



Planning and Zoning Commission Planning Department Staff Report

Planning and Zoning Commission Meeting:

August 25, 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:

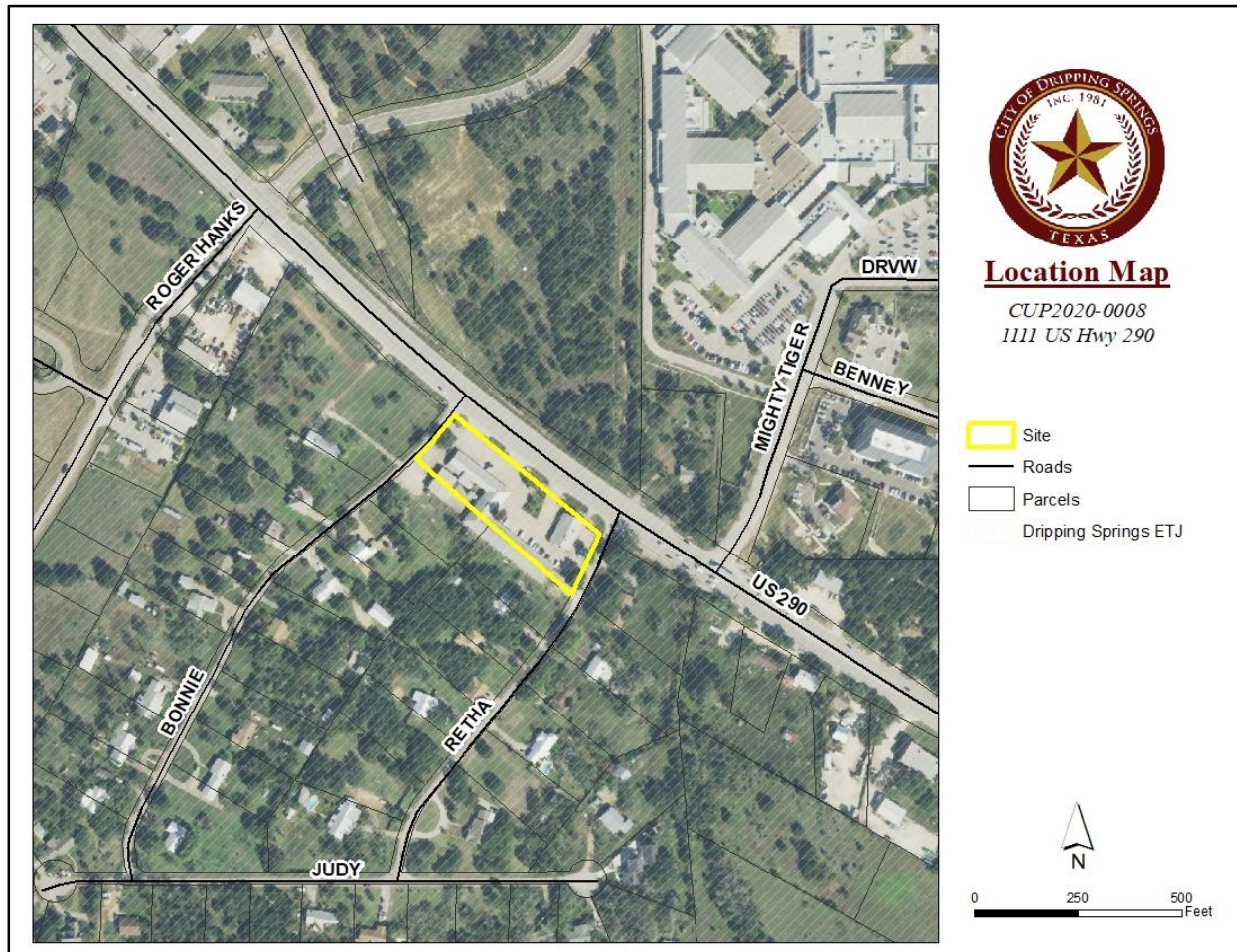
Trailhead Market Limited

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.



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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 per the requirements in this section. 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 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 a part of this CUP 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.

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 Commercial Services, 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 as the Railroad Barbeque restaurant. 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 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. 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 means no fewer than eight (8) different entrees per meal period must be available to customers.
 - Entrée means the main dish of a meal

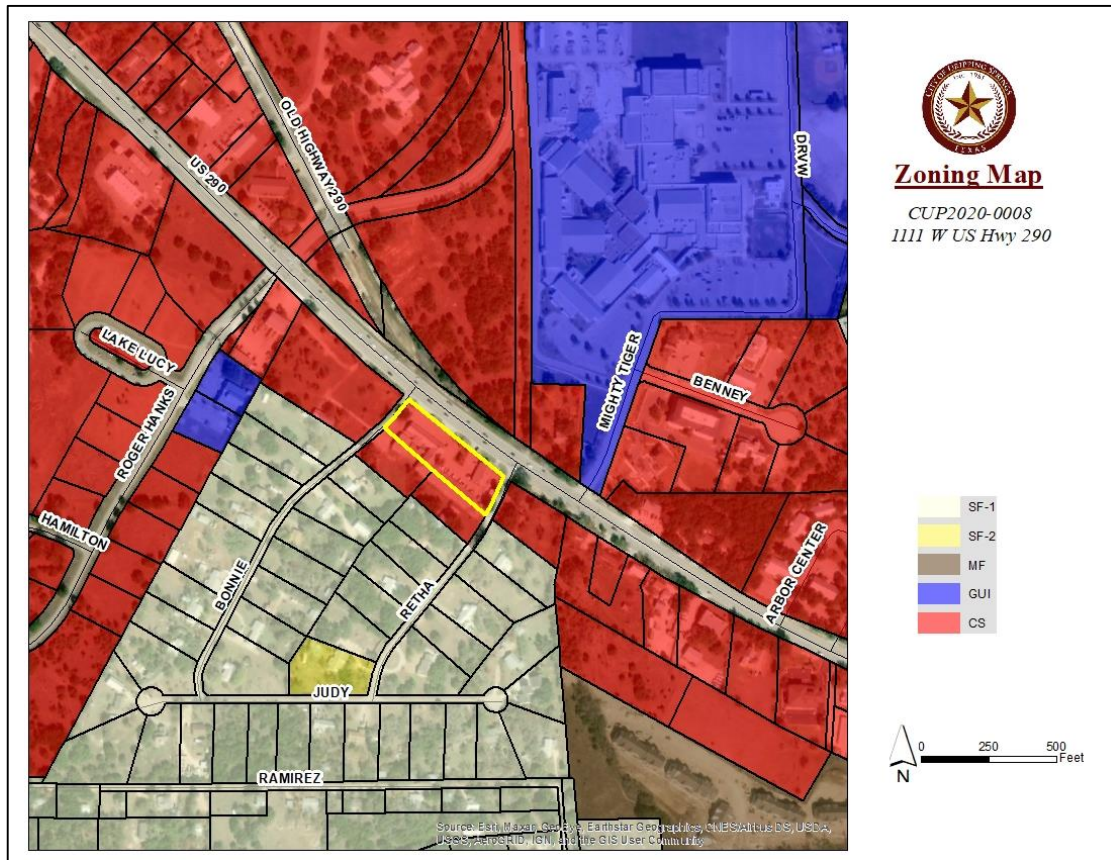
You must furnish the following, as well as any other information that might be deemed reasonably necessary by the commission to demonstrate qualifications for a Food and Beverage Certificate:

- 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.

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	The Comprehensive plan is supportive of commercial development

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Comprehensive Plan;	
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 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:	
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;	This use will be complementing the existing building on the property. The current building has adequate ingress and egress to the property.
b. Off-street parking areas, loading areas, and pavement type;	The applicant will be required to add 3 additional spaces or if they choose to utilize existing parking, they will need to gain approval from the property owner and the City Administrator. The City has yet to receive this request.
c. Refuse and service areas;	Solid waste disposal will be handled with the existing onsite dumpster which is east of the main building.
d. Utilities with reference to location, availability, and compatibility;	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.
e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;	There is a green space/septic field between the food trailer location and the nearest property. As well there are 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 off of the side street by a significant distance and is partially screened by the smaller building on the west side of the property
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,	This property is within the City Limits and is required to comply with the Lighting Ordinance. No plan has been

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economic effect, and compatibility and harmony with properties in the district;	submitted to date.
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 the establishing the proposed food vendor court is not detrimental or damaging to the surround properties, establishing this property with a food establishment 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. Staff finds that the proposed mobile food vendor court use will not be detrimental or damaging to the surrounding properties, these properties being similarly commercially zoned. 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.
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 nuisances.

Summary

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:**

- Hours of Operation:

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- 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
4. No outside speakers or amplified music is permitted
5. Decibel level shall not exceed 85 decibels per the Texas Penal Code, Title 9, Section 42.01 (c)(2)
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 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 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 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

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.

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Budget/Financial Impact:	None calculated at this time, but the City would receive additional sales tax revenue.
Public Comments:	Staff has received public comments and has attached the comments to the Packet
Enforcement Issues:	N/A
Comprehensive Plan Element:	Support the expansion of business and professional services Support Tourism related businesses