

To: City Council

From: Hector Soto, Jr., AICP, Senior Planner

Date: February 24, 2025

Re: **Permit #PRSE20246346 - APPEAL OF SPECIAL EVENT PERMIT DENIAL** – You Wanna Pizza Me?, 110 SE 4<sup>th</sup> St; Connor Branson, applicant

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## Background

The applicant submitted a special event permit application to operate a food truck in the parking lot of the property located at 110 SE 4<sup>th</sup> St. The proposed days and hours of operation are as follows:

- 11:00 am-2:00 pm – Sunday through Saturday (lunch service); plus
- 5:00 pm-10:00 pm – Sunday through Wednesday (dinner service); and
- 5:00 pm-2:00 am – Thursday through Saturday (dinner service)

Staff denied the application based on concerns about the impacts (e.g. noise, lights, parking, visibility/lack of visual screen between uses) the food truck as an outdoor operation will have on existing, abutting single-family residences to the east. See the “Analysis” section for further detail.

## Request

The applicant is appealing the denial of a special event permit to operate a food truck in the parking lot of the property located at 110 SE 4<sup>th</sup> St during the aforementioned days and hours of operation. Special event permits are valid for up to one (1) year.

## Appeal Process (UDO Section 6.1670.)

Applicants denied a special event permit may appeal to the City Council by filing such appeal with the City Clerk with full documentation supporting his or her application. The City Council action shall be final and may include additional fees to cover the cost of providing City services and/or any other conditions deemed necessary to protect the general welfare of the City and the public.

## Zoning and Land Use

**Existing Zoning.** The subject property is zoned CBD (Central Business District).

**Existing Conditions.** The subject property is the site of an existing 2,240 sq. ft. building that houses packaging and merchandising operations for Fringe Beerworks. The partially paved parking lot is located on the north side of the building. The site has driveway access from both SE 4<sup>th</sup> Street on the north and the public east-west alley on the south. The City recently constructed a concrete driveway approach/pad on the subject property to provide a transition from the site’s parking lot onto the abutting alley; this improvement was done as part of the City’s adjacent alley improvement project.

**Surrounding Uses.** The table below illustrates the zoning and land use nature of the properties surrounding the subject site.

<b>North:</b>	Restaurant, Retail and Service / CBD (Central Business District)
<b>South:</b>	Undeveloped single-family residential lots / R-1 (Single-family Residential)
<b>East:</b>	Single-family Residences and Service (Salon) / CBD
<b>West:</b>	Social Services Provider / CBD



*Figure 1 - Adjacent land uses within 100' buffer: Commercial/Retail/Service (in rose); Residential (in yellow); Public Parking Lot (in blue). Proposed food truck location depicted by green star.*

As depicted above, four (4) of the abutting five (5) lots to the east are the sites of existing single-family residences. One (1) lot is a former single-family residence that has been converted for commercial use

and currently sits vacant. There is no buffer/screen that separates the abutting single-family residences and commercial lot from the subject property where the food truck is proposed to operate.



*Figure 2 - View from subject property to abutting residential and commercial lots to the east.*

## Unified Development Ordinance (UDO)

**Mobile Food Vending Regulations.** UDO Section 6.1650 establishes performance standards for mobile food vending operations that are located on private property, as well as those located within the public right-of-way. The subject food truck is proposed to operate on private property. The full mobile food vending performance standards are included under Appendix A of this document.

One of the performance standards specific to mobile food vending operations in the CBD is that hours of operation are limited to 9:00 pm to 2:00 am any night of the week, except that other hours of operation can be approved by the Director of Development Services on a case-by-case basis. As previously stated, the applicant proposes to operate outside of the 9:00 pm to 2:00 am window. The applicant proposes to offer lunch service between 11:00 am to 2:00 pm and dinner service beginning at 5:00 pm. The applicant will otherwise comply with all other performance standards.

**Restaurant Regulations.** The UDO has in place use conditions for brick-and-mortar restaurants with outdoor operational components such as drive-in restaurants, drive-through restaurants and drive-up restaurants to mitigate the impact of an operation's outdoor activities on area residential uses. More specifically, the UDO requires these brick-and-mortar uses to maintain a minimum 100' of separation between any order station, pick-up window, drive-through lane, etc., and any residential district or use.

## Analysis

In evaluating the special event permit application, staff drew a parallel between the proposed food truck and the associated outdoor activities inherent to them in the form of walk-up ordering/pick-up, possible on-site dining, etc., and the regulations for brick-and-mortar drive-through/drive-up/drive-in restaurants that share similar outdoor operational activities. The City's Unified Development Ordinance (UDO) requires a minimum 100' separation from order boxes, pick-up windows, drive-through lanes and the like from any residential district or use (UDO Sections 6.460, 6.470 and 6.480). Similarly, outdoor decks/patios that are accessory to commercial buildings require a minimum 100' separation from residential (UDO Section 6.1360).

The intent of the 100' minimum separation requirement between outdoor establishments and residential zoning districts or residential uses is to mitigate the impacts of outdoor activities (e.g. traffic, noise, trash, lights, etc.) on adjacent residential uses. The Fringe Beerworks property directly abuts four (4) existing residences. Save for a 4'-tall chain link fence at the rear of one of the residential properties, there is no existing screen or buffer separating the abutting properties that provides any measure of noise reduction or visual screen of the proposed commercial activity along the common property line shared with the abutting residences.

Staff's denial of the special event permit application was based on nuisance-related concerns stemming from a lack of separation between the food truck and abutting residences and the impact that the outdoor operational activity of the food truck may have on the ability of abutting residents to reasonably enjoy the use of their property. The lack of separation coupled with operating hours as late as 2:00 am exacerbates staff's concerns.

## Recommendation

Staff recommends **DENIAL** of the special event permit appeal.

## **Appendix A – Mobile Food Vending Performance Standards (UDO Section 6.1650)**

### **Performance standards.**

- A. Location on private property. Mobile food vending is permitted in all zoning districts on private property if: a) the vendor has obtained the permission of the property owner; and b) the vendor is in compliance with all provisions of this division, including those sections addressing permits; and c) the vendor must be located on a paved surface.
- B. Location in right-of-way.
1. The vendor shall not locate within a 60-foot radius from the primary entry of a brick and mortar restaurant during posted hours of operation, unless they have written permission from the restaurant owner.
  2. Mobile food vending is prohibited from the right-of-way in residential areas, with the following exception:
    - a. Single-unit mobile food trucks that do not exceed a 15-minute parking duration for sales/services are permitted.
- C. Location during an entertainment event (festival). The vendor shall not locate within one-half mile from the boundary of any entertainment event (festival) requiring street closure, except when:
1. The vendor has written authorization from the festival/event coordinator to operate within the festival boundaries or within one-half mile thereof.
- D. Hours of operation and duration. Mobile food vendors can operate with no limitations on days and hours, with the following exception:
1. Mobile food trucks in the CBD (Central Business District) area, shall be limited to 9:00 p.m. to 2:00 a.m. any night of the week, except that mobile food vendors participating in entertainment events (festivals) in the CBD shall be limited to the hours of the festival. Other hours can be approved by Director of Planning and Development on a case by case basis.
- E. Compliance with other laws and regulations. Vendors must at all times comply with all applicable legal and regulatory provisions, including, without limitation, health code regulations.
- F. Restoration of site. Immediately upon cessation of the vending, the site shall be returned to its previous condition, including the removal of all litter, or other evidence of the vending. If the site is not returned to its previous condition, the City may restore the site at the expense of the applicant.
- G. Health and safety criteria. Mobile Food Vending shall not impair the normal, safe and effective operation of a permanent use on the same site. Mobile food vending shall not endanger or be detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the vending, given the nature of the activity, its location on the site and its relationship to it.

- H. Traffic circulation. Mobile food vending shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, parking and traffic controls. All sidewalks shall be left open for pedestrian traffic unless special approval is received for blockage. No alleys, driveways, fire lanes or other access points shall be blocked by the vending unless specific approval is granted for the vending.
- I. Off-street parking.
1. All off-street parking surfaces used for mobile food vending shall be concrete or asphalt.
  2. No more than 20 percent of the parking stalls required for the structure associated with the parking lot in which the vending occurs shall be permitted to be used for mobile food vending.
  3. Mobile food vending shall not cause a shortage of parking for the primary use on the property on which they are located. Mobile food vending shall not create a shortage of parking for uses on properties surrounding the property on which they are located.
- J. Anchoring devices. No spikes, nails, anchors or other devices shall be driven into any public street or sidewalk. Such devices may be used on private parking lots provided any damage resulting therefrom shall be repaired upon cessation of the event and removal of the devices.
- K. Nuisances. The mobile food vending shall not generate excessive noise, dust, smoke, litter, glare, spillover lighting or other forms of environmental or visual pollution.