

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Planning & Zoning Commission
Minutes of Regular Meeting
August 12, 2010 at 6:30 p.m.

Meeting called to order by Chairman Tracey Dean. Present were Commissioners Jean Ross, Lila McCall, Steve Klepfer, David Glenn, and Phil Dane (arrived at 6:56 p.m.).

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, City Planning Tech Sandy Irvin, and City Attorney Cindy Crosby.

Citizen Communications:

Joe Pendleton spoke of his family's ownership history regarding property located at 13301 Ranch Road 12 and prior communications with staff on City-initiated zoning. Though the family desired commercial zoning, the subject property was zoned residential due to its location in a planning area where commercial is not allowed. Because several parties have expressed interest in buying the property, Mr. Pendleton requested Commission consideration of his zoning/planning area status in order to market the property as commercial. City Administrator Ferguson advised that the Commission can hear this issue on a future agenda. Commissioner Klepfer informed Mr. Pendleton that the Commission is not allowed to respond during Citizens Communications, but has heard his concerns for later consideration.

1. Consent Agenda

Approval of minutes of the regular Planning & Zoning Commission meeting on July 22, 2010.

Commissioner Ross moved to approve the minutes as presented. Commissioner Glenn seconded. Motion carried on a vote of 4-0. Chairman Dean abstained.

2. Election of Planning and Zoning Commission Officers

Commissioner Glenn moved to postpone this item until Commissioner Dane's arrival. Commissioner Klepfer seconded. Motion carried on a vote of 5-0.

This item was heard after Agenda Item 3E.

Commissioner Ross nominated Chairman Dean for the position of Chair. Commissioner McCall seconded the nomination.

Commissioner Glenn nominated Commissioner Dane for the position of Chair. Commissioner Klepfer seconded the nomination.

The Commission voted for the position of Chair as follows:

	VOTE CAST IN FAVOR OF:
Commissioner Ross	Tracey Dean
Commissioner McCall	Tracey Dean
Chairman Dean	Tracey Dean
Commissioner Klepfer	Phil Dane
Commissioner Glenn	Phil Dane
Commissioner Dane	Phil Dane

Because the vote resulted in a 3-3 tie, Commissioner Ross moved to continue this appointment until the consensus position vacancy is filled. No second was given, but general agreement was reached for continuance.

Chairman Dean nominated Commissioner Ross for the position of Vice Chair. Commissioner Dane nominated Commissioner Klepfer for the position of Vice Chair.

The Commission voted for the position of Vice Chair as follows:

	VOTE CAST IN FAVOR OF:
Commissioner Ross	Jean Ross
Commissioner McCall	Steve Klepfer
Commissioner Klepfer	Steve Klepfer
Chairman Dean	Jean Ross
Commissioner Glenn	Steve Klepfer
Commissioner Dane	Steve Klepfer

Commissioner Klepfer was appointed Vice Chair in a 4-2 vote.

It was agreed to consider a Parliamentary appointment at a later date.

3. Public Hearing and Possible Action

- A. Hold a public hearing and consider making a recommendation to City Council on Case ZA-10-003, a request to change the zoning from Single Family Residential 2 (R-2) to Single Family Residential 3 (R-3) for a .3533 acre tract of land located at 7 Palos Verdes, Wimberley, Hays County, Texas. (*Michelle Grace, Applicant*)

Planning Tech Irvin reported on the proposed Amending Plat (see Agenda Item 3B), which will reduce the size of Lot 3 from .4860 acres to .3533 acres, making it necessary to change the zoning of the subject property from Single Family Residential 2 (R-2) to Single Family Residential 3 (R-3). Lots 2 and 4 will retain their current Single Family Residential 2 (R-2) zoning designation. She noted that no comments have been received on the requested zoning change and recommended approval.

City Administrator Ferguson stated that any motion to recommend approval needs to be contingent on approval of the companion application for an Amending Plat (see Agenda Item 3B).

No public comments were heard.

Commissioner Klepfer moved to recommend approval of the item as presented, contingent on approval of Case C212-10-002, an application for an Amending Plat of Lots 2, 3, and 4 of Block 2, Woodcreek Section 2 (see Agenda Item 3B). Commissioner Ross seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider making a recommendation to City Council on an application for an Amending Plat of Lots 2, 3, and 4, Block 2, Woodcreek Section 3 on Palos Verdes Drive, Wimberley, Hays County, Texas, and an associated variance from Section 154.063(C) of the City Subdivision Code requiring lots to be rectangular in size and conform to the average depth to average width ratio. (*Garrett Allen & Michelle Grace, Applicants*)

Planning Tech Irvin reported on the subject property's location at 7 and 3 Palos Verdes Drive, current/proposed zoning, and planning areas. The proposed plat adjusts the existing property lines so as to increase the size of Lots 2 and 4, while reducing the size of Lot 3. Specifically, Lot 2 will increase in size from .5239 acres to .5455 acres, while the size of Lot 4 will increase from .4388 acres to .5501 acres. The size of Lot 3 will be reduced from .4860 acres to .3533 acres. She advised that proper notification has been posted and letters mailed to property owners within 200 feet of the subject property. No comments have been received on the proposed plat and variance request and staff recommended approval.

Chairman Dean opened the public hearing.

Applicant Garrett Allen provided clarification on the subject property's ownership and existing/proposed structures. In response to Commissioner Klepfer regarding administrative approval of replats, City Administrator Ferguson replied that Commission action is required because this is an amending plat, which includes a variance request.

Chairman Dean closed the public hearing.

Commissioner Ross moved to recommend approval of the item as presented. Commissioner Glenn seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing and consider making a recommendation to City Council on Case CUP-10-013, an application for a conditional use permit to allow a secondary residential unit on a 5.16 acre tract of land zoned Residential Acreage (RA) and located at 260 Panther Crossing in Wimberley, Hays County, Texas. (*Thomas & Nancy Payte, Applicants*)

Planning Tech Irvin reported on the subject property's location, current/proposed zoning and uses, and minimum required floor area square footage (600 square feet). The proposed secondary residential structure will have an approximate floor area of 3,200 square feet. She advised that proper notification has been posted and letters mailed to property owners within 200 feet of the subject property. No comments have been received on the conditional use permit (CUP) request and staff recommended approval.

No public comments were heard.

Commissioner Ross moved to recommend approval of the item as presented. Commissioner McCall seconded. Discussion addressed the subject property's location in the Protected Water Overlay District. Motion carried on a vote of 5-0.

- D. Hold a public hearing and consider making a recommendation to City Council on Case ZA-10-004, an application to amend an existing Planned Unit Development Agreement, with a base zoning of Lodging (L-2), to allow for the addition of two (2) cabins and one (1) single family residence to the development and to modify phasing of the development located at 100 W. Spoke Hill Drive, Wimberley, Hays County, Texas. (*A Yellow Rose, Applicant*)

Planning Tech Irvin reported on the subject property's location, acreage, base L-2 zoning, planning areas, notification, water/wastewater, and applicable overlay district (Entrance Corridor). She noted that the original Planned Unit Development (PUD) agreement was approved in 2001. This requested amendment would allow for the addition of two (2) cabins, each with a floor area of 680 square feet, and one (1) single family residence with a floor area of approximately 3,200 square feet, as well as additional parking.

Chairman Dean opened the public hearing.

Discussion among the Commission, City Administrator Ferguson, and the applicant Michael Schneider addressed details and scope of the original PUD agreement, uses/accessory uses, and the minimal nature of this requested amendment. It was noted that water/wastewater is provided by a private well and permitted on-site sewage facilities, not Wimberley Water Supply Corporation, as stated in staff's report.

Chairman Dean closed the public hearing.

Commissioner Klepfer moved to recommend approval of the item as presented. Commissioner Glenn seconded. Motion carried on a vote of 5-0.

- E. Hold a public hearing and consider making a recommendation to City Council on a proposed ordinance amending the City of Wimberley Zoning Code to create a Rural Retreat 1 (RR-1) zoning district for tourist retreat development, excluding hotels and motels, in the form of cottages, cabins, lodges, RV sites available for short term rental and accessory uses; establishing development regulations

relating to the RR-1 zoning district; and designating the planning areas where such zoning would be allowable. (*City Administrator*)

Before consideration of this item, Chairman Dean called for a brief recess in order to allow time for Commissioner Dane's arrival. Commissioner Dane arrived at 6:56 p.m. and Chairman Dean reconvened the meeting at that time.

City Administrator Ferguson reviewed discussion/action to date, specific retreat-type properties that do not fit into existing zoning districts, and the need for public input before recommendation to Council. He highlighted key elements of the draft ordinance.

Chairman Dean opened the public hearing.

Rio Bonito Resort co-owner/resident Natalie Meeks spoke of her family's long ownership history and stated the possible need for expansion in order to continue as an income-producing operation. With current residential zoning preventing future expansion, Mrs. Meeks felt that the draft ordinance is more limited than her family hoped for, but generally favored creation of the RR-1 zoning district, as proposed.

Discussion addressed comparisons of three (3) retreat-type properties (Rio Bonito Resort, 7A Resort, and Rocky River Ranch), including acreage available for development, number of cabins/lodges, square footage of certain structures, and maximum occupancy.

As a matter of public record, Commissioner Glenn conveyed an email (*attached to these minutes*) from Tevis Grinstead and Marilee Wood expressing concerns over the potential negative impact of retreat-type facilities on the Blanco River and surrounding residential properties.

Discussion addressed existing unrestricted properties; need to appropriately zone Rio Bonito Resort, 7A Resort, and Rocky River Ranch, while ensuring protection for residential neighborhoods; unintended consequences of proposed RR-1 zoning, particularly as applied to new development; potential maximum load on waterways; and possible development of a modified Wimberley Planned Development District (WPDD) to allow continued historical use and future reasonable expansion; and restrictions on development located near waterways.

Given the long-term nature of her family's resort operations, Rio Bonito Resort owner/resident Cindy Meeks stated that there has to be some degree of trust in the integrity of individuals whose livelihood depends on being caretakers of their land. She stated that it is harder to make a living under current conditions and favored the chance to grow her operations "just a little bit," while preserving the natural beauty of Wimberley.

Chairman Dean closed the public hearing.

Discussion included the Comprehensive Plan vision statement, which encourages opportunities for small, independent businesses; cumbersome regulations and high WPDD fees that discourage small businesses; historical designation for certain properties; density/placement issues; acreage limits; and separate consideration of Rio Bonito Resort, 7A Resort, and Rocky River Ranch properties in order to zone under a proposed modified City-initiated WPDD agreement.

Commissioner Klepfer moved to direct staff to enter into a modified WPDD process for Rio Bonito Resort, 7A Resort, and Rocky River Ranch and to continue further discussion of creation of an RR-1 zoning district.

Discussion on the motion agreed to proceed with a positive recommendation to create an RR-1 zoning district, with a requirement for a minimum lot size of twenty (20) acres, prohibition of RR-1 zoning for any properties located entirely or partially within the Protected Water Overlay District (PWOD), and maximum occupancy not to exceed two hundred (200) guests per total development. Commissioner Dane made a friendly amendment to Commissioner Klepfer's motion adding the previously stated agreed-upon conditions.

Before the motion was seconded, Commissioner Klepfer restated the motion as follows:

"I move for approval of recommendation to City Council of RR-1 new zoning designation with the following changes: Changing §155.063(E)(1) to state twenty (20) acres minimum lot size; adding §155.063(F)(5) to state that this zoning district shall not be allowed for any piece of property in the PWOD; and, that the three (3) existing resorts, specifically 7A Resort, Rio Bonito Resort, and Rocky River Ranch proceed with a City-initiated modified WPDD process."

Commissioner Dane seconded.

Motion carried on a vote of 6-0.

4. Discussion and Possible Action

Discuss and consider possible action relating to a proposal to impose a moratorium on the issuance of new conditional use permits for bed and breakfasts in the area of the Wimberley Square. (*Commissioner Lila McCall*)

Commissioner McCall presented a list of reasons (*attached to these minutes*) for the suggested moratorium to last no longer than ninety (90) days. She stressed the need to tighten regulations, particularly to avoid a proliferation of unlicensed "party" houses.

City Attorney Crosby provided details on the process required to impose a moratorium, which is time-consuming due to specific public notice/hearing requirements. City Administrator Ferguson stated that no CUP requests are pending and that bed and breakfast regulations could probably be clarified in ninety (90) days, without the need to

impose a moratorium. In response to Commissioner Dane's inquiry, City Attorney Crosby and City Administrator Ferguson cautioned against the Commission's continuance of any potential pending applications, which could be heard by City Council without a recommendation from the Planning and Zoning Commission.

Commissioner Klepfer agreed with Commissioner McCall on the need for discussion about the impact of more overnight rentals/bed and breakfasts on neighborhoods, but felt that regulations could be modified without the need for a moratorium. Discussion addressed clarification of definitions, strain on septic systems and associated effects on water quality, differences between typical residential use and vacation rental use, and owner-occupied bed and breakfasts. There was general agreement that regulations could be tightened in a timely fashion without imposing a moratorium.

Terrie Bursiel asked the Commission if it realizes where economic development comes from and if it intends to "shut it down." Commissioner Klepfer stated that applications can be submitted for CUPs for bed and breakfasts. Mrs. Bursiel stated that there is not a town in Texas that requires CUPs and that other towns welcome bed and breakfasts. She asked that bed and breakfast owners be consulted before any further discussions are held and stated that the Commission is opening up "a big can of worms." Chairman Dean reminded that the Commission has not taken action yet, but is open to discussion on this issue.

Commissioner McCall stated that the Commission has to do whatever is necessary to protect the ambiance of Wimberley, so people will keep coming. She felt that Wimberley needs to protect its waterways as valuable community assets. Discussion between Commissioner McCall and Mrs. Bursiel addressed the pros and cons of short-versus long-term rentals.

5. Staff and Commission Reports

- Announcements
- Future Agenda Items

Commissioner Glenn requested a report on Council's action on the recently approved CUP for a bed and breakfast facility on the Square. Commissioner Ross advised that Council approved the CUP application and conveyed Council's view that all future cases heard by the Planning and Zoning Commission should be forwarded to Council with a recommendation. Discussion addressed specific reasons for lack of a recommendation on the subject case and the general need for the Commission to forward a recommendation on all cases. City Administrator Ferguson clarified current statutory language stating that the Commission shall present a "final report," which in the subject case, was forwarded without a recommendation.

As a future agenda item, it was agreed to discuss and consider mandatory language relating to Planning and Zoning recommendations.

Hearing no further announcements or future agenda items, Commissioner Ross moved to adjourn. Chairman Dean seconded. Motion carried on a vote of 6-0.

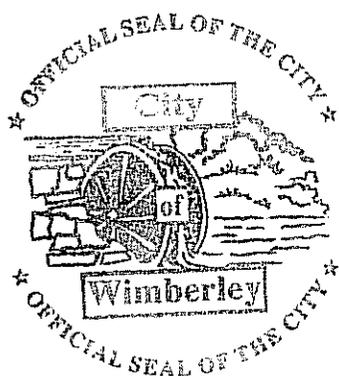
Adjourn at 8:13 p.m.

Recorded by:



Cara McPartland

These minutes approved the 26th of August, 2010.



APPROVED:



Tracey Dean, Chair

THE 800 # GORILLA IN WIMBERLEY'S COUNCIL CHAMBER

Dear Editor:

Wimberley celebrates its 10th Anniversary with the upcoming May elections. Much has been accomplished through our "volunteer spirit", private contributions, and grant funding. We have a Community Center, Nature Refuge, Cypress Creek Nature Trail, Blue Hole Park land (approaching the size of Zilker Park anchoring one entrance to The Village Square), permanent City Hall, new scenic bridge across Cypress Creek and a public potty.

Recent headlines from the View such as "City ponies up...for new city hall site; City scales back on road repairs; Local non-profit balks at City's decision to increase community center rental rate; Wimberley sales tax allocation declines; Renovations to begin on new city hall; and Blue Hole rates increase for upcoming summer" point out funding problems facing Wimberley. This years budget has a nearly \$200,000 deficit that was funded from Reserve Funds. By far the two biggest projected revenue categories are Sales & Use Tax-46% and Franchise Fees-20% totaling 66% of Total Expenditures. Together they fund only 2/3rds of the budget!

As appointed members of a Wimberley advisory board, we find ourselves increasingly involved in planning processes where there is often little or no expectation of funding to accomplish the final plans. The question arises as to the usefulness of such planning to the citizens of Wimberley or the Wimberley Valley. Either the council we elect in May or one not long thereafter must address **additional possible funding sources, the 800# gorilla in Wimberley's Council Chamber.**

We are not asking candidates to run supporting a particular new funding source. **However, they must be willing, if elected, to engage in a public process addressing possible funding sources** necessary to maintain a vibrant and effective municipality that benefits the entire Wimberley Valley. These could include:

- Ad valorem or other taxes
- Fees per person or household or property
- Districts that extend representation and funding beyond city limits.
- Possible merger with Woodcreek
- Your pet ideas

What is your favorite candidate's vision of Wimberley's financial future? Discuss it with them and consider bringing this topic up in public forums between now and May 8, 2010, election day. Thank you.

Lila McCall & David Glenn, Wimberley

Planning & Zoning Commission
August 12, 2010

AGENDA ITEM 4:

**DISCUSS AND CONSIDER POSSIBLE ACTION RELATING TO A PROPOSAL
TO IMPOSE A MORATORIUM ON THE ISSUANCE OF NEW CONDITIONAL
USE PERMITS FOR BED AND BREAKFASTS IN THE AREA OF THE
WIMBERLEY SQUARE**

1. Definition of “bed and breakfast” versus “vacation rental”
2. Strain on septic systems and waterways – tighten water quality ordinance
3. Licensing and inspection of bed and breakfasts and perhaps vacation rentals
4. Zoning versus licensing
 - When you zone, it goes with the property and the person
 - Licensing goes with the person
 - Suggest annual licensing and inspections
5. Grandfathering versus all participating
 - Does this come under zoning?
6. Consider quarterly or semi-annual compliance reports to the City in order to keep bed and breakfast designation