

1. **ZOTA 2012-4: AMEND THE DEFINITION OF "BANQUET FACILITIES"** (10/2/12)\* – petition for a Zoning Ordinance text amendment to amend the definition of "banquet facilities" to delete the requirement that the use must take place within a building currently or formerly used as a residence.

REQUESTED BY: C Brothers, LLC

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

## ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

### 1-11 DEFINITIONS

**BANQUET FACILITY** - A building ~~currently or formerly used as a residence~~, made available to the public for holding meetings and social events. This use may include the sale of alcoholic beverages; indoor live entertainment; and may also include, as an accessory use, events conducted outside the main building in tents or other temporary facilities, subject to the issuance of a permit by the Division of Building Inspection.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommended: Approval, for the following reasons:

1. The proposed text amendment to modify the definition of "banquet facilities" to remove the residence requirement is logical and appropriate because it allows for similar uses to be treated in a similar manner within the business zones.
2. Banquet facilities have been overly restricted in the past five years to the point that very few have been approved, even though demand exists.

Staff Presentation: Ms. Wade presented the staff report, explaining that this proposed text would amend the definition of banquet facilities" to delete the requirement that the use be located in a building currently or formerly used as a residence. She said that, currently, the definition allows a building to be offered to the public, for rent or lease, for the purpose of entertainment or business meetings and events. It limits that use, however, to only a structure that is currently or formerly used as a residence. The proposed text amendment would allow both residential and commercial buildings to be occupied by a banquet facility.

Ms. Wade stated that banquet facilities are a principal permitted use in the B-1 zone, which carries forward into the B-2 and B-2A; B-6P; and all three of the mixed-use zones. Banquet facilities are also included as allowable uses in an adaptive reuse project, which can be located in the B-4, I-1, and I-2 zones. Banquet facilities and meeting rooms have also been considered accessory to uses such as hotels, private or country clubs, restaurants, museums, and churches. Until 2007, banquet facilities were permitted as an accessory use. In 2007, the Zoning Ordinance was amended to define banquet facilities, establish off-street parking requirements, and designate in which zoning categories such uses would be permitted. Prior to the enactment of that change to the Zoning Ordinance, there had been at least one Board of Adjustment case where a banquet facility, called "Eventions" was permitted as a principal use in a B-1 zone, because it was similar to other B-1 uses, such as restaurants. Ms. Wade said that the 2007 text amendment clarified in which zones a banquet facility was allowed; but, almost from the beginning, the approved definition was difficult to utilize. It forced the adaptive reuse of a structure, which therefore limited the location of a banquet facility to residential structures located in business zones, which were large enough to accommodate the parking requirements. The applicant in the 2007 text amendment intentionally tried to limit the text to suit their situation, which the staff attempted to remedy by recommending a broader text. Since that time, however, only one banquet facility has met all of the requirements and has been permitted, which was an unintended consequence of the text amendment. One other banquet facility has also been permitted in an adaptive reuse project since the 2007 text amendment, although numerous others have been proposed to the Planning staff and the Division of Building Inspection. The staff believes that limiting the locational requirement to former residences has clearly been a deterrent to establishing such uses throughout the community.

Ms. Wade stated that, in 2011, an administrative appeal request was filed with the Board of Adjustment to determine that a banquet facility was permitted in a B-1 zone in a commercial building. Since the applicant in that request could not meet the requirement of being located in a former residence, the BOA was forced to deny that request. At that meeting, the Board discussed and gave direction to the Planning staff regarding the appropriateness of drafting another text amendment with regard to banquet facilities. During the course of that meeting, the Board discussed either limiting banquet facilities in some other manner, such as making it a conditional use or restricting live entertainment, or allowing the use in any existing structure.

Ms. Wade said that the petitioner in this request intended to explore the possibility of locating a banquet facility in an older structure that had never been used as a residence, so they were unable to meet the existing definition of banquet facility. The applicant made three points in their justification: firstly, that there is a demand for this use, as evidenced by the BOA

\* - Denotes date by which Commission must either approve or disapprove request.

case and the staff's discussions with several parties interested in establishing a banquet facility; secondly, that no other B-1 use is restricted to being located in a building formerly used as a residence; and thirdly, banquet facilities are very similar to other uses that are permitted in the B-1 zone, such as private clubs and restaurants.

Ms. Wade stated that, in reviewing this request, the staff's one significant concern was live entertainment. She explained that indoor live entertainment is part of the definition of banquet facility, and is considered an accessory use. The petitioner contends that it is appropriate to treat uses the same within zones; in the B-1 zone, live entertainment is restricted and requires Board of Adjustment approval on a case-by-case basis. Those uses approved for live entertainment must also be located at least 100' from a residential zone. The staff was concerned that, by permitting banquet facilities in other business zones, live entertainment could become a bigger issue if it was not restricted in a manner similar to that in a restaurant or private club. Ms. Wade said that, since this proposed text amendment was filed, the staff has added language to a text amendment proposed to the B-1 zone to regulate live entertainment for banquet facilities. That text change would make indoor live entertainment a conditional use in some cases, and outdoor live entertainment always a conditional use.

Ms. Wade stated that, since the filing of this request, the petitioner's situation has changed, and they are no longer interested in pursuing this text amendment. However, the petitioner understands that there is a greater community interest in this change, and therefore supports the Commission in taking action on this request, although they will not be represented at this hearing. Ms. Wade said that the Zoning Committee and the staff have recommended approval of this request, for the reasons as listed in the staff report and on the agenda. She added that the staff has received a letter of support for this request from the Calumet Area Neighborhood Association, which was also supportive of the BOA case in September 2011.

Commission Questions: Ms. Plumlee asked how long, under the proposed text amendments, event tents would be allowed to stand, and how large they could be. Ms. Wade answered that there is no limit on the square footage of such a tent, but a text amendment approved within the last few years regulates temporary structures. They are permitted as accessory uses for up to 60 days total in a calendar year. For a length of time between 61 days and 180 days, a conditional use permit would be required for a temporary structure. After 180 days have passed in a calendar year, the structure would no longer be considered temporary.

Ms. Roche-Phillips asked how many requests for banquet facilities the staff had received since the text amendment was approved in 2007. Ms. Wade answered that she had spoken to at least five other interested parties, but she was unsure how many people might have discussed the possibility of a banquet facility with the staff of the Division of Building Inspection.

Mr. Penn asked if it would be advisable to proceed with consideration of this text amendment at this hearing, or if it should be considered alongside the B-1 text amendment that was postponed until August. Ms. Wade responded that the Commission could consider this request either way; there is demand for a means to allow banquet facilities, but it might be appropriate for the Commission to consider it at the same time as the B-1 text amendment, given the concern about live entertainment.

Mr. Owens asked what the Commission's deadline is for this request. Ms. Wade answered that, because this request was filed by an applicant, the Commission will need to act upon it within six months, or by October.

Ms. Copeland said that she is concerned about the possibility of caterers undermining local entrepreneurs or restaurant owners in the downtown area. She is also concerned that these types of banquet facilities might represent a "shortcut" of the banquet facilities offered by churches, country clubs, etc.

Ms. Roche-Phillips stated that she is concerned about the effect of the proposed text amendment, and she would be in favor of postponing it. She noted that one of her concerns is about the impact of this text amendment on the existing B-1 uses located outside the Urban Service Area boundary. She added that it would be helpful, when the Commission does consider this proposal, to see where all of the B-1 parcels are located outside of the USA boundary.

Citizen Comment: Dick Murphy, attorney, stated that he was not present representing a client at this time, but he represented the petitioner in the Eventsions case in 2002 to which Ms. Wade referred. He said that that request was for a banquet facility in a shopping center in a B-1 zone on Fortune Drive, which was approved by the BOA and operated in that location for several years. Following the approval of the text amendment in 2007, however, another banquet facility was not permitted to locate in the space vacated by Eventsions, because it was not formerly used as a residence. Mr. Murphy stated that this issue also comes up frequently in cases involving adaptive reuse projects, since not many old houses are located in the B-4 and I-1 zones. He said that, even though the petitioner is no longer participating in this request, the Commission needs to pursue consideration of this text amendment, because the issues will continue to arise until they are addressed.

Commission Comment: Mr. Owens said that he believes that the proposed text amendment is a good idea. However, in light of the upcoming B-1 text amendment and the petitioner's decision not to pursue this request, he would support a request for continuance or postponement.

Action: A motion was made by Mr. Penn, seconded by Ms. Roche-Phillips, and carried 10-0 (Beatty absent) to continue ZOTA 2012-4 until such time as the B-1 text amendment is before the Commission.