



MEMORANDUM

TO: City Council

FROM: Rich Olson, City Manager

DATE: May 28, 2013

REF: Call for a public hearing - TA- 01-13 Request to amend the Unified Development Ordinance to add language to define and regulate banquet/reception hall establishments as a primary use on properties having a commercial zoning classification.

BACKGROUND:

TA-01-13 is a proposal to amend the Unified Development Ordinance to modify language to define and regulate banquet/reception hall establishments as a primary use on properties having a commercial zoning classification. This proposal would amend Article II Interpretations and Definitions; Article IX Zoning and Article XI Development Standards.

ANALYSIS

Planning staff has received several requests to operate multifaceted banquet/reception hall venue establishments. The proposed operations were to include banquet and reception hall, food service, alcohol and liquor service, live and recorded entertainment, dance and recreational space. The structures ranged from 10,000 to 25,000 square feet with an expectation of an average of 500 people.

At the present time, the Unified Development Ordinance does not explicitly define the proposed land use. The proposed text amendment would allow banquet/reception facilities in Central Business, General Business, Highway Business and Causeway Mixed Use districts.

This text amendment has been reviewed by Planning Commission. They recommend approval.

(The Staff Analysis is attached for more information.)

RECOMMENDATION:

Call for a public hearing on TA-01-13 at your June 10, 2013 Council meeting.

STAFF ANALYSIS

CASE NO.

TA 01-13

REQUEST

TA 01-13 is a proposal to amend the Unified Development Ordinance, specifically Article II Interpretations and Definitions; Article IX Zoning; and Article XI Development Standards, adding language to define and regulate banquet/reception hall establishments as a primary use on properties having a commercial zoning classification.

BACKGROUND

In 2012 the Zoning Administrator received four individual requests to operate multifaceted banquet/reception hall venue establishments. The proposed operations were to include banquet and reception hall, food service, alcohol and liquor service, live and recorded entertainment, dance and recreational space. The physical structures proposed ranged from 10,000 to upwards of 25,000 square feet, with expectation of an average 500-person capacity and 18-hour per day operation.

At present, the Unified Development Ordinance does not explicitly define the proposed land use. The way the Ordinance is presently written, the Zoning Administrator would be able regulate specific associated elements of an all-encompassing banquet/reception hall venue – a restaurant, nightclub/bar/tavern, arcade, and pool room uses – but not the use on the whole and thereby affecting community impact, parking, noise and buffering. Because the use is not explicitly included among the Table of Permitted Uses, and a similar use is not listed, Ordinance Section 9-3.1(B) prohibits the operation of banquet/reception hall facilities (as proposed) in our planning jurisdiction.

The purpose of this text amendment is to create the banquet/reception hall establishment and/or facility land use, while at the same time protect the public health, safety, prosperity and overall positive quality growth of the City.

TEXT AMENDMENT

UDO Development Standards Text Amendment

Underlined and bold – new language to be added

Strikethrough – language to be deleted

Amend Article II Interpretations and Definitions, §2-4 to create §2-4.59.1 and the following definition:

Banquet/Reception Hall Establishment, Commercial. An establishment (indoors and/or outdoors) for lease by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries and other similar celebrations where entertainment, either passive or active, is provided for the pleasure of the guests, an independent use, not to operate in conjunction with any other land use. Such entertainment includes but is not limited to: vocal and instrumental music, dancing, karaoke, comedy, and acting, whereby events are not advertised for attendance and/or participation by the general public. Such a use may or may not include: 1) kitchen facilities for the preparation or catering of food; 2) the sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the general public; and 3) outdoor gardens or reception facilities. Specifically, this land use is *not* a restaurant, bar, nightclub, tavern, billiard parlor, arcade, private club, recording studio, cinema, auditorium or facility to be leased, let or used by any third party to stage an event for profit.

Amend Table 9-3-1, Table of Permitted Uses of the Permitted Uses Section, Article IX Zoning, §9-3.1(A) as follows:

| | Ref. | Zoning Districts | | | | | | | | | | | | | | | |
|---|--------------------|------------------|-----|------|------|----|-----|-----------------|-----------------|-----|-----------------|----|-----------------|-----|-----|-----|-----|
| Use Type | SIC | R-6 | R-8 | R-10 | R-15 | AD | RMH | CB | GB | O&I | HB | NB | CMU | I-1 | I-2 | PDR | PDM |
| BUSINESS, PROFESSIONAL and PERSONAL SERVICES | | | | | | | | | | | | | | | | | |
| <u>Banquet/Reception Hall Establishment.</u> <u>Commercial</u> | <u>6512</u> | | | | | | | <u>D</u> | <u>D</u> | | <u>D</u> | | <u>D</u> | | | | |

Amend Table 11-2-1, Table of Off-Street Parking and Stacking Requirements of the Number of Parking and Stacking Spaces Required Section, Article IX Zoning, §11-2.3(A) as follows:

Table 11-2-1

Off-Street Parking and Stacking Requirements ***

| USE | SPACES REQUIRED |
|--|--|
| Business, Professional and Personal Services | |
| <u>6) Banquet/Reception Hall Establishment, Commercial</u> | <u>1/3 persons based upon the design capacity of building plus 2/3 employees on the largest shift, located on the same property/lot of use</u> |

Amend Article XI Development Standards, §11-4 Development Standards for Individual Uses, to create §11-4.10.2 Banquet/reception hall Facility, Commercial Reception Hall as follows:

11-4.10.2 Banquet/Reception Hall Establishment, Commercial

(A) Purpose and Intent

The purpose and intent of this section is to further regulate the placement and standards of the Banquet/Reception Hall Establishment, Commercial land use. Examples of Banquet/Reception Hall Establishment, Commercial land use activity include: family events; (e.g. reunions, birthday, wedding receptions and anniversary parties); charity galas and fundraisers; dinner receptions; ballroom, line and aerobic dancing; political parties and events; business meetings and corporate receptions; and holiday parties. Any operation of a banquet/reception hall facility within the city planning jurisdiction not in compliance with this ordinance shall be unlawful.

(B) Zoning

The operation of a banquet/reception hall facility shall be permissible on property with a Central Business (CB), General Business (GB), Highway Business (HB), or Causeway Mixed Use (CMU) zoning classification.

(C) Permitting

The banquet/reception hall facility land use shall be allowed by permit issued by the Zoning Administrator. A Zoning Permit and/or approved site plan shall be obtained from the Zoning Administrator prior to operating the primary banquet/reception hall facility. For redevelopment or building conversion, site and layout plans shall be reviewed and approved by the Technical Review Committee, to which conditions for venue operation may be applied to the proposed use and development so as to mitigate potential adverse impacts.

Zoning permits for banquet/reception hall establishments are non-transferrable. The permit shall automatically expire upon a change in possession of the property or a change in the operation or management of the facility.

(D) Use Separation

Except for properties with a Central Business or Causeway Mixed Use zoning classification, no banquet/reception hall facility operation shall be within one hundred (100) feet from another banquet/reception hall facility operation.

(E) Property Access

The use shall have direct access to a major or minor thoroughfare or higher classified street.

(F) Hours of Operation

The hours of operation allowed shall be compatible with the land uses adjacent to the banquet/reception hall facility.

(G) Community Impact

1. The amount of noise generated shall not disrupt the activities of the adjacent land uses nor have an adverse effect upon the character of the area or the public health, safety and general welfare.

2. No door to the facility which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
3. The Zoning Administrator shall not grant the permit unless it finds that the parking generated by the banquet/reception hall facility can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
4. So as to protect pedestrian safety, charter bus, van, limousine, or other human transportation vehicles; all-occasion rental services; and food service trucks and vans shall not engage in active loading and unloading in the public right-of-way. Properties within the Central Business District are exempt from the explicit application of this subsection; however, reasonable effort shall be made to protect public safety and not impede the normal flow of vehicular traffic.
5. During all hours of operation, the facility operator shall be responsible for maintaining those portions of public right-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the permit so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
6. The proposed use and development shall not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of uses of all types on the immediate neighborhood and the effect of the proposed banquet/reception hall establishment use on the city as a whole.

(H) Screening and Buffering

Parking lots shall be screened from adjoining residential and/or institutional uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

(I) Accessory and Secondary Uses

Banquet/reception hall establishment located in the Central Business District or Causeway Mixed Use zoning classification shall be permitted outdoor service (i.e. dining, entertainment and sitting) areas as a secondary use to the banquet/reception hall venue establishment. Outdoor service areas shall comply with Section 11-4.54.1 of this Ordinance. No other secondary accessory land use shall operate in conjunction with the banquet/reception hall establishment, except for properties with a Central Business or Causeway Mixed Use zoning classification.

(J) Security

The business shall provide in-house security using sworn law enforcement personnel or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 200 persons or 75% of the maximum allowed occupancy, whichever is less, or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either.

(K) Restrictions

Any requirements, limitations, or restrictions imposed by the North Carolina ABC Commission, North Carolina Fire and/or Building codes, the Health Department or by any provision of North Carolina law upon the banquet/reception hall facility which are more stringent than the requirements of this ordinance and/or site plan shall be effective and binding. Any violation of such requirement, limitation, or restriction imposed by the ABC Commission, Building Inspector, Fire Marshal or Health Department shall be deemed a violation of the Ordinance. A banquet/reception hall facility which is not operated in accordance with this ordinance shall be deemed a violation of the Ordinance. Any person, firm, or corporation violating any provisions of the ordinance shall be subject to permit revocation, the permit fee, a monetary penalty of \$200.00 per violation, where each day is considered a separate violation, and additional penalties as listed in Article V Enforcement of this Ordinance.

STAFF RECOMMENDATION

When drafting this ordinance proposal Staff reviewed the American Planning Association *Planners Dictionary* and one other jurisdiction's regulation of large-scale entertainment facilities. The *Planners Dictionary* supplied multiple definitions of entertainment facility, presenting them as an umbrella categorization of various land use types, including nightclubs, bars, restaurants, banquet halls, etc. Contrarily, the *Planners Dictionary* offered too narrow a definition of banquet and reception halls that would be appropriate and applicable to the requested land use. As such, Staff decided creating a melded and unique definition for use in our jurisdiction to be a better foundation to regulating the proposed land use. The drafted definition recognizes that multiple entertainment and food service options must be available at an banquet/reception hall establishment, but the establishment should not be a 'back door' to a nightclub, billiard parlor, etc. land use, as the latter uses have more restrictive standards.

The next three sections of the amendment introduce regulation particulars for the banquet/reception hall establishment land use – allowable zoning districts, off-street parking requirements, and development standards. The OSHA *Standard Industrial Classification (SIC) Manual* includes establishments primarily engaged in the operation (rental or leasing) of nonresidential buildings in subgroup *6512 Operators of Nonresidential Buildings*.¹ The SIC Code reference in the Ordinance will be listed within the Business, Professional and Personal Services category as "Banquet/Reception Hall Establishment, Commercial 6512."

Using the existing Table of Permitted Uses (Ordinance Table 9-3-1) as a guide, Staff proposes to allow the banquet/reception hall establishment land use in commercial zoning classifications Central Business, General Business, Highway Business and Causeway Mixed Use. All four classifications are permissible to properties with moderate and high land use intensities where high traffic volumes are anticipated, greater public utility (water, sewer, and electricity) demands may be accommodated, and a reduced opportunity for residential and/or institutional land use incompatibility exists; this is evidenced by the number of Recreational, Business/Service, and Other Uses permissible land uses in commercial zoning classifications. Most of these referenced uses are authorized by Zoning Permit issued by the Zoning Administrator – Conditional or Special Use Permits and public hearing are not required. For the regulation of banquet/reception hall establishments, Staff recommends similar treatment such that the use will require a zoning permit provided additional development standards are satisfied and maintained.

The drafted off-street parking requirement for banquet/reception hall establishments is based upon similar uses in Ordinance *Table 11-2-1 Off-Street Parking and Stacking Requirements*. Although all the uses in the Ordinance parking table were considered, Staff chose to closely resemble the parking

¹ The SIC of the United States was replaced by the North American Industry Classification System (NAICS). The NAICS economic-based six-digit classification system groups the proposed land use similarly as "531120 Lessors of Nonresidential Buildings (except Miniwarehouses)".

standard for the Bars, Nightclubs, Taverns land use; the presumption is that a commercial banquet/reception hall facility operating as the primary land use with large-capacity space, live entertainment, stage performances, food preparation areas, catering, fluctuating temporary and permanent staff, etc. will require a similar amount of parking as a nightclub and an auditorium.

Lastly, Staff crafted development standards for the banquet/reception hall establishment use. The standards are likened to the development standards for other high-capacity commercial operations that may offer some form of live or recorded entertainment. Specifically, Staff reviewed the Ordinance development standards for Auditorium; Bar, Nightclub, Tavern; Billiard Parlor; Carnival and Fairs; Club; Outdoor Café; Private/Public Club and Recreation Facility; and Shopping Center as a guide. Use-specific regulations were further cultivated from interdepartmental discussion and business proposals received from potential applicants.

Also included in the regulation of banquet/reception hall facilities is fee assessment and violation enforcement. Staff proposes authorization by zoning permit. The zoning permit application is a one-time fee of \$100.00 per operation per location. Code enforcement of violations will adhere to the existing methods listed in Ordinance Article V, with the additional \$200.00 per violation monetary penalty.

Staff recommends **APPROVAL** of the proposed amendment to the Unified Development Ordinance TA 01-13 as presented.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommends **APPROVAL** of the proposed amendment to the Unified Development Ordinance with the following changes:

Proposed Subsection 2-4.59.1 Banquet/Reception Hall Establishment, Commercial definition: amending the second sentence to delete “whereby events are not advertised for attendance and/or participation by the general public.” The language preceding and following the section is to remain unchanged.

Proposed Subsection 11-4.10.2(J) Security regulation: deleting and amending language in the paragraph so that it reads:

The business shall make available in-house security using sworn law enforcement personnel or retain the services of a licensed security firm to provide security services.