

City of Wimberley
 City Hall, 221 Stillwater
 Wimberley, Texas 78676
Planning & Zoning Commission
 Minutes of Regular Meeting
 January 9, 2014 at 6:00 p.m.

Meeting called to order at 6:00 p.m. by Chair Tom Haley. Present were Commissioners Beth Mitchell, Tracey Dean, Charles Lancaster, Steve Klepfer, Lance Cawley, and Rick Burleson.

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

Citizen Communications:

No citizen comments were heard.

1. Consent Agenda

- A. Approval of minutes of the Regular Planning & Zoning Commission meeting on December 12, 2013.
- B. Approval of minutes of the Special Planning & Zoning Commission meeting on December 18, 2013.

Commissioner Dean moved to approve Consent Agenda Item 1B, as presented. Commissioner Klepfer seconded. Motion carried on a vote of 7-0.

Commissioner Klepfer moved to approve Consent Agenda Item 1A, as presented. Commissioner Dean seconded. Motion carried on a vote of 6-0. Commissioner Mitchell abstained.

2. Public Hearings and Possible Action

- A. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-13-017, an application for a conditional use permit to allow for the operation of a vacation rental facility on property zoned Residential Acreage (RA), located at 1402 East Spoke Hill Road, Wimberley, Hays County, Texas. (*Geno and Susan Baiamonte, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing structures. After the City received a recent traffic complaint from a neighbor, it was discovered that the subject homes were being rented on a short-term basis through a local accommodation booking agent. When notified of the City's requirement for a conditional use permit (CUP), the property owner submitted an application for a vacation rental CUP. It was noted that the applicant proposes to use both residences as vacation rentals, with a requested maximum occupancy of six

(6) persons for the main home and four (4) persons for the guest home, with adequate space on-site for the required off-street parking.

City Administrator Ferguson advised that documentation on the existing on-site septic system submitted by the applicant did not provide adequate information for City staff to make a determination on the maximum occupancy limits. Should the Commission desire to recommend approval of the CUP, City Administrator Ferguson asked that the maximum occupancy limits be the number determined by City staff, once the applicant has provided detailed information on the size of the current drain field and septic tank. He noted that the occupancy limit recommended by City staff is not expected to exceed the maximum occupancy requested by the applicant.

City Administrator Ferguson noted the applicant's rules and read a list of staff-recommended conditions to be made part of the requested CUP, should the Commission desire to recommend approval. He advised that staff has received written opposition from four (4) adjacent property owners (three of the owners are within the 200-foot notification area and one owner resides outside the notification area). Expressed concerns included additional traffic, potential for trespassing, and other guest activities that could adversely impact the neighborhood.

Chairman Haley opened the public hearing.

Robin McCullough of 1415 East Spoke Hill Drive stated that she has not experienced any problems associated with the subject property and has no objections to its continued use as a vacation rental.

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

Discussion addressed:

- Amount of opposition from surrounding property owners
- Commission's consistent record of recommending denial when significant opposition is expressed by neighboring property owners
- Specific concerns expressed by opponents relating to noise, negative effect on property values, trespassing by renters, and increased traffic
- Subject property's location in a neighborhood that has historically opposed bed and breakfast/vacation rental facilities
- Length of time the subject property has been used as an unpermitted vacation rental, without the proper CUP in place
- Recent complaint regarding traffic from rental activity
- The applicant's failure to provide lack of documentation on the septic system, as requested by the City in order to determine maximum occupancy limits
- Staff-recommended CUP condition that the applicant provide detailed information on the size of the current drain field and septic tank before a determination is made by City staff on maximum occupancies of the main and guest homes

- Requirement that written evidence must be provided to the City by the applicant showing that the septic system has been inspected and found to be properly functioning and capable of serving the maximum occupancy determined by City staff, prior to using the residences as vacation rentals
- Criteria used by staff to determine maximum occupancy limits
- History of complaints related to the subject property's use as a vacation rental
- Possibility of continuing the Commission's consideration until the applicant has submitted the requested septic system documentation

Audience member Andy Reisberg questioned reasoning for the applicants' CUP application submittal, since the subject property has been in use as a vacation rental for several years. Discussion established that the applicants were operating illegally until the recent traffic complaint brought the unauthorized vacation rental use to the attention of City staff.

Discussion addressed possible measures that would help identify unauthorized vacation rental/bed and breakfast operations, subject property's proposed maximum occupancy of up to ten (10) persons and its location on a dead end street, and lack of septic system documentation from the applicants, despite continuance of this CUP consideration, at the applicants' request.

Prior to stating his motion, Commissioner Dean noted that the applicants have the opportunity to re-apply for a CUP once their septic system documentation is completed, if they so choose. Based on comments heard at tonight's meeting, amount of opposition expressed by neighbors, and the applicants' incomplete application submission, Commissioner Dean moved to recommend denial of the requested CUP. Commissioner Cawley seconded.

Chairman Haley called for a vote as follows: Commissioner Burleson, aye; Commissioner Cawley, aye; Commissioner Klepfer, aye; Chairman Haley, aye; Commissioner Lancaster, aye; Commissioner Dean, aye; Commissioner Mitchell, nay. Motion carried on a vote of 6-1.

- B. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-13-018, an application for a conditional use permit to allow for the operation of a vacation rental facility on property zoned Rural Residential 1 (R-1), located at 2225 River Road, Wimberley, Hays County, Texas. (*Jill Wedel, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing structures. He noted that the applicant's original CUP application sought permission to utilize the guest house as a vacation rental, however, the application was amended to use the main house as a vacation rental, instead of the guest house. He stated the applicant is proposing a maximum occupancy of six (6) guests, with adequate space on-site for the required off-street parking.

Based on the City Sanitarian's review of the septic permit, City staff recommended a maximum occupancy not to exceed four (4) persons. City Administrator Ferguson stated the applicant asked whether the maximum occupancy could be increased in the future, if the septic system were upgraded to handle the increased capacity. He advised that a future change in the CUP condition relating to maximum occupancy would require the applicant to submit an application for a CUP amendment. Prior to using the main house as a vacation rental, City Administrator Ferguson stated that written evidence will need to be provided to the City by the applicant showing that the septic system serving the subject residence has been inspected and found to be properly functioning and capable of serving the proposed maximum capacity.

He noted the applicant's house rules and read a list of staff-recommended conditions to be made part of the requested CUP, should the Commission desire to recommend approval. Two inquiries were received on the CUP request, however, no opposition was expressed.

Chairman Haley opened the public hearing.

Hearing no comments, Chairman Haley closed the public hearing.

Brief discussion addressed lack of opposition, existing septic system, and established that the property owners and family members plan to occupy the guest home, with the main house to be used as a vacation rental.

Commissioner Mitchell moved to approve the item, as presented, which includes the staff-recommended maximum occupancy of no more than four (4) persons. Commissioner Lancaster seconded. Motion carried on a vote of 7-0.

3. Staff and Commission Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson reminded that City Council is scheduled to hold its public hearing and consider action on HEB's Wimberley Planned Development District (WPDD) request on January 16, 2014 at 6 p.m. at the Wimberley Community Center.

He advised that Council will be considering a draft ordinance prohibiting unauthorized vacation rental/bed and breakfast facilities within city limits and establishing a licensing/permitting program for such facilities. Brief discussion addressed specific provisions of the proposed ordinance and public outreach efforts to enhance awareness among property owners, realtors, and reservation agencies of the City's CUP regulations.

Commissioner Klepfer expressed concerns regarding Commissioner Cawley's absence during discussion of the HEB WPDD item (and subsequent vote on said item) at the Commission's special meeting held December 18, 2013.

Hearing no further announcements or future agenda items, Chairman Haley called the meeting adjourned.

Adjourn at 6:50 p.m.

Recorded by:

Cara McPartland
Cara McPartland

These minutes approved the 27th of February, 2014.



APPROVED:

Tom Haley
Tom Haley, Chair