



**AGENDA
CITY OF BELTON
PLANNING COMMISSION
MEETING AND PUBLIC HEARING
MONDAY, APRIL 7, 2014 - 7:00 P.M.
CITY HALL ANNEX, 520 MAIN STREET**

I. CALL MEETING TO ORDER

II. ROLL CALL

III. APPROVAL OF THE MINUTES OF THE MARCH 3 & 17, 2014 PLANNING COMMISSION MEETINGS

IV. PUBLIC HEARING

- A. Consideration of a Special Use Permit for a Shaved-Ice stand to be located at 209 E. North.
- B. Consideration of Text Amendments to the Unified Development Code (UDC) regarding Tobacco Retail Sales Establishments.

V. TEXT AMENDMENTS

- A. Consideration of Text Amendments to the Unified Development Code (UDC) regarding the Markey Regional Detention Development Fee Program. - NOTE: This item will be pulled from the agenda.

VI. DIRECTOR'S REPORT

- A. Planning Tools

VII. NEXT MEETING DATE: April 21, 2014

VIII. ADJOURNMENT

MEETING MINUTES

March 3 & 17, 2014

**Minutes of Meeting
Belton Planning Commission
City Hall Annex, 520 Main Street
March 3, 2014**

CALL TO ORDER

Chairman Holly Girgin called the meeting to order at 7:00 p.m.

ATTENDANCE

Commission: Chairman Girgin, Mayor Jeff Davis, Councilman Tim Savage, Commissioners Tim McDonough, Chris Christensen, Steve Finn, Chuck Crate, and Larry Thompson.

Staff: Jay Leipzig, Community and Economic Development Director; Jeff Fisher, Public Works Director; Robert Cooper, City Planner; and Ann Keeton, Community Development Secretary.

Absent: Commissioner Sally Davila

MINUTES

Commissioner Thompson moved to approve the minutes of the February 3, 2014 Commission meeting. The motion was seconded by Commissioner Christensen. All members present voted in favor.

PUBLIC HEARING - Regional Detention Development Fee Program

Chairman Girgin opened the public hearing at 7:02 p.m. This hearing was being held to receive public input regarding the Markey Regional Detention Development Fee Program. There was no public input and Chairman Girgin closed the public hearing at 7:02 p.m. Mr. Leipzig requested action on this item be continued until the March 17, 2014 meeting because the City legal counsel is still in the process of drafting the ordinance.

PUBLIC HEARING - Amend UDC re: Working in City Right-of-Way (ROW)

Mr. Fisher reported there are two parts to the proposed amendments for the ROW excavation permit process defined in the UDC: 1) Change the administration and inspection of ROW projects from the Public Works Director to the Engineering Division; 2) and to remove the required \$5,000 surety bond and \$200 cash bond for excavations that are equal to or less than 12-inches deep. The second proposed change will make the ROW permit process less cumbersome for citizens and small businesses to replace their driveways / sidewalks according to Mr. Fisher. He went on to explain the excavation permit applications will be revised and an education packet will be provided to citizens working in ROW. Mr. Leipzig reported the Code Enforcement Advisory Committee and the Public Works Committee have reviewed the proposed amendments. After a brief discussion, Commissioner McDonough moved to recommend approval of the text amendments to the UDC regarding the requirements for working in the City right-of-way. The motion was seconded by Commissioner Christensen. When a vote was taken, the following was recorded, Ayes: 8 - Chairman Girgin, Mayor Davis, Councilman Savage, Commissioners

McDonough, Christensen, Finn, Crate and Thompson. Noes: none. Absent: 1 - Commissioner Davila. The motion carried.

PUBLIC HEARING - Updates to the City Development Fee Schedule

Mr. Fisher gave an account of a past utility report and the expansion and creation of additional utility and impact fee studies, which led to the proposed update of the City Development Fee Schedule. He related the purpose of the development fee schedule, which he said is to generate revenues to assist with paying costs associated with development. The schedule is also to generate revenues to pay for infrastructure improvements to accommodate development, while balancing costs to be competitive in the region.

Mr. Fisher presented a brief history of the creation and establishment of the per trip fee associated with the Arterial Street Impact Fee. After a recent reexamination of the fees, Engineering concluded the Street Impact fee is still appropriate and recommended no changes. The impact fee table included in the agenda packet shows changes to the impact fee per unit amounts and Mr. Fisher explained those changes are based on updates to the Trip Generation Manual.

After a recent evaluation of the water impact fees, engineering is recommending no changes to residential which are primarily $\frac{3}{4}$ -inch meters according to Mr. Fisher. He explained the method used to calculate the cost of the larger meter sizes, and reported that staff is recommending increasing water impact fees for the 1-inch and greater meter size. This proposed change would keep Belton under the regional fee average and slightly over the national fee average. Mr. Fisher added that this increase would help fund the drinking water capital improvement programs.

Mr. Fisher reported the Sanitary Sewer Connection Fee is \$2,000 in the Belton Basin, where most of the residential development might occur and he proposed a cost reduction to \$1,600 for that area. He distributed an example of the proposed development fees for a 60,000 sq. ft. office building, with 1 $\frac{1}{2}$ -water tap (Attachment A) and summarized the regional average commercial development fees, pointing out the primary adjustment for Belton would be in the water impact costs. Councilman Savage's stated opinion was the Belton development fees should be comparable to the neighboring city of Raymore to stay competitive with commercial development. Mr. Fisher pointed out Belton's residential development fees are lower than Raymore's, while the proposed commercial fees are higher. He explained the goal is to set impact fees that are under the regional average but to create additional revenue for improvements to the City drinking water system. Mayor Davis noted that the City does not want to be at an economic disadvantage when meeting with potential developers and he agreed with earlier comments made by Councilman Savage. He remarked favorably on the plan provided by staff and suggested not rushing into approving but to keep it under consideration. Councilman Savage commented on the financial benefits gained by the City when a large volume of commercial projects continually locate in Belton. Mr. Fisher suggested implementing an alternative strategy to increase the impact fee gradually over a period of years for the 1-inch and larger size. Mr. Leipzig mentioned that staff could provide to the Commission comparative data from regional cities for the larger size meters.

There was additional discussion regarding the development fee differences between cities and keeping Belton competitive for future economic development.

The topic of the feasibility of increasing commercial water rates was introduced and Mr. Fisher reported that staff is working on a proposal for the Council to consider later in March, which includes a different rate for commercial water. Concern was expressed about the implementation of an automatic stepped increase and Mr. Fisher suggested any proposed increase could be reviewed each year rather than automatically increased. The mayor spoke about the City's economic development process and the competitive nature of negotiations. He complimented Mr. Fisher on his efforts to make improvements in the City. Mayor Davis expressed concern about the effect of increased water impact fees during this "critical economic time." Chairman Girgin commented on the importance of standards in making decisions for the City, but stressed the crucial standard at present would be the neighboring communities and she expressed hope the building volume will generate needed revenues for the City. Mr. Fisher explained the City has been making improvements necessary for growth in the commercial sector but he anticipates problems when service needs expand into new areas since the source of funds is from the water impact fee. It was suggested that impact fees other than water be examined for possible reduction in order to reduce the total development fees. Mr. Fisher told about the method used to initially establish the Arterial Street Impact Fee per trip amount. There was additional discussion about the need for, and ways to attract development of upper level homes. It was suggested there may be an alternate source of income that has not been considered yet.

Mr. Fisher gave a report on the Public Infrastructure portion of the current fee schedule which includes an Engineering review fee, 1% of construction cost and inspection fee, 4% of construction cost. After a regional comparison, he recommended the fee be changed to 3% total. There was discussion about the public infrastructure fees and whether they go into the City's General Fund, and the City's lack of public infrastructure.

Commissioner Christensen moved to recommend that the City of Belton Basin Sanitary Sewer Connection Fee be reduced from \$2,000/EDU to \$1,600/EDU. Commissioner Crate seconded the motion. Commissioner Christensen moved to amend the motion to include "and remove the Johnson County Wastewater District, \$2,000/EDU." The amendment was seconded by Commissioner Crate. When a vote was taken, the following was recorded, Ayes: 8 - Chairman Girgin, Mayor Davis, Councilman Savage, Commissioners McDonough, Christensen, Finn, Crate, and Thompson. Noes: none. Absent: 1 - Commissioner Davila. The motion as amended carried.

Commissioner Christensen moved to recommend approval of an increase in the water tap fee for a 1.5-inch line from \$754 to \$892 and to increase the 2-inch line from \$930 to \$1,120. Commissioner Crate seconded the motion. When a vote was taken, the following was recorded, Ayes: 8 - Chairman Girgin, Mayor Davis, Councilman Savage, Commissioners McDonough, Christensen, Finn, Crate, and Thompson. Noes: none. Absent: 1 - Commissioner Davila. The motion carried.

Commissioner Christensen moved to recommend approval of the elimination of the 1% construction cost for the review fee and 4% construction cost for the inspection fee of the Public Infrastructure category in Development Fee Schedule, and made it a total of 3% of construction costs. The motion was seconded by Commissioner Crate. When a vote was taken, the following was recorded, Ayes: 8 - Chairman Girgin, Mayor Davis, Councilman Savage, Commissioners McDonough, Christensen, Finn, Crate, and Thompson. Noes: none. Absent: 1 - Commissioner Davila. The motion carried. Mr. Fisher confirmed the Commission supports the Street Impact Fee as proposed, and it was determined the Water Impact Fee would not be increased at this time but will be revised and brought back to the Commission for consideration annually.

Chairman Girgin opened the public hearing at 8:10 p.m. This hearing was held to receive public input regarding updates to the City Development Fee Schedule. There was no public input and Chairman Girgin closed the public hearing at 8:10 p.m.

DIRECTOR'S REPORT

Economic Development Policy - Mr. Leipzig reported that staff is working on a policy which will assemble all the economic development tools, including a series of ordinances and the Enhanced Enterprise Zone (EEZ) policy, into one document.

Retail Tobacco Store Sales - Information was distributed regarding retail tobacco sales establishments (Attachment B) and Mr. Leipzig told the Commission this item will be discussed at the meeting on March 17, 2014. It was reported that proposed changes would include stores that primarily sell both liquor and tobacco products.

Markey Business Park Plan - Mr. Leipzig described the location of the business park area and reported that staff is creating a comprehensive plan in anticipation of marketing that area.

North Scott Corridor Plan - Mr. Leipzig stated a preliminary concept plan for the North Scott Corridor was recently prepared by the City's planning intern. The 2015 budget proposal includes funds to further develop concept drawings and a plan for the Corridor.

Mr. Leipzig announced the annual Contractors / Developers Open House will be held on April 3, 2014. He gave a brief explanation of the open house program and invited the Commission members to attend the event.

ADJOURNMENT

Commissioner Thompson moved to adjourn the meeting. The motion was seconded by Commissioner Christensen. All members present voted in favor, and the meeting adjourned at 8:22 p.m.

Ann Keeton
Community Development Secretary

ATTACHMENT A

Commercial Fees Benchmark

Development Report Card- 60,000 SF Office Building (Including 2013 State)												
	Beltter, Mo	Beltton Proposed	Average	Raymore, Mo	Blue Springs, MO	Gardiner, KS	Irwood, KS	Lee's Summit, MO	Lenexa, KS	Liberty, MO	Clinton, KS	Shawnee, KS
Fees												
Preliminary Plat Fee	\$300	\$390	\$345	\$793		\$257	\$402	\$703	\$197	\$230	\$150	\$156
Final Plat Fee	\$300	\$300	\$291	\$323	\$245							
Site Plan Approval			\$860	\$860								
Preliminary Plan Review			\$1,083		\$500		\$800	\$2,730	\$300			
Final Plan Review			\$1,064.38	\$4,950		\$100	\$600	\$1,000	\$400	\$337	\$428	\$500
1.5" Water/Storm	\$6,934	\$5,460	\$17,131	\$4,525	\$24,000	\$13,500	\$26,275	\$11,680	\$26,275	\$11,130	\$20,710	\$26,275
Sanitary Sewer	\$5,200	\$5,200	\$11,857	\$2,263	\$1,500	\$16,890	\$14,228	\$18,181	\$19,651	\$4,630	\$300	\$19,651
Storm Drain Impact Fee			\$31,153					\$40,506			\$21,800	
Traffic / Road Impact Fee	\$71,400	\$71,400	\$66,637					\$50,881	\$30,360	\$64,800	\$118,745	
Perks / Open Space			\$10,518	\$7,405		\$6,600	\$6,000	\$17,883			\$7,800	\$17,424
Other: Excise Tax			\$79,447	\$43359 *****		\$87,120		\$93,654				\$93,654
Miscellaneous Fees			\$1,277	\$145		\$100	\$9,275	\$160	\$200	\$45	\$215	\$75
BUILDING PERMIT FEES												
Building Permit Fees	\$98,675	\$38,625	\$28,534	\$40,992	\$46,277	\$20,737	\$23,092	\$34,656	\$71,510	\$24,864	\$16,400	\$24,183
Valuation (based on \$5.6 M)												
Mechanical			\$133	\$210		\$55						
Electrical			\$60	\$85		\$55						
Plumbing			\$45	\$35		\$55						
Plan Check			\$11,768	\$500	\$25,475		\$15,010	*	\$4,652	\$17,705	\$4,320	\$15,719
Land Use Disturbance			\$1,113				\$2,500	\$1,000	\$1,550	\$390	\$75	\$1,100
TOTAL FEES	\$123,779	\$131,296	\$149,448.62	\$108,274	\$98,043	\$145,428	\$98,102	\$158,991	\$261,318	\$177,091	\$101,973	\$196,737

*Included in building Permit Fee

*****Raymore excise tax is \$120 Residential / \$485 Commercial per trip

Residential Permit Benchmark

Per Council request, the following permit analysis was completed.

Development Report Card- \$250,000 Residential Home												
	Bilham, Mo	Belton Proposed	Avar #	Raymond, Mo	Blue Springs, Mo	Gardner, JS	Lansford, JS	Lee's Summit, Mo	Gladstone, Mo	Liberty, Mo	Clifton, Mo	Shawnee, JS
Plan Review Fee			\$306.45	\$41.00	\$1,262.71		\$159.00	\$0.00	\$700.00	\$147.00	\$30.00	
Building Permit Fee	\$1,235.00	\$1,235.00	\$1,473.75	\$1,115.00	\$2,297.71	\$1,261.50	\$1,967.00	\$773.00	\$1,200.00	\$881.00	\$2,299.75	\$808.00
Street/Road Impact Fee	\$809.01	\$801.00	\$809.01					\$0.00				
Local Development Tax	\$3,490.00	\$3,490.00	\$1,314.00	\$2,633.00	\$6,300.00	\$4,300.00		\$3,405.76	\$1,860.00	\$1,514.00		
Water Connect Fee			\$2,039.11							\$725.00		
Sewer Connect Fee			\$1,600.00	\$1,333.00	\$1,500.00	\$5,825.00		\$450.00	\$50.00	\$915.00	\$50.00	
Excise Tax			\$1,571.38	\$1,438.20		\$1,600.00		\$1,041.31				\$1,806.00
Right of Way Fee	\$5.00	\$5.00						\$60.00				\$75.00
Land Disturbance												\$75.00
Final Building Insp. Fee			\$41.00									
Electrical Service			\$370.00									
Parkland Disinfection Fee **			\$152.00						\$775.00			
Storm Water Detention												\$350.00
TOTAL FEES	\$7,529.01	\$7,331.00	\$6,955.17	\$7,155.20	\$13,353.42	\$16,076.50	\$1,138.00	\$5,730.07	\$1,765.00	\$3,682.00	\$2,599.75	\$3,114.00

Should the City reduce the Sewer Connection Fee even further?

ATTACHMENT B



CITY OF BELTON
COMMUNITY PLANNING & DEVELOPMENT
INTERDEPARTMENTAL CORRESPONDENCE

Date: March 3, 2014
To: Jay Leipzig, Director
Planning Commission Members
From: Robert G. Cooper, City Planner *rc*
Cc:

Subject: Retail Tobacco Sales

SECTION 40-4(12)

Recently, the City Clerk's office has seen an increase in the number of business license for retail tobacco sales establishments. Currently, the city has licenses for twenty-four (24) retail tobacco sales stores, with sixteen (16) of those are classified as a stand alone tobacco business with the majority of their sales coming from tobacco products. Many of these stand alone stores are located in close proximity to each other and in some cases close to schools and parks.

In an effort to address this potential proliferation, city staff has provided some draft language to help regulate this use in helping to protect neighborhoods and business alike.

This item will be brought back to the Planning Commission on March 17th as a public hearing and discussion item.

PROPOSED LANGUAGE:

Section 1. That Section 40-4, entitled "Uses Subject to Conditions", of the Belton Unified Development Code is hereby amended with addition of the following subsection 40-4(12):

- (12) Retail Tobacco Stores.
- a. The term "Retail Tobacco Store" means a retail store used primarily for the sale of smoking materials and smoking accessories in which the sale of other products is incidental and where smoking is permitted within the public place.
 - b. The term "Retail Tobacco Store" does not include a tobacco department of a larger commercial establishment such as a department store, discount store, or bar or retail stores used primarily for the sale of smoking materials where no provisions for smoking within the public place are provided or permitted.

- c. Retail Tobacco Store may be established only in the C-2 and C-3 zoning districts.
- d. No Retail Tobacco Store shall be located within one-thousand (1,000) feet of a school, measured by the shortest straight line from the Retail Tobacco Store building to the school building.
- e. No Retail Tobacco Store shall be located within five-hundred (500) feet of a playground, youth center, city owned and operated recreational facility, park or library, measured by the shortest straight line from the Retail Tobacco Store building to the building containing the playground, youth center, city owned and operated recreational facilities, park or library, or property line if there be no building for the use.
- f. No Retail Tobacco Store shall locate within one-thousand (1,000) feet of another Retail Tobacco Store, measured by the shortest straight line from the Retail Tobacco Store building to the building of the neighboring Retail Tobacco Store.
- g. Each application for an occupancy permit shall include, in addition to such other information as is reasonably required by the Community Development Director, a map demonstrating that the proposed location of the Retail Tobacco Store is consistent with the minimum distance standards established in subsection(s) d, e, and f of this section.
- h. Subsection(s) d, e, and f of this section shall not apply to any situation in which a Retail Tobacco Store legally is in existence as of the original effective date of this ordinance.

SPECIAL USE PERMIT

SHAVED ICE STAND



**BELTON MISSOURI - PLANNING COMMISSION
REGULAR MEETING – CITY COUNCIL ROOM
CITY HALL ANNEX, 520 MAIN STREET
MONDAY, APRIL 7, 2014 – 7:00 P.M.**

STAFF: Robert G. Cooper, City Planner

CASE #SUP14-05

Request: Special Use Permit to allow a temporary Shaved-Ice stand, to operate on property zoned C-2 (General Commercial) District.

Location: Located at the southwest corner of Chestnut & E. North Avenue. The physical address is 209 E. North Avenue.

Property Description: Original Belton Block 14

Deed Holder / Applicant: Loren and Barbara Brown / Natalie Freeman

Size of Site: 130-ft. x 138-ft. (17,940-sq. ft.) / 0.41-acre

Existing Zoning / Land Use: C-2 / Commercial

Proposed Use: Retail (Shaved-Ice)

Surrounding Zoning / Land Use:

North: C-2 / Commercial
East: C-2 / Commercial
South: C-2 / Commercial
West: C-2 / Commercial

Future Land Use Map: Retail /Commercial

Nature of Current Request

The applicant (Natalie Freeman) has contacted the City to gather information on what requirements are needed to once again operate a temporary trailer selling shaved-ice and treats at 209 E. North Avenue. According to Mrs. Freeman, they have located this site due to the close proximity to City Parks and ball-fields and the centralized location. The size of the trailer is approximately 7-ft by 10-ft. / 70-sq. ft.

The brand name ‘Sugar Shack’ has a reputation for quality and service. The applicant’s business plan indicates a start date of May 15th. Hours of operation are Tuesday thru Sunday, 12:00 PM to 10:00 PM (closed Mondays).

History

The subject property is addressed as 209 E. North Avenue which is a corner lot with 3-sides of frontage: (Chestnut & E. North Avenue; Chestnut & B Street) and is just under a half-acre in size and vacant. No structures are on site...surface area is covered with grass/weeds mixed with crushed rock. Occasionally, the site is used to sell vehicles by private owner and used as a dumping or storage site for miscellaneous construction material.

SPECIAL USE PROVISION – Some uses of land are not appropriate in all locations within a district or under circumstances where the use imposes an inappropriate impact on the public or neighboring properties and are therefore designated as “special uses”. These uses may be approved at a particular location through the receipt of a special use permit where the impact of those users does not inappropriately affect or impair the use and enjoyment of neighboring properties.

STAFF REPORT

Welfare and Convenience of the Public

Staff believes that by allowing a transient merchant, ie: shaved-ice trailer at the proposed location could contribute to the welfare and convenience of the public by providing a service to Belton residents and residents of the surrounding communities.

Injury to Surrounding Property

It appears, the proposed use will not have an adverse affect on the surrounding or abutting properties primarily due to existing similar (commercial/retail) uses in the immediate vicinity.

Domination of the Neighborhood

The subject site is a vacant lot in a commercial zoning district. It appears to staff, the proposed use as a shaved-ice merchant will not dominate the neighborhood. Currently, the pre-dominate use in the immediate area is light commercial. In addition, it will occupy a vacant lot that would otherwise remain vacant; otherwise, the site normally contributes to the blighting effect which is occurring in sections along the East North Avenue corridor.

Off-Street Parking / Access

The Unified Development Code requires one (1) parking space per four (4) seats or 1 per 50-sq. ft. of customer service area. Based on the total size of the trailer (70-sq. ft.), it appears there will be ample parking. In addition, the City of Belton allows (and encourages) shared parking with adjoining businesses, provided the adjacent parking lot is located no more than 400-ft. lineal from the business.

The site has a driveway approach directly from Chestnut Street, which is the primary source of ingress/egress. Due to the size of the parking lot and a relatively low volume of users, no additional access or traffic calming devices would be needed.

Signage

The business may place temporary signage on site with an approved sign permit.

Electrical Wiring

City code requires that any external wiring for an outdoor recreational area must be enclosed in conduit and approved by a city building inspector.

Staff Recommendation

Approval... subject to the following condition(s):

1. No issuance of a city business license, until the site has had a final life safety inspection by city staff for compliance with city codes and approved site plan;
2. The location of the trailer shall not obscure motorists view or pose any hazard;
3. A clearly demarcated (roped off) zone for any area which will be used for public seating / eating purposes;
4. The SUP is valid for five (5) years with annual staff review;
5. Shaved-Ice trailer be allowed to remain on-site year round;
6. Flower pots and other plantings shall be provided on-site for beautification;
7. One (1) non-illuminated business sign, not to exceed 32-square feet shall be allowed on-site; and
8. One (1) 10'x 10' / 100-sq. ft. open canopy shall be allowed on site.

Planning Commission Alternatives

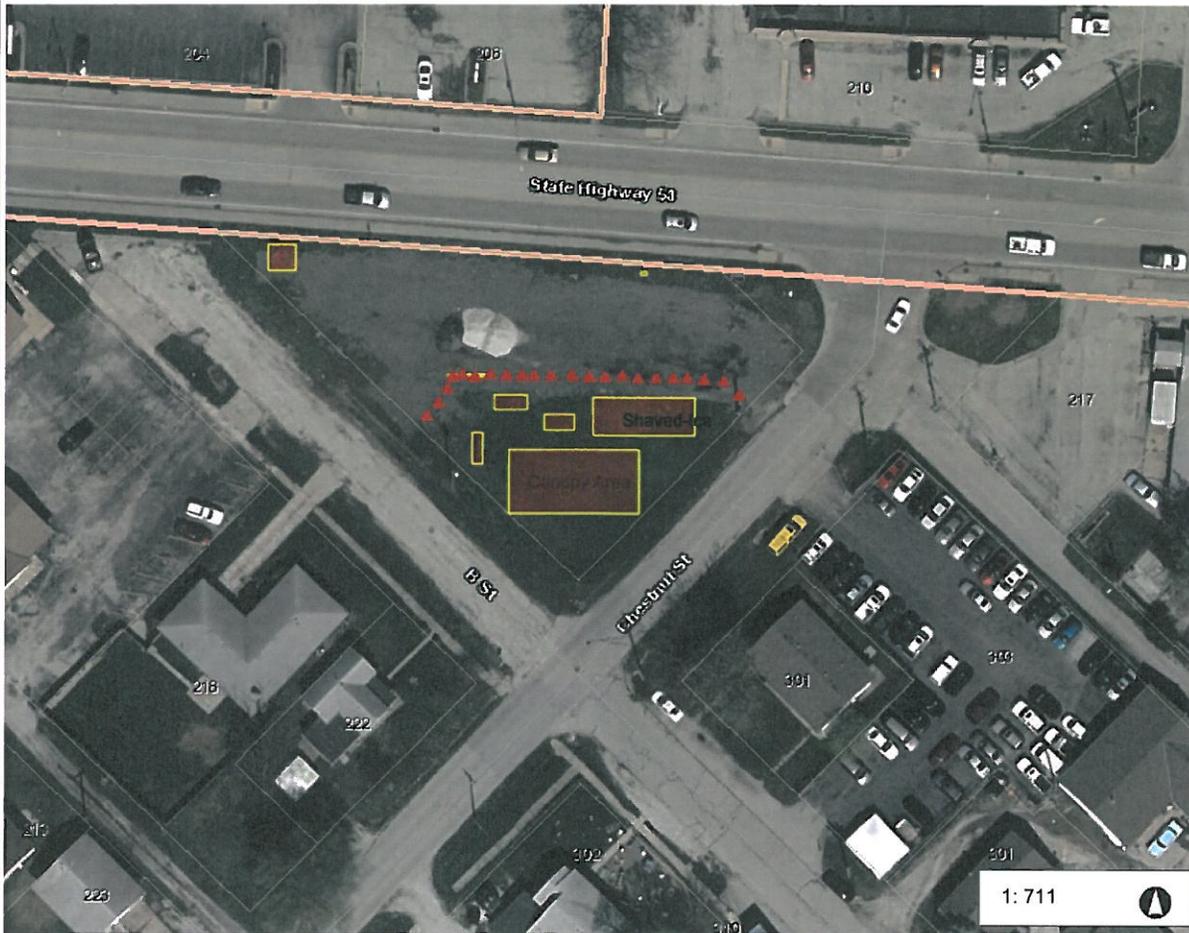
The Planning Commission has the following options available in the consideration of this application:

1. Approve the application as submitted upon finding that the requirements of Section 40, of the Unified Development Code for Special Use Permits, as been satisfactorily addressed.
2. Approve the application subject to specified conditions.
3. Table the application if additional information is needed, such as time of use or other related factors.
4. Deny the application if the required findings cannot be made or if the proposed use is found to be incompatible with the neighborhood.

Attachments:

1. Site Plan

SUP14-05 / SHAVED-ICE



Legend

- Street
- Parcel
- Subdivision
- Parks
- Cemetery
- Building Footprint Basemap
- Parcel Basemap

1: 711



0.0 0 0.01 0.0 Miles

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

**TOBACCO RETAIL SALES
ESTABLISHMENTS**



PLANNING COMMISSION REGULAR MEETING
CITY HALL ANNEX, CITY COUNCIL ROOM
520 MAIN STREET
MONDAY, APRIL 7, 2014 – 7:00 P.M.

Robert G. Cooper, City Planner

CASE #TA14-04

Consideration of a Text Amendment to Section 40-4(12) of the Unified Development Code, regarding Retail Tobacco Stores.

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BACKGROUND

Currently, the City of Belton does not have an ordinance of which to regulate retail tobacco stores. Recently, the City Clerk's office has seen an uptick in the number of business license request for retail tobacco stores. In an effort to address this growing trend and also in keeping in alignment with our neighboring cities efforts to regulate this retail use, staff has a draft version of this ordinance for review by the Planning Commission.

DRAFT – SUGGESTED ORDINANCE LANGUAGE / Section 40-4(12)

Section 1. That Section 40-4, entitled "Uses Subject to Conditions", of the Belton Unified Development Code is hereby amended with addition of the following subsection 40-4(12):

(12) Retail Tobacco Stores.

- a. The term "Retail Tobacco Store" means a retail store used primarily for the sale of smoking materials and smoking accessories in which the sale of other products is incidental and where smoking is permitted within the public place.
- b. The term "Retail Tobacco Store" does not include a tobacco department of a larger commercial establishment such as a department store, or bar used primarily for the sale of smoking materials where no provisions for smoking within the public place are provided or permitted.
- c. The term "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, hookah or other tobacco product, including flavored tobacco, weeds or herbs
- d. Retail Tobacco Store may be established only in the C-2 and C-3 zoning districts.
- e. No Retail Tobacco Store shall be located within one-thousand feet (1,000') of a school, measured by the shortest straight line from the Retail Tobacco Store building to the school building.

- f. No Retail Tobacco Store shall be located within five-hundred feet (500') of a playground, youth center, city owned and operated recreational facility, park or library, measured by the shortest straight line from the Retail Tobacco Store building to the building containing the playground, youth center, city owned and operated recreational facilities, park or library, or property line if there are no buildings for the use.
- g. No Retail Tobacco Store shall locate within one-thousand feet (1,000') of another Retail Tobacco Store, measured by the shortest straight line from the Retail Tobacco Store building to the building of the neighboring Retail Tobacco Store.
- h. Each application for an occupancy permit shall include, in addition to such other information as is reasonably required by the Community Development Director, a map demonstrating that the proposed location of the Retail Tobacco Store is consistent with the minimum distance standards established in subsection(s) d, e, and f of this section.
- i. Subsection(s) d, e, and f of this section shall not apply to any situation in which a Retail Tobacco Store legally is in existence as of the original effective date of this ordinance.

STAFF COMMENT

These proposed regulations as outlined are designed to protect the character and the social and economic stability of all parts of the city and to encourage the orderly and beneficial development of all parts of the city and to protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.

STAFF RECOMMENDATION

Community Planning & Economic Development supports the recommendation to approve Section 40-4, amended with the addition of the following subsection 40-4(12), of the Unified Development Code.

PLANNING COMMISSION ACTION

- 1. Motion to recommend **Approval:**
- 2. Motion to recommend **Denial;**
- 3. Motion to **Continue** the case pending additional information.