

## SPECIAL USE EXCEPTION REVIEW REPORT

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**Petition Number:** SUE 12-02

**Petitioner:** Terrence McDonald of  
Freeworld LLC  
Dba The Dent Devil  
14949 Manchester Rd.  
Ballwin, MO 63011  
636-230-7900

**Agent/Engineer:** none

**Project Name:** Dent Devil Site Plan Amendment

**Filing Date:** 5/11/12

**Review Report Date:** 6/5/12

**Submission Compliance Certification Date:** 5/30/12

**Requested Action:** Special Use Exception Site Development Plan Amendment

**Purpose:** Construction of 2<sup>nd</sup> building

**Code Section (s):** Article XVI, Sec. 1(3)

**Location:** 14949 Manchester Rd.

**Existing Land Use/Zoning** Commercial/C-1

**Surrounding Land Use/Zoning:** North –Commercial/ C-1  
South - Commercial / C-1  
West -Commercial / C-1  
East - Commercial / C-1

**Plan Designation:** Office/Retail Commercial

**Project Description:**

Mr. McDonald received a special use exception to operate a paintless auto body shop with front yard parking in 2005. This business was housed in the existing auto service building that was already on the premises. Mr. McDonald now wants to erect a second building on the premises. The new building will be a membrane covered structure mounted on metal poles

(essentially a wallless tent). In order to do this, it is necessary that he amend the site development plan to show the new building.

**Zoning Ordinance Requirements/C-1 District (Article IX):**

This site is zoned C-1 Commercial. The C-1 District requirements are independent of the SUE regulations, but they must be reviewed when a SUE petition is received because under certain circumstances the SUE petition can trigger them.

1. Section 1 establishes that the provisions of this article are regulations of the C-1 district.
2. Section 2 establishes the uses allowed by right in the C-1 district. This use is not listed because it is allowed by special use not by right.
3. Section 3 establishes a maximum height limit of 45 feet. The proposed building will be well under this height limit.
4. Section 4. (1) (i): This subsection requires a front yard along Manchester Rd. with a minimum depth of 60'. This petition appears to be compliant with this subsection.
5. Subsection 4 (ii): This subsection requires a front yard along Orchard Lane with a minimum depth of 10'. **No scale is provided for the drawing submitted with this petition, so it is difficult to accurately determine the distance of the proposed new structure from the Orchard Ln. right-of-way line. Based upon the known dimensions of the parking spaces the tent appears to be approximately 5' from the Orchard Lane right-of-way line. This is not in compliance with the requirements of this subsection.**
6. Subsection 4 (iv) does not apply to this petition.
7. Section 4. (1) (iv) requires that a 10' deep landscaping area be provided along all roadway frontages of the site. **This ordinance criterion was added in 2000, but the retaining wall and pavement on this site predated this regulation. They go back to the old Mobil Oil filling station that was previously at this corner. Their antiquity makes this part of the site legally nonconforming to this regulation.**
8. Section 4. (2) addresses side yards abutting residential and recreational uses and does not apply to this petition.
9. Section 4. (3) (i-iv) establish criteria for the creation and landscaping of rear yards. **Due to the presence of roadways on three sides of this site and the orientation of the primary structure, there is no rear yard on this property.**
10. Section 5 (1): This subsection addresses the amount of parking that a development is required to provide based upon the use and the floor area of the building. The existing building is approximately 2000 square feet in area. The code requires one space per 300 square feet of floor area for this kind of use. This equates to approximately 7 spaces for the existing building. The new building will require an additional 6 spaces. The 13 spaces

required can be accommodated with the 16 spaces on the site that will remain after the new structure is built.

11. Section 5 (2) does not apply to this site.
12. Section 6 requires that this development plan be submitted to MoDOT for review and comment. As of the date of this report, I have received no comments from MoDOT relative to this development. Given the nature of the improvement it is unlikely that any substantive comments will be received.
13. Section 7. (1) requires that the minimum spacing of curb cuts be 500' between centerlines. This site is legally nonconforming relative to this requirement because it predates this regulation. This use has a relatively low traffic volume so the close proximity of the curb cuts to each other and the intersection has not historically been an issue.
14. Section 7. (2) requires the construction of a sidewalk along adjoining public rights-of-way. The only abutting right-of-way that does not have a sidewalk is the West Orchard Ave. frontage. Due to the proximity of the retaining wall on the north side of the site there is not sufficient room to build the sidewalk. This is another legal nonconformancy because this wall was built prior to the sidewalk requirement.
15. Section 7. (3) requires that Ballwin be granted a cross access, driveway/parking lot vehicular interconnection easement to the adjoining properties. This requirement can be waived if the Board of Aldermen determines that topographic or other conditions prevent the interconnection to adjoining properties. **Topography precludes the establishment of an interconnection to the Auto Tire site to the east. I believe that a well reasoned argument can be made that such an easement should be waived for this location and a waiver to this requirement was granted in 2005 when Dent Devil originally petitioned to develop this site.**
16. All other minimum requirements of the C-1 Zoning District appear to have been met by the submission.

**Zoning Ordinance Requirements/SUE Regulations (Article XVI)** 1. Section 1 (3) provides that this use is only allowed by SUE in the C-1 district. This is the purpose for this petition.

1. *Sec. 2 (1) Minimum Yard Requirements:* The minimum yard requirements of the C-1 District appear to have been met by this proposal.
2. *Sec. 2 (2) Site Illumination:* No change to the site illumination is proposed. **No information is provided about the illumination within or around the membrane roof structure.**
3. *Sec. 2 (3) Greenery and Planting:* No change to the site landscaping is proposed as a part of this petition.

4. Sec. 2 (4) *Fencing*: No change to the fencing on the site is proposed.
5. Sec 2 (5) *Parking*: This was discussed earlier in this petition. The existing parking lot is sufficient to provide parking for the existing and proposed buildings.
6. Sec. 2 (6) *Pavement*: No new pavement is proposed.
7. Sec 2 (7) *Storm water runoff control*: There will be no change to the imperviousness of the site or the storm water runoff characteristics. The site is legally nonconforming relative to this issue. There are no detention or water quality features on this site.
8. Sec. 2 (8) *Loading docks and facilities*: There is adequate area on the site for loading and unloading activities.
9. Sec. 2 (9) *Ingress and Egress*: No change to the current curb cut configuration is proposed or recommended. The traffic volume of this business is very low so there is little basis for concern for the adequacy of vehicular access.
10. Sec. 2 (10) *Adequate area for the use*: **The proposed location of the new building is in a tight and congested part of the site with minimal room to maneuver vehicles. If the structure is located as shown, or more importantly moved to comply with the minimum setback from West Orchard Ave., there is a serious question as to whether vehicles will be able to safely maneuver in and out of both buildings. There will certainly not be a 22' wide driving lane between the structures as is provided in the parking regulations. In my mind there is a very real and substantial question as to whether there is sufficient room on the north side of the site to accommodate the proposed building. Although there are aesthetic issues with placing this building in the Manchester Rd. front yard, there is far more room in the front part of the site to locate and access such a structure. There may also be room to build a conventional building addition that would be more compatible with surrounding uses and architecture and better fit into the design and configuration of the site.**
11. Sec. 2 (11) *Dead storage, dismantling and repair of automobiles*: Ballwin has regulation in place to address these issues. This has not historically been an issue with this business.
12. Sec. 2 (12) *Rubbish and trash disposal and screening*: The dumpster location will not change.
13. Sec 4 (6) (1) *Increase traffic hazards*: **The floor area on the site will increase, but the nature of the business is such that it does not generate significant traffic. I do not, therefore, see that this change to the site development plan will have a substantive negative impact on traffic hazards on the adjoining roadways. I am concerned, however, that the proximity of the new and existing building will have a negative impact on the traffic hazards and congestion on the site.**

14. Sec. 4 (6) (2) *Neighborhood character impact*: The area in question has been zoned commercial since the 1950's. Commercial uses have been in place since that time. The surrounding neighborhood is all commercial. **I see no basis to expect any negative impact on the character of the surrounding neighborhood caused by the increase in the auto body use resulting from the site plan amendment. I question, however, whether the membrane roofed structure can be similarly viewed. Although there are standards in the ICC code allowing the erection of such buildings, there are no structures of this type in the surrounding neighborhood or anywhere in Ballwin for that matter. There is a question as to whether such a structure will have a negative impact on the character of the neighborhood and Ballwin as a whole? This may be a point the Commission should consider under this subsection.**
15. Sec. 4 (6) (3) *Community general welfare impact*: There is little evidence that this use would have any substantial negative impact on the general welfare of the community. It constitutes a minor expansion of an existing allowed use. **The issue of on-site traffic congestion, however, may be considered under this review point as may the neighborhood compatibility issued discussed in #14 above and the visual compatibility issue discussed in #20 below.**
16. Sec. 4 (6) (4) *Overtax public utilities*: I see no basis for believing that this site plan amendment will have a substantive impact on any utilities.
17. Sec. 4 (6) (5) *Adverse impact on public health and safety*: **I see some basis supporting the position that this site plan amendment could adversely impact public health or safety. As discussed in #10 above, traffic congestion and hazards clearly fall into the category of public safety.**
18. Sec. 4 (6) (6) *Consistent with good planning practice*: **The commercial zoning is in place and the development proposal meets many of the minimum criteria for this district. Similarly situated commercial sites in Ballwin have been accepted as good planning practice. If the site congestion concern and the architectural compatibility of the membrane roofed structure can be resolved, I believe a similar statement would be applicable for this site plan amendment.**
19. Sec. 4 (6) (7) *Operated in a manner that is compatible with permitted uses in the district*: The proposed site plan amendment provides for the construction of a permanent membrane roofed structure as a second building to accommodate the same use that is presently in operation on the site. I am unaware of any compatibility issues with the current operation, so I have no basis to expect such a problem to result from this site plan amendment.
20. Sec. 4(6) (8) *Operated in a manner that is visually compatible with the permitted uses in the surrounding area*. Commercial development is generally not overly sensitive to surrounding land uses. In my view, an expansion of an approved and ongoing use would have to be substantial to rise to the level of not being visually compatible with the surrounding uses. **The only issue that might rise to the level of applicability in this**

subsection is the plan to erect a wall less membrane roofed structure that is essentially a tent. There are no such structures anywhere in Ballwin and some may not see it as visually compatible in a commercial district that is otherwise comprised completely of conventional masonry buildings. The closest visually similar structures would be fabric awnings such as the one on the Government Center that are used as decorative and stylistic architectural enhancements to conventional commercial structures. Such awnings are not buildings in their own right and are not comparable to this proposed building. They house no activity in their own right and serve only an accessory function to the primary building.

#### **Construction and Engineering Concerns:**

1. Section 7-2 of the Ballwin Building and Structures code requires that the walls of all structures build in any commercial or industrial district must be built of brick or stone masonry or other similar material acceptable to the Building Commissioner. The posts utilized to support the roof of the proposed structure are subject to this requirement and must be built of such materials. The metal poles shown for this purpose in the submittal are not similar materials and a building permit could not be approved. I am aware of no non- masonry or non-cementitious materials that have been permitted pursuant to this ordinance regulation since it was put in effect in the 1960's.

#### **Comprehensive Plan Recommendations:**

1. The future land use provisions of the 2007 Comprehensive Community Plan recommend (page 8:8) that this land be utilized as commercial. This recommendation has been met with this petition.

2. This first paragraph of this section recommends that uses in commercial areas be limited to retail, office, service, etc. uses, that commercial developments share points of access, be located along major arterial roadways, utilize professional landscaping, and share signage. I believe that all of these requirements have been met with this petition.

#### **Commercial Design Guidelines (page 8:8):**

The architecture of the existing building is to be retained. The second building that is proposed to be built (the membrane roofed structure with no walls) does not match or blend with the architecture of the existing building. Several issues of the 2007 Comprehensive Community Plan deal with architectural issues associated with commercial construction.

1. The first bullet point of this section recommends that the architectural design be visually interesting through the use of texture, complimentary colors, shadow lines and contrasting shapes. The original building is a single story masonry structure with a flat roof. It is a former Mobile Oil gasoline sales and auto service building. It is rectangular in shape and faces Manchester Rd. It has been dressed up with awnings, paint, window treatments, new fasciae, a canopy covered vehicular entrance on the front and extensive landscaping throughout the site. Mr. McDonald has won landscaping awards for his efforts in this regard. I

believe that the original building meets these recommendations of the plan. **The proposed new building is little more than a tent. It does not mimic the look, color or character of the existing structure and it does not enhance the overall design or feel of the site. I do not believe that this building is consistent with this provision of the comprehensive plan.**

2. The second, third, fourth, fifth, sixth and seventh bullet points address issues of design, materials, proportion, scale, building mass, etc. compatibility with the surrounding structures. **This membrane roofed building with no walls is in no way similar to the main structure or to any of the structures on surrounding commercial properties in character or scale. This building is foreign in design and character from the surrounding buildings in Ballwin.**

3. The eighth bullet point addresses landscaping. No additional landscaping is proposed in conjunction with this building. Given its proposed location, additional landscaping would not make much sense from a site design perspective.

4. The ninth bullet point addresses the use of screening and the placement of equipment. I do not see this to be an issue for this site plan amendment.

#### **Manchester Corridor Revitalization Strategies (page 8:23):**

1. The first bullet point recommends that new development and major renovations follow the design guidelines. This has been discussed above.

2. The second bullet point recommends mixed use developments. This petition is not a mixed use proposal, and a mixed use would not lend itself well to this small site.

3. The third bullet point addresses the architectural issues associated with large tenant buildings dominating a plaza. This is not applicable in this situation.

4. The fourth and fifth bullet points recommend the clustering or stacking of structures and uses as an alternative to the linear approach commonly utilized in traditional strip commercial development. This does appear to apply to this site.

5. The sixth bullet point discourages outdoor storage, display and sale of merchandise. This does appear to apply to this proposed use.

6. The seventh bullet point recommends that sites be developed to the maximum density allowed by the district regulations. **This site comes very close to doing this.**

7. The eighth and eleventh bullet points again raise the issues of landscaping and vegetation buffering to mitigate negative impacts on adjoining residential uses. The vegetation plan is unchanged and remains adequate for the site.

8. The ninth bullet point recommends the use of landmarks and public art to define the sense of place. **I believe that this site already does a pretty good job of doing this. The extensive landscaping along the adjoining roadways and at the intersection can be, in**

**my view, viewed as meeting this recommendation of the comprehensive plan. .**

9. The tenth bullet point addresses district gateway features. This site does not coincide with any of the recommended gateway sites.

10. The twelfth and thirteenth bullet points address traffic circulation and access management. Access to this site will not be changed per this proposal. **I have previously addressed my concerns about on site traffic circulation earlier in this report.**

11. The fourteenth bullet point addresses parking. The nature of this existing site and the proposed new building do not lend themselves to the concept of a centralized parking location.

12. **The fifteenth bullet point deals with the issue of land use transitions between high and low intensity uses. This issue is not salient to this site. It is surrounded with similarly developed commercial properties with an equivalent intensity of utilization.**

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