

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
August 20, 2009 at 6:30 p.m.

City Council meeting called to order at 6:30 p.m. by Mayor Tom Haley.

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

Councilmembers Present: Mayor Haley and Councilmembers Charles Roccaforte, Bob Flocke, Bill Appleman, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson, City Planner Abby Gillfillan, and City Attorney Cindy Crosby.

Citizens Communications

Wimberley Chamber of Commerce Board Chair Jenelle Flocke presented a certificate of appreciation to the City of Wimberley for its support of a successful Fourth of July Parade and Jubilee.

1. Consent Agenda

- A. Approval of minutes of the regular City Council meeting of August 6, 2009.
- B. Approval of the reappointment of Jan Fulkerson to the Wimberley Parks Board (*Place Four Councilmember Steve Thurber's nominee*).
- C. Approval of the appointment of John Estopp to the City of Wimberley Water Wastewater Advisory Board (*Place Two Councilmember Bob Flocke's nominee*).

Councilmember White moved to approve all Consent Agenda items as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

2. City Administrator Report

- Status report on the City of Wimberley's application for grant funding from Texas Parks and Wildlife Department (TPWD) for the development of the *Blue Hole Regional Park*

City Administrator Ferguson reported on the City's application status and plans to attend TPWD's award of grant funding next week.

- Status report on the Mayor's Fitness Council grant

City Administrator Ferguson reported on receipt of an additional \$5,000 in state grant funds to be used for mentoring other communities.

- Status report on the PEC Triangle Property Committee

City Administrator Ferguson reported on planning efforts using a model developed by Committee member Bert Ray and anticipated bringing a recommendation to Council in 30-45 days.

- Status report on water quality testing of the Blanco River and Cypress Creek

City Administrator Ferguson reported that certain locations did not have adequate water for testing purposes. Cypress Creek testing yielded acceptable results, but elevated levels were found at the Blanco River/CR 1492 location. He reminded that all natural bodies of water carry an element of risk. In response to Councilmember Thurber's inquiry, discussion established that the two locations without adequate water for testing were Cypress Creek at Ranch Road 12 North and Cypress Creek at Jacob's Well Road.

- Status report on the operation and development of *Blue Hole Regional Park*

This report was presented after the status report on activities of the City Marshal. Due to reduced end of season attendance, City Administrator Ferguson reported that the Park is currently open weekends only through Labor Day. He advised that this season's statistics are under review in order to finalize the Blue Hole budget.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported that preparations are underway for a trial on September 1, 2009.

- Status report on activities of the City Marshal

City Administrator Ferguson reported that City Marshal Bill Robinson is working on National Night Out activities scheduled to be held in the downtown Wimberley Square. He reported on upcoming Council actions related to National Night Out. Mr. Ferguson stated that planning efforts are underway for the Christmas parade.

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 Tony Saucedo to permit an eating establishment: sit-down, including the sale of beer, wine and alcohol for on-premise consumption on an approximately 0.128 acre tract located at 701 FM 2325, Wimberley, Hays County, Texas, zoned Commercial - Low Impact (C-1), 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 (*Tony Saucedo, Applicant*).

Planning and Zoning Commissioner Jean Ross reported that no opposition was received to this application and that assurances were provided by the applicant's attorney that all Texas Alcoholic Beverage Code (TABC) requirements would be met, concluding with the Commission's recommendation for approval.

City Planning Technician Abby Gillfillan detailed the application including location and current/proposed zoning/uses. She noted that the restaurant has both indoor and outdoor seating and that revenue from the sale of alcohol will not surpass fifty percent (50%) of the restaurant's gross revenue. Alcohol sales will not be allowed at the take-out window. With no opposition received to this request, Ms. Gillfillan concluded with staff's recommendation for approval.

Mayor Haley opened the public hearing.

Applicant's attorney Pat Rehmet stated that the applicant will sell beer and wine only and that there are no plans for outside music at the restaurant.

Darenda Mallard expressed concern over parking and felt that there is potential for an accident at the restaurant's location.

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

Discussion addressed existence of adequate parking and the effect of changes in use on the property's pre-existing, non-conforming status.

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

- B. Hold a public hearing and consider approval of a waiver of the 300-foot distance requirement relating to the sale of beer, wine and alcohol at 701 FM 2325, Wimberley, Hays County, Texas (*Tony Saucedo, Applicant*).

City Administrator Ferguson reviewed the waiver requested due to the subject property's location within 300 feet of Scudder Primary School. City Council may waive the distance requirements if the Council finds enforcement of the distance provision in a particular case:

- is not in the best interest of the public
- constitutes waste or the inefficient use of land or other resources
- creates an undue hardship on an applicant
- does not serve its intended purpose
- is not effective or necessary

- for any other reason the Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines in the best interest of the community.

Mayor Haley opened the public hearing.

Pat Rehmet stated that Wimberley Independent School District (WISD) has expressed no opposition to the waiver request. Discussion addressed the subject property's boundaries and notification procedures.

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

Based on the above listed findings, Councilmember Flocke moved to approve the waiver as presented. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- C. 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 a 1.367 acre tract located at 600 FM 2325, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial - Low Impact (C-1); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Kate Brune Tilton, Applicant*).

Mayor Pro-tem Roccaforte recused himself at this time due to a possible conflict of interest.

Planning and Zoning Commissioner Jean Ross reviewed Commission consideration of opposition expressed at its public hearing on August 13, 2009 by neighboring property owners. She clarified the Commission's position on concerns expressed by Katherine Anne Porter School's (KAPS) Superintendent Yana Bland relating to alcohol sales in proximity to the school's campus.

Because neighboring property owners' expressed concerns regarding potential noise from the outside music venue, Commissioner Ross stated conditions added to the companion conditional use permit (CUP) request, including prohibitions on music amplification and limitations on days/hours of outdoor music. She advised that the Commission voted unanimously to recommend approval of the zoning request. The Commission voted to recommend approval of the companion conditional use permit request (including additional conditions) on a vote of 6-1. Commissioner Alice Wightman voted against.

Commissioner Ross stated major concerns relating to negative impact on neighboring property values, TABC regulations, use as a restaurant (selling beer and wine only), and noted lack of problems with other area restaurants currently serving alcohol. She stated additional conditions related to fencing, landscaping/buffering, ingress/egress, lighting, and the outdoor music venue. The recommended additional conditions are included in the proposed zoning ordinance as follows:

1. Vehicular and pedestrian ingress and egress shall be solely from FM 2325.

2. Outdoor entertainment shall not use amplification devices of any type.
3. All lights shall be shielded from adjacent properties and shall comply with applicable City ordinances and regulations regarding lighting.
4. A landscape buffer of no less than 10 feet wide shall be installed along the entire length of the rear property line, which may be located in the rear setback area. All landscaping shall meet applicable City ordinances.
5. All restaurant uses shall close to the public no later than midnight, and all outdoor music shall cease at 10:30 p.m.
6. Fencing shall be located at the rear property line which shall be no less than 6 feet in height, shall comply with all City regulations regarding fencing, and shall have no access gates at the rear of the property.

City Planning Technician Abby Gillfillan reviewed the application including location, current/proposed uses, existing structures, parking, and access. One neighboring property owner has registered opposition to this zoning request. She concluded with staff's recommendation for approval. City Administrator Ferguson noted that additional opposition has been received related to the companion conditional use permit (CUP) application.

Discussion clarified intended uses of the existing structures, rationale for incorporation of additional conditions into the zoning ordinance, conditional use permits in general, and uniform application of City regulations.

Mayor Haley opened the public hearing.

Bill Gebhard displayed historical information on Wimberley showing demographic changes over time and supported the Tiltons' efforts to be a positive addition to Wimberley's business/restaurant community.

Attorney Brent Pulley expressed support for the requested zoning as appropriate for the subject property's location/use.

Darenda Mallard pointed out the differences between adjoining properties belonging to Linda Allen and the Tiltons, including differences in landscaping, parking lots, fencing, and buffering. Ms. Mallard noted that the Tilton's residential structure is at the front of the subject property with the restaurant structure located at the back of the property abutting her residential neighborhood. She advised that no problems have resulted from her proximity to Linda Allen's business.

Attorney Joe Malone (representing Mike Dickey and Mary Kuricar) felt it is critical that the Planning and Zoning Commission's recommended CUP conditions are incorporated into the zoning ordinance as protection against any future CUP revocation.

Hearing no further comments, Mayor Haley closed the public hearing. Discussion addressed concerns over consistency and fairness in application of the City's zoning/permitting regulations,

appropriateness of zoning given the subject property's location/use, the case-specific nature of zoning actions, and additional conditions.

Councilmember Appleman moved to approve the item as presented. Councilmember White seconded. Discussion clarified that the motion does not include approval of the proposed ordinance with the additional conditions. Councilmember Thurber requested an amendment to Councilmember Appleman's motion to include the additional conditions as recommended by the Planning and Zoning Commission. Councilmember Appleman declined the friendly amendment.

City Administrator Ferguson restated the original motion to approve the requested C-1 zoning with no conditions attached. Mayor Haley called for a vote as follows: Councilmember Flocke, nay; Councilmember Thurber, nay; Councilmember White, nay; Councilmember Appleman, aye. Motion failed on a vote of 1-3.

Councilmember Thurber moved to approve the requested C-1 zoning with the inclusion of the previously listed conditions. Councilmember White seconded. Mayor Haley called for a vote as follows: Councilmember White, aye; Councilmember Thurber, aye; Councilmember Appleman, aye; Councilmember Flocke, aye. Motion carried on a vote of 4-0.

City Administrator Ferguson clarified the six-month dormancy Code provision pertaining to grandfathering of uses.

- D. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Kate Brune Tilton to permit an eating establishment: sit-down, including the sale of beer, wine and alcohol for on-premise consumption on an approximately 1,367 acre tract located at 600 FM 2325, Wimberley, Hays County, Texas, zoned Commercial – Low Impact (C-1), 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 (*Kate Brune Tilton, Applicant*).

As in her previous report, Planning and Zoning Commissioner Ross restated the Commission's votes recorded for the applicant's requested zoning and CUP.

City Planning Technician Abby Gillfillan reviewed the application including subject property location, current/proposed uses, allowed uses, existing structures, and indoor/outdoor seating. As per City ordinance, revenue from the sale of alcohol will not surpass fifty percent (50%) of the restaurant's gross revenue. She stated that opposition has been received from certain adjacent property owners and KAPS Superintendent Yana Bland. Ms. Gillfillan concluded with staff's recommendation for approval.

For the record, City Administrator Ferguson read a petition from neighboring residential property owners objecting to the conditional use permit. The signed petition is attached to these minutes.

Because protests have been received in writing by more than twenty percent (20%) of notified property owners, City Attorney Crosby advised that CUP approval requires a super majority vote.

Mayor Haley opened the public hearing.

Ron Tilton recalled concerns expressed at the Planning and Zoning Commission's meeting relating to alcohol sales, noise, and possible negative effect on surrounding property values. Speaking on behalf of his wife/applicant Kate Tilton, Mr. Tilton recounted her successful background in the restaurant business and as the mother of five children. He informed Council of the vision and mission for "Kate's Place" and of her positive interactions with family, friends, and particularly teenagers. Mr. Tilton noted Kate Tilton's educational background in gardening and assured those present that she plans to create a botanical garden on the property that will enhance the property's value and appearance. He stressed her long-term commitment to the property and stated that work has already begun on restoration of the stone wall along the front of the property, which will become a planter filled with deer-resistant plants. Mr. Tilton also recognized his wife's skills as an interior decorator which will improve the restaurant's appearance.

In response to neighboring property owners' objections voiced at last week's Planning and Zoning meeting, Mr. Tilton assured adherence to all of the additional conditions and felt it important to try to continue the traditional Friday night music venue. In response to opponent Mike Dickey, Mr. Tilton replied affirmatively that the traditional music venue could be limited to Friday nights only, but hoped to let musicians perform after 10:30 p.m., given the low-key, acoustic nature of their performances.

Mr. Tilton assured that there is no possibility that teenagers would be served alcohol in their proposed restaurant. He enumerated to KAPS administrators the following steps to alleviate concerns over alcohol sales:

1. The restaurant will be closed on Mondays and Tuesdays.
2. The restaurant will only be open for lunch and dinner Wednesdays through Fridays and will be closed or have minimal activity during school start and end times.
3. The property is to be used as a fine dining restaurant, not a bar or serve as a package store.
4. No reference to alcohol sales will be displayed on any signage.
5. Past problems with the prior owner will not be allowed to take place under the Tiltons' ownership.

As long-time Wimberley residents, Mr. Tilton stressed his family wants longevity for this proposed business and hopes it will become a Wimberley institution.

Neighboring property owner Mary Kuricar recalled specific problems associated with the subject property relating to music, behavior of restaurant patrons, recent levels of noise, waste from the restaurant's operation, and concerns over possible future ownership. She did not feel that alcohol sales were proper anywhere that is in close proximity to KAPS.

Mike Dickey distributed photos to Council of four residences and other neighboring properties that he felt would be adversely affected by the proposed restaurant. He pointed out specifics related to property lines and fencing. Mr. Dickey advised of recent conversations with the Tiltens and neighbors. He expressed concerns over parking, music until 10:30 p.m. every night, devaluation of property values, and alcohol consumption, which he stated are unfair intrusions on neighboring properties. Mr. Tilton questioned statutory language using terms such as "intent" and "may," and felt that this proposed use was not the "intent" of voters in favor of on-premise alcohol consumption. He quoted the use of the word "may" in relation to Council's authority to determine what uses are harmonious with surrounding uses and appreciated Council's consideration on this matter.

Speaking on behalf of his clients Mike Dickey and Danny and Jeanette Bello, attorney Joe Malone made the following statements:

- His clients are comfortable with the additional condition related to ingress/egress.
- Due to the noise nuisance and location of the music venue at the back of the property, no outdoor entertainment should be permitted unless the back portion of the venue is screened so as to deflect noise toward the front of the property.
- Performance of music only one night per week would be an acceptable compromise for his clients, which is not currently in the draft CUP ordinance language.
- Additional lighting conditions are sufficient to address concerns.
- Preference for increased buffering of at least twenty feet at the rear of the property.
- Suggested revision of the restaurant's closing time to no later than 11:00 p.m.
- There is need for more specific ordinance language regarding minimum height and type of fencing.

Discussion addressed incorporating changes discussed by both the Tiltens and the opposition into the draft CUP ordinance language, clarification of current City regulations, and ability for future CUP amendments. In response to Councilmember Thurber, Mr. Dickey restated his concerns over alcohol sales, noise from the music venue, and adequacy of parking. City Administrator Ferguson noted that the Tiltens must comply with all applicable City and County regulations relating to capacity and on-site parking.

Guest house owner Lynn Gallimore spoke of her clientele's desire for high-quality products/services and felt that adding the convenience of ordering beer or wine with restaurant meals would not detract from Wimberley's ambiance. She noted the Hill Country's rising recognition as a quality wine-producing region and felt that being able to offer Texas wines in area restaurants is a great opportunity for Wimberley. Ms. Gallimore stated the importance of music to the Texas and the Hill Country/Austin area in particular. She stressed that its acoustic nature and lack of amplification should not be objectionable.

Brent Pulley spoke in favor of the Tiltens requested CUP and clarified conditions acceptable to both sides on this issue. He stated that the Tiltens are willing to work out differences with neighboring property owners. Mr. Pulley stressed that the Tiltens are investing in the community, improving the

property, providing tax revenue and employment opportunities, and felt thankful for a business developed by the Tiltons rather than a large corporate entity or franchise. Specific points made by Mr. Pulley included:

- Willingness to limit the traditional music venue to one night per week
- Compliance with all applicable ordinances relating to noise and lighting, with reduction/removal of some existing lighting
- Assurances that KAPS students will not be served alcohol
- A TABC/City-regulated business is preferable to the former practice of “BYOB” when the restaurant was operated by previous owners

Mr. Pulley wished success for the Tiltons in order to keep tourist dollars in Wimberley and stated this is a great project by good folks.

Darenda Mallard commented on Lynn Gallimore’s earlier statements regarding restaurants allowing customers the option of “BYOB.” Ms. Mallard stated the desire to preserve her property value and quality of life and felt that music until 10:30 p.m. every night would have a negative impact on working people. She noted that she can hear even acoustic music played outside from her property. Ms. Mallard stated that those consuming alcohol will stay past the time that the music venue closes for the evening. She stated that if the focus of the restaurant is fine dining, that it does not need to stay open until midnight and cited that most of Austin’s restaurants do not serve food after 10:00 p.m. and that most Austin bars are inside of the restaurant. Ms. Mallard requested that the restaurant’s operating hours should be until 10:00 p.m. Sundays through Thursdays and until 11:00 p.m. on Fridays and Saturdays. She requested specifics on the landscaped buffering and requested inclusion of tonight’s discussed additions in the draft ordinance, including those related to lighting and fencing. In response to Councilmember Appleman’s inquiry about the long-standing music venue, Ms. Mallard stated that she did not object to the music in the past, but felt that the ordinance language needs to be specific, should ownership of the property change in the future. Responding to Councilmember Appleman, Ms. Mallard stated she preferred that the music end around 10:00 p.m. Ms. Mallard recalled prior problems with reports of noise that were not dealt with properly and expressed no objections to music provided it cannot be heard from her property. Discussion addressed past practices of previous owners, application of TABC regulations, and alcohol consumption inside and outside the restaurant.

Joe Malone requested clarification on the ending time for music if allowed only on Friday evenings.

Ron Tilton felt that it is inappropriate to put a restriction on the ending time given that outdoor music will only be on Friday nights. He anticipated the last seating for dining between 10:00 to 10:30 p.m., with all employees out by midnight. Mr. Tilton stated that his son will be living at the house at the front of the property to make sure no one is on the property at night. He expressed the desire to provide employment for local youth, space for local art to be sold for scholarships, and a venue for local musicians. Mr. Tilton noted that those selling alcohol are subject to TABC training and regulations, with more control than under the “BYOB” system.

Mike Dickey stated that he felt the noise would be a problem as in the past and that the property is too small for its intended use.

Darenda Mallard noted that the draft ordinance language does not reflect Mr. Tilton's comment that seating of restaurant customers will cease no later than 10:30 p.m., and would rather see the Tiltons buy the former Cypress Creek Café as a more appropriate location.

Bill Gebhard recounted his experiences growing up in Wimberley and felt that Superintendent Bland's concerns were not valid in light of today's better education about teen drinking and negative consequences. He felt that the CUP will provide regulation for both alcohol consumption and noise that did not previously exist. From his personal observations, Mr. Gebhard stated that parking is adequate for the property's intended use and strongly urged Council to approve this CUP.

Hearing no further comments, Mayor Haley closed the public hearing and called a ten-minute recess at this time.

Discussion addressed postponing action until the involved parties can resolve their differences, basis for arguments presented on specific issues, need for the conditions in the previously approved zoning to match the conditions listed in the proposed CUP, and problems that may arise should such a conflict exist. Other points of discussion included TABC's enforcement of its regulations, clarification on proposed operating hours, prior noise/crowd problems at the subject property, and prospect for negotiations among the parties. Ms. Mallard indicated that she would like to be a part of the negotiations. General agreement was reached to allow for the parties to attempt further negotiations, with the City willing to provide space for such negotiations.

Councilmember Thurber moved to table this item for reconsideration at Council's next regularly scheduled meeting and to instruct staff to work with the neighbors and applicant on notifying interested parties of the time and place of negotiations.

Councilmember Flocke seconded. Councilmember Appleman stated that he felt the Tiltons' vision for the subject property and the continuation of the traditional bluegrass music venue will be positive for Wimberley and hoped that an agreement can be reached. Motion carried on a vote of 5-0.

Councilmember Thurber moved to reopen and reconsider Agenda Item 3C at Council's next regularly scheduled meeting. Councilmember White seconded. Motion carried on a vote of 5-0.

Councilmember Thurber moved to continue Agenda Item 3C until Council's next regularly scheduled meeting. Councilmember White seconded. Motion carried on a vote of 5-0.

- E. Hold a public hearing and consider approval of a waiver of the 300-foot distance requirement relating to the sale of beer, wine and alcohol at 600 FM 2325, Wimberley, Hays County, Texas (*Kate Brune Tilton, Applicant*).

Councilmember Thurber moved to continue this item until Council's next regularly scheduled meeting. Councilmember White seconded. Motion carried on a vote of 5-0.

4. Ordinances

Consider approval of the first reading of an ordinance of the City of Wimberley, Texas amending Title V (Public Works), Chapter 51 (Water Conservation) of the Code of Ordinances in order to implement supplemental water restrictions in response to the recent drought conditions; providing for a penalty of violations of the ordinance; findings of fact; repealer, severability; effective date; and proper notice and meeting (*Place Four Councilmember Steve Thurber*).

Discussion addressed circumstances dictating the need for recusal. Mayor Haley recused himself at this time. Councilmember Flocke assumed duties as presiding officer.

City Administrator Ferguson reviewed the draft ordinance and discussion addressed the need/rationale for the proposed amendments to the existing water conservation ordinance, implementation of a City drought management plan, specific ordinance language pertaining to water sources, and necessity for uniform rules regardless of how water is supplied.

Councilmember Thurber moved to approve the item as presented. Councilmember Appleman seconded. Presiding Officer Flocke called for a vote as follows: Councilmember White, nay; Councilmember Thurber, aye; Councilmember Appleman, aye; Councilmember Flocke, nay. Motion failed on a vote of 2-2.

Mayor Haley and Mayor Pro-tem Roccaforte rejoined the meeting at this time.

5. Discussion and Possible Action

- A. Discuss and consider action regarding the selection of a firm to provide professional auditing services for the City of Wimberley for Fiscal Years 2009, 2010 and 2011 and authorizing the Mayor to enter into an agreement with the chosen firm (*City Administrator*).

After discussion of specific services and pricing among Request for Proposal respondents, general agreement was reached to select the auditing firm of Singleton, Moore and Company, LLP. Councilmember Thurber moved to approve the selection of Singleton, Moore and Company, LLP to provide professional auditing services for the City of Wimberley for Fiscal Years 2009, 2010 and 2011 and authorize the Mayor to enter into an agreement with the chosen firm. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider issues relating to the development of the Fiscal Year 2010 Operating Budget for the City of Wimberley (*City Administrator*).

City Administrator Ferguson stated that the proposed Fiscal Year 2010 budget was filed with the City Secretary on August 18, 2009. He reviewed the budget calendar, public notice/hearings schedule, and cited specific expenditures included in the "needs" budget. He reviewed the proposed budget's expenditures, highlighting areas such as street improvements, Community Center operations, first phase of a city limits survey, contract City sanitarian, road maintenance reserves, City website upgrade, street condition study, and community survey.

Departmental expenditures were outlined for staff, contract services, community center personnel, and Council. Comparisons to last year's budget included sales tax revenues, development fees, and municipal court fines. Other revenues discussed included franchise fees, health-related fees (to offset expenditures for contract City Sanitarian), Community Center fees, and zoning fees. Additional possible revenue sources for Council to consider included development fee increases, auditing of sales tax reports, mandated garbage collection to increase return on franchise fees, ad valorem tax, and hotel occupancy tax. Mr. Ferguson stressed that these possible additional sources are items for future Council consideration, and not to be construed as staff recommendations.

Subsequent discussion addressed potential road maintenance expenditures, health of the fund balance, and the need to fulfill the City's legal obligation to survey its boundaries and its associated costs. General agreement was reached to hold a budget workshop meeting on Tuesday, September 1, 2009 at 5:00 p.m. and to provide adequate public notice to ensure the fullest possible public participation.

- C. Discuss and consider approval of an amendment to the City of Wimberley Interlocal Agreement with Hays County for maintenance of certain roadways (*City Administrator*)

Councilmember Flocke moved to approve the item as presented. Discussion established the scope of the amendment to include Little Ranches Road (up to the gate) to the list of those streets located both in the City and County that the County Road Department will help the City maintain when requested to do so.

Councilmember Roccaforte seconded. Discussion clarified details of the interlocal agreement pertaining to the City's and County's responsibilities. Motion carried on a vote of 5-0.

- D. Discuss and consider action on possible modifications to the City of Wimberley Water Conservation Ordinance (*Place Four Councilmember Steve Thurber*).

Councilmember Thurber moved to continue this item until Council's next regularly scheduled meeting. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider action on possible amendments to the City's landscaping requirements for residential and commercial properties (*Place Four Councilmember Steve Thurber*).

Councilmember Thurber moved to continue this item until Council's next regularly scheduled meeting. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

- F. Discuss and consider issues relating to the existing Community Center use agreements for the Wimberley Lions Club and the Wimberley Senior Citizens Activities, Incorporated (*Place Three Councilmember Bill Appleman*).

Councilmember Appleman moved to continue this item until Council's next regularly scheduled meeting. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

6. City Council Reports

- Announcements
- Future Agenda Items

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

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

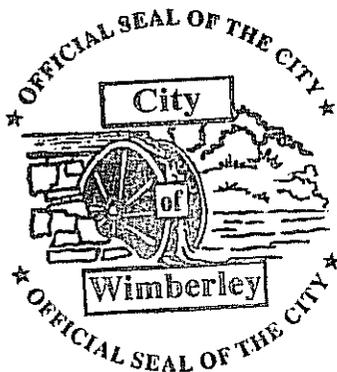
Recorded by:



Cara McPartland

These minutes approved on the 3rd of September, 2009.

APPROVED:



Tom Haley, Mayor

City Administrator

From: yana bland [yanadevere@hotmail.com]
Sent: Wednesday, August 12, 2009 5:59 PM
To: don ferguson
Subject: KAPS View - thanks Don

August 12th 2009

Dear Planning and Zoning Committee,

Case: CUP-09-008

The Katherine Anne Porter School staff and faculty are concerned about the fact that the sale of beer, wine and alcohol could be allowed right across from our high school. Teenagers are naturally rebellious as they explore the limits to their independence. They are prone to take risks. Our duty at KAPS is to fulfill our mission: to foster individual interests, to nurture a love for learning, and to enhance community service. The consumption of alcohol detracts from the fulfillment of KAPS mission. The consumption of alcohol increases risky behaviors and also tends to deepen depression and disinterest.

Please reconsider the allowance of a variance in this case due to the proximity to educational institutions. Whilst we realize the financial benefits that would accrue to the new owners, we thank you for taking our opposition seriously.

Sincerely yours,

Dr. Yana Bland
Superintendent

Neal Mallard
15 Palos Verdes
847 - 5438

August 19, 2009

To the Wimberley Mayor and City Council:

My name is Neal Mallard. My wife Darendia and I have lived at 15 Palos Verdes since 1996. I regret that I cannot attend tonight's meeting in person but I have a prior commitment. Please allow me to share my concerns with you. The proposed CUP at 600 FM 2325 abuts the property line of our back yard. I am the ultimate NIMBY (Not In My Back Yard).

I certainly harbor no ill will towards the Tiltons. I would oppose this business plan regardless of who was proposing it. As a resident there is no upside whatsoever. One can only hope to blunt the downside. Imagine your neighbor is now a restaurant featuring alcohol and outdoor music. Now imagine trying to sell your home under similar circumstances as well as all of the obvious potential lifestyle disruptions. It is hard to imagine that anyone would want such a thing if given a choice.

I cannot attest with certainty as to the history of this particular property but I believe that the building has been there less than ten years and the Tiltons will have the sixth incarnation of a restaurant there. And while I wish them great success as restaurateurs, whatever they do there will not be the final chapter of that property. Some sort of a neighborhood will remain. What you decide here tonight will certainly have a tremendous impact on the quality of life that neighborhood will have to offer its residents.

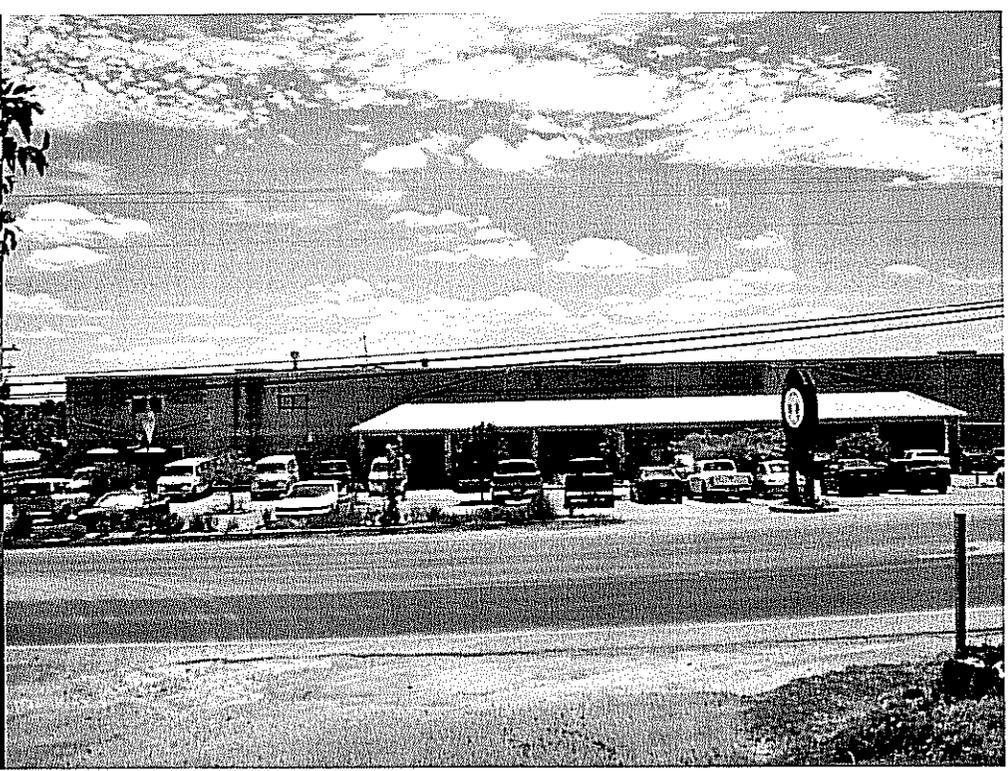
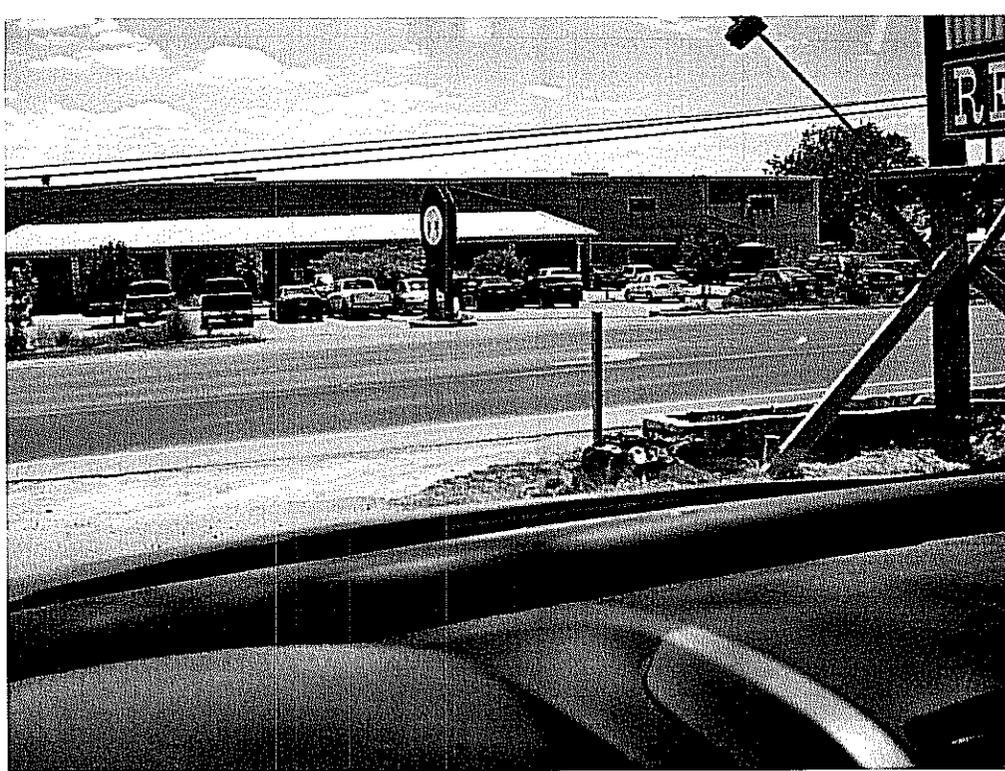
At the P & Z hearing this past Thursday night I was surprised and alarmed to hear that the Tiltons are considering expanding the outdoor music beyond Friday nights. In the past the Friday night jamboree has not been a major disruption for us in part because the participants have been generally considerate but largely because that particular property has been vacant far more than it has been occupied. Consequently, the Friday night jamboree has always been a fairly rare occurrence. We could deal with it because it was only an occasional distraction. There was only one instance that was truly awful for us. That was an outdoor beer and music festivity. When my wife called the restaurant to complain the owner assured her that because they had a permit they could do whatever they wanted. Fortunately for us, the Hays County Sheriffs Department disagreed and shut them down.

I ask the Council to exercise their authority to deny the request to grant this CUP on the grounds that would be detrimental to the adjoining neighborhood. I appreciate the budgetary difficulties all municipalities have but perpetually worshipping at the altar of tax revenue is not always good for the community as a whole. Some things are more important. Outdoor public alcohol consumption within 300 feet of schools, churches and neighborhoods is also a fundamentally bad idea. Exceptions will always have unintended consequences.

Thank you for your consideration.

Sincerely,





Photos distributed to
Council by Michael Dickey
at City Council meeting of
August 20, 2009



