

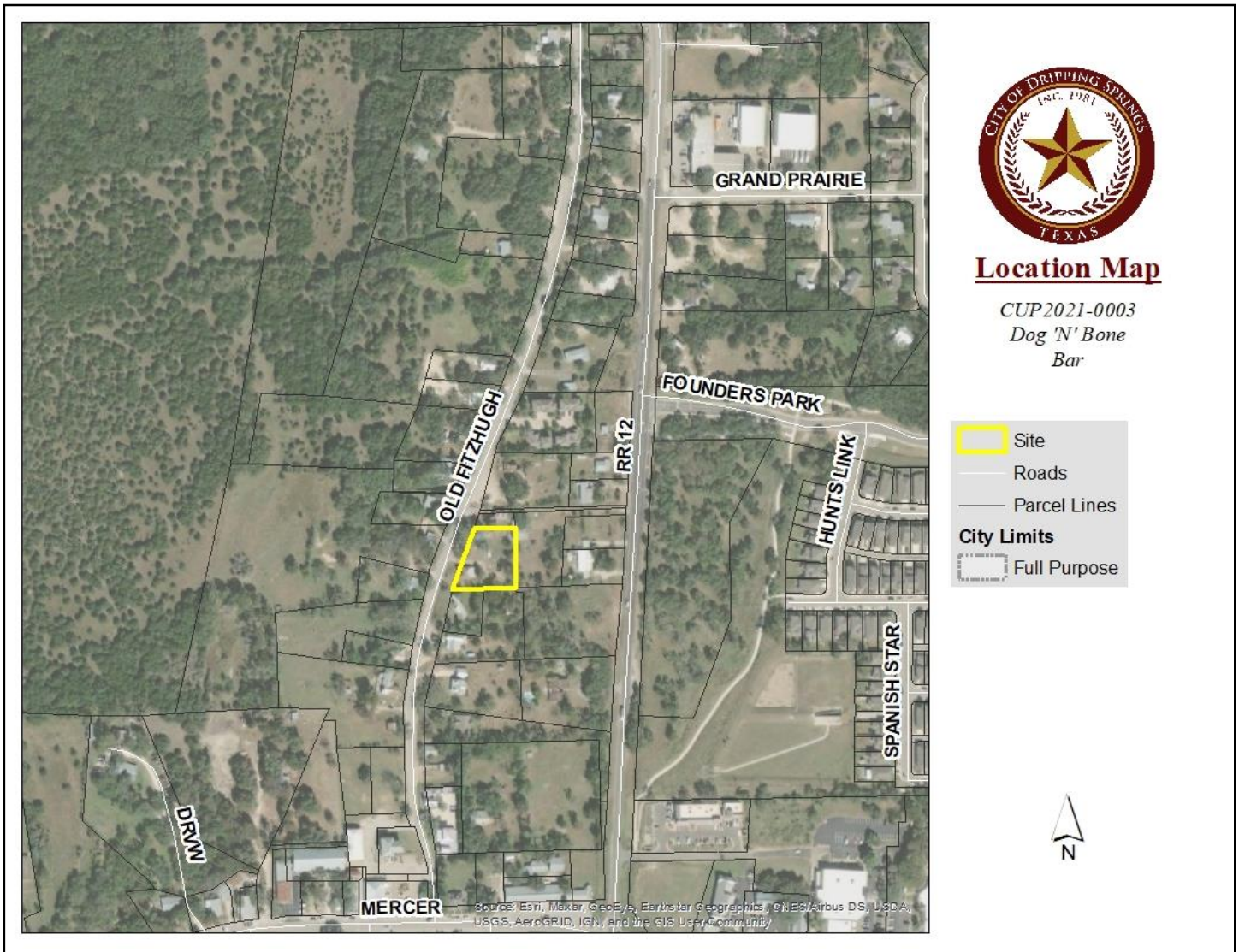


# City Council Planning Department Staff Report

**City Council Meeting:** June 08, 2021  
**Project Number:** CUP2021-0003  
**Project Planner:** Amanda Padilla, Senior Planner

## Item Details

**Project Name:** Dog 'N' Bone Bar  
**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 to allow the use "Bar"



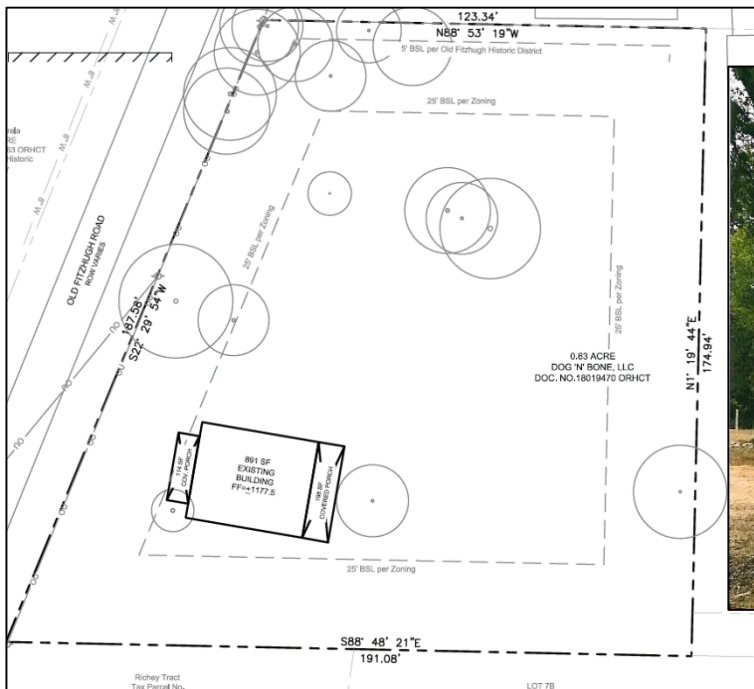
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## Overview

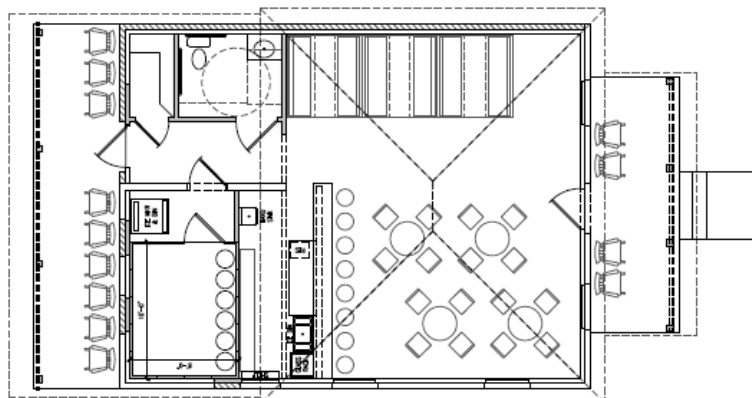
The applicant is requesting a Conditional Use Permit to allow the use of a “Bar” at the property located at 310 Old Fitzhugh Road. The property is zoned General Retail (GR) and is within the Old Fitzhugh Road Historic District. Bars are permitted within this zoning district by Conditional Use Permit.

Below is the definition of a Bar per the Zoning regulations:

*Use of a site for retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses, that derive 75 percent or more of the establishment's gross revenue from the on-premises sale of alcoholic beverages.*



The applicant will place the Bar within the historic structure (891 square feet) located on the property. The structure is located twenty-five (25) feet from the front and southern side property line. The Structure is a “contributing resource and medium priority” in the Old Fitzhugh Road Historic District. The overall vision for the Old Fitzhugh Road Historic District is an emerging, eclectic mixed-use historic district. The adopted vision for Old Fitzhugh Road Historic District calls for an eclectic revitalization that encourages a wide range of new uses and compatible businesses, in a harmonious mixture of new and old buildings, through appropriate rehabilitation and well- scaled, context sensitive new infill development.



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

The property had an approved Conditional Use Permit for the use of a mobile food vendor but has expired. 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 use of a “bar” is a new request and is being evaluated for the first time.

The applicant had also received a Certificate of Appropriateness (COA) on October 3, 2018 and renewed the COA at the April 1st, 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.

Should the Commission and City Council approve the Conditional Use Permit for a bar at this location, then the applicant will move forward with building permitting and inspections for the addition. They will also be required to meet all state and local laws regarding alcohol sales and consumption, including all required permitting.

### Site Information

**Location:**

The Subject property is located at 310 Old Fitzhugh Road. The property has a proposed CUP for a Mobile Food Vendor as well. The Bar will be located within the structure on the property.

**Physical and Natural Features:**

The site has ample open space and tree coverage.

**Future Land Use and Zoning Designation:**

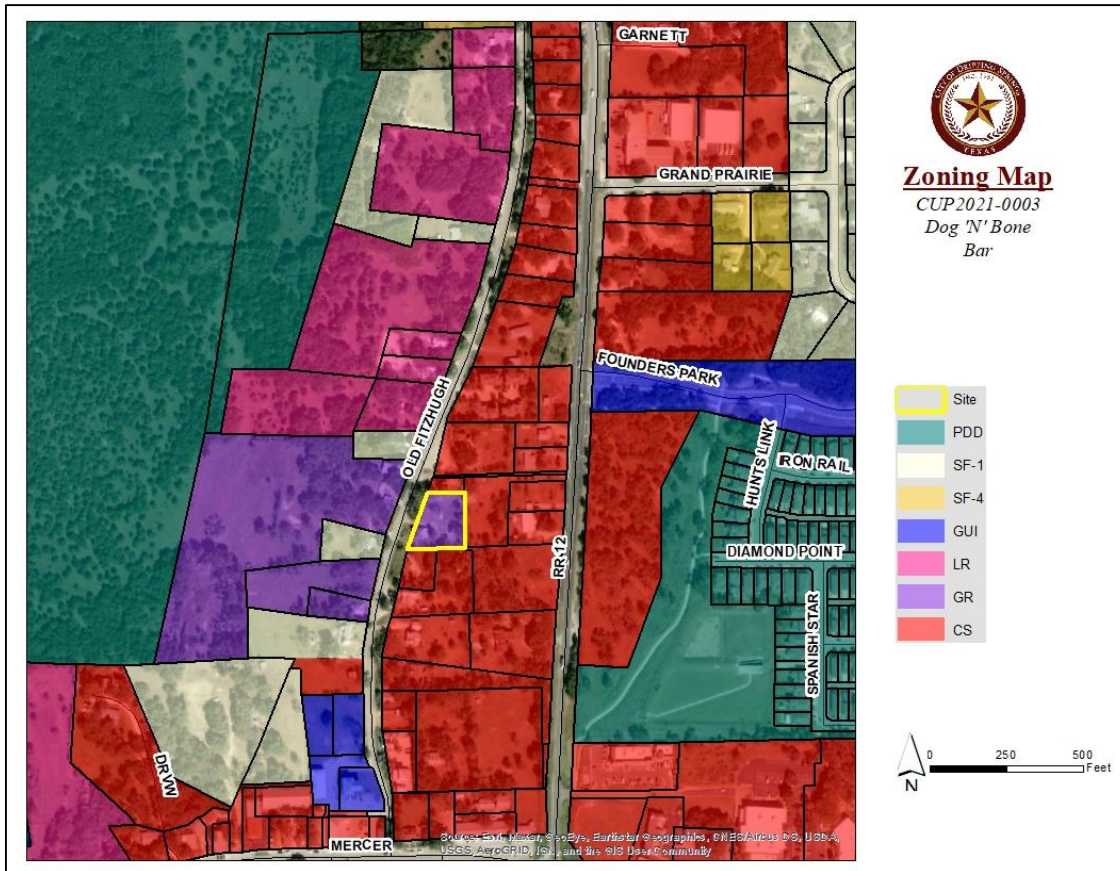
The Subject property zoned General Retail (GR) and is within the Old Fitzhugh Road Historic District. It is not identified on the city’s future land use plan.

### Surrounding Properties

The majority of properties in this area are zoned Commercial Services (CS), but the property to the west is zoned Single-Family and General Retail, while still being within the Old Fitzhugh Road Historic District Overlay. The properties immediately adjacent within the area are unoccupied or being utilized as a single-family home.



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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)	Verizon Communications	Not Applicable
East	Commercial Services (CS)	Retail/ Tasting Room	
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;	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.
2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;	The subject property is zoned General Retail (GR). A bar is permitted with an approved conditional use permit.  As well as the Historic Overlay outlines the need for a mix of commercial and residential development.
3. The proposed use meets all supplemental standards specifically applicable to the use, as established in the Development Standards, Section 5;	The applicant has a site plan application in with the city and will comply with all city ordinances and regulations. The Applicant received an approved certificate of

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	appropriateness from the Historic Preservation Commission.
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;	The proposed site plan shows a driveway to the south of the structure located on Old Fitzhugh Road. (See attachments)
b. Off-street parking areas, loading areas, and pavement type;	The applicant will need to provide the appropriate number of spaces on their site plan. Parking requirements for a Bar use follow the following requirements:  Restaurant, private club, nightclub, cafe or similar recreation or amusement establishment: One parking space for each 100 square feet of seating/waiting area, or one space for every three seats under maximum seating arrangement (i.e., occupancy), whichever is greater; required parking spaces are in addition to any stacking spaces that may be required for drive-through facilities.
c. Refuse and service areas;	The City's solid waste service will need to be alerted.
d. Utilities with reference to location, availability, and compatibility;	Utilities are as follows: Water: Dripping Springs Water Supply Corporation Wastewater: City of Dripping Springs Electric: Pedernales Electric Cooperative, Inc.
e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;	No screening is being provided.
f. Control of signs, if any;	N/A
g. Control of exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;	Lighting will need to comply with the City's current lighting ordinance.
h. Required yards and open space;	The applicant will comply with the applicable yard setbacks.
i. Height and bulk of structures;	The structure meets code.
j. Hours of operation;	The applicant has not determined the hours of operation. Staff is asking for a condition to be placed on the

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	property that limits the hours of operation to the closing time of 10:00 p.m. Sunday through Thursday, and 11:00 p.m. Friday and Saturday.
k. Exterior construction material, building design, and building facade treatment;	The applicant received a COA for the rehabilitation of the building and various site improvements. (See attachments)
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	N/A
m. Provision for pedestrian access/amenities/areas;	N/A
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,	The 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.
6. Noise;	Applicant is requesting to have acoustic music, Staff will be placing conditions on the allowable decibel levels and time of music.
7. Odors; and	N/A
8. Dust.	N/A

### Staff Recommendation

Based on the proposed use, adjacent land uses, and the ability to increase visitors to the Historic District, as well as the increased sales tax that would be generated through this proposed use, staff recommends approval of the requested Conditional Use Permit for the property.

### Conditional Use Permit Requirements

A bar 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. Any additional external modifications to the building, not previously approved as part of the Certificate of Appropriateness, receive an updated Certificate of Appropriateness.
4. The property adheres to all Fire and Life Safety Codes found in the International Fire Code (which may include a requirement to install a Fire Suppression/Sprinkler System).
5. This Conditional Use Permit automatically renews for successive two (2) years periods unless an objection is raised based on either:
  - (1) A history of poor code compliance; or
  - (2) 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.

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## Planning and Zoning Commission Recommendation

A motion was made by Vice Chair Martin to approve CUP2021-0003: an application for a Conditional Use Permit to consider a Conditional Use Permit to allow the use “Bar” to be located at 310 Old Fitzhugh Rd, Dripping Springs, Texas with the following conditions:

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. Any additional external modifications to the building, not previously approved as part of the Certificate of Appropriateness, receive an updated Certificate of Appropriateness.
4. The property adheres to all Fire and Life Safety Codes found in the International Fire Code (which may include a requirement to install a Fire Suppression/Sprinkler System).
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  - a. A history of poor code compliance; or
  - 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.

Commissioner McIntosh seconded the motion which carried unanimously, 6 to 0.

## 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

Recommended Action:	Approval of the requested Conditional Use Permit, with any conditions deemed necessary by the Commission.
Alternatives/Options:	Disapproval of the Conditional Use Permit.
Budget/Financial Impact:	None calculated at this time, but the City would receive additional sales tax revenue.
Public Comments:	None Received at this time.
Enforcement Issues:	N/A