



City of Wimberley

221 Stillwater, Wimberley, Texas 78676

REGULAR
PLANNING AND ZONING COMMISSION MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
THURSDAY, AUGUST 10, 2023 - 6:00 PM

AGENDA

1. **CALL TO ORDER** August 10, 2023, at 6:00 PM
2. **CALL OF ROLL**
3. **CITIZENS COMMUNICATIONS**
This provides an opportunity for the citizens to comment on agenda and non-agenda items in advance of the regular business of the Planning and Zoning Commission. Those wishing to speak must sign-in before the meeting begins and observe a three-minute time limit when addressing the Board. Speakers will have one opportunity to speak during the time period. Comments from speakers should not be directed towards any specific member of the Board or City staff. Comments should not be accusatory, derogatory or threatening in nature.
4. **MINUTES**
 - 4.1. Consider approval of the June 8, 2023 Regular Planning & Zoning Commission meeting minutes.
5. **PUBLIC HEARING AND POSSIBLE ACTION**
 - 5.1. Hold a public hearing and consider making a recommendation regarding case CUP-23-012, an application for a Conditional Use Permit, to allow for the operation of a Vacation Rental (STR2) on a property located at 13201 Ranch Road 12, Wimberley, Hays County, Texas. (Applicant: Tyler Brewer)
 - 5.2. Hold a public hearing and consider making a recommendation to City Council regarding case ZA-23-003, an application for a zoning amendment to change the zoning for a property located at 14000 Ranch Road 12, Wimberley, TX, from Commercial Low Impact (C-1) to Commercial High Impact (C-3). (Applicant: Willis Rothelle)
 - 5.3. Hold a public hearing and consider making a recommendation to City Council regarding case CUP-23-008, an application for a Conditional Use Permit to allow for the operation of a Vacation Rental (STR2) on a property located at 270 Sierra Loma, Wimberley, TX. (Applicant: Ronald & Julie Bauer)
 - 5.4. Hold a public hearing and consider making a recommendation regarding case CUP-23-009, an application for a Conditional Use Permit to allow for the following uses at 151 Las Flores, Wimberley, Texas: Administrative and Professional Offices, Repair Services: Consumer, and Retail

Sales and Services: Limited. (Applicant: Huband Ranch Services LLC)

- 5.5. Hold a public hearing and consider making a recommendation regarding case CUP-23-011, an application for a Conditional Use Permit to allow for the operation of a Vacation Rental (STR2) at 13300 Ranch Road 12 Wimberley, Texas. (*Applicant: Jody Doss*)
- 5.6. Hold a public hearing and consider making a recommendation regarding an amendment to Chapter 9, Section 9.02 Subdivision Control, providing for findings of fact, savings, severability, repealer, an effective date, and proper notice and meeting. (*Nathan Glasier, Planning & Public Works Director*)
- 5.7. Hold a public hearing and consider making a recommendation regarding an amendment to Chapter 9, Section 9.02.008, definitions and interpretations of the Wimberley City Code.

6. **DISCUSSION AND POSSIBLE ACTION**

- 6.1. Consider the appointment of a Chairperson to the Planning and Zoning Commission with a term ending June 30, 2024.
- 6.2. Consider the appointment of a Vice-Chairperson to the Planning and Zoning Commission with a term ending June 30, 2024.

7. **BOARD MEMBER REPORTS**

- 7.1. Announcements
- 7.2. Future Agenda Items

8. **ADJOURNMENT**

Attendance by Other Elected or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. The members of the boards, commissions and/or committees may be permitted to participate in discussion on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at Wimberley City Hall, a place convenient and readily accessible to the general public at all times, and to the City's website, www.cityofwimberley.com, in compliance with Chapter 551, Texas Government Code, on Monday, August 7, 2023 by 6:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Nathan Glasier
Planning and Development Coordinator

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact City Secretary Tammy Cook at (512) 847-0025 two business days in advance of the meeting for appropriate arrangements.





City of Wimberley

221 Stillwater, Wimberley, Texas 78676

REGULAR PLANNING AND ZONING COMMISSION MEETING

WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS

221 STILLWATER, WIMBERLEY, TEXAS 78676

THURSDAY, JUNE 8, 2023 - 6:00 PM

MINUTES

1. CALL TO ORDER June 8, 2023, at 6:00 PM

Chair Austin Weeks called the meeting to order at 6:00 pm

2. CALL OF ROLL

Commissioners Present:

Austin Weeks, Chair

Bob Clark

Philip McBride

David Hester

Tim Dodson

Commissioners absent:

Anne Hollows, Vice Chair

Jerry Lunow

Staff Present:

Nathan Glaiser, Director of Planning and Public Works

Alexis Esparza, Permit Coordinator

Kenneth LaVergne, City Attorney

3. CITIZENS COMMUNICATIONS

This provides an opportunity for the citizens to comment on agenda and non-agenda items in advance of the regular business of the Planning and Zoning Commission. Those wishing to speak must sign-in before the meeting begins and observe a three-minute time limit when addressing the Board. Speakers will have one opportunity to speak during the time period. Comments from speakers should not be directed towards any specific member of the Board or City staff. Comments should not be accusatory, derogatory or threatening in nature.

There were no citizen comments this evening.

4. MINUTES

- 4.1. Consider approval of the May 11, 2023 Regular Planning & Zoning Commission meeting minutes.

A motion was made by Commissioner McBride, seconded by Commissioner Clark, to approve the minutes from the May 11, 2023 Regular Planning and Zoning Commission Meeting. The motion carried unanimously (5-0).

5. PUBLIC HEARING AND POSSIBLE ACTION

- 5.1.** Hold a public hearing and consider making a recommendation to City Council regarding an amendment to Chapter 9 of the Wimberley Code of Ordinances, Planning and Development Regulations, pertaining to subdivision and parkland dedication. (*Nathan Glaiser, Director of Planning and Public Works*)

Nathan Glaiser, Director of Planning and Public Works, introduced Bryce Cox, City Planner with DNRB. Bryce Cox gave a brief presentation on the updates to the subdivision ordinance. He mentioned that more changes would potentially be made to remain compliant with the new legislation. Clarification about park dedication was asked by Commissioner Dotson and Chair Weeks.

Upon completion of discussion, Chair Weeks opened the Public Hearing at 6:26 p.m. There being no comments, the Public Hearing was closed at 6:27 p.m.

No action was needed this evening.

- 5.2.** Hold a Public Hearing and consider a recommendation to City Council regarding the establishment of a Local Historic District and the adoption of Historic District Design Guidelines. (*Nathan Glaiser, Director of Planning and Public Works*)

Nathan Glaiser, Planning and Public Works Director, gave a presentation on The Historic District and design guidelines. The City hired Post Oak Solutions to take a survey of downtown in an effort to establish a Historic District. Post Oak Solutions made a recommendation for the boundary and design guidelines based on the survey.

Chair Weeks opened the Public Hearing at 6:33 p.m.

Those who spoke:

Joyce Webb, 14000 RR 12, spoke but had no comment about the historic district at the time.

Maridel Martinez, 112 Wimberley square, spoke in opposition to the proposed boundaries and questioned the era that is being preserved.

Rocky Ramono, RR 12, spoke in opposition to the boundaries and wished to opt out of the district.

Bill Johnson, 13709 RR 12, spoke in opposition to the boundaries and wished to opt out of the district.

Marcillia Bishop, 110 Oak Dr, spoke in opposition to the proposed boundaries.

Lloyd Bishop, 110 Oak Dr, spoke in opposition to the proposed boundaries. He suggested that Wimberley Square should be the only section included in the historic district.

Kenneth LaVergne, City Attorney, addressed the citizens' question of how a historic district can be established. He states there are 2 ways: a property owner has to consent or 3/4 of the governing body has to approve.

There being no further comments, Chair Weeks closed the Public Hearing at 7:25 p.m.

Upon completion of discussion, a motion was made by Commissioner McBride, seconded by Commissioner Clark to approve a recommendation to City Council in support of the Historic District Boundaries with the addition of the Lumberyard (111 Old Kyle), City of Wimberley Visitor Center (280 Old Kyle), The Cabins (200 & 204 Wimberley Sq), the corner of Henson (105 Henson Rd), and Lot between Oak and Henson (180 Oak Dr). The motion carried unanimously (5-0)

6. **BOARD MEMBER REPORTS**

6.1. Announcements

There were no announcements.

6.2. Future Agenda Items

There were no future agenda items.

7. **ADJOURNMENT**

Chair Weeks adjourned the meeting at 7:47 p.m.

RECORDED BY:

Planning & Zoning Commission Staff Liaison



APPROVED BY:

Planning & Zoning Commission Chairperson



AGENDA ITEM:	CUP-23-012 – Vacation Rental (STR2)
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	June 10, 2023
MEETING DATE:	August 10, 2023 (P&Z) / August 17, 2023 (City Council)

REPORT

ITEM

The applicant, Tyler Brewer, has requested a Conditional Use Permit to allow for the operation of a Vacation Rental (STR2) on property located at 13201 Ranch Road 12, Wimberley. The property is 1.19 acres and zoned Single-family Residential 2. It is on the Blanco River near the RR 12 Blanco River bridge. It has one four-bedroom home. The applicants are requesting a maximum occupancy of 10 guests. It is on a septic system that is adequate for the request.

PROPERTY INFORMATION

Property Description

Applicant(s):	Tyler Brewer
Property Address:	13201 Ranch Road 12
Property Owner:	Tyler Brewer
Legal Description:	Amasa Turner Survey A0461
Property Size:	1.19 acres
Existing Use of Property:	Vacation home
Existing Zoning:	R2
Shared Infrastructure	None
Request:	Vacation Rental (STR2)
Planning Area:	III
Overlay District:	Protected Waterway

Surrounding Property:

Frontage:	Ranch Road 12
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		Current Zoning:	Existing Land Use:
Surrounding Zoning & Land Use	North of Property	C1	Commercial
	South of Property	C1	Commercial

East of Property
West of Property

R2
R2

Residential/STR CUP
Residential/STR CUP

COMMENTS

Staff has not received any comments from neighbors.

RECOMMENDATION

Staff defers to Planning and Zoning Commission for their recommendation.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): July 21st, 2023
Published Legal Notice (Wimberley View): July 27th, 2023

ATTACHMENT/S

- Application
- Zoning Map



Conditional Use Permit
Planning & Development

FOR OFFICE USE ONLY

Date: _____ CUP - _____ - _____ Staff Review _____

P&Z Hearing: _____ Council Hearing: _____ Fees Paid (\$650): ☐ _____

Applicant: Tyler Brewer (Owner)

Mailing Address: 425 S Lahoma Ave City: Norman State: OK Zip: 73069

Phone: [REDACTED] Email: [REDACTED]

OWNER'S INFORMATION

Property Owner: Fairlawn 13201, LLC

Mailing Address: 425 S Lahoma Ave City: Norman State: OK Zip: 73069

Phone: [REDACTED] Email: [REDACTED]

PROJECT SITE ADDRESS: 13201 Ranch Road 12, Wimberley, TX 78676

Legal description: A0461 AMASA TURNER SURVEY, ACRES 1.19

Total Acreage or Square Footage: 1.19 Deed recorded in: Hays County

Hays CAD Parcel ID R- 18394 Planning Area: II Zoning: R2

Is property located in an overlay district? ☐ Yes ☒ No If Yes, type: _____

SPECIFIC CONDITIONAL USE REQUEST: STR 2

Applicant understands that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

UTILITIES

Electric Provider: Pedernales Electric Cooperative, Inc.

Water provider or Private Well: City of Wimberley, TX

Wastewater Service or Septic Permit No. _____

*If you have an On-Site Sewage Facility (OSSF) you can submit an open records request for your permit information if you do not have it.

CONDITIONAL USE PERMIT (CUP) SUBMITTAL CHECKLIST

- ☒ Complete "Conditional Use Permit Application"
- ☒ Metes and bounds description and/or survey exhibit
- ☒ Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences
- ☒ Copy of the Original Deed(s)
- ☐ Payment of application fee (credit card payments, checks/money orders, cash exact change only)
- ☐ Agent authorization to represent property owner if applicable

MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses and does not adversely affect an adjoining site than would a permitted use.
- The use requested by the applicant is set forth as a conditional use in the base district.
- The nature of the use is reasonable.
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area.
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base districts are being upheld.

SUBMITTAL VERIFICATION

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application. I authorize City of Wimberley Staff to visit and inspect the property for which this application is being submitted. I agree to attend or have a representative attend the Planning & Zoning Commission and City Council meetings. I have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and understand that the City zoning action does not relieve any obligation of these restrictions.

Applicant's Signature: _____

Tyl B

Date: 7/6/23

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ADDITIONAL QUESTIONS AND LIST OF CONDITIONS THAT MAY BE INCLUDED IN A BED AND BREAKFAST/VACATION RENTAL CUP

OWNER: Fairlawn 13201, LLC

LOCATION OF PROPERTY: 13201 Ranch Road 12, Wimberley, TX 78676

LEGAL DESCRIPTION: A0461 AMASA TURNER SURVEY, ACRES 1.19

PLANNING AREA: II PRESENT ZONING: R2

EXISTING USE: Residential House

HOMEOWNERS ASSOCIATION CONTACT INFO: N/A

SHARED FACILITIES (RIVER PARK, POOL, ETC.): N/A

PROPERTY IN FLOODPLAIN? ☒ YES ☐ NO

GATED COMMUNITY OR PRIVATE STREET? ☐ YES ☒ NO

USE TO BE GRANTED: Bed & Breakfast OR Yes Vacation Rental

NEW CONSTRUCTION: (Describe existing construction) If new construction is contemplated: Describe new construction. The architecture and façade of all new construction will be traditional "Hill Country" design and harmonious with those of adjacent uses. No construction shall commence prior to compliance with all applicable ordinances, laws, rules, and regulations.

COMPATIBILITY TO NEARBY AREAS: The facilities on the property will always be harmonious and compatible with surrounding uses

OFF-STREET PARKING: All parking will be off-street. Yes Off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of 12 guests. Parking will be in these spaces only.

SIGNAGE: All signage will be of traditional "Hill Country" design and will comply with the City Sign Ordinance.

NOISE AND LIGHTING: Exterior lighting to be only landscape lighting. All noise audibles from outside, and all light visible from outside the property shall be maintained at low levels appropriate to a single-family neighborhood. No large parties are permitted.

NUMBER OF BEDROOMS: 4 (one bunk room) **PROPOSED MAXIMUM OCCUPANCY:** 12 guests.

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OCCUPANT REGULATIONS AND GUIDELINES: Guest Guidelines are attached hereto and made a part of this Conditional Use Permit. The bed and breakfast lodging facility shall be operated in accordance with the guidelines. These guidelines shall be furnished to all guests.

WASTEWATER SYSTEM: The wastewater treatment system (to be designed and constructed) will always be adequate for the maximum occupancy.

WATERFRONT USAGE: (Applicable if guests have water access) Guests may only use the Blanco River/Creek in the area directly adjacent to the bed and breakfast lodging facility. Guests may not use the River/Creek in front of other properties or enter upon any property which is not part of the bed and breakfast facility for the purpose of entering or exiting the water or for any other reason.

PROPERTY MANAGEMENT: Owner will provide guests and close-by neighbors with owner's telephone number to assure Owner's immediate knowledge of any concerns that may arise. (If not, owner occupied) Owner agrees to always retain under contract a responsible local management company the property is used as a non-owner-occupied bed and breakfast lodging. The management company shall advise guests of the applicable conditions contained herein, receive, and pass on to owner any complaints received and at owner's direction act upon such complaints. (If owner occupied) The property shall be the owner's principal place of residence and the owner shall actively always supervise and manage the property that it is used as a bed and breakfast facility.

MISCELLANEOUS: Owner agrees to maintain the property in a manner conducive to the health and safety of the guests and the neighborhood. All trash and garbage will be placed in provided receptacles which shall not be visible from the street except on pick-up day. No trash bags shall be left out in the open. The exterior of the facility and the landscaping, including lawns, will be always maintained in good condition.

REVOCATION: The cup may be revoked by the City Council upon recommendation of the Planning and Zoning Commission in the event of the violation of any of the conditions contained therein.

OWNER COMPLIANCE: Owners agree to comply with all City of Wimberley Ordinances, and all state, county and City laws, rules, and regulations.

ACCEPTED AND AGREED TO:

Tyler B
OWNER SIGNATURE

Tyler Brewer
PRINT NAME

7/10/23
DATE

OWNER SIGNATURE

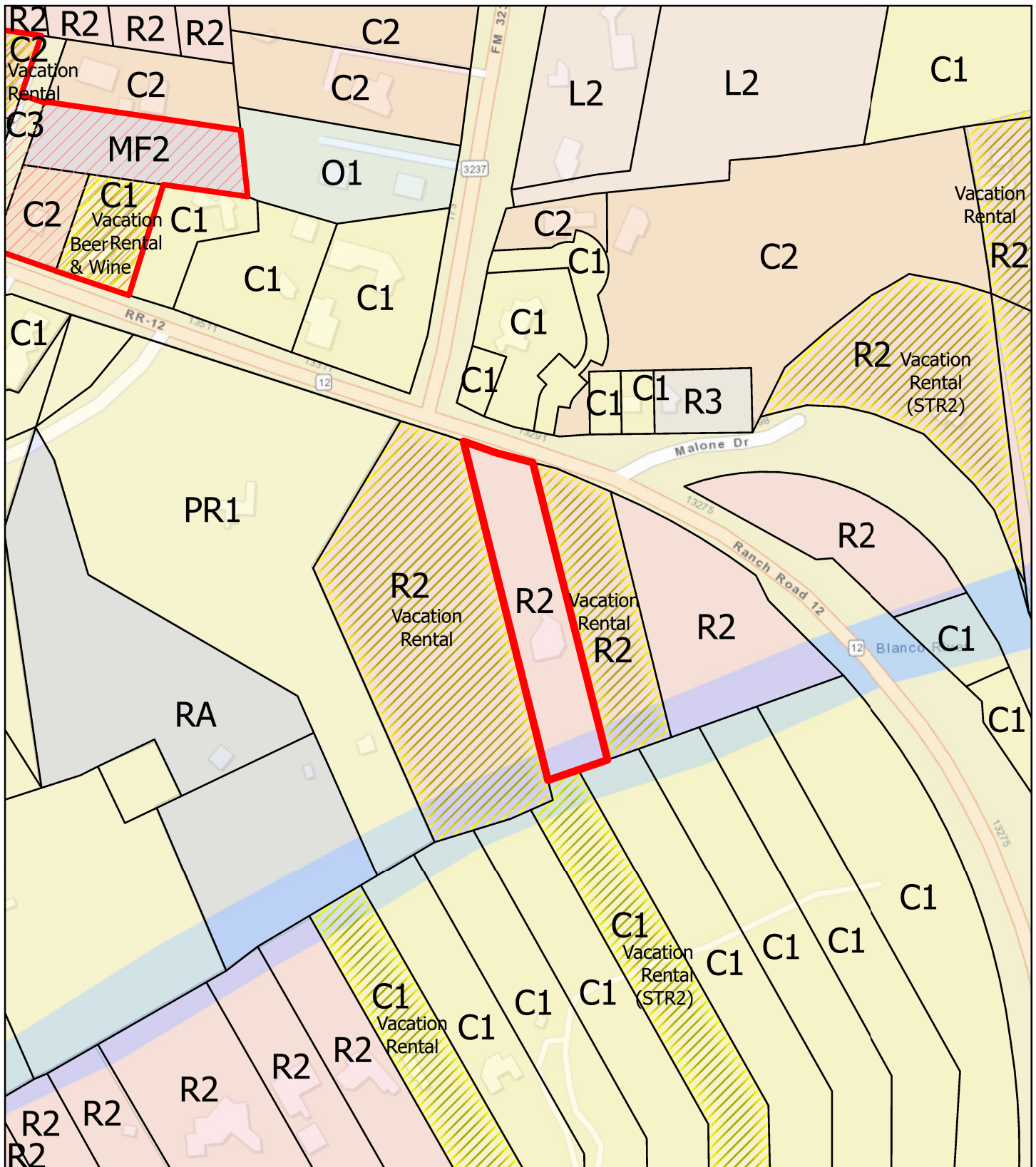
PRINT NAME

DATE

13201 RR 12 STR 2 Site Plan

Legend

- Blanco River Access
- Parking Area
- Public Roadway Access
- Single Rental House - Four BR, Three Bath (2,020 SF) + Two Covered Porches (838 SF)
- Three-Level Terraced Lawn

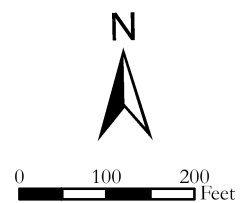


CUP-23-012

City of Austin, City of Wimberley, Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA, Esri, NASA, NGA, USGS, FEMA, City of Wimberley, Comal County, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

2023

Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet





AGENDA ITEM:	ZA-23-003 – Vacation Rental (STR2)
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	June 10, 2023
MEETING DATE:	August 10, 2023 (P&Z) / August 17, 2023 (City Council)

REPORT

ITEM

The applicant, Willis Rothelle (owner: Joyce Webb Tate), has requested a zoning amendment to change the zoning from Commercial Low Impact C-1 to Commercial High Impact C-3 for property located at 14000 Ranch Road 12, Wimberley. The property is .76 acres and is the location of Ceremony on the square. It is on Cypress Creek near the Cypress Creek bridge and has floodplain on the property. It is on City Sewer. It is in planning area V which is defined as “the primary location for high impact community and regional services.” The applicant does not have any proposed use for the property but wishes to open up opportunities for future tenants.

Commercial Low Impact 1 is defined as:

“The C-1, commercial 1 district is established as a limited retail category intended for the purpose of supplying day-to-day needs and personal services. Establishments may include small, freestanding retail structures, and personal service establishments.”

Commercial High Impact 3 is defined as:

“The C-3, commercial 3 district is established to provide areas for more intense and concentrated shopping and service facilities for the retail sales of goods and services. These shopping areas shall utilize established landscape and buffering requirements. The C-3 district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.”

PROPERTY INFORMATION

Property Description

Applicant(s):	Willis Rothelle
Property Address:	14000 Ranch Road 12
Property Owner:	Joyce Webb Tate
Legal Description:	Amasa Turner Survey A0461
Property Size:	.76 acres

Existing Use of Property: Retail
Existing Zoning: C1
Shared Infrastructure None
Request: C3
Planning Area: V
Overlay District: City Center, Protected Waterway

Surrounding Property:

Frontage: Ranch Road 12

		Current Zoning:	Existing Land Use:
Surrounding Zoning & Land Use	North of Property	L1	Lodging
	South of Property	C1/C3	Commercial
	East of Property	C3	Commercial
	West of Property	PR2	Commercial

COMMENTS

Staff has not received any comments from citizens.

RECOMMENDATION

Staff recommends approval of this zoning amendment. The comprehensive plan supports zoning districts of this type in this planning area and the property shares borders with other C3 properties.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): July 21st, 2023
Published Legal Notice (Wimberley View): July 27th, 2023

ATTACHMENT/S

- Application
- Zoning Map
- Code of Ordinances C1 & C3



CITY OF WIMBERLEY

Commercial Zoning Application

Planning & Development

Non-Residential, Multi-Family, or Mobile Home Development

FOR OFFICE USE ONLY

Application Date: 6-6-2023 File No.: _____ Fees: \$ _____ Paid: _____
Tentative P&Z Hearing: _____ Tentative City Council Hearing: _____
Planning Area: _____ Zoning Requested: _____ City Initiated: ☐ Yes ☐ No

PROPERTY INFORMATION

STREET ADDRESS OF PROPERTY TO BE ZONED: 14000 RR12, Wimberley, Texas

*New Street Addresses can be obtained by calling (512) 393-2160 HAYS COUNTY CAD PROPERTY ID #: R 18424

PLEASE PROVIDE DIRECTIONS TO YOUR PROPERTY: From city hall turn left on RR12

the property will be on your right, between Chills on the creek and Society.

NOTE: Please clearly mark your property so it is easily identifiable.

TOTAL AREA TO BE ZONED: ACRES 0.76 acre (OR) SQ. FT. _____ TOTAL NO. of TRACTS: 1

PLANNING AREAS: V REQUESTED ZONING CLASSIFICATION: C3

PROPOSED USE: _____

EXISTING ZONING CLASSIFICATION(s) AND USES (if applicable): C2

OWNER'S INFORMATION

Owner's Name: Joyce Webb Tate Phone No.: [REDACTED]

Mailing Address: 148 Champion Circle Wimberley Tx.

Email Address: _____

REPRESENTATIVE'S INFORMATION

Representative Name: Willis Rothelle Phone No.: [REDACTED]

Mailing Address: 14000 RR12 Wimberley Tx 78676

Email Address: [REDACTED]

Name of Real Estate Company Involved: _____

LEGAL DESCRIPTION

Street Address: 14000 RR12 Subdivision: Amasa Turner

Block(s) _____ Lot(s) _____ Plat Book: _____ Page Number: _____

DEED RECORDS: (REFERENCE OF DEED CONVEYING PROPERTY TO THE PRESENT OWNER):

VOLUME: 992 PAGE: 72 OF COUNTY PLAT RECORDS

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OTHER PROVISIONSIs Property in an Overlay District? ☒ Yes ☐ No ☐ UnknownTYPE OF OVERLAY ZONE(S) (if applicable) City CenterFLOOD PLAIN (What, if any, flood zone does your property occupy?): ZONE AEELECTRIC UTILITY PROVIDER: P.E.C.WATER UTILITY PROVIDER: Wimberley Water SupplyWASTEWATER UTILITY PROVIDER: City of Wimberley

HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): _____

SITE INSPECTION AUTHORIZATION

Applicant, Owner, or Applicant's authorized agent hereby authorizes the City of Wimberley representatives to visit and inspect the property for which this application is being submitted.

Date: 6-6-2023 APPLICANT SIGNATURE Joyce Webb

WHEN APPLICABLE:

Date: 6-6-2023 AGENT SIGNATURE Will R. H. H.**ACKNOWLEDGMENT OF EXISTING**Subdivision Plat Notes, Deed Restrictions Restrictive Covenants and/or
Zoning Conditional Use Permits

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property now being zoned on my behalf and located at 4400 RR 17, Wimberley TX, and more particularly known as Lot _____, Block _____ of the _____ Subdivision.

If a conflict should result with the request, I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits.

I understand that if requested, I must provide copies of all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: _____ APPLICANT SIGNATURE _____

WHEN APPLICABLE:

Date: 6-6-2023 AGENT SIGNATURE Will R. H. H.

Forms & Applications October 2021

BEGINNING at an iron stake set on the Northwest line of the Wimberley Town Square for the most Southerly corner of that tract of land conveyed to Ed and Clara Leslie by Charles Oldham and wife by deed dated October 24, 1964, and recorded in Vol. 203, Page 72, Hays County Deed Records, for the East corner of the tract hereby conveyed;

THENCE with the Northwest line of the Wimberley Town Square, S. 66° 04' W., 99.72 feet to an iron stake set for the most Southerly corner of the tract hereby conveyed; and from which corner the most Easterly corner of that tract of 0.91 acres of land conveyed to Parks Johnson by Mrs. Margaret R. Barret, et al, by deed dated August 24, 1944, and recorded in Vol. 130, Page 539, Hays County Deed Records, bears S. 66° 04' W., 12.12 feet;

THENCE leaving the Wimberley Town Square, N. 31° 19' W., at 275.58 feet passing an iron stake set on creek bank, and continuing on in all 285.20 feet to a point in the centerline of Cypress Creek for the West corner of the tract hereby conveyed;

THENCE with the centerline of Cypress Creek, N. 70° 51' E., 143.11 feet to a point for the most Northerly corner of the tract hereby conveyed;

THENCE leaving Cypress Creek, S. 22° 38' E., at 11.10 feet passing an iron stake set on creek bank, and continuing on in all 271.00 feet to the place of beginning, and being that identical real property heretofore described in and conveyed by a deed dated August 17, 1966, now of record in Vol. 214, Page 443, Hays County Deed Records, wherein Parks Johnson, et ux., were grantors and Guy S. Burson, et ux., were grantors.

COUNTY CLERK

MAY 12 1993

FILED
HAYS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HAYS

I hereby certify that this instrument was FILED on the 12th day of May 1993 at the County Clerk's Office, in the Volume and Page of the Hays County Deed Records, as stamped hereon by me.

EXHIBIT A

MAY 12 1993



Doni D. Dally
COUNTY CLERK
HAYS COUNTY, TEXAS

Sec. 9.03.083 - Commercial - low impact; C-1

- (a) *General purpose and description.* The C-1, commercial 1 district is established as a limited retail category intended for the purpose of supplying day-to-day needs and personal services. Establishments may include small, freestanding retail structures, and personal service establishments.
- (b) *Permitted uses.*
- (1) Administrative and professional office:
 - a. Insurance, real estate, attorneys, accountants, architects, investment services, travel agencies;
 - b. Photography studios, doctors, dentists;
 - c. Nonprofit organizations (with certain restrictions);
 - d. Civic uses (such as city halls);
 - e. Research services: limited; and
 - f. Office.
 - (2) Religious assembly;
 - (3) Retail sales and services: limited;
 - (4) Business support services;
 - (5) Child care center;
 - (6) Repair services: consumer;
 - (7) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premises consumption;
 - (8) Animal sales and services: grooming;
 - (9) Convalescent services;
 - (10) Arts and crafts sales and instruction;
 - (11) Commercial/single-family residential;
 - (12) Adult day care facility;
 - (13) Private primary educational services;
 - (14) Private secondary educational services;
 - (15) Medical services: limited;
 - (16) Personal services: limited;
 - (17) Bank and savings and loan;
 - (18) Accessory uses to the main use;
 - (19) Single-family residence; and

(20) Low impact institutional: residential oriented.

(c) *Conditional uses.*

- (1) A drive-through or drive-in facility otherwise allowed in any permitted use in this district shall be allowed only with a conditional use permit;
- (2) Bank and savings and loan (drive-through);
- (3) STR1;
- (4) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations;
- (5) Eating establishments: fast food with drive-through order windows;
- (6) Package store;
- (7) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premises consumption;
- (8) STR2; and
- (9) Personal care home.

(d) *Development regulations.*

- (1) Minimum lot size: 5,000 square feet.
- (2) Maximum building height (as defined in section 9.03.005):
 - a. Primary buildings: Not more than two stories and not more than 28 feet or 35 feet with gable roof;
 - b. Accessory buildings: Not more than 18 feet and not more than one story; and
 - c. Decks: Not more than 12 feet including a railing only or 18 feet including a roof.
- (3) The minimum setbacks shall be the larger of the dimensions in section 9.03.184(a), table A, or the following:
 - a. Dominant street: ten feet;
 - b. Secondary street: ten feet; and
 - c. Interior side or rear yard: ten feet, 20 feet when adjacent to a residential district and the building is more than one story.
- (4) Maximum impervious cover: 70 percent. Impervious coverage shall be calculated as a percentage of the net site area.
- (5) Maximum building coverage: 60 percent. Building coverage shall be calculated as a percentage of the net site area.
- (6) Maximum building footprint: 11,500 square feet.
- (7) Maximum floor area: 15,000 square feet.

(e)

Special requirements.

- (1) Open storage is prohibited.
- (2) For site plan requirements, see section 9.03.183.
- (3) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling or nonresidential purposes.

(f) *Other regulations.* As established in division 5 of this article, development standards.

(g) *Parking regulations.* As required by section 9.03.181, off-street parking and loading requirements.

(Ordinance 2001-010, § 26, adopted 4/1/01; Ordinance 2003-006, adopted 7/3/03; Ordinance 2004-017, adopted 8/5/04; 2006 Code, § 155.047; Ordinance 2006-013, adopted 11/2/06; Ordinance 2008-009, § II(A), adopted 2/21/08; Ordinance 2008-023, § II(L), adopted 7/17/08; Ordinance 2009-031, § II(B), (C), adopted 7/16/09; Ordinance 2009-050, § II(F), adopted 12/3/09; Ordinance 2011-004, § II(F), adopted 1/20/11; Ordinance 2012-003, § II(C), adopted 2/2/12; Ordinance 2015-005, § II(B), (C), adopted 2/19/15; Ordinance 2019-08, adopted 5/2/19)

Sec. 9.03.085 - Commercial - high impact; C-3

(a) *General purpose and description.* The C-3, commercial 3 district is established to provide areas for more intense and concentrated shopping and service facilities for the retail sales of goods and services. These shopping areas shall utilize established landscape and buffering requirements. The C-3 district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

(b) *Permitted uses.*

(1) Administrative and professional office:

- a. Insurance, real estate, attorneys, accountants, architects, investment services, travel agencies;
- b. Photography studios, doctors, dentists;
- c. Nonprofit organizations (with certain restrictions);
- d. Civic uses (such as city halls);
- e. Research services: limited; and
- f. Office.

(2) Religious assembly;

(3) Food and beverage retail sales (such as grocery);

(4) Medical services: general; large facilities, hospitals;

(5) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premises consumption;

(6)

Eating establishments: sit-down fast-foods;

- (7) Agricultural supplies and services;
- (8) Commercial blood centers;
- (9) Commercial off-street parking;
- (10) Parking lot and parking garage, automotive;
- (11) Transportation facilities: surface, limited (such as cross-country truck companies and their distribution centers);
- (12) Transportation facilities: aircraft;
- (13) Commercial/single-family residential;
- (14) Private primary educational services;
- (15) Private secondary educational services;
- (16) Nonprofit civic;
- (17) Retail sales and services: general;
- (18) Bank and savings and loan;
- (19) Personal services: general;
- (20) Accessory uses to the main use;
- (21) Single-family residence; and
- (22) Retail sales and services: flea market/market day.

(c) *Conditional uses.*

- (1) A drive-through or drive-in facility otherwise allowed in any permitted use in this district shall be allowed only with a conditional use permit;
- (2) Alcoholic beverage sales and consumption in a private club as defined and registered by the Texas Alcoholic Beverage Code;
- (3) Bars/taverns;
- (4) Gasoline sales: truck stops;
- (5) Automotive sales, rentals, and repairs;
- (6) Automotive and equipment: sales and rentals, farm and heavy equipment;
- (7) Automotive and equipment: sales and rentals, light equipment;
- (8) Custom manufacturing;
- (9) Construction sales and services;
- (10) Eating establishments: fast-food with drive-through order windows;
- (11) Eating establishments: drive-in;
- (12)

Adult entertainment (such as sexually oriented business) use as may be provided for or restricted by other city ordinances;

- (13) STR1;
- (14) Automotive washing;
- (15) Personal storage;
- (16) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations;
- (17) STR2;
- (18) Personal care home;
- (19) Liquor store; and
- (20) Package store.

(d) *Development regulations.*

- (1) Minimum lot size: 20,000 square feet.
- (2) Maximum building height (as defined in section 9.03.005):
 - a. Primary buildings: Not more than two stories and not more than 28 feet with flat roof (see definition) or 35 feet with pitched roof;
 - b. Accessory buildings: Not more than 18 feet and not more than one story; and
 - c. Decks: Not more than 12 feet including a railing only or 18 feet including a roof.
- (3) The minimum setbacks shall be the larger of the dimensions in section 9.03.184(a), table A, or the following:
 - a. Dominant street: 25 feet;
 - b. Secondary street: 15 feet; and
 - c. Interior side or rear yard: ten feet, 20 feet when adjacent to a residential district and the building is more than one story.
- (4) Maximum impervious coverage: 70 percent. Impervious coverage shall be calculated as a percentage of the net site area.
- (5) Maximum building coverage: 60 percent. Building coverage shall be calculated as a percentage of the net site area.
- (6) Maximum building footprint: 20,000 square feet.
- (7) Maximum floor area: 20,000 square feet.

(e) *Parking regulations.* As required by section 9.03.181, off-street parking and loading requirements.

(f) *Special requirements.*

- (1) Open storage is prohibited in the city center (CC) overlay district.

- (2) These districts shall be limited to properties fronting on major transportation arterials, provided the location is not incompatible with an existing residential neighborhood or property.

(g) *Other regulations.* As established in division 5 of this article, development standards.

(Ordinance 2001-010, § 28, adopted 4/1/01; Ordinance 2003-006, adopted 7/3/03; Ordinance 2004-017, adopted 8/5/04; 2006 Code, § 155.049; Ordinance 2008-009, §§ II(C), (D), adopted 2/21/08; Ordinance 2008-023, § II(N), adopted 7/17/08; Ordinance 2009-031, § II(F), (G), adopted 7/16/09; Ordinance 2009-050, § II(F), adopted 12/3/09; Ordinance 2011-004, § II(F), adopted 1/20/11; Ordinance 2012-003, § II(C), adopted 2/2/12; Ordinance 2015-005, §§ II(F), (G), adopted 2/19/15; Ordinance adopting 2018 Code; Ordinance 2019-08, adopted 5/2/19; Ordinance 2020-22, adopted 9/17/20)



AGENDA ITEM:	CUP-23-008 – Vacation Rental (STR2)
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	May 31, 2023
MEETING DATE:	August 10, 2023 (P&Z) / August 17, 2023 (City Council)

REPORT

ITEM

The applicants, Ron & Julie Bauer, have requested a Conditional Use Permit to allow for the operation of a Vacation Rental (STR2) on property located at 270 Sierra Loma, Wimberley. The property is 5 acres and zoned residential acreage. It is within a gated community. It has one two-story four-bedroom home. The applicants request a maximum occupancy of 6 guests. It is on a septic system that is adequate for the request.

PROPERTY INFORMATION

Property Description

Applicant(s):	Ron & Julie Bauer
Property Address:	270 Sierra Loma
Property Owner:	Ron & Julie Bauer
Legal Description:	Hilltop Place Sec 1, Lot 43
Property Size:	5 acres
Existing Use of Property:	Residence
Existing Zoning:	RA
Shared Infrastructure	Entry Gate
Request:	Vacation Rental (STR2)
Planning Area:	I
Overlay District:	None

Surrounding Property:

Frontage:	Sierra Loma
------------------	-------------

		Current Zoning:	Existing Land Use:
Surrounding Zoning & Land Use	North of Property	RA	Residential
	South of Property	RA	Residential

East of Property
West of Property

RA
RA

Residential/STR CUP
Residential

COMMENTS

Staff has received one letter of opposition from an adjacent neighbor constituting 30% of surrounding land area within 200ft. This will require a supermajority vote from City Council to be approved.

RECOMMENDATION

Staff defers to Planning and Zoning Commission for their recommendation.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): July 21st, 2023
Published Legal Notice (Wimberley View): July 27th, 2023

ATTACHMENT/S

- Application
- Zoning Map
- Letter of Opposition



Conditional Use Permit
Planning & Development

RECEIVED MAY 31 2023

FOR OFFICE USE ONLY

Date: _____ CUP - _____ - _____ Staff Review _____

P&Z Hearing: _____ Council Hearing: _____ Fees Paid (\$650): ☐ _____

Applicant: RONALD & JULIE BAUER

Mailing Address: 223 AUTUMN OAK City: NEW BRAUNFELS State: TX Zip: 78132

Phone: _____ Email: _____

OWNER'S INFORMATION

Property Owner: RONALD & JULIE BAUER

Mailing Address: 223 AUTUMN OAK City: NEW BRAUNFELS State: TX Zip: 78132

Phone: _____ Email: _____

PROJECT SITE ADDRESS: 270 SIERRA LOMA WIMBERLEY TX 78676

Legal description: HILTOP PLACE SEC 1, LOT 43

Total Acreage or Square Footage: 5.00 ACRES Deed recorded in: 2022

Hays CAD Parcel ID R- 71052 Planning Area: _____ Zoning: _____

Is property located in an overlay district? ☐ Yes ☐ No If Yes, type: _____

SPECIFIC CONDITIONAL USE REQUEST: VACATION RENTAL

Applicant understands that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

UTILITIES

Electric Provider: PEC

Water provider or Private Well

Wastewater Service or Septic Permit No. UNKNOWN

*If you have an On-Site Sewage Facility (OSSF) you can submit an open records request for your permit information if you do not have it.

CONDITIONAL USE PERMIT (CUP) SUBMITTAL CHECKLIST

- ☒ Complete "Conditional Use Permit Application"
- ☒ Metes and bounds description and/or survey exhibit
- ☒ Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences
- ☒ Copy of the Original Deed(s)
- ☒ Payment of application fee (credit card payments, checks/money orders, cash exact change only)
- ☒ Agent authorization to represent property owner if applicable

MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses and does not adversely affect an adjoining site than would a permitted use.
- The use requested by the applicant is set forth as a conditional use in the base district.
- The nature of the use is reasonable.
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area.
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base districts are being upheld.

SUBMITTAL VERIFICATION

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application. I authorize City of Wimberley Staff to visit and inspect the property for which this application is being submitted. I agree to attend or have a representative attend the Planning & Zoning Commission and City Council meetings. I have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and understand that the City zoning action does not relieve any obligation of these restrictions.

Applicant's Signature: _____



Date: _____

5-8-2023

Forms & Applications October 2021 2

ADDITIONAL QUESTIONS AND LIST OF CONDITIONS THAT MAY BE INCLUDED IN A BED AND BREAKFAST/VACATION RENTAL CUP

OWNER: RON & JULIE BAUER

LOCATION OF PROPERTY: 270 SIERRA LOMA WIMBERLEY TX 78676

LEGAL DESCRIPTION: HILLTOP PLACE SEC 1, LOT 43

PLANNING AREA: _____ PRESENT ZONING: R

EXISTING USE: SINGLE FAMILY - LISTED FOR SALE

HOMEOWNERS ASSOCIATION CONTACT INFO: hilltopplaceho2.com

SHARED FACILITIES (RIVER PARK, POOL, ETC.): -

PROPERTY IN FLOODPLAIN? ☐ YES ☒ NO

GATED COMMUNITY OR PRIVATE STREET? ☒ YES ☐ NO

USE TO BE GRANTED: _____ Bed & Breakfast OR ☒ Vacation Rental

NEW CONSTRUCTION: (Describe existing construction) If new construction is contemplated: Describe new construction. The architecture and façade of all new construction will be traditional "Hill Country" design and harmonious with those of adjacent uses. No construction shall commence prior to compliance with all applicable ordinances, laws, rules, and regulations.

COMPATIBILITY TO NEARBY AREAS: The facilities on the property will always be harmonious and compatible with surrounding uses

OFF-STREET PARKING: All parking will be off-street. 4 Off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of 6 guests. Parking will be in these spaces only.

SIGNAGE: All signage will be of traditional "Hill Country" design and will comply with the City Sign Ordinance.

NOISE AND LIGHTING: Exterior lighting to be only landscape lighting. All noise audibles from outside, and all light visible from outside the property shall be maintained at low levels appropriate to a single-family neighborhood. No large parties are permitted.

NUMBER OF BEDROOMS: 4 PROPOSED MAXIMUM OCCUPANCY: 6 guests.

Forms & Applications October 2021 3

EUGENE PRICHALSKI SURVEY SECTION NO. 39 - ABSTRACT NO. 374

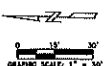
LOT 43
HOGAN & JAMES WILSON (DOC.NO.1109777)

LOT 43
HOGAN & JAMES WILSON (DOC.NO.2031453)

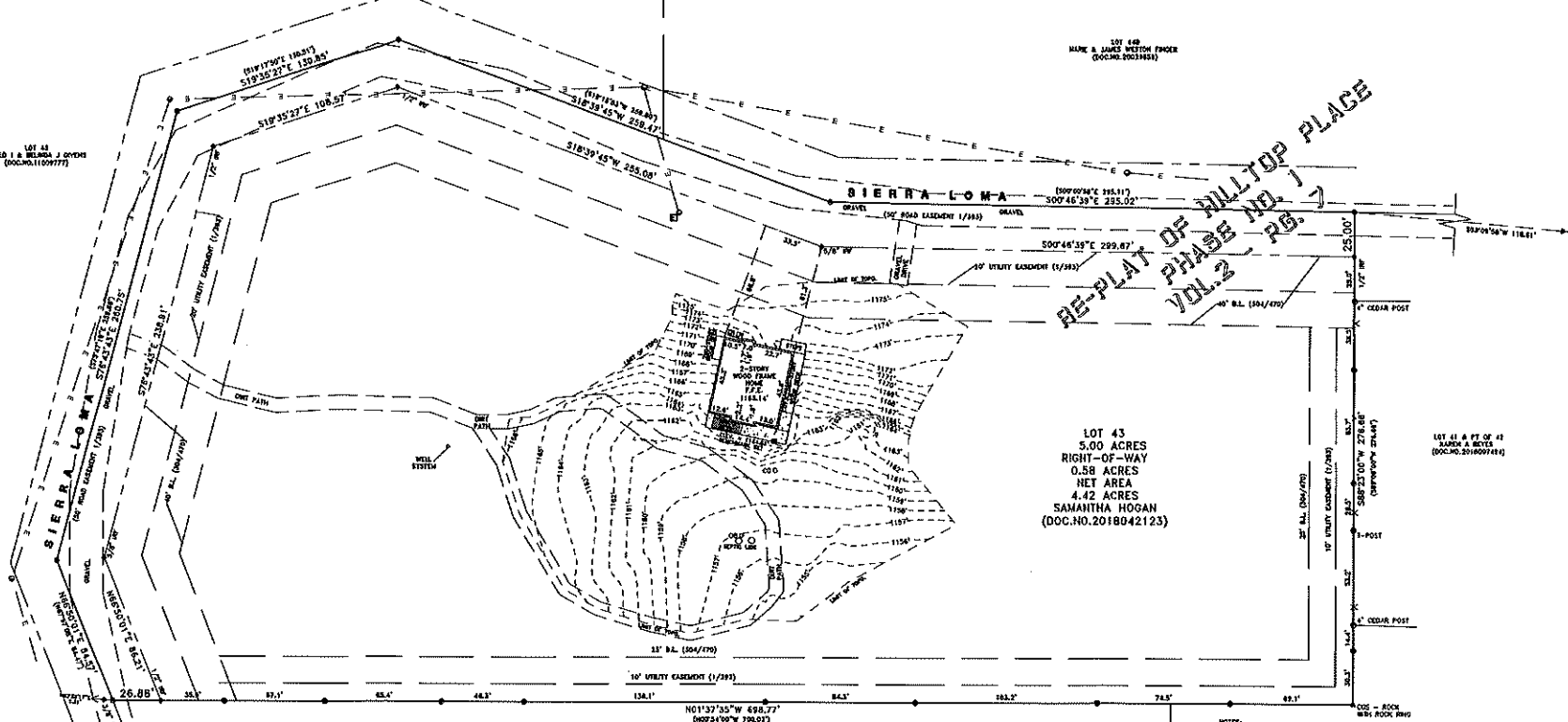
RE-PLAT OF HILLTOP PLACE
PHASE NO. 1
VOL. 2 - PG. 7

LOT 43
5.00 ACRES
RIGHT-OF-WAY
0.58 ACRES
NET AREA
4.42 ACRES
SAMANTHA HOGAN
(DOC.NO.2018042123)

LOT 43 & PT. OF 43
HOGAN & JAMES WILSON (DOC.NO.2018042123)



- LEGEND**
- ROH PIPE FOUND
 - ROH ROD FOUND
 - ROH ROD SET
 - CAPPED "HOLE 5847"
 - x "X" IN CONCRETE
 - A COTTON COT SPRINKLER SET
 - CALCULATED POINT
 - SITE MONUMENT
 - VA FENCE HYDRAULIC
 - WATER VALVE
 - GAS VALVE
 - POWER POLE
 - OVERHEAD ELECTRIC LINE
 - CORK OUT
 - ELECTRIC METER
 - CORK POLE
 - WOOD FENCE
 - CHAIN LINK FENCE
 - WIRE FENCE
 - METAL FENCE
 - GAS METER
 - TELEPHONE pedestal
 - CABLE pedestal
 - SHAN ○ SANITARY SEWER MANHOLE
 - SHAN ○ STORM SEWER MANHOLE
 - ELECTRIC GROUND
 - POINT ON LINE - H&H
 - UNDERGROUND UTILITY MARKER SIGN
 - UNDERGROUND UTILITY TEST STATION
 - ROH POST
 - ELECTRIC TRANSFORMER
 - TRAFFIC SIGNAL BOX
 - PALE PUBLIC UTILITY EASEMENT
 - D.E. DRAINAGE EASEMENT
 - BL. BURNED LINE
 - (RPG-DRT) RECORD DATE
 - (RPG-DRT) CONTIGUOUS SHARED
 - (RPG-DRT) A/C UNIT
 - OPARKT. OFFICIAL PUBLIC RECORDS
 - HAYS COUNTY TEXAS



- NOTES**
- 1) THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A CONVEYANCE FOR TITLE, AND MAY BE SUBJECT TO ANY RECORDED EASEMENTS, RESTRICTIONS, COVENANTS, AND RIGHT-OF-WAYS NOT SHOWN HEREON.
 - 2) HILLTOP PLACE RESTRICTIVE COVENANTS RECORDED IN VOLUME 304, PAGE 478, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS.
 - 3) ACCORDING TO THE NATIONAL FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 4800000000, DATED 09/01/2008, THIS LOT IS LOCATED IN FIRM "2" (MODERATE), WHICH IS AN AREA OUTSIDE THE FIRM DESIGNATED 100-YEAR FLOODPLAIN.
 - 4) BEARING BASES DERIVED BY GPS MEASUREMENTS ADAPTED BY H&H (OWN ACCURACY REFERENCE NETWORK) & PROJECTED TO TEXAS STATE PLANE COORDINATES & TIGER (HORIZONTAL) & NAVD83 (VERTICAL).
 - 5) REFERENCE MONUMENTS SAN MARCOS RPS NO. 1 DESCRIPTION: ALUMINUM DISE SET IN CONCRETE ELEVATION: 807.84' NAVD83 (VERTICAL).

BOUNDARY AND PARTIAL TOPOGRAPHIC SURVEY OF:
LOT 43, RE-PLAT OF HILLTOP PLACE PHASE NO. 1, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGE 7 OF THE MAP OR PLAT RECORDS OF HAYS COUNTY, TEXAS, SITUATED IN THE EUGENE PRICHALSKI SURVEY, SECTION NO. 39 - ABSTRACT NO. 374, HAYS COUNTY, TEXAS, SAME BEING CONVEYED BY DEED DATED NOVEMBER 30, 2018 TO SAMANTHA HOGAN AND RECORDED IN DOCUMENT NO. 18042123, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS.

I, RICHARD H. TATUM, DO HEREBY CERTIFY THAT THIS PLAT OF THE PERPETUITY SHOWN HEREON WAS PREPARED FROM A SURVEY PERFORMED UNDER MY DIRECTION AND SUPERVISION DURING 2023, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A PUBLIC RIGHT OF WAY.



Richard H. Tatum
REGISTERED PROFESSIONAL LAND SURVEYOR
NUMBER 5849 STATE OF TEXAS
ASH & ASSOCIATES, L.L.C.

04/21/2023

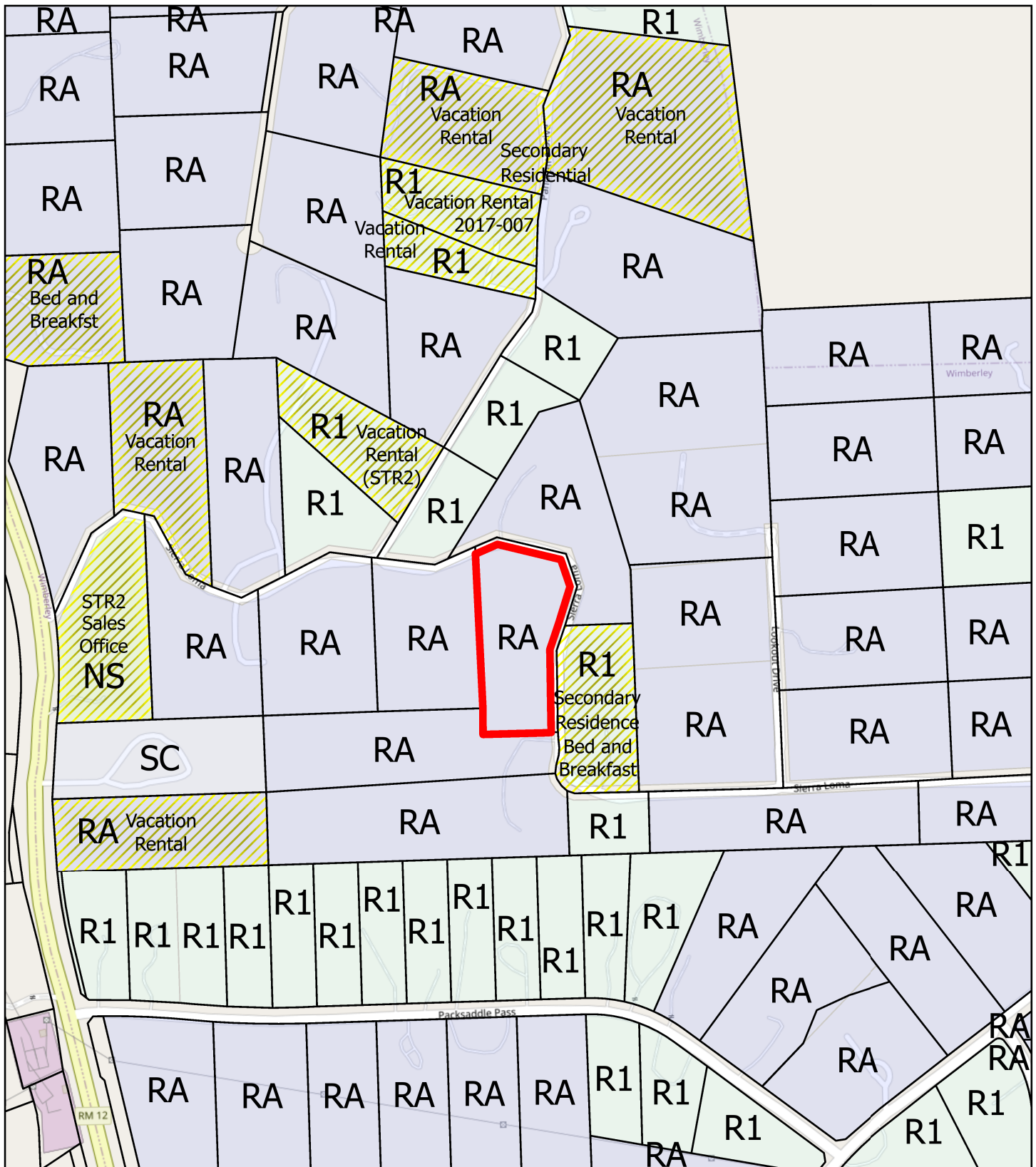
REVISIONS	DATE	BY	DESCRIPTION
1			

ASH & ASSOCIATES
ASSOCIATES
143 JACKSON LANE
SAN MARCOS, TEXAS 78068
TEL: 210-291-1111
FAX: 210-291-1112
WWW.ASH-ASSOCIATES.COM

DRAWING INFORMATION			
DATE	BY	FILE NAME	LOT
04/21/2023	RHT	LOT 43	43

BOUNDARY AND PARTIAL TOPOGRAPHIC SURVEY
LOT 43 - 5.00 ACRES
HILLTOP PLACE - SECTION NO. 1
VOL. 1 - PG. 393
CITY OF WIMBERLEY
HAYS COUNTY, TEXAS

DRAWING
LOT 43
SHEET: 1
OF



CUP-23-008

Legend

 270 Sierra Loma

 CUP

© OpenStreetMap (and) contributors, CC-BY-SA, Esri, NASA, NGA, USGS, FEMA, City of Austin, City of Wimberley, Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, Foursquare, SafeGraph, GeoTechnologies, Inc, METI/ NASA, USGS, EPA, NPS, USDA

2023

Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet

N



0 300 600 Feet

Nathaniel Glaiser

From: Belinda Givens <[REDACTED]>
Sent: Wednesday, July 12, 2023 12:18 PM
To: Nathaniel Glaiser
Subject: File No. CUP-23-008

Nathan,

My husband and I will be unable to attend the public hearing scheduled on Thursday, July 13, 2023 or Thursday, July 20, 2023 regarding the Bauer request for Conditional Use Permit. I would like to notify all who attend that my family is opposed to granting the request for the permit. Our subdivision is populated with single family homes and I would suggest that if the Bauer family is interested in operating a bed and breakfast type business they should consider locating to other properties which allow operation of this type of business.

My family purchased our property with the knowledge that the area was established as a single family residential area and would like to continue to enjoy living in the area without the noise, traffic, or inconvenience of having a business located next door.

Thank you for your consideration in this matter,
Belinda and Ron Givens
245 Sierra Loma
Wimberley, TX 78676

--

Belinda Givens



AGENDA ITEM:	CUP-23-009 – Office, Retail, Repair services
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	June 6, 2023
MEETING DATE:	August 10, 2023 (P&Z) / August 17, 2023 (City Council)

REPORT

ITEM

The applicant, Huband Ranch Services LLC (Rodney Huband), has requested a Conditional Use Permit to allow for the following three uses for a property located at 151 Las Flores, Wimberley.

Administrative and professional office. Offices of firms or organizations providing professional and executive management or administrative services. Typical uses include advertising agencies, law offices, real estate offices, architectural and engineering offices, financial institutions, and corporate offices.

Repair services: consumer. Establishments primarily engaged in the provision of repair services to individuals and households rather than to firms. Typical uses include appliance repair, apparel repair, musical instrument repair, electrical repair, shoe repair, plumbing repair, and jewelry repair shops.

Retail sales and services: limited. Establishments engaged in the sale or rental of commonly used retail goods and services, and serving primarily neighborhood or localized population centers, not including the sale of beer, wine, or alcoholic beverages for on- or off-premises consumption.

The property is 6.43 acres and zoned Neighborhood Services on Aqua Texas sewer. All commercial uses within Neighborhood Services require a conditional use permit. Multiple buildings currently exist on the property with multiple businesses that fall within the categories requested. These buildings and uses have existed since before the city was incorporated and are considered non-conforming uses (grandfathered).

The owner would like to construct five additional buildings and extend the non-conforming uses to those buildings. Existing businesses included:

1. Wiley Water Well - Home Well Service
2. Wimberley Automotive - Automotive Service
3. M&D Painting - Home Painting Service
4. Crowder Plumbing - Home Plumbing Service
5. GWH Flooring - Home Flooring Service and Showroom
6. Holcomb Woodworking- Home Cabinet Service

7. Olson Electrical - Home Electrical Service
8. Denny McCoy- Woodworking (mantles) - Home Service
9. Blue Willow- Storage for Square Store Retail
10. Redhead Auto / Napa - Parts storage for main store Retail
11. Iron Works BBQ- Storage for Main Retail
12. Escape Spa - Massage

PROPERTY INFORMATION

Property Description

Applicant(s):	Huband Ranch Services
Property Address:	151 Las Flores
Property Owner:	Huband Ranch Services
Legal Description:	Lots 1 and 2, Las Flores Business Park
Property Size:	6.43 acres
Existing Use of Property:	Administrative offices, Repair services, Retail sales and services
Existing Zoning:	NS
Shared Infrastructure	None
Request:	Administrative and professional offices, Repair Services: consumer, Retail sales and services
Planning Area:	II
Overlay District:	None

Surrounding Property:

Frontage:	Las Flores, La Buena Vista		
Surrounding Zoning & Land Use	North of Property	Current Zoning: NS	Existing Land Use: School, Commercial
	South of Property	C1, R2	Commercial, Residential
	East of Property	R2	Residential
	West of Property	C1, NS	Commercial

COMMENTS

Staff has not received any comments from neighbors.

RECOMMENDATION

The property lies within Planning area II which is defined as the primary location for low impact

traditional residential developments. The uses requested are low impact, requiring little parking and generating relatively little traffic. Also, these uses have historically been operating on this property without issue that staff is aware of. Staff recommends approval of this application with deference given to the neighbors most affected by the proposed development.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): July 21st, 2023
Published Legal Notice (Wimberley View): July 27th, 2023

ATTACHMENT/S

- Application
- Zoning Map



Conditional Use Permit
Planning & Development

FOR OFFICE USE ONLY

Date: _____ CUP - _____ - _____ Staff Review _____

P&Z Hearing: _____ Council Hearing: _____ Fees Paid (\$650): ☐ _____

Applicant: Huband Ranch Services, LLC (Rodney Huband)

Mailing Address: 15520 RR 12 City: Woodcreek State: TX Zip: 78676

Phone: Email:

OWNER'S INFORMATION

Property Owner: Same as Applicant

Mailing Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

PROJECT SITE ADDRESS: 619 La Buena Vista Drive, Wimberley, Texas 78676

Legal description: LOTS 1 AND 2 LAS FLORES BUSINESS PARK VOL.8 PG.25 PLAT RECORDS, HAYS COUNTY, TX

Total Acreage or Square Footage: 6.43 AC Deed recorded in: Hays

Hays CAD Parcel ID R- 88302 Planning Area: _____ Zoning: NS

Is property located in an overlay district? ☐ Yes ☒ No If Yes, type: _____

SPECIFIC CONDITIONAL USE REQUEST: Administrative Offices, Retail Services: Limited, Repair Services: Consumer

Applicant understands that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

UTILITIES

Electric Provider: Pedernales

Water provider or Private Well: Wimberley Water

Wastewater Service or Septic Permit No. Aqua Texas

*If you have an On-Site Sewage Facility (OSSF) you can submit an open records request for your permit information if you do not have it.

CONDITIONAL USE PERMIT (CUP) SUBMITTAL CHECKLIST

- ☒ Complete "Conditional Use Permit Application"
- ☒ Metes and bounds description and/or survey exhibit
- ☒ Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences
- ☒ Copy of the Original Deed(s)
- ☐ Payment of application fee (credit card payments, checks/money orders, cash exact change only)
- ☒ Agent authorization to represent property owner if applicable

MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses and does not adversely affect an adjoining site than would a permitted use.
- The use requested by the applicant is set forth as a conditional use in the base district.
- The nature of the use is reasonable.
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area.
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base districts are being upheld.

SUBMITTAL VERIFICATION

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application. I authorize City of Wimberley Staff to visit and inspect the property for which this application is being submitted. I agree to attend or have a representative attend the Planning & Zoning Commission and City Council meetings. I have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and understand that the City zoning action does not relieve any obligation of these restrictions.

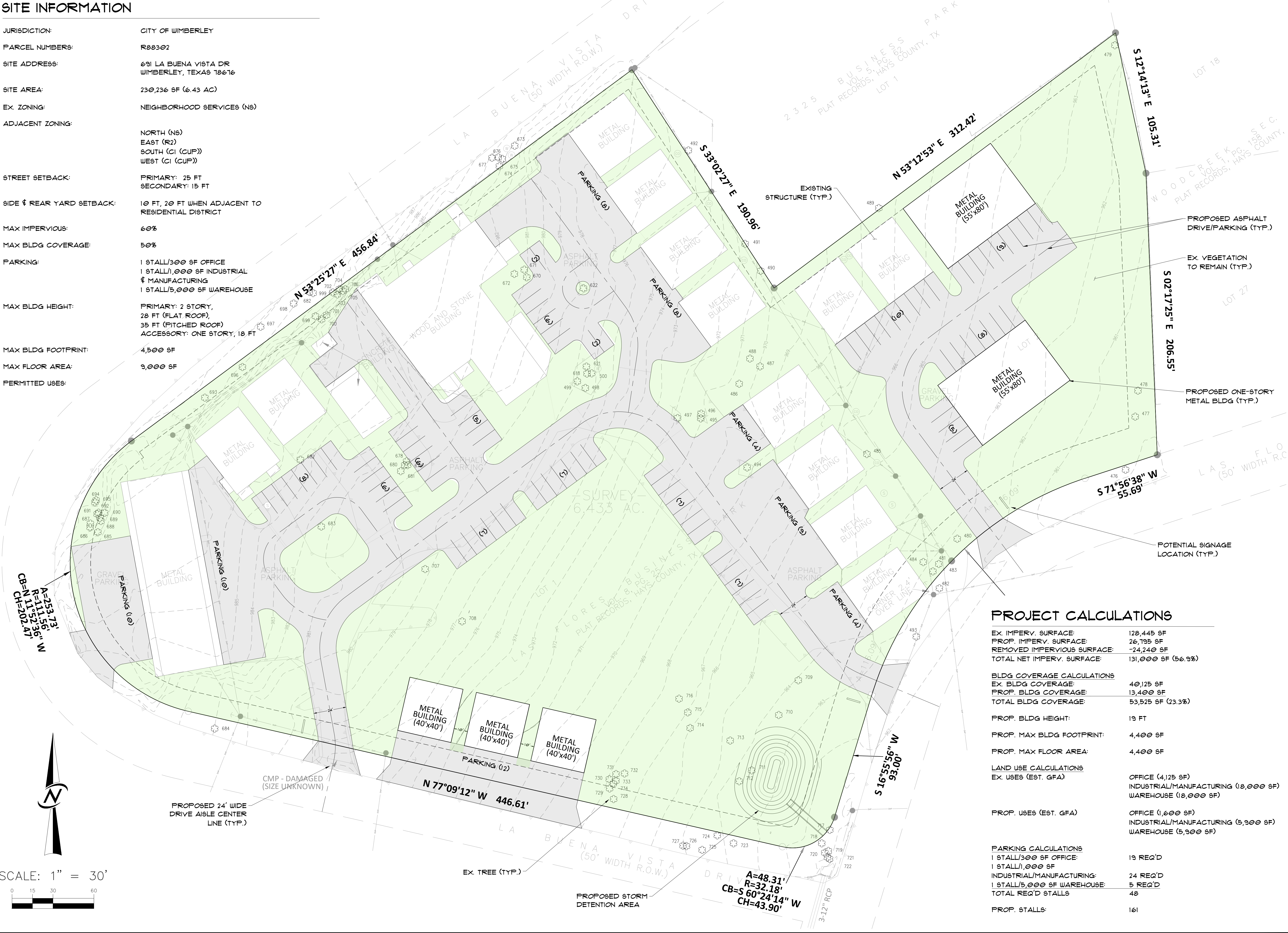
Applicant's Signature: _____

Date: 6/7/23

Forms & Applications October 2021 2

SITE INFORMATION

JURISDICTION: CITY OF WIMBERLEY
PARCEL NUMBERS: R22202
SITE ADDRESS: 631 LA BUENA VISTA DR
WIMBERLEY, TEXAS 78616
SITE AREA: 230,236 SF (6.43 AC)
EX. ZONING: NEIGHBORHOOD SERVICES (NS)
ADJACENT ZONING: NORTH (NS)
EAST (R2)
SOUTH (C1 (CUP))
WEST (C1 (CUP))
STREET SETBACK: PRIMARY: 25 FT
SECONDARY: 15 FT
SIDE & REAR YARD SETBACK: 10 FT, 20 FT WHEN ADJACENT TO
RESIDENTIAL DISTRICT
MAX IMPERVIOUS: 60%
MAX BLDG COVERAGE: 50%
PARKING: 1 STALL/300 SF OFFICE
1 STALL/1,000 SF INDUSTRIAL
& MANUFACTURING
1 STALL/5,000 SF WAREHOUSE
MAX BLDG HEIGHT: PRIMARY: 2 STORY,
28 FT (FLAT ROOF),
35 FT (PITCHED ROOF)
ACCESSORY: ONE STORY, 18 FT
MAX BLDG FOOTPRINT: 4,500 SF
MAX FLOOR AREA: 9,000 SF
PERMITTED USES:



PROJECT CALCULATIONS

EX. IMPERV. SURFACE:	128,445 SF
PROP. IMPERV. SURFACE:	26,195 SF
REMOVED IMPERVIOUS SURFACE:	-24,240 SF
TOTAL NET IMPERV. SURFACE:	131,000 SF (56.9%)
BLDG COVERAGE CALCULATIONS	
EX. BLDG COVERAGE:	40,125 SF
PROP. BLDG COVERAGE:	13,400 SF
TOTAL BLDG COVERAGE:	53,525 SF (23.3%)
PROP. BLDG HEIGHT:	19 FT
PROP. MAX BLDG FOOTPRINT:	4,400 SF
PROP. MAX FLOOR AREA:	4,400 SF
LAND USE CALCULATIONS	
EX. USES (EST. GFA):	OFFICE (4,125 SF) INDUSTRIAL/MANUFACTURING (18,000 SF) WAREHOUSE (18,000 SF)
PROP. USES (EST. GFA):	OFFICE (1,600 SF) INDUSTRIAL/MANUFACTURING (5,900 SF) WAREHOUSE (5,900 SF)
PARKING CALCULATIONS	
1 STALL/300 SF OFFICE:	19 REQ'D
1 STALL/1,000 SF	
INDUSTRIAL/MANUFACTURING:	24 REQ'D
1 STALL/5,000 SF WAREHOUSE:	5 REQ'D
TOTAL REQ'D STALLS	48
PROP. STALLS:	161

DATE: 3/30/2023
DESIGNED: CHRIS WALL, P.E.
DRAWN: DAVID VAUGHN
APPROVED: FLOR CANAHUATI, P.E.
PROJECT MANAGER: JOSHUA P. BEARD, P.L.A.

REVISIONS:

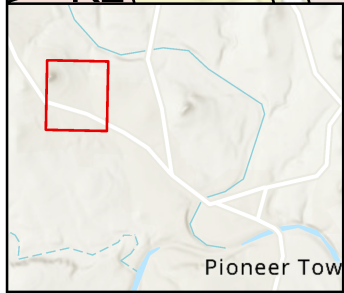
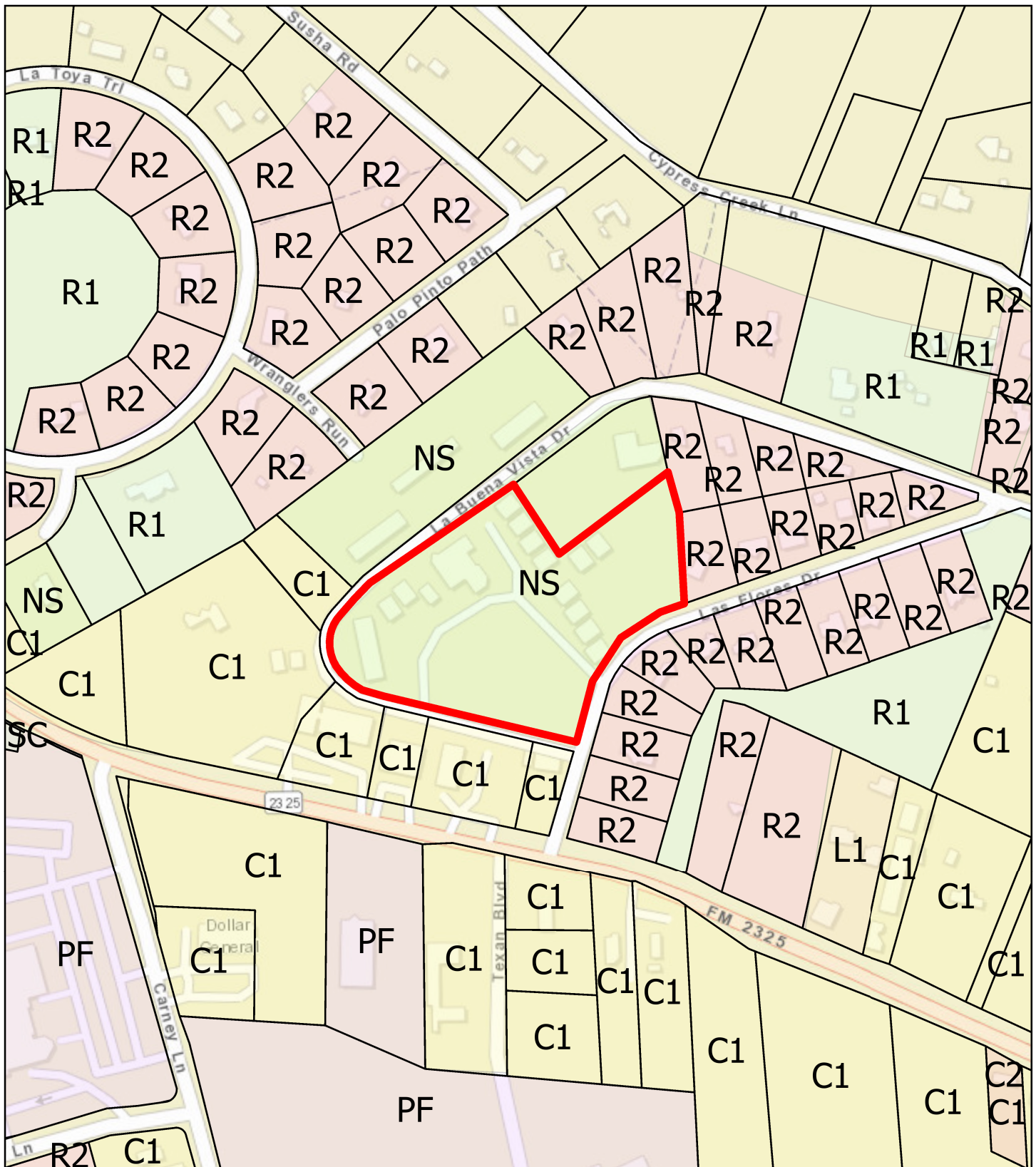
NO.	DESCRIPTION

SITE PLAN
LAS FLORES BUSINESS PARK
HUBAND RANCH SERVICES, LLC

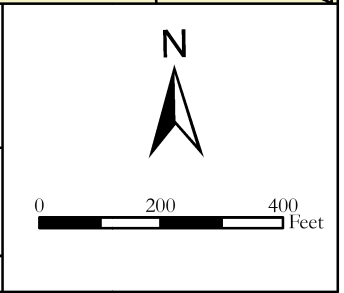
150 Indian Grass Cove
Austin, Texas 78737
737.204.9825
LANDSCAPE ARCHITECTURE • PLANNING • ENGINEERING

C3.01
PROJECT NUMBER
23043

DATE: MARCH 30, 2023
SHEET



CUP-23-009	
City of Austin, City of Wimberley, Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA, Esri, NASA, NGA, USGS, FEMA, City of Wimberley, Comal County, Esri, HERE, Garmin, INCREMENT P, NGA, USGS	2023
Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet	





AGENDA ITEM:	CUP-23-011 – Vacation Rental (STR2)
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	June 10, 2023
MEETING DATE:	August 10, 2023 (P&Z) / August 17, 2023 (City Council)

REPORT

ITEM

The applicant, Jody Doss, has requested a Conditional Use Permit to allow for the operation of a Vacation Rental (STR2) on property located at 13300 Ranch Road 12, Wimberley. The property is .229 acres and zoned Commercial Low Impact 1. On the property is a one story two bedroom log cabin. It has been previously used as an office The applicants are requesting a maximum occupancy of 4 guests. It is on a septic system that is adequate for the request.

PROPERTY INFORMATION

Property Description

Applicant(s):	Jody Doss
Property Address:	13300 Ranch Road 12
Property Owner:	Jody Doss
Legal Description:	Lots 16 & 17 Harrison Resort Subdivision
Property Size:	.229 acres
Existing Use of Property:	Office
Existing Zoning:	C1
Shared Infrastructure	None
Request:	Vacation Rental (STR2)
Planning Area:	III
Overlay District:	None

Surrounding Property:

Frontage:	Ranch Road 12
------------------	---------------

		Current Zoning:	Existing Land Use:
Surrounding Zoning & Land Use	North of Property	C2	Commercial
	South of Property	R2	Residential/STR

**East of Property
West of Property**

**R3
C1**

**Residential
Commercial**

COMMENTS

Staff has not received any comments from neighbors.

RECOMMENDATION

Staff defers to Planning and Zoning Commission for their recommendation.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): July 21st, 2023
Published Legal Notice (Wimberley View): July 27th, 2023

ATTACHMENT/S

- Application
- Zoning Map



Conditional Use Permit
Planning & Development

FOR OFFICE USE ONLY

Date: _____ CUP - _____ - _____ Staff Review _____

P&Z Hearing: _____ Council Hearing: _____ Fees Paid (\$650): ☐ _____

Applicant: Jody Doss

Mailing Address: 400 Bluffview Drive City: Wimberley State: Tx Zip: 78676

Phone: [REDACTED] Email: [REDACTED]

OWNER'S INFORMATION

Property Owner: Jody Doss - same info as above

Mailing Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

PROJECT SITE ADDRESS: 13300 Ranch Road Twelve, Wimberley, TX 78676

Legal description: Lots 16&17 Harrison Resort Subdivision, Hays County

Total Acreage or Square Footage: 1000 sq ft building Deed recorded in: Hays County

Hays CAD Parcel ID R- 29774 Planning Area: _____ Zoning: _____

Is property located in an overlay district? ☐ Yes ☐ No If Yes, type: short term rentals

SPECIFIC CONDITIONAL USE REQUEST: _____

Applicant understands that the purpose of the Conditional Use Permit (CUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a CUP, the requested use must be listed under "Conditional Uses" within the applicable zoning district.

UTILITIES

Electric Provider: PEC Electric

Water provider or Private Well: Wimberley Water

Wastewater Service or Septic Permit No. _____

*If you have an On-Site Sewage Facility (OSSF) you can submit an open records request for your permit information if you do not have it.

CONDITIONAL USE PERMIT (CUP) SUBMITTAL CHECKLIST

- ☒ Complete "Conditional Use Permit Application"
- ☐ Metes and bounds description and/or survey exhibit
- ☐ Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size height, construction materials, and locations of buildings and the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences
- ☐ Copy of the Original Deed(s)
- ☐ Payment of application fee (credit card payments, checks/money orders, cash exact change only)
- ☐ Agent authorization to represent property owner if applicable

MY REQUEST IS BASED ON THE FOLLOWING:

- The use is harmonious and compatible with surrounding existing uses or proposed uses and does not adversely affect an adjoining site than would a permitted use.
- The use requested by the applicant is set forth as a conditional use in the base district.
- The nature of the use is reasonable.
- The conditional use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area.
- The conditional use does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting, or its type of sign; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the base districts are being upheld.

SUBMITTAL VERIFICATION

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application. I authorize City of Wimberley Staff to visit and inspect the property for which this application is being submitted. I agree to attend or have a representative attend the Planning & Zoning Commission and City Council meetings. I have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and understand that the City zoning action does not relieve any obligation of these restrictions.

Applicant's Signature: Jody Doss  Date: 6/20/2023

ADDITIONAL QUESTIONS AND LIST OF CONDITIONS THAT MAY BE INCLUDED IN A BED AND BREAKFAST/VACATION RENTAL CUP

Jody Doss

OWNER: _____

13300 RR 12, Wimberley

LOCATION OF PROPERTY: _____

Lots 16 and 17, Harrison Resort Subdivision

LEGAL DESCRIPTION: _____

PLANNING AREA: _____ PRESENT ZONING: _____

office building

EXISTING USE: _____

HOMEOWNERS ASSOCIATION CONTACT INFO: _____

SHARED FACILITIES (RIVER PARK, POOL, ETC.): _____

PROPERTY IN FLOODPLAIN? ☐ YES ☐ NO

GATED COMMUNITY OR PRIVATE STREET? ☐ YES ☒ NO

USE TO BE GRANTED: _____ *Bed & Breakfast* OR _____ *Vacation Rental*

NEW CONSTRUCTION: (Describe existing construction) If new construction is contemplated: Describe new construction. The architecture and façade of all new construction will be traditional "Hill Country" design and harmonious with those of adjacent uses. No construction shall commence prior to compliance with all applicable ordinances, laws, rules, and regulations.

COMPATIBILITY TO NEARBY AREAS: The facilities on the property will always be harmonious and compatible with surrounding uses

OFF-STREET PARKING: All parking will be off-street. _____ Off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of 6 guests. Parking will be in these spaces only.

SIGNAGE: All signage will be of traditional "Hill Country" design and will comply with the City Sign Ordinance.

NOISE AND LIGHTING: Exterior lighting to be only landscape lighting. All noise audibles from outside, and all light visible from outside the property shall be maintained at low levels appropriate to a single-family neighborhood. No large parties are permitted.

NUMBER OF BEDROOMS: 2 PROPOSED MAXIMUM OCCUPANCY: 6 guests.

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OCCUPANT REGULATIONS AND GUIDELINES: Guest Guidelines are attached hereto and made a part of this Conditional Use Permit. The bed and breakfast lodging facility shall be operated in accordance with the guidelines. These guidelines shall be furnished to all guests.

WASTEWATER SYSTEM: The wastewater treatment system (to be designed and constructed) will always be adequate for the maximum occupancy.

WATERFRONT USAGE: (Applicable if guests have water access) Guests may only use the _____ River/Creek in the area directly adjacent to the bed and breakfast lodging facility. Guests may not use the River/Creek in front of other properties or enter upon any property which is not part of the bed and breakfast facility for the purpose of entering or exiting the water or for any other reason.

PROPERTY MANAGEMENT: Owner will provide guests and close-by neighbors with owner's telephone number to assure Owner's immediate knowledge of any concerns that may arise. (If not, owner occupied) Owner agrees to always retain under contract a responsible local management company the property is used as a non-owner-occupied bed and breakfast lodging. The management company shall advise guests of the applicable conditions contained herein, receive, and pass on to owner any complaints received and at owner's direction act upon such complaints. (If owner occupied) The property shall be the owner's principal place of residence and the owner shall actively always supervise and manage the property that it is used as a bed and breakfast facility.

MISCELLANEOUS: Owner agrees to maintain the property in a manner conducive to the health and safety of the guests and the neighborhood. All trash and garbage will be placed in provided receptacles which shall not be visible from the street except on pick-up day. No trash bags shall be left out in the open. The exterior of the facility and the landscaping, including lawns, will be always maintained in good condition.

REVOCATION: The cup may be revoked by the City Council upon recommendation of the Planning and Zoning Commission in the event of the violation of any of the conditions contained therein.

OWNER COMPLIANCE: Owners agree to comply with all City of Wimberley Ordinances, and all state, county and City laws, rules, and regulations.

ACCEPTED AND AGREED TO:

Jody Doss

OWNER SIGNATURE
Michael Doss

OWNER SIGNATURE

Jody Doss

PRINT NAME
Michael Doss

PRINT NAME

6/20/2023

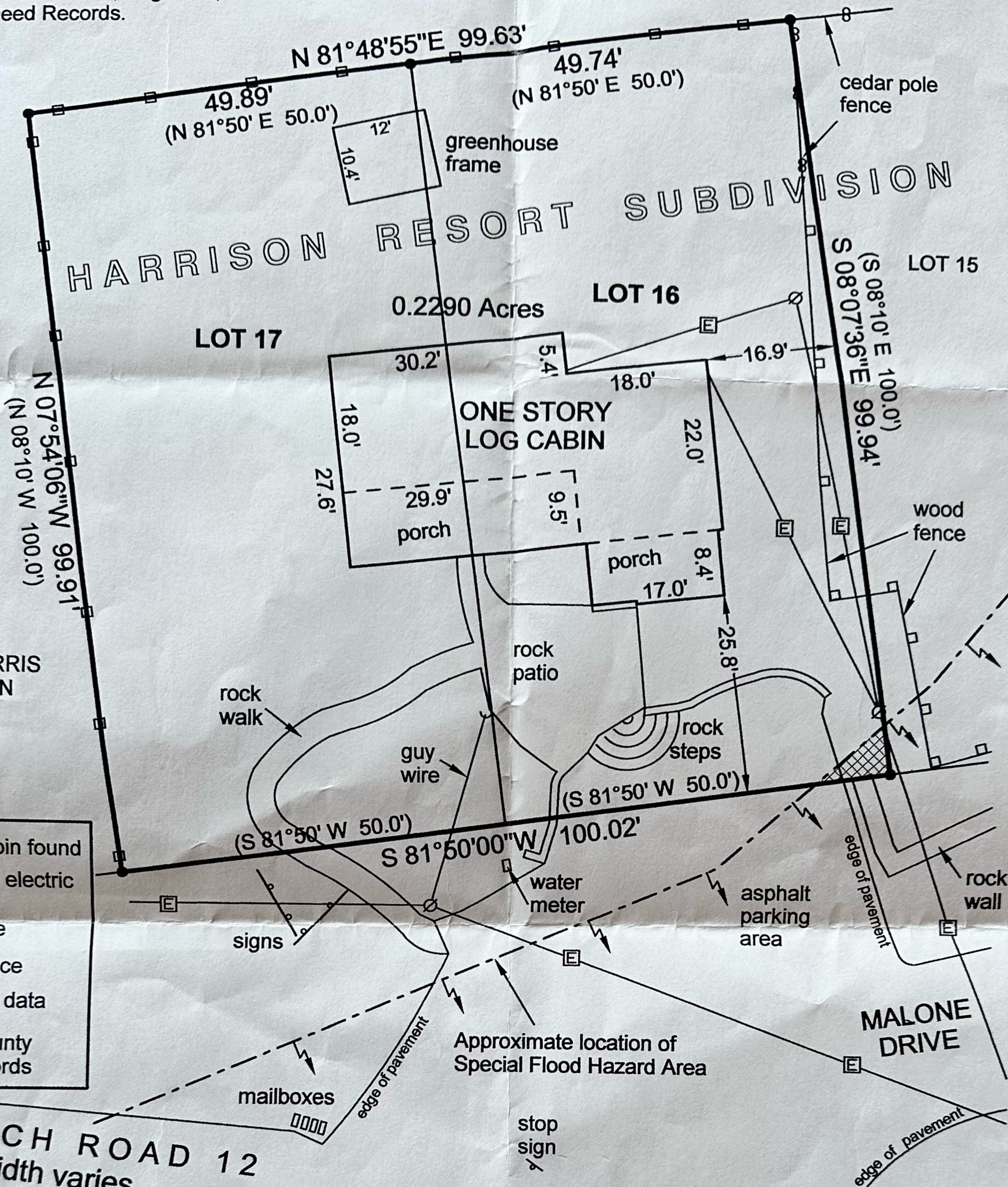
DATE
6/20/2023

DATE

Reference a blanket utility easement
as recorded in Volume 116, Page 557,
Hays County Deed Records.

RANDALL MORRIS
SUBDIVISION

11
18



Copyright © 2013 Eagle Land Surveying. All rights reserved.

A small portion (shaded area) of this subject property does lie within a Special Flood Hazard Area
as determined from FIRM Hazard Map, Community Panel No. 480209C0355F, dated September 2, 2005.

LEGAL DESCRIPTION: All of Lot Sixteen (16) and Lot Seventeen (17), HARRISON RESORT
SUBDIVISION, a subdivision in Hays County, Texas, according to the map or plat thereof
recorded in Volume 87, Page 347, Deed Records of Hays County, Texas.

PROPERTY ADDRESS: 13300 RR 12, Wimberley, Texas 78676

CLIENT: Randali Morris & Company, Ltd.

TITLE COMPANY: Independence Title Company
G.F. No.: 1311459-WIM

I hereby certify that this plat represents a survey made upon the ground under my
supervision, on April 25, 2013, and there are no visible or apparent encroachments
upon this property, except as shown hereon.

Clyde Barroso

Clyde Barroso, R.P.L.S. #5404, State of Texas.



**EAGLE
LAND
SURVEYING**

(512) 847-1079

P.O. Box 2264 Wimberley, TX. 78676

Scale:

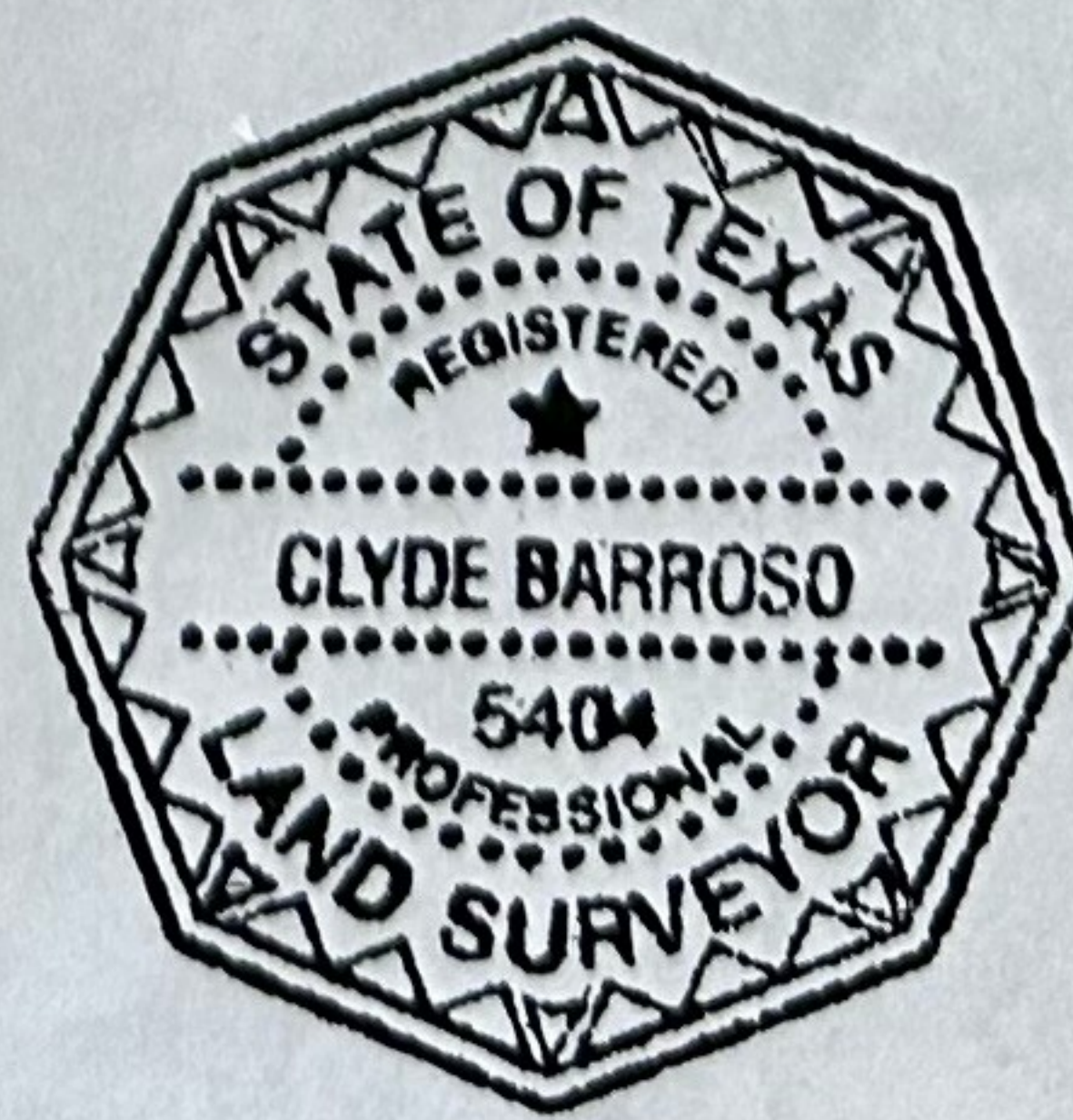
1" = 20'

Date:

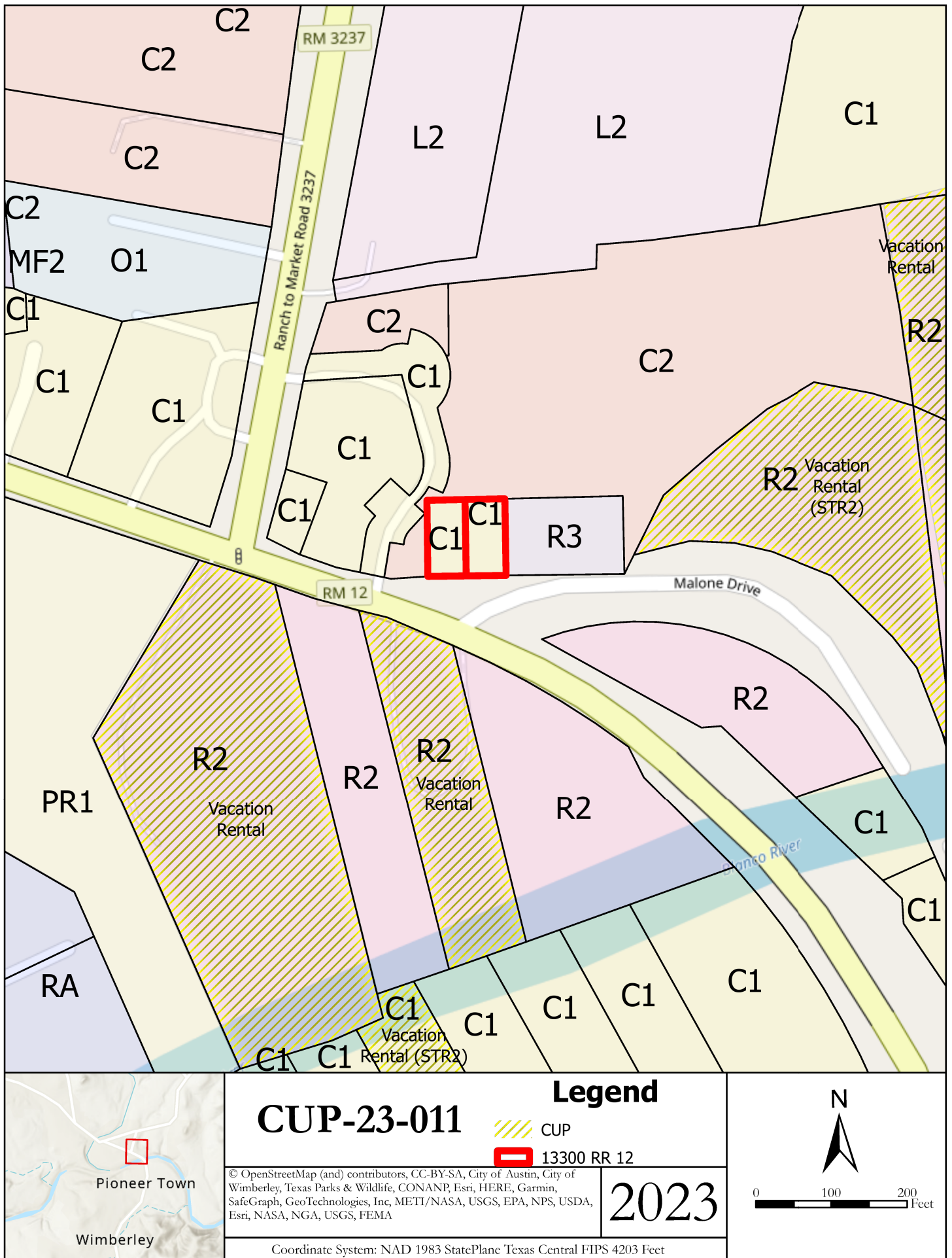
April 25, 2013

Job No.

13-049 cb



16har.zak





AGENDA ITEM:	6. Hold a public hearing and consider making a recommendation regarding an amendment to Chapter 9, Section 9.02 Subdivision Control, providing for findings of fact, savings, severability, repealer, an effective date, and proper notice and meeting. <i>(Nathan Glaiser, Planning & Public Works Director)</i>
SUBMITTED BY:	Nathan Glaiser
DATE SUBMITTED:	08/02/2023
MEETING DATE:	August 10, 2023

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

This ordinance updates the processes used by City staff to process subdivisions. The existing code was unclear and has not been updated since the 'shot clock' law was adopted in 2019. The shot clock law requires complete subdivision applications go before a P&Z or City Council within 30 days of submittal or the subdivision is automatically approved. This update clarifies what constitutes a complete application and requires all documents to be certified by the City prior to submittal. This aids City staff in the review process by reducing the pressure of the 30 day time frame.

This was presented to P&Z in a previous meeting and has not been substantially changed since. This most noteworthy change is that as this ordinance is currently written, P&Z will have approval authority over all plats. Plat waivers will still go to City Council.

REQUESTED ACTION

Discussion

FINANCIAL

STAFF RECOMMENDATION

Staff recommends approval of this ordinance.

ATTACHMENT/S

1. Ord. 2023-XX Subdivision Ord Amendment (with Exhibit)

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING THE CITY’S CODE OF ORDINANCES CHAPTER 9, PLANNING AND DEVELOPMENT, ARTICLE 9.02 SUBDIVISION CONTROL, RELATED TO REVISING THE SUBDIVISION PROCEDURES, REVISING PARKLAND DEDICATION AND IMPROVEMENT REQUIREMENTS, AND OTHER MATTERS IN CONNECTION THEREWITH; ADDING ARTICLE 9.06 RELATED TO VESTED RIGHTS AND OTHER MATTERS IN CONNECTION THEREWITH; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Wimberley (“City”) is a Texas General Law Municipality operating under the laws of the State of Texas; and

WHEREAS, the City is empowered by Chapter 212 of the Texas Local Government Code to establish subdivision regulations within the incorporated limits of the City and within the City’s Extraterritorial Jurisdiction; and

WHEREAS, the City has given appropriate and reasonable consideration to the amendments to the subdivision regulations contained herein and found them to be the most appropriate for the City; and

WHEREAS, the City Council of the City finds that the amendments to the subdivision regulations as depicted in this Ordinance are compliant with the requisites of state law, including Texas Local Government Code; and

WHEREAS, the City Council finds that the amendments to the subdivision regulations depicted in this Ordinance are necessary for the orderly development of this community and represent the best interest of all citizens of the City of Wimberley, Texas, and promote the aesthetics, health, safety, general welfare, and convenience of the people.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, AS FOLLOWS:

Section 1. The foregoing recitals are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. The City of Wimberley Code of Ordinances, Chapter 9 *Planning and Development Regulations*, Article 9.02 *Subdivision Control* and Article 9.06 *Vested Rights*, is hereby amended as shown on Exhibit A attached hereto.

Section 3. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section 4. This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 7. That all rights and privileges of the City and individual landowners are expressly saved as to any and all pending permits or violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or note, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 8. This Ordinance shall be in full force and effect after its final passage and approval by the City Council, as duly attested by the Mayor and City Secretary, and any publication required by law.

PASSED AND APPROVED this ____ day of _____, 2023, by a vote of (Ayes) to (Nays) (Abstain) vote of the City Council of the City of Wimberley, Texas.

Gina Fulkerson, Mayor

ATTEST:

Tammy Heller, City Secretary

Exhibit A

All text which is underlined denotes addition of new text. All text which is ~~stricken through~~ denotes removal of existing text. All other text is existing, unchanged text. Any existing text which has been omitted shall be considered unchanged. All text which is both between braces { } and italicized, is for document organization and reference only and is not intended to be adopted. Code of Ordinances of City of Wimberley, Texas, is hereby amended as follows:

{Addition of a development manual}

Sec.9.02.009 Development manual

- (a) The Development Manual shall contain development application forms, required application materials, fees, and application submittal deadlines. The Development Manual may be adopted and updated from time to time by Resolution approved by City Council. A copy of the current Development Manual shall be available upon request.

~~Sec.9.02.009~~ Sec.9.02.010-9.02.040 Reserved

{Removal and replacement of subdivision procedures Sec.9.02.041- 9.02.080}

Sec.9.02.041 General

- (a) The purpose of this section is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions that affect the development and use of property subject to the jurisdiction of the City of Wimberley.
- (b) The owner of a tract of land located within the city limits or ETJ who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

Sec.9.02.042 Initiation of application

- (a) Application submittal. All development applications to be considered by any Board, Commission, or Committee, or by the City Council, shall be initiated by the filing of the application by the owner of the property on which the permit is applicable or by the owner's designated agent. In the event an application is submitted by a designated agent, the application must be accompanied by a written statement, signed by the owner, authorizing the agent to file the application on the owner's behalf.
- (b) Determination of application completeness.
- (1) All submitted development applications shall be subject to a determination of completeness by the City Administrator.
 - (2) No application shall be deemed complete and accepted for filing unless it is accompanied by all documents required by and prepared in accordance with the requirements of the City and any required fees have been paid.
 - (3) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this ordinance.

- (4) Not later than the tenth (10th) business day after the date an application is submitted, the City Administrator shall make a written determination whether the application constitutes a complete application. This shall include a determination that all information and documents required by the City for the type of permit being requested have been submitted. A determination that the application is incomplete shall be sent to the applicant within such time period by email to the address listed on the application or by United States mail at the address listed on the application with the date the application was submitted. The determination shall specify the documents or other information needed to complete the application. Applications considered incomplete shall not be deemed filed with the City and shall be made available to the applicant for pick-up at City Hall. All incomplete applications not picked up within 10 business days may be discarded at the discretion of the City Administrator. If an application is considered incomplete, a new application package must be submitted.
- (5) The processing of an application by any City employee other than the City Administrator prior to the time the application is officially determined to be complete shall not be binding on the City as the official acceptance of the application for filing.
- (6) A development application shall be deemed to expire on the forty-fifth (45th) calendar day after the application is submitted to the City Administrator for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this ordinance or other requirements as specified in the determination provided to the applicant. Upon expiration, the application will be discarded and a new application must be submitted.
- (7) No vested rights accrue solely from the submission of an application that has expired pursuant to this section, or from the submission of a complete application that is subsequently denied.
- (c) Application withdrawal. Any request for withdrawal of an application must be submitted in writing to the City Administrator. If notification is required for the application and has been properly given via publication in the newspaper and/or written notification to surrounding property owners, such application must be placed on the agenda. The staff representative shall notify the Board, Commission, Committee, or the City Council of the request for withdrawal. Application fees are not refundable unless reimbursement is otherwise authorized by the City Administrator.

Sec.9.02.043 Pre-application conference

- (a) Prior to submitting an application for approval of a development, subdivision master plan, or subdivision plat, the subdivider, at his/her option, may consult with and present a proposed plan for the subdivision to the City Administrator or his/her designee for comments and advice on the procedures, specifications, and standards required by the City for the subdivision of land. At such a meeting the City Staff will be able to make any suggestions that would direct the proposed subdivision toward desirable objectives and possibly prevent unnecessary work and expense if objectives are not met. No vesting shall occur under this subsection in accordance with this ordinance.

Sec.9.02.044 Certification of exhibits

- (a) Applicability. Prior to filing an application for a subdivision master plan or subdivision plat approval the applicant shall secure letters of certification as required by this ordinance and the Development Manual. A request for letters of certification and required items shall be submitted by the applicant as required by the Development Manual.
- (b) Application requirements. Any request for a letter of certification shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (c) Processing of application and decision.

- (1) Submittal. A request for a letter of certification shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant.
- (2) Decision by the City Administrator.
 - (A) After the City Administrator has determined whether the request for letters of certification and required technical data is complete, each certifying department shall issue comments approve, or deny a letter of certification within forty-five (45) calendar days. When a certifying department determines that the proposed plan, plat, or any of the required accompanying data does not conform with the requirements of this ordinance or other applicable regulations, ordinances, or laws, the applicant may at his/her option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department shall have up to thirty (30) calendar days from the latest date of submission to issue comments, approve, or deny a letter of certification.
 - (B) If a letter of certification is not issued or denied within the time periods prescribed in subsection above, the same shall be deemed issued and the applicant may submit an application for subdivision master plan or subdivision plat without submitting the letter of certification.
- (3) Scope of issuance. A letter of certification does not authorize the development or subdivision of land. Upon receipt of all required letters of certification, the applicant may submit an application for subdivision master plan or subdivision plat approval. Letters of certification shall remain valid for one (1) year from the date of issuance by the certifying department. After that time period, new or updated letters of certification shall be required to file a subdivision master plan or subdivision plat application.
- (4) Amendments. A letter of certification may be amended prior to filing an application for subdivision approval if the proposed amendment:
 - (A) Does not increase the number of lots subject to the application;
 - (B) Does not increase by more than five percent (5%) the lineal footage of roadways or the areas within the paved surface of the street right-of-way;
 - (C) Does not reduce the amount of open space within the proposed subdivision; and
 - (D) Does not alter or change the approved stormwater plan.
- (5) Letter of certification authorization. A letter of certification is not recorded. A letter of certification shall be maintained by the applicant and presented with the application for subdivision master plan or subdivision plat approval.

Sec.9.02.045 Subdivision master plan

(a) Applicability.

- (1) A subdivision master plan is required to provide for review of certain developments for compliance with this ordinance, any additional adopted plans (i.e. water, wastewater, transportation, drainage), the compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development prior to approval of a preliminary or final plat. A subdivision master plan is required for any development meeting one or more following criteria:
 - (A) The property is undeveloped and is greater than fifty (50) acres in size;
 - (B) The proposed subdivision of land is to occur in phases; or
 - (C) The proposed subdivision will require off-site road, drainage, or utility connections of improvements that will have a substantial impact or effect on other properties or developments.

- (2) If a preliminary plat encompasses the entire development and tract of land, a subdivision master plan will not be required.
- (3) A subdivision master plan is not required when all lots in the proposed division of land are greater than five acres, where each part has access and no public improvement is being dedicated.
- (b) Application requirements. Any request for a subdivision master plan shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (c) Processing of application and decision.
 - (1) Submittal. An application for a subdivision master plan shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the Planning and Zoning Commission for consideration.
 - (2) Decision by Planning and Zoning Commission. The Planning and Zoning Commission shall receive the written recommendation of the City Administrator and shall consider the proposed subdivision master plan. The Planning and Zoning Commission shall act on the plan within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a subdivision master plan that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission may vote to approve with conditions or deny a subdivision master plan that does not satisfy all applicable regulations of the City.
 - (3) Conditional approval and denial. If the Planning and Zoning Commission conditionally approves or denies the subdivision master plan, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 - (4) Applicant response to conditional approval or denial. After the conditional approval or denial of a subdivision master plan, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the subdivision master plan. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously denied or conditionally approved subdivision master plan, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
 - (5) Subdivision master plan authorization. Approval of a subdivision master plan by the Planning and Zoning Commission shall be deemed as an expression of the approval of the layout submitted on the master plan as a guide to the final design of streets, water, sewer, and other required improvements and utilities and to the preparation of a preliminary plat in accordance with the requirements of the City.
- (d) Criteria for approval. The Planning and Zoning Commission, in considering final action on a subdivision master plan, shall consider the following criteria:
 - (1) the subdivision master plan is consistent with all City requirements, including zoning requirements for the property or any development regulations approved as part of a development agreement;
 - (2) the proposed provision and configuration of roads, water, wastewater, drainage, and park facilities are adequate to serve each phase of the subdivision;

- (3) the schedule of development is feasible and prudent and assures that the proposed development will progress to completion within the time limits proposed; and
- (4) the location, size, and sequence of the phases of development proposed assures orderly and efficient development of the land subject to the plan.
- (e) Expiration. The approval of a subdivision master plan shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved, during which period the applicant shall submit and receive approval for a preliminary plat for any portion of the land subject to the subdivision master plan. If a preliminary plat has not been approved within the two (2) year period, the subdivision master plan approval shall expire and the plan shall be null and void.
- (f) Revisions to an approved subdivision master plan.
 - (1) Minor changes. Minor changes in the design of the subdivision subject to a subdivision master plan may be incorporated in an application for approval of a preliminary plat without the necessity of filing a new application for approval of a subdivision master plan. Minor changes shall include adjustment in street or alley alignments, lengths, and adjustment of lot lines that do not result in the creation of additional lots, provided that such changes are consistent with any approved prior applications.
 - (2) Major Changes. All other proposed changes to the design of the subdivision subject to an approved subdivision master plan shall be deemed major amendments that require submittal and approval of a new application for approval of a revised subdivision master plan before approval of a preliminary plat.

Sec.9.02.046 Preliminary plat

- (a) Applicability.
 - (1) A preliminary plat is required to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable City requirements.
 - (2) A preliminary plat may be submitted for any phase of development consistent with an approved subdivision master plan. Where a subdivision master plan is not required and the area to be platted is part of a larger tract of land, the preliminary plat must encompass the entire tract of land under ownership of the subdivider and shall provide a preliminary layout of streets, lots, blocks, utilities, and drainage for the larger tract. A final plat may be submitted for individual lots to be platted out of the larger parcel.
- (b) Application requirements. Any request for a preliminary plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (c) Processing of application and decision.
 - (1) Submittal. An application for a preliminary plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the Planning and Zoning Commission for consideration.
 - (2) Decision by Planning and Zoning Commission. The Planning and Zoning Commission shall receive the written recommendation of the City Administrator and shall consider the proposed plat. The Planning and Zoning Commission shall act on the plat within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a preliminary plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission may vote to approve

- with conditions or deny a preliminary plat that does not satisfy all applicable regulations of the City.
- (3) Conditional approval and denial. If the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 - (4) Applicant response to conditional approval or denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the preliminary plat. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously denied or conditionally plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
 - (5) Preliminary plat authorization. Approval of a preliminary plat by the Planning and Zoning Commission shall be deemed as an expression of the approval of the layout submitted on the plat as a guide to the final design of streets, water, sewer, and other required improvements and utilities, and to the preparation of a final plat in accordance with the requirements of this ordinance.
- (d) Criteria for approval. The Planning and Zoning Commission, in considering final action on a preliminary plat, shall consider the following criteria:
- (1) the plat is consistent with all City requirements including zoning requirements for the property;
 - (2) the plat conforms to the general layout of the subdivision master plan (if applicable) and is consistent with the phasing plan approved therein; and
 - (3) the proposed provision and configuration of roads, water, wastewater, drainage, park facilities, easements, and rights-of-way are adequate to serve the subdivision.
- (e) Expiration and extension.
- (1) Expiration. The approval of a preliminary plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved, during which period the applicant shall submit and receive approval for a final plat for any portion of the land subject to the preliminary plat. If a final plat has not been approved within the two (2) year period, the preliminary plat approval, unless extended, shall expire and the plat shall be null and void.
 - (2) Extension. At the request of the property owners or their representative, the expiration date for approval of a preliminary plat may be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. A preliminary plat is not subject to reinstatement following expiration.
- (f) Revisions to an approved preliminary plat.
- (1) Minor changes. Minor changes in the design of the subdivision subject to a preliminary plat may be incorporated in an application for approval of a final plat without the necessity of filing a new application for approval of a preliminary plat. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
 - (2) Major Changes. All other proposed changes to the design of the subdivision shall be deemed major changes which includes but are not limited to the reconfiguration of street or alley

alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the preliminary plat, any change to the open space dedication requirement, and changes to drainage. The City Administrator shall determine if a change is minor or major. Major changes shall require submittal of a revised subdivision master plan (if applicable) and preliminary plat which is submitted and processed the same as a new subdivision master plan application and new preliminary plat application.

Sec.9.02.047 Final plat

(a) Applicability

- (1) A final plat is required to assure that the division or development of the land subject to the plat is consistent with all standards of this ordinance pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the plat to be recorded, and to assure that the subdivision or development meets all other standards of this ordinance to enable initiation of site preparation activities for any lot or tract subject to the plat. Approval of a final plat shall be required prior to any non-exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto.
- (2) A final plat may be submitted for any phase of development consistent with an approved preliminary plat.

(b) Application requirements. Any request for a final plat shall be accompanied by an application prepared in accordance with the City's Development Manual.

(c) Processing of application and decision

- (1) Submittal. An application for a final plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the Planning and Zoning Commission for consideration.
- (2) Decision by Planning and Zoning Commission. The Planning and Zoning Commission shall receive the written recommendation of the City Administrator and shall consider the proposed final plat. The Planning and Zoning Commission shall act on the plat within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a final plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission may vote to approve with conditions or deny a final plat that does not satisfy all applicable regulations of the City.
- (3) Conditional approval and denial. If the Planning and Zoning Commission conditionally approves or denies the final plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
- (4) Applicant response to conditional approval or denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the final plat. The Planning

and Zoning Commission shall determine whether to approve or deny the applicant's previously denied or conditionally approved plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.

- (d) Criteria for approval. The Planning and Zoning Commission, in considering final action on a final plat, shall consider the following criteria:
 - (1) The plat is consistent with all City requirements including zoning requirements for the property;
 - (2) The final plat conforms to the approved preliminary plat, except for minor changes that may be approved without the necessity of revising the approved preliminary plat; and
 - (3) The proposed provision and configuration of roads, water, wastewater, drainage, park facilities, easements, and rights-of-way are adequate to serve the subdivision.
- (e) Expiration and extension.
 - (1) Expiration. The approval of a final plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the Planning and Zoning Commission, during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the final plat has not been recorded within the two (2) year period, the final plat approval, unless extended, shall expire and the plat shall be null and void.
 - (2) Extension. At the request of the property owners or their representative, the expiration date for approval of a final plat may be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. A final plat is not subject to reinstatement following expiration.
- (f) Revisions following approval of final plat
 - (1) Minor Changes. An applicant may make minor changes to an approved final plat to reflect changes arising from installation of public improvements thereafter, provided that the approved final plat has not been recorded and that approval of the revised final plat occurs prior to expiration of approval of the initial final plat application. The City Administrator is authorized to approve minor changes to an approved final plat. If the approved final plat has been recorded, an amending plat or replat must be approved and recorded. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
 - (2) Major Changes. All other proposed changes shall be deemed major changes which include but are not limited to the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the preliminary plat, any change to the open space dedication requirement, and changes to drainage. The City Administrator shall determine if a change is minor or major. Major changes shall require submittal of a revised final plat which is submitted and processed the same as a new final plat application. Major changes may also require the submittal of a new application for approval of a preliminary plat before approval of a revised final plat.

Sec.9.02.048 Minor plat

- (a) Applicability. A minor plat may be submitted for approval where the proposed division of land involves four (4) or fewer lots fronting onto an existing public or private street and not requiring the creation of any new street or the extension of municipal facilities.
- (b) Application Requirements. Any request for a minor plat shall be accompanied by an application prepared in accordance with the City's Development Manual.

(c) Processing of Application and Decision.

- (1) Submittal. An application for a minor plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant.
- (2) Minor plat approval. The City Administrator may approve a minor plat. The City Administrator may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Administrator shall not disapprove a minor plat and shall be required to refer any plat for which approval is refused to the Planning and Zoning Commission. The City Administrator or the Planning and Zoning Commission shall act on the plat within thirty (30) calendar days after the date a complete application is filed.
- (3) Conditional Approval and Denial. If the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
- (4) Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the plat. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously denied or conditionally approved plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.

(d) Criteria for approval. The City Administrator or Planning and Zoning Commission, in considering final action on a minor plat, shall consider the following criteria:

- (1) The plat is consistent with all City requirements including zoning requirements for the property;
- (2) All lots to be created by the plat already are adequately served by all required public utilities and infrastructure; and
- (3) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

(e) Expiration and extension.

- (1) Expiration. The approval of a minor plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or the Planning and Zoning Commission. If the minor plat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
- (2) Extension. At the request of the property owners or their representative, the expiration date for approval of a minor plat may be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. A minor plat is not subject to reinstatement following expiration.

Sec.9.02.049 Amending plat

- (a) Applicability. An amending plat may be submitted for approval, and if approved and recorded is controlling over the preceding plat without vacation of that plat and without notice and hearing, if the amending plat is signed and acknowledged by all owners of the property being replatted and is solely for one (1) or more of the following purposes:

- (1) To correct an error in a course or distance shown on the preceding plat;

- (2) To add a course or distance that was omitted on the preceding plat;
- (3) To correct an error in a real property description shown on the preceding plat;
- (4) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) To show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (6) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (7) To correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - (A) Both lot owners join in the application for amending the plat;
 - (B) Neither lot is abolished;
 - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (D) The amendment does not have a materially adverse effect on the property rights of the other owners in the plat;
- (8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) To relocate one or more lot lines between one or more adjacent lots if:
 - (A) The owners of all those lots join in the application for amending the plat;
 - (B) The amendment does not attempt to remove recorded covenants or restrictions; or
 - (C) The amendment does not increase the number of lots;
- (10) To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (A) The changes do not affect applicable zoning and other regulations of the municipality;
 - (B) The changes do not attempt to amend or remove any covenants or restrictions; and
 - (C) The area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area;
- (11) To replat one or more lots fronting on an existing street if:
 - (A) The owners of all those lots join in the application for amending the plat;
 - (B) The amendment does not attempt to remove recorded covenants or restrictions;
 - (C) The amendment does not increase the number of lots; and
 - (D) The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (b) Application Requirements. Any request for an amending plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (c) Processing of Application and Decision.
 - (1) Submittal. An application for an amending plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant.
 - (2) Amending plat approval. The City Administrator may approve an amending plat. The City Administrator may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Administrator shall not disapprove an amending plat and shall be required to refer any plat for which approval is refused to the Planning and Zoning Commission. The City Administrator or the Planning and Zoning Commission shall act on the plat within thirty (30) calendar days after the date a complete application is filed.
 - (3) Conditional Approval and Denial. If the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or

reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.

- (4) Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the plat. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously denied or conditionally approved plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
- (d) Criteria for approval. The City Administrator or Planning and Zoning Commission in considering final action on an amending plat shall consider the following criteria:
 - (1) The plat is consistent with all City requirements including zoning requirements for the property;
 - (2) All lots to be created by the plat already are adequately served by all required public utilities and infrastructure; and
 - (3) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision.
- (e) Expiration and extension.
 - (1) Expiration. The approval of an amending plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Administrator or the Planning and Zoning Commission. If the amending plat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
 - (2) Extension. At the request of the property owners or their representative, the expiration date for approval of an amending plat may be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. An amending plat is not subject to reinstatement following expiration.

Sec.9.02.050 Replat

- (a) Applicability. A replat is any plat that complies with Texas Local Government Code (LGC) sections 212.014, 212.0145, and 212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat. Replatting a portion of a recorded lot is not permitted.
- (b) Application requirements. Any request for a replat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (c) Processing of application and decision.
 - (1) Submittal. An application for a replat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the Planning and Zoning Commission for consideration.
 - (2) Notification requirements for certain replats.
 - (A) Applicability. An application for a replat which is also accompanied by a waiver or variance request requires a public hearing and notice if:

- (i) During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
 - (ii) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
- (B) Public hearing notice. Notice of the public hearing shall be given at least 16 calendar days before the date of the public hearing by:
 - (i) publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and
 - (ii) written notice with a copy of LGC Sec. 212.015(c) attached, mailed to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll, or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested.
- (C) Protests. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the Planning and Zoning Commission prior to the close of the public hearing. If the proposed replat is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the Planning and Zoning Commission members present.
 - (i) In computing the percentage of land area for protest, the area of streets and alleys shall be included.
- (3) Decision by the Planning and Zoning Commission. The Planning and Zoning Commission shall receive the recommendation of the City Administrator and shall consider the proposed replat. If required, a public hearing shall be held in accordance with LGC Chapter 212. The Planning and Zoning Commission shall act on the plat within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a replat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission may vote to approve with conditions or deny a replat that does not satisfy all applicable regulations of the City.
- (4) Conditional Approval and Denial. If the Planning and Zoning Commission conditionally approves or denies the replat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
- (5) Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a replat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the replat. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously denied or conditionally approved replat or conditionally approved, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
- (d) Criteria for Approval. The Planning and Zoning Commission in considering final action on a replat shall consider the following criteria:

- (1) the replat is consistent with all City requirements including zoning requirements for the property;
- (2) the replat is signed and acknowledged by only the owners of the property being replatted;
- (3) if required, a public hearing was held and parties in interest and citizens have had an opportunity to be heard;
- (4) if required, the proposed provision and configuration of roads, water, wastewater, drainage, park facilities, easements, and rights-of-way are adequate to serve the subdivision; and
- (5) the replat does not attempt to amend or remove any covenants or restrictions.
- (e) Notification of approval for certain replats. If a proposed replat does not require a variance or exception, the City Administrator shall, not later than the 15th calendar day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll. This notification requirement does not apply to a proposed replat if the Planning and Zoning Commission holds a public hearing and gives notice of the hearing in the manner provided above.
 - (1) The notice of a replat approval must include:
 - (A) the zoning designation of the property after the replat; and
 - (B) a telephone number and e-mail address an owner of a lot may use to contact the City about the replat.
- (f) Expiration and extension.
 - (1) Expiration. The approval of a replat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the Planning and Zoning Commission. If the replat has not been recorded within the two (2) year period, the replat approval, unless extended, shall expire and the plat shall be deemed null and void.
 - (2) Extension. At the request of the property owners or their representative, the expiration date for approval of a replat may be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. A replat is not subject to reinstatement following expiration.

Sec.9.02.051 Vacating a plat

- (a) Applicability. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City limits and ETJ.
- (b) Application Requirements. Any request for vacating a plat shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (c) Processing of Application and Decision.
 - (1) Submittal. An application for vacating a plat shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the City Council for consideration.
 - (2) Decision by the City Council. The City Council shall receive the recommendation of the City Administrator and shall consider the proposed plat vacation. The City Council may vote to approve, approve with conditions, or deny a request for vacating a plat.
- (d) Criteria for approval. The City Council in considering action on vacating a plat should consider the following criteria:
 - (1) the vacating plat is consistent with all zoning requirements for the property, all other requirements of this ordinance that apply to the plat vacation, and any other applicable City requirements;

- (2) the vacating plat is signed and acknowledged by all owners of lots in the original plat; and
- (3) the vacating plat is consistent with all other state requirements pertaining to vacating a plat.
- (e) Effect of vacation.
 - (1) Upon the execution and recording of the vacating instrument, the previous plat shall no longer be in effect.
 - (2) Regardless of the City Council's action on the application, the applicant will have no right to a refund of any monies, fees, or charges paid to the City, nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the City Council.
 - (3) The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
 - (4) The City Council, at its discretion, shall have the right to retain all or specific portions of road right-of-way or easements shown on the plat being considered for vacation. However, the City Council shall consider a request for vacating a plat upon satisfactory conveyance of easements or right-of-way in a separate legal document using forms provided by the City Attorney's office.

Sec.9.02.052 Recordation

- (a) Recording procedures. After approval of a final plat, minor plat, amending plat, or replat and acceptance of any required public improvements or execution of a Subdivision Improvement Agreement pursuant to this ordinance, the applicant may submit all required items to the City to record the plat in the county in which the land is located. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Administrator shall procure the signature of the City Engineer and the Planning and Zoning Commission Chairperson or his/her designee on the plat and shall promptly cause the plat to be recorded. The City Administrator may, at their discretion, return the signed plat to the subdivider to record the plat with the County. No plat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a tax certificate from the applicable county tax office has been received for the subject property.

Sec.9.02.053 Plat waivers

- (a) General. The City Council may authorize waivers from the provisions of this ordinance when, in its opinion, undue hardship will result from requiring strict compliance. In granting a waiver, the City Council shall prescribe only conditions that it deems necessary or desirable to the public interest. In making their findings, the City Council shall take into account the nature of the proposed use of the land involved and existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waivers upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.
- (b) Timing. Plat waivers shall be submitted prior to filing a plat application. The City will not issue a letter of certification for any proposed subdivision plat exhibits requesting a plat waiver until the requested waiver has been approved.
- (c) Application requirements. Any request for a plat waiver shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (d) Processing of application and decision.
 - (1) Submittal. An application for a plat waiver shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant. After appropriate

review, the City Administrator shall forward a written recommendation to the City Council for consideration.

- (2) Notification requirements for plat waivers. Written notice of the public hearing shall be mailed to each owner of real property within 200 feet, as indicated by the most recently approved municipal tax roll, at least 11 days prior to the public hearing.
- (3) Decision by City Council. The City Council shall hold a public hearing, receive the written recommendation of the City Administrator, and shall consider the proposed plat waiver request. The City Council may vote to approve, approve with conditions, or deny the plat waiver request.
- (e) Conditions. In approving a plat wavier, the City Council may prescribe appropriate conditions that it deems necessary or desirable to the public interest
- (f) Criteria for approval. The City Council, in considering action on a plat waiver should consider the following criteria:
 - (1) That the granting of the waiver will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area;
 - (2) The granting of the waiver is in in harmony with the general purpose and intent of this ordinance so that the public health, safety, and welfare may be secured and justice done;
 - (3) The granting of the waiver is necessary for the preservation and enjoyment of a substantial property right;
 - (4) There are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this ordinance would deprive the Subdivider of the reasonable use of the land;
 - (5) The waiver request represents the minimum degree of variation, in the opinion of City Council, of requirements necessary to meet the needs of the subdivider;
 - (6) The waiver is to a provision of this subdivision ordinance; and
 - (7) The granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this ordinance.
- (g) The findings of the City Council, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which such waiver is granted.
- (h) Expiration. Approved waivers shall expire 12 months after approval if a plat application has not been filed with the City. If a plat application is filed before the waiver expires, the approved waiver shall be incorporated into the plat application and follow the same expiration timelines as the associated plat application.
- (i) Limitations. City Council may only authorize a waiver to the subdivision regulations in this article.

Sec.9.02.054 Infrastructure construction plans and completion of improvements

- (a) Applicability. The provisions of this section apply to the construction of any public infrastructure improvements.
- (b) Application Requirements. Any request for construction of any public infrastructure improvements shall be accompanied by an application prepared in accordance with the City's Development Manual.
- (c) Processing of Application and Decision.
 - (1) An application shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other City department or consultant.
 - (2) Decision by the City Administrator. The City Administrator may approve, approve with conditions, or deny the construction plans.

- (d) Criteria for Approval. The City Administrator shall apply the following criteria in making a decision on the construction plans:
 - (1) The construction plans are consistent with the approved preliminary plat or the proposed final plat in the event that the public infrastructure improvements are in relation to a plat; and
 - (2) The construction plans conform to all applicable regulations pertaining to the construction and installation of public infrastructure improvements.
- (e) Expiration. The approval of construction plans shall remain in effect for two (2) years after the date the construction plans were approved by the City Administrator. If construction of the project has not commenced during the two (2) year period, approval of the construction plans shall expire. For public infrastructure improvements that are associated with a final plat, approval of the construction plans shall remain in effect for the time that approval of the final plat is in effect and shall expire when approval of the final plat expires, unless an extension is granted.
- (f) Extension. At the written request of the property owner or their authorized agent, the expiration date for the approval of construction plans may be extended by the City Administrator for a period not to exceed six (6) months.
- (g) Timing of Public Infrastructure Improvements.
 - (1) Completion prior to final plat recordation. For public infrastructure improvements associated with a proposed subdivision or development, except as provided below, completion of the improvements shall be in accordance with the approved construction plans and shall occur before an approved final plat is recorded, unless the obligation to construct public infrastructure improvements has been deferred and an improvement agreement is executed.
 - (2) Installation after final plat recordation. The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. The City Administrator, at their discretion, may approve or deny the request to defer installation of public infrastructure improvements. Deferral of the obligation to install public improvements if granted shall be conditioned on execution of a subdivision improvement agreement and provision of sufficient security.
 - (3) Off-Site Easements. All necessary off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed solely to the City by an instrument approved by the City.
- (h) Inspection and Acceptance of Public Infrastructure Improvements.
 - (1) Inspections. Inspection of the public infrastructure improvements shall be conducted by the City or its representatives. Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be subject to approval by the City Administrator.
 - (2) Submission of as-built plans or record drawings. The City shall not accept dedication of required public improvements until the applicant has submitted detailed "as-built" record drawings in accordance with City requirements. In addition, the applicant shall provide a statement signed by a registered professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.
 - (3) Acceptance of improvements. When the City Administrator has determined that the public infrastructure improvements have been installed in accordance with the approved Construction Plans, the City Administrator shall accept such improvements on behalf of the City. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance. Upon acceptance of the required public improvements, the City Administrator shall have a certificate issued to the property owner stating that all required public improvements have been satisfactorily completed.

- (i) Maintenance and Warranty of Improvements.
 - (1) Maintenance during construction. The developer shall maintain all required public improvements during construction of the development.
 - (2) Bond. The developer or owner shall covenant to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements or following the date of plat recordation, whichever occurs later. A warranty bond shall be provided in the amount of 20% of the costs of the improvements for such period. All public improvements shall be bonded.
 - (3) Whenever a defect or failure of any required improvement occurs within the period of coverage, the City shall require that a new maintenance bond or surety instrument be posted for a period of one full calendar year sufficient to cover the corrected defect or failure.

Sec.9.02.055 Subdivision improvement agreements

- (a) Deferral of public improvements. The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. The City Administrator, at their discretion, may approve or deny the request to defer installation of public infrastructure improvements. Deferral of the obligation to install public improvements if granted shall be conditioned on execution of a subdivision improvement agreement and provision of sufficient security.
- (b) Obligations under agreement. Whenever public improvements to serve development are deferred until after recordation of the final plat, the property owner shall enter into an Improvement Agreement and provide adequate security as determined by the City Administrator. The Improvement Agreement shall be subject to review and approval by the City Administrator and any other City department or consultant they deem necessary. The agreement shall contain the following minimum provisions:
 - (1) covenants to complete the improvements be no later than two (2) years after approval of the final plat, unless otherwise stipulated in the terms and conditions of the Improvement Agreement;
 - (2) covenants to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements, unless stated otherwise in the Improvement Agreement;
 - (3) covenants to provide a warranty bond in the amount of 20% of the costs of the improvements for such period, unless stated otherwise in the Improvement Agreement;
 - (4) provisions for participation in the costs of the improvements by the City, if authorization has been obtained from the City Council, and a performance bond for such improvements from the contractor;
 - (5) provisions for securing the obligations of the agreement in accordance with this ordinance; and
 - (6) such other terms and conditions as are agreed to by the City and the property owner, or as may be required by this ordinance or other City regulations.
- (c) Covenants to run with the land. The Improvement Agreement shall provide that the covenants contained in the Agreement run with the land and bind all successors, heirs, and assignees of the property owner. All existing owners and lienholders shall be required to execute the Agreement or provide written consent to the covenants contained in the Agreement.
- (d) Security for Completion of Improvements.
 - (1) Security. Whenever the property owner has entered into an Improvement Agreement to defer installation of public improvements, the property owner shall provide sufficient security for

completion of the required public improvements. The security shall be in the form of a cash escrow, a performance bond, or surety bond provided by a licensed surety company, or other security as approved by the City Administrator.

- (2) Amount and acceptability. The security shall be issued in the minimum amount of 125% of the estimated cost of completion that is approved by the City Administrator for the required public infrastructure improvements. The terms of the security agreement shall be subject to the approval of the City Administrator and the City Attorney.
- (3) Remedies. Where an Improvement Agreement has been executed and security has been posted and required public improvements have not been installed in accordance with the terms of the agreement, the City may:
 - (A) declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
 - (B) obtain funds under the security and complete the improvements itself or through a third party; or
 - (C) assign its right to receive funds under the security to any third party, including a subsequent owner of the development, in exchange for the subsequent owner's agreement and posting of security to complete the public infrastructure improvements.

~~Sec.9.02.049~~ Sec.9.02.056 - 9.02.080 Reserved

{Remove Division 3 Alternative Form Subdivisions}

Division 3. Alternative Form Subdivisions Reserved

~~Sec.9.02.085~~ Sec.9.02.081 – 9.02.110 Reserved

{Revisions to Sec.9.02.234 and Sec.9.02.235 for consistency with the new section for Infrastructure construction plans and completion of improvements }

Sec.9.02.234 Improvement Plans Reserved

~~Plans for the improvements required by this division shall be prepared and approved in accordance with the provisions contained in this article and as specifically set forth in section 9.02.235.~~

Sec.9.02.235 Acceptance of improvements Reserved

~~During the course of installation and construction of the required improvements, the director or his or her designated representative shall make periodic inspections of the work to ensure that all improvements comply with municipal requirements. Upon completion of installation and construction of all required improvements, the subdivider may seek acceptance of all public improvements by the city by submitting the required number of copies of as-built plans and a one-year maintenance bond in an amount as specified at the time of final plat submittal. In addition, the subdivider shall provide a statement signed by a registered professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.~~

{Relocation of sidewalk construction timing requirements to Sec. 9.02.115.b.24}

Sec.9.02.115.b.24

Pedestrian circulation. Sidewalks shall be provided along both sides of primary and secondary arterials and collectors and one side of local streets. Crosswalks shall be provided to connect parallel streets when blocks exceed 1,000 feet or when blocks exceed 500 feet and the path would provide a connection to a school, park, or other community service facility. A minimum of ten feet of right-of-way is required for all crosswalks. Sidewalks shall be provided along both sides of all streets, whether public or private, within 1,000 feet of public school or park property. Sidewalks shall be constructed as shown on the approved construction plans according to the City's construction standards and specifications for roads, streets, structures, and utilities. Sidewalks must be constructed and approved for each lot prior to issuance of a certificate of occupancy.

{Removal and replacement of Parkland dedication regulations Sec.9.02.271-9.02.310}

Sec.9.02.271 Purpose

- (a) The purpose of this section is to provide for the adequate provision of parkland and open space to meet the needs of a growing City population; for improvements to existing parkland; for establishment, maintenance, and operation of a Parkland Dedication Fund; establish requirements and procedures for governing required dedications of parkland or improvements to existing parkland by subdividers of land; and for cash payments-in-lieu of land by subdividers of land in certain cases.
- (b) It is hereby declared by the City Council that recreational areas in the form of parks and open spaces are necessary and for the public welfare and that the only adequate procedure to provide for parkland and park improvements is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land. It is the policy of the City to require subdividers of residential subdivisions and lots to provide for parkland and park facilities at the time of development approval in proportion to the need for such improvements created by the developments and in proportion to the benefits received from contribution of such facilities.

Sec.9.02.272 Applicability

The parkland dedication and park development requirements of this section shall be applicable to every residential and multifamily subdivision developed under the provisions of this ordinance, whether such subdivision consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land, within the City limits and ETJ.

Sec.9.02.273 Parkland design requirements

- (a) Compliance with the comprehensive plan. Any land to be dedicated to meet the requirements of this article shall be reasonably located and adaptable for use as a public park and recreation facility as defined by the comprehensive plan. The Parks and Recreation Board shall make a recommendation on the suitability of proposed parkland. The shape of the parcel or tract of land to be dedicated should be appropriate for public parks and recreation purposes.

- (b) Minimum area. The dedicated land should form a single parcel or tract of land at least 5 acres in size unless it is determined that a smaller tract would be in the public interest, or that additional contiguous land will be reasonably available for dedication to or purchase by the City.
- (c) General location. The location of parkland may be required at the edge of a subdivision so that additional land may be added at such time as adjacent land is subdivided or acquired for public use. Otherwise, a centralized location is preferred.
- (d) Usable land. At least fifty percent (50%) of proposed parkland dedication site shall be level, well drained, and suitable for open play. Such land shall be located outside of any one hundred (100) year floodplain or any other special flood zone identified on the most recently approved FEMA FIRM map and shall not exceed five percent (5%) slope. A plat waiver to this requirement may be requested when the proposed parkland dedication furthers the goals and objectives of the parks and open space portion of the comprehensive plan.
- (e) Areas within the 100-year floodplain. The following standards shall also apply to the consideration of parkland dedication within the 100-year floodplain.
 - (1) Areas within the 100-year floodplain may be dedicated in fulfillment of the dedication requirement when the development is adjacent to the Blanco River or Cypress Creek. This dedication shall include the entire 100-year floodplain, or a 200-foot strip measured from the centerline of the creek, river, or the floodway, whichever is greater. This dedication requirement shall take precedence over all other parkland dedication requirements, including the possibility that these dedicated tracts may have to be exempt from the other design standards for parkland described in this section. Every acre of proposed dedicated parkland located within the floodplain or other special flood hazard area adjacent to the Blanco River or Cypress Creek shall count as one and one-half (1.5) acres of land towards the total parkland dedication requirement.
 - (2) Areas in the 100-year floodplain not located adjacent to the Blanco River or Cypress Creek may constitute up to 50% of the requirement of land dedication. Every acre of proposed dedicated parkland located within the floodplain or other special flood hazard area not adjacent to the Blanco River or Cypress Creek shall count as one-half (½) acre of land towards the total parkland dedication requirement. However, with a recommendation from the Parks and Recreation Board, the Planning and Zoning Commission may permit the area within the 100-year floodplain, when not located adjacent to the Blanco River or Cypress Creek, to constitute up to 100% of the parkland dedication requirement if, in its opinion, the dedication of the land furthers the goals and objectives of the parks and open space portion of the comprehensive plan.
- (f) Access. Access to parkland designated on a subdivision plat shall be provided by the dedication of at least 200 feet of street frontage in a manner satisfactory to the City, preferably at the corner of two (2) intersecting streets. When the land abutting the designated parkland is developed, the subdivider of such abutting land shall furnish and pay for all paving of all abutting street frontage. The City Administrator may reduce the amount of required frontage for unique parkland dedications which furthers the goals and objectives of the parks and open space portion of the comprehensive plan.
- (g) Utilities. Public utilities including water and wastewater connections shall be readily available at the park site with water and wastewater lines located along the street frontage. The applicant must demonstrate to the satisfaction of the City that sufficient utilities are available to serve the park.
- (h) Disturbance of land. Any disturbed parkland shall be restored and the soil stabilized by vegetative cover by the developer.
- (i) Drainage improvements. Detention ponds and/or other drainage facilities that serve the subdivision shall not be constructed in areas that are to be dedicated as parkland.

- (j) Environmentally sensitive features. In the case of areas known to contain sensitive environmental features, the City Council may, at its discretion, waive these standards subject to the following limitations:
 - (1) The areas shall provide recreational or educational opportunities for the surrounding community;
 - (2) The areas shall be given a 50% credit against the requirement of land dedication or payment of fees; and
 - (3) The areas shall meet any additional standards specified in the parkland design standards pertaining to the dedication of areas known to contain sensitive environmental features.
- (k) Parks and Recreation Board recommendation. The Parks and Recreation Board shall make recommendations, based upon the parkland design standards and the provisions contained herein, to the City Administrator concerning the amount and location of parkland, credit for land in the 100-year floodplain, credit for areas known to contain sensitive environmental features, and development of parkland.

Sec.9.02.274 Dedication and improvement

- (a) Land dedication. The subdivider of a residential (including multifamily) subdivision shall dedicate to the City developed improved parkland in the amount as established within the fee schedule adopted by the City Council. Parkland shall be shown on the final plat establishing a residential (including multifamily) subdivision and shall contain the dedication of an area of land for park purposes meeting the requirements set out in this section.
- (b) Development of areas smaller than five (5) acres. The dedicated land should form a single parcel or tract of land at least five (5) acres in size unless it is determined that a smaller tract would be in the public interest, or that additional contiguous land will be reasonably available for dedication to or purchase by the City. If no land for parkland is being required by the City due to size or location, then prior to filing the plat, the subdivider shall be required to pay to the City the applicable cash payment-in-lieu of land. No plat showing a dedication of less than five (5) acres for a public park shall be approved by the Planning and Zoning Commission unless it is determined by the Commission that a smaller tract would be in the public interest, or that additional contiguous land will be reasonably available for dedication to or purchase by the City.
- (c) Improvements. A subdivider dedicating parkland shall improve the public parkland with improvements approved by the City Administrator. The minimum value for the improvements should be roughly proportionate to the amount the subdivider would be required to pay as fee-in-lieu for parkland development if they were not dedicating land. Design, specification, and construction of the improvements shall be subject to review and approval by the City. No final plat shall be recorded for any subdivision in which completion of the required improvements has not been accepted by the City unless a parkland improvement agreement has been approved and executed with an adequate financial surety provided.

Sec.9.02.275 Fee-in-lieu

- (a) Right to request waiver of dedication requirements. A subdivider obligated to make a dedication of land may request the City waive the required dedication of land, in whole or in part, and to accept a cash payment-in-lieu of land dedication. Any request for a waiver to the land dedication requirements shall be subject to review and approval by the City Administrator. The City Administrator may, for any reason, elect to present the waiver request for approval to the City Council.
- (b) Required fee-in-lieu of land dedication and improvements. Any subdivider who is required to make a cash payment-in-lieu of land dedication and improvements or who is granted a waiver in accordance

with this ordinance, shall make a cash payment-in-lieu of land and improvements in accordance with this section. The amount of such cash payment-in-lieu of land shall be calculated by multiplying the number of dwelling units proposed to be established by the plat times the amount per dwelling unit as established in the fee schedule set from time to time by the City Council. A cash payment-in-lieu of land and improvements shall be made prior to the recordation of the final plat for single family residential uses and prior to the issuance of a building permit for multifamily developments.

- (c) Additional dwelling units. The addition of new dwelling units increasing the total number of dwelling units on existing land (including multifamily) shall be required to dedicate and improve parkland or pay a fee-in-lieu for parkland dedication and improvement. Dedication and improvement of parkland or a fee-in-lieu for parkland dedication and improvement is not required for the addition of an accessory dwelling unit.

Sec.9.02.276 Parkland dedication and improvement fund

- (a) The City shall reserve all fee-in-lieu of payments and any accrued interest from the fee-in-lieu of parkland dedication or fee-in-lieu of parkland improvement in a separate account from the general funds of the City. This fund shall be known as the Parkland Dedication & Improvement Fund.
- (b) The City shall deposit sums collected as cash payments-in-lieu of land and cash payments-in-lieu of improvements in the Parkland Dedication & Improvement Fund. The City shall expend such funds collected for the acquisition of land or for the improvement of existing parks on a first in, first out basis.
- (c) The City shall maintain records detailing the receipts and expenditures for the Parkland Dedication Fund. All funds deposited as credit for fee-in-lieu of parkland dedication or improvement shall be utilized for the acquisition of new parkland and/or the development of new or existing parkland within the City.

Sec.9.02.277 Parkland dedication procedure

- (a) Dedication procedures. The owner of property for a residential subdivision shall be required at final plat approval to dedicate parkland. The land so dedicated and conveyed shall not be subject to any reservations of record, encumbrances of any kind, or easements, which in the opinion of the City will interfere with or materially increase the cost of making such land available for parks or recreational purposes. Dedication of parkland shall be evidenced by a formal dedication on the plat to be recorded or by warranty deed transferring the property in fee simple to the City.
- (b) Right to accept/reject land. If the City determines that sufficient park area is already in the public domain within proximity of the proposed development, or if the recreation needs for the area would be better served by expanding or improving existing parks, the City has the right to accept the dedication or to refuse same and require a cash payment-in-lieu of land and improvements.
- (c) Development of Subdivision in Phases. If a subdivision is to be developed in phases and the final platting of the park area to be dedicated is to be included in a future phase, then the subdivider shall be required to enter into a Parkland Improvement Agreement and provide sufficient security for the land and improvements.

Sec.9.02.278 Parkland Improvement Agreement

The property owner or applicant may request to defer the obligation to dedicate parkland and/or develop parkland until after a final plat recordation. The request shall be submitted in writing and specify what is requested for deferral. Deferral of the obligation to dedicate parkland and/or develop parkland shall be conditioned on execution of an Improvement Agreement and provision of sufficient security. The City Administrator may approve or deny the request to defer obligations to dedicate

parkland dedication and/or develop parkland. A Parkland Improvement Agreement may be required for phased subdivisions where the parkland dedication is placed in a future phase.

Secs.9.02.279- 9.02.310 Reserved

{modifications to Division 10 Administration and Enforcement}

Sec.9.02.351 General Administration

For all subdivisions of land within the scope of this article, a plat of the subdivision shall be prepared and submitted to the City planning and zoning commission and city council for their approval, approval with conditions, or disapproval as provided for in this article.

{Repeal and replacement of Sec.9.02.357}

Sec.9.02.357 Reserved.

{Revisions for to Sec.9.02.233 for consistency with new plat waivers Sec.9.02.053 Plat waivers}

Sec. 9.02.233 Continuity of improvements

All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage, and streets and to create continuity of improvements for the development of adjacent properties. Water, wastewater, transportation, and drainage improvements shall be extended to the perimeter of a subdivision, except that notwithstanding the prohibition of granting ~~variances~~ waivers for improvements as set forth in ~~section 9.02.357~~ of this Code article, the commission is authorized to vary or modify the requirement for extending water, wastewater, transportation, and drainage improvements to the perimeter of a subdivision in accordance with the plat waiver procedural requirements ~~contained in section 9.02.357~~.

{Revisions for to Sec.9.02.133.g.18 for consistency with new plat waivers Sec.9.02.053 Plat waivers}

Sec.9.02.133.g.18

The requirements set forth herein are not intended to be exhaustive and wherever it is necessary to make additional requirements in order to maximize the effectiveness of the drainage plan in question, those requirements shall be made by the commission. Special exceptions to these requirements may be allowed pursuant to ~~section 9.02.357~~ 053 of this Code when the special exception will not result in drainage-related problems sought to be prevented by these regulations.

{Addition of vested rights provisions}

Article 9.06 Vested Rights

Sec.9.06.001 Vested rights

(a) Introduction. LGC Chapter 245 - Issuance of Local Permits, commonly referred to as the State's "Vested Rights Law", provides an opportunity for landowners or developers to "grandfather" or "vest" government regulations that apply to development at the time of the filing of a permit

application. The City has established in this section an administrative procedure for consideration of any claim of a vested right.

- (b) Definitions. The following terms shall have the meaning hereinafter ascribed to them under this section:

LGC – The Texas Local Government Code

Project – an endeavor over which the City (a regulatory agency, as defined by LGC Chapter 245) exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

Permit - a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provisions of, service from a water or wastewater utility owned, operated, or controlled by the City, or other form of authorization required by law, rule, regulation, order or ordinance that a person must obtain to perform an action or initiate, continue, or complete a Project for which the permit is sought (i.e., subdivision master plan, preliminary plat, or final plat).

- (c) Administrative procedure for consideration of claim of vested rights. Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, shall submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from or not subject to a particular current regulation, ordinance, rule, expiration date, or other requirement. Such written submission shall include, at a minimum, the following:
- (1) The name, mailing address, and telephone number of the property owner (or the property owner's duly authorized agent);
 - (2) Identification of the property, including the address (if it exists) and the plat reference (if it exists) or metes and bounds (if not platted), for which the property owner claims a vested right;
 - (3) Provide project name, type of permit and date the permit was filed;
 - (4) If a property owner claims that certain regulations do not apply to the project, the property owner must identify, with particularity, all requirements that the property owner claims do not apply; and
 - (5) Attach all supporting documents, if any.
- (d) Vested rights determination. The City Administrator will review the request and supporting documents and issue a final administrative determination of whether a vested right exists in relation to the project and shall identify in writing to the property owner all claims for which vested rights have been granted (the "Vested Rights Determination").
- (e) Appeal of vested rights determination. If the property owner believes that the vested rights determination is in error, the property owner shall have the right to appeal such vested rights

determination to the City Council, which will have jurisdiction to hear and decide the appeal pursuant to this ordinance and LGC Chapter 245.

(f) Permits, Projects and vested rights.

(1) A property owner's original permit application expires on or after the forty-fifth (45th) calendar day after the date the application is submitted if:

- (A) the property owner fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
- (B) the City provides to the property owner, not later than the tenth (10th) business day after the date the application is filed, written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and
- (C) the property owner fails to provide the specified documents or other information within the time provided in the written notice.

(2) Permits and Projects Expiration.

- (A) Only a project which was in progress (as defined by LGC Chapter 245) or for which a permit application was filed after September 1, 1997, may be eligible to claim vested rights; any project for which the permit application was filed prior September 1, 1997, or has expired, is not eligible. Vested rights do not begin to accrue until the filing of an original application or subdivision master plan or plat application that gives the City fair notice of the project to which the permit applies and the nature of the permit sought.
- (B) A project will expire in five (5) years from the date the first permit application was filed for the project with City if progress, as defined in LGC Chapter 245, has not been made towards completion of the project. An expired project is considered dormant, vested rights lapse, and the project must comply with all current ordinances and requirements.
- (C) The following Permits (as well as other Permits satisfying the requirements of LGC Chapter 245), which include Plat Applications and Plats, may be relied on by a property owner or developer to establish certain vested rights for a Project unless otherwise exempted by LGC Section 245.004 or its successor statute. A Project will expire in five (5) years from the date the first Permit application was filed for the Project with the City if progress, as defined in LGC Section 245.005 or its successor statute, has not been made towards completion of the Project. An expired Project is considered dormant, vested rights lapse, and the Project must comply with current ordinances and requirements.

(i) Plat Applications

Vested rights under LGC Chapter 245 will be recognized for the Project that is the subject of a completed application for a plat that has been filed with the City, provided all necessary fees have been paid.

(ii) Plats

Vested rights under LGC Chapter 245 will be recognized for a Project associated with the property which is the subject of a plat that has been approved by the City Council or Official for the City provided that fair notice is provided with the plat application in accordance with LGC Chapter 245.

(iii) Other Permits

For the purposes of determining whether any vested rights exist, any other Permit for which an expiration date is not specifically set forth in this Code of Ordinances or in other applicable law shall expire two (2) years after the date the application for the Permit was filed with the City if progress, as defined in LGC Section 245.005, has not been made towards completion of the Project.



AGENDA ITEM:	7. Hold a public hearing and consider making a recommendation regarding an amendment to Chapter 9, Section 9.02.008, definitions and interpretations of the Wimberley City Code. <i>(Nathan Glaiser, Planning & Public Works Director)</i>
SUBMITTED BY:	Nathan Glaiser
DATE SUBMITTED:	08/02/2023
MEETING DATE:	August 10, 2023

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

On June 1, 2023, City Council approved an Ordinance that allows the City to create a historic district within the City, but doesn't create the district. The amendment before you, is simply to change the definition of Historic District to align with the definition of Historic Landmark.

Currently, the definition reads:

Historic District. A contiguous or non-contiguous geographically and locally defined area that possesses a significant concentration, linkage, or continuity of buildings, objects, sites, structures, or landscapes united by past events, periods, or styles of architecture, and that, by reason of such factors, constitute a distinct section of the City.

The proposed change would add "and is designated by the City pursuant to this Division" at the end of the definition.

The definition of Historic Landmark currently reads as follows:

Any site, building, structure, or landscape of historic significance designated by the City pursuant to this Division.

REQUESTED ACTION

Motion
Discussion
Ordinance

FINANCIAL

STAFF RECOMMENDATION

Staff recommends approval of this code amendment.

ATTACHMENT/S

1. Ord. 2023-XX Amendment to Sec. 09.02.008 - Defintion of Historic District

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 9, SECTION 9.02.008 – DEFINITIONS AND INTERPRETATIONS, OF THE WIMBERLEY CITY CODE; AND PROVIDING FOR FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALERS, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council passed and approved Ordinance No. 2023-11, which amended the regulation of Historic Properties and Districts and created a procedure for the designation of historic landmarks and historic districts; and

WHEREAS, “Section 9.02.008” is hereby to be amended as set forth below; and

WHEREAS, the City recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City, its interests, welfare, and good order of the City as a body politic.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

1. Section 9.02.008 entitled “Definitions and Interpretations”, of the Codified Ordinances of the City of Wimberley is hereby amended as follows (with a ~~striketrough~~ meaning such languages is deleted and an underlining meaning such language is added):

Adverse Effect. Historic property is present and proposed project as planned will alter or destroy its historic characteristics or integrity.

Architectural Details. Small details like moldings, carved woodwork, etc. that add character to a building.

Alteration. Any act or process that changes one or more historic, architectural, or physical features of an area, site, place, and/or structure including, but not limited to the erection, construction, reconstruction, or removal of any structure.

Applicant. A person seeking a designation or authorization under this Chapter or the person's designated and duly authorized agent or representative, including but not limited to the property owner, occupant of the site, the Planning and Zoning Commission or City Council.

Certificate of Appropriateness. An order issued by the Planning and Zoning Commission indicating approval of plans for alteration, construction, or removal affecting a designated landmark or property within a designated district.

Design Guidelines. Guidelines of appropriateness or compatibility of building design within a community or historic district.

Design review. The decision-making process conducted by the Planning and Zoning Commission or an appointed historic preservation officer that is guided by established terms.

Determination of Significance. A determination based on the importance of a historic property as defined by criteria found in Sec. 9.03.255(f).

Economic Hardship. An onerous and excessive financial burden, not created by the owner, which destroys reasonable and beneficial use of the property. For commercial properties the ability to make a reasonable income does not mean the highest and best use.

Exterior Architectural Feature. The architectural style and general arrangement of such portion of the exterior of a structure as is open to the view from a public way.

Historic District. A contiguous or non-contiguous geographically and locally defined area that possesses a significant concentration, linkage, or continuity of buildings, objects, sites, structures, or landscapes united by past events, periods, or styles of architecture, and that, by reason of such factors, constitute a distinct section of the City and is designated by the City pursuant to this Division.

Historic Landmark. Any site, building, structure, or landscape of historic significance designated by the City pursuant to this Division.

Historic Preservation. The protection, reconstruction, rehabilitation, repair and restoration of places and structures of historic, architectural, or archaeological significance.

Historic Resource. Any building, structure, object or site that is 50 years or older or any resource that has been identified as a high or medium priority because of its unique history or architectural characteristics.

Integrity. The authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or prehistoric period.

Inventory. A list of historic properties that have been identified and evaluated as meeting specified criteria of significance.

National Register of Historic Places. The nation's official list of buildings, districts, and sites (including structures and objects) significant in American history and culture, architecture, archeology, and engineering maintained by the National Park Service and administered on a state- wide basis by the Texas Historical Commission. Restrictions on these properties exist only when there is an undertaking that uses federal funds or that requires a federal permit or license.

Object. A physical item associated with a specific setting or environment that is movable by nature or design, such as statuary in a designed landscape. The term object is used to

distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed.

Ordinary Maintenance. The repair of any exterior or architectural feature of a landmark or property within a historic district which does not involve a change to the architectural or historic value, style, or general design. In-kind replacement or repair is included in this definition of ordinary maintenance.

Owner. The individual, corporation, partnership, or other legal entity in whom is vested the ownership, dominion, or title of property and who is responsible for payment of ad valorem taxes on that property; including a Lessor or Lessee if responsible for payment of ad valorem taxes.

Preservation. The stabilization of an historic building, its materials and features in their present condition to prevent future deterioration. Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time.

Reconstruction. The act or process of reproducing by new construction the exact form and detail of a vanished building as it appeared at a specific period of time.

Recorded Texas Historical Landmark. A state designation for buildings important for their historical associations and which have retained a high degree of their original historic fabric. They must be at least 50 years of age and retain their original exterior appearance. State historical landmarks receive greater legal protection than National Register of Historic Places designations.

Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

Restoration. Returning a property to a state indicative of a particular period of time in its history, while removing evidence of other periods.

Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archaeological value regardless of the value of any existing structure.

State Archaeological Landmark. A designation made by the Texas Historical Commission and, in the case of privately owned property, with the landowner's permission. Although called "archaeological" landmarks, this designation can include buildings as well as archaeological sites. For a building to be designated as a State Archaeological Landmark, it must first be listed on the National Register of Historic Places. Damage to a State Archaeological Landmark is subject to criminal, not civil, penalties.

Structure. A term used to distinguish specific types of functional constructions from buildings that are usually made for purposes other than creating shelter.

Zoning. The City's adopted zoning code and regulations.

2. Savings.

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Ordinance.

3. Severability.

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part of provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

4. Repealer.

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

5. Effective Date.

This Ordinance shall immediately upon its passage, publication and other authorizations as may be required by law.

6. Proper Notice and Meeting.

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 17th day of August, 2023, by a vote of ____ (Ayes) to ____ (Nays) ____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By: _____
Gina V. Fulkerson, Mayor

ATTEST:

Tammy Heller, City Secretary

APPROVED AS TO FORM:

City Attorney

