



CITY OF BELLAIRE TEXAS

BOARD OF ADJUSTMENT

JANUARY 21, 2014

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE
BELLAIRE, TX 77401

1. CALL TO ORDER

Chairman Nick Bacile called the meeting to order at 7:00 PM.

2. PLEDGE TO THE FLAG (US AND TEXAS)

Texas Pledge: (Honor the Texas Flag: I pledge allegiance to thee, Texas one state under God, one and indivisible).

Chairman Bacile lead the Board and the public in the pledges to both flags.

3. CERTIFICATION OF A QUORUM

Chairman Bacile certified that a quorum was present consisting of the following members:

Chairman Nick Bacile
Vice Chairman Debbie Sharp
Board Member Carmen Bechter
Board Member Tom Ligh
Board Member Patty McGinty
Board Member Amar Raval
Board Member Aashish Shah

The following staff members were in attendance:

City Attorney, Alan Petrov
Development Services Manager, Shawn Cox
Planning & Zoning Secretary, Ashley Parcus

The Board of Adjustment's Council Liaison, **Andrew Friedberg** was also present.

4. APPROVAL OF MINUTES

1. Regular Meeting Minutes of August 15, 2013

(Requested by John McDonald, Community Development)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Tom Ligh, Board Member
SECONDER:	Patty McGinty, Board Member
AYES:	Bacile, McGinty, Raval, Bechter, Ligh, Shah, Sharp

5. REPORTS FROM OFFICERS, COMMITTEES, SUB-COMMITTEES AND COMMUNICATIONS BOARD MEMBERS HAVE HAD OUTSIDE THE MEETING

There were no reports.

6. UNFINISHED BUSINESS

There was no unfinished business.

7. READING OF THE STANDARDS FROM SECTION 24-704, BELLAIRE CODE OF ORDINANCES

City Attorney, Alan Petrov explained that Section 24-704 of the Code of Ordinances deals with the granting of variances. He added that there were no variances on the night's agenda, only a special exception. Mr. Petrov replaced Section 24-704 with Section 24-718, which outlines the standards for granting a special exception.

8. NEW BUSINESS

1. Consideration and possible action on a request for a Special Exception from Chapter 24, Section 24-533 C(2)b)2) of the Bellaire Code of Ordinances at 7000 S. Third Street, Legally Described As Res. A Block 1 Condit Elementary.

Chairman Bacile introduced the item to the Board and the public.

Presentation by the Applicant

Todd Lien, Principal of VLK Architects-Mr. Lien informed the Board that they are working with HISD and the City of Bellaire to replace Condit Elementary School. He then showed the Board the existing site and pointed out the parking that is part of the joint-use agreement between the City of Bellaire and Houston Independent School District. Mr. Lien stated that VLK Architects is trying to maintain the current traffic patterns and improve any congestion around the campus. He stated that at this point, student drop off is on S. Third Street, as well as South Rice. Mr. Lien informed the Board that there are approximately 57 parking spaces that are part of the joint-use parking in front of the park as well as a number of spots along the street around the campus. He pointed out that in the development of the schematic plan for the new site VLK tried to respect the drop off points so that traffic patterns will not be impacted. Mr. Lien added that small entry areas are being created at each drop off site to get some of the cars off of the street. He noted several issues that VLK is dealing with:

1. The requirement to return the joint-use parking that is adjacent to City Hall
2. The requirement of the joint-use agreement calling for a specific square footage of green space that can be used for the athletic/multi-purpose fields
3. City of Bellaire's standards requiring 167 parking spaces on site.

Mr. Lien informed the Commission that a traffic engineer was hired to help analyze traffic flow and parking requirements. He explained that the engineer feels as though 128 spaces would be adequate after taking into consideration the new standards being used to determine the amount of parking for an elementary school. Mr. Lien pointed out that adding the 167 parking spaces that the city requires would go against trying to maintain a maximum of 50% impervious area, as well as the green space that is required on site. He noted that Condit Elementary has very few traffic disturbances with the 57 parking spaces that are currently in existence, and the proposed 128 spaces will more than double the capacity on the site without causing any negative impact to the traffic patterns around the school. Mr. Lien added that the results of the traffic study agreed with the location of the drives, as well as access to the site, and only offered a few minor recommendations of signage to help reinforce the traffic patterns that are there.

Questions by the Board

Board Member Shah asked what kind of approach was taken by the engineer to determine the number of parking spaces needed.

Mr. Lien explained that the traffic engineers use standards from the Institute of Transportation Parking Generation Manual to determine the number of spaces needed. He noted that building size and occupancy are two things that are taken into consideration.

Board Member Shah asked if Mr. Lien knew how many employees were going to be at the school.

Mr. Lien stated that he does not know the exact number of employees, but that there are going to be 34 teaching classrooms. He pointed out that the city's parking requirement is determined by the number of classrooms, not employees.

Board Member Shah asked about the increase from current capacity to projected capacity.

Mr. Lien informed the Board that the current population is at 680 and the new school will be designed for 750 students.

Board Member McGinty asked how many spaces are now available.

Mr. Lien stated that there are currently 57 spaces.

Board Member McGinty asked if VLK considered putting the parking lot on the end at Linden Street, where it wouldn't impact people that live in the neighborhood.

Mr. Lien explained that they had considered a number of options, but felt that parking lots on S. Third and S. Rice were the best options in order to maintain operation of Condit throughout the construction period.

Board Member McGinty asked what the time frame is for the project.

Mr. Lien stated that it will be approximately a year of construction on the site and that HISD is hoping to open the new school in the fall of 2016.

Board Member Raval mentioned that the site plan showed two parking areas totaling about 108 parking spots. He asked how VLK was getting to the 128 spaces.

Mr. Lien explained that the document that was sent to the Board shows different numbers than what the final site plan does. He informed the Board that the correct numbers are 63 spots on S. Rice and 65 spots on S. Third, which totals 128.

Vice Chairman Sharp asked if the computation of the required number of spaces is based upon the size of the assembly area.

Mr. Cox explained that the school is required to provide 1 parking spot for each teachable classroom and 1 spot for every 4 seats in a common assembly area. He stated that staff looks at the largest area, which, in this case is a common dining area and a general assembly area that is separated by a removable wall. Mr. Cox

told the Board that staff had to count the total capacity when that wall is removed, which led to the 167 spaces.

Presentation by Staff

Mr. Cox informed the Board that this item was brought forward by VLK Architects, on behalf of HISD for Condit Elementary School, which is located at 7000 S. Third Street and is currently in the R-4 Zoning District. He stated that they submitted their application on December 17th and a Notice of Public Hearing was mailed out on December 30th, with legal ads posted in the Southwest news on January 7th. Mr. Cox explained that the application by VLK Architects requested a Special Exception in accordance with provisions of Section 24-716 of the City of Bellaire Code of Ordinances in order to reduce the required parking count as stated in Section 24-533 of the City of Bellaire Code of Ordinances. Mr. Cox pointed out that as part of HISD's 2012 Bond Program, Condit Elementary will be replaced. He added that the current student population is 680 with a total of 57 onsite parking spots, and the new facility will accommodate 750 students, with 34 teaching rooms, and a common assembly space of 7,903 square feet. Mr. Cox informed the Board that parking requirements in schools within the R-4 Zoning District call for 1 spot for each classroom and 1 spot for every 4 seats in a common assembly area, and based on these guidelines, requires the new facility to have 167 parking spots. He added that when determining the parking number for previous elementary schools in the city, staff only counted the common assembly area with the greatest square footage; however, the new design for Condit calls for an assembly area made of two separate rooms that share a common wall which can be removed to create a larger assembly area. Mr. Cox stated that the parking demand evaluation, prepared by Mark Ingram of Cobb Finley, recommended the site provide for a minimum of 128 parking spaces and that the applicant is requesting a special exception to allow for a reduced parking requirement of that 128. He said that it is staff's opinion, upon review of the application and the materials submitted, that the application does meet the standards for a special exception as outlined in Article V, Division 2, Section 24-718. Additionally, the city asked a consulting engineer, Colby Wright, of Jones and Carter, to review the parking demand study prepared by Mr. Ingram. Mr. Cox informed the Board that Mr. Wright was in agreement with the findings and has recommended approval. He stated that staff does not object to the approval of this request.

Chairman Bacile asked if the proposed green space and impervious cover is in accordance with city requirements.

Mr. Cox explained that this is only the first of many steps that HISD will have to take to obtain approval with the city. He stated that the school currently has a specific use permit that they must reapply for and go before the Planning & Zoning Commission and the City Council. Mr. Cox assured the Board that during that process staff will ensure that the numbers are correct.

Attorney Petrov reiterated that the special exception is just one of multiple approval points for this project, and that the site plan that the Board is looking at may change as it goes through the process.

Public Comments

Lynn McBee-Ms. McBee thanked Attorney Petrov for the clarification on the approval process that the project must go through. She then asked if notices had been mailed out to the appropriate residents, and stated that she would like testimony by staff as to how many notices were mailed out and the list of names and

addresses of those citizens who were notified of the public hearing. Ms. McBee mentioned that in the letter submitted by the applicant there is a reference to 34 classrooms, whereas the sketch referenced 35 classrooms. She stated that there was also talk of the joint-use parking agreement between HISD and the City of Bellaire, and read from the letter submitted to HISD by the Mayor of the City of Bellaire. She quoted, "To clarify City Council's request, Council is not requesting that the parking lot called for in the joint-use agreement necessarily be retained at its current location on South Rice, just that it fronts somewhere on South Rice Avenue between Linden and Jessamine, or that the parking lot have exactly 62 parking spaces...as further clarification, City Council did not discuss whether the remainder of the parking required by city ordinance should be on South Third Street or South Rice Avenue and this request should not be construed as limiting the ability of Council to make that determination through the specific use permit process." Ms. McBee informed the Board that this item is more complex than it appears in the legal notice, and that the city has a vested interest in this. She added that the city code, setting the calculation for schools and parking was written with no one in particular in mind and has been sitting there for a long time. Ms. McBee pointed out that no one seems to have a problem with requiring less parking, and questioned whether the city's calculations of required parking are at fault. She stated that she supports the application at this stage, and certainly does not believe that HISD should be considering the city's convenience by the joint-use agreement paramount to their responsibility to provide safe, secure, and attractive green space- equipped sites. Ms. McBee suggested that the Board request to be provided with the notifications that were sent and prior action taken on Horn Elementary's parking.

Chairman Bacile asked Mr. Cox about the notices that were mailed.

Mr. Cox verified that notices were mailed to every resident within 200 feet of the property, which was approximately 33 residents.

Janice Donaldson-Ms. Donaldson stated that she is one house away from Condit and did not get a notice. She added that she wouldn't have even known about this meeting if she did not avidly read the paper. Ms. Donaldson informed the Board that she taught at Condit the last 8 years of her teaching career and that her grandchildren go there now. She stated that she is intimately familiar with the school and adores it. Ms. Donaldson explained that she was in attendance to represent 33 families in the 4900 blocks of Linden, Laurel and Willow that signed a petition to keep the parking lot off of a residential street. She felt as though all parking for Condit Elementary could be put on South Rice Avenue. Ms. Donaldson mentioned that the algorithm that was achieved for school parking is "insane." She stated that there are always empty spaces in the parking lot, even with the teachers from Christ Church parking in the same place. She mentioned that there are only 3 evening events during the school year, and that she doesn't agree with cutting back on playground area for parking spaces that are not going to be used. Ms. Donaldson added that the longest amount of time that visitors are on campus is about an hour, and that it is silly to have so much concrete when you could have green space for children. She informed the Board that there needs to be a realistic assessment of required parking, and that the 33 families that she is representing would recommend that the special exception be granted for fewer spaces, but preferably 90 maximum.

A motion was made by Board Member Shah and seconded by Vice Chairman Sharp to approve the Special Exception as requested.

Board Member Shah stated that he is supportive of the application, but is getting weary of the parking situation in Bellaire. He felt as though City Council needs to

look at this, as it seems that every other day the Board is entertaining parking issues. Board Member Shah said that the city's parking formula is either right or wrong and needs to be looked at more closely. He added that he doesn't see this application as materially injurious, but he is also trying to take into account the life cycle of a school and how much parking it is going to need over the evolution. Board Member Shah pointed out that whatever logic was applied to Horn Elementary's required parking number needs to be applied for Condit as well. He explained that as to the merits of where the parking lots go, that it is beyond the request to the Board and he will not comment on that. He added that these situations won't ever make everyone happy; you pick where you live and you deal with the evolution of the life cycle in the area you choose. He ended by saying that the Board has more significant matters to attend to than to deal with whether or not a parking formula is correct, and it appears to him that it is either completely wrong or the city needs to start enforcing what they believe is the right answer.

Board Member McGinty stated that she has no objection to lowering the number of spaces, but felt that the Board needs to know how many people are employed at the school as well as the number of classrooms within.

Board Member Raval felt that the special exception sounded appropriate. His only point of concern was whether or not the city is requiring more spaces than what is necessary.

Vice Chairman Sharp asked for clarification that the Board is only there to consider the number of parking spaces, and not the site plan.

Attorney Petrov and Mr. Cox confirmed this.

Vice Chairman Sharp questioned whether the site plan would change during the other levels of approval that the project must go through.

Mr. Cox stated that the same number of spaces approved by the Board would have to be included on any site plan presented to the city from here on out, but that the locations of those spaces could potentially change.

Vice Chairman Sharp asked for confirmation that a traffic engineer representing each entity (the owner and the city) have both agreed on the proposed number of spaces.

Mr. Cox explained that Mr. Ingram with Cobb Finley conducted his study, based on the manual that is produced, to say that on average 128 spaces would be required, the city's engineer reviewed it and was in agreement with the numbers.

Vice Chairman Sharp agreed with Board Member Shah on questioning whether the parking formula is correct, but stated that another body would have to entertain that topic.

Mr. Cox informed the Board, just for informational purposes, that the City of Houston requires 1.5 spaces for every 30 person classroom, and does not even take into account assembly areas. He added that this requirement is significantly lower than the City of Bellaire's.

Vice Chairman Sharp asked if the City of Bellaire differentiates between the different levels of education (elementary schools and middle schools vs. high schools).

Mr. Cox explained that all schools within the City of Bellaire have the same parking requirements.

Vice Chairman Sharp suggested that differentiating between the levels may be something that the city wants to take a closer look at.

Attorney Petrov informed

d the Board that he has spoken with Director of Community Development, John McDonald about parking within the last 5 months. He added that it is something that he is actively looking at, and that it is definitely on the city's radar.

Board Member Bechter stated that she is not opposed to reducing the required number of spaces, but does share the concern of other board members as to whether or not the number of required spaces have been calculated correctly. She asked for confirmation that if 128 spaces are approved by the Board then 128 is set in stone and cannot be reduced.

Mr. Cox confirmed that the special exception is the reduction and that whatever number is approved by the Board must be the number that would be included on any future site plans.

Attorney Petrov informed the Board that the granting of the special exception for 128 spaces would not prohibit the applicant from coming before the Board in the future to further reduce the number if they came up with evidence to show that fewer spaces are required.

Board Member Ligh pointed out that the public hearing is strictly for the number of parking spaces, not to redesign the site plan. He added that because the traffic engineer has recommended 128 spaces and the city has no objection to that he is in agreement to grant the special exception.

Board Member Shah asked Attorney Petrov if the Board could draft the special exception to include a maximum number of spots, in order to give some flexibility to the applicant.

Chairman Bacile asked what body will be approving the site plan.

Mr. Cox explained that as part of the Specific Use Permit process, the Planning & Zoning Commission will be presented with the site plan first. If they approve the SUP, it will then go before City Council who is the ultimate decision maker.

Chairman Bacile asked if the public would have the opportunity to present comments at those meetings.

Mr. Cox confirmed that the public will have opportunities to speak.
(Requested by John McDonald, Community Development)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Aashish Shah, Board Member
SECONDER:	Debbie Sharp, Board Member
AYES:	Bacile, McGinty, Raval, Bechter, Ligh, Shah, Sharp

2. Adoption of the Board of Adjustment's 2013 Annual Report to City Council as required by the Code of Ordinances; Chapter 2, Administration; Section 2-104, Annual or Special Reports to City Council

Vice Chairman Sharp commended Chairman Bacile for his work on the annual report. (Requested by John McDonald, Community Development)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Debbie Sharp, Board Member
SECONDER:	Aashish Shah, Board Member
AYES:	Bacile, McGinty, Raval, Bechter, Ligh, Shah, Sharp

9. GENERAL COMMENTS

(Limitations: Six (6) minutes per speaker with extensions in two (2) minute increments as approved by a majority vote of the Board Members present).

Councilman Andrew Friedberg-Councilman Friedberg commented on the issue of school and church parking, saying that around 8 months ago City Council had a discussion about it in the context of the Planning & Zoning Commission's review of the Downtown and Bissonnet Corridor rezoning project. He mentioned that some feel as though the code is under shooting the mark in certain areas of Bellaire, and that a comprehensive review of the whole city is needed. He added that staff is also interested in the issue, and to his understanding is planning to take a look at those numbers in the near future. He pointed out that if staff finds the numbers to be inaccurate then many applicants have had to come before the Board for no reason.

10. GENERAL COMMENTS FROM BOARD MEMBERS

Chairman Bacile mentioned the possibility for multi-family housing to be allowed in Bellaire and stated that those kinds of developments are going to pose parking problems within the city.

Board Member Shah stated that the Board has more judicious issues to deal with, and voiced his concern that the Board is putting applicants through hoops with regards to the parking requirements. He mentioned that the numbers may be wrong, forcing the Board to grant special exceptions at the residents' expense. He felt that if a rule is in the books, the Board/staff should enforce it. Board Member Shah was troubled with the fact that there is no standard that the Board relies on when granting special exceptions and variances.

Councilman Friedberg mentioned the challenge with adopting rules of general applicability for all zoning districts. He added that the Board of Adjustment exists to give some leniency within an otherwise rigid code.

Board Member Bechter stated that there were several important points/questions brought up during the public hearing that in her opinion are not being taken seriously enough. She mentioned that no one could answer the question of how Horn Elementary's parking requirements were calculated and felt as though there was a lack of preparedness on staff's part. Board Member Bechter added that more information should be given to the Board for

review, and that staff should anticipate questions that are going to be asked so that the concerns of residents can be properly addressed.

Mr. Cox explained that Horn was required to have 146 parking spaces based on the same formula and that they did not have to go before the Board to receive a special exception. He added that it would have been part of the SUP that was taken to the Planning & Zoning Commission and City Council.

Board Member Bechter questioned why Mr. Cox did not bring that up during the public hearing when it was asked. She stated that she would have appreciated staff interjecting and offering an answer to that question.

Vice Chairman Sharp explained that just because a member of the public asks a question doesn't mean that they get an answer. She added that the process during a public hearing is that if a board member hears a question that they would like answered they need to refer it to staff.

Chairman Bacile agreed that the Board needs to be more prepared, but also reminded the other members that the Board's decisions are not supposed to set precedence on future applications. He added that there is a fine line that the Board has to walk when it comes to what has been granted in the past and what is before the Board today.

Attorney Petrov agreed that it is somewhat of a balancing act. He reiterated that the Board's prior rulings should not set precedence on future applications, but at the same time the Board has a responsibility to treat everyone equally and fairly. Attorney Petrov added that every property is unique and that each situation has to be taken into account.

Lynn McBee-Ms. McBee stated that she appreciates the depth at which the Board is examining the problem and challenging the rigidity with which it has been presented to them. She mentioned that at any time a majority of the Board can communicate their needs and desires directly to the City Council. Ms. McBee added that there are at least two new faces on the Board, and asked if they have received any specific training. She stated that the training has been mandated but not delivered, and that the boards and commissions are not given the kind of education and information they need in order to function appropriately.

Councilman Andrew Friedberg-Councilman Friedberg stated that although Board Member Bechter made some good points, it is sometimes hard for staff to predict in advance what questions will arise. He added that the Board is perfectly free to express hesitancy to vote on something the night of the public hearing, and has every right to postpone action to a future meeting.

Mr. Cox piggy-backed on Councilman Friedberg's comment by saying that in review for the meetings, if any board member has questions, please contact staff ahead of time to ensure that those answers are accurately provided.

11.ANNOUNCEMENTS

There were no announcements.

12.ADJOURNMENT

Motion: a motion was made by Board Member Shah and seconded by Board Member McGinty to adjourn the regular meeting.

Vote: the motion carried on a unanimous vote of 7-0.

The meeting was adjourned at 8:09 PM.