

## ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

**Petition Number:** Z 15-01

**Petitioner:** Mr. Ed Kohn, Partner  
Greenberg Development Company,  
15563 Manchester Rd.  
Ballwin, MO 63011

**Agent:** Brandon Harp  
Civil Engineering Design Consultants  
11402 Gravois Rd., Suite 100  
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314-729-1400

**Project Name:** Gordon Plaza / Andy's Frozen Custard

**Location:** 15505 Manchester Rd.

**Petition Date:** 12/19/14

**Review Date:** 1/6/15, 2/5/15

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

**Code Section:** Zoning Ordinance, Article XIIC, IX, XIV  
and XXIII

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

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

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

### Proposal Description:

Greenberg Development is requesting the application of a Manchester Road Revitalization Overlay district on top of the existing C-1 commercial zoning for the approximately 3 acre property commonly known as Gordon Plaza (15505 Manchester Rd.). The proposal is to build a 1400 square foot Andy's Frozen Custard restaurant as a detached free-standing additional structure at the east end of the plaza. This is proposed in replacement to a previously approved 4,000 square foot in-line extension of the existing plaza building approved per ordinance 07-32 that was never built. The construction of the frozen custard restaurant will require the reconfiguration of the parking lot's circulation and

parking to facilitate a drive-through service lane. Included in this reconfiguration is the elimination of the Hillsdale Dr. curb cut.

In general, the site sits approximately one quarter mile west of the Ballwin Plaza traffic signal on the north side of Manchester Rd. and occupies the entire block between Hillsdale Dr. and Highview Dr. The site is irregular in shape. It fronts along Manchester Rd. for a distance of approximately 633 feet. The east property line runs northward along its frontage with the west line of Hillsdale Dr. for a distance of approximately 280 feet. The west property line runs northward along the east line of Highview Dr. for a distance of about 239 feet. The northern property line of the site is irregular, but it fronts along the south lines of lots in the Westridge Subdivision from Hillsdale Dr. all of the way to Highview Dr.; a distance of approximately 1,032 feet.

The site slopes generally to the northeast and drains into a detention basin at the northeast corner of the site. The highest point is at the southwest corner of the lot with an elevation of 692 feet. The lowest point of the site, with the possible exception of the bottom of the basin, is at the northeastern corner with an elevation of about 667 feet. This yields a total elevation change of 25 feet across the site. The discharge from the detention basin goes to the Westridge and Burtonwood stormwater systems which ultimately discharge into the Fishpot Creek upstream of the Hillsdale Dr. bridge. After flowing in a southeasterly direction through Ballwin, Manchester and portions of unincorporated St Louis County, Fishpot Creek ultimately flows into the Meramec River in Valley Park.

The existing plaza building has a footprint of approximately 32,000 square feet on a 3.04 acre site with approximately 167 parking spaces. This is seven in excess of the minimum required by the C-1 district. The site plan changes approved in 2007 provided for the provision of an additional 24 spaces in conjunction with the construction of the 4000 square foot building addition at the east end of the present building. As of this writing, neither the building addition nor the additional parking spaces have been built.

**It should be noted that the original site development plan submittal with this petition included the Hillsdale Dr. curb cut in an exit only configuration. The initial traffic study was done pursuant to this configuration. After receiving initial review comments from Ballwin, the current site plan with the Hillsdale Dr curb cut eliminated was submitted and the traffic study was updated.**

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

This review report covers the issues associated with the C-1 Commercial district and the MRD overlay zoning district. A petition has been submitted that proposes to amend an existing site development plan for this property approved per the C-1 district regulations. The proposed changes are extensive and trigger the applicability of the MRD regulations overlaying the existing C-1 Commercial zoning and require the associated formal review process. It is the nature of the MRD overlay district that its standards must be considered jointly with an underlying zoning district and the associated regulations. In this case that will be the C-1 zoning district. The MRD governing ordinance can amend the requirements of the underlying district, so only an MRD Governing ordinance will be necessary to approve the proposed site development plan amendment. A separate ordinance approving the site

plan amendment pursuant to the underlying district is not needed.

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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 can theoretically allow a more flexible site development, but may simultaneously impose more stringent or 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 specifically superseded or amended by the adopted plan or the text of the governing ordinance 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.

**The MRD Governing Ordinance will include a listing of the uses allowed in the development. These may only be drawn from the uses allowed in the C-1 district or allowed by special use exception in the C-1 district. The issue of allowed uses is discussed more thoroughly in the MRD section of this report.**

2. Article IX, Section 3 limits the maximum height of structures to 45 feet. The maximum height of the existing building parapet is about 22' with decorative elements that approach 30' in height. The proposed new building has a maximum height of 22'8". This is well below the maximum allowed height. **Given the nature of the existing building and the proposed new building, it is recommended that the governing ordinance establish 45' above the finished floor elevation as the maximum allowable height for buildings on this site and establish 14' as the minimum height of the roofline or parapet.**
3. Article IX, Section 4. (1) (i) requires buildings fronting on Manchester Rd. to have a minimum setback of 60' and building fronting on other roadways to have a minimum setback of 40. This building is set back approximately 65' from the Manchester Rd. right-of-way line and approximately 45' from the Hillsdale Dr. right-of-way line, so it appears to be in accordance with these requirements.
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 and allows the developer of properties fronting on Manchester Rd. to have smaller front yard setbacks in certain circumstances. This development has not elected to take advantage of this ordinance provision.
6. Article IX, Section 4. (1) (iv) requires the provision of a 10' deep landscaped area along all roadway frontages of the site. The submitted plan does not appear to meet this

requirement, but Gordon Plaza was built in 1983 prior to this greenspace standard being part of the C-1 district regulations, so it is legally nonconforming for this requirement. The site plan amendment that was approved via Ordinance 07-32 required that the greenspace along Hillsdale Dr. north of the curb cut would meet the 10' requirement. It meets this requirement in the plans submitted with this petition, although a retaining wall has been added to the area. **The balance of the plaza continues to be legally nonconforming for this issue from the 1983 approval. It will, however, be subject to the provisions of the MRD overlay district which are discussed more completely later in this 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 in a side yard configuration. Technically, the adjoining residential uses on Highview and Hillsdale are side yard adjacencies because every roadway frontage of a parcel is a front yard, so the plaza has front yards on Hillsdale, Highview and Manchester. This regulation also postdates the 1983 approval of the Gordon Plaza site development plan. The site was approved with about a 5' wide greenspace with a privacy fence separating the commercial development from the adjoining residential properties. The 2007 site plan amendment created the current detention basin and this facility provides the 25' greenspace required by this ordinance along its portion of the site's residential perimeter. **The balance of the site is legally nonconforming relative to this requirement and there is no reasonable way to provide such a greenspace because of the locations of the building and the rear service roadway on the site.**
8. Article IX, Section 4. (3) (i) requires a 25' deep landscaped rear yard area where the site abuts non-commercial uses. **This provision is subject to the same analysis done for Section 4 (2) above because it postdates the construction of the plaza and the rear yard also abuts residential uses.**
9. Article IX, Section 4. (3) (ii, and iv) and (4) do not apply to this petition.
10. Article IX, Section 4. (3) (iii) states that if a parcel of land contains improvements existing prior to April 10, 2000 that are proposed to be retained and reused in conjunction with a redevelopment, building expansion or site improvement, and there is insufficient room to provide the 25 foot landscaped rear yard required in subsection 3(i), then the screening provisions of subsection 3(ii) shall apply. The screening requirement of this section is the erection of a sight proof fence which was the screening feature erected in 1983 when the plaza was built. This section also requires plantings in conjunction with the fence, but there is insufficient room to place any plant materials. **I believe the present rear yard screening along the rear of the main building is legally nonconforming due to the site plan predating the 2000 ordinance amendment requiring the more extensive visual screening discussed herein.**
11. Article IX, Section 5. (1) requires the provision of parking in accordance with the provisions of Article XV. This code section requires a minimum of 1 space per 200 square feet of gross retail floor area. The parking provided in the revised site plan does not meet this requirement. The original building has 32,000 square feet of floor area. This corresponds to 160 parking spaces which is what the original approved site plan

provided. The 2007 site plan amendment added an additional 4000 square feet of floor area and 32 new parking spaces bringing the total parking count to 192 for 36,000 square feet of floor area. The plaza addition permitted in 2007 was never built, nor were the additional parking spaces. **The revised petitioned plan shows 154 parking spaces. The 32,000 square foot building still requires 161 spaces. The proposed 1,400 square foot restaurant requires 7 spaces, so the combined minimum parking requirement per this code section is 168 spaces. The petition is deficient by 14 spaces.**

**The parking requirements of the C-1 district can be amended by the MRD overlay. This issue will be discussed more fully in that section of the report.**

12. Article IX, Section 5. (2) allows a parking reduction in exchange for more landscaping. The petitioner has not indicated any intent to utilize this option.
13. Article IX, Section 6. requires the submission of the site development plan to MoDOT for its review. The petitioner has not proposed any changes or construction within the MoDOT right-of-way, so this site plan has not been submitted for MoDOT review. **The traffic study recommends changing the configuration of the Manchester Rd. curb cut to add a free flowing right turn lane to mitigate some of the traffic congestion at this curb cut created by the new use. The level of service (LOS) at this intersection will change dramatically as a result of this proposed development. On the basis of the LOS change alone I recommend that this plan be submitted to MoDOT for comment, but I concur with the recommendation of the study that the curb cut be redesigned to accommodate the additional traffic. The redesign of the curb cut would also require MoDOT review. Given the need for MoDOT comment, I recommend that the Commission make no affirmative recommendation on this petition until these comments have been received, reviewed and incorporated as necessary.**
14. Article IX, Section 7. (1) requires that the minimum spacing of curb cuts be 500' between centerlines. **Even with the elimination of the Hillsdale Dr. curb cut, the submitted plan is not in accordance with this requirement. The two curb cuts that will be retained are about 480' apart.**

**The petitioner is proposing to eliminate the Hillsdale Dr. curb cut because they cannot make it work with this site plan due to slope limitations and ordinance regulations regarding the location of the curb cut relative to Manchester Rd. The revised plan can be approved with the Hillsdale Dr. curb cut eliminated. It is not specifically required by ordinance, but doing so is contrary to the principles of access management that have been woven into the C-1 district regulations, the MRD regulations and the recommendations and guidelines of Ballwin's comprehensive Community Plan and the Great Streets Plan. Eliminating this curb cut is, in my mind, taking a giant step backwards. This will be discussed more thoroughly in the MRD and Comprehensive plan elements of this report.**

15. 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's reimbursement for

its 30% of the cost upon the development, redevelopment or transfer of any special use exception associated any property benefiting from such sidewalk construction. This sidewalk was built by the original developer of Gordon Plaza, so no reimbursement to Ballwin is required pursuant to this petition.

16. Article IX, Section 7. (3) requires that a cross access, driveway/parking lot vehicular interconnection easement be established to allow a future parking lot interconnection with adjoining properties. The ordinance allows this requirement to be waived for topographic or site design reasons. The Gordon Plaza site covers an entire block from Hillsdale Dr. to Highview Dr. and has access to all three fronting roadways. There is no reasonable likelihood of the adjoining residential properties along the north side of this site ever being redeveloped in a manner that a parking lot interconnection easement with the petitioned site would be necessary. **I do not, therefore, recommended that a “cross access, driveway/parking lot vehicular interconnection easement” as described in this subsection be established. The ordinance provides for the Board of Aldermen to waive this requirement. That can be done through the MRD Governing Ordinance when it is approved.**
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### **SUE Regulations (Article XIV):**

1. Sec.1 (1) (14) restaurants and front yard parking are allowed by special use exception (SUE) in the C-1 zoning district. **These uses can therefore be included within the allowed uses of the MRD Governing Ordinance.**

2. Sec. 2 (1) *Minimum Yard Requirements*: The minimum yard requirements of the C-1 District appear to have been met.

3. Sec. 2 (2) *Site Illumination*: The submitted site development plan shows no changes to the original site illumination for most of the plaza. **A luminary presently located in front of the proposed restaurant has been relocated to the edge of the parking lot adjacent to Manchester Rd. approximately 50’ from Hillsdale Dr. A letter from the petitioner’s engineer dated February 2, 2015 that addressed many issues from the preliminary review report states that an additional parking lot light standard will be erected at the north end of the site. This is not a very precise description and I can find no such lighting standard on the revised plans. More fully developed information about the illumination of this part of the lot needs to be provided as a part of this petition. This should include a photometric plan for the entire site. It is my recommendation that the Commission withhold any decision on this petition until the illumination of the entire site has been appropriately documented and updated according to the proposed plan amendment.**

4. Sec. 2 (3) *Greenery and Planting*: The present site landscaping is non-conforming relative to the requirements of this code section and the MRD mandates a deviation from these regulations. This issue is discussed more thoroughly in the MRD section of the report.

5. Sec. 2 (4) *Fencing*: No change to the existing site privacy fencing has been

proposed as a part of this petition.

6. *Sec 2 (5) Parking:* This issue is discussed in the C-1 and MRD sections of this report and will not be repeated here.

7. *Sec. 2 (6) Pavement:* A detail showing the proposed pavement design is included in the drawings. The detail appears to meet minimum design requirements.

8. *Sec 2 (7) Storm water runoff control:* No changes to the existing storm water facilities on this site are proposed as a part of this petition. The petitioner does not believe that the changes to the runoff characteristics of this site will be of a magnitude necessary to require any substantive changes to the detention facility. This is probably correct, although MSD required Elco Cadillac to build additional detention even though the increase in runoff was below the threshold. This was because of the special rules applicable to runoff in the Fishpot Creek basin. Although much smaller in area, this site is also in the Fishpot basin. Similarly, MSD has a 1 acre disturbed area threshold for water quality improvements but sometimes recommends water quality improvements on small sites that do not meet this threshold. MSD's rules clearly provide for this possibility.

**As of my discussions with the site design engineer on 1/9/15, this site plan had not been submitted to MSD for preliminary review. In his 2/2/15 letter, he restates the 1 acre threshold rule for water quality improvements and stresses the relatively small amount of differential runoff being generated by this development. He may be absolutely correct, but since a decision to require water quality features to this site could impact the site design, it is my recommendation that the Commission make no recommendations regarding this petition until documentation from MSD has been provided that clearly shows that no change to detention or water quality improvements will be required.**

9. *Sec. 2 (8) Loading docks and facilities:* No such facilities are required or really necessary for this kind of development.

**10. *Sec. 2 (9) Ingress and Egress:* the submitted plans propose to utilize the existing southern (Manchester Rd.) and western (Highview Dr.) curb cuts to access the site, and eliminate the Hillsdale access.**

The traffic study provided by CBB transportation engineers was required by Ballwin to review the impact of the additional traffic generated by this new business on the level of service (LOS) of the adjoining roadway segments; the public roadway and private curb cut intersections in terms of traffic capacity, delay, congestion, turning movements and queueing on the adjoining roadways and on site with particular review of the drive through lane.

The study dated December 19, 2014 was submitted pursuant to the first site development plan that proposed to move the Hillsdale Dr curb cut closer to Manchester Rd. and change it to an exit only configuration. Due to a variety of design issues the site plan has been modified to eliminate the Hillsdale curb cut altogether. The February 2, 2015 traffic study was submitted pursuant to the amended site plan. No additional

survey of traffic conditions was made for the supplemental study, but the originally collected data was applied to the revised curb cut configuration.

**There is always a debate as to the most appropriate time of the year, days of the week and number of days to collect baseline traffic data. The study conducted a single day traffic count on December 15, 2014 to obtain the existing traffic volumes shown on Exhibit 1. That study was conducted on a Monday. Some would argue that Mondays and Fridays tend to be less representative of average traffic conditions than do middle-of-the-week days. Others argue that baseline traffic volumes should be collected at the busiest time of the week, such as a Saturday for this site, so the analysis is a worse-case scenario rather than an average day scenario.**

#### **Trip Generation:**

**On page 5 the traffic study discusses the methodology utilized to determine the number of vehicular trips that the proposed Andy's Frozen Custard restaurant would generate. I believe that it is important to understand that the traffic counts that were incorporated into this study are not based on counts of any existing Andy's restaurant. There is an existing store on south Kirkwood Rd. in Kirkwood that would appear to have been an excellent comparable site and there are existing stores in Columbia Mo. and Cape Girardeau that might also have been subjects for such counts. Any count taken this time of year would of course have to be adjusted for seasonal activity levels, but no counts of existing facilities were made. The study also points out that conventional fast food restaurant traffic generation, for which there is a multitude of data available, is not an appropriate surrogate for this use. The demand is different.**

**Trip generation numbers in this study are based upon operational data provided by the Andy's Frozen Custard Company. I am not challenging the validity of these trip generation numbers or the number of transactions at the drive through window, but with the lack of any hard counts at an existing facility to substantiate these numbers, one has to ask where the estimated trip numbers came from and how they were developed. Was it drawn from compiled company data or is it just someone's best guess. Because of the potential negative impacts of the traffic generated by this use, I would feel better if the generation data were based upon a real life facility in a comparable situation.**

#### **Trip Distribution:**

**On page 6 the traffic study states that a frozen custard restaurant is "highly unlikely" to be a primary destination and that traffic will primarily be drawn from existing traffic passing by the site. The study goes onto say that based upon other fast-food restaurants with drive-through facilities, 50% of the business will be drawn from the existing roadway traffic. No documentation or reference of any kind was provided to support this statement. It appears to be purely the opinion of the author of the study.**

**My personal experience has been that many users of these kinds of restaurants appear to be families, friends, couples, etc. out for a treat, or groups of children such as ball teams that go out for ice cream after the game or practice. This suggests deliberate trips and not a casual stop off. The Fritz's Frozen Custard in Valley Park is on an abandoned segment of Woods Mill Rd. This is a very busy operation in the evening and there is no drive through window. There is virtually no pass-by traffic on this road at this time. These people made a deliberate decision to go there and added trips to the adjoining roadway that would not otherwise have been there. That looks like a destination to me. Before I can accept that Andy's would not be a destination and that as many as half of the business' trips will be drawn from existing roadway traffic, I would have to see the results of studies of similar restaurants that support this position.**

**I also have to question the use of pass-by percentages from other fast food restaurants as a comparison basis. The study states in the first paragraph of the trip generation section (page 5) that this is a unique land use. If it is unique, how can pass-by percentages from fast food restaurants be applicable? I believe that the clientele for an ice cream only fast food restaurant is very different from that of a more conventional fast food restaurant and that special destination trips are a much larger part of the customer load than is the case for a conventional menu fast food restaurant.**

**The issue of where the trips come from is primarily related to the impact on the adjoining roadway. If half of the trips are drawn from existing flows, the traffic increase on the roadway will be half of the generated trips. If the pass-by trips only account for 10% of the new trips, then 90% of the trips will also be new trips to the adjoining roadway. This is less critical for a roadway like Manchester Rd. which has high volumes and is designed to accommodate its flows. This could, however, be an issue for lesser traveled side streets like Hillsdale Dr. and Highview Dr. where even a few additional trips per hour could have a dramatic impact. Manchester Rd. carries approximately 1,500 cars in the westbound lane during the site's peak hour. The added trips will probably not significantly impact its function (turning movements will be discussed later in this report), but the 10 trips added to the approximately 50 southbound trips on Hillsdale Dr. will constitute a rather significant increase in overall volume (20%). If the 10 trips are really 15 trips because the draw from the pass-by is really less than 50%, the impact could be even greater. A similar argument can be made for the uncounted Highview Dr.**

**It is really important for this study to substantiate the 50% pass-by draw rate and then to appropriately apply that to the distribution of the use-generated traffic to the adjoining roadways system. This includes looking at the impact of the businesses traffic on the Highview Dr. / Manchester Rd. intersection and the Highview Dr curb cut. These were not included in the study's analysis. I believe that the study needs to reanalyze the impact of this proposed business on the adjoining roadway segments, intersections and curb cuts from the increased traffic load.**

No analysis was made of the impact of the proposed restaurant on northbound Hillsdale Dr. left turn movements into the plaza. The increased left turn movements would most probably be blocked by the southbound queuing, but this issue was avoided by eliminating the Hillsdale Dr. curb cut. This change improves on-site traffic flows and eliminates the inevitable problem of left turning movements from Northbound Hillsdale Dr. conflicting with southbound queues. Unfortunately this also precludes any plaza traffic from accessing or leaving the plaza via Hillsdale Dr. Southbound Hillsdale Dr. traffic will have to make a right turn onto Manchester Rd. and enter the plaza via the Manchester Rd. curb cut, or it will have to cut through the adjacent neighborhood and enter the plaza from Highview Dr. Similarly, all Manchester Rd. traffic will have to utilize the two remaining curb cuts to access the plaza.

These changes to the nature of the traffic patterns around Gordon Plaza are a significant change to its character and the way it fits into the surrounding neighborhood. The increased traffic in general and the changes to the plaza's access will potentially increase congestion and traffic hazards. This is discussed more fully below.

11. Sec. 2 (10) *Adequate area for the use*: I believe that it is reasonable to conclude that there is not adequate area on this site to accommodate the proposed use. As discussed above, the site circulation was reconfigured to get the building and its drive through window to fit on the site. This necessitated the elimination of the Hillsdale Dr. curb cut and the creation of a one-way traffic flow behind the building and along the east side of the parking lot. The traffic study recommends that a turning movement analysis be made to be sure that the rear service roadway is accessible for delivery and emergency vehicles. No such analysis has been shared.

The traffic study confirms that there will be additional congestion issues at the Manchester Rd. curb cut of the plaza. More room on the site could allow for better circulation and the elimination of many of these problems, so there is genuine question as to whether there is adequate area on the site for 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*: A screening dumpster enclosure is shown.

14. Sec 4 (6) (1) *Increase traffic hazards*: This is an issue that is partly addressed in the traffic study but partly not addressed. The study looks at the increase in traffic at the Manchester Rd. intersection and on the plaza site as it relates to queueing at the drive through window. It does not look at the Manchester Rd. / Highview Dr. intersection, the Highview Dr. curb cut or the potential increase in traffic in the residential areas behind the plaza.

On page 6 under trip distribution the study makes the statement that "...it is highly unlikely that the site will become a primary destination for a high number of motorists. Instead, the frozen custard restaurant will attract customers primarily from the existing traffic stream passing the site; i.e. pass-by trips. Therefore there should not be a noticeable increase in total traffic volumes on Manchester Rd." No mention is made of the impact on Hillsdale and Highview traffic volumes in this statement, but I assume the same logic is being applied to those roadways as well. **As I discussed earlier in this report, I do not believe that this is an accurate characterization of the traffic that will be generated by this use. I believe that a frozen custard restaurant is a destination and will generate more of its traffic volume in new trips on the adjoining roadways than the study calculated. I believe that this question needs to be explored in more detail and the study amended accordingly if the assumption proves to be inaccurate.**

### **Level of Service (LOS) Analysis**

The traffic study looked at the Level of Service (LOS) at the adjoining intersections and curb cuts. This is shown in Table 3 on page 11 of the study. A LOS rating is expressed in an A to F grading scheme with each level representing an increase in the delay experienced by vehicles expressed in seconds per vehicle. This is described in Table 2 on page 10 of the study. The analysis was done for the roadway peak hour and the site peak hour, and reflects the change in LOS created by the additional traffic generated by the proposed development. Of particular note in this table is the impact of the traffic increase for the southbound Gordon Plaza approach to Manchester Rd. (people exiting from the Gordon Plaza curb cut onto Manchester Rd). Several other approaches to Hillsdale Dr. and Manchester Rd. are reviewed by this study, but they are not substantially impacted by the proposal.

As I expressed in my discussion under Trip Generation earlier in this report, I am concerned that the traffic increase attributed to Hillsdale Dr. is potentially not accurate due to the assumption that 50% of the trips generated by this business will be from the roadway traffic that is already there. If this is much less, it means that more trips will be utilizing Hillsdale Dr. and the LOS of the Hillsdale Dr. approach to Manchester Rd. may be worse than is indicated in the study.

In my view the central issue to understanding an LOS analysis is the question of whether the traffic increase changes the LOS letter grade for any roadway segment or intersection movement. Virtually every new business will have some kind of impact on the seconds per vehicle delay, but any traffic increase that causes a lower LOS letter grade is generally unacceptable. This is especially true of changes to LOS's lower than level D. In the case of the Gordon Plaza curb cut onto Manchester Rd., the LOS will go from a middle D to an F for the roadway peak hour with an increase in delay time of 28.5 seconds per vehicle. This is a doubling of the delay time for exiting traffic. The delay will go from a middle D to a seriously failing F during the site peak period with an increase in

**delay time per vehicle of 169 seconds. This is a fivefold increase in the delay. Both of these are decreases of two grade levels of service and meet what I consider to be an unacceptable change in LOS.**

**What also concerns me with this, aside from the significant increases in traffic volume, is the failure of the study to look at the existing traffic volumes and increases in those volumes at the Highview Dr. / Manchester Rd. intersection and the Highview Dr. curb cut. I believe that the long wait times and the difficulty in making exiting movements due to the high numbers of turning movements at the Manchester Rd. curb cut will induce a portion of the exiting traffic to utilize Highview Dr. and the Highview Dr. curb cut. No analysis of these intersections has been provided in this study. I believe it should have been.**

#### **Gap Analysis:**

**On page 12 the study says that the existing LOS problems are primarily related to the existing high volume of traffic on Manchester Rd. The author states that short of a traffic signal, which is not warranted, there is little that can be done to mitigate the increasing LOS problem resulting from any development along Manchester Rd. The implication is that every development will have some negative impact on the LOS, so by extension it is impossible to ever do anything if a no impact standard is applied. I would argue that this is a matter of degree. If the development does not change the LOS by one letter grade it is a lot less of an issue than it is when it changes it by two or more letter grades.**

**In the level of service analysis on page 12 of the study, the author says that the nearby electric signals will provide gaps that will allow turning movements into and out of the plaza. The built traffic volumes on Exhibit 4 show 70 left turn entry movements (approximately 1 per minute) and 90 left turn exit movements (approximately 1.5 per minute) attempting to negotiate across each other's paths and those of 1,470 (approximately 24 per minute) westbound vehicles in the evening peak hour. At an unsignalized intersection, this is a large number of potential vehicular conflicts per minute. No gap analysis was done to determine if this roadway can reasonably and safely accommodate this volume of turning movements. This analysis should have been added to the traffic study to fully understand the impact of this development.**

#### **Queueing Analysis:**

**A queueing analysis was done for southbound Hillsdale traffic approaching Manchester Rd. Since the Hillsdale Dr. curb cut is being eliminated, Andy's Frozen Custard will probably have minimal impact on the queueing at this location. However, if the analysis associated with the 50% pass-by question significantly increases the assignment to Hillsdale Dr., the queue at this location may get worse.**

**Unfortunately, no queueing analysis was done of the southbound traffic exiting the Manchester Rd. curb cut. I suspect this will be a significant queue that will congest the internal lanes of the parking lot and potentially interfering with**

turning movements entering the site. This, in turn, has the potential of further degrading the flow through the curb cut and possibly even backing cars up into Manchester Rd. I strongly support the widening of the curb cut recommended in the traffic study, which has not been included in the submitted site development plan, to allow a free flowing right turn exit lane, but I am not convinced, on the basis of the information provided, that widening the curb cut will significantly relieve the queueing and congestion that is inevitable on the parking lot during the peak hours of this business. There just may not be enough room on this site to accommodate this use and its traffic.

15. Sec 4 (6) (2) *Neighborhood character impact*: The adjoining residential properties to the north may potentially be impacted by this development. It should be noted that this property has been developed with a commercial use since 1983, but in that time it has never incorporated a high traffic volume business such as that proposed in this petition. There has been a fast food restaurant (Kentucky Fried Chicken) on the east side of Hillsdale Dr. since about the time this plaza was built and that use does not appear to have had any major negative impacts on the nearby residential properties. **This does not minimize the possible negative impact of site illumination if it is not done properly and in a manner sensitive to the nearby property owners.**

It should also be noted that Hillsdale Dr. traffic that wants to access the plaza also has the option of cutting through the residential area to the north to access the plaza via the Highview Dr. curb cut as an alternative to turning onto Manchester Rd. to access that curb cut. **If this traffic is significant it could have a negative impact on this neighborhood. The traffic study also failed to address this possible impact of the closing of the Hillsdale Dr. curb cut.**

16. Sec. 4 (6) (3) *Community general welfare impact*: **The illumination issue discussed as a part of the neighborhood character and the many traffic issues discussed above also fall into this category. I believe that these qualify as potential negative impacts on the general welfare of the community.**

17. Sec. 4 (6) (4) *Overtax public utilities*: **If one considers roadways to be part of the public utility system the significant increase in turning movements at the Manchester Rd. curb cut as well as potentially the same problem at the Highview Dr. / Manchester Rd. intersection and the Highview Dr. curb cut could be considered as an overtaxing of that facility (utility). As stated elsewhere in this report, if the traffic study had reviewed the gaps available for turning movements at Manchester Rd curb cut and had looked at the volumes of traffic being generated on residential neighborhood roadways and intersections this issue might have been resolved to the satisfaction of this subsection.**

18. Sec. 4 (6) (5) *Adverse impacts on public health and safety*: **The significant increase in turning movements at the Manchester Rd. curb cut can certainly be viewed as an adverse impact on public safety.**

19. Sec. 4 (6) (6) *Consistent with good planning practice*: Ballwin has previously allowed the establishment of commercial developments on similarly situated properties with similar proximity to residential and commercial developments with similar buffering

requirements. I am not aware, however, that Ballwin has ever allowed a use that generates this level of additional traffic congestion without extensive mitigating roadway improvements. **Lacking the proper control of these traffic issues, it is difficult to make a case for good planning practice.**

20. Sec. 4 (6) (7) *Operated in a manner that is compatible with permitted uses in the district:* A restaurant, even a fast food restaurant, can frequently be operated in a manner that is compatible with the uses permitted in this district. It has been demonstrated that this use will generate significant traffic during the P. M. peak hour on the adjoining roadway and during the later peak hour of operation for the business. Any use that creates a significant negative impact on traffic will negatively impact the operations of other nearby uses in the district. This is particularly true of the other businesses within Gordon Plaza. Granted, the worst time for traffic is not at a time that many of the businesses in the plaza are open today, but what will happen in the future? Ballwin should not make zoning decisions exclusively upon the circumstances present today. A wider and longer term overview is necessary. **Until the traffic congestion issues are properly understood and resolved, I do not believe that this development proposal can be viewed as being compatible with the other uses permitted in the C-1 Commercial Zoning district.**

21. Sec. 4(6) (8) *Operated in a manner that is visually compatible with the permitted uses in the surrounding area.* There appears to be little basis to make an argument that this use, as proposed, would not be visually compatible with permitted uses in the surrounding commercial area. These areas have virtually identical uses and buildings and the nearby residential areas are screened by the original site fencing. **No useful information has been provided about the illumination of the rear part of the parking lot. I recommend that the Commission not make a recommendation on this petition until the site and building area illumination is fully resolved and proper for the nearby residential areas.**

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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 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 limit the MRD district. 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 by the ordinance or the approved site development plan will still apply.

**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 that “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.” **I think the issue of the functional capacity of the adjoining roadway comes into play with the level of service (LOS) issues and turning movements raised in the traffic study. The additional goal of having a mix of tenants that maximizes convenience, visibility and aesthetics also come into play with this proposal. Clearly the traffic volume and circulation impacts on the plaza are not maximizing convenience for local residents or patrons.**

An important thing to remember while evaluating an MRD development proposal is that the MRD is envisioned by the comprehensive community plan and the zoning regulations as a district that will eventually encompass the entire Manchester Rd. corridor. The purpose therefore needs to be applied on a corridor-wide basis. Applying the regulations and guidelines in minute detail to every individual parcel or development proposal may not be the best way to comply with the purpose of the regulations. Parcels will typically be submitted for development and rezoning on an individual basis, but will eventually comprise the whole as envisioned for the MRD. Every parcel may therefore not meet every nuance of the purpose statement. Different parcels may fulfill different parts of the purpose, but best meet the overarching intent of the purpose in the aggregate.

**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 that are recommended for inclusion in the MRD Governing ordinance are as follows:

- **Store for the indoor display and sale of new merchandise, including wholesale and retail sales and including the service and assembly thereof unless otherwise limited, or controlled or permitted by the ordinances of the City of Ballwin.**
- **Bakery for the production and sale at wholesale and retail of bakery goods provided that no less than 25% of the gross floor area of the space is utilized exclusively for retail sale on the premises.**
- **Barbershop, beauty, nail or tanning salon and similar personal grooming and hygiene uses but not including public baths, tattooing, body piercing, massage or similar uses.**
- **Massage therapist, providing the business produces proof of education and state licensing for all employed practitioners.**
- **Gym, exercise, fitness, dance and martial arts and similar facilities, both public and private, offering facilities, equipment, and classes for exercise, training, skill enhancement, fitness, weight loss and similar uses.**

- **Retail dyeing, dry cleaning or laundering provided than not more than five employees shall be engaged at any time on the premises in any processing use.**
- **Business offices.**
- **Professional offices, including consultation and treatment rooms and related indoor facilities and equipment.**
- **Veterinarian offices, hospitals/clinics for small animals and/or animal grooming, including treatment and consultation rooms and commonly related indoor facilities and equipment but not including outdoor kennels.**
- **Store for the sale at retail of live household pets and accessories, including pet grooming.**
- **Photographer, art gallery or artist or other similar studio.**
- **Store for the sale of used merchandise in conjunction with the sale of new merchandise, provided that the sale of used merchandise:**
  - (1) is accessory and subordinate to the sale of new merchandise?**
  - (2) is limited to a maximum of 25% of the gross floor area of the store, and**
  - (3) is limited to 25% of the annual gross receipts of such store. The business shall provide proof of compliance with this requirement at the time of the annual business license renewal.**
- **Store for the sale of coins, stamps, baseball cards, comic books or similar small collectible items, including the sale of these items as used merchandise. This use does not include furniture, automobile or other large collectible items, the sale of which is either prohibited or regulated by other code provisions.**

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

- **Parking on a paved surface within any front yard for all uses allowed in the MRD Governing ordinance.**
- **Shop where food is served for consumption on the premises on which it is prepared or to be consumed at a place other than on the premises on which it is prepared. For the purposes of this ordinance, consumption on the premises on which prepared shall mean and include consumption in an exterior garden or sidewalk type dining area, provided, however that such exterior dining area**

**is accessible to the building in which the food is prepared, is controlled by the business preparing the food and does not interfere with the intended use of the area occupied by such dining.**

- **Drive through facilities.**

**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 governing ordinance or on the approved site development plan. Any regulation that is not waived or amended by the ordinance or the approved site development plan is still in effect. Additionally, the approval of the overlay district brings some regulations that supersede the underlying zoning. Any waiver of the provisions of the underlying ordinance are identified and discussed within the write up or shown on the site development plan 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 aesthetic conundrum for many petitioners. It is alleged that there is presently a limited market for second levels on buildings along Manchester Rd. This may be especially true for certain types of buildings like auto dealerships, gas stations, fast food, etc. that have high congestion are open at unusual times. These buildings may simply not lend themselves very well to uses such as offices and residences on the second level.

The existing building does not meet this requirement, but I believe that it is legally nonconforming relative to this regulation. It is an existing building that was legally built and continues to be lawfully occupied. No changes to the building are proposed as a part of this site plan amendment petition. In my view, it is not reasonable, under these circumstances, to require the building to be changed to comply with this regulation. Asking for an amended site development plan brings the MRD regulations into play, but it seems to me that these regulations need to be applied in a reasonable and proportionate manner. If the building were undergoing a substantial remodel, renovation or expansion, this regulation would be appropriate, but requiring a second floor on a building that is not in any way part of the site plan amendment is not, from my perspective, reasonable or proportionate to the requested change.

**A similar argument cannot be made for the new building. It is not attached to the**

existing structure and has an architecture that is dramatically different from that of the existing building. The existing building on the site is about 22' tall with some architectural elements that are even taller. The proposed Andy's Frozen Custard building will have a roof line with a maximum elevation of about 14' at its tallest point and an architectural feature for a wall sign that will extend up to 22'. Ballwin has required other buildings built under the MRD regulations to be taller. The parapet of the UGas building is 30' tall and the taller elements of the Wendy's building are about 28' tall. The taller portion of the American Arms building will be about 24' tall.

Clearly the market has not demanded second level spaces in the corridor, and the few spaces that exist may have a higher vacancy rate, but it is very desirable to have taller, massive and more architecturally interesting buildings along the corridor. In other applications of this zoning the City has still interpreted this code section to require that all buildings, even smaller ones be taller, more massive and have the look and character of a two story building by incorporate architectural elements that resemble those commonly found on a two story building. I therefore recommend that the Manchester façade of the building be raised to a height of 18' – 22' to more closely approximate the height of the parapet of the adjoining building on the site and that the architectural feature be made taller by a similar amount. A fascia of this size would approximate what has been previously judged to have an appropriate mass for the requirements of the MRD regulations and, frankly, to be more in keeping with the architecture of the existing plaza.

**Section 5, Parking and Loading Regulations:** This section establishes standards for the design, placement and landscaping of parking facilities. No maximum or minimum parking standards have been established. The ordinance clearly, therefore, anticipates the possibility of a variation from the parking requirements of the underlying zoning district (C-1) via the MRD governing ordinance. **The petitioner has proposed a site development design with 154 spaces instead of the 167 spaces required by the code. A reduction in the number of parking spaces is being requested pursuant to the provisions of the MRD ordinance. Historically, commercial developments in Ballwin have not needed to provide the full complement of parking spaces required under the parking regulations. Gordon Plaza has always had significantly more parking than it needs for the businesses in the plaza. The unknown here is the parking demand of the new business. The traffic study says that Andy's Frozen Custard will generate 55 walk up visits in the evening peak hour. Presumably most of these will be people who drove to the plaza and parked rather than going through the drive through window. In a worst case scenario, this will generate a demand for 55 spaces when only 12 new spaces are being provided. The 55 cars will, however, not all arrive simultaneously and will not need to be accommodated simultaneously. Their arrivals and departures will be spread over the course of the hour. The 12 spaces may therefore be adequate and since the peak hour is off-peak for most of the other businesses in the plaza, and their spaces will be available to accommodate the business.**

Two questions occur to me. Will the future tenant mixture in Gordon Plaza be such that there will always be an abundance of excess parking spaces available? Ballwin's recent experience with a parking deficiency at Ballwin Grove plaza

**suggests that this may not always be the case. The other question is about the tendency of customers at this kind of business to sometimes loiter on the site while they consume their frozen custard. Could that generate enough additional parking demand to negatively impact the plaza? I am not inclined to believe that these will be an issue, but looking into the future, there is no way to predict what will happen in this regard. Providing full parking mitigates against a possible future parking issue.**

*Section 5 (1):* On-street parking is recommended where site design and traffic patterns permit. Clearly, due to the nature of the roadway, on-street parking is not feasible on Manchester Rd. and not appropriate on Hillsdale or Highview Drives.

*Section 5 (2):* No waiver of ADA standards can be granted in the MRD. The parking lot proposes 154 parking spaces for customers and employees. The 6 accessible spaces proposed for the lot meet the standard for accessible parking. **Given the high volume of traffic that the frozen custard business will generate, I recommend that one of the existing accessible spaces be relocated into the vicinity of the new restaurant.**

*Section 5 (3):* This subsection specifies that the provided parking facilities shall be concentrated in areas that are landscaped and buffered to minimize view from major rights-of-way, residential units and adjoining properties. The petitioner has provided a landscaping plan that addresses this screening requirement. It is discussed more fully in subsection (6) below.

*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. **This site development plan requirement does not appear to have been met. This issue is discussed in subsection 5(6) below.**

*Subsection 5 (6):* This subsection established two parking lot screening design formulas that can be utilized to screen adjoining rights-of-way, public lands or adjacent properties from parking lots. Design formula 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. Design formula 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'. **Due to the design of this site, the standards of this subsection apply around the entire perimeter. All site pavements are considered part of the parking lot.**

The original landscaping from the 1983 SUE site development plan provided a 4' deep (wide) greenspace along the roadway frontages (east, west and south sides of the site), and an approximately 5' deep (wide) landscaping space along the north side of the site. The 2007 plan amended that by relocating the detention basin and providing the required 25' greenspace as a part of the detention basin design for the northeast corner of the site. It should be noted that there is an abundance of undeveloped Manchester Rd. right-of-way that visually adds to the landscaped area even if it is not technically part of it. The roadway-fronting greenspace areas were sparsely planted in 1983 and only a few trees appear to

remain from that effort. The rear landscaped area was supplemented with an 8' tall screening fence separating the commercial uses from the adjoining residential properties. This fence is still in place and was supplemented with a similar fence around the detention facility when it was moved to its present location in 2007. I believe that the rear yard green space in the detention facility is substantially compliant with the requirements of this subsection of the MRD and that it be retained in its present condition as proposed.

None of the green spaces adjacent to the parking lots along the roadway frontages (Hillsdale, Highview or Manchester) meet either the "a" or "b" screening design formulas stipulated by this subsection. These landscaped spaces are less than the 12' minimum dimension required by design formula "a" and less than the 5' minimum requirement of design formula "b". The plan, however, appears to approach or perhaps exceed some of the planting standards of both formulas.

**When you look at this from the perspective of reasonableness and proportionality, I believe that asking the petitioner to increase the width of the green spaces, which would require removing portions of the existing parking lot, to meet the 12' width requirement of design formula "a", or the 5' width requirement of design formula "b" would be excessive and not really add much to the site. I believe that it is reasonable to expect the revised site plan for Gordon Plaza to comply with the landscaping and screening requirements stipulated by design formula "b" without requiring the additional 1 foot of depth (width). This would require the erection of a decorative metal fence or stone wall along the entire frontage of the parking lot that would then be supplemented with trees and/or shrub plantings or the planting of a continuous hedge along the entire parking lot supplemented with 2" caliper trees on 50' centers. The proposed landscaping does not meet either of these criteria but incorporates a mixture of plantings that generally exceeds the standards of this section.**

**The petitioner has raised an issue associated with the fence requirement of design option b. The 4' wide greenspace in which the fence would be located is a dedicated utility easement from a 1950's platting of 5 residential lots on what is today Gordon Plaza. The easement is probably still valid, but there is no evidence that there are any utilities in it. Although it would not be unreasonable to approach the utility companies to vacate their interests in this easement, the submitted landscaping plan is generous and not out of keeping with the recommendations of this subsection. Given the difficulty of the easement and the issue of the nonconforming nature of this site, it might be best to accept the submitted landscape plan as a reasonable and appropriate approach to this issue.**

**The 25' (or larger) planting zones adjacent to the rear of the site at the detention facility clearly meet the dimensional and tree planting requirements, but there is no room to do any planting adjacent to the rear of the rest of the plaza. I believe that the legal nonconformity of the plaza comes into play here since there is no reasonable way to make this compliant.**

*Section 5 (7):* This subsection requires a minimum planting effort of one tree per 10 parking spaces. This standard appears to have been met in the submitted plans.

*Section 5 (8):* This subsection requires all planting areas within or adjacent to the parking lot or vehicular use areas to be irrigated. **The landscape plans contain a note that the landscaped areas will be irrigated. The February 2, 2015 letter from the petitioner states that the plantings are native species that are drought tolerant so no irrigation system is necessary. I asked Ballwin's arborist to review the list of proposed plantings to verify that they are native species and drought tolerant. It was his observation that very few of the plants on the list are native to the St. Louis Area. A few may be somewhat more tolerant of dry conditions than others if they are well established, but none are truly drought tolerant. Lacking an irrigation system, it is unlikely that these plantings will survive much less thrive in the generally poor soils and difficult conditions experienced adjacent to a busy roadway. The letter also states that installing such a system is not practical due to the nature of the improvements on the site and limited space.**

**I reject the implication that an irrigation system cannot be built on the site. Yes, it may be necessary to disrupt some pavement to install such a system, and yes, there may be some difficulties imposed by limited space, but I believe that this objection has more to do with cost than it does with the actual ability to build such a system. This is an ordinance requirement. No provision is provided to waive it. To assure proper establishment of the proposed plantings, an irrigation system needs to be made part of this site development plan.**

*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. This ordinance requirement appears to have been met.

*Section 5 (10):* This subsection requires tree plantings to be consistent with Ballwin standards for street tree plantings. This has not been determined at this time.

*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 submission does not meet this requirement. Only the 100' of Hillsdale Dr. adjacent to the detention basin, which is approximately 10% of the total roadway frontage, is not adjoining a parking lot. **The existing site development plan and the amended plan both fail to meet this requirement. I believe that the site plan for the portion of the site that is not being substantially modified may be legally nonconforming relative to this requirement, but the eastern end of the site that is being completely rebuilt with a significant new stand-alone building has to comply with this requirement.**

**The submitted plan is non-compliant. The new building cannot be shifted to the eastern edge of the site due to the need for a drive through lane and the developer has chosen not to build it as an in line addition to the plaza which might allow it to be considered nonconforming. If some other site plan that meets this requirement cannot be found, it will be necessary for the petitioner to approach the Board of Adjustment with an appeal for variance and support for the position that the site has a severe hardship that precludes any additional economic gain before the Commission can make a positive recommendation to the Board of Aldermen.**

*Section 5 (12):* This subsection requires parking lots to have no more than 20 consecutive

parking spaces without an intervening landscaped area. The submitted plan appears to meet this requirement.

**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. **This development proposal does not meet this requirement. If it were moved to this proximity to the Hillsdale Rd. right-of-way it would meet this requirement and perhaps help with the address parking frontage along the right-of-way issue as well.**

*Section 6 (2):* This subsection addresses infill development. Infill development generally involves the construction of new buildings on old underutilized or out of date sites. This site is not, in my view, an infill development scenario. This petition proposes the redevelopment of a valid existing site development plan for the benefit the owner. As a result, this subsection, which addresses the development of underutilized or vacant properties, does not apply to this development proposal.

**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 pedestrian entrance and a path of entry from the street. **A path of entry has been provided to the Andy's Frozen Custard patio area from the Manchester Rd. sidewalk. This pedestrian connection does not serve the rest of the plaza very well. I recommend that similar pedestrian connections be established to the Manchester Rd. sidewalk in the vicinity of the Manchester Rd. curb cut and to the Highview Dr. sidewalk off of the west end of the front sidewalk of the plaza. The lack of an on-site sidewalk along the west end of the building precludes placing this pedestrian access near the Highview Dr. curb cut.**

*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 sidewalk connections described in 7(1) above should be provided with a 6' width. The rows of spaces along Highview Dr. and Manchester Rd. are not served directly by a sidewalk, but the roadway sidewalks are in fairly close proximity and can provide this access. If the roadway sidewalks can be viewed as meeting the requirement of the subsection, the "all sides" requirement of this section is partly met. Ballwin made a determination that this was adequate in the previous Floor Trader and Ballwin Grove commercial developments.**

**The parking spaces in the center of the main lot are not directly served by a sidewalk, but I do not see a reasonable and proportionate way to do so that is**

**productive to the overall site design and does not interfere with the green space requirement of the regulations. Modifying the existing functional site improvements to accommodate the additional sidewalks will disrupt landscaping opportunities, shrink the parking lot's capacity and is not likely to provide improvements that will be used. I believe the legal nonconforming issue comes into play for this requirement on the existing lot.**

*Section 7 (3):* This subsection requires that sidewalks be provided along any 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. I believe that the building fronting sidewalks in front of the existing building and the new building meet this requirement. There is little purpose served in providing wide sidewalks on the side and rear of buildings and it certainly does not work where there is a drive through window.

*Section 7 (4):* This subsection requires benches, fountains, artwork, shade structures, pavement enhancements, tables and chairs, illumination and similar amenities and placemaking features to enhance the pedestrian ways. **No such facilities have been offered as a part of this plan anywhere on the building-fronting sidewalk or on Andy's patio. I recommend that benches, tables or other similar sidewalk amenities be added to the entire sidewalk area of the plaza including in front of Andy's Frozen Custard.**

**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 will be allowed per the provisions of Section 2.

*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. Some of those are uses permitted under the SUE regulations.

*Section 8 (3):* This subsection contains regulations governing drive through facilities.

*Section 8 (3) (a):* This subsection requires that drive through facilities have sufficient queuing room for 15 vehicles to stack from the order pickup location so that they do not block public rights-of-way or driveway areas and an escape lane must be provided. This development proposes the creation of a drive through window. **An escape lane has been provided as required herein but there only appears to be sufficient queueing space for about 10-12 cars before the queue congests the exit lane from the drive through window.**

**The traffic study looked at the issue of queuing at the drive through window. As stated on page 13 of the traffic study, the author believes that the average queue length will be about 3 cars during the roadway peak hour and about 8 cars during the facility's peak hour. This is based upon "queueing theory." No information is provided about what**

queueing theory is or how it was applied to this development to produce these numbers. As a result the provided analysis is insufficient for the reader to conclude that the queue space needed for this development is adequate to accommodate this drive through window. Since the queue space also does not meet the minimum capacity requirement of the ordinance, this petition is not compliant with the queueing space requirement of the ordinance. It is also not compliant with the intent of the ordinance which is to provide adequate queueing room without negatively impacting any intended functions of the site, adjoining properties or rights-of-way. The February 2, 2015 letter stated that an escape lane is provided, which is correct, that the drive through will not impact nearby rights-of-way, which is probably also correct and that the traffic study shows that there is sufficient queueing room. I disagree with this last assertion. As described above, I believe that traffic study is incomplete on this point. I, therefore, recommend that the Commission make no favorable recommendation to the Board of Aldermen for this petition until it is satisfied that the queueing issue has been appropriately addressed.

*Section 8 (3) (b):* This subsection requires that order boxes and pick up windows shall be located 75 feet from any residentially zoned property. The locations that would be considered an order box or a pickup windows for the purposes of this subsection are well in excess of this required setback.

*Section 8(3) (c):* This subsection establishes minimum screening requirements between any property used for a drive-through facility and an adjoining residentially zoned or occupied property. The screening requires a 100% visual screen to a height of 6' and a 25' wide landscaped area. The landscaping is required to meet or exceed the parking lot screening requirements of subsection 5(6). The submitted landscape plan appears to meet the screening requirements of this section.

*Section 8 (3) (d):* This section requires the petitioner to submit a traffic impact assessment study for the drive through unless the assessment is waived by the Director of Planning. The study is to be prepared by a traffic engineer. **As discussed in several sections throughout this report, a traffic assessment has been conducted. I find it to be incomplete or questionable on several critical issues.**

*Section 8 (4):* This subsection contains regulations governing vehicle wash facilities. No vehicle wash facilities are proposed.

*Section 8(5):* This subsection requires that the submitted site plan is to clearly show curb cuts and on site vehicle circulation patterns. I believe that this requirement has been addressed, but the traffic study has recommended that the Manchester Rd. curb cut be widened to accommodate a free flowing right turn lane. **As discussed earlier in this report, this will probably reduce the queue length for exiting movements at this curb cut and it might even mitigate the extremely negative LOS impact of the development, although I am not optimistic that it will make much of a different in this regard. I highly recommend that if this petition receives a positive finding that this improvement be made a condition.**

**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.

*Section 9 (1):* This subsection requires that the minimum of 50% of the exterior area of

each wall shall consist of certain materials. The wall fiber cement panels proposed for this purpose appear to be approved materials per this subsection.

*Section 9 (2) a:* This subsection requires that rooftops and roof-mounted equipment must be architecturally concealed. The proposed equipment for the frozen custard restaurant will be ground mounted within the rear fenced enclosure.

*Section 9 (2) b:* This subsection requires that overhanging eaves, recessed entrances or similar architectural treatments shall be included in the building design to protect entrances and walkways from the weather. The roof overhang indicated by a dashed line on the plans appears to meet this requirement.

*Section 9 (3):* This subsection requires that "...walls in excess of 1500 square feet of exposed exterior area shall avoid treatment with a single color or texture, minimal detailing and lacking architectural treatments. Architectural wall treatments shall be utilized on such walls to create visual interest through the use of texture variations, multiple complementary colors, shadow lines, contrasting shapes, applied features and related architectural devices." This provision of the ordinance does not appear to apply to this building. The walls of the new building are not big enough to be addressed by this subsection.

*Section 9 (4):* this subsection deals with the overall size, shape and proportion of the building elements. The building as a whole, the building's relationship to other structures, the site open space and site improvements shall be consistent with similar buildings in surrounding developments. **This building is a little shorter than the plaza building. I recommended in Section 4 of the MRD regulations that it be made taller to better match the mass of the plaza.**

This subsection also stipulates the where the building walls exceed a horizontal to vertical ratio of 2:1, "...the building mass is to be articulated with variations in building wall planes and wall height and through the use of other architectural design or site planning features such as towers, monuments, pergolas, artwork, entablatures, porticos, texture, shadow lines, landscaping ,etc." This building does not meet the minimum dimensional requirements of this subsection for it to be applicable.

*Section 9 (5):* This subsection addresses architectural screening devices. **The dumpster enclosure and the rear screened compound area behind Andy's are providing the screening for site equipment. The dumpster enclosure should be made of CMU that is compatible in color and character with the fiber cement panels being employed on the building exterior.** No screening of the existing dumpsters behind the main building is required. There is no room for such screening nor any need given that this rear area is not observable from surrounding properties or rights-of-way.

*Section 9(6):* This subsection establishes additional regulations for large scale developments to further enhance the pedestrian experience and the visual appearance of the building from all sides. By the standards of the typical retail development in Ballwin, I believe that this plaza qualifies as a large scale development.

*Section 9(6) a:* The subsection requires that tenants over 100' long shall configure the facade with secondary access points that physically express internal functions of large

users to break the architectural massing of the long wall. To my knowledge there are no individual tenants in Gordon Plaza that have 100' or more of building façade, so this subsection does not apply.

*Section 9(6) b:* This subsection requires facades in excess of 30' shall incorporate design features such as pedestrian oriented areas, generous landscaping, retaining walls, raised planters, variations in building wall planes, materials, colors, towers, monuments, pergolas, artwork and related treatments that help define the human scale. "Long tall continuous wall planes should be avoided." This subsection clearly applies to this petition, and I believe that this plaza, including the proposed new building, is generally consistent with the guiding parameters of this subsection.

*Section 9 (7):* This subsection requires the use of landscaping with irrigation and native or acclimatized species to complement and enhance the building's design. **A landscaping plan has been submitted for the roadway frontages and for the vicinity of the new building. For a better understanding of this petition, I recommend that the plans be expanded to show all existing landscaping on the site as well as the proposed new plantings. The February 2, 2015 letter from the petitioner states that no upgrades or improvements to the existing planting beds are proposed. It also states that the plantings proposed are drought tolerant. This was discussed earlier in this report. The Ballwin arborist disagrees with this characterization of these plants. Additional documentation of this character needs to be provided. Additionally, even drought tolerant plants need water to become established. According to the arborist, this can take up to 3 years. With no irrigation in place, the likelihood of success for the establishment of these plants is very low. This subsection requires that all planted areas are to be irrigated. There is no provision to waive this requirement. Perhaps the Board of Adjustment can be approached about a variance to this as well, but I do not see much basis to claim a hardship in this situation.**

*Section 9 (8):* This subsection addresses issues of screening and landscaping to adjoining residential and other less intense land uses. Such screening is provided by the fence along the rear property line.

*Section 9 (9):* This subsection again addresses the issue of the screening of all types of equipment. This issue appears to have been well addressed by the screen around the equipment compound and the screen around the dumpster.

*Section 9 (10):* This subsection requires the placement of loading docks, trash enclosures etc. to be incorporated into the submitted site development plan. Such facilities are to be located near the service entrance of the building and be 100% screened from view from adjoining rights-of-way and residential uses with landscaping and/or architectural screening. No loading docks or other such facilities are proposed as a part of this development. Deliveries are accomplished via the rear service roadway or the front parking lot. The trash dumpster enclosure is clearly shown on the submitted plans.

*Section 9 (11):* This subsection encourages, but does not require, community gateway features on all sites and requires them where they are identified on the comprehensive plan. The comprehensive plan does not identify this site for a gateway feature and the petitioner has elected not to provide such a feature in its submittal.

**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) signaling and defining the transitions between adjoining land uses, landmarks and public art shall be used to help define a sense of place for commercial projects, functions and uses within and between developments. The only edge on this site is the border with the adjoining residential uses to the north. This was addressed by the construction of a sight proof fence and landscaping in previous site plan approvals. No changes to this area are proposed as a part of this petition.

*Section 10 (2):* This subsection addresses streetscape amenities such as lighting, landscaping and pedestrian amenities within 10' of the right-of-way. The original site plan never incorporated any such amenities into the roadway sidewalks. Such improvements were not required at the time of the plaza's original approval in 1983. **My draft review report recommended that a small visual art or landscape area incorporating a bench or other pedestrian amenity be placed at the intersection of Manchester Rd. and Highview Dr. This does not need to be large, but I recommend that it be designed in a manner similar to the feature approved as a part of the recent Farber Center site plan upgrade. The two features together would function as an attractive gateway near the corporate limits on Manchester Rd. as well as being attractive landscaped features for the two plazas. It can be sized to be accommodated within the green space available at this corner. Doubling up these visual expressions at the Highview Dr. intersection will take a great stride toward meeting the MRD and Great Streets plans for place-making features and gateways along the Manchester Rd. corridor.**

**This plan proposes two very plain bench areas near each intersection facing the parking lot. The facility approved for Farber Center was oriented toward the roadway sidewalk, not the parking lot. It incorporated a bench, a small plaza area, some additional landscaping as backdrop separating it from the parking lot and a small landscaped area between the plaza area and the sidewalk. Boulders were used as a sort of decorative accent in the backdrop area as well as in the front planting bed. This is more what I was meaning in my original recommendation. I do not believe a second such facility is necessary at the Hillsdale Dr. intersection because of the large patio proposed in front of Andy's frozen Custard. If the petitioner desired a second such feature it would not be inappropriate.**

*Section 10 (3):* This subsection requires the development of alternative access to the site from rear and side roadways. **As discussed earlier in this report, this proposed site plan will eliminate an existing access to Hillsdale Dr. which is the busiest side street. Doing this will, in turn, either increases traffic on nearby residential streets or increase traffic and turning movement on Manchester Rd. Neither of these are desirable outcomes. Eliminating access to Hillsdale Dr. is clearly contrary to the intent of this subsection and Ballwin's overall efforts over many years to improve access management along Manchester Rd. This was even an issue when Gordon Plaza was built. At the time the developer wanted two curb cuts onto Manchester Rd.**

**and some residents in the Westridge subdivision opposed curb cuts onto either Hillsdale Dr. or Highview Dr. in fear of additional traffic in their neighborhoods. It was ultimately determined that in the interests of access management and overall traffic circulation in the area that a single curb cut on Manchester Rd. and curb cuts onto the side streets was the optimum solution. This arrangement has served the plaza well since it was built and I do not see that fundamentally the circumstances have changed.**

*Section 10 (4):* This subsection discusses the utilization of access management principles to the interconnection of adjoining commercial properties or, in the alternative the dedication of easements to Ballwin to potentially allow future commercial site interconnections as adjoining properties are developed.

**As discussed earlier in this report, this site is currently connected to the roadway system in a manner that meets access management principles. The proposed loss of site access to Hillsdale Dr. that would result from closing the Hillsdale Dr. curb cut would be contrary to these principles and to the goal of maintaining and improving overall access management along Manchester Rd. in Ballwin. Traffic wanting to access the plaza from Hillsdale Dr. would have to utilize Manchester Rd. to get to the plaza. This would result in an unnecessary increase in the volume of traffic accessing Manchester Rd. / Hillsdale Dr. intersection which is already congested. I believe that it is not in the overall best interests of Ballwin and not consistent with sound planning principles to close Gordon Plaza's Hillsdale Dr. curb cut.**

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

*Section 10 (6):* This section encourages but does not require multi story buildings. The petitioner has not proposed multi story buildings.

*Section 10 (7):* This subsection again addresses the landmark feature. This was addressed earlier in this report.

*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 took when it was created. They are therefore essentially redundant with the review that is this report.

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