

# Memo

**To:** Planning Commission  
**From:** Bryan Myrkle, Community Development Director  
**Date:** January 29, 2016  
**Re:** Staff Report

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There are a number of issues that I would like the Planning Commission to consider exploring over the next few months.

For this meeting, I would like to conduct a very general discussion of the following items. If the Planning Commission agrees that these issues are worthy of further exploration, we would then work with the City Council on potential changes to our regulations.

The items of discussion would include:

- Group home regulation in the city
- Food trucks and other mobile businesses
- Apartments downtown as a principal, rather than conditional use

**Group Homes** – Under Charlotte’s zoning ordinance, group homes are technically allowed as conditional uses in certain residentially-zoned areas of the city. However, the conditions under which they are permitted are so restrictive as to essentially prohibit them entirely. For example, they appear to be allowed in the R-1 single family residential zone with reasonable restrictions. However, one restriction – that the parcel be a minimum of 3 acres – eliminates nearly all single family properties in the entire city from consideration.

The ordinance clearly contemplates that group homes are primarily used to house juvenile offenders, the mentally ill, and ex-convicts. While that may have been the case when the ordinance was written, today group homes are often used to provide care for the elderly, disabled adults and others for whom there is a need, but little danger to the surrounding neighborhood.

Furthermore, our new MX-1 zoning district contemplates allowing group homes as a conditional use, but doesn't really spell out any special conditions beyond those it requires for all conditional uses. So, it doesn't provide much guidance.

Because we have been asked several times over the past two years about locating adult foster care and elder care group homes in the city, I think we have a responsibility to consider whether our ordinance is fair and beneficial, or is it overly restrictive and in need of an update.

I am asking the Planning Commission to discuss whether more modern uses and attitudes toward group homes should be considered and our ordinance potentially updated to reflect that.

**Food Trucks** – Many times over the past several years, the city has been asked to allow 'food trucks' and other mobile vendors to operate in Charlotte. They are currently prohibited, with the exception of those operating in conjunction with a local festival or other special event.

The specific types of vendors who have approached us over the past two years include: a taco truck, a hot dog truck, a gizzard truck, a mobile coffee kiosk, a mobile art studio, a mobile shoe shine stand, a pasty truck, an ice cream truck and more that I am forgetting. These requests have ranged from in-person, to phone calls and written letters.

Many other cities have taken steps to allow food truck and other mobile vendors to operate in their jurisdictions – some with heavy restrictions, others with few. Some communities have welcomed food trucks, some have prohibited them outright, and others have allowed them, but only in certain areas or at certain times.

Operation of these trucks in a community can be controversial. The following brief discussion from the National League of Cities lays out the issues very simply:

*Stakeholders are identified as: (1) mobile vendors (this term is used interchangeably with food trucks here) and food truck/ industry associations, (2) restaurants and restaurant associations, (3) the community at large, and (4) city government. For food truck vendors, it is assumed they would prefer an approach of looser regulations, clear, narrowly tailored laws, and streamlined procedures. For restaurants, it is assumed they favor stricter regulations that limit competition from food truck vendors. Although values are likely to vary among different community groups, it is assumed that — in general — community members hold quality of life concerns, including fear of negative spillovers (congestion, noise, pollution, etc.) as primary concerns, but also harbor a strong desire for community vibrancy. At the same time, community members generally prefer more food options to fewer. For city government, balancing the interests of stakeholders is a key priority, but so is a desire for economic vibrancy and revitalization, administrative ease, effective enforcement through regulatory clarity, and options that are budget friendly and cost-effective.*

I would like the Planning Commission to discuss whether it wants to consider this issue and a potential change to our ordinance. If so, we'll need to consider it carefully, and offer all of our local stakeholders a chance to weigh-in. I would expect that we would hold one or more public hearings on the issue, publicizing them widely so that the full array of local opinions and options can be presented.

**Apartments as a principal use in the Central Business District** – As you may be aware, many of our downtown buildings have abundant available space above the first floor. In fact, we believe that nearly half the upper floor space downtown is going completely unused.

A century ago, when Downtown Charlotte was the only commercial district in the city, it was common for retail businesses to be located on the first floor of a downtown building, and the upper floors were filled with service businesses, like doctors, dentists, attorneys and similar. Over time, many retail businesses relocated and as downtown rents became more affordable, service businesses migrated out of the upper floors to the ground level.

After several decades of that trend, we have been left with a lot of empty space upstairs – space that is not only being under-used, but many times seriously neglected.

In today's marketplace, those upper floors are most commonly being filled by apartments. In fact, it's become a 'best practice' of downtown development. Developing apartments above a storefront can have several positive benefits for the individual property owner and the district as a whole. It can provide a steady source of additional revenue for the owner, and increase the number of potential customers who live in the district. It also helps preserve the condition of the building by ensuring those upper floors are maintained, rather than ignored.

Upper floor apartment development is something the city wants to encourage, and for which we even seek grant money to incentivize. However, by keeping apartments a conditional use, it adds several weeks of time and more than \$100 in expense to each project, as well as the risk that the conditional use may not be approved. This undermines the goal of developing this upper space for residential use.

I am asking the Planning Commission to discuss whether it is time to update our ordinance to reflect the more common, modern use of upper floor space in the Central Business District.

For all three of these items, the process of working with the City Council would likely proceed as follows:

- 1 – Planning Commission holds an initial discussion to see whether there is merit in considering a potential change.
- 2 – If it determines a change may be merited, it would ask the City Council to authorize the preparation of new ordinance language to address the issue; and to set one or more public hearings before the Planning Commission.
- 3 – The Planning Commission would publicize and conduct public hearings where all stakeholders have a chance to offer their opinion.
- 4 – The Planning Commission would consider what it heard during the public hearings, and make adjustments to the proposed ordinance language to reflect the desire of the public.
- 5 – It would then recommend (or not) the new ordinance for approval to the City Council.
- 6 – The City Council would then consider the recommendation of the Planning Commission and vote on the new ordinance. *(Please note that the recommendation of the P.C. would not be binding on the decision of the City Council.)*