



CITY OF BALLWIN

14811 Manchester Road, Ballwin, MO 63011

BILL NO. 3789

ORDINANCE NO. _____

INTRODUCED BY

ALDERMEN TERBROCK, FINLEY, HARDER, DOGAN, FLEMING, LEAHY, KERLAGON, BOLAND

AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO JUSTIN MAXSON, dba JIMMY JOHN'S, FOR FRONT YARD PARKING AND OPERATION OF A RESTAURANT WITH CARRY-OUT AND A DRIVE-THROUGH SERVICE WINDOW.

WHEREAS, a petition has been received from Jimmy John's, requesting the use of certain property for front yard parking and operation of a restaurant with carry-out and a drive-through service window;

WHEREAS, said petition was duly referred to the Planning and Zoning Commission for its investigation and report; and

WHEREAS, due notice of a public hearing before the Planning and Zoning Commission upon said petition was published and posted according to law and ordinance; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission on May 6, 2013, upon said petition; and

WHEREAS, the Planning and Zoning Commission has submitted its report recommending approval to the Board of Aldermen; and

WHEREAS, the Board of Aldermen has determined that an establishment for the purposes disclosed above, under certain conditions, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and

WHEREAS, all applicable matters in Section 2 of Article XIV of Appendix A, "The Zoning Ordinance," have been adequately provided for:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. A special use exception, subject to the conditions hereinafter specifically set forth, is hereby granted to Justin Maxson, dba Jimmy John's, to use the premises in the City of Ballwin, Missouri, known as 15065 Manchester Road for front yard parking and operation of a restaurant with carry-out and a drive-through service window in a commercial district, as is made and provided for in Article XIV of Appendix A.

Section 2. The special use exception hereby issued, and referred to in Section 1, is issued to the named permittee only and shall not be assigned or transferred, without the permission of the Board of Aldermen of the City of Ballwin.

Section 3. The special use exception hereby issued and referred to in Section 1, shall be valid only if the conditions set forth in the Addendum, attached hereto as Exhibit 1 and made a part hereof, are observed by permittee.

Section 4. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this _____ day of _____, 2013. _____
TIM POGUE, MAYOR

APPROVED this _____ day of _____, 2013. _____
TIM POGUE, MAYOR

ATTEST: _____
ROBERT KUNTZ, CITY ADMINISTRATOR

EXHIBIT ONE

The permittee granted a Special Use Exception per the ordinance hereby appended to, their assignees and successors, as authorized and approved by the Board of Aldermen of the City of Ballwin, agree to abide by the following provisions, the provisions of all ordinances of the City of Ballwin, and all applicable laws of St. Louis County, the State of Missouri and of the United States of America and to require all licensees, franchisees, and lessees to similarly abide by said ordinances, laws and provisions, as appropriate to such special use exception. In addition, the following provisions, as appropriate, shall apply:

1. There is no outdoor storage, display or sale of any merchandise, equipment, vehicle, supplies or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin.

2. There is no servicing, repair, cleaning, maintenance or other work on any merchandise, equipment, vehicle, materials, supplies, or product except as may be provided and limited by this Special Use Exception or ordinance of the City of Ballwin, except within a fully enclosed building which shall not include carports, porte-cocheres, accessory structures or temporary coverings and/or enclosures such as tents, tarpaulins, flies, or other similar structures.

3. No food or beverage of any kind is delivered outside of a building shown on the accompanying site plan by the permittee, its agents, servants or employees except for purposes of off-site delivery.

4. No food or beverage of any kind is served or dispensed to persons inside of automobiles or other vehicles by the permittee, its agents, servants or employees except from a drive-through window and/or designated waiting spaces specified on the accompanying site plan. Under no circumstances is drive-in curb service permitted.

5. Any violation of the laws, statutes, ordinances, codes, policies and regulations of the City of Ballwin, St. Louis County, the State of Missouri, or the United States of America by the permittee, its agents, servants or employees shall be cause for the revocation of the Special Use Exception hereby granted.

6. That a detailed final development plan, meeting the requirements of the Board of Aldermen and The Zoning Commission as outlined in the final staff report and public meeting minutes, shall be submitted to the Building Commissioner within thirty (30) days of passage and approval of this ordinance by the Board of Aldermen.

7. That the site, premises and/or land use described by the permittee in the application and subsequently approved by this ordinance is developed and operated in accordance with the final approved development plan and the provisions of this ordinance, and any failure to do so shall be cause for the revocation of the Special Use Exception hereby granted.

8. All new utility and other service laterals and connections on the site and/or premises, and all connections to site improvements and fixtures installed outside of a fully enclosed building shall be installed underground.

9. All sign illumination and other lighting is selected and arranged so as not to cast light upon, and/or be a nuisance, to any right-of-way or any other property.

10. The permittee and their approved assignees or successors, if any, shall preserve, maintain and care for all plantings, and landscaped and planted areas on the site and/or premises, in accordance with the landscape and site plans of this ordinance. Such maintenance, preservation and care shall

include all planted and landscaped rights-of-way adjacent to the site and/or premises addressed and approved by the Special Use Exception hereby granted.

11. Trash and debris shall not be allowed to accumulate and the site/premises shall at all times be kept clean and free of all refuse, debris, leakage and recyclable material accumulation.

12. All trash dumpsters and recyclable material storage areas shall be screened with a 100% opaque screen which shall totally obscure any visibility of the dumpster and recyclables container. Such screening shall be permanent in nature and architecturally compatible with the associated development. Said enclosure and screening shall not interfere with driver visibility or any loading, parking or vehicular circulation.

13. Unless otherwise provided by this Special Use Exception or other ordinances of the City of Ballwin, no vehicles, equipment or property may be parked or stored on the premises for which this permit is issued except non-commercial vehicles as defined by the Ballwin Ordinances and one fully operational and licensed delivery/service vehicle per business or tenant or use operated on the premises per applicable regulations and standards.

14. No changes or departures from the approved final development plan may be made without the approval of the Board of Aldermen in accordance with the provisions of Article XIV, Section 3, of the Ballwin Zoning Ordinance.

15. This Special Use Exception shall terminate three months following the non-renewal of the business license for the business associated with the location for which the Exception is granted.

16. The easternmost curb cut on Manchester Road shall be limited to right turn in and right turn out turning movements only by installation of a device to prevent left turns.

17. A new curb cut shall be installed on Shirley Lane that shall be aligned with the driveway entering the property of Ballwin Baptist Church.