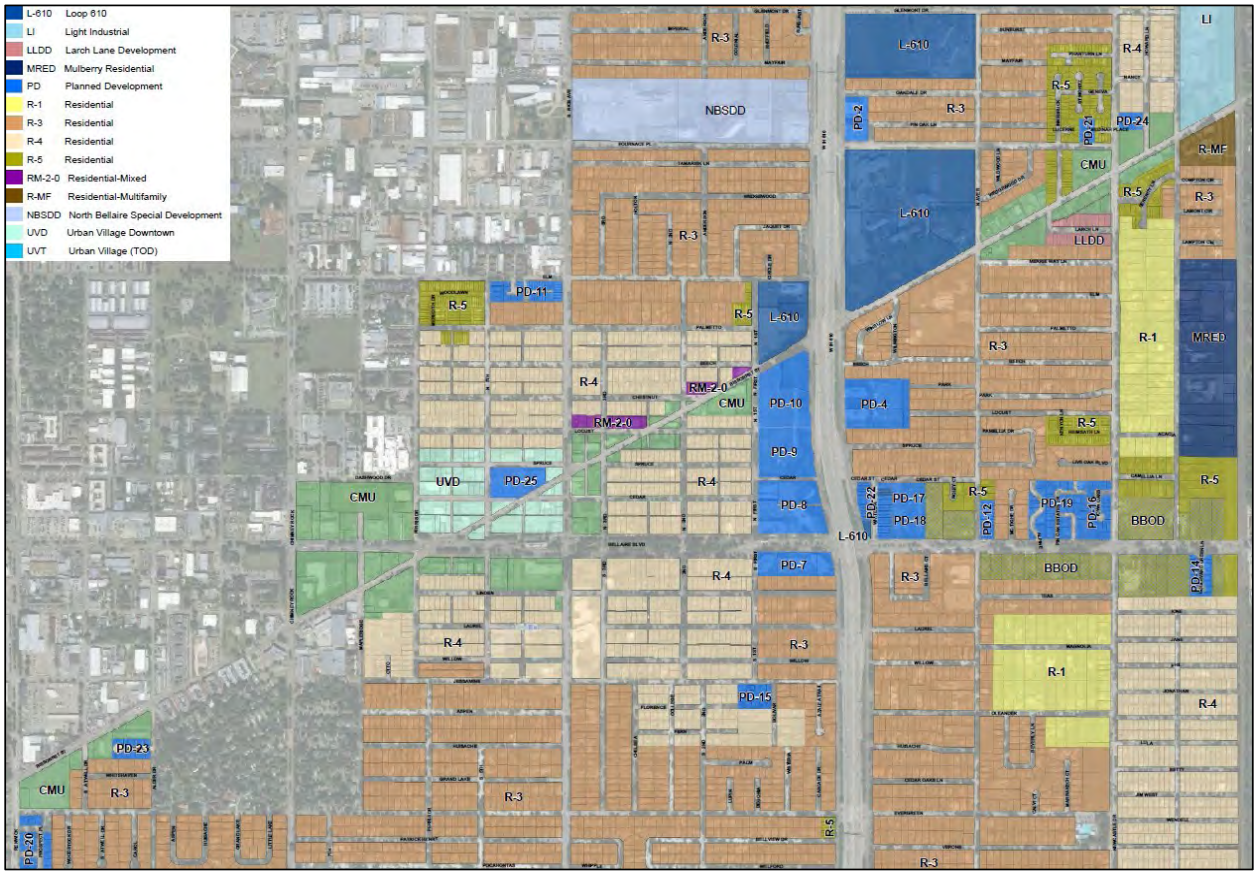
Bellaire Development Regulations Evaluation

2023 Comprehensive Plan Review

Kendig Keast Collaborative (KKC) is currently assisting the City of Bellaire to review and update its Comprehensive Plan. As stated in our scope of services:

> The current Plan update process is intended to focus especially on Chapters 2, 5 and 6 (Land Use & Community Character, Commercial Area Development & Enhancement, and Implementation) as they relate to Bellaire's commercial areas and zoning districts …"

As part of the plan review process, KKC was also charged with reviewing the City's existing zoning regulations and standards – likewise, with a focus on several key zoning districts for nonresidential and mixed-use development that were created based on policy direction and action items in the City's 2009 Comprehensive Plan. These are:



- The **Urban Village-Downtown (UV-D)** zoning district, which is found on the City's Zoning District Map in Bellaire's "City Center" area north of Bellaire Boulevard between S. Rice Avenue and Ferris Drive, north to the properties along the north side of Spruce Street.

  UV-D: https://library.municode.com/tx/bellaire/codes/code_of_ordinances?nodeId=PTIICOOR_CH24PLZO_ARTVZORE_DIV2ZODIRE_S24-537URVIWNDI

- The **Corridor Mixed Use (CMU)** zoning district, which is found on the City's Zoning District Map primarily on the eastern and westernmost segments of Bissonnet Street within the city, plus on blocks east, south and west of the UV-D core within the City Center area.

  CMU: https://library.municode.com/tx/bellaire/codes/code_of_ordinances?nodeId=PTIICOOR_CH24PLZO_ARTVZORE_DIV2ZODIRE_S24-536COMIUSDICM

Another district created after the 2009 plan – the **Urban Village-Transit Oriented Development (UV-T)** zoning district at the north edge of Bellaire, just west of Loop 610 along Westpark Drive – is not a prime focus of the current review. The planned METRO light rail line along Westpark, and the Bellaire rail station that was to be located in this area, never happened once federal funding was redirected from the project in the mid-2010s. Therefore, the future outlook for the area will need to be revisited in both the Comprehensive Plan and the zoning ordinance as the entire UV-T district, from its purpose statement to its envisioned use mix and development parameters, were directly tied to the relatively intensive transit-oriented development scenario that was envisioned for the area in 2009-2011.

Contents of This Paper

This briefing paper includes:

- Overall observations about the UV-D and CMU districts and related standards in City Code Chapter 24 for site and building design, landscaping and parking.

  CHAPTER 24: https://library.municode.com/tx/bellaire/codes/code_of_ordinances?nodeId=PTIICOOR_CH24PLZO

- A recap and itemization of key zoning provisions in these districts – starting with the UV-D district – as these specific parameters for development and redevelopment would be the focus of any potential amendments after the Comprehensive Plan review.
- Additional "independent" observations on the two districts and Chapter 24 overall from KKC's Code Practice Leader, who has no direct experience in and only general familiarity with Bellaire. He was not with KKC when the subject zoning districts were created after the 2009 Comprehensive Plan.

This is only a preliminary version of this briefing paper. It will be finalized later in the concluding Plan Implementation phase of the Comprehensive Plan review process. It is provided now as an interim draft for review and feedback, and to present highlights during the current Plan Direction phase. During the upcoming Bellaire Tomorrow phase, this paper will help frame and support essential discussions on whether some change in policy direction within the Comprehensive Plan is warranted to guide potential adjustments to certain zoning standards (at a later stage beyond the current Plan review effort). The finalized paper will then include resulting recommendations for potential updates to the zoning districts and standards that govern nonresidential and mixed-use development and redevelopment within Bellaire, especially to ensure consistency between the refreshed Comprehensive Plan and the City's implementing regulations.

Finally, it should be noted that KKC personnel are community planners and not attorneys. So, we offer these findings and observations based on our professional discipline and perspective, plus our experience working with the City and community of Bellaire. We defer to the City Attorney for ultimate guidance on all ordinance-related decisions or actions the City may take based on our consultant recommendations.

OVERALL OBSERVATIONS

There is nothing inherently "wrong" with the City's current UV-D and CMU zoning districts and standards. They reflect stated goals and policy intentions from that period of time in Bellaire. They were also approved by both Planning & Zoning Commissions and City Councils at the time that had gone through exhaustive processes of reviewing, modifying and refining the district provisions – before and after conducting public hearings, and before ultimately recommending and adopting them. The specific methods used for regulating development parameters such as building mass/height/setbacks, parking,

landscaping, and site and building design, among others, are also not unusual and are used by other municipalities – but customized to Bellaire in Chapter 24.

From initial and ongoing discussions for the Comprehensive Plan review, it is clear that some officials and residents find certain aspects of UV-D and CMU inconsistent with Comprehensive Plan intentions – and/or that more clarity is needed in the Plan as already discussed early on for the Plan review process. Additionally, one can reasonably take exception to:

- The previously adopted goals and policy intentions in the Comprehensive Plan that led to the specific UV-D and CMU zoning framework;
- Provisions that were designed to incent particular outcomes and/or provide some measure of relief to constrained sites to encourage beneficial redevelopment, especially given the street pattern and physical layout of the City Center area and the many shallow frontage properties along Bissonnet; and/or
- The on-the-ground results that have since occurred based on the current Plan and development regulations (with the H-E-B redevelopment mentioned most often).

Recent development/redevelopment applications have also led to productive debate about community desires and tolerances that will be helpful as the Comprehensive Plan review process continues.

The place to start in revisiting the districts and standards, for potential amendments, is the purpose statement for each district. The statements set the direction and tone for all that follows, and they are the link back to the Comprehensive Plan direction and guidance. Reviewers of Chapter 24 should also note how the purpose statements for the newer UV-D and CMU (and UV-T) districts provide much more depth than other longstanding districts within the zoning ordinance.

The “General” portion of the UV-D district mentions themes such as:

- Mix of uses.
- Style of development intended to reinforce the "small town" downtown feel desired by Bellaire residents, including opportunities for shopping, services, dining and entertainment.
- Destination downtown. [Not what this area of Bellaire has offered for various reasons.]
- High-profile area of community … District standards require that more visible landscaping and green elements be incorporated on all sites, including within off-street parking areas and any higher-intensity residential or mixed-use developments that emerge within the district.

The content presented in the table below breaks out the UV-D district standards into their many component parts, involving a range of typical regulatory parameters as listed above. A similar exercise is currently in process for the CMU district, although many of the same parameters apply in both UV-D and CMU, sometimes with different levels of standards (e.g., for building height, setbacks, etc.). These specifics will again be the key decision points for any potential ordinance adjustments, along with the higher-level purpose statements and broader language of Chapter 24. **Items in bold in the “Specific Regulatory Parameters” column** have proven most concerning to some in the intervening years since the UV-D district was established, based on leadership and community discussions to this point.

District Purpose Excerpt for Urban Village-Downtown (UV-D)	Specific Regulatory Parameters	Pertinent Chapter 24 Content
	Character Portion of Purpose Statement	
… transition to a **more Urban development character** through redevelopment … provide the **critical mass** the area has always lacked to **spur greater foot traffic** and extended visits that are essential to a vibrant mix of retail, service and hospitality businesses	▪ Mixed use permitted, including for "small-scale" (<one-acre) developments.	Sec. 24-537 B(1)g)
	▪ Reduced lot area and width, setbacks, greater height (base 40 ft), minimum 30-foot height with 2+ working stories at front building line, and minimum floor area for single-family attached dwellings.	Sec. 24-537 C(2)a)
	▪ **Similar reduced/increased parameters for commercial uses and small-scale (<1-acre) mixed use, including minimum 30-foot height with 2+ working stories at front building line, and greater height (base 40 ft).**	Sec. 24-537 C(2)b)
	▪ **Similar reduced/increased parameters for larger-scale mixed use, including minimum 30-foot height with 2+ working stories at front building line, and greater height (base 53 ft).**	Sec. 24-537 C(2)c)
	▪ **Maximum gross residential density of 30 units per acre for multi-family dwellings within a mixed-use development.**	Sec. 24-537 C(2)b)8)b) and C(2)c)6)b)
	▪ Base 1.0 floor area to site area ratio (FAR) for commercial, mixed-use and Planned Development projects with only surface parking, with potential FAR bonuses for providing certain development features.	Table 24-537.A
	▪ FAR bonus for commercial, mixed-use and Planned Development projects if no off-street parking (surface, drive-under or garage) abuts a public street or sidewalk.	Table 24-537.A
	Landscaping Requirements ▪ Required openings through perimeter parking area landscaping approximately every 50 feet, "for pedestrian and bicycle circulation to and from public sidewalks or other circulation routes."	Sec. 24-513 E(2)a
	▪ Waiver of parking structure screening when the structure is "wrapped with liner buildings that accommodate active uses other than parking."	Sec. 24-513G
	Design Standards ▪ Purpose statement includes: "For the Urban Village-Downtown (UV-D) and Urban Village-Transit-Oriented Development (UV-T) districts, certain standards within this Section, together with the use regulations and physical development standards for each district, are especially intended to promote and maintain an Urban development character as described in the respective district purpose statements."	Sec. 24-513a A(1)
	▪ Placement of buildings on same or adjacent sites to "appear as a group of attached buildings to the extent practical."	Table 24-513a.A
	▪ Encouraged use of canopies and awnings on building and parking structure façades adjacent to and above public sidewalks and other public spaces to provide shade and weather protection and to add visual interest to structures.	Table 24-513a.A

District Purpose Excerpt for Urban Village-Downtown (UV-D)	Specific Regulatory Parameters	Pertinent Chapter 24 Content
	▪ Primary building entries that are easily identifiable for visitors, with the building architecture reinforcing the visual importance of the entry, and the entry design pedestrian-scale and transparent.	Table 24-513a.A
	▪ Maximum curb cuts along public street frontages (base minimum 100-foot spacing) and limits on driveway widths to minimize vehicle-pedestrian conflict points at mid-block locations along public sidewalks, enhance the pedestrian environment within the district, and preserve the extent of curb space for on-street parking.	Table 24-513a.A
	▪ Crosswalk treatments with contrasting texture and color wherever an access driveway, alley, vehicular access easement or other vehicular circulation path crosses a public sidewalk or other pedestrian path.	Table 24-513a.A
	▪ Access points for off-street parking areas and parking structures, where vehicles cross a public sidewalk or other pedestrian path, must be well lit to ensure visibility of pedestrians and bicyclists.	Table 24-513a.A
	▪ Internalized design of multi-family development, with entries to all dwelling units located in the interior of the building.	Table 24-513a.A
	▪ For any residential development, orientation of all garage doors away from, and so not visible from, any public street right-of-way inside or outside the district (for both pedestrian orientation of streets and aesthetic reasons).	Table 24-513a.A
	▪ Minimum 10-foot-wide sidewalks along each side of a site that abuts a public street, with a public access easement established where any portion of the required sidewalk is outside City street right-of-way.	Table 24-513a.A
	▪ Arcades allowed along building façades to provide shelter and shade, if entirely outside the public right-of-way, with adequate pedestrian-level lighting under the arcade for visibility and security.	Table 24-513a.A
	▪ For transparency of nonresidential uses that face public street rights-of-way, plazas or spaces, at least 60% of the ground-level façade must have windows for product display or other active building uses, together with door openings, that allow views into and out of the interior of the building.	Table 24-513a.A
Encouraging **housing options** adds another important element by putting full-time residents in the area with expectations for a safe and hospitable environment in which to live, recreate, and host guests and visitors.	▪ Attached single-family dwellings permitted (5+ contiguous lots, only at UV-D edges near R zoning districts).	Sec. 24-537 B(1)c)
	▪ **Mixed use with residential component permitted.**	Sec. 24-537 B(1)g)

District Purpose Excerpt for Urban Village-Downtown (UV-D)	Specific Regulatory Parameters	Pertinent Chapter 24 Content
Keys to an Urban character are **relatively small block sizes** (or pedestrian routes through larger blocks) …	*NOTE: This statement, which also applied to UV-T, would likely come into play only through significant redevelopment projects that involve splitting an existing larger block into smaller pieces through introduction of new internal streets. There is no specific provision in UV-D to require this outcome, although it could be raised through a Planned Development review process.* ***Design Standards*** ▪ "Where applicable, depending on the district size and shape and the nature and extent of proposed development or redevelopment, blocks shall be arranged in an approximate grid-like fashion to ensure connectivity and alternate circulation routes within the district."	Table 24-513a.A
	▪ "Where applicable, depending on the district size and shape and the nature and extent of proposed development or redevelopment, the length of a block, on any side, generally shall not exceed 400 feet. This distance is measured between streets that frame and define a block; however, a public access way or easement shall also be considered to define a block when, in the same manner as a vehicular through street, such access way or easement creates a break between private development sites that provides continuous non-vehicular circulation between streets on either side of the development sites."	Table 24-513a.A
… **more intensive site development and coverage** …	▪ Reduced lot area and width, setbacks, greater height (base 40 ft), minimum 30-foot height with 2+ working stories at front building line, minimum floor area, and 90% maximum lot coverage for single-family attached dwellings.	Sec. 24-537 C(2)a)
	▪ **Similar reduced/increased parameters for commercial uses and small-scale (<1-acre) mixed use, including minimum 30-foot height with 2+ working stories at front building line, greater height (base 40 ft), and 90% maximum lot coverage.**	Sec. 24-537 C(2)b)
	▪ **Similar reduced/increased parameters for larger-scale mixed use, including minimum 30-foot height with 2+ working stories at front building line, greater height (base 53 ft), and 90% maximum lot coverage.**	Sec. 24-537 C(2)c)
	▪ **Maximum gross residential density of 30 units per acre for multi-family dwellings within a mixed-use development.**	Sec. 24-537 C(2)b)8)b) and C(2)c)6)b)
	▪ Base 1.0 floor area to site area ratio (FAR) for commercial, mixed-use and Planned Development projects with only surface parking, with potential FAR bonuses for providing certain development features.	Table 24-537.A

District Purpose Excerpt for Urban Village-Downtown (UV-D)	Specific Regulatory Parameters	Pertinent Chapter 24 Content
	▪ Site area credit for larger-scale mixed use and Planned Developments where site abuts an alley or vehicular access easement.	Sec. 24-537 C(2)c)1)(b) and C(2)d)1)(a)
	▪ **Maximum base 79-foot building height for Planned Developments.**	Sec. 24-537 C(2)d)3)
	▪ **Maximum site coverage for Planned Development established by approved site plan.**	Sec. 24-537 C(2)d)5)
	Off-Street Parking and Loading ▪ Applicability to UV-D of the allowance for up to 50% of required parking to be provided off-site, subject to maximum distance and other conditions.	Sec. 24-514 C(2)
… **reduced reliance on off-street surface parking** …	▪ Commercial surface parking lots not permitted (commercial parking garages require specific use approval).	Sec. 24-537 B(2)c)1)
	▪ Potential FAR bonuses for mixed-use and Planned Development projects that provide some or all parking as garage or drive-under parking versus surface parking.	Table 24-537.A
	Off-Street Parking and Loading ▪ Allowance for on-street, over-the-curb (versus off-street) loading in UV-D from 7:00 a.m. to 10:00 p.m.	Sec. 24-514 G(5)
	▪ Shared parking provisions for mixed-use developments to enable reduction of usual required parking for individual uses, subject to conditions.	Sec. 24-514a (b)
	▪ Shared parking provisions for adjoining developments under different ownership, subject to conditions.	Sec. 24-514a (c)
(*continued from last item*) … and **greater architectural enclosure** of public streets and spaces to support a pedestrian orientation.	▪ **Minimum 30-foot height with 2+ working stories at front building line for single-family attached dwellings.**	Sec. 24-537 C(2)a)4)
	▪ Maximum zero setback for at least 50% of front façade of single-family attached dwellings.	Sec. 24-537 C(2)a)7)(a)i
	▪ **Minimum 30-foot height with 2+ working stories at front building line for commercial uses and small-scale (<1-acre) mixed use.**	Sec. 24-537 C(2)b)4)
	▪ **Maximum zero setback for at least 75% of front façade of commercial uses and small-scale (<1-acre) mixed use.**	Sec. 24-537 C(2)b)6)(a)i
	▪ **Minimum 30-foot height with 2+ working stories at front building line for larger-scale mixed use.**	Sec. 24-537 C(2)c)2)
	▪ **Maximum zero setback for at least 75% of front façade of larger-scale mixed use.**	Sec. 24-537 C(2)c)4)(a)i
	▪ Minimum height for Planned Developments established by the approved site plan.	Sec. 24-537 C(2)d)2)
	Design Standards ▪ Clustering of buildings on same or adjacent sites to "create pedestrian-oriented precincts and walkable connections."	Table 24-513a.A

District Purpose Excerpt for Urban Village-Downtown (UV-D)	Specific Regulatory Parameters	Pertinent Chapter 24 Content
	▪ Arrangement and design of individual buildings or groups of buildings on a development site or adjacent sites to form pedestrian-friendly outdoor plaza areas, courtyards and open spaces that are focal points for surrounding and nearby development and which encourage street activity, public gathering, outdoor dining, recreation, etc. (with associated amenities such as landscaping, street furniture, water features, public art, active play areas for children, etc.).	Table 24-513a.A
	▪ For buildings that front on public street rights-of-way and/or public plazas/spaces, exterior lighting that is located and directed to provide adequate pedestrian-level illumination of public sidewalks and other immediately adjacent public ways and/or seating areas.	Table 24-513a.A
Uses Portion of Purpose Statement		
This district provides for a **mix of** commercial, office, civic and entertainment **uses appropriate for an Urban character setting**, and **especially for new residential presence** to add built-in demand for local shopping and services.	▪ Permitted residential and nonresidential uses, with mixed-use and Planned Development options, plus accessory uses. ▪ Specific uses. ▪ Temporary uses.	Sec. 24-537B
	▪ Mixed use permitted.	Sec. 24-537 B(1)g)
	▪ Minimum use mix for larger-scale mixed use (each different use must occupy at least 5,000 square feet or 10 percent of the total floor area of the development, whichever is greater).	Sec. 24-537 C(2)c)1)(a)
Land assembly and **master-planned development** is encouraged …	▪ Planned Development option, if minimum site area met.	Sec. 24-537 B(1)h)
	▪ FAR bonus for each one acre of additional site area beyond the minimum required for commercial, mixed-use and Planned Development projects.	Table 24-537.A
	▪ FAR bonus for each 1,000 sq ft, up to 5,000 sq ft total, of "amenity space" (such as an on-site public plaza, pocket park or other public open space, or an on-site outdoor seating area associated with a restaurant use) as part of commercial, mixed-use and Planned Development projects.	Table 24-537.A
	▪ Minimum 1-acre site area for mixed-use development with greatest height allowance (base 53 ft).	Sec. 24-537 C(2)c)1)
(*continued from above*) … as is **vertical mixing of uses in buildings** that accommodate upper-floor residential, office or other uses above **street-level retail and services**	▪ **Mixed use with residential component permitted.**	Sec. 24-537 B(1)g)
	▪ Maximum FAR bonus for mixed-use and Planned Development projects that provide all garage versus surface parking – and that have 75%+ of all ground floor space along public streets in general retail sales and services or restaurant uses.	Table 24-537.A

District Purpose Excerpt for Urban Village-Downtown (UV-D)	Specific Regulatory Parameters	Pertinent Chapter 24 Content
	Design Standards ▪ Location of off-street parking and/or garage parking within the interior of blocks and away from public street frontages whenever practical, and with the ground level of structures that front on public sidewalks occupied by active retail, service, office, residential or other uses permitted in the district. "Wrap-around" design of active uses around parking garages is strongly encouraged.	Table 24-513a.A
(*builds on items above*) This pattern is most appropriate in **pedestrian-oriented areas**, but also **along busy arterial streets** through the district where frontage properties are less conducive for stand-alone residential use.	▪ Maximum FAR bonus for mixed-use and Planned Development projects that provide all garage versus surface parking – and that have 75%+ of all ground floor space along public streets in general retail sales and services or restaurant uses.	Table 24-537.A
	Landscaping Requirements ▪ Waiver of parking structure screening when the structure is "wrapped with liner buildings that accommodate active uses other than parking."	Sec. 24-513G
Unusually shaped and undersized building sites, caused by the diagonal orientation of Bissonnet through the community, pose a particular challenge in some parts of the district, which is also good reason to encourage more vertical development where appropriate.	***Landscaping Requirements*** ▪ Allowance for required perimeter landscaping and screening of surface parking to be placed within the adjacent public street right-of-way upon City administrative approval, which contributes to UV-D aesthetics while providing some relief to constrained sites.	Sec. 24-513 C(3)
	▪ Waiver of interior parking lot landscaping "given the limited developable area within the district," with the required trees shifted to perimeter screening of surface parking areas where applicable.	Sec. 24-513 F(5)
	▪ Planning & Zoning Commission ability, upon recommendation of the City's administrative official, to "modify or reduce landscaping requirements, to the minimum extent necessary, to provide relief for constrained and/or redeveloping sites in the UV-D and UV-T districts where full compliance would be impractical and adjacent properties would not be unreasonably impacted."	Sec. 24-513 H(2)

Particular limitations in UV-D include:

- Restricted location (near district edges) and minimum number of contiguous lots (5) for single-family attached dwellings. [Sec. 24-537B(1)c)]
- Limitations on multi-family dwellings:
  - Permitted only as part of mixed-use developments. [B(1)g)]
  - Can never be more than 15% of total gross developed floor area within UV-D, excluding the floor area of any parking structures. [B(4)]
  - Maximum gross residential density of 30 units per acre. [C(2)b)8)b) and C(2)c)6)b)]

  - Cannot be the sole principal use in a freestanding building. Can only be constructed as part of a building which includes one or more principal nonresidential uses that are: (a) permitted in the district, and (b) occupy at least 25% of the total gross floor area of the building (not counting any floor area used for parking). [C(2)c)1)(a)i.]

- Planned Development applications must still meet minimum site area, maximum building height, height-setback plane and maximum floor area to site area ratio (FAR, with potential development intensity bonuses). [B(1)h]
- Bars permitted only when accessory to certain principal uses. [B(1)i)2)]
- Vehicle washing permitted only as an accessory service use within a parking structure, subject to other conditions. [B(1)i)3)]
- Specific use approval required for commercial uses with drive-in or drive-through facilities. [B(2)a)]
- To increase the setback of upper portions of taller buildings adjacent to R districts, a height-setback plane (plus supplemental tree planting for buffering) is applied to single-family attached dwellings, commercial uses and small-scale (<1-acre) mixed use, larger-scale mixed use, and Planned Developments. [Under Development Standards for particular uses in subsection C.]
- On district edge properties adjacent to R districts that involve commercial uses or small-scale (<1 acre), larger-scale mixed use, or Planned Developments, required placement on front half of lot of "any outdoor seating, assembly or other area that is partially or entirely outside the principal structure and intended for patronage by or service to customers of the use." [Under Development Standards for particular uses in subsection C.]

Additional UV-D standards include:

- More intensive street tree planting (30- versus 40-foot spacing along streets in UV-D). [Sec. 24-513C(1)a)]
- Mitigation of building mass, where a building is more than 60 feet in length, through clustering of required tree plantings at maximum 50-foot intervals. [Sec. 24-513C(2)d), and also cited in the Design Standards in Table 24-513a.A]
- Required location of dumpsters and garbage bins behind principal buildings relative to public street frontage whenever practical, and for trash receptacles to be accessible from alleys or vehicular access easements where available and practical. [Sec. 24-513D(4)b)1)]
  - Also, required use of an opaque wall rather than a wood fence alternative, as allowed in other zoning districts, to fully enclose solid waste facilities. [Sec. 24-513D(4)b)2)]
  - No other outside storage besides trash receptacles. [Sec. 24-513D(5)]
- Screening of parking structures and drive-under parking with ground-level landscaping, plus use of architectural or landscape treatments to screen upper levels. [Sec. 24-513G]

Along with those linked to the UV-D district purposes in the table above, other elements of the Design Standards adopted in 2014 through new Section 24-513a that apply to the UV-D district include (all found in Table 24-513a.A):

- Unified and coordinated design of multiple structures on a single property.
- Compatibility of private and public design of building architecture and other on-site elements where a development fronts on an existing or planned adjacent public plaza, pocket park or other public space.

- Screening of parking structures and their vehicle entries, where active uses along the ground-level street frontages of a parking structure are not practical, to minimize views into the garage interior from adjacent streets.
- Consistent lighting design for building exteriors and parking areas to match the architectural character of the site and its vicinity in terms of fixtures and illumination.
- Functional or faux balconies required with at least 50% of the units in a multi-family use to vary large building facades and add visual interest.
- Design of parking structures for architectural consistency with the primary building served or other nearby buildings in terms of façade design, articulation, finish materials and/or shielding of unfinished structural elements and mechanical equipment. Also, use of architectural and/or landscape elements which enhance the garage appearance and help to screen parked vehicles and interior lighting from external view (e.g., decorative screens, trellises with or without associated vegetation, façade and roofline variation).
- Underground installation of all local utility wires, not including high-capacity power transmission lines.
- Visual interest and anti-monotony provisions for the exterior walls of structures that are visible to public view, including:
  - Horizontal variation along segments of facades relative to the building line to avoid long straight walls, which also helps reduce the apparent mass of a building.
  - Similar vertical variation along rooflines to avoid long straight segments of flat roof at the tops of facades – and encouragement of other design treatments such as functional or faux dormers, gables, towers, or chimneys.
  - Façade design techniques and surface treatments to avoid large sections of uninterrupted blank walls.

INDEPENDENT OBSERVATIONS

The observations in this section were provided by KKC's Code Practice Leader, who focuses daily on drafting and updating development regulations for client communities across Texas and in other states, but has no direct experience in and only general familiarity with Bellaire. He was not with KKC when the subject zoning districts were created after the 2009 Comprehensive Plan. Therefore, his observations on the UV-D and CMU districts, and on Chapter 24 in general, are based on a very literal reading of the regulations in question, and with nationally recognized best practices for land use and development standards in mind.

Observations Related to Core District Purposes

- The use lists for CMU and UV-D, at Sec. 24-536B(1)d and Sec. 24-537B(1)g respectively, include single-family attached and multi-family dwellings. The lists do not include **more contemporary housing types** such as live-work units, and they do not specifically call out upper-story residential – although this can occur in both districts through mixed-use or Planned Development applications. Also, the UV-D purpose statement does mention "vertical mixing of uses in buildings that accommodate upper-floor residential" among the encouraged UV-D outcomes.
- Both the CMU and UV-D districts were intended to provide for a broader range of housing needs for Bellaire residents, along with encouraging mixed-use development and some residential presence in the districts in support of commercial uses. For this reason, **accessory dwelling units (ADUs)** might be added to the permitted accessory uses in both districts at Sec. 24-536B(1)f) and 24-537B(1)I) respectively. Currently, these sections reference Sec. 24-510, which does allow accessory structures and uses "in any zoning district in connection with any principal use lawfully

existing within such district provided that all accessory structures or uses shall meet the development regulations for the zoning district in which the structure or use is located, in addition to the further requirements of this Section." A better approach might be to call out ADUs specifically in the CMU and UV-D districts along with more explicit ADU standards appropriate to these districts.

- Regarding the minimum lot and site area provisions in the UV-D district in Sec. 24-537C(2), the minimum lot standard of 2,500 square feet for single-family attached dwellings and 5,000 square feet for commercial and small-scale (under one-acre) mixed-use development sites are relatively small. However, they could be even smaller to promote greater land utilization within the limited area of the UV-D district. To work toward achieving a "small town" feel, nonresidential uses could also have **maximum site or floor areas** to have a finer grain of land uses and buildings.
- Aside from the development intensity standards and potential bonuses provided in Table 24-537.A, the UV-D provisions do not include **incentives specifically for infill development**. Such incentives typically would involve density or height bonuses tied to the surrounding context of buildings either on the same block face, along both sides of the street or on the entire block.

Procedural Provisions

- The CMU and UV-D districts provide for Planned Development (PD) applications in Sec. 24-536B(1)e) and 24-537B(1)h). The district provisions could also provide transitional and compatibility standards that could guide an applicant away from going through the PD process as it often introduces substantial process and outcome uncertainty for the applicant, nearby property owners and general public, and City decision-makers and staff.

Other Observations About the Districts and Chapter 24 Overall

Legal Compliance Considerations (for City Attorney review)

- The **use of the term "church"** while ignoring other religious institutions runs afoul of the federal Religious Land Use and Institutionalized Persons Act. In addition, the ordinance differentiates secular places of public assembly from religious places of public assembly.
- The **sign provisions**, which apply to the UV-D and CMU districts among others, are not content-neutral as mandated by the U.S. Supreme Court in 2015 (*Reed v. Town of Gilbert)*. Based on this ruling, cities across the nation amended their sign regulations to ensure they focus only on structural characteristics, placement and timing rather than by what signs say or their purpose. Sign types that by virtue of their name are not content-neutral include: business flag, community event, community service, for sale, leasing, multi-party and construction.
- The Design Standards table (Table 24-513a.A) mostly does a good job of avoiding standards that dictate **exterior building materials**, which would be contrary to Texas Local Government Code Section 3000.002. However, the requirement that freestanding canopies in the CMU and R-MF districts be "consistent with the architectural style, *predominant and accent materials* [*emphasis added*], color, and lighting of the principal building on the development site" gets close to requiring certain exterior materials for such structures.

Specific Provisions

- The standards for **dumpster screening** in Sec. 24-513D(4)b, which apply only in the UV-D and UV-T districts, would be helpful to apply citywide.
- The paragraph at Sec. 24-513a.A(2), calling for a security emphasis in the CMU, R-MF, UV-D and UV-T districts, lacks specific standards related to **Crime Prevention Through Environmental Design (CPTED)** or requiring review by the Police Department or by someone knowledgeable of CPTED principles and methods.

- Types of potential **off-street parking reductions** offered in Sec. 24-514a do not include newer incentives such as for providing bicycle parking, ride-sharing spaces or electric vehicle charging stations.
- The provisions in Sec. 24-514a(c), for **shared parking among sites under different ownership** in the CMU, UV-D and UV-T districts, lack a requirement to record the agreement with the County Clerk so that future land owners are aware of the shared parking agreement. This should be a "painless" addition as there is an existing requirement to record easements related to cross-access and other features.
- Table 24-514a.C, related to **required vehicle stacking spaces** in the CMU district, focuses on land uses with drive-through arrangements, including in the row for all other potential uses labeled "Generally (if not listed below)." Other land uses may need stacking provisions such as mini-warehouses or apartment sites.

Terminology

- **Inconsistent terminology** is an issue. The UV-D district is established in Sec. 24-501, Districts Established, as "UVD." However, later the ordinance uses the "UV-D" abbreviation. This could have significant consequences if a potential applicant searches through the ordinance for one district abbreviation and not the other, thus walking away with an incomplete picture of everything that is required.
- The use of **"Specific Use" terminology** throughout Chapter 24 can be very confusing when a zoning ordinance has broad use categories (such as Household Living; Educational Facilities; Retail Repair, Sales, and Service; etc.) and "specific" uses that make up those use categories. A change in terminology to "Conditional Uses" or "Special Uses" would be helpful.
- "Tobacco or Vape Shop" is a more contemporary term for "**Head Shop**," which is used in the Uses sections for CMU (Sec. 24-536B) and UV-D (Sec. 24-537B) – and also in the North Bellaire Special Development District (Sec. 24-544B(2)c)) and the UV-T district (Sec. 24-547B(4)o)) – and defined at Sec. 24-202(83.5).

Format

- The ordinance lacks **graphics** that make the regulations more understandable to the average user.
- The **many levels of sections and subsections**, with their associated numbering and lettering, make the content of Chapter 24 excessively difficult to read and navigate for everyone from regular users to one-time readers. This complexity likely explains some errors during codification such as the incorrect indentation of the "Size and area" subsection heading at 24-536C(2) of the CMU district.
- The UV-D and CMU districts contain **repeating provisions** that take up a lot of space, which is characteristic of how all districts are structured within Chapter 24. More importantly, if amendments are made to one repeating Section, the City must be careful to ensure the same changes are made in all other instances of the same content to avoid creating inconsistencies within the Chapter.

This latest review of Chapter 24 also reinforces the clear benefit of a Unified Development Ordinance (UDO) approach. Many cities across Texas and the nation have migrated their zoning, subdivision and related development regulations to a UDO format in recent decades. A UDO better arranges and cross-references all regulations and standards related to land use, building bulk and height, site and building design, landscaping, parking, signage and other provisions that would apply to particular development and redevelopment applications. A UDO also provides a more consolidated and unified presentation of all application, review, public notice/hearing, approval and other administrative procedures that would apply in various scenarios.

Previous Chapter 24 Observations

Finally, we also refer back to general observations about Chapter 24 we made in May 2020, when we had been retained by the City to assist the Planning & Zoning Commission as it worked to recommend a new zoning framework for the Technical Research Park District (TRPD) given the sale of the Chevron property in north Bellaire. Early on, we made this point to the Commission:

1. **Need to work within the reality of current Chapter 24.** As in various smaller and largely built-out cities, with other priorities and limited municipal resources, the Commission and City staff are having to work within the existing structure and content of a zoning ordinance that has not been comprehensively updated in decades. These overall deficiencies are also not something that can be resolved through targeted amendments to create a single new zoning district.

   Part of our charge is to help the Commission ensure that the draft NBSD provisions reflect "best zoning practices." However, as when we previously assisted the City to create the Urban Village-Transit Oriented Development (UV-T), Urban Village-Downtown (UV-D) and Corridor Mixed Use (CMU) zoning districts, this work has to be done within the framework of an overall ordinance that is not "state of the practice." It is serviceable for meeting most needs at Bellaire's stage of development, but it does not reflect best zoning practices in terms of:

   - Its overall organization and format (Chapter 24 needs more tables and especially illustrations to streamline the extent of dense body text);
   - Its primary focus on regulating land uses versus influencing development design and shaping the built environment in Bellaire;
   - Its approach to development standards for elements such as parking, signs, lighting, etc.; and
   - Some outdated terminology and definitions.

   So, that is the starting reality for this [NBSD] process, which presents some unavoidable constraints whenever adding new zoning districts or reworking existing districts within the current Chapter 24 context.

ZONING MAP CONSIDERATIONS FOR PLAN REVIEW

To conclude this interim briefing paper, we note the handful of properties in Bellaire that are currently zoned differently from what was anticipated when the Future Land Use and Character (FLUC) map within the Comprehensive Plan was last updated and adopted in 2015, then 2017. These locations include:

- The current church property at the southeast corner of Bellaire Boulevard and S. Rice Avenue, which is zoned R-4 Residential but is designated on the FLUC map as Corridor Mixed Use.
- The current Pont Alba apartments property, which is zoned Residential Multi-Family (R-MF) but is designated on the FLUC map as Corridor Mixed Use.
- The current CenterPoint property, which is zoned Light Industrial (LI) but is designated on the FLUC map for Corridor Mixed Use along its Bissonnet Street frontage and General Residential on the balance of the property to the rear.
- The current car wash property on Beechnut at the southeast corner of Bellaire, which is also zoned Light Industrial (LI) but designated on the FLUC map as Corridor Mixed Use.