

TOWN COUNCIL



STAFF REPORT Department of Growth Management

MEETING DATE:	May 12, 2015
PROJECT:	Ordinance Amending Article 4 Zoning Districts and Article 9 Definitions to Allow Restaurants as Conditionally Permitted Uses in Certain Zoning Districts and to Establish Regulations as Such, Including for the Provision of Outdoor Patios and Cafes – Second Reading/Public Hearing
PROJECT MANAGER:	Kendra Lelie, AICP Planning and Community Development Manager

RECOMMENDATION: The Planning Commission recommends that Town Council approve Second Reading of the following application:

ZONE-1-15-8882. A Zoning Text Amendment to amend Article 4, *Zoning Districts* and Article 9, *Definitions* to permit restaurants as a conditional use and providing certain provisions for outdoor patios and cafes.

INTRODUCTION: At the July 2014 Town Council meeting, Town Council provided guidance on proposed amendments to the Unified Development Ordinance (UDO) allowing modifications to land use requirements relating to restaurants, outdoor patio and entertainment uses. Staff was asked to provide recommendations for options that would reduce the intrusion of outdoor activities, particularly having outside alcohol sales, possession, and/ or consumption, to nearby churches, parks, schools, other similar uses, and residential areas.

On January 20, 2015, Town Staff presented a draft Ordinance to Town Council at a workshop meeting based on the previous recommendations. The Ordinance as proposed made outdoor patios and cafes a conditionally permitted use subject to certain conditions. These conditions included:

1. Any outdoor patio and café must be accessory to a restaurant use.
2. Within the Old Town Bluffton Historic District, any outdoor patio and café on which alcoholic beverages will be possessed, consumed, or sold shall be located a minimum of 150 feet from the property line of an existing place of religious assembly, park, school, residential use (only if it is the sole use of the property) or other outdoor patio or café on which alcoholic beverages are possessed, consumed, or sold. If an intervening property line does not exist, then the distance measurement shall be measured from the nearest point of the existing use to the proposed outdoor patio or café.

3. Any outdoor patio and café located in the Neighborhood General Historic District (NG-HD) and is adjacent to a residential use shall not be permitted to have any outside sound equipment or entertainment, such as, but not limited to, speakers, televisions, or live music.
4. The outdoor patio and cafe shall be delineated with railings, ornamental walls or other suitable features that are a minimum of three feet tall.

After review of the draft Ordinance Town Staff was directed to make the following modifications:

1. Make restaurants a conditionally permitted use in all districts.
2. Outdoor patios and cafes, where proposed as part of a restaurant use, must be subject to certain standards set forth in the conditional requirements.
3. Limit the location of restaurants in the Neighborhood Center – HD and Neighborhood General – HD zoning districts to properties with frontage on SC Highway 46, Bruin Road, Burnt Church Road and Calhoun Street.
4. Clarify that the buffer distance from parks, is from publicly owned parks.

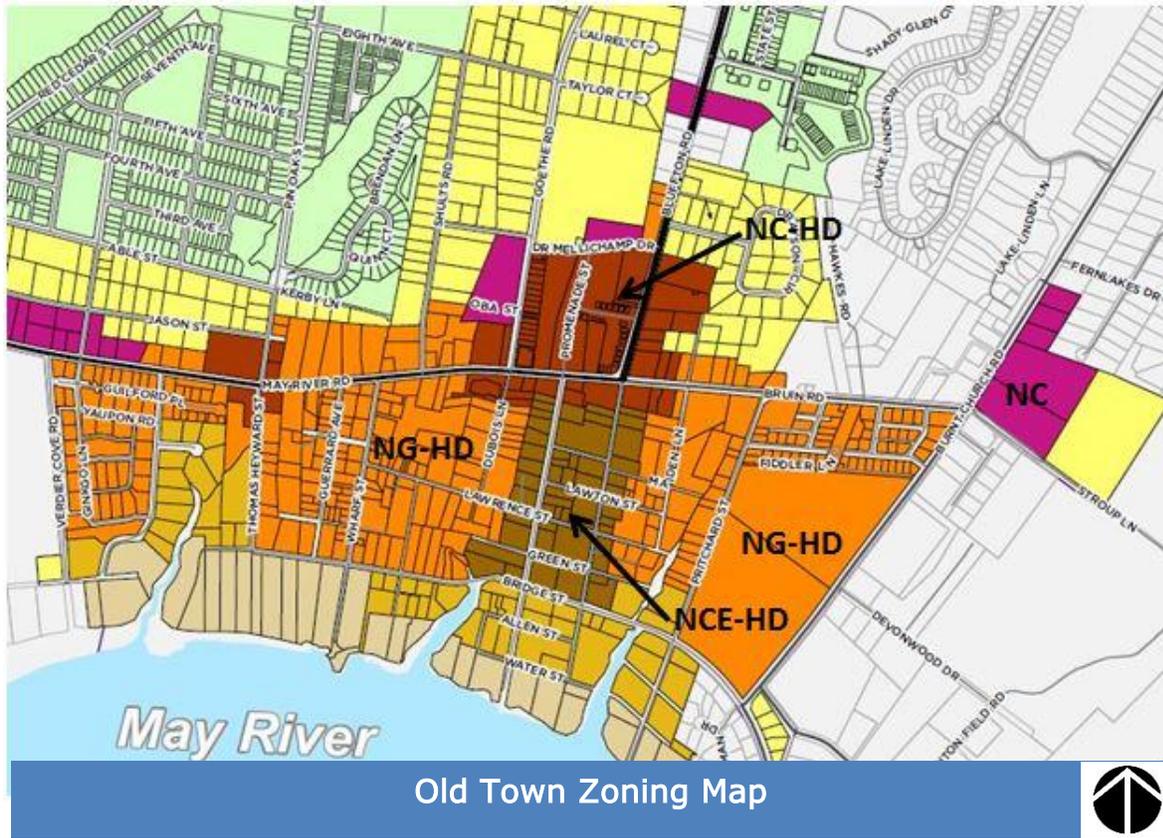
At the February 25, 2015 Planning Commission public hearing meeting, the proposed Ordinance was tabled as members of the Planning Commission requested the following revisions:

1. Revise the measurement requirement for a proposed outdoor patio and café where alcoholic beverages are sold, possessed, or consumed from being measured to the property line of an existing place of religious assembly, publicly owned park, school, residential use or other outdoor patio and café to being measured to the nearest point of improved area of the listed uses.
2. Permit outdoor entertainment within the Neighborhood General Historic District (NG-HD) provided the outdoor entertainment is within a certain distance of SC Highway 46 and the outdoor patio and café is a minimum of 150 feet from the property line of an existing place of religious assembly, publically owned park, school or residential use.

Staff made the revisions to the Ordinance as requested by the Planning Commission and presented the revised Ordinance at the March 25, 2015 Planning Commission meeting. Perusal of the Ordinance by the Planning Commission and based on public comment, the Planning Commission decided to accept the Ordinance as originally drafted and presented at the February 25, 2015 meeting and matching that which was reviewed by Town Council at January 20, 2015 workshop.

At the April 12, 2015 Town Council meeting, Town Council requested an amendment to the recommended ordinance that acoustic guitar and televisions (without amplification or additional speakers) be permitted in the Neighborhood General Historic District (NG-HD) and Neighborhood Center Historic District (NC-

HD) if the restaurant is adjacent to an existing residential use. Planning Commission reviewed and recommended approval of the amendment at the April 22, 2015 Planning Commission meeting. The attached Ordinance has been updated to reflect this change.



BACKGROUND: Currently, restaurants are permitted within the Rural Mixed Use (RMU), Neighborhood Core (NC), General Mixed Use (GM), Light Industrial (LI), Neighborhood Center Historic District (NCE-HD) and the Neighborhood Core Historic District (NC-HD) and conditionally permitted in the Neighborhood General Historic District (NG-HD). The districts that permit restaurants, aside from compliance with the Noise Ordinance, do not contain restrictions on outdoor patio and café uses. The outdoor patio and café areas associated with restaurants in the Neighborhood General (NG-HD) district are conditionally permitted and contain conditions that require seating areas to be delineated, not impede pedestrian circulation and not have outdoor entertainment.

Since the proposed Ordinance contains limitations based upon the presence of outdoor sale, possession, and/ or consumption of alcoholic beverages, it is important to note that State Law limits the proximity of Business (Restaurant & Hotel/Motel) Liquor by the Drink Permits to churches, schools, and parks. Such businesses selling liquor for on-premise possession and consumption, regardless if inside or outside, cannot be located closer than 300 feet to a church, school, or playground. Similar State restrictions do not exist for businesses offering only beer and wine for sale, possession, and consumption on-premise.

As outlined previously, proposed is an Ordinance that would revise a Restaurant use from a permitted use to a conditional use in all the districts where a Restaurant is currently permitted. In addition, the Ordinance would place conditions on outdoor seating, dining and entertainment uses associated with the Restaurant use. The following is a synopsis of the proposed Ordinance:

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.

Restaurant/Outdoor Patio/Entertainment by District

District	Restaurant Permitted	Outdoor Patio Permitted	Patio with Alcohol	Entertainment Permitted
NC-HD				
NCE-HD				
NG-HD				
NCV-HD				
RV-HD				
LI				
GM				
NC				
RG				
RMU				
AG				
PR				

- Use is conditional and based on specific criteria
- Use is permitted with principal use
- Use is not permitted

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 a Staff 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 vision identified in the Comprehensive Plan by recommending standards to protect the public good from high intensity uses such as restaurants and outdoor patios and cafes that could be considered a nuisance to uses that are not compatible. In addition, as set forth in the Old Town Master Plan, to achieve a well integrated mixed use district requires the mix of many types of uses. The proposed distance requirement will ensure there is not a proliferation of one use within the zoning districts.

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 Restaurant use regulations in response to these recent changes is evident. Staff recognizes that the current standards require revisions especially as the UDO (as adopted in 2011) is just now being tested on an increased number of development plan applications and in response to recent land development challenges associated with the outdoor patio and cafe regulations.

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 amendment to the restaurant standards will ensure that the uses developed in Bluffton are adequate for future growth, is 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. A positive impact on public services is associated with the proposed restaurant regulations amendments.

The proposed amendment to the UDO will require demarcation of outdoor patios providing the effective enforcement and monitoring of outdoor sales, service and consumption of alcoholic beverages. Additionally, the regulations will deter a dense concentration of high intensity uses that may increase nuisance impacts on contiguous incompatible uses reducing the need for increased police presence.

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 that the Town Council approve the text amendment with the changes noted previously and as incorporated into the current Ordinance.

NEXT STEPS:

UDO Text Amendment Procedure	Step Completed
Step 1. Public Notification	✓
Step 2. Planning Commission Public Hearing and Recommendation - February 25, 2015 and March 25, 2015	✓
Step 3. Town Council – 1 st Reading – April 14, 2015	✓
Step 4. Planning Commission – Remand – April 22, 2015	✓
Step 4. Town Council Public Hearing, 2 nd Reading – May 12, 2015	

ATTACHMENTS:

1. Ordinance No. 2015-_____
 - a. Exhibit A

ORDINANCE NO. 2015 - _____

TOWN OF BLUFFTON, SOUTH CAROLINA

AN ORDINANCE AMENDING ARTICLE 4, ZONING DISTRICTS AND ARTICLE 9, DEFINITIONS AND INTERPRETATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE TO REVISE RESTAURANTS FROM A PERMITTED TO A CONDITIONAL USE; ADD CONDITIONAL STANDARDS FOR OUTDOOR PATIOS AND CAFES FOR RESTAURANT USE; AND, ADD A DEFINITION FOR OUTDOOR PATIO AND CAFE

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 revise Restaurant from permitted use to a conditional use in the Rural Mixed Use (RMU), Neighborhood Core (NC),

General Mixed Use (GM), Light Industrial (LI), Neighborhood Center Historic District (NCE-HD), and Neighborhood Core-HD (NC-HD); Article 4, Section 4.4.2 to add conditional standards for outdoor patios and cafes for Restaurant use; and Article 9, Section 9.4.3 to add a use definition for outdoor patio and cafe.

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 _____, 2015.

This Ordinance was read and passed at first reading on _____, 2015.

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 _____, 2015.

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 _____, 2015.

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	-	-	<u>C</u>	-	<u>C</u>	<u>C</u>	<u>C</u>	-	-	<u>C</u>	<u>C</u>	<u>C</u>
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

Sec. 4.4.2 Commercial Services

E. Restaurants

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 within the Neighborhood Center – HD zoning district. In the Neighborhood Core – HD, Light Industrial (LI), General Mixed Use (GM,) Neighborhood Core (NC), and Rural Mixed Use (RMU),- where restaurants are conditionally permitted, restaurants are allowed on all properties regardless of frontage location.
2. Within the Historic District, any outdoor patio and café on which alcoholic beverages will be possessed, consumed, or sold shall be located a minimum of 150 feet from the property line of an existing place of religious assembly, publicly owned park, school, residential use (only

- if it is the sole use of the property) or other outdoor patio or café on which alcoholic beverages are possessed, consumed, or sold. If an intervening property line does not exist, then the distance measurement shall be measured from the nearest point of the existing use to the proposed outdoor patio or café.
3. Any outdoor patio and café located on property in the Neighborhood General Historic District (NG-HD) or Neighborhood Center Historic District (NCE-HD) and is adjacent to a residential use ~~shall not be permitted any outside sound equipment or entertainment, such as, but not limited to, speakers, televisions, or live music.~~ is only permitted to have entertainment in the form of an acoustic (unamplified) guitar and/or televisions without the aid of microphones, additional speakers or other amplification.
 4. The outdoor patio and cafe shall be delineated with railings, ornamental walls, landscaping or other suitable features that are a minimum of three feet tall.

ARTICLE IX – DEFINITIONS

Sec. 9.4 Description of Uses of Land and Buildings

Sec. 9.4.3 Commercial Services

- L. Outdoor Patio and Café: An outdoor space used for food or beverage service or entertainment purposes.