

**AN ORDINANCE TO AMEND CHAPTER 19, ARTICLE XIV
MIXED USE DISTRICT OF THE ZONING ORDINANCES
OF THE CITY OF MOUNTAIN BROOK, ALABAMA**

BE IT ORDAINED by the City Council of the City of Mountain Brook as follows:

1. **Amendatory Provision.** Chapter 19, Article XIV is amended as follows:

ARTICLE XIV. Mixed Use District

Section 19-14-1. Purpose and applicability.

- (a) The Mixed Use District is designed to provide building sites and buildings that enhance the pedestrian atmosphere of the Village by specifying how buildings can accommodate a mixture of general use types in a single structure, how they must address the public streetscape, and additional design elements of buildings that are required in order to preserve the existing character of the area. This district is intended for use only in specified areas of the Villages where the benefits that can result from multiple uses in a single structure have been identified in the broader context of a Village Master Plan or to other commercial areas whose design would emulate the village approach to development in terms of scale and design under the City Master plan.

In determining whether the zoning classification of a parcel of land should be changed to a Mixed Use District, the city council may take into consideration such factors as it deems appropriate with respect to such parcel of land and the land adjacent to or near such parcel of land, which factors shall include, but are not limited to:

- (1) The City Master Plan, a Village Master Plan where applicable, or any special area plan and any applicable overlay standards for the area, and the recommendation of the Planning Commission regarding these plans and standards;
- (2) The Design Guidelines of the Village Master Plans and any recommendation of the Design Review Committee regarding these guidelines;
- (3) The then present use of the land and the improvements located thereon, the condition of such improvements;
- (4) The then present use of the adjacent and nearby land and the improvements located thereon and the condition of such improvements;
- (5) The proposed use of the parcel of land, whether new improvements will be constructed, whether existing improvements will be renovated, razed or left in their then present condition;
- (6) The compatibility of the use of the land and its improvements with the use of the adjacent and nearby land and the improvements thereon;
- (7) The compatibility of the proposed use of the land and its improvements with the use of such adjacent and nearby land and improvements; and

- (8) The benefits or detriments to the parcel of land, the adjacent and nearby land and the city which would result from the development of the land in accordance with the proposed development plan, unless approved as a base zoning district of a Planned Unit Development District pursuant to Article XVI of this Chapter.
- (b) Property that was not zoned as a Mixed-Use District as of January 1, 2007 shall not be zoned or rezoned as a Mixed-Use District; provided, however, that the Mixed Use District may be utilized as a base zoning district of a Planned Unit Development District which is located within any Village boundary line or shown on the Building and Development Regulating Plans included in Article XXXI of this Chapter.

Sec. 19-14-2. Permitted uses and building type.

- (a) *Permitted Uses.* The uses permitted in the Mixed Use district shall be as follows:
- (1) The first story may contain any use permitted in the Local Business District, but the uses shall be further specified and limited by a proposed development plan to ensure the long-term compatibility of initial uses and any future uses on the first story, with upper story residential uses.
- (2) Any permitted upper stories shall contain residential uses.
- (b) The building types permitted in the Mixed-Use district shall be as specified in the associated Village Overlay Standards, and according to the Building and Development Regulating Plan of the Village Master Plan, or a similar plan for to other commercial areas whose design would emulate the village approach to development.

Sec. 19-14-3. Area and dimensional requirements.

The maximum allowable density for residential uses in the Mixed-Use district shall be 12 units per net acre per floor. All other lot and building standards shall be as specified in the Village Overlay Standards.

Sec. 19-14-4. Development plan.

- (a) *Preliminary development plan.* A preliminary development plan, containing the following information about the proposed development of a parcel, and the following additional items and information, shall be filed with each application for the change of the zoning classification of a parcel to a Mixed Use District. The following requirements are in addition to, and not in lieu of, any other requirements of the city with respect to an application for the rezoning of a parcel.
- (1) Information on preliminary development plan.
- a. Size, boundary lines, dimensions and street frontage of the parcel;
 - b. The part of the parcel which is to be devoted to each use;
 - c. Parking areas and facilities, including specific information about the size, location, and design of parking area facilities, the number of parking spaces proposed, and means of addressing any special parking concerns or problems that may be presented by the proposed development;
 - d. Means of access to and from the parcel;
 - e. The location and size of any common open space which may be used by some or all of the occupants of the development;

- f. Location and dimensions of service yards;
- g. Location, height, other dimensions and floor area of the buildings;
- h. Sidewalks;
- i. Landscaping;
- j. Exterior lighting;
- k. Storm drainage and storm water detention facilities;
- l. Fire hydrants;
- m. Outside appearance of buildings;
- n. Signs;
- o. Materials of which buildings are to be constructed;
- p. The distance between each building, whether existing or to be constructed, which is to be a part of the development and the front, rear and side boundary lines of the parcel; and the distances between each of such buildings, whether existing or to be constructed;
- q. The percentage of the building(s) which will be improved with residential uses, whether then existing or to be constructed pursuant to the development plan, and the percentage of the building(s) to be improved with commercial uses, whether then existing or to be constructed pursuant to the development plan;
- r. The height of each building;
- s. The number of floors in each building;
- t. The number of square feet included within the parcel;
- u. The number, location and size of all parking spaces and the locations thereof relative to the driveways, streets and alleys which provide access to and from the parcel; and
- v. The materials with which the parking, driveway and sidewalk areas, will be covered.

The above information shall be shown on a site plan, except that, where necessary for a clear explanation of such information, the site plan may be accompanied by supplemental material.

(2) *Additional items and information.*

- a. A survey of the parcel, prepared by a surveyor licensed as a surveyor by the State of Alabama, showing the location, size and legal description of the parcel and the public streets and alleys which abut the parcel or are located upon the parcel, which survey must have been prepared, or certified to the city by the surveyor as being current and accurate;
- b. The density of land use of the parcel, with tabulations by acreage and the percentage of the parcel to be occupied by each proposed use;
- c. A copy of any covenants or restrictions to which the parcel is subject;
- d. A copy of any proposed covenants or restrictions which will be imposed upon the parcel or any improvements thereon;
- e. A development schedule indicating the approximate commencement and completion dates of the development, and any phases thereof if the development is to be developed in phases; and
- f. A computerized or physical three-dimensional scale model of the proposed site and building showing the scale, massing, and relationship of the building to the site and topography, to public streetscapes, to open spaces, and to adjacent properties from all relevant perspectives and showing all relevant dimensions. The applicant may submit the model in electronic format if the most recent version of Sketch-up is used, otherwise, the application shall provide perspectives from all relevant angles and at least one for each side of the building.

Where applications include multiple similar buildings, one scale model for each similar building type may be submitted, provided all occurrences of the building type have a similar relationship to the site and topography, public streetscapes, open spaces, and adjacent sites as depicted in the model.

Seventeen (17) copies of the preliminary development plan and any materials supplemental thereto shall be delivered to the zoning official or building official at least fifteen (15) days before the date of the hearing at which the Planning Commission will consider the rezoning application. At such hearing the Planning Commission may make suggestions for revisions to the preliminary development plan, and a recommendation to the City Council that the application for rezoning be granted may be based on the condition that such revisions be made in the preliminary development plan.

- (b) In addition to such other matters which are considered by the City Council with respect to any other rezoning application, the City Council may consider the development plan and any supplemental materials in making its decision to approve or deny an application for the rezoning of a parcel to the Mixed Use District. The City Council may consider the appropriateness of the proposed development plan in relation to the physical characteristics of the parcel and to the physical characteristics and uses of properties adjacent to or near the subject parcel, and the City Council may require such additions, deletions and changes to the development plan and such agreements and covenants with respect to the proposed development, as the City Council deems appropriate. The City Council may:
- (1) Approve the development plan, which approval would be evidenced by the signature of the President of the City Council;
 - (2) Disapprove the development plan;
 - (3) Make suggestions for revisions to the development plan and, with the approval of the applicant, continue its consideration of the development plan to a future meeting of the City Council; or
 - (4) Approve the development plan subject to the applicant making certain specified minor revisions to it, which revisions would be subject to the approval of the zoning officer, and if such revisions are approved by the zoning officer the approval of the development plan would be final upon it being signed by the President of the City Council.
- (c) An application for rezoning to the Mixed Use District may be denied by the City Council based upon any one (1) or more of the items of information included in the development plan or any supplemental materials.
- (d) An approved preliminary development plan shall be effective for up to 365 days from the date of the City Council approval, after which time it shall be considered lapsed if substantial progress has not been made. The City Council may grant one extension up to an additional 365 days, if prior to the lapse the applicant presents reasonable justifications for not achieving substantial progress. A lapsed preliminary development plan shall be resubmitted or a new preliminary development plan shall be required prior to any building permit is issued. The City Council shall consider any lapsed preliminary development plan or a new preliminary development plan according to all other provisions of this Article, and shall consider the plan based upon the current circumstances at the time of the new submittal.

[Change existing "Section. 19-14-4. Additional requirements and provisions." to section 19-14-5.]

[Change existing "Section. 19-14-5. Pre-hearing conference." to section 19-14-6.]

[Change existing "Section. 19-14-4. Application fee" to section 19-14-7.]

2. **Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.
3. **Severability.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.
4. **Effective Date.** This ordinance shall become effective five (5) days after adoption and publication as provided by law.

ADOPTED: This 25th day of February, 2008.



Virginia C. Smith, Council President

APPROVED: This 25th day of February, 2008.



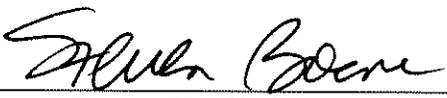
Lawrence T. Oden, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on February 25, 2008, as same appears in the minutes of record of said meeting, and published by posting copies thereof on February 26, 2008, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
The Invitation Place, 3150 Overton Road

Joe Muggs Newsstand, 2037 Cahaba Road
Piggly Wiggly Food Store 4, 93 Euclid Avenue



Steven Boone, City Clerk