

**City of Wimberley**  
City Hall, 221 Stillwater  
Wimberley, Texas 78676  
**Planning & Zoning Commission**  
Minutes of Regular Meeting  
February 27, 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 (arrived at 6:03), Lance Cawley, and Rick Burleson. Commissioner Steve Klepfer was absent.

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

**Citizen Communications:**

No citizen comments were heard.

**1. Consent Agenda**

Approval of minutes of the Regular Planning & Zoning Commission meeting on January 9, 2014.

Commissioner Dean moved to approve the minutes, as presented. Commissioner Mitchell seconded. Motion carried on a vote of 5-0. Commissioner Lancaster had not yet arrived.

**2. Public Hearings and Possible Action**

- A. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-14-001, an application for a conditional use permit to allow for the operation of a vacation rental facility on property zoned Single Family Residential 2 (R-2), located at 335 Smith Creek Road, Wimberley, Hays County, Texas. (*Ed and Debra Foster, Applicants*)

City Administrator Ferguson introduced Planning Technician Charles Foster to the Commission.

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing structures. It was noted that the applicant proposes to use both residences as vacation rentals with a maximum occupancy of six (6) persons for the main home and two (2) persons for the guest home, with adequate space on-site for the required off-street parking. City Administrator Ferguson stated both houses have been used as vacation rentals in the past.

City Administrator Ferguson advised that the City Sanitarian reviewed the septic permit for the subject property's existing on-site septic system and recommended a maximum

occupancy for the main house of four (4) persons and a maximum occupancy for the guest house of two (2) persons. He noted that prior to using the two (2) structures as vacation rentals, written evidence will need to be provided to the City by the applicant showing that the septic system serving the subject residences has been inspected and found to be properly functioning and capable of serving the proposed maximum capacity.

City Administrator Ferguson noted the applicant's house rules and read a list of staff-recommended conditions to be made part of the requested conditional use permit (CUP), should the Commission desire to recommend approval. He advised that staff has received no comments either for or against the proposed CUP and recommended approval.

Applicant Ed Foster clarified the subject property's lot configuration and placement of structures on Lot 1 only, with no structures on Lot 2. City Administrator Ferguson advised that a separate future CUP application would be needed, if the applicant built a rental facility on Lot 2. Even though the applicant feels the septic system is capable of handling six (6) persons, he stated that the staff-recommended maximum occupancy limit for the main house is acceptable and that he will abide by that limit. He noted that the subject property is approximately one-hundred yards from FM 2325 and that none of his neighbors have objections to use of the subject property as a vacation rental.

Chairman Haley announced that Commissioner Lancaster has arrived (at 6:03 p.m.).

Chairman Haley opened the public hearing.

Hearing no comments, Chairman Haley closed the public hearing.

Discussion addressed the subject property's location and lot configuration, location of existing structures, septic system capacity, applicant's intent to sell the subject property, and prior use as a vacation rental.

Commissioner Dean moved to recommend approval of the item, as presented, including the list of staff-recommended conditions. Commissioner Mitchell seconded. Motion carried on a vote of 6-0.

- B. Hold a public hearing and consider making a recommendation to City Council regarding proposed amendments to the City of Wimberley Zoning Code to modify the attendance requirements and removal process for members of the City of Wimberley Planning and Zoning Commission. (*City Administrator*)

City Administrator Ferguson presented City Council's proposed amendment to the Zoning Code that would impose the following attendance requirements:

"The City Council may, by majority vote, remove a Commission member for lack of confidence, incompetence, corruption, misconduct or malfeasance. Any

Commission member who misses two (2) consecutive meetings or three (3) meetings within a twelve (12) month period shall appear before the City Council to explain the reason behind their absences. Any Commission member who misses three (3) consecutive meetings within a twelve (12) month time period shall be deemed to have automatically vacated his or her position on the Commission. Individuals deemed to have automatically vacated his or her position on the Commission may appeal the vacation to the City Council. Such an appeal shall be submitted in writing to the City Council within ten (10) days of receiving written notification of the vacation. A super majority vote of City Council is required to reverse a vacation. For the purpose of this meeting attendance requirement, it shall be considered a missed meeting for any Commission member who leaves a meeting prior to the completion of all action items on the posted agenda for a meeting for any other reason than to avoid a potential conflict of interest. Any Commission member who is removed or automatically vacates his or her position on the Commission shall not be considered for appointment to the Commission or a City Board by City Council for a period of six (6) months from the date of their removal or vacation.”

No public comments were heard.

Discussion addressed:

- Commissioner Mitchell’s clarification that she left the June 13, 2013 meeting early due to a conflict of interest
- Questions regarding definitions terms such as “malfeasance” and what constitutes “bad behavior”
- Commission members’ service as unpaid volunteers
- Personal sacrifice and time commitment of Commission members
- Past allegations of malfeasance and Council’s response
- Self-policing of the Commission’s attendance and/or conduct
- Work-related absences/tardies and ability of Commission members to prepare for meetings
- Responsibility of appointing Council member to confer with his respective Commission appointee on any issues of concern
- Additional Council proposal to require Commission member(s) with two (2) consecutive absences or three (3) absences within a twelve (12) month period to appear before City Council to provide reasons for such absences
- Specific Commission members’ voting records and communications among members of City Council and Commission members relating to specific voting-related matters
- Number of Planning and Zoning Commission meetings cancelled due to lack of a quorum and whether complaints were filed as a result of those cancellations
- Difficulty in finding qualified volunteers to serve on City boards and commissions
- Role of Planning and Zoning chair to act as liaison to City Council
- Problems associated with quantifying absences
- Political nature of appointments

- “Excused” versus “unexcused” absences
- Delays to applicants caused by meetings cancelled due to lack of a quorum
- Commission’s current meeting schedule (once per month) and ability of Commission to schedule special meetings, if necessary
- Less restrictive, self-policed attendance requirements for Commission members

Commissioner Cawley moved to recommend denial of the proposed amendments to the Zoning Code to modify attendance requirements and removal process for Commission members, with further discussion of this item to be scheduled on a future Commission agenda. Commissioner Dean seconded. Motion carried on a vote of 6-0.

**3. Staff and Commission Reports**

- Announcements
- Future Agenda Items

In response to Commissioner Dean’s inquiry, City Administrator Ferguson advised that City Council will hold future discussion and consideration of rules of conduct for board/commission members when addressing Council in a public meeting. There was brief discussion of Council’s conduct and relations with the Commission and Council’s role in establishment of rules related to decorum during meetings.

Commissioner Dean commended City Administrator Ferguson on his handling of both the Ace Hardware and H-E-B WPDDs in an impartial, unbiased manner.

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

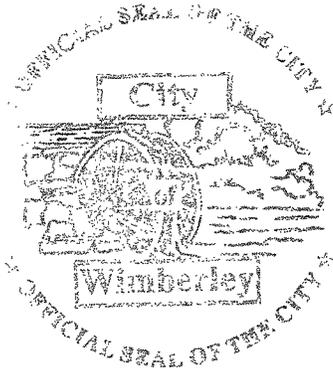
**Adjourn at 7:01 p.m.**

Recorded by:

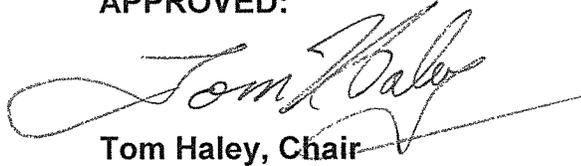


Cara McPartland

**These minutes approved the 27<sup>th</sup> of March, 2014.**



**APPROVED:**



**Tom Haley, Chair**