

City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

REGULAR CITY COUNCIL MEETING
WIMBERLEY CITY HALL-CITY COUNCIL CHAMBERS
12111 RANCH ROAD 12, WIMBERLEY, TEXAS
AUGUST 20, 2009, 6:30 P.M.

AGENDA

CALL TO ORDER: AUGUST 20, 2009 @ 6:30 P.M.

CALL OF ROLL: CITY SECRETARY

INVOCATION

PLEDGE OF ALLEGIANCE/SALUTE TO THE TEXAS FLAG

CITIZENS COMMUNICATIONS:

THE CITY COUNCIL WELCOMES COMMENTS FROM CITIZENS ON ISSUES AND ITEMS OF CONCERN, NOT ON THIS AGENDA. THOSE WISHING TO SPEAK MUST SIGN IN BEFORE THE MEETING BEGINS AND OBSERVE A THREE-MINUTE TIME LIMIT WHEN ADDRESSING COUNCIL. SPEAKERS WILL HAVE ONE OPPORTUNITY TO SPEAK DURING THE TIME PERIOD. SPEAKERS DESIRING TO SPEAK ON AN AGENDA ITEM WILL BE ALLOWED TO SPEAK WHEN THE AGENDA ITEM IS CALLED. INQUIRIES ABOUT MATTERS NOT LISTED ON THE AGENDA WILL EITHER BE DIRECTED TO STAFF OR PLACED ON A FUTURE AGENDA FOR COUNCIL CONSIDERATION.

1. CONSENT AGENDA

THE FOLLOWING ITEMS MAY BE ACTED UPON IN ONE MOTION. NO SEPARATE DISCUSSION OR ACTION IS NECESSARY UNLESS REQUESTED BY A COUNCIL MEMBER OR CITIZEN, IN WHICH EVENT THOSE ITEMS WILL BE PULLED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION.

- (A) APPROVAL OF MINUTES OF THE REGULAR CITY COUNCIL MEETING OF AUGUST 6, 2009.
- (B) APPROVAL OF THE REAPPOINTMENT OF JAN FULKERSON TO THE WIMBERLEY PARKS BOARD. (PLACE FOUR COUNCIL MEMBER STEVE THURBER'S NOMINEE)
- (C) APPROVAL OF THE APPOINTMENT OF JOHN ESTEPP TO THE CITY OF WIMBERLEY WATER WASTEWATER ADVISORY BOARD. (PLACE TWO COUNCIL MEMBER BOB FLOCKE'S NOMINEE)

2. CITY ADMINISTRATOR REPORT

- STATUS REPORT ON THE CITY OF WIMBERLEY'S APPLICATION FOR GRANT FUNDING FROM TEXAS PARKS AND WILDLIFE FOR THE DEVELOPMENT OF THE *BLUE HOLE REGIONAL PARK*
- STATUS REPORT ON THE MAYOR'S FITNESS COUNCIL GRANT
- STATUS REPORT ON THE PEC TRIANGLE PROPERTY COMMITTEE
- STATUS REPORT ON WATER QUALITY TESTING OF THE BLANCO RIVER AND CYPRESS CREEK
- STATUS REPORT ON THE OPERATION AND DEVELOPMENT OF THE *BLUE HOLE REGIONAL PARK*
- STATUS REPORT ON ACTIVITIES OF THE WIMBERLEY MUNICIPAL COURT
- STATUS REPORT ON ACTIVITIES OF THE CITY MARSHAL

3. PUBLIC HEARING AND POSSIBLE ACTION

- (A) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY TONY SAUCEDA TO PERMIT AN EATING ESTABLISHMENT: SIT-DOWN, INCLUDING THE SALE OF BEER, WINE AND ALCOHOL FOR ON-PREMISE CONSUMPTION ON AN APPROXIMATELY 0.128 ACRE TRACT LOCATED AT 701 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS, ZONED COMMERCIAL-LOW IMPACT (C-1), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS. (*TONY SAUCEDA, APPLICANT*)
- (B) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF A WAIVER OF THE 300-FOOT DISTANCE REQUIREMENT RELATING TO THE SALE OF BEER, WINE AND ALCOHOL AT 701 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS. (*TONY SAUCEDA, APPLICANT*)
- (C) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR A 1.367 ACRE TRACT LOCATED AT 600 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS, DESIGNATING INITIAL ZONING FOR SUCH TRACT AS COMMERCIAL-LOW IMPACT (C-1); AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING. (*KATE BRUNE TILTON, APPLICANT*)
- (D) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY KATE BRUNE TILTON TO PERMIT AN EATING ESTABLISHMENT: SIT-DOWN, INCLUDING THE SALE OF BEER, WINE AND ALCOHOL FOR ON-PREMISE CONSUMPTION ON AN APPROXIMATELY 1.367 ACRE TRACT LOCATED AT 600 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS, ZONED COMMERCIAL-LOW IMPACT (C-1), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS. (*KATE BRUNE TILTON, APPLICANT*)

- (E) HOLD A PUBLIC HEARING AND CONSIDER APPROVAL OF A WAIVER OF THE 300-FOOT DISTANCE REQUIREMENT RELATING TO THE SALE OF BEER, WINE AND ALCOHOL AT 600 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS. (KATE BRUNE TILTON, APPLICANT)

4. **ORDINANCES**

CONSIDER APPROVAL OF THE FIRST READING OF AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING TITLE V (PUBLIC WORKS), CHAPTER 51 (WATER CONSERVATION) OF THE CODE OF ORDINANCES IN ORDER TO IMPLEMENT SUPPLEMENTAL WATER RESTRICTIONS IN RESPONSE TO THE RECENT DROUGHT CONDITIONS; PROVIDING FOR A PENALTY FOR VIOLATIONS OF THE ORDINANCE; FINDINGS OF FACT; REPEALER, SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING. (PLACE FOUR COUNCIL MEMBER STEVE THURBER)

5. **DISCUSSION AND POSSIBLE ACTION**

- (A) DISCUSS AND CONSIDER ACTION REGARDING THE SELECTION OF A FIRM TO PROVIDE PROFESSIONAL AUDITING SERVICES FOR THE CITY OF WIMBERLEY FOR FISCAL YEARS 2009, 2010 AND 2011 AND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE CHOSEN FIRM. (CITY ADMINISTRATOR)
- (B) DISCUSS AND CONSIDER ISSUES RELATING TO THE DEVELOPMENT OF THE FISCAL YEAR 2010 OPERATING BUDGET FOR THE CITY OF WIMBERLEY. (CITY ADMINISTRATOR)
- (C) DISCUSS AND CONSIDER APPROVAL OF AN AMENDMENT TO THE CITY OF WIMBERLEY INTERLOCAL AGREEMENT WITH HAYS COUNTY FOR MAINTENANCE OF CERTAIN ROADWAYS. (CITY ADMINISTRATOR)
- (D) DISCUSS AND CONSIDER ACTION ON POSSIBLE MODIFICATIONS TO THE CITY OF WIMBERLEY WATER CONSERVATION ORDINANCE. (PLACE FOUR COUNCIL MEMBER STEVE THURBER)
- (E) DISCUSS AND CONSIDER ACTION ON POSSIBLE AMENDMENTS TO THE CITY'S LANDSCAPING REQUIREMENTS FOR RESIDENTIAL AND COMMERCIAL PROPERTIES. (PLACE FOUR COUNCIL MEMBER STEVE THURBER)
- (F) DISCUSS AND CONSIDER ISSUES RELATING TO THE EXISTING COMMUNITY CENTER USE AGREEMENTS FOR THE WIMBERLEY LIONS CLUB AND THE WIMBERLEY SENIOR CITIZENS ACTIVITIES INCORPORATED. (PLACE THREE COUNCIL MEMBER BILL APPLEMAN)

6. **CITY COUNCIL REPORTS**

- ANNOUNCEMENTS
- FUTURE AGENDA ITEMS

ADJOURNMENT

THE CITY COUNCIL MAY RETIRE INTO EXECUTIVE SESSION AT ANY TIME BETWEEN THE MEETING'S OPENING AND ADJOURNMENT FOR THE PURPOSE OF DISCUSSING ANY MATTERS LISTED ON THE AGENDA AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE INCLUDING, BUT NOT LIMITED TO, HOMELAND SECURITY PURSUANT TO CHAPTER 418.183 OF THE TEXAS LOCAL GOVERNMENT CODE; CONSULTATION WITH LEGAL COUNSEL PURSUANT TO CHAPTER 551.071 OF THE TEXAS GOVERNMENT CODE; DISCUSSION ABOUT REAL ESTATE ACQUISITION PURSUANT TO CHAPTER 551.072 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF PERSONNEL MATTERS PURSUANT TO CHAPTER 551.074 OF THE TEXAS GOVERNMENT CODE; DELIBERATIONS ABOUT GIFTS AND DONATIONS PURSUANT TO CHAPTER 551.076 OF THE TEXAS GOVERNMENT CODE; DISCUSSION OF ECONOMIC DEVELOPMENT PURSUANT TO CHAPTER 551.087 OF THE TEXAS GOVERNMENT CODE; ACTION, IF ANY, WILL BE TAKEN IN OPEN SESSION.

CERTIFICATION

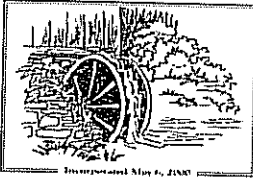
I hereby certify the above Notice of Meeting was posted on the Bulletin Board at the Wimberley City Hall on August 17, 2009 at 5:00 p.m.



CARA MC PARTLAND, CITY SECRETARY

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 Don Ferguson, City Administrator, at (512) 847-0025 for information. Hearing-impaired or speech-disabled persons equipped with telecommunication devices for the deaf may call (512) 272-9116 or may utilize the stateside Relay Texas Program at 1-800-735-2988.

City Council Agenda Form



Date Submitted: August 15, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: APPROVAL OF AUGUST 6, 2009 MINUTES OF REGULAR CITY COUNCIL MEETING

Funds Required:

Funds Available:

Council Action Requested:

- ☐ Ordinance
- ☐ Resolution
- ☒ Motion
- ☐ Discussion

Project/Proposal Summary:

Attached are minutes for the August 6, 2009 Regular City Council Meeting for review and consideration.

City of Wimberley
City Hall, 12111 Ranch Road 12, Ste. 114
Wimberley, Texas 78676
Minutes of Regular Meeting of City Council
August 6, 2009 at 6:30 p.m.

City Council meeting called to order at 6:30 p.m. by Mayor Tom Haley.

Mayor Haley gave the Invocation and Councilmembers led the Pledge of Allegiance to the United States and Texas flags.

Councilmembers Present: Mayor Haley and Councilmembers Charles Roccaforte, Bob Flocke, Bill Appleman, Steve Thurber, and John White.

Staff Present: City Administrator Don Ferguson, City Secretary Cara McPartland, and City Planner Abby Gillfillan.

Citizen Communications

Clint Frankmann felt that public sentiment favored budget cuts rather than increases. He commented on the City Marshal's vehicle as a symbol of excess and felt that law enforcement provided by Hays County Sheriff's Office sufficiently meets Wimberley's needs. He closed his remarks by speaking in favor of small government.

1. Consent Agenda

- A. Approval of minutes of the special City Council meeting of July 16, 2009.
- B. Approval of minutes of the regular City Council meeting of July 16, 2009.
- C. Approval of the appointment of Gail Pigg to the Wimberley Water Wastewater Advisory Board (*Place Three Councilmember Bill Appleman's nominee*).
- D. Approval of the appointment of Jeri Ross to the Wimberley Economic Development Commission (*Place Three Councilmember Bill Appleman's nominee*).
- E. Approval of the reappointment of Barry Tyler to the Wimberley Board of Adjustment (*Place Four Councilmember Steve Thurber's Nominee*).

Councilmember Thurber moved to approve all Consent Agenda items as presented. Councilmember Appleman seconded. Motion carried on a vote of 5-0.

2. City Administrator Report

- Status report on the city-initiated effort to zone un-zoned properties within the City of Wimberley

City Administrator Ferguson outlined the incremental process to proceed with this zoning project, including property owner notification, responses to date, and the upcoming public meeting schedule.

- Status report on the *Pedernales Electric Cooperative (PEC) Distribution System Improvement Project Task Force*

City Administrator Ferguson reported that task force members are working with PEC representatives to explore aesthetically acceptable alternatives for improvements, including reduction in the number of poles by consolidating PEC and Verizon lines on the same poles, underground lines in certain locations, and ground mounts. He reported on the upcoming meeting schedule and anticipated a public presentation in early September. Discussion established that Time Warner and other providers are included in discussions addressing consolidation of lines in order to eliminate overhead clutter and reduce the number of poles.

- Status report on the development of a *Non-Point Source Pollution Ordinance*

City Administrator Ferguson reported on progress made in recent meetings and advised that a draft ordinance has been forwarded to regional water quality expert Terry Tull for review and recommendations.

- Status report on the operation and development of *Blue Hole Regional Park*

City Administrator Ferguson reported that with the busy season winding down operating hours may be reduced in the final weeks of season operations. He cited attendance/admission statistics and reported on water quality issues. While Blue Hole's bacteria levels test in the acceptable range, he stressed that all natural bodies of water carry a certain element of risk.

- Status report on efforts underway to secure state and federal funding for the Downtown Wastewater Project

City Administrator Ferguson reported on the status of the City's application, including stimulus funding requirements, timeframe, scoring, and alternative funding sources. He anticipated award of funding around January 2010 and thanked Guadalupe Blanco River Authority for its efforts. Discussion addressed the upcoming meeting schedule for Water Wastewater Advisory Board.

- Status report on activities of the Wimberley Municipal Court

City Administrator Ferguson reported on a light case load and smooth transition to new Interim Municipal Court Judge Andrew Cable. He noted that the City is receiving applications for the position of Municipal Court Judge to be forwarded to Council for consideration at a later date. Discussion addressed the composition of the current caseload, with the majority of cases traffic-related.

- Status report on activities of the City Marshal

City Administrator Ferguson reported on the City Marshal's involvement in Christmas event planning and recent attendance at alcohol enforcement training. He announced City Marshal Robinson's resignation at the end of October due to personal/family reasons and thanked him for his proactive efforts and citizen outreach.

3. Public Hearing and Possible Action

- A. Hold a public hearing and consider approval of an ordinance approving an application for a conditional use permit submitted by Michael D. Jenkins and Lynn M. Grimes to operate a bed and breakfast lodging facility on an approximately .86 acre tract located at 2328 Flite Acres, Wimberley, Texas, zoned Single Family Residential 2 (R-2), and imposing certain conditions; and providing for findings of fact; amendment of the zoning district map; repealer; severability; effective date; proper notice and meeting; and providing for certain conditions (*Michael D. Jenkins & Lynn M. Grimes, Applicants*).

This item was heard after Agenda Item 4C.

City Planning Technician Abby Gillfillan reviewed the application including location, current zoning, compatibility with surrounding uses, existing structures, maximum occupancy, parking, septic system, property management, and water access conditions. With no opposition expressed to this application, she concluded with staff's recommendation for approval. City Administrator Ferguson added that the Planning and Zoning Commission received no opposition to this request at its public hearing and voted unanimously in favor of recommending approval.

Mayor Haley opened the public hearing. Hearing no further comments, Mayor Haley closed the public hearing. Discussion addressed maximum occupancy, septic, parking, and number of surrounding area bed and breakfast operations. Discussion established that no traffic concerns were expressed by the Planning and Zoning Commission. Councilmember White moved to approve the item as presented. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

- B. Hold a public hearing and consider approval of proposed additions to the City of Wimberley Transportation Master Plan relating to emergency access (*Transportation Advisory Board & Planning and Zoning Commission*).

Transportation Advisory Board (TAB) Secretary Bert Ray provided an overall history of the Transportation Master Plan (TMP) development to date, prioritization of proposed additions, and tonight's presentation focusing on emergency access issues at the following locations:

- Locations 1 & 2: Inadequate culverts at two crossings on Leveritts Creek
- Locations 3 & 4: Two low water crossings on Wilson Creek
- Location 5: Emergency access for River Meadows area
- Locations 6 & 7: Wimberley Hills access and CR 1492 Pierce Creek crossing

- Location 8: High water over Ranch Road 12
- Location 9: Emergency access for Paradise Hills
- Locations 10, 11 & 12: Inadequate culverts at two locations on Flite Acres Road and low crossings on Hidden Valley Road at Spoke Pile Creek

Discussion addressed specifics of each location including past history of problem areas, various options to correct those problems such as ditch/culvert improvements, drainage, and possible elevation of roads/bridges. Other areas of discussion included public input on the proposed additions, prioritization, and administrative issues relating to rights-of-way/easements.

While some specific concerns were expressed by River Meadows Property Owners Association (RMPOA) President Curt Busk regarding use of Leach Lane for emergency access at Planning and Zoning Commission's last meeting, City Administrator Ferguson noted that subsequent discussions with Dr. Busk confirmed that the RMPOA is actually on record in favor of Leach Lane as an emergency access point. At Planning and Zoning's last meeting, Dr. Busk had recommended elevating a section of River Road as an alternative to using Leach Lane for emergency access purposes.

Discussion included TMP objectives in obtaining uniform emergency access points/procedures, and varying degrees of difficulty encountered for each proposed addition. Mr. Ray felt that an engineering evaluation would be useful in providing a reasonably valid projection of costs associated with these proposed additions.

Mayor Haley thanked Mr. Ray and TAB members and recommended approval of the proposed additions.

Mayor Haley opened the public hearing. Brief discussion between Clint Frankmann and Bert Ray addressed ownership of property along the proposed secondary access route connecting East and West Spoke Hill Drive (referred to in *Location 9: Emergency Access for Paradise Hills*).

Hearing no further comments, Mayor Haley closed the public hearing. Councilmember Thurber moved to approve the item as presented (in accordance with the draft dated June 3, 2009). Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

4. Discussion and Possible Action

- A. Discuss and consider approval of *The Proposed Wimberley Wastewater Treatment Plant Work Plan and Budget for Fiscal Year 2010* (Guadalupe Blanco River Authority).

This item was heard after Agenda Item 2.

Guadalupe Blanco River Authority (GBRA) representatives John Smith and Daryl Ball presented information on compliance and specifics on current operations including Biological Oxygen Demand (BOD) levels, flows, effluent, detection/repair of a leak at Deer Creek Nursing Center, and

change in the wastewater treatment process from “Imhoff “ to “extended air.” Mr. Smith directed Council’s attention to a handout comparing 2009 and 2010 budget categories and detailed the following budget areas: Total Operating and Maintenance; Debt Service; Capital Additions; Total Expenses; Unit Cost (\$/1,000 gallons); Total Treated Flow; Minimum Monthly Bill; Proposed Rate (\$/1,000 gallons); and Operating Revenue.

Discussion addressed rate increases offset by reduced surcharges, improved efficiency of the new compliant plant, and measures underway to reduce noise generated by the plant. Discussion clarified the City’s ownership of this plant and its sole cost-bearing customer (Deer Creek Nursing Center), with operations managed by GBRA.

Hearing no further discussion, Mayor Haley entertained a motion. Councilmember White moved to approve the item as presented. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- B. Discuss and consider approval of a variance to the City of Wimberley sign regulations for a business located at 13900 Ranch Road 12 (*Yvette Strange, Applicant*).

This item was heard after Agenda Item 3B.

City Administrator Ferguson explained current sign regulations and reasoning provided by the applicant for the proposed variance request. He noted that Council has the ability to grant a sign variance if the following standards are met:

- The variance will not authorize a type of sign which is specifically prohibited this chapter
- The variance is not contrary to the goals and objectives outlined by the City of Wimberley Comprehensive Plan; Section VII, D-2
- The variance is not contrary to the public interest
- Due to special conditions, a literal enforcement of the chapter would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement.
- The spirit and purpose of the chapter will be observed, and substantial justice will be done.

Applicant Yvette Strange provided reasoning for this requested variance and detailed access/parking at the business location.

Discussion addressed whether a variance request is necessary, intent of sign regulations, and need for rewriting of the Sign Ordinance. Due to the subject property’s location, parking, and access from both Ranch Road 12 and Old Kyle Road, Council generally agreed that this variance request is appropriate.

Councilmember Thurber moved to approve the variance in accordance with the above listed standards to allow the sign to be placed on the rear of the property in lieu of any other location on

the building. City Administrator Ferguson suggested adding language to the motion specifying the rear of the building as being the side that faces Old Kyle Road. Councilmember Thurber amended his motion to include the suggested language. Councilmember Roccaforte seconded. Motion carried on a vote of 5-0.

- C. Discuss and consider action on issues relating to the upcoming 2010 United States Census (*Place Two Councilmember Bob Flocke*).

This item was heard after Agenda Item 4A.

Councilmember Flocke outlined the history and purpose of the Census, cited response statistics, and stressed the importance of accurate Census data to the community, which affects allocation of federal funds and the City's qualification for home rule status. He reported on Census Bureau procedures such as canvassing of physical addresses, questionnaire mailings, and follow-up for non-responders.

Councilmember Flocke noted that mailings will be to physical addresses only and acknowledged the challenge of accurately counting Census data when roughly half of Wimberley's residents do not receive mail at their physical addresses. Councilmember Flocke's discussion with Wimberley's Postmaster addressed possible measures to ensure delivery of questionnaires to as many residents as possible.

Steps recommended by Councilmember Flocke to promote full Census participation included: formation of a Complete Count Committee to help develop and implement local outreach and awareness of the 2010 Census and creation of an action plan to encourage as many local residents as possible to participate. Councilmember Flocke stated that participation in the 2010 Census is easy (shortest questionnaire in Census history), important to Wimberley's future, and that shared information is protected in a safe and confidential manner.

Discussion addressed appointment of a Census liaison, display/distribution of materials, providing training/work space for Census applicants/workers, formation of a Complete Count Committee, issuance of a public endorsement of support, and addition of Census links on the City's website. Council expressed support for Councilmember Flocke's recommendations as outlined in his statement distributed to Council (attached to these minutes).

Councilmember Flocke moved to approve the recommended steps outlined in his statement, including the adoption of a resolution of support at a later date. Councilmember Thurber seconded. Motion carried on a vote of 5-0.

- D. Discuss and consider possible approval of plans for a proposed Christmas parade in downtown Wimberley (*City Administrator*).

City Administrator Ferguson stated that local realtor Brenda Samford is organizing this event scheduled for the Friday after Thanksgiving at 6:30 p.m. The parade will feature lighted floats and

start at the Brookshire Brothers parking lot and proceed south on Ranch Road 12 to end on Blue Heron Drive. The required insurance along with the cost of law enforcement and any traffic control devices needed for the parade would be funded by parade organizers. Discussion addressed coordination among organizers, fundraising (to be completed by September 30, 2009), issues such as later hours for merchants, possible spin-off events, traffic concerns, and use of the bypass to avoid through traffic through the downtown area.

Councilmember Roccaforte moved to approve plans as presented, contingent on funds being raised by September 30, 2009. Councilmember Flocke seconded. Motion carried on a vote of 5-0.

- E. Discuss and consider issues relating to the development of the Fiscal Year 2010 Operating Budget for the City of Wimberley (*City Administrator*).

City Administrator Ferguson explained the preliminary budget process, which includes funding for a wide range of short- and long-term needs identified by City staff. He stressed that the preliminary figures are meant to be a starting point for upcoming budget discussions and preparation.

Future needs identified included:

- Assistant City Administrator
- Deputy City Marshal
- Full-time Municipal Court Clerk
- Full-time public works laborer
- Desktop and laptop computers
- In-car computers for law enforcement and wireless access
- Paperless agenda processing
- Website redesign
- Computer system back-up improvements
- Telephone notification system for citizen information/emergencies
- Vehicle for Deputy City Marshal
- Vehicle for Public Works laborer
- Downtown sidewalk construction
- Fourth of July fireworks display
- Street assessment and identified road repairs and improvements
- Low water crossing improvements
- City limits survey
- Recodification of City ordinances
- Additional licenses for records management software
- Planning Department mapping software
- Community survey

Expenditures for a new City Hall facility are not included in the preliminary budget.

Discussion of revenue projections included:

- Sales tax fluctuations
- Municipal Court activity
- Development fees such as building permit and subdivision fees
- Uncertainty regarding Wimberley Community Center operations

City Administrator Ferguson highlighted the budget process/schedule and stressed that he does not advocate a large budget deficit, but recognizes the importance of thinking ahead for long-term budgetary needs. No action was taken on this item.

- F. Discuss and consider possible action relating to the development of a new City Hall facility for the City of Wimberley, Texas (*Mayor Tom Haley*).

Mayor Haley pulled this item for future consideration and no action was taken.

5. City Council Reports

- Announcements
- Future Agenda Items

As future agenda items:

Councilmember Appleman requested an Executive Session discussion of Wimberley Community Center contracts.

Councilmember Thurber requested discussion of the intent of the City's water conservation ordinance and Council's ability to implement restrictions. He also requested that Planning and Zoning begin the process of developing a landscaping ordinance.

Hearing no further announcements or future agenda item requests, Mayor Haley called the meeting adjourned at 8:39 p.m.

Adjournment: Council meeting adjourned at 8:39 p.m.

Recorded by:

Cara McPartland

These minutes approved on the ____ of August, 2009.

APPROVED:

Tom Haley, Mayor

The 2010 Census is just around the corner.

The constitutionally mandated decennial census is for the apportionment of seats in the US House of Representatives.

The other purpose is to determine the distribution of federal funds--allocated to all states based on Census data.

Hays County doesn't have a very good record of responding to the census.

In 2000, the US Census response rate was 67 percent. The rate for Texas was 64 percent, and for Hays County, it was 62 percent.

This below average response hurts us in several ways:

1. An undercount in the Census could mean fewer federal dollars for our community
2. We need 5,000 people to start the process for voters to approve a home rule charter for Wimberley. Portions of the population have not supported population estimate measures used in the past, but I believe they will accept US Census data.

The Census Bureau has been working on next year's Census.

They've canvassed physical addresses, ensuring that there is in fact a residence at each address that they have.

This fall the Census Bureau will begin recruiting employees for their non-response follow-up

In February and March of next year, Census questionnaires will be mailed out to physical addresses. There will be no mail out to post office boxes.

April 1 is Census day.

Those who do not receive a Census questionnaire will be directed to a Be Counted Center to be counted. At this point, no one knows where our nearest Be Counted Center will be.

Local areas have been encouraged to form Complete Count Committees to help educate the public on the 2010 Census. I attended a meeting of the Hays County Complete Count Committee along with representatives from the city staff, chamber of commerce and the school district.

The folks from Wimberley and Woodcreek who were present decided to establish a Wimberley Complete Count Committee to develop and implement local outreach and awareness for the 2010 Census.

The Complete Count Committee will come up with an action plan to encourage as many local residents as possible to participate in the 2010 Census.

The toughest nut to crack will be figuring out a way that a community in which roughly half the people do not receive mail at their physical addresses can be accurately counted in a system that only mails questionnaires to physical addresses.

The 2010 Census is important to Wimberley's future.

It's easy

- Shortest questionnaire in Census history
- Total of 10 questions: name, gender, age, race, ethnicity, relationship, own/rent
- About 10 minutes to complete

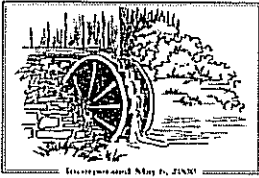
It's important

- Census data directly affect how federal government allocates over \$300 billion a year
- The Census will count residents living in the United States on April 1, 2010
- Wimberley's qualification for home rule status is riding on the outcome of the Census

It's Safe

- Answers are protected by law and strictly confidential
- Information is used for statistical purposes only
- Not shared with any government agency

City Council Agenda Form



Date Submitted: August 15, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: REAPPOINTMENT OF
JAN FULKERSON TO THE PARKS ADVISORY
BOARD

Funds Required:

Funds Available:

Council Action Requested:

☐ Ordinance

☐ Resolution

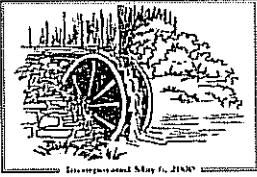
☒ Motion

☐ Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Place Four Council Member Steve Thurber to allow City Council to consider the reappointment of Jan Fulkerson to the City of Wimberley Parks Advisory Board.

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: APPOINTMENT OF
JOHN ESTEPP TO THE WATER WASTEWATER
ADVISORY BOARD

Funds Required:
Funds Available:

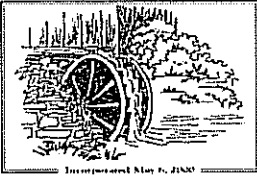
Council Action Requested:

- ☐ Ordinance
- ☐ Resolution
- ☒ Motion
- ☐ Discussion

Project/Proposal Summary:

This item was placed on the agenda at the request of Place Two Council Member Bob Flocke to allow City Council to consider the appointment of John Estopp to the City of Wimberley Water Wastewater Advisory Board.

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CITY ADMINISTRATOR'S
REPORT

Funds Required:
Funds Available:

Council Action Requested:

- ☐ Ordinance
- ☐ Resolution
- ☐ Motion
- ☒ Discussion

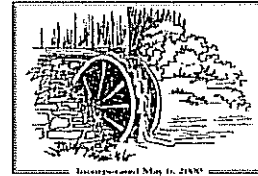
Project/Proposal Summary:

The City Administrator will present a report on the following items:

- Status report on the City of Wimberley's application for grant funding from Texas Parks and Wildlife for the development of the *Blue Hole Regional Park*
- Status report on the Mayor's Fitness Council Grant
- Status report on the PEC Triangle Property Committee
- Status report on water quality testing of the Blanco River and Cypress Creek
- Status report on the operation and development of the *Blue Hole Regional Park*
- Status report on activities of the Wimberley Municipal Court
- Status report on activities of the City Marshal

Report for Zoning Change

CUP-09-007



Summary:

A conditional use permit to allow a sit-down eating establishment that sells beer, wine and alcohol for on-premise consumption at 701 FM 2325

Applicant Information:

Applicant: Tony Saucedo
701 FM 2325
Wimberley, Texas 78676

Property Owner: Tony Saucedo

Subject Property:

Legal Description: .128 acres out of A0365 Benjamin Page Survey
Location: 701 FM 2325
Existing Use of Property: Eating Establishment
Existing Zoning: C-1 Commercial - Low Impact
Proposed Use of Property: Eating Establishment allowing the sale of alcohol
Proposed Zoning: C-1 with a Conditional Use Permit
Planning Area: III
Overlay District: Entrance Corridor

Surroundings:

Frontage On: FM 2325
Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	None	Commercial (Parking)
S of Property	None	Commercial
E of Property	None	Commercial (Mima's)
W of Property	None	Commercial

Legal Notice

200' Letters 7/24/09
Published 7/29/09
Sign Placement 7/27/09
Responses none

Comments:

The applicant has requested a conditional use permit to allow for a sit-down eating establishment that sells beer, wine and alcohol for on-premise consumption at 701 FM 2325. The subject property is located in Planning Area III, and is zoned Commercial-Low Impact (C-1).

The restaurant has both indoor and outdoor seating. As per City ordinance, revenue from the sale of alcohol will not surpass fifty percent (50%) of the restaurant's gross revenue.

On August 13, 2009, the Planning and Zoning Commission held a public hearing on the proposed conditional use permit. Afterwards, the Commission voted unanimously to recommend approval of the conditional use permit.

155.047 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, free-standing 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) Non-profit 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;

(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; and
- (19) Single-family residence.

(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) Bed and breakfast lodging;

(4) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations; and

(5) Eating establishments: fast food with drive-through order windows.

(D) *Development regulations.*

(1) Minimum lot size: 5,000 square feet.

(2) Maximum building height (as defined in § 155.005):

(a) Primary buildings: not more than 2 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 1 story;
and

(c) Decks: not more than 12 feet including a railing only or 18 feet including a roof.

(3) For minimum setbacks, no construction, including buildings, parking areas, and driveways, except entry driveways, and no placement or display of commercial material and equipment shall be allowed in the setbacks. The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

(a) Dominant street: 10 feet;

(b) Secondary street: 10 feet; and

(c) Interior side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.

(4) Maximum impervious cover: 70%. Impervious coverage shall be calculated as a percentage of the net site area and shall be the lesser of the percentage specified above in this district description or the percentage for the average lot slope in § 155.078(M), Table C.

(5) Maximum building coverage: 60%. 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 § 155.077.

(3) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling or non-residential purposes.

(F) *Other regulations.* As established in §§ 155.075 et seq., development standards.

(G) *Parking regulations.* As required by § 155.075, off-street parking and loading requirements.

(Ord. 2001-010, § 26, passed 4-1-2001; Am. Ord. 2003-006, passed 7-3-2003; Am. Ord. 2004-017, passed 8-5-2004) Penalty, see § 155.999

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 155 (ZONING) OF THE CODE OF ORDINANCES AS FOLLOWS:

1. SECTION 155.005 (DEFINITIONS) TO AMEND, ADD AND DELETE DEFINITIONS RELATED TO ALCOHOL USES;
2. PORTIONS OF SECTION 155.047 (COMMERCIAL - LOW IMPACT (C-1), SECTION 155.048 COMMERCIAL - MODERATE IMPACT (C-2)), AND SECTION 155.049 (COMMERCIAL - HIGH IMPACT (C-3)) TO ALLOW EATING ESTABLISHMENTS: SIT-DOWN, TO SELL BEER, WINE AND ALCOHOL FOR ON-PREMISE CONSUMPTION AS A CONDITIONAL USE;
3. PORTIONS OF SECTION 155.047 (COMMERCIAL - LOW IMPACT (C-1)), AND SECTION 155.048 (COMMERCIAL - MODERATE IMPACT (C-2)) TO ALLOW PACKAGE STORES OF BEER AND WINE AS A CONDITIONAL USE;
4. PORTIONS OF SECTION 155.049 (COMMERCIAL - HIGH IMPACT (C-3)) TO ALLOW LIQUOR STORES AS A CONDITIONAL USE;
5. PORTIONS OF SECTION 155.049 (COMMERCIAL - HIGH IMPACT (C-3)) TO ALLOW PACKAGE STORES OF BEER AND WINE AS A PERMITTED USE; AND,
6. SECTION 155.091(E) CITY CENTER OVERLAY DISTRICT (CC) ADD LIQUOR STORE AND PACKAGE STORES OF BEER AND WINE AS PROHIBITED USES;

AND PROVIDING FOR THE FOLLOWING: PENALTY; FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley ("City Council") seeks to provide for the orderly arrangement and regulation of compatible uses within its corporate limits; and,

WHEREAS, on May 9, 2009, a majority of the voters of Hays County voted to allow the public to purchase alcohol in stores and to purchase and consume alcoholic drinks at restaurants and bars in Justice of the Peace, Precinct Three of Hays County; and,

WHEREAS, amendments to the City's zoning code is necessary to allow certain sales and on-premise consumption of beer, wine and liquor in order to permit such uses in the City's various zoning districts; and,

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the City's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and,

WHEREAS, further the P&Z and Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and,

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and,

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and,

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals and general welfare; and,

WHEREAS, parties in interest and citizens have had an opportunity to be heard at several public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

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

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. AMENDMENTS

- A. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Section 155.005 (Definitions) shall be amended as follows:

1. The following definitions shall be amended to read as follows:

"BARS AND TAVERNS. Establishments or places of business where customers are seated and served which are primarily engaged in the sale, mixing, or dispensing of beer, wine and alcoholic beverages for consumption on the premises, and which fifty

percent (50%) or more of gross revenue is derived from the on-premises sale of alcoholic beverages. Typical uses include a tavern, bar or cocktail lounge with minimal or no kitchen facilities and little or no food items served.

EATING ESTABLISHMENTS: SIT-DOWN. Establishments or places of business where customers are seated and served, and that are primarily engaged in the sale of prepared foods and beverages, and may include alcoholic beverages, for on-premises consumption upon approval of a conditional use permit. They are located at high capacity or high volume sites that are easily accessed by vehicles and pedestrians. Typical uses include restaurants, short-order eating places, cafeterias, and coffee shops.

FOOD AND BEVERAGE RETAIL SALES. Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption, including beer and wine beverages. Typical uses include grocery stores and delicatessens, but does not include sale of alcoholic beverages.

RETAIL SALES AND SERVICES: GENERAL. Establishments engaged in the sale or rental of goods and services, both retail and wholesale, of commonly used goods, merchandise, and services, not including the sale of beer, wine, or alcoholic beverages for on or off-premise consumption.

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-premise consumption.

SPECTATOR SPORTS AND ENTERTAINMENT: LOW IMPACT. Establishments or places engaged in the provision of cultural, entertainment, athletic, and other events to spectators as well as parking space for social or fraternal gatherings. These uses are conducted in open facilities or within an enclosed building with a capacity of 100 or fewer people and include retail sales, storage facilities, and other activities incidental to the operation. Typical uses include theaters or amusement places, not including the sale of beer, wine, or alcoholic beverages for on or off-premise consumption."

2. The following definition shall be deleted in its entirety:

ALCOHOLIC BEVERAGE SALES

3. The following definitions shall be added alphabetically to read as follows:

"**ALCOHOLIC BEVERAGE** means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

PACKAGE STORE means a store that sells bottled or canned beer and wine beverages for consumption off the premises.

LIQUOR STORE means a store that sells bottled or canned alcoholic beverages for consumption off the premises."

- B. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.047(B)(7) (Commercial – Low Impact (C-1)), Permitted Uses, is hereby amended to read as follows:

"(B)(7) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;"

- C. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.047(C) (Commercial – Low Impact (C-1)), Conditional Uses, is hereby amended to add subsection (6) to read as follows:

"(6) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption."

- D. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.048(B) (Commercial – Moderate Impact (C-2)), Permitted Uses, is hereby amended to read as follows:

"(8) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;"

- E. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.048(C) (Commercial – Moderate Impact (C-2)), Conditional Uses, is hereby amended to add subsection (9) to read as follows:

"(9) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption."

- F. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsections 155.049(B)(3) and (5) (Commercial – High Impact (C-3)), Permitted Uses, are hereby amended to read as follows:

"(3) Food and beverage retail sales (such as grocery), not including the sale of beer, wine, or alcohol for on or off premise consumption;

(5) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;"

- G. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.049(C)(2) (Commercial – High Impact (C-3)), Conditional Uses, is hereby amended to read as follows, and subsection (17) is added to read as follows:

“(2) Liquor and package stores;

(17) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption;”

- H. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Section 155.091(E) (City Center Overlay (CC)) is hereby amended to add subsection (11) to read as follows:

“(11) Liquor Stores, excluding establishments that solely serve and sell wine for on and off-premise consumption.”.

Except as amended herein, the Code of Ordinances of the City of Wimberley shall remain in full force and effect.

III. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

IV. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

V. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

VI. 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 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.

FIRST READING PASSED AND APPROVED this 2nd day of July, 2009, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

SECOND READING PASSED AND APPROVED this 16 th day of July, 2009, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By: Tom Haley
Tom Haley, Mayor

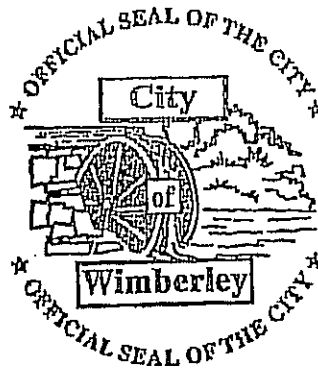
ATTEST:

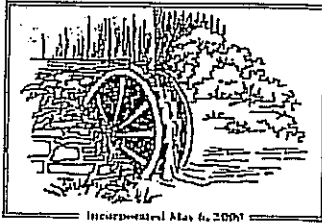
Cara McPartland
Cara McPartland, City Secretary

(SEAL)

APPROVED AS TO FORM:

Carolyn J. Crosby
Carolyn J. Crosby, City Attorney





Village of Wimberley

CONDITIONAL USE PERMIT APPLICATION

No. CUP-~~01~~-007

FOR OFFICIAL USE ONLY

Application Date: 7/22/09 Tentative P&Z Hearing: _____ Tentative Council Hearing: _____

FEES: \$400.00 DATE PAID: 7/22/09 CHECK NO. 8554 REC'D BY 7/22/09

PROJECT SITE ADDRESS: 701 FM 2325 Wimberley, TX. 78676

OWNER/APPLICANT: Mina's Kitchen & Tony Saucedo PHONE (512) 847-6621

FAX () _____ EMAIL: _____

Mailing Address: 701 FM 2325 CITY: Wimberley STATE: TX ZIP: 78676

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.

ZONING: _____ CONDITIONAL USE REQUESTED: (e.g. Bed & Breakfast Lodging)

TABC Permit to Sell Wine and Beer

Planning Area _____ Zoning _____ Total Acreage or Sq. Ft. _____

Subdivision: _____ Lot _____ Block _____

Appraisal District Tax ID#: R

Deed Records Hays County: Volume _____ Page _____

Is property located in an overlay district? () Yes () No - If Yes,

Type: _____

Is property located in flood plain? () Yes (X) No

Utilities:

Electric Provider: PEC

Water Provider or Private Well: WWSC

Wastewater Service Provider or Hays County Septic Permit No: Agua Texas



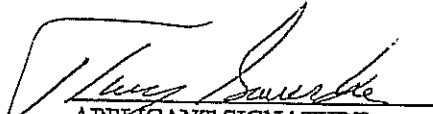
MY REQUEST IS BASED ON THE FOLLOWING:

- ☒ 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 district are being upheld.

ADDITIONAL REQUIREMENTS/DOCUMENTATION

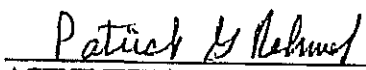
- ☐ Metes and bounds description and a survey (i.e., drawing) exhibit showing the property for which the CUP is being requested. *Previously furnished for Restaurant CUP*
- ☐ Site Plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street 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; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200').
- ☐ List of Special Conditions that Applicant agrees apply to property.
- ☐ List of all property owners, with mailing addresses located within two hundred feet (200') of any point of the subject property. *Fannie Ludwig, FM 2325*
- ☒ Payment of Application fee \$400.00
- ☒ Applicant agrees to attend public hearings before the P&Z Commission as well as the City Council concerning this application; or waives his/her right to appear, understanding that if questions are raised that cannot be answered, the matter may be continued, or denied.
- ☐ Applicant has 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 applicant understands that the Village zoning action does not relieve any obligation of these restrictions.
- ☒ Applicant agrees to provide additional documentation as needed by the Village.
- ☒ Applicant understands that Village review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided may delay the review of the Application. Applicant, by his/her signature below, certifies that to the best of his/her knowledge said information is complete and correct.
- ☒ Applicant hereby authorizes the Village representatives to visit and inspect the subject property.

Date 7-22-09


APPLICANT SIGNATURE

WHEN APPLICABLE:

Date 7-22-09


AGENT SIGNATURE

S. CRAIG HOLLMIG, INC.
CONSULTING ENGINEERS - SURVEYORS
410 N. SEGUIN STREET
NEW BRAUNFELS, TEXAS 78130

TEXAS SOCIETY OF PROFESSIONAL ENGINEERS
AMERICAN SOCIETY OF CIVIL ENGINEERS

VOL 382 A: 747
TEXAS SURVEYORS ASSOCIATION
TELEPHONE (512) 835-8558

WATER SYSTEMS • SEWER SYSTEMS • SUBDIVISIONS • LAND PLANNING • STREETS • DRAINAGE • SURVEYING

FIELD NOTES
FOR
A 0.128 ACRE TRACT

Being 0.128 acres of land out of that 5.37 acre tract of land conveyed to the Wimberley Lions Club by Ja Wahrmond, by deed dated January 21, 1972, and recorded in Volume 247, Page 930 of the Deed Records of Hays County, Texas, and being more particularly described as follows:

BEGINNING: At an iron stake found on the arc of a curve to the right in the South line of F. M. Hwy. No. 2325, for the Northwest corner of the tract herein described, said point being S 63° 33' E 65.0 feet from the Northwest corner of the said Wimberley Lions Club 5.37 acre tract, the Northeast corner of that 2 acre tract of land conveyed to Tony Saucedo, et ux, by A. J. Farris by deed dated February 9, 1971, and recorded in Volume 241, Page 694 of the Deed Records of Hays County, Texas;

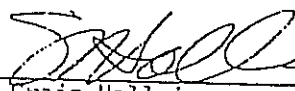
THENCE: With the South line of said F.M. Hwy. No. 2325, 40.0 feet, along the arc of the said curve to the right, having a radius of 5690.31 feet, and a sub-chord which bears S 63° 01' E 40.0 feet, to an iron stake set for the Northeast corner of the tract herein described;

THENCE: Leaving said F.M. Hwy. No. 2325, S 29° 38' 28" W 183.31 feet to an iron stake set for the South corner of the tract herein described, same being on the East line of the said Saucedo 2 acre tract;

THENCE: N 00° 53' 00" W 66.28 feet and N 26° 44' 44" E 124.61 feet to the Point of Beginning and containing 0.128 acres of land, more or less.

I hereby certify that the above field notes were prepared from an actual survey made on the ground under my supervision, May 11, 1981.




S. Craig Hollmig
Registered Public Surveyor

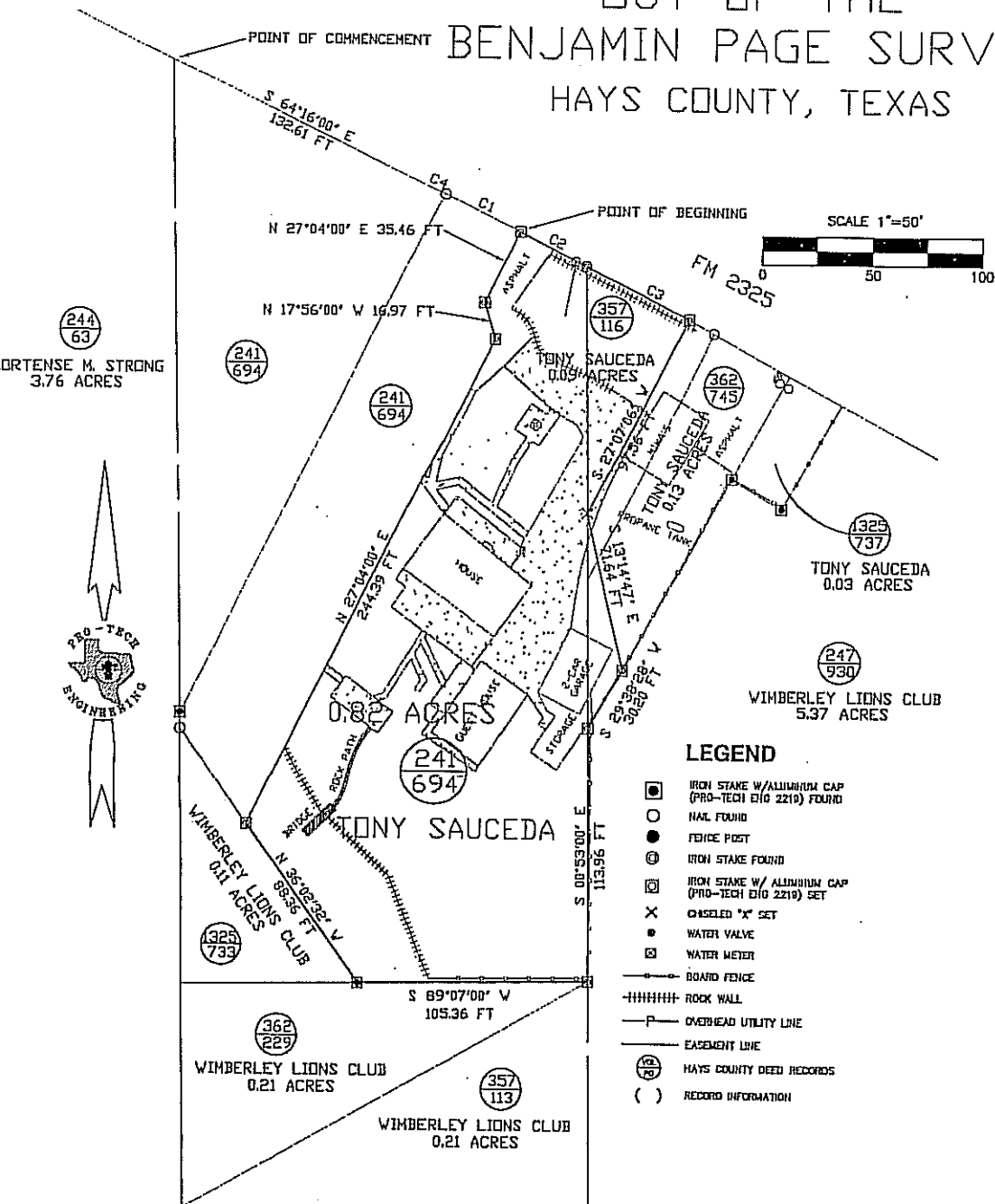
STATE OF TEXAS
COUNTY OF HAYS

I hereby certify that this instrument was FILED on the
date and at the place herein by me and was duly
RECORDED, in the 181st Page of the named RECORDS
of Hays County, Texas, and was filed on by me, on



Certified 18, 1981
COUNTY OF HAYS
HAYS COUNTY, TEXAS

MAP OF 0.82 ACRES OF LAND OUT OF THE BENJAMIN PAGE SURVEY HAYS COUNTY, TEXAS



NUMBER	DELTA ANGLE	CHORD DIRECTION	RADIUS	ARC LENGTH	CHORD LENGTH
C1	00°22'58"	S 63°57'17" E	5690.31	38.01	38.01
C2	00°20'26"	S 63°35'35" E	5690.31	33.81	33.81
C3	00°31'16"	S 63°09'46" E	5690.31	51.74	51.74
C4	00°02'37"	S 64°10'04" E	5690.31	4.33	4.33

I, the undersigned, hereby certify to the owner of the tract of land shown hereon that this survey was this day made in the ground of the property legally described hereon and is correct, and that there are no visible encroachments, conflicts, encroachments, overlapping improvements, easements or rights-of-way, except as shown or hereon, and that said property has access to and from a public roadway.

WIMBERLEY
PROFESSIONAL LAND SURVEYOR NO. 2219

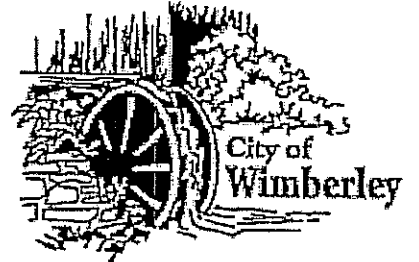
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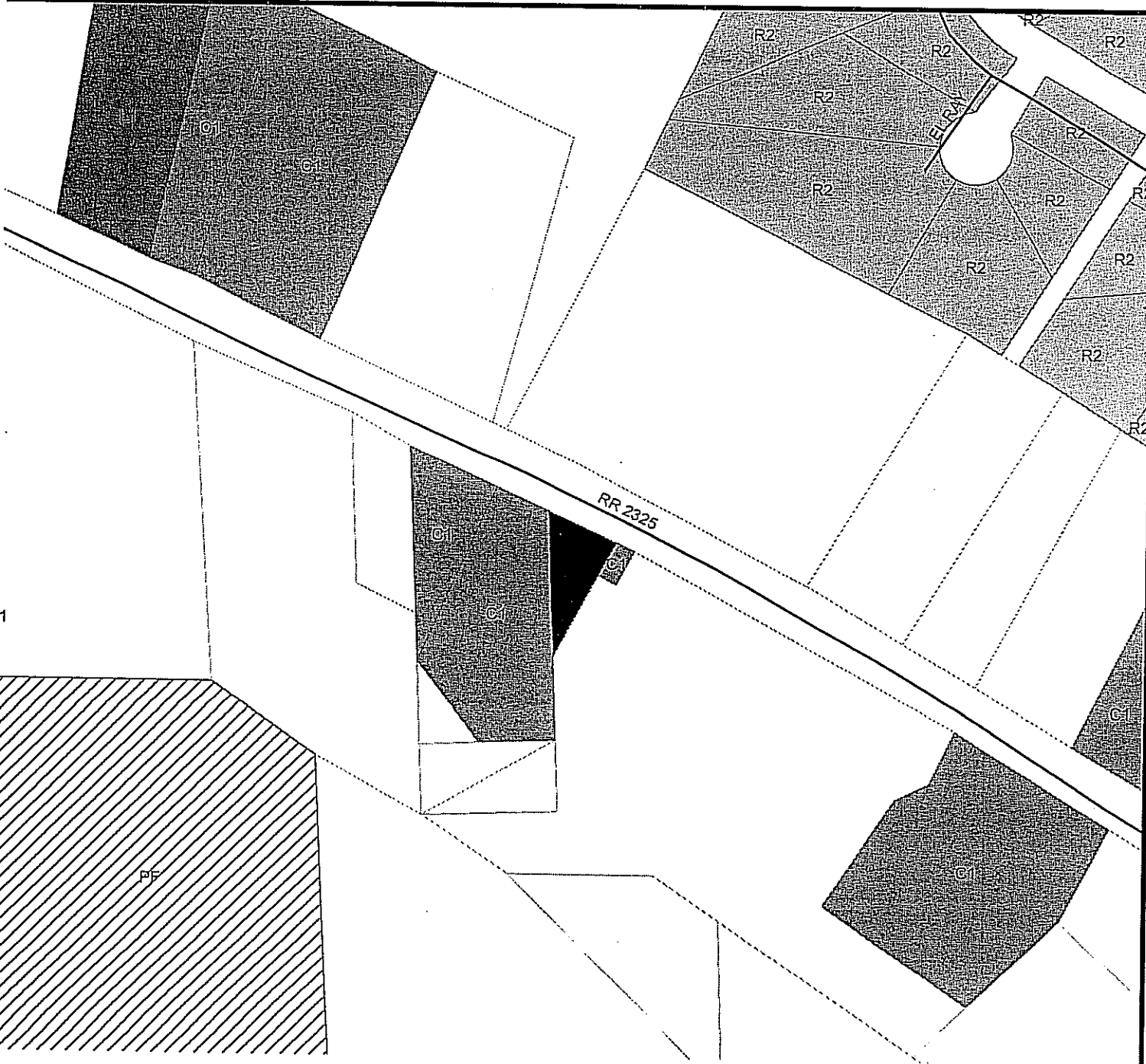
ENGINEERING
GROUP
INCORPORATED

100 E. San Antonio St., Suite 100
San Marcos, TX. 78666
(512) 353-3335

Zoning Map for CUP-09-007



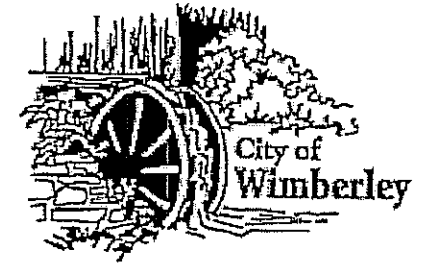
P.O. Box 2027 • Wimberley, Texas 78676



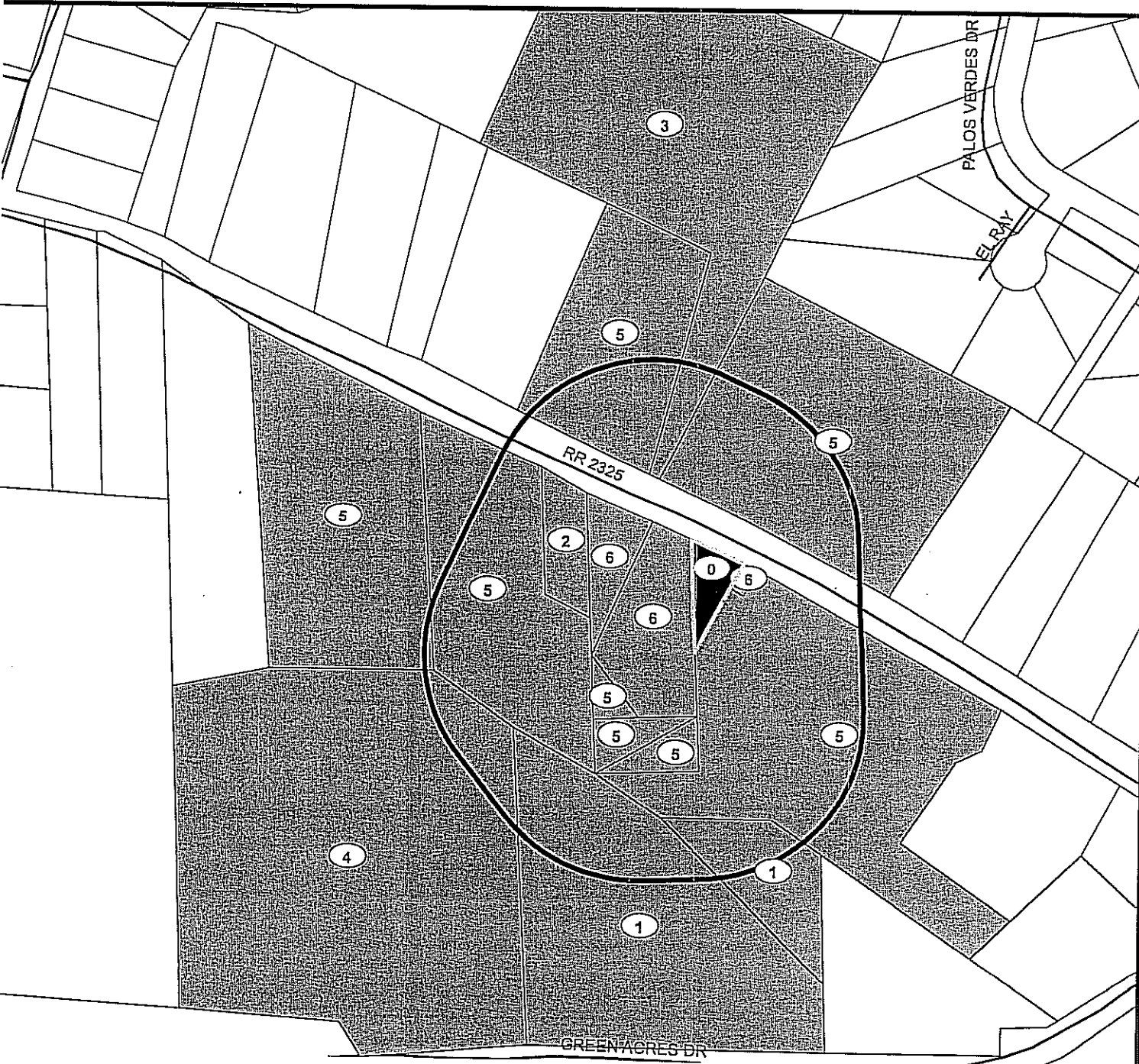
-  Subject Property
-  Single Family Residential 2
-  Commercial - Low Impact (C)
-  Lodging 1 (L1)
-  Public Facilities (PF)
-  parcel

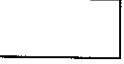


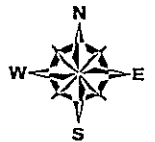
Notification Map for CUP-09-007



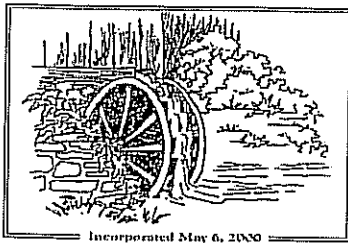
P.O. Box 2027 • Wimberley, Texas 78676



-  0. SUBJECT PROPERTY
-  1, CLAYTON, JON S
-  2, DAVIS BRANDON & JULI
-  3, DOMSCH, BERNICE
-  4, WIMBERLEY ISD
-  5, WIMBERLEY LIONS CLL
-  6, SAUCEDA, TONY
-  parcel
-  buffer 300



0 40 80 120 Feet



City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: village@anvilcom.com Web: www.vil.Wimberley.tx.us

Tom Haley, Mayor - Bob Flocke, Mayor Pro-tem

Council Members - Charles Roccaforte, Bill Appleman, Steve Thurber, John White
Don Ferguson, City Administrator

July 24, 2009

NOTICE OF PUBLIC HEARING

Re: File No. CUP-09-007

701 FM 2325

A request for a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption

File No. AV-09-002

701 FM 2325

A request for a waiver to allow the sale of alcohol for on premise consumption within 300 feet of a church, school, day care center or hospital.

Dear Property Owner:

You are receiving this letter because you own property within 300 feet of the above-referenced location.

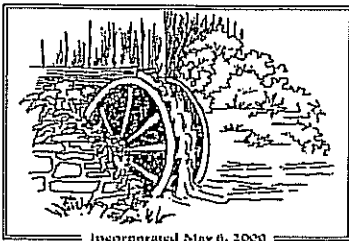
Tony Saucedo has requested a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption at 701 FM 2325. The City of Wimberley Planning & Zoning Commission will consider this request at a public hearing on **Thursday, August 13, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12. Upon a recommendation from the Commission, City Council will hold a Public Hearing to consider the same request on **Thursday, August 20, 2009, at 6:30 p.m.**

Associated with the above mentioned application, the applicant is seeking a waiver from the City requirement prohibiting the sale of alcohol within 300 feet of a church, school, day care center or hospital. The Wimberley City Council will consider this waiver request at a public hearing on **Thursday, August 20, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12

Because the granting of these requests may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearings. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed waiver and CUP is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY



City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

E-mail: Wimberley@anvil.com - Web: www.vil.wimberley.tx.us

NOTICE BY SIGN POSTING

Zoning No: CUP-09-007

Owner Tony Sancedo

Date 7/27/09

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

() Project Site Address 701 PM-2725

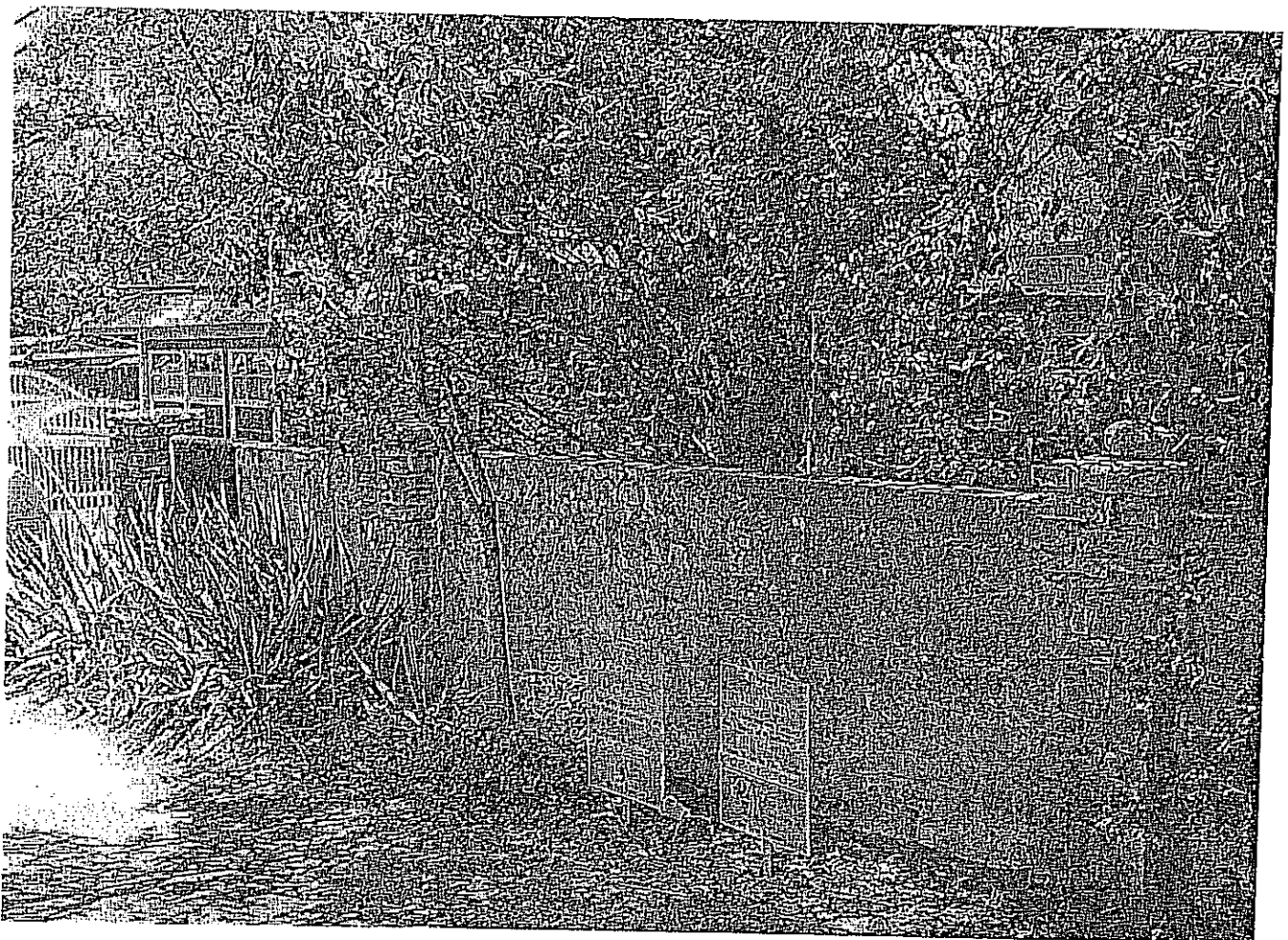
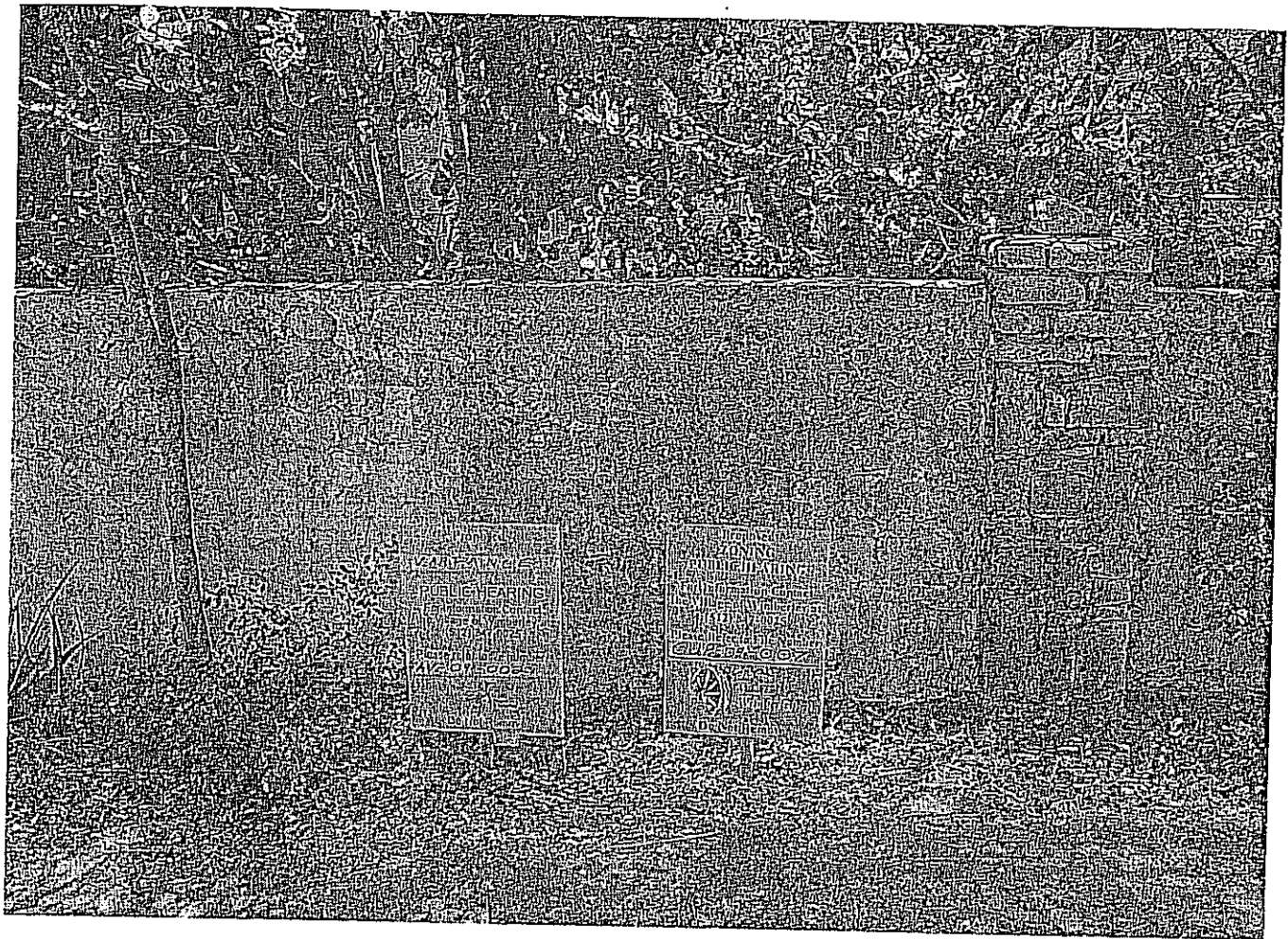
which is located PM-2725

Bill Bowers
Asst. Public Works

Note: The above-referenced sign was placed on the subject property on

7/27, 2009


Signature



THE CLASSIFIED

Wednesday, July 29, 2009

Email your ads to: classifieds@wimberleyview.com

LEGAL & PUBLIC NOTICES

PUBLIC NOTICE

Owners and lien holders are hereby notified that the following vehicles have been taken into custody:

2004 Ford
Ambulance Bus
Make International
Model FC-1760
Year 1979
VIN: 231000782-5721
Color Blue
Wreckers Location

Wiers Garage and
Wiersowing LLC
500 Old Kyle Hwy B
S
Kyle Texas 78640
(512) 266-0748
(5085) 6660

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: CUP-09-008 - an application for a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption at 600 FM 2325. Upon recommendation of the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at

6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (0509) 1560.

NOTICE OF PUBLIC HEARING (Request for Zoning)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: ZA-09-018 - a application for initial base zoning of Commercial Low Impact (C) at 600 FM 2325. Upon recommendation of the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City

Hall, 12111 Ranch Road 12, Wimberley, Texas (0509) 1560.

NOTICE OF PUBLIC HEARING (Request for Alcohol Variance)

Notice is hereby given that the Wimberley City Council will hold a public hearing on Thursday, August 20, at 6:30 p.m. to consider the following: AV-09-003 - a request for a waiver to sell alcohol for on premise consumption less than 3000 from a school, church, day care, or hospital at 600 FM 2325. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (0509) 1560.

NOTICE OF PUBLIC HEARING (Request for Alcohol Variance)

Notice is hereby given that the Wimberley City Council will hold a public hearing on Thursday, August 20, at 6:30 p.m. to consider the following: AV-09-002 - a request for a waiver to sell alcohol for on premise consumption less than 3000 from a school, church, day care, or hospital at 701 FM

2325. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (0509) 1560.

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: CUP-09-007 - an application for a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption at 701 FM 2325. Upon recommendation of the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is

available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (0509) 1560.

PUBLIC NOTICE

The Housing Authority of the City of Kyle is amending its 2008 Agency Plan in compliance with the Quality and Responsibility Act of 1998. It is available for review at the Authority's office located at 417 West Second Street, Kyle, Texas 78640. The Authority's hours of operation are 9:00 AM to 4:00 PM Monday through Thursday. In addition, a public hearing will be held on August 10, 2009, at the Housing Office at 2:00 PM. (0508) 1560.

PUBLIC NOTICE The State of Texas

Notice of Seizure
Sale of Real Property
County of Hays

As First Order of Sale was issued the 21st day of May, 2009, by the Clerk of the District Courts, Hays County, Texas, after having a judgment rendered by the 27th District Court, and for Hays County, Texas, on the 31st day of March, 2009, in favor of Woodcreek Property Owners Association of Hays County, Inc. against Julia Robbins Cause No. 08-2217 reflects a judgment amount of \$11,866.00 with interest thereon from the date of judgment at the rate of 5.00% per annum until

paid and \$31 costs of the foreclosure of only the described property of the 1st day of July at 3:25 p.m. the described property located in County as the of said debt with

The property by its legal as Lot 3, Se Woodcreek, San J. Hays, Texas as it is the 31st day of 2009. And on the August 20, the 1st day of August 2009, the hours of and 4:00 p.m. north of courthouse

County will sale and sell all the right interest. Robbins in property. State 10:30am Date May 2, Darrel W. A Constable Precinct 34 County. By Tom L Deputy Co Precinct 34 County.

On the property there are interests, as implied in not limited implied with property. Bidders are advised in of the property first order not exist

ORDINANCE NO. 2009-_____

AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY TONY SAUCEDA TO PERMIT AN EATING ESTABLISHMENT: SIT-DOWN, INCLUDING THE SALE OF BEER, WINE AND ALCOHOL FOR ON-PREMISE CONSUMPTION ON AN APPROXIMATELY 0.128 ACRE TRACT LOCATED AT 701 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS, ZONED COMMERCIAL-LOW IMPACT (C-1), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS.

WHEREAS, an application for a Conditional Use Permit has been filed by Tony Saucedo ("Applicant") requesting authorization to permit an Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption on real property described as a 0.128 acre tract part of the A0365 Benjamin Page Survey, zoned Commercial-Low Impact (C-1); and

WHEREAS, a Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption is an authorized use in areas zoned Commercial-Low Impact (C-1) upon the granting of a Conditional Use Permit; and

WHEREAS, after conducting a public hearing on the matter, the Planning and Zoning Commission recommended approval of the CUP application; and

WHEREAS, Applicant has submitted a Conditional Use Permit Application, site plan, and list of conditions on the use of the property, attached hereto as Exhibits "A" and "B", respectively, and incorporated herein, and other necessary information, and has complied with the requirements of the Wimberley Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission and City Council have conducted Public Hearings on the Application for a Conditional Use Permit wherein public comment was received and considered on the Application; and

WHEREAS, the City Council finds that the use of the subject property as a Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption , subject to the conditions imposed by this Ordinance, is an appropriate use for the property and is a compatible use with the surrounding properties and neighborhoods.

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

ARTICLE I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

ARTICLE II. APPROVAL - TERMS AND CONDITIONS

The CITY COUNCIL HEREBY GRANTS the Application for a Conditional Use Permit submitted by Tony Saucedo ("Applicant") to permit an Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption on real property described as a 0.128 acre tract part of the A0365 Benjamin Page Survey, zoned Commercial-Low Impact (C-1), Wimberley, Hays County, Texas, subject to the following terms and conditions:

1. Applicant shall not commence development until it has secured all permits and approvals as required by the Wimberley zoning regulations, ordinances or any permits required by regional, State and Federal agencies.
2. This Ordinance only authorizes the additional use of a Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption in accordance with the site plan attached hereto as Exhibit "A", and subject to the conditions described in Exhibit "B", attached and incorporated by reference, as well as all applicable regulations in effect at the time of the submission of the building permit application. This Conditional Use Permit does not authorize any other use of the property, except as permitted under the Zoning Code.

ARTICLE III. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the Conditional Use Permit established by this Ordinance.

ARTICLE IV. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

ARTICLE V. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

ARTICLE VI. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE VII. 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, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED by the Wimberley City Council on the ___ day of _____, 2009 by a vote of ____ (Ayes) and ____ (Nayes).

WIMBERLEY, TEXAS

By: _____
Tom Haley, Mayor

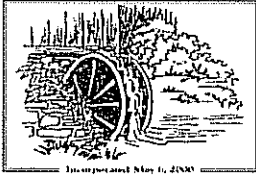
ATTEST:

Cara McPartland, City Secretary
(SEAL)

APPROVED AS TO FORM:

Carolyn J. Crosby, City Attorney

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER ACTION ON A DISTANCE RESTRICTION WAIVER REQUEST TO ALLOW FOR THE SALE OF BEER, WINE AND ALCOHOL AT 701 FM 2325

Council Action Requested:

- ☐ Ordinance
- ☐ Resolution
- ☒ Motion
- ☒ Discussion

Project/Proposal Summary:

Currently, the sale of beer, wine and alcohol is prohibited within 300 feet of schools, churches, hospitals and day care facilities within the City of Wimberley. The same City ordinance that restricts the sale of beer and wine to certain locations allows business establishments located within so-called "alcohol free zones" to request a waiver from the distance requirement.

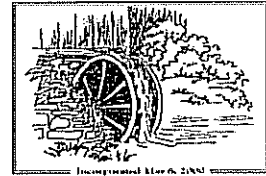
This month, the City of Wimberley received such a waiver request from the owners of *Mima's Restaurant* who are proposing to sell beer and wine at their sit-down eating establishment located at 701 FM 2325. The subject property is located just under 300 feet from Scudder Primary School. In accordance with City ordinance, notice of the requested waiver was mailed to all property owners within 300 feet of the subject property. At the time of production of this agenda packet, no public comments either for or against the requested waiver have been received by the City.

The City's ordinance allows City Council to waive the distance requirements if the Council determines enforcement of the distance provision in a particular case:

- is not in the best interest of the public
- constitutes waste or the inefficient use of land or other resources
- creates an undue hardship on an applicant
- does not serve its intended purpose
- is not effective or necessary
- for any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines in the best interest of the community.

Report for Zoning Change

ZA-09-018



Summary:

The applicant has requested Commercial-Low Impact (C-1) zoning for a currently un-zoned tract of land at 600 FM 2325

Applicant Information:

Applicant:

Kate Brune Tilton
3110 Williams Glen
Sugar Land, TX 77479

Property Owner:

Kate Brune Tilton

Subject Property:

Legal Description:

1.367 Acres out of Robert S Rankin Survey No.65 ABS 390 and Benjamin Page Survey No.64 ABS 365

Location:

600 FM 2325

Existing Use of Property:

Eating Establishment: Sit-down

Existing Zoning:

Un-zoned

Proposed Use of Property:

Eating Establishment: Sit-down, including the sale of beer, wine and alcohol for on-premise consumption

Proposed Zoning:

C-1

Planning Area

III

Overlay District

Entrance Corridor Overlay, EC

Surroundings:

Frontage On:

FM 2325

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	R2	Residential
S of Property	C1	School
E of Property	C1	Commercial
W of Property	Unzoned	Vacant

Legal Notice

200' Letters Sent

7/24/09

Published

7/29/09

Sign Placement

7/27/09

Comments:

The applicant has requested a base zoning of Commercial – Low Impact (C-1) for a currently un-zoned tract of land located at 600 FM 2325. The subject property is located in Planning Area III, where C-1 zoning is permitted.

The proposed uses for the subject property include a single family residence/office in the front building on the property and a restaurant in the back building. At this time, the

applicant plans to utilize the existing structures on the lot and does not anticipate any major construction or development in the near future.

Adequate access and parking is available on the subject property. All parking and signage will comply with applicable City of Wimberley Code requirements.

On August 13, 2009, the Planning and Zoning Commission held a public hearing on the zoning request. Afterwards, the Commission voted unanimously to recommend approval of the request.

It should be noted that there is a companion conditional use permit request pending for the subject property that would allow for a sit-down eating establishment, including the sale of beer, wine and alcohol for on-premise consumption.

155.047 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, free-standing 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) Non-profit 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;

(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; and
- (19) Single-family residence.

(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) Bed and breakfast lodging;

(4) Telecommunications towers, commercial antennas, and broadcast towers, subject to all applicable city regulations; and

(5) Eating establishments: fast food with drive-through order windows.

(D) *Development regulations.*

(1) Minimum lot size: 5,000 square feet.

(2) Maximum building height (as defined in § 155.005):

(a) Primary buildings: not more than 2 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 1 story;
and

(c) Decks: not more than 12 feet including a railing only or 18 feet including a roof.

(3) For minimum setbacks, no construction, including buildings, parking areas, and driveways, except entry driveways, and no placement or display of commercial material and equipment shall be allowed in the setbacks. The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

(a) Dominant street: 10 feet;

(b) Secondary street: 10 feet; and

(c) Interior side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.

(4) Maximum impervious cover: 70%. Impervious coverage shall be calculated as a percentage of the net site area and shall be the lesser of the percentage specified above in this district description or the percentage for the average lot slope in § 155.078(M), Table C.

(5) Maximum building coverage: 60%. 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 § 155.077.

(3) Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling or non-residential purposes.

(F) *Other regulations.* As established in §§ 155.075 et seq., development standards.

(G) *Parking regulations.* As required by § 155.075, off-street parking and loading requirements.

(Ord. 2001-010, § 26, passed 4-1-2001; Am. Ord. 2003-006, passed 7-3-2003; Am. Ord. 2004-017, passed 8-5-2004) Penalty, see § 155.999

FOR OFFICIAL USE ONLY

APPLICATION DATE: 7/17 FILE NO. ZA-09-018
 TENTATIVE P&Z* HEARING: 8/13 TENTATIVE CC** DATE: 8/20
 CITY INITIATED: YES - ☒ NO ☐ PLANNING AREA: C ZONING REQUESTED: C1
 ZONING FEES: \$ 352 DATE PAID: 7/17/09 RECEIVED BY: ay

* P&Z - Planning & Zoning Commission ** CC - Village of Wimberley City Council

APPLICATION FOR ZONING

NON-RESIDENTIAL, MULTI-FAMILY DEVELOPMENTS, MOBILE HOME DEVELOPMENTS, CONDITIONAL USE PERMIT APPLICATIONS & WIMBERLEY PLANNED DEVELOPMENT DISTRICTS (WPDD'S)

OWNER, AGENT AND PROJECT DATA

STREET ADDRESS OF PROPERTY TO HAYS COUNTY CENTRAL APPRAISAL DISTRICT
 BE ZONED: 600 FM 2325 Wimberley, Texas PROPERTY ID#: R 17196 **

* New street addresses can be obtained by calling (512) 393-2160

** You may obtain this from your property tax statement.

PLEASE PROVIDE DIRECTIONS TO YOUR PROPERTY:

NORTH ON 2325 - PAST WIMBERLEY LIBRARY. NEXT TO

LINDA'S FINE FOOD. "RESTAURANT" SIGN BY ROAD, THE

PROPERTY IS ON RIGHT SIDE OF ROAD. ACROSS FROM K.A.P. SCHOOL

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

1. OWNER'S NAME: KATE BRUNE TILTON HOME PHONE: (281) 265-5956

BUSINESS PHONE: (281) 705-1291

FAX: () _____

E-MAIL: rgtilton@utmb.edu

OWNER'S CURRENT MAILING

ADDRESS 3110 WILLIAMS GLEN CITY SUGAR LAND STATE TX ZIP 77479

2. AGENT'S NAME: KATE TILTON AGENT'S PHONE: (281) 705-1291

FAX: () _____

AGENT'S FIRM NAME: BRUNE-TILTON LLC E-MAIL: _____

AGENT'S FIRM MAILING

ADDRESS: 551 WINDMILL OAKS DR. CITY WIMBERLEY STATE TX ZIP 78676

PROPERTY INFORMATION

3. TOTAL AREA TO BE ZONED: ACRES 1.367 (OR) SQ.FT. _____ TOTAL NO. of TRACTS: 1

4. PLANNING AREA(S): C 5. REQUESTED ZONING CLASSIFICATION: C1

PROPOSED USE(S): RESTAURANT AND BAR

6. EXISTING ZONING CLASSIFICATION(S) AND USES (if applicable): Unzoned

7. LEGAL DESCRIPTION

Street Address: 600 Fm 2325 Subdivision: _____

Block(s) _____ Lot(s) _____

Plat Book: BENJAMIN PAGE #64 Page Number: ABSTRACT #365

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

VOLUME: _____ PAGE: _____ OF COUNTY PLAT RECORDS

9. OTHER PROVISIONS

A. IS PROPERTY IN AN OVERLAY DISTRICT? YES X NO _____ UNKNOWN _____

TYPE OF OVERLAY ZONE(S) (if applicable) Entrance Corridor

B. FLOOD PLAIN (What, if any, flood zone does your property occupy?): NO

C. ELECTRIC UTILITY PROVIDER: PEDERNALES ELECTRIC

WATER UTILITY PROVIDER: CITY WIMBERLEY

WASTEWATER UTILITY PROVIDER: SEPTIC ON PROPERTY

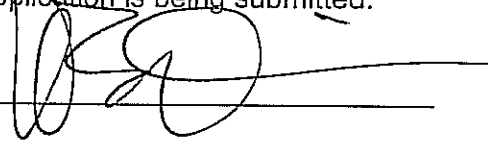
HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): _____

Related Cases, If Applicable

Zoning	File No. _____
Building Permit	File No. _____
Subdivision	File No. _____
Sign Permit	File No. _____
Engineered construction	File No. _____

SITE INSPECTION AUTHORIZATION

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

Date: 7-16-2009 APPLICANT SIGNATURE 

WHEN APPLICABLE:

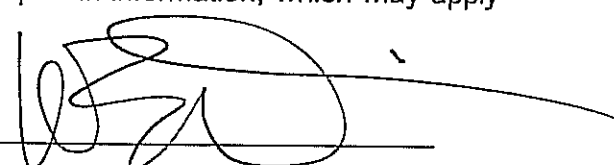
Date: _____ AGENT SIGNATURE _____

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: 600 Fm 2325, and more particularly known as Lot _____, Block _____ of the _____ Subdivision.

If a conflict should result with the request I am submitting to the Village 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 any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: 7-16-2009 APPLICANT SIGNATURE 

WHEN APPLICABLE:

Date: _____ AGENT SIGNATURE _____

SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE ZONING APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. FAILURE TO COMPLETE THE NECESSARY STEPS CAN CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

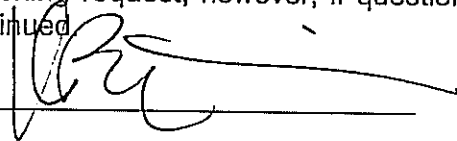
- ☒ Complete "Application For Zoning"
- ☒ Provide plat map of property to be zoned which includes all properties within 200 feet of any portion of Applicant's property; and which clearly indicates streets in surrounding area.
- ☒ Provide plat map of the specific property to be zoned.
- ☐ Provide names and addresses of property owners within 200 feet of any portion of Applicant's property.
- ☒ Provide a legal description of the property to be zoned.
- ☒ Sign/date Submittal Verification form.
- ☒ Sign/date Site Inspection Authorization form.
- ☒ Sign/date Acknowledgement Form.
- ☒ Pay Zoning Fee (this fee is based on the cost of services incurred by the Village of Wimberley in reviewing, processing and recording the zoning request).
- ☒ Applicant agrees to attend a pre-zoning conference prior to acceptance of Application.
- ☒ Applicant agrees to attend Planning & Zoning Commission hearings scheduled for Applicant's proposed zoning.
- ☒ Applicant agrees to attend City Council hearing scheduled for Applicant's proposed zoning or waives his/her rights of appearance (see below).
- ☐ Provide detailed Site Plan for WPDD (11x17)

SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE

- (✓) My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that Village 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 hereby waive my right to appear before the Village of Wimberley City Council at the public hearing to be held concerning the zoning of my above-referenced property. I understand that my failure to appear allows the Council to consider my zoning request; however, if questions are raised that cannot be answered, the matter will be continued.

Date: 1-16-2009

APPLICANT SIGNATURE



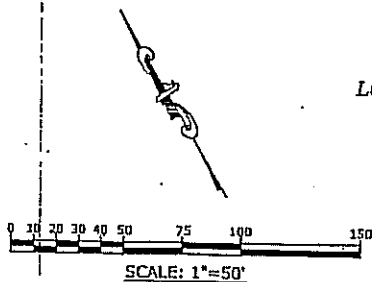
WHEN APPLICABLE:

Date: _____

AGENT SIGNATURE _____

1.367 ACRES OF LAND

OUT OF THE ROBERT S. RANKIN SURVEY No. 65, ABSTRACT No. 390
AND THE BENJAMIN PAGE SURVEY No. 64, ABSTRACT No. 365,
HAYS COUNTY, TEXAS



LEGEND

- 1/2" IRON ROD FOUND—UNLESS NOTED
- 1/2" IRON ROD SET—DRIFTWOOD SURVEYING
- ✦ MAG NAIL FOUND
- SERVICE OR UTILITY POLES
- DE — OVERHEAD UTILITIES
- - - EASEMENT
- x x x FENCE
- - - SETBACK

VOL. HAYS COUNTY PLAT RECORDS
PG.

VOL. HAYS COUNTY OFFICIAL
PG. PUBLIC RECORDS

RXXXXX HAYS COUNTY PROPERTY
IDENTIFICATION NUMBER

NOTES

THIS SURVEY REFERENCES TITLE COMMITMENT
No. 1340708-AU42, DATED 05/14/09,
PROVIDED BY FIRST AMERICAN TITLE COMPANY.

EASEMENTS AND RIGHTS APPLY PER
DEED OF TRUST OF RECORD IN
FILE NO. 8707844, H.C.D.R.

THIS TRACT DOES NOT APPEAR TO BE IN THE
100 YEAR FLOODPLAIN ACCORDING TO F.L.R.M.
PANEL #48200C 0238 F, DATED 09/02/05.
FLOOD AREAS/ELEVATIONS CAN ONLY BE
VERIFIED BY ELEVATION CERTIFICATE.

A METES AND BOUNDS DESCRIPTION
ACCOMPANIES THIS SURVEY (SEE PAGE 2).

BEARINGS REFERENCE GRID NORTH OF THE
TEXAS STATE PLANE COORDINATE SYSTEM,
SOUTH CENTRAL ZONE (4204).

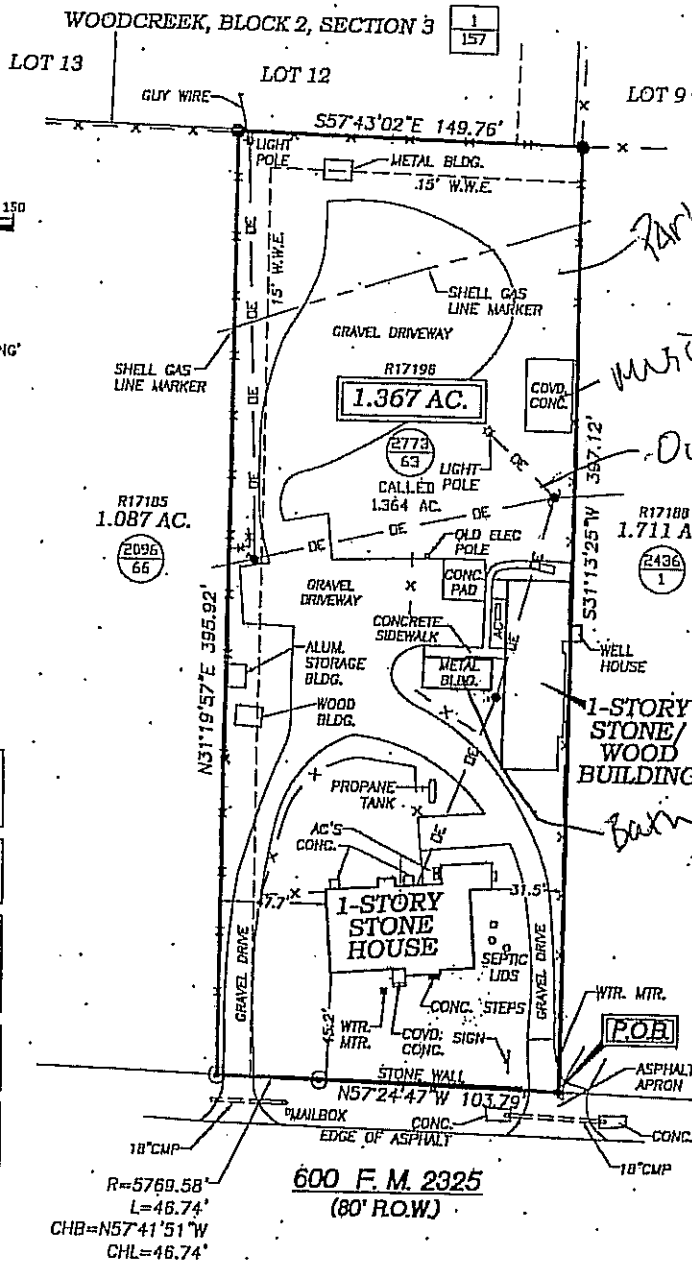
THIS PROPERTY LIES WITHIN THE CORPORATE
LIMITS OF THE CITY OF WIMBERLEY
AND IS SUBJECT TO ITS ORDINANCES.

A BLANKET UTILITY EASEMENT EXISTS FOR
AQUASOURCE UTILITY, INC.
AS RECORDED IN VOL. 1667, PG. 518
(DOC No. 00010719) H.C.O.P.R.

SURVEYOR'S CERTIFICATION

This survey is certified to First American Title
Company, and buyer: Kathleen Brune Tilton.
I hereby certify to the aforesaid parties, that a
careful survey was made on the ground, under
my supervision, of the tract of land described
herein, and that said survey substantially
complies with the current Texas Society of
Professional Surveyors Standards & Specifications
for a Category 1a, Condition 1 Land Survey, and
that said property abuts a public roadway.

DATE 6/1/09
RUDOLF J. PATA, JR. TX. RPLS #5388



600 F. M. 2325
(80' R.O.W.)

Driftwood Surveying Professional Land Surveyors - Surveying the 118 Country P.O. Box 379 Wimberley, TX 78676 PH (512) 847-7222 FAX (512) 847-7372		DATE 06/11/09 FIELD CREW: RC DRAFTER: CAP CHECKED: RJP PROJ. NO: H008200 DWG. NO: TITLE REVISIONS:
1.367 ACRES OF LAND R. S. RANKIN SURVEY No. 65, A-390 AND B. PAGE SURVEY No. 64, A-365, HAYS COUNTY, TEXAS		Page 1 of 2
CLIENT: TILTON		© 2008 ALL RIGHTS RESERVED

1.367 ACRES OF LAND

OUT OF THE ROBERT S. RANKIN SURVEY No. 65, ABSTRACT No. 390,
AND THE BENJAMIN PAGE SURVEY No. 64, ABSTRACT No. 365,
HAYS COUNTY, TEXAS

BEING A TRACT OR PARCEL CONTAINING 1.367 ACRES OF LAND OUT OF THE ROBERT S. RANKIN SURVEY No. 65, ABSTRACT No. 390 AND THE BENJAMIN PAGE SURVEY No. 64, ABSTRACT No. 365 IN HAYS COUNTY, TEXAS; AND BEING ALL OF THAT CALLED 1.364 ACRE TRACT OF LAND (HAYS COUNTY PROPERTY IDENTIFICATION (HCPID) No. R17196) CONVEYED TO CHARLES W. CHRISTIAN BY SPECIAL WARRANTY DEED AS RECORDED IN VOLUME 2773, PAGE 63, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.); SAID 1.367 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (BEARINGS ARE REFERENCED TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204):

BEGINNING

at a MAG nail found in asphalt on the northeast right-of-way line of Farm-to-Market Road 2325 (FM2325) (80 feet wide) and marking the east corner of that called 1.711 acre tract (HCPID No. R17188) conveyed to Linda Allen as recorded in Volume 2436, Page 1, O.P.R.H.C.T.; said MAG nail also marking the south corner of said 1.364 acre tract and the herein described tract;

THENCE

with said northeast right-of-way line of FM2325, the following two (2) calls:
(1) North 57°24'47" West, a distance of 103.79 feet to a broken concrete highway monument found near a stone wall and marking the beginning of a tangent curve to the left;
(2) along said curve to the left having a radius of 5769.58 feet, an arc length of 46.74 feet, and a chord which bears North 57°41'51" West, 46.74 feet to a 1/2-Inch Iron rod with cap stamped 'Driftwood Surveying' set marking the west corner of the herein described tract;

THENCE

North 31°20'05" East, with fence and the southeast line of that called 1.087 acre tract (HCPID No. R17185) conveyed to Terry E. Sumter and Elizabeth A. Sumter as recorded in Volume 2096, Page 66, O.P.R.H.C.T. and the northwest line of said 1.364 acre tract, a distance of 396.54 feet to a 1/2-Inch iron rod found in the southwest line of Lot 12, Block 2, Woodcreek, Section 3, a subdivision of record in Volume 1, Pages 157-158, Hays County Plat Records; said iron rod also marking the east corner of said 1.087 acre tract and the north corner of said 1.364 acre tract and the herein described tract;

THENCE

South 57°43'02" East, with fence and the northeast line of said 1.364 acre tract, a distance of 149.76 feet to a 1/2-Inch iron rod found in the southwest line of Lot 9, Block 2, Woodcreek, Section 3; said iron rod also marking the east corner of said 1.364 acre tract and the herein described tract;

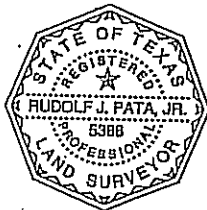
THENCE

South 31°13'25" West, with the northwest line of said 1.711 acre tract, a distance of 397.12 feet to the POINT OF BEGINNING and containing 1.367 acres of land. A survey map prepared by Driftwood Surveying accompanies this metes and bounds description.

6/11/09

DATE

RUDOLF J. PATA, JR. RPLS #5388



Page 2 of 2

METES AND BOUNDS

1.367 ACRES OF LAND OUT OF THE R. S. RANKIN SURVEY No. 65, A-390, AND THE B. PAGE SURVEY No. 64, A-365, HAYS COUNTY, TEXAS

ADDRESS

600 FM 2325, WIMBERLEY, TEXAS

PREPARED FOR:

TILTON

TITLE CO. FILE NO. 1340708AU42

DATE 6-11-09

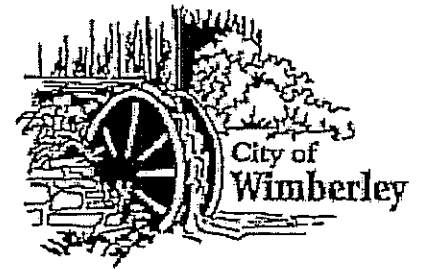
COMMITMENT NO. 1340708AU42

PROJECT NO. HC08209

Driftwood Surveying
Professional Land Surveyors

P.O. Box 379
Wimberley, TX 78676
TEL (512) 847-7222 FAX (512) 847-7372
www.driftwoodsurveying.com

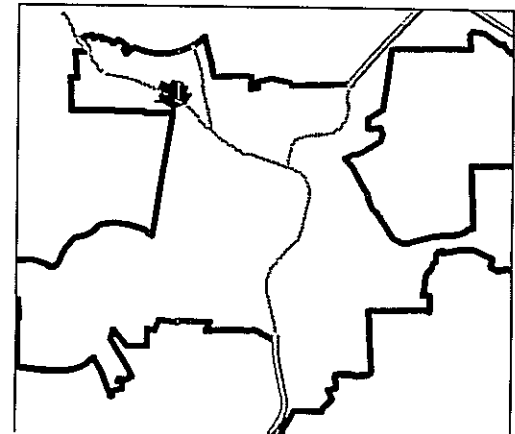
Zoning Map for ZA-09-018



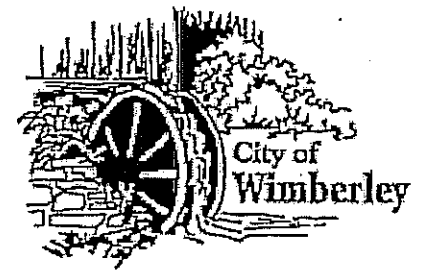
P.O. Box 2027 • Wimberley, Texas 78676



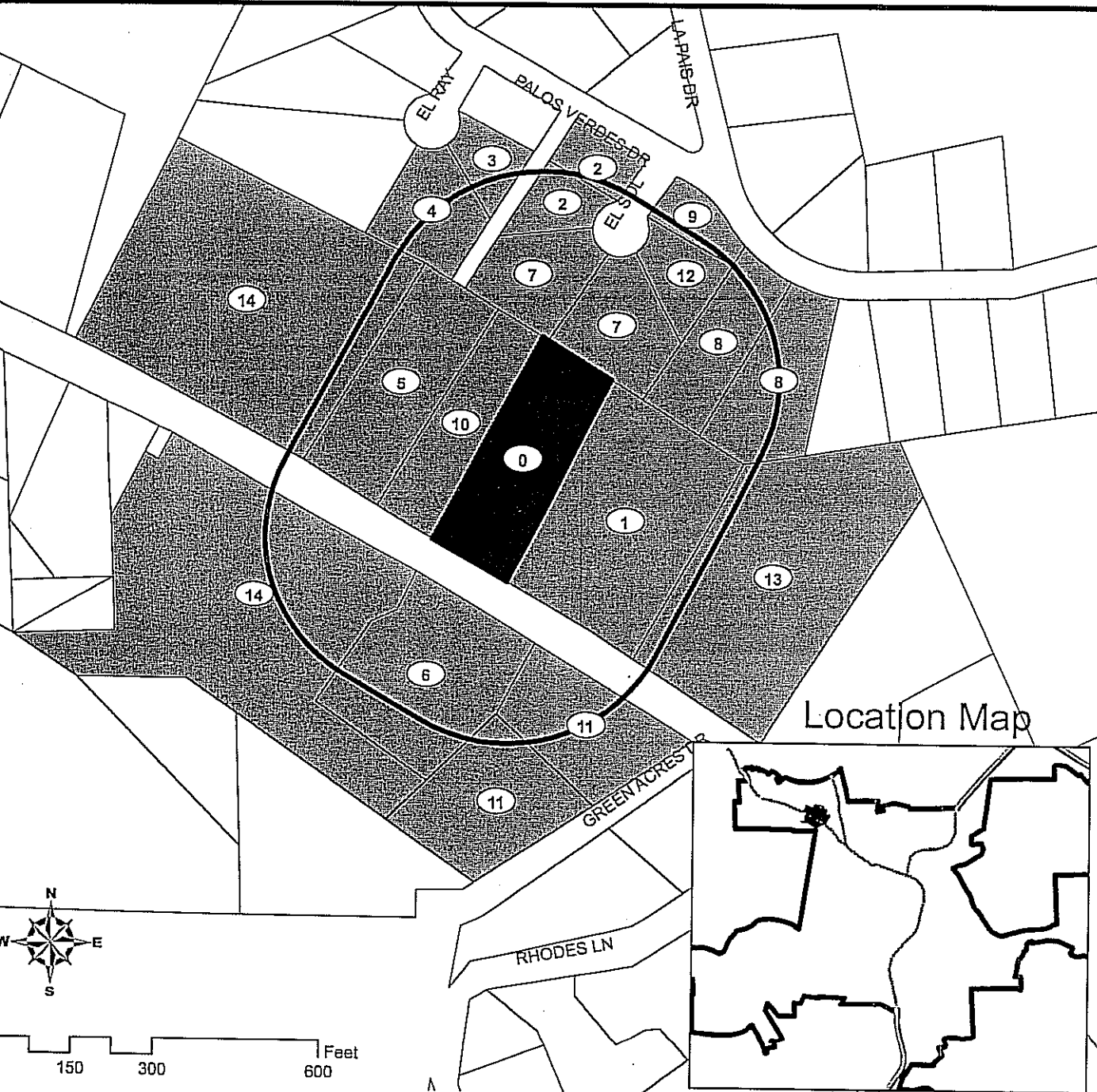
Location Map



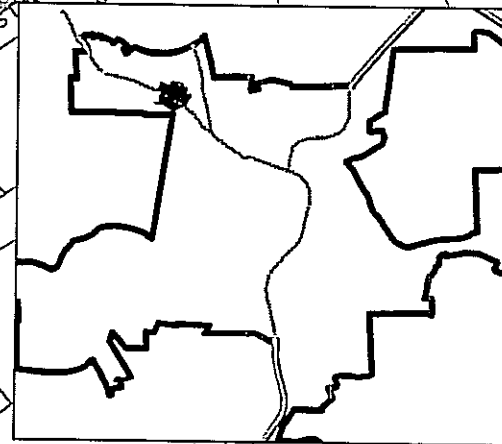
Notification Map for ZA-09-018



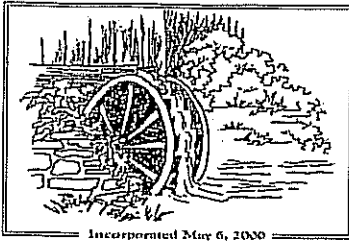
P.O. Box 2027 • Wimberley, Texas 78676



Location Map



- | | |
|--|-------------------------------------|
| | 300parcel |
| | SUBJECT PROPERTY |
| | 1, ALLEN, LINDA |
| | 2, DICKEY, MADALINE C |
| | 3, FOGLEMAN WILLIAM & WALKER CLAUCE |
| | 4, FOGLEMAN, MARJORY B |
| | 5, GONZALEZ, EPIFANIA C |
| | 6, KATHERINE ANNE PORTER SCHOOL |
| | 7, KURICAR, MARY MAXINE |
| | 7, BELLO DANNY & JEANETTE B |
| | 8, MALLARD NEAL & DARENDA W |
| | 9, BARTON ELSA HERBEL |
| | 10, SUMTER TERRY E & ELIZABETH A |
| | 11, TRINITY, CHAPEL |
| | 12, WERNER, LUETTA |
| | 13, WILLETT, BOYD |
| | 14, WIMBERLEY LIONS CLUB |



City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: village@anvilcom.com Web: www.vil.Wimberley.tx.us

Tom Haley, Mayor – Bob Flocke, Mayor Pro-tem

Council Members – Charles Roccaforte, Bill Appleman, Steve Thurber, John White
Don Ferguson, City Administrator

July 24, 2009

NOTICE OF PUBLIC HEARING

Re: File No. ZA-09-018

600 FM 2325

A request for initial zoning of Commercial – Low Impact (C1) for a currently unzoned tract of land

File No. CUP-09-008

600 FM 2325

A request for a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption

File No. AV-09-003

600 FM 2325

A request for a waiver to allow the sale of alcohol for on premise consumption within 300 feet of a church, school, day care center or hospital.

Dear Property Owner:

You are receiving this letter because you own property within 300 feet of the above-referenced location.

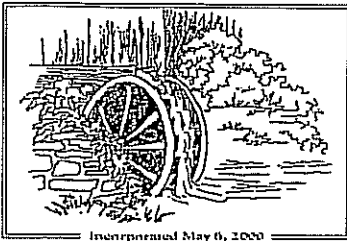
Kate Brune Tilton has submitted an application for initial zoning of Commercial – Low Impact (C1) zoning for a currently unzoned tract of land located at 600 FM 2325. In addition, Ms Tilton has requested a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption at 600 FM 2325. The City of Wimberley Planning & Zoning Commission will consider these requests at a public hearing on **Thursday, August 13, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12. Upon a recommendation from the Commission, City Council will hold a Public Hearing to consider the same request on **Thursday, August 20, 2009, at 6:30 p.m.**

Associated with the above mentioned applications, the applicant is seeking a waiver from the City requirement prohibiting the sale of alcohol within 300 feet of a church, school, day care center or hospital. The Wimberley City Council will consider this waiver request at a public hearing on **Thursday, August 20, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12

Because the granting of these requests may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY



City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

E-mail: Wimberley@anvilcom.com - Web: www.vil.wimberley.tx.us

NOTICE BY SIGN POSTING

Zoning No: ZA-09-018

Owner Kate Brune Tilton

Date 7/27/09

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

(X) Project Site Address 600 FM-2525

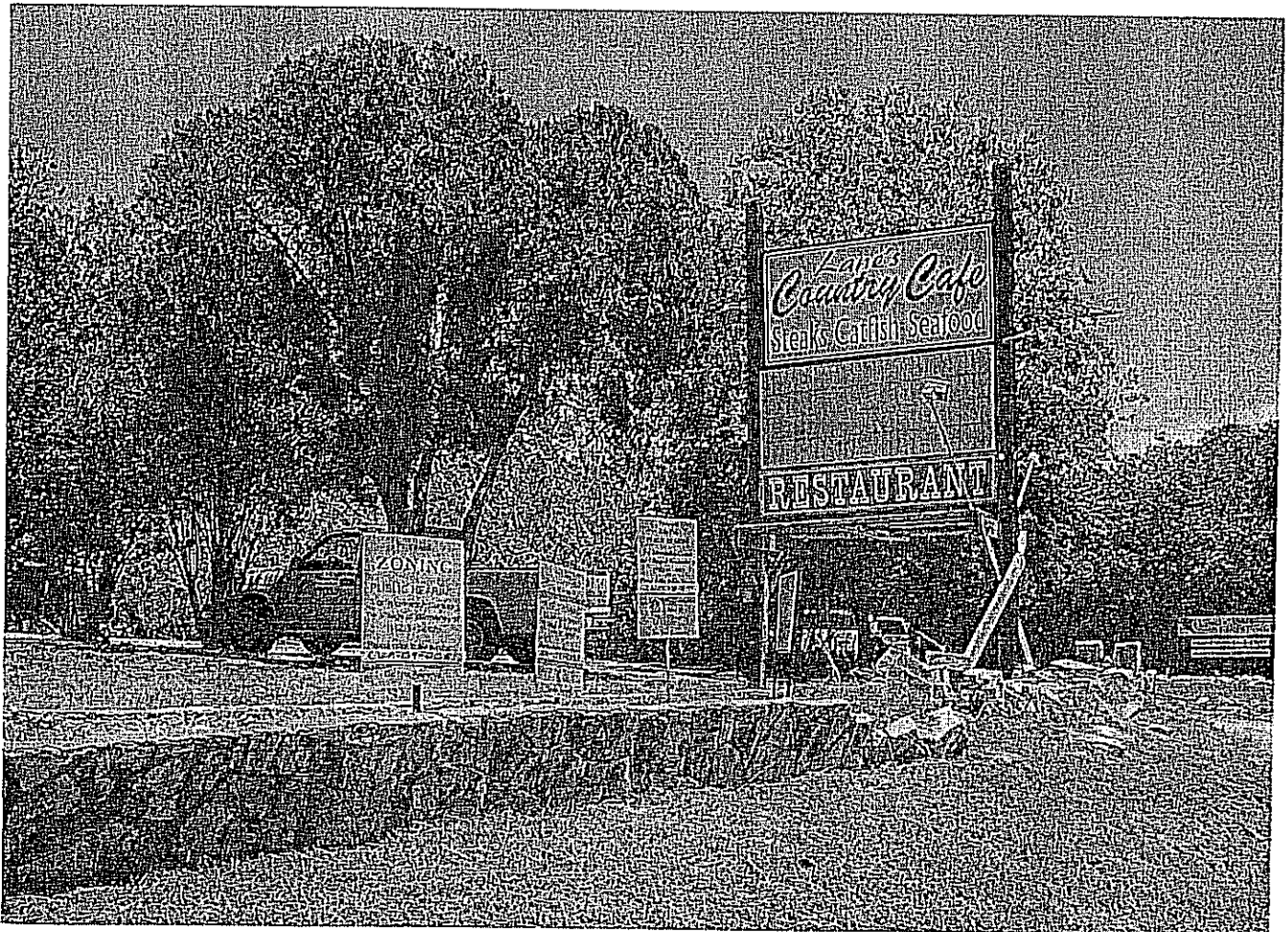
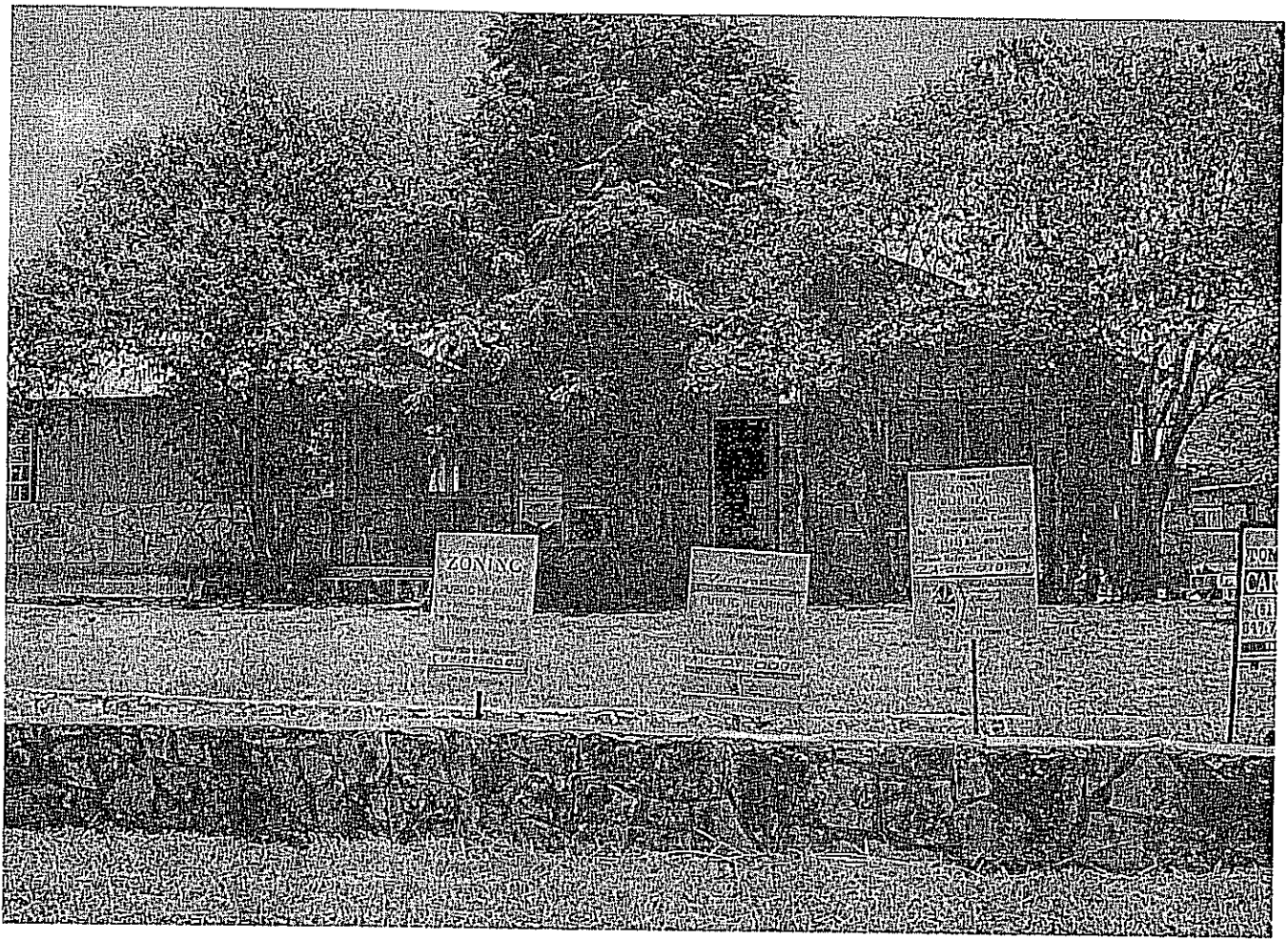
which is located FM-2525

Bill Bowers
Asst. Public Works

Note: The above-referenced sign was placed on the subject property on

7/27, 2009


Signature



Century News 858-4163

Wimberley View 847-2202

THE CLASSIFIED

Wednesday, July 29, 2009

Email your ads to: classifieds@wimb

★ LEGAL & PUBLIC NOTICES

PUBLIC NOTICE

Owners and holders are hereby notified that the following vehicle class have been taken into custody:

Ambulance Bus

Makal International

Model FC-1750

Year 1979

FSN #2310-00-782-

5721

Color Blue

Wreckers Location

Travis Garage and

Marshaling LLC

500 Old Kyle Hwy, B

S

Kyle, Texas 78640

(512) 268-0748

(505) 111-60

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: CUP-09-005 - an application for a Conditional Use Permit (CUP) to allow the sale of alcohol for on-premise consumption at 600 FM 2325. Upon recommendation of the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City

Hall, 12111 Ranch Road #12, Wimberley, Texas (509) 111-60. **NOTICE OF PUBLIC HEARING (Request for Alcohol Variance)** Notice is hereby given that the Wimberley City Council will hold a public hearing on Thursday, August 20, at 6:30 p.m. to consider the following: AV-09-003 - a request for a waiver to sell alcohol for on-premise consumption, less than 300' from a school, church, day care, or hospital, at 600 FM 2325. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City

NOTICE OF PUBLIC HEARING (Request for Zoning)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: ZA-09-018 - an application for initial base zoning of Commercial - Low Impact (C1) at 600 FM 2325. Upon recommendation of the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearings. Additional information concerning the proposed action is available for review at the Wimberley City

Hall, 12111 Ranch Road #12, Wimberley, Texas (509) 111-60.

NOTICE OF PUBLIC HEARING (Request for Alcohol Variance)

Notice is hereby given that the Wimberley City Council will hold a public hearing on Thursday, August 20, at 6:30 p.m. to consider the following: AV-09-003 - a request for a waiver to sell alcohol for on-premise consumption, less than 300' from a school, church, day care, or hospital, at 600 FM 2325. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road #12, Wimberley, Texas (509) 111-60.

NOTICE OF PUBLIC HEARING (Request for Alcohol Variance)

Notice is hereby given that the Wimberley City Council will hold a public hearing on Thursday, August 20, at 6:30 p.m. to consider the following: AV-09-002 - a request for a waiver to sell alcohol for on-premise consumption, less than 300' from a school, church, day care, or hospital, at 701 FM 2025. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is

available for review at the Wimberley City Hall, 12111 Ranch Road #12, Wimberley, Texas (509) 111-60. **PUBLIC NOTICE** The Housing Authority of the City of Kyle is amending its 2008 Agency Plan in compliance with the Quality and Accountability Work Responsibility Act of 1998. It is available for review at the Housing Authority's office located at 417 West Second Street, Kyle, Texas 78640. The Authority's hours of operation are 9:00 a.m. to 4:00 p.m. Monday through Thursday. In addition, a public hearing will be held on August 10, 2009, at the Housing Authority's office at 12:00 p.m. (509) 111-60.

NOTICE OF PUBLIC HEARING (Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: CUP-09-007 - an application for a Conditional Use Permit (CUP) to allow the sale of alcohol for on-premise consumption at 701 FM 2025. Upon recommendation of the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is

available for review at the Wimberley City Hall, 12111 Ranch Road #12, Wimberley, Texas (509) 111-60.

PUBLIC NOTICE

The Housing Authority of the City of Kyle is amending its 2008 Agency Plan in compliance with the Quality and Accountability Work Responsibility Act of 1998. It is available for review at the Housing Authority's office located at 417 West Second Street, Kyle, Texas 78640. The Authority's hours of operation are 9:00 a.m. to 4:00 p.m. Monday through Thursday. In addition, a public hearing will be held on August 10, 2009, at the Housing Authority's office at 12:00 p.m. (509) 111-60.

PUBLIC NOTICE The State of Texas Notice of Seizure Sale of Real Property County of Hays

A Writ of Order of Sale was issued on the 12th day of May, 2009, by the Clerk of the District Court, Hays County, Texas, after having a judgment rendered by the 274th District Court, Hays County, Texas, on the 1st day of March, 2009, in favor of Woodcreek Property Owners Association of Hays County, Inc. against Tula Robbins. The cause number is 08-22-17. The judgment reflects a judgment amount of \$511,850.00 with interest thereon from the date of judgment at the rate of 7.500% per annum until

paid, and \$31.00 costs of the foreclosure. On the 27th day of May, at 3:25 p.m. the property described is located in Hays County as the said delinquent.

The property is located at Lot 4, Section 34, Woodcreek, Hays County, Texas, as shown on the plat of the 1st day of August, 2009. And on the 1st day of August, 2009, the house and 4.00 acre north adobe county will be sold and the interest in the property is at 10:00 a.m. on the 1st day of May, 2009, by the Clerk of the District Court, Hays County, Texas, after having a judgment rendered by the 274th District Court, Hays County, Texas, on the 1st day of March, 2009, in favor of Woodcreek Property Owners Association of Hays County, Inc. against Tula Robbins. The cause number is 08-22-17. The judgment reflects a judgment amount of \$511,850.00 with interest thereon from the date of judgment at the rate of 7.500% per annum until

On the 1st day of May, there are parties, implied in the judgment, implied with property, advisers, of the property, not, extr

ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE CITY OF WIMBERLEY, AMENDING SECTION 155 (ZONING), APPENDIX F, OF THE CODE OF WIMBERLEY, DESIGNATING GEOGRAPHIC BOUNDARIES FOR A PARTICULAR ZONING DISTRICT AND CLASSIFICATION FOR A 1.367 ACRE TRACT LOCATED AT 600 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS, DESIGNATING INITIAL ZONING FOR SUCH TRACT AS COMMERCIAL-LOW IMPACT (C-1); AND PROVIDING FOR THE FOLLOWING: DELINEATION ON ZONING MAP; SEVERABILITY; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

WHEREAS, the regulations established by Section 155 (Zoning), as amended, (the "Code") are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and

WHEREAS, in the course of adopting the regulations established by the Code, the Planning and Zoning Commission and City Council gave careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and

WHEREAS, the regulations established by the Code have been adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and

WHEREAS, the proposed zoning change on the subject property is in accordance with the City's Comprehensive Plan, is compatible with the surrounding zoning uses and classifications and is in furtherance of the public health, safety and welfare; and

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and

WHEREAS, the City Council and Planning and Zoning Commission have carefully reviewed the requirements of the City's Code of Ordinances and have concluded that the requested zoning designation is consistent with established City policy and in the public interest; and

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

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

ARTICLE I. AMENDMENT

Section 155 (Zoning) of the Code of Wimberley is hereby amended by adding the following language to Appendix F to read as follows, which shall be incorporated into and made part of Section 155 (Zoning), and given full weight and effect:

Appendix F: Zoning District Designations

The City Council of the City of Wimberley has divided the City into the zoning districts as follows. The applicable use, height, area and development regulations adopted by the City shall apply to each district. The following geographic boundaries of the zoning districts for the properties listed below are hereby established as follows:

The 1.367 acre tract described as part of the Robert S. Rankin Survey No. 65 ABS 390 and Benjamin Page Survey No. 64 ABS 365, and more particularly described by metes and bounds in the attached Exhibit "A" incorporated by reference, in Wimberley, Hays County, Texas, commonly known as 600 FM 2325, is hereby designated with an initial zoning of Commercial-Low Impact (C-1) designation, and is subject to the following conditions:

1. Vehicular and pedestrian ingress and egress shall be solely from FM 2325.
2. Outdoor entertainment shall not use amplification devices of any type.
3. All lights shall be shielded from adjacent properties and shall comply with applicable City ordinances and regulations regarding lighting.
4. A landscape buffer of no less than 10 feet wide shall be installed along the entire length of the rear property line, which may be located in the rear setback area. All landscaping shall meet applicable City ordinances.
5. All restaurant uses shall close to the public no later than midnight, and all outdoor music shall cease at 10:30 pm.
6. Fencing shall be located at the rear property line which shall be no less than 6 feet in height, shall comply with all City regulations regarding fencing, and shall have no access gates at the rear of the property.

Except as expressly amended herein, Appendix F shall remain in full force and effect.

ARTICLE II. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the zoning district boundary established by this Ordinance.

ARTICLE III. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses,

sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

IV. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE V. 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, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this _____ day of _____, 2009, by _____ (Ayes) to _____ (Nays) _____ (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

BY: _____
Tom Haley, Mayor

ATTEST:

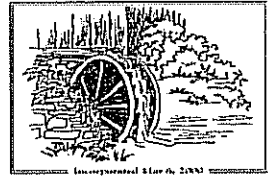
Cara McPartland, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby, City Attorney

Report for Zoning Change

CUP-09-008



Summary:

A conditional use permit to allow an eating establishment that includes the sale of beer, wine and alcohol for on-premise consumption at 600 FM 2325

Applicant Information:

Applicant:

Kate Brune Tilton
3110 Williams Glen
Sugar Land, TX 77479

Property Owner:

Kate Brune Tilton

Subject Property:

Legal Description:

1.367 Acres out of Robert S Rankin Survey No.65 ABS 390 and Benjamin Page Survey No.64 ABS 365

Location:

600 FM 2325

Existing Use of Property:

Eating Establishment: Sit-down

Existing Zoning:

Un-zoned

Proposed Use of Property:

Eating Establishment: Sit-down including the sale of beer, wine and alcohol for on-premise consumption

Proposed Zoning:

C-1

Planning Area

III

Overlay District

Entrance Corridor Overlay, EC

Surroundings:

Frontage On:

FM 2325

Area Zoning and Land Use Pattern:

	Current Zoning	Existing Land Use
N of Property	R-2	Residential
S of Property	C-1	School
E of Property	C-1	Commercial
W of Property	Un-zoned	Vacant

Legal Notice

200' Letters Sent

7/24/09

Published

7/29/09

Sign Placement

7/27/09

Comments:

The applicant has requested a conditional use permit to allow for a sit-down eating establishment which sells beer, wine and alcohol for on-premise consumption at 600 FM 2325. The subject property is located in *Planning Area III*, and is proposed to be zoned Commercial-Low Impact (C-1) in a companion zoning case.

The proposed uses for the subject property include a single family residence/office in the front building on the property and a restaurant in the back building. The proposed restaurant will have both indoor and outdoor seating and a separate bar located outside the restaurant. As per City ordinance, revenue from the sale of alcohol will not surpass fifty percent (50%) of the restaurant's gross revenue. At this time, the applicant plans to utilize the existing structures on the lot and does not anticipate any major construction or development in the near future.

Adequate access and parking is available on the subject property. All parking and signage will comply with applicable City of Wimberley code requirements.

On August 13, 2009, the Planning and Zoning Commission held a public hearing on the conditional use permit request. Opposition was expressed to the proposed conditional use permit by the Superintendent of the Katherine Anne Porter School along with two (2) nearby residential property owners. Afterwards, the Commission voted unanimously to recommend approval of the conditional use permit with the following conditions:

- The applicant shall not commence development until it has secured all permits and approvals as required by the Wimberley zoning regulations, ordinances or any permits required by regional, State and Federal agencies.
- Vehicular and pedestrian ingress and egress shall be solely from FM 2325.
- Outdoor entertainment shall not use amplification devices of any type.
- All lights shall be shielded from adjacent properties and shall comply with applicable City ordinances and regulations regarding lighting.
- A landscape buffer of no less than 10 feet wide shall be installed along the entire length of the rear property line, which may be located in the rear setback area. All landscaping shall meet applicable City ordinances.
- All restaurant uses shall close to the public no later than midnight, and all outdoor music shall cease at 10:30 pm.
- Fencing shall be located at the rear property line which shall be no less than 6 feet in height, shall be constructed of material which shall screen the uses on the subject property, shall comply with all City regulations regarding fencing, and shall have no access gates at the rear of the property.

ORDINANCE NO. 2009- 031

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 155 (ZONING) OF THE CODE OF ORDINANCES AS FOLLOWS:

1. SECTION 155.005 (DEFINITIONS) TO AMEND, ADD AND DELETE DEFINITIONS RELATED TO ALCOHOL USES;
2. PORTIONS OF SECTION 155.047 (COMMERCIAL - LOW IMPACT (C-1), SECTION 155.048 COMMERCIAL - MODERATE IMPACT (C-2)), AND SECTION 155.049 (COMMERCIAL - HIGH IMPACT (C-3)) TO ALLOW EATING ESTABLISHMENTS: SIT-DOWN, TO SELL BEER, WINE AND ALCOHOL FOR ON-PREMISE CONSUMPTION AS A CONDITIONAL USE;
3. PORTIONS OF SECTION 155.047 (COMMERCIAL - LOW IMPACT (C-1)), AND SECTION 155.048 (COMMERCIAL - MODERATE IMPACT (C-2)) TO ALLOW PACKAGE STORES OF BEER AND WINE AS A CONDITIONAL USE;
4. PORTIONS OF SECTION 155.049 (COMMERCIAL - HIGH IMPACT (C-3)) TO ALLOW LIQUOR STORES AS A CONDITIONAL USE;
5. PORTIONS OF SECTION 155.049 (COMMERCIAL - HIGH IMPACT (C-3)) TO ALLOW PACKAGE STORES OF BEER AND WINE AS A PERMITTED USE; AND,
6. SECTION 155.091(E) CITY CENTER OVERLAY DISTRICT (CC) ADD LIQUOR STORE AND PACKAGE STORES OF BEER AND WINE AS PROHIBITED USES;

AND PROVIDING FOR THE FOLLOWING: PENALTY; FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley ("City Council") seeks to provide for the orderly arrangement and regulation of compatible uses within its corporate limits; and,

WHEREAS, on May 9, 2009, a majority of the voters of Hays County voted to allow the public to purchase alcohol in stores and to purchase and consume alcoholic drinks at restaurants and bars in Justice of the Peace, Precinct Three of Hays County; and,

WHEREAS, amendments to the City's zoning code is necessary to allow certain sales and on-premise consumption of beer, wine and liquor in order to permit such uses in the City's various zoning districts; and,

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the City's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and,

WHEREAS, further the P&Z and Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and,

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and,

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and,

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals and general welfare; and,

WHEREAS, parties in interest and citizens have had an opportunity to be heard at several public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

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

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. AMENDMENTS

- A. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Section 155.005 (Definitions) shall be amended as follows:

1. The following definitions shall be amended to read as follows:

"BARS AND TAVERNS. Establishments or places of business where customers are seated and served which are primarily engaged in the sale, mixing, or dispensing of beer, wine and alcoholic beverages for consumption on the premises, and which fifty

percent (50%) or more of gross revenue is derived from the on-premises sale of alcoholic beverages. Typical uses include a tavern, bar or cocktail lounge with minimal or no kitchen facilities and little or no food items served.

EATING ESTABLISHMENTS: SIT-DOWN. Establishments or places of business where customers are seated and served, and that are primarily engaged in the sale of prepared foods and beverages, and may include alcoholic beverages, for on-premises consumption upon approval of a conditional use permit. They are located at high capacity or high volume sites that are easily accessed by vehicles and pedestrians. Typical uses include restaurants, short-order eating places, cafeterias, and coffee shops.

FOOD AND BEVERAGE RETAIL SALES. Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption, including beer and wine beverages. Typical uses include grocery stores and delicatessens, but does not include sale of alcoholic beverages.

RETAIL SALES AND SERVICES: GENERAL. Establishments engaged in the sale or rental of goods and services, both retail and wholesale, of commonly used goods, merchandise, and services, not including the sale of beer, wine, or alcoholic beverages for on or off-premise consumption.

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-premise consumption.

SPECTATOR SPORTS AND ENTERTAINMENT: LOW IMPACT. Establishments or places engaged in the provision of cultural, entertainment, athletic, and other events to spectators as well as parking space for social or fraternal gatherings. These uses are conducted in open facilities or within an enclosed building with a capacity of 100 or fewer people and include retail sales, storage facilities, and other activities incidental to the operation. Typical uses include theaters or amusement places, not including the sale of beer, wine, or alcoholic beverages for on or off-premise consumption."

2. The following definition shall be deleted in its entirety:

ALCOHOLIC BEVERAGE SALES

3. The following definitions shall be added alphabetically to read as follows:

"**ALCOHOLIC BEVERAGE** means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

PACKAGE STORE means a store that sells bottled or canned beer and wine beverages for consumption off the premises.

LIQUOR STORE means a store that sells bottled or canned alcoholic beverages for consumption off the premises."

- B. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.047(B)(7) (Commercial – Low Impact (C-1)), Permitted Uses, is hereby amended to read as follows:

"(B)(7) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;"

- C. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.047(C) (Commercial – Low Impact (C-1)), Conditional Uses, is hereby amended to add subsection (6) to read as follows:

"(6) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption."

- D. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.048(B) (Commercial – Moderate Impact (C-2)), Permitted Uses, is hereby amended to read as follows:

"(8) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;"

- E. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.048(C) (Commercial – Moderate Impact (C-2)), Conditional Uses, is hereby amended to add subsection (9) to read as follows:

"(9) Eating establishments: sit-down, including the sale of beer, wine, or alcohol for on-premise consumption."

- F. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsections 155.049(B)(3) and (5) (Commercial – High Impact (C-3)), Permitted Uses, are hereby amended to read as follows:

"(3) Food and beverage retail sales (such as grocery), not including the sale of beer, wine, or alcohol for on or off premise consumption;

(5) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;"

- G. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.049(C)(2) (Commercial – High Impact (C-3)), Conditional Uses, is hereby amended to read as follows, and subsection (17) is added to read as follows:

“(2) Liquor and package stores;

(17) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption;”

- H. THAT the City of Wimberley Code of Ordinances, Chapter 155 (Zoning), Section 155.091(E) (City Center Overlay (CC)) is hereby amended to add subsection (11) to read as follows:

“(11) Liquor Stores, excluding establishments that solely serve and sell wine for on and off-premise consumption.”.

Except as amended herein, the Code of Ordinances of the City of Wimberley shall remain in full force and effect.

III. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

IV. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

V. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

VI. 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 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.

FIRST READING PASSED AND APPROVED this 2nd day of July, 2009, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

SECOND READING PASSED AND APPROVED this 16 day of July, 2009, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By: Tom Haley
Tom Haley, Mayor

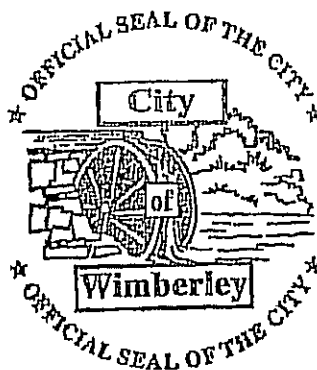
ATTEST:

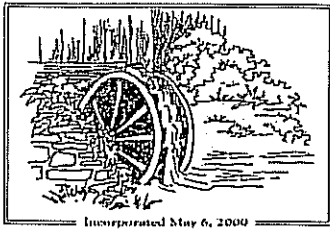
Cara McPartland
Cara McPartland, City Secretary

(SEAL)

APPROVED AS TO FORM:

Carolyn J. Crosby
Carolyn J. Crosby, City Attorney





Village of Wimberley

CONDITIONAL USE PERMIT APPLICATION

No. CUP-04 - 008

FOR OFFICIAL USE ONLY

Application Date: 7-24-09 Tentative P&Z Hearing: 8/13 Tentative Council Hearing: 8/20

FEES: \$400.00 DATE PAID: 7/29 CHECK NO. 4354 REC'D BY Amey

PROJECT SITE ADDRESS: 600 FM 2325 Wimberley, TX. 78676

OWNER/APPLICANT Kate Tilton PHONE (281) 705-1291

FAX () _____ EMAIL: _____

Mailing Address: 3110 Williams Dr CITY: Sugarland STATE: TX ZIP: 77479

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.

ZONING: C1 CONDITIONAL USE REQUESTED: (e.g. Bed & Breakfast Lodging)

Alcohol sales

Planning Area C Zoning C1 Total Acreage or Sq. Ft. 1.367 AL.

Subdivision: _____ Lot _____ Block _____

Appraisal District Tax ID#: R 17196

Deed Records Hays County: Volume _____ Page _____

Is property located in an overlay district? (X) Yes () No - If Yes,

Type: entrance corridor

Is property located in flood plain? () Yes (X) No

Utilities:

Electric Provider: P.E.L.

Water Provider or Private Well: Wimberley

Wastewater Service Provider or Hays County Septic Permit No: _____

MY REQUEST IS BASED ON THE FOLLOWING:

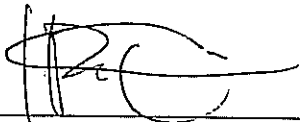
- ☐ The use is harmonious and compatible with surrounding existing uses or proposed uses, and does not adversely affect an adjoining site than would a permitted use;
- ☐ The use requested by the applicant is set forth as a conditional use in the base district;
- ☐ The nature of the use is reasonable;
- ☐ 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 district are being upheld.

ADDITIONAL REQUIREMENTS/DOCUMENTATION

- ☐ Metes and bounds description and a survey (i.e., drawing) exhibit showing the property for which the CUP is being requested.
- ☐ 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; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200').
- ☐ List of Special Conditions that Applicant agrees apply to property.
- ☐ List of all property owners, with mailing addresses located within two hundred feet (200') of any point of the subject property.
- ☐ Payment of Application fee \$400.00
- ☐ Applicant agrees to attend public hearings before the P&Z Commission as well as the City Council concerning this application; or waives his/her right to appear, understanding that if questions are raised that cannot be answered, the matter may be continued, or denied.
- ☐ Applicant has 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 applicant understands that the Village zoning action does not relieve any obligation of these restrictions.
- ☐ Applicant agrees to provide additional documentation as needed by the Village.
- ☐ Applicant understands that Village review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided may delay the review of the Application. Applicant, by his/her signature below, certifies that to the best of his/her knowledge said information is complete and correct.
- ☐ Applicant hereby authorizes the Village representatives to visit and inspect the subject property.

Date

7-24-09


APPLICANT SIGNATURE

WHEN APPLICABLE:

Date

AGENT SIGNATURE

1.367 ACRES OF LAND

OUT OF THE ROBERT S. RANKIN SURVEY No. 65, ABSTRACT No. 390,
AND THE BENJAMIN PAGE SURVEY No. 64, ABSTRACT No. 365,
HAYS COUNTY, TEXAS

BEING A TRACT OR PARCEL CONTAINING 1.367 ACRES OF LAND OUT OF THE ROBERT S. RANKIN SURVEY No. 65, ABSTRACT No. 390 AND THE BENJAMIN PAGE SURVEY No. 64, ABSTRACT No. 365 IN HAYS COUNTY, TEXAS; AND BEING ALL OF THAT CALLED 1.364 ACRE TRACT OF LAND (HAYS COUNTY PROPERTY IDENTIFICATION (HCPID) No. R17196) CONVEYED TO CHARLES W. CHRISTIAN BY SPECIAL WARRANTY DEED AS RECORDED IN VOLUME 2773, PAGE 63, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.); SAID 1.367 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS (BEARINGS ARE REFERENCED TO GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204):

BEGINNING

at a MAG nail found in asphalt on the northeast right-of-way line of Farm-to-Market Road 2325 (FM2325) (80 feet wide) and marking the east corner of that called 1.711 acre tract (HCPID No. R17188) conveyed to Linda Allen as recorded in Volume 2436, Page 1, O.P.R.H.C.T.; said MAG nail also marking the south corner of said 1.364 acre tract and the herein described tract;

THENCE

with said northeast right-of-way line of FM2325, the following two (2) calls:
(1) North 57°24'47" West, a distance of 103.79 feet to a broken concrete highway monument found near a stone wall and marking the beginning of a tangent curve to the left;
(2) along said curve to the left having a radius of 5769.58 feet, an arc length of 46.74 feet, and a chord which bears North 57°41'51" West, 46.74 feet to a 1/2-inch iron rod with cap stamped 'Driftwood Surveying' set marking the west corner of the herein described tract;

THENCE

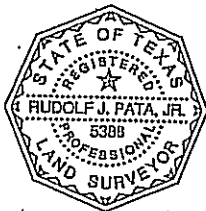
North 31°20'05" East, with fence and the southeast line of that called 1.087 acre tract (HCPID No. R17185) conveyed to Terry E. Sumter and Elizabeth A. Sumter, as recorded in Volume 2096, Page 66; O.P.R.H.C.T.; and the northwest line of said 1.364 acre tract, a distance of 396.54 feet to a 1/2-inch iron rod found in the southwest line of Lot 12, Block 2, Woodcreek, Section 3, a subdivision of record in Volume 1, Pages 157-158, Hays County Plat Records; said iron rod also marking the east corner of said 1.087 acre tract and the north corner of said 1.364 acre tract and the herein described tract;

THENCE

South 57°43'02" East, with fence and the northeast line of said 1.364 acre tract, a distance of 149.76 feet to a 1/2-inch iron rod found in the southwest line of Lot 9, Block 2, Woodcreek, Section 3; said iron rod also marking the east corner of said 1.364 acre tract and the herein described tract;

THENCE

South 31°13'25" West, with the northwest line of said 1.711 acre tract, a distance of 397.12 feet to the POINT OF BEGINNING and containing 1.367 acres of land. A survey map prepared by Driftwood Surveying accompanies this metes and bounds description.



6/11/09
DATE

RUDOLF J. PATA, JR. RPLS #5388

Page 2 of 2

METES AND BOUNDS

1.367 ACRES OF LAND OUT OF THE R. S. RANKIN SURVEY No. 65, A-390, AND THE B. PAGE SURVEY No. 64, A-365, HAYS COUNTY, TEXAS

ADDRESS

600 FM 2325, WIMBERLEY, TEXAS

PREPARED FOR:

TILTON

TITLE CO. FILE NO. 1340708AU42

DATE 6-11-09

COMMITMENT NO. 1340708AU42

PROJECT NO. HC08209

Driftwood Surveying
Professional Land Surveyors

P.O. Box 379
Wimberley, TX 78578
TEL (512) 847-7222 FAX (512) 847-7372
www.driftwoodsveying.com

OUT OF THE ROBERT S. RANKIN SURVEY No. 65, ABSTRACT No. 390
AND THE BENJAMIN PAGE SURVEY No. 64, ABSTRACT No. 365,
HAYS COUNTY, TEXAS



- | | |
|------|--------------------------|
| VOL. | HAYS COUNTY PLAT RECORDS |
| PAGE | |

- HAYS COUNTY OFFICIAL
PUBLIC RECORDS**

- ~~XXXXXX~~ HAYS COUNTY PROPERTY
IDENTIFICATION NUMBER

NOTES

THIS SURVEY REFERENCES TITLE COMMITMENT
No. 1340708-AU42, DATED 05/14/09,
PROVIDED BY FIRST AMERICAN TITLE COMPANY.

EASEMENTS AND RIGHTS APPLY PER
DEED OF TRUST OF RECORD IN
FILE NO. 9707844, H.C.D.R.

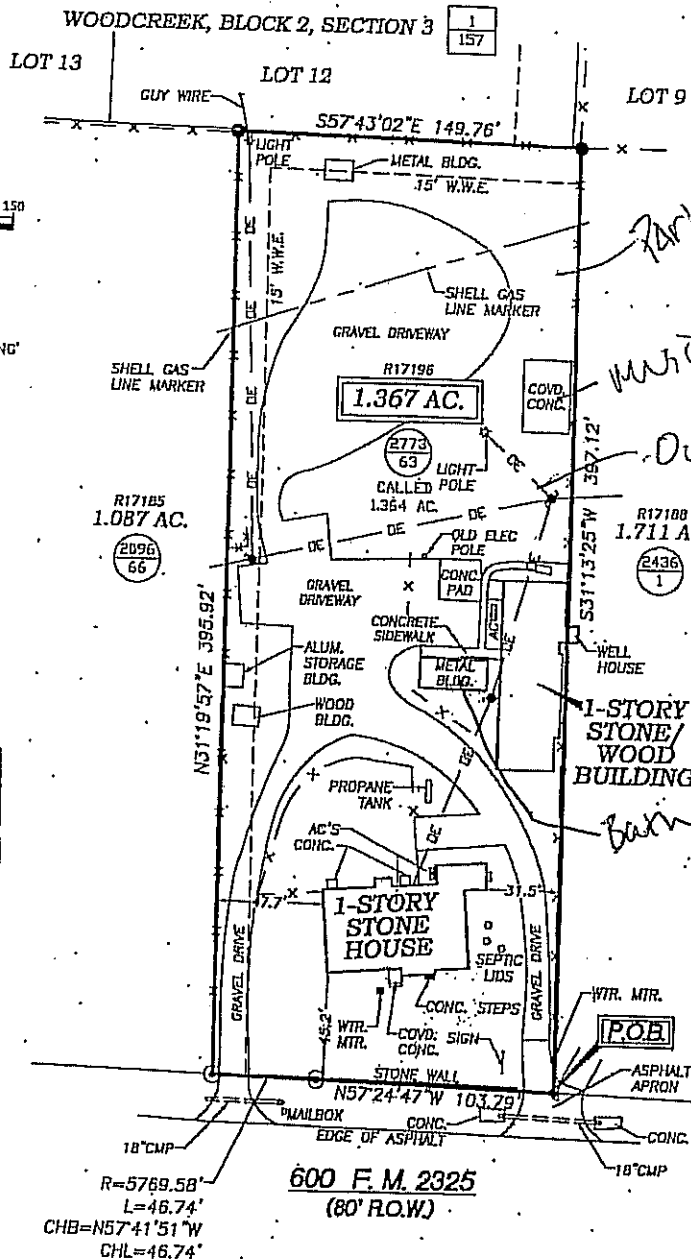
THIS TRACT DOES NOT APPEAR TO BE IN THE
100 YEAR FLOODPLAIN ACCORDING TO F.I.R.M.
PANEL #4820BC 0238 F; DATED 09/02/05.
FLOOD AREAS/ELEVATIONS CAN ONLY BE
VERIFIED BY ELEVATION CERTIFICATE.

A METES AND BOUNDS DESCRIPTION
ACCOMPANIES THIS SURVEY (SEE PAGE 2).

BEARINGS REFERENCE GRID NORTH OF THE
TEXAS STATE PLANE COORDINATE SYSTEM,
SOUTH CENTRAL ZONE (4204).

THIS PROPERTY LIES WITHIN THE CORPORATE
LIMITS OF THE CITY OF WIMBERLEY
AND IS SUBJECT TO ITS ORDINANCES.

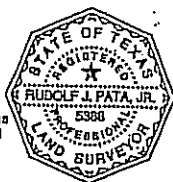
A BLANKET UTILITY EASEMENT EXISTS FOR
AQUASOURCE UTILITY, INC.
AS RECORDED IN VOL. 1667, PG. 518
(DOC No. 00010719) H.C.O.P.R.



600 F. M. 2325
(80' R.O.W.)

SUPERVISOR'S CERTIFICATION

This survey is certified to First American Title Company, and buyer: Kathleen Bruna Tilton. I hereby certify to the aforesaid parties, that a careful survey was made on the ground, under my supervision, of the tract of land described hereon, and that said survey substantially complies with the current Texas Society of Professional Surveyors Standards & Specifications for a Category 1, Condition 1 Land Survey, and that said property abuts a public roadway.



DATE RUDOLF J. PATAI FILE # 5188

Driftwood Surveying

Professional Land Surveyors - Surveying the New Country

P.D. Date 379

Wynberley, TX 75075

TEL (312) 847-7222 FAX (312) 847-7373

1367 ACRES OF LAND

R. B. RANKIN SURVEY No. 65, A-300 AND B. PAGE
SURVEY No. 64, A-365, HAYS COUNTY, TEXAS

CLIENT:

THE TON

DATE: 06/11/2015

FIELD CREW AC

DRAWING CAP

CHECKED: RJP

PRD, No: HCOB209

[illegible]

REVISED	DATE

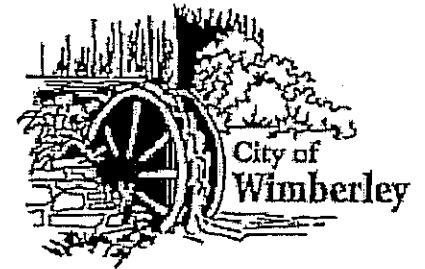
[illegible]

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Page 1 of 2

FROM ALL POWER NEWS

Zoning Map for CUP-09-008

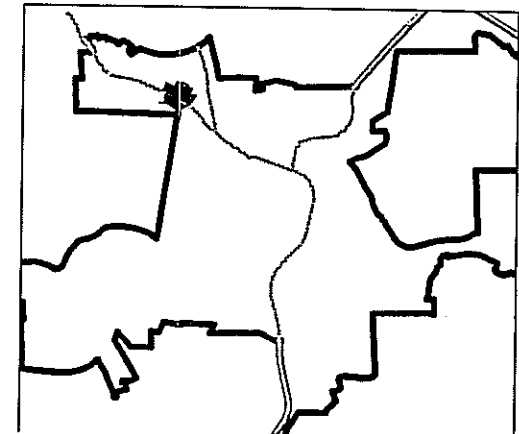


P.O. Box 2027 • Wimberley, Texas 78676

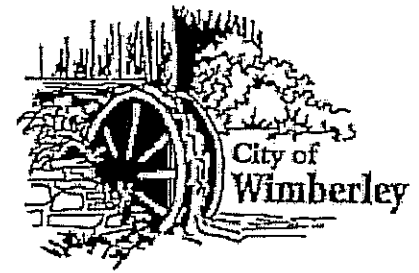


- 300 Foot Buffer
- Single Family Residential 2 (R2)
- Lodging 1 (L1)
- Commercial - Low Impact (C1)
- Commercial - Moderate Impact (C2)
- Public Facilities (PF)

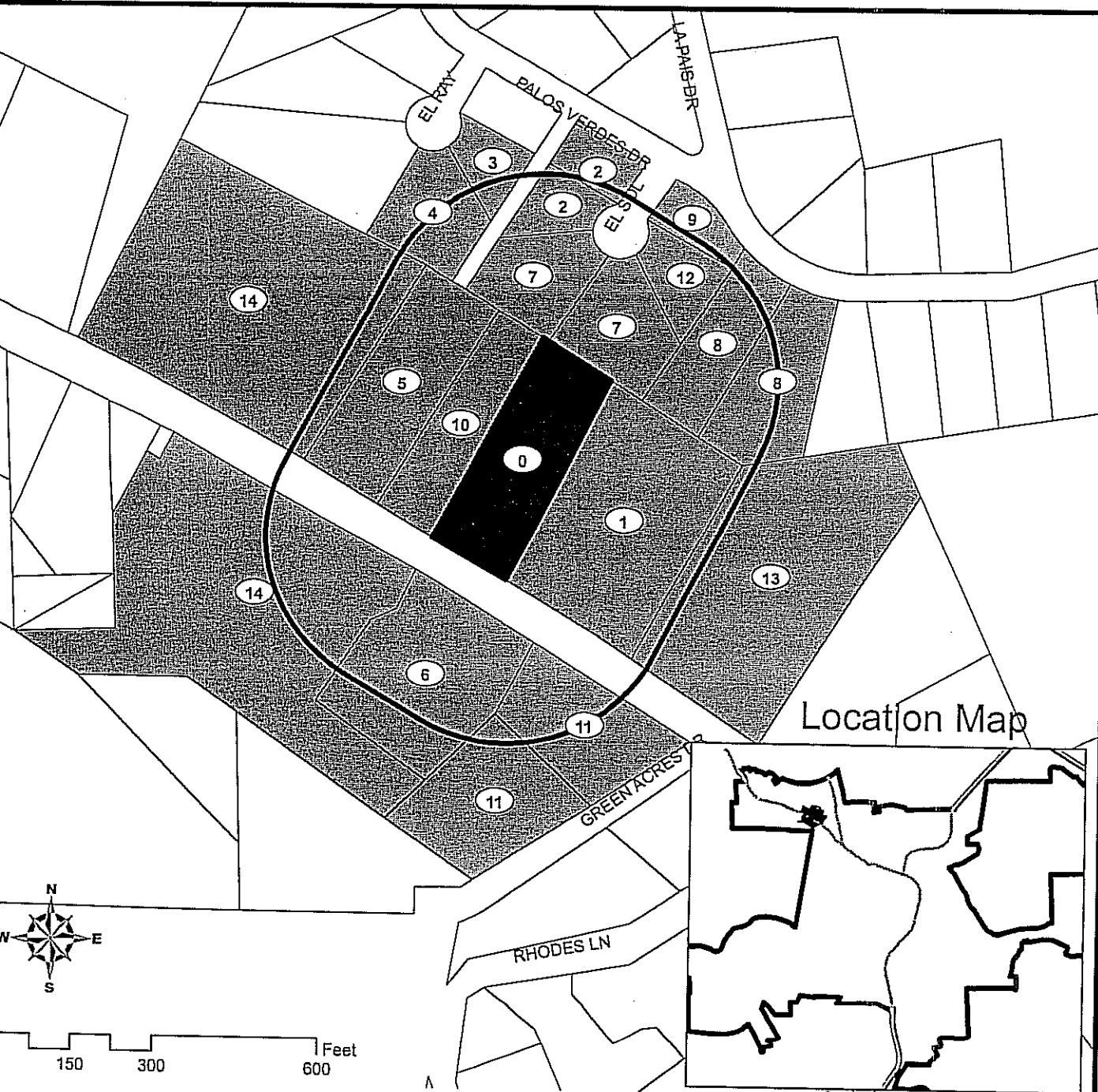
Location Map



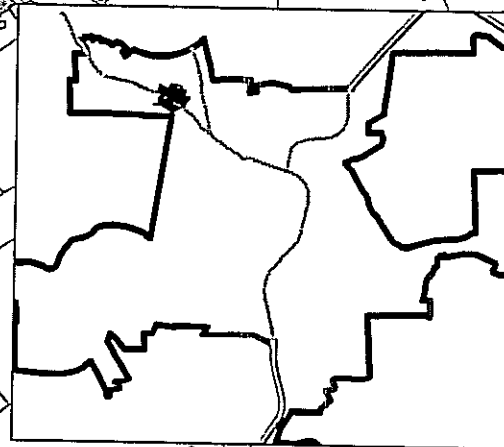
Notification Map for CUP-09-008



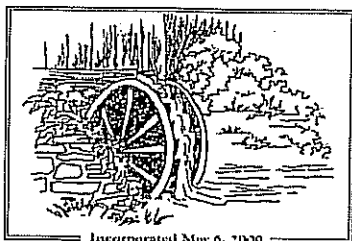
P.O. Box 2027 • Wimberley, Texas 78676



Location Map



- | | |
|--|------------------------------------|
| | 300parcel |
| | SUBJECT PROPERTY |
| | 1, ALLEN, LINDA |
| | 2, DICKEY, MADALINE C |
| | 3, FOGLEMAN WILLIAM & WALKER CLAUD |
| | 4, FOGLEMAN, MARJORY B |
| | 5, GONZALEZ, EPIFANIA C |
| | 6, KATHERINE ANNE PORTER SCHOOL |
| | 7, KURICAR, MARY MAXINE |
| | 7, BELLO DANNY & JEANETTE B |
| | 8, MALLARD NEAL & DAREND A W |
| | 9, BARTON ELSA HERBEL |
| | 10, SUMTER TERRY E & ELIZABETH A |
| | 11, TRINITY, CHAPEL |
| | 12, WERNER, LUETTA |
| | 13, WILLETT, BOYD |
| | 14, WIMBERLEY LIONS CLUB |



City of Wimberley

12111 Ranch Road 12 (P.O. Box 2027), Wimberley, Texas 78676

Phone: 512-847-0025 Fax: 512-847-0422

Email: village@anvilcom.com Web: www.vil.Wimberley.tx.us

Tom Haley, Mayor - Bob Flocke, Mayor Pro-tem

Council Members - Charles Roccaforte, Bill Appleman, Steve Thurber, John White
Don Ferguson, City Administrator

July 24, 2009

NOTICE OF PUBLIC HEARING

Re: File No. ZA-09-018

600 FM 2325

A request for initial zoning of Commercial – Low Impact (C1) for a currently unzoned tract of land

File No. CUP-09-008

600 FM 2325

A request for a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption

File No. AV-09-003

600 FM 2325

A request for a waiver to allow the sale of alcohol for on premise consumption within 300 feet of a church, school, day care center or hospital.

Dear Property Owner:

You are receiving this letter because you own property within 300 feet of the above-referenced location.

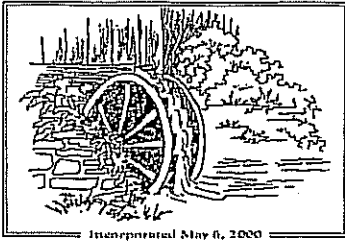
Kate Brune Tilton has submitted an application for initial zoning of Commercial – Low Impact (C1) zoning for a currently unzoned tract of land located at 600 FM 2325. In addition, Ms Tilton has requested a Conditional Use Permit (CUP) to allow the sale of alcohol for on premise consumption at 600 FM 2325. The City of Wimberley Planning & Zoning Commission will consider these requests at a public hearing on **Thursday, August 13, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12. Upon a recommendation from the Commission, City Council will hold a Public Hearing to consider the same request on **Thursday, August 20, 2009, at 6:30 p.m.**

Associated with the above mentioned applications, the applicant is seeking a waiver from the City requirement prohibiting the sale of alcohol within 300 feet of a church, school, day care center or hospital. The Wimberley City Council will consider this waiver request at a public hearing on **Thursday, August 20, 2009, at 6:30 p.m.** in the Wimberley City Hall, 12111 Ranch Road 12

Because the granting of these requests may affect your property, you are encouraged to participate in the zoning process. The public will be given an opportunity to speak during the hearing. If you wish to comment but are unable to attend, written comments may be submitted to the City Administrator prior to the meeting.

Additional information regarding the proposed zoning is available for public review at City Hall during normal business hours. Should you have questions, please contact the City Administrator at 512-847-0025.

CITY OF WIMBERLEY



City of Wimberley

12111 Ranch Road 12, P.O. Box 2027, Wimberley, Texas, 78676

Phone: (512) 847-0025 - Fax: (512) 847-0422

E-mail: Wimberley@anvilcom.com - Web: www.vil.wimberley.tx.us

NOTICE BY SIGN POSTING

Zoning No: CU-P-09-008

Owner Kate Brune Tilton

Date 7/27/09

To: Code Enforcement/Public Works

Please place a Proposed Zoning Sign on the following property

(X) Project Site Address 600 RM-2325

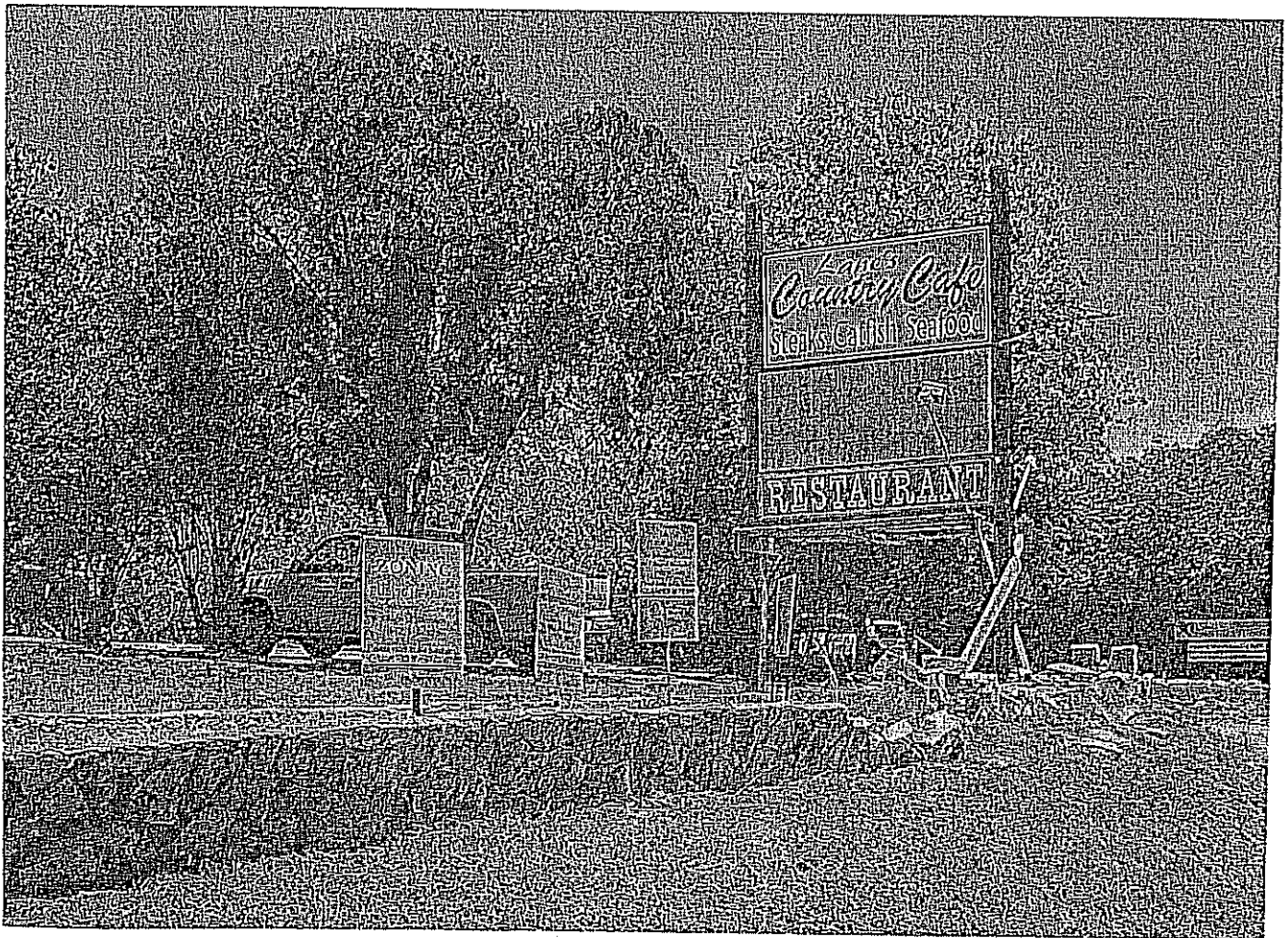
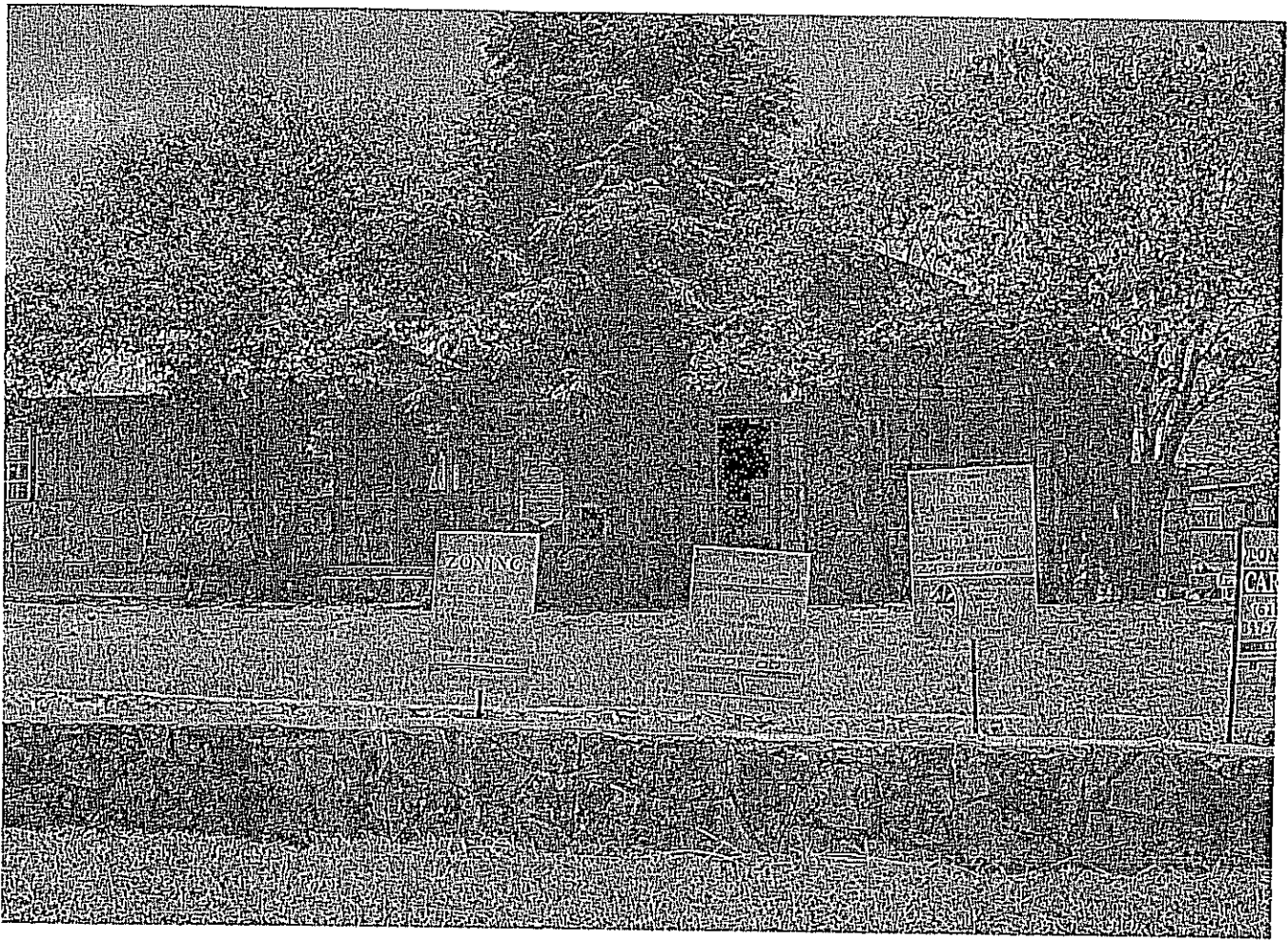
which is located RM-2325

Bill Bowers
Asst. Public Works

Note: The above-referenced sign was placed on the subject property on

7/27, 2009

Bill Bowers
Signature



Cathy News 858-4163 Wimberley View 847-2202

THE CLASSIFIED

Wednesday, July 29, 2009

Email your ads to: classifieds@wimb

★ LEGAL & PUBLIC NOTICES

PUBLIC NOTICE

Owners and Lien holders are hereby notified that the following vehicle have been taken into custody:

- Ambulance Bus
- Make: International
- Model: FC-1750H
- Year: 1979
- FSN: 2310-00-782-5721
- Color: Blue
- Wreckers Location: Jeters Garage and Tires, 500 Old Kyle Hwy, Bldg. 5, Kyle, Texas 78640
- (512) 268-0743
- (5085) (c) 60

NOTICE OF PUBLIC HEARING

(Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: CUP-09-0082 - an application for a Conditional Use Permit (CUP) to allow the sale of alcohol on-premise consumption at 600 FM 2325. Upon recommendation to the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City

6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (5090) (a) 60.

NOTICE OF PUBLIC HEARING

(Request for Zoning)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: ZA-09-0182 - an application for initial base zoning of Commercial Low Impact (C) at 600 FM 2325. Upon recommendation to the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City

Hall, 12111 Ranch Road 12, Wimberley, Texas (5090) (a) 60.

NOTICE OF PUBLIC HEARING

(Request for Alcohol Variance)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. to consider the following: AV-09-0093 - a request for a waiver to sell alcohol on-premise consumption, less than 3000' from a school, church, day care, or hospital, at 701 FM 2325. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (5090) (a) 60.

NOTICE OF PUBLIC HEARING

(Request for Alcohol Variance)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. to consider the following: AV-09-0092 - a request for a waiver to sell alcohol on-premise consumption, less than 3000' from a school, church, day care, or hospital, at 701 FM

2325. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (5090) (a) 60.

NOTICE OF PUBLIC HEARING

(Conditional Use Permit)

Notice is hereby given that the Planning & Zoning Commission of the City of Wimberley will hold a public hearing at the Wimberley City Hall on Thursday, August 13, 2009, at 6:30 p.m. to consider the following: CUP-09-0072 - an application for a Conditional Use Permit (CUP) to allow the sale of alcohol on-premise consumption at 701 FM 2325. Upon recommendation to the Planning & Zoning Commission the City Council will also hold a public hearing on Thursday, August 20, 2009, at 6:30 p.m. at City Hall. Comments on this request from any member of the public may be presented in person or by mail (PO Box 2027) at City Hall prior to the hearing. The public will be granted an opportunity to speak at the hearing. Additional information concerning the proposed action is

available for review at the Wimberley City Hall, 12111 Ranch Road 12, Wimberley, Texas (5090) (a) 60.

PUBLIC NOTICE

The Housing Authority of the City of Kyle is amending its 2008 Agency Plan in compliance with the Quality and Work Responsibility Act of 1998. It is available for review at the Authority's office located at 417 West Second Street, Kyle, Texas 78640. The Authority's hours of operation are 9:00 AM to 4:00 PM, Monday through Thursday. In addition, a public hearing will be held on August 10, 2009, at the Housing office at 2:00 PM. (5090) (a) 60.

PUBLIC NOTICE

The State of Texas

Notice of Seizure

Sale of Real Property

County of Hays

A First Order of Sale was issued on the 12th day of May, 2009, by the Clerk of the District Court, Hays County, Texas, after having a judgment rendered by the 27th District Court, Hays County, Texas, on the 11th day of March, 2009, in favor of Woodcreek Property Owners' Association of Hays County, Inc. against Julia Robbins Gause, #09-2217, reflects a judgment amount of \$1,195.08 with interest thereon from the date of judgment at the rate of 6.00% per annum until

paid, and \$31 costs of the foreclosure of only the 2nd described portion of the 1st of Sale. I did on the 27th day of May, 2009, at 3:25 p.m. the described property located in Hays County as the said debt will

the property by its legal desk Lot 3 - Se Woodcreek Division in Hays County as the 31st day of 2009. And on the August 20, 2009, the first day of the hours of and 4:00 p.m. north Woodcreek house County will sale and sell all the right interest. Robbins and property Sale at 10:30 a.m. Date May, 2009. Darrell W. Constable, Precinct 3, County.

By from Deputy Constable, Precinct 3, County.

On the property there are parties, as implied in not limited implied with property Bidders, advised if of the property order not exist

ORDINANCE NO. 2009-_____

AN ORDINANCE APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT SUBMITTED BY KATE BRUNE TILTON TO PERMIT AN EATING ESTABLISHMENT: SIT-DOWN, INCLUDING THE SALE OF BEER, WINE AND ALCOHOL FOR ON-PREMISE CONSUMPTION ON AN APPROXIMATELY 1.367 ACRE TRACT LOCATED AT 600 FM 2325, WIMBERLEY, HAYS COUNTY, TEXAS, ZONED COMMERCIAL-LOW IMPACT (C-1), AND IMPOSING CERTAIN CONDITIONS; AND PROVIDING FOR FINDINGS OF FACT; AMENDMENT OF THE ZONING DISTRICT MAP; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS.

WHEREAS, an application for a Conditional Use Permit has been filed by Kate Brune Tilton ("Applicant") requesting authorization to permit an Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption on real property described as a 1.367 acre tract described as part of the Robert S. Rankin Survey No. 65 ABS 390 and Benjamin Page Survey No. 64 ABS 365, zoned Commercial-Low Impact (C-1); and

WHEREAS, a Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption is an authorized use in areas zoned Commercial-Low Impact (C-1) upon the granting of a Conditional Use Permit; and

WHEREAS, after conducting a public hearing on the matter, the Planning and Zoning Commission recommended approval of the CUP application; and

WHEREAS, Applicant has submitted a Conditional Use Permit Application, site plan, and list of conditions on the use of the property, attached hereto as Exhibits "A" and "B", respectively, and incorporated herein, and other necessary information, and has complied with the requirements of the Wimberley Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission and City Council have conducted Public Hearings on the Application for a Conditional Use Permit wherein public comment was received and considered on the Application; and

WHEREAS, the City Council finds that the use of the subject property as a Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption, subject to the conditions imposed by this Ordinance, is an appropriate use for the property and is a compatible use with the surrounding properties and neighborhoods.

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

ARTICLE I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

ARTICLE II. APPROVAL - TERMS AND CONDITIONS

The CITY COUNCIL HEREBY GRANTS the Application for a Conditional Use Permit submitted by Kate Brune Tilton ("Applicant") to permit an Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption on real property described as a 1.367 acre tract part of the Robert S. Rankin Survey No. 65 ABS 390 and Benjamin Page Survey No. 64 ABS 365, zoned Commercial-Low Impact (C-1), Wimberley, Hays County, Texas, subject to the following terms and conditions:

1. Applicant shall not commence development until it has secured all permits and approvals as required by the Wimberley zoning regulations, ordinances or any permits required by regional, State and Federal agencies.
2. This Ordinance only authorizes the additional use of a Eating Establishment: Sit-Down, including the Sale of Beer, Wine and Alcohol for On-Premise Consumption in accordance with the site plan attached hereto as Exhibit "A", and subject to the conditions described in Exhibit "B", attached and incorporated by reference, as well as all applicable regulations in effect at the time of the submission of the building permit application. This Conditional Use Permit does not authorize any other use of the property, except as permitted under the Zoning Code.
3. Vehicular and pedestrian ingress and egress shall be solely from FM 2325.
4. Outdoor entertainment shall not use amplification devices of any type.
5. All lights shall be shielded from adjacent properties and shall comply with applicable City ordinances and regulations regarding lighting.
6. A landscape buffer of no less than 10 feet wide shall be installed along the entire length of the rear property line, which may be located in the rear setback area. All landscaping shall meet applicable City ordinances.
7. All restaurant uses shall close to the public no later than midnight, and all outdoor music shall cease at 10:30 pm.
8. Fencing shall be located at the rear property line which shall be no less than 6 feet in height, shall be constructed of material which shall screen the uses on the subject property, shall comply with all City regulations regarding fencing, and shall have no access gates at the rear of the property.

ARTICLE III. ZONING DISTRICT MAP

The official Zoning District Map shall be revised to reflect the Conditional Use Permit established by this Ordinance.

ARTICLE IV. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

ARTICLE V. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

ARTICLE VI. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE VII. 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, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED by the Wimberley City Council on the ___ day of _____, 2009 by a vote of ____ (Ayes) and ____ (Nays).

WIMBERLEY, TEXAS

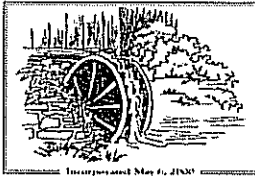
By: _____
Tom Haley, Mayor

ATTEST:

Cara McPartland, City Secretary

(SEAL)

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER ACTION ON A DISTANCE RESTRICTION WAIVER REQUEST TO ALLOW FOR THE SALE OF BEER, WINE AND ALCOHOL AT 600 FM 2325

Council Action Requested:

- ☐ Ordinance
- ☐ Resolution
- ☒ Motion
- ☒ Discussion

Project/Proposal Summary:

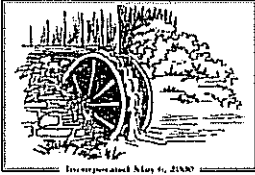
Currently, the sale of beer, wine and alcohol is prohibited within 300 feet of schools, churches, hospitals and day care facilities within the City of Wimberley. The same City ordinance that restricts the sale of beer and wine to certain locations allows business establishments located within so-called "alcohol free zones" to request a waiver from the distance requirement.

This month, the City of Wimberley received such a waiver request from the owners of a proposed sit-down restaurant who are proposing to sell beer and wine at their sit-down eating establishment located at 600 FM 2325. The subject property is located across the street from the Katherine Anne Porter School. In accordance with City ordinance, notice of the requested waiver was mailed to all property owners within 300 feet of the subject property. At the time of production of this agenda packet, opposition to the waiver request has been received from the school's superintendent along with two (2) adjacent residential property owners.

The City's ordinance allows City Council to waive the distance requirements if the Council determines enforcement of the distance provision in a particular case:

- is not in the best interest of the public
- constitutes waste or the inefficient use of land or other resources
- creates an undue hardship on an applicant
- does not serve its intended purpose
- is not effective or necessary
- for any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines in the best interest of the community.

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER FIRST READING
OF AN ORDINANCE IMPOSING ADDITIONAL WATER
CONSERVATION MEASURES

Funds Required:

Funds Available:

Council Action Requested:

☒ Ordinance

☐ Resolution

☒ Motion

☒ Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Four Council Member Steve Thurber to allow City Council to discuss and consider approval of a proposed ordinance which imposes additional water use restrictions in the City.

The City's current *Water Conservation Ordinance* imposes several year-round restrictions on water use designed to promote water conservation. It also allows City Council to adopt additional restrictions, as conditions warrant.

With the current drought worsening, Place Four Council Member Steve Thurber is proposing an ordinance that imposes additional water restrictions ranging from prohibiting outdoor lawn watering with sprinklers to prohibiting outdoor car washes. The proposed restrictions track, in large part, those recently imposed by the Wimberley Water Supply Corporation (WWSC) when it moved into Stage Three of its *Drought Management Plan*. If approved, the water use restrictions detailed in the ordinance would remain in effect until such time as the WWSC implements Stage 2 of its Drought Management Plan.

ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING TITLE V (PUBLIC WORKS), CHAPTER 51 (WATER CONSERVATION) OF THE CODE OF ORDINANCES IN ORDER TO IMPLEMENT SUPPLEMENTAL WATER RESTRICTIONS IN RESPONSE TO THE RECENT DROUGHT CONDITIONS; PROVIDING FOR A PENALTY FOR VIOLATIONS OF THE ORDINANCE; FINDINGS OF FACT; REPEALER, SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Wimberley ("City") is located in a region of the State of Texas where precipitation is frequently limited, and measures must be taken to conserve water; and,

WHEREAS, in order to minimize the potential for water shortage, the City Council on February 5, 2009, approved Ordinance 2009-003, in order to implement comprehensive water conservation regulations; and,

WHEREAS, due to the severe drought conditions, the City Council has deemed it necessary to further reduce the potential effect of a water shortage on those who live, work and visit Wimberley, Texas; and,

WHEREAS, individual area water purveyors have instituted various stages of water conservation requirements on their specific customers; and,

WHEREAS, City Council of the City of Wimberley finds there is a need to adopt provisions that will apply to all users within the City limits regardless of their source of water supply to address the severe drought impact facing all citizens of the City; and,

WHEREAS, by adopting standard restrictions it will be easier for citizens to comply with the water usage restrictions and allow the City to enforce its regulations evenly to all violators; and,

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51 and 52; and,

WHEREAS, the City Council finds that the provisions of this Ordinance are the minimum requirements necessary to promote the public health, safety, morals and general welfare, and are not in conflict with any state provisions.

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

SECTION 1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. AMENDMENT

That Title V (Public Works), Chapter 51 (Water Conservation) of the Code of Ordinances of Wimberley, is hereby amended as follows:

“The provisions in Chapter 51 (Water Conservation) which address the following regulations shall be temporarily suspended and the following water restrictions shall apply to all users within the Wimberley City limits:

(a) Irrigation of landscaped areas shall be limited to Sundays and Thursdays for customers with street addresses ending in an even number (0, 2, 4, 6, or 8) and Saturdays and Wednesdays for customers with street addresses ending in odd numbers (1, 3, 5, 7, 9) between the hours of 6:00 AM and 9:00 AM and between 8:00 PM and 11:00 PM and **shall be by means of hand-held hoses with positive shut off nozzle, hand-held buckets, or drip irrigation. THE USE OF HOSE-END SPRINKLERS OR PERMANENTLY INSTALLED AUTOMATIC SPRINKLER SYSTEMS ARE PROHIBITED AT ALL TIMES.**

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited.

(c) Use of water to fill, refill, or add to any indoor and outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited.

(d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited.

(e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare.

(f) All restaurants are prohibited from service water to patrons except upon request of the patron.

(g) The following uses of water are defined as **NON-ESSENTIAL AND PROHIBITED:**

1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surfaced areas
2. Use of water to wash down buildings or structures for purposes other than immediate fire protection
3. Use of water for dust control
4. Flushing gutters or permitting water to run or accumulate in any gutter or street
5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s)

In the event of a conflict between Chapter 51 (Water Conservation) and the foregoing restrictions, the stricter provision shall apply. All other regulations in Chapter 51 that are not affected by the water restrictions listed above shall remain in full force and effect. Failure to abide

by the restrictions listed above and regulations in Chapter 51 shall subject the violator to the penalty provisions in section 51.33 of the Wimberley Code of Ordinances.

This Ordinance shall automatically terminate, and all provisions of Chapter 51 shall be re-instituted when the Wimberley Water Supply Corporation implements Stage 2 of their Drought Management Plan.”

Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect.

SECTION 3. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. NO VESTED INTEREST

No person shall acquire any vested interest in this Ordinance or any specific regulations contained herein. This Ordinance and any regulation enacted hereby may be amended or repealed by the City Council in the manner provided by law.

SECTION 5. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 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.

FIRST READING PASSED AND APPROVED this _____ day of _____, 2009, by a _____ to _____ vote of the City Council of Wimberley, Texas.

SECOND READING PASSED AND APPROVED this _____ day of _____, 2009, by a _____ to _____ vote of the City Council of Wimberley, Texas.

WIMBERLEY, TEXAS

By: _____
Tom Haley
Mayor

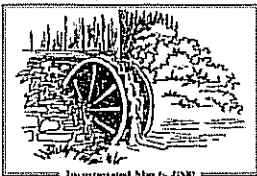
ATTEST:

Cara McPartland, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby, City Attorney

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER SELECTION OF
A FIRM TO AUDIT THE CITY'S FINANCIAL
STATEMENTS FOR FISCAL YEARS 2009, 2010 & 2011

Funds Required:

Funds Available:

Council Action Requested:

☐ Ordinance

☐ Resolution

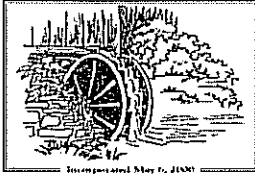
☒ Motion

☒ Discussion

Project/Proposal Summary:

Earlier this week, the City of Wimberley received proposals from qualified firms of certified public accountants to audit the City's financial statements for the fiscal years ending September 30, 2009, 2010 and 2011. At the time of production of this agenda packet, City staff was interviewing the firms who submitted proposals. A staff recommendation of an audit firm will be presented at the City Council meeting.

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER ISSUES
RELATING TO DEVELOPMENT OF FY 2010 BUDGET

Funds Required:

Funds Available:

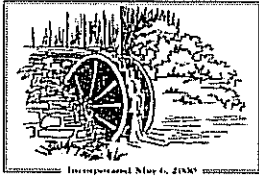
Council Action Requested:

- ☐ Ordinance
- ☐ Resolution
- ☐ Motion
- ☒ Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for discussion of issues to be considered in the upcoming development and adoption of the City of Wimberley FY 2010 Budget beginning October 1, 2009. As you know, the Mayor filed a proposed Fiscal Year 2010 Budget for consideration on Tuesday, August 18, 2009. City staff will brief City Council on the proposed budget at the meeting in addition to presenting additional background information on City spending.

City Council Agenda Form



Date Submitted: August 15, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER PROPOSED
AMENDMENT TO THE CITY'S INTERLOCAL
AGREEMENT WITH HAYS COUNTY RELATING TO
ROAD MAINTENANCE

Funds Required:

Funds Available:

Council Action Requested:

☐ Ordinance

☐ Resolution

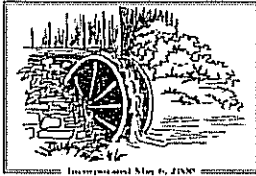
☒ Motion

☒ Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow City Council to discuss and consider a proposed amendment to the City's interlocal agreement with Hays County for road maintenance. The proposed amendment would add Little Ranches Road to the list of those streets located in both the City and County that the County Road Department will help the City maintain when requested to do so.

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER POSSIBLE
MODIFICATIONS TO THE CITY WATER
CONSERVATION ORDINANCE

Funds Required:

Funds Available:

Council Action Requested:

☐ Ordinance

☐ Resolution

☒ Motion

☒ Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Four Council Member Steve Thurber to allow City Council to discuss and consider possible modifications to the City's *Water Conservation Ordinance*. Specifically, Council Member Thurber would like to see the development of a City Drought Management Plan with different stages of water use restrictions and incorporate such a plan into the conservation ordinance.

Currently, the City's *Water Conservation Ordinance* establishes several year-round water use restrictions. It allows the Hays Trinity Groundwater Conservation District and local water purveyors to impose additional restrictions in accordance with their respective drought management plans. Additional restrictions to be imposed by the City must be adopted by separate ordinance, as needed.

Attached is a copy of the current City's *Water Conservation Ordinance*.

ORDINANCE NO. 2009- 003

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING TITLE V (PUBLIC WORKS) BY CREATING CHAPTER 51 (WATER CONSERVATION) OF THE CODE OF ORDINANCES IN ORDER TO ESTABLISH REGULATIONS TO CONSERVE WATER; PROVIDING FOR A PENALTY FOR VIOLATIONS OF THE ORDINANCE; FINDINGS OF FACT; REPEALER, SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING..

WHEREAS, the City of Wimberley ("City") is located in a region of the State of Texas where precipitation is frequently limited, and measures must be taken to conserve water; and

WHEREAS, the City Council has deemed it necessary to reduce the potential effect of a water shortage on those who live, work and visit Wimberley, Texas; and

WHEREAS, the City Council believes it is necessary to minimize the potential for water shortage through the practice of water conservation and the enactment of these regulations; and

WHEREAS, the City Council of the City of Wimberley finds there is a need to adopt provisions that will significantly reduce the inefficient consumption of water, thereby extending the available water resources necessary for the domestic sanitation and fire protection of the community to the greatest extent possible; and

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51 and 52; and

WHEREAS, the City Council finds that the provisions of this Ordinance are the minimum requirements necessary to promote the public health, safety, morals and general welfare, and are not in conflict with any state provisions.

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

SECTION 1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. AMENDMENT

That Title V (Public Works) of the Code of Ordinances of Wimberley, is hereby amended to create Chapter 51 "Water Conservation", to read as follows:

"Chapter 51 Water Conservation.

§ 51.01. Purpose.

§ 51.02. Jurisdiction.

§ 51.03. Definitions.

§ 51.04. Activities to be Regulated.

- § 51.05. Landscape watering.
- § 51.06. Swimming pools.
- § 51.07. Vehicle Wash Fundraisers.
- § 51.08. Washing of Impervious Surface Areas.
- § 51.09. Irrigation System Operations.
- § 51.10. Minimum irrigation area and flow direction.
- § 51.11. Irrigation System Rain Sensors.
- § 51.12. Zonal Irrigation System.
- § 51.13. Irrigation Tailwater.
- § 51.14. Water Leaks.
- § 51.15. Golf Courses.
- § 51.16. Annual irrigation system analysis for athletic fields, and large properties.
- § 51.17. Commercial Dining Facilities.
- § 51.18. Ice Machines.
- § 51.19. Vehicle Wash Facilities.
- § 51.20. Condensate Collection.
- § 51.21. Xeriscape Option.
- § 51.22. Model Home Xeriscape.
- § 51.23. Rainwater Harvesting Option.
- § 51.24. Water Purveyors.
- § 51.25. Implementation of additional water use reduction measures, ("aquifer risk").
- § 51.26. Nuisance Declared.
- § 51.27. Presumption and Exception.
- § 51.28. Variance.
- § 51.29. Access to Premises.
- § 51.30. Authorization to Enforce.

§ 51.31. Administrative Action To Abate Violations.

§ 51.32. Abatement of Nuisance or Violation.

§ 51.33. Enforcement.

§ 51.34. Defenses.

§ 51.01. Purpose.

As the City is located in a region of the State of Texas where precipitation is frequently limited, the purpose of the regulations herein are to provide the minimum restrictions on the use and conservation of water within the City limits. The provisions are designed to significantly reduce the inefficient consumption of water, thereby extending the available water resources necessary for the domestic sanitation and fire protection of the community to the greatest extent possible; and further promote the public health, safety, morals and general welfare of the citizens of Wimberley.

§ 51.02. Jurisdiction.

The provisions of this chapter shall apply within the City limits.

§ 51.03. Definitions.

Words and phrases used in this Chapter shall have the meanings set forth in this section. Words and phrases which are not defined in this Chapter but are defined in other provisions in the Code of Ordinances of Wimberley shall be given the meanings set forth in the Code. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Chapter.

Air conditioning system(s). A mechanical system generally consisting of a compressor, thermostat and duct work permanently installed in a building for the purpose of controlling humidity and temperature. For the purposes of this chapter, an air conditioning system does not include window units.

Agricultural irrigation. Irrigation for the purpose of growing crops commercially for human consumption or to use as feed for livestock or poultry.

Athletic field. A sports playing field, the essential feature of which is turf grass, used primarily for organized sports for schools, professional sports, or organized league play.

Automatic irrigation controller. A device that automatically activates and deactivates an irrigation system at times selected by the operator.

Beneficial use. The amount of water that is economically necessary for a purpose not otherwise prohibited by the city, state or federal law or regulation, when reasonable intelligence and reasonable diligence is used in applying water for that purpose.

Bucket. Bucket or other container holding five gallons or less, used singly by one person.

City Administrator. The employee serving in the capacity of the City Administrator of this city, or his or her designee authorized to implement and enforce this chapter.

Commercial dining facility. A business that serves prepared food and beverages to be consumed on the premises.

Computer controlled irrigation system (CCIS). A system comprised of a computer controller (digital operating system), software, interface modules, satellite field controllers, soil sensors, weather station, or similar devices which is capable of achieving maximum efficiency and conservation in the application of water for irrigation. A CCIS, at a minimum, should be designed to (i) prevent over watering, flooding, pooling, evaporation and run-off; and, (ii) prohibit sprinkler heads from applying water at an intake rate exceeding the capability of the soil.

Cooling Tower. An open water recirculation device that uses fans or natural draft to draw or force air to contact and cool water through the evaporative process.

Day. A twenty-four (24) hour period beginning at midnight.

Drought Management Plan. A plan for management of available water resources as prescribed by the Hays Trinity Groundwater Conservation District, Wimberley Water Supply Corporation and/or other authorized water purveyors operating within the Wimberley city limits, and as may be amended from time to time.

Essential use. A use of water which is:

(1) Essential to the protection of public health, safety, or welfare, including but not limited to use for drinking, food preparation, personal hygiene, public sanitation, control or prevention of disease and firefighting; or

(2) Essential to an industrial use or agricultural or military activity which directly supports gainful employment, unless the use is specifically defined in this chapter as a discretionary use; or

(3) Essential to irrigation use; or

(4) Watering of livestock.

Evapotranspiration rate (ET Rate). The rate which the combination of evaporation from soil surface and transpiration from vegetation will occur for specific climatic conditions.

Existing landscaping plant. A landscaping plant existing after such period of time as to accomplish an establishment and maintenance of growth.

Golf Course. An irrigated and landscaped playing area made up of greens, tees, fairways and roughs and related areas used for the playing of golf.

Gray Water. Water after use in bath and utility sinks, tubs, showers and washing machines.

Hand-held hose. A hose attended by one person, fitted with a manual or automatic shutoff nozzle.

Hose-end sprinkler. A sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

Household use. The use of water, other than uses in the outdoor category, for personal needs or for household purposes, such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial facility.

Impervious surface area. Any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile or other material preventing water to penetrate the ground.

Industrial use. The use of water for or in connection with commercial or industrial activities, including manufacturing, bottling, brewing, food processing, scientific research and technology, recycling, production of concrete, asphalt, and cement, commercial uses of water for tourism, entertainment, and hotel or motel lodging, generation of power other than hydroelectric, and other business activities.

Irrigation system. Also referred to as an in-ground or permanent irrigation system, being a system with fixed pipes and emitters or heads that apply water to landscape plants or turf grass.

Irrigation system analysis. A zone-by-zone analysis of an irrigation system that, at a minimum, includes a review of the following elements:

- (1) design appropriateness for current landscape requirements;
- (2) irrigation spray heads and valves;
- (3) precipitation rates expressed in inches per hour; and
- (4) annual maintenance plan that includes irrigation system maintenance, landscape maintenance, and a basic summer and winter irrigation scheduling plan.

Landscape renovation. The removal and replacement of existing landscape plants with new landscape plants.

Landscape watering. The application of water to grow or maintain landscaping plants, such as flowers, ground covers, turf or grasses (other than golf courses or athletic fields), shrubs, and trees, but for purposes of this chapter does not include:

- (1) Essential use without waste of water by a commercial nursery to the extent the water is used for production rather than decorative landscaping;
- (2) Application of water without waste to a noncommercial family garden or orchard the produce of which is for household consumption only; and
- (3) Except when certain stages of a Drought Management Plan are in effect, application of water at any time on any day by means of a bucket, hand-held hose, soaker hose (but not one that sprays water in the air), or properly installed drip irrigation system.

Landscaping plant. Any member of the kingdom plantae, including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species that grows or has been planted out-of-doors.

Large property. A land tract owned by a general customer that equals or exceeds five acres in size and has an irrigation system.

Livestock. Cattle, sheep, goats, hogs, poultry, horses, and game, domestic, exotic and other animals and birds, including zoo animals, used for commercial or personal purposes.

Livestock use. The use of water for drinking by or washing of livestock.

Make-up Meter. A meter that measures the amount of water entering a cooling tower system.

Other outdoor use. The use of water outdoors for the maintenance, cleaning and washing of structures and mobile equipment, including automobiles and boats, or the washing of streets, driveways, sidewalks, patios and other similar areas.

Park. A tract of land maintained by a city, private organization, or individual, as a place of beauty or of public recreation.

Person. Any individual, corporation (including a government corporation), organization, state or federal governmental subdivision or agency, political subdivision of a state, interstate agency or body, business, trust, partnership, limited partnership, association, firm, company, joint stock company, joint venture, commission or any other legal entity.

Pervious surface. Any ground surface which can absorb water or other liquids.

Precipitation rate. The speed at which a sprinkler or irrigation system applies water. Precipitation rates are measured in inches per hour or inches per minute.

Property address. The street address of a property, unless multiple street addresses are served by a single meter, in which case the billing address will be used.

Public facilities. Municipally-owned or operated facilities.

Rain sensor. A device designed to stop the flow of water to an automatic irrigation system when rainfall has been detected.

Recycled or Reuse Water. Domestic or municipal wastewater which has been treated to a quality suitable for a beneficial use in accordance with applicable law.

Requestor. A person who requests a variance under this chapter.

Residential Customer. A single or multi-family dwelling unit containing two (2) or fewer family units.

Soil holding capacity. The amount of moisture in the soil that can occur without becoming saturated.

Sprinkler. An emitter that applies water to the landscape plants in a stream that travels through the air. Sprinkler irrigation can be applied by an irrigation system or hose-end sprayer or a soaker hose that sprays water in the air.

Swimming pool. Any structure, basin, chamber, or tank, including hot tubs, containing an artificial body of water for swimming, diving, or recreational bathing, and having a depth of two (2) feet or more at any point.

TCEQ. Texas Commission on Environmental Quality, and its successor agency.

TDS. Total dissolved solids.

Turf. A surface layer of earth containing mowed grass with roots.

Turf grass. Perennial ground cover plants and grasses that are adapted to regular mowing and traffic through management.

Vacuum system. A system, often consisting of a pump, chamber, and tubes, that is used to create a vacuum for any of a variety of purposes, including but not limited to medical, dental and industrial applications.

Vegetable garden. Any "non-commercial" vegetable garden planted primarily for household use; "noncommercial" includes incidental direct selling of produce from such a vegetable garden to the public.

Vehicle wash facility. A permanently-located business that washes vehicles with water or water-based product, including but not limited to self-service car washes, full-service car washes, roll-over/in-bay style car washes, and fleet maintenance wash facilities.

Vehicle wash fundraiser. Any special-purpose vehicle wash event for which a fee is charged or donation accepted.

Water. Includes, but is not limited to potable or recycled water supplied by the Wimberley Water Supply Corporation or other water purveyor, or potable water withdrawn from any groundwater well, surface water from any river, creek, natural watercourse, pond, lake or reservoir.

Water Waste. Use of water without obtaining maximum beneficial use thereof. Waste shall also include, but not be limited to, causing, suffering, or permitting a flow of water used for landscape watering to run into any river, creek or other natural water course or drain, superficial or underground channel, bayou, or unto any sanitary or storm sewer, any street, road or highway or other impervious surface area, or upon the lands of another person or upon public lands. Waste shall also include, but not be limited to, any discharge of water used for commercial, industrial, municipal or domestic purposes to any storm, sanitary sewer, or septic system without the user first having obtained maximum beneficial use thereof. Waste shall also include, but not be limited to, failure to repair any controllable leak on property.

Water flow restrictor. An orifice or other device through which water passes at a restricted rate.

Water purveyor use. Water used for withdrawal, treatment, remediation, transmission and distribution by a potable water purveyor.

Xeriscape. A landscape consisting of a maximum of 50% turf grass, with the remaining percentage of landscape incorporating low water use plants and/or pervious hardscape. The approved low water use plant list, as may be amended from time to time, shall be available from the City of Wimberley and located at the City or City web site.

Zonal irrigation system. An irrigation system that segregates by station areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.

§ 51.04. Activities to be Regulated.

The following activities shall be regulated in the manner set out herein. A person affected by such regulations may request a variance in the manner set out in Section 51.28. A violation of this Chapter shall be subject to the enforcement provisions set out in Section 51.33. It shall be and is hereby declared unlawful for any person to violate, refuse or fail to implement the requirements of this Chapter.

§ 51.05. Landscape watering.

It is the policy of the City to promote the efficient use of water without waste at all times on a year round basis. It is unlawful for any person to perform or permit landscape watering on any property within the city between the hours of 10 o'clock a.m. and 6 o'clock p.m. on any day during Daylight Savings Time, and between the hours of 11 o'clock a.m. and 7 p.m. the remainder of the year, except as expressly provided herein. Landscape watering is also restricted further during the times the Drought Management Plan of the Hays Trinity Ground Water Conservation District, Wimberley Water Supply Corporation and/or any other authorized public water purveyor within the city limits is in effect, and the stricter provisions shall prevail and control. Irrigating any turf grass, tree, plant, or other vegetation, or otherwise utilizing the water supply system to permit or cause water to pond, or to flow, spray or otherwise move or be discharged from the premises of any person responsible for any property within the corporate limits of the city to or upon any street, alley, gutter or ditch, or other public right-of-way, or into a storm water drainage system or facility shall be prohibited.

§ 51.06. Swimming pools.

Draining water from a swimming pool onto an impervious surface shall be prohibited.

§ 51.07. Vehicle Wash Fundraisers.

Vehicle wash fundraisers shall be allowed except when prohibited by the provisions of a Drought Management Plan. Such fundraisers shall be operated in such a manner so as to limit water waste.

§ 51.08. Washing of Impervious Surface Areas.

Washing driveways, sidewalks, parking areas, or other impervious surface areas on a commercial property with an open hose, or a spray nozzle attached to an open hose, or under regular or system pressure, except when required to eliminate conditions that threaten public health, safety or welfare, shall be prohibited. This restriction does not apply to residential customers except when such activity is prohibited by the provisions of a Drought Management Plan.

§ 51.09. Irrigation System Operations.

It shall be unlawful to operate a permanently installed irrigation system with a broken head or emitter, or with a head that is spraying more than 10 percent of the spray onto the street, parking lot, or sidewalk. This prohibition does not apply unless the head or emitter was designed to deliver more than one gallon of water per hour during normal use.

§ 51.10. Minimum irrigation area and flow direction.

- (A) Effective April 1, 2009, newly installed irrigation systems using pop-up spray or rotor technology shall not be used in landscaped areas which have both:
 - (1) dimensions less than five feet in length and/or width; and
 - (2) impervious pedestrian or vehicular traffic surfaces along two (2) or more perimeters.
- (B) Where pop-up spray and rotor heads are allowed in newly installed irrigation systems, they:
 - (1) must direct flow away from any adjacent impervious surface; and
 - (2) shall not be placed within four (4) inches from an impervious surface.

§ 51.11. Irrigation System Rain Sensors.

Effective April 1, 2009, rain sensors shall be installed and maintained on all irrigation systems equipped with automatic irrigation controllers on irrigation systems installed after April 1, 2009.

§ 51.12. Zonal Irrigation System.

In-ground irrigation systems installed on and after April 1, 2009, shall be zonal irrigation systems.

§ 51.13. Irrigation Tailwater.

The escape of irrigation tailwater, as that term is commonly used in the agricultural community, shall be prohibited. In addition, water loss through percolation in transmission canals shall be prohibited.

§ 51.14. Water Leaks.

Failing to repair a controllable leak, including a broken sprinkler head, a leaking valve, or a leaking faucet shall be unlawful.

§ 51.15. Golf Courses.

No golf courses located within the city limits shall be allowed to irrigate the greens, tees, roughs or fairways with potable water. Use of potable water for landscape irrigation in and around the club house will be permitted but must conform to all other requirements for landscape irrigation.

§ 51.16. Annual irrigation system analysis for athletic fields, and large properties.

- (A) An annual irrigation system analysis demonstrating no water waste shall be required for all athletic fields and large properties shall be submitted in writing to the City of Wimberley on or before May 1st of each year, beginning on May 1, 2009; and
- (B) Municipal tenants and lessees of sports and athletic playing fields, and any other municipally owned properties, shall be responsible for compliance with this section. The City shall look directly to such tenants and lessees for compliance unless the municipality concedes by contractual agreement with the tenant/ lessee to assume the tenant / lessee's responsibility for compliance.

§ 51.17. Commercial Dining Facilities.

Effective April 1, 2009, commercial dining facilities shall:

- (a) Utilize positive shut-offs for hand-held dish-rinsing wands.
- (b) Utilize water flow restrictors for all garbage disposals.
- (c) Not operate a misting system in unoccupied areas.

§ 51.18. Ice Machines.

Effective April 1, 2009, newly installed ice machines shall not be single pass water-cooled.

§ 51.19. Vehicle Wash Facilities.

- (A) Vehicle wash facilities, commencing operation on or after April 1, 2009, using conveyORIZED, touchless, and / or rollover in-bay technology shall reuse a minimum of fifty percent (50%) of water from previous vehicle rinses in subsequent washes.
- (B) Vehicle wash facilities, commencing operation on or after April 1, 2009, using reverse osmosis to produce water rinse with a lower mineral content, shall incorporate the unused concentrate in subsequent vehicle washes.
- (C) Regardless of date of operation commencement, from and after April 1, 2009, self-service spray wands used shall emit no more than three gallons of water per minute.

§ 51.20. Condensate Collection.

- (A) Newly constructed commercial buildings installing air conditioning systems on and after April 1, 2009, shall have a single and independent condensate wastewater line to collect condensate wastewater to provide for future utilization as (i) process water and cooling tower make-up and/or (ii) landscape irrigation water.
- (B) Condensate wastewater shall not be allowed to drain into a storm sewer, roof drain overflow piping system public way or impervious surface.

§ 51.21. Xeriscape Option.

Effective April 1, 2009, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a xeriscape option in any series of landscaping options offered to prospective home buyers.

§ 51.22. Model Home Xeriscape.

Effective April 1, 2009, homebuilders and/or developers who construct one or more model homes for a designated subdivision shall have at least one (1) model home per subdivision landscaped according to a xeriscape design.

§ 51.23. Rainwater Harvesting Option.

Effective April 1, 2009, homebuilders and/or developers subdividing lots and/or constructing new single family residential homes shall offer a rainwater harvesting option in any series of design options offered to prospective home buyers.

§ 51.24. Water Purveyors.

Water purveyors operating within the city limits shall be required to implement programs, such as leak detection surveys and repair programs and stabilizing and equalizing system pressure to limit water waste.

§ 51.25. Implementation of additional water use reduction measures, ("aquifer risk").

- (A) Implementation of additional water use reduction measures may occur based on consideration of aquifer water quality or on other aquifer, seasonal or weather conditions.
- (B) Whenever the aquifer quality measures thirty percent (30%) TDS above the historical average and above the maximum TDS value for any public supply water well, the City Council, may declare additional measures to protect the aquifer as necessary.
- (C) Regardless of consideration of aquifer quality, in consultation with the Hays Trinity Groundwater Conservation District, Wimberley Water Supply Corporation and/or other authorized water purveyor determine that other aquifer, seasonal, or weather conditions warrant, the City Council may also impose additional restrictions for all water uses.

§ 51.26. Nuisance Declared.

The violation of any part of this chapter is deemed a nuisance which may be abated and enjoined by the city. Any person creating a public nuisance shall be subject to the provisions of the Code of Ordinances of the City of Wimberley and other applicable law governing such nuisances, including reimbursing the City for any costs incurred in removing, abating or remedying such nuisance. The owner of any property where such nuisance has occurred shall be liable to the City for the cost of such abatement, removal or remediation, and shall pay such cost on demand, and the City acting for itself shall have the right to file a lien on the property to secure payment of the cost of such abatement, removal or remediation of the nuisance.

§ 51.27. Presumption and Exception.

For purposes of this chapter, it shall be presumed that the person owning the property on which the violation occurred or in whose name a water meter connection is registered with the water purveyor servicing the property, is the responsible party who has made, caused, allowed or permitted a violation of the provisions of this chapter. Proof that the particular premises had a water meter connection registered in the name of the defendant cited in a criminal or civil complaint filed pursuant to this chapter shall constitute a *prima facie* presumption that the defendant is a person who made, caused, allowed or permitted a violation pursuant to the provisions of this chapter.

§ 51.28. Variance.

- (A) Owners of newly seeded or sodded turf grass and landscaping and new residential and commercial developments may receive a landscape watering permit upon application and approval by the City Administrator allowing for daily watering of the same until the turf grass and landscaping are established, which shall not exceed thirty days.
- (B) A person who is affected by these provisions may seek a variance in the manner set out herein. A person shall request a variance within thirty (30) days of the date a provision becomes apparently applicable to that person's activities and/or properties. For example, a person will have standing to seek a variance within thirty

(30) days following receipt of a formal (citation) or informal notice of violation; prior to a notice of violation; or at the discretion of the City Administrator or his designee when, in the City Administrator's judgment, to deny standing to pursue a variance would clearly deny the applicant an opportunity to have justice and equity done for the applicant's case.

- (C) Time, date, place. A person seeking a variance under these provisions shall make such request in writing to the City Administrator. Such request shall be reviewed by the City Administrator. If the application, on its face, warrants a variance, the City Administrator may grant the request without hearing. Otherwise, the City Administrator shall review such request within thirty (30) days of receipt and shall inform the requestor in writing of the time, date and place for variance hearing if necessary.
- (D) Representation and notice of City's response; First Hearing. The requestor may be represented by a duly authorized representative and may introduce such evidence as the requestor believes to be relevant. The City Administrator shall hear the request. The requestor shall receive written notification by the City Administrator within thirty (30) days of the date of the hearing whether such variance is granted or denied.
- (E) Appeal. In the event the variance is granted, the decision of the City Administrator shall be final. Should the variance be denied, however, the requestor shall have ten (10) days from receipt of the denial of the variance to seek an appeal in writing. Within thirty (30) days of the written request for an appeal from the denial of a variance, the City Council shall hear the appeal. The requestor shall be informed in writing of the time, date and place where such appeal shall be heard. The requestor and/or his authorized representatives may present evidence to the City Council about why such appeal should be granted. The City Council shall make a determination and inform the requestor within ten (10) days of the date of the hearing of the appeal whether the appeal has been granted or denied. The determination of the City Council shall be final and shall be in writing.
- (F) Variance Qualifications. Variances to the regulated activities in this chapter may be issued by the City Administrator provided that the general intent of the provisions of this chapter have been met, and strict compliance with this chapter is proven to be impracticable to accomplish and to cause unnecessary hardship. The criteria to determine hardship shall include, but not be limited to, a showing of level of capital outlay and technical complexity in relation to conservation benefit to be derived, and time and effort required to accomplish compliance with this chapter.
- (G) Variance Criteria. The City Administrator shall also develop specific criteria to be used for the granting of variances from the provisions of this chapter which are appropriate to the provision for which a variance is being sought. Such criteria shall be applied equally to each request for variance under a particular provision. A requestor shall be furnished with the criteria to be utilized by the City Administrator prior to his/her variance application and/or appeal being heard.

§ 51.29. Access to Premises.

The City and its employees shall make every effort to contact the property owner or authorized occupant prior to entering the premises. Authorized persons or agents employed by the City, at all reasonable hours, have access to properties to ascertain if water is being wasted and whether provisions of this chapter have been and are being complied with in all aspects, however, this section does not authorize entry into a residence without consent of the owner or occupant.

§ 51.30. Authorization to Enforce.

The City Administrator is authorized and directed to commence any action, in law or in equity, including the filing of criminal charges deemed necessary for the purpose of enforcing this chapter. The City Administrator may seek civil penalties or impose surcharges as may be allowed by statute and this ordinance and any other legal or equitable relief available under common law or this ordinance, under Chapter 54 of the Texas Local Government Code as it may be amended to address the subject matter of this chapter, or any other applicable city, state or federal code, ordinance, statute, rule or regulation.

§ 51.31 Administrative Action To Abate Violations.

- (A) The City Administrator may proceed administratively to remove an alleged violation of this Chapter by giving notice to the owner of the property where the alleged violation occurred, in accordance with the following procedures:
 - (1) The notice shall inform the property owner of the alleged violation and state that the owner has seven (7) days from receipt of the notice to comply with this Chapter, and if such action is not taken, the City Administrator may, but is not obligated to:
 - (a) authorize that the necessary work be done or improvements made;
 - (b) pay for the expenses incurred in having the work done or improvements made; and
 - (c) charge the expenses to the property owner.
 - (2) Notice must be given personally to the property owner in writing or by certified mail return receipt requested addressed to the owner at the owner's address as recorded in the records of the Hays County Central Appraisal District.
 - (3) If notice by personal service cannot be obtained, the City Administrator may give notice by:
 - (a) publication of the notice, at least once, in a newspaper of general circulation, as defined by Subchapter C, Chapter 2051, Texas Government Code;
 - (b) posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (c) posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

- (4) If notice by letter is mailed to the owner and the U.S. Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected and the notice is considered as delivered.
- (B) If the City incurs expenses for the work done or improvements made, the Council may assess the expenses and create a lien, including possible foreclosure, against the property as follows and in the manner provided by law:
 - (1) The City Administrator shall send a statement of expenses to the owner, requesting that payment be made to the City Secretary within twenty (20) days after receipt of the statement. The expenses to be charged to the owner of the property shall include:
 - (a) the amount paid by the City for the work done or improvements made;
 - (b) the costs of inspection;
 - (c) the costs of providing notice;
 - (d) the costs of identifying and notifying the owner of the property; and
 - (e) any incidental expenses.
 - (2) If the violator does not pay the expenses within twenty (20) days of receipt of the statement, the City Secretary shall file a statement of expenses with the Hays County Clerk, including the owner's name, if known, and the legal description of the property. A lien attaches upon the filing of the expense statement with the Hays County Clerk.
 - (3) The lien is security for the expenses incurred by the City and interest accruing at the rate of ten (10) percent per year on the amount due from the date of payment by the City.
 - (4) The lien is inferior only to tax liens and liens for street improvements.
 - (5) The Council may bring a suit for foreclosure in the name of the City to recover the expenses and interest due.
 - (6) The Council may foreclose the lien in a proceeding brought under the Tax Code, Chapter 33, Subchapter E.
 - (7) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.
- (C) The City, in the notice of violation, may inform the owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without notice may take any action permitted by this Section.

§ 51.32 Abatement of Nuisance or Violation.

- (A) The City Administrator may, without notice, abate the waste of water or other violation of this chapter on any lot parcel, or tract of land, or part thereof, within the City in accordance with the procedures in this Section.
- (B) If the City pays the cost of abating the nuisance or violation, the Council shall assess the expenses and, if necessary, create a lien against the lot or parcel of land, including foreclosure on the property, in the same manner and subject to the same conditions as that described in Section 51.31 of this Chapter.
- (C) Not later than the tenth (10th) day after the date the Council or its designee has abated the nuisance or violation, the City Secretary shall give written notice to the owner of the lot or parcel of land in the manner required by Section 51.31 this Chapter. The notice shall contain:
 - (1) an identification, which is not required to be a legal description, of the property;
 - (2) a description of the violations that occurred on the property;
 - (3) a statement that the City has abated the nuisance or violation; and
 - (4) an explanation of the property owner's right to request an administrative hearing regarding the abatement.
- (D) If, not later than the thirtieth (30th) day after the date of the abatement of the nuisance or violation, the property owner files with the City Administrator a written request for an administrative hearing, the Council shall hold and conduct the hearing.
 - (1) The hearing shall be held no later than the twentieth (20th) day after the filing of the written request for a hearing.
 - (2) At the administrative hearing:
 - (a) parties are not required to follow formal rules of evidence;
 - (b) the owner may testify or present any witnesses or written information relating to the abatement of the nuisance or violation; and
 - (c) the City may call the City Administrator or other individuals deemed appropriate to testify.

§ 51.33. Enforcement.

- (A) Violations. It shall be a violation of this chapter for any person in the corporate limits of the city that receives water service from a water purveyor authorized to supply water within the city limits, to intentionally, knowingly, recklessly or criminally negligently to allow or cause water waste, to allow landscape watering outside the prescribed hours for sprinkling, or to allow or cause any violation of any provision of this chapter.

(B) Penalties; surcharges.

(1) *Criminal.* Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon citation and conviction, shall be punished by a fine not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) for the first offense; a fine not less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00) for the second offense; a fine of not less than four hundred dollars (\$400.00) and not more than five hundred dollars (\$500.00) for the third and additional offenses. If the court determines the offense relates to public health or sanitation, the maximum fine is \$2,000.00, regardless of the number of offenses. Each violation of a particular section of this chapter shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this chapter. All fines collected under this section shall be remitted to the City of Wimberley and used by the City for the furtherance of water conservation programs and to help defray the cost of enforcement of this chapter.

(2) *Civil.* Civil penalties, imposed by courts of competent jurisdiction in civil actions for violations of this chapter, may also be assessed as may be allowed by applicable state law in any amount to be authorized by the State of Texas. Under Chapter 54 of the Texas Local Government Code, the City Council may direct the City Attorney to pursue civil enforcement for injunctive relief and the imposition of up to \$1,000.00 per day civil penalties appropriately imposed by the Court. This statutory remedy is in addition to the City's common law right to bring civil actions for injunctive relief to stop harmful acts, independent of authority found in the Texas Local Government Code.

§ 51.34. Defenses.

- (A) It shall be a defense to prosecution or imposition of fines that landscape watering was performed on any plant or seed planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth, generally three weeks.
- (B) It shall be a defense to prosecution or imposition of fines that landscape watering was performed by a commercial enterprise in the business of growing or maintaining plants for sale, such as plant nurseries; provided, however, that such landscape watering shall be performed solely for the establishment, growth, and maintenance of such plants and not wasted.
- (C) It shall be a defense to prosecution or imposition of fines that landscape watering was performed by a residential or commercial water customer utilizing water from an on-site rain water harvesting system.
- (D) Use of gray water, treated wastewater or reuse water is a defense to prosecution.

Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect.

SECTION 3. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. NO VESTED INTEREST

No person shall acquire any vested interest in this Ordinance or any specific regulations contained herein. This Ordinance and any regulation enacted hereby may be amended or repealed by the City Council in the manner provided by law.

SECTION 5. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 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.

FIRST READING PASSED AND APPROVED this 15th day of January, 2009, by a 5 to 0 vote of the City Council of Wimberley, Texas.

SECOND READING PASSED AND APPROVED this 5th day of February, 2009, by a 5 to 0 vote of the City Council of Wimberley, Texas.

WIMBERLEY, TEXAS

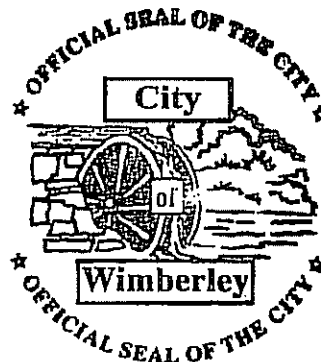
By: Tom Haley
Tom Haley
Mayor

ATTEST:

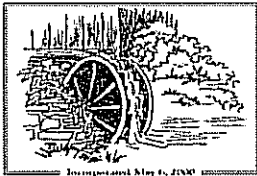
Cara McPartland
Cara McPartland, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby
Carolyn J. Crosby, Assistant City Attorney



City Council Agenda Form



Date Submitted: August 15, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER AMENDMENTS
TO THE CITY'S LANDSCAPING REQUIREMENTS FOR
RESIDENTIAL AND COMMERCIAL PROPERTIES

Funds Required:

Funds Available:

Council Action Requested:

☐ Ordinance

☐ Resolution

☒ Motion

☒ Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Four Council Member Steve Thurber to allow City Council to discuss and consider possible amendments to the City's landscaping requirements for residential and commercial properties. Specifically, Council Member Thurber is interested in prohibiting the planting of *Saint Augustine* grass in the City and requiring new plantings to be drought tolerant.

Attached is a copy of the City's landscape requirements from the City code.

§ 154.066 SANITARY SEWER SYSTEM.

(A) *Sanitary sewer system required.* Subdividers shall be responsible for providing an approved public sanitary sewer system, consistent with the Comprehensive Plan, throughout the entire subdivision such that all lots, parcels, or tracts of land will be capable of connecting to the sanitary sewer system except as otherwise provided herein. Where an approved public sanitary sewer collection main or outfall line is within reasonable distance of the subdivision as determined by the Commission, but in no case less than 1/2 mile away, and connection to the system is both possible and permissible, the subdivider shall be required to bear the cost of connecting his or her subdivision to the existing sanitary sewer system. The design and construction of a public sanitary sewer system shall comply with regulations covering extension of public sanitary sewer systems adopted by the state Natural Resource Conservation Commission. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.

(B) *General sanitary sewer system design.* All new public sanitary sewer systems shall be designed and constructed to operate on a gravity flow basis by taking advantage of natural topographic conditions and thereby reducing the need for lift stations and force mains. All treated sewage effluent from centralized systems shall be disposed of by land application and not point discharge to drainage channels in the watershed.

(Ord. 2001-014, § 35020, passed 9-20-2001) Penalty, see § 154.999

§ 154.067 LANDSCAPING AND BUFFERING; SCREENING.

(A) Purpose.

(1) For the purpose of providing for the orderly, safe, attractive, and healthful development of land located within the community and promoting the health, safety, and general welfare of the community, it is deemed necessary to establish requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties. These provisions are exclusive of detached single-family and 2-family residences, except as described in division (D)(1) of this section. The regulations contained herein are necessary to enhance the community's ecological, environmental, and aesthetic qualities.

(2) Paved surfaces, automobiles, buildings, and other improvements produce increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff, causing problems from contamination, erosion, and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern. The fact that the use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare, and heat abatement, as well as the preservation of the community's aesthetic qualities, indicates that the use of landscape elements is of benefit to the health, welfare, and general well-being of the community, and, therefore, it is proper that the use of such elements be required.

(3) The city experiences frequent droughts; therefore, it is a purpose of this section to encourage the use of drought-resistant and native plants that do not consume large quantities of water.

(B) Applicability. The requirements and standards for the installation and maintenance of

landscape elements and site improvements as set forth herein shall apply to all developments within the territorial jurisdiction of the city, except that exclusive of division (D)(1) of this section, these provisions shall not apply to single- and 2-family residences. Furthermore, these requirements and standards shall not apply to any structure existing on the effective date of this chapter, except in the event of reconstruction. However, this exemption shall not apply where a detailed development plan is required as a condition of approval granted by the Planning and Zoning Commission or the City Council. All other new development subject to these regulations shall be in full compliance with the provisions of this chapter.

(C) *General requirements.*

(1) *Installation.* All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards.

(2) *Maintenance.* The subdivider or subsequent owners of the landscaped property, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. These areas shall be maintained so as to present a healthy, neat, and orderly appearance at all times and shall be kept free of refuse and debris. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this chapter.

(3) *Irrigation standards.*

(a) One of the following irrigation methods shall be used to ensure survival of the required plant material in landscaped areas:

1. *Drip or leaky-pipe system.* An automatic or manual underground irrigation system in conjunction with a water-saving system such as a drip or leaky pipe system; or

2. *Temporary and above-ground watering.* Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers, and trees, may use a temporary and above-ground system, and shall be required to provide irrigation for the first 3 growing seasons.

(b) Installation of rain and freeze sensors shall be required.

(c) No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

(4) *Planting criteria.*

(a) *Trees.* Trees shall be a minimum of 2 inches in caliper measured 3 feet above finished grade immediately after planting. If trees are proposed that are not chosen from the recommended list provided in Appendix F of Ord. 2001-014, trees shall have an average mature crown greater than 15 feet in diameter. Trees having an average mature crown less than 15 feet in diameter may be substituted by grouping the same so as to create at maturity the equivalent of a 15-foot diameter crown if the drip line area is maintained.

(b) *Shrubs, vines, and ground cover.* Shrubs, vines, and ground cover planted pursuant to this section shall be good, healthy nursery stock. Shrubs must be a minimum of a 1-gallon container size.

(c) *Lawn grass.* Grass areas should be planted in drought-resistant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion.

(d) *Synthetic lawns or plants.* Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this section.

(e) *Architectural planters.* The use of architectural planters may be permitted in fulfillment of landscape requirements.

(f) *Other.* Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.

(5) *Landscape plan requirements.* Prior to preliminary plat approval, or detailed development plan approval if deferral of the plan is permitted, the subdivider shall submit and receive approval of a landscape plan demonstrating compliance with the landscape requirements contained herein. Plans shall show all dimensions, types of materials, width of buffer yards, size and spacing of vegetative materials, and plans for providing water to plants. The plans shall demonstrate that landscaping and buffering materials will:

(a) Abate objectionable noise, light, glare, visual clutter, dust, or loss of privacy; and

(b) Adequately accomplish the purpose for which they were intended.

(D) *Required site landscaping.*

(1) *Landscape area; minimum percentage.*

(a) A minimum percentage of the total lot area of property on which development, construction, or reconstruction occurs after the effective date of this chapter shall be devoted to landscape development in accordance with the following schedule. These requirements shall not apply to the development, construction, or reconstruction of single-family detached or 2-family residential structures except when those structures abut an arterial street.

<i>Required Landscaping Schedule</i>

<i>Required Landscaping Schedule</i>	
<i>Land Use</i>	<i>% Landscaping Required of Constructed Impervious Coverage of the Lot</i>
Industrial or manufacturing	15%
Institutional	15%
Mobile home park	30%
Multi-family structures	30%
Office and professional uses	22%

(b) Exceptions to this division (D) may be granted to require a lesser amount of landscaping, by the Commission, if the aesthetic, buffering, and environmental intent of this chapter is met, and the reduction of the landscape area results in the preservation of a natural feature having comparable value to the reduced landscape requirements.

(2) *Location.* The landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the Commission.

(3) *Credit for trees.* In order to reward the preservation of existing trees, 100% of the crown area of undisturbed existing trees shall be reduced from the landscape area requirements; provided that the area surrounding the tree is left undisturbed and that this area consists of at least 100 square feet but not less than 50% of the crown area.

(4) *Required plantings.* For every 600 square feet of landscape area required by division (D)(1) above, 2 trees and 4 shrubs shall be planted.

(5) *Buffer yards.* Buffer yards shall be required between lots or parcels with uses which differ by more than 1 level of intensity as defined by Chapter 155 of this code.

(6) *Parking lot landscaping; landscape area.* Parking lot landscaping shall be applied to

meet the site landscaping requirements in this division (D).

(a) *Required landscaping.* The parking lot landscape area requirements are based on the percentage of parking located between the building facade and the right-of-way:

1. Less than 25% of the parking located between the building facade and the right-of-way requires 13 square feet of landscaping per parking stall;
2. Between 25% and 75% of the parking located between the building facade and the right-of-way requires 18 square feet of landscaping per parking stall; and
3. Greater than 75% of the parking located between the building facade and the right-of-way requires 23 square feet of landscaping per parking stall.

(b) *Internal parking lot landscaping.*

1. Two trees and 4 shrubs shall be planted for each 600 square feet of required landscape area.
2. All new trees within a parking lot shall be planted in a pervious area of at least 150 square feet and have a minimum dimension of 8.5 feet (such as 8.5 feet by 18 feet). However, up to 20% of the required trees may be planted in islands of at least 25 square feet and have a minimum dimension of 5 feet.
3. To reduce the thermal impact of unshaded parking lots, trees shall be planted throughout parking lots so that no portion of the lot is more than 64 feet away from the trunk of a tree unless otherwise approved by the Commission.

(c) *Parking lot screening.*

1. All parking shall be screened from public rights-of-way and public park areas using a solid screen. The screen shall be at least 36 inches in height, and be achieved through 1 of the following methods:
 - a. A berm having a maximum slope of 33%;
 - b. A planting screen (hedge);
 - c. A wall not exceeding 4 feet in height; or
 - d. A combination of the above.
2. Live screening shall be capable of providing a solid 36-inch screen within 2 years.
3. Screening shall be offset at least 6 feet every 60 linear feet.

(7) *Replacement of trees.* Should a tree die or be removed for which credit has been obtained pursuant to the terms of this section, landscape development sufficient to equal the area credited shall be required. A small tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree in division (D)(3) above is retained.

(E) *Screening requirements.*

(1) *Fences.* Fences shall be constructed in accordance with §§ 151.15 *et seq.* of this code.

(2) *Screening of mechanical equipment.*

(a) Properties which may be viewed from residential uses, streets, or public park areas shall screen all roof, ground, and wall mounted mechanical equipment (such as air handling equipment, compressors, duct work, transformers, and elevator equipment) from view at ground level.

(b) Roof mounted mechanical equipment shall be shielded from view on 4 sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary building. Screening shall result in the mechanical equipment blending in with the primary building, and not appearing separate from the building.

(c) Wall or ground mounted screening shall be constructed of:

1. Planting screens;
2. Brick, stone, or other similar masonry materials;
3. Redwood, cedar, preservative pressure-treated wood, or other similar materials;

and

4. All fence posts shall be rust-protected metal, concrete-based masonry, or concrete pillars.

(d) A variance may be granted in cases with extreme topographic differences.

(3) *Screening of outside storage.*

(a) Outside storage shall be located at the rear of the primary building and shall be screened from public view.

(b) Outside storage shall be screened with a minimum 7-foot tall screen or a screen that is a minimum of 1 foot above the top of the storage materials, whichever is taller. Screening shall be:

1. A masonry wall or other material that is similar to the primary structure;
2. A berm;

3. A planting enclosure of large evergreen shrubs planted a maximum of 4 feet apart that shall create a solid screen to a minimum height of 7 feet within 2 years as determined by a registered landscape architect, certified nurseryperson, or master gardener, or as determined by the Director; or

4. A combination of the above.

(4) *Screening of waste containers.*

(a) Waste containers shall be located on the side or rear of the building and screened from public view.

(b) Waste containers shall be located outside of the required building setback areas, and, when adjacent to residentially zoned property, must be located at least 50 feet away from residential property lines.

(c) Waste containers shall be screened on 4 sides, using an enclosure that is 7 feet tall or of a height that is a minimum of 1 foot above the top of the dumpster, whichever is taller. Screening shall be comprised of:

1. Brick, stone, or other similar masonry materials that have a similar finish to the primary finish;

2. Redwood, cedar, preservative pressure-treated wood, or other similar materials;

3. Large shrubs planted 4 feet on center and staggered 30 to 36 inches. Shrubs shall be watered with an irrigation system;

4. All fence posts shall be rust-protected metal, concrete-based masonry, or concrete pillars; and

5. Six-inch concrete filled steel pipes shall be located to protect the enclosure from truck operations.

(d) Waste container enclosures shall have steel framed gates and tiebacks to secure them in an open position, and fasteners to keep them closed.

(e) Waste container screening shall be maintained at all times.

(f) All enclosures to be 7 feet tall or greater must use protective steel poles in corners and at possible impact areas; minimum 6-inch reinforced slab, sloped to drain; and gate with spring loaded hinges, or equivalent.

(5) *Screening of loading docks.* These standards shall apply to all sites with loading docks in non-industrially zoned districts:

(a) Loading and service areas shall be located at the side or rear of buildings;

(b) Off-street loading areas shall be screened from view of any street or adjacent property;

(c) Loading areas shall be enclosed on 3 sides by a wall or other screening device not less than 8 feet in height;

(d) Loading areas shall not be located closer than 100 feet to any single-family lot, unless wholly within an enclosed building; and

(e) Screening materials shall be comprised of:

1. A wall that has a similar finish to the primary structure; or

2. A combination of trees and shrubs that will result in solid screening within 2 years as determined by a registered landscape architect, certified nurseryperson, or master gardener, or as determined by the planning staff.
(Ord. 2001-014, § 37000, passed 9-20-2001) Penalty, see § 154.999

§ 154.068 MONUMENTS AND CONTROL POINTS.

Subdivisions and specific points therein shall be marked as follows.

(A) Standard monuments as shown in Appendix H of Ord. 2001-014 shall be placed at 4 corners of the subdivision. Where boundaries are comprised of curves, the point of curvature (P.C.) and point of tangency (P.T.) shall be monumented. All monuments shall be designed and installed as indicated in Appendix H. At least 2 corners must have at least 2 reference points established with tie distances not to exceed 250 feet.

(B) Iron pins or pipes at least 1/2 inch in diameter and at least 24 inches in length shall be placed as shown in Appendix H of Ord. 2001-014 at all block corners, P.C.s, and P.T.s along the dedicated street right-of-way and at all lot corners. These markers are not required to be encased in concrete monuments. Where conditions prevent the placement of iron pins or pipes, other monumentation such as drill holes; chiseled marks in stone, concrete, or steel; punch marks; precast bronze or aluminum discs; and the like, placed on objects of a stable and permanent nature, shall be installed. Where rocky or caliche soils prevent specified lengths of iron pins or pipes, the rod shall be of a length so as to be driven to refusal at such depth where it will remain stable against an applied force from any direction of approximately 10 pounds, for a duration in time of at least 10 seconds.

(C) One permanent benchmark shall be designed and installed as shown in Appendix H of Ord. 2001-014, and shall be referenced to the U.S. Geological Survey Datum (mean sea level) and the state plane coordinate system. The Director may waive the requirement for installation of a benchmark for subdivisions smaller than 50 acres when at least 2 benchmarks are located within 1/2 mile of the subdivision boundaries.

(D) All required monuments, markers, and the benchmark shall be in place prior to acceptance of any street improvements.
(Ord. 2001-014, § 43000, passed 9-20-2001) Penalty, see § 154.999

OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 154.080 GENERAL DESIGN STANDARDS.

(A) All off-street parking spaces shall be located outside of required landscape areas and behind front building lines.

(B) Off-street parking facilities shall be provided for any new building constructed and for any new use established. Off-street parking facilities shall be provided for any addition or enlargement of an existing building or use, or any change of occupancy or manner of operation that would result in additional parking spaces being required. Provided, however, if insufficient parking exists on a tract or lot, then the number of spaces required to meet the needs of both the existing and new buildings shall

§ 154.066 SANITARY SEWER SYSTEM.

(A) *Sanitary sewer system required.* Subdividers shall be responsible for providing an approved public sanitary sewer system, consistent with the Comprehensive Plan, throughout the entire subdivision such that all lots, parcels, or tracts of land will be capable of connecting to the sanitary sewer system except as otherwise provided herein. Where an approved public sanitary sewer collection main or outfall line is within reasonable distance of the subdivision as determined by the Commission, but in no case less than 1/2 mile away, and connection to the system is both possible and permissible, the subdivider shall be required to bear the cost of connecting his or her subdivision to the existing sanitary sewer system. The design and construction of a public sanitary sewer system shall comply with regulations covering extension of public sanitary sewer systems adopted by the state Natural Resource Conservation Commission. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.

(B) *General sanitary sewer system design.* All new public sanitary sewer systems shall be designed and constructed to operate on a gravity flow basis by taking advantage of natural topographic conditions and thereby reducing the need for lift stations and force mains. All treated sewage effluent from centralized systems shall be disposed of by land application and not point discharge to drainage channels in the watershed.

(Ord. 2001-014, § 35020, passed 9-20-2001) Penalty, see § 154.999

§ 154.067 LANDSCAPING AND BUFFERING; SCREENING.

(A) *Purpose.*

(1) For the purpose of providing for the orderly, safe, attractive, and healthful development of land located within the community and promoting the health, safety, and general welfare of the community, it is deemed necessary to establish requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties. These provisions are exclusive of detached single-family and 2-family residences, except as described in division (D)(1) of this section. The regulations contained herein are necessary to enhance the community's ecological, environmental, and aesthetic qualities.

(2) Paved surfaces, automobiles, buildings, and other improvements produce increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff, causing problems from contamination, erosion, and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern. The fact that the use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare, and heat abatement, as well as the preservation of the community's aesthetic qualities, indicates that the use of landscape elements is of benefit to the health, welfare, and general well-being of the community, and, therefore, it is proper that the use of such elements be required.

(3) The city experiences frequent droughts; therefore, it is a purpose of this section to encourage the use of drought-resistant and native plants that do not consume large quantities of water.

(B) *Applicability.* The requirements and standards for the installation and maintenance of

landscape elements and site improvements as set forth herein shall apply to all developments within the territorial jurisdiction of the city, except that exclusive of division (D)(1) of this section, these provisions shall not apply to single- and 2-family residences. Furthermore, these requirements and standards shall not apply to any structure existing on the effective date of this chapter, except in the event of reconstruction. However, this exemption shall not apply where a detailed development plan is required as a condition of approval granted by the Planning and Zoning Commission or the City Council. All other new development subject to these regulations shall be in full compliance with the provisions of this chapter.

(C) *General requirements.*

(1) *Installation.* All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards.

(2) *Maintenance.* The subdivider or subsequent owners of the landscaped property, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. These areas shall be maintained so as to present a healthy, neat, and orderly appearance at all times and shall be kept free of refuse and debris. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this chapter.

(3) *Irrigation standards.*

(a) One of the following irrigation methods shall be used to ensure survival of the required plant material in landscaped areas:

1. *Drip or leaky-pipe system.* An automatic or manual underground irrigation system in conjunction with a water-saving system such as a drip or leaky pipe system; or

2. *Temporary and above-ground watering.* Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers, and trees, may use a temporary and above-ground system, and shall be required to provide irrigation for the first 3 growing seasons.

(b) Installation of rain and freeze sensors shall be required.

(c) No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

(4) *Planting criteria.*

(a) *Trees.* Trees shall be a minimum of 2 inches in caliper measured 3 feet above finished grade immediately after planting. If trees are proposed that are not chosen from the recommended list provided in Appendix F of Ord. 2001-014, trees shall have an average mature crown greater than 15 feet in diameter. Trees having an average mature crown less than 15 feet in diameter may be substituted by grouping the same so as to create at maturity the equivalent of a 15-foot diameter crown if the drip line area is maintained.

(b) *Shrubs, vines, and ground cover.* Shrubs, vines, and ground cover planted pursuant to this section shall be good, healthy nursery stock. Shrubs must be a minimum of a 1-gallon container size.

(c) *Lawn grass.* Grass areas should be planted in drought-resistant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo. Grass areas may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion.

(d) *Synthetic lawns or plants.* Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this section.

(e) *Architectural planters.* The use of architectural planters may be permitted in fulfillment of landscape requirements.

(f) *Other.* Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.

(5) *Landscape plan requirements.* Prior to preliminary plat approval, or detailed development plan approval if deferral of the plan is permitted, the subdivider shall submit and receive approval of a landscape plan demonstrating compliance with the landscape requirements contained herein. Plans shall show all dimensions, types of materials, width of buffer yards, size and spacing of vegetative materials, and plans for providing water to plants. The plans shall demonstrate that landscaping and buffering materials will:

(a) Abate objectionable noise, light, glare, visual clutter, dust, or loss of privacy; and

(b) Adequately accomplish the purpose for which they were intended.

(D) *Required site landscaping.*

(1) *Landscape area; minimum percentage.*

(a) A minimum percentage of the total lot area of property on which development, construction, or reconstruction occurs after the effective date of this chapter shall be devoted to landscape development in accordance with the following schedule. These requirements shall not apply to the development, construction, or reconstruction of single-family detached or 2-family residential structures except when those structures abut an arterial street.

<i>Required Landscaping Schedule</i>	
<i>Land Use</i>	<i>% Landscaping Required of Constructed Impervious Coverage of the Lot</i>
3-family structures	30%
Commercial	15%

<i>Required Landscaping Schedule</i>	
<i>Land Use</i>	<i>% Landscaping Required of Constructed Impervious Coverage of the Lot</i>
Industrial or manufacturing	15%
Institutional	15%
Mobile home park	30%
Multi-family structures	30%
Office and professional uses	22%

(b) Exceptions to this division (D) may be granted to require a lesser amount of landscaping, by the Commission, if the aesthetic, buffering, and environmental intent of this chapter is met, and the reduction of the landscape area results in the preservation of a natural feature having comparable value to the reduced landscape requirements.

(2) *Location.* The landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the Commission.

(3) *Credit for trees.* In order to reward the preservation of existing trees, 100% of the crown area of undisturbed existing trees shall be reduced from the landscape area requirements; provided that the area surrounding the tree is left undisturbed and that this area consists of at least 100 square feet but not less than 50% of the crown area.

(4) *Required plantings.* For every 600 square feet of landscape area required by division (D)(1) above, 2 trees and 4 shrubs shall be planted.

(5) *Buffer yards.* Buffer yards shall be required between lots or parcels with uses which differ by more than 1 level of intensity as defined by Chapter 155 of this code.

(6) *Parking lot landscaping; landscape area.* Parking lot landscaping shall be applied to

meet the site landscaping requirements in this division (D).

(a) *Required landscaping.* The parking lot landscape area requirements are based on the percentage of parking located between the building facade and the right-of-way:

1. Less than 25% of the parking located between the building facade and the right-of-way requires 13 square feet of landscaping per parking stall;
2. Between 25% and 75% of the parking located between the building facade and the right-of-way requires 18 square feet of landscaping per parking stall; and
3. Greater than 75% of the parking located between the building facade and the right-of-way requires 23 square feet of landscaping per parking stall.

(b) *Internal parking lot landscaping.*

1. Two trees and 4 shrubs shall be planted for each 600 square feet of required landscape area.
2. All new trees within a parking lot shall be planted in a pervious area of at least 150 square feet and have a minimum dimension of 8.5 feet (such as 8.5 feet by 18 feet). However, up to 20% of the required trees may be planted in islands of at least 25 square feet and have a minimum dimension of 5 feet.
3. To reduce the thermal impact of unshaded parking lots, trees shall be planted throughout parking lots so that no portion of the lot is more than 64 feet away from the trunk of a tree unless otherwise approved by the Commission.

(c) *Parking lot screening.*

1. All parking shall be screened from public rights-of-way and public park areas using a solid screen. The screen shall be at least 36 inches in height, and be achieved through 1 of the following methods:
 - a. A berm having a maximum slope of 33%;
 - b. A planting screen (hedge);
 - c. A wall not exceeding 4 feet in height; or
 - d. A combination of the above.
2. Live screening shall be capable of providing a solid 36-inch screen within 2 years.
3. Screening shall be offset at least 6 feet every 60 linear feet.

(7) *Replacement of trees.* Should a tree die or be removed for which credit has been obtained pursuant to the terms of this section, landscape development sufficient to equal the area credited shall be required. A small tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree in division (D)(3) above is retained.

(E) *Screening requirements.*

(1) *Fences.* Fences shall be constructed in accordance with §§ 151.15 *et seq.* of this code.

(2) *Screening of mechanical equipment.*

(a) Properties which may be viewed from residential uses, streets, or public park areas shall screen all roof, ground, and wall mounted mechanical equipment (such as air handling equipment, compressors, duct work, transformers, and elevator equipment) from view at ground level.

(b) Roof mounted mechanical equipment shall be shielded from view on 4 sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary building. Screening shall result in the mechanical equipment blending in with the primary building, and not appearing separate from the building.

(c) Wall or ground mounted screening shall be constructed of:

1. Planting screens;
2. Brick, stone, or other similar masonry materials;
3. Redwood, cedar, preservative pressure-treated wood, or other similar materials;

and

4. All fence posts shall be rust-protected metal, concrete-based masonry, or concrete pillars.

(d) A variance may be granted in cases with extreme topographic differences.

(3) *Screening of outside storage.*

(a) Outside storage shall be located at the rear of the primary building and shall be screened from public view.

(b) Outside storage shall be screened with a minimum 7-foot tall screen or a screen that is a minimum of 1 foot above the top of the storage materials, whichever is taller. Screening shall be:

1. A masonry wall or other material that is similar to the primary structure;
2. A berm;

3. A planting enclosure of large evergreen shrubs planted a maximum of 4 feet apart that shall create a solid screen to a minimum height of 7 feet within 2 years as determined by a registered landscape architect, certified nurseryperson, or master gardener, or as determined by the Director; or

4. A combination of the above.

(4) *Screening of waste containers.*

(a) Waste containers shall be located on the side or rear of the building and screened from public view.

(b) Waste containers shall be located outside of the required building setback areas, and, when adjacent to residentially zoned property, must be located at least 50 feet away from residential property lines.

(c) Waste containers shall be screened on 4 sides, using an enclosure that is 7 feet tall or of a height that is a minimum of 1 foot above the top of the dumpster, whichever is taller. Screening shall be comprised of:

1. Brick, stone, or other similar masonry materials that have a similar finish to the primary finish;
2. Redwood, cedar, preservative pressure-treated wood, or other similar materials;
3. Large shrubs planted 4 feet on center and staggered 30 to 36 inches. Shrubs shall be watered with an irrigation system;
4. All fence posts shall be rust-protected metal, concrete-based masonry, or concrete pillars; and
5. Six-inch concrete filled steel pipes shall be located to protect the enclosure from truck operations.

(d) Waste container enclosures shall have steel framed gates and tiebacks to secure them in an open position, and fasteners to keep them closed.

(e) Waste container screening shall be maintained at all times.

(f) All enclosures to be 7 feet tall or greater must use protective steel poles in corners and at possible impact areas; minimum 6-inch reinforced slab, sloped to drain; and gate with spring loaded hinges, or equivalent.

(5) *Screening of loading docks.* These standards shall apply to all sites with loading docks in non-industrially zoned districts:

(a) Loading and service areas shall be located at the side or rear of buildings;

(b) Off-street loading areas shall be screened from view of any street or adjacent property;

(c) Loading areas shall be enclosed on 3 sides by a wall or other screening device not less than 8 feet in height;

(d) Loading areas shall not be located closer than 100 feet to any single-family lot, unless wholly within an enclosed building; and

(e) Screening materials shall be comprised of:

1. A wall that has a similar finish to the primary structure; or

2. A combination of trees and shrubs that will result in solid screening within 2 years as determined by a registered landscape architect, certified nursery person, or master gardener, or as determined by the planning staff.
(Ord. 2001-014, § 37000, passed 9-20-2001) Penalty, see § 154.999

§ 154.068 MONUMENTS AND CONTROL POINTS.

Subdivisions and specific points therein shall be marked as follows.

(A) Standard monuments as shown in Appendix H of Ord. 2001-014 shall be placed at 4 corners of the subdivision. Where boundaries are comprised of curves, the point of curvature (P.C.) and point of tangency (P.T.) shall be monumented. All monuments shall be designed and installed as indicated in Appendix H. At least 2 corners must have at least 2 reference points established with tie distances not to exceed 250 feet.

(B) Iron pins or pipes at least 1/2 inch in diameter and at least 24 inches in length shall be placed as shown in Appendix H of Ord. 2001-014 at all block corners, P.C.s, and P.T.s along the dedicated street right-of-way and at all lot corners. These markers are not required to be encased in concrete monuments. Where conditions prevent the placement of iron pins or pipes, other monumentation such as drill holes; chiseled marks in stone, concrete, or steel; punch marks; precast bronze or aluminum discs; and the like, placed on objects of a stable and permanent nature, shall be installed. Where rocky or caliche soils prevent specified lengths of iron pins or pipes, the rod shall be of a length so as to be driven to refusal at such depth where it will remain stable against an applied force from any direction of approximately 10 pounds, for a duration in time of at least 10 seconds.

(C) One permanent benchmark shall be designed and installed as shown in Appendix H of Ord. 2001-014, and shall be referenced to the U.S. Geological Survey Datum (mean sea level) and the state plane coordinate system. The Director may waive the requirement for installation of a benchmark for subdivisions smaller than 50 acres when at least 2 benchmarks are located within 1/2 mile of the subdivision boundaries.

(D) All required monuments, markers, and the benchmark shall be in place prior to acceptance of any street improvements.
(Ord. 2001-014, § 43000, passed 9-20-2001) Penalty, see § 154.999

OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 154.080 GENERAL DESIGN STANDARDS.

(A) All off-street parking spaces shall be located outside of required landscape areas and behind front building lines.

(B) Off-street parking facilities shall be provided for any new building constructed and for any new use established. Off-street parking facilities shall be provided for any addition or enlargement of an existing building or use, or any change of occupancy or manner of operation that would result in additional parking spaces being required. Provided, however, if insufficient parking exists on a tract or lot, then the number of spaces required to meet the needs of both the existing and new buildings shall

(7) *Ridge development.* A building placed within 100 feet horizontally or 50 feet vertically of a ridge shall be screened by natural and installed vegetation as follows.

(a) The view of the facade and roof of the building shall be screened by natural or installed vegetation by at least 75% of its vertical extent for at least 67% of all horizontal angles of view from below or from other hills.

(b) A landscape plan shall be approved by the city that includes all of the following:

1. The type, size, and location of the natural and installed plant material;
2. Evidence of compliance with division (H)(7)(b)1. of this section;
3. The provisions to ensure the viability of the plant material; and
4. A requirement for perpetual maintenance of the plant material in the landscape plan to become a recorded covenant on the land.

(c) For the purpose of this section the average slope, in percent, may be calculated according to the slope, 2-point surface method or slope, 2-point horizontal method, as defined in § 155.005, where the surface or horizontal distance between elevation points is 50 feet.

(8) *Private roads and driveways.* Private roads and driveways on land where the average slope or building site slope exceeds 15% shall be constructed to have slope not exceeding 15% and shall follow the contours of the land. Bar ditches, culverts, watercourses, detention and retention ponds, and runoff dispersion structures shall be installed as required by the city Surface Drainage Ordinance.

(9) *Definitions.* For the purpose of this division (H), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING HEIGHT. To be established pursuant to the definition of height in § 155.005.

BUILDING SITE. The entire area planned to be disturbed or actually disturbed from its pre-construction or natural condition whether or not part of the area is eventually restored to the pre-construction condition and grade. The area includes porches and decks connected to a building and any area under a roof.

RIDGE. Exists on rising land at the point at least 100 feet above the base of the rise, where the slope changes from 25% or more to 15% or less, and above which there is no further rise of land with slope in excess of 25%. The base of the rise is the point, as the land rises, where the slope becomes 25% or more.

RIDGE LINE. The line along the crest of a hill where the condition of a ridge exists.

private wastewater treatment permit for the proposed use and discharge rate shall be required as a condition for initial zoning or rezoning.

(O) *Commercial landscape regulations.*

(1) *Purpose.* This regulation is adopted to provide for the safe, orderly, and attractive development of commercial property within the community. The provisions contained herein are deemed necessary to promote the business community and enhance the community's ecological, environmental, and aesthetic qualities.

(a) Buildings, paved surfaces, and other developments impact the land by reducing the ability of rainfall to enter the ground water supply and simultaneously produce higher temperatures. Impervious surfaces create greater runoff producing contamination, erosion, and flooding problems. Conversely, plant materials by their transpiration and shade properties have the opposite effects, supporting the natural environment. Proper use of landscape elements can thus help to preserve the natural environment and contribute to the process of air purification, oxygen generation, water absorption, purification, and conservation.

(b) The city is located in an area that experiences frequent drought conditions that can be best tolerated through the proper planning of landscape elements in property development.

(2) *Applicability.* The requirements set forth herein shall apply to all new developments within the city with the exception of property improved with single- and 2-family residences. Builders and developers of residential properties, zoned R-1 - R-5 and RA, are directed to the provisions of division (O)(4) hereof and are encouraged to abide by the provisions of that division. Builders and developers should take note of the impervious cover provisions addressed throughout the development regulations contained in this chapter. The requirements and standards set forth herein shall not apply to existing improved property as it may exist on the date of this enactment, but shall apply to any such structures in which 50% or more of the building is reconstructed or the footprint is expanded by 20% or more.

(3) *General requirements.*

(a) *Installation.* Installation of all required materials shall be in accordance with the Texas Nursery and Landscape Association standards. Landscape plans should rely primarily upon the use of plant species selected from the city's preferred plant list which is published by and available through the civic association, Keep Wimberley Beautiful. These reference materials are available at City Hall.

(b) *Maintenance.* The owner and his or her successors, managers, or agents shall be responsible for the continued maintenance of all landscaped areas. This will include, without limitation, maintaining an orderly and clean appearance without contamination of refuse and debris as well as the timely replacement of all and any dead material that was a part of the original landscape plan for the property.

(c) *Irrigation.* To ensure the survival of newly planted materials the area shall be served by either manual or automatic watering systems. A proper watering plan must be in place for no less than the first 3 years after plant installation. No irrigation plan shall be required for natural or undisturbed areas.

(d) *Planting criteria.* Trees shall be a minimum of 2-inch caliper measured 3 feet above ground level; shrubs, vines, and ground cover shall be at a minimum 1-gallon container size; grasses chosen from available drought hardy species are encouraged.

(e) *Landscape plan.* The owner or his or her agent shall at the time of his or her request for a building permit submit a detailed landscape plan demonstrating compliance with the requirements contained herein. A sample landscape plan is included as Figure 1 in Appendix A of this chapter.

(4) *Required site landscaping.*

(a) *Minimum coverage.* An area equal to the following percentages of impervious cover on the developed site shall be dedicated to meet the minimum area dedicated to landscaping:

1. In the case of common multi-family residential developments, 30%;
2. In the case of office and professional building development, 22%; or
3. In the case of institutional, commercial, or industrial use, 15%.

(b) *Required placement.* Of the above required landscaped area, no less than 50% shall be located between the front property lines and the proposed construction. Corner lots shall be required to include an additional 25% of landscaped area to be located between the improvements and the adjoining side street.

(c) *Required plant material.* For every 600 square feet of landscaped area, 2 trees and 4 shrubs shall be required.

(d) *Replacement of trees.* Should a tree that has been required by this plan die or be removed, it shall be replaced with a tree or trees with equal potential to provide canopy as was true of the plan as submitted.

(e) *Tree credits.* To reward the preservation of existing trees, a credit against the requirements set forth herein equal to 150% of the crown area of undisturbed trees shall be granted.

(f) *Overlay districts.* The provisions of this section notwithstanding, all developments must also comply with the requirements of any designated overlay district that may impact the site.

(5) *Parking lot landscaping.*

(a) *Dominant street parking requirements.* Parking areas located between the building

and the dominant street shall have landscaping requirements that are proportional to the ratio of that front area parking to total area parking. If 25% or less of the parking spaces are located in the dominant street frontage area, 13 square feet of landscaped area per stall will be required; if 26% to 75% of the spaces are located in that area, the requirement shall increase to 18 square feet per stall. In the case where more than 75% of the total parking spaces are located in the dominant street frontage area, the requirement shall increase to 23 square feet of landscaped area per parking stall.

(b) *Internal parking lot landscape requirements.* For every 600 square feet of required landscaped area, 2 trees and 4 shrubs shall be installed. All trees must be planted in pervious areas of at least 150 square feet in size. Trees must be arranged so as to provide maximum shade over the parking areas. No portion of the parking lot should be more than 64 feet distant from the trunk of a tree.

(c) *Parking lot screening.* All parking areas shall be screened by means of a berm, a planted hedge, a wall, or some combination of these items. See Figure 2 in Appendix A of this chapter for an example of this design.

(d) *Overlay districts.* The provisions of this section notwithstanding, all developments must also comply with the requirements of any designated overlay district that may impact the site.

(6) *Screening.*

(a) *Mechanical equipment.* Properties within view of residential areas shall screen all roof, wall, or ground level mechanical equipment. Roof-mounted equipment shall be screened on all 4 sides. Plantings, walls, fences, or a combination of these items may screen ground level equipment.

(b) *Outside storage.* Outside storage locations shall be limited to side or rear yard locations and shall be screened from public view. Screening shall be at least 1 foot taller than the item being screened. The screening may be achieved by dense plantings, a wall or fence that is in keeping with the architecture of the primary structure, or a landscaped berm.

(c) *Waste containers.* All waste containers shall be located in side or rear yard locations and screened from public view. Waste containers must be screened on all 4 sides with an enclosure that is no less than 1 foot taller than the container being screened. The screening material must be a masonry wall, a wooden fence, or densely planted shrubbery that is maintained in a healthy state. All waste container screens shall also be protected with concrete or concrete filled bollards to protect the enclosure from damage by waste removal trucks.

(d) *Loading docks.* Loading docks shall, to the extent possible, be located at the side or rear of buildings. Loading areas shall be screened from the view of the street or adjacent property. Loading areas shall not be located closer than 50 feet to any single-family residential lot, unless the facility is wholly within the structure. Screening may be accomplished with walls, fences, or shrubbery designed to provide 100% screening within 2 years of the construction of the dock.

(7) *Lighting.* Refer to §§ 151.60 *et seq.* governing the nature and extent of outdoor

illumination for the provisions of that enactment as they may apply to overall landscape plans.

(8) *Slope development.* Refer to § 155.078(H) imposing specific requirements for steep slope development for the provisions of that enactment as they may apply to landscape plans for new development.

(9) *Fencing.* Fencing may be an integral portion of a well developed landscape plan. Refer to §§ 151.15 *et seq.* for certain requirements on the erection of new fencing.

(10) *Drainage.*

(a) Management of storm water runoff both during and after construction of a property is of key significance to property owners and their neighbors. The increase in impervious cover that is inherent in any development presents a challenge that can only be managed through careful planning. During construction the use of silt barriers and retention ponds is encouraged. In the post-development phase, as the disturbed areas are re-vegetated, the runoff characteristics may become more normal; however, in some cases the permanent use of retention ponds may be unavoidable.

(b) In the management of storm water runoff, it is often necessary to create drainageways that are permanently affixed to the land. In these cases, the use of natural materials is encouraged. See Figure 3 in Appendix A of this chapter for drawings that highlight the preferred method of constructing these drainageways.

(11) *Hazardous trees.* Dead or diseased plant materials or plants that have been severely damaged by a storm so as to present a hazard to citizens or passersby shall be promptly removed by the owner or tenant. Any tree that is found to be infected or infested with disease such as Oak Wilt shall be promptly removed and disposed of in accordance with the best standards of practice as advanced by the Texas Nursery and Landscape Association (TXNLA). Information from TXNLA is available by mail at the Association's address, 7730 South IH 35, Austin, TX 78745-6698; by telephone at 512-280-5182; by e-mail at info@txnla.org; or at the association's Web site, www.txnla.org.

(12) *Paths, walkways, and retaining walls.*

(a) In the construction of paths and walkways the use of pervious materials, to the maximum extent possible, is encouraged. These materials would include crushed granite, pebbles, tree mulch, and wooden decking. The use of concrete, asphalt, and densely packed caliche is discouraged. Paths and walkways that are designed in a free-form fashion are preferred over geometric layouts. For an example of the desired path and walkway layout, see Figure 4 in Appendix A of this chapter.

(b) Where retaining walls are necessary, construction heights of more than 8 feet are discouraged. If elevation changes require more height than can be achieved in an 8-foot high wall, it is suggested that the terrain be stepped with additional lower height walls placed at 5-foot or more intervals to achieve the overall objective. For examples of desirable retaining wall configurations, please see Figure 5 in Appendix A of this chapter.

(c) When construction plans suggest that retaining walls may be found necessary, one should consult this chapter and comply with the requirements of the steep slope development regulations, division (H) of this section.

(P) Temporary sales and field offices.

(1) Real estate sales offices may be located on-site during residential build-out until 95% of the building permits of the platted lots in the subdivision are issued. Site plan review and approval by the Director, or his or her designee, are required for both permanent (such as subdivisions in which the office model home used as a sales office) and non-permanent (such as trailer or movable building unit) structures to be used as real estate sales offices; issuance of a temporary structure permit by the city is also required for non-permanent structures. The city may, at its option, establish additional rules and procedures for permanent or non-permanent structures to be used as real estate sales offices in residential zoning districts. Adherence to those rules and procedures, if established by the city, shall be the responsibility of the applicant and shall be required as part of a proposed zoning change or development application.

(2) Temporary field or construction office for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work or by order of the Director, or his or her designee. The specific time period allowed shall be specified by the Director or his or her designee upon issuance of a temporary structure permit, and site plan review and approval by the Director or his or her designee is also required. The allowed time period may be extended for an additional 1-year period upon approval of an extension by the Director or his or her designee.

(Ord. 2001-010, § 47, passed 4-1-2001; Am. Ord. 2005-003, passed 2-3-2005) Penalty, see § 155.999

§ 155.079 PERFORMANCE STANDARDS.

(A) In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by county, state, or federal agencies. All uses, including those which may be allowed by WPDD or CUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire or explosive hazard material, toxic and noxious matter, vibration, and glare.

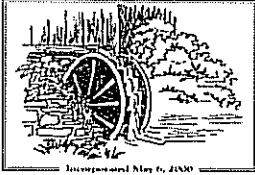
(B) All federal and state pollution, noise, and requirements for toxic waste disposal shall be observed.

(Ord. 2001-010, § 48, passed 4-1-2001) Penalty, see § 155.999

OVERLAY DISTRICTS

§ 155.090 APPLICATION.

City Council Agenda Form



Date Submitted: August 17, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CONSIDER ISSUES
RELATING TO EXISTING COMMUNITY CENTER USE
AGREEMENTS FOR THE LIONS CLUB AND
WIMBERLEY SENIOR CITIZENS ACTIVITIES INC.

Funds Required:

Funds Available:

Council Action Requested:

☐ Ordinance

☐ Resolution

☒ Motion

☒ Discussion

Project/Proposal Summary:

This item was placed on the agenda by Place Three Council Member Bill Appleman to allow City Council to discuss and consider issues relating to the existing Wimberley Community Center agreements for the Wimberley Lions Club and Wimberley Senior Citizens Activities Incorporated.

Attached are copies of those agreements.

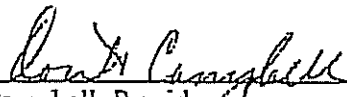
Memorandum of Understanding
between
The Wimberley Lions Club
and
The Village of Wimberley

The Wimberley Lions Club desires to donate \$60,000 toward the construction and furnishing of a commercial kitchen in the proposed Wimberley Community Center.

In recognition of this contribution by the Wimberley Lions Club, the kitchen is to be designated as the "Wimberley Lions Club Kitchen" and the Club will be afforded the use of the Great Hall and the kitchen facility for six consecutive hours on the first and third Tuesday of each month, at a time to be designated by the Club, without charge, for a period of thirty (30) years from the date of the opening of the Great Hall and the kitchen facility. In the event that the Lions Club does not utilize the facilities on the dates and/or times reserved for it, the facilities shall be available to other users.

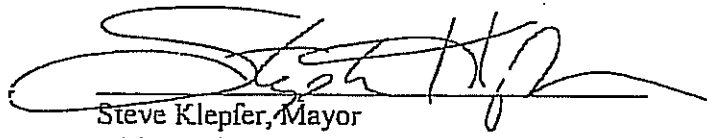
This Agreement is contingent upon the Wimberley Lions Club payment of \$60,000 toward the construction and furnishing of the Community Center and ongoing compliance throughout the term of the Agreement with the Village of Wimberley rules and regulations concerning use and occupancy of the Community Center.

Date: October 17, 2003



Don H. Campbell, President
Wimberley Lions Club

Date: October 26, 2003



Steve Klepfer, Mayor
Village of Wimberley

Memorandum of Understanding
between
Wimberley Senior Citizens Activities, Inc.
and
The Village of Wimberley

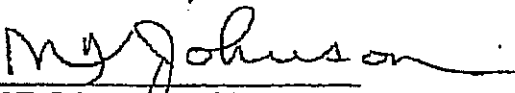
Wimberley Senior Citizens Activities, Inc. ("WSCAI") has led community fundraising efforts to construct a community center for the benefit of the citizens of the Village of Wimberley. These efforts have raised over \$1.5 million dollars in building funds from individual cash donations, numerous successful grant applications that include a \$750,000 matching Texas Parks & Wildlife grant, as well as the WSCAI donation of \$75,500 plus 4.37 acres of land for the community center and the adjoining "Refuge" nature preservation area.

In recognition of these contributions and efforts by WSCAI, the Lounge in the community center is to be designated as the "Wimberley Senior Citizens Activities, Inc. Lounge" and WSCAI will be afforded first use rights to the Lounge in order to carry out the Wimberley Senior Citizen programs and activities, without charge, for a period of thirty (30) years from the date of the opening of the Lounge facility in the Wimberley Community Center. In the event WSCAI does not utilize its right of first use of the lounge, it will be available for other users as requested.

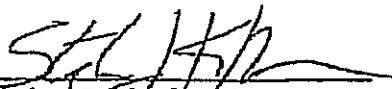
This agreement is contingent upon the construction of the Wimberley Community Center and ongoing compliance throughout the term of the agreement with the Village of Wimberley rules and regulations concerning use and occupancy of the Community Center.

Date: March 3, 2004.

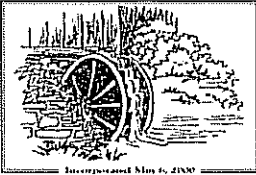
WIMBERLEY SENIOR CITIZENS ACTIVITIES, INC.

By 
M.F. Johnson, President

VILLAGE OF WIMBERLEY

By 
Stephen J. Klepfer, Mayor

City Council Agenda Form



Date Submitted: August 15, 2009

Agenda Date Requested: August 20, 2009

Project/Proposal Title: CITY COUNCIL REPORTS

Funds Required:

Funds Available:

Council Action Requested:

☐ Ordinance

☐ Resolution

☐ Motion

☒ Discussion

Project/Proposal Summary:

This item was placed on the agenda to allow for reports to be presented by the Mayor and members of City Council and for future agenda item requests.