



**AGENDA
CITY OF BELTON
PLANNING COMMISSION MEETING
MONDAY, MAY 4, 2009 - 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 20, 2009 PLANNING COMMISSION MEETING

IV. CASES

A. CASE #TA09-04: DISCUSSION OF A PROPOSED AMENDMENT TO THE ZONING ORDINANCE REGARDING REGISTRATION OF PROPERTIES IN FORECLOSURE

B. CASE #TA09-08: DISCUSSION OF A PROPOSED TEXT AMENDMENT TO ALLOW USED CAR LOTS AS A SPECIAL USE IN A C-2 (GENERAL COMMERCIAL) ZONING DISTRICT

C. CASE #TA09-09: DISCUSSION OF A PROPOSED TEXT AMENDMENT TO ALLOW ELECTRIC FENCES ONLY IN INDUSTRIAL ZONING DISTRICTS

D. DISCUSSION OF THE INTRODUCTORY PROVISIONS, ENFORCEMENT, AND DEFINITIONS IN PREPARATION OF THE CITY OF BELTON UNIFIED DEVELOPMENT CODE (UDO)

V. DIRECTOR'S REPORT

VI. NEXT MEETING: May 18, 2009

VII. ADJOURNMENT

MINUTES OF MEETING

APRIL 20, 2009

Minutes of Meeting
Belton Planning Commission
City Hall Annex, 520 Main
April 20, 2009

CALL TO ORDER: Chairman Paul Myers called the meeting to order at 7 p.m.

ATTENDANCE:

Commission: Chairman Myers, Mayor Pro Tem Gary Lathrop, Councilman Bobby Davidson, Commissioners Sally Davila, Tim McDonough, Holly Girgin, Scott VonBehren (7:38 p.m.), Roger Horne, and Larry Thompson.

Staff: Jay Leipzig, Director of Community Planning and Development; Robert Cooper, City Planner; and Ann Keeton, Community Development Secretary.

MINUTES: Commissioner Horne moved to approve the minutes of the March 2, 2009, Planning Commission meeting. Mayor Pro Tem Lathrop seconded the motion. All members present voted in favor and the motion carried.

CASES:

C. CASE #TA09-09: Mr. Leipzig called attention to Case #TA09-09, which was discussion of a proposed text amendment to allow electric fences only in Industrial Zoning Districts. He asked that the fence issue be postponed to the May 4 meeting because additional information has been received. **Commissioner Thompson moved to postpone Case #TA09-09 until the next regular meeting.** Commissioner Horne seconded the motion. All members present voted in favor and the motion carried.

A. CASE #SUP08-10: Chairman Myers introduced this case which was a review of a special use permit (SUP) for Belton Glass located at 309 Main Street. Mr. Leipzig gave a brief history of the SUP for Belton Glass. He reported that the Planning Commission approved the permit on April 21, 2008, to allow the construction of a garage door facing Loop Road. There were several conditions associated with the special use approval, and Mr. Leipzig listed those conditions which were:

- Allow the use of a particular exterior material insulated garage door, Type C-238 as presented with a carriage house exterior design, Type 430 as presented.
- Install a proper curb-cut
- No dumpster shall be placed on the side of the building
- Consideration be given to the business owner to restricting garage door access during special events on Loop Road
- The SUP is to be reviewed in one year

He went on to explain that a certificate of occupancy was issued January 13, 2009. The carriage house-type trim was installed on the garage door today according to Mr. Leipzig. There are outstanding issues still to be completed by Mr. Jeff Shaw, the business owner, and those are

canopies over the garage and building entrance doors facing Loop Road. Staff met with Mr. Shaw on March 30, 2009, and he was informed that staff might agree to an extension of the completion date until June 30, but that would require approval of the Planning Commission.

Mr. Jeffrey Shaw, 16409 Rebecca Lane, was present to speak about the SUP for 309 Main Street. He announced that the carriage-house trim was installed on the garage door today and the canopy still needs to be installed above the doors. According to Mr. Shaw, his business has been slow since January, so he is asking for an extension until June 30, because he said, "Money is tight." He indicated that he wants to install "nice" canopies, not something that looks inexpensive. He distributed pictures of canopies that could be used for the back of the building and eventually the front. Mr. Shaw went on to explain that the company name would be placed on the bottom flap of the canopy. It was stated by Mr. Shaw that he is still planning to stucco the building. He said the canopy can be removed to stucco the building in June or July, but he qualified that statement by adding that he would stucco whenever the funds are available.

Chairman Myers pointed out to Mr. Shaw that these issues have been going on for a year and it appears as if Mr. Shaw has been "dragging his feet," and now wants an extension. Mr. Shaw replied that it has been a long drawn-out process. Mayor Pro Tem Lathrop questioned Mr. Shaw about his stated intentions of putting a canopy up before the wall is repaired. Mr. Shaw indicated that the wall will be primed but without stucco, when the canopy is installed. He did not recall if his original drawing showing the building improvements had a canopy over the walk-in door.

Commissioner Davila questioned Mr. Shaw about how long he anticipated this project will go on if he cannot get the funds together to complete the work? Mr. Shaw answered that he will get the job finished as soon as possible. He was further questioned by Councilman Davidson regarding the amount of time (one year) it has taken to put the carriage door kit on the garage door, which was just completed today. Mr. Shaw reported he "just got around to it." Councilman Davidson further expressed his dissatisfaction that after the Commission assisted Mr. Shaw by approving the SUP, it took a year for him to install a \$60 trim kit. He went on to say that he believes June 1 is too much time to allow for completion of the job. Mr. Shaw said he completed projects when he could but the last six months were tough economically. When asked what happened during the first six months, Mr. Shaw stated that he just forgot.

There was discussion about the length of time the SUP should be extended and Chairman Myers suggested a date be selected and if the requirements of the SUP are not complete, the certificate of occupancy should be pulled. Commissioner McDonough informed the Commission that it appears there is a lot more work to be done on the exterior of the building before the canopy can be installed. He went on to suggest that to get a finished product, more than the canopy will be required. Mr. Leipzig reported that when a deadline date was set, it was to include painting the exterior rough lumber and the installation of the canopies. He recommended it be made very clear which items should be completed on specific dates e.g. canopy by May 30. Mr. Shaw suggested the weather may have played a part in the delay of completion of the SUP requirements, but other commissioners indicated that the weather was mild during the year.

Mayor Pro Tem Lathrop asked about the contents in a letter dated January 13, 2009, in which it states that Mr. Shaw has complied with all requirements noted in a letter sent in September. Mr.

Leipzig explained that Mr. Shaw had completed all the requirements necessary to issue a certificate of occupancy, the other requirements were part of the SUP conditions. He reported that the application of stucco was not part of the original recommendations from the Planning Commission according to records that were found. Mayor Pro Tem Lathrop referenced raw board and unfinished block on the building which he said was to be finished by March 31. It was verified that a curb cut has been installed on Loop Road. His stated opinion was that Mr. Shaw is wasting time and money installing the canopies until the building is finished.

Commissioner Horne pointed out that other buildings on Loop Road have appearance issues and he asked if the Commission is making a project of improving all of those buildings. Mr. Cooper explained that the requirements associated with Belton Glass are related to the SUP. During the initial review of the SUP by the Commission, Mr. Shaw presented designs of ways the building could be improved. Commissioner Horne stated that he did not believe "we should plunge ahead at such a rapid speed." He indicated that as long as the building looks nice, he would be willing to give him additional time to complete the renovations. Mr. Shaw asked if the Commission would give him 30 days to stucco the building and 30 days to get the door canopies. There was further discussion about the length of additional time to allow Mr. Shaw to complete the SUP conditions. Commissioner Davila reviewed several instances of personal appearances made by Mr. Shaw at Commission meetings and one specific time he came without paperwork necessary to his case.

A review of the time allowed for the renovations and length of time it took Mr. Shaw to complete some of the projects was reviewed. Councilman Davidson reminded Mr. Shaw that a year ago he agreed to the conditions of the SUP and told the Commission he would comply with those conditions. He proposed that Mr. Shaw be allowed 70 days to complete the stucco and the canvas awnings (10 days in April plus the months of May and June). Mr. Leipzig asked for clarification of time frames for completion of the conditions and he confirmed that the Commission would like Mr. Shaw to complete the exterior of the building (stucco) by June 1, 2009, and to complete the installation of the door canopies by July 1, 2009. There was a brief discussion about a phone wire that is running from a junction box on the building exterior. Mr. Leipzig mentioned the telephone cable should be enclosed in conduit or a similar material. Mr. Shaw said he "fought" with AT&T about moving the box and he could not get them to cooperate. Mr. Leipzig said the City will try to help with this matter. Commissioner VonBehren arrived at the meeting at 7:38 p.m.

Councilman Davidson moved to allow until June 1 to complete the exterior of the building and until July 1 to complete the installation of the canopies at Belton Glass, 309 Main Street. Commissioner Thompson seconded the motion. When a vote was taken the following was recorded: Ayes: 7 – Chairman Myers, Councilman Davidson, Mayor Pro Tem Lathrop, Commissioners McDonough, Girgin, Horne, and Thompson. Noes: 1 – Commissioner Davila. Abstention: 1 – Commissioner VonBehren. Absent: none. The motion carried.

Mr. Leipzig stated he will follow up with Mr. Shaw in writing to advise him of the remaining items to be completed. Mr. Cooper further explained the special use permit process and the Commission has the authority to set conditions or limitations on the permit. He then explained the process used to establish a new business in the City and the inspections that go with the

certificate of occupancy. Commissioner Horne reiterated that he wants to give the applicant plenty of time so the final project looks nice.

B. CASE #TA09-08: Discussion of a proposed text amendment to allow used car lots as a special use in a C-2 (General Commercial) zoning district.

STAFF REPORT: Mr. Leipzig informed the Commission that it appears Belton has a large number of used car lots and staff has looked into regulating those lots by use of an SUP. This would give staff, the Commission and the Council flexibility in determining requirements for car lots, and he gave examples.

As an introduction Mr. Cooper gave examples of issues relating to a few of the used car lots located on North Scott. The layout of some lots is not conducive to used car sales but they are allowed in a C-2 zoning district by right. An explanation of the criteria that must be met with SUP permits was given by Mr. Cooper, and he stated that SUP criteria can be applied to used car lots. He described car lots that have too many cars with inadequate space for customer or employee parking. Mr. Cooper made a recommendation that the City adopts a definition for "Automobile Sales Lots."

COMMISSION DISCUSSION: In discussion, staff was asked if separation or distance requirements can be adopted for car lots. Mr. Cooper answered that separation requirements could be adopted by amending portions of the Zoning Ordinance. He also suggested that setback requirements would provide an area in which cars would not be allowed to park on the property. Councilman Davidson stressed that he would not be in favor of discouraging any business from locating in Belton. In the past, the City was categorized as not being friendly to business, according to Councilman Davidson and he believes that designation has been turned around. He summarized by acknowledging there could be restrictions placed on the lots, but he is not in favor of limiting the number of car lots. Mr. Leipzig announced that other cities do not tend to restrict the number of car lots because there might be legal issues. He expressed his satisfaction that the proposed text amendment gives the Commission the ability to review car lot businesses on a regular basis and make sure they are complying with regulations. Commissioner VonBehren asked if this text amendment will address the used cars being parked in various highly visible locations that are not in an actual used car lot. Mr. Cooper said if a definition of automobile sales lots is adopted that should address the issue Commissioner VonBehren spoke of.

Commissioner Thompson pointed out that in the area between 155th Street and Ouik Trip along North Scott, he counted 17 cars for sale by individuals that were in various parking areas, and he believes it creates an unattractive appearance within the City. Regarding used car dealers, Commissioner Thompson recommended the used car sales businesses should have a paved lot, a proper building, nice sign, proper lighting, cars displayed well, and adequate parking for customers. Damaged cars should not be visible on the sales lot. Chairman Myers added the goal of staff is to monitor these items by use of the SUP. Mr. Cooper agreed the used car lot SUP applicants should show the commission members all of the items mentioned by Commissioner Thompson when getting the application approved.

There was discussion about the closed car wash on North Scott with cars for sale in front of the business. Mr. Cooper gave an explanation of the circumstances that lead to cars for sale being placed on the car wash property. According to Mr. Cooper the property on North Scott is one lot with one owner and there are multiple uses on the lot. After further discussion about the car wash lot, it was asked if the owner could split the lot. Mr. Cooper addressed the question when he said the owner would have to request a lot split and then there would be additional access and easement issues. Chairman Myers informed commission members about the history of the property around the car wash site.

Commissioner Girgin initiated a discussion about establishing a separation requirement for used car lots. Mr. Leipzig will get with the City attorney to look at language for this issue. She noted that a separation requirement would not immediately affect existing lots, but over time as businesses close, there would be a long term affect. Another option to explore is limiting the number of car lots by population. Regarding the car lots already in operation, Mr. Cooper reported that the City can enforce the laws already in place but if something new is adopted it would take time to make a difference. Mayor Pro Tem Lathrop suggested an immediate difference would be made if the City was to enforce the current regulations and he read a few of the existing codes that could pertain to car lots. Mr. Cooper indicated there is a manpower issue involved. Car lots want to maximize their sales by getting the greatest number of cars possible on the lots, so Mr. Leipzig recommended enforcing the codes that exist and adding the SUP process for car lot approval. Commissioner Thompson told of several existing used car lots that are set up well and do not create problems. He went on to give an example of a lot that creates sight line problems for traffic due to the placement of the cars for sale. There was conversation about the safety issues associated with a few of the Cities used car sales lots.

Ways to address the cars for sale by individuals placed on various highly visible locations throughout the City was talked over. It was suggested by Mr. Cooper that the property owner could be notified and advised the area is not an approved used car lot and then asked to remove the cars. Mr. Leipzig mentioned there are codes relating to off site sales and it was recommended that staff consult with the police chief about towing policies. Additionally, it was suggested that if cars cannot be towed from private property, perhaps the property owner could be ticketed. Councilman Davidson indicated that he did not want to prohibit citizens from showing their vehicles for sale in visible locations. He said many times the vehicles are removed by the owners in a timely manner and he does not want to infringe on a citizens right to sell their car. It was stated that the vehicles for sale by owner that are left in a visible place for weeks are the cars specifically causing the appearance problem. It was suggested that citizens selling their cars could advertise in the newspaper or put a sign on the car in their driveway. The fact that property owners can have cars towed from their property at their own expense was brought up. The commission members engaged in further conversation about the affect the proposed text amendment will have on lots not licensed as car sales businesses. A question about a person that continuously sells used cars from their residential property was posed by Commissioner Davila. Mr. Cooper gave an explanation that if the primary use of the property is residential and the car sales are not an accessory to that use, then code enforcement can enforce the City regulations. An example of a truck that has been for sale for three years was presented. Chairman Myers wrapped up the discussion and asked for a motion. Mr. Cooper made the point that if the used car

lots can be regulated early, there should be fewer issues for code enforcement to enforce once the car lots are open for business.

A few code enforcement issues were talked about, along with court enforcement and plea bargains that were formerly offered to repeat offenders. Mayor Pro Tem Lathrop familiarized the commission with the fact that before vehicles can be towed, 24-hours notice must be given.

Commissioner Davila moved to turn the topic of requiring a special use permit for car lots over to staff for further research and development. The motion was seconded by Commissioner Thompson. All commission members voted in favor, and the motion carried.

DIRECTOR'S REPORT:

Mr. Leipzig presented the report which included:

- Code Enforcement: The code enforcement annual report will be presented to the City Council tomorrow. The report will include information about cross training of inspectors to assist code enforcement on occasion. Street department will assist with temporary sign removal.
- The proposed Unified Development Ordinance (UDO) implementation schedule was presented. He explained that all of the development ordinances will be consolidated into one book. He anticipates there will be no dramatic changes but information will become more organized and easier to read, understand and enforce. The UDO adoption goal is forecast to be December 8, 2009.
- The Site Plan Review Committee has had one meeting to review the Autumn Valley Development Plan. The developer has met with staff regarding sanitary sewer budget issues. CDBG funds might be available to use for part of the sewer connection. It is anticipated the committee will meet in the next two to three weeks.
- The City is a finalist in the All-America City contest. The presentation will be June 17-19 in Florida. The City is one of 32 cities selected as finalists and the only finalist in the state of Missouri. Ten cities will be selected as All-America Cities.
- A town hall meeting is scheduled for 6 p.m. May 18, 2009, in the Council Chambers for a joint meeting with the Cass County Commission, the Planning Commission and the City Council to update the public about the roads and bridges in the county.
- The hydro-seed that was applied to the Adesa property washed away and the hydro-seed will be reapplied on Wednesday, April 29 according to their general contractor.

OTHER DISCUSSION:

A privacy fence has been erected with the outside facing toward the property and the inside portion facing the street according to Commissioner McDonough. Mr. Cooper stated that issue was not addressed during the addition of fence design standards to the zoning ordinance. It was pointed out that the fence is highly visible because it is located on 58 Highway.

Commissioner Davila mentioned that the former Southview Golf Course is looking "shabby." Mr. Leipzig said that the developer will be reminded to mow that area and keep it mowed during the growing season. The TIF is scheduled for review and approval tomorrow evening at the City Council meeting.

The large hole near the ATM at the Bank of America is the responsibility of the property owner and they have been notified repairs are needed according to Mr. Leipzig.

ADJOURNMENT:

Commissioner VonBehren moved to adjourn the meeting. Councilman Davidson seconded the motion. All voted in favor and the meeting adjourned at 8:28 p.m.

Ann Keeton
Community Development Secretary

CASE #TA09-04

**FORECLOSURE
PROPERTIES**

**REGULAR MEETING
BELTON PLANNING COMMISSION
CITY HALL ANNEX, 520 MAIN STREET
MONDAY, MAY 4, 2009 – 7:00 P.M.**

ASSIGNED STAFF: Robert G. Cooper, City Planner

CASE #TA09-04 (Continue Discussion)

Discussion of a proposed amendment to the Zoning Ordinance regarding registration of properties which are in foreclosure.

DISCUSSION

With the recent increase in the number of properties entering foreclosure, and the potential negative impact that vacant and unmaintained properties may have on a neighborhood, City staff has investigated the adoption of an ordinance that would require the registration of property that is in the process of foreclosure.

The purpose of the registration ordinance is to provide City staff with contact information for the lender of party responsible for maintenance of a property that is in foreclosure. Determining who is responsible for maintenance of a property in foreclosure can be a significant problem for staff. When a responsible party can not be located, the cost for maintaining the property often becomes the responsibility of the City. Typically, maintenance issues that occur with foreclosure properties include mowing of tall grass, securing the structure or property, or removal of water from an unused pool.

Lee's Summit, Missouri adopted one of the first ordinances in the Country to combat this problem, and has become one of the model ordinances that communities have utilized. City staff has based the proposed Belton ordinance on this model. Similar ordinances have recently been adopted in several Kansas City metropolitan communities.

The requirements of the proposed ordinance are simple. Any property within the City which is in the foreclosure process must be registered with the City and inspected to ensure compliance with City codes. The registration form requires listing of contact information for the lender and any other responsible party, and for a local property management company, if one is hired, who is responsible for maintenance of the property. There is no fee to register the property. The City will maintain the listing of registered properties and the information will only be utilized when contact is necessary due to a code enforcement issue.

City staff believes adoption of a foreclosure property registration ordinance may be beneficial to the Code Enforcement Officer in their efforts to ensure all property in the City is being properly maintained. Having contact information available would reduce delays in having violations corrected.

PROPOSED ORDINANCE

REGISTRATION

- A. *If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned and the beneficiary shall, within ten (10) days register the property with the Community Development Director or his/her designee on forms provided by the City.*
- B. *The registration shall contain the full legal name of the beneficiary and the registered representative, the direct street/office mailing address of the beneficiary and the registered representative (no P.O. Boxes), a direct contact name and phone number for the beneficiary and registered representative, and, if applicable, the local property management company responsible for the security, maintenance and/or marketing of the property.*
- C. *The registration shall be valid as long as the subject property remains vacant and shall be amended as needed.*
- D. *This section shall also apply to properties that have been subject of a foreclosure sale where title to the property was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.*
- E. *Properties subject to this Article shall remain under the security and maintenance standards of this section as long as they remain vacant.*
- F. *Any person, firm or corporation that has registered a property under this Article must report any change of information contained in the registration within ten (10) days of the change.*
- G. *If the beneficiary is an Out of Area beneficiary, a local property management company shall be contracted to ensure that the requirements of this Article, and other applicable laws, are being met.*

MAINTENANCE REQUIREMENTS

Properties subject to this Article shall be maintained so as to be in compliance with City code. Adherence to this section does not relieve the beneficiary or property owner of any obligations set forth in any Covenants, Conditions and Restrictions or Home Owners Association rules and regulations which may apply to the property.

SECURITY REQUIREMENTS

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and

locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows "securing" means the re-glazing or boarding of the windows.

COMPLIANCE WITH OTHER AUTHORITY

The requirements of this Article are in addition to any other maintenance and security measures required by the Code of Ordinances. The requirements of this Article shall not serve to lessen or abrogate any other applicable provisions of the Code of Ordinances.

VIOLATIONS

Any beneficiary, registered representative, or local property maintenance company that violates any provision of this Article shall be in violation of this Article, and summons may be issued against the beneficiary's representative for such violation. In addition to any other penalties which may be assessed for a violation of this Article, any person or entity who violates a provision of this Article shall be assessed a fine of \$500.00 per violation.

STAFF COMMENT

It is the purpose and intent through the adoption of this Article, to establish a program for registration of properties which are in the process of foreclosure as a mechanism to protect residential neighborhoods and non-residential areas from becoming blighted through the lack of adequate maintenance and/or security of the property.

STAFF RECOMMENDATION

Upon approval of the Planning Commission, schedule a Public Hearing to receive comment on the proposed foreclosure ordinance. Due to the Star Herald's publication deadline constraints, the earliest meeting date will be on Monday, May 18, 2009.

CASE #TA09-08

USED CAR LOTS

**REGULAR MEETING
BELTON PLANNING COMMISSION
CITY HALL ANNEX, 520 MAIN STREET
MONDAY, MAY 4, 2009 – 7:00 P.M.**

STAFF PRESENTATION: Robert G. Cooper, City Planner

CASE #TA09-08 (Continued Discussion)

Consideration of a Text Amendment to the City's Zoning Ordinance; defining "Automobile Sales Lot" and to require a Special Use Permit for all New and Used Car Lots located within the C-2 (General Commercial) District.

DISCUSSION

The purpose of amending the Zoning Ordinance allowing new and used car lots within a C-2 (General Commercial) zoning district with a Special Use Permit is to address the numerous new and used car lots being located primarily along the North Scott corridor. Many of the existing car lots are situated side-by-side. The close proximity of these car lots has created nuisance issues and hazardous traffic concerns.

The Planning Commission has previously met with staff and discussed such issues as the compatibility and placement of car lots; the visual characteristics of this type of use and whether the ordinance needed to be amended.

The need for a clear definition addressing "automobile sales lot" was also discussed. Currently, the Zoning Ordinance does not address the term. The Commission felt that by adopting a definition as established by the proposed ordinance will effectively enhance the review and approval process.

During the April 20, 2009 Planning Commission meeting, the Commission directed staff to formally propose new language addressing the car lot issues and concerns. It was the general consensus of the Commission that a Special Use Permit is required for any new and used car lot dealerships wishing to operate within a designated C-2 (General Commercial) zoning district. During the review process of the Special Use Permit, staff will evaluate each proposed location based on its own unique characteristics, using the guidelines already established in the Zoning Ordinance and Municipal Code.

PROPOSED TEXT AMENDMENT

DEFINITION: "AUTOMOBILE SALES YARD" {add to Article I, Section 6(11)(A) / of the Zoning Ordinance.

"Premises on which new or used passenger automobiles, trailer, mobile homes, or trucks in operating condition are displayed in the open for sale or trade."

In addition, staff recommends amending 'Appendix A' of the Zoning Ordinance, indicating a Special Use Permit is required for – 1. New and Used Car Dealers (*Group No. 551*); and 2. Used Car Dealers (*Group No. 552*).

STAFF RECOMMENDATION

Fire, Community Development and Engineering staff support a recommendation to approve the zoning text amendment to allow New and Used Car Lots in a C-2 (General Commercial) District with a Special Use Permit.

PLANNING COMMISSION ACTION

1. Motion to recommend *approval / denial* of amending the zoning ordinance to accept the proposed definition of 'Automobile Sales Lot' and amend Appendix A of the Zoning Ordinance, requiring a Special Use Permit for new or used car sales lot in a C-2 (General Commercial) District.
2. Motion to continue the case pending additional information.

CASE #TA09-09

ELECTRIC FENCES

DATE: May 4, 2009

TO: Planning Commission

FROM: Robert G. Cooper, City Planner
Jay Leipzig, Planning & Community Development Director

RE: **DISCUSSION: ALLOWANCE OF ELECTRIFIED FENCES IN
AGRICULTURAL ZONING DISTRICTS**

Purpose of Meeting:

The purpose of the meeting is: 1) to discuss a proposed text amendment that would prohibit electrified fences in Residential and Commercial zoning districts, thereby allowing electrified fences in Agricultural and Industrial Zoning Districts if certain standards and parameters are established. The Zoning Ordinance is currently silent on the prohibition of electric fences.

STAFF REPORT

Staff Request: Staff recommends drafting language which specifically prohibits electrical fences in Residential and Commercial zoning districts. Staff would also recommend that electrified fences only be permitted in Agricultural and Industrial zoning districts only if certain standards and parameters are established. The focus of discussion is the result of a recently installed electrical fence at a newly constructed development, which recently installed electrical fencing along the entire perimeter of the site.

The Zoning Ordinance currently does not address electrified fences. Staff has conducted a survey of adjoining cities and jurisdictions in determining whether they allow electrical fences and if so, what are the standards and/or requirements for installation. The information gathered indicates, very few jurisdictions allow electrical fences, and if they do, they're only allowed in Agricultural or farming zoning districts. There are electrical fences in a limited number of Industrial Districts, but only after extensive review.

There are National Standards as established by either, the North American Industry Classification System (NAICS), American Society for Testing and Materials (ASTM) or UL listed products, which the Belton Fire Marshal's Office uses as a standard. Typically, the Fire Department does not allow anything which is not UL Listed. The review process is complicated due to the fact that electrical fences are not UL listed standardized product.

However, staff is recommending that electrical fences could be reviewed through a Use Permitted Upon Review process. This review would consider basic elements to determine the overall dimensions of the proposed fence, its intended use, voltage and watt restrictions to minimize health risks, determine appropriate and clearly designated signage, emergency access and shut off procedures, and height restrictions. Requiring applicants to apply for a Use Permitted Upon Review will aid in enforcement and establish approvals through an open hearing process.

DISCUSSION CONSIDERATION

Should the Planning Commission wish to direct staff to draft language prohibiting electrified fences only in Agricultural zoning districts, and specifically prohibiting them in Residential and Commercial zoning districts, staff offers the following suggestions:

1. Electrified fences in Agricultural Districts will require a permit;
2. Electrified fences in Agricultural Districts may only be used for the control of livestock, and clearly demonstrated agricultural purposes.
3. Language should be drafted that specifically prohibits electrical fences in all Residential and Commercial zoning districts;
4. Electrical fences should be permitted in Industrial Zoning Districts in a Use Permitted Upon Review process. This review should consider basic elements to determine the overall dimensions of the proposed fence, its intended use, voltage and watt restrictions to minimize health risks, determine appropriate and clearly designated signage, emergency access and shut off procedures, and height restrictions.
5. Exemption – underground electrical fences located in residential zoning districts used to fence-in family pets.

COMMISSION OPTIONS:

1. Direct staff to draft language establishing guidelines for electrical fences.
2. Continue to the next regularly scheduled meeting for further discussion.

**UNIFIED
DEVELOPMENT
CODE**

DATE: May 4, 2009
TO: Planning Commission
FROM: Robert G. Cooper, City Planner
Jay Leipzig, Planning & Community Development Director
RE: **DISCUSSION: UNIFIED DEVELOPMENT CODE / Introductory Provisions; and Enforcement.**

Purpose of Meeting:

The purpose of the meeting is: 1) to discuss and establish a comprehensive development code as a Unified Development Ordinance. This meeting will be dedicated to discussing Introductory Provisions; and Enforcement.

STAFF REPORT

INTRODUCTORY PROVISIONS -

Title.

This Title will be known and may be cited and referred to as the "Unified Development Code" of the City of Belton, Missouri. For convenience, it is also referred to throughout as "this Code".

Effective Date.

The provisions of this Code become effective on _____.

Applicability and Jurisdictional Area.

The provisions of the Unified Development Code will apply to all structures and land in the incorporated area of Belton, Missouri.

Purpose and Intent.

This Code, adopted pursuant to the provisions of Chapter 89, RSMo., is intended to serve the following purposes:

- A. to promote the health, safety, morals, comfort and general welfare of the City; and
- B. to preserve and protect property values throughout the City; and
- C. to restrict and regulate the height, number of stories and size of buildings, the percentage of lot coverage; the size of yards; courts and other open spaces; the density of population; the preservation of features of historical significance; and
- D. to provide for orderly development in coordination with existing streets, utilities and public facilities; and
- E. to divide the City into zones and districts; and
- F. to regulate and restrict the location and use of buildings within each district or zone, and to create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewage, schools, parks, public facilities and other facilities; and
- G. to minimize public and private losses due to erosion, siltation and water pollution; and
- H. to maintain stream water quality by provisions designed to create buffer zones along streams for the protection of water resources and minimize land development within

buffers by establishing buffer zone requirements and by requiring authorization for any such activities, and

- I. to lessen congestion on public ways; and
- J. to prevent the overcrowding of land; and
- K. to avoid undue concentration of population; and
- L. to facilitate adequate provisions for transportation, water, sewerage, schools, parks, and other requirements; and
- M. secure safety from fire, flood water, panic, and other dangers.

Zoning Map.

The boundaries and location of the zoning districts as defined by this Code as identified on the Official Zoning Map, entitled "Zoning Map of the City of Belton, Missouri". The Official Zoning Map, together with all notations, references and information shown on the map is hereby incorporated by reference and made part of this Code. The map must remain on file and available to the public in the office of the Community Development Director.

Interpretation of Zoning District Boundaries.

Where uncertainty exists with respect to the zoning district boundaries, the zoning district boundaries will be construed as follows:

- A. corporate limits;
- B. United States public land survey lines;
- C. property lines;
- D. centerlines of streets, alleys, waterways, easements and railroad rights-of-way lines or extensions of such lines; or
- E. Where they do not coincide with the above, the district boundaries will be determined by the use of the scale shown on the Official Zoning Map.

Annexed Land.

A. Voluntary Annexations

Applications for any and all land to be voluntarily annexed into the City shall have a statutorily affirmed right to use either (1) an Extended Option or (2) an Abbreviated Option. Planning staff shall provide all applicants for annexation with information related to both Extended and Abbreviated Procedures but make no recommendations.

1. The Extended Option shall follow all the provisions and procedures as established under the provisions of Chapter 71.012, RSMo., as amended.
2. The Abbreviated Option shall follow all the provisions and procedures as established under the provisions of Chapter 71.014, RSMo., as amended.

a. Procedural Requirements

- (1) Verified petition requesting annexation signed by all fee owners of all affected tracts.
- (2) No signature is required to include public property or other property not subject to a fee interest.
- (3) No public hearing is required nor any written objection permitted.
- (4) The sole requirement is for the territory to be contiguous and compact to the existing corporate limits.

3. Following receipt of either the extended or the abbreviated verified petition, the Council shall vote to either accept or deny the annexation request. Action shall be taken within 60-days.
4. Upon adoption, the City Clerk shall file two certified copies of the ordinance with the County Clerk and one certified copy with the election authority if an election authority exists. Completion of these steps completes the annexation and entitles the extended corporate limits to judicial notice.

B. Involuntary Annexations.

To involuntarily annex property into the corporate limits of the City of Belton, the provisions and procedures established by Section 71.015, RSMo., as amended, shall be complied with in full. The City of Belton shall proceed under an involuntary annexation procedure when:

1. A written objection has been filed as outlined in Section 71.012, RSMo.,
2. When not all of the owners of a tract to be annexed have consented to, and signed the verified petition as provided in Section 71.012, RSMo.;
3. When the City desires to annex property without the consent of the owners as outlined in Section 71.015, RSMo.

C. Zoning of Annexed Property.

All real property that is voluntarily or involuntarily annexed into the corporate limits of the City of Belton pursuant to the provisions of this chapter shall retain the zoning designation originally established by the County. The zoning designation shall be retained until the annexed real property is appropriately rezoned in accordance with the requirements and procedures established by the City of Belton as provided for in Chapter 89, RSMo., as amended. These requirements shall include, but not limited to, the notice and public hearing requirements incorporated by this Code and the Zoning Enabling Act, as provided for in Chapter 89, RSMo., as amended.

Word Usage and Construction of Language.

A. Meaning and Intent

All provisions, terms, phrases and expressions used in this Code will be construed according to the purpose and intent set out in the Code.

B. Headings, Illustrations and Text.

In case of any difference of meaning or implication between the text of this Code and any heading, drawing, table, figure or illustration, the text controls.

C. Lists and Examples.

Unless otherwise specifically indicated, lists of items or examples that use terms such as "including", "such as," or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.

D. Computation of Time.

The time in which an act is to be done will be computed by excluding the first day and including the last day. If the last day is a Sunday or legal holiday observed by the City, that day will be excluded. When the period of time prescribed or allowed is less than seven days, intermediate Sundays and legal holidays observed by the City will

be excluded in the computation. Any half holidays will not be counted as a legal holiday for purposes of this Code.

E. References to Other Regulations, Publications and Documents.

Whenever reference is made to a resolution, ordinance, statute, regulation or document, that reference will be construed as referring to the most recent edition of such resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

F. Delegation of Authority.

Whenever a provision appears requiring the head of a department or another officer or employee of the City to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority.

G. Technical and Non-Technical Terms.

Words and phrases will be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law will be construed and understood according to such meaning.

H. Public Officials and Agencies.

All public officials, bodies and agencies to which references are made are those of the City of Belton, unless otherwise expressly provided.

I. Mandatory and Discretionary Terms.

The words "shall" and "will" and "must" are mandatory. The words "may" and "should" are discretionary and advisory terms.

J. Conjunctions.

Unless the context clearly suggests the contrary, conjunctions will be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions or events apply; and
2. "Or" indicates that one or more of the connected items, conditions, provisions or events may apply.

K. Tenses and Plurals.

Words used in one tense (past, present or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural and the plural includes the singular.

L. Other Rules.

In the construction of the Unified Development Code, the provisions and rules of this section must be preserved and applied, except when the context clearly requires otherwise:

1. the phrase "used for" will include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for",

2. the word “person” includes individual, firms, corporations, associations, governmental bodies, and agencies, and all other legal entities;
3. the abbreviation “N/A” means not applicable;
4. the word “City” means City of Belton, Missouri;
5. the word “Council” means the Belton City Council;
6. the word “Director” means the Community Planning & Development Director;
7. the word “Commission” means the Planning and Zoning Commission;
8. the word “Board” means the Board of Zoning Adjustment;
9. unless otherwise specified, all distances will be measured horizontally; and
10. the term “Comprehensive Plan”, “Growth Management Plan” and “City Plan” mean the Growth Management Plan adopted by the Planning and Zoning Commission in accordance with Section 89.300 et seq., RSMo., and as from time to time amended.

M. Interpretation

1. Minimum Requirements.

In their interpretation and application, the provisions of this Code will be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

2. Conflicting or Overlapping Regulations.

a. Conflict or Overlap with State and Federal Regulations.

If the provisions of this Code are either more restrictive or less restrictive than comparable conditions imposed by the state or federal government, the regulations which are more restrictive will govern, to the extent permitted by law.

b. Conflict or Overlap with Other City Regulations.

If the provisions of this Code are inconsistent with one another, or if they conflict with provisions found in other adopted City ordinances the more restrictive provision will control. No text amendment, variance or special use permit or any other development approval under this Code may diminish the provisions of any other more restrictive City ordinance.

c. Conflict or Overlap with Private Agreements.

This Code is not intended to abrogate, annul or otherwise interfere with any private easement, covenant, restriction, agreement or legal relationship; provided however, that where the provisions of this Code are more restrictive (or impose higher standards of requirements) than such easement, covenants or other private agreements or legal relationship, the provisions of this Code will govern. The City does not enforce private agreements, easements, covenants or restrictions except those specifically required for the administration and enforcement of this Code, even where the private agreements are more restrictive than the provisions of this Code.

N. Development Agreements and Memorandums of Understanding.

Terms and conditions agreed to as part of an approved development agreement or memorandum of understanding are in addition to the requirements of this Code.

Exemption.

The following structures and uses are exempt from the provisions of this Code:

- A. Poles, wires, cables, conduits, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations or accessory utility facilities located on or above the surface of the ground.
- B. Railroad tracks, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.
- C. Signs exempted from regulation.

Transitional Provisions.**A. Violations Continue.**

Any violation of the previous zoning or subdivision regulations of the City will continue to be a violation under this Code and will be subject to penalties and enforcement unless the use, development, construction or other activity is consistent with the express terms of this Code, in which case enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date specified.

B. Completion of Development.**1. Permits Issued Before Effective Date.**

Any building, development or sign for which a permit was lawfully issued before the effective date specified may be completed in conformance with the issued permit. If the building, development or sign is not completed within the time allowed under the original permit, then the building, development or sign shall be constructed, completed or occupied only in strict compliance with this Code.

2. Preliminary Plats Approved Before Effective Date.

If a preliminary plat was approved before the effective date specified, final plat approval may be granted in accordance with the preliminary plat. Final Plats shall comply with all requirements of this Code.

3. Preliminary Development Plans Approved Before Effective Date.

If a preliminary development plan for a planned unit development was approved before the effective date, final plat approval may be granted in accordance with the preliminary plan. Final plats shall comply with all requirements of this Code.

C. Special Uses.

- 1. Any use that was legally established before the effective date specified without a special use permit and which after the effective date is located within a zoning district that requires a special use permit for the subject use under this Code, will be issued a special use permit without following the procedures. The use and any proposed expansions or modifications will be

subject to all applicable standards of this Code, including any new or modified use standards and the regulations for nonconformities.

2. Any use that was legally established before the effective date specified by a special use permit and which after the effective date is located within a zoning district that requires a special use permit for the subject use, may continue to be operated under the terms of the original special use permit. The use and any proposed expansions or modifications will be subject to all applicable standards of this Code, including any new or modified use standards and the regulations for nonconformities.
3. Any use that was legally established before the effective date specified with a special use permit and which after the effective date is located within a zoning district that does not require a special use permit for the subject use, will continue to be subject to all applicable standards of this Code, including any new or modified use standards and the regulations for nonconformities. Conditions established as part of the original approval of the special use permit shall remain in effect and be continuously followed.

Severability.

It is hereby declared to be the intention of the City that the provisions of this Code are sparable, in accordance with the following rules:

- A. If any court or competent jurisdiction will adjudge any provision of this Code to be invalid, such judgment will not affect any other provisions of this Code.
- B. If any court or competent jurisdiction will adjudge invalid the application of any provision of this Code to a particular property or structure, such judgment will not affect the application of said provisions to any other property or structure.

Responsibility For Enforcement.

The Community Development Director is responsible for enforcing this Code, unless otherwise expressly stated.

Types of Violations.

Unless otherwise expressly allowed by this Code or by state, federal or local law, any violation of this Code will be subject to the remedies and penalties provided in this Chapter. Violations include, but are not limited to the following:

- A. failure to comply with any provision of this Code;
- B. to engage in construction, development, subdivision of land or use of land or buildings in a way not consistent with the requirements of this Code;
- C. to engage in construction, development, subdivision of land or use of land or buildings without all of the required permits, approvals, certifications, and other forms of authorization required by this Code;
- D. to engage in construction, development, subdivision of land or use of land or buildings in any way not consistent with the terms and conditions of any permit, approval, certificate or other form of authorization required by this Code, or any conditions placed by the Community Development Director, Planning and Zoning Commission, Board of Zoning Adjustment, or City Council on such authorization;
- E. to occupy or use any building or structure prior to completion of final inspection or issuance of a certificate of occupancy as required by this Code.
- F. To reduce any lot area so that setbacks or other dimensional standards are smaller than required by this Code and any approved plats or plans;

- G. To increase the intensity of use of any land or structure in any way not consistent with the requirements of this Code;
- H. To install or use a sign in any way not consistent with the requirements of this Code or to fail to remove any sign that is not consistent with the requirements of this Code;
- I. To obscure, obstruct or destroy any notice required to be posted or otherwise given under this Code;
- J. To fail to comply with a Stop Work Order issued under the authority given by this Code;
- K. To alter, damage or remove any improvement required:
 - 1. by this Code;
 - 2. by the Planning and Zoning Commission as part of a site plan approval; or
 - 3. by the City Council as part of an approval granted under the requirements of this Code;
- L. to fail to comply with any condition of approval imposed by the Community Development Director, Planning and Zoning Commission, Board of Zoning Adjustment, or City Council;
- M. to fail to remove any diseased or dead required landscaping and replace with landscaping materials in compliance with City Code; and/or
- N. to continue any of the violations of this section. Each day that a violation continues will be considered a separate offense.

Remedies and Enforcement Powers

The City of Belton has all of the following remedies and enforcement powers:

A. Withholding of Permits.

- 1. The City may withhold or deny all permits, certificates of occupancy and other approvals for any building or structure on land where there is an uncorrected violation of this Code or of a condition of any permit, certificate or other approval previously granted by the City. The City may also grant a permit or approval subject to the condition that the violation be corrected. This provision applies whether or not the current owner is responsible for the violation.
- 2. The City may also withhold or deny all permits, certificates and other approvals for other land or structures owned or built by a person who caused an uncorrected violation of this Code on another property in the City of Belton.

B. Revocation of Permits.

- 1. Any permit granted under this Code may be revoked when the Community Development Director determines:
 - a. there is a departure from the plans, specifications or other requirements of the terms of the permit;
 - b. the permit was obtained by false representation or was issued by mistake; or
 - c. any provisions of this Code are being violated.
- 2. Written notice of the permit revocation must be served on the owner, owner's agent or contractor or must be posted in a prominent location; thereafter, no further construction may proceed.

C. Revocation of Plans or Other Approvals.

When a violation of this Code involves a failure to comply with approved plans or conditions of approval, the Community Development Director may revoke any plan or approval or condition its continuance on strict compliance plus provision of security. The Community Development Director must provide notice to the person found to be in violation.

D. Stop Work Orders.

The Community Development Director may issue stop work order, with or without revocation of permits, for any building or structure on land where there is an uncorrected violation of this Code, any permit or other approval granted under this Code.

E. Citation.

The Community Development Director may issue a citation to the property owner, tenant or person responsible for a violation of this Code.

F. Injunctive Relief.

The city may seek an injunction or other equitable relief in court to stop any violation of this Code or of a permit, certificate or other form of authorization granted under this Code.

G. Abatement.

The city may seek a court order in the nature of injunction, mandamus, abatement or other action to abate or remove a violation or to otherwise restore the premises in question to its condition prior to the violation.

H. Remedy of Sign Violation.

1. The Community Development Director has the authority to order the removal and disposal of any temporary sign in violation of this chapter or any other sign that has remained in violation of this Code for more than 30-days after a judgment against the violator.
2. The City Council may impose a tax lien against the property of the violator to recover costs incurred by the City to remedy the situation including the costs of investigation, prosecution, removal and any other cost related to the violation.
3. The Code Enforcement Officer or his/her agent may remove snipe or other prohibited signs.
4. Any sign installed or placed in the right-of-way or on public property will be deemed an unlawful sign and will be subject to immediate removal and disposal by the City, without compensation to the owner. The owner or other person placing the sign will be subject to the penalty provision of this chapter.

I. Penalties.

A person, firm or corporation who violates any provision of the Unified Development Code will be guilty of a misdemeanor and upon conviction will be fined not less than \$100.00 and not more than \$500.00 and/or by imprisonment for up to 90-days in the County jail, at the discretion of the Court. Each day of violation constitutes a separate offense.

J. Other Remedies.

The City will have such other remedies and enforcement powers as may be granted from time to time by Missouri law and the City Code.

Enforcement Procedures.

A. Emergency Matters.

When a violation of the Unified Development Code results in an emergency situation as a result of safety concerns or violations that will create increased problems or costs if not immediately remedied, the city may use the enforcement powers granted by this chapter without prior notice, but the Community Development Director must attempt to give notice to the property owner or person who is party to an agreement or relevant permit simultaneously with beginning enforcement action.

B. Non-Emergency Matters.

1. When a violation of the Unified Development Code does not result in an emergency situation, the Community Development Director must give notice of the violation to the property owner, tenant or another person who is party to a relevant agreement or permit.
2. Notice must be given in person, by U.S. mail or by posting notice in a prominent location on the premises. Notice must state the nature of the violation and the time period for compliance, and may state what corrective steps are necessary and the nature of penalties and enforcement actions that may result if the situation is not corrected.
3. The persons receiving the notice will have 10-days to correct the violation before further enforcement action will be taken.
4. If the violation is not corrected within the allotted time, the Community Development Director may impose one or more of the remedies listed.
5. Any sign placed within the right-of-way may be removed immediately, without notice, by the city.

COMMISSION OPTIONS:

1. Discuss and accept the proposed Unified Development Code, Introductory Provisions and Enforcement section.
2. Continue to the next regularly scheduled meeting for further discussion.