



City Council Planning Department Staff Report

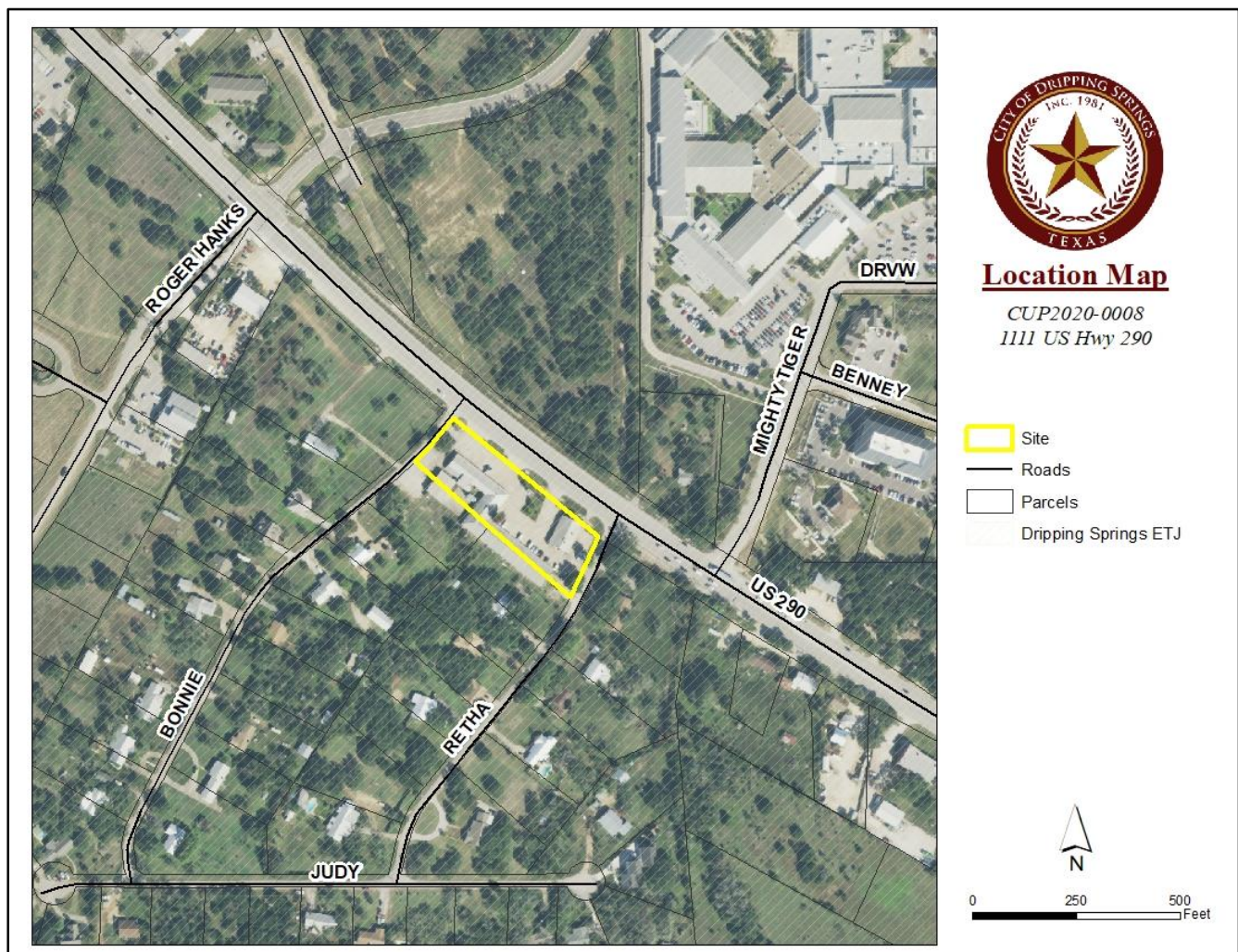
City Council Meeting: September 8, 2020
Project No: CUP2020-0008
Project Planner: Amanda Padilla, Senior Planner

Item Details

Project Name: Bykowski Tailor & Garb
Property Location: 1111 W US Highway 290, Dripping Springs, TX 78620
Legal Description: DRIPPING SPRINGS HEIGHTS LOT 1 BLK B GEO#90402468
Applicant: Jon Thompson, J Thompson Professional Consulting
Property Owner: Trailhead Market Limited
Request: Conditional Use Permit (CUP) for a Mobile Food Vendor – Longer than 10 days use within the Commercial Services (CS) Zoning District

Staff Recommendation

Staff recommends approval of the requested CUP with conditions outlined in the staff report



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Overview

The applicant is requesting a Conditional Use Permit (CUP) to allow a Mobile Food Vendor – Longer than 10 days to be located at 1111 W US Highway 290. The Property is located within the Commercial Services (CS) zoning district. Mobile Food Vendors longer than 10 days are permitted in the CS zoning district with an approved Conditional Use Permit. Per the City's Zoning Ordinance that was amended on April 10, 2018, Sec. 30.05.009 (C), if any mobile food vendor remains at a same location for longer than 10 consecutive days, a Conditional Use Permit is required. If after 10 days, a Mobile Food Vendor wishes to relocate to a different location within the city, the vendor may do so for an additional 5 days. In any given month, a vendor may not locate within the city limits for more than 15 days without a CUP. A Conditional Use Permit is required to establish Mobile Food Vendor longer than 10 days, following procedures for CUPs per chapter 30, exhibit A: section 3.17 Conditional Use Permits of the Code of Ordinances.

The Applicant would like to have one (1) Mobile Food Vendor permanently located at the property to complement the business that will be located inside a suite [see exhibit 6] located at 1111 W US Hwy 290. The applicant is wanting to operate as a general merchandise retail store and restaurant. The Mobile Food Trailer would constitute the food component of the business. This location would offer clothing, hats, leather goods, footwear, apothecary, teas, books, oddities, curiosities, gifts, taxidermy, home décor, a bulk candy store, and full food and bar service. The Bar is not required to acquire a separate CUP or variance for the alcohol establishment use because the Business will hold a food and beverage certificate. (The selling of alcohol beverages shall not be allowed within 300 feet of School District Property unless the business holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission (TABC) [Per Sec 6.04.002 of the City's Code of Ordinance].) It's noteworthy that the reason the applicant is requesting the CUP for the Mobile Food Vendor is directly related to the business owner's intent to also serve alcohol and avoid the variance that would be required as it is within 300 feet of a school.

The Mobile Food Vendor will be located at the rear of the building [See Exhibit 2] and will need to comply with the setbacks required in the Commercial Service district, see below table 1.

	Setback Code requirement
Front	Twenty-five feet (25'); all yards adjacent to a street shall be considered a front yard. See Section 5 for any additional setback requirements.
Rear	Twenty-five feet (25')
Side	Fifteen feet (15'); twenty-five feet (25') adjacent to a public street or residential lot.
Adjacent to a Single-Family District	Any commercial use that is located adjacent to (and not across the street from) any single-family zoning district shall be set back from the applicable residential district property line by sixty feet (60').

Table 1 setback requirements

The proposed location for the Mobile food Vendor would be on existing concrete and would not add any additional impervious cover, if any additional impervious cover is added a Site Plan application may be required.

Utilities are below:

Water: Dripping Springs Water Supply Corporation

Wastewater: The Mobile Food Vendor will be pumped on a regular basis by a licensed wastewater hauler

Electricity: Existing PEC connection

The Mobile Food Vendor is located on the same lot with an existing restaurant, Railroad Barbeque. Per Section 30.05.008 (k) All mobile food vendors are prohibited from being located within 150 feet of a restaurant as defined in Chapter 30, exhibit A, Section 1.6 of the City's Code, measured from property line of the mobile food vendor to the property line of the restaurant, unless granted permission from all said restaurants. The Applicant received a Letter from Railroad BBQ granting permission to be within 150 feet of their location/property [See Exhibit 5].

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Background information on TABC Requirements for Food and Beverage Certificates:

- **TABC Criteria for Food and Beverage Certificate from TABC Website** Alcoholic beverage sales cannot exceed **60%** of the total gross receipts of the licensed premise.
- You must have and maintain food service facilities for the preparation and service of multiple entrees:
 - Food service facilities means a portion of the license premises where food is stored and prepared primarily for on premise consumption.
 - Multiple entrees mean no fewer than eight (8) different entrees per meal period must be available to customers.
 - Entrée means the main dish of a meal

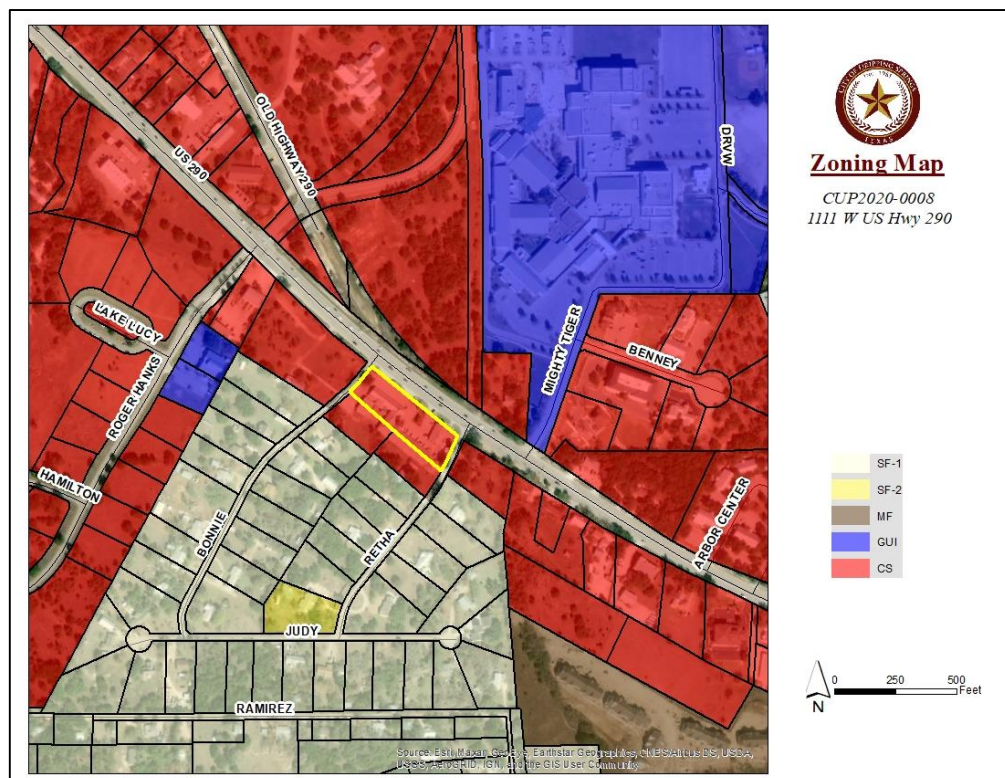
You must furnish the following, as well as any other information that might be deemed reasonably necessary by the commission to demonstrate qualifications for a Food and Beverage Certificate:

- Sales data or, if not available, projection of sales which should include breakdown of food, alcoholic beverages and other major categories at the location.
- Copies of floor plans of the licensed premise indicating areas devoted to preparation and service of food and those devoted primarily to the preparation and service of alcoholic beverages.
- Failure to submit the documentation requested or to accurately maintain required records is prima facie evidence of non-compliance to hold a Food and Beverage Certificate. (See **Rule 33.5**

The holder of a Food and Beverage Certificate (FB) shall also maintain purchase invoices for alcoholic beverages to be maintained by the vendor. These records must be retained for four (4) years, and be made available for inspection and review by any authorized representative of the commission.

These permits are issued by the State and the City planning department relies on the permits as issued by the State.

Surrounding Properties



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The current zoning and existing uses of the adjacent properties to the north, south, east, and west are outlined in the table below:


Direction	Zoning District	Existing Use	Comprehensive Plan
North	Commercial Services (CS)	Undeveloped/ Single Family residential	Adjacent to the Activity Node- Mixed Use Activity Center
East	Commercial Services (CS)	Undeveloped	
South	Commercial Services (CS)/ Single Family Residential- Moderate Density (SF-2)	Single Family Residential	
West	Commercial Services (CS)	Undeveloped	

1111 W US Highway 290 currently has a restaurant (Railroad Barbeque), retail store (Cowgirls and Lace), and vacant store fronts. The Shopping Center has primarily been used for retail purposes.

Approval Criteria for Conditional Use Permit Review (3.17.6-Zoning Ordinance)

Approval Criteria	Staff Comments
1. The proposed use at the specified location is consistent with the policies embodied in the Comprehensive Plan;	The City of Dripping Springs Comprehensive plan is supportive of commercial development.
2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;	The zoning district is Commercial Services (CS), which permits a wide array of commercial and retail uses. Mobile food vendor courts are permitted in the CS zoning district with the approval of a conditional use permit (CUP). The mobile food vendor use would allow the applicant to function as a restaurant, which is a use permitted within the CS zoning district. For the alcohol component, the City relies on the certificates issued by the TABC to make alcohol zoning determinations. If the Applicant is not able to obtain or maintain a food and beverage certificate through the TABC they will need to obtain a bar CUP from the City and would also need to obtain a variance due to its location.
3. The proposed use meets all supplemental standards specifically applicable to the use, as established in the Development Standards, Section 5;	The applicant will need to meet all development standards.
4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods, and (as required by the particular circumstances) includes improvements or modifications (either on-site or within the public rights-of-way) to mitigate development-related adverse impacts, including but not limited to the following:	

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<p>a. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;</p>	<p>This use will be complementing the existing building on the property. The current building has adequate ingress and egress to the property.</p>
<p>b. Off-street parking areas, loading areas, and pavement type;</p>	<p>The applicant is required to provide three (3) parking spaces for the mobile food vendor. The applicant is proposing to add three (3) parallel parking spaces at the front of the lot. These will need to be appropriately marked and meet City code.</p> 
<p>c. Refuse and service areas;</p>	<p>Solid waste disposal will be handled with the existing onsite dumpster which is east of the main building.</p>
<p>d. Utilities with reference to location, availability, and compatibility;</p>	<p>The site has existing water from DSWSC; there is an existing septic system that was permitted for the convenience store, however, the food trailer will not be allowed to dump its waste into the septic system, it will be pumped on a regular basis by a licensed wastewater hauler; electricity is existing service with PEC.</p>
<p>e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;</p>	<p>There is a green space/septic field between the food trailer location and the nearest property. As well as trees and shrubbery between the food trailer location and the nearest neighbor. It is screened from the highway by the main building, it will be set back from the side street by a significant distance and is partially screened by the smaller building on the west side of the property</p>
<p>f. Control of signs, if any;</p>	<p>Signage will be done with a separate permit and will need to comply with the Current Sign Ordinance in effect. Any variances will require approval.</p>
<p>g. Control of exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with</p>	<p>This property is within the City Limits and is required to comply with the Lighting Ordinance. No plan has been submitted to date.</p>

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properties in the district;	
h. Required yards and open space;	The Applicant will need to comply with the required yard setback within the Commercial Services District.
i. Height and bulk of structures;	Applicant shall comply with the Commercial Service zoning district height and bulk requirements.
j. Hours of operation;	Proposed Mobile Food Vendor hours of operation: Sunday- Thursday: 9:00am - 8:00pm Friday-Saturday: 9:00am - 10:00pm
k. Exterior construction material, building design, and building facade treatment;	Mobile Food Vendors do not have to comply with our Exterior Design Ordinance, but they do have to comply with our Sign Ordinance and applicable Sign Codes.
l. Roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets; and	Not Applicable.
m. Provision for pedestrian access/amenities/areas;	Pedestrian access will be through the store itself which will have a door opening out onto the courtyard in front of the food trailer. The applicant will also provide picnic tables for people to sit if they choose.
5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity; and,	While establishing the proposed food vendor is not detrimental or damaging to the surrounding properties, this property with a food component does allow a bar, so long as they're able to obtain a food and beverage certificate through TABC, at this location, which is within 300' of a school. The surrounding properties are similarly zoned commercial and the property that is zoned single-family to the south is far enough that impact will be minimal.
6. Noise;	The applicant is not proposing amplified music but is planning for acoustic music. The applicant would be required to adhere to all state laws regarding noise and sec 30.05.009 (k) of the City code. (The noise level of mechanical equipment or outside sound equipment used in association with any mobile food vendor may not exceed 70 decibels when measured at the property line.)
7. Odors; and	The applicant would be required to adhere to all state laws regarding nuisances.
8. Dust.	The applicant would be required to adhere to all state laws regarding

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nuisances.

Summary and Recommendation

Based on the proposed land use, adjacent land uses, the opportunity to attract more individuals to the area, and increase sales tax **staff recommends approval of the requested CUP with the following conditions:**

1. Hours of Operation:
 - a. Sunday- Thursday: 9:00am - 8:00pm
 - b. Friday-Saturday: 9:00am - 10:00pm
2. No pedestrian flow or access from Bonnie Drive
3. No Parking in the Bonnie Drive right-of-way
4. Applicant shall provide a screening wall along rear property line made of solid masonry or wood. The wall shall be no less than six feet (6'), no more than eight feet (8'), in conjunction with landscaping elements on the property line
5. No outside speakers or amplified music is permitted
6. Decibel level shall not exceed 85 decibels per the Texas Penal Code, Title 9, Section 42.01 (c)(2)
7. The mobile food vendor shall not be placed on the property until the business receives a Certificate of Occupancy from the City Building Official for Bykowski Tailor and Garb, the business it shall be a part of.
8. All Trash at the rear of the property is to be cleaned up and maintained.
9. The CUP will be tied to the Certificate of Occupancy for Bykowski Tailor and Garb.
10. The applicant be required to submit TABC food and beverage certificate and any other related permits to the Planning Department yearly. If the applicant loses its food and beverage certificate at any time, but continues to serve alcohol, it will be required to obtain a CUP from the City and obtain a variance based on its location.

The below is an excerpt of the code for the procedures that CC should take for CUPS.

City Council Action: The City Council shall be the final decision-maker on applications for CUPs.

Following a public hearing, and in consideration of the P&Z's recommendations, the City Council shall approve, modify or deny the proposal for a CUP. If the appropriateness of the use cannot be assured at the location, the application for CUP shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

Planning and Zoning Commission Recommendation

The Planning and Zoning Commission recommended approval of the Conditional Use Permit with the following conditions:

1. Hours of Operation:
 - a. Sunday- Thursday: 9:00am - 8:00pm
 - b. Friday-Saturday: 9:00am - 10:00pm
2. No pedestrian flow or access from Bonnie Drive
3. Applicant shall provide a screening wall along rear property line made of solid masonry or wood. The wall shall be no less than six feet (6'), no more than eight feet (8'), in conjunction with landscaping elements on the property line
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6. The mobile food vendor shall not be placed on the property until the business receives a Certificate of Occupancy from the City Building Official for Bykowski Tailor and Garb, the business it shall be a part of.
7. All Trash at the rear of the property is to be cleaned up and maintained.
8. Applicant shall provide calculations from an engineer demonstrating that the remaining vegetative filter strip area provides required capacity for water quality compliance. If it does not, water quality facilities shall be added to achieve compliance.
9. The CUP will be tied to the Certificate of Occupancy for Bykowski Tailor and Garb.
10. The applicant be required to submit TABC food and beverage certificate and any other related permits to the

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Planning Department yearly. If the applicant loses its food and beverage certificate at any time, but continues to serve alcohol, it will be required to obtain a CUP from the City and obtain a variance based on its location.

11. No parking within Bonnie Dr Right-of-way

With a vote of 7 to 0, all in favor.

Public Notification

A legal notice advertising the public hearing was placed in the Dripping Springs Century-News, signs were posted on the site, notice was placed on the City Website, and all property owners within a 300-foot radius of the site were notified of the request.

Meetings Schedule

August 25, 2020 – Planning and Zoning Commission

September 8, 2020 - City Council Meeting

Attachments

Exhibit 1: Conditional Use Permit Application

Exhibit 2: Concept Plan

Exhibit 3: Project Summary (Submitted by Applicant)

Exhibit 4: Floor Plan

Exhibit 5: Letter from Railroad BBQ

Exhibit 6: Suite to be occupied by business

Exhibit 7: Draft Conditional Use Permit Ordinance

Recommended Action:	Approve the conditional use permit, with staff and any additional conditions deemed necessary by the City Council.
Alternatives/Options:	Deny the conditional use permit; approve the conditional use permit with no or alternate conditions.
Budget/Financial Impact:	None calculated at this time, but the City would receive additional sales tax revenue.
Public Comments:	Staff has received a public comment and have attached them to the packet.
Enforcement Issues:	N/A
Comprehensive Plan Element:	Support the expansion of business and professional services Support Tourism related businesses