

REQUEST	Text Amendment to Section 12.539 of the Zoning Ordinance
SUMMARY OF PETITION	The petition proposes to: <ol style="list-style-type: none"> 1) clarify that outdoor fresh produce stands are allowed as a principal use in all zoning districts except the residential, office, and institutional districts; and 2) add prescribed conditions for principal use outdoor fresh produce stands only when a permanent structure is not utilized.
PETITIONER AGENT/REPRESENTATIVE	Charlotte-Mecklenburg Planning Department Charlotte-Mecklenburg Planning Department
COMMUNITY MEETING	Meeting is not required.
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 Griffith seconded by Commissioner Labovitz).

ZONING COMMITTEE ACTION	The Zoning Committee voted unanimously to recommend APPROVAL of this petition.
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VOTE	Motion/Second: Eschert/Phipps
	Yeas: Eschert, Griffith, Johnson, Labovitz, Lathrop, and Phipps
	Nays: None
	Absent: Allen
	Recused: None

ZONING COMMITTEE DISCUSSION

Staff provided background information about text amendment 2010-80 adopted by City Council on May 14, 2012. In this text amendment, outdoor fresh produce stands were permitted as an accessory use with prescribed conditions in all zoning districts.

After the amendment was adopted, a question was raised, "where are they allowed as a principal use"? In the Zoning Ordinance, individual retail uses are not listed, but rather grouped into the definition of "retail establishments", which are permitted in a variety of zoning districts. Fresh produce stands are considered to be a type of retail use. Because they are not specifically addressed in the Zoning Ordinance, this text amendment was prepared to clarify that they are permitted as a principal use in a variety of districts.

Staff presented an overview of the proposed regulations. Outdoor fresh produce stands are permitted as a principal use in all zoning districts except residential, office, and institutional. If they are located in a permanent structure, they must meet the underlying zoning requirements. If no permanent structure is utilized, then the use must meet several prescribed conditions.

A Commissioner asked about limitations on the size if the outdoor fresh produce stand is a principal use. Staff responded that there are no restrictions on the size if the use is a principal use. Restrictions only apply when the fresh produce stand is an accessory use.

A Commissioner asked about fresh produce stands operating in a truck that parks in the public right-of-way and the requirement for property owner permission. Staff responded that zoning does not apply to public rights-of-way. CDOT staff indicated that a fresh produce stand operating in the public right-of-way is not permitted.

There were no further questions.

STAFF OPINION

Staff agrees with the recommendation of the Zoning Committee.

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

PLANNING STAFF REVIEW

- **Background**
 - Outdoor fresh produce stand provisions were amended in rezoning petition 2010-080, which was adopted on May 14, 2012.
 - The adopted provisions allowed outdoor fresh produce stands as an accessory use. Retail uses are allowed as a principal use in a variety of zoning districts. Outdoor fresh produce stands are a type of retail use.
 - **Proposed Request Details**
 - The text amendment contains the following provisions:
 - Clarifies that outdoor fresh produce stands are permitted as a principal use in all zoning districts except residential, office and institutional.
 - Clarifies that when an outdoor fresh produce stand(s) is a principal use in a permanent structure, then the standards of the underlying zoning district apply, as well as the regulations of Chapter 4, "Development Approval".
 - Adds prescribed conditions for principal use outdoor fresh produce stands if a permanent structure is not utilized:
 - A zoning permit from the Zoning Administrator is required for each vendor for the stand(s) and any associated canopies or tents.
 - Zoning permits are valid from January 1 to December 31, unless a shorter duration is noted.
 - Property owner written permission is required for each vendor.
 - Outdoor fresh produce stands may operate all year.
 - A zoning use placard must be posted in a visible location on the produce stands when in use.
 - Temporary fabric-covered canopies or tents are permitted, if removed daily.
 - The vendor is responsible for the removal of all trash and spoiled product on a daily basis.
 - The vendor must remove all vestige of the operation, including, but not limited to, canopies, tents, tables, counters, coolers, trailers and signs at the conclusion of the season or termination of the permit.
 - All applicable local, state and federal codes shall be met for the use and items sold.
 - **Public Plans and Policies**
 - The petition is consistent with adopted policy.
 - **Staff Recommendation (Updated)**
 - Staff agrees with the recommendation of the Zoning Committee.
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DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No comments received.
 - **Charlotte Department of Neighborhood & Business Services:** No issues.
 - **Transportation:** No comments received.
 - **Charlotte Fire Department:** No comments received.
 - **Charlotte-Mecklenburg Schools:** Not applicable.
 - **Charlotte-Mecklenburg Storm Water Services:** No comments received.
 - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
 - **Mecklenburg County Parks and Recreation Department:** No comments received.
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ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Site Design:**
 - There is no site plan associated with this text amendment.
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OUTSTANDING ISSUES

- No issues.
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Attachments Online at www.rezoning.org

- Application
- Pre-Hearing Staff Analysis
- Charlotte Department of Neighborhood & Business Services Review
- Mecklenburg County Land Use and Environmental Services Agency Review

Planner: Sandra Montgomery (704) 336-5722