

AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING

TUESDAY, JUNE 14, 2022, 6:00 P.M.

**CITY HALL COUNCIL CHAMBERS
AND UPSTAIRS CONFERENCE ROOM**

701 MAIN STREET, KERRVILLE, TEXAS

The Community Vision

Kerrville will be a vibrant, welcoming and inclusive community that:

- *Respects and protects the natural environment that surrounds it;*
- *Seeks to attract economic growth and development;*
- *Provides opportunities for prosperity, personal enrichment and intellectual growth for people of all ages; and*
- *Does so while preserving the small-town charm, heritage, arts and culture of the community.*



Kerrville2050



CITY COUNCIL MEETING AGENDA
JUNE 14, 2022, 6:00 PM
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS



**Council Meeting Procedures, City Council and City Staff Safety Measures, and
Citizen Participation Guidelines**

COVID-19 (Coronavirus) provides a unique concern in that gathering members of the public, City Council, and City staff within a physical setting constitutes a public health risk. Taking this into account, standard safety protocols will be observed by City Council, City staff, and citizens/visitors attending the meeting. Masks are voluntary and highly encouraged. Visitor seating will be designated.

Citizens may view and hear City Council meetings on Spectrum Channel 2 or by live-streaming via the City's website (www.kerrvilletx.gov). City Council meetings are recorded and the recordings are posted on the City's website.

Citizens wishing to speak during a meeting shall submit a completed "speaker request form" to the City Secretary before the item is introduced, but are encouraged to submit the form before the meetings begin. Each speaker is limited to four minutes.

Thank you for your participation!

CALL TO ORDER: By Mayor Judy Eychner.

INVOCATION AND PLEDGE OF ALLEGIANCE: Led by Councilmember Kim Clarkson.

1 ANNOUNCEMENTS OF COMMUNITY INTEREST: Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.

2 PRESENTATIONS:

2.A. Proclamation recognizing June 2022 as the Great Outdoors Month in Kerrville, Texas.

2.B. Meritorious Award to Kerrville Police Department Officer Jesse Baldwin.

3 VISITORS/CITIZENS FORUM: Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. The speaker request form must be submitted to the City Secretary before the item is called or read into record. City Council may not discuss or take any action on an item but may place the issue on a future agenda. Each speaker is limited to four minutes.

4 CONSENT AGENDA: These items are considered routine and can be approved in one motion unless a Councilmember asks for separate consideration of an item. It is recommended that the City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:

4.A. Agreement between the City of Kerrville, Texas, and Arcadia Live for use of hotel occupancy tax funds for Kerrville's Fourth on the River.

Attachment:

[20220614_Agreement_HOT Funds Arcadia Live for 4th on River.pdf](#)

4.B. Agreement between the City of Kerrville, Texas and High Five Events, LLC for use of hotel occupancy tax funds for the Kerrville Triathlon Festival.

Attachments:

[20220614_Agreement_HOT Funds Kerrville High Five Events for Triathlon.pdf](#)

[20220614_Report_Triathlon Post-Event 2021.pdf](#)

4.C. License Agreement between the City of Kerrville, Texas and Arcadia Live for Kerrville's Fourth on the River.

Attachment:

[20220614_License Agreement_Arcadia Theater 4th on River special event.pdf](#)

- 4.D. License Agreement between the City of Kerrville, Texas and High Five Events for the Kerrville Triathlon Festival.

Attachment:

[*20220614_License Agreement_High Five Events - Triathlon Promoter.pdf*](#)

- 4.E. Resolution No. 34-2022. A Resolution authorizing the use of internal combustion engines on Nimitz Lake upstream of the City's impoundment dam for the Kerrville Triathlon and the safety of competitors.

Attachment:

[*20220614_Reso 34-2022 Internal Combustion Engines on Nimitz Lake for Triathlon.pdf*](#)

- 4.F. City Council workshop minutes held May 24, 2022.

Attachment:

[*20220614_Minutes_CC workshop 5-24-22 4pm.pdf*](#)

- 4.G. City Council meeting minutes held May 24, 2022.

Attachment:

[*20220614_Minutes CC meeting 5-24-22 6pm.pdf*](#)

- 4.H. City Council special-called meeting minutes held May 26, 2022.

Attachment:

[*20220614_Minutes_CC retreat 5-26-22 8am.pdf*](#)

- 4.I. City Council workshop minutes held June 02, 2022.

Attachment:

[*20220614_Minutes_CC and PZ workshop 6-2-22 2pm.pdf*](#)

END OF CONSENT AGENDA.

5 PUBLIC HEARINGS AND RESOLUTIONS:

- 5.A. Resolution No. 28-2022. A Resolution granting a Conditional Use Permit to authorize Short-Term Rental Unit on the property consisting approximately 3.015 acres, being out of the Martinez Survey No. 124, Abstract 247; and more commonly known as 1979 Arcadia Loop S, said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

Attachment:

[*20220614_Reso 28-2022 CUP 1979 Arcadia Loop STR.pdf*](#)

- 5.B. Resolution No. 29-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of Lot 4, Block 14, Westland Addition; more commonly known as 408 Lois; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

Attachment:

[*20220614_Reso 29-2022 CUP 408 Lois STR.pdf*](#)

- 5.C. Resolution No. 30-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of Lot 10, Block 3, Starkey Manor 7 Addition; and more commonly known as 604 Mockingbird: said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Attachment:

[*20220614_Reso 30-2022 CUP 604 Mockingbird STR.pdf*](#)

- 5.D. Resolution No. 31-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lots 14 and 15, Block 2, Hill Crest Addition; and more commonly known as 956 Myrta; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Attachments:

[*20220614_Reso 31-2022 CUP 956 Myrta STR.pdf*](#)

[*20220614_Letter_McGinnis opposed.pdf*](#)

- 5.E. Resolution No. 32-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lots 5 and 6, Block 7, Hill Crest Addition; and more commonly known as 916 Prescott; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Attachments:

[20220614_Reso 32-2022 CUP 916 Prescott STR.pdf](#)

[20220614_Letters - Lightbourn Gheen Lightbourn.pdf](#)

- 5.F. Resolution No. 33-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lot 12, Block 1, Riverhill Las Casitas Addition; and more commonly known as 220 Riverhill Club Ln #12; said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

Attachment:

[20220614_Reso 33-2022 CUP 220 Riverhill Club Ln No12 STR.pdf](#)

6 ORDINANCES, SECOND READING:

- 6.A. Ordinance No. 2022-20, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning of an approximate 7.08 acre property known as 1600 Junction Highway (SH 27); consisting of part of Lot 1, Block 1, of the Foxworth-Galbraith Subdivision; from a Light Commercial Zoning District (C-2) to a General Commercial Zoning District (C-3); and providing other matters relating to the subject.

Attachment:

[20220614_Ord 2022-20 1600 Junction Hwy zone change C3 2nd reading.pdf](#)

- 6.B. Ordinance No. 2022-21, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning of a property known as 400 W. Water; consisting of Lot 8, Block 17, Section B, of the Westland Place Addition; from a Single Family Residential with Accessory Dwelling Unit Zoning District (R-1A) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject.

Attachment:

[20220614_Ord 2022-21 400 W Water zone change RT 2nd reading.pdf](#)

7 BOARD APPOINTMENTS:

- 7.A. Appointments to the Economic Improvement Corporation. (This item is eligible for Executive Session 551.074).

8 EXECUTIVE SESSION: *City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel/officers), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code. City Council also reserves the right to meet in executive session on the following issue(s):*

- 8.A. Appointments to the Economic Improvement Corporation. (551.074).

9 ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:

- 10 ITEMS FOR FUTURE AGENDAS:** *City Council may suggest items or topics for future agendas.*

ADJOURN.



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Proclamation recognizing June 2022 as the Great Outdoors Month in Kerrville, Texas.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: Jun 09, 2022

SUBMITTED BY: Ashlea Boyle

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Proclaiming June 2022 as the Great Outdoors month in Kerrville, Texas.

RECOMMENDED ACTION:

Present proclamation.



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Meritorious Award to Kerrville Police Department Officer Jesse Baldwin.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: Jun 07, 2022

SUBMITTED BY: Chris McCall

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Recognition of heroic and life-saving action by a Kerrville Police Department Officer.

RECOMMENDED ACTION:

Recognition.



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Agreement between the City of Kerrville, Texas, and Arcadia Live for use of hotel occupancy tax funds for Kerrville's Fourth on the River.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: May 16, 2022

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20220614_Agreement_HOT Funds Arcadia Live for 4th on River.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$25,000		\$25,000	20-2000-4320

PAYMENT TO BE MADE TO: Arcadia Live

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists
Action Item	P8.3 - Enhance park programming for public gatherings/events

SUMMARY STATEMENT:

Attached is an agreement between the City of Kerrville and Arcadia Live for use of hotel occupancy tax funds (HOT) for the Robert Earl Keen's Fourth on the River event held on July 4th. The maximum eligible reimbursement is \$25,000. As a reminder, an allocation of HOT funds was approved in the FY22 adopted budget for the following tourism generating events: Robert Earl Keen's Fourth on the River, Kerrville Triathlon Festival, Kerrville River Festival. This event has received HOT support for the past several years and the agreement is consistent with prior years.

RECOMMENDED ACTION:

Authorization for the City Manager to negotiate and execute an agreement.

**AGREEMENT BETWEEN CITY OF KERRVILLE, TEXAS, AND ARCADIA LIVE, INC.
FOR USE OF HOTEL OCCUPANCY TAX FUNDS**

THIS AGREEMENT made and entered into this _____ day of _____, 2022, between the City of Kerrville, Texas, a home rule municipal corporation ("City"), and Arcadia Live, Inc., a Texas nonprofit corporation, ("Arcadia").

WITNESSETH:

WHEREAS, City levies a tax within the City and its extraterritorial jurisdiction upon the occupancy of any room or space furnished by any hotel or motel and, pursuant to the provisions of Chapter 351 of the Texas Tax Code, disperses the proceeds of said tax to various organizations for their use pursuant to Chapter 351; and

WHEREAS Arcadia produces and hosts in conjunction with the City's July 4th fireworks display on July 4, 2022, an Independence Day celebration within Louise Hays Park (the "Event"); and

WHEREAS, Arcadia advertises and promotes the Event in an effort to reach interested persons throughout the state; and

WHEREAS, it is the desire of the parties hereto to combine their efforts for the purpose of attracting tourists to the City so as to promote tourism and the hotel industry in the City;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of Kerrville, Texas, the parties have agreed and do hereby agree as follows:

ARTICLE I

In consideration of Arcadia promoting the City of Kerrville and conducting the event in an effort to attract tourists to both visit and stay in the City, City agrees to pay Arcadia a total sum of up to TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), which Arcadia may use for the following purposes:

- A. Printing of material and other costs directly relating to the advertising and promotion of the Event; and
- B. Such other purposes as may be authorized by Chapter 351 of the Texas Tax Code and the City.

ARTICLE II

Payment of funds shall be on a reimbursable basis. To receive payment, Arcadia shall submit a written request to the City accompanied by a copy of an invoice issued to Arcadia requesting payment for services rendered in furtherance of the purposes set forth in Article I.

Arcadia shall have the discretion to determine how to allocate the funds granted by the City among the permitted uses specified in Chapter 351 of the Texas Tax Code; however, the City's obligation to reimburse Arcadia shall not exceed \$25,000.00.

ARTICLE III

Arcadia understands that the funds paid to Arcadia by the City are derived from tax revenues collected under the City's Hotel Occupancy Tax Ordinance and that the City has estimated the tax revenues to be collected during the term of this Agreement in its budget for the fiscal year 2021-2022. Arcadia further understands, acknowledges, and agrees that if the tax revenues actually collected by the City are less than the estimated tax revenues to be collected during the City's fiscal year 2021-2022, City will be under no obligation to reimburse Arcadia for the full amount set forth in Article I, above.

ARTICLE IV

The term of this Agreement is for a period beginning on June 1, 2022, and ending on July 31, 2022, unless this Agreement is terminated sooner.

ARTICLE V

In conjunction with its request for payment, Arcadia shall provide a written report and full documentation showing the expenditures made pursuant to this Agreement and that the funds provided by City pursuant to this Agreement were used only for the purposes authorized by this Agreement and Texas Tax Code §351.101, as amended. Arcadia shall maintain books of account with correct entries of all expenditures that are made according to the terms of this Agreement and of funds allocated from other sources. Any and all books of account of Arcadia for the event shall be at all times open to inspection by the City or any of its officers or duly authorized agents. Upon such inspection, the City or its officers or agents shall be afforded the opportunity on premises to make photographic copies of any and all documentation of books of account for the event, including but not limited to statements of account relating to the disposition of funds provided by the City under this Agreement and funds allocated from other sources. Arcadia shall maintain these books of account for a period of three (3) years following the expiration of the term for which they are applicable. Notwithstanding Article II, above, City shall be under no obligation to make any reimbursements if the reports required by this Article V have not been delivered to City.

ARTICLE VI

Not later than July 31, 2022, Arcadia shall provide the City Manager with a written report of its accomplishments related to the services provided for herein, including the effectiveness of its advertising and promotions to cause tourists to attend the Event and the outcome of the Event.

ARTICLE VII

This Agreement does not create any joint venture, partnership, or agency relationship between City and Arcadia, it being the intent of the Parties that Arcadia shall at all times be and operate hereunder as an independent contractor. Arcadia shall have exclusive control of, and the exclusive right to control the details of the work to be performed hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of Arcadia's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the City.

ARTICLE VIII

In the event of any default by Arcadia hereunder, including, but not limited to, use of the funds provided herein for purposes other than those stated in Article I, above, City may cease all future payments hereunder and terminate this Agreement. In addition, Arcadia shall, at City's request, refund to City funds that are not spent in accordance with this Agreement and any unspent and unobligated funds previously paid to Arcadia.

ARTICLE IX

ARCADIA AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE CARRYING ON OF WORK OR IN THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER. ARCADIA COVENANTS AND AGREES TO, AND DOES HEREBY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, AND EXPENSES OF ANY CHARACTER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR INCURRED ON ACCOUNT OF ANY INJURIES OR DAMAGES, WHETHER REAL OR ASSERTED, SUSTAINED BY ANY PERSON OR PROPERTY BY OR IN CONSEQUENCE OF ANY INTENTIONAL OR NEGLIGENT ACT, OMISSION, OR CONDUCT OF ARCADIA, ITS AGENTS, SERVANTS OR EMPLOYEES.

ARTICLE X

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

ARTICLE XI

Arcadia shall adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and shall maintain in effect during the term of this

Agreement any and all federal, state and local licenses and permits which may be required of Arcadia generally.

ARTICLE XII

Arcadia may not assign this Agreement without the written consent of the City Manager, or his designee.

ARTICLE XIII

The waiver by City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

ARTICLE XIV

The obligations of the parties to this Agreement are performable in Kerr County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Kerr County, Texas.

ARTICLE XV

This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

ARTICLE XVI

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

ARTICLE XVII

Neither City nor Arcadia shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods, and any other cause not reasonably within the control of City or Arcadia except as herein provided, and which by the exercise of due diligence City or Arcadia is unable, wholly or in part, to prevent or overcome.

ARTICLE XVIII

This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties, which relate to matters in this Agreement.

ARTICLE XIX

Arcadia hereby verifies the following per Section 2270.02, Texas Government Code:

1. Arcadia does not boycott Israel; and
2. Arcadia will not boycott Israel during the term of the Agreement.

ARTICLE XX

Arcadia warrants, covenants, and represents that Arcadia is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

SIGNED AND AGREED by City and Arcadia on the dates indicated below.

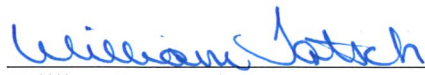
THE CITY OF KERRVILLE

BY: _____
NAME: E.A. HOPPE
TITLE: CITY MANAGER
DATE: _____

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



William L. Tatsch
Assistant City Attorney

ARCADIA LIVE, INC.

BY: _____
NAME: LARRY HOWARD
TITLE: PRESIDENT
DATE: _____

APPROVED AS TO CONTENT:

Ashlea Boyle
Director of Parks & Recreation

APPROVED AS TO FUNDING:

Julie Behrens
Director of Finance



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Agreement between the City of Kerrville, Texas and High Five Events, LLC for use of hotel occupancy tax funds for the Kerrville Triathlon Festival.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: May 16, 2022

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20220614_Agreement_HOT Funds Kerrville High Five Events for Triathlon.pdf](#)
[20220614_Report_Triathlon Post-Event 2021.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$25,000		\$25,000	20-2000-4320

PAYMENT TO BE MADE TO: High Five Events, LLC

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists
Action Item	P8.3 - Enhance park programming for public gatherings/events

SUMMARY STATEMENT:

Attached is an agreement between the City of Kerrville and High Five Events, Inc. for use of hotel occupancy tax funds (HOT) for the Kerrville Triathlon Festival to be held September 24-25, 2022. The maximum eligible reimbursement is \$25,000. As a reminder, an allocation of HOT funds was approved in the FY22 adopted budget for the following tourism generating events: Robert Earl Keen's Fourth on the River, Kerrville Triathlon Festival, Kerrville River Festival. This event has received HOT support for the past several years and the agreement is consistent with prior years.

1,873 triathletes participated in the 2021 Kerrville Triathlon with 127 participants from the Kerrville area. A conservative estimate of economic impact to Kerr County \$1.2MM to \$1.4MM based on visitor counts and identified spending habits during a sporting event. Most participants stayed two nights. An exact number dedicated to the triathlon is not available. The host hotel for the event, Inn of the Hills, sold out three months before the event. Attached is the 2021 post event report.

RECOMMENDED ACTION:

Authorization for the City Manager to negotiate and execute an agreement.

**AGREEMENT BETWEEN CITY OF KERRVILLE AND HIGH FIVE
EVENTS, LLC FOR USE OF HOTEL OCCUPANCY TAX FUNDS**

THIS AGREEMENT made and entered into this ____ day of _____, 2022, between the City of Kerrville, Texas, a home rule municipal corporation ("City"), and High Five Events, LLC, ("HFE").

WITNESSETH:

WHEREAS, the City levies a tax within the City and its extraterritorial jurisdiction upon the occupancy of any room or space furnished by any hotel or motel and, pursuant to the provisions of Chapter 351 of the Texas Tax Code, disperses the proceeds of said tax to various organizations for their use pursuant to Chapter 351; and

WHEREAS, HFE produces and hosts and will continue to do so its Kerrville Triathlon Festival ("Triathlon") in early fall, which consists of a spring distance triathlon and relay, intermediate distance triathlon, half distance triathlon and relay, kids fun run, and a health and fitness exposition; and

WHEREAS, HFE advertises and promotes the Triathlon in an effort to reach interested persons throughout the state; and

WHEREAS, it is the desire of the parties hereto to combine their efforts for the purpose of attracting tourists to the City so as to promote tourism and the hotel industry in the City;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of Kerrville, Texas, the parties have agreed and do hereby agree as follows:

ARTICLE I

In consideration of HFE promoting the City of Kerrville and conducting the Triathlon, the City agrees to pay HFE the total sum of up to TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), which HFE may use for the following purposes:

- A. Printing of material and other costs directly relating to the advertising and promotion of the Triathlon; and

- B. Such other purposes as may be authorized by Chapter 351 of the Texas Tax Code and the City.

ARTICLE II

Payment of funds shall be on a reimbursable basis. To receive payment, HFE must submit a written request to the City accompanied by a copy of an invoice issued to HFE requesting payment for services rendered in furtherance of the purposes set forth in Article I. HFE shall have the discretion to determine how to allocate the funds granted by the City among the permitted uses specified in Chapter 351 of the Texas Tax Code; however, the City's obligation to reimburse HFE shall not exceed \$25,000.00.

ARTICLE III

HFE understands that the funds paid to HFE by the City are derived from tax revenues collected under the City's Hotel Occupancy Tax Ordinance and that the City has estimated the tax revenues to be collected during the term of this Agreement in its budget for the fiscal year 2021-2022. HFE further understands, acknowledges, and agrees that if the tax revenues actually collected by the City are less than the estimated tax revenues to be collected during the City's fiscal year 2021-2022, City will be under no obligation to reimburse HFE for the full amount set forth in Article I, above.

ARTICLE IV

The term of this Agreement is for a period beginning on August 1, 2022, and ending on October 31, 2022.

ARTICLE V

In conjunction with its request for payment, HFE shall provide a written report and full documentation showing the expenditures made pursuant to this Agreement and that the funds provided by City pursuant to this Agreement were used only for the purposes authorized by this Agreement and Texas Tax Code §351.101, as amended. HFE shall maintain books of account with correct entries of all expenditures that are made according to the terms of this Agreement and of funds allocated from other sources. Any and all books of account of HFE for the Triathlon shall be at all times open to inspection by the City or any of its officers or duly authorized agents. Upon such inspection, the City or its officers or agents shall be afforded the opportunity on premises to make photographic copies of any and all documentation of books of account for the Triathlon, including but not limited to statements of account relating to the disposition of funds provided by the City under this Agreement and funds allocated from other sources. HFE shall

maintain these books of account for a period of three (3) years following the expiration of the term for which they are applicable. Notwithstanding Article II, above, City shall be under no obligation to make any reimbursements if the reports required by this Article V have not been delivered to City.

ARTICLE VI

Not later than October 31, 2022, HFE shall provide the City Manager with a written report of its accomplishments related to the services provided for herein, including the effectiveness of its advertising and promotions to cause tourists to attend the Triathlon and the outcome of the Triathlon.

ARTICLE VII

This Agreement does not create any joint venture, partnership, or agency relationship between City and HFE, it being the intent of the Parties that HFE shall at all times be and operate hereunder as an independent contractor. HFE shall have exclusive control of, and the exclusive right to control the details of the work to be performed hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of HFE's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the City.

ARTICLE VIII

In the event of any default by HFE hereunder, including, but not limited to, use of the funds provided herein for purposes other than those stated in Article I, above, City may cease all future payments hereunder and terminate this Agreement. In addition, HFE shall, at City's request, refund to City funds that are not spent in accordance with this Agreement and any unspent and unobligated funds previously paid to HFE.

ARTICLE IX

HFE AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE CARRYING ON OF WORK OR IN THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER. HFE COVENANTS AND AGREES TO, AND DOES HEREBY INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS,

AND EXPENSES OF ANY CHARACTER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR INCURRED ON ACCOUNT OF ANY INJURIES OR DAMAGES, WHETHER REAL OR ASSERTED, SUSTAINED BY ANY PERSON OR PROPERTY BY OR IN CONSEQUENCE OF ANY INTENTIONAL OR NEGLIGENT ACT, OMISSION, OR CONDUCT OF HFE, ITS AGENTS, SERVANTS OR EMPLOYEES.

ARTICLE X

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

ARTICLE XI

HFE shall adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and shall maintain in effect during the term of this Agreement any and all federal, state and local licenses and permits that may be required of HFE generally.

ARTICLE XII

HFE may not assign this Agreement without the written consent of the City Manager, or his designee.

ARTICLE XIII

The waiver by City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

ARTICLE XIV

The obligations of the parties to this Agreement are performable in Kerr County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Kerr County, Texas.

ARTICLE XV

This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

ARTICLE XVI

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

ARTICLE XVII

Neither City nor HFE shall be required to perform any term, condition or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of City or HFE except as herein provided, and which by the exercise of due diligence City or HFE is unable, wholly or in part, to prevent or overcome.

ARTICLE XVIII

This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties, which relate to matters in this Agreement.

ARTICLE XIX

HFE hereby verifies the following per Section 2270.02, Texas Government Code:

1. HFE does not boycott Israel; and
2. HFE will not boycott Israel during the term of the Agreement.

ARTICLE XX

HFE warrants, covenants, and represents that HFE is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

SIGNED AND AGREED by City and HFE on the dates indicated below.

THE CITY OF KERRVILLE

BY: _____
NAME: E.A. Hoppe
TITLE: City Manager
DATE: _____

ATTEST:

Shelley McElhannon, City Secretary

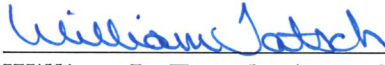
APPROVED AS TO CONTENT:

Ashlea Boyle, Director of Parks and Recreation

HIGH FIVE EVENTS, LLC

BY: _____
NAME: Daniel P. Carroll
TITLE: Managing Partner
DATE: _____

APPROVED AS TO FORM:



William L. Tatsch, Asst. City Attorney

APPROVED AS TO FUNDING:

Julie Berhens, Director of Finance

T:\Legal\PARKS & RECREATION\Special Events (tri, concerts, July 4)\Triathlon\Triathlon 2021\High Five Events, LLC\Triathlon HOT Funds_052022.docx



2021 Post-Event Report

The 10th Annual Kerrville Triathlon Festival was held September 24-26, 2021, and hosted the largest in event history. This professionally organized event is owned and produced by Austin-based High Five Events. The first event took place in 2011 and annually brings a long-course triathlon to the Texas Hill Country. The 2020 event was canceled due to COVID-19. High Five Events and the City of Kerrville aligned to set up the Kerrville Triathlon Festival, a multi-day event that consists of three races in two days. Race weekend also features a two-day Packet Pick Up and Expo, plus a free Kids Fun Run.

The 2021 Kerrville Tri offered three different triathlon distances: Rookie Sprint, Quarter, and Half. Relay options were offered for the Rookie Sprint and Half distances. Aquabike (swim and bike) options were offered for the Rookie Sprint, Quarter and Half distances. Registration fees were \$279 for the Half (\$359 for a three-person relay), \$199 for the Quarter, and \$159 for the Rookie Sprint (\$239 for a three-person relay). Athletes received limited-edition 10th-anniversary inner tubes, tri-blend shirts, reusable bags, commemorative trucker hat, reusable water bottles, Zone3 silicone swim caps, Pint and Plow beer, custom belt buckle finisher's medal, and age-group awards. They could also enjoy a post-race meal of fajitas from H-E-B and various fruits and snacks. The finish line in Louise Hays Park allowed participants and spectators alike the opportunity to float in the Guadalupe River in the custom Kerrville Triathlon inner tubes. Participants also benefit from professional timing and photography. An amazing volunteer crew, thousands of supportive spectators, and an electric finish line festival showcased why the Kerrville Triathlon is one of the best triathlons in Texas.

Awards were given to the top three overall male and female participants and overall Masters male and female participants. Awards were also presented to the top three male and female participants in each age group, starting at 19 and Under and going to 75+ in five year increments.

The swim start and finish and Transition Area #1 (location where bikes are parked during the swim) were located on the grounds of the former Family Sports Center site on SH 27, just north of Guadalupe Street. The swim portion of the event was held in Nimitz Lake. The finish line and Transition Area #2 (location where the bikes are parked during the run) were located on the field at Louise Hays Park. The bike course followed SH 27 to Centerpoint and returned to Kerrville on SH 173 to SH 16. The run portion of the event was held entirely on the Kerrville River Trail.

Shuttle busses transported participants and spectators between the start and finish areas and the downtown parking garage. A finish line festival for participants and spectators took place each day with free food and drinks for participants and volunteers. The event concluded Sunday night with a Volunteer Appreciation Party at Mamacita's restaurant where volunteers received free food and adult beverages.

High Five Events worked closely with the City of Kerrville, Kerr County, and TxDOT throughout the planning process of this event. The Kerrville Police Department and Kerr County Sheriff's Department patrolled all affected traffic right of ways. Various lane closures and alterations took place during this event.

Schedule of Events

- Packet Pick Up and Expo – Friday, September 24th and Saturday, September 25th at the Inn of the Hills Hotel and Conference Center
- Rookie Sprint Triathlon and Kids Fun Run – Saturday, September 25th, 7:30 a.m. – 11:30 a.m.
- Quarter and Half Distance Triathlon – Sunday, September 26th, 7:30 a.m. – 4:30 p.m.

Triathlon Distances

- Rookie Sprint – 300m swim, 14-mile bike, 2-mile run
- Quarter – 1000m swim, 29-mile bike, 6.4-mile run
- Half – 1.2-mile swim, 56-mile bike, 13.1-mile run

Event Data

- 1873 triathletes registered (largest in the history of the event)
- Approximately 125 children participated in the Kids Fun Run
- More than 300 volunteers helped with the event
- Packet Pick Up and Expo had 14 vendors
- Zero ambulance transfers
- 20 states represented at the triathlon
- 127 participants were from the Kerrville area (Kerrville, Hunt, Ingram, Centerpoint)
- Average age: 43
- 58% male, 42% female

A conservative estimate of economic impact to Kerr County \$1.2MM to \$1.4MM based on visitor counts and identified spending habits during a sporting event. Most participants stayed two nights. An exact number dedicated to the triathlon is not available. The host hotel for the event, Inn of the Hills, sold out three months before the event.

Planning for 2022

- The 2022 event will be held September 23 – 25
- 2021 was the fifth and final year of the latest 5-year agreement with the City of Kerrville, TxDOT, and the Inn of the Hills. New five year agreements are being drafted.
- Host hotel is Inn of the Hills
- Registration is currently open
- Continued planning meetings to be held with downtown merchants, sponsors, location hosts, and staff from the City, County, and TXDOT

Photos from 2021 (credit Scott Flathouse)













**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: License Agreement between the City of Kerrville, Texas and Arcadia Live for Kerrville's Fourth on the River.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: May 16, 2022

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20220614_License Agreement_Arcadia Theater 4th on River special event.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
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PAYMENT TO BE MADE TO:

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists
Action Item	P8.3 - Enhance park programming for public gatherings/events

SUMMARY STATEMENT:

Attached is a license agreement renewal between the City of Kerrville and Arcadia Live for use of Louise Hays Park for the annual July 4th celebration. The current agreement expired in 2021. This will again be a multi-year agreement and will expire in 2026. Arcadia Live produce's the event, while the City manages the fireworks and provides in-kind support such as Parks and Recreation, Public Safety, and Public Works personnel, and HOT funding. The City would like to continue working with this organization to provide a quality special event for our community.

RECOMMENDED ACTION:

Authorization for the City Manager to negotiate and execute a license agreement.

LICENSE AGREEMENT FOR SPECIAL EVENT
(Kerrville's 4th on the River)

THIS LICENSE AGREEMENT ("Agreement") is entered into and effective as of the _____ day of _____, 2022, by and between City of Kerrville, Texas ("City"), a Texas home-rule municipal corporation, acting through its City Manager; and Arcadia Live, Inc. ("Arcadia"), a Texas nonprofit corporation, acting by and through its duly authorized officer. Collectively the City and Arcadia may be referred to as the "Parties" and individually as the "Party".

BACKGROUND

WHEREAS, City and Arcadia are working together to produce a July 4th celebration for the citizens of Kerrville and others; and

WHEREAS, this Agreement is intended to formalize the relationship and further illustrate the collaboration between the Parties by setting forth understandings regarding this production and to help ensure the establishment of appropriate safeguards for a safe and successful event; and

WHEREAS, the July 4th celebration to be held primarily within the City's Louise Hays Park, as indicated on the map found at **Exhibit A**, will benefit the public through the offering of entertainment and will encourage tourism and the promotion of the downtown area;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties have agreed as follows:

I. APPOINTMENT OF ARCADIA AS COORDINATOR; LICENSE FOR USE OF CITY PROPERTY

- 1.1** City appoints Arcadia and Arcadia accepts the appointment as the official coordinator of the event known as the Kerrville's 4th on the River, to include securing musical entertainment, food and drink vendors, and the necessary staging, fencing, and booths required for each (the "Event").
- 1.2** City grants Arcadia the right to temporarily use and occupy the City's Louise Hays Park ("Licensed Premises") and the Centennial Stage area within the Licensed Premises for musical performances ("Performance Area") for the Event, subject to the terms and conditions of this Agreement. The term "Licensed Premises" includes and means "Performance Area." The Licensed Premises and Performance Area shall be located as indicated on the map, which is attached as **Exhibit A**. Arcadia shall use the Licensed Premises solely for the operation of this Event and for no other purpose.
- 1.3** Arcadia, at all times, shall control its contractors, agents, representatives, vendors, concessionaires, and volunteers. City may remove any and all such persons from the Licensed Premises who engage in disorderly or unsafe conduct. In the event of the exercise of this authority, Arcadia waives any and all claims for damages against the City and its officers, employees, and agents on account thereof.

II. TERM AND TERMINATION

- 2.1** The term of this Agreement is from the date that this Agreement is signed by both Parties and will continue through August 1, 2026. Pursuant to this Agreement, Arcadia shall have the authority to produce an Event on July 4, 2022, July 4, 2023, July 4, 2024, July 4, 2025, and July 4, 2026, which may include the time necessary for set-up and take down for each Event. Each Party has the right to terminate this Agreement upon providing the nonterminating Party with thirty (30) days written notice of an intent to terminate this Agreement.

III. IMPROVEMENTS

- 3.1** Arcadia shall not construct, or allow to be constructed, any permanent improvements or structures on the Licensed Premises nor shall Arcadia make, or allow to be made, any alterations to the Licensed Premises unless approved by the City Manager or designee ("City Manager").

IV. RULES, REGULATIONS, AND RESPONSIBILITIES

- 4.1** Arcadia shall comply with any request of the City Manager, the City's Park and Recreation Department, the City's Police Department and its officers, and the City's Fire Marshal or designee(s) with respect to the health and safety of the public, including crowd management and control. Contingency plans for security and public services necessary for a larger crowd than anticipated will be discussed and agreed to with the City prior to the Event.
- 4.2** City, to include its City Manager and employees of its Parks and Recreation Department, Police, Fire, EMS, designee(s) and/or other representatives, shall have the right at any time to enter any portion of the Licensed Premises for any purpose. The entrances and exits of the Performance Area will be open or closed under the direction of Arcadia in accordance with the terms of this Agreement and the normal constraints for public safety as solely determined by the City Manager.
- 4.3** Arcadia shall ensure that all pathways, entrances, and points of ingress and egress remain unobstructed and that such is not used for any other purposes other than public ingress or egress.
- 4.4** Arcadia is responsible for providing and installing fencing around the Performance Area, if deemed necessary by Arcadia. If fencing is installed, fencing must include easily removed sections for safety and crowd management purposes. Fencing installation and removal should include a visual inspection of the grounds to remove wire clippings and product(s) that may have become dislodged or dropped during installation. Arcadia shall ensure that any entrance and exit gates to the Performance Area do not impede the public right of ways and will accommodate a smooth and efficient flow of persons without causing undue wait times or conditions that may create crowd assembly.

- 4.5 Arcadia shall not bring or permit anyone to bring or keep anything into the Licensed Premises or Performance Area that will or may increase the fire hazard or adversely affect the Licensed Premises. Arcadia shall not bring any personal property onto the Licensed Premises or place or put up any decorations that may damage Licensed Premises without the consent of the City Manager.
- 4.6 Arcadia shall not admit into the Performance Area more persons than is determined by the City Manager and/or Fire Marshal can safely or freely move about within the Performance Area, and the decision of the City in this respect will be final.
- 4.7 Arcadia shall comply with all rules of the Texas Alcoholic Beverage Commission (TABC) with respect to the sale and consumption of alcohol, to include the receipt of appropriate license(s) for its activities.
- 4.8 Arcadia may permit persons to enter the Licensed Premises with lounge chairs, blankets, towels, or similar products. Arcadia shall take reasonable steps to prohibit and prevent anyone from bringing alcohol or glass containers into the Licensed Premises.
- 4.9 Arcadia shall allow attendees to enter the Licensed Premises with factory sealed water bottles in clear plastic containers. Arcadia shall ensure that this policy is clearly expressed to the public in its marketing and promotion materials prior to the Event and at the entrance to the Licensed Premises.
- 4.10 Arcadia and its contractors, agents, representatives, vendors, concessionaires, and volunteers shall conduct the Event in accordance with federal, state, and local laws, including applicable noise regulations.
- 4.11 Arcadia shall pay all applicable federal, state, and local taxes in connection with the Event and Event performances, exhibitions, or entertainment, and shall furnish City all necessary information in order that City may report the transactions to the proper authorities. Arcadia is responsible for the collection and reporting of all taxes due any governmental entity for the sale of tickets or sale of other taxable items, including vending and concessions. **ARCADIA AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF THE COLLECTION, REPORTING, AND/OR PAYMENT OF TAXABLE SALES OCCURRING IN CONNECTION WITH THE EVENT.**
- 4.12 Arcadia may use and place only temporary advertisements, signs, decorations, posters, banners, inflatable balloons, and displays ("signage") in, on, or about the Licensed Premises. All signage shall be subject to the prior written approval of City. Arcadia agrees to remove and properly dispose of all signage from the Licensed Premises when Arcadia vacates the Licensed Premises.
- 4.13 Arcadia shall establish a first aid/comfort station.
- 4.14 Arcadia should ensure that its vendors have ample water supplies for sale and/or distribution to the public. In addition, Arcadia is encouraged to ensure that an ample

- amount of free public water sources are available as appropriate for the weather conditions existing at the time.
- 4.15 Arcadia is prohibited from selling, distributing, promoting, and/or advertising tobacco or adult-oriented companies, products, or organizations in any manner.
- 4.16 Arcadia shall take all appropriate steps to discourage profanity and obscenity.
- 4.17 Arcadia shall take all appropriate steps to ensure that no activity or method of operation is allowed in, on, or about the Licensed Premises that exposes patrons to nudity or to partial nudity. "Nudity" means total absence of clothing or covering for the human body. "Partial nudity" means exposure of the female breast or the exposure of the male or female pubic area or buttocks.
- 4.18 Arcadia shall take all appropriate steps to ensure that the operation of a massage business, tanning salon, gambling casino, or gambling of any nature does not occur in, on, or about the Licensed Premises.
- 4.19 Discrimination on account of race, color, sex, age, disability, or national origin, directly or indirectly, in employment or in the use of or admission to the Licensed Premises is prohibited.
- 4.20 City shall obtain any required parking permits or street closure permits from the Texas Department of Transportation at least ten (10) days prior to the Event.
- 4.21 Arcadia shall secure and provide information to the public regarding parking and designated ADA parking accommodations.
- 4.22 City shall have final approval for Arcadia's placement of all equipment, stages, portable amenities, and signage ("Event Structures") within the Licensed Premises. Arcadia shall remove all Event Structures from the Licensed Premises on or before the time specified in the Event Plan, as defined in Section V below.
- 4.23 Arcadia shall secure all local and state permits associated with the Event or require its authorized concessionaires and vendors to obtain such permits.
- 4.24 Arcadia shall assign an event coordinator to ensure compliance with this Agreement and provide City with a single point of contact. Arcadia shall provide City with all contact information for the event coordinator, such information to include cell, business, and home telephone numbers and an email address.
- 4.25 Arcadia assumes all liabilities and costs arising from the use of patented, trademarked, or copyrighted materials, equipment, devices, processes, or dramatic and performance rights used on or incorporated in conducting the Event. Arcadia shall ensure that all applicable licensing fees are paid, such as the American Society of Composers, Authors, and publishers (ASCAP) fee. **ARCADIA SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ALL DAMAGES, COSTS, AND EXPENSES IN LAW OR EQUITY FOR OR ON ACCOUNT OF ALL CLAIMS ARISING OUT OF THE USE**

OF ANY PATENTED, TRADEMARKED, OR COPYRIGHTED MATERIALS, EQUIPMENT, DEVICES, PROCESSES OR DRAMATIC AND PERFORMANCE RIGHTS FURNISHED OR USED BY ARCADIA, AND ALL CLAIMS ARISING INCIDENT TO THIS AGREEMENT.

- 4.26 Arcadia shall be responsible for the marketing of the Event and all production costs associated with marketing.
- 4.27 City grants to Arcadia the sole and exclusive right to sell drinks, food, souvenirs, or other merchandise of any sort on the Licensed Premises. Arcadia shall be responsible for recruiting and contracting directly with food, beverage, and merchandise vendors and entertainment and Arcadia shall be responsible for ensuring all associated permits and licenses have been obtained and are current and available for inspection. Arcadia may lease all concession or vending rights to any person or persons, subject to prior, written approval by City. Arcadia shall provide City with a list or copy of permits of all permitted food and beverage vendors for the Event.
- 4.28 Arcadia shall take all appropriate steps to prevent and pick-up litter including efforts to prevent and remove litter from the Licensed Premises and Guadalupe River.
- 4.29 Arcadia is prohibited from selling or using glass containers with respect to the serving of food or beverages or where used on any product, merchandise, and/or novelty item. All cardboard boxes and packaging brought on site shall be broken down and collected for recycling provided by City. Samples, merchandise, and other items for sale should be removed from plastic and/or paper packaging and recycled or disposed of accordingly.
- 4.30 Arcadia, its contractors, agents, representatives, vendors, concessionaires, and volunteers or the patrons attending the Event are prohibited from giving away free samples or merchandise without the prior, written consent of the City Manager.
- 4.31 Arcadia shall be responsible for the creation and distribution of credentials for the Licensed Premises and Performance Area, including the issuance of any parking passes.
- 4.32 City, at its option, may provide fencing for the Event. In addition, and subject to availability of City staff, City may transport and/or install both fencing and vendor booths needed for the Event.
- 4.33 City shall allow Arcadia to make electrical connections to existing electrical service for use by Arcadia during events, including the provision of electricity for the vendors and the entertainment stage. Arcadia should coordinate electrical service directly with the City, KPUB, and licensed electricians. Any electrical or water service required for the Event beyond that which is currently available will be the responsibility of Arcadia.
- 4.34 Arcadia shall be responsible for removing trash during the Event and is responsible for providing, placing, maintaining, and removing trash containers, portable toilets, and grease traps.

- 4.35 Arcadia shall provide portable toilets in an amount not less than 1 per 100 attendees, to be calculated based upon the estimated peak attendance period. In addition, Arcadia shall ensure that at least 10% of portable toilets comply with the ADA. The location of the portable toilets shall be identified in the Event Plan, per Section 5.1. Arcadia shall remove the portable toilets on or before the 6th of July after each Event. Arcadia shall provide separate portable toilets for both entertainer and vendor areas. Arcadia shall ensure that hand sanitation stations are provided. City reserves the right to request and approve adjustments to portable toilet services depending on Event size, scope, and details.
- 4.36 City shall be responsible for street closures and traffic control outside of the Licensed Premises and in accordance with the TxDOT approved traffic control plan.
- 4.37 City shall reserve the Licensed Premises for use in conjunction with the Event.
- 4.38 City shall provide police, fire, and EMS personnel at the event, and shall place at least one (1) ambulance within the Licensed Premises.
- 4.39 Arcadia shall monitor crowd activities, the operation of ticket booths, and the placement, use, and security of any ATM machines.
- 4.40 At least thirty (30) days prior to the Event, Arcadia shall provide notice to the owner and/or manager of Park Lane Apartments regarding the Event, its date and hours.
- 4.41 Arcadia shall include the City of Kerrville as a sponsor of the Event on all press releases, signage, and advertising.

V. EVENT PLAN

- 5.1 Arcadia and City shall develop an event plan ("Event Plan") outlining specific responsibilities of Arcadia and City based upon duties and responsibilities found within this Agreement. The Event Plan must include: a) security; b) location of structures and equipment; c) Event date/times; d) staging date/times; e) breakdown dates/times; f) advertising and signage; g) street and/or lane closures; h) electrical requirements; i) coordination with local businesses; j) press releases; and k) any other logistical or operational requirements. Arcadia shall clearly diagram the location of all vendors and concessionaires on a site plan in a "booth-by-booth" manner.
- 5.2 The Event Plan must be in writing, finalized, and agreed to by Arcadia and City not later than thirty (30) days prior to each Event. Modifications after that date must be in writing and agreed to by the City.

VI. DEFAULT AND REMEDIES

- 6.1 Where a default occurs during the Event that is of a nature that threatens public safety or property damage or is a material breach in the operation of the Event by Arcadia, Arcadia shall cure such default or breach within one hour of the City's verbal notice to Arcadia

through Arcadia's event coordinator. If a breach cannot be cured within one hour, Arcadia shall attempt the cure within one hour and thereafter diligently pursue a remedy.

- 6.2 Upon the occurrence of an event of default as provided, City may, at its option, declare this Agreement, and all rights and interests created by it, terminated. Upon City electing to terminate, this Agreement will cease and come to an end as if that were the day originally fixed for the expiration of the term hereof; or City may, at its option, resume possession of the Licensed Premises.
- 6.3 Any termination of this Agreement does not relieve Arcadia from any claim for damages then or theretofore accruing against Arcadia, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Arcadia for any default. All rights, options, and remedies of City contained in this Agreement shall be cumulative of the other and City shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Agreement. No waiver by City of a breach of any of the covenants, conditions, or restrictions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction.

VII. INDEMNIFICATION

- 7.1 **ARCADIA COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL DEFENSE COSTS, CLAIMS, LIENS, DAMAGES, JUDGMENTS, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND SUITS OF ANY KIND IN LAW OR IN EQUITY AND NATURE ARISING OUT OF OR IN CONNECTION WITH ARCADIA'S USE AND/OR OCCUPANCY OF THE LICENSED PREMISES TO THE EXTENT IT ARISES OUT OF ANY ACT OR OMISSION OF ARCADIA OR ANY OF ARCADIA'S CONSULTANTS, CONTRACTORS, AGENTS, REPRESENTATIVES, VENDORS, CONCESSIONAIRES, VOLUNTEERS, PATRONS, GUESTS, OR INVITEES AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES, INCLUDING ANY DAMAGE TO OR LOSS OF ANY PROPERTY BELONGING TO: (A) ARCADIA OR ARCADIA'S CONSULTANTS, CONTRACTORS, AGENTS, REPRESENTATIVES, VENDORS, CONCESSIONAIRES, VOLUNTEERS, PATRONS, GUESTS, OR INVITEES AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, AND REPRESENTATIVES; OR (B) CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS. THIS INDEMNITY SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM A NEGLIGENT ACT OR OMISSION OR WILLFUL MISCONDUCT OF CITY, ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, EXCEPT TO THE**

EXTENT PROVIDED BELOW. IN THE EVENT ARCADIA AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH TEXAS STATE LAW, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, ITS ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES UNDER TEXAS LAW AND WITHOUT WAIVING ANY OTHER LAWFUL DEFENSES AVAILABLE TO OTHERS.

- 7.2 Arcadia shall promptly advise City in writing of any claim or demand against City or Arcadia known to Arcadia related to or arising out of Arcadia's or City's activities under this Agreement. Further, Arcadia shall see to the investigation and defense of any such claim or demand against Arcadia or City at Arcadia's sole cost until such time as City is found to be negligent by a court of competent jurisdiction. City shall have the right, at its option and at its own expense, to participate in such defense without relieving Arcadia of any of its obligations under this paragraph.
- 7.3 The provisions of this section (and indemnification) are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 7.4 Arcadia and its contractors, agents, representatives, vendors, concessionaires, and volunteers while engaged in the performance of any work required by the City or any work related to this Agreement shall be considered representatives, agents, or volunteers of Arcadia only and not of City. Any and all claims that may result from any obligation for which Arcadia may be held liable under any Workers' Compensation, Unemployment Compensation, or Disability Benefits law or under any similar law on behalf of said representatives, agents, or volunteers shall be the sole obligation and responsibility of Arcadia.
- 7.5 Arcadia assumes the sole risk for all personal property placed within the Licensed Premises. City is not liable and Arcadia waives all claims for any damage either to the person or property of Arcadia and to all others due to the Licensed Premises or appurtenances becoming out of repair or arising from bursting or leaking of water, gas, waste pipes, drainage, flooding, or defective wiring or excessive or deficient electrical current; or from any act or omission of or other occupants of the Licensed Premises, or any other persons; due to the happening of any accident in or about said Licensed Premises. **ARCADIA SHALL SAVE AND HOLD HARMLESS CITY FROM ANY CLAIMS ARISING OUT OF DAMAGE TO ARCADIA'S OR OTHER'S PROPERTY OR DAMAGE TO ARCADIA'S OPERATIONS, SERVICES, AND/OR BUSINESS.**

VIII. INSURANCE REQUIREMENTS

- 8.1 Prior to the commencement of the Event, Arcadia shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City, which shall clearly indicate the Event in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized

by that insurer to bind coverage on its behalf. City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form(s) must have the agent's original signature, including the signer's company affiliation, title, and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. City shall have no duty to perform under this Agreement until such certificate and endorsements have been received and approved by the City. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

- 8.2** The City reserves the right to review the insurance requirements of this section and to modify insurance coverages and their limits when deemed necessary and prudent by the City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding the Agreement, but in no instance will the City allow modification whereupon the City may incur increased risk.
- 8.3** As the Arcadia's financial integrity is of interest to City, therefore, subject to Arcadia's right to maintain reasonable deductibles in such amounts as are approved by City, Arcadia shall obtain and maintain in full force and effect for the duration of the Agreement, at Arcadia's sole expense, insurance coverage written, on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A.M. Best's rating of no less than A-(VII), in the following types and for an amount not less than the amount listed.

TYPE	AMOUNT
1. Commercial General (Public) Liability <ul style="list-style-type: none"> a) Premises/Operations b) Independent Contractors umbrella or excess liability c) road Form Contractual Liability coverage d) Products/completed operations e) Broad form property damage, to include fire legal liability f) Personal Injury g) Host Liquor Liability h) Liquor Legal Liability 	Statutory \$1,000,000/\$1,000,000/\$1,000,000 For Bodily Injury and Property Damage of \$1,000,000 per occurrence, \$2,000,000 general aggregate or its equivalent in
2. Comprehensive Automobile Liability <ul style="list-style-type: none"> a) Owned/Leased Vehicles b) Non-owned Vehicles c) Hired Vehicles 	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent
3. Property Insurance: For physical damage to the property of Arcadia, including improvements and betterment to the Licensed Premises	Coverage for a minimum of eighty percent (80%) of the replacement cost of the Arcadia's property

- 8.4 Arcadia shall provide Host Liquor and Liquor Liability insurance coverage in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, or its equivalent in umbrella or excess liability coverage or require any person or entity that Arcadia has conveyed concession rights for the sale and disbursement of alcoholic beverages, to purchase Liquor Liability insurance and provide a Certificate of Insurance and Endorsement that names the Arcadia and the City as an additional insured.
- 8.5 Arcadia shall obtain General Liability insurance with minimum limits of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate from each vendor or concessionaire sublicensed by Arcadia, and provide a Certificate of Insurance and Endorsement that names Arcadia and City as an additional insured.
- 8.6 City is entitled, upon request and without expense, to receive copies of the policies and all endorsements as they apply to the limits required by City and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation and are binding upon either party or the underwriter of any such policies.
- 8.7 Arcadia agrees that with respect to the above-required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:
- A. Name of City and its elected officials, employees, officers, agents, representatives, and volunteers as additional insureds by endorsement as respects operations and activities of, or on behalf of, the named insured performed under contract with City, with the exception of: the workers' compensation and professional liability policies;
 - B. Provide for an endorsement that the "other insurance" clause shall-not apply to the City where the City is an additional insured shown on the policy;
 - C. Workers' compensation, employers' liability, and property insurance policies will provide a waiver of subrogation in favor of the City; and
 - D. Provide immediate written notice directly to the City of any suspension cancellation, or material change in coverage.
- 8.8 City shall have the option to suspend Arcadia's performance should the required insurance be cancelled or modified during this Agreement. Arcadia's failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement. All notices, replacement certificates of insurance and endorsements shall be delivered to the City to the address indicated below or as may be directed by City.
- 8.9 In addition to any other remedies the City may have upon Arcadia's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City shall have the right to order Arcadia to stop work and vacate the Licensed Premises until Arcadia demonstrates compliance with the requirements hereof.

- 8.10 Nothing herein contained shall be construed as limiting in any way the extent to which Arcadia may be held responsible for payments of damages to persons or property resulting from the performance of work covered under this Agreement by Arcadia or its contractors, agents, representatives, vendors, concessionaires, and volunteers.
- 8.11 Arcadia agrees that its insurance shall be deemed primary and noncontributory with respect to any insurance or self-insurance carried by City for liability arising out of operations under this Agreement.
- 8.12 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

IX. SEPARABILITY

- 9.1 If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event it is the intention of the Parties that the remainder of this Agreement will not be affected; and, it is also the intention of the Parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision may be possible and be legal, valid, and enforceable.

X. NOTICES

- 10.1 Notices to City required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered; mailed, Registered or Certified mail, Postage Prepaid; or faxed to the addresses and telephone number as follows:

City Manager
City of Kerrville
City Hall, 701 Main Street
Kerrville, Texas 78028
FAX (830) 792-5804

Or to such other address as may have been designated in writing by City.

Notices to Arcadia required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered; mailed, Registered or Certified mail, Postage Prepaid; or faxed to the addresses and telephone number as follows:

Arcadia Live, Inc.
717 Water Street
Kerrville, Texas 78028

With a copy to:
John Carlson
Attorney for Arcadia Live, Inc.
717 Sidney Baker
Kerrville, Texas 78028

Or to such other address as may have been designated in writing by Arcadia.

XI. PARTIES BOUND

- 11.1** This Agreement inures to the benefit of and is binding upon the Parties, their respective heirs, legal representatives, successors, and such assigns as have been approved by City.

XII. TEXAS LAW TO APPLY

- 12.1** This Agreement will be construed under and in accordance with the laws of the state of Texas and all obligations of the Parties are performable in Kerr County, Texas.

XIII. RELATIONSHIPS OF PARTIES

- 13.1** Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party as creating the relationship of employer and employee, principal and agent, partners, joint ventures, or any other similar relationship between the Parties.

XIV. GENDER

- 14.1** Any words of gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XV. CAPTIONS

- 15.1** The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.

XVI. ENTIRE AGREEMENT AND AMENDMENT

- 16.1** This Agreement constitutes the entire agreement between the Parties and any other written or oral agreements with City being expressly waived by Arcadia.
- 16.2** No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the Parties hereto.

XVII. AUTHORITY

- 17.1** The signer of this Agreement for Arcadia represents and warrants that he or she has full authority to execute this Agreement on behalf of Arcadia.

(Signatures follow on next page)

SIGNED ON THIS _____ DAY OF _____, 2022.

City of Kerrville, Texas:

Arcadia Live, Inc.:

By: _____
E.A. Hoppe, City Manager

By: _____
Larry Howard, President

ATTEST:

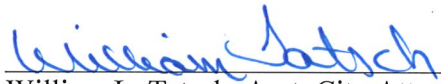
APPROVED AS TO FUNDING:

Shelly McElhannon, City Secretary

Julie Behrens, Director of Finance

APPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:



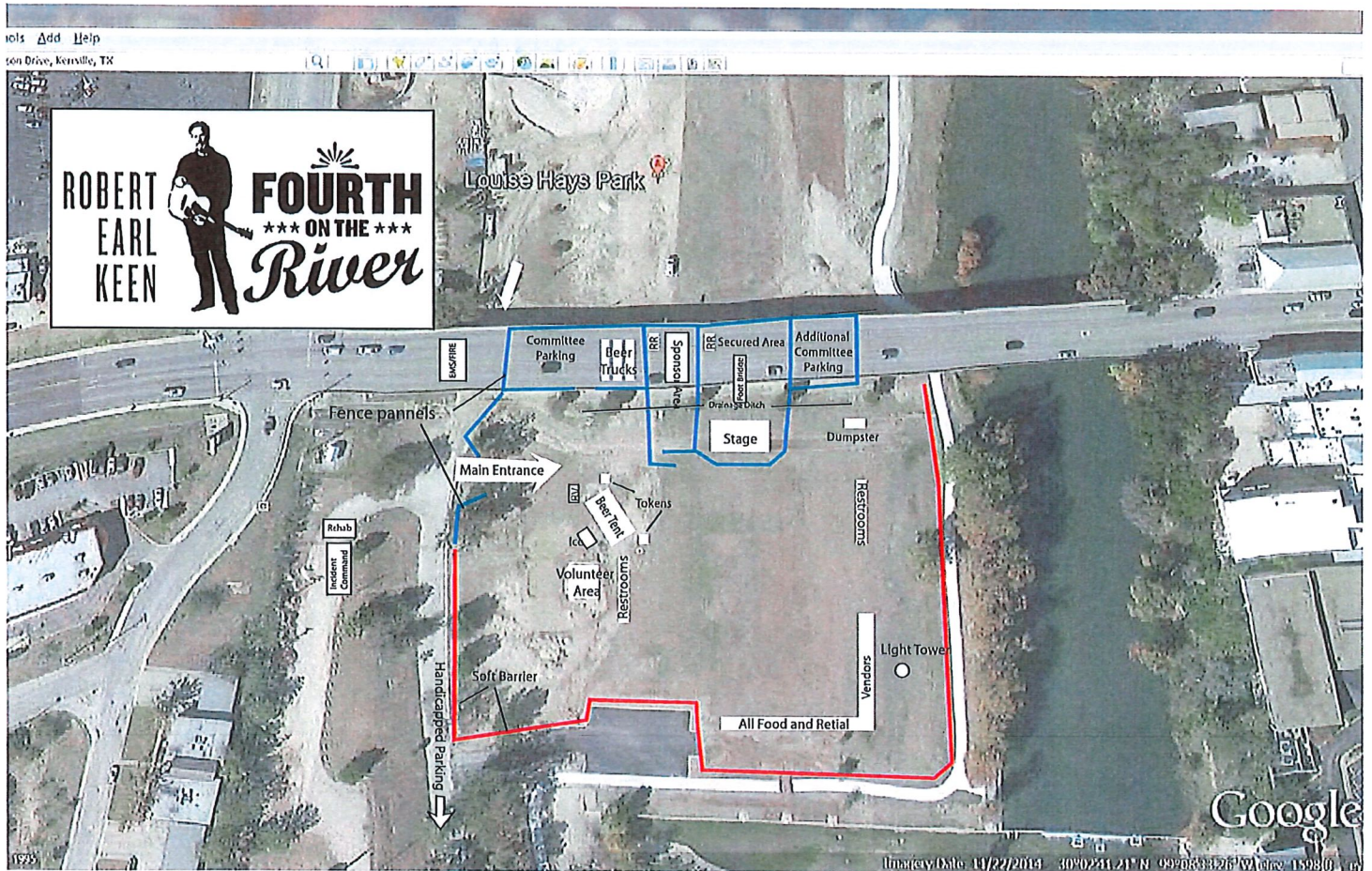
William L. Tatsch, Asst. City Attorney

Ashlea Boyle, Director of Parks and
Recreation

Exhibit A

Map of Louise Hays Park and Licensed Premises

Exhibit A

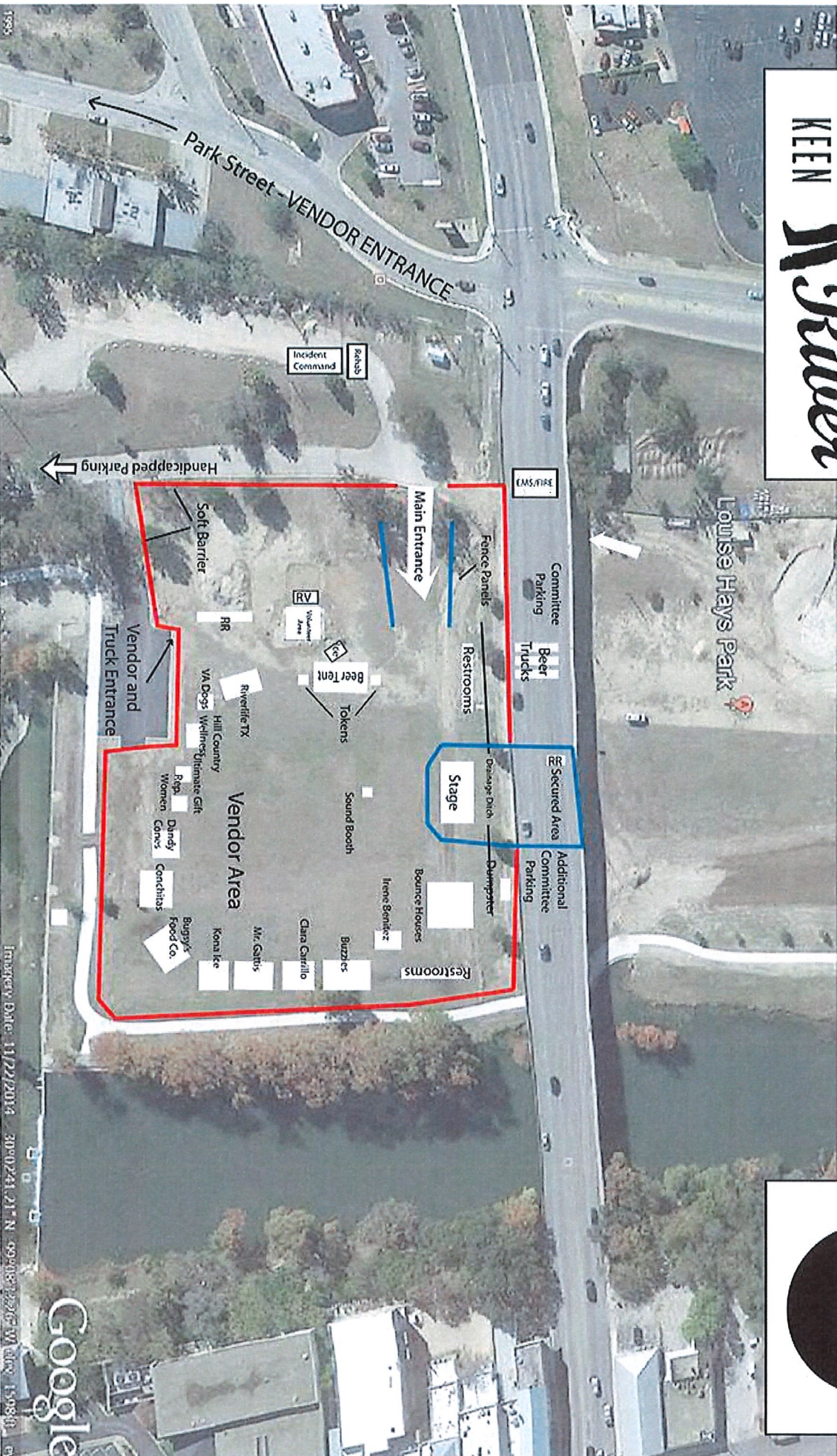


Subject to change



2022 EVENT LAYOUT

Brought to you by





**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: License Agreement between the City of Kerrville, Texas and High Five Events for the Kerrville Triathlon Festival.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: May 16, 2022

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20220614_License Agreement_High Five Events - Triathlon Promoter.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
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PAYMENT TO BE MADE TO:

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists
Action Item	P8.3 - Enhance park programming for public gatherings/events

SUMMARY STATEMENT:

The Kerrville Triathlon Festival, produced by High Five Events in Austin, Texas has been held in Kerrville at the end of September for the past 10 years. This multi-day event consists of several different activities including a sprint distance triathlon, half distance triathlon, quarter distance triathlon, aquabike competition, a free kid's fun run, and a sports exposition. The Guadalupe River, Kerrville River Trail, city streets, and Louise Hays Park are all used in part for this event, thus necessitating a license agreement for use of City property.

The current multi-year agreement for this event expired with the conclusion of the 2021 triathlon in September.

Attached is a draft multi-year agreement that has been negotiated between the City of Kerrville and High Five Events for years 2022-2026. Multi-year agreements are desirable for routine events for efficiency.

RECOMMENDED ACTION:

Authorization for the City Manager to negotiate and execute a license agreement.

**PROMOTER RACING AGREEMENT BETWEEN CITY OF KERRVILLE, TEXAS
AND HIGH FIVE EVENTS, LLC
2022-2026**

This Agreement is entered into this _____ day of _____, 2022, by and between the City of Kerrville, ("City") and High Five Events, LLC (hereinafter referred to as "Promoter").

WHEREAS Promoter desires to produce and conduct a Triathlon and Triathlon-related events on streets located within the municipal boundaries of City; and

WHEREAS City owns, operates and maintains the public streets within the corporate boundaries of the City and possesses the authority to provide the exclusive use of the public rights of way required for the Triathlon Event described herein for limited periods of time at definite locations and retaining the right to revoke the privilege upon certain conditions; and

WHEREAS Promoter desires to stage the Triathlon and Triathlon-related events in a manner that will provide international media exposure to City, attract destination visitors to City during the Triathlon that will result in higher hotel occupancy and restaurant visitation, and generate positive community relations; and

WHEREAS City and Promoter have determined that it is in their mutual interest to permit the production of the Triathlon on streets of City and desire to enter into this Agreement,

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, City and Promoter agree as follows:

1. Definitions.

As used in this Agreement, the terms defined in this Section shall have the following meanings unless the context clearly otherwise requires:

- a. "Agreement" means this Agreement including all exhibits, schedules, amendments, and supplements attached hereto.
- b. "Augmented Triathlon Period" means, the period of time commencing five (5) days before and ending three (3) days after the applicable Triathlon Period in which Promoter shall be allowed to set up and dismantle the facilities and apparatus associated with the Triathlon Event in the Staging Area, including, but not limited to, the route equipment designated for the event.
- c. "City Manager" means the City Manager of the City or his designee.
- d. "City Representatives" means the individuals from the Departments of Parks and Recreation, Public Works, and Police and Fire, who will serve as the points of contact for Promoter on issues related to their respective Departments.

- e. "City Services" means types and levels of services customarily provided by cities hosting similar events, taking into account the size and nature of the crowd and event.
- f. "City Streets" means the streets (including the sidewalks, medians, and landscaping located therein), and other public rights of way owned or leased by City within the Triathlon Area as more fully identified in the Detailed Race Plans.
- g. "Detailed Race Plans" means printed detailed race information, to be prepared by Promoter, which shall include, but not be limited to, route maps, safety matters, security, schedules and procedures for the installation, construction, operation and removal of Triathlon Materials, traffic management, parking management, community relations and notification, services provided by and paid for by Promoter and City pursuant to the Agreement, and other matters mutually determined by Promoter and the City. The Detailed Race Plans, once submitted by Promoter as required by Subsection 5(h), shall be attached to this Agreement as Exhibit A and incorporated herein.
- h. "Effective Date" means the date following the execution of this Agreement by Promoter upon which a representative of the City executes this Agreement.
- i. "Triathlon Area" means the real property area within the Route as set forth in Exhibit A, including but not limited to the City Streets and any adjoining City property on which official Triathlon Event activity will occur or materials reside.
- j. "Triathlon Event" means the Triathlon, Sprint Relay, and Kids Fun Run, and associated health and fitness expo and incidental and related events within the Triathlon Area during the related Triathlon Period. Additional events (such as a bike ride, children's races, and 5K) may be added at Promoter's discretion and in the event added, will be considered part of the applicable Triathlon Event.
- k. "Triathlon Event Damages" means the damages to the Triathlon Area resulting from the Triathlon Event, the repair of which are necessary to return the property to its normal use, including, without limitation, damages caused by Triathlon vehicles, equipment and structures, and generator fuel and oil contamination, but excluding, in any case, normal wear and tear.
- l. "Triathlon Materials" means, without limitation, all equipment, materials, and apparatus associated with the conduct of the Triathlon Event within the Route Area which is provided by Promoter including barriers, barricades, traffic control devices, blockades, cable (electrical and other), safety equipment and devices, fencing, fence covering material, signage, broadcasting equipment, credentials trailer, registration booths, vehicles, tents, cranes, forklifts, fire protection equipment and apparatus, medical equipment and apparatus, bleachers/viewing stands, seats, wiring, banners, structures and components thereof.
- m. "Triathlon Period" means that period of time commencing twenty-four (24) hours preceding and twelve (12) hours following the published start times of the Triathlon Events, or, in the event that adverse weather conditions cause a delay in staging the

related Triathlon Event (with the rescheduling of such Triathlon Event to be on the next available day as determined by Promoter and City, or on such other date as is mutually agreed upon by Promoter and City), ending at twelve (12) hours following the conclusion of such Triathlon Event or at a time mutually agreed upon by Promoter and City.

n. "Moratorium Period" means that period of time commencing twenty-four (24) hours prior to the commencement of the applicable Augmented Triathlon Period and ending with the conclusion of such Augmented Triathlon Period.

o. "Participants" means the organizations and personnel directly involved in the production and carrying out of the Triathlon Event, such as equipment providers, race sponsors, and supporting personnel including contract staff, as well as race participants.

p. "Private Property" means any real property within the Triathlon Area not owned or leased by the City.

q. "Route" means the surface over the specific route through the City Streets over which the Triathlon Event shall be conducted and includes all parts of the Triathlon circuit, the specifics of which may be changed from time to time during contract period with the permission and cooperation of the City.

r. "Spectator" means each person or those people, other than Participants, within the Triathlon Area for the purpose of viewing a Triathlon Event.

s. "Street Repairs" means the restoration and repair determined necessary by the City that must be made to the City Streets, including medians, sidewalks and landscaping after the conclusion of each Triathlon Event in order to return the City Streets to their normal use by the public.

2. Premises.

a. City represents that it has the right and authority to grant the rights and privileges set forth herein, but only with respect to City Streets. City expressly disclaims any authority to affect Private Property rights of property owners or holders of property interests within the Triathlon Area, and this Agreement shall not be otherwise construed to affect the same.

b. None of the rights herein granted to Promoter are, nor shall they be construed as, a lease, easement, or other interest in land.

3. Term of Agreement.

The term of this Agreement shall commence on the Effective Date and cover the 2022-2026 Triathlon Events, terminating after the conclusion of the 2026 Triathlon Event, unless earlier terminated in accordance with Sections 13 or 14 of this Agreement. Any reference herein to the term of this Agreement shall, unless otherwise indicated, mean the term of the original Agreement and any extension thereto.

4. Use and Occupancy; Exclusivity.

Promoter, subject to all of the terms and conditions of this Agreement and to the extent authorized by law, shall have:

- a. During the Augmented Triathlon Period, the exclusive right to install and remove equipment and to construct, place or otherwise locate Triathlon Materials within the Triathlon Area, except for the portions of the Triathlon Area already subject to lease, agreement, other rights extended by the City, or that are Private Property. Motor and pedestrian traffic may be disrupted temporarily during the Augmented Triathlon Period with the prior permission of the City Manager, provided that Promoter provides a traffic barricade plan that meets the approval of the appropriate City departments. Triathlon Materials shall be removed from all areas within the Triathlon Area by the end of the Augmented Triathlon Period.
- b. During each Triathlon Period, commencing with the Triathlon Event in 2022, the exclusive right to produce and conduct the Triathlon Event in the Triathlon Area.

5. Promoter Covenants.

Promoter covenants and agrees that, during the term hereof, it will:

- a. Use the Triathlon Area only for the purposes of the Triathlon Event(s), and other Triathlon-related activities and only at the time and in the places expressly permitted in this Agreement or as otherwise permitted by the City Manager not inconsistent with this Agreement. City reserves and has exclusive rights to the use and occupancy of the City Streets at all times except as expressly permitted to Promoter herein. City shall have the right to permit the use and occupancy of the Triathlon Area on dates other than those provided for in this Agreement for any purpose not inconsistent with this Agreement.
- b. Produce the Events and other Triathlon-related activities with respect to each Triathlon Event in the Triathlon Area each year of the term hereof, on the days and dates as determined hereunder.
- c. Restrict all of its activities under this Agreement to the City Streets and any other property to which, or in which, it secures privileges.
- d. Obtain a release and waiver of liability or an appropriate indemnity agreement in

favor of the City from all registered participants and volunteers.

e. Pay, at its sole expense, the Triathlon Event Damages resulting from each Triathlon Event within 30 days of receiving an invoice from the City.

f. Provide and install at its sole expense the Triathlon Materials not otherwise provided by the City in connection with the City Services.

g. At its sole expense, provide adequate portable toilets and related sanitation services for the use of the Participants and Spectators during each Triathlon Period within the Triathlon Area. Instruct all appropriate parties to take standard industry measures to prevent the spillage of waste or pollutants, including fuel and motor oil, into the storm drains.

h. Submit, no later than July 1 of each Triathlon Event year, Detailed Race Plans for the next scheduled Triathlon Event that will include detailed route maps that include block-by-block locations of music stages, water stations, portable toilets and any other equipment or material brought into the right-of-way expressly for the races. The City will have final approval of the Detailed Race Plans. The deadline for submission of the Detailed Race Plans may be extended by the City in its sole discretion. If the deadline is extended, the deadline for City approval set forth in Section 6(c) shall also be extended accordingly. The Detailed Race Plans shall also include:

1. Traffic Plan. Working in conjunction with City, provide a traffic management plan containing approval from the Texas Department of Transportation, Kerrville Police Department, Public Works, Parks and Recreation and any other necessary entities.

i. Promoter acknowledges that it shall be responsible for providing adequate security, Fire and EMS protection within the Triathlon Area by employing off-duty police officers and for paying the costs of such services in advance of each Triathlon Event. City shall assist Promoter in making the arrangements for such services through Kerrville Police Department and Kerrville Fire Department EMS, however for purposes of the Fair Labor Standards Act (FLSA), City and Promoter shall at all times remain separate and independent employers and Promoter will be billed, in advance, directly from the Kerrville Police Department and Kerrville Fire Department EMS for estimated costs associated with employing personnel for each Triathlon Event.

j. Operate each Triathlon Event in material compliance with all applicable federal, state and City laws and regulations, including applicable zoning ordinances, subject to applicable permits, if any.

k. Not prevent reasonable access to private or public facilities per approved Traffic Plan.

l. Actively facilitate and assist with coordinating all City services including sanitation services, fire and emergency medical related services, law enforcement, Park

and Recreation Department assistance, water services and security services in accordance with this Agreement. A representative of Promoter shall be present at all event coordination meetings as deemed necessary by the City for effective Triathlon Event planning and implementation.

- m. Coordinate with designated City Representative on all efforts for each Triathlon Event.
- n. Submit Shuttle Plan at least 30 days prior to each Triathlon Event to include organization providing said shuttling services.
- o. Provide Emergency Medical Service Plan at least 30 days prior to each Triathlon Event to include entity providing the service and approval from the Kerrville Fire Department.
- p. Obtain a parade permit from the Kerrville Police Department at least 30 days prior to each Triathlon Event.
- q. Submit documentation of written approval verifying use of private and non-city owned facilities/property to be utilized during event (i.e. band/water stations, etc.) to City Representative at least 30 days prior to each Triathlon Event.
- r. Obtain all permits for facility rentals, health, fire, police, electrical, etc. and provide evidence of such permits to City Representative prior to the start of each Triathlon Event.
- s. Be responsible for all expenses associated with Police, Fire, and EMS, required to stage the Triathlon Event to the extent they are required under this Agreement.

6. City Covenants.

City covenants and agrees that, during the term hereof, it will:

- a. Use its best efforts to assist Promoter in obtaining permits and licenses from the City necessary for Promoter to take full advantage of its privileges under the Agreement, upon normal application and qualification by Promoter.
- b. At least sixty (60) days prior to the date of approval of the Detailed Race Plans and continuing until commencement of the Moratorium Period, notify Promoter of planned developments within, on, or adjacent to, the Triathlon Area that may, in the City's reasonable opinion, affect Promoter's planning and staging of any Triathlon Event or other Triathlon related activity. Notwithstanding the foregoing, when City becomes aware of any planned development within, on, or adjacent to, the Triathlon Area that the City believes may affect Promoter's planning and staging of any Triathlon Event, submit nonconfidential information of which it is aware to Promoter.

- c. Approve the Detailed Race Plans, in writing, at least 30 days prior to each Triathlon Event. If necessary, City and Promoter shall work together to revise said Plans in order for City to issue such approval.
- d. Require any essential changes to the Detailed Race Plans, following the approval provided for above, or make additional requirements for any Triathlon Event after reasonable consultation with Promoter.
- e. Appoint City's Representatives for the purpose of facilitating the development of each Triathlon Event. City's Representatives shall be authorized to act on behalf of their respective departments, in order to promptly address issues arising in connection with the Triathlon Event so that the resolution of such issues does not unnecessarily impede the progress of such Triathlon Event.

7. Entry and Inspection.

Notwithstanding any other term or condition of this Agreement, City reserves, and shall have the right at all reasonable times and upon reasonable notice, to enter the Triathlon Area for the purpose of viewing and ascertaining the condition of the same, to protect its interest in the Triathlon Area, to inspect the operations conducted thereon, or for public safety or Triathlon Event management purposes. If the City finds, in its sole discretion, upon such entry or inspection by the City, that the Triathlon Area is not in a safe or satisfactory condition, City shall have the right to cause Promoter to correct any unsafe or unsatisfactory condition created by Promoter or its operation of the Triathlon Area. City emergency vehicles shall have access at all times to the Triathlon Area for the purpose of protecting life and property, and shall use best efforts to coordinate such access with Promoter.

8. Indemnification.

PROMOTER covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to PROMOTER'S activities under this AGREEMENT, including any acts or omissions of PROMOTER, any agent, officer, director, representative, employee, consultant, subcontractor or vendor of PROMOTER, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT PROMOTER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF

TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

PROMOTER shall promptly advise CITY in writing of any claim or demand against CITY or PROMOTER known to PROMOTER related to or arising out of PROMOTER'S activities under this AGREEMENT.

Defense Counsel - CITY shall have the right to approve defense counsel to be retained by PROMOTER in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by CITY in writing. PROMOTER shall retain defense counsel within seven (7) business days of CITY'S written notice that CITY is invoking its right to indemnification under this Agreement. If PROMOTER fails to retain counsel within such time period, CITY shall have the right to retain defense counsel on its own behalf, and PROMOTER shall be liable for all costs incurred by CITY. CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of PROMOTER, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for PROMOTER or any subcontractor under worker's compensation or other employee benefit acts.

9. Insurance

Prior to the commencement of any work under this Agreement, Promoter shall furnish copies of all insurance policies and required endorsements to the City's Parks and Recreation Department. City shall have no duty to pay or perform under this Agreement until such copies of all insurance policies and required endorsements have been received and approved by City's Parks and Recreation. No officer or employee, other than City's Director of General Operations, shall have authority to waive this requirement.

City reserves the right to review the insurance requirements of this Section during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Director of General Operations based upon changes in statutory law, court decisions, or circumstances surrounding this contract. In no instance will City allow modification whereupon City may incur increased risk.

A contractor's financial integrity is of interest to City; therefore, subject to Promoter's right to maintain reasonable deductibles in such amounts as are approved by City, Promoter shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Promoter's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

<u>TYPE</u>	<u>AMOUNT</u>
1. Workers' Compensation Employers' Liability	Statutory \$500,000/\$500,000/\$500,000
2. Commercial General Liability Insurance (Broad Form) to include coverage of limits of \$2,000,000 aggregate with \$1,000,000 per occurrence for the following: a. Premises operations b. Independent contractors c. Products/completed operations d. Personal Injury e. Contractual liability	
3. Business Automobile Liability Insurance with combined single limit coverage of \$500,000. For: (1) Owned/leased vehicles (2) Non-owned vehicles (3) Hired vehicles	

As they apply to the limits required by City, City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Promoter shall be required to comply with any such requests and shall submit a copy of the insurance policy and necessary endorsements to City at the address provided below within 10 days of the requested change. Promoter shall pay any costs incurred resulting from said changes.

City of Kerrville
Attn: Parks and Recreation Department
701 Main Street
Kerrville, Texas 78028

Promoter agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to City where City is an additional insured shown on the policy;
- Workers' compensation, employers' liability, general liability and auto liability policies will provide a waiver of subrogation in favor of City; and
- Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than 10 days advance written notice for nonpayment of premium.

Within 5 days of a suspension, cancellation, or non-renewal of coverage, Promoter shall provide a replacement insurance policy and applicable endorsements to City. City shall have the option to suspend Promoter's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

In addition to any other remedies City may have upon Promoter's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, City shall have the right to order Promoter to stop work hereunder, and/or withhold any payment(s) which become due to Promoter hereunder until Promoter demonstrates compliance with the requirements hereof.

Nothing herein contained shall be construed as limiting in any way the extent to which Promoter may be held responsible for payments of damages to persons or property resulting from Promoter's or its subcontractors' performance of the work covered under this Agreement.

It is agreed that Promoter's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by City for liability arising out of operations under this Agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

10. Triathlon Events.

The dates for each of the Triathlon Events for the years 2022 through the termination of this Agreement, or any extension thereof, shall be:

September 24-25, 2022
September 23-24, 2023
September 28-29, 2024
September 27-28, 2025
September 26-27, 2026

or such other dates as may be mutually agreed upon by the parties.

11. Other Events.

Any other events that Promoter would plan to stage to promote any Triathlon Event would be the sole responsibility and expense of Promoter. Any other events besides the Triathlon Event will require additional permits and/or licenses for those events, i.e. concerts. Any such event to be held on City property shall be subject to Subsection 5(i) of this Agreement. Any such event held on Private Property will be the sole responsibility and expense of Promoter to lease or otherwise contract for the use of that property.

12. Conditions Precedent to Effectiveness of Agreement.

This Agreement shall not be or become effective until the following conditions have been satisfied:

- a. Promoter has signed this Agreement;
- b. An authorized representative of the City has signed this Agreement;

13. Remedies for Breach.

It is understood that the parties shall have the following remedies and rights under this Agreement:

- a. In the event that:
 - (1) Promoter breaches or defaults in the performance or fulfillment of any material term, covenant or condition herein, other than its obligations pursuant to Section 5, contained on its part to be performed or filled and shall fail to cure such breach or default within 30 days following written notification from City to Promoter (or, if Promoter is diligently pursuing a cure, such greater time as may be reasonably necessary to completely cure such breach or default as allowed by City in its sole discretion) specifying the breach or default or defaults complained of and the date on which its rights hereunder will be terminated;

- (2) A petition in bankruptcy is filed by or against Promoter and not released within 60 days thereafter;
- (3) A receiver, trustee in bankruptcy or similar officer is appointed to take charge of Promoter or its property;
- (4) Promoter shall make a general assignment for the benefit of creditors; or
- (5) Promoter or any of its officers are convicted, plead nolo contendere, enter into a formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature, in connection with Promoter's business;

Then the City may, at its sole option, upon written notice to Promoter as provided in Section 17, terminate this Agreement.

b. Any election on the part of City to terminate this Agreement must be in writing, properly executed by City and served upon Promoter. No termination of this Agreement on account of default by Promoter shall be or become effective by operation of law or otherwise, unless and until City shall have given such notice to Promoter, specifying the default and Promoter shall have failed to cure the default so specified within 30 days following said written notice (or, if Promoter is diligently pursuing a cure, such greater time as may be necessary to completely cure such breach or default as is allowed by City in its sole discretion).

c. Promoter may terminate this Agreement upon the material breach or default in the performance or fulfillment of any material term, covenant or condition herein by the City, provided Promoter shall have given notice in writing to the City, specifying the default and City shall have failed to cure the default so specified within 30 days following said written notice (or, if City is diligently pursuing a cure, such greater time as may be necessary to completely cure such breach or default as is allowed by Promoter in its sole discretion).

d. Notwithstanding any other termination provisions herein, City may, in its sole discretion, terminate this Agreement by written notice to Promoter on or before March 1 of any Triathlon Event year, in the event Promoter has failed to make satisfactory progress toward the requirements of Section 5 with respect to the next occurring Triathlon Event, provided City has previously given notice to Promoter of such failure and Promoter shall have failed to cure the failure so specified within 30 days following such notification (or, if Promoter is diligently pursuing a cure, such greater time as may be reasonably necessary to completely cure such failure as allowed by City in its sole discretion) .

e. Notwithstanding anything in this Agreement to the contrary, the parties reserve the right to seek specific performance of this Agreement and either party hereto shall have the right to enjoin any anticipatory repudiation of this Agreement by the other.

14. Right to Terminate for Reasons Other than Breach.

In addition to the right to terminate as set forth in Section 13, and notwithstanding that Promoter is in compliance with all the requirements of this Agreement, the City shall have the right to terminate this Agreement at any time without penalty if the City reasonably determines that the Triathlon Event causes such occurrences as undue public endangerment, loss of Private Property, claims for the denial of access to Private Property, and excessive damage to public right of way. In addition to the rights of Promoter to terminate this Agreement for the reasons set forth herein, if Promoter reasonably determines that the Triathlon Event becomes commercially unfeasible due to the loss of, or inability to gain access to, necessary Private Property, or loss or inability to obtain any necessary permits or schedule any events, Promoter shall have the right to terminate this Agreement without penalty.

15. When Rights and Remedies Not Waived.

In no event shall any performance by either party hereunder constitute or be construed to be a waiver by such party of any breach of term, covenant, or condition or any default which may then exist on the part of the other party, and the rendering of such performance when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the non-breaching party with respect to such breach or default; and no assent, expressed or implied to any breach of any one or more terms, covenants or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

16. Assignment and Subcontracting.

The City is not obligated or liable under this Agreement to any party other than Promoter, and Promoter is not liable under this Agreement to any party other than the City. Promoter understands and agrees that it shall not assign or subcontract with respect to any of its material rights, benefits, obligations or duties as owner, organizer and promoter of the Triathlon under this Agreement except upon prior written consent and approval of the City, which consent or approval may be withheld in the sole discretion of the City. In the event the City consents to an Assignment or subcontract, such action shall not be construed to create any contractual relationship between the City and the assignee or subcontractor, and Promoter shall remain fully responsible to City according to the terms of this Agreement. Notwithstanding any of the foregoing, the sale of the Promoter during the term of this Agreement shall be considered an approved assignment as long as the City reasonably determines, in its sole discretion, that the assignee is able to satisfy the requirements of this Agreement.

17. Notices.

All notices, demands or other communications required or permitted to be given under this Agreement shall be in writing and any and all such items shall be deemed to have been duly delivered upon personal delivery or as of the third business day after mailing by United States mail, certified, return receipt requested, postage prepaid, addressed as follows; or as of 12:00 noon, local time of the recipient, on the immediately following business day after deposit with Federal Express or a similar overnight courier service provides evidence of receipt, addressed as follows:

If to City, to:	City Manager City of Kerrville 701 Main Street Kerrville, Texas 78028
If to Promoter, to:	High Five Events Daniel P. Carroll, Managing Partner High Five Events, LLC 211 E. Alpine Road, Suite 400 Austin, Texas 78704 dan@highfiveevents.com

18. Construction of this Agreement.

- a. Governing Law. Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of any applicable federal, state and local law or regulation. This Agreement shall be governed in accordance with the laws of the State of Texas, which will be controlling in any dispute that arises hereunder.
- b. Venue. Exclusive venue for any litigation related hereto shall occur in Kerr County, Texas.
- c. Paragraph Headings. The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.
- d. Time. The parties agree that in the performance of the terms, conditions and requirements of this Agreement, time is of the essence.
- e. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of Promoter as are permitted to succeed Promoter's rights unto and subject to the terms hereof.
- f. Singular and Plural. Whenever the context shall so require, the singular shall include the plural and the plural shall include the singular.

g. Reasonableness of Consent or Approval. Unless otherwise specifically provided to the contrary, decisions, approvals, permissions or consents shall be made or granted in the reasonable discretion of the party making the same. Further, unless a specific time frame is provided herein, any approval, permission or consent shall not be unreasonably withheld or delayed. Whenever under this Agreement "reasonableness" is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards and business and economic considerations.

h. Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any applicable law, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

i. Survival of Certain Agreement Provisions. The parties understand and agree that all terms, conditions and covenants of this Agreement, together with the exhibits and attachments hereto, if any, any or all of which, by reasonable implication, contemplate continued performance or compliance beyond the expiration or termination of this Agreement (by expiration of the term or otherwise), shall survive such expiration or termination and shall continue to be enforceable as provided herein.

j. Days. Unless specified otherwise in this Agreement, the term "days" shall refer to calendar days.

19. Status of Promoter.

Promoter covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that Promoter shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Promoter, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Promoter. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by Promoter under this Agreement and that Promoter has no authority to bind the City.

20. Legal Authority.

a. Each party assures and guarantees the other that it possesses the legal authority to enter into this Agreement.

b. The person or persons signing and executing this Agreement on behalf of each party do hereby warrant and guarantee that he/she or they have been fully authorized by

the related party to execute this Agreement on behalf of such party and to validly and legally bind such party to all the terms, performances and provisions herein set forth.

c. Each party shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of the other party or the person signing the Agreement to enter into this Agreement.

21. No Third Party Beneficiary.

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to City and Promoter, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person, including, but not limited to subcontractors, sub consultants, and suppliers set forth herein. It is the express intention of City and Promoter that any person or entity other than City or Promoter receiving services or benefits under this Agreement shall be deemed a third party beneficiary. City shall not be liable for payment to any of Promoter's third party beneficiaries.

22. Parties' Obligations with Respect to Confidential Information.

The parties agree that issues governing the use and disclosure of Confidential Information, as defined below, provided to or made available to the City by Promoter will be governed by the following provisions:

a. Definition of Confidential Information. As used in this Agreement, the term "Confidential Information" means all information, of any nature and in any form, regardless of when given, that (i) is disclosed or provided by or through Promoter to the City pursuant to performance of this Agreement, including but not limited to documents referenced in subsection (e) hereof; and (ii) has been clearly marked or indicated in writing as being confidential by Promoter. Information falling within this definition shall be treated by the City as confidential proprietary information of Promoter, subject to the provisions of the Texas Public Information Act and under any court order. Information not so marked or indicated will not be considered to be Confidential Information.

b. Use of Confidential Information. Except as expressly provided in this Agreement or as otherwise mandated by the Texas Public Information Act, or other applicable law, the City will not disclose Confidential Information to anyone without the prior written consent of Promoter. The City will not use, or permit others to use, Confidential Information for any purpose other than actions incidental to the performance and enforcement of this Agreement between the City and Promoter, including but not limited to auditing of records by Promoter by the City Auditor and/or other representatives of the City. The City will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of Confidential Information.

c. Public Records Requests. The parties recognize that the mere marking of a document as "Confidential" does not render it conclusively confidential under the Texas Public Information Act. In the event that the City is served with an open records request or subpoena from any third party requesting all or part of any Confidential Information as defined herein, the City shall give timely notice to Promoter of the request or subpoena within the time parameters of the Texas Public Information Act or of any applicable court rule. Upon receipt of the notice from the City, Promoter may, at its option, immediately seek judicial relief (including, without limitation the issuance of a temporary restraining order) preventing the disclosure of the Confidential Information or make arguments to the Texas Attorney General, as provided for under the Texas Public Information Act and shall defend, save and hold harmless and indemnify the City and its agents and employees with respect to such issues. Promoter's failure to seek judicial relief or to seek a ruling from the Texas Attorney General within 10 days of notice from the City or the failure of Promoter to notify City of such efforts shall entitle the City to disclose the Confidential Information to the person seeking the disclosure.

d. Disclosure Prohibited. Neither party shall, at any time or in any manner, either directly or intentionally by indirect means, divulge, disclose or communicate to any person, firm or corporation in any manner whatsoever any information concerning any matters which are not subject to public disclosure including, without limitation, the trade secrets of business or entities doing business with either party and other privileged or confidential information.

e. Review of Documents. Promoter covenants that City shall have the right to review its agreement with subcontractors, vendors and assigns and its agreements with Private Property holders, in each case that relate specifically to the Triathlon Event. Promoter shall make these agreements available to City, at a City location, upon request. Notwithstanding anything in this Agreement to the contrary, the City shall not copy or retain a copy of the agreements, and any review thereof by City shall be subject to the confidentiality standards of this Section 22. The review shall be conducted only by City employees who have a "need to know" in connection with the provisions of this Agreement.

23. Examination of Records.

Promoter agrees to maintain financial records pertaining to all matters relative to this Agreement in accordance with standard accounting principles and procedures and to retain all records and supporting documentation applicable to this Agreement for a period of four (4) years after termination of this Agreement and any subsequent extensions thereof. All records' subject to audit findings shall be retained for four (4) years after such findings have been resolved. In the event Promoter goes out of existence, Promoter shall turn over to City all of such records and supporting documentation that relate to this Agreement to be retained by City for the required period of time.

24. Post Event Report.

Promoter shall provide to City a post Triathlon Event report for each Triathlon Event that shows attendance numbers, downtown room occupancy, estimated economic impact, media distribution, police and emergency response actions, and other items that will help City determine the success of the Triathlon Event for the downtown area. Promoter shall deliver to the City a preliminary draft summary report concerning each Triathlon Event within sixty (60) days of that Triathlon Event and a final report with the economic impact of each Triathlon Event within 120 days of that Triathlon Event.

25. No Discrimination in Employment.

Promoter will not discriminate against any worker, employee or applicant, or any member of the public because of race, color, religion, gender, national origin, or disability, nor otherwise commit an unfair employment practice. Promoter will take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment without regard to their race, color, religion, gender, or national origin.

26. Taxes, Permits and Licenses.

Promoter agrees to pay promptly all taxes, excises, license fees and permit fees of whatever nature applicable to its operations, and to take out and keep current all required licenses, municipal, state or federal, required for the conduct of business hereunder and further agrees not to permit any of such taxes, excises or license or permit fees to become delinquent. Promoter further agrees to furnish City, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment by Promoter of all required licenses and permits and all taxes. Promoter further agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations, and not to permit the same to become delinquent in any material respect and to suffer no lien, mortgage, judgment or execution to be filed which will in any way impair the rights of City under this Agreement.

27. Force Majeure.

The rights and obligations of the parties to this Agreement shall be subject to delays or cancellation caused by strikes, fires, accident, acts of terrorism, war, adverse weather, acts of God, or orders of any military, civil or government authority beyond the control of the best efforts of the parties, and should such event or events occur from time to time the rights or obligations of the parties affected thereby, if any, shall be continued for a period equal to the period resulting from such delay, or suspended or excused pro rata. Notwithstanding the foregoing, in the event of a delay as a result of one or more of the foregoing events that continues for 60 days, Promoter shall have the right to terminate this Agreement without penalty.

28. Agreement as Complete Integration-Amendments.

This Agreement is intended as the complete integration of all understandings between the parties pertaining to the subject matter of the Agreement. No prior or contemporaneous addition, deletion or other amendment shall have any force or affect whatsoever, unless embodied herein in writing. No subsequent notation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendment or other agreement properly executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

29. Incorporation of Exhibits.

Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below:

Exhibit A: Detailed Race Plans

In the event of a conflict between this Agreement and any of the Exhibits, this Agreement shall be controlling.

IN WITNESS WHEREOF, this Agreement is executed by City and by Promoter, and both have caused this Agreement to be executed as of the day and year first above written.

CITY OF KERRVILLE, TEXAS

HGH FIVE EVENTS, LLC

E.A. Hoppe, City Manager

Daniel P. Carroll, Managing Partner

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

APPROVED AS TO CONTENT



William L. Tatsch, Asst. City Attorney

Ashlea Boyle, Assistant Director of Parks
and Recreation



SWIM COURSE

-----	Half	1.2 miles
-----	Quarter	1000 m
-----	Sprint	500 m
-----	Rookie	300 m





BIKE COURSE

Half & Quarter

- Right turn onto Guadalupe St.
- Right turn onto Water St.
- Right turn onto Hwy 27
- Right turn onto FM 1350
- Left turn onto Skyline Dr
- Right turn onto Center Point River Rd.
- Right turn onto Sutherland Ln.
- U-turn on Sutherland Ln.
- Right turn onto Center Point River Rd.
- Right turn onto Wharton Rd.
- Right turn onto Hwy 173
- Right turn onto Hwy 16
- Right turn onto La Casa Dr.
- Left turn onto Park Ln.
- (Start 2nd Loop of Half)

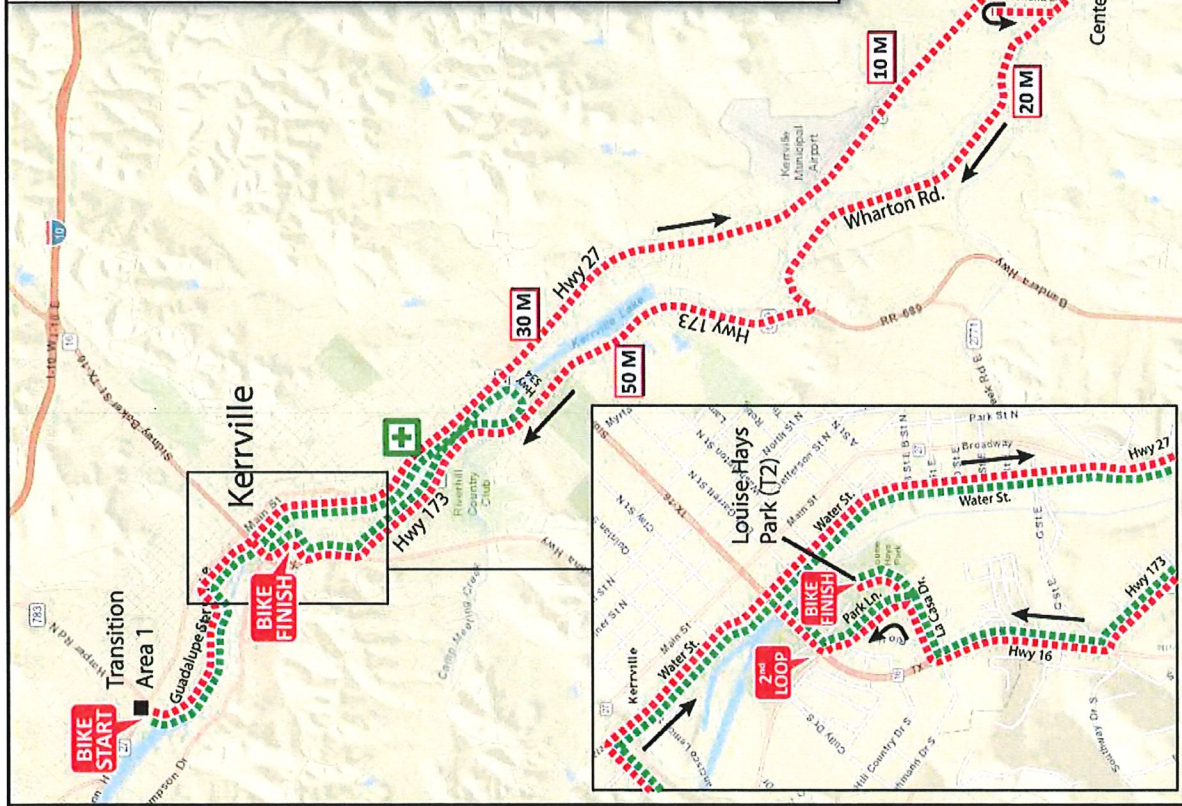
or
Straight to Finish in Louise Hays Park
Quarter Distance = 1 loop (29 miles)
Half Distance = 2 loops (56 miles)

Sprint & Rookie

- Right turn onto Guadalupe St.
- Right turn onto Water St.
- Right turn onto Hwy 27
- Right turn onto Riverside Dr.
- Right turn onto Hwy 534
- Right turn onto Hwy 173
- Right turn onto Hwy 16
- Right turn onto La Casa Dr.
- Left turn onto Park Ln.
- (Start 2nd Loop)

or
Straight to Finish in Louise Hays Park
Sprint Distance = 2 loops (14 miles)
Rookie Distance = 2 loops (14 miles)

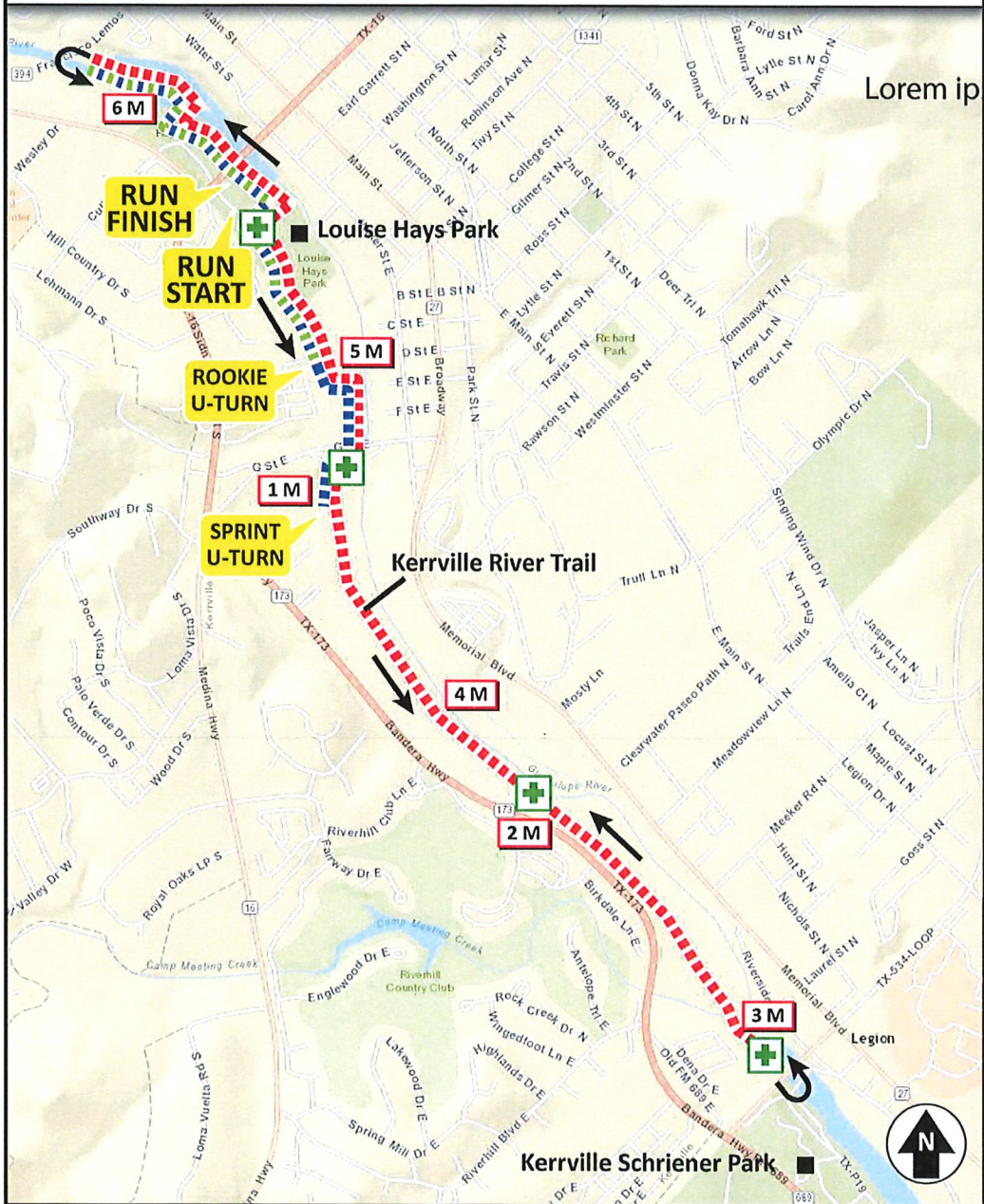
Aid Stations
Half @ miles 17, 29, 43
Quarter @ mile 17
Rookie = None





RUN COURSE

- Half 13.1 miles (2 Loops)
- Quarter 6.55 miles (1 Loop)
- Sprint 3.0 miles (1 Loop)
- Rookie 2.0 miles (1 Loop)
- + Aid Station





**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Resolution No. 34-2022. A Resolution authorizing the use of internal combustion engines on Nimitz Lake upstream of the City's impoundment dam for the Kerrville Triathlon and the safety of competitors.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: May 16, 2022

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20220614_Reso 34-2022 Internal Combustion Engines on Nimitz Lake for Triathlon.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
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PAYMENT TO BE MADE TO:

Kerrville 2050 Item? Yes

Key Priority Area P - Parks / Open Space / River Corridor

Guiding Principle P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists

Action Item P8.5 - Facilitate or expand more City activities around the river, especially during cooler times of the year

SUMMARY STATEMENT:

The 11th annual Kerrville Triathlon Festival produced by High Five Events of Austin, Texas will be held September 24-25, 2022. The event will again consist of a sprint, quarter, and half ironman distance triathlon. The swimming portion of triathlon will be in the Guadalupe River on Nimitz Lake with the start and finish at the northern end of Guadalupe Street. This will require use of watercraft equipped with internal combustion engines for course preparation (placement of buoys) as well as monitoring and potential rescue of distressed swimmers.

Chapter 118 Article II Water Impoundment of the Kerrville Code of Ordinances Section 118-34 (4) allows the operation of watercraft equipped with internal combustion engine when it is engaged in an activity that has been authorized by resolution of the city council. Staff recommends adopting the attached resolution providing authorization for this purpose as presented.

RECOMMENDED ACTION:

Adopt Resolution No. 34-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 34-2022**

**A RESOLUTION AUTHORIZING THE USE OF INTERNAL COMBUSTION
ENGINES ON NIMITZ LAKE UPSTREAM OF THE CITY'S IMPOUNDMENT
DAM FOR THE KERRVILLE TRIATHLON AND THE SAFETY OF
COMPETITORS**

WHEREAS, Chapter 118 of the City Code of Ordinances (the "Code") regulates and prohibits certain activities on Nimitz Lake, the lake upstream of the City's impoundment dam (the "Lake"); and

WHEREAS, one of the prohibited activities is the operation of internal combustion engines on the Lake; and

WHEREAS, under the Code, City Council may authorize an exception to this prohibition by adopting a resolution authorizing an activity that requires the use of an internal combustion engine on the Lake; and

WHEREAS, the organizer of a triathlon to be held in Kerrville and who would like to use the Lake for the swimming portion of its competition, is seeking an exception to the prohibition against combustible engines so that the organizer may use boats with combustion engines to ensure the safety of competitors; and

WHEREAS, pursuant to this request and to promote and expand the recreational uses of the Lake, City Council hereby finds that a public purpose exists to authorize the use of internal combustion engines on the Lake;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. City Council authorizes the use of internal combustion engines on the Lake, such authority subject to the following terms:

- a. the authority is granted to High Five Events, LLC, of Austin Texas, their agents, or representatives and no other person or group;
- b. the authority is valid from September 17, 2022, through September 27, 2022; and
- c. authority is limited to no greater than five (5) boats with such engines.


SECTION TWO. This Resolution and the authority granted hereby shall automatically expire and be revoked on September 30, 2022.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2022.

Judy Eychner, Mayor

APPROVED AS TO FORM:

ATTEST:



William L. Tatsch, Assistant City Attorney

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council workshop minutes held May 24, 2022.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: Jun 07, 2022

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20220614_Minutes_CC workshop 5-24-22 4pm.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

City Council workshop minutes held May 24, 2022 at 4:00 p.m., in the City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

**CITY COUNCIL WORKSHOP MINUTES
CITY HALL COUNCIL CHAMBERS AND UPSTAIRS CONFERENCE ROOM
701 MAIN STREET, KERRVILLE, TEXAS**

MAY 24, 2022 4:00 PM

CALL TO ORDER: On May 24, 2022 at 4:01 p.m., the City Council workshop was called to order by Mayor Judy Eychner at the City Hall Council Chambers, 701 Main Street.

COUNCILMEMBERS PRESENT:

Judy Eychner, Mayor
Kim Clarkson, Mayor Pro Tem, Councilmember Place 2
Roman Garcia, Councilmember Place 1
Joe Herring Jr, Councilmember Place 3
Brenda Hughes, Councilmember Place 4

COUNCILMEMBER ABSENT: None

CITY STAFF PRESENT:

E.A. Hoppe, City Manager
Mike Hayes, City Attorney
Michael Hornes, Asst City Manager
Eric Maloney, Fire Chief
Shelley McElhannon, City Secretary

VISITOR(S) PRESENT:

Sabine Kuenzel, Chair of the Recovery Community Coalition

Shelley McElhannon read the Public Comment caption into record.

1. PUBLIC COMMENT: None

2. INFORMATION, DISCUSSION, AND POSSIBLE ACTION:

2A. Recovery Community Coalition report.

Chief Eric Maloney introduced both the item and Sabine Kuenzel. Sabine Kuenzel provided information and responded to questions.

Councilmember Kim Clarkson made a motion City Council enter executive session under 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), and 551.087 (deliberation regarding economic development negotiations), seconded by Councilmember Brenda Hughes. The motion passed 5-0.

Mayor Eychner recessed the workshop at 4:40 p.m. and convened closed executive session in the upstairs conference room.

3. EXECUTIVE SESSION:

3A. Workforce Housing development projects (551.071, 551.072, 551.087).

The closed executive session adjourned, and Council returned to open session at 5:50 p.m. No action was taken during executive session.

4. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION IF ANY:** N/A

ADJOURN. The workshop adjourned at 5:50 p.m.

APPROVED BY COUNCIL: _____ ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council meeting minutes held May 24, 2022.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: Jun 07, 2022

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20220614_Minutes CC meeting 5-24-22 6pm.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

City Council meeting minutes held May 24, 2022 at 6:00 p.m., in the City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

**CITY COUNCIL MINUTES
REGULAR MEETING**

**KERRVILLE, TEXAS
MAY 24, 2022 6:00 PM**

On May 24, 2022 at 6:00 p.m., Mayor Judy Eychner called the Kerrville City Council meeting to order in City Hall Council Chambers, 701 Main Street. Councilmember Roman Garcia introduced Howard Oakes who provided the invocation, and Debbie Oakes who led the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Bill Blackburn	Mayor
Kim Clarkson	Mayor Pro Tem, Councilmember Place 2
Roman Garcia	Councilmember Place 1
Judy Eychner	Councilmember Place 3
Brenda Hughes	Councilmember Place 4

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF:

E.A. Hoppe, City Manager	Danielle Brigati, Library Director
Mike Hayes, City Attorney	Stuart Cunyus, Public Info Officer
Michael Hornes, Assistant City Manager	Guillermo Garcia, Exec Director Innovation
Kim Meisner, Assistant City Manager	Eric Maloney, Fire Chief
Shelley McElhannon, City Secretary	Chris McCall, Police Chief
Stuart Barron, Exec Director PW & Eng	Drew Paxton, Chief Planner
Julie Behrens, Director of Finance	

VISITORS PRESENT: A list of the citizen speakers present during the meeting is on file in the City Secretary's Office for the required retention period.

1. ANNOUNCEMENTS OF COMMUNITY INTEREST: Stuart Cunyus and Mayor Eychner provided announcements.

2. PRESENTATIONS:

2A. Kerrville Kindness Award presented to Kerrville Pets Alive.

Mayor Eychner presented the Kerrville Kindness Award to Kerrville Pets Alive represented by Karen Guerriero and Volunteers.

Shelley McElhannon read general business protocols of conduct into record.

3. VISITORS FORUM:

The following person(s) spoke:

- Stephanie Cash

4. CONSENT AGENDA:

Councilmember Garcia pulled item 4B. Councilmember Brenda Hughes made a motion to approve the consent agenda items 4A and 4C of the consent agenda, seconded by Councilmember Kim Clarkson. The motion passed 5-0.

4A. Purchase of library self-check machine, RFID security gates, and mobile digital library assistant wand from sole source vendor Bibliotheca at a total cost of \$66,835.00 to be funded by the Friends of the Library over a five year period.

4C. City Council special-called meeting minutes held May 17, 2022.

END OF CONSENT AGENDA.

4B. City Council meeting minutes held May 10, 2022.

Councilmember Garcia requested to approve the minutes with a correction to the *Call to Order* time as 6:04 p.m., seconded by Councilmember Hughes. The motion passed 5-0.

5 PUBLIC HEARING AND ORDINANCES, FIRST READING:

5A. Ordinance No. 2022-22. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning of an approximate 36.28 acre tract out of the Nathaniel Hoyt Survey No. 145, Abstract No. 178; more commonly known as 2601 Medina Highway (SH 16 S); from a Residential Estate Zoning District (RE) to a Multifamily Residential Zoning District (R-2); amending the City's Comprehensive Plan to make it consistent with the Zoning Amendment; and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2022-22 caption into record.

Drew Paxton and Stuart Barron provided information and responded to questions.

Greg Richards spoke for the developer, provided information and responded to questions.

Mayor Eychner opened the public hearing at 6:57 p.m.

The following persons spoke:

- Peggy McKay
- Justine Thompson
- Tyler Campbell
- Darby Campbell
- Doug Holmes
- Brady Lehmann
- Bill White
- Marnee Bsheid
- Bruce Stracke
- Alice Sullivan

Mayor Eychner closed the public hearing at 7:38 p.m.

Councilmember Garcia made a motion to deny Ordinance No. 2022-22, seconded by Councilmember Joe Herring, Jr. The motion to deny passed 5-0.

Mayor Eychner recessed the meeting at 7:42 p.m., and reconvened the meeting at 7:46 p.m.

5B. Ordinance No. 2022-20. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning of an approximate 7.08 acre property known as 1600 Junction Highway (SH 27); consisting of part of Lot 1, Block 1, of the Foxworth-Galbraith Subdivision; from a Light Commercial Zoning District (C-2) to a General Commercial Zoning District (C-3); and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2022-20 caption into record.

Drew Paxton provided information and responded to questions.

Applicant Michael Ash provided information and responded to questions.
Mayor Eychner opened the public hearing at 7:51 p.m.
No person spoke.
Mayor Eychner closed the public hearing at 7:51 p.m.

Councilmember Hughes made a motion to approve Ordinance No. 2022-20, seconded by Councilmember Garcia. The motion passed 5-0.

5C. Ordinance No. 2022-21. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning of a property known as 400 W. Water; consisting of Lot 8, Block 17, Section B, of the Westland Place Addition; from a Single Family Residential with Accessory Dwelling Unit Zoning District (R-1A) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2022-21 caption into record.
Drew Paxton provided information and responded to questions.
Applicant Gary Hatch provided information.
Mayor Eychner opened the public hearing at 7:54 p.m.
No person spoke.
Mayor Eychner closed the public hearing at 7:54 p.m.

Councilmember Clarkson made a motion to approve Ordinance No. 2022-21, seconded by Councilmember Garcia. The motion passed 5-0.

6 PUBLIC HEARING AND RESOLUTIONS:

6A. Resolution No. 27-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lots 5 and 6, Block 7, Lowry Addition; and more commonly known as 217 Starkey; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 27-2022 caption into record.
Drew Paxton provided information, and Drew Paxton and Mike Hayes responded to questions.
Applicant Keri Wilt provided information and responded to questions.
Mayor Eychner opened the public hearing at 8:00 p.m.
The following persons spoke:

- Anna Ramirez
- Karen Sides
- Patrick Wilt
- Bruce Stracke

Mayor Eychner closed the public hearing at 8:16 p.m.

Councilmember Herring made a motion to approve Resolution No. 27-2022, seconded by Councilmember Clarkson. The motion passed 5-0.

6B. Resolution No. 23-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 8R, Block 2, A.L. Lewis 2nd Addition; and more commonly known as 321 Cottage; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 23-2022 caption into record.
Drew Paxton provided information and responded to questions.
Mayor Eychner opened the public hearing at 8:27 p.m.
No person spoke.
Mayor Eychner closed the public hearing at 8:27 p.m.

Councilmember Hughes made a motion to approve Resolution No. 23-2022, seconded by Councilmember Clarkson. The motion passed 5-0.

6C. Resolution No. 24-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 29, Block 2, Sendero Ridge Subdivision; and more commonly known as 105 Jasper; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 24-2022 caption into record.
Drew Paxton provided information and responded to questions.
Mayor Eychner opened the public hearing at 8:29 p.m.
No person spoke.
Mayor Eychner closed the public hearing at 8:29 p.m.

Councilmember Herring made a motion to approve Resolution No. 24-2022, seconded by Councilmember Hughes. The motion passed 5-0.

6D. Resolution No. 25-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 20-A, Block 23, Westland Place Addition; and more commonly known as 503 Lucille; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 25-2022 caption into record.
Drew Paxton provided information and responded to questions.
Mayor Eychner opened the public hearing at 8:31 p.m.
The following person(s) spoke:

- Michelle Casey

Mayor Eychner closed the public hearing at 8:32 p.m.

Councilmember Herring made a motion to adopt Resolution No. 25-2022, seconded by Councilmember Hughes. The motion passed 5-0.

6E. Resolution No. 26-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising Lot 19, Block 8, Lowry Addition; and more commonly known as 213 Palmer; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

Shelley McElhannon read Resolution No. 26-2022 caption into record.
Drew Paxton provided information and responded to questions.
Mayor Eychner opened the public hearing at 8:34 p.m.
No person spoke.
Mayor Eychner closed the public hearing at 8:34 p.m.

Councilmember Hughes made a motion to approve Resolution No. 26-2022, seconded by Councilmember Herring. The motion passed 5-0.

7 CONSIDERATION AND POSSIBLE ACTION:

7A. Amendments to the Restated Interlocal Agreement for the continued existence of a Joint Airport Board to provide management of Kerrville/Kerr County Airport.

Shelley McElhannon read item 7A caption into record.

Michael Hornes and Mike Hayes provided information and responded to questions.

Airport Manager Mary Rohrer was in attendance if needed.

Councilmember Clarkson made a motion for approval of the amended Restated Local Agreement for the continued existence of a Joint Airport Board as adopted by Kerr County and designated Court Order #39327, such amendments limited to those found within this document, seconded by Councilmember Garcia. The motion passed 5-0.

8 INFORMATION & DISCUSSION:

8A. Financial Report for month ended April 30, 2022.

Julie Behrens provided information and responded to questions.

9 BOARD APPOINTMENT(S):

9A. Appointments to the Economic Improvement Corporation (EIC). (Item is eligible for Executive Session 551.074).

Shelley McElhannon read item 9A caption into record.

Mayor Eychner advised this item will be discussed in Executive Session.

9B. Appoint member to the Heart of the Hills Heritage Center Board of Directors.

Shelley McElhannon read item 9B caption into record.

Mayor Eychner made a motion to appoint Councilmember Joe Herring, Jr as a member to the Heart of the Hill Heritage Center Board of Directors, representing the City of Kerrville, seconded by Councilmember Hughes. The motion passed 5-0.

9C. Appointment of Mayor Pro Tem. (Item eligible for Executive Session 551.074).

Shelley McElhannon read item 9C caption into record.

This item will be discussed in Executive Session.

Councilmember Clarkson made a motion to convene closed executive session under 551.074 (personnel/officers) for items 9A and 9C, and Councilmember Hughes seconded. The motion passed 5-0. Closed Executive Session convened at 9:05 p.m.

10 EXECUTIVE SESSION:

10A. Appointments to the Economic Improvement Corporation (EIC) (551.074)

10B. Appointment of Mayor Pro Tem (551.074).

The closed executive session adjourned, and City Council returned to open session at 9:12 p.m. No action was taken during executive session.

11 ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:

11A. Appointments to the Economic Improvement Corporation (EIC).

Councilmember Herring made a motion to table the appointments to the EIC until the next City Council meeting June 14, 2022, seconded by Councilmember Hughes. The motion passed 5-0.

11B. Appointment of Mayor Pro Tem.

Councilmember Hughes made a motion to appoint Councilmember Clarkson as Mayor Pro Tem, seconded by Councilmember Herring. The motion passed 5-0.

12 ITEMS FOR FUTURE AGENDAS: None

ADJOURN. The meeting adjourned at 9:13 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council special-called meeting minutes held May 26, 2022.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: Jun 07, 2022

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20220614_Minutes_CC retreat 5-26-22 8am.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

City Council special-called meeting minutes for the City Council Retreat held May 26, 2022 at 8:00 a.m. at the MO Ranch, Hunt, Texas.

RECOMMENDED ACTION:

Approve minutes as presented.

CITY COUNCIL ANNUAL RETREAT MINUTES

MAY 26, 2022 8:00 AM

MO RANCH CONFERENCE CENTER, 2229 FM 1340, HUNT, TEXAS

CALL TO ORDER: On MAY 26, 2022 at 8:16 a.m., the City Council workshop was called to order by Mayor Judy Eychner at the Mo Ranch Conference Center, 2229 FM 1340, Hunt, Texas. Mayor Eychner provided the invocation.

COUNCILMEMBERS PRESENT:

Judy Eychner, Mayor
Kim Clarkson, Mayor Pro Tem, Councilmember Place 2
Roman Garcia, Councilmember Place 1
Joe Herring, Jr., Councilmember Place 3
Brenda Hughes, Councilmember Place 4

COUNCILMEMBER ABSENT: None

CITY STAFF PRESENT:

E.A. Hoppe, City Manager	Stuart Cunyus, Public Info Officer
Mike Hayes, City Attorney	Megan Folkerts, Senior Mgmt Analyst
Michael Hornes, Assistant City Manager	Guillermo Garcia, Exec Director Innovation
Kim Meisner, Assistant City Manager	Eric Maloney, Fire Chief
Kesha Franchina, Deputy City Secretary	Chris McCall, Police Chief
Stuart Barron, Exec Dir Public Works & Eng	Drew Paxton, Chief Planner
Julie Behrens, Director of Finance	

SPEAKERS:

Mike Conduff, the Elim Group

VISITORS PRESENT: None.

WORKSESSION (No action will be taken): No action was taken, "see attached agenda".

ADJOURN. The retreat adjourned at 4:00 p.m.

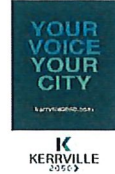
APPROVED BY COUNCIL: _____ ATTEST:

Judy Eychner, Mayor

Kesha Franchina, Deputy City Secretary



KERRVILLE CITY COUNCIL'S ANNUAL RETREAT
ON THURSDAY, MAY 26, 8:00 A.M.
MO RANCH CONFERENCE CENTER,
2229 FM 1340, HUNT, TX



CALL TO ORDER

INVOCATION

WORKSESSION (No Action Will Be Taken)

ADJOURN.

The facility is wheelchair accessible, and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information. I hereby certify that this agenda was posted as notice of the meeting on the bulletin board at the City Hall of the City of Kerrville, Texas, and on the City's website on the following date and time: May 23, 2022 at 7:55 a.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Shelley McElhannon, City Secretary, City of Kerrville, Texas



City Council Retreat
May 26, 2022 @ Mo Ranch
8:00 a.m. – 4:30 p.m.



- 7:30 a.m. Gathering/Light Breakfast
- 8:00 a.m. Welcome and Opening Prayer – Mayor Eychner
- 8:05 a.m. Welcome and Thanks – Mike Conduff
- The Power of Local Government and the Democracy at the Doorstep Principle
- Facilitated Self-Introductions
- Rearview Buzz – Lessons from 2021-2022
- What I am most pleased and proud of with regard to the work of the City
 - What I think we could do better
- Work of Leaders – Our Council and Staff Styles (DiSC)
- The OnTarget Board Member – 8 Indisputable Behaviors
- Act on Behalf
 - Know Our Job
 - Set Targets
 - Identify Risk
 - Delegate the Work
 - Assess Performance
 - Practice Discipline
 - Report Back
- 12:00 p.m. Working Lunch (View of the horizon from City staff)
- Update/Overview of FY23 Major Budget Issues – Julie, E.A., and City Staff
 - Projects & Programs (Update on K2050 progress, CIP, Pending Projects, & Programs – E.A. and City staff)
- Post Lunch Prioritization of Projects, Programs, and Budget Priorities for FY23 – City Council
- 4:30 p.m. (ish) Anchor and Adopt & ADJOURN





**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: City Council workshop minutes held June 02, 2022.

AGENDA DATE OF: June 14, 2022

DATE SUBMITTED: Jun 07, 2022

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20220614_Minutes_CC and PZ workshop 6-2-22 2pm.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

City Council and Planning & Zoning joint workshop minutes held June 02, 2022 at 2:00 p.m., in the City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

**KERRVILLE CITY COUNCIL AND PLANNING & ZONING JOINT WORKSHOP
MINUTES, JUNE 2, 2022, 2:00 PM
CITY HALL COUNCIL CHAMBERS, 701 MAIN STREET, KERRVILLE, TEXAS**

CALL TO ORDER: On June 2, 2022 at 2:00 p.m., the City Council workshop was called to order by Mayor Judy Eychner at City Hall Council Chambers, 701 Main Street, Kerrville, Texas. Chair Michael Sigerman called to order the Planning & Zoning workshop at 2:00 p.m.

COUNCILMEMBERS PRESENT:

Judy Eychner, Mayor
Kim Clarkson, Mayor Pro Tem, Councilmember Place 2
Roman Garcia, Councilmember Place 1
Joe Herring, Jr., Councilmember Place 3
Brenda Hughes, Councilmember Place 4

COUNCILMEMBER ABSENT: None

PLANNING AND ZONING MEMBERS PRESENT:

Michael Sigerman, Chair
Abram Bueche
Jeff Harris
John Lipscomb
Tabor McMillan
Clifford Tuttle

PLANNING AND ZONING MEMBER ABSENT:

Kevin Bernhard

CITY STAFF PRESENT:

E.A. Hoppe, City Manager
Mike Hayes, City Attorney
Michael Hornes, Assistant City Manager
Kim Meismer, Assistant City Manager
Kesha Franchina, Deputy City Secretary
Stuart Barron, Executive Director for Public Works & Engineering
Julie Behrens, Director of Finance
Jacob Bogusch, Finance
Guillermo Garcia, Executive Director for Innovation
Steve Melander, Senior Planner
Drew Paxton, Director of Planning and Development
Cody Scott, Finance Compliance Coordinator

1. INFORMATION, DISCUSSION, AND POSSIBLE ACTION:

1.A. Short Term Rentals, to include:

- Zoning
- Use of Conditional Use Permit
- Registration/licensing as a business operation
- Moratorium

VISITOR SPEAKERS:

- Kim Richards

- Kerri Wilt
- John Macaques

Discussion ensued among workshop participants, who asked questions, provided feedback, and commented. No action was taken, see attached agenda.

ADJOURN. The workshop was adjourned at 4:00 p.m. by Mayor Eychner, and Chair Michael Sigerman.

APPROVED BY COUNCIL: _____ ATTEST:

Judy Eychner, Mayor

Kesha Franchina, Deputy City Secretary



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 28-2022. A Resolution granting a Conditional Use Permit to authorize Short-Term Rental Unit on the property consisting approximately 3.015 acres, being out of the Martinez Survey No. 124, Abstract 247; and more commonly known as 1979 Arcadia Loop S, said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Reso 28-2022 CUP 1979 Arcadia Loop STR.pdf](#)

Kerrville 2050 Item? No

Key Priority Area

Guiding Principle

Action Item

SUMMARY STATEMENT:

Proposal: A resolution to allow a Conditional Use Permit for a Short Term Rental on 3.015 acres out of the Martinez Survey No. 124, Abstract 247; more commonly known as 1979 Arcadia Loop S, Kerrville, TX 78028.

Procedural Requirements: The City, in accordance with state law, mailed 11 letters on 4/28/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 4/21/2022. In addition, an informational sign was posted at the front of the property on 5/4/2022. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-2 Medium density residential

Existing Land Use: Single family residence

Direction: North

Current Zoning: C-3 General Commercial

Existing Land Uses: Small businesses, Warehouse

Direction: South

Current Zoning: Guadalupe River / County ETJ

Existing Land Uses: Mixed

Direction: West, East

Current Zoning: R-2 Medium density residential

Existing Land Uses: Single family residences

Consistency with the Kerrville 2050 Comprehensive Plan: The subject property and surrounding area south of Arcadia Loop are within Neighborhood Residential (NR). Properties north of Arcadia Loop are within Strategic Catalyst Area 4 (SCA 4). Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan: The subject property is located on a residential street.

Traffic Impact: No traffic impact is anticipated.

Parking: A Short Term Rental requires one off-street parking space per bedroom and one additional off-street parking space for a manager, if the manager does not live onsite. This property has 1 bedroom and no onsite manager so 2 off-street parking spaces are required. The applicant has identified 2 available off-street parking spaces, meeting the off-street parking requirement.

Case Summary: The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-2 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has provided the following statement regarding the proposed Short Term Rental: We are proposing a short term rental permit for an existing home under 300 sq ft. on our property at 1979 Arcadia Loop. This is river frontage property on the Guadalupe River with full access to the river. It is within walking distance to Lafour's restaurant and The Lakehouse Restaurant via Arcadia Loop Road and the paved path under the Thompson Drive bridge. We believe this property will be a popular rental and draw visitors to the City of Kerrville. Thank you for your consideration.

Recommendation: Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are

amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the following Proposed CUP Conditions.

On May 12th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

Proposed CUP Conditions for Short Term Rental:

- A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.
- B. Local Contact: The owner or operator of the Property shall provide the City with contact information for a local representative, within approximately two hours distance.
- C. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.
- D. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.
- E. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.
- F. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.
- G. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

RECOMMENDED ACTION:

Approve Resolution No. 28-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 28-2022**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE PROPERTY CONSISTING APPROXIMATELY 3.015 ACRES, BEING OUT OF THE MARTINEZ SURVEY NO. 124, ABSTRACT NO. 247; AND MORE COMMONLY KNOWN AS 1979 ARCADIA LOOP S.; SAID PROPERTY IS LOCATED WITHIN A MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT (R-2); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS

WHEREAS, the owner of the property known as 1979 Arcadia Loop S. and depicted on the location map and site plan found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Medium Density Residential Zoning District (R-2); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on June 14, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Medium Density Residential Zoning District (R-2), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: consisting of the Martinez Survey No. 124, Abstract No. 247, and being depicted on the location map and site plan found at **Exhibit A**.

Address: 1979 Arcadia Loop S., Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. **Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the STRU on the Property, said notification which is attached as **Exhibit B**.
- B. **Local Contact:** The owner or operator of the Property shall provide the City’s Director of Development Services (“Director”), with contact information for a local representative, which may include themselves. The local representative must be able to respond to a City employee or guest of the STRU within two hours after being notified of an emergency. Should a change occur to the contact information, the owner or operator of the Property shall update the Director in writing with the new information within three business days of any such change.
- C. **Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- D. **Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- E. **Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- F. **Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- G. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.


SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2022.

Judy Eychner, Mayor

APPROVED AS TO FORM:

ATTEST:



Michael C. Hayes, City Attorney

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2022-022

Location:
1979 Arcadia Loop

Legend

200' Notification Area ---
Subject Properties ---

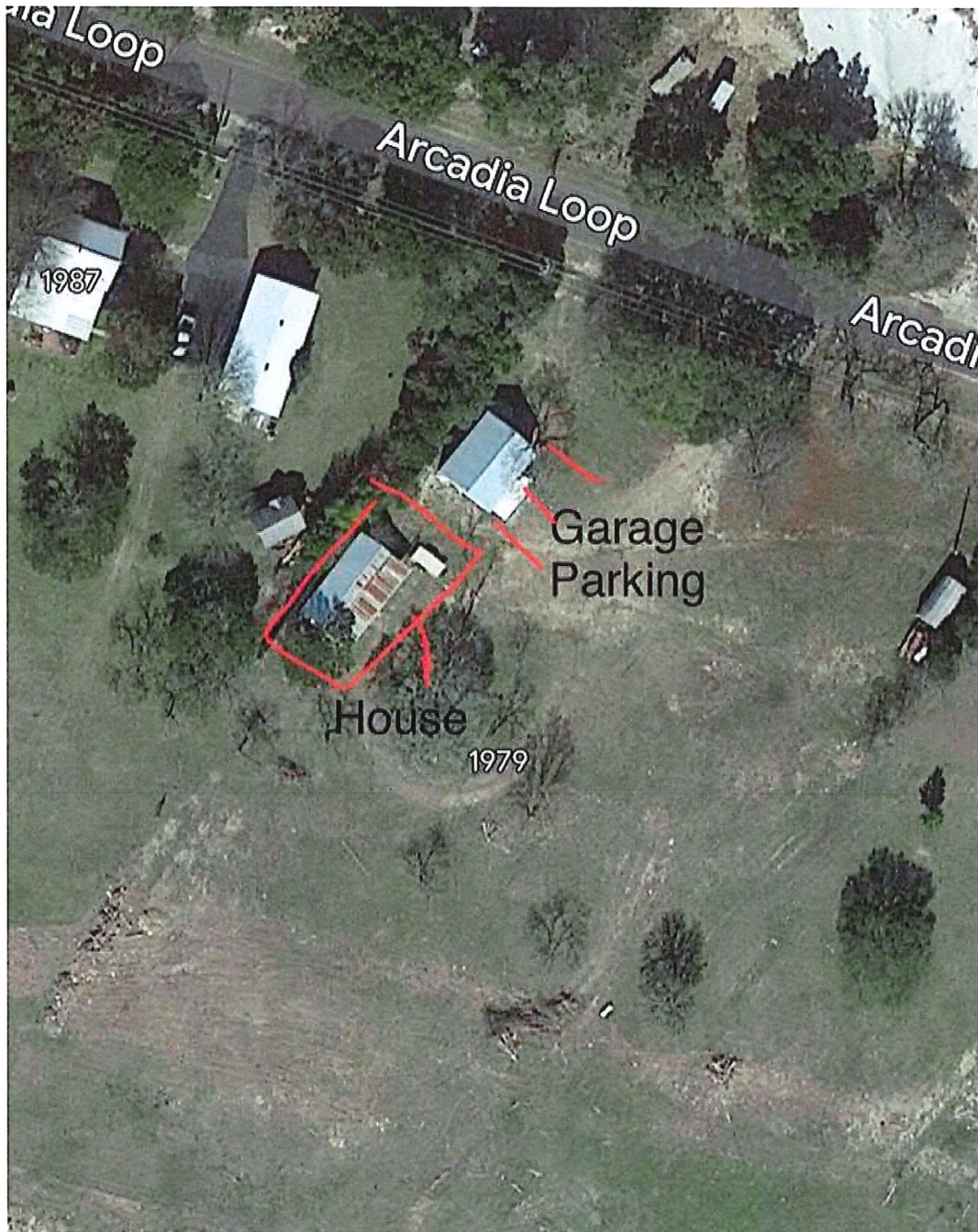


0 100 200 400

Scale In Feet

PZ-2022-22

Site Plan with Parking





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 28-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Name: _____

Contact Number: _____

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 29-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of Lot 4, Block 14, Westland Addition; more commonly known as 408 Lois; said property is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Reso 29-2022 CUP 408 Lois STR.pdf](#)

Kerrville 2050 Item? No

Key Priority Area

Guiding Principle

Action Item

SUMMARY STATEMENT:

Proposal: A resolution to allow a Conditional Use Permit for a Short Term Rental on Lot 4, Block 14, Westland Addition; more commonly known as 408 Lois St S, Kerrville, TX 78028.

Procedural Requirements: The City, in accordance with state law, mailed 28 letters on 4/28/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 4/21/2022. In addition, an informational sign was posted at the front of the property on 5/4/2022. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1A Single-family residential with accessory dwelling unit

Existing Land Use: Single family residence

Direction: North

Current Zoning: C-2 Light Commercial

Existing Land Uses: Small businesses

Direction: South, West, East

Current Zoning: R-1A Single-family residential with accessory dwelling unit

Existing Land Uses: Single family residences

Consistency with the Kerrville 2050 Comprehensive Plan: The subject property is within Strategic Catalyst Area 4 (SCA 4). Surrounding areas are also designated as Transitional Residential (TR) and Community Commercial (CC). Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan: The subject property is located on a residential street.

Traffic Impact: No traffic impact is anticipated.

Parking: A Short Term Rental requires one off-street parking space per bedroom and one additional off-street parking space for a manager, if the manager does not live onsite. This property has 2 bedrooms and no onsite manager so 3 off-street parking spaces are required. The applicant has identified 3 available off-street parking spaces, meeting the off-street parking requirement.

Case Summary: The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1A zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has provided the following statement regarding the proposed Short Term Rental: CUP for use of this property as a short term rental. Enclosed is the survey and the house is a cute little 2 bedroom one bath that we are just starting to clean up and make pretty. Plenty of parking. One in garage if needed, but three fit comfortably on the deep driveway. Amenities list are the same as the other three, as this house is just a few blocks west of those, but here is a good start: Nature Center, River Trail, Breweries, Wineries, Downtown Shopping, Restaurants, KACC, Arcadia Live, Murals, Farmers Market, Library, The Guadalupe River, Callioux Theater, Kerrville Schreiner Park mountain bike trails...and so much more!

Recommendation: Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the following Proposed CUP

Conditions.

On May 12th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

Proposed CUP Conditions for Short Term Rental:

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Local Contact: The owner or operator of the Property shall provide the City with contact information for a local representative, within approximately two hours distance.

C. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

D. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

E. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

F. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

G. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

RECOMMENDED ACTION:

Approve Resolution No. 29-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 29-2022**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE PROPERTY CONSISTING OF LOT 4, BLOCK 14, WESTLAND ADDITION; AND MORE COMMONLY KNOWN AS 408 LOIS; SAID PROPERTY IS LOCATED WITHIN A SINGLE-FAMILY RESIDENTIAL WITH ACCESSORY DWELLING UNIT ZONING DISTRICT (R-1A); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS

WHEREAS, the owner of the property known as 408 Lois and depicted on the location map and survey plat found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on June 14, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential with Accessory Dwelling Unit Zoning District (R-1A), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: consisting of Lot 4, Block 14, out of the Westland Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted on the location map

and survey plat found at **Exhibit A**.

Address: 408 Lois, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. **Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the STRU on the Property, said notification which is attached as **Exhibit B**.
- B. **Local Contact:** The owner or operator of the Property shall provide the City’s Director of Development Services (“Director”), with contact information for a local representative, which may include themselves. The local representative must be able to respond to a City employee or guest of the STRU within two hours after being notified of an emergency. Should a change occur to the contact information, the owner or operator of the Property shall update the Director in writing with the new information within three business days of any such change.
- C. **Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- D. **Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- E. **Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- F. **Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- G. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution

and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2022.

Judy Eychner, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2022-021

Location:
408 Lois Street

Legend

200' Notification Area ---
Subject Properties ---



0 50 100 200
Scale In Feet

K.C.D.R. = Kerr County Deed Records
 K.C.P.R. = Kerr County Plat Records
 K.C.E.R. = Kerr County Easement Records
 K.C.R.P.R. = Kerr County Real Property Records
 K.C.D.O.T. = Kerr County Deed Of Trust Records
 P.O.B. = Point of Beginning in Meas & Bounds
 (Record) = Record Bearing and/or Distance call in
 existing deed, recorded plat, etc...

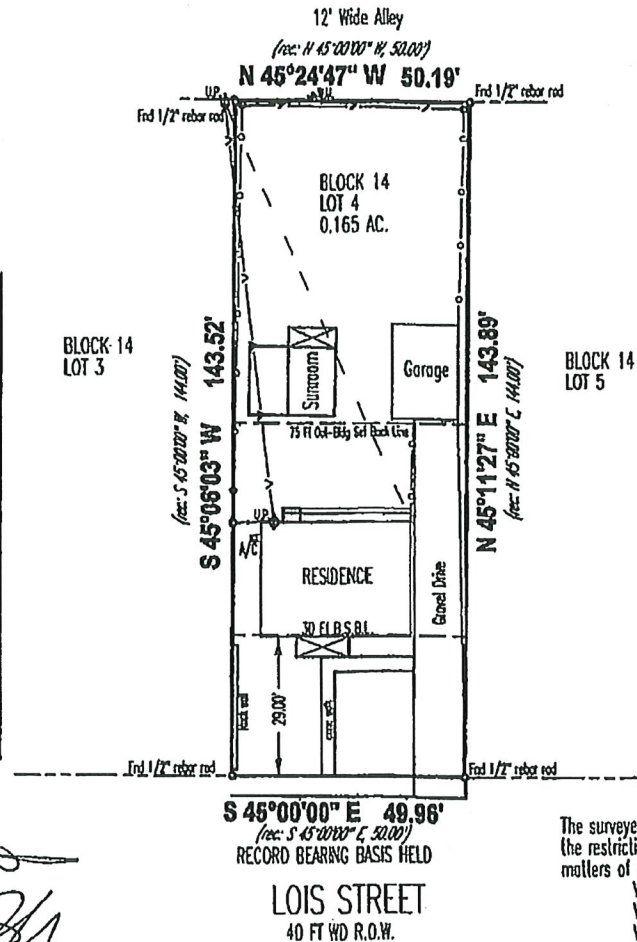
BORROWER:
 Kristen Larranaga

SCALE: 1" = 30 FEET

PROPERTY ADDRESS:

408 Lois Street, Kerrville, Texas 78028

Record Calls in smaller italic print near measured calls.



The surveyed tract hereon is subject to
 the restrictions, easements and all
 matters of record in:

Vol. 43, Pg. 577 of K.C.D.R.
 Vol. 1, Pg. 26-A of K.C.P.R.
 Vol. 81, Pg. 90 of K.C.D.R.
 Vol. 45, Pg. 458 of K.C.E.R.

SURVEY PLAT OF 0.165 ACRE; BEING COMPRISED OF ALL OF LOT 4, BLOCK 14, of SECTION 'B', WESTLAND PLACE, A SUBDIVISION OF
 KERR COUNTY, TEXAS, ACCORDING TO THE PLAT OF SAID SUBDIVISION RECORDED IN VOLUME 43, PAGE 577, DEED RECORDS OF
 KERR COUNTY, TEXAS AND IN VOLUME 1, PAGE 26-A, PLAT RECORDS OF KERR COUNTY, TEXAS

I, Gary Max Brandenburg, Registered Professional Land Surveyor No. 5164,
 hereby certify that this plat represents a survey made on the ground under my
 direct supervision and direction. That all visible improvements and utilities,
 applicable record easements shown in title commitment, discrepancies in boundaries,
 set-back lines, and restrictive covenants are shown and/or cited hereon. No survey
 was made to reestablish Patent Survey Lines or Corners.

This tract does not lie within the 100-Year Flood Hazard Zone as interpreted from
 the FEMA F.I.R.M. No. 48265C0170 E dated July 19, 2000.

Surveyed on the ground on October 21, 2002.

Gary Max Brandenburg
 Gary Max Brandenburg, Registered Professional Land Surveyor No. 5164

02110401 2002-08-15 GF#020861F FA&T rd 200MHZ



SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 29-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Name: _____

Contact Number: _____

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 30-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property consisting of Lot 10, Block 3, Starkey Manor 7 Addition; and more commonly known as 604 Mockingbird: said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Reso 30-2022 CUP 604 Mockingbird STR.pdf](#)

Kerrville 2050 Item? No

Key Priority Area

Guiding Principle

Action Item

SUMMARY STATEMENT:

Proposal: A resolution to allow a Conditional Use Permit for a Short Term Rental for short term on Lot 10, Block 3, Starkey Manor 7; more commonly known as 604 Mockingbird Ln N, Kerrville, TX 78028.

Procedural Requirements: The City, in accordance with state law, mailed 28 letters on 4/28/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 4/21/2022. In addition, an informational sign was posted at the front of the property on 5/4/2022. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single-family residential

Existing Land Use: Single family residence

Direction: North, South, West, East

Current Zoning: R-1 Single-family residential

Existing Land Uses: Single family residences

Consistency with the Kerrville 2050 Comprehensive Plan: The subject property and surrounding residential areas are designated as Neighborhood Residential (NR) and Transitional Residential (TR). Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan: The subject property is located on a residential street.

Traffic Impact: No traffic impact is anticipated.

Parking: A Short Term Rental requires one off-street parking space per bedroom and one additional off-street parking space for a manager, if the manager does not live onsite. This property has 3 bedrooms and no onsite manager so 4 off-street parking spaces are required. The applicant has identified 5 available off-street parking spaces, meeting the off-street parking requirement.

Case Summary: The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has provided the following statement regarding the proposed Short Term Rental: The property at 604 Mockingbird Lane, is a single-family ranch style home with 3 bedrooms and 2 baths. It was owned by my parents, Tom and Kathryn Clark, until their deaths in 2020 and 2021. I am the current owner. My plan is to rent the property to cover its expenses until my sister and brother-in-law move into it in November of 2023. It has recently been painted; both interior and exterior, has had the garage door replaced, new flooring throughout the bedrooms, and has had a structural engineer inspection and report which states it is structurally sound. We have installed exterior lighting with camera above the two-car garage, a ring doorbell on the front door along with electronic keying for the front door. There is also an additional concrete pad to the side of the driveway which means 5 cars can comfortably park on site. The location is also 3 blocks from Elm Creek Park, 1 mile from restaurants on Junction and 2 miles from the Louise Hays Park trailhead at the Dietert Center. We contracted property management with: Stay Albatross Luxury Rentals, Austin, TX (888.711.2256) or (512-653-7009) Cri Childs. We signed a 1-year lease with them in December of 2021, with plans to short and medium term rent the property to a target market of business travelers, medical personnel, company executives, and some vacation travelers who travel to the area to visit family. I have shared our plans for the property with our neighbors Carolyn Bowman (#600 Mockingbird Ln.), Susie Washington (#605 Mockingbird Ln.), Jan and Dennis Abert (#560 Mockingbird Ln.), Susan and Lonnie Phillips (#540 Mockingbird Ln.), Pat and Wayne Parker (#608 Mockingbird

Lane) and Rodney Bacon (#1221 Oriole Dr.), with no objections of date.

Recommendation: Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the following Proposed CUP Conditions.

On May 12th, the Planning and Zoning Commission recommended the case for approval with a 5-1 vote.

Proposed CUP Conditions for Short Term Rental:

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Local Contact: The owner or operator of the Property shall provide the City with contact information for a local representative, within approximately two hours distance.

C. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

D. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

E. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

F. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

G. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

RECOMMENDED ACTION:

Approve Resolution No. 30-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 30-2022**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE PROPERTY CONSISTING OF LOT 10, BLOCK 3, STARKEY MANOR 7 ADDITION; AND MORE COMMONLY KNOWN AS 604 MOCKINGBIRD; SAID PROPERTY IS LOCATED WITHIN A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT (R-1); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS

WHEREAS, the owner of the property known as 604 Mockingbird and depicted on the location map and site plan found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on June 14, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: consisting of Lot 10, Block 3, out of the Starkey Manor Addition 7, a subdivision of Kerr County and the city of Kerrville, and being depicted on the

location map and site plan found at **Exhibit A**.

Address: 604 Mockingbird, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. **Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the STRU on the Property, said notification which is attached as **Exhibit B**.
- B. **Local Contact:** The owner or operator of the Property shall provide the City’s Director of Development Services (“Director”), with contact information for a local representative, which may include themselves. The local representative must be able to respond to a City employee or guest of the STRU within two hours after being notified of an emergency. Should a change occur to the contact information, the owner or operator of the Property shall update the Director in writing with the new information within three business days of any such change.
- C. **Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- D. **Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- E. **Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- F. **Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- G. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution

and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.


SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2022.

Judy Eychner, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2022-020

Location:
604 Mockingbird Lane

Legend

200' Notification Area
Subject Properties



0 50 100 200
Scale In Feet

EXHIBIT A





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 30-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Name: _____

Contact Number: _____

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 31-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lots 14 and 15, Block 2, Hill Crest Addition; and more commonly known as 956 Myrta; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Reso 31-2022 CUP 956 Myrta STR.pdf](#)
[20220614_Letter_McGinnis opposed.pdf](#)

Kerrville 2050 Item? No

Key Priority Area

Guiding Principle

Action Item

SUMMARY STATEMENT:

Proposal: A resolution to allow a Conditional Use Permit for a Short Term Rental on part of Lot 14 and part of Lot 15, Block 2, Hill Crest Addition; more commonly known as 956 Myrta St N, Kerrville, TX 78028.

Procedural Requirements: The City, in accordance with state law, mailed 26 letters on 4/28/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 4/21/2022. In addition, an informational sign was posted at the front of the property on 5/4/2022. The City received one comment, which is included.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single-family residential

Existing Land Use: Single family residence

Direction: North, South, West, East

Current Zoning: R-1 Single-family residential

Existing Land Uses: Single family residences

Consistency with the Kerrville 2050 Comprehensive Plan: The subject property and surrounding residential areas are designated as Neighborhood Residential (NR) and Transitional Residential (TR). Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan: The subject property is located on a residential street.

Traffic Impact: No traffic impact is anticipated.

Parking: A Short Term Rental requires one off-street parking space per bedroom and one additional off-street parking space for a manager, if the manager does not live onsite. This property has 2 bedrooms and no onsite manager so 3 off-street parking spaces are required. The applicant has identified 5 available off-street parking spaces, meeting the off-street parking requirement.

Case Summary: The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has provided the following statement regarding the proposed Short Term Rental: We are applying for the 2 bedroom, 1 bath home located at 956 Myrta St. to be conditionally used as a Short Term Rental. There is parking for at least 5 vehicles in the driveway, though occupancy will be limited to 6 guests. This property is ideally situated to be used as a Short Term Rental based upon the composition of the neighborhood and its location in relation to local amenities. The home is walking distance to downtown Kerrville, the Kerrville River Trail System, the municipal golf course, Antler Stadium and the youth athletic complex on Holdsworth Drive. It is centrally located in Kerrville with minimal neighborhood traffic impact to reach other local destinations by car such as the Hill Country Youth Exhibition Center, little league fields, hospitals and local merchants and restaurants outside the Central Business District. The property will be jointly managed by local Kerrville owners and a local management company ensuring that there is always someone available if an emergency arises any time day or night.

Recommendation: Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the following Proposed CUP Conditions.

On May 12th, the Planning and Zoning Commission recommended the case for approval

with a 5-1 vote.

Proposed CUP Conditions for Short Term Rental:

- A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.
- B. Local Contact: The owner or operator of the Property shall provide the City with contact information for a local representative, within approximately two hours distance.
- C. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.
- D. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.
- E. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.
- F. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.
- G. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

RECOMMENDED ACTION:

Approve Resolution No. 31-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 31-2022**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE PROPERTY COMPRISING PART OF LOTS 14 AND 15, BLOCK 2, HILL CREST ADDITION; AND MORE COMMONLY KNOWN AS 956 MYRTA; SAID PROPERTY IS LOCATED WITHIN A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT (R-1); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS

WHEREAS, the owner of the property known as 956 Myrta and depicted on the location map and survey plat found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on June 14, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: comprising part of Lots 14 and 15, Block 2, out of the Hill Crest Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted on the location map and survey plat found at **Exhibit A**.

Address: 956 Myrta, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. **Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the STRU on the Property, said notification which is attached as **Exhibit B**.
- B. **Local Contact:** The owner or operator of the Property shall provide the City’s Director of Development Services (“Director”), with contact information for a local representative, which may include themselves. The local representative must be able to respond to a City employee or guest of the STRU within two hours after being notified of an emergency. Should a change occur to the contact information, the owner or operator of the Property shall update the Director in writing with the new information within three business days of any such change.
- C. **Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- D. **Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- E. **Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- F. **Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- G. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this

Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2022.

Judy Eychner, Mayor

APPROVED AS TO FORM:

ATTEST:



Michael C. Hayes, City Attorney

Shelley McElhannon, City Secretary



City of Kerrville, KPUE, USDA, TNRS

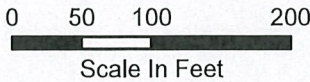
Location Map

Case # PZ-2022-017

**Location:
956 Myrta Street**

Legend

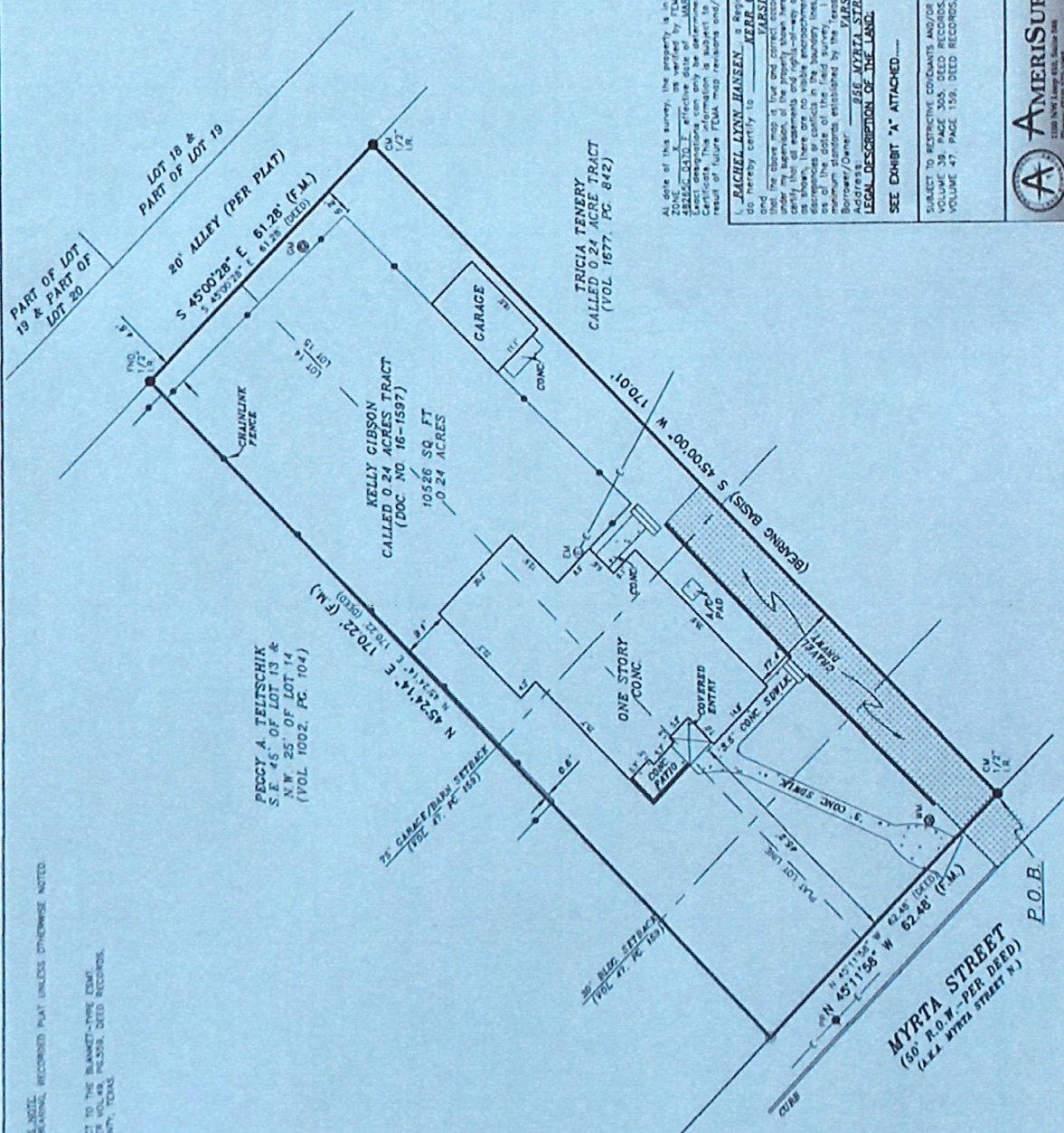
200' Notification Area 
Subject Properties 



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

SUBJECT'S NOTE
RECORDED BY UNLESS OTHERWISE NOTED.

NOTES:
1.) SUBJECT TO THE BLANKET-TYPE DSM,
RIGHTS, PER VOL 49, PG.598, DEED RECORDS,
THE COUNTY TRAC.

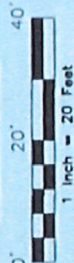


LEGEND

These standard symbols will be found in the drawing.

BOUNDARY LINE
PLANTED LOT LINE
CHAINLINK FENCE
OVERHEAD ELECTRIC
SET IRON ROD
FOULING IRON ROD
WATER METER
ELECTRIC METER
POWER POLE
GAS METER
CONTROL MONUMENT
RECORDED ON DEED
FIELD MEASURED

GRAPHIC SCALE



The survey is heavily beset with the
difficulties, conflicts, or shortages in areas of
boundary lines, encroachments, practices, at
overlapping of improvements shown.

"AS-BUILT" SURVEY

Q8 NO.	1702042735	NO.	REVISION	DATE
DATE	02/21/17	01.	ASD E	02/21/17
DRAWN BY	MIN/RO/TK			
APPROVED BY:			SUM	



Paul Lynn Brown

RACHEL LYNN HANSEN, R.P.L.S.
Registered Professional Land Surveyor
Registration No. 6358

I, BACHEL LYNN HANSEN, a Registered Professional Land Surveyor in the State of Texas,
do hereby certify to KERR COUNTY ABSTRACT & TITLE COMPANY
VARSIITY PROPERTIES, LLC


Further, the above map is true and correct according to an actual field survey, made by me on the ground and under my supervision, of the property then known or described by field notes accompanying this drawing. I further certify that all statements and facts set forth in which I have been advised are those between me and that person, and that I have no knowledge of any other statements or facts which would tend to impeach or impeach the statements or facts so stated. There are no visible encroachments, no visible overlapping of improvements and no apparent discrepancies or conflicts in the boundary lines, and no visible physical evidence of statements or rights-in-way of the date of the field survey. I further certify that this survey meets or exceeds the minimum standards established by the Texas Board of Professional Land Surveying (see 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 263

Borrower/Owner VARSITY PROPERTIES, LLC
Address: 256 MYRTA STREET N. CF No. 38744
LOCAL DESCRIPTION OF THE LAND:

SEE EXHIBIT "A" ATTACHED

IS SUBJECT TO RESTRICTIVE COVENANTS AND/OR FACIEMENTS SPECIFIED IN	REASON FOR DISQUALIFICATION

VOLUME 39, PAGE 303, DEED RECORDS, KERR COUNTY, TEXAS
VOLUME 47, PAGE 159, DEED RECORDS, KERR COUNTY, TEXAS



AMERISURVEYORS, LLC

1130 NW Loop E.S., Suite 808
 San Antonio, Texas 78213
 Phone: (214) 375-1995
 Fax: (214) 375-1993

assured by the title company listed above pursuant to Commitment No. 2. No. shown on this survey, unless certified

Downloaded from <http://ajph.org/> on November 10, 2014



SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 31-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Name: _____

Contact Number: _____

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!

From: [Michelle McGinnis](#)
To: [Planning Division](#)
Subject: Planning & Zoning Case PZ-2022-17
Date: Tuesday, May 10, 2022 12:10:46 PM

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Public hearing PZ-2022-17 May 12, 2022, 4:30pm
Short Term Rental at 956 Myrta St N, Kerrville, TX 78028

I, Michelle McGinnis, is in opposition of the proposal. Request permit location, 956 Myrta St, is my next door neighbor in fact we almost share a driveway. I feel there is no adiquick parking to accommodate a short term rental. I also have a big concern as to mine and my properties safety and security. I believe that Short Term Rental is open to everyone with no background check.

My vote is "NO" on a Permit for a Short Term Rental at 956 Myrta St. N, Kerrville TX 78028.

Michelle McGinnis
960 Myrta St
Kerrville, TX 78028
3d Interiors



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 32-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lots 5 and 6, Block 7, Hill Crest Addition; and more commonly known as 916 Prescott; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Reso 32-2022 CUP 916 Prescott STR.pdf](#)
[20220614_Letters - Lightbourn Gheen Lightbourn.pdf](#)

Kerrville 2050 Item? No

Key Priority Area

Guiding Principle

Action Item

SUMMARY STATEMENT:

Proposal: A resolution to allow a Conditional Use Permit for a Short Term Rental on part of Lot 5 and Lot 6, Block 7, Hill Crest Addition; more commonly known as 916 Prescott St N, Kerrville, TX 78028.

Procedural Requirements: The City, in accordance with state law, mailed 33 letters on 4/28/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 4/21/2022. In addition, an informational sign was posted at the front of the property on 5/4/2022. At the time of drafting this Agenda Bill, one comment in opposition had been received; and an additional Applicant letter has been received. Both are included.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single-family residential

Existing Land Use: Single family residence

Direction: North, South, West, East

Current Zoning: R-1 Single-family residential

Existing Land Uses: Single family residences

Consistency with the Kerrville 2050 Comprehensive Plan: The subject property and surrounding residential areas are designated as Neighborhood Residential (NR). Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan: The subject property is located on a residential street.

Traffic Impact: No traffic impact is anticipated.

Parking: A Short Term Rental requires one off-street parking space per bedroom and one additional off-street parking space for a manager, if the manager does not live onsite. This property has 4 bedrooms and no onsite manager so 5 off-street parking spaces are required. The applicant has identified 5 available off-street parking spaces, meeting the off-street parking requirement.

Case Summary: The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has identified the following amenities as in close proximity to the proposed Short Term Rental: Please see the attached CUP Request Letter for additional property information.

Recommendation: Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the following Proposed CUP Conditions.

On May 12th, the Planning and Zoning Commission recommended the case for approval with a 5-1 vote.

Proposed CUP Conditions for Short Term Rental:

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Local Contact: The owner or operator of the Property shall provide the City with

contact information for a local representative, within approximately two hours distance.

C. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

D. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

E. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

F. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

G. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

RECOMMENDED ACTION:

Approve Resolution No. 32-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 32-2022**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE PROPERTY COMPRISING PART OF LOTS 5 AND 6, BLOCK 7, HILL CREST ADDITION; AND MORE COMMONLY KNOWN AS 916 PRESCOTT; SAID PROPERTY IS LOCATED WITHIN A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT (R-1); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS

WHEREAS, the owner of the property known as 916 Prescott and depicted on the location map and site plan found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on June 14, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: comprising part of Lots 5 and 6, Block 7, out of the Hill Crest Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted on the location map and site plan found at **Exhibit A**.

Address: 916 Prescott, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. **Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the STRU on the Property, said notification which is attached as **Exhibit B**.
- B. **Local Contact:** The owner or operator of the Property shall provide the City’s Director of Development Services (“Director”), with contact information for a local representative, which may include themselves. The local representative must be able to respond to a City employee or guest of the STRU within two hours after being notified of an emergency. Should a change occur to the contact information, the owner or operator of the Property shall update the Director in writing with the new information within three business days of any such change.
- C. **Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- D. **Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- E. **Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- F. **Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- G. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this

Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2022.

Judy Eychner, Mayor

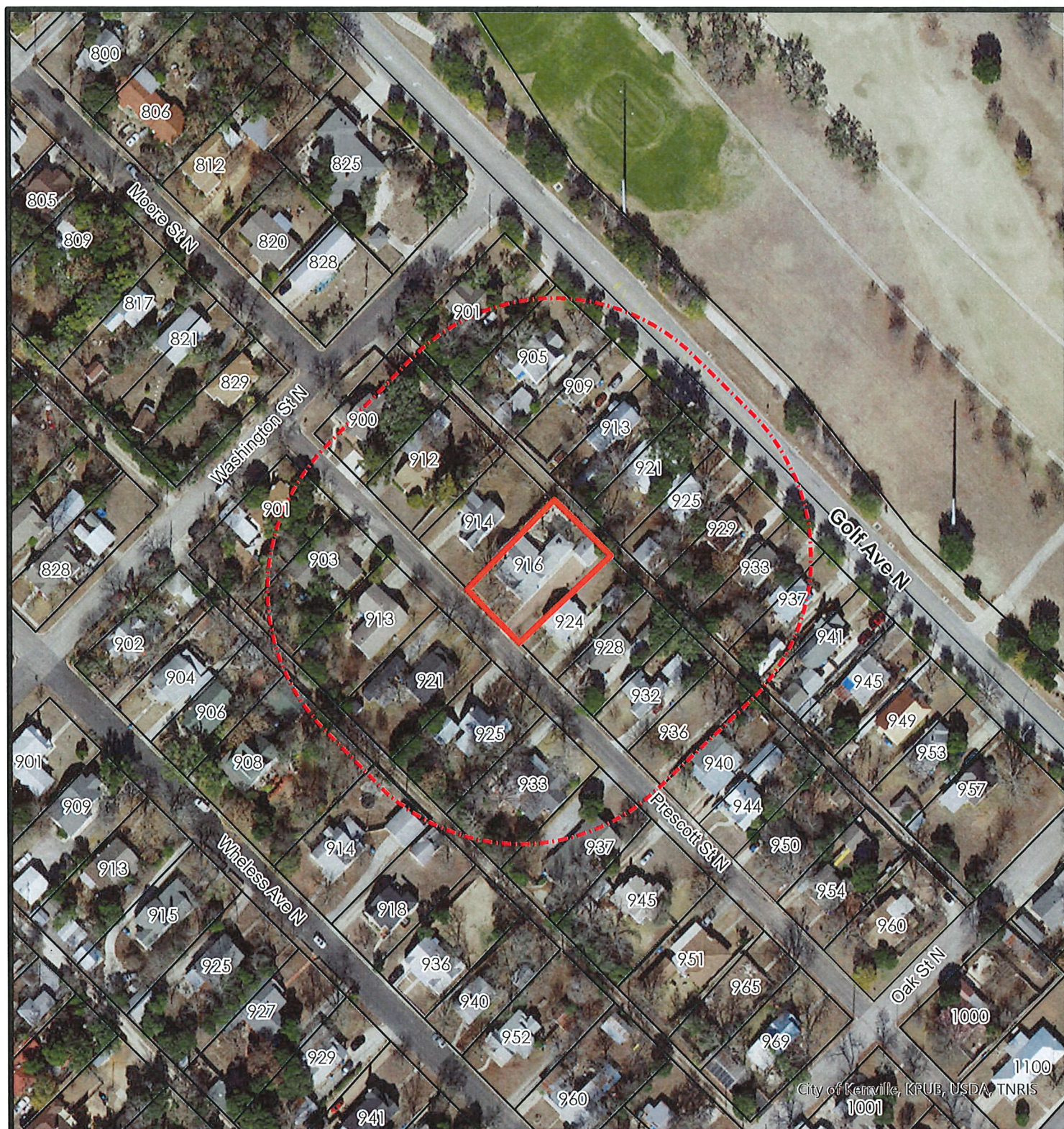
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2022-016

Location:
916 Prescott Street

Legend

200' Notification Area ---
Subject Properties ---



0 50 100 200

Scale In Feet

EXHIBIT A

EXISTING ALLEY

1/2 LOT 5

BACKYARD

LOT 6

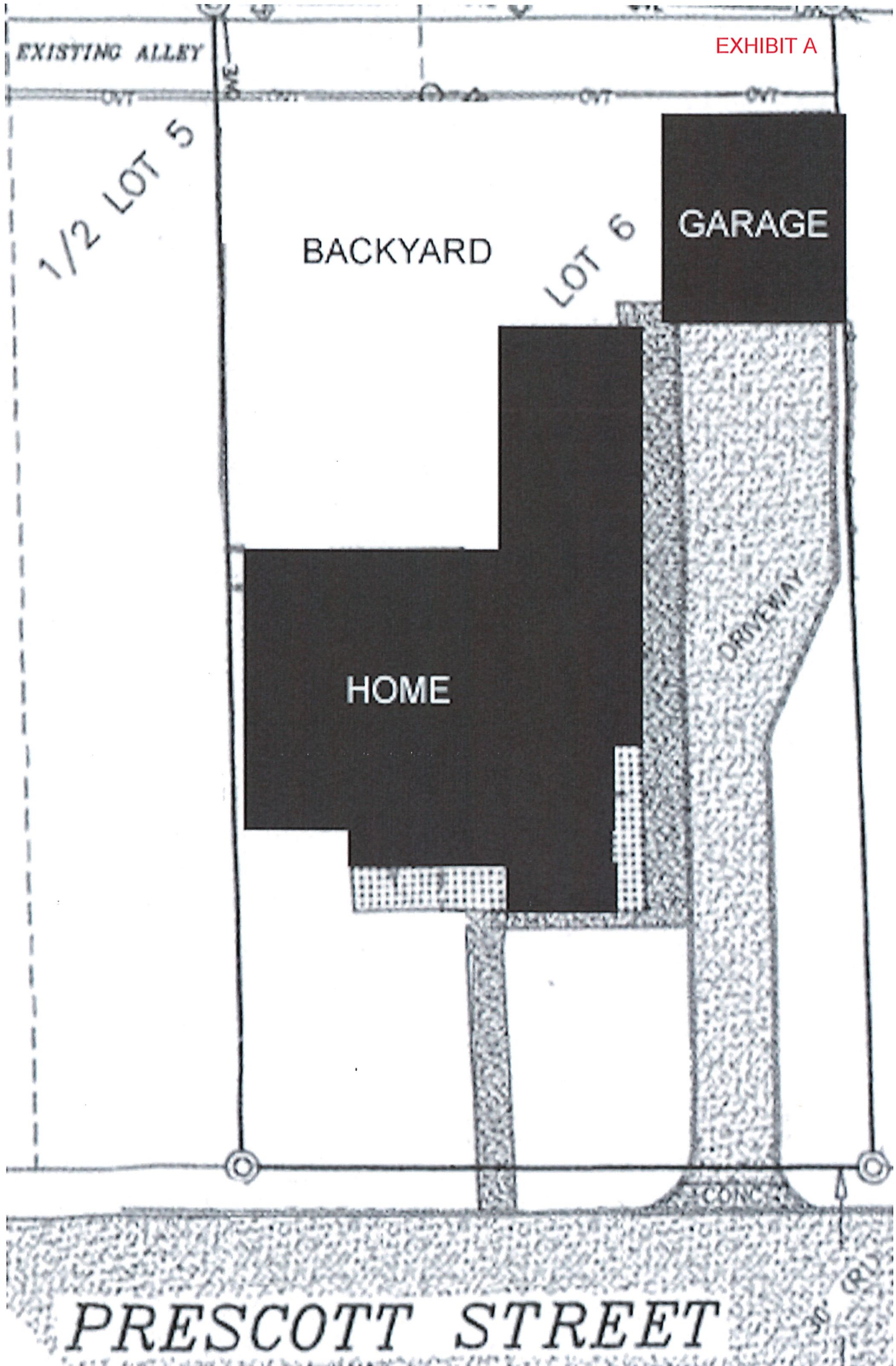
GARAGE

HOME

DRIVEWAY

CONC

PRESCOTT STREET





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 32-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Name: _____

Contact Number: _____

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!

City of Kerrville
Planning and Zoning Commission
200 Sidney Baker St.
Kerrville, TX 78028

March 29, 2022

Conditional Use Permit Application

916 Prescott Street, Kerrville, TX
Property ID 29465 / Zoning R1
4 Bed / 2 Bath / 2,343 sqft / 0.24 acre lot

Dear Director Paxton and the Honorable Commissioners of the Planning and Zoning Commission

My name is Vince Lightbourn. My wife, Michelle Lightbourn, and I are submitting an application along with this letter to request a conditional use permit for the home at 916 Prescott Street. We would like to use the home as a luxury short term rental. We are currently in the process of purchasing the home from David and Anna Smith.

About us

Michelle and I are both life-long Texans currently living in Austin. We first discovered Kerrville in the early 2000s and quickly fell in love with the area. We visited multiple times and, in fact, I proposed to Michelle on the banks of the Guadalupe. We now have two wonderful boys (ages 10 and 6) that we are introducing to Kerrville. A short term rental will be our way of bringing the family to Kerrville regularly and provide us a place we can love away from the hustle and bustle of Austin. This will also serve as a little family project to work on together.

The property itself

The property's central location and close proximity to the many downtown amenities are main attractions we have to this particular property. In addition, the extensive renovations to the home by the Smiths are also a major attraction and will contribute to the success of the home as a short term rental. The home's four bedrooms and ample square footage will easily accommodate a visiting family looking to spread out and relax indoors. The backyard is surrounded by a garage on one side and a tall solid wall on the other sides. This design will help to maintain the privacy of both

surrounding homes as well as the privacy of a family staying in the home. The backyard is a serene and relaxing place that matches perfectly with our target market of families looking for a calming place away from the large metro areas in Texas and beyond.

I have 20+ years experience managing two long term rental units (in Austin) and am familiar with what some rental properties can be like. Problems like yards not being maintained, loud tenants, buildings not remaining in ideal condition and so on are not uncommon in the long term rental space. Those problems are, however, completely unacceptable for a short term rental. I have always prided myself in keeping our long term rentals well maintained and attractive just out of pride of ownership. The luxury short term rental market we will be targeting demands a well kept property in picture perfect condition both inside and out. That is what we plan to deliver.

Impact to the neighborhood

The property at 916 Prescott Street is already in great shape. Our intention is to maintain the home's well-kept appearance, condition and, when needed, continue making improvements. We would like to be great neighbors and remain considerate to those around the home while also maintaining open communication should any concerns come up. Our hope is for the home to blend into the neighborhood as much as possible. There are no plans for signage or outdoor gathering spaces in the front yard or any other outward facing indications of a short term rental.

Regarding parking, the home features space for 6 or 7 vehicles on the driveway. The road is already fairly narrow and we intend to utilize these off-street parking spaces for guests in accordance with city requirements.

The home and backyard provide a serene setting for relaxation. The target demographic for us is families looking for a calm place to stay while enjoying all that Kerrville has to offer. This is not the typical loud parties kind of demographic. Guests will be required to acknowledge our agreement before staying in the home. This lengthy agreement includes house rules establishing expected behaviors which, among other things, prohibits large groups / parties and specifies quiet hours. The home will also contain environmental sensors featuring active noise monitoring which will trigger notifications if noise levels start to exceed preset decibel levels. This will enable us to reach out to guests quickly in an effort to ensure a peaceful environment for the neighbors. These environmental sensors also include person detection to send notifications if the number of people in the home reaches a preset number. This, again, provides an opportunity to address problems early. As part of the agreement acknowledged by guests, they understand that they would need to vacate the property at the owner's request if noise or occupancy levels are violated. All efforts will be made to maintain the calm and relaxing nature of the home for both guests and neighbors.

We will be working with multiple local service providers and contacts to maintain and keep the home clean. We will also work with others in Kerrville to quickly address requests and issues as they come up.

Impact to the city

I am a firm believer in short term rentals being mutually beneficial for cities and property owners. Hotel occupancy taxes will be collected and help contribute to Kerrville's promotion of the city for tourist travel. This, in turn, provides more opportunities for the STR hosts to find additional guests. We will provide guests with recommendations for local attractions, shopping and dining options. We will also rely almost exclusively on Kerrville service providers in the regular maintenance and upkeep of the property. This all helps to contribute to the city's tax income either directly or indirectly.

I reviewed the Kerrville 2050 Comprehensive Plan when evaluating locations for a property that could also be used as a short term rental. I believe that 916 Prescott Street fits nicely into this plan due to its location within two miles of many major attractions in the downtown area, river trail, a major corridor (Sidney Baker St.), multiple highways and Interstate 10.

We are excited to work with the City to remain in compliance while also working to provide comfortable accommodations to encourage new and repeat visitors to Kerrville. Our hope is that, when given the chance to stay in a home like a local, the many guests will learn why Kerrville is such a special place.

Thank you for your consideration of our request for a conditional permit to operate the property at 916 Prescott Street as a short term rental. Please let us know if you have any questions, comments or concerns about our request.

Sincerely

Vince Lightbourn

Photo of left and rear
backyard privacy walls.
Alley separates rear
wall from rear
neighboring property.



Photo of rear wall and
detached garage to the
right of backyard.
Garage separates
backyard from
neighboring property.

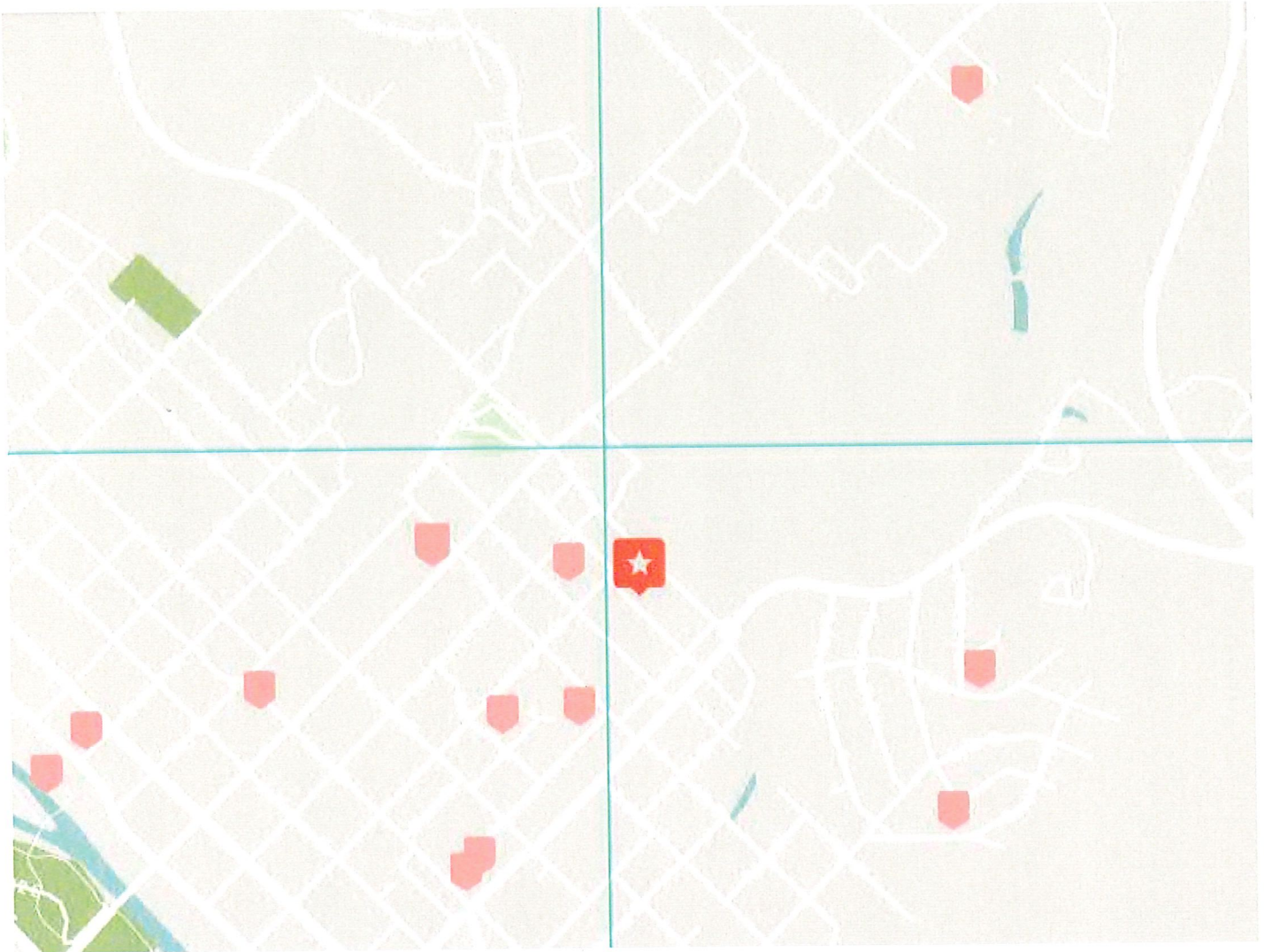


Photo of driveway.
Driveway can easily
provide off-street
parking for 6 or 7
vehicles.



Short Term Rentals Currently Operating Nearby

(Locations are approximate)



916 Prescott St.



Short term rentals currently operating

**A Small Sampling of Nearby Attractions / Amenities
Within ~2 miles**

Scott Schreiner Municipal Golf
Downtown Kerrville
Louise Hays Park / Guadalups River Trails
Riverside Nature Center Association
Interstate 10
The Arcadia Live
VK Garage Theater
Cailloux Theater
Kerr Arts and Cultural Center
Basement Brewers of Texas
Pint & Plow Brewing Company
Rails Cafe
Francisco's Restaurant
Soaring Dragon Chinese Restaurant
The Humble Fork
Mamacita's Restaurant
H-E-B

plus many other retail locations and restaurants



Owner Affidavit (Individual)

Development Services Department

I, David C Smith, having first been duly sworn, do hereby testify as follows:

I am more than 18 years of age and fully capable of making this affidavit;

I am the record owner of the property described as 916 Prescott Street N; and

I hereby authorize Vince or Michelle Lightbourn to submit this application for the purpose of using the property for and to act on my behalf in all matters related to this application.

David C. Smith

Signature of Property Owner

SWORN AND SUBSCRIBED before me this

21 Day of March, 2022
by Maurilia Neri.



Maurilia Neri

Notary Public, State of Texas

From: [Jim Gheen](#)
To: [Planning Division](#)
Subject: CASE PZ-2022-16, Oppose
Date: Sunday, May 1, 2022 10:41:23 AM

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Paxton:

I am in the process of building a small home at 936 Prescott Street for the purpose of enjoying a quiet, relaxed retirement. I am against an investor turning my neighborhood into a commercial district of transient short term renters. In the *Kerrville Comprehensive Plan*, this area is supposed to be neighborhood residential. How is this proposed use compatible with that designation? This should be prohibited for a number of practical reasons:

1. There are no fire safety regulations for short term rentals as there are for hotels.
2. The “guests” frequently disrupt residential neighborhoods. Just *Google* the topic to get an ear full of the real world problems (ie. noise, litter, parking). They are here to party and have fun and usually care little for how they intrude on local residents. Our long term vision is to retain small town charm and enhance quality of life. Quality of life for whom?
3. Demand by investors in short term rentals drives up the cost of housing. Remember our *Comprehensive Plan's* goal is to enact policies that make housing affordable/attainable. As you read this, realtors representing out-of-state investors are actively looking for housing to convert to short term rentals and your approval of this will only incentivize more of this conversion of neighborhoods into transient encampments. If you go online to *AirBnB* or *Vrbo*, you will see our town is already peppered with these rentals. Do we need more?
4. These types of rentals are often marketed at two to three times annual rental rates thus driving up local rental rates. Those rates simply aren't affordable for local workers. This drives out key workers like good teachers, law enforcement, service workers, and entrepreneurs, who just can't afford to live there. Do we really want to make it difficult to attract the workers that help our city function?
5. Some lenders have prescribed limits on lending in neighborhoods with non-owner occupied short term rentals. This could mean buyers who want to live in our neighborhood could find it more difficult to get a home loan.
6. Courts in certain jurisdictions have already ruled that short-term rentals are “transient” in nature and therefore violate covenants restricting property to “residential” use.
7. Local residents are displaced by the increased cost of housing. We already have a city divided between very wealthy and the poor with a shrinking middle class. Why accelerate this trend? Because profits from short term rentals are far in excess of normal rental rates there is plenty of incentive for investors to continue to push for allowing this practice.

8. Those who live next to short term rentals don't have neighbors, weakening neighborhood cohesion. The pandemic has already done much to distance people from each other. Do we need to add more faceless strangers to enhance the effect?

9. The City loses tax revenue, both because the "residents" do not pay hotel taxes, and because they do not stay in hotels. But that is OK. We should always do whatever it takes so a few can profit at the expense of the many.

10. The cost of regulating short term rentals will be high and, like so many other things in the City, regulations are unlikely to be enforced. It is easier to enforce a prohibition than to permit and attempt to regulate short term rentals. For example, it appears an illegal short term rental is already operating at 960 Prescott, called *Prescott House* on Vrbo [[Private Bungalow in Kerrville's Garden District - Kerrville \(vrbo.com\)](#)]. The owners apparently live behind the house in an accessory dwelling unit that doesn't appear on KerrCAD's database, while renting out their house. Was this operation approved by the Zoning Commission and is it regulated?

11. Landlords are unlikely to maintain short term rentals. As an example, just look at some of the existing homes that are rented out by owners, usually located in Fredericksburg. Not far from me a wood privacy fence is falling down but rather than replace it which an owner/resident would do, it is propped up by 2x4's along its length. The rentier's maxim is the most profit for the least investment. And the investor in 219 Prescott is paying a bundle so he is under pressure to cut corners, reduce expenses, and maximize throughput of renters.

The investor buying this home has done his homework too. He knows there are a number of rented houses in the neighborhood and that those nonlocal owners are probably ambivalent about short term rentals, so resistance will only be from a few actual resident owners, if they show up. Most won't. They see this as a slam dunk.

12. Without its residents and neighborhoods, Kerrville loses its soul. Will Kerrville remain a unique place with small-town charm with a population that is very engaged and interested in the future of the community if we continue to allow commercial operations to displace residential units? A recent *Northwestern University* study shows violent crime increases in neighborhoods where short term rentals are added, but not for the reason you'd think. Researchers found that what's behind the increase in violence is not the presence of criminal tourists or visitors, but the absence or erosion of long-term residents who know each other, trust each other, and care about the community. (Ref: [Why Do Some Crimes Increase When Airbnbs Come to Town? | WIRED](#))

In closing, I'm not totally against the limited presence of short term rentals when located appropriately and regulated as commercial entities. For example, the Tivy Street *BoisD'Arc Bungalow & Suites* is located in a mixed use area of government buildings, apartments, churches, and a dentist office with a major intersection. It isn't right in the middle of a quiet residential neighborhood with a very narrow street. From online rental maps, it appears there are already over a hundred such rentals being advertised. Is the City aware of these, are these locations approved, taxed, and regulated? Or has this business sector become a free-for-all wild west gradually eroding our quality of life and sense of community? Thank you for this opportunity to voice my concerns.

Sincerely,

Jim Gheen
Soon to be Homeowner

City of Kerrville
Planning and Zoning Commission
200 Sidney Baker St.
Kerrville, TX 78028

May 6, 2022

**Conditional Use Permit Application
Response to Neighbor Comment**

916 Prescott Street, Kerrville, TX
Case PZ-2022016

Dear Director Paxton and the Honorable Commissioners of the Planning and Zoning Commission

My name is Vince Lightbourn. I submitted an application for a conditional use permit (CASE PZ-2022-16) for 916 Prescott Street and wish to submit an official letter to address concerns raised by a resident of Kerrville, Jim Gheen. Mr. Gheen expressed many concerns. I would like to address each one.

Item 1 Fire Safety

Mr Gheen is correct that there are no fire safety regulations as there are for hotels. Hotels, however, are a different kind of structure and typically temporarily house many more folks on multiple floors than a typical home. An average residential structure typically contains one to four units (single family home, duplex, quad-plex). These residential structures do not have fire safety regulations like a hotel. The home at 916 Prescott Street will be following the same safety regulations that other single family residential structures do. There are currently no fire safety requirements as part of the short term rental conditional use permit. The home will have multiple smoke and carbon monoxide detectors.

Item 2 Guests disrupting neighborhoods

Google searches for topics can, in many cases, bring up search results to support either side of an issue and can vary depending on who is searching. This variability results in it being an unreliable source. If possible, I would like to find out the number of noise or other disturbance complaints specific to short term rentals. Is that data available?

Specific to 916 Prescott Street, I will say that our target market is families looking for a relaxing and private place to stay while in Kerrville. We are not targeting the “partying” demographic. The noise level here would not be much different from any family at the end of a long week ready to spend the weekend relaxing and enjoying each other's company. I will add that the home will have environmental sensors featuring active noise monitoring which will trigger notifications if noise levels start to exceed preset decibel levels. This will enable us to reach out to guests quickly in an effort to ensure a peaceful environment for the neighbors. These environmental sensors also include person detection to send notifications if the number of people in the home reaches a preset number. This, again, provides an opportunity to address problems early.

Item 3 Investors driving up the cost of homes

Mr. Gheen expressed concerns about out-of-state investors driving up the cost of homes as they search for homes to use as short term rentals. My wife and I are life-long Texans. We currently do not live in Kerrville (we are in Austin). We have, however, been visiting Kerrville since around 2001. We love the area. We are starting to dream about our life after retirement. In the meantime, we wanted a way to introduce our young sons to Kerrville while also starting to put down some roots for the fast-approaching day when we can leave the big city after our boys are out on their own. The home at 916 Prescott Street was on the market since last summer. We did not swoop in and pay over asking like the stories we all hear about. The effects of record low interest rates, increased money supply, low supply of homes, high demand, and inflation may be the reasons for rising home costs... Not short term rental investors.

Item 4 Driving up rental rates

The expressed concern of short term rental rates driving up rents for long term renters is false. Properties rented for less than 29 days are not classified as long term rentals. These are completely separate target markets. A long term rental landlord offers up an empty home for a monthly cost on a lease term of (typically) 12 months. The utilities and furnishings are all up to the tenant to provide/pay for. Short term rentals are different. These are fully furnished homes with utilities paid, dishes in the cabinets, forks in the drawers, sheets on the bed and somebody to clean the home after each guest leaves. It is true that somebody staying in a short term rental will pay more per day than a long term renter pays for a day in the respective home. The owner's expense of operating and the expectations of a short term rental guest are vastly different from those of a long term rental owner and a long term rental tenant. Not all landlords want to deal with the extra complexities of a STR. Short term rental nightly rates have no effect on long term monthly rents.

Item 5 Lender limits on lending in non-owner occupied neighborhoods

My realtor in Kerrville is far more familiar with the various lenders and requirements in the area. She agreed to ask for some information about the claim of lender prescribed limits on lending in neighborhoods with non-owner occupied short term rentals. Jeff Fierst, a Kerrville mortgage officer, sent the following:

"Lenders large or small, Secondary Market or in-house, do not take into consideration when determining the qualifications of a borrower or the subject collateral for the purpose of a residential loan, whether or not there are short term or long term rentals near or around the subject property. Such a lending practice would be considered Red Lining, this type of underwriting was out-lawed decades ago."

Source: Jeff Fierst via Jennifer Wise

Item 6 Short term rentals violate residential use covenants

Mr. Gheen's claim that courts in certain jurisdictions ruled that short term rentals violate covenants restricting property to residential use is correct. However, more recently, in 2018 the Texas Supreme Court ruled on this issue. Quoting from the Justia summary:

"The court of appeals concluded that the rental agreements contracted the residential-purpose limitation because the renters' stays were merely temporary. The Supreme Court reversed, holding (1) the unambiguous restrictive covenants did not restrict the homeowner from renting his single-family residence to occupants to use his home for a "residential purpose," no matter how short-lived; and (2) therefore, the homeowner did not violate the restrictive covenants by entering into short-term vacation rental agreements."

Source: <https://law.justia.com/cases/texas/supreme-court/2018/16-1005.html>

Item 7 Local residents displaced by rising costs

I share concerns regarding rising housing costs. In fact, rising costs in Austin are part of why we are trying to plan for our retirement which led to this conditional use permit application in Kerrville. This shared concern is not, however, related to short term rentals. I feel like the information in my response to Item 3 also applies here.

Item 8 Weakened neighborhood cohesion

In his letter, Mr. Gheen claimed that people near short term rentals don't have neighbors. I recently spoke with somebody who put their home up the for sale sign in their front yard after being in the neighborhood for 10+ years. She said, days later, a neighbor from several doors down said "we'll miss you!" even though they barely (if ever) spoke to them before. The kindness of that neighbor's statement is wonderful. This kind of thing where neighbors hardly know neighbors is not uncommon at all... It pre-dates short term rentals. A short term rental gives visitors a chance to live like a local. That may or may not include saying "Hi!" to the neighbors in much the same way that long term homeowners may or may not say "hi." Aside from the change in vehicles parked in the driveway from one weekend to the next, I don't know if most folks would even know that a short term rental is next door or on their block. Having guests to the city in a home on your block does not mean you won't get those same kind smiles, waves or a "Hello" from somebody you may or may not have ever talked to before.

Item 9 The city loses tax revenue

Owners of short term rentals are required by law to collect, report, and pay both 7% Kerrville City Lodging Tax (for all properties located within the city limits and ETJ) and 6% State Hotel Tax. If the homeowner does not want to be responsible for that required duty, both VRBO and Airbnb platforms can facilitate those tasks on their behalf. As an added bonus, short term rentals. I am a firm believer in short term rentals being mutually beneficial for cities and property owners. Lodging taxes will be collected and help contribute to Kerrville's promotion of the city for tourist travel. This, in turn, provides more opportunities for the STR hosts to find additional guests. We will provide guests with recommendations for local attractions, shopping and dining options. We will also rely almost exclusively on Kerrville service providers in the regular maintenance and upkeep of the property. This all helps to contribute to the city's tax income either directly or indirectly.

Item 10 Regulating vs prohibiting short term rentals

The City of Kerrville put into place a conditional use permit process to regulate the establishments of STRs within the city. This infrastructure was designed, within the city's budget and man power, to provide homeowners a creative, profitable, legal way to monetize their investment properties, while protecting the community's residential usage/environment through a selective approval process. As mentioned in Item 9, the operation of STRs within the city provides a hotel tax that feeds Kerrville's visitor economy, which in turn, attracts future residents and provides additional support/patronage for local businesses. In contrast, the enforcement of complete prohibition of STRs would use the same (or more) of the city's resources to carry out, but without the benefit of hotel tax collection and contribution.

Regarding the "Prescott House" property at 960 Prescott, reference City Council resolution 01-2022 for the approval of this conditional use permit.

https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/1197689/20220111_Reso_01-2022_CUP_960_Prescott_STR.pdf

Item 11 Landlords unlikely to maintain short term rentals

Im this case, I feel like Mr. Gheen is lumping short term rental owners in with long term rental landlords. Investments in short term rental and long term rentals are very different. The income potential of a STR is potentially much better than that of a long term rental. With a long term rental, profits are typically much lower. Some landlords may make a couple hundred dollars per month on a property. So expenses like repairing a fence can start eating into those profits.

Potential profits from a short term rental are higher. However, the expectations of STR guests are much higher than in long term rentals. If a home is in disrepair, the guests will be unhappy and stop staying there. Due to the higher costs of operating a STR, not having guests can mean you are losing lots of money. Short term rental owners have every incentive to maintain the home in picture perfect condition all the time so that the

costs of paying the mortgage, maintaining the home and paying taxes are covered before any profits can be seen. Many previously run down long term rental homes in Kerrville are seeing complete renovations to become short term rentals. This helps to revitalize older parts of town that were previously left as-is to preserve income from rentals. I think most short term rental owners are going to maintain the homes better than most long term rentals and even many homeowners.

Regarding our intentions in buying the home in an area with many rentals and ambivalent non-local owners, this just is not the case. When my wife and I first started looking for a home in Kerrville, we reached out to an agent who also owns a short term rental management company in order to be properly guided in locating a suitable property. Her guidance to us was two fold:

1. To locate available properties in close proximity to downtown and local amenities and that aligned with the desired criteria of CUP guidelines. The home at 916 Prescott was specifically picked because it rated EXTREMELY HIGH on this scale with regards to location, parking, privacy, and best use.
2. To find a property that had demonstrated great potential as an STR to an investor, according to location, layout, amenities.

We also wanted to find a place that we would want to be in. Again, the home at 916 Prescott fit that criteria beautifully.

Item 12 Increases in violent crime related to STRs

The study cited by Mr. Gheen, though interesting, seems to be not an appropriate basis for comparison. The study took place in Boston, a city with a population of over 680,000 ranked as safer than only 19% of U.S. cities (according to NeighborhoodScout). In fact, if you look at some crime data sources, like Macrotrends, the crime rate in Boston has been decreasing in the years that STRs have grown in the city.

Sources: <https://www.neighborhoodscout.com/ma/boston/crime>

[https://www.macrotrends.net/cities/us/ma/boston/crime-rate-](https://www.macrotrends.net/cities/us/ma/boston/crime-rate-statistics#:~:text=The%20Boston%20MA%20crime%20rate,a%205.4%25%20decline%20from%202016)

[statistics#:~:text=The%20Boston%20MA%20crime%20rate,a%205.4%25%20decline%20from%202016](https://www.macrotrends.net/cities/us/ma/boston/crime-rate-statistics#:~:text=The%20Boston%20MA%20crime%20rate,a%205.4%25%20decline%20from%202016)

To claim the lack of neighborhood cohesion is due to the growth of short term rentals is, I feel, misguided. There are around 300 STRs in Kerrville and surrounding areas (ETJ, Ingram, Hunt, etc). Recent census data indicates there are around 10,000 housing units in the Kerrville area. I question whether 3 homes out of 100 would have much effect on neighborhood cohesion. I think my response in Item 8 also applies here.

In his letter, Mr. Gheen explained that he is currently building a home nearby and is looking forward to enjoying a quiet and relaxed retirement. I have to assume that he was drawn to Prescott Street for much the same reasons we are. The area around Prescott Street, like much of Kerrville, is beautiful and is close to many attractions such

as downtown, shopping, restaurants, river trails, parks, Scott Schreiner Golf Course, Kerrville Sports Complex, Peterson Regional Medical Center, Schreiner University, and Antler Stadium. The location is also close to major thoroughfares such as Sidney Baker St., I-10, Junction Highway and others via a feeder road, Golf Ave. (which is one street over). These same features are also something guests to Kerrville would like to be near. I believe the Kerrville 2050 Comprehensive Plan identifies areas, such as this one, as ideal for short term rentals.

I believe Kerrville has taken the right approach in requiring permits for STRs to operate. Short term rental conditional use permits include requirements such as specified number of off-street parking spots, occupancy limits, posted signage and the same quiet hours that all homes must abide by. From the beginning, I have reached out to Steve Melander and Drew Paxton to learn about what is acceptable and allowed. I am a firm believer in doing things properly and "by the book." I look forward to being a positive addition to the neighborhood and Kerrville. If given the chance, I would love to speak with Mr. Ghee and maintain an open line of communication so that he can enjoy his retirement in peace and my wife and I can do the same when the time comes.

Thank you all for your time and consideration.

Vince Lightbourn



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Resolution No. 33-2022. A Resolution granting a Conditional Use Permit to authorize a Short-Term Rental Unit on the property comprising part of Lot 12, Block 1, Riverhill Las Casitas Addition; and more commonly known as 220 Riverhill Club Ln #12; said property is located within a Medium Density Residential Zoning District (R-2); and making said permit subject to conditions and restrictions.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Reso 33-2022 CUP 220 Riverhill Club Ln No12 STR.pdf](#)

Kerrville 2050 Item? No

Key Priority Area

Guiding Principle

Action Item

SUMMARY STATEMENT:

Proposal: A resolution to allow a Conditional Use Permit for a Short Term Rental on Lot 12, Block 1, Riverhill Las Casitas; more commonly known as 220 Riverhill Club Ln E #12, Kerrville, TX 78028.

Procedural Requirements: The City, in accordance with state law, mailed 20 letters on 4/28/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 4/21/2022. In addition, an informational sign was posted at the front of the property on 5/4/2022. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-2 Medium density residential

Existing Land Use: Townhomes

Direction: North

Current Zoning: R-1 Single-family residential

Existing Land Uses: Vacant

Direction: South, West, East

Current Zoning: R-2 Medium density residential

Existing Land Uses: Townhomes, Duplexes, Single-family residential

Consistency with the Kerrville 2050 Comprehensive Plan: The subject property and surrounding residential areas are designated as Neighborhood Residential (NR). Since the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan: The subject property is located on a residential street.

Traffic Impact: No traffic impact is anticipated.

Parking: A Short Term Rental requires one off-street parking space per bedroom and one additional off-street parking space for a manager, if the manager does not live onsite. This property has 2 bedrooms and no onsite manager so 3 off-street parking spaces are required. The applicant has identified a minimum of 3 available off-street parking spaces, meeting the off-street parking requirement.

Case Summary: The applicant is proposing to use an existing home as a Short Term Rental.

The subject property is located within an R-2 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

The applicant has provided the following statement regarding the proposed Short Term Rental: We would like to use this 2 bedroom, 2 bath townhome as a short-term rental. There are several in use in the Las Casitas section of Riverhill currently. We have 2 permanently designated parking spaces as well as 4 undesignated parking spaces that immediately adjoin this unit (off Fairway Drive) and which are essentially always available. This home is well situated to take advantage of many local amenities such as the Kerrville's Central Business District, Kerrville River Trail, both hospitals, the Kerrville Folk Festival and the Hill Country Youth Exposition Center. The youth sports complex is also an easy drive away as well. We are also in the process of obtaining a "Stay and Play" membership for the Riverhill Country club to give guests access to the club amenities such as golf course, pool, tennis courts, etc.

Recommendation: Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are amenities in close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the following Proposed CUP

Conditions.

On May 12th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

Proposed CUP Conditions for Short Term Rental:

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Local Contact: The owner or operator of the Property shall provide the City with contact information for a local representative, within approximately two hours distance.

C. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

D. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

E. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

F. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

G. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

RECOMMENDED ACTION:

Approve Resolution No. 33-2022.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 33-2022**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE PROPERTY COMPRISING PART OF LOT 12, BLOCK 1, RIVERHILL LAS CASITAS ADDITION; AND MORE COMMONLY KNOWN AS 220 RIVERHILL CLUB LN. #12; SAID PROPERTY IS LOCATED WITHIN A MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT (R-2); AND MAKING SAID PERMIT SUBJECT TO CONDITIONS AND RESTRICTIONS

WHEREAS, the owner of the property known as 220 Riverhill Club Ln. #12 and depicted on the location map and site plan found at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Medium Density Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, has recommended that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on June 14, 2022, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Medium Density Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: consisting of Lot 12, Block 1, out of the Riverhill Las Casitas Addition, a subdivision of Kerr County and the city of Kerrville, and being depicted on the

location map and site plan found at **Exhibit A**.

Address: 220 Riverhill Club Ln. #12, Kerrville, TX
78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. **Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the STRU on the Property, said notification which is attached as **Exhibit B**.
- B. **Local Contact:** The owner or operator of the Property shall provide the City’s Director of Development Services (“Director”), with contact information for a local representative, which may include themselves. The local representative must be able to respond to a City employee or guest of the STRU within two hours after being notified of an emergency. Should a change occur to the contact information, the owner or operator of the Property shall update the Director in writing with the new information within three business days of any such change.
- C. **Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- D. **Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with the STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- E. **Parking:** The Property must include at a minimum, one (1) off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- F. **Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- G. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution

and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.


SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2022.

Judy Eychner, Mayor

APPROVED AS TO FORM:

ATTEST:



Michael C. Hayes, City Attorney

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2022-018

Location:
220 Riverhill Club Lane
UNIT 12

Legend

200' Notification Area ---
Subject Properties ---



0 50 100 200
Scale In Feet





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number 33-2022

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Name: _____

Contact Number: _____

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Ordinance No. 2022-20, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning of an approximate 7.08 acre property known as 1600 Junction Highway (SH 27); consisting of part of Lot 1, Block 1, of the Foxworth-Galbraith Subdivision; from a Light Commercial Zoning District (C-2) to a General Commercial Zoning District (C-3); and providing other matters relating to the subject.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Ord 2022-20 1600 Junction Hwy zone change C3 2nd reading.pdf](#)

Kerrville 2050 Item? Yes

Key Priority Area H - Housing

Guiding Principle H1. Provide a diverse range of housing options to meet the needs and desires of all age groups, income levels, and lifestyles

Action Item H3.3 - Seek to attract senior living options for individuals requiring varying levels of assistance and care

SUMMARY STATEMENT:

Proposal: An ordinance to change the zoning from C-2 Light Commercial District to C-3 General Commercial District on parts of Lot 1, Block 1, Foxworth-Galbraith Lumber Co; and more commonly known as 1600 Junction Hwy, Kerrville, TX 78028. (Case No. PZ-2022-10)

Procedural Requirements: The City, in accordance with state law, mailed 12 letters on 2/22/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 3/17/2022.

At the time of drafting this agenda bill, Development Services has received no comments.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: C-2 Light Commercial

Existing Land Use: Vacant Land

Direction: North

Current Zoning: C-2 Light Commercial

Existing Land Uses: Single-family residential

Direction: East & South

Current Zoning: C-2 Light Commercial

Existing Land Uses: multi-family residential

Direction: West

Current Zoning: C-3 General Commercial

Existing Land Uses: Lumber yard

Consistency with the Kerrville 2050 Comprehensive Plan ("Comp Plan"): The subject property is within the Strategic Catalyst Area 4. This catalyst area is largely commercial corridor. The regional commercial place type includes apartments. The surrounding area is designated as Neighborhood Residential. Based on the catalyst area and place types, the request is consistent with the Kerrville 2050 Future Land Use Plan.

Thoroughfare Plan: The subject property is located on and has access to Junction Highway (a primary arterial) and Goat Creek Road (a primary arterial), as required for multi-family developments.

Traffic Impact: Future traffic impacts will be reviewed through the TIA Worksheet through the development and subdivision of this property.

Parking: All off-street parking requirements will be met through the final project design and approval.

Case Summary: The applicant is requesting a zoning change from C-2 Light Commercial to C-3 General Commercial to allow for an apartment complex. This project is currently undergoing the application process for a TDHCA tax credit.

Recommendation: Because the request is consistent with the adjacent development and the objectives of the Kerrville 2050 Plan, the staff recommends annexation and the zoning request.

On April 7th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

On May 24th, the City Council unanimously approved Ordinance No. 2022-20 on first reading.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-20 on second reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-20**

AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS; BY CHANGING THE ZONING OF AN APPROXIMATE 7.08 ACRE PROPERTY KNOWN AS 1600 JUNCTION HIGHWAY (SH 27); CONSISTING OF PART OF LOT 1, BLOCK 1, OF THE FOXWORTH-GALBRAITH SUBDIVISION; FROM A LIGHT COMMERCIAL ZONING DISTRICT (C-2) TO A GENERAL COMMERCIAL ZONING DISTRICT (C-3); AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 24, 2022, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in the change of a zoning district for the property known as 1600 Junction Highway (SH 27) and comprising approximately 7.08 acres; such change to result in the removal of the property from a Light Commercial Zoning District (C-2) to placement within a General Commercial Zoning District (C-3); and

WHEREAS, on May 24, 2022, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The Zoning Code for the City of Kerrville, Texas, Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are hereby amended to designate the following described property zoned as within a General Commercial Zoning District (C-3):

Legal Description: Being a 7.08 acre tract, making up part of Lot 1, Block 8, Foxworth-Galbraith Subdivision; a subdivision within the City of Kerrville, Kerr County, Texas; said property depicted at Exhibit A, attached hereto and made a part hereof for all purposes, and hereafter referred to as the "Property."

Address: 1600 Junction Highway (SH 27), Kerrville,
Texas 78028.

SECTION TWO. The City Manager or designee is authorized and directed to amend the City's *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City's Zoning Code.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION FIVE. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION SIX. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 24th day of May, A.D., 2022.

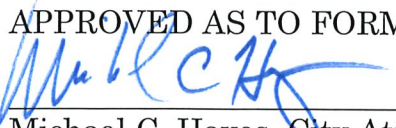
PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ of _____, A.D., 2022.

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

T:\Legal\DEVELOPMENT SERVICES (Planning)\Zoning\ORD\1600 Junction Highway_C-2 to C-3_033122.docx



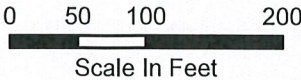
Location Map

Case # PZ-2022-10

Location:
1600 Junction Highway

Legend

200' Notification Area - - - - -
Subject Properties - - - - -



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.



**TO BE CONSIDERED BY THE
PLANNING AND ZONING COMMISSION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Ordinance No. 2022-21, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas; by changing the zoning of a property known as 400 W. Water; consisting of Lot 8, Block 17, Section B, of the Westland Place Addition; from a Single Family Residential with Accessory Dwelling Unit Zoning District (R-1A) to a Residential Transition Zoning District (RT); and providing other matters relating to the subject.

AGENDA DATE OF: June 14, 2022

DATE

Jun 07, 2022

SUBMITTED:

SUBMITTED BY: Drew Paxton

EXHIBITS: [20220614_Ord 2022-21 400 W Water zone change RT 2nd reading.pdf](#)

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Proposal: An ordinance to change the zoning from R-1A Single Family Residential with an Accessory Dwelling Unit District to RT Residential Transition on Lot 8, Block 17, Section B Westland Place Addition; and more commonly known as 400 W Water St N, Kerrville, TX 78028. (Case No. PZ-2022-11)

Procedural Requirements: The City, in accordance with state law, mailed 24 letters on 2/22/2022 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 3/17/2022.

At the time of drafting this agenda bill, Development Services has received no comments.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1A Single-family residential with accessory dwelling unit

Existing Land Use: single family residential

Direction: North & West

Current Zoning: R-1A Single-family residential with accessory dwelling unit

Existing Land Uses: Single-family residential

Direction: East

Current Zoning: RT Residential Transition

Existing Land Uses: Single-family residential

Direction: South

Current Zoning: PD 20-27

Existing Land Uses: beauty salon

Consistency with the Kerrville 2050 Comprehensive Plan ("Comp Plan"): The subject property is designated as Neighborhood Residential with Community Commercial adjacent to the south closer to Junction Highway.

Thoroughfare Plan: The subject property is located on West Water Street, a local level street.

Traffic Impact: There is limited traffic impact anticipated with the adjacent RT developed area along W Water Street.

Parking: All off-street parking requirements will be met through final project design and approval.

Case Summary: The applicant is requesting a change in zoning from R-1A to RT Residential Transition to convert the house to an office building.

Recommendation: Because the request is consistent with the adjacent development and the objectives of the Kerrville 2050 Plan, staff recommends annexation and the zoning request.

On April 7th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

On May 24th, the City Council unanimously approved Ordinance No. 2022-20 on first reading.

RECOMMENDED ACTION:

Approve Ordinance No. 2022-21 on second reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-21**

AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS; BY CHANGING THE ZONING OF A PROPERTY KNOWN AS 400 W. WATER; CONSISTING OF LOT 8, BLOCK 17, SECTION B, OF THE WESTLAND PLACE ADDITION; FROM A SINGLE FAMILY RESIDENTIAL WITH ACCESSORY DWELLING UNIT ZONING DISTRICT (R-1A) TO A RESIDENTIAL TRANSITION ZONING DISTRICT (RT); AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 24, 2022, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in the change of a zoning district for a the property known as 400 W. Water; such change to result in the removal of the property from a Single Family Residential with Accessory Dwelling Unit Zoning District (R-1A) to placement within a Residential Transition Zoning District (RT); and

WHEREAS, on May 24, 2022, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The Zoning Code for the City of Kerrville, Texas, Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are hereby amended to designate the following described property zoned as within a Residential Transition Zoning District (RT):

Legal Description: Being Lot 8, Block 17, Section B of the Westland Plan Addition, a subdivision within the City of Kerrville, Kerr County, Texas; said property depicted at Exhibit A, attached hereto and made a part hereof for all purposes, and hereafter referred to as the "Property."

Address: 400 W. Water, Kerrville, Texas 78028.

SECTION TWO. The City Manager or designee is authorized and directed to amend the City's *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City's Zoning Code.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION FIVE. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION SIX. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 24th day of May, A.D., 2022.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ of _____, A.D., 2022.

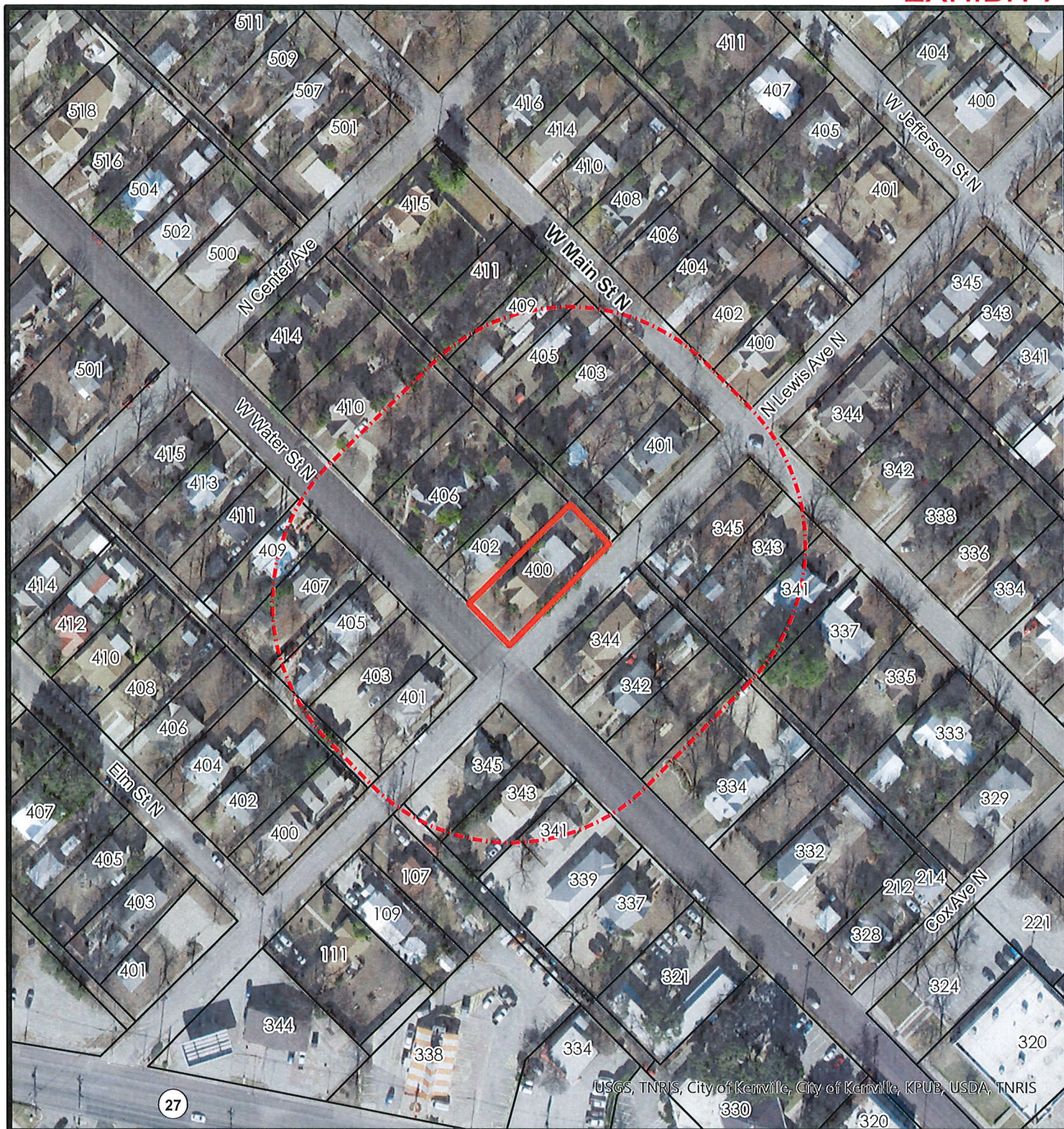
APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

Judy Eychner, Mayor

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2022-11

Location:
400 W Water Street

Legend

200' Notification Area ---
Subject Properties ---



0 50 100 200
Scale In Feet



**TO BE CONSIDERED BY THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointments to the Economic Improvement Corporation. (This item is eligible for Executive Session 551.074).

AGENDA DATE OF: June 14, 2022 **DATE SUBMITTED:** May 12, 2022

SUBMITTED BY: Shelley McElhannon

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	\$0	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Three terms expire June 1, 2022. Six applications have been received: John Anderson, Kyle Bond, Gary Cochrane (eligible for reappointment), Justin Ferrell, Travis Lindner, and Allan Perry.

RECOMMENDED ACTION:

Appoint members.