

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
December 16, 2010 at 6:00 p.m.

City Council meeting called to order at 6:00 p.m. by Mayor Bob Flocke.

Mayor Flocke gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Bob Flocke and Councilmembers Marilee Wood, Mac McCullough, Bill Appleman (arrived at 6:09 p.m.), Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, and City Attorney Cindy Crosby.

Citizens Communications

Stephanie Reynolds read a letter (*attached to these minutes*) opposing the Las Flores barricades and their effect on property values, favoring speed humps and traffic enforcement, and questioning Council's actions. In reference to proposed bed and breakfast/vacation rental regulations, Mrs. Reynolds asked Council what its actions are going to accomplish. She felt that publicly available impact studies should be made before action is taken.

1. Consent Agenda

- A. Approval of the minutes of the Regular City Council meeting of December 2, 2010
- B. Approval of appointment of Bill Wilson to the Wimberley Transportation Advisory Board. (*Consensus nominee from Place Two Councilmember Mac McCullough*)
- C. Approval of the November 2010 Financial Statements for the City of Wimberley

Due to his absence at Council's December 2, 2010 meeting, Councilmember Appleman stated his intent to abstain from voting on approval of the minutes and asked to pull Consent Agenda Item 1A.

Councilmember McCullough moved to approve Consent Agenda Items 1B and 1C, as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

Councilmember Thurber moved to approve Consent Agenda Item 1A, as presented. Councilmember Wood seconded. Motion carried on a vote of 4-0. Councilmember Appleman abstained.

2. City Administrator Report

- Status report on the efforts underway to secure federal funding for the downtown wastewater project

City Administrator Ferguson reported that the Water Wastewater Advisory Board met earlier this week to discuss funding alternatives and anticipated presentation of a report to Council early in 2011.

- Status report on the request for an Attorney General (AG) opinion relating to the authority of the City of Wimberley to regulate firearms within the city limits

City Administrator Ferguson reported that a letter formerly submitted to State Representative Patrick Rose has been forwarded to State Senator Jeff Wentworth, in order to proceed with the City's request for an AG opinion, with submission anticipated by the end of this year. Mayor Flocke reminded that the City is trying to regulate the *discharge* of firearms within city limits. City Administrator Ferguson explained the need for clarification in light of a recent Wimberley Municipal Court ruling.

- Status report on the implementation of the Single Stream Recycling Program

City Administrator Ferguson reported that information in the form of letters and public notices will be provided to customers on program details, including the distribution and use of new containers, as well as reuse of old 18-gallon bins for emergency preparedness kits. He reported that pick-up and distribution of bins will occur on January 6, 2011, with service to start on January 13, 2011.

- Status report on the site plan approval for the proposed Crossroads development on Ranch Road 12

City Administrator Ferguson reported that the revised site plan has been approved and that no word has been received on commencement of development.

- Status report on the development of the Blue Hole Regional Park

City Administrator Ferguson anticipated an executed contract by the end of this week and noted delays relating to permitting, and recently received clearance from U.S. Department of Fish and Wildlife relating to specific birds/habitats. He thanked U.S. Representative Lloyd Doggett's office for its assistance in facilitating such clearance. He noted progress made by the United States Tennis Association and other organizations to raise funds for tennis courts and advised of recent donations and pledges. He also reported on hike/bike trail repairs, including the timeline for completion, and grand opening plans.

3. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by James and Judy Thompson to operate a bed and breakfast lodging facility on an approximately 1.024 acre tract located at 408 Blue Heron Run, Wimberley, Hays County, Texas, zoned Single Family Residential 2 (R-2), and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*James and Judy Thompson, Applicants*)

Mayor Flocke introduced Agenda Item 3A and City Administrator Ferguson advised that the applicants for Agenda Items 3A, 3B, and 3C have requested to withdraw their respective applications.

Councilmember Thurber moved to accept the withdrawal of applications as presented in Agenda Items 3A, 3B, and 3C, as requested by the applicants. Councilmember McCullough seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Donn and Pamela Lamoureux to operate a bed and breakfast lodging facility on an approximately .35 acre tract located at 430 Blue Heron Run, Wimberley, Hays County, Texas, zoned Single Family Residential 2 (R-2), and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Donn and Pamela Lamoureux, Applicants*)

See action taken under Agenda Item 3A.

- C. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Donn and Pamela Lamoureux to operate a bed and breakfast lodging facility on an approximately .50 acre tract located at 444 Blue Heron Run, Wimberley, Hays County, Texas, zoned Single Family Residential 2 (R-2), and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions. (*Donn and Pamela Lamoureux, Applicants*)

See action taken under Agenda Item 3A.

- D. Hold a public hearing and consider approval of an ordinance of the City of Wimberley designating geographic boundaries for a particular zoning district and classification for a particular tract located at 13301 Ranch Road 12, Wimberley, Hays County, Texas, designating such tract as a Wimberley Planned Development District (WPDD) with a base zoning district of Commercial – Low Impact (C-1); and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. (*Sibyl Burrows, Applicant*)

City Administrator Ferguson stated that the applicant has requested continuance of this item until Council's January 20, 2011 meeting.

Councilmember Thurber moved to approve continuance of this item until Council's January 20, 2011 meeting. Councilmember Wood seconded. Motion carried on a vote of 5-0.

- E. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Section 155.075(F)(4) (Off-Street Parking and Loading Requirements) of Chapter 155 (Zoning) of the Code of Ordinances to delete the parking requirement for bed and breakfast lodging; and amending Section 155.105(C) (Conditional Use Permits) to clarify bed and breakfast requirements; and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting. (*Planning and Zoning Commission*)

This item was heard after Agenda Item 4B.

City Administrator Ferguson reviewed Planning and Zoning Commission discussions on the proposed regulations and their intended purpose to distinguish different types of lodging facilities, as outlined in the matrix presented to Council (*attached to these minutes*). He detailed key elements of proposed regulations for bed and breakfasts (B & Bs) and short-term vacation rentals and pointed out differences between current and proposed requirements, as recommended by the Planning and Zoning Commission. Major areas of discussion included:

- Planning areas allowed
- Zoning districts allowed
- Conditional use permit (CUP) required
- City license not required
- Inspections
- Duration of operation requirement
- Owner occupancy required
- Maximum occupancy
- Maximum length of stay
- Room requirements
- Construction requirements
- Parking
- Lighting
- Food service
- Fire safety
- Signage allowed
- Water access
- Prohibited gathering
- Proof of State tax license/permit
- Guest documentation
- Location requirement
- Property ownership change

City Administrator Ferguson stressed that B & Bs would require owner occupancy, while vacation rentals would not. Vacation rental property owners would be required to notify all owners within two-hundred feet (200') of the subject property of contact information for a local responsible party. He added that the designated local responsible party must be able to respond within thirty (30) minutes of the complaint.

In response to Councilmember Thurber, City Administrator Ferguson replied that the proposed regulations would not apply to pre-existing, non-conforming ("grandfathered") uses. City Administrator Ferguson stated that the City plans to establish a B & B/vacation rental inventory, whether or not the proposed regulations are adopted.

Discussion between City Administrator Ferguson and Councilmember Wood addressed the trend toward increase in vacation rental properties, in part due to the need for extra income during an economic downturn.

Mayor Flocke opened the public hearing.

Wimberley resident David Estey stated that visitors are the City's main revenue source and expressed concerns related to general requirements for on-street and "yard" parking that need clarification, the problematic nature of the term "*preferred* maximum occupancy," provision of emergency contact instructions, and prohibition of private parties for residences located in Planning Areas I and II. He felt that the Commission should reconsider the proposed regulations and find well-informed people to provide advice on regulation of the B & B/vacation rental industry.

Wimberley resident D'Anna Tindal expressed concerns regarding the need and motivation for the proposed regulations. She stated that regulations as egregious as these will have a huge negative impact on property owners and felt that it would be hard-hearted of Council to consider such regulations in difficult economic times. She asked if the proposed regulations' negative impact was considered or disregarded as unimportant. If the regulations are adopted, Ms. Tindal stated that Council will be voting against the economic welfare of dozens of families. Though she could relate to problems caused by renters, Ms. Tindal felt that one person's inconvenience on relatively few occasions does not justify the grossly negative impact on fellow citizens and hoped that Commission member(s) with conflicts of interest would recuse themselves from discussion of this matter. She was troubled by the "slippery slope" that is destroying the very spirit of America and the State of Texas, and threatens individual liberties and rights. Ms. Tindal asked that Council trust people to care for their investments in a proper manner and avoid cronyism and quid pro quo votes by voting against the proposed regulations.

Representing Blue Heron neighborhood residents, Wanda Cook spoke in favor of the proposed regulations as protection for her neighborhood and felt there should be new rules and regulations for B & Bs and vacation rentals.

Paradise Hills resident Barry Tyler thanked Council and expressed varying degrees of agreement/disagreement on certain issues. He felt that there was not much merit to the process of drafting the regulations, and that further examination is warranted. He questioned the City of

Wimberley's ability to police the proposed regulations, recognized the burden on residents of Paradise Hills to enforce existing regulations, and noted the divisive effect on the neighborhood. He suggested the formation of an ad hoc committee to further research this issue in order to provide recommendations to the Planning and Zoning Commission. Acknowledging that there is some merit to certain aspects of the regulations, Mr. Tyler felt that the proposed changes were not well-publicized and potentially not effective. He recommended that Council postpone action to allow citizens more opportunity for input.

Speaking on behalf of property owners adjacent to rental properties, Loma Vista resident Jerry Waldron spoke in support of the proposed regulations in order to protect full-time residents and the integrity of neighborhoods. He stated that people have moved to Wimberley for reasons that do not include listening to or witnessing parties every night.

Paradise Hills resident and local property manager Dan Sturdivant opposed the proposed regulations, which he felt were presented in a biased manner and without proper study. He cited statistics reflecting the importance of visitors to Wimberley's economy and stated that people who formerly rented are looking to buy their own rental property outside of the city limits due to uncertainty about B & B/vacation rental regulations. Mr. Sturdivant asked that Council reject the proposed regulations or form a committee consisting of homeowners association presidents, reservation service owners, and merchants, in order to plan for regulations that benefit the entire community and not penalize one small group.

Wimberley resident Charles Lancaster did not understand the willingness of Planning and Zoning to regulate the B & B industry out of existence. He expressed concerns regarding enforcement at this time, cited the \$400 non-refundable CUP application fee, and questioned the reasoning of trying to regulate B & Bs by acreage. He felt that CUP applications should be solely considered on the basis of number of beds and issues involving safety. He cited the lack of permit requirements in other cities and stated that the proposed regulations mirror those adopted in New Braunfels, which has an abundance of other lodging options such as hotels and motels. Because he felt that Planning and Zoning Commissioners McCall and Klepfer openly dislike the B & B industry, Mr. Lancaster asked that they recuse themselves from future discussion and action. He stated that board/commission members with personal agendas should not be representing Wimberley and cited the City's removal process for board/commission members. Mr. Lancaster speculated on how specific Council members might vote on this issue. Mr. Lancaster asked that Council stop trying to regulate an industry that brings sales tax revenue to Wimberley and corrected a statement he made at the last Planning and Zoning Commission meeting indicating that Wimberley receives hotel occupancy tax revenue.

Hill Country Accommodations owner and Flite Acres resident Wayne Kochenderfer favored the existing CUP process and cited an excerpt from concerns expressed by Phil Collins in email correspondence dated December 16, 2010 (*attached to these minutes*). Mr. Kochenderfer cited specific examples of loopholes in the duration of operation requirements, which he felt are arbitrary and frivolous.

Vacation rental property owner Hanna Norvell asked for a show of hands of those in opposition to the proposed regulations and asked that the record reflect that "the vast majority of people

here are not in support of this proposition.” She favored the existing CUP process as effective and noted Planning and Zoning’s history of recommending denial of CUPs that were protested by neighbors. She stated that there have not been any complaints that the current CUP process is not working. Mrs. Norvell felt that correcting problems that do not exist and implementing confusing regulations will create additional problems that will drive away desirable future lodging that is unique to Wimberley. She feared that Wimberley’s economy will suffer as a result of decreasing numbers of B & Bs and vacations rentals. Mrs. Norvell spoke of the advantages of the current CUP process and the disadvantages of proposed regulations that she felt are arbitrary such as maximum occupancy requirements based on acreage and hard to enforce water access rules. She cited potential enforcement problems regarding parking and prohibition of private parties in specified areas.

Wimberley resident Clint Frankmann opposed the proposed regulations as over-regulation by the City and tantamount to restraint of trade. He stated that the City is not business-friendly and has made no effort attract businesses since its incorporation, which he felt is ironic due to the City’s dependence on sales tax revenue. Mr. Frankmann believed that “this effort to regulate B & Bs is the first step on the stairway to a hotel occupancy tax, and eventually a property tax.” He said that this is not the deal the City made with this community for its incorporation and stated “if you persist, we will resist.” Mr. Frankmann asked Council to give these proposals for regulating an unwilling B & B industry that attracts guests and dollars to Wimberley its careful consideration, at the risk of causing considerable political unrest and backlash.

Flite Acres resident Alice Wightman expressed mixed feelings about B & Bs/vacation rentals in her partially deed-restricted neighborhood and cited specific problems with area renters that place the burden of enforcement on surrounding property owners. She felt that the B & B industry is wonderful for Wimberley, but did not favor bringing a business into a residential area, with renters showing a total disregard for neighborhood residents. Ms. Wightman proposed postponing action for two weeks in order for Council to consider imposing a financial penalty for those who violate CUP conditions. She stated that B & B/vacation rental owners are making money by being in a residential area and that having to pay a penalty for subjecting neighbors to traffic, noise, lights, and trespassing is the only thing that will get their attention. Ms. Wightman said that it is a shame to pit neighbor against neighbor and viewed B & B/vacation rental owners as exhibiting a kind of arrogance regarding their rights “to do whatever they want to.”

Paradise Hills resident Melvin Hildebrandt asked for a show of hands in support of the proposed regulations.

Paradise Hills resident Ken Long asked how existing/proposed regulations will be enforced. Without enforcement, Mr. Long stated that any regulations are meaningless.

Hearing no further comments, Mayor Flocke closed the public hearing.

Mayor Flocke outlined procedures for Council’s discussion and City Administrator Ferguson reviewed each draft ordinance, as presented in Agenda Items 3E-H.

Councilmember Thurber’s comments included:

- Neighborhood protection and concerns over the commercialization of residential areas
- Comprehensive Plan language contrary to the proposed regulations relating to commercial uses, particularly in Planning Areas I and II
- Grandfathered status of existing rental operations, which will not be affected by the proposed regulations unless there is a change in use or revocation of the CUP
- Property rights and effect on property values for all involved parties, which includes both B & B/vacation rental owners and surrounding residence owners
- Paradise Hills as a successful example of how the existing CUP process works for a neighborhood that is actively engaged in speaking out about rentals
- Need to further define types of lodging industry operations, with the important distinction that vacation rentals are proposed to be non-owner occupied, while B & Bs would be owner-occupied

Councilmember White's comments included:

- Infringement on property rights
- Problematic nature of complaint-based enforcement
- Reporting of CUP violations by neighbors
- Arbitrariness and limitations of proposed regulations
- Unenforceability of water access requirements
- Need for clarification of parking requirements and what constitutes a violation
- Inspections triggered by complaints from neighbors
- Clarification of language relating to provision of a second exit in fire escape plans (for example, second exit for *room* or *building*)
- Clarification of owner occupancy requirements for B & Bs, and whether such occupancy must be under the same roof as guests, if there is more than one structure on the property
- Potential problems with proposed regulations that may result in CUP revocation

Councilmember Wood's comments included:

- Council's responsibility to protect the health, safety, and welfare of citizens, which includes businesses *and* neighborhoods
- Vacation rentals in primarily residential Planning Areas I and II
- Impact of rentals on surrounding residential properties, as expressed by Paradise Hills residents in 2004
- Priority to discuss property rights of residents in Planning Areas I and II
- Burden of enforcement placed on surrounding residents
- Welfare and rights of the people, individual property owners, and businesses
- Grandfathering of existing B & Bs/rentals as good for businesses
- Availability of regulations defining specific types of allowable uses as beneficial to prospective property owners who may be concerned about investing in Wimberley
- Council's need to look out for the welfare of the people, including the neighborhood's right to privacy and the need for business opportunities

Councilmember McCullough's comments included:

- Strong support for rights of businesses

- Acknowledgement of B & B guests who generate sales tax revenue and concerns of visitors who are considering purchasing property in Wimberley
- Despite his strong support of the business community, Councilmember McCullough stated that he bought property in an area for its residential character
- Problems with lack of enforcement and inspections

Councilmember Appleman's comments included:

- Proposed language that is not understandable
- Need for better definitions of different types of lodging and elimination of possible technicalities relating to owner occupancy
- Need for notification of emergency contact information
- Problems with water access regulations, including uniform application of restrictions to all citizens
- Enforcement of existing regulations (such as the noise ordinance) versus imposition of extra lodging requirements
- Better definition of the proposed regulations as related to Planning Areas I and II
- Existing CUP/WPDD process and conditions
- Revocation process for CUP violations

Mayor Flocke called a recess at 7:54 p.m.

Mayor Flocke reconvened at 7:59 p.m.

Mayor Flocke's comments included:

- Confusion and misinformation about existing/proposed regulations
- Few problems/complaints regarding B & B/rentals
- Lack of civility among neighbors and difficulty of enforcing civility
- Distinguishing B & Bs from vacation rentals
- Rights of property owners
- Examples of areas (such as *Inspection*) covered in the matrix that reflect no change from current regulations
- Proposed extension of the *duration of operation* requirement from a dormancy period of six (6) to nine (9) months
- Maximum occupancy best determined as part of the existing case-specific CUP process, rather than on the subject property's acreage
- Need for clarification of definitions and distinction between B & Bs and vacation rentals

To facilitate discussion, City Administrator Ferguson explained key elements of each draft ordinance (Agenda Items 3E-H) and recommended addressing changes to the matrix and modifying each ordinance in accordance with those changes.

Discussion among Council, City Administrator Ferguson, Planning and Zoning Commission Vice Chair Steve Klepfer, and Barry Tyler on the requirements as set forth in the matrix resulted in the following changes, which are noted in the applicable category:

	<i>Bed & Breakfast (CUP)</i>	<i>Vacation Rental (CUP)</i>	<i>Change(s)</i>
Planning Area Allowed			None
Zoning District Allowed			None
CUP Required			None
City License			None
Inspection			None
Duration of Operation Requirement			None
Owner Occupancy Required	Direction to City Administrator Ferguson to better define <i>owner occupancy</i> and address issue of multiple structures on subject property		B & B
Maximum Occupancy		Remove the entire following sentence: "For residences located in Planning Areas I and II, the preferred maximum occupancy is six (6) people on properties five (5) acres or less in size and twelve (12) people on properties greater than five (5) acres."	Vacation Rental
Maximum Length of Stay			None
Room Requirements			None
Construction Requirements			None
Parking	Addition of "No off-site parking on public streets." Delete "yard parking not permitted" and clarify parking surface requirements.	Addition of "No off-site parking on public streets." Delete "yard parking not permitted" and clarify parking surface requirements.	B & B/ Vacation Rental
Lighting			None
Food Service			None
Fire Safety	Addition of clarifying language that a "second exit <i>from the lodging facility structure</i> shall be provided."	Addition of clarifying language that a "second exit <i>from the lodging facility structure</i> shall be provided."	B & B/ Vacation Rental
Signage Allowed			None
Water Access			None
Prohibited Gathering		Direction to City Administrator Ferguson to draft language addressing repeat violations	Vacation Rental
Proof of State tax license/permit	Additional clarifying language designating a time period for submission of proof, once CUP is approved	Additional clarifying language designating a time period for submission of proof, once CUP is approved	B & B/ Vacation Rental
Required Guest Documentation			None
Location Requirement			None
Property Ownership Change			None

Councilmember Thurber moved to continue Agenda Items 3E, 3F, 3G, and 3H until Council's January 6, 2011 meeting. Councilmember White seconded. Motion carried on a vote of 5-0.

Barry Tyler commended Council, the Planning and Zoning Commission, City Administrator Ferguson, and staff for doing an outstanding job in handling a difficult situation. He expressed appreciation for Council's action.

- F. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Section 155.055 (Definitions) of Chapter 155 (Zoning) of the Code of Ordinances to amend definitions related to Lodging and add a new definition "Vacation Rental", and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting. (*Planning and Zoning Commission*)

See action taken under Agenda Item 3E.

- G. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Chapter 155 (Zoning) of the Code of Ordinances to add Section 155.080 "Lodging Requirements" and accompanying development regulations of such uses; and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting. (*Planning and Zoning Commission*)

See action taken under Agenda Item 3E.

- H. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending §155.035 (Residential Acreage; RA), §155.036 (Rural Residential 1; R-1), §155.037 (Single-Family Residential 2; R-2), §155.038 (Single-Family Residential 3; R-3), §155.045 (Office – Low Impact; O-1), §155.046 (Office – High Impact; O-2), §155.047 (Commercial – Low Impact; C-1), §155.048 (Commercial – Moderate Impact; C-2), §155.049 (Commercial – High Impact; C-3), §155.061 (Neighborhood Services District; NS), and §155.094 (Scenic Corridor; SC) of Chapter 155 (Zoning) of the Code of Ordinances to add "Vacation Rental" as a conditional use; and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting. (*Planning and Zoning Commission*)

See action taken under Agenda Item 3E.

- I. Hold a public hearing and consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Chapter 155 (Zoning) of the Code or Ordinances, certain subsections of Section 155.023 (Districts Established; Designation and Review) in order to add "Village Inn (VI)" as a base zoning district, revise the planning areas accordingly; and add Section 155.063 Village Inn District and accompanying development regulations; and providing for the following: findings of fact; repealer; severability; effective date; and proper notice and meeting. (*Planning and Zoning Commission*)

City Administrator Ferguson provided background information and reasoning for creation of the VI zoning district, which is meant to address small lodging operations. The VI zoning district would be allowed in largely commercial Planning Areas III-VII and sets specific parameters for maximum number of rooms, occupancy, building footprint, and minimum lot size. He reported that the Planning and Zoning Commission unanimously recommended approval at its December 9, 2010 meeting.

No public comments were heard.

Discussion agreed on the following changes to the draft ordinance:

- §155.063(O) Fire Safety: “. . . ; a second exit *from the building* shall be provided.”
- §155.063(P) Water Access: “Only renters may access the water from the subject property and such access shall be from a point at least *twenty (20) feet* from any adjacent property lines and occur during daylight hours only.”

Councilmember Appleman moved to approve the ordinance on first reading, with the inclusion of the above listed changes. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- J. Hold a public hearing and consider approval of the first reading of an ordinance amending portions of Sections 155.107 (Planning and Zoning Commission) and 155.108 (Board of Adjustment; Variances and Appeals) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the removal process for board members appointed to the above referenced boards; and providing for findings of fact, an effective date; proper notice and meeting, and severability. (*City Administrator*)

City Administrator Ferguson highlighted key elements of the proposed ordinance and reported that the Planning and Zoning Commission voted 4-3 to recommend approval of the draft ordinance with the following amendments:

- Commission and board members would automatically vacate their positions if they miss three (3) consecutive meetings in a twelve (12) month period or five (5) meetings in a twelve (12) month period, rather than two (2) consecutive meetings or three (3) meetings in a twelve (12) month period.
- It would take a super majority vote, rather than a unanimous vote of City Council as proposed, to reinstate a vacated commission or board member.

Planning and Zoning Commission Vice Chair Steve Klepfer provided reasoning for changing the requirements in order to address problems with attendance that result in lack of a quorum and impact the ability to conduct business in a timely manner. Discussion addressed elimination of “excused” and “unexcused” absences, removal/reinstatement procedures, and the maximum number of absences allowed.

No public comments were heard.

Councilmember Thurber moved to approve the ordinance with the Commission's recommendations as listed above, except for the following changes to §155.107(B)(5) and §155.108(B)(4):

“Any Board member who misses three (3) consecutive meetings within a 12-month period of time or four (4) meetings within a 12-month time period shall be deemed to have automatically vacated his or her position on the Board.”

Councilmember McCullough seconded. Motion carried on a vote of 5-0.

- K. Hold a public hearing and consider approval of an ordinance of the City of Wimberley, amending Section 155 (Zoning), Appendix F, of the Code of Wimberley, designating geographic boundaries for a particular zoning district and classification for property located at 260 Panther Crossing, Wimberley, Hays County, Texas, designating such property from Residential Acreage (RA) to Rural Residential 1 (R-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting. (*Thomas & Nancy Payte, Applicants*)

City Administrator Ferguson reported on the subject property's current/proposed zoning and uses and location in Planning Area I. As the proposed subdivision will create two (2) lots, both greater than two (2), but less than five (5) acres in size, it is necessary to change the subject property's zoning from Residential Acreage (RA) to Rural Residential 1 (R-1). He stated that no comments have been received either for or against the zoning change. He advised that the Planning and Zoning Commission voted unanimously to recommend approval at its December 9, 2010 meeting.

No public comments were heard.

Councilmember McCullough moved to approve the item as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- L. Hold a public hearing and consider approval of an application for a replat of Lot 15 Flite Acres Little Ranches creating two (2) lots to be known as Lot 15A (4.436 acres) and Lot 15B (2.212 acres), on Panther Crossing, Wimberley, Hays County, Texas, and associated variances from Section 154.063(C) of the City Subdivision Code relating to lot shape configuration, Sections 154.058 and 154.063(D) relating to lot access and frontage and Section 154.063 relating to intersection design. (*Thomas & Nancy Payte, Applicants*)

City Administrator Ferguson reported on the application for a replat of the subject property located at 260 Panther Crossing, which creates two (2) lots, Lot 15A (4.436 acres) and Lot 15B (2.212 acres), out of the original Lot 15 (6.648 acres). Lot 15 was originally platted with only approximately 15 feet of frontage on a 30 foot wide access easement (private easement road). The proposed lot will continue to have frontage on Panther Crossing, while the proposed Lot 15B will not. Access to the proposed lots will come from a dedicated 30 foot access easement that will tie into the above-mentioned access easement known as Panther Crossing. The proposed lots will be served by Wimberley Water Supply Corporation.

City Administrator Ferguson detailed the requested variances from the provisions of the City Code relating to lot shape criteria, lot access, and intersection design. City Administrator Ferguson explained that based on its documented historic use, the City has accepted Panther Crossing as a public access point, even though it is designated as a private easement. He noted that on the second page of the plat, the following correction is needed: Deletion of “(Panther Crossing – Private Road) underneath the “30’ Road Easement 0.448 acres” caption, to simply read “(Private Road).”

City Administrator Ferguson advised that the Planning and Zoning Commission unanimously recommended approval of the subdivision, along with the requested variances, at its December 9, 2010 meeting.

No public comments were heard.

Councilmember McCullough moved to approve the item as presented (including the requested variances), with the correction to the plat as noted above by City Administrator Ferguson. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

4. Discussion and Possible Action

- A. Discuss and consider possible action authorizing the Mayor to execute a donation agreement with the Burdine Johnson Foundation in accordance with the Blue Hole Element/Amenity Naming Policy. (*City Administrator*)

City Administrator Ferguson explained that Council action is needed to authorize execution of the donation agreement relating to a previously accepted donation of \$150,000 to help fund development and maintenance of the proposed soccer fields at Blue Hole Regional Park. One of the two planned soccer fields will carry the name of *The Johnson Family Field* for the life of the improvement, with donated funds to be held by the City and used on improvements as the Park is developed.

Councilmember Wood noted that \$10,000 in interest has been earned on the originally donated amount of \$150,000. Friends of Blue Hole Director Steve Klepfer stated that the Burdine Johnson Foundation is a leader in philanthropy in Hays County and expressed appreciation to the Foundation for its critically important early gift of \$150,000.

Councilmember Appleman moved to approve the item as presented. Councilmember Wood seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider possible action approving the boundary survey of the City of Wimberley prepared by Baker-Aicklen & Associates. (*City Administrator*)

This item was heard after Agenda Item 3D.

City Administrator Ferguson reviewed the history of the project to complete a boundary survey, as required by law upon the City's incorporation.

Jack Avis of Baker-Aicklen & Associates presented printed and electronic versions of the final boundary survey to Council (*attached to these minutes*), and provided details on all project deliverables, including legal documents, survey plats used, GPS control photos, CAD files, and GIS data layers. He recognized fellow Baker-Aicklen personnel and associate Parker Graham, who also contributed to the project.

Discussion addressed certain property lines, dissection of properties/houses, and minor discrepancies and/or misrepresentations among data sources. Petitions from City of Woodcreek property owners wishing to remain in the City of Woodcreek were identified, researched, and honored. It was noted that very few conflicts were encountered by field personnel.

Upon Council approval, City Administrator Ferguson stated that the final boundary survey will be distributed to other governmental entities and integrated into the City's GIS mapping system. He asked that Council's motion include approval of both the survey map and legal description. City Administrator Ferguson advised that work with Baker-Aicklen will continue in order to create map books that the public may purchase.

Councilmember McCullough moved to approve the item, as presented, including the 45-page metes and bounds description. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider possible action approving the schematic design for the *Wimberley Square Ranch Road 12 Improvement Project*. (*City Administrator*)

This item was heard after Agenda Item 4A.

City Administrator Ferguson provided details on specific improvements, including turn lanes, sidewalks/crosswalks, drainage work, landscaping, signage, expected completion date, and funding. He reported that on December 8, 2010, the Transportation Advisory Board voted to recommend approval of the schematic design to allow TxDOT to proceed with preparation of engineered plans.

In response to Councilmember Appleman, City Administrator Ferguson advised that provisions will be made to avoid repairs to the newly constructed improvements, in the event of future sewer construction.

Councilmember Thurber moved to approve the item as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible action approving the job description and salary level for the Blue Hole Regional Park Manager and amending the Fiscal Year 2011 City of Wimberley Blue Hole Operating Budget in the amount of \$25,000 to fund the salary for the new position. (*City Administrator*)

City Administrator Ferguson reported that this full-time supervisory position will be responsible for overseeing day to day park operations. The proposed salary for the position is \$40,000, plus benefits and will be advertised statewide, in the hopes of having a Park Manager hired and on board in March 2011. He recommended that Council approve the proposed job description and salary and amend the operating budget for the Park in the amount of \$25,000, to fund the position for the remainder of the fiscal year.

Councilmember Wood moved to approve the item as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider possible action regarding the determination of the future role of the Wimberley Economic Development Commission. (*Mayor Pro-tem Steve Thurber & Councilmember Bill Appleman*)

Councilmember Thurber moved to continue this item until Council's meeting on January 6, 2011. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- F. Discuss and consider possible approval of a proposal to involve the public in the process of preparing the annual City of Wimberley Operating Budget. (*City Administrator*)

City Administrator Ferguson reviewed the current budget process and presented a plan to implement a citizen-based budget process, including the following:

- Formation of a seven-member "Citizens Budget Task Force" to meet monthly, or as needed
- Monthly status briefings
- On-line budget survey on key issues
- Community budget forums
- Civic presentations on the proposed budget and hearing process
- Relevant notices posted on the City's website home page
- Timeframe for specific stages of the budget process

Councilmember Appleman commended City Administrator Ferguson and Mayor Flocke for their efforts to enhance public engagement. Councilmember Appleman moved to approve the item as presented in City Administrator Ferguson's previously stated plan. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

5. City Council Reports

- Announcements
- Future Agenda Items

As a future agenda item, Mayor Flocke asked for discussion of handicapped parking at City Hall and striping of parking places in the Square.

Hearing no further announcements or future agenda item requests, Mayor Flocke called the meeting adjourned at 10:15 p.m.

Adjournment: Council meeting adjourned at 10:15 p.m.

Recorded by:

Cara McPartland

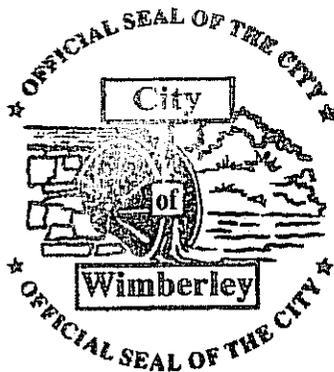
Cara McPartland

These minutes approved on the 6th of January, 2011.

APPROVED:

Bob Flocke

Bob Flocke, Mayor



Thursday, December 15, 2010

I'm here again tonight to talk about the action taken by council to close and barricade Las Flores Dr.

This was an action that had no merit what so ever. Complaints about the traffic and speeding could have been handled successfully by a couple speed humps and a Marshall. Looking threw the minutes of meetings from last year I noticed that residents of las flores were reporting traffic was better and speeding was down due to the Marshal issuing tickets. Mayor Flocke, then a councilmen also commented on how much better the traffic situation was. In a meeting this spring with the Transportation Advisory Committee, Mr. Furgasen spoke of residents of Las Flores complaining again about traffic and wanting speed humps. He told Mr. Rey that speed humps were not the answer, we all know the solution is the Marshall and enforcement.

So why let the Marshal go and install speed humps on the road a block away? That decision increased property values for a chosen few on Las Flores and decreased property value for residents on the corner lots and La Buena Vista.

Not only did u not do an impact study to see how this would affect property owners but you hid valuable information and took action without public knowledge or input.

This seems to be the typical action with this council. Now it's the business owners and other residents that will see just how a dictatorship works.

What are the Citys proposed actions going to accomplish?

Stephanie Reynolds

	<i>Bed and Breakfast (CUP)</i>	<i>Vacation Rental (CUP)</i>
Planning Area Allowed	All Planning Areas	All Planning Areas
Zoning District Allowed	RA, R-1, R-2, R-3, O-1, O-2, C-1, C-2, C-3, NS, SC	RA, R-1, R-2, R-3, O-1, O-2, C-1, C-2, C-3, NS, SC
CUP Required	Yes	Yes
City License	No	No
Inspection	Property subject to inspection at any time by designated City representatives, if compliance is in question, with proper notice provided.	Property subject to inspection at any time by designated City representatives, if compliance is in question, with proper notice provided.
Duration of Operation Requirement	CUP shall terminate if and when there is evidence of no rental activity, based on the State Occupancy Tax Reports, for a period of nine consecutive months	CUP shall terminate if and when there is evidence of no rental activity, based on the State Occupancy Tax Reports, for a period of nine consecutive months
Owner Occupancy Required	Yes	Owner occupancy not required. However, the subject property owner shall provide the City and property owners, within 200' feet of the subject property, with the current name and contact information for the local responsible party for the subject property.
Maximum Occupancy	Addressed as part of CUP application based on number of rooms, beds, parking, neighborhood input and any other factors determined to be relevant	Addressed as part of CUP application based on number of rooms, beds, parking, neighborhood input and any other factor determined to be relevant. For residences located in Planning Areas I and II, the preferred maximum occupancy is six (6) people of properties five (5) acres or less in size and twelve (12) people on properties greater than five (5) acres.
Maximum Length of Stay	No	No
Room Requirements	No	No
Construction Requirements	OSSF shall have adequate capacity	OSSF shall have adequate capacity
Parking	On-street parking prohibited; two (2) parking spaces are required plus one additional space per room rented, subject to modification as part of CUP; yard parking not permitted	On-street parking prohibited; one (1) space per room rented subject to modification as part of CUP; yard parking not permitted
Lighting	Compliance with Lighting Code Required	Compliance with Lighting Code Required
Food Service	Optional; owner prepared/pre-packaged or from licensed commercial kitchen	Optional; owner prepared/pre-packaged or from licensed commercial kitchen
Fire Safety	One (1) smoke alarm in each guest bedroom along with a fire extinguisher visible and accessible to guests; a fire escape plan shall be developed and graphically displayed in each guest room; second exit shall be provided	One (1) smoke alarm in each guest bedroom along with a fire extinguisher visible and accessible to guests; a fire escape plan shall be developed and graphically displayed in each guest room; second exit shall be provided
Signage Allowed	Signage for bed and breakfasts located in Planning Areas I and II shall be limited to one (1) non-illuminated sign not to exceed four (4) square feet in area and shall be of traditional hill country design and color. Signage on such properties located in all other Planning Areas shall be subject to the regulations set forth in the City Sign ordinance	Signage for vacation rentals located in Planning Areas I and II shall be limited to one (1) non-illuminated sign not to exceed four (4) square feet in area and shall be of traditional hill country design and color. Signage on such properties located in all other Planning Areas shall be subject to the regulations set forth in the City Sign ordinance
Water Access	Retain current CUP requirements for water access	Retain current CUP requirements for water access
Prohibited Gathering	None	Residences located in Planning Areas I and II shall not be used by the public or paying guests for hosting of receptions, private parties or the like unless approved otherwise in the CUP
Proof of State tax license/permit	Yes	Yes
Required Guest Documentation	None	None
Location Requirement	None	None
Property Ownership Change	City shall be notified of any change in property ownership within thirty (30) days of such change	City shall be notified of any change in property ownership within thirty (30) days of such change

Don Ferguson

From: Phil Collins [phil@collinstx.net]
Sent: Thursday, December 16, 2010 4:45 PM
To: bflocke@cityofwimberley.com; dferguson@cityofwimberley.com
Cc: Phil Collins; [REDACTED]
Subject: B&B and Vacation Rental Discussions
Importance: High

Bob/Don,

I just left both of you a voicemail, as my schedule would not allow me to participate in the council meeting this evening. I was at the P&Z meeting last week and was quite surprised and discouraged by what I saw take place during the meeting.

Just so you are aware of my interests, here is my Wimberley connection:

- I currently own 3 Vacation rental properties, all handled by the local Wimberley booking agencies:
 - A 5 bedroom on 3 acres directly on the Blanco
 - A 5 bedroom on 12 acres on a ridge overlooking Wimberley valley
 - A 6 bedroom on 33 acres on a ridge overlooking Wimberley valley
- I also own 5 commercial buildings in town, as well as raw land.
- I have plans to own more vacation rental properties in the future.
- I am moving full time to Wimberley this spring (youngest is finishing high school).
- I am definitely interested in the long term success of Wimberley.
- All three vacation rental properties have permanent residents surrounding them. In over 4 years, I have only received one phone call from a neighbor, and that was after the fact.

After last week's P&Z meeting, I came away with the following thoughts and concerns:

- We had a room full of people there to support the long term growth of both our B&B and vacation rental (VR) properties.
- There was not a single speaker (omitting one P&Z committee member evidently in a huff with some B&B next to him) who even hinted at a festering problem between B&B/VR and their neighbors. If there was this huge problem with homeowners and nearby B&B/VR properties, don't you think that those people would have shown up in equal or greater force than the supporters of the B&B business?
- I kept wondering, why are we trying to gut the B&B/VR business in Wimberley? This happens to be a prime driver of the economic engine of the area.
- I have to admit that I am not up on the local politics, but my perception of the whole meeting was that we had one P&Z committee member (I am sorry I don't remember the name, but I can look at a list and find it if you need it), who has or had some problems with a neighboring B&B/VR, and he is trying to change local legislation to solve his personal problem. Knee jerk reactions to very specific issues are typically not good solutions. The guy that has poison ivy on his arm so bad, may think that cutting off his arm would be a good solution to his problem. It never is long term.
- My last question from the meeting was about the impact study associated with the proposed actions. How do we know how many, or what percentage of properties are actually impacted by these decisions offered, without doing an analysis.

Here are my specific suggestions for action based on the current proposed B&B/VR "Matrix" :

- **Duration of Operation** – Nine months is too short. Go with 12 months. This would allow people with

multiple properties, or other situations, to move in and handle major remodeling and additions.

- **Owner Occupancy Required** – Drop the requirement for B&B. Go with same language for B&B, as you have for VR.
- **Max Occupancy** – Absolutely remove any fixed requirements. This is **well addressed within the existing CUP process** and is not required. The CUP process looks at the size of the house, parking, interests of the neighbors, etc. If you put some fixed amount, you are automatically gutting the future of the VR activity in Wimberley. Revenue in a B&B or a VR is tied directly to the number of beds. If you pick some arbitrary number like “6”, then you automatically set the upper range that you can get in revenue for a given property. If you look at the property base in Planning Areas I and II, you would be hard pressed to find any property that will cash flow as a B&B or a VR based on even the current lowered real estate values. Future B&B and VR business will be the rare exception (if this is the desired plan, then this is absolutely the way to go).
- **Prohibited Gathering** – I don’t know how this is defined, or would be policed. If my guests invite their grandmother to have dinner with them, are we going to ask Grandma to leave? I completely understand the intent, but is having 6 extra people over for a rehearsal dinner on my property with 3 acres going to be a problem, or even noticed. How many police complaints have we had in the last 12 months? The right answer is to address this within the CUP process and drop it here. The CUP will allow you to look at the specific situation, and offer even more protection than you have listed here, when it is needed.
- **Impact Study** – Slow down and look at the impact of your decisions before you make them policy. See what percentage of lots in Planning Areas I and II are 5 acres and below? I would assume over 95% of the lots fall into this category, but lets slow down and take a look.

I am sorry that my schedule did not allow me to participate personally tonight. I tried to avoid writing a thesis, and to keep to the critical issues. I would be happy to speak with anyone directly regarding my comments, ideas or criticisms. I would also make myself available to help in any other way that I could.

Regards,
Phil Collins
President
Saber Power Services, LLC

Mobile: 713.208.7145
Phone: 713.222.9191 | Fax: 713.222.1457
Toll Free: 866.725.3771
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3309 Texas, Houston TX 77003

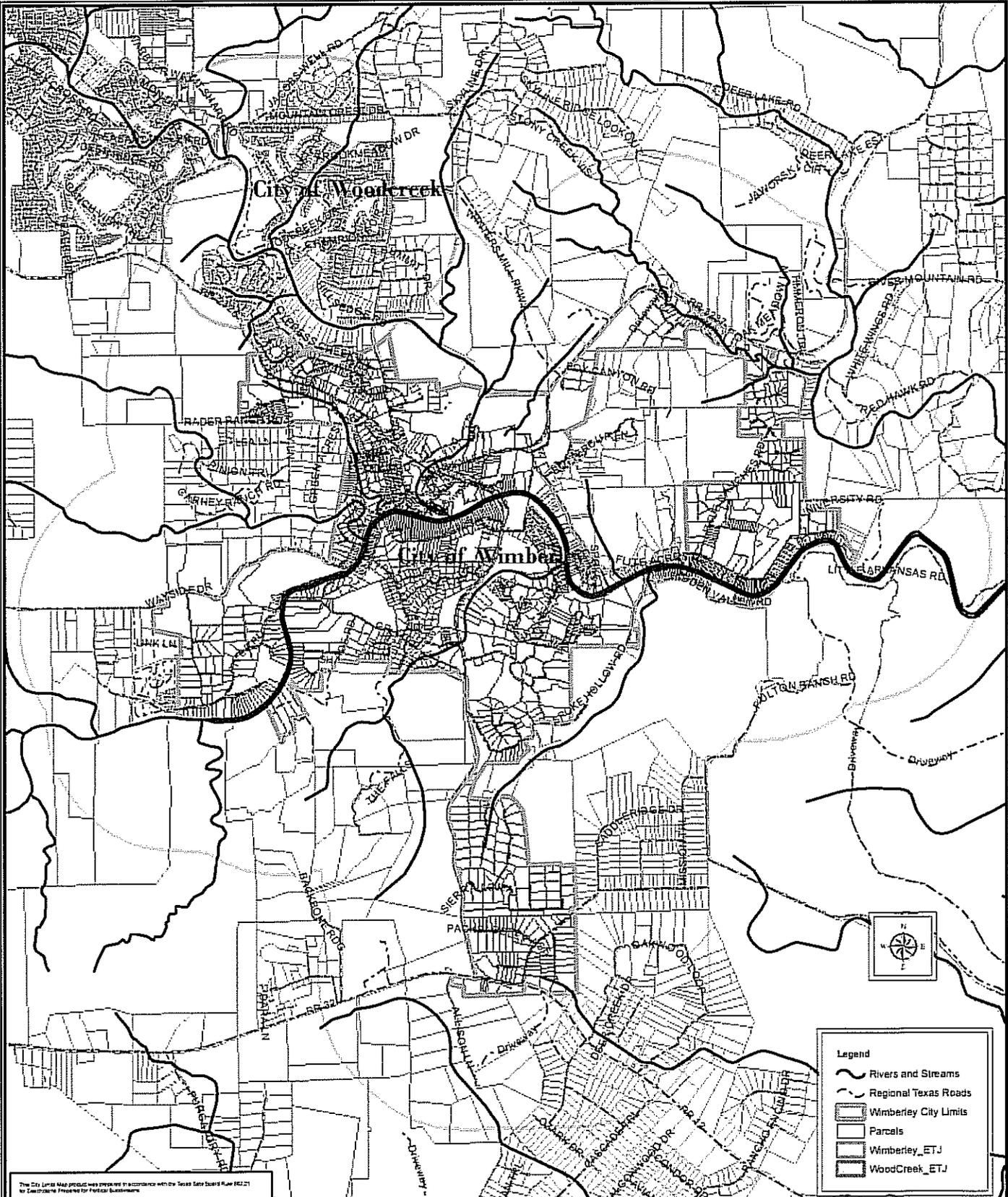
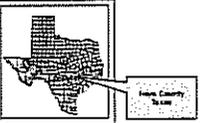




WIMBERLEY

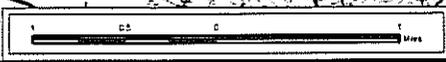
- ▶  Aerials
-  CAD
-  Deeds
-  ETJ
-  GPS
-  Legal
-  Limits
-  Maps
-  OTLS
-  Parcels
- ▶  Plats
-  ROW
-  Subdivisions

Wimberley City Limits & Extraterritorial Jurisdiction Hays County, Texas - November, 2010



The City Limits Map product was prepared in accordance with the Texas State Board Rule 162.21 for Limitations Prescribed for Political Subdivisions.

This map product is a graphic representation of the Wimberley City Limits shown herein. It was based upon property records research and supplemented by aerial and/or ground survey information. This is not a boundary survey product and only represents the location of property boundaries as it relates to other land interests and other geospatial features. The product conforms to a Scale of 1" = 400' Date Made: 11/02/10 Survey Product as defined in Category 1C of the Texas Secretary of Professional Government Services. As of 11/02/10

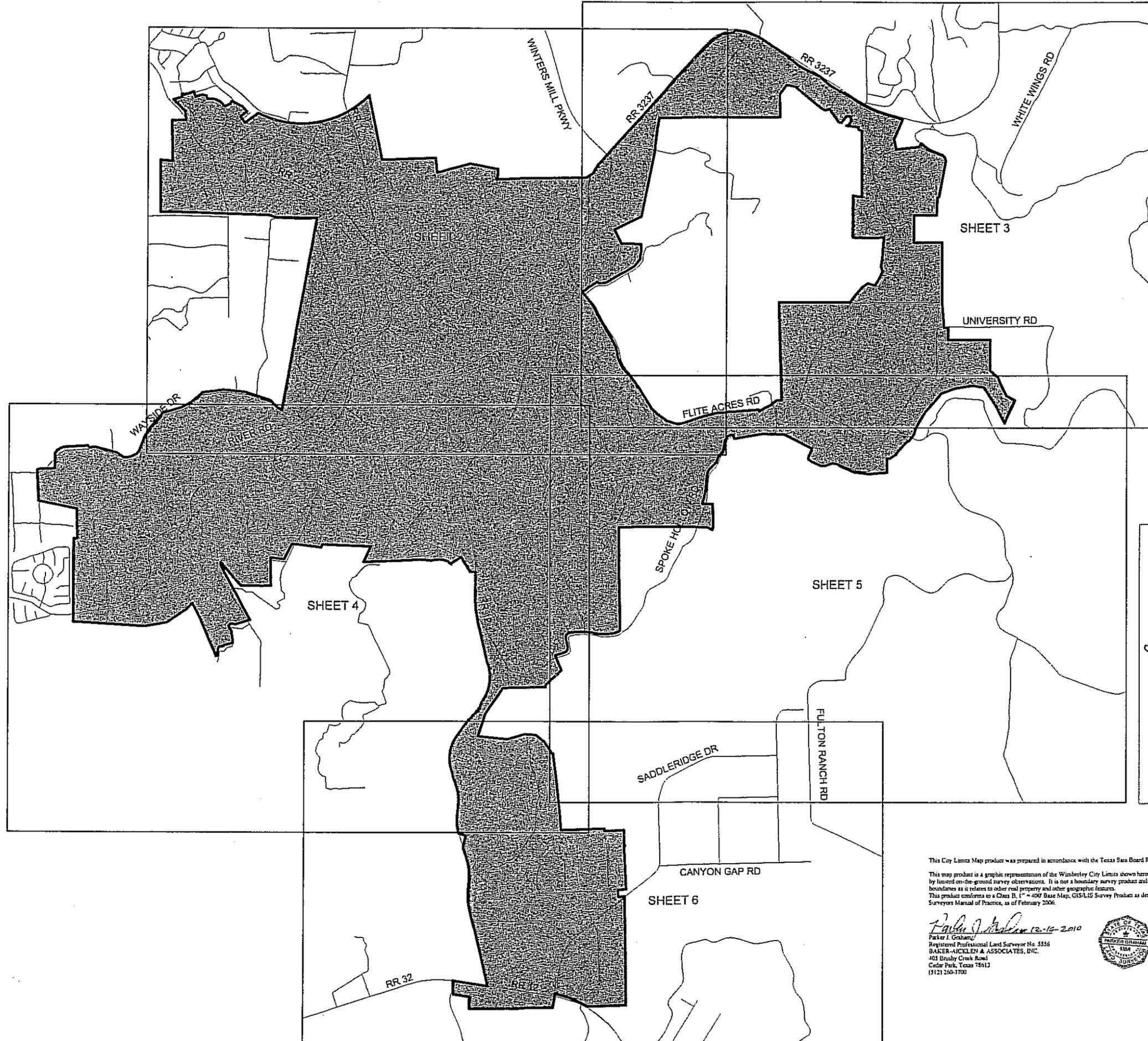


Legend

- Rivers and Streams
- Regional Texas Roads
- Wimberley City Limits
- Parcels
- Wimberley_ETJ
- WoodCreek_ETJ



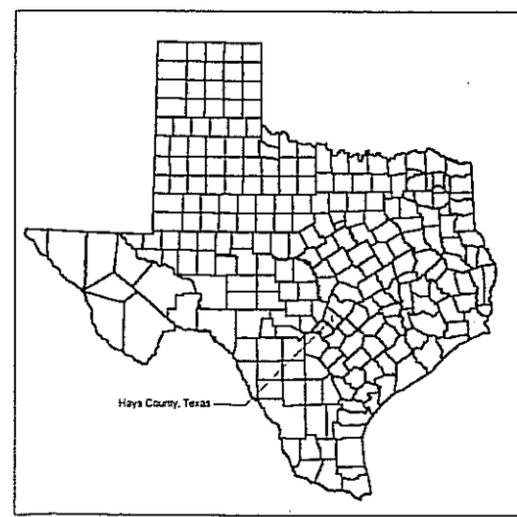
WIMBERLEY CITY LIMITS, HAYS COUNTY, TEXAS - NOVEMBER, 2010
CONTAINING 8.96 SQUARE MILES



LEGEND

- City Limits Boundary Line
- Parcel Line within City Limits
- Subdivision Line

Shaded areas are within Wimberley city limits
Subdivisions are referenced by Volume and Page



This City Limits Map product was prepared in accordance with the Texas State Board Rule 663.21, for Descriptions Prepared for Political Subdivisions.
This map product is a graphic representation of the Wimberley City Limits shown herein. It was based upon property records research and supplemented by limited on-the-ground survey observations. It is not a boundary survey product and only represents the approximate relative location of property boundaries as it relates to other real property and other geographic features.
This product conforms to a Class B, 1" = 400' Base Map, GIS/LIS Survey Product as defined in Category 10, of the Texas Society of Professional Surveyors Manual of Practice, as of February 2006.

Parker J. Graham 12-10-2010
Parker J. Graham
Registered Professional Land Surveyor No. 5556
BAKER-AICKLEN & ASSOCIATES, INC.
403 Brushy Creek Road
Cedar Park, Texas 78613
(512) 260-1700



WIMBERLEY CITY LIMITS, HAYS COUNTY, TEXAS - NOVEMBER, 2010
CONTAINING 8.96 SQUARE MILES



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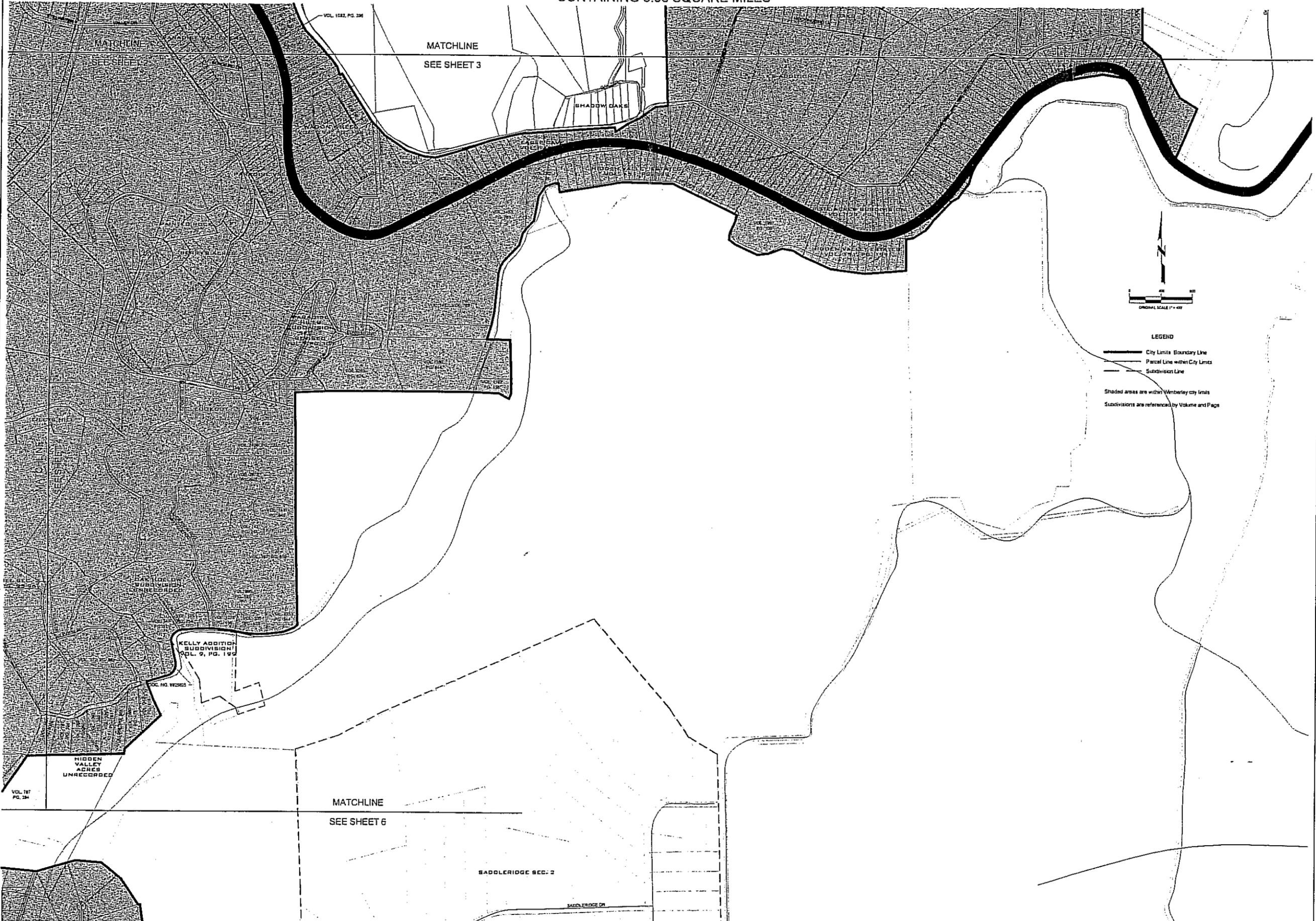


LEGEND

- City Limits Boundary Line
 - Parcel Line within City Limits
 - Subdivisor Line
- Shaded areas are within Wimberley city limits
Subdivisions are referenced by Volume and Page



WIMBERLEY CITY LIMITS, HAYS COUNTY, TEXAS - NOVEMBER, 2010
CONTAINING 8.96 SQUARE MILES



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VOL. 181
PG. 234

KELLY ADDITION
SUBDIVISION
VOL. 9, PG. 192

HIDDEN
VALLEY
ACRES
UNRECORDED

MATCHLINE
SEE SHEET 6

SADDLERIDGE SEC. 2

SADDLERIDGE DR