

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.

<u>ADA NOTICE</u>: 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

<u>ABSENT</u>

Commissioner Grant Alexander

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 Sterman City Attorney Representative Kate Henry

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 tha 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. Pfleger 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:

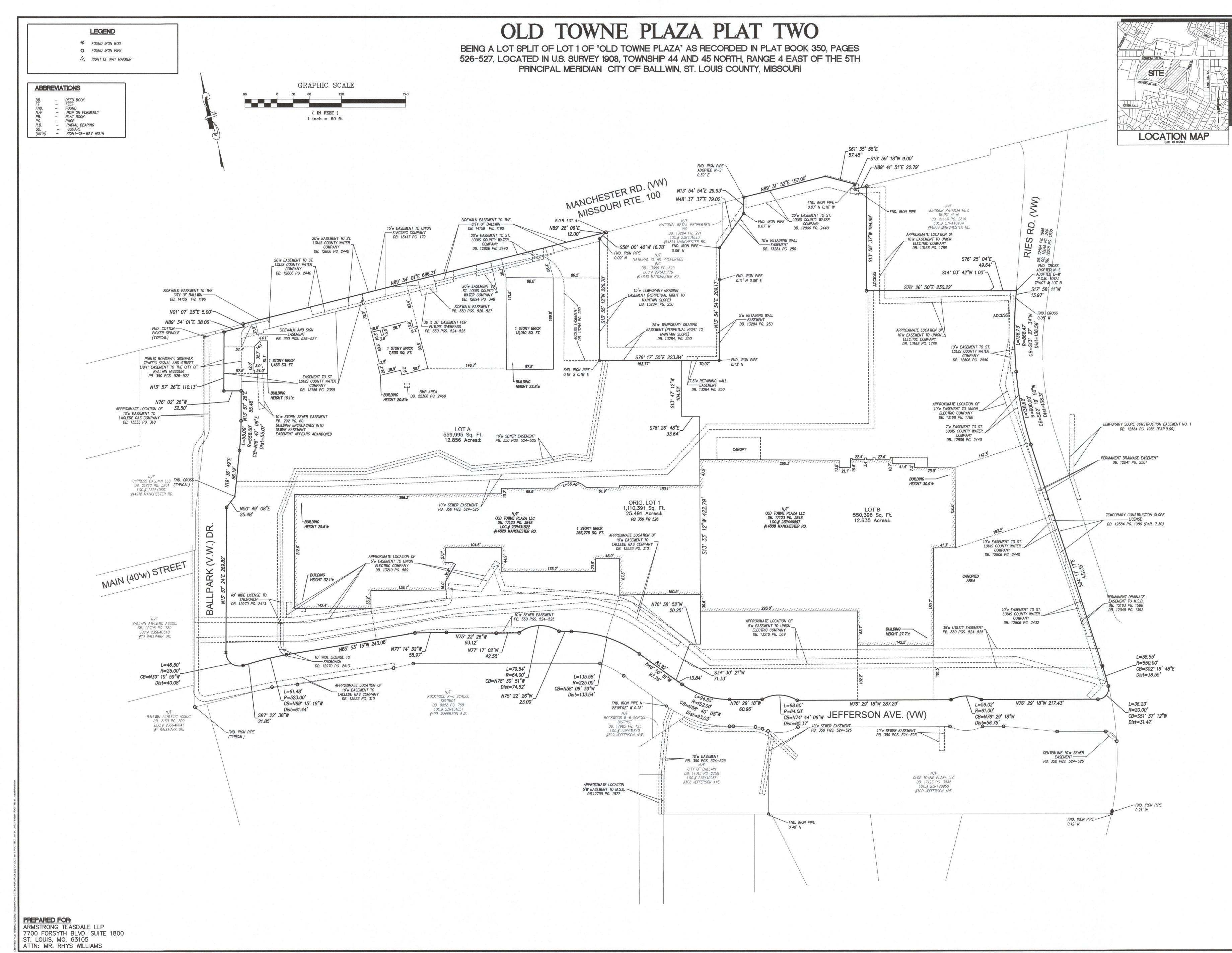
• That no additional improvements are required that would necessitate the posting of an escrow or bond, including concrete sidewalks, water mains, and landscaping within a street right-of-way dedication. Establishment of a right-of-way only shall not be construed as an improvement in this section. The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

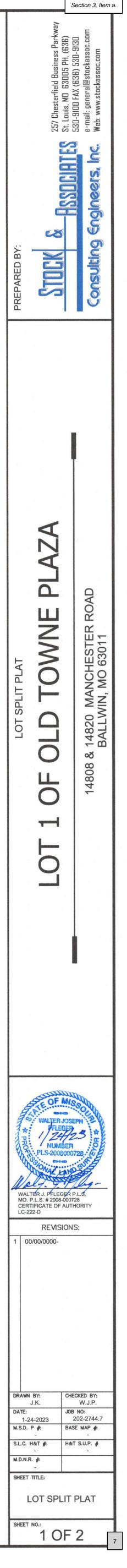
- That no provisions for common land or recreational facilities are included in the proposal. The proposed parcels appear to meet this requirement.
- That the use of the lot split procedure does not adversely affect the subject parcel or any adjoining properties. The proposed parcels appear to meet this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





FOUND IRON ROD FOUND IRON PIPE RIGHT OF WAY MARKER	
DB. - DEED BOOK FT - FEET FND. - FOUND N/F - NOW OR FORMERLY PB. - PLAT BOOK PG. - PAGE R.B. - RADIAL BEARING SQ. - SQUARE (86'W) - RIGHT-OF-WAY WIDTH	
	e tracts of land herein platted and further described in the foregoing surveyors' b be surveyed and consolidated in the manner shown on this plat, which subdivision
Shai horeaner be known as.	"OLD TOWNE PLAZA PLAT TWO"
This Plat does not create any new Building lines as shown on this plat	easements nor vacates any existing easements.
	easements are shown on this plat as of the time and date of recording of this plat.
IN WITNESS THEREOF, I have he	reunto set my hand this day of, 20,
By:	
Print Name:	
Print Title :	
STATE OF)	SS
COUNTY OF)	20 hoforo mo
acknowledged to me that the for	20, before me,, personally known to me, who being by me duly of, and he egoing instrument was signed and sealed on behalf of said limited liability d of said limited liability company.
IN WITNESS WHEREOF, I hav above written.	e hereunto set my hand and affixed my notarial seal the day and year last
	Notary Public
My commission expires:	
, of the St. Louis C shown hereon.	ON nd Holder of Note, as secured by Deeds of Trust recorded in Book, Page ity Records, does hereby join in and approve the foregoing Subdivision Plat as we have hereunto set out hand and affixed our corporate seal this day of
	_, 20
	By
	By:
	Print Name:
State of Missouri))ss. City of St. Louis)	
On this day of, of, of instrument in behalf of said therein stated	of, a Notary e, personally appeared, the, the, , known to me to be the person who executed the within d corporation and acknowledged to me that he executed the same for the purposes
IN WITNESS W	/HEREOF, I have hereunto set my hand and affixed my official seal in the County ay and year first above written.
Notary	Public
My Commission Expires:	
PREPARED FOR:	
ARMSTRONG TEASDALE LLP	

7700 FORSYTH BLVD. SUITE 1800 ST. LOUIS, MO. 63105 ATTN: MR. RHYS WILLIAMS

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

All of Lot 1 of Old Towne Plaza, a subdivision according to the plat thereof as recorded in Plat Book 350 Pages 526 & 527 of the St. Louis County records, located in U.S. Survey 1908, Township 44 North , Range 4 East of the Fifth Principal Meridian, City of Ballwin, St. Louis County, Missouri being more particularly described as follows:

Lot 1

Beginning at a found cut cross located at the southeast corner of a tract of land as conveyed to Patricia Johnson Rev. Trust, by instrument recorded in Book 21664, Page 2810 of the above said records, said point also being located on the western right-of-way of Ries Road, variable width; thence along said western right-of-way line the following courses and distances: South 17 degrees 58 minutes 11 seconds West, a distance of 13.97 feet to the beginning of a curve to the left having a radius of 868.47 feet; along said curve with an arc length of 136.73 feet and a chord which bears South 13 degrees 27 minutes 34 seconds West, 136.59 feet to the beginning of a compound curve to the left having a radius of 600.00 feet; along said compound curve with an arc length of 138.62 feet and a chord which bears South 02 degrees 19 minutes 50 seconds West, 138.31 feet; South 04 degrees 17 minutes 17 seconds East, 432.35 feet to the beginning of a curve to the right having a radius of 550.00 feet; along said curve with an arc length of 38.55 feet and a chord which bears South 02 degrees 16 minutes 48 seconds East, 38.55 feet to the beginning of a compound curve to the right having a radius of 20.00 feet; along said curve an arc length of 36.23 feet and a chord which bears South 51 degrees 37 minutes 12 seconds West, 31.47 feet to the north right-of-way line of Jefferson Avenue, variable width; thence along said right-of-way line the following courses and distances: North 76 degrees 29 minutes 18 seconds West, 217.43 feet; to the beginning of a curve to the left having a radius of 61.00 feet; along said curve with an arc length of 59.02 feet and a chord which bears North 76 degrees 29 minutes 18 seconds West, 56.75 feet; North 76 degrees 29 minutes 18 seconds West, 287.29 feet to the beginning of curve to the left having a radius of 64.00 feet; along said curve with an arc length of 68.60 feet and a chord which bears North 74 degrees 44 minutes 06 seconds West, 65.37 feet; North 76 degrees 29 minutes 18 seconds West, 60.96 feet to the beginning of a curve to the right having a radius of 152.00 feet; along said curve with an arc length of 94.55 feet and a chord which bears North 58 degrees 40 minutes 05 seconds West, 93.03 feet; North 40 degrees 50 minutes 51 seconds West, 97.76 feet to the beginning of a curve to the left having a radius of 225.00 feet; along said curve with an arc length of 135.58 feet and a chord which bears North 58 degrees 6 minutes 39 seconds West, 133.54 feet; North 75 degrees 22 minutes 26 seconds West, 23.00 feet to the beginning of a curve to the left having a radius of 64.00 feet; along said curve with an arc length of 79.54 feet and a chord which bears North 78 degrees 30 minutes 51 seconds West, 74.52 feet; North 77 degrees 17 minutes 2 seconds West, 42.55 feet; North 75 degrees 22 minutes 26 seconds West, 93.12 feet; North 77 degrees 14 minutes 32 seconds West, 58.97 feet; North 85 degrees 53 minutes 15 seconds West, 243.08 feet to the beginning of a curve to the left having a radius of 523.00 feet; along said curve with an arc length of 61.48 feet and a chord which bears North 89 degrees 15 minutes 18 seconds West, 61.44 feet; South 87 degrees 22 minutes 38 seconds West, 21.85 feet to the beginning of a curve to the right having a radius of 25.00 feet and along said curve with an arc length of 46.50 feet and a chord which bears North 39 degrees 19 minutes 59 seconds West, 40.08 feet to the east right-of-way line of Ballpark Drive, variable width; thence along said right-of-way the following courses and distances: North 13 degrees 57 minutes 24 seconds East, 269.82 feet; North 50 degrees 49 minutes 08 seconds East, 25.48 feet; North 19 degrees 36 minutes 49 seconds East, 86.19 feet to the beginning of a curve to the left having a radius of 558.00 feet: along said curve with an arc length of 55.09 feet and a chord which bears North 16 degrees 47 minutes 06 seconds East, 55.07 feet; North 13 degrees 57 minutes 26 seconds East, 55.48 feet; North 76 degrees 02 minutes 26 seconds West, 32.50 feet and North 13 degrees 57 minutes 26 seconds East, 110.13 feet to its intersection with the southern right-of-way of Manchester Road, variable width; thence along said right-of-way line the following courses and distances: North 89 degrees 34 minutes 01 second East, 38.06 feet; North 01 degree 07 minutes 25 seconds East, 5.00 feet; North 89 degrees 34 minutes 01 second East, 686.31 feet and North 89 degrees 28 minutes 6 seconds East, 12.00 feet to the northwest corner of a tract of land as conveyed to National Retail Properties, Inc instruments recorded in Book 13059, Page 329 and Book 13284, Page 291 of above said records; thence along the west lines of said National Retail Properties, Inc tract, South 58 degrees 0 minutes 42 seconds West, 16.70 feet and South 13 degrees 55 minutes 12 seconds West, 226.70 feet to the southwest corner thereof; thence along the south line of said National Retail Properties, Inc tract, South 76 degrees 17 minutes 55 seconds East, 223.84 feet to the southeast corner of said tract; thence along the east line of last said tract the following courses and distances: , North 13 degrees 54 minutes 54 seconds East, a distance of 209.17 feet; North 48 degrees 37 minutes 37 seconds East, 79.02 feet and North 13 degrees 54 minutes 54 seconds East, 29.93 feet to its intersection with the southern right-of-way of above said Manchester Road; thence along said right-of-way line the following courses and distances: North 89 degrees 31 minutes 52 seconds East, 157.00 feet; South 61 degrees 35 minutes 58 seconds East, 57.45 feet; South 13 degrees 59 minutes 18 seconds West, 9.00 feet and North 89 degrees 41 minutes 51 seconds East, 22.79 feet to the northwestern corner of above said Patricia Johnson Rev. Trust, thence along the west line of said Johnson tract, South 13 degrees 56 minutes 37 seconds West, 194.69 feet to the southwest corner thereof; thence along the south lines of said Johnson tract the following courses and distances: South 76 degrees 26 minutes 50 seconds East, a distance of 230.22 feet; South 14 degrees 03 minutes 42 seconds West, 1.00 feet and South 76 degrees 25 minutes 04 seconds East, 49.64 feet to the POINT OF BEGINNING.

Containing 1,110,391 square feet or 25.491 acres, more or less.

LOT A

Part of Lot 1 of Old Towne Plaza, a subdivision according to the plat thereof as recorded in Plat Book 350 Pages 526 & 527 of the St. Louis County records, located in U.S. Survey 1908, Township 44 North , Range 4 East of the Fifth Principal Meridian, City of Ballwin, St. Louis County, Missouri being more particularly described as follows:

Beginning at the northwest corner of a tract of land as conveyed to National Retail Properties, Inc. by instruments recorded in Book 13059, Page 329 and Book 13284, Page 291 of above said records; thence along the west lines of said National Retail Properties, Inc tract, South 58 degrees 00 minutes 42 seconds West, 16.70 feet and South 13 degrees 55 minutes 12 seconds West, 226.70 feet to the southwest corner thereof; thence along the south line of said National Retail Properties, Inc tract, South 76 degrees 17 minutes 55 seconds East, 153.77 feet; thence departing said south line the following courses and distances: South 13 degrees 47 minutes 12 seconds West, 104.52 feet; South 76 degrees 26 minutes 48 seconds East, 33.64 feet; South 13 degrees 33 minutes 12 seconds West, 422.79 feet; North 76 degrees 38 minutes 52 seconds West, 20.25 feet; and South 34 degrees 30 minutes 21 seconds West; 71.33 feet to the northern right-of-way line of Jefferson Avenue. Variable width; thence along said right-of-way line the following courses and distances: North 40 degrees 50 minutes 51 seconds West, 83.92 feet to the beginning of a curve to the left having a radius of 225.00 feet; along said curve with an arc length of 135.58 feet and a chord which bears North 58 degrees 06 minutes 39 seconds West, 133.54 feet; North 75 degrees 22 minutes 26 seconds West, 23.00 feet to the beginning of a curve to the left having a radius of 64.00 feet; along said curve with an arc length of 79.54 feet and a chord which bears North 78 degrees 30 minutes 51 seconds West, 74.52 feet; North 77 degrees 17 minutes 2 seconds West, 42.55 feet; North 75 degrees 22 minutes 26 seconds West, 93.12 feet; North 77 degrees 14 minutes 32 seconds West, 58.97 feet; North 85 degrees 53 minutes 15 seconds West, 243.08 feet to the beginning of a curve to the left having a radius of 523.00 feet; along said curve with an arc length of 61.48 feet and a chord which bears North 89 degrees 15 minutes 18 seconds West, 61.44 feet; South 87 degrees 22 minutes 38 seconds West, 21.85 feet to the beginning of a curve to the right having a radius of 25.00 feet and along said curve with an arc length of 46.50 feet and a chord which bears North 39 degrees 19 minutes 59 seconds West, 40.08 feet to the east right-of-way line of Ballpark Drive, variable width; thence along said right-of-way the following courses and distances: North 13 degrees 57 minutes 24 seconds East, 269.82 feet; North 50 degrees 49 minutes 08 seconds East, 25.48 feet; North 19 degrees 36 minutes 49 seconds East, 86.19 feet to the beginning of a curve to the left having a radius of 558.00 feet; along said curve with an arc length of 55.09 feet and a chord which bears North 16 degrees 47 minutes 06 seconds East, 55.07 feet; North 13 degrees 57 minutes 26 seconds East, 55.48 feet; North 76 degrees 02 minutes 26 seconds West, 32.50 feet and North 13 degrees 57 minutes 26 seconds East, 110.13 feet to its intersection with the southern right-of-way of Manchester Road, variable width; thence along said right-of-way line the following courses and distances: North 89 degrees 34 minutes 01 second East, 38.06 feet; North 01 degree 07 minutes 25 seconds East, 5.00 feet; North 89 degrees 34 minutes 01 second East, 686.31 feet and North 89 degrees 28 minutes 6 seconds East, 12.00 feet to the POINT OF BEGINNING.

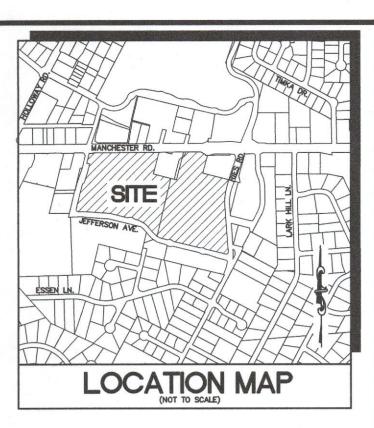
Containing 559,995 square feet or 12.856 acres, more or less.

LOT B

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Containing 550,396 square feet or 12.635 acres, more or less.



GENERAL NOTES:

1) Lot 1 is Zoned C-1 Commercial and Lot 2 is zoned Public Activity (PA)

Setback Requirements:

Front yard From Manchester Road - 60 feet, Land lying along Manchester Road may have a front yard with a depth of 20 feet along a maximum of 75 percent of the Manchester Roadway frontage of the combined parcels of a proposed development. Front yards allowed by this section shall only be utilized for landscaping, pedestrian circulation improvements and public amenities. No parking shall be allowed in such front yards. No curb cuts shall be allowed within such front yard, except those shared by two or more adjoining developments. Driveways accommodating cross access between adjoining developments may be allowed in such front yard provided landscaping, pedestrian circulation improvements, and public amenities also are present.

Front yard from Jefferson Avenue, Ballpark Drive, Ries Rd. 40 feet

Max Height 45 feet Required Parking 1435

The above Zoning was provided by The City of Ballwin, Missouri and to verify the client should obtain a zoning endorsement from their title company.

2) Subject property lies within Flood Zone X (areas determined to be outside the 0.2% chance annual floodplain) according to the National Flood Insurance Rate Map Number 29189C0283K with an effective date of 02/04/2015.

3) Basis of Bearings adopted from Pb. 350 pgs. 524-525

CITY CERTIFICATE

The undersigned being the duly elected and acting Mayor of the City of Ballwin, Missouri, an incorporated political subdivision in the State of Missouri, acting pursuant to the provisions of Ordnance Number_ and pursuant to that certain Amended and Reinstated Redevelopment Agreement between the City and on behalf of the City hereby approve this lot split plat -"Old Towne Plaza Plat Two".

Tim Pogue, Mayor

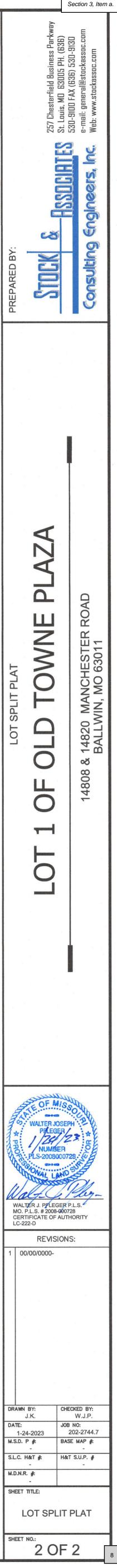
____, City Clerk

SURVEYOR'S CERTIFICATION

This is to certify that Stock & Associates Consulting Engineers, Inc. have, during December 2022, by order and for the use of Armstrong Teasdale LLP, executed a Property Boundary Survey and Lot Split Plat of a Lot 1 of Old Towne Plaza as recorded in Plat Book 350 Page 526 located in U.S. Survey 1908, Township 44 North, Range 4 East of the Fifth Principal Meridian, City of Ballwin, St. Louis County, Missouri, and that the results of said survey and subdivision are shown hereon. We further certify that the above survey meets of exceeds the current Missouri Standards for Property Boundary Surveys for "Class Urban Property" as defined in Chapter 16, Land Surveying 20 CSR 2030-16.040 of the Missouri Standards for Property Boundary Surveys and adopted by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects.

STOCK & ASSOCIATES CONSULTING ENGINEERS, INC.

LC No. 222-D Walter J. Pfleger, Missouri P.L.S. No. 2008-00072



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 or exit closest in proximity to 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 of 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, marijuanainfused 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, marijuanainfused 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 license 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