



**AGENDA
BELTON PLANNING COMMISSION
CITY OF BELTON
REGULAR MEETING
MONDAY, DECEMBER 21, 2009 - 7:00 P.M.
CITY HALL ANNEX
520 MAIN STREET**

I. CALL REGULAR MEETING TO ORDER

II. ROLL CALL

III. APPROVAL OF MINUTES OF DECEMBER 7, 2009, MEETING.

IV. PUBLIC HEARING:

A. CASE #RZ09-24: SUBMITTED BY THOMAS CLEMONS, ON BEHALF OF WIL-CHEV LAND DEVELOPMENT, LLC, A CONSIDERATION TO VACATE ALL UTILITY EASEMENTS AND STREET RIGHTS-OF-WAY AS WELL AS REZONING (OR DOWN ZONING) TO AG (AGRICULTURAL), FROM R-1 (SINGLE-FAMILY RESIDENTIAL) DISTRICT FOR THE 68.7 ACRE RESIDENTIAL SUBDIVISION, FORMALLY PLATTED AS SUNRISE GARDENS LOCATED NORTH OF CAMBRIDGE ROAD AND WEST OF MULLEN ROAD.

V. DIRECTOR'S REPORT

VI. NEXT MEETING: JANUARY 4, 2010

VII. ADJOURNMENT

MINUTES OF MEETING

DECEMBER 7, 2009

Minutes of Meeting
Belton Planning Commission
City Hall Annex – 520 Main Street
December 7, 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, and Larry Thompson.

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

Absent: Commissioner Roger Horne.

MINUTES

Commissioner Thompson moved to approve the minutes of the November 16, 2009, Planning Commission meeting. Mayor Pro Tem Lathrop seconded the motion. All members present voted in favor and the motion carried.

CASE #SUP09-21: SPECIAL USE PERMIT - HEART N' HAND AUTO AT 404 CHERRY

It was announced this application was withdrawn by the applicant.

PUBLIC HEARING – SPECIAL USE PERMIT - HEART N' HAND OUTREACH PROGRAM

Chairman Myers opened the public hearing at 7:02 p.m. This hearing was being held to receive public input regarding a Special Use Permit (SUP) application for Heart n' Hand Ministries Outreach Program at 122 Lillard.

Rick Dawson, Executive Director of Heart n' Hand Ministries, spoke in favor of the SUP application. Mr. Dawson presented a list of activities that are part of the Community Outreach Program and are being held at the Lillard site. He asked the SUP be approved for the following activities:

- Food pantry distribution and storage – distributions on Fridays and two Saturdays a month
- Office hours are Monday – Friday, 8 a.m. – 5 p.m.
- Utility bill and rental assistance
- Life-skill classes evenings 4 – 9 p.m.
- Storage of donated items
- Storage of the work program trailers
- Work program employee and client management
- Periodic staging for donated cars – cars will not be repaired on site
- Erection of an 18 sq. ft. monument sign and one small sign

- Parking of the work program van and a food pantry van
- Parking of up to five employee vehicles
- Periodic garage sales – approximately six per year
- Store fireworks sale tent and equipment – no fireworks stored on site
- Maintenance shop for lawn care
- Large enclosed dumpster
- Canopy sheltered meeting and picnic area
- Court ordered community service site
- Community outreach – picnics, open houses, social gathering
- Future building addition to expand the food bank area

Mr. Dawson reported the organization leases the property from Belton Assembly of God Church.

Mr. Donald Johnson, 126 Lillard, spoke against the SUP application. Mr. Johnson stated he has lived north of the property for 15 years. The property at 122 Lillard was addressed as 124 Lillard in the past according to Mr. Johnson. There have been ongoing issues since the church purchased the property and he reported the organization breaks every code there is to break. It was suggested by Mr. Johnson the organization is such that it needs an occupational license and the associated inspections. The structure on the site appears to be comprised of multiple sheds according to Mr. Johnson.

Mr. Johnson passed around recent pictures he has taken of the property at 122 Lillard. Pictures of auto repairs being done on the property were included. Mr. Johnson emphasized there are cars being repaired on the property and he described the unsightly appearance of cars currently on the site. He went on to say the trash container is not enclosed on all sides; one side is open with trash spilling out.

Mr. Johnson asked to see a copy of the lease Heart n' Hand has with the church to determine liability responsibility. He questioned whether the organization has liability insurance. Some of the nuisance issues associated with the auto repair were mentioned by Mr. Johnson including noise, gas, grease and traffic. He pointed out on the photos the lack of parking at the site.

There is an air conditioner fuse box on the ground and Mr. Johnson reported it is a hazard because water stands at that location. He stated there are many nuisance issues and he asked Commissioners if they would like these issues to occur next to their homes. His stated opinion was that Mr. Dawson is not being upfront about everything. When the organization first came to the property there was a calf on a stand out in front, multiple signs, and overflowing trash containers according to Mr. Johnson. Movies playing loudly were shown at the property until midnight. He suggested the SUP is just a carte blanche for the organization to do whatever they want. Mr. Johnson asked the Commission not to grant the SUP for Heart n' Hand.

Mr. Johnson classified the neighborhood as unique because the church owns much of the property. Another issue brought up by Mr. Johnson was parking. He stated cars are parked in the front yard at 122 Lillard and sometimes drive onto his property to exit. The structure and property were categorized as a fire hazard by Mr. Johnson. There are junk nuisance issues and he suggested a permit should not be issued to a property that has violated City Code. The activities

taking place on the property are not the type that should be taking place in a residential area in Mr. Johnson's opinion. He presented concerns about large donations (e.g. furniture, cars) being stored at the site and the traffic created by garage sales. After listing a few more concerns about the lawn care shop, the community service and a building addition, Mr. Johnson reiterated these activities should be operated in a commercial zoning district, not a residential area.

James Wall, 123 S. East Avenue, stated he lives west of the property. Mr. Wall said he can see the property from his deck. He went on to say he enjoys assisting Heart n' Hand on Wednesdays when people come in to get clothes and household goods. Mr. Wall was concerned the property was going to be used as a halfway house, which he would not favor. He suggested the organization has limited funds and they are making an effort to help people. The old church on Cherry is being used for the youth groups of the church.

Mr. Wall informed the Commissioners that he had a landscape barrier growing on his property to alleviate the site of the property on Lillard, but he received a letter from code enforcement requiring the growth to be cut or he would be fined. Mr. Wall stated he has lived next to the property for 30 years. Mr. Wall suggested fencing to alleviate appearance problems with the property. The structure on the property has had several additions as needed so Mr. Wall agreed that inspections might be beneficial. Mr. Wall commended the effort being made by Heart n' Hand to help area people.

Ms. Wilma Johnson, 126 Lillard spoke against the SUP application. Ms. Johnson reported welding and sales have taken place on the property. The unattractive signs and attention-getting devices were used to advertise the sales according to Ms. Johnson. She stated that she is in favor of charitable acts but the business Heart n' Hand is engaged in should be in a commercial area. Ms. Johnson indicated the narrow road, along with cars from 122 Lillard parked on the street, creates unsafe conditions for children using the street to enter and exit Belton Memorial Park.

Ms. Johnson suggested their property values have dropped because of the unattractive appearance of the property at 122 Lillard. She recommended the church could have youth activities at their main building on North Avenue and move the Heart n' Hand Outreach activities to the old building on Cherry next to Sonic because it is zoned commercial and has a paved parking lot. In conclusion Ms. Johnson voiced concerns about issues relating to the site on Lillard including fire safety, property appearance and safety of children.

COMMISSION DISCUSSION – HEART N' HAND OUTREACH PROGRAM

Chairman Myers suggested that to follow the city ordinance, the case should be continued to allow the Planning Commission Site Plan Review Committee time to review the facts of the case and return to the Commission with a recommendation. He maintained the committee should review the issues and make a recommendation that is in the best interest of the City.

Commission McDonough indicated he would be against approval of the SUP because there are too many activities going on, unless the organization would consider scaling down operations. He compared Commission approval as being the same as giving a license to operate a junk yard. The question was asked about the reason these activities were taking place in a residential area instead of commercial. Mr. Leipzig answered that part of the problem for staff is there are gray

areas because the group is associated with a church. He said staff wanted to get everything on the table that will take place at the site and see a schedule/calendar of the various activities. The goal was to create strict guidelines and enforcement parameters according to Mr. Leipzig. He went on to say that ideally these activities should take place in a commercial zone but he reiterated there is a gray area because of the affiliation with a church. He indicated that it can be allowed but should be in a "controlled" situation with guidelines. If the group is required to get an occupation license, there would be inspections by staff and the structure/property would have to comply with the fire code.

Commissioner Girgin indicated she respects what the ministry is doing for the community but the Commission has an obligation to protect and uphold the interests of the residential homeowners. Councilman Davidson agreed with earlier comments about the ministries good works, but suggested at the same time the outreach program should be a good neighbor. Mr. Cooper reported staff has issued violation notices for various nuisance issues associated with the property on Lillard in the past and the photos that were passed around illustrated some of those issues. Councilman Davidson related a story of another non-profit group that had similar nuisance issues and after pointing these out to the group, they cleaned up the area and kept it clean. He acknowledged the ministry has good intentions but he reiterated they must also be a good neighbor. He recommended the Commission follow the ordinance and let the Committee review the case data.

Mayor Pro Tem Lathrop moved to defer the case to the Planning Commission Site Plan Review Committee for further study. Commissioner Davila seconded the motion. When a vote was taken, the following was recorded: Ayes: 8 – Chairman Myers, Mayor Pro Tem Lathrop, Councilman Davidson, Commissioners Davila, McDonough, Girgin, VonBehren, and Thompson. Noes: none. Absent: 1 – Commissioner Horne. The motion carried.

Chairman Myers continued the public hearing to a future meeting of the Planning Commission. Mr. Leipzig announced the Site Plan Review Committee meetings are open to the public. Mayor Pro Tem Lathrop suggested a notice of the Committee meeting date be sent to the interested parties.

PRESENTATION – 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE (IPMC)
Mr. Leipzig introduced Tamara Schenke, Code Enforcement, who displayed a PowerPoint presentation on the subject of the 2006 IPMC. He said staff is proposing that Chapter 16 Articles I – III, "Minimum Housing Standards" be repealed and the IPMC be adopted by the City. He indicated the IPMC has more detail and will be easier to understand. A few of the topics highlighted by Ms. Schenke were: 1) define responsibilities of property owners and tenants; 2) administrative search warrants; 3) ways to deal with habitual offenders of City Codes; 4) and removal/storage of items removed from a property with an Administrative Search Warrant. She showed pictures of some of the City's problem properties and went into detail about the issues.

At the conclusion of the presentation, Mayor Pro Tem Lathrop questioned Ms. Schenke about the City's costs to store property for 90-days. She answered the removal of items from a property could be put out for bid or the items could be stored at the Street Barn. She stated that often when people are served with an Administrative Search Warrant, it is the impetus needed to get

the property cleaned up. Mayor Pro Tem Lathrop voiced concern because the City just finished cleaning the area around the Street Barn and getting rid of junk. Ms. Schenke stated that trash does not have to be stored but any vehicles would be towed from the problem property and there would be fees associated with the tow. She went on to say that any fees associated with the clean up would be recovered by a lien being placed on the property. Additionally, she said if the owner does not claim the property within 90-days the City could hold an auction and keep the amount of the removal/storage fees from the total of the sale.

Councilman Davidson indicated he is in favor of adopting the IPMC even if there is some expense involved. His stated opinion was that he is not in favor of the prosecuting attorney plea bargaining on these Codes issues. He reported the Council has discussed this issue with the prosecuting attorney in the past. Ms. Schenke stated she is satisfied with the way the prosecuting attorney is currently handling the code violations. Councilman Davidson related a couple of properties with code violations that took an excessive amount of time to get resolved.

Mayor Pro Tem Lathrop mentioned a property that has an ongoing issue of illegally parking cars in the street and on sidewalks. Ms. Schenke informed Commissioners the police department can have cars removed that are parking in the street but code enforcement does not have jurisdiction in the street. He stated there were used cars double parked on the street recently at the site. The cars for sale are often parked on the sidewalks and illegally in the street and the issue has been going on for two years according to Mayor Pro Tem Lathrop.

Mr. Leipzig said staff is still reviewing the IPMC with the city attorney to work out details about the Administrative Search Warrants. This item will go to the City Council in January of 2010.

DIRECTOR'S REPORT

The next planning commission meeting is to be December 21. At that meeting there will be a plat of vacation discussed along with a request to downzone the property from R-1 to Agricultural for the Sunrise Gardens Subdivision. According to Mr. Leipzig, the applicant is requesting this zone change for tax purposes.

The Unified Development Code (UDC) process is still in progress and being reviewed by various departments of the City.

In January a yearend summary of Commission cases/actions will be presented along with an outline proposing next year's topics.

There is nothing new to report about development at the former Southview Golf Course according to Mr. Leipzig.

Mr. Leipzig reported staff did a very preliminary site plan review for Price Chopper in September but nothing new has been submitted since then.

Regarding the Hampton Inn, Mr. Leipzig reported there is a letter of commitment but developers may be waiting until the road construction on 163rd Street is completed.

ADJOURNMENT

Commissioner VonBehren moved to adjourn the meeting. Mayor Pro Tem Lathrop seconded the motion. All members present voted in favor, and the meeting adjourned at 8:08 p.m.

Ann Keeton
Community Development Secretary

VACATE AND RE-ZONE

68.7 ACRES

THOMAS CLEMONS FOR

WILL-CHEV LAND

DEVELOPMENT, LLC

**PLAT OF VACATION AND ZONE CHANGE
'SUNRISE GARDENS SUBDIVISION'**

**BELTON PLANNING COMMISSION
MONDAY, DECEMBER 21, 2009 – 7:00 P.M.
CITY HALL ANNEX, 520 MAIN STREET**

Staff Report: Robert G. Cooper, City Planner

CASE #RZ09-24

Submitted by Thomas Clemons, on behalf of Wil-Chev Land Development, LLC, a consideration to vacate all utility easements and street rights-of-way as well as rezoning (or down zoning) to Ag (Agricultural), from R-1 (Single-Family Residential) district for the 68.7 acre residential subdivision, formally platted as Sunrise Gardens, located north of Cambridge Road and west of Mullen Road.

BACKGROUND

The Planning Commission originally reviewed and approved the preliminary plat for 'Sunrise Gardens' on December 5, 2005, as a single-family residential subdivision. The final plat for the first phase was reviewed and approved by the Planning Commission on May 1, 2006. No site improvements have been made since the City Council approved the final plat on May 9, 2006.

On October 20, 2008, the Planning Commission denied the applicant's request for a zone change from R-1 (Single-Family Residential) to R-3 (Multi-Family Residential / Planned) District, for a proposed high density residential housing development mixed with high density commercial.

REVIEW

In essence, the vacation of the recorded plat of all utility easements and street rights-of-way is requested by the applicant. The owner wishes to revert the platted tract of land to essentially raw ground with generic (or placement) zoning to Ag (Agricultural) district. The developer has been unsuccessful in developing the 69 acre tract of land since it was platted in 2006. Rather than continue paying higher property taxes on land zoned residential, he would prefer paying relatively lower taxes on a track of land zoned agricultural.

STAFF RECOMMENDATION

The City of Belton currently has a public utility (i.e. sanitary sewer lift station) located within the southeast section of the plat, just west of M&G Machine. However, the City will require that the existing 10-ft. sanitary sewer easement, which serves the lift-station, remain in place and shown on county records as a recorded utility easement. (*See Exhibit 'A'*).

Fire, Community Development and Engineering staff, support the recommendation to approve vacating all recorded easements and street rights-of-way with the exception of the sanitary sewer lift-station and associated 10-ft. sanitary sewer easement.

However, Community Development staff can not support a recommendation to approve the zone change from R-1 (Single-Family Residential) to Ag (Agricultural) District, as it is in opposition to the City's Future Land Use Map (FLUM), and the Community Housing Assessment Team report (CHAT).

According to the 2003 CHAT report, Belton has a shortage of housing in the lowest price range, but a more significant shortage in the middle-upper range. Higher income earners are clearly occupying relatively lower value housing, generating a locally generated demand for "move-up" housing.

Based on the available information, the City of Belton would be better served if future growth plans focus on large lot single-family housing, which can be implemented by having single-family residential zoning districts already in place.

PLANNING COMMISSION ACTION

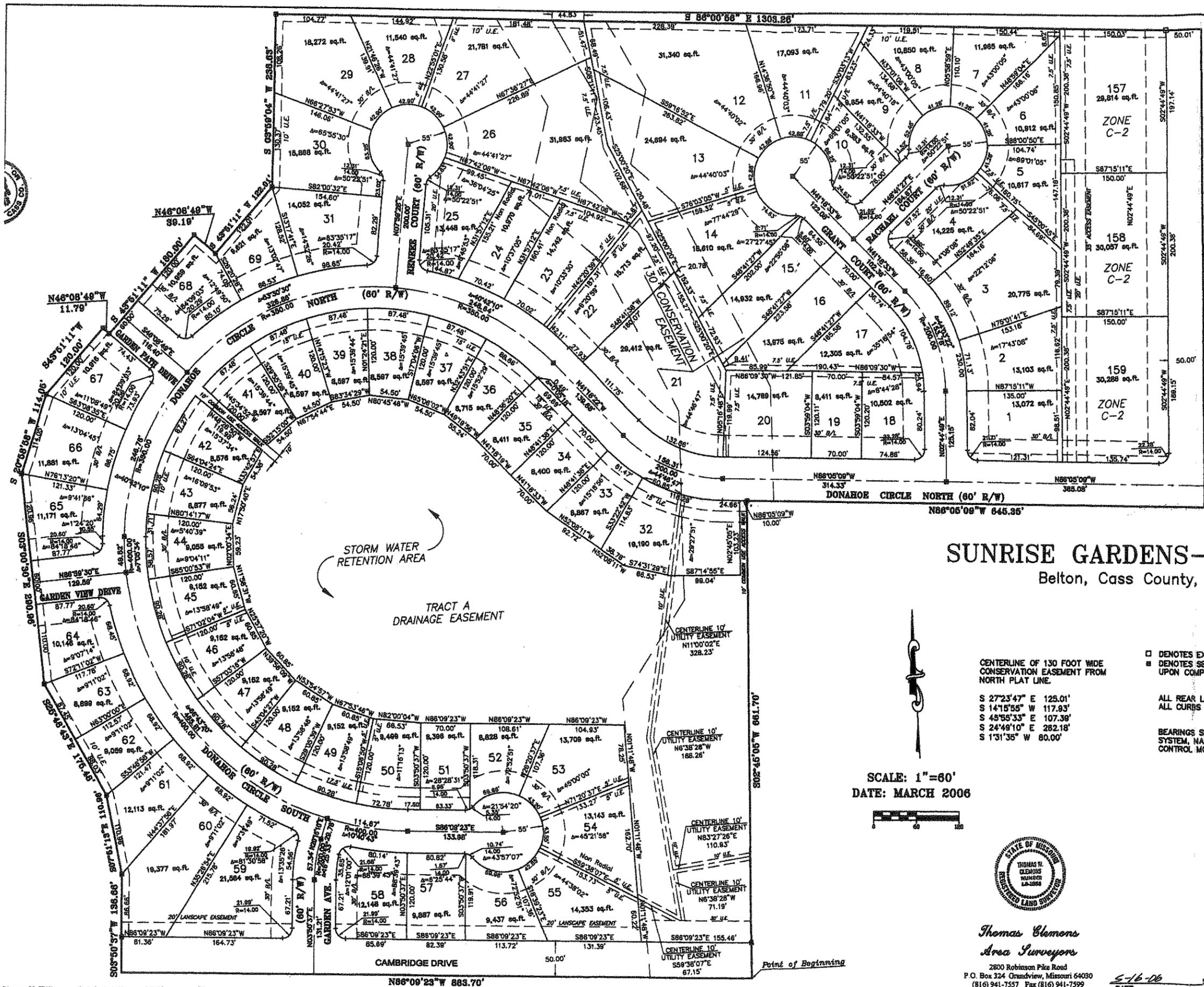
1.
 - a) Motion to recommend *approval* of vacating all recorded easements and street rights-of-way with the exception of the sanitary sewer lift-station and associated 10-ft. sanitary sewer easement as depicted in Exhibit 'A' for a 68.7 acre tract of land located north of Cambridge Road and west of Mullen Road;
 - b) Motion to recommend *approval* of a zone change from R-1 (Single-Family Residential) to Ag (Agricultural) District, for a 68.7 acre tract of land located north of Cambridge Road and west of Mullen Road.
2.
 - a) Motion to recommend *denial* of vacating all recorded easements and street rights-of-way with the exception of the sanitary sewer lift-station and associated 10-ft. sanitary sewer easement as depicted in Exhibit 'A' for a 68.7 acre tract of land located north of Cambridge Road and west of Mullen Road.
 - b) Motion to recommend *denial* of a zone change from R-1 (Single-Family Residential) to Ag (Agricultural) District, for a 68.7 acre tract of land, located north of Cambridge Road and west of Mullen Road.
3.
 - a) Motion to *continue* the case pending additional information.

ATTACHMENTS

1. Copy of Plat
2. Exhibit 'A' (S.S. Lift-Station Easement)
3. Vicinity Map

EXHIBIT 'A'





SUNRISE GARDENS—FIRST PLAT
Belton, Cass County, Missouri.

CENTERLINE OF 130 FOOT WIDE CONSERVATION EASEMENT FROM NORTH PLAT LINE.

- DENOTES EX. 5/8" IRON ROD AND CAP
- DENOTES SET 5/8" IRON ROD AND CAP UPON COMPLETION OF CONSTRUCTION

ALL REAR LOT CORNERS SET WITH 1/2" IRON ROD AND CAP ALL CURBS TO HAVE CUT IN LINE WITH SIDE LOT LINES.

BEARINGS SHOWN ARE BASED ON THE MISSOURI COORDINATE SYSTEM, NAD-1983, WEST ZONE, BY USE OF METRO CONTROL MONUMENT CA-25.

SCALE: 1"=60'
DATE: MARCH 2006



Thomas Clemons
Area Surveyors

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(816) 941-7557 Fax (816) 941-7599

SHEET 2 OF 2

5-16-06
DATE

SIGNED: *Thomas W. Clemons*
THOMAS W. CLEMONS, PLS MO. NO. 1858