

**City of Wimberley**  
City Hall, 221 Stillwater  
Wimberley, Texas 78676  
**Planning & Zoning Commission**  
Minutes of Regular Meeting  
April 26, 2012 at 6:00 p.m.

Meeting called to order by Chair Tracey Dean. Present were Commissioners Beth Mitchell, Jean Ross, Charles Lancaster, Steve Klepfer, and Rick Burleson. Commissioner Tom Haley was absent.

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

**Citizen Communications:**

No citizen comments were heard.

**1. Consent Agenda**

Approval of minutes of the Regular Planning & Zoning Commission meeting on April 12, 2012.

Commissioner Ross moved to approve the minutes as presented. Commissioner Klepfer seconded. Motion carried on a vote of 5-0. Commissioner Lancaster abstained.

**2. Public Hearing and Possible Action**

- A. Hold a public hearing and consider making a recommendation to City Council regarding Case #CUP-12-007, an application for a conditional use permit to allow for the operation of a vacation rental on a 1.7 acre tract of land, zoned Single Family Residential 2 (R-2), located at 2300 Flite Acres Road, Wimberley, Hays County, Texas. (*Beth Mitchell, Applicant*)

Commissioner Mitchell recused herself from the meeting at this time.

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, planning area, overlay district, existing structures (one three-bedroom residence occupied by the property owner and one two-bedroom 1,280 square foot garage that has been converted into a "game room" with a large living area, which is the proposed vacation rental), rental management, septic system capacity, and associated recommendation to limit the total number of persons on the subject property to no more than four (4), including guests and residents. Based on the applicant's submitted house rules and the City's vacation rental facilities regulations, City Administrator Ferguson reviewed the list of staff-recommended conditions, which would be included in the conditional use permit. He advised that prior to the meeting no comments were received either for or against the application.

Chairman Dean opened the public hearing.

Charles Scott, whose property is directly across the Blanco River from the subject property, requested the definition of the term "vacation rental."

City Administrator Ferguson read the following definition of "vacation rental" from Ordinance No. 2011-004: "A residential facility otherwise permitted in a zoning district authorized by the approval of a conditional use permit that is offered for rental for a period not to exceed thirty (30) days. The owner or the owner's designated representative shall not be required to occupy the facility at the time the facility is being rented. All residential facilities of this type located on or within the property or properties identified in the conditional use permit shall be considered as constituting a single vacation rental." He noted that the property owner is not required to reside on the subject property and that there are a handful of bed and breakfast/vacation rental facilities in close proximity to the subject property.

Chairman Dean closed the public hearing.

Commissioner Ross moved to recommend approval of the item, as presented, including the restriction limiting the total number of persons on the subject property to no more than four (4) persons (guests and residents) at any time. Commissioner Lancaster seconded.

Discussion addressed the subject property's Hays County-issued septic permit, which placed a restriction on use of the converted garage as a residence due to the limited capacity of the septic system and the applicant's agreement to limit the total number of persons on the subject property to no more than four (4) persons (guests and residents).

Charles Scott requested clarification of certain time restrictions for guest activities. City Administrator Ferguson advised that unruly gatherings are prohibited for both vacation rentals and bed and breakfast facilities and explained that vacation rental rules are somewhat stricter than for bed and breakfasts, because a bed and breakfast property owner is required to reside onsite.

Commissioner Ross pointed out that in this particular case, the owner resides on the subject property in a separate building and City Administrator Ferguson advised that the owner will be there most of the time.

Charles Scott recounted a recent incident with an unidentified bed and breakfast guest who trespassed on Rosemary Joseph's property. City Administrator Ferguson advised that concerned residents should call the Hays County Sheriff's Office if they have any concerns about trespassers or suspicious individuals or activities. He noted that vacation rental/bed and breakfast guests may not enter upon any property which is not

part of the owner's property for the purpose of entering or exiting the water and advised Mr. Scott to notify the City regarding any compliance issues.

City Administrator Ferguson clarified that although the subject property owners live onsite, they are not required to reside on the property, which would allow up to four (4) vacation rental guests, should the owners opt to not be onsite during the rental period.

Motion carried on a vote of 5-0.

Commissioner Mitchell rejoined the meeting at this time.

- B. Hold a public hearing and consider making a recommendation to City Council regarding Case #CUP-12-008, an application for a conditional use permit to allow for the operation of a drive-in ice vending machine on a .90 acre tract of land, zoned Commercial – Low Impact (C-1), located at 419 FM 2325, Wimberley, Hays County, Texas. (*Steve Dunks and Audrea Buster, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, planning area, and existing structure (*Miss Mae's Bar-B-Q*). The applicants are proposing to add an ice vending machine on the property where customers can drive up and purchase bags of ice. Access will be off Rhodes Lane, with at least three (3) parking spaces provided in front of the vending machine, which will be accessible 24-hours every day. Water for the ice machine will be supplied by Wimberley Water Supply Corporation. The vending machine will be constructed and operated in accordance with all applicable City Codes. No responses have been received either for or against the proposed use.

Applicant Audrea Buster Gibson spoke on consumer advantages of having fresh ice available for purchase at all times, low pricing, lack of noise generated by the machine, and compliance with sign regulations.

Discussion among the Commission, staff, and applicants addressed the proposed vending machine's specific location, changes to existing fencing, access, view of the machine from FM 2325, signage, building requirements, applicants' lease agreement, and prior use of the subject property.

Commissioner Klepfer moved to recommend approval of the item, as presented, which includes the condition that the unit complies with all applicable City Codes. Commissioner Mitchell seconded. Motion carried on a vote of 6-0.

### **3. Discuss and Consider Action**

Discuss and consider issues relating to the platting and planning procedures of Chapter 154 Subdivision Control of the City of Wimberley Code of Ordinances. (*City Administrator*)

City Administrator Ferguson highlighted key provisions of §154.020 *General Subdivision Requirements* and §154.021 *Application Procedures and Review Process* (attached to these minutes), which includes modifications discussed by the Commission at its April 12, 2012 meeting.

Discussion addressed:

- Waiver of the timing requirements
- Pre-application meetings with applicants before filing
- “Completeness” versus “correctness” of the application
- Requirement that the Commission shall make a recommendation within thirty (30) calendar days of the filing date and that Council shall take action within thirty (30) days after Commission action

Commissioner Burleson moved to recommend approval of the item, as presented. Commissioner Lancaster seconded. Motion carried on a vote of 6-0.

#### 4. Staff and Commission Reports

- Announcements
- Future Agenda Items

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

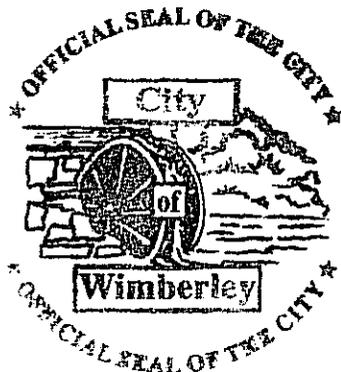
**Adjourn at 6:40 p.m.**

Recorded by:



Cara McPartland

**These minutes approved the 10<sup>th</sup> of May, 2012.**



**APPROVED:**



**Tracey Dean, Chair**

§ 154.020 GENERAL SUBDIVISION REQUIREMENTS.

(A) Except as may be provided for herein, for all subdivisions within the scope of these regulations, a plat of the land in question shall be drawn and submitted to the Commission and Council for their approval or disapproval, as provided for below. In no instance, notwithstanding any provision to the contrary, shall an individual proposing to make, or having made, a subdivision within the territorial jurisdiction, proceed with any development activity related to the proposed subdivision, including grading, before first obtaining plat approval.

(B) The general procedure for the subdivision of land is outlined in this section. The regulations governing each step of the procedure are described in §§ 154.021 et seq. and 154.040 et seq. Based on the procedures established by these regulations and other city codes, there are at least four (4) discrete steps involved in the development process. These include the platting process, the zoning process, the site design or detailed development plan process, and the construction process. Each process has established deadlines and expirations that must be met in order to maintain validity under the city's requirements, and therefore constitutes its own series of approvals.

(C) The City shall maintain application forms, checklists, language blocks for plats, and other similar items. The forms and paperwork are available at the office of the City Administrator. These supplemental materials may be amended from time to time, and it is the applicant's responsibility to be familiar with, and to comply with their requirements.

(D) Before any plat is filed for record with the County Clerk, the property owner shall apply for and secure approval of the plat from the City, in accordance with the following procedures, unless otherwise provided within this Chapter.

(E) All plats shall be prepared by a licensed civil engineer or a registered land surveyor bearing his or her seal, together with a completed application form and a filing fee.

(F) The City may deny a hearing and any approval of a plat if the applicant does not submit the information and fees required by this Chapter.

(G) It shall be a violation of this Chapter for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Chapter in any plat application or during any public hearing or meeting of the Commission or City Council. Such a violation shall constitute grounds for denial of the plat.

(H) Only the landowner or his or her authorized agent are allowed to submit an application for subdivision approval. The City may require proof of ownership or documented proof of authorization to serve as agent for the landowner from any applicant.

§ 154.021 APPLICATION PROCEDURES AND REVIEW PROCESS.

(A) Application Requirement. Prior to the subdivision of any property, the property owner shall apply for and secure approval from the City of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within this Chapter. Documentation submitted with the application shall clearly demonstrate that the proposed development complies with all applicable laws, and any other applicable information and materials deemed appropriate by the City

(B) Content of Application. The application shall include the following:

- (1) A written application form which bears the notarized signature(s) of the property owner(s) of the subject property along with the appropriate submission fee.
- (2) The appropriate number of full-size (24" x 36") prints of the plat, as required by the City's current development review policies and requirements
- (3) One 11" x 17" black-and-white reduction of the plat
- (4) One copy of any applicable development agreement pertaining to the subject property, if any, including an electronic version of all submission documents in a format acceptable to the City
- (5) The application shall be accompanied by a certificate showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property. Documentation shall also be included that shows no delinquent assessments, fees, or other debts or obligations to the City and which are directly attributable to the subject property.
- (6) All plat drawings and other corresponding plans and drawings, including engineering plans and landscape and screening plans, shall be on sheets no larger than 24" by 36" in size, and shall be drawn to a known engineering scale of not smaller than one hundred feet to the inch (1"=100') or a larger scale. In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100') scale, plats may be on multiple sheets or to another known engineering scale, as approved by the City Administrator, and in a format that will be acceptable for eventual filing with the Hays County Clerk.

(7) Applications for developments consisting of twenty (20) or more lots shall also be accompanied by an engineer's summary report which describes, in as much detail as necessary, the following:

- (a) The overall nature and scope of the proposed development, including zoning of the property
- (b) Proposed use(s) and acreage of each proposed use
- (c) Minimum lot sizes, widths and depths, number of lots to be created
- (d) Special amenities or facilities that will be included in the development
- (e) Documentation of how the property will be served with required utilities and services
- (f) Documentation of how storm water drainage will be handled
- (g) An itemization and description of any exceptions from provisions of this Chapter that will be sought
- (h) If the proposed development will have access points onto a major thoroughfare, the application shall also include a letter from the appropriate entity, such as TxDOT or Hays County, acknowledging and approving proposed driveway locations and corresponding median openings and left turn lanes, if applicable
- (i) A letter from each of the applicable utility service providers, including water, wastewater, electricity, telephone and verifying their receipt and review of all materials depicting the proposed development and their ability to provide an adequate level of service for the proposed development.
- (j) A letter from the independent school district in which the proposed development is located verifying their receipt and review of all materials depicting the proposed development and that expressing any desire the school district may have to obtain a future school site within any portion of the subject property.

(C) Application Submission. For the purpose of these regulations, the submission date for plat applications shall be the date upon which a application for approval of any type of plat, that contains all required elements mandated by the Texas Local Government Code, Section 212.004(b) and by this Chapter, is first submitted to the

City Administrator or his designated representative, after which the statutory period required for approval or disapproval of the plat shall commence to run.

(D) Incomplete Applications. Incomplete plat applications shall expire on the forty-fifth (45<sup>th</sup>) calendar day after the application was first received by the City filed if the applicant fails to provide documents or other information necessary to comply with the City's technical requirements relating to form and content of the application, and a new application and fee shall be required.

(E) City Staff Review. Upon submission of an administratively complete application for plat approval, the City shall commence technical review of the development application by forwarding a copy of the application and plat to development review team members that includes, but shall not be limited to, the City Administrator, City Engineer and the City Planner, and to applicable utilities and service providers. Development review team members shall review the plat and shall determine its compliance with applicable City regulations. Following City staff review of the plat and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the plat, with any necessary corrections, to the City no later than seven (7) calendar days prior to the Commission meeting. Failure to resubmit corrected copies of the plat to the City in time shall be cause for the City Administrator to forward the plat application to the Commission as it was originally submitted rather than the corrected version of the plat.

(F) Consideration of Plat Application. City staff shall place applications for plats on a Commission agenda not more than thirty (30) calendar days after the date the application was filed with the City. The Commission shall review each plat application and shall recommend approval, approval subject to certain conditions, or denial of the plat application. The City Council shall take action on the plat within thirty (30) calendar days after the action of the Commission or within thirty (30) days after the plat is considered approved by the inaction of the Commission, if applicable. In the event that an applicant submits preliminary and final plat applications simultaneously, the City administrator shall schedule both plat applications for action by the Commission not more than thirty (30) calendar days after the date the application was administratively complete. The City Council shall take action on both plats within thirty (30) calendar days of the action of the Commission.

(G) Waiver of Timing Requirement. After a plat has been scheduled on an agenda, the applicant may request, in writing, a waiver of the thirty (30) day approval requirement in order to allow more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the City's regulations. After receipt of the request, the Commission and or City Council may delay action on the plat beyond thirty (30) calendar days following the submission date.

(H) Action by the Commission and City Council. Except as specifically permitted to be approved administratively herein, all subdivision plat applications shall be reviewed by the Commission, and if in conformance with the provisions of this Chapter and with all other applicable regulations of the City, they shall be approved by the City Council. Affirmation of, or modifications to, the Commission's recommendation to approve the plat shall require a majority vote of the City Council members present.

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