

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

OCTOBER 13, 2016 - 6:00 P.M.

AGENDA

CALL TO ORDER: OCTOBER 13, 2016 @ 6:00 P.M.

CALL OF ROLL: CITY SECRETARY

CITIZENS COMMUNICATIONS:

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

1. CONSENT AGENDA

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

- (A) APPROVAL OF MINUTES OF THE REGULAR PLANNING & ZONING COMMISSION MEETING ON SEPTEMBER 8, 2016.

(B) APPROVAL OF MINUTES OF THE SPECIAL JOINT CITY COUNCIL-PLANNING AND ZONING COMMISSION MEETING ON OCTOBER 4, 2016

2. PUBLIC HEARING AND POSSIBLE ACTION

HOLD A PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION REGARDING AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTIONS 155.005 (DEFINITIONS), AND S155.059 (PARTICIPANT RECREATION – HIGH IMPACT; PR-2) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO ADD A CONDITIONAL USE FOR LIMITED DURATION/ON-PREMISE ALCOHOL SALES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

3. STAFF AND COMMISSION REPORTS

- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

ADJOURNMENT

THE COMMISSION MAY RETIRE TO EXECUTIVE SESSION ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSION ABOUT HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS LOCAL GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087. ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

CERTIFICATION

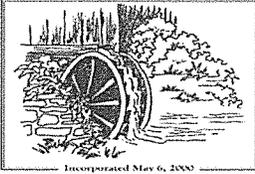
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on October 7, 2016 at 6:00 p.m.



Cara McPartland, Assistant City Administrator/City Secretary

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

P & Z Commission Agenda Form



Date Submitted: October 11, 2016

Agenda Date Requested: October 13, 2016

Project/Proposal Title: APPROVAL OF MINUTES
OF THE REGULAR PLANNING & ZONING
COMMISSION MEETING ON SEPTEMBER 8, 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 September 8, 2016 for review and consideration.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
Planning & Zoning Commission
 Minutes of Regular Meeting
 September 8, 2016 at 6:00 p.m.

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

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

Citizen Communications:

No citizen comments were heard.

1. Assignment of Terms for Members of the Planning and Zoning Commission

After discussion of drawing procedures, the following term length assignments were drawn by individual Commission members, with the exception of absent Commissioner Espinoza, whose term length number was drawn by City Administrator Ferguson:

Commissioner	Term Length Drawn
John Urban	1 year
Austin Weeks	1 year
Charles Savino	2 years
John Espinoza	2 years
Rebecca McCullough	3 years
Natalie Meeks	3 years
Gail Pigg	3 years

2. Election of Officers

Commissioner McCullough moved to nominate Commissioner Urban for the position of Chair. Commissioner Pigg seconded. Motion carried on a vote of 6-0.

Commissioner Urban assumed duties of Chairman at this time.

Commissioner Weeks moved to nominate Commissioner Savino to the position of Vice Chair. Commissioner McCullough seconded.

Commissioner Urban moved to nominate Commissioner Meeks to the position of Vice Chair. Commissioner Savino seconded.

Commissioner McCullough moved to cease nominations and each Commission member voted for the position of Vice Chair as follows:

Commissioner	Vice Chair Nominee
John Urban	Natalie Meeks
Austin Weeks	Charles Savino
Natalie Meeks	Charles Savino
Charles Savino	Natalie Meeks
Rebecca McCullough	Natalie Meeks
Gail Pigg	Natalie Meeks

Commissioner Meeks was elected to the position of Vice Chair on a vote of 4-2.

3. Consent Agenda

Approval of minutes of the Regular Planning & Zoning Commission meeting on August 25, 2016.

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

4. Public Hearing and Possible Action

Hold a public hearing and consider making a recommendation to City Council regarding an ordinance of the City of Wimberley, Texas, authorizing a moratorium on the issuance of building permits, business licenses, conditional use permits, and certificates of occupancy to be used for the construction or operation of bed and breakfast lodgings and vacation rentals within any residentially zoned area within the city limits of Wimberley and providing for the following findings of fact, savings, severability, repealer, effective date, and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson explained moratorium procedures and plans to gather public input at a series of joint City Council/Planning and Zoning workshop meetings in order hear from all sides on the issue of short-term rentals in the most efficient manner.

Commissioner Urban opened the public hearing.

Edward Davis spoke on his personal experience in challenging conditional use permit (CUP) applications in his own neighborhood. He favored the moratorium, joint Council/Planning and Zoning workshops, and existing process that gives neighbors the opportunity to voice objections to CUP applications. He said that short-term rentals are a very sensitive subject in his neighborhood. Commissioner Urban said it is important to hear from land owners on this subject.

Suzanne Davis said her neighbors have been told in writing that the issue of short-term rentals is not a personal one, but one that has a lot of nuances that need to be examined carefully by the Commission. She did not feel that Council recognized the nuances seen by the Commission, as Council did not follow the Commission's recommendation, and was confused by Council's action. Commissioner Urban thanked

Edward and Suzanne Davis for coming to tonight's meeting and explained the respective roles of the Planning and Zoning Commission and City Council as advisory and governing bodies. Mrs. Davis felt there needs to be consistency and fairness in the process.

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

Discussion included:

- Decision-making process for the Commission and Council
- Additional opposition that may be submitted to Council after the Commission has held its public hearing
- Issues with complaint investigation/ordinance compliance, including having a part-time city marshal and reluctance by some to call Hays County Sheriff's Office to register complaints about rental activity
- General support for the moratorium and arriving at reasonable guidelines for short-term rentals that avoid pitting neighbor against neighbor and reach community agreement
- Balancing property rights while not infringing on others and protecting everyone's best interests
- Code requirements such as size limitations that make hotels/motel developments less practicable
- Proactive approach to getting community agreement on short-term rentals

Commissioner McCullough moved to recommend approval of the ordinance, as presented. Commissioner Meeks seconded. Motion carried on a vote of 6-0.

5. Staff and Commission Reports

- Announcements
- Future Agenda Items

In response to Commissioner Pigg's inquiry on a recent court ruling regarding certain highway signage, City Administrator Ferguson pointed out that the ruling struck down portions of State law, but does not affect City of Wimberley or Hays County regulations.

Hearing no further comments, Chairman Urban called the meeting adjourned.

Adjourn at 6:46 p.m.

Recorded by:

Cara McPartland

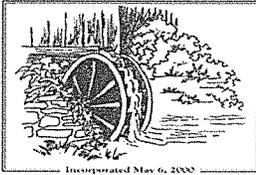
These minutes approved the ____ of October, 2016.

APPROVED:

John Urban, Chair

DRAFT

P & Z Commission Agenda Form



Date Submitted: October 11, 2016

Agenda Date Requested: October 13, 2016

Project/Proposal Title: APPROVAL OF MINUTES
OF THE SPECIAL JOINT CITY COUNCIL- PLANNING
& ZONING COMMISSION MEETING ON OCTOBER 4,
2016

Funds Required:

Funds Available:

Commission Action Requested:

Ordinance

Resolution

Motion

Discussion

Project/Proposal Summary:

Attached are the minutes of the Special Joint City Council/Planning & Zoning Commission meeting on October 4, 2016 for review and consideration.

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
**Minutes of Joint Special Meeting of the City Council and
 Planning and Zoning Commission**
 October 4, 2016 at 5:00 p.m.

City Council and Planning and Zoning Commission joint meeting called to order at 5:00 p.m. by Mayor Mac McCullough.

Council Members Present: Mayor Mac McCullough and Councilmembers Bob Dussler, Craig Fore, Sally Trapp, Gary Barchfeld, and John White.

Planning & Zoning Commission Members Present: Chair John Urban, Commissioners Austin Weeks, Natalie Meeks (arrived at 5:05 p.m.), Charles Savino, Rebecca McCullough, and John Espinoza. Commissioner Gail Pigg was absent.

Staff Present: City Administrator Don Ferguson

1. Discussion and Possible Action

Discuss and consider possible action awarding a contract for the construction of the Hidden Valley Low Water Crossing. *(City Administrator)*

City Administrator Ferguson reported that review of bids received resulted in the primarily cost-based recommendation from project engineers to award the contract to Myers Concrete Construction. He advised of staff's recommendation to award the contract to Capitol Excavation based on experience with the specific type of project.

Discussion addressed penalty/bonus contract clauses, desire to avoid cost overruns, scope of work, project timeframe, and need for positive interaction with neighborhood residents.

Councilmember Trapp moved to approve awarding the contract for the construction of the Hidden Valley Low Water Crossing to Myers Concrete Construction. Councilmember Dussler seconded. Motion carried on a vote of 5-0.

2. Workshop Session

Discussion between City Council and Planning and Zoning Commission regarding short-term rental regulatory review project.

Councilmember Barchfeld spoke on the purpose of the moratorium, concerns leading to the moratorium, and team-oriented goals to gather input from involved parties in order to resolve short-term rental issues and resolve those issues in the most efficient manner.

City Administrator Ferguson reported on the public meeting/workshop calendar and procedures, Joint City Council/P & Z Special Meeting Minutes – October 4, 2016

including the schedule for specific groups to comment on their positions regarding short-term rentals.

Discussion addressed collection of data from all concerned groups, lack of time limits for speakers, ability of each stakeholder to state their positions on short-term rentals, and acceptance of written comments in lieu of attendance at meetings. City Administrator Ferguson reminded that there will also be public hearings held on any proposed zoning changes allowing for further public comments and advised of public notification procedures. Discussion included identification of resident versus non-resident property owners and differences between vacation rentals and bed and breakfast facilities.

Councilmember Barchfeld felt this is a serious issue that will have a good outcome for all involved and noted positive feedback. City Administrator Ferguson highlighted the meeting schedule and agreement was reached to move the Tuesday, November 8th joint Council/Planning and Zoning Commission workshop to Wednesday, November 9, 2016.

Adjournment: Joint City Council/Planning & Zoning Commission joint meeting adjourned at 5:35 p.m.

Recorded by:

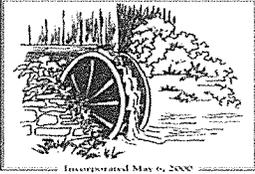
Cara McPartland

These minutes approved on the _____ of October, 2016.

APPROVED:

**John Urban, Chair
Planning & Zoning Commission**

P&Z Commission Agenda Form



Date Submitted: October 11, 2016

Agenda Date Requested: October 13, 2016

Project/Proposal Title: PUBLIC HEARING AND CONSIDER MAKING A RECOMMENDATION REGARDING A PROPOSED ORDINANCE ESTABLISHING A CONDITIONAL USE PERMIT TO ALLOW FOR THE LIMITED ON-PREMISE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE PR-2 (HIGH IMPACT) ZONING DISTRICT

Commission Action Requested:

- Ordinance
- Resolution
- Motion
- Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow the Planning and Zoning Commission to hold a public hearing and consider making a recommendation on a proposed amendment to the City's Zoning Code (the "Code") establishing a Conditional Use Permit (the "CUP") that would allow for the limited on-premise sale and consumption of alcohol on properties zoned Participant Recreation-High Impact (the "PR-2").

The City recently received an inquiry from the operators of the *Wimberley Players Theatre* seeking permission to serve alcoholic beverages in conjunction with their performances. The subject property is zoned PR-2 and the on-premise sale and consumption of alcoholic beverages is not a permitted or conditional use in the subject zoning district.

Currently, the City Zoning Code allows the on-premise sale and consumption of alcohol on commercially zoned properties with a CUP, in conjunction with certain uses such as sit-down restaurants, tasting rooms, package stores and bars.

The attached ordinance would amend the Code to add the limited on-premise sale and consumption of alcohol as a conditional use in the PR-2 zoning district. Such alcohol sales would have to occur in conjunction with a recreation event, cultural exhibit, musical or theatrical performance. Alcohol sales would be limited to the duration of the event and shall not occur more than one hour before and after the event. Establishments in the zoning district could not derive more than thirty (30) percent of their gross revenue from the on-premise sale of alcoholic beverages.

Ordinance No. 2016-_____

“Limited Duration/On-Premise Alcohol Sales”

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTIONS 155.005 (DEFINITIONS), AND SECTION 155.059 (PARTICIPANT RECREATION – HIGH IMPACT; PR-2) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO ADD A CONDITIONAL USE FOR LIMITED DURATION/ON-PREMISE ALCOHOL SALES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley (“City Council”) seeks to provide for the orderly arrangement and regulation of compatible uses within its corporate limits; and

WHEREAS, on May 9, 2009, a majority of the voters of Hays County voted to allow the public to purchase alcohol in stores and to purchase and consume alcoholic drinks at restaurants and bars in Justice of the Peace Precinct Three of Hays County; and

WHEREAS, amendments to the City’s Zoning Code are necessary to allow certain sales and on-premise consumption of beer, wine, and liquor in order to permit such uses in the City’s various zoning districts; and

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the City’s history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities, and infrastructure, and

WHEREAS, the Planning and Zoning Commission and City Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses, with a view toward conserving property values and encouraging the most appropriate use of land in the City; and

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

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

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

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

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

SECTION I. FINDINGS OF FACT

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

SECTION II. AMENDMENTS

A. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.005 (Definitions), is hereby amended to add the following:

“LIMITED DURATION/ON-PREMISE ALCOHOL SALES AND CONSUMPTION.
Establishment located within another permitted land use that derives 30% or less of the establishment's gross revenue from the on-premise sale of alcoholic beverages and that is open to the public only in conjunction with a recreation and entertainment event, cultural exhibit, or musical or theatrical performance, during the time that the event is in progress and no more than one hour before and after the event.”

B. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.059 (Participant Recreation – High Impact; PR-2), Subsection C (Conditional Uses), is hereby amended as follows:

“(C) Conditional uses.

- (1) Campgrounds without facilities; ~~and~~
- (2) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations; and
- (3) Limited duration/on-premise alcohol sales and consumption.”

SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Article shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Article.

SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Article be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Article in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION V. REPEALER

The provisions of this Article shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Article are hereby expressly repealed to the extent that such inconsistency is apparent. This Article shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE

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

SECTION VII. PROPER NOTICE AND MEETING

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

PASSED AND APPROVED this ____ day of _____, 2016.

Herschel "Mac" McCullough
Mayor

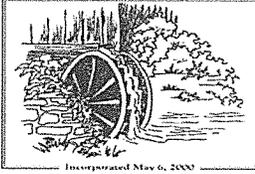
ATTEST:

Cara McPartland,
City Secretary

APPROVED AS TO FORM:

Catherine Fryer,
City Attorney

P & Z Commission Agenda Form



Date Submitted: October 11, 2016

Agenda Date Requested: October 13, 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.