

**PLANNING AND DEVELOPMENT SERVICES STAFF REPORT**

**For Planning Commission Meeting of May 20, 2014**

**SUBJECT: Phantom Fireworks Special Exception Use Approval  
(205 N. Maple Road)  
Project No. SEU14-003**

**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 (Zoning Ordinance), Section 5:104 (Special Exceptions), and hereby approves the Phantom Fireworks Special Exception Use for the temporary outdoor sales of Class C fireworks and seasonal items, subject to receiving a permit and inspection from the Fire Marshal each time the tent is erected.

**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 Maple Village Shopping Center facing North Maple Road, and is in the Allen Creek watershed.

**DESCRIPTION OF PETITION**

The petitioner requests permission to periodically erect a 40-foot by 40-foot (1,600 square feet) tent and 8-foot by 40-foot storage container (320-square feet) in the Maple Village parking lot for the temporary outdoor sales of Class C fireworks and other seasonal items. Sales are proposed from June 26<sup>th</sup> to July 5<sup>th</sup>. The tent and storage container would be setback 44 feet from N. Maple Road.

Traffic circulation to the businesses in Maple Village will not be impacted. The three entrances to the shopping center will remain unchanged. The sales tent would operate from 10:00 a.m. to 10:00 p.m. every day of the week, with hours extended to midnight depending upon sales demand leading up to July 4<sup>th</sup>.

The Maple Village Shopping Center site is zoned C3 (Fringe Commercial District) and has 1,500 existing parking spaces. The shopping center requires a range of parking from 761 to 890 parking spaces. The proposed temporary sales tent will occupy approximately 21 of these spaces.

Special exception use approval is required because fireworks and other seasonal items are not currently sold from within a principal building on the property. If fireworks were currently sold from within a principal building, temporary outdoor sales would be permitted within certain size, placement and duration limitations.

The petitioner sent out a notice informing property owners within 500 feet of the Maple Village Shopping Center site of the temporary outdoor sales proposal. No concerns have been received by staff at the time this report was written.

### **SURROUNDING LAND USES AND ZONING**

	LAND USE	ZONING
NORTH	Retail	C3 (Fringe Commercial District)
EAST	Park Land	PL (Public Land)
SOUTH	Fuel Station/Retail Center	C3
WEST	Self-Storage, Kennel, Highway	C3

### **HISTORY AND PLANNING BACKGROUND**

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

The use restrictions for the C3 (Fringe Commercial District) zoning district were amended in 2009 to allow special exception use approval of temporary outdoor sales or display of goods and services not normally sold from within the principal building on the lot. No fireworks are currently sold from within the principal buildings on the lot; therefore, the proposed use requires special exception use approval.

### **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):**

A re-occurring sales tent for fireworks sales. The fireworks tent would operate every day of the week from 10:00 a.m. to 10:00 p.m. and until midnight if demand for fireworks increases as July 4<sup>th</sup> approaches.

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

Chapter 55, Section 5:10.23(3).

### **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 40-foot by 40-foot fire retardant tent with a \$10 million liability insurance policy with the land owner added as additional insured. An 8-foot by 40 foot storage container is also proposed to store inventory at night.

*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 to anchors and manned at all times with no safety hazards. All products will be stored in the storage container every night. All areas will be kept clean with no safety hazards.

**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 10 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. This location will be inspected by the State Fire Marshal.

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

The tent is located in a large parking lot and lit for street lights and parking lot lights.

*The proposed location is part of the Maple Village shopping center. There are currently 1,500 parking spaces for this site. 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.**

The tent is located off an existing entrance and there are numerous entrances (3) off N. Maple Road to access this site.

*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.**

The traffic is consistent.

*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 - A tent inspection from the Fire Department for code compliance and safety will be performed during the Consumer Fireworks Sales inspection. The tent/canopy must meet appropriate fire retardancy specifications and documentation must be available on site with this information. Requirements are NFPA 701, CA State Fire Marshal's test, or equivalent standards.

Tents/canopies require appropriate number of fire extinguishers, based on tent dimensions and layout (Per NFPA 10). Exits must be appropriate in number to size and layout and clearly marked. Exits must be free and clear to provide egress to an area of safety. Electrical in the area must be covered or elevated so it is not in public access areas. Tent/canopy supports must be safeguarded so as not to endanger public. Fire access to the tent/canopy, surrounding structures, fire hydrants, and fire hydrant connections must be kept clear and accessible at all times. Fire lane requirements must be observed. "No Smoking" signs must be posted. All fireworks must remain in original packages. An attendant must be on site at all times.

A Consumer Fireworks Sales license must be obtained from the State of Michigan and available on site during the inspection. Permits will be valid through the date specified. Any changes to

the tent location on the site, changes to the site or adjacent businesses, will require a new review and inspection of the permit from the State of Michigan, with applicable additional fees.

Traffic – The temporary outdoor sales use will not impact traffic at this location.

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 annually 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 Wendy Rampson  
mg/5/12/14

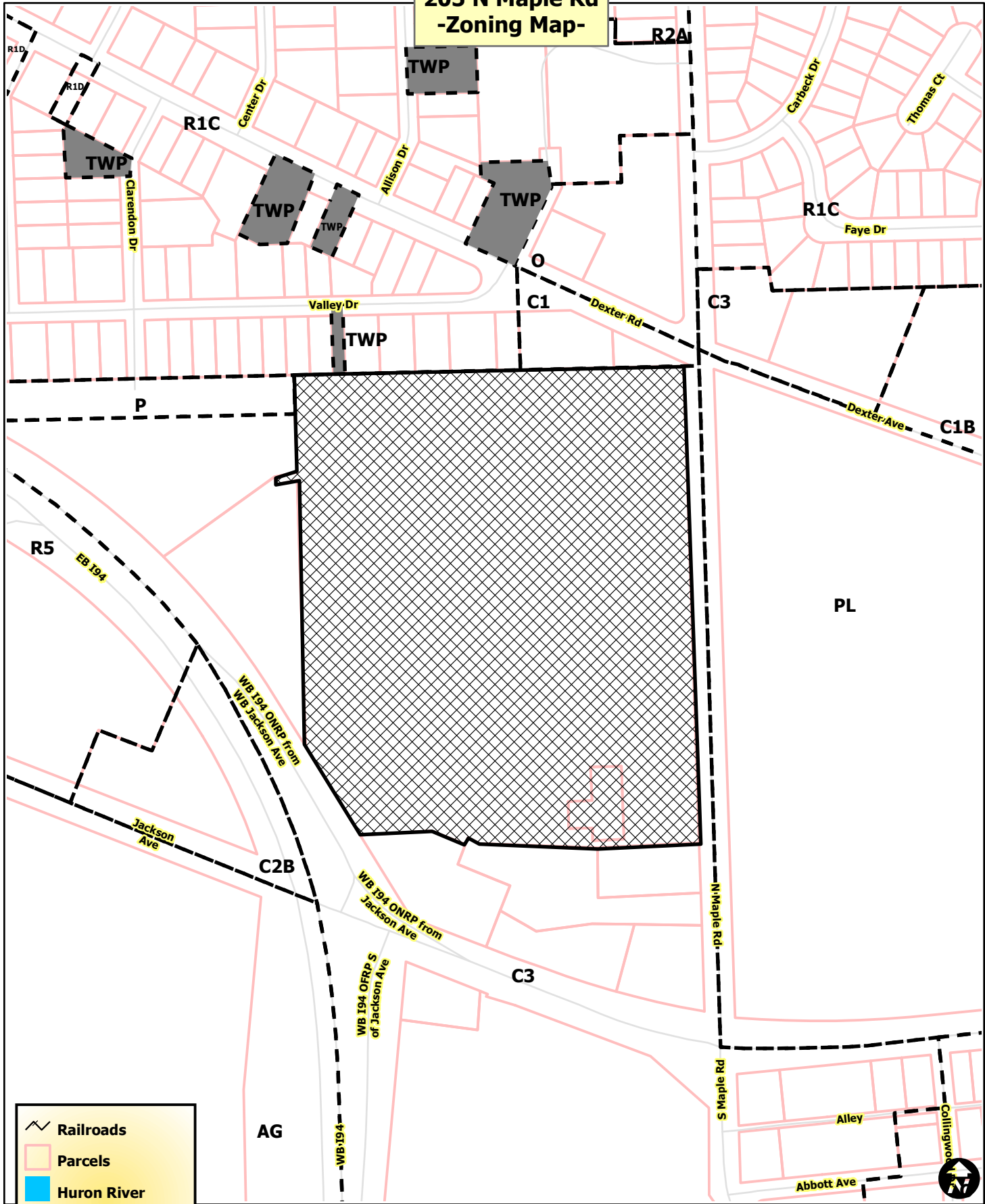
Attachments: Parcel/Zoning Map  
Aerial Photo  
Plot Plan

C:      Petitioner:      Rick Tapper  
                                  Phantom Fireworks  
                                  555 Martin Luther King Jr. Blvd.  
                                  Youngstown, OH 44502

Controller of Property: Brixmoor Property Group  
420 Lexington Ave, Suite 7<sup>th</sup> Floor  
New York, NY 10170

Fire Marshal  
Systems Planning  
Project No. SEU14-003

# 205 N Maple Rd -Zoning Map-



**Railroads**  
 Railroads

**Parcels**  
 Parcels

**Huron River**  
 Huron River

**Zoning**

Township Islands

Zoning Districts



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**205 N Maple Rd  
-Aerial Map-**



-  Railroads
-  Parcels
-  Huron River



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


Map Created: 5/6/2014





**205 N Maple Rd  
-Aerial Map-**



 Railroads  
 Parcels  
 Huron River



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Ann Arbor, Maple Shopping Center, 155-396 N. Maple Road, 48103  
Close up image of location in front of Kmart's 215 N. Maple Road



T- Tent 40'X40' S- Storage Unit 8'X40', X Generator.  
There are over 400 parking spaces available for use. There are no gas stations, propane stations, flammable gas bulk dispenser, etc on this property or surrounding properties within 300 feet. There are public ways within 150 feet of the tent and storage unit.