

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Planning & Zoning Commission
Minutes of Regular Meeting
July 25, 2013 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, Steve Klepfer, Lance Cawley, and Rick Burleson. Commissioner Charles Lancaster 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 July 11, 2013.

Commissioner Klepfer moved to approve the minutes, as presented. Commissioner Mitchell seconded. Motion carried on a vote of 5-0. Commissioner Dean abstained.

2. Public Hearings and Possible Action

- A. Hold a public hearing and consider making a recommendation to City Council regarding a proposed ordinance of the City of Wimberley, Texas amending Chapter 155 (Zoning) of the Code of Ordinances, Subsection 155.055(C) (Lodging (L-2); Conditional Uses) to allow eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption, as a conditional use; and providing for the following: penalty; findings of fact; repealer; severability; effective date; and proper notice and meeting. (*City Administrator*)

City Administrator Ferguson explained that the L-2 zoning district is intended for moderate lodging operations, such as small motels and hotels, and that often such lodging developments include sit-down eating establishments which serve beer, wine, and alcohol. He noted that under current regulations, sit-down eating establishments that sell beer, wine, and alcohol for on-premise consumption are allowed as a conditional use in all commercial zoning districts and that L-2 zoned properties are allowed in Planning Areas V and VI, which are moderate to high intensity commercial planning areas.

No public comments were heard.

Discussion addressed possible reasoning for not including the L-2 zoning district with other commercial districts when the City adopted alcohol regulations, exclusion of L-1 zoning district from the proposed ordinance, and concerns expressed by Chairman Haley regarding the inclusion of alcohol, as opposed to beer and wine only.

Commissioner Klepfer moved to recommend approval of the item, as presented. Commissioner Dean seconded. Motion carried on a vote of 6-0.

- B. Hold a public hearing and consider making a recommendation to City Council regarding Case No. CUP-13-007, an application for a conditional use permit to allow for the sale of beer and wine for on-premise consumption at a sit-down eating establishment located on a tract of property zoned Lodging (L-2), located at Unit 110, 111 River Road, Wimberley, Hays County, Texas. (*Leaning Pear, LLC, Applicant; This item was continued from the July 11, 2013 meeting of the Planning & Zoning Commission*)

City Administrator Ferguson reviewed the subject property's location, planning area, current/proposed zoning and uses, and existing conditional use permit (CUP) for the sale of beer and wine for on-premise consumption at the soon-to-be former location of the restaurant, which is zoned Commercial – Low Impact (C-1). He noted that relocation of the restaurant onto a neighboring tract zoned L-2 will require approval of a new CUP, conditioned on City Council's approval of the previous agenda item amending the City's Zoning Code. He advised that one inquiry was received on the CUP request, but no indication of support or opposition was provided.

No public comments were heard.

Discussion addressed the applicant's desire to include beer and wine only in the newly requested CUP and established that the existing CUP on the adjacent C-1 zoned tract will remain in place, unless removed at the applicant's request or revoked.

Commissioner Dean moved to recommend approval of the item, as presented, conditioned on City Council's approval of the previous agenda item to amend the City's Zoning Code to allow the subject use in L-2 zoned properties. Commissioner Cawley seconded. Motion carried on a vote of 6-0.

- C. Hold a public hearing and consider making a recommendation to City Council regarding Case No. CUP-13-009, an application for a conditional use permit to allow for a secondary residential building on a .523 acre tract of land zoned Single Family Residential 2 (R-2), located at 100 Donna Drive, Wimberley, Hays County, Texas. (*Glenda Wilcox, Applicant; this item was continued from the July 11, 2013 meeting of the Planning & Zoning Commission*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, existing residential structure/garage, intended use of the secondary building as housing for a family member, and access to both residences from Mary

Stephenson Lane. It was noted that if the CUP is granted, a new septic system would be installed to service both residences, which would require City Council approval of a variance from the City's on-site sewage facility (OSSF) lot size requirements. City Administrator Ferguson advised that written opposition based on concerns regarding increased density and possible future rental of the secondary residence has been received from Charles Catt, the owner of two (2) lots, which represent approximately sixteen percent (16%) of the notification area.

Chairman Haley opened the public hearing.

Andrew Cable spoke in support of the secondary residential structure, which he stated is allowed under the City's Zoning Code and the subject property's deed restrictions.

Jennifer Anderson, who resides at the subject property, stated that secondary residences are allowed under deed restrictions. She recognized concerns expressed by Charles Catt in his aforementioned letter of opposition, but felt Mr. Catt was aware of the subject property's deed restrictions when he purchased his lots, which she said allow secondary residences. She spoke of her family's need for the requested secondary residence and asked for the Commission's support.

Richard Thompson, owner of 333 Mary Stephenson Lane, who owns a 14-acre tract partially within the 200-foot notification area, spoke in opposition to the requested CUP based on the subject property's small lot size and suggested expansion of the existing residence to accommodate their family member's needs. He advised that an area property owner, who is not within the 200-foot notification area, will be submitting written opposition to the requested CUP.

Clarification was provided on Ms. Anderson's status as resident of the subject property, which is owned by her mother, applicant Glenda Wilcox; the location of neighboring lots owned by opponent Charles Catt; and the total amount of written opposition received for purposes of calculating whether the threshold has been met for triggering the requirement for a super majority vote by City Council to affirm the requested zoning change.

Discussion addressed the Commission's history of recommending denial when significant opposition from neighbors is received; construction of a breezeway adjoining the two residential structures as an alternative to requesting a CUP for a separate residential building; clarification on the so-called "Twenty Percent Rule" invoking the super majority vote requirement by City Council to approve the CUP; and the applicant's objections to the suggested breezeway.

Josefa Thompson, owner of 333 Mary Stephenson Lane, favored the breezeway concept to adjoin the two residences, thereby eliminating the need for a CUP request. She asked if there was any intent to use the secondary residence as a rental property in the future.

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

Discussion included the amount of written opposition received to date, the previously suggested breezeway, the need for a CUP to allow a secondary residential building on R-2 zoned properties, the Commission's precedent of recommending denial when opposition exists, and a possible additional condition stating that the secondary residence shall not be rented out.

Commissioner Dean moved to recommend approval of the item, as presented, with the additional condition that the secondary residence shall not be used as a rental property. Commissioner Cawley seconded.

Chairman Haley called for a vote as follows: Commissioner Mitchell, aye; Commissioner Dean, aye; Commissioner Klepfer, aye; Commissioner Cawley, aye; Commissioner Burleson, nay; Chairman Haley, aye. Motion carried on a vote of 5-1.

3. Discussion and Possible Action

Discuss and consider possible action regarding the proposed development of an ordinance allowing chickens in residential areas within the City of Wimberley.
(City Administrator)

City Administrator Ferguson reviewed current regulations which prohibit chickens on residentially zoned properties zoned less than two (2) acres in size. Due to recent complaints and ensuing enforcement actions, some chicken owners have asked the City to consider allowing residents to keep chickens in their backyards. He presented a draft of proposed regulations (*attached to these minutes*) to facilitate discussion, which included:

- Limitation on the number of chickens allowed
- Permitting procedures similar to those for CUPs, which require public notification
- Enclosure requirements to prevent roaming
- Setback provisions
- Prohibition on roosters
- Prohibition on slaughter of chickens
- Health and safety issues

Discussion addressed regulations adopted in other cities, enforcement issues, use of lot size as criteria for the number of chickens allowed, requiring enclosures versus allowing chickens to roam within a fenced backyard, minimum acreage requirements, and possible registration/permitting.

Chairman Haley requested that staff draft an ordinance for future Commission consideration and recommendation. No vote was taken.

4. Staff and Commission Reports

- Announcements
- Future Agenda Items

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

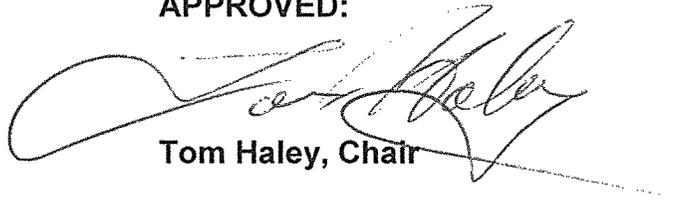
Adjourn at 6:55 p.m.

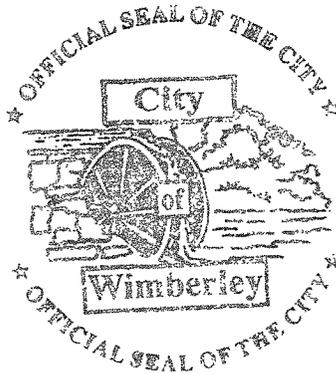
Recorded by:


Cara McPartland

These minutes approved the 12th of September, 2013.

APPROVED:


Tom Haley, Chair



Current Regulations:

1. Chickens are considered non-commercial livestock which is permitted on residentially tracts two (2) acres or larger in size. (*R-1 & RA zoned properties*)

Proposed Regulations:

1. A person who wishes to keep or house chickens on his or her property, where that property encompasses an area of **one (1) or greater in size (*R-1, R-2, and RA zoned properties*)**, shall register with the City of Wimberley and shall comply with all of the following requirements:
 - a. When registering, applicants shall present to the City with evidence that owners of property adjacent to the applicant's property approve of the planned housing of chickens on the subject property.
 - b. Keep no more than four (4) chicken hens per lot.
 - c. The principal defined use of the person's property shall be single-family.
 - d. No person shall keep any rooster.
 - e. No person shall slaughter any hens on his or her property.
 - f. The chicken hens shall be provided with and housed inside of a covered structured enclosure at all times, which is located within the rear yard inside of a fenced perimeter enclosure. The rear perimeter fence shall be securely constructed so to keep the chicken hens separated from other animals.
 - g. A person shall not keep chicken hens in any location on the property other than in the rear yard. For purposes of this ordinance, "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.
 - h. No covered enclosure shall be located closer than 10 feet to any property line of an adjacent property.
 - i. All enclosures for the keeping of chicken hens shall be constructed or repaired so as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. The covered enclosure shall not be located closer than 30 feet to any residential structure on an adjacent property.

- j. For purposes of this ordinance, adjacent property means all parcels of property that the property comes into contact with at least one (1) or more points, except for parcels that are legally adjacent to but are in fact separated from the property by a public or private street or waterway.
- k. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
- l. If these requirements are not complied with, the City may revoke any Registration granted under this ordinance and/or initiate prosecution for a criminal infraction violation.
- m. These requirements shall not apply to animal shelters, veterinary establishments, animal hospitals operated by a licensed veterinarian, or commercial animal establishments located on property zoned for such purposes. Such establishments, however, must meet sanitation requirements and keep animals securely cage or penned.