CHARLOTTE
CHARLOTTE-MECKLENBURG PLANNING

Rezoning Petition 2010-037

ZONING COMMITTEE RECOMMENDATION
June 30, 2010

Note: The petitioner is requesting a three-month deferral of this petition.

REQUEST	Text amendment to Sections 2.201 and 12.510 of the Zoning Ordinance.
SUMMARY OF PETITION	This petition proposes to: 1) Modify the definition of "mobile food vending service" to include intermodal shipping containers; 2) Add a definition for "intermodal shipping container"; and, 3) Add requirements for intermodal shipping containers used for mobile food vending services.
Petitioner **Agent/Representative**	Boxman Studios, LLC David Campbell
Community Meeting	Meeting is not required.

ZONING COMMITTEE ACTION	The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

VOTE	Motion/Second:	Griffith/Simmons
	Yeas:	Allen, Dodson, Griffith, Randolph, Simmons and Walker
	Nays:	None
	Absent:	Rosenburgh
	Recused:	None

ZONING COMMITTEE DISCUSSION

Staff reviewed the text amendment and summarized the land use issues. Staff is not supportive of this text amendment to the mobile food vending service definition or regulations, because it is not the appropriate section of the Zoning Ordinance to modify to allow this use. City and County staff considers this use to be a structure, not a vehicle, which differentiates it from a mobile food vendor service.

Staff is not opposed to the reuse of shipping containers. While staff research has not found other communities that have used shipping containers for a mobile food vending service, finding an alternative and more appropriate way to embrace this new temporary restaurant concept is preferred by staff.

The Zoning Ordinance currently allows an intermodal shipping container to be used for a permanent restaurant in all zoning districts except single family, multi-family, office, and urban industrial.

The Zoning Commissioners discussed the use of shipping containers for a mobile food vending service at length. All members voiced that it was an innovative, creative, and sustainable reuse for shipping containers. They hoped to find a way to support it as a mobile food vending service, although it is not a traditional type of mobile food vendor.

The Commissioners agreed that the North Carolina Building Code requirements are not within the purview of the Zoning Committee, and that the focus of the discussions should be on the land use issues.

There was discussion about the ample supply of shipping containers and that there is a movement within the architectural community to find innovative ways to reuse them. Shipping containers have been used for homes, storage, temporary offices, and are sturdy to withstand outdoor elements.

One Commissioner stated that having the shipping container defined as a mobile food vendor so that the prescribed conditions would apply would be preferable. These conditions include a required separation distance from residential uses, and limited hours of operation, among other requirements.

Staff cautioned that allowing shipping containers as a mobile food vending service could result in future requests to further expand the definition to include other types of structures, such as the outdoor storage buildings typically sold by hardware stores. These structures could also be delivered to the site in the same way. Staff is concerned about the future impact a variety of innovative "mobile" structures would have on the City.

One Commissioner asked if there was any precedent set for using shipping containers in Charlotte. Staff replied that this was the first case. Another Commissioner stated that there is always a first time.

The Mobile Food Vendor's stakeholder group could be reconvened to discuss this new use. Staff reiterated that the petitioner is not restricted from using the shipping containers now as a food vendor, as long as the structure says on a mobile trailer.

Another Commissioner asked if there is not a way to have one inspection where a placard or sticker is placed on the container rather than requiring a daily certification and permit, to solve the Building Code problem.

One Commissioner likened the concept to a manufactured home, where the wheels could be removed. How was this different? Staff responded that a manufactured home is built to a different federal code, not the State Building Code.

Another Commissioner to speak said that we have to start somewhere. The use is mobile, but it does not meet the North Carolina Building Code requirements. There are a number of hurdles for the petitioner to navigate, but why should the City stand in the way?

STATEMENT OF CONSISTENCY

This petition is found to be consistent with adopted policies and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee (motion by Commissioner Simmons seconded by Commissioner Dodson).

STAFF OPINION

Staff disagrees with the recommendation of the Zoning Committee.

FINAL STAFF ANALYSIS

(Pre-Hearing Analysis online at www.rezoning.org)

PLANNING STAFF REVIEW

- **Background**
  - A Mobile Food Vendors Stakeholder Group was convened in 2007 to assist staff with the development of updated zoning regulations for mobile food vendors. The Stakeholder Group was comprised of representatives from the mobile food vending industry, neighborhood leaders, the Mecklenburg County Health Department, the Charlotte-Mecklenburg Police Department, and staff from various other City and County Departments.

- A text amendment that provided a new definition and prescribed conditions for "mobile food vending service" was developed through consensus of the Stakeholder Group and adopted by City Council on November 17, 2008.
- The 2008 text amendment defined a mobile food vending service as "a service establishment, operated from a licensed and moveable vehicle (with or without a trailer), that vends or sells food and/or drink processed or prepared on-site to walk-up customers".

- **Proposed Request Details**
  The text amendment contains the following provisions:
  - Modifies the definition of "mobile food vending service" to include intermodal shipping containers.
  - Adds a new definition for "intermodal shipping containers".
  - Adds requirements for intermodal shipping containers used for mobile food vending service:
    - Transported on a truck bed or trailer daily to the site no earlier than 7:00 a.m. and removed by 10:00 p.m.
    - Maximum container dimensions of 8 feet in width, 20 feet in length, and 8½ feet in height.
    - Fitted with doors on one side.
    - Fitted with the corner casting portion of a twistlock system on all corners.
    - At least one window provided on two sides.
    - Food service window provided on one side, with awnings over the window.

- **Public Plans and Policies**
  - This petition is petition is inconsistent with intent of the 2008 text amendment that mobile food vendors be operated from a licensed and moveable vehicle.

- **STAFF RECOMMENDATION (Updated)**
  - Staff disagrees with the recommendation of the Zoning Committee.

PUBLIC INFRASTRUCTURE UPDATES (see full department reports online)

- **CDOT:** No issues.
- **Charlotte Fire Department:** No issues
- **CATS:** No issues.
- **Connectivity:** No issues.
- **Neighborhood & Business Services:** No issues.
- **Schools:** CMS does not comment on text amendments.
- **Park and Recreation:** No comments received.

ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Storm Water:** No issues.
- **LUESA:** No issues.
- **Site Design:** There is no site plan associated with this petition.

OUTSTANDING ISSUES

- Staff has the following concerns with this text amendment:
  1. This amendment broadens the definition for a "mobile food vending service" that was arrived at through an extensive Mobile Food Vendor stakeholder process. The mobile food vending service text amendment was reviewed by the Housing and Neighborhood Development Committee and the Community Safety Committee before being adopted by the full City Council in November 2008.

2. As part of the process, staff researched mobile food vendor regulations adopted by cities across the country to gather information on best practices. Staff's research did not find any community that permitted intermodal shipping containers to be used for a mobile food vending service. Intermodal shipping containers are designed for freight handling and do not qualify as a licensed or moveable vehicle under the current definition for "mobile food vending service".
3. Any structure that is located on a lot for commercial purposes must meet the North Carolina Building Code. An intermodal shipping container is considered to be a "structure" as defined in the Zoning Ordinance. According to the Land Use and Environmental Services Agency, when an intermodal shipping container designed for commercial purposes is placed on the ground, it is required to meet the North Carolina Building Code and be certified as such by a Structural Engineer, in order to receive a permit. Any structure, including intermodal shipping containers, that is removed from the site after certification and permit approval, would require a new North Carolina Building Code certification inspection and a new permit each time it is placed on the ground, on any site. An intermodal shipping container that meets the North Carolina Building Code regulations, is certified by a Structural Engineer, and receives a building permit would be allowed as a permanent use in a number of zoning districts under the existing regulations.

Attachments Online at *www.rezoning.org*

- Application Form
- CATS Review
- CDOT Review
- Charlotte Fire Department Review
- LUESA Review
- Neighborhood & Business Services Review
- Park and Recreation Review
- Schools Review
- Pre-Hearing Staff Analysis
- Storm Water Review

Planner: Sandra Montgomery (704) 336-5722

Petition #: 2010-037 Revised 6-4-10
Petitioner: Boxman Studios, LLC

ORDINANCE NO. **AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE - ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A, "Zoning" of the Code of the City of Charlotte is hereby amended as follows:

A. Chapter 2: Definitions and Rules of Construction

1. Part 2: Definitions

a. Amend Section 2.201, “Definitions” by adding to the definition of “Mobile Food Vending Services” after the bracketed section the following wording “or a intermodal shipping container”. The new definition will read as follows:

Mobile Food Vending Service.

A service establishment operated from a licensed and moveable vehicle (with or without an attached trailer) <u>or an intermodal shipping container</u> that vends or sells food and/or drink processed or prepared on-site to walk up customers.

b. Amend Section 2.201, “Definitions” by adding a new definition for “Intermodal Shipping Container”. The new definition shall read as follows;

<u>Intermodal Shipping Container</u>

<u>A reusable transport and storage unit for moving products and raw materials between locations constructed of corrugated weathering steel, fitted with doors at one end and fitted with the corner casting portion of a twistlock system at each of the eight corners to secure the unit during handling and transit.</u>

B. Chapter 12 Development Standards of General Applicability

1. Part 5 Special Requirements for Certain Uses

a. Amend Section 12.510. Mobile food vending services by adding renumbering section 14 as section 15 and adding a new section 14. Section (14) will read as follows; If an intermodal shipping container is utilized as the mobile food vendor establishment it must meet the following additional requirements. (a) The intermodal shipping container may not exceed the following dimensions 8 feet wide 81/2 feet high and 20 feet long. (b) The intermodal shipping container must be fitted with doors on one end. (c) The intermodal shipping container must have the corner casting portion of a twistlock~~s~~ system at each of the eight corners. (d) The intermodal shipping container must be modified to include a window on at least two sides. (e) The intermodal shipping container must be modified to have a food service window on one side that is not the side fitted with doors. (f) The intermodal shipping container must be modified to have awnings over the food service window. (g) The intermodal shipping container must be removed from its permitted location by 10:00 pm and may not return any earlier than 7:00 am. The revised section will read as follows:

<u>(14) If an intermodal shipping container is utilized as the mobile food vendor</u>

establishment it must meet the following additional requirements:

(a) The intermodal shipping container may not exceed the following dimensions 8 feet wide 8 1/2 feet high and 20 feet long.

(b) The intermodal shipping container must be fitted with doors on one end.

(c) The intermodal shipping container must have the corner casting portion of a twistlock system at each of the eight corners.

(d) The intermodal shipping container must be modified to include a window on at least two sides.

(e) The intermodal shipping container must be modified to have a food service window on one side that is not the side fitted with doors.

(f) The intermodal shipping container must have awnings over the food service window.

(g) The intermodal shipping container must be removed from its permitted location by 10:00 pm and may not return any earlier than 7:00 am.

b. Amend Section 12.510, Mobile food vending services by renumbering existing section (14) as section (15) and modifying the first sentence by adding after (11), "(12)" and after "and" (14). The new section will read as follows:

(~~14~~15) Section 12.501.(1), (2), (3), (4), (7), (8), (9), (10), (11), ~~and~~ (12) and (14) shall not be applicable…..

Section 2. That this ordinance shall become effective upon its adoption.

Approved as to form:

_____

City Attorney

I, _____City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the _____ day of _____, 20____, the reference having been made in Minute Book _____, and recorded in full in Ordinance Book _____, Page(s)_____.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the _____ day of _____, 20__.

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