

City of Wimberley
City Hall, 221 Stillwater
Wimberley, Texas 78676
Planning & Zoning Commission
Minutes of Regular Meeting
August 25, 2016 at 6:00 p.m.

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

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

Citizen Communications:

Craig Reitz spoke on a recent letter to the editor of the Wimberley View which he felt unfairly criticized the Commission. He said it is important to have turnover in the Commission to have fresh views for the future of our city. He stated the source for the claim the Commission is untrained and uninformed comes from the lodging industry, which he said "believes that P & Z should rubber stamp every request for a vacation rental." He referenced previous remarks attributed to the lodging industry indicating that Wimberley needs "heads in beds." Mr. Reitz felt this is false, because Wimberley needs "cars in lots." He said the City can be financially successful with day visitors and cited a demographic study that suggested Wimberley would have a large influx of tourists visiting on a daily basis, once infrastructure is updated to handle the flow of tourists. Mr. Reitz stated that at a recent meeting merchants and a Hotel Occupancy Tax presentation confirmed that Wimberley is overcrowded and our summer season has gotten out of control. He said locals and regulars are needed to support businesses year-round, but right now locals and regulars avoid the City's center due to overcrowding and lack of parking. Mr. Reitz cited reasons that CUP applications from absentee property owners who want to change their residences into vacation rental businesses are ill-conceived. He proposed making it incumbent on the applicant to generate at least fifty percent (50%) of favorable responses to the CUP request, and without meeting such a test, he said CUP applications should be denied. He also felt vacation rental CUPs should be renewed every one to two years, with the same test of approval from adjoining property owners. Mr. Reitz did not believe that vacation rental CUPs should pass on in perpetuity to the next owner and said this changes our neighborhoods from residential to commercial.

Hills of Texas Lodging's Robbie Walker disputed Mr. Reitz's claim that the lodging industry said anything about the Commission and recognized the tough job the Commission has to do. He said Wimberley has to decide whether it wants to be a unique experience as we are now and let tourism drive how our City operates or become a "me, too" city that will bring in commercial development such as hotels and Wal-marts and have ad valorem taxes as the main driver of City revenues. He felt if this animosity continues, the very people who do not want short-term rental CUPs are going

to be the ones complaining if an ad valorem tax will be needed to replace lost revenues from those who come here to stay in vacation rentals.

1. **Assignment of Terms for Members of the Planning and Zoning Commission**
2. **Election of Officers**

Chairman Savino advised that Agenda Items 1 and 2 will be continued until a future meeting date when all Commission members are present. No action was taken.

3. **Consent Agenda**

Approval of minutes of the Regular Planning & Zoning Commission meeting on August 11, 2016.

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

4. **Public Hearing and Possible Action**

Hold a public hearing and consider making a recommendation to City Council regarding Case CUP-16-020, 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 140 Malone Drive, Wimberley, Hays County, Texas. (*Carlton D. Bass, Applicant*)

City Administrator Ferguson reviewed the subject property's location, current/proposed zoning and uses, and existing 2½-bedroom, 2-bath residence. He advised the applicant is proposing to use the residence as a vacation rental facility with a maximum occupancy of six (6) people. He noted the 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 four (4) people shall occupy the vacation rental facility. 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), and recommended an additional condition requiring that marketing of the vacation rental shall not be for occupancy of more than four (4) people, should the Commission desire to recommend approval. It was noted that one (1) written response was received in opposition to the CUP request and one (1) verbal inquiry seeking information.

Commissioner Urban asked if the applicant can re-apply in the future, if his CUP application is denied, and favored denial until the Commission has a clear path on this issue. City Administrator Ferguson replied affirmatively that the applicant may re-apply.

Commissioner Meeks asked if there are any more short-term rental CUP applications pending and City Administrator Ferguson replied there are not any at this time. He reminded that Council has not yet approved the proposed moratorium and noted that any applications submitted before a moratorium is approved would be processed.

Commissioner McCullough agreed with previous comments, noted that one neighbor has vehemently opposed this CUP application, and recognized the current state of flux on this issue. She said denial of this one CUP would not negatively impact the City's tourism. Commissioner Urban noted that the applicant may re-apply.

Commissioner Espinoza said he did not have clear direction or criteria to make a decision, which he felt would be helpful to both the Commission and the applicants. He said there needs to be open discussion on possible changes to the City's current ordinance.

Chairman Savino opened the public hearing.

The applicant's representative Terrie Bursiel asked if the so-called "Twenty-percent Rule" has been triggered. City Administrator Ferguson replied that this rule does not apply to Planning and Zoning Commission recommendations. Ms. Bursiel felt it was highly inappropriate for the Commission to change the rules mid-stream before this case goes before Council. Commissioners McCullough and Urban said the rules are not being changed, but they are "pausing" this time. Ms. Bursiel said she thought everything has been approved for this case to pass. City Administrator Ferguson clarified the options before the Commission and Council for approving zoning cases on a case-by-case basis. Commissioner McCullough stated that although certain paperwork has been approved (such as septic permitting) that does not mean the Commission approves, as the Commission looks at additional criteria such as neighbors' comments and other issues. Ms. Bursiel stated the applicant, Clayton Bass, has talked to the neighbor who expressed written opposition in order to address his concerns, and felt "that everything will be okay."

Robbie Walker of Hills of Texas Lodging spoke on the subject area as a good area for vacation rentals and favored the proposed moratorium as a way to figure out a plan to that will work for everyone. Mr. Walker pointed out that the applicant paid a \$400 CUP application fee and asked that any future applicable CUP fee be waived, should the applicant need to re-submit his application. Commissioner Urban said that is something that Council should consider.

Place Three City Councilmember Sally Trapp sympathized with both sides and felt the current ordinance has issues that need to be clarified. She asked City Administrator Ferguson if the City can legally suspend or refund the applicant's \$400 CUP fee, if applicant withdrew his application before City Council meets on September 1, 2016. City Administrator Ferguson noted that the City has incurred costs for public notices in the newspaper and for staff/legal review time and typically CUP fees are not refundable.

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

Discussion established that it is Council's role to make decisions and develop policy on payment, reduction, or refunding of fees. Chairman Savino asked if the Commission had the option to delay action on this case and City Administrator Ferguson replied affirmatively, but reminded that delays can trigger re-publication requirements to ensure adequate public notice. Chairman Savino felt there is a need to set up conditions and qualifications for vacation rentals as expeditiously as possible and did not agree that one property owner in opposition constitutes a reason for denial, as the size of the subject property and impact on adjacent properties, and all other issues that would adversely affect neighbors, should be considered.

Chairman Savino entertained a motion. Commissioner Urban moved to recommend denial of the requested CUP and request that Council allow the applicant to re-apply at no cost after the moratorium process, if a moratorium is approved. Commissioner McCullough seconded. Motion carried on a vote of 5-0.

5. Staff and Commission Reports

- Announcements
- Future Agenda Items

City Administrator Ferguson reported on short-term rental CUP moratorium procedures and timeframe, including public meetings/notification and input, in order to listen to all parties. He anticipated scheduling of joint City Council/Planning and Zoning Commission meetings.

Discussion addressed the need to educate the public on options available to short-term rentals' neighbors who have complaints, such as contacting the short-term rental's management company/property owner or law enforcement, as neighbors may be hesitant to register complaints. City Administrator Ferguson felt the next legislative session may attempt to address regulation of short-term rental operations, as many cities are dealing with similar issues.

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

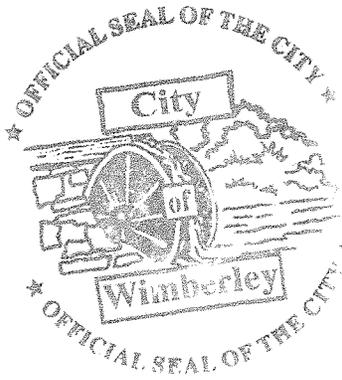
Adjourn at 6:45 p.m.

Recorded by:



Cara McPartland

These minutes approved the 8th of September, 2016.



APPROVED:

John Urban
John Urban, Chair