



Zoning Staff Report

Date: January 13, 2026

Case Number: ZC-25-181

Council District: 11

Zoning Map Amendment

Case Manager: [Beth Knight](#)

Owner: Filiberto Gaona

Applicant: Manuel Gaona

Site Location: 3419 E. Berry Street

Acreage: 0.42 ac

Request

Proposed Use: Mobile Vendor Food Court

Request: From: “ER” Neighborhood Commercial Restricted

To: “E” Neighborhood Commercial and add a Conditional Use Permit (CUP) for a mobile food court with development waivers for location less than 500 feet from one-family zoning, fence within 20-foot through yard setback, parking past daylight hours in the supplemental setback, and fences in both front yards; three (3) year term, site plan included

Recommendation

Land Use Compatibility: Requested change is **not compatible**.

Comprehensive Plan Map Consistency: Requested change is **consistent for the zoning change, not applicable for the CUP**

Comprehensive Plan Policy Consistency: Requested change is **not consistent**.

Staff Recommendation: **Denial**

Zoning Commission Recommendation: **Denial by a vote of 7-1**

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Project Description and Background

- a. [Land Use Compatibility](#)
- b. [Comprehensive Plan Consistency](#)

9. Aerial Photograph

The proposed zoning site is currently a vacant lot, located in a mid-block transitional location between Bishop and Campbell Streets on E. Berry Street, which is an arterial street. The subject property appears to have never been developed. The remainder of the block to the west is single family houses, and commercial uses are located to the east. A single-family neighborhood lies across Tarrant Road to the north. To the south, the block face begins with single family uses on the west, moving eastward to mostly institutional uses with scattered small commercial uses.

The applicant had originally proposed to add a Conditional Use Permit (CUP) to the existing “ER” Neighborhood Commercial Restricted zoning for a food truck court, with tent vendors, and outdoor music. The rezoning application was revised to change the zoning to “E” Neighborhood Commercial and add a CUP only for a food truck court. Several notable land uses accompany the increased “E” zoning that would be allowed by right including allowing alcohol sales or package store, event hall, restaurant, gasoline sales, or drive-thru business. Generally, 24-hour businesses are developed in “E” zoning, due to the more intensive land uses allowed. The site is immediately adjacent to a single-family residence to the west, and across the street from additional residences to both the north and the south. Maintaining the lower intensity “ER” zoning, instead of increasing the base zoning district to “E”, is appropriate this close to the single-family houses.

The other commercial sites on the same block to the east contain three vacant buildings, one church, and one small multi-tenant retail building. The closest arterial street crossing E. Berry Street is US Highway 287, approximately 1,000 feet to the west. Commercial uses on the south side of E. Berry Street within the same block consist of a vacant building, an unpermitted food truck court, a tire repair facility, and a doctor’s office. With the recent change to State law that also allows multifamily uses on commercial properties, as well as the number of vacant commercial buildings in “E” zoning in the vicinity, adding additional “E” zoning does not appear to be warranted.

Food truck courts more than 500 feet from one- or two-family zoning or mobile vendors with potentially hazardous (stable temperature required) food are first allowed by right in the zoning “FR” General Commercial Restricted district. Approximately 75 houses are located within 500 feet of the site. Allowing a food truck court through the CUP process could help mitigate any neighborhood concerns, as well as give options for the CUP to be revoked in the event of code violation convictions. Conditional uses are those uses which are generally compatible with the permitted land uses in a given zoning district, but which require individual review of their proposed location, design and configuration, and the imposition of conditions to ensure the appropriateness of the use at a particular location.

Food truck courts are a mixture of food served to-go or eaten on-site either with outside or inside dining between 7am and 2am. The CUP would have all these food service options with inside dining on the first floor, and outside dining on a second-floor balcony. A main driveway running from E. Berry Street to Tarrant Road divides the site with parking on the western side and the food trucks and commissary building on the eastern side. The commissary building contains a common kitchen, restrooms, and offices for a site manager. Food truck courts allow the food trucks to remain on-site without having to leave nightly. The applicant has decreased the number of food trucks from 7 shown previously to 5, and decreased the building size.

Because the lot has both frontage on E. Berry Street and Tarrant Road, the site is considered to be a through lot. Through lots that adjoin a residential street, such as Tarrant Road, have a 20-foot yard on the rear yard. The

third site plan revision shows only the rear fence is in the additional required rear yard setback, where not allowed by right. The rear fence would screen some of the food truck court's light from the adjacent residential homes, but no information on the gate is shown. A 4-foot wrought iron fence is shown in the front yard close to the building's front wall, when commercial sites are not allowed to have fences in the front yard.

All commercial uses within 250 feet of one- or two-family zoning are required to provide the minimum number of required parking spaces. Based on the revised seating areas' combined square footage, 11 parking spaces are required. The majority of these spaces are along the northern property line, closer to the residential uses across Tarrant Road. The western parking spaces are now in the supplemental setback adjacent to residential zoning, which triggers a new development waiver. The latest site plan revision shows 19 parking spaces, which is considered to be over-parked and will require additional trees to be planted on-site.

Through Ordinance 23609 effective March 29, 2019, the Conditional Use Permit allows for an unlimited time period for the operation of a use unless otherwise approved by the City Council. If a time limit is established for a Conditional Use Permit, the renewal of the CUP shall be considered through the public hearing process and approved by the City Council. A CUP shall expire if no permitting action is taken within six months of approval or cease of the use for six months. A CUP may be revoked through the public hearing process if necessary after convictions of one or more code violations.

Per Section 4.407 (a), the following general rules apply to all conditional uses:

- a) Conditional use permits in residential districts shall be limited to those uses designated "CUP" in the Residential District Use Table in Chapter 4, Article 6, Section 4.603.
- b) Approval of a conditional use permit shall authorize only the particular use or category of related uses for which the conditional use permit is issued.
- c) A conditional use shall not be enlarged, extended or otherwise modified unless approved by the City Council or approved administratively as applicable.
- d) The use of property for the purposes described in a conditional use permit shall not commence until a certificate of occupancy has been issued. A certificate of occupancy shall not be issued until all or approvals which may be required by the Codes and Ordinances of the City, including, but not limited to, a Building Permit, a Certificate of Occupancy and subdivision approval have been satisfied.

Section (d) provides the following Conditional Use Permit factors in consideration of appropriateness of a request:

- a) The proposed use is consistent with the Comprehensive Plan;
- b) The proposed use is compatible with the existing and adjacent uses.
- c) The proposed use meets all supplemental use standards specifically applicable to the use as set forth in Chapter 5;
- d) The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods;
- e) The proposed use is not materially detrimental to the public health, safety, and welfare, or results in material damage or prejudice to other property in the vicinity.

The site plan is not consistent with the Comprehensive Plan policies, is not compatible with the adjacent uses, does not meet all the supplement standards, does not preserve the integrity of the adjacent development, and is materially detrimental to the adjacent single family development.

Below is a chart that illustrates the differences between the base regulations and the proposed CUP:

| Requirement | | Proposed CUP |
|---------------------------|--|---|
| Food truck court location | Allowed more than 500 feet from one- or two-family zoning. | Immediately adjacent to one-family zoning on west (<i>requires Development Regulation Waiver</i>) |

| | | |
|---------------------------|---|--|
| Front yard fence location | Fencing not allowed in commercial front yards by right. | Wrought iron fence (4') in front yard. <i>(requires Development Regulation Waiver)</i> |
| Through lot rear yard | Required to be the same as minimum front yard (20') | Fence in required open yard <i>(requires Development Regulation Waiver)</i> |
| Supplemental setback | No parking allowed in the supplemental setback after daylight hours | Parking in supplemental setback until 11pm <i>(requires Development Regulation Waiver)</i> |

Surrounding Zoning and Land Uses

North "A-5" / single family,
 East "A-5" / vacant commercial buildings, small commercial use, church
 South "A-5", "CF", "E" / single family, school, small commercial uses
 West "A-5" / single family

Recent Zoning History

ZC-05-020, from ER to PD/SU for restaurant with alcohol sales for on-premises consumption, barber shop and office. site plan waived, approved 3/2/2005.

ZC-10-105, Council-initiated for neighborhood, from PD/SU to ER, approved 7/14/2010.

Development Impact Analysis

Land Use Compatibility

The applicant is proposing a zoning change from ER to E and adding a CUP to allow a food truck court for 5 food trucks with commissary building. Surrounding land uses consist of lower intensity single-family residential uses, institutional uses, and under-utilized commercial lots. The site is immediately adjacent to residential uses, which triggers buffer yards on the western side. The lot is a double-frontage lot, with the rear yard adjacent to a residential street, which triggers the same minimum 20-foot setback as the front yard. The rear fence is on the rear property line instead. The front yard is showing a 4-foot open-design fence where front yard fences are not allowed on commercial lots. Both fences were revised to show a gate across the driveway, but no specific details were added.

The main development waiver is triggered by the location immediately adjacent to one-family zoning, as well as being less than 500 feet from approximately 75 single family houses in one-family zoning. A development waiver is associated with the proposed fences' locations. Another development waiver is needed because the revised site plan has placed 10 parking spaces in the supplemental setback that will be used after daylight hours.

The proposed zoning request for commercial uses **is not compatible** with surrounding residential land uses due the intrusion of an intensive commercial encroachment into a residential neighborhood. Large "FR" General Commercial Restricted zoned lots would be more appropriate for the use, instead of a mid-block location near a number of residential lots.

Comprehensive Plan Consistency – Southeast Planning Sector

The 2023 Comprehensive Plan currently designates the subject site as neighborhood commercial on the Future Land Use Map. While the base zoning district requested is consistent with the land use map, the Comprehensive Plan Future Land Use Map does not designate locations for food truck courts. The conditional use permit provides the opportunity to consider this request based upon its location to surrounding property, site layout, and mitigating measures.

The proposed zoning is not consistent with the following policies of the Comprehensive Plan:

- Coordinate future land uses and development types and intensity with the Complete Streets policy, Master Thoroughfare Plan, Active Transportation Plan, and Transit-Oriented Development (TOD) Plans.
- Promote appropriate infill development of vacant lots, old commercial centers (greyfields), and contaminated sites (brownfields) within developed areas, particularly in the central city.
- Preserve and protect residential neighborhoods from incompatible land uses, disinvestments, encroachment, demolition, neglect, and other negative forces.
- Separate incompatible land uses with buffers or transitional uses. Some land uses have attributes such as height, proportion, scale, operational characteristics, traffic generated, or appearance that may not be compatible with the attributes of other uses.
- Maximize area of permeable surfaces in developments to reduce stormwater run-off.

Based on conformance with the policies stated above, the proposed zoning proposal **is not consistent** with the Comprehensive Plan.

Site Plan Comments

Zoning and Land Use

The site plan as submitted is not in general compliance with the Zoning Ordinance regulations. If approved, these comments would need to be addressed prior to ordinance adoption.

1. Correct the vicinity map, as Little Street does not go thru this block.
2. Create a surface materials legend and add these colors/patterns to the main site plan. Include the surface materials of all ground level areas, including the food truck pads, parking, and open spaces.
3. Please label the front yard of the adjacent house to the west at the project's western property line.
4. Fences are not allowed in front of commercial uses. Either remove the fence from the front yard or request a development waiver. Include information regarding the gate's materials. If approved, add the note in bold: "**A development waiver was granted to allow a 4-foot open-design fence and gate in the front yard.**"
5. Because the lot has a street on both the front and rear, it is considered to be a through lot. Through lots that adjoin a residential street have a 20-foot yard on the rear yard. The rear fence is in the required 20-foot rear yard setback. If approved, add the note in bold: "**A development waiver was granted to allow the rear fence in the required 20-foot rear yard for a through lot.**"
6. Show and label the water/sewer connections to the food trucks, instead of the electrical connections. This information can be shown on a separate page if the main site plan is too busy.
7. If lighting is provided, show and label it. Add the footcandle level at the property line. This information is required now, instead of at the building permit stage.
8. Show and label the proposed detached sign. Note if the sign will be illuminated or unilluminated.
9. Label the land use and zoning classifications of the surrounding properties in all directions, as well as the subject site.

10. Show the parking calculations based on the seating area size.
11. Informational comment: Signage is not allowed on fencing or gates.
12. Generally, the site plan is hard to read, as the lettering is very faint/almost ghosted. Is there a way to print the PDF where the plan information shows better?

(Comments made by Platting (Subdivision Ordinance), Transportation/Public Works, Fire, Park & Recreation, and Water Department staff cannot be waived through the Zoning Commission and City Council. Approval of the zoning site plan does not constitute the acceptance of conditions.)

Stormwater

1. None.

Fire

1. Fire lane width and proposed surface material shown as compliant. Fire lane and existing public roads provide hose lay to the proposed structure within 150'.
Section 503.1.1 Buildings and Facilities, Section 503.2.1 Fire Lane Dimensions

The existing public hydrants provide adequate hose lay to the proposed structure.
Sections 507.5.1 (2) and (3) Hydrants

Adequate lot access is provided by existing public streets.
Section 503.1.6 Secondary Access One and Two Family Residential Developments.

2. General information: Failure to recognize violations of the fire code by the fire code official does not waive the requirement of meeting minimum requirements of the fire code in the future. It is the applicant's and the owner's responsibility to meet all minimum fire code requirements at all times.

The City of Fort Worth has adopted the 2021 International Fire Code as its current fire code at the time of this review. The City of Fort Worth has also adopted Amendments #25388-03-2022.

<https://www.fortworthtexas.gov/departments/fire/services/bureau>

DSD Transportation

1. FYI: Site will be required to conform with standards and requirements of all transportation-related manuals and ordinances including: Master Thoroughfare Plan, Access Management Policy, Transportation Engineering Manual, Streets and Sidewalk Ordinance, Subdivision Ordinance, Complete Streets Policy, and others.

DSD Water Engineering

1. Please refrain from emailing DSWS separately to clear holds; Early permit review requests by email or in person will not be accepted. All revisions need to be submitted through Accela permitting system so that they are recorded and tracked appropriately.
2. FYI:
Existing water - 16" Cast Iron water main in Tarrant Rd; 8" PVC water main in E Berry St
Existing sewer - 8" Ductile Iron sewer main in Tarrant Rd; 8" PVC sewer main in E Berry St.
If the project is developing along existing water and sewer lines (C.I., V.C., Concrete, or Unknown Mat'l); needs new or increased services, OR completing street paving improvement; then all line(s) will need to be replaced along the property frontage between valves or manholes with possible city cost participation.
Water/ Sewer loading/study may be required. Please reach out to WPD@fortworthtexas.gov

An approved zoning case and approved water and sewer study do not approve the alignment of the public water and sewer.

Please reference PDC-25-0347 for additional notes.

Public Notification

Written Notice

Written notice of the Zoning Commission public hearing was mailed to the owners of real property within 300 feet on **October 30, 2025**.

Posted Notice

A sign was erected on the property on **October 28, 2025**.

Published Notice

A notice of the public hearing before the City Council will be published in the Fort Worth Star Telegram at least 15 days before the hearing.

Courtesy Notice

The following organizations were emailed on **October 30, 2025**:

| Organizations Notified | |
|-------------------------------|--|
| Polytechnic Heights South NA* | Eastland NA |
| The New Mitchell Boulevard NA | United Communities Association of South Fort Worth |
| East Fort Worth, Inc. | Southeast Fort Worth Inc |
| Trinity Habitat for Humanity | Fort Worth ISD |
| Streams And Valleys Inc | |

**Located in this registered Neighborhood Association*



Zc-25-181

