

# ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

**Petition Number:** Z16-01

**Petitioner:** Mr. Patrick Dean  
CON, LLC  
15121 Manchester Rd.  
Ballwin, MO 63011  
636-391-7088

**Agent:** Joe Dale  
1130 Mid River Industrial Dr.  
St. Peters, MO 63376  
636-936-1566

**Project Name:** VW/Subaru site plan

**Location:** 15121 Manchester Rd.

**Petition Date:** 4/22/16

**Review Date:** 4/28/16

**Requested Action:** Zoning Change (Add Manchester Rd. Revitalization Overlay Zoning)

**Code Section:** Zoning Ordinance, Article XIIc, XXIII

**Existing Land Use/Zoning:** Retail Auto Dealership / C-1 Commercial

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

**Plan Designation:** Commercial, Manchester Rd. Revitalization

## Proposal Description:

Con, LLC, more commonly known as Dean Team Volkswagen Subaru, is requesting an amendment to the current approved site development plan for this site to allow the construction of additional office space and expanded indoor display and service writing areas for each product line. The addition will expand the overall building footprint by more than 10%, so the revised plan is subject to the approval of a Manchester Rd. Redevelopment Overlay District (MRD) on top of the existing C-1 commercial zoning and SUE site development plan previously approved for this approximately 5.17 acre property commonly known as 15121 Manchester Rd.

This site is zoned C-1 Commercial and is predominantly bounded by commercial uses in the C-1 district. Bank of America and a parcel owned by Ballwin Baptist Church lie across Steamboat Ln. to the east, Elco Cadillac lies across Manchester Rd. to the south and Enterprise Car Rental adjoins to the west. There are three adjoining residential uses. The Coral Terrace Condominium development adjoins the site to the west. It is zoned C-1 commercial even though it is a residential use. A portion of the Driftwood single family subdivision also adjoins to the west. This is zoned R-1 single family. The Madison Rockwood Apartment development adjoins to the north and a little bit on the east. This development is zoned R-4 planned multiple family.

The Dean Team site is rectangular in shape with the short side adjoining Manchester Rd. (262'). The long side, adjoining Steamboat Ln., is 780 feet long.

Essentially, the entire site slopes to Manchester Rd. The rear parking lot, which was expanded in 2003, flows to an underground detention facility (large pipe) located where the plan notation states that there is a "trench drain". The outfall from that detention facility flows via a stormwater pipe along Steamboat Ln. to the Manchester Rd. stormwater collection system. The balance of the site sheet flows around the buildings and enters Manchester Rd. via the two curb cuts. The water then enters the many grated inlets along this portion of the road. The Manchester Rd. storm water pipe system discharges into Fishpot Creek at several locations. The largest in this area is on the east side of the Elco Chevrolet building. Fishpot Creek flows southeastwardly and eventually enters the Meramec River in Valley Park.

The highest point of the site with an elevation of 614' is along the northern property line near Steamboat Ln. The site has a fairly consistent slope to the south to the point where the retaining walls are located about 120' behind the building. At this point the wall supports an approximately 4' elevation drop across the entire width of the site from west to east. From the base of the wall the site slopes gently around the building toward Manchester Rd. to the low point of 590' at the eastern curb cut. This yields an elevation change of about 24 feet across the 770' length of the site from north to south.

There are presently two buildings on this site. The smaller and westernmost of the two with a floor area of approximately 3000 square feet was originally built as the Subaru display building. The floor area will be reduced to approximately 2200 square feet to facilitate the redesign of the site. The building will house used vehicle sales. The larger building has approximately 23,100 square feet of floor area and houses the new vehicle display and service functions. The redevelopment plan proposes to demolish the approximately 8200 square foot display portion of this building and replace it with 10,200 square feet of new display area and indoor service-writing spaces for both manufacturers. Additional floor area will be added in an office mezzanine space over a portion of the new addition.

There will also be an adjustment to the curb cuts and the parking configuration on the site as a part of this proposed work. The most notable of the site changes, besides the building expansion, is the elimination of the eastern Manchester Rd. curb cut. This is a congested part of Manchester Rd. In addition to significant volumes of through traffic in both directions, there are significant left turning movements entering and exiting the two Dean Team curb cuts, Steamboat Ln., Elco Cadillac and Old Ballwin Rd. The left turn

movements leaving Manchester Rd. to these access points often have conflicting queues. In some cases, such as the left turn movements entering the Dean Team curb cuts and the left turning movements entering Old Ballwin Rd., the queues are opposing in a head-on situation in the center turn lane. In other places, such as left turning movements into the eastern Dean Team curb cut and Steamboat Ln., the conflicts are the result of overlapping queue storage for traffic moving in the same direction. No changes to the Dean Team curb cut configuration can eliminate all of these conflicting movements, but the proposed removal of the eastern curb cut will improve part of the overlapping queue problem described above.

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## **PLANNING AND DEVELOPMENT PLAN REVIEW CONSIDERATIONS:**

This review report covers the issues of the C-1 Commercial district, the special use exception regulations and the MRD overlay zoning district. **This petition has been submitted because the approved Special Use Exception (SUE) site development plan approved per ordinance 03-45 in 2003 is being amended and the building floor area on the site is being expanded by more than 10%. The Planned Overlay District (POD) regulations require an MRD overlay approval pursuant to both of these criteria.**

Since an existing SUE site development plan will be amended with this petition and the site will retain its existing C-1 zoning, and since an MRD overlay is now required for the proposed changes to the site development plan, a review of the new site development plan per the C-1, the SUE and the MRD regulations is necessary.

The nature of the MRD is such that it must be considered jointly with the regulations of the underlying zoning district. The MRD can amend the C-1 district regulations and the special use exception regulations such that only the MRD Governing Ordinance will be necessary to approve the amended site development plan. Separate ordinances approving the C-1 or SUE site development plans are not needed.

**There is confusion with some of the requirements of the C-1 district and the MRD overlay district related to this petition. This is due to the current site design being legally nonconforming. These issues are discussed in the appropriate sections throughout this report.**

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## **C-1 DISTRICT REGULATIONS:**

This proposal entails the redevelopment of a large commercially zoned site. The petition proposes to maintain the C-1 Commercial district zoning as the underlying zoning to accompany a MRD (Manchester Road Revitalization District) overlay which allows more flexibility in site development, but simultaneously impose some more extensive site development regulations depending upon the intended land uses. The MRD regulations may supersede or amend the requirements of the C-1 district. Any regulation not superseded or amended by the governing ordinance and accompanying plan will still apply. The C-1 district issues with the site are as follows:

1. Article IX, Section 2 identifies a list of uses that are allowed by right in the C-1 district. Article XIV of the zoning ordinance establishes additional uses that are allowed by special use exception in the C-1 district.

**Recently the sale of automobiles has become a use allowed by SUE rather than by right in the C-1 District. That use is legally nonconforming for the Dean Team at this location because it predates the ordinance change. The MRD governing ordinance that is required pursuant to approving this amendment to the site development plan will list all allowed uses. It will therefore include the sale of new and used automobiles along with front yard parking and auto service. This will resolve any nonconforming use issues.**

2. Article IX, Section 3 limits the height of structures to a maximum of 45 feet. The height of the tallest portion of the building above finished floor per the submitted architectural elevation is approximately 26' 5 1/2". This is well below the maximum allowed height of the C-1 district.

3. Article IX, Section 4. (1) (i) requires a front yard of 40' on all streets and a front yard of 60' along Manchester Rd. The building addition will have the same setback as the existing building from both Manchester Rd. and Steamboat Ln. The setback from Manchester Rd. is approximately 100' so it is fully compliant. The setback from Steamboat Ln. is approximately 35' so it does not meet the ordinance requirement. It is however legally nonconforming. The building was built before Steamboat Ln. became a publically dedicated roadway. Furthermore, it predates the 1966 setback regulation of the ordinance. **The building addition is proposed to be built in a manner that matches the set back of the existing building. Under the C-1 district regulations this would require a variance, but under the MRD regulations this different setback can be approved. The MRD establishes its own building setback regulations. This is discussed in greater detail in the MRD section of this report.**

4. Article IX, Section 4. (1) (ii) only applies to properties fronting on the south side of Orchard Lane and does not apply to this petition.

5. Article IX, Section 4. (1) (iii) is permissive; it is not mandatory. It allows the developer of properties fronting on Manchester Rd. to have front yard setbacks as small as 20' if the front yard is used for landscaping, pedestrian circulation and public amenities and no parking is allowed. The petitioner's amended site development plan does not propose to utilize this code section.

6. Article IX, Section 4. (1) (iv) requires the provision of a 10' deep landscaped area along all roadway frontages of the site in conjunction with new developments and redevelopments. **The existing site development plan does not fully meet this requirement. Only the rear approximately 264 feet of the parking lot abutting Steamboat Ln. is compliant. This portion of the parking lot was paved in 2003 and a 25' greenspace was preserved which exceeds the green space requirement of this subsection. The balance of the site's impervious area predates the 1966 zoning district regulations that first established green space setbacks. Under the proposed site plan revision, the petitioner proposes to retain its utilization of the**

**nonconforming portions of the parking lot in an essentially unchanged configuration. The nonconforming portion of the lot will not be expanded or substantively modified. The portion of the rear parking lot that is compliant with this part of the ordinance will be modified somewhat, but it will remain in compliance with this code section. This matter will be discussed again in the MRD section of the report.**

7. Article IX, Section 4. (2) requires landscaped side yards of 25' depth where commercial sites abut residential uses or residential or recreational zoning classifications. **This site abuts residential uses in its side yard along most of the western property line north of the Enterprise Car Rental business. This area is also legally nonconforming because it predates the greenspace requirement that is now in the ordinance. The existing greenspace along the Coral Terrace Condominiums is minimal, but there is a 6' tall sight proof fence providing some visual screening. There is a 10' to 12' wide green space separating the northern portion of the parking lot from the adjoining single family residential properties on Coral Terrace. There is a 6' tall chain link fence in this area, but the green space is heavily overgrown with underbrush vegetation which provides some visual screening. No changes are proposed to either nonconforming situation. The petitioner proposes to continue to utilize the pavement and green spaces in their nonconforming form. This too will be discussed again in the MRD section of the report.**

8. Article IX, Section 4. (3) (i) requires a 25' deep landscaped rear yard area where the site abuts residential uses in a rear yard situation. This provision does not appear to have been met by the submitted site plan but there is again a legally nonconforming issue situation. **When the 2003 SUE allowed the expansion of the pavement in the rear parking lot area, the new pavement was held back from the adjoining residential use. The existing portion of the lot, which extends virtually all of the way to the north property line, was already there and appears to have been there since before any regulations required a green space rear yard setback. This area was therefore legally nonconforming in 2003, and since no change to the nonconforming pavement is proposed it will continue to be legally nonconforming. This too will be discussed in the MRD section of the report.**

9. This section also requires the landscaped rear yard, and the side yard abutting residential uses as stipulated in #7 above, to be fully landscaped and free of all structures, pavements, above ground utilities, and similar improvements. The landscaped area must be permanently maintained with plantings of sufficient quantity and size to provide a 100% sight-proof screening to a height of 6' above ground level. This screening is to consist of a mixture of evergreen and deciduous trees and shrubs.

**New landscape materials are proposed for the rear yard area along the apartments and front yard area along Steamboat Ln. that are being utilized in accordance with the MRD regulations. The existing pavements, overhead utilities and fencing in the balance of the perimeter areas are legally nonconforming and are proposed to be retained and utilized as such. These nonconforming pavement and green space requirements of the C-1 district can be waived by the MRD Governing Ordinance, but the MRD imposes its own greenspace and screening requirements that these sections also do not appear to meet. Retaining and utilizing the legal**

**nonconformities is the proposed approach. This is discussed in more detail elsewhere in this report**

10. Article IX, Sections 4. (3) (ii, and iv) do not apply to this petition.

11. Article IX, Sections 4. (3) (iii) allows physical building improvements existing prior to April 10, 2000 that exist in the required rear yard setback area to be retained if they are to be utilized in the new plans. Such reuse is predicated on the condition that the 25' buffer area cannot physically be provided on the site if the building improvements are reused. In this aforementioned event the screening required in Subsection 3(ii) is to be provided. In this petition no existing building improvement within the 25' rear yard landscape area is being reused so this section does not apply.

12. Article IX, Section 4 addresses lots developed with a residential use and does not apply to this petition.

13. Article IX, Section 5. (1) requires parking in accordance with the provisions of Article XV. The parking provided appears to be well in excess of the requirements of the C-1 district.

14. Article IX, Section 5. (2) allows a parking reduction in exchange for more landscaping. The submitted site development plan does not utilize this option.

15. Article IX, Section 6. requires the submission of the site development plan to MoDOT for its review. **I believe that the elimination of a curb cut will be positively received by MoDOT, but there may be some concern about the proposal to widen the remaining curb cut. Generally, the width of such curb cuts is limited to 36 - 40 feet which is the width of the current cut. The site development plan will have to be submitted to MoDOT for comment as soon as possible to make sure that the proposed changes are acceptable.**

16. Article IX, Section 7. (1) requires that the minimum spacing of curb cuts be 500' between centerlines. **The elimination of the eastern Manchester Rd. curb cut will bring this site into compliance with this subsection, but this regulation can be amended via the MRD governing ordinance and that will be necessary in order to permit the new Steamboat Ln. curb cut.**

17. Article IX, Section 7. (2) requires the construction of a 6' wide sidewalk along Manchester Rd. **This sidewalk was built by Ballwin in 2005 with 70% funding from a federal transportation grant. Ordinance 05-39 requires that Ballwin be reimbursed for its 30% of the cost upon the development/redevelopment of the site or transfer of any special use exception associated with any property benefiting from such sidewalk construction. The reimbursement to Ballwin for this sidewalk construction will be \$1,037.40.**

18. 15. Article IX, Section 7. (3) requires that a cross access, driveway/parking lot vehicular interconnection easement be established for the benefit of the adjoining properties. **The ordinance allows this requirement to be waived for topographic or**

site design reasons. The only adjoining property to which this requirement can reasonably apply is the Enterprise Car Rental property abutting to the west. There is, however, a significant topographic elevation difference that would make any at-grade connection of these two properties very difficult. Much of the front parking lot of the Dean Team would have to be removed and lowered to provide a reasonable flat connection to the adjoining property. This would create grade and access problems for the buildings on the Dean Team property. Such regrading would only work if the entire Dean Team or Enterprise Car Rental sites were being completely redeveloped. Given the moderate improvements proposed, the site appears to be eligible for an aldermanic waiver.

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#### **SUE Regulations (Article XIV):**

1. Sec.1 (1) (14) the sale and service of motor driven vehicles and front yard parking are allowed by special use exception (SUE) in the C-1 zoning district.

2. Sec. 2 (1) *Minimum Yard Requirements*: The minimum yard requirements of the C-1 District were identified in #3 of the C-1 section above. **This matter is discussed more thoroughly in the MRD section.**

3. Sec. 2 (2) *Site Illumination*: The submitted site development plan appears to identify 16 existing pole lights on the site that will be retained. The plan also shows that new wall-mounted luminaries will be placed on the east, west and north sides of the main building and on the north side of the used car building. This subsection only states that appropriate illumination shall be provided.

**It is recommended that the governing ordinance contain a provision that all new wall mounted luminaries, which point in the direction of the nearby residential uses, be equipped with shields that cut off the illumination at the property line. This includes the lights proposed on the north and west sides of the buildings. I also recommend that any pole mounted luminaries that are replaced or upgraded with new luminaries be equipped with similar shields. Shields of this nature will minimize the spilling of unwanted illumination onto adjoining residential properties.**

4. Sec. 2 (3) *Greenery and Planting*: this section requires “appropriate provision for landscaping and greenery and its maintenance, both for purposes of screening and blending with the character of the surrounding uses and neighborhoods.” The existing Dean Team site has minimal landscaping. There are narrow strips of grass along a portion of the Manchester Rd. and Steamboat Ln. frontages near the buildings. Additionally, there is a 43’ wide landscaped green strip with several mature trees along the northern 260’ of the Steamboat Ln. frontage. There are also small strips of green space along the western and northern edges of the site that providing some screening to the adjoining residential uses in these areas.

**The submitted plan proposes to maintain all of the existing landscaped areas, but reduce the large landscaped strip along the northern part of Steamboat Ln. from approximately 43’ in depth to 12’ in depth and remove all of the mature**

trees. The space taken from landscaping will be used for additional vehicle storage. The MRD imposes greater landscaping requirements, but there is also the issue of the legally nonconforming status of the site. This issue is discussed in greater detail in the MRD review.

5. Sec. 2 (4) *Fencing*: No new fencing is proposed in conjunction with this petition nor is it specifically required by this subsection. **This issue is discussed with recommendations in the MRD review section.**

6. Sec 2 (5) *Parking*: Adequate parking is provided per the requirements of this subsection.

7. Sec. 2 (6) *Pavement*: **No details are provided about the existing or proposed new pavements. Ballwin's parking lot construction standards will apply for all new pavements and the typical section will be required on the final approved site development plans.**

8. Sec 2 (7) *Storm water runoff control*: The existing storm water detention and control facilities on the site are shown. These are minimal. The rear half of the site is collected into a detention system and piped into the Manchester Rd. system. The front portion of the site sheet flows into this same Manchester Rd. system. This storm water detention approach was approved by MSD in 2003. There are no water quality features on the existing site. This is a very similar situation to that faced by Elco Cadillac when it was built. In that case it was MSD's position that some detention was required as were some water quality features. MSD may take a similar position with this site.

**As of this writing the petitioner has not received formal MSD comments on detention or water quality so this site development plan may not be ready for a final recommendation by the commission. These issues have to be addressed and understood when the Commission deliberates on the petition. I recommend, therefore, that the Commission withhold its recommendation to the Board of Aldermen until the petitioner provides written comments from MSD that no detention or water quality improvements are required or submits a site development plan showing the required improvements.**

9. Sec. 2 (8) *Loading docks and facilities*: All that this subsection requires is adequate provision of such facilities. **The revised plan proposes the creation of an additional curb cut onto Steamboat Ln. near the north end. This is expected to become the primary ingress point for vehicle delivery trucks. Trucks will enter the site via the new curb cut, unload on the lot and exit the site to Manchester Rd. This will eliminate the current practice of unloading on the street or the bank parking lot across the street.**

10. Sec. 2 (9) *Ingress and Egress*: the submitted plans propose to eliminate the eastern curb cut to Manchester Rd. and add a second curb cut on Steamboat Ln. **These changes were discussed earlier in this report. The elimination of the Manchester Rd. curb cut may help with some of the eastbound left turning queue congestion along this portion of Manchester Rd., but the segment of Manchester Rd. from Steamboat Ln. to Old Ballwin Rd. is congested and will continue to be**



**congested. The additional curb cut onto Steamboat Ln. is primarily for deliveries and will induce truck traffic farther north on Steamboat Ln. than is presently experienced, but it should not be a point of access for most business traffic. There are no residential or commercial uses along this portion of Steamboat Ln. so the impact of the additional traffic utilizing the new curb cut should be minor.**

11. Sec. 2 (10) *Adequate area for the use*: although the site is fully occupied there appears to be sufficient room to accommodate the intended use.

12. Sec. 2 (11) *Dead storage, dismantling and repair of automobiles*: This is allowed by the intended use and is accommodated in the site development plan.

13. Sec. 2 (12) *Rubbish and trash disposal and screening*: **The revised plan proposes to relocate the dumpster farther away from Steamboat Ln. and out of the front yard. The dumpster will be screened.**

14. Sec 4 (6) (1) *Increase traffic hazards*: Insofar as this petition does not involve a new use on the site or a significant increase in overall activity levels, there does not appear to be a basis to expect an increase in traffic congestion or hazards. The elimination of the Manchester Rd. curb cut may actually improve some of the existing congestion issues at the Steamboat/Manchester intersection.

15. Sec 4 (6) (2) *Neighborhood character impact*: This petition does not change the basic nature of the land use on the site. The adjoining residential properties may be somewhat negatively impacted by the existing use, but a building addition that is no closer to the property lines than the existing building that contains the same use would not logically have a significantly increased impact on nearby properties.

There is no basis to expect the new development to have any impact on the character of the surrounding commercial neighborhood.

16. Sec. 4 (6) (3) *Community general welfare impact*: There is little evidence supporting the position that the land use associated with this petition will have any different or increased negative impact on the general welfare of the community than does the existing operation since its scope and character are not really changing.

17. Sec. 4 (6) (4) *Overtax public utilities*: I see very limited potential to argue that the development will overtax public utilities.

18. Sec. 4 (6) (5) *Adverse impacts on public health and safety*: I also see limited potential to argue that the development will have a significant negative impact on public health and safety.

19. Sec. 4 (6) (6) *Consistent with good planning practice*: **Ballwin has previously allowed the establishment of new or expanded commercial development of this nature on properties with similar proximity to residential and commercial developments as long as the screening and greenspace requirements of the ordinance were met. Since the petitioner wishes to rely on its legal nonconforming circumstance and not provide the greenspace required by**

**the C-1 district regulations, one might question whether this petition does not fully meet the intent of Ballwin's established planning practice criteria.**

20. Sec. 4 (6) (7) *Operated in a manner that is compatible with permitted uses in the district:* This use has been operated in a manner that is compatible with permitted uses in the district for years. Nothing in this petition appears to change this situation.

21. Sec. 4(6) (8) *Operated in a manner that is visually compatible with the permitted uses in the surrounding area.* **The petitioner's desire to utilize the existing landscaping and screening raises the question of whether the use will be operated in a manner that is visually compatible with the uses in the surrounding area. Certainly it has been operating with this screening for many years. Since the proposed changes will not significantly change the nature or scale of the operation, there is certainly an argument to be made that the existing nonconforming situation is in fact being operated in a visually compatible manner.**

**If the screening, planning practice and other questions are satisfactorily resolved, I recommend that special use exceptions for new auto sales, auto service, attended car wash and front yard parking be included under the MRD governing ordinance.**

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#### **MRD DISTRICT REGULATIONS (Article XIIC):**

**The MRD (Manchester Road Revitalization Overlay District) does not stand on its own. It works only as an overlay amending and supplementing an underlying zoning district.** The MRD may amend or waive the development provisions of the underlying district and the subdivision ordinance, if applicable, but with the possible exception of allowing multiple family uses in a mixed use development, it does not permit new uses on the property. The uses allowed by right and by special use exception (SUE) in the underlying zoning district are therefore critical and limiting to the MRD district being created. The uses proposed with this petition are commercial, so the petitioner has elected not to change the underlying C-1 zoning of the property. As mentioned above, the MRD may allow the waiver or modification of the regulations of the underlying district, but the governing ordinance that adopts the MRD must specifically outline and describe what those changes and waivers are. Any underlying district regulations not superseded or waived will still apply.

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**As discussed earlier in this report, the redevelopment proposed for this site triggers at least two of the reasons for an MRD approval. The total floor area of buildings on the site is being increased by more than 10%, and an approved site development plan is being amended. Complicating this is that the existing site, which has an approved SUE Site plan, contains numerous improvements that are legally nonconforming under the C-1 and SUE regulations and are not proposed for amendment per this petition. The question is do these nonconforming issues have to be brought into compliance with the MRD regulations as a part of the site plan amendment procedure.**

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One can interpret the zoning regulations in a manner that the entire parcel of land must be brought into compliance with the MRD standards and the right to the nonconformancy is lost when the MRD zoning is changed. There is a reverse position that the zoning is not being changed at the request of the petitioner, but rather as a result of regulations that have been imposed by the city on the existing development since it was built. In this interpretation the imposition of the MRD is the same as an amendment to the existing zoning district. The site, or at least individual improvements, should be considered legally nonconforming if the improvements are not being modified. This is the position that the petitioner is taking. It wants to keep much of the site essentially unchanged and believes that it should not be required to change undisturbed site elements to bring them into compliance with the MRD regulations. The Commission may have to make a determination if this approach is valid and the nonconformancies can remain in place under the MRD as long as they are not being modified.

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**Section 1, Purpose:** This section describes the purpose of the MRD district, which is "... to promote the local economy and mixed use development within the Manchester Road corridor while simultaneously maintaining the functional capacity of the highway." This section goes on to say "The preferred land development pattern in the area will offer a pedestrian oriented development with a mix of residential and/or commercial uses that provide high quality services and amenities that prolong and enhance the shopping, working and living experience. Special effort should be given to tenant mixes and the configuration of tenant spaces to maximize convenience, visibility and aesthetics." **One of the important things to remember when evaluating MRD development proposals is that the MRD is envisioned by the plan and the zoning regulations as a district that will eventually encompass the entire Manchester Rd. corridor. The nuances of the purpose statement may best be achieved on a corridor-wide basis. It may not be practical or even possible to apply the regulations and guidelines in minute detail to every individual parcel or development proposal. Different parcels on the corridor may fulfill different parts of the purpose to differing degrees and best meet the overarching intent of the purpose statement in the aggregate. Parcels along Manchester Rd. will typically be submitted for development and MRD zoning on an individual basis, but achievement of the goals of the plan may best be understood when the parcels of land in the corridor are viewed and experienced as a cohesive whole.**

**Section 2, Permitted Uses:** This section addresses permitted uses.

The uses allowed by right in the C-1 district that are associated with this petition and should be included in the governing ordinance as follows:

- 1. Parking lots as an accessory use to a use which is allowed by right or special use exception in the C-1 district on the same property as the primary use or as part of an approved multiple parcel master development plan in which the parking is shared by multiple primary users.*

The uses allowed by special-use-exception in the C-1 district associated with this petition that are being requested for inclusion in the governing ordinance are as follows:

*1. Sales of new motor driven vehicles, but not recreational vehicles, trailers or utility trailers, subject to the following restrictions and regulations:*

- a. Dealerships must be franchised by the manufacturer of the product lines sold.*
- b. Dealerships may sell only new and used motor vehicles and related parts and accessories.*
- c. Dealerships may include facilities for the indoor servicing of vehicles.*
- d. An indoor wash facility that is not available to the public shall be considered a customary accessory use and is allowed.*
- e. The rental and leasing of motor vehicles shall be considered a customary accessory use and is allowed.*
- f. The outdoor storage of inventory and serviced vehicles provided that such vehicles are parked on a paved surface shall be considered a customary accessory use and is allowed.*
- g. The total paved area of the area dedicated to all types of outdoor vehicle storage shall not exceed 85% of the total land area of the site exclusive of green spaces, storm water control and pollution mitigation features. My calculations suggest that the current site is about 87% pavement exclusive of greenspaces and buildings. Since this is an existing legally nonconforming situation it can stay in place and be used as long as it is not expanded or modified. The new site plan proposes to eliminate approximately 7300 square feet of existing greenspace and replace it with pavement. This will increase the percentage of the site covered with impervious surfaces to about 90%. **The 85% limitation of this subsection is an SUE requirement and can be modified or waived by the MRD governing ordinance.***

*2. Parking on a paved surface within any front yard as provided on the approve site development plan.*

**Section 3, Intensity of Use:** This section discusses allowing relief from or the amendment of the regulations of the underlying zoning ordinance (C-1 district) and associated site development regulations. Such relief or amendment is allowed if the petitioner can demonstrate that it achieves the purposes of this ordinance and it is included in the MRD Governing Ordinance or on the associated site development plan. Any regulation that is not waived or amended by the ordinance or the approved site development plan is still in effect. Any waiver of the provisions of the underlying ordinance are identified and discussed within the write up and are not relisted here.

**Section 4, Height Regulations:** This section states that “all development pursuant to MRD zoning that fronts Manchester Rd. shall include buildings with a minimum height of two (2) stories. This requirement may be reduced on a case by case basis for no more than 50% of the linear building frontage or all roadway fronting buildings in the development if the petitioner can demonstrate that the proposed buildings and site development plan are in accordance with Section 1 of this Article (Purpose) and achieve the purpose of this ordinance or that the existing buildings being incorporated into the plan are structurally

incapable of having additional levels added.”

There is a question as to what this section of the code intends to require. The simplest interpretation is that the building has to be two stories tall and there needs to be a second floor for at least 50% of the frontage of the building. This presents a cost and function conundrum for many petitioners. There may simply not be a market for second levels on buildings along Manchester Rd. This may be especially true for certain types of high noise and activity uses like restaurants, gas stations, fast food, etc. Buildings housing these uses do not lend themselves very well to offices or residences on the second level.

An alternative interpretation of this section goes back to the purpose of the MRD which is to “prolong and enhance the shopping, working and living experience. Special effort should be given to tenant mixes and the configuration of tenant spaces to maximize convenience, visibility and aesthetics.” This approach interprets this ordinance language in a manner that achieves an urban form with buildings that have massing and character that mimic the feel of two story buildings without actually requiring such construction. This moves away from the low and basic retail strip centers with minimal architectural embellishment that have become viewed by some as synonymous with the decline of the corridor. This argument is supported by the additional requirements of the MRD for architecture and site improvements that go far beyond what has traditionally been required for these types of developments.

Although reasonable individuals might disagree about the intent of this section, it may very well not be realistic to expect all new commercial buildings to be built with second floors outside of the Town Center areas identified in the adopted Great Streets Plan. Clearly the market has not demanded such spaces in the corridor, and those that exist may have higher vacancy rates and/or more frequent tenant turn over than ground floor spaces.

**The Manchester Rd. facing facade of the building addition will have an elevation of approximately 26’ that will extend across the entire front of this building. This is virtually identical to the elevation of the new Elco Cadillac building directly across Manchester Rd. from this site. The taller elevation does not extend along the Steamboats Ln. frontage of the building which is generally 19’ tall, but this is an existing nonconforming structure. Furthermore, this building is not within the area designated as a town center in the plan so there is less of a planning basis to ask for taller structures.**

**It is also important to note that the building addition will incorporate a mezzanine style second floor office space. This second level higher intensity use is a goal of both the Great Streets Plan and the Community Comprehensive Plan.**

**Section 5, Parking and Loading Regulations:** This section establishes standards for the design, placement and landscaping of parking facilities. No maximum or minimum parking provision standards have been set. The ordinance anticipates the possibility of a variation from the parking requirements of the underlying zoning district (C-1) via the MRD governing ordinance based upon the parking needs of the intended uses. **The petitioner has proposed clusters of spaces for each of the primary functions on the site. The parking regulations require a total of 110 spaces based upon the floor area and uses of the building. The plan shows approximately 450 spaces, so the overall parking**

**available is well above the minimum required by the parking code.**

*Section 5 (1):* On-street parking is recommended where site design and traffic patterns permit. Clearly, due to the nature of the adjoining roadway system, on-street parking is not feasible on Manchester Road or Steamboat Ln.

*Section 5 (2):* No waiver of ADA standards can be granted in the MRD. The parking lot proposes 5 parking accessible spaces which meets or exceeds the standard for a parking lot of this size.

*Section 5 (3):* This subsection specifies that the provided parking facilities shall be concentrated in areas that are landscaped and buffered to minimize views from major rights-of-way, residential units and adjoining properties. The term parking as defined in the Ballwin Code of Ordinances means the standing of a vehicle whether occupied or unoccupied (except when engaged in loading or unloading). This means that essentially all paved areas on this entire site are parking facilities subject to this requirement. This includes the inventory storage lots, the service lots, the new and previously owned vehicle display lot and customer parking areas. **Per this definition, all of the parking areas on the entire site must be screened from the surrounding properties. They are not. As discussed earlier in this report, this site is presently screened to a limited degree along the west, north and part of the east sides. It is not screened at all along the balance of the east side or any portion of the south side. The site is legally nonconforming for most the perimeter landscaping and screening requirements of the C-1 district because it predates them. The owner wants to rely on this nonconforming status to continue to utilize the existing screening and not change undisturbed elements of the site per the MRD district regulations.**

**The petitioner has proposed some additional landscaping in the portions of the north and east sides of the site that are not legally nonconforming and were approved under the 2003 SUE site plan.**

*Section 5 (4):* This subsection requires that parking not provided within a dedicated right-of-way shall be located behind the primary use, in a parking structure or on a surface lot. The proposed parking plan appears to meet the third recommendation.

*Section 5 (5):* This subsection requires perimeter landscaped buffers and curbed planting islands in all parking lots of 5 or more spaces. **Ballwin required this in the Nissan parking storage lot but did not require it in the Cadillac lot. There was no legal nonconforming issue with the Nissan site. It was essentially a whole new site development plan with a complete change in use. Much like the Dean Team site, the Cadillac petition involved the redevelopment of a portion of an existing site that was legally nonconforming or became such when the MRD regulations were applied. The existing use was continuing, with some minor changes being made to the site. This was much like the situation with the Dean Team VW / Subaru site.**

*Subsection 5 (6):* This subsection establishes two parking lot screening designs that can be utilized to screen adjoining rights-of-way, public lands or adjacent properties from parking lots. As discussed above

The first choice (a.) is a 12' deep (minimum) landscaped strip with 2" caliper deciduous trees and/or 6' evergreen trees on 50' centers with three 5 gallon shrubs per tree. The second choice (b.) is a 5' deep landscaped strip with a metal ornamental fence or masonry wall supplemented with clusters of shrubs on 30' centers or a continuous hedge with 2" caliper trees every 50'.

**As discussed earlier in this report, the Dean Team is not proposing to change most of the perimeter areas of the site, which are also the perimeter areas of the parking lot. These areas are legally nonconforming with regard to screening and greenspace requirements under the current C-1 zoning, and will continue to be legally nonconforming under the MRD as long as they are not changed or made more nonconforming relative to the requirements of this subsection. The only area of this site that is subject to this MRD regulation is the 220' long portion of the site that abuts Steamboat Ln. south of the proposed new curb cut and the 170' long section facing the apartment parking lot to the north. These areas will be landscaped greenspaces consistent with (a) above.**

*Section 5 (7):* This subsection requires a minimum planting effort of one tree per 10 parking spaces. There are approximately 450 parking spaces on this site. This equates to 45 trees. Counting the existing trees on the site that will be retained and the new trees that are proposed, there are sufficient trees on this site to meet this requirement.

*Section 5 (8):* This subsection requires all planting areas within or adjacent to the parking lot or vehicular use areas to be irrigated. **The submitted plan does not show that any irrigation is proposed for the new greenspace area along the northern portion of the Steamboat Ln. frontage. Given the small size of this area relative to the entire site, if carefully chosen native species were selected for the landscaping in this area and the petitioner outlined a procedure to properly maintain them until they became established, this might be viewed as equivalent to providing an irrigation system. The species of the plantings is not specified on this plan. If this approach is selected, I recommend that the planting list be certified by a licensed landscape architect or certified nurseryman that the selected plantings are native species and appropriate for this application and that the procedure that will be utilized to assure establishment is spelled out in writing by the petitioner.**

*Section 5 (9):* This subsection requires a vertical concrete curb for all parking lot islands and landscaped areas that are not adjacent to rain gardens. There is no concrete curbing anywhere on the existing parking lot that will be retained. There is a segment of asphalt curbing along the northern edge of the parking lot. There is also a segment of such curbing along the eastern edge of the parking lot, but this will be removed when the pavement is expanded toward Steamboat Ln. The portions of the parking lot that are undisturbed and will continue to be used in place are legally nonconforming and the curbing is not required to be added in those areas. **The approximately 220 feet of pavement edge along the Steamboat Ln. frontage where the parking lot will be enlarged is subject to this regulation. Since the slope of the parking lot in this area is not toward the right-of-way, the curbing is not required for stormwater control. This expanded lot area is for inventory storage. The lot will have minimal vehicular traffic in this area, and the curb will not function as a curb stop for parked vehicles. Given these mitigating factors, there is little purpose served in requiring a curb much less a concrete curb**

**to be built in this area.**

*Section 5 (10):* This subsection requires tree plantings to be consistent with Ballwin standards for street tree plantings. **It is unclear what the proposed new plantings will be because no information has been provided. Compliance with this subsection is unresolved as of this writing, but if a list of native species is provided for the landscaped area, such species would probably be compliant with this requirement.**

*Section 5 (11):* This subsection prohibits surface parking lots from abutting rights-of-way for more than 50% of a site's roadway frontage. **This is another issue of the legal nonconformancy of the existing parking lot. The lot does not meet this requirement, but since it will continue to be used in substantially its present configuration, it is legally nonconforming and can remain in place.**

*Section 5 (12):* This subsection requires parking lots to have no more than 20 consecutive parking spaces without an intervening landscaped area. **The submitted plans are compliant with this requirement except for the approximately 30 angled spaces adjacent to the building long Steamboat Ln. These are existing spaces and are legally nonconforming, so this requirement does not apply.**

**Section 6, Setbacks:** This section establishes **maximum** building setbacks from the right-of-way for new buildings. The intent is to push new buildings closer to the roadway to avoid the traditional strip mall look of a large open parking lot in the front yard separating the structure from the right-of-way.

*Section 6 (1):* This subsection recommends placing new structures at a maximum setback of 10' from the right-of-way line. Up to 20% of the building's façade may be notched, recessed or extended to accentuate entrances, dining areas, windows or the outdoor display of merchandise when permitted. **The existing building is legally nonconforming, but the proposed additions to the building will increase the nonconformancy which is not permitted by Ballwin code. The building additions, however, are designed to the existing building's setbacks from both Steamboat Ln. and Manchester Rd. Building them to the 10' setback requirement would potentially marginalize their usefulness. A variance from the Board of Adjustment may be necessary for the petitioner erect these building additions as proposed.**

*Section 6 (2):* This subsection addresses infill development. Infill development generally involves the construction of new buildings on, underutilized or out of date sites. This is not an infill development proposal. This proposal expands and enhances a fully functional site that is presently in use.

**Section 7, Pedestrian Access:** This subsection requires that pedestrian access be an integral part of the overall design of the site. Safe and convenient pedestrian access is to be provided throughout, to and from parking areas and shall connect when possible with abutting properties, developments and rights-of-way.

*Section 7 (1):* This subsection requires an identifiable entrance and a path of entry from the street. **No pedestrian connection to the Manchester Rd. sidewalk is proposed. Since the parking lot is being restriped, and the parking fields will be changed as a part of**



these improvements, I do not believe that there is claim to a legal nonconformancy for the striping pattern or the current absence of such a pedestrian connection to Manchester Rd. I recommend, therefore, that the restriping of the lot include the creation of a 6' wide pedestrian way (dedicated connection) to the Manchester Rd. sidewalk as stipulated in the subsection.

*Section 7 (2):* This subsection requires sidewalks at least 6' wide along all sides of parking lots that abut rights-of-way or major internal driveways. Also, a 6' sidewalk is to be provided from the public sidewalks to the entrance and to the parking lot sidewalks. The existing sidewalks along Manchester Rd. and Steamboat Ln. can be viewed as meeting the requirement for sidewalks along the abutting roadways and parking lot. **No sidewalks have been shown projecting in any manner into the other parking lots on this site except for the customer designated spaces. There is limited basis to require extensive sidewalks on the parking lot of an auto dealership. Although the ordinance does not contain language that exempts the inventory storage lots, the pre-owned display lot, and service storage lots, I believe that a reasonable argument can be made to exempt these parking lots from sidewalk construction because they are not intended to be utilized by customers in the same manner as conventional parking lots. The general public will not be parking their vehicles in these lots and walking to the building as would happen in a retail environment. There is no obvious reason for sidewalks serving these lots. This same logic was applied to the Nissan and Cadillac sites.**

*Section 7 (3):* This subsection requires that sidewalks be provided along any building façade abutting a parking area or a roadway and such sidewalks shall be at least 12' wide. This subsection goes on to say that these extra wide sidewalks are required to provide room for sidewalk sales, eating, etc. **None of the cited activities are logically related to the sale of motor vehicles, so there may be a rational basis to not require extensive over-wide sidewalks along all building frontages. The proposed 12' wide sidewalk along the Manchester Rd. frontage of the building is an appropriate improvement per this code section.**

*Section 7 (4):* This subsection states that "all sidewalks shall feature landscaping areas, benches, fountains, artwork, shade structures, pavement enhancements and other pedestrian amenities and placemaking features" to enhance the pedestrian ways. **The petitioner has shown no such amenities to the submitted site development plan. This is a tight site with little room for extensive amenities of this nature. The landscaping areas along the Manchester Rd. frontage offer a limited enhancement for pedestrians along that sidewalk. Other development projects have included sections of decorative pavement imbedded within the sidewalk areas. Perhaps this approach might be possible for the new concrete sidewalk proposed across the front of the new building addition.**

**Section 8, Use Limitations:** This section outlines special use limitations related to certain specific possible land uses within a MRD.

*Section 8 (1):* This subsection prohibits the permanent outdoor storage, sale or display of merchandise, but allows temporary display and the permanent storage, display and sale if

allowed by the permitted uses. Such display, storage and sales are specifically allowed in section 2 for this permitted use.

*Section 8 (2):* This subsection allows uses permitted by SUE in the underlying district pursuant to the POD/MRD process. The uses intended to be allowed in this development were discussed in Section 2 of this report.

*Section 8 (3) (a-d):* This subsection contains regulations governing drive through windows and similar drive through facilities. There are no such facilities proposed for this development.

*Section 8 (4) (a - e):* This subsection contains regulations governing vehicle wash facilities. **There is an existing vehicle wash facility within this building. It will not be changed pursuant to this petition so it is legally nonconforming relative to the requirements of these subsections.**

**Section 9, Architectural and Site Design Standards:** All new buildings and any building altered more than 50% is required to comply with the requirements of this section. **I do not believe that 50% of the existing building is being altered so the requirements of this section do not apply.**

**Section 10, Urban Design Elements:** These urban design guides are to be considered when reviewing any requested relief from the requirements of the underlying zoning.

*Section 10 (1):* This subsection states that edges (natural such as waterways and ridgelines and man-made such as roadways, fences and property lines) signal and define transitions between adjoining land uses, and help define a sense of place for commercial projects, functions and uses within and between developments. As this subsection relates to this petition, I believe that the primarily issue is land use transitions between commercial and residential uses. **This issue is discussed earlier in this report as a part of the screening requirements of the C-1 district and the MRD overlay. There are some existing screening and landscaping features that form or contribute to the edge of Dean Team site. These edges are not proposed to be amended and are therefore legally nonconforming and may continue to be utilized on this site under the MRD review.**

*Section 10 (2):* This subsection addresses streetscape amenities such as lighting, landscaping and pedestrian amenities within 10' of the right-of-way. The only substantive changes to the streetscapes are the elimination of one curb cut along Manchester Rd. and the addition of a second curb cut on Steamboat Ln. The balance of the streetscape areas are not proposed for change. **The requirements of this subsection are similar to those of Subsection 7(4) above except they concentrate on the 10' wide area that would be created between a building built on the recommended 10' setback line and the right-of-way line. These areas are essentially unchanged from the current site plan and are nonconforming relative to the requirements of this subsection.**

*Section 10 (3):* This subsection requires "all proposed developments shall provide methods of physically and visually connecting to adjoining properties, land uses and secondary roadways. Ingress and egress strategies that draw traffic away from the major arterials,

such as developing alternative access roadway systems and providing access from side streets and adjoining properties are required providing that such access is available and does not negatively impact surrounding neighborhoods.” **This subsection has limited applicability to this site. There is existing access from the two adjoining rights-of-way. From a neighborhood protection perspective, and given the character of the adjoining residential developments, it would be undesirable to create vehicular access to these areas. Creating an access to the adjoining commercial property faces a significant topographic issue that makes at-grade access virtually impossible without the replacement of the structure on one of the sites or the creation of a slope situation that will have significant negative impact on the utilization of the property or the existing buildings. When the Enterprise Rent a Car facility was given a special use exception in 2008, it was agreed at that time that an interconnection between these two parcels was not a reasonable request and was not pursued.** Given the close proximities of side roadways to both of these parcels and the connection of these parcels to these roadways limited the need and value of an interconnection.

*Section 10 (4):* This subsection discusses the utilization of access management techniques to interconnect to adjoining commercial properties or, in the alternative dedicate easements to Ballwin to potentially allow future interconnections as adjoining properties are developed. This is closely related to subsection 10(4) above.

*Section 10 (5):* This subsection discusses multi-way roadways as a means of achieving access management. The Great Streets plan considered and rejected multi-way roadways, so I do not believe that this concept is applicable to the Manchester Road Overlay District.

*Section 10 (6):* This section encourages, but does not require multi story buildings. **The petitioner has proposed a multi-story building. This issue was touched on as a part of the discussion of building massing earlier in this review report.**

*Section 10 (7):* This subsection addresses the placement of landmark features along the Manchester Rd. corridor. This site is not recommended in the comprehensive plan or the great streets plan for such a feature.

*Section 10 (7):* This subsection encourages the stacking of multiple uses in multi story buildings. The petitioner has not elected to pursue this approach to developing this site.

#### **COMPREHENSIVE PLAN ISSUES:**

The recommendations of the comprehensive plan relative to Manchester Rd. Revitalization Overlay District Development are on pages 8:22 – 8:24. Basically, these sections of the plan spell out the form that the overlay district was to take when it was created. They are therefore essentially redundant with the review that was done pursuant to the overlay district regulations.

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