Date of Council Meeting: <u>August 9, 2016</u>

TOWN OF LEESBURG
TOWN COUNCIL MEETING

<u>Subject</u>: Initiation of Zoning Ordinance Text Amendment – Downtown Residential Parking

<u>Staff Contact</u>: Brian Boucher, Deputy Director, Planning and Zoning

<u>Council Action Requested</u>: Consider a resolution to initiate amendments to the Zoning Ordinance to waive the parking requirements for properties in the H-1 District that are converted back to residential use.

<u>Staff Recommendation</u>: Staff recommends that no initiation occur at this time, but that the potential for greater flexibility for residential parking be addressed as part of a comprehensive examination of parking issues facing the downtown area.

<u>Commission Recommendation</u>: None at this time. If initiated, the Planning Commission will review the amendments and make a recommendation to Town Council.

<u>Fiscal Impact</u>: Potential fiscal impact from the need for the public to provide parking for residential uses in the downtown area that would result from adoption of these regulatory changes.

<u>Work Plan Impact:</u> The work impact of this amendment will be larger than average due to the need for research to assess the impact of the proposal. Placement of newly initiated work in the Department of Planning and Zoning work queue is based on a combination of considerations including: date initiated, priorities of Council, legal considerations and priorities of the Town Attorney and/or Town Manager, staff availability, expertise needed, and level of difficulty. If the proposed project is initiated, Council should state if it is a priority and if so, how staff should address it given the existing work projects (see Attachment 3).

<u>Executive Summary</u>: The Zoning Ordinance requires residential uses in the H-1 District to provide on-site or approved off-site parking with the exception of a small area of downtown where required parking can be purchased using the payment in-lieu provision of TLZO Sec. 11.4.3. An owner/rehabilitator of downtown properties has requested consideration of an amendment to the Zoning Ordinance to waive the parking requirements for any residential use in the H-1 Overlay District where it can be proven that a commercial building is being converted back to a residential use. Most historic buildings in the H-1 District were all or partially residential at one time such as the Laurel Brigade or the Downtown Saloon building. In more urbanized areas such as Arlington or Washington, D.C., on-site residential parking is sometimes not required because there are parking garages within reasonable walking distance of the residential units, and many residents do not own cars because they can rely on mass

transit opportunities that Leesburg does not possess. This lack of mass transit and private parking garages means residential parking is required in Leesburg because residents expect to have dedicated parking spaces, and if they are not provided by developers, it will become the responsibility of the public to supply them at public cost. Given the concern with parking downtown generally this proposal should not be initiated separately, but should be considered as part of a comprehensive, planned approach to downtown parking issues.

Background: TLZO Sec. 11.4.3 Payments In-Lieu gives developers of nonresidential uses in the H-1 Overlay, Old and Historic District the option of purchasing required parking spaces by making a payment to the Town's parking fund. The current fee is $6,300 per space. The funds will be used toward provision of public parking downtown. This option is specifically not available for residential uses except for the following circumstance (TLZO Sec. 11.4.3.A):

> On lots of record existing as of February 14, 2012, measuring 4,000 square feet or less, situated between Liberty Street and Church Street and between South Street and North Street a portion or all required parking for residential uses may be provided by payment in-lieu in accordance with this section.

This provision allows a developer to convert property within this area to residential use and either provide the required parking on-site or off-site or to purchase the required spaces at the rate of $6,300 per space. If the payment in-lieu option is exercised, the money will be used to provide public parking facilities in the downtown area. The money does not guarantee availability of any parking spaces for the residential users. Note that this provision was a relaxation of the previous rule which did not allow the payment in-lieu option for residential uses. In 2011, Town Council decided that the alternative parking provisions for non-residential uses in the Downtown, particularly the payment in-lieu, could be extended to residential uses in an effort to encourage residential conversions and development in the Downtown.

Mr. Michael J. Mclister, owner and rehabilitator of several properties downtown, including conversion of portions of some properties to residential use, expressed to Town Council, the Planning Commission and planning staff a concern that the current parking requirements hinder residential conversions in the H-1 Overlay District (see Attachment 1). Mr. McLister believes that current regulations do not achieve intended goals of facilitating parking, add substantial cost to rehabilitation projects that enhance the Historic District, prevent growth of the Town's revenue tax base, and hurt downtown merchants.

The H-1 District encompasses the B-1, Community (Downtown) Business District; the R-HD, Residential Historic District; and the GC, Government Center District. There are over 700 buildings in the H-1 District (including 508 contributing structures). The exact number is not known at this time, but staff believes the majority of historic structures contained a residential use at one time. Staff has major concerns about the request. The potential impact

of so sweeping a change on parking in the H-1 District is difficult to determine and many questions arise, such as:

- What proof will be required to determine if a building has ever had a residential use? Zoning Permits or other documentation, such as compliance with Loudoun County building code requirements, have been necessary in the past to determine whether a building has been legally used for residential purposes. This can be a very time consuming process.
- If the use was as a single-family detached dwelling, may it be divided into apartments without payment in-lieu for the additional parking spaces? For example, single-family detached dwelling requires two off-street parking spaces, whereas a building with four one-bedroom apartments requires six spaces (1.5 spaces 4 one-bedroom units = 6).
- If the footprint of an existing residence is expanded to contain more apartment units, is it intended that no parking will be required for the addition?
- Can existing parking spaces in the B-1 and R-HD District be removed through building expansions?

Second, if the property owner/developer does not have to provide any parking, whose responsibility is it? Staff believes the answer is that the cost will fall upon the taxpayers in the shape of new public parking facilities. The number of spaces that may result from such a change is not known and the idea was not discussed as part of the Downtown Parking Task Force deliberations. The Task Force's recommendation that the payment in-lieu fee be increased was actually deferred and waiving the fee appears to be counter to their recommendation.

Third, where will people park? Downtown residents with no on-site parking will have to park somewhere and staff is concerned that they will park in locations that could lead to conflicts with existing residents.

Based on these concerns, staff recommends that the existing regulations remain in place until a comprehensive examination of parking needs in the H-1 District, including proposals to add flexibility to the residential parking standards, has been undertaken.

Attachment:

1. Leesburg Residential Regulations Proposal from Michael J. McLister
2. Initiating Resolution
3. List of current Zoning Text and Town Plan amendments in the Department of Planning and Zoning work plan

To: Leesburg Town Council and Planning and Zoning

Subject: Text amendment change or regulation removal of residential parking in lieu fees if a historic Property is changing use back to residential use - 11.4.

Our Historic Properties are the lifeblood of Leesburg's Historic District. All across the country, there is a transition to a commercial and residential mix in an urban renewal model. Downtown Leesburg has a tremendous opportunity to set the example and capture the incredible demand for this transformation. However, as recognized by the Virginia General Assembly, costly building regulations constrain the refurbishing of these precious assets. What's more, if a project can meet these stringent guidelines, our town has imposed yet another regulation above and beyond mandatory codes that is proving too costly, does not solve the issue it was designed to do and is a significant detriment to refurbishing these assets. This regulation also obstructs the town from providing customers/labor force/residents and stands in the way of increased tax revenues for one of the great small towns in America.

This is straight out of the 2012 Virginia Uniform Statewide Rehabilitation document.

SECTION 102 PURPOSE AND SCOPE 102.1 Purpose. In accordance with § 36-99.01 of the Code of Virginia, the General Assembly of Virginia has declared that (i) there is an urgent need to improve the housing conditions of low and moderate income individuals and families, many of whom live in substandard housing, particularly in the older cities of the Commonwealth; (ii) there are large numbers of older residential buildings in the Commonwealth, both occupied and vacant, which are in urgent need of rehabilitation and must be rehabilitated if the state's citizens are to be housed in decent, sound, and sanitary conditions; and (iii) the application of those building code requirements currently in force to housing rehabilitation has sometimes led to the imposition of costly and time-consuming requirements that result in a significant reduction in the amount of rehabilitation activity taking place.

The parking in lieu regulation (11.4) forces property developers to pay the town of Leesburg a parking fee if a Historic rehabilitation project changes from commercial to residential (returning to its original use in most cases). Requirements include 1.5 parking spaces for a 1 bedroom apartment, 2 spaces for a 2 bedroom and the $6,300 per spot fee is further rounded upwards (which tacks on yet another $3,150 in fees - ex 1.5 goes to 2 etc.). It does not require any fee if a project remains commercial. To further discriminate, a commercial project must be 500 feet from a town parking facility (or procurement of other parking usage) while a residential change of use project must be 300 feet (33% less). A further bias against residential parking vs. commercial is found in "shared parking" 11.4.5 where the town alleviates parking requirements on a percentage basis for every sector except residential. This table infers a car is in a residential spot (or paid parking in lieu buy out) 100% of the time, 24 hrs. per days, 7 days per week, 365 days per year. There is no regulation relief as in other sectors. In fact, with 85% of population not working in Leesburg, one could assume a residential use most likely would be the most advantageous sector by leaving early in the morning and returning in the evening (both off peak parking times). This entire regulation is out of place and out of date in today's small town mixture of urban commercial/residential mix by stopping projects from going forward. Property developers willing to take the risk of a historic renovations (that already come with so many variables and unknowns) cannot afford a regulation that adds 10-33% additional costs to a project. If downtown Leesburg is to be at the forefront of this urban momentum, we should revisit and remove an unnecessary regulation that a) doesn't achieve its intended goal, B) adds huge costs to projects that enhance our core assets, c) prevents growth of our town revenue tax base and d) hurts our merchants.

This regulation is similar to a fine/penalty that stops projects in their concept/idea phase and a reason why little, if any, urgently needed projects don't take place. Many of our coveted properties are deteriorating rapidly because of the lack of funds to re-invest. Parking is an issue but this regulation doesn't solve the problem, doesn't provide parking and actually hurts the town's potential.

With a noble goals and objectives, sometimes regulations are out of place and need to be re-visited as market conditions present themselves. As Leesburg has grown over 320% in population since 1990, some of our building and zoning regulations have not been updated, are restrictive and are working against the trend of urban/residential mix. It takes real world situations to determine if they actually produce what they were intended to accomplish. In this case, this parking in lieu regulation penalizes the very residential mix use growth we are lacking. It may seem like a miniscule regulation but it has monumental effects on Historic projects going forward and ultimately delivers less dollars to the town and our merchants.

We have already done some fabulous changes to support this trend to include widening sidewalks, allowing outdoor dining, installing/improving bike paths et al. We need to also support refurbishing projects to maximize these investments. The demand is for nice, affordable, residential apartment's downtown is very high with vacancy rates near 0% while commercial vacancy rates are 19%.

It is obvious why most restaurants/shops close at 3 pm and many closed on Monday. Every business owner in the Historic District will echo that we need more "feet on the street" and we should remove all barriers holding us back from opportunities to provide more customers. This regulation is a direct barrier to the lack of activity meeting the demand and misses the "big picture" for both the town and merchants. Residential rehabilitation does not take away parking but it is treated as a different class than commercial rehabilitation. It is puzzling that change of use is considered a bad thing when it supports so many positive changes?

Nothing good comes from hampering residential rehabilitation projects for Historic Leesburg:

- We get less people living, working and spending money downtown
- We reduce the potential property tax assessment growth Leesburg could be obtaining with refurbished assets.
- Merchants are less successful
- We providing merchants with a smaller workforce to draw from
- We get less BPOL revenue
- People who desire to live and spend money in the Historic District are living elsewhere and spend money there
- Our local teachers, firefighters, single professionals, young couples, separated parents (who want to stay near home) live in WVA, Winchester, Ashburn, One Loudoun, Frederick, MD, instead of their first choice – downtown Leesburg, Va.
- By not maximizing revenues, property owners don't refurbish their buildings.
- Many restaurants/deli's/shops have limited hours and many close at 3 pm

Sitting in one of the richest counties coupled with the highest per capita income in the country, downtown Leesburg is in the midst of a fabulous opportunity to become the leader in the transition back to commercial/residential urban live, work and play. We discuss it but we need to act upon it. People want to live downtown, work near their home and spend their dollars in their town. Study after

study after study has indicated this transition is taking place all across America. National studies and local ad hoc committees have come to the same conclusion with neighboring cities/communities currently capturing our potential residents and new commercial tenants. Lack of demographics also do not allow us to put our best foot forward in the pursuing, recruiting and capturing of upscale merchants to complement the existing business/merchant base. As we all know, stores (both regional and national chains) look to demographics for their business model. If they don't see potential in downtown Leesburg as their best option, they opt to establish a location elsewhere in Northern, VA.

Print articles after print article (both local and regional) also detail the desire for our employees to live and work downtown only to find no supply or decent apartments. Although the theme has been upon us for quite some time, recent articles mirror the trend for both our competition and our employee's desires:

- Washington Post July 3, 2016 – Stop Saying No to Development in Your Neighborhood
- Loudoun Now June30-July 6, 2016 – How Can Loudoun Keep its Firefighters?
- Loudoun Now July 7-13, 2016 – Nighttime Economy Committee Presents Recommendations
- Loudoun Tribune June 30, 2016 – Bill May His Way – One Loudoun one of most high profile, high visibility mixed use communities in the US.

Unfortunately, as the statistics show (see below), downtown Leesburg is not capitalizing on this trend and sadly, many of our historic assets are deteriorating or in dire need of a facelift. We could capture far more tax revenues, have enhanced and vibrant restaurants/shops from sun up to sun down and attract new tenants that want to locate to downtown Leesburg, VA. With our downtown commercial vacancy rate (19%), we could be having business' fighting over open commercial space with an improved demographic profile. Due to this regulation penalty, we are losing potential people, tenants and shops/offices are vacant.

There is no lack of desire or demand to live in downtown Leesburg, it is simply the supply of good quality affordable housing/apartments. We currently do not have enough feet on the street to support our merchants/restaurants and provide a workforce for our business community. If we had more living downtown, we have more customers for merchants. If we have merchants selling more goods and services, they make more money and tax revenues rise. If merchants make more money, business based revenue taxes rise, property owner's assessments rise and the town takes in more revenue. If they are more successful, they will put more into historic rehabilitation and old buildings will get refurbished or touched up. If we took regulations off the books penalizing property developers for converting former residences back to residences, more refurbishing would occur, more money would be spent in town, there would be a greater employee base to draw from.

Statistics right of Leesburg Website – 2014 stats:

- Only 15% of Leesburg's workforce live in Leesburg
- 62.5% of the population is of primary labor force age (20 to 64)
- Median household income is nearly double the national median – where are they spending their money?
- 85% of the workforce that live outside Leesburg and spend their disposable money elsewhere. 85 out of every 100 workers live elsewhere.

- 66% of Leesburg's workforce commutes to Leesburg from Loudoun County, Northern, VA, the Shenandoah Valley or, WVA – how many would live downtown if they had the option?
- 10,000 of Leesburg's population is single households -20%
- With 51,000+ residents, we have only 1,772 apartments (3.4%) in all of Leesburg proper. How many of these 1,772 are downtown – less than 10% of the total? How many would live, work and spend money in downtown is there was a good supply?

US Census Bureau - United States Trends are emerging:

- 36.5% rent vs homeowners – highest trend in 22 years (1st qtr. US Census Bureau)
- 65.8% under 35 rent their place to live
- 41.1% 35-44 yrs old rent
- 30.8% rent ages 44-54.

It is fair to say with a national average of 36% people leasing and Leesburg having a supply of 3.4% of apartments; we are very lopsided. With only 15% of our workforce living in our town, it is also fair to assume downtown leasing supply doesn't meet the demand.

A direct example: My commercial project at 105 Loudoun has been completed for over two months. They are 6 of the most beautiful single office suites in town with private entrances and bathrooms right in the middle of the Historic District– zero occupancy – not one contract, not one offer.

Conversely, right next door at 107 Loudoun St (Former Eiffel Tower Restaurant) there are 5 apartments (one 1 bedroom, 4 two bedrooms). We do not even have dry wall up yet, are 60 days from completion and it is almost sold out (3 of 5 units under contract). I am certain it will be completely sold out prior to completion. Pricing? Although built in 1840, it is brand new inside with 2016 amenities (electric, plumbing, roofing, paint, tile, granite counter tops, WIFI, FIOS/Xfinity ready, outdoor patio's and running on Natural Gas. It is at the average price levels for Leesburg and less than comparable Loudoun County options. Ironically, there is one office at that same property with a glass conference room and private bathroom, same amenities; zero offers, vacant.

Removal of this regulation for residential refurbishing would produce:

Historic District Positives:

1. Greater employee base for our town
2. More disposable income dollars being spent in downtown Leesburg
3. Increased tax revenues for the town in assessments
4. Increased tax revenues through BPOL growth
5. Enhanced Historic values with refurbishing projects
6. More funds for merchants to repair buildings
7. Shops stay open past 3 pm and some open into the evening to capture walkable traffic.
8. With increased demographics and spending, commercial vacancies are reduced, rents rise.
9. Recruitment/retention of different and diverse business' and shops
10. We don't lose merchants to Lansdowne, One Loudoun, Ashburn etc.

Historic District Negatives:

1. Leesburg forgoes the few parking in lieu fees it gains but economically gains in all areas above.

In conclusion, prosperity is at our door step for all; the town, our residents and our merchants. Downtown Leesburg is a great place to live, work and play. It is the posterchild of opportunity and we need to promote this and become the city we have the potential to be. All that can find a decent place absolutely love living in downtown Leesburg.

We should not have a 19% commercial vacancy rate. We should not have individuals who want to live here be turned away due to lack of supply or a beautiful place to call home. We should keep all the dollars in our town that we can. Our Historic District assets should not be deteriorating. Establishing a mixed base of both affordable and upscale living spaces for our teachers, firefighters, shop owners and professionals solves many of these issues.

The town council should remove this regulation and all detriments to this trend and it will foster growth. It is not too late to be part of this growing trend, however, we need to see the big picture of what is holding us back and have a vision of growth in this area. Some are willing to take the risk to meet this demand but under the current regulation, it is too risky, restrictive and costly to move forward.

Sincerely,

Michael J. McLister

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PS - This request was not done without discussions with prominent business leaders and government officials all with the best interest of the town of Leesburg at heart. I will follow up this request with a list of personnel that would support abolishing this regulation so hindrances to growth can flourish.

Attachment 3

Current List of Zoning text and Town Plan Amendments for the Department of Planning and Zoning – August 9, 2016

1) Floodplain Ordinance. Initiated in 2013. Status: Restarted in June 2016 and estimated to move forward in the public hearing process this fall.

2) Sign Ordinance. Initiated in November, 2015. Status: Staff work is progressing and public hearings are planned for September and October.

3) Telecom/Small Cell. Initiated in February, 2016. Status: Public Hearing held at the Planning Commission and discussion on amendment continues. Council Public Hearing anticipated for October.

4) Flex Industrial. Initiated in February, 2016. Status: Town Council Public Hearing scheduled for August 9, 2016.

5) Planned Residential District. Initiated in February, 2016. Status: Not started. Planned to start when the Telecom and/or sign ordinance are completed.

6) H-2 Repeal. Initiated in March, 2016. Status: Staff work is progressing. Public hearings are planned for September and October.

7) Town Plan Removal of Miller Drive. Initiated June, 2016. Status: Staff work is progressing. Public hearings are planned for September and October.

8) Proffer Statute - Town Plan amendments. Initiated June, 2016. Status: Staff work is progressing. Public hearings are planned for late fall, 2016.

9) Proffer Statute – Zoning Ordinance amendments. Initiated June, 2016. Status: Staff work is progressing. Public hearings are planned for late fall, 2016.

PRESENTED August 9, 2016

RESOLUTION NO.: _____ ADOPTED _____

A RESOLUTION: INITIATING AMENDMENTS TO THE LEESBURG ZONING ORDINANCE FOR THE PURPOSE OF ELIMINATING THE RESIDENTIAL PARKING REQUIREMENTS IN THE H-1 (OVERLAY), OLD AND HISTORIC DISTRICT FOR PROPERTIES THAT ARE CONVERTED BACK TO RESIDENTIAL USE

WHEREAS, the Town of Leesburg Zoning Ordinance was adopted with public input and for the purpose of protecting the health, safety, and welfare of Town residents and businesses by providing regulation of land uses; and

WHEREAS, the Town Council recognizes that providing reasonable parking regulations in the downtown H-1 (Overlay), Old and Historic District is an incentive to revitalization and a healthy downtown area; 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 Article 11 are hereby initiated and referred to the Planning Commission to consider elimination of the residential parking requirements in the H-1 (Overlay), Old and Historic District for properties that are converted back to residential use.

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 the Chapter 22, Title 15.2-2204 of the 1950 Code of Virginia, as amended

RESOLUTION: INITIATING AMENDMENTS TO THE LEESBURG ZONING ORDINANCE FOR THE PURPOSE OF ELIMINATING THE RESIDENTIAL PARKING REQUIREMENTS IN THE H-1 (OVERLAY), OLD AND HISTORIC DISTRICT FOR PROPERTIES THAT ARE CONVERTED BACK TO RESIDENTIAL USE

PASSED this 9th day of August, 2016.

_____
David S. Butler, Mayor
Town of Leesburg

ATTEST:

_____
Clerk of Council