



**ZONING MAP CHANGE
STAFF REPORT**

City Council Meeting Date:
December 4, 2012

Council District All

Zoning Commission Recommendation:

Approval by a vote of 9-0

Opposition: none

Continued	Yes ___	No <u>X</u>
Case Manager	<u>Jocelyn Murphy</u>	
Surplus	Yes ___	No <u>X</u>
Council Initiated	Yes ___	No <u>X</u>

Owner / Applicant: City of Fort Worth Planning and Development Department

Site Location: Citywide Mapsco: N/A

Proposed Use: An Ordinance amending the Zoning Ordinance of the City of Fort Worth, being Ordinance No. 13896, as amended, codified as Appendix "A" of the Code of The City of Fort Worth, by Amending Article 1 "Standards for Selected Uses", of Chapter 5, "Supplemental Use Standards", Section 5.406, to:

- Add a subsection to provide standards and regulations for Mobile Vendor Food Courts;
- Amend Section 4.802 "Nonresidential District Use Table" and Section 4.1202 "Form-Based District Use Table" to provide for the zoning districts where Mobile Vendor Food Courts are allowed;
- Amend Chapter 9 "Definitions" to add Mobile Vendor Food Courts and amend Mobile Vendors

To review the proposed amendments:
<http://fortworthtexas.gov/planninganddevelopment/zoningcommission.aspx>

Request: TEXT AMENDMENT: MOBILE VENDOR FOOD COURTS

The Zoning Ordinance does not currently provide for mobile vendor food courts as a use by right. The few vendor foods parks currently in the city were permitted through multiple variances approved by the Board of Adjustment. The proposed amendment would permit mobile vendor food courts by right primarily in the "G" Intensive Commercial and industrial districts, and permit them by Special Exception in districts allowing commercial uses. Some form-based districts will allow the food courts by right, while others will require a Special Exception. No food courts will be allowed by right or by Special Exception at this time in Trinity Uptown.

Regulations that would apply to mobile vendor food courts include:

- 1) A site plan shall be provided for administrative review.
- 2) One on-premise detached sign is permitted at the entrance. Each mobile vending unit may have attached signage. One temporary sandwich board sign is permitted per mobile vending unit to be displayed within 10 feet of the unit and within the boundaries of the vendor food court. One temporary sign or banner is permitted per court.

- 3) The mobile vendor food court must be located at least 500 feet from a one- or two-family residential zoning district, or the owner must obtain a special exception.
- 4) A minimum of 2 spaces per vendor/truck shall be required if the mobile vendor food court is located within 250 feet of a One- Or Two-Family Residential District.

Attachments:

- Proposed Ordinance Amendments
- Minutes of the Zoning Commission meeting

MOBILE VENDOR FOOD COURTS ZC-12-093

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 13896, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING ARTICLE 1 "STANDARDS FOR SELECTED USES", OF CHAPTER 5, "SUPPLEMENTAL USE STANDARDS," SECTION 5.406 "MOBILE VENDORS" TO ADD A SUBSECTION TO PROVIDE STANDARDS AND REGULATIONS FOR MOBILE VENDOR FOOD COURTS; TO AMEND SECTION 4.802 "NONRESIDENTIAL DISTRICT USE TABLE" AND SECTION 4.1202 "FORM-BASED DISTRICT USE TABLE" TO PROVIDE FOR THE ZONING DISTRICTS WHERE MOBILE VENDOR FOOD COURTS ARE ALLOWED; AND TO AMEND CHAPTER 9 "DEFINITIONS" TO ADD A DEFINITION FOR MOBILE VENDOR FOOD COURTS AND AMEND DEFINITIONS RELATED TO MOBILE VENDORS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, within the City, there is an increased interest and demand for access to mobile food vending units (aka food trucks) in a permanent location; and

WHEREAS, the City desires to improve the vitality of certain areas of Fort Worth, increase access to affordable and gourmet foods, encourage budding food entrepreneurs, and support local small business and economic development; and

WHEREAS, such goals can be accomplished by providing purveyors of mobile food vending unit the opportunity to vend in a permanent location; and

WHEREAS, the City finds it to be in the public interest and general welfare to amend the Zoning Ordinance provisions governing mobile vending on private property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS

SECTION 1.

Chapter 5 "Supplemental Use Standards" of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise Article 1, "Standards for Selected Uses"

to amend Section 5.406 "Mobile Vendors" to provide for Mobile Vendor Food Courts and to read as follows:

5.406 Mobile Vendors

A. Required Permits

1. Vendor Certificate of Occupancy.
 - a. All Food and Merchandise Vendors shall obtain a Vendor Certificate of occupancy for each specified location where sales are to take place from a Mobile Vending Unit. Except as otherwise provided herein; a Vendor Certificate of Occupancy is valid for one (1) year from the date of issuance.
 - b. No Vendor Certificate of Occupancy will be issued without written authorization from the owner or person in control of the premises stating that the Mobile Vending Unit has permission to occupy the premises where the Mobile Vending Unit is located to sell merchandise, or sell or serve food.
 - c. No Vendor Certificate of Occupancy will be issued without written authorization from the owner or person in control of each premises stating that the Mobile Vending Unit has permission to use a commercially plumbed restroom, ~~located on the premises where the mobile vending unit is located or without a restroom facility build in the mobile unit required by Chapter 16, "Health and Sanitation" of the City Code of the City of Fort Worth.~~
 - d. Vendor Certificate of Occupancy permits issued to Mobile Vendor Units located between 50 feet and 100 feet from any single family or multifamily residential use are valid for six months from the date of its issuance.
 - e. No Vendor Certificate of Occupancy will be issued to a Food Vendor without a Health Permit.
2. Health Permit.
 - a. Food Vendors must obtain a permit from the ~~Public Health Code Compliance~~ Department to operate as a Mobile Vending Unit.
 - b. Merchandise Vendors are not required to obtain a health permit.
3. General Provisions
 - a. A Vendor Certificate of Occupancy may be denied if the mobile vendor fails to provide a valid vehicle registration, motor vehicle operator's license, proof of vehicle liability insurance, and a Texas Sales Tax Permit.
 - b. A Vendor Certificate of Occupancy is not transferable.
 - c. The Vendor Certificate of Occupancy sticker must be displayed on the upper left rear area of the Mobile Vending Unit in a conspicuous location. If such location is not practicable, the permit shall be located in a location approved by the Director of the Planning and Development Department or his assignee.

B. Hours of Operation

1. No Mobile Vending Unit shall operate at any time between the hours of 2:00 a.m. and 7:00 a.m.
2. Transient Food Vendors may not stop for more than sixty 60 consecutive minutes at any one location to sell or serve food provided however this shall not apply to Mobile Vendor Food Courts.

C. Operational Requirements

1. Mobile Vending Units may only operate in locations as allowed by the Fort Worth Zoning Ordinance.
2. No Mobile Vending Unit may operate within 50 feet from a single-family or multi-family residential use. Single-family or multi-family residential use shall not include a residence that is part of a business or a mixed-use structure.
3. All Mobile Vending Units must park on an improved surface.
4. No Mobile Vending Unit may be located on a vacant lot, provided however this restriction shall not apply to Mobile Vendor Food Courts.
5. No Mobile Vending Unit, displays of merchandise, seating, or temporary shelters may obscure traffic.
6. No Mobile Vending Unit shall be allowed to sell merchandise, sell, or serve food on any public street, sidewalk, or other public right-of-way.
7. All Mobile Vending Units shall be equipped with a self-closing lidded trash receptacle. The trash receptacle must be placed outside next to the mobile vending unit for use by the patrons of the unit. The area around the Mobile Vending Unit shall be kept clean and free from litter, garbage, and debris.
8. The connection of a Mobile Vending Unit to a source of electricity, water, and sewer at a mobile vending site is prohibited unless a permit has been obtained from the Planning and Development Department for each connection and the connection has been inspected and found to comply with city codes. Each permit shall be maintained in the Mobile Vending Unit at all times and made available upon request by city personnel.
9. Merchandise and Food Vendors shall remove the Mobile Vending Unit daily from the property provided however this shall not apply to Mobile Vendor Food Courts.
10. All Food Vendors and Transient Food Vendors handling potentially hazardous food products shall report the Mobile Vending Unit at least once a day to its designated commissary for food, supplies, cleaning and servicing as required by Chapter 16, "Health and Sanitation" of the City Code of the City of Fort Worth.
11. Except as otherwise limited by this ordinance or other city codes, a vendor may utilize outside seating consisting of a portable table and a seating capacity of four, provided however this shall not apply to Mobile Vendor Food Courts.
- ~~12. Except as otherwise limited by this ordinance or other city codes, a vendor may use amplified music, provided that such music shall not exceed a decibel level of 85 as measured by a decimeter or exceed a level which is unreasonable.~~
- 12~~3~~. All Mobile Vending Units handling or selling potentially hazardous food products must be a Commercially Manufactured Vehicle as defined in Section 9.101, "Definitions" of the Zoning Ordinance and in Chapter 16, "Health and Sanitation" of the Fort Worth City Code.
- ~~14. Any Mobile Vending Unit that is not a Commercially Manufactured Vehicle as defined in Section 9.101, "Definitions" of the Zoning Ordinance and in Chapter 16, "Health and Sanitation" of the Fort Worth City Code that is permitted after September 24, 2001 and before September 24, 2002 shall be allowed to operate as a legal non-conforming use for a period of five (5) years, until September 24, 2007.~~

145. No more than one (1) Mobile Vending Unit per individual tract, parcel or platted lot shall be allowed, provided however this shall not apply to Mobile Vendor Food Courts. A maximum of three (3) Mobile Vending Units shall be allowed on an individual tract, parcel or platted on which a grocery store with a footprint exceeding ~~50,000~~60,000 square feet is located as a special exception by the Board of Adjustment, provided, however, that in granting any such special exception, the Board shall consider the following:
- a. ~~The reason for the request;~~
 - ab. The number of available parking spaces on the lot;
 - be. Whether an increase number of Mobile Vending Units would be compatible with the existing use and permitted development of adjacent properties, and
 - cd. Any other issues the Board of Adjustment considers to be relevant.

D. Additional Requirements for Mobile Vending Units Located Within 100 Feet Single Family or Multifamily Residential Use

1. No Mobile Vending Unit may operate within 50 feet from a single family or multifamily residential use. Single-family or multi-family residential use shall not include a residence that is part of a business or a mixed-use structure.
2. All Mobile Vending Units between 50 feet and 100 feet from a single family or multifamily residential use must obtain the unanimous consent of all the owners of the single family or multifamily residential property within a one hundred (100) foot radius around the Mobile Vending Unit.

Consent from the property owners must be signed, ~~notarized, and dated~~ within 30 days from the date the vendor submits an application for a Vendor Certificate of Occupancy.

~~If the single family or multifamily residential property is not the primary residence of the owner, the resident or tenant of the property must give his or her consent.~~

Measurement shall be determined in a straight line (ignoring intervening structures) from closest point of the Mobile Vending Unit to the closest point of the property line of the single family or multifamily residential use.

3. No amplified music is allowed after 10:00 p.m.
4. No portable chairs and tables are allowed after 10:00 p.m.
5. The use of portable or vehicle mounted generators to supply electricity to a Mobile Vending Unit is prohibited.

E. Exemptions

The provisions and requirements of Section 5.406 do not apply to:

1. All events/activities/festivals approved by the Board of Adjustment under Section 5.400 of the Zoning Ordinance entitled "Amusement, Outdoor (Temporary)";
2. All events/activities/festivals approved by the City Council.
3. All events/activities/festivals lasting no longer than fourteen consecutive days that are open to the public for the purpose of providing entertainment/food and/or sales of merchandise and are in conjunction with a single event or celebration.

F. Mobile Vendor Food Courts

1. Generally Mobile Vendor Food Courts may be permitted in accordance with the use tables in Chapter 4, Articles 8 and 12, subject to the following conditions:
 - a. Each individual Mobile Vendor Food Court shall comply with all regulations of Chapter 16, "Health and Sanitation" of the Fort Worth City Code and Section 5.406 except as noted above in Subsection C.
 - b. If a commissary is provided on site and the Mobile Vending Unit is approved to use the site's commissary, then the Mobile Vending Unit will not have to be removed from the site each day.
 - c. The Mobile Vendor Food Court shall not operate between the hours of 2 a.m. to 7 a.m.
 - d. On-Site Manager: There must be a designated manager of the site that is responsible for the orderly organization of Mobile Vending Units, the cleanliness of the site, and the site's compliance with all rules and regulations during working hours.
 - e. Restrooms: Permanent restrooms must be provided within the boundaries of the Mobile Vendor Food Court. The number of water closets and lavatories required shall be based on the occupant load for fixed seating of the Court, and Table 403.1 of the Fort Worth Plumbing Code. At a minimum at least one restroom for each sex shall be provided within five hundred feet from each Mobile Vending Unit.
 - f. Water and Electrical requirements: Each site is required to provide water hookups and electricity access for each individual Mobile Vending unit that operates at the site. Each individual Mobile Vending Unit is not allowed to operate a generator at the site unless emergency circumstances necessitate the need for use of a generator.
2. A site plan shall be provided for review showing:
 - a. The land area included within the site, the zoning classification of adjacent sites, and all public and private rights-of-way and easements bounding and intersecting the site;
 - b. A legal description of the platted lots of the proposed site and the boundaries thereof;
 - c. The location of each proposed permanent structure on the site and pads for Mobile Vending Units, and identification of any proposed outdoor entertainment locations;
 - d. The location, width, and surface material, including all curb cuts of driving lanes and Mobile Vending Unit pads, including a twenty 20 foot fire lane where required by the Fire Department, fire hydrants and including paving, turf or gravel to be used;

- e. The location of fire hydrants;
 - f. The dimensions and capacities of parking areas and loading areas;
 - g. Landscaping of all street frontages;
 - h. All pedestrian walks, patios and open areas for use by tenants or the public;
 - i. The location and height of all walls, fences and screen planting and landscaping;
 - j. The location, size, height, foot candle level and orientation of all lighting and signs;
 - k. Location and screening of refuse containers, air conditioners and outside storage or display;
 - l. Location and number of provided seating and eating areas, including number of fixed seats and tables.
 - m. A schedule of the phasing of all improvements shown in the plan; and
 - n. Location, height, separation of buildings, including location of restrooms, and open space.
 - o. Location and type of water supply and electrical outlet(s) provided for each corresponding pad site.
3. Mobile Vending Units shall be placed on, at a minimum, compacted gravel base. Mobile Vending Units shall not be parked on unimproved surfaces.
 4. Signs. One on-premise sign is permitted at the entrance identifying the Mobile Food Court. Each Mobile Vending Unit may have attached signage. One temporary sandwich board sign is permitted per Mobile Vending Unit to be displayed within 10 feet of the unit and within the boundaries of the Mobile Vendor Food Court. Only one banner or temporary inflatable sign may be permitted at one time per Mobile Vendor Food Court, in accordance with Section 6.404.
 5. The Mobile Vendor Food Court must be located at least 500 feet from a one or two family residential zoning district. Mobile Vendor Food Courts within 500 feet of a one or two family district, as measured at the property line of the Mobile Vendor Food Court to the zoning district boundary, are permitted only by Special Exception.
 6. The Board of Adjustment may grant a Special Exception for a period of up to five (5) years. The Board shall consider the following:
 - a. The impact to adjacent properties.
 - b. The number of available parking spaces on the lot and other pertinent parking areas within a ¼ mile walking distance;
 - c. Whether the operation of a Mobile Vendor Food Court would be compatible with the surrounding uses and zoning of adjacent properties, and
 - d. Any other issues the Board of Adjustment considers to be relevant.
 7. Minimum Parking shall be required if the Board of Adjustment grants a Special Exception that permits a Mobile Vendor Food Court to be located within 250 feet of a one or two family residential district in accordance with the table located in Article 6.201.

SECTION 2.

Chapter 6 “Development Standards” of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise Article 2, “Off-Street Parking and Loading” to amend Section 6.201 “Off-street Parking Requirements” to add parking requirements for Mobile Food Courts to read as follows:

Table 6.201:

<u>Use</u>	<u>Requirement</u>
<i>COMMERCIAL</i>	
<u>Mobile Vendor Food Court</u>	<u>Minimum per vendor/truck 2 spaces</u>
	<u>Maximum per vendor/truck 4 spaces</u>

SECTION 3.

Chapter 4, Article 8 and 12, of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, Sections 4.803, “Nonresidential District Use Table” and 4.1202 “Uses”, is hereby amended to add “Mobile Vendor Food Court” under the column heading “Temporary Uses”, to allow as a permitted use in zoning districts: “G”, “T”, “J”, “K”, “MU-2”, “MU-2G”, “CB/GC-MU”, “CB/IA”, “CB/WB”, “NS-T4”, “NS-T5” and “NS-T5I”; to allow as a Special Exception in all other non-residential zoning and mixed-use/form-based districts; not to allow as a use in “NS-T4R”, “NS-T4N” and “TU” zoning districts; and to add a reference in the “Supplemental Standards” column to Section 5.406.

SECTION 4

Chapter 9 “Definitions” of Ordinance No. 13896, the Zoning Ordinance of the City of Fort Worth, is hereby amended to add a definition for Mobile Vendor Food Court and revise the definition of Certificate of Occupancy Vendor to read as follows:

Mobile Vendor Food Court. A “Mobile Vendor Food Court” is a primary land use located on one or more platted lots where two or more mobile vending units congregate to offer food or beverages for sale to the public, functioning as a single business and may provide restrooms.

tables, play areas, a permanent structure for alcohol sales, and other outdoor entertainment open to the customers of all vendors.

Vendor Certificate of Occupancy: For the purposes of Section 5.406, a Vendor Certificate of Occupancy shall include a determination of the location of the vendor for verification of the proper zoning, verification that the safety code requirements are met and submission of a letter from the property owner, all applicable ~~Health Department~~ Code Compliance Department permits and sales tax registration.

SECTION 5.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 6.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 8.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 10.

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

SECTION 11.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____
Assistant City Attorney

ADOPTED: _____

EFFECTIVE: _____

Councilman Moss. He is requesting to rezone to PD/AG with outside storage of construction vehicles only for asphalt maintenance. Mr. Hopkins said he met with Councilman Moss who also recommended he meet with Cathedral of Faith Church located on House Anderson Road to the northwest of this property. Mr. Hopkins met with them and they are in support of the request and were in attendance at the hearing. It was noted five letters of support were originally submitted. Mr. Hopkins mentioned specific uses not permitted to be stored on the property per Councilman Moss including no storage of pipe, dirt, lumber, metals, scaffolding, concrete, masonry materials, and scrap metal.

Nick Genua asked staff for clarification on the notice.

Ms. Burghdoff, Deputy Director, City of Fort Worth mentioned the request is more restrictive and they can move forward with the request.

Dallas Rice, 3500 House Anderson Road, Fort Worth, Texas speaking on behalf of Cathedral of Faith Church spoke in support of the request

Motion: Following brief discussion, Mr. Ferrell recommended approval of the request, seconded by Ms. Conlin. The motion carried unanimously 9-0.

<i>Document received for written correspondence</i>				ZC-12-081	
Name	Address	In/Out 200 notification area	ft	Position on case	Summary
Dallas Rice	3500 House Anderson	No		Support	Spoke at hearing

3. ZC-12-093 City of Fort Worth Planning & Development (CD All)- Text Amendment: Mobile Vendor Food Courts

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 13896, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING ARTICLE 1 "STANDARDS FOR SELECTED USES", OF CHAPTER 5, "SUPPLEMENTAL USE STANDARDS," SECTION 5.406 "MOBILE VENDORS" to:

- **Add a Subsection to provide Standards and Regulations for Mobile Vendor Food Courts; to**
- **Amend Section 4.802 "Nonresidential District Use Table", and Section 4.1202 "Form-Based District Table" to provide for the Zoning Districts where Mobile Vendor Food Courts are allowed; and**
- **Amend Chapter 9 "Definitions" to add Mobile Vendor Food Courts; and Amend Mobile Vendors**

To review the proposed amendments:

<http://fortworthtexas.gov/planninganddevelopment/zoningcommission.aspx>

Jocelyn Murphy, Planning Manager, City of Fort Worth, Texas explained to the Commissioners the text amendment is in expectation of future Mobile Vendor Food Courts coming into the City. Ms. Murphy noted there is one on North Main and one on Weisenberger Rd. and currently all food courts have to go through a series of variances through the Board of Adjustment.

Mike Brennan 1606 Mistletoe Boulevard, Fort Worth, Texas representing Fort Worth South Inc., asked for clarification on the Special Exception process in the Near Southside District.

Ms. Murphy explained they are allowed by right in NS-T4, NS-T5, and NS-T5I but not permitted in the other NS districts.

Motion: Following brief discussion Mr. Genua recommended approval of the request, seconded by Ms. Reed. The motion carried unanimously 9-0.

4. ZC-12-106 Service Plus Automotive Repair and Maintenance LLC (CD 2)- 9801 N. Beach Street (Samuel P. Williams Survey, No. 1690, 1.03 Acres): from “E” Neighborhood Commercial to “PD/E” Planned Development for all uses in “E” Neighborhood Commercial plus tire sales repair and service, minor automotive repair, oil change, emissions testing, no outside storage; site plan included.

Gerald Chunn, 4017 Deepwood, Colleyville, Texas owner of Service Plus Automotive Repair is requesting a 30 day continuance. Mr. Chunn mentioned they met with the Heritage neighborhood and realized they have a vision and would like to continue having discussions with the neighborhood on that vision. He explained he and his son have been in the automotive service for many years and that they are proposing a different type of automotive business. This one will consist of state inspections, oil changes, lube and light repair. The building will have a gable roof, stone masonry to match the Heritage community, a large patio entrance, low impact signage, and landscaping. There will be four drive thru bays with eight car capacity, eight employees and 21 parking spaces as indicated on the site plan. The area behind the building will be left as a green space with additional tree plantings and tables for customers. Mr. Chunn also noted 50% of their customers are women and influence 75% of the business.

Neftali Ortiz, 3900 Bamburg Lane, Fort Worth, Texas representing Heritage NA spoke in opposition. He noted for the record a petition for opposition and support was handed in earlier as well as some ideas from the homeowners as to what they would like to see in the community. Mr. Ortiz also mentioned they would like to see uses in the E zoning category not F. He is not sure if a 30 day continuance will help change their minds and what they want to see in this area, but they are not opposed to a continuance. Mr. Ortiz indicated on the overhead around the Timberland Boulevard area where they re-zoned for F to allow those type uses outside of the community.

Mr. Flores asked how many times the HOA met with the applicant. Mr. Ortiz said the Heritage Board met twice, once to understand what they were requesting and the second was an open forum.

Mr. West asked about the possible alternative location. Mr. Ortiz said it would be south of Shiver around Timberland.