



CITY OF BELLAIRE TEXAS

PLANNING AND ZONING COMMISSION

JANUARY 11, 2018

Council Conference Room and Council Chamber
5:00 PM

Workshop & Regular Session

7008 S. RICE AVENUE
BELLAIRE, TX 77401

A. WORKSHOP SESSION

A. Update on the work done by the Floodplain Mitigation Task Force and discussion on if/how the Commission could contribute to those efforts.

Ms. Sampson reviewed the draft matrix that the Task Force has been working on. She stated that ultimately there may be proposed code amendments that will come before the Commission, and felt that the Commission should not be involved in the process until that time. Ms. Sampson added that it would be very counterproductive for the Commission to work parallel with the Task Force at this time.

Commissioner Skinner mentioned that there are so many outside factors that come into play with flooding in Bellaire, such as Brays Bayou. She asked if those are things that are being taken into consideration.

Ms. Sampson confirmed that they are thinking about things of that nature. She added that the Task Force is also trying to identify partners and opportunities to actively represent Bellaire in as many organizations as possible.

Commissioner Saikin mentioned that the City of Bellaire has a huge public relations problem right now. He stated that residents feel as though there is a lack of advocacy and that no one is representing them. He said that there is a consensus that the City is not capable of mitigation. Commissioner Saikin stated that the City should be prepared for a lot of residents to begin moving out of Bellaire.

Ms. Sampson informed the Commission that the Task Force would be holding a public hearing on January 29th and that the Commissioners are free to attend and make a comment, as a resident.

B. Discussion on the Commission's list of priorities for the 2018 term.

Chairman Stiggins stated that the purpose of the workshop was to discuss several topics that have been brought to the Commission's attention and to decide what the priorities should be for the 2018 term. He mentioned that the four topics are:

1. Bellaire Boulevard Estate Overlay District (BBEOD)
2. Parking Garages in commercial districts
3. Floodplain Mitigation Plan
4. Beautification Master Plan

Ms. Sampson started by explaining the issues with the BBEOD. She stated that normally an overlay district simply adds one or a few requirements that compliment the regulations set forth in the zoning district that the property is located in, however, the BBEOD completely conflicts with the R-5 Zoning District. She stated

that the Commission's options would be to do away with the overlay district all together, and create a new zoning district for the area that would correspond with what the overlay was attempting to accomplish, or to revise the requirements of the overlay district to better coincide with the regulations set forth in the R-5 Zoning District.

Commissioner Taylor asked for clarification that the issue is that the requirements set forth in the overlay district are inconsistent with those of the R-5 Zoning District.

Ms. Sampson confirmed this.

Commissioner Saikin asked what the overall goal would be.

Ms. Sampson stated that there are no specific goals other than to create a clear regulation.

Chairman Stiggins then moved on to discuss parking garages in commercial districts.

Ms. Sampson explained that the reason that this topic has been put back on the table is the fact that there are some concerns being raised about the parking garage that is included in the future new development at the corner of South Rice Avenue and Bellaire Boulevard. She stated that she would like to get a better idea of what the Commission's reservations are.

Several Commission members stated that the concern is with the fact that a commercial parking garage is allowed to have egress onto a residential street.

Commissioner Taylor asked how the development was approved.

Ms. Sampson stated that it was approved administratively, as a by-right development, based on the regulations put forth in the Corridor Mixed-Use District.

Commissioner Saikin felt as though all proposed parking garages should be required to come before the Commission for approval, just like the one for the new H-E-B. He mentioned that there is a cheap way to build parking garages and if done that way will not be aesthetically pleasing for the surrounding residents.

Ms. Sampson mentioned that there has to be a balance that allows for developers to construct by-right developments. She mentioned that H-E-B came before the Commission due to the fact that they were requesting a Planned Development. Ms. Sampson also explained that there are design standards in the code that regulate how the parking garage must be built, not only to achieve an aesthetically pleasing product, but also to enhance buffering between adjacent properties.

Commissioner Saikin mentioned the new H-E-B parking garage, and pointed out that there is the potential for the Randall's property to turnover as well. He stated that based on the current code regulations they would be able to construct a parking garage without approval from the Commission also. Commissioner Saikin felt as though this will change the dynamic of the City.

Chairman Stiggins mentioned that the Commission worked diligently on the update to the City's Comprehensive Plan for many months as well as the creation of the CMU Zoning District, in an effort to spur redevelopment in the City's downtown area, which has not been happening. He added that as P&Z finalized their recommendation on the update of the CIP, Mr. Gary Mitchell of Kendig Keast Collaborative, said that it

may be necessary to tweak the plan and associated ordinances after early development of downtown begins.

Commissioner Taylor questioned whether the Code of Ordinances or the Comprehensive Plan mention any regulations regarding the ingress and/or egress of parking garages.

Ms. Sampson stated that they do not.

Commissioner Stiggins mentioned that developers that come into the City want to know exactly what they are able to do with a property before they invest time and money into a piece of land or project that ultimately may not be allowed, meaning that they may be on a time constraint.

Commissioner Saikin mentioned that in this case, the property at the corner of South Rice and Bellaire Boulevard is owned by the developer. He stated that he could have taken the extra time to go before the Commission.

Ms. Sampson reiterated that there was no need for him to go before the Commission when it was in compliance with all of the zoning codes.

Commissioner Skinner mentioned that the Commission should also keep in mind the fact that those residents chose to purchase property right behind a commercial shopping center.

Chairman Stiggins mentioned that this is obviously something that the Commission should take a closer look at, and asked that an item be put on a future agenda for restrictions on by-right parking garages in the commercial areas of Bellaire. He then moved on to the discussion regarding the Beatification Master Plan. He reminded the Commission that after Terrain's completion of the Plan, City Council had tasked the Commission with deciding how the concepts could be included in what is already in place, i.e. the zoning code and/or the Comprehensive Plan. Chairman Stiggins mentioned that last year the Commission had made a recommendation to City Council that a few of the concepts be added to the CIP and asked staff if they knew which, if any, of those had been included.

Ms. Sampson stated that the Commission would be given a presentation on the CIP during their February meeting and can ask those questions then. She explained that ultimately beautification and floodplain mitigation could be included as items in the Commission's CIP recommendation to Council, and that the Commission could discuss that in greater detail during the CIP review process.

Chairman Stiggins mentioned that in the past the Commission has held a workshop in between the February and March meetings in order to review the draft CIP in greater detail. He asked that this be done again.

Ms. Sampson confirmed that a workshop will be scheduled. She mentioned that the first quarter of the year will be dedicated mostly to the CIP, which will incorporate beautification concepts. She stated that once that has been completed, staff will begin to take look at parking garages in commercial districts and will bring something forward to the Commission. Ms. Sampson mentioned that the BBEOD may not be visited until later on in the year.

Commissioner Skinner asked if the code could be amended to require that all parking garages go through the SUP process.

Ms. Sampson stated that it is something that staff will look into. She also added that the Board of Adjustment has been receiving quite a few requests for variances to fence heights and the Board would like for the Commission to take a look at that potentially changing that as well.

Chairman Stiggins adjourned the workshop at 6:02 PM.

B. REGULAR SESSION

I. CALL TO ORDER AND ANNOUNCEMENT OF QUORUM

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

Attendee Name	Title	Status	Arrived
Jonathan Saikin	Commissioner	Present	
Mike Axelrad	Commissioner	Absent	
Ross Gordon	Commissioner	Absent	
Weldon Taylor	Commissioner	Present	
Marc Steinberg	Vice Chairman	Absent	
Dirk Stiggins	Chairman	Present	
S. Lynne Skinner	Commissioner	Present	
ChaVonne Sampson	Development Services Manager	Present	
Zachary Petrov	Assistant City Attorney	Present	
Ashley Parcus	Secretary	Present	
Trisha S. Pollard	Council Member	Present	

II. APPROVAL OF MINUTES FROM PAST MEETINGS

1. Planning and Zoning Commission - Regular Session - Nov 9, 2017 6:00 PM

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jonathan Saikin, Commissioner
SECONDER:	Weldon Taylor, Commissioner
AYES:	Saikin, Taylor, Stiggins, Skinner
ABSENT:	Axelrad, Gordon, Steinberg

III. REMINDER TO CITIZENS DESIRING TO ADDRESS THE COMMISSION

Chairman Stiggins reminded any members of the public who wished to address the Commission to sign in.

IV. GENERAL PUBLIC COMMENTS

Persons at the meeting who have indicated their desire to be heard on matters of general interest to the Commission by submitting the form provided shall have three minutes to present their comments. The Commission is not permitted to fully discuss, debate, or consider items that are not on the agenda. Questions presented to the Commission may be referred to staff.

There were no general public comments.

V. PUBLIC HEARINGS

A. Docket # SU-2018-01-Public hearing on a request filed by Stone & Stone, LLC, on behalf of "Let Us Play," as applicant, for a Specific Use Permit as required by the City of Bellaire Code of Ordinances, Chapter 24, Planning and Zoning, Section 24-605, Application for Specific Use Permit, to allow for the use of 1,402 square feet of existing building located at 5202 Cedar Street, as a kindergarten, nursery, and/or daycare center, as provided for in section 24-537 B.(2)b)2) of the City of Bellaire Zoning Code. The property is located within the Urban Village Downtown (UV-D) Zoning District.

A. Presentation of the Public Hearing Process

Ms. Sampson explained the public hearing process.

B. Presentation by the Applicant

Bill Stone-Mr. Stone stated that he is an attorney representing the applicant, Mindy Roberts Rosenthal, in her request for a Specific Use Permit. He added that the application was submitted to the City on or about December 8th, and that he believes that the application is in order and addresses each of the requirements listed in the City's Code of Ordinances. Mr. Stone indicated that any environmental impact will be minimum, and that the build out of the proposed location will include a wheelchair accessible bathroom. He added that Ms. Rosenthal has been an educator for 24 years, and prior to her current business she worked at a private school in Meyerland for 9 years, as well as served as the preschool and elementary school principal for 5 years. Mr. Stone explained that Let Us Play is an hourly childcare service, and is believed to be the only hourly care service in Bellaire and the surrounding communities. He stated that children between the ages of 6 months and 12 years make up the youth that are served at the facility, and families from Bellaire, Meyerland, West U, Westbury, Sugar Land, Richmond, and even Katy bring their children there when they need temporary child care. Let Us Play has a clientele of around 500 families, and children that are brought there stay no more than 4 hours. Mr. Stone mentioned that currently, there are 5 employees, plus 1 volunteer, and Ms. Rosenthal, bringing the total to 7, and that background checks are performed on all potential employees. He stated that there are no outside activities that the children engage in at the facility. The program has been and will continue to be inside recreation with toys, educational, and other child development enhancing activities, all closely supervised by adults. Mr. Stone explained that Ms. Rosenthal must be licensed by the state, and the facility is licensed and monitored by the Texas Dept of Family and Protective Services. The person of contact that the applicant has been working with is Andrea Bridges and Mr. Stone stated that he had her contact information if anyone needs it. He added that the facility is current on all of its yearly renewal fees with the state, and with the new application and potential new location, Ms. Rosenthal was required to pay a renewal fee, which she has done. In addition, the state of Texas has done new background checks on all employees. Mr. Stone stated that Ms. Rosenthal had received word that day that the new application is in order and everything looks fine. He mentioned that the business has been in 2 previous locations in the last 10 years, first at 4813 Bissonnet Street, and then at 5202 Bissonnet Street, where it has been located for the last 5 years. The Specific Use Permit for 5202 Bissonnet was granted in 2013, and Commissioners Dirk Stiggins, Marc Steinberg, and Lynne Skinner were members of the Commission at that time as well. Mr. Stone stated that the concerns that were brought up during the previous public hearing were whether the property owner supported the SUP request, whether it would negatively impact the sale of alcoholic beverages in surrounding areas, and the definition of daycare. He stated that no complaints, as far as he is aware, have been

made to the city or the applicant with the regard to the current business at 5202 Bissonnet, and he is also not aware of any requests to the City with regard to any restrictions being put on the business through the application process. He added that the business is asking to move a block away to the new location at 5202 Cedar Street, which is currently being refurbished and renovated. Mr. Stone pointed out that both the current and the proposed locations are within the City's Urban Village Downtown (UVD) Zoning District, and that the biggest impact in the area will be the opening of the new H-E-B grocery store. He stated that the new location will remove Let us Play from the busy food restaurants that currently surround it, and that the traffic should be less of an issue on Cedar Street because the adjacent and surrounding tenants are primarily professional business and not retail establishments. Mr. Stone mentioned that the current location is 1,460 square feet and the proposed location is 1,402, so it is a little smaller. He stated that he is hoping that parking will not be an issue due to the fact that parents will be parked for a very short amount of time while dropping their children off. He added that there are currently over 40 parking spaces located on site and that all 7 employees will be parking at the back of the building in an alleyway north of the business. Mr. Stone then thanked the Commission for consideration and asked that the application be granted as it was 5 years ago, with no restrictions on the permit.

C. Staff Findings

Ms. Sampson explained that the applicant is requesting a Specific Use Permit (SUP) for the operation of a day care center as required under Sec.24-537, Urban Village Downtown (UV-D) Zoning District. The facility is relocating from its previous location at 5202 Bissonnet, for which the applicant received a specific use permit via Ordinance No. 13-009 in February of 2013. She stated that no conditions were placed on the previous SUP. Ms. Sampson informed the Commission that Let Us Play intends to lease 1,402 square feet of an existing shopping center owned by Sagstex Investments, LP, and that minimum build out will be done to meet the applicant's needs, which will only consist of converting one of the two restrooms for wheelchair accessibility. Parking is based off of how many staff personnel are present, and the City will work with the applicant to ensure that the facility has an adequate number of parking spaces. Ms. Sampson stated that the fact that there are currently 42 spaces in the shopping center and the shared parking table can be taken into consideration, she doesn't feel that parking will be an issue for this tenant. No TIA was required to be submitted, and there are no public transit stops in the immediate vicinity of the proposed location. She mentioned that this application would be a topic in the upcoming Development Review Committee meeting, which consists of representatives from the City's fire, police, public works and Engineering departments, which is scheduled for January 29th. Ms. Sampson stated that staff will inform the Commission of any comments/concerns that were voiced by those departments during staff's recommendation of the application at the next meeting.

D. Public Comments

- i. **Persons at the meeting who have indicated their desire to address the Commission by submitting the form provided shall have three (3) minutes each to present comments concerning the Application. This time limit may be extended to five (5) minutes at the discretion of the Chair with the consent of the Commission.**

Don Mafrige-Owns the property at 5213 Cedar Street. objection to the specific use permit. the property was developed in 1965 and was converted to a restaurant in the 80s. has always had a full liquor license. may or may not be within the restricted boundary prohibiting liquor licenses. even with the grandfathering of the current tenant, it would not carry forward to any future tenants and would have a negative

impact on the future of the property. detrimental impact is clear if the tenants are unable to operated with a full liquor license.

Sophia Mafrige, Attorney of Mr. Mafrige, there is a history with this property. has been operating for more than 30 years as a restaurant and wants to continue as such. Mr. Mafrige has no issues with daycares and loves children, but there is a provision in the City's code stating that any negative impacts from the granting of a specific use permit should be considered. If there is a negative impact then it would be required that the SUP be denied. Current tenant is grandfathered, but any future tenants, or even a change in use by the current tenant would have to reapply with TABC, if within the 300 feet that the City requires or the 1,000 feet requirement for the TABC then they would not be permitted to obtain a liquor license. Asked the Commission to take into consideration the distance between Mr. Mafrige's property and the 5202 Cedar street as well as the history of the property. Wants to have the ability to lease the property to future tenants with restaurants and bars.

Ms. Sampson informed the Commission that City staff, with help from Attorney Petrov, had done some research regarding the regulations on obtaining a liquor license. She added that the City will be providing Mr. Mafrige with documentation explaining that based on the current regulations, which only calls out churches, public schools, and public hospitals, the City of Bellaire would approve a future liquor license for the property at 5213 Cedar Street.

E. Response of Applicant

Mr. Stone asked if the City has measured the distance between Mr. Mafrige's restaurant and the proposed location of Let Us Play.

Ms. Sampson stated that she did do a preliminary measurement of the shortest distance between the two, which came out to be a little less than 300 feet, however, when done correctly it would be more.

Mr. Stone mentioned that he feels as though the current location of Let Us Play is closer to Mr. Mafrige's property than the proposed location is, and asked how the official measurement must be done.

Ms. Sampson confirmed that is correct. She added that it must be measured based on the pedestrian route, from door to door.

Sion Saghian, Owner of Sagstex Investments and Lessor of the property at 5202 Cedar Street, -Mr. Saghian stated that he had done a measurement, based on the route that Ms. Sampson suggested, and it was over 400 feet.

F. Questions from the Commission

Commissioner Taylor asked for a clarification on the City of Bellaire's regulations versus the TABC regulations with regard to obtaining a liquor license.

Attorney Petrov explained that there is no TABC requirement or state statute that has a minimum distance requirement, TABC simply allows a city to enact a minimum distance requirement if the city wishes. He stated that if the City does not enact one, then there is none at all.

Commissioner Taylor asked for confirmation that this use does fall under the definition of a daycare.

Ms. Sampson confirmed this.

Commissioner Taylor asked how many children the facility would be seeing on a daily basis.

Mindy Rosenthal, owner of Let Us Play-Ms. Rosenthal stated that it really just depends on what day it is. She explained that on a normal school day, more preschool age will be there early in the day with the older children coming in after school. Ms. Rosenthal pointed out that they never arrive at the same time or leave at the same time. She added that there are normally more children that attend on school holidays. Ms. Rosenthal stated that she is licensed to have 35, but she never takes more than 25 students at a time, for safety reasons.

Commissioner Skinner asked who makes the final call on the distance between Mr. Mafrige's property and 5202 Cedar Street.

Ms. Sampson stated that it would be the City of Bellaire.

Commissioner Skinner asked Ms. Sampson to provide the Commission with the official measurement for the consideration of the application, and also questioned whether TABC could overrule the City's determination to approve a liquor license.

Attorney Petrov confirmed that TABC could not overrule the City's determination, based on the regulations that are in place now.

Commissioner Saikin felt that it was a good use for the shopping center and did not have any questions.

Chairman Stiggins asked if there was a yearly inspection required by the state on this type of facility, and if so, could the Commission put a condition on the permit that would require that the applicant provide a copy of that to the City.

Ms. Sampson confirmed that there is a yearly inspection required, and that the Commission could put a condition of that nature on the SUP. She added that she would include that as part of staff's recommendation for the consideration of the item.

G. Invitation for Written Comments, if applicable

City staff informed the public that written comments on the application would be accepted until 5:00 PM on January 31st for the February 8th meeting.

H. Closure of the Public Hearing

The public hearing was closed at 6:45 pm.

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

1. Docket # AR-2017-09-Amending plat of Lots Thirty-Two (32), Thirty-Three (33), and Thirty-Four (34), of Banner Place, and addition in Harris County, Texas, according to the map or plat thereof recoded in Volume 27, Page 62 of the Map Records of Harris County, Texas. The properties are addressed as 110,112, and 114 Beverly Lane, and are located within the R-3 Zoning District.

Ms. Sampson explained that this is an amending plat application to combine three lots. She added that the applicant is asking for a 10 foot side yard setback on the south property line per Section 24-532C.(1)a)6)b., which deals with the regulations for a corner lot. Ms. Sampson explained that the amending plat was coming before the Commission due to the fact that staff's interpretation is that this lot does not meet the definition of a corner lot per Chapter 24.

Chairman Stiggins pointed out that minutes from a similar situation had been provided to the Commission. He added that within the minutes it was indicated that the position of the City's attorney was that the lot was not a corner lot, and the application was denied. Chairman Stiggins asked Attorney Petrov if legal's opinion would be the same for the application currently before them.

Attorney Petrov confirmed that legal's opinion is that the lot in question is not a corner lot.

Ms. Sampson explained that if the application is denied, the applicant may still go before the Board of Adjustment to seek a setback variance for the property.

Motion: a motion was made by Commissioner Saikin to approve the amending plat.

The motion failed for lack of a 2nd.

Motion: a motion was made by Chairman Stiggins and seconded by Commissioner Skinner to deny the application.

Vote: the motion was carried with a vote of 3-1.

The application was denied.

RESULT:	FAILED [3 TO 1]
MOVER:	Dirk Stiggins, Chairman
SECONDER:	S. Lynne Skinner, Commissioner
AYES:	Taylor, Stiggins, Skinner
NAYS:	Saikin
ABSENT:	Axelrad, Gordon, Steinberg

2. Approval of the Planning and Zoning Commission's 2017 Annual Report to City Council.

One addition was made to the letter to include "and any support to the Flood Mitigation Report" on the last bullet point of tasks on the second page.

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Weldon Taylor, Commissioner
SECONDER:	S. Lynne Skinner, Commissioner
AYES:	Saikin, Taylor, Stiggins, Skinner
ABSENT:	Axelrad, Gordon, Steinberg

3. Approval of the Planning and Zoning Commission's 2018 Submittal Deadline Calendar.

Chairman Stiggins explained that some of the years on the calendar that was included in the packet were incorrect, but that staff had corrected those and had provided each Commissioner with a copy of the corrected version.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Weldon Taylor, Commissioner
SECONDER:	S. Lynne Skinner, Commissioner
AYES:	Saikin, Taylor, Stiggins, Skinner
ABSENT:	Axelrad, Gordon, Steinberg

VII. COMMITTEE REPORTS

There were no committee reports.

VIII. CORRESPONDENCE

There was no correspondence.

IX. REQUESTS FOR NEW BUSINESS, ANNOUNCEMENTS AND COMMENTS

A. Staff liaison report on the status of projects previously addressed by the commission as well as projects for future meetings.

a. Update on the 2019-2023 Capital Improvement Plan

Ms. Sampson explained that a draft of the 2019-2023 Capital Improvement Plan would be presented to the Commission at their February meeting and a letter of recommendation will be voted on during the Commission's March meeting.

Chairman Stiggins mentioned that in the past, the Commission has held a workshop in between the February and March meetings in order to discuss the plan in greater detail prior to voting on a recommendation.

Staff confirmed that a workshop will be scheduled.

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

No new business was brought to the attention of the Commission.

X. ADJOURNMENT

Motion: a motion was made by Commissioner Taylor and was seconded by Commissioner Skinner to adjourn the Regular Meeting.

Vote: the motion was carried on a unanimous vote of 4-0.

The meeting was adjourned at 7:02 PM.