



**PLANNING AND ZONING COMMISSION
MEETING
1 GOVERNMENT CTR, BALLWIN, MO 63011
MONDAY, MARCH 06, 2023 at 7:00 PM**

AGENDA

- 1. Call to Order**
- 2. Approval of Minutes**
 - a.** Minutes of the February 6, 2023 Meeting
- 3. Agenda Items**

- a. SUB 23-01 - Olde Towne Plaza Simple Lot Split**

Petitioner: Gerald Bedrin, 65 Harristown Rd., Glen Rock, NJ 02457

Mr. Bedrin is requesting a simple lot split of 14808 Manchester Rd. to create two separate parcels at Olde Towne Plaza between the current Lowe’s and the remainder of the shopping center.

- b. Z 23-01 - Marijuana Use Ordinance Change**

Petitioner: Shawn Edghill, City of Ballwin, 1 Government Ctr., Ballwin MO 63011

On November 8, 2022, The State of Missouri adopted Amendment 3 to the Missouri Constitution, relating to access to recreational marijuana, which became effective on December 8, 2022. Because Article XIV lies under Article A, The Zoning Ordinance of the City of Ballwin, the changes need to be brought before the Planning and Zoning Commission before being considered by the Board of Aldermen.

- 4. Adjourn**

NOTE: Due to ongoing City business, all meeting agendas should be considered tentative. Additional issues may be introduced during the course of the meeting.

ADA NOTICE: Residents of Ballwin are afforded an equal opportunity to participate in the programs and services of the City of Ballwin regardless of race, color, religion, sex, age, disability, familial status, national origin or political affiliation. If one requires an accommodation, please call (636) 227-8580 V or (636) 527-9200 TDD or 1-800-735-2466 (Relay Missouri) no later than 5:00 p.m. on the third business day preceding the hearing. Offices are open between 8:00 a.m. and 5:00 p.m. Monday through Friday.



MINUTES OF THE
PLANNING AND ZONING COMMISSION MEETING
1 GOVERNMENT CTR ♦ BALLWIN MO 63011
FEBRUARY 6, 2023

Chairman Weaver called the meeting to order at 7:00 p.m. Members in attendance were:

PRESENT

- Chairman Mark Weaver
- Secretary Olivia Pieknik
- Commissioner Derek Beiter
- Commissioner Gary Carr
- Commissioner Chad Silker
- Commissioner Mike Swain
- Commissioner Victoria Winfrey
- Alderman Mark Stallmann
- Mayor Tim Pogue

- Planning Technician Shawn Edghill
- City Administrator Eric Serman
- City Attorney Representative Kate Henry

ABSENT

- Commissioner Grant Alexander

Approval of Minutes

A motion was made by Alderman Stallmann to accept the minutes of the December 5, 2022 meeting as submitted. Secretary Pieknik seconded the motion, which received unanimous approval from the Commission members present.

SUE 23-01 – Restaurant without the Sale of Alcohol, with Drive-Thru

Dunkin’, 14924 Manchester Rd, Ballwin MO 63011

Petitioner: Mr. Steve Kolber, 828 Davis Street Suite 300, Evanston IL 60201

Mr. Steven Kolber addressed the Commission, requesting approval for a new Dunkin’ restaurant. He stated that this will be primarily a drive-thru and carry-out restaurant. He introduced Mr. Mike Crouch, the franchisee.

Commissioner Swain asked how many cars will be accommodated in the queue. Mr. Kolber said that traffic studies usually recommend space for 10 cars, and this plan has space for at least 12. However, a Dunkin’ doesn’t typically have that many cars in the queue; the amount of time between ordering and picking up is approximately 90 seconds.

Commissioner Winfrey asked how many employees the restaurant will have. Mr. Kolber said that at peak times, there will be 5-6 employees on site. Commissioner Silker asked about the hours of operation. Mr. Crouch stated that the hours will be 5:00 am – 8:00 pm.

Planning Technician Edghill noted that in addition to the restaurant itself, and the drive-thru, this petition should include front yard parking as well.

Mayor Pogue asked if this will be a Dunkin'/Baskin Robbins combo. Mr. Kolber stated that it will be a Dunkin' only. Chairman Weaver asked if the restaurant will have a full menu. Mr. Kolber said yes.

Chairman Weaver asked if there is adequate space for loading and unloading. Mr. Crouch said they will only accept deliveries before 7:00 a.m., when Tommy's Car Wash is closed.

Chairman Weaver opened the public hearing and asked if anyone wished to speak in favor of Petition SUE 22-08. No one came forward, and Chairman Weaver asked if anyone wished to speak in opposition to the petition. No one came forward, and Chairman Weaver closed the public hearing.

Chairman Weaver asked if there were any further comments or questions. Secretary Pieknik asked if there was any concern with the drive-thru queue backing up onto Manchester Road. The petitioner said that is not a concern, as there is another entrance/exit on Ballpark Drive. Mr. Crouch said that they will take advantage of the existing traffic and are not attempting to draw more traffic to the area.

Mayor Pogue made a motion to recommend approval of Petition SUE 23-01 to the Board of Aldermen, with the inclusion of front yard parking. Commissioner Silker seconded the motion, which received unanimous approval from the Commissioner members present.

Other Business

Chairman Weaver asked if there are any items for the March 6, 2023 agenda. Planning Technician Edghill said that there are two items; one regarding changes to the language in the zoning code regarding marijuana, and the other is a simple lot split in Olde Towne Plaza.

Commissioner Swain asked how the changes to recreational marijuana laws will affect the existing dispensary located in Ballwin. City Administrator Sterman that existing dispensaries will also be allowed to sell recreational marijuana.

Chairman Weaver asked if the new police station is still on schedule. City Administrator Sterman confirmed that it is.

Mayor Pogue also noted that the Taco Bell at 15225 Manchester Rd has begun reconstruction.

Adjournment

Mayor Pogue made a motion to adjourn the meeting. Commissioner Swain seconded the motion, which received unanimous approval from the Commission members present. The meeting was adjourned at 7:16 p.m.

J. Mark Weaver, Chairman
Planning & Zoning Commission

SIMPLE LOT SPLIT PETITION REVIEW REPORT

Petition Number: SUB 23-01

Petitioner: Gerald Bedrin
65 Harristown Rd.
Glen Rock, NJ 02457

Agent: Joe Pfleger
257 Chesterfield Business Pkwy
Chesterfield, MO 63005

Project Name: Olde Towne Plaza Simple Lot Split

Requested Action: Simple Lot Split Approval

Public Hearing Date: March 6, 2023

Code Section: Chapter 25, Article II, Sec. 25-38
Appendix A, Article IX

Location: 14808 & 14820 Manchester Rd.

Existing Land Use/Zoning: Commercial/ C-1

Surrounding Land Use/Zoning: North – Commercial/ C-1
South – Residential/ R-2 &
Public Activity/ PA
West - Commercial/ C-1
East - Commercial/ C-1

Plan Designation: N/A

Project Description:

Mr. Bedrin & Mr. Pflieger are requesting a simple lot split of 14808 Manchester Rd. to create two separate parcels at Olde Towne Plaza between the current Lowe's and the remainder of the shopping center.

**Zoning Ordinance Requirements
Appendix A, Article IX (Commercial/ C-1):**

- Article IX, Section 1 is a general introductory statement and imposes no design or plan requirements so it is not germane to this review.
- Article IX, Section 2 establishes uses allowed by right in the C-1 district. There are no new development proposed outside the previously approved businesses, which were allowed occupancy of these parcels between 1999 and 2000
- Article IX, Section 3 establishes a height limitation of 45'. No change is proposed.
- Article IX, Section 4 (1) requires a minimum of 40' for the front yard. No change is proposed.
- Article IX, Section 4 (2) dictates that a side yard is not required for this scenario.
- Article IX, Section 4 (3) requires a minimum of 25' for the rear yard. No change is proposed.
- Article IX, Section 7 establishes site development regulations. No changes are proposed.

**Simple Lot Split Ordinance Requirements
Chapter 25, Article II, Sec. 25-38:**

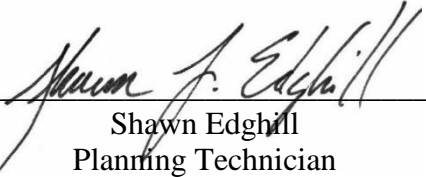
Article II, Section 25-38 (b) states that whenever there is a tract under single ownership which is to be re-subdivided into two (2) lots, and which exists as a legal lot of record, such a division shall be designated as a "lot split" if the following criteria are met:

- That no additional improvements are required that would necessitate the posting of an escrow or bond, including concrete sidewalks, water mains, and landscaping within a street right-of-way dedication. Establishment of a right-of-way only shall not be construed as an improvement in this section. The proposed parcels appear to meet this requirement.

- That no provisions for common land or recreational facilities are included in the proposal. The proposed parcels appear to meet this requirement.
- That the use of the lot split procedure does not adversely affect the subject parcel or any adjoining properties. The proposed parcels appear to meet this requirement.
- That the proposed lot split is not in conflict with any provisions of the zoning ordinance. The proposed parcels appear to meet this requirement.
- That no variances are required. The proposed parcels appear to meet this requirement.

Staff Recommendation:

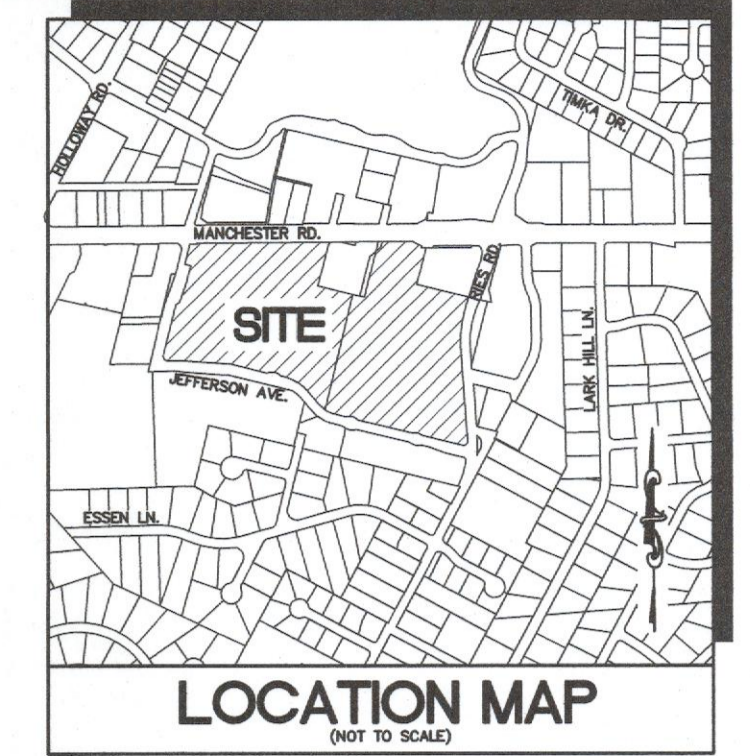
Staff has no objections to this proposal.



Shawn Edghill
Planning Technician

OLD TOWNE PLAZA PLAT TWO

BEING A LOT SPLIT OF LOT 1 OF 'OLD TOWNE PLAZA' AS RECORDED IN PLAT BOOK 350, PAGES 526-527, LOCATED IN U.S. SURVEY 1908, TOWNSHIP 44 AND 45 NORTH, RANGE 4 EAST OF THE 5TH PRINCIPAL MERIDIAN CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI

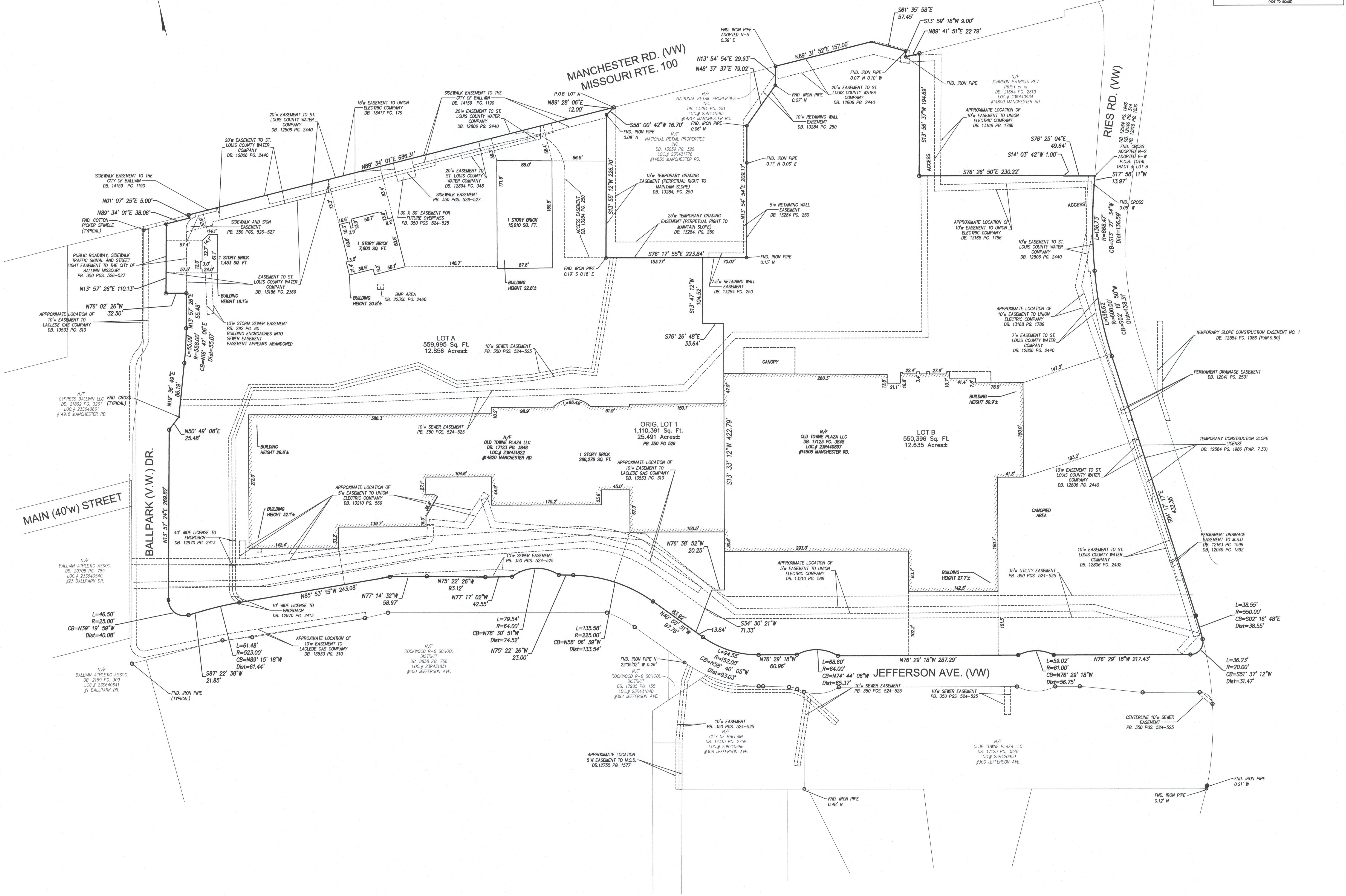
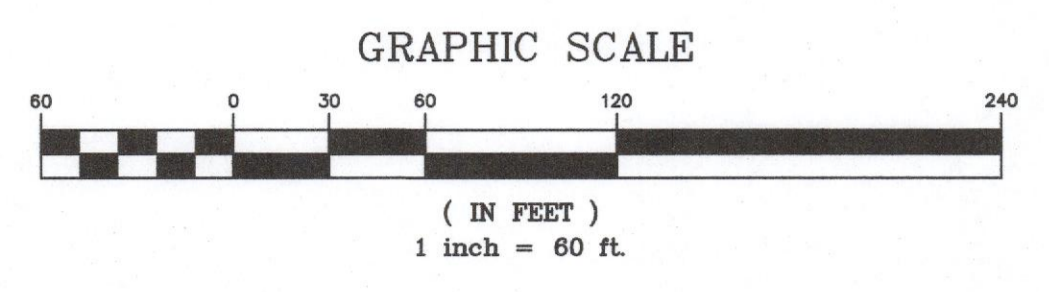


LEGEND

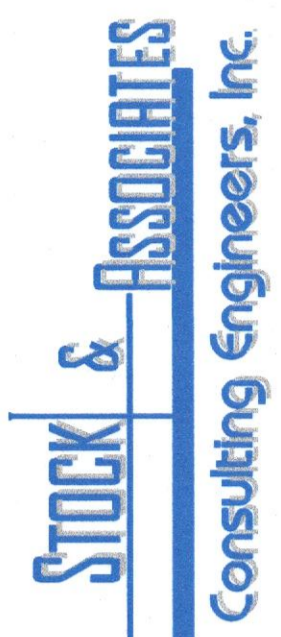
- FOUND IRON ROD
- FOUND IRON PIPE
- △ RIGHT OF WAY MARKER

ABBREVIATIONS

- DB - DEED BOOK
- FT - FEET
- FND - FOUND
- N/F - NOW OR FORMERLY
- PL - PLAT BOOK
- PC - PAGE
- R.B. - RADIAL BEARING
- SQ - SQUARE
- (RW) - RIGHT-OF-WAY WIDTH



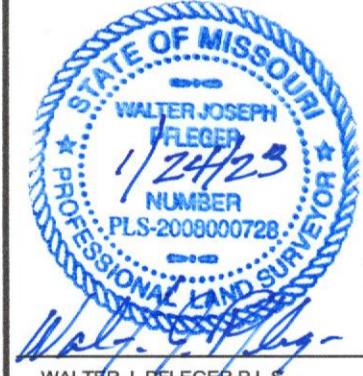
PREPARED BY:



LOT SPLIT PLAT

LOT 1 OF OLD TOWNE PLAZA

14808 & 14820 MANCHESTER ROAD
BALLWIN, MO 63011



REVISIONS:

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DRAWN BY: J.K.
CHECKED BY: W.J.P.
DATE: 1-24-2023
JOB NO.: 202-2744.7
M.S.D. #: BASE MAP #
S.L.C. HAT #: HAT S.L.P. #
M.D.N.R. #:
SHEET TITLE: LOT SPLIT PLAT

PREPARED FOR:
ARMSTRONG TEASDALE LLP
7700 FORSYTH BLVD. SUITE 1800
ST. LOUIS, MO. 63105
ATTN: MR. RHYS WILLIAMS

ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

Petition Number: Z 23-01

Petitioner: City of Ballwin
1 Government Ctr.
Ballwin, MO 63021

Project Name: Marijuana Use Text Amendment

Requested Action: Zoning Ordinance Regulations Change

Public Hearing Date: March 6, 2023

Code Section: Chapter 1, Article 1-2;
Zoning Ordinance, Article XIV, Sections 1
& 10

Project Description:

On November 8, 2022, The State of Missouri adopted Amendment 3 to the Missouri Constitution, relating to access to recreational marijuana, which became effective on December 8, 2022.

Due to the fact that Article XIV lies under Article A, The Zoning Ordinance of the City of Ballwin, it was determined to be necessary to inform and gather the recommendation of the Planning and Zoning Commission before bringing this before the Board of Aldermen.

The City Attorney has proposed that Article XIV, Sections 1 and 10 be repealed and replaced with the following:

Section 1. – Generally

- 33. Marijuana Cultivation Facility entirely within an enclosed building in the C-1, C-2, C-3, and the S-1 Zoning Districts.
- 34. Marijuana-Infused Products Manufacturing Facility in the C-1, C-2, C-3, and the S-1 Zoning Districts.
- 35. Marijuana Testing Facility in the C-1, C-2, C-3, and S-1 Zoning Districts.
- 36. Marijuana Dispensary Facility in the C-1, C-2, C-3, and S-1 Zoning Districts.
- 37. Marijuana Cultivation Facility (outside) in the Planned Overlay Zoning Districts.

Section 10. – Marijuana Uses. The purpose of this division is to regulate the placement and licensing of facilities for the dispensing, selling, cultivating, manufacturing, storing, and testing of marijuana and marijuana-infused products, to the extent permitted by the Missouri Constitution, applicable statutes enacted by the General Assembly, and regulations promulgated by the Missouri Department of Health and Senior Services, and to protect the health, safety, and welfare of the residents, businesses, and property owners in the City.

- A. No marijuana related use, activity, or facility shall emit an odor or in any way cause a public nuisance per Chapter 29 of this Code. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises or other changes to the facilities can be required if a public nuisance violation occurs.
- B. No more than a total of three (3) Marijuana Dispensary Facilities, three (3) Marijuana Cultivation Facilities, and three (3) Marijuana-Infused Products Manufacturing Facilities will be allowed within the City Limits.

- C. Each Marijuana Cultivation Facility, Marijuana-Infused Products Manufacturing Facility, or Marijuana Dispensary Facility shall be located on properties that meet the following distance requirements:
1. No marijuana related uses shall be operated or maintained within three hundred (300) feet of any school, child day-care center, or church.
 2. No marijuana related used shall be operated or maintained within one thousand five hundred (1,500) feet of another marijuana related use except when marijuana sales represents less than 5% of the dollar volume of business in a state or federally license pharmacy. Marijuana related uses under the same ownership and on the same property are exempt from the requirement.
 3. In the case of a free-standing facility, the distance between the facility and the school shall be measured from the external wall of the facility closest in proximity to the school to the closest point of the property line of the school, unless the school is part of a larger structure such as an office building or mall, in which case the distance shall be measured to the entrance or exit of the school in closest proximity to the facility. In the case of a facility that is part of a larger structure, such as an office building or mall, the distance between the facility and the school shall be measured from the property line of the school to the facility's entrance or exit closest in proximity to the school, unless the school is part of a larger structure such as an office building or mall, in which case the distance shall be measured to the entrance or exit of the school in closest proximity to the facility. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.
- D. No marijuana or marijuana-infused product shall be displayed so as to be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of a Facility.
- E. Paraphernalia as defined in Chapter 195 of the Revised Statutes of Missouri, as may be amended, may be lawfully sold at a Marijuana Dispensary Facility.
- F. The sale or consumption of alcohol within a Facility is prohibited.
- G. The consumption, inhalation, or other personal use of marijuana or marijuana-infused products on or within the premises of a Marijuana Cultivation Facility, Marijuana Testing Facility, Marijuana-Infused Products Manufacturing Facility, or Marijuana Dispensary Facility is prohibited, except that a Marijuana Testing Facility may consume marijuana during the testing process and only as the consumption relates to the testing process.

- H. Dispensaries can be on the same property as a cultivation facility, a Marijuana-Infused Products Manufacturing Facility, or Marijuana Testing Facility but are not permitted to be within the same building as any other marijuana related use.
- I. Security plans. A Marijuana Cultivation Facility, Marijuana Testing Facility, Marijuana-Infused Products Manufacturing Facility, or Marijuana Dispensary Facility shall provide adequate security on the premises including, but not limited to, the following:
1. Surveillance. Security surveillance cameras installed to monitor each entrance to the Facility along with the interior and exterior of the premises to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring at the premises. Security video shall be preserved for at least ninety (90) days, and be made available to law enforcement officers upon demand.
 2. Inventory. All salable inventory of marijuana must be kept and stored in a secured, locked manner.
 3. Safe. A locking safe or secure vault permanently affixed or built into the premises to store any currency on site.
 4. Alarm System. Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition within the Facility at all times.
 5. Emergency Contact. Each Facility shall provide the Chief of Police with the name, cellular telephone number, electronic mail address, and facsimile number of an on-site Facility employee to whom the City may provide notice to any operating problems associated with the Facility. It shall be the responsibility of the Licensee to keep up to date the contact information of the Facility employee.
- J. Operating Plans. As a condition of processing of a business license application, a Facility operator shall provide at the time of filing the business license application, a detailed operations plan, and, upon issuance of a license, shall operate the Facility in accordance with the plan. Such plan shall include:
1. Floor Plan. A plan showing the layout of the Facility and the principal uses of the floor area depicted. A Marijuana Dispensary Facility shall have a lobby waiting area at the entrance to the center to receive clients, and a separate and secure designated area for dispensing marijuana. The primary entrance of any standalone facility shall be located and maintained clear of barriers, landscaping, and similar obstructions so that it is clearly visible from public streets, sidewalks, or site driveways. All storage areas shall be shown or labeled.

2. Odor Controls. A Facility shall provide a plan for the mitigation and control of odors and other environmental impacts which may emanate from a Facility. Such plan shall describe the ventilation system for the premises. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises of a Facility or other changes to a Facility may be required to abate a public nuisance.

K. Signage.

1. A sign for a marijuana cultivation facility, marijuana dispensary facility, marijuana-infused products manufacturing facility, or marijuana testing facility shall comply with the requirements of Chapter 22 of the Code, or any ordinance enacted hereafter regulating signs.
2. A sign for a marijuana cultivation facility, marijuana dispensary facility, marijuana-infused products manufacturing facility, or marijuana testing facility shall be located on the same premises as the facility.

- L. Each Facility shall provide off-street parking and comply with all parking regulations for the zoning district in which the Facility is located.

- M. Each Facility shall at all times possess a current City business license. By obtaining a City business license, the Facility Licensee irrevocably consents to the immediate closure and cessation of operation of the Facility in addition to all other penalties or remedies available by law for the failure to possess a current City business license.

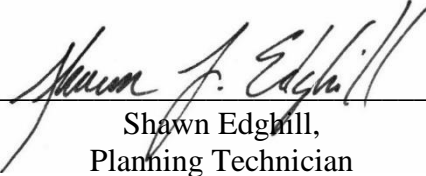
- N. It shall be unlawful for any person to distribute, transmit, give, dispense, or otherwise provide marijuana as a home occupation.

- O. No marijuana cultivation facility, marijuana dispensary facility, marijuana-infused products manufacturing facility, or marijuana testing facility shall be operated within the City without a valid license issued by the Missouri Department of Health and Senior Services. No marijuana or marijuana-infused products shall be acquired, certified, cultivated, delivered, manufactured, processed, sold, stored, tested, or transported within the City, except by persons or entities licensed for such purposes by the Missouri Department of Health and Senior Services.

P. Application Review Process:

1. Site review permit. This preliminary permit reviews the proposed marijuana related use for compliance with the City's zoning and location standards prior to issuance of State license. A draft of proposed security and floor plans should also be provided. Site review approval shall expire, and be of no effect, one (1) year after the date of issuance thereof. Site review and approval shall be conducted administratively.

- 2. Business License. Once State licensing has been received, the business license shall include all relevant State approvals and approved operating plans and security plans.


Shawn Edghill,
Planning Technician