

SPECIAL USE EXCEPTION PETITION REVIEW REPORT

Petition Number: SUE 21-02

Petitioner: Vince Field
311 N Aberdeen St., Ste. 200
Chicago, IL 60607

Agent: Steve Marion
100 Midland Park Dr.
Wentzville, MO 63385

Project Name: Justice Grown Dispensary

Requested Action: Special Use Exception for:
Medical Marijuana Dispensary

Public Hearing Date: May 3, 2021

Code Section: Art. XIV, Sec. 10

Location: 14787 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: Commercial/Medical Marijuana

Figure 1:
Map View of the Location of 14787 Manchester Rd.
Map obtained through Google Maps.

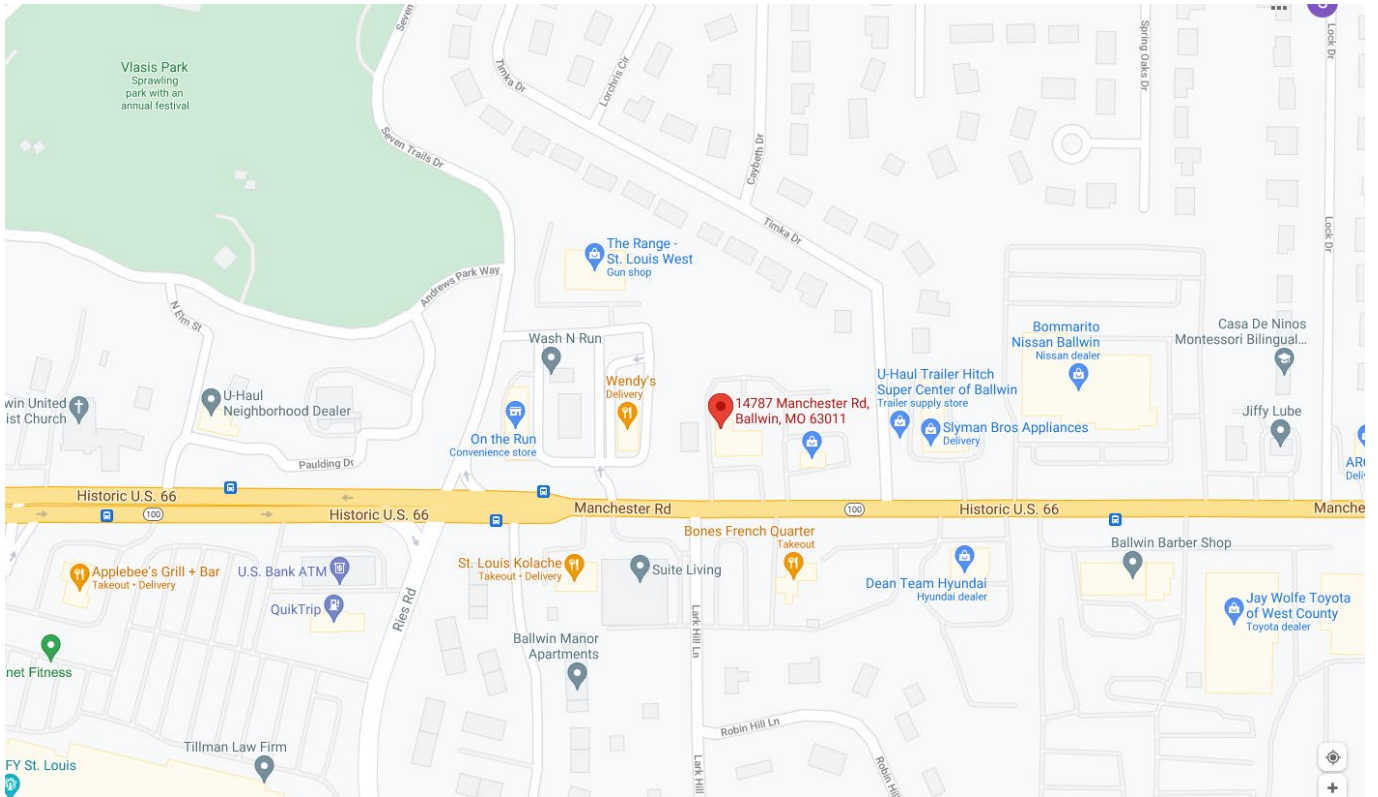


Figure 2:
Front View of Site, Aug, 2018. Proposal would use suite on left side of the photo.
Photo obtained through Google Maps.



Project Description:

Mr. Field is requesting that Ballwin approve a special use exception providing the allowance for the provision of medical marijuana via a dispensary at his establishment located at 14787 Manchester Rd.

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

- Article IX, Section 1 is a general introductory statement and imposes no design or plan requirements so it is not germane to this review.
- Art. IX, Sec. 2 establishes uses allowed by right in the C-1 district. The use contemplated in this petition is not included in the base C-1 use regulations. **The provision of medical marijuana via a dispensary in the City of Ballwin is required to undergo the SUE permitting process, detailing the necessity of my assessment.**
- Art. IX, Sec. 3 establishes a height limitation of 45'. **No changes are proposed to the current structure.**
- Art. IX, Sec. 4 (1) establishes a front yard depth of not less than 40', except for: Art. XI, Sec. 4 (1) (i), which states that land lying along Manchester Rd shall have a front yard not less than 60 feet. **No changes are proposed to the current structure.**
- Art. IX, Sec. 4 (2) establishes no requirement for a side yard, so long as the location does not adjoin with a dwelling, dwelling district, or any public activity district. **No changes are proposed to the current structure.**
- Art. IX, Sec. 4 (3) establishes a rear yard depth of not less than 25'. **No changes are proposed to the current structure.**
- Art. IX, Sec. 4 (4) refers to improvement of a C-1-zoned parcel with single-family dwellings, and is not pertinent to this evaluation.
- Art. IX, Sec. 5 (1) refers to off street parking and loading spaces, neither is this petitioner making changes to the currently existing building nor to its parking lot. **No changes are proposed.**
- Art. IX, Sec. 5 (2) refers to parking for shopping centers, plazas and office complexes with two or more tenants having more than 100,000 square feet of gross floor area, and is not pertinent to this evaluation.
- Art. IX, Sec. 6 refers to review by MoDOT for any intensive redevelopment along Manchester Rd. This is irrelevant to this proposal.

- Art. IX, Sec. 7 (1) requires that the minimum spacing of curb cuts is to be 500' between centerlines. No change is proposed.
- Art. IX, Sec. 7 (2) requires the construction of a 6' wide sidewalk along Manchester Road. No changes are proposed to the current sidewalk.
- Art. IX, Sec. 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. Cross access does currently exist between this site and its adjoining neighbors.

Zoning Ordinance Requirements/SUE Regulations Appendix A, Article XIV

- Article XIV, Section 1 (36) refers to any medical marijuana dispensary facility in the C-1, C-2, C-3, and S-1 Zoning Districts
- Article XIV, Sec. 2 (1) refers to minimum yard requirements. All yard requirements are abided.
- Art. XIV, Sec. 2 (2) refers to site illumination. No change is proposed.
- Art. XIV, Sec. 2 (3) refers to greenery and planting. No change to the current landscape is proposed.
- Art. XIV, Sec. 2 (4) refers to fencing. No change is proposed.
- Art. XIV, Sec. 2 (5) refers to parking. See Art. IX, Sec. 5 (1) for details. The proposed use meets the base requirements for parking.
- Art. XIV, Sec. 2 (6) refers to pavement and parking compliance. No change is proposed.
- Art. XIV, Sec. 2 (7) refers to storm water runoff control. No change is proposed.
- Art. XIV, Sec. 2 (8) refers to loading docks and facilities. **This location has a pre-existing loading dock that is proposed with fencing for security purposes.**
- Art. XIV, Sec. 2 (9) refers to ingress and egress at the site. No change is proposed.
- Art. XIV, Sec. 2 (10) refers to adequate area for the use. No changes are being proposed for the building, and the area is considered adequate for the use proposed.
- Art. XIV, Sec. 2 (11) states that in off-street parking for public use or for employees, no sales, dead storage, repair work nor dismantling of automobiles shall be permitted.

- Art. XIV, Sec. 2 (12) refers to rubbish and trash disposal and screening. No change is proposed outside of the current trash disposal situation.

Art. XIV, Sec. 10 regulates 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 State 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. Any petitioner for the use of medical marijuana is required to comply with the following:

- Art XIV, Sec. 10 (a) states that 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.
- Art XIV, Sec. 10 (b) states that no more than 3 medical marijuana facilities of any type will be permitted within the city limits. This location is the first to propose such a business. The total amount of medical marijuana-related businesses as a result of the approval of this petition by the City of Ballwin’s Planning and Zoning Commission and the City of Ballwin’s Board of Aldermen would be: 1.
- Art XIV, Sec. 10 (c) provides distance requirements for medical marijuana-related businesses to operate from the following locations:
 - 300 feet from any school, child day-care center or church. The property is approximately 1,400 feet from the Salem Baptist Church at 14825 Manchester Rd and approximately 2,400 feet from Ballwin Elementary School. It complies with this requirement.
 - 1,500 feet from the nearest marijuana related use. There are no other marijuana related uses within the city limits of Ballwin. However, there are marijuana related uses in Ellisville and Manchester, but the distances from this location far exceed 1,500 feet.
- Art XIV, Sec. 10 (d) states that the waiting area and the area of a medical marijuana dispensary facility where marijuana or marijuana-infused products are physically delivered to a qualifying patient or primary caregiver shall be separated by a solid wall and solid door so that persons in the waiting area are obstructed from observing the delivery of the marijuana or marijuana infused products to the qualifying patient or primary caregiver. No loitering will be permitted at any facility. **Building Commissioner Mike Roberts believes that the petitioner has complied with this requirement to the extent necessary for this evaluation per the submitted floor plans. A full set of construction documents will need to be reviewed to determine approval for permit purposes.**

- Art XIV, Sec. 10 (e) states that 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. **Building Commissioner Mike Roberts believes that the petitioner has complied with this requirement to the extent necessary for this evaluation per the submitted floor plans. A full set of construction documents will need to be reviewed to determine approval for permit purposes.**
- Art. XIV, Sec. 10 (f) states that paraphernalia as defined in RSMo 215.610, {currently listed under RSMo 195.010 (18)}, excluding (1)f., currently labelled as “Miniature cocaine spoons and cocaine vials”, and as may be amended, may be lawfully sold at a medical marijuana dispensary facility. Such items may not be publicly displayed and may be sold, displayed and provided only to patients or primary caregivers of patients.
- Art. XIV, Sec. 10 (g) states that the sale or consumption of alcohol within a medical marijuana facility is strictly prohibited.
- Art. XIV, Sec. 10 (h) states that no person under the age of 18 shall be allowed in any portion of a medical marijuana cultivation facility, medical marijuana testing facility or medical marijuana-infused products manufacturing facility. The entrance to a facility shall be clearly and legibly posted with notice indicating that persons under the age of 18 are precluded from entering the premises.
- Art. XIV, Sec. 10 (i) states that a medical marijuana dispensary facility shall not dispense more than four ounces of a usable form of medical marijuana per patient in a 30 day period, except as otherwise allowed by law [Art. 2, sec 3(13)]. All marijuana sold or otherwise distributed shall be in a sealed container. Such packaging shall have a label that indicates the quantity and advises the purchaser that the marijuana is intended for use solely by the patient, and that any resale or redistribution to any third person is a criminal violation.
- Art. XIV, Sec. 10 (j) states that the consumption, inhalation or other personal use of marijuana or medical marijuana-infused products on or within the premises of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility or medical marijuana dispensary facility is prohibited, except that a medical marijuana testing facility may consume marijuana during the testing process and only as the consumption relates to the testing process.
- Art. XIV, Sec. 10 (k) states that dispensaries can be on the same property as a cultivation facility, a medical marijuana-infused products manufacturing facility or a medical marijuana testing facility but are not permitted to be within the same building as any other marijuana related use.

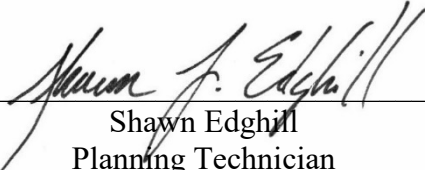
- Art. XIV, Sec. 10 (l) states that security plans must provide adequate security on the premises, including but not limited to:
 - Surveillance; security surveillance cameras installed to monitor each entrance to the facility along with the interior and exterior of the premises to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring at the premises. Security video shall be preserved for at least 90 days, and be made available to law enforcement officers upon demand.
 - Inventory; all salable inventory of marijuana must be kept and stored in a secured, locked manner.
 - Safe; a locking safe or secure vault permanently affixed or built into the premises to store any currency on site.
 - 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.
 - 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 of 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.


- Art. XIV, Sec. 10 (m) states that 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:
 - Floor Plan; A plan showing the layout of the facility and the principal uses of the floor area depicted. A medical 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 medical marijuana to qualified patients or designated primary caregivers. The primary entrance of any stand-alone 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 and labeled.
 - Odor Control; A facility shall provide a plan for the mitigation and control of odors and other environmental impacts which may emanate from a facility. Such plan shall describe the ventilation system for the premises. Appropriate ventilation systems to prevent any odor of marijuana or fumes from leaving the premises of a facility or other changes to a facility may be required to abate a public nuisance.

- Art. XIV, Sec. 10 (n) provides requirements for signage at the facility. Any sign for a facility harboring a medical marijuana use will be required to comply with the requirements of Chapter 22 of this Code, or any ordinance enacted hereafter regulating signs. Additionally any sign for a facility harboring a medical marijuana use shall locate the sign on the same premises as the facility.
- Art. XIV, Sec. 10 (o) states that each facility shall provide off-street parking and comply with all parking regulations for the zoning district in which the facility is located.
- Art. XIV, Sec. 10 (p) states that 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.
- Art. XIV, Sec. 10 (q) states that it shall be unlawful for any person to distribute, transmit, give, dispense or otherwise provide medical marijuana as a home occupation.
- Art. XIV, Sec. 10 (r) states that no medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility shall be operated within the city without a valid license issued by the Missouri Department of Health and Senior Services. No marijuana or marijuana-infused products shall be acquired, certified, cultivated, delivered, manufactured, processed, sold, stored, tested, or transported within the city, except by persons or entities licensed for such purposes by the Missouri Department of Health and Senior Services.

Staff Recommendation:

The Planning Department has no objections; however, it is requested that additional wording be included in the bill should this matter be approved by the Commission to require compliance with all state and local ordinances regulating medical marijuana uses. The Building Department has no current objections but is of the opinion that further evaluation will be required to ensure compliance with this Special Use Exception during the building permit process.


 Shawn Edghill
 Planning Technician


 Michael Roberts, MBA, MSML, MCP, CFM
 Building Commissioner