

City of Wimberley

12111 Ranch Road 12, P.O. Box 2027
Wimberley, Texas 78676

REGULAR CITY COUNCIL MEETING
WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS
12111 RANCH ROAD 12, WIMBERLEY, TEXAS
OCTOBER 15, 2009, 6:30 P.M.

AGENDA

CALL TO ORDER: OCTOBER 15, 2009 @ 6:30 P.M.

CALL OF ROLL: CITY SECRETARY

INVOCATION

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

CITIZENS COMMUNICATIONS:

THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS ON ISSUES AND ITEMS OF CONCERN, NOT ON THIS AGENDA. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AND OBSERVE A THREE-MINUTE TIME LIMIT WHEN ADDRESSING COUNCIL. SPEAKERS WILL HAVE ONE OPPORTUNITY TO SPEAK DURING THE TIME PERIOD. SPEAKERS DESIRING TO SPEAK ON AN AGENDA ITEM WILL BE ALLOWED TO SPEAK WHEN THE AGENDA ITEM IS CALLED. INQUIRIES ABOUT MATTERS NOT LISTED ON THE AGENDA WILL EITHER BE DIRECTED TO STAFF OR PLACED ON A FUTURE AGENDA FOR COUNCIL CONSIDERATION.

1. EXECUTIVE SESSION:

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session. After the executive session discussion on any of the following items, any final action or vote taken will be in public:

CONSULTATION WITH ATTORNEY REGARDING PENDING LITIGATION IN CAUSE NO. 08-1984, CYNDI BROWN, INDIVIDUALLY vs. CITY OF WIMBERLEY, TOM HALEY, INDIVIDUALLY AND DON FERGUSON, INDIVIDUALLY IN THE 428TH DISTRICT COURT OF HAYS COUNTY, TEXAS

2. CONSENT AGENDA

THE FOLLOWING ITEMS MAY BE ACTED UPON IN ONE MOTION. NO SEPARATE DISCUSSION OR ACTION IS NECESSARY UNLESS REQUESTED BY A COUNCIL MEMBER OR CITIZEN, IN WHICH EVENT THOSE ITEMS WILL BE PULLED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION.

- (A) APPROVAL OF MINUTES OF THE REGULAR CITY COUNCIL MEETING OF OCTOBER 1, 2009.
- (B) APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL MEETING OF OCTOBER 8, 2009.
- (C) APPROVAL OF MINUTES OF THE SPECIAL CITY COUNCIL MEEETING OF OCTOBER 10, 2009
- (D) APPROVAL OF THE APPOINTMENT OF ONE (1) CONSENSUS MEMBER TO THE WIMBERLEY BUILDING CODE BOARD OF REVIEW.
 - BOB BULLOCK (*MAYOR TOM HALEY'S NOMINEE*)
- (E) APPROVAL OF THE APPOINTMENT OF TWO (2) CONSENSUS MEMBERS TO THE WIMBERLEY PARKS BOARD.
 - CHRISTINE BYRNE (*MAYOR TOM HALEY'S NOMINEE*)
 - AUBREY WEEKS (*PLACE FOUR COUNCIL MEMBER STEVE THURBER'S NOMINEE*)
- (F) APPROVAL OF THE APPOINTMENT OF ONE (1) CONSENSUS MEMBER TO THE WIMBERLEY TRANSPORTATION ADVISORY BOARD.
 - TOM WALLACE (*MAYOR TOM HALEY'S NOMINEE*)
- (G) APPROVAL OF THE APPOINTMENT OF ONE (1) CONSENSUS MEMBER TO THE WIMBERLEY BOARD OF ADJUSTMENT.
 - BILL CLINE (*MAYOR TOM HALEY'S NOMINEE*)
- (H) APPROVAL OF THE REAPPOINTMENT OF P. JASON ALDRIDGE TO THE WIMBERLEY BOARD OF ADJUSTMENT. (*MAYOR PRO-TEM CHARLES ROCCAFORTE'S NOMINEE*)
- (I) APPROVAL OF THE REAPPOINTMENT OF HORACE WILSON TO THE WIMBERLEY PARKS BOARD. (*MAYOR PRO-TEM CHARLES ROCCAFORTE'S NOMINEE*)
- (J) APPROVAL OF THE REAPPOINTMENT OF LARRY CATT TO THE WIMBERLEY BUILDING CODE BOARD OF REVIEW. (*MAYOR PRO-TEM CHARLES ROCCAFORTE'S NOMINEE*)
- (K) APPROVAL OF THE APPOINTMENT OF M.F. JOHNSON TO THE WIMBERLEY PARKS BOARD. (*PLACE TWO COUNCIL MEMBER BOB FLOCKE'S NOMINEE*)

3. CITY ADMINISTRATOR REPORT

- STATUS REPORT ON THE DEVELOPMENT OF THE *BLUE HOLE REGIONAL PARK*
- STATUS REPORT ON PREPARATIONS FOR *THE LANCE ARMSTRONG LIVESTRONG CHALLENGE*
- STATUS REPORT ON *THE WIMBERLEY CITY LIMIT SURVEY PROJECT*
- STATUS REPORT ON THE OPERATION OF THE WIMBERLEY COMMUNITY CENTER
- STATUS REPORT ON THE CITY OF WIMBERLEY'S REQUEST FOR AN ATTORNEY GENERAL'S OPINION ON THE ABILITY OF TYPE A GENERAL LAW CITIES TO ENFORCE NON-POINT SOURCE POLLUTION REGULATIONS IN THE E-T-J
- STATUS REPORT ON ACTIVITIES OF THE WIMBERLEY MUNICIPAL COURT

4. PUBLIC HEARING AND POSSIBLE ACTION

- (A) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF THE SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING THE CITY'S COMPREHENSIVE PLAN AND ACCOMPANYING MAPS TO REMOVE THOSE PROPERTIES WHICH FRONT CARNEY LANE, BETWEEN FM 2325 AND THE CITY LIMITS, FROM PLANNING AREAS I AND II AND INCLUDE THE SUBJECT PROPERTIES IN PLANNING AREA III; AND PROVIDING FOR FINDINGS OF FACT; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING. (*PLANNING AND ZONING COMMISSION*)
- (B) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE AMENDING SUBSECTION 33.02(E) (TRANSPORTATION ADVISORY BOARD), SUBSECTION 33.03(E) (WATER AND WASTEWATER ADVISORY BOARD), SUBSECTION 33.04(E) (PARKS AND RECREATION BOARD), SUBSECTION 150.01(E) (BUILDING CODE BOARD OF REVIEW), SUBSECTION 155.108(B)(2) (BOARD OF ADJUSTMENT) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS IN ORDER TO REVISE THE TERMS OF OFFICE FOR INDIVIDUALS APPOINTED TO THE ABOVE REFERENCED BOARDS; PROVIDING FOR FINDINGS OF FACT, AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, AND SEVERABILITY. (*CITY ADMINISTRATOR*)
- (C) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR A 0.3279 ACRE TRACT LOCATED AT 13904 RANCH ROAD 12, WIMBERLEY, HAYS COUNTY, TEXAS, DESIGNATING INITIAL ZONING FOR SUCH TRACT AS COMMERCIAL-HIGH IMPACT (C-3); AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING. (*DOUBLE LC PARTNERS ONE, APPLICANT*)
- (D) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY AMENDING ORDINANCE NO. ZA-01-010 WHICH DESIGNATED REAL PROPERTY LOCATED ON A 5.3443 ACRE TRACT AS A PLANNED UNIT DEVELOPMENT DISTRICT (CASE NO. C211-01-010) AND IMPOSED CERTAIN CONDITIONS, IN ORDER TO REVISE CERTAIN DEVELOPMENT REGULATIONS TO INCLUDE REVISIONS TO THE MAXIMUM BUILDING SQUARE FOOTAGE, THE TOTAL PROJECT SQUARE FOOTAGE, REDUCE PARKING, REVISE THE UTILITY PLAN, ACCESS POINTS, LANDSCAPING PLAN AND ADD "ASSISTED LIVING FACILITY" AS A PERMITTED USE; AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; FINDINGS OF FACT; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING. (*JOHN MC CROCKLIN, APPLICANT*)
- (E) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR UNZONED REAL PROPERTY ABUTTING THE FM 2325 CORRIDOR BETWEEN THE CITY LIMITS AND RHODES LANE, WIMBERLEY, HAYS COUNTY, TEXAS, FURTHER DESCRIBED AND SHOWN ON THE EXHIBIT ATTACHED TO THIS ORDINANCE; AND DESIGNATING INITIAL ZONING FOR EACH TRACT AS EITHER RESIDENTIAL ACREAGE (RA), RURAL RESIDENTIAL 1 (R-1), SINGLE-FAMILY RESIDENTIAL 2 (R-2), NEIGHBORHOOD SERVICES (NS), SCENIC CORRIDOR (SC), COMMERCIAL-LOW IMPACT (C-1), OR PUBLIC FACILITIES (PF) AS

SHOWN ON THE ATTACHED ZONING MAP; AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING. (CITY OF WIMBERLEY, APPLICANT)

5. DISCUSSION AND POSSIBLE ACTION

- (A) DISCUSS AND CONSIDER ACTION BANNING THE USE OF CELL PHONES IN DESIGNATED SCHOOL ZONES WITHIN THE CITY OF WIMBERLEY AND PROVIDING DIRECTION TO CITY STAFF. (CITY ADMINISTRATOR)
- (B) DISCUSS AND CONSIDER APPROVAL OF THE FISCAL YEAR 2010 CITY OF WIMBERLEY HOLIDAY SCHEDULE. (CITY ADMINISTRATOR)

6. CITY COUNCIL REPORTS

- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

ADJOURNMENT

THE CITY COUNCIL MAY RETIRE INTO EXECUTIVE SESSION AT ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSING ANY MATTERS LISTED ON THE AGENDA AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE INCLUDING, BUT NOT LIMITED TO, HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087 OF THE TEXAS GOVERNMENT CODE; ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

CERTIFICATION

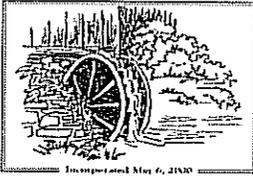
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on October 12, 2009 at 5:00 p.m.



CARA MC PARTLAND, CITY SECRETARY

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact Don Ferguson, City Administrator, at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

City Council Agenda Form



Date Submitted: October 12, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: EXECUTIVE SESSION TO CONSULT WITH ATTORNEYS REGARDING PENDING LITIGATION

Funds Required:

Funds Available:

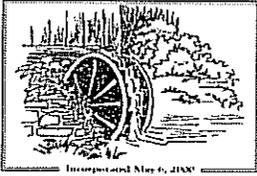
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to meet in Executive Session to consult with attorneys regarding pending litigation in *Cause No. 08-1984, Cyndi Brown, Individually vs. City of Wimberley, Tom Haley, Individually, and Don Ferguson, Individually, in the 428th District Court of Hays County, Texas.*

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPROVAL OF
OCTOBER 1, 2009 MINUTES OF REGULAR CITY
COUNCIL MEETING

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Attached are minutes for the October 1, 2009 Regular City Council Meeting for review and consideration.

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
October 1, 2009 at 6:30 p.m.

City Council meeting called to order at 6:30 p.m. by Mayor Tom Haley.

Mayor Haley gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Haley and Councilmembers Charles Roccaforte, Bob Flocke, Bill Appleman, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson and City Secretary Cara McPartland

Citizens Communications

M.F. Johnson provided details on the first annual *Full Moon Harvest Walk* sponsored by the Mayor's Fitness Council, and encouraged participation in the first walk to take place on Sunday, October 4, 2009 at 6:30 p.m. starting at the Wimberley Café.

Wimberley Merchants Association representative Kenny Carleton publicly thanked former City Marshal Bill Robinson for his service to downtown merchants.

1. Consent Agenda

- A. Approval of the minutes of the regular City Council meeting of September 17, 2009.
- B. Approval of the minutes of the special City Council meeting of September 22, 2009.
- C. Approval of the reappointment of Horace Wilson to the City of Wimberley Building Code Board of Review (*Place Four Councilmember Steve Thurber's nominee*).
- D. Approval of the reappointment of Bert Ray to the Wimberley Transportation Advisory Board (*Mayor Tom Haley's nominee*).

Councilmember Appleman moved to approve all Consent Agenda items. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

2. Presentations

Presentation of the Pedernales Electric Cooperative (PEC) quarterly activities report (*Cele de Leon*).

PEC representative Cele de Leon provided information on how to use PEC's website as a tool for members to monitor and analyze electricity usage and payment history. He reported on the entry

deadline for PEC's 2010 Youth Tour Contest, extension of the reconnection fee waiver period through the end of 2009, and capital credit distributions. Mr. de Leon concluded by presenting Mayor Haley with PEC's quarterly franchise payment in the amount of \$35,284.27.

3. City Administrator Report

- Status report on the operation and development of the *Blue Hole Regional Park*

City Administrator Ferguson reported on the upcoming design charrette schedule and its purpose to gather public input. Mr. Ferguson advised that charrette meetings will be posted should a quorum of Council desire to attend. He provided details on continually updated websites where the public can stay informed on the project's progress.

- Status report on possible additions to the *Transportation Master Plan* relating to mobility and connectivity

City Administrator Ferguson reported on the recent Transportation Advisory Board (TAB) meeting gathering public input on connectivity issues. Saddleridge and River Meadows subdivision representatives expressed respective concerns relating to the extension of Saddleridge Drive/Canyon Gap to Fulton Ranch Road and Leach Lane to Wayside Drive. TAB plans to weigh public input received to date at its next meeting before making final recommendations to the Planning and Zoning Commission.

- Status report on the review and approval process for subdivisions in the City of Wimberley's Extraterritorial Jurisdiction (ETJ)

City Administrator Ferguson reported on Hays County recently adopted subdivision regulations and the process/timeframe related to incorporating those regulations into a new interlocal agreement. He provided details on a less cumbersome joint review process and payment of City of Wimberley/Hays County fees. Interlocal agreement negotiations hope to clarify the role/authority of each party relating to granting of variances.

- Status report on the upcoming *Christmas Parade* in downtown Wimberley

City Administrator Ferguson reported that local realtor Brenda Samford has made significant fundraising progress and that the City is helping organizers in obtaining approval for street closure(s) from Texas Department of Transportation and securing any needed law enforcement. The parade is scheduled to take place on November 27, 2009.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported on an appealed case to be heard in Hays County Court at Law this month.

- Status report on activities of the City Marshal

City Administrator Ferguson expressed gratitude to City Marshal Bill Robinson whose last day of employment was September 30, 2009. He reported on the process for sale of the City Marshal's vehicle and noted that some interest has been expressed by law enforcement agencies. City Administrator Ferguson reported on *National Night Out* activities scheduled for October 6, 2009 in the Wimberley Square. He noted that the event will be posted should a quorum of Council members desire to attend.

4. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for property located at 317 FM 2325, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial – Low Impact (C-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*G.K.K. Investments, Applicant*).

Planning and Zoning Commissioner Jean Ross reviewed the subject property's location, existing/proposed uses, allowed uses, requested zoning, and adequate parking. The applicant is proposing to utilize the existing vacant structure (previously used for professional offices) to operate a retail children's clothing store. With no expressed opposition, Planning and Zoning voted unanimously to recommend approval.

Mayor Haley opened the public hearing. Hearing no comments, Mayor Haley closed the public hearing.

City Administrator Ferguson noted the subject property's location in Planning Area IV, existing structure(s), and the need for zoning due to change in use. He stated that staff concurs with Planning and Zoning's recommendation for approval.

Councilmember White moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for property located at 801 FM 2325, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial – Low Impact (C-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Roger Glenn Bullock, Applicant*).

Planning and Zoning Commissioner Ross reviewed the subject property's zoning application triggered by a change in use. She noted that C-1 zoning is allowed and that the Commission voted unanimously to recommend approval.

Mayor Haley opened the public hearing. Hearing no comments, Mayor Haley closed the public hearing.

City Administrator Ferguson noted the subject property's location in Planning Area III and concurred with Planning and Zoning's recommendation for approval.

Councilmember Flocke moved to approve the item as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- C. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Roger Glenn Bullock to permit a drive-through or drive-in facility on an approximately 0.890 acre tract located at 801 FM 2325, Wimberley, Hays County, Texas, zoned Commercial – Low Impact (C-1), and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions (*Roger Glenn Bullock, Applicant*).

Planning and Zoning Commissioner Ross reported on the proposed use to sell frozen yogurt from a smaller building adjacent to the existing Hill Country Natural Foods business. Customers would walk up to a window to purchase frozen yogurt and either sit at the picnic bench on the property to eat their yogurt or drive away.

Mayor Haley opened the public hearing.

Applicant Roger Glenn Bullock stated that customers will drive up and walk to the window to order.

Hearing no further comments, Mayor Haley closed the public hearing.

City Administrator Ferguson noted that this will be a drive-in facility, which is allowed with a conditional use permit.

In response to Councilmember Thurber's inquiry, City Administrator Ferguson responded that this conditional use permit would specifically allow a drive-in facility and any future change in use to a drive-through facility would require another conditional use permit application.

Councilmember Thurber moved to approve the ordinance with the deletion of the term "drive-through." Councilmember White seconded. Motion carried on a vote of 5-0.

- D. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending the City's Comprehensive Plan and accompanying maps to remove those properties which front Carney Lane, between FM 2325 and the city limits, from Planning Areas I and II and include the subject properties in Planning Area III; and providing for findings of fact; severability; effective date; and proper notice and meeting (*Planning and Zoning Commission*).

Planning and Zoning Commissioner Ross reported that the Commission unanimously recommended approval based on surrounding uses and lack of objections from area property owners.

Discussion addressed specific boundary lines and existing uses of Carney Lane frontage properties.

City Administrator Ferguson noted the Wimberley Independent School District (WISD) properties zoned Public Facilities (PF) are included and provided rationale for inclusion of properties fronting Carney Lane. He concurred with Planning and Zoning's recommendation.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing.

Discussion clarified the subject properties' boundaries and responded to Councilmember Thurber's question relating to inclusion of WISD properties. Discussion noted the reasoning for clustering accepted uses in planning areas and recognized that any future change in use (other than PF) of WISD properties would trigger the need for rezoning.

Councilmember Roccaforte moved to approve the item as presented. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

- E. Hold a public hearing and consider an ordinance amending Subsection 33.02(E) (Transportation Advisory Board), Subsection 33.03(E) (Water and Wastewater Advisory Board), Subsection 33.04(E) (Parks and Recreation Board), Subsection 150.01(E) (Building Code Board of Review), Subsection 155.108(B)(2) (Board of Adjustment) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the terms of office for individuals appointed to the above referenced boards; providing for findings of fact, and effective date; proper notice and meeting, and severability (*City Administrator*).

City Administrator Ferguson reviewed Council's previously expressed desire for uniform terms and appointment processes for all boards and commissions. He explained the proposed ordinance establishing two-year terms for all board/commission positions and the expiration of members' terms the November following the election of the nominating Council member. He noted Council's similar action providing for a forty-five (45) day wait for Planning and Zoning nominations and suggested the addition of language addressing consensus appointment procedures. Mr. Ferguson cited typical practices such as setting a specific date for appointments to occur and notification procedures for such appointments.

Mayor Haley opened the public hearing. Hearing no response, Mayor Haley closed the public hearing.

Mayor Haley expressed preference for a forty-five (45) day waiting period, rather than six (6) months as in the draft ordinance. Discussion addressed:

- the need and original purpose for this proposed ordinance
- potential politicization of appointments
- maintaining continuity of work in boards/commissions
- uniform terms/waiting period for all boards/commissions
- a ninety (90) day waiting period [versus six (6) months]
- difficulty in filling board/commission positions
- reasoning for a mass appointment schedule
- possible future amendment of the existing forty-five (45) day waiting period for Planning and Zoning appointments
- need to fill current board/commission vacancies
- staggering of appointments

Mayor Haley spoke on the need to revise the proposed ordinance and there was general agreement to table this item. Discussion addressed maintaining continuity on boards/commissions, various appointment/reappointment scenarios affecting board/commission compositions, and staggered terms to avoid wholesale changes to board/commission memberships.

Mayor Haley suggested that Council table this item and provide guidelines for City Administrator Ferguson in order to achieve an acceptable draft ordinance for further consideration.

Councilmember Thurber moved to table this item until Council's next meeting with the understanding that Council will consult with staff in order to revise the ordinance accordingly. City Administrator Ferguson reminded that the draft ordinance presented at tonight's meeting was based on Council's prior request to address concerns related to board/commission appointments. Councilmember Flocke seconded. Councilmember Appleman reminded Council of previous discussion on this issue in July 2009. Motion carried on a vote of 5-0.

5. Discussion and Possible Action

- A. Discuss and consider approval of plans for the *Winter's Eve on the Square* on December 5, 2009 (City Administrator).

Councilmember Flocke recused himself from the meeting at this time due to a possible conflict of interest.

City Administrator Ferguson provided event details including location, date, time, street closures, parking, and traffic control/law enforcement. Event features included music, food/alcohol sales, and various activities. Due to alcohol sales, Mr. Ferguson noted the need for adequate law

enforcement and the naming of the City as an additional insured party on insurance coverage. Other points of discussion included event personnel, restroom facilities, parking, and signage.

Wimberley Merchant Association representative Kenny Carleton stated conversations with the alcohol caterer assured that this event will utilize appropriate law enforcement and TABC-certified staffing. He noted that the Wimberley Merchants Association will pay for the \$201 TABC application fee and the additional insurance rider which includes the City of Wimberley. Mr. Carleton noted that safeguards are in place to keep the "alcohol aspect" of this family-oriented event low-key in nature. He hoped that this event will provide expanded opportunities for merchants in difficult times and emphasized that the Merchants Association will do nothing to jeopardize its status.

Due to alcohol sales, Mayor Haley stressed the need for extra care and Mr. Carleton responded to concerns over alcohol sales by stating that safety is of utmost concern to event organizers.

Councilmember Thurber moved to approve the item provided that the City is named as an additional insured and adequate law enforcement is supplied to the City's satisfaction. Councilmember Appleman seconded. Motion carried on a vote of 4-0.

Councilmember Flocke rejoined the meeting at this time.

- B. Discuss and consider action to clarify the process to be used to make consensus appointments to City boards and commissions (*Mayor Tom Haley*).

Mayor Haley felt that every Council member has the right to place any name into consideration for open consensus positions, with terms which are to run concurrently with the mayor's.

Discussion addressed staggering of consensus appointments for boards/commissions with more than one consensus position to fill, various appointment scenarios affecting board/commission composition/continuity, procedures for making appointments, and uniform appointment date(s).

Councilmember Appleman moved to include provisions regarding terms/appointments of consensus nominees in Council's previous direction to revise the draft ordinance relating to tabled Agenda Item 4E. Motion died for a lack of second.

Mayor Haley reiterated his previous statement and stressed each Council member's right and duty to vote for the nominee of his choice.

Councilmember Thurber moved to table this item and take no action at this time. Councilmember White seconded. Mayor Haley recommended that Council convey its feelings on this issue to staff in order to decide whether or not future action is needed. Motion carried on a vote of 5-0.

6. City Council Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson stated that TAB has asked to conduct a joint workshop meeting on October 14, 2009 with Council to discuss priorities and planning for road improvements.

Mr. Ferguson announced that he has received notice from the State Energy Conservation Office (SECO) that grant funds in the amount of \$20,000 have been awarded to the City of Wimberley, which may possibly be used to improve energy efficiency at the Wimberley Community Center.

As a future agenda item, Councilmember Thurber requested a lawsuit status update. Mr. Ferguson responded affirmatively to Councilmember Thurber's request for a copy of the finalized and approved FY 2010 Budget for Council. Hearing no more announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 7:47 p.m.

Adjournment: Council meeting adjourned at 7:47 p.m.

Recorded by:

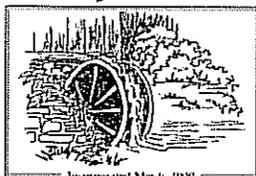
Cara McPartland

These minutes approved on the ____ of October, 2009.

APPROVED:

Tom Haley, Mayor

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPROVAL OF
OCTOBER 8, 2009 MINUTES OF SPECIAL CITY
COUNCIL MEETING

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Attached are minutes for the October 8, 2009 Special City Council Meeting for review and consideration.

MINUTES
SPECIAL CITY COUNCIL MEETING
OCTOBER 8, 2009 – 4:00 P.M.

The City Council of the City of Wimberley, Texas met for the purpose of participating in a focus group/stakeholder meeting relating to the design of the Blue Hole Regional Park, located at the former First Baptist Church of Wimberley, 501 Old Kyle Road, Wimberley, Hays County, Texas on Thursday, October 8, 2009 at 4:00 p.m.

Those present were: Mayor Tom Haley, Presiding; Council Members Charles Roccaforte, Bob Flocke, Bill Appleman, Steve Thurber, and John White.

Members of the City of Wimberley City Council attended the special meeting for the purpose of participating in a focus group/stakeholder meeting. No action was taken during the meeting that began at 4:00 p.m. and ended at 5:00 p.m.

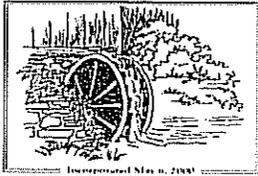
DATE APPROVED: October __, 2009

Tom Haley, Mayor

ATTEST:

Cara McPartland, City Secretary

City Council Agenda Form



Date Submitted: October 12, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPROVAL OF OCTOBER 10, 2009 MINUTES OF SPECIAL CITY COUNCIL MEETING

Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Attached are the minutes for the October 10, 2009 Special City Council Meeting for review and consideration.

MINUTES
SPECIAL CITY COUNCIL MEETING
OCTOBER 10, 2009 – 4:00 P.M.

The City Council of the City of Wimberley, Texas met for the purpose of participating in a focus group/stakeholder meeting relating to the design of the Blue Hole Regional Park, located at the former First Baptist Church of Wimberley, 501 Old Kyle Road, Wimberley, Hays County, Texas on Thursday, October 10, 2009 at 4:00 p.m.

Those present were: Council Members Bob Flocke, Bill Appleman, and Steve Thurber.

Members of the City of Wimberley City Council attended the special meeting for the purpose of participating in a focus group/stakeholder meeting. No action was taken during the meeting that began at 4:00 p.m. and ended at 6:00 p.m.

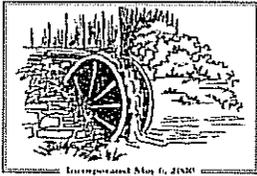
DATE APPROVED: October __, 2009

Tom Haley, Mayor

ATTEST:

Cara McPartland, City Secretary

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPOINTMENT OF ONE
(1) CONSENSUS MEMBER TO THE WIMBERLEY
BUILDING CODE BOARD OF REVIEW

Funds Required:

Funds Available:

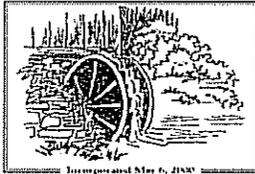
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider the appointment of one consensus (1) member to the Wimberley Building Code Board of Review. At the time of production of this agenda packet, the only name submitted for consideration was that of Bob Bullock. He was nominated for reappointment to the Board by Mayor Tom Haley.

City Council Agenda Form



Date Submitted: October 12, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPOINTMENT OF TWO
(2) CONSENSUS MEMBERS TO THE
WIMBERLEY PARKS BOARD

Funds Required:

Funds Available:

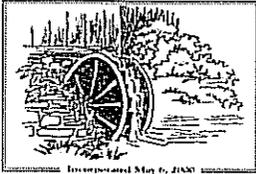
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider the appointment of two (2) consensus members to the Wimberley Parks Board. At the time of production of this agenda packet, the names Christine Byrne and Audrey Weeks had been submitted for consideration. Ms. Byrne was nominated for reappointment to the Board by Mayor Tom Haley while Place Four Council Member Steve Thurber submitted the name of Ms. Weeks.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPOINTMENT OF ONE
(1) CONSENSUS MEMBER TO THE WIMBERLEY
TRANSPORTATION ADVISORY BOARD

Funds Required:

Funds Available:

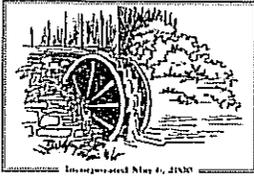
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider the appointment of one consensus (1) member to the Wimberley Transportation Advisory Board. At the time of production of this agenda packet, the only name submitted for consideration was that of Tom Wallace. He was nominated for reappointment to the Board by Mayor Tom Haley.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPOINTMENT OF ONE
(1) CONSENSUS MEMBER TO THE WIMBERLEY
BOARD OF ADJUSTMENT

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

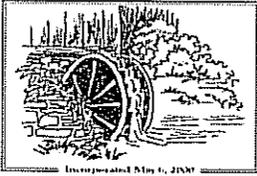
Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to consider the appointment of one consensus (1) member to the Wimberley Board of Adjustment. At the time of production of this agenda packet, the only name submitted for consideration was that of Bill Cline. He was nominated for reappointment to the Board by Mayor Tom Haley.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: REAPPOINTMENT OF P. JASON ALDRIGE TO THE WIMBERLEY BOARD OF ADJUSTMENT

Funds Required:

Funds Available:

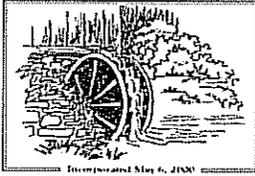
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Mayor Pro-tem Charles Roccaforte to allow City Council to consider the reappointment of P. Jason Aldridge to the Wimberley Board of Adjustment.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: REAPPOINTMENT OF HORACE WILSON TO THE WIMBERLEY PARKS BOARD

Funds Required:

Funds Available:

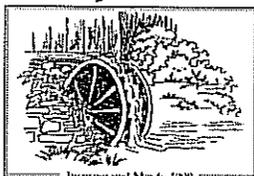
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Mayor Pro-tem Charles Roccaforte to allow City Council to consider the reappointment of Horace Wilson to the Wimberley Parks Board.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: REAPPOINTMENT OF LARRY CATT TO THE WIMBERLEY BUILDING CODE BOARD OF REVIEW

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

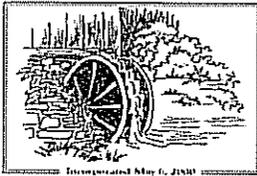
Motion

Discussion

Project/Proposal Summary:

This item was placed on the agenda by Mayor Pro-tem Charles Roccaforte to allow City Council to consider the reappointment of Larry Catt to the Wimberley Building Code Board of Review.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPOINTMENT OF M.F. JOHNSON TO THE WIMBERLEY PARKS BOARD

Funds Required:
Funds Available:

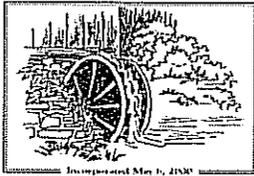
Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Two Council Member Bob Flocke to allow City Council to consider the appointment of M.F. Johnson to the Wimberley Parks Board.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: CITY ADMINISTRATOR'S REPORT

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

Motion

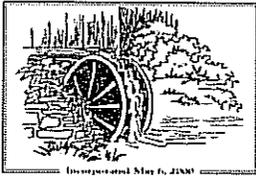
Discussion

Project/Proposal Summary:

The City Administrator will present a report on the following items:

- Status report on the development of the *Blue Hole Regional Park*
- Status report on preparations for *The Lance Armstrong Livestrong Challenge*
- Status report on *The Wimberley City Limit Survey Project*
- Status report on the operation of the Wimberley Community Center
- Status report on the City of Wimberley's request for an Attorney General's Opinion on the ability of Type A General Law cities to enforce non-point source pollution regulations in the E-T-J
- Status report on activities of the Wimberley Municipal Court

City Council Agenda Form



Date Submitted: October 12, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: CONSIDER FINAL APPROVAL OF AN ORDINANCE PLACING THOSE PROPERTIES WHICH FRONT CARNEY LANE IN *PLANNING AREA III*
Funds Required:
Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

The purpose of this agenda item is to allow City Council to discuss and consider final approval of an ordinance which removes from *Planning Areas I and II* those properties which front Carney Lane between FM 2325 and the City limits and places the subject properties in *Planning Area III*.

At least two (2) Carney Lane property owners have requested the City consider including the properties which front Carney Lane in *Planning Area III* so as to allow *Commercial-Low Impact (C-1)* zoning along this short stretch of roadway. Currently, the subject properties are located in *Planning Areas I and II* where *Neighborhood Services (NS)* is the only form of commercial zoning allowed. *Neighborhood Services (NS)* allows certain limited commercial uses by conditional use permit only.

Currently, there are three (3) existing low to moderate impact businesses and two (2) public schools located on the subject stretch of Carney Lane.

On September 24, 2009, the Planning and Zoning Commission held a public hearing on the proposed *Planning Area* change. Afterwards, the Commission voted unanimously to recommend approval of the ordinance placing those properties which front Carney Lane between FM 2325 to the City limits in *Planning Area III*.

On October 1, 2009, the City Council held a public hearing on the proposed *Planning Area* change. Afterwards, the Council voted unanimously to approve the first reading of the ordinance relating to the proposed change. A second reading of the ordinance must be approved for the proposed change to take effect.

ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING THE CITY'S COMPREHENSIVE PLAN AND ACCOMPANYING MAPS TO REMOVE THOSE PROPERTIES WHICH FRONT CARNEY LANE, BETWEEN FM 2325 AND THE CITY LIMITS, FROM PLANNING AREAS I AND II AND INCLUDE THE SUBJECT PROPERTIES IN PLANNING AREA III; AND PROVIDING FOR FINDINGS OF FACT; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley is authorized under Chapter 213 of the Texas Local Government Code to adopt a comprehensive plan for the long-range development of the City; and,

WHEREAS, the City Council adopted the City of Wimberley Comprehensive Plan (the "Plan"), and made substantial amendments to the Plan in 2008; and,

WHEREAS, some of the property owners which abut Carney Lane between FM 2325 and the City limits have requested that the properties within those limits be moved from Planning Areas I and II to Planning Area III, so that they may request amendments to their zoning classifications that will be in conformance with the Plan; and,

WHEREAS, the Planning and Zoning Commission has reviewed the changes, held a public hearing and has made recommendations to the City Council to amend the Plan as described herein, finding that such amendment is compatible with the adjacent existing uses and existing zoning classifications, and is in accord with the current uses on the properties; and,

WHEREAS, the City Council has reviewed and considered the report by the Planning and Zoning Commission and has held a public hearing on the proposed Plan amendments at which members of the public had the opportunity to give testimony and present written evidence; and,

WHEREAS, the City Council has determined that the City of Wimberley Comprehensive Plan should be amended as provided by this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, COUNTY OF HAYS, STATE OF TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. AMENDMENTS

THAT the City's Comprehensive Plan, and its accompanying maps, described in the report by Planning and Zoning Commission to City Council, attached hereto and incorporated herein as Exhibit "A," shall be hereby amended to remove those properties that abut Carney Lane between FM 2325 and the City limits, from Planning Areas I and II and place those subject properties in Planning Area III; and that the official City Maps be amended accordingly.

III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

IV. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

READ AND APPROVED on its First Reading this ____ day of October, 2009, by a vote of ____ (ayes) to ____ (nays) to 0 (abstentions) of the City Council of the City of Wimberley, Texas.

READ AND APPROVED on its Second Reading this ____ day of October, 2009, by a vote of ____ (ayes) to ____ (nays) to 0 (abstentions) of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By _____
Tom Haley, Mayor

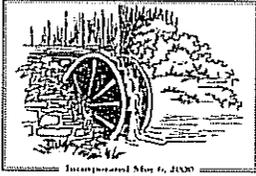
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby, City Attorney

City Council Agenda Form



Date Submitted: October 12, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: CONSIDER APPROVAL OF AN ORDINANCE RELATING TO THE APPOINTMENT OF CITY BOARD AND COMMISSION MEMBERS AND THEIR TERMS

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

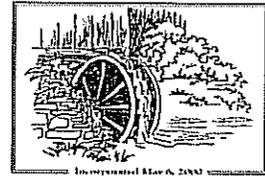
Project/Proposal Summary:

The purpose of this agenda item is to allow City Council to discuss and consider approval of an ordinance relating to the appointment of City board and commission members and their terms.

Recently, the City Council voted to establish a term of two (2) years for all positions on the City's advisory boards and commissions. In addition, the Council decided that a member's term would expire the November following the election of the council member who nominated them to the board or commission.

In order to enact the above mentioned changes, the City Council must approve an ordinance creating the changes. An ordinance was drafted and discussed at the October 1, 2009 City Council meeting. Following the discussion, City staff was directed to modify the proposed ordinance based on the discussions. At the time of production of this packet, the ordinance was being modified by the City's legal counsel. A final draft of the proposed ordinance will be delivered to City Council under separate cover in advance of the meeting.

Report for Zoning ZA-09-021



Summary: A request for Commercial – High Impact (C3) for a currently un-zoned tract of land located at 13904 RR 12

Applicant Information:

Applicant: Double LC Partners One
4301 Lone Man Mountain Rd
Wimberley, TX 78676

Property Owner: Les Crane

Subject Property:

Legal Description: ABS 461 Amasa Turner Survey
Location: 13904 RR 12
Existing Use of Property: Commercial
Existing Zoning: Un-zoned
Proposed Use of Property: Commercial - Retail
Proposed Zoning: C3
Planning Area: V
Overlay District: Village Center Overlay

Surroundings:

Frontage On: RR 12

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	Un-zoned, C3	Commercial
S of Property	Un-zoned, C2	Commercial
E of Property	C2	Commercial
W of Property	C1	Commercial

Legal Notice

200' Letters Sent 9/21/09
Published 9/23/09
Sign Placement 9/21/09

Responses

One (1) response from a property owner located at 13915 RR 12 was received (see attached). The property owner felt the permitted uses in C3 are too intense for the downtown area. The respondent withdrew her letter of opposition prior to the Planning and Zoning Commission meeting.

Comments:

The applicant has requested *Commercial – High Impact (C3)* zoning for a currently un-zoned tract of land located at 13904 RR 12. The subject property is located in the *Village Center Overlay District* and *Planning Area V* where C3 zoning is permitted.

Currently, there is one (1) retail business in operation and one (1) vacant storefront on the subject property. The applicant is proposing to add a second retail business on the property that would sell specialty foods along with beer and wine for off-premise consumption. The proposed business operation would be a change in use thus requiring the need for the property to be properly zoned.

City Code allows the sale of beer and wine for off-premise consumption as a permitted use in the C3 zoning district. It should be noted that there is a business operation similar to that proposed in this application located in the immediate downtown area. That property is zoned C3 as requested in this case.

On October 8, 2009, the Planning and Zoning Commission held a public hearing on the zoning case. Afterwards, the Commission voted unanimously to recommend approval of the zoning request.

§ 155.049 COMMERCIAL - HIGH IMPACT; C-3.

(A) *General purpose and description.* The C-3, commercial 3 district is established to provide areas for more intense and concentrated shopping and service facilities for the retail sales of goods and services. These shopping areas shall utilize established landscape and buffering requirements. The C-3 district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

(B) *Permitted uses.*

- (1) Administrative and professional office:
 - (a) Insurance, real estate, attorneys, accountants, architects, investment services, travel agencies;
 - (b) Photography studios, doctors, dentists;
 - (c) Non-profit organizations (with certain restrictions);
 - (d) Civic uses (such as City Halls);
 - (e) Research services: limited; and
 - (f) Office.
- (2) Religious assembly.
- (3) Food and beverage retail sales (such as grocery);
- (4) Medical services: general; large facilities, hospitals;
- (5) Eating establishments: sit-down;
- (6) Eating establishments: sit-down fast foods;
- (7) Agricultural supplies and services;
- (8) Commercial blood centers;
- (9) Commercial off-street parking;
- (10) Parking lot and parking garage, automotive;
- (11) Transportation facilities: surface, limited (such as cross-country truck companies and their distribution centers);
- (12) Transportation facilities: aircraft;
- (13) Commercial/single-family residential;
- (14) Private primary educational services;

(15) Private secondary educational services;

(16) Non-profit civic;

(17) Retail sales and services: general;

(18) Bank and savings and loan;

(19) Personal services: general;

(20) Accessory uses to the main use; and

(21) Single-family residence.

(C) *Conditional uses.*

(1) A drive-through or drive-in facility otherwise allowed in any permitted use in this district shall be allowed only with a conditional use permit;

(2) Alcoholic beverage sales;

(3) Bars/taverns (50% sales derived from alcohol);

(4) Gasoline sales: truck stops;

(5) Automotive sales, rentals, and repairs;

(6) Automotive and equipment: sales and rentals, farm and heavy equipment;

(7) Automotive and equipment: sales and rentals, light equipment;

(8) Custom manufacturing;

(9) Construction sales and services;

(10) Eating establishments: fast food with drive-through order windows;

(11) Eating establishments: drive-in;

(12) Adult entertainment (such as sexually oriented business) use as may be provided for or restricted by other city ordinances;

(13) Bed and breakfast lodging;

(14) Automotive washing;

(15) Personal storage; and

(16) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations.

(D) *Development regulations.*

(1) Minimum lot size: 20,000 square feet.

(2) Maximum building height (as defined in § 155.005):

(a) Primary buildings: not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;

(b) Accessory buildings: not more than 18 feet and not more than 1 story; and

(c) Decks: not more than 12 feet including a railing only or 18 feet including a roof.

(3) For minimum setbacks, no construction, including buildings, parking areas, and driveways, except entry driveways, and no placement or display of commercial material and equipment shall be allowed in the setbacks. The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

(a) Dominant street: 25 feet;

(b) Secondary street: 15 feet; and

(c) Interior side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.

(4) Maximum impervious coverage: 70%. Impervious coverage shall be calculated as a percentage of the net site area and shall be the lesser of the percentage specified above in this district description or the percentage for the average lot slope in § 155.078(M), Table C.

(5) Maximum building coverage: 60%. Building coverage shall be calculated as a percentage of the net site area.

(6) Maximum building footprint: 20,000 square feet.

(7) Maximum floor area: 20,000 square feet

(E) *Parking regulations.* As required by § 155.075, off-street parking and loading requirements.

(F) *Special requirements.*

(1) Open storage is prohibited in the village center (VC) overlay district.

(2) These districts shall be limited to properties fronting on major transportation arterials, provided the location is not incompatible with an existing residential neighborhood or property.

(G) *Other regulations.* As established in §§ 155.075 *et seq.*, development standards. (Ord. 2001-010, § 28, passed 4-1-2001; Am. Ord. 2003-006, passed 7-3-2003; Am. Ord. 2004-017, passed 8-5-2004) Penalty, see § 155.999

FOR OFFICIAL USE ONLY

APPLICATION DATE: 9/22/09 FILE NO. 7A-09-021
 TENTATIVE P&Z* HEARING: 10/8 TENTATIVE CC** DATE: 10/15
 CITY INITIATED: YES - NO PLANNING AREA: V ZONING REQUESTED: C3
 ZONING FEES: \$ NA DATE PAID: _____ RECEIVED BY: _____

* P&Z - Planning & Zoning Commission ** CC - Village of Wimberley City Council

APPLICATION FOR ZONING

NON-RESIDENTIAL, MULTI-FAMILY DEVELOPMENTS, MOBILE HOME DEVELOPMENTS, CONDITIONAL USE PERMIT APPLICATIONS & WIMBERLEY PLANNED DEVELOPMENT DISTRICTS (WPDD'S)

OWNER, AGENT AND PROJECT DATA

STREET ADDRESS OF PROPERTY TO BE ZONED: 13904 RR 12 Wimberley, Texas
 HAYS COUNTY CENTRAL APPRAISAL DISTRICT
 PROPERTY ID#: R 18465 **
 * New street addresses can be obtained by calling (512) 393-2160
 ** You may obtain this from your property tax statement.

PLEASE PROVIDE DIRECTIONS TO YOUR PROPERTY:

Ranch Road 12 and Old Kyle Road

NOTE: Please clearly mark your property so it is easily identifiable.

1. OWNER'S NAME: Les Crane HOME PHONE: () 512-842-5120
Double LC Partners One BUSINESS PHONE: () 512-658-5097
a Texas limited partnership FAX: () 512-847-1236
 OWNER'S CURRENT MAILING E-MAIL: lcrane12@gmail.com
 ADDRESS 4301 Lone Man Mtn. Rd. CITY Wimberley STATE Tx ZIP 78676

2. AGENT'S NAME: _____ AGENT'S PHONE: () _____
 AGENT'S FIRM NAME: _____ FAX: () _____
 E-MAIL: _____

AGENT'S FIRM MAILING ADDRESS: _____ CITY _____ STATE _____ ZIP _____

PROPERTY INFORMATION

3. TOTAL AREA TO BE ZONED: ACRES 3279 acres (OR) SQ.FT. _____ TOTAL NO. of TRACTS: _____

4. PLANNING AREA(S): V 5. REQUESTED ZONING CLASSIFICATION: C3

PROPOSED USE(S): Commercial - high density

6. EXISTING ZONING CLASSIFICATION(S) AND USES (if applicable): unzoned

7. LEGAL DESCRIPTION

Street Address: 13904 RR 12, Wimberley Subdivision: Two parcels out of Tract 10 of the Charles and Ollie Oldham Subdivision

Block(s) _____ Lot(s) _____

Plat Book: _____ Page Number: _____

8. DEED RECORDS: (REFERENCE OF DEED CONVEYING PROPERTY TO THE PRESENT OWNER):

VOLUME: 1734 PAGE: 757 OF COUNTY PLAT RECORDS

9. OTHER PROVISIONS

A. IS PROPERTY IN AN OVERLAY DISTRICT? YES X NO _____ UNKNOWN _____

TYPE OF OVERLAY ZONE(S) (if applicable) Village Center

B. FLOOD PLAIN (What, if any, flood zone does your property occupy?): _____

C. ELECTRIC UTILITY PROVIDER: Pedernales Electric

WATER UTILITY PROVIDER: Wimberley Water Supply

WASTEWATER UTILITY PROVIDER: N/A

HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): _____

Related Cases, if Applicable

Zoning	File No. _____
Building Permit	File No. _____
Subdivision	File No. _____
Sign Permit	File No. _____
Engineered construction	File No. _____

SITE INSPECTION AUTHORIZATION

Applicant/owner, or Applicant's authorized agent, hereby authorizes the Village of Wimberley representatives to visit and inspect the property for which this application is being submitted.

Date: _____ APPLICANT SIGNATURE Les Crane

WHEN APPLICABLE: _____
By: Les Crane, President of GP

Date: _____ AGENT SIGNATURE _____

**ACKNOWLEDGMENT OF EXISTING
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants
and/or Zoning Conditional Use Permits**

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property now being zoned on my behalf and located at: _____, and more particularly known as Lot _____, Block _____ of the _____ Subdivision.

If a conflict should result with the request I am submitting to the Village of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: 9-22-09 APPLICANT SIGNATURE Les Crane

WHEN APPLICABLE: _____
By: Les Crane
President of General Partner

Date: _____ AGENT SIGNATURE _____

SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE ZONING APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. FAILURE TO COMPLETE THE NECESSARY STEPS CAN CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

- Complete "Application For Zoning"
- Provide plat map of property to be zoned which includes all properties within 200 feet of any portion of Applicant's property; and which clearly indicates streets in surrounding area.
- Provide plat map of the specific property to be zoned.
- Provide names and addresses of property owners within 200 feet of any portion of Applicant's property.
- Provide a legal description of the property to be zoned.
- Sign/date Submittal Verification form.
- Sign/date Site Inspection Authorization form.
- Sign/date Acknowledgement Form.
- Pay Zoning Fee (this fee is based on the cost of services incurred by the Village of Wimberley in reviewing, processing and recording the zoning request).
- Applicant agrees to attend a pre-zoning conference prior to acceptance of Application.
- Applicant agrees to attend Planning & Zoning Commission hearings scheduled for Applicant's proposed zoning.
- Applicant agrees to attend City Council hearing scheduled for Applicant's proposed zoning or waives his/her rights of appearance (see below).
- Provide detailed Site Plan for WPDD (11x17)

SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE

(✓) My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that Village review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

(✓) I hereby waive my right to appear before the Village of Wimberley City Council at the public hearing to be held concerning the zoning of my above-referenced property. I understand that my failure to appear allows the Council to consider my zoning request; however, if questions are raised that cannot be answered, the matter will be continued. *Double LC Partners One, Ltd.*

Date: 9-22-09

APPLICANT SIGNATURE

Les L. Crane

WHEN APPLICABLE:

By: *Les L. Crane*
President of General Partner

Date: _____

AGENT SIGNATURE _____

WARRANTY DEED

Date: October 30, 2000

Grantor: LES L. CRANE

Grantor's Mailing Address (including county):

4301 Lone Man Mountain Road
Wimberley, Hays County, Texas 78676

Grantee: DOUBLE LC PARTNERS ONE, LTD.

Grantee's Mailing Address (including county):

c/o Double LC Management, Inc.
4301 Lone Man Mountain Road
Wimberley, TX 78676

CONVEYANCE: FOR VALUE RECEIVED, Grantor has conveyed, granted, transferred and assigned, and hereby does grant, convey, transfer and assign to Grantee, all, and no less than all, of the following described real property:

All that certain parcel of land situated in Hays County, Texas, consisting of two parcels of land out of Tract No. Ten (10) of the Charles and Ollie Oldham Subdivision according to the map or plat of said Subdivision recorded in Volume 142, pages 424-426, Deed Records of Hays County, Texas, as such two parcels of land are described separately by metes and bounds as follows:

Parcel No. One

BEGINNING at an iron stake which is the most Westerly corner of Lot or Tract #10 of the Charlie and Ollie Oldham Subdivision which is shown by a map which is recorded in the Hays County Deed Records in Book 142, pages 424-426, and from which stake the center of a cross on a large Live Oak Tree marked X bears S. 88° 05' E. 19.3 feet and the Northeast corner of a rock building bears S. 3° 02' W. 78.0 feet; **THENCE**, with the North line of the aforementioned Lot # 10, N. 60° 02' E. 121.08 feet to a iron stake, and from which stake a nail in a forked Live Oak 16" in diameter that is the most Easterly corner of a 5 acre tract of land that was described in a deed from E.P. Laney to J. H. Saunders as recorded in the Hays County Deed records in Book "W", Page 392, bears N. 60° 02' E. 41.75 feet; **THENCE** S. 51° 39' E. 83.38 feet to a steel axle; **THENCE** S. 12° 05' W. 66.63 feet to an iron stake on the South line of Lot #10 and on the North line of Texas State Highway formerly numbered 80 but more recently designated Ranch Highway #12; **THENCE**, with the South line of Lot #10, N. 70° 09' W. 166.26 feet to the place of beginning, containing 10,172 square feet of land more or less.

The above described Parcel No. One is also identical real property conveyed by that deed from Connie Going, Trustee to Les L. Crane and Elizabeth K. Crane, filed for record in the office of the County Clerk of Hays County, Texas on September 13, 1977, under Clerk's File No. 110497, and in Book Number 300, Pages 543-546 of the Hays County Deed Records.

Parcel No. Two

BEGINNING at an iron stake which is on the Northwest line of Lot or Tract No. Ten (10) of the Charles and Ollie Oldham Subdivision of a portion of the Amasa Turner Survey No. One (1) in Hays County, Texas, which is shown by a map that is recorded in Hays County Deed Records in Book 142, Pages 424-426, which stake is N. 60° 02' E. 121.08 feet distant from the most westerly corner of Lot #10 and said beginning stake being the most northerly corner of that 10,172 square feet tract of land which was conveyed by a correction deed by Charles E. Oldham and wife, Ollie Oldham to Horace B. Pendleton and wife is recorded in Hays County Deed Records in Book 146, Page 254; **THENCE** with the Northwest line of Lot #10, N. 60° 02' E. 41.75 feet to the center of a 60" Live Oak tree which is the east corner of a 5.0 acre tract of land which was conveyed by E. P. Laney to J. H. Saunders in accordance with a deed which is recorded in Hays County Deed Records in Book "W", Page 293; **THENCE** N. 76° 14' E. 44.9 feet to an iron stake; **THENCE** S. 8° 57' E. 34.95 feet to an iron stake; **THENCE** S. 16° 35' W. 118.45 feet to the Southeast corner of the aforementioned 10,172 square feet tract of land; **THENCE** N. 12° 05' E. 66.63 feet to a steel axle; **THENCE** N. 51° 39' W. 83.38 feet to the place of beginning, containing 4,116 square feet of land, more or less.

The above described Parcel No. Two is also identical real property conveyed by that deed from Connie Going, Trustee to Les L. Crane and Elizabeth K. Crane, filed for record in the office of the County Clerk of Hays County, Texas on September 13, 1977, under Clerk's File No. 110497, and in Book Number 300, Pages 543-546 of the Hays County Deed Records.

SUBJECT TO: (1) any overlapping of improvements or encroachments which a survey would reveal; (2) valid and enforceable land use regulations, restrictions, and conditions; (3) real property taxes, prorated to date; (4) any recorded right-of-way, easement, or other exception to title (including liens) which an examination of title to the property would reveal; (5) any loan or encumbrance secured by a vendor's lien or deed of trust upon the property; (6) rights of parties in possession under lease or as an inspection of the property would reveal.

OWNERSHIP OF THE PROPERTY PRIOR TO THE TRANSFER TO DOUBLE LC PARTNERS ONE, LTD.

It is acknowledged and agreed that this property is owned, immediately prior to transfer, as Les L. Crane property. This agreement supersedes any other agreement of arrangement to the contrary.

CONSIDERATION:

Ten and no/100 Dollars and other good and valuable consideration paid to Grantors by Grantee, the receipt and sufficiency of which is hereby acknowledged.

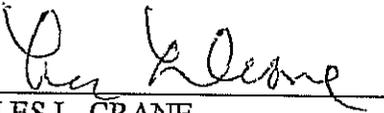
HABENDUM AND WARRANTY:

TO HAVE AND TO HOLD the Subject Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, Grantee's successors, personal representatives and assigns, to warrant and forever defend, all and singular, the said premises unto the Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof. The use of personal pronouns in this instrument shall be construed in context, with the masculine to include the feminine, when appropriate, and the singular to include the plural, when appropriate.

EFFECTIVE DATE:

This transfer and conveyance is effective on the date of this instrument. If this instrument is not immediately recorded, LES L. CRANE will hold title in trust and as nominee for an on behalf of Double LC Partners One, Ltd.

DATED and EFFECTIVE this 30th day of October, 2000.

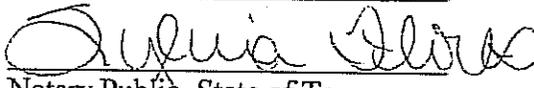

LES L. CRANE

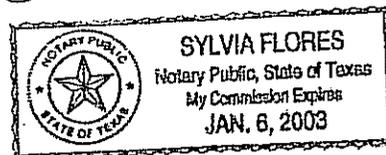
ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF HAYS

This instrument was acknowledged before me on October 30, 2000 by Les L. Crane.

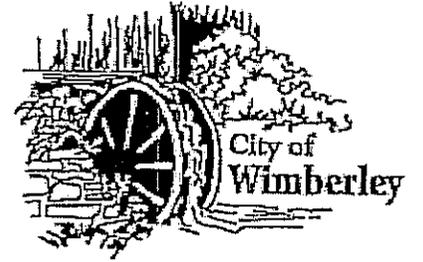

Notary Public, State of Texas



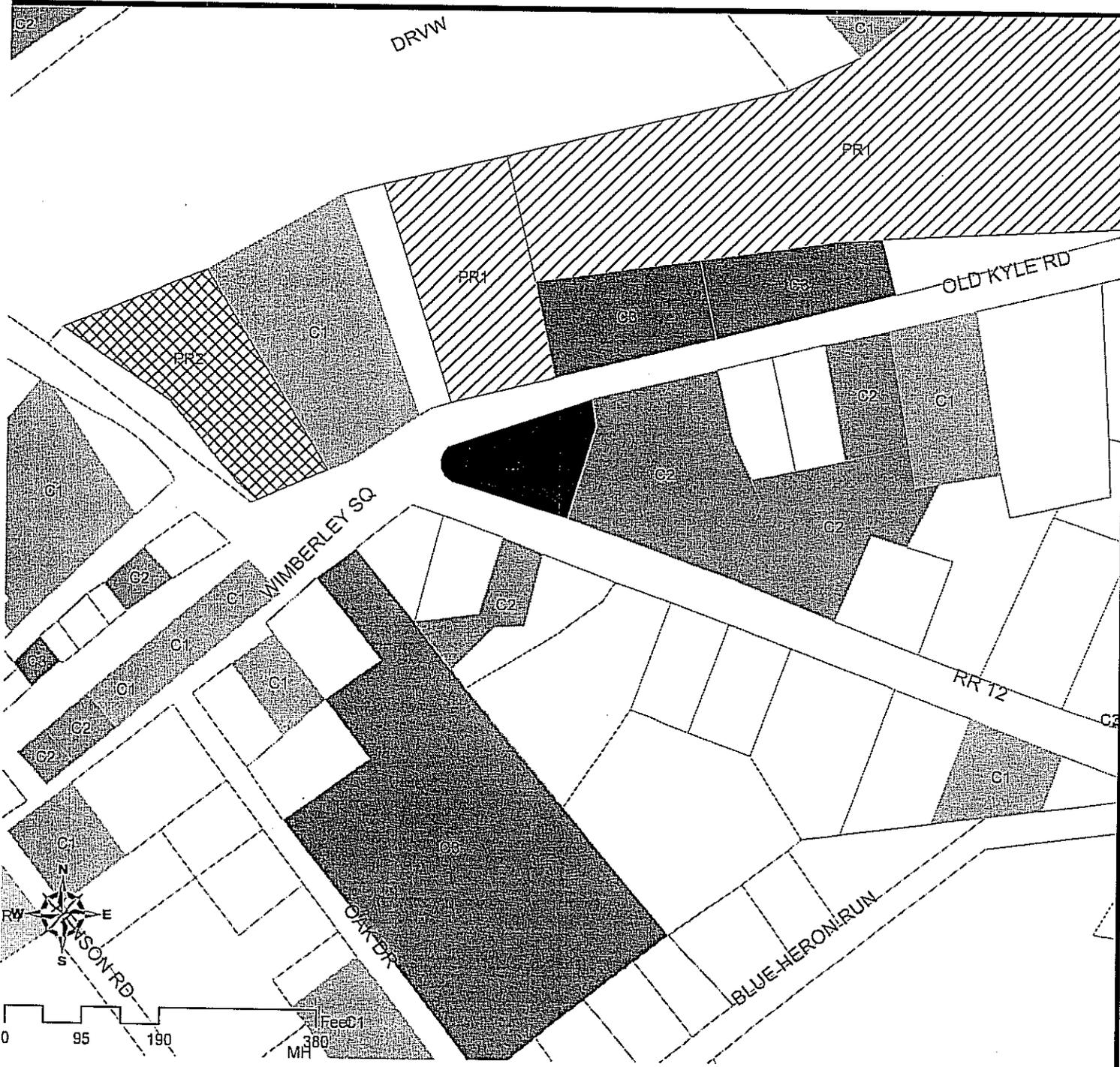
AFTER RECORDING, PLEASE RETURN TO:

Lisa Crane
Double LC Management, Inc..
4301 Lone Man Mountain Road
Wimberley, Texas 78676

Zoning Map for ZA-09-021

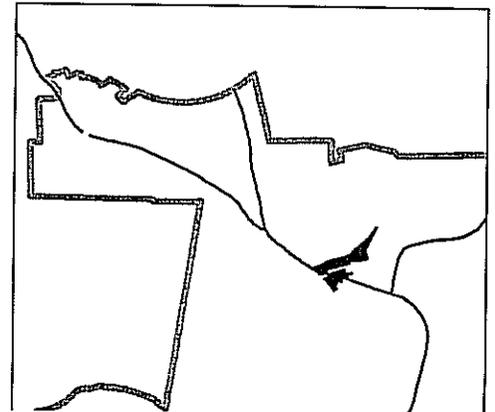


P.O. Box 2027 • Wimberley, Texas 78676



-  SUBJECT PROPERTY
- Zoning Districts**
-  R4 (Single Family Residential 4)
-  C1 (Commercial - Low Impact)
-  C2 (Commercial - Moderate Impact)
-  C3 (Commercial - High Impact)
-  L2 (Lodging 2)
-  PR1 (Participant Recreation 1)
-  PR2 (Participant Recreation 2)

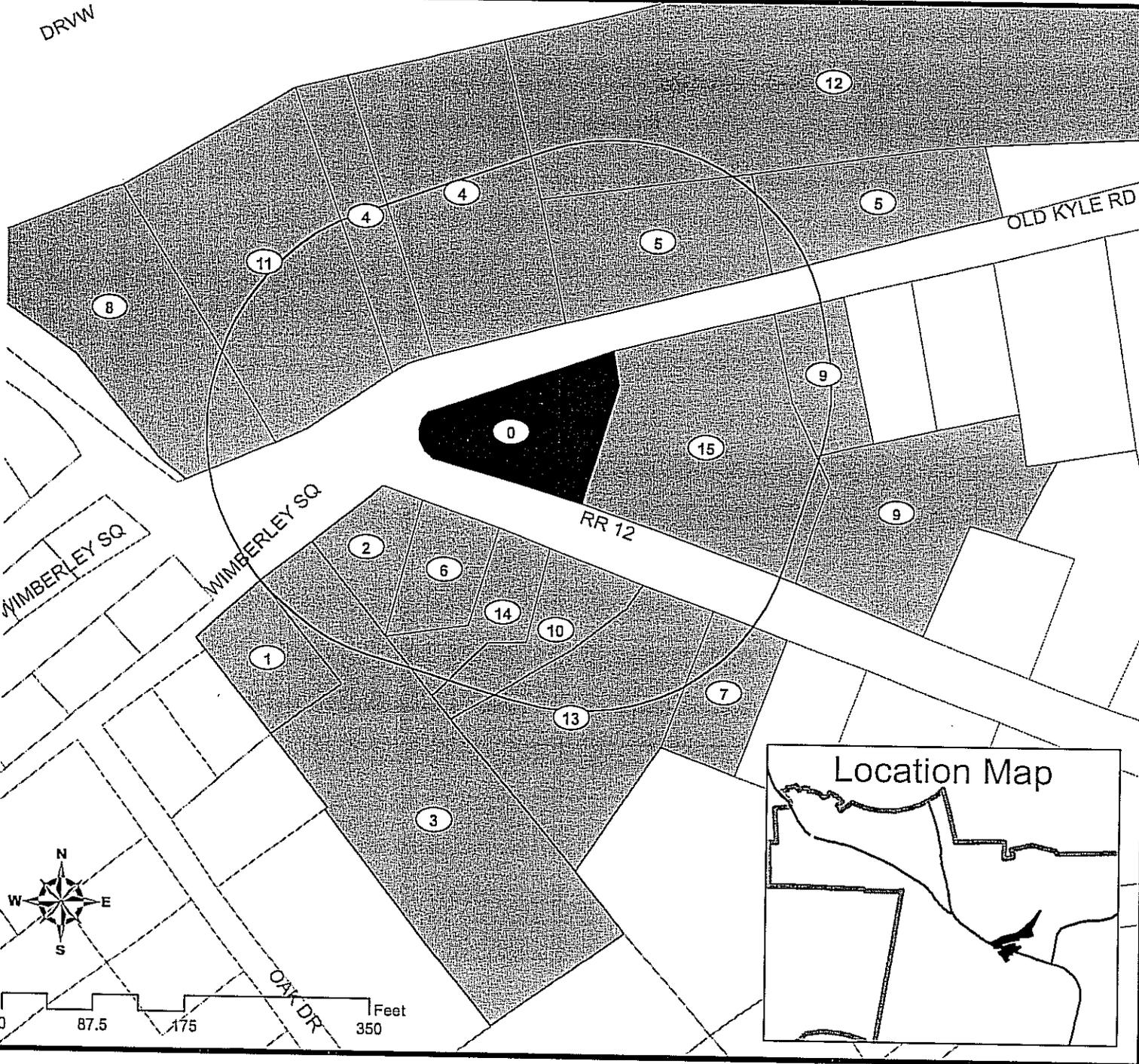
Location Map

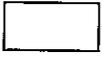
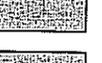


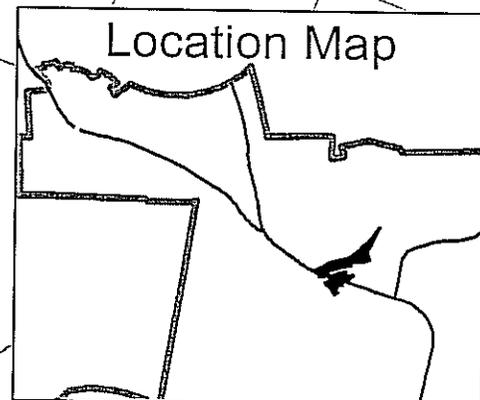
Notification Map for ZA-09-021

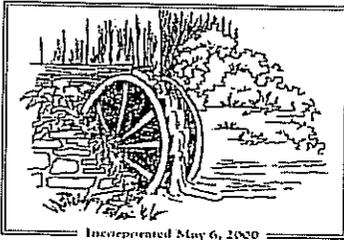


P.O. Box 2027 • Wimberley, Texas 78671



-  200_buffer_final
-  0, SUBJECT PROPERTY
-  1, KLEPPER, STEPHEN
-  2, BARLOW STEPHEN & SARAI
-  3, CALKINS, INTERESTS LTD
-  4, CRANE, LES
-  5, JAMAIL, BRYAN
-  6, LYLES AMY & CHRIS
-  7, ODOM CHARLES N
-  8, ROMANO, LAURA
-  9, SANDER ALBERT & JEAN
-  10, SULLIVAN, GAY B
-  11, TATE, JOYCE WEBB
-  12, CITY OF WIMBERLEY
-  13, WCP PROPERTIES LLC
-  14, WIMBERLEY PATIO LLC
-  15, WIMBERLEY RR 12 LLC





City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: village@anvilcom.com Web: www.vil.Wimberley.tx.us

Tom Haley, Mayor - Bob Flocke, Mayor Pro-tem

Council Members - Charles Roccaforte, Bill Appleman, Steve Thurber, John White
Don Ferguson, City Administrator

September 18, 2009

NOTICE OF PUBLIC HEARING

Re: File No. ZA-09-021

13904 RR 12

A request for initial zoning of Commercial – High Impact (C3) for a currently unzoned tract of land

Dear Property Owner:

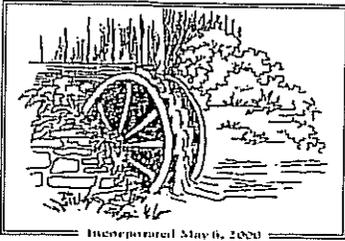
You are receiving this letter because you own property within 200 feet of the above-referenced location.

Double LC Partners One LTD has submitted an application for initial zoning of Commercial – High Impact (C3) for a currently unzoned tract of land located at 13904 RR 12. The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, October 8, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12. Upon a recommendation from the Commission, City Council will hold a public hearing to consider the same request on **Thursday, October 15, 2009, at 6:30 p.m.**

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY



City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

E-mail: Wimberley@anvilcom.com - Web: www.vil.wimberley.tx.us

NOTICE BY SIGN POSTING

Zoning No: ZA-09-021 Owner _____

Date 9/2/09

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

() Project Site Address 13904 RR-12

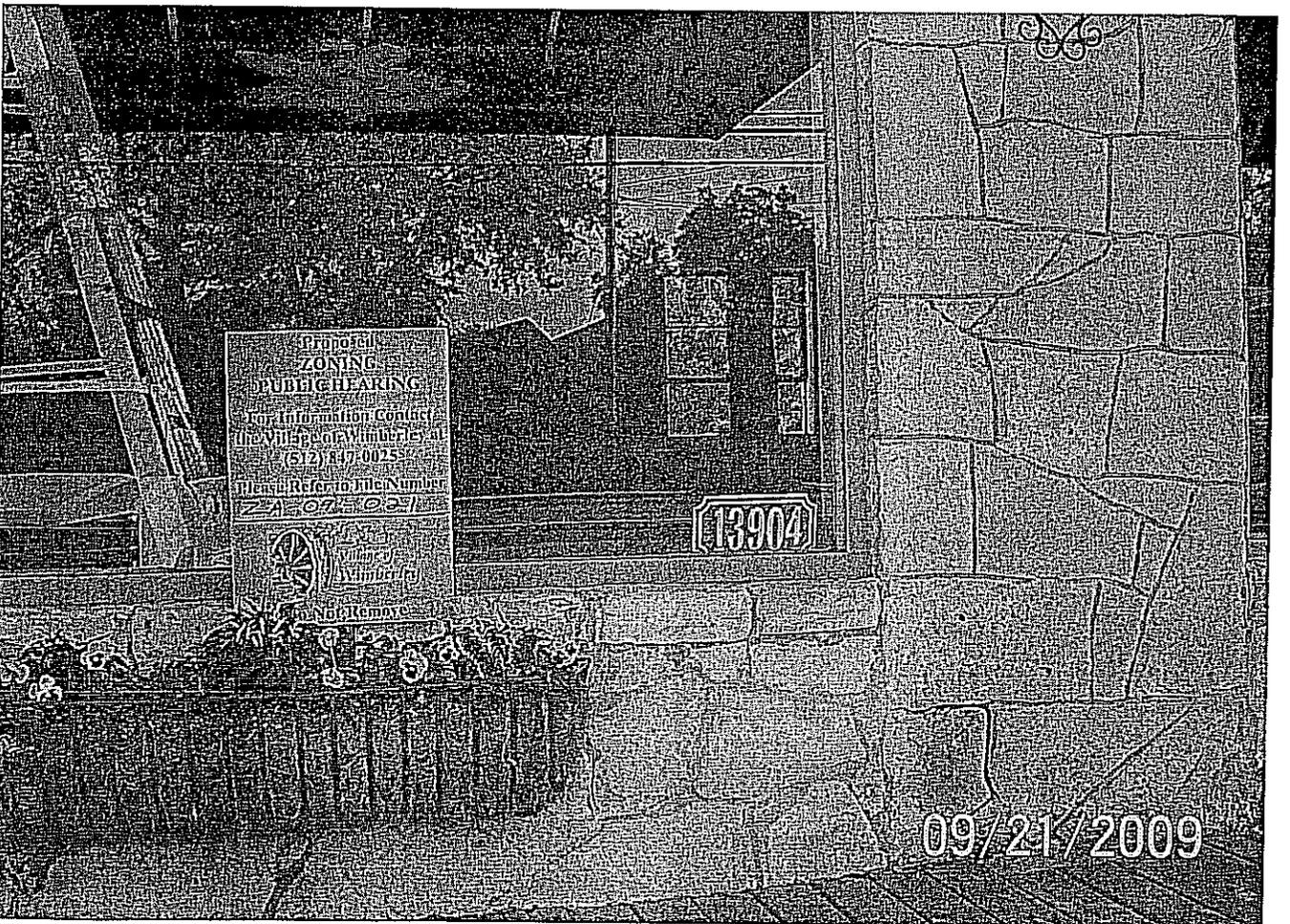
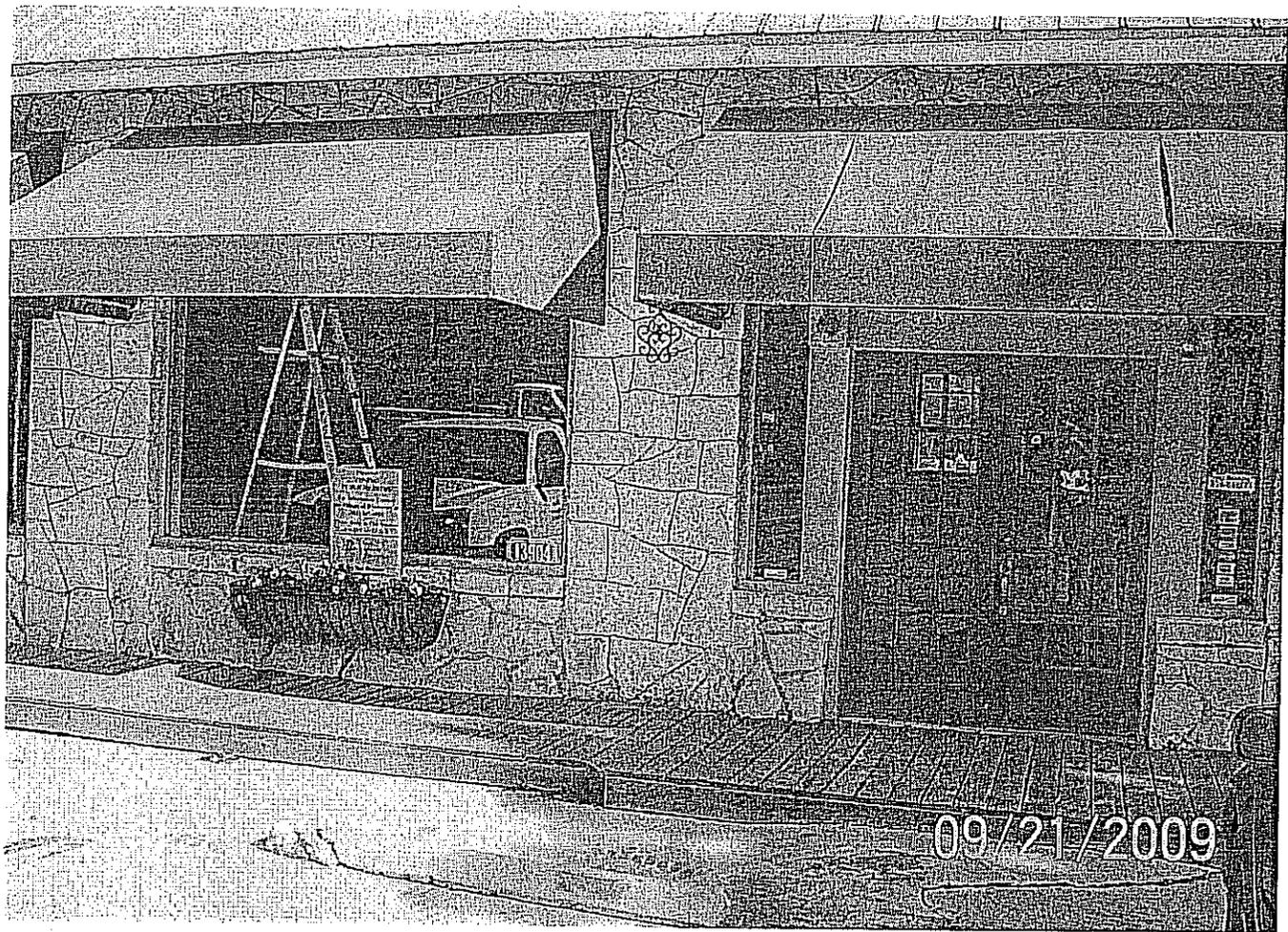
which is located RR12

Bill Bowers
Asst. Public Works

Note: The above-referenced sign was placed on the subject property on

9/2, 2009

Signature



09/30/2009

City of Wimberley

12111 Ranch Road 12, P.O. Box 2027

Wimberley, TX 78676

SUBJECT: FILE NO. ZA-09-021 – NOTICE OF PUBLIC HEARING – PROPOSED ZONING CHANGE

As a property owner located at 13915 Ranch Road 12, The Cedar Chest, the owners, Stephen & Sarah Barlow ARE OPPOSED TO A ZONING CHANGE at 13904 Ranch Road 12 in Wimberley, TX.

We are concerned that a High Impact (C3) would not be a good fit for the location with limited septic facilities as well as limited parking. Making a change to this property does not appear to be realistic for opening up zoning to a wide range of businesses that in the future could be located at this property. The surrounding properties are mostly leased to other businesses owners. We feel that this change would not only impact our local retail business but others retail businesses that are tied into lease agreements.

High Impact (C3) seems to be an over kill for a new business such as Taste Buds. When you compare another businesses such as Hill Country Wine & Tasting Room, they are a tasting room and are classified as a C1. It makes no sense to see why Taste Buds would need a classification higher than a C1.

For the above reasons, we cannot support the zoning change to a C3.



Sarah Barlow

The Cedar Chest

13915 Ranch Road 12

P.O. Box 2389

Wimberley, Texas 78676



Stephen A. Barlow

The Cedar Chest

13915 Ranch Road 12

P.O. Box 2389

Wimberley, Texas 78676

ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR A 0.3279 ACRE TRACT LOCATED AT 13904 RANCH ROAD 12, WIMBERLEY, HAYS COUNTY, TEXAS, DESIGNATING INITIAL ZONING FOR SUCH TRACT AS COMMERCIAL-HIGH IMPACT (C-3); AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

WHEREAS, the regulations established by Section 155 (Zoning), as amended, (the "Code") are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and

WHEREAS, in the course of adopting the regulations established by the Code, the Planning and Zoning Commission and City Council gave careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and

WHEREAS, the regulations established by the Code have been adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and

WHEREAS, the regulations established by the Code are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and

WHEREAS, the City Council and Planning and Zoning Commission have carefully reviewed the requirements of the City's Code of Ordinances and have concluded that the requested zoning designation is consistent with established City policy and in the public interest; and

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, HAYS COUNTY, TEXAS:

ARTICLE I. AMENDMENT

Section 155 (Zoning) of the Code of Wimberley is hereby amended by adding the following language to Appendix F to read as follows, which shall be incorporated into and made part of Section 155 (Zoning), and given full weight and effect:

Appendix F: Zoning District Designations

The City Council of the City of Wimberley has divided the City into the zoning districts as follows. The applicable use, height, area and development regulations adopted by the City shall apply to each district. The following geographic boundaries of the zoning districts for the properties listed below are hereby established as follows:

The 0.3279 acre tract described as part of the ABS 461 Amasa Turner Survey, and more particularly described by metes and bounds in the attached Exhibit "A" incorporated by reference, in Wimberley, Hays County, Texas, commonly known as 13904 Ranch Road 12, is hereby designated initial zoning of Commercial-High Impact (C-3) designation.

Except as expressly amended herein, Appendix F shall remain in full force and effect.

ARTICLE II. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the zoning district boundary established by this Ordinance.

ARTICLE III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

IV. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this _____ day of _____, 2009, by ____ (Ayes) to ____ (Nays) ____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

BY: _____
Tom Haley, Mayor

ATTEST:

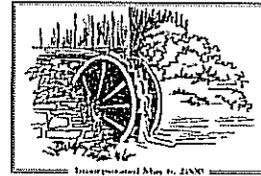
Cara McPartland, City Secretary

APPROVED AS TO FORM:

C. Crosby, City Attorney

DRAFT

Report for Zoning Change ZA-09-022



Summary: An application for an amendment to the existing Planned Unit Development (PUD) with base zoning of Commercial – Low Impact (C1) at 14835 RR 12.

Applicant Information:

Applicant: John McCrocklin
P.O. Box 2
Wimberley, TX 78676-0002

Property Owner: John McCrocklin

Subject Property:

Legal Description: A0390 Robert S Rankin Survey 5.34 Ac
Location: 14835 RR 12
Existing Use of Property: Vacant
Existing Zoning: Planned Unit Development (PUD) with base zoning of Commercial – Low Impact (C1)
Proposed Use of Property: Commercial Development including Assisted Living Facilities and Lodging
Proposed Zoning: Amended Planned Unit Development (PUD) with base zoning of Commercial – Low Impact (C1)
Planning Area: III
Overlay District: Entrance Corridor

Surroundings:

Frontage On: Ranch Road 12, Cypress Creek Lane

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	C1	Vacant
S of Property	PF, WPDD	Church
E of Property	Un-zoned	Residential
W of Property	R2	Residential

Legal Notice

200' Letters Published: 9/21/09
Sign Placement: 9/23/09
Responses: 9/21/09
No Responses

Comments:

The applicant is seeking an amendment to the existing *Planned Unit Development (PUD)* agreement for the *Crossroads Town Center* development located at 14835 RR 12. The original PUD was approved by City Council in 2001 and has a base zoning district of Commercial-Low Impact (C1). The subject property is located in the *Entrance Corridor Overlay District*.

The applicant is seeking to amend the PUD to include an assisted living facility and lodging as a permitted uses and to modify certain development requirements included in the original development agreement. It should be noted that following subsequent discussions with the

applicant regarding the proposed amendments, the applicant indicated he was no longer interested adding lodging as permitted use in the development.

Specifically, the applicant is seeking to amend the PUD to accomplish the following:

- Include the operation of an assisted living facility as a permitted use in the proposed development
- Increase the maximum building square footage for an individual building from 7,500 square feet to 16,300 square feet to accommodate the development of an assisted living facility
- Increase the total project building footprint square footage from 37,500 square feet to 37,540 square feet
- Increase the total project gross square footage from 37,500 square feet to 53,840 square feet
- Reduce the total number of parking spaces for the overall development from the approved 189 spaces to 176 spaces (The proposed site plan submitted with the request for amendment reflects 176 actual parking spaces as opposed to the 164 spaces represented in the map caption on the plan)
- Modify the utility plan to show centralized wastewater treatment service will be provided for the development by Aqua Texas instead of on-site septic facilities
- Reduce the number of access points from two (2) on both Ranch Road 12 and Cypress Creek Lane, as originally proposed, to one (1) on each road along with one (1) emergency service access drive with a crash gate on Cypress Creek Lane
- Modify the landscaping plan to allow the possible removal of two additional trees; one 14" and one 16"

It should be noted that the operation of an assisted living facility is now a permitted use in C1 zoning districts. That was not the case when the subject PUD agreement was approved by the City.

At the request of the City, inspectors with the Wimberley Fire Department reviewed the proposed addition of an assisted living facility to the planned development and found no issues of concern.

As for the drainage impact of the proposed changes, the applicant's engineer has indicated there will actually be a slight reduction in overall drainage flows related to the proposed development with the addition of the assisted living facility. The applicant has also submitted a new letter from TxDOT reaffirming the agency's previously stated position that the culvert running under Ranch Road 12, downstream from the proposed development, is capable of handling the anticipated flows from the development.

If the proposed amendments to the PUD are approved, the applicant would have five (5) years from the date of approval to submit a new site development plan for a significant portion of the proposed development. Upon approval of the site development plan, the applicant would have twelve (12) months to begin work on the development.

On October 8, 2009, the Planning and Zoning Commission held a public hearing on the proposed PUD amendment. After hearing comments both for and against the proposed amendment and considerable discussion among themselves, the Commission voted unanimously to recommend approval of the proposed amendment.

ORIGINAL

2001 PLANNED UNIT DEVELOPMENT (PUD)

FOR

14835 RANCH ROAD 12
WIMBERLEY, HAYS COUNTY, TEXAS

ORDINANCE NO. ZA-01-010

AN ORDINANCE OF THE VILLAGE OF WIMBERLEY, AMENDING ORDINANCE NO. 2001-010, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR PLANNED UNIT DEVELOPMENT DISTRICT AND CLASSIFICATION FOR A PARTICULAR TRACT LOCATED ON A 5.3443 ACRE TRACT AS DESCRIBED IN ATTACHMENT "A", CASE NO. C211-01-010; AS A PLANNED UNIT DEVELOPMENT FOR OFFICE, RETAIL, RESTAURANT, RETAIL SALES OF SERVICES, GENERAL, BANKS AND SAVINGS AND LOANS; AND PROPER NOTICE AND A HEARING.

WHEREAS, the regulations established by this Ordinance are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and

WHEREAS, in the course of adopting the regulations established by this Ordinance the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the Village, including the demographics of its inhabitants, the community's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and

WHEREAS, the regulations established by this Ordinance have been adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the Village; and

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the Village and necessary and proper for carrying out the power granted by law to the Village; and

WHEREAS, the following enactments are a valid exercise of the Village's broad police powers and based upon the Village's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and

WHEREAS, the City Council and Planning & Zoning Commission have carefully reviewed the requirements of the Village's Comprehensive Zoning Ordinance and have concluded that the 5.3443 acre tract as described in Attachment "A" attached hereto, qualifies as a Planned Unit Development for office, retail, restaurant, retail sales of services, general, banks and savings and loans, in conformity with the Planned Unit Development Master Plan prepared by Hoffpauir Planning Design, revised May 15, 2001, attached to the Application for Zoning in Case No. C211-01-010, bearing application date July 13, 2001 and in compliance with the Planned Unit Development supplementary conditions set forth in Addendum No. 1 attached hereto, and in accordance with the Declaration of Planned Unit Development for The Crossroads at Wimberley. That such designation is consistent with established Village policy and in the public interest.

WHEREAS, parties in interest and citizens have had an opportunity to be heard at several public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the Village's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF WIMBERLEY, HAYS COUNTY, TEXAS:

ARTICLE I. AMENDMENT

Ordinance No. 2001-010 is hereby amended by adding Appendix F, which shall be incorporated into and made part of Ordinance No. 2001-010, and given full weight and effect. Appendix F shall read as follows:

Appendix F: Zoning District Designations

The City Council of the Village of Wimberley has divided the Village into the zoning districts as follows. The applicable use, height, area and development regulations adopted by the Village shall apply to each district. The following geographic boundaries of the zoning districts for the properties listed below are hereby established as follows:

- (1) The 5.3443 acre tract described in Attachment "A" is designated as a Planned Unit Development for office, retail, restaurant, retail sales of services, general, banks and savings and loans, in conformity with the Planned Unit Development Master Plan prepared by Hoffpauir Planning Design, revised May 15, 2001, and attached to the Application for Zoning in Case No. C211-01-010, bearing application date July 13, 2001 and in compliance with the Planned Unit Development supplementary conditions set forth in Addendum No. 1 attached hereto, and in accordance with the Declaration of Planned Unit Development for The Crossroads at Wimberley.

ARTICLE II. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the zoning district boundary established by this Ordinance.

ARTICLE III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

ARTICLE IV. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 2nd day of August, 2001, by a 5 to 0 vote of the City Council of the Village of Wimberley, Texas.

VILLAGE OF WIMBERLEY

BY:  _____
Linda Hewlett, Mayor

ATTEST:

 _____
Adelle Turpen, City Secretary

APPROVED AS TO FORM:

Alan J. Bojorquez, City Attorney

Field Notes for 5.3443 Acres of Land

A tract of land containing 5.3443 acres of land out of a 228.43 acre tract conveyed by deed on February 7, 1952 from Carl E. Scudder to Eagle Rock Corporation and being recorded in Volume 152, Pages 275-282 of the Hays County Deed Records, said 5.3443 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found for the most southeasterly corner of this tract being in the west line of Ranch Road 12 and the north line of Cypress Creek Lane;

THENCE along the north line of Cypress Creek Lane and the following courses and distances;

N 79D 50' 00" W, 197.86 ft. to 1-1/2" iron pipe found for an angle point;

N 77D 08' 00" W, 68.00 ft. to a 5/8" iron rod found for an angle point;

N 74D 54' 00" W, 176.20 ft. to a 5/8" iron rod found for a PC of curve

THENCE around a curve to the right having a radius of 397.34 feet, a delta angle of 15D 53' 59", on a chord of N 66D 57' 00" W, 109.91 ft. to a 5/8" iron rod found for a PT of

THENCE N 59D 00' 00" W, 248.20 ft. along the north line of Cypress Creek Lane to a 5/8" iron rod found for a PC of curve;

THENCE around a curve to the right having a radius of 179.72 feet, a delta angle of 43D 00' 04", on a chord of N 36D 26' 01" W, 131.74 ft. to a 5/8" iron rod found for a PT of

THENCE N 16D 10' 00" W, 51.40 ft. along the north line of Cypress Creek Lane to an iron pipe found for a corner in the south line of a tract of land belonging to E. L. Schumann as recorded in volume 132, page 91 of the Hays County Deed Records;

THENCE N 89D 25' 00" E, 119.00 ft. along an existing fence and the south line of the Schumann tract to a 5/8" iron rod found for an angle point;

THENCE N 89D 08' 00" E, 610.12 ft. along an existing fence and the south line of the Schumann tract to a 5/8" iron rod found for a corner in the west line of Ranch Road 12;

THENCE along the west line of Ranch Road 12 the following courses and distances;

S 16D 55' 22" E, 133.20 ft. to a 1" iron pipe;

S 15D 23' 30" E, 85.95 ft. to a 1-1/2" iron pipe;

S 13D 48' 09" E, 85.10 ft. to a 1" iron pipe;

S 12D 13' 48" E, 85.32 ft. to a 1" iron pipe;

S 10S 45' 00" E, 55.90 ft. to the POINT OF BEGINNING containing 5.3443 acres of land.

Ronald N. Hayes, Registered Professional Land Surveyor, No. 2596

ATTACHMENT "A"

ADDENDUM NO. 1

Case No. C211-01-010

Planned Unit Development Supplementary Conditions:

1. Redevelopment on the site will comply with all current Village of Wimberley codes and ordinances. For compliance with the Sign Ordinance, the developer agrees to remove all non-compliant signage from the site within ten (10) days following issuance of the Site Development Plan Permit.
2. Landscaping along Cypress Creek Road frontage, in the rear yards of buildings labeled E, F, G, and H on the Planned Unit Development Master Plan will be installed at a ratio of 150%, as compared to the landscaping density on the site as a whole.
3. Parking areas may encroach into the site setback areas at two areas of the site, for the purpose of preserving existing specimen trees. These areas are as follows:
 - A) The Southeast segment of the site, in proximity to the existing building, and for a distance of 250 feet along the Ranch Road 12 frontage from the property corner, and 250 feet along the Cypress Creek Road frontage from the property corner.
 - B) The Northwest corner of the site for a distance of 300 feet along the north property line from the property corner. At all remaining areas of the site, no parking shall encroach into the setback areas.
4. Placement of dumpsters: No dumpsters or other trash collection containers which would be visible from Cypress Creek Road shall be placed behind buildings labeled E, F, G, H, I or J on the Planned Unit Development Master Plan.
5. All site utility installations on the property shall be underground.



Jim McCrocklin & Associates Real Estate

INCORPORATED

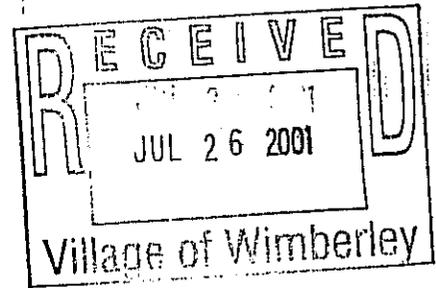
(P.O. Box 2) 13900 Ranch Road 12
(P.O. Box 2) 100 Hwy 290 West

Wimberley, TX 78676-0002
Dripping Springs, TX 78620-0002

(512) 842-2006 Fax (512) 842-1142
(512) 894-0123 Fax (512) 894-0872

July 26, 2001

Mr. Glenn Fryer, Chairperson
Ms. Marilee Wood, Vice Chairperson
Mr. Curt Busk, Commissioner
Mr. David Glenn, Commissioner
Ms. Charlotte Turner, Commissioner
Ms. Betsy Markland, Commissioner
Ms. Pamela Showalter, Commissioner
Village of Wimberley
Planning & Zoning Commission
Post Office Box 2027
Wimberley, TX 78676

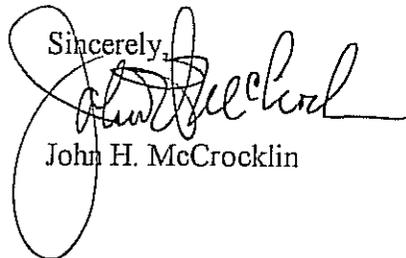


RE: Zoning Application Change
5.3443 Acres (formerly known as the VFW Rodeo Arena & Meeting Hall)
14835 Ranch Road 12
Wimberley, TX 78676

Mr. Chairman and Commissioners:

I would like to thank you for your recommendation of approval to the Village of Wimberley City Council of the Crossroads Planned Unit Development passed Tuesday evening. As I promised in my July 13th letter, I am enclosing a copy of the latest revised draft of the Crossroads Condominium regime.

As you aware this is a draft as there may be a few additional items that need slight modifications prior to the final draft. If you or the City Council have any questions please let me know, (512) 842-2006.

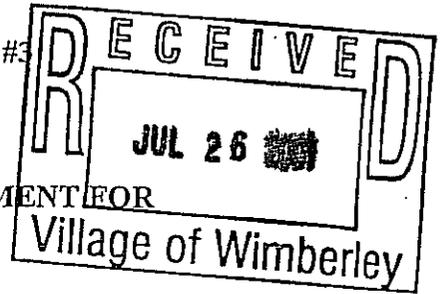
Sincerely,

John H. McCrocklin

JHM/wp

xc: Mr. John C. Blazier, Blazier Christensen & Bigelow
Mr. Corey A. Hoffpaur, Hoffpaur Planning & Design

Enclosures: Crossroads Condominium Regime

Discussion Draft #3
July 25, 2001



DECLARATION OF PLANNED UNIT DEVELOPMENT FOR
THE CROSSROADS AT WIMBERLEY

STATE OF TEXAS §

COUNTY OF HAYS §

KNOWN ALL MEN BY THESE PRESENTS:

That Crossroads Development, Ltd., a Texas limited partnership (the "Declarant") by and through Schoch/McCrocklin Development Company, a Texas business corporation duly organized and existing under the laws of the State of Texas as its general partner, the owner of that certain tract of real property situated in Hays County, Texas as its general partner, the owner of that certain tract of real property situated in Hays County, Texas more particularly described as 5.3443 acres in the Village of Wimberley, Hays County, Texas, together with all improvements thereon, wishes to submit such land and improvements to a planned unit development and is structuring it as a mixed use condominium. The creation of the condominium regime is pursuant to the provisions of Chapter 82 of the Texas Property Code and does hereby establish and declares a condominium regime covering such land and improvements in accordance with the provisions and terms hereof.

**ARTICLE I
RECITALS**

1.01 Declarant is the Owner of all of the real property, including the land; all improvements and structures on the property; and all easements, rights and appurtenances belonging to the property (the "Property"), more particularly described as 5.3443 acres, Hays County, Texas, more particularly described by metes and bounds, which is attached hereto as Exhibit "A" and incorporated herein by reference. The Owner is working in collaboration with the leadership of the Village of Wimberley who are in the process of implementing a comprehensive zoning ordinance. Owner has applied for the Commercial-Low Impact C-1 and Office District-Low Impact O-1. The final approved uses will be set out on Exhibit B. Presently Exhibit B sets out the uses requested. Property is subject to certain land use and platting restrictions in the Declaration of Covenants, Conditions and Restrictions (the "Restrictions") filed of record in Volume ____, Pages ____ of the Real Property Records of Hays County, Texas, which is attached hereto as Exhibit "C" and incorporated herein by reference. Owner anticipates having a separate memorandum with the Village of Wimberley, which will detail a number of matters from lighting to landscape. The memorandum will be attached as Exhibit D.

1.02 Declarant submits the Property to a condominium regime established by the Texas Uniform Condominium Act ("TUCA"), which is codified in Chapter 82 of the Texas Property Code.

1.03 The Property constitutes a condominium project (the "Project") within the meaning of TUCA. The formal name of the Project is The Crossroads at Wimberley.

1.04 Declarant intends and desires to establish by this declaration a plan of ownership for the Project (the "Plan"). The Plan consists of individual ownership of restaurant/retail/office units (the "Units"). The site plan is set out at Exhibit E. The location of the area showing alternative building sites is set out in the drawings that accompany the Declaration of Covenants and is set out as Exhibit F. The Project shall consist of not more than thirteen (13) buildings with a maximum of two suites per building, save and except Building L which shall be one suite. There will be a total of no more than twenty-five suites. The owner has established that the maximum building footprint will be seven thousand five hundred (7,500) square feet. Buildings A, B, & C as set out in Exhibit F herein may be combined into one building comprising, seven thousand five hundred square feet; two buildings comprising five thousand (5,000) square feet and twenty-five hundred (2,500) square feet or three individual buildings of twenty-five hundred (2,500) square feet. Building J & I and G & F, also shown on Exhibit C, may be combined into one footprint containing an area of five thousand (5,000) square feet. Buildings F, G, H, I, J may be two story units with up to a maximum of three thousand seven hundred fifty (3,750) square feet, two thousand five hundred (2,500) square feet on the ground floor and twelve hundred fifty (1,250) square feet on the second floor. In no case shall the building footprints exceed thirty-five thousand (35,000) square feet. The total building area for occupancy shall not exceed thirty seven thousand five hundred (37,500) square feet including any second story improvements.

1.05 The Declarant intends to impose on the Project mutually beneficial restrictions for the benefit of all building and the persons who own those Units (the "Owners"). The Declarant further intends, in accordance with the terms set forth herein, that the Owners will govern the Project by means of an organization of Owners (herein the "Association"), as more particularly set forth herein. The formal name of the Association is **The Crossroads at Wimberley Condominium Association, Inc.**

1.06 The land, buildings, exterior parking and other areas of the Project are shown on the Site Plan (the "Site Plan") attached hereto as Exhibit "D" hereof, and incorporated herein by reference. The Owners each shall have an undivided interest in all the property of the Project set forth in Exhibits "A" and "D" hereof, save and except that described as Units, which property is referred to as (the "Common Elements"). The Project shall consist of not more than twelve (12) buildings containing a minimum of approximately two thousand five hundred (2,500) square feet of retail/office space and a maximum of three thousand seven hundred fifty (3,750) square feet of retail/office space (the "Office/Retail Space") per building and one building containing five thousand (5,000) office/retail/restaurant space or as modified by the provisions allowed in 1.04 herein, respectively to be sold as individual buildings. The reference to a total of not more than thirteen (13) buildings is to account for the fact that three, Buildings A, B, C, F, G, I & J of the proposed buildings may be consolidated into a larger building in the space set out at Exhibit C to accommodate a maximum of seven-five hundred (7,500) square foot in one building or maximum of three five thousand (5,000) square foot buildings as stipulated in paragraph 1.04 herein. Each Owner shall be entitled to a fractional share of all the Common Elements. By way of illustration, if an Owner purchases two thousand five hundred (2,500) square feet of Retail Space, said Owner shall also be allocated a 6.667% undivided interest in the Common Elements. Such equation shall also be applied in determining (a) the fraction or percentage of undivided

interest in the common expenses of the Association, and (b) the votes in the Association held by each member. *In the event that the Project, upon completion, is not thirty-seven thousand five hundred (37,500) square feet of Office/Retail Space, the fractional share of all the Common Elements, common expenses and allocated votes shall be adjusted based upon the total Office/Retail Space constructed.*

1.07 Therefore the Declarant declares that the Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division of the Office/Retail Space into Units, and all of which are established and agreed on for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Project and every part of the Project. All covenants, conditions, and restrictions shall run with the Property and shall be binding on all parties having or acquiring any right, title, or interest in or any part of the Property and shall be for the benefit of each-Owner of the Project or any interest in the Project and shall inure to the benefit of and be binding on each successor in interest of the Owners.

ARTICLE II DEFINITIONS

2.01 *Articles* means the Articles of Incorporation of the Association that are or shall be filed in the Office of the Secretary of State of the State of Texas.

2.02 *Association* means The Crossroads at Wimberley Condominium Association, Inc., a corporation organized under the Texas Non-Profit Corporation Act for the management of the Project, the membership of which consists of all of the Owners in the Project.

2.03 *Board* means the Board of Directors of the Association.

2.04 *Building(s)* means the structure(s) set forth on Exhibit "E" containing Units.

2.05 *By-Laws* mean the By-Laws of the Association and amendments to the By-Laws that are or shall be adopted by the Board.

2.06 *Condominium* means the ownership of a single Unit.

2.07 *Common Elements* means all elements of the Project except the separately owned Units. IT FURTHER includes, but is not limited to, all the land, lobbies, stairways, all parking spaces, waste water systems, septic fields, domestic water supply lines outside the Units, ponds, landscaping, sprinkler systems, sidewalks, interior streets and the street signage.

2.08 *Common Expense Charge* means the assessment levied for management and operation of the Project and for repairing, maintaining, insuring and operating the Common Elements (including reserves for replacements).

2.09 *Common Fund* means any accumulation of the Common Expense Charges collected by the Association for the continued repair, maintenance, insurance, and operation of the Project.

2.10 *Declarant* means Crossroads Development, Ltd., a Texas limited partnership, by and through Schoch/McCrocklin Development Company, a Texas business corporation as general partner and its successor and/or assigns.

2.11 *Declaration* means this declaration document and all that it contains.

2.12 *Developer* means Crossroads Development, Ltd., a Texas limited partnership, by and through Schoch/McCrocklin Development Company, a Texas business corporation as general partner.

2.13 *Governing Instruments* mean the Declaration, the Articles of Incorporation, and the By-Laws of the Association.

2.14 *Manager* means the person or corporation, if any, appointed by the Board to manage the Project.

2.15 *Mortgage* means a first lien security interest evidenced by a mortgage or deed of trust granted by an Owner in and to, or against, a building to secure the repayment of a loan, and duly filed for record in the Office of the County Clerk of Hays County, Texas.

2.16 *Mortgagee* means any persons(s) who holds a Mortgage as security for repayment of a debt.

2.17 *Owner(s)* means any person(s) that owns a Unit within the Project.

2.18 *Parking Areas* mean the Common Elements designated as "Parking" on the site plan at Exhibit "E". Parking spaces with the exception of those spaces designated as "Handicapped Parking", shall be designated as "General Parking" for the use and benefit of the Project.

2.19 *Percentage Interest* means the undivided interest in and to the Common Elements associated with the Project. The fractional share of ownership of all Common Elements shall be based upon thirty-seven thousand five hundred (37,500) square feet of Office/Retail Space. The same shall also be used for computation of the fraction or percentage of interest in the common expenses and the votes allocated to each member in the Association. In the event that the Project, upon completion, is not thirty-seven thousand five hundred (37,500) square feet of Office/Retail Space, the fractional share of all the Common Elements, common expenses and allocated votes shall be adjusted based upon the total Retail Space constructed.

2.20 *Person* means an individual, firm, corporation, partnership, association, trust, other legal entity, or any combination of persons or entities.

2.21 *Project* means the entire parcel or the property described as 5.3443 acres, Hays County, Texas, as described herein, including the land, all improvements and structures on the Property, and all easements, rights and appurtenances belonging to the Property that are divided or are to be divided into Units to be owned and operated as a Condominium. The Project shall consist of thirteen (13) buildings to be divided into no more than twenty-five (25) Units.

2.22 *Replacement Reserve Fund* means the reserve fund established pursuant to Paragraph 7.04 hereof for repairs, maintenance and replacements to Common Elements.

2.23 *Rules* mean the "Rules for Owners, Tenants and Occupants" and refer to the rules and regulations for the Project adopted by the Board pursuant to this Declaration.

2.24 *Site Plan* mean the final site plan approved by the Village of Wimberley.

2.24 *Unit* means the Retail Space designated for separate ownership and occupancy in each building as more fully defined in Section 3.02 hereof.

ARTICLE III THE PROPERTY

3.01 Property Subject to Declaration. All the real property described as 5.3443 acres, Hays County, Texas, as described in Exhibit "A" attached hereto, including the land; all improvements and structures on the Property including, but not limited to, approximately thirteen (13) buildings to be constructed upon the property; and all easements, rights, and appurtenances belonging to the Property shall be subject to this Declaration.

3.02 Exclusive Ownership and Possession. Each Owner shall be entitled to the exclusive ownership and possession of the Owner's Building and its Units. Any building may be jointly or commonly owned by more than one person. No building may be subdivided to contain less than 1,000 sq. ft. The boundaries of each building shall be and are the interior surfaces of the perimeter walls, including all glass in windows and exterior doors (but Developer shall install all initial glass), floor coverings, suspended ceilings, and the doors leading to Common Elements or the exterior of any building. All lathe, furring, wallboard, plasterboard, ceiling tiles and lights, sprinkler heads, plaster, paneling, tiles, wallpaper, paint, floor coverings, interior surfaces of doors to the units, other finished surface materials, and all improvements within the boundaries are a part of the building. In addition, all furnaces, air conditioners, wiring, and conduits outside the building that provide service to only the building and its Units shall also be the property of the Owner and defined as part of the Building and its Units. An Owner shall not be deemed to own the utilities running through the Owner's building that are utilized for or serve more than one (1) Unit except as a tenant-in-common with the other Owners. An Owner shall be deemed to own and shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces of the walls, floors, ceilings, windows, and doors bounding the Owner's building. Nothing contained herein shall give an Owner the right to paint, repaint, or otherwise change or alter the exterior side of doors and windows in the buildings.

3.03 Common Elements. Each Owner shall be entitled to an undivided interest in the Common Elements in the percentage expressed in Paragraph 1.06 of the Recitals herein. The percentage of the undivided interest of each Owner in the Common Elements shall have a permanent character and shall not be altered without the consent of all Owners, expressed in an amended, duly recorded declaration. The percentage of the undivided interest in the Common Elements shall not be separated from the Building to which it pertains and shall be deemed to be conveyed or encumbered or released from liens with the Building even though the interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may use the Common Elements, in accordance with the purpose for which they are intended as long as the lawful rights of the other Owners are not hindered or encroached on.

3.04 Partition of Common Elements. The Common Elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of ownership so long as the property remains a condominium project. In any event, all mortgages must be paid prior to the bringing of an action for partition or the consent of all mortgagees must be obtained.

3.05 Non-Exclusive Easements. Each Owner shall have a non-exclusive easement for the use and enjoyment of the general Common Elements and for ingress, egress, and support over and through the general Common Elements. These easements shall be appurtenant to and shall pass with the title to each Building and shall be subordinate to the exclusive easements granted elsewhere in this Declaration, as well as to rights reserved to the Association to regulate time and manner of use, to charge reasonable admission fees, and to perform its obligations under this Declaration.

3.07 Other Easements. The Association may grant to third parties easements in, on, and over the Common Elements for the purpose of constructing, installing, or maintaining necessary utilities and services. Each Owner, in accepting the deed to the Building, expressly consents to such easements. No such easement may be granted, however, if it would interfere with any exclusive easement or with any Owner's use, occupancy, or enjoyment of the Owner's Unit.

3.08 Easements for Maintenance of Encroachments. None of the rights and obligations of the Owners created in this Declaration or by the deeds granting the Units shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of such encroachments so long as they shall exist provided, however, that in no event shall a valid easement for an encroachment be created in favor of any Owner if the encroachment occurred because of the willful conduct of the Owner.

ARTICLE IV UNIT OWNERS' ASSOCIATION

4.01 Duties. The Association, organized as a non-profit corporation under the Texas Non-Profit Corporation Act, operating under the name of The Crossroads at Wimberley Condominium Association, Inc. is charged with the duties and invested with the powers prescribed by law and set forth in this Declaration and in the Association's Articles of Incorporation and By-Laws. The affairs of the Association shall be managed and its duties and obligations performed by a Board of Directors. Provisions regulating the number, term, qualifications, manner or election, and conduct of the meetings of the members of the Board of Directors shall be set forth in the By-Laws of the Association.

4.02 Powers. The affairs of the Project shall be administered by the Association which shall have the rights, powers and duties of a "counsel of co-owners" as that term is used in the Act. The Association shall have the power and obligation to provide for the maintenance, repair, replacement, administration, insurance, and operation of the Project in accordance with the terms hereof. The initial Board of Directors of the Association shall serve until the first meeting of the Association as provided for in the By-Laws.

4.03 Membership; Voting. Each Owner, including Developer, shall be a member of the Association so long as he shall be an Owner, and such membership shall automatically terminate when such ownership ceases. Upon the transfer of ownership of a Unit, however achieved, including, without limitation, by foreclosure of a lien upon a Unit, the new Owner thereof shall, concurrently with such transfer, become a member in the Association. Each member, including Developer, shall have a vote or votes in the Association according to Section 1.06 hereof. Developer shall have the right to vote all shares of the unsold Retail/Office Space and contemplated Restaurant/Retail/Office Space to be built. In the event Developer declares in writing that no further construction shall occur, the votes shall be reapportioned on the basis of the Retail Space actually built.

4.04 Initial Board. The Initial Board of Directors of the Association shall be John H. McCrocklin, Harriett S. McCrocklin and Eugene P. Schoch, Jr., who shall serve pursuant to the By-Laws until their successors are qualified. The Board shall meet as set forth in the By-Laws.

ARTICLE V REGULAR AND SPECIAL ASSESSMENTS

5.01 Covenant to Pay. The Declarant covenants and agrees for each Unit owned by it in the Project, and each Owner by acceptance of the deed to such Owner's Unit is deemed to covenant and agree, to pay to the Association the regular and special assessments levied pursuant to the provisions of this Declaration. All monies collected shall be put into a maintenance fund to be used to defray expenses attributable to the ownership, operation, and maintenance of common interest by the Association. The Owner may not waive or otherwise escape liability for these assessments by non-use of the Common Elements or by abandonment of the Owner's Unit.

5.02 Ad Valorem Taxes for Common Elements. Each Unit shall include the percentage interest of the Common Elements for all purposes including, but not limited to, assessment of ad valorem taxes. Each Unit Owner shall be solely responsible for payment of all taxes assessed on Common Elements included in his/her or its Unit.

5.03 Monthly Assessments. Upon the recordation of this Declaration, the initial Board shall meet and establish a budget for the operation and maintenance of the Project for that portion of the calendar year then remaining, which budget shall set forth the Board's reasonable estimate of all expenses which the Association will incur and such operation and maintenance of the Project for the remainder of such year. Such budget, and all successive budgets, shall include a reasonable allowance for contingencies and shall establish a reasonable Replacement Reserve Fund for maintenance, repairs, and replacements to Common Elements including those that must be replaced on a periodic basis. Such initial budget, and those adopted thereafter, shall provide for ad valorem tax expenses of the Common Elements only in the event that the taxing authorities having jurisdiction thereover will not include the Common Elements in the assessment of the individual Units. Thereafter, annually, in the last calendar quarter of each year, the Board shall meet and establish such a budget for the next succeeding calendar year. Copies of each such budget shall be posted at the Project for inspection by the Owners. After each such budget is adopted by the Board, the Board shall determine the Common Expense charge required for the operation of the Project and the maintenance of the Common Elements and for the allowance for contingencies and the Replacement Reserve Fund for the calendar year in question, and the portion thereof allocable to each Owner and each Owner shall be obligated to pay monthly, in advance, one-twelfth (1/12) of the portion of the Common Expense charge so

allocated to such Owner. The Common Expense charge shall be allocated among those Owners obligated by this Declaration to pay same, according to the respective Percentage Interest of such Owners. A Unit Owner's first monthly payment shall begin upon the purchase of said unit except for initial Owners whose first monthly payment shall begin upon purchase of the unit or substantial completion of the unit finish out, whichever occurs last.

5.04 Special Assessments. If the Board at any time, or from time to time, determines that the Common Expense charge assessed for any period is insufficient to provide for the continued operation of the Project and the maintenance of the Common Elements, then the Board shall have the authority to levy such special assessments as it shall deem necessary to provide for such continued maintenance and operation. Without limiting the generality of the foregoing, such special assessment may be assessed because of casualty, condemnation, or other loss to any part of the Common Elements, or to make up for any deficiencies caused by non-payment of Common Expense charges by Owners. The Board may make special assessments totaling up to Ten Thousand & No/100 Dollars (\$10,000.00), in the aggregate, during any one (1) calendar year without the requirement of a vote of the members of the Association; no special assessment which would exceed such Ten Thousand & No/100 Dollars (\$10,000.00) limit may be made until the same is approved by members holding at least a majority of the votes in the Association. All special assessments shall be payable (and the payment thereof may be enforced) in the manner herein specified for the payment of Common Expense charge.

5.05 Fines. The Board shall have the power and authority to fine any Unit Owner who repeatedly violates any Rules and Regulations promulgated by the Association. The minimum fine imposed shall be One Hundred & No/100 Dollars (\$100.00) per day for so long as the violation continues. In the event that the Unit Owner fails or refuses to pay said fine(s) within ten (10) days of written notice of the same, payment of such fines shall be enforced as provided for in Paragraph 5.06 hereof.

5.06 Collection. One-twelfth (1/12) of the portion of the Common Expense charge assessed against each Owner shall be due and payable, in advance, on the first day of each calendar month during the year for which the Common Expense charge in question has been assessed. Any such amount not paid and received by the twelfth (12th) day of such month shall be deemed delinquent and the delinquent Owner shall be liable for a late charge of Twenty-Five & No/100 Dollars (\$25.00) in addition to such assessment. In addition, assessments not paid and received by the twelfth (12th) day of the month shall bear interest at the rate of ten percent (10%) per annum or the highest non-usurious rate allowed by law, whichever is less, from the date originally due until paid. In order to secure payment of the Common Expense charge, the vendor's lien and superior title to each Unit shall be and is hereby reserved to the Association which lien shall be enforceable through appropriate non-judicial or judicial proceedings, whichever the Association deems to be appropriate. The vendor's lien and superior title reserved herein shall be subordinate in all respects to any Mortgage, and any Mortgagee acquiring title to a Unit whether pursuant to the remedies provided for in its Mortgage, or procedures in lieu thereof, shall not be liable for the unpaid portion of the Common Expense charge attributable to the Unit in question that arose prior to such acquisition. In addition to the lien herein retained, in the event of non-payment by any Owner of such Owner's portion of the Common Expense charge, any repairs made by the Association that are chargeable to Unit Owners and/or fines imposed upon Unit Owners by the Association, the Association may, upon ten (10) days prior written notice thereof to such non-paying Owner, in addition to all other rights and remedies available at law or otherwise, restrict the rights of such non-paying Owner to use the Common

Elements including the Limited Common Elements in such a manner as the Association deems fit or appropriate. If the Association shall incur any legal expense, including attorneys' fees, to enforce any rights of the Association against an Owner, such Owner shall be liable to the Association for such expenses and the Association may recover the same. This Association's lien on a delinquent Owner's Unit for non-payment shall extend to and include a lien for the amount owed plus late charges, interest and attorney's fees.

5.07 Common Fund. The Common Expense charges collected by the Association shall be paid into the Common Fund to be held in trust for the use and benefit, directly or indirectly, of the Project. Such Common Fund may be expended by the Board for the purposes set forth hereinabove and generally to promote the health, benefit, and welfare of the Project and the Owners.

5.08 Statement of Indebtedness. Upon written request of any Owner or Mortgagee or prospective Owner or prospective Mortgagee of a Unit, and upon payment to the Association of a reasonable fee to be determined by the Association, not to exceed One Hundred & No/100 Dollars (\$100.00), the Association shall issue a written statement setting forth the unpaid Common Expense charges, if any, with respect to the subject Unit, the amount and due date of the then current monthly assessment, and any credit for advance payments or prepaid items. Such statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. If a Statement of Indebtedness is not given within twenty (20) days after a request therefor, then (a) any lien for unpaid Common Expense charges coming due prior to the date of such request shall be subordinate to the lien of any Mortgagee requesting such statement; and (b) any purchaser from the Owner of such Unit who requests such statement shall acquire the Unit free of any lien for such charges. Except as provided in the immediately preceding sentence, the grantee of any Unit shall be jointly and severally liable with his grantor for all unpaid Common Expense charges up to the time of the grant or conveyance.

ARTICLE VI INSURANCE, CASUALTY AND REBUILDING

6.01 Association Insurance. The Board shall obtain insurance on the Common Elements including the buildings, (excluding improvements, betterments, and/or owner finish out in the Units), against loss or damage by fire or by any and all other risks insured by standard extended coverage policies in use in the State of Texas, with such endorsements as the Board deems advisable in an amount sufficient to prevent the Association from being a co-insured within the terms of such policies, but in any event in an amount not less than the full insurable replacement cost thereof; Commercial general liability insurance including protection from personal injury and death with minimum coverage of \$1,000,000.00 per occurrence suffered by the public or any Owner, agent, employee, or invitee of any Owner, occurring in, on, or about the Project; and such other insurance as the Board shall deem desirable. All costs, charges and premiums for the insurance provided for in this Article shall be borne by the Common Fund and all such policies of insurance shall name, as insured, the Association, as trustee for each Owner in accordance with such Owner's Percentage Interest, and all Mortgagees, as their respective interests may appear. All such policies shall be without contribution with regard to any other policies of insurance carried individually by an Owner, and shall provide that such policies shall not be terminated for any cause without at least thirty (30) days' prior written notice to the Association and the Mortgagees. If possible, all policies of insurance of the character described in this Article shall contain an endorsement extending coverage to include the payment of

Common Expense charges with respect to Units damaged during the period of reconstruction thereof. Any proceeds paid in respect of any insurance policy obtained by the Board pursuant to this Article VI shall be held and disbursed by the Board, as trustee for the Owners and Mortgagees.

6.02 Owners' Insurance. Each Owner shall be responsible for insuring the improvements, betterments, finish out, contents and furnishings of his Unit. All policies of casualty insurance carried by each Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all of the Owners as above provided. Owners shall carry individual Commercial general liability insurance including personal injury and death coverage in an amount of not less than \$1,000,000.00 per occurrence insuring against liability of such Owners, at their own cost and expense.

6.03 Repairs by Owner. Each Owner shall be responsible for the reconstruction, repair, and replacement of personal and other property in or part of his Unit that is not a Common Element or Limited Common Element. Each Owner shall be responsible for any cost not otherwise carried by insurance carried by the Association and caused by such Owner's negligence or misuse or by the negligence or misuse of his agents or employees in the course of their duties, and shall, to the extent not covered by insurance proceeds collected by the Association, indemnify the Association and all other Owners against any such cost.

6.04 Distribution of Insurance Proceeds and Appointment of Attorney-in-Fact. This Declaration hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the project upon its destruction. Title to each unit is declared and expressly made subject to the terms and conditions hereof and acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association, acting through its Board of Directors, their true and lawful attorney in their name, place and stead, for the purpose of dealing with the Project upon its destruction, upon the terms and conditions herein provided. As attorney-in-fact, the Association, upon resolution of the Board of Directors acting by its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of an Owner which may be necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in this section means restoring the improvements to substantially the same condition in which they existed prior to the damage. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacement, subject to the terms hereafter set forth.

- (a) In the event of damage or destruction due to fire or other disaster, the insurance, if sufficient to reconstruct the improvements, subject to the provisions of "c" of this Section 6.04, shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvements shall be promptly repaired and reconstructed.
- (b) If the insurance proceeds are insufficient to repair and reconstruct the improvements, subject to the provisions of subparagraph "c" of this Section 6.04, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a casualty loss assessment, to be made against all of the Owners and their units

as herein provided. Such deficiency assessment shall be common expense made pro rata, according to each Owner's percentage ownership interest and shall be due and payable at the time and in the manner specified by the Association. The Association shall have the authority to cause the repair or reconstruction of the improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of the Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his unit and may be enforced and collected as is provided for monthly and special assessment liens in this Declaration. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the unit of any Owner refusing or failing to pay such casualty loss assessment within the time provided, and if not so paid, the Association shall be entitled to foreclose its lien against the unit for the delinquent Owner. The proceeds derived from the foreclosure sale of such unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (i) For the payment of all sums unpaid on any Mortgage on such Unit.
 - (ii) For the payment of all taxes and special assessment liens to the State of Texas or any political subdivision thereof.
 - (iii) For the payment of unpaid Common Expense charges and casualty loss assessments.
 - (iv) For the payment of any costs and attorney's fees incurred in connection with foreclosure of the unit;
 - (v) The balance remaining, if any, shall be paid to the Owner of such Unit.
- (c) Notwithstanding any provision of either subparagraphs (a) or (b) of this Section 6.04 to the contrary, reconstruction shall not be compulsory if at least eighty percent (80%) of the vote of the Owners, which shall include the vote of each Owner of a unit that will not be rebuilt or repaired, is cast not to rebuild. If the Owners so vote to not rebuild any unit, that unit's allocated interest in the project shall be automatically reallocated on the vote into a single estate owned in undivided interest by all Owners in said destroyed building or buildings as tenants in common in the percentage interest previously owned by each Owner. The Association shall prepare, execute and record an amendment to the Declaration reflecting the reallocation. If the entire project is not repaired or replaced and unless otherwise unanimously agreed to by the Owners, the proceeds shall be delivered pro rata to the Owners or their Mortgagees, as their interest may appear, in accordance with their percentage ownership in the project.
- (d) If the Owners unanimously adopt a plan for reconstruction, which plan has unanimous approval of all first mortgagees, then all of the Owners shall be bound by the terms and other provisions of such plan. Any casualty loss assessment made in connection with such plan shall be made pro rata according to each Owner's interest in the project and shall be due and payable at the time and in the manner specified by the Association. The Association shall have the authority to

cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The casualty loss assessment provided for herein shall be a debt of each Owner and a lien on each unit and may be enforced and collected as provided herein for monthly and special assessment liens. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to foreclose the lien against the unit of any Owner refusing or failing to pay such assessment within the time provided. The proceeds derived from sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraphs "(b)(i)" through "(v)" of this Section.

Thereafter, the Condominium Regime established by this Declaration shall terminate as to the building or buildings destroyed. The Units, Common Elements and Limited Common Elements for the building or buildings destroyed shall be deemed to be regrouped and merged into a single estate owned in undivided interest by all Owners in said building or buildings as tenants-in-common in the Percentage Interest previously owned by each Owner. In the event all buildings are destroyed then and in such event the condominium regime established by this Declaration shall terminate. However, so long as any of the buildings in the project are not destroyed, this condominium regime shall remain in effect as to those Unit Owners whose properties were not destroyed.

6.05 Special Assessment for Repairs. If it is determined, as provided herein, that the building or buildings shall be repaired and reconstructed, then all proceeds of insurance policies carried by the Association with respect to such fire or casualty shall be paid to and held by the Association in accordance herewith. The Board shall thereupon contract to repair or rebuild the damaged portions of the building or buildings. Common Elements and Limited Common Elements, and Units in accordance with the original plans and specifications therefor and the funds held for such purpose shall be disbursed in accordance with the terms of the contract of repair and rebuilding. In the event that such insurance proceeds are insufficient to provide for such repair, restoration, or rebuilding, those costs in excess of the insurance proceeds shall be assessed against all of the Owners, in proportion to their Percentage Interest. Such special assessments shall not require the consent of the members notwithstanding the provisions of Paragraph 5.04 hereof. If any Owner shall fail to pay such special assessments when due, the Board may make up the deficiency by payment from the Common Fund. Payment of such assessments shall be enforced as provided for in Paragraph 5.06 hereof.

ARTICLE VII USE AND OCCUPANCY

7.01 Retail/Office Use. No Unit shall be used for any prohibited purposes including but not limited to those set forth on Exhibit C. Prohibited uses are set forth in the Declaration of Covenants, Conditions and Restrictions filed of record in Volume ____, Pages _____ of the Real Property Records of Hays County, Texas.

7.02 Construction. No building material of any kind or character shall be placed upon the property except in connection with construction approved as herein provided. As soon as building materials are placed thereon, construction shall be promptly commenced and diligently prosecuted to conclusion.

7.03 Subdivision. No Unit shall be subdivided or partitioned to contain less than one thousand (1,000) square feet. Owners may own more than one (1) Unit in the Property subject to Paragraph 7.15 regarding leasing restrictions.

7.04 Parking. Ownership of each Unit shall require the Owner thereof and all persons within his control to comply with the following:

- (a) Owners, employees, agents and guests may park in areas designated as parking space(s) provided the following subsections are complied with;
- (b) All parking restrictions shall apply to all vehicles within Owner's control whether owned, leased, or borrowed by Owner, Owner's employees, tenants, invitees, assignees or other occupants of Owner's Unit;
- (c) Vehicles of an Owner, his employees, tenants, assignees, and guests are allowed in the parking area so long as they do not extend beyond the curbs. Owner, Owner's employees, tenants, assigns and other occupants of Owner's Unit shall not park nor store anything in the parking space(s) so as to prevent Owner from complying with the vehicle parking restrictions set forth above; and
- (d) Motorcycles and bicycles must always be parked inside at places designated by the Board of Directors.

Illegally parked vehicles may be removed at the discretion of the Association and towing and storage charges, if any, may be assessed against the Unit Owner whose employee, tenant, assignee, occupant, or guest is in violation.

7.05 Trucks and Commercial Vehicles. Trucks and other commercial vehicles shall not be allowed on the Property, except for pick-up trucks and vans owned or used by Owners. This restriction shall not restrict trucks or commercial vehicles making pick ups, deliveries or service calls nor shall this restriction restrict trucks or commercial vehicles which are necessary for construction or maintenance of the Property. Any delivery made by semi-tractor trailer shall be limited to the hours of 5 a.m. Central Standard Time to 7:30 a.m. Central Standard Time or after 7:00 p.m. to 11:00 p.m. Central Standard Time. Exceptions for matters such moving or relocation or delivery of special equipment must be request from the Board.

7.06 Outside Construction. Construction by an Owner outside his Unit is prohibited, except with the prior written consent of the Board of Directors.

7.07 Storage of Personal Property. All personal property of every kind must be stored inside the Unit. Nothing may be stored in the Common Elements without the prior written consent of the Board of Directors. The Board of Directors shall have the power to prohibit any particular Owner from storing, placing, or hanging property in lobbies, elevators, stairs, windows, parking places and entrance areas which in the sole judgement of the Board is deemed objectionable.

7.08 Refuse Disposal. No garbage, refuse or rubbish shall be deposited on any street, road, or Common Elements. Dumpster service is provided and all refuse shall be deposited

therein. Each Owner shall be responsible for keeping the dumpster service area locked and restricted from public access.

7.09 Nuisance. Owners shall not use or allow the use of any building or structure on the Property for any use which will create or emit any objectionable, offensive or noxious odor, dust, gases, fumes, or other material, or which will in any manner violate any zoning or other regulations or laws of local, state, or national governments. Under no circumstances shall an Owner use or allow any building or structure on the property to be used for the storage of environmental waste or other toxic materials. Unit Owners shall refrain from making noise or playing radios, televisions or any other electrical or mechanical "device" so loud that it may be heard outside the Unit or by neighboring Unit Owners and shall comply with other Board rules regarding sound nuisances. No automobiles or vehicles may be repaired or worked on while parked on the Property. Inoperable vehicles may be removed off the property if the Board so directs.

7.10 Annoyance. No activity shall be carried on the Property which in the judgement of the Board of Directors might reasonably be considered as giving annoyance to neighbors of ordinary sensibilities or might be reasonably calculated to reduce the desirability of the Property as an office building.

7.11 Window Coverings. No aluminum foil, reflective material, or other material objectionable under the rules and regulations of the Board of Directors shall be placed in any window.

7.12 Signs. No business sign nor any other kind of sign may be placed on a Unit or in the Common Elements or on the outside of the building except to the extent that the location, design and quality complies with the rules and regulations promulgated by the Board and the Village of Wimberley Sign Ordinance. All signs are expressly prohibited and may not be exhibited in the Owner's windows or in any other manner unless approved in writing in advance by the Board. All signage permitted by the Board in the lobbies of each building shall be uniform.

7.13 Nondiscrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owners in favor of the other Owners.

7.14 Insurance Hazard. Nothing shall be done on any Unit or on the Common Elements which will result in the increase of fire or casualty insurance premiums thereon or the cancellation of such insurance.

7.15 Leasing. An Owner may rent or lease his Unit. Prior to renting, the Owner must receive written approval of the lessee by the Board of Directors, subject to the following:

- (a) The Board may reasonably limit the number of tenants and occupants of a rented Unit. The Owner shall notify the Board in writing of the name of the proposed lessee and all of the persons who will be authorized under the lease to have the use and enjoyment of the unit on a regular basis. If the Board does not respond in writing to the Owner's request for approval within ten (10) days from the Board's receipt of the Owner's request, approval shall be deemed granted. In any event,

approval shall not be unreasonably withheld. Under no circumstances shall a Unit Owner rent less than one thousand (1,000) square feet to a tenant. All tenants and Owners shall be required to execute the tenant approval agreement attached as Exhibit "G". Such form may be amended by the Board.

- 7.16 Maintenance of Common Elements. All Common Elements shall be maintained by the Association. No Owner shall have the right to modify, alter, repair, decorate, redecorate, improve, or take any other action with respect to the Common Elements. It is the obligation of the Association under this Declaration to maintain the Common Elements in a uniform and attractive manner for the benefit of all Owners.

ARTICLE IX ARCHITECTURAL COVENANTS AND CONTROL

8.01 Purpose. Because the units are part of a single, unified community, the Association has the right to regulate the exterior design, use, and appearance of the units and common elements in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be peculiar to the Germanic architectural design Declarant has chosen for the Project or in comparison to then existing improvements.

8.02 Architectural Control Committee. The Architectural Control Committee (ACC) consists of three (3) persons appointed by Declarant during the development period and until all thirteen (13) units have been constructed. After the development period, the ACC consists of three (3) persons appointed by the board, pursuant to the bylaws, or, at the board's option, the board may act as the ACC. If the board acts as the ACC, all references in the documents to the ACC are construed to mean the board, Members of the ACC need not be Unit owners.

8.03 Limits On Liability. The ACC has sole discretion with respect to taste, design, and all standards specified by this Article. The members of the ACC have no liability for the ACC's decisions made in good faith, and which are not arbitrary or capricious. The ACC is not responsible for (1) errors in or omissions from the plans and specifications submitted to the ACC, (2) supervising construction for the owner's compliance with approved plans and specifications, or (3) the compliance of the owner's plans and specifications with city codes, ordinances, and state and federal laws.

8.04 Prohibition of Construction, Alteration & Improvement. BEFORE MAKING ANY IMPROVEMENTS OR ALTERATION TO ANY PART OF THE PROPERTY, A BUILDER OR OWNER MUST APPLY FOR THE ACC'S PRIOR WRITTEN APPROVAL. Without the ACC's prior written approval, a person may not commence or continue any construction, alteration, addition, improvement, installation, modification, redecoration, or reconstruction of or to the Property, or do anything that affects the appearance, use, or structural integrity of the Property. The ACC has the right but not the duty to evaluate every aspect of construction and property use that may adversely affect the general value or appearance of the Property.

8.05 ACC Approval. To request ACC approval, an owner must make written application and submit two (2) identical sets of plans and specifications showing the nature, kind, shape, color, size, material, and locations of the work to be performed. The application must clearly identify any requirement of this Declaration for which a variance is sought. The ACC will return one set of plans and specifications to the applicant marked with the ACC's response, such as "Approved," "Denied." Or "Submit Additional Information." The ACC will retain the other set of plans and specifications, together with the application, for the Association's files. Verbal approval by an Association director or officer, a member of the ACC, or the Association's manager does not constitute ACC approval, which must be in writing.

(a) Deemed Approval. If the ACC fails to respond in writing, with a negative response, an affirmative response, or a request for additional information, within sixty (60) days after the ACC's actual receipt of the owner's application, the owner may submit a second request for processing of its original application. If the board fails to respond within forty-five (45) days after the board's actual receipt of the owner's second request, the owner's application is deemed approved. The owner may then proceed with the improvement, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the owner to document the board's actual receipt of the owner's initial application and second request.

(b) Building Permit. If the application is for work that requires a building permit, the owner must obtain the appropriate permit. The ACC's approval of plans and specifications does not mean that they comply with the permit requirements. Alternatively, granting of a permit does not ensure ACC approval.

8.06 No Approval Required. No approval is required to rebuild a Unit in accordance with originally approved plans and specifications. Nor is approval required for an Owner to remodel, repair, or redecorate the interior of a Unit, provided the work does not impair the structural integrity, weaken the support, or otherwise adversely affect the building or any Common Elements, and provided that all such work is performed in a good, workmanlike, timely manner.

8.07 Prohibited Acts. The types of acts that may not be commenced without the ACC's prior written approval include, but are not limited to:

- (a) Installation of a receiving or transmitting tower, ornamental iron or burglar bars, storm windows or doors, exterior lighting, storage sheds, basketball goals, treehouses, free standing mailboxes, trash can enclosures, patio covers.
- (b) Installation of equipment that may create a noise annoyance, save and except a noise-producing security devices.
- (c) Installation of walls, screens, fences, gates, or carports.
- (d) Enclosure of a patio.
- (e) Installation of impermeable decking or other improvements that may interfere with established drainage patterns.
- (f) Placement of any portable building on the Property.

8.08 Maintenance of Common Elements. All Common Elements, shall be maintained by the Association. No Owner shall have the right to modify, alter, repair, decorate, redecorate, improve, or take any other action with respect to the Common Elements. It is the obligation of

the Association under this Declaration to maintain the Common Elements in a uniform and attractive manner for the benefit of all Owners.

8.09 Appeal of Board Decision. Any decision of the Board of Directors regarding interpretation or enforcement of the foregoing use and occupancy limitations on the rules and regulations adopted by the Board may be appealed to the Unit Owners and shall be rescinded or nullified by a petition signed by Owners of sixty-six and two-thirds percent (66 2/3rds) of the total Retail Space of the Buildings, except to the extent that use and occupancy limitations are governed by plat and/or Declaration of Covenants, Conditions and Restrictions duly recorded in the Real Property Records of Hays County, Texas.

ARTICLE IX PROTECTION OF MORTGAGE

9.01 Notice of Association. An Owner who mortgages his Unit shall notify the Board, giving the name and address of his Mortgagee. The Board shall maintain such information in a record entitled "Mortgagees of Units."

9.02 Notice of Default. The Association shall notify a Mortgagee in writing, upon request of such Mortgagee, of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in this Declaration or the By-Laws which is not cured within thirty (30) days.

9.03 Examination of Books. The Association shall permit Mortgagees to examine the books and records of the Association during normal business hours.

9.04 Reserve Fund. The Association shall establish an adequate reserve fund for replacement and repair of Common Elements and fund the same by regular monthly payments rather than by extraordinary special assessments.

9.05 Notice of Meetings. The Association shall furnish each Mortgagee, upon request of such Mortgagee, prior written notice of all meetings of the Association and permit the designation of a representative of such Mortgagee to attend such meetings, one such request to be deemed to be a request for prior written notice of all subsequent meetings of the Association.

9.06 Approval for Amendments to Declaration, etc. Notwithstanding any other provision hereof, the prior approval of at least two-thirds (2/3rds) in interest of all members of the Association shall be required for the following:

- (a) Abandonment or termination of the Condominium Regime hereby established;
- (b) Any amendment to this Declaration or other action or omission of the Association which would change the percentage interest of the Owners in the Common Elements or which would change the pro rata interest or obligations for the purpose of levying assessments or charges or allocating distribution of hazard insurance proceeds or condemnation proceeds;
- (c) Any partition or subdivision of any Unit;

- (d) Any act or omission seeking or resulting in the abandonment, subdivision, encumbrance, sale, or transfer of the Common Elements (other than the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements); and
- (e) The use of hazard insurance proceeds paid or due to the Association for losses to any property of the Project (whether to Units or to Common Elements) for purposes other than repair, replacement or reconstruction of such property, except as provided by statute in case of substantial loss to the Units and/or Common Elements;

9.07 Claims for Unpaid Assessments. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for such Unit's unpaid dues or charges which accrued prior to the acquisition of title to such Unit by the Mortgagee.

9.08 Taxes, Assessments and Charges. All taxes, assessments and charges which may become liens prior to the Mortgage under local law shall relate only to the individual Units and not to the Project as a whole.

ARTICLE X LIMITATIONS OF RESTRICTIONS ON DECLARANT

10.01 Declarant has not undertaken the construction of individual units. The sale of the Unit and the completion of the construction is essential to the establishment and welfare of the Project. In order that said work may be completed and said Project be established as a fully occupied retail/office condominium as rapidly as possible, nothing in this Declaration shall be understood or construed to:

- (a) prevent Declarant or its representatives from erecting, constructing, or maintaining on any part or parts of the Project such structures which may be reasonable and necessary for the conduct of its business of completing said work and establishing the Project as an office condominium and disposing of the same in Units by sale, lease, or otherwise; or
- (b) prevent Declarant from maintaining such sign or signs on the Project as may be necessary for the sale, lease, or disposition thereof.

As long as Declarant, its successors and/or assigns, own one (1) or more of the Units described herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration.

ARTICLE XI MISCELLANEOUS

11.01 Remedies. The Board, or any Owner shall be entitled to enforce any of the terms and provisions hereof by action at law or in equity, when the Board, after ten (10) days prior written notice to the Owner in question, may pursue any other remedies provided for in Article V

above. Failure by the Board or any Owner or Owners to so enforce the terms hereof shall not be deemed a waiver of any breach or failure to adhere to any of the terms or provisions hereof.

11.02 Rules and Regulations. The rules and regulations with respect to the day-to-day maintenance, operation, and enjoyment of the Common Elements and the Project may be amended from time to time by the Board. The rules and regulations are of equal dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration but in the event of a conflict, this Declaration shall control. Each Owner, by accepting conveyance of a Unit, agrees to comply with and abide by the rules and regulations as the same may be amended from time to time.

11.03 Binding. Subject to change in accordance with Article IX hereof, the terms and provisions hereof shall be covenants running with the Land and shall be binding upon the Developer, all Owners, and their heirs, legal representatives, successors and/or assigns.

11.04 Easement for Utilities. Prior to the completion of the last building, the Board shall have the right to grant to utility companies and other similar entities such easements, rights-of-way, and other rights as may be reasonably necessary to service the project and establish, operate, or maintain the same as a viable condominium project.

11.05 Severability. In the event of the invalidity or partial invalidity or unenforceability of any provision or portion of this Declaration, the remainder of this Declaration shall remain in full force and effect.

11.06 Exhibits. The following are the Exhibits which are part of this and agreement:

<u>Exhibit A.</u>	Metes and Bounds
<u>Exhibit B.</u>	Proposed Uses (will be amended to List Approved Use)
<u>Exhibit C.</u>	Restrictions
<u>Exhibit D.</u>	Memorandum with Village of Wimberley
<u>Exhibit E.</u>	Site Plan
<u>Exhibit F.</u>	Alternative Building Configurations in Specific Areas
<u>Exhibit G</u>	Tenant Approval Agreement

They are attached hereto incorporated by reference in this Declaration for all purposes, as is set out verbatim herein.

11.07 Non-Waiver of Remedies. Each remedy provided for in this Declaration is separate, distinct, and non-exclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

11.08 Liability of Board Members. The members of the Board of Directors and Officers of the Association shall not be liable to any Owner or any person claiming by or through any Owner for any act or omission of such Director or Officer in the performance of his duties unless such act or omission is (1) a breach of the Director's duty of loyalty to the Association or its members, (2) an act or omission not in good faith and that involves intentional misconduct or a knowing violation of law, (3) a transaction from which a Director receives an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director's office, or (4) an act or omission for which the liability of the Director is expressly provided for by a

statute. The Association shall indemnify all such Directors and Officers from all claims, demands, actions and proceedings and any expenses in connection therewith, except if such Director or Officer has acted in violation of the foregoing. The Board may purchase (but is not required to purchase) Directors and Officers liability insurance. Such insurance and any indemnification payment shall be treated as a common expense.

EXHIBIT B

ADDENDUM TO ZONING APPLICATION – ANCILLARY PUD INFORMATION

Permitted Uses (MIXED USE): Base Zoning District Section 26.0.: Commercial – Low Impact, C-1

- Permitted Uses:
- A. Convenience sales and personal services
 - B. Business Support Services
 - C. Child Care Center
 - D. Repair Service – Consumer
 - E. Eating Establishments: Sitdown
 - F. Animal Sales & Services: Grooming
 - G. Religious assembly
 - H. Convalescent Services
 - I. Arts & Crafts and/or Instruction
 - J. Commercial/Single Family Residential
 - K. Adult Day Care Facility
 - L. Private Primary Educational Services
 - M. Private Secondary Educational Services
 - N. Cultural Services
 - O. Such uses as may be permitted under the provisions of Conditional Use Permits, Section 42 of the Village of Wimberley Zoning Ordinance NO. 2001-010 as amended.

Section 24.2 (O-1 Permitted Uses) as amended on June 19th, 2001

- Permitted Uses:
- A. Administrative & Professional Office
 - B. Civic Uses (such as City Hall)
 - C. Research Services
 - D. Office/Residential
 - E. Medical Services
 - F. Accessory Uses to Primary Use

Additional Uses in addition to the Base Zoning District Section 26.2 – from Section 27.0 of the Village of Wimberley Zoning Ordinance No. 2001-010 as amended:

- Permitted Uses:
- D. Retail Sales & Services: General
 - K. Banks and Savings & Loans

EXHIBIT G

TENANT APPROVAL AGREEMENT

Tenant has been advised that the leased space is with the Planned Unit Development "PUD" for The Crossroads at Wimberley..

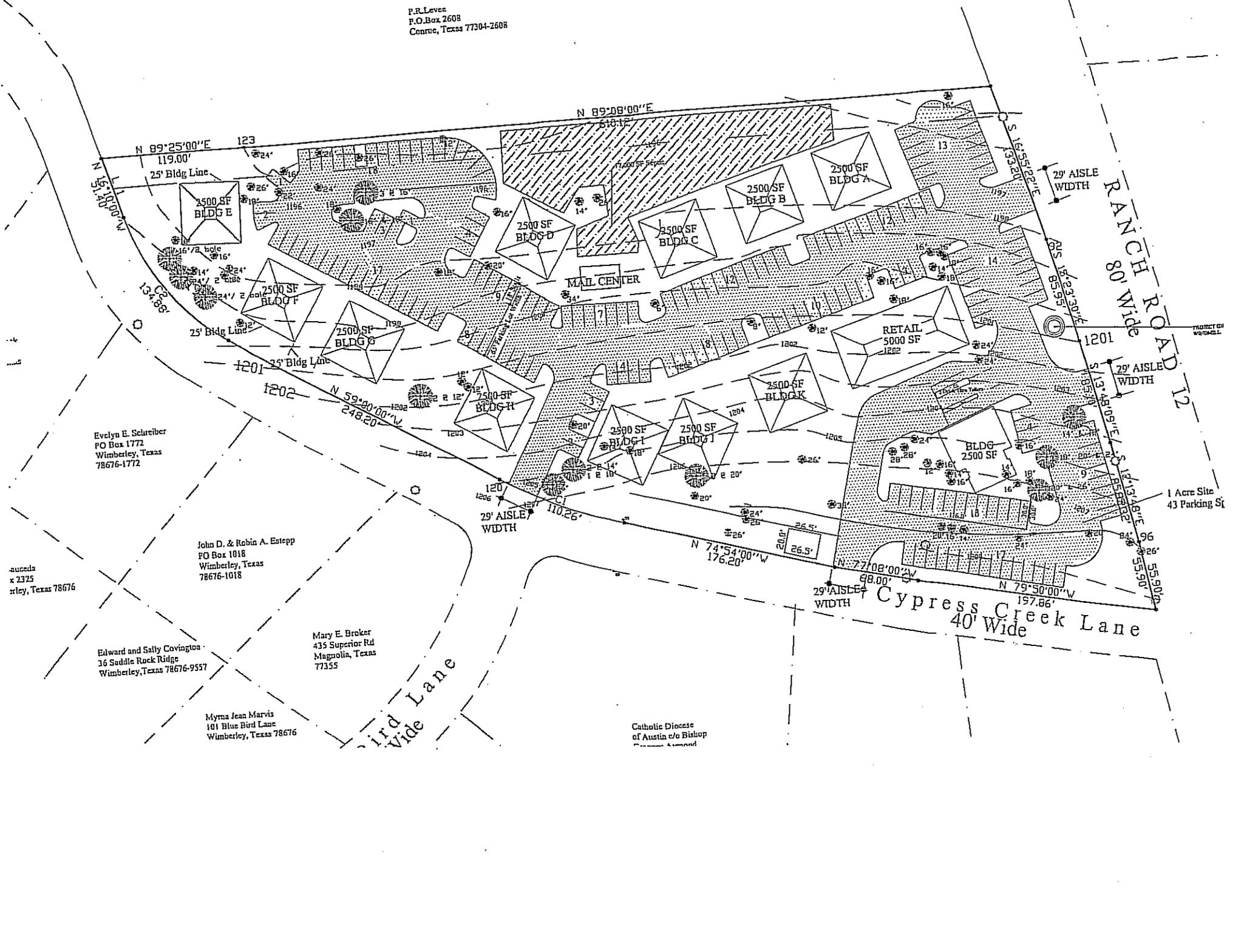
Tenant has read the PUD document and agrees to abide by its terms and conditions.

EXECUTED this ____ day of _____, 20 ____.

Tenant:

By: _____

P.R. Leves
P.O. Box 2608
Comme, Texas 77304-2608



Evelyn E. Schreiber
PO Box 1772
Wimberley, Texas
78676-1772

John D. & Robin A. Estep
PO Box 1018
Wimberley, Texas
78676-1018

Mary E. Broker
435 Superior Rd
Magnolia, Texas
77355

Edward and Sally Covington
36 Saddle Rock Ridge
Wimberley, Texas 78676-9557

Myrna Jean Marvis
101 Blue Bird Lane
Wimberley, Texas 78676

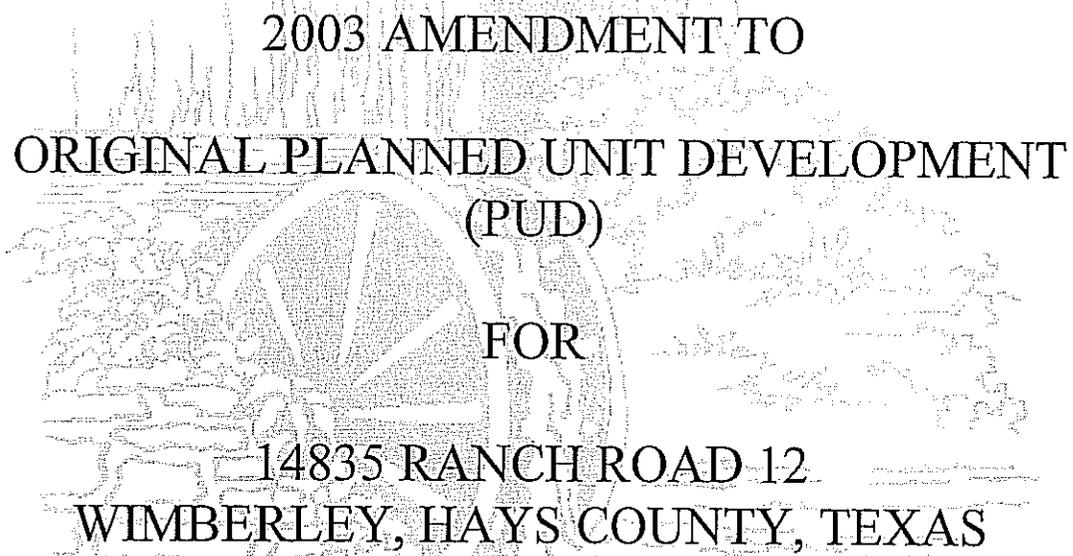
Catholic Diocese
of Austin c/o Bishop
Comand

1 Acre Site
43 Parking Sp

RANCH ROAD 12
80' Wide

Cypress Creek Lane
40' Wide

Blue Bird Lane
Wide Lane



2003 AMENDMENT TO
ORIGINAL PLANNED UNIT DEVELOPMENT
(PUD)
FOR
14835 RANCH ROAD 12
WIMBERLEY, HAYS COUNTY, TEXAS

ADDENDUM TO ZONING APPLICATION – ANCILLARY PUD INFORMATION

Permitted Uses (MIXED USE): Base Zoning District Section 26.0.: Commercial – Low Impact, C-1

- Permitted Uses:
- A. Convenience sales and personal services
 - B. Business Support Services
 - C. Child Care Center
 - D. Repair Service – Consumer
 - E. Eating Establishments: Sitdown
 - F. Animal Sales & Services: Grooming
 - G. Religious assembly
 - H. Convalescent Services
 - I. Arts & Crafts and/or Instruction
 - J. Commercial/Single Family Residential
 - K. Adult Day Care Facility
 - L. Private Primary Educational Services
 - M. Private Secondary Educational Services
 - N. Cultural Services
 - O. Such uses as may be permitted under the provisions of Conditional Use Permits, Section 42 of the Village of Wimberley Zoning Ordinance NO. 2001-010 as amended.

Section 24.2 (O-1 Permitted Uses) as amended on June 19th, 2001

- Permitted Uses:
- A. Administrative & Professional Office
 - B. Civic Uses (such as City Hall)
 - C. Research Services
 - D. Office/Residential
 - E. Medical Services
 - F. Accessory Uses to Primary Use

Additional Uses in addition to the Base Zoning District Section 26.2 – from Section 27.0 of the Village of Wimberley Zoning Ordinance No. 2001-010 as amended:

- Permitted Uses:
- D. Retail Sales & Services: General
 - K. Banks and Savings & Loans

Maximum Building Footprint: Seven Thousand Five Hundred (7,500) Square feet. Buildings A, B, & C as shown herein may be combined into one building comprising, seven thousand five hundred square feet; two buildings comprising five thousand (5,000) square feet and twenty-five hundred (2,500) square feet or three individual buildings of twenty-five hundred (2,500) square feet. Building J & I and G & F may be combined into one footprint containing an area of five thousand (5,000) square feet. Building F, G, H, I, J may be two story units with up to a maximum of three thousand seven hundred fifty (3,750) square feet, two thousand five hundred (2,500) square feet on the ground floor and twelve hundred fifty (1,250) square feet on the second floor. In no case shall

the building footprints exceed thirty-five thousand (35,000) square feet or the total improved area of the project exceed thirty seven thousand five hundred (37,500) square feet including second story improvements.

Architectural Control: The Crossroads Architectural Control Committee shall be responsible for maintaining the architectural integrity of the project. The desired architectural design shall be an early Texas-Germanic style architecture with mixture of white Austin cut stone and cedar or comparable wood trim. The desired effect will be to give a Fredericksburg Early Texas-Germanic style appearance.

Minimum Setbacks: Contrary to the Base Zoning District 26.4 of the Village of Wimberley Zoning Ordinance No. 2001-010 as amended on June 18, 2001, the setbacks shall comply with "c. Minimum Required Setbacks:

1. Dominant Street: Forty (40) feet
2. Secondary Street: Twenty-five (25) feet
3. Interior Side or Rear Yard: Ten (10) feet, twenty-five (25) feet when adjacent to a residential district and the building is more than one story.

However, contrary to: "No construction, including buildings, parking areas and driveways, except entry driveways, and no placement or display of commercial material and equipment shall be allowed in the set back shall be the larger of the dimensions in Table 47.0.A..." Driveways and parking spaces shall be allowed into the setback area in order to preserve the existing trees on the site.

Maximum Building Height: No more than two stories and not more than twenty eight (28) feet or thirty-five (35) feet with gable roof. A gable roof element formed of two equally inclined surfaces, with a slope of not less than 6:12 or 45%, that forms a triangular gable at the terminal end. The 6:12 is in keeping with the historical building structure desired by the owners.

Wastewater: There will be a proposed one hundred (100) seat restaurant at this site requiring 28 gallons/seat/day of wastewater treatment. This will require three (3) each 1,000 gallon/day aerobic treatment units. The disposal site for this restaurant has Class III soils, therefore 2800/0.20 gal/sf/day would require 14,000 square feet of low pressure dose field area. It is recommended that a 1,000 gallon grease trap be installed just ahead of the aerobic units. There will be a requirement to regulate the dosing volume out of each aerobic unit so that there is a constant flow through the treatment units.

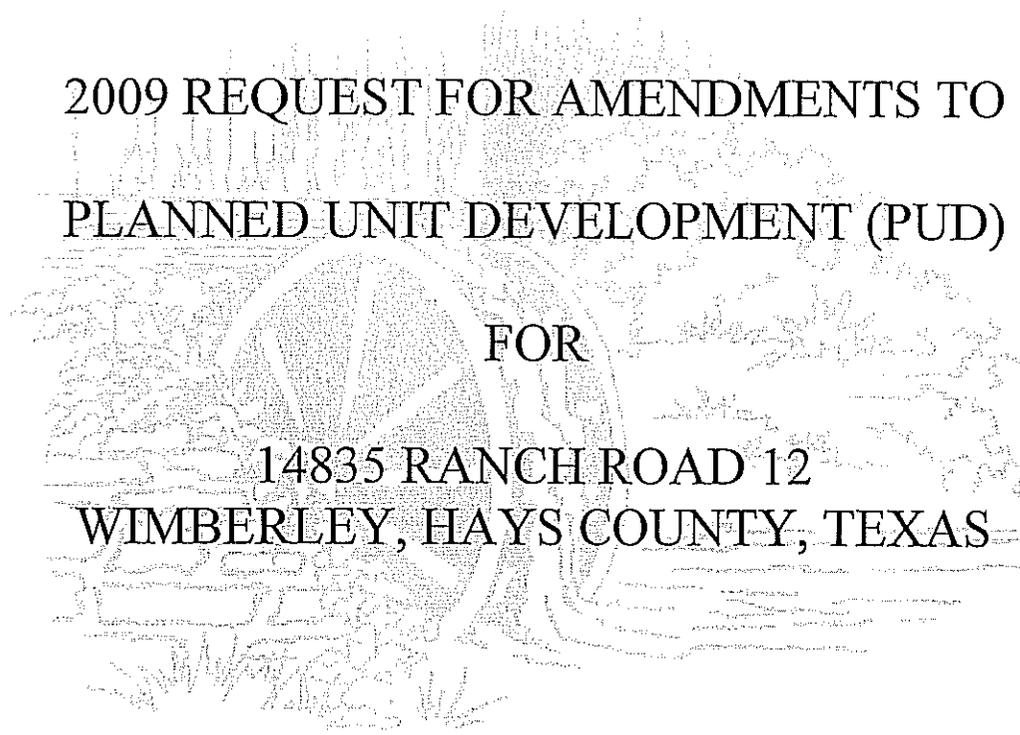
There will be approximately thirteen (13) office buildings of twenty-five hundred (2,500) square feet each. It is assumed that forty (40) gallons per 2,500 square feet of building will be the water usage thus requiring 500 gallons/day of treatment. It is proposed to install one 500 gallon/day aerobic unit. The soils in this area are Class IV there 500 gallons/day @ 0.10 gallon/sf/day equals 8,000 square feet of spray area. Three spray heads are required @ twenty-four (24) foot radius each.

Ronald N. Hayes, P.E.

Landscaping: The project will utilize the majority of oak and elm trees currently on-site. Extensive care will be taken to protect the trees during construction. General landscaping will be similar to that found at the Cypress Point Townhouses in Woodcreek or Poco Rio on Ranch Road 12. Attentive detail will be paid to using ornamental shrubs and trees such as red buds, crepe myrtle, pampas grass, oleanders, etc. The focal point will be at the entry off of Ranch Road 12 which will include a windmill with three storage tanks that will have a cascading waterfall feature using recycled water or water from a rainfall collection system.

Fence: The exterior of the property will have a split rail or cedar fence along the entire exterior to make it easier to maintain the landscaping and blend into the residential areas at the western and northern edge of the property.

Condominium Regime: The condominium regime is being modified to incorporate the aforementioned issues. A draft of the document will be provided to the Village of Wimberley on or before, Monday, July 16th.



2009 REQUEST FOR AMENDMENTS TO
PLANNED UNIT DEVELOPMENT (PUD)

FOR

14835 RANCH ROAD 12
WIMBERLEY, HAYS COUNTY, TEXAS



John McCrocklin & Associates Real Estate

INCORPORATED
Mail Received at P.O. Box Only

Post Office Box 2 (1004 Cypress Creek Lane) Wimberley, TX 78676-0002 (512) 842-2006 Fax (512) 842-1142
Website: <http://www.mccrocklin.com>



Individual Members

September 15, 2009

Mr. Don Ferguson
City Administrator
City of Wimberley
12111 Ranch Road 12
P.O. Box 2027
Wimberley, TX 78676-2027

RE: Crossroads Town Center
14835 Ranch Road 12
Wimberley, TX 78676
PUD Ordinance: ZA 01-010
Site Development Permit: SD 06-007

Dear Mr. Ferguson:

Please consider this a formal written request to amend the City of Wimberley PUD Ordinance: ZA-01-010 and Site Development Permit: 06-007.

We would like to request the following modifications:

- (1) Modify PUD Ordinance ZA 01-010 and Site Development Permit: 06-007 to combine six smaller buildings, D, J, F, G, H, and I along with a reduction of Building E from 5,100 square feet to 3,100 square feet, a reduction of 2,000 square feet, into a single 16,300 square foot footprint for a 2 story structure;
- (2) Modify the allowed uses of PUD ZA-01-010 to add the inclusion of Assisted Living Facility, ALF, and motel.

Attached is a document called Comparison Recap which summarizes the impact of the requested changes above. Also enclosed is a copy of the approved Site Development Plan along with the requested revisions, outlined in red, for comparison by the Planning and Zoning Commissioners.

I instructed our project engineer, Andy Dodson, PE, Stanley Consultants to calculate the revised On-site and Downstream release per cubic feet per second and resubmit them to Rick Harris, P.E., South Travis County Area Office Maintenance Engineer for confirmation that they are still in agreement with our runoff calculations. Attached is a letter from Mr. Harris stating the Texas Department of Transportation still concurs with our storm water calculations, "my conclusion is that the proposed development will have no impact on the downstream 24" cross pipe under RM 12."

Mr. Don Ferguson
City Manager
City of Wimberley
September 15, 2009
page two

You will also find an e-mail from Roxanne Hinders, City of Wimberley Fire Marshal, stating that the fire flow calculations for the new 16,300 square foot two-story structure, New Building (to be labeled Building D), of 1,442 gallons per minute are adequate for fire flow.

I assume that since PUD: ZA 01-010 and Site Development Permit: 06-007 are being modified that the revised site development permit when approved will be good for one year from the date of the approved modifications.

We respectfully request approval of these changes as they all have a positive impact on the overall development and impact of the project for the community.

Should you need any additional information please let me know at your earliest convenience.

Thank you for your cooperation in this regard.

Sincerely,



John H. McCrocklin, ALC, CRB, CCIM

JHM/wj

Enclosures: Comparison Recap
Letter from Texas Department of Transportation
E-mail from City of Wimberley Fire Marshal
Fire Flow Calculations
PUD: ZA 01-010 Approved Site Development Permit Plan
PUD: ZA 01-010 Requested Site Development Permit Plan Revisions

cc: Ms. Suzan Kedron, Jackson & Walker, LP
Mr. Andy Dodson, P.E., Stanley Consultants

Comparison Recap of Crossroads Town Center Requested PUD Minor Modifications

		Approved	Requested Modification	Net Change
Building Footprint		37,500 sf	37,540 sf	+40 sf
Gross Square Footage		37,500 sf	53,840 sf	+16300 sf
Impervious Coverage Ratio		68%	59%	-9%
Parking Spaces		189	176	-13 spaces
Storm Water	On-site	43.91 cfs/100 yr	43.23 csf/100 yr	-0.68 cfs
	Downstream	163.62 cfs/100 yr	163.62 csf/100 yr	n/c
Number of Buildings		10	5	-5 buildings
Setback - RR 12		40 ft	80 ft	
Traffic Impact			45% reduction	-45%
Trees - Net Loss		10	12	-2 trees
Architecture		Original Wimberley	Original Wimberley	n/c

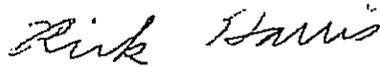
Letter for City of Wimberley

Andrew Dodson
Stanley Consultants Inc.
6836 Austin Center Blvd.
Suite 350
Austin, Texas 78731

Re: RM 12 Crossroads Town Center
Date: July 7, 2009

Mr. Dodson

I made a site visit and reviewed the hydraulic report submitted by Andrew Dodson P.E. and Stanley Consultants Inc. for the development of Crossroads Town Center located at the Northeast edge of Wimberley adjoining RM 12. My conclusion is that the proposed development will have no impact on the down stream 24" cross pipe under RM 12.



Rick Harris P.E.
South Travis Area Office Maintenance Engineer

FIRE FLOW CALCULATIONS

CALCULATION OF AVAILABLE FIRE FLOW FROM A FIRE HYDRANT
 BASED ON THE FORMULA:

$$Q_r / Q_f = (P_{f1} - P_{f2})^{.54} / (P_{r1} - P_{r2})^{.54}$$

Residual Hydrant Scudder Lane & RR12

Static 84 psi
 Residual 60 psi

Flow Hydrant RR 12 & E Meadow Lane

Static 120 psi
 Flow 52 psi Rate 1210 gpm

Calculated Fire Flow Rate @ 20 psi 2055 gpm

Proposed Hydrant

Pressure loss or gain to proposed hydrant

Proposed Pipe Size	6 inch	
?Looped System (insert 2)	2	605
Length of pipe	1500 feet	
Hazen William Constant "C"	110	
Friction Loss Per 100 ft.	1.1 psi per 100 ft.	
Total Friction Loss	15.8 psi	

Elevation of Flow Hyd.	905 ft
Elevation of Prop. Hyd.	920 ft
Pressure Loss or gain	-6.44 psi

Net Pressure Loss or Gain 22.3 psi loss

Calculated Fire Flow at Proposed Hydrant 1442 gpm

Building Type: Type II-B
 Building Size: 13,600SF per floor
 Required Fire Flow: 2,750 gpm

* A 50% reduction in the required fire flow is allowed as the building will be equipped a fire sprinkler system. The resulting required fire flow is reduced to 1500 gpm.

-----Original Message-----

From: Roxanne Hinders [mailto:billing@wimberleyfire.com]
Sent: Wednesday, September 09, 2009 10:17 AM
To: Dodson, Andrew
Subject: RE: Scan from a Xerox WorkCentre

Mr. Dodson,

The Fire Chief will accept the flow of 1442gpm with the sprinklers instead of the 1500gpm that is required by the fire code. Please discuss these flows with the city before moving forward.

Roxanne

-----Original Message-----

From: Dodson, Andrew [mailto:AndrewDodson@stanleygroup.com]
Sent: Monday, August 31, 2009 3:11 PM
To: Roxanne Hinders
Subject: FW: Scan from a Xerox WorkCentre

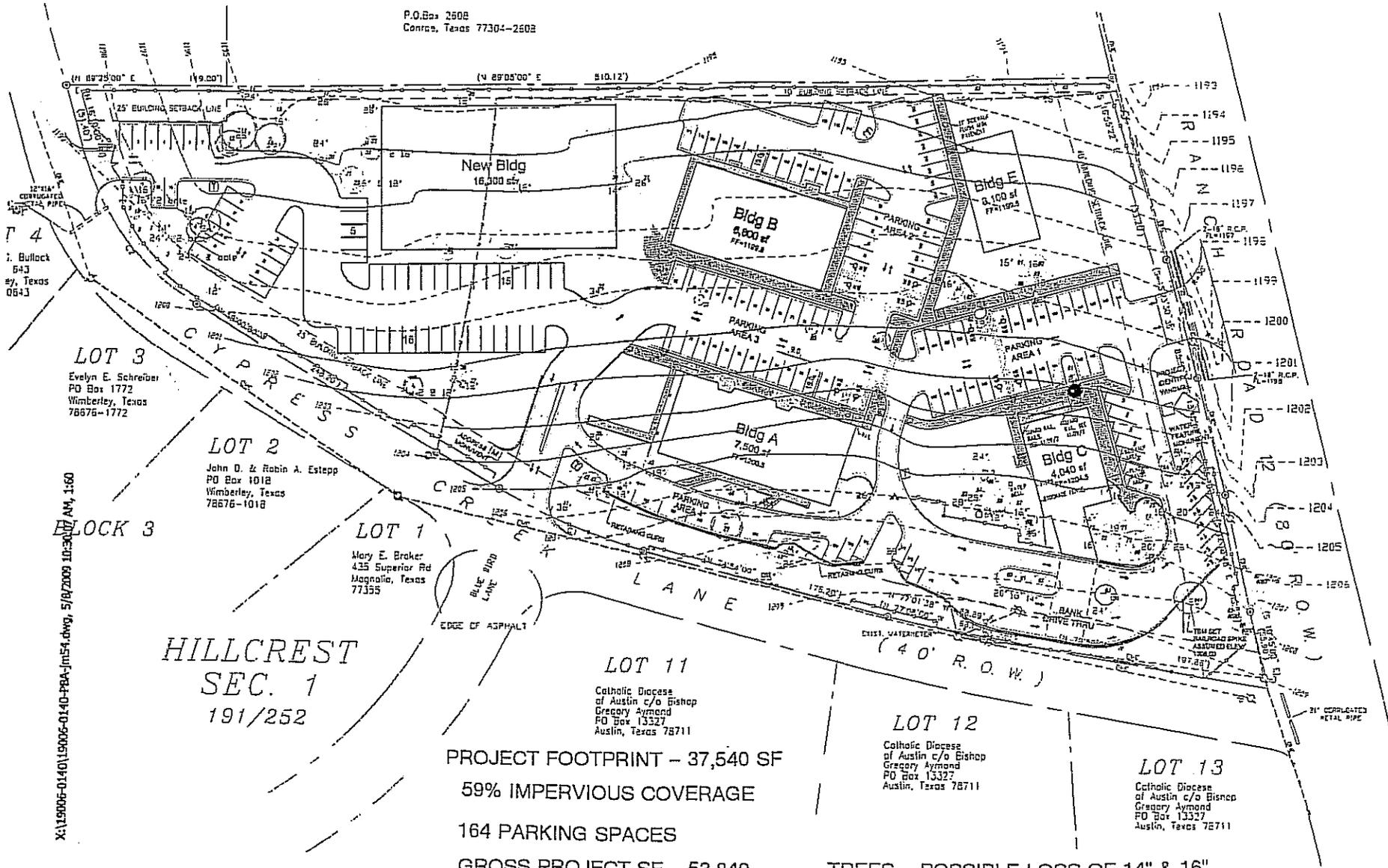
Roxanne,

I obtained some flow data from Wimberley Water Supply. Based on the information they gave me attached is the anticipated fire flow for Crossroads Town Center. We are 60 gpm short of the minimum. Can you check with Carol and see if this will work since we will be installing sprinklers, or will we need a booster pump?

Andrew Dodson, PE
Project Manager
Stanley Consultants, Inc
6836 Austin Center Blvd, Ste 350
Austin, TX 78731
512-427-3642 office
512-748-3253 mobile
512-427-3699 fax

www.stanleyconsultants.com

P.O. Box 2508
Conroe, Texas 77304-2508



T 4
i. Bullock
643
wy, Texas
0543

LOT 3
Evelyn E. Schreiber
PO Box 1772
Wimberley, Texas
78676-1772

LOT 2
John D. & Robin A. Estep
PO Box 1018
Wimberley, Texas
78676-1018

LOT 1
Mary E. Broker
435 Superior Rd
Magnolia, Texas
77355

**HILLCREST
SEC. 1
191/252**

LOT 11
Catholic Diocese
of Austin c/o Bishop
Gregory Aymond
PO Box 13327
Austin, Texas 78711

LOT 12
Catholic Diocese
of Austin c/o Bishop
Gregory Aymond
PO Box 13327
Austin, Texas 78711

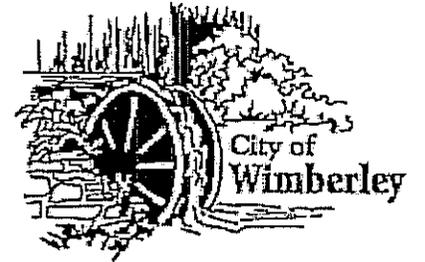
LOT 13
Catholic Diocese
of Austin c/o Bishop
Gregory Aymond
PO Box 13327
Austin, Texas 78711

PROJECT FOOTPRINT - 37,540 SF
59% IMPERVIOUS COVERAGE
164 PARKING SPACES
GROSS PROJECT SF - 53,840

TREES - POSSIBLE LOSS OF 14" & 16"

X:\19006-0140\19006-0140-P&A-jm54.dwg, 5/8/2009 10:30:07 AM, 1:60

Zoning Map for ZA-09-022

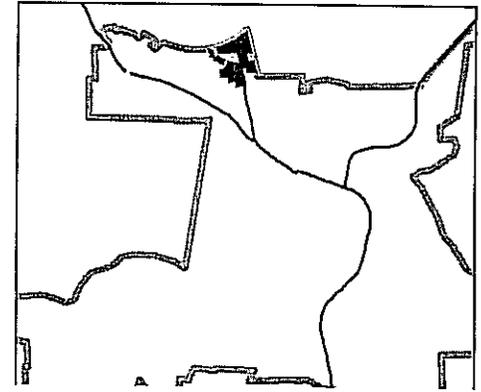


P.O. Box 2027 • Wimberley, Texas 78676

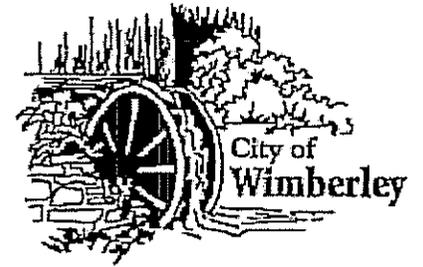


-  Subject Property
- Zoning District**
-  RA (Residential Acreage)
-  R2 (Single Family Residential 2)
-  O1 (Office 1)
-  C1 (Commercial - Low Impact)
-  C2 (Commercial - Moderate Impact)
-  PF (Public Facilities)

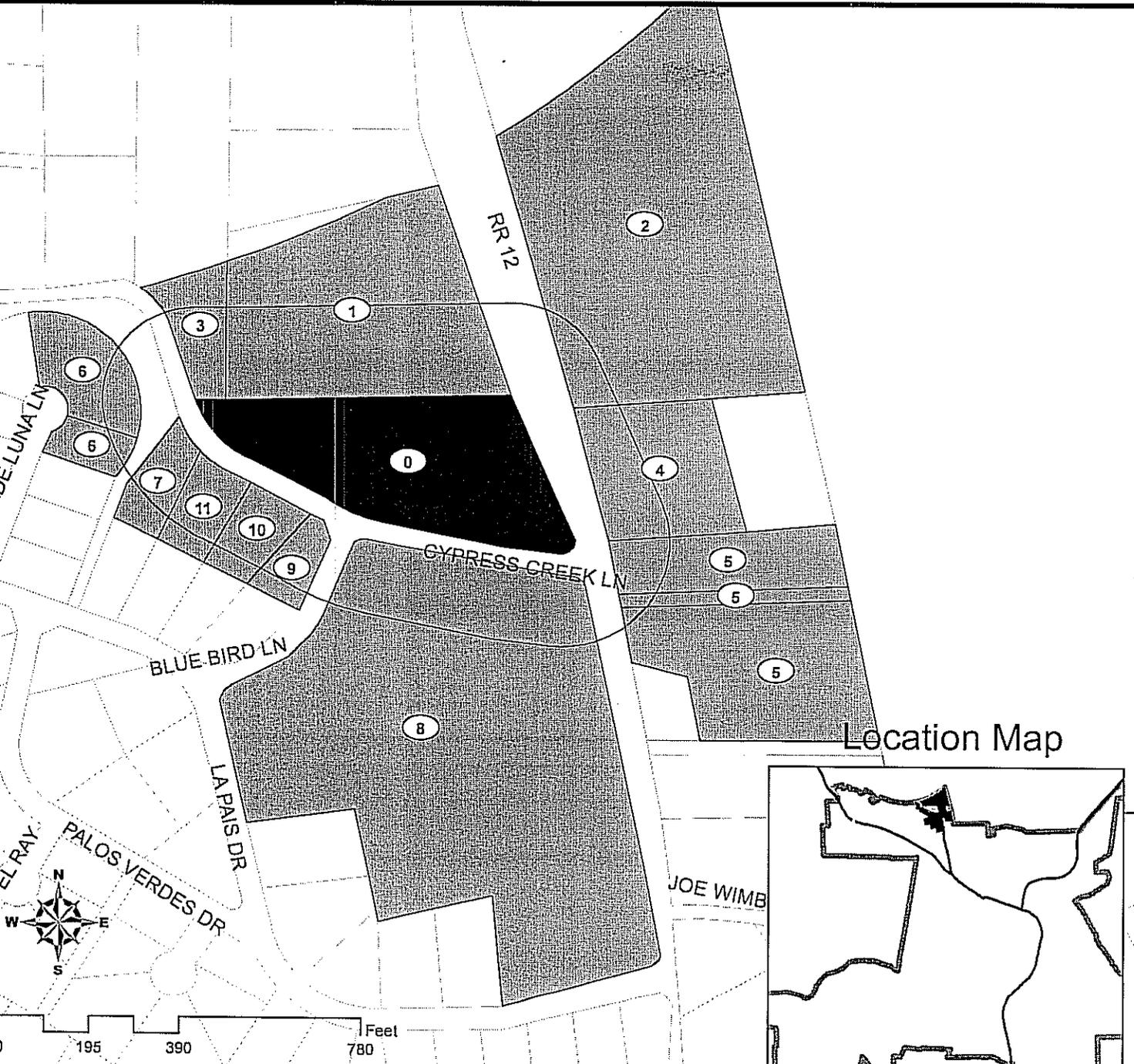
Location Map



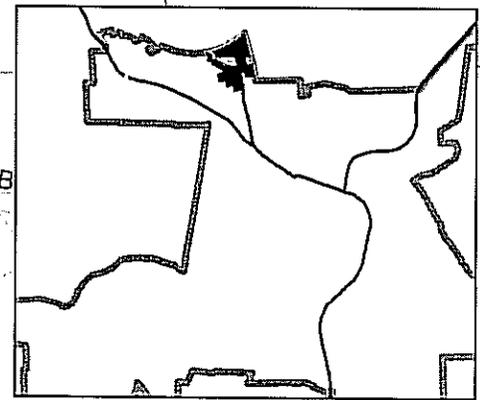
Notification Map for ZA-09-022



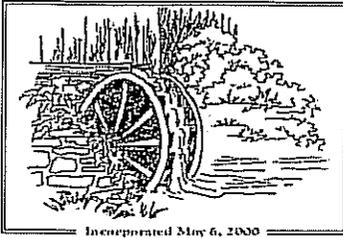
P.O. Box 2027 • Wimberley, Texas 78676



Location Map



-  200_buffer
-  0, MCCROCKLIN FAMILY
-  1, PEERMAN ROBERT E TRUSTEE
-  2, WILLETT, BOYD R
-  3, ALEXANDER, EWELL
-  4, ALTICE THERESA
-  5, BALCONES BANK SSB
-  6, BULLOCK BOBBY & DONNA
-  6, BULLOCK BOBBY L & DONNA
-  7, BULLOCK, ROGER GLENN
-  8, CATHOLIC DIOCESE OF AUSTIN
-  9, COLLINS SHAWN R & SANDI L
-  10, ESTEPP JOHN D & ROBIN A
-  11, JENNINGS JON S & JUDY C



City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: village@anvilcom.com Web: www.vil.Wimberley.tx.us

Tom Haley, Mayor - Charles Roccaforte, Mayor Pro-tem

Council Members - Bob Flocke, Bill Appleman, Steve Thurber, John White

Don Ferguson, City Administrator

September 21, 2009

NOTICE OF PUBLIC HEARING

Re: **File No. ZA-09-022**
14835 RR 12

An application for an amendment to the Planned Unit Development (PUD) with base zoning of Commercial Low Impact at 14835 RR 12.

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

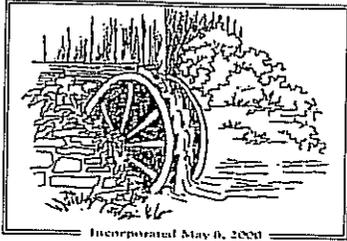
The McCrocklin Family Trust has applied for an amendment to the Planned Unit development (PUD) with base zoning of Commercial - Low Impact (C1). This amendment proposes to modify the permitted uses to include an Assisted Living Facility and Lodging. In addition, the proposed amendment combines six (6) buildings on the lot to create one 16,300 square foot building and reduces the square footage of a second building by 2,000 square feet.

The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, October 8, 2009 at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12. Upon a recommendation from the Commission, City Council will hold a Public Hearing to consider the same request on **Thursday, October 15, 2009, at 6:30 p.m.** in the Wimberley City Hall.

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY



City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

E-mail: Wimberley@anvilcom.com - Web: www.vil.wimberley.tx.us

NOTICE BY SIGN POSTING

Zoning No: ZA+04-022 Owner _____

Date 9/21/09

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

() Project Site Address 14835 RB-12

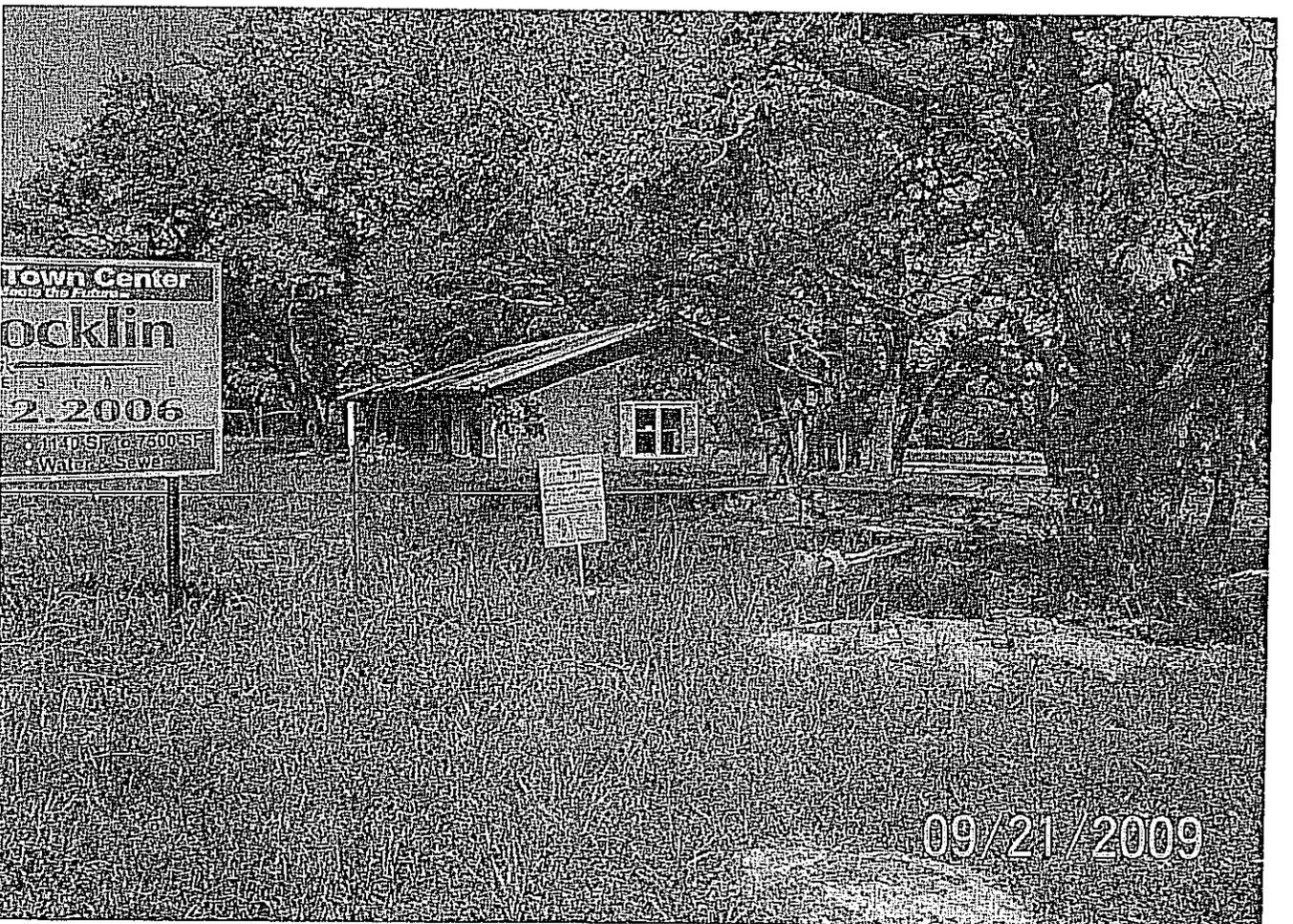
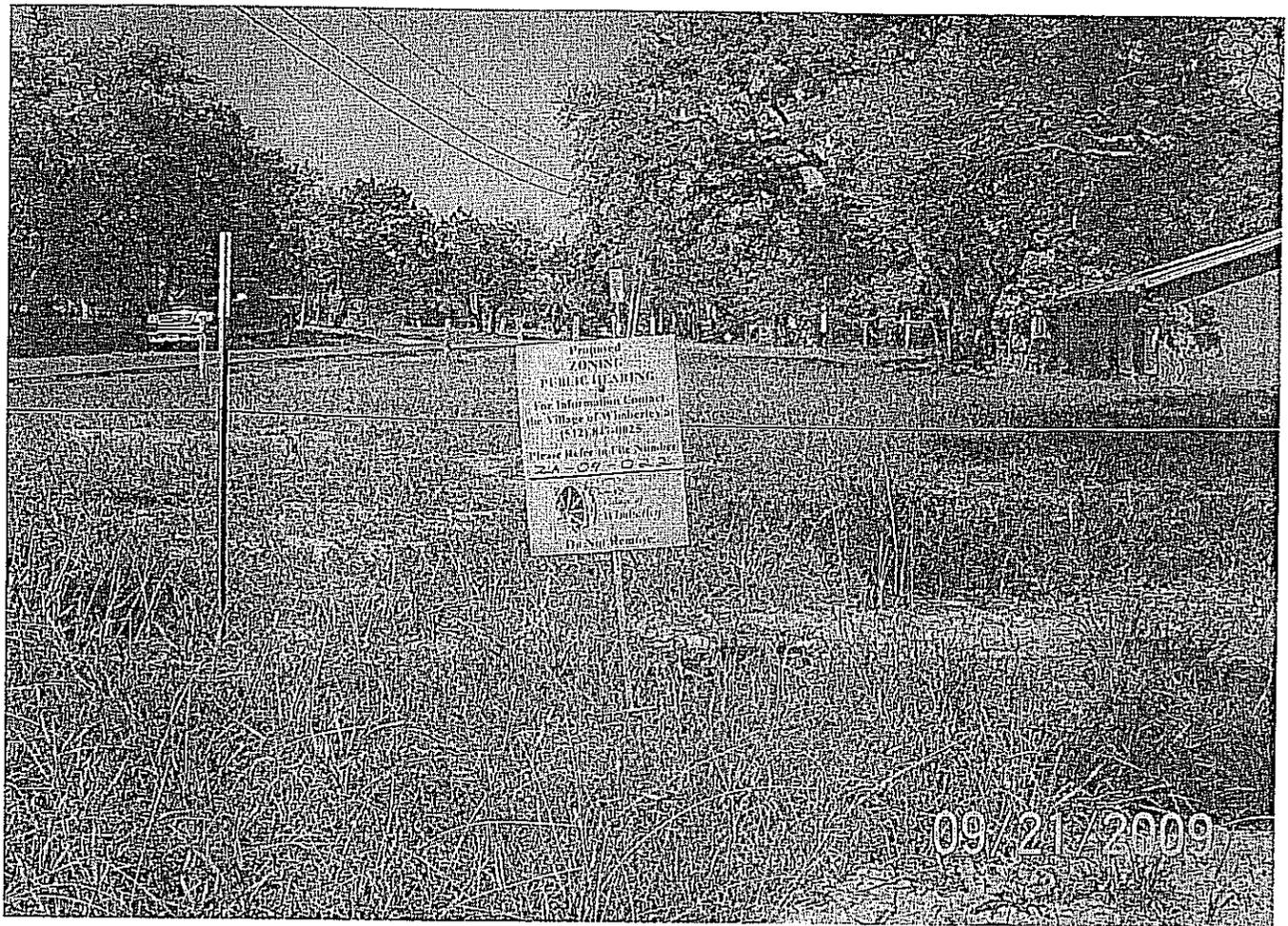
which is located RB-12

Bill Bowers
Asst. Public Works

Note: The above-referenced sign was placed on the subject property on

9/21/09 72009

Signature



THE CLASSIFIED

Wednesday, September 23, 2009

Email your ads to: classifieds@wimberleyview.com

★ LEGALS & PUBLIC NOTICES

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, October 8, 2009, at 6:30 p.m. to consider the following: ZA-09-22 - an amendment to the Planned Unit Development (PUD) with base zoning of Commercial Low Impact at 1895 RR 12. This amendment proposes to modify the permitted uses to include an Assisted Living Facility and lodging. In addition, the proposed amendment combines six (6) buildings on the lot to create one 6,300 square foot building and reduces the square footage of a second building by 2,000 square feet. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, October 15, 2009, at 5:30 p.m. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing.

Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (05296/1A/76)

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING**

(Request for Zoning) Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, October 8, 2009, at 6:30 p.m. to consider the following: ZA-09-021 - an application for initial base zoning of Commercial High Impact (C3) at 1390 RR 12. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, October 15, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (05297/1A/76)

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING**

(Citywide Zoning)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, October 8, 2009, at 6:30 p.m. to consider the following: ZA-09-006 - a city initiated proposal to zone all currently unzoned properties along the FM 2325 Corridor from unzoned to Residential Acreage (RA), Rural Residential 1 (R1), Single Family Residential 2 (R2), Commercial Low Impact (C1), Neighborhood Services (NS), Scenic Corridor (SC) and Public Facilities (PF). The specific properties on the Corridor to be zoned and the new proposed zoning classifications are shown on a map that is displayed at City Hall. Maps may also be viewed at the Community Center and the Library. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, October 15, 2009, at 6:30 p.m. at City Hall. Comments on the proposed zoning from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearings. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at Wimberley City Hall, 12111 Ranch Road 12,

Wimberley, Texas (05296/1A/76)

**PUBLIC NOTICE
NOTICE TO ALL PERSONS HAVING CLAIMS AGAINST THE ESTATE OF RONALD WARREN CHERRINGTON DECEASED**

Notice is hereby given that original Letters Testamentary for the Estate of Ronald Warren Cherrington (deceased) were issued on October 6, 2009, in Cause No. 096-P pending in the County Court at Law No. Two (2) in Hays County, Texas, to Cynthia Adair Cherrington, as Independent Executor of said Estate. All persons having claims against this Estate are required to present them to said Executrix at 4031 Ledgerock Road, Wimberley, Texas 78676 within the time and manner prescribed by Law. Dated the 14th of September, 2009. (05202/1cc/75)

PUBLIC NOTICE

By order of the Hays County Commissioners Court, notice is hereby given that on Tuesday, September 29, 2009 at 9: a.m. in the Hays County Courthouse, 111 San Antonio Street, the Hays County Commissioners Court will hold a public hearing to consider The proposed Improvements to Owl Hollow Road and East Owl Hollow Road within the

Rocky Ranch, J1 Subdivision in Hays County to bring the roadway into compliance with Hays County road standards and the assessment of all or part of the costs of the improvement program against the record owners of real property in the Rocky Ranch Subdivision (05204/1A/76)

PUBLIC NOTICE

By order of the Hays County Commissioners Court, notice is hereby given that on Tuesday, September 29, 2009 at 9: a.m. in the Hays County Courthouse,

111 San Antonio Street, the Hays County Commissioners Court will hold a public hearing to consider Renaming of Hermosa Paloma Overlook to Hermosa Paloma (05283/1A/76)

PUBLIC NOTICE

By order of the Hays County Commissioners Court, notice is hereby given that on Tuesday, September 29, 2009 at 9: a.m. in the Hays County Courthouse, 111 San Antonio Street, the Hays County Commissioners Court

AQUA Utilities/Water Services
We're Aqua-America, Inc.

(AQUA) one of the nation's largest investor-owned water and wastewater utilities currently serving over 3 million customers in 13 states. Come and see why so many of our employees have been with us for more than 20 years! We have an immediate opening in our Wimberley operations for an:

EXPERIENCED LABORER

This position will perform the duties associated with the repair and upgrade of water distribution and wastewater collection systems, customer service issues, and housekeeping at water and wastewater facilities.

HS diploma or equivalent and a minimum of 2 yrs. experience at a utility or related industry, which provided mechanical experience & training. Backhoe experience along with a valid driver's license is required.

We offer competitive wages and excellent benefits in a stable, ever-growing company. Qualified applicants apply online, referencing posting TX09082 at www.aquamerica.com and click on Work @ Aqua, or contact Nancy at 1.877.271.3012, ext. 3 for further details. (05294/1cc/75)

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ORDINANCE NO. 2009-___

AN ORDINANCE OF THE CITY OF WIMBERLEY AMENDING ORDINANCE NO. ZA-01-010 WHICH DESIGNATED REAL PROPERTY LOCATED ON A 5.3443 ACRE TRACT AS A PLANNED UNIT DEVELOPMENT DISTRICT (CASE NO. C211-01-010) AND IMPOSED CERTAIN CONDITIONS, IN ORDER TO REVISE CERTAIN DEVELOPMENT REGULATIONS TO INCLUDE REVISION TO THE MAXIMUM BUILDING SQUARE FOOTAGE, THE TOTAL PROJECT SQUARE FOOTAGE, REDUCE PARKING, REVISE THE UTILITY PLAN, ACCESS POINTS, LANDSCAPING PLAN AND ADD “ASSISTED LIVING FACILITY” AS A PERMITTED USE; AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; FINDINGS OF FACT; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

WHEREAS, on August 2, 2001, the City Council approved Ordinance No. ZA-01-010 which designated a certain tract of real property as a Planned Unit Development District (PUD) with a base zoning district of Commercial-Low Impact (C-1); and,

WHEREAS, the property owner wishes to add an additional permitted use to the development and due to the addition of the permitted use several changes to the development site plan are requested which must be reviewed and approved by Council; and,

WHEREAS, the regulations established by Chapter 155 (Zoning) of the Wimberley Code of Ordinances, as amended, (the “Code”), are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and,

WHEREAS, in the course of adopting the regulations established by the Code the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community’s history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and,

WHEREAS, the regulations established by the Code have been adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and,

WHEREAS, the regulations established by the Code and in this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and,

WHEREAS, the following enactments are a valid exercise of the City’s broad police powers and based upon the City’s statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and,

WHEREAS, in accordance with section 155.062 of the Code, the Planned Unit

Development District (PUD) Zoning is permitted in all Planning Areas of the Comprehensive Plan; and,

WHEREAS, the purpose of the PUD is to permit flexibility and creativity within a project to maximize the unique physical features of a particular site, encourage the efficient use of land and economic arrangement of buildings, as well as encourage the conservation of energy and natural resources; and,

WHEREAS, the proposed layout of buildings provides the most efficient and practical use of the property due to the proposed change in use; and,

WHEREAS, the property owner proposes to conserve and preserve existing natural resources and landscape features of the property by providing enhancements, including landscaping and utilizing rainwater harvesting techniques, as well as proposing construction materials which will be in conformance with the City's aesthetic goals and as further shown on the site plan; and,

WHEREAS, the City Council and Planning and Zoning Commission have carefully reviewed the requirements of the City's Comprehensive Zoning Ordinance and have concluded that Ordinance No. ZA-01-010, should be amended as described herein, and the real property described as a 5.3443 acre tract of land, Wimberley, Hays County, Texas, more commonly known as 14835 Ranch Road 12, Wimberley, Hays County, Texas, should be amended as described herein, and such amendments are consistent with established City policy and is in the public interest, subject to the conditions stated herein and to be constructed in accordance with the Development Plan to be submitted prior to the issuance of building permits, to be based on the Concept Plan of the subject property and Design Standards, attached hereto and incorporated herein as revised Exhibit "A", which is hereby made a part of this Ordinance; and,

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, HAYS COUNTY, TEXAS:

ARTICLE I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

ARTICLE II. AMENDMENT

A. Zoning. Section 155 (Zoning) of the Code of Wimberley is hereby amended by adding Appendix F, which shall be incorporated into and made part of Section 155 (Zoning), and given full weight and effect, and the property described below is subject to the

PUD Conditions described herein in subsection B., and development and construction on the Property shall be in conformance with the Development Plan to be submitted prior to the issuance of building permits, to be based on the Concept Plan and Design Standards, described on Exhibit “A”, and incorporated by reference for all purposes. Appendix F shall read as follows:

Appendix F: Zoning District Designations

The City Council of the City of Wimberley has divided the City into the zoning districts as follows. The applicable use, height, area and development regulations adopted by the City shall apply to each district. The following geographic boundaries of the zoning districts for the properties listed below are hereby established as follows:

The use of a “Assisted Living Facility” shall be an additional permitted use on the real property described as a 5.3443 acre tract of land, Wimberley, Hays County, Texas, more commonly known as 14835 Ranch Road 12, Wimberley, Hays County, Texas.

B. Ordinance No. ZA-01-010

Ordinance No. ZA-01-010 is hereby amended as follows:

1. Exhibit “A”, the Concept Plan, attached to this Ordinance, shall apply to all real property described in Ordinance No. ZA-01-010 (the “Property”) shall be subject to the Concept Plan requirements described therein.
2. Building Footprint. The maximum building footprint for an individual building shall be 16,300 square feet. The total maximum building footprint for the entire project shall be 37,540 square feet.
3. Project Square Footage. Notwithstanding the foregoing, the maximum total project square footage shall be 53,840 square feet.
4. Parking. The total number of parking spaces shall not exceed 176 spaces and shall include and accommodate all ADA required spaces.
5. Utility Plan. The utility plan shall be amended to reflect the installation and use of a centralized wastewater treatment service to be provided by an authorized provider in lieu of on-site septic facilities.
6. Access. Access shall be reduced from two points of access on each frontage road and shall be limited to one (1) point of access on Ranch Road 12 and Cypress Creek Lane and allow for one (1) emergency services access drive with an emergency crash gate on Cypress Creek Lane.

7. Landscaping. The Landscaping Plan shall be amended to allow the possible removal of two additional trees described as a 14" and 16" diameter trees.
8. A revised site plan shall be submitted for review and approval by the City of Wimberley prior to construction on any improvements detailed on the Concept Plan, and in any event no later than five (5) years from the date of approval of this Ordinance. A site plan is a detailed engineered development plan consisting of a map or maps and all necessary accompanying narrative and supporting documents to completely define the development to occur on the site.
9. Upon approval of the site development plan, the applicant has twelve (12) months to begin work on the development described herein. Failure to obtain approval of the development site plan as required in number 8 above, commence construction, or request a time extension prior to the expiration dates shall result in an expiration of the plans attached to this Ordinance and necessitate the re-approval of all development standards described in this Ordinance and Ordinance No. ZA-01-010, as may be applicable.

Except as expressly as amended herein, Ordinance No. ZA-01-010, shall remain in full force and effect.

ARTICLE III. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the zoning district boundary established by this Ordinance.

ARTICLE IV. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

ARTICLE V. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE VI. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was

passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this ___ day of _____, 2009, by a vote of _____ (Ayes) to _____ (Nays) _____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

BY: _____
Tom A. Haley, Mayor

ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

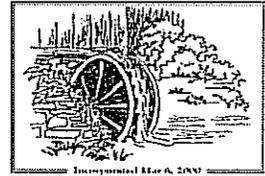
Carolyn J. Crosby, City Attorney

EXHIBIT "A"

REVISED CONCEPT PLAN

**(including building and project square footage, drainage, parking, utility, access and
landscape plans)**

Report for City Initiated Zoning ZA-09-006



Summary: City initiated zoning of all un-zoned properties along the FM 2325 Corridor

Subject Property:

Location: FM 2325 Corridor from City Limits to Rhodes Lane
Existing Use of Property: Vacant, Residential, Commercial, Public
Existing Zoning: Un-zoned
Proposed Zoning: RA, R1, R2, NS, SC, C1, PF
Planning Area: I, II, III, VII
Overlay District: Entrance Corridor Overlay , Protected Water Overlay

Surroundings:

Frontage On: FM 2325, La Buena Vista Drive, Las Flores Drive, Carney Lane, Texan Blvd, Green Acres Drive, Mary Stephenson Lane, Cypress Creek Lane, Pecos Path

Legal Notice

45 Day Property Owner Notification Period: 7/28/09 – 9/11/09
200' Letters Sent: 9/21/09
Published: 9/23/09

Comments:

At the direction of City Council, City staff recently launched a process to zone all un-zoned properties located within the city limits. To accomplish this task, City staff identified each of the un-zoned properties and their current use. Based on the current use, City staff developed a recommended zoning designation for each of the un-zoned properties consistent with the *Wimberley Comprehensive Plan*, and compatible with the current use of the property and the planning area where the subject property is located. If a property was vacant, the recommended zoning for the property was residential unless the subject property had adjacent commercial properties which conflicted with a residential use.

Following the development of the zoning recommendations by City staff, the un-zoned property owners were notified in writing of the recommended zoning designation for their property and given forty-five (45) days to either agree with the recommendation or request a different permissible zoning designation for their properties.

To avoid the consideration of more than three-hundred ninety (390) individual zoning cases, City staff grouped the un-zoned properties and their proposed zoning designations into seven (7) separate zoning cases.

The first of these cases to be considered by the Planning and Zoning Commission is Case # ZA-09-006. The more than fifty (50) un-zoned properties in this zoning case are located along FM 2325, La Buena Vista Drive, Las Flores Drive, Carney Lane, Texan Boulevard, Green Acres Drive, Mary Stephenson Lane, Cypress Creek Lane and Pecos Path. The proposed zoning for the subject properties includes *Scenic Corridor (SC)*, *Commercial-Low Impact (C-1)*, *Neighborhood Services (NS)*, *Public Facilities (PF)*, *Residential Acreage (RA)*, *Rural Residential 1 (R1)*, and *Single Family Residential 2 (R2)*.

Nine (9) affected property owners requested a zoning designation different from that recommended by the City staff. Below is a list of all the alternate zoning requests and their locations that were received within the above-mentioned forty-five (45) day time period.

Map ID #	Property Owner	Proposed Zoning	Requested Zoning
26	Wayne Latchford	R2 (Single Family Residential 2)	SC (Scenic Corridor)
17	Wayne Latchford	R2 (Single Family Residential 2)	C1 (Commercial – Low Impact)
16	Wayne Latchford	R2 (Single Family Residential 2)	NS (Neighborhood Services)
28	Frederick Frieling	NS (Neighborhood Services)	C1 (Commercial – Low Impact)
53	Amanda Romano	R2 (Single Family Residential 2)	C1 (Commercial – Low Impact)
54	Amanda Romano	R2 (Single Family Residential 2)	C1 (Commercial – Low Impact)
55	Darrell Dudley	NS (Neighborhood Services)	C1 (Commercial – Low Impact)

The two (2) requests, detailed below, came in after the forty-five (45) day time period.

Map ID #	Property Owner	Proposed Zoning	Requested Zoning
10	David Domsch	RA (Residential Acreage)	C1 (Commercial – Low Impact)
34	James W Godwin	R2 (Single Family Residential 2)	C1 (Commercial – Low Impact)

Those requests received within the forty-five (45) day time period were incorporated by City staff into the proposed zoning case for consideration. The two (2) cases received after the deadline will be handled as separate cases and processed in the coming weeks.

Attached are the following three maps for review and consideration:

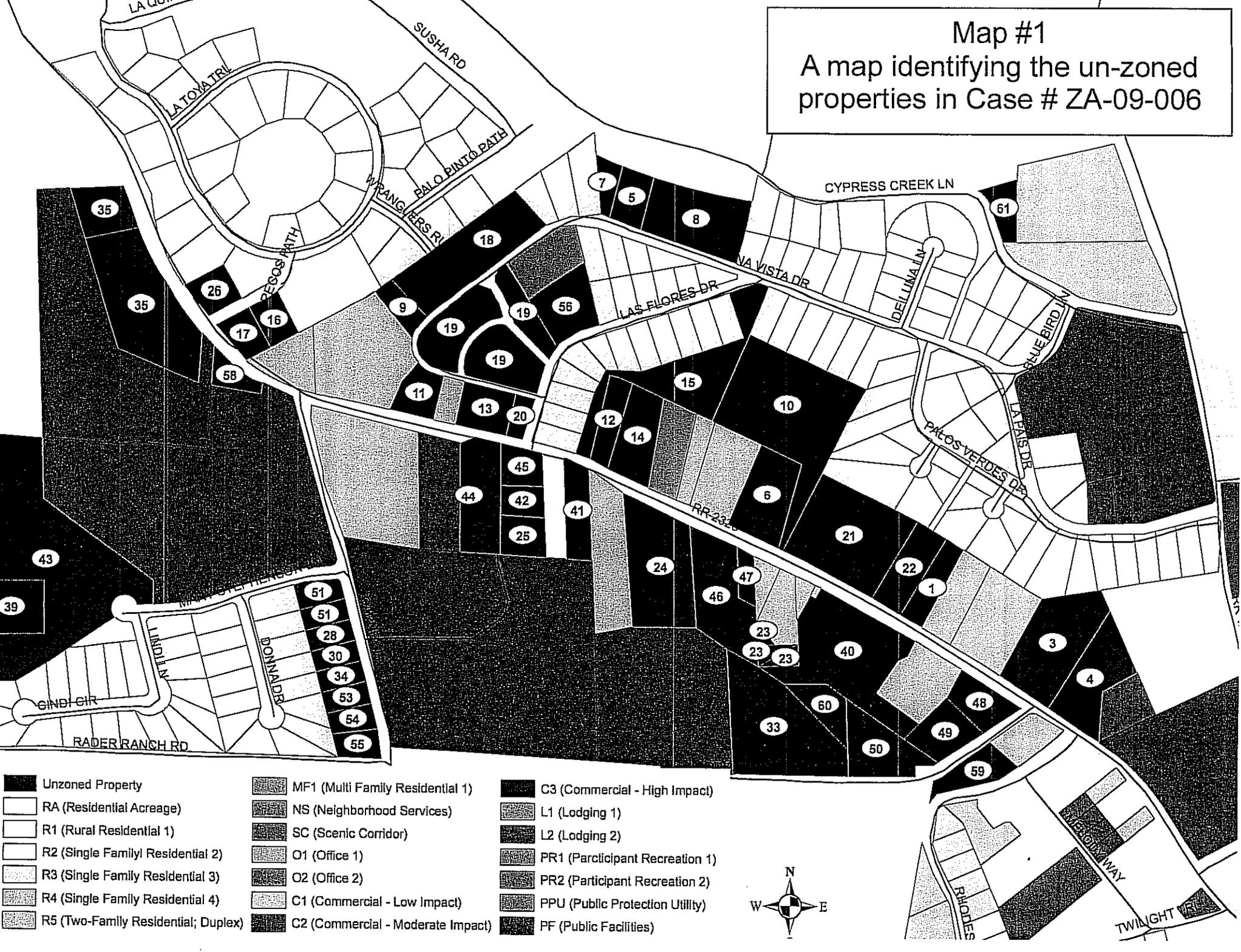
- Map #1 A map identifying the un-zoned properties in *Case # ZA-09-006*
- Map #2 A map showing the zoning designations proposed by City staff in *Case #ZA-09-006*
- Map #3 A map showing the zoning designations proposed by City staff along with the alternate zoning requests from property owners in *Case # ZA-09-006* (***This is the official zoning map to be considered for this zoning case***)

City staff recommends approval of *Case # ZA-09-006* – the first of seven (7) zoning cases that will eventually complete the process of zoning all un-zoned properties in the City.

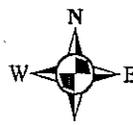
On October 8, 2009, the Commission held a public hearing on the proposed City-initiated zone case. Afterwards, the Commission voted unanimously to recommend approval of the various zoning designations recommended by City staff.

Map #1

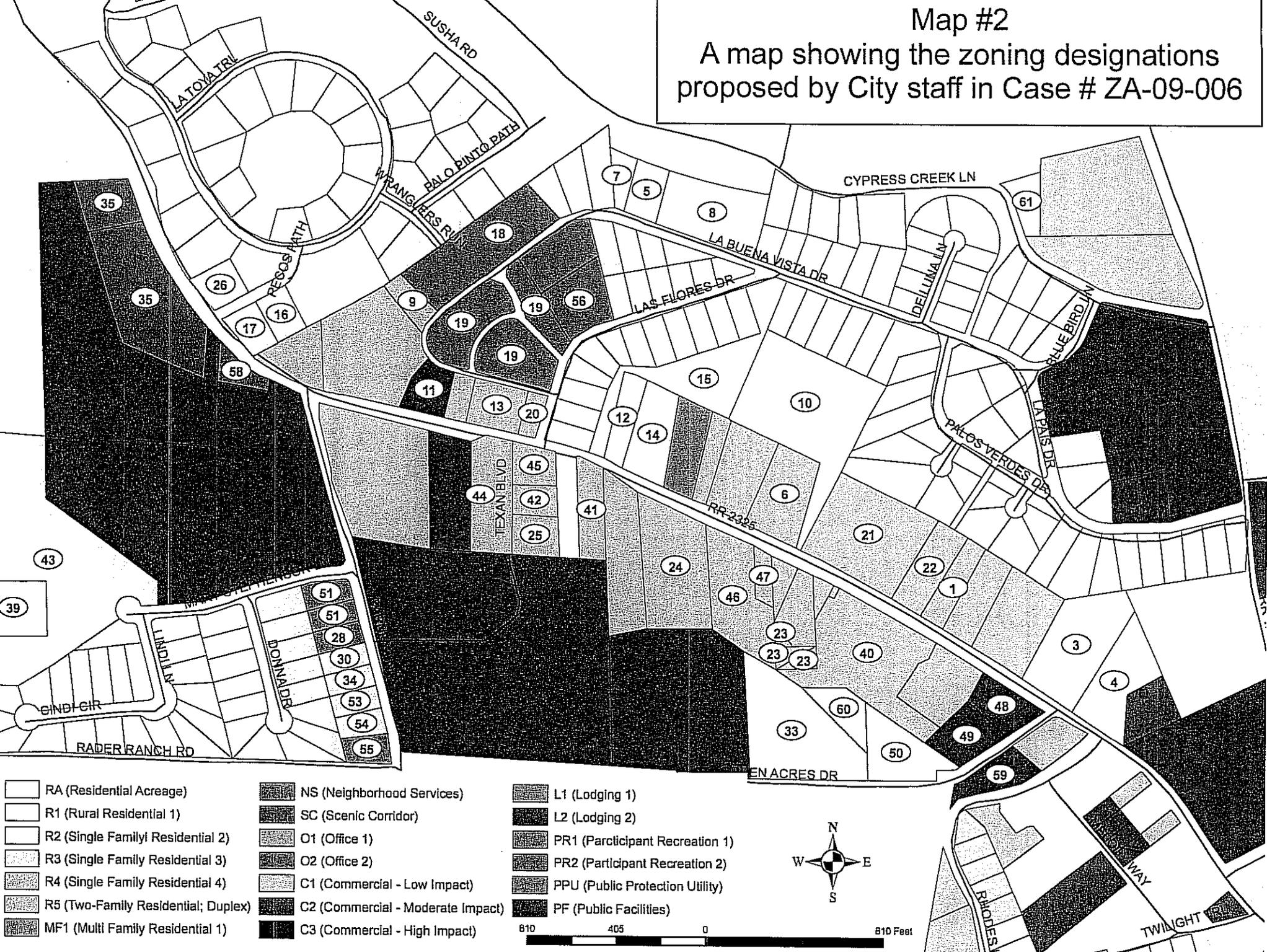
A map identifying the un-zoned properties in Case # ZA-09-006



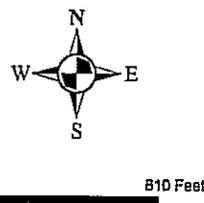
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| Unzoned Property | MF1 (Multi Family Residential 1) | C3 (Commercial - High Impact) |
| RA (Residential Acreage) | NS (Neighborhood Services) | L1 (Lodging 1) |
| R1 (Rural Residential 1) | SC (Scenic Corridor) | L2 (Lodging 2) |
| R2 (Single Family Residential 2) | O1 (Office 1) | PR1 (Participant Recreation 1) |
| R3 (Single Family Residential 3) | O2 (Office 2) | PR2 (Participant Recreation 2) |
| R4 (Single Family Residential 4) | C1 (Commercial - Low Impact) | PPU (Public Protection Utility) |
| R5 (Two-Family Residential; Duplex) | C2 (Commercial - Moderate Impact) | PF (Public Facilities) |



Map #2
 A map showing the zoning designations proposed by City staff in Case # ZA-09-006

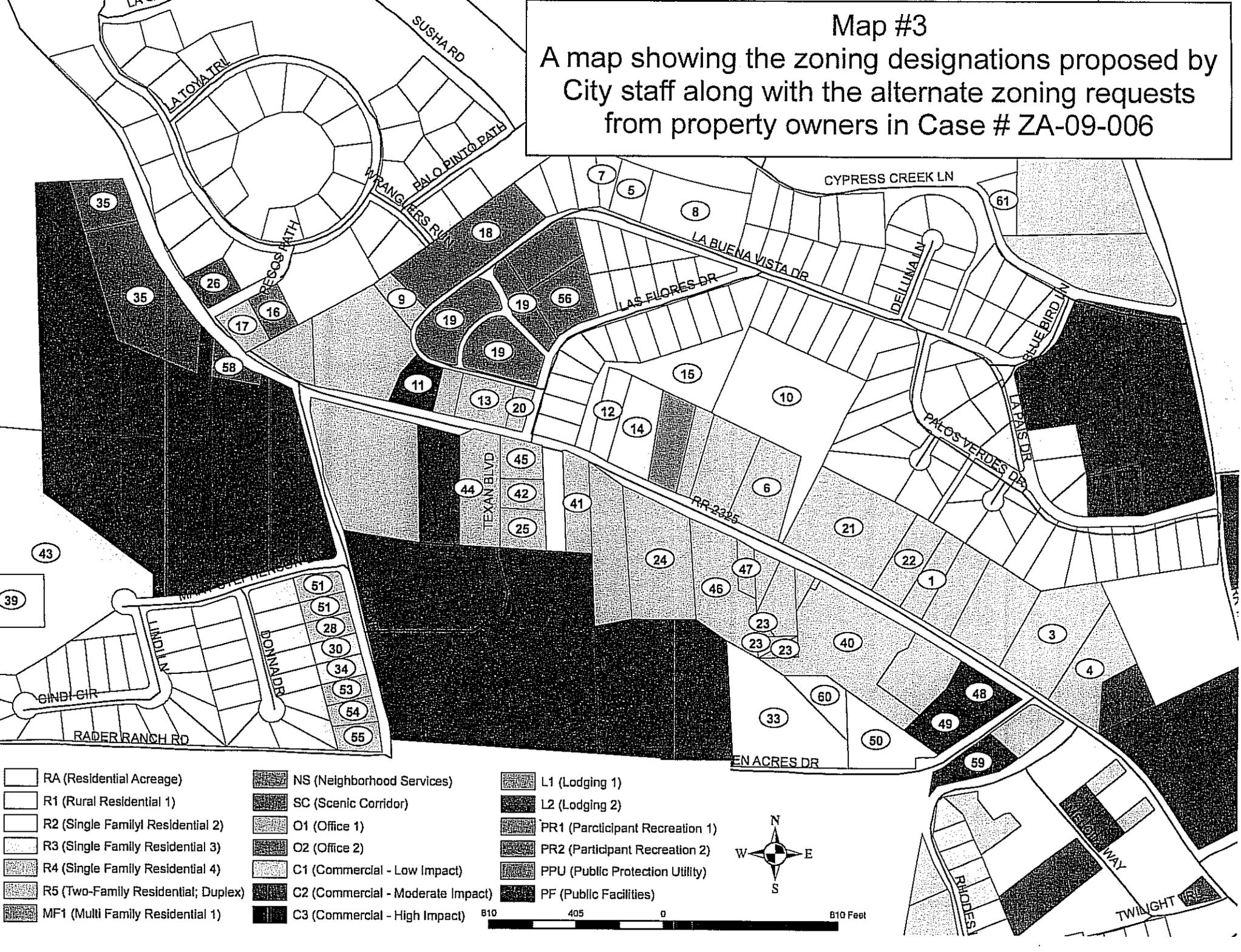


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|-------------------------------------|-----------------------------------|---------------------------------|
| RA (Residential Acreage) | NS (Neighborhood Services) | L1 (Lodging 1) |
| R1 (Rural Residential 1) | SC (Scenic Corridor) | L2 (Lodging 2) |
| R2 (Single Family Residential 2) | O1 (Office 1) | PR1 (Participant Recreation 1) |
| R3 (Single Family Residential 3) | O2 (Office 2) | PR2 (Participant Recreation 2) |
| R4 (Single Family Residential 4) | C1 (Commercial - Low Impact) | PPU (Public Protection Utility) |
| R5 (Two-Family Residential; Duplex) | C2 (Commercial - Moderate Impact) | PF (Public Facilities) |
| MF1 (Multi Family Residential 1) | C3 (Commercial - High Impact) | |

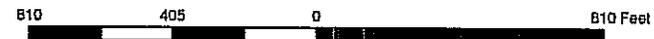


Map #3

A map showing the zoning designations proposed by City staff along with the alternate zoning requests from property owners in Case # ZA-09-006



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|-------------------------------------|-----------------------------------|---------------------------------|
| RA (Residential Acreage) | NS (Neighborhood Services) | L1 (Lodging 1) |
| R1 (Rural Residential 1) | SC (Scenic Corridor) | L2 (Lodging 2) |
| R2 (Single Family Residential 2) | O1 (Office 1) | PR1 (Participant Recreation 1) |
| R3 (Single Family Residential 3) | O2 (Office 2) | PR2 (Participant Recreation 2) |
| R4 (Single Family Residential 4) | C1 (Commercial - Low Impact) | PPU (Public Protection Utility) |
| R5 (Two-Family Residential; Duplex) | C2 (Commercial - Moderate Impact) | PF (Public Facilities) |
| MF1 (Multi Family Residential 1) | C3 (Commercial - High Impact) | |

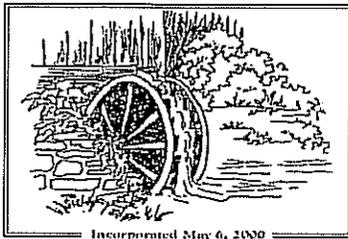


Subject Property Descriptions Case ZA-09-006

ID	Tax ID	Acres	Site Address	Existing Land Use	Planning Area	Proposed Zoning	Specific Use	Requested Zoning	Owner Name
61	R46139	4.75	226 CYPRESS CREEK LN	V	II	R1			ALEXANDER, EWELL
1	R17185	1.087	610 RR 2325	V	III	C1	parking for market		SUMTER TERRY E & ELIZABETH A
3	R17192	3.43	FM 2325	V	III	R1		C1	WILLET, BOYD
4	R17175	2.56	FM 2325	V	III	R1	Rnumber	C1	JOHNSON, WM PARKS
5	R17538	1.44	38 LA BUENA VISTA	SF	II	R2			MCGAR MICHAEL & LONGORIA PALMIRA
7	R17505	.61		V	II	R2			IBANEZ SUSAN K TRUSTEE
8	R17516	3.495	38 LA BUENA VISTA	SF	II	R1			BLACK DONALD W & REBECCA A
9	R17524	0.58	LA BUENA VISTA	SF	III	C1			CLARK DENNIS A & RENEE
10	R17535	5.87	700 FM 2325	SF	II	RA			DOMSCH, BERNICE
11	R17531	0.97	956 RR 2325	C	III	PF	CHURCH		WIMBERLEY PRESBYTERIAN CHURCH
12	R17509	1.408	800 FM 2325	SF	III	R2			WOLF, JOHNNY C
13	R17526	0.964	920 FM 2325	C	III	C1	Automotive Paint and Body shop		DIENST BEN D JR & EST OF HELEN
14	R17510	1.39	800 FM 2325	V	III	R2			WOLF JOHN C & FRANCES A
15	R52777	3.706		V	II	R1	Greenbelt Vacant		RDMS FAMILY PARTNERS LTD
16	R26999		3 Pecos Path	V	II	R2		NS	LATCHFORD WAYNE
17	R26998	.726	5 Pecos Path	V	III	R2		C1	LATCHFORD WAYNE
18	R17520	3.56	628 LA BUENA VISTA DR	C	II	NS	Storage Buildings		JENKINS MICHAEL D
19	R88302	5.004	691 LA BUENA VISTA DR	C	II	NS	Automotive Manufacturing Retail		EAGLE INVESTORS LTD
20	R17525	0.50		V	III	C1			EAGLE INVESTORS LTD
21	R17514	4.30	FM 2325	V	III	C1	Market Parking		WIMBERLEY LIONS CLUB
22	R17515	1.42	616 RR 2325	SF	III	C1			GONZALEZ, EPIFANIA C
23	R86971	0.11	FM 2325	C	III	C1	Lions Club		WIMBERLEY LIONS CLUB
24	R17155	3.25	FM 2325	C	III	C1	Lions Club		WIMBERLEY LIONS CLUB
25	R17182	0.65	115 TEXAN BLVD	C	III	C1	Administrative and Professional Office		TEXAS MODULAR HOMES INC
26	R26985		4 Pecos Path	V	VII	R2		SC	LATCHFORD WAYNE
28	R23445	.506	220 CARNEY LN	C	I	NS	Retail Services	C1	FRIELING, FREDERICK
30	R23444	.507	230 CARNEY LN	V	I	R2			BROOKS, CYNTHIA P
23	R86971	0.11	FM 2325	C	III	C1	Lions Club		WIMBERLEY LIONS CLUB
23	R86971	0.11	FM 2325	C	III	C1	Lions Club		WIMBERLEY LIONS CLUB
33	R17157	3.54	330 GREEN ACRES DR	SF	II	R1			CLAYTON, JON S
34	R23443	.507	240 CARNEY LN	V	I	R2			GODWIN, JAMES W
35	R27441	4.903	1201 RR 2325,	V	VII	SC			EMILY ANN THEATRE INC
39	R14179	7.00	333 MARY STEPHENSON LN	V	I	RA			THOMPSON RICHARD L & JOSEFA A
40	R17195	5.546	601 RR 2325	C	III	C1	Lions Club		WIMBERLEY LIONS CLUB
41	R17199	0.89	805 RR 2325	C	III	C1	Healthfood Store Offices		BULLOCK, ROGER GLENN
42	R17181	0.645	111 Texas Blvd	V	III	C1			TEXAS MODULAR HOMES INC
43	R13857	7.00	333 MARY STEPHENSON LN	SF	I	RA			THOMPSON RICHARD L & JOSEFA A
44	R17208	2.188	100 TEXAN BLVD	C	III	C1	Automotive Paint and Body		PADGETT, BRUCE E
45	R17180	0.74	809 RR 2325	C	III	C1	Eating Establishment Fast food		FRASER, SHANE M
46	R17170	3.23	FM 2325	C	III	C1	Lions Club		WIMBERLEY LIONS CLUB
47	R17154	0.51	703 RR 2325	C	III	C1	Car Wash		DAVIS BRANDON & JULIE
48	R17160	1	120 GREEN ACRES	V	III	PF	V owned by Trinity Church		TRINITY, CHAPEL
60	R17189	2.10	GREEN ACRES DR	SF	III	R1			CLAYTON, JON S
49	R17197	1.43	120 GREEN ACRES DR	PI	III	PF	Church		TRINITY, CHAPEL INC
50	R17158	1.927	180 GREEN ACRES DR	V	III	R1			CLAYTON, JON S
51	R23447	0.579	200 Carney Lane	C	I	NS	Storage Buildings	C1	HOOVER NICHOLAS L & MILLER IDA F
51	R23447	0.505	210 Carney Lane	C	I	NS	Storage Buildings	C1	HOOVER NICHOLAS L & MILLER IDA F
53	R23442	0.506	250 Carney Lane	V	I	R2		C1	ROMANO AMANDA LAMONT TRUST
54	R23441	0.574	260 Carney Lane	V	I	R2		C1	ROMANO AMANDA LAMONT TRUST UTD

Subject Property Descriptions Case ZA-09-006

55	R23440	0.633	270 Carney lane	C	I	NS	Construction Services Plumbing	C1	DUDLEY DARRELL D & LINDA F
56	R88303	1.429	LAS FLORES	V	II	NS			EAGLE INVESTORS LTD
35	R27441	1.244	1201 FM 2325	V	VII	SC			EMILY ANN THEATRE INC
58	R123732	.603	FM 2325	V	VII	SC			LOWRY CHRISTOPHER & MATT
59	R18521	1.057	111 GREEN ACRES	PI	III	PF	Fire Station		WIMBERLEY RURAL FIRE PREVENTION DIST #1
6	R17184	2.25		V	III	C1	Lions Club		WIMBERLEY LIONS CLUB



City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: village@anvilcom.com Web: www.vil.Wimberley.tx.us

Tom Haley, Mayor - Bob Flocke, Mayor Pro-tem

Council Members - Charles Roccaforte, Bill Appleman, Terrie Bursiel, John White
Don Ferguson, City Administrator

September 8, 2009

NOTICE OF CITY INITIATED ZONING

(Dear Property Owner,)

You are receiving this letter because you own a currently un-zoned tract of land (identified on the attached Map) within the City of Wimberley, Texas described as (Legal Description) and located at (Site Address).

In accordance with the City of Wimberley's Comprehensive Plan, the City has launched an effort to zone those currently un-zoned properties located within the City to help guide future development. This City initiated zoning project is being done at no cost to the owners of the un-zoned properties.

As part of the above-mentioned zoning project, the City is proposing to zone your tract of land as (Proposed Zoning). The proposed zoning designation is based on the Comprehensive Plan, the current land use and allowable zoning in the area of the subject property. (Proposed Zoning description) Please be advised the proposed zoning designation will not impact the current use of your property and you may continue its current legal use.

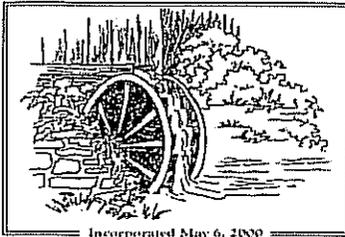
If you are opposed to the City's proposed zoning designation for the subject property, you have 45-days from the date of this letter to notify the City of Wimberley, in writing, of your objection and express your desire to zone the property with one of the following alternate zoning designations: (Alternate Zoning Designations) At the end of the 45-day period, the City will proceed with the process of zoning the subject property.

Further information regarding the land uses allowed in certain zoning designations can be found on the City of Wimberley Web Site (www.vil.wimberley.tx.us), or by contacting the City Planning Technician Abby Gillfillan at 512.847.0025 or dropping by City Hall located at 12111 Ranch Road 12, Wimberley, Texas.

Thank you, in advance, for your timely consideration of this matter.

Sincerely,

Don Ferguson
City Administrator



City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: village@anvilcom.com Web: www.vil.Wimberley.tx.us

Tom Haley, Mayor - Charles Roccaforte, Mayor Pro-tem

Council Members: Bob Flocke, Bill Appleman, Steve Thurber, John White

Don Ferguson, City Administrator

September 18, 2009

NOTICE OF PUBLIC HEARING

Re: **File No. ZA-09-006**
City Initiated Zoning
Unzoned Properties along the FM 2325 Corridor (identified on the attached map)

Dear Property Owner:

In order to implement the City of Wimberley's Comprehensive Plan amendments of July 2008, the City is undertaking a citywide rezoning project to guide future development throughout the City. For the purposes of this citywide zoning initiative, the City has been divided into seven (7) different regions, each of which will be handled individually. All real property in the FM 2325 Corridor that is currently unzoned will now be zoned under the City's regulations. The identified subject properties will change from unzoned to Residential Acreage (RA), Rural Residential 1 (R1), Single Family Residential 2 (R2), Neighborhood Services (NS), Scenic Corridor (SC), Commercial-Low Impact (C1), or Public Facilities (PF). The specific properties along the FM 2325 Corridor to be zoned and the new proposed zoning classifications are available for viewing on the maps displayed at City Hall, the Wimberley Community Center, and the Wimberley Village Library.

The City of Wimberley Planning & Zoning Commission will consider this zoning action at a public hearing on **Thursday, October 8, 2009 at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12. Upon a recommendation from the Commission, City Council will hold a public hearing to consider the same zoning action on **Thursday, October 15, 2009, at 6:30 p.m.** in the Wimberley City Hall.

Because this zoning may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearings. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY

Noticed Property Owners

ACORD H K & JANET C
P O BOX 408
WIMBERLEY, TX 78676-0408

ADAMS, AARON H
P O BOX 103
WIMBERLEY, TX 78676-0103

ADKINS JOSEPH SCOTT SR & DARA
P O BOX 2322
WIMBERLEY, TX 78676-2322

ALEXANDER, EWELL
3505 LAURELLEDGE LN
AUSTIN, TX 78731

ALLEN, LINDA
P O BOX 1746
WIMBERLEY, TX 78676-1746

ANDERSON JOHN & SHERRY
P O BOX 637
WIMBERLEY, TX 78676-0637

ANTHONY THOMAS E & JULIE
P O BOX 294403
KERRVILLE, TX 78029-4403

AVILES ARNULFO E & JUANA
P O BOX 1417
WIMBERLEY, TX 78676-1417

BAKOFSKY CHARLES T & LOUISE H
P O BOX 1388
WIMBERLEY, TX 78676-1388

BANDY, CARLA JO
9 PALO PINTO PATH
WIMBERLEY, TX 78676

BANKS G BRUCE & SYLVIA J
331 LA BUENA VISTA DR
WIMBERLEY, TX 78676

BELLO DANNY & JEANETTE B
1510 HILL RD
HOUSTON, TX 77039

BLACK DONALD W & REBECCA A
P O BOX 797
WIMBERLEY, TX 78676-0797

BLAIS JOHN &
504 LA BUENA VISTA
WIMBERLEY, TX 78676

BLAIS JOHN & BODDEKER NANCY
504 LA BUENA VISTA
WIMBERLEY, TX 78676

BLIGH NEIL CHRISTOPHER & TRACY
450 CINDI CIR
WIMBERLEY, TX 78676

BODDEKER, NANCY C
504 LA BUENA VISTA DR
WIMBERLEY, TX 78676-3667

BOTKIN, JANE LITTLE
505 ROY CREEK DR
DRIPPING SPRINGS, TX 78620

BRINKMAN LEONARD
21 COUNTRY PL
WIMBERLEY, TX 78676

BROOKS, CYNTHIA P
3308 STEVENSON AVE
AUSTIN, TX 78703

BROWN, KELLY
P O BOX 1791
WIMBERLEY, TX 78676-1791

BULLOCK BOBBY & DONNA
P O BOX 643
WIMBERLEY, TX 78676-0643

BULLOCK BOBBY L & DONNA
P O BOX 643
WIMBERLEY, TX 78676-0643

BULLOCK, ROGER GLENN
P O BOX 643
WIMBERLEY, TX 78676-0643

BULLOCK, ROGER GLENN
P O BOX 1523
WIMBERLEY, TX 78676-1523

BUNTON, SANDRA KUHN
P O BOX 1123
WIMBERLEY, TX 78676-1123

CAREY HERBERT T & KATHERINE K
501 CAMINO DE RANCHO
WIMBERLEY, TX 78676

CATT, CHARLES E
420 DEER RUN
WIMBERLEY, TX 78676

CHAPMOND MATT & ANGILA
13501 RR 12 STE 103
WIMBERLEY, TX 78676

CHRISTIAN, CHARLES W
P O BOX 818
BENTRAN, TX 78605-0818

CHRISTOPHERSON DONNA &
HARDIE TERI Y
33 GREEN ACRES DR
WIMBERLEY, TX 78676

CLARK DENNIS A & RENEE
7004 BEAUFORD DR
AUSTIN, TX 78750

CLAYTON, BILLY
2909 OAK LN
AUSTIN, TX 78704

CLAYTON, JON S
330 GREEN ACRES RD
WIMBERLEY, TX 78676

CLAYTON, JON S
330 GREEN ACRES DR
WIMBERLEY, TX 78676-5014

COLEY, DEBORAH A
304 CYPRESS CREEK LN
WIMBERLEY, TX 78676

COMMIATO, KATHRYN M
P O BOX 1332
WIMBERLEY, TX 78676-1332

COTTEN, STEVEN C
P O BOX 2493
WIMBERLEY, TX 78676-2493

CRANSHAW SUSAN E &
1 PALO PINTO PATH
WIMBERLEY, TX 78676

CRANSHAW SUSAN E &
SANCHEZ ALFREDO
PALO PINTO PATH
WIMBERLEY, TX 78676

CYPRESS CREEK HOLDINGS LTD
4202 TRAVIS COUNTRY CIR
AUSTIN, TX 78735

DAVILA, RAUL
35 LA BUENA VISTA DR
WIMBERLEY, TX 78676

DAVIS BRANDON & JULIE
WIMBERLEY CAR WASH LLC
5 RHAPSODY LN
WIMBERLEY, TX 78676

DHARMASIRI MAHA & SUNETHRA
189 DONNA DR
WIMBERLEY, TX 78676

DICKEY, MADALINE C
P O BOX 1325
WIMBERLEY, TX 78676-1325

DIENST BEN D JR & EST OF HELEN
507 W VIEJO DR
FRIENDSWOOD, TX 77546

DITRAGLIA, DAVID P
15 LAS FLORES DR
WIMBERLEY, TX 78676

DOMSCH, BERNICE
PO BOX 165
POTEET, TX 78065-0165

DUDLEY DARRELL D & LINDA
303 CHUCK WAGON CIR
WIMBERLEY, TX 78676-9549

DUNKS, STEVEN PAUL
9999 MT SHARP RD
WIMBERLEY, TX 78676

EAGLE INVESTORS LTD
P O BOX 933
WIMBERLEY, TX 78676-0933

ELLIS, MARY LOUISE
P O BOX 704
WIMBERLEY, TX 78676-0704

EMILY ANN THEATRE INC
P O BOX 801
WIMBERLEY, TX 78676-0801

ESTEPP JOHN D & ROBIN A
P O BOX 1018
WIMBERLEY, TX 78676-1018

FERENZ JAMES LARRY &
PATSY DELL
P O BOX 816
WIMBERLEY, TX 78676-0816

FLOCKE STEVE & LONA
801 WARBLER WAY
WIMBERLEY, TX 78676

FOGLEMEN WILLIAM J JR &
WALKER CLAUDIA A
3723 SE 10TH AVE
PORTLAND, TX 97202

FOGLEMEN, MARJORY B
P O BOX 1903
WIMBERLEY, TX 78676-1903

FORE CRAIG M & CANDACE L
311 LA BUENA VISTA DR
WIMBERLEY, TX 78676

FRASER, SHANE M
2108 HUNTER RD #104
SAN MARCOS, TX 78666

STRAZIER JODY LEE WAHRMUND
P O BOX 139
WIMBERLEY, TX 78676-0139

FRIELING, FREDERICK
15316 GIESE LN
MANOR, TX 78653

GALE, GRAHAM
1 WRANGLERS RUN
WIMBERLEY, TX 78676

GHEEN DWIGHT M & FRED A J
P O BOX 1494
WIMBERLEY, TX 78676-1494

GODWIN, JAMES W
P O BOX 8006
WICHITA FALLS, TX 76307-8006

GOGONAS JOHN G & MARY LOU
11404 EVENINGSTAR DR
AUSTIN, TX 78739

GONZALEZ, EPIFANIA C
516 FM 2325
WIMBERLEY, TX 78676

GOULAS LISA MARIE
515 HIDDEN VALLEY RD
WIMBERLEY, TX 78676

GREENE, SUZANNE MICHELE
300 RHODES LN
WIMBERLEY, TX 78676

HALL JIMMY A
401 GREEN ACRES DR
WIMBERLEY, TX 78676

HINES BARBARA M
1312 SUNFLOWER LN
SAN MARCOS, TX 78666

HOBBS, VANCE K, Jr.
P O BOX 1685
WIMBERLEY, TX 78676-1685

HOEHNE MARCUS & STACY
3 LA TOYA TRL
WIMBERLEY, TX 78676

HOOVER NICHOLAS L & MILLER IDA
811 W HOPKINS ST
SAN MARCOS, TX 78666

HOUSER JERRY D & RUTH L
306 LINDI LN
WIMBERLEY, TX 78676

HUFFMAN WILLIAM EARL & LAURIE
55 CYPRESS CREEK LN
WIMBERLEY, TX 78676

IBANEZ SUSAN K TRUSTEE
4302 SAO PAULO
PASADENA, TX 77504

IDEALS WELL MANAGED INC
P O BOX 2322
WIMBERLEY, TX 78676-2322

JENKINS MICHAEL D &
GRIMES LYNN M
1023 MARTIN ST
HOUSTON, TX 77018

JENNINGS JON S & JUDY C
221 CYPRESS CREEK LN
WIMBERLEY, TX 78676

JOHNSON BRIAN K & FRANCES
M AMBROSE
46 LA BUENA VISTA DR
WIMBERLEY, TX 78676

JOHNSON, ROBERT J
P O BOX 311597
NEW BRAUNFELS, TX 78131-1597

JOHNSON, WM PARKS
602 SABINO RANCH
WIMBERLEY, TX 78676-5929

KAKOS, PATRICIA
P O BOX 1252
WIMBERLEY, TX 78676-1252

KATHERINE ANNE PORTER
P O BOX 2053
WIMBERLEY, TX 78676-2053

KIRCHOFF MARTHA A THE
1445 HIGHLAND DR
SAN MARCOS, TX 78666

KURICAR, MARY MAXINE
P O BOX 2504
WIMBERLEY, TX 78676-2504

LACKNER, LYNDA M
PALO PINTO PATH
WIMBERLEY, TX 78676-1653

LAKE KIRK & CATHY
P O BOX 2113
WIMBERLEY, TX 78676-2113

LANDRY MITCH & WANDA
P O BOX 2685
WIMBERLEY, TX 78676-2685

LATCHFORD WAYNE
508 MOUNTAIN CREST DR
WIMBERLEY, TX 78676

LONG MITCHELL & RUBY LU
4 LAS FLORES DR
WIMBERLEY, TX 78676

LOWRY CHRISTOPHER & MATT
897 ELMWOOD
ABILENE, TX 79605

LYNN, JAMES B
960 WAYSIDE DR
WIMBERLEY, TX 78676

MAHULA JAMES T JR
1626 TYNEMOUTH DR
PASADENA, TX 77504

MALCOM WILLIAM J & JANET
301 LA BUENA VISTA DR
WIMBERLEY, TX 78676

MALLARD NEAL & DAREDA
P O BOX 144
WIMBERLEY, TX 78676-0144

MAURER FAMILY LP
P O BOX 1568
WIMBERLEY, TX 78676-1568

MCCLANAHAN JAMES & PAULA
400 CYPRESS CREEK LN
WIMBERLEY, TX 78676-3642

MCCRARY JAMES C & SUSAN
4002 HONEY OAKS DR
SEABROOK, TX 77586-4006

MCCROCKLIN FAMILY CHILDRENS
EDUCATIONAL TRUSTS
P O BOX 2
WIMBERLEY, TX 78676-0002

MCELWEE, DOUGLAS R
9 LAS FLORES DR
WIMBERLEY, TX 78676

MCFADDEN, ANNE E
4 LAS FLORES DR
WIMBERLEY, TX 78676

MCFARLAND JON & DOROTHY
7 FLATCREEK PLACE
THE WOODLANDS, TX 77381

MCFARLAND, THELMA JOYCE
P O BOX 1510
WIMBERLEY, TX 78676-1510

MCGAR MICHAEL &
LONGORIA PALMIRA
P O BOX 2630
WIMBERLEY, TX 78676-2630

MCGEE, ROSIE
200 LEA LN
WIMBERLEY, TX 78676

MCGEE, ROSIE TABERS
420 CARNEY LN
WIMBERLEY, TX 78676

MCWILLIAMS JEFF & JUDITH
0 SHOOTING STAR PL
SPRING, TX 77381-6131

MILLARD RONALD E & JANICE
301 LONE MAN OVERLOOK
WIMBERLEY, TX 78676

MIRELES RAYMOND V & MARIA J
11403 PINE MESA DR
SAN ANTONIO, TX 78245-2501

MITCHELL WILLIAM H & ELIZABETH
300 FLITE ACRES RD
WIMBERLEY, TX 78676

MYVY LLC
P O BOX 500
WIMBERLEY, TX 78676-0500

ODELL, ODIE
117 WINDING OAK DR
JOHNSON CITY, TX 78636

OLLE PAT E & CONGER RALPH
P O BOX 1116
WIMBERLEY, TX 78676-1116

PADGETT, BRUCE E
100 TEXAN BLVD
WIMBERLEY, TX 78676

PAGE, JOSEPH A
3907 WOODHAVEN LN
BOWIE, MD 20715-1276

PEERMAN ROBERT E TRUSTEE
1313 OAK BRANCH DR
AUSTIN, TX 78737-8818

RANDALL, JERRY ALLEN
199 DONNA DR
WIMBERLEY, TX 78676

RDMS FAMILY PARTNERS LTD
P O BOX 2236
DUBLIN, CA 94568-0223

REYNOLDS, SCOTT
99 LAS FLORES
WIMBERLEY, TX 78676

REYNOLDS, SCOTT R
299 LAS FLORES
WIMBERLEY, TX 78676

ROMANO AMANDA LAMONT
P O BOX 607
WIMBERLEY, TX 78676-0607

ROMANO AMANDA LAMONT
P O BOX 607
WIMBERLEY, TX 78676-0607

ROMANO, DONNIE
10800 RANCH ROAD 12
WIMBERLEY, TX 78676-5274

SANFORD ELIZABETH E REAL
4401 LIVINGSTON
DALLAS, TX 75205

SAUCEDA TONY & HELEN
01 FM 2325
WIMBERLEY, TX 78676

SAUCEDA, TONY
701 FM 2325
WIMBERLEY, TX 78676

SAYRE VIRGIL N JR
P O BOX 108
WIMBERLEY, TX 78676-0108

CUDDER, CHRIS DBA
AVANNAH HOMES
0 SWEETWATER CIR
WIMBERLEY, TX 78676

SEARS RICHARD K & SUSAN L
32 LA TOYA TRL
WIMBERLEY, TX 78676

SERNA, CRISTELA
300 PINION TRL
WIMBERLEY, TX 78676

SHEFFIELD, BARBARA JEAN
0 APRIL VILLAGE
MONTGOMERY, TX 77356

SHEFFIELD, JAMES L
P O BOX 736
WIMBERLEY, TX 78676-0736

SHOEBROCK MIKE & TAMMIE
10 LAS FLORES DR
WIMBERLEY, TX 78676

HUTTLESWORTH FRED & DARLENE
P O BOX 1705
WIMBERLEY, TX 78676-1705

SIKES, BRADLEY C
225 SHADYWOOD LN
DRIPPING SPRINGS, TX 78620

SMITH JAMES A JR & JANE B
7 LAS FLORES DR
WIMBERLEY, TX 78676

OSBY ROGER L & KAREN
5 PALOS VERDES
WIMBERLEY, TX 78676

SUMERS STEFAN & MARY
P O BOX 2114
WIMBERLEY, TX 78676-2114

SUMTER ELIZABETH A & TERRY
P O BOX 2233
WIMBERLEY, TX 78676-2233

SUMTER TERRY E & ELIZABETH A
P O BOX 2233
WIMBERLEY, TX 78676-2233

TANNER, ROSE MARY
6 EL RAY
WIMBERLEY, TX 78676

TATE ROBERT B & CYNTHIA B
28 LA TOYA TRL
WIMBERLEY, TX 78676

AWIL ALAN D & LORRAINE M
50 CYPRESS CREEK LN
WIMBERLEY, TX 78676

TEXAS MODULAR HOMES INC
P O BOX 362
WIMBERLEY, TX 78676-0362

THOMPSON RICHARD L & JOSEFA A
P O BOX 1527
WIMBERLEY, TX 78676-1527

HURBER STEPHEN P & SUSAN
P O BOX 2425
WIMBERLEY, TX 78676-2425

TISE THOMAS E JR & PAULA F
491 CINDI CIRCLE
WIMBERLEY, TX 78676

TRINITY, CHAPEL
P O BOX 622
WIMBERLEY, TX 78676-0622

TRINITY, CHAPEL INC
P O BOX 622
WIMBERLEY, TX 78676-0622

UHLAENDER MICKEY & SHARON
18 LAS FLORES
WIMBERLEY, TX 78676

UPCHURCH KENT & BETTY &
4302 SAO PAULO
PASADENA, TX 77504

VELA MICHAEL A & LAURA J
69 DONNA DR
WIMBERLEY, TX 78676

VERIATO, JEAN
8 LAS FLORES DR
WIMBERLEY, TX 78676-3646

VILLAGE LIBRARY OF
WIMBERLEY INC
P O BOX 1240
WIMBERLEY, TX 78676-1240

THE CLASSIFIED

Wednesday, September 23, 2009

Email your ads to: classifieds@wimberleyview.com

★ LEGALS & PUBLIC NOTICES

PUBLIC NOTICE
NOTICE OF PUBLIC HEARING
 (Request for Zoning)
 Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, October 8, 2009, at 6:30 p.m. to consider the following: ZA-09-006 - a city initiated proposal to zone all currently unzoned properties along the FM 2325 Corridor from unzoned to Residential Acreage (RA) Rural Residential - 2 (R-2) Single-Family Residential - 2 (R-2) Commercial - Low Impact (C-1) Neighborhood Services (NS) Scenic Corridor (SC) and Public Facilities (PF). The specific properties on the Corridor to be zoned and the new proposed zoning classifications are shown on a map that is displayed at City Hall. Maps may also be viewed at the Community Center and the Library. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, October 15, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas. (05298/1A/76)

PUBLIC NOTICE
NOTICE OF PUBLIC HEARING
 (Request for Zoning)
 Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, October 15, 2009, at 6:30 p.m. to consider the following: ZA-09-021 - an application for initial base zoning of Commercial - High Impact (C3) at 3904 RR 12. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, October 15, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas. (05297/1A/76)

PUBLIC NOTICE
NOTICE OF PUBLIC HEARING
 (Citywide Zoning)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at Wimberley City Hall on Thursday, October 8, 2009, at 6:30 p.m. to consider the following: ZA-09-006 - a city initiated proposal to zone all currently unzoned properties along the FM 2325 Corridor from unzoned to Residential Acreage (RA) Rural Residential - 2 (R-2) Single-Family Residential - 2 (R-2) Commercial - Low Impact (C-1) Neighborhood Services (NS) Scenic Corridor (SC) and Public Facilities (PF). The specific properties on the Corridor to be zoned and the new proposed zoning classifications are shown on a map that is displayed at City Hall. Maps may also be viewed at the Community Center and the Library. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, October 15, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at Wimberley City Hall, 12111 Ranch Road 12,

Wimberley, Texas. (05296/1A/76)

PUBLIC NOTICE
NOTICE TO ALL PERSONS HAVING CLAIMS AGAINST THE ESTATE OF RONALD WARREN CHERRINGTON DECEASED
 Notice is hereby given that original Letters Testamentary for the Estate of Ronald Warren Cherrington, Deceased, were issued on October 6, 2008, in Cause No. 11096-P, pending in the County Court at Law, No. Two (2) in Hays County, Texas, to Cynthia Adair Cherrington, as Independent Executrix of said Estate. All persons having claims against this Estate are required to present them to said Executrix at 4031 Ledgerock Road, Wimberley, Texas 78676 within the time and manner prescribed by Law. Dated the 14th of September, 2009. (05282/1cc/75)

PUBLIC NOTICE
 By order of the Hays County Commissioners' Court, notice is hereby given that on Tuesday, September 29, 2009 at 9 a.m. in the Hays County Courthouse, 111 San Antonio Street, the Hays County Commissioners' Court will hold a public hearing to consider

Rocky Ranch Subdivision in Hays County to bring the roadway into compliance with Hays County road standards, and the assessment of all or part of the costs of the improvement, pro rata, against the record owners of real property in the Rocky Ranch Subdivision. (05284/1A/76)

PUBLIC NOTICE
 By order of the Hays County Commissioners' Court, notice is hereby given that on Tuesday, September 29, 2009 at 9 a.m. in the Hays County Courthouse,

111 San Antonio Street, the Hays County Commissioners' Court will hold a public hearing to consider Renaming of Hermosa Paloma Overlook to Hermosa Paloma. (05283/1A/76)

PUBLIC NOTICE
 By order of the Hays County Commissioners' Court, notice is hereby given that on Tuesday, September 29, 2009 at 9 a.m. in the Hays County Courthouse, 111 San Antonio Street, the Hays County Commissioners' Court

AQUA Utilities Water Services
 We're Aqua America, Inc.
 (AQUA) one of the nation's largest investor-owned water and wastewater utilities, currently serving over 3 million customers in 19 states. Come and see why so many of our employees have been with us for more than 20 years! We have an immediate opening in our Wimberley operations for an:

EXPERIENCED LABORER
 This position will perform the duties associated with the repair and upgrade of water distribution and wastewater collection systems; customer service issues; and housekeeping at water and wastewater facilities.
 HS diploma or equivalent and a minimum of 2 yrs. experience at a utility or related industry, which provided mechanical experience & training. Backhoe experience along with a valid driver's license is required.
 We offer competitive wages and excellent benefits in a stable, ever-growing company. Qualified applicants apply online, referencing posting TX09082, at www.aquamericas.com and click on Work @ Aqua, or contact Nancy at 1-877-271-9012 ext. 3 for further details.
 EOE/M/F/DV (05294/1cc/76)

will no... ing for... Replat... Oaks... (05254...
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To the City of Wimberly concerning the re-zoning of property on Carney Ln.

My name is Fred Frieling, owner of a one-half acre plot on Carney Ln. My wife and I bought this property some twenty years ago as a retirement investment. I am wheel-chair bound and my wife has Alzheimer's. We are unable to start over. The property was originally commercial and there is no reason to change zoning now. Dollar General is in the area and it is a perfect location for some fast food venues across from the baseball field. The bright lights of the ball field alone would be enough to render the property useless to residential consideration.

I would like to go on record as a strong opposition to re-zoning. I recommend the property stay commercial as it was intended.

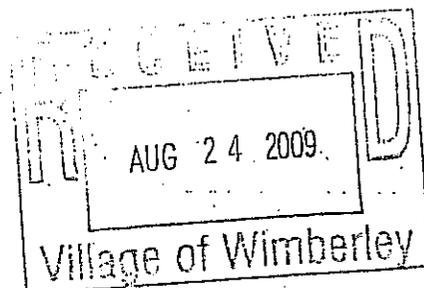
Thank you.

Fred and Rylean Frieling, owners of Cedar Ridge Est Lot 6 0.506 AC, 220 Carney Ln.

15316 Giese Ln.

Manor, Tx 78653

8/4/09



Amanda Lamont Romano Trust

PO Box 607

Wimberley, TX 78676

(512) 842-5554

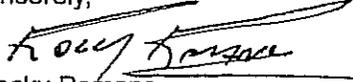
August 4, 2009

12111 Ranch Road 12
PO Box 2027
Wimberley, TX 78676

Re: CEDAR RIDGE ESTATES, LOTS 2 & 3, 250 & 260 Carney Lane

I would like to protest any further residential zoning on the above lots. They have been Commercial for over 20 years, the Subdivision restrictions address them on the plat as Commercial. They were sold and purchased as Commercial lots. There is a public school directly across the street, a Dollar General 300 feet down and across the street, and a Plumbing Supply business adjoining this property. These lots are Commercial lots PERIOD. If the City of Wimberley would like to buy them, they can do what they want with them, otherwise they can get ready to spend more than this on legal fees.

Sincerely,


Rocky Romano

Abby,

I appreciate you taking the time to discuss the Notices of City Initiated Zoning that I received on properties located at 3, 4 & 5 Pecos Path.

Per our discussion, I would like to object to the proposed zoning of these properties as Single Family Residential 2 (R-2).

At this time, I desire to zone the properties with one of the following alternate zoning designations:

- 1) 3 Pecos Path – Multi- Family Residential 1 (MF-1)
- 2) 4 Pecos Path – Scenic Corridor (SC)
- 3) 5 Pecos Path – Commercial – Low Impact (C-1)

The reason for the variety in the zoning selections is because these were the choices that were presented in the Notice.

Ultimately, I see these properties being combined into one and all zoned Commercial – Low Impact (C-1) with Pecos Path being abandoned.

Please let me if you have any questions or thoughts regarding these properties.

Home: (512) 847-7287

Office: (512) 288-4005

Cell: (512) 470-4914

Thank you,

Wayne Latchford, AIA

Vice President, Estimating

Riordan Construction Group, Inc. | 9217 Hwy 290 West, Ste 160 | Austin, Texas 78736 |
Phone 512.288.4005 | Fax 512.288.4004 | Cell 512.470.4914

Wayne

I wanted to get back with you and confirm in writing our conversation over the phone concerning the zoning of your three properties along FM 2325 and Pecos Path. These three properties are in three separate planning areas where different zoning districts are allowable. This disparity in Planning Areas is reflected in your requests for zoning for each of the properties below.

- 1) 3 Pecos Path – Neighborhood Services (NS)
- 2) 4 Pecos Path – Scenic Corridor (SC)
- 3) 5 Pecos Path – Commercial – Low Impact (C-1)

The City recognizes your desire to have all three properties treated as one commercially capable lot. This can be achieved through a subdivision combining all three lots as one and securing access from FM 2325. When the properties are treated as one lot you will be able to apply for one zoning district for the entire tract and the tract will be commercially capable pending the successful completion of the zoning and subdivision case.

I have also attached a copy of each of the zoning districts requested and the Entrance Corridor Overlay district that any property fronting on FM 2325 is subject to.

Abby

Abby Gillfillan
Planning Technician
City of Wimberley
Work: (512) 847-0025
Fax: (512) 847-0422
Cell: (512) 644-9628
agillfillan@anvilcom.com
Web: vil.wimberley.tx.us

8/6/09

Wm. Parks (Bill) Johnson
602 Sabino Ranch Road
Wimberley, TX 78676

Don Ferguson
% City of Wimberley
12111 Ranch Road 12
Wimberley, TX 78676

Re: City Initiated Zoning; A0365 Ben Page, Acres 2.56 at FM 2325

Don,

I would like to object to the proposed zoning of my property referenced above; more specifically located just west of the Wimberley Library. I would like the property zoned as Commercial-Low Impact (C-1).

The C-1 zoning would be more accurate as it is on a major Wimberley roadway, is next to The Wimberley Library, the Chapel in the Hills church and across the street from other commercial properties.

A Rural Residential R-1 zoning would not fit with the others uses of properties that are near this property.

If you have any questions please let me know.

Sincerely,



Bill Johnson

Ryan Willett
13501 RR 12 #103
Wimberley TX 78676

Village of Wimberley
P.O. Box 2027
Wimberley, TX 78676

Re: Zoning
A0365 Benjamin Page Survey, 3.34 A, FM 2325

Sept 10, 2009,

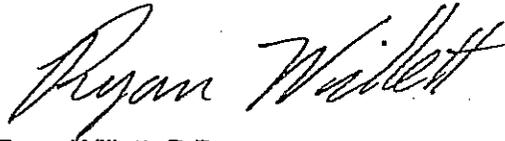
Dear Village of Wimberley:

I am the Personal Representative of the Estate of Boyd R. Willett which is the record owner of the above property.

I object to the City's proposed zoning designation of R-1 for this property. That designation would be out of touch with the surrounding properties and the best use of property at that location.

I would instead propose that the property be zoned C-1, O-1, L-1 or PF to be more in keeping with the pattern of development in that area and the ultimate needs of the community.

Very truly yours,

A handwritten signature in black ink that reads "Ryan Willett". The signature is written in a cursive, flowing style.

Ryan Willett, P.R.
Estate of Boyd R. Willett

David L Domsch
P. O. Box 165
Poteet, Texas 78065-0165
(210) 771-6218

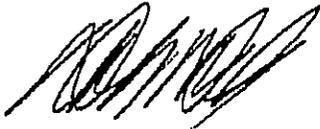
September 23, 2009

Don Ferguson, City Administrator
City of Wimberley
P.O. Box 2027
Wimberley, Texas 78676

This letter is to confirm our meeting and conversation on September 11, 2009 wherein we agreed that my property located on FM 2325 would be zoned C1.

Upon development of this property, a fence will be installed on the sides bordering residential areas.

Should you need something else from me, please let me know.



David L. Domsch

JAMES W. GODWIN, M.D.

Anesthesia Associates

940
Home 817-696-0020
Office 817-222-6700

Box 8006
Wichita Falls, Texas 76307

Dear Sirs 24 Sept 09

When I bought this property from Dr. Stephenson all these many years ago the original plan was to have the property along the road to be commercial and that behind to be residential. I would appreciate it if the city would make provision for this original intent under which the property was sold.

Thank you


Wimberley Residents Against the City Initiated Zoning No. ZA-09-006 Making it Legal to Build More Light Industry Warehouses Near Residences on Las Flores Drive and Parkside School

Name	Address
1 PAUCE HOBBS	13 Las Flores
2 Jonathan Hobbs	13 Las Flores
3 THOMAS WELLS	16 Las Flores
4 Sharon Uhlaender	18 Las Flores
5 Pat Nelson	22 Los Alamos
6 [Signature]	451 La Buena Vista
7 Meg	330 La Buena Vista Dr
8 Mary Ann Osborn	" " "
9 Sylvia Sanku	331 La Buena Vista Dr
10 Fred Shuttlesworth	321 La Buena Vista
11 Janet M. Malcom	309 La Buena Vista
12 [Signature]	301 La Buena Vista
13 Jenna Saucedo	104 La Buena Vista
14 Tony Saucedo	104 LA BUENA VISTA

Name

Address

15 DALE CROCKER

320 LA BUENA VISTA

16 Tabitha Sedam

10 Las Flores Dr

17 DAVID DiTRAGLIA

15 LAS FLORES

18 Mitchell A. Long

4 Las Flores Dr.

19 Doug McElwhee

9 LAS FLORES dr.

20 TINA McELWEE

9 LAS FLORES dr.

21 Jean Meriata

8 Las Flores

22 Anne McFadden

14 Las Flores

23 Renee Boschert

45 La Buena Vista

24 Andy Mauldin

1 Heatherbrook 45 La Buena Vista

25 Heather Mauldin

45 La Buena Vista

26 JEFFREY G. NAVIS

7253 MT. SHARP RD
(45 LA BUENA VISTA)

27 Kristen Freeman

1707 Aquarcha Springs Dr.
(45 La Buena Vista Dr)

28 Kyla Fox

560 Lower Mountain Rd.

29 I-Pei Hodge

(45 La Buena Vista Dr)
126 Sunrise Canyon (45 La Buena Vista Dr)

30 Kiersten Stephens

989 Old Red Ranch Rd (45 La Buena Vista)

**Wimberley Residents Against the City Initiated Zoning No.
 ZA-09-006 Making it Legal to Build More Light Industry
 Warehouses Near Residences on Las Flores Drive and
 Parkside School**

Name	Address
31 Faith Hightower	225 Sunshell 78676 45 La Buena Vista
32 Jennifer Leidich	2505 S. RAINBOW RR 45 La Buena Vista
33 Kyle Shorts	45 LA BUENA VISTA
34 Melissa Gilmore	45 La Buena Vista / 23 Presidio Road
35 Cynthia Gerber	411 Wolf Tr., Wimberley, TX
36 Donald M. Poff	45 L+ Buena Vista
37 Kathy Uffs	9611 FM 2325 Wimberley Tx.
38 Kim Christoff	415 Lone Man Creek DR Wimberley, TX.
39 Jan Coburn	67 Champions Cir. Winn. Teacher.
40 VIRGINIA INGARI	1294 ORABAPPLE RD.
41 Robin Ancora	14 EL CONEJO TRL. WOODCREAK, TX
42 Don K. Mudgey	1681 North Park Rd Teacher
43 Annie Lozano	1740 RR 12 #523 SAN MARCOS

44 Theresa Neil

45 Mary Neil

46 Lore Abbott 322 Trail Ridge Rd. Wimberley

47 Margaret "Peggy" B. MADDOX 7 Las Flores Dr.

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15 Las Flores Drive
Wimberley TX 78676

October 6, 2009

City of Wimberley
12111 Ranch Road 12
Wimberley TX 78676

Re: File No. ZA-09-006
City Initiated Zoning
Unsowed Properties along the FM Corridor

Dear Sirs:

My name is David DiTraglia and I have lived in Wimberley for over 16 years. My house is located about 100 feet from the proposed zoning and I am submitting the following comments:

1. **Property Values-** These warehouse buildings were put up after residents moved here and before city incorporation so no one had a say as to what the owner could do. Recently a neighbor two houses up the street put in a doublewide on a vacant property for their mother; the subdivision came very aggravated and had them remove the double wide for aesthetic reasons that they feared would lower property values in the neighborhood. Now we have light industry moving right next to us. At this point since there is not any physical building to attract the attention of the subdivision, the subdivision is not aware of the expansion. The subdivision was able to have the doublewide moved but the warehouses are more permanent. After they are built they cannot be moved. Where the subdivision was concerned about the double wide lowering property values, these light industrial warehouses will definitely lower the property value of my house, and more than a dozen other residences.
2. **Public Safety-** When I moved to Wimberley the light industrial warehouses were not built. When I asked the real estate agent what was going in that vacant lot area and he said more residential housing. Obviously, he was not telling the truth and I believed it. Gradually the light industrial warehouses were built in that space. In fact, on the eve of the city incorporation, the land owner, fearing zoning regulations, built 2 more light industrial warehouses closer to my house. As Chief of Air Compliance for the US EPA and Hazardous Waste director for Alaska I have encountered multiple occasions where these types of light industrial warehouses have a fire and the chemicals that were stored in them caused evacuation of the neighborhoods. In this light industrial area of Wimberley there is furniture making warehouse, a plumbing business, a car repair shop, a tire shop,

and electrical shop and several other unidentified shops. All these businesses use solvents and paints. These types of light industrial buildings should have as a minimum a 200 foot buffer zone to any residential buildings or schools (the Parkside School is located close to these warehouses). Many other cities would recommend a larger buffer zone. We should learn from the experiences of the past and not have to repeat such obvious risk taking in zoning. Since no one really knows what is stored in these buildings there is potential harm to neighboring residents and school children.

3. **Public Health-** For years now we would get smells of chemicals. These smells are chemical smells coming from those warehouse businesses. In addition, the septic system might be overloaded. When there is a rain storm the only septic field for that light industrial area overflows and smelly water goes across my neighbor Vance Hobbs' property and onto my property to the culvert crossing the road to my other neighbor's property. None of us have any idea what could have been disposed of down that light industrial septic system. The odors coming from some of the business are could be especially hazardous to the children playing outside in the yard near the light industrial warehouse. The furniture shop has an air cleaner stack on top of his building that blows the unwanted sawdust and odors up out of his shop and if the wind is blowing my way toward where I live I have to inhale it. I have physical ailments that are only exacerbated by toxic fumes. I, along with many other folks moved to Wimberley for clean air. I did not want to move next to a light industrial zone and would not have moved into my house knowing the area next to me was zoned industrial. I guess if you don't live next to the area you can ignore it but I cannot. I cannot move because my house is designed for my special needs and I do not have the money to start over again. Even if I could move out you will still have the children and neighbors breathing these fumes on a daily basis.
4. **Traffic.** More businesses mean more traffic. As it is when I walk my dog while in my wheelchair I encounter people speeding right past me presenting a dangerous situation for me and my dog. The traffic will increase causing more risk of accidents for the neighborhood. There should be speed humps to physically reduce the speed of the traffic on Las Flores Drive.

Conclusion- The building of more warehouses will definitely lower my and other neighbor's property values. People do not want to buy a house next to a light industrial warehouse. Due to increased traffic, toxic materials, hazardous wastes, noise and smells, light industry warehouse buildings should not be located adjacent to residential housing and schools. There should be at least a 200 foot buffer zone around such light industrial buildings and residential areas and schools. There should be regularly scheduled inspections of existing buildings for storage of toxic chemicals and wastes, permits for air release of pollutants and scheduled testing of the septic system. If hazardous waste have been disposed down the septic system by the businesses, the state and federal regulations state that businesses past and present have both joint and several liability for any clean up. Even if the area hooks up to a sewer the businesses past and present would be liable, Usually when that happens the business goes bankrupt and the City is responsible for the cleanup. **As past member of the City of Wimberley Water/ Wastewater Advisory**

Board, in order to decrease downstream liability to the City, the potential effect on neighbors property values, and reduce the potential health risks to school children and residents, I recommend that the City not allow any more industrial warehouses to be built in that area.

If you have any questions, please call me at 842-5900. Thank you.

Sincerely,


David DiTraglia

STEVENS & MALONE, L.L.P.

ATTORNEYS AT LAW

150 FM 3237
P.O. Box 727
Wimberley, Texas 78678MICHAEL D. STEVENS
JOSEPH J. MALONETel: (512) 847-9277
FAX: (512) 847-0038

October 8, 2009

SENT VIA FACSIMILE: (512) 847-0025City of Wimberley
Don Ferguson
City Administrator
1211 Ranch Road 12
Wimberley, Texas 78676

Re: File No. ZA-09-006 concerning 3.56 acres of land out of the R.S. Rankin Survey, R17520 and 0.577 acres of land out of the R.S. Rankin Survey, R17524, Hays County, Texas

Dear Mr. Ferguson:

Please be advised that I represent Michael Jenkins concerning the zoning of his above-referenced properties. Unfortunately, neither Mr. Jenkins nor myself will be able to attend the Planning and Zoning Commission meeting on October 8, 2009, due to scheduling conflicts. In lieu of our appearance, pursuant to the Notice of Public Hearing dated September 18, 2009, please accept this letter as our written objection to the proposed zoning of the above-referenced tracts.

In regard to the 3.56 acre tract of land, the proposed zoning classification of "Neighborhood Services" is inconsistent with the existing commercial use of the property. When Mr. Jenkins purchased this tract of land and the existing storage unit business located on this property, this property was not zoned. In fact, the property has been continuously used as a commercial personal storage business from prior to the date of the City's incorporation to present. The proposed zoning of "Neighborhood Services," however, does not allow for a personal storage business operation. Thus, should this property be zoned "Neighborhood Services," Mr. Jenkins' business operation will be considered a non-conforming use which will substantially impact the market value of the land, the value of the business and his future use and development of the property. Consequently, we believe the appropriate zoning of this property is "Commercial Moderate Impact (C2)," which would permit a conditional use permit for a personal storage business operation. Though we understand that this zoning classification is outside the scope of the City's planning district for this area, we nonetheless feel that this classification would more appropriately balance the private and public interests at stake.

Don Ferguson
City Administrator
October 8, 2009
Page Two

Additionally, when Mr. Jenkins purchased the .557 acre tract of land, adjoining the 3.56 acre tract of land, this tract was also not zoned. The proposed zoning for this tract is "Commercial Minimum Impact (C-1)". This zoning classification, like the "Neighborhood Services" classification, does not provide for the possible use of the property as a personal storage business. Given that Mr. Jenkins currently operates a personal storage business on the adjoining tract of land, Mr. Jenkins relied on this property being not zoned in purchasing it for the expansion of his personal storage operations onto this property in compliance with City development requirements. Consequently, we believe the appropriate zoning of this property is "Commercial Moderate Impact (C2)," which would permit a conditional use permit for a personal storage business operation.

Thank you for your consideration of these requests. Please advise if any additional information is needed for your thorough consideration of this matter.

Sincerely,



Joseph J. Malone

JJM/as
CC: Client

ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR UNZONED REAL PROPERTY ABUTTING THE FM 2325 CORRIDOR BETWEEN THE CITY LIMITS AND RHODES LANE, WIMBERLEY, HAYS COUNTY, TEXAS, FURTHER DESCRIBED AND SHOWN ON THE EXHIBIT ATTACHED TO THIS ORDINANCE; AND DESIGNATING INITIAL ZONING FOR EACH TRACT AS EITHER RESIDENTIAL ACREAGE (RA), RURAL RESIDENTIAL 1 (R-1), SINGLE-FAMILY RESIDENTIAL 2 (R-2), NEIGHBORHOOD SERVICES (NS), SCENIC CORRIDOR (SC), COMMERCIAL-LOW IMPACT (C-1), OR PUBLIC FACILITIES (PF) AS SHOWN ON THE ATTACHED ZONING MAP; AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

WHEREAS, the regulations established by Section 155 (Zoning), as amended, (the "Code") are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and

WHEREAS, in the course of adopting the regulations established by the Code, the Planning and Zoning Commission and City Council gave careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and

WHEREAS, the regulations established by the Code have been adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and

WHEREAS, the regulations established by the Code are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and

WHEREAS, the City Council and Planning and Zoning Commission have carefully reviewed the requirements of the City's Code of Ordinances and have concluded that the unzoned real property described herein located on FM 2325 in Wimberley, Hays County, Texas, is hereby designated with the initial zoning classifications as shown on the attached zoning map,

and that such designation is consistent with established City policy and in the public interest; and

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, HAYS COUNTY, TEXAS:

ARTICLE I. AMENDMENT

Section 155 (Zoning) of the Code of Wimberley is hereby amended by adding the following language to Appendix F to read as follows, which shall be incorporated into and made part of Section 155 (Zoning), and given full weight and effect:

Appendix F: Zoning District Designations

The City Council of the City of Wimberley has divided the City into the zoning districts as follows. The applicable use, height, area and development regulations adopted by the City shall apply to each district. The following geographic boundaries of the zoning districts for the properties listed below are hereby established as follows:

The un-zoned real property located on FM 2325 in Wimberley, Hays County, Texas, and further shown and identified on the attached Exhibit "A" incorporated by reference, is hereby designated with the initial zoning classification as either Residential Acreage (RA), Rural Residential 1 (R-1), Single-Family Residential 2 (R-2), Neighborhood Services (NS), Scenic Corridor (SC), Commercial-Low Impact (C-1), or Public Facilities (PF) and further shown on the attached zoning map labeled Exhibit "B" incorporated by reference for all purposes.

Except as expressly amended herein, Appendix F shall remain in full force and effect.

ARTICLE II. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the zoning district boundary established by this Ordinance.

ARTICLE III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section 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 phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

IV. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this _____ day of _____, 2009, by _____ (Ayes) to _____ (Nays) _____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

BY: _____
Tom Haley, Mayor

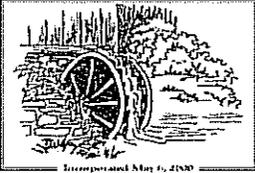
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby, City Attorney

City Council Agenda Form



Date Submitted: October 12, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: CONSIDER BANNING THE USE OF CELL PHONES IN SCHOOL ZONES

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

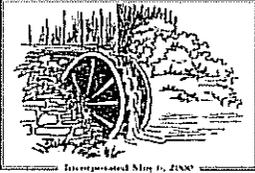
This item was placed on the agenda to allow City Council to discuss and consider action banning the use of cell phones in designated school crossing zones within the City of Wimberley.

A new state law enacted by the Texas legislature earlier this year prohibits the use of wireless communications devices such as cell phones while operating motor vehicles in school zones. The law took effect September 1, 2009.

The law requires warning signs to be posted at the entrance to each school crossing zone in order for the law to be enforced. Fines for violations are up to \$200. The law provides exceptions if hands free devices are used or a vehicle is stopped. Also, emergency personnel operating in their official capacity are exempted from the ban.

Currently, there are four (4) school crossing zones designated in Wimberley. If City Council approves the subject ban, the City would be responsible for posting the required signage on Carney Lane near Danforth Junior High School and Wimberley High School and on that portion of the Green Acres Drive school crossing zone located in the city. Hays County will post the necessary signage on that portion of the Green Acres Drive zone located in the County. As for signing the school crossing zones on Ranch Road 12 and FM 2325, that will be the responsibility of the Texas Department of Transportation.

City Council Agenda Form



Date Submitted: October 10, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: APPROVAL OF FY 2010
HOLIDAY SCHEDULE FOR THE CITY OF WIMBERLEY

Funds Required:

Funds Available:

Council Action Requested:

Ordinance

Resolution

Motion

Discussion

Project/Proposal Summary:

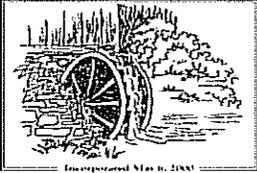
This item was placed on the agenda to allow City Council to discuss and consider approval of an employee holiday schedule for Fiscal Year 2010.

Attached is a proposed 2010 Holiday Schedule, as drafted by the Mayor and City staff, for consideration by City Council.

PROPOSED
FISCAL YEAR 2010
HOLIDAY SCHEDULE

<i>Veteran 's Day</i>	<i>Wednesday, November 11, 2009</i>
<i>Thanksgiving</i>	<i>Thursday, November 26, 2009</i>
	<i>Friday, November 27, 2009</i>
<i>Christmas</i>	<i>Thursday, December 24, 2009</i>
	<i>Friday, December 25, 2009</i>
<i>New Year 's Day</i>	<i>Friday, January 1, 2010</i>
<i>Martin Luther King Day</i>	<i>Monday, January 18, 2010</i>
<i>Presidents Day</i>	<i>Monday, February 15, 2010</i>
<i>Good Friday</i>	<i>Friday, April 2, 2010</i>
<i>Memorial Day</i>	<i>Monday, May 31, 2010</i>
<i>Independence Day</i>	<i>Monday, July 5, 2010</i>
<i>Labor Day</i>	<i>Monday, September 6, 2010</i>

City Council Agenda Form



Date Submitted: October 12, 2009

Agenda Date Requested: October 15, 2009

Project/Proposal Title: CITY COUNCIL REPORTS

Funds Required:

Funds Available:

Council Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for reports to be presented by Council members and for future agenda item requests.