

# City of Bellaire

ORDINANCE NO. 22-\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, GRANTING A PLANNED DEVELOPMENT PERMIT PD—~~1~~-NBSDD TO SLS WEST LOOP, LP, FOR THE CONSTRUCTION OF A PLANNED DEVELOPMENT ON AN APPROXIMATELY 3.3-ACRE SITE LOCATED ON THE SOUTHEASTERN PORTION OF 5901 S. RICE AVENUE, WITHIN THE NORTH BELLAIRE SPECIAL DEVELOPMENT DISTRICT.**

**WHEREAS**, SLS West Loop, LP, has filed an application and request for a planned development permit for the construction of a commercial development on an approximately 3.3-acre site located on the southeastern portion of 5901 S. Rice Avenue (along Fournace Street between Anderson Steet and S. Rice Avenue), within the North Bellaire Special Development District in the City of Bellaire, Texas, consisting of three (3) 20-foot tall buildings, with an additional 5-feet for mechanical systems, along Fournace Place for restaurants, bars as an accessory, and general retail sales and services uses, a park between said three (3) buildings to allow for events, and a 65-foot tall building, with an additional 5-feet for mechanical systems, within the interior of the property for restaurant, bars as an accessory, amusement, studios for the arts or fitness, museum/art galleries, and general retail sales and services uses; and

**WHEREAS**, the Planning and Zoning Commission of the City of Bellaire, Texas ("Planning and Zoning Commission"), did, on September 9, 2021, hold a public hearing before the Planning and Zoning Commission on said application and request for a planned development permit, at the time and place noticed for such public hearing and all persons desiring to be heard were heard on or in connection with any part or provision of the application and request for a planned development permit; and

**WHEREAS**, the Planning and Zoning Commission, by memorandum dated November 18, 2021, from Ross Gordon, Chair of the Planning and Zoning Commission at the time, recommended the approval of the application and request for a planned development permit to construct a planned development on an approximately 3.3-acre site located on the southeastern portion of 5901 S. Rice Avenue (along Fournace Street between Anderson Steet and S. Rice Avenue), within the North Bellaire Special Development District in the City of Bellaire, Texas, consisting of three (3) 20-foot tall buildings, with an additional 5-feet for mechanical systems, along Fournace Place for restaurant, bars as an accessory, and general retail sales and services uses, a park between said three (3) buildings to allow for events, and a 65-foot tall building, with an additional 5-feet for mechanical systems, within the interior of the property for restaurant, bars as an accessory, amusement, studios for the arts or fitness, museum/art galleries, and general retail sales and services uses, with the inclusion of certain conditions on said planned development, said memorandum of which was accepted by the City Council, and a copy of which is attached hereto and marked Exhibit "A"; and

**WHEREAS**, the City Council did, on January 24, 2022, hold a public hearing before the City Council on said application and request for a planned development permit, at the time and place noticed for such public hearing and all persons desiring to be heard were heard on or in connection with any part or provision of the application and request for a planned development permit; and

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Ord. No. 22-\_\_\_

Page 13 of 103

Page 1 of 9

**WHEREAS**, the City Council has determined it to be in the best interest of the City of Bellaire, Texas, to grant said application and request for a planned development permit in accordance with the application, subject to the condition contained herein; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS:**

**Section 1.** That the recitals set forth above are found to be true and correct.

**Section 2.** That the application and request submitted by SLS West Loop, LP, for a planned development permit for the construction of a commercial development on an approximately 3.3-acre site located on the southeastern portion of 5901 S. Rice Avenue (along Fournace Street between Anderson Steet and S. Rice Avenue), within the North Bellaire Special Development District in the City of Bellaire, Texas, will consist of three (3) 20-foot tall buildings, with an additional 5-feet for mechanical systems, along Fournace Place for restaurant, bars as an accessory, and general retail sales and services uses, a park between said three (3) buildings to allow for events, and a 65-foot tall building, with an additional 5-feet for mechanical systems, within the interior of the property for restaurant, bars as an accessory, amusement, studios for the arts or fitness, museum/art galleries, and general retail sales and services uses, and that said construction will occur on an approximate 3.3-acre site as indicated and described in the Planned Development Application and site plan attached hereto as Exhibit "B".

**Section 3.** That the application and request submitted by SLS West Loop, LP, to construct a commercial planned development on an approximately 3.3-acre site located on the southeastern portion of 5901 S. Rice Avenue (along Fournace Street between Anderson Steet and S. Rice Avenue), within the North Bellaire Special Development District in the City of Bellaire, Texas, consisting of three (3) 20-foot tall buildings, with an additional 5-feet for mechanical systems, along Fournace Place for restaurant, bars as an accessory, and general retail sales and services uses, a park between said three (3) buildings to allow for events, and a 65-foot tall building, with an additional 5-feet for mechanical systems, within the interior of the property for restaurant, bars as an accessory, amusement, studios for the arts or fitness, museum/art galleries, and general retail sales and services uses, as set forth in the Planned Development Application and Site Plan attached hereto as Exhibit "B" is hereby approved and that all of the provisions of the Code of Ordinances of the City of Bellaire, Texas, not specifically in conflict herewith shall be applicable to said commercial planned development, subject to the following conditions:

a) ~~On an annual basis (no later than December 31<sup>st</sup> of each year),~~ Within thirty (30) days of receipt, the Applicant (or its successors) shall provide the City of Bellaire, Texas (the "City") with all relevant correspondence with the TCEQ and Chevron (or its successors) on the status of environmental monitoring, remediation, and/or closure activities related to the property. Should the Texas Commission on Environmental Quality issues a "No Further Action" determination, then no further action shall be required under this condition;

b) Prior to issuance of any building permit, the Applicant (or its successors) shall provide a letter from the Applicant (or its successors) indicating that all provisions of the special warranty deed are being followed. In the event that certain provisions are no longer being enforced, the Applicant (or its successors) must provide justification for why such provisions are no longer necessary;

c) Prior to issuance of any building permit which involves soil disturbance, a Soil and Ground Water Management Plan prepared by a licensed professional engineer shall be submitted, reviewed, and approved by the Building Official (or his/her designee). The recommendations of the approved Soil and Ground Water Management Plan shall be followed without exception. Any violation of the approved Soil and Ground Water Management Plan can result in an immediate construction stoppage and/or a revocation of the development's building permit;

d) Prior to the issuance of any building permit, the Building Official (or his/her designee) shall review submitted plans to confirm that an appropriate vapor barrier or venting system has been included;

e) As part of the fees associated with the Building Permit, the Applicant (or its ~~designees~~ successors) shall pay all costs associated with 3<sup>rd</sup> party construction monitoring and soil testing (contracted by the City of Bellaire) necessary to confirm that no contaminated soils are excavated and/or removed from the site, specifically including any park area, and that the Soil and Ground Water Management Plan is being strictly adhered to. In the event contaminated soils are encountered, construction must be immediately halted. In consultation with the Building Official (or his/her designee), an acceptable remediation action must be agreed upon by both the Applicant and the Building Official (or his/her designee) before soil excavation activities can continue;

f) Prior to initiation of any soil disturbance activities, the Applicant (or its successors) shall provide documentation that its earthwork and/or foundation contractors are Hazardous Waste Operations and Emergency Response (HAZWOPER) trained to perform excavation in areas with the potential for encountering impacted soils;

g) No certificates of occupancy shall be issued for the Planned Development until all environmental protection based tasks and requirements, as determined by the City's environmental consultant, are met;

h) The Applicant (or its successors) shall construct and maintain a privacy fence/wall of not less than 8' in height along the back lot line, separating the North Bellaire Special Development District from the adjacent residentially zoned properties on Mayfair. This fence/wall shall be of masonry construction unless an alternate fencing material is approved by the Building Official. Proper consideration shall be given to ensuring all land within the development is graded away from the fence line;

i) The Applicant (or its successors) shall install and maintain buffer trees, in accordance with Section 24-513, on the north side of the property between any structures and the residential homes on Mayfair. These required buffer trees must be placed outside the aerial easement and at a spacing and variety determined by City staff to best provide a continuous, dense, and appropriately tall vegetative buffer. In the event any of the required buffer trees die, the Applicant (or its successors) shall promptly replace the deceased tree with a similar tree of appropriate variety and size;

j) The City's noise ordinances will be strictly enforced;

k) To support mosquito abatement, any stormwater detention constructed shall be designed as a "dry" detention basin, with no permanent pool of water, and be designed to fully drain

within a reasonable duration after a storm event. If necessary, concrete pilot channels shall be constructed and maintained to prevent the occurrence of standing water within any detention features. Any detention basin proposed shall be designed to preferentially overtop/overflow inwards to the property and not toward the adjacent residential lots on Mayfair. Subsurface detention is an acceptable alternative, provided the Building Official (and/or its environmental consultant) approves;

l) All development activities shall meet or exceed the City's current drainage criteria. This includes, but is not limited to, strict compliance with all detention requirements related to new or disturbed/reconstructed impervious cover. Furthermore, existing drainage outfalls from the site, and the contributing drainage area to each outfall, shall be maintained to the maximum degree possible such that storm water discharge is not increased at any specific outfall;

m) All development activities shall meet or exceed the City's recently amended (2020, or more recent) Flood Damage Prevention ordinance. In the event new preliminary flood insurance rate maps have been issued for the City of Bellaire, with the intent to replace the current effective flood insurance rate maps, the preliminary flood insurance rate maps and accompanying preliminary flood insurance studies shall be used as the basis for establishing the areas of special flood hazard and moderate flood hazard;

n) In the event that water/wastewater utility connections/demand differ from that presented in the 2021 Utility Impact Analysis, specifically related to the square footage of the site serviced by the City of Bellaire versus the City of Houston, the Applicant (or its successors) must prepare and submit to the City a revised Utility Impact Analysis. Should the revised Utility Impact Analysis determine that any infrastructure improvements, including fire hydrants, are necessary to provide the desired utility service, the Applicant (or its successors) shall be responsible for the appropriate share of the cost of said infrastructure improvements;

o) Prior to the issuance of a certificate of occupancy, any shared parking within the planned development shall meet Section 24-514a(b)(1), shared parking table, of the Bellaire Code of Ordinances, and any parking that utilizes parking outside of the planned development must have a shared parking agreement, including recorded easements, that includes the conditions listed in Section 24-514a(c), shared parking among sites of different ownership, of the Bellaire Code of Ordinances and any other conditions determined necessary by City's Zoning Official;

p) Access to/from the 610 Frontage Road shall be maintained through all phases of development within the North Bellaire Special Development District, including during construction, to the extent reasonably practicable. Furthermore, the Applicant (or its successors) shall coordinate with TxDOT to secure continued allowance for the existing curb cut (entrance/exit), or a relocated curb cut further south, on the 610 Frontage Road; and should TxDOT approve the relocation of the curb cut applicant shall relocate the internal drive to the south within the development to accommodate access to the new curb cut;

q) In the event the development activities proposed in the Planned Development application do not have a building permit application submitted to the City within five years of the Planned Development approval date, the Applicant (or its successors) shall submit to the City a new Traffic Impact Analysis (based on new traffic counts) as part of the Building Permit process. Should

conditions differ from those projected in the original Traffic Impact Analysis, additional mitigation may be required, at the discretion of the City;

r) The Applicant (or its successors) shall ensure that sight distance triangles are preserved for turning movements from all site driveways which consider any landscaping, berms, or signing planned. As necessary, unobstructed visibility should be achieved with setbacks or limited height vegetation and landscaping. The design of site access driveways should be completed using an appropriate design vehicle to represent the largest common vehicle to access the site;

s) All site driveways shall be stop-controlled to public streets except for the southwest driveway on Fournace Place, which should be signalized. The traffic signal at Fournace Place and the southwest driveway should be reinstalled (fully upgraded to meet current City standards) by the applicant and placed into service at 60% occupancy of PD-~~261~~-NBSDD and PD-~~272~~-NBSDD, if approved, or when directed by the City. At the discretion of the City, pedestrian facilities at the intersection shall be provided by the Applicant (or its successors), if warranted;

t) The ~~applicant~~Applicant (or its successors) shall provide 2 exiting lanes (1 left and 1 right) for the three proposed driveways on Fournace (southeast, southwest, and west~~;~~) and the Applicant (or its successors) shall dedicate to the City a 10-foot roadway easement along Fournace for the construction of turning lanes into the site;

u) The planned development shall be one piece of property that is separately platted from the surrounding property, and the planned development shall not be re-platted (or have the plat amended) unless the planned development is amended;

~~v) High mast lighting on top of the parking garage must utilize full cutoff light fixtures. Along the northern face of any parking garage directly abutting a residential property, opaque screening shall be provided to block light from all levels and a natural or man-made barrier shall be provided to obstruct, to a reasonable degree, a direct line of sight from the second level of the parking garage into adjacent residential property, as agreed to by the Building Official and any parking garage shall be limited to 2 decks of parking;~~

~~w) Applicant shall not be permitted to charge for public parking in any parking garage;~~

~~x) Only wall lighting shall be utilized on the top floor of the parking garage.~~ Light fixtures within the parking garage and on top of the parking garage shall be on timers, or shall be motion activated, reducing the intensity of light to the minimum required to provide for public safety during times outside the hours of operation;

~~y) All development activities shall fully comply with the City's tree protection ordinances. As it relates to the tree disposition plan, the Applicant (or its successors) shall make all reasonable efforts to relocate mature trees with a caliper greater than 12 inches (not including undesirable trees) on site;~~

~~z) All development activities shall adhere to the site plan presented in the Planned Development application. Minor deviations to the site plan can be approved by the Building Official. However, any significant modification to (but not limited to) building locations and sizes, site layout, offsets, ingress/egress, traffic flows, or any other critical factor of the site plan shall require an~~

amendment to the Planned Development and no driveway access shall be provided from the site to Mayfair or Anderson;

y)aa) No individual “general retail and sales” tenant shall occupy more than 50,000 square feet in any single building without the express approval of the City Council of the City;

bb) No building shall be constructed with drive-thru or drive-in facilities;

cc) No building permit shall be issued for more than 60% of the combined approved development of PD-1-NBSDD and PD-2-NBSDD as calculated using the maximum square footage of the buildings approved for the two planned developments until South Rice has been widened by the addition of a signaled left turn lane in both the north and south directions;

dd) No building permit shall be issued for any building which when combined with the total of the building permits previously issued for the buildings within PD-1-NBSDD, PD-2-NBSDD and PD-3-NBSDD would cause the total square footage of the buildings permitted within the three planned developments to exceed 60% of the total maximum square footage of the building approved for development within the three planned developments without express approval of City Council of the City;

ee) Within PD-1-NBSDD and PD-2-NBSDD 60%, of square footage of the buildings constructed within the two planned developments combined shall be used for office space;

ff) All dumpsters with the development site shall be maintained interior to the buildings;

gg) The maximum height of any building permitted shall be 55 feet plus 5 feet for mechanical equipment;

hh) The Applicant (or its successors) shall install and maintain Flock cameras within the site and shall make data from such cameras available to the City's Police Department upon request. The number and location of such cameras shall be coordinated with the City's Police Department;

z)ii) During construction, all construction workers shall park on-site. Under no circumstances can construction workers park on residential streets. Furthermore, queuing or staging of construction vehicles (e.g. cement trucks or dump trucks) must occur within the construction site, and cannot occur on residential streets; and

aa)ij) During construction, an 8’ tall opaque construction fence or temporary wall shall be provided around the perimeter of the construction site. Damage to the construction fence/wall shall be promptly repaired immediately.

**Section 4.** That the number of the Planned Development shall be: PD~~---~~-1-NBSDD.

**Section 5.** That the planned development as granted herein shall be subject to any additional restrictions and limitations as are from time to time imposed by the City Council of the City of Bellaire, Texas.

**Section 6.** That this Ordinance shall be effective immediately upon its passage and adoption.

**PASSED, APPROVED and ADOPTED** this, the \_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

\_\_\_\_\_  
Andrew S. Friedberg  
Mayor

**ATTEST:**

\_\_\_\_\_  
Tracy L. Dutton, TRMC  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Alan P. Petrov  
City Attorney

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Ord. No. 22-\_\_\_\_\_

Page 19 of 103

Page 7 of 9