

**MINUTES OF THE SPECIAL CALLED MEETING  
CITY OF RIVER OAKS  
PLANNING AND ZONING COMMISSION  
SEPTEMBER 9, 2011**

**MEMBERS PRESENT:**

LORI WATSON, CHAIRPERSON  
JAMES MYRICK, VICE-CHAIRMAN  
KATHY RODDEN, PLACE 3  
PAUL SIMPSON, PLACE 4  
BRAD GALLMAN, PLACE 5  
SHERRIE DAST, ALTERNATE # 2  
JOANN GORDON, COUNCIL LIAISON (AT 6:45 P.M.)

**STAFF PRESENT:**

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

**MEMBERS ABSENT:**

RUTH ANN TEAGUE, ALTERNATE # 1 (PERSONAL)

**1. CALL TO ORDER**

**At 6:30 p.m. Chairperson Watson called the meeting to order; a quorum was present.**

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Member Gallman delivered the Invocation. Member Simpson led the pledge of allegiance to the United States Flag.

**3. MEMBER ROLL CALL**

Member roll call was recorded as follows: All members present except Ruth Ann Teague was absent with excuse.

**4. APPROVAL OF MINUTES FROM THE AUGUST 29, 2011 SPECIAL CALLED MEETING**

**Vice-Chairman Myrick moved, seconded by Member Simpson, to approve the Minutes of the August 29, 2011 meeting as presented. All voted "Aye."**

**5. PUBLIC HEARING CONTINUED FROM AUGUST 29, 2011:** in order to receive to receive public comment and testimony on the proposed request from Applicant (Rodney Orand) to change the zoning classification of Block 16, Lot 10, Castleberry Gardens Addition from a "C-1" Commercial Zoning District to "PC" Planned Commercial Zoning District in order to operate a Nursery not permitted in a "C-1" Commercial Zoning District in conjunction with the pre-existing permitted use of the rear of the property for a telecommunications tower. ***(Zoning Case # PZ 2011-14).***

Chairperson Watson announced that this public hearing was continued from August 29, 2011.

ZA Gregory reviewed the recommended changes as suggested by the Planning and Zoning Commission on August 29, 2011. 1) Proof of ownership must be provided or a notarized affidavit from the record owner with his/her authorization for Applicant Rodney Orand to make application to rezone this property to a Planned Commercial Zoning District. 2) A 20-foot drive approach on both sides of the property shall be constructed of concrete, a minimum of six 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 circular driveway that provides access to the property and thru travel for off-street loading and unloading of nursery products shall be provided a minimum of 16-feet wide. 3) Fencing in front along Roberts Cut Off shall be of an approved decorative type fence constructed on top of a concrete wall at least 24" above the natural grade of the lot at a height not greater than 8-feet or less than 6-feet and such fence shall be placed along the abutting or adjoining front property line to match the fence at 1915 Roberts Cut Off Rd. 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. 4) The driveway may be constructed of only concrete that meets the most recently adopted Public Works specifications by the N.C.T.C.O.G. 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 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.

Chairperson Watson asked Mr. Orand if he had obtained a letter from the property owner and a letter from the telecommunications company that owns the tower on the property as requested at the previous meeting. Mr. Orand had not obtained either letter. Chairperson Watson expressed concern that the Mr. Orand was only interested in purchasing the property if the zoning change from C-1 to Planned Commercial is approved, thus creating a potential hardship on the current property owner if the purchase is not completed. Chairperson Watson added that Mr. Orand has been using the property under conditions that are not allowable in the zoning ordinance. Chairperson Watson stated that Mr. Orand has already not followed guidelines and requests placed upon him.

ZA Gregory gave the option for the recommendation of the Board to the City Council to contain a requirement that Mr. Orand provide a letter of intent from the current owner.

ZA Gregory clarified that if the project is not finished within the time frame allowed, the lot must be cleared and returned to the natural condition. The only exception to this requirement would be for the City Council to amend the ordinance. ZA Gregory added that any work performed by the City through an administrative search warrant to clear the lot would result in a lien against the property that accrues interest of 10% per annum. ZA Gregory noted other enforcement action that Staff could take would be citations for each day a violation exists.

Mr. Orand described his intention to install "horse fencing" on the property line adjacent to the property on the north side. Mr. Orand stated that he would prefer to install 4" of concrete over the existing road base driveway that leads to the tower. Much discussion occurred related to the driveway to the tower. Citizen John Claridge stated that since the tower was installed without a road on the lot, that type of equipment should not be necessary again. John Claridge

noted that Staff was supposed to contact the owner of the telecommunications tower for clarification. ZA Gregory cited several unsuccessful attempts to contact T-Mobile. John Claridge asked ZA Gregory for clarification of the details desired in the letter of intent. ZA Gregory stated that the letter should be a notarized agreement between the owner and Mr. Orand. The letter should include that Mr. Orand has permission from the owner to re-zone the property for nursery use and a telecommunications tower only.

John Wedeking, 2008 Castleberry Cut Off, was present with information involving Orand's Nursery in Fort Worth. Mr. Wedeking stated that Mr. Orand did not comply with an order from the City of Fort Worth to install parking. Mr. Wedeking stated that Mr. Orand continues to park and allow parking in the easement. Mr. Orand stated that he complied with the orders from the City of Fort Worth and still awaits a response from Fort Worth related to this parking issue.

At 7:36 p.m. Chairperson Watson closed the public hearing.

6. **ACTION FROM PUBLIC HEARING:** Consider Planning and Zoning Commission recommendation to the City Council regarding the proposed request from Applicant (Rodney Orand) to change the zoning classification of Block 16, Lot 10, Castleberry Gardens Addition from a "C-1" Commercial Zoning District to "PC" Planned Commercial Zoning District in order to operate a Nursery not permitted in a "C-1" Commercial Zoning District in conjunction with the pre-existing permitted use of the rear of the property for a telecommunications tower. ***(Zoning Case # PZ 2011-14).***

**Vice-Chairman Myrick moved, seconded by Member Rodden, to approve the request subject to the following revisions: 1) The Record Owner must provide the Zoning Administrator by no later than 2:00 P.M. on Friday, September 9, 2011 with a notarized affidavit regarding the intended sale of the property to Rodney Orand and/or authorization for Rodney Orand to make application with the City of River Oaks to rezone the property at 1917 Roberts Cut Off to a Planned Commercial Zoning District; and 2) the revisions highlighted in yellow in the Ordinance draft to be fully complied with; and 3) that if the applicant does not comply with all the requirements contained in the ordinance within 120 days from the date of approval, the property be cleared and returned to its former unimproved state and that all improvements and nursery products be totally removed from the property; and 4) that the 120-day time limit not be further extended. Vice Chairman Myrick, Member Rodden, Member Simpson, and Member Gallman voted "Aye." Chairperson Watson voted "Nay."**

7. **EXECUTIVE SESSION** PURSUANT TO CHAPTER 551, TEXAS GOVERNMENT CODE, THE 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:

*SECTION 551.071: PENDING OR CONTEMPLATED LITIGATION OR TO SEEK ADVICE FROM ATTORNEY*

**None called for.**

8. ACTION FROM EXECUTIVE SESSION


**None.**

9. ADJOURN

ZA Gregory informed the Board of an upcoming public hearing for a specific use permit to sell alcohol at Super Save. Board Members agreed to hold the public hearing on September 29, 2011 at 6:30 p.m. at City Hall.

**At 7:45 p.m. Vice-Chairman Myrick moved, second by Member Gallman, to adjourn the meeting. All voted "AYE."**

**APPROVED THIS 29<sup>th</sup> DAY OF SEPTEMBER 2011**

  
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**Chairperson of Planning/Zoning Commission**

**ATTEST:**

  
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**Susan Stewart, Zoning Secretary**