



Battle Creek City Planning Commission

Staff report for the May 24, 2017 meeting

To: Planning Commissioners

From: Christine M. Zuzga, AICP, Planning Manager

Subject: A Special Use Permit request to allow a church at 135 Hamblin Avenue.

Summary

A petition from the Gospel Baptist Church of Battle Creek, Mr. Jimmy Hrangthawng, requesting a Special Use Permit for 135 Hamblin Avenue for use as a church as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290.01(b)(23).

Background/Property Information

The 2.68 acre subject site is located on the south side of Hamblin Avenue, between N. Washington Avenue and McCamly Street. The property is fully developed with a 15,500 s.f. building constructed in 1981 and a large parking lot.



The prior occupant of this structure and property was Michigan Works! employment and training services, and the structure is currently vacant.



Surrounding Land Uses / Zoning

The southwest portion of the property and adjacent properties are zoned I-1 Light Industrial and the northeast corner is C-4 Central Business District.

Surrounding uses include mostly institutional or assembly uses including the United States Post Office, Multi-Modal transportation center, the Rink, and Kellogg headquarters.

Proposed Scope of Project

The applicant is proposing to use the space for religious assembly and related uses including Sunday school, women's service, weddings, and funerals.

There are no changes proposed to the exterior of the structure, and only minor alterations proposed for the interior.

Applicable Ordinance Provisions

Religious assembly uses are not permitted by right in any particular zoning district, but are permitted by special use permit (except in the C-6 Major Highway Interchange Business District) as provided for in City of Battle Creek Zoning Ordinance, Chapter 1290 Special Land Uses, specifically 1290.01(b)(23): *"Churches when located on a major street as shown on the Major Streets Plan and on a lot or parcel not less than one acre."*

As the subject property is located on a major street and is over one acre in size it is eligible for consideration for a special use permit for a church.

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 Shoppers on Thursday, May 4, 2017 and notices of the public hearing were also sent by regular mail on Monday, May 1, 2017 to 9 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.

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.

Another important factor in requests for religious assembly uses is the Religious Land Use and Institutionalized Persons Act (RLUIPA), a Federal statute passed in 2000 that is intended to protect individuals, houses of worship, and other religious institutions in zoning and land-use laws. In summary, RLUIPA prohibits zoning laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling government interest. RLUIPA prohibits zoning and laws that:

1. Treat churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;
2. Discriminate against any assemblies or institutions on the basis of religion or religious denomination;
3. Totally exclude religious institutions from a jurisdiction; or
4. Unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

This information has been provided for the Planning Commission's consideration in deliberation of this request because staff believes it should be taken into consideration; however, it is not meant to suggest an approval of a SUP request is required without review.

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 use of this property will redevelop a large vacant property in the downtown (pg. 4-6), and serve as a potential activity center for surrounding neighborhoods (pg. 4-7). The addition of a church at this location would add another service for the community at large, both regionally and locally, and would help maintain the viability of the downtown commercial corridor (pg. 4-9).
- (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 a light intensity use due to the nature of the activities that will take place and will not be detrimental to surrounding properties, and additionally will complement the surrounding commercial / institutional 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. The hours of operation of the proposed use, and the use itself, complements surrounding commercial, institutional, and religious uses in the area.
- (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 that will become occupied and improvements made to the structure.
- (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 and will not be detrimental to the economic welfare of the community.

(g) Because of the nature of the 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 S02-17 that would allow a church at 135 Hamblin Avenue with the following conditions:

- a. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to trade permits and inspections through the Inspections Department prior to Certificate of Occupancy. The special use permit shall expire within one year of final approval by the City Commission if approvals have not been granted or construction has not commenced.**
- b. The approval of the special use permit is based upon the contents of the submitted application. 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.**
- c. 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.**
- d. 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 #S02-17)



City of Battle Creek

Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov



SPECIAL USE PERMIT Application

Petition No. # S-02-17

Date Received: 4-27-17

APPLICANT

NAME: GOSPEL BAPTIST CHURCH OF BATTLE CREEK; Jimmy Hrangthawng
ADDRESS: 46 FOX AVE BATTLE CREEK MI 49037
PHONE: 269-964-6183 FAX: _____
EMAIL: jhrangthawng@yahoo.com

OWNER (if different from applicant)

NAME: MICHAEL J FISHMAN, MICHAEL G DODGSON FAMILY TRUST /
DODGSON HOLDINGS LLC, GARI LYNN PROPERTIES LLC DBA HAMBLEN ASSOCIATES.
ADDRESS: 4265 28th ST. SE GRAND RAPIDS MI 49512
PHONE: 616-299-7192 FAX: _____
EMAIL: SDODGSON@DODGSONREALTY.COM

**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: PARCEL # 0390-00-121-0
135 HAMBLEN AVE BATTLE CREEK MI 49017

Current use of the property: VACANT, FORMERLY MICHIGAN WORKS

List existing structures on the property and the approximate age of each. _____
15500 SQ/FT. STEEL SPAN BUILDING 1981

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? _____

RELIGIOUS SERVICES, NOT PERMITTED IN COMM. DISTRICT

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

REGULAR CHURCH SERVICES ON SAT + SUN

PERIODICALLY THEY WILL HAVE WEDDINGS / FUNERALS.

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? 0 CURRENT EMPLOYEES

CHURCH HAS 2 FULL TIME EMPLOYEES, 8-5 M-F

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. NO MAJOR CHANGES TO EXTERIOR,

MINOR ALTERATIONS INSIDE

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:

OFFICE HOURS 8-5 M-F

FRI - 7PM - 9PM KIDS Sunday School. SAT 9-11am 7-9pm

SUN. 9:30 - 12:30 SERVICE, 7-9pm WOMENS SERVICE

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

ALLOWING THE SPECIAL USE WILL BRING LARGE NUMBERS OF PEOPLE TO THE DOWNTOWN AREA AND FOSTER ECONOMIC GROWTH TO SURROUNDING BUSINESS.

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

ADDITIONAL TRAFFIC WILL MOSTLY BE WEEKENDS WHEN DOWNTOWN IS GENERALLY QUIET.

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.

Jimmy
Hrantsyan
Name



04/26/2017
07:04 PM GMT
Date

135 HAMBLIN AVENUE, BATTLE CREEK, MICHIGAN 49017
DESCRIPTION OF PARCEL #0390-00-121-0

BEGINNING AT NORTHWEST CORNER OF CARLYLE STREET AND HAMBLIN AVENUE, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 122 OF A.C. HAMBLIN'S ADDITION, AS RECORDED IN LIBER 1 OF PLATS ON PAGE 27; THENCE SOUTH 54 DEGREES 00' 30" WEST, ALONG THE NORTHWESTERLY LINE OF CARLYLE STREET, 292 FEET; THENCE NORTH 35 DEGREES 59' 30" WEST, 396.38 FEET; THENCE 212.84 FEET ALONG A CURVE TO THE RIGHT WHOSE RADIUS IS 910.61 FEET AND WHOSE CHORD BEARS SOUTH 86 DEGREES 52' 45" EAST, 212.35 FEET TO THE SOUTHWESTERLY LINE OF HAMBLIN AVENUE; THENCE SOUTH 70 DEGREES 30' 30" EAST, ALONG SOUTHWESTERLY LINE OF HAMBLIN AVENUE, 224.82 FEET; THENCE SOUTH 35 DEGREES 52' 30" EAST, ALONG THE SOUTHWESTERLY LINE OF HAMBLIN AVENUE, 77.15 FEET TO THE PLACE OF BEGINNING. BEING PART OF LOTS 122 THROUGH 133 INCLUSIVE, AND LOTS 139 THROUGH 146 INCLUSIVE OF A.C. HAMBLIN'S ADDITION TO THE CITY OF BATTLE CREEK, MICHIGAN.

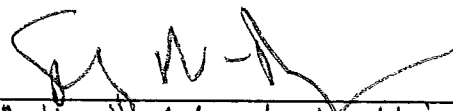
ALSO, PREMISES DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWESTRLY CORNER OF CARLYLE STREET AND HAMBLIN AVENUE, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 122 OF A.C. HAMBLIN'S ADDITION, AS RECORDED IN LIBER 1 OF PLATS ON PAGE 27; THENCE SOUTH 54 DEGREES 00' 30" WEST, ALONG THE NORTHWESTERLY LINE OF CARLYLE STREET, 292.00 FEET TO THE TRUE PLACE OF BEGINNING; THENCE CONTINUING SOUTH 54 DEGREES 00' 30" WEST, 20.00 FEET TO THE SOUTHWESTERLY LINE OF HOUSTON STREET; THENCE SOUTH 35 DEGREES 51' EAST, ALONG SAID SOUTHWESTERLY LINE OF HOUSTON STREET 24.73 FEET; THENCE SOUTH 68 DEGREES 54' 45" WEST, 79.46 FEET; THENCE NORTH 35 DEGREES 59' 30" WEST, 454.38 FEET; THENCE 110.81 FEET ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS IS 910.61 FEET AND WHOSE CORD BEARS NORTH 83 DEGREES 01' 40" EAST, 110.75 FEET; THENCE SOUTH 35 DEGREES 59' 30" EAST, 396.38 FEET TO THE TRUE PLACE OF BEGINNING. ALL LOCATED IN SECTION 1, TOWN 2 SOUTH, RANGE 8 WEST, CITY OF BATTLE CREEK, CALHOUN COUNTY, MIGHIGAN, ALSO BEING A PART OF SAID A.C. HAMBLIN'S ADDITION.

EXCEPT LAND DEEDED TO THE CITY OF BATTLE CREEK BY INSTRUMENT RECORDED IN LIBER 1314 ON PAGE 564, DESCRIBED AS FOLLOWS: PART OF LOTS 122, 124, 125, 126, AND 127 OF THE PLAT OF A.C. HAMBLIN'S ADDITION AND SUBDIVISION OF LOTS AT BATTLE CREEK, IN THE CITY OF BATTLE CREEK, CALHOUN COUNTY, MICHIGAN, AS RECORDED IN LIBER 1 OF PLATS, ON PAGE 27, IN THE RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTHERLY LINE OF LOT 127, DISTANT NORTH 69 DEGREES 25' WEST, 2.00 FEET FROM THE NORTHEAST CORNER OF SAID LOT 127; THENCE SOUTH 69 DEGREES 25' EAST, 149.00 FEET ALONG THE NORTHERLY LINE OF LOTS 127, 126, 125, 124, AND 122; THENCE SOUTH 34 DEGREES 45' EAST, 77.33 FEET ALONG THE NORTHEASTERLY LINE OF LOT 122, TO THE EASTERNMOST CORNER OF LOT 122; THENCE SOUTH 55 DEGREES 15' WEST, 10.00 FEET ALONG THE SOUTHEASTERLY LINE OF SAID LOT 122; THENCE NORTH 10 DEGREES 15' EAST 5.93 FEET; THENCE NORTHWESTERLY 212.75 FEET ALONG THE ARC OF A CURVE TO THE LEFT OF RADIUS 480.00 FEET, THE CHORD OF WHICH BEARS NORTH 56 DEGREES 43' 09" WEST, 211.01 FEET TO THE POINT OF BEGINNING.

AFFIDAVIT

STATE OF MICHIGAN)
) ss.
County of KENT)

COMES NOW Stephen M Dodgson being duly sworn, under oath, and states that the following information is within his personal knowledge and belief:
the property owners of 135 Hamblin Avenue (parcel 0390-00-121-0) authorize the Gospel Baptist Church of Battle Creek to seek special use approval for the property as a place of worship.

Signature 
 Authorized Agent, Hamblin Associates
Address 4265 28th Street, SE
 Grand Rapids, MI 49512

SUBSCRIBED AND SWORN TO before me the 25th day of April, 2017, by
Stephen M. Dodgson.


NOTARY PUBLIC FOR MICHIGAN
My Commission Expires: 8.17.2023

SUZANNE L. SZAROWICZ
Notary Public, State of Michigan
County of Kent
My Commission Expires Aug. 17, 2023
Acting in the County of KENT