

TOWN COUNCIL



STAFF REPORT Department of Growth Management

MEETING DATE:	March 8, 2016
PROJECT:	Consideration of Ordinance Amending Article 4 Zoning Districts and Article 9 Definitions to Allow Cafes as Conditionally Permitted Uses in Certain Zoning Districts and to Establish Conditional Use Regulations – 1 st Reading
PROJECT MANAGER:	Kendra Lelie, AICP, Director of Growth Management Department

REQUEST: The Planning Commission recommends Town Council approve First Reading of an Ordinance amending Article 4, *Zoning Districts* and Article 9, *Definitions* permitting a café as a conditional use within the Neighborhood General HD (NG-HD) and Neighborhood Center HD (NCE-HD) districts and as a permitted use within the Neighborhood Core HD (NC-HD), Light Industrial (LI), General Mixed Use (GM), Neighborhood Core (NC) and Rural Mixed Use (RMU). The following conditional use requirements are recommended by the Planning Commission:

1. Property must have frontage on SC Highway 46, Bruin Road or Burnt Church Road within the Neighborhood General – HD zoning district and Calhoun Street or Lawton Street within the Neighborhood Center – HD zoning district.
2. Alcoholic beverages are not permitted to be possessed, distributed, consumed or sold on the property.
3. Outdoor entertainment which is an event, performance, or activity designed to entertain others is not permitted.

APPLICATION PROCESS: As set forth in Section 3.5.2 of the Unified Development Ordinance, an application for a Unified Development Ordinance (UDO) Text Amendment may be initiated by a Town of Bluffton property owner, Town Council, Planning Commission, or the UDO Administrator when public necessity, convenience, State or Federal law, general welfare, new research, or published recommendations on zoning and land development justifies such action. In this instance, Town of Bluffton property owners, William Tapp and Chris Johnston of 7 Lawton Street, have filed application requesting amendment to the UDO.

INTRODUCTION: The applicant owns a parcel within the Neighborhood Center – HD (NCE-HD) District which does not permit a restaurant use because the lot does not meet the condition that a restaurant within the NCE-HD district must have frontage on SC Highway 46, Bruin Road, Burnt Church Road or Calhoun Street. The applicant

purchased the property at 7 Lawton Street in March 2015 and opened a retail business on Lawton Street in July 2015. As indicated below, the Planning Commission and Town Council considered a text amendment beginning in January 2015 relating to reducing the areas where restaurants would be permitted. As the applicant did not have a legally approved use for a restaurant at the 7 Lawton Street parcel prior to the approval of the text amendment on May 12, 2015, the use cannot be grandfathered. As such, the applicant is requesting consideration of a text amendment to permit a café use in the districts in which restaurants are currently conditionally permitted.

A café is proposed by the Applicant to be defined as an establishment where food and beverage is prepared, served and consumed primarily within the principal building provided alcoholic beverages are not possessed, distributed, consumed or sold. The conditions as proposed by the Applicant include:

1. Property must have frontage on SC Highway 46, Bruin Road or Burnt Church Road within the Neighborhood General – HD zoning district and Calhoun Street, Lawton Street or Lawrence Street within the Neighborhood Center – HD zoning district.
2. Alcoholic beverages are not permitted to be possessed, distributed, consumed or sold on the property.

After review by the Planning Commission on February 24, 2016, the Planning Commission modified the Applicant's proposed conditional use standards to prohibit outdoor entertainment.

BACKGROUND: The UDO does not currently permit restaurant uses on the ladder streets (Church, Lawton, Lawrence, and Green Streets) within the NCE-HD district nor does the UDO provide a distinction between a full service restaurant and a use that provides limited food service. The Applicant proposes the amendment to the UDO to permit a limited food service use on Calhoun, Lawrence and Lawton Streets within the NCE-HD district.

The Old Town Master Plan promoted several key principles in the future development of the Bluffton Historic District including clustering retail in the heart of the Town and reform zoning through the adoption of a form-based code. The following are some key statements from the Old Town Master Plan that guides the existing and proposed zoning within the Historic District:

Clustering Retail in the Heart of the Town

1. "If the district is to serve both residents, as well as visitors, then it is essential that it recapture their attention and involvement by offering goods, services and experiences of interest to them."¹
2. "Old Town has established a promising market foothold in home furnishings and gifts, and this retail category has relatively little competition within the region,

¹ Old Town Master Plan, June 30, 2006, page 4.19

making it a good candidate for growth.”²

3. “In addition to expanding Calhoun Street’s cluster of furniture/home furnishings businesses, it is recommended that the district diversify its retail mix by adding some businesses that would complement the furniture/home furnishing cluster. Some possibilities might include:
 - a. Restaurants (mid- to upper-market);
 - b. A small upper-market inn;
 - c. A speciality grocery store; and
 - d. A high-end fishing and outdoor gear shop and adventure outfitter.”³

Reform Zoning: Adopt Form-Based Code

1. “A Form-Based Code is a land development regulatory tool that places primary emphasis on the physical form of the built environment with the end goal of producing a specific type of ‘place’.”⁴
2. “The base principle of form based coding is that design is more important than use... Land use is not ignored, but regulated using broad parameters that can better respond to market economics, while also prohibiting incompatible uses.”⁵

The Zoning Districts of the Historic District are mixed use districts that permit a variety of uses differing in intensity. Uses permitted and conditionally permitted in the Neighborhood Center-HD and Neighborhood General –HD districts are as follows:

Neighborhood Center-HD

Conditional Uses

- Accessory Dwelling Unit
- Outdoor Sales
- Restaurant
- Recreational Facility

Permitted Uses

- | | |
|---|---|
| -Single-Family Attached and Detached | -Group Day Care Home (7-12 children) |
| -Agricultural Use and Structures | -Child Care Center (13 or more children) |
| -Retail Businesses | -Medical Offices and Clinics |
| -Personal Service Establishments | -Nursing Homes and Long-term Care |
| -Bed and Breakfast – maximum of 6 guest rooms | -Theaters and Auditoriums |
| -Inns – maximum of 12 guest rooms | -Cemetery |
| -Home Occupation | -Club, Lodge, Union Hall or Social Center |
| -Professional Offices | -Government Building |
| -Family Day Care Home (6 or less children) | -Parks |
| | -Museum |
| | -Religious Assembly |

² Old Town Master Plan, June 30, 2006, page 4.19

³ Old Town Master Plan, June 30, 2006, page 4.19

⁴ Old Town Master Plan, June 30, 2006, page 4.26

⁵ Old Town Master Plan, June 30, 2006, page 4.26

- School
- Utilities
- Artisan Workshop

- Research and Laboratory
- Public and Private Parking Structures and Stand Alone Parking Lots

Neighborhood General-HD

Conditional Uses

- Accessory Dwelling Unit
- Outdoor Sales
- Restaurant
- Fueling/Service Station including fuel pumps/Convenience Store
- Car Wash
- Contractor's Office

Permitted Uses

- | | |
|---|---|
| <ul style="list-style-type: none"> -Single-Family Attached and Detached -Agricultural Use and Structures -Retail Businesses -Personal Service Establishments -Bed and Breakfast – maximum of 6 guest rooms -Inns – maximum of 12 guest rooms -Home Occupation -Professional Offices -Family Day Care Home (6 or less children) -Group Day Care Home (7-12 children) | <ul style="list-style-type: none"> -Child Care Center (13 or more children) -Medical Offices and Clinics -Nursing Homes and Long-term Care -Cemetery -Club, Lodge, Union Hall or Social Center -Government Building -Parks -Museum -Religious Assembly -School -Utilities -Artisan Workshop |
|---|---|

At the May 12, 2015 Town Council meeting, Town Council approved restaurants as conditional uses in the following districts:

- Neighborhood Core HD (NC-HD);
- Neighborhood General HD (NG-HD);
- Neighborhood Center HD (NCE-HD);
- Light Industrial (LI);
- General Mixed Use (GM);
- Neighborhood Core (NC); and
- Rural Mixed Use (RMU)

The conditions related to restaurant uses included the following:

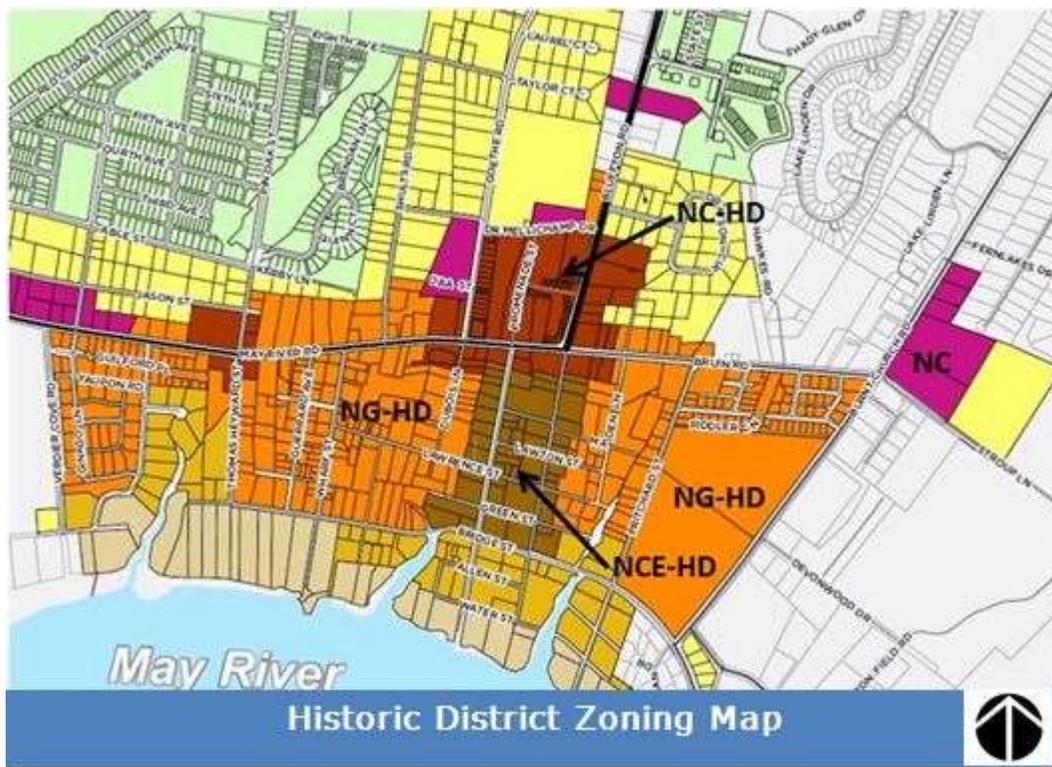
1. Restaurants are conditionally permitted within the Neighborhood General Historic District (NG-HD) and the Neighborhood Center Historic District (NCE-HD) provided they have frontage on the following roads:
 - SC Highway 46;
 - Bruin Road;
 - Burnt Church Road; and
 - Calhoun Street.
2. Restaurants that are conditionally permitted within the Neighborhood General

Historic District (NG-HD) and the Neighborhood Center Historic District (NCE-HD) would be permitted to have outdoor entertainment in the form of a acoustic guitar or television only (unamplified and no additional microphones or speakers) if they are adjacent to an existing residential use.

3. All conditionally permitted restaurants within the Historic District would have a distance condition that does not permit an outdoor patio or café that sells, serves, or permits consumption of alcoholic beverages to be located within 150 feet of the following existing uses:

- Religious Institution;
- Publicly Owned Park;
- School;
- Residential Use (sole use of property); or
- Outdoor Patio and Café that sells, serves or permits consumption of alcoholic beverages.

4. All outdoor patios and cafes require delineation with railings, ornamental walls, landscaping or other suitable features that are a minimum of three feet tall.



TOWN COUNCIL ACTIONS: The Town Council has the authority to take the following actions with respect to the application:

1. Approve the application as submitted by the Applicant;
2. Approve the application with conditions; or
3. Deny the application as submitted by the Applicant.

REVIEW CRITERIA & ANALYSIS: The Town Council is required to consider the criteria set forth in Section 3.5.3 of the Unified Development Ordinance in assessing an application for a Zoning Text Amendment. These criteria are provided below followed by Staff's Finding(s).

1. **Section 3.5.3.A.** The application demonstrates consistency with the Comprehensive Plan or, if conditions have changed since the Comprehensive Plan was adopted, consistency with the overall intent of the Comprehensive Plan, recent development trends and the general character of the area.

Finding. The application is consistent with the Comprehensive Plan, as well as the general character of the area.

The Comprehensive Plan emphasizes the need to consistently revise regulations to ensure the ordinance is consistent with present conditions and focuses on encouraging mixed use districts that include complementary and integrated uses. The proposed ordinance is consistent with the Comprehensive Plan's vision by recommending a complementary use with conditional standards to intergrate the use within other uses. In addition, as set forth in the Old Town Master Plan, the addition of the proposed café use will achieve a well integrated mixed use district displaying a mix of many types of uses. The proposed conditional requirements will reduce any potential adverse impact to the surrounding residential community.

2. **Section 3.5.3.B.** The application shall show consistency with demographic changes, prevailing economic trends, and/or newly recognized best planning practices.

Finding. The application is consistent with demographic changes, new economic trends and best planning practices.

As the Town is experiencing increased growth rates, both in residential and commercial uses, the need to update the permitted and conditional use regulations in response to these recent changes is evident.

3. **Section 3.5.3.C.** The application shall be an enhancement to the health, safety and welfare of the Town of Bluffton.

Finding. The application would enhance the health, safety and welfare of the Town of Bluffton.

The proposed café addition as a conditional use will ensure that the uses developed in Bluffton are compatible with the existing Town character and will promote a safe environment.

4. **Section 3.5.3.D.** The application considers the impact on the provision of public services.

Finding. An impact to the provision of public services is not anticipated.

The proposed amendment to the UDO for a café use includes the condition that alcohol will not be sold, consumed, distributed or possessed on the property. This condition reduces any potential adverse impacts and the need for additional public police services.

5. Section 3.5.3.E. The application must comply with applicable requirements in the Application Manual.

Finding. The application has been reviewed by Town Staff and has been determined to be complete, meeting all requirements of the Applications Manual.

PLANNING COMMISSION RECOMMENDATION: Planning Commission finds that the requirements of Section 3.5.3 of the Unified Development Ordinance are met and recommends approval to Town Council of an Ordinance amending Article 4, *Zoning Districts* and Article 9, *Definitions* permitting a café as a conditional use within the Neighborhood General HD (NG-HD) and Neighborhood Center HD (NCE-HD) districts and as a permitted use within the Neighborhood Core HD (NC-HD), Light Industrial (LI), General Mixed Use (GM), Neighborhood Core (NC) and Rural Mixed Use (RMU). The following conditional use requirements are recommended by the Planning Commission: (LI), General Mixed Use (GM), Neighborhood Core (NC) and Rural Mixed Use (RMU):

1. Property must have frontage on SC Highway 46, Bruin Road or Burnt Church Road within the Neighborhood General – HD zoning district and Calhoun Street or Lawton Street within the Neighborhood Center – HD zoning district.
2. Alcoholic beverages are not permitted to be possessed, distributed, consumed or sold on the property.
3. Outdoor entertainment which is an event, performance, or activity designed to entertain others is not permitted.

NEXT STEPS: Based on the direction of Town Council, Town Staff will begin the following next steps to implement the suggested amendments:

UDO Text Amendment Procedure	Step Completed
Step 1. Public Notification	✓
Step 2. Planning Commission Public Hearing and Recommendation – February 24, 2016	✓
Step 3. Town Council – 1 st Reading – March 8, 2015	
Step 4. Town Council Public Hearing, 2 nd Reading – April 12, 2015	

ATTACHMENTS:

1. Ordinance
 - a. Exhibit A Unified Development Ordinance Text Amendments

ORDINANCE NO. 2016 - _____

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE AMENDING ARTICLE 4, ZONING DISTRICTS AND ARTICLE 9, DEFINITIONS AND INTERPRETATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE TO ADD CAFÉ AS A PERMITTED OR CONDITIONAL USE; ADD CONDITIONAL STANDARDS FOR CAFÉ USE; AND, ADD A DEFINITION FOR CAFÉ

WHEREAS, the Town of Bluffton desires to improve the general safety, welfare, health and properties of the citizens of the Town of Bluffton; and,

WHEREAS, to establish the necessary provisions to accomplish the above, the Town of Bluffton has authority to enact resolutions, ordinances, regulations, and procedures pursuant to South Carolina Code of Laws 1976, Section 5-7-30; and,

WHEREAS, the Town of Bluffton's Town Code and Ordinances provide guidance and requirements for development within the Town of Bluffton through regulations set forth to protect and promote the health, safety, and welfare of the Town's citizens, as espoused through the provisions of the Town of Bluffton Comprehensive Plan and as authorized by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Title 6, Chapter 29 of the Code of Laws for South Carolina; and

WHEREAS, the Town of Bluffton Town Council adopted the aforementioned standards, which are known as the Unified Development Ordinance, Chapter 23 of the Code of Ordinances for the Town of Bluffton, South Carolina on October 11, 2011 through Ordinance 2011-15; and

WHEREAS, The Unified Development Ordinance unifies the subdivision, land use, development/design regulations as well as the Old Town Bluffton Historic District Code into a single set of integrated, updated, and streamlined standards; and

WHEREAS, the Unified Development Ordinance, Article 4 establishes the allowed land uses and conditional standards for each District while Article 9 provides the definition and interpretation of these uses; and,

WHEREAS, the Town Council shall from time to time examine ordinances to ensure that they are properly regarded, enforced, sufficient and satisfactory to the needs of the community and can further suggest changes as deemed appropriate; and,

WHEREAS, the Town of Bluffton Town Council desires to amend the Unified Development Ordinance Article 4, Section 4.3 to add café as a permitted use for Rural Mixed Use (RMU), Neighborhood Core (NC), General Mixed Use (GM), Light Industrial (LI), and Neighborhood Core-HD (NC-HD) and a conditional use in the

Neighborhood General Historic District (NG-HD) and Neighborhood Center Historic District (NCE-HD); Article 4, Section 4.4.2 to add conditional standards for café use; and Article 9, Section 9.4.3 to add a use definition for café.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, in accordance with the foregoing, the Town hereby amends the Code of Ordinances for the Town of Bluffton, Chapter 23, Unified Development Ordinance as follows:

SECTION 1. AMENDMENT. The Town of Bluffton hereby amends the Code Ordinances for the Town Of Bluffton, South Carolina, Chapter 23, Unified Development Ordinance by adopting and incorporating an amendment to Section 4.3, Uses by District and Section 4.4.2, Conditional Use Standards - Commercial Services of Article 4, Zoning Districts and Section 9.4.3, Description of Uses of Land and Buildings – Commercial Services of Article 9, Definitions and Interpretations as shown in Exhibit A, which is attached and incorporated hereto.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. ORDINANCE IN FULL FORCE AND EFFECT. This entire Ordinance shall take full force and effect upon adoption.

DONE, RATIFIED AND ENACTED this _____ day of _____, 2016.

This Ordinance was read and passed at first reading on _____, 2016.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

Sandra Lunceford
Clerk, Town of Bluffton, South Carolina

A public hearing was held on this Ordinance on _____, 2016.

Lisa Sulka, Mayor

Town of Bluffton, South Carolina

Sandra Lunceford
Clerk, Town of Bluffton, South Carolina

This Ordinance was passed at second reading held on _____, 2016.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

Sandra Lunceford
Clerk, Town of Bluffton, South Carolina

ARTICLE IV – ZONING DISTRICTS

Sec. 4.3. Uses by Districts

Table 4.3 Uses by Districts

Table 4.3: Uses by District	Preserve (PR)	Agricultural (AG)	Rural Mixed Use (RMU)	Residential General (RG)	Neighborhood Core (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCE-HD)	Neighborhood Core Historic District (NC-HD)
	Commercial Services											
Outdoor Sales	-	C	C	-	C	C	C	-	C	C	C	C
Retail Businesses	-	-	P	-	P	P	P	-	P	P	P	P
Personal Service Establishments	-	-	P	-	P	P	P	-	P	P	P	P
Restaurant	-	-	C	-	C	C	C	-	-	C	C	C
Motor Vehicle Sales and Service	-	-	-	-	-	P	P	-	-	-	-	-
Fueling/Service Station including fuel pumps/Convenience Store	-	-	C	-	C	P	P	-	-	C	-	C
Car Wash	-	-	C	-	C	P	P	-	-	C	-	C
Tattoo/Body Art Parlor	-	-	-	-	-	P	P	-	-	-	-	-
Adult Oriented Business	-	-	-	-	-	SE	SE	-	-	-	-	-
Low Speed Recreational Vehicle Sales	-	-	-	-	-	-	-	-	-	-	-	C
<u>Café</u>	-	-	P	-	P	P	P	-	-	C	C	P

Sec. 4.4.2 Commercial Services

G. Cafe

1. Property must have frontage on SC Highway 46, Bruin Road or Burnt Church Road within the Neighborhood General – HD zoning district and Calhoun Street or Lawton Street within the Neighborhood Center – HD zoning district
2. Alcoholic beverages are not permitted to be possessed, distributed, consumed or sold on the property.
3. Outdoor entertainment which is an event, performance, or activity designed to entertain others is not permitted.

ARTICLE IX – DEFINITIONS

Sec. 9.4 Description of Uses of Land and Buildings

Sec. 9.4.3 Commercial Services

M. Café: Establishment where food and beverage is prepared, served and consumed primarily within the principal building provided alcoholic beverages are not possessed, distributed, consumed or sold.