP 28 2005
9:49 AM

FILED
SEP 28 2005
9:49 AM

SEP 28 2005

Robert A. Wolfe
Recorder of Deeds
TANEY COUNTY

LINE	LENGTH	BEARING
L1	100.38	S 88°32'23" W
L2	50.09	S 12°30'13" E
L3	46.50	S 66°41'18" E
L4	44.82	N 78°01'48" E
L5	55.53	S 60°44'28" W
L6	5.00	S 88°32'23" W
L7	53.74	N 54°38'14" W
L8	38.00	N 88°34'00" E
L9	4.85	N 66°41'18" W
L10	44.82	N 78°01'49" E
L11	26.86	N 88°46'30" E
L12	8.53	N 88°46'30" E
L13	18.75	N 88°46'30" E
L14	20.67	S 56°19'29" W
L15	68.05	S 34°30'19" W
L16	25.02	N 02°32'44" W
L17	25.02	N 02°32'44" W
L18	25.55	S 56°19'29" W
L19	4.85	N 66°41'18" E
L20	13.17	S 88°28'02" E
L21	18.06	N 02°32'44" W
L22	55.93	S 38°23'27" E
L23	150.23	S 00°18'09" W
L24	155.12	S 03°07'55" E
L25	78.62	N 31°25'24" W
L26	6.29	N 03°16'34" E
L27	18.01	S 00°30'22" W
L28	23.40	N 81°20'37" W

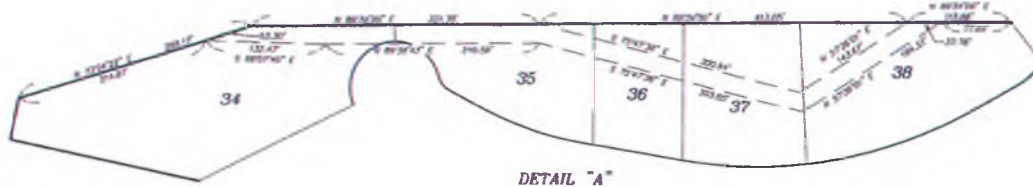
LIFT STATION AREA

LAKE SHORE DRIVE ESTATES
PLAT BOOK 11, AT PAGE 17

POINT OF BEGINNING
EX. ALLUM. MONUMENT
CAPPED 15 1458
NORTHWEST CORNER
NE1/4 SE1/4
SEC. 33, T23N, R21W

NEW POINT OF BEGINNING
EX. 1/2" IRON PIN
CAPPED 15 1458
SOUTHEAST CORNER
LOT 27 LAKE SHORE
DRIVE ESTATES

CURVE	LENGTH	RADIUS
C1	47.88'	200.00'
C2	31.00'	25.00'
C3	21.03'	25.00'
C4	21.03'	25.00'
C5	45.11'	50.00'
C6	21.03'	25.00'
C7	41.88'	175.00'
C8	10.11'	1281.38'
C9	13.44'	225.00'
C10	18.04'	355.00'
C11	10.67'	125.00'
C12	4.68'	175.00'
C13	7.51'	175.00'
C14	31.00'	25.00'
C15	13.86'	128.91'
C16	22.70'	128.91'
C17	30.42'	550.00'
C18	34.44'	550.00'
C19	26.39'	425.00'
C20	25.49'	425.00'
C21	21.03'	25.00'
C22	21.03'	25.00'
C23	17.46'	78.91'
C24	46.78'	78.91'
C25	10.77'	128.91'



DETAIL "A"



DETAIL "B"

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APPEARS BELOW

EDDIE D. WOLFE PLS. 2180

SECTIONAL MAP
N 21 W

LEGEND
 ○ SET IRON PIN
 ● EX. 1/2" IRON PIN
 □ EXISTING STONE
 1 CORNER MONUMENT
 2 P.C., P.T., P.L.
 3 RADIUS OF CURVE
 4 MARKER

BASE OF BEGINNING
SOUTH LINE NE1/4 SEC. 33, T23N, R21W

EAST LINE NE1/4 SEC. 33, T23N, R21W
BRG. = S 01°24'48" E

Surveyed for
LANCE LONG

WOLFE SURVEYING, INC.
EDDIE D. WOLFE PLS. 2180
3000 Green Mountain Drive Suite 102-103 Brownson, MO 65616
Phone: 417-334-8820 Fax: 417-334-5151

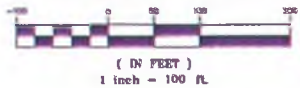
SHEET: 1 OF 2

DATE: 03-25-05

DWG: 0879PH2

REV:

GRAPHIC SCALE





TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

TANEY COUNTY PLANNING COMMISSION

DIVISION III PERMIT - DECISION OF RECORD

PROJECT: WOODBRIDGE ESTATES, PHASE 2 NIGHTLY RENTAL

APPLICANT: SMBZ, LLC – STEVE CREEDON

REPRESENTATIVE: TIM DAVIS

CASE NUMBER: 2015-0022

On November 16, 2015 the Taney County Planning Commission denied a Division III Permit request by SMBZ, LLC; seeking authorization to utilize Lots 20 through 38 of Woodbridge Estates, Phase 2 for nightly rental, located at Jamie Court and Woodbridge Estates Drive, Branson, MO. With seven (7) out of nine (9) Planning Commission members present, the Planning Commission voted to deny this Division III Permit request by a unanimous vote.

The following summarizes the Findings of Fact of the Taney County Planning Commission:

The Planning Commission based its decision to deny Case Number 2015-0022 upon the belief that the nightly rental of the nineteen (19) future residences to be constructed upon Lots 20 through 38 of Woodbridge Estates, Phase 2 would **not** be compatible with the adjoining single-family residential uses within the neighboring subdivisions.

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



**TANEY COUNTY PLANNING COMMISSION
DIVISION III SPECIAL-USE PERMIT
STAFF REPORT**

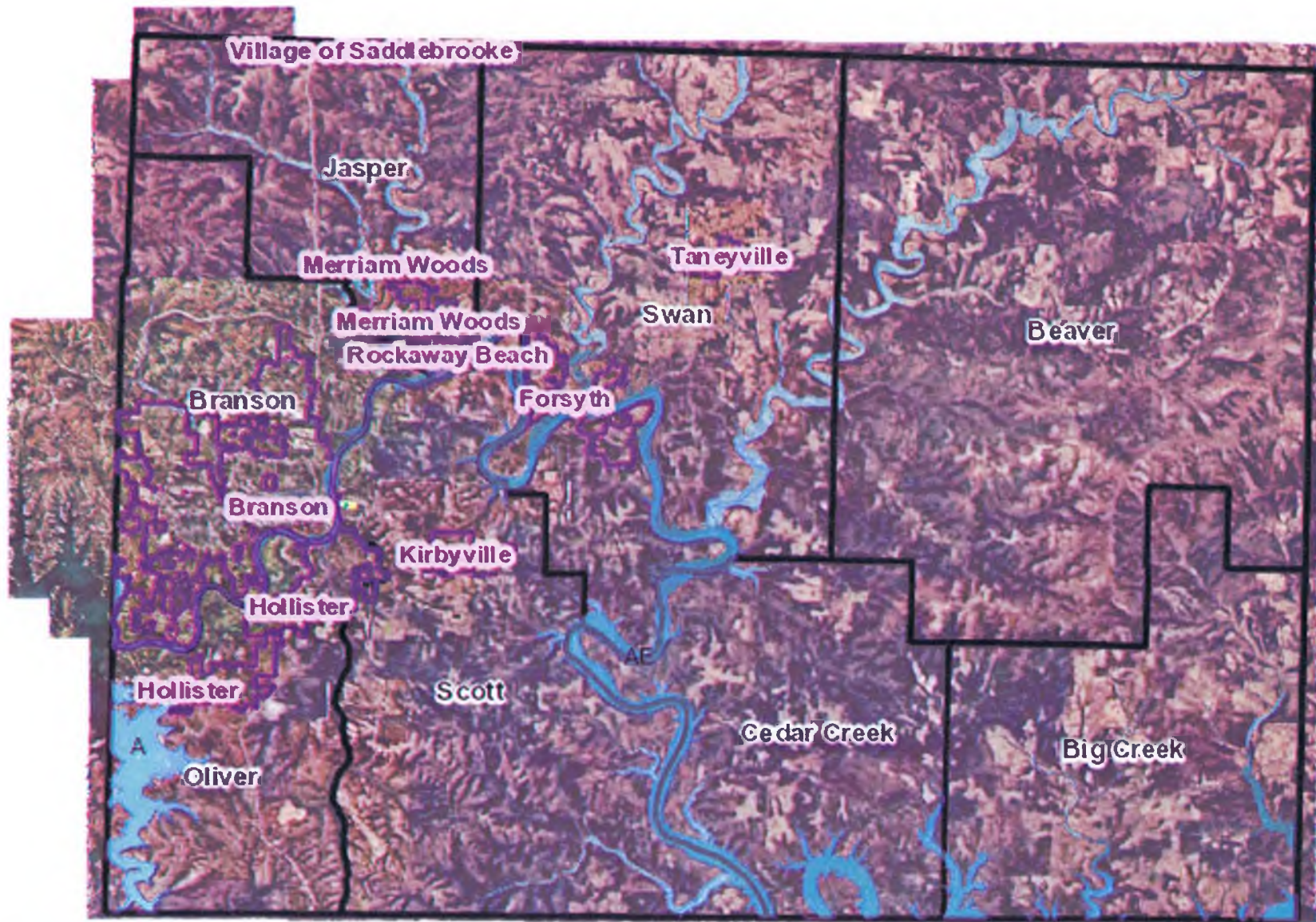
HEARING DATE: November 16, 2015

CASE NUMBER: 2015-0022

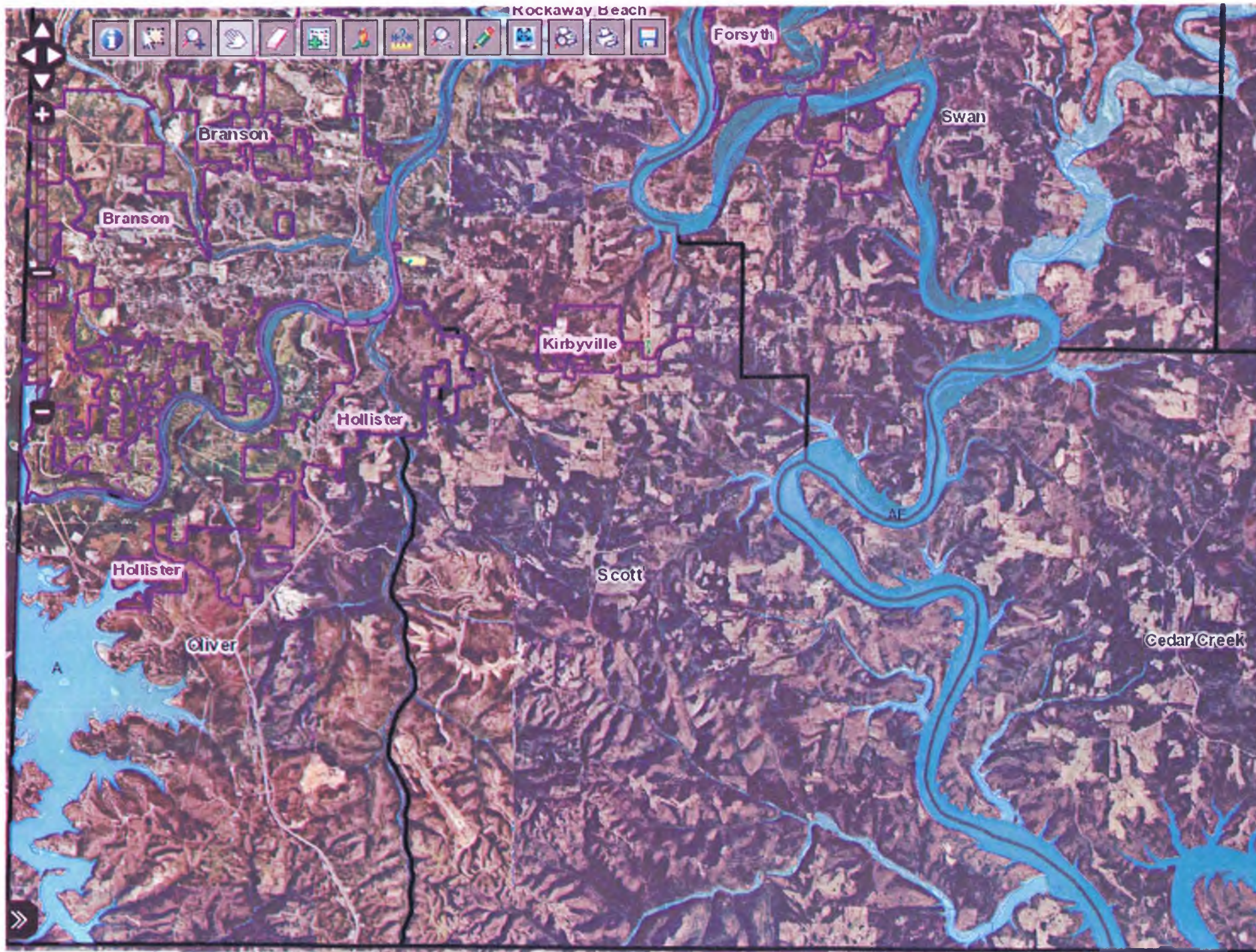
PROJECT: Woodbridge Estates, Phase 2 Nightly Rental

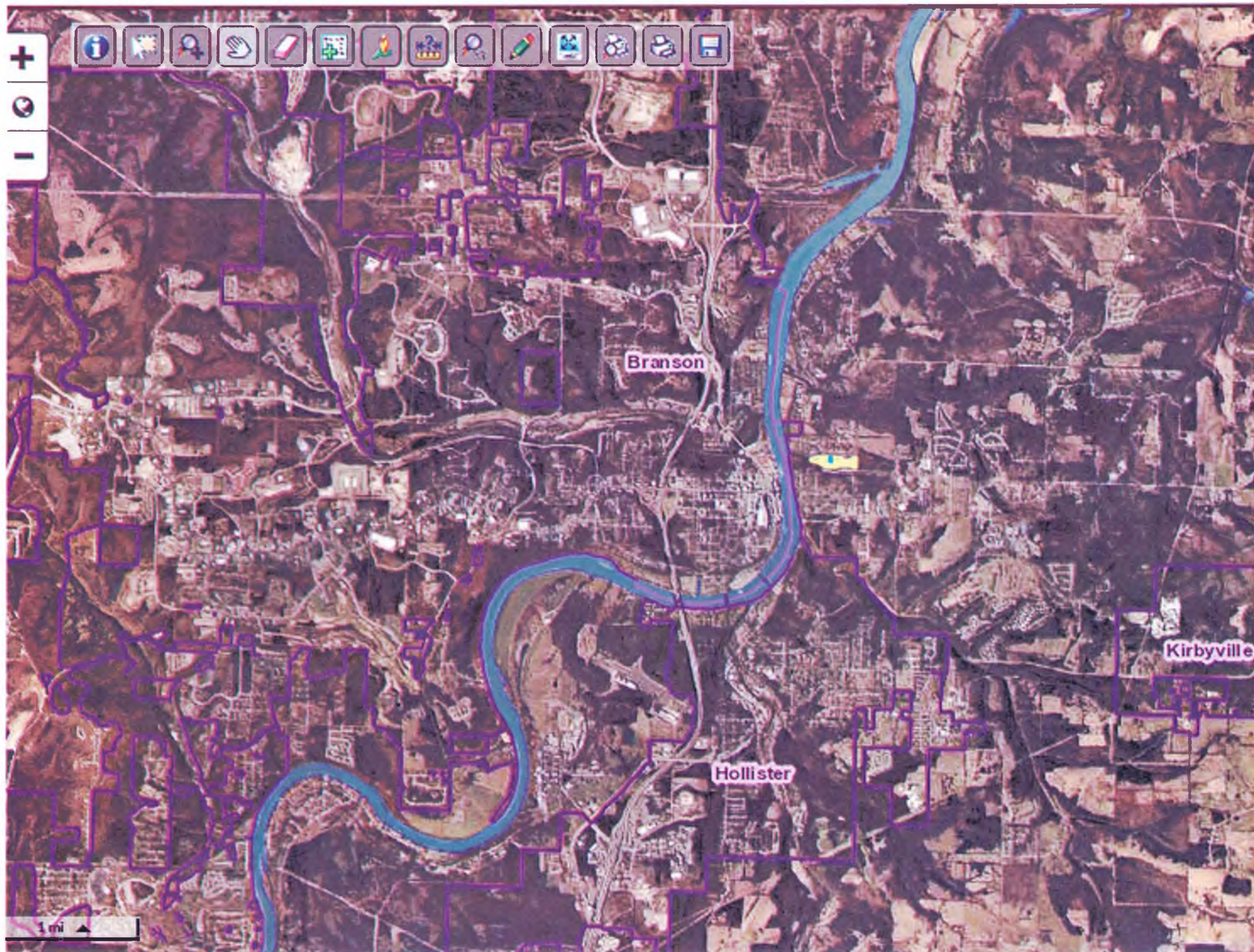
APPLICANT: SMBZ, LLC – Steve Creedon

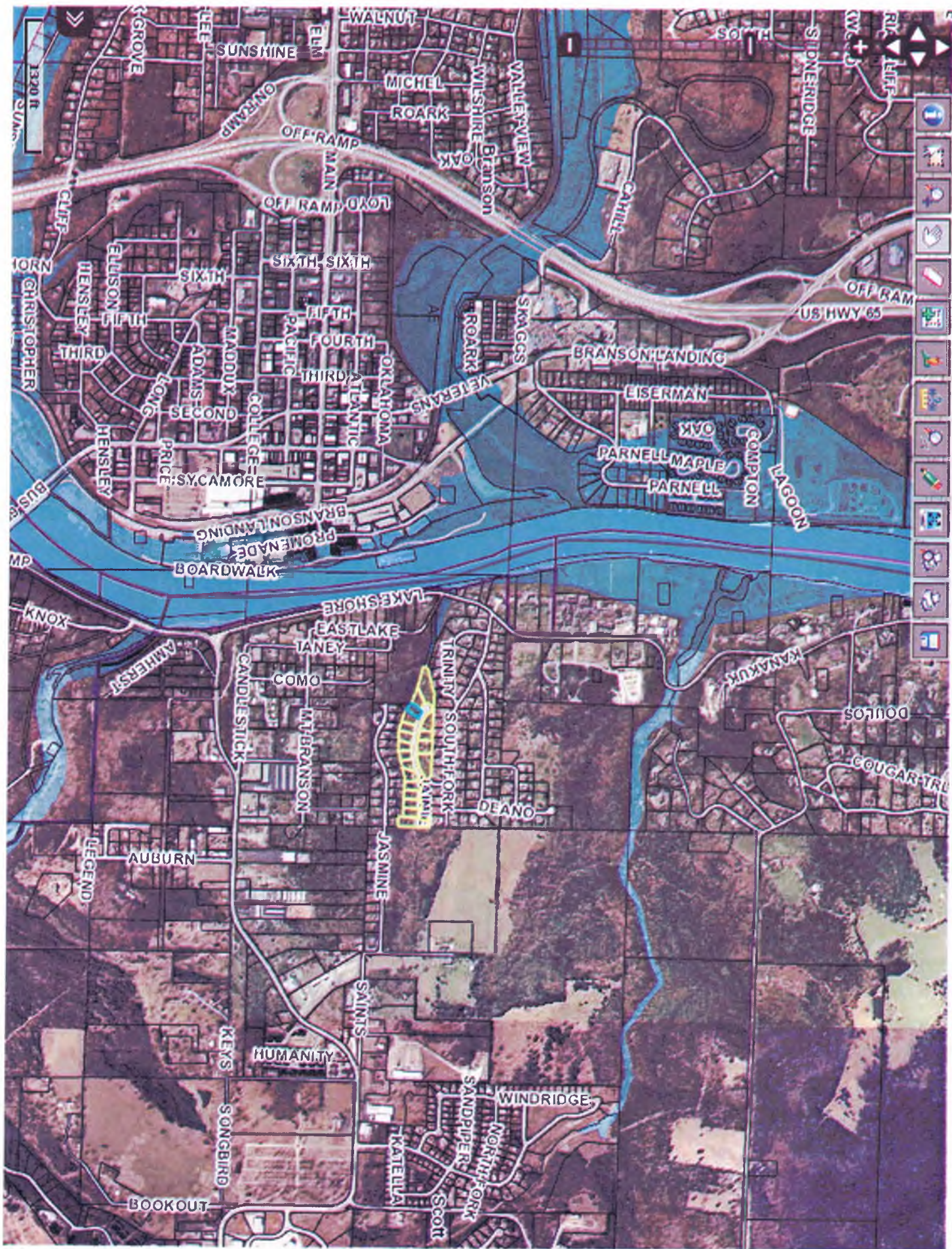
REPRESENTATIVE: Tim Davis

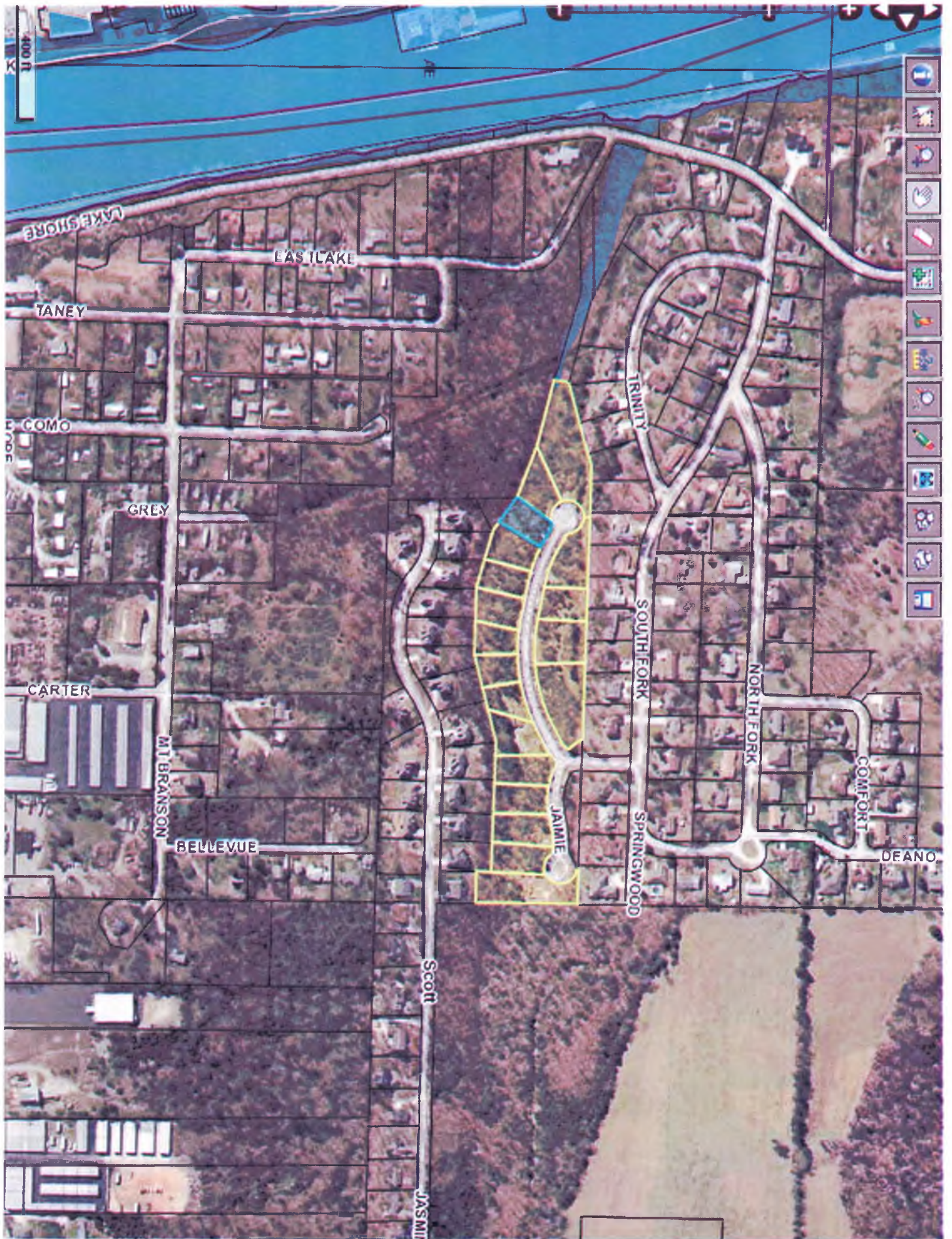


**Woodbridge Estates, Phase III Nightly Rental
Jamie Court & Woodbridge Estates, Branson, MO
Division III Permit Case # 2015-0022
Taney County GIS - Beacon**







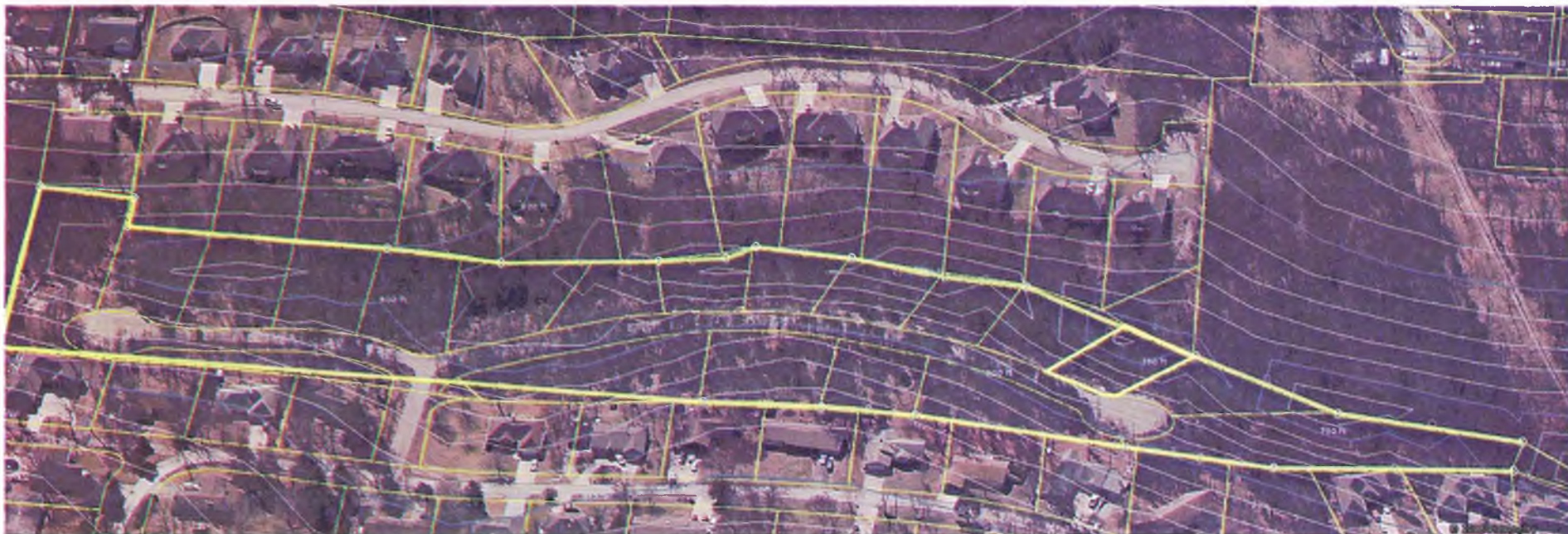




LOCATION:

- The subject property is located on Jamie Court and Woodbridge Estates Drive, Branson, MO
- Scott Township
- Section 33, Township 23, Range 21





**Woodbridge Estates, Phase III Nightly Rental
Jamie Court & Woodbridge Estates, Branson, MO
Division III Permit Case # 2015-0022
Pictometry – View from the North**



**Woodbridge Estates, Phase III Nightly Rental
Jamie Court & Woodbridge Estates, Branson, MO
Division III Permit Case # 2015-0022
Pictometry – View from the South**

**Woodbridge
Estates, Phase III
Nightly Rental
Jamie Court &
Woodbridge
Estates, Branson,
MO**

**Division III Permit
Case # 2015-0022
Pictometry – View
from the East**



**Woodbridge
Estates, Phase III
Nightly Rental
Jamie Court &
Woodbridge
Estates, Branson,
MO
Division III Permit
Case # 2015-0022
Pictometry – View
from the West**



**REQUEST:**

The applicant, SMBZ, LLC – Steve Creedon is seeking Planning Commission approval of a Division III Permit, allowing the nineteen (19) lots within Woodbridge Estates, Phase 2 to be utilized for nightly rental.

On December 10, 2004 the Final Plat of Woodbridge Estates, Phase 1 was signed by the Planning Administrator and filed with the Recorder of Deeds Office, creating a two (2) lot subdivision.

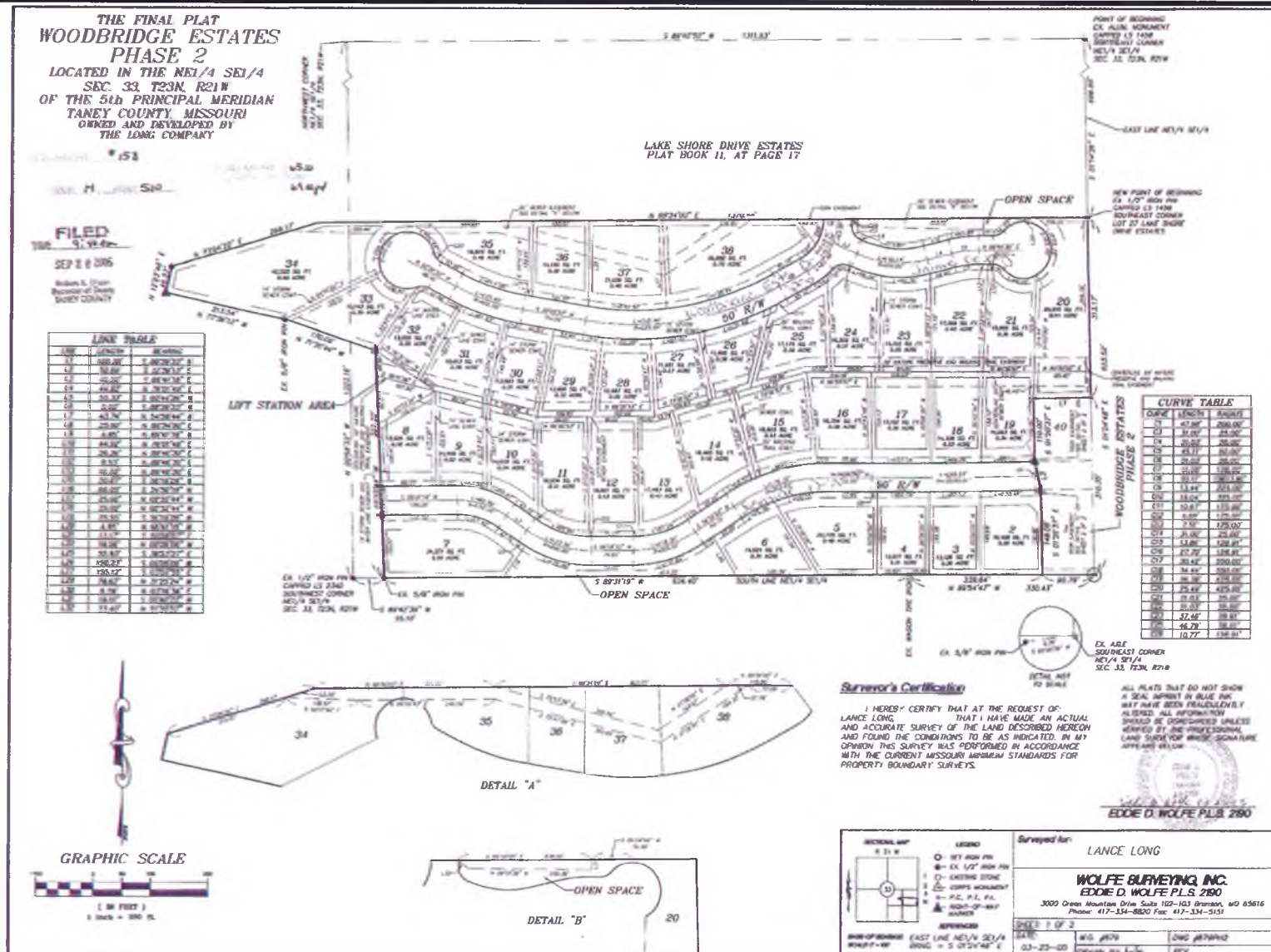
1. **INTRODUCTION AND DESCRIPTION OF PLAT**
 2. **DESCRIPTION OF LAND**
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BACKGROUND and SITE HISTORY Continued:

On December 20, 2004 the Taney County Planning Commission approved Division III Permit # 2004-0064, authorizing the development of a forty-five (45) lot medium density residential subdivision, to be known as Woodbridge Estates.

BACKGROUND and SITE HISTORY Continued:

On September 28, 2005 the Final Plat of Woodbridge Estates, Phase 2, was filed with the Recorder of Deeds Office, upon being signed by the Planning Administrator, creating a thirty-seven (37) lot subdivision.



BACKGROUND and SITE HISTORY Continued:

On July 15, 2015 the Board of Adjustment approved a setback variance request by SMBZ, LLC – Steve Creedon. The Board approved a 15 foot setback variance allowing the future residences to be setback from the front property line adjoining Woodbridge Estates Drive and Jamie Court 10 feet.

The current application was approved for Concept on October 19, 2015.

GENERAL DESCRIPTION:

The subject property is described as Lots 20 through 38 of Woodbridge Estates, Phase 2. The applicant is seeking the ability to market and ultimately utilize all nineteen (19) lots for nightly rental.



REVIEW:

The Taney County Development Guidance Code defines nightly rental as “A residential building, structure, or part thereof that may be rented for any period of time less than thirty (30) calendar days, counting portions of days as full days.” Therefore, the applicant would have the ability to rent the residence for a period of thirty (30) days or greater.

The applicant is seeking nightly rental as a Division III commercial use. Per the provisions of Appendix P, Section 8, “Nightly rentals are a commercial use and must be permitted as such. Nightly rentals constitute any condominium or townhouse that may be rented for any period of time less than 30 days in duration. Assurance of classification will be made through the filling of restrictive covenants when the plat is recorded.”



REVIEW Continued:

Per the nightly rental provisions of the Development Guidance Code, “The maximum occupancy for a Nightly Rental shall be two (2) persons per dwelling unit, plus two (2) persons per bedroom.” The staff recommends that if the Planning Commission approves this request that a condition be placed on the approval requiring lot owners to abide by this condition.



REVIEW Continued:

The nineteen (19) lots will be served with public sewer via the Taney County Regional Sewer District and public water via Taney County Public Water Supply District # 2.

REVIEW Continued:

The access for Woodbridge Estates, Phase 2 is provided via Southfork Drive, off of Lake Shore Drive, within the Lake Shore Drive Estates Subdivision.

Per the nightly rental provisions of the Development Guidance Code, “One (1) off-street parking space shall be provided for each two (2) persons of occupancy in a Nightly Rental.” The staff recommends that if the Planning Commission approves this request that a condition be placed on the approval requiring lot owners to abide by these minimum parking requirements.



REVIEW Continued:

The adjoining property immediately to the north is the Lake Shore Drive Estates Subdivision. The adjoining property immediately to the south is the remainder of Woodbridge Estates, Phase 2, with the Mount Branson – McFarland Addition being located further to the south. The adjoining property immediately to the east and west is vacant.



REVIEW Continued:

The project received a total score of -4 on the Policy Checklist, out of a maximum possible score of 41. The relative policies receiving a negative score consist of emergency water supply, solid waste disposal service, use compatibility, utilities and traffic.

STAFF RECOMMENDATIONS:

If the Taney County Planning Commission approves Division III Permit # 2015-0022, the following requirements shall apply, unless revised by the Planning Commission:

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. Compliance letters from the Western Taney County Fire Protection District, the Missouri Department of Revenue and the Taney County Regional Sewer District; including all other entities which have requirements governing a development of this nature shall be provided to the Planning Department office.(Chapter VI-VII).
3. A valid Missouri Department of Revenue Sales Tax License shall be provided to the Planning Department prior to the issuance of a Certificate of Compliance.
4. No outside storage of equipment or solid waste materials.
5. This decision is subject to all existing easements.
6. No residence constructed within Lots 20 through 38 of Woodbridge Estates, Phase 2 shall contain more than three (3) bedrooms.
7. All residences utilized for nightly rental shall accommodate (sleep) no more than two (2) persons per dwelling unit, plus two (2) persons per bedroom. The total occupancy may be further limited based upon the provisions of the Western Taney County Fire Protection District requirements and regulations.

STAFF RECOMMENDATIONS Continued:

If the Taney County Planning Commission approves Division III Permit # 2015-0022, the following requirements shall apply, unless revised by the Planning Commission:

8. A deed restriction shall be placed upon all deeds within Lots 20 through 38 of Woodbridge Estates, Phase 2, requiring all residences which are to be used for nightly rental to utilize a single property management company, meeting the minimum requirements of Appendix E, Section 4.7.14 of the Taney County Development Guidance Code. The language of said deed restrictions shall be reviewed by the Taney County Legal Department.
9. No boats, watercraft, trailers or recreational vehicles (RVs) shall be parked or stored on-site, upon any lot within Lots 20 through 38 of Woodbridge Estates, Phase 2, in conjunction with the nightly rental of the properties in question.
10. One (1) off-street parking space shall be provided for each two (2) persons of occupancy within each Nightly Rental cabin.
11. This Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Chapter II Item 6).

Woodbridge Estates, Phase II Nightly Rental		Permit#:	15-22		
Division III Relative Policy Scoring Sheet: Eastern Taney County		Performance Value	Importance Factor	Score	Section Score
Water Quality					
SEWAGE DISPOSAL	n/a=				
centralized system		2	5	2	10
on-site treatment system(s) with adequate safeguards to mitigate pollution		1			
septic system of adequate design and capacity		0			
proposed system may not provide adequate capacity		-1			
proposed solution may cause surface and/or ground water pollution		-2			
Environmental Policies					
STORM DRAINAGE	n/a=	x			
on-site stormwater retention and absorption with engineered plans		2	4		
on-site stormwater retention and absorption without engineered plans		1			
stormwater retention with managed and acceptable run-off		0			
no stormwater retention, but adverse impacts from run-off have been mitigated		-1			
no acceptable management and control of stormwater run-off		-2			
AIR QUALITY	n/a=	x			
cannot cause impact		0	4		
could impact but appropriate abatement installed		-1			
could impact, no abatement or unknown impact		-2			
Critical Areas					
PRESERVATION OF CRITICAL AREAS	n/a=	x			
no adverse impact to any designated critical area		2	3		
one of the designated critical areas impacted but can be fully mitigated		1			
more than one of the designated critical areas impacted but can be fully mitigated		0			
one or more of the designated critical areas impacted and mitigation not fully effective		-1			
one or more of the designated critical areas impacted with no ability to mitigate problem		-2			
Land Use Compatibility					
OFF-SITE NUISANCES	n/a=				
no issues		2	4	0	0
minimal issues, but can be fully mitigated		1			
issues that can be buffered and mitigated to a reasonable level		0			
buffered and minimally mitigated		-1			
cannot be mitigated		-2			
USE COMPATIBILITY	n/a=				
no conflicts / isolated property		0	4	-1	-4
transparent change / change not readily noticeable		-1			
impact readily apparent / out of place		-2			

Woodbridge Estates, Phase II Nightly Rental		Permit#:		15-22	
Division III Relative Policy Scoring Sheet: Eastern Taney County		Performance Value	Importance Factor	Score	Section Score
STRUCTURAL SCREENING OF ROOFTOP EQUIPMENT & VENTS		n/a=	x		
no rooftop equipment / vents or blocked from view by structure design or screening			0	3	
partially blocked from view			-1		
exposed / not blocked from view			-2		
STRUCTURAL SCREENING OF SOLID WASTE CONTAINERS		n/a=	x		
no on-site waste containers or blocked from view by structure design or screening			0	3	
partially blocked from view			-1		
exposed / not blocked from view			-2		
STRUCTURAL SCREENING OF OUTDOOR EQUIP, STORAGE, ETC.		n/a=	x		
no outdoor storage of equipment, materials, etc., or outdoor work areas			2	3	
blocked from view by structure design			1		
blocked from view using screening			0		
partially blocked from view			-1		
exposed / not blocked from view			-2		
LANDSCAPED BUFFERS -- RESIDENTIAL		n/a=	x		
approved landscaped buffer between homes and all streets / roads / highways			2	2	
approved landscaped buffer from major roads / highways only			1		
minimal landscaped buffer, but compensates with expanse of land			0		
no landscaped buffer between residences and local streets			-1		
no landscaped buffer from any road			-2		
LANDSCAPED BUFFERS - INDUSTRIAL		n/a=	x		
approved landscaped buffer from public roads			0	3	
minimal landscaped buffer, but compensates with expanse of land			-1		
no landscaped buffer from public roads			-2		
Local Economic Development					
AGRICULTURAL LANDS		n/a=	x		
no conversion of Class I-IV agricultural land to other use(s)			0	1	
development requires reclassification of Class I-IV agricultural land to other use(s)			-2		
RIGHT TO FARM		n/a=	x		
does not limit existing agricultural uses / does not cause nuisance, predation			0	3	
does not limit existing agricultural uses, but may result in minor nuisance			-1		
potential impact(s) on existing agricultural land			-2		
RIGHT TO OPERATE		n/a=	x		
no viable impact on existing industrial uses by residential development			0	2	
potential impact but can be mitigated			-1		
potential impact on existing industrial uses with no mitigation			-2		

Woodbridge Estates, Phase II Nightly Rental		Permit#:		15-22	
Division III Relative Policy Scoring Sheet: Eastern Taney County		Performance Value	Importance Factor	Score	Section Score
DIVERSIFICATION		n/a=	x		
creates >=5 full-time, year-round jobs outside of recreation / resort sector		2	4		
creates full-time, year-round and seasonal jobs		1			
creates seasonal jobs only		0			
Site Planning, Design, Occupancy					
RESIDENTIAL PRIVACY		n/a=			
privacy provided by structural design, or not applicable		2	2	0	0
privacy provided by structural screening		1			
privacy provided by landscaped buffers		0			
privacy provided by open space		-1			
no acceptable or effective privacy buffering		-2			
MIXED-USE DEVELOPMENTS		n/a=	x		
uses / functions are compatible or not applicable		2	3		
uses / functions are integrated and separated based on compatibility		1			
uses / functions differ minimally and are not readily apparent		0			
uses / functions poorly integrated or separated		-1			
uses / functions mixed without regard to compatibility factors		-2			
Commercial Development					
DEVELOPMENT PATTERN / BUFFERING		n/a=	x		
approved and effectively designed landscaped buffers between structures and all roads		2	4		
minimal landscaped buffering, but compensates with expanse of land		1			
minimal landscaped buffering		0			
no landscaped buffering, but utilizes expanse of land		-1			
no or inadequate buffering or separation by land		-2			
Services - Capacity and Access					
UTILITIES		n/a=			
adequate utilities capacity as evidenced by letter from each utility		0	4	-1	-4
adequate utilities capacity without formal letter from each utility or not from all utilities		-1			
inadequate information to determine adequacy of utilities		-2			
TRAFFIC		n/a=			
no impact or insignificant impact on current traffic flows		0	2	-1	-2
traffic flow increases expected but manageable using existing roads and road accesses		-1			
traffic flow increases exceed current road capacities		-2			
EMERGENCY SERVICES		n/a=	x		
structure size and/or access can be serviced by emergency equipment		0	3		
structure size and/or access may impede but not hinder serviceability		-1			
structure size and/or access could be problematic or non-serviceable		-2			

Woodbridge Estates, Phase II Nightly Rental		Permit#:		15-22	
Division III Relative Policy Scoring Sheet: Eastern Taney County		Performance Value	Importance Factor	Score	Section Score
RIGHT-OF-WAY OF EXISTING ROADS		n/a=			
greater than 50 ft. right-of-way	1	5	0	0	
50 ft. right-of-way	0				
40 ft. right-of-way	-1				
less than 40 ft. right-of-way	-2				
Internal Improvements					
WATER SYSTEMS		n/a=			
central water system meeting DNR requirements for capacity, storage, design, etc.	2	3	2	6	
community well / water system meeting DNR requirements	1				
private wells meeting DNR requirements	0				
private wells not meeting any established standards	-1				
individual / private wells	-2				
EMERGENCY WATER SUPPLY		n/a=			
fire hydrant system throughout development with adequate pressure and flow	0	5	-1	-5	
fire hydrant system with limited coverage	-1				
no fire hydrant system	-2				
PEDESTRIAN CIRCULATION		n/a=	x		
paved and dedicated walkways (no bicycles) provided throughout development	2	4			
paved walkways provided throughout development / maybe shared with bicycles	1				
designated walkways provided but unpaved	0				
no pedestrian walkways, but green space provided for pedestrian use	-1				
no designated pedestrian walkway areas	-2				
PEDESTRIAN SAFETY		n/a=	x		
separation of pedestrian walkways from roadways by landscape or structural buffer	2	2			
separation of pedestrian walkways from roadways by open land buffer	1				
pedestrian walkways abut roadways with no buffering / protection	0				
BICYCLE CIRCULATION		n/a=	x		
dedicated / separate bike-ways with signage, bike racks, trails	2	1			
bicycle lanes shared with pedestrian walkways but separated by markings / signs	1				
no designated bike-ways	0				
UNDERGROUND UTILITIES		n/a=			
all utilities are provided underground up to each building / structure	2	4	0	0	
all utilities traverse development underground but may be above ground from easement	1				
utilities above ground but / over designated easements	0				
utilities above ground and not within specific easements	-1				
no specific management of utilities	-2				

Woodbridge Estates, Phase II Nightly Rental		Permit#:		15-22			
Division III Relative Policy Scoring Sheet: Eastern Taney County		Performance Value	Importance Factor	Score	Section Score		
		Open-Space Density					
		USABLE OPEN SPACE	n/a=	x			
		residential developments (>25 units) include more than 25% open recreational space		2	2		
		residential developments (>25 units) offer >10% but <25% open recreational space		1			
recreational area provided, but highly limited and not provided as open space		0					
no designated recreational space provided, but open space available		-1					
no open recreational space provided		-2					
Solid Waste Disposal							
SOLID WASTE DISPOSAL SERVICE AVAILABILITY		n/a=					
weekly service is available and documentation of availability provided		0	5	-1	-5		
weekly service reportedly available but not documented		-1					
centralized, on-site trash collection receptacles available		-2					
SOLID WASTE DISPOSAL SERVICE COMMITMENT		n/a=	x				
restrictive covenants provide for weekly disposal for each occupied structure		0	5				
services available but not a requirement documented in covenants		-1					
not applicable / no pick-up service provided		-2					

Total Weighted Score= -4

Maximum Possible Score= 41

Actual Score as Percent of Maximum= -9.8%

Number of Negative Scores= 5

Negative Scores as % of Total Score= 14.3%

Scoring Performed by:

Bob Atchley & Bonita Kisse-Souttee

Date:

October 28, 2015

Project: **Woodbridge Estates, Phase II Nightly Rental**

Permit#: **15-22**

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

Scoring by: *Bob Atchley & Bonita Kisse-Soutee*

Date: *October 28, 2015*

Eastern District Relative Policies: Division III Permit

Project: **Woodbridge Estates, Phase II Nightly Rental** Permit: **15-22**

	Max. Possible	As Scored	%	Total Negative Scores	
Scoring	41	-4	-9.8%	5	45.5%

	Max. Possible	As Scored	Negative Scores	
			Number of	Percent
Importance Factor 5			2	50.0%
sewage disposal	10	10		
right-of-way / roads	5	0		
emergency water supply	0	-5		
waste disposal service	0	-5		
waste disposal commitment				
Importance Factor 4	16	-8	2	50.0%
stormwater drainage				
air quality				
off-site nuisances	8	0		
use compatibility	0	-4		
diversification				
development buffering				
utilities	0	-4		
pedestrian circulation				
underground utilities	8	0		
Importance Factor 3	6	6		
preservation of critical areas				
screening of rooftop equip				
screening / waste containers				
screening of outdoor equip				
industrial landscape buffers				
right to farm				
mixed-use developments				
emergency services				
water systems	6	6		
Importance Factor 2	4	-2	1	50.0%
residential landscape buffers				
right to operate				
residential privacy	4	0		
traffic	0	-2		
pedestrian safety				
usable open space				
Importance Factor 1				
agricultural lands				
bicycle circulation				

Scoring by: *Bob Atchley & Bonita Kisse-Soutee*
 Date: *October 28, 2015*

NOTICE OF PUBLIC HEARING

THE TANEY COUNTY BOARD OF ADJUSTMENT

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

Applicant: SMBZ, LLC

Request: Appeal of PC decision
to deny nightly rental

Property Location: Jamie Court &
Woodbridge Est. Dr.

Hearing Location: Taney County Courthouse

Time: 6:00pm Date: Wednesday, 3-16-16

Phone: (417) 546-7226

02/18/2016 17:00





**NOTICE OF
PUBLIC HEARING**

**THE TANEY COUNTY
PLANNING COMMISSION**

Will Hold A Public Hearing Concerning The
Following Requested Zone Change
Under the Division III Process

Applicant: SMBZ LLC
Proposed Development: Nightly Banta L

Property Location: Camie Ct /
Woodbridge Est.

Hearing Location: Taney County Public Hearing Room
Time: 6:00 PM Date: 11-9-15
Phone: 417-846-7220



TANEY COUNTY BOARD OF ADJUSTMENT VARIANCE STAFF REPORT

HEARING DATE: March 16, 2016

CASE NUMBER: 2016-0001A

APPLICANTS: Gary & Karen Deeke

REPRESENTATIVE: Karl Finkenbinder

LOCATION: The subject property is located at 144, 145, 160 and 161 Bald Eagle Boulevard; Oliver Township; Section 24, Township 22, Range 22.

REQUEST: The applicants, Gary & Karen Deeke are requesting a series of variances from Section 9, Table 1 (Property Line Setbacks) and Section 5.3.1 (Lot Size and Frontage Requirements) of the Taney County Development Guidance Code, allowing for the four (4) properties in question to be platted as a subdivision.

BACKGROUND and SITE HISTORY:

The subject property of four (4) meets & bounds described tracts of land (parcel #s 18-6.0-24-000-000-002.003 through 002.006). Per the Assessor's information (as indicated in Beacon) the parcels vary in size from +/- .17 acres (7,405.20 square feet) to +/- .20 acres (8,712.00 square feet) in size. Each of the four (4) meets & bounds described properties contains a four-plex building. Each four-plex building contains four three-bedroom, two-bathroom units.

On June 16, 2003 the Planning Commission approved Division III Permit # 2003-0027, authorizing Brad LaCore to plat and develop a ninety (90) lot residential subdivision on approximately 35 acres, including the area of the four (4) parcels in question. The ninety (90) lot subdivision development never occurred.

On May 16, 2005 the Planning Commission approved Division III Permit # 2005-0020, authorizing Brad LaCore to develop approximately 38 acres (including the four (4) properties in question) into three (3) commercial lots and 430 multi-family condominium units.

On March 16, 2007 Division II Permit #s 2007-0024 through 2007-0027 were issued to Tri-Sons Construction, authorizing the construction of the four (4), four-plex condominium units in question.

In August and October of 2013 the applicants purchased the subject properties from two different lenders, each of whom had foreclosed on two (2) of the four (4) buildings. At the time of purchase, the properties were all deeded as meets & bounds property descriptions, with no restrictive covenants or condominium declarations having been written or recorded for any of the properties. The original developer mortgaged the properties deeds as metes & bounds descriptions. However, this developer was foreclosed upon prior to the execution of any of the necessary instruments to record deeds for said condominiums, and as such the first conveyance of title for each of the buildings was involuntary due to foreclosure, thereby maintaining the meets & bounds status.

The applicants are now requesting variances from Section 9, Table 1 (Property Line Setbacks) and Appendix K (Road and Access Standards) of the Taney County Development Guidance Code in order to allow for the replating of the four (4) existing four-plex condominium units as apartments.

GENERAL DESCRIPTION:

The applicants, Gary & Karen Deeke are requesting variances from Section 9, Table 1 (Property Line Setbacks) and Appendix K (Road and Access Standards) of the Taney County Development Guidance Code, allowing for the replatting of the four (4) lots that have already been built upon. The portion of Bald Eagle Boulevard running between the four (4) existing lots / buildings will not be able to meet the required 50 foot minimum right-of-way requirements and expanding it to meet the requirement may cause a the existing units to encroach within the said right-of-way. At the time of the writing of this staff report the survey has not yet been submitted to the Planning Department office. Unfortunately, at this time I am uncertain of the exact setback and road right-of-way width variances that are being requested. I hope to have more detailed information by the time of the Board of Adjustment hearing.

REVIEW:

In Taney County it has been generally accepted practice to allow for the plating of a condominium style ownership development with lots that do not necessarily meet the setback, road frontage and / or minimum lot size requirements because each of the lots is held by the condominium association as common property. The applicant is requesting a variance in order to allow the four (4) meet and bounds descriptions to be platted as subdivision. The applicants is currently owns all four (4) lots / buildings and is utilizing them as apartments. The applicants plan to continue to utilize the four (4) buildings as a total of sixteen (16) apartment units.

STATUTORY REQUIREMENTS OF APPROVAL:

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

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

SUMMARY:

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

1. .
2. .
3. Compliance with all of the other provisions of the Taney County Development Guidance Code.
4. The Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter 7.3.4 of the Taney County Development Guidance Code).

#16-1

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

(Circle one)

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

PLEASE PRINT

DATE 2-16-16

Applicant Gary Deeke Phone 417 230 8411

Address, City, State, Zip 245 Tyler St, Branson, MO 65616

Representative Karl Finkenbinder Phone 417 334 7922

Owner of Record Gary + Karen Deeke Signature: [Signature]

Name of Project:

Section of Code Protested: (office entry)

Address and Location of site: 144, 145, 160, 161 Bald Eagle Blvd,
Hollister, MO 65672

Subdivision (if applicable) Section 9, Table 1 (Property Line Subdivisions)
Section 9.3.1 (Lot Size & Frontage Requirements)

Section 24 Township 22 Range 22 Number of Acres or Sq. Ft. 0.8 +/-

Parcel Number 18-6.0-24-000-000-002.004, .005, .006 + 003

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.

Board of Adjustments of Taney County Missouri

Attachment to Application for Variance for Gary & Karen Deeke

Dear Sirs:

The Subject property consists of Four Buildings, each having Four Three Bedroom Two Bath units for a total of 16 units. We purchased the subject properties in August and October of 2013 from two different lenders, each of whom had foreclosed on two of the four buildings. At the time of purchase, the properties were all deeded as Metes & Bounds, with no Restrictive Covenants or Condominium Declarations having been written or recorded for any of the properties.

According to the Taney County Assessors on-line information, all buildings were originally constructed in 2007. As we understand it, initial approval of the project was granted by Taney County Planning and Zoning as a Condominium development. The original developer first mortgaged the properties deeded as Metes and Bounds. However, this developer was foreclosed upon prior to the execution of any of the necessary instruments to record deeds for said condominiums, and as such the first conveyance of title for each of the buildings was Involuntary due to foreclosure, thereby maintaining the Metes and Bounds status.

Further, as evidenced by the attached Title Search performed by Tri-Lakes Title and Escrow at the time of purchase, there existed numerous other deficiencies to obtaining clear title to the buildings, including but not limited to no existing Ingress and Egress, and Interloping Deeds having been recorded against the properties by a third party lender.

At the time we purchased the properties out of Foreclosure, the buildings had begun to fall into a state of disrepair, which was compounded by the existence of numerous tenants that had no existing leases, and several who had not paid rent in quite some time.

Our first concern was to address the condition of the buildings and surrounding grounds, and to restore civility to the property by enforcing the terms of existing leases and putting in force leases where none existed at that time. This process took several months to complete, but our efforts have been rewarded with a stable and secure environment now in place with all buildings. Many of the initial tenants are still residing in the buildings, and have thanked us for the professional manner in which we achieved the current results.

We are currently working in conjunction with the owner of the adjoining 40 acre parcel to remedy those other issues required to obtain clear title as defined herein, and anticipate having most of them satisfactorily addressed within 90 days.

Discussions with our long time Realtor, Jim Stephenson, Broker of Branson House Realty in Branson, regarding the highest and best use of the units, strongly indicates that maintaining them as apartments presents us with a significantly higher probability of favorable performance and or saleability than attempting to sell the units individually as condominiums.

He cited the past and current trends which indicate that the existing over-supply of condominiums will continue into the foreseeable future, while occupancy rates for clean, well maintained 3 bedroom 2 bath apartments in a desirable location have continued to increase.

Having now established a solid history of performance with these buildings, our desire is to maintain them as individual apartments rather than condominiums. As such, we are asking that the members of Zoning Board of Adjustments consider our request to provide the necessary variance(s) needed to allow the buildings in question to be deeded as a Zero Lot Line 16 Unit Apartment Complex consisting of four separate Buildings , identified perhaps as Bald Eagle Apartments Buildings 1, 2 , 3 and 4.

We have attached drawings which illustrate the building Set Backs and road Right of Ways as they presently exist.


We genuinely appreciate your thoughtful consideration of our request.

Yours truly,

Gary & Karen Deeke
Owners

VERIFICATION

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


Signature of Applicant

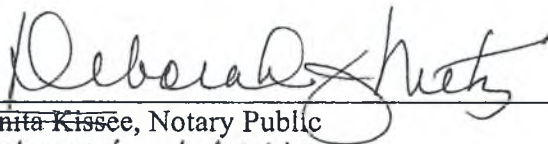
2/16/16
Date of Application

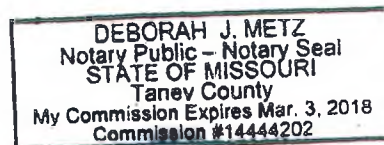
STATE OF MISSOURI)
COUNTY OF TANEY)

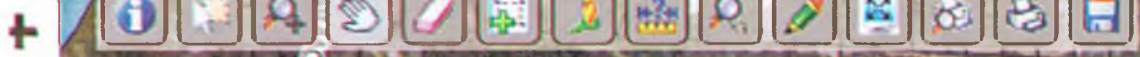
S.S. On this 16 day of Feb, 2016

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

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


~~Bonita Kisse~~, Notary Public
Deborah J. Metz

















**NOTICE
OF PUBLIC HEARING**

**THE TANEY COUNTY
BOARD OF ADJUSTMENT**

Will hold a public hearing concerning the
following requested variance as applied:

Applicant: Garip Deeke
Request: Variance from Setbacks
Project: Expand Road width, Min. 40 feet
Property Location: Bald Eagle Blvd.

Hearing Location: Taney County Courthouse
Date: 4/24/2024 Time: Wednesday, 4:00 PM
Phone: (517) 540-7216











TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

MINUTES TANEY COUNTY BOARD OF ADJUSTMENT WEDNESDAY, DECEMBER 16, 2015, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

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

Mr. Pingleton informed the applicants that with only three Board members present they had the option to postpone their hearing until a full Board is present. The applicant chose to have his request heard at this 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, the Board of Adjustment Bylaws as Exhibit D. The state statutes that empower and govern the Board of Adjustment were read by Mr. Weisz and each speaker was sworn in before the hearing by Mr. Pingleton.

Public Hearing:

Randall Gilleylen; a request for a variance from Section 7, Table 3, (Lot size and frontage requirements) of the Taney County Development Guidance Code and Article 9, Section 3, Table 1 of the Taney County Subdivision Regulations concerning the two acre minimum lot size, for properties served by an on-site wastewater treatment system and also the 70' minimum road frontage requirements for all lots. The property is located at 135 Warehouse Dr. The applicant wishes to split the property between the two warehouses. Mr. Atchley read the staff report and presented pictures, maps and a video of the site. Mr. Gilleylen, the applicant, was present to address any questions from the Board and to clarify his request. He stated that he wanted to sell the one building to Mr. Scott Pickens, who was present and stated that he wants to use the building for extra space to work on cars, and wants to park trailers on the side of the property. Mr. Pingleton asked Mr. Atchley if the lot lines could be placed differently. Mr. Atchley stated that it could be done a different way to allow for the road frontage requirement, and the applicant was agreeable to this. Discussion followed. Mr. Pingleton then asked if he was agreeable to hooking to the City Sewer. Mr. Pickens stated that it is too expensive for him to hook to the City Sewer at this time. Mr. Pingleton voiced a concern about future owners hooking to the sewer. Discussion followed. Mr. Weisz asked Mr.

Atchley about the status of the Bee Creek Agreement. Mr. Atchley gave the information that he knew at this time. Mr. Weisz stated that in his opinion this can be worked out just by each owner hooking to the central sewer. Discussion followed. Mr. Pingleton stated that in his opinion this issue can be resolved without Board involvement. Mr. Weisz asked if this could be requested again in a few months. Mr. Atchley stated that it could, if the request changed. The Board discussed how to proceed. Mr. Pingleton informed the applicant that there isn't enough information for the Board to act and suggested that he come back before the Board if they need to when the information is gathered. Mr. Atchley pointed out the information that was needed and that they might not need to come before the Board. Mr. Weisz made a motion to deny the request based upon lack of evidence of hardship. Mr. Lawson seconded. The vote to deny was unanimous.

Review and Action:

Minutes; November 18, 2015; with no additions or corrections a motion was made by Mr. Lawson to approve the minutes as written. Seconded by Mr. Weisz. The vote to approve the minutes was unanimous.

Old and New Business:

Mr. Atchley stated that at this time there is no business for the next month.

Adjournment:

With no other business on the agenda for December 16, 2015 the meeting adjourned at 7:07 p.m.