

**Minutes of Meeting
Belton Planning Commission
City Hall Annex, 520 Main Street
Belton, Missouri
November 2, 2015**

CALL TO ORDER

Vice Chairman Chris Christensen called the meeting to order at 6:00 p.m.

ATTENDANCE

Commission: Vice Chairman Chris Christensen, Commissioners Sally Davila, Tim McDonough, Ryan Finn, Chuck Crate, Councilman Chet Trutzel and Mayor Jeff Davis.

Staff: Jay Leipzig, Community & Economic Director, Robert Cooper, City Planner, Megan McGuire, City Attorney, Jennifer Dutcher, Community Development Secretary, Jeff Fisher, Public Works Director, Zach Matteo, City Engineer and Rex Olinger, Waste Water Plant Manager.

Absent: Chairman Holly Girgin and Commissioner Larry Thompson.

MINUTES

Councilman Trutzel moved to approve the minutes of the October 19, 2015 Planning Commission meeting. Seconded by Commissioner Finn. All members present voted in favor and the motion carried.

DISCUSSION

Mr. Cooper presented the staff report for the special use permit submitted on behalf of the applicant, Andrea Kelly, to allow a home child care business to operate at 8406 E. 166th Street. Pursuant to Section 40-3(6) of the Unified Development Code, 'daycare homes and centers with more than four (4) children must have a Special Use Permit'. The applicant currently has a home daycare license, which allows her to watch no more than four (4) unrelated children. Mrs. Kelly wishes to watch up to ten (10) unrelated children in accordance with her state issued license. In order to increase the number of unrelated children under her care, city code requires a special use permit. The home is 1,357 square foot. Mr. Cooper advised of the balance of rights and activities noting the follow guidelines:

- Use of private property.
- Need in the community for quality day care services.
- Residential neighborhood not zoned for business or commercial type activities.
- Expectation of quiet enjoyment of residential property.
- Home occupation opportunities that do not look, feel or smell like a commercial operation.
- Special Use Permit process to explore parameters of this home occupation exception.

The Unified Development Code requires, "one (1) parking space for every 600 square foot of gross floor area (gfa)". Based on the total square footage of the house; two (2) off-street parking spaces must be provided. Currently, there are no restrictions for on-street parking along 166th Street; there is direct access from 166th Street, which is the primary and only source of ingress/egress. Pursuant to Section 40-4 of the Unified Development Code, home based business are allowed one (1) non-illuminated wall sign, not to

exceed two-square feet and shall match the house in color and design. The applicant has indicated she will not be using any type of advertising from her house. City code requires that any outdoor play area used for recreation by a pre-school or child care center must be enclosed by a fence no less than 42-inches in height. The applicant has provided a fenced-in outdoor play-area for the children. Mr. Cooper finalized the staff report by stating the Missouri Department of Health and Senior Services Day Care License require at least thirty-five (35) square feet of usable floor space shall be provided for each child coming into the home for day care.

Vice Chairman Christensen opened the public hearing at 6:10 P.M. to hear any public input concerning the special use permit.

John Allred, 8408 E. 166th, stated the applicant is a very conscientious of how they run things; they never have any trash kicked around. They are quality people and he supports the special use permit.

Vice Chairman Christensen questioned if any additional persons would like to speak in reference to the special use permit application, being no further public input, the public hearing closed at 6:12 P.M.

Mayor Davis asked if there are other daycares within the area. Mr. Cooper said no. Mrs. McGuire, City Attorney, questioned the hours of operation as the business plan states the facility to be open 24 hours a day, 7 days a week. Mrs. Kelly replied she is approved for 24/7 care however only provides care from 6:30 A.M. to 11 P.M., she requested her license in that manner so that she could offer extended hour care in the evenings, overnight or on the weekends. Commissioner Davila questioned if she were to operate 24 hours a day, would she care for less children. Mrs. Kelly stated she is licensed for 10 children, and working on obtaining a commercial location. Commissioner Crate questioned the two neighboring swimming pools and the separation between the residences. Mrs. Kelly stated the swimming pool next to them has a chain link fence and a 6' privacy fence. The pool directly behind her location does not have a fence around it; however her play area is fenced. In years past, the neighbors behind her had a fence at the top of the pool; however there was no fence present this year. Commissioner Crate questioned the number of providers to supervise the children. Mrs. Kelly indicated she is allowed 10 children to one adult; her husband as well as her son and an assistant are state approved. Mayor Davis questioned her commercial location, requesting clarification to the location as being below the China House. Mrs. Kelly stated yes, she is working on a one hour smoke barrier with an architect; however, this location will not be for the infants, they will stay in her home. She will not be able to have infants at the commercial location due to the building restrictions. Vice Chairman Christensen questioned if her property had a gate from her yard to the vacant field behind her home. Mrs. Kelly stated there is a gate between the house and the driveway however the children go downstairs to exit the home and play in the field.

Commissioner Crate questioned if the city has any liability if we issue the special use permit and a child gets out and is injured in one of the pools. Mrs. McGuire stated that this question is not one that she opines in public. Sovereign immunity comes into play on many of these issues. The basic law we are trying to evaluate is; this is a residential location, people live here they do not work here. We do have an exception as most communities do in terms of home occupations. The type of home occupations that get approved with these special use permits are very narrow, it doesn't look and feel like a business it looks and feels more like a home. These issues are very difficult in the home daycare situation because this community direly needs quality home and business daycare. So the question before the commission tonight, is this safe environment, as well as, is it a business model that fits the community and the neighborhood. The issue that probably rises to question the later part is the 24/7 operation. A business that

is operating 24 hours a day, 7 days a week and licensed for up to 10 children, looks and feels more like a business than it does a residence. It is good that the applicant is not intending to do that, but that might be a type of condition you give to limit that in some way potentially. Safety is an important issue and so if you ask in terms of liability I cannot give you a direct answer; there are a lot of issues that go into that. But I think you look at the quality of the daycare and the quality of the people and direct staff to look at safety concerns in the area.

Being no further discussion, Councilman Trutzel moved to approve the special use permit to allow a home childcare business at 8406 E. 166th, seconded by Commissioner Finn.

A vote on the motion to approve the special use permit to allow a home childcare business at 8406 E. 166th Street was taken, and the following vote recorded, Ayes: 7 –Vice Chairman Chris Christensen, Commissioners Sally Davila, Tim McDonough, Ryan Finn, Chuck Crate, Councilman Chet Trutzel and Mayor Jeff Davis.

Noes: 0 – None

Absent: 2 – Chairman Holly Girgin and Commissioner Larry Thompson

Motion carried.

Mr. Cooper presented the staff report for the special use permit application to allow a used auto sales business to operate at 100 Electronics Parkway. Mr. Cooper stated the applicant has contacted the City to gather information on the requirements needed to open a used car lot. Pursuant to Chapter 40-1 of the Unified Development Code, a Special Use Permit is required for all ‘new’ used car lots located within a C-2 (General Commercial) zoning district. Applicant, Brian Cox, currently owns and occupies the subject property using it for his business, One Source Home Maintenance, LLC, a home remodel, lawn and landscape company, servicing the greater Kansas City area. He wishes to open a used car dealership to supplement his home remodeling business to help counter the down time. It also appears there could be a negative effect on the welfare and convenience of the general public, particularly the multi-family residential housing, which abuts the property. It appears the proposed use will have an adverse effect on the immediate surrounding or abutting properties due in part to an already heavily congested area with multiple commercial users. Mr. Cooper indicated there is an open grassy field, approximately 5,381-square feet in size, which can be used for customer parking and as a display area, for approximately two (2) to four (4) vehicles. Currently, there is a single access to the site from N. Scott Avenue, which would be the only source of ingress/egress to the site. The area that will be utilized for the used car sales will need to be large enough for all customers and sales vehicles to adequately maneuver and/or park in a safe manner. A separate permit is required for any new signage per Section 30-8 of the Unified Development Code. Due to the close proximity of opposing zoning districts and the type of land uses, combined with Section 40-3(3) of the UDC, Site and Space Requirements for new and used car lots, which applies a 100-foot separation distance from an established residential zoning district. Mr. Cooper stated should the Planning Commission wish to approve Special Use Permit15-22, to allow a used car sales lot to be located at 100 Electronics Parkway, the following condition(s) shall apply:

- Special Use Permit15-22 shall be annually renewed and reviewed administratively barring any code violations and/or complaints;
- The parking area shall be on a hard surface (no gravel) stripped and located per City’s Exhibit ‘A’, and shall consist of no more than four (4) display vehicles;

- No material, supplies, or merchandise shall be stored outdoors;
- No auto repair work shall be conducted outdoors; and
- A landscaping screen shall be provided, to be in accordance with Exhibit 'A' of the staff report.

An unnamed audience member spoke out to the commission requesting an opportunity to discuss the previous special use permit for the in home childcare. He didn't wish to become a hated neighbor and wished to discuss his thoughts without his neighbor present. At the direction of Vice Chairman Christensen, the item had already been opened and closed for a public discussion in the public hearing with a decision on the item. Mr. Leipzig stated that the concerned individual may write a letter to the mayor for presentation to the council for consideration.

Vice Chairman Christensen opened the public hearing for the special use permit to allow a used car sales business at 100 Electronic Parkway at 6:39 P.M.

Curtiss Hutsell, 713 Saddle Ridge Court, Raymore, indicated he is the co-owner of One Source. Mr. Hutsell indicated they do not wish to have more than 3 to 4 vehicles for sale at a time and he is okay with a limit to the number of cars being placed as a condition to the approval. He stated the impact would not make it look like a car lot; there should be limited increase of traffic, maybe a handful of people in a month. Vice Chairman Christensen questioned the distance from the store front to the property lines. Mr. Hutsell stated he has not measured the distance. Mr. Cooper stated the distance does not meet the 100 foot mark and would have to be improved since it is less than the requirement. Commissioner McDonough questioned if the applicant was willing to pave the whole lot, light it and stripe it. Mr. Hutsell indicated it would not be cost effective as the goal is to sell a handful of cars a year, stressing the intent is not to have a used car business. Mr. Hutsell stated they could park the vehicles inside of the building as they are hoping for a limited special use approval. Commissioner McDonough questioned if Mr. Cooper has seen the inside of the building. Mr. Cooper indicated he has not. Mr. Cooper stated during the business license inspection, the building inspectors and Fire Marshal will visit the site. Mr. Leipzig indicated the commission has the ability to postpone the item, so that an inspection, listing any deficiencies, can take place. Brian Cox, 1023 SW Ellis Ct Lee's Summit, asked if the special use is approved could they agree to pave four or five spaces as opposed to the 5300 square feet. Mr. Cooper indicated an area must be paved for the parking of the vehicles listed for sale. Mr. Leipzig indicated additional information is needed; therefore he suggests the item be postponed until the next meeting, November 16th. Mr. Leipzig stated he would like to have a Development Review Committee (DRC) meeting with the applicant to work through questions.

Being no further public input, Vice Chairman Christensen closed the public hearing at 6:54 P.M.

Commissioner Crate moved to postpone the special use permit for a used car sales business at 100 Electronics Parkway until the next meeting on November 16th. Seconded by Councilman Trutzel.

A vote on the motion to postpone the special use permit to allow a used car sales business at 100 Electronics Parkway until November 16, 2015 was taken, and the following vote recorded:

Ayes: 7 –Vice Chairman Chris Christensen, Commissioners Sally Davila, Tim McDonough, Ryan Finn, Chuck Crate, Councilman Chet Trutzel and Mayor Jeff Davis.

Noes: 0 – None

Absent: 2 – Chairman Holly Girgin and Commissioner Larry Thompson

Motion carried.

City Engineer, Zach Matteo, indicated a public hearing notice was advertised for the consideration of Text Amendments to Article III, Division II, Sec 42.259-272 of the Belton Unified Development Code, regarding sanitary sewer pretreatment, and to Article V, Sec 36-110 of the UDC regarding security for performance of erosion and sediment control measures. Mr. Matteo indicated after staff consideration it has been determined no amendment is needed for Article V, Sec 36-110 of the UDC regarding security for the performance of erosion and sediment control measures. Therefore, this hearing will only be in regard to Article III, Division II, Sec 42.259-272 of the Belton Unified Development Code, regarding sanitary sewer pretreatment. Mr. Matteo presented the proposed changes to UDC Chapter 42 to adopt an industrial pretreatment program for property within the Belton Wastewater Treatment Facility (WWTF) district. The City primarily contributes sewage to two districts: the northeast half of the City drains to the Little Blue Valley Sewer District (LBVSD) and the southwest half of the City drains to the Belton WWTF. LBVSD currently has and enforces pretreatment requirements including permitting for contributors of nondomestic sewage. The code changes will make the industrial pretreatment program, including permitting and enforcement regulations, consistent between the two districts.

Vice Chairman Christensen opened the public hearing at 7:01 P.M. to receive input for or against the text amendment. Being no public input, the public hearing was closed at 7:02 P.M.

Mayor Davis questioned how much sewage ROM contributes. Mr. Matteo indicated an average of 880 gallons a day. The commission discussed issues with sludge and radioactive waste at the landfill.

Mayor Davis moved to approve the Text Amendment to the Unified Development Code, regarding sanitary sewer pretreatment. Seconded by Commissioner Crate.

A vote on the motion to approve the Text Amendment to the Unified Development Code, regarding sanitary sewer pretreatment was taken, and the following vote recorded:

Ayes: 7 – Vice Chairman Chris Christensen, Commissioners Sally Davila, Tim McDonough, Ryan Finn, Chuck Crate, Councilman Chet Trutzel and Mayor Jeff Davis.

Noes: 0 – None

Absent: 2 – Chairman Holly Girgin and Commissioner Larry Thompson

Motion carried.

Mr. Matteo opened the discussion of the Capital Improvement Program with the commission. Mr. Fisher indicated some street rankings have been submitted and a ranking order has been comprised, however, not all ranking sheets have been turned in; therefore, the data may change. Discussion revolved around the water tower and drinking water.

Mr. Leipzig gave the Directors report, stating the November 16th Planning Commission meeting will have the continuation of the special use permit for 100 Electronics Parkway, the Preliminary Plat and Preliminary Development Plan for Gateway Phase 2, and a Final Development Plan for Fazoli's.

Mr. Leipzig indicated the Capital Improvement Program would be discussed at the next city council work session. Vice Chairman Christensen requested one more Capital Improvement Program session for the commission.

There was discussion regarding an escalating fine system for code enforcement. Mr. Leipzig stated goals have been set for the Code Enforcement Advisory Committee and staff is working with the city attorney on the dangerous building ordinance. Mr. Leipzig indicated moratorium discussions are taking place for such businesses as hookah bars, smoke shops, thrift stores, payday loan companies, tattoo parlors and used vehicle repair shops.

ADJORNMENT

Commissioner McDonough moved to adjourn the meeting. Seconded by Commissioner Davila. All members present voted in favor and the meeting adjourned at 7:45 P.M.

Jennifer Dutcher
Community Development Secretary