

ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

Petition Number: Z13-07

Petitioner: Mr. Daniel Thies
Clayton Henry LLC
16650 Chesterfield Grove
Chesterfield, MO 63005
636-537-9700

Agent: None

Project Name: Ballwin Grove Site Plan Amendment

Location: 14450 Clayton Rd.

Petition Date: 5/25/13

Review Date: 5/29/13

Requested Action: NCD Governing Ordinance Amendment
(Site Development Plan Change)

Code Section: Zoning Ordinance Articles IX, XXIIIF, XIV
and XIII

Existing Land Use/Zoning: Retail / C-1 and NCD

Surrounding Land Use/Zoning: West - Single Family / R-2 (County)
South – Single Family / R-2 (County)
East - Single Family / PSD
North – Commercial / C-1 and NCD

Plan Designation: Neighborhood Commercial &
Neighborhood Residential

Proposal Description:

The Clayton Henry, LLC is requesting an amendment to ordinance 09-20 which granted a Neighborhood Commercial Overlay district with an associated site development plan for the approximately 11.64 acre property at the southwest corner of Clayton Rd. and

Henry Ave. The ordinance approved the development of approximately 40,000 square feet of commercial floor area including the CVS pharmacy and the associated Ballwin Grove Plaza and authorized the retention of an approximately 4.5 acre parcel fronting on Henry Ave in the southern part of the site for the future development of an independent care / assisted living residential facility. The site was ultimately developed as authorized.

This petition proposes to amend the site development plan of Ballwin Grove Plaza portion of the site to allow the construction of permanent architectural covers over the patio eating areas associated with the Circle 7 Ranch and Mia Sorella restaurants. The size of the patios will not be increased in area nor will the amount of seating in each restaurant be increased.

PLANNING AND PLAN REVIEW CONSIDERATIONS:

This review report covers issues of a petition to amend the NCD overlay zoning district approved per Ordinance 09-20.

This petition had been submitted with the C-1 district in place as the underlying zoning under an existing MRD overlay. The site development plan amendments are proposed to work with this zoning paradigm. The review of the amended site development plan for compliance with the C-1 district, the SUE regulations and the MRD is necessary. The nature of the MRD is such that it must be considered jointly with the regulations of the underlying zoning regulations and districts. The MRD can amend the provisions of the underlying zoning district such that only the passage of the MRD Governing Ordinance will be necessary to approve the site development plan.

C-1 DISTRICT REGULATIONS:

This proposal entails a minor amendment to the site development plan for the Ballwin Grove Plaza portion of the site approved by ordinance 09-20. The MRD (Manchester Road Revitalization District) overlay theoretically allows more flexibility in site development than does the C-1 district, but it may simultaneously impose more stringent or extensive site development regulations depending upon the intended land uses. The MRD regulations may supersede or amend the requirements of the C-1 district. Any regulation not superseded or amended will still apply. The C-1 district regulations are as follows:

1. Article IX, Section 2 identifies a list of uses that are allowed by right in the C-1 district. Article XIV of the zoning ordinance establishes additional uses that are allowed by special use exception in the C-1 district. No changes to the uses allowed by ordinance 09-20 are proposed as a part of this petition.
2. Article IX, Section 3 limits the height of structures to a maximum of 45 feet. The height limit will not be amended by this petition.

3. Article IX, Section 4. (1)(i) requires buildings fronting on Manchester Rd. to have a minimum setback of 60' and buildings on other public roadways to have a minimum setback of 40'. No changes to any building setbacks are part of this petition.
4. Article IX, Section 4. (1)(ii) only applies to properties fronting on the south side of Orchard Lane and does not apply to this petition.
5. Article IX, Section 4. (1)(iii) is permissive and allows the developer of properties fronting on Manchester Rd. to have smaller front yard setbacks in certain circumstances. This subsection does not apply to this petition.
6. Article IX, Section 4. (1)(iv) requires the provision of a 10' deep landscaped area along all roadway frontages of the site. The proposed plan amendment does not involve any changes to the landscaping plan approved via ordinance 09-20.
7. Article IX, Section 4. (2) requires landscaped "side" yards of 25' depth where commercial sites abut residential uses or residential or recreational zoning classifications in a side yard configuration. This requirement does not apply to this petition.
8. Article IX, Section 4. (3)(i) requires a 25' deep landscaped "rear" yard area where the site abuts residential uses in a rear yard configuration. The landscaping in this area is to provide 100% visual screening to a height of 6'. This requirement does not apply to this petition.
9. Article IX, Sections 4. (3) (ii, iii and iv) and (4) do not apply to this petition.
10. Article IX, Section 5. (1) requires the provision of parking in accordance with the provisions of Article XV. **There will be no increase in seating at the restaurants, so there will be no increase in the parking demand in the development.**
11. Article IX, Section 5(2) allows a parking reduction in exchange for more landscaping on sites in excess of 100,000 square feet of floor area. This subsection is not applicable to this petition.
12. Article IX, Section 6 requires the submission of the site development plan to MoDOT for its review. Since Clayton Rd. is no longer under MoDOT's authority and no changes to the curb cuts are involved with this petition, this subsection is not applicable to this petition.
13. Article IX, Section 7(1) requires that the minimum spacing of curb cuts be 500' between centerlines. No change to the curb cut plan approved via ordinance 09-20 is proposed as a part of this petition.
14. Article IX, Section 7(2) requires the construction of a 6' wide sidewalk along Manchester Rd. This subsection does not apply to this petition.
15. Article IX, Section 7(3) requires that a cross access, driveway/parking lot vehicular interconnection easement be established for the benefit of the adjoining properties.

This issue was addressed per ordinance 09-20. No changes to that element of the approved plan are proposed as a part of this petition.

SUE Regulations (Article XIV):

1. Sec.1 Special use exception uses: no changes to the proposed uses allowed in ordinance 09-20 are proposed in this petition.

2. Sec. 2(1) *Minimum Yard Requirements*: The minimum yard requirements of the C-1 District were met or exceeded by the site development plan approved per ordinance 09-20.

3. Sec. 2(2) *Site Illumination*: No change to the site illumination approved in ordinance 09-20 is proposed as a part of this petition.

3. Sec. 2(3) *Greenery and Planting*: The landscaping approved in ordinance 09-20 and amended in ordinance 13-15 is proposed to be utilized in this petition with no change.

4. Sec. 2(4) *Fencing*: This issue does not appear to apply to this amendment petition.

5. Sec 2(5) *Parking*: Since there will be no increase in floor area or seating for the restaurants there will be no need to change the amount of parking provided on the site.

6. Sec. 2(6) *Pavement*: No changes to the pavement are proposed as a part of this petition so no pavement information is needed with this petition.

7. Sec 2(7) *Storm water runoff control*: The proposed addition of roofs over existing pavement will not change the storm water runoff characteristics of the site. No changes to the storm water detention or water quality elements of the site are required for this petition.

8. Sec. 2(8) *Loading docks and facilities*: No new loading docks or changes to existing facilities are proposed in the amended plan.

9. Sec. 2(9) *Ingress and Egress*: No changes to the site access from the adjoining public roadways are proposed with this plan amendment.

10. Sec. 2 (10) *Adequate area for the use*: Nothing in this petition appears to suggest that there is not sufficient room on the site for the intended use.

11. Sec. 2(11) *Dead storage, dismantling and repair of automobiles*: This is regulated by on-going enforcement activities on a case by case basis as needed and is not an issue for this petition.

12. Sec. 2(12) *Rubbish and trash disposal and screening*: No changes to the

trash disposal facilities are proposed as a part of this petition.

13. Sec 4(6)(1) *Increase traffic hazards*: No changes to the traffic generation are expected as a result of roofing over the existing patio areas of the site since there will be no increase in floor area or seating.

14. Sec 4(6)(2) *Neighborhood character impact*: No impact to the character of the neighborhood is expected from this minor change to the site plan.

15. Sec. 4(6)(3) *Community general welfare impact*: No impact to the general welfare of the community is expected from the changes proposed in this petition.

16. Sec. 4(6)(4) *Overtax public utilities*: I see no basis to assess any overtaxing of public utilities.

17. Sec. 4 (6)(5) *Adverse impacts on public health and safety*: I see very little basis to support the position that this change would have an adverse impact of public health and safety.

18. Sec. 4(6)(6) *Consistent with good planning practice*: Nothing in the petition is inconsistent with other similarly situated developments in Ballwin that have been considered consistent with good planning as it is practiced in Ballwin.

19. Sec. 4(6)(7) *Operated in a manner that is compatible with permitted uses in the district*: I do not see how this facility would be incompatible with permitted uses in the district.

20. Sec. 4(6)(8) *Operated in a manner that is visually compatible with the permitted uses in the surrounding area*. I do not see how this facility would be incompatible with permitted uses in the surrounding area.

NCD DISTRICT REGULATIONS (Article XIIF):

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 amend or waive the development provisions of the underlying zoning district and the subdivision ordinance, if applicable, or allow a multiple family use in conjunction with a mixed use commercial development, but it does not otherwise bring new uses to the property. The uses allowed in the underlying zoning district and the applicable special use exception (SUE) regulations are therefore critical and limiting to the NCD district. The underlying zoning district to the Ballwin Grove development is the C-1 district. 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 that are not superseded or waived will still apply.

Section 1, Purpose: This section describes the purpose of the NCD district, which is

to "... enhance the continuity of economic success of designated commercial nodes that are outside of the Manchester Rd. corridor by encouraging and promoting well-planned, neighborhood-oriented, market sensitive commercial and mixed use development scenarios. All development shall be compatible with the character of the surrounding neighborhood and adjoining land uses and consistent with the general goals and recommendations of the City's comprehensive plan".

Section 1 (1) addresses issues of building scale and the intensity/congestion of the use being consistent or blending with neighboring residential areas. **The proposed patio roof structures are designed to be consistent with the architecture of the existing plaza building including the use of timbers and stone to match that used on the main building. The additions are in scale and form with the existing building.**

Section 1 (2) encourages neighborhood oriented commercial development. **No changes to the orientation of the buildings, the uses or the site as a whole are proposed as a part of this petition.**

Section 1 (3) emphasizes low impact development that respects human scale and the proximity of residential land uses. In the original approved site plan the petitioner made an attempt to address the issue of blending this development with the surrounding residential neighborhoods with a design and character that attempts to minimize the impact on the community, ties into the circulation and land use patterns of the neighborhood and addresses the goal of a low impact development. The extensive perimeter landscaping of the Ballwin Grove development will not be changed. **The focus of the change will be in the rear of the main building over the existing patio eating areas associated with the Circle 7 Ranch and Mia Sorella restaurants.**

Section 1 (4) encourages development that will strengthen the ability of neighborhood-serving businesses to compete in the changing economic environment. **The improvements may allow the restaurants to be open through poor weather conditions and perhaps earlier and later in the season. This could be viewed as an enhancement for the competitiveness of these businesses.**

Section 2, Permitted Uses: This section addresses permitted uses. No changes to the uses permitted in ordinance 09-20 are proposed as a part of this petition.

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 through the passage of a governing ordinance. 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.

No relief to the underlying regulations that was not originally granted per ordinance 09-20 is being sought per this petition.

Section 4, Height Regulations: No changes to height of the buildings are proposed as a part of the petition.

Section 5, Parking and Loading Regulations: No changes to the parking or loading facilities already approved for this site are being sought per this petition. As stated elsewhere in this report, there will be no increase in floor area or seating in these restaurants that would require an increase in parking under the requirements of the Ballwin Zoning regulations.

Section 5 (1): On-street parking is recommended where traffic patterns permit. This subsection is not applicable to this petition.

Section 5 (2): No waiver of ADA standards is allowed. A parking lot of 165 spaces is required to have 5 accessible parking spaces. The current lot has 5 such spaces, so no additional accessible spaces will be required.

Section 5 (3): This subsection specifies that the provided parking spaces shall be concentrated in areas that are landscaped and buffered from view from rights-of-way and adjoining properties. This design requirement was addressed in the landscaping treatment of the original Ballwin Grove landscape plan per ordinance 09-20 and **no changes to the landscaping plan are proposed as a part of this petition.**

Section 5 (4): Perimeter landscaped buffers and curbed planting islands are required by this subsection. **No changes to the landscaping plan approved per ordinance 09-20 and amended per ordinance 13-15 are proposed as a part of this petition.**

Subsection 5 (5): This subsection addresses parking lot screening designs for developments. No changes to the approved landscape buffer zones adjacent to the parking lots are proposed as a part of this petition.

Section 5 (6): This subsection requires a minimum planting effort in parking lots of 1 tree for every 10 spaces. No changes to the approved landscape buffer zones adjacent to the parking lots are proposed as a part of this petition.

Section 5 (7): This subsection requires all planting areas within or adjacent to the parking lot to be irrigated. No changes to the approved landscape plan are proposed as a part of this petition.

Section 5 (8): A vertical concrete curb is required for all parking lot islands and landscaped areas that are not adjacent to rain gardens. No changes to the approved landscape plans are proposed as a part of this petition.

Section 5 (9): This subsection requires tree plantings to be consistent with Ballwin standards for street tree plantings. No changes to the approved landscape plans are proposed as a part of this petition.

Section 5 (10): This subsection prohibits surface parking lots from abutting rights-of-way for more than 50% of a site's roadway frontage without appropriate landscaping buffers. This aspect of the site development plan has not been amended by this petition.

Section 5 (11): Parking lots shall have no more than 20 consecutive parking spaces without an intervening landscaped area. This aspect of the site development plan has not been

amended by this petition.

Section 6, Setbacks: This section establishes maximum building setbacks from the right-of-way.

Section 6 (1)-6(2): These subsections recommend placing structures relative to the right-of-way line. No changes to the buildings or their locations are proposed by this petition.

Section 6 (3): This subsection requires that buildings have an identifiable entry and path of entry from the street or adjoining sidewalk. No changes to the buildings, their locations or their access are proposed by this petition.

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. No changes to the buildings, their locations or their access are proposed by this petition.

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). No changes to the buildings, their locations or their access are proposed by this petition.

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. No changes to the building facades featuring entrances or facing parking lots or roadways are proposed as a part of this petition.

Section 7 (3): This subsection stipulates the use of design criteria such as pavement markings, traffic calming, lighting, etc. to minimize pedestrian and vehicle interaction hazards. This petition does not propose any changes to these aspects of the pedestrian circulation plan.

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. This petition does not propose any changes to these aspects of the site development plan.

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. No changes to the plan relative to this subsection are proposed as a part of this petition.

Section 8 (2): This subsection allows uses permitted by SUE in the underlying district pursuant to the NCD process. No changes to the uses permitted per ordinance 09-20 are proposed as a part of this petition.

Section 8 (3): This subsection contains regulations governing drive through facilities. No changes to the drive through facilities approved per ordinance 09-20 are proposed in this petition.

Section 9, Architectural and Site Design Standards:

Section 9(1) - 9(8): No changes to any of the architecture approved per ordinance 09-20 subject to these subsections are proposed as a part of this petition. **This petition will however expand the architecture to include covers over the patios on the lake side of Circle 7 Ranch and Mia Sorella restaurants.**

Section 9 (9): This subsection requires the use of landscaping to enhance building and site design. The landscaping approved per ordinances 09-20 and 13-15 will not be modified as a part of this petition.

Section 9 (10): Screening between commercial and adjoining residential properties was addressed in the original petition and is not part of this proposed plan amendment.

Section 9 (11): This subsection establishes screening standards for rooftop and ground-mounted equipment and fixtures. No changes to the rooftop equipment screening that is already in place are proposed as a part of this plan amendment petition.

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. No changes to these features of the buildings are proposed as a part of this plan amendment petition.

Section 10, Urban Design Elements: These urban design guides are to be considered when reviewing any requested relief from the requirements of the underlying zoning.

Section 10(1): This subsection addresses edges such as waterways, ridgelines, roadways, fences, etc. These site features define transitions between uses. Landmarks such as “public art” are to be used to help “define a sense of place and scale” for commercial uses within and between developments to accentuate and define the edges. No changes to these aspects of the approved site development plan are proposed as a part of this petition.

Section 10(2): This subsection recommends that the streetscape be enhanced with

“lighting, landscaping, and pedestrian amenities such as benches, surface texture/color variations, small spaces, business and information kiosks, art, etc.” No changes to these aspects of the approved site development plan are proposed as a part of this petition.

Section 10(3): This subsection recommends the “utilization of landmark features such as large scale public art, gateways or other significant architectural or landscaping at highly visible locations.” No changes to these aspects of the approved site development plan are proposed as a part of this petition.

Section 10(4 and 5): These subsections are not applicable to this petition.

ENGINEERING AND PLANNING ISSUES:

Traffic Impact: Since this petition does not propose to increase the floor area or the seating of the restaurants, there is no expectation that there will be any traffic impact from the proposed plan changes. **No additional traffic analysis appears to be necessary.**

Stormwater: There will be no impact on stormwater resulting from the proposed plan amendments.

COMPREHENSIVE PLAN ISSUES:

The recommendations of the comprehensive plan relative to Neighborhood Commercial Development are on pages 8:25 – 8:26. All of the comprehensive plan recommendations were incorporated into the POD regulations when they were written and have been covered in the preceding report.

Thomas H. Aiken, AICP
City Planner/Assistant City Administrator