

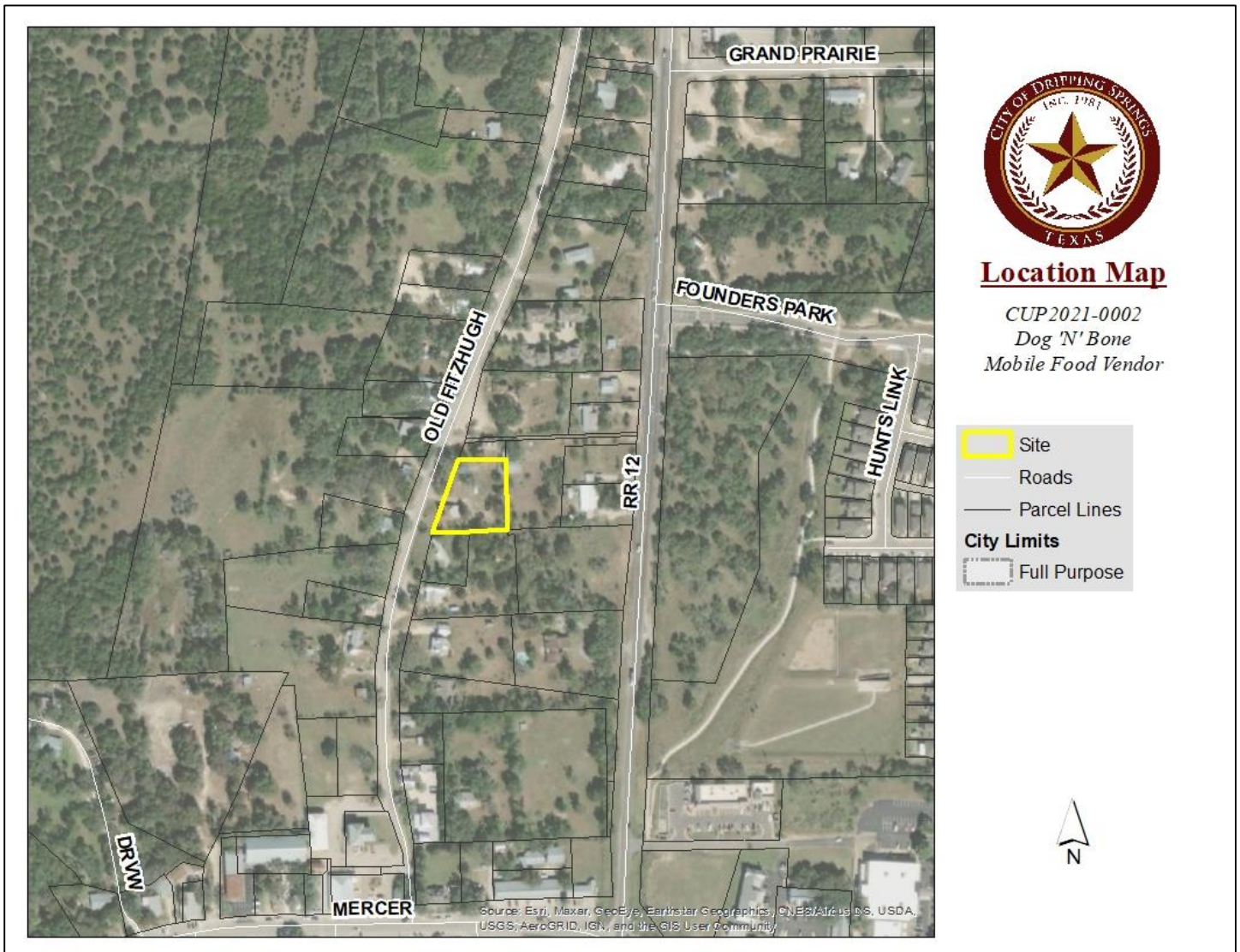


# Planning and Zoning Commission Planning Department Staff Report

**Planning and Zoning Commission Meeting:** May 25, 2021  
**Project No:** CUP2021-0002  
**Project Planner:** Amanda Padilla, Senior Planner

## Item Details

**Project Name:** Dog 'N' Bone Mobile Food Vendor  
**Property Location:** 310 Old Fitzhugh Road, Dripping Springs Texas 78620  
**Legal Description:** ABS 415 PHILIP A SMITH SURVEY 0.63 AC GEO#90401232  
**Applicant:** Mike Pelland  
**Property Owner:** Dog 'N' Bone LLC  
**Request:** Conditional Use Permit (CUP) for a Mobile Food Vendor use within the General Retail (GR) Zoning District and Old Fitzhugh Historic District

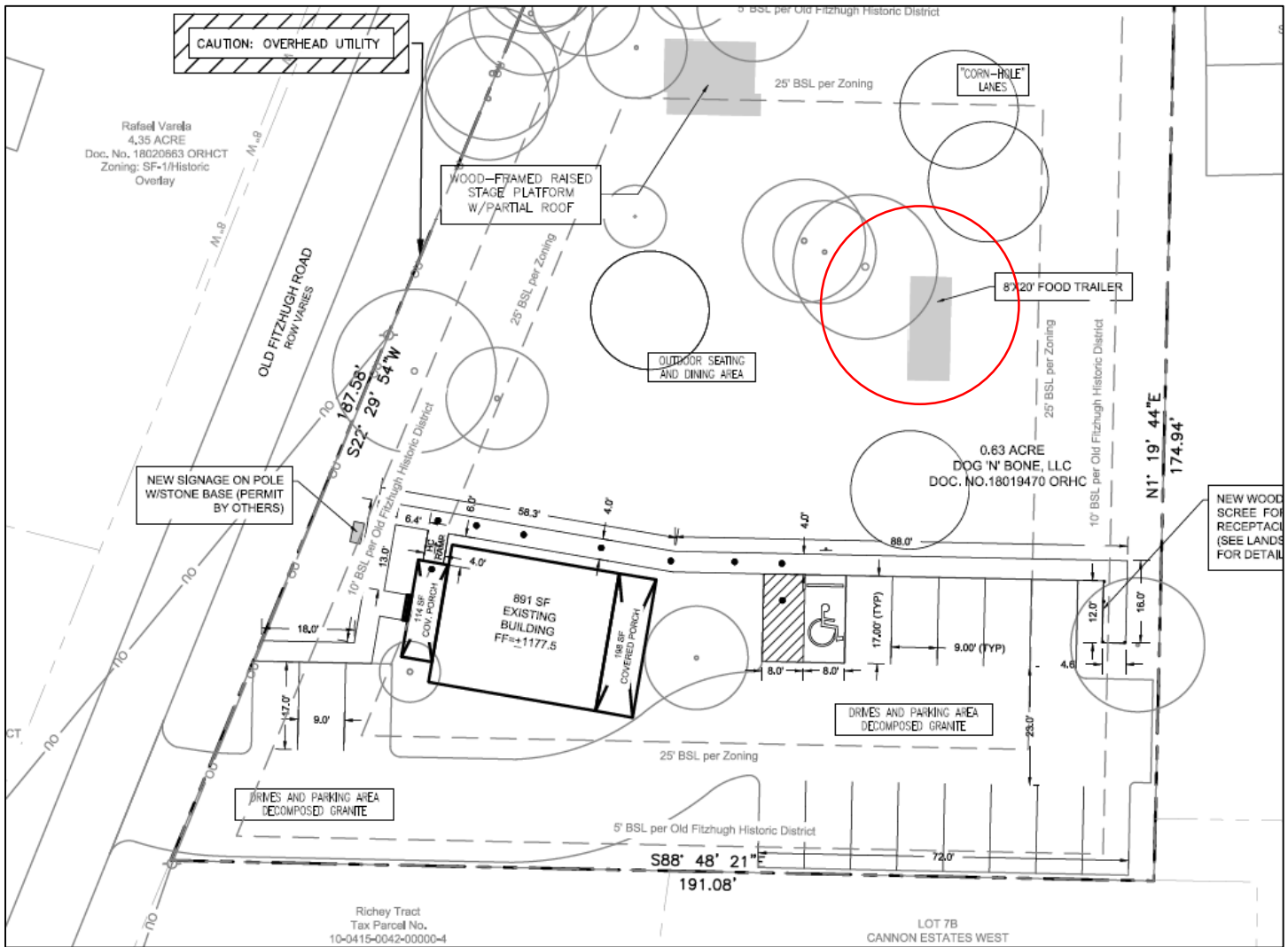


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## Overview

The applicant is requesting a Conditional Use Permit to allow a Mobile Food Vendor to be located at 310 Old Fitzhugh Road also known as Dog 'N' Bone. The Property is located within the General Services (GR) zoning district and the Old Fitzhugh Road Historic District. Mobile Food Vendors are a permitted use in the GR zoning district and Old Fitzhugh Road Historic District with an approved Certificate of Appropriateness and a Conditional Use Permit.

Per the City's Zoning Ordinance that was amended on April 10, 2018, Sec. 30.05.032 (e), Applicants of mobile food vendors (longer than 10 days) or mobile food courts wishing to locate in the Old Fitzhugh historic district as defined in section 24.07.032 [chapter 30, exhibit A, section 4.3.2] of the Code of Ordinances must apply for and be granted a certificate of appropriateness under the requirements of chapter 24, article 24.07 [chapter 30, exhibit A, section 4, division 2] of the city code and apply for and be granted a conditional use permit under the requirements of chapter 30, exhibit A: zoning, section 3.17 of the city code. A conditional use permit shall not be granted prior to a certificate of appropriateness being granted.



The Mobile Food Vendor will be located at 310 Old Fitzhugh Road also known as Dog 'N' Bone. The property is approximately 0.63 acres. The required setbacks within the Old Fitzhugh Road Historic District are below:

Direction	Setback Code requirement
Front	Ten Feet (10')
Rear	Ten Feet (10')
Side	Five feet (5')

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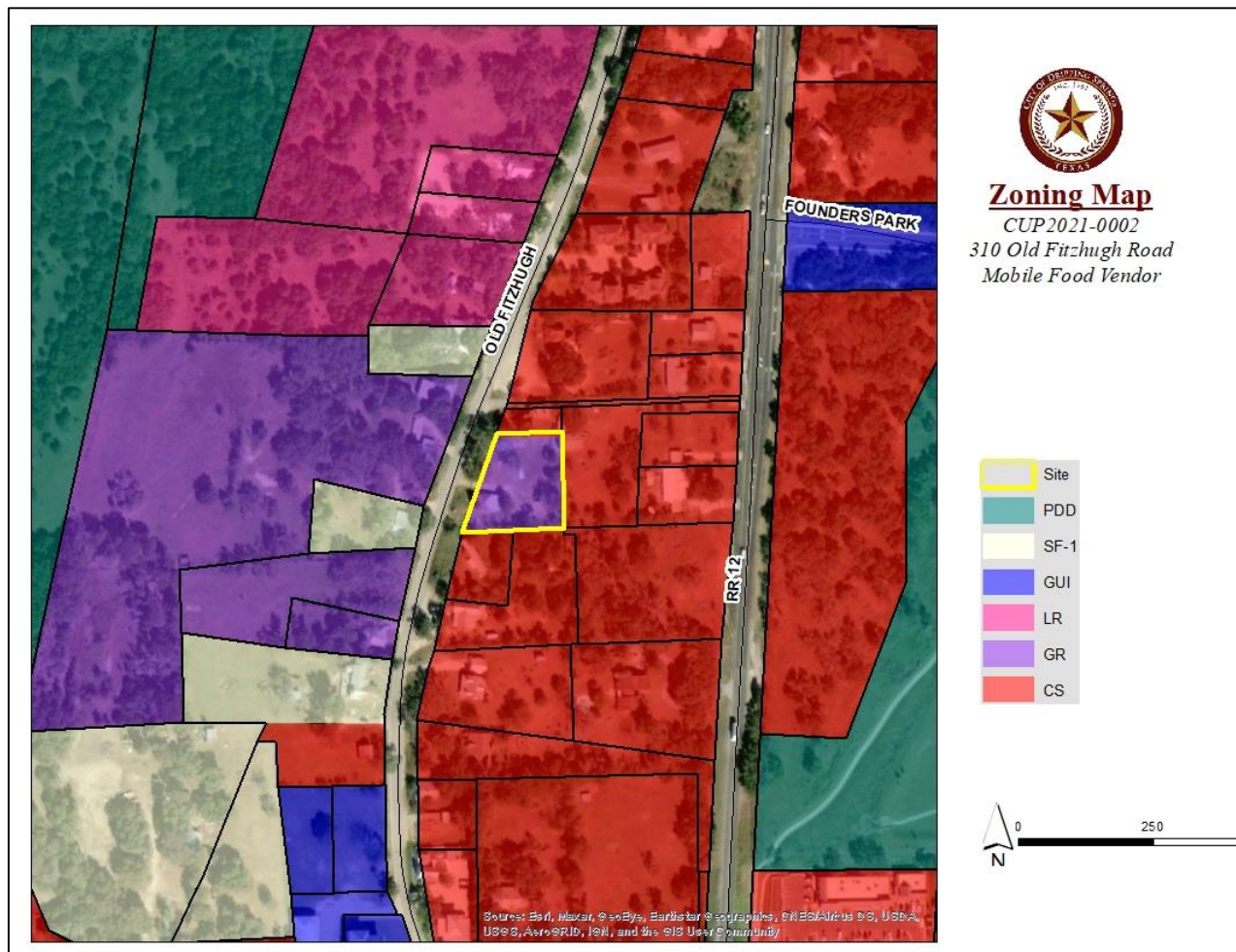
Dog ‘N’ bone is advertised as a Gastropub with the option of food and drinks. The Mobile food vendor is intended to serve fish and chips and other gastropub items. The main structure on the property will be reserved for the bar (CUP is being reviewed), seating, and dining.

Dog ‘N’ Bone previously received a Conditional Use Permit for a Mobile Food Vendor Use but per Chapter 30 Exhibit A Section 3.17.9 Expirations, extension, and termination (c) CUPs for new uses/structures shall be deemed to have expired and shall become null and void if construction is not completed and occupation commenced within two years of the date the CUP was approved. The Mobile Food Vendor use was approved on November 13, 2018 by City Council and has yet to be occupied and has expired. The applicant is reappearing in front of the Planning and Zoning Commission and City Council to receive reapproval of the Conditional Use Permit.

The applicant received a Certificate of Appropriateness (COA) on October 3, 2018 and renewed the COA at the April 1<sup>st</sup>, 2021 Historic Preservation Commission Meeting.

The applicant had intended to build a brick-and-mortar kitchen that would replace the Mobile Food Vendor but the applicant has no set date on the construction of the kitchen.

## Surrounding Properties



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

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below:

Direction	Zoning District	Existing Use	Comprehensive Plan
North	Commercial Services (CS)	Verizon Communications	Not Applicable
East	Commercial Services (CS)	Retail/ Bar	
South	Commercial Services (CS)	Residential	
West	General Retail (GR) / Single-family residential district—Low density (SF-1)	Residential	

## 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;	<p>The Comprehensive plan is supportive of commercial development. There are two goals that the comprehensive plans discuss that fit with this request 1. Support expansion of business and professional services and 2. Support Tourism.</p> <p>The addition of the mobile food vendor will add diversity to the local economy and make dripping springs more attractive to prospective businesses.</p>
2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;	The zoning district is General Retail (GR), which permits commercial and retail uses. Mobile food vendors are permitted in the GR zoning district with the approval of a Conditional Use Permit (CUP).
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:	
<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>The property fronts Old Fitzhugh Road and will be required to have adequate access prior to occupation and service from the Mobile Food Vendor.</p> <p>The applicant submitted a Site development Plan to the City of Dripping Springs in 2019. In the Site plan a driveway is proposed on the south end of the property.</p>
<p>b. Off-street parking areas, loading areas, and pavement type;</p>	The property will need to have an additional 3 parking spaces for the mobile food vendor per the Mobile Food Vendor Ordinance.

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c. Refuse and service areas;	The applicant will be required to provide trash can receptacles for the patrons.
d. Utilities with reference to location, availability, and compatibility;	The mobile food vendor is required to be plugged into an approved outlet. Restrooms will be shared with the business on site. The Mobile Food Vendor will be required to comply with all Fire safety regulations.
e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;	No Screening is proposed.
f. Control of signs, if any;	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.
g. Control of exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;	The owner shall comply with the Lighting Ordinance.
h. Required yards and open space;	Not applicable.
i. Height and bulk of structures;	The mobile food vendor meets height requirements.
j. Hours of operation;	The hours of operation have yet to be decided by the applicant.  The Mobile Food Vendor Ordinance restricts the applicant from operating between the hours of 11:00pm to 6:00am.
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;	The mobile food vendor will be tied to the adjacent business which will provide tables and seating.
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,	Staff finds that the proposed mobile food vendor use will not be detrimental or damaging to the surrounding properties, these properties being similarly commercially zoned.
6. Noise;	The applicant stated that there will only be acoustic music for the time being.  Due to the location and proximity to adjacent residence, Staff is requesting that the decibel level stay below 65 decibels and that music shall only be allowed during the hours of operation.

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7. Odors; and	No odors anticipated.
8. Dust.	Not Applicable

## Summary

Based on the proposed land use, adjacent land uses, the opportunity to attract more individuals to the Historic District and increase sales tax staff recommends approval of the requested Conditional Use Permit for the property with the conditions outlined in the below section.

## Conditional Use Permit Requirements

A mobile food vendor at the above-mentioned location is allowed pursuant to the following regulations:

1. Decibel Level shall not exceed 65 decibels. Decibel level shall be measured at the property line.
2. Hours of operation are limited to the closing time of 10:00 p.m. Sunday through Thursday, and 11:00 p.m. Friday and Saturday.
3. The property adheres to all Fire and Life Safety Codes found in the International Fire Code
4. Should the City find the mobile food truck to create health and safety issues due to any reasons, the City Administrator may request that the Applicant remove any vehicle from the site. The Applicant shall comply with the City Administrator's request.
5. This Conditional Use Permit automatically renews for successive two (2) year periods unless an objection is raised by the City Administrator based on either:
  - a. A history of poor code compliance.
  - b. A revision to the Comprehensive Plan that renders the CUP incompatible.
6. The City administrator may revoke a CUP for failure to comply with municipal regulations and the conditions placed on the use.

The below excerpt of the Code are the procedures that P&Z should take for CUPS.

Chapter 30 Exhibit A Zoning Ordinance Sec 3.17.5 Procedures for CUPS:

- (a) P&Z Recommendation: Following the public hearing, the P&Z shall recommend approval, approval subject to modification, or denial of the proposal to the City Council. If the appropriateness of the use cannot be assured at the location, the P&Z shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.

## 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 Conditional Use Permit request.

## Meetings Schedule

May 25, 2021 – Planning and Zoning Commission

June 8, 2021 - City Council Meeting

## Attachments

Attachment 1 - Conditional Use Permit Application

Attachment 2 – Site Plan

Attachment 3 – COA Staff Report

Attachment 4 – Site Photos

Attachment 5 – Previously approved CUP

## Planning Department Staff Report

Recommended Action:	Recommend approval of the requested Conditional Use Permit, with staff and any additional conditions deemed necessary by the Commission.
Alternatives/Options:	Recommend denial of the Conditional Use Permit; recommend approval of 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 not received any public comments at this time.
Enforcement Issues:	N/A
Comprehensive Plan Element:	Support the expansion of business and professional services Support Tourism related businesses