

# ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

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**Petition Number:** Z15-02

**Petitioner:** Steve Nolan  
Nolan Real Estate Interests, LLC  
45641 Belair Dr. South  
Suite 100  
Fort Worth, TX 76109

**Agent:** None

**Project Name:** Self-Storage SUE

**Location:** N/A

**Review Date:** 2/19/15, 3/9/15

**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 Steve Nolan of Nolan Real Estate Interest, LLC, asking that Ballwin amend 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. Warehousing, which is somewhat related, is allowed in the S-1 Service district. Ballwin's regulations contain no design or operations standards for the construction or maintenance of such a facility. I believe that there are some serious questions as to whether such a use is desirable in the C-1 district. Additionally the use presents operational issues that may justify special regulations or standards that would be above and beyond 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, the safety and nature of the stored materials, vermin control, loading, unauthorized uses, lost revenue potential for the city and aesthetics.

## **Suitability:**

This is not the first time Ballwin has been approached about making self-storage an allowed use in the C-1 district. On two previous occasions I have met with individuals wanting to make self-storage an allowed use in the C-1 Commercial District. In both instances the property proposed for this use was 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 owned this site. 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 I 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 long low buildings with exterior garage doors. The plan also called for 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.

**I see the following as being issues that need to be addressed as a part of the design and operation of such a facility, and questions that need to be answered about the impact of this use on Ballwin before the city amends the C-1 district regulations to permit self-storage, even as a special use exception. Please understand that there is no promise or guarantee that any of the concerns discussed below will be significant issues or even come to fruition, but all of these kinds of things could happen and need to be fully understood and addressed. There may also be issue that I have not thought of that need to be addressed as a part of this petition. The undesirable operational scenarios below have all happened before in Ballwin, sometimes with regularity:**

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.

Is self-storage, as a stand-alone operation with its own unique building type, consistent from either a function or aesthetics perspective with the other uses permitted in the C-1 district? I believe that this use can be compatible and appropriate if certain design and access standards are developed for the use. The relatively low activity level of a self-storage use 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 are not aesthetically 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 Missouri's statutes governing how municipalities like

Ballwin can fund their operations, sales taxes have become a major revenue source for Ballwin (about 40% of annual revenue). These taxes are collected from retail operations which are only permitted 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 a few major intersections along Clayton Rd. To facilitate revenues, these properties are all zoned C-1 commercial. Sales taxes are not collected from businesses that sell services such as hair and nail salons, financial institutions, churches, offices uses, etc. It is clearly in Ballwin's best financial interests to encourage as many retail sales uses as possible and as few non-sales tax generating uses as possible in the C-1 zoned areas.

The history and evolution of commercial zoning in the United States, and the uses allowed in those zones, is such that many traditional service uses such as barber shops, dry cleaning, professions, etc., are permitted in retail Commercial districts, but every service is not allowed. Theatres, entertainment, auto service, etc. are sometimes not permitted in traditional retail commercial districts. This is a historic reality. Should Ballwin feel compelled to allow every non-sales tax generating use that can function in a retail district 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; stormwater runoff? Is it aesthetically incompatible? Does it use large amounts of land or other finite resources? In the case of self-storage uses, some of these might be legitimate concerns. In this case the use will occupy a significant tract of C-1 zoned land that might otherwise be occupied by sales tax generating businesses? Would this use be more acceptable if it were limited to sites that are not prime retail sites?

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. The use will generate no sales tax revenue, miniscule 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. The only advantage I see to Ballwin in this individual zoning change proposal is that it will remove an otherwise unsightly and long-time vacant building and will develop a parcel that has otherwise proven to be difficult to develop.

3. Even if a case can be made in support of a self-storage use at this location, it is important to remember that the change to the zoning use regulations will also make this an allowed use on any C-1 zoned property. This use may not fit as well on other locations as it does here. Furthermore, a different developer may not be as willing as this petitioner to comply with Ballwin's aesthetic and planning concerns. It is therefore essential, from my perspective, that any regulation changes that will permit this use be very specific as to what is expected in terms of site planning 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 needed to obtain a specific purpose 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. 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 prevent this inappropriate and potentially dangerous storage from happening. Admittedly, people can store such materials in a variety of other zoning districts, but vermin rarely spread from house to house, the spacing of structures in residential districts minimizes all 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 seem to offer some protections that minimize these kinds of hazards that a non-monitored site would not.

5. These kinds of facilities have been used to store and manufacture illegal substances. The interior parking and generally private access provided by this design, although a plus from a community aesthetics and safety perspective, might 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 year, 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, this can happen anywhere, but the improper design or operation of 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 prevent it from happening.

6. Given the nature of these operations, should access be limited to certain times of day or days of the week? Additionally, should the facility be monitored with a manager and/or cameras for security?

### **Recommendations:**

**A. The petitioner has suggested several site and building design and operational requirement be incorporated into the ordinance. These are as follows:**

1. Minimum land area of .75 acres
2. Minimum building height of 32'

3. Drive-through design of building with security doors on the entrance and exit
4. All loading/unloading shall take place within the building
5. A minimum of 9 parking spaces shall be provided for the facility with as many as 4 of them allowed outside of the building.
6. The maximum hours of operation shall be from 7:00 a. m. to 10:00 p.m.

**B. I have reviewed the petitioner's recommendations and have carefully considered the concerns raised above. I recommend that, if Ballwin is going to make self-storage an allowed use, the following site design and operational requirements be incorporated into the 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 shall only open upon and provide access from the fully enclosed interior common loading areas of the building or structure. Building access shall only be provided via exterior personnel and vehicle doors that open into the fully enclosed interior loading area. 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 occupied for self-storage shall have a minimum two 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 primary floor of the building. A basement floor may be considered the primary floor for those portions of a building or structure where such floor is at or near the adjoining exterior grade such as exists in a walk out basement configuration.
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 5:00 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 onto 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 on the right-of-way lines of Manchester Rd. or Clayton Rd. shall be utilized for self-storage uses. Such use shall be limited to second tier or rear parcels having access only from secondary roads.
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 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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Thomas H. Aiken, AICP  
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