

# ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

**Petition Number:** Z09-4

**Petitioner:** Mr. Dan Thies for  
Clayton Henry LLC / WB Properties  
16650 Chesterfield Gove Rd., Suite 100  
Chesterfield, MO 63005  
636-537-9700

**Agent:** None

**Project Name:** Clayton Henry Commercial Development

**Location:** 14448 - 14464 Clayton Rd.,  
775, 781, 785 & 793 Henry Ave.

**Petition Date:** 3/20/09

**Review Date:** 3/23/09

**Requested Action:** Neighborhood Commercial Overlay  
District Approval

**Code Section:** Zoning Ordinance  
Articles IX and XXIII

**Existing Land Use/Zoning:** Single Family / R-3

**Surrounding Land Use/Zoning:** West - Single Family / R-2 (County)  
South - Vacant / R-2 (County)  
East - Single Family / PSD  
North – Single Family / Chesterfield

**Plan Designation:** Neighborhood Commercial &  
Neighborhood Residential

## Proposal Description:

Clayton Henry LLC / WB Properties LLC are proposing to rezone the approximately 11.64 acre site at the southwest corner of the intersection of Clayton and Henry roads from R-2 (County) single family to C-1 Commercial (petition Z09-3) and obtain Neighborhood Commercial Overlay District (NCD) to allow the construction of approximately 40,000 square feet of retail and office space with accompanying surface parking and with site access from Clayton Rd. and Henry Ave.

A description of the physical characteristics of the site is detailed in the petition review report for petition Z09-3 and is not repeated here.

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## PLANNING AND PLAN REVIEW CONSIDERATIONS:

This review report covers the issues of the NCD overlay zoning district. This petition had been submitted in conjunction with an accompanying rezoning petition (Z09-3) asking for rezoning to C-1 Commercial for this site as the underlying zoning for the NCD. Please reference the associated petition review report for a fuller understanding of the issues of that zoning request. Although these are separate zoning change petitions, the nature of the NCD is such that it must be considered jointly with the underlying zoning and the associated regulations of that zoning district. In this case, the underlying zoning is proposed for change in conjunction with the application of the NCD overlay zoning district.

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## ZONING CHANGE PETITION CONSIDERATIONS:

The issues associated with the establishment of commercial zoning on this site were discussed in petition Z09-3. Since the NCD is also a commercial zoning classification, the observations relative to many of the points discussed in that report may be salient and applicable for this petition as well. Those issues are not repeated in this report. Please refer to the petition review report for Z09-3 for these observations, issues and concerns.

## NCD DISTRICT REGULATIONS (Article XIIF):

*This review is predicated on the regulations of the NCD district. Should the underlying C-1 or the NCD rezoning proposals not be approved, the issues of this review may not be applicable to the development proposal.*

The NCD (Neighborhood Commercial District Overlay) does not stand on its own. It works only as an overlay amending an underlying zoning district. The NCD may allow multiple family development or amend or waive the development provisions of the underlying district and the subdivision ordinance, if applicable, but with the exception of allowing multiple family uses in a mixed use commercial development, does not bring new uses to the property. The uses allowed in the underlying zoning district and the special use exception (SUE) regulations are therefore critical and limiting to the NCD district. Since the uses proposed with this petition are commercial, the petitioner has requested a change in the underlying zoning to C-1 to allow the proposed commercial development. The NCD district may allow the waiver or modification of the regulations of the underlying district and the subdivision ordinance, but the governing ordinance must specifically outline and describe what those changes and waivers are. Any underlying district regulations not superseded or waived will still apply.

**Section 1, Purpose:** This section describes the purpose of the NCD district, which is to enhance the economic success of designated commercial nodes, encourage well-planned, neighborhood oriented, market sensitive commercial and mixed use development that is compatible with the character of the surrounding neighborhood and adjoining uses and consistent with the general goals and recommendations of the comprehensive plan. **Successful arguments can be put forth to support the position that the proposed development is consistent to some degree with most of these purposes.**

*Section 1 (1)* addresses issues of building scale and the intensity/congestion of the use being consistent with neighboring residential areas. The proposed commercial buildings are single story structures that are generally consistent with the structure heights allowed in the adjoining residential districts. The rooflines are typically about 25' tall. This compares with 35' being the maximum allowed building height in the adjoining residential districts. Most of the houses in the immediately adjoining neighborhoods are not at the maximum allowed height. Twenty five feet is probably the highest most of the houses in the Oak Tree Farm neighborhood reach. **The tallest roof features on the commercial buildings are about 40' tall. This is taller than the maximum allowed building height in the residential districts, but it is not out of keeping with the maximum height limit of 45' in the underlying C-1 commercial district. These tall features are limited to the spires on the turret features and the chimneys. I recommend that the governing ordinance allow the heights of the commercial building to the heights shown on the elevation drawings submitted with this petition and that the heights be measured from the finished floor elevation of the main floor.**

The design of the proposed multiple family structure and the nature of its tenancy has not yet been established. At this point it is envisioned as an independent care facility, but it might ultimately be developed for a higher level of care. The petitioner has proposed that the NCD Governing Ordinance provide for a development envelope for this structure. They propose it to be allowed to have up to 125 units in a four story configuration with a maximum height of 65' and a 45,000 square foot footprint. The footprint shown is for purposes of example only and will not necessarily be the footprint of the building. The proposed height is not compliant with the maximum building height allowed in the proposed underlying C-1 district. The other provisions seem to be in accordance with the C-1 district regulations. This is very tall by Ballwin standards. There are presently no buildings in Ballwin that are this tall.

I have no administrative problems with the concept of approving a development envelope for this structure in the NCD Governing Ordinance such that any building meeting the provisions of the envelope would not have to come back before the City for zoning or site plan approval. I recommend the following criteria for the design envelope for this building:

- 1) The building will be developed as an independent care facility or other similarly functioning residential facility for mature and elderly individuals. Although the proposed multiple family structure is tall and has significant volume compared to the surrounding residential structures, it will have a relatively low activity level and small traffic generation for the number of dwelling units. The lifestyle of those living in such facilities is such that they have lower average daily vehicular trips than other residential uses and tend to generate less activity in yard areas outside of their dwellings. Any other residential use will have to be submitted to Ballwin for an amendment to the governing ordinance.
- 2) The building will have a maximum height of 55' above the mean grade at the perimeter of the building.

- 3) There will be a maximum of 125 dwelling units.
- 4) The building will have a maximum footprint of 60,000 square feet, and a maximum building floor area of 180,000 square feet.
- 5) The building will be a maximum of 4 stories in height not including a basement parking facility
- 6) There will be a minimum building setback from the perimeter of the site of 40' regardless of building height and with one additional foot of setback for every additional foot of height above 40'.
- 7) There will be a maximum building setback of 30' from the right of way line regardless of building height and with one additional foot of setback for every additional foot of height above 40'.
- 8) The use will provide a minimum of one parking space per dwelling unit for an independent living facility which can be reduced if the facility is ultimately developed for a higher level of care which requires far less parking.
- 9) The building shall be architecturally consistent with the buildings in the commercial portion of the development to maintain the sense of community that is fundamental to the NCD ordinance and the direction of the comprehensive community plan.

All of the commercial buildings proposed for this development have substantially more volume than the buildings in the nearby residential districts. Additionally, commercial buildings (uses) will typically have a higher use intensity and will produce vehicular traffic at a higher level than would be expected from a single family residential development on the same property. This is particularly true of businesses that will have drive through facilities which tend to have higher traffic activity than do similarly sized commercial uses without drive through facilities. I believe the comprehensive plan understood this when it recommended NCD zoning for the approximately 4 acre parcel at the intersection of Clayton Rd. and Henry Ave. **Did the comprehensive plan also understand that expanding commercial development beyond this approximately 4 acre corner parcel was inappropriate from a land use and development impact perspective? Is that why only residential uses were recommended for the balance of this site? I believe that expanding the commercial areas was understood by the plan to be inconsistent with the purpose of the NCD zoning for this corner and not recommended. It is therefore incumbent upon the petitioner to explain why the NCD zoning should be expanded beyond the area recommended by the comprehensive plan.**

*Section 1 (2)* encourages neighborhood oriented commercial development. **Drug stores, banks and restaurants all have fairly small service radii which are consistent with the neighborhood service intent of the ordinance and the comprehensive plan. Additionally, most of the uses requested to be included in the governing ordinance, are or can be scaled to neighborhood service levels. Uses in this development will also be limited due to the total floor area proposed for the development and the distribution of that floor area among several different buildings.**

*Section 1 (3)* emphasizes low impact development that respects human scale and the proximity of residential land uses. As mentioned above, but for some architectural features, the commercial buildings are generally no taller than would be allowed of a single family house in the surrounding neighborhoods. The multiple family building, however, is proposed to be much taller. The floor area and overall volume of all of the buildings in this proposal are much greater than that allowed or is common in the surrounding districts and subdivisions. The buildings have been given a consistent architectural style with embellishments on all sides. This gives a very residential character. This is even true of the bigger buildings. Furthermore, most of the buildings have been placed toward the adjoining roadways or the lake and kept away from the nearby residences. The site has been designed with substantial landscaping and landscaped buffers to mitigate the impacts of the development on adjoining residences. The site has been designed to facilitate pedestrian circulation both internally and externally to the surrounding community. The impact on the environment is pretty much what one would expect of any development of this size and nature done in the past 25 years. Storm water control facilities meet MSD's minimum standard. There is a big detention basin disguised as a lake and there is a concentrated discharge point at the end of a pipe downstream somewhere. The parking lot is a conventionally paved lot. The provisions of the section appear to have been addressed in a general way.

*Section 1 (4)* encourages development that will strengthen the ability of neighborhood-serving businesses to compete in the changing economic environment. The NCD attempts to smooth the development approval road by reducing strident and absolute development regulations. **The fact that this development is attempting to take advantage of the NCD and accommodate some of the recommendations for building siting, pedestrian connectivity, low impact development and stepping away somewhat from conventional strip-type commercial development is a reflection of this goal.**

**Section 2, Permitted Uses:** This section addresses permitted uses. The petitioner has submitted a list of the uses allowed in the C-1 district by right and by special use exception that it would like to be included in the NCD Governing Ordinance.

**I recommend that the list be accepted and included in the NCD Governing Ordinance as the proposed uses are listed and limited/qualified by the salient regulations of the special use regulations and the C-1 district. I recommend, however, that items # 1, 2, 3, 12, 21 and 22 not be included in the governing ordinance. These uses have parking, traffic and/or activity characteristics that are dramatically different from the other uses on the list and therefore may have site impacts that negatively impact on other uses and the surrounding neighborhoods or roadways. These uses, and any non-listed uses that might subsequently be desired on this site should require petitioning for an amended NCD Governing Ordinance with the associated public hearing before the Planning and Zoning Commission and the passage of an amended ordinance by the Board of Aldermen.**

**I recommend that parking within any front yard as listed and enumerated in Article XIV section 1 (14) of the Ballwin Zoning Ordinance be added to the list.**

I recommend that banks, savings and loan associations, short term loan establishments and other financial businesses that are regulated by the Missouri Division of Finance as listed and regulated in Article XIV Section 1 (5) be added to the list.

I recommend that item #24 be eliminated from the list and replaced with “shop where food is served for consumption on the premises on which prepared or to be consumed at a place other than on the premises on which prepared including the use of a drive up window for pickup purposes” as listed and regulated in Article XIV, Section 1 (20).

I recommend that item #25 be eliminated from the list and replaced with “establishment for the distilling, brewing, preparation and sale of beverages containing alcohol of any kind by the drink for consumption on the premises where sold” as listed and regulated in Article XIV, Section 1 (21).

I recommend that item #26 be eliminated from the list and replaced with “Private retirement community, and/or nursing home offering living facilities and associated services for independent living, and/or skilled nursing arranged in single and/or multiple family building configurations” as listed and regulated in Article XIV, Section 1 (25).

I recommend the item #28 be eliminated from the list. This type of sale is already allowed under the provisions of # 20 on the list.

I recommend that item #29 be eliminated from the list. A pharmacy is covered by #20 already on the list as is the sale of liquor. The clinic would be covered by #14 on the list.

**Section 3, Intensity of Use:** This section allows relief from or the amendment of the regulations of the underlying zoning ordinance (C-1 district) and associated site development regulations. Such relief or amendment is allowed if the petitioner can demonstrate that it achieves the purposes of this ordinance. Any regulation that is not waived or amended is still in effect. Additionally, the approval of the overlay district brings some regulations that supersede the underlying zoning. **The specific waived or amended provisions are discussed in the appropriate sections of this report. I recommend that they be detailed in the governing ordinance.**

**Section 4, Height Regulations:** This section states that the height of new development shall be governed by the regulations of the underlying zoning district (C-1), but may be amended by the NCD governing ordinance. The C-1 district allows structures as tall as 45'. As previously discussed this petition contains buildings that approach this height limit. **It is recommended that the Governing Ordinance limit all structure heights as described in Section 1 (1) above.**

**Section 5, Parking and Loading Regulations:** This section establishes standards for the design, placement and landscaping of parking facilities. No maximum or minimum parking standards have been established and the possibility of a variation from the parking requirements of the underlying zoning district (C-1) via the NCD governing ordinance is acknowledged.

The C-1 district requires a minimum of 205 spaces (5 spaces /1000 square foot) for the commercial element of this development proposal (216 if the proposed uses are built as configured). I do not know where in the code the stated 15% reduction for mixed use development is located. The petition proposes 227 parking spaces. This is a ratio of 5.55 spaces per 1000 square feet, so the minimum code requirement is easily met. **This is a very high parking ratio. It is well above that generally available in Olde Town, Ballwin and Central Plazas and Target. Those lots are not even full on the Saturday afternoon before Christmas. I recommend that the 27 optional spaces not be built. This would reduce the ratio to 5 spaces /1000 sq. ft. I believe that this is still higher than is needed, but at least is it not exceeding the current code requirement. Should the additional spaces be needed in the future, they could be built at that time. In the mean time this area could be used as green space.**

The 125 unit multiple family residential development requires 188 spaces based on a 125 unit building (1.5 spaces /unit). The petitioner proposes 84 units for an independent living arrangement. **The petitioner is therefore requesting that the parking requirements for the residential component of this development be reduced by 104 spaces. I recommend 125 spaces be required for an independent living development. It is still a reduction from the code requirement, but it provides one space per dwelling. Should a facility offering a higher level of care be developed, the parking requirement can be reduced as is appropriate for the kind of facility proposed.**

*Section 5 (1):* On-street parking is recommended where traffic patterns permit. **On-street parking is not viable for Clayton Rd. or Henry Ave. due to the nature of those roadways. I recommend that on-street parking be provided on the interior roadway adjacent to buildings B, C and A. It may be necessary to widen the roadway slightly to accommodate commercial vehicles. Not only would such parking be in keeping with the desired neighborhood retail character of the development, but it would do double duty as a traffic calming feature for potential cut-through traffic.**

*Section 5 (2):* No waiver of ADA standards is allowed. There appears to be sufficient accessible parking spaces on the proposed parking lot.

*Section 5 (3):* This subsection specifies that the provided parking spaces be concentrated in a central landscaped area that is buffered from view from rights-of-way and adjoining properties. This design requirement appears to have been met.

*Section 5 (4):* Perimeter landscaped buffers and curbed planting islands are required by this subsection. This requirement appears to have been met.

*Subsection 5 (5):* This subsection established two parking area buffer screening designs that can be utilized to screen adjoining rights-of-way, public lands or adjacent properties from NCD districts. The first choice requires a 12' deep landscaped strip with 2" caliper

deciduous trees and/or 6' evergreen trees on 50' centers with three 5 gallon shrubs per tree or a 5' deep landscaped strip with a metal ornamental fence or masonry wall supplemented with clusters of shrubs on 30' centers or a continuous hedge with 2" caliper trees every 50'. **The plantings along the rights-of-way do not meet either standard. The tree spacing appears to be less than the minimum standard, but there are no shrubs or other low growing plantings. The right-of-way landscaping plan does not meet code requirements.**

The recommended landscaping approaches may be suitable for screening to rights-of-way and public lands, and perhaps screening to some classes of adjoining properties in some circumstances. They are not, in my view, suitable for screening to adjoining residential properties in this circumstance. **The petitioner has proposed to zone and develop approximately four acres of this site commercially rather than residentially as recommended by the plan. This will bring commercial uses and activities much closer to adjoining single family residential housing than the comprehensive plan had recommended. In order to consider allowing such variation from the plan, Ballwin needs to be satisfied that the integrity of the adjoining residential neighborhood will be protected from such an encroachment of commercial uses. Without a higher buffering standard to protect these residential areas, it is difficult to see how the deviation from the recommendations the plan can be justified. I have several recommendations relative to this buffer area:**

1. **In the original site plan review I recommended that the buffer zone be no less than 40' deep along the entire west and south property lines. This is where the site directly abuts existing single family development or zoning. The petitioner has responded with a plan that meets the 40' recommendation everywhere except next to building D. At this location the buffer is only 25' deep. Unfortunately this is one of the places where the adjoining single family residences are the closest to the property line and additional buffering is the most important. The petitioner has been unwilling to expand the buffer in this location.**

2. **Since no existing trees are proposed to be preserved around the perimeter of the site, I recommended that a continuous 4 foot tall berm be placed in this 40' buffer with side slopes of between 4:1 and 5:1. This was to provide additional screening enhancement to the adjoining residential properties. With the exception of an approximately 1' tall berm adjacent to the lake, no berm has been provided anywhere within the buffer zone. The petitioner maintains that the topography makes installing a berm difficult. There may be a topographic issues that make a tall berm difficult adjacent to building D, but I am not convinced that a berm of some sort is not possible on the rest of site, especially where the areas adjacent to the landscaped buffer are not developed. I still recommend a berm in these areas.**

3. **A six foot tall solid fence with a 2' lattice topper was recommended for inclusion within the buffer and at the apex of the berm. A fence is shown at the highest point within the buffer zone, but it is only 6' tall. This is even more important if a berm is not required.**

4. **Given the proposal to develop a significant portion of this property in a use and manner that is not consistent with the recommendations of the comprehensive plan,**



and with the close proximity of residential development and zoning on the adjoining residential properties, I recommended that there be no waiver of the 100% screening requirement to a height of 6' above the ground of the underlying C-1 district regulations. Subject to the revised site plan accompanying this report, I have not changed my judgment on this recommendation.

The landscaping plan appears to fall short of providing this level of screening. I do not believe that the proposed plantings at the indicated spacings will provide a 100% screening to a height of 6' at the time of planting. It will be several years before the plantings grow to the point of providing this level of screening. The closeness of the plantings suggested by the landscaping plan is misleading. The indicated 6' – 7' tall evergreens will not have anywhere near the 15'- 18' diameter girth indicated by the planting plan. The plan shows the plantings closer to their mature size rather than the size they will be when planted. Substantially more plantings on a closer spacing will be necessary to provide the required screening. I recommend that the governing ordinance specifically state this screening requirement and that it also specifically address the petitioner's responsibility to maintain of all landscaping areas and materials on both sides of the fence as long as it owns the site and/or operates the store.

*Section 5 (6):* This subsection requires a minimum planting effort in parking lots. This standard has been exceeded in the submitted plans.

*Section 5 (7):* This subsection requires all planting areas within or adjacent to the parking lot to be irrigated. The landscaping plan has a note that an irrigation system is required.

*Section 5 (8):* A vertical concrete curb is required for all parking lot islands and landscaped areas. The petitioner has indicated that this ordinance requirement will be met.

*Section 5 (9):* This subsection requires tree plantings to be consistent with Ballwin standards for street tree plantings. The submitted plans include some trees that are not on the street tree approval list. This is a minor point that can be adjusted in conjunction with the final landscaping plans.

*Section 5 (10):* This subsection limits surface parking lots abutting rights-of-way for not more than 50% of a site's roadway frontage. This site appears to meet this requirement. Of the approximately 2850 feet of roadway frontage of this site only approximately 875 feet (30%) are fronted by parking lots.

*Section 5 (11):* Parking lots shall have no more that 20 consecutive parking spaces without an intervening landscaped area. The submitted plan meets this requirement.

This subsection also requires that large parking lots be subdivided into subareas of not more that 100 parking spaces and that the subareas be separated by a landscaped area of at least 15' in width and meeting the planting requirements of subsection 5a which is a 2" caliper deciduous tree or one 6' evergreen tree and three 5 gallon size shrubs on 50' centers. The submitted plan appears to meet this requirement.

**Section 6, Setbacks:** This section establishes **maximum** building setbacks from the right-of-way. **The intent is to orient the building to the roadway and avoid the traditional strip commercial site design with a large open parking lot in the front yard separating the structure from the right-of-way. This submittal has attempted to address this site design guideline for building siting.**

*Section 6 (1):* This subsection recommends placing structures at a maximum setback of 10' from the right-of-way line. **Buildings B and C appear to meet this requirement. They are set 10' from the proposed internal private roadway connecting Clayton Rd. to Henry Ave. As long as the roadway is in an established right-of-way, even a private one, this would apply.**

*Section 6 (2):* This subsection allows for structures to be set back more than the 10' required in subsection 1 for infill sites. The larger setback is allowed to be equal to the average setback of the adjacent uses up to a maximum of 30'. The adjoining uses in this situation are residential. The houses on the surrounding properties have setbacks of between 35' and 50' so the 30' maximum provided in this subsection would apply. Buildings D and E are each set back 30 feet from their respective roadways and therefore meet this requirement.

**I do not believe that it is the intent of this section to preclude the placement of buildings anywhere other than immediately adjacent to rights-of-way, as long as the overall site design meets the intent of this zoning district which is clearly to create a pleasant pedestrian oriented neighborhood shopping district. If this cannot be achieved with buildings directly adjacent to the roadway due to the traffic volumes and nature of those roadways, this ambiance needs to be created internally to the site. If this character cannot be created then perhaps this zoning petition is not appropriate for this site.**

**Building A is set back approximately 85 feet from both Henry Ave. and Clayton Rd., so the placement of building A fails to meet the specific setback requirement of the code. A moderate effort has been made to integrate building A into the pedestrian circulation system of the site and thus enhance the neighborhood shopping district ambience that the NCD is attempting to establish. This site still has design elements of a vehicle oriented retail development with a large front yard parking lot and the primary building set at a considerable distance from the roadway. I guess this makes this site transitional between pedestrian oriented and vehicle oriented.**

*Section 6 (3):* This subsection requires that buildings have an identifiable path of entry from the street or adjoining sidewalk. **This needs to be enhanced somewhat for the residential building but has been addressed fairly well for the commercial buildings. I recommend that a sidewalk also be built along the eastern side of the internal roadway from Clayton Rd. to Henry Ave. to facilitate the access.**

*Section 6 (4):* This subsection requires buildings that are set back from the street to have a strong pedestrian connection to the street sidewalk to promote connectivity to the existing pedestrian network. **In the case of this petition, this subsection is closely tied to the previous section. If the recommendations of that section are met, the requirements of this section will also be met.**

**Section 7, Pedestrian Access:** This section requires a well developed pedestrian access plan that is an integral part of the design of the NCD, ties to the pedestrian circulation system serving the adjoining roadways and neighborhoods, provides safe and convenient access to parking areas throughout the development and connects with abutting properties, surrounding neighborhoods, roadways, developments and transit facilities.

*Section 7 (1):* This subsection requires five foot wide sidewalks along all sides of a parking lot that abut streets and major internal driveways and a similar sidewalk shall be provided from the public sidewalks to the principal customer entrance(s). **I believe that this requirement has been substantially met if a sidewalk is built along the east side of the internal roadway.**

*Section 7 (2):* This subsection expands on subsection 1 by requiring that building facades featuring customer entrances or facing roadways and parking lots shall provide a 12' sidewalk. **This has been met or exceeded as is appropriate for the proposed tenants for all of the proposed commercial buildings. It is recommended that the sidewalk on the east side of building C be widened to 12' per this section.**

*Section 7 (3):* This subsection stipulates design criteria such as pavement markings, traffic calming, lighting, etc. to minimize pedestrian and vehicle interaction hazards. The nature of the **pavement markings has not been indicated on the submitted plans. It is recommended that all pedestrian crossing areas be enhanced with special pavement markings, signage, sidewalk illumination and related improvements to facilitate safety and to minimize pedestrian / vehicle issues.**

*Section 7 (4):* This subsection requires landscaping areas, benches, fountains, artwork, shade structures, pavement enhancements, tables and chairs, illumination and similar amenities to enhance the pedestrian ways. Landscaping has been included, but none of the other suggested amenities are shown on the plan. **I recommend that these types of improvements be added throughout the site along the pedestrian circulation system.**

**Section 8, Use Limitations:** This section outlines special use limitations related to certain specific possible land uses within a NCD.

*Section 8 (1):* This subsection requires that unless specifically provided in the NCD Governing Ordinance, no outdoor display, storage or sales of merchandise, fixtures, vehicles or materials are allowed in the NCD. This does not include temporary sales during business operating hours, such as sidewalk sales, under certain circumstances. **No specific request or indication has been received from the petitioner that it intends to allow or conduct any such outdoor activity.**

*Section 8 (2):* This subsection allows uses permitted by SUE in the underlying district pursuant to the NCD process. The uses intended to be allowed in this development were discussed in Section 2 of this report.

*Section 8 (3):* This subsection contains regulations governing drive through facilities.

*Section 8 (3) (a):* This subsection requires queuing room for 15 vehicles in drive

through facilities without blocking or congesting rights-of-way or driveway areas and an escape lane must be provided. All three drive through facilities proposed for this development appear to meet this requirement.

*Section 8 (3) (b):* This subsection mandates specific setbacks for order boxes associated with drive through windows relative to nearby residential uses. All three proposed drive through facilities appear to comply with these requirements.

*Section 8 (3) (c):* This subsection establishes minimum screening requirements for drive through facilities near residential uses. The only drive through window near a residential use is the one for the bank in building D. This window is actually on the opposite side of the building from the residential use, so the impact is mitigated, but the queuing is on the residential side. This is also a perimeter buffer for the district. There is a substantial buffering recommendation outlined elsewhere in the report. If that recommendation is met, the screening requirement in this subsection will also be met.

*Section 8 (3) (d):* This subsection requires the submittal of a traffic study outlining the traffic impacts of the drive through windows. This submission may be waived by the Director of Planning. Given the design and location of the proposed drive through facilities, I did not require a traffic study. There is little likelihood that these facilities could impact the adjoining rights-of-way.

*Section 8 (4):* This subsection contains regulations governing car wash facilities. There are no car wash facilities shown on this site development plan so this section does not apply to this review.

## **Section 9, Architectural and Site Design Standards:**

*Section 9 (1):* The exterior walls of the planned buildings are proposed to be of brick, stone and stucco-like materials which is consistent with the requirements of this subsection. **No information has been provided about the architecture of the residential building. The governing ordinance should require that its architecture blend thematically with the architecture of the commercial buildings and meet all requirements of the NCD regulations .**

*Section 9 (2):* This subsection prohibits blank street level walls. **Buildings B, C and D have no such walls. I am not sure that the same thing can be said about building A. Although an effort has been made to give some architectural embellishment to the walls of this building, the west and south elevations offers little to say that it is not a blank wall. I recommend that the stone material be added as vertical element as well to tie the roof and base together in a manner similar to that used in the other commercial buildings on this site. I understand the CVS is unwilling to consider such architectural elements on its building. If this is correct, perhaps CVS is not a suitable occupant in a NCD development.**

*Section 9 (3):* This subsection requires that at least 50% of the ground level wall area of a building shall be devoted to interest creating features such as entrances, awnings, display windows, etc. affording a level of transparency and architectural variety. **The petitioner**

**has made a substantial effort to address this requirement. The rear and side elevations of the commercial buildings all have extensive architectural embellishment in accordance with this subsection.**

*Section 9 (4):* All windows are to include framing architectural elements. **The requirement appears to have been met.**

*Section 9 (5):* This subsection addresses building entrances facing streets and requires recessed doorways with strong design elements consistent with the overall architecture of the buildings. Several architectural forms and treatments are specifically recommended. **The proposed architecture of the commercial buildings appears to meet general requirements of this subsection.**

*Section 9 (6):* This subsection establishes regulations for the screening of rooftop equipment and the protection of entrances and pedestrian areas of the building facade from the weather. **There is no indication on the site plan or the architectural elevations drawings as to the location of the mechanical equipment. The petitioner has stated verbally that it is roof mounted and hidden by the architectural design. The architectural elevations do not appear to provide any covered weather protection for walkways or entrances as is required by this section. I recommend that the architectural elevations be modified accordingly to provide this required architectural elements.**

*Section 9 (7):* This subsection requires that the characteristics of the buildings and the building's relationship to other structures, site improvements and the site as a whole be consistent with similar issues and characteristics in the surrounding area. The majority of structures in the surrounding area have a single family residential use, so making a large commercial development compatible is a difficult task. **The intent of the NCD is to provide a mixed use development of residential and commercial buildings and uses that offer the ambience of a traditional neighborhood oriented commercial shopping district that is integrated into the fabric of a residential area. The petitioner has taken steps to minimize the bulk and height of the commercial structures through the use of residential scale, architecture and materials. An effort has been made to isolate the incompatible aspects of commercial uses with landscaping and screening. The question then stands as to whether this is sufficient to overcome the fact that the comprehensive plan does not recommend commercial uses on a significant portion of this site.**

*Section 9 (8):* Architectural materials and treatments and the use of screening devices shall be consistent and compatible throughout the site. Generally, the submitted petition appears to meet the ordinance requirements.

*Section 9 (9):* This subsection requires the use of landscaping to enhance building and site design. This has been done. This subsection also requires landscaped areas to be irrigated, and requires the use of native and acclimatized plant species. The submitted landscape plan states that irrigation will be provided and the proposed plantings appear to substantially meet the requirements.

*Section 9 (10):* Screening between NCD and adjoining residential properties is addressed

in this subsection. **As described earlier in this report, I recommended that the depth of the screening buffer along the west and south sides of this site be increased to 40', that the buffer zone incorporate a significant berm, a 6' solid fence with 2' of lattice on top and that the 100% screening to a height of 6' above the ground that is required in the C-1 underlying district be maintained along these property lines. The buffer is only 25' near building D, although it is 40' elsewhere, no berm of consequence has been provided, the fence is shorter than recommended and the landscaping does not appear to meet the 100% screening requirement. I believe that the additional screening that would be provided by the berm, the fence, the landscaping and the deep buffer zone are vital on this site because the proposal is to allow a commercial use to intrude into a residential neighborhood in contradiction of the recommendations of the comprehensive plan. The fact that the plan does not recommend a portion of this site for commercial use puts a review of the site plan and the rezoning petition into a different category with higher development standards than a site plan and rezoning proposal for a site that was recommended for commercial development.**

*Section 9 (11):* This subsection establishes screening standards for rooftop and ground-mounted equipment and fixtures. The A/C equipment will be roof mounted and will be screened in accordance with this section.

*Section 9 (12):* This subsection states that loading docks, trash enclosures, outdoor storage and sales areas and similar facilities and functions shall be incorporated into the overall design of the building and site, shall be located near the service entrances of buildings and shall be 100% screened with vegetation or structures in a manner that is architecturally compatible with the development. Trash storage and disposal facilities that can be seen from adjoining rights-of-way or residentially zoned or used properties and structures shall be screened 100% from view. The trash receptacles all appear to be within structural enclosures that are enhanced with landscaping. **No information is provided as to the architecture of the enclosures, so I cannot determine if the screening meets the 100% requirement.**

## **Section 10, Urban Design Elements:**

*Section 10 (1):* This subsection state that edges (natural such as waterways and ridgelines and man-made such as roadways, fences and property lines) signaling and defining the transitions between adjoining land uses, landmarks and public art shall be used to help define a sense of place for commercial projects, functions and uses within and between developments. **This section is about the treatment of the areas of transition between uses and how those can be used to make noncompatible uses more compatible. The ordinance recognizes that a Neighborhood Commercial District is by its nature sitting in close proximity or even abutting residential and other noncompatible land uses. The edges are seen as critical to softening the transition and assisting the compatibility of the adjoining uses. This is one basis for recommending a significant landscaped buffer to the rear and side yards of the adjoining single family residential properties. The enhanced distance and landscaping are needed to soften the transition and ease the commercial use into this primarily residential neighborhood.**

Similarly, the front yard areas between the building and the parking lot and the rights-of-way need to be properly treated to ease the commercial and multiple family uses into the high visibility portions of the neighborhood. Subject to the recommendations for the issues identified in this report that impinge on these areas, I believe that this front yard transition has been addressed.

*Section 10 (2):* This subsection addresses streetscape amenities such as public art, gateways, benches, surface texture/color, kiosks etc. The primary thrust of this section is in relationship to downtown types of streetscapes. One might therefore assume that they are not applicable to this development, but some are. **The issue of surface texture and color applies to crosswalks. So too do things like kiosks and benches which should be utilized throughout the NCD development but are not addressed in the submitted plans.**

*Section 10 (3):* This subsection requires the use of landmark features, such as large scale public art, gateways or other significant architectural or landscaping at highly visible locations such as courtyards and development entrances. **The petitioner proposes the placement of a monumental scale artwork at the intersection of Henry Ave. and Clayton Rd. This is highly desirable. It addresses the issue of defining this “gateway” which is identified on the future Land Use Map of the Comprehensive Community Plan. This will mark this entrance point in the City of Ballwin.**

*Section 10 (4):* This subsection recommends the clustering and stacking of uses in a mixed use building as an alternative to one story and strip-type development. The language of this section appears to be of a recommending nature rather than directorial. **This is a mixed use development proposal, but it proposes a horizontal mix of uses rather than the preferred vertical mix. The commercial elements of this development are grouped together and are not intermingled as would be expected in a true mixed use development. True mixed use developments are very rare things in suburban St. Louis County.**

*Section 10 (5):* This subsection recommends the utilization of outdoor dining and display during operation hours. **There is nothing in this development proposal that would prohibit such uses, and outdoor eating areas are clearly anticipated by the proposal.**

## **ENGINEERING AND PLANNING ISSUES:**

**Traffic Impact study:** As of the date of this report no traffic impact study has been submitted for review. A scoping meeting was held on April 20, 2009 with representatives from MoDOT, St. Louis County Dept. of Highways and Transportation, Ballwin, the petitioner and the traffic engineer. The submission of the study had been promised prior to the report, but was not delivered as promised by the petitioner. Since Clayton Rd. is under the jurisdiction of the state, I have deferred any active involvement in the study to its expertise. I have expressed concerns about the distance of the centerline offset of the proposed Henry Ave. curb cut and the opposing Clayton Corners Dr. Curb cut. That will presumably be addressed in the study. MoDOT expressed reservations about the locations of the Clayton Rd. curb cuts, their proximity and the need for more than one. Additionally,

there were serious reservations about the depth of the throats of these curb cuts. **Making the throats deeper could potentially have significant impact on the design of the site's circulation plan. If the plan is not submitted in time for a thorough review of its recommendations by the date of the hearing, I recommend that the petition be held over to a future meeting for further review.**

**Stormwater:** The submitted drawings show that a conventional above ground stormwater detention and water quality system is proposed. The system must comply with MSD standards for such facilities. Since MSD standards are more extensive than are Ballwin's, it is recommended that Ballwin defer review to that agency. No final site plan approval or commencement of construction can be given until MSD has approved construction plans. As a part of the final plan review, Ballwin will assure itself that the stormwater collection and detention system meets Ballwin's standards. Ballwin's standards are more applicable to small developments that fall below the MSD threshold. **It is, however, recommended that the petitioner consider utilizing pervious asphalt pavement in the parking lot design. The use of this best practice might even be economically advantageous. Pervious pavement would eliminate the water quality control structure and most inlet and pipe structures. Additionally, the use of pervious pavement would exempt the development from most of its stormwater runoff surcharge tax. It should be noted that a small rain garden is proposed for the large island in the parking lot. This is another best practice for stormwater collection and water quality improvement.**

#### **COMPREHENSIVE PLAN ISSUES:**

The recommendations of the comprehensive plan relative to Neighborhood Commercial Development are on pages 8:25 – 8:26. The first paragraph describes the NCD development as being small-scale, mixed use and pedestrian oriented. It should include places to live, eat, shop and obtain personal services. The NCD should encourage small, low-impact, boutique-style developments that blend with the adjoining residential uses. **The proposed development approaches many and meets some of these criteria. The issues have been discussed throughout the petition review report and I will not recap them here.**

The second paragraph of this section describes the characteristics that the NCD overlay zoning district should include when it is drafted and adopted to meet the intent of the comprehensive plan for neighborhood commercial development. This section of the plan is not applicable to a site development plan review. It is only applicable to the creation of the ordinance.

The subsequent paragraphs identify specific sites within the City that are suitable for NCD development, and discuss the aspects of these sites that make them suitable for this development pattern. The southwest corner of the intersection of Clayton Rd. and Henry Ave. is one such site. The plan identifies the traffic volume on Clayton Rd, the proximity of Highway 141, the mixed use development at the intersection of Woods Mill Rd. and Clayton Rd. and the nature of the surrounding land uses as factors in supporting this kind of development. **The plan warns, however, that neighborhood commercial development needs to carefully regard grading, site design and give consideration to the surrounding single family developments as part of a commercial development.**



**The Future Land Use and Transportation map on page 8:29 recommends Neighborhood Commercial zoning (NCD) for the property known as 785 Henry Ave. This is the approximately 4 acre parcel the lies at the intersection of Clayton Rd. and Henry Ave. The balance of this site (approximately 7.5 acres) is recommended for Neighborhood Residential development. The recommendations of the Future Land Use and Transportation map do not agree or coincide with the zoning requested per this petition and petition Z09-3 or the proposed distribution of land uses associated with these petitions. This departure from the recommendations of the 2007 Comprehensive Community plan has been discussed throughout this report and the report for petition Z09-3.**

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