



City of Bellaire Development Services
7008 South Rice Avenue
Bellaire, Texas 77401-4411
713.622.8222
Atten: Kevin Taylor; ChaVonne Sampson

April 14, 2020

RE: Letter from the City of Bellaire Development Services dated March 26, 2020 regarding that certain parking lot (the "Lot") located at 4300 Bellaire Blvd (HCAD Account #0370410000143) (the "Property")

Dear Mr. Taylor,

We are in receipt of the above referenced letter in which you have determined that the Lot is noncompliant with the Planning and Zoning Ordinance and the Building Ordinance of the City of Bellaire (the "City"). This determination has been made by the City despite the history and facts surrounding the construction of the Lot and the City's direct involvement from its inception.

A brief history of our partnership with the City regarding the Lot follows, which began in 2013. During the creation of Evelyn's Park ("EP"), we recognized that we might need additional offsite parking for large events and looked for ways to help alleviate any concerns caused by overflow parking for homeowners along the adjacent streets. With this in mind, EP, with help from the former Mayor of the City and Council who served in 2013, contracted with CenterPoint Energy to lease the land underneath the transmission towers at the Property for overflow parking in 2013.

After opening the park, we continued to plan for offsite parking especially given our plans for Phase 2. As such, the development of the CenterPoint Energy easement area as a parking lot continued to be a focus of our operations. On April 13, 2017 we renewed the lease with CenterPoint Energy with the ongoing intention of using the Property for overflow parking. This would enhance our ability to provide our vendors parking without taking patrons parking.

Creating parking elsewhere for EP patrons relieves the parking congestion on Camelia Street and Mulberry Street. In 2013, we committed to the community that EP would be a Good Neighbor and discussed the development of the Lot with them. Based upon our research and feedback from the community, we strongly believe that the use of the Property as a Lot represents a win-win for the City and its constituents.



Prior to commencement of construction of the Lot, we worked with local engineers who prepared a plan for development of the site (the "Plans") with the most beneficial materials and we presented the Plans to the City for review and approval. After submission and review of the Plans, the City issued a permit granting us the right to improve the Property based upon the Plans. In reliance upon the City's issuance of the permit, Arch-con Construction, commenced and completed the work detailed in the Plans. To date, over \$400,000 have been spent to complete the construction of the Lot.

Notwithstanding, and in response to your letter, we have been in contact with the City development offices and have been given several options to move forward. We were advised by your office to submit this letter in an effort to resolve this matter. Reserving any and all rights we have, we hereby submit the following request:

Compliance with Planning and Zoning:

The intended use of the Lot is for commercial parking. However, it differs from the city's definition of commercial parking as users of this lot will need a permit to park here and it will not be open to the public. Because of its nature and existing location, it is not appropriate for categorizing the Lot into specific zoning districts, notwithstanding, the Lot should be allowed in R-5 district based upon the prior issued permit and alternatively by specific use permit under Sec. 24-503. – Specific Uses. The Property is owned by a utility provider and falls within a utility corridor, which is a permitted use within R-5. The utility provider has agreed to and leased the Property to EP (with the assistance of a City officials) since both parties recognized the need for a Lot in this area of the City, which due to its dense nature does not contain adequate space for parking. Due to these factors, we hereby request a text amendment to Sec 24-534. – R-5 Residential District from the City for use of the Property as a Lot.

Sec. 24-503. - Specific Uses.

Certain uses, which because of their nature and existing location are not appropriate for categorizing into specific zoning districts, are allowed in various zoning districts by specific use permit. The procedure for approval of a specific use permit includes notice, public hearings and recommendation of the Planning and Zoning Commission, the same basic procedure prescribed for amendments to this Code. Any use not permitted by this chapter or approved as a specific use permit under the procedures hereinafter set out is prohibited.

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

Text Amendment Request to Sec 24-534. – R-5 Residential District: We propose that city add commercial parking to specific uses under section called Sec 24-534. – R-5 Residential District B (2) (c)



In the alternative, if a text amendment is not the appropriate method of remedying and resolving this matter to allow the use of the Property and Lot as constructed for commercial parking, then, we hereby submit a request for an specific use permit, to specifically allow for the use of the Property and only this Property as a commercial parking lot.

Building & Standards Exception:

Based upon research and studies of the Property we determined the best method and materials for construction of the Lot. Upon such evidence and as detailed in our Plans which were reviewed and approved by the City, the materials were used for construction of the Lot. It is our position that the materials are not only equivalent, but, better than what is prescribed for in Sec. 9-21 with regard to quality, strength, effectiveness, durability and safety. The Lot has been constructed using TRUEGRID and representatives of the manufacturer are available to present to the City officials regarding this matter and have provided a list of advantages of this method in Exhibit "A" attached hereto and incorporated herein for all purposes. The specific Code language is as follows:

Sec. 9-21. - Construction requirements for private parking areas and driveways in all zoned districts...

(c) [Exceptions.] The building and standards commission of the city shall have the power and authority, upon application and hearing, to allow the use of materials other than those herein specified or other methods of construction not herein specifically provided, provided the building and standards commission shall find the following:

(1) That the proposed design is satisfactory and complies with the intent of this section; and

(2) That the material, method or work offered is, for the purposes intended, at least the equivalent of that prescribed in this section in quality, strength, effectiveness, durability and safety.

The building and standards commission shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding such use.

In sum, it has always been our goal to work in conjunction with the City as we developed EP so that it is a resource and benefit to the City and its constituents. We communicated with the City and the community about our development and all aspects of the construction of the Lot. The City approved and issued a permit for the construction of the Lot, and then just after we were finishing construction has issued a notice of determination that such Lot is "noncompliant". A significant amount of time and funds have been invested in the development of the Lot in reliance upon the actions of the City. Further, based upon the above, the City will directly benefit from the following as a result of the Lot:



- 1) Truegrid Material will help mitigate flooding and make the land within communities more absorbent. TRUEGRID permeable pavement was used for the Lot and is 100% pervious and drains instantly at over 1000 inches per hour. There is no runoff when using TRUEGRID.
- 2) Helps remove parking off streets benefiting adjacent streets and limiting potential overflow impact.
- 3) Hours of operation: Could limit use of hours of lot to parallel EP hours.
- 4) Will provide stickers and placards to control parkers.
- 5) Will help push EP profitability by solving major parking problem and enhancing the EP events services
- 6) Provides permanent solution for a long term problem
- 7) Would coordinate with neighbors to minimize impact
- 8) Potentially a great opportunity for Bellaire police to park and patrol an entry point into City

We will continue our efforts to find a resolution that meets the needs of our City and our community. Notwithstanding, we hereby reserve any and all rights we have in law and equity.

Sincerely,

Patricia King-Ritter
Park Director
Evelyn's Park Conservancy



Exhibit "A"

TRUEGRID Advantages:

Permeable pavers like those produced by TRUEGRID are a far superior alternative to a concrete or asphalt parking lot. The primary advantage that they hold over these two materials is that permeable pavers are 100% pervious.

This means they allow stormwater and other liquids to pass right through them and into the soil. Permeable parking lots like those built with gravel and permeable pavers, work as natural drainage systems. The entire lot acts as a French drain. Heavy rains can be absorbed instantly at over 1000 inches per hour. While they are permeable, TRUEGRID's pavers also function just as well, if not better than concrete and asphalt, as a parking lot material.

Auto spills filter directly through them removing pollutants naturally by infiltration into the soil and bioremediation. They do this while providing a durable and attractive parking lot.

Made from 100% recycled plastic, these eco-friendly pavers are incredibly durable and require almost no maintenance once they've been installed. The interlocking pavers grids are laid over a level bed of angular gravel, and more gravel is then filled and leveled with a heavy roller.

This creates a parking lot with no need for added drainage systems and one that can stand up far better to the everyday traffic that parking lots tend to see. TRUEGRID pavers are do not absorb heat like asphalt, and will not degrade or crack over time like concrete with little or no maintenance for up to 60 years.

They provide a place for people to park, but they also help add to the look of professionalism to a building and serve as a pathway for stormwater to runoff to somewhere safe like a sewer or detention pond.

SuperSpots snap right into place within the pavers and act as durable, highly-visible lot lines. The spots parking markers come in different colors and are a maintenance free way to stripe.

The superior sustainability, drainage, and durability combined with a lower cost and less maintenance needs make TRUEGRID permeable pavers the best option when it comes to building a commercial parking lot. They stand toe-to-toe with common commercial parking lot materials like concrete and asphalt when it comes to sheer performance.



Permeable pavers are not vulnerable to high heat and will not break down over time, unlike concrete and asphalt. They are lightweight despite being super strong, require no special tools or machinery and can be installed at over 1000 square feet per man-hour.

Manufactured via sustainable methods, these pavers are classified as low impact construction working with Mother Nature, unlike asphalt and concrete.

Permeable pavers like the ones produced by TRUEGRID are able to handle anything you throw at them, last longer than other more expensive materials, are more eco-friendly, and cost less in the short-term and long-term to install and maintain.

Downside of Asphalt and Concrete:

Asphalt parking lots are typically one color, black and do not age well. They are hot in the summer and often get torn up by trucks. Outside of different colored lot lines like white or yellow, stylistically your options are highly limited with asphalt.

Asphalt is harmful to the environment, uses toxic sealants and allows stormwater pollutants to flow directly into aquifer recharge. The production, transportation, installation, and maintenance of asphalt parking lots is not eco-friendly in any way.

Asphalt gets sticky in hot temperatures because of its color and chemical composition. It attracts heat and reflects none of the UV rays, resulting in a sticky, oily parking lot that can leave stains and become too hot. Hot sun during the long summer days will soften asphalt parking lot as well, making it harder to drive around in and slightly sticky to the touch.

Asphalt also has the added disadvantage of being relatively high-maintenance. Because of asphalt's inability to handle fluctuating temperatures or high levels of traffic for too long, it requires regular maintenance work which is an added expense. Being impervious, asphalt also requires some kind of drainage system for stormwater since it won't allow any liquid to pass through.

Concrete can easily crack, chip and develop ruts over time.

The production of concrete is also harmful to the environment as the equipment and chemicals needed to produce and install it are not considered eco-friendly.

Also, just like with asphalt, concrete is impervious. It doesn't allow water to pass through, so concrete parking lots need to have drainage systems installed just as asphalt ones do.

Concrete is in the same situation when it comes to long-term durability. Chipping, cracks, and faded lines are all in your near future, as well as the cost to fix them.