

City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676

REGULAR PLANNING & ZONING MEETING

WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS

221 STILLWATER, WIMBERLEY, TEXAS

DECEMBER 8, 2016 - 6:00 P.M.

AGENDA

CALL TO ORDER: DECEMBER 8, 2016 @ 6:00 P.M.

CALL OF ROLL: CITY SECRETARY

CITIZENS COMMUNICATIONS:

THE PLANNING & ZONING COMMISSION 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 THE COMMISSION. 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 COMMISSION CONSIDERATION.

1. CONSENT AGENDA

THE FOLLOWING ITEMS MAY BE ACTED UPON IN ONE MOTION. NO SEPARATE DISCUSSION OR ACTION IS NECESSARY UNLESS REQUESTED BY A COMMISSION 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 PLANNING & ZONING COMMISSION MEETING ON OCTOBER 13, 2016.

- (B) APPROVAL OF MINUTES OF THE SPECIAL PLANNING AND ZONING COMMISSION MEETING ON NOVEMBER 1, 2016

2. PUBLIC HEARINGS AND POSSIBLE ACTION

- (A) HOLD A PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION TO CITY COUNCIL REGARDING CASE CUP-16-021, AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW FOR THE LIMITED DURATION ON-PREMISE SALE AND CONSUMPTION OF BEER AND WINE ON PROPERTY ZONED PARTICIPANT RECREATION–HIGH IMPACT (PR-2) LOCATED AT 450 OLD KYLE ROAD, WIMBERLEY, HAYS COUNTY, TEXAS. (*WIMBERLEY PLAYERS, APPLICANT*)
- (B) HOLD A PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION REGARDING AN ORDINANCE AMENDING TITLE XI (BUSINESS REGULATIONS), CHAPTER 112 (REGULATION OF VACATION RENTALS AND BED AND BREAKFAST LODGINGS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTION 155.065 (VACATION RENTAL LODGING REQUIREMENTS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, A SAVINGS CLAUSE, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING. (*CITY ADMINISTRATOR*)

3. STAFF AND COMMISSION REPORTS

- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

ADJOURNMENT

THE COMMISSION MAY RETIRE TO EXECUTIVE SESSION ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSION ABOUT 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 LOCAL GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087. ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

CERTIFICATION

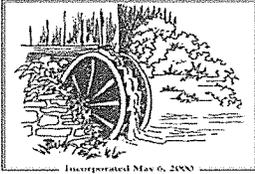
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on December 5, 2016 at 6:00 p.m.



Cara McPartland, Assistant City Administrator/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.

P & Z Commission Agenda Form



Date Submitted: December 5, 2016

Agenda Date Requested: December 8, 2016

Project/Proposal Title: APPROVAL OF MINUTES
OF THE REGULAR PLANNING & ZONING
COMMISSION MEETING ON OCTOBER 13, 2016

Funds Required:
Funds Available:

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Attached are the minutes of the Regular Planning & Zoning Commission meeting on October 13, 2016 for review and consideration.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
Planning & Zoning Commission
 Minutes of Regular Meeting
 October 13, 2016 at 6:00 p.m.

Meeting called to order at 6:00 p.m. by Chair John Urban. Present were Commissioners Charles Savino, Austin Weeks, Gail Pigg, and John Espinoza. Commissioners Natalie Meeks and Rebecca McCullough were absent.

Staff Present: City Administrator Don Ferguson

Citizen Communications:

No citizen comments were heard.

1. Consent Agenda

- A. Approval of minutes of the Regular Planning & Zoning Commission meeting on September 8, 2016.

Chairman Urban moved to approve the minutes, as presented. Commissioner McCullough seconded. Motion carried on a vote of 5-0.

- B. Approval of minutes of the Special Joint City Council-Planning and Zoning Commission meeting on October 4, 2016.

Chairman Urban moved to approve Consent Agenda items, as presented. Commissioner Savino seconded. Motion carried on a vote of 5-0.

2. Public Hearing and Possible Action

Hold a public hearing and consider making a recommendation regarding an ordinance of the City of Wimberley, Texas, amending Title XV (Land Usage), Chapter 155 (Zoning), Sections 155.005 (Definitions), and 155.059 (Participant Recreation-High Impact; PR-2) of the City of Wimberley Code of Ordinances to add a conditional use for limited duration/on-premise alcohol sales; and providing for the following: findings of fact, savings, severability, repealer, effective date, and proper notice and meeting.

City Administrator Ferguson explained that the City recently received an inquiry from the operators of the *Wimberley Players Theatre* seeking permission to serve alcoholic beverages in conjunction with their performances. As on-premise consumption of alcoholic beverages is not a permitted or conditional use in the PR-2 zoning district, City

Administrator Ferguson explained that a zoning change would be needed to allow such use. He stated that alcohol sales would be limited to the duration of the event and shall not occur more than one hour before and after the event. He noted that the establishment could not derive more than seventy five percent (75%) of their gross revenue from the on-premise sale of alcoholic beverages.

Chairman Urban opened the public hearing.

Terri Burney-Bisett of the *Wimberley Players Theatre* said the intent is to offer beer and wine only and anticipated that 40-45 drinks may be served each performance. She advised that the proper TABC licensing will be secured.

City Administrator Ferguson clarified that the proposed ordinance would allow alcoholic beverages in addition to beer and wine. Discussion addressed TABC certification; the ability to consider CUP applications for beer and wine only or to include alcoholic beverages; the applicant's intent to apply for a TABC permit for beer/wine only; the limited duration of on-premise consumption only for specified time periods; special events, such as tastings, that require City Council approval; other PR-2 zoned properties; and surrounding commercially-zoned properties.

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

Commissioner Savino moved to recommend approval of the proposed ordinance, as presented. Commissioner McCullough seconded. Motion carried on a vote of 5-0.

3. Staff and Commission Reports

- Announcements
- Future Agenda Items

Hearing no comments, Chairman Urban called the meeting adjourned.

Adjourn at 6:15 p.m.

Recorded by:

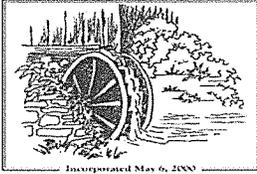
Cara McPartland

These minutes approved the _____ of December, 2016.

APPROVED:

John Urban, Chair

P & Z Commission Agenda Form



Date Submitted: December 5, 2016

Agenda Date Requested: December 8, 2016

Project/Proposal Title: APPROVAL OF MINUTES
OF THE SPECIAL PLANNING & ZONING COMMISSION
MEETING ON NOVEMBER 1, 2016

Funds Required:
Funds Available:

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

Attached are the minutes of the Special Planning & Zoning Commission meeting on November 1, 2016 for review and consideration.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
Minutes of Special Meeting of the Planning and Zoning Commission
 November 1, 2016 at 6:00 p.m.

Planning and Zoning Commission Special Meeting called to order at 6:14 p.m. by Vice Chair Natalie Meeks.

Planning & Zoning Commission Members Present: Commissioners Austin Weeks, Vice Chair Natalie Meeks, Charles Savino, Gail Pigg and John Espinoza. Chairman John Urban and Commissioner Rebecca McCullough were absent.

Council Members Present: Mayor Mac McCullough and Councilmembers Sally Trapp, Gary Barchfeld, and John White. Councilmembers Bob Dussler and Craig Fore were absent. (A quorum of the City Council was not in attendance at the workshop. No action was taken by Council on any agenda matter.)

Staff Present: City Administrator Don Ferguson

Planning and Zoning Commission Agenda:

Workshop to discuss comments received in recent public hearings regarding short-term rental properties and to discuss possible modifications to the City of Wimberley's short-term rental regulations.

Councilmember Barchfeld advised that the purpose of tonight's meeting is to hold a round-table discussion of public comments received to date and possible modifications to short-term rental regulations. He stressed that there is no intent to shut down short-term rentals and hoped modifications would help everyone co-exist as well as we can. He spoke of his meeting with Commissioners John Urban and Rebecca McCullough and of a letter he wished to read from Councilmember Dussler. Councilmember Barchfeld called upon Planning and Zoning Commission Vice Chair Natalie Meeks to convene the Planning and Zoning Special Meeting. Vice Chair Meeks convened the meeting at this time. City Administrator Ferguson stated there is a quorum present for the Planning and Zoning Commission and that there is not a quorum present for City Council.

Councilmember Barchfeld requested input from Council/Commission members on what types of questions they would like to pose to legal counsel to help them in their decision-making process. To expedite the process, City Administrator Ferguson asked that short-term rental questions be sent to him to forward to the City's legal counsel for review in advance of the next Joint City Council/Planning and Zoning Special Meeting scheduled for next Wednesday, November 9, 2016. He noted Council/Commission members may still ask questions directly to legal counsel at the November 9th meeting.

Councilmember Barchfeld read the following letter from Councilmember Dussler:

P & Z Special Meeting Minutes – November 1, 2016

“Gary - Many thanks for leading the vacation rental project. It’s a major undertaking you have been able to corral all the interested parties over the last 3 weeks. I thought the meeting was informative with a good amount of candid comment. As you know, I am opposed to establishing commercial businesses in private residential neighborhoods. The neighbors and property owners bought their homes and properties with the understanding that it was a private residential neighborhood and would remain that way while they lived there. When a commercial business is established, it changes the character of the neighborhood. The pattern has been that other residents in the neighborhood are encouraged to also seek approval to establish more commercial businesses. The neighborhood is no longer a private residential neighborhood. It is now a neighborhood with private homes and commercial businesses interspersed. This is unfair to all residents of the neighborhood and not just those within 200-feet of the commercial business. All residents had the character of their neighborhood changed and all the residents have had their property values impacted. Gary, I know you have heard these comments numerous times at City Council meetings, but some of the Planning and Zoning committee may have not heard them.”

Councilmember Barchfeld said he respects Councilmember’s Dussler’s position and continued reading Councilmember Dussler’s ideas on short-term rental issues.

“These comments relate to CUP applications, not to existing businesses. I thought several comments during the meeting were good suggestions and worthy of discussion. These are in no particular order. While we notify property owners within 200-feet of the proposed business, we might follow up to be certain that they have received the notification, then when the CUP is issued, we might do a follow-up to let those neighbors know of the CUP approval. CUP applications should request the applicant to identify whether or not deed restrictions are in favor or are opposed to commercial businesses in the neighborhood. This would give P & Z in its consideration for the application. While a CUP does not survive the sale of the property, it may be a good idea to have the CUP holder appear before P & Z or Council every two years to give an update on his activity, complaints, problems, or any support he might need from us. Residential realtors should be required to disclose to clients (buyers) the location of short-term rental properties in the neighborhood they are considering. It would be helpful to have a database of vacation rentals and bed and breakfasts with 24-hour contact information. I am not certain where we are receiving notification of complaints and dealing with complaints. There was discussion that the complaints could be called into City Hall and there would be a record of the complaint. After two or more complaints were filed, the CUP holder would have to appear before City Council to discuss how he plans to deal with these complaints. After a number of complaints are filed, Council could rescind the CUP. We need a system to deal with the urgent and immediate complaint. When a call is made to the sheriff or constable, many times they are unable to respond. If these urgent calls are numerous, it might be helpful to engage an off-duty security officer to be available on weekends. Funding for this might come from CUP holders or we might increase CUP fees. Thank you very much.”

Councilmember Barchfeld requested input on specific items, including:

- CUP applications and possible modifications such as:

- 1) Requiring signatures of property owners within 200-feet of the subject property

confirming he/she was contacted by the applicant regarding the proposed short-term rental

- 2) Requiring the applicant to confirm that they researched any deed restrictions that may exist for the subject property relating to the proposed use
- 3) Increasing the application fee for a CUP for short-term rental properties
- 4) Allowing reimbursement of all but \$100 of the CUP application fee if the applicant chooses to withdraw his or her application for consideration prior to the final decision having been made on the application

Councilmember Barchfeld stated the intent is to let Planning and Zoning know that people have done all of their homework and while the City cannot enforce deed restrictions, it should be noted that the applicant has researched his/her deed restrictions. He also felt that if applicants talk to their neighbors about their plans it helps with communication among parties. He said an increased CUP fee may help with management of short-term rental CUPs. Councilmember Barchfeld felt the suggested \$100 refund is a good way to handle withdrawn applications.

Commissioner Pigg asked if the intent of an increased application fee is to discourage applicants from applying for short-term rentals and there was discussion of possible increased costs to the City to implement suggestions such as hiring off-duty security personnel or data management, which would be intended to cover costs and not to make a profit.

Discussion included:

- The value of short-term rentals to owners
- Fairness issues with increased CUP fees
- License fees versus application fees
- Added costs to the City to enforce short-term rental CUPs
- Possible changes to the city marshal's work schedule to include availability on weekends or adding another marshal position
- Challenges associated with providing enforcement officers every weekend
- Questions regarding use of Hotel Occupancy Tax (HOT) funds to offset short-term rental enforcement costs, which City Administrator Ferguson stated would not be allowed, as HOT funds are to be spent only for specific purposes
- Questions regarding the necessity for a CUP to operate a short-term rental versus a licensing program as an administrative process that would not pit neighbors against neighbors
- Statistics cited on the number of existing short-term rentals operating in Wimberley
- Use of a licensing program that does not carry over to a new owner when ownership changes
- Challenges to use of a "one size fits all" licensing program approach when dealing with land uses as part of the zoning process
- Licensing of an operation versus zoning of land use
- Fines/citations as a possible means to deal with complaints and provide "teeth" for enforcement efforts
- Revocation of CUPs as a possible consequence for problem short-term rentals
- Need to make applicants aware that deed restrictions are legal matters between private

citizens and not enforced by the City

- Requiring signatures of property owners within 200-feet of the subject property as confirmation that he/she was contacted by the applicant regarding the proposed short-term rental, but not as an expression of opposition or support for the application
- CUPs as zoning actions that convey with the property, regardless of ownership changes, and differing public comments on the effect CUPs have on property values
- Possible extension of the notification area beyond 200-feet
- Vacation rentals versus bed and breakfasts and fewer problems reported with bed and breakfasts due to owner-residency requirement
- Guidelines/checklist to help Planning and Zoning in its decision-making process
- Possible minimum acreage requirements for short-term rental properties and potential problems with applying different standards for different-sized lots
- Defining “zero tolerance” in terms of complaint enforcement and establishing the validity of complaints
- Identifying short-term rental related problems
- Documentation of complaints and notification of management companies
- Sending the required 200-foot notification letter regarding short-term rental CUP applications via certified mail as opposed to regular mail
- Possible modification of the 200-foot notification letter to include advising property owners of their ability to submit comments via email if unable to attend public hearings
- Creation/maintenance of an online database of properly authorized short-term rentals within city limits
- City notification of property owners within the required 200-foot notification area via certified mail when a short-term rental CUP application has been approved, including contact information for the subject property’s responsible party, and the process for reporting complaints with provision of contact phone number
- Legal requirement for public hearings held by both Planning and Zoning and City Council in order amend the City’s Zoning Code
- Ability of Council to send cases back to Planning and Zoning when new information is received during the time between public hearings before each body
- Differences in the roles and authorities of Planning and Zoning and City Council
- Difficulties associated with setting deadlines to receive and consider public comments
- Lack of general favor for requiring a super majority vote of City Council to overturn any recommendation from Planning and Zoning
- Reasoning for requiring a super majority vote of Planning and Zoning Commission to recommend approval of short-term rental CUP applications when 20% of the notified area is in written opposition to the application, even if all other approval criteria is met
- Conduct a bi-annual performance review of each short-term rental CUP and grandfathered short-term rentals and require notification of property owners within 200-feet of the subject property of the review in order to provide an opportunity to offer review comments
- Regulation of short-term rentals through permitting rather than zoning actions
- Use of the so-called “20% Rule” as a means to ensure denial of some short-term rental CUP applications and create an insurmountable hurdle to obtain approval
- Consideration given to comments of residents versus non-residents

- Complaint history of certain areas/neighborhoods and burden on property owners/POAs to enforce deed restrictions
- Establish uniform address signage requirements for short-term rental properties; concerns that such uniform signage identifies the property as a short-term rental that may be vacant; and purpose of signage to help guests locate properties
- Require short-term rental properties to have fencing or vegetative barriers on the side and rear property lines and lack of favor for making such barriers mandatory measures to provide screening or define property lines
- Limit short-term rentals as conditional use on residentially zoned properties 2 acres or greater in lot size and on all commercial properties
- Establish a licensing process for short-term rental properties with renewal and transfer requirements in the event of property's sale
- Require responsible parties for short-term properties to reside within the 78676 zip code
- Modification to enforcement process establishing a telephone hotline/answering service for reporting complaints and determining whether complaints are valid
- Establishment of a zero tolerance enforcement policy and associated difficulties of such a policy
- Conducting courtesy compliance site visits for the purpose of making a visual inspection of the short-term rental property; regular inspections as part of a permitting process to ensure compliance

Discussion generally agreed there are problematic aspects of implementing or enforcing some requirements.

Councilmember Barchfeld requested that each Council/Commission member provide direction on which discussion items he/she liked or did not like and asked them to forward to City Administrator Ferguson three things that they think will help this process.

Councilmember Barchfeld also reminded Council/Commission members to forward any questions they may have for legal counsel prior to the next meeting on November 9, 2016.

City Administrator Ferguson provided clarification regarding upcoming meetings and possible options for action on ordinance modification(s).

Adjournment: Planning & Zoning Special meeting adjourned at 8:20 p.m.

Recorded by:

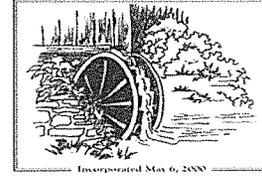
Cara McPartland

These minutes approved on the ____ of December, 2016.

APPROVED:

John Urban, Chair

Report for CUP-16-021



Summary:

A request for a Conditional Use Permit (CUP) to allow for limited duration on-premise sale and consumption of beer and wine at 450 Old Kyle Road

Applicant Information:

Applicant: Wimberley Players
450 Old Kyle Road
Wimberley, TX 78676

Property Owner: Wimberley Players

Subject Property:

Legal Description: Dunn Plaza, Lot 8, 1.071 acres
Location: 450 Old Kyle Road
Existing Use of Property: Performing Theatre
Existing Zoning: Participant Recreation-High Impact (PR-2)
Proposed Use of Property: Performing Theatre
Proposed Zoning: Participant Recreation-High Impact (PR-2) with a CUP
Planning Area: IV
Overlay District: Village Center Overlay District

Surroundings:

Frontage On: Old Kyle Road

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	PR-1	Park
S of Property	C-2	Commercial
E of Property	C-2	Commercial
W of Property	R-2	Residential

Legal Notice

200' Letters: 11/17/16
Published: 11/17/16
Sign Placement: 11/16/16
Responses: None

Comments:

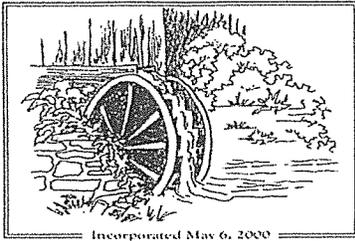
The applicant has requested a Conditional Use Permit (CUP) to allow for the limited duration, on-premise sale and consumption of beer and wine at the *Wimberley Players* performing theatre located at 450 Old Kyle Road.

Currently, the subject property is zoned *Participant Recreation-High Impact (PR-2)* and is located in the *Village Center Overlay District* and *Planning Area IV*. The on-premise sale and consumption of beer and wine for limited duration is allowed on PR-2 zoned properties with a conditional use permit. Such alcohol sales would have to occur in conjunction with a recreation event, cultural exhibit, musical or theatrical performance. Alcohol sales are to be limited to the duration of the event and shall not occur more than

one hour before and after the event. Establishments in the zoning district cannot derive more than seventy-five (75) percent of their gross revenue from the on-premise sale of alcoholic beverages.

The applicant is proposing to sell beer and wine for on-premise consumption in conjunction with theatre performances and other activities held at the subject theatre.

To date, City staff has received no comments from the public on the CUP request.



Village of Wimberley

CONDITIONAL USE PERMIT APPLICATION

No. CUP-__ - __

FOR OFFICIAL USE ONLY

Application Date: _____ Tentative P&Z Hearing: _____ Tentative Council Hearing: _____

FEES: \$400.00 DATE PAID: _____ CHECK NO. _____ REC'D BY _____

PROJECT SITE ADDRESS: 450 Old Kyle Road Wimberley, TX. 78676

OWNER/APPLICANT Wimberley Players PHONE (512) 923-0561

FAX () _____ EMAIL: [REDACTED]

Mailing Address: 450 Old Kyle Road CITY: Wimberley STATE: TX ZIP: 78676

APPLICANT UNDERSTANDS that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district. Type your text here

ZONING: PR2 CONDITIONAL USE REQUESTED: (e.g. Bed & Breakfast Lodging)

BEER & WINE SALES

Planning Area _____ Zoning _____ Total Acreage or Sq. Ft. 1.07 acres

Subdivision: Dunn Plaza Lot 8 Block _____

Appraisal District Tax ID#: R 112622

Deed Records Hays County: Volume 2407 Page 272 ~~278~~

Is property located in an overlay district? (X) Yes () No - If Yes,

Type: Historical District

Is property located in flood plain? () Yes (X) No

Utilities:

Electric Provider: Pedernales Electric Cooperative

Water Provider or Private Well: Wimberley Water Supply Corp

Wastewater Service Provider or Hays County Septic Permit No: _____

MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses, and does not adversely affect an adjoining site than would a permitted use;
- The use requested by the applicant is set forth as a conditional use in the base district;
- The nature of the use is reasonable;
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base district are being upheld.

ADDITIONAL REQUIREMENTS/DOCUMENTATION

- Metes and bounds description and a survey (i.e., drawing) exhibit showing the property for which the CUP is being requested.
- Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200').
- List of Special Conditions that Applicant agrees apply to property.
- List of all property owners, with mailing addresses located within two hundred feet (200') of any point of the subject property.
- Payment of Application fee \$400.00
- Applicant agrees to attend public hearings before the P&Z Commission as well as the City Council concerning this application; or waives his/her right to appear, understanding that if questions are raised that cannot be answered, the matter may be continued, or denied.
- Applicant has checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and applicant understands that the Village zoning action does not relieve any obligation of these restrictions.
- Applicant agrees to provide additional documentation as needed by the Village.
- Applicant understands that Village review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided may delay the review of the Application. Applicant, by his/her signature below, certifies that to the best of his/her knowledge said information is complete and correct.
- Applicant hereby authorizes the Village representatives to visit and inspect the subject property.

Date _____



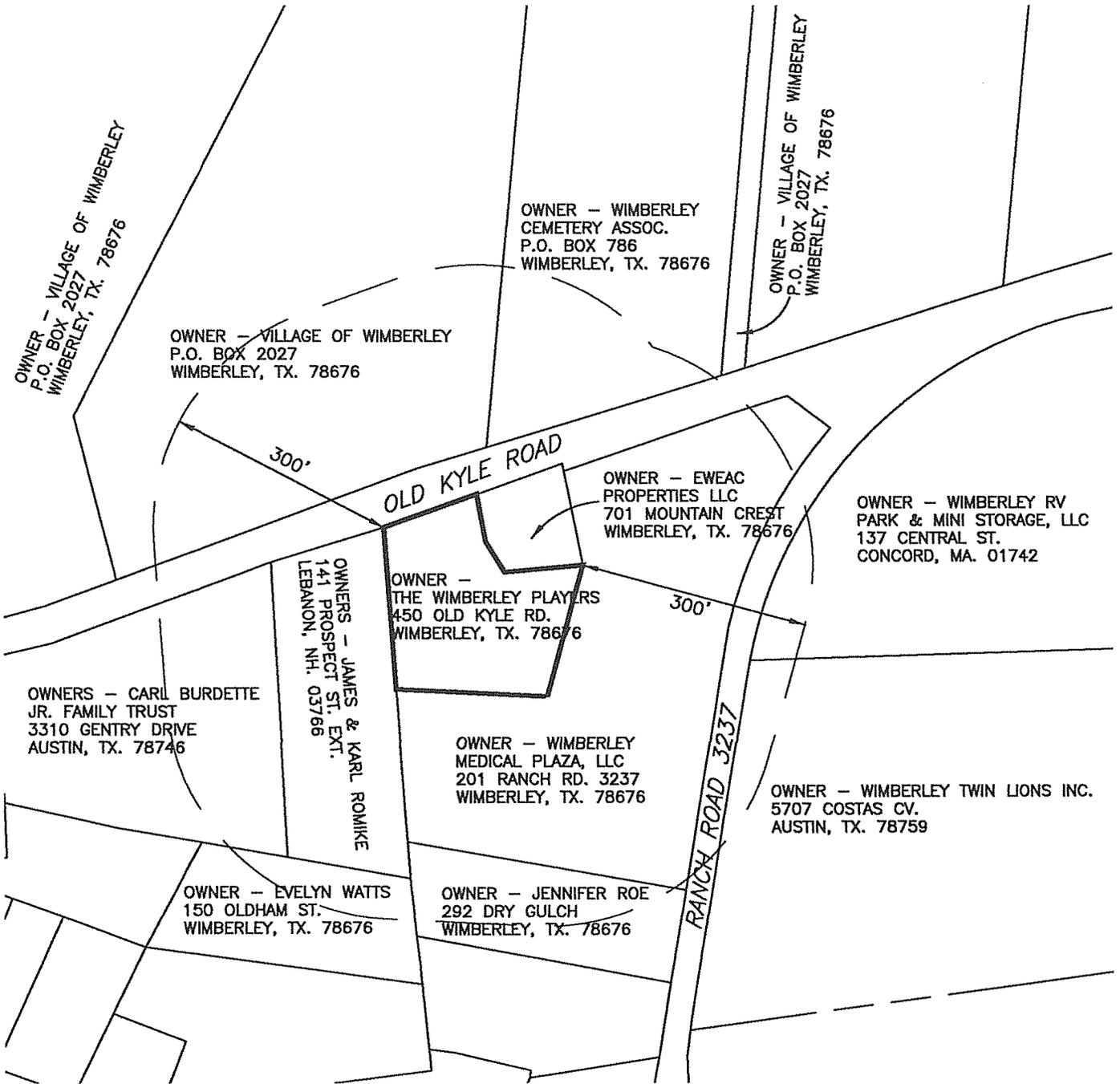
APPLICANT SIGNATURE

WHEN APPLICABLE:

Date _____

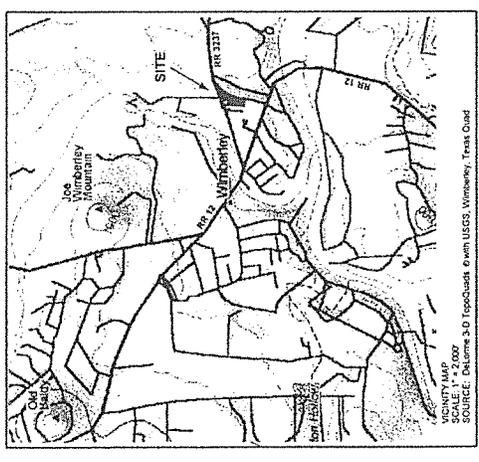
AGENT SIGNATURE

ORIGINAL SCALE
1" = 200'



OWNERSHIP MAP OF PROPERTY WITHIN
300 FEET OF LOT 8, DUNN PLAZA, CITY OF
WIMBERLEY, HAYS COUNTY, TEXAS
(OWNED BY THE WIMBERLEY PLAYERS)

Vol. 11 P. 399



- NOTES:**
- No portion of this subdivision lies within the boundaries of the Edwards Aquifer Recharge Zone.
 - No portion of this subdivision lies within the boundaries of the 100 year flood plain as delineated on Hays County Community Panel #48293C D160E, dated February 18, 1998.
 - This subdivision lies within the Wimberley Independent School District.
 - Water service for this subdivision is to be provided by Wimberley Water Supply in accordance with the Village of Wimberley Comprehensive Plan, per note 11 above.
 - Wastewater treatment for this subdivision is to be by individual on-site septic systems. Maximum wastewater discharge is 350 gallons per day per acre.
 - Electricity for this subdivision is provided by Pedernales Electric Cooperative, Inc.
 - No object, including buildings, fencing, or landscaping which would interfere with conveyance of stormwater, shall be placed or erected within a Drainage Easement. The owner(s) of lots upon which drainage facilities are located, including detention, shall be responsible for maintenance and upkeep.
 - Level 2 Development Plan and all other required engineering/consultation plans, including construction of water service to each lot and lot drainage consideration, including detention, required, must be reviewed and approved by the Village of Wimberley prior to issuance of Subdivision Plat.
 - The Landscape Plan requirements for each lot in this subdivision shall be addressed when a detailed site development plan, per note 11 above, for each individual lot is submitted. The individual lot owner of each lot shall be responsible for meeting these requirements.
 - Information and seal to be addressed in the site development plan, per note 11 above.
 - Common point-toe driveway accessing Lots 5/6 and Lots 3/4 may be required.
 - This subdivision shall be completed in accordance with the Comprehensive Plan.

LEGEND

- = 1/2" iron pin found unless otherwise noted
- = 1/2" iron pin set w/ red plastic cap marked "EAGLE SURVEYING"
- = concrete highway monument
- PUE = public utility easement
- BL = building setback line
- (XXXX) = recorded data
- = Hays County Deed Records
- = Hays County Plat Records
- = Local contours

REPLAT AND EXTENSION OF LOT 2 DUNN PLAZA

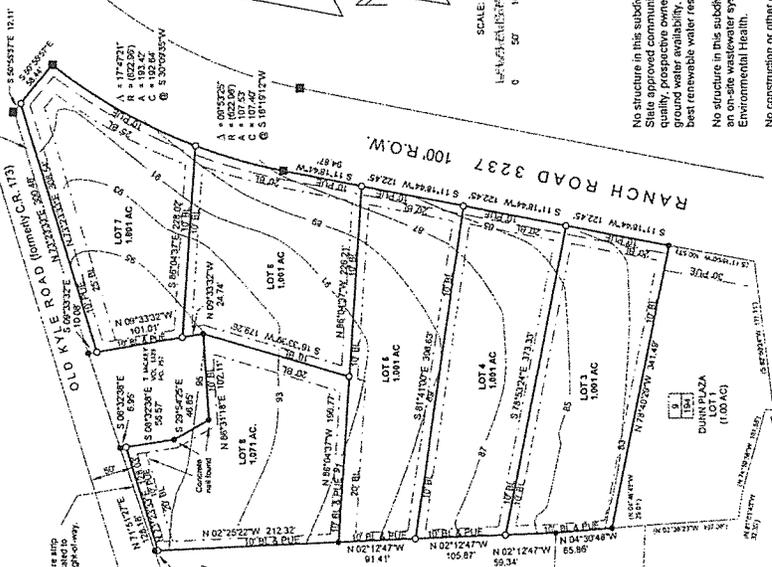
Village of Wimberley, Hays County, Texas

Based on the below representations of the engineer or surveyor whose seal is affixed hereto, and after a review of the plat as represented by the said engineer or surveyor, I find that this plat complies with the requirements of the Village of Wimberley. This certification is made solely upon such investigation and I shall assume no responsibility to any member of the public for independent verifications of the representation, factual or otherwise, contained in this plat and the documents associated with it.

Shawn Harrison, City Administrator
Date: 6-23-2004

Water Supply Statement:
Wimberley Water Supply, CCNW 10314, an approved water supply system, has adequate quantity to supply this subdivision and provisions have been made to provide water service to all lots in this subdivision in accordance with the policies of the water supply system.

Patricia Korbak, WWS Representative
Date: 6-23-2004



No structure in this subdivision shall be occupied until connected to an individual water supply or State approved community water system. Due to declining water supplies and diminishing water quality, prospective owners are cautioned by Hays County to question the seller concerning ground water availability. Rain water collection is encouraged and in some areas may offer the best renewable water resource.

No structure in this subdivision shall be occupied until connected to a public sewer system or to an on-site wastewater system, which has been approved and permitted by Hays County Environmental Health.

No construction or other development within this subdivision may begin until all Hays County Development Permit requirements have been met.

Allen G. Walker, Director
Date: 7-16-04

Hays County Environmental Health
Hays County Floodplain Administrator

EAGLE LAND SURVEYING
(512) 847-1079
P.O. Box 2264 Wimberley, TX, 78676



STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

That we, Paul J. Dunn, and Mary K. Dunn, the owners of the land included in Lots 3 through 7, as shown hereon, being a portion of the subdivision shown on the Official Records of Hays County, Texas, do hereby subdivide said parcel as shown hereon, and do hereby consent to all plat note requirements shown hereon, and do hereby dedicate to the Village of Wimberley the streets, alleys, right-of-way, easements, and public places shown hereon for such public purposes as the Village of Wimberley may deem appropriate. This subdivision is known as THE REPLAT AND EXTENSION OF LOT 2 DUNN PLAZA.

TO CERTIFY WHICH, WITNESS by my hand this 18 day of June, A.D. 2004.

Paul J. Dunn
Paul J. Dunn, P.O. Box 2700, Wimberley, Texas 78676

Mary K. Dunn
Mary K. Dunn, P.O. Box 2700, Wimberley, Texas 78676

STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

That I, Alan Eastwood, being the president of the Wimberley Players, Inc., being the owners of Lot 8 as shown hereon, being that same tract of land described in a deed recorded in Volume 2407, Page 281, of the Official Records of Hays County, Texas, do hereby subdivide said parcel as shown hereon, and do hereby consent to all plat note requirements shown hereon, and public places shown hereon for such public purposes as the Village of Wimberley may deem appropriate. This subdivision is known as THE REPLAT AND EXTENSION OF LOT 2 DUNN PLAZA.

TO CERTIFY WHICH, WITNESS by my hand this 21 day of April, A.D. 2004.

Alan Eastwood
Alan Eastwood, President, Wimberley Players, Inc.
Wimberley, Texas 78676

STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

That I, Adelle Turpen, being the president of the Wimberley Players, Inc., being the owners of Lot 8 as shown hereon, being that same tract of land described in a deed recorded in Volume 2407, Page 281, of the Official Records of Hays County, Texas, do hereby subdivide said parcel as shown hereon, and do hereby consent to all plat note requirements shown hereon, and public places shown hereon for such public purposes as the Village of Wimberley may deem appropriate. This subdivision is known as THE REPLAT AND EXTENSION OF LOT 2 DUNN PLAZA.

TO CERTIFY WHICH, WITNESS by my hand this 21 day of April, A.D. 2004.

Adelle Turpen
Adelle Turpen, President, Wimberley Players, Inc.
Wimberley, Texas 78676

STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

I, Lee Carlisle, Clerk of Hays County, Texas, do hereby certify that the foregoing instrument was filed for record in my office on this 23 day of April, A.D. 2004, at 11:00 o'clock A.M. in the Public Records of Hays County, Texas, in Book 17, Page 337, of record.

WITNESS MY HAND AND SEAL OF OFFICE this 23 day of April, A.D. 2004.

Lee Carlisle
LEE CARLISLE, COUNTY CLERK
HAYS COUNTY, TEXAS



STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

I, Cloyd Barrios, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this plat is true and correctly made from an actual survey made on the ground of the property hereon, and that the same is in accordance with the laws of the State of Texas, and that the corner monuments shown thereon were properly found or placed under my supervision on June 18, 2004.

TO CERTIFY WHICH, WITNESS my hand and seal at Wimberley, Hays County, Texas, this 28 day of June, A.D. 2004.

Cloyd Barrios
Cloyd Barrios, Registered Professional Land Surveyor #5404 State of Texas

STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

I, John Wickham, City Engineer of the Village of Wimberley, Texas, hereby certify that this subdivision plat conforms to all requirements of the Subdivision Regulations as to which approval is required.

6/24/04
Date

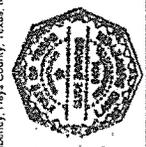
John Wickham
John Wickham, City Engineer
Village of Wimberley, Texas

Accepted and authorized for record by the Village Planning and Zoning Commission of the Village of Wimberley, Texas.

June 21, 04
June 18, 04
Date

Adelle Turpen
Adelle Turpen, City Secretary

Scale: 1" = 100'
Date: April 20, 2004
Job No.: 30472/DUNNPLB.ZAK cb

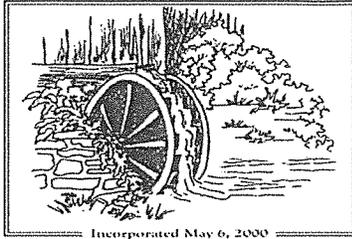


STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS

I, Cloyd Barrios, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this plat is true and correctly made from an actual survey made on the ground of the property hereon, and that the same is in accordance with the laws of the State of Texas, and that the corner monuments shown thereon were properly found or placed under my supervision on June 18, 2004.

TO CERTIFY WHICH, WITNESS my hand and seal at Wimberley, Hays County, Texas, this 28 day of June, A.D. 2004.

Cloyd Barrios
Cloyd Barrios, Registered Professional Land Surveyor #5404 State of Texas



City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676
Phone: (512) 847-0025 - Fax: (512) 847-0422

Mac McCullough, Mayor - John White, Mayor Pro-Tem
Council Members - Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld
Don Ferguson, City Administrator

November 17, 2016

NOTICE OF PUBLIC HEARING

Re: **File No. CUP-16-021**
450 Old Kyle Road, Wimberley, Texas

Dear Property Owner:

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

The applicant, Wimberley Players, has applied for a Conditional Use Permit to allow for the *Limited Duration On-Premise Sale and Consumption of Beer and Wine* on property zoned Participant Recreation-High Impact (PR-2) located at 450 Old Kyle Road, Wimberley, Texas.

The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **December 8, 2016, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater. Upon a recommendation from the Commission, City Council will hold a Public Hearing to consider the same request on **January 5, 2017, at 6:00 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

EWEAC PROPERTIES LLC
701 MOUNTAIN CREST DR
WIMBERLEY, TX 78676-3368

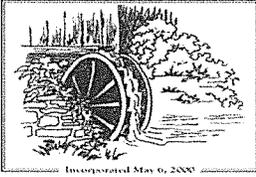
WIMBERLEY MEDICAL PLAZA
9811 S IH 35,
BLDG 3, SUITE 100
AUSTIN, TX 78744-7929

ROMIKE JAMES RANDALL &
KARL LEE ROMIKE
141 PROSPECT ST EXT
LABANON, NH 03766

BURNETTE CARL W JR FAMILY
TRUST & STORM LYNNE
3310 GENTRY DR
AUSTIN, TX 78746-5507

WIMBERLEY CEMETARY ASSN
PO BOX 786
WIMBERLEY, TX 78676

P&Z Commission Agenda Form



Date Submitted: December 5, 2016

Agenda Date Requested: December 8, 2016

Project/Proposal Title: PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION REGARDING A PROPOSED ORDINANCE AMENDING THE REGULATIONS FOR VACATION RENTAL FACILITIES OPERATING IN THE CITY

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the Planning and Zoning Commission to hold a public hearing and consider making a recommendation on a proposed ordinance amending the City Code requirements for vacation rental facilities. Specifically, the proposed ordinance makes the following changes recommended in the recent short-term rental regulatory review conducted by the Planning and Zoning Commission and City Council:

- Requires vacation rental facilities to have a non-transferable license that must be renewed every two (2) years and establishes a procedure for those facilities with a history of complaints.
- Establishes a refund procedure for application fees when vacation rental CUP applications are withdrawn prior to presentation to the Planning and Zoning Commission.
- Establishes a 20% percent rule, similar to that which exists for the City Council, for the Planning and Zoning Commission when considering vacation rental CUP applications.
- Establishes size and location requirements for property address signage for vacation rental properties.
- Requires the operators of vacation rental facilities to provide guests with a property map showing property boundaries and advising that trespassing is prohibited.
- Prohibits vacation rental facility operators from advertising an occupancy for the rental property that is greater than the septic capacity for the rental property, as established by the City.
- Requires individuals responsible for responding to complaints regarding vacation rentals to be able to respond within thirty (30) minutes of receiving such complaints.

In addition to the above-mentioned ordinance changes, the City will be modifying the Conditional Use Permit application for vacation rental facilities to incorporate the changes recommended in the recent regulatory review conducted by the Planning and Zoning Commission and City Council.

ORDINANCE NO. ____

AN ORDINANCE AMENDING TITLE XI (BUSINESS REGULATIONS), CHAPTER 112 (REGULATION OF VACATION RENTALS AND BED AND BREAKFAST LODGINGS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTION 155.065 (VACATION RENTAL LODGING REQUIREMENTS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, A SAVINGS CLAUSE, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley, Texas (the “City”) seeks to provide for the health, safety and welfare of its citizens; and

WHEREAS, sections 215.033 and 215.034 of the Texas Local Government Code provide the City with the authority to issue licenses for businesses to be operated within the City; and

WHEREAS, the City’s Code of Ordinances provides that the use of property for new vacation rental facilities requires the property owner to obtain a Conditional Use Permit (CUP); and

WHEREAS, the City requires all operators of vacation rental facilities to obtain an operator’s permit, regardless of whether the property has a CUP or is a nonconforming use; and

WHEREAS, the Council finds that it is important for the City to provide an effective avenue for the owners and residents of neighboring properties to report alleged violations of permit terms and for the City to address such violations;

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, 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 City’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 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, 211, and 213; and

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals, and general welfare; 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

Section 1. Findings. 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.

Section 2. Amendment.

A. Title XI (Business Regulations), Chapter 112 (Regulation of Vacation Rentals and Bed and Breakfast Lodgings), is hereby amended as follows:

“CHAPTER 112: REGULATION OF VACATION RENTALS AND BED AND BREAKFAST LODGINGS

§ 112.01 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BED AND BREAKFAST LODGING. A “bed and breakfast lodging” as defined by section 155.005 of the City of Wimberley Code of Ordinances.

BED AND BREAKFAST BOOKING AGENCY. A person or entity that provides reservation services, billing services, or other related services on behalf of the owner of a bed and breakfast lodging.

VACATION RENTAL AGENCY. A person or entity that provides reservation services, billing services, or other related services on behalf of the owner of a vacation rental.

VACATION RENTAL. A “vacation rental” as defined by section 155.005 of the City of Wimberley Code or Ordinances.

§ 112.02 PERMIT REQUIRED

(A) A person commits an offense if the person owns or operates a bed and breakfast lodging or a vacation rental without a valid permit issued by the City.

- (B) A permit holder must satisfy the following requirements:
- (1) The property must have a valid Conditional Use Permit (CUP) for the operation of a bed and breakfast lodging or vacation rental, or the property must be eligible to operate as a bed and breakfast lodging or vacation rental as a nonconforming use:
 - (2) Unruly gatherings are prohibited. An “unruly gathering” means a gathering of more than one person that is conducted on a premises within the city and by which, by reason of the conduct of those persons in attendance, results in the occurrence of one or more of the following conditions or events on public or private property: rioting; trespassing; the unlawful sale, furnishing, possession, or consumption of alcoholic beverages; the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights, or quarrels; public urination or defecation; indecent or obscene conduct or exposure; or any other occurrence that results in a call for service by a law enforcement agency.
 - (3) The property owner shall comply with all requirements of any applicable CUP.

(C) *Additional Permit Requirements for Vacation Rentals.* In addition to the foregoing, a vacation rental permit holder must satisfy the following requirements:

- (1) *Staff review.* Prior to permit renewal, City staff will review the history of the permitted site, including but not limited to, the number of complaints received by the City during the most recent permit period. In the event that a permitted property has received two (2) or more registered complaints during the most recent permit period, the owner of the property must appear before the City Council as a condition to permit renewal.
- (2) The subject property owner shall provide the City and property owners, within 200 feet of the subject property, with the current name and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owner shall notify the City and property owners within 200 feet of the subject property, with the current name and contact information.
- (3) All vacation rentals must display an address sign no more than ten (10) feet from the street with address numbers at least six (6) inches high.

§ 112.03 PERMIT APPLICATION PROCEDURES

A person required by section 112.02 to have a permit shall do the following:

(A) Complete and file a permit application on a form prescribed by the City Administrator;

(B) Submit with the application proof of ownership of the property;

(C) Submit with the application the name and primary contact information of the owner of the bed and breakfast lodging or vacation rental and of the reservation agent, if applicable ~~the person or entity who will operate the bed and breakfast lodging or vacation rental~~. For purposes of this subsection, the contact information must identify a person or person(s) who can respond to communications from the City regarding the property in the event of an emergency.

(D) Provide any additional information requested by the City Administrator.

§ 112.04 ISSUANCE AND DISPLAY OF PERMIT.

(A) The City Administrator may issue a permit after the applicant pays all applicable fees and satisfies all of the requirements of this Code, including, if applicable, obtaining a Conditional Use Permit (CUP).

(B) A permit shall be valid for two (2) years ~~one (1) year~~ from the date of its issuance, unless suspended or revoked.

(C) A permit shall not be transferable.

(D) The City Council shall set a permit fee for each registered bed and breakfast lodging or vacation rental.

(E) The permit holder shall cause a copy of the permit to be posted in a conspicuous location on the premises of the bed and breakfast lodging or vacation rental.

§ 112.05 ~~MARKETING OF UN-PERMITTED~~ PROPERTY FOR USE AS VACATION RENTAL OR BED AND BREAKFAST LODGING

(A) It shall be unlawful for any person, including, but not limited to, a bed and breakfast booking agency, to facilitate a reservation between the owner of a bed and breakfast lodging and a third party when the bed and breakfast booking agency has actual or constructive knowledge that the bed and breakfast lodging does not comply with the requirements of section 155.064 of this Code (Bed and Breakfast Lodging Requirements), including, but limited to, the requirement that a bed and breakfast lodging obtain an approved CUP.

(B) It shall be unlawful for any person, including, but not limited to, a vacation rental agency, to advertise an occupancy limit for a vacation rental that exceeds the septic capacity for the vacation rental property as established by the City or to otherwise facilitate a reservation between the owner of a vacation rental and a third party when the vacation rental agency has actual or constructive knowledge that the vacation rental does not comply with the requirements of section 155.065 of this Code (Vacation Rental Requirements), including, but limited to, the requirement that a vacation rental obtain an approved CUP. The owner of the property or the owner's agent, which may be a vacation rental agency, shall provide each renter a property map for the vacation rental property that shows the boundaries of the property and advises that trespassing on adjacent property is prohibited.

(C) It shall be unlawful for any person to list or otherwise market a property for sale as a new vacation rental or new bed and breakfast lodging without disclosing to the buyer that such property may not be used for the purpose of a vacation rental or bed and breakfast lodging without an approved CUP. It shall constitute a defense to prosecution under this subsection (C) that the defendant provided the buyer with a written notice that reads, in bold-faced type: "THIS PROPERTY HAS NOT BEEN APPROVED BY THE CITY OF WIMBERLEY FOR USE AS A BED AND BREAKFAST LODGING OR VACATION RENTAL."

§ 112.06 ENFORCEMENT PROCEDURE

(A) The City shall record a complaint from any person regarding a bed or breakfast lodging or vacation rental.

(B) Upon receipt of such a complaint, the City shall promptly notify the owner of the property and listing agent (if applicable) and take other appropriate action as necessary.

(C) If the City Administrator receives two or more complaints relating to unruly gatherings on a single property within a one-year period, the City Administrator shall place the matter on the next available City Council agenda so that the Council may consider whether the property owner has violated the terms of the permit.

(D) In the event that the Council determines that the terms of the permit have been violated, the Council may revoke the permit.

(E) In the event that the Council revokes a permit under this subsection, the City shall not accept a new permit application for that property until the expiration of one year from the date of revocation."

B. Title XV (Land Usage), Chapter 155 (Zoning), Section 155.065 (Vacation Rental Lodging Requirements) of the City of Wimberley Code of Ordinances is hereby amended as follows:

"§ 155.065 VACATION RENTAL LODGING REQUIREMENTS

(A) *Purpose.* The requirements listed below are intended to promote the orderly development and use of property as vacation rentals in order to promote the

public health and safety of the community. Vacation rental facilities are permitted in residential zoning districts and as such the regulations herein are the minimal necessary to mitigate any possible impact of such uses on the surrounding neighborhood, while allowing property owners to reasonably use their property. The residential feel and character of a vacation rental property shall be maintained and not unnecessarily intrude upon the adjacent neighbors.

- (B) An approved Conditional Use Permit (CUP) shall be required for a vacation rental lodging facility.
- (C) All approved CUP shall comply with any conditions imposed as part of the CUP application process, this section 155.065 and any other applicable ordinance, law or regulation.
- (D) The review for CUP approval of a vacation rental lodging facility shall consider the impact of tenant activity on the surrounding residential properties, the neighborhood and environment, and other factors as the Commission deems appropriate. Factors for review of a CUP application shall include but not be limited to consideration of the following:
 - (1) Permitted uses in the applicable zoning district;
 - (2) The proposed occupancy and the size of the property, and whether a smaller occupancy level is appropriate;
 - (3) Setbacks and proximity to other dwellings;
 - (4) Rental regulations (such as no large parties, no extra guests) imposed by the owner and the degree of owner involvement in property management;
 - (5) Occupant access to waterways and other environmentally sensitive areas;
 - (6) Vehicle access and on-site parking and the number of parking spaces available;
 - (7) Compliance with all state, county, and city ordinances, laws, rules, and regulations, including the Building Code and Fire Code; and
 - (8) Adequacy of wastewater treatment systems.
- (E) In addition to any conditions imposed as part of the approved CUP, the following regulations shall be applicable to all vacation rental lodging facilities and shall be incorporated into the terms of the CUP:
 - (1) An approved Conditional Use Permit (CUP) shall be required.

(2) Property shall be subject to inspection at any time by designated City representatives, if compliance is in question, with property notice provided if feasible.

(3) The CUP shall terminate and be considered abandoned if and when there is evidence of no rental activity, based in part on the State Occupancy Tax Reports, for a period of nine (9) consecutive months. The burden is on the property owner to prove that the use of the property has been in continuous use. One (1) smoke alarm shall be provided in each guest bedroom along with a fire extinguisher visible and accessible to guests. A fire escape plan shall be developed and graphically displayed in each guest room. A second exit from the lodging facility structure shall be provided.

(4) Signage for vacation rentals located in Planning Areas I and II shall be limited to one (1) non-illuminated sign not to exceed four (4) square feet in area and shall be of traditional hill country design and color. Signage on such properties located in all other Planning Areas shall be subject to the regulations set forth in the City Sign Ordinance.

(5) A valid taxpayer number for reporting any Texas tax shall be provided to the City along with a copy of the completed *State of Texas Hotel Occupancy Tax Questionnaire (form AP-102)* no later than thirty (30) days following the approval of the CUP.

(6) If there is a change in ownership of the property, the City shall be notified of any change in property ownership within thirty (30) days of such change.

(7) If guests have water access, 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.

(8) The on-site sewage facility shall be inspected and shall be sufficient to provide adequate capacity for the maximum occupancy permitted. The City may request that written proof of capacity be provided at any time.

(9) A copy of the requirements set forth in the CUP shall be made available to all guests.

(10) On-street parking is prohibited. One (1) parking space is required per room rented subject to modification as part of the CUP approval process. Required off-street parking shall be provided on the same site as the use it is to serve. Parking areas shall be clearly identified on the property and adequate maneuvering space shall be provided for vehicle ingress and egress. In Planning Areas I and II, all vehicle parking shall be on a suitable parking surface approved by the City. In all other Planning Areas, all off-street parking shall be surfaced in

accordance with the parking lot surfacing requirements in the City's ordinances. In such areas, no parking shall be permitted on grass, within landscaped areas, or on other unimproved surfaces.

(11) The maximum occupancy allowed shall be reviewed and determined in each individual CUP application based on number of rooms, beds, parking, neighborhood input, septic system capacity and any other factor determined to be relevant by the Commission or Council. Owner occupancy is permitted but not required. However, the subject property owner shall provide the City and property owners, within 200 feet of the subject property, with the current name and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owner shall notify the City and property owners within 200 feet of the subject property, with the current name and contact information.

(12) In Planning Areas I and II, property used as a vacation rental may be used for receptions, private parties or the like attended by paying guests and a limited number of non-paying guests, provided adequate parking and septic system capacity exists for such a gathering. At any given time, the total number of renting and non-renting guests attending such gatherings shall not exceed a number equaling the maximum occupancy as established in the CUP plus thirty (30) percent of that maximum capacity... All outdoor activities associated with such gatherings shall end at 10 p.m. Unruly gatherings are prohibited. Unruly gathering means a gathering of more than one person which is conducted on a premises within the city and which, by reason of the conduct of those persons in attendance, results in the occurrence of one or more of the following conditions or events on public or private property; rioting; trespassing, the unlawful sale, furnishing, possession or consumption of alcoholic beverages; the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights, or quarrels; public urination or defecation; or indecent or obscene conduct or exposure.

(F) Special Procedures for Planning and Zoning Commission Consideration of CUP Application. If a proposed CUP application is protested in accordance with this subsection, the proposed change must receive, in order to proceed as an affirmative recommendation for approval by the Planning and Zoning Commission, the affirmative vote of at least three-fourths of all members of the Commission. The protest must be written and signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed CUP and extending 200 feet from that area. In computing the percentage of land area under this subsection, the area of streets and alleys shall be included.

(G) Partial Refund of Application Fee. An applicant for a vacation rental CUP who withdraws his or her application prior to presentation to the Planning and Zoning Commission is entitled to a refund of all but \$100 of the applicant's application fee. No fees shall be refunded if the CUP application is withdrawn after presentation to the Planning and Zoning Commission."

Section 3. Savings. Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect.

Section 4. Repealer. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

Section 5. Severability. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

Section 6. Effective Date. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

Section 7. Proper Notice and Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance is 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 Meeting Act, Chapter 551, Texas Government Code.

PASSED AND APPROVED this _____ day of _____, 20__, by a vote of _____ (Ayes) to _____ (Nays) _____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

Hershel "Mac" McCullough, Mayor

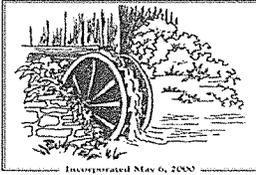
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

City Attorney

P & Z Commission Agenda Form



Date Submitted: December 5, 2016

Agenda Date Requested: December 8, 2016

Project/Proposal Title: STAFF & COMMISSION
REPORTS

Funds Required:
Funds Available:

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for reports to be presented by Commission members and for future agenda item requests.