

ORDINANCE NO. 1287-2020

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF RIVER OAKS AS AMENDED BY ORDINANCE NO. 1158-2017 BY CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY IN THE CITY BEING APPROXIMATELY 0.4292 ACRES OF LAND DESCRIBED AS BEING BLOCK 16, LOT 11, CASTLEBERRY GARDENS ADDITION OTHERWISE KNOWN AS BEING 1919 ROBERTS CUT OFF RD. FROM A "C-1" COMMERCIAL ZONING DISTRICT TO A "PC" PLANNED COMMERCIAL ZONING DISTRICT; REVISING THE OFFICIAL ZONING MAP IN ACCORDANCE THEREWITH; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of River Oaks is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of River Oaks has heretofore adopted Ordinance No. 600 as amended by Ordinance # 766-07 as amended by Ordinance # 883-2011 as amended by Ordinance 920-2012 as amended by Ordinance # 1158-2017 as the Comprehensive Zoning Ordinance of the City of River Oaks; and

WHEREAS, this property has been considered best suited for a Planned Commercial Zoning District provided that the type of Commercial Use is controlled through an approved Site Plan; and

WHEREAS, Rodney Orand has submitted an application and self-initiated site plan for rezoning of the property to "PC" Planned Commercial in order to permit the use of the property collectively as a nursery storage yard; and

WHEREAS, the City Council of the City of River Oaks does hereby deem it advisable and in the best interest of the city to amend the Comprehensive Zoning Ordinance to change the zoning classification of **BLOCK 16, LOT 11, CASTLEBERRY GARDENS ADDITION, otherwise known as 1919 Roberts Cut Off Rd.** from a "C-1" Commercial Zoning District and create and approve a "PC" Planned Commercial Zoning District (Zoning Case # PZ 2011-14) on the property as herein described being approximately 0.4292 acres of land (the "Subject Property") subject to the conditions and restrictions set forth in this ordinance; and

WHEREAS, the Zoning Administrator deems that all of the incorporated development of this property as a "PC" Planned Commercial District is attached herein as "Exhibit A" and contains all of the

information required to be submitted and is herein incorporated with the Ordinance for all purposes; and

WHEREAS, the City Council waives the requirement for a development plan since this application incorporates no provisions for building coverage; and

WHEREAS, the Planning and Zoning Commission of the City of River Oaks, Texas held a public hearing on July 20, 2020 and the public hearing was continued to July 27, 2020 at 6:30 P.M.; and

WHEREAS, the City Council of the City of River Oaks, Texas held a public hearing on July 28, 2020 with respect to the zoning change described herein; and

WHEREAS, the City has complied with all requirements of Chapter 211 of the Local Government Code, and all other laws dealing with notice, publication and procedural requirements for the rezoning of the property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVER OAKS, TEXAS, THAT:

SECTION 1.

Ordinance No. 600 as amended by Ordinance # 766-07 as amended by Ordinance # 883-2011 as amended by Ordinance 920-2012 as amended by Ordinance # 1158-2017 as the Comprehensive Zoning Ordinance of the City of River Oaks is hereby amended by rezoning property containing approximately 0.4292 acres of land, located within the Castleberry Gardens Addition and being more fully described as:

Block 16, Lot 11, Castleberry Gardens Addition and otherwise known as 1917 Roberts Cut Off Rd.

from a "C-1" Commercial Zoning District to a "PC" Planned Commercial Zoning District subject to the approved Site Plan as approved by the City Council and is otherwise specified in the River Oaks Zoning Ordinance as adopted and amended, with the following additional requirements and restrictions:

1. **Permitted Use.** Commercial use as a Nursery Center including the outside storage of plants, flowers, bushes and trees, approved in accordance with this ordinance as being the only use permitted on the Subject Property and in the event of any conflict or inconsistency between this PC Ordinance and the Zoning Ordinance, the provisions of this PC Ordinance shall control. *Proof of ownership must be provided or a notarized affidavit from the record owner with his/her authorization for use of property as a Planned Commercial Zoning District.*
2. **Site Plan.** The lot shall be designated exclusively for the outside storage of plants, flowers, bushes and trees or other type nursery products and said lot is not permitted for the construction

of principal or accessory buildings. Accessory buildings shall not be permitted to be constructed since there is not a principal building located on the lot.

3. **Platting-** Any future platting of the property that would combine both Lots 9,10 and 11 of block 16, Castleberry Gardens Addition into a single lot for the purpose of this Planned Commercial District is considered to extend, expand, revise or alter the designated use of the Planned Commercial District as herein provided for in this ordinance and in ordinances # 827-09, # 900-2011 and Ordinance # 1287-2020 as adopted.
4. **Amenities-** Amenities including fencing and/or landscaping must be properly permitted and kept properly maintained up to code. There are no other accessory structures allowed on the lot designated solely for use as a nursery storage lot unless otherwise approved by the City Council upon recommendation from the City's Planning and Zoning Commission.
5. **Lighting:** Lights provided to illuminate any parking facility or paved area shall be designed to reflect away from any residential property.
6. **Noise or Vibration:** No noise, odor or vibration shall be emitted such that it constitutes a nuisance by substantially exceeding the general level of noise, odor or vibration emitted by uses of adjacent residential properties.
7. **Trash Receptacles:** It shall be required that a dumpster shall be located on a concrete pad accessible to collection by the waste hauler.
8. **Front Yard-** There shall be a front yard of not less than 25 feet.
9. **Side Yard-** There shall be side yards of not less than 10 feet where it abuts properties zoned commercial or residential.
10. **Rear Yard-** There shall be a rear yard of not less than 20 feet.
11. **Parking surfaces and Private Streets-** All parking and street or driving surfaces shall be constructed in accordance to the most recently adopted Standard Specifications for Public Works Construction by the North Central Texas Council of Government and be of concrete as follows:
 - (a) A double 20-foot drive approach on both sides of the property approach shall be constructed of concrete, a minimum of four (6) inches thick, minimum strength of 3000 psi and reinforced 6 x 6 welded wire fabric or number 3 reinforcement bar set on 24-inch centers both ways creating a 20-foot wide circular driveway (**See Site Plan**) that provides access to the property and thru travel for off-street loading and unloading of nursery products.
 - (b) Fire lane widths must be pre-approved by the Fire Chief.

12. **Parking Requirements By Use:**

Facility	Parking Spaces
PC	2

1 standard parking spaces with 1 handicap parking space for a total of 2 parking spaces. Loading Zones shall be designated and properly marked in approval by the Police Chief.

13. **Landscaping Generally-**

- (a) Landscaping shall be designed to maintain and preserves as many existing trees as possible.
- (b) Ten percent (10%) of the net area of the property shall be landscaped. The designated

landscape areas must be approved by the City Council.

14. **Installation and Maintenance-**

- (a) The owner shall maintain all landscape areas and vegetation in good condition in accordance to all applicable codes and ordinances as adopted and amended by the City of River Oaks.
- (b) In addition to all required trees and shrubs all of the required landscape area must be covered with grass or live groundcover.
- (c) Landscape areas must be kept free of trash, litter, weeds, and other materials or plants not a part of the landscaping.
- (d) Existing trees should be preserved as much as possible.
- (e) When possible all newly planted trees and shrubs should be native, zero-landscaping plants in order to promote water conservation.
- (f) Synthetic or artificial lawn or plant material shall not be used to satisfy the landscape requirements.

15. **Landscaping in Planned Commercial**

- (a) All landscaping plans will accompany Site Approval Plans and will require Public Hearings in accordance to the Local Government Code first before the Planning and Zoning Commission. The Planning and Zoning Commission will make a recommendation to the City Council to approve, modify or deny the Landscape Plan.
- (b) The City Council following the hearing before the Planning and Zoning Commission will hold another Public Hearing on the Site Plan and Landscape Plan. Following the Public Hearing the City Council will vote to approve, modify or deny the Plan as presented.
- (c) All landscaping shall be permanently maintained. Should any plant material used in any landscaping required and approved die, the owner of the property shall have 90-days after notification by the City to obtain and install a suitable replacement plant material. Landscaped area shall be kept free of trash, litter, weeds and other material or plants no a part of the landscaping.

16. **Landscaping Adjacent to Public Right-of-Way**

- (a) Landscape area must be covered with grass, trees, shrubs, flowering and non-flowering plants.
- (b) When Evergreen Shrubs are planted the average density of 5-gallons for each 5 lineal feet cannot exceed the 36" height requirement as provided for in the Zoning Ordinance.
- (c) Trees and other plants stored or located within the public right-of-way for the purpose of resale are not permitted anytime. Trees and Plants must be kept behind the front property line at least 13-feet at minimum from the prevailing edge of the street as approved by the Police Chief in order to avoid traffic hazards.

17. **Utilities-** The Director of Public Works shall issue a determination of completeness in accordance with Article 13 of the City's adopted Subdivision Ordinance. All utilities shall be constructed according to the specifications of the utility companies. When determined applicable, the Developer is responsible to reimburse the City for the costs of the engineered studies and certification. All Plans for Utilities including but are not limited to water, sewer, drainage and

streets. It is required that the property be properly connected to the city's water and sewer system if applicable.

18. **Fencing-** *All fencing shall not be constructed to a minimum height of six feet (6') that does not create a traffic obstruction as determined by the Police Chief.*
 1. There will be no Fencing along the south side of the Subject Property since the property use of both lots is under the same ownership and is being used as a nursery center.
 2. *A 6-foot horse fence (welded wire fencing) shall be required along the north property line from the rear of the plat to where it abuts with the existing fence located on the property line at 1927 Roberts Cut Off but in no case such fence is permitted to infringe on the adjacent property.*
 3. There shall be a 6-foot R-Panel Fence along the rear of the property.
 4. Fencing in front along Roberts Cut Off shall be horse fencing stretched between 2-3/8 posts installed on top of 12-inch solid footing wall. Gates on the front of the property shall be sliding metal gates.
 5. **Fencing that abuts property being used residentially must be of an approved type screening fence at a height not greater than 8-feet or less than 6-feet and not create a traffic obstruction as determined by the Police Chief.**
19. **Accessibility Standards-** All units, common spaces, and common area grounds must comply with ADA or TAS Accessibility Standards.
20. **Maintenance of Common Areas:** It is required that a landscape maintenance program be established to maintain all of the common areas, such as open space areas and the perimeter fencing and landscaping.
21. **Drainage:** Drainage must meet the requirements of the Texas Water Code and of the City's Storm Water Management Plan.
22. **Construction Site Stormwater Runoff Control:** Applies to all new construction and developments that impact one-acre or greater and applies to small construction sites that could impact adjacent subdivisions or developments of one-acre or more. Follow BMP Checklist for Construction Site Storm Water Runoff Control in the City's Stormwater Management Plan. A drainage plan will be required to be submitted and approved by the City before certificate of occupancy permit is issued.
23. **Traffic:** An approved Traffic Plan approved by the City Police Chief.
24. **Outside Storage Area:** The outside storage of plants, trees, flowers and bushes are permitted on the land area of the property. It is required to maintain 10% of open space of the total land area of the lot. The storage of plants, trees, flowers and bushes must be stored and maintained at all times on the lot in a neat and orderly condition. Discarded planting pots and other such appurtenances must be stored on the property in an area screened from the public view.
25. **Site Plan Approval:** An approved Site Plan is required prior to project commencement pursuant to Section 25 of the River Oaks Zoning Ordinance following Public Hearings that are published and notified in accordance to law. *If an approved Certificate of Occupancy Permit is not obtained within 120-days after the date of Site Plan Approval by the City Council, the Site Plan Approval expires and the occupancy use as a nursery ceases as provided for in this ordinance and the property must be returned to its former state by removing all nursery type products currently stored on the property until the limitations on reapplication is met and the applicant is permitted to reapply for another Site Plan Approval for this property, which includes paying the appropriate fees as provided for in the City's Permit Fee Ordinance. Any reapplication is prohibited for a period of one-year unless otherwise approved by the City Council.*

SECTION 2.

The official zoning map of the City of River Oaks is hereby amended, and the Zoning Administrator is hereafter directed to revise the zoning map to reflect the amendments as set forth above.

SECTION 3.

The use of the property described above shall be subject to all the applicable requirements and regulations contained in the Zoning Ordinance and shall also be subject to the conditions and restrictions set forth in this ordinance. The Council finds and determines that no Concept Plan or land study is required.

SECTION 4.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of River Oaks, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 6.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 7.

All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of Ordinance No. 600 as amended by Ordinance # 1158-2017 or any ordinances

governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 8.

The City Secretary of the City of River Oaks is hereby directed to publish in the official newspaper the caption, penalty clause, and effective date clause of this ordinance one (1) time after the adoption of this ordinance in accordance with Chapter 5, Section 5.02(c) of the Charter of the City of River Oaks.

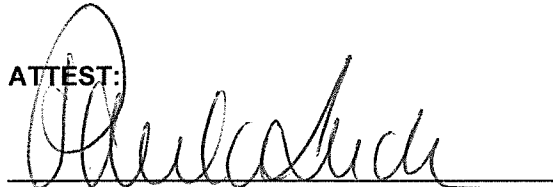
SECTION 9.

This ordinance shall be in full force and effect from and after its passage and publication as required by law and it is so ordained.

PASSED AND APPROVED ON THIS THE 28TH DAY OF JULY 2020.


MAYOR HERMAN EARWOOD

ATTEST:


CITY SECRETARY