

**MINUTES OF THE REGULAR MEETING
CITY OF RIVER OAKS
PLANNING AND ZONING COMMISSION
MAY 16, 2011**

MEMBERS PRESENT:

BRAD GALLMAN, VICE-CHAIRMAN
JAMES MYRICK, PLACE 2
KATHY RODDEN, PLACE 3
PAUL SIMPSON, PLACE 4
RUTH ANN TEAGUE, ALTERNATE # 1
JOANN BUTLER, COUNCIL LIAISON

STAFF PRESENT:

MARVIN GREGORY, ZONING ADMINISTRATOR (ZA)
SUSAN STEWART, ZONING SECRETARY
STEVE SANDERS, BUILDING INSPECTOR
JAMES HATLEY, PUBLIC WORKS DIRECTOR

MEMBERS ABSENT:

LORI WATSON, CHAIRPERSON, PLACE 1 (EMERGENCY)
ISEL VALENZUELA, ALTERNATE # 2 (NO RESPONSE)

1. CALL TO ORDER

At 6:32 p.m. Vice-Chairman Gallman, as acting chairperson, called the meeting to order; a quorum was present.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The pledge of allegiance to the United States Flag was recited. Member Simpson delivered the Invocation.

3. MEMBER ROLL CALL

Vice-Chairman Gallman announced that he would preside over the meeting in the absence of Chairperson Watson and Alternate Teague would assume the vacancy of Place 5.

Member roll call was recorded as follows: Chairperson Watson with an excuse absence; and Member Valenzuela absent without excuse.

4. APPROVAL OF MINUTES FROM THE MARCH 21, 2011 REGULAR MEETING

Member Simpson moved, seconded by Member Teague, to approve the Minutes of the March 21, 2011 meeting as presented. All voted "Aye."

5. APPROVAL OF MINUTES FROM THE APRIL 5, 2011 SPECIAL CALLED JOINT MEETING WITH THE CITY COUNCIL

Member Myrick moved, seconded by Member Teague, to approve the Minutes of the April 5, 2011 meeting as presented. All voted "Aye."

6. PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR LUCKY RIVER INC. AT 5001 RIVER

OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED.

At 6:36 p.m. Vice-Chairman Gallman opened the public hearing

Bill Seybold, 748 Schilder, was present on behalf of the River Oaks Lions Club. Mr. Seybold requested that the Board refuse the request based on the close proximity to the residents on Red Oak and to the Lions Club. Member Rodden requested the names of the Lions Club Members and how they voted. Mr. Seybold stated that the minutes of the meeting would reflect the votes but it was unanimous to oppose the request on behalf of the Lions Club.

ZA Gregory stated that this permit is for off premise consumption and is subject the following requirements:

- a. One parking space is required for every three seats or for every 100 square feet of floor area; whichever is greater. In this case the site is approximately 2,400 requiring 23 parking spaces.
- b. All sales must be within permanent walls of the establishment covered by a roof. Conditions maybe set by the City Council that prohibits a drive through.
- c. All required state licenses must be valid and in effect.
- d. The sale of alcoholic beverages is prohibited in a place of business that is within 300 feet of a church, public or private school, daycare facility or public hospital. Measurement of the distances shall be calculated as provided by the Texas Alcoholic Beverage Code. Written documentation from Harris Permitting (TABC) has been received verifying that the distance requirements are met.
- e. The permit holder will erect a masonry or steel fence of a height not less than 6 feet nor greater than 8 feet between property permitting the sale of alcohol and the property zoned or used for a residential use. This property does not abut residential property.
- f. The establishment must be in compliance with applicable building codes. An approved certificate of occupancy would be required.
- g. A Specific Use Permit will terminate upon change of ownership of the holder of the Specific Use Permit and the Permit is not transferable.
- h. A permit holder shall notify the City of the expiration or termination of any license or permit issued by the Alcoholic Beverage Commission for the property.
- i. For establishments with off premises consumption only, the following apply:

(1) The establishment must be at least 2,000 square feet in size. This has been verified by the Building Inspector.

(2) The primary use of the business must be other than the sale of alcoholic beverages (for example: grocery or convenience stores) and the establishment shall not derive more than 30% of its gross revenues from the sale of alcoholic beverages. (The City may require an audit of the accounts of an establishment to determine whether the establishment is in compliance with its provision.)

(3) No on premises consumption of alcoholic beverages is permitted.

j. No signs advertising or depicting alcohol or tobacco shall be visible from the right of way.

k. No amplified music or loud speakers outside the building is permitted.

l. Upon evaluation of the factors listed in Section 23A.G hereof, the City Council may impose additional restrictions to protect adjacent properties from the impact of the specific use.

ZA Gregory reported only one written response and that response was in opposition of the request. The response was from a large parcel of land that is more that 20% of the property owners within 200-feet. Therefore, a super majority vote of the City Council would be required to approve the request.

Member Gallman stated that he had measured less than 300-feet using door to door from 5001 River Oaks Blvd to CISD School Truce. ZA Gregory stated that he would verify the distances prior to the public hearing before the City Council.

Jim Byron, Lions Club representative, stated that the Lions Club is host to many family gatherings and is located directly across the street from the applicant.

The unidentified applicant was present to request approval to sell alcohol inside the store as well as through a drive up window. She stated that a drive through could possibly be installed in a garage door bay that would direct traffic to the opposite side of the building, then behind the building and onto Red Oak Lane.

Board Members discussed at length the number of parking spaces available and concluded a maximum of 18 parking spaces including parking at each one of the gas pumps.

At 7:05 p.m. Vice-Chairman Gallman made a motion, seconded by Member Simpson to close the public hearing. All voted "Aye."

7. ACTION FROM PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR LUCKY RIVER INC. AT 5001 RIVER OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED.

Discussion occurred between Board Members that included traffic congestion due to the drive-in-window, and parking requirements.

Vice-Chairman Gallman made a motion, seconded by Member Rodden, to recommend the Specific Use Permit at 5001 River Oaks Blvd. with the recommendation to prohibit the drive-through-window. Members Myrick, Rodden, and Simpson voted "Aye." Vice Chairman Gallman and Member Teague voted "Nay."

8. PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR RIVAS MEXICAN RESTAURANT AT 5442 RIVER OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED.

At 7:12 p.m. Vice-Chairman Gallman opened the public hearing

ZA Gregory stated that this permit is for on premise consumption and is subject the following requirements:

- a. One parking space is required for every three seats or for every 100 square feet of floor area; whichever is greater. In this case the site is approximately 4,300 requiring 43 parking spaces. The building inspector has reported that this requirement can be met using public parking and the state right-of-way. Board Members calculated only 36 legal parking spaces.
- b. All sales must be within permanent walls of the establishment covered by a roof.
- c. All required state licenses must be valid and in effect.
- d. The sale of alcoholic beverages is prohibited in a place of business that is within 300 feet of a church, public or private school, daycare facility or public hospital. Measurement of the distances shall be calculated as provided by the Texas Alcoholic Beverage Code. Written documentation from Harris Permitting (TABC) has been received verifying that the distance requirements are met.
- e. The permit holder will erect a masonry or steel fence of a height not less than 6 feet nor greater than 8 feet between property permitting the sale of alcohol and the property zoned or used for a residential use. This property does not abut residential property.
- f. The establishment must be in compliance with applicable building codes. An approved certificate of occupancy would be required.
- g. A Specific Use Permit will terminate upon change of ownership of the holder of the Specific Use Permit and the Permit is not transferable.

h. A permit holder shall notify the City of the expiration or termination of any license or permit issued by the Alcoholic Beverage Commission for the property.

i. For establishments with on premises consumption only, the following apply:

(1) The establishment must be at least 4,000 square feet in size. This portion of the building is approximately 4,300 square feet.

(2) The primary use of the business must be other than the sale of alcoholic beverages (for example: restaurants) and the establishment shall not derive more than 30 % of its gross revenue from the on premise sale of alcoholic beverages. The City may require an audit of the accounts of an establishment to determine whether the establishment is in compliance with this provision.

(3) No outside consumption of alcoholic beverages is permitted.

j. No signs advertising or depicting alcohol or tobacco shall be visible from the right of way.

k. No amplified music or loud speakers outside the building is permitted.

l. Upon evaluation of the factors listed in Section 23A.G hereof, the City Council may impose additional restrictions to protect adjacent properties from the impact of the specific use.

ZA Gregory reported a total of eight written responses: 7 in favor and 1 in opposition. There was no written opposition from the church that was actually outside of the 300-foot but was notified as a courtesy.

Mr. Rivas, restaurant manager, was present for the hearing stating that the restaurant has been in operation since 1992. The restaurant currently seats about 150 people and the banquet room seating an additional 100.

Discussion occurred amongst the Board on topics such as parking spaces per person and parking the state right-of-way.

At 7:24 p.m. Vice-Chairman Gallman made a motion, seconded by Member Rodden to close the public hearing. All voted "Aye."

9. **ACTION FROM PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR RIVAS MEXICAN RESTAURANT AT 5442 RIVER OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED.**

Member Rodden made a motion, seconded by Member Myrick, to approve the Specific Use Permit at 5442 River Oaks Blvd. and further suggest a parking variance if appropriate and necessary. Members Myrick and Rodden voted

"Aye." Vice Chairman Gallman, Member Simpson and Member Teague voted "Nay."

10. WORKSHOP: PLANNING AND DISCUSSION OF PROPOSED TEXT AMENDMENTS TO ZONING ORDINANCE.

ZA Gregory stated that the only revision is to include Tattoo Parlors which are protected under the constitution and cannot be prohibited in C-2 and C-3.

No additional revisions were suggested by Board Members. Board Members accepted the recommendation of ZA Gregory to include Tattoo Parlors.

11. ACTION IF ANY FROM WORKSHOP

None.

12. EXECUTIVE SESSION pursuant to Chapter 551, Texas Government Code, Planning and Zoning Commission reserves the right to convene into Executive Session(s) from time to time on any posted agenda item to receive advice from its Attorney as permitted by law during this meeting. The Planning and Zoning Commission may convene in Executive Session to discuss the following:

Sec. 551.071: Pending or contemplated litigation or to seek advice from Attorney

None called for.


9. ACTION FROM EXECUTIVE SESSION

None.

10. ADJOURN

At 7:39 p.m. Member Teague motioned, second by Member Simpson, to adjourn the meeting. All voted "AYE."

APPROVED THIS 20th DAY OF JUNE 2011



**Brad Gallman, Vice-Chairperson,
Planning/Zoning Commission**

ATTEST:



Susan Stewart, Zoning Secretary