

SPECIAL USE EXCEPTION REVIEW REPORT

Petition Number: SUE 12 - 06

Petitioner: James B. Komorek
Marcella's Mia Sorella
3600 Watson Rd.
St. Louis, MO 63109

Agent: None

Project Name: Marcella's Mia Sorella

Filing Date: 7/11/12

Review Report Date: 7/12/12

Submission Compliance Certification Date: 7/12/12

Requested Action: Special Use Exception

Purpose: Alcoholic beverage sales by the drink for consumption on the premises where sold.

Code Section Article XIV Sec. 1 (21)

Location: 14426 Clayton Rd.

Existing Land Use/Zoning: Retail / C-1/NCD

Surrounding Land Use/Zoning: North – Vacant/ Chesterfield Residential
South – Retail / C-1/NCD
West - Single Family / C-1
East – Retail / C-1/NCD

Plan Designation: Commercial

Project Description:

Marcella's Mia Sorella Restaurant is opening at 14426 Clayton Rd. The Ballwin Grove plaza operates under an approved site development plan pursuant to a Neighborhood Commercial overlay district approval via ordinance 09-20 in 2009. The restaurant can open without any zoning review or approval pursuant to ordinance 09-20 because restaurants were included as an allowed use under that ordinance. The sale of alcohol by the drink, however, does not have this same provision. Such sale must be approved through the SUE process.

Zoning Ordinance Requirements/C-1 and NCD Districts - Articles IX and XIIF:

Since there is no change to the zoning district and no change to the physical site improvements of the Ballwin Grove property, there is no basis to discuss the site development issues of the C-1 or NCD districts. The plaza is fully compliant with both of these ordinances.

Zoning Ordinance Requirements/SUE Regulations:

Article XIV Section 1:

This petition is submitted pursuant to Article XIV, Section 1, subsection 21, which allows the sale of alcoholic beverages by the drink for consumption on the premises via the special use exception process.

Article XIV Section 2:

1. Section 2 (1 – 13) General SUE regulations: This petition involves a petition for a special use for on-premises alcohol sales and consumption within the existing building in conjunction with a new restaurant operation. No changes to the site development plan are proposed in conjunction with this SUE petition. As mentioned earlier in this report, this site operates in accordance with the approved site development plan associated with ordinance 09-20 for the NCD overlay district plan the site appears to be in substantial compliance with subsections 1 - 13 of Section 2 of Article XIV.

Article XIV Section 4: Review procedure

1. Sec 4 (7) (1) *Increase traffic hazards and congestion:* Every use generates traffic. This use is no exception, but this SUE is being sought as an accessory to the operation of a restaurant. This combination of uses has not traditionally been associated with significant traffic generation in small store front type restaurant applications. Bone's French Quarter, Callier's Deli and Mi Lupita Mexican Restaurant are similarly configured restaurant businesses from the perspective of floor area, type of liquor license (full bar) and being in a strip center location, although Mi Lupita is in a much larger plaza than are the French Quarter and Callier's. None of these restaurants has a notable history of generating traffic congestion or hazards. **Ballwin Grove is a moderately sized plaza (by Ballwin's standards) and it abuts two major roadways. Its site planning took the nature of the traffic patterns on the adjoining roadways into consideration as part of its design. In my view, therefore, there is little basis to support an argument that the parking lot, curb cuts and adjoining roadways have insufficient capacity to accommodate the nominal increase in traffic associated with the issuance of this special use exception.**

2. Sec. 4 (6) (2) *Adversely affect the character of the neighborhood:* There will be no changes to the building or site improvements. There are many similarly situated liquor sales

businesses in Ballwin, both along the Manchester Rd. corridor and at the Clayton/Kehrs Mill intersection. These have all operated successfully with little or no negative impact on the adjoining residential properties. **Given the safety valves incorporated into alcohol sales regulations and the city's authority to withdraw permits and licenses, there is little basis for an argument that the use will have any long term adverse impact on the character of the surrounding neighborhoods.**

3. Sec. 4 (6) (3) *Community general welfare impact*: The issues that impact #2 are generally applicable to this question as well. From the perspective of welfare meaning the overall good of the community, **there is little unique or special about this proposal that differentiates it from other similarly situated restaurant businesses in and around Ballwin, with the possible exception of the patio that overlooks the pond. This faces the nearby residential developments. Since outdoor entertainment is not allowed in Ballwin and the nature of this restaurant is quiet dining, I do not believe that the proposed operation would negatively impact the general welfare of the City of Ballwin in a way different from that of similarly situated and approved existing business that sell alcoholic beverages.**

4. Sec. 4 (6) (4) *Overtax public utilities*: I see no unique or disproportionate impact on the utilities.

5. Sec. 4 (6) (5) *Adverse impact on public health and safety*: I see no basis to argue that the impacts on public health or safety coming from this proposal will be any different from those that might exist as a result of any other similarly situated and permitted restaurants with alcohol sales in Ballwin.

6. Sec. 4 (6) (6) *Consistent with good planning practice*: This term can mean different things in different contexts. It can be an evaluation from an overarching and general perspective such as being consistent with the precepts of the city's comprehensive plan or even the principles of land planning in general, or it can be specific to a site and a situation. **It has not been uncommon for Ballwin to allow the placement of commercial uses such as restaurants with alcohol sales in commercial districts. This has been viewed as an appropriate land use and within the realm of good planning practice.**

7. Sec. 4 (6) (7) *operated in a manner that is compatible with permitted uses in the district*: Any issues that apply here have already been touched on above. **Similarly situated uses all over Ballwin are operated in manners that are compatible with the permitted uses in their various zoning districts.**

8. Sec. 4(6) (8) *Operated in a manner that is visually compatible with the permitted uses in the surrounding area*. **No change in the visual nature of the site or the building is proposed.**

Future Land use Categories:

1. The future land use map of the 2007 Comprehensive Community Plan recommends that this land be utilized as commercial. This recommendation has been met.

Commercial Design Guidelines (page 8:21):

No change to the architecture or visual character of this site will be made as a result of this proposal so none of the architectural character and site planning guidelines of the 2007 comprehensive community plan appear to be applicable to this petition.

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