



# CITY OF BELLAIRE TEXAS

## MAYOR AND COUNCIL

MARCH 9, 2015

**Council Chamber** **Public Hearings** **6:00 PM**

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

### **I. PUBLIC HEARING ON SPECIFIC USE PERMIT APPLICATION AND REQUEST - 4440 BISSONNET STREET, CMU ZONING DISTRICT.**

#### **A. Call to Order and Announcement of a Quorum - Dr. Philip L. Nauert, Mayor.**

Dr. Philip L. Nauert, Mayor, called the Public Hearing before the City Council of the City of Bellaire, Texas, to order at 6:04 p.m. on Monday, March 9, 2015. He announced that a quorum was present consisting of all members of City Council as set forth in the table below.

<b>e Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrive</b>
Nauert	Mayor	Present	
B. Nathan	Mayor Pro Tem	Present	
. Reed	Councilman	Present	
Avioli Sr.	Councilman	Present	
appas	Councilman	Present	
Laughlan	Councilman	Present	
S. Friedberg	Councilman	Present	
hofmann	City Manager	Present	
Dutton	City Clerk	Present	
Donald	Director	Absent	

#### **B. Notice of the Public Hearing - Tracy L. Dutton, City Clerk.**

Tracy L. Dutton, City Clerk, read the "Notice of Public Hearing" regarding an application and request submitted by Heitcamp Swift Architects on behalf of Newcastle Bissonnet, LLC, for a specific use permit to allow for the inclusion of a hospital, acute and/or chronic care facility (i.e., pediatric urgent care clinic) within the three-story medical office building to be located at 4440 Bissonnet Street, Bellaire, Harris County, Texas, in the Corridor Mixed-Use Zoning District.

City Clerk Dutton advised that the "Notice of Public Hearing" regarding the referenced request and application for a specific use permit was posted on the City's official bulletin board and website and published in the legal notices section of the Southwest News on February 17, 2015. The "Notice of Public Hearing" was mailed to 33 property owners of record and/or assumed renters located within 200 feet of the site on which the specific use permit was sought. In addition, signs advertising the Public Hearing were posted at the intersections of South Rice Avenue and Bellaire Boulevard and at Newcastle Street and Bellaire Boulevard by the Bellaire Public Works Department.

#### **C. Summary of Procedure - Paul A. Hofmann, City Manager.**

Paul A. Hofmann, City Manager, summarized the public hearing procedures for the evening.

**D. Presentation of Proposal:**

Docket #SU-2014-02: Consideration of an application and request submitted on behalf of Applicant and Property Owner Newcastle Bissonnet, LLC, for a specific use permit to allow for the inclusion of a hospital, acute and/or chronic care facility (i.e., pediatric urgent care clinic) within the three-story medical office building to be located at 4440 Bissonnet Street, Bellaire, Harris County, Texas, in the Corridor Mixed-Use District. {Requirement of Chapter 24, Planning and Zoning, Article V, Zoning Regulations, Division 2, Zoning District Regulations, Section 24-536 B. (2) b) 2), Corridor Mixed-Use District}

**Presentation:**

**Benjamin D. Notzon, AIA, Heitkamp Swift Architects**, presented the application and request from Newcastle Bissonnet, LLC, for a special use permit to allow a hospital use in a medical facility to be constructed at 4440 Bissonnet Street, Bellaire, Texas.

Mr. Notzon provided an updated slide depicting the site. He noted that the update was based on several comments and concerns that had arisen during the applicant's Public Hearing before the Bellaire Planning and Zoning Commission (the "PZC"). One comment related to the drive lane to the site. In order to address the comment, the drive lane was moved to the north side of the site as opposed to the front of the site. Mr. Notzon indicated that the site had also been aligned to help alleviate traffic control and that a stop sign had been added as recommended by the PZC.

With respect to the parking garage, Mr. Notzon stated that a concern had been raised during the PZC Public Hearing that traffic exiting the parking garage might cut-through the neighborhood behind the site. In order to mitigate cut-through traffic, an island would be constructed and signs installed to indicate a "right turn only." The island would be constructed in a manner to force exiting traffic toward Bissonnet Street.

Mr. Notzon advised further that the building was a LEED (Leadership in Energy & Environmental Design) Gold (rating level) building and had a green roof, as well as LED (light emitting diode) lighting. He noted that a building permit had already been issued by the Bellaire Development Services Department for the structure.

The specific use permit request before City Council related to allowing a hospital use within the structure. Mr. Notzon advised that the structure was a professional office building for doctors. Clinic spaces would be located on the second and third floors of the building, with a pediatric acute care facility located on the first floor.

As an acute care facility, there would be little to no emergency vehicle access. The business hours of the building would be normal hours, such as 8:00 a.m. to 5:00 p.m., with possible morning hours on Saturdays. With respect to biomedical waste, the biomedical waste for each clinic would be placed into a holding room. A service would pick up the waste each evening from the clinic.

Mr. Notzon next showed several slides depicting various views of the building. Construction materials were noted to be brick with a limestone base. It was noted further that the detention for the facility was underground in containers located beneath the driveway.

(Requested by John McDonald, Development Services)

**E. Recognition of Citizens and Other Interested Parties - Dr. Philip L. Nauert, Mayor.**

**Oral Comments:**

**Richard Franke:**

Mr. Franke addressed City Council in support of the island to be constructed at the exit of the parking garage to force traffic onto Bissonnet Street rather than into the neighborhood. He mentioned that the parking garage appeared to be five stories, while the medical building was three stories. He inquired as to the height of the "stories" in the parking garage.

With respect to the sound ordinance, Mr. Franke urged the City to perform testing before the building was opened.

In closing, Mr. Franke thanked Mr. Notzon for a fine presentation and an attractive building.

**Lynn McBee:**

Ms. McBee addressed City Council and inquired as to the owner of the building and the applicant in actuality. She stated she found it difficult to pass judgment on something when she did not know who she was referring to. She stated further that she was concerned that an applicant would come before the City Council and not clarify who the leaseholder or owner was.

The specific use permit was clearly separate from the building and garage which were governed by as of right zoning. She assumed that whoever was in charge of reviewing and approving the as of right applications had done so and that any concerns not yet raised would be raised after the fact.

Ms. McBee advised that it was her understanding that this three-story medical building would house emergency clinics on the first floor and professional offices on the second and third floors. She indicated that she was not certain as to the meanings of "acute care" and "emergency care." Since the facility was not a hospital, she inquired as to why a medical office building required a specific use permit at all.

In closing, Ms. McBee stated that she appreciated the LEED Gold rating and understood the concept of a green roof, but was not sure if the green roof would consist of a rooftop garden or some other type of vegetation. As to the bottom line, Ms. McBee advised that she did not see any justification for this specific use permit.

**F. Questions from Mayor and Members of City Council.**

Dr. Philip L. Nauert, Mayor, opened the floor for questions of the applicant by members of City Council. Following questions, Mayor Nauert closed the public hearing.

**G. Close of the Public Hearing - Dr. Philip L. Nauert, Mayor.**

Dr. Philip L. Nauert, Mayor, closed the public hearing at 6:48 p.m. on Monday, March 9, 2015. He indicated that under the Rules of Procedure of the City Council of the City of Bellaire, Texas, oral comments would not be received following the close of the public

hearing. Written comments, however, could be submitted to the City Council of the City of Bellaire, Texas, in care of the City Clerk, by noon on Thursday, March 19, 2015, in order to be included in the record. City Council anticipated deliberating on the matter on Monday, March 23, 2015.

#### **H. Adjourn.**

##### **Motion:**

**To adjourn the Public Hearing of the City Council of the City of Bellaire, Texas, regarding an application and request for a specific use permit to operate a pediatric urgent care center in a medical office building to be constructed at 4440 Bissonnet Street, Bellaire, Texas, at 6:49 p.m. on Monday, March 9, 2015.**

<b>RESULT:</b>	<b>UNANIMOUS</b>
<b>MOVER:</b>	Roman F. Reed, Councilman
<b>SECONDER:</b>	Amanda B. Nathan, Mayor Pro Tem
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg

## **II. PUBLIC HEARING ON PROPOSED AMENDMENTS TO ZONING CODE REGARDING WRITTEN NOTIFICATION OF PUBLIC HEARINGS.**

### **A. Call to Order and Announcement of a Quorum - Dr. Philip L. Nauert, Mayor.**

Dr. Philip L. Nauert, Mayor, called the Public Hearing before the City Council of the City of Bellaire, Texas, to order at 6:51 p.m. on Monday, March 9, 2015. He announced that a quorum was present consisting of all members of City Council as set forth in the table below.

Name	Title	Organization	Status
Dr. Philip L. Nauert	Mayor	Bellaire	Present
Amanda B. Nathan	Mayor Pro Tem	Bellaire	Present
Roman F. Reed	Councilman	Bellaire	Present
James P. Avioli, Sr.	Councilman	Bellaire	Present
Gus E. Pappas	Councilman	Bellaire	Present
Pat B. McLaughlan	Councilman	Bellaire	Present
Andrew S. Friedberg	Councilman	Bellaire	Present
Paul A. Hofmann	City Manager	Bellaire	Present
Tracy L. Dutton	City Clerk	Bellaire	Present
John McDonald	Development Services Director	Bellaire	Present

### **B. Notice of Public Hearing - Tracy L. Dutton, City Clerk.**

Tracy L. Dutton, City Clerk, read the "Notice of Public Hearing" regarding amendments proposed by the Planning and Zoning Commission of the City of Bellaire, Texas, to Chapter 24, Planning and Zoning, Section 24-610, Publication, Subsections A and B, of the Code of Ordinances of the City of Bellaire, Texas, for the purpose of increasing the area for mailed written notification of public hearings.

City Clerk Dutton advised that the "Notice of Public Hearing" was posted on the City's

official bulletin board and website and published in the legal notices section of the Southwest News on February 17, 2015. In addition, signs advertising the public hearing were posted at the intersections of South Rice Avenue and Bellaire Boulevard and at Newcastle Street and Bellaire Boulevard by the Bellaire Public Works Department.

**C. Summary of Procedure - Paul A. Hofmann, City Manager.**

Paul A. Hofmann, City Manager, summarized the public hearing procedures for the evening.

**D. Presentation of Proposal:**

Presentation by Administrative Assistant to the Director of Development Services Ashley Parcus regarding proposed amendments by the Planning and Zoning Commission of the City of Bellaire, Texas, to Chapter 24, Planning and Zoning, Section 24-610, Publication, A. and B. of the City of Bellaire Code of Ordinances, to increase the area for mailed notification from the current requirement of two hundred (200) feet to five hundred (500) feet.

**Presentation:**

Ashley Parcus, Administrative Assistant to the Director of Development Services, addressed City Council and advised that the proposed amendment before them was initiated by the Planning and Zoning Commission of the City of Bellaire, Texas (the "PZC") after hearing the concerns of multiple residents who were not within the 200 foot notification area.

In an effort to alleviate the concerns, the PZC voted unanimously to send a recommendation increasing the notification area forward to City Council. If approved by City Council, the amendment would increase the area for mailed notification of public hearings from the current requirement of 200 feet to 500 feet. The amendment would affect public hearing items related to Chapter 24 of the City's Code of Ordinances before both the PZC and the City Council.

Administrative Assistant Parcus referred City Council to a diagram of notification scenarios as prepared by Commissioner Christopher Butler and a report prepared by Chair Windred Frazier of the PZC.

(Requested by John McDonald, Development Services)

**E. Recognition of Citizens and Other Interested Parties - Dr. Philip L. Nauert, Mayor.**

**Oral Comments:**

**Lynne Skinner:**

Lynne Skinner, Commissioner, PZC, addressed City Council regarding the proposed change to Chapter 24, Planning and Zoning, Section 24-610, Publication, Subsections A and B, of the Code of Ordinances of the City of Bellaire, Texas, to increase the notification area for mailed notification from 200 to 500 feet.

Commissioner Skinner advised that during her term on the PZC, Commissioners heard residents expressing concern that they did not receive mailed notification of a public hearing, yet lived very close to the property that was the subject of a public hearing. With the help of the Bellaire staff, the PZC had investigated other communities in Texas and their distances for notification. The minimum was 200 feet required by the State of

Texas and one community required notification up to 1,000 feet.

As a member of the PZC, Commissioner Skinner indicated that it was their duty to address issues raised by the residents of Bellaire. She felt that it would be helpful to residents if the area of notification was increased to a distance to 500 feet. In closing, Commissioner Skinner urged City Council to pass the requested change for mailed notifications to 500 feet.

**Christopher Butler:**

Christopher Butler, Commissioner of the PZC and member of the City's Ad Hoc Municipal Facilities Committee, addressed City Council regarding the proposed change to increase the notification area for public hearings. He noted that City Council needed to think about whether the change could be imposed legally and, more importantly, logistically. The change would be a bit of a burden change, but Commissioner Butler felt that going forward (i.e., once the City's technology was updated), the process would be an easy one.

Commissioner Butler advised that the 500 foot recommendation was not arbitrary. It was based on research and a great deal of thought. He did think that this was a first-step in trying to ensure that Bellaire was having conversations with the stakeholders. He encouraged City Council to pass the change.

**Lynn McBee:**

Ms. McBee addressed City Council and commended Commissioners Lynne Skinner and Chris Butler for their preparatory work in getting the change proposed. She indicated that both commissioners stayed with the subject for months.

The fact that two commissioners, and ultimately all commissioners, supported this stood as one of the few direct benefits to the public that the City could offer--communication. She hoped extending the notification area would draw more residents.

In closing, Ms. McBee indicated that she could think of no higher reason for a governing body to exist than to communicate clearly and without bias. The proposed change was one way to do so. She indicated further that she was unequivocally in support of the recommendation and very much in debt to the PZC for ignoring protests regarding how hard it would be to extend the notification area. She urged passage of the recommendation as proposed.

**Written Comments:**

Mayor Nauert read a written comment that had been received regarding the subject of the Public Hearing into the record as set forth below.

**Richard Franke:**

*I strongly support changing the notification requirement to a minimum of 500 feet. The residents need both written notice and signage for those beyond 500 feet. Thank you.*

**F. Questions from Mayor and Members of City Council.**

Dr. Philip L. Nauert, Mayor, opened the floor for questions by members of City Council. After noting no further questions, Mayor Nauert closed the public hearing.

**G. Close of the Public Hearing - Dr. Philip L. Nauert, Mayor.**

Dr. Philip L. Nauert, Mayor, closed the public hearing before the City Council of the City of Bellaire, Texas, regarding a recommendation from the PZC to extend the area for mailed notifications regarding public hearings from 200 feet to 500 feet at 7:09 p.m. on Monday, March 9, 2015.

He indicated that under the Rules of Procedure of the City Council of the City of Bellaire, Texas, oral comments would not be received following the close of the public hearing. Written comments, however, could be submitted to the City Council of the City of Bellaire, Texas, in care of the City Clerk, by noon on Thursday, March 19, 2015, in order to be included in the record. City Council anticipated deliberating on the matter on Monday, March 23, 2015.

**H. Adjourn.****Motion:**

**To adjourn the Public Hearing of the City Council of the City of Bellaire, Texas, at 7:10 p.m. on Monday, March 9, 2015.**

<b>RESULT:</b>	<b>UNANIMOUS</b>
<b>MOVER:</b>	James P. Avioli, Sr., Councilman
<b>SECONDER:</b>	Roman F. Reed, Councilman
<b>AYES:</b>	Nauert, Nathan, Reed, Avioli Sr., Pappas, McLaughlan, Friedberg