

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of June 19, 2018

**SUBJECT: TNT Fireworks Special Exception Use Approval
3521 Washtenaw Avenue (Project No. SEU18-030)**

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 TNT Fireworks Special Exception Use for the temporary outdoor sales of fireworks and seasonal items with a maximum tent size of 1,350 square feet, 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 on the north side of Washtenaw west of US-23 intersection in the Arborland Shopping Center.

DESCRIPTION OF PETITION

The petitioner requests permission to erect a 30-foot by 45-foot (1,350 square feet) tent for the temporary outdoor sales of fireworks and other seasonal items. This site is zoned C3 (Fringe Commercial District) and has 1,667 parking spaces per the approved 2003 site plan. The tent and storage container would be setback approximately 300 feet from Washtenaw Avenue and occupy approximately five parking stalls and will encroach partially into a drive aisle. The entire aisle will be closed at the main entrance drive into the Arborland shopping center. Due to the size of the parking lot and the traffic circulation patterns, temporary closure of a single aisle will not negatively affect traffic in the center. Safety services access to the businesses in Arborland will not be impacted. The main entrance to the center and to the adjacent restaurants and stores will also remain unchanged. The sales tent would operate from 9:00 a.m. to 10:00 p.m. every day of the week from June 22nd through July 4th. The petitioner is requesting permission to set up on June 20th and remove all materials by July 8th.

Special exception use approval is required because fireworks and other seasonal items are not currently sold from within principal buildings 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.)

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Residential/Vacant	R1B
EAST	US-23 Highway	UNZ
SOUTH	Commercial (Across Washtenaw Avenue)	C3 (Fringe Commercial)
WEST	Commercial	C3 (Fringe Commercial)

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):

Fireworks sales.

The petitioner has not indicated this site would be used for any other types of outdoor sales. It is ideal for seasonal sales and the special exception use should include these seasonal items.

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.

The proposed use is in alignment with all State laws, City laws and City Master Plan.

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.

All tent operators will make sure the site remains safe, clean, and secure for the duration of the proposed use.

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.

Consumer fireworks sales are open to the public. We will not in any way distract from or reflect poorly on the surrounding neighborhoods or their residents.

This area is commercial and surrounded by commercial types of uses on the north side of Washtenaw Ave. 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.

Our operators work and run their tents to the highest of standards, understanding that we are guests in your community.

The fireworks tent would operate every day of the week from 9:00 a.m. to 10:00 p.m. The sales tent is located at near the middle of the Arborland Shopping Center site, significant distance from any residential neighborhood.

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

Consumer fireworks tent sales will not affect any parts of the natural environment.

The tent and related storage is located on existing impervious surface.

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

Our tent will be placed in the parking lot of Arborland Shopping Center. We will not be in the way of any pedestrian or street traffic. Our tent is placed in an area away from any access points. We utilize the minimum amount of parking spaces necessary to erect the tent and operate the business in accordance with state and local laws.

The tent is located in a large parking lot and lit from parking lot lights. Sidewalk fronts this shopping center but there is no direct pedestrian connection from Washtenaw Avenue to the tent sales area.

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

There is no relation between the location of the tent and any main traffic thoroughfares, streets, or intersections

This location has direct access to Washtenaw Avenue.

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

Our tent is not located in an area that prevents any restrictions to the flow of traffic or turning movements.

There will be some impact to traffic circulation in the shopping center. While this proposal will temporarily close off one drive aisle, sufficient alternative circulation does exist in the center.

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

There is ample parking for both the current businesses and for the customers purchasing consumer fireworks. Typically, people come one at a time or in small groups to make a purchase at the tent, so there will not be a noticeable difference in the amount of traffic that is usually at the shopping center.

Plenty of parking spaces are available for the commercial 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.

We do not require any additional public services or facilities. Our operators are responsible for all trash and will not utilize City dumpsters for disposal

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.

Planning – The proposed outdoor sales tent does not encroach into the required front open space for the lot and does not take up handicap and parking spaces near the main entrances of the commercial center.

Staff has visited this site and concurs that sufficient parking spaces are available for the uses located in the commercial center.

It appears the temporary outdoor sales are a good fit in the commercially zoned site and the surrounding retail uses. The petitioner sent out a notice informing property owners within 500 feet of the Arborland Shopping Center site of the temporary outdoor sales proposal.

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 Matt Kowalski
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Attachments: [Parcel/Zoning Map](#)
[Aerial Photo](#)
[Plot Plan](#)
[Aerial Plan View](#)

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Fire Marshal
Systems Planning
Project No. SEU18-030