



## TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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

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

**AGENDA**  
**TANEY COUNTY PLANNING COMMISSION**  
**PUBLIC HEARING**  
**MONDAY, NOVEMBER 14, 2011, 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:

*798 Parkview Dr. Rental House*  
*Angel's Rest Gift Shop*  
*Verizon Wireless*

Old and New Business:

*Tentative*

Adjournment.



**TANEY COUNTY PLANNING COMMISSION  
DIVISION III STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**Public Hearing** for the nightly rental of a single-family residence located at 798 Parkview Drive, Hollister, MO, in the Oliver Township; Section 27, Township 22, Range 22.

**Request:** The applicants, Donald and Judith Haun are requesting approval of a Special Use Permit to utilize an existing, grandfathered, single-family residence for nightly rental.

**Hearing Date:** November 14, 2011

**History:** According to the Assessor's information, the home was constructed in 1983. The property was purchased by Donald and Judith Haun in 1984. The applicants have indicated that this single-family residence has been utilized as a rental home since the time of purchase.

In 2007 there was a Special Use Permit proposal that came before the Planning Commission, in the Poverty Point area for both "nightly rental" and a bed & breakfast that experienced a large amount of opposition. The application was denied and later unsuccessfully appealed to the Board of Adjustment. According to the attached Planning Commission Meeting Minutes for Monday, June 16, 2008, "Mr. Preston presented a new sign regarding nightly or weekly rental in any single family residence being against the Code. This new sign has been posted once so far. Mr. Herschend stated that this was done to protect the public." The sign in question is located at the corner of Dale Road and Winkle Drive and states, "**NOTICE Nightly or Weekly Rental Of Any Residence Violates County Codes And May Be Prosecuted**". However, the Taney County Development Guidance Code does **not** indicate that "nightly rental" violates any of the adopted regulations so long as a Special Use Permit is obtained.

The current application was approved for Concept on October 17, 2011.

**General Description:** The subject property (approximately 120' x 170' lot) contains an approximately 1,356 square foot single-family residence (per the Assessor's information) located at 798 Parkview Drive, Hollister, MO, in the Parkview Beach Subdivision.

**Review:** The exterior appearance of the single-family home will remain the same. 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) days." Currently, the applicant would have the ability to rent the residence for a period of thirty (30) days or greater.

The applicants are proposing to rent the home on a weekly basis and have indicated that only a single family will be allowed to rent the proposed property, with no more than 6 adult guests being allowed to stay at one time.

**Project: Nightly Rental - 798 Parkview Drive**

**Permit#: 11-23**

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

Scoring by: *Bob Atchley / Bonita Kisse*

Date: *May 24, 2011*



**Project: Nightly Rental - 798 Parkview Drive**

**Permit: 11-23**

	Max. Possible	As Scored	%	Total Negative Scores	
<b>Scoring</b>	29	-5	-17.2%	3	30.0%

	Max. Possible	As Scored	Negative Scores	
			Number of	Percent
<b>Importance Factor 5</b>	15	-5	2	33.3%
sewage disposal	10	10		
off-site nuisances	0	0		
diversification				
emergency services	0	0		
right-of-way/roads	5	0		
emergency water supply	0	-10		
waste disposal service	0	-5		
waste disposal commitment				
<b>Importance Factor 4</b>				
slopes				
use compatibility	0	-4		
pedestrian circulation				
underground utilities	8	4		
<b>Importance Factor 3</b>				
soil limitations				
building bulk/scale				
waste containers screening				
outdoor equip storage				
industrial buffer / screening				
right to farm				
right to operate				
mixed-use developments				
development patterns				
development buffering				
water system service	6	0		
<b>Importance Factor 2</b>				
wildlife habitat and fisheries				
air quality				
building materials				
residential buffer / screening				
residential privacy				
traffic	0	0		
pedestrian safety				
usable open space				
<b>Importance Factor 1</b>				
lot coverage				
rooftop vents / equipment				
bicycle circulation				

Scoring by: *Bob Atchley / Bonita Kissee*  
 Date: *May 24, 2011*





## TANEY COUNTY PLANNING COMMISSION

P. O. Box 383 • Forsyth, Missouri 65653

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→ **Please refer to Page 4 regarding the nightly rental sign**

### MINUTES

### TANEY COUNTY PLANNING COMMISSION

### REGULAR MEETING

MONDAY, JUNE 16, 2008, 7:00 P.M.

ASSOCIATE CIRCUIT COURT, DIVISION II COURTROOM

TANEY COUNTY COURTHOUSE

#### Call to Order:

Chairman Sarah Klinefelter called the meeting to order at 7:00 p.m. A quorum was established with eight members present. The were: Sarah Klinefelter, Joey Staples, Jim Brawner, Frank Preston, Ray Edwards, Shawn Pingleton, Mark Blackwell, and Randall Cummings. Staff present: Eddie Coxie, Marla Pierce, Bonita Kisse, Dan Nosalek, Keith Crawford, and Bob Paulson.

Mr. Coxie read a statement explaining the meeting procedures.

#### Review and Action:

Minutes, May 2008: with no additions or corrections a motion was made by Ray Edwards to approve the minutes as written. Seconded by Joey Staples. The vote to approve was unanimous.

#### Final Votes:

Branson Storage: Gus Dahlberg requests approval to split an existing parcel into two lots with improvements on one lot located off St. Hwy. 248. Mrs. Klinefelter clarified the project. Eddie Wolfe represented the applicant. After discussion a motion was made by Jim Brawner to approve based upon the decision of record. Ray Edwards seconded. The vote to approve was unanimous.

Addition to Forest Lake at Stonebridge Village: Missouri Partners, Inc. request to develop a single family subdivision and 9 hole golf course located off Limestone Dr. Mrs. Klinefelter and Eddie Wolf clarified the project. There will be an access off Keystone Road which is to the north. Fire protection will come from Stone County. There is a question if Taney County will provide fire protection on their side. After discussion a motion was made by Ray Edwards to approve based upon the decision of record. Jim Brawner seconded. The vote to approve was unanimous.

RKC Properties: New Horizons Community Church request to construct a gym, office, and warehouse located at 1192 Bird Road. Eddie Wolfe represented the developer. Mrs. Klinefelter clarified the project. After discussion a motion was



made by Randall Cummings to approve based upon the decision of record with the addition of a temporary turn around in the form of a gravel hammerhead in place of the current cul de sac. Seconded by Mark Blackwell. The vote to approve was unanimous.

Wildflower Learning Center: Carla and Rick Quincey request to operate a small private school located at 160 Old Glory Road. This project withdrew.

Highway 65 Project: This project was tabled at the April 2008 final vote until a noise study could be done. A motion was made to remove this from the table by Shawn Pingleton. Seconded by Jim Brawner. The vote to place the request back on the table was unanimous. Mr. Coxie read the staff report again to update the Commission on the project. Mrs. Klinefelter clarified the request. Bob Allen representing the developer addressed questions from the Commission. Mr. Allen stated that the first phase would amount to approximately eighty five million dollars. Mrs. Klinefelter reported that letters from surrounding property owners opposing the project have been received. Information in the form of reports on noise have been done and the Planning Commission now feels they are well informed enough to make a decision. Mr. Allen reported that the developer will make sure that all rules will be followed and the developer plans to be a good neighbor to the surrounding residents. He also reported on all the studies that have been done on the project. Mr. Paulson clarified that the entire project was applied for so the Planning Commission must approve or disapprove the entire plan, not just part of it. Mr. Edwards discussed the Condominiums being privately owned. Mr. Allen stated that these would be controlled by management. Plans are that phase one will be built out by July 2010. Discussion has begun with MoDot by the developer. Eddie Wolfe reported that there is an existing road which will be tied to the outer road to Hwy. 160 in the first phase. This will be done by the developer at his cost. Mr. Preston discussed the race track and how it would benefit the area, and why the Planning Commission must approve the entire project and not be able to remove the racetrack from the plan. Mr. Allen stated that the race track is the major element and would take away from the attractiveness of the project. Discussion followed regarding the number of businesses in the area of the project. Thirty eight letters were sent out to property owners. There is a bed and breakfast within 1000 feet. Mr. Allen stated that the developer plans to monitor the decibel level of the race track. Mr. Pingleton was concerned that the County does not have any authority to enforce a noise ordinance. Mr. Wolfe stated that if the project is approved it contains some residential and multi-family, which the developer would want to protect as well. Mr. Allen stated that the developer does not want to build an offensive project. Mr. Brawner stated that even though there has been a lot of information, he still has a lot of questions before he could make a decision. Mr. Edwards stated that they still don't know what kind of cars would be using the track. Mr. Allen stated that the track would be dirt, limiting the types of racing



that could be done. Mr. Wolfe stated that the Commission can't enforce the noise anyway. Mrs. Klinefelter asked about protecting the crawfish that are endangered in Emory Creek. Mr. Allen stated that all DNR regulations will be followed regarding this matter and that every effort will be done to protect the species. No problem is insurmountable in Mr. Allen's opinion. Mr. Wolfe stated that the Corps of Engineers would be issuing the final permit on the dam. Mr. Pingleton made a statement that the project in his opinion is not compatible and there are too many questions in his mind that have not been answered. Mr. Wolfe reminded the Commission that they approved a revision of the Cross project which is a commercial venture and that it is just north of this one. Further discussion followed regarding noise. Mr. Allen stated that if they could make a certain decibel reading in the decision of record, they could comply with it. After discussion a motion was made by Shawn Pingleton to deny. Seconded by Ray Edwards. The vote to deny was six in favor, and one against. Mr. Pingleton asked that all studies be included in the file for future reference.

Concepts:

**Burns Storage:** K. Dan and Mary E. Burns request approval to construct ten 10 x 20 storage units and move in six sea crates 8 x 40 for storage on property located at 13839 St. Hwy. 160. Mrs. Burns explained her project and location. Mrs. Klinefelter asked for location of access, buffering, and accessibility to the units be presented before the public hearing. Mr. Pingleton suggested the applicant contact MoDot regarding the entrance. This project will proceed to public hearing next month.

**Parkside Storage:** Michael L. Patton requests approval to construct a metal storage building with office space located at the corner of St. Hwy. 165 and Dale Avenue. Mr. Patton explained his request. He has spoke with the sewer district regarding hooking the office to the existing wastewater system. The application included an additional building but Mr. Coxie explained that this request would include the one building and office for now. This project will proceed to public hearing next month.

**Grannemann Vacation Home:** Chad and Adriana Grannemann request to operate a vacation home as weekly rentals from a single family dwelling located at Winkle Road. Mr. Grannemann explained the request and presented location maps and other information on the project. This property is the log cabin on the corner across from a previously approved project for condominiums. This property has been operating for three years as a nightly rental. The applicant purchased the property as a single family dwelling then began renting but did not know he needed a permit. Discussion followed. A motion was made by Randall Cummings to cease operations until approval is given. Discussion followed regarding enforcement. The applicant asked to be able to proceed through the next month with his rental. Ron Herschend representing his



constituents stated that if the applicant had responded when first notified he would not be in this situation, and asked that the Commission require the applicant to cease and desist by the end of the week. Further discussion followed regarding other nightly rentals in the neighborhood. Mr. Preston explained some concerns voiced to him from some of the neighbors. Mr. Grannemann reported that they have never had any trouble from any of the people he has rented to and he and his family and friends also stay in the house. Shawn Pingleton seconded the motion by Mr. Cummings. The motion was unanimous for the applicant to cease and desist in ten days from this meeting. This project will proceed to public hearing next month.

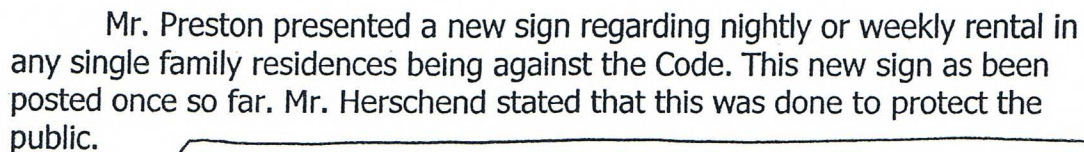
Jernigan Subdivision: Barbara Jean Jernigan requests to subdivide a 1.07 acre lot into 3 residential lots located at 232 Bent Oak Road. Ms. Jernigan explained her request. There is an existing residence on one lot. Discussion followed. This project will proceed to public hearing next month.

Universal Auto and Accessories: Brian Karn requests to operate a used car lot from an existing car wash located at 1225 Ridgedale Road. This project postponed until next month.

#### Old and New Business:

Height Amendment: Mr. Coxie presented the new height amendment revisions and explained how they were arrived at. This was presented to the Commission a month ago, but the vote was postponed so the public could attend before being sent to the County Commission for their approval. Discussion followed regarding the policy checklist. Shawn Pingleton made a motion to send the draft amendment to the County Commission for their approval. Seconded by Mark Blackwell. The vote to approve was unanimous.

Mr. Coxie reported his findings on the nightly rental approval at Branson Canyon as requested by the Commission last meeting.



Mr. Preston presented a new sign regarding nightly or weekly rental in any single family residences being against the Code. This new sign as been posted once so far. Mr. Herschend stated that this was done to protect the public.

#### Adjournment:

With no other business on the agenda for June 16, 2008 a motion was made by Ray Edwards to adjourn. Seconded by Jim Brawner. The vote to adjourn was unanimous. The meeting adjourned at 9:10 p.m.



# Western Taney County Fire Protection District

221 Jefferson Road • Branson, MO 65616 • Office 417.334.3440 • Fax 417.334.3446

Proudly serving  
the Citizens of  
• Bull Creek  
• Hollister  
• Kirbyville  
• Merriam Woods  
• Mincy  
• Ridgedale  
• Rockaway Beach  
• Walnut Shade  
and the  
unincorporated  
areas of  
Western Taney County

October 28, 2011

*TO: Taney County Planning and Zoning*

*FROM: Western Taney County Fire Protection District  
Prevention Division*

*RE: Judy Haun, 798 Park View, Hollister, Mo.*

*The property for Judy Haun, 798 Park View, Hollister is within the bounds of the Western Taney County Fire Protection District. Water for fire suppression operations would be obtained from an established water supply system or water tanker shuttle.*

*Should you have any questions concerning this matter contact me Monday through Friday 8am to 5pm at 334-3440.*

*James K. Single  
Assistant Chief  
Prevention Division*





**TANEY COUNTY PLANNING COMMISSION  
DIVISION III STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**Public Hearing** for the Angels Rest Gift Shop located at 407 Holstein Drive, Taneyville, MO, in the Swan Township; Section 34, Township 24, Range 19.

**Request:** The applicant, Phyllis Tate is requesting approval of a Division III Permit, in order to utilize an existing 320 square foot (16' x 20') building as the Angels Rest Gift Shop.

**Hearing Date:** November 14, 2011

**History:** According to the Assessor's information, the mobile home was placed on the site in 1989, with the accessory building being constructed in 1995.

The current application was approved for Concept on October 17, 2011.

**General Description:** The subject property contains approximately 1.5 acres and is located at 407 Holstein Drive, Taneyville, MO. The property currently contains the mobile home and accessory building.

**Review:** The applicant has indicated that the majority of the business would be conducted online, with the building acting primarily as an assembly location for jewelry and other crafts for sale.

The project received a score of -16 on the Policy Checklist, out of a maximum possible score of 75. The relative policies receiving a negative score consist of right-of-way on existing roads, emergency water supply, solid waste disposal service, utilities, screening of solid waste containers, screening of outdoor equipment and emergency services.

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

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. No outside storage of equipment or solid waste materials.
3. This decision is subject to all existing easements.
4. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).



**Project: Angels Rest Gift Shop**

**Permit#: 11-24**

<b>Policies Receiving a Negative Score</b>	
<b>Importance Factor 5:</b>	<b>right-of-way / roads emergency water supply waste disposal service</b>
<b>Importance Factor 4:</b>	<b>utilities</b>
<b>Importance Factor 3:</b>	<b>screening / waste containers screening of outdoor equip emergency services</b>
<b>Importance Factor 2:</b>	none
<b>Importance Factor 1:</b>	none

**Scoring by:** *Bob Atchley / Bonita Kisse*

**Date:** *October 26, 2011*

# Eastern District Relative Policies: Division III Permit

Project: Angels Rest Gift Shop

Permit: 11-24

	Max. Possible	As Scored	%	Total Negative Scores	
Scoring	75	-16	-21.3%	7	36.8%

	Max. Possible	As Scored	Negative Scores	
			Number of	Percent
<b>Importance Factor 5</b>	<b>5</b>	<b>-25</b>	<b>3</b>	<b>100.0%</b>
sewage disposal				
right-of-way / roads	5	-10		
emergency water supply	0	-10		
waste disposal service	0	-5		
waste disposal commitment				
<b>Importance Factor 4</b>			<b>1</b>	<b>14.3%</b>
stormwater drainage				
air quality	0	0		
off-site nuisances	8	0		
use compatibility	0	0		
diversification	8	0		
development buffering	8	4		
utilities	0	-4		
pedestrian circulation				
underground utilities	8	0		
<b>Importance Factor 3</b>	<b>24</b>	<b>9</b>	<b>3</b>	<b>42.9%</b>
preservation of critical areas	6	6		
screening of rooftop equip				
screening / waste containers	0	-3		
screening of outdoor equip	6	-3		
industrial landscape buffers				
right to farm	0	0		
mixed-use developments	6	6		
emergency services	0	-3		
water systems	6	6		
<b>Importance Factor 2</b>				
residential landscape buffers	4	0		
right to operate				
residential privacy				
traffic	0	0		
pedestrian safety				
usable open space				
<b>Importance Factor 1</b>				
agricultural lands				
bicycle circulation				

Scoring by: Bob Atchley / Bonita Kissee

Date: October 26, 2011





**TANEY COUNTY PLANNING COMMISSION  
DIVISION III STAFF REPORT  
P.O. Box 383, Forsyth, MO 65653 (417) 546-7226**

**Public Hearing** for a Verizon Wireless telecommunications tower to be located off of Church Camp Road, Taneyville, MO, in the Swan Township; Section 25, Township 24, Range 20.

**Request:** The representative, Gary Buster is requesting approval of a Division III Permit, in order to allow Verizon Wireless to construct a new 250' self support telecommunications tower on property owned by Ricky and Rhonda Turner (applicants).

**Hearing Date:** November 14, 2011

**History:** The proposed tower would be located on an approximately 82 acre parcel of land accessed via Church Camp Road.

On April 19, 1999 the Taney County Planning Commission approved a Division III Permit authorizing the development of a 1,070' transmission tower on the same 82 acre parcel. This existing tower was originally constructed to transmit Channel 31 (KMBM) a full service local television station based out of Harrison, Arkansas. Representatives from Verizon Wireless have indicated to our office that it is their understanding that Daystar Communications acquired interest in the Prime Lease for this tower from EBC Harrison, Inc in a bankruptcy proceeding. However, the County Assessor's information indicates that EBC of Harrison Inc. is the owner of the existing tower. Verizon Wireless has indicated that there are existing liens for 2008 and 2009 for unpaid real estate taxes on the existing tower parcel in the aggregate amount of approximately \$43, 512.05 (as of April 19, 2010). The representative has submitted a letter from Robert C. Hunter, Legal Counsel for Verizon Wireless to Arnold Torres of Daystar Communications requested that Daystar provide documentation or information showing that its interest is not subject to the existing tax liens, either by bankruptcy court order or documentation from Daystar's counsel certifying that the tax authorities received proper notice of sale and did not object to the same. It is my understanding that this documentation has never been provided by Daystar. The representative has indicated that Verizon Wireless initially sought to co-locate on the existing tower, however, in this instance they are seeking to construct a new tower in lieu of co-location because of the delinquent tax situation.

Upon contacting the office of the Taney County Collector of Revenue, Melanie Smith indicated that an aggregate amount of approximately \$69,422.02 of unpaid real estate taxes are currently due for 2008, 2009, 2010 and 2011 on the existing tower parcel (Parcel # 04-7.0-25-000-002-003.001T). The base real estate tax amount due per year on the tower parcel is \$17,000.00. Ms. Smith further stated that the existing tower parcel may not be placed on the tax sale until such time that the Collector's office receives a bankruptcy court order. So long as the tower parcel is shown to be in bankruptcy, interest does not compound upon the unpaid taxes.

The current application was approved for Concept on October 17, 2011.



**General Description:** The subject property contains approximately 82 acres and is located off of Church Camp Road, Taneyville, MO. The property currently contains an existing 1,070' guy wire transmission tower.

**Review:** The proposed tower will be located on a rural 82 acre parcel of land, with no buildings within the 250' fall distance. The representative has indicated that a signed lease agreement will be submitted to the Planning Department, indicating that should the telecommunications tower no longer be in use for the original purpose granted by the Division III Permit and serving as an approved co-location site, that the tower will be dismantled and removed within six months of the cessation of operations. Co-location is always looked upon as being preferable, however due to the existing tax liens this may simply not be feasible.

The project received a score of 3 on the Policy Checklist, out of a maximum possible score of 45. The relative policies receiving a negative score consist of right-of-way on existing roads, utilities, industrial landscape buffers and residential privacy.

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

1. Compliance with the provisions of the Taney County Development Guidance Code.
2. Compliance letter from the FAA.
3. No outside storage of equipment or solid waste materials.
4. This decision is subject to all existing easements.
5. Division II Permits will be required for all applicable structures in the development (Chapter 3 Sec. I Item B).
6. The signed lease agreement shall be submitted to the Planning Department, indicating that should the telecommunications tower no longer be in use for the original purpose granted by the Division III Permit and serving as an approved co-location site, the tower must be dismantled and removed within six months of the cessation of operations.
7. A notarized statement in writing providing a position on the proposed tower (at no cost to Taney County Emergency or any other emergency entity) for a Taney County emergency service antenna or for use by other emergency management agencies that are granted this right by Taney County.
8. This Decision of Record shall be filed with the Taney County Recorder's Office within 120 days or the approval shall expire (Chapter II Item 6).

# Eastern District Relative Policies: Division III Permit

**Project:** Verizon Wireless - Rickey & Rhonda Turner Permit: 11-25

	Max. Possible	As Scored	%	Total Negative Scores	
<b>Scoring</b>	45	3	6.7%	4	30.8%

	Max. Possible	As Scored	Negative Scores	
			Number of	Percent
<b>Importance Factor 5</b>	<b>5</b>	<b>-5</b>	<b>1</b>	<b>100.0%</b>
sewage disposal				
right-of-way / roads	5	-5		
emergency water supply				
waste disposal service				
waste disposal commitment				
<b>Importance Factor 4</b>	<b>24</b>	<b>4</b>	<b>1</b>	<b>20.0%</b>
stormwater drainage				
air quality				
off-site nuisances	8	4		
use compatibility	0	0		
diversification				
development buffering	8	4		
utilities	0	-4		
pedestrian circulation				
underground utilities	8	0		
<b>Importance Factor 3</b>	<b>12</b>	<b>6</b>	<b>1</b>	<b>20.0%</b>
preservation of critical areas	6	6		
screening of rooftop equip				
screening / waste containers				
screening of outdoor equip	6	3		
industrial landscape buffers	0	-3		
right to farm	0	0		
mixed-use developments				
emergency services	0	0		
water systems				
<b>Importance Factor 2</b>	<b>4</b>	<b>-2</b>	<b>1</b>	<b>50.0%</b>
residential landscape buffers				
right to operate				
residential privacy	4	-2		
traffic	0	0		
pedestrian safety				
usable open space				
<b>Importance Factor 1</b>				
agricultural lands				
bicycle circulation				

**Scoring by:** Bob Atchley / Bonita Kissee  
**Date:** October 26, 2011



**Project: Verizon Wireless - Rickey & Rhonda Turner**

**Permit#: 11-25**

<b>Policies Receiving a Negative Score</b>	
<b>Importance Factor 5:</b>	right-of-way / roads
<b>Importance Factor 4:</b>	utilities
<b>Importance Factor 3:</b>	industrial landscape buffers
<b>Importance Factor 2:</b>	residential privacy
<b>Importance Factor 1:</b>	none

**Scoring by:** *Bob Atchley / Bonita Kisse*

**Date:** *October 26, 2011*



BOOK 0359 PAGE 2725

ACKNOWLEDGMENT  
(Husband and Wife)

STATE OF MISSOURI )  
                          ) ss  
County of Taney      )

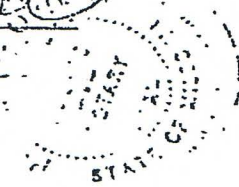
On this 15<sup>th</sup> day of April, A. D. 1999, before me personally appeared JIM RUSSELL and BENEKT J. RUSSELL, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.

*Pamela S. O'Neal*

PAMELA S. O'NEAL - NOTARY PUBLIC  
Christian County State of Missouri  
My Commission Expires Oct. 5, 2000

Notary Public County of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



ACKNOWLEDGMENT  
(Husband and Wife)

~~STATE OF MISSOURI~~ )  
~~PARIS~~ <sup>LOUISIANA</sup> LA 70066 ) ss  
~~County of Taney~~ )

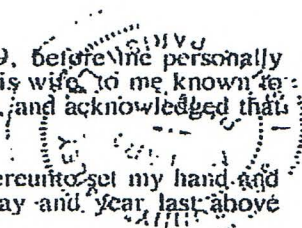
On this 14<sup>th</sup> day of April, A. D. 1999, before me personally appeared JAMES H. CASEMENT and VIRGINIA L. CASEMENT, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.

*J. L. Sammy Parley*

Tri-Lakes Title Co., Inc.

Notary Public County of at death  
My Commission expires: \_\_\_\_\_



RECORDING FEE \$17.00  
STATE USER FEE \$4.00  
TOTAL \$21.00

FILED

1999 APR 19 AM 9:20

KATHERINE WILKINSON  
CIRCUIT CLERK & CLERK RECORDER  
TANEY COUNTY

STATE OF MISSOURI )  
County of Taney ) ss

Katherine Wilkinson, Recorder of said County, do hereby certify that the within and foregoing instrument was on the 19 day of April, 1999, at 9 o'clock 20 minutes of the A M of said day, and is recorded in book 359 page 2724-2725.  
IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in said County of Taney, Mo., on the 19 day of April, 1999.

*Katherine Wilkinson*

This Agreement, entered into the 14<sup>th</sup> day of April, 1999, by and between JIM RUSSELL AND BEVERLY J. RUSSELL, HUSBAND AND WIFE, ("RUSSELL"), and JAMES H. CASEMENT AND VIRGINIA L. CASEMENT, HUSBAND AND WIFE, ("CASEMENT").

WITNESSETH:

WHEREAS, RUSSELL is the owner in fee simple of the following described real property, situated in the County of Taney, State of Missouri: to-wit:

The W 1/2 of the NW 1/4 and the N 1/2 of the NE 1/4 of the NW 1/4 of Section 25, Township 24 North, Range 20 West. ALL of the NE 1/4 of Section 26, Township 24 North, Range 20 West.

WHEREAS, CASEMENT is the owner in fee simple of the following described real property, situated in the County of Taney, State of Missouri, to-wit:

A part of the S 1/2 of NE 1/4 of the NW 1/4 of Section 25, Township 24 North, Range 20 West, described as follows: Beginning at the Southwest corner of said NE 1/4 of the NW 1/4; thence North 00° 52' 32" West along the West line thereof 661.88 feet; thence North 89° 15' 31" East 669.61 feet; thence South 00° 52' 27" East 665.30 feet to a point on the South line of said NE 1/4 of the NW 1/4; thence 89° 33' 07" West along South line 669.61 feet to the point of beginning; containing 10.02 acres, more or less.

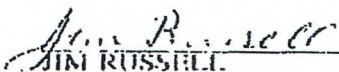
WHEREAS, the Parties desire to create a common access, forty (40) wide, for the use and benefit of the properties above described, which easement is more specifically described as follows:

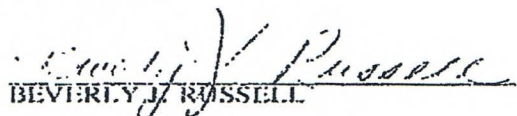
A strip of land, being 40 feet in with, situated in the NE 1/4 of the NW 1/4 of Section 25, Township 24 North, Range 20 West, the centerline (c/l) of which is more particularly described as follows: Commencing at the Southwest corner of said NE 1/4 of the NW 1/4; thence North 00° 54' 50" West 661.47 feet (Record = North 00° 52' 32" West 661.88 feet) to an existing iron pin to the POINT OF BEGINNING; thence North 89° 15' 30" East 669.69 feet (Record = North 89° 15' 31" East 669.61 feet) along the common boundary of the RUSSELL and CASEMENT tracts to an existing iron pin for the POINT OF TERMINUS on the West line of the existing Church Camp Road.

NOW, THEREFORE, in consideration of the mutual covenants and grants herein contained, RUSSELL does hereby grant to CASEMENT an easement of way over the above described land owned by First Part; and CASEMENT does hereby grant to RUSSELL an easement of way over the above described land owned by CASEMENT, said grants being made on the following terms and conditions:

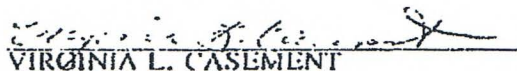
1. The land hereby conveyed shall be used as a common access easement for the benefit of said properties.
  2. In the event the above described real properties shall be subdivided, this easement shall benefit and run with the lands so subdivided.
- These easements and the covenants herein contained shall run with the lands and inure to and be binding upon the successors in title of the respective Parties.

WITNESS our hands and seals this 14<sup>th</sup> day of April, 1999.

  
JIM RUSSELL

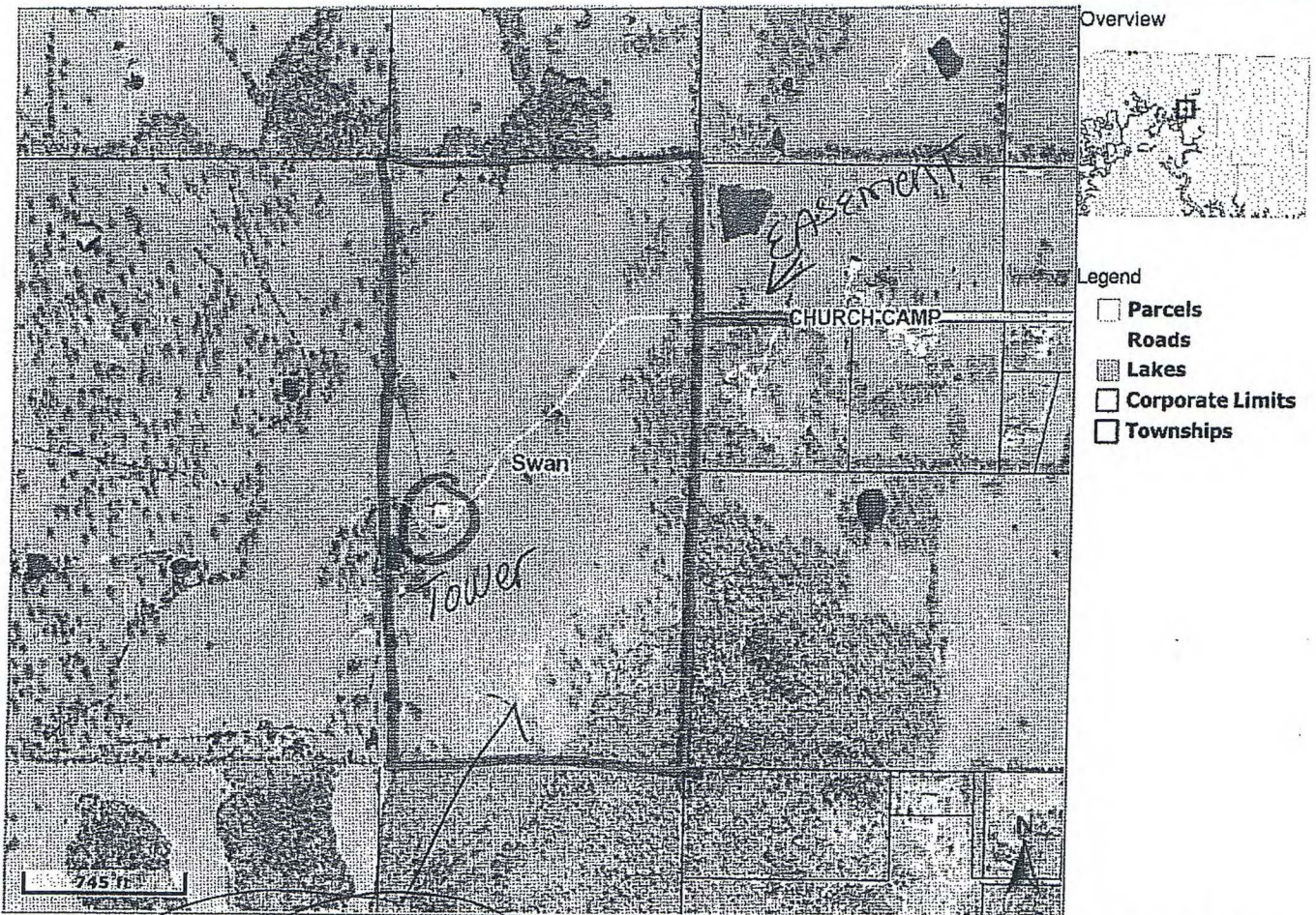
  
BEVERLY J. RUSSELL

  
JAMES H. CASEMENT

  
VIRGINIA L. CASEMENT



Date Created: 8/23/2011



<b>Parcel ID</b>	04-7.0-25-000-002-003.002	<b>Alternate ID</b>	n/a	<b>Owner Address</b>	TURNER RICKEY LEON & RONDA CATHERINE TRUST
<b>Sec/Twp/Rng</b>	25-24-20	<b>Class</b>	n/a		14225 E STATE HIGHWAY 76
<b>Property Address</b>	CHURCH CAMP RD TANEYVILLE	<b>Acreeage</b>	82.00		TANEYVILLE MO 65759-5316

**District** 2CCX  
**Brief Tax Description** W2NW4  
 (Note: Not to be used on legal documents)

Last Data Upload: 8/23/2011 2:14:48 AM





**STINSON  
MORRISON  
HECKER**  
— LLP —

Robert C. Hunter  
816.691.2406 DIRECT  
816.412.1195 DIRECT FAX  
rhunter@stinson.com

February 23, 2011

**Via Certified Mail  
Return Receipt Requested and  
E-mail ([sylvia.shively@daystar.com](mailto:sylvia.shively@daystar.com))**

Arnold Torres  
Daystar Communications  
3901 Highway 121 South  
Bedford, Texas 76021

**Re: MO15 Kissee Mills - Proposed Tower Lease Agreement with Verizon  
Wireless**

Dear Mr. Torres:

This firm represents Verizon Wireless in connection with the proposed Tower Lease Agreement with Daystar Communications (the "Proposed Lease"). As you already know, Chuck Beck with FMHC Corp is also working with Verizon Wireless as its site acquisition consultant and has previously been in contact with you with regard to the Proposed Lease and Verizon Wireless' due diligence efforts with respect to the site.

As we understand it, the original ground lease for the tower parcel is dated March 10, 1999, and was entered into by and between Rick Turner and Rhonda Turner ("Prime Lessor") and R. S. Communications, Limited Partnership ("RSC"). RSC's interest in the Prime Lease was assigned on October 15, 2004 to EBC Harrison, Inc. ("EBC"). We understand that Daystar acquired EBC's interest in the site in a bankruptcy proceeding involving EBC, but have not been provided with documentation with respect to that transaction.

Based upon information we have obtained from a December 2009 title report and from the County Collector's Office, there are existing liens for 2008 and 2009 unpaid real estate taxes on the tower parcel in the aggregate amount of approximately \$43,512.05 (as of April 19, 2010). There are also two (2) Deeds of Trust which were recorded against the Prime Lessor's property on May 6, 2008 by First Home Savings Bank. While this is after the date of the Prime Lease, there is no recorded Memorandum of the Prime Lease and we have no confirmation that the Deeds of Trust were recorded after construction of the tower. It also appears that a significant portion of the access road which is necessary to obtain access to the site is located on properties owned by individuals other than the Prime Lessor. However, no one has been able to provide a copy of a recorded easement allowing access across those properties. It appears that a separate additional access easement may need to be obtained by Daystar.

The purpose of this letter is to request that we be allowed to contact your corporate counsel and/or your bankruptcy counsel so that Verizon Wireless can obtain



information with respect to the matters outlined above and conclude its due diligence with respect to the site. Without this information, which we understand Mr. Beck has been requesting for quite some time, Verizon Wireless is unable to evaluate the feasibility of the site and to determine what, if any, additional provisions might be necessary in the Proposed Lease to address what appear to be significant and material unresolved title matters. By having discussions directly with your attorneys, our hope is that we will be able to obtain the information required and move the process forward.

We understand that Daystar has indicated to Mr. Beck on several occasions that it does not believe that it is responsible for the 2008 and 2009 back taxes. However, the fact remains that the tax liens on the site have not been released and no documentation has been provided to Verizon Wireless to confirm either that those taxes have been paid or that Daystar acquired its interest in the bankruptcy proceedings "free" of those liens. Receipt of documentation or information confirming Daystar's position that its interest is not subject to the existing tax liens (presumably either by bankruptcy court order or documentation from Daystar's counsel certifying that the relevant tax authorities received proper notice of the sale and did not object to the same) is required in order for Verizon Wireless to determine whether or not any further efforts to secure this site should be undertaken. Once we understand how Daystar acquired the site out of bankruptcy and the status of the liens for the unpaid real estate taxes, we can then make any necessary adjustments to the terms of the Proposed Lease and also to determine how best to resolve the other title matters concerning access and the recorded Deeds of Trust.

Unfortunately, the time available to discuss and resolve these issues is growing significantly short. Given Verizon Wireless' current build plan objectives for this market; we need to bring these discussions to a conclusion within the next several weeks or Verizon Wireless will need to evaluate alternate candidates.

As indicated earlier, we believe that the most efficient route to a resolution on these matters would be for you to put us in contact with your corporate and bankruptcy counsel. However, if that is not possible, we would greatly appreciate your response to the matters raised in this letter and suggestions for addressing the same. We look forward to hearing from you.

Very truly yours,

**STINSON MORRISON HECKER LLP**



Robert C. Hunter

RCH:bjd

cc: Chuck Beck (via e-mail)  
Lisa Rogers (via e-mail)  
Cathy Huntley (via e-mail)