

City of Bellaire

PLANNING & ZONING COMMISSION

Thursday, September 12, 2019

Council Chamber

Regular Session

6:00 PM

**FIRST FLOOR OF CITY HALL
7008 S. RICE AVENUE
BELLAIRE, TX 77401**

Agenda

Chair

Ross Gordon

Vice Chair

Mike Axelrad

Commissioner

Mike Baker

Commissioner

John T. Klug

Commissioner

Marc Steinberg

Commissioner

Weldon Taylor

Commissioner

Pamela Nelson

REGULAR SESSION - 6:00 P.M.**I. Call to Order and Announcement of a Quorum****II. Pledge to the Flag (US and Texas)****A. U.S. Pledge of Allegiance:**

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

B. Pledge to the Texas Flag:

Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

III. Approval of Minutes From Past Meeting(s)

A. [Planning & Zoning Commission - Jul 11 2019 - Minutes - Pdf](#)

B. [Planning & Zoning Commission - Aug 08 2019 - Minutes - Pdf](#)

IV. Reminder to Persons Desiring to Address the Commission**V. 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 (3) three minutes each 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.

VI. Current Business (Items for Discussion, Consideration, and/or Possible Action)**A. Public Hearing**

Public Hearing of proposed amendments to Chapter 24, Planning and Zoning Regulations to amend the following sections: *Section 24-202, Definitions*, to include the definitions of *Traffic Circulation Study* and *Traffic Impact Analysis*; *Section 24-202, Definitions (123.1)*, to amend the definition of *Other Surface*; *Section 24-512, Fence Regulations*, to increase the allowable height of a fence that is being constructed on properties adjacent to specified land uses throughout the City; *Section 24-604, Application for Planned Development Amendment*, and *Section 24-605, Application for Specific Use Permit* to include additional requirements for submission; and *Section 24-513a, Design Standards*, to strike all references to building material, as required by House Bill 2439.

[Agenda Statement Report - Pdf](#)

i. Presentation of the Public Hearing Process**ii. Presentation by the Applicant****iii. Staff Findings**

- iv. Public Comments
 - v. Response of Applicant
 - vi. Questions from the Commission
 - vii. Invitation for Written Comments, if applicable
 - viii. Closure of the Public Hearing
- C. Consideration and possible action of proposed amendments to Chapter 24, Planning and Zoning Regulations to amend the following sections: Section 24-202, Definitions, to include the definitions of Traffic Circulation Study and Traffic Impact Analysis; Section 24-202, Definitions (123.1), to amend the definition of Other Surface; Section 24-512, Fence Regulations, to increase the allowable height of a fence that is being constructed on properties adjacent to specified land uses throughout the City; Section 24-604, Application for Planned Development Amendment, and Section 24-605, Application for Specific Use Permit to include additional requirements for submission; and Section 24-513a, Design Standards, to strike all references to building material, as required by House Bill 2439.
- D. Approval of the Planning and Zoning Commission's Report and Recommendation to City Council regarding the proposed Chapter 24 amendments.
[Report and Recommendation Letter-Ch 24 Amendments](#)
- E. Discussion of the Planning and Zoning Commissions' schedule of agenda items for the remainder of the year.
- VII. Committee Reports
- VIII. 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.
 - B. The Chair shall recognize any Commissioner who wishes to bring New Business to the attention of the Commission. Consideration of New Business shall be for the limited purpose of determining whether the matter is appropriate for inclusion on a future agenda of the Commission or referral to Staff for investigation.
- X. Adjournment

City of Bellaire

DRAFT MINUTES

Planning & Zoning Commission - Jul 11 2019

Thursday, July 11, 2019 @ 6:00 PM

Council Chamber

PRESENT: John Klug, Marc Steinberg, Michael Axelrad, Michael Baker, Pam Nelson, Weldon Taylor, and Ross Gordon
ChaVonne Sampson, Marleny Campos, Zachary Petrov, and Trisha S. Pollard

ABSENT: Jonathan Saikin

REGULAR SESSION - 6:00 P.M.

I. CALL TO ORDER AND ANNOUNCEMENT OF A QUORUM

Chairman Gordon called the meeting to order at 6:03 PM and announced that a quorum was present.

II. REMINDER TO PERSONS DESIRING TO ADDRESS THE COMMISSION

III. APPROVAL OF MINUTES FROM PAST MEETING(S)

A. Planning & Zoning Commission - June 13 2019

Motion:

To approve the minutes from the June 13th Planning & Zoning Commission meeting.

{Moved by Michael Axelrad, Vice Chair, and seconded by Michael Baker, Commissioner}

RESULT:	Approved
MOVER:	Michael Axelrad, Vice Chair
SECONDER:	Michael Baker, Commissioner
AYES:	John Klug, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, Weldon Taylor, Commissioner, and Ross Gordon, Chair
ABSTAINED:	Marc Steinberg, Commissioner
ABSENT:	Jonathan Saikin, Commissioner

IV. UNFINISHED BUSINESS, COMMUNICATIONS, AND REPORTS

There were no unfinished business, communications, or reports.

V. SWEARING IN OF NEW COMMISSIONERS (INCOMING COMMISSIONERS ASSUME DUTIES AND OUTGOING COMMISSION RETIRES)

Chairman Gordon thanked Commissioner Saikin for his years of service and contributions.

Attorney Zachary Petrov swore in (3) members into the Commission, Chairman Ross Gordon (reappointed), Commissioner Weldon Taylor (reappointed) and Marc Steinberg (incoming).

Commissioner Saikin retired.

VI. GENERAL PUBLIC COMMENTS

Jane McNeel, 5112 Locust - Ms. McNeel stated that tonight's hearing is quite a weighty issue and hopes that there's some sort of continuance.

Lynn McBee, 5314 Evergreen - Ms. McBee noted that the Chevron tract largest that she could remember coming to a public hearing for land use. She believed it is appropriate and necessary postpone a portion of the public hearing. She stated it would not mean that the City would not need re-issue a legal notice. Ms. McBee added that a continued hearing would allow for those who could not make it this meeting or have more questions that arise from tonight's public hearing. She requested for the Chair to allow more than 3 minutes for public comments. It is not enough time to address multiple applications.

VII. INCOMING COMMISSION

A. Introduction of Incoming Commissioners

Commissioner Gordon welcomed Commissioner Steinberg back.

B. Election of Chair and Vice Chair

1. Motion:

To elect Commissioner Ross Gordon as the Chair of the Planning and Zoning Commission.

{Moved by Michael Axelrad, Vice Chair, and seconded by John Klug, Commissioner}

RESULT:	Carried
MOVER:	Michael Axelrad, Vice Chair
SECONDER:	John Klug, Commissioner
AYES:	John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, Weldon Taylor, Commissioner, and Ross Gordon, Chair
ABSENT:	Jonathan Saikin, Commissioner

Motion:

To elect Commissioner Axelrad as the Vice Chair of the Planning and Zoning Commission.

{Moved by Weldon Taylor, Commissioner, and seconded by Ross Gordon, Chair}

RESULT:	Carried
MOVER:	Weldon Taylor, Commissioner
SECONDER:	Ross Gordon, Chair
AYES:	John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, Weldon Taylor, Commissioner, and Ross Gordon, Chair
ABSENT:	Jonathan Saikin, Commissioner

C. Adoption of Rules of Procedure

1. Planning & Zoning Commission Rules of Procedure

Chairman Gordon stated that his recommendation would be to adopt the Rules of Procedure as is and appoint a subcommittee to revisit the Rules over the next few weeks to identify any necessary changes.

Commissioner Taylor agreed that it would be a great idea to take time to review the rules and volunteered to participate in the Committee.

Commissioner Baker stated he'd be happy to but wouldn't have availability until August.

Both Commissioner Axelrad and Nelson expressed interest in being a part of the Subcommittee.

Motion:

To appoint Commissioners Taylor, Nelson, and Axelrad as members of a subcommittee to review and recommend changes to the Planning and Zoning Commission's Rules of Procedure, with Commissioner Taylor as Chair.

{Moved by Ross Gordon, Chair, and seconded by Michael Baker, Commissioner}

RESULT:	Carried
MOVER:	Ross Gordon, Chair
SECONDER:	Michael Baker, Commissioner
AYES:	Michael Baker, Commissioner, Ross Gordon, Chair, John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Pam Nelson, Commissioner, and Weldon Taylor, Commissioner
ABSENT:	Jonathan Saikin, Commissioner

Motion:

To adopt the Planning and Zoning Commission's Rules of Procedure.

{Moved by John Klug, Commissioner, and seconded by Marc Steinberg, Commissioner}

RESULT:	Adopted
MOVER:	John Klug, Commissioner
SECONDER:	Marc Steinberg, Commissioner
AYES:	John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, Weldon Taylor, Commissioner, and Ross Gordon, Chair

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

A. Public Hearing

Docket #'s Z-2019-02, PD-2019-01, SU-2019-03, SU-2019-04, SU-2019-05 -A Public Hearing on applications filed by SLS West Loop, LP, regarding approximately 12.75 acres consisting of 5901 S. Rice Avenue, and the western portion of 4800 Fournace Place, Bellaire, Texas, 77401, a portion of the tracts commonly referred to as the Chevron Property, on requests for:

- (1) Amendments to the Official Zoning District Map to re-zone the approximate 12.75-acre Property from TRP, *Technical Research Park*, Zoning District to CMU, *Corridor Mixed Use*, Zoning District, pursuant to Chapter 24, Section 24-603, *Application for Amendment to the Written Text or Official Zoning District Map*, of the Code of Ordinances of the City of Bellaire, Texas;
- (2) A specific use permit pursuant to Chapter 24, Section 24-536 B. (2) a) 3) & 4) of the Code of Ordinances of the City of Bellaire, Texas to allow for an indoor movie theater and an athletic club and/or facilities within approximately 9.6 acres of the western portion of the Property;
- (3) A planned development pursuant to Chapter 24, Section 24-604, *Application for Planned Development Amendment*, of the Code of Ordinances of the City of Bellaire, Texas, to consist of a 300 unit multi-family complex and parking garage to be located within approximately 3.15 acres on the southern portion of the Property; and
- (4) A specific use permit pursuant to Chapter 24, Section 24-536 C. (2) e) 4) (c) of the Code of Ordinances of the City of Bellaire, Texas to allow for an increase in the maximum building height from fifty-three feet (53 ft.) to eighty-five (85 ft.) for the 300 unit multi-family complex and parking garage within the approximate 3.15 acre proposed planned development on the property.

1. Presentation of the Public Hearing Process

Attorney Petrov presented the public hearing process.

Chair Gordon suggested that because of the complexity of the public hearing and number of applications, the time limits should be extended for the applicant's presentation to 20 minutes, public comments to 6 minutes, and the applicant's response to 10 minutes.

Motion:

To extend the time limits for public comments to 6 minutes, presentation by the applicant to 20 minutes, and the response by the applicant to 10 minutes.

{Moved by Ross Gordon, Chair, and seconded by Michael Axelrad, Vice Chair}

RESULT:	Carried
MOVER:	Ross Gordon, Chair
SECONDER:	Michael Axelrad, Vice Chair
AYES:	John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, Weldon Taylor, Commissioner, and Ross Gordon, Chair

2. Presentation by the Applicant

Mr. Danny Sheena, the applicant, mentioned that he has been before the Commission regarding the same property some months ago. He stated that he is trying to make Bellaire better and that last time that he was trying to place a 10-foot sidewalk and reported that it has been installed. He added that there was a requirement for him to place a CMU wall on the north side of the property and that it has been completed. He also stated that the oak trees lining the sidewalks have been covered with LED lights and look beautiful at night. The circular drive for the visitor parking is under construction and should be done in about a month or so. Mr. Sheena noted that Chevron owns residential lots on Mayfair and that in the last month, SLS Properties has purchased a lot between Chevron lots. SLS Properties has a total of 14 lots with rights of refusal and owns 2. Mr. Sheena highlighted the western portion of the property, the sections he has submitted tonight's applications for. There is a central plant and towards the center is the multi-family area; to the west of the central plant is the retail area where a building used to stand (torn down now). He noted that the previous building's distance from the property line was about forty feet, and the retail area is currently about 60% lot ratio coverage; south of the central plant (3-acre area) is about 72% lot coverage. Mr. Sheena stated that the area has above-ground piping and Chevron has eliminated those uses and put them underground. The pipes are now obsolete and do not provide a pleasing sight.

Mr. Sheena mentioned that the City put out a document "Visioning Bellaire" (Urban Design and Beautification Master Plan), and stated that page 155 and 156 of the document identified the property as "Bellaire Place" and he elected to adopt the name. He believes the vision of the property is high-end and high density. He provided an overview of the North Bellaire Special Development Area (NBSDA) that included development priorities such as the most intensive uses in the NBSDA and their vehicular access points should be located along or near the Loop 610 frontage; the next tier could occur along S. Rice Ave. and Fournace Pl. frontage; the lowest intensities should occur along the northern boundary of the area; non-residential development should contribute to residents' quality of life through potential new retail and service uses (including restaurants); some portion of the area may still be attractive for office use (standalone or as part of a mixed-use scenario); and design standards consideration for residential development. He stated that there can't be any single-family homes on the property because of a deed restriction by Chevron. Mr. Sheena added that for 30.5 acres of land, there needs to be mixed-use to develop it fully.

Mr. Sheena pointed out that the retail area is outlined by a parking garage on the northern side as well as a green space separation and that it was the least intrusive way to affect neighbors on Mayfair. He added the parking garage that he is proposing is no closer than the one that was approved by the Planning & Zoning Commission and the City Council previously (42 feet from the fence, same elevation, the height of 35 feet, and buffering). His site plan shows a one-story retail development along S. Rice Ave., and another one-story retail and restaurant development along Fournace. In the middle is a retail development with offices above (two stories of retail and office space above). He stated that his development meets the height setback plane ratio allowed in the Corridor Mixed-Use (CMU) District. He is asking for 85 feet of height which will be about 160 feet away from the fence. On the multi-family side (southern portion of the property), there

is two levels of a parking garage at the bottom and then five stories of multi-family space.

Mr. Sheena mentioned an article stating that 82% of millennials believe that multi-family apartments are an efficient way for them to live at a luxurious facility after leaving home and getting a job. He provided another scenario for the multi-family development that included a 6-story suspended level parking garage with additional parking underneath. Mr. Sheena stated that the first scenario would be ideal because of where underground piping from the central plant pays. Should there be an issue with the piping, it would cause conflict with the location of the pool.

The lot coverage of the area for the multi-family development right now is 72% and with the addition of the development, it would go to about 82%. On the retail side, it is currently at around 60% and will go up to 70% after development. Detention will be provided whether it's under the parking garage or in the field.

The movie theater he has submitted an application is proposed to be 53,000 square feet with reclined chairs, reserved seating and dining. Mr. Sheena is also requesting to allow for the use of an athletic club. The busier hours for the movie theater would be in the evening; before/after work are the busier hours for a gym. Security will be provided at the facility. A traffic impact analysis (TIA) has been provided, and Mr. Sheena reviewed the recommendations including a signalized intersection, adding exits and entrances, and the timing of traffic lights.

3. Staff Findings

Ms. ChaVonne Sampson, the Director of Development Services, gave an overview of the DRC's (development review committee) comments including the Police Department's concern of increased enforcement; the Fire Department's note of the buildings requiring fire sprinklers; the Public Works Department's need to research the utilities and public/private access; the City Engineer's future recommendation on detention requirements; and the Building Official's recommendation of annual inspections of at least the common ground areas. Ms. Sampson stated that the DRC group will meet again to address the public's and commission's requests and concerns to draw up a final recommendation.

The first application is a re-zone request, and staff will be looking at all of the permitted uses with the new proposed zoning district (CMU) against what is allowed now in the current zoning district (TRP). The Comprehensive Plan will also be referred to during the review. Each application will be approved separately.

The next applications are specific use permit (SUP) requests. One request is to allow for the use of an athletic club, and the other is to allow the use of a movie theater (both specific uses under CMU).

Due to the complexity of the site, the applicant decided to apply for planned development. Staff will be paying attention to components such as site layout, sidewalks, setbacks, and related items.

Ms. Sampson informed that there is also a SUP application to increase the height for the multi-family development, but there will need to be another public hearing for a SUP application to increase the height of the retail development (to be held on August 8, 2019). She mentioned that normally height variances are brought before the Board of Adjustments, but because of the way the CMU district is written in the code, the Planning and Zoning Commission is allowed to grant such a request under a SUP and PD.

4. Public Comments

Benjamin Lavine, 5008 Mayfair - Mr. Lavine stated many are concerned about property values, crime, connection to Bellaire, and traffic. He enjoys Bellaire's services and response times, but the northern area of Bellaire has a stigma of belonging to Houston. There is no distinction between Bellaire and Houston near the Fournace Place property. Mr. Lavine stated that a proper mixed-use development could work to create distinction if executed properly. More green space or a running track tied to the park on Anderson Street could elevate the property more. He added that all residents want is a development to enhance their quality of life and property values, and that this becomes an opportunity to dictate positive change for all of their concerns. He hopes that the Planning & Zoning Commission and the City Council will put their best minds forward to allowing and influencing the development to help Bellaire.

James Balogh, 5019 Mayfair - Mr. Balogh was surprised at the deed restrictions by Chevron including no first-floor residential and cannot use the soil for vegetable gardens (he has fruit trees and vegetables growing in his backyard). Mr. Balogh is for development but would like to know it can be done so safely (such as a restaurant coming in and serving food). He mentioned the homeowners on S. Rice Ave. have to back out of the properties and it would be a struggle if the street were to be widened. He's aware the area can be remediated but would like to know how high does he or his neighbors have to raise his house to comply with the deed restrictions of the property right next door to him.

Jane McNeel, 5112 Locust - Ms. McNeel stated that Bellaire was known as a safe haven, a good investment, and the City of Homes because of the strict zoning. She added that Bellaire was inline with other up-scale communities that do not permit multi-family developments. She mentioned a re-zoning of commercial areas in 2014 and multi-family directly adjacent to single-family homes. She read the definition of a SUP. She stated that no one would want a 6-story parking garage behind their property, no matter the setback. The development will have a negative effect on the value of homes, and diminish the City's image and reputation. She asked the City to require the applicant to work within the parameters of TRP; to look into other developments that will safeguard the residential areas; to amend the zoning requirements on TRP; work with the applicant on new SUPs under the current zone.

Andrew Robinson, 4806 Valerie - Mr. Robinson noticed that the north-side of Bellaire is more industrial looking. He added that he misses having an area to go closeby and walk around with his family or drop the kids off for a movie. He ends up in developments similar to what Mr. Sheena is proposing and believes it can add value to the City and draw people in. Right now, Bellaire is known as a place that floods and the development can offset that. He encourages the Commission to support it.

Jane & David Williams, 4913 Wedgewood - Chair Ross Gordon read the Williams' comment opposing the development for the following reasons: concern for the safety and security of neighbors; opposition to high-rise and high-density housing; concern for hazardous waste from the property; there is no need for additional grocery stores; retail buildings are more likely to decline than single-family homes, and traffic is a major concern for the surrounding streets.

James Keating, 6302 Avenue B - Mr. Keating stated he wished he could still live in Bellaire after moving out of his parent's home on Avenue B. He added that there are no options for up-scale apartment living in Bellaire so he could be close to home. He now lives in Greenway Plaza and is happy because of the options for retail, shopping, restaurants and a movie theater. Mr. Keating stated there is a shortage of entertainment in Bellaire. He then said that the development would make Bellaire a more attractive place to live and encourage to stay for years to come. He hopes the Commission will approve the development and believes the opportunity will be hard to come by again.

Jesse Weaver - Mr. Weaver stated he is a commercial property owner in Bellaire. He believes the development is a great way to bring energy, youth, more customers for local businesses and increase property values across the board. He added that a development with multi-family and retail offers energy, can enhance the community and offers younger citizens a place to live after college or working elsewhere. He offers his full support for the development.

Bryan Wogenstahl, 4910 Mayfair - Mr. Wogenstahl asked the Commission not to place any weight on comments from those who do not live in Bellaire. He then stated that though Mr. Sheena said there was no fitness place in Bellaire, there actually is on the north end of the industrial area. In his neighborhood, he has felt separated from the rest of Bellaire because of the industrial complex on the northside and the property on Fournace, and a multi-story building will make them feel more separated. He asked why parking can't be underground. He mentioned that South Rice is seeing traffic impact from Houston due to low-income housing north of Glenmont, and will worsen with the development. He is not against re-development of the property, but would like to see something else.

Mario Ariza, 4811 Mayfair - Mr. Ariza stated he is in support of the development. He remembers when people used to be scared of downtown and now everyone wants to live down there. He and his family would like more things to do in Bellaire such as a gym, a movie theater, or a place to walk around. He thanked Mr. Sheena for the sidewalk, trees, and lights he placed on the property. He believes the development will increase the property value in the area.

Lauren Sheena, 4612 Oleander - Ms. Sheena noticed there were no high-end options in Bellaire when she came back home from college. She lives in Rice Village and the complex includes restaurants and across a gym. She mentioned that the complex faces a street with many houses and that families come every single day to eat at the restaurants. She would like for Bellaire to offer something similar so students like her and remain in Bellaire. She stated that trends are changing and people would rather stay at high-end apartments that offer all amenities and maintenance. She supports the development and hopes Bellaire can be a place to offer entertainment without having to

leave the City limits.

Ed Umbricht, 4900 Mayfair - Mr. Umbricht read a definition of "zoning". He stated that the infrastructure should be in place before the zoning. He mentioned that the properties adjacent to the properties are the only notified because it affects them directly. Mr. Umbricht then added that the applications should be to amend the Comprehensive Plan, not to rezone. He asked the Commission to promote the general welfare.

Charles Platt, 4924 Beech - Mr. Platt opposes the application. He mentioned that the proposed development would be the first high-rise in the City. He stated that the City does not have all the necessary information they need for consideration and that Mr. Sheena has not complied with the requirements of the City's code (sec. 245-24), specifically calling out the environmental conditions, tree and landscaping plans, and the demand on City utilities and storm drainage. He expanded on environment conditions such as the requirement for documentation of known environmental hazards or conditions, and that Mr. Sheena has only provided a year old TCEQ memo stating the site is still in the assessment phase. He spoke about TCEQ records that mention there are soil and ground contamination and that 41 out of 80 monitoring wells on the site show contamination. The deed restriction prevents certain uses (such as single-family homes, schools, and hospitals), but townhomes can be built as long as they do not have a low grade or first-story residential space. In closing, he stated that Mr. Sheena's failure to address should be sufficient grounds to rule the applications incomplete and non-compliant. He added that the proposal is inconsistent with the Comprehensive Plan and character of the community.

Belinda Schmidt, 4508 Elm - Ms. Schmidt's biggest concerns were traffic, having an infrastructure in place to accommodate the development, and the additional lot coverage (and it's effects on flooding).

Thomas Dunn, 5008 Wedgewood - Mr. Dunn stated that everything is 3 to 5 minutes away and there no need for the development. Those that support the application do not live near the property. He stated that if it can be promised that his property values won't decrease, he may support the proposal, but he is sure that they will decrease.

Jun Chang, 6029 S. Rice Ave. - Mr. Chang is concerned about traffic and believes will be worsened by the development. He mentioned the construction alone around Wal-Mart makes the road congested. With added congestion on S. Rice and Fournace, they will not be viable options to travel outside the City and will cause increased traffic within the City. He asked the City to consider a solution besides widening S. Rice Ave. Mr. Change also stated that people go to the movie theater all times of the day, not just the evening, as Mr. Sheena had said.

Cynthia Freeman, 5009 Mayfair - One of Ms. Freeman's areas of concerns is contamination. She is bothered by Chevron's recent disclosure of contamination, despite what she was told by Chevron to not be concerned. She wonders why Chevron didn't volunteer the information. She stated that the deed also says any new building has to be outfitted with vapor barriers. She believes the contamination doesn't stop at the Fournace property line. Her other concern is the planned development. The 8-foot cement wall built has darkened her backyard and affected its character. Additionally,

after a heavy rainstorm, her yard was flooded but the water remained for days. She bought a pump to drain her yard and stated that Mr. Sheena was responsive in installing a drain in her backyard.

Catherine Lewis, 1112 Colonial - Ms. Lewis mentioned that the Comprehensive Plan was approved 2 years ago on April 3, and there was a lot of discussion about guiding future zoning changes and future redevelopment in the area. She added that CMU does not conform to the Comprehensive Plan, and listed its specific and permitted uses. She mentioned that the Mayor changed the Comprehensive Plan from the Planning & Zoning Commission and listed uses that are prohibited. multi-family, movie theater, and the athletic club are prohibited. She provided the definitions of mixed-use, lifecycle, and landscaping. Ms. Lewis stated that Mr. Sheena needs to provide more green space. She questioned the number of apartments and their square footages. She also questioned the utility demand between the occupants in the apartments and those in the neighborhood, concerned about the water pressure. Ms. Lewis asked the Commission to pay attention to the Comprehensive Plan and stick to its definitions. She wondered what kind of movie theater Mr. Sheena is planning to bring in (e.g. iPic or AMC).

Rupa Gir, 4903 Mayfair - Ms. Gir is concerned about the parking garage behind her home and was informed by Mr. Sheena that trees were included in his plans to provide screening. One of her concerns is environmental-related with the limitations placed by Chevron in the deed restrictions. Her second concern is safety issues with Cunningham Elementary School on the same street. Her third concern is the traffic with Wal-Mart down the street and can see it worsening with the addition of apartments and restaurants.

Neal Kaminsky, 4520 Teas - Mr. Kaminsky thanked the Commission for their work and supports re-development. He asked how often would there be an opportunity to have a blank canvas to develop a project like this. He has confidence that the professionals behind the project can perform the project with utmost safety and do an appropriate analysis of for protecting the environment. He believes the City needs amenities to attract and retain residents, and obtain tax dollars.

Thomas Reed, 1111 Colonial - Mr. Reed is opposed to the increase in building height because of the shadow it will cast to the north that will affect the residents on Mayfair, and will restrict sunlight to plants and solar panels. He is also against the rezone stating that the development should not be given a blank slate to do whatever he wants. He is also against the multi-family development because of population growth and wonders if Bellaire is prepared for that large of growth (e.g. effects on water pressure, police, fire, schools, and traffic). Mr. Reed quoted from the Comprehensive Plan concerning the North Bellaire Special Development to highlight the inconsistencies including building height, the apartment complex, intense use, screening and buffering, and lot coverage. He asks the Commission to keep development consistent with the Comprehensive Plan.

Karen Reicheck, 5601 Saint Moritz - Ms. Reicheck stated she's stayed in Bellaire because of its zoning, and that an apartment will change the feel of "City of Homes". She commented that West University has no apartment buildings, Southside Place has one, and Bellaire has one. She mentioned Pont Alba apartments had attempted to redevelop to a bigger building but it was turned down. Ms. Reicheck believes high-rise apartments will bring more crime. She read from a Houston Chronicle article about an incident at the

apartment in Southside Place. She would like to keep Bellaire a small-town feel.

Mary Livingstone, 1113 Colonial - Ms. Livingstone expressed that she would never want to live next to a development like Mr. Sheena is proposing. The strict zoning is what draws a lot of people to Bellaire and pay a premium for the purchase of a house and every year in taxes. She stated residents will see a decrease in property value, and Mr. Sheena cannot guarantee that his development will be luxurious or anything he is proposing. Even if it starts off as luxury, it can become run-down and dilapidated. She is also concerned about higher crime rates, noise pollution and adding a large number of students to Bellaire schools. Ms. Livingstone stated she is opposed to multi-family homes and anything that exceeds the current height limitation.

Ken Waldman, 4917 Mayfair - Mr. Waldman believes no one on Mayfair is in favor of multi-family buildings (the ones who are most directly affected), and that crime will increase along with it. He is concerned about safety (specifically calling out the contaminated soil), and property value. Mr. Waldman stated that the square footages should be larger for a high-end apartment.

Karen Waldman, 4917 Mayfair - Mrs. Waldman stated that she and her husband bought their home because of the zoning of the property and did not imagine that it could be zoned to something like this development when Chevron sold the property. She mentioned that she worked at a hospital that didn't flood because of the green space. She expressed that she is very concerned about the contaminated soil, and the extra stress on Police and Fire.

Lynn McBee, 5314 Evergreen - Ms. McBee handed out excerpts from the amended Comprehensive Plan and that the plan tells what Bellaire has in mind. She then stated that what they need from the development is his plan for future land use of the property. She believes there are two interest groups with competing values, and that the community is diverse. Ms. McBee stated that the developer is only looking at what's in high demand and popular, not what is good for the community. She additionally said that the proposal is excessive and that there is no need for a tall building when a 3 or 4 story might work. Ms. McBee handed out a sheet of questions to the Commission. She is concerned about the TCEQ report.

Moreen Gilbert, 4511 Teas - Ms. Gilbert stated what caught her eyes was the monitoring wells and hopes the Commission considers how the site modification and construction will affect the contamination on site. She added that the taller the building, the deeper one has to dig, and results in more soil disturbed. The runoff will be affected by the soil disturbance.

Hagar Gordon - Ms. Gordon stated that she and her family like to do outside activities, but find themselves driving elsewhere. They would prefer to have something in Bellaire. Ms. Gordon mentioned that when they flooded, they were unable to find an apartment in or around Bellaire and it affected their daily routines. She added that this development would not only be for younger citizens, but families like her as well.

Michael Tweedy, 4910 & 4911 Imperial - Mr. Tweedy is concerned about the construction of the building and its footing, as well as the soil underneath that shouldn't

be disturbed. He stated that if he wanted a place with amenities, he would've bought elsewhere. He expects that the Commission should be protecting the residents' safety and zoning. He mentioned that he's seen this proposal modified and become larger over time.

Linda Mazzagatti, 4901 Wedgewood - Ms. Mazzagatti is concerned about flooding with the increased concrete from the development. She is also concerned about the increase in crime and traffic from transient people that typically live in apartments. She reminded the Commission that they are there to look over the best interest of Bellaire residents.

Joe Tedore, Willow - Mr. Tedore is shocked by the lack of understanding of the emissions of the site. He suggests that the consideration of the application be postponed and look back at TCEQ information. He would not want to raise a developmental-aged child growing up there and would not live there himself. He added that the danger will not go away and will stay there for years.

Terry Leavitt-Chavez - Chair Gordon read Ms. Leavitt-Chavez's comment into the record as requested. She is in support of the re-zone application because she would love to see the amenities Mr. Sheena is proposing. She also mentions that with the current state residential real-estate property tax cap, this development would be a huge opportunity to capture sales tax revenue to continue to offer resident the needed infrastructure operations and updates.

5. Response by Applicant

Mr. Sheena responded that he is an engineer and has designs for the garage that was previously approved. He stated that the deepest structure (spread footing) will be 6 feet deep into the ground. He added that the problem is the groundwater (the surface was cleaned by Chevron years ago) and has contaminations from the north and east that flows southwest. There are monitoring wells that TCEQ has kept tabs on for many years and Chevron has been submitting reports every 6 months. Chevron is waiting on what to do as advised by TCEQ and that it was agreed by Council that it is TCEQ's issue to resolve. He mentioned there was a conference call between the City and TCEQ in which TCEQ did not foresee any delay in development. Mr. Sheena stated monitoring wells can be relocated, abandoned or built on top of, and remediation will be ordered as needed.

Mr. Sheena addressed the comments about crime, stating that it would be a prime property and compared it to properties like the Alexan (Southside Place), City Centre and River Oaks District. He also said that multi-family complexes next to shopping and restaurants raise the property values to the surrounding homes. Having amenities in one location is attractive and convenient. Mr. Sheena added that the definition of a high-rise in some codes is 9 stories, so his development would be considered a low-rise. He noted that there will be a total of 300 apartments and less than 200 units will be a 1-bedroom apartment (square footage will vary between 750-900) and the remaining units will be a 2-bedroom apartment (square footage will vary between 1000 to 1400). He mentioned that the money invested in this property is not the kind that someone would let go and that there is a need for a development like this in Bellaire. Because of the size of the property, Mr. Sheena stated that this property was meant to be developed and mixed-use is a good idea.

Mr. Sheena informed that the building next door is 100 feet and the 10-story building is 150 feet tall. He stated that the trees along the street will block the views of the building, and would be required per the CMU district guidelines. Additionally, the multi-family building is isolated in the middle of the property and provides the most protection to the residential properties. He stated that with this development, the area to the west (Houston) will improve and discourage the nearby low-income housing.

6. Questions from the Commission

Vice Chair Axelrad asked Mr. Sheena to verify that the contaminants didn't originate from the property (which Mr. Sheena confirmed), and speculated that the contaminants were underneath everyone's property across the City. He then asked if the development is dependent on closure or no action letter from the TCEQ, and what would happen if the development was built but then asked to dig it up.

Mr. Sheena answered that it was not dependent on a closure nor a no action letter from TCEQ. There are injections the TCEQ can perform and an easement area where they would be able to get their equipment through. Monitoring wells are expected to be there, and the surface has already been cleaned. Mr. Sheena stated he is still waiting on the closure letter from TCEQ and Chevron has provided requested information. Vice Chair Axelrad asked about the hydrocarbons and VOCs (volatile organic compounds) and Mr. Sheena replied that they are in the corrective action plan.

Vice Chair Axelrad noted that there was a power line that ran north and south, and that if Mr. Sheena did a square podium, he would get more coverage and surface area. He wondered if a cost-benefit analysis had been done to see if it resulted in a more efficient use, but may result in the development coming down a story or two.

Mr. Sheena responded that there is a central plant and Chevron took the raceway and pipes, and put them underneath. He also mentioned that Chevron spent a substantial amount of money to put everything (generators, HVAC systems) exactly the way it is and can't be taken out.

Vice Chair Axelrad inquired about the unit rental rates noting that higher rental rates tend to define a "class A" apartment, not the look.

Mr. Sheena answered the apartment were to be priced at about \$2.25 to \$2.50 a foot range.

Vice Chair Axelrad commented that the price range might serve as a form protection. He then questioned the lighting near the residential backyards.

Mr. Sheena replied that he has promised to place trees along the north side of the property. He added that there is an intent to place a 10-foot walkway and to install lights on the CMU wall shining towards the garage and away from the homes.

Vice Chair Axelrad mentioned that with the HEB development, hours were limited because ambient lighting can be a source of pollution to the neighbors. He advised Mr.

Sheena to look into it. Mr. Axelrad asked if it would be amenable to do right-in and right-out. He is concerned about pedestrian safety, especially with the proximity of an elementary school.

Mr. Sheena responded that S. Rice Ave. (by Wal-Mart) has been expanded to have a median in the middle and he would like to do the same. He believes it helps control traffic. He mentioned that in the traffic engineer's report, two exits and one entrance were recommended on S. Rice Ave.

Vice Chair Axelrad inquired what type of athletic facility vendor he plans on bringing in.

Mr. Sheena replied that it would be a quality gym (e.g. Lifetime Fitness, LA Fitness) to occupy a space of 50,000 square feet.

Commissioner Steinberg asked how Mr. Sheena came up with the idea to re-zone the property to CMU.

Mr. Sheena answered that Kirksey, an architectural firm, laid out a plan of what they thought would be the ideal development for the property. He stated that he presented the idea to the City and asked staff what would be the best way to make his proposed development work. He then said that he was advised that the best option would be to rezone the property to CMU and then make modifications as needed. Mr. Sheena added that he was also presented the option to develop his own code (zoning district), but did not think it was a good idea, preferring to build on something that was already in place.

Commissioner Steinberg was concerned that allowing the rezone to CMU and granting what Mr. Sheena is requesting would send a message to other CMU properties to ask for the same things.

Mr. Sheena replied that it is a unique property and there is no other CMU property that has that much land that needs mixed-use.

Chair Gordon clarified that inside the CMU district, there is an explicit list of permitted uses and there is an allowed process for requests such as a gym or movie theater or an increase in height.

Commissioner Stenberg informed that when the CMU district was created, it was based on the properties that were down Bissonnet Street and their issues. It was not considered that a property like Mr. Sheena's coming into the CMU. He noted that he thought it would have been a better idea to create a new zone because of its size and complexity. He mentioned that he would have liked to see more access from the back of the property to 610.

Mr. Sheena responded that it was what the traffic engineer advised.

Commissioner Steinberg asked Mr. Sheena why he thought Chevron put deed restrictions on the property.

Mr. Sheena couldn't be sure, but noted that Chevron is ultra-conservative and made

restrictions. He mentioned that there is groundwater contamination coming from outside the property, so Chevron would want to put a limitation on it. Mr. Sheena also stated that houses being built on Mayfair and Colonial would have the same problem when they drill piers during new residential construction. He added that he would not be going any deeper than that or disturbing the groundwater.

Commissioner Steinberg inquired about the chemicals and if they are being monitored as a direct cause of Chevron's use of the property.

Mr. Sheena answered there are wells that monitor and detect contaminants of the water. The flow of the groundwater is coming from the direction of Wal-Mart and flows through the property. He added that he knows of Chevron cleaning the surface of the ground by the TCEQ. He is not sure if the wells can tell where the contaminants are originating from.

Commissioner Nelson noticed that a lot of comments from the public were in regards to the multi-family use. She asked Mr. Sheena if there are any changes he would make to produce a more palatable development to the residents.

Mr. Sheena replied that he's looked at a variety of options. He wants to attract destination tenants that will feed the underlying shops and restaurants. A mixed-use without multi-family is not being set up for the highest and best use for the property. He understands that some residents don't want it but more recent developments have high-end amenities - it wouldn't be just apartments. Mr. Sheena added that the reason he is proposing 300 units instead of 200 was because there is a need for nice amenities.

Commissioner Nelson asked for clarifications on the applications that were submitted.

Mr. Sheena informed that he has submitted multiple applications for separate to be considered at one time.

Commissioner Nelson noted that all the applications are linked and questioned Mr. Sheena if it's all or nothing for him.

Mr. Sheena answered no. The applications he's submitted are what he really wants and what is best for Bellaire. He mentioned that the multi-family is essential to the development. The architects did their best to make it the least intrusive they could.

Commissioner Nelson expressed concern on the lot coverage and asked Mr. Sheena to consider ways to maintain green space, not lose it.

Mr. Sheena believed that the current coverage is 60% and moving up to 70%. On the multi-family parcel, it is currently at 72% and going up to 82%. He stated that he would bring it up with Kirksey.

Commissioner Klug asked how long has TCEQ been monitoring the property, and when does he expect there to be a closing letter.

Mr. Sheena answered since 2007. He is pushing Chevron as much as he can, hopefully by

the end of the year. He suspects that the current monitoring wells are under evaluation on which ones want to be kept or abandoned by TCEQ. He noted that there are a lot of properties throughout the City with this kind of problem, and there are mechanisms in place to deal with them through the TCEQ. He is dealing with TCEQ through Chevron since it was Chevron's obligation to take care of the groundwater issue when Mr. Sheena bought the property.

Commissioner Klug asked Mr. Sheena if Chevron is devoted proper resources to resolving the problem.

Mr. Sheena responded that his consultant, ESE Partners, does work all over the country and have been in communication with Chevron and environmental engineers. His consultant advised that Chevron is doing what they to do to make it right.

Commissioner Klug if there has been any consideration on the impact to Cunningham and Condit Elementary schools from the multi-family development in regards to crowding.

Mr. Sheena does not know the answer, but in his experience, students and young professionals are the ones who live in these type of apartments, not families.

Commissioner Klug then asked if Mr. Sheena had considered on cutting back on the idea of the movie theater, athletic club, or height of the buildings, and adding residential instead.

Mr. Sheena answered that under the CMU guidelines, he can do residential in conjunction with retail but would have to have 25% retail and then residences on the upper levels. Unless he constructs something will high-end amenities, it is not that nice of a complex and more likely to deteriorate. He noted that all the uses support each other (e.g. the people working in the offices will want somewhere to eat or exercise after work.)

Commissioner Klug asked if it was decided he could not build a movie theater, or club, or build to the height he wanted, would it kill the project.

Mr. Sheena said that he doesn't envision putting residential units on top of the retail box because he wants to offer nice amenities such as the movie theater.

Commissioner Klug asked what Mr. Sheena's plans are to remediate flooding.

Mr. Sheena mentioned that detention is determined by ratios and calculated by engineers. It is just a matter of how much underground detention he'll have to do and will have to pass it through the City. He also stated there is unusable space (such as the space underneath the ramp in the parking garage) that can be used to make detention. He was asked to provide how much cubic feet he would need for detention and is included in the agenda packet.

Commissioner Baker expressed confusion with the multiple lots and asked if they would be zoned differently.

Ms. Sampson clarified that the overall 12 acres, if approved, will be CMU, and confirmed that the East side of the property will remain as TRP.

Commissioner Baker agrees with Commissioner Steinberg in that he is not sure that CMU is the right zone for the property. He asked Mr. Sheena was is the highest and best use for the land on the eastern side of the property.

Mr. Sheena replied that he is looking into that, and a lot will depend on land that Chevron owns. He does not know if he will own it in the future.

Commissioner Baker asked if a storage unit would be allowed in CMU or TRP.

Ms. Sampson answered no, they are not allowed uses in the City. If a public storage unit would want to come in, they may only be possibly allowed in a PD.

Commissioner Baker asked Mr. Joe Tedore (spoke during public comment earlier) what he believed would be acceptable use due to Mr. Tedore's environmental concerns.

Mr. Tedore believes there should be no residential use of the property because of the long exposure to radiation and chemicals. They will not go away and worries about their effects.

Commissioner Taylor assumes that staff's work is going to include a side-by-side comparison with the Comprehensive Plan. Ms. Sampson confirmed this. He noted that a lot of people commented on the amendment to the plan that was done about two years ago. It seemed that there was no intention to have any multi-family use on the property and asks if there should be any reason to change something that was recently amended. Commissioner Taylor noted that the traffic report details specific recommendations. He mentioned that there is one area that would be very problematic (610 and Fournace intersection) that may be a level of service rating of "E", which is below what is generally considered to be acceptable. He added that with existing gas station at the corner there is no physical way to expand intersection. He pointed out that the report says that a signal timing adjustment is a key parameter to maintain as high a level as service as possible. Commissioner Taylor asked if staff can raise the service to an acceptable level.

Ms. Sampson used Bellaire High School as an example stating that they had needed to work with the Public Works Department. They coordinated with other networks of signals and pay close attention to the signaling in Bellaire. She mentioned that Public Works applied for 2 grants and receive 1 of the 2.

Commissioner Steinberg commented that when the Planning and Zoning Commission did the Comprehensive Plan, they intentionally left the Bellaire Place area open (excluding non-profits, schools, and hospitals) to not direct a developer. It was made clear that once a developer came forward, it would be time to look at the Comprehensive Plan to match where Bellaire wanted to go and include the proposed development.

Ms. Sampson clarified that Commissioner Steinberg is speaking about the original thought of the Bellaire Place area, but when it was taken to City Council, changes were made.

Chair Gordon believes that this development is based on trust between the developer and the community. He is glad to hear that the sidewalk, fence, and landscape have been completed. He asked if staff had any issues with those items getting done.

Ms. Sampson responded that she didn't have to contact Mr. Sheena, he brought those in on their own. A permit applications for the parking garage has not been submitted yet.

Chair Gordon asked if the TIA uses current traffic counts with zero tenants or if projects from the office building.

Mr. Sheena answered yes, it projects the as if the office building was full as well as the stages of development.

Chair Gordon encouraged the City's traffic engineer to review. He asked Mr. Sheena to confirm that he had no projection of what the eastern portion of the property would be, and Mr. Sheena confirmed. Chair Gordon encouraged staff to require a traffic analysis with potential uses to have an idea for the long term and future use of a situation. He recalled the discussion of the parking garage and its setbacks. He noted that it had been presented as the only option, but now sees that it has changed. He didn't like that it was presented as a one and only option, and would appreciate more honesty. Chair Gordon asked if there is a max lot coverage in the CMU district.

Ms. Sampson replied that for non-PD properties, it would be 75% In a PD, it is set within the PD.

Chair Gordin asked about the impact on public infrastructure from a development of this size, and if the City has development fees.

Ms. Sampson responded that there are no development fees. What happens is that they will work with the Public Works Department and understand the needs of development. They are currently under the process of figuring out what's needed and if they currently have the capacity to meet those needs. Impact fees would absorb costs associated.

Chair Gordon asked if an agreement can be negotiated with the developer to share costs.

Attorney Petrov stated that there can be development agreement under Chapter 380. In terms of zoning, it is a legislative function and starts getting into contract zoning.

Chair Gordon encouraged staff to look at since it there hasn't been something like this before. He noted the high pedestrian activity in the intersection of S. Rice Ave and Fournace and stated that it would be prudent to facilitate a gateway for an interchange of this area to improve pedestrian safety. He does not believe the crosswalk is sufficient for a pedestrian-oriented development.

Mr. Sheena responded that the plan is to expand the S. Rice sidewalk as wide as it is on Fournace.

Chair Gordon asked to confirm that in TRP district if it currently allows 84-foot building

by-right as read in the Code of Ordinances. He wanted to understand what types of developments could move forward within TRP without approval from the Planning and Zoning Commission.

Ms. Sampson stated that no other development can move forward in the TRP district without a SUP due to the change in 2016. If a development is not doing a research park, they need to come before the Planning and Zoning Commission.

Chair Gordon asked what environmental clearances would be needed for an occupancy permit.

Ms. Sampson replied that a review would take place before issuing the building permit. The engineer in their assessment would ask for that type of document. She will get an answer as to what type of documents would be requested.

Vice Chair Axelrad asked if the City has phase 1 of Mr. Sheena's property.

Mr. Sheena answered no.

Chair Gordon stated that it is something the City should request. He commented that if there have been exhaustive studies, Mr. Sheena should be able to provide those studies.

Mr. Sheena stated that the report his consultant made is about 16,000 pages and 150,000 pages since 2007. He added Chevron has done what they needed to do and is waiting for TCEQ to decide.

Chair Gordon commented that this is the singular largest site. If the complex supports itself as Mr. Sheena has said, then he wants a master plan and what it will entail of. He added that Mr. Sheena purchased the property knowing that would need a SUP to build. He thinks it's a fair request to ask for master and traffic plan on what's going to happen on site. He believes they should approach this development as a complete site, not by piece mail.

Mr. Sheena responded that the plan is to have mixed-use in the front as well, but not sure exactly what type. He plans to keep the residential lots as green space. He has an idea but doesn't know what component will go where.

Chair Gordon stated that Mr. Sheena must've purchased the property with a plan in mind. Saying "something high-end" is too ambiguous. He asked if Mr. Sheena was planning to change the zoning classification on the eastern half of the property.

Mr. Sheena answered not now. Once he knows what Kirksey thinks can fit there, he will come to the City and the Planning and Zoning Commission.

Chair Gordon is interested in knowing who will be operating the multi-family residential, gym and theatre, stating that they can set the tone of how high-end the amenities will be. He added that he was curious on a gas station that Mr. Sheena mentioned earlier that he could possibly be expanding into. He reiterated his request for a master plan.

7. Invitation for Written Comments, if applicable

Chair Gordon stated they want to continue to solicit input from the audience and those who could not attend tonight. He noted that the Commission will read all comments submitted.

Administrative Secretary, Marleny Campos, announced that written comments will continue to be accepted until July 31 at 5 pm. The next Planning and Zoning Commission meeting is scheduled for August 8 at 7 pm.

8. Closure of the Public Hearing

Motion:

To adjourn the public hearing.

{Moved by Marc Steinberg, Commissioner, and seconded by John Klug, Commissioner}

RESULT:	Carried
MOVER:	Marc Steinberg, Commissioner
SECONDER:	John Klug, Commissioner
AYES:	John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, Weldon Taylor, Commissioner, and Ross Gordon, Chair
ABSENT:	Jonathan Saikin, Commissioner

IX. REPORT OF STAFF, COMMITTEES, AND CORRESPONDENCE

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

- 1.** Bellaire Place Consideration
- 2.** July 25, 2019 Workshop Reminder

Ms. Sampson reminded that there is a workshop with the Planning and Zoning Commission on July 25 at 6 p.m., and a board and commission training, possibly in August.

X. REQUESTS FOR NEW BUSINESS, ANNOUNCEMENTS AND COMMENTS

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

There were no requests for new business.

XI. ADJOURNMENT

Motion:

To adjourn the regular meeting of the Planning and Zoning Commission.

{Moved by Michael Axelrad, Vice Chair, and seconded by Pam Nelson, Commissioner}

RESULT:	Carried
MOVER:	Michael Axelrad, Vice Chair
SECONDER:	Pam Nelson, Commissioner
AYES:	John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, Weldon Taylor, Commissioner, and Ross Gordon, Chair
ABSENT:	Jonathan Saikin, Commissioner

The meeting adjourned at 10:20 p.m.

City of Bellaire

DRAFT MINUTES

Planning & Zoning Commission - Aug 08 2019

Thursday, August 8, 2019 @ 6:00 PM

Council Chamber

PRESENT: Michael Axelrad, Michael Baker, Pam Nelson, John Klug, Marc Steinberg, and Ross Gordon;
Zachary Petrov, Trisha S. Pollard, ChaVonne Sampson, and Marleny Campos

ABSENT: Weldon Taylor

REGULAR SESSION - 6:00 P.M.

I. CALL TO ORDER AND ANNOUNCEMENT OF A QUORUM

Chair Ross Gordon called the meeting to order at 6:00 p.m.

II. APPROVAL OF MINUTES FROM PAST MEETING(S)

There were no minutes to approve.

III. REMINDER TO PERSONS DESIRING TO ADDRESS THE COMMISSION

IV. GENERAL PUBLIC COMMENTS

Lynn McBee, 5314 Evergreen - Ms. McBee stated that she had recommendations for changes on the Commission's Rules of Procedure including increasing the time limit for public comments to five (5) minutes with no time extension, adding the definition for protest petition noting that it has been used a number of the times over the years, and reordering some of the items. She gave the Commissioners a handout on the rest of her proposed changes to the Rules.

Randy Pollard, 5123 Linden - He believes it is very important to start meetings with pledges to the United States and Texas flags, and would like to see it added to the Commission's Rules of Procedure.

Commissioner Klug stated he and the other Commissioners have received letters and e-mails. He mentioned that there is a proper procedure of submitting comments through the Development Services Department, and reads everything they receive. Commissioner Klug stated that will not read comments sent directly to him and that it is an unfair advantage for someone to supply duplicate comments.

Raye Horwitz, 11 Boulevard Green - Ms. Horwitz believes the entire topic of the Chevron property should be tabled until the final assessment from the TCEQ has been presented and reviewed. She has concerns about the contamination of the property and that it had not been adequately addressed. She suggests that the City Manager approach the University of Texas School of Public Health for an expert of toxicology to review the findings. Her second concern is that the Development Services Department loses sights of the desires and needs of the residents in working with developers.

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

A. Public Hearing

Docket # SU-2019-06-Public Hearing on an application filed by SLS West Loop, LP regarding approximately 9.6 acres on 5901 S. Rice Avenue, Bellaire, TX 77401 ("the Property"), a portion of the tracts commonly referred to as the Chevron property, on a request for a specific use permit pursuant to Chapter 24, Section 24-536 C. (2) d) 4) (c) of the Code of Ordinances of the City of Bellaire, Texas, to allow for an increase in the maximum building height from fifty-three feet (53 ft.) to eighty-five feet (85 ft.) for a building to be used for an indoor movie theater and an athletic club and/or facilities.

Chair Gordon clarified that due to the way the applications came in and processed, this application was not properly noticed to the public and could not have held a hearing along with others at the last meeting. He mentioned that this hearing should be focused mostly on tonight's application, but the other applications may come into discussion.

1. Presentation of the Public Hearing Process

Attorney Zachary Petrov read the public hearing process.

2. Presentation by the Applicant

The applicant, Mr. Danny Sheena, stated that the property is currently zone as TRP (Technical Research Park) and seeking a CMU (Corridor Mixed-Use) rezone for his applications. He referred to the Bellaire Place name in the City's Visioning Bellaire documents, and how it talked about having high-end, multi-level facilities. On the western end of the tract, would be a 3-story structure with the 2 lower levels to contain a retail, gym, or theater use, and above level would contain the offices (what he refers to as "the box"). The total height of the building would be 85 feet. Mr. Sheena referred to figure 24-536.A from the City's Code of Ordinances referring to the Height-Setback Plane. He explained that if he is wishing to build to 85 feet, he has to be 131 feet from the fence. His development (the box) is 164 feet from the fence and meeting the requirements. He stated that Kirksey has analyzed the shading from the building onto the residences of Mayfair and concluded that the existing line of trees along east and west shade existing residences. Additionally, there would be no impact on any of the residences from January to November, and minimal impact on two residences at sundown in December for about 30 minutes. Mr. Sheena stated that they also did an analysis of the lighting from the garage and the structure. He concluded that there would be no effect on the residences.

3. Staff Findings

Director of Development Services, ChaVonne Sampson, read the public hearing caption. She stated that a public hearing happened at the last meeting to address other parts of the property. She added that the DRC (Development Review Committee) meetings talked about the ramifications of the building heights and they will continue to work on information to present for the consideration, as well any additional questions that arise tonight from the Commission. Ms. Sampson felt it was important to explain that without

granting a re-zone, the subsequent applications will become null and void. When the next meeting is scheduled, the re-zone consideration will be first.

4. Public Comments

Jim Balogh, 5019 Mayfair – Mr. Balogh's has concerns about seeing an 85-foot tall building in the backyard, the pollution, and remediation. He stated he is against taller buildings. He thinks consideration should be made to not make the building make taller.

Charles Platt, 4924 Beech – Mr. Platt stated the public hearings are an important part of the public process and he is a strong supporter of it. He is concerned about the environmental issues and states that there are many questions yet to be answered. He would appreciate additional time to provide written comments. He stated there should be a pre-sale site assessment for the seller to provide all environmental matters. Mr. Platt believes there needs to be greater transparency and a greater understanding of the radiological issues. He noted that with taller buildings, it means deeper piers which would disturb the groundwater. He requests the City to commission an independent study without bias by a professional and experienced person in radiological contamination.

Thomas Reed, 1111 Colonial - Mr. Reed passed out a depiction of a 35-foot parking garage and an 85-foot building and stated that it shows the casts of real shadows. He stated that there would be significant shadowing over the properties on Mayfair. He read parts of the Comprehensive Plan regarding the use of the property, and the location of the most intensive uses of the property.

Catherine Lewis, 1112 Colonial – Ms. Lewis stated that the state code zoning process is designed to limit the density of development, and has a problem with the 85-foot height of the building. She added that it is premature to request for the SUP when the zoning has not been approved. She stated that the long shadows will kill vegetation due to lack of sunlight, and that the building and pavement will reflect more heat, especially with the loss of green space. She questions Mr. Sheena's claims of only a 6-foot pier for an 85-foot building because she went through phase 1 environmental material and saw no depth map for the contaminated sand. There was no geologist listed on the report and questioned the qualifications of personnel that did the reports. Ms. Lewis stated that the pillars drilled will touch contaminated sand and possibly create a conduit up to the surface. She wonders if the lightweight materials Mr. Sheena claims to use will be hurricane proof and their longevity. She additionally said that the CMU wall Mr. Sheena built is cinderblock that will form mildew and is very cheap. She questions why Mr. Sheena hasn't completely walled off the residential area and mentioned that he has the option to buy the Chevron lots.

Megan Sheena, 4612 Oleander – Ms. Sheena felt that her voice would be looked as from a kid's perspective, and would not be taken seriously. She believes having input from younger residents is important because they are the future of the Bellaire community. She noted that her generation looks for convenience, health, entertainment, and innovation. Because of the constant resistance from older residents, she fears Bellaire will continue to develop its community based off of those fears instead of developing a lifecycle community that appeals to all ages. She hopes the Commission will

take the opportunity for a piece of property like this.

Lynn McBee, 5314 Evergreen – Ms. McBee stated that it is time for a moratorium, and that this application is not a professional submission and has too many flaws. She added there this no final report from the TCEQ and the application cannot move until that's done. She mentioned a height limits ordinance in 1978 for the height of new construction in several zoning districts. She stated that it was necessary for the preservation of the environment and maintenance of a residential character in Bellaire. She asks what the current height limitation is for the TRP zone, what the status is of TRP since the Comprehensive Plan plan was amended to establish the NBSDA (North Bellaire Special Development Area). She also asks what options the owner has to apply for a new site plan to include the entire site altogether. Ms. McBee stated that if it goes to Council, she will request that they hire a professional consultant that has legal expertise on site development and land use.

Ed Umbricdht, 4900 Mayfair – Mr. Umbricdht believes that this is something that needs to be considered in the Comprehensive Plan, and there are many concerns from people outside of the limit. He mentioned that the Comprehensive Plan was designed to provide protection of the residential areas. He commented that height setback plane and community is not defined but does call out specific areas that are adjacent. He asks the Commission to consider an amendment to the Comprehensive Plan, not the rezone request.

5. Response by Applicant

Mr. Sheena stated that the document that was handed to them (by public speaker) is incorrect. His designer modeled the exact conditions on the property concerning shadows. He then informed that the 85-foot building would be a steel structure and very light. The parking garage would be made of concrete and very heavy. He compared it to the structures at the HCC West Loop campus.

He has provided the City with about 100,000 pages of documents including reports from Chevron phase 1 before he bought the property, and after he bought the property. The recommendation he received was that he was clear for development and to follow TCEQ. Another phase 1 was submitted by a reputable third party, and they were confident that the property can be developed and used safely. TCEQ will review all documents. He has reserved an easement area exclusive to Chevron and Chevron submitted everything to TCEQ. TCEQ approved a plume management zone to watch if remediation is needed. Mr. Sheena has provided a detailed radiation report to staff on the entire 30-acre tract. 4 locations were shown to have excessive radiation and that soil was removed, remediated and brought to residential farmer standards.

6. Questions from the Commission

Commissioner Steinberg asked Mr. Sheena if he would be okay with the condition of approval that if the shadows go into anyone's backyard, that he would take the building down.

Mr. Sheena said that he is relying on his expert's model to tell him what the shading is.

He also noted that his figures are modeled without the increased trees along the fence line (required). When the trees grow, there will be no shadow.

Commissioner asked if the model is wrong, would he be willing to take the building down.

Mr. Sheena responded that he is willing to get a second opinion on the shadow model.

Commissioner Steinberg asked if the approval of height is for the theater and gym or a building that can later be on for something else. If the theater and gym don't get approved, what could be the use of the building?

Mr. Sheena replied retail.

Chair Gordon asked if this SUP for the height includes language that ties it back to the use (gym or theater).

Attorney Petrov answered that it's for a building to be used as a gym and theater.

Commissioner Baker asked if it's built and sits empty, can any retail can come in.

Attorney Petrov responded that they would have to apply for another SUP.

Mr. Sheena noted that retail is allowed in CMU by-right.

Commissioner Steinberg asked if they are only being asked to approve the rezone request for portions of the property and if the height of the office existing buildings are different because they are under a different zone (TRP).

Ms. Sampson confirmed this.

Commissioner Nelson mentioned a lot of questions have been raised regarding environmental and wanted to know if they can request before the next meeting a City analysis of those documents.

Ms. Sampson informed that getting things from the applicant, uploaded them onto the website and have set up a viewing room to go through the documents. The City Manager is looking into bringing someone in to review the documents on behalf of the City and share their findings. She responded to Commissioner Nelson by stating right now staff is collecting information and receiving questions from residents.

Commissioner Baker asked if the applicant wanted to build an office building, could they build up to 116 feet.

Ms. Sampson answered no. To build on the site right now, the applicant would need a SUP to build due to the zoning change in 2016 (any uses other than what's there now needs SUP). Before 2016, the property was just the TRP zoning district but Ms. Sampson will have to verify.

Vice Chair Axelrad stated that the rendering and site plan doesn't seem to match.

Mr. Sheena replied that the "U" is the third floor of the box. It's a one-story office above the retail, movie theater or athletic club. There is about 40,000 square feet of office space, and about 15 feet in height. Without the office space, the entire building would be about 70 feet. Mr. Sheena stated that typically the retail, movie, and gym uses are active in the morning or evening, and the office is active during the day. It maximizes the use of parking spaces.

Chair Gordon asked if the plan is to have both an athletic club or a movie theater or just one of the two.

Mr. Sheena replied that the movie theater would be on the second floor, and the athletic club would occupy most of the first floor. If not, then he needs retail to occupy space in lieu of the athletic club.

Commissioner Steinberg asked what the SUP reads.

Mr. Sheena stated that he filed an application for a rezone to CMU which would allow him to have retail and office by-right. The SUPs are for the permitted uses of a movie theater, athletic club, and the height of that building those uses would be housed in.

Attorney Petrov informed that the Commission could tie the height SUP to the use as a condition. The City will double-check to see how the application was filed.

Vice Chair Axelrad asked if there is a lender involved and if they looked at the environmental aspects to which Mr. Sheena answered yes.

Chair Gordon asked if the request to rezone to CMU a request from the applicant or a suggestion of the City as the most appropriate zoning district.

Ms. Sampson stated that they gave the applicant options. Before the application was submitted, she asked if he was sure he didn't want to create a zoning district, but Mr. Sheena was adamant that he wanted to do CMU.

Chair Gordon asked what other uses are allowed in CMU by-right.

Ms. Sampson read from the code that permitted uses of CMU include utilities, facilities own and maintained by the City, banks and credit unions, business and professional offices, general retail sales and services, restaurants and cafeterias, mixed-use development (2 or more commercial uses), planned development, and accessory uses.

Chair Gordon asked if the Commission can place conditions that would restrict the by-right uses of the site.

Ms. Sampson responded that the Commission can set the uses on SUPs and PDs.

Attorney Petrov added that restricting uses on a rezone would essentially create a new zoning district, and the Commission can create one anytime they want.

Commissioner Steinberg stated that his opinion is that CMU is not a proper vehicle for this development and would prefer to see new zoning district created for the entire property that took in consideration with what the applicant wants while protecting surrounding neighbors.

Ms. Sampson stated that amending TRP would essentially create a new zoning district because the purpose is to have technical research park use with a campus-like feel and made of one use only. Adding commercial and retail raises several questions.

Chair Gordon mentioned that at the last public hearing, there were a lot of questions and requests for additional environmental information. He wonders how the information will be processed, how will it be considered, and what is the plan for sharing the new information separate of having it on the agenda as an action item.

Ms. Sampson replied that staff will work with the Chair to make a decision if it's enough to put on the agenda or not.

Chair Gordon asked about the deadline for written comments.

Ms. Sampson responded that the deadline has been extended. She added that staff sent notice of this through a Newsflash, NotifyMe to those on the Planning and Zoning list, and to anyone that has submitted public comments to the zoning email. The item's consideration has been postponed and when a date is set, staff will use the same tools to notify the public.

7. Invitation for Written Comments, if applicable

Ms. Sampson stated that with a tentative meeting date of September 12, 2019 for the consideration of all applications, the deadline for written comments will be September 4, 2019 at 5 p.m.

8. Closure of the Public Hearing

Motion:

To close the public hearing.

{Moved by Marc Steinberg, Commissioner, and seconded by John Klug, Commissioner}

RESULT:	Carried
MOVER:	Marc Steinberg, Commissioner
SECONDER:	John Klug, Commissioner
AYES:	Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, John Klug, Commissioner, Marc Steinberg, Commissioner, and Ross Gordon, Chair
ABSENT:	Weldon Taylor, Commissioner

B. Discussion, consideration, and possible action on the adoption of the proposed revisions to the Commission's 2019-2020 Rules of Procedure

Motion:

To adopt the Rules of Procedure as amended and to include the pledges to the Texas and US flags for any Planning and Zoning Commission meeting.

{Moved by Marc Steinberg, Commissioner, and seconded by Michael Baker, Commissioner}

Commissioner Nelson mentioned that the second paragraph of the definition of "Regular Meeting" should state "such meeting will reconvene on the day following if a quorum can be assembled".

Chair Gordon mentioned that the Commission can revisit Ms. McBee's suggestions at a later date to take time to consider them.

Motion:

To amend the original motion to include Commissioner's Nelson's revision regarding the definition of "Regular Meeting" and approve the amended Rules of Procedures as presented.

{Moved by Michael Axelrad, Vice Chair, and seconded by Michael Baker, Commissioner}

RESULT:	Adopted
MOVER:	Michael Axelrad, Vice Chair
SECONDER:	Michael Baker, Commissioner
AYES:	Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, John Klug, Commissioner, Marc Steinberg, Commissioner, and Ross Gordon, Chair
ABSENT:	Weldon Taylor, Commissioner

C. Discussion, consideration, and possible action on calling a public hearing regarding the proposed revisions to Chapter 24 of the City of Bellaire Code of Ordinances

Ms. Sampson gave a brief summary of the proposed changes to Chapter 24 Code of Ordinances. She stated that they are planning to have the public hearing at the September 12 meeting.

Motion:

To call a public hearing before the Planning and Zoning Commission regarding proposed revisions to Chapter 24 of the City's Code of Ordinances to be held on September 12, 2019.

{Moved by Michael Axelrad, Vice Chair, and seconded by Pam Nelson, Commissioner}

RESULT:	Carried
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MOVER:	Michael Axelrad, Vice Chair
SECONDER:	Pam Nelson, Commissioner
AYES:	Michael Axelrad, Vice Chair, Pam Nelson, Commissioner, Michael Baker, Commissioner, John Klug, Commissioner, Marc Steinberg, Commissioner, and Ross Gordon, Chair
ABSENT:	Weldon Taylor, Commissioner

- D. Discussion, consideration, and possible action on forming a subcommittee to review potential amendments to the City of Bellaire's Comprehensive Plan**

Motion:

To form a subcommittee to review potential amendments to the City of Bellaire's Comprehensive Plan made up of Commissioner Steinberg, Commissioner Baker, and Vice Chair Axelrad with Commissioner Steinberg as lead.

{Moved by Marc Steinberg, Commissioner, and seconded by John Klug, Commissioner}

RESULT:	Carried
MOVER:	Marc Steinberg, Commissioner
SECONDER:	John Klug, Commissioner
AYES:	John Klug, Commissioner, Marc Steinberg, Commissioner, Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, and Ross Gordon, Chair
ABSENT:	Weldon Taylor, Commissioner

- E. Approval of the Planning and Zoning Commission's letter to the Building and Standards Commission regarding review of permitted building materials for driveways/walkways on private property**

Motion:

To approve a letter from the Planning and Zoning Commission to the Building and Standards Commission regarding permitted building materials for driveways/walkways on private property.

{Moved by Pam Nelson, Commissioner, and seconded by Michael Baker, Commissioner}

RESULT:	Carried
MOVER:	Pam Nelson, Commissioner
SECONDER:	Michael Baker, Commissioner
AYES:	Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, John Klug, Commissioner, Marc Steinberg, Commissioner, and Ross Gordon, Chair
ABSENT:	Weldon Taylor, Commissioner

VI. COMMITTEE REPORTS

There were no committee reports.

VII. CORRESPONDENCE

Ms. Sampson stated that staff is continuing to collect public comments and will give the Commissioners all comments received as one packet for the consideration. On Monday, 4301 Bellaire Blvd consideration was disapproved by City Council to 1-6 vote.

Commissioner Steinberg asked if the developer is coming back with a different plan.

Ms. Sampson replied that the applicant is thinking about it, but no application has been brought forward.

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

IX. ADJOURNMENT

Motion:

To adjourn the regular meeting of the Planning and Zoning Commission.

{Moved by Marc Steinberg, Commissioner, and seconded by Michael Baker, Commissioner}

RESULT:	Carried
MOVER:	Marc Steinberg, Commissioner
SECONDER:	Michael Baker, Commissioner
AYES:	Michael Axelrad, Vice Chair, Michael Baker, Commissioner, Pam Nelson, Commissioner, John Klug, Commissioner, Marc Steinberg, Commissioner, and Ross Gordon, Chair
ABSENT:	Weldon Taylor, Commissioner

The meeting adjourned at 7:39 pm.

AGENDA STATEMENT

City of Bellaire

MEETING: Planning & Zoning Commission - Sep 12 2019

PREPARED BY: Ashley Parcus

DEPARTMENT: Development Services

ITEM TITLE:

Public Hearing and Consideration of proposed amendments to Chapter 24, Planning and Zoning Regulations to amend the following sections: *Section 24-202, Definitions*, to include the definitions of *Traffic Circulation Study* and *Traffic Impact Analysis*; *Section 24-202, Definitions (123.1)*, to amend the definition of *Other Surface*; *Section 24-512, Fence Regulations*, to increase the allowable height of a fence that is being constructed on properties adjacent to specified land uses throughout the City; *Section 24-604, Application for Planned Development Amendment*, and *Section 24-605, Application for Specific Use Permit* to include additional requirements for submission; and *Section 24-513a, Design Standards*, to strike all references to building material, as required by House Bill 2439.

RECOMMENDATION:

The Director of Development Services recommends approval of the proposed changes to Chapter 24, *Planning and Zoning*, of the City of Bellaire Code of Ordinances.

BACKGROUND/SUMMARY:

A public hearing will be held before the Planning and Zoning Commission on several proposed amendments to *Chapter 24, Planning and Zoning*, to include:

1. *Section 24-202, Definitions*, to include the definitions of *Traffic Impact Analysis* and *Trip Generation Report**;
2. *Section 24-202, Definitions (123.1)*, to amend the definition of *Other Surface*;
3. *Section 24-512, Fence Regulations*, to increase the allowable height of a fence that is being constructed on properties adjacent to specified land uses throughout the City;
4. *Section 24-513a, Design Standards*, to strike all references to specific building material;
5. *Section 24-604, Application for Planned Development Amendment*, to include a requirement for the applicant to provide the City with a list of all property owners within five hundred (500) feet of the property in question; and
6. *Section 24-605, Application for Specific Use Permit*, to include additional requirements as follows:
 - # (3)-the addition of the words "and zoning district"
 - # (6)-a survey of the property
 - # (7)-a site plan to scale showing the general arrangement of the project to include:
 - off-street parking
 - size
 - height
 - construction materials

- locations of buildings
- use to be permitted
- location of proposed signage
- means of ingress and egress to public streets
- the type of visual screening proposed (walls, plantings, and fences)
- any foreseen negative impacts to surrounding properties and land uses
- # (8)-A landscape plan
- # (9)- A Traffic Impact Analysis or Trip Generation Report
- # (11)-Names & addresses of all property owners within 500 feet
- Include a Table (Table 24-605.A) to help applicants determine whether a Trip Generation Report or a Traffic Impact Analysis is needed

*After speaking with the City's Traffic Engineer regarding different types of traffic reports, the term *Traffic Circulation Study* was replaced by *Trip Generation Report*.

The proposed amendments to *Section 24-605, Application for Specific Use Permit*, as well as the addition of the definitions of *Traffic Impact Analysis* and *Trip Generation Report* to *Section 24-202, Definitions*, were suggested by the Commission in an effort to ensure that applications for Specific Use Permits include all of the necessary information that the Commission and City staff needs in order to properly review the appropriateness of a future land use. *Section 24-512, Fence Regulations*, was brought to the Commission as a request from the Board of Adjustment who in recent years has heard several applications from residential property owners regarding an increase in the fence height allowance due to their close proximity to commercial properties and Loop 610. The definition of *Other Surface* listed in *Section 24-202 (123.1)* was brought forward by City staff for the Commission's review as it relates to pervious and impervious lot coverage due to several requests from property owners to install other types of surfaces which would not count 100% towards their lot coverage, and *Section 24-604, Application for Planned Development Amendment* was also suggested by City staff in order to stay consistent with the requirements for all zoning applications. The proposed changes to *Section 24-513a, Design Standards*, to strike all references to specific building materials was required by House Bill 2439.

Red lines of each section of the Code are attached. Consideration of the proposed amendments is scheduled for the same night, and will take place after closure of the public hearing.

CITY ATTORNEY REVIEW:

☐ Yes ☒ No

Section 24-202, Definitions

amended by Ord. No. 84-041, § 1, 5-24-1984; Ord. No. 85-010, § 2, 1-28-1985; Ord. No. 86-009, § 1, 2-3-1986)

- (116) *Newsstand*. An establishment wherein daily, weekly and monthly news publications from the local region and other regions are sold to the ultimate consumer.
- (117) *Nonconforming lot of record*. A lot being a part of a plat duly filed for record in the office of the County Clerk of Harris County, Texas, as provided for by law, which lot does not conform to the requirements of this chapter.
- (118) *Nonconforming use*. Any use lawfully being made of any land prior to the enactment of this chapter or any amendment hereto, which upon adoption of this chapter or any amendment, does not comply with all the regulations of this chapter or any amendment hereto, thus rendering such use nonconforming. A nonconforming use may relate to land, building, structure or any parts thereof.
- (118.5) *Office residential*. A building or development wherein all of the first floor building/floor area is devoted to office use and not more than fifty percent of the total building/floor area of all floors combined is devoted to residential use. (Ord. No. 01-037, § 2(24-202), 4-16-2001)
- (119) *Office supplies, stationery or letter shop*. An establishment that sells to the ultimate consumer supplies for use at home or office including, but not limited to, writing paper supplies and other items generally used in relation to the administration of business or social activities.
- (120) *Official Zoning District Map*. The map adopted as a part of this chapter having delineated thereon all the zoning districts and the boundaries thereof within the City of Bellaire.
- (121) *On-site parking, non-residential*. An area set aside for temporary parking (at no charge) of automobiles being used by persons shopping for goods or services or by persons there temporarily to conduct business on the premises.
- (122) *On-site parking, residential*. A paved area on a residential lot set aside for the parking of motor vehicles.
- (123) *Open space*. Any area of land or water set aside, open and unobstructed to the sky.
- (123.1) *Other surface*. As used in determining lot coverage and lot coverage ratio, any material applied to the surface of land, which does not permit the natural infiltration of water into the ground, including, but not limited to, air conditioning pads, asphalt, bath houses, concrete, decks, patios, porches, driveways, garbage pads, gazebos, parking areas, paving systems (whether permeable or not), sidewalks, swimming pools, spas, sports courts, except for the ground area of the buildings. The water surface area of a swimming pool or a spa, fifty (50) percent of an uncovered wood deck constructed over bare soil, and loosely graveled walkways, and artificial turf, installed behind the front building line, constructed in a method approved by the city engineer and providing .30 acre feet of detention per acre of artificial turf shall not be considered another surface. (Ord. No. 07-073, § 2(Exh. A), 12-3-2007)
- (124) *Outermost surface*. That part of any building, excluding eaves and roof extensions that do not extend a distance greater than five (5) feet, which is closest to the street abutting the lot on which the building is located.
- (125) *Owner*. Any legal entity, person or otherwise who holds superior title to and can evidence superior title in real or personal property.
- (126) *Package liquor store*. A commercial establishment wherein alcoholic beverages (beer, wine and spirits) are sold to the ultimate consumer.
- (127) *Paint and/or wallpaper store*. A commercial establishment wherein paint products or other wall covering products are sold to the ultimate consumer.
- (128) *Parcel*. Any quantity of land capable of being described with such definiteness that its location and boundaries may be established.

(174.25) *Tattoo shop.* A commercial use involving the creation of an indelible mark, figure, word or graphic illustration upon a human body by the insertion of pigment under the skin or by the production of scars or scarring. (Ord. No. 11-086, § 1(App. A), 12-12-2011)

(174.5) *Technical research facilities.* A place or places wherein office uses, technical laboratories, computer centers, engineering operations, research and/or related light manufacturing uses are located. (Ord. No. 88-008, § 1, 3-7-1988)

(174.55) *Theater, for live performances.* A facility which provides one or more auditorium spaces in which plays and other dramatic, musical or entertainment performances are provided to an audience, either as a commercial operation involving customer ticket purchases, or as a free (public or nonprofit) venue. The facility may also involve preparation and serving of food and beverages for consumption on the premises. (Ord. No. 11-086, § 1(App. A), 12-12-2011)

(174.6) *Theatrical fly space.* The area in a theater above the stage into which scenery and other accessories are hoisted to an extent that the scenery and other accessories are not visible to the audience. (Ord. No. 08-059, § 1(App. A), 9-8-2008)

(174.7) *Through lot.* Any lot that connects two (2) generally parallel streets and is adjacent to more than one (1) interior lot on the same side. (Ord. No. 07-074, § 2(Exh. A), 12-3-2007)

(175) *Tire retreading or recapping.* A place wherein tires used on vehicles are repaired by the addition of new tread surface to such tires.

(175.5) Traffic Impact Analysis. A specialized engineering study which quantitatively assesses the adequacy of the existing structure or future transportation infrastructure to accommodate additional trips generated by a proposed development, redevelopment, or land rezoning. This report should be signed and sealed by a licensed professional engineer.

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(176) *Trailer rental or sales.* A place wherein trailers, regardless of class or size, are rented on a temporary basis or sold.

(177) *Travel agency.* A place wherein persons provide services in planning travel, including the sale of tickets and passage on buses, ships and airplanes.

(178) *Travel trailer.* A vehicular unit up to thirty-two (32) feet in length and eight (8) feet in width, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle.

(178.5) Trip Generation Report. A report that includes the estimated maximum AM peak, PM peak, and total daily volume trip generation of the proposed facility, the planned circulation of inbound and outbound traffic during operation, and the estimated length of any queuing of cars, if applicable. The Trip Generation report shall also include a statement from the owner/operator that they agree to operate the facility in accordance with the approved circulation plan, which must be approved by the Public Works Department, and to install the necessary mitigation measures if traffic issues present themselves in the future.

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(179) *Truck and construction equipment sales and service.* A place wherein vehicles, including trucks of any size, are sold and serviced, including any type of equipment used in the construction industry.

(180) *Truck camper.* A portable unit constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(181) *Use.* The particular type of function or purpose to which land and/or structure is committed.

Section 24-512, Fence Regulations

Sec. 24-512. - Fence Regulations.

- A. In residential zoning districts, no fences shall be constructed to a height in excess of eight (8) feet, ~~except in the instance that it is being constructed at the rear of a property whose property lines are at the boundary of a non-residential zoning district. In this instance, the rear fence may not be constructed to a height in excess of ten (10) feet.~~ Fences eight (8) feet in height or less may be constructed anywhere inside the property lines of a lot zoned residential, except within the front yard as that term is defined in this chapter.

On South Rice Avenue, Chimney Rock Road, Newcastle Drive, ~~and Bissonnet Street, and Interstate Highway 610 (West Loop);~~ a screening wall or fence may be built in the front yard provided that any fence or wall constructed on the front property line shall not exceed forty-eight (48) inches in height, and screening walls or fences having a height greater than forty-eight (48) inches but not exceeding eight (8) feet in height may be constructed in front yards when such walls or fences are set back from the front property line a minimum distance of twelve and one-half (12½) feet and provided that in all cases such setback shall be sufficient to provide clear vision of the street to the driver of a vehicle entering or backing into the street. On Bellaire Boulevard, such screening walls or fences may be constructed in the front yard provided such walls or fences are set back a minimum distance of twenty-five (25) feet from the front property line.

~~On properties with side yards along the Interstate Highway 610 (West Loop) Frontage Road, or whose side yard or backyard abuts the Union Pacific Railroad, a fence may be built to a height of ten (10) feet on the affected side of the property, provided that any fence built to ten (10) feet in height shall not be of masonry construction.~~

In the event that the property building line, as set out on the subdivision plat, shall be closer than the outermost surface of any building to the property line, then it shall be a defense to any action commenced under this Section that such fence was not in fact located within the distance between the property building line and the front lot line. Any person who shall plead such defense shall be required to prove the exact measured distance from the property building line to the front lot line.

- B. In non-residential zoning districts, fences may be located anywhere on a lot, subject to such conditions and limitations as shall be provided in this Code.

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Section 24-513a, Design Standards

Sec. 24-513a. - Design standards in commercial and mixed-use districts.

- A. *Purpose.* The purpose of this Section is to establish reasonable design standards and related guidance to address community desire for visually appealing non-residential, multi-family, and mixed-use development that enhances the overall quality and character of the City, while balancing the legitimate development and commercial needs of property owners.
- (1) *Urban Village districts.* For the Urban Village-Downtown (UV-D) and Urban Village-Transit-Oriented Development (UV-T) districts, certain standards within this Section, together with the use regulations and physical development standards for each district, are especially intended to promote and maintain an Urban development character as described in the respective district purpose statements.
- (2) *Security emphasis.* All design processes within the CMU, R-MF, UV-D and UV-T districts shall also consider Crime Prevention Through Environmental Design (CPTED) principles to enhance the security of residents, workers and visitors.
- B. *Applicability.* The design standards established in this Section apply to any new non-residential, multifamily, or mixed-use development in the Corridor Mixed Use (CMU), Residential - Multifamily (R-MF), Urban Village-Downtown (UV-D), and Urban Village-Transit-Oriented Development (UV-T) districts, and to any non-residential, multifamily, or mixed-use redevelopment in these districts that follows the removal of all pre-existing buildings on the site.
- (1) The requirements of this Section regarding ~~building materials~~, canopies and awnings, colors, and visual interest and anti-monotony shall also apply to the enlarged portion of an existing non-residential, multifamily residential or mixed-use building when the enlargement exceeds one thousand (1,000) square feet or twenty-five (25) percent in area, whichever is less, of the exterior dimensions of the building.
- (2) The requirements of this Section shall not apply to the reconstructed portion of an existing building that was partially damaged or destroyed if the reconstruction involves less than fifty (50) percent of the pre-existing area of the exterior dimensions of the building.
- (3) Nothing in this Section shall be construed to require compliance with the requirements of this Section for finish or remodeling work to the interior of an existing building if such work does not result in an enlargement of the exterior dimensions of the building.
- C. *Standards.* The specific standards are provided in Table 24-513a.A. The table is arranged in alphabetical order by the type of standard.

Table 24-513a.A Design Standards for CMU, R-MF, UV-D and UV-T Districts		
Applicable District(s)	Standards	Illustrations

	connections.	
CMU R-MF UV-D UV-T	<p>Building Materials The standards below are intended to ensure the use of building materials that convey an appearance of quality and durability. The standards shall apply to all exterior elevations of structures, excluding doors and windows.</p> <p><u>Permitted Principal Materials</u> For exterior building elevations these include:</p> <ul style="list-style-type: none"> ▲ Brick or similar masonry materials, including cast stone. ▲ Limestone and other natural stone. ▲ Any concrete product (architectural pre-cast concrete; concrete masonry unit, CMU; etc.) that has an integrated color and is textured or patterned to look like brick, stone, marble, granite or tile. ▲ Glass. (Not for UV-D) ▲ Other materials 	

where it is demonstrated that they have comparable durability, impact resistance and aesthetic quality as those listed above; and/or they are part of a building that is designed to achieve a green building certification such as Leadership in Energy and Environmental Design (LEED) or Energy Star.

▲ Building integrated photovoltaics.
Permitted Accent Materials

The following materials are permitted, but only as accents rather than a predominant exterior material. Accent materials shall comprise no more than 25 percent of any building façade in the CMU and R-MF districts, and no

~~more than 15 percent in the UV-D and UV-T districts, excluding doors and windows.~~

~~▲ Exterior Insulation and Finish Systems (EIFS).~~

~~{EIFS may be installed only above the floor level of the second story, or no less than 12 feet above the grade for one-story buildings. EIFS shall not be installed in any pedestrian-contact areas.}~~

~~▲ Stucco.~~

~~{Both EIFS and stucco shall incorporate detailing to look like traditional wall cornices, soffits, window trim and similar features.}~~

~~▲ Architectural metal, including aluminum composite panel (ACP) treatments.~~


~~▲ Fiber cement siding. (Not for UV-T).~~

~~▲ Wood or composite wood. (Not for UV-T)~~

~~▲ Tile.~~

~~▲ Glass. (Only for~~



	<p>UV-D)</p> <ul style="list-style-type: none"> ▲ Stainless steel. ▲ Chrome. <p><u>Prohibited Materials</u> For exterior building elevations these include:</p> <ul style="list-style-type: none"> ▲ Pre-fabricated or corrugated metal wall panels. ▲ Smooth-faced concrete block. ▲ Vinyl, wood, plywood, cedar shingle, composite or metal siding. (Fiber cement siding not for UV-T). ▲ Plastic. ▲ Crushed rock or crushed tumbled glass. ▲ Mirrored glass in ground floor windows. 	
	<p><u>Privacy Glass</u> Frosted glass or other treatment is permitted for bathrooms and in other doors and windows where privacy is needed.</p> <p><u>Roofing</u> Steel, standing seam metal and/or architectural metal may be used on a sloped roof.</p> <p><u>Service Doors</u></p>	

Galvanized steel and painted steel are permitted only for use on doors and roll-up doors that provide access to loading areas and/or face toward alleys or vehicular access easements.

Awnings and Canopies

Awnings and canopies shall be made of durable, easily maintained or replaced materials, which may include canvas, fabric, steel or architectural metal, including aluminum composite panel (ACP) treatments.

Parking Structures

The exterior façades of parking structures shall utilize the permitted building materials and accent materials specified in this subsection for exterior building elevations, except that precast concrete may also be used on the façades of parking structures. Steel, standing seam metal and/or



	architectural metal may be used on any sloped roof of a parking structure.	
CMU R-MF UV-D UV-T	<p>Canopies and Awnings</p> <p>Use of canopies and awnings on building and parking structure façades adjacent to and above public sidewalks and other public spaces is encouraged to provide shade and weather protection and to add visual interest to structures, provided the placement and design of such canopies and awnings is consistent with the building architecture, and they are maintained in sound condition at all times.</p> <p><u>Projection</u></p> <p>Canopies and awnings shall project no more than six feet from the façade of a building or parking structure.</p> <p><u>Lighting</u></p> <p>Canopies and awnings shall not be backlit or internally</p>	

Section 24-604, Application for Planned Development

Sec. 24-604. - Application for Planned Development Amendment.

Any person desiring to petition for a planned development amendment to this chapter shall be required to file an application in writing with the Planning and Zoning Official, accompanied by a nonrefundable application fee, in an amount established by the City Council or the City Manager, to defray the actual cost of processing the application. The application shall include the following information:

- (1) The name and address of the applicant; and in the event that the applicant is a partnership, the full name and address of the general partner, and in the event that the applicant is a corporation, the full names and addresses of all officers, a statement as to the state of incorporation, the name and address of the registered agent and the address of the registered office of the corporation;
- (2) A legal description and street address of the property which is the subject of the application;
- (3) A statement of ownership accompanied by a certificate from a title insurance company certifying ownership;
- (4) A written description of the proposed development and associated land use(s), including specific description of any applicable parameter(s) in the City's development regulations from which the applicant proposes variation; ~~and~~
- (5) A site plan in accordance with Section 24-524.:-
- ~~(6)~~ The names and addresses of all owners of property required to be notified under this article; and
- ~~(7)~~ Such other information or documentation as the Planning and Zoning Official, the Planning and Zoning Commission or the City Council may from time to time designate or which may be deemed necessary and appropriate to a full and proper consideration and disposition of the particular application.

(Ord. No. 11-086, § 1(App. A), 12-12-2011)

Section 24-605, Application for Specific Use Permit

Sec. 24-605. - Application for Specific Use Permit.

Any person desiring to petition for a specific use permit to this chapter shall be required to file an application in writing with the Planning and Zoning Official, accompanied by a nonrefundable application fee, in an amount established by the City Council or the City Manager, to defray the actual cost of processing the application. The application shall include the following information:

- (1) The name and address of the applicant; and in the event that the applicant is a partnership, the full name and address of the general partner, and in the event that the applicant is a corporation, the full names and addresses of all officers, a statement as to the state of incorporation, the name and address of the registered agent and the address of the registered office of the corporation;
- (2) The Section or Sections of this chapter authorizing a specific use permit;
- (3) A legal description, ~~and~~ street address, and zoning district of the property which is the subject of the application;
- (4) A statement of ownership accompanied by a certificate from a title insurance company certifying ownership;
- (5) A written description of the proposed specific use as provided for in this Code;
- (6) A survey of the property in question;
- (7) A scaled site plan of the property showing the general arrangement of the project, together with essential requirements, including, but not limited to, off-street parking; size, height, construction materials, and locations of the building and use to be permitted; location of proposed signage, means of ingress and egress to public streets; the type of visual screening that is being proposed, such as walls, plantings, and fences; and any foreseen negative impacts of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred (200) feet;
- (8) A landscape plan in accordance with Section 24-513 of the City's Code of Ordinances. This requirement may be waived by the Planning and Zoning Official, based on information provided in the application;
- (9) A Traffic Impact Analysis or Trip Generation Report. See Table 24-605.A to determine which is required. This requirement may be waived by the Planning and Zoning Official, based on the information provided in the application;
- (10~~6~~) A written environmental assessment statement describing in general terms the impact of the development for which approval is sought and providing any specific information that the Planning and Zoning Official shall deem necessary; ~~and~~
- (11) The names and addresses of all owners of property required to be notified under this article;
and
- (12~~7~~) Such other information or documentation as the Planning and Zoning Official, the Planning and Zoning Commission or the City Council may from time to time designate or which may be deemed necessary and appropriate to a full and proper consideration and disposition of the particular application.

(Ord. No. 10-057, § 1(App. A), 8-2-2010)

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Table 24-605.A

	Traffic Impact Analysis	Trip Generation Report
All New Developments	X	
All developments proposing a new drive-through	X	
All re-developments adjacent to or within residential zoning districts R-1, R-3, R-4 & R-5	X	
All other developments		X

City of Bellaire

Planning and Zoning Commission

Mayor and Council,

On September 12, 2019, the Planning and Zoning Commission held a public hearing and consideration of proposed amendments to Chapter 24, *Planning and Zoning*, and voted _____ to recommend approval of the following changes:

1. *Section 24-202, Definitions*, to include the definitions of *Traffic Impact Analysis* and *Trip Generation Report*;
2. *Section 24-202, Definitions (123.1)*, to amend the definition of *Other Surface*;
3. *Section 24-512, Fence Regulations*, to increase the allowable height of a fence that is being constructed on properties adjacent to specified land uses throughout the City;
4. *Section 24-513a, Design Standards*, to strike all references to specific building material;
5. *Section 24-604, Application for Planned Development Amendment*, to include a requirement for the applicant to provide the City with a list of all property owners within five hundred (500) feet of the property in question; and
6. *Section 24-605, Application for Specific Use Permit*, to include additional requirements as follows:
 - # (3)-the addition of the words "and zoning district"
 - # (6)-a survey of the property
 - # (7)-a site plan to scale showing the general arrangement of the project to include:
 - off-street parking
 - size
 - height
 - construction materials
 - use to be permitted
 - location of proposed signage
 - means of ingress and egress to public streets
 - the type of visual screening proposed (walls, plantings, and fences)
 - any foreseen negative impacts to surrounding properties and land uses
 - # (8)-A landscape plan
 - # (9)- A Traffic Impact Analysis or Trip Generation Report
 - # (11)-Names & addresses of all property owners within 500 feet
 - Include a Table (Table 24-605.A) to help applicants determine whether a Trip Generation Report or a Traffic Impact Analysis is needed

Sincerely,

Ross Gordon
Chairman, Planning and Zoning Commission