

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
October 15, 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, Steve Thurber, and John White. Councilmember Bill Appleman had an excused absence.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland and City Attorney Brad Young.

Citizens Communications

No citizen communications were heard.

1. Executive Session

Consultation with attorney regarding pending litigation in Cause No. 08-1984, Cyndi Brown, Individually v. City of Wimberley, Tom Haley, Individually and Don Ferguson, Individually in the 428th District Court of Hays County, Texas

Mayor Haley stated that Council will not retire to Executive Session.

2. Consent Agenda

- A. Approval of the minutes of the regular City Council meeting of October 1, 2009.
- B. Approval of the minutes of the special City Council meeting of October 8, 2009.
- C. Approval of the minutes of the special City Council meeting of October 10, 2009.
- D. Approval of the appointment of one (1) consensus member to the Wimberley Building Code Board of Review
 - Bob Bullock (*Mayor Tom Haley's nominee*)
- E. Approval of the appointment of two (2) consensus members to the Wimberley Parks Board
 - Christine Byrne (*Mayor Tom Haley's nominee*)
 - Aubrey Weeks (*Place Four Councilmember Steve Thurber's nominee*)

- F. Approval of the appointment of one (1) consensus member to the Wimberley Transportation Advisory Board
 - Tom Wallace (*Mayor Tom Haley's nominee*)
- G. Approval of the appointment of one (1) consensus member to the Wimberley Board of Adjustment
 - Bill Cline (*Mayor Tom Haley's nominee*)
- H. Approval of the reappointment of P. Jason Aldridge to the Wimberley Board of Adjustment (*Mayor Pro-tem Charles Roccaforte's nominee*).
- I. Approval of the reappointment of Horace Wilson to the Wimberley Parks Board (*Mayor Pro-tem Charles Roccaforte's nominee*).
- J. Approval of the reappointment of Larry Catt to the Wimberley Building Code Board of Review (*Mayor Pro-tem Charles Roccaforte's nominee*).
- K. Approval of the appointment of M.F. Johnson to the Wimberley Parks Board (*Place Two Councilmember Bob Flocke's nominee*).

Councilmember Thurber pulled Consent Agenda Item 2E in order to withdraw his nomination of Aubrey Weeks for appointment to the Parks Board (at the nominee's request). Councilmember Flocke moved to approve all remaining Consent Agenda items. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0.

Councilmember Thurber moved to approve Consent Agenda Item 2E for the remaining appointment of Christine Byrne to the Wimberley Parks Board. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0.

3. City Administrator Report

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

City Administrator Ferguson thanked all participants in the recent charrettes held to gather public input. Compiled data will be used for future meetings with design consultants and the Blue Hole task force. He reported on a recent positive meeting with Texas Parks and Wildlife (TPWD) and on the process for grant acceptance.

- Status report on preparations for *The Lance Armstrong Livestrong Challenge*

City Administrator Ferguson reported that there may be some traffic delays on October 25, 2009 and reviewed the itinerary and route for the event, including the posting of appropriate signage.

- Status report on *The Wimberley City Limit Survey Project*

City Administrator Ferguson reported on the imminent issuance and the submission/review timetable for a Request for Qualifications.

- Status report on the operation of the Wimberley Community Center

City Administrator Ferguson reported that policies, procedures, usage agreements, and facility management are under review and that progress updates will be provided to Council.

- Status report on the City of Wimberley's request for an Attorney General's opinion on the ability of Type A General Law cities to enforce non-point source pollution regulations in the E-T-J

City Administrator Ferguson reported that the City's recently submitted request has generated some concern from some neighboring cities and explained the City's prudent approach to ordinance enforcement which hopes to avoid any future legal challenges. He anticipated a reply to the City's AG opinion request within the next six months.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported that warrant clearance activity is currently underway.

4. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of the second and final reading of an ordinance of the City of Wimberley, Texas amending the City's Comprehensive Plan and accompanying maps to remove those properties which front Carney Lane, between FM 2325 and the City limits, from Planning Areas I and II and include the subject properties in Planning Area III; and providing for findings of fact; severability; effective date and proper notice and meeting (*Planning and Zoning Commission*).

No public comments were heard.

City Administrator Ferguson explained the reasoning for approval of this ordinance based on the location of three (3) existing low to moderate impact businesses and two (2) public schools on the subject stretch of Carney Lane.

Discussion established the subject properties' boundaries. Councilmember White moved to approve the item as presented. Councilmember Flocke seconded. Motion carried on a vote of 4-0.

- B. Hold a public hearing and consider approval of an ordinance amending Subsection 33.02(E) (Transportation Advisory Board), Subsection 33.03(E) (Water and Wastewater Advisory Board), Subsection 33.04(E) (Parks and Recreation Board), Subsection 150.01(E) (Building Code Board of Review), Subsection 155.108(B)(2) (Board of Adjustment) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the terms of office for

individuals appointed to the above referenced boards; providing for findings of fact; an effective date; proper notice and meeting, and severability (*City Administrator*).

City Administrator Ferguson reviewed the draft ordinance based on Council's discussion at its last regular meeting and input to date. He read draft ordinance language establishing uniform two-year terms for all boards/commissions and consensus/non-consensus appointment procedures. He pointed out that the Board of Adjustment (BOA) is not included in this draft ordinance and suggested that BOA nominations follow the same requirements as stated for the Planning and Zoning Commission [nominations from each member of Council, the mayor, and one consensus position shall be submitted within forty-five (45) days of taking office].

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

Due to Councilmember Appleman's absence, Councilmember Thurber moved to table this item until Council's next regularly scheduled meeting. Councilmember White seconded. At City Attorney Young's suggestion, Councilmember Thurber restated his motion to *continue* (rather than *table*) this item until Council's next regularly scheduled meeting. Councilmember White seconded. Motion carried on a vote of 4-0.

- 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 0.3279 acre tract located at 13904 Ranch Road 12, Wimberley, Hays County, Texas, designating initial zoning for such tract as Commercial – High Impact (C-3); and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*Double LC Partners One, Applicant*).

Planning and Zoning Commissioner Ross reported on the subject property's location, current/proposed uses, and planning area, which allows C-3 zoning. She advised that the Planning and Zoning Commission unanimously recommended approval.

City Administrator Ferguson stated that there is currently one (1) retail business in operation and one (1) vacant storefront on the subject property where the applicant is proposing to sell specialty foods along with beer and wine for off-premise consumption. There is adequate parking and access for the subject property. He noted that City Code allows the sale of beer and wine for off-premise consumption as a permitted use in the C-3 zoning district. Mr. Ferguson advised that one letter of opposition was received, but that the letter was withdrawn by the opponent.

Mayor Haley opened the public hearing.

Adjacent property owner Phil Collins spoke in support of this application, but expressed concern about parking and sidewalks. City Administrator Ferguson advised that no current sidewalk plans exist for the immediate area, except for those associated with recently submitted grant funding. In

response to Phil Collins' inquiry, Mr. Ferguson replied that there are no plans to expand the existing building on the subject property. Expressing no other concerns, Mr. Collins reiterated his support of this requested zoning.

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

Discussion addressed uses allowed in C-3 zoning district, additional Village Center Overlay District (VCOD) requirements, prohibition of liquor stores in the VCOD, and septic system adequacy.

Councilmember Flocke moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0.

- D. Hold a public hearing and consider approval of an ordinance of the City of Wimberley amending Ordinance No. ZA-01-010 which designated real property located on a 5.3443 acre tract as a Planned Unit Development District (Case No. C211-01-010) and imposed certain conditions, in order to revise certain development regulations to include revisions to the maximum building square footage, the total project square footage, reduce parking, revise the utility plan, access points, landscaping plan and add "Assisted Living Facility" as a permitted use; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting (*John McCrocklin, Applicant*).

Planning and Zoning Commissioner Ross summarized the requested amendments. After inquiring at Planning and Zoning's October 8, 2009 meeting about the applicant's original letter to staff dated September 15, 2009 requesting "motel" as a permitted use, Commissioner Ross stated that Mr. McCrocklin advised that he willingly withdrew his request for "motel" as a permitted use after discussion with staff, and desired to add "Assisted Living" as a permitted use. Commissioner Ross reported that the Commission voted unanimously to recommend approval.

City Administrator Ferguson reviewed the subject property's location, existing structures, and provided background/historical information on this proposed development. He compared the original Planned Unit Development (PUD) District agreement/site plan to subsequent addendum(s), and specifics of this requested amendment including building footprints, total project square footage, impervious cover ratio, parking/access, septic system, storm water flows, number of buildings, setbacks, traffic impact, net tree loss(es), and architectural standards. With the exception of total project footage, which increased due to the addition of a second story on the assisted living facility structure, the requested amendments generally reduce the development's impact.

Mr. Ferguson stated that one property owner expressed oral opposition (Boyd R. Willett) based on storm flow concerns. Should this amendment be approved, City Administrator Ferguson advised that the applicant will provide a revised site development plan to be administratively approved unless there is a need to request a variance, which will require public notification and hearing. The applicant plans minimal low-level signage and adherence to original architectural standards that are in keeping with Wimberley's character.

Mayor Haley opened the public hearing.

Vance Hobbs of 13 Las Flores Drive expressed concerns over increased traffic and questioned how the proposed development will affect his street. The applicant and City Administrator Ferguson noted that the requested amendments are expected to reduce traffic by forty-five percent (45%). Mr. Hobbs asked that all traffic from the development be routed to Ranch Road 12 to avoid the use of Las Flores Drive as a cut-through street. Mr. Hobbs felt that his neighborhood has not received enough attention via placement of stop signs and speed enforcement, and suggested speed humps as a possible speed deterrent.

David DiTraglia of 15 Las Flores Drive expressed concerns regarding increased traffic and pedestrian/bicyclist safety. He felt that re-routing options should be considered to alleviate cut-through traffic.

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

Discussion addressed the applicant's inclusion of rainwater harvesting in this amendment, specifics of the original PUD agreement that remain unchanged, and positive aspects of the requested amendments.

Councilmember Thurber moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0.

- E. 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 unzoned real property abutting the FM 2325 corridor between the City limits and Rhodes Lane, Wimberley, Hays County, Texas, further described and shown on the Exhibit attached to this ordinance; and designating initial zoning for each tract as either Residential Acreage (RA), Rural Residential 1 (R-1), Single Family Residential 2 (R-2), Neighborhood Services (NS), Scenic Corridor (SC), Commercial – Low Impact (C-1), or Public Facilities (PF) as shown on the attached zoning map; and providing for the following: delineation on zoning map; severability; effective date and proper notice and meeting (*City of Wimberley, Applicant*).

Planning and Zoning Commissioner Ross reviewed the City-initiated zoning process to date and noted alternate zoning requests received from certain property owners, which are attached to these minutes. She stated that up-zoning requests were compatible with respective planning areas and surrounding uses. She pointed out issues with one property owner's alternate zoning request, whose property is located in more than one planning area. Commissioner Ross noted neighborhood concerns over expansion of existing commercial activity that is pre-existing/non-conforming, and explained that proper zoning will prevent current businesses from expanding and/or intensifying uses, which would trigger the need for a conditional use permit application subject to public notices and hearings. She advised that the Commission voted unanimously to recommend approval in

accordance with zoning designations as reflected in Map No. 3. Those property owners who did not timely respond to the City-initiated zoning notice will have their cases heard separately.

City Administrator Ferguson reviewed City-initiated zoning project procedures and provided reasoning for City-recommended zoning designations. He pointed out that zoning of existing businesses will mandate that any future change in use (including expansion) will be subject to the approval of a conditional use permit. Mr. Ferguson explained Neighborhood Services (NS) zoning helps to limit commercial use/intensity via the need for granting of a conditional use permit, thereby providing neighboring residential properties with notification of any intent to expand commercial uses and opportunity for public input.

Mayor Haley opened the public hearing.

David DiTraglia of 15 Las Flores Drive read a statement in opposition to the building of any more warehouses as detrimental to his and his neighbor's property values, public safety, public health, and traffic. The full text of Mr. DiTraglia's comments is attached to these minutes. He stated that approximately fifty (50) neighborhood property owners have signed a petition (attached to these minutes) voicing similar objections. He cited examples of potential environmental hazards such as those resulting from a tire fire, chemical fumes/odors, and septic overflows. He stated traffic/speeding concerns and suggested speed humps as a possible deterrent. Mr. DiTraglia cautioned against any potential liability incurred by the City for clean-up of improperly disposed of toxic materials. He closed by reiterating his position, supported action that would prevent the expansion of existing commercial activity adjacent to residential areas, and thanked the City Council and staff.

Vance Hobbs of 13 Las Flores Drive reminded Council of the previously mentioned petition and stated that he can obtain more names from a larger area. He stressed his opposition to any additional commercial construction and cited specific detriments to the neighborhood posed by existing warehouses. Expressed concerns included the lack of buffering, increased traffic, noise, water runoff, and traffic/pedestrian safety. He stated that Council needs to act in the best interest of neighborhood residential property owners and not for those seeking commercial gain.

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

Discussion clarified permitted/conditional uses in the NS zoning district, development restrictions, regulation of existing uses, changes in use requiring a conditional use permit, and locations of specific warehouse properties.

Councilmember Roccaforte moved to approve the item as presented in accordance with Map No. 3. Councilmember Thurber seconded. Motion carried on a vote of 4-0.

5. Discussion and Possible Action

- A. Discuss and consider action banning the use of cell phones in designated school zones within the City of Wimberley and providing direction to City staff (*City Administrator*).

City Administrator Ferguson explained the need for Council action to post signage at certain school crossing zones inside City limits in order to enforce recently enacted State law. Councilmember Thurber moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 4-0.

- B. Discuss and consider approval of the Fiscal Year 2010 City of Wimberley Holiday Schedule (*City Administrator*).

Councilmember Flocke moved to approve the following FY 2010 Holiday Schedule as presented:

<i>Veterans Day</i>	Wednesday, November 11, 2009
<i>Thanksgiving</i>	Thursday, November 26, 2009 Friday, November 27, 2009
<i>Christmas</i>	Thursday, December 24, 2009 Friday, December 25, 2009
<i>New Year's Day</i>	Friday, January 1, 2010
<i>Martin Luther King Day</i>	Monday, January 18, 2010
<i>Presidents Day</i>	Monday, February 15, 2010
<i>Good Friday</i>	Friday, April 2, 2010
<i>Memorial Day</i>	Monday, May 31, 2010
<i>Independence Day</i>	Monday, July 5, 2010
<i>Labor Day</i>	Monday, September 6, 2010

Councilmember Thurber seconded. Motion carried on a vote of 4-0.

6. City Council Reports

- Announcements
- Future Agenda Items

As future agenda items, Councilmember Thurber requested items relating to Starlight Symphony and a lawsuit status update.

Hearing no more announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 8:08 p.m.

Adjournment: Council meeting adjourned at 8:08 p.m.

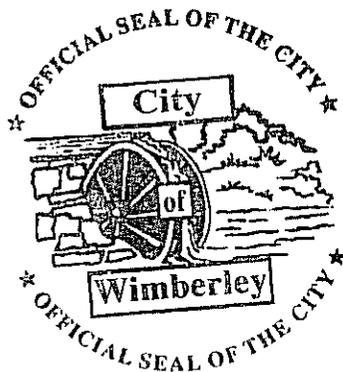
Recorded by:

Cara McPartland

Cara McPartland

These minutes approved on the 5th of November, 2009.

APPROVED:



Tom Haley
Tom Haley, Mayor

To the City of Wimberly concerning the re-zoning of property on Carney Ln.

My name is Fred Frieling, owner of a one-half acre plot on Carney Ln. My wife and I bought this property some twenty years ago as a retirement investment. I am wheel-chair bound and my wife has Alzheimer's. We are unable to start over. The property was originally commercial and there is no reason to change zoning now. Dollar General is in the area and it is a perfect location for some fast food venues across from the baseball field. The bright lights of the ball field alone would be enough to render the property useless to residential consideration.

I would like to go on record as a strong opposition to re-zoning. I recommend the property stay commercial as it was intended.

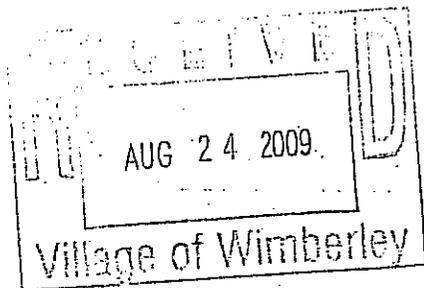
Thank you.

Fred and Rylean Frieling, owners of Cedar Ridge Est Lot 6 0.506 AC, 220 Carney Ln.

15316 Giese Ln.

Manor, Tx 78653

8/4/09



Amanda Lamont Romano Trust

PO Box 607

Wimberley, TX 78676

(512) 842-5554

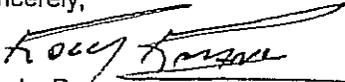
August 4, 2009

12111 Ranch Road 12
PO Box 2027
Wimberley, TX 78676

Re: CEDAR RIDGE ESTATES, LOTS 2 & 3, 250 & 260 Carney Lane

I would like to protest any further residential zoning on the above lots. They have been Commercial for over 20 years, the Subdivision restrictions address them on the plat as Commercial. They were sold and purchased as Commercial lots. There is a public school directly across the street, a Dollar General 300 feet down and across the street, and a Plumbing Supply business adjoining this property. These lots are Commercial lots PERIOD. If the City of Wimberley would like to buy them, they can do what they want with them, otherwise they can get ready to spend more than this on legal fees.

Sincerely,


Rocky Romano

Abby,

I appreciate you taking the time to discuss the Notices of City Initiated Zoning that I received on properties located at 3, 4 & 5 Pecos Path.

Per our discussion, I would like to object to the proposed zoning of these properties as Single Family Residential 2 (R-2).

At this time, I desire to zone the properties with one of the following alternate zoning designations:

- 1) 3 Pecos Path – Multi- Family Residential 1 (MF-1)
- 2) 4 Pecos Path – Scenic Corridor (SC)
- 3) 5 Pecos Path – Commercial – Low Impact (C-1)

The reason for the variety in the zoning selections is because these were the choices that were presented in the Notice.

Ultimately, I see these properties being combined into one and all zoned Commercial – Low Impact (C-1) with Pecos Path being abandoned.

Please let me if you have any questions or thoughts regarding these properties.

Home: (512) 847-7287

Office: (512) 288-4005

Cell: (512) 470-4914

Thank you,

Wayne Latchford, AIA

Vice President, Estimating

Riordan Construction Group, Inc. | 9217 Hwy 290 West, Ste 160 | Austin, Texas 78736 |
Phone 512.288.4005 | Fax 512.288.4004 | Cell 512.470.4914

Wayne

I wanted to get back with you and confirm in writing our conversation over the phone concerning the zoning of your three properties along FM 2325 and Pecos Path. These three properties are in three separate planning areas where different zoning districts are allowable. This disparity in Planning Areas is reflected in your requests for zoning for each of the properties below.

- 1) 3 Pecos Path – Neighborhood Services (NS)
- 2) 4 Pecos Path – Scenic Corridor (SC)
- 3) 5 Pecos Path – Commercial – Low Impact (C-1)

The City recognizes your desire to have all three properties treated as one commercially capable lot. This can be achieved through a subdivision combining all three lots as one and securing access from FM 2325. When the properties are treated as one lot you will be able to apply for one zoning district for the entire tract and the tract will be commercially capable pending the successful completion of the zoning and subdivision case.

I have also attached a copy of each of the zoning districts requested and the Entrance Corridor Overlay district that any property fronting on FM 2325 is subject to.

Abby

Abby Gillfillan
Planning Technician
City of Wimberley
Work: (512) 847-0025
Fax: (512) 847-0422
Cell: (512) 644-9628
agillfillan@anvilcom.com
Web: vil.wimberley.tx.us

8/6/09

Wm. Parks (Bill) Johnson
602 Sabino Ranch Road
Wimberley, TX 78676

Don Ferguson
% City of Wimberley
12111 Ranch Road 12
Wimberley, TX 78676

Re: City Initiated Zoning; A0365 Ben Page, Acres 2.56 at FM 2325

Don,

I would like to object to the proposed zoning of my property referenced above; more specifically located just west of the Wimberley Library. I would like the property zoned as Commercial-Low Impact (C-1).

The C-1 zoning would be more accurate as it is on a major Wimberley roadway, is next to The Wimberley Library, the Chapel in the Hills church and across the street from other commercial properties.

A Rural Residential R-1 zoning would not fit with the others uses of properties that are near this property.

If you have any questions please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Johnson", with a long horizontal line extending to the right.

Bill Johnson

Ryan Willett
13501 RR 12 #103
Wimberley TX 78676

Village of Wimberley
P.O. Box 2027
Wimberley, TX 78676

Re: Zoning
A0365 Benjamin Page Survey, 3.34 A, FM 2325

Sept 10, 2009,

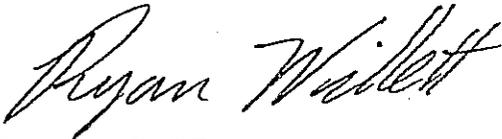
Dear Village of Wimberley:

I am the Personal Representative of the Estate of Boyd R. Willett which is the record owner of the above property.

I object to the City's proposed zoning designation of R-1 for this property. That designation would be out of touch with the surrounding properties and the best use of property at that location.

I would instead propose that the property be zoned C-1, O-1, L-1 or PF to be more in keeping with the pattern of development in that area and the ultimate needs of the community.

Very truly yours,

A handwritten signature in cursive script that reads "Ryan Willett". The signature is written in black ink and is positioned above the typed name and title.

Ryan Willett, P.R.
Estate of Boyd R. Willett

David L Domsch
P. O. Box 165
Potect, Texas 78065-0165
(210) 771-6218

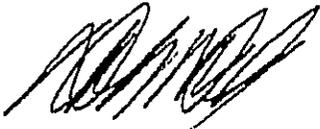
September 23, 2009

Don Ferguson, City Administrator
City of Wimberley
P.O. Box 2027
Wimberley, Texas 78676

This letter is to confirm our meeting and conversation on September 11, 2009 wherein we agreed that my property located on FM 2325 would be zoned C1.

Upon development of this property, a fence will be installed on the sides bordering residential areas.

Should you need something else from me, please let me know.



David L. Domsch

JAMES W. GODWIN, M.D.

Anesthesia Associates

940
Home 817-696-0020
Office 817-322-6700

Box 8006
Wichita Falls, Texas 76307

Dear Sirs 24 SEP 09

When I bought this property from Dr. Stephenson all these many years ago the original plan was to have the property along the road to be commercial and that behind to be residential. I would appreciate it if the city would make provision for this original intent under which the property was sold.

I thank you



STEVENS & MALONE, L.L.P.
ATTORNEYS AT LAW

150 FM 3237
P.O. Box 727
Wimberley, Texas 78876

MICHAEL D. STEVENS
JOSEPH J. MALONE

Tele: (512) 847-9277
FAX: (512) 847-0038

October 8, 2009

SENT VIA FACSIMILE: (512) 847-0025

City of Wimberley
Don Ferguson
City Administrator
1211 Ranch Road 12
Wimberley, Texas 78676

Re: File No. ZA-09-006 concerning 3.56 acres of land out of the R.S. Rankin Survey, R17520 and 0.577 acres of land out of the R.S. Rankin Survey, R17524, Hays County, Texas

Dear Mr. Ferguson:

Please be advised that I represent Michael Jenkins concerning the zoning of his above-referenced properties. Unfortunately, neither Mr. Jenkins nor myself will be able to attend the Planning and Zoning Commission meeting on October 8, 2009, due to scheduling conflicts. In lieu of our appearance, pursuant to the Notice of Public Hearing dated September 18, 2009, please accept this letter as our written objection to the proposed zoning of the above-referenced tracts.

In regard to the 3.56 acre tract of land, the proposed zoning classification of "Neighborhood Services" is inconsistent with the existing commercial use of the property. When Mr. Jenkins purchased this tract of land and the existing storage unit business located on this property, this property was not zoned. In fact, the property has been continuously used as a commercial personal storage business from prior to the date of the City's incorporation to present. The proposed zoning of "Neighborhood Services," however, does not allow for a personal storage business operation. Thus, should this property be zoned "Neighborhood Services," Mr. Jenkins' business operation will be considered a non-conforming use which will substantially impact the market value of the land, the value of the business and his future use and development of the property. Consequently, we believe the appropriate zoning of this property is "Commercial Moderate Impact (C2)," which would permit a conditional use permit for a personal storage business operation. Though we understand that this zoning classification is outside the scope of the City's planning district for this area, we nonetheless feel that this classification would more appropriately balance the private and public interests at stake.

Don Ferguson
City Administrator
October 8, 2009
Page Two

Additionally, when Mr. Jenkins purchased the .557 acre tract of land, adjoining the 3.56 acre tract of land, this tract was also not zoned. The proposed zoning for this tract is "Commercial Minimum Impact (C-1)". This zoning classification, like the "Neighborhood Services" classification, does not provide for the possible use of the property as a personal storage business. Given that Mr. Jenkins currently operates a personal storage business on the adjoining tract of land, Mr. Jenkins relied on this property being not zoned in purchasing it for the expansion of his personal storage operations onto this property in compliance with City development requirements. Consequently, we believe the appropriate zoning of this property is "Commercial Moderate Impact (C2)," which would permit a conditional use permit for a personal storage business operation.

Thank you for your consideration of these requests. Please advise if any additional information is needed for your thorough consideration of this matter.

Sincerely,



Joseph J. Malone

JJM/as
CC: Client

15 Las Flores Drive
Wimberley TX 78676

October 6, 2009

City of Wimberley
12111 Ranch Road 12
Wimberley TX 78676

Re: File No. ZA-09-006
City Initiated Zoning
Unsowed Properties along the FM Corridor

Dear Sirs:

My name is David DiTraglia and I have lived in Wimberley for over 16 years. My house is located about 100 feet from the proposed zoning and I am submitting the following comments:

- 1. Property Values-** These warehouse buildings were put up after residents moved here and before city incorporation so no one had a say as to what the owner could do. Recently a neighbor two houses up the street put in a doublewide on a vacant property for their mother; the subdivision came very aggravated and had them remove the double wide for aesthetic reasons that they feared would lower property values in the neighborhood. Now we have light industry moving right next to us. At this point since there is not any physical building to attract the attention of the subdivision, the subdivision is not aware of the expansion. The subdivision was able to have the doublewide moved but the warehouses are more permanent. After they are built they cannot be moved. Where the subdivision was concerned about the double wide lowering property values, these light industrial warehouses will definitely lower the property value of my house, and more than a dozen other residences.
- 2. Public Safety-** When I moved to Wimberley the light industrial warehouses were not built. When I asked the real estate agent what was going in that vacant lot area and he said more residential housing. Obviously, he was not telling the truth and I believed it. Gradually the light industrial warehouses were built in that space. In fact, on the eve of the city incorporation, the land owner, fearing zoning regulations, built 2 more light industrial warehouses closer to my house. As Chief of Air Compliance for the US EPA and Hazardous Waste director for Alaska I have encountered multiple occasions where these types of light industrial warehouses have a fire and the chemicals that were stored in them caused evacuation of the neighborhoods. In this light industrial area of Wimberley there is furniture making warehouse, a plumbing business, a car repair shop, a tire shop,

and electrical shop and several other unidentified shops. All these businesses use solvents and paints. These types of light industrial buildings should have as a minimum a 200 foot buffer zone to any residential buildings or schools (the Parkside School is located close to these warehouses). Many other cities would recommend a larger buffer zone. We should learn from the experiences of the past and not have to repeat such obvious risk taking in zoning. Since no one really knows what is stored in these buildings there is potential harm to neighboring residents and school children.

3. **Public Health-** For years now we would get smells of chemicals. These smells are chemical smells coming from those warehouse businesses. In addition, the septic system might be overloaded. When there is a rain storm the only septic field for that light industrial area overflows and smelly water goes across my neighbor Vance Hobbs' property and onto my property to the culvert crossing the road to my other neighbor's property. None of us have any idea what could have been disposed of down that light industrial septic system. The odors coming from some of the business are could be especially hazardous to the children playing outside in the yard near the light industrial warehouse. The furniture shop has an air cleaner stack on top of his building that blows the unwanted sawdust and odors up out of his shop and if the wind is blowing my way toward where I live I have to inhale it. I have physical ailments that are only exacerbated by toxic fumes. I, along with many other folks moved to Wimberley for clean air. I did not want to move next to a light industrial zone and would not have moved into my house knowing the area next to me was zoned industrial. I guess if you don't live next to the area you can ignore it but I cannot. I cannot move because my house is designed for my special needs and I do not have the money to start over again. Even if I could move out you will still have the children and neighbors breathing these fumes on a daily basis.
4. **Traffic.** More businesses mean more traffic. As it is when I walk my dog while in my wheelchair I encounter people speeding right past me presenting a dangerous situation for me and my dog. The traffic will increase causing more risk of accidents for the neighborhood. There should be speed humps to physically reduce the speed of the traffic on Las Flores Drive.

Conclusion- The building of more warehouses will definitely lower my and other neighbor's property values. People do not want to buy a house next to a light industrial warehouse. Due to increased traffic, toxic materials, hazardous wastes, noise and smells, light industry warehouse buildings should not be located adjacent to residential housing and schools. There should be at least a 200 foot buffer zone around such light industrial buildings and residential areas and schools. There should be regularly scheduled inspections of existing buildings for storage of toxic chemicals and wastes, permits for air release of pollutants and scheduled testing of the septic system. If hazardous waste have been disposed down the septic system by the businesses, the state and federal regulations state that businesses past and present have both joint and several liability for any clean up .Even if the area hooks up to a sewer the businesses past and present would be liable, Usually when that happens the business goes bankrupt and the City is responsible for the cleanup. **As past member of the City of Wimberley Water/ Wastewater Advisory**

Board, in order to decrease downstream liability to the City, the potential effect on neighbors property values, and reduce the potential health risks to school children and residents, I recommend that the City not allow any more industrial warehouses to be built in that area.

If you have any questions, please call me at 842-5900. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'David DiTraglia', written over the printed name.

David DiTraglia

Wimberley Residents Against the City Initiated Zoning No. ZA-09-006 Making it Legal to Build More Light Industry Warehouses Near Residences on Las Flores Drive and Parkside School

Name	Address
1 VANCE HOBBS	13 Las Flores
2 Jonathan Hobbs	13 Las Flores
3 THOMAS WELLS	16 Las Flores
4 Sharon Uhlaender	18 Las Flores
5 Pat Nelson	22 Los Alamos
6 [Signature]	451 La Buena Vista
7 [Signature]	330 La Buena Vista Dr
8 Mary Ann Osborn	" " "
9 Sylvia Banks	331 La Buena Vista Dr
10 Fred Shuttlesworth	321 La Buena Vista
11 Janet M. Malcom	309 La Buena Vista
12 [Signature]	301 La Buena Vista
13 Jana Saucedo	104 La Buena Vista
14 Tony Saucedo	104 LA BUENA VISTA

Name**Address**

15 DALE CROCKER

320 LA BUENA VISTA

16 Tabitha Seelam

10 Las Flores Dr

17 DAVID DiTRAGLIA

15 LAS FLORES

18 Mitchell A. Long

4 Las Flores Dr.

19 Doug McElwEE

9 LAS FLORES dr.

20 TINA McELWEE

9 LAS FLORES dr.

21 Jean Meriako

8 Las Flores

22 Anne McFadden

14 Las Flores

23 Renee Boschert

45 La Buena Vista

24 Andy Mauldin

1 Heatherbrook 45 la Buena Vista

25 Heather Mauldin

45 La Buena Vista

26 JEFFREY G. NAVIS

7253 MT. SHARP RD
(45 LA BUENA VISTA)

27 Kristen Freeman

1707 Aquarcha Springs Dr.
(45 La Buena Vista Dr)

28 Kyle Fox

560 Lone Mt. Mountain Rd.

29 I-Pei Hodge

(45 La Buena Vista Dr)
126 Sunrise Canyon (45 La Buena Vista Dr.)

30 Kiersten Stephens

989 Old Red Ranch Rd (45 La Buena Vista)

Wimberley Residents Against the City Initiated Zoning No. ZA-09-006 Making it Legal to Build More Light Industry Warehouses Near Residences on Las Flores Drive and Parkside School

Name	Address
31 Faith Hightower	225 Sunshell 78676 45 La Buena Vista
32 Jennifer Leidich	2505 S. RAINBOW RR 45 LA BUENA VISTA
33 KYE SHORTS	45 LA BUENA VISTA
34 Melissa Gilmore	45 LA Buena Vista / 23 Presidio Road
35 Cynthia Gerber	411 Wolf Tr., Wimberley, TX
36 Donald M Poff	45 L+ Buena Vista
37 Kathy Uffs	9611 FM 2325 Wimberley Tx.
38 Kim Christoff	415 Lone Man Creek DR Wimberley, TX.
39 Jan Coburn	67 Champions Cir. Win. Teacher,
40 VIRGINIA INGARI	1294 ORABAPPLE RD.
41 Robi Ancora	14 EL CONEJO TRL. WOODCREEK, TX
42 David Mudgey	1681 North Park Rd Teacher
43 Annie Lozano	1740 RR 12 #523 SAN MARCOS

44 Theresa Neil

45 Mary Neil

46 Lore Gott 322 Trail Ridge Rd. Wimberley

47 Margaret "Peggy" B. MADDOX 7 Las Flores Dr.

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