



City of New Buffalo
Planning Commission Special Meeting
Tuesday, April 13, 2021 at 7:00 P.M.
AGENDA

Join Zoom Meeting

<https://us02web.zoom.us/j/81948683380?pwd=aWtNcCtJTkFHbytoNkRDL2lTZW5yZz09>

Meeting ID: 819 4868 3380

Passcode: 839144

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Previous Minutes- March 17, 2021 Special City Council and Planning Commission Short-Term Rental Meeting
5. Public Comment
6. Public Hearing
 - a. To amend section 2-3 and add a new section 6-5 to the New Buffalo zoning ordinance to cap the total number of short-term rental units in the city's R-1 zoning district
7. New Business
 - a. To amend section 2-3 and add a new section 6-5 to the New Buffalo zoning ordinance to cap the total number of short-term rental units in the city's R-1 zoning district
8. Commissioner Comments
9. Adjournment

Call to Order at 7:01 p.m.

City Council Roll Call. Present: Flanagan, New Buffalo, MI, Berrien County; Robertson, New Buffalo, MI, Berrien County; Lijewski, New Buffalo, MI, Berrien County; Mayor Humphrey, New Buffalo, MI, Berrien County.

Absent: Lou O'Donnell

Motion by Robertson, seconded by Flanagan to excuse Council Member Lou O' Donnell due to family reason.

Roll Call:

Ayes: Robertson, Lijewski, Flanagan, Humphrey

Nayes:

Absent: O'Donnell

Abstain:

Motion Carried, 4-0.

Planning Commission Roll Call. Present: Don Stoneburner, New Buffalo, MI, Berrien County; Bill McCollum, New Buffalo, MI, Berrien County; MI, Berrien County; Paul Billingslea, Puerto Vallarta, Jalisco State, Mexico.

Absent: Roxanne Lauer and Mark Joseph

Motion by Billingslea, seconded by Stoneburner to excuse Member Lauer and Member Joseph

Roll Call:

Ayes: McCollum, Stoneburner, Billingslea

Nayes:

Absent: Lauer, Joseph

Abstain:

Motion Carried, 3-0.

Approval of Agenda. Motion by Lijewski, seconded by Flanagan to approve the agenda without the previous October 12, 2020 Minutes:

Roll Call Vote:

Ayes: Robertson, Lijewski, Flanagan, Humphrey, McCollum, Stoneburner, Billingslea

Nayes:

Absent: O'Donnell, Lauer, Joseph

Abstain:

Motion Carried, 7-0

Approval of October 12, 2020 Minutes. Motion by Robertson, seconded by Stoneburner to approve the October 12,2020 minutes:

Roll Call Vote:

Ayes: Robertson, Stoneburner, McCollum, Billingslea

Nayes:

Absent: O'Donnell, Lauer, Joseph

Abstain: Humphrey, Flanagan, Lijewski

Motion Carried, 4-0.

Workshop Items- Discussion of Short-term Rental Ordinances

Interim City Manager, Rich Killips read his staff report and detailed what was included and what was removed in each ordinance.

Mark Joseph joined the meeting.

Motion by Stoneburner, seconded by Billingslea to unexcuse Mark Joseph and allow him to join the meeting:

Roll Call Vote:

Ayes: Robertson, Lijewski, Flanagan, Humphrey, Stoneburner, McCollum, Billingslea

Nayes:

Absent: O'Donnell, Lauer

Abstain:

Motion Carried, 7-0.

City Attorney, Nick Curcio went over the details regarding the zoning ordinance and the regulatory ordinance. Both the City Council and Planning Commission members asked Nick Curcio questions regarding both the zoning and regulatory ordinance.

Public Comment:

Laura Murray

Dan Hatch

Joy Schwarting

Dan Coffey

Michael Davis

Talia Edwards

Danial Ruby

Ryan Fritz

John Natsis

Joanne Moskovich

Jason Milovich

Bill Lenga

Vanessa Thun

Augie Hernandez

Diane Psychos

Garrett Bruinius
Maria Cleveland
Kristin Hall
Deb McNulty

Motion by Flanagan, seconded by Lijewski to adjourn the meeting at 9:18p.m.

Roll Call Vote:

Ayes: Robertson, Lijewski, Flanagan, Humphrey, Joseph, McCollum, Stoneburner, Billingslea

Nayes:

Absent: O'Donnell, Lauer

Abstain:

Motion Carried, 8-0.

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The Special Meeting for February 17, 2021 of the New Buffalo City Planning Commission was called to order by Chair Billingslea at 7:00 p.m.

Roll Call: All present. Don Stoneburner, New Buffalo, MI, Berrien County; Roxanne Lauer, New Buffalo, MI, Berrien County; Bill McCollum, Union Pier, MI, Berrien County; Mark Joseph, New Buffalo, MI, Berrien County; Paul Billingslea, Puerto Vallarta, Jalisco State, Mexico.

Staff Present: Interim City Manager, Rich Killips, Building Official, Ted Hanson, City Clerk, Amy Fidler

Approval of Agenda: Motion by Lauer, seconded by Stoneburner to approve the agenda: roll call vote, motion carried, 5-0

Approval of Previous Minutes: Motion by Lauer, seconded by Joseph to approve the Special Planning Commission Minutes on August 25, 2020: roll call vote, motion carried, 5-0.

Public Comment:

William Lenga wanted it to be on record that he sent a letter of support for the Hummingbird Lounge and the Beer Church. Mr. Lenga was very clear that he supported both projects and hopes the Board approves both projects.

Public Hearing

Special Use Permit- 9 S. Barton Street

Motion by Joseph, seconded by Lauer to open public hearing for 9 S. Barton Street: roll call vote, motion carried, 5-0.

No Public Comment

Motion by Lauer, seconded by Stoneburner to close public hearing for 9 S. Barton Street: roll call vote, motion carried, 5-0.

New Business

Site Plan Review “Outside Seating Request” – 9 S. Barton Street

Owner, Ben Smock went into details regarding his site plan and answered all of the board members questions regarding his site plan for outside seating.

Member Stoneburner inquired about shared parking with 5/3 Bank. Ben Smock said the bank and the 9 S. Barton have a long-term relationship with shared parking.

Member McCollum inquired if the outside patio would have music. Ben Smock stated that it would have ambient music playing but the music would be facing away from the neighbors' homes and said it wouldn't be a problem.

Motion by Lauer, seconded by Joseph to approve the special use request for outside seating for 9 S. Barton Street: roll call vote, motion carried 5-0.

Motion by Lauer, seconded by McCollum to approve the site plan as presented: roll call vote, motion carried, 5-0.

Site Plan Review “Outside Seating Request” – 36 S. Whittaker Street

Kyle Kuipers from Rockford Construction presented the site plan for 36 S. Whittaker Street on behalf of Jean/John Lustina of the Beer Church.

Kyle went into details of the site plan. The Beer Church will be adding an elevated deck that would add about 60 seats, they will also be adding a roof on the upper level to protect the bar.

The Beer Church will be adding about 1089 square feet of parking under the deck. The Board asked questions regarding having another staircase for staff and Building Official, Ted Hansom added that the board just had to approve the site plan and after that he will make sure they follow all building codes,

Motion by Stoneburner, seconded by McCollum to approve the site plan application for construction of additional outdoor restaurant seating for 36 S. Whittaker Street: roll call vote, motion carried, 5-0.

Site Plan Review “New Office Building Request” – 120 W. Buffalo Street

Bill McCollum presented the site plan for 120 W. Buffalo Street on behalf of owner, Neena Vlamis. This building will be A&N Mortgage it is adjacent to Go/Lo gas station. It has received ZBA approval for reduction and side setback on February 3, 2021.

The building will have eight parking spaces and they need one more parking space which could be either on Barker Street or use the parking lot of City Hall.

Motion by Lauer, seconded by Stoneburner to approve the site plan application for A&N Mortgage as presented: roll call vote, motion carried, 4-0. McCollum - Abstained

Presentation- 1 N. Whittaker Street, Presenter- William McCollum

Bill McCollum gave a detailed presentation of two different options in regard to the building of 1 N. Whittaker Street. His clients are ready to put \$1,000,000.00 into the building. Mr. McCollum went over this same presentation to the City Council on February 16, 2021. He and his clients just wanted to get all of the different boards to start thinking about the options. Mr. McCollum plans on taking his presentation to the DDA at their next meeting to get the board feedback on the different options for the building.

Commissioner Comments:

Paul Billingslea stated the outside dining would be optimal at 1 North Whittaker Street.

Mayor Humphrey is supportive of this project; however, parking is a concern.

Mark Joseph stated that this project at 1 N. Whittaker Street would be a wonderful enhancement to the City.

Stoneburner was concerned about the dining in the alleyway.

Adjournment: Motion by McCollum, seconded by Lauer to adjourn the meeting at 8:15 p.m.: roll call vote, motion carried, 5-0.

Motion by McCollum seconded by, Lauer to adjourn the meeting at 8:15 p.m.

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Paul Billingslea, Chair

Ann M. Fidler, Clerk

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WORKSHOP STAFF REPORT

Special Meeting – March 17, 2021

AGENDA ITEM: Discussion of Short-Term Rental Proposals

SUMMARY: Following the City Council's discussion regarding short-term rentals during a special meeting in January, City staff and the City Attorney have worked to develop a new draft ordinance package that incorporates comments made by both Council members and members of the general public. Council members indicated that it would be useful for the Council and the Planning Commission together for a workshop to discuss the proposals.

The proposed ordinance package consists of two separate ordinances, the first of which is an amendment to the regulatory ordinance that the City adopted in the spring of 2019. Since that ordinance was adopted, some have argued that the City's enforcement efforts have not been satisfactory. The "three strikes" provision has received particular criticism on the grounds that the requirement to prosecute each "strike" in the state court system makes the process overly burdensome, time-consuming, and expensive. Perhaps because of these sentiments, the City has not pursued permit revocation for any short-term rental properties during the two years since the program began.

The principal purpose of the draft regulatory ordinance is to address these concerns about enforcement cost and efficiency. The proposal seeks to achieve this purpose by, among other things:

1. Establishing an administrative hearing system that can be used to revoke licenses "in house" without court involvement. This is intended to make the process more feasible and cost-efficient.
2. Eliminating subjective standards relating to revocation so that the hearing officer's revocation decisions will be more likely to be upheld on appeal.
3. Clarifying the responsibilities of owners/agents as compared to the responsibilities of occupants.
4. Requiring owners/agents to compile and provide information to the City about each rental reservation, so that officers called to a scene can easily identify the renters and the vehicles that belong to them, as opposed to non-renter guests at the property.
5. Strengthening provisions relating to off-street parking, which has been one of the most frequent causes for complaints under the existing ordinance.

Notably, the new draft ordinance omits several provisions that were included in the draft discussed at the special meeting in January, such as the provisions that would have (i) decreased maximum occupancy from 14 to 10; (ii) required a professional management company to be used as a local agent; and (iii) allowed the City to place a placard in front of properties that are found to be renting without a rental permit.

The second component of the proposed ordinance package is an amendment to the zoning ordinance that:

1. Clarifies that short-term rental activity is allowed in single-family and other dwelling units, subject to the regulations contained within City ordinances.
2. Caps the total number of short-term rental units in the R-1 zoning district at existing levels. (New short-term rentals would continue to be allowed in all other zoning districts that contain dwelling units.)
3. Provides that if a property owner in R-1 fails to renew a rental permit within a year of expiration (or within a year after the end of a revocation period), the short-term rental use is deemed abandoned.

In short, this proposal is intended to maintain the status quo in the R-1 district, as opposed to allowing the number of short-term rentals to continue to increase. The rationale for this change is similar to the rationale for the moratorium that the City Council adopted in the spring of 2020.

During the workshop, Council members and Planning Commissioners can ask any questions they may have regarding the proposals and make suggestions for further revisions. If the proposals have sufficient support, staff anticipates that the zoning ordinance component of the package will then be brought to the Planning Commission for a public hearing sometime in early April. The City Council would then consider the package as a whole in late April or early May.

Rich Killips, Interim City Manager

Attachments:

Draft Regulatory Ordinance Amendment
Draft Zoning Ordinance Amendment

**CITY OF NEW BUFFALO
BERRIEN COUNTY, MICHIGAN**

ORDINANCE NO. ____

**AN ORDINANCE TO AMEND SECTION 2-3 AND ADD A NEW SECTION 6-5 TO THE
NEW BUFFALO ZONING ORDINANCE TO CAP THE TOTAL NUMBER OF SHORT-
TERM RENTAL UNITS IN THE CITY'S R-1 ZONING DISTRICT**

WHEREAS, in April 2019, the City Council adopted an ordinance requiring the registration and inspection short-term rental units within the City; and

WHEREAS, since enacting the ordinance, City staff has studied the registration statistics and the density of short-term rentals; and

WHEREAS, after extensive study of the proliferation and effects of short-term rental uses, the City Council has determined that if current trends were allowed to continue, short-term rental uses could undermine the character and stability of neighborhoods in certain districts by, among other things:

1. Decreasing the number of long-term residents;
2. Decreasing enrollment in local schools;
3. Decreasing the availability of long-term housing stock, thereby driving up prices and making long-term residency less affordable;
4. Creating significant numbers of vacant homes in the winter months; and
5. Increasing levels of noise, traffic, and on-street parking during the summer tourist season.

WHEREAS, in a series of recent cases, Michigan courts have recognized that transitory and commercial uses are in tension with the traditional use of single-family dwellings; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend the zoning ordinance to clarify the permissibility of short-term rental uses throughout the City and to cap the total number of short-term rental units in the R-1 zoning district at the existing level of 65 units.

The City of New Buffalo ordains:

Section 1. Addition of Definition. Section 2-3 of the New Buffalo Zoning Ordinance is amended to add the following definitions, which shall appear between the definitions of "Shopping Center" and "Sign":

Short-Term Rental Activity. The rental of a dwelling unit for compensation for a term of less than one month. However, short-term rental activity does not include the following: transitional housing operated by a nonprofit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance abuse rehabilitation clinic, mental health facility, other health care related clinic, or dwelling units owned by a business entity and made available on a temporary basis to employees of that business entity or employees of a contractor working for that business entity.

Short-Term Rental Unit. A dwelling unit in which short-term rental activity is permitted to occur subject to the terms and conditions of this ordinance and Chapter 11 of the City Code.

Section 2. Amendment of Definition. Section 2-3 of the New Buffalo Zoning Ordinance is amended to modify the definition of "Dwelling Unit" to read as follows:

Dwelling Unit. A building, or portion thereof, designed exclusively for human occupancy providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. A dwelling unit may be used as a short-term rental unit

when licensed pursuant to Chapter 11 of the City Code and not prohibited by Section 6-5 or any other provision of this ordinance.

Section 3. Addition. Section 6-5 of the New Buffalo Zoning Ordinance is added to read as follows:

Sec. 6-5. Short-Term Rental Units Capped at Existing Levels.

- A. *Cap Established.* The total number of such short-term rental units in the R-1 district shall not exceed 65. New permits for properties in the R-1 district shall only be issued to the extent allowed in Chapter 11.
- B. *Abandonment of use.* Use as a short-term rental unit shall be deemed abandoned if: (a) the short-term rental permit for the property expires, terminates, or is revoked by the City, and (b) a renewed short-term rental permit is not obtained within 12 months of the date on which renewal first becomes possible pursuant to Chapter 11 of the City Code. After abandonment, the owner of the property is not entitled to a renewed short-term rental permit, and shall only be entitled to a new permit to the extent such permits are available.

Section 4. Publication and Effective Date. The City Clerk shall cause this ordinance or a summary thereof to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

CERTIFICATION

This is a true and complete copy of Ordinance No. _____ adopted at a regular meeting of the New Buffalo City Council held on _____, 2021.

John Humphrey, Mayor

Ann M. Fidler, City Clerk