

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

APRIL 14, 2016 - 6:00 P.M.

AGENDA

CALL TO ORDER: APRIL 14, 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.

APPROVAL OF MINUTES OF THE REGULAR PLANNING & ZONING COMMISSION MEETING ON MARCH 24, 2016.

2. PUBLIC HEARINGS AND POSSIBLE ACTION

- (A) HOLD A PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION TO CITY COUNCIL REGARDING CASE CUP-16-008, AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF A DRIVE-IN/DRIVE-THROUGH COFFEE SHOP ON PROPERTY ZONED HIGHWAY COMMERCIAL (HC), LOCATED AT 9595 RANCH ROAD 12, SUITE 4, WIMBERLEY, HAYS COUNTY, TEXAS. *(LAUREN NORSWORTHY, APPLICANT)*
- (B) HOLD A PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION TO CITY COUNCIL REGARDING CASE CUP-16-009, AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF A SIT-DOWN EATING ESTABLISHMENT WITH THE SALE OF BEER AND WINE FOR ON-PREMISE CONSUMPTION ON A TRACT OF LAND ZONED SCENIC CORRIDOR (SC), LOCATED AT 12111 RANCH ROAD 12, SUITES 105 AND 106, WIMBERLEY, HAYS COUNTY, TEXAS. *(GREGORY IRVINE, APPLICANT)*
- (C) HOLD A PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION TO CITY COUNCIL REGARDING A PROPOSED ORDINANCE AMENDING THE CITY OF WIMBERLEY COMPREHENSIVE PLAN AND ACCOMPANYING MAPS TO REVISE THE BOUNDARIES OF PLANNING AREAS III AND VI, IN THE GENERAL AREA OF FM 2325 BETWEEN RHODES LANE AND CARNEY LANE. *(CITY OF WIMBERLEY)*

3. DISCUSS AND CONSIDER POSSIBLE ACTION

- (A) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING PROPOSED MODIFICATIONS TO THE CITY OF WIMBERLEY LIGHTING ORDINANCE. *(CITY ADMINISTRATOR)*
- (B) DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING CHANGES TO THE CITY OF WIMBERLEY ZONING CODE. *(CITY ADMINISTRATOR)*

4. 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

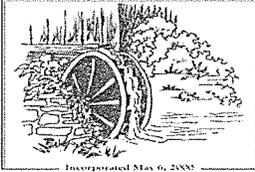
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on April 11, 2016 at 5:00 p.m.



CARA MCPARTLAND, 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: April 11, 2016

Agenda Date Requested: April 14, 2016

Project/Proposal Title: APPROVAL OF MINUTES
OF THE REGULAR PLANNING & ZONING
COMMISSION MEETING ON MARCH 24, 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 March 24, 2016 for review and consideration.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
Planning & Zoning Commission
 Minutes of Regular Meeting
 March 24, 2016 at 6:00 p.m.

Meeting called to order at 6:00 p.m. by Chair Rick Millinor. Present were Commissioners John Urban, Tracey Dean, Austin Weeks (assumed duties after oath of office administered), Charles Savino, Thad Nance, and Rick Burleson.

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

Oath of Office

Administer oath of office to newly appointed Commissioner Austin Weeks.
(Mayor Steve Thurber)

Mayor Thurber administered the oath of office to Commissioner Weeks.

Citizen Communications:

No citizen comments were heard.

1. Consent Agenda

Approval of minutes of the Regular Planning & Zoning Commission meeting on February 11, 2016.

City Administrator Ferguson recommended the following amendment to Agenda Item 4 (Staff and Commission Reports), to delete Paragraphs 1-3 and replace as follows: "Commission members discussed the role of the Planning and Zoning Commission in future discussions regarding transmission line improvements. City Administrator Ferguson advised the Commission that the Comprehensive Plan has been approved by the City Council."

Commissioner Savino moved to approve the minutes, as amended. Commissioner Burleson seconded. Motion carried on a vote of 7-0.

2. Public Hearings and Possible Action

- A. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-001, an application for a conditional use permit to allow for the operation of a bed and breakfast facility on a tract of land zoned Rural Residential 1 (R-1), located at 1415 E. Spoke Hill Drive, Wimberley, Hays County, Texas. (*Herschel "Mac" McCullough, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing primary and secondary residences. He noted that the applicant intends to use the secondary residence as a bed and breakfast operation with a maximum occupancy of two (2) people. Based on a review of the property permitted and functioning on-site septic facility (OSSF), City staff recommends a maximum occupancy of two (2) people for the proposed bed and breakfast. City Administrator Ferguson read a list of conditions to be made part of the requested conditional use permit (CUP), should the Commission desire to recommend approval. It was noted that one (1) phone call was received from one (1) property owner who expressed verbal opposition and the intent to submit written opposition, but to date no written correspondence has been received by City staff.

Chairman Millinor opened the public hearing.

Paradise Hills resident Jo Kathryn Quinn cautioned that the Paradise Hills neighborhood is confined and not spread out. She said that there are concerns about the density of bed and breakfasts and vacation rentals in her neighborhood. She felt that a bed and breakfast is the "lesser of two evils" (as compared to a vacation rental), but feared every time a rental is approved, it creates a "slippery slope" that would turn the neighborhood into a rental environment, rather than a place where permanent residents live. She believed that a maximum occupancy of only two (2) people would not be likely to cause huge traffic concerns. She said people who rent without a sense of ownership do not typically take care of the neighborhood the way permanent residents would. Ms. Quinn stated that she did not have strong opposition to this CUP application, but wanted to take this opportunity to speak to the Commission about her neighborhood's concerns that little by little most of the neighborhood could become rental properties. She requested that an additional condition be added to terminate the CUP if the subject property changes ownership outside the McCullough family. City Administrator Ferguson explained that a CUP is a zoning action that goes with the property, regardless of ownership changes. Commissioner Millinor noted that CUPs may be canceled if CUP conditions are not met.

Applicant Mac McCullough said he took all of previous speaker Quinn's comments into consideration before submitting his CUP application and spoke of his consultation with a neighboring property owner, who expressed no objections. He noted that his property has ample parking and is on a private, dead end street. He also spoke of his desire to protect individual neighborhood property owners by proposing that complaints against any short-term rentals be directed to City staff (rather than rental agents) and creating a "two-strike" program that would trigger the CUP holder's appearance before the Commission and/or City Council to address complaints.

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

Discussion addressed compliance/enforcement of the requirement that a bed and breakfast owner (or representative) reside on the property while being rented; existing CUP for a secondary residence on the subject property; applicant McCullough's

abovementioned proposed complaint procedures; parliamentary procedures restricting discussion to tonight's specific agenda items; road maintenance/access issues in Paradise Hills; existing area short-term rentals; and possible signage restrictions to prohibit advertising of the rental operation. Applicant Mac McCullough stated he has no intention of placing any signage for the proposed rental and noted types of signs placed on other area rentals.

Commissioner Savino moved to recommend approval of the CUP, as presented. Commissioner Dean seconded. Commissioner Burleson said he would vote in support of CUP application, given lack of definitive neighborhood opposition, particularly from immediate neighbors, and the fact that this is a bed and breakfast rental requiring that the property owner/representative reside on the property while rented. Motion carried on a vote of 7-0.

- B. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-002, an application for a conditional use permit to allow for the operation of a vacation rental on a tract of land zoned Rural Residential 1 (R-1), located at 310 Summit Loop, Wimberley, Hays County, Texas. (*Lisa Risoli, Applicant; this application has been withdrawn*)

City Administrator Ferguson reported on the City's recent short-term rental compliance project to identify those operations that are pre-existing, non-conforming ("grandfathered") properties and those that require issuance of a bed and breakfast/vacation rental CUP. He explained that Council approved a policy (subsequent to the subject CUP application submittal) which would allow property owners who provide an affidavit to obtain grandfathered status by indicating they have owned the property for at least five (5) years and that the short-term rental has been in continuous use since they have owned the property. He noted that grandfathered status may be removed under certain circumstances. Because the applicant has received grandfathered status from the City, a CUP is no longer required for the short-term rental to continue operations. The applicant understands that the maximum occupancy for the vacation rental shall not exceed five (5) people in accordance with the City Sanitarian's review of septic records.

Commissioner Nance moved to accept withdrawal of the application, as presented. Commissioner Savino seconded. Motion carried on a vote of 6-1. Commissioner Burleson voted against.

- C. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-003, an application for a conditional use permit to allow for the operation of a vacation rental on a tract of land zoned Rural Residential 1 (R-1), located at 401 Rocky Springs Road, Wimberley, Hays County, Texas. (*Bruce and Carole Boatner, Applicants*)

City Secretary McPartland reviewed the subject property's location, current/proposed zoning and uses, and existing 1,752 square-foot, two-bedroom residence. She noted

that the applicant intends to use the residence as a vacation rental operation with a maximum occupancy of four (4) people. Based on a review of the properly permitted and functioning on-site septic facility (OSSF), City staff recommends a maximum occupancy of four (4) people for the proposed vacation rental. In addition to the applicant's house rules, City Secretary McPartland read a list of conditions to be made part of the requested conditional use permit (CUP), should the Commission desire to recommend approval. It was noted that one (1) phone call was received from one (1) property owner who expressed verbal opposition and the intent to submit written opposition, but to date no written correspondence has been received by City staff. One adjacent (1) property owner submitted written opposition and two (2) written responses were received in support of the CUP request.

Chairman Millinor opened the public hearing.

The applicants' representative, Aaron Scott of Sky Run Vacation Rentals, has worked with the Boatners for approximately one (1) year and noted that applicable Hotel Occupancy Tax reports have been filed and remittances made to both the State and City. He advised that there will be no signage for the rental and that no complaints have been received by the City. He stated that rental guests are required to be over twenty-five years of age and said that a video camera is set to be installed to monitor the parking area. Mr. Scott advised that he can respond to any calls and be on the property within five (5) minutes. Mr. Scott said that he met with neighboring property owner Craig Reitz several months ago to address concerns relating to trash cans for the subject property and provided Mr. Reitz with his cell phone number. He advised that Mr. Reitz did not call him following that meeting. Mr. Scott stated that one of his employees moves the trash cans from view on trash pick-up days. In response to a request from Mr. Reitz, Mr. Scott advised that plans to build a fence that would hide the trash cans were pulled and the fence was torn down, with the cans now hidden behind vegetation. Mr. Scott noted his "24-7" availability to handle any calls.

Discussion addressed duration of the existing short-term rental operation; approximate once monthly occupation of the subject residence by homeowners; vacant state of the residence prior to its use as a vacation rental; lack of complaints in the last year (with the exception of the aforementioned concerns regarding trash cans); approximately seventy-five (75) nights per year that residence is rented or owner-occupied; complaint/emergency contact person(s); and Mr. Scott's response time within two to five minutes of any calls.

Craig Reitz of 504 Rocky Springs read and distributed a letter (*full text attached to these minutes*) expressing strong objection to CUP requests for both 401 Rocky Springs and 505 Rocky Springs (*see Agenda Item 2E*) based on concerns regarding car traffic, noise, theft, vandalism, decreased property values, and vacation rental use in a residential community. He also distributed a letter of opposition from Dr. Rodger Marion of 151 Rocky Springs and a map of Rocky Springs Subdivision Sections 1 and 2. Mr. Reitz feared a "slippery slope" that would turn residential communities into rental areas to generate capital and allow speculators to come in and turn vacant homes into

vacation rentals. He said the people who bought in these communities did not expect to have vacationers nearby for days with no way to control them. He recounted his experience in Florida with vacation rentals in residential areas that he described as the scourge of communities with vandalism and car thefts. Mr. Reitz spoke of the subject property's total acreage, location, and access relative to his own property. He said there are enough vacation rentals in Wimberley and we do not need to start inserting rentals for speculation by people who are non-residents. Mr. Reitz acknowledged his aforementioned contact with Mr. Scott regarding problems with trash cans.

Rocky Springs' resident Marcus "Sandy" Wall agreed with Mr. Reitz's comments, spoke of his family's history in Wimberley, and understood the interest in generating revenue, but felt it should not be "at our expense." He expressed concerns about the rental's effect on his property's value and stood in opposition.

Judy Cureton commented on her move to Wimberley from Woodcreek and her respect for property owners. She said that when you buy a home you need to look at restrictions, homeowners' association rules, and what is allowed. She said it seems unfair to allow people in some residential areas of Wimberley to have vacation rentals but not in others. Ms. Cureton stated there are benefits to both having (and not having) a homeowners association with restrictions.

In response to Ms. Cureton's previous remarks, Mr. Reitz replied that Rocky Springs Subdivision is subject to deed restrictions, but understood that this is a zoning matter before the City. City Administrator Ferguson confirmed that the City does not enforce deed restrictions.

In response to Mr. Reitz's earlier comments regarding trash cans, Aaron Scott reiterated that his employee removes trash cans from view after weekly pick-up. He noted that the Boatners hold a New Year's party every year and neighbors were invited and notified of the parties, which have resulted in no complaints.

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

Commissioner Urban stated that input from adjacent property owners is very important and influences his decision and at this point is not in favor of recommending approval.

Commissioner Dean stated that participation of neighbors has been historically very important to the Commission's consideration. He said due to the amount of opposition expressed he does not favor recommending approval.

Discussion between Commissioner Weeks and City Administrator Ferguson clarified differences in Code provisions relating to bed and breakfasts versus vacation rentals. City Administrator Ferguson explained that zoning cases are land use decisions that are made on a case-by-case basis and are examined on their own merits.

Commissioner Savino respected the views of adjacent property owners, but absent complaints to date on the rental operation, he questioned the adverse impact to surrounding properties and property values. He noted that Rocky Springs properties are large acreage and far apart and said there seems to be effective ways to mitigate any possible negative effects from rental operations.

Commissioner Nance stated that neighbors speaking in opposition means a lot and said he would be against recommending approval.

Commissioner Burleson stated that he would not recommend approval based on neighborhood opposition and believed that rentals are a gray area between residential and commercial use and can change the character of a neighborhood.

Chairman Millinor stated almost every zoning district allows short-term rentals with a conditional use permit, however, he said that it is not the right thing to do in every case. Lacking other guidelines, Chairman Millinor felt the best test is to consider the sentiments of surrounding property owners, who he said have spoken clearly tonight.

Commissioner Dean moved to recommend denial of the CUP and requested a roll call vote. Commissioner Burleson seconded.

Chairman Millinor called for a vote as follows: Commissioner Urban, aye; Commissioner Dean, aye; Commissioner Weeks, aye; Chairman Millinor, aye; Commissioner Savino, nay; Commissioner Nance, aye and Commissioner Burleson, aye. Motion carried on a vote of 6-1.

City Administrator Ferguson provided details on the so-called "Twenty-Percent Rule," if applicable, requiring an affirmative vote of at least three-fourths of all Council members to overrule the Commission's recommendation of denial.

- D. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-004, an application for a conditional use permit to allow for the operation of a vacation rental on a tract of land zoned Single Family Residential 2 (R-2), located at 1851 Flite Acres Road, Wimberley, Hays County, Texas. (*Aaron and Angela Scott, Applicants*)

This item was heard after Agenda Item 4E.

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing 2,484 square foot, five bedroom residence. He advised the applicant is proposing to use the residence as a vacation rental with a maximum occupancy of twelve (12) people. There is a properly permitted and functioning on-site septic system that serves the residence. Based on a review of the septic system and proposed use, City staff recommends a maximum occupancy of four (4) people.

The applicant, Aaron Scott, has submitted plans from a registered sanitarian that would upgrade the existing septic system to meet the requirements for a maximum occupancy of twelve (12) persons. Should the CUP be granted with a maximum occupancy of twelve (12) persons, as requested, the applicant understands that he must submit an On-site Sewage Facility (OSSF) Permit application and pay any applicable fees before commencing construction of the proposed system. The applicant would be required to limit maximum occupancy to four (4) guests until the newly installed septic system has been issued a City permit. Guests would be required to park on the subject property.

In addition to the applicant's house rules, City Administrator Ferguson read a list of conditions to be made part of the requested CUP, should the Commission desire to recommend approval. It was noted that to date no responses either for or against the CUP request, except for one (1) written comment from a property owner outside the notification area who stated he had no objections to the proposed vacation rental.

Chairman Millinor requested clarification on Commission action related to maximum occupancy. City Administrator Ferguson stated that the applicant is requesting a maximum occupancy of twelve (12) people, while staff's recommendation is for four (4) people, unless the septic system is modified to accommodate twelve (12) people.

Chairman Millinor opened the public hearing.

Applicant Aaron Scott said he has paid for a septic system design that would accommodate twelve (12) people and has an appointment with the septic installer to proceed, should Council approve this CUP request. He noted there is ample parking for the proposed vacation rental and confirmed that the subject property has not incurred any flood damage.

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

Commissioner Burlison asked if the City has approved any other vacation rental CUPs with a maximum occupancy of twelve (12) people. City Administrator Ferguson recalled that the Square Inn has a maximum occupancy of at least twelve (12) or more persons.

Aaron Scott stated reasoning for his maximum occupancy request of twelve (12) persons based in part on two sets of bunk beds built into the walls of one of the five bedrooms. However, Mr. Scott said that a maximum occupancy of ten (10) people would be acceptable, if the Commission and Council so desires.

Discussion addressed allowed uses in the subject property's planning area, neighborhood input as part of the CUP process, historic lack of objections to vacation rentals in the Flite Acres area, concerns with a maximum occupancy of twelve (12) people, subject property's lot size, parking spaces/surfaces, and maximum of four (4) vehicles allowed per applicant's house rules.

Possible additional CUP conditions were considered to require landline telephone service for the purpose of receiving emergency notification calls; to limit parking to no more than four (4) vehicles; and, to not allow parking on the grass.

Commissioner Urban moved to recommend approval of the CUP request, with conditions as presented, for a maximum occupancy of twelve (12) people, and including the following additional conditions:

Landline telephone service, with a publicly listed phone number, shall be maintained on the property at all times to allow for receipt of emergency notification phone calls. Notice, in a form acceptable to the City, shall be posted on the property advising guests of the purpose for the telephone and the need to answer the phone. In addition, the phone number for the subject landline telephone shall be registered with the City and Hays County emergency phone notification systems.

Parking shall be limited to no more than four (4) vehicles. No parking shall be allowed on grass.

Commissioner Savino seconded. Motion carried on a vote of 6-1. Commissioner Weeks voted against.

- E. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-005, an application for a conditional use permit to allow for the operation of a vacation rental on a tract of land zoned Single Family Residential 2 (R-2), located at 505 Rocky Springs Road, Wimberley, Hays County, Texas. *(Carl and Brynn Anderson, Applicants)*

This item was heard after Agenda Item 4C.

City Secretary McPartland reviewed the subject property's location, current/proposed zoning and uses, and existing 3,046 square-foot, two-bedroom residence. She noted that the applicant intends to use the residence as a vacation rental operation with a maximum occupancy of four (4) people. Based on a review of the property permitted and functioning on-site septic facility (OSSF), City staff recommends a maximum occupancy of four (4) people for the proposed vacation rental. City Secretary McPartland read a list of conditions to be made part of the requested conditional use permit (CUP), should the Commission desire to recommend approval. It was noted that one (1) property owner submitted written opposition and two (2) property owners submitted written support for the CUP request.

Chairman Millinor opened the public hearing.

Applicant's representative Aaron Scott referred to his earlier comments on Agenda Item 4C and said renters who visit Wimberley spend money here, which helps the local economy and increases sales tax revenues. He acknowledged neighbors' concerns,

but pointed out there have been no issues with the subject property's rentals over the last year.

Craig Reitz noted that the Dave and Donna Kyte of Prow'd House, who submitted a letter of support, are not residents of Rocky Springs, but live in an adjacent area. He stated a vacation rental CUP is "almost irreversible" and said the previous owner of the subject property, who is now deceased, sold to the present owners with the expressed request that it not be used as a rental.

Marcus "Sandy" Wall stated he has never received Mr. Scott's business card and would only know to call the police should he need to report any complaints. Mr. Wall said before purchasing his property he looked at all of his neighbors, and did not like the idea of renters he does not know and expressed concern regarding possible negative impact on his property's value.

Commissioner Dean noted that Mr. Wall is not within the two-hundred foot notification area. An unidentified female audience member spoke on traffic issues with vehicles searching for rental properties.

Chairman Millinor closed the public hearing.

Commissioner Dean moved to recommend denial of the CUP request, based on neighborhood opposition. Commissioner Nance seconded. Motion carried on a vote of 6-1. Commissioner Savino voted against.

- F. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-006, an application for a conditional use permit to allow for the operation of a vacation rental on a tract of land zoned Rural Residential 1 (R-1), located at 101 Arrowlake Road, Wimberley, Hays County, Texas. (*Christopher Cureton, Applicant*)

This item was heard after Agenda Item 4D.

City Administrator Ferguson reviewed the subject property's location, current proposed zoning and uses, and existing 2,762 square foot, four (4) bedroom residence. The applicant has periodically used the residence as a vacation rental for approximately one year and would like to bring its existing use into compliance with the City's regulations. Based on a review of the septic system and proposed use, City staff recommends a maximum occupancy of five (5) people. Guests would be required to park on the subject property.

Based on the City's regulations for vacation rental facilities, City Administrator Ferguson read a list of conditions to be made part of the requested CUP, should the Commission desire to recommend approval. It was noted that one (1) phone call was received and

the caller subsequently submitted written opposition based on concerns that the proposed operation would be a “recreational facility” and it was explained that the CUP request was for an existing vacation rental. City Administrator Ferguson referenced written correspondence from applicant Christopher Cureton explaining that he resides at the subject property and only rents it sporadically while out of town. No complaints have been received on the subject property’s use as a vacation rental and the aforementioned caller was unaware of such use.

Chairman Millinor opened the public hearing.

Hearing no comments, Chairman Millinor closed the public hearing.

As the subject property has direct water frontage, City Administrator Ferguson recommended the following additional conditions:

- Landline telephone service, with a publicly listed phone number, shall be maintained on the property at all times to allow for receipt of emergency notification phone calls. Notice, in a form acceptable to the City, shall be posted on the property advising guests of the purpose for the telephone and the need to answer the phone. In addition, the phone number for the subject landline telephone shall be registered with the City and Hays County emergency phone notification systems.
- Access to the creek adjacent to the subject property shall be gained only from the subject property.

Discussion addressed the location of the property whose owner expressed opposition, non-compliant vacation rental operations generally, other area short-term rentals, and the applicant’s procedures for handling any potential complaints.

The applicant’s representative, Judy Cureton, stated that she manages the property for her son, Christopher Cureton, when he is unavailable. Ms. Cureton, who is an attorney and resident of Wimberley Hills, advised she can personally respond promptly to any calls and there is a local handyman to serve as a back-up contact person.

Discussion addressed the subject property’s large acreage and sporadic rental activity, which may in part explain the lack of opposition and provided clarification on CUPs as zoning actions that do not terminate with change of ownership and certain circumstances that might trigger CUP revocation.

Given minimal opposition, Commissioner Dean moved to recommend approval of the CUP request, as presented, including the aforementioned additional conditions related to water access, as stated by City Administrator Ferguson. Commissioner Nance seconded.

Commissioner Savino felt that the Commission should not develop the concept of denying requests based on whether or not there is opposition as compared to looking at potential adverse impact, particularly with large acreage properties. He said that someone simply expressing an objection should not be a reason to turn down applications. Commissioner Dean stated there is State law relating to the "Twenty-percent Rule" requiring that Council must consider opposition, regardless of the Commission's recommendation. He said CUP considerations are not always "black and white" issues that are easy to interpret.

Discussion continued on various specific criteria the Commission could use when considering short-term rental CUPs, rules to minimize impact on neighbors, and the City's recent enforcement efforts to identify non-compliant short-term rental operations. Motion carried on a vote of 6-1. Commissioner Burleson voted against.

- G. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-007, an application for a conditional use permit to allow for the sale of wine for off-premise consumption on a tract of land zoned Commercial - Low Impact (C-1), located at 14015 Ranch Road 12, No. 7, Wimberley, Hays County, Texas. (*Nancy Sallaberry, Applicant*)

City Administrator Ferguson reviewed the subject property's location, proposed zoning and use, and applicant's plans to rent an approximately 650 square-foot space from Wimberley Quarter LLC for the purpose of selling wine for off-premise consumption. The wine shop would be open Tuesdays-Saturdays from 11 a.m. to 6 p.m. and Sundays from 12 p.m. to 6 p.m. with periodic wine tastings to be held in accordance with Texas Alcoholic Beverage Commission (TABC) regulations. It was noted that the proposed wine shop will not require a variance from distance requirements relating to the sale of beer and wine, as the subject property is not located within 300 feet of a school, church, hospital, or day care. He advised no responses have been received by City staff either for or against the CUP request and clarified differences between on- versus off-premise consumption.

Chairman Millinor opened the public hearing.

The applicant, Nancy Sallaberry, offered to answer any questions.

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

Commissioner Urban moved to recommend approval of the CUP application, as presented. Commissioner Savino seconded. Motion carried on a vote of 7-0.

3. Discuss and Consider Possible Action

- A. Discuss and consider possible action regarding a proposed modification in the FM 2325 planning areas between Rhodes Lane and Carney Lane. (*City Administrator*)

City Administrator Ferguson explained that existing land uses in the FM 2325 area between Rhodes and Carney Lanes are largely high-impact commercial uses, but are located in Planning Area III where the most intense commercial zoning district allowed is Commercial – Low Impact (C-1). As such, City staff recommends that the planning area for the subject area be designated as Planning Area IV to be more reflective of long-standing existing uses. Any future zoning changes as a result of the proposed planning area modification would have to be considered by the Commission and City Council before approval. He reviewed zoning districts allowed in Planning Areas III and IV. He requested the Commission's input on whether or not to proceed with drafting an ordinance for future consideration.

Discussion addressed possible reasoning for initial planning area designations and high traffic volume/intensity of existing uses in the subject area, with any future rezoning actions to be considered as uses change and not as a result of modifications to planning areas.

Commissioner Savino moved to authorize staff to proceed with drafting of an ordinance to be presented at public hearings before the Commission and City Council. Commissioner Burleson seconded. Motion carried on a vote of 6-1. Commissioner Weeks voted against.

- B. Discuss and consider possible action regarding proposed modifications to the City of Wimberley Lighting Ordinance. (*City Administrator*)

City Administrator Ferguson reported that the Chamber of Commerce requested exploration of the requirements for seeking *International Dark Sky Community* designation from the International Dark Sky Association (IDA). Prior to seeking such designation, there is a need for the City to update its Outdoor Lighting Ordinance to ensure it meets IDA standards, as well as other commitments the City must make to preserve night skies. City Administrator Ferguson cited specific provisions in the recommended modifications, including one "adaptive control" requirement that new street lighting installed after the effective date shall utilize half-night photocells or timers to turn off the lights halfway between dusk and dawn.

Discussion addressed potential cost issues and additional time needed by the Commission to further discuss and consider this item.

Commissioner Dean moved to continue this item until the Commission's next meeting. Commissioner Burleson seconded. Motion carried on a vote of 7-0.

- C. Discuss and consider possible action regarding changes to the City of Wimberley Zoning Code. (*City Administrator*)

Commissioner Savino requested additional discussion of specific concerns with City Administrator Ferguson before bringing this item before the Commission for action.

Commissioner Dean moved to continue this item until the Commission's next meeting. Commissioner Burleson seconded. Motion carried on a vote of 7-0.

4. Staff and Commission Reports

- Announcements
- Future Agenda Items

Hearing no announcements or future agenda items, Commissioner Dean moved to adjourn. Commissioner Burleson seconded. Motion carried on a vote of 7-0. Chairman Millinor called the meeting adjourned.

Adjourn at 8:20 p.m.

Recorded by:

Cara McPartland

These minutes approved the ____ of April, 2016.

APPROVED:

Rick Millinor, Chair

March 23, 2016

City of Wimberley
PO Box 2027
Wimberley, TX 78676

To: City Administrator

Re: Cup -16-003
Cup -16-005

This letter is to voice my strong objection to the rezoning of the two adjacent properties to my property to a zoning re-classification of "Conditional Use- Vacation Rental". These two properties are currently zoned for single family residential.

The Rocky Springs subdivision Sec 1 & Sec 2, is a community that was subdivided as an exclusively residential community in 1970. The change for the permitted use to "Vacation Rental" would bring increased car traffic and noise to our neighborhood. The addition of unwanted nonresident foot traffic to our neighborhood could also lead to increased theft and vandalism making our residents less safe.

Two realtors that I have spoken to tell me that "rental properties" in a residential neighborhood will decrease the property value and salability of my home.

Rocky Springs is a small neighborhood of 10 homes with 8 of these homes occupied by permanent full time Wimberley residents. The 2 homes seeking the change to "vacation rental" status are second homes whose owners do not reside in Wimberley.

I made a substantial investment in my home with the anticipation of living in a peaceful small neighborhood on a dead end road. When our subdivision was incorporated into the Village of Wimberley I assumed it was for the better since City zoning laws would protect my property values and the peaceful use of my home. I expected the City would not allow a "Vacation Rental Business" to be located in a residential neighborhood and next to my home.

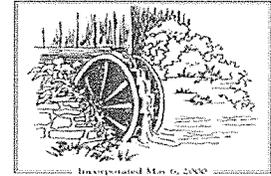
I request that the Wimberley Zoning deny these requests for the Conditional Use of "Vacation Rental Use". For 46 years the Rocky Springs Subdivision has been a total residential community and I request that it retains that zoning status.

Respectfully,



Craig & Barbara Reitz
504 Rocky Springs Rd
Wimberley, TX 78676
512 847-5386

Report for CUP-16-008



Summary:

An application for a Conditional Use Permit to allow for operation of a drive-in/drive-through coffee shop on property at 9595 Ranch Road 12, Suite 4

Applicant Information:

Applicants:

Lauren Norsworthy
8725 Ranch Road 12
San Marcos, TX 78666

Property Owners:

Collie Investments

Subject Property:

Legal Description:

A0025 James Alston Jr Survey, 10.298 acres

Location:

9595 Ranch Road 12, Suite 4

Existing Use of Property:

Vacant

Existing Zoning:

Highway Commercial (HC)

Proposed Use of Property:

Drive-in/Drive-through coffee shop

Proposed Zoning:

HC with CUP

Planning Areas

III, VI

Overlay Districts

Entrance Corridor

Surroundings:

Frontage On:

Ranch Road 12

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	O-2, ETJ	Office – High Impact
S of Property	ETJ	Vacant
E of Property	C-2	Commercial – Moderate Impact
W of Property	PF, ETJ	Public Facilities

Legal Notice

200' Letters:

3/22/16

Published:

3/24/16

Sign Placement:

3/22/16

Responses:

None

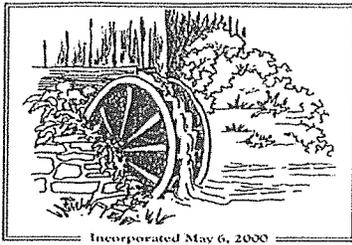
Comments:

The applicant, Lauren Norsworthy, is seeking a Conditional Use Permit (CUP) to allow for the operation of a drive-in/drive-through coffee shop at property located at 9595 Ranch Road 12, Suite 4. The subject property is zoned Highway Commercial (HC), is located in Planning Areas III and VI, and lies within the boundaries of the Entrance Corridor Overlay District. Drive-in/drive-through facilities are allowed on HC-zoned properties with a CUP.

The applicant is proposing to rent the approximately 1,250 square-foot two-story space from Collie Investments Ltd, for the purpose of operating a coffee shop with a drive-through window. The applicant intends to sell coffee, tea, and other beverages such as specialty sodas and juices. She plans to install a commercial kitchen to prepare pre-baked goods for sale, with no cooking done to order.

There is one (1) existing window and the applicant intends to add a second window. Customers will view menu items at the first window and place orders with a coffee shop employee at the second window. There will be no speakers associated with the proposed drive-through operation. Customers will have the option of eating and/or drinking inside at tables or drive through to place take-out orders at the window facing the vehicle lane. Hours of operation will be from 7 a.m. to 3 p.m. Monday through Friday and closed on Sunday.

To date, City staff has received no responses either for or against the CUP request.

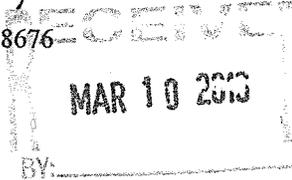


City of Wimberley

221 Stillwater Drive, P.O. Box 2027, Wimberley, TX 78676

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

www.cityofwimberley.com



CONDITIONAL USE PERMIT APPLICATION

No. CUP 16 - 008

FOR OFFICIAL USE ONLY

Application Date: 3/10/16 Tentative P&Z Hearing: 4/14 Tentative Council Hearing: 4/21

FEES: \$400.00 DATE PAID: 3/10/16 CHECK NO. 32532 REC'D BY mm

PROJECT SITE ADDRESS: 9595 RR 12 Site 4 Wimberley, TX 78676

OWNER/APPLICANT ^{AGENT} Laura Narsworthy PHONE (512) 415-8419
Owner: Collie Investments Ltd

MAILING ADDRESS: 8725 RR 12

CITY: San Marcos STATE: TX ZIP: 78666

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.

SPECIFIC CONDITIONAL USE REQUESTED: (e.g. Bed & Breakfast Lodging, Vacation Rental)

drive thru window for coffee shop

Planning Area IV, VI Zoning H-C Total Acreage or Sq. Ft. 2500

Subdivision: A0025 James Alston Jr Survey Lot _____ Block _____

Appraisal District Tax ID #: R12659

Deed Records Hays County: Volume 2108 Page 324

Is property located in an overlay district? () Yes () No If Yes, type: EC

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

UTILITY PROVIDERS:

Electric Provider: Pedernales Electric Co Op

Water Provider or Private Well: city approved well

Wastewater Service Provider or Hays County Septic Permit No: Hays County OSS# 2000-226

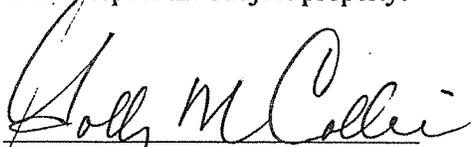
MY REQUEST IS BASED ON THE FOLLOWING:

- (✓) 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 (non-refundable)
- (✓) 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 City zoning action does not relieve any obligation of these restrictions.
- (✓) Applicant agrees to provide additional documentation as needed by the City.
- (✓) Applicant understands that City 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 City representatives to visit and inspect the subject property.

3/9/16
DATE


APPLICANT SIGNATURE

WHEN APPLICABLE:

Date _____


AGENT SIGNATURE

EXHIBIT "A"

Raymond V. Kestor
Engineer

BEELINE

Phone/Fax
512 353 4725ENGINEERING & LAND SURVEYING
P.O. BOX 1001
SAN MARCOS, TEXAS 78667-1001

July 30, 1997

1339 657

Field notes describing a 10.298 acre tract of land out of the JAMES ALSTON SURVEY No. 90, in Hays County, Texas, said 10.298 acres being comprised and consisting of all of that certain 2.00 acre tract of land conveyed to Ronald E. Whitely, et ux, by deed recorded in Volume 260, Page 189, Deed Records of Hays County, Texas; all of that certain 4.58 acre tract of land conveyed to Ronald E. Whitely, et ux, by deed recorded in Volume 261, Page 398, Deed Records of Hays County, Texas; and a portion of that certain 8.00 acre tract of land conveyed to Ronald E. Whitely, et ux, by deed recorded in Volume 268, Page 324, Deed Records of Hays County, Texas, said 10.298 acres being more particularly, described by metes and bounds as follows:

BEGINNING at an iron pin found in the South right-of-way line of Ranch Road 32, being the Northwest corner of said 2.00 acre tract, for the Northwest corner and POINT OF BEGINNING of the herein described 10.298 acre tract;

HENCE, S 81°-31'-23" E, along said South right-of-way line of Ranch Road 32, a distance of 417.06 feet to an iron pin found for the Northeast corner of the said 2.00 acre tract, and the Northwest corner of said 8.00 acre tract, said point being the approximate transillon point for the intersection of Ranch Road 32 and Ranch Road 12;

HENCE, S 80°-04'-00" E, continuing, along the South right-of-way line of Ranch Road 12, a distance of 305.40 feet to an iron pin found at the Northwest corner of that certain 1.00 acre tract of land conveyed to Carroll D. Wiley, et ux, by deed recorded in Volume 344, Page 685, Deed Records of Hays County, Texas, for the Northeast corner of the herein described tract;

HENCE, departing said right-of-way line, for the East line of the herein described tract, the following three courses, numbered (1) through (3);

(1) S 9°-58'-28" W, a distance of 323.28 feet to an iron pin found;

(2) S 10°-08'-22" W, a distance of 112.21 feet to an iron pin found;

(3) S 10°-01'-05" W, a distance of 204.18 feet to an iron pin found for the Southeast corner of the herein described tract;

HENCE, along the South line of the herein described tract, the following two courses numbered (4) and (5);

(4) S 89°-32'-29" W, a distance of 163.58 feet to an iron pin found at the Southeast corner of the said 4.58 acre tract;

(5) S 89°-24'-00" W, a distance of 419.82 feet to an iron pin found at the Southwest corner of the said 4.58 acre tract, for the Southwest corner of the herein described tract;

HENCE, along the West line of the herein described tract the following three courses numbered (6) through (8);

(6) N 0°-35'-07" W, along the West line of the said 4.58 acre tract, a distance of 525.08 feet, to a wood fence post found for an angle point;

(7) N 9°-41'-00" W, along the West line of the said 2.00 acre tract, a distance of 120.89 feet to a iron pin found for an angle point;

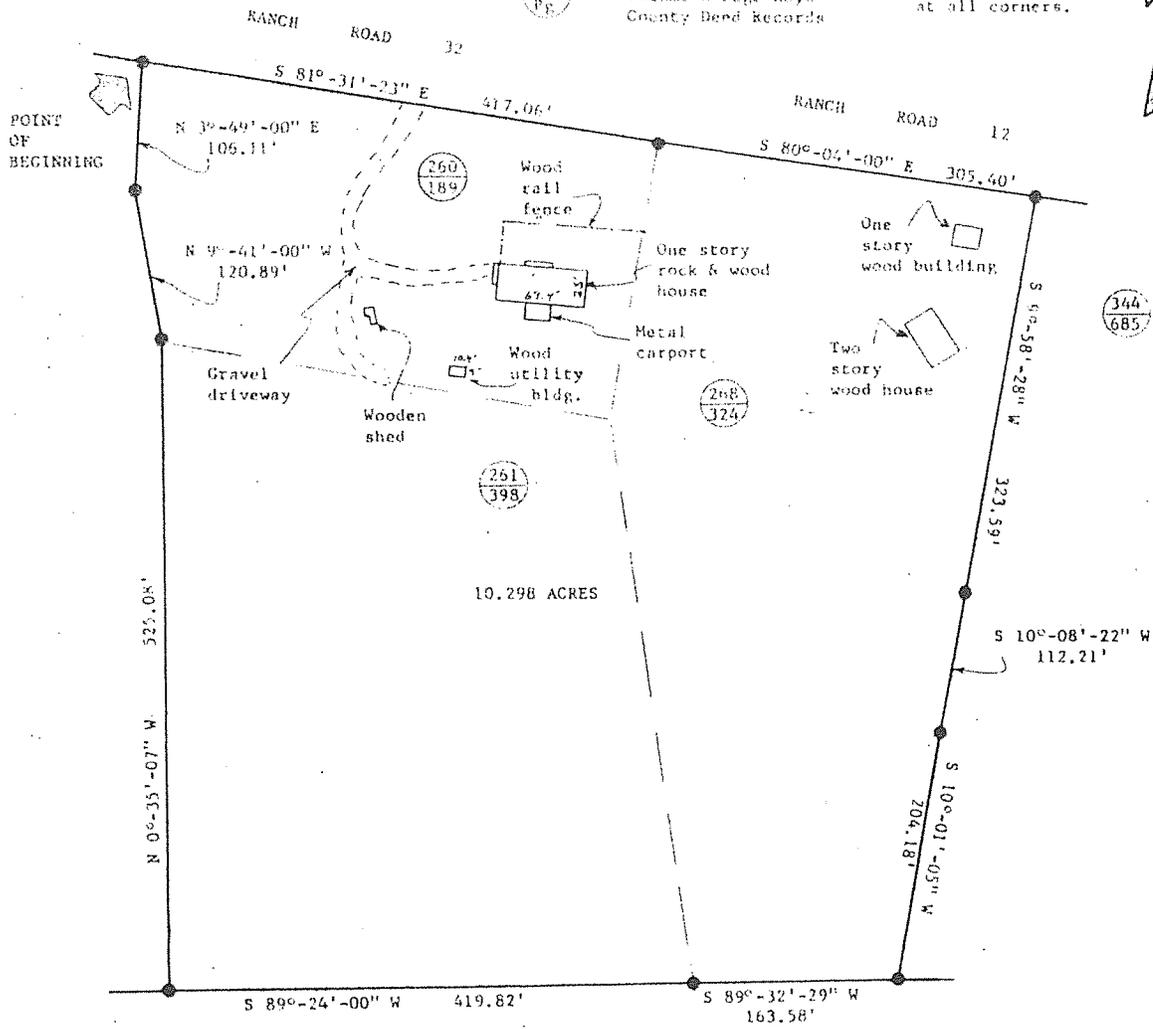
(8) N 3°-49'-00" E, a distance of 108.11 feet to the POINT OF BEGINNING of the herein described tract, containing 10.298 acres of land.

Raymond V. Kestor

Vol 1
Pg 8

Volume & Page Hays
County Deed Records

Iron pins found
at all corners.



PURCHASER: Bruce Collie

TITLE COMPANY:

Hays County Abstract Company

GF NUMBER: 97070007

LEGAL DESCRIPTION: Being 10.298 acres of land out of the JAMES ALSTON SURVEY NUMBER 90, Hays County, Texas, and being more particularly described by metes and bounds in the field notes attached hereto.

Subject property does not lie within a flood hazard zone as determined from F.I.S./H.U.D. Flood Hazard Map, Community Panel Number

480321 0160 B
dated June 16, 1993

DATE:
July 28, 1997

SCALE: 1" = 100'

JOB NUMBER:
970720 cb

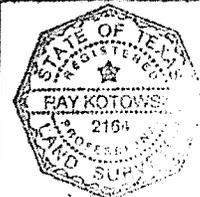
BEELINE

ENGINEERING & LAND SURVEYING
P.O. BOX 1081
SAN MARCOS, TEXAS 78667-1081
Phone/Fax 512/353-4725



I hereby certify that this plat correctly represents a survey made upon the ground under my supervision, and that there are no encroachments upon this property except as shown hereon. This survey was performed July 22, 1997.

Raymond V. Kitoroski



FRONT DECK

Drive

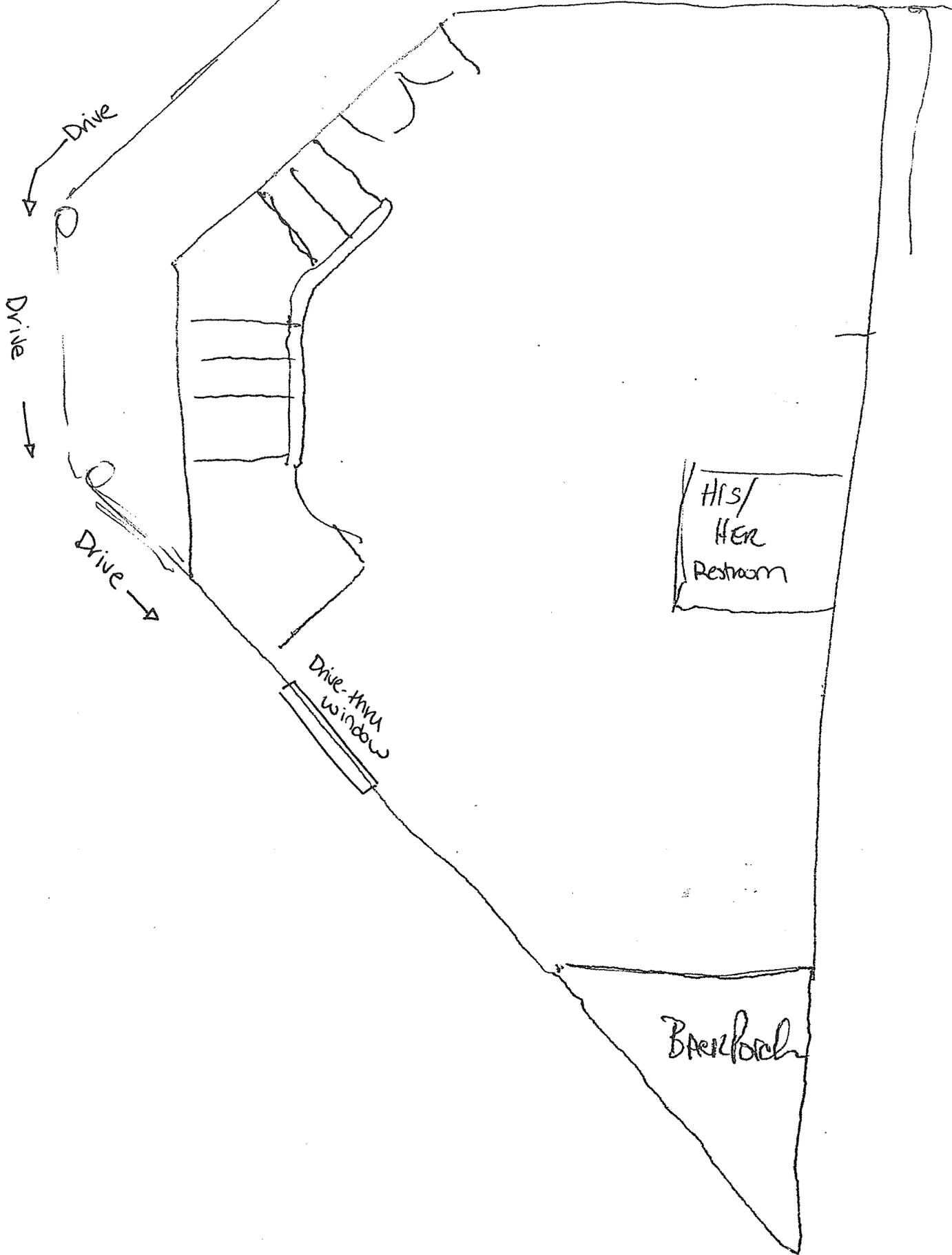
Drive

Drive

Drive-thru
window

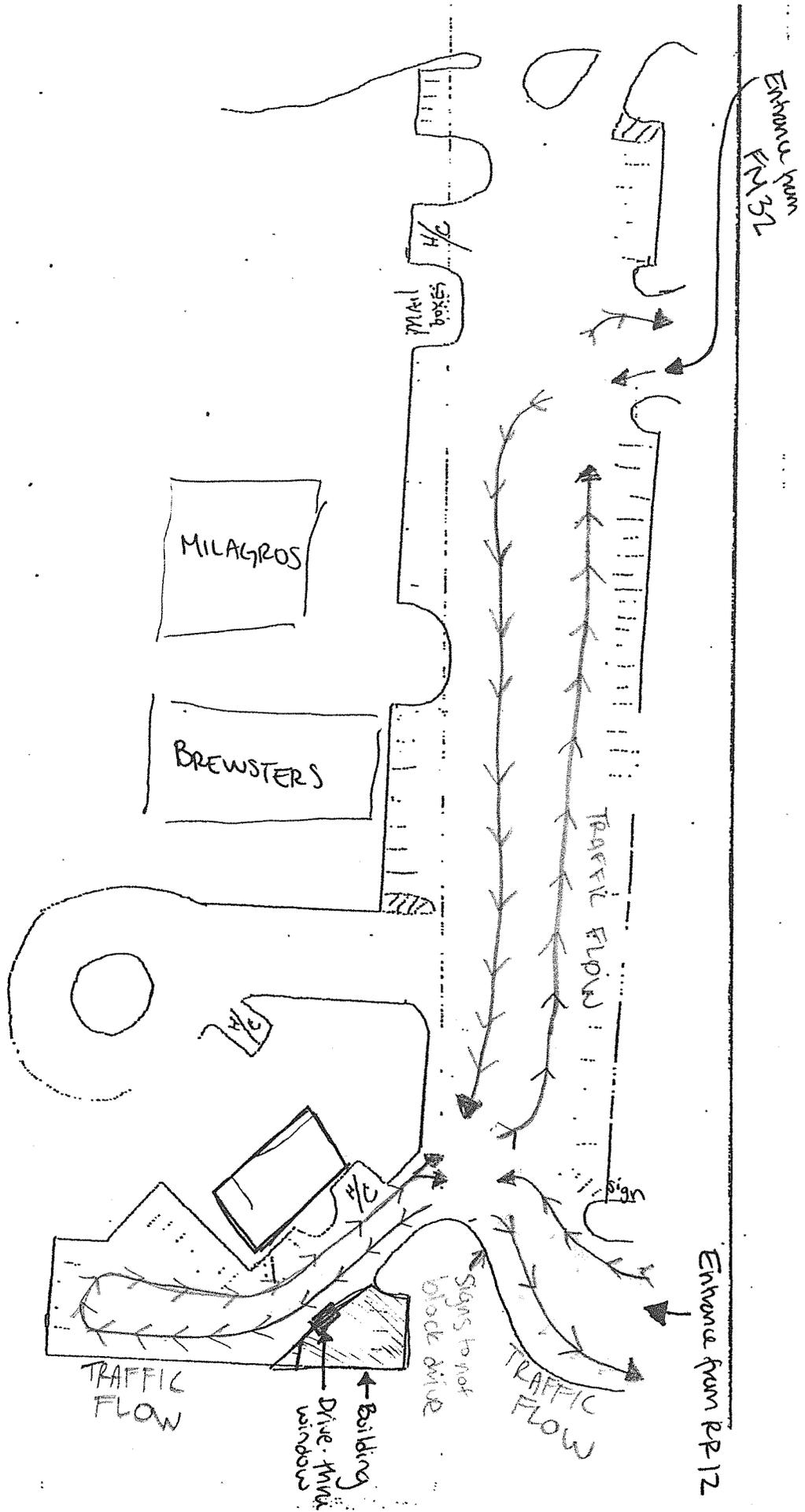
HIS/
HER
Restroom

BAR/BOOTH



Parking Lot Layout

H/C = HANDICAP



Aerial Map of 9595 RR 12

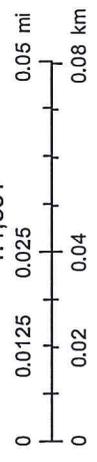


March 11, 2016

- Parcel Lines * Parcel ID
- Abstracts
- Roads
- Historical Lines

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries

1:1,597



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Geomatics, Aerogrid, IGN, IGP, swisstopo, and

Hays Central Appraisal District & BIS Consulting - www.bisconsultants.com
 This product and relative contents are the property of the respective governmental entity and BIS Consultants. Use is restricted for official purposes.

Details

+ Add | Basemap

Save

Share

Print

Measure

Bookmarks

9595 RR-12, Wimberley, Texas, USA

Map navigation icons: +, Home, -, Refresh

Information icon

Contents

Zoning

C2

L2

C1

PR2

PR1

L1

C3

O1

PF

SC

NS

O2

R2

PPU

HC

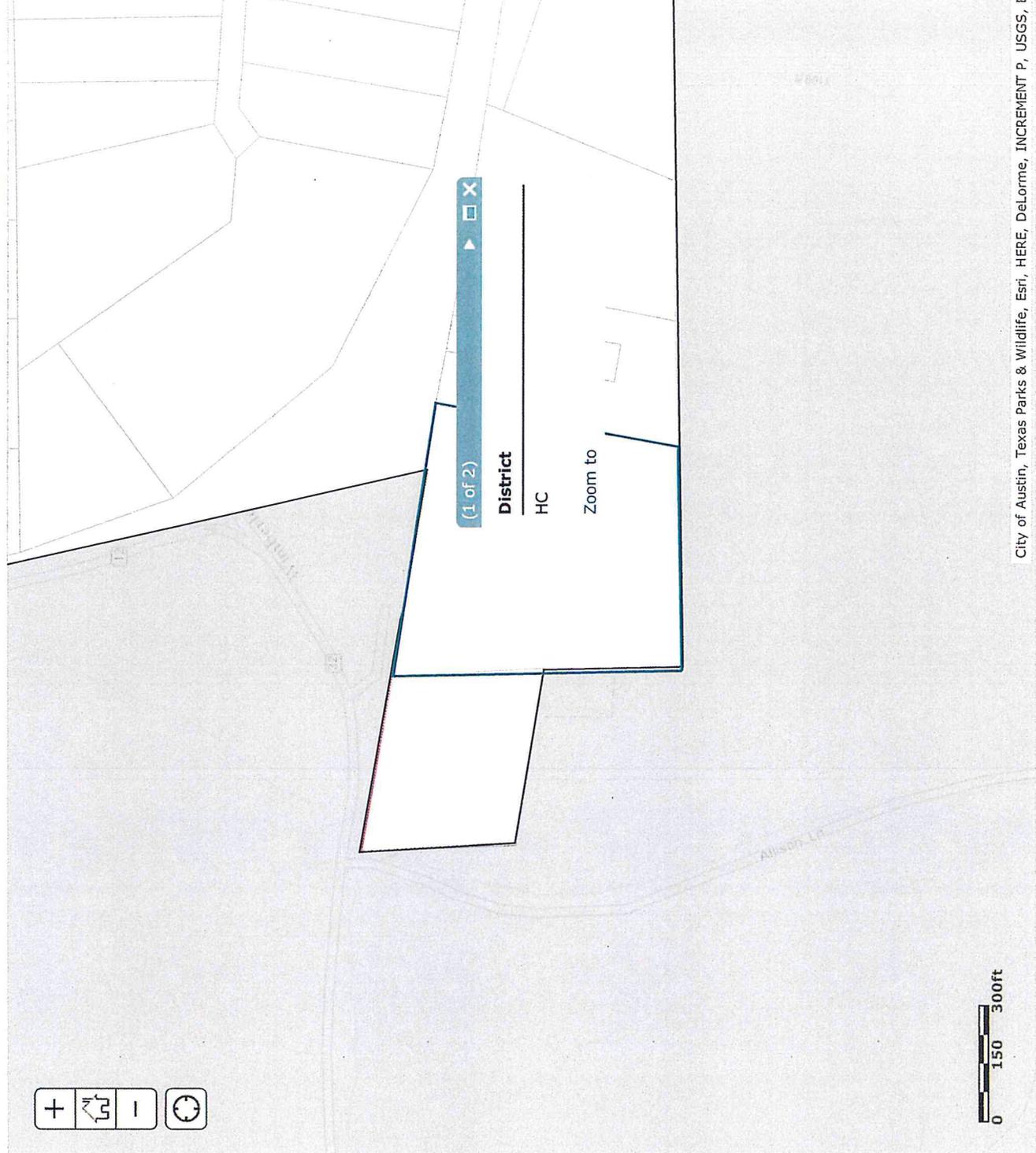
Zoning

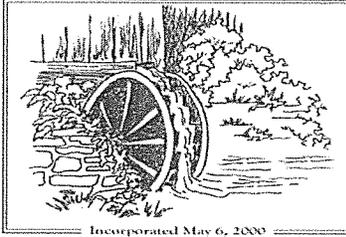
Basemap icons

Zoning

Zoning

Topographic





City of Wimberley

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

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

www.cityofwimberley.com

Steve Thurber, Mayor - Cindy Anderson, Mayor Pro-Tem

Council Members - Bob Dussler, Mac McCullough, Pam Showalter & John D. White

City Administrator - Don Ferguson

March 22, 2016

NOTICE OF PUBLIC HEARING

Re: **File No. CUP-16-008**
9595 Ranch Road 12, Suite 4, Wimberley, Texas

Dear Property Owner:

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

The applicant, Lauren Norsworthy, has applied for a Conditional Use Permit to allow for operation of a drive-in/drive-through coffee shop on property zoned Highway Commercial (HC) located at 9595 Ranch Road 12, Suite 4, Wimberley, Texas.

The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, April 14, 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 **Thursday, April 21, 2016, 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

Properties within 200' of 9595 RR 12, Suite 4

R138726
State of Texas
630 E. Hopkins
San Marcos, TX 78666

R12661
Blake Warren
1405 United Dr., Ste. 115
San Marcos, TX 78666

R12662
Stripes LLC
4525 Ayers St.
Corpus Christi, TX 78415

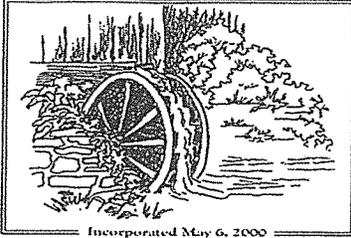
R12670
Stripes LLC
4525 Ayers St.
Corpus Christi, TX 78415

R95757
State of Texas
P.O. Drawer 15426
Austin, TX 78761-5426

R120744
Bruce & Holly Collie
9595 Ranch Road 12, Ste. 13
Wimberley, TX 78676

**NOTICE OF PUBLIC HEARING
(Conditional Use Permit)**

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on **Thursday, April 14, 2016 at 6:00 p.m.** to consider the following: Case CUP-16-008 – an application for a Conditional Use Permit (CUP) to allow for operation of a drive-in/drive-through coffee shop on property zoned Highway Commercial (HC) located at 9595 Ranch Road 12, Suite 4, in Wimberley, Hays County, Texas. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on **Thursday, April 21, 2016, at 6:00 p.m.** at City Hall. Comments on this request from any member of the public may be presented in person or by mail (P.O. Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.



City of Wimberley

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

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

E-mail: village@wimberley-tx.com - Web: www.cityofwimberley.com

NOTICE BY SIGN POSTING

Zoning No: CUP-16-008

Owner _____

Date _____

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

() Project Site Address 9595 RR-12 Suite #4

which is located Banah Road 12

Bill Bowers
Asst. Public Works

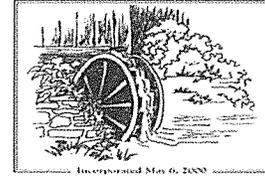
Note: The above-referenced sign was placed on the subject property on

3/22, 2016



Signature

Report for CUP-16-009



Summary:

A request for a Conditional Use Permit (CUP) to allow for a sit-down eating establishment that sells beer and wine for on-premise consumption at 12111 Ranch Road 12, Suites 105 and 106

Applicant Information:

Applicant: Greg Irvine
101 Edge Hill Road
Canyon Lake, TX 78133

Property Owner: Todd Routh

Subject Property:

Legal Description: Plaza Del Sol, Lot 20-A, 2.565 acres
Location: 12111 Ranch Road 12
Existing Use of Property: Vacant
Existing Zoning: Scenic Corridor (SC)
Proposed Use of Property: Sit-down eating establishment which sells beer and wine for on-premise consumption
Proposed Zoning: SC with CUP for a sit-down eating establishment which sells beer and wine for on-premise consumption in Suites 105 & 106
Planning Area I & VII
Overlay District Entrance Corridor Overlay

Surroundings:

Frontage On: Ranch Road 12

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	SC	Commercial
S of Property	R-2	Vacant
E of Property	RA	Residential
W of Property	R-2	Residential

Legal Notice

200' Letters 3/29/15
Published 3/24/15
Sign Placement 3/22/15
Responses None

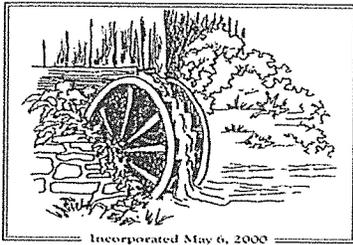
Comments:

The applicant has requested a Conditional Use Permit (CUP) to allow for a sit-down eating establishment that sells beer and wine for on-premise consumption on a tract of land located at 12111 Ranch Road 12, Suites 105 and 106.

Currently, the subject property is zoned *Scenic Corridor (SC)* and is located in the *Entrance Corridor Overlay District* and *Planning Areas I and VII*. Eating establishments that sell beer and wine for on-premise consumption are allowed on SC zoned properties as conditional uses.

The subject property is the future location of *The Hog Pound* motorcycle gear and accessory shop and restaurant. The applicant is proposing to sell beer and wine for on-premise consumption, as part of the small sit-down restaurant.

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



City of Wimberley

221 Stillwater Drive, P.O. Box 2027, Wimberley, TX 78676

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

www.cityofwimberley.com

MAR 17 2016

CONDITIONAL USE PERMIT APPLICATION

No. CUP 16 - 009

FOR OFFICIAL USE ONLY

Application Date: MARCH 16 Tentative P&Z Hearing: _____ Tentative Council Hearing: _____

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

PROJECT SITE ADDRESS: 12111 RANCH ROAD 121 Wimberley, TX 78676

OWNER/APPLICANT GREGORY S. IRVINE PHONE () _____

MAILING ADDRESS: 101 EDGE HILL ROAD

CITY: CANYON LAKE STATE: TX. ZIP: 78133

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.

SPECIFIC CONDITIONAL USE REQUESTED: (e.g. Bed & Breakfast Lodging, Vacation Rental)

RESTAURANT & PUB (BEER & WINE ONLY!) 60% FOOD 40% BEVERAGE

Planning Area _____ Zoning _____ Total Acreage or Sq. Ft. 1600 #

Subdivision: _____ Lot _____ Block _____

Appraisal District Tax ID #: R _____

Deed Records Hays County: Volume _____ Page _____

Is property located in an overlay district? () Yes () No If Yes, type: _____

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

UTILITY PROVIDERS:

Electric Provider: PEDERNALES ELECTRIC COOPERATIVE

Water Provider or Private Well: _____

Wastewater Service Provider or Hays County Septic Permit No: _____

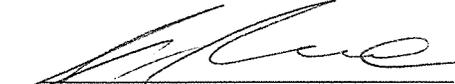
MY REQUEST IS BASED ON THE FOLLOWING:

- 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 (non-refundable)
- 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 City zoning action does not relieve any obligation of these restrictions.
- Applicant agrees to provide additional documentation as needed by the City.
- Applicant understands that City 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 City representatives to visit and inspect the subject property.

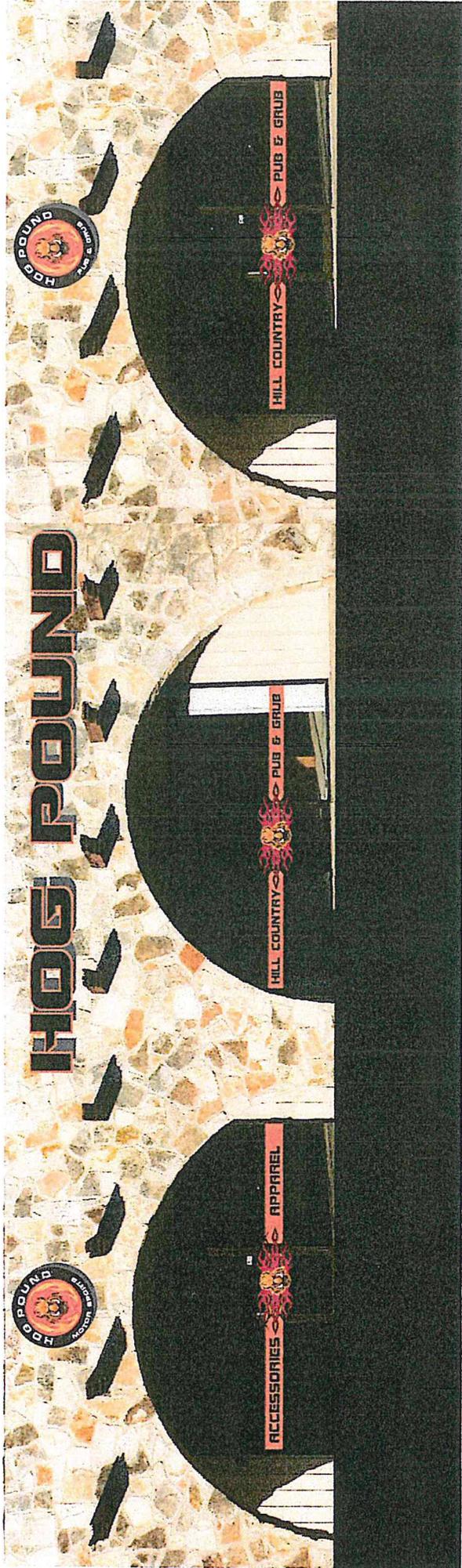
DATE 3/17/2014

APPLICANT SIGNATURE 

WHEN APPLICABLE:

Date _____

AGENT SIGNATURE _____



CUSTOMER:	HOG POUND	PROJECT ADDRESS:	SUITES 104, 105, 106 12111 RANCH ROAD 12, WIMBERLEY, TEXAS 78676
APPROVAL SIGNATURE:		DATE:	
<small>This drawing is the property of CENTER POINTE DESIGN. All rights to its use for production are reserved by CENTER POINTE DESIGN, a division of LEADING EDGE SIGN GROUP. Signing this document indicates the customer has reviewed and accepted proof, to contain no errors. [] Colors shown are for representational purposes only.</small>			
		PROOF:	1 OF 1
		PROJECT MGR:	JACOBSEN
		DESIGN BY:	JACOBSEN WAGNER
		DESIGN #:	HP31416

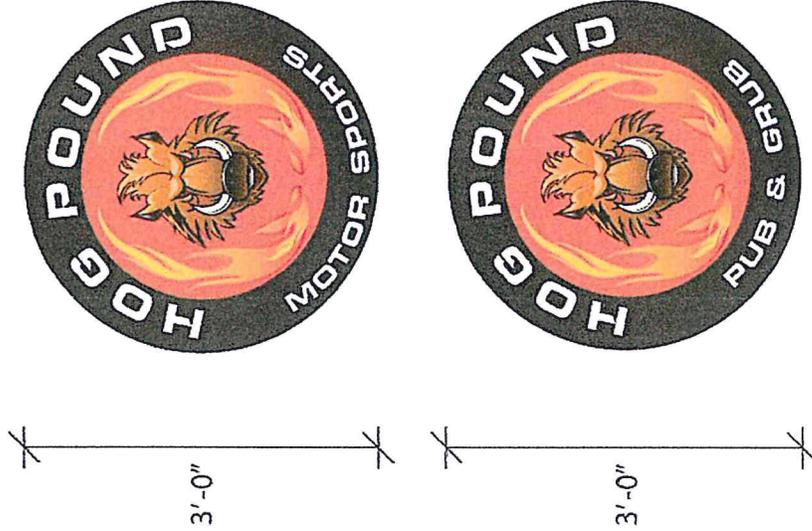
20'-0"

HOGS POUND

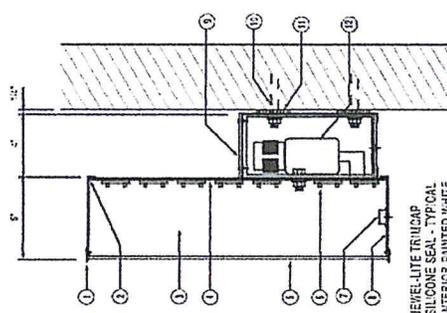
18"

One (1) 18" Set Pan Channel Letters
 HI-Impact Plex Face w/ Black Perf Vinyl
 Internal Low-Voltage Orange LED Illumination
 5" Black Aluminum Returns w/ Orange Trim Edges
 Mounted on Aluminum Extrusion Raceway

Two (2) 36" Circular Cabinet Sign
 White HI-Impact Plex Face w/ Black Trim Edges
 Internal Low-Voltage White LED Illumination
 5" Black Aluminum Returns
 Printed Vinyl Copy
 One (1) to Read "MOTOR SPORTS"
 One (1) to Read "PUB & GRUB"



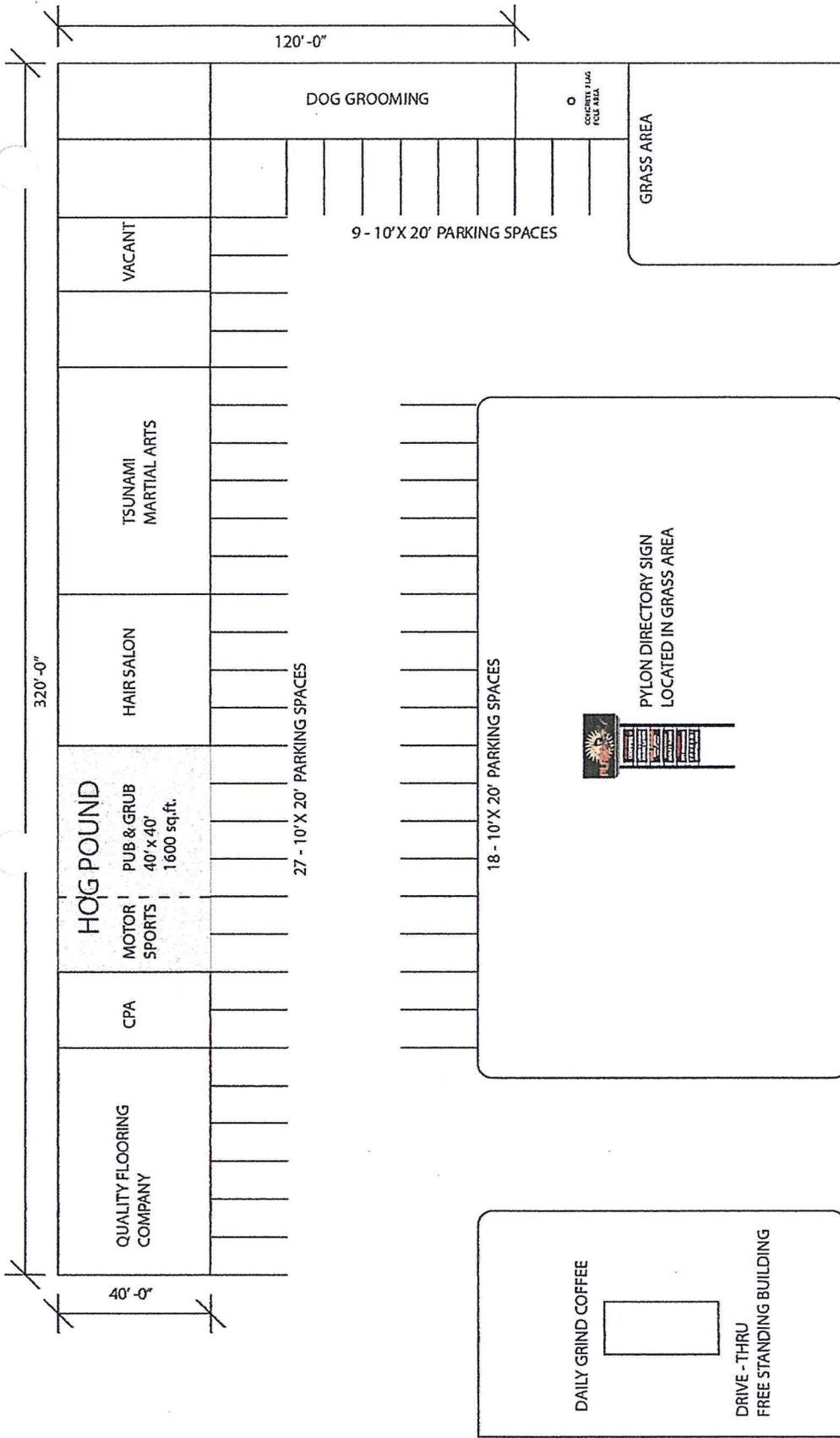
LED RACEWAY CHANNEL LETTERS



1. JEWEL-LITE TRICAP
2. SILICONE SEAL - TYPICAL
3. INTERIOR PAINTED WHITE
4. .06" ALUMINUM BACK
5. 5/16" PLEX FACE
6. LED MODULES
7. KEEP HOLES WITH Baffles AS REQUIRED
8. .50 ALUMINUM RETURN
9. RACEWAY WITH DISCONNECT SWITCH
10. STAINLESS STEEL STUD AND NUTS
11. .125" ALUMINUM SPACER
12. LED POWER SUPPLY
13. NO EXPOSED WIRING/FASTENERS



<p>CPS CENTER POINT SIGNS Facility: 4105 Hunter Rd. San Marcos, Texas 78666 C: 512-318-1152 Mail: P.O. Box 934</p>	<p>CUSTOMER: HOG POUND Motor Sports - Pub and Grub Irvine / Jacobsen PROJECT ADDRESS: Plaza del Sol Wimberley, Texas</p>	<p>DATE: 03/14/2016 PROOF: 1 OF 1</p>	<p>PROJECT MGR: JAKE DESIGN BY: WILL / JAKE DESIGN #:</p>
<p>APPROVAL SIGNATURE: _____ DATE: _____</p>		<p>This drawing is the property of CENTER POINT SIGNS. All rights to its use for production are reserved by CENTER POINT SIGNS, a division of LEADING EDGE SIGN GROUP. Signing this document indicates the customer has reviewed and accepted proofs to contain no errors. [] Colors shown are for representational purposes only.</p>	

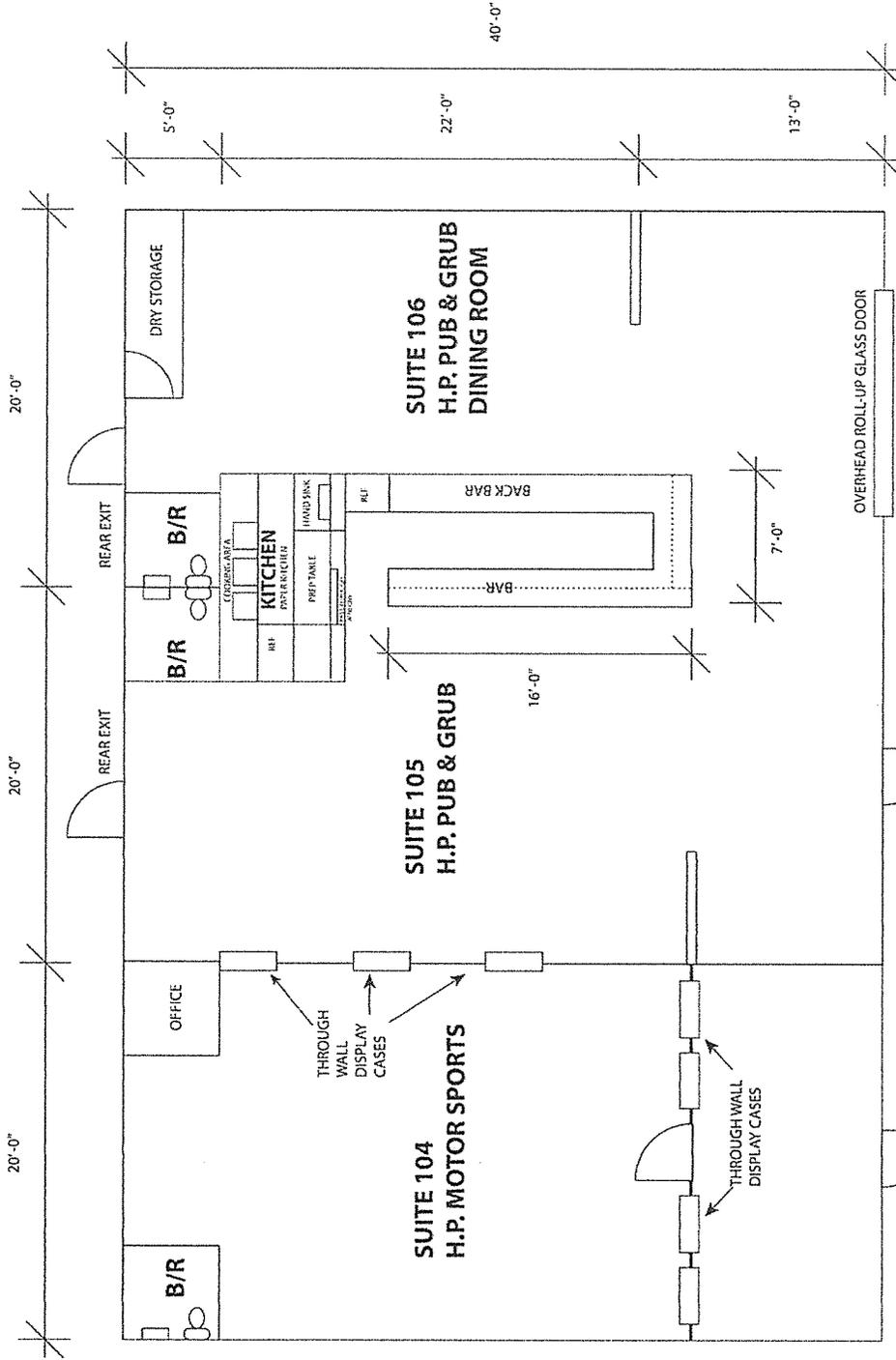


12111 RANCH ROAD 12

CUSTOMER:	PLAZA DEL SOL	PROJECT ADDRESS:	12111 RANCH ROAD 12, WIMBERLEY, TEXAS 78676
APPROVAL SIGNATURE:		DATE:	03/11/2016
		PROOF:	1 OF 1
		PROJECT MGR:	JACOBSEN
		DESIGN BY:	JACOBSEN WAGNER

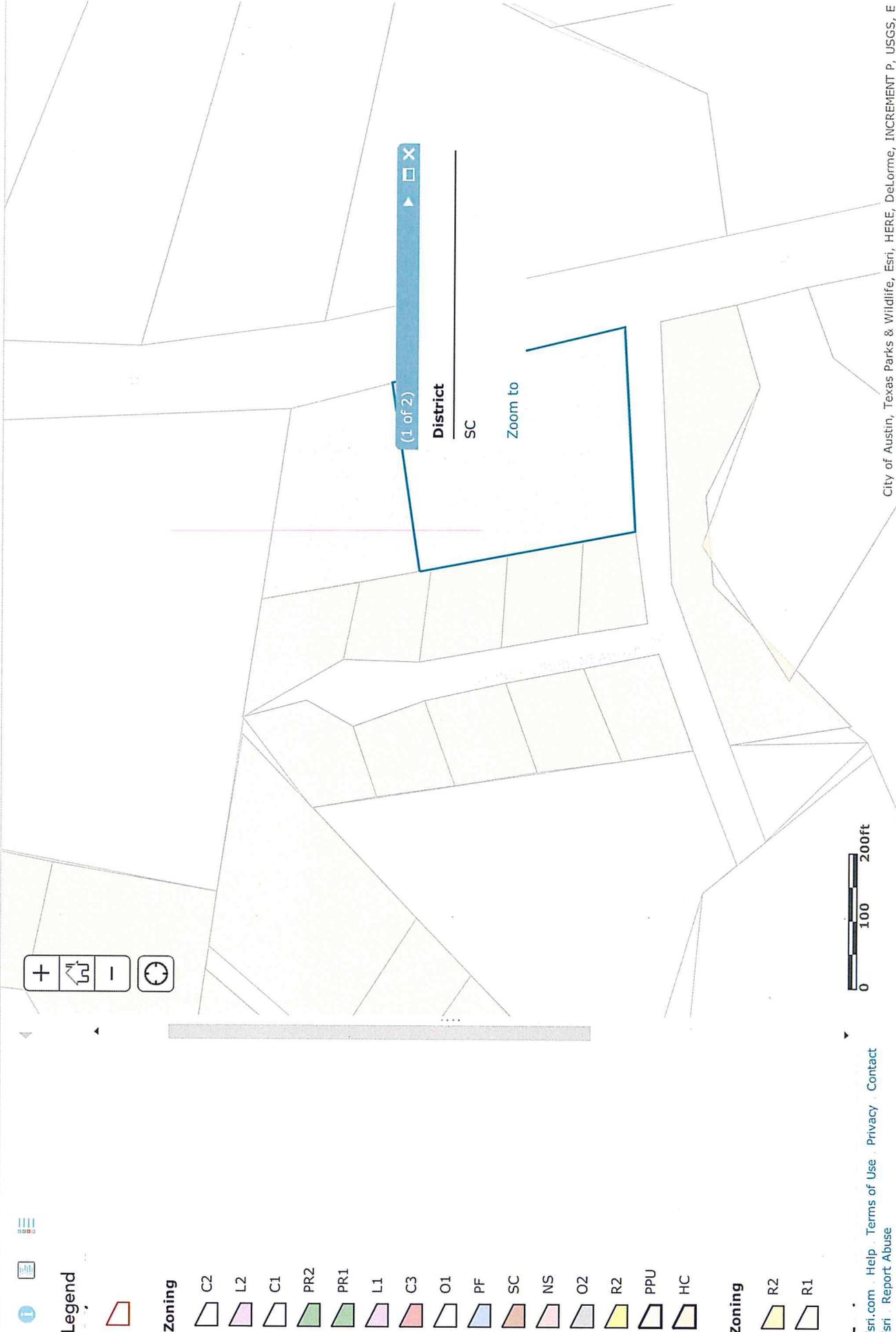
This drawing is the property of CENTER POINTE DESIGN. All rights to its use for production are reserved by CENTER POINTE DESIGN, a division of LEADING EDGE SIGN GROUP. Signing this document indicates the customer has reviewed and accepted proofs to contain no errors. [] Colors shown are for representational purposes only.

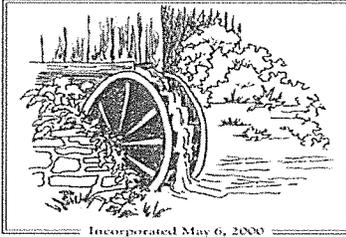
HOG POUND FLOOR PLAN



CUSTOMER:	HOG POUND	PROJECT ADDRESS:	SUITES 104, 105, 106 12111 RANCH ROAD 12, WIMBERLEY, TEXAS 78676
APPROVAL SIGNATURE:	DATE:	PROJECT MGR:	JACOBSEN
<small>This drawing is the property of CENTER POINTE DESIGN. All rights to its use for production are reserved by CENTER POINTE DESIGN, a division of LEADING EDGE SIGN GROUP. Signing this document indicates the customer has reviewed and accepted proofs to contain no errors. [] Colors shown are for representational purposes only.</small>		PROOF:	1 OF 1
		DATE:	03/14/2016
		DESIGN BY:	JACOBSEN WAGNER
		DESIGN #:	HP31416

[Details](#) |
 [+](#) Add > |
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 12111 ranch road 12, wimberley, tx





City of Wimberley

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

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

www.cityofwimberley.com

Steve Thurber, Mayor - Cindy Anderson, Mayor Pro-Tem

Council Members - Bob Dussler, Mac McCullough, Pam Showalter & John D. White

City Administrator - Don Ferguson

March 29, 2016

NOTICE OF PUBLIC HEARING

Re: **File No. CUP-16-009**

12111 Ranch Road 12, Suites 105 & 106, Wimberley, Texas

Dear Property Owner:

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

The applicant, Gregory S. Irvine, has applied for a Conditional Use Permit to allow for the operation of a sit-down eating establishment with the sale of beer and wine for on-premise consumption on property zoned Scenic Corridor (SC) located at 12111 Ranch Road 12, Suites 105 & 106, Wimberley, Texas.

The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, April 14, 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 **Thursday, April 21, 2016, 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

Properties within 200' of 12111 RR 12 (R71513):

R14524
Carl & Juanita Marie Leinneweber
P.O. Box 1983
Wimberley, TX 78676

R14526/14527
Rene S. & Robin A. Trevizo
276 Stoney Creek Meadows Dr.
Wimberley, TX 78676-5638

R14528
Debra G. Reed
296 Stoney Creek Meadows Dr.
Wimberley, TX 78676

R14521
Lorna Petch & Susan Godfrey
1121 County Road 1492
Wimberley, TX 78676-5607

R14522
Pearl A. Trevino
295 Stoney Creek Meadows Dr.
Wimberley, TX 78676-5639

R14523
Patrick & Kristie Gaines
20682 E. 2000 Rd.
Waurika, OK 73573-5170

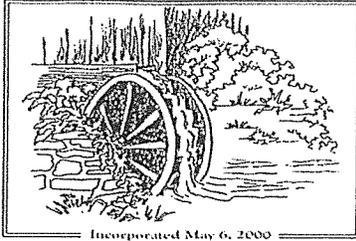
R14532/14533
Sheri Lynn Priddy
P.O. Box 345
Wimberley, TX 78676-0345

R34042
Shann Wright (Life Estate)
c/o Kris Randall
12322 Ranch Road 12
Wimberley, TX 78676

R18510
Bill Robinson
12333 S. Ranch Road 12
Wimberley, TX 78676

**NOTICE OF PUBLIC HEARING
(Conditional Use Permit)**

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on **Thursday, April 14, 2016, at 6:00 p.m.** to consider the following: CUP-16-009 -- an application for a Conditional Use Permit (CUP) to allow for the operation of a sit-down eating establishment with the of beer and wine for on-premise consumption on property zoned Scenic Corridor (SC) located at 12111 Ranch Road 12, Suites 105 & 106 in Wimberley, Hays County, Texas. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on **Thursday, April 21, 2016, at 6:00 p.m.** at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.



City of Wimberley

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

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

E-mail: village@wimberley-tx.com - Web: www.cityofwimberley.com

NOTICE BY SIGN POSTING

Zoning No: CUP-16-009

Owner _____

Date _____

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

() Project Site Address 12111 BR-12

which is located Ranch Road 12

Bill Bowers

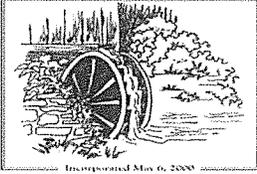
Asst. Public Works

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

3/22, 2016


Signature

P&Z Commission Agenda Form



Date Submitted: April 11, 2016

Agenda Date Requested: April 14, 2016

Project/Proposal Title: HOLD A PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION REGARDING A PROPOSED ORDINANCE CHANGING THE PLANNING AREAS FOR PROPERTIES ON FM 2325 BETWEEN RHODES LANE AND CARNEY LANE

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

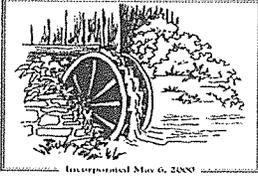
Project/Proposal Summary:

This item was placed on the agenda to allow the Planning and Zoning Commission to hold a public hearing and consider making a recommendation regarding a proposed ordinance changing the designated planning areas for those properties with frontage on FM 2325 between Rhodes Lane and Carney Lane.

Currently, the area in question is located in Planning Area III where Commercial-Low Impact (C-1) zoning is the most intense commercial zoning allowed. The existing land uses in the subject area are, in large part, high-impact commercial uses. City staff is recommending the planning area for the subject area be designated as Planning IV to be more reflective of the long-time existing uses in the area.

A copy of the proposed ordinance will be presented to the Commission under separate cover in advance of the meeting.

P&Z Commission Agenda Form



Date Submitted: April 9, 2016
Agenda Date Requested: April 14, 2016

Project/Proposal Title: DISCUSS AND CONSIDER POSSIBLE ACTION REGARDING PROPOSED CHANGES TO THE CITY'S OUTDOOR LIGHTING ORDINANCE

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 discuss and consider possible action regarding proposed changes to the City's Outdoor Lighting Ordinance.

The City Council is considering submitting a request to the *International Dark Sky Association* (IDA) for the City of Wimberley to be designated as an *International Dark Sky Community*. IDA International Dark Sky Communities are towns, cities, municipalities or other legally organized communities that have shown exceptional dedication to the preservation of the night sky through the implementation and enforcement of a quality outdoor lighting ordinance, dark sky education, and citizen support of dark skies. Dark Sky Communities excel in their efforts to promote responsible lighting and dark sky stewardship, and set good examples for surrounding communities.

Prior to seeking IDA designation, there is a need for the City to update its Outdoor Lighting Ordinance to ensure it meets the IDA standards. With this in mind, City staff recently submitted the City's ordinance to the IDA for review to identify those areas of the ordinance that need to be strengthened to meet dark sky standards.

Attached is a copy of the ordinance with the changes recommended by the IDA staff for review and consideration by the City. City Council has requested a recommendation from the Planning and Zoning Commission regarding the proposed changes.

OUTDOOR LIGHTING

§ 151.60 COMPLIANCE REQUIRED.

All outdoor lighting fixtures and installations in the city shall conform to the following provisions.

(Ord. 2001-025, passed 11-20-2003)

§ 151.61 DEFINITIONS.

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

BULB. A light-emitting device or a structure containing a light source. This includes but is not limited to a lamp.

CORRELATED COLOR TEMPERATURE. The specification of the color appearance of light emitted by a lamp, relating its color to the color of light from a reference blackbody source when heated to a particular temperature, measured in degrees Kelvin (K).

DIFFUSING LENS. A translucent enclosure which surrounds a light source and through which there can be seen no semblance of an image of the light source. To provide a sufficiently wide distribution of light, a lens meeting this definition shall have a minimum cross-section, as seen from any angle, of not less than 0.125 square inch per lumen of enclosed light source emission.

EFFICIENCY. As an engineering term, the emission of light by a light source expressed in lumens per watt. In the absence of manufacturers' ratings, or at the discretion of the city, the **EFFICIENCY** and light emission of lamps shall be calculated as follows:

- (1) Common tungsten incandescent: 12 lumens per watt;
- (2) Halogen incandescent: 18 lumens per watt;
- (3) Metal halide: 82 lumens per watt;
- (4) High pressure sodium: 82 lumens per watt; and
- (5) Fluorescent tubes: 75 lumens per watt.

FIXTURE. An outdoor lighting assembly containing 1 or more lamps and including any lenses, reflectors, and shields designed to direct the light in a defined manner.

FOOTCANDLE. As an engineering term, a unit of light intensity equal to 1 lumen per square foot, which applies to the brightness of light on a surface or at a point in space.

FULL HORIZONTAL CUT-OFF FIXTURE. A fixture that confines the light entirely below a horizontal plane running through the lowest of: the lowest point from which light is emitted, or the lowest part of any lens, or the lowest point of any specular reflector.

GLARE. The effect of light shining directly in the eyes such as occurs when there is a line of sight to the light source.

John Barentine 3/16/2016 9:14 AM

Comment [1]: The standard industry term is "efficacy"

John Barentine 3/16/2016 11:36 AM

Comment [2]: To this I would add a value for LED, although the range is very large (roughly 50-150 lm/W). See, e.g., <http://energy.gov/eere/ssl/led-basics>

John Barentine 3/16/2016 11:37 AM

Comment [3]: I would take this opportunity to also add lux as a unit of illuminance to your code. It's gradually becoming the unit of choice among lighting engineers. If you want to also keep footcandles, as it's still a common unit, then give any illuminances in both footcandles and lux.

INITIAL LUMENS. The manufacturer-specified number of lumens of light generated by a lamp at the beginning of its service lifetime, not accounting for losses associated with lamp age.

LAMP. A light-emitting device or a structure containing a light source. This includes but is not limited to a bulb.

LIGHT SOURCE. Any device or element which emits light.

LIGHT STRING. Any number of bulbs connected with wire in a linear or 2-dimensional array, not contained in the structure of a fixture, used either for illumination or decoration, and supported in any manner.

LIGHT TRESPASS. Any horizontal or vertical illumination on a property from light sources on another property that exceeds 0.1 footcandles on a residential or unzoned district or 0.5 footcandles on a non-residential district. The measurement shall be made 4 feet above the ground at a point 4 feet inside the property line.

LIGHTING INSTALLATION. All outdoor lighting fixtures and light sources on a property.

LINE OF SIGHT. As it applies to the visibility of a light source, a straight unobstructed line from any point on a property 4 feet or more above the ground to a light source on another property.

LUMEN. As an engineering term, a unit of light flux, which applies to the amount of light emitted by a lamp.

LUMENS PER ACRE. The total number of initial lumens produced by all lamps utilized in outdoor lighting on a property divided by the number of acres, or part of an acre, with outdoor illumination on the property.

SPECULAR REFLECTOR. A reflector which has a mirror-like surface that reflects an image (no matter how imperfect or distorted) of a light source:

(Ord. 2001-025, passed 11-20-2003; Am. Ord. 2003-009, passed 12-4-2003)

§ 151.62 SHIELDING, SPECTRUM AND CURFEWS.

(A) Any fixture installed in the city, including municipally-owned street lights, having total light emission in excess of 1,500 initial lumens, shall be shielded in a manner that:

(1) Confines the light so that it falls entirely on a wall or sign, or confines the light entirely below a horizontal plane at the level of the lowest of: the lowest point of the fixture at which light is emitted, the lowest part of any lens, or the lowest point of any specular reflector; and

(2) Prevents a line of sight from any point off the property on which the fixture is situated to a light source, its surrounding non-diffusing lens, or a specular reflector within or incidental to the fixture.

(B) No property in the city shall have fixtures that are not included in, or do not conform to division (A), which collectively have total light emission exceeding 7,200 initial lumens.

John Barentine 3/16/2016 11:39 AM
Deleted: total electric consumption in excess of 150 watts or

John Barentine 3/16/2016 11:39 AM
Comment [4]: I would eliminate references to Wattages as much as possible in the document in order to make the code relatively insensitive to figure changes in lighting technology. The Dept. of Energy requires that all new lighting sold in the U.S. must indicate lumens on the packaging. This is the preferred unit for lighting engineers. Given your table of luminous efficacies in the definitions section, users should be able to calculate the lumens of any light if they know the Watts and the lamp type.

John Barentine 3/16/2016 11:41 AM
Comment [5]: This is our threshold for International Dark Sky Communities

John Barentine 3/16/2016 11:41 AM
Deleted: 8

John Barentine 3/16/2016 12:16 PM
Deleted: except those illuminating a flag of a state or nation.

John Barentine 3/16/2016 11:41 AM
Deleted: an angle 15 degrees below

John Barentine 3/16/2016 11:42 AM
Comment [6]: This is a good, defensible definition of light trespass on its own. Original item (C) in this section is redundant, given this definition.

John Barentine 3/16/2016 11:42 AM
Deleted: A line of sight shall be deemed not to exist for a light source of 3,600 lumens or less if it is enclosed in a diffusing lens.

John Barentine 3/16/2016 12:10 PM
Deleted: total electric consumption exceeding 600 watts or

(C) No fixture may be installed employing a lamp whose correlated color temperature exceeds 3000 Kelvins.

(D) New street lighting installed after the effective date, other than fixtures at the intersection of roadways, shall utilize half-night photocells or timers to turn off the lights halfway between dusk and dawn.

(Ord. 2001-025, passed 11-20-2003; Am. Ord. 2003-009, passed 12-4-2003) Penalty, see § 151.99

§ 151.63 SITE LUMEN LIMITS.

(A) The total outdoor light output (excluding municipally-owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) in both shielded and unshielded fixtures on any nonresidential property in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists shall not exceed 20,000 initial lumens per net acre, or 40,000 initial lumens per net acre in other districts and unzoned tracts, in any contiguous illuminated area. These lumen per net acre values are upper limits and not design goals; design goals should be the lowest levels that meet the requirements of the task.

(B) Total outdoor light output (excluding municipally-owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) in unshielded fixtures on any nonresidential property in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists shall not exceed 6,000 initial lumens per net acre, or initial 15,000 lumens per net acre in other districts and unzoned tracts, in any contiguous illuminated area.

§ 151.64 REDIRECTION AND REMOVAL OF ADJUSTABLE FIXTURES AND BULBS.

(A) *Redirection.* Any fixture existing on the effective date of this subchapter which does not conform to § 151.62 of this code and which can be re-aimed shall be re-aimed in a manner that reduces the degree of non-compliance so:

- (1) It fully conforms with § 151.62;
- (2) The optical axis is at an angle not less than 60 degrees below the horizontal; or
- (3) The optical axis is at the lowest angle permitted by the nature of the fixture and existing or available mounting hardware.

(B) *Removal.* A light string that does not conform to § 151.62 shall be removed, or the number of bulbs reduced sufficiently to comply with § 151.62.

(Ord. 2001-025, passed 11-20-2003; Am. Ord. 2003-009, passed 12-4-2003) Penalty, see § 151.99

§ 151.65 ILLUMINATION.

John Barentine 3/16/2016 12:29 PM
Comment [7]: This color temperature provision is a requirement for IDA Dark Sky Communities.

John Barentine 3/16/2016 12:30 PM
Comment [8]: This 'adaptive controls' provision is a requirement for IDA Dark Sky Communities.

John Barentine 3/16/2016 11:42 AM
Deleted: (C) Lighting on a property shall not create light trespass on another property.

Unknown
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John Barentine 3/16/2016 11:58 AM
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John Barentine 3/16/2016 12:01 PM
Formatted: Font:(Default) Times

John Barentine 3/16/2016 11:58 AM
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John Barentine 3/16/2016 12:30 PM
Comment [9]: I have consolidated these sections and rewritten them to conform to IDA requirements.

John Barentine 3/16/2016 11:59 AM
Moved (insertion) [1]

John Barentine 3/16/2016 12:02 PM
Deleted: (D) Total limitation per property.

John Barentine 3/16/2016 11:59 AM
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John Barentine 3/16/2016 11:56 AM
Deleted: 63

John Barentine 3/16/2016 11:43 AM
Comment [10]: This term is not defined in the code.

John Barentine 3/16/2016 11:56 AM
Deleted: 64

(A) *Limitation per fixture.* The maximum illumination on any outdoor surface or object, including signs, from all fixtures or light sources, whether installed before or after the effective date of this subchapter, including lighting of externally illuminated and internally illuminated signs, shall not exceed:

- (1) Six footcandles in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists;
- (2) Eighteen footcandles in other districts and unzoned tracts where a business exists and is open; or
- (3) Three footcandles in other districts and unzoned tracts where a business is closed or does not exist.

(B) *Measurement.*

- (1) On any surface, except signs, the maximum illumination shall be measured at the point of highest illumination but no closer than 6 feet from the center of the nearest fixture.
- (2) On any surface of an externally illuminated sign, the maximum illumination shall be measured at the center of the sign.
- (3) On any surface of an internally illuminated sign, the maximum illumination shall be measured at the point of highest illumination.
- (4) On any surface illuminated by an internally illuminated sign, the maximum illumination shall be measured at the point of highest illumination, but no closer than 6 feet from the center of the sign.

(C) *Re-lamping.* Any fixtures existing on the effective date of this subchapter which do not conform to this section, which require lamp replacement and which will support lamps of lower emission, shall be re-lamped with lower emission lamps in order to:

- (1) Achieve compliance with this section; or
- (2) Approach compliance with this section to the greatest possible degree.

John Barentine 3/16/2016 11:44 AM
Comment [11]: You might consider replacing these hard-wired illuminance limits with a reference to the accepted industry best practices: the Illuminating Engineering Society of North America Recommended Practices 33 ("Lighting for Exterior Environments"), also known as "RP-33". The code could simply advise consulting the latest edition of the RP-33 so that the code will adapt to future changes. Note, however, that adherence to the IESNA Recommended Practices is not a requirement of IDA Dark Sky Communities.

(Ord. 2001-025, passed 11-20-2003; Am. Ord. 2003-009, passed 12-4-2003) Penalty, see § 151.99

§ 151.66 PROHIBITED LIGHTING FORMS.

The installation or replacement of a mercury arc or mercury discharge lamp of any size or kind is prohibited.

(Ord. 2001-025, passed 11-20-2003) Penalty, see § 151.99

§ 151.67 REMOVAL OF NON-CONFORMING FIXTURES.

John Barentine 3/16/2016 11:59 AM
Moved up [1]: (D) *Total limitation per property.* The total light emission of all fixtures on any property shall not exceed 20,000 lumens per net acre in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists, or 40,000 lumens per net acre in other districts and unzoned tracts. No property of any size shall be limited to less than 6,000 total lumens in districts RA, R-1 to R-5, MF-1, MF-2, and unzoned tracts where a residence exists, or 12,000 total lumens in other districts and unzoned tracts.
John Barentine 3/16/2016 11:57 AM
Deleted: 65
John Barentine 3/16/2016 11:57 AM
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Non-conforming fixtures, except those of a public entity, existing within the city on the effective date of this ordinance, shall be removed or disconnected no later than seven years from the effective date. Any change of use of a property, or renovations to the structures on a property constituting more than 25% of their value, shall result in the removal or replacement of any non-conforming fixtures on those structures.

(Ord. 2001-025, passed 11-20-2003; Am. Ord. 2003-009, passed 12-4-2003) Penalty, see § 151.99

§ 151.68 REPLACEMENT OF FIXTURES; CONFORMANCE REQUIRED.

Any fixture that is replaced, whether or not it conforms to this subchapter, shall be replaced only with a fixture that conforms to all provisions of this subchapter.

(Ord. 2001-025, passed 11-20-2003) Penalty, see § 151.99

§ 151.69 PUBLIC SAFETY AND PUBLIC NUISANCE

(A) The City may install new public outdoor lighting, including street lighting and lighting on other public property and rights-of-way, after the effective date only upon the determination of the City Manager that a clear public safety threat exists in the space to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting.

(B) Notwithstanding the provisions of § 151.66, the city may require the modification or removal or limited operation of lighting fixtures found to be a public hazard or public nuisance according to the following criteria.

(1) Criteria for finding illumination to be a public hazard:

(a) Light trespass or glare which is sufficiently intense or contrasts excessively with surrounding illumination, regardless of the intensity of the surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle; or

(b) Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in his or her path.

(2) Criteria for finding illumination to be a public nuisance:

(a) Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of a property;

(b) A high frequency or duration of periods when light trespass or glare is sufficient to interrupt or interfere with usual and reasonable use and enjoyment of a property; or

(c) Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any citizen of the city from the usual and reasonable enjoyment of a property.

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Comment [12]: I recommend a grandfather period of no longer than seven years, and preferably five or under. Longer periods virtually guarantee non-compliance after the exemption end date.

John Barentine 3/16/2016 11:50 AM
Comment [13]: This is good practice in addition to a grandfather period with an exemption end date.

John Barentine 3/16/2016 11:57 AM
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John Barentine 3/16/2016 11:52 AM
Comment [14]: This is a very good and progressive provision.

John Barentine 3/16/2016 11:57 AM
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John Barentine 3/16/2016 12:25 PM
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John Barentine 3/16/2016 12:29 PM
Comment [15]: This "warranting" provision for public lighting is a requirement of IDA Dark Sky Communities.

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(C) Benefit to the general public welfare may be found to mitigate a finding of a public nuisance but may not be found to mitigate a finding of a public hazard.

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(Ord. 2001-025, passed 11-20-2003) Penalty, see § 151.99

§ 151.70 EXCEPTIONS.

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The city may grant an exception to some of the provisions of this subchapter for certain fixtures if the city finds the exception to be in the interest of public health, safety, and welfare and under the following conditions.

(A) For the illumination of city streets, parking lots, areas of public activity, and yard security, a non-conforming fixture which is granted an exception may be installed and the fixture and its light shall be exempt from the provisions of §§ 151.62, 151.64(A)(3), and 151.67 of this code except as set forth below if:

John Barentine 3/16/2016 11:52 AM
Comment [16]: Spell out the process by which requests for exceptions will be received and evaluated, and on which criteria they will be granted.

(1) No alternative lighting design or location using fully conforming fixtures is reasonably applicable to the physical conditions of the site, and the asserted need for a non-conforming fixture is not solely for the purpose of achieving an illumination level in excess of the provisions of § 151.64(A)(3) of this code;

(2) A fully conforming fixture with or without auxiliary shielding is unavailable from manufacturers of fixtures or is unavailable for mounting on a pole of the public electric utility;

(3) The fixture has a full horizontal cut-off design, and has total light emission not exceeding 8,500 initial lumens;

(4) A fixture is mounted no higher than:

(a) Sixteen feet above the ground when mounted on a privately owned pole; or

(b) The lowest point consistent with public electric utility requirements when mounted on a pole which is the property of the public electric utility.

(5) No excepted fixture is located closer to another such fixture on 1 or separate properties than a distance equal to 3 times the average mounting height of the fixtures, nor closer to property lines of adjoining or facing residential property than a distance equal to 2 times the height of the fixture above the ground;

(6) No more than 1 excepted fixture is located on a residential property;

(7) No more than 2 excepted fixtures are located on a non-residential property for security purposes where there is no night time public activity;

(8) The maximum illumination due to all fixtures on the ground or any other surface does not exceed 6 footcandles; and

(9) The light from all excepted fixtures conforms to the provisions of §§ 151.62(A)(2) and 151.62(C) of this code so far as it affects any adjoining residential property.

(10) The lighting illuminates the flag of any state or nation, provided that:

(a) Flagpoles illuminated from below are limited to a height of 25 feet aboveground level, and are illuminated with a single spot-type fixture whose maximum initial output is 75 lumens per foot of height, measured from the light fixture to the top of the flagpole. The fixture must to be mounted so that the lens is perpendicular to the flagpole.

(b) Flagpoles illuminated from above utilize a single light fixture, not to exceed 800 initial lumens, attached to the top of the flagpole or a fixture mounted above the top of the flagpole on a structure within 15 feet of the flagpole.

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(B) Decorative light strings displayed during the seasonal holiday period from November 1 to January 15 of the next year are exempt from the provisions of this subchapter, provided that:

- (1) No bulb in the string has electric consumption exceeding 5 watts; and
- (2) The light string does not contribute to light trespass on an adjacent residential property.

(Ord. 2001-025, passed 11-20-2003; Am. Ord. 2003-009, passed 12-4-2003) Penalty, see § 151.99

John Barentine 3/16/2016 11:53 AM
Comment [17]: This language is highly problematic given the light trespass definition in §151.62(A)(2). In other words, all holiday lighting consisting of light strings will create light trespass. Rather, I think it's best to just substitute a provision here that exempts holiday string lighting from the requirements of § 151.62(A)(2).

§ 151.71 APPLICABILITY; ADMINISTRATION AND ENFORCEMENT.

(A) All lighting installations or additions to lighting installations made after the original effective date of this subchapter shall conform to this subchapter and shall be subject to inspection by the Building Official or his or her designee.

John Barentine 3/16/2016 11:57 AM
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(B) An outdoor lighting plan shall be included as part of the documentation for a permit application. The outdoor lighting plan shall show the bulb type and electric power of all proposed and existing outdoor bulbs and fixtures in the lighting installation, and provide sufficient detail with respect to location, height, and aiming and shielding of the fixtures to demonstrate that the proposed lighting installation complies with this subchapter.

(C) If the Building Official or his or her designee finds that an outdoor lighting fixture does not comply with this subchapter, the owner shall be notified and shall be allowed 30 days from the date of the notification to remedy the non-compliance or to demonstrate that a violation does not exist.

(D) This subchapter shall not be construed to require or allow any act which is prohibited by any other ordinance or code provision.

(Ord. 2001-025, passed 11-20-2003; Am. Ord. 2004-007, passed 3-18-2004) Penalty, see § 151.99

Page 3: [1] Comment [9] John Barentine 3/16/16 12:30 PM

I have consolidated these sections and rewritten them to conform to IDA requirements for Dark Sky Communities. The specific lumens per acre threshold numbers are not specified in the requirements. They are given here as suggestions.

Page 3: [2] Deleted John Barentine 3/16/16 12:02 PM

(D) *Total limitation per property.* The total light emission of all fixtures on any property shall not exceed 20,000 lumens per net acre in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists, or 40,000 lumens per net acre in other districts and unzoned tracts. No property of any size shall be limited to less than 6,000 total lumens in districts RA, R-1 to R-5, MF-1, MF-2, and unzoned tracts where a residence exists, or 12,000 total lumens in other districts and unzoned tracts.

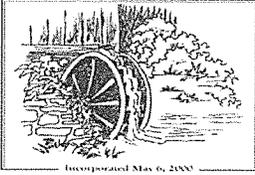
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Page 3: [4] Comment [10] John Barentine 3/16/16 11:43 AM

This term is not defined in the code. Also, this item (2) is unclear and probably should be struck.

P & Z Commission Agenda Form



Date Submitted: April 11, 2016

Agenda Date Requested: April 14, 2016

Project/Proposal Title: DISCUSS AND CONSIDER
POSSIBLE ACTION REGARDING CHANGES TO THE
CITY OF WIMBERLEY ZONING CODE

Funds Required:
Funds Available:

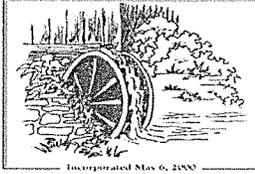
Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the Planning & Zoning Commission to discuss and consider possible action regarding changes to the City of Wimberley Zoning Code.

P & Z Commission Agenda Form



Date Submitted: April 11, 2016

Agenda Date Requested: April 14, 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.