

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Planning & Zoning Commission
Minutes of Regular Meeting
October 28, 2010 at 6:30 p.m.

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

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

Citizen Communications:

No citizen comments were heard.

1. Consent Agenda

Approval of minutes of the regular Planning & Zoning Commission meeting on October 14, 2010.

Commissioner Ross moved to approve the minutes as presented. Commissioner Klepfer seconded. Motion carried on a vote of 7-0.

2. Public Hearing and Possible Action

- A. Hold a public hearing and consider making a recommendation to City Council regarding Case #CUP-10-015, an application for a conditional use permit to allow for the operation of a bed and breakfast on a 1.024 acre tract of land zoned Single Family Residential 2 (R-2) and located at 408 Blue Heron Run, Wimberley, Hays County, Texas. (*James and Judy Thompson, Applicants*)

City Administrator Ferguson read letters received today from the applicants (Lamoureux and Thompson), requesting a thirty (30) day postponement of the public hearings for Case #CUP-10-016 (Agenda Item 2B), #CUP-10-017 (Agenda Item 2C), and #CUP-10-015 (Agenda Item 2A), respectively. He explained the need for re-notification, clarified public hearing/notice procedures, and stressed the importance of strict adherence to open meetings requirements.

Commissioner Glenn moved to continue this item, as requested by the applicants, until the Commission's meeting on December 9, 2010. Commissioner Ross seconded. Motion carried on a vote of 7-0

- B. Hold a public hearing and consider making a recommendation to City Council regarding Case #CUP-10-016, an application for a conditional use permit to allow for the operation of a bed and breakfast on a .35 acre tract of land located at 430

Blue Heron Run, Wimberley, Hays County, Texas. (*Donn and Pamela Lamoureux, Applicants*)

Commissioner Glenn moved to continue this item, as requested by the applicants, until the Commission's meeting on December 9, 2010. Commissioner Ross seconded. Motion carried on a vote of 7-0

- C. Hold a public hearing and consider making a recommendation to City Council regarding Case #CUP-10-017, an application for a conditional use permit to allow for the operation of a bed and breakfast on a .50 acre tract of land located at 444 Blue Heron Run, Wimberley, Hays County, Texas. (*Donn and Pamela Lamoureux, Applicants*)

Commissioner Glenn moved to continue this item, as requested by the applicants, until the Commission's meeting on December 9, 2010. Commissioner Ross seconded. Motion carried on a vote of 7-0

3. Discussion and Possible Action

Discuss and consider action relating to the possible modification of the requirements for bed and breakfasts and short term rentals within the City of Wimberley. (*City Administrator*)

City Administrator Ferguson reviewed past discussions and presented an updated matrix (*attached to these minutes*) detailing possible requirements for bed and breakfast (B & B) operations, vacation rentals, and small inns. He provided information on existing B & Bs, including those operating with conditional use permits.

Discussion included:

- Proposed water access restrictions and feasibility of limiting access from a point at least fifty (50) feet from any adjacent property lines
- Licensing, mandating owner occupancy for B & Bs, and maximum/minimum length of stays
- Need to clearly define B & Bs versus short term rentals
- Difficulties with regulation and enforcement
- Impact of B & B/short term rentals on local tourist-based economy
- Protection for neighborhoods, particularly those neighborhoods that oppose commercialization
- Defining B & B and short term rental uses versus creating regulations for such uses
- Unintended, undesirable consequences of creating strict regulations
- Encouragement of mixed use development, "cottage" industries, and protection of residential areas in accordance with the City's Comprehensive Plan
- Effect of B & Bs and rentals on property values
- Overly restrictive regulations as a disincentive for businesses

- CUP process in general

Pete Anderson of 400 Blue Heron cited past problems with a neighboring bed and breakfast operation, as described in his letter dated October 18, 2010 (*attached to these minutes*).

As a member of the City of Wimberley Economic Development Commission (EDC), Nancye Britner of 49 Woodcreek Drive asked for clarification on the Commission's role in recent discussions on B & Bs/rentals. She stated vacation rental versus B & B definitions and cited personal research on other tourist-based cities' B & B/rental regulations.

Business owner/EDC member, Jenelle Flocke, cited complaints received by the Chamber of Commerce from neighbors of rental properties and problems encountered by complainants when trying to contact owners/managers.

Additional discussion addressed:

- Effectiveness of the CUP process generally
- Accountability of rental property owners to neighboring residential properties
- Licensing/permitting of B & Bs/rentals and associated costs of inspections
- Role of the Planning and Zoning Commission in making recommendations to Council
- Diversity of the business community and impact of B & Bs on local economy

Each Commission member offered his/her personal definition of a B & B and rental, with views expressed relating to:

- Owner occupancy
- Size of rental and minimum/maximum length of stay requirements
- CUPs as zoning actions for properties
- Need for notification when properties granted B & B CUPs change ownership
- Rules on water access/enforceability
- Licensing/annual inspections
- Local management of B & Bs/rentals
- Occupancy/length of stay limitations determined on a case-specific basis as part of the CUP process
- Fire safety requirements
- Signage
- Prohibition of gatherings
- Proof of any required state licensing applicable to B & Bs/rentals as part of CUP application submission
- Required guest documentation
- Food service regulations

General consensus was reached on the following:

- Allowance of B & Bs and vacation rentals in all planning areas/zoning districts where such rentals are currently allowed with a CUP
- CUP required for B & Bs/vacation rentals
- Inclusion of language that B &B/rental properties are subject to inspection with proper notice, if compliance is in question
- Owner occupancy required for B & Bs, but not for vacation rentals. However, vacation rentals shall require the designation of a local responsible party.
- Maximum occupancy addressed as part of CUP application submission based on number of rooms/beds/parking
- No maximum length of stay, room, or construction requirements
- Minimum of one (1) parking space, subject to modification as part of the CUP process
- Code compliant lighting and signage, as proposed
- Food service optional; owner-prepared/pre-packaged; or from licensed kitchen
- One (1) smoke alarm in each guest bedroom; fire escape plan for vacation rentals
- Retain current CUP requirements for water access properties and proposed requirements relating to prohibited gatherings
- Proof of any applicable state licensing required
- No location requirement or required guest documentation
- Creation of a *Village Inn* (VI) zoning district allowed in Planning Areas III-VII
- Addition of conditions requiring notification of transfer of ownership

4. Staff and Commission Reports

- Announcements
- Future Agenda Items

The Commission agreed to hold one meeting in December, on December 9th at 6:30 p.m.

City Administrator Ferguson welcomed Rick Burleson to the Planning and Zoning Commission and Chairman Dean thanked Commissioner Burleson for his contribution at tonight's meeting.

As future agenda items, Commissioner Klepfer requested an update on the non-point source pollution (water quality) ordinance and discussion of attendance requirements for Planning and Zoning Commission members. City Administrator Ferguson reported that City Council is scheduled to discuss attendance requirements for all boards and commissions at its December 16, 2010 meeting.

Discussion agreed that the Commission will meet once during the month of November, on Thursday, November 11, 2010 at 6:30 p.m.

Hearing no announcements or future agenda items, Commissioner Ross moved to adjourn. Commissioner Mitchell seconded. Motion carried on a vote of 7-0.

Adjourn at 8:38 p.m.

Recorded by:



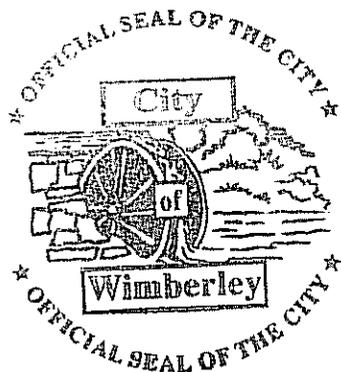
Cara McPartland

These minutes approved the 11th of November, 2010.

APPROVED:



Steve Klepfer, Acting Chair



The property at 408 Blue Heron Run, as well as any other properties requesting a B&B CUP on Blue Heron, all front on Cypress Creek. This side of the creek floods from time to time so there are no fences, rather a long expanse of lawn. Home owners, in our case since 1971 and Rita's family home at 406 Blue Heron since 1948, know and respect where the property lines are.

Our home is at 400 Blue Heron. At one time the house next to us upstream was a bed and breakfast. The owners were never present when the house was rented. They had a list of rules to which the renters paid no attention. With no fences the renters regularly trespassed on our property using our pier, hammock, floats, etc. Having to be a policeman on your own property is very unpleasant. At night the noise, extra lighting, beer parties with lots of guests of the renters was at times very intrusive.

We feel this is a special environment that four generations of our family have enjoyed and that B&B's will change the character of Blue Heron Run to its detriment. We therefore request that you deny these CUP requests.

Respectfully,

Pete Anderson

Pete Anderson

Rita Anderson

Rita Anderson

All of the above is still our response to the reapplication for a Bed+Breakfast at 408 Blue Heron Run.

Pete Anderson Oct. 18, 2010

Rita Anderson 10-18-10

	Bed and Breakfast (CUP)	Vacation Rental (CUP)	Village Int (VT Zoning District)
Planning Area Allowed	All Planning Areas	Planning Areas III - VII	Planning Areas III - VII
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, O-1, O-2, C-1, C-2, C-3, SC	Not Applicable
CUP Required	Yes	Yes	No
Annual Permit	Yes (Non-transferable)	Yes (Non-transferable)	No
Annual Inspection	Yes	Yes	Yes
Duration of Operation Requirement	The active operation of the bed and breakfast shall not have lapsed for more than nine (9) months	The active operation of the vacation rental shall not have lapsed for more than nine (9) months	Not Applicable
Owner Occupation Requirement	Yes and use must be maintained within an owner occupied single family dwelling	No	No
Maximum Occupancy	Seven (7) guests	Twelve (12)	Twenty (20)
Maximum Length of Stay	Seven (7) days	Fifteen (15) days	Not Applicable
Room Requirements	Not more than three (3) sleeping rooms may be used for rental purposes	Not more than one (1) sleeping room for 750 square feet of floor area, with a maximum of five (5) sleeping rooms	Not more than one (1) sleeping room for 500 square feet of floor area, with a maximum of ten (10) sleeping rooms;
Construction Requirements	Rooms utilized for sleeping shall be part of the primary residential structure and shall not have been specifically constructed or remodeled for rental purposes; No alteration to the exterior of the residential dwelling, accessory building, or yard that alters the residential character of the premises is permissible; OSSF shall have adequate capacity	Rooms utilized for sleeping shall be part of the primary residential structure and shall not have been specifically constructed or remodeled for rental purposes. No alteration to the exterior of the residential dwelling, accessory building, or yard that alters the residential character of the premises is permissible; OSSF shall have adequate capacity	New construction of rooms to be utilized for sleeping is allowed in accordance with applicable codes and ordinances; Property must be at least one half acre in size; Maximum building footprint of 2,000 square feet;
Parking	All parking shall be off-street; two (2) parking spaces are required plus one additional space per room rented; yard parking not permitted	All parking shall be off-street; two (2) parking spaces are required plus one additional space per room rented; yard parking not permitted	All parking shall be off-street; one (1) parking space per room rented shall be provided; yard parking not permitted
Lighting	Lighting Code Compliant	Lighting Code Compliant	Lighting Code Compliant
Food Service	At least one (1) meal shall be served daily to residents and overnight guests	Optional; Such service shall involve pre-packaged food or come from a licensed kitchen	Optional; Such service shall involve pre-packaged food or come from a licensed kitchen
Fire Safety	One (1) smoke alarm in each guest bedroom along with a fire extinguisher visible and accessible to guests	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 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	None	Signage shall be limited to one (1) non-illuminated sign not to exceed sixteen (16) square feet in area and shall be of traditional hill country design
Water Access	Only renters may access the water from the subject property and such access shall be from a point at least fifty (50) feet from any adjacent property line and occur during daylight hours only	Only renters may access the water from the subject property and such access shall be from a point at least fifty (50) feet from any adjacent property lines and occur during daylight hours only	Only renters may access the water from the subject property and such access shall be from a point at least fifty (50) feet from any adjacent property lines and occur during daylight hours only
Prohibited Gathering	Residence shall not be used by the public or paying guests for the hosting of receptions, private parties or the like	Residence shall not be used by the public or paying guests for the hosting of receptions, private parties or the like	Not Applicable
HOT Tax Permit Required	Yes	No	Yes
Required Guest Documentation	A list shall be maintained and available upon request of all guests and their place of residence	A list shall be maintained and available upon request of all guests and their place of residence	A list shall be maintained and available upon request of all guests and their place of residence
Location Requirement	Not Applicable	No permitted vacation rental home shall be located closer than one thousand (1,000) feet to an existing permitted vacation rental	Not Applicable