

**City of Wimberley**  
City Hall, 221 Stillwater  
Wimberley, Texas 78676  
**Planning & Zoning Commission**  
Minutes of Regular Meeting  
June 13, 2013 at 6:00 p.m.

Meeting called to order at 6:00 p.m. by Acting Chair Steve Klepfer. Present were Commissioners Beth Mitchell, Tom Haley, Charles Lancaster, Lance Cawley, and Rick Burleson. Chair Tracey Dean 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 May 9, 2013.

Commissioner Haley moved to approve the minutes, as presented. Commissioner Lancaster seconded. Motion carried on a vote of 6-0.

**2. Discussion and Possible Action**

Discuss and consider action electing officers for the Planning and Zoning Commission.

Commissioner Burleson moved to nominate Commissioner Steve Klepfer for the position of Chair of the Planning and Zoning Commission. Motion died for lack of a second.

Commissioner Lancaster moved to nominate Commissioner Tom Haley for the position of Chair of the Planning and Zoning Commission. Commissioner Mitchell seconded. Motion carried on a vote of 2-0, with Commissioners Lancaster and Mitchell voting for, and Commissioners Haley, Cawley, Klepfer, and Burleson abstaining.

Commissioner Haley moved to nominate Commissioner Klepfer as Vice Chair of the Planning and Zoning Commission. Commissioner Lancaster seconded. Motion carried on a vote of 6-0.

At this time, Commissioners Haley and Klepfer assumed duties as Chair and Vice Chair of the Commission, respectively.

Commissioner Mitchell left the meeting at this time (6:04 p.m.).

### 3. Public Hearing and Possible Action

- A. Hold a public hearing and consider making a recommendation to City Council regarding Case No. CUP-13-004, an application for a conditional use permit to allow for the operation of a vacation rental on a 5.67 acre tract of land zoned Residential Acreage (RA), located at 100 Leath Hollow, Wimberley, Hays County, Texas. (*Gregory Dunham, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing structure to be used as a vacation rental with a maximum occupancy of four (4) guests. He noted there is a detached covered on-site parking area, along with a driveway to provide adequate space for required off-street parking. Based on the City Sanitarian's review of the existing on-site septic system (OSSF), the applicant has agreed to the maximum occupancy limit of four (4) guests. It was noted that the applicant will operate the vacation rental in an environmentally-friendly manner and promote recycling.

City Administrator Ferguson read a list of the applicant's house rules and regulations, along with a City staff-recommended list of conditions to be made part of the requested CUP, if approved. It was noted that no comments or inquiries have been received by City staff on this CUP request.

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

Brief discussion addressed the subject property's lot size, access, and existing residence.

Commissioner Klepfer moved to recommend approval of the item, as presented, which includes the applicant's house rules and staff-recommended list of CUP conditions, as read by City Administrator Ferguson. Commissioner Lancaster seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider making a recommendation to City Council regarding Case No. CUP-13-005, an application for a conditional use permit to allow for the operation of a vacation rental on a 0.47 acre tract of land zoned Single Family Residential 2 (R-2), located at 275 Stoney Creek, Wimberley, Hays County, Texas. (*Patrick & Kristie Gaines, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing residential structure, maximum occupancy, access, and parking. It was noted that there is an existing, properly functioning on-site septic system (OSSF) and that the applicant will limit occupancy to no more than three (3) persons, in accordance with the City Sanitarian's review of the OSSF.

City Administrator Ferguson read a list of the applicant's house rules and regulations, along with a City staff-recommended list of conditions to be made part of the requested CUP, if approved.

It was noted that at the time of agenda packet preparation, City staff received written opposition from the owners of six (6) of the thirteen (13) tracts located within the required two hundred foot (200') notification area, which represents fifty-four percent (54%) of the notified property owners or nineteen percent (19%) of the property in the notified area. City Administrator Ferguson explained that under the Texas Local Government Code, City Council would need a super majority vote to affirm a zoning change, due to the amount of opposition received. He stated that opponents are concerned about the possibility of increased noise and traffic stemming from the proposed vacation rental.

Chairman Haley opened the public hearing.

Discussion established that the opposition expressed at this time to the proposed CUP meets the requisite percentage of protest to trigger the aforementioned super majority voting requirement applicable to City Council.

Susan Godfrey of 1121 CR 1492 spoke of her ownership history in the neighborhood and stated that when she sold the subject property to the applicants that no indication was made regarding the property's intended use as a vacation rental. She cited concerns voiced to her by two of the four property owners in the Stoney Creek Meadows subdivision, including negative experiences with an existing unpermitted vacation rental property. City Administrator Ferguson advised that there is an enforcement action in progress relating to the referenced unpermitted vacation rental and asked that discussion be limited to the subject property.

Local realtor Shelley Beck, listing agent for the subject property, stated her parents purchased the property with the intent to use the residence as a vacation home once per month and rent it on available weekends. Because there was an existing vacation rental already operating in the neighborhood, Ms. Beck and her parents felt that there would be no problem with requesting a CUP as a vacation rental. She asked for clarification on the definitions of "short- and long-term rentals," which were provided by City Administrator Ferguson. Ms. Beck noted that her parents have made significant improvements to the subject property and felt that neighbors should prefer short-term renters to long-term renters, and reasoned that any problems encountered would be temporary in nature.

City Administrator Ferguson explained that a CUP is a zoning change that remains with the property, regardless of changes in ownership, unless the CUP is revoked at the request of the property owner or as a result of non-compliance with CUP conditions.

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

Discussion addressed the amount of opposition expressed by surrounding property owners and the potential impact of the proposed vacation rental on a neighborhood comprised of only four (4) residences on small-sized lots situated on a cul-de-sac.

Commissioner Klepfer moved to recommend denial of the CUP application. Commissioner Cawley seconded. Motion carried on a vote of 5-0.

Due to the amount of opposition expressed, City Administrator Ferguson noted that a super majority vote will be required, should City Council desire to override the Commission's denial recommendation and approve the CUP.

- C. Hold a public hearing and consider making a recommendation to City Council regarding Case No. CUP-13-006, an application for a conditional use permit to allow for the operation of a vacation rental on a 0.42 acre tract of land zoned Single Family Residential 3 (R-3), located at 281 Cliffview Drive, Wimberley, Hays County, Texas. (*Charles Criswell, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing residence, maximum occupancy of five (5) guests, and parking. Based on a review of the existing on-site septic system (OSSF) by the City Sanitarian, the applicant has agreed to limit occupancy to no more than five (5) guests.

City Administrator Ferguson read a list of the applicant's house rules and regulations, along with a City staff-recommended list of conditions to be made part of the requested CUP, if approved. To date, City staff has received written opposition from two (2) property owners within the two-hundred foot (200') notification area, which expressed concerns about the possibility of increased noise and traffic stemming from the proposed vacation rental. Clarification was provided on regulations relating to river access and trespassing.

Chairman Haley opened the public hearing.

Robin Hix of 101 Rockwood Drive opposed the CUP application based on concerns over trespassing on her properties by guests of vacation rentals.

El Ray Busch-Mann of 606 River Road spoke of her family's ownership history and expressed opposition to the CUP application.

Mary Rose Lam of 260 Cliffview expressed concerns about noise, increased traffic, speeding vehicles, and preserving the integrity of her neighborhood.

Rick Brushaber of 150 Rockwood Drive spoke of his family's ownership history and expressed opposition to the CUP application based on concerns related to the general lack of respect shown to permanent residents by transient renters. He noted that the subject property has been a source of noise, traffic, year-round fireworks, and trespassing problems. He felt that approval of the CUP will negatively impact his

family's quality of life and requested denial of the CUP application. Mr. Brushaber read a letter of opposition from Ruth Welch of 130 Rockwood Drive, who could not be present at this meeting. *The full text of Welch's letter is attached to these minutes.*

Teri Brushaber of 150 Rockwood Drive expressed opposition to the CUP based on concerns about the lack of respect shown for residents by renters, including increased noise and traffic.

Ross Griswold of 240 Dobie Drive expressed opposition due to concerns related to traffic, speeding vehicles, and the possible proliferation of more vacation rentals and bed and breakfasts in his neighborhood.

Local realtor Julie Harris understood past neighborhood issues with a prior bed and breakfast operation at a property adjacent to the subject property. She noted that the prospective buyer of the subject property is the new owner of the aforementioned adjacent bed and breakfast operation, and has made the sale of the subject property contingent on approval of the requested CUP. She felt the prospective buyer will exercise greater control over renters than the current owner, who is not a local resident. Ms. Harris provided copies of correspondence between herself and the subject property's current owner (Charles Criswell) to Council and staff. *The full text of Criswell's letter is attached to these minutes.*

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

Discussion addressed the amount of opposition expressed to date and the need for opposition to be in writing to trigger the requirement for a super majority vote of City Council to approve the requested zoning change.

Commissioner Cawley moved to recommend denial of the CUP application. Commissioner Lancaster seconded.

Chairman Haley called for a vote as follows: Commissioner Burleson, aye; Commissioner Cawley, aye; Commissioner Klepfer, aye; Commissioner Lancaster, aye. Chairman Haley, aye. Motion carried on a vote of 5-0.

In response to audience inquiries, City Administrator Ferguson provided information on the submission of written opposition to staff and advised that the next public hearing on this item will be held at City Council's meeting on June 20, 2013.

#### **4. Staff and Commission Reports**

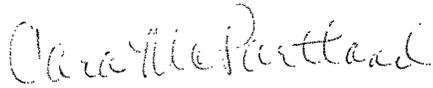
- Announcements
- Future Agenda Items

City Administrator Ferguson advised that the Commission will meet on June 27, 2013.

Hearing no further announcements or future agenda items, Chairman Haley called the meeting adjourned.

**Adjourn at 7:01 p.m.**

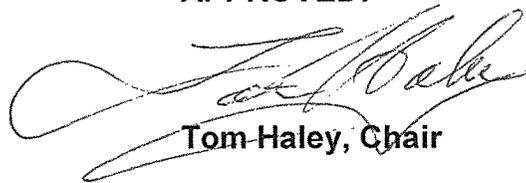
Recorded by:



Cara McPartland

**These minutes approved the 11<sup>th</sup> of July, 2013.**

**APPROVED:**



**Tom Haley, Chair**



June 4, 2013

City of Wimberley  
P.O. Box 2027  
Wimberley, Texas 78676

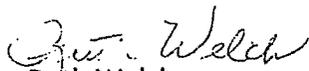
To Whom It May Concern:

I am writing this letter in regard to the Notice of Public Hearing for File No. CUP-13-006 281 Cliffview Drive. A request has been made for a Conditional Use Permit (CUP) to allow the operation of a Vacation Rental at this location.

I have been a property owner and resident in the Cliffside neighborhood since 1964. Unfortunately, I am unable to attend the city meetings in regard to the above mentioned matter. This letter shall serve as my formal opposition to the issuance of a Conditional Use Permit for the property at 281 Cliffview Drive. I do not want a commercial vacation rental property to be allowed to operate in my zoned residential neighborhood.

Thank you for your consideration in this matter.

Respectfully,



Ruth Welch

101 N. Upper Broadway St., Apt. 1704  
Corpus Christi, Texas 78401

Julie,

One thing you and Tomas might mention to any protesting residents is that if this doesn't go through I will continue to use the property as a rental. My long term renters won't have the same vested interest in the property as Tomas will, and the property will not be as well kept by renters as it will by Tomas. It's actually to the protesters best interest that it be used as a short term rental rather than a long term rental. Tomas won't be able to rent it if it is downtrodden and unkempt, but I'm certainly not going to do anything but make sure only required maintenance is performed if a long term renter lives there. I certainly won't do any landscaping improvements or anything like that. I'm assuming Tomas will be making it much more attractive. Why wouldn't everyone welcome that?

**Charles C. Criswell** (Chuck)

Phone: (210) 478-8780

Fax: (210) 547-9456

Email: 