

**City of Wimberley**  
 City Hall, 221 Stillwater  
 Wimberley, Texas 78676  
**Planning & Zoning Commission**  
 Minutes of Regular Meeting  
 July 14, 2016 at 6:00 p.m.

Meeting called to order at 6:00 p.m. by Acting Chair John Urban. Present were Commissioners Natalie Meeks, Rebecca McCullough, Gail Pigg, and John Espinoza. Chairman Charles Savino and Commissioner Austin Weeks were 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 June 23, 2016.

Chairman Urban moved to approve the minutes, as presented. Commissioner McCullough seconded. Motion carried on a vote of 5-0.

**2. Public Hearings and Possible Action**

- A. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-015, an application for a Conditional Use Permit to allow for the operation of a bed and breakfast facility on property zoned Residential Acreage (RA), located at 406 Hoots Holler Road, Wimberley, Hays County, Texas. (*Kelvin and Brenda Adams, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing primary and secondary residential structures. He advised the applicants are proposing to use the guest cabin as a bed and breakfast facility with a maximum occupancy of two (2) people. He noted each residence is served by a properly permitted and functioning on-site septic system.

Based on a review of the system and proposed use, the City Sanitarian has indicated that no more than three (3) people shall occupy the guest cabin. City Administrator Ferguson advised the applicants propose to limit maximum occupancy to two (2) people and guests would be required to park on the subject property. He read a list of conditions to be made part of the requested Conditional Use Permit (CUP), should the Commission desire to recommend approval. He advised that one written response was

received expressing concerns regarding access to the subject property via University Road.

Applicant Kelvin Adams noted that he owns a total of twelve (12) acres and that he purchased the rights to unlimited use of University Road from Texas State University, which is an easement he helps to maintain, and not a City road.

Applicant Brenda Adams said there are two entrances to the subject property and noted the application is for the top entrance on Hoots Holler, not for the bottom entrance on University Road. Kelvin Adams stated that either entrance can be used to access the property.

Chairman Urban opened the public hearing.

Applicant Kelvin Adams spoke on nearby rental activity on surrounding properties.

Hearing no comments, Chairman Urban closed the public hearing.

Discussion addressed the University Road easement, deed restrictions, residency requirement for bed and breakfast owners, and two-person maximum occupancy limit.

Commissioner Pigg moved to recommend approval of the CUP, as presented. Commissioner Meeks seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-016, an application for Conditional Use Permit to allow for the operation of a vacation rental facility on property zoned Single Family Residential 2 (R-2), located at 2660 FM 3237, Wimberley, Hays County, Texas. (*Chris & Karen Lawrence, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing two-bedroom residence, which the applicants are proposing to use as a vacation rental with a maximum occupancy of four (4) guests. He advised there is a property permitted and functioning septic system that serves the residence. Based on a review of the septic system and proposed use, City staff is recommending a maximum occupancy of three (3) people. He noted guests would be required to park on the subject property. City Administrator Ferguson read a list of conditions to be made part of the requested Conditional Use Permit (CUP), should the Commission desire to recommend approval. He advised that one written response and one phone call expressing opposition have been received by City staff.

Applicant Karen Lawrence noted that the referenced phone call in opposition was from an adjacent property owner (Jeremy Trahan), who has since spoken to the applicants. Mrs. Lawrence stated Mr. Trahan's concerns have been resolved and he now supports the CUP request.

Chairman Urban opened the public hearing.

Aaron Hays Atkins of 2630 FM 3237 spoke of problems with existing area rental properties, including two calls to Hays County Sheriff regarding the Cabins at Smith Creek, noise, litter, absentee ownership, and access via an unmaintained easement. He asked that the Commission recommend denial of the CUP.

Johannes Grijzen and Sharlene Evans of 230 Arrowlake expressed concerns regarding loss of privacy, guests using Smith Creek, property devaluation, and disturbance of the peace. He cited deed restrictions from 1964 that state "no business of any kind shall be carried out in any residence" and asked the Commission to reject the CUP application.

Darin Anderson of Hill Country Premier Lodging, whose company would manage the subject property, stated there are a lot of area rentals on FM 3237 (such as Cabins at Smith Creek), and said he has never received notice of any calls to the Sheriff's Office. He noted he carries the emergency phone and responds to calls 24 hours a day and has not received any complaints. He advised of his company's procedures to resolve complaints, including asking people to leave, if necessary. City Administrator Ferguson said there are four or five short-term rentals in the general vicinity of the subject property.

Tammy Braun of 300 Arrowlake stated there are numerous area rentals and cited problems related to an owner-managed short-term rental operating on Arrowlake Drive, including large groups, weddings, fireworks, trash, and trespassing. She did not feel this rental is being properly overseen. She felt rentals impact her privacy and property values and was concerned that the area is becoming nothing but rentals. She preferred that the Commission not recommend approval.

Chairman Urban closed the public hearing.

Discussion addressed access to the subject property from FM 3237; secluded nature of subject property; total acreage; deed restrictions as civil matters among homeowners/homeowners associations; the so-called "Twenty-percent Rule" that applies to City Council actions; septic permitting/capacity; complaint-driven enforcement of maximum occupancy limit; ability of the Commission to recommend additional conditions; recourse of property owners to pursue civil action to enforce deed restrictions; and existing area rental operations.

Chairman Urban commented that when opposition is expressed, the Commission has a responsibility to listen to voiced concerns and said he would vote against recommending approval.

Chairman Urban moved to recommend denial of the CUP, based on opposition. Commissioner Pigg seconded. Motion carried on a vote of 3-2. Councilmember McCullough and Meeks voted against.

- C. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-017, an application for Conditional Use Permit to allow for the operation of a vacation rental facility on property zoned Single Family Residential 2 (R-2), located at 1824 Flite Acres Road, Wimberley, Hays County, Texas. (*Robert Weber, Applicants*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing 5-bedroom residence, which the applicants are proposing to use as a vacation rental with a maximum occupancy of ten (10) guests. He advised there is a property permitted and functioning septic system that serves the residence. Based on a review of the septic system and proposed use, City staff is recommending a maximum occupancy of six (6) people. He noted guests would be required to park on the subject property.

City Administrator Ferguson read a list of conditions to be made part of the requested CUP, should the Commission desire to recommend approval. He advised that two written responses expressing opposition have been received by City staff and one phone call seeking information on the CUP request.

Applicant's representative, Cathy Weber Biediger, spoke on the rebuilding of her parents' flood-damaged residence and agreement to limit maximum occupancy to six (6) people based on the septic permit.

Chairman Urban opened the public hearing.

Charles Lancaster of 1700 Flite Acres Road spoke of his long friendship with the Webers, who are elderly flood survivors and due to health issues, have moved closer to family near Houston. He said the Webers need income from their Wimberley home to offset costs of staying in Houston. Due to these circumstances, as well as the lack of negative impact to vehicle traffic, Mr. Lancaster asked the Commission to recommend approval.

Steve Stewart of 2105 Spoke Hollow expressed concerns regarding noise, trash, and the number of existing area rentals. He said they have never called to complain, but have been disturbed by rental activity. Mr. Stewart stated there are seven vacant lots directly across from his property and did not want a developer to come in and build rental properties, which he felt would become a massive problem. He said it would hurt property values and ruin their tranquility and privacy. Mr. Stewart stated they love the river and miss the trees, but they want the peace and tranquility they bought into some time ago.

Chris Webre of 2205 Spoke Hollow expressed sympathy for the Webers and spoke of his family's plans to retire to Wimberley and build a house here. He echoed Steve Stewart's earlier comments, cited past problems with an existing nearby rental property, and asked the Commission to reject the CUP request. Mr. Webre said he might not build on his property, if surrounded by river rentals.

Chairman Urban closed the public hearing.

Discussion addressed management of the vacation rental by a local company; septic capacity; applicant's compliance with the maximum occupancy requirement of six (6) people; limited availability for rentals, given frequent use of subject property by family members; prior noise complaints regarding adjacent Blanco River Cottages (destroyed in May 2015 flood); notification of City staff, responsible party, and law enforcement in the event of complaints; possible CUP revocation for non-compliance with CUP conditions; trespassing by renters seeking water access; Council's grandfathering policy for flood-damaged/destroyed properties; and comparison of vacation rentals with absentee owners versus owner-occupied bed and breakfasts.

After discussion of public input and procedural issues, Commissioner Espinoza moved to recommend approval of the CUP request, as presented. Commissioner Pigg seconded. Motion carried on a vote of 3-2. Commissioner Espinoza and Commissioner Urban voted against.

Cathy Weber Biediger asked if prospective buyers are told of rules and regulations regarding properties on the river, as she thought the Webers owned property to the middle of the river. Chairman Urban said each property's survey should reflect such information.

- D. Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-018, an application for Conditional Use Permit to allow for the operation of a vacation rental facility on property zoned Single Family Residential 2 (R-2), located at 2912 Flite Acres Road, Wimberley, Hays County, Texas. (*John and Sharyl Robertson, Applicant*)

City Administrator Ferguson advised the applicants have withdrawn the CUP request.

Chairman Urban moved to accept the withdrawal of the CUP application, as requested. Commissioner McCullough seconded. Motion carried on a vote of 5-0.

### **3. Staff and Commission Reports**

- Announcements
- Future Agenda Items

City Administrator Ferguson provided reasoning for evaluating zoning requests on a case-by-case basis. Discussion addressed the importance of public input, impact on neighbors, management/oversight of rentals, and grandfathering procedures for short-term rentals. Regarding future agenda items, City Administrator Ferguson advised the Commission will be considering clarification of City Code language related to the definition of "single family residence."

Hearing no further comments, Chairman Urban called the meeting adjourned.

Adjourn at 7:25 p.m.

Recorded by:

*Cara McPartland*  
Cara McPartland

These minutes approved the 11<sup>th</sup> of August, 2016.

APPROVED:

*John P. Urban*  
John Urban, Acting Chair

