EXHIBIT D-1

APPLICATION FOR BOARD OF ADJUSTMENT

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

DESCRIPTION OF PROPOSED VARIANCE

Address 4300 Bellaire Boulevard

Legal Description (Subdivision, Block, Lot) See Abstractors Certificate attached as an exhibit to the cover letter.

Applicant's Name MM Bellaire One, LLC, a Texas limited liability company

Address, Phone number and Email c/o Weycer Kaplan Pulaski & Zuber, PC, Attn: Murphy Klasing, 24 Greenway Plaza, Suite 2050, Houston, Texas 77046
(713) 961-9045 mklasing@wkpz.com

Property Owner's Name CenterPoint Energy, successor in interest to Houston Lighting & Power Co.

Authorized Agent Murphy Klasing

DESCRIPTION OF REQUEST

See attached cover letter for full description.

In brief, the Applicant is requesting a variance under R-5 Residential District with respect to the use of the property as a commercial parking lot.

The section of the Code of Ordinances
That variance request is being made from Chapter 24, Section 24-534; Paragraph B

HARDSHIPS THAT HAVE OCCURRED OR WILL OCCUR WITHOUT THIS VARIANCE

See attached cover letter for full description of hardships that have occurred or will occur without the approval of this variance.

	Yes	No
Site Plan Included shows existing structure with proposed additions.	X	

	Year Approved	Year Denied
List previous variance request	N/A	N/A

VARIANCE TO MINIMUM STANDARDS CRITERIA

	Minimum Proposed	Proposed	Exceeds Min.
Front Setback			
Side Setback			
Rear Setback			
Lot Coverage			
Height of Proposed Structure			
Tract or Lot Size			

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

See attached cover letter for specific key points which will address certain measures designed to limit any adverse effects and achieve improved compatibility with nearby existing neighborhoods.

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

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Weycer, Kaplan, Pulaski & Zuber, P.C.
Trusted Legal Advisors Since 1976

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Houston, Texas 77046
T. (713) 961-9045
F. (713) 961-5341
www.wkpz.com

Murphy S. Klasing
Shareholder
Licensed to Practice Law in TX, OK and WV
mklasing@wkpz.com

December 4, 2020

VIA COURIER
Board of Adjustment
City of Bellaire
7008 South Rice
Bellaire, Texas 77401

RE: Application for Variance for that certain parking lot located at 4300 Bellaire Blvd (HCAD Acct #0370410000143) (the "Property")

Dear Board of Adjustment:

MM Bellaire One, LLC, a Texas limited liability company ("Applicant") is seeking your consideration and approval for a variance from the R-5 Residential District ("R-5") use restriction in which the Property is located within. Specifically, the Applicant is requesting that a variance be granted which would enable the Applicant to use the Property for commercial parking. *See* Application for Board of Adjustment attached hereto and incorporated herein for all purposes.

Background:

Evelyn's Park Conservancy ("Evelyn's Park") maintains Evelyn's Park, an outdoor green space located in Bellaire, Texas. During the creation of Evelyn's Park they recognized that they may have a shortage of onsite parking and looked for ways to help alleviate any concerns caused by overflow parking for homeowners along the adjacent streets. With this in mind, Evelyn's Park, with help from the former Mayor of the City, Cindy Siegel and council who served in 2013, contracted with CenterPoint Energy Houston Electric, LLC ("CenterPoint") to lease the land owned by CenterPoint (*See* the Abstractors Certificate attached hereto as Exhibit A-1 and incorporated herein) underneath the transmission towers for overflow parking on April 3, 2013. This was part of the City of Bellaire (the "City") Master Plan (the "City Plan") that was presented to City Council when the development of Evelyn's Park was approved. [1]

[1] *See* Parks Master Plan, CITY OF BELLAIRE, 2015 – 2025 p. 40, available at https://www.bellairetx.gov/DocumentCenter/View/3435 .

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After opening the park, Evelyn's Park realized that additional parking was a necessity, especially given the plans for phase 2 of construction of the park. As such, the development of the CenterPoint Energy property as a parking lot was critical to their operations. On April 13, 2017 Evelyn's Park entered into an agreement with CenterPoint with the intention of using the Property for overflow parking as provided in that certain Parking License Agreement, a copy of which is attached hereto as Exhibit A-2 and incorporated herein for all purposes. **(This Exhibit is redacted due to a confidentiality clause. It will be revealed in an amended filing following 10 days' notice to CenterPoint of Applicants' intent to use the License in this proceeding).**

In 2018, Applicant began construction of an 80,000 square foot mixed use commercial development called Southside Commons located approximately 1,250 feet east of the Property. In early 2018, Applicant began discussions with Evelyn's Park to develop the Property into a parking lot, which would serve both Evelyn's Park and Southside Commons. As a result of these discussions, Applicant and Evelyn's Park entered into a Sublicense Agreement (the "Sublicense") (a copy of which is attached hereto as Exhibit A-3 and incorporated herein for all purpose), specifically granting Applicant the right to use, build and maintain a parking area on the Property, which CenterPoint consented to on or about March 27, 2019 (See Exhibit A-4). Pursuant to the Sublicense, Applicant was to develop and construct the parking lot on the Property and was obligated to pay all costs related to the same.

In the summer of 2019, Evelyn's Park and Applicant submitted a permit application to the City for approval and comments which was approved by the City on January 6, 2020. *See* Exhibit A-5. The permit authorized the construction company for Applicant, Arch-Con, to construct a parking lot on the Property. In reliance upon the issuance of the permit, Arch-Con proceeded with construction of the parking lot on behalf of Applicant on the Property and all work for the lot was substantially complete as of March 18, 2020. *See* Exhibit A-6.

Based upon research and studies of the Property Applicant determined the best method and materials for construction of the parking lot. Upon such evidence and as detailed in the plans which were reviewed and approved by the City (*See* Exhibit A-5), TrueGrid materials were used for construction of the parking lot. The materials used are not only equivalent, but, better than what is prescribed for in Sec. 9-21 of the City of Bellaire Code of Ordinances with regard to quality, strength, effectiveness, durability and safety. The parking lot has been constructed using TrueGrid and a list of advantages of this method are attached hereto as Exhibit A-7 and incorporated herein for all purposes. Applicant spent over $300,000 to construct the parking lot on the Property pursuant to a City approved permit and City approved plans. *See* Exhibit A-5.

On March 18, 2020, Arch-Con received an email from a City employee notifying them that the City issued the permit in error and on March 26, 2020 a formal notice from Mr. Traylor, on behalf of the City was served upon CenterPoint, Arch-Con and Evelyn's Park stating that the parking lot did not comply with the Bellaire City Ordinances. *See* Exhibit A-8. Over the spring and summer of 2020, MM Bellaire and Evelyn's Park attempted to work with the City to address

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and resolve their concerns. Evelyn's Park applied to the City to amend the zoning code. *See* Exhibit A-9. Before Evelyn's Park met with the City Planning and Zoning Committee, and in an attempt to alleviate the Bellaire community's concerns, MM Bellaire proposed redesigning the lot to add greenery, add additional improvements and to limit the hours of use.

On or about August 13, 2020, the City Planning and Zoning Committee voted unanimously that they would not recommend Evelyn Park's application to the City Council. On or about November 16, 2020, the City Council denied Evelyn's Park's application to amend the zoning code. On November 23, 2020, the City issued a letter to CenterPoint, Evelyn's Park, and MM Bellaire advising that "the Bellaire City Counsel failed to approve the zoning text amendments / [specific Use Permit] application," that the parking lot improvements were not permitted within the City's zoning, and that CenterPoint, Evelyn's Park, and MM Bellaire were required to file an application for demolition of the parking lot within 14 days. *See* Exhibit A-10. The letter further stated that the recipients would be subject to fines if they failed to meet the fourteen day deadline. On or about December 1, 2020, CenterPoint notified Evelyn's Park of its intent to terminate the license agreement.

Proposed Request:

Applicant hereby requests that a variance be granted from the R-5 Residential District use restriction to permit the use of the Property as a commercial parking lot. Section 24-534 provides that the purpose of the R-5 Residential District, "is a medium to upper medium density residential area characterized by the zoning requirements set forth in this Section." Code of Ordinances, City of Bellaire, Texas, Section 24-534, Par. A. The permitted uses within the R-5 Residential District allow the following: single-family dwellings; public parks; utilities; accessory uses (specifically prohibiting commercial parking areas, except when incorporated within an approved planned development); home occupations; facilities owned and maintained by the City; and planned development: residential. Code of Ordinances, City of Bellaire, Texas, Section 24-534, Par. B(1). It is Applicant's position that the City will benefit directly from the use of the Property as a parking lot based upon the following:

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. The use of the Property for parking will remove parking on the streets, which benefits adjacent streets and limits potential overflow impact.
3. Applicant is agreeable to limiting its hours of use/operation of the parking lot to the same as those of Evelyn's Park.
4. Applicant will provide stickers and placards to control parkers.
5. Applicant's agreement with Evelyn's Park will benefit its profitability by solving a major parking problem and enhancing the Evelyn's Park event services.

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Moreover, although the City originally designated the Property within the R-5 residential district, the City contemplated use of this Property for parking in the City Plan. The City approved the Applicant's plans for development of the Property as a parking lot along with issuance of a permit to construct the parking lot on the Property, which Applicant relied upon.

Hardships Cited:

1. The requested modification of the Property for parking is necessary to secure appropriate development of this parcel of land which materially differs from other parcels in the district because of a special condition unique to and inherent in the parcel itself, due to restricted area, such that the parcel cannot be appropriately developed without modification. The Property is located within an area under power lines which may not be developed for residential use. A parking lot is an appropriate development of this land and differs from other parcels within the R-5 residential district due to its concurrent use for electrical utilities serving the area.

2. A literal enforcement of the R-5 Residential District zoning restriction will result in a requirement to:
   a. not provide the off-street parking which was contemplated under the City Plan;
   b. leaving Applicant unable to fulfill its contractual obligations to third parties, which require certain parking requirements; and
   c. Applicant will suffer a loss of over $300,000 in improvements existing on the Property.

   These hardships are not self-created or personal, nor solely financial in nature.

3. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the Property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public health, safety and well-being, or substantially diminish or impair property values within the neighborhood. In fact, as stated above, if this variance request is granted the use of the parking lot will decrease the vehicular congestion and street parking in the area around Evelyn's Park and Applicant's commercial development.

4. The variance desired will not be opposed to the general spirit and intent of this chapter. As set forth above, the use of the Property as a parking lot was its intended use by the City as contemplated in the City Plan, approved by the City pursuant to the permit issued for construction of the lot and is evidenced by the City's approval of the plans.

This concludes our variance request for use of the Property as a commercial parking lot. Please feel free to contact us if you have questions or concerns in order to process this application. We appreciate your consideration of this request, and hope that you will allow the variance to proceed.

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Trusted Legal Advisors Since 1976

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Sincerely,
MM Bellaire One, LLC

JOHN MORTON

Title: Manager

Murphy Klasing

Murphy S. Klasing
Attorney for MM Bellaire One, LLC

Enclosure(s)

Application for Board of Adjustment
Exhibits:
A-1 – Abstractor's Certificate
A-2 – License Agreement (Redacted)
A-3 – Sublicense Agreement
A-4 – Letter from CenterPoint Energy (March 27, 2019)
A-5 – City of Bellaire Permit & Site Plan
A-6 – Certificate of Substantial Completion
A-7 – TrueGrid Advantages
A-8 – Letter from City of Bellaire (March 26, 2020)
A-9 – Letters from Evelyn's Park (June 24, 2020, April 14, 2020, April 22, 2020)
A-10 – Letter from City of Bellaire (November 23, 2020)

Exhibit A-1

Charter Title Company

Charter Title Company
1717 West Loop South, 12th Floor
Houston, TX 77027

ABSTRACTORS CERTIFICATE

GF#: 1060702000048
Through an effective date of:
August 13, 2020

Property

Address: 0 Bellaire
City/State/Zip Code: Bellaire, Texas 77401
Legal Description:
Metes and Bounds:

All that certain tract or parcel of land containing two hundred eighty-two thousandths (0.282) of one (1) acre in the James Blessing Survey out of Westmoreland Farms Amended first subdivision as per plat recorded in Vol. 3, pages 80, et seq., of the Map Records of Harris County, Texas, said 0.282 of one (1) acre being described by metes and bounds as follows:

Beginning at a point in the south line of Lot No. 37, of Block No. 1, of said Westmoreland Farms Amended first subdivision, said point being distant west with said south line extended a distance of eighty (80) feet from the center line of the most westerly main line track of the H. & T.C. Railroad;

Thence from the point of beginning north parallel with said H. & T.C. Railroad and eighty (80) feet distant westerly at a right angle from the center line of its most westerly main line track a distance of four hundred nine and four tenths (409.4) feet to a point in the north line of said Lot No. 37;

Thence east a distance of thirty (30) feet to a point in the west right-of-way line of said H. & T.O. Railroad;

Thence south with said west right-of-way line of said H. & T.C. Railroad a distance of four hundred nine and four tenths (409.4) feet to a point;

Thence west a distance of thirty (30) feet to the place of beginning.

Based on a search of the Public Records of the County Clerks of HARRIS County, Texas the last instrument purporting to convey title to the land described above was:

Houston Lighting & Power Co., by virtue of deed recorded under HARRIS County Clerks File No(s). Volume 772, Page 487 of the Deed Records of HARRIS County, Texas.

This report hereby reports that the instruments listed below have been filed of record in the office of the County Clerk of Harris County, Texas, and are affecting title to the property above described during the time frame as set out above:

ABSTRACTORS CERTIFICATE
(Continued)

Liens:

None of record.

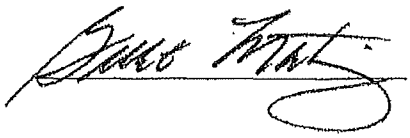
This report is issued for the use of and shall inure to the benefit of and is issued in consideration of **$0.00** paid by the benefited party named above, and no others, and to whom said sum shall be returned as agreed liquidated damages in the event of any mistakes herein. By accepting this search, the benefited party agrees that the said sum and no more shall constitute the full measure for damages against the issuing company.

SPECIAL NOTE AND LIMITATION OF LIABILITY: This report is issued with the express understanding, evidenced by the acceptance of same, that this report does not undertake to give or express any opinion as to the validity of the title hereinabove described or the authority of those executing the above listed instruments, but is simply reporting herein and hereby as to the recitals of instruments listed. The Company assumes no liability greater than the consideration paid for this certificate by reason of issuance, delivery and/or use of same, nor for any error or omissions herein.

This report does NOT reflect title to any of the oil, gas and other mineral interests affecting subject property, nor any documents creating and/or affecting said estates, nor the validity of any rights, privileges and immunities relating thereto.

Further, this report does not address and no search has been performed regarding the following: claims and rights of parties in possession; discrepancies in area and boundaries; unpaid bills for labor or material in connection with repairs or new improvements; unpaid taxes; change in marital or corporate status of owner(s) since date of purchase; homestead rights or claims; easements and restrictions.

Charter Title Company

By: 

such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it. Given under my hand and seal of office, this 20 day of October, A. D. 1928.

W. F. Wittman, Notary Public in and for Harris County, Texas. (Seal)

Filed for record Nov. 1, 1928 at 9.05 o'clock A.M. Recorded Nov. 2, 1928 at 2.30 o'clock P.M.

Abel Bruseng Clerk County Court, Harris County, Texas. By L Walston Deputy

- - - - - - - - - - - - -

No. 372662

A. A. Buxton, et ux To Houston Lighting & Power Co.

General Warranty Deed

State of Texas, County of Harris. Know all men by these presents: That we, A. A. Buxton and wife, Eva Buxton, of Harris County, Texas, for and in consideration of Ten Dollars ($10.00) and other good and valuable considerations to us in hand paid by Houston Lighting & Power Company, receipt of which is hereby acknowledged and confessed, have granted, sold and conveyed and by these presents do grant, sell and convey unto the said Houston Lighting & Power Company, a corporation organized under the laws of the State of Texas, with its principal office in Houston, Texas, all that certain tract or parcel of land containing two hundred eighty-two thousandths (0.282) of one (1) acre in the James Blessing Survey out of Westmoreland Farms Amended first subdivision as per plat recorded in Vol. 3, pages 60, et seq., of the Map Records of Harris County, Texas, said 0.282 of one (1) acre being described by metes and bounds as follows: Beginning at a point in the south line of Lot No. 37, of Block No. 1, of said Westmoreland Farms Amended first subdivision, said point being distant west with said south line extended a distance of eighty (80) feet from the center line of the most westerly main line track of the H. & T.C. Railroad; Thence from the point of beginning north parallel with said H. & T.C. Railroad and eighty (80) feet distant westerly at a right angle from the center line of its most westerly main line track a distance of four hundred nine and four tenths (409.4) feet to a point in the north line of said Lot No. 37; Thence east a distance of thirty (30) feet to a point in the west right-of-way line of said H. & T.C. Railroad; Thence south with said west right-of-way line of said H. & T.C. Railroad a distance of four hundred nine and four tenths (409.4) feet to a point; Thence west a distance of thirty (30) feet to the place of beginning. To have and to hold the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Houston Lighting & Power Company, its successors or assigns, forever; and we do hereby bind ourselves, our heirs, executors and administrators to warrant and forever defend all and singular the said premises unto the said Houston Lighting & Power Company, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof. But there is reserved to the grantors herein, their heirs or assigns, a right-of-way easement for one (1) spur railway track across the property herein conveyed, provided that said spur track shall not in any way interfere with the improvements of the grantee herein, or of its successors or assigns, which improvements may at any time hereafter be placed upon or over said property. Witness our hands this the 18th day of October, A. D. 1928. A. A. Buxton Eva Buxton

State of Texas, County of Harris. Before me, Carl B. Ehman, a Notary Public in and for Harris County, Texas, on this day personally appeared A. A. Buxton, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this 18th day of October, A. D. 1928.

Carl B. Ehman, Notary Public, Harris County, Texas. (Seal)

State of Texas, County of Harris. Before me, Carl B. Ehman, a Notary Public, in and for Harris County, Texas, on this day personally appeared Eva Buxton, wife of A. A. Buxton, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privately and apart from her husband, and having the same fully explained to her, she, the said Eva Buxton, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

Given under my hand and seal of office, this 18th day of October, A. D. 1928.

Carl B. Ehman, Notary Public, Harris County, Texas. (Seal)

Filed for record Nov. 1, 1928 at 9.05 o'clock A.M. Recorded Nov. 2, 1928 at 3.00 o'clock P.M.

Albert Downing Clerk County Court, Harris County, Texas. By L. C. Halsted Deputy

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No. 372678

Spencer-Ingram Lumber Co., By V-Pres., et al To Houston Bldg. & Loan Ass'n.

Assignment of V/L & D/T

The State of Texas; County of Harris. Know all men by these presents: That I, T. E. Johnson and Spencer-Ingram Lumber Company, a corporation hereinafter called assignor, whether one or more, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable considerations this day in hand paid by Houston Building and Loan Association, the receipt and sufficiency of which are hereby acknowledged and confessed, have sold, assigned, transferred and delivered, and by these presents do sell, assign, transfer and deliver unto the said Houston Building and Loan Association, a corporation domiciled at 1107 Main Street, Houston, Harris County, Texas, the following note or notes, together with the vendor's lien and deed of trust lien securing the same, to-wit: One note in the sum of $396.65 dated December 4, 1925, executed by S. H. Ewell and wife, Henrietta J. Ewell, payable to the order of T. E. Johnson one year after date, bearing interest from date at the rate of eight per cent per annum, interest payable semi-annually, containing the usual accelerating maturity and attorney's fees chauses, being secured by vendor's lien and deed of trust, and being more fully described in that deed dated December 4, 1925, from T. E. Johnson to S. H. Ewell and wife, which is of record in the Deed Records of Harris County, Texas, to which reference is here made for all purposes. The property covered by the above-mentioned note or notes and lien or liens is described as follows: Lots Numbers Seven (7) and Eight (8) in Block Number Fifteen (15) of Chapman's Second Addition to the City of Houston, Harris County, Texas. Assignor hereby transfers to Houston Building and Loan Association all of assignor's rights in and to the said premises, and hereby subrogates Houston Building and Loan Association to all of assignor's rights under the said note or notes and lien or liens. Assignor covenants that there is unpaid on said note or notes, in principal and interest, the sum of $_____, and that all just and lawful payments, credits and offsets have been indorsed thereon, but otherwise this assignment is made without recourse. Spencer Ingram Lumber Company joins herein for the purpose of transferring rights in the above-described note acquired by it by indorsement and delivery to it of said note. Executed this 25th day of October, A. D. 1928.

Spencer-Ingram Lumber Company, By T. H. Spencer, Vice President.

Attest: L. T. Cooper, Secretary. (Seal) T. E. Johnson

The State of Texas, County of Harris. Before me, the undersigned authority, on this day personally appeared T. H. Spencer, Vice President of Spencer-Ingram Lumber Company, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Exhibit A-2

Exhibit A-3

SUBLICENSE AGREEMENT

THIS SUBLICENSE AGREEMENT (the "Sublicense") is made at Houston, Texas, by and between EVELYN'S PARK CONSERVANCY ("Sublicensor"), with an address of 4400 Bellaire Blvd., Bellaire, Texas 77401 and MM BELLAIRE ONE, LLC, a Texas limited liability company (the "Sublicensee"), with an address of 8 Greenway Plaza, Suite 1320, Houston, Texas 77046.

Recitals

A. On or about April 13, 2017 CenterPoint Energy Houston Electric, LLC, a Texas limited liability company ("Licensor") granted a license to Sublicensor as detailed in that certain Parking License Agreement by and between Licensor and Sublicensor (the "Existing License Agreement") to build and maintain a parking area on that certain property as described therein (the "Existing Lot").

B. On or about March 6, 2018, Licensor granted a second license to Sublicensor pursuant to the terms and conditions of a Parking License Agreement by and between Licensor and Sublicensor (the "Expansion License Agreement") to build and maintain a parking area on that certain property as described therein (the "Expansion Lot"). A depiction of the Expansion Lot and Existing Lot are attached hereto as Exhibit "A" and incorporated herein for all purposes.

C. The Existing License Agreement and the Expansion License Agreement are collectively referred to herein as the "License Agreements" and individually as a "License Agreement". The Existing Lot and the Expansion Lot are collectively referred to herein as the "Licensed Property".

D. Sublicensee desires to license from Sublicensor the right to use, build and/or maintain a parking area on the Licensed Property, subject to the License Agreements (as further described below) upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Sublicensor and Sublicensee, the parties hereby agree as follows:

Grant of License

1. Sublicensor hereby grants to Sublicensee a license to use, build and maintain a parking area on the Licensed Property, upon the terms and conditions set forth herein. Sublicensor is authorized and empowered to execute and deliver this Sublicense only upon consent of Licensor. Sublicensor herein represents and warrants to Sublicensee that, to its actual knowledge, there are no defaults under the License Agreements and the License Agreements are in full force and effect.

no defaults under the License Agreements and the License Agreements are in full force and effect.

NOTWITHSTANDING ANY PROVISION CONTAINED IN THIS SUBLICENSE TO THE CONTRARY, SUBLICENSOR AND SUBLICENSEE EACH HEREBY ACKNOWLEDGE AND AGREE: (i) THIS SUBLICENSE IS SUBJECT AND SUBORDINATE TO THE LICENSE AGREEMENTS, (ii) TO PROVIDE LICENSOR WITH A COPY OF ANY NOTICE DESIRED OR REQUIRED TO BE GIVEN UNDER THIS SUBLICENSE, AND (iii) THAT SUBLICENSOR AND SUBLICENSEE SHALL BOTH BE OBLIGATED TO OBTAIN LICENSOR'S PRIOR WRITTEN CONSENT WITH RESPECT TO ALL MATTERS FOR WHICH SUBLICENSOR IS OBLIGATED TO OBTAIN LICENSOR'S CONSENT UNDER THE LICENSE AGREEMENTS. SUBLICENSOR AND SUBLICENSEE EACH FURTHER ACKNOWLEDGE AND AGREE THAT NOTHING CONTAINED IN THIS SUBLICENSE SHALL BE CONSTRUED OR INTERPRETED IN ANY WAY TO ENLARGE, OR CREATE ADDITIONAL, RIGHTS IN SUBLICENSOR (OR SUBLICENSEE, PURSUANT TO THIS SUBLICENSE) THAT ARE NOT EXPRESSELY GRANTED TO SUBLICENSOR PURSUANT TO THE LICENSE AGREEMENTS. SUBLICENSOR FURTHER AGREES TO PROVIDE SUBLICENSEE WITH A COPY OF ANY NOTICE OR OTHER CORRESPONDENCE RECEIVED FROM LICENSOR RELATED TO THE LICENSE AGREEMENTS WITHIN TEN (10) DAYS AFTER RECEIPT THEREOF.

Term

2. The sublicense term shall commence upon the date listed above and end as it relates to Expansion Lot and/or Existing Lot, upon the termination or expiration of the Expansion License Agreement and/or Existing Lot License Agreement, as applicable (the "Sublicense Term"), or on such earlier date upon which this Sublicense shall expire or be cancelled or terminated pursuant to any of the terms or covenants of this Sublicense. A copy of each License Agreement is attached hereto as Exhibit "B" and incorporated herein for all purposes. So long as Sublicensee is complying with all its obligations under this Sublicense, Sublicensor shall not amend the License Agreements without the written consent of Sublicensee, whose consent shall not be unreasonably withheld or delayed. Sublicensor further agrees that it will not voluntarily terminate the License Agreements (other than upon the express expiration of the terms thereof) unless, in connection therewith, the Licensor accepts this Sublicense as a direct license between Licensor and Sublicensee.

Rent

3. Sublicensee will pay Sublicensor as annual rental for the Licensed Property as follows:

(a) One hundred percent (100%) of the rent due under the Existing License Agreement, which shall be due and payable to Sublicensor ten (10) days prior to the date such rent is due

under the Existing License Agreement; and

(b) fifty percent (50%) of the rent due under the Expansion License Agreement which shall be due and payable to Sublicensor ten (10) days prior to the date such rent is due under the Expansion License Agreement.

In addition, upon execution of this Sublicense, Sublicensee will pay Sublicensor the pro-rata share of the pre-paid annual rent previously paid by Sublicensor to Licensor under the License Agreements for the period commencing on the date of the execution of this Sublicense through April 19, 2019 pursuant to the terms of the License Agreements. Rent payable under 3(a) and 3(b) above shall be referred to herein as "Base Rent". In addition to the Base Rent and except as specifically stated below, in the event Sublicensor is responsible for payment of any additional rent under the License Agreements, Sublicensee shall pay Sublicensor such amounts pursuant to the ratios set forth above as Base Rent, and such rent shall be due to Sublicensor ten (10) days prior to the date such additional rent is due under the License Agreements.

Use of Licensed Property

4. (a) Sublicensee will use the Licensed Property only for the purpose of using, building and maintaining a parking area and shall have the right to use 100% of the parking area spaces for uses normally incident to that purpose. In no event shall Sublicensee use the Licensed Property for a purpose that does not comply with all applicable laws, codes and ordinances or the terms of the License Agreements.

(b) Notwithstanding anything contained to the contrary herein, when Sublicensor has an event with an estimated attendance of one hundred (100) or more attendees (an "EP Event"), Sublicensee shall reserve up to one hundred (100) parking spaces shown in Exhibit "A" as Existing Lot (the "Reserved Spaces") for Sublicensor's use and Sublicensor may exclude Sublicensee and its licensees and invitees from any or all use of the Reserved Spaces, for the duration of that event plus two hours before and one hour after. Sublicensor shall provide written notice to Sublicensee of any EP Event at least seven (7) days prior to the date of such event.

Assumption Agreement and Covenants

5. (a) Sublicensee will comply with all of the provisions of the License Agreements that are to be performed by the Sublicensor as Licensee during the Sublicense Term, except as to the payment of rent whereby Paragraph 3, above, governs.

(b) The terms and provisions of the License Agreements are fully incorporated into this Sublicense by this reference for all purposes and except as expressly set forth herein, in the event of a conflict between the terms of the License Agreements and the terms of this Sublicense, the

terms of the License Agreements shall control. Except as otherwise expressly provided in this Sublicense, Sublicensee agrees to comply in all respects with the terms and conditions of the License Agreements insofar as the same are applicable to the Licensed Properties and to fulfill all of the obligations of the "licensee" under the License Agreements. In addition to all rights and remedies at law or in equity, as between Sublicensor and Sublicensee, Sublicensor shall be entitled to all of the rights and remedies reserved by and granted to Licensor as if Sublicensor were the licensor under the License Agreements, and such rights and remedies are hereby incorporated herein by reference for all purposes, including without limitation the indemnification provisions set forth in the License Agreements. In addition and in connection therewith, as between the parties to this Sublicense, Sublicensor shall be deemed to be (and included as) an indemnified party under such indemnification provisions to the same extent Licensor is indemnified thereunder and Sublicensee shall owe all such duties and obligations of indemnity to Sublicensor as if Sublicensor were the "licensor" thereunder. Notwithstanding anything contained to the contrary herein, Sublicensee shall not be liable for any damage, loss cost, claim or expense arising from the gross negligence, intentional or willful misconduct of Sublicensor and no duty or obligation of indemnification from Sublicensee to Sublicensor shall arise as a result thereof.

(c)This Sublicense Agreement is subject and subordinate to all of the terms, covenants and conditions of the License Agreement and to all of the rights of Licensor under the License Agreements. If the License Agreements shall terminate before the expiration or other termination of this Sublicense Agreement, this Sublicense Agreement shall terminate on the same date as the License Agreements and Sublicensor shall immediately vacate and surrender possession of the Licensed Property to Licensor.

Limitation of Liability and Indemnity

6. [Intentionally Deleted]

Utilities and Operating Expenses

7. (a) Should any be required, Sublicensee shall pay for one hundred percent (100%) of installation, and fifty percent (50%) of all charges for electricity, water, gas, telephone service, sewage service and other utilities furnished to the Licensed Property as well as any maintenance charges associated with such utilities.

(b) Sublicensee shall, at its sole cost, risk and expense, operate and maintain a continuous shuttle service from the Licensed Property to the Sublicensee and/or Sublicensor's property during active hours, which active hours shall consist of (i) Monday through Saturday 10:00 a.m. – 7:00 p.m., and (b) at any time Sublicensor enacts Section 4(b) of this License Agreement, in addition to the hours set forth in 7(b)(i), for such date of the EP Event, the additional hours requested by Sublicensor; provided however, such additional hours requested

shall end at 10:00 p.m. on weeknights and 11:00 p.m. on Saturdays, and shall be between the hours of 11:00 a.m. and 10:00 p.m. on Sundays. 100% of such costs are to be paid by Sublicensee.

Insurance

8. Sublicensee and Sublicensor shall each procure and maintain throughout the term of this Sublicense, at each party's sole cost and expense, insurance coverage for the Licensed Property in amounts and coverage which are reasonably acceptable and comply with the requirements for insurance (if any) in the License Agreements.

Improvements and Costs

9. Sublicensee shall complete the improvements detailed in the License Agreements on the Licensed Property, at its sole cost and expense and maintain such improvements as required thereunder.

Assignment and Subletting

10. (a) Sublicensee may not assign or sublet this Sublicense without Sublicensor's prior written consent, which shall not be unreasonably withheld.

(b) Sublicensee shall give Sublicensor at least thirty (30) days' advance written notice of any proposed assignment or subletting, such notice to be accompanied by a copy of the proposed sublicense or assignment.

(c) If there is an assignment, the assignee shall be required to agree in writing to assume all the terms and covenants of this Sublicense to be performed by Sublicensee.

(d) Notwithstanding the foregoing, the Sublicensee may assign this Sublicense without consent of Sublicensor, in whole or in part, (i) to any corporation into or with which Sublicensee may be merged or consolidated or to any corporation that is a majority-owned subsidiary, parent, or affiliate of Sublicensee; or (ii) to an individual or entity that purchases substantially all of the interest in Sublicensee or assets of Sublicensee.

Default

11. (a) Sublicensee is in default if it fails to pay any rental installment, or other charge or money obligation required by this Sublicense, within ten (10) days after written notice, or to perform any other covenant under this Sublicense within thirty (30) days after written notice.

(b) Sublicensor is in default if it fails to perform any covenant or condition of this

Sublicense and such default is not cured within thirty (30) days after written notice, or if it fails to perform any covenant or condition under the License Agreements and such default is not cured within any applicable grace or cure period.

(c) All rights and remedies enumerated in this Sublicense are cumulative and will not exclude any other right or remedy allowed by law. These rights and remedies may be exercised and enforced concurrently, whenever necessary.

(d) Upon an event of default which is not cured within any applicable grace period, the non-defaulting party may immediately or at any time thereafter, without notice, cure the breach for the account and at the expense of the defaulting party. If the non-defaulting party at any time, by reason of the breach, must pay, or elects to pay, any sum of money or do any act that will require paying any sum of money, or must incur any expense, including reasonable attorney's fees, in instituting or prosecuting any action or proceeding to enforce such party's rights under this Sublicense, the sums paid by the non-defaulting party, will be due from the defaulting party on the first day of the month following payment of the respective sums or expenses.

12. [Intentionally Deleted]

Miscellaneous Provisions

13.(a) Applicable Law: This Sublicense will be construed under Texas law, and all obligations of the parties are performable in Harris County, Texas.

(b) Parties Bound: This Sublicense will bind and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as this Sublicense otherwise specifies.

(c) Legal Construction: If any one or more of the provisions of this Sublicense is for any reason held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provision of this Sublicense, which will be construed as if it had never included the invalid, illegal, or unenforceable provision.

(d) Prior Agreements Superseded: This Sublicense constitutes the sole agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter.

(e) Attorney's Fees: If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret this Sublicense, the prevailing party is entitled to recover reasonable attorney's fees from the other. The fees may be set by the court in

the trial of the action or may be enforced in a separate action for that purpose, and the fees will be in addition to any other relief that may be awarded.

(f) [Intentionally Deleted]

(g) Counterparts: This Sublicense and all other copies of it, insofar as they relate to the rights, duties, and remedies of the parties, will be considered one agreement. This Sublicense may be executed concurrently in one or more counterparts, by facsimile or electronic signature, each of which will be considered an original, but all of which together will constitute one instrument.

(h) Notice: Unless this Sublicense provides otherwise, any notice, tender, or delivery to be given by either party to the other may be effected by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested, and will be considered received as of the date of receipt. The address for notice, if to Sublicensor is:

Evelyn's Park Conservancy
4400 Bellaire Blvd
Bellaire TX 77401
Attn: Park Director

if to Sublicensee:

MM Bellaire One, LLC
2425 West Loop South, Suite 340A
Houston, Texas 77027
Attn: John Morton

(i) Time is of the Essence: Time is of the essence in this Sublicense.

[INTENTIONALLY LEFT BLANK - SIGNATURE PAGE FOLLOWS]

EXECUTED and **EFFECTIVE** as of the _____ day of January, 2019.

SUBLICENSOR:

EVELYN'S PARK CONSERVANCY

By: _____
Name: Patricia King-Ritter
Title: Park Director

SUBLICENSEE:

MM BELLAIRE ONE, LLC, a Texas limited liability company

By: _____
Name: John Morton
Title: Manager

LICENSOR:

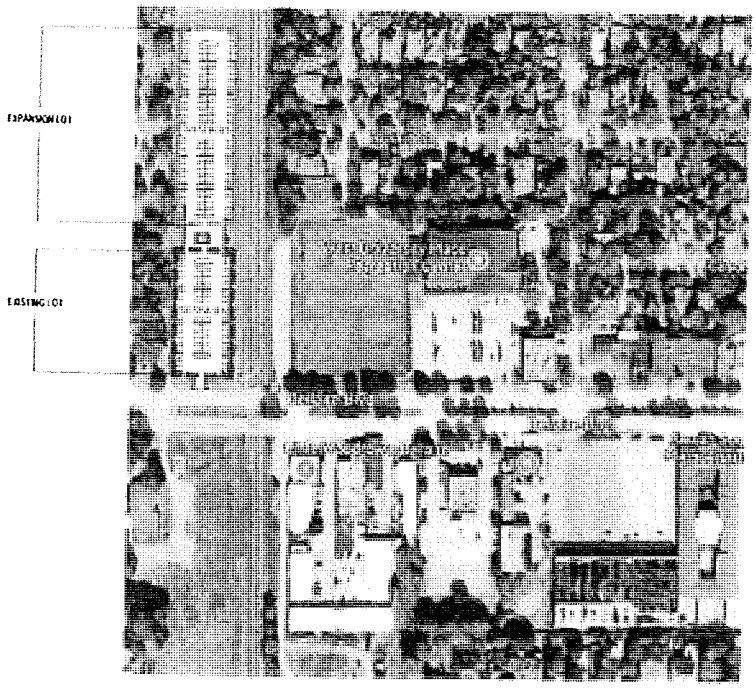
CenterPoint Energy Houston Electric, LLC, a Texas limited liability company, hereby joins in this Sublicense for the exclusive purpose of consenting to this Sublicense granted from Sublicensor to the Sublicensee.

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT "A"

EXISTING LOT / EXPANSION LOT



tramonte + johnson

EXHIBIT "B"

PARKING LICENSE AGREEMENTS

Exhibit A-4

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

March 27, 2019

Lou Waters
Evelyn's Park Conservancy
P.O. Box 459
Bellaire, Texas 77402

RE: **Consent to Sublet Parking License Area L124882**

Dear Mr. Waters:

On April 13, 2017, CenterPoint Energy Houston Electric, LLC ("Licensor") and Evelyn's Park Conservancy ("Licensee") entered into a Parking License Agreement L124882 ("License") for the right to build, use, and maintain a parking area on property owned by Licensor. Paragraph XV, of the License, states that Licensee must obtain written consent from Licensor to sublet or assign the License to a third party. Licensee has requested to sublet the licensed area and Licensor poses no objection to sublet the licensed area. All terms and conditions of the License are still in effect. If you have any questions, please call me at 713-207-6211.

Regards,

CenterPoint Energy Houston Electric, LLC

Lee Tristan
Right of Way Agent
Surveying & Right of Way

Enclosures

Exhibit A-5

City of Bellaire

7008 S. Rice Avenue
Bellaire, Texas 77401
Office: 713-662-8230 | E-mail: inspections@bellairetx.gov

EXHIBIT A-5

REQUEST AN INSPECTION: www.bellairetx.gov/inspectionrequest (request before for 4pm for next business day)
VIEW INSPECTION RESULTS: www.bellairetx.gov/inspectionresults

Chapter 9, Section 9-17, Sec. 105.8: Construction Hours. Within the City of Bellaire, Texas, the construction of buildings and structures and related activities, any of which requires a building permit, other than a homeowner permit, from the City of Bellaire, is permitted during the following periods only:
SUNDAY – SATURDAY 7 A.M. – 7 P.M.

CR - 100K - 499,999 PERMIT

THIS FORM WAS PRINTED ON: 2/24/2020

PERMIT #: 2000021	DATE ISSUED: 1/06/2020

PROJECT ADDRESS:	4300 BELLAIRE BLVD A	LOT:	BLK:
SUBDIVISION:		FIRE SPRINKLER REQUIRED:	
TOTAL SF (OVERALL):	0.00	SQ FT ADDED:	
LOT COVERAGE:		ZONE:	
VALUATION:	$ 250,000.00	FLOOD ZONE:	

ISSUED BY:	MA	CONTRACTOR:	ARCH-CON CORPORATION
		ADDRESS:	ARCH-CON CORPORATION
		ADDRESS:	1335 W. GRAY
		CITY:	HOUSTON
		ST:	TX
		ZIP:	77019
		PHONE:	

NOTES: REPMABLE PAVING FOR PARKING LOT. NEW CONCRETE PAVE APPROACH & LIGHTING

DESCRIPTION	QUANTITY	AMOUNT
CR PCF 100K - 499,999	0.00	$ 0.00

TOTAL: $ 0.00

NOTICE
Separate permits are required for electrical, plumbing, heating, ventilating, and air conditioning. This permit becomes null and void if work or construction authorized is not commenced within 6 months, or if construction or work is suspended or abandoned for a period of 6 months at any time after work is started.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction. Contractors are responsible for removing all debris from job site.

Notice to Residential and Commercial contractors:
After permit issuance, electronic versions of construction documents **MUST** be submitted to the city before requesting a form inspection!

PROPOSED LEGEND

PROP. MANHOLE	TP (23.17) PROP. TOP OF PAVEMENT ELEVATION	GRADE BREAK	PROP. GRADE BREAK		EXIST. ASPHALT
EXIST. MANHOLE	TC (23.17) PROP. TOP OF CURB ELEVATION		PROP. STORM SEWER LINE		EXIST. BUILDING
PROP. STM. SWR. JUNCTION BOX	FF (23.17) PROP. FINISHED FLOOR ELEVATION		EXIST. STORM SEWER LINE		PROP. BUILDING
EXIST. INLET	TW (23.17) PROP. TOP OF RIM ELEVATION		PROP. WATER LINE		PROP. SIDEWALK
DRAINAGE AREA	FL (23.17) PROP. FLOWLINE ELEVATION		EXIST. WATER LINE		PROP. 6" 3,000 PSI REIN. CONC. PAVING W/ #3 REBAR @ 18" C.C. & 8" LIME STABILIZATION
ACREAGE	PIB PROP. INLET PROTECTION BARRIER		PROP. SANITARY SEWER LINE		EXIST. DEVELOPED AREA
CUMULATIVE ACREAGE	IPB-II PROP. INLET PROTECTION BARRIER STAGE II		EXIST. SANITARY SEWER LINE		
CUMULATIVE DISCHARGE	SCE PROP. STABILIZED CONSTRUCTION ENTRANCE		PROP. BERM		
PROP. 2 YR. FLOW PATTERN	CTW PROP. CONCRETE TRUCK WASHOUT		PROP. CENTERLINE DITCH		
PROP. 100 YR. FLOW PATTERN	PROP. FILTER FABRIC FENCE		PROP. TOP OF BANK		
FG (23.17) PROP. FINISHED GRADE			PROP. DRAINAGE AREA BOUNDARY		
TG (23.17) PROP. TOP OF GRATE INLET					
TW (23.17) PROP. TOP OF WALK					

EASEMENT NOTE

PROPOSED PARKING LOT TO BE LOCATED WITHIN 130' H&P EASEMENT. CENTERPOINT APPROVAL REQUIRED FOR RELOCATION OF ANY EXISTING OVERHEAD UTILITIES WITHIN EASEMENT.

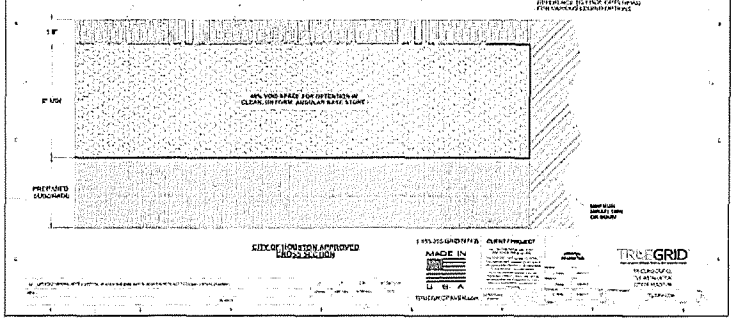
DETENTION NOTE

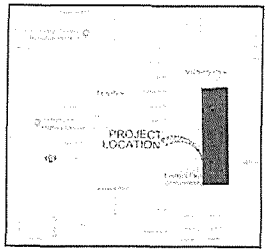
NO ADDITIONAL IMPERVIOUS COVER IS PROPOSED. THEREFORE, NO DETENTION WILL BE REQUIRED OR PROPOSED

NOTES:

1. TRUEGRID PRO PLUS PRODUCTS DESIGNED FOR LOAD CAPACITIES OF 130,000 LBS PER SQ. FT. TRUEGRID PRODUCTS STRENGTHEN WITH FILL MATERIAL
2. TRUEGRID PRO PLUS PRODUCTS ARE SUFFICIENTLY RATED FOR H-20/HS 20 LOADING AND GREATER
3. INCREASE SUB BASE DEPTH FOR INCREASED STORM WATER DETENTION
4. NO STAKING NECESSARY WITH TRUEGRID PRO PLUS WHEN SLOPE IS BELOW 10 DEGREES. ASSESS PROJECT, AS NEEDED
5. THIS CROSS SECTION IS FOR INFORMATION ONLY

TRUEGRID BLOCK REFERENCE VIEW



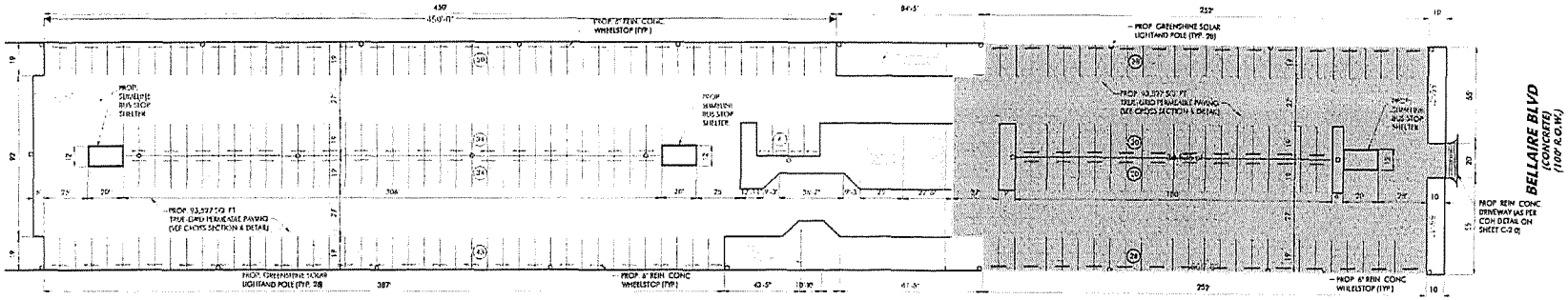


VICINITY MAP

CITY OF BELLAIRE
RECEIVED
JAN 06 2019
DEVELOPMENT SERVICES

Plan Markup
Project: SOLUTIONS
07/14/2019 3:15:37 PM
Palace Lanes

APPROVED
Willra – Davidson
BUILDING OFFICIAL
CITY OF BELLAIRE
DATE: 2/24/20



SITE PLAN
SCALE: 1" = 30'-0"

ATR ENGINEERING
CIVIL ENGINEERING AND DEVELOPMENT
11206 KATY FREEWAY, STE. 323
HOUSTON, TEXAS 77079
281-493-2454 (office) 281-206-2418 (fax)
TBPE FIRM REGISTRATION #14309

DANIEL M. CUARLES
120702
7-9-19

BELLAIRE PARKING LOT

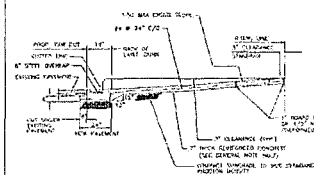
BELLAIRE BLVD.
BELLAIRE, TX 77401

DESCRIPTION	DATE

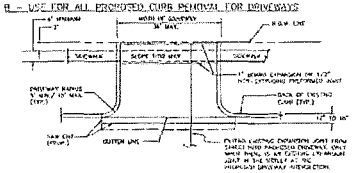
SCALE: 1" = 30'
PROJECT NO.
SHEET TITLE: SITE PLAN
SHEET NO: C-1.0
DATE: JULY 2, 2019

WHEN A COMMERCIAL DRIVEWAY OR CURB & GUTTER IS CONSTRUCTED, RECONSTRUCTED, REPAIRED OR REGRADED ON COUNTY RIGHT OF WAY USE THE FOLLOWING:

A – USE FOR ALL PROPOSED DRIVES ON CURBED TYPE STREETS:



B – USE FOR ALL PROPOSED CURB REMOVAL FOR DRIVEWAYS

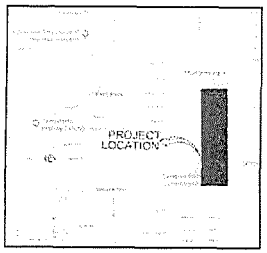


DRIVEWAY OR CURB'D CONCRETE OR ASPHALT STREETS	APPROVED BY: J.R. [illegible]	DRAWN BY: CASTANEDA, C.
COMMERCIAL AREA	DATE: 15 NOV 2005	APPROVED NO. DW-3

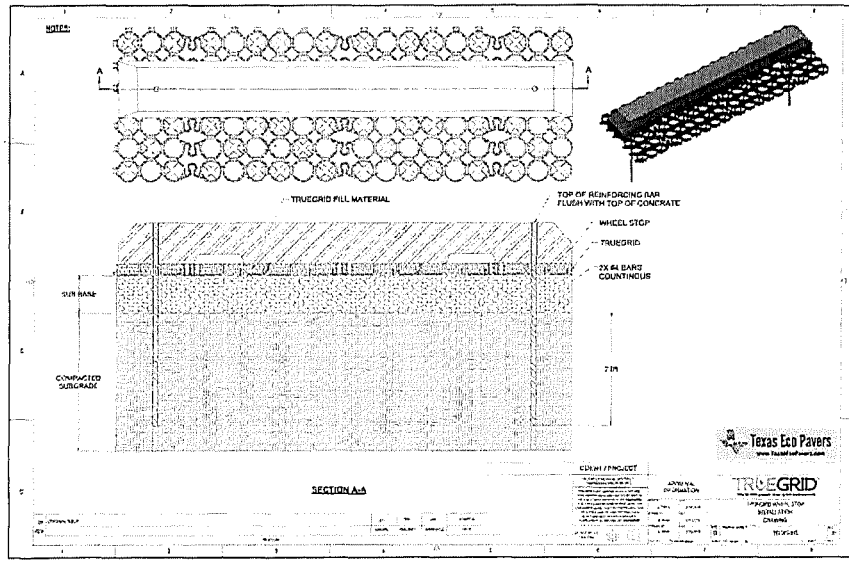
GENERAL NOTES:

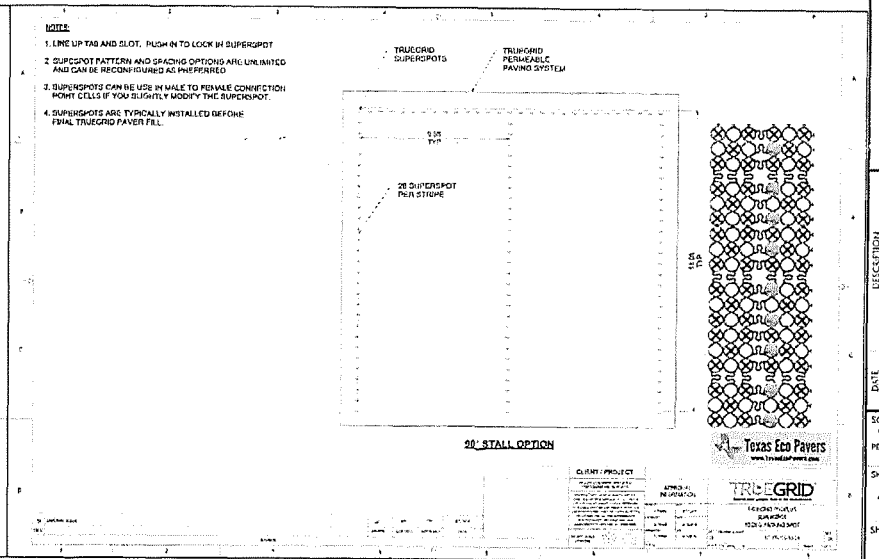
1. PROPOSED DRIVEWAY, SIDEWALK, CURB, GUTTER LINE AND GRADE SHALL MATCH EXISTING STREET.
2. PROPOSED SIDEWALK SHALL BE CONSTRUCTED WITH PORTLAND CEMENT CONCRETE, A-1-G 3,000 CEMENT PER CUBIC YARD, 4 1/2 INCHES THICK AND 4 FEET MINIMUM WIDTH. SEE STANDARD NO.5 FOR ADDITIONAL INFORMATION AND DETAILS.
3. PROPOSED DRIVEWAY SHALL BE CONSTRUCTED WITH PORTLAND CEMENT CONCRETE, 5 SACK CEMENT PER CUBIC YARD, 7 INCHES THICK FROM PROPOSED SAW CUT TO RIGHT-OF-WAY LINE (PROPERTY LINE).
4. PROPOSED REINFORCEMENT OR REINFORCING STEEL IS TO BE #4 DIAMETER SPACED AT 24 INCHES O.C., EACH WAY, WITH 10 INCHES MINIMUM LAP (2'-1 1/2" HOOK AS ALTERNATE) FROM PROPOSED SAW CUT TO RIGHT-OF-WAY LINE.
5. PROPOSED DRIVEWAY REINFORCING STEEL IS TO BE TIED TO EXISTING SIDEWALK REINFORCING STEEL WITH A MINIMUM LAP OF 18 INCHES.
6. PROPOSED GUTTER LINE IS TO BE MAINTAINED AT FACE OF EXISTING CURB.
7. SAW CUT EXISTING CURB AT EACH END AND KNOCK OUT CURB FROM BEGINNING TO END OF PROPOSED DRIVEWAY.
8. SAW CUT EXISTING PAVEMENT A MINIMUM OF 12 INCHES AWAY FROM FACE OF CURB (GUTTER LINE) AND BREAK OUT TO EXPOSE EXISTING REINFORCEMENT STEEL.
9. COMPACT SUBGRADE FOR PROPOSED DRIVEWAY CONNECTION FROM PROPOSED SAW CUT AT EXISTING PAVEMENT TO RIGHT-OF-WAY LINE. COMPACT TO 95% OF MAXIMUM PROCTOR DENSITY (+/- 2% DRY MOISTURE). THE COUNTY ENGINEER RESERVES THE RIGHT TO REQUIRE EXPANSION TESTS TO BE CONDUCTED.
10. IF MORE THAN ONE PROPOSED DRIVEWAY IS BUILT ON THE SAME PROPERTY, SAID DRIVEWAYS SHALL BE SEPARATED BY A MINIMUM DISTANCE OF 30 FEET (DRIVEWAYS WITH CURBS AND SIDEWALKS).
11. REINFORCING STEEL TO BE ELEVATED A MINIMUM OF 3" ABOVE SUBGRADE (3 INCHES MANUFACTURED CHAIRS ARE REQUIRED WITH MAXIMUM SPACING OF 72 INCHES O/C EACH WAY).

CONSTRUCTION NOTES FOR SIDEWALKS & DRIVEWAYS ON CURBED TYPE STREETS.	CHECKED BY:	DRAWN BY:
COMMERCIAL AREA	DATE:	DRAWING NO. DW-4



VICINITY MAP





ATR ENGINEERING
ATR ENGINEERING & LAND DEVELOPMENT
(832) 437-FREEWAY STE. 221
HOUSTON, TX 77024
281-600-4448 | FAX: 866-455-1616

BELLAIRE PARKING LOT

BELLAIRE BLVD.
BELLAIRE, TX 77401

DESCRIPTION	DATE

SCALE N.T.S.

PROJECT NO.

SHEET TITLE: GENERAL DETAILS

SHEET NO: C-2.0

DATE: JUNE 8, 2019

Exhibit A-6

DocuSign Envelope ID: F0117612-E85C-4DCB-ADCF-DAA27B5F5049

EXHIIBIT A-6

CERTIFICATE OF SUBSTANTIAL COMPLETION

Project Name and Address:

Overflow Parking Lot Project
4300 Bellaire Boulevard
Bellaire, TX 77401

Date of Agreement: **December 2, 2019**

Date of Substantial Completion: **March 18, 2020**

Owner:

MM Bellaire One, LLC
2425 W Loop South, Suite 340a
Houston, TX 77027

Contractor:

Arch-Con Corporation
1335 West Gray, Suite 300
Houston, TX 77019

Project or Designated Portion Shall Include:

The entire Overflow Parking Lot as constructed.

The Work performed under this Contract has been reviewed and found to the best of Architect's (or Project Managers) knowledge, information and belief, to be Substantially Complete. Substantial Completion is the stage in the progress of the Work were the Work or a designated portion thereof is sufficiently complete in accordance with the Contract Documents so Owner can have full and beneficial occupancy and utilize the it for its intended use. The Date of Substantial Completion of the Project or portion thereof as designated above is hereby established as the date of commencement of all applicable Warranties required by the Contract Documents, except as may be stated below. A list of items to be completed or corrected (the "**Punchlist**") is attached hereto. The failure to include any items on such Punchlist does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents.

Clarifications:

Due to the Zoning issues with the City of Bellaire, the Project Work is offically complete. There would need to be additional work undertaken for the Parking Lot to function as designed. This additional work is not currently a part of the Scope of Work under this Contract.

The responsibilities of Owner and Contractor for Security, Maintenance, Climate Control, Utility Consumption, Insurance and Damage to the Work shall be as follows:

Responsibility			**Clarifications:**
O	**C**		
☒	☐	Maintenance	Owner is accepting the Overflow Parking Lot as is.
☒	☐	HVAC	
☒	☐	Utilities	
☒	☐	Security	
☒	☐	Insurance	
☒	☐	Damage	

DS JM DS JW DS PEL

Attachments: (Attach additional documentation if necessary)

☐ **Punchlist Dated:** None.
☐ **Other:**

OWNER:

MM Bellaire One, LLC
a Texas limited liability company

Owner accepts the Work or designated portion thereof as Substantially Complete and assumes full possession thereof at **12:00** am as of the date stated above.

By: DocuSigned by: 2E5B929133154AE...
Name: John Morton
Title: Manager

CONTRACTOR:

Arch-Con Corporation
a Texas corporation

Contractor will complete or correct the Work identified on the Punchlist attached hereto within sixty-(**60**) days from the date of Substantial Completion.

By: DocuSigned by: 40E89C5C2F80493...
Name: Jason M. Cooper
Title: President

PROJECT MANAGER:

Project Solutions, LLC
a Texas limited liability company

Acknowledgement

By: DocuSigned by: Paul E. Case 6419A1CB52C24A6...
Name: Paul E. Case
Title: President

***THIS CERTIFICATE OF SUBSTANTIAL COMPLETION IS NOT VALID UNLESS SIGNED BY OWNER AND CONTRACTOR AND ACKNOWLEDGED BY ARCHITECT OR PROJECT MANAGER.

Exhibit A-7

EP Header

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:

EP Header

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.

Exhibit A-8

City of Bellaire
DEVELOPMENT SERVICES

3/26/2020 **REGULAR NOTICE**

HCAD #: 0370410000143
Legal Description: TRS 27E & 37A BLK 1
WESTMORELAND FARMS

CENTERPOINT ENERGY HOU ELE
PROPERTY TAX DEPT 38TH FLR
PO BOX 1475
HOUSTON TX 77251-1475

ARCH-CON
ATTN: MARK KENNEDY
1335 WEST GRAY, SUITE 210
HOUSTON, TX 77019

CC:
EVELYNS PARK CONSERVANCY
ATTN: PATRICIA KING RITTER
4400 BELLAIRE BLVD
BELLAIRE, TX 77401

Arch-Con and CenterPoint Energy,

The parking lot improvements generally located at 4300 Bellaire Blvd (HCAD Account #0370410000143) have been determined to be noncompliant with the Planning and Zoning Ordinance and the Building Ordinance. A parking lot is only a permitted use within the R-5 residential district, as detailed in the City of Bellaire Code of Ordinances, under sections 24-534 B. (1) a) g). The current parking lot material of gravel does not comply with Section 9-21, which requires that all parking areas be paved with concrete, asphalt materials, or masonry paving units. You are hereby notified that the improvements generally located at 4300 Bellaire Boulevard must be removed within 14 days from the date of this letter. Subject to Building Official approval, an extension may be granted if a written request is submitted prior to the expiration of the 14-day deadline. Failure to resolve the Zoning Violation within the 14-day deadline or approved extension may result in fines as permitted in Sec. 1-10 of the General Provisions of the Code of Ordinances.

Sec. 24-502. - Permitted Uses.

No structure or land in the City of Bellaire shall hereafter be constructed, built, moved, remodeled by expanding the size thereof, reconstructed, used or occupied except in accordance with the requirements of the zoning district in which the structure is located. However, a structure, use or lot lawfully existing at the date of adoption of this chapter may be occupied as a nonconforming use under the procedures and requirements of this chapter.

Sec. 24-534. - R-5 Residential District.

B. Uses:

(1) Permitted uses:

a) Single-family dwellings;

b) Public parks;

c) Utilities:

1) Local utility distribution lines;

2) Telephone lines and related cross connecting points;

d) Accessory uses, subject to the requirements of Section 24-510;

e) Home occupations, subject to the requirements of Section 24-517;

f) Facilities owned and maintained by the City; and

g) Planned Development: Residential.

(2) Specific uses:

a) Schools; and

b) Churches.

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

This section shall control and regulate the construction and/or reconstruction of all areas upon private property, in all zoned districts, for the ingress and egress of motor vehicles and the parking of the same.

All construction or reconstruction of parking areas, under the terms and provisions of this section, shall be in accord with the requirements hereinafter set out. These requirements shall be deemed the minimum requirements. However, if at any time in the opinion of the building official, special circumstances shall necessitate construction in accord with more restrictive and/or higher standards, then the building official may specify the requirements, which shall be

deemed to supersede and shall be controlling as to any other requirements herein provided with which they shall be in conflict.

(a) Single-family residential. For all uses classified as single-family residential, parking areas may be paved with either concrete or masonry paving units, subject only to such additional standards or conditions as shall be reasonably imposed by the building official as follows:

(1) Concrete construction. Four-inch 3,000 psi with #3 reinforcing bars on 18-inch centers.

(2) Masonry paving units shall be installed and maintained according to the manufacturer's recommendations for the anticipated traffic load.

(b) Nonsingle-family residential. For all uses not classified as single family residential, parking areas may be paved with concrete, asphalt materials, or masonry paving units. The design of such parking areas shall be prepared, sealed and signed by a civil engineer licensed as a professional engineer in the state.

(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.

...

Sec. 1-10. - General penalty; continuing violations.

(a)Whenever, in this Code, an act is prohibited, is made or declared to be unlawful or an offense or a misdemeanor, or whenever, in this Code, the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such section, part or portion of the Code shall be punished by a fine not to exceed the maximum lawful fine which the municipal court is empowered to assess pursuant to the provisions of the laws of the state.

(b) Each day any such violation or failure to perform such act shall continue shall constitute a separate offense, unless otherwise specifically provided.

(c) There shall be no requirement that each amendment to the Code state a penalty; and

in the case of an amendment to the Code for which a penalty is not stated, the general penalty as provided in this section shall apply to the section of the Code as amended; or, in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

(d) If the city council amends any section of this Code, for which a penalty is not provided, the general penalty provision of section 1-10 of this Code shall apply to the section as amended. However, if an amendment contains provisions for which a penalty is provided in another section of the same chapter, such penalty shall relate to the amended section, unless such amendment specifies that such penalty shall not apply.

Sincerely,

Kevin Taylor
Building Official
713-662-8232

Exhibit A-9

EVELYN'S PARK
Conservancy

4400 Bellaire Blvd. | Bellaire, TX 77401
WWW.EVELYNSPARK.ORG

a 501(c)3 non-profit organization

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

June 24, 2020

RE: Revised Letter Application

To Whom it may concern,

We are in receipt of the 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") in which the City has 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") and based on community input and studies on park anticipated usage, we recognized that there would be a shortage of onsite parking and we were looking 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 and the City Council who served in 2013, contracted with CenterPoint Energy to lease the land underneath the transmission towers at the Property for overflow parking on April 3, 2013. This was part of Evelyn's Park Masterplan that was presented to City Council and adopted into their Parks Masterplan in 2015.

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 provide our event and special event attendees overflow space, as well as vendor parking to allow the Park's lot to be available for regular patrons.

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.

EVELYN'S PARK
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Prior to commencement of construction of the Lot, local engineers prepared a plan for development of the site (the "Plans") with the most beneficial materials and presented the Plans to the City for review and approval. After submission and review of the Plans, the City issued a permit granting 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 has been spent to complete the construction of the Lot and there are other contingent liabilities that are also tied to the use of the parking 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 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 City officials) since both parties recognized the need for a Lot in this area of the City, for overflow and to minimize impact on neighboring community streets.

The intended use of the Lot is for additional parking, under the limitations and conditions enumerated below. Because of its nature and existing location in a utility corridor, we believe that it is not appropriate for categorizing the Lot into specific zoning districts, notwithstanding, we believe the Lot should be allowed in R-5 district based upon the prior issued permit and alternatively by specific use under Sec. 24-503. – Specific Uses.

In order to accomplish this, we are requesting a text amendment to Sec 24-534. – R-5 Residential District from the City to allow the Property to be used as an Accessory Parking (to be defined). Specific Request are detailed below:

1) ***Text Amendment Request to Sec 24-534.–R-5 Residential District: We propose that city add "Accessory Parking" to specific uses allowed under section Sec 24-534. – R-5 Residential District B (2) (c)***

2) ***Special Conditions: We are in active dialogue with the neighbors in closest proximity to the Property and would like to reserve the right to add Special Conditions to the Text Amendment based on outcome of these conversations.***

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Furthermore, EP is willing to require users of this lot to have a permit to park in the lot and would not make the lot open to the general public. Since this technically differs from the City's definition of Commercial Parking, we would like to add a new defined term called "Accessory Parking" to Sec. 24-202.

1) ***Definition of Accessory Parking to be added as Sec. 24-202. (192) and defined as follows:***

   Accessory Parking – means a lot or parcel of land used as an area where cars or other vehicles may be left temporarily, which is incidental, subordinate to or supportive of the principal use of the parcel and its owner or occupant. Accessory Parking will only be permitted in an area that is undevelopable and in utility transmission area.

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 would like to reserve the right to apply for other variances to allow use of this Lot.

Statement of Conformity to the Comprehensive Plan in Section 24-104:

We believe that the proposed amendment is in harmony with the existing comprehensive plan and requires no deviation or changes to that plan. Specifically, the intended use the Property as a parking lot was identified under the Appendix called Park Master Plan, as highlighted below.

2015 PARKS
2025 MASTER PLAN

PARK ACQUISITION

As the City of Bellaire continues to redevelop, the City should remain aware as to the future recreational needs of its citizens. While it is difficult to predict what the city's space requirements will be in ten years, as old houses and buildings are torn down for new development, acquisition opportunities may arise from time to time. Such acquisitions could include additional land and even structures of historic value which the Parks, Recreation and Facilities Department could convert to additional recreation and/or meeting space for the community. For this reason the Mayor, City Council, Parks and Recreation Advisory Board and the PATRONS for Bellaire Parks remain vigilant as to possible opportunities.

One of the goals concerning number of parks is to have a park within walking distance of every resident of Bellaire. The identified areas that lack parks are the Northwest and Southwest quadrants of the city. One way to meet that goal is to purchase property in those areas when they become available and then create mini or neighborhood parks depending on the size of the property. These parks serve people within a .25 - .50 mile radius.

Acquire additional green space and/or field space by pursuing cooperative arrangements with outside organizations. The City already has agreements with HISD schools for field use, CenterPoint Energy for Right of Way (ROW) use at Mulberry Park for the parking lot, future ROW use for Evelyn's Park by the railroad tracks by Bellaire Boulevard and United Methodist Church for Evelyn's Park overflow parking. Negotiations have begun with NRG for use of the ROW on the east side of town for a bike/ pedestrian trail that will tie in with the proposed trail for the City of Houston.

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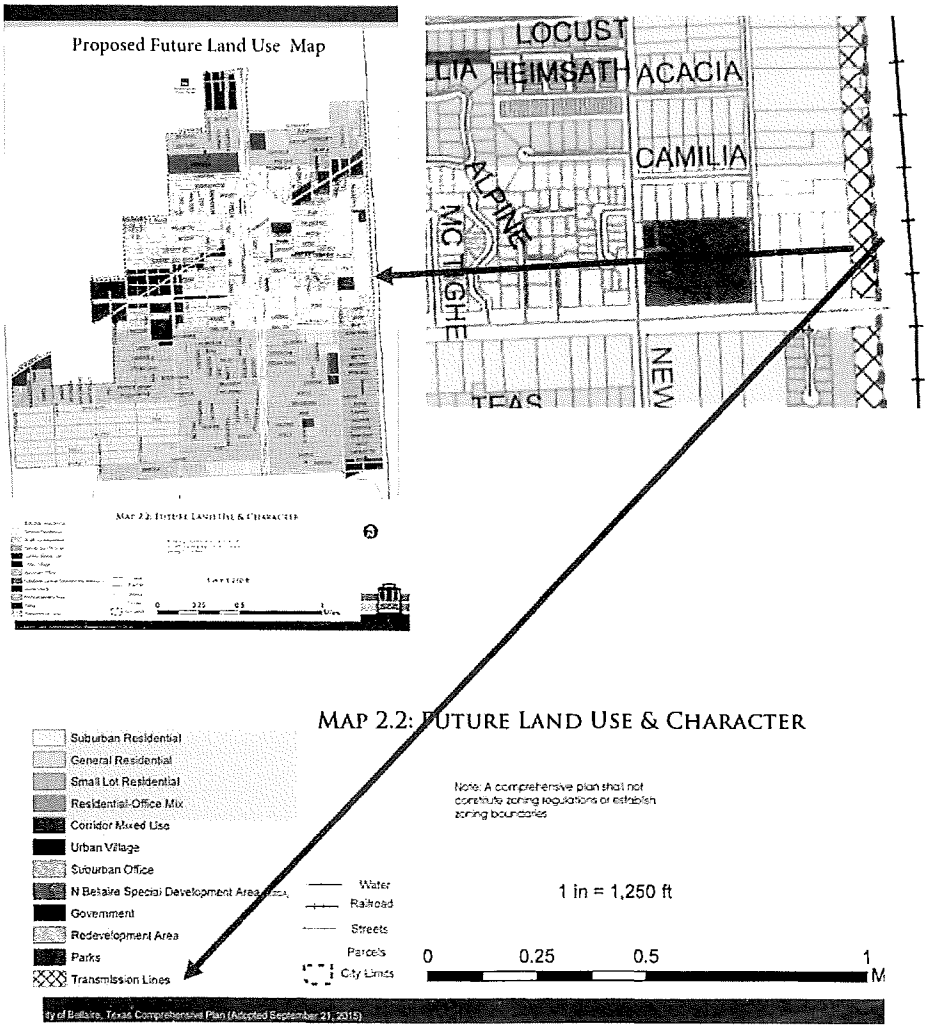
Additionally, in accordance to the Proposed Future Land Use Map, the Property under the consideration is identified as Transmission Lines and not Suburban Residential underscoring the intent to use this land for uses other than Suburban Residential. This plan was developed and completed a five-year interim update process and unanimous adoption by City Council on September 21, 2015. The plan reinforces the fundamental importance of neighborhood integrity in the City of Homes, as well as the priority residents place on parks and recreation opportunities, safe streets, and preservation of a small-town atmosphere amid a vast metropolitan region. The five-year update process was completed through interaction with the Planning and Zoning Commission and City departments, followed by public hearings and consideration at the Commission and City Council levels. The entirety of the plan content continues to reflect more extensive community outreach efforts in support of the major plan update in 2008-09, which included informal listening sessions hosted in residents' homes, a City Hall forum, nine working sessions with a City-appointed Comprehensive Plan Advisory Committee, and multiple workshops and hearings prior to final adoption.



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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 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 finishing construction a notice was issued of determination that such Lot is "noncompliant". A significant amount of time and funds to the development of the Lot in reliance upon the actions of the City was invested. Further, based upon the above, the City will directly benefit from the following as a result of the Lot:

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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
9) Potential landing for the future Coastal Prairie Park that will lead to a hike and bike trail cited in the Visioning Bellaire – Urban design and Beautification Conceptual Master Plan Adopted December 2016

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

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Conservancy

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Exhibit "A"

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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.

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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.

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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, if 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)

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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:

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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
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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

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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.

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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.

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

April 22, 2020

RE: Revised Letter Application

Dear Mr. Taylor,

We are in receipt of the 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") 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 would need additional offsite parking for large events and began a search for ways to alleviate concerns caused by overflow parking for homeowners along the adjacent streets. With this in mind, EP, with help from former Mayor and the City Council serving in 2013, we contracted with CenterPoint Energy to lease the land underneath the transmission towers at the Property for overflow parking in 2013. This was part of the Masterplan that was presented to City Council when the development of EP was approved.

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 provide our event and special event attendees overflow space, as well as vendor parking to allow the Park's lot to be available for regular patrons.

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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 has 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 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.

The intended use of the Lot is for overflow parking for EP and for commercial parking. Because of its nature and existing location in a utility corridor, we believe that it is not appropriate for categorizing the Lot into specific zoning districts, notwithstanding, we believe the Lot should be allowed in R-5 district based upon the prior issued permit and alternatively by specific use under Sec. 24-503. – Specific Uses.

In order to accomplish this, we are requesting a text amendment to Sec 24-534. – R-5 Residential District from the City to allow the Property to be used as an Accessory Parking (to be defined). Specific Request are detailed below:

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1) ***Text Amendment Request to Sec 24-534.–R-5 Residential District: We propose that city add "Accessory Parking" to specific uses allowed under section Sec 24-534. – R-5 Residential District B (2) (c)***

2) ***Special Conditions: We are in active dialogue with the neighbors in closest proximity to the Property and would like to reserve the right to add Special Conditions to the Text Amendment based on outcome of these conversations. We plan on submitting a SUP Application on Monday, April 27th.***

Furthermore, EP would require users of this lot to have a permit to park in the Lot and it will not be open to the general public. Since this technically differs from the city's definition of Commercial Parking, we would like to add a new defined term called "Accessory Parking" to Sec. 24-202.

3) ***Definition of Accessory Parking to be added as Sec. 24-202. (192) and defined as follows:***

   Accessory Parking – means a lot or parcel of land used as an area where cars or other vehicles may be left temporarily, which is incidental, subordinate to or supportive of the principal use of the parcel and its owner or occupant.

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 would like to reserve the right to apply for a specific use permit, to specifically allow for the use of the Property and only this Property as a commercial parking lot or accessory lot.

Statement of Conformity to the Comprehensive Plan in Section 24-104:

We believe that the proposed amendment is in harmony with the existing comprehensive plan and requires no deviation or changes to that plan. Specifically, the intended use the Property as a parking lot was identified under the Appendix called Park Master Plan, as highlighted below.

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PARK ACQUISITION

As the City of Bellaire continues to redevelop, the City should remain aware as to the future recreational needs of its citizer While it is difficult to predict what the city's space requirements will be in ten years, as old houses and buildings are to down for new development, acquisition opportunities may arise from time to time. Such acquisitions could include additior land and even structures of historic value which the Parks, Recreation and Facilities Department could convert to additior recreation and/or meeting space for the community. For this reason the Mayor, City Council, Parks and Recreation Advisc Board and the PATRONS for Bellaire Parks remain vigilant as to possible opportunities.

One of the goals concerning number of parks is to have a park within walking distance of every resident of Bellaire. T identified areas that lack parks are the Northwest and Southwest quadrants of the city. One way to meet that goal is to purcha property in those areas when they become available and then create mini or neighborhood parks depending on the size of t property. These parks serve people within a .25 - .50 mile radius.

Acquire additional green space and/or field space by pursuing cooperative arrangements with outside organizations. The C already has agreements with HISD schools for field use, CenterPoint Energy for Right of Way (ROW) use at Mulberry Park f the parking lot, future ROW use for Evelyn's Park by the railroad tracks by Bellaire Boulevard and United Methodist Chur for Evelyn's Park overflow parking. Negotiations have begun with NRG for use of the ROW on the east side of town for a bil pedestrian trail that will tie in with the proposed trail for the City of Houston.

Additionally, in accordance to the Proposed Future Land Use Map, the Property under the consideration is identified as Transmission Lines and not Suburban Residential underscoring the intent to use this land for uses other than Suburban Residential. This plan was developed and completed a five-year interim update process and unanimous adoption by City Council on September 21, 2015. The plan reinforces the fundamental importance of neighborhood integrity in the City of homes, as well as the priority residents place on parks and recreation opportunities, safe streets, and preservation of a small-town atmosphere amid a vast metropolitan region. The five-year update process was completed through interaction with the Planning and Zoning Commission and City departments, followed by public hearings and consideration at the Commission and City Council levels. The entirety of the plan content continues to reflect more extensive community outreach efforts in support of the major plan update in 2008-09, which included informal listening sessions hosted in residents' homes, a City Hall forum, nine working sessions with a City-appointed Comprehensive Plan Advisory Committee, and multiple workshops and hearings prior to final adoption.

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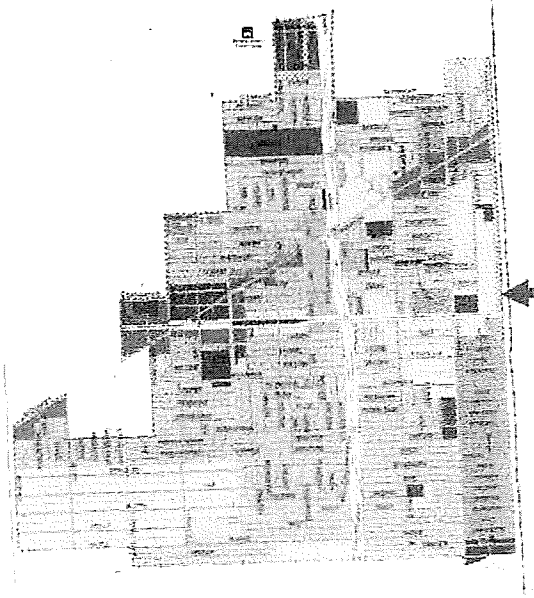
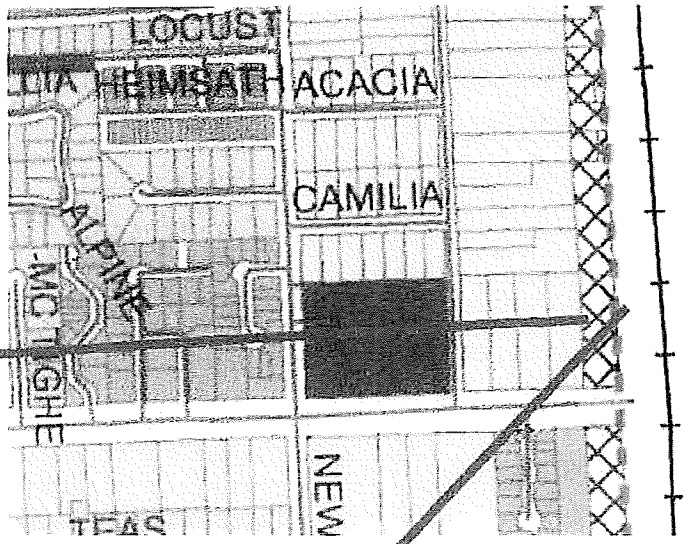
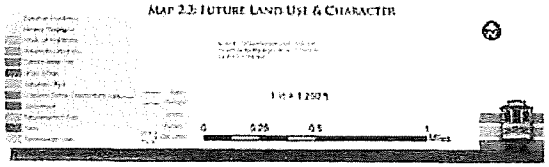
Proposed Future Land Use Map







MAP 2.2: FUTURE LAND USE & CHARACTER

- Suburban Residential
- General Residential
- Small Lot Residential
- Residential-Office Mix
- Corridor Mixed Use
- Urban Village
- Suburban Office
- N.Bellaire Special Development Area
- Government
- Redevelopment Area
- Parks
- Transmission Lines
- Water
- Railroad
- Streets
- Parcels
- City Limits

Note: A comprehensive plan shall not constitute zoning regulations or establish zoning boundaries.

1 in = 1,250 ft

0 0.25 0.5 1 M

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Exhibit A-10

City of Bellaire

DEVELOPMENT SERVICES

11/23/2020

CERTIFED FINAL NOTICE

HCAD #: 0370410000143
Legal Description: TRS 27E & 37A BLK 1
WESTMORELAND FARMS

CENTERPOINT ENERGY HOU ELE
PROPERTY TAX DEPT 38TH FLR
PO BOX 1475
HOUSTON TX 77251-1475

70190700000229239748

MM BELLAIRE ONE, LLC
ATT: John Morton
2425 West Loop South Ste.340a
Houston TX 77251-1475

70190700000229239755

EVELYNS PARK CONSERVANCY
ATTN: PARK DIRECTOR
4400 BELLAIRE BLVD
BELLAIRE, TX 77401

70190700000229239779

As you are aware, the Bellaire City Council failed to approve the zoning text amendments/SUP application for the parking lot improvement, generally located at 4300 Bellaire Blvd (HCAD Account #0370410000143). Therefore, those improvements are still considered to be non-compliant with the Zoning Ordinance. An accessory commercial parking lot is not a permitted use within the R-5 Residential Zoning District. As detailed in the Zoning Ordinance under Sections 24-534(B) and 24-510, this use is prohibited as an accessory use, as the primary use for this property is utility distribution and telephone lines.

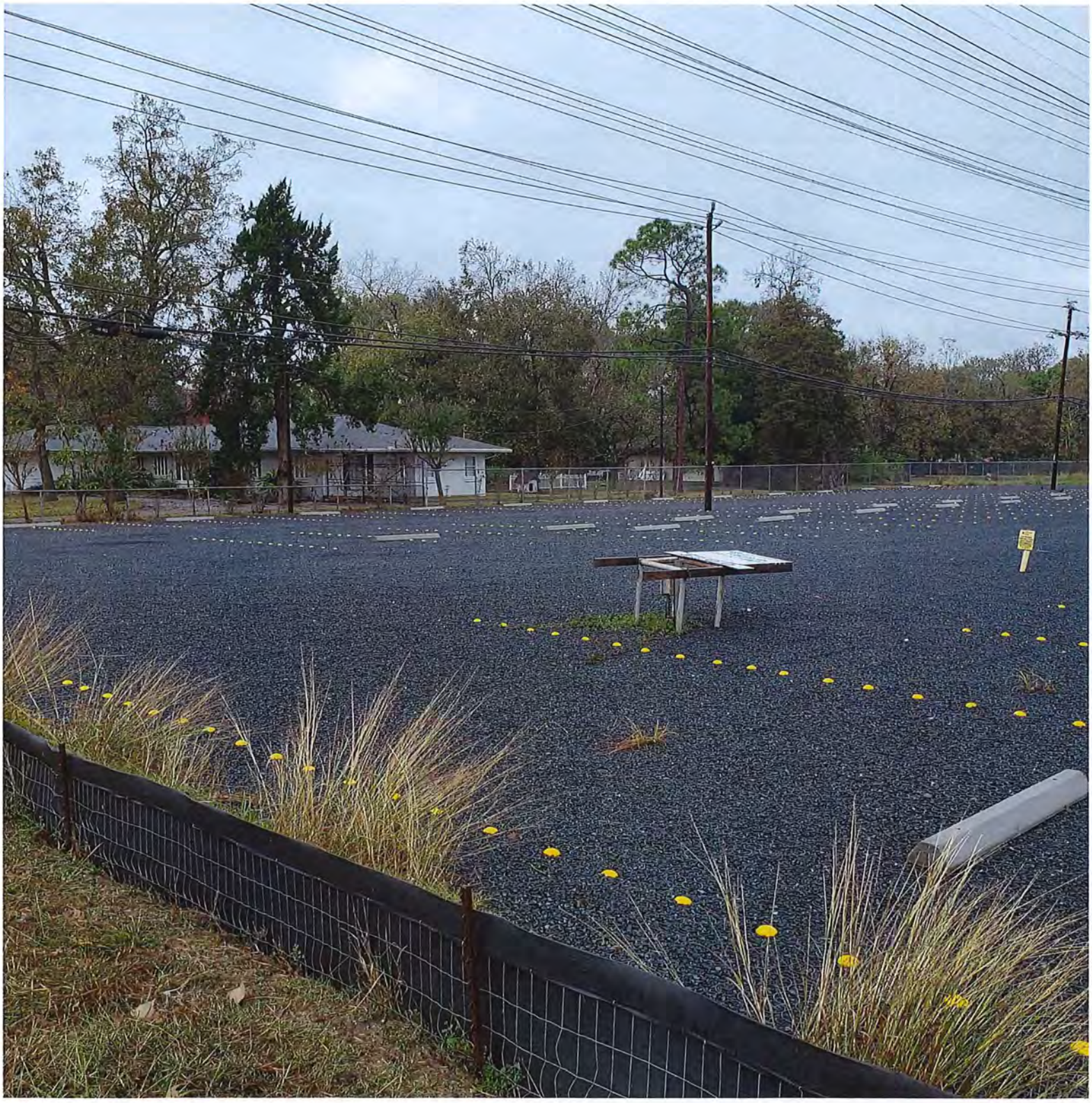
You are hereby notified that an application for demolition for the improvements located on the aforementioned property must be filed within 14 days from the date of this letter. There will be no extension granted, as this is the final notice. As a part of filling a permit to remove the improvements, the City is also requesting a schedule that outlines the timeline in which the demolition will take place. This includes, but is not limited to, the start date, days needed to remove, and a anticipated completion date. If weather delay could prolong the project, please make sure it is a part of the timeframe given.

Failure to meet the 14-day deadline will result in the issuance of a citation and possible fines, as permitted in Sec. 1-10 of the General Provisions of the Code of Ordinances.

City of Bellaire

DEVELOPMENT SERVICES

Sincerely,

ChaVonne Sampson
Director of Development Services

7008 South Rice Avenue, Bellaire, Texas 77401-4411
P 713.662.8222 | F 713.662.8212
www.bellairetx.gov