

Minutes of Meeting
Belton Planning Commission
City Hall Annex – 520 Main
May 18, 2009

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

ATTENDANCE:

Commission: Chairman Myers, Commissioners Sally Davila, Tim McDonough, Scott VonBehren, Roger Horne, and Larry Thompson.
Staff: Jay Leipzig, Director of Community Planning & Development; Robert Cooper, City Planner; and Ann Keeton, Community Development Secretary.
Absent: Mayor Pro Tem Gary Lathrop, Councilman Bobby Davidson, and Commissioner Holly Girgin.

Chairman Myers stated that Commissioner Girgin has been ill, and Mayor Pro Tem Lathrop and Councilman Davidson were attending a Park Board meeting.

MINUTES: Chairman Myers pointed out there is an error in a case number on the Commission agenda. Commissioner Horne moved to approve the minutes of the May 4, 2009, Commission meeting. Commissioner VonBehren seconded the motion. All present voted in favor and the motion carried.

CASES: Mr. Leipzig reported that Case RP09-12 which was consideration of an amendment to the Final Plat of Fairway Ridge Estates subdivision has been withdrawn by the applicant, and a different final plat proposal will be resubmitted at a meeting in June. Commissioner VonBehren moved to continue Case RP09-12 to a future meeting. Commissioner Horne seconded the motion. All members present voted in favor and the motion carried.

PUBLIC HEARINGS:

Case SUP09-10: Consideration of a Special Use Permit (SUP) to allow a shaved-ice stand to be operated on property located at the corner of Chestnut Street and North Avenue. Chairman Myers called the public hearing to order at 7:06 p.m.

Staff Report: Mr. Cooper gave a description of the proposed location on North Avenue and the past location in Apple Valley Shops, of the shaved ice stand that has operated seasonally in the City. The applicant would like to operate the stand from May to October at the site on North Avenue. An explanation of the applicant's perceived benefits of the new location was presented by Mr. Cooper and those included the central location and accessibility to neighborhood children. The applicant would like the Commission to consider a five-year extension of the SUP, if approved (May 2009 to May 2014). According to Mr. Cooper, the five-year extension is being requested to save the City time and the costs associated with the yearly SUP process.

Celia Holman, Lake Winnebago, spoke in favor of the SUP. She stated the stand has been operated in the City several years. Her husband, Kevin Holman, is the applicant. The stated reasons for approval of the request were:

- Mr. Holman actively participates in teaching the staff responsibility
- Teaches staff customer service
- Useful for City
- Works with local school districts
- Encourages staff to keep property clean
- Hires Belton and Raymore teen staff

Ms. Holman stated the shaved ice stand was not open in 2008, but has operated several years at either the property on North Avenue or the Apple Valley shopping center.

Chairman Myers pointed out that in the past the Commission preferred to review the shaved ice stand SUP each year to safeguard against problems that might arise in the operation of the business. Issues that might result from the sale of the property during the requested five-year period were talked about.

Mr. Cooper reported that City staff has never received any complaints from citizens about the operation of the shaved ice business. He went on to state the business has always been a clean operation. Mr. Leipzig recommended the Commission stipulate as a condition of the SUP that there be no other uses on the property. Additionally, it was stated that the portable building must be removed after the business closes in October.

There was no further input and Chairman Myers closed the public hearing at 7:16 p.m.

Commission Discussion: During discussion, the requested five-year extension for the SUP was debated. It was explained by Ms. Holman there is a verbal five-year lease on the property, but if the Commission does not approve a five-year SUP extension, the Holman's will not accept the five-year lease and will negotiate the lease yearly. Favorable comments about the history of the business and its operation were made by Commissioners Thompson and McDonough. Ms. Holman stated she understands the verbal lease is for the whole property, not just one piece of the property. It was emphasized that the Commission would like the shaved ice business to be the only occupant of the property. Mr. Cooper suggested the SUP could be approved with a five-year extension on the condition that it is brought back to the Commission for review if any problems arise during the operation of the business.

Commissioner Horne brought up a BBQ SUP application that was submitted a few years ago which was not approved by the Commission. Mr. Cooper explained the differences between the BBQ stand application and the shaved ice stand application. One reason given by Mr. Cooper was the difference in appearance of the proposed portable stands. Chairman Myers stated he would not be opposed to a five-year extension if the Commission has the option to review the SUP if problems arise. Commissioner Horne stated that since the business has operated in the City for at least three years, **he moved to recommend approval of the SUP application with a five-year extension for the Tropical Sno business on property located at Chestnut Street and North Avenue with the following conditions: 1) There is to be no other use permitted on the property, 2) The portable building is to be removed from the property after the business closes in October, and 3) The SUP can be reviewed by the Commission during the**

five-year period if problems develop. Commissioner Thompson seconded the motion. When a vote was taken, the following was recorded, Ayes: 6 – Chairman Myers, Commissioners Davila, McDonough, Thompson, Horne, and VonBehren. Noes: none. Absent: 3 – Mayor Pro Tem Lathrop, Councilman Davidson, and Commissioner Girgin. The motion carried.

Case #TA09-08: Consideration of a text amendment to require a Special Use Permit for all new and used car lots in C-2 zoning districts.

Chairman Myers opened the public hearing at 7:25 p.m.

Mr. Cooper reported the Commission had discussed at an earlier meeting allowing automobile sales in C-2 zone with a SUP. He identified the changes made to the proposed definition of “Automobile Sales Lot.” The amended proposed definition reads: “Premises on which new or used passenger automobiles; trailers; mobile homes; motorcycles; RV’s; ATV’s; or trucks in operating condition are displayed in the open for sale or trade.” Appendix A will also be amended to show that new and used car dealers will require a SUP according to Mr. Cooper.

There was no one present to speak in favor or against the SUP so Chairman Myers closed the public hearing at 7:26 p.m.

Commission Discussion: Commissioner VonBehren initiated a discussion about the penalty for violating the SUP requirement, specifically those persons that sell a few cars from business parking lots, not approved car lots. Commissioner Thompson reported that within a one block area on North Avenue, there are three business properties with approximately 12+ cars for sale, and the businesses are not approved car lots. Staff stated that code enforcement can monitor those businesses and check for an occupation license approved for used car sales and a car dealer’s license. If the business does not produce these documents, then the owner can be ticketed. Concerning the enforcement of cars being displayed / sold in a parking lot, Mr. Cooper stated that the property owner would be notified and code enforcement would contact the car owners about removal from the property. Mr. Leipzig reiterated the property owners would be notified and the car owners would be contacted. Commissioner Thompson said he believes warning notices on cars will discourage the owners from displaying their cars on lots, but he cautioned that some cars are for sale by wholesale dealers. Mr. Leipzig informed Commissioners that noncompliance will result in tickets, summons, fines, and the vehicles will be towed. He went on to explain the City will initially have the expense of towing the vehicles, but the car owner will be billed for the cost of the tow. It was stated a warning will be issued to car owners to make them aware of the violation and they will be given time to resolve the issue before further action is taken. **Commissioner Horne moved to recommend approval of amendments to the zoning ordinance to accept the definition of “Automobile Sales Lot,” and Appendix A requiring a Special Use Permit for new or used car sales lots in a C-2 (General Commercial) district.** Commissioner Davila seconded the motion. When a vote was taken, the following was recorded, Ayes: 6 – Chairman Myers, Commissioners Davila, McDonough, Thompson, Horne, and VonBehren. Noes: none. Absent: 3 – Mayor Pro Tem Lathrop, Councilman Davidson, and Commissioner Girgin. The motion carried.

Case #TA09-09: Consideration of a text amendment to prohibit electrified fences in residential and commercial zoning districts. Chairman Myers opened the public hearing at 7:33 p.m.

Staff Report: Mr. Leipzig reported that electrical fences would be allowed in Agricultural zoning districts, and allowed in Industrial zoning districts with a SUP and review by staff. He presented recommendations regarding staff review of SUP applications for electrical fences in Industrial districts which included: fence dimensions, intended use, voltage, watt and height restrictions, signage, and emergency access and shut off procedures. The proposed amendment is: “Electric Fencing: The installation of aboveground electric fences shall be prohibited in all residential and commercial zoning districts. Electric fences shall be permitted in the A (Agricultural) district only when used for agricultural purposes. Electric fences utilized in an industrial zoning district will require an approved special use permit. Exemption: underground electrical fences located in residential zoning districts used to fence in family pets.

As there was no public input, Chairman Myers closed the public hearing at 7:35 p.m.

Commission Discussion: **Commissioner Thompson moved to recommend approval of the proposed amendment to the zoning ordinance regarding electric fences.** Commissioner McDonough seconded the motion. When a vote was taken, the following was recorded, Ayes: 6 – Chairman Myers, Commissioners Davila, McDonough, Thompson, Horne, and VonBehren. Noes: none. Absent: 3 – Mayor Pro Tem Lathrop, Councilman Davidson, and Commissioner Girgin. The motion carried.

Case #TA09-04: Consideration of a text amendment requiring registration of properties in foreclosure. Chairman Myers opened the public hearing at 7:36 p.m.

Staff Report: Mr. Cooper reported the proposed amendment was discussed at a previous meeting where the Commission recommended the addition of language to the “registration” section of the proposed amendment requiring the contracted property management company to pay all fines and fees associated with the requirements of the article being met.

Being no public input, Chairman Myers closed the public hearing at 7:38 p.m.

Commission Discussion: Commissioner Horne presented a hypothetical example of a property in foreclosure and the bank enlists a real estate company to sell the property which results in the property being sold without the fines being paid. Mr. Leipzig answered that any fines placed on the property would appear in the chain of title that would have to be cleared before the final sale. Liens would be placed on the property according to Mr. Leipzig. **Commissioner Horne moved to recommend approval of the proposed foreclosure registry ordinance.** Commissioner VonBehren seconded the motion. When a vote was taken, the following was recorded, Ayes: 6 – Chairman Myers, Commissioners Davila, McDonough, Thompson, Horne, and VonBehren. Noes: none. Absent: 3 – Mayor Pro Tem Lathrop, Councilman Davidson, and Commissioner Girgin. The motion carried.

Discussion of the Unified Development Ordinance (UDO): Mr. Leipzig reported the first meeting in June will be devoted to discussion of the UDO and a staff member from the city attorney’s office will be present at that meeting.

He told Commissioners one benefit of the UDO is that essentially there are no changes to particular zoning code items, but the changes are the way information is organized for the use

table, the zoning classifications and permitted uses. He went on to report there will be two additional zoning classifications which are an R-3A (Apartment Community Residential District) and a PR (Parks, Recreation and Public Use) district. This will assist with long-term planning for parks and recreation including trails. Chairman Myers gave a brief overview of the UDO implementation schedule. It was reported that on June 1, the Business, Commercial, Industrial, Overlay and Special Purpose districts are topics that will be discussed at the meeting.

It was announced that the City Code of Ordinances is currently going through the recodification process since Belton is now a Charter City. Any reference to land use is being removed from the Code of Ordinance book and will be covered in the Land Use Code book.

DIRECTOR'S REPORT:

Mr. Leipzig informed Commission members the text amendments approved at tonight's meeting will go to the City Council for approval. There will not be any amendment cases in the near future which will allow the Commission time to work on the UDO.

A tree ordinance is being developed in conjunction with the Park Department staff and will eventually be incorporated in the UDO.

Staff is developing an Enhanced Enterprise Zone application. The City can offer tax incentives to businesses if they locate in certain areas of the City. The state has identified tracts of land along North Scott that would qualify as a distressed area. The Enterprise Zone application will be submitted to the state by June 26, 2009. A Board of Directors would be created to review Enhanced Enterprise Zone applications. Mr. Leipzig gave examples of tax incentives that could be given to businesses in the Enterprise Zone.

To standardize code enforcement, staff is creating a schedule for adoption of the 2006 International Property Maintenance Code.

ADJOURNMENT:

Commissioner VonBehren moved to adjourn the meeting. Commissioner Horne seconded the motion. All members present voted in favor and the meeting adjourned at 7:54 p.m.

Mr. Ed Fleetwood requested permission to speak to the Commission. He spoke of the City of Belton becoming a finalist in the All American City award, and he commended the Commission for the job they are doing for the City. Mr. Fleetwood addressed the topic of the used car lots that was discussed earlier in the meeting.

Ann Keeton
Community Development Secretary