

Commissioner Mulder said that he felt that the wording was appropriate and thought it was a good move.

Commissioner Fabula had no questions or comments.

Commissioner Nisley thought the timing was important to development, and he was glad they were making the change.

Commissioner Gollob said how he understood it is that they were deferring the payment of these fees to a more appropriate time when the actual impact would occur for the builder without burdening the public from a financial perspective and providing the services the City needs to provide. He asked if this was a fair summary?

Mr. Caris said it was.

Commissioner Gollob if \$18815 that is not an us decision it is just part of business, it needs to be done, lets put it in now. They were not really discussing whether the \$18815 is the appropriate level. It is just a housekeeping matter. He said good job to the Staff to be responsive to both public and development needs and being proactive on this.

Commissioner Gollob asked if there was any more conversation on this or if they were ready to provide a motion?

COMMISSIONER HANCEY MOVED TO APPROVE APPLICATION 2022-01 WITH THE AMENDMENT OF ADDING SPECIFIC MONTHS TO THE CPI CALCULATION WHEN REFERRING TO YEAR TO YEAR WITH THE IMPACT FEES

Mr. Caris said it seemed like he meant all impact fees.

COMMISSIONER HANCEY MOVED TO ACCEPT APPLICATION 2022-01 FOR AMENDING THE LAND USE CODE FOR DRAINAGE FEES TO AMEND TO ADD SPECIFIC MONTH TO THE CPI CALCULATION WHEN CALCULATING THE YEAR OVER YEAR CPI GROWTH.

Commissioner Gollob asked if they could add refer to minutes for clarification. He said that they usually add something like that. He wanted to add that to it as well.

COMMISSIONER GOLLOB ADDED TO REFER TO MINUTES AND DISCUSSION

COMMISSIONER O'BRIEN SECONDED THE MOTION

MOTION PASSED 6-0

Application #

2022-02

Application Name

Mobile Food Vendors and Mobile Food Vendor Courts

Application Type

Land Use Code Amendment

**Representative
Description****City of Fruita**

This is a request for approval of amendments to Title 17 of the Fruita Municipal Code concerning the addition and inclusion of mobile food vendors and mobile food vendor courts.

Commissioner Gollob introduced Application 2022-02.

Commissioner Hancey mentioned that he might have a potential conflict of interest. He said that he owns Fruita Snow Shack, and they spend three months a year doing snow cones off of the circle. He added that they have been there for 19 years and if this was a concern he would go and if not he would be happy to contribute to the conversation.

Commissioner Gollob asked Mr. Caris if they needed to take a break or discuss this openly?

Mr. Caris stated that for his edification, the fact that he was a business owner if you make the assertion that he could be impartial with the proposed amendment that he did not stand to get financial gain. The caveat with all of this was that what was before them was a legislative change that will expand beyond just a singular user. He felt that just a statement and then a question to the other Planning Commissioners (inaudible). He thought that he could deliberate and weigh in partially.

Commissioner Gollob asked Commissioner Hancey for a statement.

Commissioner Hancey said that he could be impartial and contribute positively to the conversation.

Commissioner O'Brien said that for optics that it is best to recuse yourself in situations that might seem like a conflict of interest.

Commissioner Nisley and Commissioner Mulder didn't have a preference either way.

Commissioner Hancey asked if it was possible to participate in the conversation but not vote?

Mr. Caris said it was not. He said that they liked to err on the side of caution. He said that this proposal was going to apply to multitude of different zoning classifications. He said that they were expanding the definition. He said that this was legislative application of changing the provisions. He said that they could look at it like reviewing a project in the downtown and being a business owner in the downtown. He felt the decision was up to Commissioner Hancey.

Commissioner Gollob agreed with Commissioner O'Brien. He thought caution is the safer bet, but he also trusted that Commissioner Hancey could be impartial.

Commissioner Hancey decided to recuse himself.

Commissioner Gollob just wanted to be sure there wasn't any hiccups along the way. He thanked him for looking out for the interests of the city.

Mr. Caris stated that he wanted the record to reflect that Commissioner Hancey had left the room. He said that before them was a creative first step that City Staff was proposing to expand

the definition for what they have conventionally couched as temporary uses in the form of mobile vending. He said that it was pragmatic to expand that definition with how popular these have become. He said that there were some caveats to associate them with the contextual background of temporary versus permanent and accessory and primary uses. He said that they would go into greater detail on that. They were trying to expand that definition and assign processes to those different types of applications. He added that one of the reasons they didn't have a 300-page document is because they have called out certain sections in the Code that will apply to a more permanent mobile vending development versus just a transactional planning clearance that they presently have with mobile food trucks or mobile vending. He told them to pay attention to the nuances. (inaudible)

Mr. Hemphill gave the Staff presentation. He stated that there was an element to the Code that they were excited about and have been thinking about for some time with regards to balancing the temporary use of mobile food vendors and trying to get some of the pressures on local businesses to allow as a primary use to allow them as a secondary use or complimentary use to a business that might have room for it and the space and demand to meet some of the customers that are patronizing those businesses. He said it has been a long time coming for this to come to fruition. He felt that since he has been with the city in 2015 and they have been issuing temporary use permits regularly for the last 6 years. He said that they wanted to get creative and learn from other municipalities around the country how to encourage some entrepreneurship and be creative in the downtown area. He added that the Master Plan spoke about providing tools or aspects for a thriving downtown area, generate economic development, get people going, walkability and all of that. This calls out the definition of a mobile food vendor and defines what a mobile food vendor court is. He said that a food vendor court would be 3 or more mobile food vendors on the same property. That process was thought about, and they wanted to allow those in the same location as you would a restaurant that offers the same services but is mostly brick and mortar. He said that this made sense because there were a lot of vacant properties with all shapes and sizes and different types of uses that are allowed and it made sense to allow these where you allow restaurants and food type services. He spoke about the Temporary Use permit and gave context on this. He talked about the vacant property just south of the post office. He said there is an ATM there and there is space behind that. He said this area was often used for a temporary use. He said that they get a Temporary Use permit that is good for 90 days at a time, they need a letter from the property owner, and they evaluate that. He talked about Wave Drinks and the Copper Club since its relocation and that there was space available for this. He said that those pulling those permits know exactly what they needed and how to meet the standards. He continued that Temporary Use permits would still be allowed. They were not changing anything with them. He talked about the various types of services that used Temporary Use permits. He said that mobile food vendors could operate permanently in conjunction with a permitted primary use. The example in the cover sheet that was given was Wave Drinks and the pad sites that have temporary hook ups for power. This is for uses that want this for more than the 90 days temporary use time period. He said that a lot of these uses would be changing out different food trucks. He added that it got redundant when you get 5 food trucks in the summer that want to operate on that property. He said that a business license will still be required but allowing those and making it more straightforward and streamlining that process this was a simple change

in the Code that would negate some of the redundancy. Secondly, he added, was the mobile food vendor courts. Those permanent improvements, pad sites, utility hook ups for electricity, and water would all be reviewed in the confines and purview of the Site Design review. He stated that Site Design reviews were done administratively if there were no adjustments required or asked for. He said that some of them have seen Site Design reviews with adjustments. He gave the example of the storage unit proposal. He said that they would most likely be metal buildings, but the design standards don't allow straight metal buildings. He said that the materials and colors might justify the process. Those improvements would be reviewed under the Site Design review process. It would look at access, circulation, parking requirements, landscaping, and sanitary facilities. They would have a preapplication meeting which is mandatory as they saw in the chart for the Site Design review process. At the preapplication meeting they would talk about the aspects of the proposal, how would cars get in and out, where were they proposing to put them and really talk about site circulation. They would also ask how many mobile food vendors would make sense to have on a property. There are commercial properties in the Kokopelli area that is vacant so they could see how this might play out. He added that seeing a property cramming in mobile food vendors not having separation and site circulation that is usually desired when you patronize local businesses. He talked about Preapplication meetings, design, parking, sanitary facilities, and site circulation. He added that a property owner may want some flexibility for uses and lease out those pads to other mobile vendors. They built in flexibility in the Code, it is not as detailed as the Site Design criteria is with regard to building location and open space for corner lots, pedestrian facilities, they wanted to work in flexibility because they wanted business owners to be creative with the applications. Mr. Hemphill showed a Power Point with slides that showed mobile food courts. He said that they took it to workshop with Council in November and got direction to move forward. He showed the Planning Commission slides with mobile vendors in mobile vendor courts. Mr. Hemphill concluded his presentation and said he would answer any questions they had.

Commissioner Mulder asked if they would be required to have health inspections certificate before they apply for the 90-day license?

Mr. Caris reminded them it was a public hearing.

Commissioner Gollob thanked Mr. Hemphill and asked if there were any public comments?

There were none.

Commissioner Gollob closed public comments and opened the meeting to Commissioner discussion.

Commissioner Mulder said that they should be required to have a certificate before they apply for the license. He then asked if there was any limitation to how many 90-day licenses they could get in a row?

Mr. Hemphill responded that it was two.

Commissioner Mulder stated that this was 180 days. He said that there were two restaurants that he was in last weekend and he said that nobody had heard about food trucks downtown. He said

that they were not happy about the idea of having the competition from the food trucks. He asked if there would be a public notice posted?

Mr. Hemphill nodded his head yes.

Commissioner Mulder asked where that would be?

Mr. Hemphill stated that it was on the site like a Site Design review.

Commissioner Mulder asked if there would be a hearing?

Mr. Hemphill responded no. He said it would be administrative and there would be time for public comment and if there were specific Code sections that they were concerned about they would have the ability to appeal Staff decision under the purview of the Land Use Code. He said it would have to be relevant to the criteria that must be considered.

Commissioner Mulder stated that if he was a restaurant owner downtown, he wouldn't be too happy about having food trucks out there for lunch.

Mr. Caris stated that there was the Temporary Use permit, which is 90 days twice, or 180 days. He said that has been on the books for quite some time. The second thing which is the accessory to a principal use was their delineation in the form of a recommendation, those are brick and mortar facilities that have been constructed which is part of the reason they felt that it would be pragmatic because those building investments have been made. Rather than just saying food trucks can be permitted without that lagging measure which would be the sizable investment into a brick-and-mortar facility. He continued that with the mobile vending courts, those are going to have to make site related improvements that are typical of a building going vertical. They were trying to balance those things so that the investment needed to be made if they were going to be facilities that were going to serve as mobile vending accommodations with the preceding measure being a brick-and-mortar facility rather than just permitting it in a permanent fashion. He wanted to let them know that this was the intent.

Commissioner Gollob said it sounded like an issue was the 90 days. He asked if this was standard from what they had seen from other municipalities with the renewal of another 90 days?

Mr. Caris stated that the consecutive renewal was something he hadn't seen. There were lots of examples of where temporary uses are as strict as 30 days and as long as 6 months. There was no gold standard between that threshold of time. What was difficult was what constitutes temporary. If they left the site, would that constitute another temporary use or was it permitting for a period of time? He has seen a lot of municipalities that permit mobile vending in a temporary space for a period of time irrespective of whether or not they (inaudible).

Commissioner Mulder restated that if he was a restaurant owner downtown he would be leery about how this would work out. He said it has been in the books for a while but has not been to anyone's advantage to use it. He wanted to see how this played out.

Commissioner Fabula talked about number 7 which talks about utilities and said that permanent hookups to utilities shall not be provided for mobile food vendors but may be provided for

mobile vendor courts. He wanted them to explain the logic between why they would talk about utilities.

Mr. Caris said that if there was no sanitary sewer accommodations in the form of restroom facilities that cannot deem the site be ADA compliant. They have to have a meaningful way of disposing gray water. He said that these were physical horizontal site improvements that would be required.

Commissioner Fabula said that this made sense. He asked if a mobile food truck was just going to use power, they are parking on someone's land and go over and plug in, was that now going to be prohibited with the common utilities or will it still be allowed?

Mr. Caris said it would be allowed in the Temporary Use space and it would be allowed in the permanent if it was an accessory to a primary use. He added that those primary uses are offering up their capacity with their bathrooms and ADA compliance. Those physical improvements are present on site. That delineation or separation in Code language is to protect the city, any violation with ADA. If they were going to call something permanent those facilities need to be offered if they were going to be there.

Commissioner Fabula talked about generators. He thought it was great when someone had the ability to plug in and not have generators running. He said that they had to start somewhere, and they started with food trucks and food vendors. He asked what about other types of businesses that were mobile based?

Mr. Caris said that they did receive the same feedback from the Council when it was taken to a workshop. He said they would categorize this as mobile vendors. (inaudible)

Commissioner Gollob said that they should consider mobile vending in this Land Use Code amendment, or they were anticipating future Land Use Code amendments that will hone in on mobile vending in general.

Mr. Caris stated that this was the request that they had. He added that when they went to the Council and talked about all the uses that could capture it seemed like they should not tie any of the uses outside of food and restaurant because that was very concrete, people know what that was, but that they list out the uses that would make sense for mobile vending.

Commissioner O'Brien asked if he was suggesting when they made the motion they make the recommendation that it just be mobile vendors?

Mr. Caris said with retail sales. They have certain zoning classifications that don't capture all of that. They can't just say all permissible uses that are allowed under retail sales, that is going to capture liquor stores. He said that they needed to be very specific about what it was.

Commissioner O'Brien stated that it was mobile retail vendors.

Mr. Caris said it could be just mobile vendors.

Commissioner Gollob said it should be mobile vendors with retail sales.

Mr. Caris said if the Planning Commission was interested in this they could make a recommendation which prescribes to Council to consider widening vending that pertains to land use categories.

Commissioner Gollob said that initially he thought they were just going to start with mobile food vendors in this language and then tackle other mobile vendors with retail sales with future language but what he is hearing is potentially they can encapsulate all of this into this mobile vendor with retail sales into this Land Use Code amendment. He asked if this was correct?

Mr. Caris said that this is what he was saying. When Mr. Hemphill and he originally crafted this they were just thinking about mobile food vendors and it got widened.

Commissioner Gollob said this was the chance to progress this beyond just food at this point. He said what he was seeing here is that they were not just seeing generic language, this was a finessed Land Use Code amendment that differentiates between one mobile vendor, food court vendor versus the mobile food vendor court regulations. Were they talking about 1 truck or multiple trucks, do they have a primary business association or not. He thought that using the Temporary Use permits for a single mobile vendor made sense. That is how they have been doing it and will continue to do that. He said that this box was checked to him. It was the mobile vendor courts, he asked if it was 3 or more mobile vendor units would then make a court?

Mr. Caris nodded yes.

Commissioner Gollob said he was thinking about the size of the lot rather than the number of units. He gave an example of number of vendor units on size of lots. He thought that two on a smaller lot would be more problematic than things they were trying to regulate like traffic. He asked them to tell him how they arrived at 3 and why not 2 to make a court?

Mr. Caris answered that they looked at their similar unit count that kicks it into the next threshold, so for example a duplex or triplex. They looked at these as units. There was no great way of doing a density calculation. He added that for practical sakes they were striking like (inaudible). He said that they were opened to having a prescribed set of standards for lot sizes.

Commissioner Fabula said that in the review meeting they would say that they were trying to cram in too many vendors on the lot and it wasn't appropriate. He didn't think they needed to go into the details and nail it down.

Commissioner Gollob said that this would only happen if there were 3 or more. He asked what if there were 2 trying to cram into a small spot. That was his concern.

Commissioner Fabula gave an example of 2 vendors go get a Temporary Use permit.

Commissioner Gollob asked if they would review that?

Mr. Caris said that they reviewed them all. He said that an accessory to a primary use would be the actual use.

Commissioner Gollob said that you could say in this scenario of 2 that it was too crowded.

Mr. Caris said yes and he added that it could be that they might not be able to make the turning radius or they don't have parking. He said that the Planning Commission used to see these checklists that they had for Site plans. He said that they ask for all of that. He added that sometimes the offerings of the site prescribe more than what their entitlements are and there are strengths that are present and sometimes there are constraints. He gave the example of Starbucks and he talked about the drive through for that business triplex.

Commissioner Gollob summarized what his concern was. He asked when did a vendor court become a court versus just a couple of trucks doing business? He added that this was a hard line and that it was 3.

Mr. Caris stated that they also looked at some of the vacant lots that wanted to be within proximity of restroom facilities that have been on physical location where there was no prescribed primary use, he added that this is what they have seen. He added that there was no gold standard.

Commissioner Gollob thanked him.

Commissioner Fabula asked about trash, he asked if trash removal had been addressed? He asked if this was part of the topic they were talking about with this.

Mr. Caris answered that this had to be done during the Site Plan, they would have to prescribe and set aside this.

Commissioner Fabula asked what were all the businesses that fell into this category? He added that in the summer we see people selling produce out of the back of a pickup truck. He asked if this would be another category, or would that fall into mobile vending too?

Mr. Caris responded that this was mobile vending.

Commissioner Fabula thought this was great. He said he visited a lot of places that fall into these categories. He also goes to places he wished had food available and they did not. He thought they would have it available if this was available. He asked questions if they were making a motion and added retail mobile vendors to the motion, would this be too narrow or broad?

Mr. Caris stated that he thought it would be important in the motion to specifically state to expand upon land uses outside of food and beverage and tied to retail sales. He added that would be a motion in the form that Council would consider widening the definition. When they had that conversation in the workshop there was not an expectation that they tied it to the zone district, it was a please consider that. He thought this would send them the message.

Commissioner O'Brien said she had one more question. She asked if it started with the owner of the property, someone couldn't get a temporary use permit without first having permission from the owner?

Mr. Caris said that this was correct. He continued that this was the way the land development applications read. There would have to be a signed agreement that allows them to operate and

there would have to be an agreement of those hours of operation. Especially if they were offering up those amenities.

Commissioner Nisley asked if there would be tap fees and would they let alcohol sales happen in the courts?

Mr. Caris said that he didn't know what the state liquor board would do. He said that this definition has widened dramatically with COVID. They would follow whether this was permissible in that type of environment. They do not call this out in the Code as they rely on the liquor licensing laws. He added that presently this is permissible.

Commissioner Gollob said that this all happens outside of things like festivals, correct? This had its own set of regulations that they were not discussing now.

Mr. Caris said that there were all different types of liquor licenses, and he was not an expert on that.

Commissioner Gollob was taking about applications, mobile food court vendors, this was a separate thing.

Mr. Caris confirmed this.

Commissioner Fabula asked about tap fees.

Mr. Caris said that mobile vending courts would have to pay tap fees. He said that traffic would be generated and that they would rely on traffic studies.

COMMISSIONER FABULA MOVED TO APPROVE APPLICATION 2022-02 MOBILE FOOD VENDORS AND MOBILE FOOD VENDOR COURTS PROPOSED LAND USE CODE AMENDMENT TO THE FRUITA CITY COUNCIL CONCERNING MOBILE FOOD VENDORS, MOBILE FOOD VENDOR COURTS AND HE REQUESTED COUNCIL TO CONSIDER WIDENING THE DEFINITION TO INCLUDE RETAIL VENDORS THAT ARE TIED TO A ZONE DISTRICT

COMMISSIONER O'BRIEN SECONDED THE MOTION

MOTION PASSED 5-0

I. OTHER BUSINESS

1. Community Development Updates

Mr. Caris talked about a grant match to get a final street scape design for the North Mulberry Street closure and hired Design Workshop for this. He spoke about the remodel of the Lithic Arts building. There are some new apartments going in. He talked about the affiliate at Monumental Beer Works going in at the old JDs. He spoke about the construction on Highway 6 & 50 and the sewer line. He spoke about 19 Road and Freemont Street and the completion of the Circulation Plan. He talked about housing attainability and the creation a housing authority.