

# CITY OF BELLAIRE TEXAS

## BOARD OF ADJUSTMENT

JULY 17, 2014

Council Chamber	Regular Session	7:00 PM
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7008 S. RICE AVENUE  
BELLAIRE, TX 77401



### Chairman

Nick Bacile

### Board Member

Patty McGinty

### Board Member

Amar Raval

### Board Member

Carmen Bechter

### Board Member

Tom Ligh

### Board Member

Aashish Shah

### Board Member

Debbie Sharp

### **Mission Statement:**

***The City of Bellaire is dedicated to outstanding quality service and facilities to ensure an open, progressive, and secure community.***

**1. CALL TO ORDER****2. PLEDGE OF ALLEGIANCE TO THE FLAG (THE US AND TEXAS)**

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

**3. CERTIFICATION OF A QUORUM (OUTGOING AND INCOMING BOARD)****4. APPROVAL OF REGULAR MEETING MINUTES (OUTGOING BOARD ONLY)**

1. Board of Adjustment - Regular Session - Apr 9, 2014 7:00 PM

**5. COMMUNICATIONS AND REPORTS (OUTGOING BOARD ONLY)****6. UNFINISHED BUSINESS (OUTGOING BOARD ONLY)****7. SWEARING IN OF NEW BOARD MEMBERS (INCOMING BOARD ASSUMES DUTIES AND OUTGOING BOARD RETIRES)****8. INTRODUCTION OF INCOMING BOARD MEMBERS****9. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN (INCOMING BOARD ONLY)****10. CONSIDERATION AND ADOPTION OF RULES OF PROCEDURE (INCOMING BOARD ONLY)****11. NEW BUSINESS****A. Public Hearings**

1. Docket # BOA-2014-03-Consideration and possible action on a request for a variance to allow for a Planned Development site width of 120 feet in lieu of the 150 feet minimum required by Section 24-536 C. (2)e 2) of the City of Bellaire Code of Ordinances at 4301 Bellaire Boulevard

(Requested by John McDonald, Community Development)

2. Docket # BOA-2014-04-Consideration and possible action on a request for a special exception to allow a parking lot located on the utility easement to be counted towards the on-site parking requirements, as well as a reduction in the total number of required spaces set forth in Section 24-514a of the City of Bellaire Code of Ordinances at 4950 Terminal, legally described as TRS 45A thru 49A Terminal.

(Requested by John McDonald, Community Development)

**12. COMMUNICATIONS AND REPORTS (INCOMING BOARD ONLY)****13. GENERAL COMMENTS FROM PUBLIC (LIMITATIONS: SIX (6) MINUTES PER SPEAKER WITH EXTENSIONS IN TWO (2) MINUTE INCREMENTS AS APPROVED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT)****14. GENERAL COMMENTS FROM BOARD MEMBERS (INCOMING BOARD ONLY)**

**15.ANNOUNCEMENTS (IF ANY)**

**16.ADJOURNMENT**



# CITY OF BELLAIRE TEXAS

## BOARD OF ADJUSTMENT

APRIL 9, 2014

Council Chamber

Regular Session

7:00 PM

7008 S. RICE AVENUE  
BELLAIRE, TX 77401

### 1. CALL TO ORDER

Chairman 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 led the Board and the public in the pledges to both flags.

### 3. CERTIFICATION OF A QUORUM

Chairman Bacile certified that a quorum was present.

Attendee Name	Title	Status	Arrived
Nick Bacile	Chairman	Present	
Patty McGinty	Board Member	Present	
Amar Raval	Board Member	Present	
Carmen Bechter	Board Member	Present	
Tom Ligh	Board Member	Present	
Aashish Shah	Board Member	Absent	
Debbie Sharp	Board Member	Present	
Shawn Cox	Development Services Manager	Present	
Ashley Parcus	Secretary	Present	

### 4. APPROVAL OF MINUTES

- Board of Adjustment - Regular Session - Jan 21, 2014 7:00 PM

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

### 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. NEW BUSINESS

Minutes Acceptance: Minutes of Apr 9, 2014 7:00 PM (Approval of regular meeting minutes (outgoing Board only))



## A. Public Hearings

1. Docket #BOA-2014-02-Consideration and possible action to approve a Special Exception from parking requirements under Chapter 24, Division 2, Section 24-716 for 5303 Bissonnet, legally described as LT 19 & TR 18A BLK 17 Westmoreland Farms.

Chairman Bacile introduced the item to the public.

Attorney Petrov reviewed the standards for granting a special exception located in Section 24-718 of the City of Bellaire Code of Ordinances.

### Presentation by the Applicant

**William Mao**-Mr. Mao informed the Board that he is the manager for MVM Capital Partners, LLC, and gave some background information on the Centre of Bellaire Shopping Center. He explained that the center was less than 25% occupied when he purchased the property from Amegy Bank, with Samurai Japanese Restaurant and Comcast being the only occupants. Mr. Mao stated that since 2011 MVM has invested over 2 million dollars in improvements, and has added businesses such as Safeway Driving School, McHugh's Tea Room, and Reginelli's Pizza, along with several others. He pointed out that Ruggles Green and a general contracting office are currently awaiting approval based on the results of the special exception application. Mr. Mao then reviewed what he felt were justifications for approval:

-Comcast's lease was not renewed due to the amount of traffic it was attracting to the shopping center on Fridays and Saturdays.

- Amegy Bank operates under standard bank hours with a half day on Saturdays, allowing the other businesses to use those parking spaces after their hours of operation.

-New restaurant Ruggles Green will generate more tax revenue for the City of Bellaire.

-MVM Capital Partners has been based in the City of Bellaire since 2001.

-Current parking calculation is based on typical and generally worse case scenario.

-Traffic study shows sufficient spaces based on operating hours and limited overlaps.

-Additional parking spaces would be gained from potential re-striping and/or conversion (last ditch effort).

-City Council's approval of a new zoning ordinance for commercial properties, Centre of Bellaire is within this new zoning area.

### Staff Findings

Mr. Cox informed the Board that this is an application submitted by MVM Capital Partners, LLC, owner of 5303 Bissonnet St, for a special exception in accordance with the 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 24-514a of the code to 150 spaces. He explained that MVM Capital Partners purchased the center in 2011, and that there are currently 3 restaurants, a doctor's office, a day spa, a driving school, a home health care service company, and two vacant spaces on site. Mr. Cox stated that additionally, Amegy Bank is located at 5301 Bissonnet and has integrated parking with the center. He informed the Board that the current uses in operation require 133 of the 146 total available spaces, and that adequate parking is available to convert the smallest vacant lease space into

offices, bringing the total required parking to 139. Mr. Cox stated that the applicant is proposing to fill the existing vacancies with an additional restaurant and office space. He informed the Board that there are plans to re-stripe the parking lot, bringing the total number of available spaces to 150. Mr. Cox stated that in this scenario, the center would still be 23 spaces short. In addition, the applicant has also considered creating 9 additional spaces out of existing lease space, which would provide 109 spaces, leaving the center short 9. He explained that a parking analysis was prepared by the applicant's architect, and that the city's consultant engineer, Colby Wright, with Jones and Carter, reviewed the analysis and was in agreement that the center would not have adequate parking. Mr. Wright notes, "If adequate parking is not provided on site, motorists may choose not to visit the businesses on site, or they may seek out alternative parking locations, either on street or in adjacent businesses. Mr. Cox informed the Board that the site is not designed to handle the parking demand requested, and the lack of adequate parking will be materially detrimental or injurious to other property or improvements in the neighborhood. He added that this will subsequently increase the congestion in the public streets. Mr. Cox informed the Board, that based on analysis of the application, the request does not meet the standards for granting a special exception, as outlined in Section 24-718 of the Code of Ordinances. Denial of this request is recommended.

### Public Comments

**Charles Beasley**-Mr. Beasley informed the Board that he lives at 6908 Ferris Street, 29 feet from the property in question. He stated that his experience, being there since 2006, has been very mixed. He added that he lives on a very narrow street without curbs, and that overflow from the shopping center ends up parking on his lawn. Mr. Beasley mentioned that he and his neighbors deal with broken sprinkler heads, rutted lawns, and trash on a daily basis. He also added that the daily and nightly activities in the alley behind the center are incredible, with a lot of gathering of the food service people and huge amounts of materials being delivered to the restaurants. Mr. Beasley explained that this shopping center has already been detrimental, and that he can't imagine adding another restaurant to the mix.

**Lynn McBee**-Ms. McBee mentioned that in the sketch there are parking spots shown on the south western edge of the property that are numbered 144-150, and asked if those spots are currently being counted by either the applicant or the city. She added that it is not clear if this map is a representation that the city concurs with or doesn't. She asked the Chairman to raise that question. Ms. McBee stated that it appears as though the type of use that is located within a commercial area determines the requirement for parking. She then asked what the comparison is for a restaurant to an office use on the city's parking formula. Ms. McBee pointed out that the predominance of large scale restaurants that are planned seems to be the driving force on the shortage of parking spaces. She mentioned that citizens who live adjacent to restaurants or food preparation locations suffer unduly, and that it seems to her that the property owner might solve his problem by renting the vacant spaces to something other than high-demand parking uses. She stated that she is pleased that the center has been maintained and is being filled, but that she is much more sensitive to the residents who live next to it. Ms. McBee felt that the city needs to protect its residents, first and foremost, rather than promote business. She reiterated that the applicant has an option to consider other types of uses if the special exception is not granted, and that two additional restaurants within this center will simply add to the impact of the center over and beyond the parking shortage.

Ms. McBee opposed the special exception based on the negative impact that it will have on the neighboring residents.

A written comment from Mr. Richard Franke was read into the record.

### **Rebuttal by the Applicant**

**William Mao**-Mr. Mao stated that he appreciated his fellow Bellaire residents who voiced their objections, but pointed out that there is only one additional restaurant that is trying to come in to the center. He then addressed the question regarding the parking spaces on the sketch and explained that those spaces are being counted and have been confirmed by city staff. Mr. Mao added that Ruggles Green, currently awaiting approval, has conservative hours, and that the already existing tea room is only open for lunch.

### **Questions by the Board**

Board Member Bechter asked if the total number of parking spaces that the city is requiring is 173.

Mr. Cox confirmed that 173 spaces is needed for complete build out, including the addition of Ruggles Green and the remaining vacant spaces to be calculated as office.

Board Member Bechter asked for clarification that Mr. Mao currently has 150 spaces.

Mr. Mao explained that he currently has 146, but in re-striping he could get to 150.

Board Member Bechter asked what information the city relied upon to say that it would be materially detrimental to grant this request.

Mr. Cox informed the Board that staff used the site plan and square footage of the buildings and lease spaces in conjunction with the uses to determine how many parking spaces are needed on site, and that Amegy Bank is also included in this calculation because they share parking with the site. He stated that a parking analysis was prepared showing a lack of parking spaces at certain times during the day. Mr. Cox explained that the city's traffic engineer reviewed the analysis and agreed that there would be times that the center would not have adequate parking. He also felt that this would lead to overflow parking in the streets.

Board Member Bechter asked Mr. Mao if he understood that the Board may not grant a special exception if what is being requested is materially detrimental to the residents, if it substantially increases traffic, or if it diminishes property values. She didn't feel that Mr. Mao had overcome the threshold, based on the testimony that was given, for the Board to even consider this application.

Board Member Ligh mentioned that there are three islands with trees located in the parking lot and asked Mr. Mao if he would be turning those into parking spaces.

Mr. Cox and Mr. Mao explained that those islands will remain in place due to the fact that 10% green space has to be maintained.

Mr. Ligh asked if there were any available spaces behind Amegy Bank.

Mr. Cox informed the Board that those spaces are included in the total numbers.

Mr. Ligh mentioned that there seems to be an area behind those spaces and asked if they could be made into parking spots

Mr. Cox pointed out that the space in question is not on Mr. Mao's property.

Vice Chairman Sharp mentioned the diagonal parking spaces numbered 126-143 that are located on the south side of the site plan and asked if those already exist.

Mr. Cox explained that those are already striped and are counted in the total numbers.

Vice Chairman Sharp mentioned the parking spaces numbered 144-150 that are located on the west side of the plan and asked if these are additional spaces.

Mr. Cox informed the Board that these spaces are under building parking that currently exist, and pointed out that the spaces that Mr. Mao is looking to add are hash marked on the site plan.

Vice Chairman Sharp pointed out that different uses require different amounts of parking and asked Mr. Cox if the Board was being asked to consider a special exception for a specific set of leased entities within the shopping center.

Mr. Cox explained that the Board is only being asked to consider granting a special exception for the reduction of 23 parking spaces. He also pointed out that the only way that the center would need more parking than what it currently requires is if one of the companies, that is not a restaurant, moved out and another restaurant wanted to move in. In this instance, Mr. Mao would have to come back before the Board to seek an even greater reduction.

Vice Chairman Sharp mentioned Mr. Mao's shared parking agreement with Amegy Bank and asked what would happen if Amegy sells to a restaurant that would require more spaces.

Mr. Cox informed the Board that there would not be adequate parking available for a restaurant at that location, therefore, the city would not issue permits or a certificate of occupancy without first coming before the Board of Adjustment for a special exception.

Board Member Raval asked if 173 spaces is what would be required with a new restaurant coming into the center.

Mr. Cox explained that 173 spaces is the requirement for the shopping center as is, with the addition of a fourth restaurant and office space build out for vacant spaces. He added that if Mr. Mao proposed to bring another restaurant or retail into those vacant spaces instead of office then it would require an increase in the number of spaces.

Attorney Petrov mentioned that parking for shopping centers is always difficult due to the fact that there are multiple tenants, each with different parking requirements. He added that a turnover in businesses within the shopping center

requires a recalculation of parking based on the new use, and the city is able to control this situation by requiring the owner to come before the Board prior to getting a certificate of occupancy, if the parking requirement is not met.

Chairman Bacile asked Mr. Cox how many parking spaces are required for the center as it exists currently.

Mr. Cox stated that the current requirement is 133 parking spaces, without the addition of Ruggles Green and the other vacant spaces being leased out as office.

Chairman Bacile noted that this only leaves 13 excess spaces.

Mr. Cox confirmed this.

Chairman Bacile asked how many spaces Ruggles Green would require.

Mr. Cox explained that 22 spaces would be required for Ruggles Green, which would still leave them 9 spaces short.

A motion was made by Board Member Raval and seconded by Board Member McGinty to approve the special exception.

**Vote:** the motion failed on a vote of 0-6.  
(Requested by John McDonald, Community Development)

<b>RESULT:</b>	<b>FAILED [0 TO 6]</b>
<b>MOVER:</b>	Amar Raval, Board Member
<b>SECONDER:</b>	Patty McGinty, Board Member
<b>NAYS:</b>	Bacile, McGinty, Raval, Bechter, Ligh, Sharp
<b>ABSENT:</b>	Shah

## 8. 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).**

**Lynn McBee**-Ms. McBee stated that she has sympathy for people wanting more than what we have, as well as sympathy for developers who try to supply it, but that her real concern is that we want more than we can get. She stated that parking has become a problem due to growth, and that the City of Bellaire will be facing this issue for years to come. She pointed out that the only options are rooftop parking, under building parking, or rebuilding. Ms. McBee informed them that as the Board of Adjustment, they have the opportunity to make recommendations to City Council regarding the parking situation and urged them to do so.

## 9. GENERAL COMMENTS FROM BOARD MEMBERS

Chairman Bacile mentioned that parking has been a grave concern, not only for this Board, but others as well. He agreed that the city needs a solution. Chairman Bacile felt that an increased amount of parking will be needed for the future mixed-use developments that the city could see due to the recent re-zoning.

Board Member Raval pointed out that if the city is being re-zoned for commercial use, the parking formulas also need to be taken into consideration. He stated that he likes the idea of redevelopment, but at this point the city is limited on what it can allow.

Mr. Cox mentioned that the Planning and Zoning Commission recently made a motion to send some new parking numbers to City Council for review, however, those numbers would not have impacted the site in question. He explained that they primarily center on church and school requirements, as well as the addition of some categories that were not previously included in the code.

#### **10.ANNOUNCEMENTS**

There were no announcements.

#### **11.ADJOURNMENT**

Motion: a motion was made by Vice Chairman Sharp and seconded by Board Member Bechter to adjourn the regular meeting.

Vote: the motion carried on a unanimous vote of 6-0.

**The meeting adjourned at 8:02 PM.**

**Board of Adjustment**

Council Chambers, First Floor of City  
Hall  
Bellaire, TX 77401



Meeting: 07/17/14 07:00 PM  
Department: Community  
Development  
Category: Variance  
Department Head: John McDonald  
DOC ID: 1281 B

**SCHEDULED****ACTION ITEM (ID # 1281)****Item Title:**

Docket # BOA-2014-03-Consideration and possible action on a request for a variance to allow for a Planned Development site width of 120 feet in lieu of the 150 feet minimum required by Section 24-536 C. (2)e) 2) of the City of Bellaire Code of Ordinances at 4301 Bellaire Boulevard

**Background/Summary:**

Address: 4301 Bellaire Blvd  
Applicant: Dr. Mark Brinker, c/o Sloan Properties, LLC  
Zoning: R-5 under the BBEOD (a request to be rezoned to CMU is  
on currently under review by the Planning and Zoning Commission)  
Date Filed: June 17, 2014  
Mail Outs: June 23, 2013  
Legal Notice: Published in Southwest News on June 24, 2014

The applicant is requesting a variance from Sec. 24-536 C. (2)e)2) of the City of Bellaire Code of ordinances to reduce the minimum required site width for a planned development in the Corridor Mixed Use (CMU) District from 150 feet to 120 feet.

The property is located in the R-5 Residential Zoning District and is part of the Bellaire Boulevard Estate Overlay District (BBEOD). The applicant has requested an amendment to the zoning map to re-zone the property to the CMU District. Additionally, the applicant has applied for a Planned Development within the CMU district. The Planning and Zoning Commission will consider this item on Tuesday, August 12, 2014.

Information on pending applications before the Planning and Zoning Commission are included for background purposes only. The Board's task is to determine if a variance is warranted for this particular parcel, not to determine the suitability of the proposed development.

The property was previously owned by Westside Christian Church. The church gifted the property to Dallas Christian College (DCC) in 2012. The applicant is currently under contract to purchase the property from DCC.

**Criteria for Review:**

General requirements:

The Board shall not grant a variance unless it shall, in each case, make specific written findings based directly upon the particular evidence presented to it which support written conclusions that:

1. Such modifications of the height, yard, area, lot width, lot depth, off-street loading, screening wall, coverage, parking and sign regulations are necessary to secure appropriate development of a parcel of land which materially differs from other



parcels in the district because of a special condition unique to and inherent in the parcel itself, such as restricted area, shape or slope, such that the parcel cannot be appropriately developed without modification.

*The property is situated between a residential planned development (townhomes) and a CenterPoint Energy utility easement. The access, location, and value of the land severely limit the development options. While the area is zoned for residential development, the Subdivision Ordinance requires all residential lots to face on a public street. The size and dimensions of the lots make lend itself to being prohibitive to this type of development with out the possible need of other variances.*

2. A literal enforcement of the zoning ordinance from which the variance is requested would result in unnecessary hardship not self-created or personal, nor solely financial in nature.

*A literal enforcement of the minimum 150 feet width requirement for a planned development limits the development possibilities of the site. The parcel is not conducive for the development of a single family residence, a church, or a school.*

3. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public health, safety and well-being, or substantially diminish or impair property values within the neighborhood.

*The variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public health, safety and well-being, or substantially diminish or impair property values within the neighborhood.*

4. The variance desired will not be opposed to the general spirit and intent of this chapter.

*The granting of the variance would not be opposed to the spirit and intent of the ordinance.*

### **Recommendation:**

It is staff's opinion upon review of the application and the materials submitted that the application does meet the standards for a variance as outlined in Article VII, Division 1, Section 24-704. While there may be specific criticisms by some to the currently proposed project, that project is undergoing review by the Planning and Zoning Commission and subsequently, the City Council. The question before the Board is focused on the lot itself and it's inherent limitations. The Community Development Department offers no objections to the granting of this variance.

The Department recommends that due to the ongoing consideration of the rezoning of the



parcel, that if the Board deems the request for a variance as appropriate, that they condition that variance on the rezoning of the property to CMU within a one year period.

**ATTACHMENTS:**

- 4301 Bellaire - Variance Application Packet (PDF)

## APPLICATION FOR VARIANCE REQUEST

Applicant shall specifically explain the variance being requested and why the literal enforcement of the zoning regulations of Chapter 24 of the City of Bellaire Code of Ordinances will result in unnecessary hardship. A site plan/survey showing the improvements requiring the variance shall be attached to this application.

### DESCRIPTION OF PROPOSED VARIANCE

Address: 4301 Bellaire Boulevard

Legal Description (Subdivision, Block, Lot): Westmoreland Farms Subdivision; Block 1, Lot 46 & Tract 47

Applicant's Name: Dr. Mark Brinker, C/O Sloan Properties, LLC

Address, Phone number and Email: 2101 Pine Valley Drive; Houston, TX 77019 - [mark@mbrinker.com](mailto:mark@mbrinker.com)

Property Owner's Name: Dallas Christian College; 2700 Christian Parkway; Dallas, TX 75234

Authorized Agent: (Owner's) Dusty Rubeck 972-849-2870 – President of DCC  
(Applicant's) Bruce W. Frankel 713-661-0440 – Development Consultant

### DESCRIPTION OF VARIANCE REQUEST

The Applicant is requesting a variance under CMU Zoning District that would enable them to obtain a Planned Development for the subject property with a site width of 120 feet, which is 30 feet less than the minimum width requirement of 150 feet.

The section of the Code of Ordinances  
That variance request is being made from Chapter 24, Section 24-536; Paragraph C.2.E

### HARDSHIPS THAT HAVE OCCURRED OR WILL OCCUR WITHOUT THIS VARIANCE

The Applicant's hardship is directly related to the physical characteristic of the property itself. That is, the property's narrowness poses an unnecessary hardship on the Applicant if the requirement under the zoning ordinance is enforced. This is despite the fact that the site can accommodate the proposed new development for the property which complies with most all of the requirements for a Planned Development under the CMU Zoning District. Without the variance, the Applicant will not be able to obtain a Planned Development for the property.

	Yes	No
Site Plan Included shows existing structure with proposed additions.	<u>X</u>	<u>      </u>

Year Approved	Year Denied
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List previous variance request N/A

**Attachment: 4301 Bellaire - Variance Application Packet (1281 : 4301 Bellaire Blvd Variance)**

## VARIANCE TO MINIMUM STANDARDS CRITERIA

	<u>Min. Required</u>	<u>Actual</u>	<u>Exceeds Min.</u>
Site Width	<u>150</u>	<u>120</u>	<u>- 30'</u>
Site Depth	<u>100</u>	<u>409</u>	<u>+309</u>
	<u>Min. Proposed</u>	<u>Actual</u>	<u>Exceeds Min.</u>
Front Setback	<u>                    </u>	<u>                    </u>	<u>                    </u>
Side Setback	<u>                    </u>	<u>                    </u>	<u>                    </u>
Rear Setback	<u>                    </u>	<u>                    </u>	<u>                    </u>
Lot Coverage	<u>                    </u>	<u>                    </u>	<u>                    </u>
Height of Proposed Structure	<u>53 (Maximum)</u>	<u>44</u>	<u>-9 (Under Max.)</u>
Tract or Lot Size	<u>32,670sf</u>	<u>49,860sf</u>	<u>+17,190sf</u>

Indicate any measures designed into the project to reduce any adverse effect of the proposed variance request.

There are none.

APPEAL FROM BOARD OF ADJUSTMENT DECISION MUST BE MADE TO THE DISTRICT COURT.



CITY OF BELLAIRE  
RECEIVED

JUN 17 2014

COMMUNITY DEVELOPMENT

June 16, 2014

Board of Adjustments  
City of Bellaire  
7008 South Rice Avenue  
Bellaire, TX 77401-4495

**RE: 4301 BELLAIRE BOULEVARD – VARIANCE APPLICATION**

Dear Board of Adjustments:

Sloan Properties, LLC's (the "Applicant") is seeking your consideration and approval for a variance on the minimum width requirement for a Planned Development under CMU Zoning District, on the property referenced above. Specifically, the Applicant is requesting that a variance be granted which would enable the Applicant to obtain a Planned Development for the subject property with a site width of 120 feet, which is 30 feet less than the minimum width requirement of 150 feet. The Applicant's purpose for requesting the variance is directly related to a physical characteristic of the property itself which falls just short of the dimensions required under Section 24-536 (Corridor Mixed Use District - CMU) of Bellaire's Municipal Code in order to qualify as a Planned Development. As stated in Paragraph C.2.E. of this Section, in order to qualify for a Planned Development the lot width must be a minimum of 150 feet.

The Applicant is requesting that this variance application be considered simultaneously with its other two applications that have been submitted to the Planning & Zoning Commission that are currently under review pertaining to the same property. The two applications under review by P&Z are: (1) an application to rezone the property from its current R-5 Zoning District to CMU Zoning District and removal of the Bellaire Boulevard Estate Overlay District, and (2) an application for a Planned Development to allow for the construction of a new two-story commercial building. Approval of a Planned Development for this property will assure adjacent property owners and the City of Bellaire that once the property has been rezoned to CMU the Applicant will follow through with its plans and representations made for the redevelopment of this property. Without granting this variance, both applications under review by the P&Z will most likely be denied. The following information will make it easier for your committee to understand what is at stake and the significance of granting this variance.

**BACKGROUND**

The Applicant is currently under contract to purchase the subject property from its current owner, Dallas Christian College. The previous owner of the property, Westside Christian Church, disband 19 months ago and gifted the property to Dallas Christian College who has no use for the property. The property is currently vacant and DCC is only interested in selling the property.



The property possess numerous constraints that will keep it from ever being occupied again as a Church, a single-family dwelling, or any other use permitted under its current R-5 Zoning District and complies with the City's Comprehensive Plan for this particular site. These constraints include: 1) the existing improvements which are obsolete and deteriorating, 2) the property owner's interests to sell the property, 3) the value of the property which has reached an historic high, 4) the size of the property which is too small for a new church or school to be built and operate successfully, 5) the property's dimensions which limit its options for redevelopment, 6) the undesirable electrical tower and overhead power lines, 7) adjacent busy railway, and 8) the busy thoroughfare (Bellaire Boulevard) which carries over 20,000 vehicle per day. **These constraints make this property inherently undevelopable under its current zoning which is the reason why the Applicant has submitted applications to rezone the property and seek approval for a Planned Development.**

#### **PROPOSED REDEVELOPMENT:**

The Applicant's proposed plans for redeveloping this 49,860 square foot (1.1 acre) site will be to construct a two-story commercial building. The 19,054 square foot mixed-use building with a net leasable area of 16,753 square feet, will comprise of 8,206 square feet of office space over 8,547 square feet of retail space. The building will be oriented toward the front of the property with parking located in the front and rear of the building. In compliance with the Comprehensive Plan, the first floor of the new building will feature storefront shops and a small restaurant/cafe in a walkable, neighborhood commercial setting in effort to boast small city charm and establish itself as a compatible neighbor. The second story will be leased to one or more office users.

The project will feature federalist style architecture with a brick and precast concrete veneer. The building will feature a clock tower that has been incorporated into the plan to serve as a landmark and preserve the small town charm of Bellaire. In compliance with the Comprehensive Plan, the new two-story structure is designed to elevate the aesthetics and appearance of this roadway corridor gateway into City of Bellaire and match the level of residential investment across the community.

#### **EXAMINING THE FOUR CONDITIONS:**

Despite the subject property's narrowness, the property will accommodate the Applicant's proposed new development which complies with most all the requirements for a Planned Development under the CMU Zoning District. This is further illustrated in the attached site plan which shows that the new development meets all of the minimum requirements as it relates to yard, area and lot depth, off street parking, screening, coverage, parking and sign regulations. Furthermore, the height of the proposed new building will be 44 feet which is 9 feet below the maximum building height allowable for a Planned Development under the CMU Zoning District, and 19 feet below the maximum additional building height allowable for gables, chimneys, vent stacks and mechanical equipment. **Hence, literal enforcement of the Zoning Ordinance would result in an unnecessary hardship that is not self-created or personal, nor financial in nature.**

Given the quality of the design and materials used in the proposed development, the project will not materially be detrimental or injurious to other property or improvements in the neighborhood. Rather, it will match the level of residential investment made in the adjacent properties and across the rest of the community. Given the building's size, height, depth and distance between the Boulevard Green townhome development, the



proposed development will not impair an adequate supply of light or air to the adjacent properties. The project's size, its makeup, and proposed ingress and egress will not increase congestion on Bellaire Boulevard. Rather, the project will benefit from the existing traffic that already exists along this major thoroughfare. Furthermore, there is no indication given the make-up of the project that it will pose any danger to the public in terms of a potential fire. What's more, the projects landscaping and stature will serve as a buffer to reduce the noise of the adjacent railway to nearby property owners.

Bellaire Boulevard is actually more of a commercial thoroughfare than it is a residential thoroughfare. The boulevard is already lined with one and two story commercial buildings and businesses east of the subject property located in the Cities of Southside Place and West University Place. Located to the west, catty-corner to the site is Evelyn's Park, which will draw a lot of additional traffic to the area in addition to the already existing churches. That said, the proposed redevelopment is nothing different from what already exists in the area along this busy thoroughfare. Granting the variance will not in any way be a detriment or nuisance to the City of Bellaire and adjacent residences, nor will it lower property values or the City's image. If anything, the property in its current state presents more of a detriment or nuisance to the City of Bellaire and adjacent residence. Granting this variance will allow the proposed redevelopment to move forward and actually help avoid this property from becoming a nuisance and problem to the community. The proposed redevelopment complies with the City's Comprehensive Plan and will enhance the Community as a new amenity for Bellaire residents.

#### **THE HARDSHIP:**

The property's frontage currently meets 80% of the minimum required width for a Planned Development under the CMU Zoning District. The fact that site will accommodate the proposed new improvements, the only need for the variance is due to the physical characteristic of the property itself. The property's physical shortcomings ("narrowness") poses an unnecessary hardship on the Applicant if the requirement under this zoning ordinance is enforced. Without the variance, the Applicant will not be able to establish a Planned Development on the property. Though the Applicant is not required to apply for a Planned Development in order to rezone the property, it is in the Applicant's opinion that without it the Applicants application to rezone the property will be denied. The repercussions of denying a rezone means the property will remain in its current state and continue to deteriorate, creating an eyesore and future problem for the City.

Attached with this application, is our check in the amount of \$400.00 for the application fee and the following items:

- Street address and legal description of the property;
- The Title Report to confirm proof of ownership;
- A Survey with the property lines and the existing structure on the property with its measurements;
- A Site Plan with the property lines, proposed new structure with measurements, measurements from the property line to the proposed structure and measurements from the proposed structure to main residential structure; and
- The names and addresses of all parties to be notified that are involved in this application.

Please note that the Applicant's applications for rezoning the property and the establishment of a Planned Development will be reviewed by the Planning and Zoning Commission at their next monthly meeting scheduled for July 8, 2014. The hearings for both applications will take place on this date. However, according to the Department of Community Development, the decision on either application won't be rendered until P&Z's next monthly meeting scheduled on August 12, 2014.

Please contact me if you have any questions or require further information in order to process this application. We very much appreciate your consideration of our request, and hope that you will support our application and grant us this variance.

Sincerely,



Bruce W. Frankel  
Principal – Development Consultant  
[bfrankel@frankeldev.com](mailto:bfrankel@frankeldev.com)  
713-417-8020 (cell)



## PROPERTY ADDRESS & PROPERTY LEGAL DESCRIPTION

### Property address of land:

4301 Bellaire Boulevard; Bellaire, TX 77401

### Total area of the property proposed to be reclassified:

49,860 square feet (1.145 acres) Front Boundary: 119.92 feet; Rear Boundary: 123.90; Side Boundaries: 409 feet.

### Legal description of land:

A TRACT OF LAND CONTAINING 1.145 ACRES (49,860 SQ. FT.) OF LAND BEING ALL OF LOT 46 AND THE WEST 6.5 FEET OF LOT 47, BLOCK 1 WESTMORELAND FARMS FIRST AMENDED SUBDIVISION AS RECORDED IN VOLUME 3, PAGE 60 HARRIS COUNTY MAP RECORDS, SAID 1.145 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING AT A FOUND 5/8 INCH IRON ROD WITH "TRI-TECH" CAP BEING THE NORTHEAST CORNER OF BOULEVARD GREEN AS RECORDED IN VOL. 294, PG. 21 H.C.M.R., THE SOUTH RIGHT-OF-WAY LINE OF BELLAIRE BOULEVARD (150' ROW) AND NORTHWEST CORNER OF SAID LOT 47 AND HEREIN DESCRIBED TRACT;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID BELLAIRE BOULEVARD AND NORTH LINE OF HEREIN DESCRIBED TRACT A DISTANCE OF 119.92 FEET TO A FOUND 5/8 INCH IRON ROD WITH "TRI-TECH" CAP BEING ON THE SOUTH RIGHT-OF-WAY LINE OF SAID BELLAIRE BOULEVARD, THE NORTHWEST OF A TRACT DESCRIBED TO CENTERPOINT ENERGY AS RECORDED IN VOL. 1757, PG. 174 OF H.C.D.R. AND NORTHEAST CONER OF HEREIN DESCRIBED TRACT;

THENCE SOUTH 00 DEGREES 13 MINUTES 05 SECONDS WEST ALONG THE WEST LINE OF SAID CENTERPOINT TRACT A DISTANCE OF 409.00 FEET TO A FOUND 5/8 INCH IRON ROD WITH "TRI-TECH" CAP BEING THE SOUTHWEST CORNER OF SAID CENTERPOINT TRACT, THE NORTH LINE OF AN AREA OF QUESTIONABLE TITLE AND SOUTHEAST CORNER OF HEREIN DESCRIBED TRACT;

THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF HEREIN DESCRIBED TRACT A DISTANCE OF 123.90 FEET TO A FOUND 5/8 INCH IRON ROD WITH "TRI-TECH" CAP BEING THE SOUTHEAST CORNER OF SAID BOULEVARD GREEN SUBDIVISION AND SOUTHWEST CORNER OF HEREIN DESCRIBED TRACT;

THENCE NORTH 00 DEGREES 20 MINUTES 26 SECONDS EAST ALONG THE EAST LINE OF SAID BOULEVARD GREEN SUBDIVISION AND WEST LINE OF HEREIN DESCRIBED TRACT A DISTANCE OF 409.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.145 ACRES OF LAND.

CITY OF BELLAIRE  
RECEIVED

JUN 17 2014

COMMUNITY DEVELOPMENT



Old Republic National Title Insurance Company

OWNERSHIP LETTER

CITY OF BELLAIRE  
RECEIVED

JUN 17 2014

COMMUNITY DEVELOPMENT

STATE OF TEXAS:  
COUNTY OF HARRIS:

CERTIFICATE NUMBER: 14001240

Gentlemen:

We have made a diligent search of the records of the County of Harris, the State of Texas, as to the following property, to-wit:

See Attached Legal Description

And found title to be apparently good in Dallas Christian College, A Texas Non-Profit Corporation, by virtue of Deed dated December 21, 2014, and filed January 7, 2013 under Harris County Clerk's File No. 20130007944 and Correction Deed dated April 29, 2014, and filed May 6, 2014 under Harris County Clerk's File No. 20140190958, to be the Owners of the herein described tract of land.

PLANT DATE: May 15, 2014

NOTICE: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY DISCLAIMS ANY WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THIS INFORMATION. THIS INFORMATION IS SOLELY FOR THE USE OF THE PARTY REQUESTING IT AND NO ONE ELSE. OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY'S LIABILITY FOR ERRORS AND/OR OMISSIONS IN THIS INFORMATION SHALL BE LIMITED TO THE AMOUNT PAID FOR THIS REPORT. BY ACCEPTING THIS FORM, THE PARTY REQUESTING THE INFORMATION AGREES THAT THE DISCLAIMER OF WARRANTIES AND LIABILITY LIMITATION CONTAINED IN THIS PARAGRAPH IS A PART OF ITS CONTRACT WITH OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY AND SHALL COVER ALL ACTIONS WHETHER ARISING HEREUNDER BY STATUTE, IN CONTRACT, OR IN TORT.

EXECUTED this the 22nd day of May, 2014.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

By:   
Paige A. Dunlap

**EXHIBIT "A"**

A TRACT OF LAND CONTAINING 1.145 ACRES (49,860 SQ. FT.) OF LAND BEING ALL OF LOT 46 AND THE WEST 6.5 FEET OF LOT 47, BLOCK 1 WESTMORELAND FARMS FIRST AMENDED SUBDIVISION AS RECORDED IN VOLUME 3, PAGE 60 HARRIS COUNTY MAP RECORDS, SAID 1.145 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING AT A FOUND 5/8 INCH IRON ROD WITH "TRI-TECH" CAP BEING THE NORTHEAST CORNER OF BOULEVARD GREEN AS RECORDED IN VOL. 294, PG. 21 H.C.M.R., THE SOUTH RIGHT-OF-WAY LINE OF BELLAIRE BOULEVARD (150' ROW) AND NORTHWEST CORNER OF SAID LOT 47 AND HEREIN DESCRIBED TRACT;

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THENCE SOUTH 00 DEGREES 13 MINUTES 05 SECONDS WEST ALONG THE WEST LINE OF SAID CENTERPOINT TRACT A DISTANCE OF 409.00 FEET TO A FOUND 5/8 INCH IRON ROD WITH "TRI-TECH" CAP BEING THE SOUTHWEST CORNER OF SAID CENTERPOINT TRACT, THE NORTH LINE OF AN AREA OF QUESTIONABLE TITLE AND SOUTHEAST CORNER OF HEREIN DESCRIBED TRACT;

THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF HEREIN DESCRIBED TRACT A DISTANCE OF 123.90 FEET TO A FOUND 5/8 INCH IRON ROD WITH "TRI-TECH" CAP BEING THE SOUTHEAST CORNER OF SAID BOULEVARD GREEN SUBDIVISION AND SOUTHWEST CORNER OF HEREIN DESCRIBED TRACT;

THENCE NORTH 00 DEGREES 20 MINUTES 26 SECONDS EAST ALONG THE EAST LINE OF SAID BOULEVARD GREEN SUBDIVISION AND WEST LINE OF HEREIN DESCRIBED TRACT A DISTANCE OF 409.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.145 ACRES OF LAND.



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Special Warranty Deed

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

Date: December 21, 2012

Grantor: Westside Christian Church, a Texas non-profit corporation

Grantor's Mailing Address: Westside Christian Church  
4301 Bellaire Blvd.  
Bellaire, Texas 77401  
Harris County

Grantee: Dallas Christian College, a Texas non-profit corporation *lee*

Grantee's Mailing Address: Dallas Christian College  
2700 Christian Parkway  
Dallas, Texas 75234-7299  
Dallas County

Consideration: TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

Property (including any improvements): LT 46 & TR 47 BLK 1 WESTMORELAND FARMS, an addition to the City of Bellaire, Harris County, Texas *D*

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty: Any matter of record affecting the Property

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

[SIGNATURE ON FOLLOWING PAGE]

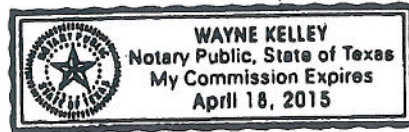
Westside Christian Church, Houston, Texas,  
a Texas non-profit corporation

18

By: Janet Purvis  
Chairman of the Board

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

This instrument was acknowledged before me on December 21, 2012, by JANET PURVIS, Chairman of the Board of Westside Christian Church, Houston, Texas, a Texas non-profit corporation.



Wayne Kelley  
Notary Public in and for the State of Texas

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas.

JAN - 7 2013



Stan Stewart  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

FILED FOR RECORD  
8:00 AM

JAN - 7 2013

Stan Stewart  
County Clerk, Harris County, Texas

AFTER RECORDING RETURN TO:

Dallas Christian College  
2700 Christian Parkway  
Dallas, Texas 75234-7299  
ATTN: Dusty Rubeck

N



Correction Special Warranty Deed

3  
Correc  
H

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

Date: April 29, 2014 and effective as of December 21, 2012

Grantor: Westside Christian Church, a Texas non-profit corporation

Grantor's Mailing Address: Westside Christian Church  
4301 Bellaire Blvd.  
Bellaire, Texas 77401  
Harris County

Grantee: Dallas Christian College, a Texas non-profit corporation

Grantee's Mailing Address: Dallas Christian College  
2700 Christian Parkway  
Dallas, Texas 75234-7299  
Dallas County

Consideration: TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

Property (including any improvements): Lot Forty-six (46) and the west 6-1/2 feet of Lot Forty-seven (47), in Block One (1) of WESTMORELAND FARMS AMENDED FIRST SUBDIVISION, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 3, Page 60 of the Map Records of Harris County, Texas (the "Property").

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty: Any matter of record affecting the Property

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

This Correction Deed is made in place and to correct that certain Special Warranty Deed from Grantor to Grantee, dated the 21 day of December 2012, and recorded under Document No. 20130007944, in the Real Property Records of Harris County, Texas. Such Special Warranty

Deed incorrectly contained the following language in its legal description:

"LT 46 & TR 47 BLK 1 WESTMORELAND FARMS, an addition to the City of Bellaire, Harris County, Texas"

which has been changed and corrected to read as follows:

"Lot Forty-six (46) and the west 6-1/2 feet of Lot Forty-seven (47), in Block One (1) of WESTMORELAND FARMS AMENDED FIRST SUBDIVISION, a subdivision in Harris County, Texas, according to the map or plat thereof, recorded in Volume 3, Page 60 of the Map Records of Harris County, Texas."

D

This instrument confirms in all other respects such former Special Warranty Deed. This instrument is executed in accordance with Section 11.356 of the Texas Business Organizations Code.

Westside Christian Church, Houston, Texas  
a Texas non-profit corporation

lor

By: Harold R. Eye  
Name: Harold R. Eye  
Title: Secretary of the Board of Officers

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

This document was acknowledged before me on the 29<sup>th</sup> day of April, 2014 by Harold R. Eye, Secretary of the board of Officers, of Westside Christian Church, Houston, Texas, a Texas non-profit corporation on behalf of said non-profit corporation.

Peggy J. Pierce  
Notary Public in and for the State of Texas



RP 091-42-0115

Accepted:

Dallas Christian College,  
a Texas non-profit corporation

By: [Signature]

Name: Dustin D. Rubeck

Title: President

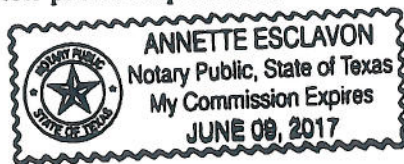
**RECORDER'S MEMORANDUM:**

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

STATE OF TEXAS §

COUNTY OF HARRIS §

This document was acknowledged before me on the 1<sup>st</sup> day of May, 2014 by Dustin D. Rubeck, President of Dallas Christian College, a Texas non-profit corporation, on behalf of said non-profit corporation.



Annette Esclavon  
Notary Public in and for the State of Texas

AFTER RECORDING RETURN TO:

~~Dallas Christian College  
2700 Christian Parkway  
Dallas, Texas 75234-7299  
Attn: Dusty Rubeck~~

RETURN TO:  
Old Republic Title  
777 Post Oak Blvd., #125  
Houston, TX 77056  
ATTN: Paige Dunlap OFD 14001240

RP 091-42-0116



RP 091-42-0117

FILED

2014 MAY -6 PM 1:34

Stan Stenart  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL  
PROPERTY BECAUSE OF COLOR OR RACE IS VOID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time  
stamped herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris  
County, Texas.

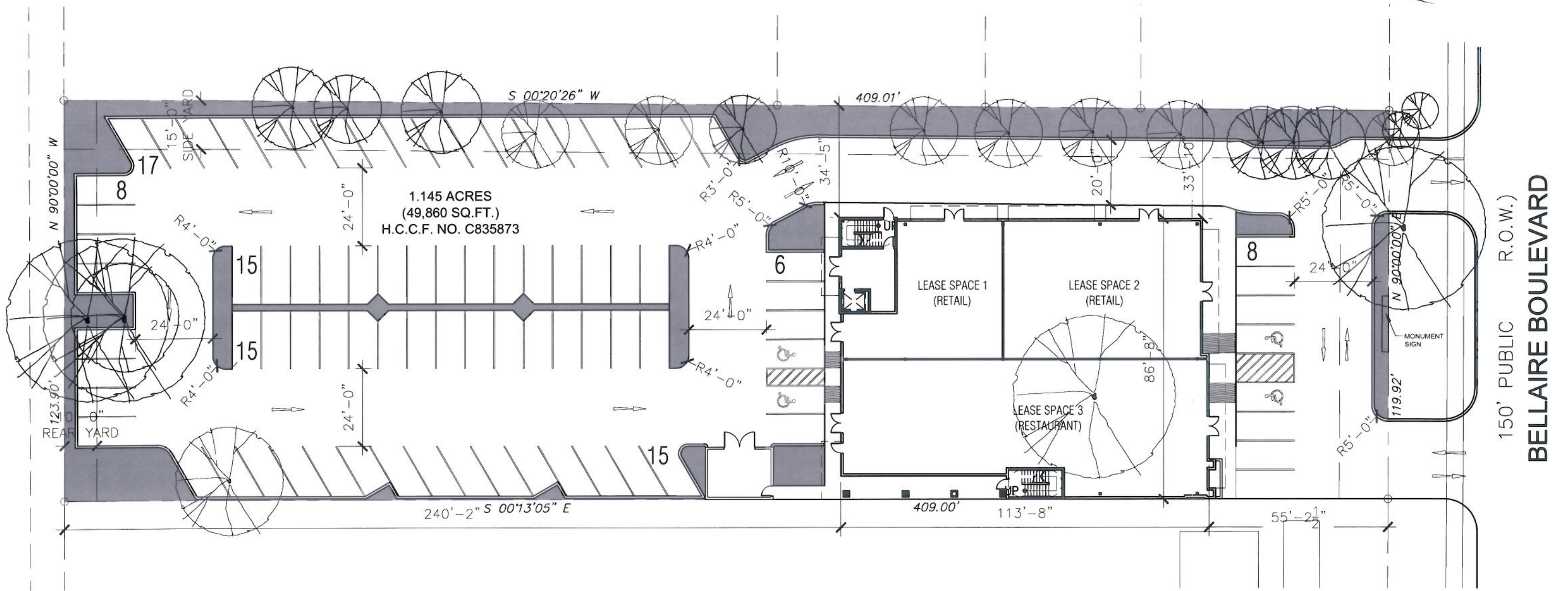
MAY - 6 2014



Stan Stenart  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

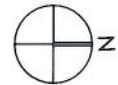






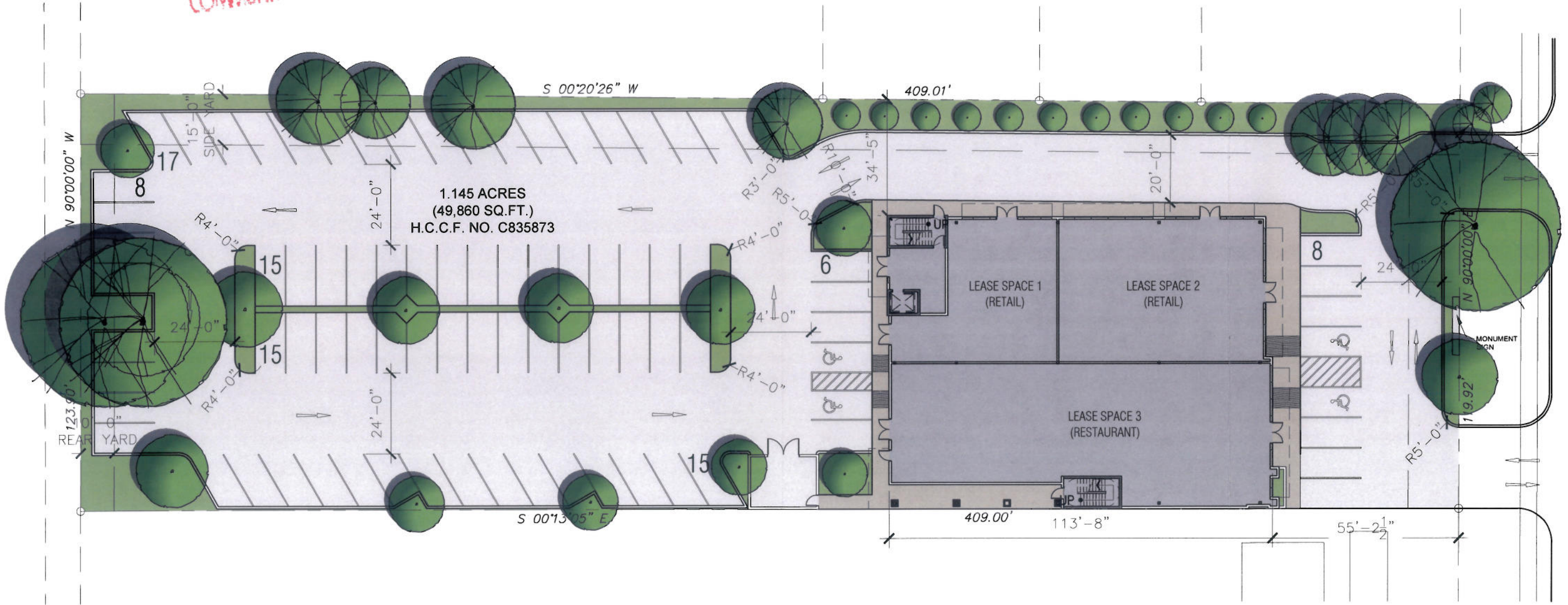
CITY OF BELLAIRE  
RECEIVED  
JUN 17 2014  
COMMUNITY DEVELOPMENT

150' PUBLIC R.O.W.)  
**BELLAIRE BOULEVARD**





CITY OF HOUSTON  
RECEIVED  
JUN 17 2014  
COMMUNITY DEVELOPMENT



**Party Owner:** Mr. Dusty Rubek - President  
Dallas Christian College  
2700 Christian Parkway  
Dallas, Texas 75234  
(972) 849-2870  
[drubeck@cdfonline.org](mailto:drubeck@cdfonline.org)

CC: Keith Keeran - Board Secretary  
(972) 241-3371  
[kkeeran@dallas.edu](mailto:kkeeran@dallas.edu)

**Agent:** Dr. Mark Brinker  
Sloan Properties, LLC  
2101 Pine Valley Drive  
Houston, Texas 77019  
(281) 705-6009  
[mark@mbrinker.com](mailto:mark@mbrinker.com)

**Development Consultant:** Mr. Bruce W. Frankel  
Frankel Development Group, Inc.  
5311 Kirby Drive, Suite 104  
Houston, Texas 77005  
(713) 661-0440  
[bfrankel@frankeldev.com](mailto:bfrankel@frankeldev.com)

**Architect:** Mr. H. Warren Johnson  
Johnson Design Group  
3221 West Alabama  
Houston, Texas 77098  
(281) 414-2374  
[wjohnson@johnsondesigngroup-llc.com](mailto:wjohnson@johnsondesigngroup-llc.com)

**Landscape Architect:** Mr. Dwight Rozier  
Rozier Design Studio, LLC  
11 Blue Wildflower Place  
Magnolia, Texas 77354  
(713) 906-5208  
[rozierdesign@aol.com](mailto:rozierdesign@aol.com)

**Surveyor:** Mr. Barry Hunsworth  
Century Engineering  
3030 South Gessner, Suite 100  
Houston, Texas 77063  
(713) 780-8871  
[bhunsworth@centuryengineering.com](mailto:bhunsworth@centuryengineering.com)

**Board of Adjustment**

Council Chambers, First Floor of City  
Hall  
Bellaire, TX 77401



Meeting: 07/17/14 07:00 PM  
Department: Community  
Development  
Category: Special Exception  
Department Head: John McDonald  
DOC ID: 1289 B

**SCHEDULED****ACTION ITEM (ID # 1289)****Item Title:**

Docket # BOA-2014-04-Consideration and possible action on a request for a special exception to allow a parking lot located on the utility easement to be counted towards the on-site parking requirements, as well as a reduction in the total number of required spaces set forth in Section 24-514a of the City of Bellaire Code of Ordinances at 4950 Terminal, legally described as TRS 45A thru 49A Terminal.

**Background/Summary:**

Address: 4950 Terminal  
Applicant: Billye Jo & Dr. Christopher Sanders, D.C  
Zoning: Urban Village-Transit Oriented Development (UV-T) District  
Date Filed: June 17, 2014  
Mail Outs: June 30, 2014  
Legal Ad: Published in the Southwest News on July 1, 2014

**Request:**

The applicant requests a Special Exception in accordance with the provisions of Section 24-716 of the City of Bellaire Code of Ordinances in order count off-site parking towards their parking requirements and to reduce the required parking count as stated in Sec. 24-514a of the City of Bellaire Code of Ordinances.

**Background:**

The applicants, Dr. & Mrs. Sanders, are in the process of purchasing 4950 Terminal to develop a mixed use space comprised of MultiSport Health Center, Zenith Fitness and Performance, and DoxCo Pitching Academy. Currently, the building is used by J&R Medical, a medical supply company which is considered a warehouse use. The current warehouse use is considered a legal non-conforming use, and is allowed in the district as long as it is not expanded or the structure significantly altered.

The property at 4950 Terminal does not have any parking on site. J&R Medical has an agreement with CenterPoint Energy, owner of the lot next to 4950 Terminal, to utilize their site for parking. This site currently has twenty-three (23) parking spots. CenterPoint has agreed to allow Dr. & Mrs. Sanders to add additional parking spaces to the site, bringing the total available parking to forty-five (45).

Based on the proposed uses, the development would require fifty-five (55) parking spaces, leaving the development ten (10) spaces short.

**Staff Review:**

It is staff's opinion upon review of the application and the materials submitted that the application does not meet the Standards for Special Exceptions as outlined in Article V,

Division 2, Section 24-718.

The Comprehensive Plan, adopted by the Bellaire City Council in 2009, outlines specific design characteristics for the UV-T District. This district provides for the most intensive site development in the City, focusing on mixed-use commercial and high density residential. The transition from the Research Development District to the Urban Village - Transit Oriented Development District was a direct effort to spur commercial revitalization in the Bellaire Rail Station area.

The development proposed does not meet the character of the UV-T district as outlined in Sec. 24-547, "multi-story buildings that create a sense of enclosure along streets and around open spaces..." and therefore may be materially detrimental or injurious to other property or improvements in the neighborhood by limiting future development in the area.

The Community Development Department does not recommend approval of this variance application.

**ATTACHMENTS:**

- 4950 Terminal - Special Exception Application Packet (PDF)



Billye Jo Sanders  
Christopher Sanders  
3810 Linkview Dr  
Houston, TX 77025

17 June 2014

Board of Adjustment  
7008 South Rice  
Bellaire, TX 77401

RE: Application for Special Parking Exceptions  
4950 Terminal Road, Bellaire, TX 77401

Dear Members of the Board of Adjustment,

Please let this letter serve as our application for a Special Parking Exception to specifically allow the NEW Proposed Parking Plan on the current 0.7904 acre (34,429 gross square feet) parcel of land of Plat 248, Harris County, Texas, being lots 62, 63, 64, 65, 66, and 67 and the eastern 17.5 feet of Lots 45 to 49 of Terminal Addition, owned by CenterPoint Energy Houston Electric, LLC to be utilized for the calculation of available parking to meet the city parking requirements for a Mixed-use development within the Urban Village District (UV-T) at 4950 Terminal Road.

We are in the due-diligence phase for purchasing the property at 4950 Terminal Road along with securing the long-term lease of the utility easement from CenterPoint. From the time at which the current owner, A4353, LLC, purchased the property in May 2010, the area has been rezoned to the UV-T district. The current building owner, Travis Watkins, operates a medical supply company, J & R Medical, with its primary offices and general warehouse located on the property. Under the new zoning regulation, this is now considered a non-conforming use. While the current property use is grandfathered, we are proposing a significant remodel and division of the building into a mixed-use property. In order to satisfy the parking requirements for mixed-use, we are asking that the parking lot located on the utility easement be allowed to count towards our on-site parking requirements. We have attached a letter from CenterPoint Energy Houston Electric, LLC dated 17 June 2014 that indicates their intent to not only transfer the remaining Commercial Parking License L1035, but also extend the lease along with allowing for additional paving on the property. *(Please refer to Exhibit A.)*

Currently the building is owned by A4353, LLC, who also leases the utility easement property located directly adjacent to the building to satisfy their on-site parking requirements. Historically this easement has been utilized by the property owners of 4950 Terminal Road as there is zero (0) on-site parking available within the property boundaries. In fact, there are two primary utility easements that run through the entire UV-T district parallel to 3<sup>rd</sup> Street (North to



South) as well as parallel to Lehigh Street (East to West). Along these two utility easements, various building owners lease the adjoining land in order to provide on-site parking for their buildings. Without the qualifying use of these easements to satisfy the on-site parking requirements, many of the buildings would no longer be able meet the city of Bellaire parking codes. Additionally without these easements, the building owners would in fact be denied fair use of their property in its current state as well as prohibit them from changing the current use, remodeling the existing facilities or selling their property in the future.

The current utility easement (34,429 gross square feet) associated with 4950 Terminal Road has a 16,016 square foot parking lot that is striped for eighteen (18) regular parking spots along with four (4) handicap parking spots. With the NEW proposed addition of approximately 6,600 square feet of pavement, the NEW parking lot can accommodate at least forty-three (43) generous (9'-10' wide) parking spots along with two (2) handicap parking spots. If the spaces were reduced to accommodate compact cars at a width of 8', an additional three (3) to five (5) spaces may be gained. According to the U.S. Department of Justice ADA Standards for Accessible Design 4.1.2(5), parking lots with less than 50 parking spots only require 2 handicap accessible parking spots. *(Please refer to Exhibit B.)*

As stated in Sec. 24-547.A. Urban Village District, the general purpose of the UV-T district is "intended to yield a mix-use, pedestrian oriented, high-quality setting which includes uses and amenities that boost the quality of life of Bellaire residents." Additionally, the character of the district has an urban feel with reduced set-backs whereas "off-street parking is minimized in favor of on-street parking".

The new proposed mixed-use property at 4950 Terminal will contain the following businesses and designated areas designed to directly improve the quality of life of Bellaire residents as well as the surrounding areas:

- **MultiSport Health Center** (*Professional Medical Offices & Services*), a current Bellaire business since October 2006. MSHC is a sports medicine facility that provides evidence based quality one-on-one patient care along with functional rehabilitation for non-surgical soft-tissue injuries. Dr. Chris Sanders, D.C. is the owner and Medical Director as well as on the Medical Staff of the Houston Texans. He is an expert in the field of soft-tissue treatment and functional rehab. MSHC also employs Certified Athletic Trainers to perform patient rehabilitation and post-injury functional performance testing and training in conjunction with patient appointments with the doctor.

Primary Business Operation Hours: Monday to Friday 8am to 5 pm. (Approximately 6600 sq ft. shown in ORANGE on Exhibit C)



- **Zenith Fitness & Performance** (*Studio for Fitness Activities*), a NEW proposed business owned by Dr. Chris Sanders. Zenith will provide the community with one-on-one and small group personal training (no more than 4:1 ratio) utilizing the evidence based practices of the Functional Movement Screen ([www.functionalmovement.com](http://www.functionalmovement.com)) and resulting functional movement based exercises. The programming and training will be supervised by medical experts with the intent of injury-risk management and increased functional performance. Zenith will also employ the Certified Athletic Trainers working at MSHC to perform post-injury functional performance training.

Proposed Primary Business Operation Hours: Monday to Friday 5am to 9 pm and Saturday 6 am to 1 pm. Peak Hours of Operation: Monday to Friday 5 am to 8 am and 5 pm to 8pm. (Approximately 5900 sq ft. shown in BLUE on Exhibit C)

- **DoxCo Pitching Academy** (*Studio for Fitness Activities*), a current West University business. DPA is owned and operated by Dean Doxakis, a National Pitching Association Certified Pitching Coach. Coach Doxakis provides one-on-one biomechanical, science based instruction along with video analysis based on the principals of Tom House and the NPA. The current Disney film, *The Million Dollar Arm*, features Tom House and his science based teaching that promotes sound mechanics and conditioning in order to minimize injury risk for all rotational athletes.

Proposed Primary Business Operation Hours: Tuesday to Friday 5pm to 9 pm, Saturday 8 am to 4 pm and Sunday 1 pm to 6 pm. (Approximately 2200 sq ft. shown in GREEN on Exhibit C)

- **Common Area** (Non-Leasable Space) Shared Space for all building tenants including lobby, building bathrooms, and hallways. (Approximately 2300 sq ft. shown in YELLOW on Exhibit C)
- **Owner & Employee Recreation Space** (Personal Non-Leasable Space) This space is intended for employee and owner enjoyment only. Given the physical nature of the jobs performed by the employees of MSHC, Zenith and Doxco, the owner is providing a space for personal workouts and enjoyment in order to increase the quality of life for the building employees. (Approximately 4200 sq ft. shown in PURPLE on Exhibit C)

In addition to applying for the Special Parking Exception for the adjacent utility easement, we are asking that the Board of Adjustment grants a reduction of the total number of required parking spaces required for the proposed mix-use project due to all the qualifying mixed-use businesses are “by appointment only”. MSHC doctors treat no more than four (4) patients per



hour, while the DoxCo pitching coach trains on average one (1) client per thirty (30) to forty-five (45) minutes. As per Sec. 24-547. C. Development Standards. (7). Parking a.3. Exceptions, “the City’s administrative official may allow up to 10% fewer parking spaces than the minimum parking requirement.” We are also asking for the reduction for the following additional reasons: business promotion of patron bicycle use, ample street parking on 2<sup>nd</sup> Street, Terminal Road and 3rd Street and the surrounding areas, and the businesses do not experience the same peak hours of operation.

As stated in Sec. 24-547.C.7.e., the parking plan includes bicycle parking. Based on the number of forty-three (43) on-site parking spots, a minimum number of four (4) bicycle parking spots will be provided. The New proposed parking plan allows for six (6) bicycle parking spots and may be adjusted to include a maximum of ten (10). Since all of the businesses at 4950 Terminal Road are health oriented, we will not only be providing a bike rack for patients and clients who ride their bikes to their appointments, but we will also be providing a financial discount on services for those who do. MSHC currently has patients that regularly ride their bikes to their facility at 6300 W Loop S. We anticipate this number to grow significantly with the addition of Zenith Fitness & Performance as well as students of Doxco Pitching Academy, who attend several of the local middle & high schools.

We are also requesting that at a minimum the eleven (11) parallel parking spaces along 2<sup>nd</sup> Street and four (4) parallel parking spaces along Terminal Road directly adjacent to the building at 4950 Terminal Road be striped for public on-street parking. We are also requesting the ten (10) parallel parking spaces along the west side of the utility easement be striped for UV-T District on-street parking. (*Please refer to Exhibit D.*) Both 2<sup>nd</sup> and 3<sup>rd</sup> Streets are local access streets between Terminal Road and The Westpark Metro Easement that provide “no outlet” for residents (*Please refer to Exhibit E*). Historically speaking these streets are regularly utilized by UV-T district patrons and employees for local parking. (*Please refer to Exhibit F.*) Permanently marking them will not only reinforce their current but also projected use within the district. At this time, there are zero (0) marked on-street parking spots in the entire district, even though one of the primary tenets of the district is to promote on-street parking and minimize additional on-site parking. As previously stated in the “character” of the UV-T district, on-street parking is favored. Additionally, Sec. 24-547.C.7.b. allows for “parking credits” that may be deducted from the standard parking requirement for a mixed-use building’s share of on-street parking located within 600 feet of the property. As there are zero (0) designated on-street parking spaces within the UV-T district, in order to be able to utilize the qualifying parking credits, we are asking that the available parking spaces within 600 feet of the property be marked as such or allowed to be counted without marking.

Finally we are requesting a reduction in required parking spaces due to Sec. 24-547.C.(7) c.1., whereas mixed-use development in the UV-T district may be “granted reductions in the



total number of required parking spaces when a parcel is occupied by two or more uses which typically do not experience peak parking demands at the same time.”

### Shared Parking Table

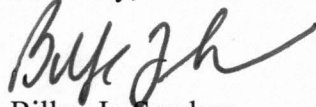
Entity	Weekday			Saturday	Sunday
	5 am to 8 am	8am to 5 pm	5 pm to 9 pm	8 am to 4 pm	1 pm to 6 pm
MSHC	0	12	0	0	0
Zenith	24	24	24	24	0
DoxCo	0	0	9	9	9
Total Number of Parking Spaces required	24	36	33	33	9
Maximum Number of Spaces Required					36

**Note:** All MSHC parking requirements are based on the 6 spots per appointment maker. Zenith & DoxCo are allotted according to four (4) parking spots per thousand (1000) square feet of leasable space.

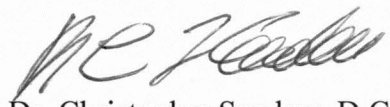
It is our opinion that the granting of this special exception to allow for an adjacent utility easement parking lot to be used for the calculation of the required parking spaces along with a substantial reduction in required parking spaces will not be detrimental or injurious to other property improvements in the district. In fact, it will actually increase the overall atmosphere of the district by providing additional quality of life services to the residents of Bellaire and the surrounding areas.

As the first mixed-use property within the newly formed UV-T district, we are excited to find a building that is a unique fit for our business model, allows us to expand our current business and start a new business in Bellaire as well as recruit as already established local business to Bellaire. Thank you for your consideration and we look forward to proceeding with the purchase of the property at 4950 Terminal Road, once the exception has been granted.

Sincerely,



Billy Jo Sanders



Dr. Christopher Sanders, D.C

Attachments – (Exhibit A) Letter of Intent to Transfer/Renew Lease  
(Exhibit B) Proposed New Parking Lot Layout  
(Exhibit C) Proposed Division of 4950 Terminal  
(Exhibit D) Proposed On-Street Parallel Parking  
(Exhibit E) Harris County Plat 5155B3  
(Exhibit F) Various Photos from Google Maps

## EXHIBIT A



CenterPoint Energy  
P.O. Box 1700  
Houston, TX 77251-1700

June 17, 2014

Ms. Julie King/Cresa Houston  
5599 San Felipe, Suite 500  
Houston, Texas 77056

**Re: Commercial Parking License L1035**

Dear Ms. King:

I have received your request for an assignment of the License referenced above. Upon conveyance of the property at 4950 Terminal St. (HCAD #0352470000045) from Terminal Street, Ltd. to 4950 Terminal, LLC, it is the intent of CenterPoint Energy to grant your request for assignment and additional paving of the CenterPoint Energy Fee Strip.

If you have any additional questions, please don't hesitate to ask. I am at your service.

Very truly yours,

CenterPoint Energy Houston Electric, LLC  
A Texas limited liability company

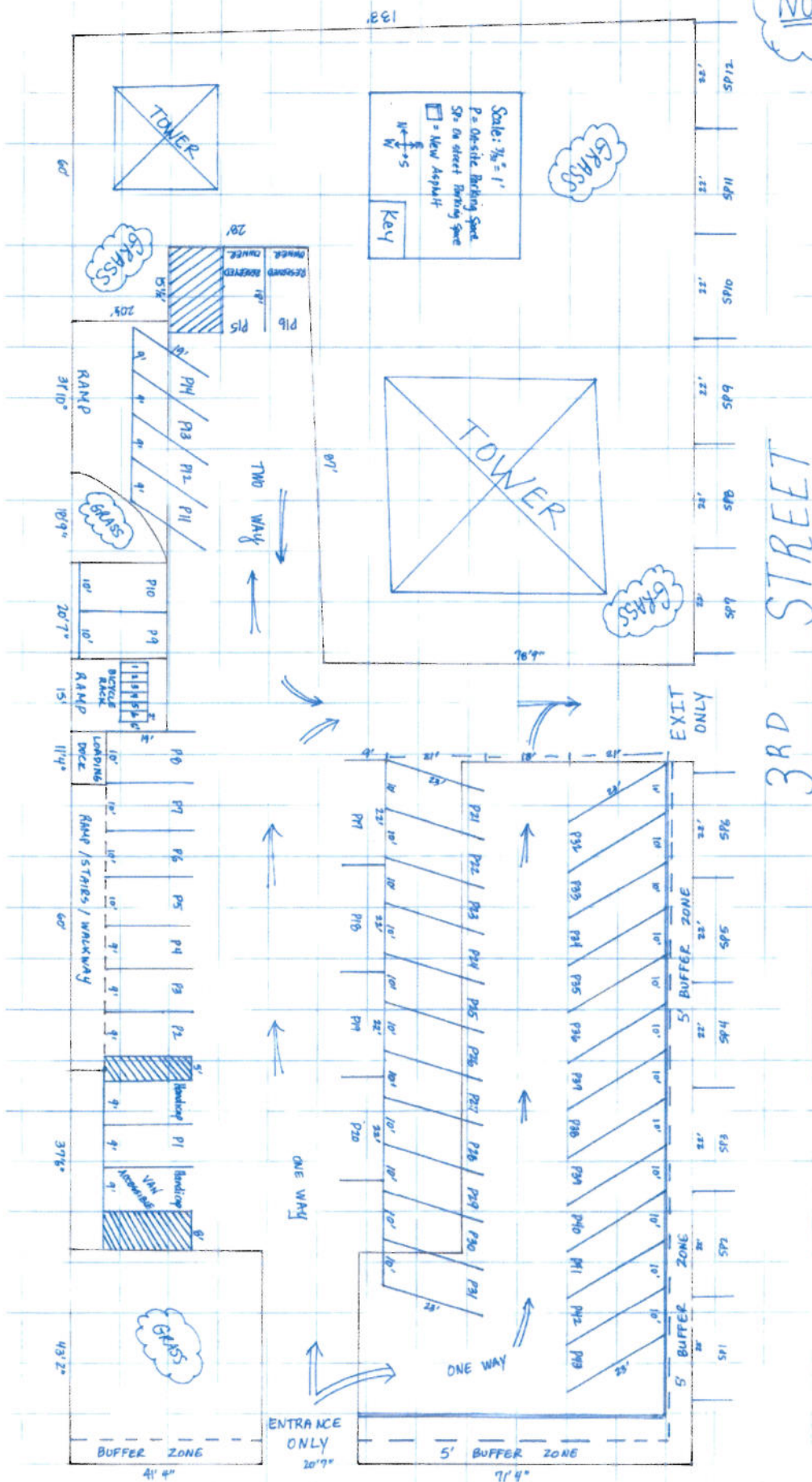
A handwritten signature in blue ink that reads "John Collins".

John Collins, SR/WA  
Sr. Right of Way Agent  
713-207-6212



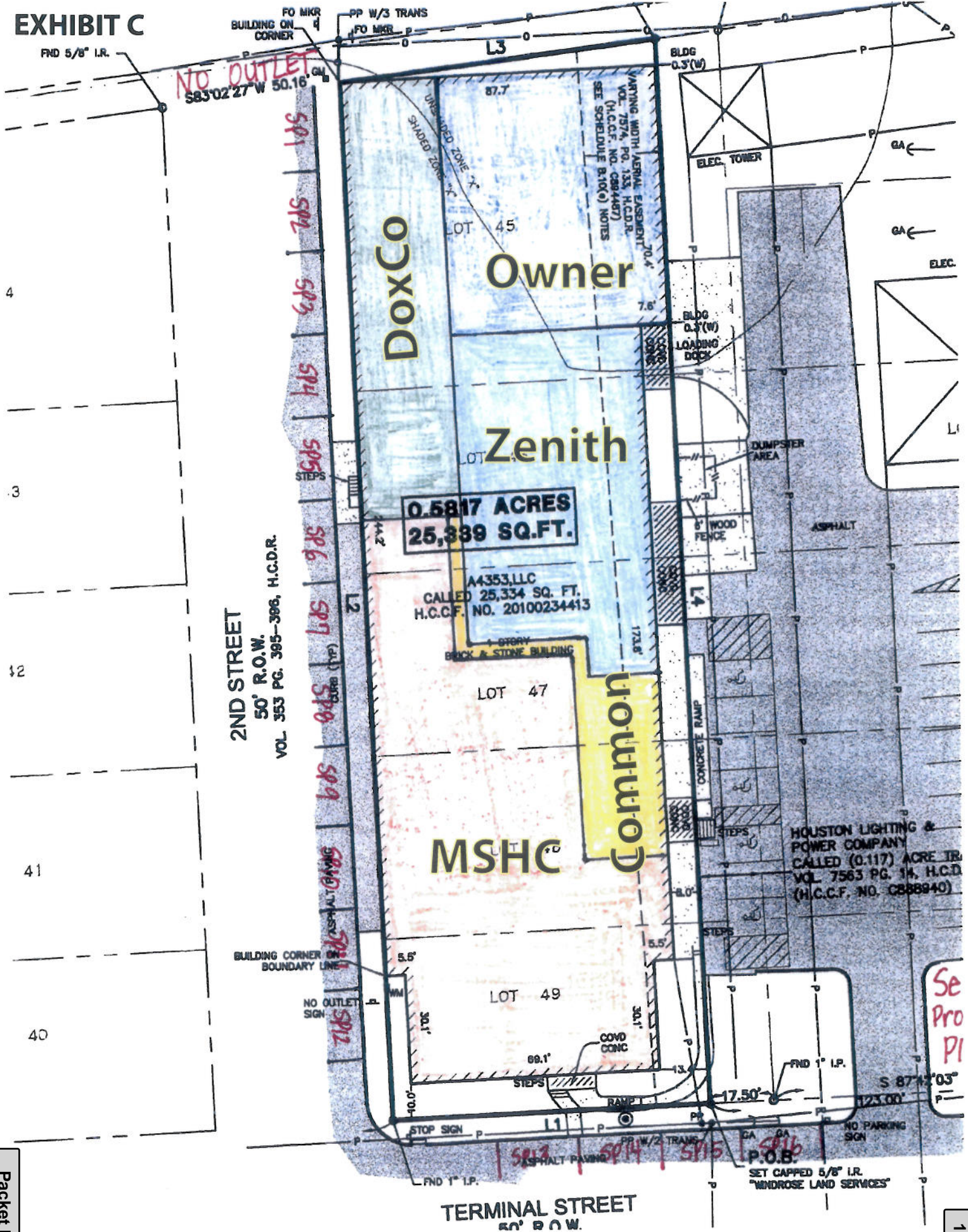
## WEST PARK EASEMENT

NO OUTLET





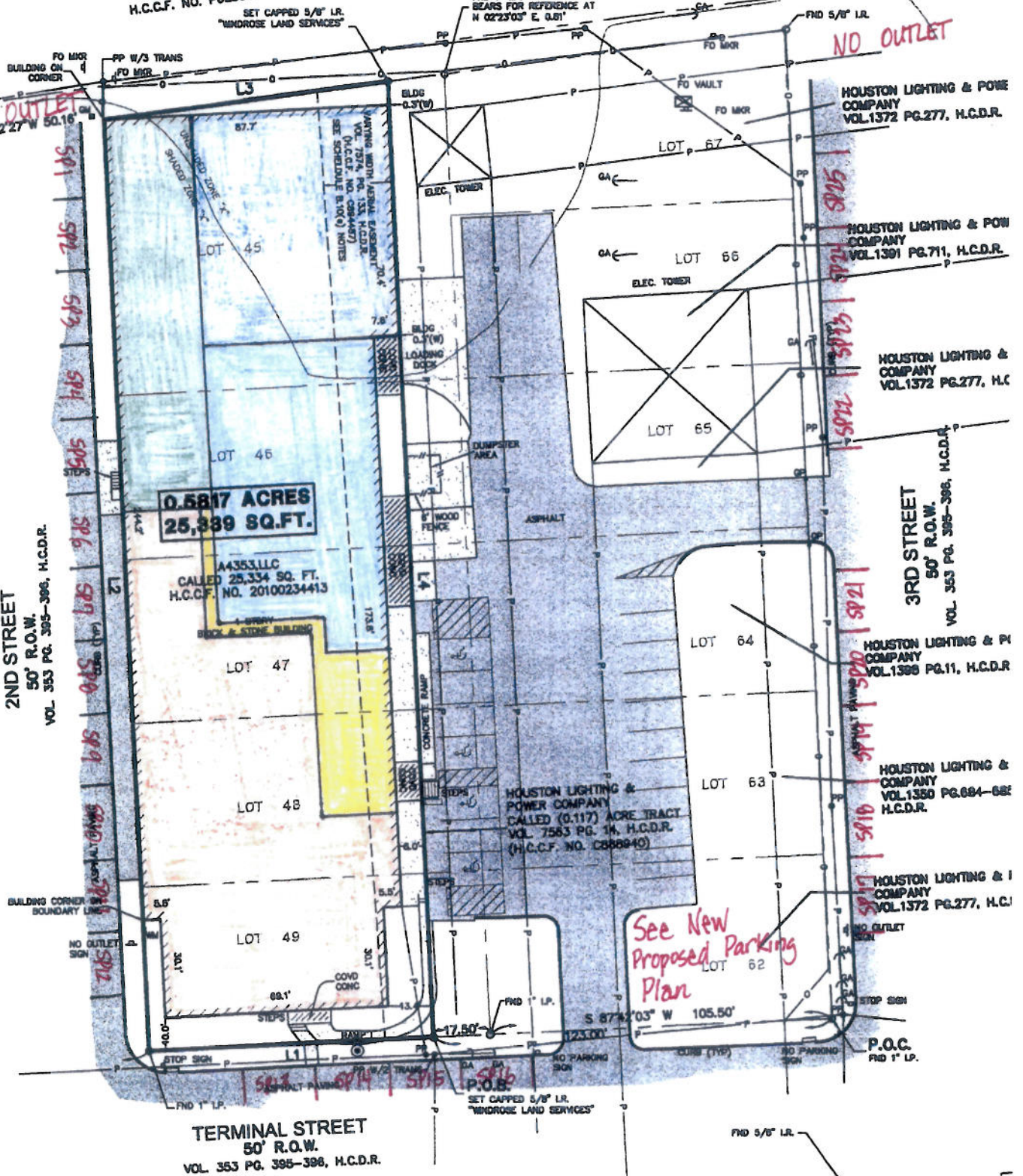
# EXHIBIT C





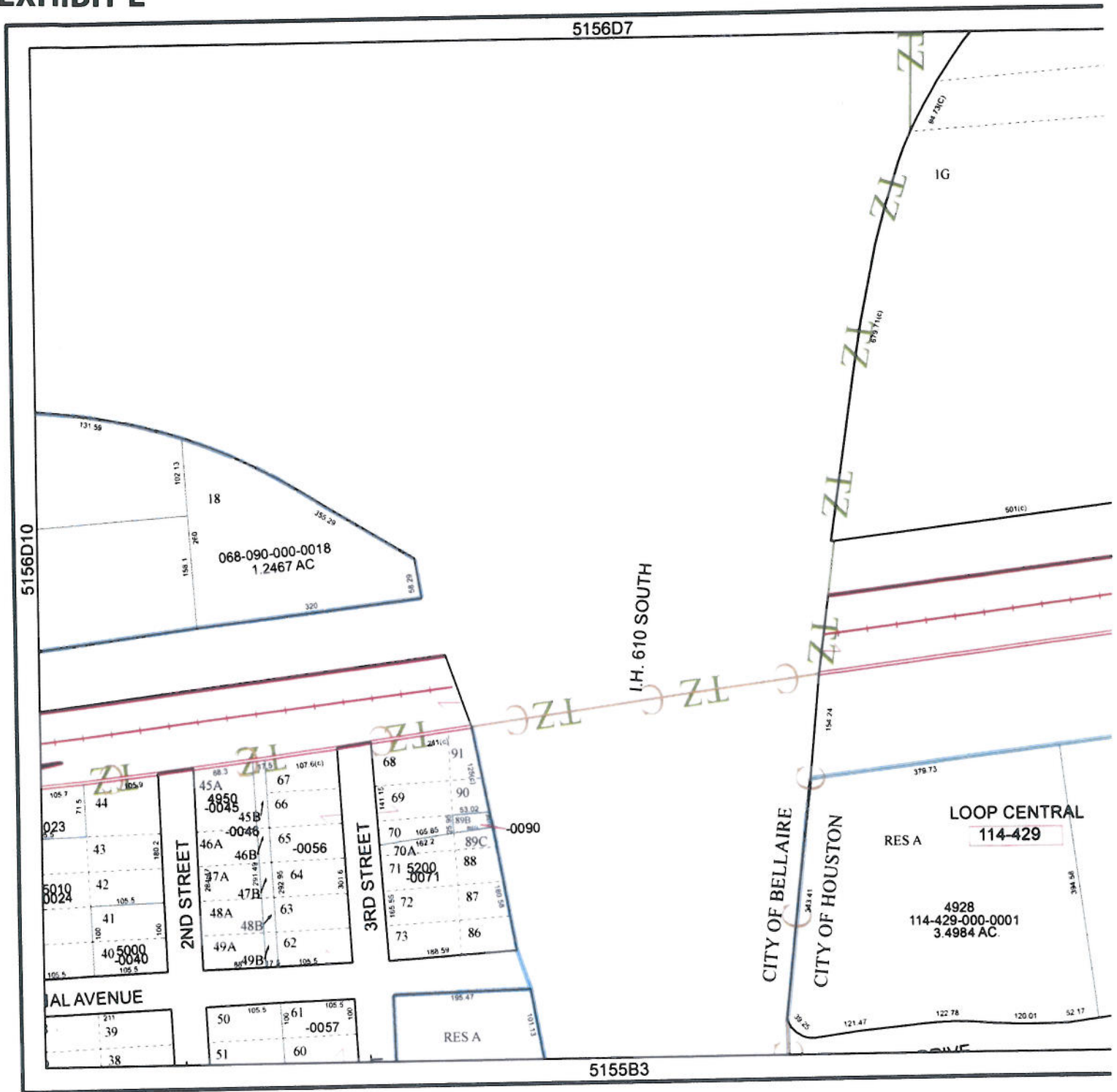
# EXHIBIT D

WESTPARK TOLLWAY  
R.O.W. VARIES  
H.C.C.F. NO. P023668

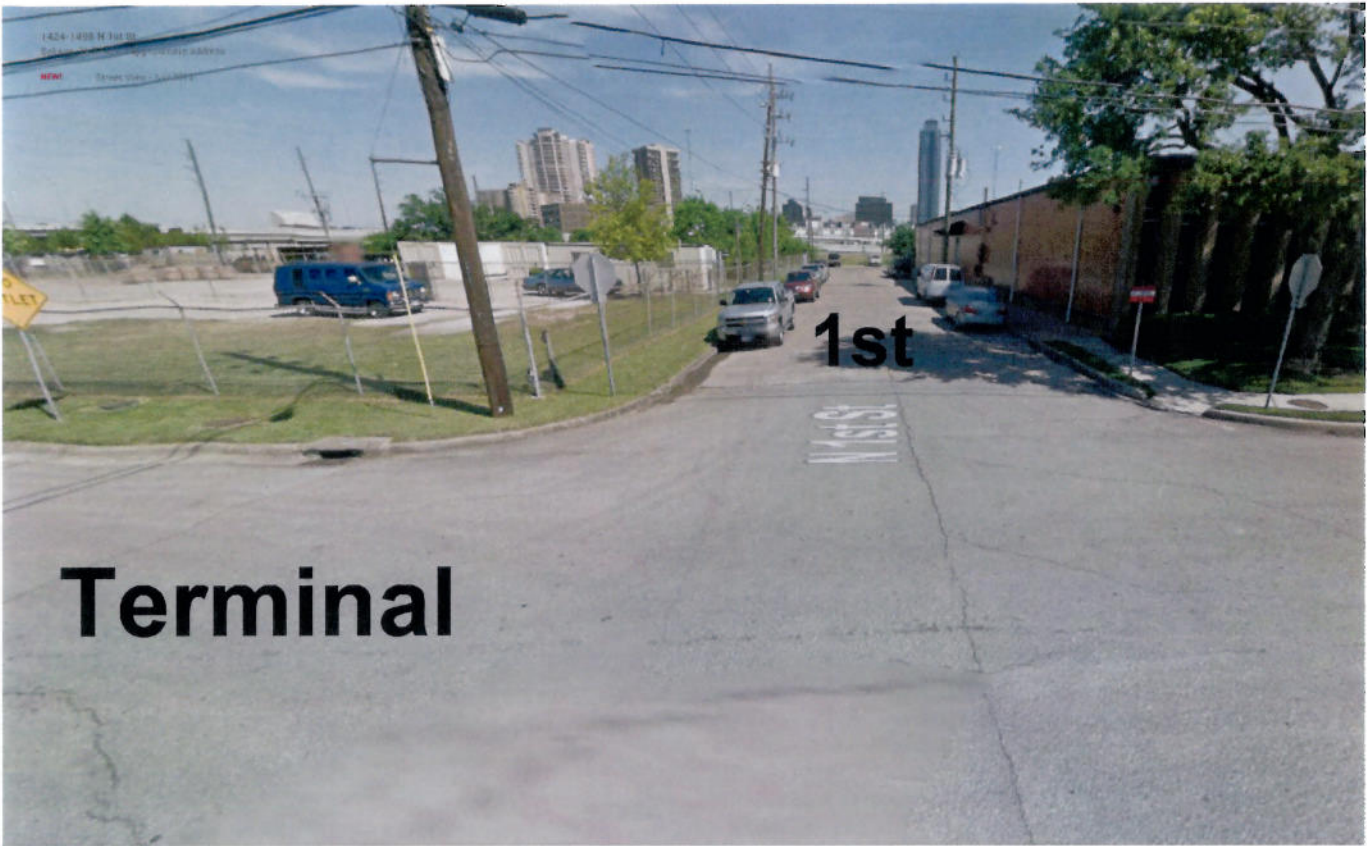




# EXHIBIT E



**EXHIBIT F**





**EXHIBIT F (page 2)**



All photos in Exhibit F were copied from Google Maps.