

SPECIAL USE EXCEPTION REVIEW REPORT

Petition Number: SUE 16 – 03(2)

Petitioner: Mr. Bob Candice
100 Holloway Rd.
Ballwin, MO 63011
314-620-5566
Candicci's@gmail.com

Agent/Engineer: None

Project Name: Candicci's Trailer

Filing Date: 5/17/16

Review Report Date: 6/16/16

Submission Compliance Certification Date: 6/2/16

Requested Action: Special Use Exception

Purpose: Trailer Parking in the C-1 District

Code Section (s): Article XIV Sec. 1 (31)

Location: 112 Holloway Rd.

Existing Land Use/Zoning Commercial/C-1

Surrounding Land Use/Zoning: North –Multiple Family / R-4
South –Commercial / C-1
West - Commercial / C-1
East - Commercial / C-1

Plan Designation: Commercial

Project Description:

Mr. Candice is proposing to park a trailer on the rear parking lot of the commercial property at 112 Holloway Rd. The trailer will be utilized for the production of barbequed meat to be sold from his restaurant Candicci's in the adjoining Holloway Plaza at 100 Holloway Rd. The parking of trailers is allowed in the C-1 district by special use exception per ordinance 11-19 passed on May 23, 2011. Prior to the passage of this ordinance, the parking of trailers and commercial vehicles in the C-1 District was limited to short periods of time for purposes of

loading and unloading only.

This site sits at the southeast corner of the intersection of Holloway Rd. and Kehrs Mill Rd. The parking lot for the development surrounds the building except for a small area adjacent to Kehrs Mill Rd. on the north side of the site. Site access is via single curb cuts to Holloway and Kehrs Mill Roads and via the rear service alleyway to Holloway Plaza to the south.

This site is surrounded by commercial uses. A private commercial property lies to the east of the site on the south side of Kehrs Mill Rd. The Holloway Plaza is adjacent to the south. Directly across Holloway Rd. to the west is the Target parking lot, and across Kehrs Mill Rd. to the north is the Kehrs Mill Crossing condominium development.

The site slopes to the south and west and surface drains into the Holloway Plaza and Holloway Rd. stormwater systems. These systems flow to the Manchester Rd. system which ultimately discharges into Fishpot Creek. Fishpot Creek flows into the Meramec River in Valley Park.

The site is generally "L" shaped. It has approximately 289' of frontage along Kehrs Mill Rd and 152' of frontage along Holloway Rd. The "L" shaped portion of the site wraps around the east side of the Holloway Plaza by about 60'. The property has about 195 feet of frontage to the commercial properties to the east and has an area of approximately 1.12 acres.

Nonconforming Status

This site development plan for this property was approved under the standards of the C-1 district and the SUE regulations that were in place in 1979 when this site was approved for a special use exception for front yard parking via ordinance 1464. Many of the regulations and development guidance criteria of these ordinances have been amended since that time. **As long as it is not modified, the site is legally nonconforming relative to many of the current provisions of these regulations. There will be no changes to the building footprint, drainage, impervious surfaces, curb cuts and landscaped areas. This petition calls for no changes to the 1979 approved site development plan, so the development will remain legally nonconforming for many of the current site design requirements and can continue to function in its present configuration.**

As long as the site plan is not changed, and the uses are consistent with current regulations, the site can continue to operate in accordance with this legally nonconforming status. Changes that are not related to the nonconforming status of the plaza would have to comply with the contemporary standards of the applicable zoning. These issues are addressed in more detail later in this report.

Zoning Ordinance Requirements/C-1 District:

1. Section 1 is descriptive of the intent of the zoning district, but imposes no design or plan requirements, so it is not germane to this review.

2. Section 2 establishes uses allowed by right in the C-1 district. **The use contemplated in this petition is not permitted in the C-1 district regulations, but is allowed by special use exception; hence this petition. This is discussed in more detail later in the SUE regulations portion of this report.**
3. Section 3 established a 45' height limitation in the district. No changes to the building are proposed as a part of this petition.
4. Section 4. (1) (i) requires a 40' front yard (building setback) along Holloway Rd. and Kehrs Mill Rd. The existing building appears to meet these requirements.
5. Section 4. (1) (ii) and (iii) are not applicable to this petition.
6. Section 4. (1) (iv) requires the provision of a 10' deep landscaping area along all roadway frontages of the site. The site complies with this requirement along both roadway frontages.
7. Section 4. (2) requires a 25' side yard setback along any adjoining residentially zoned property. There is no adjoining residentially zoned property so this subsection does not apply to this petition.
8. Section 4. (3) (i) requires a 25' deep fully landscaped rear yard. This applies along the east property line. **The site is legally nonconforming for this 1999 amendment to the C-1 district regulations and cannot reasonably be brought into compliance, but this area of the site is not proposed to be redeveloped or amended as a part of this petition, so there should be no issue with it retaining its nonconforming status.**
9. Section 4. (3) (ii) and (iii) are not applicable to this petition.
10. Section 4. (3) (iv) requires a fence in C-1 rear yards that abut commercial and industrial zoning districts. **The site is nonconforming to this 1999 amendment to the C-1 district regulations as well. No change is proposed to the site plan in this area so the nonconforming status can be retained. The absence of such a fence will allow a full view of the trailer. There will be no visual screening.**
- 11.
12. Section 4. (4) is subsection applies to single family residences in the C-1 district so it is not applicable to this petition.
13. Section 5. (1) requires the provision of parking in accordance with the provisions of Article XV. The existing site has 57 parking spaces. Based upon the 7,764 square feet of floor area, 39 spaces were required when it was built, so the site significantly exceeded the minimum parking requirement at the time. That parking standard has not changed so the site continues to be compliant for parking.
14. Section 6 is not applicable to this petition because the site does not front on a MoDOT controlled right-of-way and no changes to the curb cuts are proposed.

15. Section 7. (1) requires that the minimum spacing of curb cuts cannot be less than 500' between centerlines. This is another regulation that came into being in 1999 after the site development plan was approved. **The site is legally nonconforming relative to this issue. The addition of a trailer parked on the site would not be expected to impact the function or capacity of the two curb cuts serving this site.**
16. Section 7. (2) requires the construction of a 6' wide sidewalk along Manchester Rd. Since the site does not adjoin Manchester Rd. this section does not apply to this petition.
17. Section 7. (3) requires that commercial parking lots be interconnected or that a “*cross access, driveway/parking lot vehicular interconnection easement*” be established to the benefit of Ballwin to allow a future parking lot interconnection with adjoining properties. This is another example of the 1999 C-1 district regulations overhaul that came into being since the original site development plan was approved. The site is legally nonconforming for this requirement and no dedication of an easement is required. Furthermore, there is minimal utility to the establishment of such an easement to the south due to topographic limitations that would virtually preclude a parking lot interconnection short of a major demolition and redevelopment of one or perhaps both sites. A parking lot interconnection with the parcel to the east is feasible and should be pursued in the event a significant site plan amendment is proposed for either property.

Zoning Ordinance Requirements/SUE Regulations (Article XIV):

1. Section 1 (31) establishes that a trailer may be parked in the C-1 district provided it meets the following bullet points:

- *Does not exceed 24' in length. This trailer appears to meet this criterion. It is about 22' in length.*
- *Does not otherwise comply with the provisions of Chapters 15 and 29 of the Code of Ordinances. This SUE code subsection is intended to be used when the other cited code subsections, which permit the parking of a commercial vehicle in the C-1 district without the necessity of an SUE, do not apply.*

Section 15-274 prohibits vehicles being parked in a manner that occupies more than one designated parking space. **This petition proposes the placement of the trailer at a location on the parking lot that will obstruct access to some of the parking spaces or their access driving lane. This can be observed from the marked up copies of the site plan that I have included in this packet. When this amended version of the petition was originally submitted the trailer was oriented along the south edge of the parking lot in this same general area, but it has since been relocated to its present orientation. The original orientation places the trailer in what appears to be excess paved space that could be utilized for this purpose with minimal negative impact to the parking spaces that are available on the lot. The intended final**

location of the trailer needs to be resolved with the petitioner to fully understand the impact of this trailer on the function of the parking lot.

Section 15-281 (a) 5 permits commercial vehicles to be parked in rear yards behind the building line or in designated loading zones in the C-1 district. **This proposed placement of the trailer appears to meet the “behind the building line” requirement.**

Section 15-281 (b) prohibits the parking of commercial vehicles in the C-1 district for a period in excess of two hours unless actively engaged in loading or unloading activities and possessing a bill of lading or other paperwork showing intent to make delivery of materials. **This provision would not apply to this trailer in the manner it is proposed to be used, but the SUE regulations appear to provide an exception that authorizes such long term parking of a trailer.**

Section 28-2 (a) states that trailers parked outside of a fully enclosed building shall not be parked or kept within the primary front yard which is defined as the space between the right-of-way and the front of the building. The front of the building is the side upon which the primary entry door is located. **The proposed parking location is not in a front yard.**

Section 28-7 (f) states that trailers may only be parked outside of a fully enclosed building in the C-1 district if it is in a designated loading zone or in accordance with 15-281 (a) 5 or 15-281 (b). **The proposed location of the trailer in this petition is not a designated loading zone but it is authorized by a cited subsection.**

- *This provision of this subsection states “... said trailer shall be owned and utilized by the holder of a Ballwin Business license, operating its business on the same property where the trailer shall be stored.”* Mr. Candice has purchased this trailer from ASAP Barbeque which formerly operated in the Farber commercial center and parked it on the premises of Farber Center in accordance with an SUE approved via this ordinance subsection. Mr. Candice owns Candicci’s restaurant in the Holloway Plaza commercial center. Originally he proposed to park the trailer in the front yard of the plaza. That was inconsistent with other provisions of this ordinance subsection and led him to submit this alternate petition. He is now proposing to park the trailer on the rear of the adjoining property at 112 Holloway Rd. (next door). **The petition proposes to park the trailer on a property that is not the same property where the business is operated and it is not a property that is part of a larger approved commercial site development plan that includes the Holloway Plaza property. This proposal is therefore not consistent with the language of the ordinance. The petitioner has provided a letter from Steve and Holly Donnell, the owners of the 112 Holloway Rd. property, indicating their agreement with parking the trailer on their property.**

It is my understanding that the petitioner is asking the Commission to view this letter of agreement between himself and the Donnell's as the granting of a property right on the adjoining parcel to Mr. Candice that could be viewed as meeting the intent of the "same property" language of this section of the ordinance. The Commission will have to make this determination. The ordinance clearly does not utilize language that even obliquely references other types of property rights as being equivalent to what is clearly called out as necessary to meet the meaning of the ordinance.

Ballwin's C-1 commercial district and special use exception regulations clearly limit the uses that are allowed in the district. The ordinance language is very specific and contains little ambiguity about what is allowed and how it is allowed. There is a potential problem with allowing the interpretation that Mr. Candice is requesting. It is a stretch of the ordinance language to allow the very open-ended private agreement to, in effect, be an extension of the property for this purpose. There is a very real possibility that doing this establishes a precedent that could come back again in a different form to allow other provisionally allowed uses to be conducted at off-premise remote satellite locations in opposition to the zoning regulations in place on that property on the strength of a private agreement?

To further complicate matters, there is a mitigating circumstance. There does not appear to be a place on the Holloway Plaza property, where Candicci's restaurant is located, to legally park such a trailer because of the provisions of this ordinance. All of the areas behind the building line are too small to permit the parking of such a trailer and still allow dumpster placement and service vehicle access. It is my understanding that this is one of the reasons Mr. Candice abandoned his original petition to park the trailer in the front yard of the Holloway Plaza and offered the replacement petition to park the trailer on the rear of the adjoining 112 Holloway Rd. property. This "behind the building line" requirement is also a problem with the ordinance, but that problem might be better addressed via the avenue of a variance appeal to the Board of Adjustment. There is, of course, no assurance that such an appeal will be approved.

- *Is parked at all times behind the building line of the structure located on the property where the trailer is parked. The proposed location of the trailer is behind the building line of the structure on the property and appears to be compliant with this provision of the SUE regulations.***
- *The trailer may be moved or removed and replaced without forfeiture of this special use exception. Nothing in this petition would impact Mr. Candice's ability to utilize this trailer as permitted in this subsection.***

Sec. 2 (1) *Minimum Yard Requirements*: the minimum yard requirements of the C-1 District appear to be met by this site but this issue is not applicable to this petition.

2. Sec. 2 (2) *Site Illumination*: No change to the existing site illumination plan is proposed.

3. Sec. 2 (3) *Greenery and Planting*: No change to the existing landscaping plan is proposed.

4. Sec. 2 (4) *Fencing*: There is no fencing on the site and no new fencing is proposed so this subsection does not apply to this petition.

5. Sec 2 (5) *Parking*: Parking was discussed earlier in this report. The proposed use does not appear to have an impact on parking demand.

6. Sec. 2 (6) *Pavement*: No changes to any pavement are proposed.

7. Sec 2 (7) *Storm water runoff control*: No changes to site impervious surfaces are proposed, so no MSD or Ballwin review is necessary for this petition.

8. Sec. 2 (8) *Loading docks and facilities*: No dedicated loading spaces are necessary for this use.

9. Sec. 2 (9) *Ingress and Egress*: No change to the site's existing curb cuts is proposed by the petitioner.

10. Sec. 2 (10) *Adequate area for the use*: **As discussed earlier in this report, the proposed location of the trailer is not in compliance with the SUE regulation requiring it to be on the same property as the associated business. This could be viewed as an issue relative to the "adequate area" provision of this subsection.**

11. Sec. 2 (11) *Dead storage, dismantling and repair of automobiles*: This is not an issue with this kind of use.

12. Sec. 2 (12) *Rubbish and trash disposal and screening*: the submitted site plan calls for the maintenance of the existing screened dumpster enclosures on both sites.

13. Sec 4 (6) (1) *Increase traffic hazards*: There is no remarkable history of accidents or traffic related problems associated with this business or these addresses, and there is no evidence to suggest that the parking of this trailer on this site will generate additional traffic congestion or hazards.

14. Sec. 4 (6) (2) *Neighborhood character impact*: **This proposal may have some negative impact on the character of the immediately adjacent commercial properties to the east. It is proposed that the trailer be parked adjacent to the south property line of the rear yard of 112 Holloway Rd. This is adjacent to the rear yard of the commercial property at 415 West Orchard Ave. and the side yard of the commercial property at 410 Kehrs Mill**

Rd. The trailer will be oriented in a manner that makes it visible to both of these properties and from Kehrs Mill Rd. If 112 Holloway Rd. had the rear yard screening fence that is presently required in the C-1 district, and from which the site is legally nonconforming, the visibility from the adjoining properties would be mitigated. Lacking such a fence, the trailer will be fully visible to the adjoining commercial properties. This is a departure from what has been observable from these adjoining properties in recent years.

There is a residential neighborhood (Kehrs Mill Crossing Condominiums) across Kehrs Mill Rd. from the 112 Holloway Rd. property. This trailer, although parked behind the building line in the rear, will be visible from this residential area, so there may be a negative impact to the character of this residential neighborhood as well. Residential properties near commercial developments will sometimes have a view of land uses that would not be visible in an all residential area, but the nonconforming nature of this site takes away the measures that are presently included in the ordinance to mitigate such views. Additional screening might be needed to minimize this visibility issue at this location.

15. Sec. 4 (6) (3) *Community general welfare impact*: Beyond the possible negative neighborhood impacts discussed above, I do not anticipate other negative aspects to this proposal that could be characterized as impacting the general welfare of the community.

16. Sec. 4 (6) (4) *Overtax public utilities*: No substantial impacts of any kind on public utilities are anticipated.

17. Sec. 4 (6) (5) *Adverse impacts on public health and safety*: No impacts on public health or safety are expected.

18. Sec. 4 (6) (6) *Consistent with good planning practice*: **Ballwin has several ordinances limiting the parking of commercial vehicles including trailers in commercial districts. Generally this practice is not an allowed use. The few exceptions require such vehicles to be parked in rear yards or behind the building line and generally with screening as is required in the current SUE regulations. This petition appears to meet some of these ordinance requirements, but it fails to meet the requirement that the trailer be parked on the same parcel as the business to which it is affiliated and it does not address the screening to the nearby properties that also comes into play with this petition. The screening issue and the “same property” code requirement violation would not normally be considered consistent with good planning practice.**

Another planning issue that this petition does not address is the question of utility connections to the trailer. It is my understanding, according to a discussion with Mr. Candice, that this trailer does not have water, sewer or electrical connections. It was designed to be used as a stand-alone unit in cooking competitions where such amenities are not available.

Given that this is going to be a permanent location for this trailer, there might be a

desire to run permanent utility services. The construction codes do not allow a permanently placed fixture to be operated with temporary connections. If this trailer is served with utility connections, they must be provided via dedicated utility connections. To be considered good planning practice, all utility services must be installed underground, in accordance with applicable codes and with proper permits.

19. Sec. 4 (6) (7) *Operated in a manner that is compatible with permitted uses in the district:* The other uses allowed in the C-1 Zoning District are predominantly commercial or commercially compatible. I can see little argument to support a negative finding relative to this point.

20. Sec. 4(6) (8) *Operated in a manner that is visually compatible with the permitted uses in the surrounding area.* **The issues with this subsection are the same as those discussed under item #14 above in this section. The proposed location of this trailer is visible to the surrounding commercial and residential uses and may not be considered visually compatible.**

Comprehensive Community Plan and Great Streets Plan Concerns:

The applicable recommendations of the Comprehensive and Great Streets plans are generally related to major changes in land use and significant land use-related issues such as parking, traffic, stormwater, etc. Although the parking of commercial vehicles on a parcel of land is a land use, a single trailer has a minimal impact the kinds of issues listed above. The issues that are applicable have been discussed under the various provisions of the C-1 and SUE regulations. For this reason I have not completed a review of plan issues. They are of such a marginal impact in this analysis as to be de minimus.

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