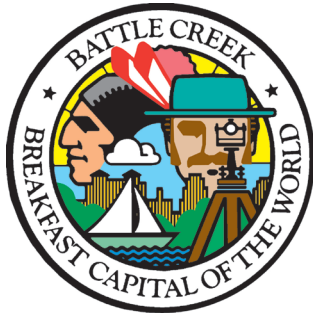




## **Battle Creek City Planning Commission**

### **Staff report for the August 28, 2024 meeting**

**To:** Planning Commissioners

**From:** CJ Sivak-Schwennesen, Planner

**Date:** August 16, 2024

**Subject:** Petition PSUP24-0002, Special Use Permit for the expansion of an existing gas station at 1439 W Michigan Avenue

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#### **Summary**

A petition from Walters Dimmick Petroleum/Urbandale Johnny's requesting a Special Use Permit to renovate and expand the existing gas station at 1439 W Michigan Avenue formerly Parcel ID #4000-00-040-0. In order to expand the gas station, the applicant purchased the adjacent lot, 1423 W Michigan Avenue (Parcel ID #4000-00-036-0). The property owner submitted an application to combine the parcels to the Assessing Department and the Assessor will issue a new parcel number in January of 2025. The address of the coffee shop at 1423 W Michigan Avenue will be retired because of this parcel combination. As part of the expansion, the owner proposes to demolish the existing convenience store, coffee shop and gas pump canopy to build a new building and gas pump canopy large enough to increase the number of gas pumps from eight (8) to sixteen (16). The new building will house a convenience store and Subway restaurant.

The proposal has been reviewed in accordance with City of Battle Creek Section 1281.05 "Special Land Uses" pursuant to State of Michigan MCL Act 110 of 2006 Section 125.3502 to determine consistency with the City of Battle Creek Master Plan and Zoning Code, effects to public services, and impacts on the neighborhood.

#### **Background/Property Information**

The subject site is located at 1439 W Michigan Avenue (new parcel will be #0135-25-000-0) it is located on W Michigan Avenue between Bond Avenue and S Bedford Road. The applicant Walters-Dimmick Petroleum Inc. owns the property. It is zoned B-1, Corridor Commercial District which allows Automobile Service Stations as a Special Land Use (Section 1240.11). The subject site currently has a convenience store and eight fuel pumps under a canopy and a commercial building used to house Speed's Coffee. An aerial view shows the subject site and surrounding properties in Figure 1. Figures 2-4 provide views of the subject site from the street.

The existing convenience store at 1439 W Michigan Avenue, built in 1987, is 3,192 sq. ft. The existing restaurant, built in 1955, is 4,593 sq. ft. The site includes three curb cuts on S Bedford Road, two curb

cuts on W Michigan Avenue, and two curb cuts on Bond Avenue. In the current site layout, a guardrail and retaining wall separates the parking lot of the gas station and convenience store from the parking lot of the coffee shop/restaurant.



**Figure 1.** The parcel in the red outline is the subject parcel, 1439 W Michigan Avenue. Photo courtesy of the City of Battle Creek.



**Figure 2.** Street view of 1439 W Michigan Avenue. Photo courtesy of Google Maps, June 2023.



**Figure 3.** Street view of 1439 W Michigan Avenue from the corner of W Michigan Avenue and Bond Avenue. Photo courtesy of Google Maps, June 2023.

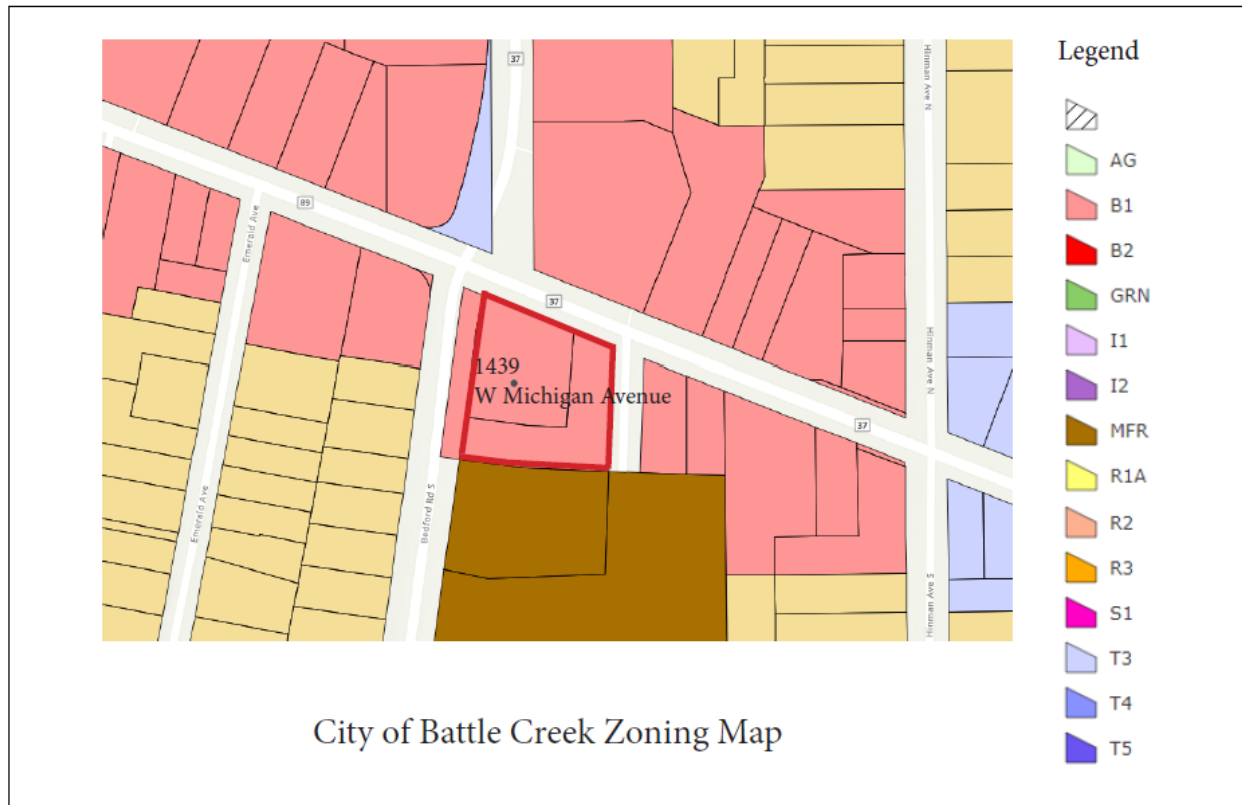


**Figure 4.** Street view of 1439 W Michigan Avenue from S Bedford Road. Photo courtesy of Google Maps, September 2019.

**Surrounding Land Use / Zoning / Existing Uses**

|                    | SUBJECT<br>PROPERTY                      | NORTH                                    | SOUTH                                                      | EAST                                     | WEST                                     |
|--------------------|------------------------------------------|------------------------------------------|------------------------------------------------------------|------------------------------------------|------------------------------------------|
| FUTURE<br>LAND USE | Corridor<br>Commercial                   | Corridor<br>Commercial                   | Multi-Family<br>Residential,<br>Challenged<br>Neighborhood | Corridor<br>Commercial<br>District       | Corridor<br>Commercial<br>District       |
| ZONING<br>DISTRICT | B-1 – Corridor<br>Commercial<br>District | B-1 – Corridor<br>Commercial<br>District | MFR – Multi-<br>Family<br>Residential                      | B-1 – Corridor<br>Commercial<br>District | B-1 – Corridor<br>Commercial<br>District |
| EXISTING<br>USE    | Gas Station and<br>Convenience<br>Store  | Pharmacy                                 | Vacant                                                     | Vacant                                   | Restaurant                               |





**Figure 5.** Zoning Map. August 2024.

## **Project Description**

Prior to submitting the Special Use Permit application, the applicant combined Parcel IDs #4000-00-040-0 and #4000-00-036-0, which as reflected in the provided site plans. The new parcel number will be #0135-25-000-0. The applicant has filed a Special Use Permit application to expand the current use of the subject property as an Automotive Service Station (i.e., a gas station) by increasing the number of gas pumps from eight (8) to sixteen (16). The application also proposes the replacement of the underground fuel storage tanks. To accommodate the additional services in the proposed site plan, the owner proposes to demolish the restaurant building located at the formerly known address 1423 W Michigan Avenue, existing fuel canopy, and existing convenience store to construct a new 5,454 sq. ft. convenience store and 1,246 sq. ft. Subway restaurant combined in a 6,700 sq. ft. structure, and fuel canopy with sixteen (16) gas pumps. Additionally, the applicant proposes to remove a curb cut and widen another on Bond Avenue. All other curb cuts on S Bedford Road and W Michigan Avenue will remain.

As stated previously, the property is currently operating as a gas station and convenience store and restaurant/coffee shop. The parcels were combined by the applicant in 2024, and both properties prior to their combination have been owned by the applicant since 1997 (Parcel ID #4000-00-040-0) and 2024 (Parcel ID #4000-00-036-0). The new gas station and convenience store would maintain its 24 hour, 365 days a year operating hours. The owners expect to add six (6) new employees to the existing 10-15 for a new total of 16-21 employees. If the Special Use Permit application is approved, the proposed use and structures align with the current use of the property as a gas station and convenience store.

### **Applicable Ordinance Provisions**

Through Section 1281.05 “Special Land Uses”, the City of Battle Creek establishes procedures to review unique development by requiring those uses to be reviewed through a Special Use Permit by the Planning Commission and City Commission. Approval of such permit is based upon meeting specific criteria, including consistency with the City’s Master Plan and Zoning Code. These two documents are discussed below.

#### **Master Plan, City of Battle Creek**

The Michigan Planning Enabling Act (MCL 125.3881-3851) authorizes local governments to adopt a Master Plan to address physical development within its jurisdiction. The 2018 City of Battle Creek Master Plan serves as the City’s official policy guide for land use and development over the next 10-20 years. It details a long-term vision and policy agenda for critical issues like land use, housing, parks, infrastructure, transportation, and more. To address those issues, the Plan sets forth goals and land use classifications to facilitate what Battle Creek should look like in the future.

The Master Plan’s land use classification of the subject site is “Corridor Commercial”, which are located along high-traffic arterial roadways that can conveniently serve residents of multiple neighborhoods. The Master Plan specifically mentions auto-oriented uses, including gas stations, as an appropriate attribute of land use for this classification.

The Master Plan also lists short- and long-term goals to address issues and improve various community elements. The following goals are applicable to the subject proposal.

Goal 2: Reposition land use to reflect the anticipated needs of the community.

Goal 4: Revitalize commercial corridors as vibrant, successful business districts.

The proposed special use permit proposes an expanded gas station and convenience store that will support more vehicle traffic along the W Michigan Avenue commercial corridor. This development fits well within the current and future land use for the area as a stated use for the “Corridor Commercial”. The new construction will reflect that Battle Creek’s commercial corridors are receiving enough traffic to support expansions of service stations, which will assist in visually communicating that the W Michigan corridor is a desirable place to invest.

#### **Zoning Code, City of Battle Creek**

Through the State of Michigan MCL Act 110 of 2006 Section 125.3502, local units of government may establish special land uses and associated permitting procedure and process to facilitate unique development that ensure consistency with the local Master Plan and zoning ordinance, and preserves neighborhood harmony. Further, conditions may be added to a project to ensure such consistencies and preservation. As stated earlier, Section 1281.05 “Special Land Uses” establishes procedures for review of unique development, and approval of such development is based upon meeting specific criteria.

Under Section 1230.02, the general purpose of the Zoning Code is to establish regulatory land use standards in accordance with objectives of the City’s Master Plan; to promote the safety, health, and general welfare of community; preserve neighborhood harmony and property values; etc. Further, the Zoning Code designates zoning districts, which generally establish the location, size, and use of

buildings; provides maximum densities per acre of land; and generally, sets forth standards for new roads, utilities, and other infrastructure for new development.

The subject site is currently zoned B-1 Commercial Corridor District. This zoning classification allows for Automobile Service Stations as a special land use. Section 1251.06 states specific standards for the site design of Automobile Service Stations. These standards are verified during the Site Plan Review Process and are not evaluated in the scope of this special use permit.

### **Public Hearing and Notice Requirements**

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Shopper on August 8, 2024 and notices of the public hearing were sent by regular mail to owners and occupants of properties located within 300 feet of the subject parcel.

As of August 21, 2024, there has been no correspondence regarding this proposal.

### **Neighborhood Outreach**

This property is located in NPC 5: Urbandale. NPC 5 meets on the second Monday of every month at 7pm. The Planning Supervisor attended their August 12, 2024 meeting to discuss the project. The main concern expressed at the meeting was the need for safe access into the site and onto the surrounding streets.

### **Analysis**

The proposed Special Use Permit would result in the continued use of the subject property as a gas station and convenience store and would add the additional use of a new Subway restaurant. As has been previously identified, the proposed expansion would assist the City in meeting Goals 2 and 4 of the adopted 2018 Master Plan. Additionally, it aligns with the 2018 Master Plan's expectation for the future land use of the property.

There is an expected increase in utility use due to the expansion of existing gas services but there are no concerns with the increased use.

### **Section 1281.05 (c) Special Use Permit; Decision on Application; Basis For Determination**

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 and impacts to 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 Section 1281.05 (c)(2) 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.**

The application involves the requested permit approval for the expansion of the gas station use. The continued use of this property as an automobile-focused commercial development is explicitly supported by the 2018 Master Plan's Corridor Commercial future land use category, supporting Goal 2 of the Master Plan. The demolition and subsequent new construction show that the W Michigan Avenue corridor can support the expansion and investment of other corridor-oriented businesses, as well as the need for more services to support increased vehicular traffic along the corridor. This work contributes to Goal 4 of the Master Plan, relating to the revitalization of the commercial corridors throughout the City. The proposed project may cause an increase in traffic, which is expected along a major corridor such as W Michigan Avenue. However, it is more likely that it will better serve the existing traffic and only generate a slight increase due to the extra fuel pumps. Since the project is located on a major commercial corridor, staff are not concerned that existing utilities cannot support the new construction. Staff finds that the proposed project is harmonious with the 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.**

The proposed new convenience store is designed with a brick façade on the north and west faces and metal awnings over most windows, which give the new building a more modern and higher quality appearance. The proposed fuel canopy's design is not detailed in the proposed site plan. It is expected that the site after construction will be maintained in a way that limits nuisances and provides a clean experience for consumers. The design of the site as of the current submitted site plan will be harmonious and appropriate to the existing character of the commercial character.

**(c) The use will not be hazardous or disturbing to existing or future neighboring uses.**

The proposed use will slightly intensify the current use of the property, as stated previously, as the number of fuel pumps will be doubled. Staff do not expect it to affect traffic due to both the access off both W Michigan Avenue and S Bedford Avenue, as well as Bond Avenue, and the increased parking spaces. This use, even with a degree of increase, is unlikely to be hazardous or disturbing to existing or future neighboring uses.

**(d) The use will be a substantial improvement to the property in the immediate vicinity and to the community as a whole.**

The proposed expansion of the current use will be a substantial improvement to the property. The expansion of the gas station will also result in the construction of updated and well-designed facilities that will enhance the visual experience of the property. It is also an improvement to the community as a whole through providing a large and up-to-date gas station along one of the major corridors headed west into and out of Battle Creek. Additionally, it will provide additional convenience food for those in the surrounding neighborhood and 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.**

The existing gas station is adequately served by City water and utilities in the area. The expansion of the gas station is expected to continue to be adequately served by utilities, contingent on review of the site plan by the Department of Public Works. Local police, fire protection, and other emergency services can quickly reach the subject site.

**(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.**

The proposed use is not expected to result in high demands on City utilities, infrastructure (i.e., water, sewer, stormwater, and streets), or services. Therefore, the project 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.**

There will not be the excessive generation of traffic, noise, smoke, fumes, glare, vibrations, or odors by the expansion of the current gas station use.

**(h) The use will be consistent with the intent and purpose of this Zoning Code.**

The project will not result in a negative impact on the general character of the area; not result in high demands on public services, infrastructure, or utilities; and not result in noxious elements such as noise, odors, or dust levels.

**Section 1281.05(d)(1) Conditions.**

Pursuant to Section 1281.05(d)(1), conditions may be placed on a special land use to generally ensure public facilities are not negatively impacted, natural environments are protected, promote the use of land in a socially/economically desirable manner, and is related to the valid exercise of the police powers. Conditions imposed shall meet all the following requirements:

**a) Be designed to protect the natural resources, the health, safety, and welfare, as well as the social and economic wellbeing, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.**

Staff's recommended conditions detailed within the recommendation section are intended to protect the health, safety, and welfare of those who will use the subject property and the overall community as a whole.

**b) Be related to the valid exercise of the police power and purposes, which are affected by the proposed use or activity.**



The recommended conditions are a valid exercise of the police power and purposes of the City of Battle Creek authority to approve and enforce land use development standards.

**c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.**

The intent and purpose of the zoning code and zoning districts are provided earlier in the subject memorandum. Staff's recommended conditions will ensure the project meets the standards of a typical special use permit request.

### **Recommendation**

Staff have reviewed the application and finds that it meets the requirements for approval, with recommended conditions as follows:

1. All necessary approvals, including site plan review and any required permits shall be obtained if required by ordinance, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to issuance of a Certificate of Occupancy.
2. Pursuant to Section 1281.02(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 Chief Building Official or their designee or agent. Such a certificate shall state that the new occupancy complies with all provisions of the Zoning Code.
3. Pursuant to Section 1281.05(5), certificates of occupancy for special uses shall be valid for a period established by the City Planning Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Special use permits shall expire after one year if the use is not under construction or operational. For good cause shown and upon written application, the City Commission may extend a special use permit for six months.

**Therefore, with the aforementioned conditions, staff recommends approval of Petition #PSUP24-0002, a special use permit for the proposed expansion of the gas station at 1439 W Michigan Avenue.**

### **Attachments**

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

- Special Use Permit Application Form (Petition #PSUP24-0002)
- Conditional Approval Letter from the Assessor's Office for the Combination of Parcel IDs 4000-00-040-0 and 4000-00-036-0
- Site Plan