

AN ORDINANCE AMENDING ORDINANCE NO. 4788, THE MUNICIPAL CODE OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, CHAPTER 405, ZONING REGULATIONS, BY CREATING NEW SECTION 405.265; MIXED USE ("MU") OVERLAY DISTRICT, AND ESTABLISHING A DESIGNATED DALE AVENUE MIXED USE OVERLAY DISTRICT.

WHEREAS, on July 16, 2009, the Plan and Zoning Commission considered and unanimously voted to approve Petition No. 2009-04, creation of a mixed use (MU) Overlay District and a designated Dale Avenue Mixed Use Overlay District; and

WHEREAS, Section 405.540.A1 of the Municipal Code of the City of Richmond Heights, Missouri, Article XIII. Amendments and Changes, states the City Council shall have the authority to amend, supplement, change, modify or repeal by ordinance, text and/or map of this Chapter in accordance with the provisions of this section.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, as follows:

SECTION 1. Ordinance No. 4788, "The Recompiled Municipal Code of the City of Richmond Heights, Missouri", Chapter 405, Zoning Regulations is amended herein by adding new SECTION 405.265: MIXED USE ("MU") OVERLAY DISTRICT, and designated a DALE AVENUE MIXED USE OVERLAY DISTRICT as follows:

[SECTION 405.265: MIXED USE ("MU") OVERLAY DISTRICT

DEFINITION: OVERLAY DISTRICTS

Overlay districts are special zones placed "on top" of existing zoning and planning regulations. An overlay district provides specific regulations and/or relief from the City's zoning requirements for a specific area. This approach allows the City to maintain the current zoning ordinance while addressing the special needs of a targeted area. Overlay districts are common zoning tools used to help revitalize downtowns, aging commercial areas or a particular corridor without making extensive amendments to the zoning ordinance.

A. PETITION FOR A MU OVERLAY DISTRICT APPROVAL

A petition for rezoning to a MU Overlay District shall include the following:

1. A fully executed change in zoning petition signed by the property owner(s) identified by the current deed with all required information and accompanying documentation.
2. A copy of the current deed(s) for the property (ies) involved.
3. The legal description(s) of all properties to be encompassed in said district.
4. Evidence of unified ownership or control by the petitioner of all properties encompassed in said petition, if there is more than one owner.
5. Statement of petitioner's experience and background in real estate development and residential or commercial construction.
6. A refundable review fee of \$500.00. Fee is to defray review costs by the City or its consultants. Any portion not used may be refunded or applied to a building permit fee.
7. A preliminary site development plan measuring no more than 24" x 36" and bearing the seal and signature of a licensed professional engineer, surveyor, landscape architect or architect. The site development plan shall include the following information:
 - a) The number, type(s), use, height and dimensions of all proposed buildings.
 - b) Provisions for storm water control and drainage including pre and post development drainage maps (including contributory off-site drainage), detention and clean water facilities including preliminary capacity computations, storm water pollution prevention plan, and other information and documentation as required in the City's Stormwater Ordinance.
 - c) A pre and post development grading plan with topographic intervals at no greater than 2 feet and extending 100' beyond the perimeter of the subject site.
 - d) The number of dwelling units contemplated.
 - e) The total floor area by floor of all buildings.
 - f) Preliminary utility locations.
 - g) The out boundaries, bearings and dimensions of the property described in the legal description with respect to the surrounding community.
 - h) The locations and improvements of all streets and properties complete with dimensions and ownership information within 100' from the perimeter of the site.
 - i) A computation of the total land area in square feet and as a percentage of the entire site used for buildings, roadways, other pavements, recreation, landscape/green space and other major land uses.
 - j) A preliminary architectural elevation showing all sides of all buildings with dimensions, materials, colors, and architectural treatments.
 - k) Locations of all vehicular service entrances, parking areas, loading areas, refuse containers, ground mounted utilities, HVAC, etc.
 - l) Other information as may be reasonably necessary to understand the character, scope and impact of a development proposal.

B. MU Overlay District Petition Review Procedure

Rezoning to the MU Overlay District is initiated by a petition submitted by a person(s) or entity with a valid and demonstrable legal interest in the lots or tracts of land involved with the petition. The procedures for application, review and approval shall be as follows:

1. A petition shall be submitted to the City that consists of the application form available from the City and the required information, documents and submittal information as set forth above in Section A.
2. The petition shall be reviewed for compliance with the minimum submittal requirements and provisions of the applicable ordinances of the City. If the petition is properly submitted and in compliance with the minimum submittal requirements, the City shall advertise the public hearing and place the petition on an upcoming agenda of the Planning and Zoning Commission for consideration.
3. If the petition does not meet the minimum submittal requirements, the City shall notify the petitioner within 30 days of the date of submission of the deficiencies of the petition. The City reserves the right to not process incomplete applications.
4. If the City fails to notify the petitioner that the petition does not meet the minimum submittal requirements within the specified 30 day period, the petition shall be deemed to have been properly submitted and shall be advertised for public hearing and placed on an upcoming agenda of the Planning and Zoning Commission.
5. Initially, only one copy of the petition documents must be submitted. After submission is determined to be in compliance with the minimum submittal requirements, twenty five (25) sets of the folded plans, drawings and other documents on paper not exceeding 24" x 36" must be submitted.
6. The Planning and Zoning Commission shall hold a public hearing for all MU Overlay District rezoning petitions. The procedures and requirements shall be the same as required for changes and amendments to the zoning regulations pursuant to Section 405.580 of the City's Zoning Code.
7. The Planning and Zoning Commission shall review the petition for consistency with the general guidance of the goals, policies and recommendations of the Comprehensive Plan, compliance with the MU Overlay requirements and other applicable zoning code requirements and consider the comments and testimony from the petitioner's presentation, the public hearing, the petition review report and make findings accordingly. The findings should then be submitted, in writing, to the City Council.
8. The petition and the findings of the Planning and Zoning Commission shall be placed on the next available Council agenda for approval.

C. Final MU Overlay Zoning District Approval

The MU Overlay District shall be approved by ordinance by the City Council. The governing ordinance approving the MU Overlay shall approve the site development plan and set forth the permitted use(s), building bulk, setback and density limits and other restrictions or limitations to the uses and requirements of the underlying zoning districts.

The overlay district is intended to set the general development parameters and conditions upon which permits for grading and construction are contingent.

Minor changes and adjustments to the approved site development plan may be made without subsequent Planning and Zoning Commission or Council approval as long as such changes are within the scope of the provisions of the approving ordinance. The City shall be responsible for determining if proposed changes are within said scope or constitute a substantial deviation from the ordinance.

Upon final approval of a fully engineered final site development plan by the City of Richmond Heights and all agencies with jurisdiction over the site, the petitioner shall provide mylar copies for recording and four (4) paper copies and a digital copy on DVD or CD of the final site plan for the City's records.

No building permit shall be issued for any structure in the MU Overlay District that does not conform to the final site development plan and governing ordinance as approved by the City Council.

D. When Underlying Regulations Apply

The governing ordinance shall specify site development regulations. Where the governing ordinance is silent on such matters, the underlying zoning district and development regulations will control.

E. MU Overlay Zoning District Amendment

The owner of any tract of land or project for which a MU Overlay District governing ordinance has been approved by the City Council, who desires to make a change that is a substantial deviation from the ordinance, may petition for a MU ordinance amendment in accordance with the petitioning procedures established for approving the original petition as established in this article.

F. Shared Parking Recommendations

Shared parking is encouraged whenever adjacent uses have varying hours of operation. All requests for shared parking must be included in the MU rezoning petition. The final arrangement and shared parking configuration shall be approved by the Planning and Zoning Commission and City Council. The burden should be placed on the petitioner to demonstrate how the shared parking arrangement will work. Applicants shall submit a shared parking feasibility study to identify the number of shared parking spaces needed and solutions to avoid any major conflict between the operating hours of the uses that share parking. Finally, an agreement, executed by the all parties involved, stating the terms and conditions of the shared parking arrangement shall be provided at the time of the MU Overlay approval.

1. DESIGNATED OVERLAY DISTRICTS AND THEIR SPECIFICS:

DALE AVENUE MIXED USE OVERLAY DISTRICT:

For the purposes of Dale Avenue, the locations of the overlay were centered at roadway intersections (aka nodes) where non-residential uses were already established. The mapped boundaries of the overlay district are shown on the Future Land Use Plan. Please note, the boundaries of overlay districts do not necessarily coincide with other zoning district, parcel lines or right-of-way boundaries.

a. Purpose

The purpose of the Dale Avenue Mixed Use Overlay District (“MU”) is to implement the guidelines established in the 2008 Dale Avenue Future Land Use Plan adopted as part of the City’s Comprehensive Plan. The MU Overlay District promotes development that provides a blend of retail, commercial service, office and residential activities that help preserve and enhance the underutilized or aging commercial or mixed use areas along Dale Avenue.

b. Intent

The intent of the Dale Avenue MU district is to allow the development of land that is consistent with the City’s Comprehensive Plan and to promote the following development objectives:

1. Allow flexibility in the utilization of land use regulations by allowing greater variety and market responsiveness in the site design, the arrangement of site improvements, building locations and land uses. This may include a wavier, approved by the City Council, for any modifications to the underlying district regulations provided the development is consistent with the stated purpose provided in Section a.
2. To provide minimum standards for design that establishes an acceptable level of continuity between existing and proposed development and preserves the scale and character of the buildings, homes and transportation network along Dale Avenue.
3. Promote the installation of pedestrian features and encourage walking and biking as an alternative to vehicular travel.

c. When Required

The Dale Avenue Mixed-Use Overlay District applies to any new use or change in use located in an area identified on the Dale Avenue Future Land Use Map as “Mixed Use Overlay,” with the following exceptions:

1. New additions to legally existing structures provided no waivers or modification to any underlying zoning district or other regulation is needed.
2. The change is not detrimental to the neighboring properties or community, does not materially alter or impact traffic, public improvements, or public financial burdens, and is otherwise consistent with all established City plans, policies and ordinances.

d. Permitted Uses

All uses permitted in the underlying district are permitted within the Dale Avenue “MU” District with the following exceptions;

1. New uses or changes in use of an existing building are permitted, provided the proposed use is permitted in the underlying zoning district and does not otherwise detract from the character of the Dale Avenue corridor.
2. All ground floor uses of a non-residential or mixed-use building must be retail, restaurant or commercial service in nature for 75% of the floor area and 100% of the frontage of the building. All other ground floor uses permitted shall be limited to 25% of the total ground floor area and shall not be located in the front of the building, which includes any building face that fronts a street.
3. Dwellings located above the ground floor shall be permitted by right (i.e. without a conditional use permit), subject to the following:
 - a. There shall be no limit on the maximum number of units other than the limits imposed by the building size or unit size requirements.
 - b. The average dwelling size shall not be less than 900 square feet per unit and no unit shall be less than 750 square feet.

e. Building Bulk Regulations

1. Structure Height: The minimum building height for any non-residential or mixed use structure shall be two (2) stories. No structure shall exceed three (3) stories or 45' whichever is less, unless approved by the Planning Commission.
2. Maximum Site Coverage: There is no maximum site coverage limitation in the "MU" Overlay District; however, each site shall contribute street plantings, street lighting and other pedestrian amenities as approved by the Planning Commission.
3. Maximum Square Footage: New development or expansions to an existing building should not result in a gross floor area over 10,000 square feet.

f. Setbacks

Front: The required front setback is a maximum of 10'. This is intended to provide public space in the form of sidewalks, plaza areas and landscaping between the street and the building. The maximum front yard setback may be modified or waived by the Planning Commission upon approval of the site development plan depicting the proposed setback modifications.

Rear: The minimum rear setback shall be 30'. The setback may be reduced to fifteen (15) feet if a functioning alley is present and provides secondary access.

Side: There are no minimum or maximum side setback requirements, except where a site abuts a residentially zoned property, in which case, the minimum side setback should be the same as required in the underlying zoning district of said abutting residential district.

g. Vehicle and Driveway Access

No additional curb cuts along Dale Avenue should be allowed for lots that are already served by a driveway off Dale Avenue. Lots that front Big Bend or Hanley Road are subject to St. Louis County's access standards. All future development should provide public right-of-way improvements as needed for safe, convenient vehicular and pedestrian accessibility.

h. Off-Street Parking

No off-street parking requirement is required for nonresidential uses, unless the use exceeds 1,000 square feet of gross floor area, in which case off-street parking is required for all uses with a floor area in excess of 1,000 square feet at a ratio of 5 stalls per 1,000 square foot of finished floor area. Additionally, one (1) off-street parking space is required for each residential dwelling unit.

The purpose of exempting certain uses from compliance with the City's existing off-street parking requirements and allowing shared parking (see below) is to incentivize the revitalization of the City's commercial nodal areas along Dale Avenue. Reducing and consolidating parking also helps maintain the areas traditional neighborhood character. The rationale for recommending relief from the City's conventional parking requirements is based on the fact the commercial nodal areas are served by on-street parking and are close to residential neighborhoods, the Heights, MetroLink and other destinations that increase the likelihood people will make more trips on foot or bicycle, thus reducing the demand for off-street parking. To ensure parking blends with the existing character of Dale Avenue, the following parking standards are required for all new uses or changes to an existing use:

1. On-street parking should be utilized where site design and traffic patterns permit.
2. Off-street parking spaces should be located to the rear of the principal building or screened, landscaped and/or buffered to minimize visibility from major rights-of-way, residential units and adjoining properties. All parking structures shall be architecturally compatible with the adjacent buildings.
3. Perimeter landscape buffers and curbed planting islands shall be required for all parking lots with 5 or more spaces.
4. All parking lots shall be screened from public streets and sidewalks, public open spaces, and adjacent properties by complying with one of the following landscaping options, and a two foot car overhang area shall be provided in any planting area adjacent to parking stalls not intended for parallel parking.
 - a) The outside perimeter of all parking areas and drive aisles should include a landscaped area between five (5) to twelve (12) feet in width offering a mixture of deciduous trees, evergreen trees and shrubs.
 - b) A three (3) to five (5) foot wide perimeter-landscaped area with metal ornamental fencing or a masonry wall supplemented with clusters of shrubs or a continuous hedge row interspersed with deciduous or evergreen trees.

5. All planting areas within or adjacent to a parking lot or vehicular use area should include in-ground irrigation.
6. Unless part of a rain garden or similar runoff collection system, all landscaped areas shall be delineated by a vertical concrete curb.
7. The use of low impact development techniques is encouraged. Low Impact Development (LID) includes, but is not limited to the use of permeable pavers, indigenous landscaping, rain gardens, etc.

i. Shared Parking Recommendations

Shared parking is encouraged whenever adjacent uses have varying hours of operation. All requests for shared parking must be included in the MU rezoning petition. The final arrangement and shared parking configuration shall be approved by the Planning and Zoning Commission and City Council. The burden should be placed on the petitioner to demonstrate how the shared parking arrangement will work. Applicants shall submit a shared parking feasibility study to identify the number of shared parking spaces needed and solutions to avoid any major conflict between the operating hours of the uses that share parking. Finally, an agreement, executed by the all parties involved, stating the terms and conditions of the shared parking arrangement shall be provided at the time of the MU Overlay approval.

j. Design Guidelines

The intent of the following architectural design guidelines is to ensure that major alterations to existing structures and the construction of new buildings are compatible with the established design, scale, and general character of Dale Avenue.

1. **Architectural Continuity:** New buildings and additions to existing buildings shall relate to the other buildings on the street in regards to the material and color of the wall and roof; the type and slope of the roof and the proportion of the fenestration (i.e. windows and doors).
2. **Articulation.** Designs should utilize massing offsets and shadow-lines to help articulate or break-up large expanses of unadorned facades. Architectural details used to articulate the structure may include changes in the building plane (offsets), columns, balconies and other three dimensional details that create shadow lines and break up the flat surfaces of the façade
3. **Roof & Eaves:** Roofline offsets and changes in plane should be used to create architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof. The use of eaves, alternating dormers, stepped roofs, gables or other roof elements should be used to add visual relief and physical articulation to the overall façade. Flat-roofed designs should include architectural details such as cornices and decorative eaves to provide interest to the roofline.
4. **Window & Entryway Treatments:** Decorative lintels, sills, glazing, door design, moldings or framing details should be used on windows and entryways located on facades facing or adjacent to public streets to create architectural interest and enhance the pedestrian realm.

- a) Primary building entries should be parallel to the front property line and include a stylized entryway such as a recessed entrance, an extruded entrance, truncated corner entryway or other design that creates an enhanced sense of entry.
 - b) Building frontages and sides of buildings oriented to the street should incorporate a combination of awnings, building-mounted lighting, pedestrian level display windows, storefronts and entrances.
 - c) Upper story windows should be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows.
5. **Building Materials:** The use of external insulating finishing system (“EIFS”), corrugated metal, aluminum siding, and vinyl siding should be limited to accent features only. EIFS and vinyl siding should not be used on the bottom four feet of the building façade or other areas where it could be easily damaged by yard equipment or constant contact by vegetation or pedestrians. The use of highly reflective or glossy materials or coatings should be limited to building accents only.
 6. **Awnings and Canopies:** Non-residential buildings should have an awning or canopy over building entrances that abut a public right-of-way. Awnings emphasize a store or restaurant’s entrance, provides shade and weather protection, adds texture to the streetscape and adds interest and variety to the building façade.
 7. **Height:** Taller buildings should step-down to provide a height transition to existing single story buildings.

k. Outdoor Seating

1. Outdoor seating areas must be accommodated on-site and shall not conflict or otherwise interfere with the operation of neighboring uses. Businesses requesting seating areas located off-site shall file an agreement at City Hall executed by all applicable parties.
2. No live music shall be permitted without a special event permit approved by the City for any outdoor seating area.
3. Clear and unobstructed walkways shall be provided to allow access to all tables within an outdoor seating area during operating hours. All ingress, egress and walkways accessing the tables shall be in compliance with ADA.
4. Use of an outdoor seating area shall not extend past 10 PM, unless specifically authorized by the City.
5. The serving of any alcoholic beverage in an outdoor seating environment shall require a Conditional Use Permit.
6. In addition to the minimum parking stalls required to accommodate the maximum indoor seating capacity, parking shall be provided for the maximum capacity of patrons the outdoor seating area can accommodate.

I. Signs

Mixed use development proposals shall include a sign package illustrating the design, placement and size of all signage. No signage shall obstruct any public right of way, including pedestrian pathways or introduce visual clutter to the streetscape. All signage shall comply with the underlying sign requirements and reinforce the pedestrian scale and character of the Dale Avenue corridor. All signage shall be approved by the Planning Commission.]

SECTION 2. It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

SECTION 3. This Ordinance shall take effect and be in full force on the thirty-first day following its passage and being signed as provided by law.

PASSED and SIGNED this 8th day of September, 2009.

JAMES J. BECK
MAYOR

ATTEST:

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ
CITY ATTORNEY

First reading: August 17, 2009
Second reading: September 8, 2009