

**PLANNING AND DEVELOPMENT SERVICES STAFF REPORT**

**For Planning Commission Meeting of June 7, 2022**

**SUBJECT: The Wizard Fireworks Special Exception Use Approval  
2449 W. Stadium (Project No. SP22-2002)**

**PROPOSED CITY PLANNING COMMISSION MOTION**

The Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Unified Development Code), Section 5.29.5 (Special Exception Use), and hereby approves The Wizard Fireworks and/or seasonal items Special Exception Use at 2449 W. Stadium Blvd for the temporary outdoor sales of fireworks and seasonal items.

This approval is based on the following findings:

1. The proposed use will be consistent with the C3 Fringe Local Business District, which provides for commercial activities including retail establishments, offices, and personal services.
2. The proposed use will not adversely impact traffic, pedestrians, bicyclists, circulation, or road intersections based on the location. Jackson Ave. and S. Maple Rd provides access to the site, and the proposed use is consistent with other surrounding uses' traffic impact.
3. Through documentation submitted by the petitioner regarding inventory delivery, security and staffing of the sales tent, the temporary outdoor sales will be operated in a manner that will not have an adverse impact on the neighboring properties or area, and will not have a detrimental impact on natural features.

This Special Exception Use approval is based on the following conditions:

1. The petitioner obtaining and maintaining certification from the Michigan Licensing and Regulatory Affairs under the Michigan Fireworks Safety Act PA256 enforced by the Michigan Department of LARA BFS Fire Marshal's Division. (Must be on Display along with Insurance) and must be compliant with the Retail Fireworks Inspection Guide for Temporary CFRS Facilities & Stands. And must be compliant with all applicable codes in NFPA 1124.
2. The petitioner will set-up the temporary sales tent as shown on the site plan sheet SP4 and apply for a Zoning Compliance Permit for each sales event.
3. The special exception use tent may not exceed 1,600 square feet and is limited to a maximum of 180 days per calendar year.
4. The petitioner will maintain the operating hours of 9:00 am to 9:00 pm Monday thru Sunday and extended until midnight 5 days before July 4th.

And that the Ann Arbor Planning Commission approves the attached Site Plan which demonstrates compliance with the applicable Special Exception Use standards as no physical development of the property is proposed.

### **STAFF RECOMMENDATION**

Staff recommends that the Special Exception Use be **approved** because the proposed use is compatible with the zoning district; will not be hazardous or inconvenient to the neighborhood nor unduly conflict with normal traffic; and does not encroach into a required open space or occupy required off-street parking spaces.

### **LOCATION**

This site is located in the parking lot of the Westgate Shopping Center facing Jackson Ave. and is in the Allen Creek watershed.

### **DESCRIPTION OF PETITION**

The petitioner requests permission to periodically erect a 30-foot by 50-foot (1,500 square feet) tent in the Westgate Shopping Center parking lot facing Jackson Ave. for the temporary outdoor sales of Class C fireworks and other seasonal items. The fireworks sales are proposed to take place approximately four weeks before the Fourth of July and one week afterwards. The tent and storage container would be setback a minimum of 40 feet from Jackson Ave. row line.

Traffic circulation to the businesses in Westgate Shopping Center will not be impacted. The two entrances off Jackson Rd. to the shopping center remain unchanged. The sales tent would operate from 9:00 a.m. to 9:00 p.m. every day of the week with sales hours extended to midnight depending upon sales demand leading up to July 4<sup>th</sup>.

Westgate Shopping Center site is zoned C3 (Fringe Commercial District) and has 767 existing parking spaces. The shopping center requires a range of parking from 589 to 689 parking spaces. The proposed temporary sales tent will occupy approximately 10 of these spaces with the sales tent area barricaded to prevent traffic conflicts.

Special exception use approval is required for temporary outdoor sales. If approved, a zoning permit is required for each temporary outdoor sales event and sales are limited to a maximum of 180 days per calendar year.

If no development is proposed, Per 5.29.5A(3) of the UDC (Unified Development Code) the Planning Manager may waive inapplicable sections of the required site plan information. Per 5.28.4D(4) of the UDC, the requirement notifying neighbors within 500 feet of this site may be waived by the Planning Manager for this temporary use. Both of these requirements were waived by the Planning Manager.

### SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Retail	C3 (Fringe Commercial District)
EAST	Retail	C3
SOUTH	Shopping Center	C3
WEST	Cemetery, Highway	C3 & AG (Agriculture District)

### HISTORY AND PLANNING BACKGROUND

The Master Plan Land Use Element recommends commercial uses be maintained at this site.

### SPECIAL EXCEPTION USE STANDARDS

The City Planning Commission, in arriving at its decision relative to any application for a special exception use, shall apply the following standards:

#### Use and Specific Standards

**The applicant requests special exception use approval to permit the following use(s):**

Recurring sales of fireworks, novelties, jerseys and other season objects.

**The proposed use is allowed in accordance with:**

Chapter 55, Section 5.16.7 (B).

#### General Standards

**The proposed use(s) shall be of such location, size and character as to be compatible with the appropriate and orderly development of the zoning district and adjacent zoning districts in which the site is situated. In applying this standard, the Planning Commission shall consider whether the proposed use:** (Petitioner responses in regular type. *Staff comments are in italic type.*)

**1. Will be consistent with the general objectives of the City Master Plan.**

We will put up a fire deterrent 30-foot by 50-foot tent with a liability insurance policy with the land owner as added insurer.

*The selling of fireworks and seasonal items at this site is compatible with the commercial zoning for this location.*

**2. Will be designed, constructed, operated and maintained in a manner that is compatible with the existing and planned character of the general vicinity.**

The tent will be secured and maintained at all times with no safety hazards.

*The petitioner indicates inventory will be dropped off at the sales tent approximately once/week and security provided by 6-8 employees 24/7.*

**3. Will be consistent with the general character of the neighborhood considering population density, design, scale and bulk; and the intensity and character of activity.**

The tent will consist of open outdoor sales.

*This area is commercial and surrounded by commercial. The temporary outdoor sales are compatible with the retail character of this area.*

**4. Will not be detrimental to the use, peaceful enjoyment, economic value or development of neighborhood property, or the neighborhood area in general.**

The tent is for temporary outdoor sales/display of fireworks for 30 days. Only Class C Michigan legal fireworks are sold.

**5. Will not have a detrimental effect on the natural environment.**

The Class C fireworks are legal in Michigan. There is no detriment on the environment.

**6. The location and access to off-street parking and the safe provision for pedestrian traffic.**

This is a large parking lot surrounding the tent.

*The proposed location is part of the Westgate shopping center. There are currently 767 parking spaces for this site with a maximum of 689 spaces required. The proposed location of the tent will also not impact existing pedestrian circulation within and around the site.*

**7. The relationship of the proposed use to main traffic thoroughfares and to streets and road intersections.**

Access is from Jackson Ave. and Maple Roads with at least three entrances.

*The traffic engineer approved this temporary outdoor sales proposal.*

**8. Vehicular turning movements in relation to traffic flow routes.**

There will be no restrictions in traffic flow.

**9. The intensity and character of traffic and parking conditions on the site and in the general area.**

Impact on traffic and parking will be minimal; there is a lot of reserve parking.

*Plenty of parking spaces are available for the retail uses located at this site. The temporary sales will not harm the traffic circulation or parking conditions of this site.*

**10. The requirements for additional public services and facilities, which will be created by the proposed use, will not be detrimental to the social and economic welfare of the community.**

No additional public services or facilities will be needed.

**SERVICE UNIT COMMENTS**

Fire Marshal – All fireworks sales must have certification from the Michigan Licensing and Regulatory Affairs under the Michigan Fireworks Safety Act PA256 enforced by the Michigan Department of LARA BFS Fire Marshal's Division. (Must be on display along with insurance).

Planning – The proposed outdoor sales tent does not encroach into the required front open space for the lot and does not take up barrier free parking spaces near the shopping center. Staff has visited this site and concurs that sufficient parking spaces are available for the uses located in the shopping center.

The approval of this special exception use for fireworks and additional seasonal items will allow for temporary outdoor sales to continue on a yearly basis if the petitioner applies for a Zoning Compliance Permit. The proposed sales tent does not appear to negatively impact this site or the surrounding uses. Staff supports this proposal.

Prepared by Chris Cheng  
Reviewed by Brett D. Lenart

Attachments: [ALTA Survey & File Attachments](#)  
Zoning & Aerial Maps

C:     Petitioner:     Rudy Rodriguez Jr.  
                          The Wizard Fireworks  
                          4875 State Rd. 127 N.  
                          Fremont, IN 46737

                  Controller of Property:     Westgate Enterprises, L.L.C.  
  2449 W. Stadium Blvd.  
  Ann Arbor, MI 48108

Fire Marshal  
Systems Planning  
Project No. SP22-2002





# 2449 W Stadium Blvd



- Railroads
- Huron River
- Tax Parcels



City of Ann Arbor

Map date: 5/6/2021  
Any aerial imagery is circa 2020 unless otherwise noted  
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