



City of New Buffalo
Planning Commission Special Meeting
Tuesday, April 20, 2021 at 7:00 P.M.
AGENDA

Join Zoom Meeting

<https://us02web.zoom.us/j/84498359668?pwd=SnB6dUZLa1JYK2ppbXk0MmdNSmhKOT09>

Meeting ID: 844 9835 9668

Passcode: 747442

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Previous Minutes- April 13, 2021
5. Old 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
6. New Business
 - a. Site plan amendment for Beer Church
7. Commissioner Comments
8. Public Comment
9. Adjournment

The Special Meeting for April 13, 2021 of the New Buffalo City Planning Commission was called to order by Chair Billingslea at 7:13 p.m.

Roll Call: All present. Don Stoneburner, New Buffalo, MI, Berrien County; Roxanne Lauer, New Buffalo, MI, Berrien County; Bill McCollum, New Buffalo, MI, Berrien County; Mark Joseph, New Buffalo, MI, Berrien County; Paul Billingslea, New Buffalo, MI, Berrien County.

Staff Present: City Attorney; Nick Curcio, City Manager; Darwin Watson, City Clerk; Amy Fidler; Chief of Police; Rich Killips

Approval of Agenda: Motion by Lauer, seconded by Stoneburner to approve the agenda with the addition of February 17, 2021 minutes:

Roll Call Vote:

Ayes: Lauer, Joseph, McCollum, Stoneburner, Billingslea

Nays:

Absent:

Abstain:

Motion Carried, 5-0.

Approval of Previous Minutes: Motion by Lauer, seconded by Joseph to approve the Special Planning Commission Minutes from March 17th, 2021 the February 17th, 2021 minutes:

Roll Call Vote:

Ayes: McCollum, Lauer, Stoneburner, Joseph, Billingslea

Nays:

Absent:

Abstain:

Motion Carried, 5-0.

General Public Comment: None

Public Hearing

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

Motion by Billingslea, seconded by Stoneburner to open public hearing to amend section 2-3 and add a new section 6-5 to the New Buffalo zoning ordinance to the cap the total number of short-term rental units in the city's R-1 zoning district:

Roll Call Vote:

Ayes: Joseph, Lauer, Stoneburner, McCollum, Billingslea

Nays:

Absent:

Abstain:

Motion Carried, 5-0.

John Natsis
Jason Milovich
Joan Bogwill
Heather Gradowski
Henry Arana
Chris Yonker
Jeff Schroeder
Bart Goldberg
Ryan Fritz
Louise Valentin
Augie Hernandez
Kate VanPelt
Ron Watson
Demetrius Davis
Bill Lenga
Talia Edwards
Julie Ritchie
Clay Ritchie
Amy Yanz
Dan Hatch

John Taylor
Diane Gajas
Joanne Moskovic
Jesse Ives
Dan Saunders
Mike Altier
Jeffrey Segebarth
Dan Skoczylas
Dan Coffey
Lea Gryczwacz
Dan Ruby
Betty Bernacki
Jodi Grant
Wendy Lendel
John Humphrey

Motion by Billingslea, seconded by McCollum to close public hearing 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:

Roll Call Vote:

Ayes: Stoneburner, Lauer, McCollum, Joseph, Billingslea

Nays:

Absent:

Abstain:

Motion Carried, 5-0.

New Business

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

The Planning Commission Members conferred with City Attorney, Nick Curcio regarding procedures, and legality of the amendment to the ordinance.

Motion by McCollum, seconded by Joseph to table this item until the next special Planning Commission April 20, 2021:

Roll Call Vote:

Ayes: Lauer, Joseph, McCollum, Stoneburner, Billingslea

Nays:

Absent:

Abstain:

Motion Carried, 5-0.

Adjournment: Motion by Lauer, seconded by Joseph to adjourn the meeting at 9:52 p.m.:

Roll Call Vote:

Ayes: McCollum, Lauer, Stoneburner, Joseph, Billingslea

Nays:

Absent:

Abstain:

Motion Carried, 5-0.

af

Paul Billingslea, Chair

Ann M. Fidler, Clerk



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

Beer Church Brewery - Exterior Patio Expansion

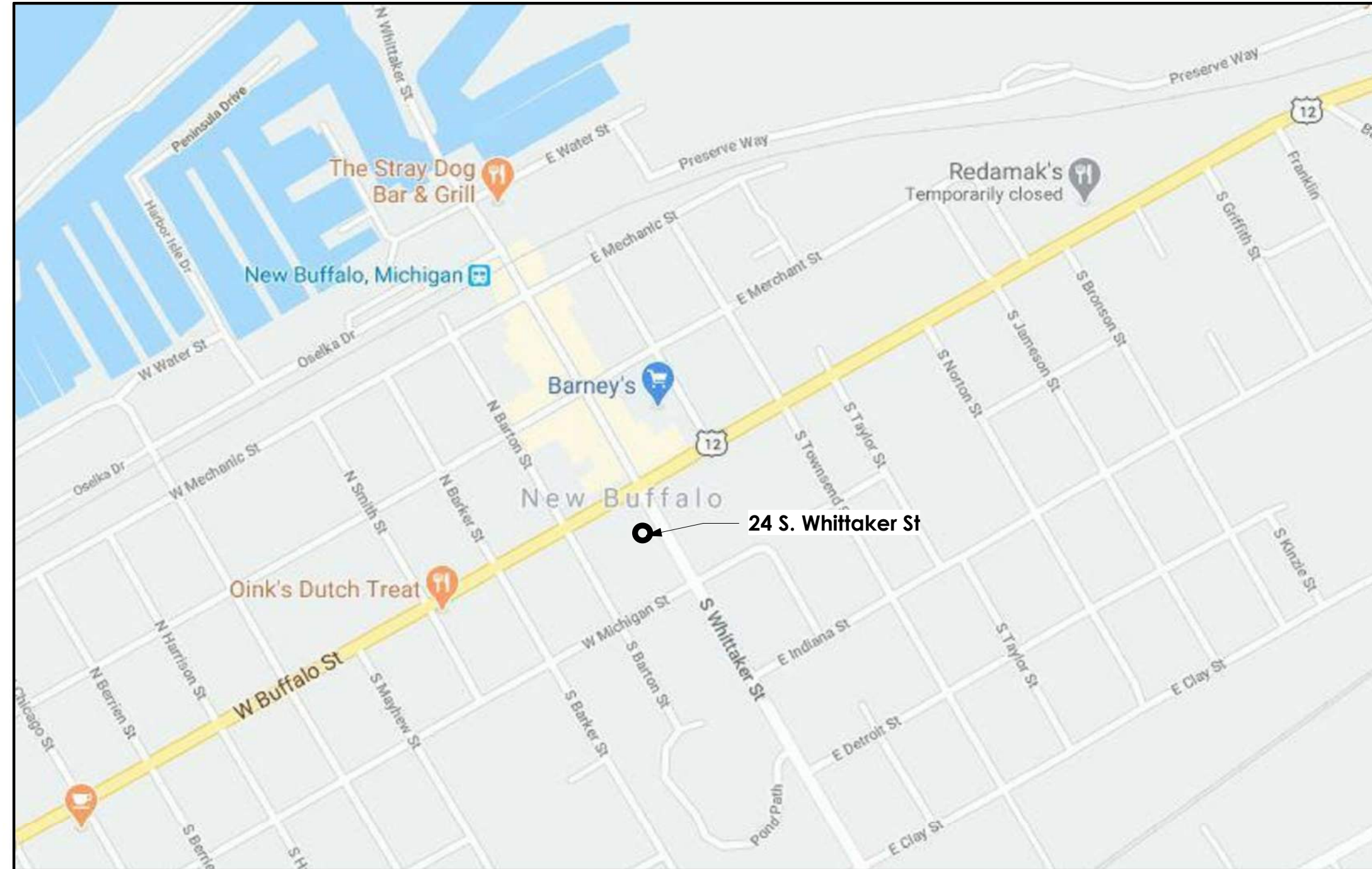
24 South Whittaker Street
New Buffalo, MI 49117

***REVISED* Site Plan Review Set: 4/9/2021**



A-2 (Assembly) - Restaurant services per MBC 303.2

Vicinity Map



Berrien County GIS Map



Project Team Contact Information

<p>Owner Beer Church Brewing Co. 24 South Whittaker Street New Buffalo, MI 49117 Contact: John Lufina or Jane Simon john@beerchurchbrewing.com jane@beerchurchbrewing.com</p>	<p>Construction Manager Rockford Construction 601 First Street NW Grand Rapids, MI 49504 Phone: 616.285.6933 Contact: James Zehr jzehr@rockfordconstruction.com</p>	<p>Architectural Design Rockford Construction 601 First Street NW Grand Rapids, MI 49504 Phone: 616.285.6933 Contact: Josh Strautz jstrautz@rockfordconstruction.com</p>
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Drawing Index

- | | |
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| CS | Project Cover Sheet |
| Architectural: | |
| 01 | Site plan & Floor Plan |
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| 05 | View from South Whittaker looking Northwest |
| 06 | Aerial view above South Whittaker looking Northwest |
| 07 | View of two-story deck and patio looking Southwest |
| 08 | View from Parking Lot looking East |

Drawing Symbols

- | | |
|--|-------------------------------------|
| | ENLARGED DETAIL REFERENCE |
| | INTERIOR ELEVATION REFERENCE |
| | FLOOR PLAN KEYNOTE SYMBOL |
| | INTERIOR AND EXTERIOR DOOR TAG |
| | DIMENSION LINE |
| | REVISION REFERENCE |
| | INTERIOR AND EXTERIOR WALL TYPE TAG |
| | INTERIOR AND EXTERIOR WINDOW TAG |

Beer Church

Beer Church Brewery - Exterior Patio Expansion

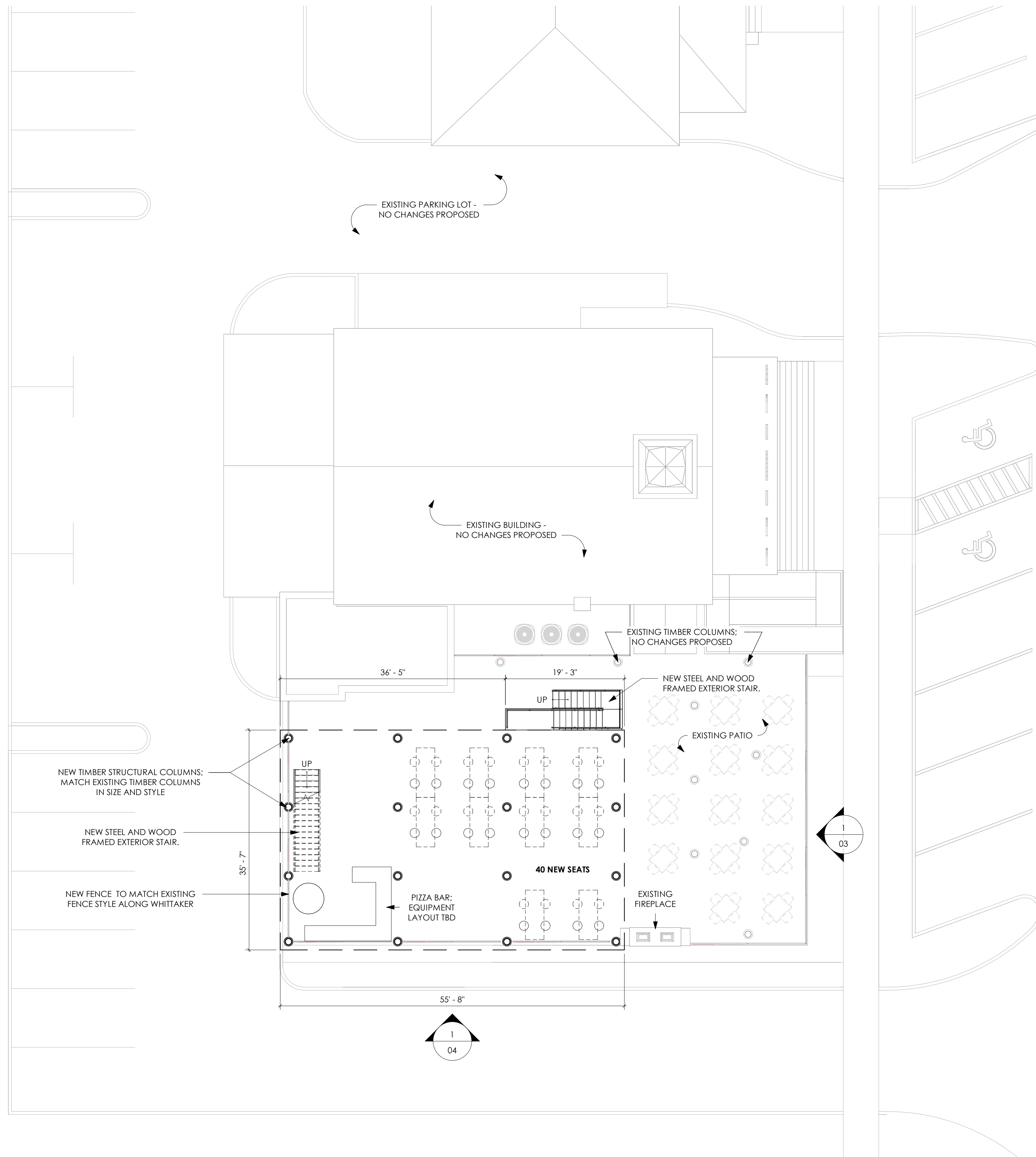
24 South Whittaker St, New Buffalo, MI 49117

Project Cover Sheet

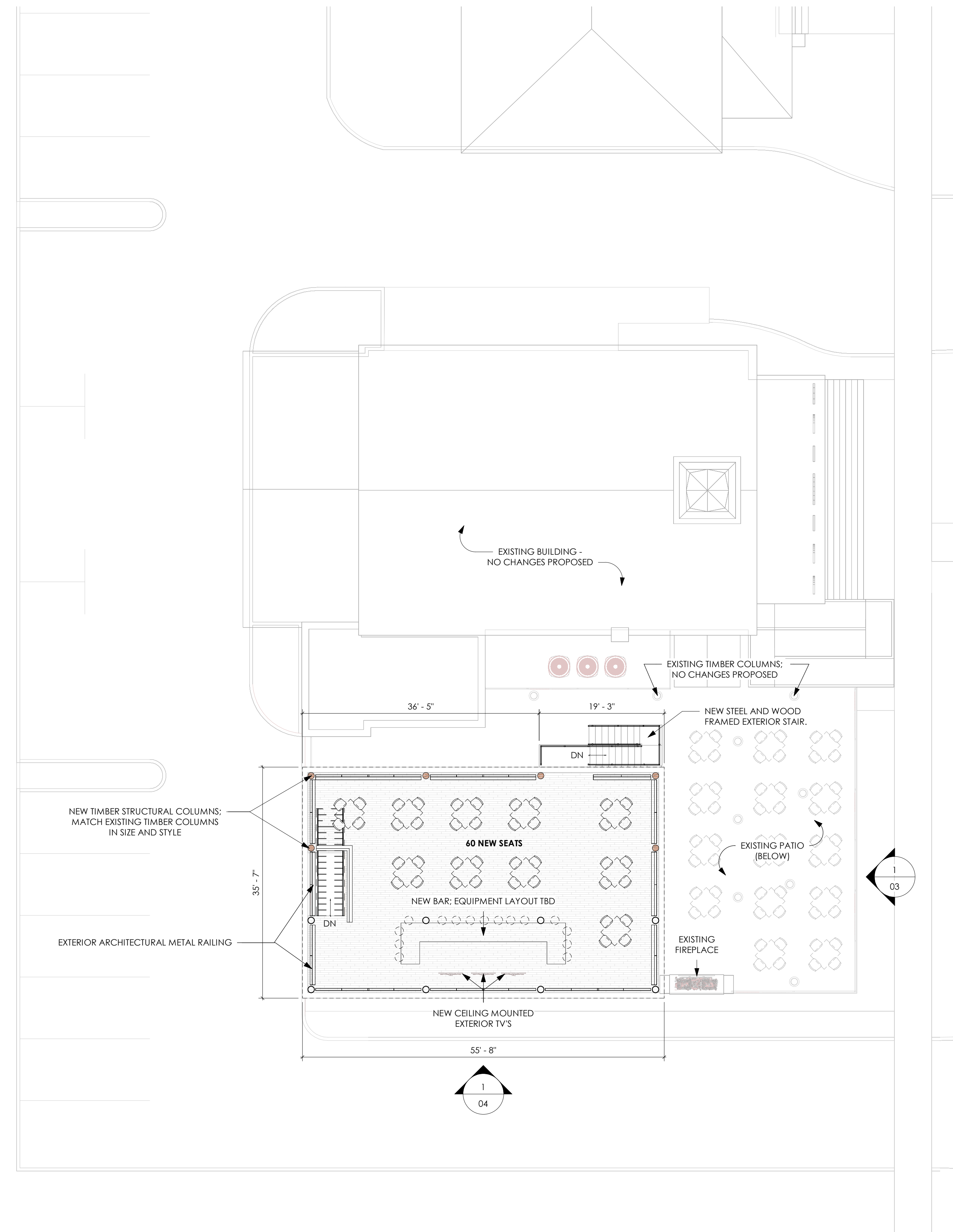
Drawing Set	Date
Site Plan Review	2/4/2021
Revised Site Plan Review	4/9/2021

Project number	220024
Date	04/09/21
Drawn by	ST / JS
Checked by	JS
Scale	As indicated

CS

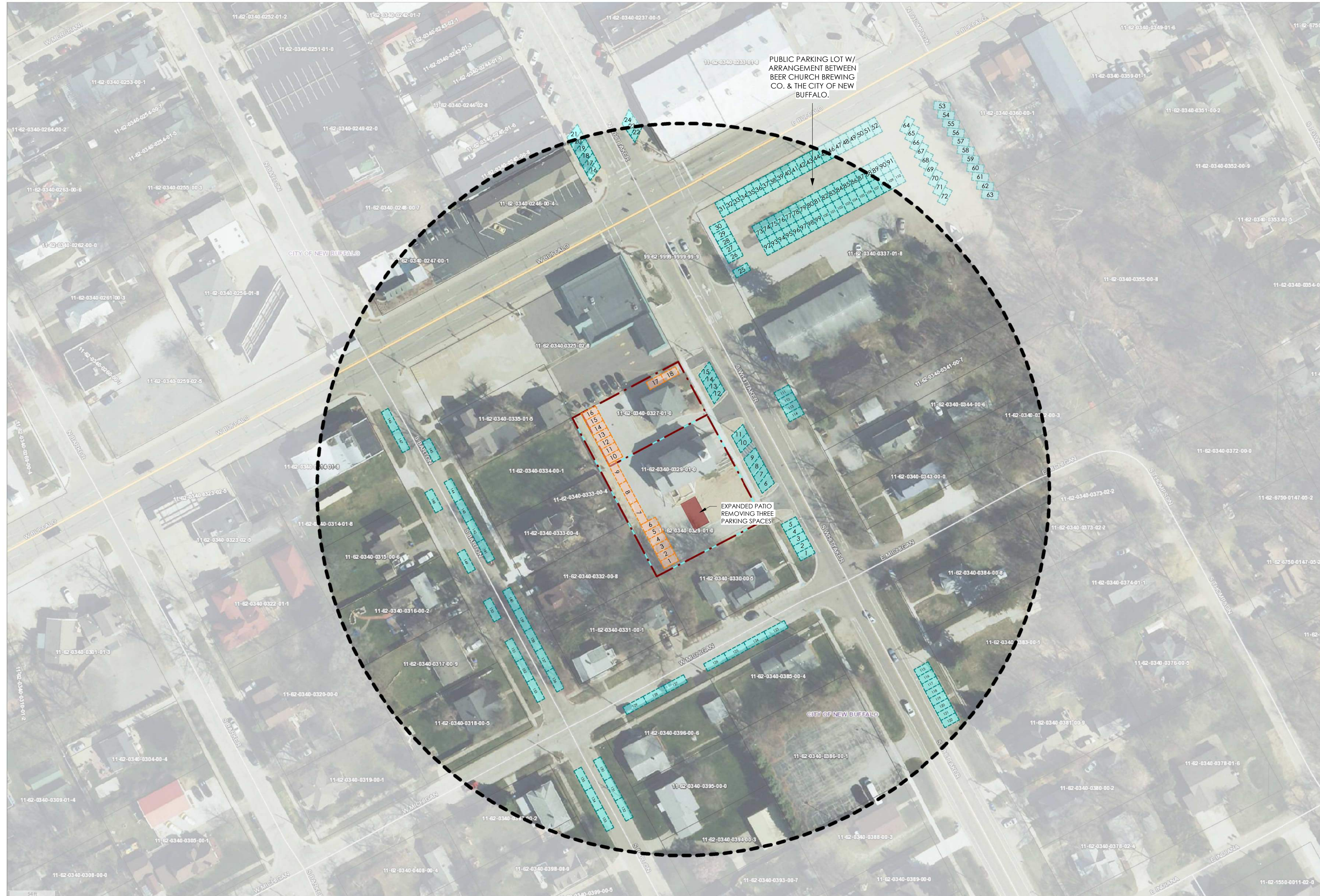


SOUTH WHITTAKER STREET

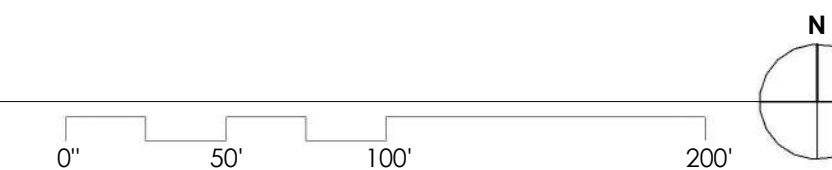


1 03 First Floor Plan
1" = 10'-0"

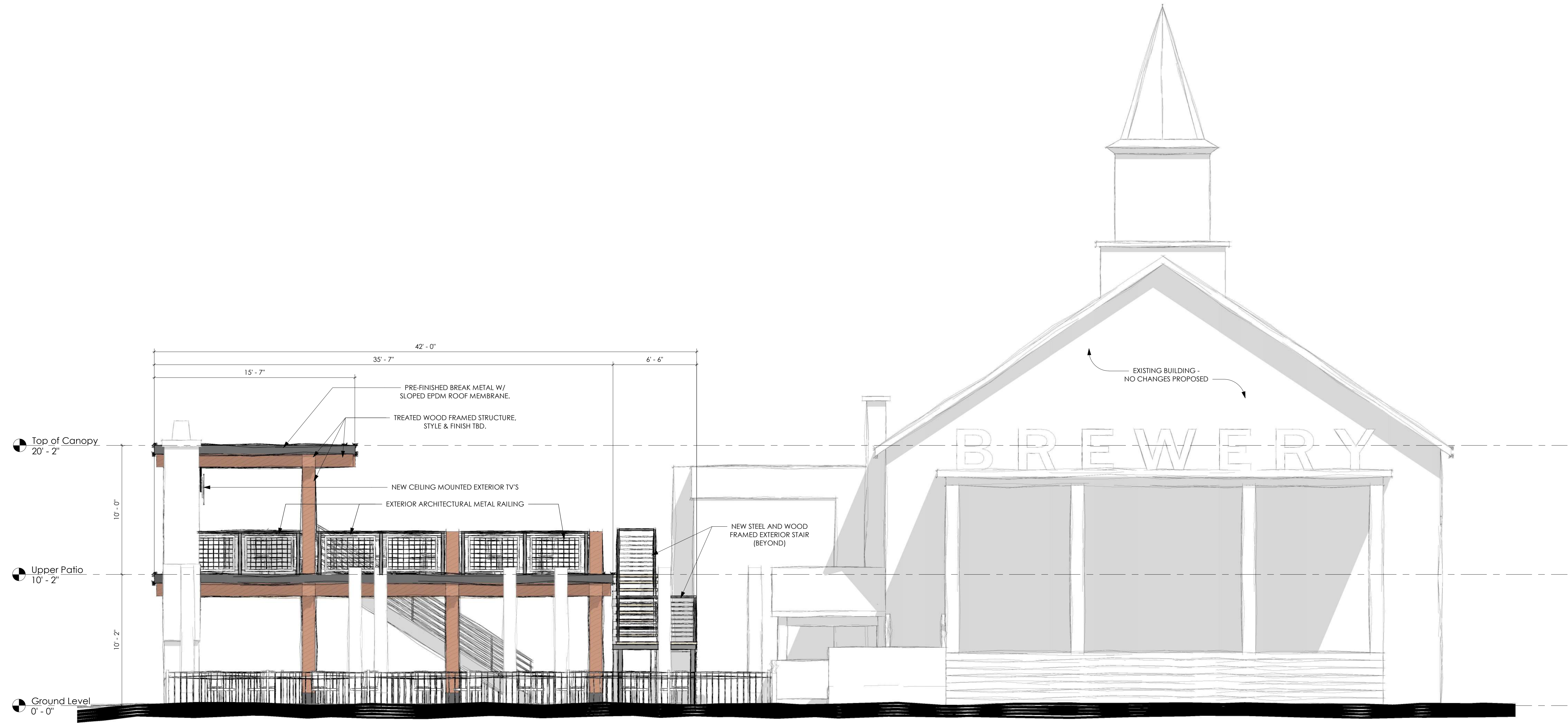
2 03 Upper Patio
1" = 10'-0"



GIS Map - Parking Diagram
1" = 60'-0"

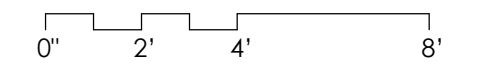


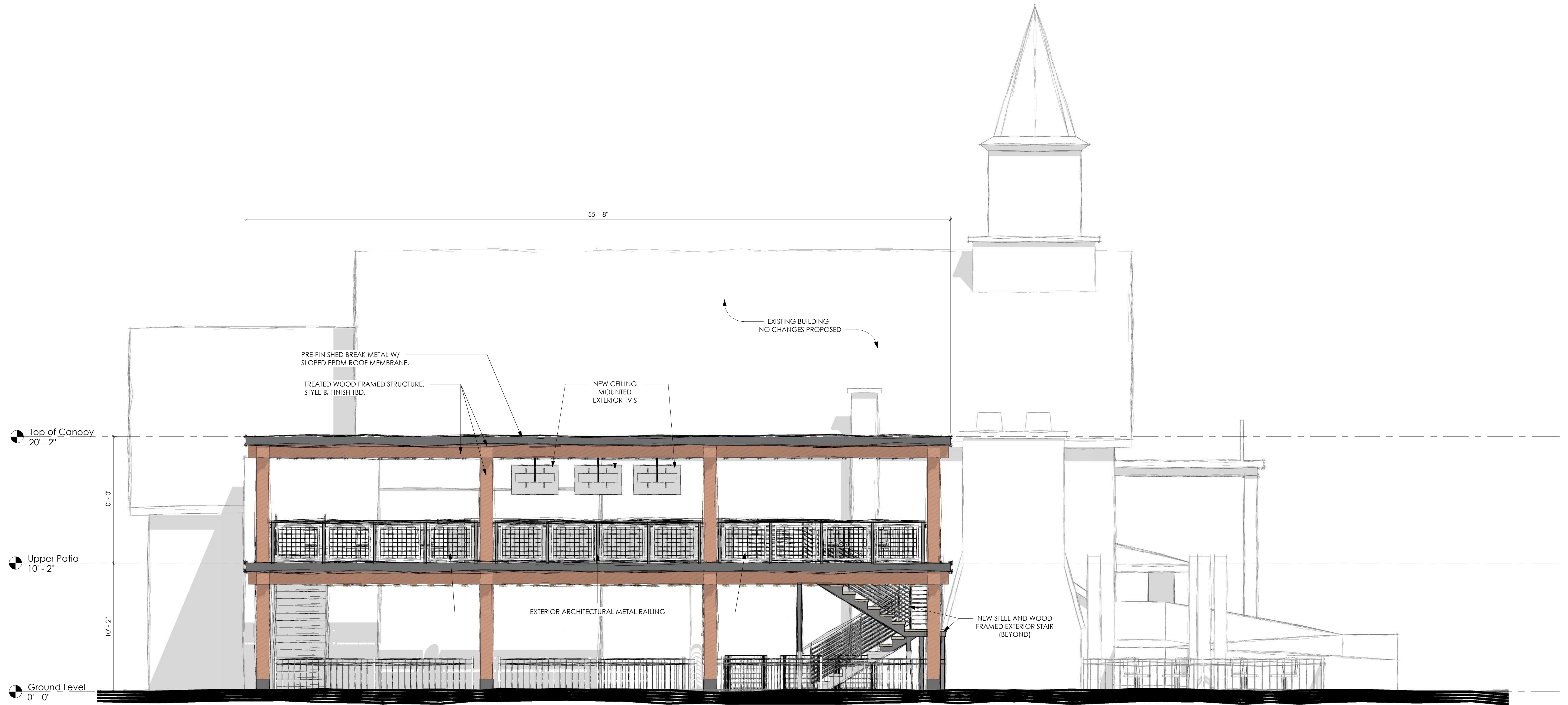
PARKING REQUIREMENTS	
CITY OF NEW BUFFALO ZONING ORDINANCE ARTICLE #15 - ON-PREMISES PARKING & LOADING	
PREVIOUSLY APPROVED:	
Total on-premises parking spaces:	21
Total off-premises parking spaces:	93
PREVIOUSLY PERMITTED: 114	
Proposed reduction on-premises parking spaces:	-3
NEW PROPOSED PARKING SPACE TOTAL:	111
TOTAL AREA & SEATS ADDED W/ PATIO EXPANSION:	
3,201 sq. ft. (1.6 spaces per 1,000 sq. ft.) = 52 spaces	
100 new seats (0.6 spaces per 1 seat) = 60 spaces	
TOTAL NEW SPACES REQUIRED:	60
NEW REQUIRED PARKING TOTAL:	
Total existing on-premises parking spaces:	18
Total existing off-premises parking spaces:	93
Total additional off-premises parking spaces:	60
NEW TOTAL:	171
NEW PARKING COUNT WITHIN 300 FT RADIUS:	171
ORDINANCE SECTIONS REFERENCES:	
SECTION 15-2-C(2): LOCATION OF PARKING	
Parking on lots under different ownership within 300 feet may also be permitted if such arrangement does not result in a parking deficiency for the other use, and a legal agreement specifying the terms for the parking arrangement, signed by all involved parties, is provided.	
<i>Beer Church Brewing Co. currently has parking arrangement at the southeast corner of East Buffalo Street and South Whittaker Street.</i>	
SECTION 15-3-A(4): LOCATION OF PARKING	
Off-street parking shall not be required for permitted and special nonresidential uses within the CBD District where the owner can demonstrate to the satisfaction of the Planning Commission that adequate parking is available to serve the use on-street, in a community parking lot, and/or through a shared arrangement with other nearby uses. This exemption shall not apply to residential uses in the CBD District.	
<i>This section of the ordinance was referenced in the original construction of the brewery in 2015. Shared community parking still fulfills the off-street parking requirements for the proposed patio expansion.</i>	



1 East Elevation from South Whittaker

1/4" = 1'-0"





1 South Elevation from drive aisle
1/4" = 1'-0"

