



Date of Council Meeting: October 7, 2013

TOWN OF LEESBURG TOWN COUNCIL MEETING

Subject: Initiation of Zoning Ordinance text amendments to the B-1 (Community) Downtown Business District to permit tents as accessory structures to restaurant uses meeting specific standards.

Staff Contact: Brian Boucher, Deputy Director, Planning and Zoning

Issue: Should the Zoning Ordinance be amended to permit tents as accessory structures to restaurant uses in the B-1 District under certain conditions?

Recommendation: Provide guidance to Town staff as to whether it is the desire of the Council to initiate Zoning Ordinance text amendments to permit tents as accessory structures in the B-1, Community (Downtown) District.

Background: For the second time in five years a downtown restaurant owner has requested the Town to consider allowing a tent as an accessory structure to enclose seating to provide protection from the elements through the winter months for their outdoor patrons. Previously, the Hamburg Doner made a request for such a tent to remain in place anywhere from three to five months (November through as late as March). That amendment was denied by Town Council by a vote of 7-0, mainly due to aesthetic concerns given the visibility of the tent adjacent to a public street. In this case, the business requesting the amendment desires to place a tent behind the business with little or no visibility of the tent from public streets. Note that the entire B-1 District is within the H-1, Old and Historic Overlay District.

Existing Regulations: The Zoning Ordinance addresses temporary uses in Sections 9.5 Temporary Uses and 9.6. Business Special Events. Under Section 9.5, permitted temporary uses in commercial districts include wayside stands, Christmas tree sales, carnivals, circus, festivals, fairs, dog shows, horse shows, fireworks shows, tent revivals and similar meetings, outdoor retail sales events, farmers markets and other similar temporary uses. Temporary commercial uses as defined in Zoning Ordinance Section 9.5.3 General Standards for Permitting Temporary Uses are intended for a very limited period of time, most lasting 10 days or less in any six (6) month period (carnivals, circus, festivals, fairs, dog shows, horse shows, fireworks shows, tent revivals and similar meetings) except when they are directly the result of local agricultural production (such as a wayside stand and Christmas tree sales). The ordinance sets specific use standards for each type of temporary activity with some limited to daylight hours only (wayside stand) and specifies the types of temporary signage permitted.

In April 2008 a “Business Special Events” permit was created to give more flexibility to local businesses to celebrate grand openings and special sales events. That ordinance states, “A business special event shall be permitted three (3) times per year for a three (3) day period, each

event” for a total of nine (9) days. Tents and similar type structures are permitted as part of the event but must be included with the Business Special Event Zoning Permit.

Effect of existing rules: Neither ordinance section permits sit-down restaurants to have an accessory tent for more than 10 days. However, a business special event zoning permit can authorize a tent for a total of nine (9) consecutive days. Beyond that, there is no ordinance authorization for temporary tents.

Previous Considerations: As part of the review of this issue in 2008, Staff researched local and regional jurisdictions with regard to requirements for tents and found regulations center on the temporary or short duration of the use of tents for various reasons. Tents are not meant to be permanent solutions for permanent or fixed uses such as restaurants. There was also concern that any amendments must be crafted for the protection of the integrity of the Old and Historic District of the Town of Leesburg. The Board of Architectural Review (B.A.R.) does not review accessory tents because they are considered temporary structures and the purview of the B.A.R. centers around permanent structures or fixtures. The criteria should provide safeguards to protect the B-1 Zoning District by limiting the number of locations that could apply for the accessory tent.

When the previous amendment for tents was reviewed, the following major issues were identified:

- Aesthetics – Concerns centered on whether tents would be compatible with Old and Historic District guidelines.
- Safety – Concern with how the pitch of the tent would handle snow, how would the tent be anchored and how would high winds affect the tent. Wind ratings are important to know if a tent can stand up to high winds of winter months. Heating, plumbing, and electrical installations create hazards in tents and if the tent is less than 400 square feet who would inspect these installations.
- Comprehensiveness – The Planning Commission expressed concern that restricting this use to restaurants may be viewed as spot zoning and suggests all commercial uses be granted the use of a tent for a certain time frame throughout the year but with special exception approval only.

Goal of this Amendment: The intent of this amendment would be to permit restaurants in the B-1 District to utilize tents as temporary structures contingent upon meeting certain use regulations and to clearly define when and for how long tents may be used as part of a restaurant use. Staff would conduct additional research to determine the conditions that could be applied to the tent use such as a minimum distance to residential uses, illumination within the tent, size and height limitations, appearance, and where such tents should be located.

Staff has prepared the attached draft resolution to amend the Zoning Ordinance to permit tents as accessory structures to restaurants in the B-1 District subject to specific use standards.

Attachment: Draft Resolution - Tents

PRESENTED October 8, 2013

RESOLUTION NO.: _____

ADOPTED October 8, 2013

A RESOLUTION: INITIATING AMENDMENTS TO SECTION 9.4 OF THE LEESBURG ZONING ORDINANCE TO PERMIT TENTS AS TEMPORARY STRUCTURES ACCESSORY TO RESTAURANTS IN THE B-1 ZONING DISTRICT.

WHEREAS, the Town Council encourages commercial growth and development within downtown; and

WHEREAS, in an effort to foster said growth and development, Town Council seeks to review its policies related to tents as temporary structures accessory to restaurants within the Town of Leesburg; and

WHEREAS, development patterns in the downtown core differ from those in the more suburban areas of town; and

WHEREAS, several traditionally non-commercial buildings in the B-1 Zoning District are now used as restaurants with limited indoor seating; and

WHEREAS, the lack of indoor seating may harm the viability of restaurants during winter months; and

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require the proposed amendments.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia as follows:

SECTION I. Amendments to Zoning Ordinance Section 9.4 and other sections as necessary are hereby initiated and referred to the Planning Commission to establish

RESOLUTION: INITIATING AMENDMENTS TO ZONING ORDINANCE
SECTION 9.4 TO PERMIT TENTS AS ACCESSORY STRUCTURES
IN THE B-1 DISTRICT

appropriate criteria for the use of tents as temporary structures to restaurants within the B-1 Zoning District in the Town of Leesburg.

SECTION II. The Planning Commission shall hold a public hearing to consider these amendments to the Zoning Ordinance, and report its recommendation to the Town Council pursuant to Chapter 22, Title 15.2-2204 of the 1950 Code of Virginia, as amended.

PASSED this 8th day of October 2013.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council