



**STAFF REPORT**  
**City of Dripping Springs**  
**PO Box 384**  
**511 Mercer Street**  
**Dripping Springs, TX 78620**

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**Submitted By:** Laura Mueller, City Attorney

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**City Council Meeting Date:** May 11, 2021

**Agenda Item Wording:** **Discuss and consider approval of ordinances with amendments for the Certificate of Appropriateness Process and Mobile Food Vendors in the Mercer Street Historic District.**

**Agenda Item Requestor:** Historic Preservation Commission

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**Summary/Background:** HPC asked Staff to work on the Certificate of Appropriateness (COA) process for Mobile Food Vendors in the Historic District. We created a committee to discuss the possible options related to process and the substance of the Mobile Food Vendor ordinance as it applies to the Historic Districts and COAs generally. The first step in amending the ordinance was for the P&Z Commission initiate the zoning amendment process pursuant to 2.29 of the Zoning Ordinance (Chapter 30, Exhibit A). They initiated that process on March 23, 2021. The newspaper notice for possible amendments was sent to the Newspaper on March 26, 2021. Flyers were created for Mercer Street businesses and were mailed and hand delivered where possible. The flyers contained the meeting dates for HPC, P&Z, and City Council as well as the public notice. A banner was also placed on the City's website advertising these meetings/public hearings.

HPC voted for the procedural option of city council being the body that would handle appeals from HPC denials of COAs. HPC further recommended that if a COA was denied unanimously by the HPC that the city council would need a super majority to reverse that decision. For the substantive option they voted to allow the Mobile Food Vendors but with approved screening by the HPC in order to get the COA. Drafts of all of the different options have been uploaded to the agenda.

Options for Consideration:

1. Procedural (*Chapter 30, Exhibit A Zoning Ordinance, Section 4.2.15 Application for certificate of appropriateness; application for alternative exterior design standards; review procedure; appeals*):
  - a. No change.
  - b. Limit appeal process for Certificates of Appropriateness to direct to City Council review. This would mean an individual can

- appeal a Historic Preservation Commission COA denial to City Council. City Council makes the final decision.
- c. Limit City Council review by requiring supermajority if denial by HPC is unanimous.
2. Substantive (*Chapter 30, Sections 30.05.032 & 30.05.037; Chapter 30, Exhibit A Zoning Ordinance, Section 4; Division 2: Historic Preservation*):
    - a. Make no change while the overall rewrite is underway. The Planning Department is rewriting the entire Zoning Code and can include these types of changes to its overall analysis.
    - b. Prohibit all permanent mobile food vendors from Mercer Street.
    - c. Prohibit all permanent mobile food vendors from 100 feet of Mercer Street.
    - d. Require all Mobile Food Vendors to be screened from the right-of-way.
    - e. Remove requirement of Certificate of Appropriateness from the review of Mobile Food Vendors in Mercer Street and Hays Street Historic Districts but require approval of Historic Preservation Officer when reviewing the Conditional Use Permit.

Any other options proposed by P&Z could also be considered.

**Keenan Smith** also had recommendations as the consultant advising the Historic Preservation Commission and as the individual who reviews COA applications.

- **COA Procedural** (COA Procedural draft.docx):
  - Recommended.
  - This is a needed “fix” to COA Appeal process.
- **MFV Prohibition** (MFV.Prohibition.Ord.docx):
  - Recommended.
  - This alternative is most clear and enforceable, but most draconian.
- **MFV Prohibition (100 ft. zone)** (MFV.Prohibition.100 ft.Ord.docx):
  - Recommended.
  - This alternative (compromise) is also clear and enforceable, but creates “winners and losers.”
  - This handling is similar to Downtown Parking- some properties have the potential to have a Mobile Food Vendor while others would not.
- **MFV Screening** (MFV.Screening.Ord.Draft.docx):
  - Not Recommended.
  - Administrative and Staff Case Review Difficult
    - “What’s Acceptable Screening?” (purely subjective)
    - “Every New MFV = New Screening Problem” w/new Review and COA

- "Perpetuates the Problem" ... reopens the issue of proper screening and placement each time.
- "Cure Worse Than The Disease" (ugly, obtrusive screening solutions could likely be worse than MFVs)
- "Prohibitively Expensive" (costs to the MFV or Property Owner)
- "Invisible MFVs" will not be successful and contribute to Mercer (the idea of Mobile Food Vendors is to attract diners which would not happen if they are hidden)
- In light of all the above, constitutes a "De Facto Prohibition" but with a longer, more arduous review.

**Commission Recommendations:** HPC and P&Z recommended looking into the ordinances related to Mobile Food Vendors in the Historic District and the COA process.

**Recommended Council Actions:** Approve procedural change. Provide recommendations on substantive changes.

**Attachments:** Staff Report; Ordinance Provisions, Historic Preservation Officer- Keenan Smith Presentation.

**Next Steps/Schedule:**