

SPECIAL USE EXCEPTION REVIEW REPORT

Petition Number: SUE 13 -05

Petitioner: Mr. John E. Tucker of
Tower Loan of Missouri, LLC
P.O. Box 320001
Flowood, MS 39232
601-992-0936

Agent: Mr. Glenn Kerr
10 N. Jackson St.
Farmington, MO 63640

Project Name: Tower Loan of Missouri

Filing Date: 8/23/13

Review Report Date: 10/7/13

**Submission Compliance
Certification Date:** 10/7/13

Requested Action: Special Use Exception

Purpose: Operation of a Financial Business

Code Section Article XIV Sec. 1 (5)

Location: 15264 Manchester Rd. (Dickens Plaza)

Existing Land Use/Zoning: Retail / C-1

Surrounding Land Use/Zoning: North –Retail / C-1
South –Single Family / R-1
West -Retail / C-1
East – Retail / C-1

Plan Designation: Commercial

Project Description:

Tower Loan of Missouri wishes to obtain a special use exception for the operation of a financial business that is regulated by the Missouri Division of finance at 15264 Manchester Rd. Such financial businesses have required the issuance of a special use exception (SUE) since 2008 when the zoning ordinance was amended to require this of all financial institutions regulated by the Missouri Division of Finance. The new zoning regulation imposed a series of design and operational criteria as conditions for the issuance of the SUE. These criteria and the petitioner's efforts to meet them are discussed below.

Since there is no change to the zoning district classification and no change to the physical site improvements which were approved under a special use exception issued per ordinance 99-39 in 1999 to the owners of the plaza, there is no need to discuss the C-1 district regulations applicable to this property.

Zoning Ordinance Requirements/SUE Regulations:

Article XIV Section 1(Generally):

This petition is submitted pursuant to Article XIV, Section 1, Subsection 5, of the Ballwin Zoning Ordinance which allows financial businesses regulated by the Missouri Division of Finance with a special use exception. Certain criteria stipulated in subsections 5 (a-e) are discussed below:

1. Subsection 5(a): this subsection requires that financial businesses utilize digital video and audio surveillance equipment that observes the interior portions of the unit accessible or visible to the general public. Additionally, private offices and the perimeter of the building must be observed by such equipment. This equipment shall operate 7 days a week 24 hours a day. The data recorded shall be in a format that can be downloaded to other equipment and it must permanently retain the recorded information for 30 days.

The submitted floor plan shows that the interior public portions of the premises and the exterior front and rear areas that will be surveilled by a camera. The accompanying letter states that the recording equipment will meet the ordinances and data manipulation requirements of the ordinance. The camera locations are indicated with small triangles that have been circled on the drawing for ease of location. The description of the equipment appears to meet all requirements of the ordinance. **No documentation on specific equipment being used has been provided to allow verification.**

2. Subsection 5(b) requires that financial business facilities shall be designed to have public lobby areas fully visible from the adjoining parking lot and no improvements, window tinting and

treatments, draperies, blinds, signage, landscaping or other devices that block such visibility shall be utilized. This is required to maximize the visibility of the interior of the unit from the outside so a patrolling police officer could easily and clearly observe any attempt at robbery or other illegal activity.

The submitted drawing shows that the existing storefront window system will be used in place. The letter states that no window treatments or other impediments to visibility will be placed on the windows.

3. Subsection 5(c) requires that financial business facilities contain a vault or safe that has a UL rating of TRTL-15 (this corresponds to a construction rating of ER, or F) or better and that the safe be located such that it is visible from the parking lot or from the surveillance system.

The petition shows that there will be a safe and it appears to be visible from the parking lot. The letter states that the safe will meet the rating requirements. **The ordinance requires a one hour fire rating and a 15 minute security rating. The petitioner has indicated its intent to meet the ordinance requirements, but has not produced any documentation demonstrating that the proposed safe meets the rating required by the ordinance or any similarly developed rating standard.**

4. Subsection 5(d) requires that financial business facilities have interior illumination systems that fully illuminate the area around the safe at all times. **The submitted letter states that such illumination will be provided, but no documentation such as a reflected ceiling plan showing the lighting system has been provided to support this statement.**

5. Subsection 5(e) requires financial business facilities to be equipped with an alarm system that monitors all exterior doors, and windows, cash drawers, and the safe. The alarm system must include "hold up" alarm/panic buttons at all teller and manager positions that promptly notify the police when activated. The submitted letter states that an alarm system meeting these criteria will be installed. No documentation of the manufacturer or the products to be installed that can be reviewed to verify this statement has been provided.

Article XIV Section 2 (Conditions):

1. Sections 2 (1 – 13) General SUE regulations: This petition involves a petition for a special use for the operation of a financial business. No changes to the site development plan are proposed in conjunction with this proposed additional use. This site operates in accordance with the approved site development plan associated with a special use exception for front yard parking granted in 1999. The site appears to be in compliance with subsections 1 - 13 of Section 2 of Article XIV, the special use exception regulations of the Zoning Ordinance.

Article XIV Section 3 (1 – 6), Application/petition process:

These subsections specify the submission criteria for petitions and the accompanying information necessary to be considered by the City. All of the minimum submittal standards appear to have been met to allow the consideration of this petition.

Article XIV Section 4: Review procedure this section outlines the procedures that will be followed for the receipt and review of special use exception petitions

1. Subsection 1 specifies the procedure to be followed if a submitted petition does not meet the minimum provisions of this article. **When this petition was originally submitted it did not meet the minimum submittal requirements of Subsection 1 (5). The petitioner submitted an expanded petition that better addressed the issues in this subsection and the petition was placed on this agenda.**

2. Subsection 2 specifies the results of the city planner's failure to certify to the Commission (place on an agenda within 30 days of receipt) a petition. **The original petition was received on 8/22/13 and the petitioner was notified on 8/28/13 of its failure to properly meet minimum submission standards for certification to the Commission. This is well within the time frame specified by ordinance.**

3. This subsection requires that the Commission must hear a petition within 60 days of it being certified by the city planner and if the commission fails to consider the petition within the time frame it shall be deemed to have been approved. **This petition was certified on 10/7/13, so the November 4, 2013 agenda is well with the 60 day time frame specified by this subsection.**

4. This subsection stipulates that the commission shall review the petition pursuant to the issues raised in subsection 7 below. These are each discussed in the petition review report and the commission is appraised of and discusses all of these factors where there are serious issues related to a petition.

5. This subsection does not apply directly to the Planning and Zoning Commission. It requires that special use exceptions can only be issued by an ordinance approved by a majority of the Board of Aldermen. This is standard procedure for all such petitions.

6. This subsection provides that the Board of Aldermen may hold a public hearing on special use exceptions. The Board has designated the Planning and Zoning Commission to hold such hearings. This is standard procedure and the recommendations of the Commission take the information received at the hearing into consideration as a part of its recommendation.

7. Sec 4 stipulates that the Board of Alderman must consider each of the following 8 issues before approving a special use exception petition.

A. (7) (a) *Increase traffic hazards and congestion:* Every use generates traffic.

This use is no exception, but this use is already in place and has been for some time. **I do not see how the issuance of this SUE would increase traffic hazards or congestion. It is not the nature of a financial institution that has no drive through facilities to generate any significant amounts of traffic.**

8. Sec. 4 (7) (b) *Adversely affect the character of the neighborhood*: There will be no changes to the building, site or use. Such uses are common in other similarly situated plazas in Ballwin and do not appear to have any adverse impact on the character of the surrounding neighborhoods. **There appears to be little basis for the position that this business at this location will somehow be different from other similarly situated businesses and have an adverse impact on the character of the surrounding neighborhoods.**

9. Sec. 4 (7) (c) *Community general welfare impact*: From the perspective of welfare meaning the overall good of the community, **I am aware of nothing unique or special about this use at this location that would negatively impact the general welfare of the City of Ballwin in a way that is different from what is currently occurring as the result of similarly situated businesses elsewhere in the city.**

10. Sec. 4 (7) (d) *Overtax public utilities*: **I see no unique or disproportionate impact on the utilities associated with the proposed establishment of this use in Dickens Plaza.**

11. Sec. 4 (7) (e) *Adverse impact on public health and safety*: **I see no basis to maintain that there are any negative impacts on public health or safety coming from this use at any location.**

12. Sec. 4 (7) (f) *Consistent with good planning practice*: This term can have very different meanings depending upon the context of the proposed use. Good planning practice can be evaluated from an overarching and general perspective, such as being consistent with the precepts of the city's comprehensive plan, it can extend to the principles of land planning in general, or it can be specific to a site and a situation. **Although one might make a negative theoretical argument due to perceptions held by some about this use, it has not been uncommon for Ballwin to allow the placement of financial businesses within the Manchester Rd. commercial corridor. There are many such uses in Ballwin. This has been viewed as appropriate from a land use perspective and within the realm of good planning practice providing the issues raised in this report are adequately addressed.**

13. Sec. 4 (7) (g) *operated in a manner that is compatible with permitted uses in the district*: Any issues that apply here have already been discussed above. **Similarly situated uses all over Ballwin are operated in a manner that is compatible with the permitted uses in the various zoning districts. There is no obvious aspect of this proposed business that is clearly different from the other similarly situated businesses in the city.**

14. Sec. 4 (7) (h) *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 with this petition.

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
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