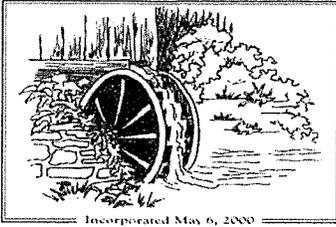


**REGULAR CITY
COUNCIL MEETING
PACKET**

Thursday, July 19, 2018

6:00 p.m.



City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

REGULAR CITY COUNCIL MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
THURSDAY, JULY 19, 2018 – 6:00 P.M.

AGENDA

1. **CALL TO ORDER** July 19, 2018 at 6:00 p.m.
2. **CALL OF ROLL** City Secretary
3. **INVOCATION**
4. **PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG**
5. **PRESENTATION AND POSSIBLE ACTION**

Presentation and consider possible action regarding Make a Difference Events “Wimberley 4” race event.

6. **CITIZENS COMMUNICATIONS**

The City Council welcomes comments from citizens who have a direct stake in the business of the city, such as a landowner, resident, vendor or business owner on issues and items of concern, not on this agenda. Those wishing to speak must sign in before the meeting begins and observe a three-minute time limit when addressing Council. Speakers will have one opportunity to speak during the time period. Speakers desiring to speak on an agenda item will be allowed to speak when the agenda item is called. Inquiries about matters not listed on the agenda will either be directed to staff or placed on a future agenda for Council consideration. Comments from speakers should not be directed towards any specific member of City Council or City staff. Comments should not be accusatory, derogatory or threatening in nature.

7. **CONSENT AGENDA**

The following item/s may be acted upon in one motion. No separate discussion or action is necessary unless requested by a Council member or citizen, in which event those items will be pulled from the consent agenda for separate consideration.

Approval of minutes from the Special City Council Meeting held July 10, 2018.

8. **CITY ADMINISTRATOR REPORT**

Update regarding the status of the Central Wimberley Wastewater Project and other pertinent topics

9. PUBLIC HEARINGS AND POSSIBLE ACTION

- A. Hold a public hearing and consider approval regarding case CUP-18-010, an application for a Conditional Use Permit to allow for a vacation rental for property located at 310 Summit Loop, Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. *(Lisa Risoli, Applicant)*
- B. Hold a public hearing and consider approval regarding case CUP-18-011, an application for a Conditional Use Permit to allow for a vacation rental for property located at 350 W. Spoke Hill Dr., Wimberley, Hays County, Texas; and providing for the following: delineation on zoning map; findings of fact; severability; effective date and proper notice and meeting. *(Constantino & Teresa Taccogna, Applicant)*

10. DISCUSSION AND POSSIBLE ACTION

- A. Discuss and consider approval of the first reading of an ordinance amending Title XV (Land Usage) Chapter 154 (Subdivision Control) Section 154.063 (Lots), Subsection (C) "Lot Shape", of the City of Wimberley Code of Ordinances in order to except minor alterations to interior lot lines that do not increase the number of lots; and providing findings of fact; a penalty provision; a repealing clause; a savings and severability clause; an effective date; and proper notice and meeting.
- B. Discuss and consider possible action to approve Ordinance No. 2018-23, amending Chapter 33, Subsection 33.04 (C)(2), (D), (E), (F), (G) and (H) for the Parks and Recreation Board.
- C. Discuss and consider possible action to reverse previous appointments to the Parks and Recreation Board, prior to the adoption of Ordinance No. 2018-23, and approve appointment or re-appointment of Board members, after adoption of Ordinance No. 2018-23.
- D. Discuss and consider possible action to approve Ordinance No. 2018-24, amending Chapter 33, Subsection 33.02 (C), (D), (E), (F), (G) and (H) for the Transportation Advisory Board.
- E. Discuss and consider possible action to reverse previous appointments to the Transportation Advisory Board, prior to the adoption Ordinance No. 2018-24, and approve appointment or re-appointment of Board members, after adoption of Ordinance No. 2018-24.
- F. Discuss and consider possible action to approve the second and final reading of Ordinance No. 2018-26, amending Ordinance No. 2015-017, regarding the Hotel Occupancy Tax Advisory Committee.
- G. Discuss and consider possible to reverse previous appointments to the Hotel Occupancy Tax Advisory Committee, prior to the adoption and final reading of Ordinance No. 2018-26, and approve appointment or re-appointment of Committee members, after adoption and final reading of Ordinance No. 2018-26.

- H. Discuss and consider possible action to approve Ordinance No. 2018-27, creating a Wastewater Ad Hoc Advisory Committee.
- I. Discuss and consider possible action regarding appointments to the Wastewater Ad Hoc Advisory Committee.
- J. Discuss and consider possible action to approve Ordinance No. 2018-28, creating a Short-Term Rental Review Committee.
- K. Discuss and consider possible action to approve Ordinance No. 2018-29, amending Chapter 152, Subsection 152.11 (Community Electronic Message Display Sign).
- L. Discuss and consider possible action to approve Resolution No. 22-2018, authorizing acceptance of a temporary construction easement for construction of utilities to be located on Hays CAD Property ID R18405, on property owned by CARSON DIVERSIFIED LAND 2 LLC.
- M. Discuss and consider possible action to approve Resolution No. 23-2018, amending the 2017/2018 Operating Budget (Budget Amendment No. 12) providing for the transfer of funds in the Blue Hole Parkland Fund to the Wastewater Fund.
- N. Discuss and consider possible action to extend the pause on Black Castle for an additional 30 days.
- O. Discuss and consider possible action regarding the City of Wimberley Partnership Agreement with The Friends of Blue Hole, Inc.

11. CITY COUNCIL REPORTS

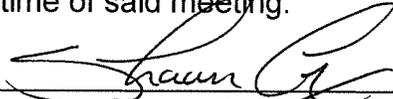
- A. Announcements
- B. Future agenda items

12. ADJOURNMENT

The City Council may retire into Executive Session at any time between the meeting's opening and adjournment for the purpose of discussing any matters listed on the agenda as authorized by the Texas Government Code including, but not limited to, homeland security pursuant to Chapter 418.183 of the Texas Government Code; consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion about real estate acquisition pursuant to Chapter 551.072 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code; deliberations about gifts and donations pursuant to Chapter 551.076 of the Texas Government Code; discussion of economic development pursuant to Chapter 551.087 of the Texas Government Code; action, if any, will be taken in open session.

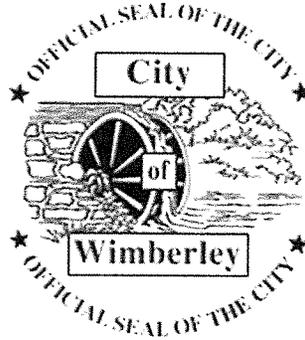
CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at Wimberley City Hall, a place convenient and readily accessible to the general public at all times, and to the City's website, www.cityofwimberley.com, in compliance with Chapter 551, Texas Government Code, on Monday, July 16, 2018, by 5:30 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Shawn Cox, City Administrator

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact City Secretary Laura Calcote at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program.





AGENDA ITEM: "Wimberley 4" Race Event Presentation
SUBMITTED BY: Shawn Cox, City Administrator
DATE SUBMITTED: July 16, 2018
MEETING DATE: July 19, 2018

AGEND FORM

ITEM DESCRIPTION/SUMMARY

Carl Owens, with Make a Difference Events will give a presentation on the proposed Wimberley 4 race event, tentatively scheduled for October 20, 2018. The route is similar to previous race events hosted by Mr. Owens, the last one being in 2014.

The routes will require partial closure of Ranch Road 12 and FM 2325. These are partial closures. Traffic is not expected to be blocked for any significant period. If approved the Public Works Department will work with Mr. Owens and TxDOT to acquire the necessary permits.

There is a separate 5K race event taking place in Blue Hole Park on the same day. The routes will not interfere with each other.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

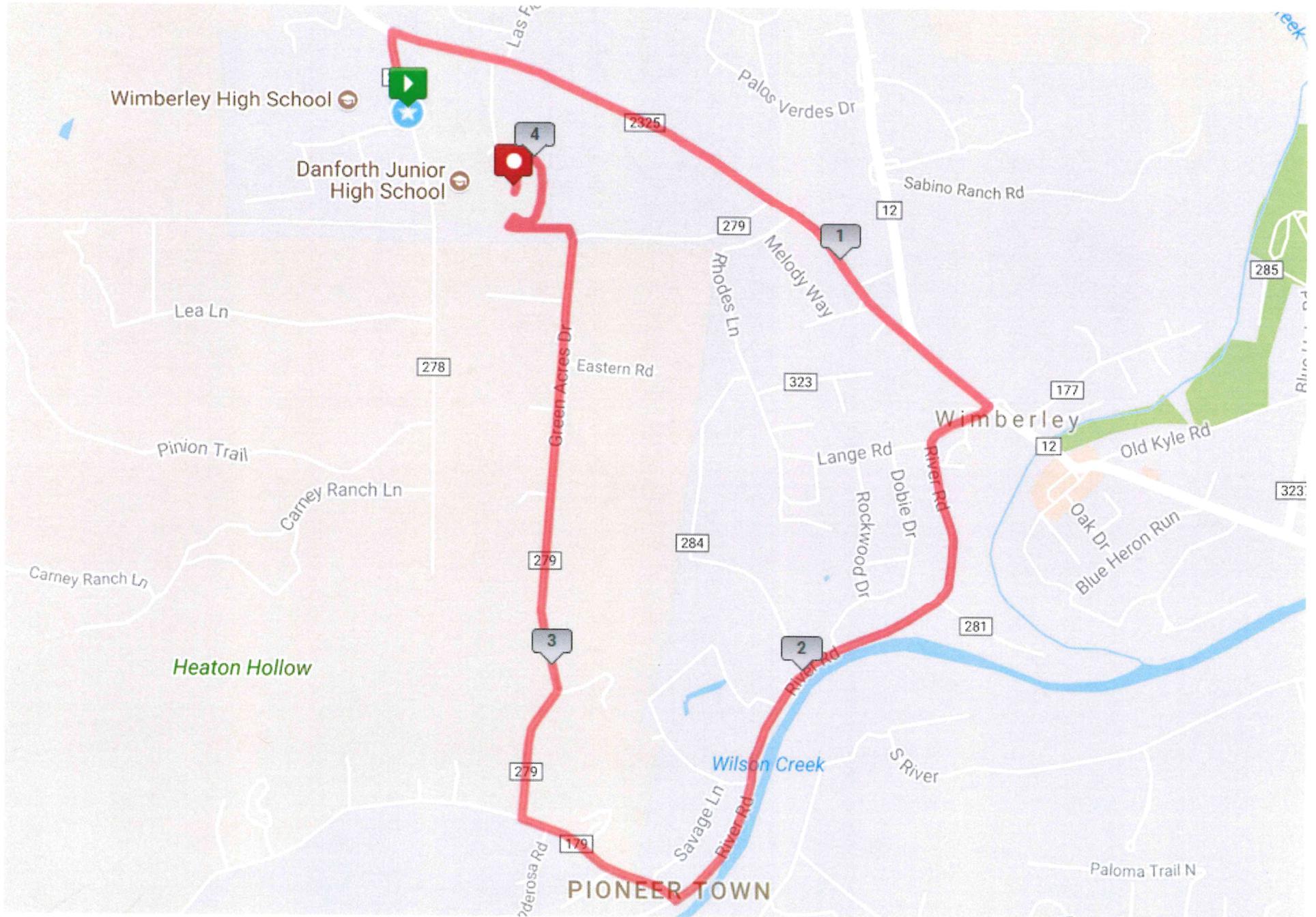
- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: | \$ |

ATTACHMENT(S)

- Race Map
- Proposed Signage

STAFF RECOMMENDATION

Shawn Cox, the City Administrator, recommends approval of this item.



ART PROOF

Artwork Specifications:

Size: 24"W x 18"T - 1 Sided/1 Color (Black on Yellow Coroplast) - Yard Sign

Qty: 100 - Signs Qty: 100 - 30" Wires

PUBLIC NOTICE - SPECIAL EVENT

SATURDAY, MAY 10, 2008

8:15 AM - 10:00 AM

THE WIMBERLEY 4

RUN & WALK

EXPECT TRAFFIC DELAYS

and

ROAD/LANE CLOSURES

For Information: www.runwimberley.com



AGENDA ITEM: Consent Agenda
SUBMITTED BY: Laura Calcote
DATE SUBMITTED: July 16, 2018
MEETING DATE: July 19, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Attached are minutes from the Special City Council Meeting held Tuesday, July 10, 2018.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION

Approval of minutes.



City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas 78676

SPECIAL CITY COUNCIL MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
TUESDAY, JULY 10, 2018 – 5:30 P.M.

MINUTES

CALL TO ORDER

Mayor Susan Jaggars called the meeting to order at 5:33 p.m.

CALL OF ROLL

Council Members Present: Susan Jaggars Mayor
Craig Fore Place Two
Allison Davis Place Three
Gary Barchfeld Place Four
Patricia Cantu Kelly Place Five

Council Members Absent: Mike McCullough Place One

City Staff Present: Shawn Cox City Administrator
Laura Calcote City Secretary
Rebecca Manning Parks Director
Richard Shaver Parks Operations Supervisor

INVOCATION

Council Member Gary Barchfeld gave the invocation.

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

Mayor Susan Jaggars led the pledges to the United States and Texas flags.

PUBLIC COMMENT

Motion to accept the new time system donated by Phil Collins was made by Council Member Patricia Cantu Kelly. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).

There were sixteen public comments. They were as follows:

1. Peter Lingamfelter spoke regarding the wastewater treatment plant. Mr. Lingamfelter stated he believed City Council had already made-up their mind on the issue and moving forward with the Aqua Texas option. He requested an open dialogue between the public and Council on the topic before a final decision is made.

2. Stephanie Nestlerode noted she was disappointed in City Council's decision to allow only Wimberley residents or those affected by certain issues to speak at future meetings. Ms. Nestlerode also spoke on the importance of planning and contracting, and how regulatory agencies do not like their opinions second-guessed.
3. Linda Webb addressed Council regarding their promises during the election season regarding the Central Wimberley Wastewater Project, and supporting the Project as is. She noted the Aqua Texas suspicions during the campaigns are now coming to fruition with a majority of the current City Council leaning that direction.
4. Jo Kathryn Quinn thanked City Council for their service and asked them to be leaders of integrity. Ms. Quinn requested the Black Castle contract pause be immediately removed, and to move forward with the wastewater project as is. She stated Wimberley is the last jewel standing in Hays County and cautioned a move to Aqua Texas would possibly bring big development to the area.
5. Janice Mullennax addressed Council urging them to support the Central Wimberley Wastewater Project as funded and to remove the pause on Black Castle. She stated there would be no cost savings to go to Aqua Texas.
6. John Espinoza spoke regarding the Request for Proposal process for the wastewater project, and how the procurement process would be compromised if the Council decided to move forward with Aqua Texas.
7. Dan Gauthier addressed Council pertaining to the ecological and environmental impact to the area if the City moves forward with Aqua Texas. He also stated Aqua America has a Better Business Bureau rating of C minus.
8. Roberta Holland spoke regarding the Central Wimberley Wastewater Project and urged Council to move forward with the Project as designed and funded.
9. Linda Kaye Rogers addressed Council stating there is a problem with listening and heeding the citizenry's wishes. Ms. Rogers contended Council members are not openly communicating with the residents, and consequently causing a violation of trust in the community.
10. Steve Thurber spoke urging Council to move forward with the wastewater project as planned, and stated he was disappointed to hear public comment may be limited at future meetings.
11. Casey Craig thanked City Council for their service. She also stated a wastewater agenda item is premature, and there had been a violation of trust from previous City Councils and Mayors regarding the topic.
12. William "Bo" Bowman III presented Council with an Anti-Aqua Texas Petition with almost 1,200 signatures.
13. Roberta Shoemaker Beal addressed Council by responding to the Mayor's Corner weekly column found in the Wimberley View. Ms. Beal stated the current wastewater project had

been explored and vetted by numerous individuals and parties over time and should move forward as planned. She also noted Aqua America, Inc. is traded on the New York Stock Exchange, and does not have Wimberley's best interest in mind.

14. Andrew Weber spoke as an attorney representing the citizens of Wimberley and their wishes not to move forward with Aqua Texas for the Central Wimberley Wastewater Project. Mr. Weber questioned the legality of some of Council's actions in taking the Aqua Texas route. Additionally, Mr. Weber noted Ordinance No. 2018-23, amending the Parks and Recreation Board, if passed, would be prospective and only apply to future Board appointments.

15. Bruce Grether addressed Council regarding an open records request revelation that the City plan is to move forward with Aqua Texas and cautioned Aqua Texas is interested in the City's Certificate of Convenience and Necessity (CCN). Mr. Grether urged Council to move forward with the wastewater project as currently funded and designed.

16. Tom Keyser spoke regarding 2016, 2017 and 2018 elections, and how the majority was elected to manage the City.

CONSENT AGENDA

Motion to approve the Consent Agenda, with several corrections to the June 21, 2018 meeting minutes and to notate Mike McDonald's name should be Mark McDonald, was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Allison Davis. Motion carried unanimously (4-0).

- A. Approval of minutes from the Regular City Council Meeting held June 21, 2018.
- B. Approval of Mayor Susan Jagger's appointment of Mike McDonald to the Planning and Zoning Commission.

PARKS DIRECTOR UPDATE

Parks Director Rebecca Manning provided Council with an update regarding Blue Hole Regional Park operations for 2018. The topics discussed included increase in Park visitor attendance, nature camps and programs, revenue and expenditures and the online reservation system.

CITY ADMINISTRATOR REPORT

City Administrator Shawn Cox provided an update regarding the Central Wimberley Wastewater Project. Mr. Cox noted over 4,000 feet of line has been laid, which equated to about 20 percent (20%). He also stated the City still needed to acquire easements along Henson for the Project. Alternate locations for the lift station were being evaluated, but no decision had been made. Additionally, Mr. Cox sought direction regarding the Texas Water Development Board interest payment options, which is due on August 1st. There was discussion among Council members regarding the third and fourth invoice payments for Black Castle being on hold, the lift station site survey cost and change orders for the Project.

DISCUSSION AND POSSIBLE ACTION

- A. Discuss and consider possible action to approve a professional services agreement with Environmental Concepts, LLC to serve as the Environmental Health/OSSF Inspector for the City of Wimberley.

Motion to approve a professional services agreement with Environmental Concepts, LLC to serve as the Environmental Health/OSSF Inspector for the City of Wimberley was made by Council Member Allison Davis. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

- B. Discuss and consider possible action to amend the Comprehensive Fund Balance Policy regarding the Blue Hole Parkland Fund.

Parks Director Rebecca Manning presented information regarding revenue generators and operating expenses for Blue Hole Regional Park. Mrs. Manning was requesting a minimum threshold of 75% be placed on the Blue Hole Parkland Fund for the restricted fund balance of the Park's fiscal year operating budget. There was discussion among Council members and Mrs. Manning regarding the 75% reserve for the fund.

Motion to approve the amendment to the Comprehensive Fund Balance Policy regarding the Blue Hole Parkland Fund was made by Council Member Allison Davis. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).

- C. Discuss and consider possible action to approve Resolution No. 19-2018, authorizing the submission of a community development and revitalization 2015 housing project application to the Texas General Land Office.

The City of Wimberley was allocated \$1,353,711.76 from the General Land Office (GLO) to be utilized for housing recovery efforts after the 2015 flood. Even though the money had been allocated, the City still needed to submit a project application. Resolution No. 19-2018 would authorize the submission of the application to the GLO, with the assistance of Langford Community Management Services.

Motion to approve Resolution No. 19-2018, authorizing the submission of a community development and revitalization 2015 housing project application to the Texas General Land Office was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

- D. Discuss and consider possible action to approve Resolution No. 20-2018, authorizing the submission of a community development and revitalization 2015 non-housing project application to the Texas General Land Office.

The City of Wimberley was allocated \$311,217.39 from the GLO to be utilized for non-housing recovery efforts, including infrastructure needs, such as roads and bridges. The City still needed to submit a project application. Resolution No. 20-2018 would authorize the submission of the application to the GLO, with the assistance of Langford Community Management Services.

Motion to approve Resolution No. 20-2018, authorizing the submission of a community development and revitalization 2015 non-housing project application to the Texas General Land Office was made by Council Member Craig Fore. Motion was seconded by Council Member Gary Barchfeld. Motion carried unanimously (4-0).

- E. Discuss and consider possible action to approve Ordinance No. 2018-23, amending Chapter 33, Subsection 33.04 (C)(2), (D), (E), and (G), for the Parks and Recreation Board.

There was lengthy discussion regarding Ordinance No. 2018-23 and Ordinance No. 2018-24 amending the Parks and Recreation Board and the Transportation Advisory Board. Term limits were discussed, along with the number of Board members. Whether Board members should reside in the City limits or extraterritorial jurisdiction was also discussed. The two

Ordinances would need to be amended once more to incorporate the new changes.

Motion to table Ordinance No. 2018-23 was made by Council Member Craig Fore. Motion was seconded by Council Member Patricia Cantu Kelly. Motion carried unanimously.

- F. Discuss and consider possible action to approve Ordinance No. 2018-24, amending Chapter 33, Subsection 33.02 (C), (D), (E), and (G), for the Transportation Advisory Board.

Motion to table Ordinance No. 2018-24 was made by Council Member Craig Fore. Motion was seconded by Council Member Patricia Cantu Kelly. Motion carried unanimously.

- G. Discuss and consider possible action to approve Ordinance No. 2018-25, amending Chapter 33, Subsection 33.03 (C), (D)(1), (E), (F), and (G), for the Water Wastewater Advisory Board. There was discussion regarding Ordinance No. 2018-25 amending the Water Wastewater Advisory Board, including the Board's scope and purpose. Council members decided a separate ad hoc wastewater board should be formed for one year and with six members. Staff was directed to draft an ordinance for the ad hoc board and bring it back to the next Council meeting for discussion and possible action.

No action was taken on this item.

- H. Discuss and consider possible action to approve the first reading of Ordinance No. 2018-26, amending Ordinance No. 2015-017, regarding the Hotel Occupancy Tax Advisory Committee.

Motion to approve the first reading of Ordinance No. 2018-26, amending Ordinance No. 2015-17, regarding the Hotel Occupancy Tax Advisory Committee was made by Council Member Patricia Cantu Kelly. Motion was seconded by Council Member Gary Barchfeld. Motion carried as follows (3-1):

Craig Fore	Aye
Gary Barchfeld	Aye
Patricia Cantu Kelly	Aye
Allison Davis	Nay

- I. Discuss and consider possible action regarding appointments to the Hotel Occupancy Tax Advisory Committee.

Council discussed the applications received for appointment to the Hotel Occupancy Tax Advisory Committee. Council Member Allison Davis noted the four Wimberley Valley Tourism and Lodging Association Board members had to pay to be a part of the organization, and therefore, a part of the Committee. There was also discussion on the Hotel Occupancy Tax Fund, and the future tourism plan for the City.

Motion to approve the following members Clay Ewing, Traci Ferguson, Julie Ray, Dan Sturdivant, Lois Mahoney, Mark Bursiel and Natalie Meeks to the Hotel Occupancy Tax Advisory Committee was made by Council Member Patricia Cantu Kelly. Motion was seconded by Council Member Craig Fore. Motion carried as follows (3-1):

Craig Fore	Aye
Gary Barchfeld	Aye
Patricia Cantu Kelly	Aye
Allison Davis	Nay

- J. Discuss and consider possible action regarding short-term vacation rentals within the City of Wimberley.

Council Member Patricia Cantu Kelly presented this item, noting there are over 300 short-term vacation rentals operating illegally within the City of Wimberley and the extraterritorial jurisdiction. She suggested forming an advisory team to gather information pertaining to the size of the problem and to make a recommendation to Council within the next 60 days.

Motion to establish a short-term rental advisory team would consist of Phil Collins, Tomas Palm, Robbie Walker, Alberta Valera, Sandy Floyd, Laura Calcote, Patricia Cantu Kelly and Mike McCullough. Motion was seconded by Council Member Gary Barchfeld.

There was discussion on the scope of the team and to remove City staff members Sandy Floyd and Laura Calcote from the team.

Motion was amended to remove City staff employees Sandy Floyd and Laura Calcote. Motion carried unanimously (4-0).

- K. Discuss and consider possible action regarding Capital Excavation Change Order No. 2 for the provision of materials testing.

City Administrator Shawn Cox presented information pertaining to Capital Excavation Change Order No. 2 for materials testing. The testing was needed to ensure adequate materials had been utilized and compacted to prevent the future failing/sinking of roadways or roadway shoulders. The estimated cost for the testing was \$19,842 and was not expected to increase the total contract amount. There was discussion regarding the testing process.

Motion to approve Capital Excavation Change Order No. 2 for the provision of materials testing was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

- L. Discuss and consider possible action to continue with the current Central Wimberley Wastewater Project, as funded, including immediately removing the pause on the Black Castle contract.

Motion to continue with the current Central Wimberley Wastewater Project, as funded, including immediately removing the pause on the Black Castle contract was made by Council Member Allison Davis.

City Council adjourned into Executive Session at 8:39 p.m. in accordance with Texas Government Code, Chapter 551, Subchapter D, Section 551.071 to receive legal advice from Deputy City Attorney Cameron Cox.

Regular Session reconvened at 9:00 p.m.

No action was taken from Executive Session.

Council Member Allison Davis submitted three letters for public record, which are attached to the minutes.

Council Member Davis withdrew her motion.

- M. Discuss and consider possible action to approve Resolution No. 21-2018, authorizing an amendment to the Economic Development Administration (EDA) Grant Application to allocate funding associated with the Central Wimberley Wastewater Project from the Wastewater Treatment Plant Project to the Collection Line Project.

There was discussion on previous correspondence with the EDA, regarding their funding for the project, including a letter sent on January 12, 2018 from the City to the EDA and the EDA's response to the City on January 29, 2018, allowing the grant amendment/change to provide only for the construction of the wastewater treatment plant. Council questioned why this correspondence had not been provided to all Council members before now.

Additionally, Council wanted to use the EDA funds for the entire project, not just the plant portion. The EDA requested a resolution to allow for such a change to the wastewater project. However, the EDA had not made a final decision on whether the funds could be allocated for the collection line portion of the project.

Motion to approve Resolution No. 21-2018, authorizing an amendment to the Economic Development Administration (EDA) Grant Application to allocate funding associated with the Central Wimberley Wastewater Project from the Wastewater Treatment Plant Project to the Collection Line Project was made by Council Member Gary Barchfeld. Motion was seconded by Council Member Patricia Cantu Kelly. Motion carried as follows (3-0-1):

Craig Fore	Aye
Gary Barchfeld	Aye
Patricia Cantu Kelly	Aye
Allison Davis	Abstain

- N. Discuss and consider possible action to amend the City of Wimberley Governance Policy and Rules of Procedure pertaining Section 5.9 – Agenda.
There was discussion among Council members regarding the proposed amendment to the City of Wimberley Governance Policy and Rules of Procedure, Section 5.9 pertaining to agendas. City Council members had not been following the deadline for submitting items for the agenda. Therefore, Council decided all agenda items must be submitted seven days prior to a City Council meeting, either regular or special. There was further discussion on setting time limits for Council meetings.

Motion to amend the City of Wimberley Governance Policy and Rules of Procedure pertaining to Section 5.9 – Agenda for a firm deadline to submit an item for the agenda seven days prior to the requested Council Meeting date was made by Council Member Allison Davis. Motion was seconded by Council Member Craig Fore. Motion carried unanimously (4-0).

CITY COUNCIL REPORTS

A. Announcements – None.

B. Future agenda items – None.

ADJOURNMENT

Mayor Susan Jagggers adjourned the meeting at 9:24 p.m., without objection.

RECORDED BY:

Laura J. Calcote, City Secretary

APPROVED BY:

Susan B. Jagggers, Mayor



KELLY HART

ANDREW WEBER
andrew.weber@kellyhart.com

TELEPHONE: (512) 495-6451
FAX: (512) 495-6401

July 8, 2018

VIA U.S. POSTAL MAIL AND EMAIL

Mayor Susan Jagggers: mayor@cityofwimberley.com
Council Member Mike McCullough: place1@cityofwimberley.com
Council Member Craig Fore: place2@cityofwimberley.com
Council Member Allison Davis: place3@cityofwimberley.com
Council Member Gary Barchfeld: place4@cityofwimberley.com
Council Member Patricia Cantu Kelly: place5@cityofwimberley.com
P.O. Box 2027
Wimberley, TX 78676

Re: Mayor's Aqua Texas Plan

On behalf of concerned Wimberley citizens, I write to put you on notice that you will commit one or more unlawful acts, perhaps in your individual capacity, if you vote in favor of the Mayor's recommendation that you 1) terminate or further delay the Black Castle treatment plant contract or 2) vote to contract with Aqua Texas (AT) for treatment of downtown waste water without the following documents in your possession. I am not representing you, and not representing that the following is a complete list; that is, the following are necessary but may not be sufficient if you are called upon to justify your actions:

1. A written contract from, and executed by AT, with an open offer date good until at least July 20, 2018, detailing the terms under which AT will contract to treat the waste water. The terms would include, but not be limited to a) the City's unilateral right to terminate the contract for convenience upon 30-days' notice within five years or less; b) AT's commitment to treat all the wastewater generated from the service area for a fixed fee not to exceed \$54,000 per year; c) AT's express statement that nothing in this contract requires the City to transfer to AT the City's CCN; d) the City will pay up to, but no more than, \$300,000 toward the cost to upgrade AT's treatment facility so that facility will produce Type I-enhanced water; e) that Type I-enhanced water will be provided to Blue Hole Park, in an amount commensurate with what it would have received under the city-owned plant plan, at no cost during the term; f) AT's detailed, itemized estimate of the time required to permit and upgrade (time from requesting bids to construction completion) its plant to Type I-enhanced effluent, and g) AT's CIAC fee(s).

2. Your legal counsel's written opinion that modifying the existing plan as the Mayor proposes does not subject the council, wholly or individually, to causes of action by the bondholders for breach. Delay, not using the treatment plant funds as/when promised, using

AUSTIN OFFICE | 303 COLORADO STREET, SUITE 2000 | AUSTIN, TX 78701 | TELEPHONE: (512) 495-6400 | FAX: (512) 495-6401
FORT WORTH OFFICE | 201 MAIN STREET, SUITE 2500 | FORT WORTH, TX 76102 | TELEPHONE: (817) 332-2500 | FAX: (817) 878-9280
NEW ORLEANS OFFICE | 400 POYDRAS STREET, SUITE 1812 | NEW ORLEANS, LA 70130 | TELEPHONE: (504) 522-1812 | FAX: (504) 522-1813
BATON ROUGE OFFICE | 301 MAIN STREET, SUITE 1600 | BATON ROUGE, LA 70801 | TELEPHONE: (225) 381-9643 | FAX: (225) 336-9763
MIDLAND OFFICE | 508 W WALL STREET, SUITE 444 | MIDLAND, TX 79701 | TELEPHONE: (432) 683-4691 | FAX: (432) 683-6518

Kelly Hart & Hallman, a Limited Liability Partnership | www.kellyhart.com

bond funds to upgrade AT's privately owned plant, and/or using proceeds to construct the short-term Bypass purple-pipe line—any of those uses of bond funds contrary to the city ordinance and bond/loan agreements, could easily support a cause of action for breach of contract. In light of communications among some of you, going back years and including immediately post-election, showing intent to switch to AT—could support a bondholder suit for fraud or fraud in the inducement.

3. A letter from TCEQ agreeing, or at least legal counsel's opinion, that TCEQ will delay any enforcement/fines for ongoing non-compliance at the existing City treatment plant—for however long the Mayor's AT Plan delays decommissioning the existing treatment plant. Alternatively, obtain such assurance of delayed enforcement for at least a specific time—one year, or two or three—to complete the Mayor's AT Plan.

4. Written consent from the Texas Water Development Board (TWDB) to amend the schedule and scope of the WWTP. Without that consent, any change in scope or schedule is a breach of the City's loan agreement with TWDB.

5. Your legal counsel's written opinion that spending any part of the TWDB loan proceeds on AT's treatment plant does not breach covenants in the TWDB loan agreement. Also, counsel's opinion that spending public funds on a private facility is not unconstitutional on the basis that the spending fits the public-purpose test. And counsel's opinion on the need for compliance with public procurement law for the contract for any AT plant upgrade to address the public-funds issue.

6. All permits, including purple-pipe permit for the mayor's proposed reclaimed water line from RR 12 and the Winter's Mill, along the Winter's Mill, to Blue Hole Park.

7. The County's written consent to use its easement along that same route.

8. Counsel's written opinion that nothing about the Mayor's plan violates the City's settlement agreement with Paradise Hills and Blanco homeowners.

9. Counsel's written opinion that a delay in constructing the city-owned plant (for up to 5 years) does not jeopardize any existing permit from the TCEQ.

10. Counsel's written opinion that the expenditure of TWDB loan proceeds on the temporary Bypass water line does not violate the TWDB loan agreement. That is, can you use 20% of proceeds of *30-year loan* for a \$1M water line with no more than a *5-year life*?

11. Counsel's written opinion that this council can bind the City to 1) setting aside at least \$200,000 per year to build a city owned treatment plant and 2) build such a plant within 5 years as described in the Mayor's plan. Both proposed actions appear to violate the general rule that one council cannot bind a future council—as this council appears to be so inclined to prove. If counsel believes this council can bind future councils on these two critical parts of the Mayor's AG Plan, counsel should describe the method of enforcing those commitments.



July 6, 2018

VIA: Email, USPS

Mr. Shawn Cox, City Administrator
City of Wimberley
221 Stillwater
Wimberley, TX 78626

RE: Wastewater Treatment Plant, Proj # 1732-002-01

Mr. Cox:

We acknowledge receipt of your letter of a (30) day project suspension dated June 22, 2018 referencing the City's right to suspend the project for up to 90 days. Invoking the suspension allows us to pursue additional contractual days and compensation related to the suspension. In addition, it must be noted that an initial prior email suspension of (30) days was issued on May 30th following a meeting between representatives of the City (City Admin, Mayor, two councilmen, and inspection) and Black Castle GC (President, Vice President, and PM). During this meeting, the initial suspension was discussed along with the payment of two outstanding invoices, Pay Estimates 3 and 4. All agreed that a suspension would take place to allow the City time to consider cancellation of the project as well as payment of Invoices 3 and 4 by June 9th. These invoices are still outstanding and past due per contract conditions. There are several email exchanges between the City and BCGC regarding the City's intent to pay. To note, on July 3rd, the engineer of record contacted me regarding the additional costs associated with closing out the project. This was considered an informal conversation as the only formal knowledge we had of the City's intention to cancel was email correspondence between the Mayor and the City's legal counsel on June 29th. BCGC stated to the engineer in this conversation that we would move forward on project termination with the payment of invoices 3 and 4 with invoice 4 and retainage being the nominal point of negotiation. This was also contingent upon formal issuance of a change order with intent to terminate the outstanding contract. A letter by the engineer addressed to you was issued after that conversation later that day.

In summary, with regard to the above noted project and noted recent correspondence between all contractual parties, Black Castle General Contractor offers the following-

- 1) Pay invoices 3 and 4 immediately
- 2) Issue a formal request for termination
- 3) Enter into formal negotiations with all parties regarding closure of the project per the letter by the engineer of record dated July 3rd, 2018. This includes close out consultation and pricing from contracted suppliers and subcontractors required for the construction of the project bid April 19, 2017 and made contractually effective February 27, 2018.

2115 Stephens Place, Suite 210, New Braunfels, TX 78130
O: (830) 387-4623/ F: (830) 387 4623
info@blackcastlegc.com



We understand the City's position on the project and want to work toward an amicable end to the current situation.

Sincerely,



Rodney A. Schwarzlose
President

2115 Stephens Place, Suite 210, New Braunfels, TX 78130
O: (830) 387-4623/ F: (830) 387 4623
info@blackcastlegc.com



UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
AUSTIN REGIONAL OFFICE
903 San Jacinto Blvd., Suite 206
Austin, TX 78701

July 2, 2018

City of Wimberley
P.O. Box 2027
Wimberley, TX 78676-2028

Re: EDA Project No. 08-01-05136

Dear Mayor Jagers:

We have received the contract documents for the Wimberley Wastewater Collection System project. For EDA to provide a decision on what modifications can be made to the grant at this time cannot be assessed without further clarification from the City. Various options have been expressed recently by the City and will need to be further clearly expressed (the exact scope modification) to EDA in order to perform a thorough assessment on the changes.

We request the City to provide a formal letter for a grant modification outlining specifically what the City is wishing to do with the current project/grant. At a minimum, indicate what the project scope change is. When addressing the scope change please highlight exactly what the intent of changing the scope for the second time will include. Additionally, EDA will require a concise explanation for the change, impacts to funding, what the overall intention/goal is as a result of this change, and the exact economic impacts of the modification. Furthermore, we need a full understanding, in writing of the contracts currently in place and what, if any changes will have on said contracts. Since the grant is made up of two separate construction contracts, please address how this modification will affect both projects.

In addition, EDA request that the City provide a Council Resolution regarding this modification. Please provide by no later than July 11, 2018.

If you have any questions, you may contact me at (512) 381-8171.

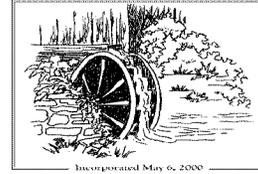
Sincerely,

**MATTHEW
GIANNINI**

Mathew Giannini
Area Director
Austin Regional Office

Digitally signed by MATTHEW GIANNINI
DN: c=US, o=U.S. Government, ou=Department
of Commerce, ou=Economic Development
Administration, cn=MATTHEW GIANNINI,
0.9.2342.19200300.100.1.1=1.3601031265282
Date: 2018.07.02 11:13:08 -0500

Report for CUP-18-010



Summary: An application for a Conditional Use Permit to allow for the operation of a Vacation Rental at 310 Summit Loop

Applicant Information:

Applicant: Lisa Risoli
5221 Maple St.
Wimberley, TX 78676

Property Owner: Lisa Risoli

Subject Property:

Legal Description: Lot 14, Flite Acres Little Ranches Section 2
Location: 310 Summit Loop
Existing Use of Property: Residential
Existing Zoning: Rural Residential 1 (R-1)
Proposed Use of Property: Vacation Rental
Proposed Zoning: CUP
Planning Area: I
Overlay District: N/A

Surroundings:

Frontage On: Summit Loop

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	R2	Residential
S of Property	R1	Residential
E of Property	ETJ	Residential
W of Property	R2	Residential

Legal Notice

200' Letters: 6/20/2018
Published: 6/21/2018
Sign Placement: 6/25/2018
Responses: 5 properties w/in 200' against

Comments:

The applicant, Lisa Risoli, has requested a Conditional Use Permit (CUP) to operate a Vacation Rental for property located at 310 Summit Loop.

The proposed Vacation Rental consists of four (4) bedrooms. The City Sanitarian has reviewed this request and stated a maximum occupancy of five (5) people per septic regulations.

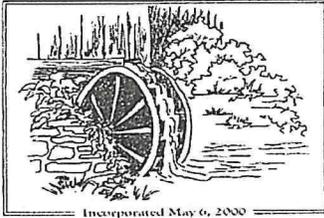
City staff is recommending the following conditions be made part of the requested CUP, should the City Council recommend approval:

1. No organized outside activities shall be allowed on the property after 10 p.m.

2. No guests, other than paying guests, shall be allowed on the property at any time, unless approved in advanced, in writing, by the owner or their agent.
3. The grounds outside the residence shall remain free of litter and trash at all times.
4. A fire escape plan, identifying fire exits shall be developed and graphically displayed in each guest room.
5. One (1) smoke alarm shall be provided in each guest room, along with a fire extinguisher visible and accessible to guests.
6. A valid taxpayer number for reporting any Texas/City tax shall be provided to the City along with a copy of the completed City of Wimberley/State of Texas Hotel Occupancy Tax Questionnaire, no later than thirty (30) days of such change.
7. The City shall be notified of any change in ownership of the subject property within thirty (30) days of such change.
8. A copy of the requirements set forth in the CUP shall be made available to all guests.
9. The subject property owner shall provide the City and property owners within two hundred (200) feet of the subject property, with the current names and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owners shall notify the City and property owners within two hundred (200) feet of the subject property, with the current name and contact information.
10. Unruly gatherings are prohibited. Unruly gathering means a gathering of more than one (1) person which is conducted on premises within the City and which, by reason of the conduct of those persons in attendance, results in the occurrence of one (1) or more of the following conditions or events on public or private property: the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights or quarrels; public urination or defecation; or indecent or obscene conduct or exposure.
11. The property shall be subject to inspection at any time by designated City representatives if compliance is in question, with proper notice provided if feasible.
12. The CUP shall terminate and be considered abandoned if and when there is evidence of no rental activity, based in part of the State/City Hotel Occupancy Tax Reports, for a period of nine (9) months. The burden shall be on the property owner to prove that use of the property has been in continuous use.
13. A property address sign is required and shall be installed on the property no more than ten (10) feet from the street, with the address numbers at least four (4) inches high and two (2) inches wide.
14. One (1) freestanding business sign shall be allowed, but not required, on the property. Such sign shall not exceed four (4) square feet in area and shall be of traditional Hill Country design and color.
15. The maximum occupancy for the property shall be five (5) people.

16. The owner of the property or the owner's agent shall not advertise a maximum occupancy for the vacation rental that is greater than the maximum occupancy established by the City based on septic capacity.
17. The owner of the property or the owner's agent, which may be an agency, shall provide each renter a property map for the vacation rental property that shows the boundaries of the property and advises that trespassing on adjacent property is prohibited.
18. The owner of the subject property shall comply with any and all applicable operating permit requirements that may be established by the City.

To date, there has been 4 property owner's (5 properties) within the 200' notice area in opposition of the request. This equals 58.06%, requiring a super majority vote from City Council for approval. At the Planning & Zoning meeting July 12th, the Commission voted to recommend denial of the application 6-0-1.



City of Wimberley

221 Stillwater Drive, P.O. Box 2027, Wimberley, TX 78676
Phone (512) 847-0025 Fax (512) 847-0422
www.cityofwimberley.com

CONDITIONAL USE PERMIT APPLICATION

OFFICE USE CUP 18 - 010 Date: 5-23-2018 Staff Review Sandy Z. Floyd
 P&Z Hearing: 7-12-18 Council Hearing: 7-19-18 Fees Paid: Application Public Notice

Applicant: Lisa Marie Risoli
 Mailing address: 5221 Maple City Bellaire State: TX Zip: 77401
 Phone: [REDACTED] Email: [REDACTED]
 Property Owner: Lisa Marie Risoli
 Mailing address: 5221 Maple St City: Bellaire State: TX Zip: 77401
 Phone: Same Email: Same

Project Site Address: 310 Summit Loop
 Legal description: Lot 14, Flite Acres "Little Ranches," Sec. 2
 Total Acreage or Square Footage: _____ Deed recorded in: Vol 1, Pg 41, 1st *Plat Records*
 Hays CAD Parcel ID R 27725 Planning Area: I Zoning: R-1
 Is property located in an overlay district? Yes No If Yes, type: _____
 Specific Conditional Use Requested: Short-term rental / Vacation Rental
 Applicant understands that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

Utilities Pec
 Electric Provider: _____
 Water provider or Private Well: # Wimberley Water / Summit Loop *Hot*
 Wastewater Service or Septic Permit No. 2005-2320
 *If you have an On-Site Sewage Facility (OSSF) you can submit an open records request for your permit information if you do not have it.

MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses, and does not adversely affect an adjoining site than would a permitted use;
- The use requested by the applicant is set forth as a conditional use in the base district;
- The nature of the use is reasonable;
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base district are being upheld.

ADDITIONAL REQUIREMENTS/DOCUMENTATION

- Metes and bounds description and/or a survey (i.e., drawing) exhibit showing the property for which the CUP is being requested.
- Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200').
- List of Special Conditions that Applicant agrees apply to property.
- Payment of Application fee \$400.00 (non-refundable)
- Applicant agrees to attend public hearings before the P&Z Commission as well as the City Council concerning this application; or waives his/her right to appear, understanding that if questions are raised that cannot be answered, the matter may be continued, or denied.
- Applicant has checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and applicant understands that the City zoning action does not relieve any obligation of these restrictions.
- Applicant agrees to provide additional documentation as needed by the City.
- Applicant understands that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided may delay the review of the Application. Applicant, by his/her signature below, certifies that to the best of his/her knowledge said information is complete and correct.
- Applicant hereby authorizes the City representatives to visit and inspect the subject property.

5/19/18
DATE


APPLICANT SIGNATURE

WHEN APPLICABLE:
Date 5-21-18


AGENT SIGNATURE

**LIST OF CONDITIONS THAT MAY BE INCLUDED IN A
BED AND BREAKFAST/VACATION RENTAL CUP**

Owner: Lisa Risoli

LOCATION OF PROPERTY: 310 Summit Loop

LEGAL DESCRIPTION: Allye Loop 14 (Fourteen), 7.14 Acres, "Little Ranches",
Sec 2 (two)

PLANNING AREA: _____

PRESENT ZONING: _____

EXISTING USE: _____

USE TO BE GRANTED: _____ *Bed & Breakfast* OR *Vacation Rental*

NEW CONSTRUCTION: (Describe existing construction) If new construction is contemplated: Describe new construction. The architecture and façade of all new construction will be traditional "Hill Country" design and harmonious with those of adjacent uses. No construction shall commence prior to compliance with all applicable ordinances, laws, rules and regulations.

COMPATIBILITY TO NEARBY AREAS: The facilities on the property will at all times be harmonious and compatible with surrounding uses 42.2 A 1.

OFF-STREET PARKING: All parking will be off-street. Off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of _____ guests. Parking will be in these spaces only. 42.2 A 5; 42.3 F.

SIGNAGE: All signage will be of traditional "Hill Country" design and will comply with the City Sign Ordinance. 42.2 A 1; 42.2 A 6.

NOISE AND LIGHTING: Exterior lighting to be only landscape lighting. All noise audible from outside, and all light visible from outside the property shall be maintained at low levels appropriate to a single family neighborhood. No large parties are permitted.

NUMBER OF BEDROOMS: 4 42.3 B.

5 people

MAXIMUM OCCUPANCY: 10 guests. 42.3 B.

OCCUPANT REGULATIONS AND GUIDELINES: Guest Guidelines are attached hereto and made a part of this Conditional Use Permit. The bed and breakfast lodging facility shall be operated in accordance with the guidelines. These guidelines shall be furnished to all guests. 42.3 D.

WASTEWATER SYSTEM: The wastewater treatment system (to be designed and constructed) will at all times be adequate for the maximum occupancy. 42.3 H.

WATERFRONT USAGE: (Applicable if guests have water access) Guests may only use the _____ River/Creek in the area directly adjacent to the bed and breakfast lodging facility. Guests may not use the River/Creek in front of other properties or enter upon any property which is not part of the bed and breakfast facility for the purpose of entering or exiting the water or for any other reason. 42.3 E.

PROPERTY MANAGEMENT: Owner will provide guests and close-by neighbors with owner's telephone number to assure Owner's immediate knowledge of any concerns that may arise. (If not owner occupied) Owner agrees to retain under contract a responsible local management company at all times the property is used as a non-owner occupied bed and breakfast lodging. The management company shall advise guests of the applicable conditions contained herein, receive and pass on to owner any complaints received and at owner's direction act upon such complaints. (If Owner occupied) The property shall be the owner's principal place of residence and the owner shall actively supervise and manage the property at all times that it is used as a bed and breakfast facility. 42.3 D.

MISCELLANEOUS: Owner agrees to maintain the property in a manner conducive to the health and safety of the guests and the neighborhood. All trash and garbage will be placed in provided receptacles which shall not be visible from the street except on pick-up day. No trash bags shall be left out in the open. The exterior of the facility and the landscaping, including lawns, will be maintained in good condition at all times. 42.2 A 1.

REVOCATION: The cup may be revoked by the City Council upon recommendation of the planning and Zoning Commission in the event of the violation of any of the conditions contained therein.

OWNER COMPLIANCE: Owners agree to comply with all City of Wimberley Ordinances, and all state, county and City laws, rules and regulations.

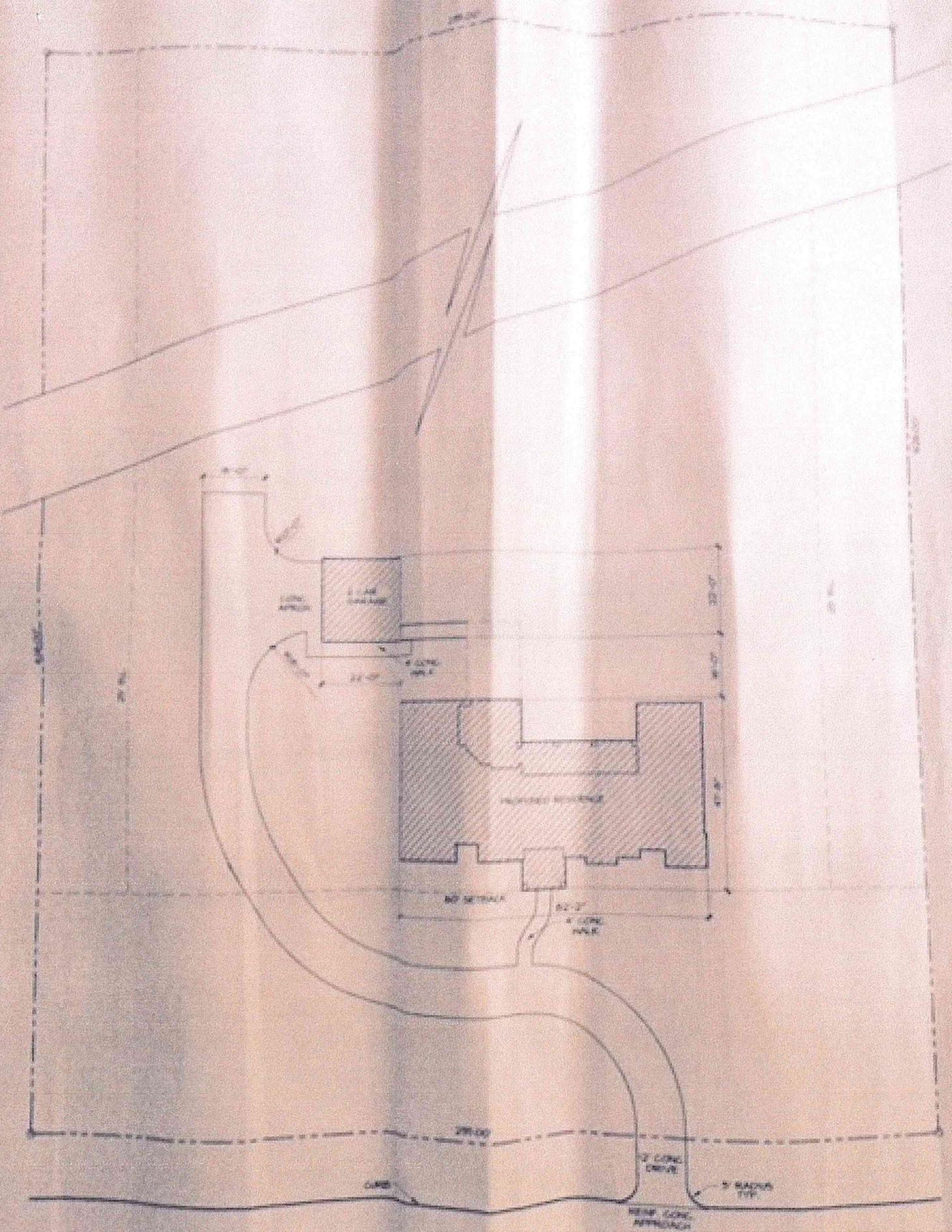
ACCEPTED AND AGREED TO:

5/19/18
DATE

Len M. Rosoli
OWNER

DATE

OWNER



street name
 29
 6 STREET 15'4" + 10'0"

lot

§ 155.036 RURAL RESIDENTIAL 1; R-1.

(A) *General purpose and description.* The R-1 district is intended to provide for development of primarily detached, single-family residences on lots of not less than 2 acres.

(B) *Permitted uses.*

(1) One residence including:

- (a) One primary single-family residential building built on site; or
- (b) One manufactured or mobile home installed on a permanent foundation.

(2) Accessory buildings and uses, customarily incidental to the above uses and located on the same lot therewith, but not involving the conduct of a retail business except as provided herein:

(a) The term accessory use shall include customary home occupations as herein defined;

(b) Accessory buildings, including a private garage, shall not occupy more than 50% of the minimum required rear yard. When the accessory building is directly attached to the main building, it shall be considered an integral part of the main building. See § 155.076 for additional accessory use requirements;

(c) A detached private garage used in conjunction with the main building;

(d) Private open space or other private recreational amenities as part of a residential subdivision and not for commercial purposes; and

(e) One accessory dwelling unit.

(3) Non-commercial row and field crops;

(4) Non-commercial livestock;

(5) Swimming pool (private);

(6) Utilities; and

(7) Religious assembly.

(C) *Conditional uses.*

(1) One secondary residential building built on-site;

(2) Bed and breakfast lodging or vacation rental which may be in the primary or secondary residential building or in cottages or cabins;

(3) Home day care;

(4) Home commercial crafts or hobbies;

(5) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulation; and

(6) Two-family residential (duplex).

(D) *Development regulations.*

(1) Lot size: minimum 2 acres but less than 5 acres.

(2) Maximum building height (as defined in § 155.005):

(a) Primary residential building: not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;

(b) Secondary residential building: not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;

(c) Accessory buildings: not more than 18 feet and not more than 1 story; and

(d) Decks: not more than 12 feet including a railing only or 18 feet including a roof.

(3) For minimum required setbacks, no construction, including buildings, parking areas, and driveways, except entry driveways, and no placement or display of commercial material and equipment shall be allowed in the setbacks. The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 50 feet;
 - (b) Secondary street: 25 feet; and
 - (c) Interior side and rear: 15% of lot width, but need not be greater than 25 feet.
- (4) Minimum floor area of residential buildings:
- (a) Primary residential building: 1,000 square feet;
 - (b) Secondary residential building: 600 square feet; and
 - (c) Bed and breakfast units: 200 square feet.
- (5) Maximum impervious cover: 20%. Impervious cover shall be calculated as a percentage of the net site area and shall be the lesser of the percentage specified above in this district description or the percentage for the average lot slope in § 155.078(M), Table C.

(6) The parking and trash collection ordinances will apply.

(E) *Special requirements.*

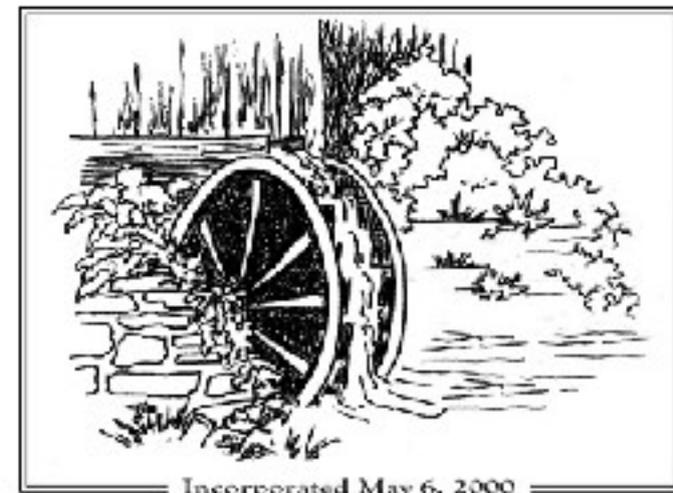
(1) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling purposes.

(2) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood, garden materials, and the like.

(3) Single-family homes with side entry garages where lot frontage is only to 1 street (not a corner lot) shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.

(F) *Other regulations.* As established in §§ 155.075et seq., development standards. (Ord. 2001-010, § 15, passed 4-1-2001; Am. Ord. 2003-006, passed 7-3-2003) Penalty, see § 155.999

CUP-18-010 ~ 310 Summit Loop



200' NOTIFICATION

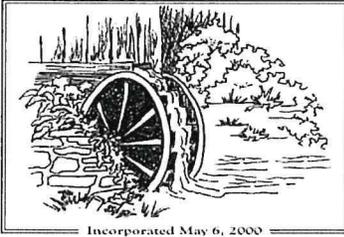
Legend

--- 200' Buffer

ID. OWNER

- 0. RISOLI, LISA MARIE
- 1. BREEDEN JOHN C & TERRIE F
- 2. BREEDEN JOHN C & TERRIE F
- 3. CALVERT LARRY & LINDA
- 4. DOUGLAS GREG & LINDA
- 5. DOUGLAS GREG & LINDA
- 6. HOUCHIN WILLIAM E & FRANCES Y
- 7. JCU FAMILY TRUST
- 8. ZINKGRAF WILLIAM R & JENNIFER





City of Wimberley

221 Stillwater (P.O. Box 2027), Wimberley, Texas 78676
Phone: 512-847-0025 Fax: 512-847-0422 Web: cityofwimberley.com

June 20, 2018

NOTICE OF PUBLIC HEARING

Re: File No. CUP-18-010

310 Summit Loop

A request for a Conditional Use Permit (CUP) to allow the operation of a Vacation Rental

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

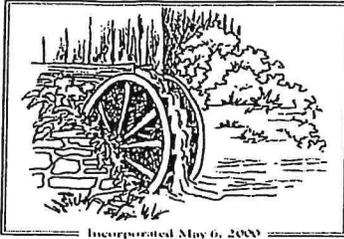
The applicant, Lisa Risoli, has requested a Conditional Use Permit (CUP) to operate a Vacation Rental at 310 Summit Loop. The current zoning for this property is Rural Residential 1 (R-1). The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, July 12, 2018, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater. Upon a recommendation from the Commission, City Council will hold a public hearing to consider the same request on **Thursday, July 19, 2018, at 6:00 p.m.**

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted prior to the meeting.

Additional information regarding the proposed request is available for public review at City Hall during normal business hours. Should you have questions, please feel free to email or contact me at 512-847-0025.

Thank you,

Sandy I. Floyd
Planning & Development Coordinator
GIS Analyst
sfloyd@cityofwimberley.com



City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 – Fax: (512) 847-0422

www.cityofwimberley.com

NOTICE BY SIGN POSTING

Date: 06/25/2018

Zoning No: CUP-18-010

Owner _____

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

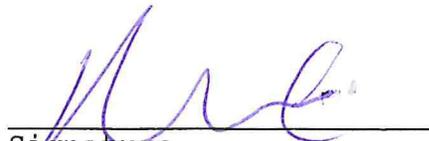
() Project Site Address 310 Summit Loop

located on _____

Aaron Reed
Public Works/ Code Enforcement

Note: The above-referenced sign was placed on the subject property on

06/25, 2018


Signature

Public Notice

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, July 12, 2018, at 6:00 p.m. to consider the following: CUP-18-010 — an application for a Conditional Use Permit (CUP) to allow the operation of a vacation rental at 310 Summit Loop. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, July 19, 2018, at 6:00 p.m. at City Hall. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

NOTICE OF APPLICATION TO SUBDIVIDE

An application has been filed with Hays County to subdivide 1452.97 acres of property located along FM 2325, Wimberley TX 78676. Information regarding the application may be obtained from Hays County Development Services (512)393-2150. Tracking #: SUB-1054

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, July 12, 2018, at 6:00 p.m. to consider the following: CUP-18-011 — an application for a Conditional Use Permit (CUP) to allow the operation of a vacation rental at 350 W. Spoke Hill Drive. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, July 19, 2018, at 6:00 p.m. at City Hall. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

PUBLIC NOTICE

Dripping Springs Independent School District is requesting proposals for Charter Bus Services under RFP # 15-019-1 Charter Bus Services - Multiple Award. Proposals will be received in the Business Office of the Dripping Springs Independent School District, 510 West Mercer Street P.O. Box 479, Dripping Springs, Texas 78620. Proposals shall be addressed to Michelle Lyons, Purchasing Specialist. Any questions pertaining to the proposal specifications should be directed to Michelle Lyons, Purchasing Specialist - CTSSBO, michelle.lyons@dsisdtx.us. All proposals must be received by 2:00 P.M. (CST) on July 31, 2018. Dripping Springs Independent School District reserves the right to accept or reject any or all bids, to waive any formalities and irregularities in the bids received, and to accept the offer(s) most advantageous to the District.

NOTICE OF PUBLIC HEARING (Request for Variance/Waiver)

Notice is hereby given that the Board of Adjustment of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Monday, July 2, 2018 at 6:00 p.m. to consider the following: BA-18-001 — a request for a variance from the City of Wimberley code requirements to allow an encroachment into the dominant street setback for a certain property located at 130 Rockwood Drive, Wimberley, Texas. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the City of Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

Public Notice

Grant Applications for Fiscal Year 2018-2019 Local Hotel Occupancy Tax Grant Funding Program are due July 13, 2018

The City of Dripping Springs is accepting applications for Local Hotel Occupancy Tax funds for projects that directly enhance and promote tourism and the convention and hotel industry. Projects must increase overnight stays in the area and meet one of eight categories for expenditure: 1) convention and visitor centers; 2) convention registration; 3) advertising the city; 4) promotion of the arts; 5) historical restoration and preservation; 6) sporting events; 7) transportation systems for tourists; or 8) signage directing tourists to sights and attractions. The grant guidelines and application are available at City Hall, 511 Mercer Street, on the website at <http://www.cityofdripping Springs.com>, or at Dripping Springs Ranch Park located at 1024 Event Center Drive. Applications are due July 13, 2018. Please call (512) 858-4725 if you have any questions about this program.

Public Notice

NOTICE TO ALL PERSONS HAVING CLAIMS AGAINST THE ESTATE OF CAROLYN SAVENIA JOHNSON DUNCAN

Notice is hereby given that original Letters Testamentary for the Estate of Carolyn Savenia Johnson Duncan, Deceased, were issued on June 13, 2018 in Cause No. 18-0172-P pending in the County Court at Law of Hays County, Texas, to Tina Nanette Tijerina Mackenroth, as Independent Executor of said Estate. All persons having claims against this Estate are required to present them to said Executor at 707 Flite Acres Road, Wimberley, Texas 78676, within the time and in the manner prescribed by Law.

Dated the 14th day of June 2018
Patrick G. Rehmet, Attorney for the Estate of Carolyn Savenia Johnson Duncan, Deceased

NOTICE OF PUBLIC HEARING (Request for Variance/Waiver)

Notice is hereby given that the Board of Adjustment of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Monday, July 2, 2018 at 6:00 p.m. to consider the following: BA-18-002 — a request for a variance from the City of Wimberley code requirements to allow an encroachment into the dominant street setback for a certain property located at 145 Climbing Way, Wimberley, Texas. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the City of Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

City of Wimberley Bank Depository Request for Proposals

The City of Wimberley is requesting proposals for a Bank Depository for the City from qualified and interested firms.

A full description of the Request for Proposals (RFPs) and submission requirements can be found on the City's website www.cityofwimberley.com. Deadline for submittal is Friday, July 13, 2018, at 2:00 p.m. at the City of Wimberley, 221 Stillwater, Wimberley, Texas 78676. RFPs received after this date and time will not be considered. No facsimile or emailed qualifications will be accepted. RFPs shall be submitted by mail or in person as follows:

City of Wimberley
ATTN: Laura Calcote, City Secretary
221 Stillwater (physical)
P.O. Box 2027 (mailing)
Wimberley, Texas 78676
Re: Depository Applications

If you have any questions or need additional information, please email City Administrator Shawn Cox (scox@cityofwimberley.com) or City Secretary Laura Calcote (lcalcote@cityofwimberley.com) by Monday, June 25, 2018, at 10:00 a.m.



Brookshire Brothers
LOOKING TO START A NEW CAREER? JOIN US!

We are expanding our employee partners to better serve our customers. Bring your customer service skills to the

JOB FAIR
Tuesday, June 26th, 9am - Noon & Wednesday, June 27th Noon - 6pm @ Wimberley Location

Hiring for All Positions in all Departments as well as Mgmt Positions. Must be available for any shift and weekends. Ask About Our Sign-On Gift Card. Apply within or @ brookshirebrothers.com. Pre-Employment Drug Test & Background Screen Required

General Help Wanted

Behavioral Health - Clinic Director

Hill Country Mental Health and Developmental Disabilities Centers

The Clinic Director will be a key player in the implementation of an exciting/innovative model for providing Behavioral Health Services to rural locations within the Spring Branch / Canyon Lake Areas of Comal County. The Clinic Director will assist w/ implementation of a system of care that will reduce the number and severity of psychiatric crises in these rural locations. The Director/MH Team will serve adults, children, and families by providing behavioral health services that include screening and intake, person-centered planning, skills training psychiatry, substance abuse interventions for co-occurring disorders, peer support, family partner, and specialized therapies such as CBT and trauma focused counseling.

Eligible Candidates must possess one of the following clinical licenses: LPC, LCSW or LMFT w/3 years of Mental Health Administrative Experience. \$56K w/On-Call Pay. Must be willing to work weekends. Apply online at www.hillcountry.org

Hill Country MHDD Centers is an EOE

General Help Wanted

Now Hiring Licensed Professional of the Healing Arts

Excellent FT Opportunity at our Schieb Mental Health Clinic located at 1200 N. Bishop St., San Marcos, TX. Must have Master's Degree in Psychology, Counseling, Marriage & Family Therapy, Social Work AND one of the following clinical licenses: LPC, LCSW, LMFT, PhD, or PsyD. 2 years making diagnosis and providing therapy - preferred.

\$24.11 per hour w/ paid Medical.

Apply online @ www.hillcountry.org

Hill Country MHDD Centers is an EOE

General Help Wanted

General Help Wanted

Hill Country MHDD Centers
Expanding Non-Profit Provider of Behavioral Health Services has an immediate opportunity for Board Certified Behavioral Analyst at their Behavioral Services Crisis Unit located in San Marcos, TX. Must possess MS for BCBA w/Current TX License. \$63,000 - \$68,000 Compensation Commensurate w/ Experience. Apply online @ www.hillcountry.org

Hill Country MHDD Centers is an EOE

General Help Wanted

BRAND NEW SENIOR COMMUNITY in Dripping Springs is looking for a Part Time Porter/ Bus Driver. Looking for someone to do janitorial work, take out trash, pick up grounds, help with work orders, etc. Must have a clean driving record w/ insurance and able to lift 50+lbs.

General Help Wanted

THE CITY OF WIMBERLEY is Now Hiring Public Works/Code Enforcement

The City of Wimberley is currently taking applications for the position of Public Works / Code Enforcement Superintendent, whose primary responsibilities include maintenance of the public parks, roads, and streets, assist with maintenance and duties around City Hall. Under the supervision of the City Administrator, he addresses street repairs, including street signs, low water crossings, potholes, tree trimming, and traffic counters. Major responsibility is to serve as Building Official and Code Enforcement of the sign ordinance, building code violations, and issues stop work orders, handles citizen complaints. Subject to callouts during, after, emergency and/or holiday hours as deemed necessary by City Administrator, as well as other duties as assigned. If you would like to apply and for more information about this position please refer to the city's website at www.cityofwimberley.com

General Help Wanted

IMMEDIATE HIRE For male and female caregivers in surrounding locations. Please contact hiring manager, 830.625.0444.

PART-TIME HOUSEKEEPER Needed at Mountain View Lodge. \$15/\$20 per hour. Call 512-847-2992

CAMP RANGER CONTRACTOR ROLE Must be experienced in general maintenance, plumbing, carpentry, and electrical.

General Help Wanted

BEST LOT IN WIMBERLEY 2.4 acre lot in River Oaks. Great build spot. Walking distance to River Park, flat, very little cedar, very little rock, view out the back, fenced on 3 sides. \$175k FSBO. 512-940-8993

General Help Wanted

Home For Rent

2/2 WIMBERLEY Fully Furnished Minutes to 1+ acre on SHORT LI OPTIO AVAILAE Water & trae Tenant pays Cable & V \$2100/mo \$2100/de 512-217-

Home For Sale

ENJOY PR Extremely 3B/2B Manu home (1280) 4.5 acres in 1,45, private, trees, large front & back ceiling fans ances, CAC age bldg., satellite/HS interter is paid! N ing. \$1350./1 Dep. 281-22

Home For Sale

1220 BROWNSON, Driftwood, 14+ acres. 2 bedroom/1 bath plus guest house w/1 bathroom. Oversized garage. 1400SF workshop, pole barn, stock tank, views & more. AG exempt. No restrictions. DSISD Owner financing available. \$895,000 Barbara Gremillion, Coldwell Banker United Realtors, 512-775-2904

Home For Sale

HOME FOR SALE: In Fischer a beautiful 2 bed 1.5 bath 1120 sq ft house on .83 acres. Contact Jessica at 830-992-1570.

Home For Sale

APARTM FOR R 2 BR \$8 Updated w/it look floors, c paint colors a ing, crown r and gene storage. Blau Pet frier 830-833-1

Home For Sale

CAPTURE STUNNING VIEWS and numerous building sites on this 5+ acres. Magnificent oaks and motts of oaks. Great views and building sites. Private. Backs high-end developments. Wimberley schools. 1901 N Rainbow Ranch \$210,000 Barbara Gremillion, Coldwell Banker United Realtors, 512-775-2904

Home For Sale

HISTORIC MILL RACE ROAD. Investment opportunity 3.17 ac. Long overlooked undeveloped retail, resort, condo possibility. Adjoining Community Center Parking lot overlooking Cypress Creek and old town square. Call Jon 830-446-9157

Home For Sale

COMM FOR R 3-phase ekt NO heavy cial, mech body sh \$2,200/rr Barbara Gr Coldwell E United Re 512-775-

Home For Sale

EFFICIENCY WITH FULL BATH Vaulted ceilings, covered porch

Sandra Floyd

From: Greg Douglas [REDACTED]
Sent: Saturday, June 23, 2018 4:34 PM
To: Sandra Floyd
Subject: CUP-18-010 310 SUMMIT LOOP

Sandy Floyd
City of Wimberley

Sandy

As property owners across the street from 310 Summit Loop Linda and I object to the CUP application for the operation of a Vacation Rental unit at that location.

Our home is one of 12 single family residences on Summit Loop. We made our decision to buy in 2003 because the neighborhood was quiet and secluded with very little traffic. A peaceful place to retire.

In recent years the operation of a vacation rental at 310 generated at least two problems.

Summit Loop is a narrow, winding, privately owned "dead end" road. Blind curves and a severe drop off on one side make it tricky to navigate. Serious caution is required. On more than one occasion we experienced near misses with party minded strangers driving too fast as they motored to and from their rental unit at the top of the hill.

Neighbors unlucky enough to reside next door to the unit were often plagued by raucous parties roaring well into the wee hours.

Both issues have all but vanished since the suspension (months ago) of vacation rental activity at the 310 address. Their return would not be welcome.

Respectfully

Greg and Linda Douglas

Sandra Floyd

From: [REDACTED]
Sent: Sunday, June 24, 2018 3:43 PM
To: Sandra Floyd
Subject: File No. CUP-18-010

In response to your letter referencing the file above we are writing to state we are against allowing the Risoli property being used as a vacation rental. The past experiences have proven to be very unsettling to the tranquil setting on Summit Loop. We purchased our property for its location and quiet living. Our road is maintained by the owners and extra traffic up and down causes undue wear and tear at a rate to us. We divide the cost 12 ways and it is their extra traffic creating the need. The road if not traveled by those familiar can prove to be dangerous as well.

We were under the impression this issue was denied and settled several years ago, as to why it is coming up again is a bit mysterious but nevertheless we are opposed to the allowance requested.

Sincerely,
Jeff & Connie Uhri
304 Summit Loop

Sandra Floyd

From: Jen Zinkgraf [REDACTED]
Sent: Monday, July 2, 2018 1:57 PM
To: Sandra Floyd
Subject: File No. CUP-18-010; 310 Summit Loop

Dear Sandy,

My husband, Bill and I have resided at 306 Summit Loop (next door to 310 Summit Loop) for more than ten years. We consider it the perfect place to raise our three young children.

We deeply object to the CUP application for the operation of a vacation rental next door at 310 Summit Loop.

The property at 310 once had "grandfathered" status as a vacation rental and there were enough issues and complaints with it to have the status revoked. Loud parties raged into late hours of the night making it impossible to enjoy our own home. On multiple occasions renters mistook our house for the rental unit; once someone even tried to force their way through our locked front door. Increased traffic to our private, narrow, somewhat treacherous road would make it extremely unsafe and only add to the near misses that have already occurred.

Since the vacation rental activity was stopped, our little piece of heaven on top of the hill has returned to the serene, quiet, safe spot we chose to raise our family at. The return of the party house next door would not be welcomed.

Sincerely,
Jennifer Zinkgraf

Sandra Floyd

From: Bill Houchin [REDACTED]
Sent: Monday, July 2, 2018 8:46 PM
To: Sandra Floyd
Subject: File No. CUP-18-010

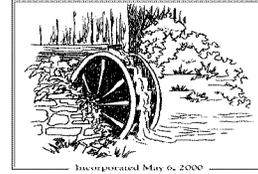
Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Floyd

I want to express my dismay at the request to change the zoning of 310 Summit Loop to a Vacation Rental. I bought my property at 400 Summit Loop in anticipation of it being a nice place to retire in a small community of property owners. My daughter, Susan Houchin, lived there for a number of years until she died on November 1, 2016. Currently I am renting the property to a very nice young couple and would have no problem if Lisa Risoli rented her place. Please make certain my disapproval is heard at the public hearing on July 12, 2018

William E. Houchin
2626 Box Canyon Ct.
Richardson, TX 75080
[REDACTED]

Report for CUP-18-011



Summary:

An application for a Conditional Use Permit to allow for the operation of a Vacation Rental at 350 W. Spoke Hill Drive

Applicant Information:

Applicant: Constantino & Teresa Taccogna
1135 Helen St.
Park Ridge, IL 60068

Property Owner: Constantino & Teresa Taccogna

Subject Property:

Legal Description: Lilly's Hill, Lot 1
Location: 350 W. Spoke Hill Drive
Existing Use of Property: Residential
Existing Zoning: Rural Residential 1 (R-1)
Proposed Use of Property: Vacation Rental
Proposed Zoning: CUP
Planning Area: I
Overlay District: N/A

Surroundings:

Frontage On: W. Spoke Hill Drive

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	RA	Residential
S of Property	L2	Residential & Commercial
E of Property	RA	Residential
W of Property	R1	Residential

Legal Notice

200' Letters: 6/21/2018
Published: 6/21/2018
Sign Placement: 6/25/2018
Responses: 6 properties w/in 200' against; 2 properties outside 200' against

Comments:

The applicants, Constantino & Teresa Taccogna, have requested a Conditional Use Permit (CUP) to operate a Vacation Rental for property located at 350 W. Spoke Hill Drive.

The proposed Vacation Rental consists of three (3) bedrooms. The City Sanitarian has reviewed this request and stated a maximum occupancy of six (6) people per septic regulations.

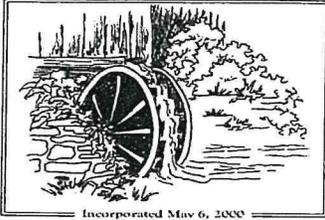
City staff is recommending the following conditions be made part of the requested CUP, should the City Council recommend approval:

1. No organized outside activities shall be allowed on the property after 10 p.m.

2. No guests, other than paying guests, shall be allowed on the property at any time, unless approved in advanced, in writing, by the owner or their agent.
3. The grounds outside the residence shall remain free of litter and trash at all times.
4. A fire escape plan, identifying fire exits shall be developed and graphically displayed in each guest room.
5. One (1) smoke alarm shall be provided in each guest room, along with a fire extinguisher visible and accessible to guests.
6. A valid taxpayer number for reporting any Texas/City tax shall be provided to the City along with a copy of the completed City of Wimberley/State of Texas Hotel Occupancy Tax Questionnaire, no later than thirty (30) days of such change.
7. The City shall be notified of any change in ownership of the subject property within thirty (30) days of such change.
8. A copy of the requirements set forth in the CUP shall be made available to all guests.
9. The subject property owner shall provide the City and property owners within two hundred (200) feet of the subject property, with the current names and contact information (including telephone numbers and e-mail address) for the local responsible party for the subject property. The local contact shall be able to respond to any incident within thirty (30) minutes of a call and shall be authorized to make decisions regarding tenants at the property. If the name or contact information for the local contact changes, then the property owners shall notify the City and property owners within two hundred (200) feet of the subject property, with the current name and contact information.
10. Unruly gatherings are prohibited. Unruly gathering means a gathering of more than one (1) person which is conducted on premises within the City and which, by reason of the conduct of those persons in attendance, results in the occurrence of one (1) or more of the following conditions or events on public or private property: the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights or quarrels; public urination or defecation; or indecent or obscene conduct or exposure.
11. The property shall be subject to inspection at any time by designated City representatives if compliance is in question, with proper notice provided if feasible.
12. The CUP shall terminate and be considered abandoned if and when there is evidence of no rental activity, based in part of the State/City Hotel Occupancy Tax Reports, for a period of nine (9) months. The burden shall be on the property owner to prove that use of the property has been in continuous use.
13. A property address sign is required and shall be installed on the property no more than ten (10) feet from the street, with the address numbers at least four (4) inches high and two (2) inches wide.
14. One (1) freestanding business sign shall be allowed, but not required, on the property. Such sign shall not exceed four (4) square feet in area and shall be of traditional Hill Country design and color.
15. The maximum occupancy for the property shall be six (6) people.

16. The owner of the property or the owner's agent shall not advertise a maximum occupancy for the vacation rental that is greater than the maximum occupancy established by the City based on septic capacity.
17. The owner of the property or the owner's agent, which may be an agency, shall provide each renter a property map for the vacation rental property that shows the boundaries of the property and advises that trespassing on adjacent property is prohibited.
18. The owner of the subject property shall comply with any and all applicable operating permit requirements that may be established by the City.

To date, there has been 6 property owner's within the 200' notice area in opposition of the request. This equals 88.85%, requiring a super majority vote from City Council for approval. At the Planning & Zoning meeting July 12th, the Commission voted to recommend denial of the application 7-0-0.



City of Wimberley

221 Stillwater Drive, P.O. Box 2027, Wimberley, TX 78676
Phone (512) 847-0025 Fax (512) 847-0422
www.cityofwimberley.com



CONDITIONAL USE PERMIT APPLICATION

OFFICE USE CUP 18 - 011 Date: 5-22-2018 Staff Review SIF
 P&Z Hearing: 7-12-18 Council Hearing: 7-19-18 Fees Paid: Application Public Notice

Applicant: COSTANTINO & TERESA TACCOLMA
 Mailing address: 1135 HELEN ST City: PARK RIDGE State: IL Zip: 60068
 Phone: [REDACTED] Email: [REDACTED]
 Property Owner: COSTANTINO & TERESA TACCOLMA
 Mailing address: 1135 HELEN ST City: PARK RIDGE State: IL Zip: 60068
 Phone: [REDACTED] Email: [REDACTED]

Project Site Address: 350 W. SPOKEHILL DRIVE
 Legal description: LOT 1, OF LOTS 1, 2, & 3, LILLY'S HILL SUBDIVISION
 Total Acreage or Square Footage: 3.2 ACRES Deed recorded in: HAYS COUNTY
 Hays CAD Parcel ID R 97636 Planning Area: 1 Zoning: R1
 Is property located in an overlay district? Yes No If Yes, type: _____
 Specific Conditional Use Requested: VACATION RENTAL
 Applicant understands that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

Utilities
 Electric Provider: PEDERNALES
 Water provider or Private Well: PRIVATE WELL
 Wastewater Service or Septic Permit No. AAMS
 *If you have an On-Site Sewage Facility (OSSF) you can submit an open records request for your permit information if you do not have it.

MY REQUEST IS BASED ON THE FOLLOWING:

- (✓) The use is harmonious and compatible with surrounding existing uses or proposed uses, and does not adversely affect an adjoining site than would a permitted use;
- (✓) The use requested by the applicant is set forth as a conditional use in the base district;
- (✓) The nature of the use is reasonable;
- (✓) The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;
- (✓) The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- (✓) That any additional conditions specified, if any, ensure that the intent and purposes of the base district are being upheld.

ADDITIONAL REQUIREMENTS/DOCUMENTATION

- (✓) Metes and bounds description and/or a survey (i.e., drawing) exhibit showing the property for which the CUP is being requested.
- (✓) Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200').
- (✓) List of Special Conditions that Applicant agrees apply to property.
- (✓) Payment of Application fee \$400.00 (non-refundable)
- (✓) Applicant agrees to attend public hearings before the P&Z Commission as well as the City Council concerning this application; or waives his/her right to appear, understanding that if questions are raised that cannot be answered, the matter may be continued, or denied.
- (✓) Applicant has checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and applicant understands that the City zoning action does not relieve any obligation of these restrictions.
- (✓) Applicant agrees to provide additional documentation as needed by the City.
- (✓) Applicant understands that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided may delay the review of the Application. Applicant, by his/her signature below, certifies that to the best of his/her knowledge said information is complete and correct.
- (✓) Applicant hereby authorizes the City representatives to visit and inspect the subject property.

5-10-18
DATE


APPLICANT SIGNATURE

WHEN APPLICABLE:
Date 5.30.18


AGENT SIGNATURE

**LIST OF CONDITIONS THAT MAY BE INCLUDED IN A
BED AND BREAKFAST/VACATION RENTAL CUP**

Owner: COSTANTINO & TERESA TACCogna

LOCATION OF PROPERTY: 350 W SPOKEHILL DRIV³

LEGAL DESCRIPTION: LOT 1, OF LOTS 1, 2, & 3, LILLY'S HILL SUBDIVISION

PLANNING AREA: 1

PRESENT ZONING: R1

EXISTING USE: RESIDENTIAL

USE TO BE GRANTED: *Bed & Breakfast* OR *Vacation Rental*

NEW CONSTRUCTION: (Describe existing construction) If new construction is contemplated: Describe new construction. The architecture and façade of all new construction will be traditional “Hill Country” design and harmonious with those of adjacent uses. No construction shall commence prior to compliance with all applicable ordinances, laws, rules and regulations.

COMPATIBILITY TO NEARBY AREAS: The facilities on the property will at all times be harmonious and compatible with surrounding uses 42.2 A 1.

OFF-STREET PARKING: All parking will be off-street. Off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of 8 guests. Parking will be in these spaces only. 42.2 A 5; 42.3 F.

SIGNAGE: All signage will be of traditional “Hill Country” design and will comply with the City Sign Ordinance. 42.2 A 1; 42.2 A 6.

NOISE AND LIGHTING: Exterior lighting to be only landscape lighting. All noise audible from outside, and all light visible from outside the property shall be maintained at low levels appropriate to a single family neighborhood. No large parties are permitted.

NUMBER OF BEDROOMS: 3 42.3 B.

MAXIMUM OCCUPANCY: 8 guests. 42.3 B.

6

OCCUPANT REGULATIONS AND GUIDELINES: Guest Guidelines are attached hereto and made a part of this Conditional Use Permit. The bed and breakfast lodging facility shall be operated in accordance with the guidelines. These guidelines shall be furnished to all guests. 42.3 D.

WASTEWATER SYSTEM: The wastewater treatment system (to be designed and constructed) will at all times be adequate for the maximum occupancy. 42.3 H.

WATERFRONT USAGE: (Applicable if guests have water access) Guests may only use the PIA River/Creek in the area directly adjacent to the bed and breakfast lodging facility. Guests may not use the River/Creek in front of other properties or enter upon any property which is not part of the bed and breakfast facility for the purpose of entering or exiting the water or for any other reason. 42.3 E.

PROPERTY MANAGEMENT: Owner will provide guests and close-by neighbors with owner's telephone number to assure Owner's immediate knowledge of any concerns that may arise. (If not owner occupied) Owner agrees to retain under contract a responsible local management company at all times the property is used as a non-owner occupied bed and breakfast lodging. The management company shall advise guests of the applicable conditions contained herein, receive and pass on to owner any complaints received and at owner's direction act upon such complaints. (If Owner occupied) The property shall be the owner's principal place of residence and the owner shall actively supervise and manage the property at all times that it is used as a bed and breakfast facility. 42.3 D.

MISCELLANEOUS: Owner agrees to maintain the property in a manner conducive to the health and safety of the guests and the neighborhood. All trash and garbage will be placed in provided receptacles which shall not be visible from the street except on pick-up day. No trash bags shall be left out in the open. The exterior of the facility and the landscaping, including lawns, will be maintained in good condition at all times. 42.2 A 1.

REVOCAION: The cup may be revoked by the City Council upon recommendation of the planning and Zoning Commission in the event of the violation of any of the conditions contained therein.

OWNER COMPLIANCE: Owners agree to comply with all City of Wimberley Ordinances, and all state, county and City laws, rules and regulations.

ACCEPTED AND AGREED TO:

5-10-18

DATE

5-10-18

DATE

[Signature]

OWNER

[Signature]

OWNER

Sandra Floyd

From: Dean Taccogna [REDACTED]
Sent: Wednesday, July 11, 2018 2:35 PM
To: Sandra Floyd; Kathy Blackburn
Cc: Teresa Taccogna
Subject: CUP 18-011, please include in packet
Attachments: Spoke Hill RE CUP-18-011.xlsx; CUP 350 .docx; Neighbor Wimberely.docx; Neighbor Wimberely Blair House.docx; Rental Agreement and Rules.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Sandy

I'd like for the following docs to be included in the packet for P&Z review. I'd like for them to be part of the doc packet for City Council Meeting as well.

I appreciate your help through out the process and look forward to meeting you as well.

--

Dean Taccogna
[REDACTED]

July 11, 2018

City of Wimberly

Re: CUP-18-011; 350 W Spoke Hill, Wimberely

Dear Sandy Floyd, Planning and Zoning Board Members and City Council Members

We have been notified that the opposition is over the 20% ordinance cut off, thus requiring super majority vote from P&Z and City Council. After researching Wimberely's viewpoint on CUPs – I was encouraged by an article I read in the Hays County Press, a Wimberely official stated the city would consider the “subjectiveness depends on the “integrity of the complainer (opposition)” and council would have to place some “common sense with any complaints (opposition)”

I look forward to meeting you in person but wanted to memorialize some of our viewpoints that should enlighten why we believe this CUP should be approved by majority vote. Below is a summary of personal research.

1. West Spoke Hill Drive is a secondary road off RR12– about ¼ mile long per Google Maps. It is clearly a mixed use road.
 - a. The street has, according to Hays County Tax Records (attached in a separate file)
 - i. 5 Commercial Properties
 1. Lutheran Church of the Resurrection, Blair House (existing B&B), Gary Weeks & Company Furniture Makers (multi use, residential and commercial), Perry's Metal Art, and Dunis Studios
 - ii. 1 Multi Unit Apartment Property – 3 separate units, assuming rental units
 - iii. 2 10+ Acres Agricultural Use Properties, one 10+ acres, one 35+ acres, both empty
 - iv. 3 Empty Lots – all for sale.
 - v. 3 Residential Homes – 1 Full time, 1 secondary home (assumption made based on a Houston mailing address) and our property
2. The Blair House is a functioning B&B and directly adjoins our property. The request for a CUP is in uniformity with a property directly adjoining ours. Precedent for B&B/STR has been set.
3. The opposition is coming from a couple of specific neighbors:
 - a. A property that adjoins the Blair House and our property. From our research there have been no issues with new frequent customers and clients visiting the Blair House that affected the area's property values (actually positively outperforming other areas), adhering to city's noise ordinances, safety, etc. Again precedent has been set as this property adjoins an existing B&B. This owner has admitted to Teresa over a phone call that he is going around and rallying support for opposition. This owner also mentioned he was previously on the Planning and Zoning Committee. We are concerned if this owner is rallying the neighbors, is this owner doing the same with the P&Z? Are we really going to be heard fairly because of 1 property owner instead of all that may have been “rallied” to oppose.
 - b. A property owner who has 2 adjoining empty lots for sale. From what we can tell, the owner does not live on Spoke Hill as their mailing address is 125 W Spoke Hill, which is Perry's Metal Art, a commercial only property owned by a someone else according to Hays County Tax Records. As mentioned others opposing may have been “rallied” to oppose. I'm not sure if someone like the Blair House can oppose as that would be opposing their own type of business. Questioning how vacant land can oppose?
 - c. This rallying feels like we're being singled out, profiled or discriminated against. Not what we expected from our research - a wonderful community like Wimberely.
4. The Deed Restrictions allows for Residential and Commercial. While we understand the city does not get involved in Deed Restriction interpretation, we felt it was important to note because it does allow both residential and commercial use. The Deed Restrictions were reviewed by our attorney, Rex G Baker, III – a former Hays County Judge for 20+ years, and saw absolutely no issues from a Deed Restriction standpoint with having the home used as a vacation rental/STR. I can provide a copy of the deed restrictions for your review if you like.

5. As of July 10, 2018, The Vacation Rental Ordinance, Title XV Land Use, Section 155.065 – this section is not listed on the Wimberely ordinance website. While there's a disclaimer on the website may not be the most current, it is difficult for Wimberely constituents to be complaint when ordinances are **not** published after a year of being passed. We moved forward with a CUP application after we were notified by the city that there is an ordinance – much to our surprise as it's not published anywhere on the ordinance website. This public information could have been valuable information to home buyers like us before making a significant investment in the City. Prior to purchasing the home, we researched this by reviewing the Wimberely Code Ordinances online along with a legal review of the Deed Restrictions by our attorney and felt we had no issues we could short term rent until we move into the home in the future. It is also difficult for homeowners who want to be compliant know how to be compliant – it is sending a message of subjectivity vs objectivity. Our legal has advised us this as a major point that needed to be made. We want to go on record that our home was purchased and application was submitted prior to this ordinance being made visible on the Wimberely public web site.
6. I've attached a letter that we mailed to all adjoining properties. It outlines why we chose Wimberely to eventually retire to, why we will be amicable and respectful neighbors, the continual improvement we've made to the house which improves everybody's property value and our intent to be compliance with the city and our neighbors. For example if CUP is approved, we offered to cross market the Blair House's spa and dining services to help increase their business, which in turn could lead to additional tax revenue for Wimberely. We're focused on cooperation with all.
7. I've also attached a copy of Rental Agreement we use for our rentals. Our intent to provide this copy is to show that we do not tolerate large groups, loud gatherings, respect our community and neighbors and compliance with city ordinances. We take the use of our homes in a serious matter with pride, respectfulness to all parties involved – the lessee, the neighbors, the community, etc.

Thank you for your time and consideration. We look to be complaint tax payers, active promoters of Wimberely and respectful neighbors. We are asking for your approval based on facts, being upfront with transparency and following the requirements of the City. I believe the City, and any City, would value people being transparent, follow the requirements, etc versus people who are doing the opposite. We hope the City does use what it preaches – use “common sense” as this CUP request should be approved using the common sense approach. Look forward to meeting you live and answer any questions.

Costantino (Dean) and Teresa Taccogna

W Spoke Properties - Street is mixed Use - Street is .25 mile long per Google Maps

Property ID	Year	Property Type	Geo ID	Neighborhood Code	Address
R14540	2018	Real	10-0206-0014-00000-8	8ABS	W SPOKE HILL DR, WIMBERLEY, TX 78676
R62208	2018	Real	10-0206-0018-00002-8	8ABS	W SPOKE HILL DR, WIMBERLEY, TX 78676
R14542	2018	Real	10-0206-0016-00000-8	C-B-AND-B	100 W SPOKE HILL DR, WIMBERLEY, TX 78676
R143676	2018	Real	11-8024-0000-005A1-8	C-WIMRR12S	107 W SPOKE HILL DR, WIMBERLEY, TX 78676
R143677	2018	Real	11-8024-0000-005A2-8-	C-WIMRR12S	111 W SPOKE HILL DR, WIMBERLEY, TX 78676
R14541	2018	Real	10-0206-0015-00000-8	C-WIMRR12S	101 W SPOKE HILL DR, WIMBERLEY, TX 78676
R63334	2018	Real	11-8024-0000-0050B-8	C-WIMRR12S	125 W SPOKE HILL DR, WIMBERLEY, TX 78676
R97638	2018	Real	11-4940-0000-00300-8	HILP	202 W SPOKE HILL DR, WIMBERLEY, TX 78676
R151592	2018	Real	11-3589-0000-00300-8	SPOK	211 W SPOKE HILL DR, WIMBERLEY, TX 78676
R97637	2018	Real	11-4940-0000-00200-8	SPOK	258 W SPOKE HILL DR, WIMBERLEY, TX 78676
R151590	2018	Real	11-3589-0000-00100-8	SPOK	Mailing Address is 125 W Spoke Hill - Perry's Art?
R151591	2018	Real	11-3589-0000-00200-8	SPOK	Mailing Address is 125 W Spoke Hill - Perry's Art?
R151593	2018	Real	11-3589-0000-00400-8	SPOK	Mailing Address is 125 W Spoke Hill - Perry's Art?
R97636	2018	Real	11-4940-0000-00100-8	SPOK	350 W SPOKE HILL DR, WIMBERLEY, TX 78676

Legal Description	Owner ID	Owner Name
ABS 206 L C GIBBS SURVEY 10.037 AC GEO# 09166092		MURR, MADELYN
A0206 LEWIS C GIBBS SURVEY, ACRES 35.76 00042025		TIERRA DE PIEDRA ENTERPRISES LLC
A0206 LEWIS C GIBBS SURVEY, ACRES 21.87 00056173		BLAIR POND MANAGEMENT CORP
SPOKE HILL SEC 1, Lot 5A1, ACRES 5.47	O439385	DEJONG, TIMOTHY EDWARD
SPOKE HILL SEC 1, Lot 5A-2, ACRES 2	O0063520	GINN SHELDON & SIENNA
ABS 206 LC GIBBS SURVEY 4.26 AC GEO#906 0396175		LUTHERAN CHURCH OF THE RESURRECTION
SPOKE HILL SEC 1 LOT 5 B 2.82 AC	O0046406	BARNARD JOHN PERRY
LILLY'S HILL, LOT 3, ACRES 2.03, (1.25 AC HS	O9143081	WEEKS GARY & LESLIE
HACIENDA DEL CIELO, Lot 3, ACRES 2.65	O0082884	MASSEY STEPHEN C
LILLY'S HILL, LOT 2, ACRES 2.11	O9151877	WEEKS, AUSTIN
HACIENDA DEL CIELO, Lot 1, ACRES 2.06	O9136510	LECKENBY, JOHN DOUGLAS
HACIENDA DEL CIELO, Lot 2, ACRES 4.57	O9136510	LECKENBY, JOHN DOUGLAS
HACIENDA DEL CIELO, Lot 4, ACRES 2.01	O9136510	LECKENBY, JOHN DOUGLAS
LILLY'S HILL, LOT 1, ACRES 3.21	O0084458	TACCOGNA DEAN & TERESA

Notes

Taxed Agriculture - 10 Acres empty Lot - Adjoining Property

Taxed Agriculture - 35 Acres empty Lot - Adjoining Property

Taxed Commercial - Blair House B&B - Adjoining Property

Taxed Commercial - 3 Apartments A, B and C

Taxed Commercial - Dunis Studios

Taxed Commercial - Church; Lutheran Church of the Resurrection

Taxed Commercial - Perry's Metal Art ; Non Homesite

Taxed Commercial/Residential - Gary Weeks & Company Furniture Makers

Adjoining Property - assumed 2nd home as mailing address is Houston

Adjoining Property to Blair House B&B and us - precedent set w/B&B

Empty Lot For Sale - Adjoining Property

Empty Lot For Sale

Empty Lot For Sale - Adjoining Property

Property requesting CUP - last home at end of road

Dear Neighbor,

We'd like to introduce ourselves and give you some insight to our request for a Conditional Use Permit (CUP) from the City of Wimberely.

A little background, our names are Dean and Teresa Taccogna. As we work towards retirement, we decided to focus where we'd like to retire. Tired of Chicago winters, there were choices – Texas, Florida, Arizona. Teresa is a native Texan and has a BIG bias. After traveling to Texas numerous times for work and to visit family and friends, Dean came around to appreciate Texas and its' values. While visiting family in the Texas Hill Country one year we both fell in love with the area and we fell COMPLETELY IN LOVE with Wimberely. It has been our goal to make investments so we can retire early in Texas someday with Wimberely being our desired end state.

Over the past years, we've invested in real estate in the Hill Country. We invested in 2 single family homes which we decided to offer them up as rentals (short and/or long term). We figured if we're going to retire in Texas, we should get to know the communities, the people, the area, etc. It's been a GREAT experience. If we could retire tomorrow, we would but we have 2 adult children (ages 23 and 21) and 1 almost adult child (age 17). We want to see them finish school and get their lives started. Providing the best options for children's success – it's our primary focus.

Since we've met so many people and we shared our goals, we received a call from one of our contacts about a home in Wimberely (350 W Spoke Hill) she knew we would love. And she was right. OMG – we instantly felt a major connection. It met our checklist of what we would want from a home, but the timing of retiring was off. We decided to buy our dream home early and offer it as a rental until it can become our permanent home.

We're giving you this background to provide some insight to us and our intent. Our intent is to be extremely respectful of the neighbors as we look forward to being there one day. As mentioned we personally operate the 2 other properties we've invested in the Hill Country. We know our neighbors, they keep an eye out for us, they inform us if there is an issue of any kind, etc. It works well when we are all up front and open. We continue to invest in our homes to make sure they are safe, upkept, and in good taste with the neighbors in mind. For example, at 350 W Spoke Hill, we've invested in a new security gate, new security cameras, improvement of road to the home, etc. We will continue to invest in the upkeep of the home as it improves property values. We are not absentee owners. We come down to Texas 8-12 times a year primarily to check on the properties, assign upkeep work, etc. As an example, we've been to Texas 7 times already this year.

The CUP request is for short term rental. We personally manage all the inquiries. We call them and ask about their intent, we have minimum age requirements, etc. We turn down about 20% of all inquiries. These are our homes – we want to make sure the homes and neighbors are respectfully treated. We also have people help us manage the homes for us. They are local professionals - local management, local legal, local house keepers, local maintenance, local groundskeepers, etc. It's important for us to make sure we give back to the community while working towards our goals.

I hope this letter gives you a little more comfort on who we are, our values and what our intentions are. We look to be open and transparent neighbors. If the CUP is approved, I will provide detailed contact information on us and all the local contacts in case there are any issues. Thank you for your time.

Sincerely,

Dean and Teresa Taccogna

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Specifically for the Blair House: In the spirit of giving back to the community, we'd like to promote the Blair House to our potential guests. If CUP is approved, we would immediately buy \$500 worth of gift certificates. We would offer a \$50 gift certificate per stay so guests come visit the Blair House for spa, dining, etc. Our educated guess is that the \$50 will turn into much more revenue for the Blair House as there will likely be more than 1 person coming to visit. With your approval, we would put out Blair House brochures, schedules, etc. We look to enhance your business as our goal is to cooperate and promote local businesses, especially one of our neighbor's.

I hope this letter gives you a little more comfort on who we are, our values and what our intentions are. We look to be open and transparent neighbors. If the CUP is approved, I will provide detailed contact information on us and all the local contacts in case there are any issues. Thank you for your time.

Sincerely,

Dean and Teresa Taccogna

Rental Agreement and House Rules

This Rental Agreement (the "Agreement") is made by and between Costantino "Dean" and Teresa Taccogna ("Homeowner") and ("Lessee") as of the date last set forth on the signature page of this Agreement. For good and valuable consideration, the sufficiency of which is acknowledged, the parties hereby agree as follows:

1. Property: The property is located at:

For security reasons, exact address to be provided once agreement signed and security deposit provided

2. Rental Party: The rental party shall consist of Lessee and the following persons:

Adults and
 Children

3. Maximum Occupancy: The maximum number of people is limited to x persons for standard rate.

4. Term of the Lease: The lease begins at 4 PM of the "Check-in Date" and ends at 11 AM on the "Checkout Date".

Rate for Term:

Tax:

Cleaning Fee:

Total:

5. Rental Rules: Lessee agrees to abide by the Rental Rules attached as Exhibit A at all times while at the property and shall cause all members of the rental party and anyone else Lessee permits on the property to abide by the following rules at all times while at the property.

6. Access: Lessee shall allow Homeowner and/or care taker access to the property for purposes of repair and inspection. Homeowner shall exercise this right of access in a reasonable manner.

7. Rental Rate and Fees

- a. As described on the website.
- b. Security Deposit will be refunded if:
 - i. no damage to the property or furnishings;
 - ii. no dirt or other mess requiring excessive cleaning; or
 - iii. any other cost incurred by Homeowner due to Lessor's stay.

If the premises appear dirty or damaged upon Check-in, Lessee shall inform Homeowner immediately.

8. Cancellation Policy: If Lessee wishes to cancel his/her reservation, the following rates apply:

100% of full rental amount (if paid) and security deposit if cancelled more than 60 days prior to the Check-in Date.

9. Insurance: We encourage Lessee to purchase traveler insurance.

10. Payment: Acceptable payment methods are check or credit card and other options that may be offered by owner for convenience.

11. By making a reservation, Lessee agrees that the Lessee has read and agree to the cancellation policy and rental rules. Lessee has read their rights to purchase travel insurance. Lessee am also confirming the Lessee is at least 25 years of age by providing a copy of my driver's license and/or official identification.

The parties agree to the terms of this Short Term Rental Agreement, as evidenced by the reservation made

Rental Rules on Next Page

Rental Rules

1. Smoking is NOT allowed.
2. People other than those in the Lessee party set forth above may not stay overnight in the property. Any other person in the property is the sole responsibility of Lessee.
3. This home is privately owned; the owners are not responsible for any accidents, injuries or illness that occurs while on the premises or its facilities. The Homeowners are not responsible for the loss of personal belongings or valuables of the Lessee. By accepting this reservation, it is agreed that all parties staying are expressly assuming the risk of any harm arising from their use of the premises or others whom they invite to use the premise. We encourage, but not required, to buy Property Damage Insurance
4. Keep the property and all furnishings in good order
5. Only use appliances for their intended uses.
6. No loud parties allowed or gatherings. Must adhere to ALL city's ordinances especially regarding noise, fireworks, burn bans, use, etc. We will provide link to ordinances upon agreement and payment.
7. Pets are NOT allowed unless agrees by owner. If agreed, the pet is not allowed on the furniture or beds. The pet must be crated at night or not left alone in the home. A \$25 per night fee must be added to rental.
8. Parking:

PARKING – Parking is limited to x vehicle(s) on premises only. Vehicles are to be parked in designated parking areas only. Parking on the road is not permitted. Any illegally parked cars are subject to towing; applicable fines/towing fees are the sole responsibility of the vehicle owner.
9. Housekeeping: There is no daily housekeeping service. While linens and bath towels are included in the unit, daily maid service is not included in the rental rate. We do not permit towels or linens to be taken from the units.

10. Pool: No children under the age of 18 permitted to use pool at any time without adult supervision. Use pool at your own risk. It is agreed that all parties are expressly assuming the risk of any harm arising from their use of the pool or others whom they invite to use the pool. Our pool service drain, sanitize, refill and replenish chemicals

11. Fireplace: Please do not throw any paper or other combustible materials in the fireplace

12. Septic: The property is on a septic system. The septic system is very effective; however, it will clog up if improper material is flushed. DO NOT FLUSH anything other than toilet paper. No feminine products should be flushed at any time. If it is found that feminine products have been flushed and clog the septic system, you could be charged damages of up to \$2500.

13. Storms:

If there is a storm or hurricane, no refunds will be given unless:

- The state or local authorities order mandatory evacuations in a "Tropical Storm/Hurricane Warning area"

14. Internet: The property has internet access and is included in rental fee. Internet login and password will be provided with check in instructions

15. The Homeowner is not responsible for any accidents, injuries or illness that occur while on the premises or its facilities. By accepting this reservation, it is agreed that all parties staying are expressly assuming the risk of any harm arising from their use of the premises or others whom they invite to use the premises.

Reminder – this is home works well when following the above agreement and rules. Failure to do so and/or not respecting the city's or neighborhood's ordinances will lead to immediate termination with no refund.

Next Page: Signature Page:

Date: _____

Lessee: _____

Printed: _____

Date: _____

Owner: _____

Printed: _____

§ 155.036 RURAL RESIDENTIAL 1; R-1.

(A) *General purpose and description.* The R-1 district is intended to provide for development of primarily detached, single-family residences on lots of not less than 2 acres.

(B) *Permitted uses.*

(1) One residence including:

- (a) One primary single-family residential building built on site; or
- (b) One manufactured or mobile home installed on a permanent foundation.

(2) Accessory buildings and uses, customarily incidental to the above uses and located on the same lot therewith, but not involving the conduct of a retail business except as provided herein:

(a) The term accessory use shall include customary home occupations as herein defined;

(b) Accessory buildings, including a private garage, shall not occupy more than 50% of the minimum required rear yard. When the accessory building is directly attached to the main building, it shall be considered an integral part of the main building. See § 155.076 for additional accessory use requirements;

(c) A detached private garage used in conjunction with the main building;

(d) Private open space or other private recreational amenities as part of a residential subdivision and not for commercial purposes; and

(e) One accessory dwelling unit.

(3) Non-commercial row and field crops;

(4) Non-commercial livestock;

(5) Swimming pool (private);

(6) Utilities; and

(7) Religious assembly.

(C) *Conditional uses.*

(1) One secondary residential building built on-site;

(2) Bed and breakfast lodging or vacation rental which may be in the primary or secondary residential building or in cottages or cabins;

(3) Home day care;

(4) Home commercial crafts or hobbies;

(5) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulation; and

(6) Two-family residential (duplex).

(D) *Development regulations.*

(1) Lot size: minimum 2 acres but less than 5 acres.

(2) Maximum building height (as defined in § 155.005):

(a) Primary residential building: not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;

(b) Secondary residential building: not more than 2 stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;

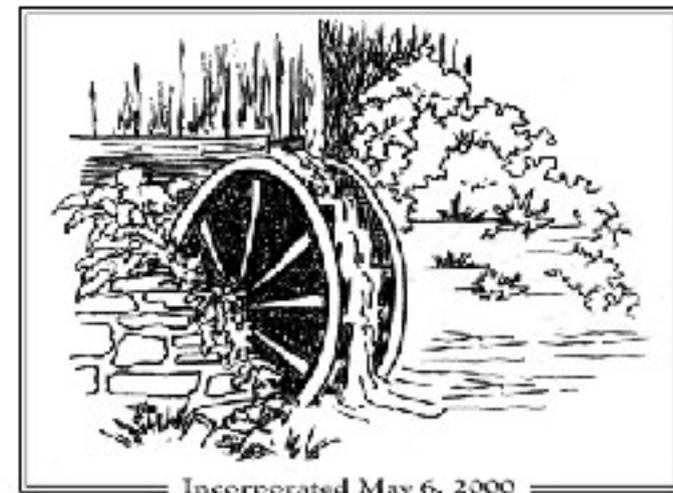
(c) Accessory buildings: not more than 18 feet and not more than 1 story; and

(d) Decks: not more than 12 feet including a railing only or 18 feet including a roof.

(3) For minimum required setbacks, no construction, including buildings, parking areas, and driveways, except entry driveways, and no placement or display of commercial material and equipment shall be allowed in the setbacks. The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 50 feet;
 - (b) Secondary street: 25 feet; and
 - (c) Interior side and rear: 15% of lot width, but need not be greater than 25 feet.
- (4) Minimum floor area of residential buildings:
- (a) Primary residential building: 1,000 square feet;
 - (b) Secondary residential building: 600 square feet; and
 - (c) Bed and breakfast units: 200 square feet.
- (5) Maximum impervious cover: 20%. Impervious cover shall be calculated as a percentage of the net site area and shall be the lesser of the percentage specified above in this district description or the percentage for the average lot slope in § 155.078(M), Table C.
- (6) The parking and trash collection ordinances will apply.
- (E) *Special requirements.*
- (1) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling purposes.
 - (2) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood, garden materials, and the like.
 - (3) Single-family homes with side entry garages where lot frontage is only to 1 street (not a corner lot) shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.
- (F) *Other regulations.* As established in §§ 155.075et seq., development standards. (Ord. 2001-010, § 15, passed 4-1-2001; Am. Ord. 2003-006, passed 7-3-2003) Penalty, see § 155.999

CUP-18-011 ~ 350 W. Spoke Hill Dr

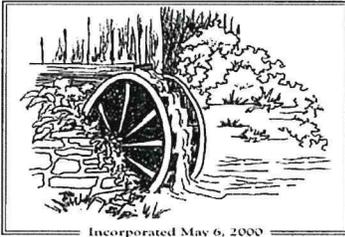


200' NOTIFICATION

Legend

- 200' Buffer
- ID. OWNER**
- 0. TACCOGNA, CONSTANTINO & TERESA
- 1. BLAIR POND MANAGEMENT
- 2. LECKENBY, JOHN
- 3. LECKENBY, JOHN
- 4. MASSEY, STEPHEN
- 5. MURR, MADELYN
- 6. TIERRA DE PIEDRA ENTERPRISES LLC
- 7. WEEKS, AUSTIN





City of Wimberley

221 Stillwater (P.O. Box 2027), Wimberley, Texas 78676
Phone: 512-847-0025 Fax: 512-847-0422 Web: cityofwimberley.com

June 21, 2018

NOTICE OF PUBLIC HEARING

Re: File No. CUP-18-011
350 W. Spoke Hill Dr.

A request for a Conditional Use Permit (CUP) to allow the operation of a Vacation Rental

Dear Property Owner:

You are receiving this letter because you own property within 200 feet of the above-referenced location.

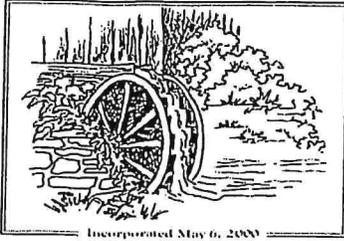
The applicants, Constantino & Teresa Taccogna, have requested a Conditional Use Permit (CUP) to operate a Vacation Rental at 350 W. Spoke Hill Drive. The current zoning for this property is Rural Residential 1 (R-1). The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, July 12, 2018, at 6:00 p.m.** in the Wimberley City Hall, 221 Stillwater. Upon a recommendation from the Commission, City Council will hold a public hearing to consider the same request on **Thursday, July 19, 2018, at 6:00 p.m.**

Because the granting of this request may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted prior to the meeting.

Additional information regarding the proposed request is available for public review at City Hall during normal business hours. Should you have questions, please feel free to email or contact me at 512-847-0025.

Thank you,

Sandy I. Floyd
Planning & Development Coordinator
GIS Analyst
sfloyd@cityofwimberley.com



City of Wimberley

221 Stillwater, P.O. Box 2027, Wimberley, Texas, 78676
Phone: (512) 847-0025 – Fax: (512) 847-0422
www.cityofwimberley.com

NOTICE BY SIGN POSTING

Date: 06/25/2018

Zoning No: CUP-18-011

Owner _____

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

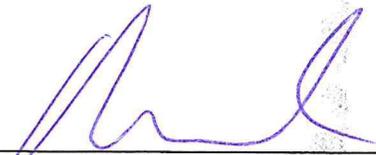
() Project Site Address 350 W. Spoke Hill

located on _____

Aaron Reed
Public Works/ Code Enforcement

Note: The above-referenced sign was placed on the subject property on

06/25, 2018


Signature

Public Notice

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, July 12, 2018, at 6:00 p.m. to consider the following: CUP-18-010 — an application for a Conditional Use Permit (CUP) to allow the operation of a vacation rental at 310 Summit Loop. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, July 19, 2018, at 6:00 p.m. at City Hall. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

NOTICE OF APPLICATION TO SUBDIVIDE

An application has been filed with Hays County to subdivide 1452.97 acres of property located along FM 2325, Wimberley TX 78676. Information regarding the application may be obtained from Hays County Development Services (512)393-2150. Tracking #: SUB-1054

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, July 12, 2018, at 6:00 p.m. to consider the following: CUP-18-011 — an application for a Conditional Use Permit (CUP) to allow the operation of a vacation rental at 350 W. Spoke Hill Drive. Upon recommendation of the Planning & Zoning Commission, the City Council will also hold a public hearing on Thursday, July 19, 2018, at 6:00 p.m. at City Hall. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

PUBLIC NOTICE

Dripping Springs Independent School District is requesting proposals for Charter Bus Services under RFP # 15-019-1 Charter Bus Services - Multiple Award. Proposals will be received in the Business Office of the Dripping Springs Independent School District, 510 West Mercer Street P.O. Box 479, Dripping Springs, Texas 78620. Proposals shall be addressed to Michelle Lyons, Purchasing Specialist. Any questions pertaining to the proposal specifications should be directed to Michelle Lyons, Purchasing Specialist - CTSSBO, michelle.lyons@dsisdtx.us. All proposals must be received by 2:00 P.M. (CST) on July 31, 2018. Dripping Springs Independent School District reserves the right to accept or reject any or all bids, to waive any formalities and irregularities in the bids received, and to accept the offer(s) most advantageous to the District.

NOTICE OF PUBLIC HEARING (Request for Variance/Waiver)

Notice is hereby given that the Board of Adjustment of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Monday, July 2, 2018 at 6:00 p.m. to consider the following: BA-18-001 — a request for a variance from the City of Wimberley code requirements to allow an encroachment into the dominant street setback for a certain property located at 130 Rockwood Drive, Wimberley, Texas. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the City of Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

Public Notice



Grant Applications for Fiscal Year 2018-2019 Local Hotel Occupancy Tax Grant Funding Program are due July 13, 2018

The City of Dripping Springs is accepting applications for Local Hotel Occupancy Tax funds for projects that directly enhance and promote tourism and the convention and hotel industry. Projects must increase overnight stays in the area and meet one of eight categories for expenditure: 1) convention and visitor centers; 2) convention registration; 3) advertising the city; 4) promotion of the arts; 5) historical restoration and preservation; and 6) sporting events; 7) transportation systems for tourists; or 8) signage directing tourists to sights and attractions. The grant guidelines and application are available at City Hall, 511 Mercer Street, on the website at <http://www.cityofdripping Springs.com>, or at Dripping Springs Ranch Park located at 1024 Event Center Drive. Applications are due July 13, 2018. Please call (512) 858-4725 if you have any questions about this program.

Public Notice

NOTICE TO ALL PERSONS HAVING CLAIMS AGAINST THE ESTATE OF CAROLYN SAVENIA JOHNSON DUNCAN

Notice is hereby given that original Letters Testamentary for the Estate of Carolyn Savenia Johnson Duncan, Deceased, were issued on June 13, 2018 in Cause No. 18-0172-P pending in the County Court at Law of Hays County, Texas, to Tina Nanette Tijerina Mackenroth, as Independent Executor of said Estate. All persons having claims against this Estate are required to present them to said Executor at 707 Flite Acres Road, Wimberley, Texas 78676, within the time and in the manner prescribed by Law.

Dated the 14th day of June 2018 Patrick G. Rehmet, Attorney for the Estate of Carolyn Savenia Johnson Duncan, Deceased

NOTICE OF PUBLIC HEARING (Request for Variance/Waiver)

Notice is hereby given that the Board of Adjustment of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Monday, July 2, 2018 at 6:00 p.m. to consider the following: BA-18-002 — a request for a variance from the City of Wimberley code requirements to allow an encroachment into the dominant street setback for a certain property located at 145 Climbing Way, Wimberley, Texas. Comments on this request from any member of the public may be presented in person at City Hall, by mail (PO Box 2027), or by email (sfloyd@cityofwimberley.com) prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the City of Wimberley City Hall, 221 Stillwater, Wimberley, Texas.

City of Wimberley Bank Depository Request for Proposals

The City of Wimberley is requesting proposals for a Bank Depository for the City from qualified and interested firms.

A full description of the Request for Proposals (RFPs) and submission requirements can be found on the City's website www.cityofwimberley.com. Deadline for submission is Friday, July 13, 2018, at 2:00 p.m. at the City of Wimberley, 221 Stillwater, Wimberley, Texas 78676. RFPs received after this date and time will not be considered. No facsimile or emailed qualifications will be accepted. RFPs shall be submitted by mail or in person as follows:

City of Wimberley
ATTN: Laura Calcote, City Secretary
221 Stillwater (physical)
P.O. Box 2027 (mailing)
Wimberley, Texas 78676
Re: Depository Applications

If you have any questions or need additional information, please email City Administrator Shawn Cox (scox@cityofwimberley.com) or City Secretary Laura Calcote (lcalcote@cityofwimberley.com) by Monday, June 25, 2018, at 10:00 a.m.

General Help Wanted

Brookshire Brothers
LOOKING TO START A NEW CAREER? JOIN US!
We are expanding our employee partners to better serve our customers. Bring your customer service skills to the
JOB FAIR
Tuesday, June 26th, 9am - Noon & Wednesday, June 27th Noon - 6pm @ Wimberley Location
Hiring for All Positions in all Departments as well as Mgmt Positions. Must be available for any shift and weekends. Ask About Our Sign-On Gift Card. Apply within or @brookshirebrothers.com
Pre-Employment Drug Test & Background Screen Required

General Help Wanted

Hill Country Mental Health and Developmental Disabilities Centers
Behavioral Health - Clinic Director
The Clinic Director will be a key player in the implementation of an exciting/innovative model for providing Behavioral Health Services to rural locations within the Spring Branch / Canyon Lake Areas of Comal County. The Clinic Director will assist w/ implementation of a system of care that will reduce the number and severity of psychiatric crises in these rural locations. The Director/MH Team will serve adults, children, and families by providing behavioral health services that include screening and intake, person-centered planning, skills training psychiatry, substance abuse interventions for co-occurring disorders, peer support, family partner, and specialized therapies such as CBT and trauma focused counseling.
Eligible Candidates must possess one of the following clinical licenses: LPC, LCSW or LMFT w/3 years of Mental Health Administrative Experience. \$56K w/On-Call Pay. Must be willing to work weekends
Apply online at www.hillcountry.org
Hill Country MHDD Centers is an EOE

General Help Wanted

Hill Country Mental Health & Developmental Disability Centers
Now Hiring
Licensed Professional of the Healing Arts
Excellent FT Opportunity at our Spring Mental Health Clinic located at 1200 N. Bishop St., San Marcos, TX
Must have Master's Degree in Psychology, Counseling, Marriage & Family Therapy, Social Work AND one of the following clinical licenses: LPC, LCSW, LMFT, PhD, or PsyD. 2 years making diagnosis and providing therapy - preferred.
\$24.11 per hour w/ paid Medical
Apply online @ www.hillcountry.org
Hill Country MHDD Centers is an EOE

General Help Wanted

General Help Wanted

Hill Country MHDD Centers - Local Mental Health Authority - Now Hiring
Expanding Non-Profit Provider of Behavioral Health Services has an immediate opportunity for Board Certified Behavioral Analyst at their Behavioral Services Crisis Unit located in San Marcos, TX.
Must possess MS for BCBA w/Current TX License. \$63,000 - \$68,000
Compensation Commensurate w/ Experience
Apply online @ www.hillcountry.org
Hill Country MHDD Centers is an EOE

General Help Wanted

BRAND NEW SENIOR COMMUNITY in Dripping Springs is looking for a Part Time Porter/ Bus Driver.
Looking for someone to do janitorial work, take out trash, pick up grounds, help with work orders, etc. Must have a clean driving record w/ insurance and able to lift 50+lbs.

THE CITY OF WIMBERLEY is Now Hiring Public Works/Code Enforcement
The City of Wimberley is currently taking applications for the position of Public Works / Code Enforcement Superintendent, whose primary responsibilities include maintenance of the public parks, roads, and streets, assist with maintenance and duties around City Hall. Under the supervision of the City Administrator, he addresses street repairs, including street signs, low water crossings, potholes, tree trimming, and traffic counters. Major responsibility is to serve as Building Official and Code Enforcement of the sign ordinance, building code violations, and issues stop work orders, handles citizen complaints. Subject to callouts during, after, emergency and/or holiday hours as deemed necessary by City Administrator, as well as other duties as assigned. If you would like to apply and for more information about this position please refer to the city's website at www.cityofwimberley.com

HOME FOR SALE: In Fischer a beautiful 2 bed 1.5 bath 1120 sq ft. house on .83 acres. Contact Jessica at 830-992-1570.

Land for Sale

CAPTURE STUNNING VIEWS and numerous building sites on this 5+ acres. Magnificent oaks and motts of oaks. Great views and building sites. Private. Backs high-end developments. Wimberley schools. 1901 N Rainbow Ranch \$210,000 Barbara Gremillion, Coldwell Banker United Realtors, 512-775-2904

HISTORIC MILL RACE ROAD. Investment opportunity 3.17 ac. Long overlooked undeveloped retail, resort, condo possibility. Adjoining Community Center Parking lot overlooking Cypress Creek and old town square. Call Jon 830-446-9157

BEST LOT IN WIMBERLEY 2.4 acre lot in River Oaks. Great build spot. Walking distance to River Park, flat, very little cedar, very little rock, view out the back, fenced on 3 sides. \$175k FSBO 512-940-8993

IMMEDIATE HIRE For male and female caregivers in surrounding locations. Please contact hiring manager, 830.625.0444.

PART-TIME HOUSEKEEPER Needed at Mountain View Lodge. \$15/\$20 per hour Call 512-847-2992

CAMP RANGER CONTRACTOR ROLE Must be experienced in general maintenance, plumbing, carpentry, and electrical.

Home For Rent

2/2 WIMBERLEY FULLY FINISHED Minutes to 1+ acre on SHORT LI OPTIO AVAILAE Water & trae Tenant pays Cable & V \$2100/mo \$2100/de 512-217-

ENJOY PR Extremely 3B/2B Manu home (1280) 4.5 acres in 1, ley, private, trees, large r front & back ceiling fans ances, CAC age bldg., satel- lite/HS inter ter is paid! N ing \$1350./1 Dep. 281-22

1 B WITH 1 bath on 2 a appliances ir WD. With sc Close to sc Available in ately. \$120 utilities & D Water incl 512-791-

Apartment For Rent 2 BR \$8 Updated w/it look floors, c paint colors a ing, crown r and gene storage. Blau Pet frier 830-833-1

HALF OFF REN when you r June! 1 BR \$ 2 BR \$895. kitchen & b grades. Stl steel appli granite coun Pet friendly. convenie Country lo Bianco C Apartment Jones ave, TX. 512-99

APARTM FOR R

Comm For Rent COMMER LEAS in Driftwood SF metal b w/ 16' beig overhead fenced 1+ view. Sma has heat. 3-phase etc NO heavy cial, mech body sh \$2,200/mr Barbara Gr Coldwell E United Re 512-775-

Homes For Rent EFFICIENCY WITH FULL BATH Vaulted ceilings, covered porch

Sandra Floyd

From: [REDACTED]
Sent: Thursday, June 28, 2018 2:29 PM
To: Sandra Floyd
Subject: Against 350 West Spoke Hill request

I am against granting a Conditional Use Permit to run Party House - Vacation Rental at 350 West Spoke Hill.
I am the owner of three lots in Hacienda del Cielo at 211 West Spoke Hill Drive, Wimberley, Texas 78676

John D. Leckenby, Ph.D.
Everett D. Collier Centennial
Chair in Communication, Emeritus
Stan Richards School of Advertising
and Public Relations
Moody College of Communication
The University of Texas at Austin

Sandra Floyd

From: Austin Weeks [REDACTED]
Sent: Friday, June 29, 2018 1:39 PM
To: Sandra Floyd
Subject: Opposition to 350 W Spoke Hill Vacation Rental CUP

Dear Sandy and members of the P&Z commission,

I am writing this letter to request that you deny the CUP application for a vacation rental at my next door neighbor's property, 350 W. Spoke Hill. My reasons for opposing the CUP-18-011 follow:

- 1) Vacation rentals are not allowed in my reading of the deed restrictions on our properties. Short term rental is not listed as an allowed commercial use. This restriction was placed on the property by the founder of the neighboring Blair House when the lots were subdivided. The intention was to eliminate the possibility of competition and disturbance to their existing lodging business. We purchased our property with this understanding. Unfortunately, the recent TX Supreme court decision may render the deed restrictions unenforceable on this point as written.
- 2) We wish to maintain our peace and quiet at the end of this residential portion of our road.
- 3) Decreased sense of security for my daughters and property resulting from revolving rental guests and maintenance activities required for operation.
- 4) Car traffic from unknown rental guests.
- 5) Access to the property is our private road easement. Approximately 600 ft of the easement is across my property. A vacation rental would result in increased safety and maintenance issues.
- 6) The possibility for disturbances including noise, lost travelers, septic, car, house alarms, lost pets, parking issues, party related activities, bright lights left on, and maintenance crews/machinery, etc.
- 7) The precedent set by allowing this CUP might open the door for many more vacation rentals on the surrounding vacant properties, some of which are currently for sale.
- 8) I believe that having a vacation rental next door would negatively affect my property value as a residential home.
- 9) Short term rental guests do not have a long term interest in the nature of the neighborhood or an understanding of the local routines and status quo.

Thank you for your service to our town.

Best Regards,
Austin Weeks

258 W. Spoke Hill Dr.
Wimberley, TX 78676
[REDACTED]

Sandra Floyd

From: Lcrawford [REDACTED]
Sent: Saturday, June 30, 2018 5:23 PM
To: Sandra Floyd
Subject: Re:CUP-18-011

To City of Wimberley, Staff, Planning and Zoning Commissioners and Council-members :
I am the owner of 54 acres that is adjacent to West Spoke Hill Drive and is also directly adjacent and surrounds the Blair House. I oppose the request because the property I own is within 200 feet from 350 W. Spoke Hill Dr. Along with the neighborhood, which I am a large part of; I believe a vacation rental poses a liability. I request you deny a permit for this reason as well such action will be pernicious to all concerned. My land is vulnerable and I request you protect me and my neighbors who will be put at greater risk if CUP allows a vacation rental permit.

Respectfully,
Linda Crawford
Tierra De Piedra Enterprises LLC
[REDACTED]

Sandra Floyd

From: C M [REDACTED]
Sent: Sunday, July 1, 2018 3:40 PM
To: Sandra Floyd
Subject: CUP-18-011 for 350 W. Spoke Hill Dr.

July 1, 2018

To: Sandy Floyd, City of Wimberley, Planning & Zoning Commission, and Mayor & City Council:

RE: CUP-18-011, for 350 W. Spoke Hill Dr., Wimberley, TX 78676

My name is Chris Mahoney and I live at 100 W. Spoke Hill Dr. in Wimberley, TX. My wife and I own and operate the Blair House Inn Bed & Breakfast, located at the same address. The Blair House Inn Bed & Breakfast, aka Blair House, has been in business for twenty-seven years, since 1991. We are known as a romantic getaway for adult couples and our guests stay with us to experience a comfortable and relaxing getaway in a quiet environment – away from a party or disruptive atmosphere. We don't allow parties, weddings, or any activity that causes noise and commotion that would disturb other guests, nearby neighbors, or the peace and serenity of the neighborhood. We are unique in who we are and what we do. My wife and I are vested in the Blair House: We live on the premises. We are fully committed and unconditionally engaged in the role of full-time innkeepers and owners of the business. We serve our guests meals and take care of their needs. We are on-site 24/7, and immediately available and accountable for anything that could happen on the property at all times. We don't own or engage in operation of other short-term rental investment properties. The Blair House has operated this way since the business started in 1991.

My residence is located a short distance “on the other side of the fence” from the back side of the house located at 350 W. Spoke Hill Dr. I am aware of that property being bought and sold multiple times in the last year. In the last six months or so, I have heard loud late night laughter and conversation coming from that direction on several occasions. Because of that, I wondered if the property was illegally operating as a vacation rental. I recently learned that it has been, and I've seen a listing on a “Vacation Rental By Owner” website for the property, and advertising parties and events.

The original owner of the Blair House Inn, Jonnie Stansbury, subdivided her property and sold three lots, 18 years ago, to two of the three current owners of lots on the South side of West Spoke Hill Drive. In doing so, she created a neighborhood, Lilly's Hill Subdivision, and imposed Restrictive Covenants on the neighborhood which defined easements and types of businesses allowed in the subdivision. Her intention, although unenforceable, was to protect neighbors of the Blair House from imposing buildings too close to their property lines, and also to protect the Blair House from having a neighboring lodging business. These restrictions have been mutually honored and respected by all neighbors to this day.

I object to having a vacation rental operation next door to my property and business. Vacation rental businesses frequently have clientele that disregards consideration of neighbors and disrespects the community, with no accountability due to absentee ownership. As a permanent Wimberley resident, good neighbor to my neighbors, and as a business owner responsible for the experience my customers have, I am concerned about the potential negative impact to my business and the neighborhood. Wimberley is becoming more and more a community of short-term vacation rentals,

and we don't need another one – particularly in my quiet neighborhood on West Spoke Hill Drive. A vacation rental on my street will increase traffic, allow “temporary residents,” will lower the character and quality of the neighborhood and gradually degrade the value of our properties and businesses. I respectfully ask that the application for a Conditional Use Permit for 350 W. Spoke Hill Drive be denied.

Respectfully Submitted,

Chris Mahoney

100 W. Spoke Hill Dr.

Wimberley, TX 78676



July 1, 2018

To City of Wimberley Staff, Planning and Zoning Commissioners, and Councilmembers:

We live along a private, dead end road, West Spoke Hill Drive, that defines our neighborhood.

In reference to CUP-18-011 for 350 West Spoke Hill Drive, we believe that this lot is inappropriate for a vacation rental and we request that you deny a permit for that use for the following reasons:

1. Because of the unique character of the neighborhood, a vacation rental business will reduce the value, sense of security, peace, and quiet of the current and future residents.
2. It will complicate and increase the road maintenance that must be done by those who live here and care about the place.
3. It will place more people at risk at a very dangerous intersection.
4. The owners have shown disregard for the ordinances of the city, the intent of the restrictions on that lot, and the burdens placed on the people who live on this road.

West Spoke Hill Drive intersects RR12 just north of an overpass over a tributary to Pierce Creek. Guardrails on 12 eliminate the shoulders. Our road heads west between the Blair House and the Lutheran Church driveways, going uphill past three properties zoned WPDD for residences and low impact, art and craft businesses. Once past the entrances to two of these, Dunis Tile Studio and Gary Weeks and Company Furnituremakers, the road is rarely traveled and the asphalt ends. This upper end serves five residences and some small acreage vacant lots.

West Spoke Hill Drive traverses a private easement with no road agreement. The asphalt is cracking. The unpaved portion of the road regularly erodes to rock--Austin Weeks maintains it.

The homes at the upper end of the rarely traveled road have always been quiet, very private, and have felt remote and secure.

The lot in question was subdivided from the Blair House property with the two Weeks lots. We helped lay them out, get them platted, and write the restrictions. Unfortunately, due to a narrow interpretation of the words, our restrictions have been made unenforceable by a recent ruling of the Texas Supreme Court. But they express our intent and expectation that the homes on the lots would not be operated as lodging businesses—that they would be homes for neighbors. Mr. and Mrs. Taccogna have an Illinois address and are advertising at least two vacation rentals in the New Braunfels area. The property is a place of business for them.

Mr. and Mrs. Taccogna began advertising the home in question and have booked dates through the summer in violation of the ordinances. They have made no effort to meet with neighbors or otherwise exhibit any welcome behavior. Their VRBO ad (now taken down) reads: parties and events allowed.

The operation of a rental business at the end of our road reduces these assets (quiet, secure, low traffic, neighborly) and sets a precedent for further incursion and harm.

We are also speaking for safety. Most of us who regularly turn onto West Spoke Hill from RR12 have had an accident or nearly one at that very dangerous intersection. The guardrails at the intersection, narrowing RR12 to two lanes, leave no shoulder or room for error or passing. We warn all visitors. EMS records show five ambulance responses to accidents at that intersection in 2017 and four so far in 2018. We advise never turning left if there is someone in the mirror and someone ahead—better to pass by and turn around at the Methodist Church. But right turns are hemmed and dangerous as well. The more people turning, particularly unsuspecting people, the more accidents.

With thanks and respects,

Gary and Leslie Weeks
202 West Spoke Hill Drive
Wimberley

Sandra Floyd

From: Tim de Jong [REDACTED]
Sent: Thursday, July 5, 2018 12:07 PM
To: Sandra Floyd
Subject: CUP-18-011

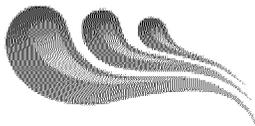
Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning Sandra;

With respect to the above stated issue, I own some apartments on 107 West Spoke Hill Rd. Across the street from Gary weeks. The road is a jointly owned and maintained by all of us. We all have paid an enormous amount of money to update and maintain the road. Additional traffic in that neighborhood does not comply with the fact that it is a neighborhood defined by a dead end street the businesses there are owner occupied as was mine when I was in that location. I feel that this situation does not lend it self to a transient population that a vacation rental would introduce.

Thank you for your time and attention to this matter.

Sincerely;



WIMBERLEY
GLASSWORKS

Tim de Jong
President
Wimberley Glassworks - Art Glass & Lighting
6469 Ranch Road 12, San Marcos, TX 78666

[REDACTED]
tim@wqw.com | www.wqwcustom.com | [Facebook](#) | [Instagram](#)

Hand-blown Art Glass Lighting Since 1992 by Tim de Jong

Sandra Floyd

From: Madelyn Murr [REDACTED]
Sent: Thursday, July 5, 2018 6:08 PM
To: Sandra Floyd
Subject: West Spoke Hill

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Floyd,

I am writing in response to an application filed which is 200 feet from my 10 acre property(owned for ten years) on West Spoke Hill. I am working on a preliminary plan, years in saving and planning, to develop a peaceful residential community which includes approximately five small homes for residential use by a group of ladies I have known for over 30 years and wish to retire in a peaceful, non transient place. This project has been on my bucket list for years, and finally, with patience, planning and years of saved money, I am hoping it will come to fruition. I am opposing any kind of rental, especially a vacation rental, 200 feet from my dream retirement.

I appreciate your time in taking the owners in this immediate area into serious consideration. This has been a long time dream and I hope it continues to be a peaceful residential place.

Thank you for your time!

Madelyn

NvesTexas Realty

Madelyn Murr

Broker



REALTOR®



AGENDA ITEM: Subdivision Code Amendment
SUBMITTED BY: Sandy I. Floyd
DATE SUBMITTED: July 16, 2018
MEETING DATE: July 19, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Discuss and consider approval of the first reading of an ordinance amendment that would allow for administrative approval of minor plat amendments for lots that would typically have a variance for lot configuration and require public notice and approval through P&Z and Council. The exception would be available for amendments that are not increasing density. At the Planning & Zoning meeting July 12th, the Commission voted 7-0-0 to recommend approval of the code amendment.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: | \$ |

STAFF RECOMMENDATION

Staff recommends approval.

ORDINANCE NO. 2018-_____

AN ORDINANCE AMENDING TITLE XV (LAND USAGE), CHAPTER 154, (SUBDIVISION CONTROL), SECTION 154.063 (LOTS), SUBSECTION (C) “LOT SHAPE”, OF THE CITY OF WIMBERLEY CODE OF ORDINANCES, TO EXCEPT MINOR ALTERATIONS TO INTERIOR LOT LINES THAT DO NOT INCREASE THE NUMBER OF LOTS; AND PROVIDING FINDINGS OF FACT; A PENALTY PROVISION; A REPEALING CLAUSE; A SAVINGS AND SEVERABILITY CLAUSE; AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley, Texas (the “City”) seeks to provide for the health, safety and welfare of its citizens; and

WHEREAS, the City Council of the City of Wimberley (“City Council”) enacted Chapter 154 of the City of Wimberley Code of Ordinances regarding subdivision regulations, design standards, and improvement requirements for land development pursuant to the authority of the Constitution and laws of the state, including particularly Texas Local Government Code, Chapter 212, Municipal Regulation of Subdivision and Property Development; and

WHEREAS, the City Council has enumerated the purpose of such regulations in Section 154.003 of that Chapter; and

WHEREAS, after recommendation of the City of Wimberley Planning and Zoning Commission of the below changes to Chapter 154, Section 154.063 “Lots”, the City Council hereby determines that it is in the best interests of the citizens of the City to amend such regulations not inconsistent with the stated purpose as shown in Chapter 154, Section 154.003.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, HAYS COUNTY, TEXAS:

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Title XV (Land Usage), Chapter 154, Section 154.063 “Lots”, Subsection (C) “Lot shape”, is hereby amended to add language that reads as follows:

(C) *Lot shape.* All lots shall be rectangular except when the street alignment is curved in order to conform with other provisions of this chapter or configuration of the parent tract does not permit. No lot shall have a corner intersection of less than 45 degrees. The ratio of average depth to average width shall not exceed 2.5 to 1 (2.5:1) nor be less than 1.5 to 1 (1.5:1) unless the lot is at least 1.5 times the required lot size, both the depth and width of the lot exceed the minimums required in these regulations, and the Director finds that the proposed lot dimensions are consistent with surrounding development and the Comprehensive Plan. This subsection shall not apply to any amendment to a subdivision that does not increase the number of

lots and is a minor amendment either dissolving an interior lot line or amending an interior lot line location.

Section 3. Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect, including the penalty provision of Chapter 154, Section 154.999.

Section 4. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

Section 5. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part of provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

Section 6. This Ordinance shall take effect immediately from and after its passage and the publication as provided by law.

Section 7. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this the _____ day of _____, 2018.

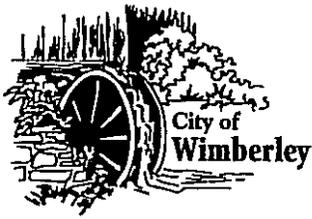
Susan B. Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney



AGENDA ITEM: Ordinance No. 2018-23 – Parks and Recreation Board
SUBMITTED BY: Laura Calcote
DATE SUBMITTED: July 16, 2018
MEETING DATE: July 19, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Attached is Ordinance No. 2018-23, amending Chapter 33 (Boards and Commissions), Subsections 33.04 (C)(2), (D), (E), (F), (G) and (H) (Parks and Recreation Board) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the composition, appointment, vacancies, terms, removal, officers and meetings of individuals appointed to the above referenced board; providing for findings of fact, an effective date; proper notice and meeting, and severability. The Ordinance has been redlined in order to see the amendments.

Furthermore, the previous appointments/reappointments to the Parks and Recreation Board on June 21, 2018 will need to be reversed until the passage of Ordinance No. 2018-23, and then approve the appointment or re-appointment of Board members.

Board Members Prior to Passage:	June 21 st Appointments/Reappointments:
Christine Byrne	Mike Stevens
Gary Pigg	Gary Pigg
Leigh Peterson	Mark Bursiel
Lin Weber	Merry Gibson
Marilee Wood	Marilee Wood
Matt Meeks	Matt Meeks
Toni Jinkins	

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution

Other

FINANCIAL

Budgeted Item	<input type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$
Not Applicable	<input checked="" type="checkbox"/>	Amount Under/Over Budget:	\$

STAFF RECOMMENDATION

Approval of Ordinance No. 2018-23

ORDINANCE NO. 2018-23

AN ORDINANCE AMENDING CHAPTER 33 (BOARDS AND COMMISSIONS), SUBSECTIONS 33.04 (C)(2), (D), (E), (F), (G) AND (H) (PARKS AND RECREATION BOARD) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS IN ORDER TO REVISE THE COMPOSITION, APPOINTMENT, VACANCIES, TERMS, REMOVAL, OFFICERS AND MEETINGS OF INDIVIDUALS APPOINTED TO THE ABOVE REFERENCED BOARD; PROVIDING FOR FINDINGS OF FACT, AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, AND SEVERABILITY.

WHEREAS, the City of Wimberley ("City") is authorized to establish boards, commissions and committees to receive public input and provide recommendations to the City Council; and,

WHEREAS, the City Council strives to consider qualified individuals who represent a broad sampling of the community when appointing members to City boards, commissions and committees; and,

WHEREAS, the City Council finds that the amendments to the composition, appointment, vacancies, terms, removal, officers and meetings of the Parks and Recreation Board referenced in this Ordinance will ensure uniformity and will enhance the membership of the City's boards, commissions and committees.

NOW, THEREFORE, BE IT ORDANED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. AMENDMENTS

Chapter 33 (Boards and Commissions), Subsections 33.04(C)(2), (D), (E), (F), (G) and (H) (Parks and Recreation Board) of the Code of Ordinances of the City of Wimberley, Texas is hereby amended to read as follows:

(C) *Composition of Board.*

(2) The Board shall be comprised of ~~six (76)~~ six (76) Hays County registered voters. Four (4) members must reside within the City's corporate limits and no more than ~~two-(32)~~ two (2) members may ~~be residents~~ reside of outside the city limits.

(D) *Appointment of Board members; vacancies.* Each member of the City Council and Mayor shall present their nominations for designated non-consensus ~~board~~Board positions members at ~~the first~~before the second regular City Council meeting in ~~the month of July~~June, following their election to office. At ~~that the~~ same meeting in ~~June~~July, ~~city~~City council~~Council~~ shall consider those nominations for appointment. Once appointed by a majority vote of ~~city~~City council~~Council~~, the appointed ~~board~~Board member shall serve until their successor is appointed. Each Board member shall be eligible for reappointment. Reappointments can be made to each position by the original appointer.

~~For consensus board positions, the Mayor and Council shall submit names of potential appointees for the consensus place(s) on the Board at the first regular Council meeting in the month of July following the Mayor's election to office. At the same meeting in July, city council shall consider those nominations for appointment.~~

~~If a board has more than one consensus position, the Mayor and Council shall submit names of potential appointees for the second consensus place on the Board at the first regular Council meeting in the month of July following the Place 1 City Council Member's election to office. At the same meeting in July, city council shall consider those nominations for appointment. Once appointed by a majority vote of city council, the appointed consensus member(s) shall serve until their successor is appointed. Each consensus Board member shall be eligible for reappointment.~~

(E) *Terms of Board members.* The term of each ~~board~~Board member shall be one (1) year, from July 1st to June 30th, two years from the date of appointment. Members can serve for a limit of three (3) consecutive terms.

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(F) *Removal of Board members.* Board members serve at the pleasure of City Council. The City Council may by majority vote remove a Board member at any time, for lack of confidence, incompetence, corruption, misconduct, or malfeasance. Any Board member who misses three (3) consecutive meetings, or one-third (1/3) of all regular meetings within a 12-month time period, shall be deemed to have automatically vacated his or her position on the Board. This section shall not apply to a Board member who applied for and received an excused absence from the Board chairperson prior to the meeting(s) at issue. Any Board member who no longer resides within the boundaries as provided above in ~~division~~Section (C)(2), is deemed to have automatically vacated his or her position on the Board.

(G) *Board officers.* From among its members the Board shall elect its officers, those being the chairperson, vice-chairperson, and secretary. Officers shall be elected for a one (1) year term~~s of 1 year~~. The Board chairperson shall preside over all meetings and may vote. If the chairperson fails or refuses to act, the vice-chairperson shall perform the duties of the chairperson. If the chairperson and vice-chairperson are absent or refuse to act, any Board member may be appointed by the Board to preside over the meeting.

(H) *Board meetings.* The Board shall conduct regular monthly meetings at City Hall, no less frequently than once a month at a time and place determined by resolution adopted by the Board. Special meetings may be called by the Board chairperson or upon application of three (3)

Board members. ~~A majority of the Board shall constitute a quorum~~A quorum shall be comprised of four (4) Board members. The Board may determine the rules of its proceedings.

Except as provided herein, of the Code of Ordinances of the City of Wimberley shall remain in full force and effect.

III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

IV. EFFECTIVE DATE

This Ordinance shall take effect immediately following its passage and publication as may be required by governing law.

V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this ____ day of _____, 2018.

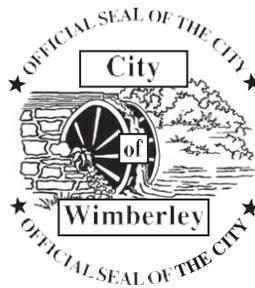
Susan B. Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney





AGENDA ITEM: Ordinance No. 2018-24 – Transportation Advisory Board
SUBMITTED BY: Laura Calcote
DATE SUBMITTED: July 16, 2018
MEETING DATE: July 19, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Attached is Ordinance No. 2018-24, amending Chapter 33 (Boards and Commissions), Subsections 33.02 (C), (D), (E), (F), (G) and (H) (Transportation Advisory Board) of the Code of Ordinances of the City of Wimberley, Texas in order to revise the composition, appointment, vacancies, terms, removal, officers and meetings of individuals appointed to the above referenced board; providing for findings of fact, an effective date; proper notice and meeting, and severability. The Ordinance has been redlined in order to see the amendments.

Furthermore, the previous appointments/reappointments to the Transportation Advisory Board on June 21, 2018 will need to be reversed until the passage of Ordinance No. 2018-24, and then approve the appointment or re-appointment of Board members.

Board Members Prior to Passage:	June 21 st Appointments/Reappointments:
Bert Ray	Michael Murphy
Gary Callon	Gary Callon
Bobby Dettmer	Bobby Dettmer
Buck Baccus	Mike Crowley
Mike Moeller	Mike Moeller
Ruth Mince	Ruth Mince
Rachel Emry	Rachel Emry

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution

Other

FINANCIAL

Budgeted Item	<input type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$
Not Applicable	<input checked="" type="checkbox"/>	Amount Under/Over Budget:	\$

STAFF RECOMMENDATION

Approval of Ordinance No. 2018-24

ORDINANCE NO. 2018-24

AN ORDINANCE AMENDING CHAPTER 33 (BOARDS AND COMMISSIONS), SUBSECTIONS 33.02 (C), (D), (E), (F), (G) AND (H) (TRANSPORTATION ADVISORY BOARD) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS IN ORDER TO REVISE THE COMPOSITION, APPOINTMENT, VACANCIES, TERMS, REMOVAL, OFFICERS AND MEETINGS OF INDIVIDUALS APPOINTED TO THE ABOVE REFERENCED BOARD; PROVIDING FOR FINDINGS OF FACT, AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, AND SEVERABILITY.

WHEREAS, the City of Wimberley ("City") is authorized to establish boards, commissions and committees to receive public input and provide recommendations to the City Council; and,

WHEREAS, the City Council strives to consider qualified individuals who represent a broad sampling of the community when appointing members to City boards, commissions and committees; and,

WHEREAS, the City Council finds that the amendments to the composition, appointment, vacancies, terms, removal, officers and meetings of the Transportation Advisory Board referenced in this Ordinance will ensure uniformity and will enhance the membership of the City's boards, commissions and committees.

NOW, THEREFORE, BE IT ORDANED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. AMENDMENTS

Chapter 33 (Boards and Commissions), Subsections 33.02 (C), (D), (E), (F), (G) and (H) (Transportation Advisory Board) of the Code of Ordinances of the City of Wimberley, Texas is hereby amended to read as follows:

(C) *Composition of Board.*

(2) The Board shall be comprised of six (7)6 Hays County registered voters. Four (4) members must reside within the City's corporate limits and no more than two (3)2 members may ~~be residents-reside of~~ outside the city limits.

(D) *Appointment of Board members; vacancies.* Each member of the City Council and Mayor shall present their nominations for designated non-consensus ~~board~~ Board positions members at the first before the second regular City Council meeting in ~~the month of July~~ June, following their election to office. At ~~that the~~ same meeting in ~~June July, city City council Council~~ shall consider those nominations for appointment. Once appointed by a majority vote of ~~city City council Council~~, the appointed ~~board Board~~ member shall serve until their successor is appointed. Each Board member shall be eligible for reappointment. Reappointments can be made to each position by the original appointer.

~~For consensus board positions, the Mayor and Council shall submit names of potential appointees for the consensus place(s) on the Board at the first regular Council meeting in the month of July following the Mayor's election to office. At the same meeting in July, city council shall consider those nominations for appointment.~~

~~If a board has more than one consensus position, the Mayor and Council shall submit names of potential appointees for the second consensus place on the Board at the first regular Council meeting in the month of July following the Place 1 City Council Member's election to office. At the same meeting in July, city council shall consider those nominations for appointment. Once appointed by a majority vote of city council, the appointed consensus member(s) shall serve until their successor is appointed. Each consensus Board member shall be eligible for reappointment.~~

(E) *Terms of Board members.* ~~All The terms of each Board member shall will be for a 3 year one (1) year, from July 1st to June 30th period. Board members can serve up to 3 consecutive terms at the City Council's pleasure. Members can serve for a limit of three (3) consecutive terms.~~

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(F) *Removal of Board members.* Board members serve at the pleasure of City Council. The City Council may by majority vote remove a Board member at any time, for lack of confidence, incompetence, corruption, misconduct, or malfeasance. Any Board member who misses three (3) consecutive meetings, or one-third (1/3) of all regular meetings within a 12-month time period ~~or 1/3 of all regular meetings~~ shall be deemed to have automatically vacated his or her position on the Board. This section shall not apply to a Board member who applied for and received an excused absence from the Board chairperson prior to the meeting(s) at issue. Any Board member who no longer resides within the boundaries as provided above in division Section (C), is deemed to have automatically vacated his or her position on the Board.

(G) *Board officers.* From among its members the Board shall elect its officers ~~in September who shall take office in October~~, those being the chairperson, vice-chairperson, and secretary. Officers shall be elected for a one (1) year term, s of 1 year. The Board chairperson shall preside over all meetings and may vote. If the chairperson fails or refuses to act, the vice-chairperson shall perform the duties of the chairperson. If the chairperson and vice-chairperson are absent or refuse to act, any Board member may be appointed by the Board to preside over the meeting.

(H) *Board meetings.* The Board shall conduct regular monthly public meetings ~~at City Hall, at least once a month at a time and place determined by resolution adopted by the Board.~~ Special meetings may be called by the Board chairperson or upon application of three (3) Board

members. ~~A majority of the Board shall constitute a quorum. A quorum shall be comprised of four~~ (4) Board members. The Board may determine the rules of its proceedings.

Except as provided herein, of the Code of Ordinances of the City of Wimberley shall remain in full force and effect.

III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

IV. EFFECTIVE DATE

This Ordinance shall take effect immediately following its passage and publication as may be required by governing law.

V. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this ____ day of _____, 2018.

Susan B. Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney





AGENDA ITEM: Ordinance No. 2018-26 – Hotel Occupancy Tax Advisory Committee
SUBMITTED BY: Laura Calcote
DATE SUBMITTED: July 16, 2018
MEETING DATE: July 19, 2018

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

Attached is Ordinance No. 2018-26, amending the Hotel Occupancy Tax Advisory Committee. This is the second and final reading of the Ordinance. The Ordinance caption was published in the Wimberley View on Thursday, July 19, 2018. A copy of the publication is also attached.

Furthermore, the previous appointments/reappointments to the Hotel Occupancy Tax Advisory Committee on July 10, 2018 will need to be reversed until the passage of Ordinance No. 2018-26, and then approve the appointment or re-appointment of Committee members.

Committee Members Prior to Passage:	July 10 th Appointments/Reappointments:
Clay Ewing	Clay Ewing
Julie Ray	Julie Ray
Traci Ferguson	Traci Ferguson
Allison Davis	Mark Bursiel
Buck Baccus	Lois Mahoney
Jennifer Ober	Dan Sturdivant
Chris Oddo	Natalie Meeks

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

Budgeted Item

Non-budgeted Item

Not Applicable

Original Estimate/Budget: \$

Current Estimate: \$

Amount Under/Over Budget: \$

STAFF RECOMMENDATION

Approval of Ordinance No. 2018-26

ORDINANCE NO. 2018-26

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, TO AMEND THE HOTEL OCCUPANCY TAX ADVISORY COMMITTEE; PROVIDE FOR FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Wimberley ("City"), Texas has established a Hotel Occupancy Tax Committee; and

WHEREAS, the City Council of the City of Wimberley, Texas strives to consider qualified individuals who represent a broad sampling of the community when appointing members to City boards and commissions; and

WHEREAS, the City Council of the City of Wimberley, Texas desires to amend the formal appointment process for the Hotel Occupancy Tax Advisory Committee by formally recognizing the Memorandum of Consensus between the Wimberley Valley Chamber of Commerce and the Wimberley Valley Lodging and Tourism Association and finds that the procedures herein will enhance the membership of the Committee;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

SECTION I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENT

Ordinance No. 2017-020, Section III, Hotel Occupancy Tax Advisory Committee, is hereby amended as follows:

- A. **Purpose.** There is hereby established a seven (7) member Hotel Occupancy Tax Advisory Committee (Committee), which shall oversee the implementation, collection, and use of hotel occupancy tax dollars.
- B. **Membership.**
 - 1. The seven members of the Committee shall be selected from the following representative groups:
 - a. Four Lodging Operator representatives nominated by the Wimberley Valley Tourism and Lodging Association Board, which shall include:
 - i. Two large lodging facility representatives (over \$250,000 in annual lodging revenue).

- ii. One small lodging facility representative (operator with less than three lodging rooms or less than \$ 250,000 in annual lodging revenue).
 - iii. One lodging reservation booking representative.
 - b. One Chamber Representative nominated by the Chamber of Commerce Board.
 - c. One Arts/Historical Attraction Representative nominated by the Wimberley Valley Arts and Cultural Alliance.
 - d. One Merchants Association Representative nominated by the Wimberley Merchants Association.
- 2. Each Committee member shall be appointed to a two (2) year term and may be reappointed by the Council for two additional consecutive two-year terms. After serving a third consecutive two-year term, an individual is not eligible for reappointment for two-years. The initial terms for one of the two large lodging facility representatives, the lodging reservation booking representative, the Merchants Association Representative and the Arts/Historical Attraction Representative shall be for one-year. The initial term for the remaining members (one large lodging facility representative, one small lodging facility representative, one Chamber representative) shall be for two-years.
- 3. Each Responsible Organization (Wimberley Valley Tourism and Lodging Association Board, Chamber of Commerce Board, Wimberley Valley Arts and Cultural Alliance, and Wimberley Merchants Association) shall provide its slate of nominees to the City Council no later than 30 days from the effective date of this Ordinance; otherwise, the Council may nominate committee members of its own choosing.
- 4. All nominees must be representatives of a business or entity that is located within the city limits or extraterritorial jurisdiction of the City of Wimberley.
- 5. Appointment to the Committee is subject to the approval of a majority vote of the Council. Members shall serve at the pleasure of the Council, and any member may be removed by majority vote of the Council at any time. In the event of removal, the Responsible Organization shall provide a replacement nominee no later than 30 days from the date of the vacancy; otherwise, the Council will nominate a person of its own choosing to fill the vacant position.

C. **Responsibilities.** The Committee is responsible for the following:

1. The Committee shall review revenue received by the City through the Hotel Occupancy Tax and shall make recommendations to the City Council regarding appropriate expenditures.
2. The Committee shall formulate a plan for expenditures of Hotel Occupancy Tax revenue by the City and shall update the plan as requested by Council.
3. The Committee shall submit an annual report to the Council that identifies approved expenditures by the City for the preceding year, discusses approved and proposed expenditures in the context of compliance with state law regarding the use of Hotel Occupancy Tax funds, and evaluates the effectiveness of approved Hotel Occupancy Tax expenditures and programs.
4. All recommendations of the Committee are subject to approval of the Council. The Committee shall not spend any money or authorize the expenditure of any money.

D. **Procedures.**

1. All meetings of the Committee shall satisfy the requirements of the Texas Open Meetings Act.
2. The Committee shall elect a Chair, Vice Chair, and Secretary on an annual basis.
3. All Committee recommendations to the Council shall require an affirmative vote of three- fourths of all members of the Committee (a " Super- Majority" vote").

SECTION III. DISSOLUTION OF PRIOR HOTEL OCCUPANCY TAX ADVOSORY COMMITTEE

The HOT Advisory Committee that was in existence prior to the adoption of this Ordinance is hereby dissolved. A member of the prior HOT Committee shall be eligible to apply for a position on the reconstituted HOT Committee for which that person is qualified, as described by this Ordinance.

SECTION IV. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Ordinance.

SECTION V. SEVERABILITY

Should any sentence, paragraph subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION VI. REPEALER

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VII. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by law.

SECTION VIII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this ____ day of _____, 2018.

Susan B. Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney



**Pre-Invoice
46953-0711**

San Marcos Daily Record

P.O. Box 1109
San Marcos, TX 78667
512-392-2458

Accounts Payable
City of Wimberley
P.O. Box 2027
Wimberley, TX 78676

Customer: RA0684
Phone: 847-0025
Ad No.: 46953
PO Number:
Sales Rep: Barker, Taffy
Bill Date: 07/11/18
Due Date: 07/18/18

Public Notices

**NOTICE OF ENACTMENT OF
ORDINANCE NO. 2018-26**

An ordinance of the City of Wimberley, Texas, to amend the Hotel Occupancy Tax Advisory Committee; provide for findings of fact, savings, severability, repealer, an effective date, and proper notice and meeting.

Date	Publication	Cost
Jul 19, 2018	Wimberley Legal Classifieds	\$27.06
Days: 1	Total Charges:	\$27.06
	Applied Prepayments/Credits:	\$0.00
	Total Due by 7/18/18:	\$27.06

San Marcos Daily Record

Detach and Send This Stub With Your Payment to P.O. Box 1109, San Marcos, TX 78667

Ad #: 46953
Customer: RA0684
Customer: City of Wimberley
Bill Date: 07/11/18
Due Date: 07/18/18
Total Due: \$27.06

Payment Visa M/C Other _____ Cash
Number: _____ Check _____
Expiration: _____
Name On _____

Signatur ⁹⁶ _____



AGENDA ITEM: Amendment to Chapter 152, Subsection 152.11 (Community Electronic Message Display Sign)

SUBMITTED BY: Shawn Cox, City Administrator

DATE SUBMITTED: July 13, 2018

MEETING DATE: July 19, 2018

AGEND FORM

ITEM DESCRIPTION/SUMMARY

The Wimberley ISD (WISD) is asking for an amendment to Chapter 152 (Signs) Subsection 152.11 (Community Electronic Message Display Signs). The amendment to the Code will allow WISD to install a digital marquee sign at the administration building located at 951 FM 2325, which was included in their 2018 Bond Package.

The location and installation of an electronic sign at this location has been discussed numerous times in the past, and the City did request funding for its installation in 2015 from Pedernales Electric Cooperative (PEC), which was ultimately denied.

The proposed changes clarify the allowed locations of the sign(s) and allow for a larger electronic message display (from 20 square feet to 25 square feet.) If approved all signage would still be permitted and required to satisfy other requirements of Chapter 152, including location, and size.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

- | | | | |
|-------------------|-------------------------------------|---------------------------|----|
| Budgeted Item | <input type="checkbox"/> | Original Estimate/Budget: | \$ |
| Non-budgeted Item | <input type="checkbox"/> | Current Estimate: | \$ |
| Not Applicable | <input checked="" type="checkbox"/> | Amount Under/Over Budget: | \$ |

ATTACHMENT(S)

- Ordinance No. 2018-29 (Red-lined)
- PEC Sign Funding Request Letter - May 6, 2018

STAFF RECOMMENDATION

ORDINANCE NO. 2018-29

AN ORDINANCE OF THE CITY OF WIMBERLEY TEXAS AMENDING CHAPTER 152 (SIGNS) SUBSECTION 152.11 (COMMUNITY ELECTRONIC MESSAGE DISPLAY SIGN) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SEVERABILITY, REPEALER, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING

WHEREAS, the City Council of the City of Wimberley, Texas (the " City") seeks to provide for the health, safety and welfare of its citizens and provide for the orderly development of land within its corporate limits and its extraterritorial jurisdiction; and

WHEREAS, the City has the authority to regulate signage pursuant to Texas Local Government Code Chapters 51, 52, 211, 216, and 217; and,

WHEREAS, pursuant to Texas Local Government Code § 51.012, the City Council is authorized to adopt an ordinance, not inconsistent with state law, that the council considers proper for the government interest, welfare or good order of the City; and

WHEREAS, the City recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City, its interest, welfare, and good order of the City as a body politic.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FO THE CITY OF WIMBERLEY, TEXAS:

SECTION I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of Wimberley and are hereby adopted and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENT

THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 152 (Signs) Subsection 152.11 (Community Electronic Message Display Sign), is hereby amended to read as follows:

“§ 152.11 COMMUNITY ELECTROIC MESSAGE DISPLAY SIGN

A community electronic message display is a sign capable of displaying words, symbols, figures or imaged that can be electronically or mechanically changed by remote or automatic means.

- (A) A community service electronic message display shall be erected only by the City of Wimberley, ~~in partnership with~~and/or the Wimberley ISD, on ~~government property~~

owned ~~property by the City of Wimberley or Wimberley ISD, which is~~ located in a non-residential area.

- (B) The area of a community service electronic message display shall not exceed ~~twenty-five~~ (2025) square feet and the display shall be at least a 10 mm 80 x 192 RGB LED Matrix Display with dimming capability.
- (C) No more than two (2) community service electronic message display signs shall be allowed within the City limits and/or its ETJ.
- (D) A community service electronic message display shall be used to provide government-related message to the general public and to solicit support for, or participation in, a non-profit, non-political, community, public, or social purpose, cause, event or activity, such as one supporting school activities, charitable programs, activities or events of community interest.

SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Article shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Article.

SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Article be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Article in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION V. REPEALER

The provisions of this Article shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Article are hereby expressly repealed to the extent that such inconsistency is apparent. This Article shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE

This Article shall take effect immediately from and after its passage and publication as may be required by law.

SECTION VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Article was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this ____ day of _____, 2018.

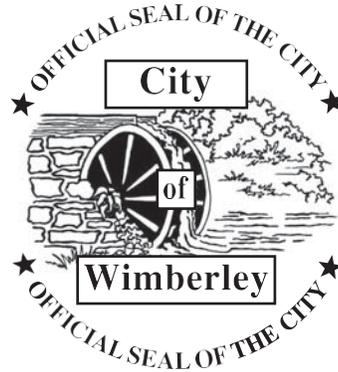
Susan B. Jagers, Mayor

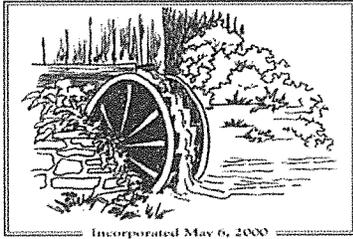
ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney





City of Wimberley

221 Stillwater , P.O. Box 2027, Wimberley, Texas 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

Steve Thurber, Mayor - Matt Meeks, Mayor Pro-Tem

Council Members - Tom Talcott, Cindy Anderson, Pam Showalter, John White
Don Ferguson, City Administrator

May 6, 2015

John D. Hewa
Chief Executive Officer
Pedernales Electric Cooperative
P.O. Box 1
Johnson City, TX 78636-0001

Delivery Via Email & Regular Mail

Dear John:

On behalf of the City of Wimberley (the "City"), I would like to formally request the Pedernales Electric Cooperative (the "PEC") consider reimbursing the City up to \$25,000 for the purchase and installation of an LED electronic sign (based on actual costs evidenced by supporting documentation in a form acceptable to PEC), as was done with several other cities in the PEC service area.

While the City understands the deadline for participation in PEC's sign reimbursement program has passed, the City believes special circumstances exist to warrant favorable PEC consideration of this request.

It was the City that initially suggested PEC partner with affected cities to purchase LED signs for community messages following the elimination of PEC's over-the-road community banner program. PEC offered to reimburse affected cities a portion of their cost for an LED sign. While many cities moved quickly to accept the PEC offer, such was not the case in Wimberley.

Recognizing that accepting the PEC offer would result in Wimberley's first-ever LED message sign, City leaders carefully discussed and considered the proposal over a period of months before eventually deciding to participate in the sign reimbursement program. In the end, a majority of the City's leaders agreed that an LED sign would be an acceptable and effective means of filling the community information "gap" created by the elimination of the PEC's over-the-road community banner program. It should be noted that the over-the-road community banner program in Wimberley was one of the largest, if not the largest, in the PEC system when that program was active.

There is no question the City's decision-making process regarding the subject sign program was lengthy and extended beyond the initial program participation deadline. However, status updates regarding the City's deliberations were provided to PEC staff and the City was advised by PEC that extension of the program deadline would not be a problem.

Should the City's reimbursement request be approved, the City is prepared to move forward with the acquisition of an appropriately sized LED sign that will be installed on FM 2325, in front of the new Wimberley ISD Administration Building. In anticipation of such a sign being installed, the WISD has already paid for and installed the electrical infrastructure required for such a sign.

Your timely consideration of this request would be greatly appreciated. If I may be of further assistance in this matter, please do not hesitate to contact me at City Hall at 512.847.0025.

Sincerely,

A handwritten signature in black ink, appearing to read 'Don Ferguson', with a large, stylized flourish extending to the right.

Don Ferguson
City Administrator



AGENDA ITEM: Resolution No. 22-2018 - Temporary Construction Easement on Hays CAD Property ID R18405 on Henson Rd.

SUBMITTED BY: Shawn Cox, City Administrator

DATE SUBMITTED: July 16, 2018

MEETING DATE: July 19, 2018

AGEND FORM

ITEM DESCRIPTION/SUMMARY

To minimize the impact the construction along Henson Rd. would have on the Square, our Contractors, Capital Excavation asked the City to enquire about temporary construction easements along that portion of the Collection Line Project.

Working with the property owner, Carson Diversified Land 2, LLC, the City has been able to develop a temporary construction easement. This twenty (20) foot easement will be used to store materials removed during the excavation process. Use of this easement will require the removal of the juniper (cedar) and hackberry trees. As a part of the easement, the area will be re-planted with native grasses, once the construction in the area is completed.

Approval of the temporary construction easement is provided through the adoption of Resolution No. 22-2018, a copy of which is attached.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

Budgeted Item	<input type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$
Not Applicable	<input checked="" type="checkbox"/>	Amount Under/Over Budget:	\$

ATTACHMENT(S)

- Resolution No. 22-2018
- Temporary Construction Easement – Henson Rd - Property ID R18405

STAFF RECOMMENDATION

Shawn Cox, the City Administrator, recommends approval of this item.

RESOLUTION NO. 22-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, AUTHORIZING ACCEPTANCE OF A TEMPORARY CONSTRUCTION EASEMENT AGREEMENT FOR CONSTRUCTION OF UTILITIES TO BE LOCATED ON HAYS CAD PROPERTY ID R18405 ALONG HENSON RD., WIMBERLEY, HAYS COUNTY, TEXAS, ON A PROPERTY OWNED BY CARSON DIVERSIFIED LAND 2 LLC

WHEREAS, the City of Wimberley has been in negotiations with various property owners to temporarily utilize property for the construction of wastewater connections and pipelines for the Central Wimberley Wastewater Project as approved by this City Council; and

WHEREAS, it is necessary for the City to acquire certain easements in connection with this Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

SECTION 1. That the City Council of Wimberley accepts the dedication of the temporary construction easement made by CARSON DIVERSIFIED LAND 2 LLC to the City, a description of said property being fully set forth in the attached Exhibit “A” for the purposes provided therein.

SECTION 2. The Mayor is hereby authorized to execute the dedication instrument and all related documents on behalf of the City to formalize this acceptance.

PASSED, APPROVED, AND ADOPTED on this 19th day of July, 2018, at a regular meeting of the City Council of the City of Wimberley, Texas, which meeting was held in compliance with the Open Meetings Act, *Tex. Gov’t Code*, §551.001, et.seq. at which meeting a quorum was present and voting.

Susan B. Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

City Attorney



Denton, Navarro, Rocha & Bernal, P.C.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

GRANT OF EASEMENT:

CARSON DIVERSIFIED LAND 2 LLC, a Texas limited liability company with a mailing address of 407 S Stagecoach Trail, Ste 203, San Marcos, Texas (“Grantor”), for the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, does hereby grant, sell and convey unto **THE CITY OF WIMBERLEY, TEXAS**, a Type A General Law city located in Hays County, Texas with a mailing address of PO Box 2027, Wimberley, TX 78676 (“Grantee”), a temporary access and construction easement (“TCE” or “Easement”) across a variable width area not to exceed twenty (20) feet from the right of way boundary of Henson Road upon and across that certain 2.7 acre property of Grantor identified as Property ID R18405 by the Hays County Appraisal District. The TCE is more particularly described on Exhibit “A”, attached hereto and incorporated herein by reference (“Easement Property”). Grantor and Grantee may jointly be referred to by “the parties.”

TO HAVE AND TO HOLD the same onto Grantee together with the rights and privileges and on the terms and conditions set forth below.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Definitions.* For the purposes of this grant of Easement certain terms shall have the meanings that follow:
 - (a) “Holder” shall mean Grantee subject to the terms of this agreement.
 - (b) “Permitted Improvements” shall mean landscaping or planting of vegetation; but shall not mean the construction of a building,

structure, above or below grade utilities, or any other improvements whatsoever.

- (c) "Public Infrastructure" shall mean reclaimed water and/or wastewater pipelines and associated appurtenances to be constructed by the Holder or its agents, contractors and assigns outside the Easement Property in the abutting right of way.
2. *Character of Easement.* The Easement granted herein is "in gross," in that there is no "Benefitted Property." The TCE rights of use granted herein are irrevocable until the termination of the TCE in accordance with the terms herein.
 3. *Purpose of Easement.* The Easement shall be used to facilitate the construction of Public Infrastructure, which shall include use of the Easement Property for access, construction staging and storage, and other construction activities. No Public Infrastructure may be constructed on the Easement Property.
 4. *Term.* The variable width TCE granted herein shall terminate on the earlier of December 31, 2018 or upon completion of the portion of construction of the Public Infrastructure directly abutting the TCE included in Grantee's Public Infrastructure project.
 5. *Reservation of Rights.* Save and except: Grantor retains the right to surface use. Grantor and Grantor's heirs, successors, and assigns shall retain the right to use the surface of all or part of the Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns neither interferes nor conflicts with the use of the Easement Property by Holder for the Easement Purpose.
 6. *Use and Maintenance of Easement Property.* Holder has the right to remove or relocate any surface vegetation and juniper (aka cedar) or hackberry trees upon the Easement Property as necessary to utilize the same for the purpose of this Easement. Removal of any other type of tree requires Grantors express consent. Holder shall be solely and fully responsible for compliance with any and all laws and regulations related to the removal of trees and other vegetation upon the TCE, erosion control, litter control, environmental protection, and all other maintenance of the Easement Property during the term of this TCE. Not more than thirty (30) days after to the termination of this TCE, Holder shall restore the Easement Property to the same condition of the Easement Property immediately before the Grantee's use of the same (except there is no requirement to replant trees permitted to be removed by this TCE) including, but not limited to, re-establishing the Easement Property with native grass (the "Requirement to

Restore”). This Requirement to Restore shall survive termination of this TCE.

7. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
8. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney’s fees and court and other costs.
9. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
10. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Hays County, Texas.
11. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
12. *Waiver of Default.* It is not a waiver of or consent to default if the non-defaulting party fails to declare immediately default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
13. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
14. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.

15. *Legal Construction.* Any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
16. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
17. *Recitals/Exhibits.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement. All exhibits referenced herein are attached hereto and incorporated by reference herein for all purposes.
18. *Entire Agreement.* This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the party to be charged.

[Signature Page Follows]

IN WITNESS WHEREOF, this instrument is executed this _____ day of _____ 20__.

GRANTOR:

CARSON DIVERSIFIED LAND 2, LLC,

By: Carson Haysco Holdings, LP, Its Sole Member

By: Carson Diversified GP, LLC, Its General Partner

By: _____

By: W.C. Carson,

Manager of the General Partner

THE STATE OF TEXAS §

§

COUNTY OF HAYS §

BEFORE ME, a Notary Public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and having been sworn, upon his oath stated that he is authorized to execute such instrument; and that said instrument is executed as the free and voluntary act and deed for the purposes and consideration expressed therein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____ 20__.

Notary Public Signature

(seal)

GRANTEE:

AGREED AND ACCEPTED:

CITY OF WIMBERLEY, TEXAS,
a Texas Type A General Law
municipality

By: _____
Susan B. Jagers, Mayor

ATTEST:

Laura J. Calcote, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on _____,
20__, by Susan Jagers, Mayor of the City of Wimberley, Texas, a Texas Type A
General Law municipality, on behalf of said municipality.

Notary Public Signature

(seal)

AFTER RECORDING, RETURN TO:

City of Wimberley
Attn.: Laura J. Calcote, City Secretary
PO Box 2027
Wimberley, Texas 78676

EXHIBIT "A"

**Carson Diversified Land 2 LLC
20' Temporary Construction Easement**



20' Easement

WIMBERLEY SQ

OAK DR

HENSON RD

DISCLAIMER: This map is not of survey quality and is not an authoritative representation of any properties located on the ground; this should be used only as a general reference map. The City of Wimberley assumes no liability as a result of misuse or misinterpretation of any data represented hereon. No warranty is expressed or implied regarding accuracy or completeness.

By City of Wimberley



0 50 100 Feet



AGENDA ITEM: Resolution No. 23-2018 (Budget Amendment 12)
SUBMITTED BY: Shawn Cox, City Administrator
DATE SUBMITTED: July 16, 2018
MEETING DATE: July 19, 2018

AGEND FORM

ITEM DESCRIPTION/SUMMARY

As presented at the July 10, 2018 Council meeting, the FY 2018 Adopted Budget did not include an expenditure to cover the Texas Waster Development Loan interest payment of \$65,542.67 due August 1, 2018. The Budget did indicate a “Revenue Bond Transfer In” of \$82,213.00, which would cover the expenditure. However, no information on where that money would come from was provided, and in talks with our Financial Advisors no transfer to the City is expected.

There where three options provided to Council for their consideration on how to fund this payment. Based on the feedback received, Resolution No. 23-2018, being considered tonight would transfer money from the Blue Hole Parkland Fund, fund balance, to the Wastewater Fund.

If approved Resolution No. 23-2018 would reduce the Blue Hole Parkland Fund balance by \$65,542.67, leaving a new fund balance of \$399,450.85. This is well above the 75% (\$251,022.75) fund balance adopted by Council on July 10, 2018.

REQUESTED ACTION

- Motion
- Discussion
- Ordinance
- Resolution
- Other

FINANCIAL

Budgeted Item	<input type="checkbox"/>	Original Estimate/Budget:	\$
Non-budgeted Item	<input type="checkbox"/>	Current Estimate:	\$
Not Applicable	<input type="checkbox"/>	Amount Under/Over Budget:	\$

ATTACHMENT(S)

- Resolution No. 23-2018

STAFF RECOMMENDATION

Shawn Cox, City Administrator, recommends approval of this item.

RESOLUTION NO. 23-2018

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2017/2018 OPERATING BUDGET (BUDGET AMENDMENT NO. 12.), PROVIDING FOR THE TRANSFER OF FUNDS IN THE BLUE HOLE PARKLAND FUND TO WASTEWATER FUND; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council approved the 2017/2018 Operating Budget and appropriated the necessary funds out of the Blue Hole Parkland Fund; and

WHEREAS, Council has reviewed and approves the report establishing the need for increased appropriations in the Blue Hold Operating Fund for the repair of restroom facilities.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, THAT:

Section 1

The City Council of the City of Wimberley, Texas, hereby authorizes and approves an amendment to the 2017/2018 Operating Budget (Budget Amendment No. 12) for the purpose and in the amounts shown below, the amounts to be appropriated from Fund Balance:

Blue Hole Parkland Fund (200)

Transfers – Transfer from Blue Hole Parkland Fund (200)

Decrease fund balance (\$464,993.52 by \$65,542.67)

**Transfers – Transfer to Blue Hole Operating Fund
(6990-Operating Transfer Out)**

Increase expenditure balance in 6990-Operating Transfer Out from \$0.00 to \$65,542.67

Wastewater Fund (202)

**Transfers – Transfer from Blue Hole Operating Fund
(6990-Operating Transfer Out) to Wastewater Fund (5799-Operating Transfer In)**

Decrease expenditure balance in 6990-Operating Transfer Out from \$65,542.67 to \$0.00
and Increase revenue balance in 5799-Operating Transfer In from \$306,760.00 to
\$372,302.47

**Transfers – Transfer to Wastewater Fund (202)
(6901-Wastewater Debt Service Interest)**

Increase expenditure balance in 6901-Wastewater Debt Service Interest from \$0.00 to
\$65,542.67

The effect of these transactions will reduce fund balance in Blue Hole Parkland Fund (200) by \$65,542.67 and increase expenditures in the Wastewater Fund (202) (6901- Wastewater Debt Service Interest) by \$65,547.67.

Section 2

The City Council of the City of Wimberley, Texas, hereby amends the 2017/2018 Operating Budget, increasing appropriations in the funds stated in Section 1 above.

Section 3

This resolution shall be and become effective immediately upon and after its adoption and approval.

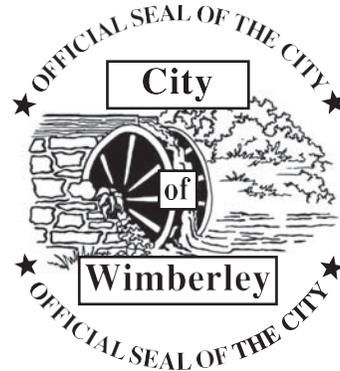
PASSED AND APPROVED this 19th day of **July, 2017.**

The City of Wimberley, Texas

Susan B. Jagers, Mayor

ATTEST:

Laura Calcote, City Secretary



**City of Wimberley Partnership Agreement with
The Friends of Blue Hole , Inc**

November 2010

I. Description of Partnership Organization

The name of the partnering organization is Friends of Blue Hole, Inc. ("FOBH"). The purpose of Friends is to promote, protect, preserve, and develop Blue Hole Regional Park ("Park") owned by the City of Wimberley ("City"). The FOBH has been in existence since May 2005 when it was incorporated in the State of Texas as a non-profit charitable corporation with a federal 501(c)(3) status and federal tax ID 20-3415046. The FOBH provides planning, citizen input, fundraising, community outreach and leadership to promote, protect, preserve, and develop the Blue Hole Regional Park. Principals of FOBH were instrumental in the acquisition of the parkland starting in 2003 and the \$3.2 million dollar fundraising effort. The FOBH funded the Blue Hole Regional Park Master Plan with a donation of \$115,000. The FOBH has given guidance and advice to the City in the design phase of the park development project.

The Board of Directors of FOBH:

Peter Way, President
Stephen Klepfer, Executive Director
Marilee Wood, Liaison to City of Wimberley
Jim Braniff
Valarie Bristol
Curt Busk
Bob Dussler
Tevis Grinstead
Suzanne McCord
Andy Sansom
Shelton Smith
Stephen Thurber

To reach FOBH:

Mr. Peter Way, President FOBH
706 FM 2325 Suite B
P.O. Box 1601
Wimberley, Texas 78676
pway@wayholding.com

(512) 847-2746
(713) 666-3541 Cell

(512) 847-0081 FAX

Steve Klepfer, Executive Director
PO Box 1601
Wimberley, Texas 78676

oldmillstore@austin.rr.com

(512)970-9464

(512)847-3068

(512)847-0081 FAX

www.friendsofbluehole.org

II. Decision Making Authority

The Board of Directors of FOBH will make decisions for the FOBH. Peter Way, Stephen Klepfer, or Marilee Wood shall represent the FOBH in matters relating to this agreement.

III. Scope

The FOBH shall partner with the City to raise at least \$300,000 for park elements, amenities, fundraising administrative costs and future park maintenance outlined in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan* adopted in 2007 by the Wimberley City Council. The FOBH shall conduct a fundraising campaign at no cost to the City and donate funds to the City. This campaign will include cash and in-kind donations. Significant donations for specific elements in the park development may be named for the donor. A maintenance endowment will be raised as part of all naming cash donations. This endowment, which will be managed by the Friends, will be available and restricted to defray future maintenance cost of the park.

This partnership agreement applies to the effort to raise funds for specific elements and amenities outlined in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan*. It does not restrict the current ability of the FOBH to accept and expend funds contributed to the organization for the general purpose of promoting, protecting, preserving, and developing Blue Hole Regional Park owned by the City of Wimberley ("City"). The FOBH by-laws regulate the expenditure of such general contributions.

IV. Benefits to the Partnering Organization

This partnership will allow the FOBH to significantly fulfill its mission to promote, protect, preserve, and develop Blue Hole Regional Park owned by the City. The City agreeing to in-kind donations and naming opportunities for the specific elements

and amenities identified in the park's master plan will allow the FOBH to raise significant funds for the development and maintenance of the park.

V. Benefits to the City of Wimberley

This partnership will benefit the City by providing capital for the development and maintenance of the park that is not otherwise available. Park development will be completed significantly sooner and with upgraded architectural design of the buildings. In addition, community outreach throughout the fundraising effort will enhance awareness and citizen "ownership" of the park.

VI. Responsibilities of the City of Wimberley and Friends

A. The responsibilities of the FOBH shall be to:

- (1) The FOBH shall solicit funds for the development and on-going maintenance of elements and amenities detailed in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan*, in accordance with the fundraising plan adopted by the City Council.
- (2) The FOBH shall manage the funds solicited and received for the development and on-going maintenance of elements and amenities detailed in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan*.
- (3) The FOBH shall retain 5% of each donation received for the naming of specific elements and amenities in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan* for administrative expenses. In any one calendar year, if greater than \$60,000 has been retained for administrative costs then that additional retainage shall be deposited into the maintenance endowment at the end of the subject calendar year.
- (4) The FOBH shall provide funding to the City, when requested, for the development and on-going maintenance of elements and amenities detailed in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan* for which funds are being solicited and received. Funding requests from the City shall be fulfilled by the FOBH within thirty (30) days of the date of the written notice.
- (5) The FOBH shall provide quarterly reports to the City on the progress of the FOBH's fund raising efforts for the reporting period, including but not limited to, details on the funding raised and provided to the City. In addition, the quarterly reports shall provide detail on the administrative expenses incurred by the FOBH in its fund raising efforts.

- (6) Upon request by the City, the FOBH shall provide the financial books and records of the FOBH for inspection and review by authorized representatives of the City or by independent certified public accountants employed by the City. The City may conduct an audit of the financial records at City expense.
- (7) Prior to acceptance of any single donation in excess of \$25,000, the FOBH shall present the proposed donation to the City for possible consideration and approval.
- (8) The FOBH shall perform any duties authorized by the certificate of formation or attached by-laws of the FOBH.
- (9) In the event the FOBH is dissolved, prior to such action, all funds held by FOBH, both restricted and unrestricted, shall be transferred by FOBH to a City approved 501(c)(3) organization whose purpose is to solicit funds for the development and on-going maintenance of the Park.
- (10) The FOBH shall authorize the City's unrestricted use of the "Blue Hole Logo", developed and copywrited by the FOBH, for matters relating to the development, operation and promotion of the park.

B. The responsibilities of the City shall be to:

- (1) The City shall coordinate with and provide support to the FOBH in its fund raising efforts
- (2) In conjunction with the City budget process, the City shall submit to the FOBH an annual written request for the funds needed to develop the elements and amenities and on-going maintenance detailed in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan*. The City may also request funding for such development and on-going maintenance work outside the normal budget process in the event of unforeseen circumstances.
- (3) When requesting funds from the FOBH, the City shall provide written detailed cost estimates for the development and/or maintenance work for which funding is being sought. Upon completion of the subject development and/or maintenance

work, the City shall provide the FOBH with a written report documenting the completion and costs incurred.

- (4) In accordance with the adopted *Blue Hole Regional Park Signage Plan*, the City shall design, produce and install the required park signage recognizing those who have contributed funds for the development and on-going maintenance of the specific elements and amenities detailed in Phase 1 and Phase 2 of the *Blue Hole Regional Park Master Plan*,
- (5) In the event the FOBH is dissolved, the City shall designate a 501(c)(3) organization, whose purpose is to solicit funds for the development and on-going maintenance of the park, where the FOBH shall transfer all funds held by the FOBH, both restricted and unrestricted, prior to the organization being dissolved.

VII. Term.

- A. Unless terminated as provided herein, the Initial Term of this partnership agreement will commence on the date of execution by the last party to sign the agreement (hereinafter the "Effective Date"). The Initial Term shall be for one (1) year, commensurate with the calendar year. In the event that the parties execute this agreement after the beginning of a calendar year, the Initial Term shall be from the beginning of the provision of the funding raising services until the end of calendar year in which the agreement was executed.
- B. This agreement shall automatically renew for succeeding one-year Renewal Terms, commensurate with the corresponding calendar year year, unless terminated by either party as provided for in Article VIII.

VIII. Termination

- A. This agreement may be terminated by either party, for any reason whatsoever, by providing sixty (60) days' written notice to the non-terminating party. In the event of termination, all unexpended funds at the time, held by FOBH, which were raised in accordance with this agreement, shall be transferred by FOBH to a City approved 501(c)(3) organization whose purpose is to solicit funds for the development and on-going maintenance of the Park.