

ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

Petition Number:	Z16-03 (Text amendment)
Petitioner:	Benjamin Hagedorn North Point Development, LLC 5015 NW Canal St. Suite 200 Riverside, MO 64150 816-888-7380
Agent:	None
Project Name:	Self-Storage SUE
Location:	N/A
Review Date:	7/28/16
Requested Action:	Zoning Ordinance Text Change
Code Section:	Zoning Ordinance (Article XIV, Section 1)
Existing Land Use/Zoning:	N/A
Surrounding Land Use/Zoning:	N/A
Proposal Description:	

A petition has been received from Benjamin Hagedorn of North Point Development, LLC, asking that Ballwin amend the language of Article XIV of the Zoning Ordinance to make indoor self-storage facilities a use allowed by special use exception in the C-1 zoning district. Presently this use is not allowed in any zoning district in the city, and Ballwin's regulations contain no design or operations standards for the construction or operation of such a facility.

There are some serious questions as to whether such a use is appropriate for the C-1 district. Additionally, if appropriate, the use presents operational issues that may justify special regulations or standards that would be required in addition to the provisions typically reviewed as a part of the special use exception approval process. Of particular concern, from my perspective, are issues of building design, hours of operation, security, vermin control, loading, aesthetics, unauthorized uses, the safety and nature of the stored materials and the potential of lost revenue for the city.

History of Similar Proposals:

This is not the first time Ballwin has been approached about making self-storage an allowed use in the C-1 district. On three previous occasions I have met with individuals wanting to make self-storage an allowed use in the C-1 Commercial District. In the first two instances the use was proposed as a special use exception and was suggested for the land presently occupied by U-Haul at the corner of Timka Dr. and Manchester Rd. The first time Ballwin was approached was before U-Haul was operating at this location. The proposal was to cover the entire site with the commonly seen long low storage buildings with multiple exterior doors. The buildings were to be within a fenced enclosure and there was no full time manager on site. The second time Ballwin was approached was after U-Haul had built its facility. It wanted to build self-storage buildings on the rear part of the site behind the building that is today occupied by Callier's Deli and Catering. In this case the facility would have consisted of a mixture of buildings. Some would be the familiar long low buildings with exterior garage doors. The plan also envisioned a building with interior rental unit access. Neither of these two proposals ever progressed to the level of a formal petition. Many of the problems, issues and questions raised at the time are still fundamental to this proposal today.

The third time Ballwin was approached about this use was in 2015. That proposal (petition Z15-02) was to amend the text of the zoning ordinance to allow interior accessed self-storage facilities by SUE which is what is being proposed in this petition. Concomitant with that petition was an accompanying petition for the approval of special use exception to permit a self-storage business on the same property being proposed in conjunction with this petition. The 2015 proposal received a positive recommendation from the Planning and Zoning Commission on April 6, 2015, but it was defeated by a vote of 7 to 2 by the Board of Aldermen on June 23, 2015. The primary concern voiced at the meeting was the potential for this use occupying commercially viable retail space that might otherwise be occupied by sales tax generating uses.

In addition to the potential loss of sales tax revenue cited above, I see the following design issues that need to be addressed and operational questions that need to be answered about the nature and potential impacts of this use before Ballwin amends the zoning regulations to permit self-storage as a special use exception. There is no direct evidence that any of the concerns discussed below will be significant issues or even come to fruition, but none are beyond the realm of possibility. They could happen and need to be fully understood and evaluated as legislation is considered. There may be other operational or use issues that are not included in this report that should also be addressed as a part of any legislation change.

1. The C-1 Commercial District is primarily intended for retail sales and services, office uses, institutional uses and governmental uses. A review of all of the uses presently permitted in the district fall into these categories. The closest use that Ballwin presently allows in the C-1 district is warehousing (storage) as an accessory use to

retail sales. In this scenario the warehousing use functions within a traditional retail building and is an accessory use to retail functions. It cannot exceed 75% of the gross floor area.

There is a question whether self-storage, as a stand-alone use with its own unique building type, is consistent from either a functional or aesthetic perspective with the other uses permitted in the C-1 district? This use may be made operationally and visually compatible and appropriate in the C-1 district if certain architectural design, operational and access standards are incorporated. The relatively low activity level of a self-storage facility is probably not inconsistent with the activity levels of most uses allowed in the C-1 district, but the traditional long low buildings with multiple exterior doors and encircling security fencing that are characteristic of many self-storage facilities that are not of a similar character or aesthetic, or functionally consistent with the buildings and sites associated with the uses otherwise permitted in the C-1 district.

2. Due to the structure of the Missouri statutes that govern how municipalities like Ballwin can fund their operations, sales taxes are the major revenue source for Ballwin (about 40% of the annual revenue). These taxes are collected from retail operations which are generally permitted only in the C-1 district. The nature of retail commercial development in a suburban community like Ballwin is that it is only successful where vehicular access is significant. In Ballwin, this primarily means the Manchester Rd. corridor and two major intersections along Clayton Rd. To facilitate revenues, these properties are all zoned C-1 commercial. Sales taxes are not collected from businesses that provide services such as hair and nail salons, finance businesses, professional offices, etc., or institutions like churches and schools. Given the limited amount of prime retail land available, it is clearly in Ballwin's best financial interests to encourage as many retail sales tax generating uses and as few non-sales tax generating uses as possible in the C-1 zoned areas.

The history and evolution of commercial activity and zoning regulations in the United States, and the uses allowed in those zones, is such that many service businesses and institutional uses are permitted in retail commercial districts, but every type of business is not universally allowed in such districts. Theatres, adult entertainment, auto service, tattoo parlors and pawn shops are examples of other high intensity or potentially unsavory uses are sometimes not permitted in traditional retail commercial districts or are only allowed under certain limited circumstances by special permit. This is a necessity because such uses may not always be suitable at every location in the C-1 district. These uses may be unsuitable at some locations due to surrounding uses, traffic generation, roadway congestion, topography, storm water runoff, aesthetics, sewer capacity, etc.

A question arises. Should Ballwin feel compelled to allow every use, sales tax generating or not, that can function in a zoning to do so? This becomes a question of the issues associated with a proposed new use. Does it generate large amounts of traffic, noise, glare, neighborhood congestion, stormwater runoff, or inappropriate behavior? Is it aesthetically incompatible with its neighborhood? Does it use large

amounts of land or other finite resources that would take away the potential for additional sales tax generation? In the case of self-storage uses, some of these might be legitimate concerns.

From my perspective, there is a serious question as to whether it is in Ballwin's long-term best interests to make self-storage a permitted use by right or by special use exception. High among these is the question of revenue. This use will generate no sales tax revenue, minuscule utility tax revenue, and the minimum annual business license fee. A single police call to the site could cost Ballwin more than the total annual revenue to be received. Furthermore, the use will potentially occupy a large amount of the finite C-1 zoned land area that will no longer be able to generate any sales tax revenue.

3. Even if a case can be made in support of self-storage as a use allowed by SUE at some locations in the C-1 district, it is important to remember that a change to the zoning use regulations will also make this an allowed use on any C-1 zoned property. This use may not fit well on some C-1 location. Furthermore, some developers may not be willing to build attractive, secure and functional facilities that comply with Ballwin's aesthetic and planning concerns. It is therefore essential that any regulation changes that will permit this use be very specific as to what is expected in terms of site planning, architecture, character and operations.

A logical question associated with any use-specific regulations then becomes why are the regulations for this use more extensive or restrictive than are the regulations for other uses permitted by right or by SUE in the district? Any limitations on self-storage developments need to be written in a manner that they can be justified as the minimum regulations necessary to achieve the specific purposes of the zoning district and the comprehensive community plan or to protect against a likely potential problem that other commercial uses do not present.

4. Since these storage facilities are not closely monitored, the improper storage of hazardous materials is a legitimate and serious concern. There are no periodic fire or occupancy change inspections for these units like there are for traditional commercial and residential properties. Furthermore, there is no system to regulate the materials that are placed in such a unit. It is not unreasonable to be concerned that someone could choose to store vermin-infested material or biologically or chemically hazardous, flammable or explosive materials. **Prohibiting such storage in the language of a zoning ordinance and/or the lease agreement does little to actually prevent it from happening, and I am aware of no way to assure the prevention of this inappropriate and potentially dangerous storage from occurring.** Admittedly, people can store such materials in a variety of other zoning districts, but vermin rarely spread from detached house to detached house. The spacing of structures in residential districts minimizes the spread of most of these hazards. Apartments have tenants that are present 24 hours a day that function as defacto inspectors, and commercial buildings are inspected annually by the fire district. All of these facilities offer some protections that minimize these kinds of hazards that a non-monitored self-

storage site would not.

5. These kinds of facilities have been known to be used for the storage and manufacture of illegal substances. The interior parking and generally private access provided by the proposed design, although a plus from a community aesthetics and safety perspective, might also conceal the ability to carry on with illegal activities for a longer period of time. Illegal activities such as the manufacture of methamphetamines or the growing of hallucinogenic mushrooms, both of which have occurred in Ballwin within the past 2 years, could potentially contaminate the entire facility making it dangerous and making cleanup a very expensive and difficult issue for everyone storing their items in this facility. Yes, these activities can potentially happen anywhere, but poor design and/or the inattentive operation of a self-storage facility might enhance the opportunity. **As is the case with storing hazardous materials, it is difficult to prevent this kind of activity. Making it illegal in the ordinance and the lease does not assure that it will not happen.**

6. Given the nature of these types of operations, it may be advisable to limit access to certain times of day or days of the week? Additionally, facility monitoring with a manager and/or cameras for security may be advisable?

Recommendations:

In considering the concerns raised above, if Ballwin is going to make self-storage an allowed use, the following site design and operational requirement language is recommended for incorporation into the SUE regulations:

1. **Self-storage shall only be permitted in the C-1 Commercial zoning district by special use exception.**
2. **Buildings and structures occupied by a self-storage use shall have no exterior doors or openable exterior access of any kind into the portion(s) of the building or structure intended for storage. Doors providing access to storage areas of the building shall only open upon and provide access from the fully enclosed interior common areas of the building or structure. Building access from the exterior shall only be provided via exterior personnel and vehicle doors that open into the fully enclosed interior common areas. Such doors shall be secured by a security system that prohibits access by unauthorized individuals lacking the approval of the facility owner/manager. Nothing in this section shall be construed to prevent windows in exterior walls serving self-storage areas as long as such windows are fixed and cannot be opened.**
3. **Buildings and structures located within the Manchester Road Revitalization District (MRD) that are used for self-storage shall have a minimum of three functional stories and shall have a minimum exterior height to the top of the parapet wall or the roof eave-line of 30' above the elevation of the**

lowest floor at which vehicular access to the building for loading purposes is available.

4. To assure security and proper maintenance of the facilities, all self-storage use operations shall have an on-site manager with office hours at least from 8:00 A.M. to 10:00 P.M. Monday through Friday.
5. All spaces for the parking of trucks and other vehicles delivering or removing stored items shall be provided within a fully-enclosed portion of the building into which all doors to individual storage areas must open. No exterior spaces for the parking of vehicles involved in the delivery or removal of stored materials shall be provided. This does not prohibit the provision of exterior parking spaces for vehicles doing business in the management office or the parking of vehicles associated with a manager's on-site living area.
6. To maximize the availability of the finite amount of C-1 zoned property in Ballwin for sales tax generating uses, no parcel of land having direct frontage to the rights-of-way of Manchester Rd. or Clayton Rd. shall be utilized for self-storage uses. Such use shall be limited to parcels having access only from publically dedicated roads. Access to such facilities via easements or other rights of access across other parcels or the location of self-storage facilities on rear portions of parcels fronting on Manchester or Clayton roads is not permitted.
7. To assure security and minimize unauthorized building access, buildings and structures occupied by a self-storage use shall provide security cameras in the interior loading/unloading areas and around all sides of the exterior of the building and shall utilize a building access system that requires a site manager to grant access or a mechanical/electronic system utilizing a unique PIN number or other similar access code system to allow authorized individuals to enter the building.
8. To assure security and to minimize inappropriate or illegal activities from being conducted in rental storage spaces, a building or structure occupied by a self-storage use shall only be open and available to tenants/users between the hours of 6:00 A.M. and 10:00 P.M.
9. To assure security, the exterior of a self-storage use shall be illuminated around the entire perimeter of the building. Illumination systems shall be designed to fully illuminate the exterior walls of the building and the adjoining site, but luminaries shall be chosen or designed so that the cut-off line of illumination shall not be outside of the property line and no lamp or lens shall be visible from any location on any adjoining property. Interior loading/unloading areas shall be automatically illuminated any time anyone

is present in the area.

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