



**AGENDA
CITY OF BELTON
PLANNING COMMISSION
PUBLIC HEARING & MEETING
MONDAY, APRIL 19, 2010 - 7:00 P.M.
BELTON CITY HALL ANNEX, 520 MAIN STREET**

- I. CALL MEETING TO ORDER

- II. ROLL CALL

- III. APPROVAL OF THE MINUTES OF THE APRIL 5, 2010 PLANNING COMMISSION MEETING

- IV. PUBLIC HEARING
 - A. Consideration of a Zone Change for 702 Belton Avenue from R-1 (Single-Family Residential) to A (Agricultural).

- V. PRESENTATION
 - A. Presentation from the Belton Parks Department on a proposed Tree Ordinance.
 - B. Presentation on the Unified Development Code from Planning, Building, Fire and Engineering.

- VI. DIRECTOR'S REPORT

- VII. NEXT MEETING DATE: May 3, 2010

- VIII. ADJOURNMENT

Meeting Minutes

April 5, 2010

Minutes of Meeting
Belton Planning Commission
City Hall Annex – 520 Main Street
April 5, 2010

CALL TO ORDER

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

ATTENDANCE

Commission: Chairman Girgin, Mayor Pro Tem Gary Lathrop, Commissioners Sally Davila, Tim McDonough, Jeff Fletcher, Scott VonBehren, and Larry Thompson.

Staff: Brad Foster, Assistant City Manager; Jay Leipzig, Community Development Director; Robert Cooper, City Planner; Jason Webb, Fire Marshal; and Ann Keeton, Community Development Secretary.

Absent: Commissioner Roger Horne and Councilman Bobby Davidson.

MINUTES

Commissioner Thompson moved to approve the minutes of the March 15, 2010, Planning Commission meeting. Commissioner VonBehren seconded the motion. All members present voted in favor and the motion carried.

PRESENTATION – Capital Improvement Plan

Mr. Foster presented and explained the corrections in the updated pages of the Capital Improvement Plan (CIP). He reviewed the changes to both “Improvements from Identifiable Resources,” and “Improvements Requiring Voter Approval or Other Sources.”

Mayor Pro Tem Lathrop moved to recommend approval of the CIP to the City Council. Commissioner Davila seconded the motion. When a vote was taken, the following was recorded: Ayes: 7 – Chairman Girgin, Mayor Pro Tem Lathrop, Commissioners Davila, McDonough, Fletcher, VonBehren, and Thompson. Noes: none. Absent: 2 – Commissioner Horne and Councilman Davidson.

SPECIAL USE PERMIT – 1412 N. Scott

Staff Report: Mr. Cooper gave the staff report about the Special Use Permit application for a vehicle sales lot and Internet sales at 1412 N. Scott. The proposed vehicle sales operation will be on the Morris Auto Sales lot, but will be owned by the applicant, Andrew Morgan. It was reported by Mr. Cooper the business will be primarily Internet sales but will have a few vehicles parked along the northwest side of the sales lot. He went over the criterion that is used to review car lots, which were: welfare and convenience of the public, injury to surrounding property, and domination of the neighborhood. The parking requirements and property access were topics covered by Mr. Cooper in the staff report. Staff recommended five conditions that should be applied if the Commission approves the SUP.

Chairman Girgin opened the public hearing at 7:10 p.m. This hearing was being held to receive public input regarding an SUP application to allow a used car lot to operate at 1412 N. Scott.

Andrew Morgan, applicant, 409 Westover Court, spoke in favor of the application. He has worked with and learned the sales business from the Morris Auto Sales owner for approximately five years. Mr. Morgan reported his cars would be good quality and for sale at a price of under \$5,000. Mr. Morgan added that he is just starting out in the business and enjoys the work. He stated he is licensed, bonded and insured to the Missouri state standards. Mr. Morgan acknowledged that the North Scott corridor is filled with car lots and pointed out his car sales application will not change the face of North Scott because his cars will be in an existing lot.

There was no additional public input so Chairman Girgin closed the public hearing at 7:14 p.m.

COMMISSION DISCUSSION

During discussion a question was asked about a moratorium on vehicle sales lots. Mr. Leipzig said there had been a recommendation made to place a moratorium on new vehicle sales lots, but the City Council decided the SUP process seemed to be working effectively to manage the number of new lots. Commissioner Davila expressed concern about fire safety issues due to the concentration of cars at an auto repair business on N. Scott. An SUP application for a vehicle sales lot at that same location on N. Scott was not approved, but an auto detailing business has opened at the site. Mr. Leipzig reported code enforcement is watching the site and has issued tickets to the auto detailing business.

Commissioner Thompson gave an explanation of the process involved in selling the inventory at a vehicle sales lot where the cars are owned by two owners. He went on to say this application will not create any change to the appearance of N. Scott since the cars will be sold from an existing sales lot. The applicant's cars that are sold from the lot will be connected with his (the applicant's) dealer's license. It was stated the proposed business is a means for the applicant to establish himself as a dealer and a separate occupation license will be issued. Mr. Cooper added that two businesses on the same lot require the applicant to go through the SUP process. According to Commissioner Thompson it is common practice in the used car business to have two owners of car inventory to work out of one location and he mentioned MTS Auto as an example. Mr. Morgan stated he will have his own buyer's guide in the window/car of the autos he is selling. Commissioner Thompson and Mr. Morgan spoke highly of the owner and management at Morris Auto Sales. Chairman Girgin told the applicant there have been concerns about a number of used car business applicants on N. Scott. She pointed out the car lot business owner of Morris Auto Sales has a first-rate reputation in the community. Commissioner McDonough expressed concern that the sales lot owner is not present to voice his support of the SUP. It was reported by Commissioner Thompson and Mr. Cooper that Mr. Morris is in favor of the SUP application. **Commissioner Thompson moved to recommend approval of the Special Use Permit application to allow a used car sales business to operate at 1412 N. Scott with the following conditions:**

- 1. No Certificate of Occupancy will be issued until the site has a final inspection for compliance with applicable city codes.**
- 2. The Special Use Permit will be reviewed by the Planning Commission in one (1) year to ensure compliance.**
- 3. The sales display area shall be located on the northwest side of the building only and consist of no more than six (6) vehicles.**
- 4. No display vehicle shall obstruct visibility or be parked in a manner which would create a hazardous condition.**
- 5. The designated parking spaces shall be striped and dimensioned 9'-0" by 20'-0".**

Commissioner Fletcher seconded the motion. When a vote was taken, the following was recorded: Ayes: 7 – Chairman Girgin, Mayor Pro Tem Lathrop, Commissioners Davila, McDonough, Fletcher, VonBehren, and Thompson. Noes: none. Absent: 2 – Commissioner Horne and Councilman Davidson. The motion carried.

LOT SPLIT – 1100 S. Cedar

Mr. Cooper reported the applicant wishes to divide a 4 ½ acre lot located at 1100 S. Cedar into two parcels. The new lot will be used for residential purposes and will have frontage on S. Cedar. There are sanitary sewer and utility easements on this property and a large drainage easement. Mr. Cooper provided details about the lot split regulations and how each of those applies to the lot on S. Cedar. The split will create two lots that meet the minimum square footage and lot width requirements.

COMMISSION DISCUSSION

Mr. Cooper pointed out that access for both lots is on S. Cedar. A description was given of the location of an existing house and the flood zone that travels through a portion of the property.

Brant Ladwig, surveyor, asked permission to speak to the Commission. He reported the house currently on the lot was moved to the site by a previous owner. The current owner of the property is Brett Rhodes and Mr. Rhodes' mother owns the property to the north. He spoke of an agreement between neighbors regarding the maintenance and use of the northern edge of the 1100 S. Cedar property. The lot is being split to allow Mr. Rhodes' mother to purchase, own and maintain the newly created northern lot 3A. **Commissioner Thompson moved to approve a lot split for property located at 1100 S. Cedar.** Commissioner McDonough seconded the motion. When a vote was taken, the following was recorded: Ayes: 7 – Chairman Girgin, Mayor Pro Tem Lathrop, Commissioners Davila, McDonough, Fletcher, VonBehren and Thompson. Noes: none. Absent: 2 – Commissioner Horne and Councilman Davidson. The motion carried.

LOT SPLIT – 201 W. North Avenue

Mr. Cooper reported the newly created lot will have frontage on Lynn Street. Currently, there are private service easements (sanitary sewer and water) on a portion of the property and staff suggested the applicant extend the easements into the newly created Lot 4B to provide service. Mr. Cooper reviewed the legal considerations and guidelines pertaining to lot splits. He pointed out there is a 20-ft. gravel alley separating 201 and 121 W. North that provides access to those properties. The alley was vacated in 1983 which resulted in the alley being divided and made part of the adjacent properties. This act virtually eliminated access to 201 W. North, which is from the alley. He went on to say an extension of a 10-ft. private service easement along the side property lines will be required, and a private access easement must be recorded allowing access from North Avenue and from Lynn Street as a condition of approval. There is currently a verbal agreement between property owners allowing use of the vacated alleyway according to Mr. Cooper.

COMMISSION DISCUSSION

Mayor Pro Tem Lathrop had questions and expressed concern about access issues that resulted from the alley vacation and could be further complicated by the proposed lot split. Mr. Cooper replied that the staff recommended the access easement be recorded with the County Recorders Office. Both property owners would be required to sign the easement agreement according to Mr. Cooper. Additionally, the new lot would be required to have a hard surface driveway.

Mayor Pro Tem Lathrop moved to approve the Lot Split for property located at 201 W. North Avenue with the following condition: 1) A private access easement shall be recorded with the Cass County Recorder's Office allowing access from W. North Avenue and from Lynn Street, between Lot 1, Block 8 and Lot 4, Block 9 of the Scott & Colbern Subdivision. The motion was seconded by Commissioner VonBehren. When a vote was taken, the following was recorded: Ayes: 7 – Chairman Girgin, Mayor Pro Tem Lathrop, Commissioners Davila, McDonough, Fletcher, VonBehren, and Thompson. Noes: none. Absent: 2 – Commissioner Horne and Councilman Davidson. The motion carried.

DIRECTOR'S REPORT

Mr. Leipzig announced the presentation of a portion of the Unified Development Code (UDC) was postponed until the April 19 Commission meeting.

The Park Department will be presenting information at the April 19 meeting, about establishing a tree ordinance which can be incorporated into the UDC.

The second reading of the Heart-n-Hand Special Use Permit application will be at the April 13 City Council meeting.

ADJOURNMENT

Commissioner VonBehren moved the meeting be adjourned. Commissioner Thompson seconded the motion. All members present voted in favor and the meeting adjourned at 7:50 p.m.

Ann Keeton
Community Development Secretary.

Zone Change

R-1 (Single Family) to A (Agricultural)

**“702 BELTON AVENUE” / ZONE CHANGE
R-1 (SINGLE-FAMILY RESIDENTIAL) TO AG (AGRICULTURAL) DISTRICT**

**BELTON PLANNING COMMISSION
MONDAY, APRIL 19, 2010 – 7:00 P.M.
CITY HALL ANNEX BUILDING – 520 MAIN STREET**

Robert G. Cooper, City Planner

CASE

Consideration of a Zone Change from R-1 (Single-Family Residential) District to Ag (Agricultural) District for a 5 acre tract of land located north of the Nottingham Court subdivision and addressed as 702 Belton Avenue.

BACKGROUND

Zoning Map

Included in the packet is a copy of the city’s zoning map which shows this area zoned as R-1 (Single-Family Residential). However, the entire northern half of the block of Belton Avenue, (from Myron to Markey) consists of large lots which range in size from an acre and a half to 5-acres that typically contain a small residential farm house. Even though, the area is zoned for single-family residential, the predominate use and characteristics is agricultural which include; out buildings, old barns and former tree orchards.

The property in question (702 Belton Ave.) currently consists of a 958-square foot, wood-frame constructed farm house, built in 1955. The house is currently vacant and has been for several years. The applicant (Ray Gann) wishes to demolish the existing farm house and construct a barn, to be used primarily to store farming implements and other agricultural-based items. The applicant currently has no plans to subdivide or development the property. The applicant currently resides at 805 Belton Avenue, a 7-acre tract of land.

REVIEW

Comprehensive Plan. The City’s Future Land-Use Map shows this area as being designated single-family zoning.

Compatibility The proposed land use as agricultural which would include minimal agricultural activity, i.e. farming, and/or harvesting would be less intensive then single-family use, and as a less intensive use, would be deemed compatible.

Environmental. The rezoning of the property as proposed will not create an increase in environmental impacts than what would typically be found with an R-1 (Single-Family Residential) zoning district. There will not be an increase in public utilities; i.e. water, sanitary and storm sewer, fire protection or street improvements.

Predominance. The area in question is zoned R-1 (Single-Family Residential). There are fewer than eight (8) residences along the Belton Avenue corridor between Myron Avenue and Markey Road. The predominate lot size is greater than two (2) acres and is mostly used for agricultural purposes. The predominant use and the characteristic along this corridor are agricultural in design and appearance.

STAFF RECOMMENDATION

Engineering, Fire and Community Development staff support a recommendation to approve this zone change from R-1 (Single-Family Residential) to Ag (Agricultural).

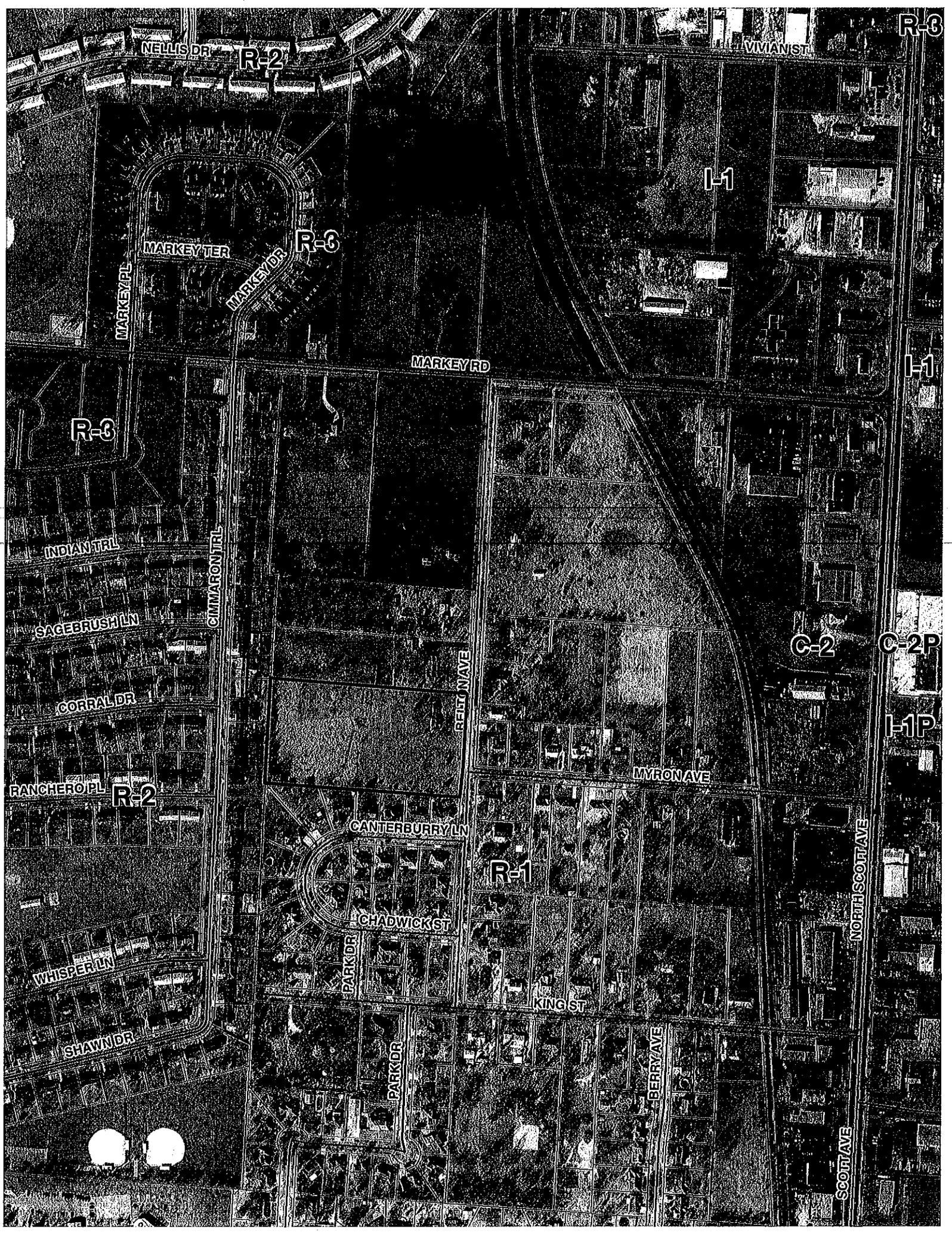
NOTE: The single-family zoning classification that is currently in place along the Belton Avenue environs is shown on the City's Future Land Use map as a means of protecting the area from future commercial or industrial development. The creation of a 'spot zone' would apply if the rezoning in question consisted of an 'up-zone', essentially an increase in the intensive use of the zone, which undoubtedly, would have a significant impact on all adjoining and abutting lots.

PLANNING COMMISSION ACTION

1. Motion to approve/deny the Zone Change from R-1 (Single-Family Residential) District to Ag (Agricultural District for a 5-acre tract of land, located north of Nottingham Court subdivision, addressed as 702 Belton Avenue.
2. Motion to continue the case pending additional information.

ATTACHMENTS

1. Zone Map
2. Aerial Photo
3. Future Land-Use Map



NELLIS DR R-2

IVMAN ST R-3

MARKEY TER R-3

I-1

MARKEY PL

MARKEY DR

MARKEY RD

I-1

R-3

INDIAN TRL

SAGEBRUSH LN

CIMMARON TRL

CORRAL DR

RELI NAVE

C-2

C-2P

I-1P

RANCHERO PL R-2

MYRON AVE

CANTERBURY LN

R-1

CHADWICK ST

PARK DR

KING ST

NORTH SCOTT AVE

WHISPER LN

SHAWNDR

PARK DR

BERRY AVE

SCOTT AVE



TRUAX RD

NELLYS DR

VIVIAN ST

MISSELIE CIR

LOCUST HILL RD

WILBUR PARRISH CIR

MARKEY RD

NORTH SCOTT AVE

INDIAN TRL

CIMARRON TRL

CORRAL DR

BELTON AVE

MYRON AVE

FRANCHERO PL

CANTEBURY LN

CHADWICK ST

KING ST

WHISPER LN

PARK DR

BERRY AVE

SCOTT AVE

TURNER RD

MAPLE ST

RAINBOW DR

SHAWN DR

PARK DR

Tree Ordinance

ORDINANCE NO _____
CITY OF BELTON, MISSOURI

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE AND REMOVAL OF TREES, SHRUBS AND OTHER PLANTS UPON CITY PROPERTY, AND ESTABLISHING A CITY TREE BOARD IN THE CITY OF BELTON, MISSOURI.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELTON, MISSOURI AS FOLLOWS;

Section 1. Definitions

City: The "City" is defined as the City of Belton, Missouri.

City Arborist: The "City Arborist" is defined as the official (public employee) representative of the City Tree Board and as such is responsible for the administration of the Community Forestry Program.

City Tree Board: The "City Tree Board" is defined as a group of five (5) members, appointed by the Mayor with the approval of the City Council, who shall study, investigate, counsel, develop and/or update annually and administer the Comprehensive City Tree Plan.

Community Forestry Program: A program including all of the trees within the City of Belton.

Community Forest Manager: The "Community Forest Manager" is defined as the responsible person for enforcement and oversight of the community forest. For purposes of this document, this person shall be the City Arborist.

Comprehensive City Tree Plan: The "Comprehensive City Tree Plan" is defined as an annual and long range plan for the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets, and in other public areas.

Hazardous Tree: A "Hazardous Tree" is defined as a tree with with severe structural defects or splits.

Park Trees: "Park Trees" are defined as trees, shrubs, bushes, and all other woody vegetation in public parks.

Private Community Forest: "Private Community Forest" is defined as all trees within municipal boundaries but not owned by the City.

Public Community Forest: "Public Community Forest" is defined as all street and park trees, and other trees owned by the City as a total resource.

Public Trees: "Public Trees" are defined as trees under the responsibility of the municipality.

Street Trees: "Street Trees" are defined as trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines on either side of all streets and avenues within the City.

Section 2. Purpose

The purpose of this Ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of planting, maintenance, and removal of trees, shrubs and other plants within the City of Belton, Missouri.

Section 3. Intent

It is the intent of the City Council that the terms of this Ordinance shall be construed so as to promote:

1. The planting, maintenance, restoration, and survival of desirable trees, shrubs and other plants within the City.
2. The protection of community residents from personal injury and property damage and the protection of the City from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs or other plants located within the community.

Section 3. Creation and Establishment of a City Tree Board

There is hereby created and established a City Tree Board for the City, which shall consist of five members, appointed by the Mayor with the

approval of the City Council. The Community Forest Manager shall be an ex-officio member of the City Tree Board.

Section 4. Term of Office

The term of the five persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year, and the term of two members of the first board shall be for two years. If a vacancy occurs during the term of any member, a successor shall be appointed for a new three year term.

Section 5. Compensation

Members of the City Tree Board shall serve without compensation.

Section 6. Duties and Responsibilities

It shall be the responsibility of the City Tree Board to study, investigate, counsel, and develop, update annually, and administer written plans (annual and long range) for the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such a plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official Comprehensive City Tree Plan for the City.

The City Tree Board, when requested by the City Council shall, investigate, report, recommend or otherwise serve any matter or question relating to trees.

Section 7. Operation

The City Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 8. Street Tree Species to be Planted

The City shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the City upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically by the City Arborist to reflect new developments or species that will affect the population of the Private and Public Community Forest.

Section 9. Distances and Clearances for Planting

Street Trees may not be planted in areas with less than six feet between the edge of the sidewalk and the curb of the street. Street Trees shall be planted no closer than three feet from a sidewalk, driveway, or street.

No Street Tree shall be planted closer than 10 feet from a fireplug.

Special permission must be obtained from the City Arborist when planting Street Trees within 10 feet of any point on a line on the ground immediately below any overhead utility line.

Section 10. Public Tree Care

The City shall have the right to plant, prune, maintain, and remove trees, shrubs, and plants within the rights-of-ways of all streets, alleys, lanes, shares, and public grounds, as may be necessary to insure public safety. All tree pruning and removal will be done in accordance with the most current *ANSI A300 Tree Shrub and Other Woody Plant Maintenance-Standard Practices*.

The City may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or by reason of its nature is injurious to electric power lines or other public improvements, or is seriously affected with any fatal disease.

The abutting property owners shall have the right to perform normal tree care on all Street Trees.

Section 11. Permits Required

No person shall plant a Street Tree without first obtaining a permit from the Community Forest Manager. There will be no fee for such permit.

Section 12. Compensatory Payments

No person shall remove any public tree without replacing such tree with a tree or trees equivalent of the tree removed. The value of trees shall be determined by the Community Forest Manager in accordance with regulations considering the species, location, size and condition of trees adopted by the City Tree Board. If a suitable location does not exist in the vicinity of the tree removed or if the replacement tree is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the City equal to the difference in value between the tree removed and any replacement tree. Such compensatory payment shall be paid into a fund established by the City Finance Director and used solely for the purpose of enhancing the Public Community Forest.

Section 13. Tree Topping

It shall be unlawful as a normal practice for any person, firm, or City department to top any Street Tree, Park Tree, or other tree on public property. Topping, rounding off or pollarding is defined as the systematic cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the City Arborist or City Tree Board.

Section 14. Clearance Over Streets and Walkways

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of 8 feet must be maintained over walkways and a clearance of 12 feet must be maintained over streets and alleys. Property owners are responsible for trees on their own property as well as trees on the public right-of-way that abuts their property.

Section 15. Dead or Hazardous Tree Removal

The City shall have the right to cause to be removed any tree within the City that is dead or has been declared hazardous. The City will notify in writing the owners of such trees and removal shall be accomplished within the time limits set by the City Arborist.

Section 16. Interference with the City Tree Board

It shall be unlawful for any person to prevent, delay, or interfere with the City Arborist, the City Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any trees within the Public Community Forest.

Section 17. Enforcement

The City Arborist is hereby charged with the responsibility of the enforcement of this Ordinance and may serve notice to any person, firm, or corporation in violation thereof or institute legal proceedings as may be required and the City Prosecutor is hereby authorized to institute legal proceedings as may be required and the City Prosecutor is hereby authorized to institute appropriate proceedings to that end.

Section 18. Access

It shall be unlawful for any person to prevent, delay, or interfere with access to private property by the City or its representative in the legal performance of any section of this Ordinance.

Section 19. Penalty

Any person, firm or corporation violating any provision or failing to comply with any notice issued pursuant to the provisions of this Ordinance, shall, upon conviction, be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the City jail for a term not exceeding ninety (90) days or both such fine and imprisonment.

Section 20. Arborist Certification and Insurance

Persons or firms engaged in the business or occupation of pruning, treating, or removing any street tree, park tree, or other privately owned

tree should be recognized by the International Society of Arboriculture as a Certified Arborist or Certified Tree Worker. All persons or firms must carry evidence of liability insurance and workmen's compensation. No certification shall be required by any public employee doing such work in the pursuit of their public service endeavors.

This section does not apply to private property owners performing maintenance of privately owned trees.

Section 21. When operative

This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BELTON,
MISSOURI, AND APPROVED BY THE MAYOR, THIS ____ DAY OF
_____, 20__.

APPROVED;

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Attorney