

THE BOCA NEWSLETTER

A PUBLICATION OF THE BOULEVARD OAKS CIVIC ASSOCIATION

SPRING 2022

They're Baaaack—the “New” Ashby High Rise (and how we got here) by Chris Amandes

[The following update is included in its entirety for informational purposes as published in the spring Southampton Civic Club Newsletter.]

Neighborhood veterans should recall how beginning in 2007, Southampton and Boulevard Oaks residents and many others mobilized to try to stop an effort by Houstonians Kevin Kirton and Matthew Morgan—through their company, Buckhead Investment Partners—to develop a 23-story high-rise apartment project on the southeast corner of Bissonnet and Ashby Streets, outside of but immediately adjacent to Southampton. Both Kirton and Morgan, who informally came to be referred to around the neighborhood as the Buckheads, were seemingly unprepared for the intensity of the neighborhood's opposition to their oversized and out of place project. The Buckheads intended to name their project 1717 Bissonnet, but the neighborhood quickly preempted that with their own moniker—the Ashby High Rise—which quickly became how it was universally referred to in the press and elsewhere.

The Buckheads' previous development experience had been mostly confined to federally subsidized three-story apartment projects in suburban settings. An urban high-rise building is a very different kind of animal, however, and the Buckheads encountered numerous headwinds as they tried to build their signature project. They took a preliminary conceptual design prepared by a Dallas architect and gave it to a Houston architecture firm to finalize, not recognizing (or perhaps not caring) that the Dallas architect's design had been copyrighted. That litigation cost them hundreds of thousands of dollars to settle. Their permit applications to the City of Houston were repeatedly rejected for a variety of reasons, notably including traffic impacts. When the City finally issued them a permit, the Buckheads sued on the grounds that they didn't really want to build what they had applied for and were just “testing the bottom” to see if the City would issue them *any* permit. That litigation was ultimately resolved with a 2012 settlement whereby the City approved some additional units with a greater traffic impact in exchange for the Buckheads making a number of changes to the project to mitigate its impact on the neighborhood.

Those conditions were incorporated into a restrictive covenant in favor of the City of Houston that was placed on the property and remains in effect today. They include: (1) a limit on the combined land uses in the project such that they will not generate more than specified numbers of

afternoon peak hour traffic trips; (2) inclusion of a large “pedestrian plaza” in front of the building; (3) a single curb cut on Ashby with all exiting passenger vehicles “directed” to turn right [i.e., toward Bissonnet, not south on Ashby] only; (4) a prohibition on large trucks entering or leaving the project from Bissonnet during any time other than on weekends or between 9 am and 4 pm on weekdays; (5) a no-charge bus shuttle service between the project and the Medical Center at least twice in the morning and twice in the evenings on weekdays; (6) an 8-foot masonry fence along the south and east sides of the property; (7) a vegetative “green screen” covering on the south and east walls of the project's parking garage; (8) hooding or redirecting of exterior lighting so that it is not visible from existing adjacent residences; and (9) enclosure of the equipment and pump rooms with concrete walls and steel doors to mitigate noise. These conditions will have to be met by any new project that seeks to take advantage of the “vested rights” (i.e., grandfathering) created by the original permit applications. If instead, the owners elect to abandon their vested rights and apply for new permits, the restrictive covenant will end but a number of subsequent changes to the City's ordinances and building codes will apply to the project.

After it settled its lawsuit with the City the Buckheads could have proceeded with their project and had even brought on as an equity partner the Hunt Companies of El Paso (not to be confused with the Hunts of Dallas and beyond fame). The Hunt Companies are best known for building big housing projects for the United States military and are themselves no strangers to litigation (e.g., [Hawaii](#), [Dover AFB](#)). However, before the Buckheads undertook any action to build the project, they were sued by thirty residents who lived near the project site. This suit was the culmination of years of opposition to the project by an informal group operating under the name Stop Ashby High Rise (SAHR).

SAHR was created following a September 2007 “town hall” meeting at Poe Elementary called by the boards of the Southampton Civic Club and Boulevard Oaks Civic Association to receive community input on the proposed project. To say that town hall meeting was a raucous event would be a gross understatement. SAHR essentially came together through groups of residents interested in opposing the project convening in a series of strategy sessions and

Continued on page 2

developing action plans. SAHR always operated independently of the civic groups and was funded exclusively by donations by interested parties. SAHR relied on a wide variety of tactics, including advocacy at the City of Houston, public demonstrations, fundraising events, Houston Chronicle op-eds, and most visibly, bright yellow yard signs featuring the iconic cartoon project looming like an unwelcome monster over the neighborhood.

The lawsuit against the Buckheads alleged that, if it was built as permitted, the project would constitute a “nuisance,” which under Texas law included a use of land that is abnormal and out of place in its surroundings and would substantially interfere with nearby landowners’ use and enjoyment of their properties. The case went to trial in state district court in late 2013.



Following a three-week trial, the jury found that the proposed Ashby High Rise would constitute a nuisance if it was built in accordance with the permitted plans. The jury awarded damages to twenty of the plaintiffs that collectively totaled about \$1.7 million. The Buckheads appealed the verdict and in 2016, the Fourteenth Court of Appeals affirmed the verdict that the project would constitute a nuisance, but it reversed

the awards of damages on the grounds that damages could not be awarded for a nuisance that did not yet exist. The Court of Appeals decision reserved the community’s right to sue for damages if the structure is ultimately built.

SAHR’s lawsuit, even it did not result in the payment of damages or an injunction against the project, seemed to have been effective in ending any immediate plans to construct the project. In time, the Hunt Companies reportedly lost interest in the project and in late 2019, the Buckheads sought a new partner who would buy out the Hunt Companies’ share and provide new equity to support the financing and construction of a 16-story, 85-unit condominium project. Unsurprisingly, that effort met with no more success than anything else the Buckheads had tried at the property.

However, I regret to report that seemingly reliable information from multiple sources indicates that the Hunt Companies have taken control of the partnership and have entered into an agreement with StreetLights Residential, a Dallas-based developer of high-rise apartment projects, to build a 20-story apartment project on the site. Based on its website, StreetLights Residential appears to have high-rise development and construction experience that both the Buckheads and the Hunt Companies lack. Thus, there is apparently good reason to believe that the neighborhood’s largest dog park could become a 20-story high-rise apartment project.

The new partnership seems to be operating below the radar, no doubt hoping to avoid the Buckheads’ error of going public with their plans long before they had all their ducks in a row. However, this kind of secret can’t be kept indefinitely, and this newsletter is only one of many ways that the developers’ plans are being revealed. It remains to be seen whether there will be the same level of outrage and opposition as there was in 2006 and beyond. Are there a Daenerys Targaryen and Jon Snow out there who are prepared to join their forces for the existential Battle of the North(east)? Is there an Arya Stark out there prepared to plunge her shard of dragonglass into the eye of the Ashby High Rise? We shall see.

At its most recent meeting, the Board of Directors of the Association adopted the following policy:

The Boulevard Oaks Civic Association will work with its elected representatives to ensure that any new Ashby High Rise development project conforms to all applicable City of Houston and other legal requirements, including the 2012 Declaration of Restrictive Covenants, if the developers elect to proceed under the Revised Plan in that document. The Association will also endorse any efforts to require the developers to make adjacent owners whole for the loss in value of their properties arising from a new project consistent with the jury verdict of nuisance during the 2013 trial and its subsequent affirmation on appeal.

I reemphasize that although the Southampton Civic Club and Boulevard Oaks Civic Association generally endorsed the activities of SAHR, it did not control SAHR or direct or fund any of its operations. The SAHR effort was undertaken exclusively by volunteers who dedicated their own time and money in their opposition to the project. However, the Association is willing to serve a clearinghouse role if there is to be a new SAHR effort. So if you oppose the new project and want to volunteer to dedicate your labor, money, or other resources to a renewed SAHR effort, please send an email to that effect (to StopAshby@gmail.com). We will save these volunteer emails in a file and provide them to any person or group who steps up to lead a new SAHR effort.

Thank you and stay neighborly! -- *Chris Amandes*

(Chris Amandes is the current president of the Southampton Civic Club. He served as chair of the Stop Ashby Highrise Taskforce from 2007 to 2016.)

Keep Broadacres Beautiful

BOCA is comprised of over a dozen subdivisions including Broadacres located on the east-end of the neighborhood.

Broadacres consists of 26 graceful homes on one-acre lots and has been listed in the National Register of Historic Places since 1980. The esplanades on North, South and West Boulevards as well as the park along Parkway Drive are privately owned and maintained by the Broadacres Homeowners Association.

There has been an uptick of trash and dog waste left behind in the Broadacres esplanades and park. Let’s do our part to keep this neighborhood gem clean by picking up our trash and dog waste and removing it.

The Birds of Broadacres by Skip Almoney

By now you may have noticed the white splotches in the 1300-1400 block of South Blvd, the annual announcement that Broad Acres temporary residents have returned. This article will discuss the birds that gather each spring to nest and raise their young in this unique environment. These birds form a rookery, defined as a place where colonial nesting birds gather to breed and to raise their young. The name comes from a European crow like bird called a Rook.

The rookery in Broadacres spans both South and North Boulevards from Mandell Street to Parkway. The largest concentration is on the eastern portion of South Boulevard, but many birds and nests can be found on all the streets except Parkway. What species of birds are in this rookery? BOCA neighbor Doris Heard and I have been monitoring these birds and their nesting since 2016 and have become familiar with all these birds species.

The four species of birds found in the rookery are black-crowned night-herons, yellow-crowned night-herons, great egrets, and snowy egrets. When we first started monitoring the birds the bulk of the birds were night-herons and only a few great egrets. The number of great egrets has increased over the 6 years, and it was only last year, 2021, that the snowy egrets successfully nested.

Black-crowned Night-Heron - *Nycticorax nycticorax*

Black-crowned night-herons are stocky birds compared to many of their long-limbed heron relatives. They're most active at night or at dusk, when you may see their ghostly forms flapping out from daytime roosts to forage in wetlands. In the light of day adults are striking in gray-and-black plumage and long white head plumes. These social birds breed in colonies of stick nests usually built over water. They live in fresh, salt, and brackish wetlands and are the most widespread heron in the world. – allaboutbirds.org



Yellow-crowned Night-Heron - *Nyctanassa violacea*

While not as slender as a typical heron, the yellow-crowned night-heron's smooth purple-gray colors, sharp black-and-white face, and long yellow plumes lend it a touch of elegance. They forage at all hours of the day and night, stalking crustaceans in shallow wetlands and wet fields. Their diet leans heavily on crabs and crayfish, which they catch with a lunge and shake apart, or swallow whole. They're most common in coastal marshes, barrier islands, and mangroves, but their range extends inland as far as the Midwest. – allaboutbirds.org



The easiest identifying field marks are the crowns of the two birds from which they get their names. The black-crowned night-heron is sleeker and more compact than the yellow-crowned, which tends to be a bit more raggedy looking. While the birds are on the nest, it is very difficult to tell black-crowned from yellow-crowned, and it is even more difficult to determine the species of the chicks.



Black-Crowned Night Heron Chick

Yellow-Crowned Night Heron Chick

Night-Heron Chicks - Identification notes

The black-crowned chick has an orange-red eye with a black upper mandible and a yellow lower mandible. The marking on the wings includes **large** white teardrop spots and no white edging on wings.

The yellow-crowned chick has an orange-red eye also and a black upper mandible, with a black lower mandible unlike the yellow lower mandible of the black-crowned chick. The wing markings are noticeably different making it possible to identify the chick's species. There are **small** white teardrop spots and white edging on wing feathers. It is only when the chicks are mature enough to stand at or near the nest or come to the ground that we are able to identify them directly.

Great Egret - *Ardea alba*

The elegant great egret is a dazzling sight in many a North American wetland. Slightly smaller and more svelte than a great blue heron, these are still large birds with impressive wingspans. They hunt in classic heron fashion, standing immobile or wading through wetlands to capture fish with a deadly jab of their yellow bill. Great egrets were hunted nearly to extinction for their plumes in the late nineteenth century, sparking conservation movements and some of the first laws to protect birds. – allaboutbirds.org

Snowy Egret - *Egretta thula*

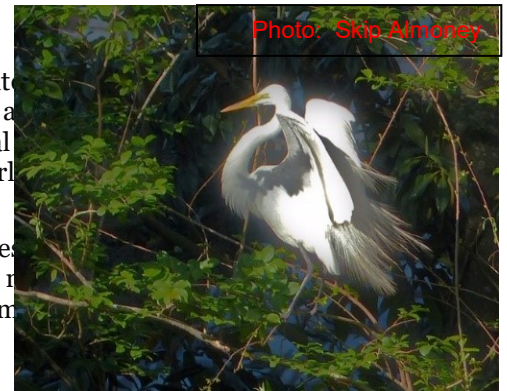
Among the most elegant of the herons, the slender snowy egret sets off immaculate brilliant yellow feet. Those feet seem to play a role in stirring up or herding small a. Breeding snowy egrets grow filmy, curving plumes that once fetched astronomical endangering the species. Early conservationists rallied to protect egrets by the earl once again a common sight in shallow coastal wetlands.

The great egrets are the first birds to arrive at the Broad Acres rookery. The earliest Blvd was February 10th this year. They are followed closely by the black-crowned r crowned night-herons soon follow. The snowy egrets come later in the year by a m all these birds are very interesting.

Over the years of monitoring the birds we have arrived at some conclusions.

- The nests of all species are made of intertwined twigs and appear very fragile
- The great egrets nest at or near the top of the oak trees
- The night-herons nest lower in the canopy than the great egrets, where the oak branches from different trees overlap and provide cover from flying predators.
- The different species tend to nest in specific areas close to their same kind, although there is mixing from one area to the next.
- The snowy egrets seem to wait until most of the other birds have left before they nest and raise chicks.
- Black-crowned night-herons make up the largest number of nests and birds, followed by the yellow-crowned night-herons.
- Great egrets have been increasing in numbers over the last several years, while snowy egrets only last year (2021) successfully nested.

During the next several months the rookery will be very active as the birds build nests, incubate eggs, feed their young, and finally leave the area until next year. Hopefully, you will visit several times to see the various stages of new birth in this unique urban setting.



Save The Date!

Please join us for a Night Heron presentation by
Skip Almoney of the Houston Audubon Society.

We will meet at 6 p.m. on Friday, April 29th in Driveway at
1400 South Blvd. Bring a folding chair and binoculars.

It should be a wonderful evening viewing the herons and chicks under
the beautiful canopy of our century-old live oak trees!

Trey Christensen Appointed to the Patrol's Board



BOCA is pleased to announce the appointment of Trey Christensen to the Southampton Boulevard Oaks Patrol Board. A long-time neighborhood and school volunteer, Trey has served in a variety of leadership roles at Poe and with the Boulevard Oaks Civic Association.

Trey replaces James Cogan on the Patrol's board. BOCA neighbor Mark Arnold also serves on the Patrol Board.

In the late 1980s, the Boulevard Oaks Civic Association and the Southampton Civic Club began collecting funds from neighbors to launch the Patrol as a joint venture. In 1989 the Patrol incorporated as a separate 501c4 organization. It is governed by a 5-member board comprised of representatives from BOCA (2), Southampton (2), and Southampton Extension (1). Neighbors are encouraged to support the Patrol. Visit our website for a link to sign up for this important service.

City Trash & Recycling

Automated curbside collection: Tuesday
 Yard Waste (bagged): Tuesday
 Recycling (Tues. B):....every other Tuesday
 April 12 & 26 June 7 & 21
 May 10 & 24 July 6 & 19



Bins and yard waste bags may be placed at the curb after 6pm the evening before collection and must be removed from the curb by 10 p.m. on collection day.

City of Houston Heavy Trash

Place items on the curb after 6 p.m. the Sunday before scheduled collection. **Tree debris** is collected every month. **Junk waste** is collected in **even** months.

Junk Waste/Tree Debris Schedule:

East of Greenbriar:1st Friday
 West of Greenbriar:3rd Monday

Private Trash Schedule

Edgemont & Broadacres

WCA Waste: 713-526-1536

Regular Trash & Yard Waste: Tues. & Fri.
 Recycling every Friday. Heavy Trash is by request.

Cherokee is served by Texas Pride Disposal

For more information contact **713-705-3534**

Visit us at www.BoulevardOaks.org

BOCA Officers & Directors

(July 1, 2021 - June 30, 2022)

<i>President</i>	Radu Tutos
<i>President-elect</i>	Stefan Murry
<i>Vice president</i>	Jennifer DeLange
<i>Treasurer</i>	Bob Wright
<i>Secretary</i>	Helen Toombs
<u><i>Directors</i></u>	Joe Cialone
<i>2019 – 2022</i>	Steve Grossman
	Sue Lawson
	Julie Mastroianni
<i>2020 – 2023</i>	Kristina Bush
	Richard Holt
	Jean Jenner
	Sue Payne
<i>2021 – 2024</i>	Kevin Bonebrake
	Trey Christensen
	Katherine Mach
	Jenny Williams
<u><i>Committees</i></u>	
<i>Deed Restrictions</i>	Julie Mastroianni
<i>Historic Districts</i>	Steve Grossman & Geoffrey Walker
<i>Public Works</i>	John Cutler
<i>Trees</i>	Hank Segelke & Wallace Hooker
<i>Website</i>	Dave Shine
<i>Photographer</i>	Elaine Mut
<i>Patrol Board</i>	Trey Christensen & Mark Arnold
<i>Caroling Party</i>	Stephanie Pedigo & Shannon Allen
<i>Mixer</i>	Vacant
<i>Easter Egg Hunt</i>	Bonnie Coffman
<i>4th of July Party</i>	Donna Yanowski
	Sue Payne
	Sue Lawson
<i>Executive Director</i>	Evalyn Krudy

Report Missed Trash & Recycling Collection to the City's 311 Hotline

Since Hurricane Harvey in 2017, the city's Solid Waste Division has struggled to keep up with its schedule due to a variety of issues include equipment problems and staffing shortages. If your trash or recycling collection is missed, make a report to the city's 311 operator at 713-837-0311 to ensure it is collected later in the week.

Most of the neighborhood is scheduled for recycling collection every other Tuesday, yet it is often collected on Wednesdays, which is the department's catch-up day for recycling. In addition to making a missed collection report, leave your recycling bins at the curb until crews have emptied it.

Save The Date!!
32nd Annual
Boulevard Oaks Civic Association

EASTER EGG HUNT

Saturday, April 16th 2022

9:45am – 11:15am

Broadacres Park

(By the tennis courts at the east end of North and South Boulevard)

Egg Hunt begins promptly at 10am

Children 0-8 years old are invited to hunt for eggs!
Children 9 & up can take a swing at a candy-filled piñata!

WE NEED VOLUNTEERS AND SPONSORS!

Please sign up to volunteer at [Egg Hunt Volunteer](#)
Or email Bonnie McMillian at optimist@gmail.com for more
information about volunteer and sponsorship opportunities.

THANK YOU SO MUCH!

