

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
Planning & Zoning Commission
 Minutes of Regular Meeting
 February 24, 2011 at 6:30 p.m.

Meeting called to order by Chair Tracey Dean. Present were Commissioners Beth Mitchell, Jean Ross, Lila McCall, Steve Klepfer, and David Glenn. Commissioner Rick Burleson was absent.

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

Citizen Communications:

No citizen comments were heard.

1. Consent Agenda

- A. Approval of minutes of the Special Planning & Zoning Commission meeting on February 8, 2011.
- B. Approval of minutes of the Regular Planning & Zoning Commission meeting on February 10, 2011.

Commissioner Ross pulled Consent Agenda Item 1A. She requested that the minutes reflect the Commission's consensus that Section 3 *Performance Standards for Development* would not apply to single family lots. Because the requested amendment was listed on page 2 (see below) of the February 8, 2011 minutes, no amendment was necessary.

Page #	Section #	Revisions
8	3	Add to end of first paragraph: "These regulations shall not apply to the development of a single family residence on an existing platted lot."

Commissioner Ross moved to approve the minutes of February 8, 2011, as requested to be amended, and to approve the minutes of February 10, 2011, as presented. Commissioner Klepfer seconded. Motion carried on a vote of 6-0.

2. Discussion and Possible Action

- A. Discuss and consider possible action regarding the proposed modification of Section 155.106 (*Non-Conforming Uses and Structures*) of the City of Wimberley Code of Ordinances relating to the determination of pre-existing, non-conforming use status. (*Vice Chairman Steve Klepfer*)

Vice Chairman Klepfer proposed the following changes to clarify Sec. 155.106:

- (1) NO CHANGE
- (2) Grandfathered status shall be proven by a preponderance of the evidence including but not limited to: legally filed plats; sales, use, income and occupancy tax records; building and OSS permits, and construction receipts.
- (3) Grandfathered status shall be granted or denied by the City Council upon recommendation by the Commission
- (4) RENUMBERED (2)

Discussion included:

- Possible creation of a separate subsection regarding administrative determination of grandfathered status
- Appeal of administrative determination to City Council or Board of Adjustment, (with general agreement that such appeals are to be heard by the Board of Adjustment)
- Appeal of Board of Adjustment action to district court
- Applicability of proposed modifications to various land use scenarios
- Examples of proof of grandfathered status
- Reasoning for administrative versus City Council determination of status
- Preference for the administrative determination option as the least burdensome for property owners
- Intent of proposed modifications to provide clearly defined guidelines and an avenue for appeal of determinations of grandfathered status, whether such determinations are made by staff or Council

Commissioner Klepfer moved to direct staff to draft an amendment to Zoning Ordinance §155.106 *Non-Conforming Uses and Structures* to include the definition and guidelines as to how grandfathered status will be granted, what evidence may be needed, and to direct any appeals of administrative decisions to the Board of Adjustment. Commissioner Glenn seconded. Motion carried on a vote of 6-0.

- B. Discuss and consider possible action regarding the proposed modification of Section 155.092 (*Protected Water Overlay District*) of the City of Wimberley Code of Ordinances relating to erosion control and pre-existing, non-conforming septic systems. (*Vice Chairman Steve Klepfer & City Administrator*)

City Administrator Ferguson stated the need to modify §155.092 based on prior Commission discussion relating to the possible addition of a site development permit requirement for future development within the boundaries of the Protected Water Overlay District (PWOD), which would be consistent with the proposed *Water Quality Protection Ordinance* currently under City Council consideration.

To address issues with pre-existing, non-conforming commercial septic systems within the PWOD, City Administrator Ferguson explained the need to allow for commercial

system upgrades in the interest of public health and safety, even if those systems lie within the overlay district, with the mandate that such allowed upgrades would have to fully comply with State and City OSSF regulations.

Discussion included:

- “Upgrading” versus “enlargement” of pre-existing systems
- Examples of renovation of pre-existing systems and concerns related to increased effluent on waterways
- Requirement that upgrades to pre-existing, non-conforming systems must conform to State and City OSSF regulations
- Waiver procedures
- Mandatory connection to centralized wastewater system, when available
- Health and safety issues with some engineered systems located in the floodway
- Requirement for site development plan/permit for properties less than five (5) acres

Commissioner Glenn moved to direct staff to prepare language for Commission consideration at its next meeting on the issues presented, based on input received during discussion at this meeting. Commissioner Ross seconded. Motion carried on a vote of 6-0.

- C. Discuss and consider possible action regarding the proposed modification of the definition of *height* in Section 155.005 of the City of Wimberley Code of Ordinances. (*City Administrator*)

City Administrator Ferguson pointed out the following problematic language in Sec. 155.005 (see italics in definition below) in need of clarification:

HEIGHT. Of a structure, the greatest vertical distance from any point on the established ground level under the structure to the *highest attached component of the structure at that point*. The established ground level shall be the lower of the natural grade prior to disturbance of the site, or the newly established grade after construction.”

Discussion included:

- Concerns related to interpretation of the above-stated definition and associated measurements based on possible interpretations
- Examples of other cities’ definitions of *height*
- Possible interpretations of “*highest attached component of the structure at that point*” could possibly not meet the intent of the current definition wording
- City Administrator Ferguson’s suggested amended *height* definition as follows: “Of a structure, the vertical distance between the existing or finished grade, whichever is lower, to the uppermost point of the structure.”
- Using the concept of a “plane” that follows the finished or existing grade (whichever is lower), as a common tool of height measurement

- Possible inclusion of a drawing in the *height* definition to better illustrate the "plane" concept
- Whether or not to include components such as satellite dishes, flagpoles, and chimneys as part of the structure to be measured
- Grade cannot be built up to circumvent height requirement
- Commissioner Glenn's reading of Comprehensive Plan language related to "community character" and "Village scale and atmosphere" and need for future planning for larger *scale* residential buildings, which are not in keeping with the Comprehensive Plan
- Impact of location on scale of structures
- Specific issues relating to calculation of height for floodplain development and potential for significantly limiting the size of structures

Commissioner Klepfer moved to direct staff to work on a proposed new definition of *height* in the Zoning Ordinance that clarifies the issues as discussed tonight. Commissioner Glenn commented on the issue of height measurement and existing height requirements. Commissioner Mitchell seconded. Motion carried on a vote of 6-0.

3. Staff and Commission Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson announced that planning consultant Dan Sefko will make a presentation at the next Commission's meeting on March 10, 2011.

Hearing no further announcements or future agenda items, Commissioner Ross moved to adjourn. Commissioner McCall seconded. Motion carried on a vote of 6-0.

Adjourn at 7:39 p.m.

Recorded by:

Cara McPartland

Cara McPartland

These minutes approved the 10th of March, 2011.

APPROVED:

Tracey Dean

Tracey Dean, Chair

