



CITY OF BELLAIRE TEXAS

PLANNING AND ZONING COMMISSION

JULY 8, 2014

Council Chamber

Regular Session

6:00 PM

**7008 S. RICE AVENUE
BELLAIRE, TX 77401**

I. CALL TO ORDER

Chairman Frazier called the meeting to order at 6:02 P.M.

II. ANNOUNCEMENT OF QUORUM

Chairman Frazier announced that a quorum was present, consisting of the following members:

Attendee Name	Title	Status	Arrived
Winfred Frazier	Chairman	Present	
Bill Thorogood	Vice Chairman	Present	
Paul Simmons	Commissioner	Present	
Marc Steinberg	Commissioner	Present	
Dirk Stiggins	Commissioner	Present	
S. Lynne Skinner	Commissioner	Present	
E. Wayne Alderman	Commissioner	Present	
John McDonald	Director	Present	
Ashley Parcus	Secretary	Present	

III. REMINDER TO CITIZENS DESIRING TO ADDRESS THE COMMISSION

Chairman Frazier reminded all citizens who wished to address the Commission to fill out a sign in sheet.

IV. APPROVAL OF MINUTES FROM PAST MEETINGS

1. Planning and Zoning Commission - Regular Session - Jun 10, 2014 6:00 PM

Chairman Frazier and Commissioner Stiggins made two minor corrections to the minutes.

RESULT:	APPROVED AS CORRECTED [UNANIMOUS]
MOVER:	Paul Simmons, Commissioner
SECONDER:	Bill Thorogood, Vice Chairman
AYES:	Frazier, Thorogood, Simmons, Steinberg, Stiggins, Skinner

V. UNFINISHED BUSINESS, COMMUNICATIONS, & REPORTS

There was no unfinished business.

VI. SWEARING IN OF NEW COMMISSIONERS (INCOMING COMMISSION ASSUMES DUTIES AND OUTGOING COMMISSION RETIRES).

Attorney Petrov swore in Christopher Butler, the newly appointed member, along with Commissioners Steinberg, Skinner, Stiggins, and Simmons, who were all being re-appointed to the Commission.

VII. GENERAL PUBLIC COMMENTS

Lynn McBee-Ms. McBee congratulated the newly appointed and re-appointed Commissioners. She mentioned that a marathon City Council meeting was held the previous night, and one of the resolutions was to approve modification of the agreement with the conservancy for the Evelyn's Park endeavor. Ms. McBee pointed out that for the first time in the history of the city there is now a dual entity that will not necessarily be subject to the open meetings requirements due of the nature of its organization, being a 501(c)(3) under the regulation of the Federal Government. She stated that this is in clear conflict with the State of Texas requirements for municipalities and certain other organizations to be subject to disclosure laws. Ms. McBee explained that all Board and Commission members will be going through training regarding open meetings and open records, and she believes that it is very important for everyone to understand that this conflict has been addressed by the City Attorney, but has not been addressed by the State of Texas Attorney General. She added that because the Commission is subject to open meetings and open records, it is important for them to be aware of the organization that is not subject to those requirements. Ms. McBee also felt that the rules for governing public hearings should be listed on the agenda to give citizens wishing to speak an idea of the process. She stated that she appreciated the Commission's work and wished them well.

VIII. INCOMING COMMISSION**A. Introduction of Incoming Commissioners**

Paul Simmons-Commissioner Simmons informed the Commission and the public that he is a retired civil engineer economist, and has lived in Bellaire for over 20 years. He added that he has been on the Commission for 3 years and has enjoyed every minute of it.

Christopher Butler-Commissioner Butler stated that he is a practicing planning consultant, and has been on the Cultural Arts Board for the last year. He stated that when the position became available on the Planning & Zoning Commission he was encouraged by many to apply. Commissioner Butler added that he hopes to continue helping his unique and crazy brand of logic fit into the city.

Marc Steinberg-Commissioner Steinberg explained that he has lived in Bellaire for 28 years, and served on Board of Adjustment prior to the Planning and Zoning Commission. He added that this is his 2nd term with the Commission and that he has enjoyed working with everyone on it. He added that the Commission has to make some very tough decisions and thanked the public for attending to voice their comments.

Dirk Stiggins-Commissioner Stiggins informed the Commission and the public that he has lived in Bellaire since 1996, and is a retired Engineering Manager with Conoco-Phillips. He added that he has served on all three of the City's statutory boards, and enjoys volunteering and working with the city. Commissioner Stiggins stated that he is looking forward to another year with the Commission.

Lynne Skinner-Commissioner Skinner stated that she has lived in Bellaire for 30 years. She mentioned that she is excited about Bellaire High School's rebuild as she lives right down the street from it. She then thanked the City Council for re-appointing her, and welcomed Christopher Butler to the Commission.

B. Election of Chair and Vice Chair

Nominations: a nomination was made by Commissioner Steinberg and seconded by Commissioner Stiggins to elect Win Frazier as Chairman of the Planning and Zoning Commission.

Vote: 7-0.

Nominations: a nomination was made by Commissioner Simmons and seconded by Commissioner Stiggins to elect Bill Thorogood as Vice Chairman of the Planning and Zoning Commission.

Vote: 6-0-1, with Commissioner Thorogood abstaining.

C. Adoption of the Rules of Procedure

Motion: a motion was made by Commissioner Stiggins and seconded by Commissioner Steinberg to adopt the Rules of Procedure.

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

IX. PUBLIC HEARINGS

1. Docket #Z-2014-01-Request for an amendment to the official zoning map to re-zone 4301 Bellaire Boulevard from R-5, Residential District to CMU, Corridor Mixed-Use District, and to remove the property from the Bellaire Boulevard Estate Overlay District, pursuant to Chapter 24, Section 24-603, Application for Amendment to the Written Text or Official Zoning District Map of the City of Bellaire, Texas & Docket #PD-2014-02-Request for an amendment the City of Bellaire Code of Ordinances, Chapter 24, Planning & Zoning, Article VI, Amendatory Procedure, to construct a mixed-use commercial planned development consisting of a two story commercial building, to be located at 4301 Bellaire Boulevard, currently in the R-5 Zoning District.

Mr. McDonald introduced the public hearing process to the public.

Presentation by the Applicant

Bruce Frankel, Principal of Frankel Development Group-Mr. Frankel informed the Commission that he is the development consultant for the applicant, Sloan Properties, LLC. He added that the applicant is a privately held, local real estate investment and development company, and is a holder of properties, not a seller. Mr. Frankel stated that his client has the property at 4301 Bellaire Boulevard under contract and is interested in redeveloping the property into a mixed-use development project, therefore, the request is for a Planned Development by way of application to re-zone the property from its current R-5 to Corridor Mixed-Use Zoning (CMU). Mr. Frankel explained that Westside Christian Church was the owner of the property, but disband in December of 2012 and gifted the land to Dallas Christian College (DCC). He added that the college has no use for the property, and that their only interest is to sell it and take the proceeds to fund their mission. Mr. Frankel pointed out that the current R-5 Zoning allows for a medium to upper-medium density residential and a school or church under a special exception. He stated that the property is very unique in that it has several constraints:

- DCC wants to sell and use the proceeds to fund their scholarship program
- The existing improvements are deteriorating and obsolete

- A set of power lines and a railroad track run to the east of the property
- fronting the property is the busy street of Bellaire Boulevard
- It is a small site, comprised of only 1.1 acres
- Site is a very unusual shape, 120 X 409
- Little Woodrow's Bar is to the east of the property and town houses are to the west

Development options under the current R-5 Zoning:

Single-Family Home:

This is not an appropriate site for a home with the bar, railroad tracks, and power lines in close proximity to the property.

Park:

Evelyn's Park is across the street from the property.

Utilities and city facilities:

If there was a need for this type of use, the property would have already been acquired.

Town homes:

The site is too narrow for a town home development, which would require the establishment of a private street including 60 feet of R.O.W, limiting the depth and size of the town homes.

Church or School:

The current improvements are obsolete and the cost to bring it up to Bellaire standards would be prohibitive at this point. Mr. Frankel added that there is no demand for that use. He stated that the property has been on the market for 18 months, and no church or school has come forward to purchase it. He pointed out that as far as new construction, the site is too small for a school or church to operate successfully given the cost that it would take to purchase and build a new church or school.

Mr. Frankel stated that, in summary, it is not developable under the current R-5. Re-zoning is appropriate due to negative adjacent uses, features, small size, odd configuration, and location along the city boundary. He acknowledged the fact that the Commission spent a lot of time on the Comprehensive Plan. Mr. Frankel noted that the edge properties along the busy corridors are important, and that those sites need to be physically pleasing and welcoming.

Mr. Frankel then reviewed the benefits of re-zoning:

- Improvements won't continue to deteriorate and be an eye sore to the city
- The building would provide a physical buffer between residential and the railroad tracks
- It would provide an attractive entrance into the city
- It would provide amenities to residents
- It would provide property and sales tax to the city
- The city would have control over the new project with the PD application
- Selling of the property would help to support DCC's mission and fund their scholarship program

Mr. Frankel reiterated that the proposed zoning is CMU, with a planned development. He added that the proposal that is being presented is the plan that the developer will have to go with because their hands will be tied with the PD. Mr. Frankel then gave a

summary of the proposed project. He stated that the building will be 19,054 square feet, with 16,753 square feet of rentable area. It will include two stories, with office space over retail, and will have 8,547 feet of retail on the first floor and 8,206 square feet of office on the second floor. Mr. Frankel pointed out that the existing church is 6,400 square feet, so the difference between the church and the new development is about 12,654 square feet, and the footprint is only about 2,147 square feet larger than the current footprint. He added that the proposal is 31 feet wider, 18 feet shorter, and 32 feet closer to the street than the existing church. Mr. Frankel stated that the architectural finishes will be of high quality construction, and the height will only be 44 feet, which is 19 feet under the max allowed. He informed the Commission that there are 33 feet from the property line to the building between the town homes and the proposed development, and that extensive landscape will be provided. He added that they worked hard to preserve the trees that are currently on the site. Mr. Frankel mentioned that low, limited lighting will be used, and building signage will be limited to the face of the building along with one monument sign that will be parallel to the street. There will be 85 parking spaces, with a 4 foot concrete masonry unit (CMU) wall as well as shrubbery and an additional fence to act as protection for the adjacent homes. Mr. Frankel then mentioned drainage and stated that the height of the site will be raised by 1.35 feet. Additionally, the developer is proposing to move the existing median further away from the railroad tracks and have a dedicated left turn lane off of Bellaire Boulevard. He added that a Traffic Impact Analysis (TIA) was prepared and has been approved by the city consultant. Lastly, Mr. Frankel pointed out that the development would buffer the noise from the railroad tracks.

Joe Nash, Johnson Design Group-Mr. Nash showed the Commission a diagram of the site plan, and explained that they are proposing to push the building as far from the residences as possible. He mentioned that they will be keeping the two existing curb cuts, but are proposing to move the median cut to the west so that it enters directly into the drive. Mr. Nash added that a left hand turn lane will be established, allowing cars to stack and turn off of Bellaire Blvd. He informed the Commission that 10 % of the parking will be located at the front of the building and 90% at the back. Access to the building itself will be through doors on the south, west, and the north of the property. Mr. Nash explained that the 8,547 square feet of retail can accommodate up to 4,300 square feet of restaurant space, and that the dumpster will be as far from the residents as possible. He then showed the proposed CMU wall and shrubbery along the property line separating the proposed development and the existing town homes. Mr. Nash then spoke a little about the landscape plan, and stated that 70% of the trees on the site will be conserved. He showed the Commission a depiction of the proposed front elevation of the building, and explained that the existing town homes and proposed development are relatively similar in scale. He added that awnings will be installed, creating a nice street appearance. Mr. Nash then discussed the rear elevation of the building, stating that spandrel glass windows were added to enhance the aesthetics. He explained that these give the appearance of real windows, but are just an architectural material used to improve the look of a facade. Mr. Nash pointed out that real windows are not allowed due to the fire code. Lastly, he stated that a fence will be provided around the back of the site, and then showed the view from Ione Street and stated that it would not change very much.

Reid Wilson, Attorney with Wilson, Cribbs, and Goren-Mr. Wilson informed the Commission that he does a lot of land-use law, and with the development constraints on this site it is truly unique. He stated that under the current circumstances, it could be argued that there is no legitimate use of the property that is legally available, and that the developer is proposing something that would be a win-win for all involved.

Mr. Wilson added that this development would provide a great buffer use on the edge of the city, as well as an opportunity to have some amenities with the retail and office uses proposed. He referenced the requirements for planned development amendments that were mentioned in the city staff's report and pointed out the following.

- The proposed development is consistent with the Comprehensive Plan
- Will minimize the adverse effects including visual impacts on adjacent properties
- The proposal deals with any adverse impact on the adjacent properties
- The development will not be an undue burden on public facilities and services
- The developer has the ability to complete the project

Mr. Wilson noted that for these reasons, they respectfully request approval of the application and have time to answer any questions that the Commission may have.

Staff Findings

Mr. McDonald informed the Commission that this is an application both for re-zoning, as well as for a Planned Development for commercial use. He stated that the applicant is Sloan Properties and is being represented by Frankel Development Group. Mr. McDonald added that the current property owner, Dallas Christian College, has given them the authority to apply on their behalf. He pointed out that the Comprehensive Plan Future Land Use Map does identify this property as a place of worship, therefore, if this application was approved staff would bring forward an amendment to the future land use map to clarify that change. Additionally, the site in question is less than 150 feet, which is the minimum requirement for a planned development, and the applicant does have a variance request that is scheduled for the Board of Adjustment at their July meeting. Mr. McDonald noted that the TIA was reviewed by the city's traffic consultant and he agreed with the findings set forth. He added that it did point out, as was mentioned in the presentation, that the existing median would be relocated to the west in order to line up with the proposed drive way, and a dedicated left hand turn lane would be created. Mr. McDonald explained that all drainage would be handled on site, and that the applicant is proposing an underground drainage system. He pointed out that specific drainage requirements will be reviewed at the building permit stage, and that no additional utility connections or increase in capacity would be needed. Mr. McDonald informed the Commission that staff is not making a recommendation at this time, as consideration of this item will be on a future agenda.

Public Comments

Dr. Raye Horwitz-Dr. Horwitz informed the Commission that she has lived on Boulevard Green for about 20 years. She stated that it is a very quiet area and that everyone has a very close relationship with their neighbors. Dr. Horwitz added that the train crossing creates significant traffic, and in adding these additional offices the situation will be complicated even more. She pointed out that Bellaire is considered a City of Homes and creating this type of office environment and the traffic that it is going to entail is contradictory to the goals of the city. She hoped that the Commission does not accept the idea that this is the only solution for this site, or that this property is the entryway into the City of Bellaire. Dr. Horwitz urged the Commission to understand and support the homeowners' position.

Sarah Barlow-Ms. Barlow stated that she has lived on Ione Street for the past 7 years, and that she chose Bellaire because it is a wonderful oasis. She felt that the entrance to Bellaire needs to represent what it is, which is not a commercial place,

but a community. Ms. Barlow also worries that overtime the tenants there may not be as high quality as they start out. She urged the Commission to consider alternatives for this property.

Barbara Jerige- Mrs. Jerige informed the Commission that she and her husband moved to Bellaire almost a year ago after years of trying decide where to live. She stated that they chose Bellaire because of the community atmosphere and because it was close to her husband's job in Downtown Houston. Mrs. Jerige was concerned that approval of this application would set a precedence for commercial developments. She respectfully asked that the Commission not let this property be re-zoned.

Ellen Weiss-Ms. Weiss stated that she lives on Live Oak Street, across from Evelyn's Park, and has been in Bellaire on and off since 1980. She mentioned that Bellaire represents a residential community, and that it would be a crime to construct a commercial property at this location. Ms. Weiss felt that this project would cause congestion in the area. She added that she does not believe that the property was ever listed because she knows of a small church that would love to move into Bellaire and was not aware of the site. Ms. Weiss stated that she is also concerned with setting a precedence, and that she is in attendance to implore the Commission to live up to the charter that they have sworn to uphold.

Cecilia Valdez-Ms. Valdez informed the Commission that she has owned a home in Bellaire since 1993, and that it is a community of homes and families. She stated that she would have to agree with the developer that re-zoning would be a good idea, but as a park, not a commercial property. Ms. Valdez mentioned that she disagrees strongly that there are too many parks in the city. She pointed out that there is a big drainage problem within the Boulevard Green development, and when it rains heavily, the back of the town home lots flood. She noted that the installation of a concrete wall will create pools at the back of properties. Ms. Valdez stated that the applicant cannot assure that there will be no increase in noise, as they can't predict what's going to be there in 5, 10, 20 years. She also mentioned that the emptying of trash cans 33 feet from residences in the middle of the night will be an inconvenience. Ms. Valdez stated that the homes have large, floor to ceiling windows that face the proposed development, and she doesn't see how the light is going to be shielded from a two story building. Additionally, she felt that approval of the application will significantly lower the property value of the town homes. Ms. Valdez asked the Commission to imagine themselves living next to a building like what is being proposed.

Andrea Link-Ms. Link informed the Commission that she has been a Bellaire resident for 9 years, and would like to convey her strong objection to the proposed re-zoning of the property at 4301 Bellaire Boulevard. She felt that the section of Bellaire Boulevard that runs through Bellaire is the city's showpiece and conveys to all who travel that corridor what the city is all about. She added that it is currently comprised with beautiful residential lots and stately churches and will be enhanced tremendously by Evelyn's Park. Ms. Link stated that while the boulevard itself is a busy thoroughfare, what lines it now is peaceful, tranquil, and quite pretty. She is shocked that re-zoning is even a consideration, since it will destroy the residential feel of this part of our city and possibly undue so much of the good that Evelyn's Park will do. She pointed out that this area is the very first thing that people see when entering Bellaire, and asked if an out of place commercial property is the first impression we want the city to make. Ms. Link also questioned whether every effort has been made to sell this property to a church or an individual. She noted that almost adjacent to this property are two more residential lots with older homes that

she is sure other developers have their eye on. Ms. Link informed the Commission that she lives on Ione street and that there is no doubt that a commercial property would decrease her property value. She added that this is about more than money, it is about valuing the City of Bellaire as a peaceful oasis in the middle of Houston, a city that honors the zoning regulations that are there for a reason. Ms. Link felt that the reality of the situation is that the proposal benefits the developers, not the neighborhood. She urged the Commission to vote against the re-zoning of this property.

William Durbin-Mr. Durbin had a letter of opposition from residents of Ione St. That he read into the record:

This letter is to express our deep concern with the possibility of construction of a commercial building in our city's R-5 zoning District. We believe that such spot commercial development in the middle of an established residential zoning should not be permitted due to a number of reasons discussed herein. Although we are not able to attend the hearing in person, please read this message into the record of the hearing. After living in West Houston for over 17 years, we have only recently discovered the beauty, coziness, and community that Bellaire offers. Bellaire Boulevard is one of the historical parts of the city with a number of historical buildings and parks. Driving the Boulevard from South Rice to the railroad tracks under the shadow of beautiful trees is truly like being away from a big city, with temples and historical estates on both sides of the Boulevard. Some may say that one exception on the outskirts of the city may not be a big deal, but that is how big changes start, with small and seemingly harmless exceptions. We are terrified that discussing permission not only will ruin the part of the city that we live in, and get rid of 8 irreplaceable trees, but will create precedence that will be the start of such a big and unwarranted change to the city itself, and its appeal. Just look at Bellaire Boulevard crossing the tracks into West University and how drastically different it is from our Bellaire Boulevard, starting with the bar across the tracks into a chain of massage parlors, tattoo, and palm reading shops. They are all lined up there. Commercial property at 4301 would bring similar businesses just across from Evelyn's Park. Additionally such spot commercial development in the middle of an established residential zoning will have negative impact on the surrounding residential property values and should not be permitted. All in all, we truly believe that allowing commercial property construction in the historical residential part of the city is not good for the future of the city, the residents of Bellaire, and particularly the residents of the very populated Southdale. Thank you for your consideration.

Mr. Durbin stated that he is a 25 year resident of Bellaire. He added that there is good representation in Bellaire for the city as whole, but particularly the Medical Center. Mr. Durbin mentioned that one of the first things that physicians are taught is to ensure that you are doing no harm. He asked the Commission to look to the east, the City of Houston is commercial. He added that Bellaire is different, it is distinct in that it is the City of Homes. Mr. Durbin pointed out that Bellaire has zoning for residential and zoning for commercial and asked that commercial developments be put in the commercial part of Bellaire. He mentioned that as community representatives he hopes that the Commission does not approve this request to re-zone. He told the Commission that their neighbors and voters need their help with this assault on shared community values. Mr. Durbin then asked if the Commission should make a decision to make a rich physician more rich, or to maintain the city of homes.

Robert Pulitzer-Mr. Pulitzer informed the Commission that he lives across from the property, at 4314 Bellaire Boulevard. He noted that a lot of people have already hit

on the fact that this is the City of Homes, as well as why we live here and why we enjoy living here. He added that some have also talked a little bit about the precedence that this would set. Mr. Pulitzer stated that in addition to those subjects he is also concerned about the left turn lane that will be created. He pointed out that people who live in Boulevard Green will have to battle the people taking a left there when they need to make a u-turn to go back to the loop. He mentioned that the left turn will help facilitate traffic in, but will also make it very difficult for people living there to make a u-turn. Mr. Pulitzer then told Mr. Frankel that he appreciated the slide show that was presented during his meeting with the residents. He added that during that meeting it was mentioned that there are some churches that were interested in renting, but that DCC did not want to rent. Mr. Pulitzer noted that he understands DCC wanting to get the highest value for their property, but that he doesn't want Bellaire looking at this as how to get the best price for someone else, instead of what is best for the community. He added that he felt as though those options have not been explored enough. He ended by saying that there are many reasons why this is not in the best interest of the City of Bellaire.

Charles Hall-Mr. Hall informed the Commission that he was asked by the president of his homeowner's association to read aloud his email, but stated that he would just sum it up since the Commission had already been provided a copy. He quoted the email, saying, "To make this a commercial site would be a disaster to us from a traffic and noise perspective." Mr. Hall noted that the concluding sentence of the email reads "It is definitely not in the interest of the Boulevard Green residents to make any zoning changes on this site, at this present time." Mr. Hall added that entering the Boulevard Green subdivision is very simple, but exiting the street is more difficult. He stated that moving this project will make it even harder and more dangerous for not only people in vehicles, but pedestrians who frequent the sidewalks as well.

Joy Hall-Mrs. Hall thanked the Commission for their hard work. She stated that the residents of Bellaire are blessed with wonderful people, great parks, homes, trees, churches, schools, libraries, public services, and businesses. She reiterated that homeowners from Bellaire Boulevard, Mulberry, Ione, Boulevard Green, and other neighborhood streets are coming to urge the Commission to keep the concept of home and family. Mrs. Hall added that all homeowners purchased here with the understanding of trust, protection, safety, belief, and even the comfort of the R zoning. She mentioned the article on the front page of the Chronicle about many individual homeowners in Houston being pushed out by town houses and commercial buildings that are going in around them due to the fact that there are no zoning regulations. She stated that she has lived a lot of places in Houston, but came to Bellaire with the belief that their property was safe and free of the commercial interest. Mrs. Hall asked the Commission to remember that the roots of Bellaire are in the homes, the city, the people, the schools, and the churches.

Joy Puzon-Ms. Puzon informed the Commission that her family has lived on Boulevard Green for the past 10 years, and that she wants to voice her strong objection to the re-zoning application for 4301 Bellaire Boulevard. She mentioned that Chairman Frazier pointed out in the June Council meeting that Bellaire is the City of Homes, and the rezoning of this lot will destroy that image as you approach the city westwardly down Bellaire Boulevard. At that same meeting the Council unanimously voted to "protect the residential property owners from incompatible commercial development." Believes the Council will do the same with regards to the re-zoning of Bellaire Blvd. As you can see by the number of citizens present with complaints, as well as the number of emails submitted by residents who could not attend, commercial properties at this location are not compatible with the wishes of

residential property owners. It is not the intent of Bellaire citizens to allow a developer to circumvent our zoning laws. Please also consider the potential litigation risk of spot zoning. If this re-zoning change is allowed, who could stop a fast food change or retail store, such as zone d erotica from opening in a residential area. Perhaps the current owner would not allow this to happen, but whose to say what a future owner might allow. Change in this parcel to commercial will create a traffic nightmare, increase the number of cars and backups on Bellaire Blvd. Drivers down Bellaire routinely try to beat the train before it crosses, so will the people from the new establishment. Based on the numbers of cars that drive down Bellaire Blvd, she sees a drastic increase in accidents occurring at this location. Having a commercial property directly behind my house will drastically decrease my property value. The developer claims that this building will be a noise buffer from the train, but after living next to the railroad tracks for 10 years it is just background noise, she would much rather maintain higher property value over having a potentially slightly less noisy area. Please continue to maintain our current quality of life for everyone in this beautiful city of homes.

Vic Gelsomino-Mr. Gelsomino asked the Commission to consider an R-4 re-zoning. He stated that the site could be replatted into 7 lots, measuring 50 x 100 feet deep, with orientation east to west and a 25 foot wide access road along the eastern boundary. He added that there could be a 30 foot setback from Bellaire Boulevard, with a new landscaping barrier along the east railroad tracks to enhance the property and clean up the view to the east. Mr. Gelsomino also suggested that access to the property would be to utilize the existing western edge curb cut location and eliminate the eastern curb cut. He then listed his reasonings for this alternative:

- Bellaire is the city of homes
- Would move the property from non-taxable to taxable status
- Would stay within single family houses
- No esplanade re-work would be required

Mr. Gelsomino ended by saying that the residents of Boulevard Green hope that the Commission will entertain this suggested option.

Joel Dickinson-Mr. Dickinson informed the Commission that he lives in the Boulevard Green development and is concerned with the precedence that the city will be setting with the approval of this application. He noted that the boulevard seemed to be designed as a grand entrance into Bellaire, and he hopes that it is never changed. Mr. Dickinson explained that he moved to Houston from Dallas, eventually ending up in West University, which he considered a haven, and now he is in Bellaire which he considers a wonderful place to live and raise a child. He mentioned that the city's logo is a home and church and stated that he hopes it stays that way forever.

Lynn McBee-Ms. McBee stated that she has been coming to these meetings for 40-50 years, and the community values are as firm 50 years ago as they are today. She mentioned that the same message is being heard by the city's decision makers, and it makes her proud to be part of the community. Ms. McBee informed the Commission that the purpose of the Bellaire Boulevard Estate Overlay District (BBEOD), as stated in the zoning code, was to create a low density residential area that applies to all properties with frontage on Bellaire Boulevard, generally from Loop 610 to the eastern city limit as shown on the zoning district map. She added that it was put in place to encourage large lot residential development resulting in a grand boulevard of homes, schools, churches, and houses of worship, with homes facing Bellaire Boulevard and no home with side or rear yard adjacent to Bellaire Boulevard. She quoted the code saying, "The overlay district is dormant on each property being

invoked only if the property is replatted, re-subdivided, or otherwise redeveloped." Ms. McBee applauded the on a beautifully prepared application, and stated that the only problem is that it is the wrong development in the wrong place. She pointed out that City Council has invited change, and wants economic development in the CMU, along the corridors of Bellaire. She noted that this property is not located in the appropriate area. Ms. McBee strongly advised the development group not to purchase this property and to take the project to the CMU. She added that the property doesn't even meet the existing planned development dimensions and must get an additional exemption for that. Ms. McBee pointed out that the overlay district's history was meant to eliminate commercial properties in that area. Lastly, she mentioned Mr. Durbin's comment regarding "do no harm", and stated that approval of this application would vastly harm the city.

David Liu-Mr. Liu informed the Commission that he and his wife have been residents of Boulevard Green for two years, and that they chose Bellaire for its residential nature. He stated that a change in the median would require residents leaving the Boulevard Green development to surge across two lanes of traffic in order to head west on Bellaire Boulevard. He also mentioned the busy sidewalks in the area. Mr. Liu reiterated the concerns of previous speakers regarding the impact a commercial property would likely have on the adjacent single family homes. Additionally, he mentioned Mr. Gelsomino's proposal and suggested that there are other options that could be explored for a residential use.

Fermeen Fazal-Mrs. Fazal told the Commission that she moved to Bellaire about 3 years ago. She added that her family had looked into living in the Braes Heights area, but did not like how the residential area is adjacent to businesses, and would be disappointed if that happened in Bellaire as well. She stated that she hosted the block party on Ione St. For National Night Out and that one of the Police officers that came by informed her that the hardest part about patrolling the city are the outside edges of Bellaire, where there are more commercial properties. She asked why the city would want to make the job of our police officers harder by adding more commercial areas if residential areas are easier for them to handle. Mrs. Fazal added that a commercial mixed-use project would take away the benefits of Evelyn's Park. Additionally, she asked that if the development does take place a CMU wall be installed to protect Ione Street as well.

Response by the Applicant

Reid Wilson-Mr. Wilson stated that the developer had a different vision for this site, and acknowledged that it is the Commission's decision. He pointed out that this project is intended to be a win-win result, and that the developer honestly believes that there will be no materially detrimental impact with this change in use. Mr. Wilson added that there is a very competent city staff that will be monitoring this project throughout the development process ensuring that it absolutely does not have a negative impact on the adjacent residential neighborhoods. He stated that although he respects the concerns of the residents from Ione Street, this project should not impact those citizens. He pointed out that there are a number of preexisting problems in this area, and that he is sure something can be done to improve the drainage problem. Mr. Wilson also mentioned that a solution could be met with regards to traffic. He felt that the real issue is that there are no alternatives for this location. He pointed out that it will not be developed as a million dollar estate home, and that he does not believe it could be developed as town homes, as that would require a 60 foot wide public street. Mr. Wilson pointed out that the bottom line is that this project is being proposed to the Commission as what the developer believes will be a win-win situation for everyone involved.

Questions by the Commissioners

Vice Chairman Thorogood asked Mr. McDonald if he could give the Commission some history on the Bellaire Boulevard Estate Overlay District.

Mr. McDonald informed the Commission that there were some development plans for Teas Nursery that the City had some concerns with, as part of that process, and to maintain what had previously been there the Bellaire Boulevard Estate Overlay District was created to make a focal point of larger lots, specifically for homes and churches. He added that there have since been several planned development town home/condominium projects that have been approved on both the north and the south side, but has predominately remained large lot residential or church. This only affects properties that face Bellaire Boulevard.

Vice Chairman Thorogood asked if this property abuts the City of Houston or if it attaches to the CenterPoint property, which is in the City of Bellaire.

Mr. McDonald explained that it attaches to the CenterPoint property.

Vice Chairman Thorogood asked about the city boundaries surrounding 4301 Bellaire Boulevard.

Mr. McDonald explained that across the R.O.W. is the City of Houston, which eventually becomes the City of Southside Place on the south side of Bellaire Boulevard and West University Place on the north side.

Vice Chairman Thorogood questioned whether this is known as the commercial district for those cities.

Mr. McDonald confirmed that this is the commercial district for West University, Southside Place, and a portion of Houston.

Commissioner Skinner asked if the property has actually closed.

Mr. Frankel stated that it has not.

Commissioner Skinner mentioned that the project still has to go before the Board of Adjustment and asked if this is how the process normally works.

Mr. McDonald explained that because this application is a two meeting item for the Planning and Zoning Commission it allows staff to bring it before the Board of Adjustment for consideration prior to the Commission taking action.

Commissioner Skinner asked how this would affect the rest of Bellaire Boulevard, with regards to the overlay district, if this request is granted.

Mr. McDonald stated that the overlay district will stay exactly how it is everywhere else, this one property would simply be removed.

Commissioner Stiggins mentioned the citizen's comment about the drainage problems within the Boulevard Green development, and asked if the drainage design for the new project takes into account existing problems.

Mr. McDonald explained that their proposed increase in pervious cover kicks in different rules and requires them to mitigate for that increase. He also pointed out that it is a planned development, which allows the Commission to put conditions on the approval of the application.

Commissioner Stiggins stated that there are minimal limitations on the types of businesses that would be allowed within this commercial building. He asked Mr. McDonald to comment briefly about those regulations.

Mr. McDonald stated that CMU zoning does allow for a wide range of uses, but because the application is concurrently asking for a planned development the Commission could add conditions to specify the allowable uses.

Commissioner Steinberg mentioned that he is having a hard time combining the two requests and looking at both for one approval. He pointed out that revisions to the drainage, as well as an additional CMU wall have been mentioned by the applicants and asked if it would be necessary to hold another public hearing to include a presentation with the proposed changes.

Mr. McDonald did not feel that anything mentioned would change the project enough to require an additional public hearing. He added that the idea behind the dual track is to recommend approval of a re-zoning to CMU, conditionally on the fact that the planned development is also approved by City Council. He added that in doing that it is tied to the specific project that Mr. Frankel is proposing, locking him into specific regulations.

Attorney Petrov agreed that there have been no changes mentioned thus far that would require an additional public hearing.

Commissioner Steinberg asked if Metro would be involved in the changes to the existing median.

Mr. McDonald stated that only the City of Bellaire would be involved.

Commissioner Butler mentioned that the proposal speaks to removing the ornamental installations that are in the esplanade now and asked if that would include landscaping and any irrigation that is currently installed.

Mr. Frankel explained that his client is prepared to spend additional money to create something nice that is agreeable with the City of Bellaire.

Commissioner Butler asked if the height-setback requirement within the UV-D applies to the CMU as well.

Mr. McDonald confirmed that it does, but explained that this project is not impacted by that requirement due to the placement and height of the building.

Commissioner Butler questioned whether the height-setback applies to any existing residential zoning.

Mr. McDonald confirmed that it does.

Commissioner Butler then mentioned the utility site to the east of 4301 Bellaire Boulevard that is zoned residential, although not in residential use, and asked if the height-setback should be applied on both sides.

Attorney Petrov felt that it should be applied on both sides.

Mr. McDonald stated that he believes that the term is residential use, not residential zoning.

Attorney Petrov and Mr. McDonald assured the Commission that they would check the language.

Commissioner Butler asked Attorney Petrov to speak to what does and does not constitute spot zoning.

Attorney Petrov explained that you have to look at each application individually. He added that any time you are dealing with one tract, the issue of spot zoning gets brought up as something of concern, however, the definition of spot zoning is not simply the re-zoning of one particular location. He mentioned that it has to do more with the reasoning behind the re-zoning and whether it is done out of convenience, or if the use and character of the tracts and the neighborhoods around it are being taken into consideration. Attorney Petrov did not feel that the applicant's presentation was an example of spot zoning because they have pointed out unique circumstances around the zone that would make a re-zoning of the tract something worth considering.

Commissioner Simmons reiterated that the creation of a left turn lane on Bellaire Boulevard would cause traffic issues and asked if he understood correctly that the Commission does not have leverage over that aspect of the application.

Attorney Petrov explained that the Commission does not approve or disapprove traffic issues, it can however include a recommendation with respect to those sorts of things to City Council.

Commissioner Simmons asked Mr. Frankel how many vehicles will be able to queue in the left hand turn lane.

Mr. Frankel stated that he could not answer that question, but would be sure to supply city staff with that information once obtained.

Commissioner Simmons mentioned that any left hand turning vehicles that are still in the through lane will cause problems.

Commissioner Simmons asked if Flood Zone AE is the new zone created since Tropical Storm Allison.

Mr. McDonald confirmed that the city maps have been updated based on Tropical Storm Allison. He added that since that project, the city has made significant increases to its run off infrastructure, and that the site itself must meet commercial flood proofing as well as drainage detention requirements. Mr. McDonald stated that it cannot increase the flow of water into the system, and will have storage tanks to hold the water until such time that the system can take it. He assured the Commission that specifics of the drainage plan will be reviewed during the permit process.

Chairman Frazier asked Mr. McDonald when the Board of Adjustment will vote on the variance application tied to this request.

Mr. McDonald informed the Commission that the Board of Adjustment will hold a public hearing and consider the application on July 17th. He added that staff's recommendation to the Board will be to tie the approval of the variance to approval of the planned development, so that if the PD is not granted the variance will be void. It will then come back to the Commission for consideration at the August 12th meeting.

Chairman Frazier asked for clarification that the Commission can attach reasonable conditions as it deems necessary.

Mr. McDonald confirmed this.

Chairman Frazier reiterated that written comments will be accepted until 4 pm on August 6th.

Vice Chairman Thorogood mentioned that elevation of the site was being proposed and asked Mr. McDonald about the no net fill regulation within Bellaire.

Mr. McDonald stated that the no net fill regulation is specific to residential properties, and that commercial properties can fill more, but also have to mitigate for that increase in impervious cover.

Vice Chairman Thorogood asked if it would make a difference if this property was not located within the overlay district.

Mr. McDonald explained that the property is located within the R-5 Zoning District as well as the Bellaire Estate Overlay District, and regardless of the overlay district it would still need to be re-zoned from R-5 to be developed as a commercial use.

Vice Chairman Thorogood asked what the setback requirement within the overlay district is as compared to what is proposed in this project.

Mr. McDonald explained that Mr. Frankel is meeting or exceeding that setback.

Commissioner Skinner mentioned Commissioner Butler's comment regarding the residentially zoned property to the east of 4301 Bellaire Blvd and the height setback requirements and asked Mr. McDonald if he was confident that the verbiage within the code is residential use.

Mr. McDonald reviewed the code and stated that the language says "residential property." He added that this would be considered a utility property, not a residential property, therefore the height-setback plane would not pertain.

Chairman Frazier asked if this application is consistent with the Comprehensive Plan.

Mr. McDonald pointed out that the only issue is that the future land use map calls 4301 Bellaire Boulevard out as a place of worship, therefore, if approved staff would bring forward an amendment to the map to show that change in use. He added that even if someone was wanting to build a single family home or town houses on the property those would not be in compliance with the Comprehensive Plan either.

Mr. Frankel informed the Commission that he has been in the real estate development business for 26 years and this is the hottest real estate market he has ever experienced. He added that if there was any time for this land to be bought as a home or town home development it would be now, but instead it has been sitting on

the market for 18 months. Mr. Frankel assured the Commission that they want to build a commercial development that is compatible with the residents and will be very conscientious about making that happen. Additionally, he stated that this is a very expensive project that will involve high rent prices and very high quality retail services.

Motion: a motion was made by Commissioner Simmons and seconded by Vice Chairman Thorogood to close the public hearing.

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

The public hearing was closed at 8:27 P.M.

(Requested by John McDonald, Community Development)

X. CURRENT BUSINESS (ITEMS FOR DISCUSSION, CONSIDERATION, AND/OR POSSIBLE ACTION)

A. Overview of the Planning and Zoning Commission's role in the City of Bellaire's Capital Improvement Program Process, to be given by City Manager, Paul Hofmann.

City Manager, Paul Hofmann, informed the Commission that staff has spent quite a bit of time over the last few months thinking through what the Capital Improvement Plan process should look like, and in doing that came across a provision stating that the Planning and Zoning Commission has a required role to play in that process. He added that the inclusion of this body is wonderful and will enhance the process as well as result in a better product. Mr. Hofmann mentioned that management of the city's capital improvements, which he defined as expensive propositions usually funded through the issuance of debt, is very crucial to the success of a municipality. He pointed out that staff will be working on a few new projects this next fiscal year, subject to City Council approval, and will be talking to Council about them in more detail in the next few weeks. Mr. Hofmann explained that one of those projects will be an update to the City's Comprehensive Plan, specifically taking a look at what it says regarding mobility and traffic patterns. He added that another element of good comprehensive planning is parks and open space planning, and although there is a parks board that has some purview, he feels that there is a relationship between that board and the Planning and Zoning Commission's objectives. Mr. Hofmann mentioned that it is time to update the city's Parks Master Plan and make a connection to the Comprehensive Plan. He informed the Commission that the City Engineer has been tasked with creating an assessment of the water and sewer infrastructure, as well as updating a report that looks at the next steps that need to be taken with regard to street and drainage infrastructure. He added that the City hasn't evaluated closely enough the quality of the distribution and collection system for water and sewer. Mr. Hofmann informed the Commission that the Rebuild Bellaire Program was approved by the voters in 2005, and still has two more years of available funding. He noted that it is also time to be thinking about the successor to Rebuild Bellaire. He stated that over the next few months the city will be putting a lot of emphasis, staff effort, and some consulting effort on updating the Comprehensive Plan and elements of the plan that lead directly into good capital planning. He also mentioned that he hopes to be before the Parks Board next February and then back before the Commission in March of 2015 for the consideration of approving a capital plan for recommendation to the City Council.

Chairman Frazier asked if the Commission would be invited to sit in on staff's budget meetings with City Council.

Mr. Hofmann stated that budget meetings are open sessions, and that the members of the Commission are welcome to attend. He added, however, that 4 or more members in attendance would constitute a quorum and may need to be posted as such.

Vice Chairman Thorogood mentioned that when the Comprehensive Plan was put on the table the purpose was really to focus on the commercial sectors, and look at some of the properties in the commercial areas to figure out why there is such a low tax rate. He then asked Mr. Hofmann if during the planning process the city is taking into consideration that there could be some fairly significant commercial developments as a result of the Comprehensive Plan.

Mr. Hofmann explained that there have been some projections made based on what will happen with property values, but that is driven solely by what may happen from a reappraisal standpoint. He added that the city normally takes a conservative approach to the projections and is not anticipating that uses are going to change and/or properties are going to redevelop.

Commissioner Stiggins asked if the purpose of including the Planning and Zoning Commission was to seek out questions and input or simply to meet the ordinance requirements.

Mr. Hofmann stated that it is absolutely for the Commission's participation. He added that he feels as though the Planning and Zoning Commission has a very appropriate, valid, and important role in capital planning for the City of Bellaire, given the nature of the Commission's charge. Mr. Hofmann explained that the purpose is for the Commission to help plan for the future and to be thinking about how private development and the development of public infrastructure relate to each other.

XI. REPORT OF STAFF, COMMITTEES, AND CORRESPONDENCE

There was no report from staff, committees, or correspondence.

XII. NEW BUSINESS

A. The Chair shall recognize any Commissioner who wishes to bring New Business to the attention of the Commission. Consideration of New Business shall be for the limited purpose of determining whether the matter is appropriate for inclusion on a future agenda of the Commission or for referral to staff for investigation.

Commissioner Skinner stated that she had received a flyer regarding the Bellaire High School meeting that had been rescheduled, and was glad that the school district was heeding the city's advice and working harder to inform the public of what is going on. She mentioned the requirement to notify property owners within 200 feet of any property upon which a change is requested and asked if that could be amended to increase the distance to 2,000 feet.

Mr. McDonald stated that this regulation is governed by state law, and changing the requirement to 2,000 feet opens the city up to an increased chance of missing properties. He added that a public hearing would need to be called in order to accomplish this.

Commissioner Steinberg asked if the Commission has the authority to change that.

Attorney Petrov explained that the Commission would be amending Chapter 24 of the zoning code to include a greater requirement than what is in the state law. He added that the Commission would be making a recommendation to Council.

Commissioner Skinner pointed out that it doesn't necessarily have to be 2,000 feet and suggested that it could be a specific number tied to each application.

Mr. McDonald noted that it cannot be done on a case by case basis because the applicant has to know the rules up front. He suggested that an item be put on the next agenda allowing the Commission to vote on whether or not they would like to move forward with this amendment.

Commissioner Skinner asked Mr. McDonald to do some research on the requirements of surrounding cities.

Mr. McDonald stated that he has never seen a city that goes beyond 200 feet.

Attorney Petrov was also not aware of any cities whose requirement was greater than 200 feet.

Mr. McDonald informed the Commission that it is the city's job to put out the notice, but it is also the applicant's job to ensure that the affected parties are all well-informed. He pointed out that there needs to be joint participation between the city and the applicant when it comes to notifying the public of proposed changes. Mr. McDonald stated that staff would put it on the next agenda and do some research on the subject as well.

XIII. ADJOURNMENT

Motion: a motion was made by Commissioner Stiggins and seconded by Commissioner Skinner to adjourn the regular meeting.

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

The meeting was adjourned at 9:02 PM.