



Battle Creek City Planning Commission

Staff report for the October 28, 2015 meeting

To: Planning Commissioners

From: Christine M. Zuzga, AICP, Planning Manager

Subject: Petition S-02-15, a Special Use Permit request to allow a Tattoo Parlor at 537 W. Columbia Avenue, Parcel #6460-11-489-0.

Summary

Petition from Tracy M. Smith, 19 W. Fountain St., Battle Creek, MI, 49037, requesting a Special Use Permit to allow a Tattoo Parlor for 537 W. Columbia Avenue, property zoned C-3 Intensive Business District, as provided in Chapter 1290, Sec. 1290.01(a)(28).

Background/Property Information

The subject property is located on the south side of W. Columbia Avenue at the southwest corner of W. Columbia and Romance Street, south of Moonraker West restaurant. The single-story building formerly housed Hageman's Used Furniture, etc. The building underwent renovations in 2012. The parking lot has space for approximately seven cars, and is located in the rear of the building with entrance from Romance Street.



Surrounding Land Uses / Zoning

The subject property as well as one block north and south of Columbia Avenue are all zoned C-3 Intensive Business District, and surrounding uses along Columbia Avenue are consistent with this zoning. South and north of the commercial district (shown in yellow), properties are zoned R-1B Single Family Residential.



Proposed Scope of Project

The applicant has stated in their application they wish to use the building for “tattooing, body piercing, artistic consultation, and retail sales of clothes, aftercare, jewelry, art, and accessories”. If approved, they would be open Monday thru Sunday from 11am – 11pm.

Applicable Ordinance Provisions

Tattoo parlors are currently not permitted by right anywhere in the city. Ch. 1290(b)(28) does allow them by special use permit in the C-3 Intensive Business, C-7 Street Level Retail (downtown), and Industrial zoning district. The other uses proposed in this application, i.e. piercing and retail sales, would be permitted by right in this location and not require any special approvals.

This section of ordinance was amended in 2011 to also allow tattoo parlors in the C-7 district; prior to that they were only allowed by special use in the C-3 and Industrial districts. The amendment came at the request of someone interested in opening this type of business downtown. The amendment was supported by Downtown Partnership as they found tattoo parlors would contribute to a dynamic and diverse downtown. No applications for special use had been submitted since that time.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shopper’s Guide on Thursday, October 1, 2015 and notices of the public hearing were also sent by regular mail on September 28, 2015 to 60 owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has not received any questions or comments relative to this request.

Neighborhood Outreach

The petitioner presented the potential addition project to NPC #10 at their September 28, 2015 meeting and the project was unanimously approved by that group as submitted. We have requested the formal letter from the chairperson for the file.

Basis For Determination

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.
- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code.

Analysis and Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan in that the approval of this special use permit will allow the expansion of a business in the community (pg. 4-1) while utilizing a vacant building (pg. 4-12). The master plan encourages the amendment of ordinances to permit uses that promote diverse shopping, cultural, and entertainment business in the existing commercial districts to encourage and promote the viability of the area (4-6, 4-7, 4-9). Furthermore, planning staff finds that tattoo parlors complement and support the current excitement and energy surrounding redevelopment initiatives in the city, including business recruitment and relocation.
- (b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood as the proposed use is similar in nature to the previous use of the property, a light intensity use that will take place within a wholly contained building. Additionally, there will be no extensive changes to the property or the exterior of the building which would be a detriment to surrounding properties.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is generally passive in nature, with variable hours of operation that generally occur during the daytime and early evening. Additionally the proposed use is less intrusive to uses permitted by right in the C-3 district including used car sales and motor vehicle repair facilities.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as an existing vacant structure will become occupied and improvements made to stabilize the property and those in the vicinity.
- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use.
- (f) There will be no City expenses associated with the maintenance and improvements to the building, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services.
- (g) Because of the nature of the use, and relevant State regulations concerning such a use, there will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code in that the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance.

Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S02-15 that would allow a tattoo parlor as discussed herein, on Parcel #6460-11-489-0 with the following conditions:

- a. The on-site parking lot must be striped prior to its use. A parking lot striping plan for the on-site parking lot shall be submitted to the Planning Department for review and approval.
- b. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.
- c. The approval of the special use permit is based upon the contents of the submitted application and this staff report. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.
- d. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.
- e. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.

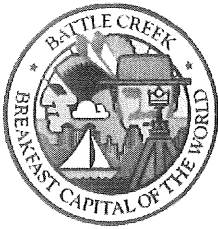
The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S02-15)

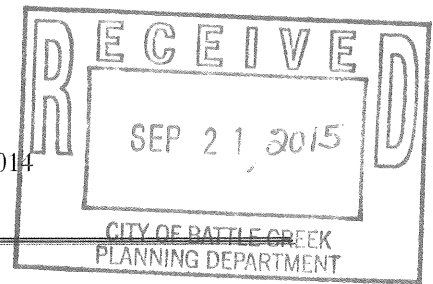


City of Battle Creek

Department of Planning and Community Development

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SPECIAL USE PERMIT

Application

Petition No. S-02-15

Date Received: 9-21-15

APPLICANT

NAME: Tracy M. Smith

ADDRESS: 19 Fountain St. W. Battle Creek, MI 49037

PHONE: 269-578-3463 FAX: _____

EMAIL: tracy.smith333@yahoo.com

OWNER (if different from applicant)

NAME: MARK H. LAMBERT

ADDRESS: 222 DREAM DR., BATTLE CREEK MI 49017

PHONE: _____ FAX: _____

EMAIL: _____

****If the applicant is not the property owner, a letter signed by the owner agreeing to the Special Use Permit must be included with the application.**

EXISTING CONDITIONS

Address(es) of property for which the request is being sought: _____

537 Columbia Ave W. Battle Creek, MI 49015

Current use of the property: Vacant

List existing structures on the property and the approximate age of each. A 1944 square foot retail store built in 1955.

ZONED "C-3 INTENSIVE BUSINESS District"

Has property involved ever been the subject of a previous application? If yes, please list each one and the date the request came before the Planning Commission.

N/A

PROJECT DESCRIPTION

What is the proposed use of the property that warrants the special use permit? _____

A tattoo parlor.

Please list all activities that will take place on the property if the special use permit were approved?

Tattooing, body piercing, artistic consultation, retail sales of clothes, after care, jewelry, art, accessories, and vending snack/soda items from vending machine.

How many employees currently work on the property? How many will be added if the special use permit is approved, and what days/times will they be onsite? 8 current workers. Two to ten

employees if approved. Onsite from Monday through Sunday 11am-11pm.

Will the approval of the special land use necessitate changes to the property, i.e. building construction, additional parking, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the special use permit. None

What are the proposed hours of operation for the special use? Please indicate if the special land use will be temporary, seasonal, or long term in nature, providing dates and timeframes if applicable:

Monday through Sunday from 11am-11pm.

STANDARDS FOR APPROVAL

Chapter 1290 Special Uses and Land Development lists standards that will be reviewed by the Planning Commission and City Commission and the request for special use permit will only be approved if these standards are met. Provide factual and supportive evidence that your application meets each of these standards. Additional sheets may be attached if necessary.

Will the special land use be designed, constructed, maintained, and/or operated in a manner harmonious with the character of adjacent properties and the surrounding area? ☒ Yes ☐ No

Will the special land use change the character of adjacent properties and the surrounding area?

☐ Yes ☒ No

Will the special land use be hazardous to adjacent properties or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or properties?

☐ Yes ☒ No

Will the special land use be a substantial improvement to property in the immediate vicinity and to the community as a whole? ☒ Yes ☐ No

Will the special land use place demands on public facilities or services in excess of current capacity?

☐ Yes ☒ No

Will the special land use produce excessive traffic, noise, smoke, fumes, or glare? ☐ Yes ☒ No

SUBMITTAL REQUIREMENTS

Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.

1. Payment of a non-refundable \$600.00 filing fee, made payable to the City of Battle Creek.
2. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.
3. Legal description of subject property and a list of all deed restrictions.
4. Property Site Plan as outlined in "Special Use Permit, Information and Procedures".

APPLICANT SIGNATURE

By signing this application, the applicant hereby declares that all answers given herein are true to the best of their knowledge, and confirms that all information required for submission of a special use permit have been submitted. Furthermore, the applicant confirms that they have thoroughly read "Special Use Permit, Information and Procedures" and agrees to comply with all requirements and procedures for special use permit.


Name

9.20.15
Date

Tattoo Shop at 537 Columbia Ave. West

Mark Lambert <markhlambert@hotmail.com>

Mon 9/21/2015 12:40 PM

Inbox

To: Leona A. Parrish <LAParrish@battlecreekmi.gov>;

Importance: High

Email sent from outside of the City of Battle Creek. Use caution before clicking links/attachments.

Hello Ms. Parrish,

As owners of the property at 537 Columbia Ave. West, Mark and Stephanie Lambert agree to the building's use as a Tattoo/Piercing Studio. If you have any questions of us, I can be reached at 269-339-6246.

Sincerely,

Mark H. Lambert
Stephanie D. Lambert