The City Council of the City of Bellaire, Texas, met in Special Session on Monday, October 11, 2010, in the Council Chamber, First Floor of City Hall, 7008 South Rice Avenue, Bellaire, Texas 77401, for the following purpose(s):

A. CALL TO ORDER AND ANNOUNCEMENT OF A QUORUM – Mayor Cindy Siegel.

Mayor Siegel called the City Council of the City of Bellaire, Texas, to order at 6:00 p.m. on Monday, October 11, 2010.

Also present were Mayor Pro Tem Phil Nauert, Councilmen James P. Avioli, Sr., Corbett Daniel Parker, and Andrew Friedberg, Councilwoman Mandy Nathan, City Manager Bernard M. Satterwhite, Jr., Director of Community Development John McDonald, and City Clerk Tracy L. Dutton. Councilman Will Hickman arrived at 6:02 p.m. City Attorney Alan P. Petrov arrived later in the evening.

B. READING OF NOTICE OF PUBLIC HEARING – City Clerk Tracy L. Dutton.

City Clerk Dutton read the Notice of Public Hearing into the record.

C. SUMMARY OF PUBLIC HEARING PROCEDURE – City Manager Bernard M. Satterwhite, Jr.

City Manager Satterwhite summarized the public hearing procedure for the evening.

D. PRESENTATION regarding an application and request submitted by Shipley Do-Nuts for a specific use permit to operate a restaurant with drive-in service at a location with an existing drive-through window to facilitate sales and for the convenience of customers, said facility to be located inside a portion of the building located at 5225 Bellaire Boulevard in the CCD-1 Zoning District in the City of Bellaire, Texas – Representative(s) of Shipley Do-Nuts.

Lawrence William Shipley, III, President of Shipley Do-Nuts, made a presentation regarding his application and request for a specific use permit to operate a restaurant with drive-in service at a location with an existing drive-through window, said facility to be located inside a portion of the building.
located at 5225 Bellaire Boulevard in the CCD-1 Zoning District in the City of Bellaire, Texas.

President Shipley initially spoke of the evolution of the drive-through window. When Shipley Do-Nuts was built back in the 1930s, the business consisted of a walk-up or drive-up patronage. It was not until the 1950s that the drive-through window became a very important dynamic of the Shipley Do-Nuts business model. Shipley Do-Nuts then began to target facilities where drive-through service was possible. He noted that there were some existing locations that did not have drive-through windows.

President Shipley advised that on rainy and cold days, 30% of his sales typically occurred via the drive-through window. With respect to traffic utilizing the drive-through window, it was noted that Shipley Do-Nuts’ point-of-sale time averaged 3-1/2 to 4 minutes per customer. Since the point-of-sale time was short, he did not believe that his business would have a negative traffic impact to the facility or its parking lot.

Since Shipley Do-Nuts offered a specialty product, their core target market was in a one to one and one-half mile radius. Approximately 10% of the residents and businesses in that radius would become regular customers. He advised that a McDonald’s restaurant could count on approximately 40% of the residents and businesses in a one-mile radius becoming a regular customer because they were selling breakfast, lunch, and dinner.

The Shipley Do-Nuts facility at 5225 Bellaire Boulevard would open for business at 5:00 a.m. The facility would not generally get busy until its critical mass period of 6:30 a.m. to 9:00 a.m. on weekdays. On weekends, that critical mass period changed to 7:30 a.m. to 11:00 a.m. For those that did enjoy a drive-through set-up, not having a drive-through window could be a hurdle for President Shipley’s operation. He indicated that the drive-through window was important for his business.

In closing, President Shipley advised that his company was a privately-held, family-operated business and would be a tremendous asset to the community.

E. RECOGNITION OF CITIZENS AND/OR OTHER INTERESTED PARTIES – Mayor Cindy Siegel.

William Levy, 5210 Linden Street, Bellaire, Texas:

Mr. Levy advised that he was opposed to the idea of a drive-through window being operated behind his home for a doughnut shop. He referred to the fact that his driveway backed onto the alley that would be utilized by Shipley Do-Nut customers when exiting the facility. Traffic congestion in the alley was noted as a concern, as well as noise pollution from cars queuing up at the drive-through window for 3-4 minutes at 5:00 a.m. He closed by noting that
he had no opposition to Shipley Do-Nuts being in the building and agreed that the facility would be a great addition to the community.

**Jim Bryant, 9618 Briar Forest Drive, Houston, Texas:**

Mr. Bryant advised that he was the owner of the facility at 5225 Bellaire Boulevard, which he purchased in 1988. The property was originally built in the early 1960s for a savings and loan association.

Mr. Bryant advised that he believed that Shipley Do-Nuts would be a good corporate citizen for Bellaire.

With respect to traffic, the tenant with the most traffic he ever had in the facility was a realty company with 25-40 agents who worked seven days per week and for long hours. He had no complaints with respect to that company.

Since Mr. Bryant had owned the building, he had not had any complaints. Being on the commercial side of the issue, he indicated that he would be glad to work with the neighbors at any time there was a problem.

In closing, Mr. Bryant urged City Council to grant a specific use permit for the existing drive-through window to Shipley Do-Nuts.

**William Stone, 5212 Linden Street, Bellaire, Texas:**

Mr. Stone indicated that he was not aware that the Planning and Zoning Commission held a hearing on this issue and inquired as to whether notices were sent for that particular hearing.

[Director of Community Development John McDonald indicated that all real property owners within 200 feet were mailed a notice of the Planning and Zoning Commission hearing. City Clerk Dutton indicated that she had mailed notices to property owners within 200+ feet (i.e., more residents or businesses may have received notice of the City Council hearing).]

Mr. Stone indicated that he was not opposed to Shipley Do-Nuts utilizing the facility, but was opposed to the use of the drive-through window. He felt there would be a great deal of noise and light from the headlights of cars utilizing the drive-through window.

In the alternative, Mr. Stone suggested restricting the drive-through hours to daylight hours.

**Robert Riquelmy, 506 Winslow Lane, Bellaire, Texas:**

Mr. Riquelmy advised that rather than giving away a gift of the use of the drive-through window, he would like to see a requirement for some healthy
wholesome products to be available through the drive-through window for a period of at least one year.

**Lynn McBee, 5314 Evergreen Street, Bellaire, Texas:**

Ms. McBee advised that she attended the Planning and Zoning Commission hearing and raised some questions at that time. One question related to the ownership of the alley, which she learned was a City right-of-way. She indicated that abuse of rights-of-way often happened through ignorance.

The current belief among planners and community designers was that there needed to be buffers and protection between different zoning uses (i.e., residential versus commercial). The driveways of many of the residents in the 5200 block of Linden Street had to be entered and exited from the alley.

Ms. McBee indicated that the adverse impacts of a drive-through window for a restaurant would be much greater than any other use currently in the strip center that the facility was a part of.

In closing, Ms. McBee urged City Council to consider some buffering between the residences and commercial businesses abutting the alley. She advised that she was opposed to the drive-through window and did not feel that a food establishment should be approved for the strip center.

**F. QUESTIONS FROM THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS – Mayor Cindy Siegel.**

Mr. Shipley answered questions posed by members of City Council regarding his application and request for a specific use permit to operate a drive-through restaurant. Among the topics of inquiry were the store hours of operation, weekly and weekend volumes of customers, use of alley and timing of deliveries of supplies, expected noise and light spillage onto neighboring residences as a result of the use of the drive-through window, parking accommodations, pattern of traffic flow to and from the drive-through window, stacking of vehicles utilizing the drive-through window, and possibility and expected acceptance of restricted hours for the drive-through window.

**G. CLOSE OF PUBLIC HEARING – Mayor Cindy Siegel.**

Mayor Siegel closed the public hearing before City Council regarding the application and request for a specific use permit submitted by Shipley Do-Nuts to operate a drive-through restaurant in a portion of a building located at 5225 Bellaire Boulevard in the CCD-1 Zoning District in the City of Bellaire, Texas, **at 6:59 p.m. on Monday, October 11, 2010.** It was noted that no oral comments would be accepted after the close of the public hearing. Written comments could be submitted to City Council in care of the City Clerk.
H. ADJOURNMENT.

Councilman Friedberg moved to adjourn the Special Session (Public Hearing) before the City Council of the City of Bellaire, Texas, at 6:59 p.m. on Monday, October 11, 2010. Councilwoman Nathan and Mayor Pro Tem Nauert jointly seconded the motion. The motion carried unanimously on a 7-0 vote as follows:

FOR: Mayor Siegel, Mayor Pro Tem Nauert, Councilmen Hickman, Avioli, Parker, and Friedberg, and Councilwoman Mandy Nathan

OPPOSED: None

ABSENT: None

Respectfully submitted,

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Tracy L. Dutton, TRMC
City Clerk
City of Bellaire, Texas

Approved:

Cynthia Siegel, Mayor
City of Bellaire, Texas