



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, JULY 26, 2017 6:00 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 Hearings:

- | | |
|---------|--------------------------------------|
| #17-04A | Gary Billingsley |
| #17-05A | Permanent Residents of Branson Creek |
| #17-06A | Permanent Residents of Branson Creek |
| #17-07V | Wayne & Carrie Price |

Review and Action:

Minutes, May 17, 2017 and June 28, 2017

Old and New Business:

Adjournment

Copies of this notice may be obtained by contacting the Planning Office at the above address and phone number.

Posted: 07/10/2017 By: MP Time: 10:00 AM

Posted At: David St. entrance to the Taney County Courthouse bulletin board, outside the County Commission meeting room
At the Taney County Courthouse and the office of Planning and Zoning.



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MINUTES
TANEY COUNTY BOARD OF ADJUSTMENT
WEDNESDAY, MAY 17, 2017, 6:00 P.M.
COUNTY COMMISSION HEARING ROOM
TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dan Boone called the meeting to order at 6:00 p.m. A quorum was established with four members present. They were: Dan Boone, Howard Kitchen, Tony Mullen, and Trent Edwards. Staff present: Scott Starrett and Bonita Kisse-Souttee. The governing statutes were read by Mr. Starrett who also read a statement outlining the procedures for this meeting and presented the exhibits.

Mr. Boone swore in each speaker before their respective hearings.

Public Hearings:

William Johnson; a request for a variance from the provisions of Section 7, Table 1, Setbacks and Table 3 Section 7 minimum lot size on property located at 234 Bell Road #C. The applicant wishes to purchase additional property from the adjoining property owner, causing the existing structure to become too close to the property lines and the adjoining property owners lot to be too small. Mr. Starrett read the staff report and presented location maps and pictures of the site. Mr. Johnson was present. Mr. Kitchen asked the reason for the request. Mr. Johnson stated that he rents out one of the buildings and would like the carport to be on his property. The adjacent property owner did not have a problem with this request. With no other discussion Mr. Mullen made a motion to approve based upon the decision of record. Mr. Boone seconded. The vote to approve was unanimous.

Brownbranch Holdings, LLC; a request by Barry & Jan Dougherty for a variance from the provisions of the Taney County Floodplain Management Ordinance, Article 4, Section A, Number 7, Accessory Structures, to place a 48 sq. ft. restroom within the floodplain. The applicant is also requesting a setback variance from the state highway. Mr. Starrett read the staff report and presented location maps and pictures of the site. He also read the Floodplain Ordinance items as they apply to this request. Mrs. Dougherty was present and explained the reasons for her request were construction of the building, flood insurance requirements, direction of floodwaters, emergency plan for the campground, and setback area. After discussion a motion was made by Mr. Mullen to approve based upon the decision of record. Seconded by Mr. Kitchen. The motion to approve was unanimous.

Review and Action:

With one correction regarding removal of Mr. Kitchen as attending the previous meeting, a motion was made by Mr. Kitchen to approve the minutes with the change. Seconded by Mr. Mullen. The vote to approve the minutes was unanimous.

Old and New Business:

No discussion.

Adjournment:

With no other business on the agenda for May 17, 2017 the meeting adjourned at 6:47 p.m.



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**MINUTES
TANEY COUNTY BOARD OF ADJUSTMENT
SPECIAL MEETING- PHONE CONFERENCE
JUNE 28, 2017, 10:00 A.M.
BRANSON BANK
STATE HIGHWAY 248
CONFERENCE ROOM**

Call to Order:

Chairman Dan Boone called the meeting to order with all five members present. They were; Dan Boone, Trent Edwards, Tom Gideon, Tony Mullen, Howard Kitchen. Staff present; Scott Starrett. Mr. Starrett and Mr. Boone were present at Branson Bank. The other board members were calling in.

Review and Action:

Discussion to reschedule meeting from July 19, to July 26, 2017 because the administrator will be out of town on July 19. With no discussion a motion was made by Mr. Mullen to move the meeting date to July 26, 2017, at 6:00 p.m. Taney County Courthouse, County Commission Hearing Room. Seconded by Mr. Gideon. The vote to move the meeting date was unanimous.

Adjournment:

With no other business on the agenda for June 28, 2017 the meeting adjourned at 10:07 a.m.

BRANSON CREEK NIGHTLY RENTAL APPROVAL LOCATIONS

(As of 5/22/17)

16-33	115 Greystone
16-35	119 Tuscany
16-36	191 Greystone
16-38	130 Lugano
16-39	360 Black Rock
16-40	189 Stoney Pointe
16-41	157 N Tuscany
16-42	209 Stoney Pointe
16-43	112 N Tuscany
16-44	120 Lugano
16-45	130 Fieldstone
16-46	137 N Tuscany
16-47	168 Fieldstone
16-48	138 Stoney Pointe
16-49	130 N Tuscany
17-06	127 N Tuscany
16-34	133 N Tuscany
17-09	180 Legends Circle

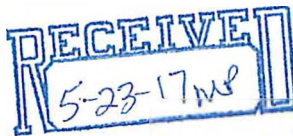
DENIED

17-1	177 N Tuscany (house now on the market)
17-17	226 Stoney Pointe

- Denied

- Approved





Gary.Billingsley@gmail.com

17-04A

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

(Circle one)

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

PLEASE PRINT

DATE May 23, 2017

Applicant GARY BILLINGSLEY Phone 972-768-6355

Address, City, State, Zip 14511 TANGLEWOOD DR, FARMER BRANCH TX 75234

Representative MARIE POWELL Phone 417-598-0144

Owner of Record BILLINGSLEY FAMILY TRUST Signature: Gary Billingsley

Name of Project: SPECIAL USE, DIV 111 PERMIT FOR NIGHTLY RENTAL

Section of Code Protested: (office entry) _____

Address and Location of site: 226 STONEY POINT ROAD,
HOLLISTON, MD 65672

Subdivision (if applicable) FIELDSTONE BLUFFS - PH I FIELDSTONE BLUFFS

Section 28 Township 22 Range 21 Number of Acres or Sq. Ft. .25 ACRES

Parcel Number 17-8.0-28-000-000-001.43

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.

branmap.e.suddenlink.net

JUNE 21, 2017 Hearing Date

Describe in detail the reason for your request:

SEE ATTACHED PAGES

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.

Marie Powers
Signature of Applicant

5/23/17
Date of Application

STATE OF MISSOURI)

S.S. On this 23rd day of May, 2017.

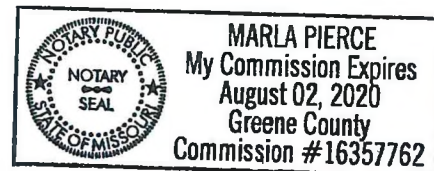
COUNTY OF TANEY)

Before me Personally appeared MARIE POWERS, 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.

08/02/2020

Marla Pierce
~~Bonita Kisse, Notary Public.~~
MARLA PIERCE, Notary Public





Taney County Board of Adjustment Appeal Staff Report

HEARING DATE: July 26, 2017

CASE NUMBER: 2017-04A

PROJECT: Appeal of Planning Commission Decision - 226 Stoney Pointe Road
Nightly Rental

APPLICANTS: Gary Billingsley

REPRESENTATIVE: Marie Powers

LOCATION: The subject property is located at 226 Stoney Pointe Road, Hollister,
Missouri, Scott Township; Section 28, Township 22, Range 21.

REQUEST: The applicant, Gary Billingsley, represented by Marie Powers, is seeking
to appeal the Planning Commission's denial of Division III Special Use
Permit Case #2017-017. The Division III Special Use Permit application
sought Planning Commission approval, allowing for nightly rental use
for the existing single family home.

BACKGROUND and SITE HISTORY and GENERAL DESCRIPTION:

On May 15, 2017 the Taney County Planning Commission defeated a Division III Special Use Permit request by Gary Billingsley allowing the use of the existing single family residence for nightly rental, located at 226 Stoney Pointe Road, Hollister, Missouri. With five (5) out of nine (9) Planning Commissioner's present the vote was two (2) in favor and two (2) opposed with the Chairman voting nay breaking the tie, the motion was defeated with two (2) yeas and three (3) nays.

Per the Assessor's information the four (4) bedroom single-family residence was constructed in 2007. The subject property is on lot 29, Phase 1 Fieldstone Bluffs and is approximately .25 acres in size.

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.”

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 and one (1) off-street parking space shall be provided for each two (2) person of occupancy in a Nightly Rental”.

REVIEW:

The applicant, Gary Billingsley, represented by Marie Powers, are requesting that the Board of Adjustment appeal the denial of Special Use Permit #2017-017 so they can continue nightly rental use at 226 Stoney Pointe Road, Hollister, Missouri.

The applicant/representative lists the reasons below for the appeal:

1. To date of this application, there have been 18 homes and villas in this same location that have been granted a Division III Special Use permit. (There may be more by the time we are on the June agenda for the BOA meeting). Mr. Billingsley’s home is not differentiated as far as compatibility in any way from those already approved. It is a free standing home on the corner with one neighbor on the side. There are trees in the back yard between him and that neighbor. The back yard is backed up against a bluff. There are bushes on the opposite side of the home and in the front and side home is bordered by the road.
2. With only 5 board members present, there was a tie (allegedly-see further) which was broken with a nay by the Vice-Chairman, Dave Stewart who gave no legal, compliance or compatibility reason for his vote.
3. Although the vote ended in a tie with the Vice-Chairman voting, I do not believe the vote followed the rules to be considered valid.
4. Since there was no legal, compliance, or compatibility reason given for the denial, it would seem that the vote may have been more subjective according to their feeling on the issue or their feeling toward Gary Billingsley.

In this case, the Board of Adjustment is tasked by statute (RSMo 64.870) with making a determination as to whether or not the Planning Commission made an error of law in denying Division III Special Use Permit Case #2017-017.

STATUTORY REQUIREMENTS of APPROVAL of an APPEAL:

Per the Requirements of 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.

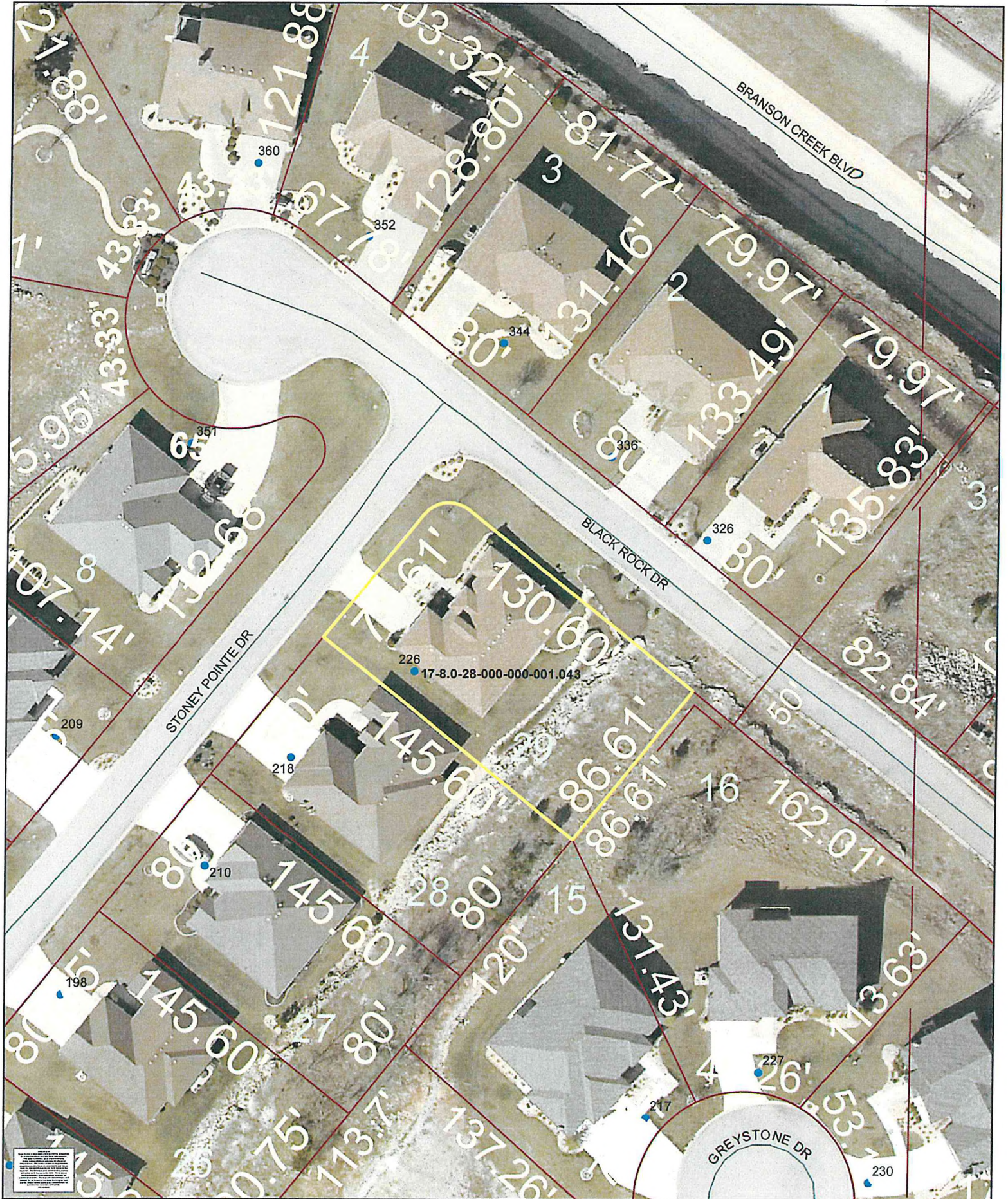
Any owners, lessees or tenants of buildings, structures or land jointly or severally aggrieved by any decision of the board of adjustment or the county commission, respectively, under the provision of sections 64.845 to 64.880, or board, commission or other public official, may present to the circuit 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 Special Use Permit Case number #2017-04A, the following requirements shall apply, unless revised by the Board:

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. Compliance letter from the Western Taney County Fire Protection District.

3. A Valid Missouri Department of Revenue Sales Tax License number shall be provided to the Planning Department prior to the issuance of a Certificate of Compliance.
4. This decision is subject to all existing easements.
5. The residence located at 226 Stoney Pointe Drive shall accommodate (sleep) no more than the Maximum Occupancy "The maximum occupancy for a nightly rental shall be 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.
6. The 226 Stoney Pointe Drive Vacation Rental Special-Use permit is specific to the representative to whom the permit is issued and cannot be transferred without Planning Commission approval. The Special-Use Permit shall not be used to establish commercial compatibility for or with any future land-use change applications.
7. The current contact information for the property shall be posted on the property and on file in the Taney County Planning office.
8. A Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Appendix D, Step 6).





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TANEY COUNTY PLANNING COMMISSION
DIVISION III STAFF REPORT
226 STONEY POINTE DRIVE NIGHTLY RENTAL
MAY 9, 2017
#2017-0017

Gary Billingsley is seeking Planning Commission approval of a Division III Special-Use Permit allowing the nightly rental use of the single-family residence located at 226 Stoney Pointe Drive, Hollister, Missouri.

BACKGROUND AND SITE HISTORY:

Per the Assessor's information the four (4) bedroom single-family residence was constructed in 2007. The subject property is on lot 29 Phase 1 Fieldstone Bluffs and is approximately .25 acres in size.

The current application was approved for concept April 17, 2017.

The Taney County Development Guidance Code defines nightly rental as "A residential building, structure, or part thereof that may be rented for any period of time less than thirty (30) calendar days, counting portions of days as full days."

The exterior appearance of the single family residence will remain the same. 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 and one (1) off-street parking space shall be provided for each two (2) person of occupancy in a Nightly Rental".

The project received a total score of -1 on the policy checklist.

STAFF RECOMMENDATIONS:

If the Taney County Planning Commission approves Division III Permit #2017-0017, 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 letter from the Western Taney County Fire Protection District.
3. A valid Missouri Department of Revenue Sales Tax License number shall be provided to the Planning Department prior to the issuance of a Certificate of Compliance.
4. No outside storage of equipment of solid waste materials.
5. This decision is subject to all existing easements.
6. The residence located at 226 Stoney Pointe Drive shall accommodate (sleep) no more than the Maximum Occupancy "The maximum occupancy for a nightly rental shall be 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.
7. The 226 Stoney Pointe Drive Vacation Rental Special-Use permit is specific to the representative to whom the permit is issued and cannot be transferred without Planning Commission approval. The Special-Use Permit shall not be used to establish commercial compatibility for or with any future land-use change applications.
8. The current contact information for the property shall be posted on the property and on file in the Taney County Planning office.
9. A Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Appendix D, Step 6).

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Taney County Board of Adjustments Appeal Application

Denial letter form P&Z listing no Reason

Warranty Deed – (legal description and proof of ownership)

Rough drawn sketch of interior of home

Fieldstone Rental Agreement (Proof of renting since 2008)

Distance aerial view of home

Closer aerial view of home

Aerial view of those who have been approved and denied permits

List of those Approved and Denied

Addendum – Reason for delay in applying for the permit

Minutes of the Public Hearing on 1/9/17 with Prop A, B, C

Minutes of the Regular Meeting of 1/17/17 listing Possible Vote Proposed Nightly Rental Amendments. There was discussion . Mr. Cramer moved that discussion on the amendment be moved to the February meetings, seconded by Mr. Stewart. The vote to discuss in February was unanimous.

Agenda for Regular P&Z Meeting on 2/21/17

Taney County Guidance Code Compliance Addendum

Taney County Assessor's Compliance Letter

Sales Tax License Number for Agape Upscale Vacation Rentals, LLC

No Tax Due letter for Agape Upscale Vacation Rentals, LLC

Example of Potential Sign Posting

At the P&Z meeting on 5/15/17 a vote was taken to deny a request by The Billingsley Family Trust, Gary Lois Billingsley to grant a Div III permit to continue renting his property at 226 Stoney Pointe, Drive, Hollister, MO, in the Communities of Branson Creek.

Short summation of the original request: Gary & Lois Billingsley purchased a vacation home in Branson Creek in 2008. They were told they could afford that vacation home by putting it directly into the rental pool and rent it on a nightly rental basis. They put it in that rent pool on the day they purchased it with Fieldstone Villa Management managing it. Over the years he has had different managers, but he has consistently rented it as a vacation rental throughout the years. He stays at the home 4 – 6 times yearly to visit with children and grandchildren who live in the area.

Gary & Lois Billingsley, with Marie Powers as representative, are requesting that the Board of Adjustments appeal the denial of the permit by the P&Z and grant a special use, DIV III permit to continue renting at 226 Stoney Pointe Road. Reasons are stated below:

1). **To the date of this application, there have been 18 homes and villas in this same location who have been granted a Div III permit.** (There may be more by the time we are on the June agenda for the BOA meeting). Mr. Billingsley's home is not differentiated as far as compatibility in any way from those already approved. It is a free standing home on the corner with one neighbor on the side. There are trees in the back yard between him and that neighbor. The back yard is backed up against a bluff. There are bushes on the opposite side of the home and in the front and side it is bordered by the road.

2) **With only 5 board members present, there was a tie (allegedly – see further) which was broken with a nay by the Vice-Chairman, Dave Stewart who gave no legal, compliance or compatibility reason for his vote.** As transcribed from the tape (I am a certified transcriptionist): Also attached is our Denial letter listing no reason for the denial.

Vice Chairman, Dave Stewart: You're opposed? And you're opposed? That means two and two. That means I vote. Well, traditionally I have been against all of them at Branson Creek and I don't think I'm going to change now, so I vote nay.

(Sweet! and clapping from the audience)

Marie Powers: And the reason being? Just because you don't like them? I mean this one isn't any different from any of the others, particularly since it is a free standing home.

Vice-Chairman, Dave Stewart: Well, at this point in time, I'm not going to go into a long oration of why I vote and how I vote. If one of the other members want to explain anything, well they have that privilege. If there's nothing further, we'll move onto the next project.

3) **Although the voted ended in a tie with the Vice-Chairman voting, I do not believe the vote followed the rules to be considered valid.** The full transcription of the tape is below. Normally when the Chair asks for all ayes, they are simultaneous, and when he asks for the nays, they are too. If you listen to the taped recording, it sounds as if 4 people, but definitely 3 say aye in unison. When the Chair asked for Nays, Doug Fabion, in a low voice said nay. Howard Kitchen (whose vote should be recused for the appeal since he voted on the original request and he has personal stake since he lives in Branson Creek) looked in unbelief and excitement at Doug

Fabion and got kind of tongue-tied as he said- aye, aye, nay. I don't believe the rules permit members to wait until they have heard the other votes to then give their vote. If it was a true nay, he would have given it at the same time as Doug Fabion. The full transcription is below:

From audio tape from P&Z meeting on 5/15/17 at 6:00 pm

Vice Chairman, Dave Stewart: We have a motion on the floor (to approve as stated) and it has been seconded. Is there any other discussion? Are we ready for a vote? All in favor of the motion say, "aye." (The tape sounds as if there are 4 ayes but definitely 3). (Part E, seconds 38,39.)

Vice Chairman, Dave Stewart: Opposed? (Silence)

Doug Faubion: Nay. (Silence)

You can't see this on the tape, but at this point, Vice Chairman, Dave Stewart and Howard Kitchen, turn toward Doug Faubion with a surprised look and then and only then.....

Howard Kitchen: Aye, aye, nay! (part E, around 50)

Vice Chairman, Dave Stewart: You're opposed? And you're opposed? That means two and two. That means I vote. Well, traditionally I have been against all of them at Branson Creek and I don't think I'm going to change now, so I vote nay.

(Sweet! and clapping from the audience)

Marie Powers: And the reason being? Just because you don't like them? I mean this one isn't any different from any of the others, particularly since it is a free standing home.

Vice-Chairman, Dave Stewart: Well, at this point in time, I'm not going to go into a long oration of why I vote and how I vote. If one of the other members want to explain anything, well they have that privilege. If there's nothing further, we'll move onto the next project.

4) Since there was no legal, compliance, or compatibility reason given for the denial, it would seem that the vote may have been more subjective according to their feeling on the issue or their feeling toward Gary Billingsley. Although Doug Fabion and Dave Stewart have been consistent in their nays, Howard Kitchen voted to approve a special use, Div III permit for case #17-09 for a nightly rental at 180 Legends Circle in the Communities of Branson Creek during the same meeting.

In the very beginning when Karen Murphy and Sue Smith were causing problems in the neighborhood and with guests, the vacation owners banded together, emailing each other to find a solution to the problems. At the time there wasn't a clear understanding of why individual permits were necessary and we needed legal help to determine if we could get a restraining order on the ladies or if we needed to begin a lawsuit against the ladies and/or the county. Although Gary pleaded that someone more knowledgeable take over this pursuit, the owners asked him to do it and he stepped up to the plate. When Bob Atchley presented Propositions A, B, and C before the board, Gary Billingsley drove up from Texas and represented the vacation rental owners at their request to request consideration of Prop A. When the first 16 requests appeared for a public hearing, Gary Billingsley drove up from Texas to support his neighbors. Again they asked and he represented them in front of the board. Having been at a

few of these meetings, those opposed who got up to spoke mentioned Gary's property a few times even though he was not on the agenda. And in reading minutes from meetings I did not attend, P&Z received letters asking that he be prosecuted because he had not yet applied for a permit. (I will explain the reasons in an addendum.) Perhaps this colored the board's opinion toward the man, Gary Billingsley. It seems very odd that he represented all the other owners who did get permits and he was denied. One might question that his willingness to help the other owners gained him enough notoriety with the Board to cause them to deny his permit. There has only been one other person denied. She owns a villa which is no different than the others, but it was sited as incompatible. Instead of going through the process of appeal, it frustrated her so much, she just put her property up for sale.

TANEY COUNTY PLANNING COMMISSION

DIVISION III DECISION OF RECORD

PROJECT: 226 STONEY POINTE DRIVE NIGHTLY RENTAL

APPLICANT: GARY BILLINGSLEY

DATE: MAY 15, 2017

PERMIT #2017-017

On May 15, 2017 the Taney County Planning Commission defeated a Division III Special Use Permit request by Gary Billingsley allowing the use of the existing single family residence for a nightly rental, located at 226 Stoney Pointe Drive, Hollister Missouri. The motion to approve the request was made and seconded, with five (5) out of nine (9) Planning Commissioners present the Planning Commission voted two (2) in favor and two (2) opposed with the Chairman voting nay breaking the tie, the motion was defeated with two yeas and three (3) nays.

Per the provisions of the Missouri Revised Statutes (RSMo 64.870) and the Taney County Development Guidance Code, appeals to the Board of 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 5, 5.3.1 of the Taney County Development Guidance Code, appeals must be filed within ninety (90) calendar days of the original decision.

ADDENDUM

REASON FOR DELAY IN FILING FOR DIV III PERMIT FOR 226 STONEY POINTE ROAD

I will try to make this as brief as possible. It has been insinuated that Gary Billingsley was defiantly ignoring the order to apply for a DIV III permit. This is not the case and here is the explanation:

Timeline:

June/July 2016: Karen Murphy & Sue Smith (further known as "the ladies") begin harassing the HOA with illegitimate complaints and demand they stop the vacation rentals. They are told they are approved in Branson Creek.

They approach P&Z and demand that they stop the vacation rentals in Branson Creek. Bob Atchley tells them they are permitted and gives them a copy of the letter sent out in 9/26/14 stating the same.

Having no legal recourse at this point "the ladies" start harassing guests.

The vacation rental owners begin to converse with one another by email to find a solution to "the ladies'" harassment of guests.

August 2016: Rental home owners receive a letter from Western Taney Fire Division saying they must cease from renting until they install a fire suppression system and different numbering on the home.

Gary calls me. From having done real estate projects both in the County and the City of Branson when I managed restaurants around town and handled a local family's real estate holdings, I told him he was grandfathered in. The code came into effect in 2012 and he had been renting since 2008. I told him we must research it, but I was sure he was grandfathered in.

Gary reaches out to Western Taney County Fire Division. The fire chief tells him that the man who usually handles those issues was out for a heart attack. He agreed that those operating prior to the 2012 guidelines were grandfathered in. He admitted the letter should not have gone out.

Gary reported this to the other owners and we breathed a sigh of relief.

The ladies contract with Russ Schenewerk, a local attorney, who looks at the original filing and states that it was filed in error and no one was permitted to rent. He sent a letter to the owners to cease and desist.

Bob Atchley asks the County Attorney, Frank Cottey, to review Russ' findings and he determines that each owner needs their own permit.

In December of 2016 we got a letter from P&Z saying that each owner had to apply for their own individual permit. It was not really clear to any of us at that time as to why. There was much discussion at this point. Several owners immediately sent in permit applications. I asked Gary to pray about it. Having worked with real estate that was grandfathered in, I was very concerned that if we got a permit in 2017 we would need to comply with the Guidance Code of 2012. (For an example of what played into

my decision. We had a sign pole at the restaurant. Branson accepted new codes and our pole was too high. It was made very clear to me that I could never change the sign and I had to repair it on the pole, because once it came down from the pole, it was no longer grandfathered in). I told him we needed more clarity on that before applying. None of us knew at that time that you could get an individual fire suppression system and we were told by Branson Creek that they did not have the infrastructure to support fire suppression systems. So having a permit and not being able to comply would make that permit null and void.

January 2017: Our time to apply was ending, so Gary sent a registered letter to P&Z saying that he would continue operating under Branson Creek's permit until there was an answer from the board on how this would be handled.

Throughout that whole time, communication with the HOA was that their attorneys were working with P&Z and they would have a resolution. Several times they told us it would be fixed, only to let us know that the issue was still up in the air.

January 2017: Bob Atchley contacted those who had applied and said he was taking them off the agenda for the Concept hearing and he would be returning their fees. He was going to take their place and introduce Proposition A, B, and C.

There was discussion at the P&Z meeting on the propositions and Bob left drafts as he resigned at that meeting. The board said that they needed to check out how each proposition would hold up in court and that they would look at the draft. This was never voted on in subsequent meetings and was just listed as "vote postponed."

Minutes are attached for the 1/9/17 meeting where Bob Atchley presented the possible amendments. There was much discussion during the Public Hearing Meetings.

Minutes are attached for 1/17/17 meeting with Old and New Business of "Possible Vote Proposed Nightly Rental Code Amendments. There was discussion. Mr. Cramer made a motion to move the discussion to the February meetings, seconded by Mr. Stewart. The vote was unanimous.

The agenda for the meeting on 2/21/17 listed Old and New Business as "Possible vote on proposed amendments to the code." There was never a vote and the issue was never brought up at the meetings again. We were waiting for that vote to see if an application was even necessary.

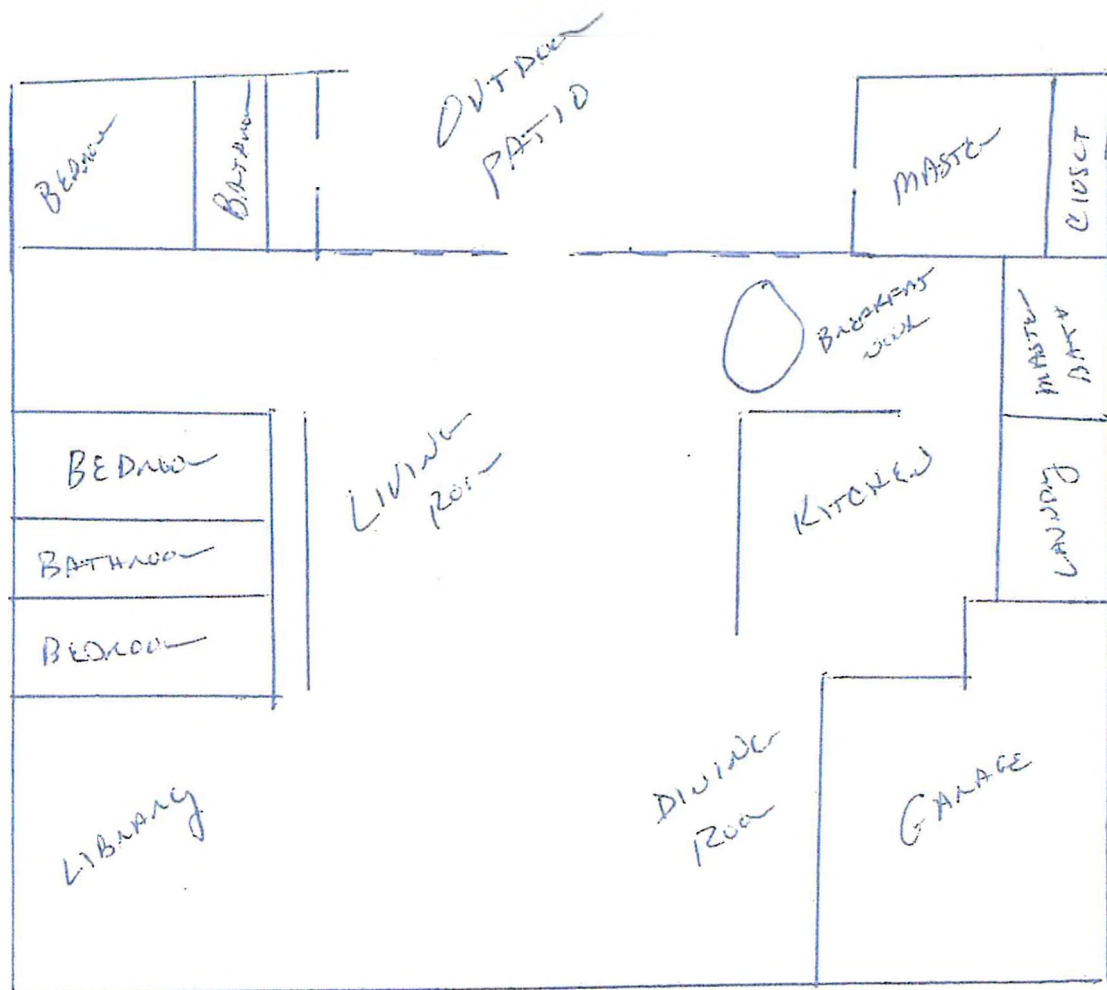
Since we had not yet applied, we did not get further communication from P&Z as the others who had applied did. So we thought that either Branson Creek was working it out or the P&Z was deciding on the A, B, C propositions, we were surprised when Branson Creek vacation rental owners showed up on the agenda for concepts and public hearings. They, themselves, were somewhat surprised and the emails back and forth were confused as to show or not show, etc.

February 2016: Those original 16 permits were granted on 2/21/17. Western Taney County Fire District agreed to give them a compliance certificate if they could prove they were renting before the 2012 Guidance Code.

So it was apparent we needed to apply. Gary and Lois' permanent home is in Texas. They are in their 70's. His daughter and son-in-law and grandchildren had been living overseas working for Wykliffe Translators. They were stationed back to the office in Texas in 2015. He determined he wanted to

move closer to both his daughters. Although they have been blessed with great health, Gary wanted to plan for the future, so he put his home on the market in 2015 and began the process of having a custom home built. It is his "come to Jesus" home as he describes. He was having it all ADA compliant so they could be wheeled into a bathroom if necessary and that rooms would accommodate hospital beds and equipment. He put in a separate area for a possible live-in caregiver and made a large living/gathering room where he could have Bible studies and fellowship if and when they are no longer able to go to church. His home sold immediately when he put it on the market, necessitating he and Lois moving into a rental until their home was finished. This is quite an undertaking for anyone at any age, but moving twice, making every decision and sometimes, changes, takes a lot out of a person and demands much of their time. As normally happens, the completion of that home had delays amounting to about 3 months. They have been in the process these last two months of moving into the new place and as sometimes happens once a place is lived in, they are finding some problems. So his time has been spent trying to track down MIA contractors who have gone on to new jobs. In the midst of this, I kept reminding him that we needed to get the permit app in. He would say yes, he would get it done when he could get to it. Then he received a final letter from P&Z to apply or cease from renting. He was just overwhelmed with too much on his plate. I asked him if he was against getting the permit or if time to do the research and get the paperwork together was the problem. He is somewhat hands on and sometimes it offends an owner if you ask to do something they think is their responsibility. He said he knew we needed to get the permit, but he was just way too overwhelmed to get the paper work together. When he was renting, things and paperwork were in boxes and stored and they hadn't even gone through every box that they have moved to their home. I asked his permission to go ahead and get the paperwork together to which he heartily agreed. It was never a defiance issue, just simply a matter of having the time and mental strength to get everything together.

There are others who are also just going through the process. And others who have had to postpone meetings. So far, they have not been penalized for the time frame in which they applied.



BC 226

**FIELDSTONE AT BRANSON CREEK
RENTAL PROGRAM AGREEMENT
BLUFFS# 29**

EXHIBIT 7

This Rental Program Agreement (hereinafter, the "Agreement") is made this 25th day of April, 2008 by and between Fieldstone Villa Management, LLC, a Missouri limited liability company (hereinafter, "Agent") and Gary & Lois Billingsley (hereinafter, "Unit Owner"), the owner of Fieldstone Bluffs # 29 (hereinafter, the "Rental Unit").

WHEREAS, Agent is in the business of managing Fieldstone Villas/Bluffs in the Branson Creek development; and

WHEREAS, Agent has created a rental management program for the benefit of interested Villa/Bluffs owners in which Agent will maintain, manage and rent various Villas/Bluffs entered into such program by their owners upon certain terms and conditions (the "RENTAL PROGRAM"); and

WHEREAS, Unit Owner desires to have his Rental Unit become part of the RENTAL PROGRAM.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Appointment. Unit Owner hereby appoints and designates Fieldstone Villa Management, LLC as its exclusive agent to maintain, manage and rent Unit Owner's Rental Unit during the term and pursuant to the terms and conditions of this Agreement.

2. Management Fee. Out of rental revenue or capital reserves, Unit Owner shall pay Agent 15% of gross revenue derived from the renting of the Rental Unit as provided hereunder, in addition to a one time set up fee of \$100 per Rental Unit (the "Management Fee").

3. Receipt of Rent. For purposes of renting the Rental Unit, Unit Owner hereby authorizes and appoints Agent to: (1) execute and deliver on Unit Owner's behalf rental agreements covering the Rental Unit upon such terms and conditions and to such tenants as Agent, in its discretion, may determine; and (2) demand, receive and provide receipts for all rents due and/or paid for the renting of such Rental Unit (regardless of who receives such rent, including Unit Owner); subject however, to all the terms and conditions of this Agreement.

3. **Renting the Rental Unit.** At such times as Unit Owner is not occupying the Rental Unit, Agent shall make efforts to rent such Rental Unit with a view toward obtaining the greatest total rents from said Rental Units and any other units in the RENTAL PROGRAM, and commensurate with the nature, class and atmosphere of Fieldstone Villas/Bluffs. A proposed seasonal rental rate schedule has been established but is subject to change at the sole discretion of Agent at any time.

In renting Villas/Bluffs through the RENTAL PROGRAM, the Agent shall give equal consideration to all units within such program, attempting to spread the occupancy among such available Villas/Bluffs as equally as possible. Each Villa/Bluffs unit shall be rented as a complete unit. Unit Owner shall not rent the Rental Unit to anyone without the prior written approval of Agent and, whether or not such approval is obtained, Unit Owner shall remit immediately all rents that are received by Unit Owner to Agent, to be held and disbursed in the same manner as rents received directly by Agent under this Agreement. Unit Owner agrees to cooperate with Agent and other owners of Villas/Bluffs units in RENTAL PROGRAM in promoting the rental of other Villas/Bluffs unit in RENTAL PROGRAM.

4. **Sale of Unit.** Should Unit Owner sell their Rental Unit during the term of this Agreement, the profit for the month (as determined in accordance with Paragraph) in which such Rental Unit is sold shall be pro-rated between seller and buyer based on the closing date of the sale. Unit Owner agrees to settle with Agent regarding the cash reserves held by Agent at the closing of sale to buyer. The amount of cash reserves due to Unit Owner shall be an amount to be determined by Agent at the time of sale after ensuring that the RENTAL PROGRAM meets minimum rental standards for FF&E.

There needs to be a formula + not left to the discretion of the agent

Should buyer elect to remain in the RENTAL PROGRAM, the buyer shall sign a Rental Program Agreement with the Agent and immediately pay to Agent an identical amount of cash reserves as determined above. Should the cash reserves become the property of the buyer at the time of closing, a copy of the signed agreement signed by both seller and buyer shall be presented to the Agent. In the absence of any such properly signed agreement or Unit Owner's settling with Agent as provided above, the Agent shall treat any cash reserves as property of the new owner until instructed otherwise by both parties.

5. **Segregation of Rent/Reporting to Unit Owner.** Income from the Rental Unit received by the Agent shall not be segregated into a separate account. All income and expenses related to the Rental Unit shall nevertheless be properly applied to such Rental Unit with full detailed accounting and reporting for all receipts, expenses and disbursements with accurate reporting to the owner.

6. **Owner Occupancy.** Unit Owner shall have the right to occupy the Rental Unit upon giving notice to Agent with the intended dates of occupancy at least thirty (30) days in advance of the date of intended occupancy so as to remove the Rental Unit

from rental availability. Unit Owner may also occupy the Rental Unit at any time without notice to Agent within said 30 day notice period if Agent has not reserved to a third party the Rental Unit at the time of said notice for the period the Unit Owner's desires occupancy. Such period of occupancy by Unit Owner shall be done on a daily basis. When Unit Owner shall have notified Agent of intent to occupy the Rental Unit, Unit Owner shall be deemed to have occupied the Rental Unit for the day(s) specified, whether or not Unit Owner actually occupies it.

Agent may rent the Rental Unit for a period more than 30 days in advance only with Unit Owner's prior written approval.

Agent may assess Owner a reasonable cleaning charge of \$ 85⁰⁰ for a four-bedroom unit, after Owner's occupancy to render Owner's unit fit for rental occupancy. This fee is subject to change at the discretion of the Manager/Agent.

This Agreement is in no way intended to be used in limiting, accruing, accounting for or otherwise affecting any relationship with the Unit Owner and the IRS and determining the number of days used for personal use.

7. Cooperation of Unit Owner. Unit Owner shall abide by Agent's rules for check-out procedures and shall respect and comply with all rental obligations contracted by Agent and shall in no manner interfere with the occupancy of a bona fide renter of any Villa in the RENTAL PROGRAM.

8. Expenses. As Agent for all of the owners of Villas/Bluffs in the RENTAL PROGRAM managed by Agent, Agent shall pay, from rental revenue or capital reserves, the costs and expenses of operating the Rental Unit that are of a type that the Unit Owner would not have to pay if their Rental Unit was not part of the RENTAL PROGRAM, including but not limited to the cost of replacing broken or stolen dishes, silverware or damaged or worn furniture which occurs when the Rental Unit is in the RENTAL PROGRAM and that are subject to the list of minimum required equipment, and the cost of all linen service, laundry, soap, stationery, and similar supplies and all wages of maids for cleaning services (collectively, the "Unit Expenses").

Agent shall not pay as Rental Unit expenses, and Unit Owner shall be responsible for and pay promptly when due, all obligations and expenses of the Rental Unit of the type that the Unit Owner would have to pay even if their Rental Unit was not part of the RENTAL PROGRAM including but not limited to expenses and obligations under the Covenants, Conditions and Restrictions for both Fieldstone at Branson Creek and the Branson Creek Master Association, ad-valorem real property taxes, Rental Unit repair and remodeling, insurance, utility charges.

9. Taxes. The expenses payable by Agent for the Unit Owner shall also include all general taxes collected from renters of the Rental Unit and any license taxes levied, assessed against, or payable by, Agent with respect to the RENTAL PROGRAM. Agent shall not be liable for any federal or state income taxes or corporate excise taxes

attributable to income earned by, or paid to, Unit Owner, and Unit Owner hereby agrees to indemnify Agent for and against any and all claims, damages or liabilities (including reasonable attorneys fees and costs) related thereto.

10. Division of Net Income. In accordance with the provision of this paragraph, Unit Owner shall receive Seventy Percent (70%) of the Net Rental Income and Agent shall receive Thirty Percent (30%) of the Net Rental Income.

Agent shall report to the Unit Owner the Net Rental Income for the preceding month as soon as Agent shall reasonably be able to compute the same, but not later than 30 days, at which time Agent shall also make the distribution to Unit Owner as provided herein. Agent will determine the amount of cash to be distributed to Unit Owner after providing for a reasonable cash reserve equal to approximately Four - Five Percent (4-5%) of the maximum rental revenue possible during the month in which the distribution is made, which amount shall be deducted from Unit Owner's distribution of Net Rental Income and held in reserve on Owner's behalf. *After a Cash Reserve of at least \$1000 is met the percentage will not be withheld, until all cash is paid out*

Annually, following each calendar year of the term hereof, the Agent shall promptly prepare and forward to the Unit Owner a statement showing all receipts and disbursements of the RENTAL PROGRAM for Villas/Bluffs unit in the RENTAL PROGRAM in reasonable detail, such statement to be forwarded to each Unit Owner as soon as the same can reasonably be prepared. *Unit Owner shall have the right at any time during ordinary business hours to examine the books of the RENTAL PROGRAM with respect to Agent's management of the Villas/Bluffs in the RENTAL PROGRAM, either personally or by Unit Owner's duly authorized representative, such authorization to be in writing directly to the Agent with a 48 hour advance notice.*

For purposes of this Agreement, the "Net Rental Income" shall be derived by subtracting the Unit Expenses and the Management Fee from the actual rental revenue received by Agent for the Rental Unit during the relevant time period.

11. Furniture and Furnishings. In order to operate the Rental Unit effectively in the RENTAL PROGRAM, Unit Owner shall provide and maintain in the Rental Unit furniture and furnishings sufficient in number, type, and quality to furnish the Rental Unit adequately, as determined in Agent's discretion, Agent shall provide Unit Owner with a list of the minimum necessary furniture and furnishings for Unit Owner's Rental Unit, to which Unit Owner shall make such additions as Unit Owner desires. A list of such items will be provided to the Unit Owner and is subject to change or modification in the sole discretion of Manager. By Unit Owner's execution of this Agreement, Unit Owner agrees to meet and maintain the minimum standard of the number, type, and quality of furniture and furnishings established by Agent. Such furniture and furnishings shall be purchased or leased by Unit Owner and shall remain separate property of Unit Owner or that of Unit Owner's Lessor.

12. Past Due Obligations of Unit Owner. Any moneys due to Unit Owner under this Agreement may be used, at the Agent's discretion, to satisfy any obligation of

the Unit Owner, provided that such obligation of said Unit Owner is at least thirty (30) days in default. In the case of the sale of the Rental Unit, the obligation of the Unit Owner may be paid immediately, unless the obligations are paid through the final closing of the sale of the Rental Unit.

13. Powers of Agent. Agent shall have any and all authority and power necessary to reasonably carry out its responsibilities and obligations as provided for in this Agreement. In addition, Agent shall have the power to adopt, publish, enforce and modify any and all conditions, rules and regulations relating to the renting of Villa units in the RENTAL PROGRAM, including the Rental Unit.

14. Limitation of Liability. The duties of Agent shall be as expressed herein only and Agent shall not be considered a fiduciary of the Unit Owner. Agent shall not be liable to Unit Owner except in the event of gross negligence, willful misconduct or bad faith. In no case shall Agent be liable for any special, consequential, or punitive damages, and Unit Owner hereby waives any claim for the same. This Agreement shall not be interpreted to require Agent to pay expenses relating to the Rental Unit except as it regards the Unit Expenses and Management Fee.

15. Term and Termination. The initial term of this Agreement shall begin upon the date this Agreement is executed and shall terminate upon the one-year anniversary of such date of execution. At the end of the initial term this Agreement shall automatically renew for successive one year terms; provided, however, that Agent or Unit Owner may terminate this Agreement upon thirty (30) days written notice to the other party.

16. Further Action. The parties shall with reasonable promptness undertake such actions and execute such documents in accordance with this Agreement, and applicable law, as shall be reasonably necessary and appropriate to consummate the transactions contemplated herein.

17. Entire Agreement. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and, except to the extent specifically provided herein supersedes all prior agreements and understandings of the parties in connection therewith.

18. Amendment. The provisions of this Agreement may not be changed, modified, or amended except in writing duly executed by each party hereto.

19. Binding. This Agreement shall be binding on the parties hereto and their respective heirs, successors and assigns.

20. Severability. In the event that any one or more provisions of this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, by any court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and the parties shall use their best

efforts to substitute a valid, legal and enforceable provision which, insofar as practical, implements the purposes and intents of this Agreement.

21. **Governing Law/Venue.** This Agreement shall be governed by and construed and interpreted under the laws of the State of Missouri, without regard to conflict-of-law principles. In the event of litigation relating to or arising out of this Agreement, the parties agree that the exclusive venue shall be the Circuit Court of Taney County, Missouri.

22. **Counterparts.** This Agreement may be executed in two or more identical counterparts, each of which, when executed, shall constitute an original. This Agreement may be executed and delivered by facsimile.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year written below.

Unit Owner: Gary & Lois Billingsley

Unit Number(s) #29 - The Bluffs

By: X Gary Billingsley TTEE Date: 4-8-08

X Lois A. Billingsley TTEE 4-8-08

Unit Owner's Address: 226 Stone Pointe Dr
Hollister MO 65672

Fieldstone Villa Management, LLC

By: _____ Date: _____

100 Branson Creek Boulevard
Hollister, MO 65672

EXHIBIT 2

Bluffs 29 - Billingsley

Jul-08

2 Nite Reg 1
 2 Nite Special 0
 Bran Tour 0
 1 Nite 0
 Multiple 1 Nites 0

AUG 13 2008

Description	Amount	Nights	Stays	Amount
Revenue				
Nightly - Minimum 2 Nights	990.00	2	1	990.00
Nightly - Minimum 2 Nights - Special Price	600.00	0	0	0.00
Nightly - Min. 2 Nights - Branson Tour. 20%	432.00	0	0	0.00
One Night Only	270.00	0	0	0.00
Multiple 1 Night Rentals	270.00	0	0	0.00
			1	990.00
One Night Clean (not included for a. %)	75.00	0	0	0.00
Total Revenue				990.00
Expense				
a. Management Fee - Prop. Mgmt. Co. 15%	(343.80)			(148.50)
Front Desk Staff				
2 hr @ \$15.00/hr plus 25%	\$15.00 (38.00)		1	(38.00)
Cleaning Contractor \$65.00	(85.00)		1	(85.00)
Add'l for One Night Clean	(10.00)		0	0.00
Cleaning Supplies	(3.00)		1	(3.00)
Laundry Fee	(16.00)		1	(16.00)
Guest Amenities	(6.00)		1	(6.00)
Insurance - 2 Nights	(6.00)		1	(6.00)
Insurance - 1 Night	(3.00)		0	0.00
a. Capital Replacement Reserve 5% (Owner Unit Account)	(114.60)			(49.50)
Total Expenses	(625.40)			(352.00)
Net Income	(625.40)			638.00
Contract Split				
Owner 70%	(438.00)			447.00
Fieldstone 30%	(188.00)			191.00
	(626.00)			638.00

AUG 15 2008

BRANSON DEVELOPMENT, LLC - OPERATING ACCOUNT

7480

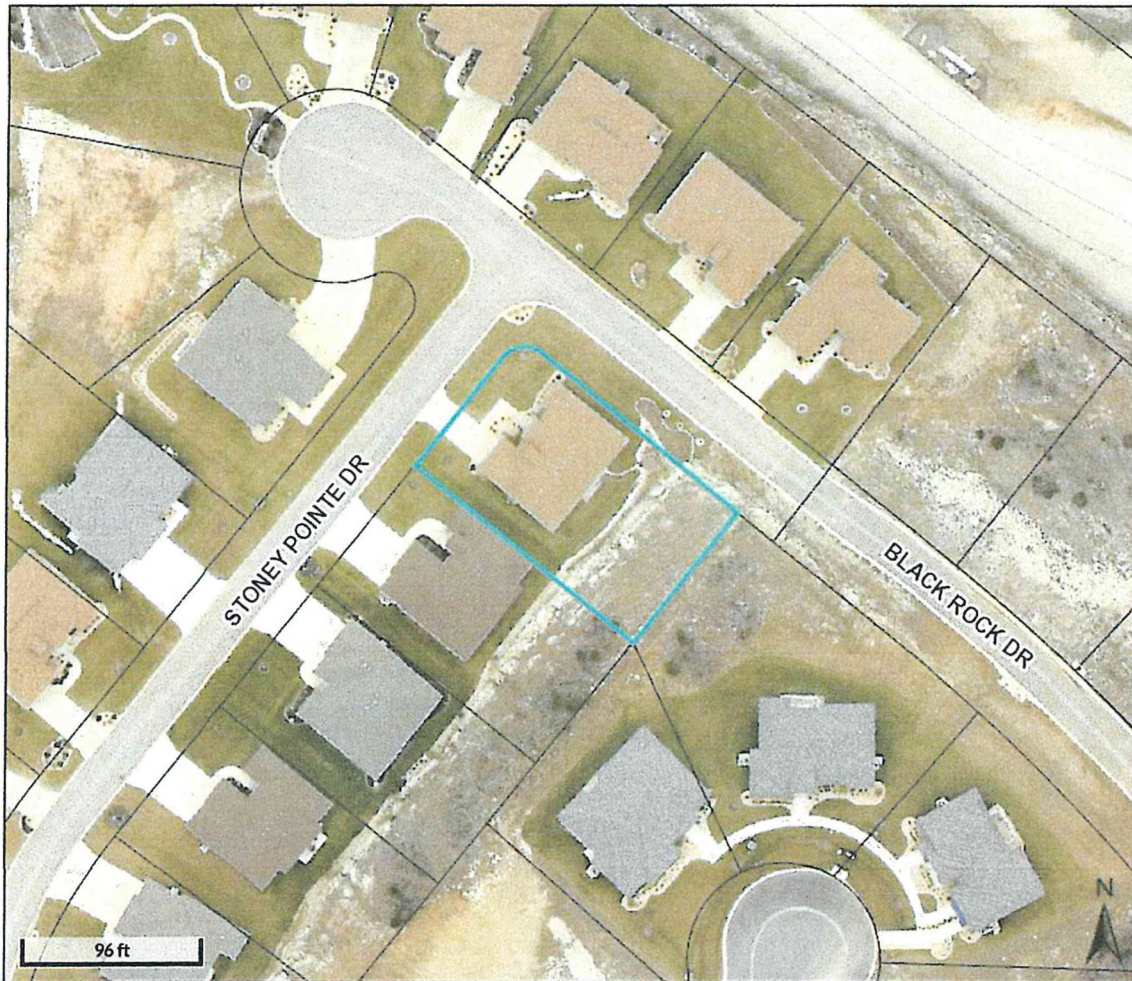
Gary & Los Billingsleys				8/21/2008	
Date	Type	Reference	Original Amt.	Balance Due	Discount
8/15/2008	Bill	July 2008	447.00	447.00	
				Check Amount	
					Payment
					447.00
					447.00

Rec 8-29-08

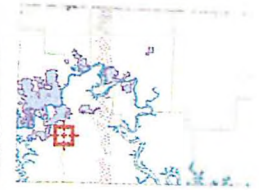
Regions/Union Planter Rental program for July 2008

447.00

EXHIBIT 4



Overview



Legend

-  Parcels
-  Roads
-  Corporate Limits
- Floodplains**
 -  A
 -  AE

Parcel ID	17-8.0-28-000-000-001.043	Alternate ID	n/a	Owner Address	BILLINGSLEY FAMILY TRUST 12/06/2007
Sec/Twp/Rng	28-22-21	Class	n/a		GARY D & LOIS A BILLINGSLEY TRUSTEES
Property Address	226 STONEY POINTE DR	Acreage	n/a		14511 TANGLEWOOD DR
					FARMERSBRANCH TX 75234-2551

District 5CWX
Brief Tax Description FIELDSTONE BLUFFS - PH 1 FIELDSTONE BLUFFS - PH 1 LT 29
 (Note: Not to be used on legal documents)

The floodplain data represented has been imported via the FEMA digital Flood Insurance Rate Map (FIRM) which became effective on March 15, 2012. However, FEMA does not recognize this floodplain layer as the official FIRM.

Date created: 3/22/2017
 Last Data Uploaded: 5/20/2013 10:17:09 PM

 Developed by
 The Schneider Corporation



© 2015 Pictometry

BC Map 1

EXHIBIT J



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

AGENDA
TANEY COUNTY PLANNING COMMISSION
PUBLIC HEARING
MONDAY, JANUARY 9, 2017, 6:00 P.M.
COUNTY COMMISSION HEARING ROOM
TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum
Explanation of Meeting Procedures
Presentation of Exhibits

Public Hearings: ALL PUBLIC HEARINGS POSTPONED UNTIL FEBRUARY 13, 2017

Branson Zipline
Friendly Hills Short Term Rental
Phillips Nightly Rental
Branson Family Memories, LLC

Old and New Business:

Public Hearing Proposed Nightly Rental

Adjournment.



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

MINUTES TANEY COUNTY PLANNING COMMISSION PUBLIC HEARING MONDAY, JANUARY 9, 2017, 6:00 P.M. COUNTY COMMISSION HEARING ROOM TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Steve Adams called the meeting to order at 6:00 p.m. A quorum was established with eight members present. They were: Steve Adams, Dave Stewart, Doug Faubion, Rick Caudill, George Cramer, Randy Haes, Howard Kitchen, and Randy Fogle. Staff present: Bob Atchley and Bonita Kisse-Souttee.

Election of 2017 Officers: A motion was made by Mr. Kitchen to nominate the same officers as last year. Seconded by Mr. Faubion. The vote to elect Mr. Adams as Chairman and Mr. Stewart as Vice-Chairman was unanimous.

Mr. Atchley read a statement outlining the procedures for the meeting.

All public hearings on projects have been postponed from this meeting until the February 13 meeting.

Old and New Business:

Public Hearing Proposed Nightly Rental; Mr. Atchley explained that the Planning Commission might vote on the amendment at the next meeting. He gave a brief synopsis of Option A, Option B, and Option C. Mr. Kitchen asked if legal counsel had seen the three options. Mr. Atchley stated that they have been sent but no communication had been received. Mr. Caudill stated that he did not feel prepared to vote on any one of the three at this time.

Deana Wolfe, President of the Missouri Board of Realtors spoke in favor of no interference by local government, which was the opinion of the Board. She asked the Planning Commission not to make a decision on any one of the three until a decision by the Legislators could be made. Mr. Cramer asked for her opinion regarding how Taney County handles nightly rentals. She stated that she liked the way Stone County handles their zoning.

Gary Billingsley who lives on Stoney Pointe Dr. spoke in favor of Option A, because in his opinion a Division III Permit has already been approved for nightly rental

in his neighborhood. The other two options would be a waste of taxpayer money in his opinion. He was representing several property owners who were present.

Barbra Durham who manages a small real estate company manages about 100 nightly rentals. She was in favor of Option A and feels that if Taney County requires stricter regulations or doesn't allow nightly rentals many property owners and money would be lost to Taney County.

Dick Heider discussed the three options and other Counties who do and do not permit nightly rentals and if regulations are even needed. In his opinion if Option A is chosen property owners would have no protection, except through the sheriff and court system. Option B and C are preferable but he likes the current regulations. Mr. Faubion asked if the nightly rental in his neighborhood caused problems. Mr. Heider stated that it does. The other neighbors present stated the same. Mr. Stewart discussed certificates of compliance. Mr. Caudill stated charges have been filed in court regarding these nightly rentals in this neighborhood.

Jeramie Worley real estate broker in the area and operates a vacation rental business, stated that in his opinion none of the options will work. He discussed taxation, parking issues during peak season, performance zoning, traffic, tourism, and infrastructure concerning nightly rentals. In his opinion performance zoning should be changed to traditional zoning.

Brad Moncado who owns several vacation rentals, agrees with Jeramie Worley and says he is neither for nor against the three proposals.

Linda Bokel who is a homeowner, feels that homeowners need protection from nightly rentals. In her opinion nightly rentals are businesses and are not compatible with single family dwellings.

Tom Bokel hopes that Taney County keeps the current regulations. In his opinion nightly rentals can hurt the property values of the local people and the economy. Most people do not want to live next door to a business in his opinion, and that homeowners might go somewhere else to live and buy homes.

Cindy Heider lives in Lemonwood Lane, and does not feel vacation rentals should be allowed in single family residential areas because they are not compatible. The nightly rental in her neighborhood will not cease renting until he is fined or told not to do it, in her opinion. She says they are at the mercy of the regulations, but that they are not enforced properly. Mr. Stewart clarified that the two nightly rentals in her neighborhood were denied by the Planning Commission. Ms. Heider stated that the sheriff was called but nothing could be done according to them.

Karen Murphy who lives in Branson Creek stated that there are several nightly rentals in that neighborhood and that there is no one to oversee them. She is not in favor of Option A and B and feels Option C is closest to the current Code which she is in favor of keeping. She feels there is a safety issue at Branson Creek for people who rent these places.

Wes Strange who lives at the Villas at Branson Creek reported on some nightly rentals in his neighborhood which in the past had some problems which he had to call the sheriff for, but nothing was done about it. In his opinion there are too many people in the structures causing safety issues. He is not in favor of Options A or B.

Mark Mauzey owns about 70 nightly rentals and lives in Springfield. He stated that some property owners have lived up to what the Code requires of nightly rentals and some have not. He has only had to call the Sheriff once in ten years. He pointed out that nightly rentals are at least a \$100,000,000 business providing revenue to Taney County. In his opinion it is a great industry and shouldn't be over regulated. About 70% of his rentals are single family dwellings.

Neil Murphy lives in Branson Creek and does not like Option A. He stated that in his opinion, there are plenty of adequate motel rooms for this area and are at 60%. In his neighborhood there are at least 27 nightly rentals which are not permitted.

Donna Lakey lives at Lemonwood Lane and feels regulation of nightly rentals is a wise thing. She thinks the Planning Commission has done a good job and that nightly rentals should still be controlled. She lives next door to a nightly rental.

Dusty Hall who owns Sunset Realty stressed that he and all of his staff live in Taney County and that current regulations are good and that nightly rentals should not be over regulated in his opinion. He supports all of his homeowners in Branson Creek.

Don Phillips has two homes which he has nightly rentals, and feels there is nothing wrong with making money. He makes sure his renters abide by the rules, and if someone looks for a home to buy, they should make sure there are no nightly rentals in the area which they are considering buying in. Mr. Kitchen asked about the letter sent by Mr. Atchley regarding nightly rental approval in Branson Creek. Mr. Phillips manages his properties himself but he lives 7 hours away. He has local people clean and take care of them.

There being no one else signed up to speak the public hearing was closed.

Discussion followed regarding the three Options. Mr. Haes pointed out that the Commission should consider the neighborhoods and also the property owners who are using them as income. Mr. Caudill reminded the Commission that the regulations should be enforced. Mr. Atchley explained how enforcement is currently being done. Mr.

Adams feels we are currently doing a good job permitting the nightly rentals . Mr. Stewart doesn't want to inflict rules on to people who are trying to make a living. Mr. Kitchen likes the current Codes but that they could be improved on. Mr. Faubion stated that in his opinion, our current form of zoning doesn't utilize the policy check list properly. Mr. Atchley reported that at this time he has written two drafts of a new Code and he plans to leave them with his predecessor. Mr. Stewart feels the special use permit is a good tool. Mr. Kitchen feels that in a platted subdivision that has private restrictions should not have nightly rentals unless they specifically say they can. Mr. Cramer feels we need to enforce the regulations and everyone should be on the same page. Mr. Caudill stated we need regulations that will stand up in court. The Commission asked Mr. Atchley to provide them with the two drafts of the Code to be reviewed next month. Mr. Fogle feels a concept should not be approved for someone who does not own the property. Mr. Pennel reminded the Commission that when he was a Commissioner he was not in favor of Traditional Zoning, but since then he has had the opportunity to study it and now feels that is the only way to go. His fear is that performance zoning would not stand up in court. Mr. Atchley stated that legal counsel feels we have a defensible position. The court of appeals should be handing down a decision on it soon. Mr. Haes asked how the traditional zoning districts were decided on. Mr. Atchley explained that it begins with what is existing. Mr. Faubion would like to talk to people who are in the nightly rental business for their input. Mr. Adams asked that the Commission read the two drafts before February.

Mr. Atchley addressed the Commission and announced his resignation effective January 20.

Adjournment:

With no other business on the agenda for January 9, 2017 the meeting adjourned at 8:27 p.m.



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

AGENDA

TANEY COUNTY PLANNING COMMISSION

REGULAR MEETING

TUESDAY, JANUARY 17, 2017, 6:00 P.M.

COUNTY COMMISSION HEARING ROOM

TANEY COUNTY COURHOUSE

Call to Order:

Establishment of Quorum

Explanation of Meeting Procedures

Presentation of Exhibits

Review and Action:

Minutes; December 2016

Final Votes:

Postponed

Concepts:

Branson Creek Villas, 165 N. Tuscany Dr.

Branson Creek Villas, 167 N. Tuscany Dr.

George Nightly Rental

Branson Creek Fieldstone Villa

Viveiros Duplex

Sunset Nightly Rentals Branson Creek

Michael Mays

Valley View I, LLC/360 Black Rock Dr.

Patricia A. Bates Living Trust

Steven & Shari Khoury

Contemporary Housing, LLC

Valley View I, LLC/112 N. Tuscany Dr.

Russell Barbour

Robert & Leslie Dickson

Terry Pope & Janyce Wutzke

Ted & Laurinda Cox

Valley View I, LLC/138 Stoney Pointe Dr.

Stinkweed, LLC

Brad Lacore, Nightly Rental

177 N. Tuscany, Nightly Rental

Old and New Business:

Possible Vote Proposed Nightly Rental Code Amendments

Adjournment.



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

Phone: 417 546-7225 / 7226 • Fax: 417 546-0861

website: www.taneycounty.org

**MINUTES
TANEY COUNTY PLANNING COMMISSION
REGULAR MEETING
TUESDAY, JANUARY 17, 2017, 6:00 P.M.
COUNTY COMMISSION HEARING ROOM
TANEY COUNTY COURTHOUSE**

Call to Order:

Chairman Steve Adams called the meeting to order at 6:00 p.m. A quorum was established with nine members present. They were; Steve Adams, Dave Stewart, Rick Caudill, Doug Faubion, George Cramer, Randy Haes, Howard Kitchen, Randy Fogle, and Brad Lawrence. Staff present; Bob Atchley and Bonita Kisse-Soutte.

Mr. Atchley read a statement outlining the procedures for the meeting.

Review and Action:

Minutes, December 2016; with no additions or corrections a motion was made by Mr. Haes to approve the minutes as written. Seconded by Mr. Cramer. The vote to approve the minutes was unanimous.

Final Votes: Postponed

Concepts:

Branson Creek Villas, a request to operate a nightly rental from a single family residence located at 165 N. Tuscany Dr. Mr. Atchley presented a location map of the site. With no representative present Mr. Stewart made a motion to postpone until the end of the meeting. At the end of the meeting the representative was not present. This project is postponed until the representative contacts staff.

Branson Creek Villas, a request to operate a nightly rental from a single family residence located at 167 N. Tuscany Dr. Mr. Atchley presented a location map of the site. With no representative present Mr. Stewart made a motion to postpone until the end of the meeting. The representative did not appear. This project is postponed until the representative contacts staff.

George Nightly Rental, a request to operate a nightly rental from a single family residence located at 133 N. Tuscany Dr. This applicant withdrew.

Branson Creek Fieldstone Villa, a request to operate a nightly rental from a single family residence located at 119 Tuscany Dr. Mr. Atchley presented a location map of

Mr. Adams everyone that the public hearings on these requests will be held February 13, 2017, and final votes taken the following week February 21, 2017 which is on Tuesday because of the Monday holiday.

Old and New Business:

Proposed Nightly Rental Code Amendment; discussion followed regarding leaving the Code the way it reads on nightly rentals, and when the Commission wants to vote on it. This amendment will be discussed and possible voted on at the February meetings. Mr. Cramer made a motion to move discussion regarding the nightly rental amendment to the February meetings. Seconded by Mr. Stewart. The vote to discuss in February was unanimous.

Adjournment:

With no other business on the agenda for January 17, 2017 the meeting adjourned at 7:50 p.m.



TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

website: www.taneycounty.org

AGENDA

TANEY COUNTY PLANNING COMMISSION REGULAR MEETING

TUESDAY, FEBRUARY 21, 2017, 6:00 P.M.
COUNTY COMMISSION HEARING ROOM
TANEY COUNTY COURTHOUSE

Call to Order:

Establishment of Quorum
Explanation of Meeting Procedures
Presentation of Exhibits

Review and Action:

Minutes, January 2017

Final Votes:

Craig Combs
Marc & Liz Kirby
Don Phillips
John Boyer
George C. Thomas, III
Viveiros Duplex
Michael Mays
Valley View I, LLC
Patricia A. Bates LT
Steven & Shari Khoury
Contemporary Housing
Valley View I, LLC
Russell Barbour
Robert & Leslie Dickson
Pope & Wutzke
Ted & Laurinda Cox
Valley View I, LLC
Stinkweed, LLC
Brad LaCore
DK & NK, LLC

Concepts:

Branson Creek Villas, 167 N. Tuscany Dr.
Branson Creek Villas, 165 N. Tuscany Dr.
360 Lone Pine Road Nightly Rental
National Enzyme Co.
764 Jones Road Nightly Rental
127 N. Tuscany Nightly Rental

Old and New Business:

Possible vote on proposed Amendments to the Code

Adjournment.

TANEY COUNTY DEVELOPMENT GUIDANCE CODE COMPLIANCE ADDENDUMS

4.7.1 Occupancy: We are equipped for an occupancy of 10. There are 4 bedrooms plus a pull-out couch. Each bedroom has at least one window, a closet and a door. There is parking for 2 in the garage and up to 4 in the driveway.

4.7.2 Parking: We have parking for up to 6 cars which is more than enough for our occupancy of 10.

4.7.3 Solid Waste Disposal: There is garbage pickup every Tuesday throughout the year.

4.7.4 Lighting: We have the approved lanterns of Branson Creek which is diffuse lighting

4.7.5 Safety: We have 8 smoke detectors, a fire extinguisher and will install a carbon monoxide detector. This home has 4 exterior doors and a door to the garage.

4.7.6 Fire District Compliance: Will have the inspection after the permit is granted.

4.7.7 Fire District Inspection – I have spoken with the Western Taney County fire district to see if he would inspect and give me a compliance certificate, but he said he will not do so until we have been granted a permit. In speaking with him, we have more than enough to obtain our compliance certificate with the exception of a carbon monoxide detector which I will install immediately upon being granted the permit.

4.7.8 Taney County Assessor's Office Compliance: Attached is the letter where we reported the number of dates rented in 2016. Chuck Pennell states that is our compliance letter.

4.7.9 Taney County of Collector's Office Compliance: The collector's office tells me there is no Merchant's License to be obtained.

4.7.10 Missouri Department of Revenue Compliance:

1) Sales License Number for manager, Agape Upscale Vacation Rentals, LLC attached.

2) No Tax Due letter for Agape Upscale Vacation Rentals attached.

4.7.11 Permit Posting: A sample of a potential posting after being granted a permit is attached.

4.7.12 Health Department Compliance: Not applicable. This is a 4 bedroom home.

4.7.13 Ownership: A Warranty Deed is attached to the BOA application proving ownership by The Billingsley Family Trust, Gary & Lois Billingsley, co-trustees

4.7.14 Local Representative: The local representative is Marie Powers, owner, Agape Upscale Vacation Rentals LLC. Cell phone: 417-598-0144. I live in the Branson area and am available 24/7. A guest register log will be kept in the office including the names, home addresses,

telephone numbers and vehicle licenses of all those who will be in the home along with the dates of stay.

**Nightly Rental Letter****CHUCK PENNEL****TANEY COUNTY ASSESSOR****P.O. BOX 612, FORSYTH, MO 65653****Phone: (417) 546-7241 Fax: (417) 546-6840 Email: assessor@co.taney.mo.us
05/18/2017****IMPORTANT NOTICE!
MUST BE RETURNED BY
MAY 15, 2017!****BILLINGSLEY FAMILY TRUST 12/08/2007
14511 TANGLEWOOD DR****PARCEL# 17-8.0-28-000-000-C01.043
CURRENT DATE: 05/18/2017****FARMERSBRANCH TX 75254-2551****Legal Description: FIELDSTONE BLUFFS - PH 1 LT 29****To property owner:**

This letter is going out to all property owners who may be renting their property on a nightly or weekly short term basis. If you don't rent your property or rent it on a monthly or annual basis, you need to check the box at My Property is NOT rented on a short term basis and return it to the Assessor's office. It is very important that you return the letter by May 15, 2017. If we do not receive it, your property will be taxed at a commercial rate which will result in a much higher tax bill for 2017.

If your property is rented on a short term basis (transient housing), it is subject to sales tax and is to be classified as commercial property pursuant to Section 137.016(1) of the Revised Statutes of Missouri.

The actual number of nights your property was rented in 2016 will determine the percentage of commercial value on your tax bill. Below, please enter the number of nights the property was rented in 2016.

Again, it is crucial that this letter is returned to the Assessor's office. If you have any questions, please call the Taney County Assessor's Office.

Chuck Pennel
Taney County Assessor

- ☒ My Property was RENTED 115 nights in 2016.
☐ My Property is NOT rented on a short term basis.

Gary Billingsley
(Signature of Owner)

G. Pennel
(Signature of Assessor)

5/14/17
(Date)

State of Missouri
Missouri Retail Sales License

LICENSEE:

AGAPE UPSCALE VACATION RENTALS LLC
346 CANNON BALL LOOP
BRANSON MO 65616
AGAPE UPSCALE VACATION RENTALS LLC

LICENSE ISSUED:

FEBRUARY 03, 2012

POWERS MARIE A

MISSOURI TAX IDENTIFICATION NUMBER: 21427321

THE ISSUANCE OF THIS LICENSE IS CONTINGENT UPON THE LICENSEE'S COMPLIANCE IN ALL RESPECTS WITH THE REQUIREMENTS OF CHAPTER 144 RSMO, AND THE RULES PROMULGATED THEREUNDER.

THIS LICENSE IS VALID UNTIL CANCELLED AND SURRENDERED BY THE LICENSEE OR REVOKED BY THE DIRECTOR OF REVENUE.

THIS LICENSE MUST BE PROMINENTLY DISPLAYED IN THE PLACE OF BUSINESS.

DIRECTOR OF REVENUE

0037384-240078

THIS BUSINESS IS REGISTERED OUTSIDE THE CITY LIMITS OF
BRANSON IN THE COUNTY OF TANNEY AND YOU ARE
LIABLE TO COLLECT AND REMIT ALL APPLICABLE STATE AND LOCAL SALES
TAXES.

THIS LICENSE IS NOT ASSIGNABLE OR TRANSFERABLE

78

(071620)

TAXATION DIVISION
P.O. BOX 3666
JEFFERSON CITY, MO 65105-3666



STATE OF MISSOURI
Department of Revenue
Telephone: (573) 751-9268
Fax: (573) 522-1265
E-mail: taxclearance@dor.mo.gov

AGAPE UPSCALE VACATION RENTALS LLC
AGAPE UPSCALE VACATION RENTALS LLC
546 CANNON BALL LOOP
BRANSON, MO 656168702

DATE: April 2, 2017
MISSOURI TAX ID NUMBER:
21427321
Branson

CERTIFICATE OF NO TAX DUE

To Whom it may concern: The Department of Revenue, State of Missouri, certifies that the above listed taxpayer/account has filed all required returns and paid all sales or withholding tax due, including penalties and interest, or does not owe any sales and withholding tax, according to the records of the Missouri Department of Revenue as of March 31, 2017. These records do not include returns that are not required to be filed as of this date for taxes previously collected or that have been filed but not yet processed by the Department.

This statement only applies to sales and withholding tax due and does not limit the authority of the Director of Revenue to assess, and/or collect liabilities under appeal, in default of an installment agreement entered into with the Director of Revenue or that become known to the Missouri Department of Revenue as a result of audit, review of the taxpayer's records, or determination of successor liability.

THIS CERTIFICATE REMAINS VALID FOR 90 DAYS FROM THE ISSUANCE DATE.

DIRECTOR OF REVENUE OR DELEGATE
STATE OF MISSOURI

BY:

A handwritten signature in black ink that reads "Esta Zaring". The signature is written in a cursive, flowing style.

Esta Zaring
Administrator, Business Tax

**MANAGED BY: AGAPE UPSCALE VACATION RENTALS LLC
MARIE POWERS, OWNER 417-598-0144**

**HOMEOWNERS: BILLINGSLEY FAMILY TRUST
Gary D & Lois Billingsley, Trustees
14511 Tanglewood Drive, Farmersbranch, TX 75234**

**Maximum Occupancy: 10
Off Street Parking: Garage 2 , Driveway 4
Garbage Collection Day: Tuesdays**

IN EMERGENCY, CALL 911

**For Non-Emergency:
Taney County P&Z: 1-417-546-7225
Taney County Sheriff: 1-417-546-7250
Western Taney County Fire Protection District: 1-417-334-3440
Cox Medical Center: 1417-335-7000**

Scott Starrett

- BOA Packets -

From: Karen Murphy [klmnjm40@gmail.com]
Sent: Saturday, June 10, 2017 6:50 PM
To: P&Z
Subject: 226 Stoney Point Branson Creek

Attn: Board of Adjustment members

Mr Billingsley continues to rent even though he was denied a permit.

Please do not reverse the Planning and Zoning Commissioner's denial.

First of all he would not respond to the original certified letter sent by planning and zoning telling him to apply for a permit. He had to receive another letter.

Second, on the contract he showed where Branson Creek rented his home for golf packages it specifically states he cannot rent on his own.

Third, there have been previous complaints about noise and partying because he has a hot tub that is not fenced in so it creates a nuisance when used.

From: Karen Murphy
Sent from my iPhone



June 27 Deadline

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 BOARD OF ADJUSTMENT

17-07✓

APPLICATION and AFFIDAVIT

FOR VARIANCE OR APPEAL

(Circle one)

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

Jaghauser@centergel.net

PLEASE PRINT

DATE 06/26/2017

Applicant Wagne + Carrie Price

Phone 417-561-2363

Address, City, State, Zip 7995 Sr Hwy 176 Walnut Shade 65771

Representative Wagne Price

Phone 417-561-2363

Owner of Record Freeman Wagne + Carrie Price Signature: Freeman W Price

Name of Project: _____

Section of Code Protested: (office entry) Setback on Front

Address and Location of site: 7995 Sr Hwy 176 Walnut Shade
65771

Subdivision (if applicable) _____

Section 22 Township 24 Range 2 / Number of Acres or Sq. Ft. 1.12 Acres

Parcel Number 05-5.0-22-000-000-011.000

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.

July 26, 2017

I am asking for a setback variance for purposes of construction of a Nonresidential Storage Building used for storing non-farm related vehicles, materials and property and that the setback requirements may be reduced by the minimum extent necessary (20 feet) to accommodate the structure, a manufactured / engineered steel building with a concrete foundation / floor.

My proposed variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion in the public roadway, nor increase the danger of fire, endanger public safety, or substantially diminish or impair property values within the adjacent neighborhood.

My hardship is peculiar to this property in that there is an exceptional physical topographic condition of the property. The yard has a steep drop-off along one side of the proposed construction area. The current setback of 50 feet will push the footprint of the building "uphill" 20 feet and into the drop-off structure and would also interfere with existing mature trees/landscaping and the drop-off's angled watershed slope. Any further excavation of the slope may cause drainage issues with the existing home. I am requesting the minimum amount of variance necessary to still permit the reasonable use of the land. 20 feet.

There is not an alternative that would allow this improvement to the property without the requested variance.

My requested variance is consistent with the spirit and intent behind Taney County's ordinance and substantial justice is done by granting the variance.

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.

Freeman W. Price
Signature of Applicant

06/26/2017
Date of Application

STATE OF MISSOURI)

S.S. On this 26th day of June, 2017.

COUNTY OF TANEY)

Before me Personally appeared Freeman Price, to me know 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 2/6/2018.

Bonita Kisse-Souttee
Bonita Kisse-Souttee, Notary Public



BONITA KISSEE-SOUTTEE
My Commission Expires
February 6, 2018
Taney County
Commission #10440057



Taney County Board of Adjustment Staff Report

HEARING DATE: July 26, 2017

CASE NUMBER: 2017-07V

PROJECT: Wayne Price Setback Variance

APPLICANTS: Wayne and Carrie Price

LOCATION: The subject property is located at 7995 State Hwy 176, Walnut Shade Missouri, Jasper Township; Section 22, Township 24, Range 21.

REQUEST:

The applicants, Wayne and Carrie Price are requesting a variance from the provisions of Section 7, Table 1, (Setbacks) of the Taney County Development Guidance Code. The request is for a variance from the required fifty (50) feet front property line setback requirement for State Highways, to allow for the construction of a thirty six (36) by fifty two (52) foot storage building. The applicant is requesting a ten (10) foot variance allowing the new structure to be constructed forty (40) feet from the front property line.

BACKGROUND and SITE HISTORY and GENERAL DESCRIPTION:

As per the Assessor's information the subject property is +/- 1.12 acres in size. There is currently a single family home built in 1988 and two (2) utility buildings on the property. The applicant applied for a Division I permit for the storage building on June 13, 2017.

REVIEW:

Currently, based upon the Taney County Development Guidance Code the front property line setback would be fifty (50) feet. The applicants are requesting a variance of ten (10) feet from the front setback due to the change in the slope of the area for the building. With a forty (40) feet front setback and thirty six (36) feet for the building width the building can be built without the hardship of working with the increased slope at seventy six (76) feet. The pad will be filled

and a block retaining wall will be constructed to level the site for the building as compared to the existing utility building the north. If the building was constructed at the fifty (50) foot setback the added elevation would make the entrance to the storage building very steep due to the added height to level the site. The original request was for a twenty (20) foot setback but after careful measurement it would work with a ten (10) foot setback.

STATUTORY REQUIREMENTS of APPROVAL:

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

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

STAFF RECOMMENDATIONS:

If the Taney County Board of Adjustment approves Variance Request Case #2017-07V, the following requirements shall apply, unless revised by the Board:

1. Approval of a front setback of ten (10) feet from the front property line, allowing for the construction of a new storage building which will be located forty (40) feet from the front property line.
2. Compliance with all of the other provisions of the Taney County Development Guidance Code.
3. A Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 Days or the approval shall expire (Appendix D, Step 6).

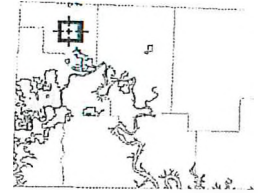


BOA Wayne Price





Overview



Legend

- ☐ Parcels
- ☐ Roads
- ☐ Lakes
- ☐ Corporate Limits
- Floodplains
 - ☐ A
 - ☐ AE

Parcel ID	05-5.0-22-000-000-011.000	Alternate ID	n/a	Owner Address	PRICE FREEMAN WAYNE & CARRIE
Sec/Twp/Rng	22-24-21	Class	n/a		7995 STATE HIGHWAY 176
Property Address	7995 STATE HWY 176	Acreage	1.12000000476837		WALNUT SHADE MO 65771-9108
District	4CWX				
Brief Tax Description	PT SWNW4 W OF MSH 176				
	(Note: Not to be used on legal documents)				

The floodplain data represented has been imported via the FEMA digital Flood Insurance Rate Map (FIRM) which became effective on March 15, 2012. However, FEMA does not recognize this floodplain layer as the official FIRM.

Date created: 6/26/2017

Last Data Uploaded: 5/20/2013 10:17:09 PM



Developed by
The Schneider Corporation

Scott Starrett

From: dicksondad@aol.com
Sent: Thursday, July 06, 2017 8:54 PM
To: P&Z
Subject: Board of Adjustment

Please forward the following to Mr. Dan Boone.

Mr. Boone,

We wish to state we are in support of the homeowners at 112 Tuscany and 157 Tuscany. The individuals who are seeking a reversal of the Planning and Zoning Commissions February 21, 2017 decision do not speak for all homeowners within Branson Creek. Branson Creek has operated nightly rentals since 2008. The Commission at a duly organized meeting considered the application of the homeowners and granted a special use permit. The person(s) claim they are bothered by persons who are users of the nightly rental homes. The Commission has set forth a guide line whereby each special use permit must have someone on call on a 24 hour – 7 day a week basis who can respond to complaints or issues permanent residents may have or encounter with the nightly renters. This is far better than not having a responsible party to address concerns. If the petitioner were dealing with a permanent resident who was behaving in a fashion which the petitioner found fault, they would not have anyone other than the other resident to complain to about the issue.

Sincerely,

Mike and Leslie Dickson, 130 Fieldstone

Sent from [Mail](#) for Windows 10

Scott Starrett

From: dicksondad@aol.com
Sent: Thursday, July 06, 2017 8:42 PM
To: P&Z
Subject: Board of Adjustment

Please forward this email to Mr. Dan Boone, Chairman of the Board of Adjustments.

Mr. Boone,

We are homeowners of 130 Fieldstone in Branson Creek. We continue to be appalled two individuals within our community continue to speak their mind as if they represent the entire community of Branson Creek. They DO NOT speak for everyone and it should not be presumed everyone here feels the same way as they do.

We whole heartedly support the decision of homeowners within Branson Creek who are seeking to utilize their homes as vacation rentals. In today's world, not everyone is comfortable in a hotel room and there are alternatives for folks in using homes as a designated site to stay that is not in a congested commercial arena that most of the hotels fall into. I know at one of the public meetings a statistic was presented which indicated the hotel rooms were not at full capacity. But as we both know statistics can be misleading if both parties of the discussion are not presented with the basis of question and the complete analysis of the data. Seeing as the hotel industry suffers during the "off" months in Branson, the occupancy rates must be calculated using eight to nine months of data and not a 12 month analysis.

We fully support Mr. Billingsly in his quest to alter the decision of the Planning and Zoning Commission. Mr. Billingsly has been in the past operating under the assumption he had prior permission to operate the home as a nightly rental due to a letter from the Planning and Zoning Administrator. As you know, this has been a contentious aspect of the questions now before you. I encourage you to recommend the reversal of the prior decision of Mr. Billingsly and issue a notice to change the status of his petition for a special use permit.

Respectfully submitted,
Mike and Leslie Dickson

Sent from Mail for Windows 10

L K Cox
Kansas City, MO 64151
816-651-6651

June 26, 2017

Dear Members of the Taney County Planning Commission:

I'm saddened to hear of the nightly rental issues continuing to plague this incredible community. I realize this letter will sound like a broken record to you, but I hope you can bear with me to hear it out as I was not only a full-time resident/property owner, but a business owner that catered to nightly rentals. I have lived both sides of the fence and have seen and lived all sides to this dilemma. Additionally, I have worked closely enough with the architectural and building community to understand the regulation involved, at a basic level.

My husband and I owned property and lived on Table Rock Lake for more than 13 years before buying into Fieldstone Villas at Branson Creek several years ago. We moved to the Villas with the intent of eventually turning our property into a nightly rental. We did this after visiting with Taney County Planning and Zoning and asking the HOA if nightly rentals were still allowed and if there were any issues. We were told that everything was fine with both.

At the time, I owned a business that catered to nightly rental customers called KEYCO Property Services, LLC. Not only did my business clean nightly rental and upscale vacation properties, small commercial properties / resorts, and work with large HOA / Property Management Cos. in the area, we were also considered the local "go to" if there were any issues with maintenance or the guests of our nightly rental customers. I ran this successful business for five years and we cared for more than 50 properties during that time. During the course of my business, there may have only been one or two instances where we had an issue with guests not taking care of the property as they should, which were easily resolved, and none that resulted in a community complaint. This was largely in part due to the rules and expectations spelled out in the owner/guest contract where if there was any type of neighboring or community complaint, the guests would be evicted immediately without question. I assure you, if after five years in this business I had experienced homes being trashed and guests being community nuisances, I would have not decided to purchase a nightly rental property of our own.

Prior to my starting this business, which employed 15-20 employees who badly needed jobs, and most who had children in your school district, my husband and I travelled frequently and would stay in nightly rental homes in other parts of the country. In fact, whenever we planned an extended stay for more than just a few nights and especially if we are travelling with family or friends, we would, and still will, seek out nightly rental homes on VRBO or through local property management companies. In fact, we are doing that very thing this week as I plan to take my grandchildren to

meet with their Dad who has been on a Navy ship in the Mediterranean for more than 9 months. Staying in a nightly rental home instead of a hotel provides us with the togetherness a home offers over a hotel room which is vital in a case like this where the children are to re-bond with a father they haven't seen in almost a year. Most of our travels where we've stayed in nightly rental homes have been in Virginia, Florida, Hot Springs, and California. Important to tourism, the town or area we choose to stay in completely depends on the nightly rental home we can find to fit our needs.

The reason we chose to move to Taney County from Stone County was because it was more receptive to nightly rentals. Now, after 2 years of living in the Fieldstone Villas at Branson Creek, and because of the harassment allowed by the HOA of only a few permanent residents, and because Taney County has been receptive to these unfounded claims, I have closed my business and we have moved back to Kansas City. It breaks my heart to leave the Branson area. We loved visiting the area long before we owned property there. Now, because we don't own property there any longer, there are 20 people looking for work, several of which are currently claiming unemployment, we won't be enjoying time with our grandchildren there, we won't be marketing a property for Branson tourism on our dime to encourage vacationers from all over to come to your beautiful part of the world to spend their money there.

Many of the guests that frequented KEYCO customer nightly rental properties were parents of children going to camp there, or those that were there for fishing, dance or baseball competitions that bring thousands (millions?) to Branson. Some of these people still call me asking for options of where to stay when they are in town, and some even call asking me for advice on how to invest in nightly rental property there.

We are very sad for the turn of events this has taken. Branson (Taney County) is a beautiful place with a lot to offer. The reason it has the amenities it has is because of the number of tourists that vacation there. Most of us, including those that want to keep them out, moved here because we vacationed here once and fell in love with the area and all it had to offer. Why can't they understand that we wouldn't have these wonderful amenities in such a small town if it weren't for those that visit us? We should be rolling out the red carpet for them. After all, we get it to ourselves for several months out of the year!

I sat through some of the early hearings. In fact, our property was approved through due-process for nightly rental as we prepared to put it on the nightly rental market. However, the harassment by these few individuals made it impossible for us to enjoy the amenities of the neighborhood as we lived there. Never once were we inconvenienced by a nightly rental guest. It was these local-residents that made life intolerable there.

I listened in disbelief as they talked about a wet towel hung over a deck rail like it was a controversial flag. As these residents have openly stated that they could care less how their actions would contribute to the decline of property

values in the area as investors all flood the market to sell their properties, I fail to understand their concern about a wet pool towel temporarily hung over a railing to dry. I listened to claims about how it was unsafe for guests to be walking in the streets when at any hour of the day or evening you will find many of them out walking their dogs there. I listened as these few disgruntled residents claim to be poor, old and sick and beg for your pity. They sure seem to get around fine in the neighborhood!

As I hear that you are seriously considering the concerns voiced by this negative group of residents, I feel I must share my own experiences to hopefully put things into a clearer perspective. We were personally harassed while visiting friends who owned property in the neighborhood. There were several of us visiting for a cook-out at the neighbor's house, all owners of property in that community. We had a grill in the drive-way and had cars parked along the curb in front of the host property only. As we sat down to dinner, the doorbell rang and we were told by Karen that the grill was not allowed and we were to move our cars. The men silently obliged "to keep the peace", disrupting our perfect evening to move the cars and walk for blocks back to the house and a cold plate. There is nothing in the HOA bylaws that state this to be an issue. In fact, quite the opposite. Even more amazing, was that the property was not even in Karen's neighborhood. She's been told repeatedly to stop "policing" the area by the HOA yet she persists without consequence. She has also stopped my grandchildren who were quietly playing in our own yard as she walked by just to quiz them to find out if they were part of a nightly rental guest party. She achieves great satisfaction from her self-proclaimed "power" in which she has been very successful in creating a small "mob" within what was once, and not so long ago, a peaceful community.

A few group of men, which include the husbands of the women running this campaign, meet regularly for gossip and coffee a few days per week. They have taken control of the clubhouse as if they were the only ones paying dues to be there. Upon following the rules and guidelines set forth by the HOA, and with the HOA's blessing, I held a company meeting there. These men meet twice a week throughout the entire year but were not able to allow us a few hours a day for a few days in one week to use the clubhouse we had every right to. There were actually several of us that live and pay dues in the community involved in our meeting. We were harassed the entire time as they physically disrupted our meetings and made unnecessary noise during presentations. I tried offering them concessions to leave us in peace but they were getting more satisfaction out of harassing us and so declined. The HOA officials on site could have easily taken charge of this, but chose not to.

Unfortunately, you don't hear from the majority of us that are full-time / part-time residents that do not share in their campaign which is the reason for this letter. The stories these people tell are half-truths and the facts are skewed in an effort to escalate their cause. The sad thing is, this all started because two ladies didn't want to share a community pool that are paid for by ALL of the owners, and ALL guests of owners are allowed to use it, paid guests or not. These rules were in place when they bought their properties and have not changed. However, because nightly rentals have

become more popular, there has been a higher usage of the nearby pool which invades on their private pool time that they get to enjoy the majority of the year.

This is an HOA issue and should never have been allowed to have taken your time. However, they've escalated it to a "nightly-rental" issue just to claim their private chair at a neighborhood pool, which by the way was located directly across the street from our property. We also used it frequently without any cause to complain.

I frequently wonder if the nightly rental business owners in Branson Creek would band together to put in their own pool, if it would solve this issue? It would be a great compromise and I think at one time it would have sufficed, however these ladies have been allowed to take this to the point that they are enjoying their own created chaos too much to settle for any compromise. As I understand, they continue to harass and terrorize the neighborhood even though many of the residents there that are not involved with nightly rentals do not agree with their campaign. I've heard from a few that they fear what these people will do to them if they speak up as subtle threats have been made. This is also the reason my husband has asked that I not include our current address in this communication as he fears their retribution may exceed county lines.

Of course, the way to get their pool back is to get rid of the nightly rental guests. The first thing on the agenda is to create a checklist of items against the nightly rental properties which introduce claims serious enough to shut them down. One of the items was the loft in some of the units not being considered a bedroom. I understand that if the property was being advertised for sale where some of these lofts may not "qualify" as bedrooms. However, they are not being advertised for sale, they are being advertised as additional areas where guests can sleep, no different than a pull-out couch or a roll-away bed. They are just a better furnished space within the home that is provided for sleeping.

The property we owned had a loft. The loft had 2 king sized beds with ample room to move around, a rack for clothes to be hung, a dresser for folded clothes and housed a large flat panel TV. It had an outside window and stairs that allowed private-access. It had shutters that allowed it to be open or shut off for privacy from the rest of the house. it had a smoke detector and the outside window could easily be accessed by the fire dept. via ladder in case of emergency. I have stayed in commercial hotels with the same type of amenity and would be glad to share the exact ones that come to mind if you are interested in considering them as part of your due diligence. Yet it was arguably determined that this could not be considered a bedroom or sleeping quarters. Partly because they don't have a door. I fail to see what a door has to do with being a bedroom? The stairs offer private access. I could take you to the local airport, restaurants or many facilities where bathrooms don't have doors. Many of the upscale homes KEYCO tended to had shower rooms that were more private without doors than those with glass enclosures. Many modern homes feature walkways to bedrooms without doors. I think this policy needs to be revisited. In fact, it may not be a bad idea if someone were to visit these lofts prior to making that determination.

There was also a shared wall. Whenever our part-time neighbors had their grandchildren visiting them, we could hear them laughing and crying and pounding up and down the stairs. We knew it was short term and it never lasted for long. We smiled knowing they were spending special moments with their grandchildren. It's to be expected with a shared wall and we knew that buying into it. I'm sure they heard the same noises from us when our grandchildren visited, yet they never complained to us. Nightly rental or not, you're going to hear your neighbors when you have a shared wall. We've moved into another "shared wall" community in Kansas City. We hear our neighbors, sometimes. We hear their children and their dog barking, sometimes. It's tolerable because we expect it. I've stayed in hotels where 2 walls are shared and have been more disturbed by the noise than staying in our shared wall home. It's funny that the person I've heard the most complaints about noise on the other side of a shared wall is from Karen and they don't share a wall with a nightly rental business but a full-time resident.

Regarding the fire suppression system, why isn't it also a consideration of the full-time/part-time residents that reside on both sides of the wall or next door to a nightly rental? Some have family members or friends who stay at their properties when they aren't there. The only difference is that some guests pay to be there and some don't. Why should paying guests have more consideration for safety and liability than non-paying guests?

We had commercial insurance that covered our liability. We had a fire extinguisher on property as required by the property management company. Can the full/part time residents claim the same safety and liability measures? What if the fire starts on their side of the structure? Are you going to extend the fire suppression system rules to them as well? I think if someone were to check into the legalities of this, they would find that both sides would be held to the same regulation. That being said, where were these building codes at the time these structures were being built? I happen to know they were non-existent, although nightly-rental provisions were approved at that time. Yet, you are only grandfathering in a small few for this provision?

I understand how you would want to wash your hands of any liability as time and resources are limited, however pushing it off onto another department to approve or police does not appear to be the best solution. I agree that there are some communities that should not be open to nightly rental investors. One solution for all is not going to solve the issue unless you enforce that nightly rentals are to be allowed in communities with HOA's only.

Let's face it, HOA's should be the ones to declare whether or not they allow nightly rentals in their community and therefore be held responsible for their own community issues. It shouldn't be allowed to escalate to the point where it takes up the time of our county officials. Additionally, past building code regulation was not intended to be retroactive to the point of causing hardship on current property owners. If so, BOTH sides of a shared wall should be held accountable equally as the hazard and liability is equal for both.

I'm sure there are communities in other states that have experienced these growing pains for decades that would have some great advice for you. I believe we would find that they've determined that their community belongs to ALL of those that have made the decision to own property and businesses there with proper due diligence and legal compliance. And, that with good neighbor etiquette to be spelled out clearly and ENFORCED by the HOA along with reasonable compromise, there shouldn't be an issue with all living in peace within the same community. Residents should never forget that the community would not be the wonderful place it is without the seasonal visitors that support the amazing way of life their presence has afforded for all the residents of Taney County and beyond all year long.

Thanks in advance for your time and patience in reading yet one more letter. I hope that someday we can return to Branson and enjoy our time with our grandchildren in a beautiful nightly rental home where the owners pay their taxes and the neighbors live in peace. However, in the meantime, I guess we'll plan to go to places that have already figured it out. The Outer Banks is looking rather attractive to us right now!

Sincerely,

L.K. Cox, previously of
168 Fieldstone Dr
Hollister, MO 64151

Scott Starrett

From: Sheila Wyatt
Sent: Monday, June 26, 2017 12:25 PM
To: Scott Starrett
Subject: FW: Branson Creek BOA hearing June 21st

Scott,

This is the second time I received the body of this email saying the same thing. I received an email like this the same day I had received one from you explaining your disappointment in not have a quorum.

Sheila

From: Susan Smith [mailto:trsmith@centurytel.net]
Sent: Monday, June 26, 2017 11:44 AM
To: Sheila Wyatt
Subject: Branson Creek BOA hearing June 21st

It was indeed very unfortunate what transpired before the BOA hearing June 21st. We (Karen, Lisa and myself) were informed by Scott Starrett less than 15 minutes prior to the start , he had received text messages that 3 of the commissioners would be a no show. (no quorum). in my opinion that is totally unacceptable. Branson Creek residents were there in numbers well over 25.

I researched past hearing and there has always been a quorum. They only meet once a month, that would be sufficient time to give heads up, if commissioners were not going to be present?? Very interesting!!! Does that not raise questions?

Many residents had rescheduled appointments and vacations in order to be there. This hearing was extremely important to prove the errors the PZ had made. The rumor floating around , is this was staged or orchestrated by Taney County Officials. Please prove me wrong. If you can't prove affirmatively this information then we are to assume we are correct in our assumptions.

frustration is an under statement among the permanent residents!

You as an elected official need to investigate these rumors

I await your reply.

I can only speak for myself, but I do know other permanent residents are also beginning to think that there is something very questionable going on.

Before you start getting bombarded by emails, I hope you take the time to reply.
Susan

Sent from my iPad

Scott Starrett

From: Wally Sinko [wallysinko@me.com]
Sent: Friday, June 23, 2017 5:32 PM
To: P&Z
Subject: Attn: Board of Adjustment

Board of Adjustment Members

I am so disappointed and frustrated with the lack of county interest or concern for its permanent residences. I have been forced into the position of defending myself against the issuance of a permit for nightly rentals for my roof mate. I went through all the steps to be heard and you don't have a forum at the very last minute. It is not even clear when it is to be rescheduled. I am very much regretting my decision to purchase a Villa here in Branson Creek but am now forced to endure as I invested all my money in what was to be my last home. Please make ever effort to reschedule and attend the next meeting.

Respectively submitted,

Cheryl Sinko

155 N Tuscany Dr

Hollister

573-222-8440

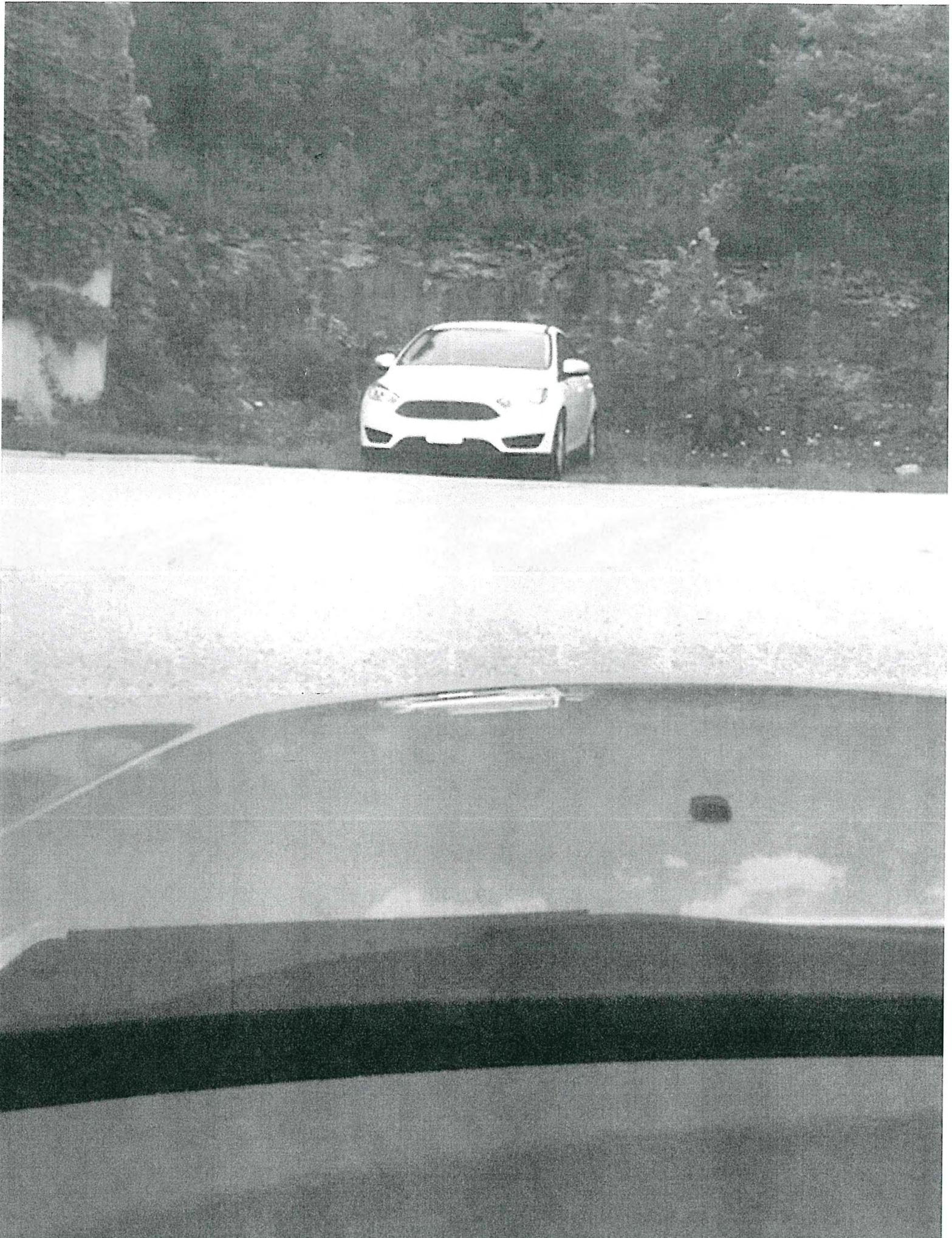
Sent from my iPad

Scott Starrett

From: Susan [trsmith@centurytel.net]
Sent: Friday, June 23, 2017 8:20 AM
To: P&Z; Scott Starrett
Subject: Parking Branson Creek
Attachments: IMG_0929.JPG; ATT00001.txt; IMG_0923.JPG; ATT00002.txt

Is this what PZ commissioners consider adequate parking between a shared driveway? The 2nd picture shows where additional parking is required at this villa





Scott Starrett

From: Patricia Lane [patlane.lane@icloud.com]
Sent: Tuesday, June 13, 2017 7:00 AM
To: Scott Starrett
Subject: Division III permit

Scott Starrett
Taney County Planning and Zoning

It has come to my attention that an appeal of the Division III permit of two properties has been filed by residents of Branson Creek.

As an owner of the nightly rental property at 189 Stoney Pointe Drive, I request and encourage the Board to uphold the Planning and Zoning's decision.

Respectfully,
Patricia J Lane

Sent from my iPhone

Scott Starrett

From: Mike Dickson [dicksondad@aol.com]
Sent: Tuesday, June 13, 2017 11:01 AM
To: Scott Starrett
Subject: 112 & 157 N Tuscany

Scott

As a homeowner in the Branson Creek Villas I want to express my support for the right of the homeowners at 112 and 157 Tuscany to operate their homes on a nightly rental basis. Branson Creek has operated nightly rentals since it's inception in 2008.

Respectfully ,

Mike Dickson

Sent from my iPhone

Scott Starrett

From: Leslie Dickson [ladma@aol.com]
Sent: Tuesday, June 13, 2017 9:43 PM
To: Scott Starrett
Subject: Uphold the P&Z decision

Dear Scott,

As a homeowner in the Fieldstone subdivision of Branson Creek, I see no reason not to uphold the board's previous decision to allow nightly rentals at 112 & 157 North Tuscany. I supported the board's original decision to allow nightly rentals which is good for the local economy. After all, the Branson area would not survive with overnight tourists.

Leslie Dickson

Sent from my iPhone

Sent from my iPhone

Taney County Board of Adjustment Meeting June 21st 2017 RE: Unit 112 Tuscany

I purchased the villa at 112 Tuscany in December of 2015 as an ongoing nightly rental. I had wanted to purchase a property that could be used as a nightly rental and was shown places in Branson Creek, Branson Canyon and Stonebridge. I was told that every community I looked at was approved for nightly rentals. I also spoke with the Home owners Association of Branson Creek as well to confirm nightly rental was ok. I was told that nightly rental was ok in the Villas at Fieldstone, the Bluffs at Fieldstone and the Pinnacle. Nightly rental was not ok in Oak Knoll and Ironridge neighborhoods inside Branson Creek. I was also given a letter signed by Bob Atchley that confirmed this. I even called Taney County in November of 2015 to reconfirm that nightly rental was ok at 112 Tuscany before I put my offer in to purchase this villa. The investigation of 112 Tuscany showed that it had been rented by Branson Creek when it was first built and has been in the nightly rental service ever since.

In the fall of 2016 is when the problems started with a few of the permanent residents. It spiraled out of control to the point that these few residents hired a lawyer to send us letters that we were not allowed to rent our units. Then these permanent residents met with the Fire Chief and had him send out letters from Western Taney County Fire and that we must install Sprinkler Systems. It was shortly after this that we got letters from Taney County planning and zoning that we needed to apply for an individual Division 3 permit. The reason for the change from the letter approving nightly rental in Branson Creek by Bob Atchley to everyone needing to apply for individual Division 3 Permits was never really explained to us. I decided to move forward with the request of Taney County to apply for an individual Division 3 Permit for 112 Tuscany. I attended every planning and zoning public hearing. I did not speak as I was being represented by Sunset Nightly Rental who manages my Vacation rental. I was approved by decision of record in the February 2017 meeting. I then worked on each of the areas required to get everything finalized. I had the documentation that the Western Taney County Fire dept needed to approve my unit. The fire inspector came to my villa and approved it. I also added doors to the study and the upstairs bonus room to make them compliant with Taney County Guidance Code to qualify as a bedroom. My unit was inspected by a representative of Planning and Zoning dept. and I was issued a certificate of Compliance.

In late May 2017 I was informed my Villa at 112 Tuscany was being brought in front of the Board of appeals June 21st 2017 by the permanent residents of Branson Creek. The reasons I was given for the appeal by the residents are as follows

- 1) Residents say my villa is a 2 Bedroom and should only sleep 6 as a maximum

Response: I have added the doors and necessary alterations to make this a 4 bedroom villa. A four bedroom villa can sleep a maximum of 10

- 2) Residents say my villa has to steep a driveway

Response: Many of the driveways in Branson Creek are steep we are in the Ozarks and the hills are what make this area so beautiful. My villa has 2 garage spaces and a driveway that can hold 4 cars. We make sure our guests know to not park on the street. My driveway has a flat spot at the top for 2 cars and the garage is flat inside for another 2 cars

3) Residents say my villa needs a sprinkler system

Response: My villa at 112 Tuscany does not require a sprinkler system as it has been a nightly rental before the code of 2012 went into place. The fire inspector has signed off on 112 that it is approved

4) Residents say that since villas share a common wall they do not meet the buffer requirement.

Response: My villa is not a commercial property but residential and therefore a buffer is not necessary between two residential properties.

A few residents have made claims that there is no fire wall and they don't feel safe. These villas have been rented for 10 years and just now permanent residents are worried about fire walls. If another permanent resident lives next door the chance for a fire is just as great if not greater than a unit that only has occupants 30% of the year

5) Residents say that all nightly rentals are a nuisance

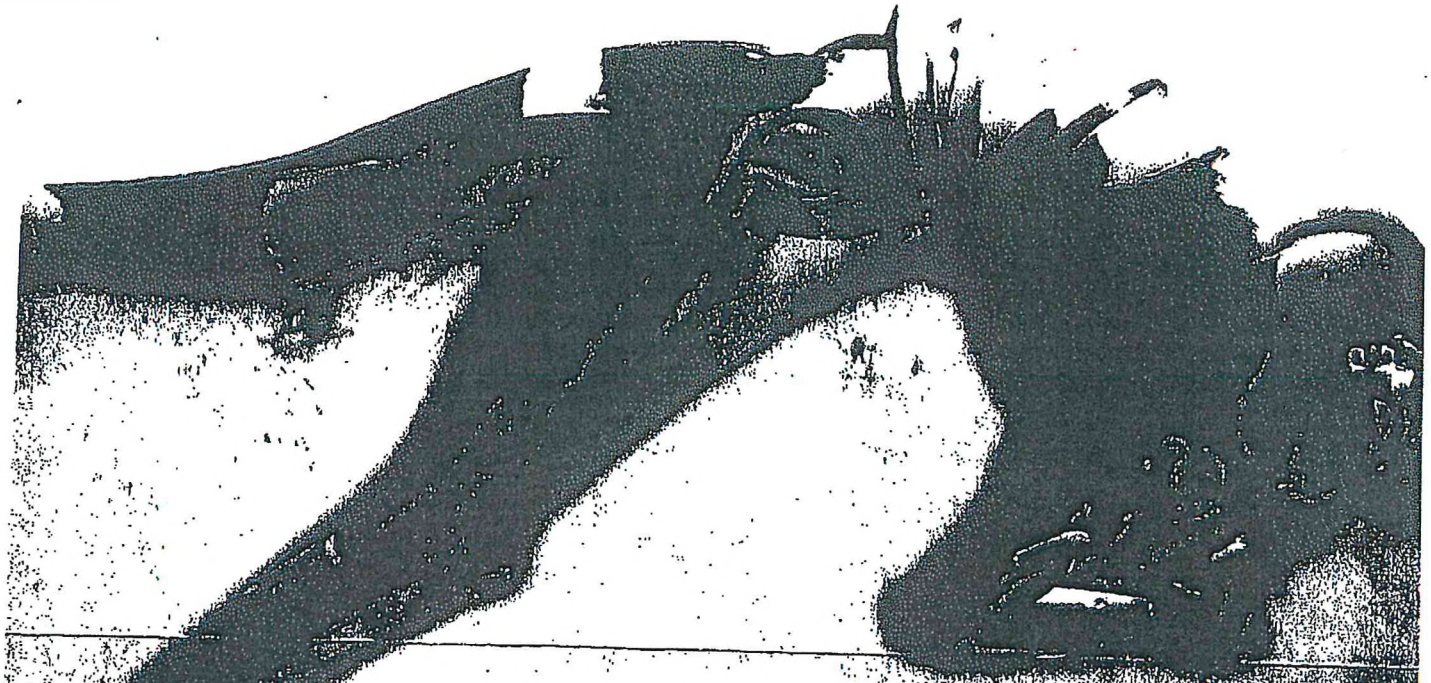
Response: My villa is rented 80 to 112 nights a year the past few years. That means my Villa only has occupants 30% of the entire year. 112/365 days. My house and most other nightly rentals sit empty most of the year. Investors, nightly rental owners and non- resident vacation home owners that don't rent their units make up well over half of the villa's/houses in fieldstone. If it weren't for the dues we all pay for the roads, pools, landscape and amenities there would not be a Branson Creek. Branson Creek is not a retirement village or nursing home it's a Vacation Community. It was designed from the beginning to be a mix of permanent owner, vacation owners and nightly rentals. The paperwork filed with the county from day one shows this to be true.

There are a small number of permanent residents of Branson Creek that have become a nuisance. They walk the neighborhood and search for issues to report and take pictures of guests, home owners etc. They take the rules and regulations and twist them to fit their own agenda of removing nightly rentals. They have taken the rule of no machinery visible to that you cant have a grill on your driveway to grill out. They have taken the parking on street issue. It is ok to park on the street temporarily , not long term. The residents have even claimed in the p and z hearings that the cars they complain about are moved to quickly to call the police. These few residents have fired up many of the other permanent residents to snap photos and turn in complaint emails at every turn. Kids can play in the yard or backyard but the permanent residents file complaints that the kids are too loud and shouldn't be playing in the yard when the permanent neighbor next door is undergoing chemo treatments and has nurses checking on them. In any neighborhood without nightly rentals kids play, people have visitors that park on the street and people have grill outs and parties. People blow off

fireworks on the 4th of July and have people over on holidays. My own community pool where I am a resident is always crowded with children and families during the summer months.

I am in Branson Creek almost every weekend. I have hardly seen anyone out and about. The pools have had some people at them but they haven't been overcrowded on my visits. The roads have never been overcrowded and I have rarely seen any car parked on the street. The few permanent residents have focused all their time and energy on filing as many complaints as they can to be able to remove all nightly rentals from Branson Creek. They have even reported at public hearings that they have become the police of Branson Creek and confronted guests and took things into their own hands. They have been rude and mean in demeanor when they do come in contact with guests of nightly rentals. They have commented that if all the residents keep emailing and complaining to the county about anything and everything that they will eliminate nightly rentals from Branson Creek.

Mike Mutt

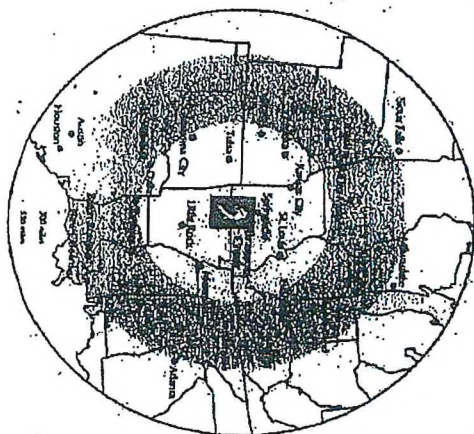


SEASONAL RATES

\$270 Per Night (2 Night Minimum)
\$169 Per Night (During Off Season)

Prime Season: March 15 - Dec 15
Off Season: Dec 16 - March 14

Branson Creek is located in Taney County, just south of Branson, Missouri on Hwy 65.

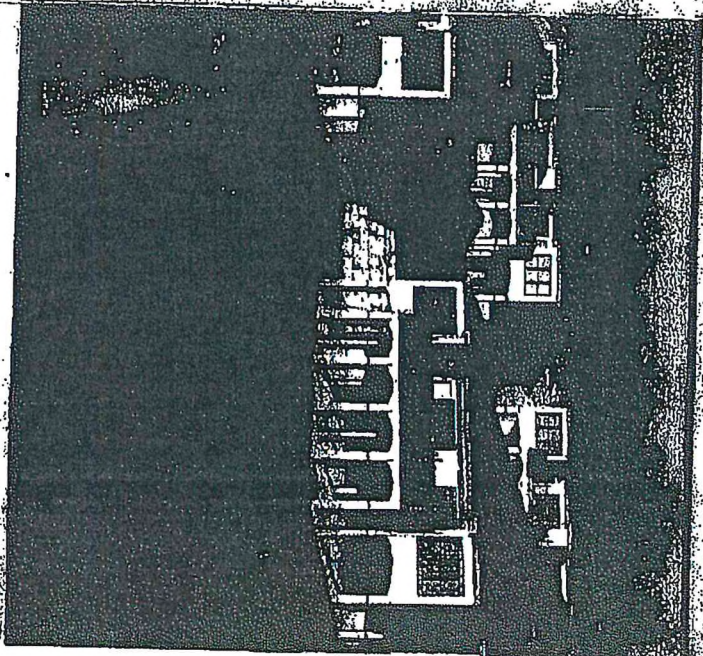


The Communities at
BRANSON CREEK

866-334-7812

www.bransoncreek.com

NIGHTLY RENTALS!

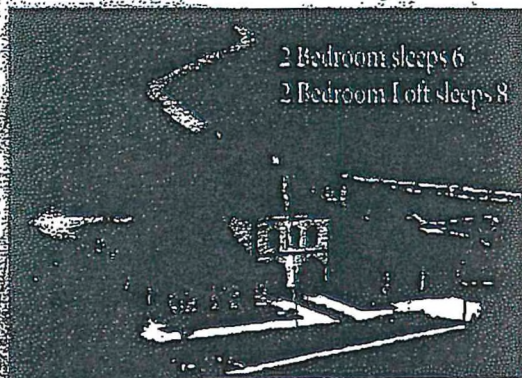


FIELDSTONE
AT BRANSON CREEK
Chickasaw

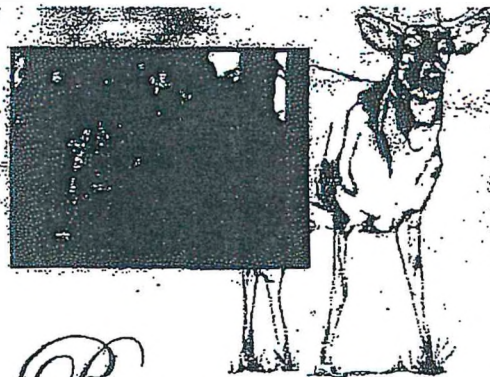
The Communities at



Tucked into the ridges overlooking the Ozark Mountains, Fieldstone Villas has the feel of a Tuscan village. These spacious homes are tastefully designed to maximize space and include many of the features found in luxury homes.

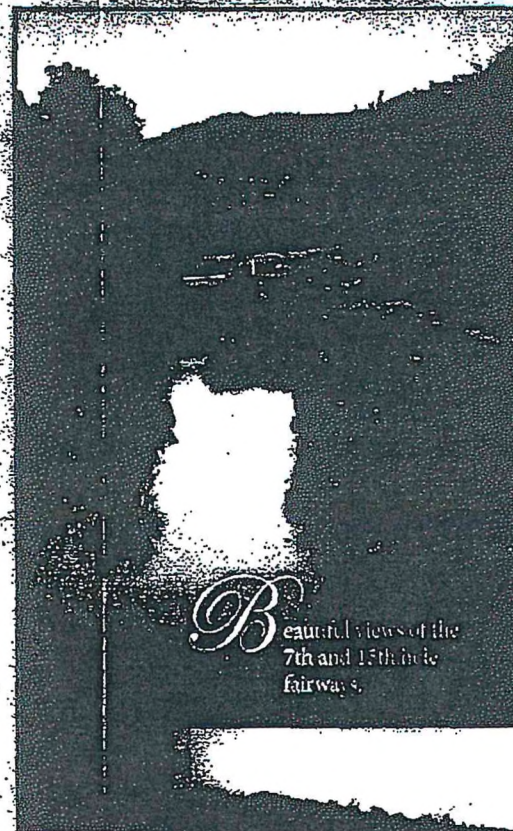


2 Bedroom sleeps 6
2 Bedroom Loft sleeps 8



BRANSON CREEK TRAILS

Home of some of the most beautiful trails in Missouri. With over 15 miles to explore, from easy to strenuous, the whole family will find the experience very rewarding.



Beautiful views of the 7th and 15th hole fairways.

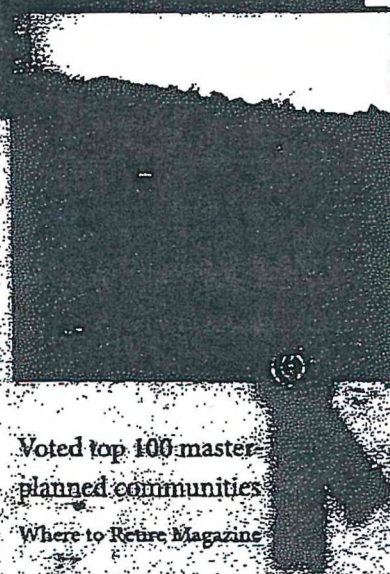
MURDER ROCK GOLF COURSE AND COUNTRY CLUB

Located on the Eastern edge of the Branson Creek development near historic Murder Rock, an area rich in Civil War history. This semi-private club features a breath taking 18-hole course that follows the natural beauty of the land with lush, rolling hills and mature trees.



MURDER ROCK
GOLF COURSE AND COUNTRY CLUB

Voted top 100 master-planned communities
Where to Retire Magazine



12-26-07 13.25 FROM-Branson Development 4173348912

T-592 P003/008-F-563

FIELDSTONE VILLAS AT BRANSON CREEK RENTAL POOL GENERAL CONDITIONS

What could be more perfect than owning a spacious vacation home at a great golf resort and receiving rental income whenever you aren't using it?

"Rental Pools" have become the investment of choice at resorts as well as other vacation spots across the country.

Rental Pools are set up so that a Villa owner may make their home available for nightly rental. The property manager (Fieldstone Villa Rentals/Bart & Brown) handles all the details.

In order to place a Villa in the rental pool, a management and rental agreement is signed between the home owner and the management company. This agreement provides a number of things:

- 1) A portion of the revenue received from the nightly rental flows through to the Villa owner after deduction of expenses to manage the program.
- 2) The management company retains the remaining portion of the rental revenue after deduction of expenses.
- 3) A usage agreement stipulates how often and advance notice requirements for the owners use of the Villa.
- 4) The furnishing packages (including replacements) need to conform to certain standards. Two "special furnishing packages" have been negotiated with a supplier for all rental pool Villas to ensure consistency and to conform to certain standards.

FREQUENTLY ASKED QUESTIONS

- 1) How many times can I use my suite each year?

Owners may use their Villas on an unlimited basis with proper notice. You of course are free to choose when you want to use your home, whether it is Spring, Summer, Fall, or Winter. It is totally up to you.

- 2) How long in advance do I have to book to use my suite?

Once you are committed to the rental pool, guaranteed bookings should be at least 30 days in advance. This will guarantee you the use of your unit on the date booked or alternatively on a 24 hour notice based on availability if it is not booked. You may use your unit at short notice subject to availability. The booking procedures and rules governing cancellations are fully described in the Management and Rental Pool Agreement.

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3) Can close friends use my suite as part of my annual use?

Yes, provided you, as owner, book the Villa as part of your annual use and no rental charge is collected for its use.

4) Can I rent my unit myself, that is, book it as my time and rent it directly to someone else?

No, this is prohibited under the Management and Rental Pool Agreement.

5) Are there any charges when using my own Villa?

There are no charges when using your Villa other than the normal association fees or dues you pay as provided in the CC&R's as an owner. Owners will be required to pay for services for housekeeping or cleaning services after their departure if it is necessary prior to the Villa's rental again.

6) How long am I locked into a rental agreement for?

You may cancel your rental pool agreement on thirty days notice to the Manager.

7) How do I sell my Villa if I ever choose to?

You may sell your Villa at any time. There is a requirement to notify the managers of your intention to sell or to have the new purchaser execute the Management and Rental Pool Agreement as part of the sale.

8) When do I receive my rental income distributions?

The manager will provide monthly statements and annual statements. Net income less operating and capital replacement reserves will be disbursed monthly.

9) Will my mortgage payment be covered by the income?

There is no assurance of any rental income and making your Villa available for rental has no guarantee whatsoever of any source of income. Owners should always plan their purchase based on their ability to make the mortgage payment as a home owner.

10) Do I pay the Mortgage Company myself or does the manager look after that and send me the net proceeds?

Each owner will make his/her own arrangements with his/her lender in this regard.

11) Will I get a yearly statement for tax purposes with all deductions and income worked out for me?

Yes, the appropriate statement will be sent to you each year.

12) Is there a capital replacement program in place to update and maintain furnishings, fixtures and equipment?

Yes. The capital replacement program is described in the Management and Rental Pool Agreement. A percentage of the Villa's revenue is banked each year

as a reserve to cover the cost of replacing furnishings, fixtures and equipment in the Villa. All proceeds held for a reserve are the property of the owner although participation in the pool requires maintaining acceptable standards for FF&E as determined by the Manager.

13) I am an out-of-town owner. How do I know if management is doing its job and the Villa is well looked after?

The owner will receive monthly statements and annual statements with respect to the operation of the rental pool.

14 Will there be regular meetings for owners and how often?

There will be an annual general meeting of the owners as described in the CC&R's and the association bylaws.

15) What are the tax benefits of the investment?

The tax benefits of this investment would be similar to the tax benefits of owning any rental property regarding Capital Cost Allowance, deductibility of mortgage interest, accounting costs, etc. However, as each person's situation is different, we strongly recommend that you consult with your own personal tax advisors.

16) Is smoking permitted in the Villa?

No, unless specifically authorized by the owner.

17) Can I leave some of my personal belongings in the Villa.

Each owner may designate a locked storage area for personal effects.

18) Is there a cost to be in the rental program.

Yes, there is an initial set up fee to enroll in the rental program and a fee to install a keyless pad entry system so that key cards can be changed after each rental.

RESERVATIONS, POLICIES, AND PROCEDURES

The Fieldstone Villa reservations policies and procedures (the "Policies") have been designed to ensure that all owners in the rental pool have equal access to their Villa (the "Villa(s)") and that owner occupation and rental are allocated in a fair and equitable manner.

The rental program at Fieldstone Villas provides the Owner with the following options and benefits:

(1) Owner occupation of the Villa during "Planned Vacations"

(2) Random allocations of nightly rentals among the various units participating in the nightly rental program.

DEFINITIONS

Certain terms and phrases have been defined below to clarify their intended meaning and usage. Throughout the following Policies, these terms and phrases can be identified because they begin with capital letters.

12-26-'07 13:26 FROM-Branson Development

4173348912

T-592 P0016/008 F-563

ACCOMPANIED GUEST – Any guest who lodges with an Owner in the Owner's reserved Villa.

GROSS RENTAL PROCEEDS – the total monthly receipts from the Rental of the Owner's Villa

MANAGEMENT – shall mean the Fieldstone Villa management company or such party as it may designate.

MANAGEMENT FEES – A management fee payable to Fieldstone Villa Management or its designee in the amount of 20% of the Gross Rental Proceeds for the administration and management of the Rental Pool.

MANAGER – The individual hired by the Management to manage the overall operations.

MAINTENANCE PERIODS – Periods that allow for performance of maintenance projects that are otherwise disruptive to Owners such as deep cleaning.

MONTHLY INCOME – Rental Proceeds after deduction for Management Fees and other related expenses as set forth in Rental Pool Agreement.

OWNERS – The Owners are the fee simple deeded owners of The Villa and/or the persons designated in writing by the Owner to have Ownership privileges.

PLANNED VACATION WEEKS – The pre-reserved days when an Owner occupies the Villa or can send Unaccompanied Guests to occupy the Villa at no additional charge, except for the published housekeeping fees.

PLANNED VACATION CALENDAR – Calendar designating Planned Vacation weeks for each owner.

RENTAL POOL AGREEMENT – the Agreement that shall govern the terms of use for participating in the nightly rental program by an owner.

RESERVATION OFFICE – The location, either onsite or elsewhere, where reservations are confirmed for Owners' Planned Vacation and nightly rentals.

SLEEPING CAPACITY – The maximum number of persons permitted to lodge in a Villa. The Sleeping Capacity of a Villa is the number of bedrooms times two plus the number of sleeper sofas within that Villa times two.

UNACCOMPANIED GUEST – Any guest who lodges at the Villa without an Owner during an Owners Planned Vacation Period.

12-26-'87 13:27 FROM-Branson Development 4173348912

T-592 P007/008 F-563

VILLA AMENITIES -- the Villa shall be accompanied by use of the following amenities:

Golf discounts at Murder Rock Golf Course;

Discounted boat rentals at Branson Creek Marina

Health Club Privileges at Murder Rock Clubhouse including fitness, swimming & Tennis;

YEAR -- The Year runs from January 1st through December 31st each year.

RESERVATION PROCEDURES

Owner Occupation During Planned Vacation Weeks

Maintenance Periods - One week each year will be set aside in priority for maintenance and deep cleaning with any surplus time not devoted for this purpose continuing in the rental pool for the benefit of Owner.

Reserving Planned Vacation Weeks - Every Owner will be e-mailed an Annual Reservation Request Form on September 15th. A second notice will be mailed on November 1st. By December 1st, if an owner does not respond, Management will deem the owner to have deposited their Planned Vacation Weeks in the Rental Pool so that they may be made available for rental. At a later date, Owners may request to occupy any of their Planned Vacation Weeks that have not been rented.

Management works individually with each Owner to maximize the flexibility throughout the year, no matter which Planned Vacation Week an Owner is allocated.

Procedure for occupancy by an Unaccompanied Guest - An Owner requesting lodging for Unaccompanied Guest must specify the Unaccompanied Guests name, address and telephone number in writing at least 7 days prior to arrival. Unaccompanied Guests are required to pay all housekeeping fees and incidental charges upon checkout unless the sponsoring Owner has arranged payment in advance. The sponsoring Owner is responsible for any charges incurred by their Unaccompanied Guests and is responsible for any damages to facilities caused by their Unaccompanied Guests. The number of persons lodged with an Unaccompanied Guest in a Villa cannot exceed the Sleeping Capacity of that Villa. Unaccompanied Guests have access to all Community facilities and Amenities.

Procedure for occupancy by an Accompanied Guest - No lodging fees are charged for Accompanied Guests.

The Program at Fieldstone Villas enables Owners to take advantage of the demand for rentals by participating in the Rental Pool. Planned Vacation Weeks

12-26-'07 13:27 FROM-Branson Development 4173348912

T-592 P008/208 F-563

that would otherwise be unused may be released for rental generating a welcomed return that may be used to offset maintenance fees and other related expenses. Any surplus/deficiencies will be reconciled and distributed to Owners.

Determination of Net Annual Rental Income

Each Owner shall be entitled to receive within 30 days from the end of each month, an accounting and distribution of the Net Rental Income. The Net Income shall comprise the aggregate of the Monthly Income for The Villa less expenses

USAGE OF VILLA AMENITIES

Villa Ownership at Fieldstone Villas includes exclusive services and membership in the Murder Rock Golf & Country Club ("Club Facilities"). World-class amenities at Fieldstone also include:

Bar and Grille

Swimming Pool

Tennis Court

Full Service Marina

Hiking Trails

Subj: **Branson Creek Fieldstone Villa Rentals**
Date: 4/2/2008 10:59:35 A.M. Central Daylight Time
From: darlette@branson-creek.com

I'm excited that you have decided to be a part of the villa rental pri
I am managing the villa rentals.

We will need 3 sets of keys, your garage door code, and \$100.00 set up fee.
Please make your check out to
Branson Creek Management.
100 Branson Creek Blvd.
Hollister, Mo 65672

Our housekeeping company recommends that you have sheets, pillowcases, Bath Mats, Washcloths, Hand Towels, and Bath Towels, and also mattress pads just for your rental business. I have already purchased the Bath mats, towels and washcloths and the mattress pads in quantity from a large supplier. (Bone color with a Doby border) and white mattress pads. I will be billing you for these items. We use the flat mattress pads with the strap to hold in place. You may want to put another protective cover over the whole mattress. The flat ones will go over that.

We ask that you purchase the sheets for your unit. After a lot of research, I recommend sheet type (Canopy - 300 thread Egyptian Cotton twill weave from Walmart). Prices on these are not too bad ex. a set of King sheets is about 39.00.

You will need two sets for each bed, and also a pkg of two extra pillowcases for each set of pillows. The quality of these sheets sounds very good - they are a twill weave - the strongest. - They come in colors that will be beautiful with the Tuscan look - browns, golds, I think sage green - choose whatever you like. The reason for having bedding designated just for that purpose is that housekeeping comes in to clean and they take all of the soiled bedding out of the unit, put the second set on the beds and replace the towels. They take the soiled linens off property and launder them and have them ready to replace for the your next rental. Housekeeping will only use these sheets for your unit - they are bagged and labeled as your unit when laundered. We store your personal sheets and towels and put them on for you when you want to use your unit. I will be billing you for the linens we purchase after they are all put in and we see how many and what size.

We will do a walk-thru of the property and take a complete inventory of everything in your villa. I recommend that you have WiFi in your unit. It is something that Guests ask for, and when they ask for it I will have to book them in a unit that has it. Also, Guests will enjoy some furniture on the deck. (Table/ chairs) - we're also checking out an electric grill for the deck. One unit has purchased one from Home Depot \$159.00 it stands on legs and looks like the charcoal ones with a dome. - We'll let you know in the future if that would be a good thing - testing the one right now.

I don't know if you have furnished your unit yet or not, but I will tell you that we have groups of men coming to golf and they don't want to sleep in the same bed. I have two units now that are booked for 4 men each - 1 man in the Master Bedroom King bed, 1 in the Queen bedroom, and two upstairs in either 2 double beds or two twin beds. This seems to be important.

Also, I would highly recommend a sleeper sofa in the living room. Rates are 6/ \$270 per night, but if you can sleep 8, the rate is \$310.

I will need to know how soon I can begin setting reservations. For instance, I am full now for the week of May 15th

Thursday, April 03, 2008 America Online:

arrival - and know I'll

be needing more. I put any owner occupied dates in my program and on your calendar so that we keep track of that for you.

Here are the rates we're charging:

Dec. 16th thru March 14th

6 Guests per unit is \$169.00 per night + 6.1% sales tax

8 Guests per unit is \$210.00 per night + 6.1% sales tax

March 15th thru December 15th

6 Guests per unit is \$270.00 per night + 6.1% sales tax

8 Guests per unit is \$310.00 per night + 6.1% sales tax

March 15th thru December 15th

7 day stay: for 6 = \$1,620.00 + 6.1% sales tax

7 day stay: for 8 = \$1,890.00 + 6.1% sales tax

I also am flexible about some of the rates - for example, someone just booked for 6 nights and I gave them a rate of \$250 per night instead of the \$231 per night for 7 nights.

Units are non-smoking and no pets. We have a rental agreement they sign.

I will give you a link right now that will show the calendar you can click on anytime to see what has been reserved for your unit. I update it every time I do a reservation, so you'll always know.

You right click on the link and choose Open Hyperlink. It's ready to try now.

Your document is viewable at:

<http://spreadsheets.google.com/pub?key=puNQj2WGBJOHMI8bY1CxWGg>

Please save this link. It will be how you'll look at your rentals.

Also please let me know the first date that I can begin to set reservations for your unit, and any dates that you will owner-occupy it. I will enter these dates on the calendar also.

I just spoke with Michel about getting the contract to you. She will check with Bonnie as to when you'll be here or whether to Fax it to you. If you have further questions, please call me on my toll free number or Cell: 417-699-2835

If you would like to meet me, I invite you to come to my office at the address below. From the intersection of Hwy 65 and 76, go West about 2 miles. Landmarks are the Dick Clark Theater on your left. The Ramada is next. Turn left into the Ramada to the West of the large flashing sign. I am in the offices under the green awning - back side door says Branson Creek. I look forward to meeting you.

Sincerely,

Darlette Enders

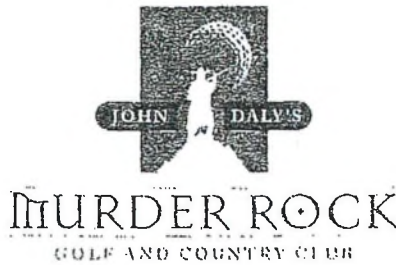
Manager

Branson Creek Fieldstone Nightly Rentals

1610 W. Hwy. 76

Branson, MO. 65616

877-815-1877



March 3, 2009

Roger & Leslie Dickson
[REDACTED]
[REDACTED]

Dear Mr. & Mrs. Dickson,

My name is Chris Meade; I am the General Manager and Director of Golf at Murder Rock Golf Club. I am writing to you today to let you know that I will be taking over the responsibilities of the rental program here at Branson Creek. Through my experiences, both here and elsewhere I believe that we will be able to better operate the program out of the golf shop, thus adding to your rental income.

It is with much enthusiasm that I look toward this season. I believe that even in the economic conditions today we can have a very successful year as I am already seeing people wanting to cut costs on vacations, by staying closer to home but still having that special retreat. That is where we come in with your lovely villa and two first class golf courses to offer affordable yet luxurious options.

Enclosed with this letter will be a new rental agreement for 2009 that I will need you to sign and return to me so we may begin renting your unit for you. We will continue with the invoicing practices you are accustomed to and will continue to provide you with unmatched customer service from this end and well as increasing your nights of occupancy. If you would be so kind as to submit any changes you may have to the following information that we keep on file for you here:

Unit: Villa 11b -- 130 Fieldstone Drive
Owner: Roger & Leslie Dickson
Address: [REDACTED]
Phone: [REDACTED]
e-mail: [REDACTED]
Credit Card: We will need a credit card on file MC/Visa/Amex No Discover

My contact information will be as follows:

Mail: 100 Branson Creek Blvd Hollister MO 65672
Phone: Golf Shop (417) 332-3259 Cell (417) 699-3259
e-mail: [REDACTED]

Sincerely,

Chris Meade

Murder Rock Golf Club

WESTERN TANEY COUNTY FIRE PROTECTION DISTRICT
221 JEFFERSON RD. BRANSON, MO. 65616

Job Name: SINXGT. REALTY Permit# W/A
Job Address: 112 N. TOWAN Date Wanted: 3/10/07
Type of Inspection: FIRE ☐ AM ☒ PM

FND/UNDR FL	ROUGH IN	INT WALL	FINAL INSP	
<input type="checkbox"/> 1. FIRE PL.	<input type="checkbox"/> 1. GAS LNS.	<input type="checkbox"/> 5. HVAC	<input type="checkbox"/> 1. INSULAT.	<input type="checkbox"/> 1. HVAC
<input type="checkbox"/> 2. RISER	<input type="checkbox"/> 2. SPKR/STD PIPE	<input type="checkbox"/> 6. FIRESTOP	<input type="checkbox"/> 2. RC CHANL	<input type="checkbox"/> 2. ADDRESS
<input type="checkbox"/> 3. ELEC.	<input type="checkbox"/> 3. FIRE ALM.	<input type="checkbox"/> 7. ABV CLG	<input type="checkbox"/> 3. DRWL FAS	<input checked="" type="checkbox"/> 3. FIRE
	<input type="checkbox"/> 4. HOODS	<input type="checkbox"/> 8. OTHER	<input type="checkbox"/> 4. PENETRAT	<input type="checkbox"/> 4. HOODS
			<input type="checkbox"/> 5. OTHER	<input type="checkbox"/> 5. OTHER

OTHER:

FIRE

OKAY

(IF REJECTED, MAKE CORRECTIONS - CALL FOR REINSPECTION)

SMOKE ALARMS -- OKAY

FIRE EXTINGUISHERS -- OKAY

MINORS OF EGROSS OKAY

INSPECTOR SIGN: [Signature]

DATE: 3/10/07

PHONE: 334-3440
ORIGINAL - FILE

FAX: 334-3446
COPY - CUSTOMER

FORM 028-GD0300

Barb Durham

From: Jim Single [jim.single@westerntaneyfire.com]
Sent: Thursday, March 16, 2017 8:16 AM
To: Barb Durham
Subject: Re: Fw: 112 N Tuscany

Yes the attached paperwork is sufficient. Thank you.

Jim Single
Assistant Chief
Prevention Division

On Wed, Mar 15, 2017 at 6:11 PM, Barb Durham <barb@sunsetrealtyservices.com> wrote:

Good evening, Jim. Will this letter from Branson Creek HOA work for 112 North Tuscany?

Barb Durham
Office Manager
Licensed in the State of Missouri
[866.804.8361](tel:866.804.8361)

From: mikemitchell7736 <mikemitchell7736@aol.com>
Sent: Wednesday, March 15, 2017 5:40 PM
To: Barb Durham
Subject: Fwd: 112 N Tuscany

Stacey found proof 112 tuscany was a nightly rental prior to 2012

She attached a letter for fire dept

Mike

Sent from my Sprint Samsung Galaxy S® 6.

----- Original message -----

From: Stacey Blevins <sblevins@mcmillincommunities.com>
Date: 3/15/17 3:37 PM (GMT-06:00)
To: "Mitchell, Mike" <mikemitchell7736@aol.com>
Subject: 112 N Tuscany

Look what I found!!! I'm very excited to inform you that 112 North Tuscany has been a nightly rental since *at least* April of 2009.

March 15, 2017

Michael Mitchell
Valley View 1, LLC
398 N Powderhorn Dr
Fayetteville, AR 72704

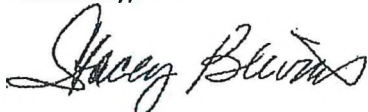
Dear Mike,

Your villa at 112 North Tuscany, also known as Unit 27B of the Villas of Fieldstone at Branson Creek, has been used as a vacation rental since its purchase from Fieldstone at Branson Creek, LLC in September of 2008.

Please see attached copies of remittance advice for Check #8272 for April 2009 rental revenue of Unit 27B.

Please don't hesitate to contact me if I can be of further assistance.

Sincerely,



Stacey Blevins
Homeowners' Association

Barb Durham

From: Jim Single [jim.single@westerntaneyfire.com]
Sent: Wednesday, April 12, 2017 3:21 PM
To: Barb Durham
Cc: Scott Starrett
Subject: Re: 112 North Tuscany

You would not include the deck but you can include the loft. Your calculations are good enough for me. It meets the requirements of the International Fire Code/2012 section 1004.

Jim Single
Assistant Chief
Prevention Division

On Wed, Apr 12, 2017 at 2:12 PM, Barb Durham <barb@sunsetrealtyservices.com> wrote:
Good afternoon, Scott and Jim. I met with Jim at 130 Legano this morning and we discussed Western Taney County's occupancy limits of 1 person per 200 (gross) square footage. I was under the impression that this gross square footage included the garage but Jim let me know that this is not correct. I pulled the assessor records from Taney County Beacon and did some calculating. First, I took the adjusted square footage from Taney County Assessor and subtracted off the square footage of the garage and I come up with 2338.81 square feet. I also pulled the aerial view from Taney County Assessor and used the measuring tool to do a rough measurement around the footprint of the building. I did one measurement excluding the garage (1890 square feet) and one excluding the garage and deck (1795 square feet). Of course, this square footage does not include the loft bedroom which measures 26.68 x 11.84 so it's roughly 316 square feet which means the total square footage by calculating this way would be between 2111 - 2206 (depending on whether the deck is included or not).

Are these measurements sufficient to approve an occupancy of 10 persons based on the 4 bedrooms are in this unit?

Barb Durham
Office Manager
Licensed in the State of Missouri
www.SunsetRealtyServices.com
866-804-8361
www.SunsetNightlyRentals.com
877-784-4614

-----Original Message-----

From: office@sunsetrealtyservices.com [mailto:office@sunsetrealtyservices.com]
Sent: Wednesday, April 12, 2017 5:11 PM
To: Barb Durham
Subject:

This E-mail was sent from "RNP2BA92E" (C9025).

Scan Date: 04.12.2017 12:11:09 (-1000)
Queries to: office@sunsetrealtyservices.com

Parcel

Parcel ID 17-B,0-28-000-000-001.152
 Property Address 112 N TUSCANY DR
 Tax Code 5CWXX
 Sec/Twp/Rng 28/22/21
 Brief Tax Description VILLAS OF FIELDSTONE AT BRANSON CREEK DEVELOPMENT, THE VILLAS OF FIELDSTONE AT BRANSON CREEK DEVELOPMENT,
 (Note: Not to be used on legal documents)
 School District Hollister
 Fire District Western
 City N/A
 Deed Book/Page/Date 2015-54977 (2015-12-22)

Owner

VALLEY VIEW 1 LLC
 398 POWDERHORN
 FAYETTEVILLE, AR 72704

Land

Lot Dimensions
 Lot Area 0.000 Acres

Improvements

Number	Description	Year Built	Base Area	Adjusted Area
1-1	Duplex	2007	1627	2891 - 552.19 = 2338.81

Valuation

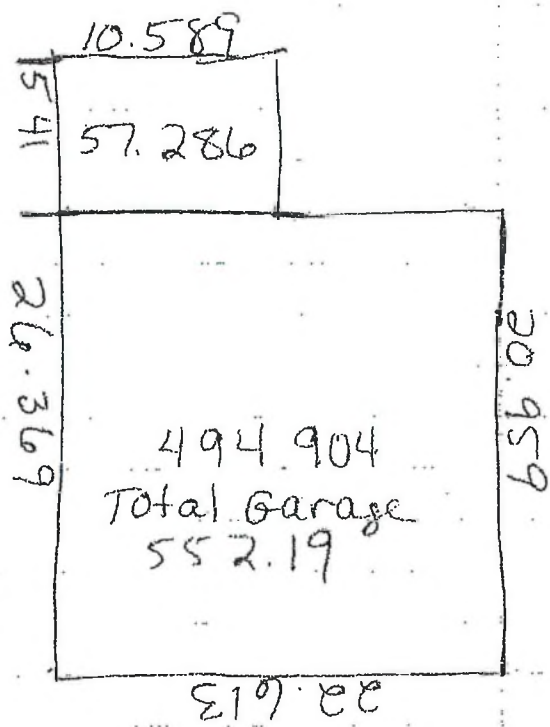
	Improvements	Land	Total	Assessed Total
Agricultural	\$0.00	\$0.00	\$0.00	\$0.00
Commercial	\$0.00	\$0.00	\$0.00	\$0.00
Residential	\$148,614.00	\$25,000.00	\$173,614.00	\$32,990.00
Total				\$32,990.00

Taney County makes no warranties, expressed or implied, as to the use of the data.

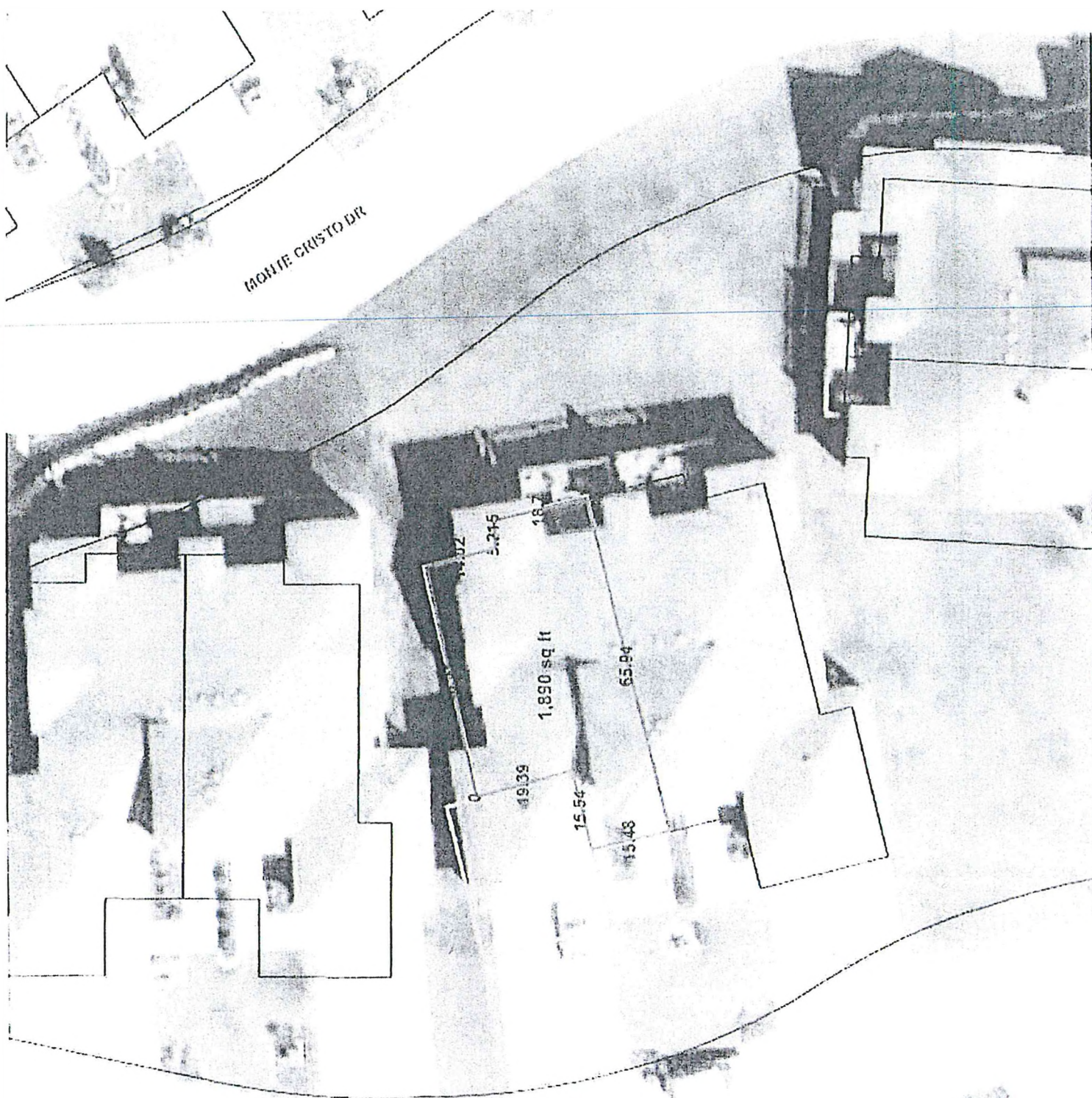
Last Data Upload: 5/20/2013 10:17:09 PM



Developed by
 The Schneider
 Corporation



MONTE CRISTO DR



LUSCANY DR

MONTE CRISTO DR

34.04

1,795 sq ft

19.56

14.21

14.78

60.63

ROSCANY DR

Barb Durham

From: Barb Durham
Sent: Wednesday, May 17, 2017 11:41 AM
To: 'Scott Rodgers'
Cc: Operations
Subject: Branson Creek Sprinkler installs

Scott and I discussed the sprinkler installs and here's the schedule that we have right now. Trent and Rachel, please be sure to let the housekeepers know so they have a heads up.

[REDACTED]

157 North Tuscany - Install is scheduled to start on 5/30. We've got this scheduled to be turned back over by noon on 6/6 so the housekeepers can get the unit cleaned and ready to rent.

[REDACTED]

Barb Durham
Office Manager
Licensed in the State of Missouri
www.SunsetRealtyServices.com
866-804-8361
www.SunsetNightlyRentals.com
877-784-4614

Scott Starrett

From: Barb Durham [barb@sunsetrealtyservices.com]
Sent: Wednesday, June 14, 2017 9:55 AM
To: Scott Starrett
Subject: Documentation for the Board of Appeals on 112 North Tuscany and 157 North Tuscany
Attachments: BC Nightly Marketing Materials.pdf; 112 N Tuscany Fire Suppression Waiver.pdf; 157 N Tuscany Sprinkler Status.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning, Scott. Could you provide this e-mail and the attached documents to the Board of Appeals prior to the June 21st meeting? I plan on attending and speaking that evening but would like the Board to have the related documents for review.

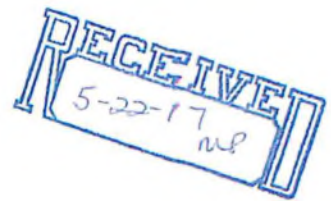
The first attachment shows that nightly rentals were allowed and marketed from the beginning at Branson Creek. First, there is one of the early marketing brochures. Next, is the FAQ document that was given to owners and potential buyers. Note the date on the document is 12/21/2007. The 3rd document is an e-mail exchange between an owner joining the Fieldstone rental pool and the rental manager. Please note that the lofts upstairs were used as sleeping areas during this time. The last document in this attachment is a letter between one of the owners currently on our rental program and the GM of the Golf Club who was taking over the rental management duties.

The second attachment is related to the fire suppression system waiver from Jim Single at Western Taney County Fire Department. I've also included the communication between Mr. Single and myself regarding the fire department's approval of the occupancy of 10 persons.

The third attachment shows that we did have the sprinkler installation scheduled for 157 N. Tuscany. The owners have since put that on hold until the outcome of this appeal but I feel this shows that they are moving forward with the requirements outlined in their Decision of Record.

Thank you, Scott!

Barb Durham
Office Manager
Licensed in the State of Missouri
www.SunsetRealtyServices.com
866-804-8361
www.SunsetNightlyRentals.com
877-784-4614



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

17-05A

(Circle one)

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

PLEASE PRINT

DATE 5-22-17

Applicant PERMANENT RESIDENTS OF BRANSON CREEK Phone 210-412-2468

Address, City, State, Zip HOLLISTER, MO 65672

Representative LISA AGUIRRE Phone 210-412-2468

Owner of Record VALLEY VIEW I, LLC

Signature: _____

Name of Project: APPEAL NIGHTLY RENTALS IN BRANSON CREEK

Section of Code Protested: (office entry) _____

Address and Location of site: 112 N TUSCANY DR HOLLISTER, MO

VILLAS OF FIELDSTONE 65672

Subdivision (if applicable) VILLAS OF FIELDSTONE, BRANSON CREEK

Section 28 Township 22 Range 21 Number of Acres or Sq. Ft. _____

Parcel Number 17-8.0-28-000-000-001.152

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.

CASE # 2016-0043

Describe in detail the reason for your request:

1. NUISANCE
2. NOT COMPATIBLE WITHIN
RESIDENTIAL NEIGHBORHOOD
3. BUFFER
4. VILLAS ARE 2 BEDROOMS.
NOT 3

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.

Lisa Aguirre
Signature of Applicant

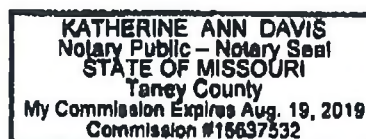
5-25-17 5-19-17
Date of Application

STATE OF MISSOURI)
COUNTY OF TANEY) S.S. On this 25 day of May, 2017.

Before me Personally appeared Lisa Aguirre, 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.

8/19/19



Katherine Ann Davis
Bonita Kisse, Notary Public
Katherine Ann Davis



Taney County Board of Adjustment Appeal Staff Report

HEARING DATE: July 26, 2017

CASE NUMBER: 2017-05A

PROJECT: Appeal of Planning Commission Decision - 112 N Tuscany Drive Nightly Rental

APPLICANTS: Permanent Residents of Branson Creek

REPRESENTATIVE: Lisa Aguirre

LOCATION: The subject property is located at 112 N Tuscany Drive, Hollister, Missouri, Scott Township; Section 28, Township 22, Range 21.

REQUEST: The applicant, Permanent Residents of Branson Creek, represented by Lisa Aguirre, are seeking to appeal the Planning Commission approval of Division III Special Use Permit Case #2016-0043. The Division III Special Use Permit application sought Planning Commission approval, allowing for nightly rental use for the existing single family home.

BACKGROUND and SITE HISTORY and GENERAL DESCRIPTION:

On February 21, 2017 the Taney County Planning Commission approved a Division III Special Use Permit #2016-0043 request by Valley View I LLC allowing the use of the existing single family residence for nightly rental, located at 112 N Tuscany Road, Hollister, Missouri. With six (6) out of nine (9) Planning Commissioners present the vote was four (4) in favor and one (1) opposed with the Chairman not voting.

Per the Assessor's information the single-family residence was constructed in 2007. The single-family residence is approximately one thousand eight hundred and ninety one (1,891) square

feet. The property is owned in Condo style ownership in the Villas of Fieldstone at Branson Creek Development.

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.”

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 and one (1) off-street parking space shall be provided for each two (2) person of occupancy in a Nightly Rental”.

REVIEW:

The applicant, Permanent Residents of Branson Creek, representative Lisa Aguirre, are seeking to appeal the decision of the Planning Commission’s approval of Division III Special Use Permit #2016-043, authorizing the nightly rental use of the existing single family residence located at 112 N Tuscany Drive, Hollister, Missouri.

The applicant/representative lists the reasons below for the appeal:

1. Nuisance
2. Not compatible within residential neighborhood
3. Buffering
4. Villas are 2 bedrooms, not 3.

STATUTORY REQUIREMENTS of APPROVAL of an APPEAL:

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

SUMMARY:

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

1. The Planning Commission's approval of Division III Special Use Permit #2016-0043 Decision of Record shall be reversed and considered null and void.
2. A Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Appendix D, Step 6 Taney County Development Guidance Code).

water Softener

Hardwood Floor

Propane P PLACE

modify 2nd BR

Bath w/pocket door

and enlarge MBR

Bulkhead granite

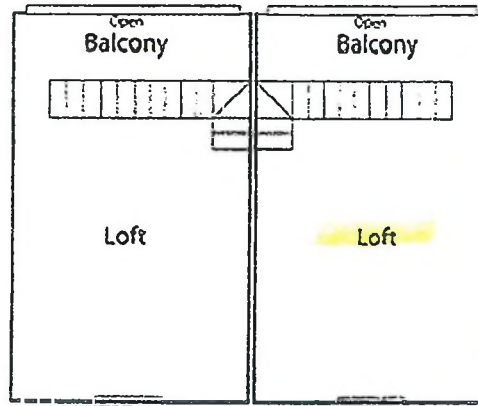
BRUSH S/S

Appliances

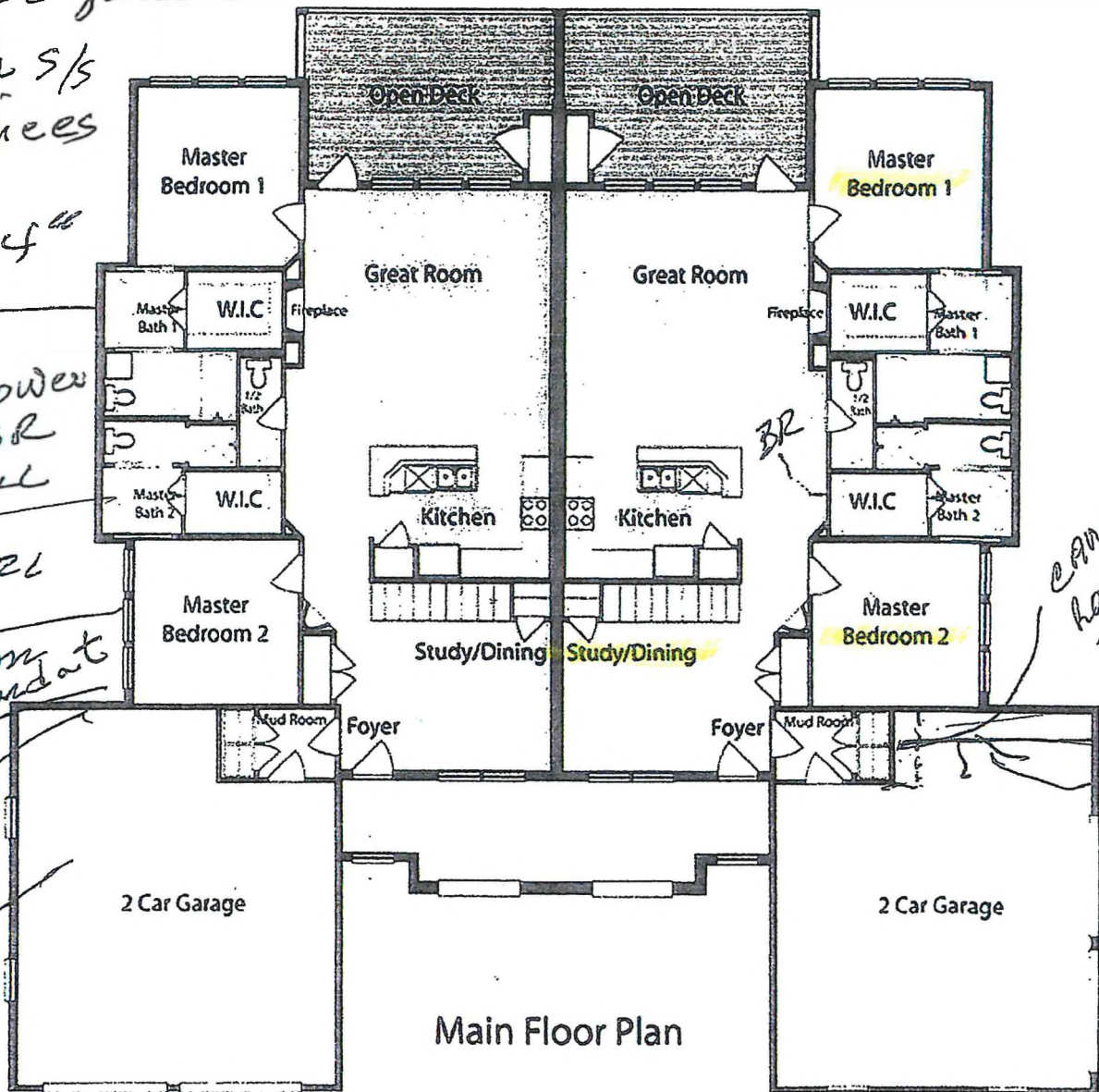
Trim 4"

Add shower
in MBR
Optional

JACUZZI
garden
Faucet on
Deck and at
entry
stairs to
Storage



2nd Floor Plan



Main Floor Plan

can (ann)
have be
2 bed
water
soft

Pictometry



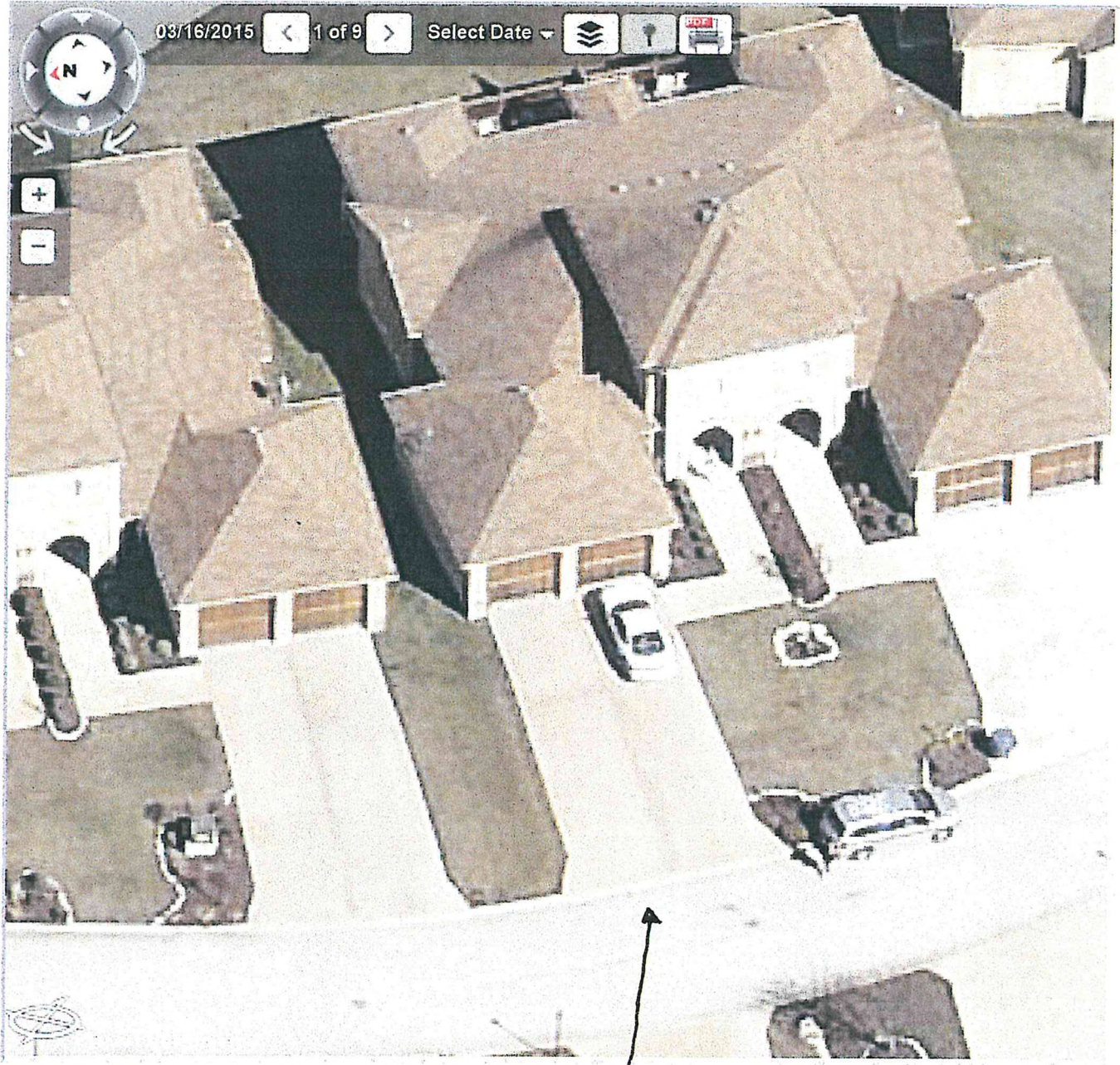
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112 N TUSCANY

Pictometry

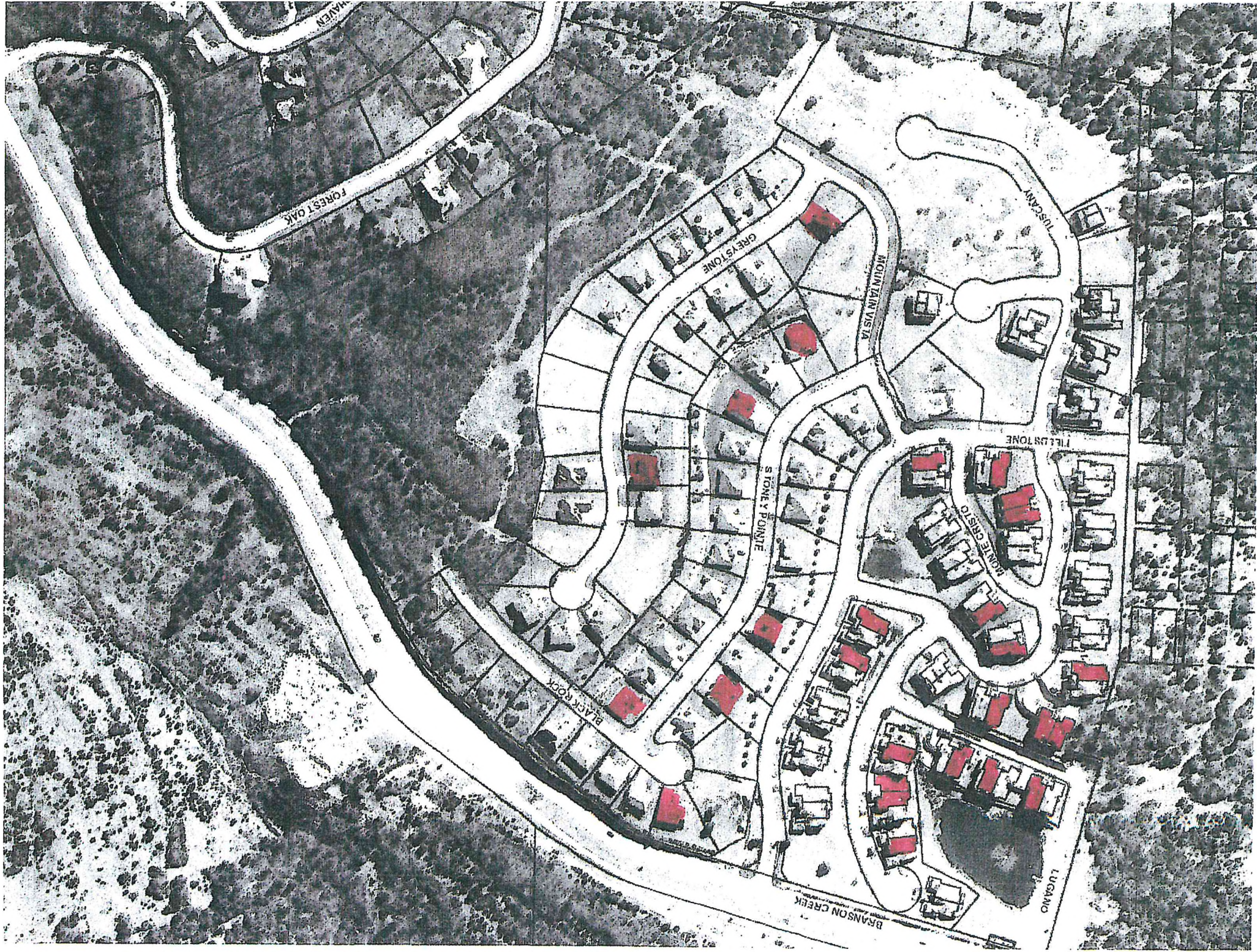


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Schneider
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112 N Tuscany



P&Z Co. Taney, MO, U.S.

**SCHENEWERK
& FINKENBINDER**
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John Spurlock

(Also licensed in AR)¹
(Also licensed in KS)²

Direct email: russ@sflawfirm.com

VIA EMAIL AND
REGULAR U.S. MAIL

February 8, 2017

Taney County Planning and Zoning Commission
207 David Street
Forsyth, MO 65653

P.O. Box 383
Forsyth, MO 65653
(417) 546-7225
fax: (417) 546-6861
P&Z@co.taney.mo.us

Re: Branson Creek Nightly Rental Division III Applications

Dear Commission Members:

Please be advised that our firm represents Neil and Karen Murphy and Susan Smith, homeowners in the Branson Creek development in Hollister, Missouri ("Branson Creek"), with regard to their objection and opposition to the pending Division III special use permit applications for certain Branson Creek properties located in the Villas of Fieldstone and Fieldstone Bluffs subdivisions.

Specifically, and as you are aware, the Taney County Planning and Zoning Commission (the "Commission") will, during their February 13, 2017 meeting, consider nineteen (19) separate applications by Fieldstone property owners, all seeking Concept Division III special use permits (the "Applications"). The Applications seek Commission approval for special use permits authorizing the applicants to rent their properties on a nightly basis – a practice prohibited by Taney County Ordinance and the Branson Creek master declaration (the "Declaration").

As a threshold matter, the Applications seek approval for permits which would, if granted, immediately violate numerous Taney County Code provisions, including without limitation, the following portions of the Taney County Development Guidance Code ("DGC"):

P.O. Box 123
500 W. Main St., Suite 305
Branson, MO 65616

Phone: (417) 334-7922
Fax: (417) 334-7923
Email: info@sflawfirm.com
www.sflawfirm.com

- Section 4.7.15 requires a twenty-five (25) foot buffer “between any structure utilized for nightly rental and any existing residential land use,”
 - None of the Applications include the required buffer, nor has any Applicant proposed or submitted plans for the required buffer;
- Section 4.7.2 requires, among other things, that “[a] site plan shall be submitted with an application for a Nightly Rental Special-Use Permit which identifies the location of the required off-street parking.”
 - To our knowledge, none of the applicants have prepared or submitted the required parking site plan. Moreover, overflow parking and improper parking have continually been a problem to-date with regard to the illegal nightly rental of Branson Creek properties;
- Section 4.7.6 requires that “[a] compliance letter shall be submitted from the local fire district, with an application for a Nightly Rental Special-Use Permit ensuring adequate fire suppression and the provision of occupancy limits.”
 - According to the applications obtained by this office, not one Application includes the requisite compliance letter or even evidence that any Applicant has applied for same;
- Additional compliance issues:
 - Sections 4.7.8 - 4.7.12 require additional compliance and approvals from the Taney County Assessor’s Office, the Taney County Collector’s Office, the Missouri Department of Revenue, and the Taney County Health Department. No evidence of compliance with these additional provisions has been submitted or applied for by the Applicants.

In light of these numerous Code violations, the Applications should be denied.

Moreover, and as the Commission is aware, no special use permit may issue which causes the applicant and recipient of the permit to violate an applicable declaration of record. The Applications, and the present use of Branson Creek properties for nightly rentals, violate a number of provisions of the Branson Creek master declaration, including without limitation:

- Branson Creek “Owners,” as defined in the Declaration, are the only authorized property occupants. “Guests,” of Owners must be accompanied by a Member at all times during which a Guest is utilizing the Common

Taney County
February 8, 2017
Page 3

SCHENEWERK & FINKENBINDER
ATTORNEYS AT LAW, LLC

Property, as those terms are elsewhere defined in the Declaration. *See* Declaration at Article VII.

- The Applications and existing nightly rental activities are in clear violation of the above provisions, in that many of the Applicants clearly state that they live hundreds of miles away from the nightly-rental activities and have no intention of accompanying the proposed "Guests;"
- The Branson Creek Declaration further prohibits the use of any property from being used "for any purpose other than that for which it was originally approved." *See* Declaration at Article IX
 - As Branson Creek was developed as a residential, single-family community, the proposed and existing use of Branson Creek properties for nightly rental further violates the Branson Creek Declaration;
- Article IX further defines, provides for, and restricts signage placement, disposition of trash and debris, parking of various vehicles, nuisances, and clothes hanging and machinery.
 - To-date, the nightly rental activities outlined in the Applications are in continuing violation of all of these Declaration provisions.

In light of the foregoing declaration violations, the Commission must deny the Applications.

Please do not hesitate to contact me if you have questions, or would like additional information. We have included with this letter certain of the supporting documentation referenced herein.

We appreciate your time and consideration of our requests, and look forward to discussing these issues at next week's hearing, where I will appear personally.

Very truly yours,



Russ Schenewerk
RS:tjh

CC: Neil and Karen Murphy
Susan Smith

PARTIAL LIST OF COVENANTS

Article XIII Enforcement

14.03 **Violation and Nuisance.** Any act or omission whereby any provision of this Fieldstone Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Declarant, the Association or any Owner of a Site.

14.04 **Violation of Law.** Any violation of any federal, state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Property is hereby declared to be a violation of this Fieldstone Declaration and subject to any and all of the enforcement procedures set forth herein.

Article II Definitions

2.28 **Living Unit.** "Living Unit" shall mean and refer to any Structure or portion of a Structure situated upon any Site designed and intended for use and occupancy as a residence by a single person, a family or a "family sized" group of persons.

Article VII Common Property

(a) Every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Common Property, and such easement shall be appurtenant to and shall pass with every Site, Lot and/or Unit upon transfer. Any guest of a Member shall be entitled to a right or privilege of enjoyment of Common Property subject to such regulations as may be promulgated by the Association Board. Each such guest shall be accompanied by the Member sponsoring such guest at all times such guest is using the Common Property.

Note: The HOA and owners who rent are stating they can pass their ownership to the renter. Renters are not owners.

Article IX General Restrictions

9.03 **Land Use and Building Type.** No building shall be erected, altered, placed or permitted to remain on any Site unless it is an approved Structure and no previously approved Structure shall be used for any purpose other than that for which it was originally approved. The Declarant hereby reserves the exclusive right to use any of the Property for temporary use as an office or for model home purposes during the Development Period.

Note the wording: No previously approved structure shall be used for any purpose other than that for which it was originally approved. All Villas and Houses were originally approved as residential, single family dwellings

9.09 Placement of Signs or Property. No sign, billboard or other advertising device of any nature shall be placed upon any Site or Lot, including property identification signs, except by the Declarant and except as provided herein and as are approved by the Declarant or its Designee. The Declarant or its Designee may adopt and promulgate rules and regulations relating to signs which may be used within the Property.

The fire code requires signage not allowed in our community.

9.11 Disposition of Trash and other Debris. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot or Site, except building materials during the course of construction for a period not to exceed three hundred sixty-five (365) days (commencing from day one (1) of the first (1st) delivery of any of such materials) unless extended by the Declarant or its Designee, in its sole discretion, for any approved Structure, unless such materials are screened from view in a manner approved by the Declarant or its Designee. During the course of construction, it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner. No burning of any trash, leaves, grass or weeds, and no accumulation or storage of litter of any kind shall be permitted on any Site. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pickup is to be made, at such place on the Site so as to provide access to persons making such pickup. At all other times such containers shall be stored in such a manner that they cannot be seen from adjacent and surrounding property. All such containers shall be kept in a clean and sanitary condition. The Declarant or its Designee may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the Property.

9.12 Parking of Motor Vehicles, Boats and Trailers. No truck, commercial vehicle, trailer, commercial trailer house, recreational vehicle, all terrain vehicle, camper, motorcycle, automobile, mobile home, boat or boat trailer shall be brought upon, stored or habitually parked on any Site or Lot, in front of any Living Unit or garage, or between any residence or garage and abutting side street, or upon any street abutting any Site or Lot. This shall not be construed to prohibit the mere temporary (a maximum of twenty-four (24) hours): (a) standing or parking of a trailer, boat, trailer house, recreation vehicle, or mobile home for short periods preparatory to take same to some other location for use; or (b) the temporary standing or parking of a truck or commercial vehicle for loading, or unloading; or (c) the parking of any operational automobile on any driveway on any Site. The Association, with the written approval of the Declarant or its Designee, may permit such parking for longer than twenty-four (24) hours. No such vehicle shall be openly stored in any area other than as may be designated by the Declarant or its Designee. However, no mechanical maintenance on any vehicle shall be permitted in front of any Living Unit or garage, or between any Living Unit or garage and an abutting side street, or upon any street abutting any Lot or Site. While nothing contained herein shall be considered to prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction, the use and appearance of such a building or trailer must be specifically approved by the Declarant or its Designee prior to its being moved on site.

9.13 Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Sites or Living Units, nor shall anything be done thereon that may be or become a

nuisance or annoyance to any other Owners. No exterior lighting shall be directed outside the boundaries of any Site but shall be directed so as to avoid glare and excessive light spillage onto abutting or adjacent Sites.

9.16 Restrictions for Residential Sites. No profession or home industry shall be conducted in or on any part of a Site or in any improvement thereon in the residential areas without the specific written approval of the Declarant or its Designee. The Declarant or its Designee, in its discretion, upon consideration of the circumstances in each case, and particularly in consideration of the effect on surrounding Property, may permit a Site or any improvement

thereon to be used in whole or in part for the conduct of a profession or home industry. No profession or home industry shall be permitted, however, unless it is considered by the Declarant or its Designee to be compatible with the neighborhood. Except as provided herein, any Living Unit located on a Site designated for residential use within the Property shall be occupied by the Owner of the Living Unit. Notwithstanding the above, however, leasing of single family or condominium units will be allowed provided that the Owner first register the lessee with the Association, providing such information as the Association may require, and file with the Association a complete copy of the executed lease agreement.

Note: The last portion stating leasing a single family is allowed with approval and copies of lease agreement on file at HOA. HOA has not enforced this covenant

9.18 Use of Clothes Hanging Devices and Machinery. No clothing or any household fabrics shall be hung in the open on any Lot. No machinery shall be operated upon any Site

Note: Renters violate this covenant all the time with towels hanging on deck railing

- 4.6.1. All such establishments must be at least 1000 feet from any school or church.
- 4.6.2. If music, whether live or reproduced, is used for entertainment the sound levels shall not be such as to be a nuisance to any existing residences.
- 4.6.3. The Planning Commission may, at their discretion, impose additional conditions or stipulations that it deems necessary.

4.7 Nightly Rental

A residential building, structure or part thereof that may be rented for any period of time less than thirty (30) calendar days, counting portions of days as full days. The term —Nightly rental shall not include hotel, motel, or bed and breakfast establishments. Nightly Rentals in a residential area have the potential to be incompatible with the surrounding residential uses. Therefore, special regulation of Nightly Rentals is necessary to ensure that their use will be compatible with surrounding residential uses and will not materially alter the neighborhoods in which they are located.

4.7.1. Occupancy

The maximum occupancy for a Nightly Rental shall be two (2) persons per dwelling unit, plus two (2) persons per bedroom (e.g., a two (2) bedroom dwelling unit is permitted a maximum occupancy of six (6) persons). The maximum occupancy shall be further limited based upon the capacity of the wastewater treatment system serving the Nightly Rental, off-street parking requirements and local fire district occupancy limits, whichever is lesser. Please note that the term **person** for the purpose of establishing occupancy is defined as an individual at least four (4) years of age. Please note that the term **bedroom** as used in reference to nightly rental is defined as a room utilized primarily for sleeping that shall have a floor area of not less than 70 square feet, shall not be less than 7 feet in any horizontal direction and shall contain at a minimum a door, a window and a closet.

4.7.2. Parking

One (1) off-street parking space shall be provided for each two (2) persons of occupancy in a Nightly Rental. All Nightly Rentals shall provide clearly marked and appropriately situated parking spaces for the handicapped, one (1) such space in each parking area.

No more vehicles shall be parked on the property than there are designated off-street parking spaces. Inability to provide the required off-street parking will reduce the permitted occupancy. A site plan shall be submitted with an application for a Nightly Rental Special-Use Permit which identifies the location of the required off-street parking.

4.7.3. Solid Waste Disposal

The management company or a waste collection provider shall provide weekly solid waste collection during all months that the Nightly Rental is available for rent.

4.7.4. Lighting

Outdoor lighting shall be downward lit, subdued and have minimal off-site impacts to adjoining properties.

4.7.5. Safety

All Nightly Rentals shall contain a minimum of one operable fire extinguisher, operable smoke alarms and operable carbon monoxide alarms in compliance with the local fire district regulations, where applicable.

4.7.6. Fire District Compliance

A compliance letter shall be submitted from the local fire district, with an application for a Nightly Rental Special-Use Permit ensuring adequate fire suppression and the provision of occupancy limits.

John J. Cox
Deputy
Revenue

4.7.7. Fire District Inspection

Each Nightly Rental dwelling unit shall be inspected annually by the Fire District, unless waived by the local Fire District, in order to determine whether it meets adequate safety requirements of the applicable building codes. Prior to the issuance of a Certificate of Conformance, the Owner shall make all necessary alterations to the dwelling unit as required by the Fire District Official pursuant to the applicable building codes.

4.7.8. Taney County Assessor's Office Compliance

A compliance letter shall be submitted from the Taney County Assessor's Office prior to the issuance of a Certificate of Compliance.

4.7.9. Taney County Collector's Office Compliance

A valid Merchant's License shall be provided to the Planning Department for each nightly rental property. The Merchant's License shall be provided prior to the issuance of a Certificate of Compliance.

4.7.10. Missouri Department of Revenue Compliance

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. A No Tax Due Letter from the Missouri Department of Revenue shall be submitted to the Planning Department office annually, indicating that the sales taxes have been paid.

4.7.11. Permit Posting

The Nightly Rental Special-Use Permit shall be posted within five (5) feet of the main entrance of each dwelling unit, both on the inside and on the outside of the dwelling unit, and contain the following information:

- (a) The name and telephone number of the Local Representative.
- (b) The name and address of the Owner.
- (c) The contact information for the Planning Department and Sheriff's Department office in Taney County.
- (d) The maximum occupancy permitted.
- (e) The name and telephone number of all local emergency personnel (police, fire and medical personnel).
- (e) The number of off-street parking spaces provided on the property, and the maximum number of vehicles allowed to be parked on the property.
- (f) The solid waste disposal collection day if provided by a solid waste company.

4.7.12. Health Department Compliance

A compliance letter shall be submitted from the Taney County Health Department with an application for a Nightly Rental Special-Use Permit, if the nightly rental will involve five (5) or more "guest rooms". The Missouri Department of Health and Senior Services defines a guest room as a room in which one or more guests sleep (e.g. including a common room such as a living room if that room will provide sleeping arrangements for one or more guests).

4.7.13. Ownership



A Nightly Rental Special-Use Permit is issued to a specific "Owner" of a property. If the property changes ownership then the Special-Use Permit shall immediately expire.

4.7.14. Local 24-Hour Representative

The Owner of the property shall designate a "Local Representative". The Local Representative shall be available on a twenty-four (24) hour basis, seven days per

week. The Local Representative may be the owner, a property management company representative, agent, designee or other person employed, authorized or engaged by the owner to manage, rent or supervise the Nightly Rental. The Local Representative shall maintain a residence or permanent place of business within either Taney County or the Counties adjoining Taney County and shall be available on a twenty-four (24) hour basis, seven (7) days per week.

(a) **Change Local Representative**

The Local Representative may be changed by the Owner from time to time throughout the term of the permit, by the Owner filing a revised permit application that includes the name, address and telephone number of the new Local Representative. Failure to notify the County of a change in the Local Representative constitutes a Violation pursuant to Section 3.10 and may also lead to the revocation of the Special-Use Permit.

(b) **Guest and Vehicle Register**

The Local Representative shall maintain a guest and vehicle register for each tenancy of the Nightly Rental. The register shall include the names, home addresses, and telephone numbers of the occupants and the vehicle license plate numbers of all vehicles used by the occupants and the date of the rental period. The above information must be available for County inspection upon request. Failure to maintain or provide the required information constitutes a Violation per the provisions of Section 3.10 and may also lead to the revocation of the Special-Use Permit.

(c) **Complaints**

The Local Representative must be authorized by the Owner to respond to questions or concerns from the occupants or neighbors. The Local Representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the property as a Nightly Rental. The Local Representative must respond to those complaints in a timely manner to ensure that the use of the property complies with the standards for Nightly Rental occupancy, as well as other pertinent County code requirements pertaining to noise, disturbances, or nuisances, as well as State law pertaining to the consumption of alcohol, or the use of illegal drugs.

(d) **Availability**

If the Taney County Sheriff's Department is not able to contact the Local Representative in a timely manner twice during a twelve month period, this shall be considered a Violation pursuant to Section 3.10 and may also lead to revocation of the Special-Use Permit.

4.7.15. **Required Buffering**

A buffer shall be established between any structure utilized for nightly rental and any existing residential land use, meeting the requirements of Appendix H, Section 6 (Technical Plans).

4.7.16. **Additional Conditions**

The Taney County Planning Commission may, at their discretion, impose additional conditions or stipulations that it deems necessary.

4.7.17. **Compliance**

Compliance with the terms and conditions set forth herein shall be the non-delegable responsibility of the owner of the Nightly Rental; and each owner of a Nightly Rental shall be strictly liable for complying with the conditions set forth in this Section or imposed by Taney County. The Owner shall comply with all applicable County, State and Federal Regulations.

4.7.18. All Nightly Rentals Shall Obtain a Special-Use Permit

The nightly rental of all residential structures shall require the issuance of a Special-Use Permit.



4.7.19. Revocation

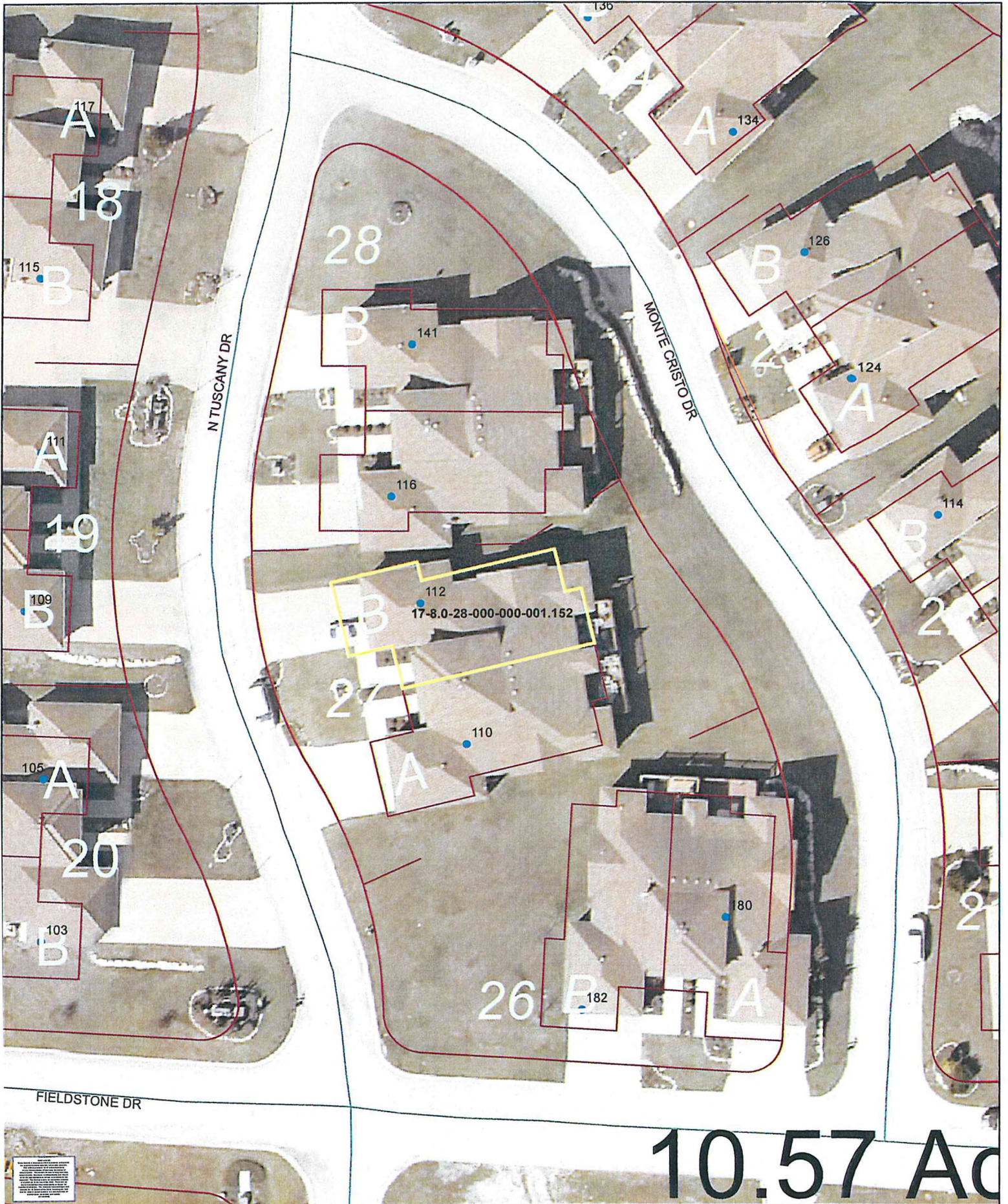
The Planning Department is hereby authorized to revoke any Nightly Rental Special-Use Permit issued under the terms of this Section, if, after due investigation, it determines that the holder thereof has repeatedly violated any provisions of this Section or that any facility is being maintained in an unsanitary or unsafe manner, or is a nuisance.

4.7.20. Limitation of Liability

Taney County assumes no responsibility for the operation of the site and Owner covenants and agrees to hold Taney County harmless for any injury or damage which may occur, of whatever type or nature, as the result of the operation of the Nightly Rental. Owner shall maintain appropriate liability insurance for the Nightly Rental. Owner further warrants and agrees to compensate Taney County for any expense incurred in the defense of any lawsuit or other type of action which may be brought against said County as a result of said Owner's operation of this use.



BOA 112 N Tuscany Dr Nightly Rental Appeal





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 STAFF REPORT DIVISION III SPECIAL USE PERMIT 112 TUSCANY DRIVE VACATION RENTAL

Hearing Date: February 13, 2017
Case #: 2016-0043
Applicant: Valley View I, LLC
Representatives: Sunset Realty Services

Request:

The representative Sunset Realty Services is seeking Planning Commission approval of a Division III Special-Use Permit allowing for the nightly rental of the existing single-family residence. The residence contains three (3) bedrooms.

Background and Site History:

Per the Assessor's Information the single-family residence was constructed in 2007. The single-family residence is approximately 1,891 sq. ft. The subject property is owned in Condo style ownership in the Villas of Fieldstone at Branson Creek Development.

The current application was approved for Concept January 17, 2017.

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 exterior appearance of the single-family residence will remain the same. 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." Therefore, the three (3) bedroom home would have a maximum occupancy of eight (8) people.

The property is currently served by an existing drive off of N.Tuscany Drive.

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." Therefore a total of four (4) parking spaces will be required. The project received a total score of -1 on the Policy Checklist, out of a maximum possible score of 29.

Staff Recommendations:

If the Taney County Planning Commission approves Division III Permit #2016-0043, 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 Environmental Division of the Planning Department; 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. The residence located at 112 N. Tuscany Drive shall accommodate (sleep) no more than (8) persons per night. The total occupancy may be further limited based upon the provisions of the Western Taney County Fire Protection District requirements and regulations.
7. The 112 N.Tuscany Dr. Vacation Rental has been approved as a special-use permit. Therefore the permit is specific to the representative to whom the permit is issued and cannot be transferred without Planning Commission approval. The Special-Use Permit shall not be used to establish commercial compatibility for or with any future land-use change applications.
8. 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).



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NON-STD FEE:
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REAL ESTATE DOCUMENT
TANEY COUNTY, MISSOURI
RECORDERS CERTIFICATION

ROBERT A. DIXON

✓TANEY COUNTY PLANNING COMMISSION
DIVISION III DECISION OF RECORD
SPECIAL USE PERMIT #16-43
SUNSET NIGHTLY RENTALS

On February 21, 2017 the Taney County Planning Commission (grantor) approved a Division III Special Use Permit request by Valley View I, LLC (grantee) authorizing the utilization of an existing single family residence for a nightly rental business located at 112 N. Tuscany Drive. In accordance with this approval, Division III Special Use Permit #16-43 is issued for the property located at the legal description below:

ALL OF UNIT B OF VILLA 27 THE VILLAS OF FIELDSTONE AT BRANSON CREEK, VILLA 27 AS PER THE RECORDED PLAT RECORDED IN SLIDE CABINET "J" AT SLIDE 250 & 251 OFFICIAL RECORDS OF TANEY COUNTY, MISSOURI AND PLAT RATIFICATION FILED ON OCTOBER 27, 2008 AS DOCUMENT NO. 2008L52653 (Parcel ID#17-8.0-28-000-000-001.152)

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

Valley View I, LLC are authorized to utilize the existing single family residence for nightly rental. With six out of nine Planning Commissioners present the vote was four in favor and one opposed with the Chairman not voting. The request was approved. The following conditions shall be complied with:

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 Environmental Division of the Planning Department; 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 sold waste materials.
5. This decision is subject to all existing easements.
6. The residence located at 112 N. Tuscany Drive shall accommodate (sleep) no more than the Maximum Occupancy. "The maximum occupancy for a nightly rental shall be 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.
7. The 112 N. Tuscany Drive Vacation Rental has been approved as a Special-Use Permit. Therefore the permit is specific to the representative to whom the permit is issued and cannot be transferred without Planning Commission approval. The Special-Use Permit shall not be used to establish commercial compatibility for or with any future land-use change applications.
8. The current local contact information for the property shall be posted on the property and on file in the Taney Planning Office.
9. 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).

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

Scott Starrett
Scott Starrett, Interim-Administrator

STATE OF MISSOURI)

S.S. On this 21 day of March 2017

COUNTY OF TANEY)

Before me personally appeared Scott Starrett 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 2/6/18.

Bonita Kisse-Soutte
Bonita Kisse-Soutte
Notary Public



BONITA KISSEE-SOUTTE
My Commission Expires
February 6, 2018
Taney County
Commission #10440057

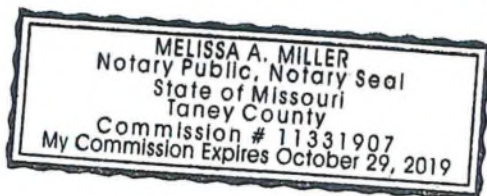
In signing this record of decision I understand that any breach in the terms of the Record of Decision will result in the revocation of this permit. I further agree to abide by and comply with all the requirements of the Taney County Planning Commission and the Development Guidance Code.

Signature Michael Mitchell
Michael Mitchell

Before me personally appeared Michael Mitchell to me known to be the person described in and who executed the foregoing instrument.

In testimony Whereof, I have hereunto set my hand and affixed my official seal, at my office in Taney County, MO the day and year first above written. My term of office as Notary Public will expire 10-29-19.

Melissa A. Miller



TANEY COUNTY PLANNING COMMISSION

P.O. Box 383, Forsyth, MO 65653

Telephone: (417) 546-7225

Fax: (417) 546-6861

CERTIFICATE OF CONFORMANCE

Project: 112 W. Tuscany Dr. Location Branson Creek

Representative: Summit Realty Phone # 417-336-3780

This certifies that Division III Permit # 16-43 has met

All required absolute policies of the Taney County Development
Guidance Code and all requirements imposed by the Taney County
Planning Commission.

Inspected by: Bonita Hissel-Roulet Division III Inspector

Date: 4-13-17



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

17-06A

(Circle one)

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

PLEASE PRINT

DATE 5-22-17

Applicant PERMANENT RESIDENTS BRANSON CREEK Phone 513-222-8440

Address, City, State, Zip HOLLISTER MO 65672

Representative CHERYL SINKO, KAREN MURPHY Phone 513-222-8440, 281-433-674

Owner of Record STEVEN SHARI K HOURY Signature: _____

Name of Project: APPEAL NIGHTLY RENTALS IN BRANSON CREEK

Section of Code Protested: (office entry) _____

Address and Location of site: 157 N TUSCANY DR. HOLLISTER, MO

VILLAS OF FIELDSTONE 65672

Subdivision (if applicable) VILLAS OF FIELDSTONE, BRANSON CREEK

Section 28 Township 22 Range 21 Number of Acres or Sq. Ft. _____

Parcel Number 17-8.0-28-000-000-001.108

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.

CASE # 2016-0041

Describe in detail the reason for your request:

1. NUISANCE
2. NOT COMPATIBLE WITHIN
RESIDENTIAL NEIGHBORHOOD
3. BUFFER
4. VILLAS ARE 2 BEDROOMS,
NOT 3

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.

Karen L. Murphy
Signature of Applicant

Date of Application

State of Oregon

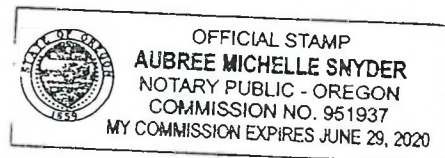
S.S. On this 26 day of May, 2017

County of Washington

Before me personally appeared Karen Murphy, to me known to be the person described in and who executed the foregoing instrument.

In witness whereof, I hereunto set my hand and official seal.

Aubree Michelle Snyder





Taney County Board of Adjustment Appeal Staff Report

HEARING DATE: July 26, 2017

CASE NUMBER: 2017-06A

PROJECT: Appeal of Planning Commission Decision – 157 N Tuscany Drive Nightly Rental

APPLICANTS: Permanent Residents of Branson Creek

REPRESENTATIVE: Cheryl Sinko and Karen Murphy

LOCATION: The subject property is located at 157 N Tuscany Drive, Hollister, Missouri, Scott Township; Section 28, Township 22, Range 21.

REQUEST: The applicant, Permanent Residents of Branson Creek, represented by Cheryl Sinko and Karen Murphy, are seeking to appeal the Planning Commission approval of Division III Special Use Permit Case #2016-0041. The Division III Special Use Permit application sought Planning Commission approval, allowing for nightly rental use for the existing single family home.

BACKGROUND and SITE HISTORY and GENERAL DESCRIPTION:

On February 21, 2017 the Taney County Planning Commission approved a Division III Special Use Permit #2016-0041 request by Steven and Shari Khoury allowing the use of the existing single family residence for nightly rental, located at 157 N Tuscany Road, Hollister, Missouri. With six (6) out of nine (9) Planning Commissioners present the vote was four (4) in favor and one (1) opposed with the Chairman not voting.

Per the Assessor's information the single-family residence was constructed in 2006. The single-family residence is approximately one thousand eight hundred and fifteen (1,815) square feet.

The property is owned in Condo style ownership in the Villas of Fieldstone at Branson Creek Development.

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."

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 and one (1) off-street parking space shall be provided for each two (2) person of occupancy in a Nightly Rental".

REVIEW:

The applicant, Permanent Residents of Branson Creek, representative Cheryl Sinko and Karen Murphy, are seeking to appeal the decision of the Planning Commission's approval of Division III Special Use Permit #2016-0041, authorizing the nightly rental use of the existing single family residence located at 157 N Tuscany Drive, Hollister, Missouri.

The applicant/representative lists the reasons below for the appeal:

1. Nuisance
2. Not compatible within residential neighborhood
3. Buffering
4. Villas are 2 bedrooms, not 3.

STATUTORY REQUIREMENTS of APPROVAL of an APPEAL:

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

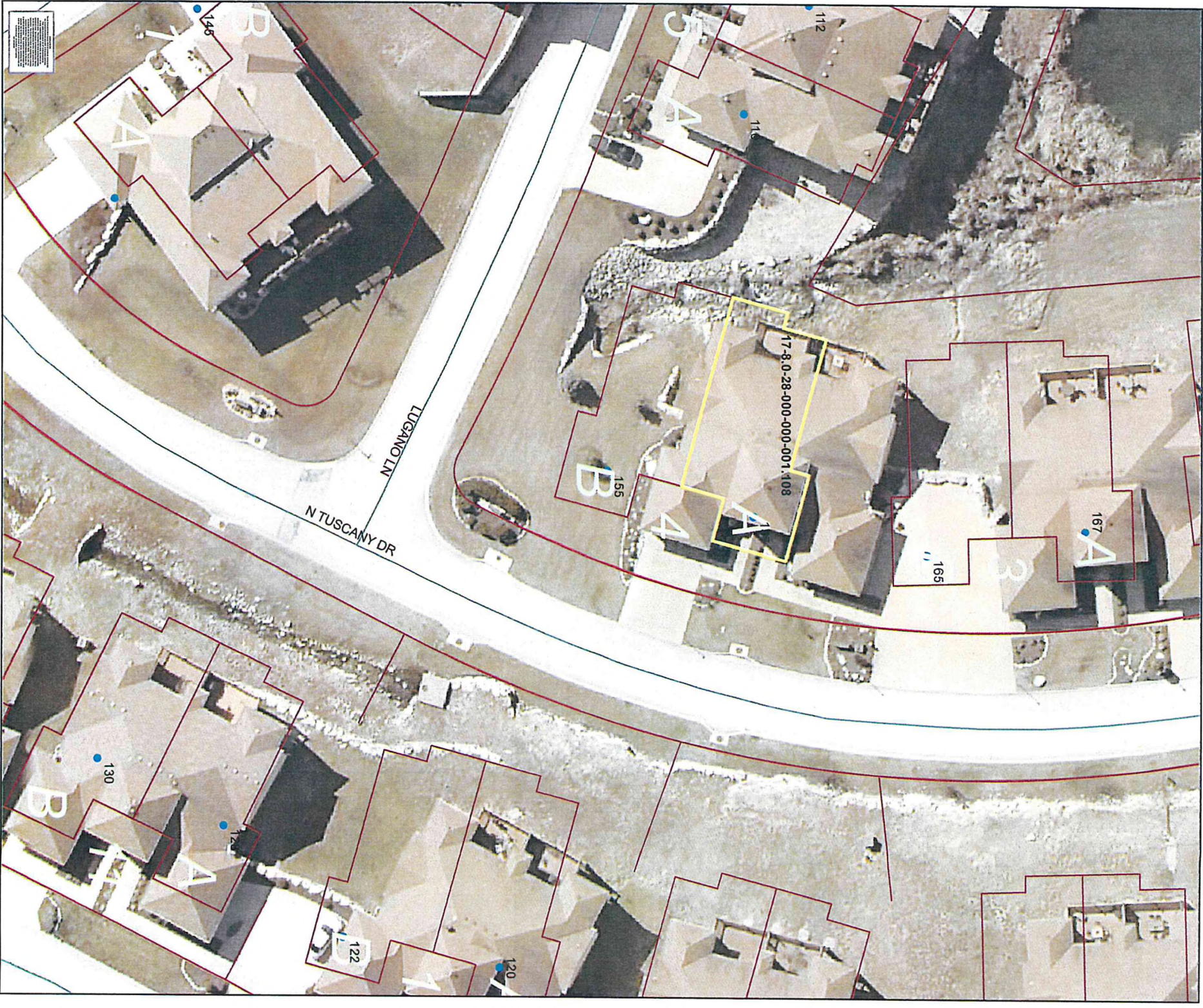
SUMMARY:

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

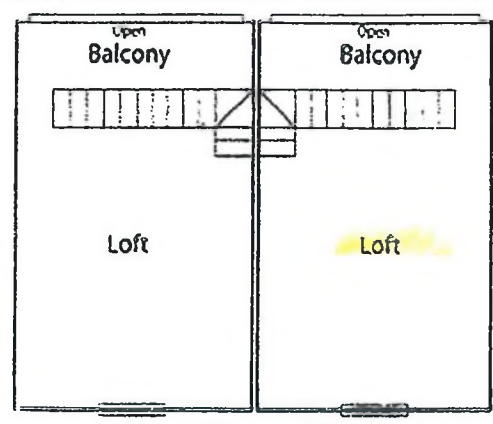
1. The Planning Commission's approval of Division III Special Use Permit #2016-0041 Decision of Record shall be reversed and considered null and void.
2. A Decision of Record shall be filed with the Taney County Recorder of Deeds Office within 120 days or the approval shall expire (Appendix D, Step 6 Taney County Development Guidance Code).



BOA 157 N Tuscany Dr Nightly Rental Appeal



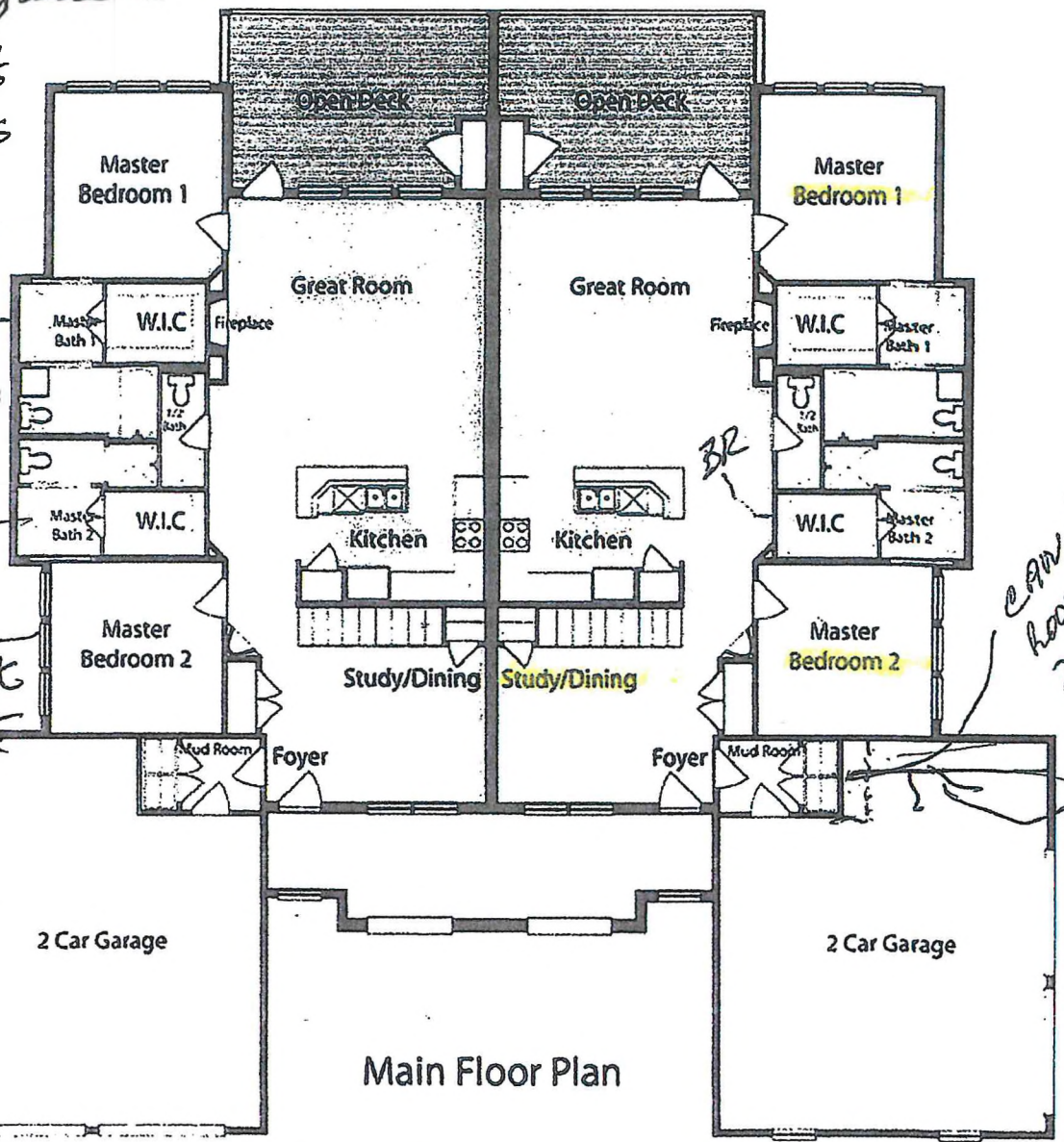
water Softener
 Hardwood Floor
 Proprietary PLACE
 modify 2nd BR
 Bath w/pocket door
 and enlarge MBR
 Bullnose granite
 Brush S/S
 Appliances
 Trim 4"



2nd Floor Plan

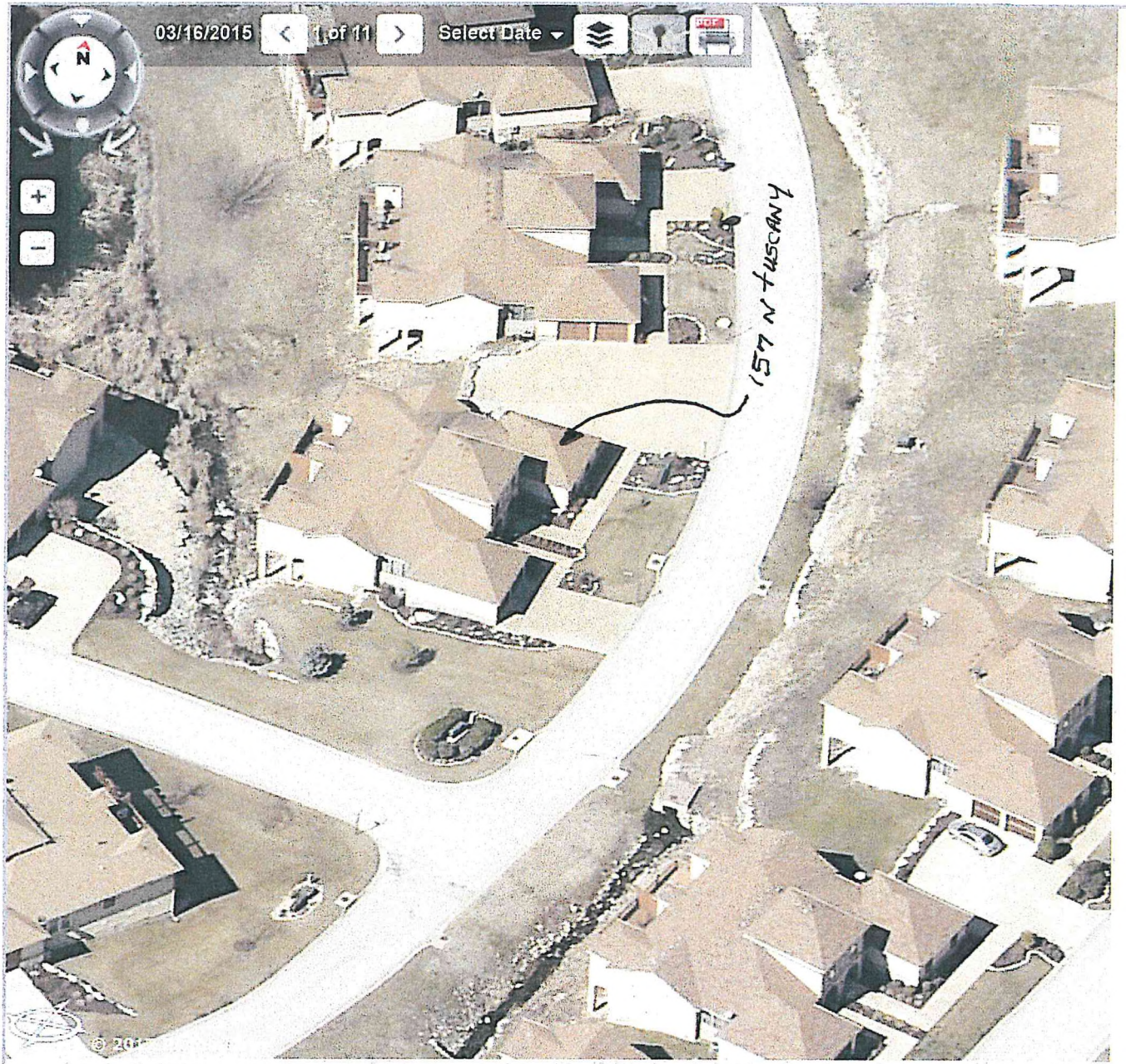
Add shower
 in MBR
 Optional

Jacuzzi
 faucet on
 deck and at
 entry
 stairs to
 storage



Main Floor Plan

Pictometry



Taney County makes no warranties, expressed or implied, as to the use of the data.

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The Schneider
Corporation

157 N Tuscany

Pictometry

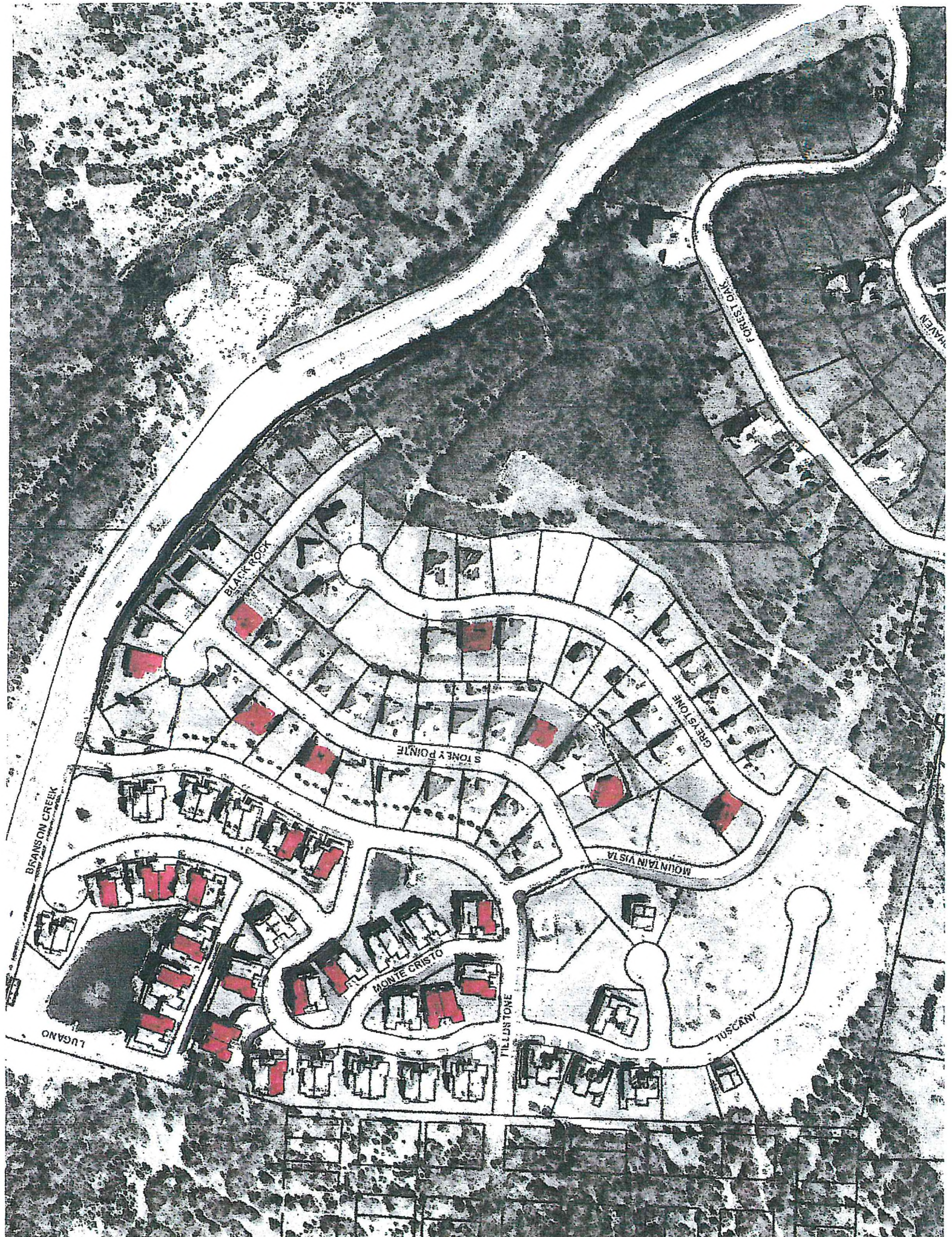


Taney County makes no warranties, expressed or implied, as to the use of the data.

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Schneider
Developed by
The Schneider
Corporation

157 N Tuscany



P&Z Co. Taney, MO, U.S.

**SCHENEWERK
& FINKENBINDER**
Attorneys at Law, LLC

Russ Schenewerk¹
Karl Finkenbinder
Thomas Hamilton²
Jacqueline Bryant
John Spurlock

(Also licensed in AR)¹
(Also licensed in KS)²

Direct email: russ@sfalawfirm.com

VIA EMAIL AND
REGULAR U.S. MAIL

February 8, 2017

Taney County Planning and Zoning Commission
207 David Street
Forsyth, MO 65653

P.O. Box 383
Forsyth, MO 65653
(417) 546-7225
fax: (417) 546-6861
P&Z@co.taney.mo.us

Re: Branson Creek Nightly Rental Division III Applications

Dear Commission Members:

Please be advised that our firm represents Neil and Karen Murphy and Susan Smith, homeowners in the Branson Creek development in Hollister, Missouri ("Branson Creek"), with regard to their objection and opposition to the pending Division III special use permit applications for certain Branson Creek properties located in the Villas of Fieldstone and Fieldstone Bluffs subdivisions.

Specifically, and as you are aware, the Taney County Planning and Zoning Commission (the "Commission") will, during their February 13, 2017 meeting, consider nineteen (19) separate applications by Fieldstone property owners, all seeking Concept Division III special use permits (the "Applications"). The Applications seek Commission approval for special use permits authorizing the applicants to rent their properties on a nightly basis – a practice prohibited by Taney County Ordinance and the Branson Creek master declaration (the "Declaration").

As a threshold matter, the Applications seek approval for permits which would, if granted, immediately violate numerous Taney County Code provisions, including without limitation, the following portions of the Taney County Development Guidance Code ("DGC"):

P.O. Box 123
500 W. Main St., Suite 305
Branson, MO 65616

Phone: (417) 334-7922
Fax: (417) 334-7923
Email: info@sfalawfirm.com
www.sfalawfirm.com

- Section 4.7.15 requires a twenty-five (25) foot buffer “between any structure utilized for nightly rental and any existing residential land use,”
 - None of the Applications include the required buffer, nor has any Applicant proposed or submitted plans for the required buffer;
- Section 4.7.2 requires, among other things, that “[a] site plan shall be submitted with an application for a Nightly Rental Special-Use Permit which identifies the location of the required off-street parking.”
 - To our knowledge, none of the applicants have prepared or submitted the required parking site plan. Moreover, overflow parking and improper parking have continually been a problem to-date with regard to the illegal nightly rental of Branson Creek properties;
- Section 4.7.6 requires that “[a] compliance letter shall be submitted from the local fire district, with an application for a Nightly Rental Special-Use Permit ensuring adequate fire suppression and the provision of occupancy limits.”
 - According to the applications obtained by this office, not one Application includes the requisite compliance letter or even evidence that any Applicant has applied for same;
- Additional compliance issues:
 - Sections 4.7.8 - 4.7.12 require additional compliance and approvals from the Taney County Assessor’s Office, the Taney County Collector’s Office, the Missouri Department of Revenue, and the Taney County Health Department. No evidence of compliance with these additional provisions has been submitted or applied for by the Applicants.

In light of these numerous Code violations, the Applications should be denied.

Moreover, and as the Commission is aware, no special use permit may issue which causes the applicant and recipient of the permit to violate an applicable declaration of record. The Applications, and the present use of Branson Creek properties for nightly rentals, violate a number of provisions of the Branson Creek master declaration, including without limitation:

- Branson Creek “Owners,” as defined in the Declaration, are the only authorized property occupants. “Guests,” of Owners must be accompanied by a Member at all times during which a Guest is utilizing the Common

Taney County
February 8, 2017
Page 3

SCHENEWERK & FINKENBINDER
ATTORNEYS AT LAW, LLC

Property, as those terms are elsewhere defined in the Declaration. See Declaration at Article VII.

- o The Applications and existing nightly rental activities are in clear violation of the above provisions, in that many of the Applicants clearly state that they live hundreds of miles away from the nightly-rental activities and have no intention of accompanying the proposed "Guests;"
- o The Branson Creek Declaration further prohibits the use of any property from being used "for any purpose other than that for which it was originally approved." See Declaration at Article IX
 - o As Branson Creek was developed as a residential, single-family community, the proposed and existing use of Branson Creek properties for nightly rental further violates the Branson Creek Declaration;
- o Article IX further defines, provides for, and restricts signage placement, disposition of trash and debris, parking of various vehicles, nuisances, and clothes hanging and machinery.
 - o To-date, the nightly rental activities outlined in the Applications are in continuing violation of all of these Declaration provisions.

In light of the foregoing declaration violations, the Commission must deny the Applications.

Please do not hesitate to contact me if you have questions, or would like additional information. We have included with this letter certain of the supporting documentation referenced herein.

We appreciate your time and consideration of our requests, and look forward to discussing these issues at next week's hearing, where I will appear personally.

Very truly yours,



Russ Schenewerk
RS:tjh

CC: Neil and Karen Murphy
Susan Smith

PARTIAL LIST OF COVENANTS

Article XIII Enforcement

14.03 **Violation and Nuisance.** Any act or omission whereby any provision of this Fieldstone Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Declarant, the Association or any Owner of a Site.

14.04 **Violation of Law.** Any violation of any federal, state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Property is hereby declared to be a violation of this Fieldstone Declaration and subject to any and all of the enforcement procedures set forth herein.

Article II Definitions

2.28 **Living Unit.** "Living Unit" shall mean and refer to any Structure or portion of a Structure situated upon any Site designed and intended for use and occupancy as a residence by a single person, a family or a "family sized" group of persons.

Article VII Common Property

(a) Every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Common Property, and such easement shall be appurtenant to and shall pass with every Site, Lot and/or Unit upon transfer. Any guest of a Member shall be entitled to a right or privilege of enjoyment of Common Property subject to such regulations as may be promulgated by the Association Board. Each such guest shall be accompanied by the Member sponsoring such guest at all times such guest is using the Common Property.

Note: The HOA and owners who rent are stating they can pass their ownership to the renter. Renters are not owners.

Article IX General Restrictions

9.03 **Land Use and Building Type.** No building shall be erected, altered, placed or permitted to remain on any Site unless it is an approved Structure and no previously approved Structure shall be used for any purpose other than that for which it was originally approved. The Declarant hereby reserves the exclusive right to use any of the Property for temporary use as an office or for model home purposes during the Development Period.

Note the wording: No previously approved structure shall be used for any purpose other than that for which it was originally approved. All Villas and Houses were originally approved as residential. single family dwellings

9.09 Placement of Signs on Property. No sign, billboard or other advertising device of any nature shall be placed upon any Site or Lot, including property identification signs, except by the Declarant and except as provided herein and as are approved by the Declarant or its Designee. The Declarant or its Designee may adopt and promulgate rules and regulations relating to signs which may be used within the Property.

The fire code requires signage not allowed in our community.

9.11 **Disposition of Trash and other Debris.** No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot or Site, except building materials during the course of construction for a period not to exceed three hundred sixty-five (365) days (commencing from day one (1) of the first (1st) delivery of any of such materials) unless extended by the Declarant or its Designee, in its sole discretion, for any approved Structure, unless such materials are screened from view in a manner approved by the Declarant or its Designee. During the course of construction, it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner. No burning of any trash, leaves, grass or weeds, and no accumulation or storage of litter of any kind shall be permitted on any Site. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pickup is to be made, at such place on the Site so as to provide access to persons making such pickup. At all other times such containers shall be stored in such a manner that they cannot be seen from adjacent and surrounding property. All such containers shall be kept in a clean and sanitary condition. The Declarant or its Designee may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the Property.

9.12 **Parking of Motor Vehicles, Boats and Trailers.** No truck, commercial vehicle, trailer, commercial trailer house, recreational vehicle, all terrain vehicle, camper, motorcycle, automobile, mobile home, boat or boat trailer shall be brought upon, stored or habitually parked on any Site or Lot, in front of any Living Unit or garage, or between any residence or garage and abutting side street, or upon any street abutting any Site or Lot. This shall not be construed to prohibit the mere temporary (a maximum of twenty-four (24) hours): (a) standing or parking of a trailer, boat, trailer house, recreation vehicle, or mobile home for short periods preparatory to take same to some other location for use; or (b) the temporary standing or parking of a truck or commercial vehicle for loading, or unloading; or (c) the parking of any operational automobile on any driveway on any Site. The Association, with the written approval of the Declarant or its Designee, may permit such parking for longer than twenty-four (24) hours. No such vehicle shall be openly stored in any area other than as may be designated by the Declarant or its Designee. However, no mechanical maintenance on any vehicle shall be permitted in front of any Living Unit or garage, or between any Living Unit or garage and an abutting side street, or upon any street abutting any Lot or Site. While nothing contained herein shall be considered to prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction, the use and appearance of such a building or trailer must be specifically approved by the Declarant or its Designee prior to its being moved on site.

9.13 **Nuisances.** No noxious or offensive activity shall be carried on upon any portion of the Sites or Living Units, nor shall anything be done thereon that may be or become a

nuisance or annoyance to any other Owners. No exterior lighting shall be directed outside the boundaries of any Site but shall be directed so as to avoid glare and excessive light spillage onto abutting or adjacent Sites.

9.16 Restrictions for Residential Sites. No profession or home industry shall be conducted in or on any part of a Site or in any improvement thereon in the residential areas without the specific written approval of the Declarant or its Designee. The Declarant or its Designee, in its discretion, upon consideration of the circumstances in each case, and particularly in consideration of the effect on surrounding Property, may permit a Site or any improvement

thereon to be used in whole or in part for the conduct of a profession or home industry. No profession or home industry shall be permitted, however, unless it is considered by the Declarant or its Designee to be compatible with the neighborhood. Except as provided herein, any Living Unit located on a Site designated for residential use within the Property shall be occupied by the Owner of the Living Unit. Notwithstanding the above, however, leasing of single family or condominium units will be allowed provided that the Owner first register the lessee with the Association, providing such information as the Association may require, and file with the Association a complete copy of the executed lease agreement.

Note: The last portion stating leasing a single family is allowed with approval and copies of lease agreement on file at HOA. HOA has not enforced this covenant

9.18 Use of Clothes Hanging Devices and Machinery. No clothing or any household fabrics shall be hung in the open on any Lot. No machinery shall be operated upon any Site

Note: Renters violate this covenant all the time with towels hanging on deck railing

- 4.6.1. All such establishments must be at least 1000 feet from any school or church.
- 4.6.2. If music, whether live or reproduced, is used for entertainment the sound levels shall not be such as to be a nuisance to any existing residences.
- 4.6.3. The Planning Commission may, at their discretion, impose additional conditions or stipulations that it deems necessary.

4.7 Nightly Rental

A residential building, structure or part thereof that may be rented for any period of time less than thirty (30) calendar days, counting portions of days as full days. The term —Nightly rental shall not include hotel, motel, or bed and breakfast establishments. Nightly Rentals in a residential area have the potential to be incompatible with the surrounding residential uses. Therefore, special regulation of Nightly Rentals is necessary to ensure that their use will be compatible with surrounding residential uses and will not materially alter the neighborhoods in which they are located.

4.7.1. Occupancy

The maximum occupancy for a Nightly Rental shall be two (2) persons per dwelling unit, plus two (2) persons per bedroom (e.g., a two (2) bedroom dwelling unit is permitted a maximum occupancy of six (6) persons). The maximum occupancy shall be further limited based upon the capacity of the wastewater treatment system serving the Nightly Rental, off-street parking requirements and local fire district occupancy limits, whichever is lesser. Please note that the term **person** for the purpose of establishing occupancy is defined as an individual at least four (4) years of age. Please note that the term **bedroom** as used in reference to nightly rental is defined as a room utilized primarily for sleeping that shall have a floor area of not less than 70 square feet, shall not be less than 7 feet in any horizontal direction and shall contain at a minimum a door, a window and a closet.

4.7.2. Parking

One (1) off-street parking space shall be provided for each two (2) persons of occupancy in a Nightly Rental. All Nightly Rentals shall provide clearly marked and appropriately situated parking spaces for the handicapped, one (1) such space in each parking area.

No more vehicles shall be parked on the property than there are designated off-street parking spaces. Inability to provide the required off-street parking will reduce the permitted occupancy. A site plan shall be submitted with an application for a Nightly Rental Special-Use Permit which identifies the location of the required off-street parking.

4.7.3. Solid Waste Disposal

The management company or a waste collection provider shall provide weekly solid waste collection during all months that the Nightly Rental is available for rent.

4.7.4. Lighting

Outdoor lighting shall be downward lit, subdued and have minimal off-site impacts to adjoining properties.

4.7.5. Safety

All Nightly Rentals shall contain a minimum of one operable fire extinguisher, operable smoke alarms and operable carbon monoxide alarms in compliance with the local fire district regulations, where applicable.

4.7.6. Fire District Compliance

A compliance letter shall be submitted from the local fire district, with an application for a Nightly Rental Special-Use Permit ensuring adequate fire suppression and the provision of occupancy limits.

John J. Ark
Dept of Revenue

4.7.7. Fire District Inspection

Each Nightly Rental dwelling unit shall be inspected annually by the Fire District, unless waived by the local Fire District, in order to determine whether it meets adequate safety requirements of the applicable building codes. Prior to the issuance of a Certificate of Conformance, the Owner shall make all necessary alterations to the dwelling unit as required by the Fire District Official pursuant to the applicable building codes.

4.7.8. Taney County Assessor's Office Compliance

A compliance letter shall be submitted from the Taney County Assessor's Office prior to the issuance of a Certificate of Compliance.

4.7.9. Taney County Collector's Office Compliance

A valid Merchant's License shall be provided to the Planning Department for each nightly rental property. The Merchant's License shall be provided prior to the issuance of a Certificate of Compliance.

4.7.10. Missouri Department of Revenue Compliance

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. A No Tax Due Letter from the Missouri Department of Revenue shall be submitted to the Planning Department office annually, indicating that the sales taxes have been paid.

4.7.11. Permit Posting

The Nightly Rental Special-Use Permit shall be posted within five (5) feet of the main entrance of each dwelling unit, both on the inside and on the outside of the dwelling unit, and contain the following information:

- (a) The name and telephone number of the Local Representative.
- (b) The name and address of the Owner.
- (c) The contact information for the Planning Department and Sheriff's Department office in Taney County.
- (d) The maximum occupancy permitted.
- (e) The name and telephone number of all local emergency personnel (police, fire and medical personnel).
- (e) The number of off-street parking spaces provided on the property, and the maximum number of vehicles allowed to be parked on the property.
- (f) The solid waste disposal collection day if provided by a solid waste company.

4.7.12. Health Department Compliance

A compliance letter shall be submitted from the Taney County Health Department with an application for a Nightly Rental Special-Use Permit, if the nightly rental will involve five (5) or more "guest rooms". The Missouri Department of Health and Senior Services defines a guest room as a room in which one or more guests sleep (e.g. including a common room such as a living room if that room will provide sleeping arrangements for one or more guests).

4.7.13. Ownership



A Nightly Rental Special-Use Permit is issued to a specific "Owner" of a property. If the property changes ownership then the Special-Use Permit shall immediately expire.

4.7.14. Local 24-Hour Representative

The Owner of the property shall designate a "Local Representative". The Local Representative shall be available on a twenty-four (24) hour basis, seven days per

week. The Local Representative may be the owner, a property management company representative, agent, designee or other person employed, authorized or engaged by the owner to manage, rent or supervise the Nightly Rental. The Local Representative shall maintain a residence or permanent place of business within either Taney County or the Counties adjoining Taney County and shall be available on a twenty-four (24) hour basis, seven (7) days per week.

(a) **Change Local Representative**

The Local Representative may be changed by the Owner from time to time throughout the term of the permit, by the Owner filing a revised permit application that includes the name, address and telephone number of the new Local Representative. Failure to notify the County of a change in the Local Representative constitutes a Violation pursuant to Section 3.10 and may also lead to the revocation of the Special-Use Permit.

(b) **Guest and Vehicle Register**

The Local Representative shall maintain a guest and vehicle register for each tenancy of the Nightly Rental. The register shall include the names, home addresses, and telephone numbers of the occupants and the vehicle license plate numbers of all vehicles used by the occupants and the date of the rental period. The above information must be available for County inspection upon request. Failure to maintain or provide the required information constitutes a Violation per the provisions of Section 3.10 and may also lead to the revocation of the Special-Use Permit.

(c) **Complaints**

The Local Representative must be authorized by the Owner to respond to questions or concerns from the occupants or neighbors. The Local Representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the property as a Nightly Rental. The Local Representative must respond to those complaints in a timely manner to ensure that the use of the property complies with the standards for Nightly Rental occupancy, as well as other pertinent County code requirements pertaining to noise, disturbances, or nuisances, as well as State law pertaining to the consumption of alcohol, or the use of illegal drugs.

(d) **Availability**

If the Taney County Sheriff's Department is not able to contact the Local Representative in a timely manner twice during a twelve month period, this shall be considered a Violation pursuant to Section 3.10 and may also lead to revocation of the Special-Use Permit.

4.7.15. **Required Buffering**

A buffer shall be established between any structure utilized for nightly rental and any existing residential land use, meeting the requirements of Appendix H, Section 6 (Technical Plans).

4.7.16. **Additional Conditions**

The Taney County Planning Commission may, at their discretion, impose additional conditions or stipulations that it deems necessary.

4.7.17. **Compliance**

Compliance with the terms and conditions set forth herein shall be the non-delegable responsibility of the owner of the Nightly Rental; and each owner of a Nightly Rental shall be strictly liable for complying with the conditions set forth in this Section or imposed by Taney County. The Owner shall comply with all applicable County, State and Federal Regulations.

4.7.18. **All Nightly Rentals Shall Obtain a Special-Use Permit**

The nightly rental of all residential structures shall require the issuance of a Special-Use Permit.



4.7.19. **Revocation**

The Planning Department is hereby authorized to revoke any Nightly Rental Special-Use Permit issued under the terms of this Section, if, after due investigation, it determines that the holder thereof has repeatedly violated any provisions of this Section or that any facility is being maintained in an unsanitary or unsafe manner, or is a nuisance.

4.7.20. **Limitation of Liability**

Taney County assumes no responsibility for the operation of the site and Owner covenants and agrees to hold Taney County harmless for any injury or damage which may occur, of whatever type or nature, as the result of the operation of the Nightly Rental. Owner shall maintain appropriate liability insurance for the Nightly Rental. Owner further warrants and agrees to compensate Taney County for any expense incurred in the defense of any lawsuit or other type of action which may be brought against said County as a result of said Owner's operation of this use.



✓ **TANEY COUNTY PLANNING COMMISSION**
DIVISION III DECISION OF RECORD
SPECIAL USE PERMIT #16-41
SUNSET NIGHTLY RENTALS

On February 21, 2017 the Taney County Planning Commission (grantor) approved a Division III Special Use Permit request by Steven and Shari Khoury (grantee) authorizing the utilization of an existing single family residence for a nightly rental business located at 157 N. Tuscany Drive. In accordance with this approval, Division III Special Use Permit #16-41 is issued for the property located at the legal description below:

All of Unit A of Villa 4 of the Villas of Fieldstone at Branson Creek Development, Villa 4 according to the recorded plat thereof, recorded in plat book/slide I, pages 85-86, Taney County Recorder's Office, Taney County Missouri, together with the corresponding percentage in the general common elements and limited common elements appurtenant thereto. (Parcel ID#17-8.0-28-000-000-001.108)

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

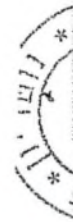
Steven and Shari Khoury are authorized to utilize the existing single family residence for nightly rental. With six out of nine Planning Commissioners present the vote was four in favor and one opposed with the Chairman not voting. The request was approved. The following conditions shall be complied with:

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 Environmental Division of the Planning Department; 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 sold waste materials.
5. This decision is subject to all existing easements.
6. The residence located at 157 N. Tuscany Drive shall accommodate (sleep) no more than the Maximum Occupancy. "The maximum occupancy for a nightly rental shall be 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.
7. The 157 N. Tuscany Drive Vacation Rental has been approved as a Special-Use Permit. Therefore the permit is specific to the representative to whom the permit is issued and cannot be transferred without Planning Commission approval. The Special-Use Permit shall not be used to establish commercial compatibility for or with any future land-use change applications.
8. The current local contact information for the property shall be posted on the property and on file in the Taney Planning Office.
9. 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).





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

Scott Starrett
Scott Starrett, Interim-Administrator

STATE OF MISSOURI)

S.S. On this 21 day of March 2017

COUNTY OF TANEY)

Before me personally appeared Scott Starrett 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 2/6/18.

Bonita Kisse-Soutte
Bonita Kisse-Soutte
Notary Public



BONITA KISSEE-SOUTTEE
My Commission Expires
February 6, 2018
Taney County
Commission #10440057

YOEL FARKAS
NOTARY PUBLIC
STATE OF MISSOURI



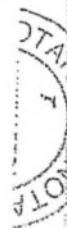
In signing this record of decision I understand that any breach in the terms of the Record of Decision will result in the revocation of this permit. I further agree to abide by and comply with all the requirements of the Taney County Planning Commission and the Development Guidance Code.

Signature

Before me personally appeared Steven Khoury 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 Jerusalem, Israel the day and year first above written. My term of office as Notary Public will expire does not expire.

Yoel Farkas
Notary
Ahrid Ha'am 18/6
Jerusalem Israel
9210302
0543257410





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

Signature Shari Khoury

Before me personally appeared Shari Khoury 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 Tanah Israel the day and year first above written. My term of office as Notary Public will expire does not expire

Yoel Farkas
Notary
Ahad Hadim 18/6
Tengah, Israel
9210302
0573257440



12/1/02

AUTHENTICATION OF SIGNATURE

אימות חתימה

I, the undersigned, Yoel Farkas, Notary at 18/6 Ahad Ha'am Street Jerusalem hereby certify that on March 28, 2017 there appeared before me in Jerusalem, Mr. Steven Khoury, whose identity was proven to me by U.S. Passport Number 505977670 issued by the United States Department of State on January 6, 2015 and Ms. Shari Khoury, whose identity was proven to me by U.S. Passport Number 505602602 issued by the United States Department of State on March 25, 2014 and signed of their own free will the attached document marked "A".

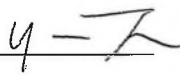
In witness whereof I hereby authenticate the signature of the aforementioned Mr. Steven Khoury and Ms. Shari Khoury, by my own signature and seal this 28th day of March, 2017.

Notary Fee in the sum of 268 New Israeli Shekels including VAT paid.

אני הח"מ יואל פרקש נוטריון, מרחוב אחד העם 18/6 ירושלים מאשר כי ביום 28/03/2017 ניצגו לפני בירושלים מר Steven Khoury שזוהתו הוכחה לי על פי דרכון ארה"ב מספר 505977670 שהוצא על ידי מחלקת המדינה של ארה"ב ביום 05/01/2015 ומרת Shari Khoury שזוהתה חוכחה לי על פי דרכון ארה"ב מספר 505977670 שהוצא על ידי מחלקת המדינה של ארה"ב ביום 25/03/2014 וחתמו מרצונם החופשי על המסמך המצורף והמסומן באות "A".

ולראיה הנני מאשר את החתימה של Steven Khoury ומרת Shari Khoury הנ"ל בחתימת ידי ובחותמי, היום 28/03/2017.

שכר נוטריון בסך 268 ש"ח, כולל מע"מ שולם.


Signature




חתימה





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 STAFF REPORT DIVISION III SPECIAL-USE PERMIT 157 N. TUSCANY DRIVE VACATION RENTAL

Hearing Date: February 13, 2017
Case #: 2016-0041
Applicant: Steven & Shari Khoury
Representative: Sunset Realty Services

Request: The representative, Sunset Realty Services is seeking the Planning Commission approval of a Division III Special-Use Permit allowing for the nightly rental of the existing single-family residence. The residence contains three (3) bedrooms.

Background and Site History:

Per the Assessor's information the single-family residence was constructed in 2006. The single-family residence is approximately 1,815 sq. ft. The subject property is held in condo style ownership in the Villas of Fieldstone at Branson Creek Development.

The current application was approved for Concept January 17, 2017.

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 exterior appearance of the single-family residence will remain the same. 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." Therefore, the three (3) bedroom home would have a maximum occupancy of eight (8) people.

Review:

The property is currently served by an existing drive off of N. Tuscany Drive.

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." Therefore a total of four (4) parking spaces will be required. The project received a total score of -1 on the Policy Checklist, out of a maximum possible score of 29.

STAFF RECOMMENDATIONS:

If the Taney County Planning Commission approves Division III Permit #2016-0041, 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 Environmental Division of the Planning Department; 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. The residence located at 157 N. Tuscany Drive shall accommodate (sleep) no more than eight (8) persons per night. The total occupancy may be further limited based upon the provisions of the Western Taney County Fire Protection District requirements and regulations.
7. The 157 N. Tuscany Dr. Vacation Rental has been approved as a Special-Use Permit. Therefore the permit is specific to the representative to whom the permit is issued and cannot be transferred without Planning Commission approval. The Special-Use Permit shall not be used to establish commercial compatibility for or with any future land-use change applications.
8. 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).