

VILLAGE OF HOMEWOOD



BOARD AGENDA MEMORANDUM

DATE OF MEETING: September 27, 2022

To: Village President and Board of Trustees

Through: Napoleon Haney, Village Manager

From: Angela Mesaros, Director of Economic and Community Development

Topic: Special Use and Variance to allow a tattoo facility, 18354 Governors Highway

PURPOSE

The applicant, Hannibal Payton-Bernard, proposes to open a tattoo studio in a vacant 1,700 square feet tenant space at 18354 Governors Highway in the Cherry Creek Shopping Center. He plans to have a reception desk, 6 workstations for tattooing, and a break room/creative work area for the artists.

The use is classified by the Zoning Ordinance as a “tattoo parlor/body piercing facility”. The applicant does not plan to provide any body piercing services. A tattoo/body piercing facility is a special use in the B-3 district. A special use permit is required for uses that have a unique character that must be individually evaluated for potential impact on adjacent properties and the perceived public need for the use at a specific location.



The Zoning Ordinance details certain use-specific standards. For a tattoo parlor/body piercing facility, Section 9.2.R.3/ Municode Section 44-355.r.3 requires that *“No tattoo or body-piercing establishment shall be located within 1,000 feet of the property line of another tattoo or body piercing use, any school or any place of worship.”* The location of the proposed establishment is across Governors Highway from a place of worship, Woodland’s Community Church. The distance from the proposed tattoo studio to the property line of the church is approximately 300’. Therefore, a variance from the 1,000’ separation is required.

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PROCESS

The Cherry Creek Shopping Center was established in 1967. Current tenants in the shopping center include a variety of different uses including dental and medical offices, restaurants, retailers, and personal services establishments offering fitness, health, and beauty services.

The tenant space at 18354 Governors Highway was most recently occupied by Miranda Vinyl and Supplies, a retail establishment. Prior to that, the space was occupied by M.A.S.T.E.R.S. Plus Tutoring Program, a Learning Center with a Special Use permit approved in 2011 (Case 11-58). In 2003 the Zoning Ordinance was amended to allow tattoo parlors/ body piercing facilities as a special use in the B-3 and M- Districts. The text amendment stemmed from interested business owners. Prior to that amendment, such facilities were prohibited by omission. Since the amendment was adopted, no such facilities have been established. In the 19 years since the amendment, societal norms have become more broadly accepting of self-expression through personal appearance.

At its regular meeting on September 8, 2022, the Planning and Zoning Commission considered the applicant's request for a special use permit and variance in a public hearing. Seven commission members were present and voted unanimously to recommend approval of both the variance and the special use permit for a tattoo parlor at 18354 Governors Highway.

At the public hearing, the applicant provided a letter of support from the leader of Woodland's Community Church. The Village is currently in the process of updating the Zoning Ordinance, with anticipated adoption in late 2022. The proposed revised ordinance would not include the required separation between tattoo facilities and churches. The separation requirement may reflect outdated views towards personal appearance and perceived influence. The hardship of this request, therefore, is based not on a geographical or physical constraint of the site, but on changes in societal norms.

In addition, staff recommends that, in keeping with previous special use permits for this shopping center, the ordinance includes the condition that "employees must park in the rear." The shopping center provides shared parking for all its uses and can accommodate parking needs.

OUTCOME

The Planning and Zoning Commission reviewed the application, heard testimony by the applicant, and considered the applicant's response to the standards. The following Findings of Fact by the standards set forth in Section 44-82 of the zoning ordinance may be entered into the record:

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1. The subject property is located at 18354 Governors Highway, in the Cherry Creek Shopping Center;
2. The applicant, Hannibal Payton-Bernard, is the prospective business owner and tenant, applying with authorization by the property owner;
3. The subject property is located in the B-3 Service Business District;
4. A tattoo parlor/body piercing facility is a special use in the B-3 Service Business District;
5. The special use for a tattoo parlor/body piercing facility is subject to meeting use-specific standards, including a 1,000' distance separation from the business to the property line of a place of worship, per Section 9.2.R.3/ Municode Section 44-355.r.3;
6. The applicant seeks a variance from the 1,000' separation requirement to operate his tattoo studio approximately 300' from the property line of Woodlands Community Church; and,
7. The applicant has the support of the leader of the neighboring place of worship.

FINANCIAL IMPACT

- **Funding Source:** N/A
- **Budgeted Amount:** N/A
- **Cost:** N/A

LEGAL REVIEW

Completed

RECOMMENDED BOARD ACTION

Pass an ordinance granting a special use permit and a variance from Section 44-355.r3 to operate a tattoo parlor within 1,000 feet of a place of worship at 18354 Governors Highway, subject to the condition that employees must park in the rear on application by Hannibal Payton-Bernard, "Big Brothers Tattoo Studio" in the B-3 Service Business zoning district.

ATTACHMENT(S)

Ordinance