



## Planning and Zoning Commission Planning Department Staff Report

**Planning and  
Zoning Commission  
Meeting:** February 23, 2021

**Project No:** CUP2020-0011

**Project Planner:** Amanda Padilla, Senior Planner

### Item Details

**Project Name:** Acopon Brewing Mobile Food Vendor

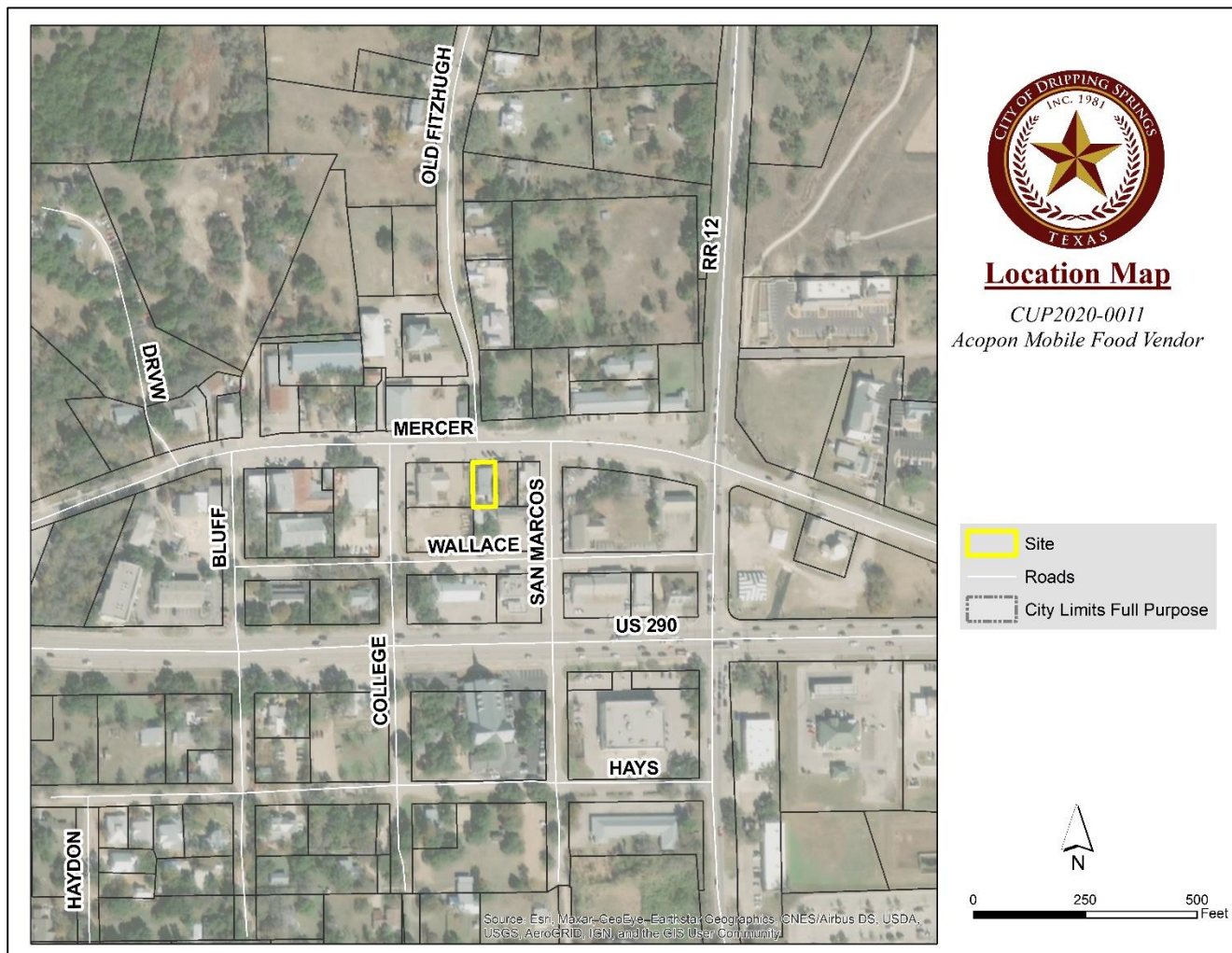
**Property Location:** 211 Mercer Street, Dripping Springs Texas 78620

**Legal Description:** O T DRIPPING SPRINGS LOT 4 BLK 6 THRIFT SHOP 9-2210-07-06

**Applicant:** John McIntosh and Dave Niemeyer

**Property Owner:** JCMC3 Holdings LLC

**Request:** Conditional Use Permit (CUP) for a Mobile Food Vendor use within the Commercial Services (CS) Zoning District and Mercer Historic District



# Planning Department Staff Report

## Overview

The applicant is requesting a Conditional Use Permit to allow a Mobile Food Vendor to be located at 211 Mercer Street also known as Acopon Brewing Company. The Property is located within the Commercial Services (CS) zoning district and the Mercer Street Historic District. Mobile Food Vendors are a permitted use in the CS zoning district and Mercer 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 (d), It is an offense for a person to erect, install, or park a mobile food establishment within the boundaries of the Mercer Street or Hays Street historic districts, as defined in section 24.07.032 [chapter 30, exhibit A, section 4.3.2] of the Code of Ordinances, unless:

- (1) The location or operation of the mobile food establishment is for a special event or city-sponsored event, for which the mobile food vendor is included in the permit application for which the event organizer must obtain a permit (see Code of Ordinances section 6.02.071); or
- (2) The mobile food vendor is a complementary extension, or outlet, of a brick-and-mortar restaurant or business and the applicant of a mobile food vendor applies for and is 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 applies for and is 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 shall only operate during the operating business hours of the brick-and-mortar business of which the mobile food vendor is an extension or outlet.

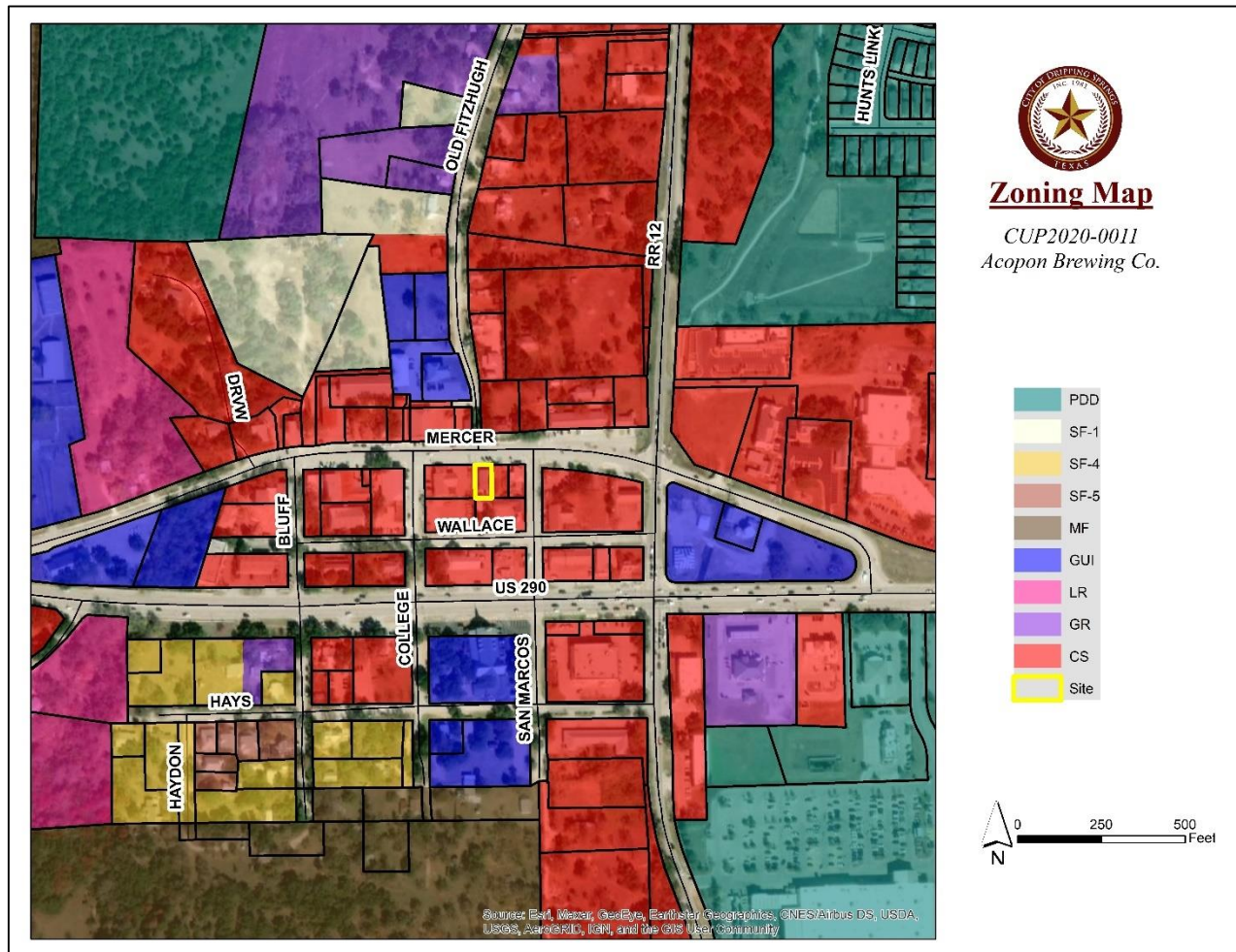
The Mobile Food Vendor will be located at the 211 Mercer Street also known as Acopon Brewing Company. The property is approximately 5,000 square feet. The required setbacks within the Mercer Historic District are below:

Direction	Setback Code requirement
Front	Zero Feet (0')
Rear	Zero Feet (0')
Side	Ten feet (10')

Currently Acopon Brewing Co. is allowed to have a temporary mobile food vendor under the Mayoral Order issued on September 1, 2020. The Order suspends the requirement for a CUP for Mobile Food Vendors that meet the requirements stated in the Order. The Mayoral Order remains in effect until the state of disaster is lifted unless a permanent Conditional Use Permit is also applied for and approved.

# Planning Department Staff Report

## Surrounding Properties



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)	Offices / Retail	Not Applicable
East	Commercial Services (CS)	Retail/ Bar	
South	Commercial Services (CS)	Convenience Store with Gas/ Office	
West	Commercial Services (CS)	Retail	

## 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</p>

## Planning Department Staff Report

	to the local economy and make dripping springs more attractive to prospective businesses.
2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;	<p>The zoning district is Commercial Services (CS), which permits a wide array of commercial and retail uses. Mobile food vendors are permitted in the CS zoning district with the approval of a Conditional Use Permit (CUP).</p> <p>The mobile food vendor ordinance speaks specifically to what type of mobile food vendors are allowed within the Mercer Street District and this request meets all those requirements.</p>
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;	The property fronts Mercer Street and has adequate access. The Food Trailer would not need additional ingress/egress.
b. Off-street parking areas, loading areas, and pavement type;	Per Sec. 30.05.009 (p) of the Mobile Food Vendor Ordinance, Mobile food vendors located in the Mercer Street Historic District are exempt from providing additional parking spaces. The applicant does not propose any additional parking spaces.
c. Refuse and service areas;	The applicant has provided additional receptacles for the mobile food vendor which are located behind the gate.
d. Utilities with reference to location, availability, and compatibility;	The mobile food vendor is plugged into an approved outlet adjacent to the power pole. Restrooms will be shared with the business on site.
e. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;	The applicant is proposing to add screening along mercer street, which would include large planters and plants.
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	The owner shall comply with the Lighting Ordinance. The mobile food vendor only has small exterior light by the patio at Acopon. All lights are off when business is

## Planning Department Staff Report

and harmony with properties in the district;	closed.
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 will match Acopon Brewing Co. hours. The Mobile Food Vendor Ordinance requires the mobile food vendor only operate during the operating business hours of the brick-and-mortar business of which the mobile food vendor is an extension or outlet.
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 is tied to the existing business which provides 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 be no additional noise.
7. Odors; and	No odors anticipated other than wood smoke from the pizza.
8. Dust.	Not Applicable

### 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 conditions outlined in the Draft Conditional Use Permit.

Attached is a draft CUP with the conditions and may be revoked for violations. Any conditions P&Z deems necessary may be added to the CUP as part of their motion.

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

## Planning Department Staff Report

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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

February 23, 2021 – Planning and Zoning Commission

March 9, 2021 - City Council Meeting

### Attachments

Exhibit 1 - Conditional Use Permit Application

Exhibit 2 - Draft Conditional Use Permit Ordinance

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 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