



**City of New Buffalo
224 W. Buffalo Street
New Buffalo MI 49117
SPECIAL COUNCIL MEETING AGENDA
May 3rd, 2021, 6:30 PM**

Join Zoom Meeting:

<https://us02web.zoom.us/j/86516284718?pwd=RXFhZUJlMlJlMmJNM0NFYkRRSGQrZz09>

Meeting ID: 865 1628 4718

Passcode: 058770

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Public Comment
5. New Business
 - a. Site Plan and Special Use Permit Approval – 9 S. Barton Street
 - b. Site Plan Approval – 36 S. Whittaker Street
 - c. Site Plan Approval – 120 W. Buffalo Street
 - d. New Buffalo City Code of Ordinances Amendment-Chapter 11 (First Reading)
6. Correspondence
7. Council Comments
 - a. Discussion – Planning Commission Recommendation (Partial Short-Term Rental Moratorium Termination)
8. Adjournment



STAFF REPORT

The Hummingbird Lounge

Meeting Date: May 3, 2021

Project Number: V2021-0001

Project Name: The Hummingbird Lounge Outside Seating/Special Use Permit

Applicant: The Hummingbird Lounge, 9 S. Barton Street, New Buffalo, MI 49117

Property Location: 9 S. Barton Street, New Buffalo, MI 49117, 11-62-0340-0335-01-5

Owner: Ben Smock, [REDACTED]

Dimensions: 66'x132' (8,712 SF)

Proposed Use: Outdoor seating to include a 19'x19' deck

Zoning: Central Business District (CBD)

Action Requested: Site Plan Review and Special Use Permit

OVERVIEW

The applicant requests approval of a Site Plan and a Special Use Permit to allow creation of outdoor seating to include a 19'x19' deck area, as well as the construction of decorative perimeter fencing. The Special Use Permit consideration is guided by Article 17, Section 17-2 and 3.

Section 19-6, A, General Information

The applications submitted are complete.

Section 19-6, B, Site Analysis/Project Impact

The drawings as submitted satisfy the requirements of this section in every respect.

Section 19-6, C and 19-9, Site Plan Information and Approval Standards

The drawings as submitted satisfy the requirements of this section in all respects. Setbacks?

Section 17-2 Standards for Approval

A. Basic Approval Standards. Prior to approving a special land use application, the following general standards, in addition to any specific standards required for an individual special use shall be satisfied. The proposed use or activity shall:

1. Be compatible and in accordance with the City of New Buffalo Master Plan.
2. Be designed, constructed, operated, and maintained to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.

3. Be adequately served by public facilities and services such as streets, police, fire protection, drainage structures, water and sewage facilities recreation facilities, and primary and secondary schools.
4. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.
5. Promote the public interest through provision of a service, facility, or use determined to be non-detrimental to the residents of the City.
6. Be in compliance with all City ordinances, and state and federal statutes, and licensing provisions as applicable.
7. Not create safety concerns for pedestrian or vehicular circulation

FINDINGS/RECOMMENDATION

After review of the application materials, confirmation of the facts reported, site inspections and evaluation of the site plan review criteria by the City's Building Department, and the recommendation of the Planning Commission, it is recommended that the Site Plan and Special Use Permit for Project #V2021-0001, referred to as Hummingbird Lounge be approved as submitted.

Respectfully,
Darwin Watson, City Manager



City of New Buffalo

Special Use Permit Staff Report

Hearing Date: February 17, 2021

Project Number: V2021-0001

Applicant: Ben Smock

Subject Property Address: 9 S Barton Street, New Buffalo, MI 49117

Nature of the Request: Site Plan & Special Use request for Restaurant outdoor seating area.

Zoning District: CBD "Central Business District"

OVERVIEW

The applicant is Ben Smock, of [REDACTED]. The applicant requests a special use permit for eating establishment outdoor seating. Article 10 Sec. 10-2 "Uses permitted by right and special use permit". Allows (item 20) "Outdoor seating/service with special use permit.

This location, 9 S Barton Street is a former, "Restaurant, Café" and is now under new ownership and is being renovated for a new eating establishment called "The Hummingbird Lounge". All appropriate permits have been obtained and compliance inspections are underway.

Recommendation: Upon review of the application materials, validation of the facts reported, site inspection and evaluation of each of the criteria required for review and noted in this staff report, it is the recommendation of the Zoning Administrator to approve the special use request for outside seating establishment at 9 S Barton Street with any requested stipulations from Planning Commission.

Respectfully submitted,

Ted Hanson
Building Official
City of New Buffalo



City Staff
Use Only

Project Name	PAID	REC'D
Project Number	DEC 16 2020	DEC 15 2020
Review Fee Paid	City of New Buffalo	CITY OF NEW BUFFALO
Escrow Fee Paid		

APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS

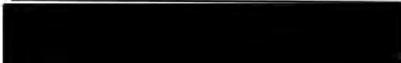
224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

Instructions: Fill-in all blanks and 'X' applicable boxes (). Incomplete applications cannot be processed.

I. Applicant and Owner Information

A) Applicant(s) principal contact:

Name Ben Smock

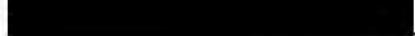
Address 

Telephone 

E) Property owner(s) principal contact:

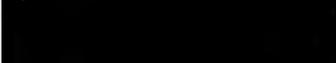
Name Ben Smock

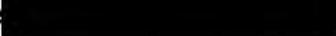
Address 

Telephone 

B) Applicant(s) secondary contact:

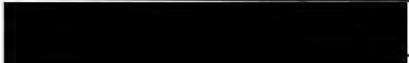
Name Mike Smith

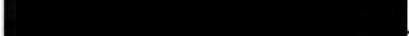
Address 

Telephone 

F) Architect (if applicable):

Name Neringa Design

Address 

Telephone 

C) Agent or Attorney (if applicable):

Name _____

Address _____

Telephone _____

G) Engineer (if applicable):

Name _____

Address _____

Telephone _____

D) Is the property held in Trust*:

Yes - Answer below X No - Skip below

Name of Trust _____

Address _____

Telephone _____

H) Applicant is (check one):

- Property owner X
- Attorney
- Agent
- Engineer
- Other: _____

* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.

1003

Hummingbird Lounge LLC
9 S Barton St New Buffalo, MI 49117

12/11/2020

PAY TO THE ORDER OF

CITY OF NEW BUFFALO

\$ 350.00

Three Hundred Fifty and 00/100

DOLLARS

PROTECTED AGAINST FRAUD

MEMO
PLANNING COMMISSION APPLICATION

[Signature]

CITY OF NEW BUFFALO
224 W. BUFFALO STREET
NEW BUFFALO, MI 49117
Phone : (269) 469-1500

Received From: SMOCK
Date: 12/18/2020 Time: 8:23:27 AM
Receipt: 87787
Cashier: AMY

9 S. BARTON ST

ITEM REFERENCE	AMOUNT
SITE SITE PLAN REVIEW	
SITE PLAN REVIEW 9 S. BARTON	\$350.00
TOTAL	\$350.00
CHECK 1003	\$350.00
Total Tendered:	\$350.00
Change:	\$0.00

II. Purpose of Application

A) This application is a request for the following action:

- | | | |
|--|---|----------------------|
| Rezoning of Property | Subdivision Approval | X Site Plan Approval |
| Rezoning Amendment | Variance(s) Approval | Special Use Approval |
| Lot Split – Subdivision or Land Division | Other: <u>Outdoor Service Area approval</u> | |

B) The reasons for the requested action(s) are as follows:

We purchased an existing Restaurant at 9 S Barton St, New Buffalo, MI and the
Class C liquor license for the property. The conditional transfer has been approved.
We are applying for an outdoor service area permit, to include a 19'x19' deck and the
patio area (please see attached plans).

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

We are requesting permission to build decorative perimeter fencing (as shown) and to
be approved for an outdoor service area permit.

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property: Yes No
2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

IV. Description of the Proposed Development

A) Please describe the proposed use of the land and/or building assuming approval of the request:
We intend to provide indoor and outdoor food and beverage service, as permitted.

B) What is the proposed time frame for the build-out of this development: Opening March 2021

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1						
Two Family R-2						
Mufty-Family R-3						
Central Business CBD	2	0	2538	32*		
Gen. Commercial GCD						
Waterfront Marina WM						
General Industrial I-1						
TOTAL	2	0	2538	32*		

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: _____
- 2) Peak traffic flow count for the proposed development: _____
- 3) How many lineal feet of roadway is proposed to be developed: _____
- 4) How many cul-de-sacs will be constructed as part of this project: _____
- 5) How many curb cuts to City, County or State roads are proposed: _____

E) Does the request contemplated in this application concern any hazardous materials:
No Yes – describe the type and quantity of materials (attach extra pages if necessary):

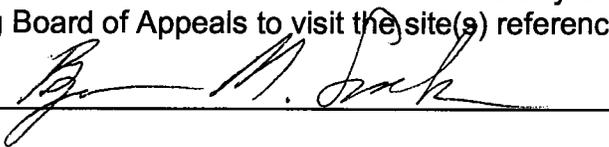
No

VII. Signature and Declaratory Statement

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, Benjamin M. Smock, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature:  Date: 12/10/2020

D) Notary Public Certification Statement:

I, _____, Notary Public in and for the State of Michigan this _____ day of _____, _____ the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: _____

VIII. City Staff Review

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: _____

Approval: Yes No Signature: _____

Conditions: Attached None Title: _____

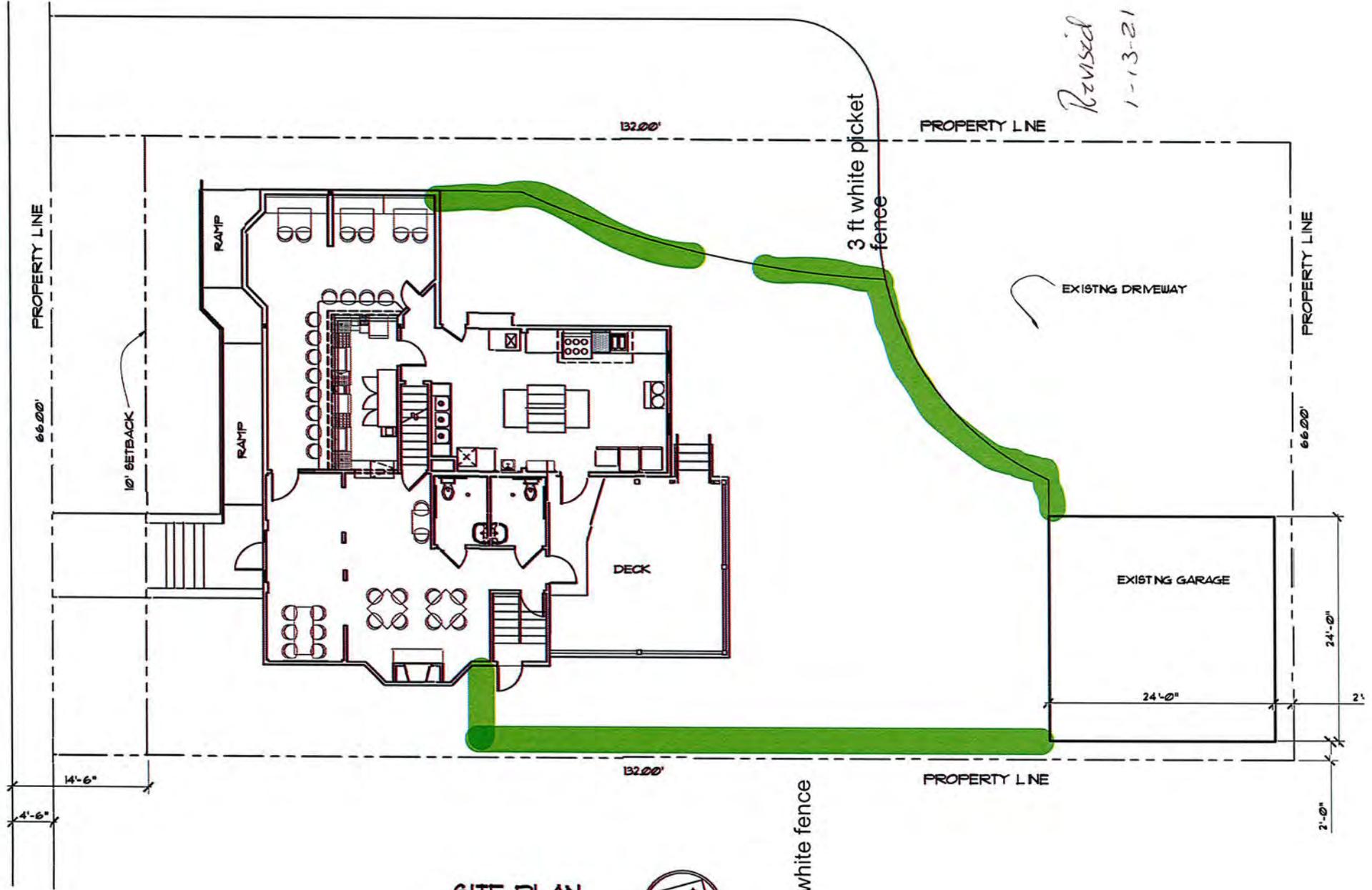
B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: _____ Date: _____

Zoning Administrator: _____ Date: _____

Initial meeting date: _____

BARTON STREET



Revised
1-13-21

SITE PLAN
SCALE: 1/8" = 1'-0"



6 ft solid white fence

3 ft white picket fence

PROPERTY LINE

EXISTING DRIVEWAY

EXISTING GARAGE

132.00'

PROPERTY LINE

66.00'

10' SETBACK

RAMP

RAMP

DECK

132.00'

PROPERTY LINE

PROPERTY LINE

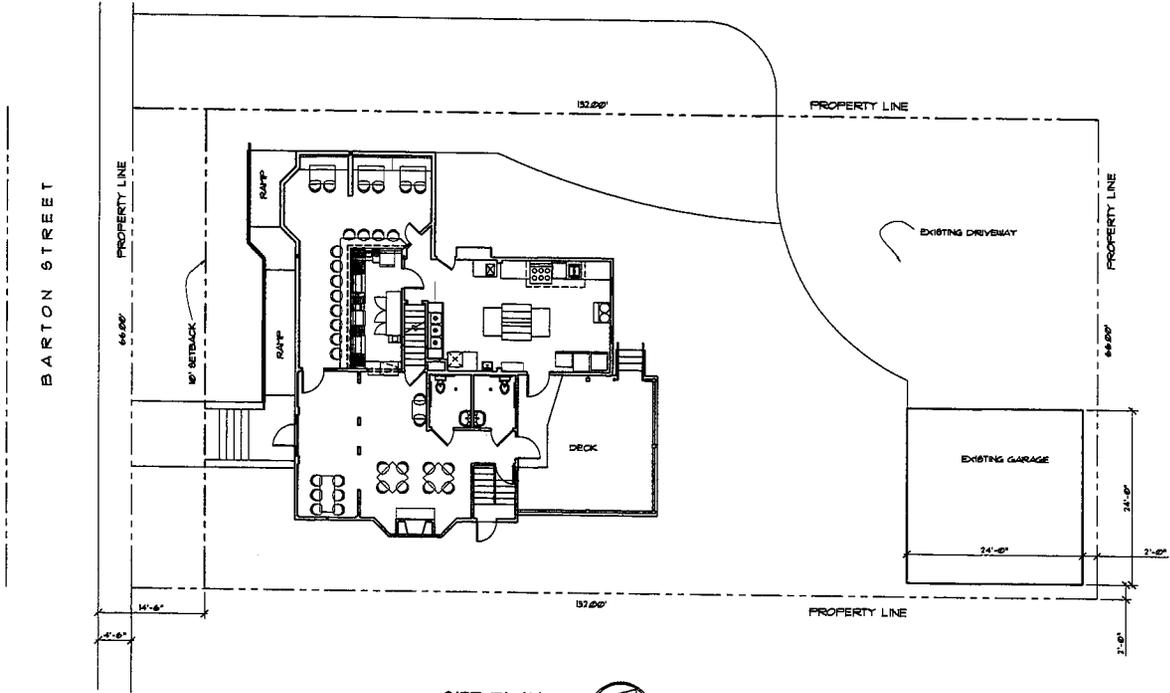
66.00'

24'-0"

24'-0"

2'-0"

2'



SITE PLAN
SCALE: 1/8" = 1'-0"



NERINGA ARCHITECTS, A.L.L.
105 W. MERCHANT ST.
NEW BUFFALO, MI 49117
616-468-4686

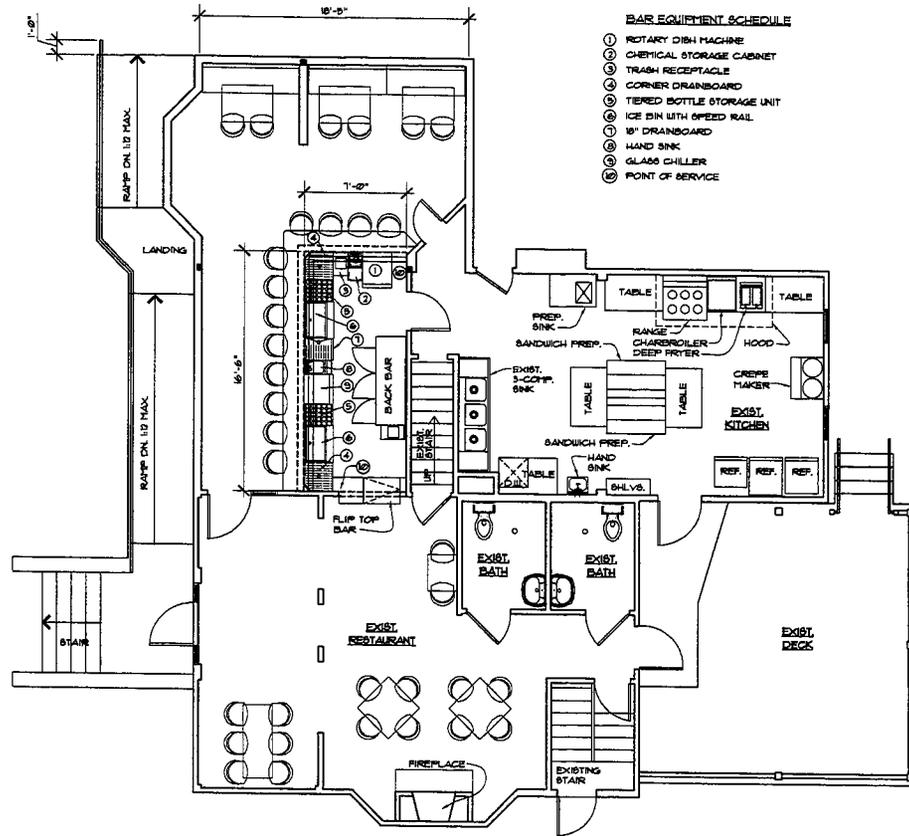
Neringa
Design
ARCHITECTS

HUMMINGBIRD LOUNGE
BEN SMOCK
9 S. BARTON ST
NEW BUFFALO

SITE PLAN

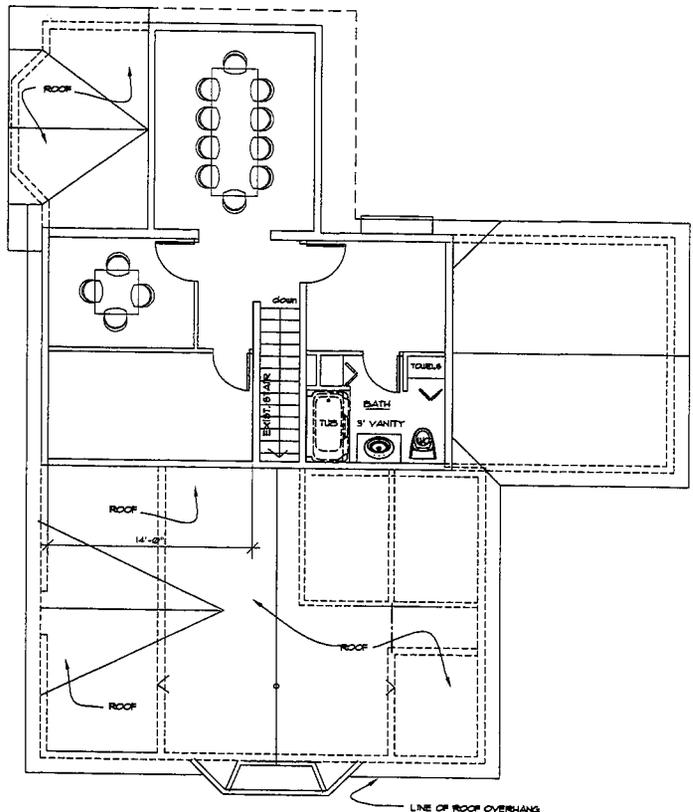
12/18/20
12/20/20
Drawing #

1.3



- BAR EQUIPMENT SCHEDULE**
- ① ROTARY DISH MACHINE
 - ② CHEMICAL STORAGE CABINET
 - ③ TRASH RECEPTACLE
 - ④ CORNER DRAINBOARD
 - ⑤ TIERED BOTTLE STORAGE UNIT
 - ⑥ ICE BIN WITH SPEED RAIL
 - ⑦ 18" DRAINBOARD
 - ⑧ HAND SINK
 - ⑨ GLASS CHILLER
 - ⑩ POINT OF SERVICE

1ST FLOOR PLAN
SCALE: 1/4" = 1'-0"



2ND FLOOR PLAN
SCALE: 1/4" = 1'-0"

NERINGA PERSEKAS, AIA
105 W. MERCHANT ST.
NEW BUFFALO, MI 40117
616-489-4886

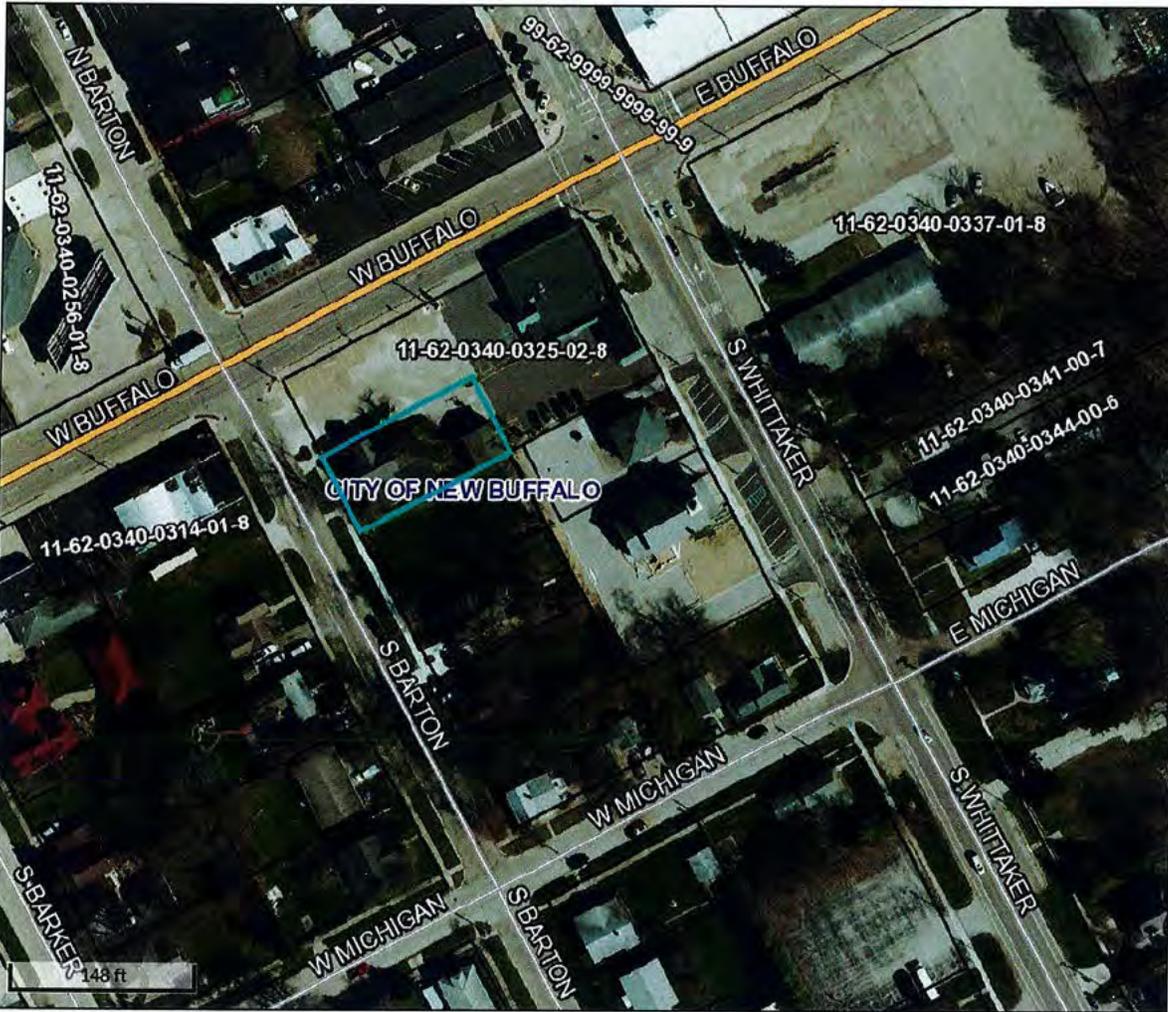
Neringa
Design &
Architects

HUMMINGBIRD LOUNGE
BEN SMOCK
9 S. BARTON ST.
NEW BUFFALO, MICHIGAN

2ND FLOOR PLAN

DATE
12/20/12
DRAWING NO.

3.3



Overview



Legend

- Railroads
- Roads
 - <all other values>
 - Interstate
 - Major Arterial
 - Minor Arterial
 - Roads
- Parcels
- Lakes
- Rivers
- Parcel
- Lake Michigan

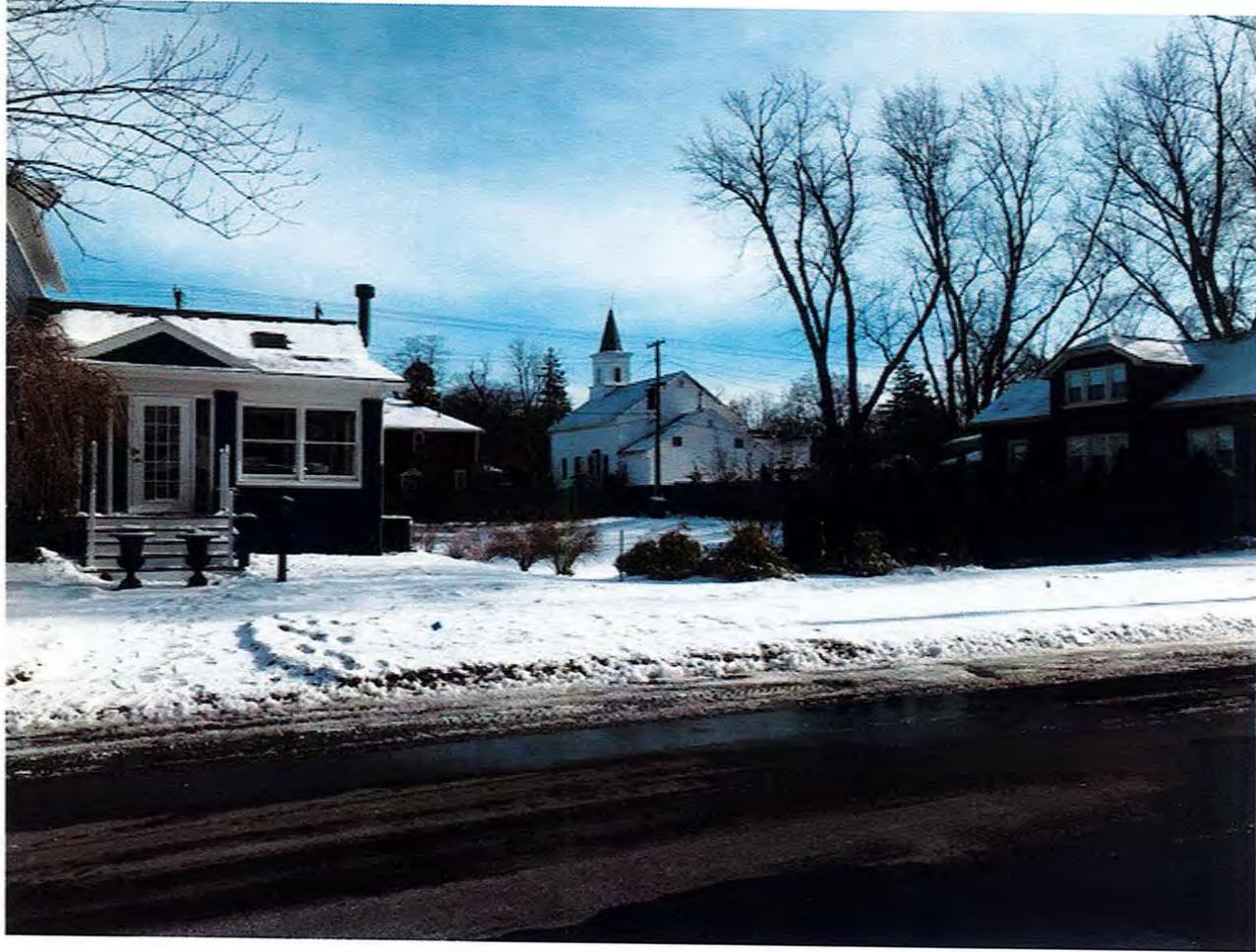
Parcel ID	11-62-0340-0335-01-5	Alternate ID	n/a	Owner Address	VOBEN LLC
Sec/Twp/Rng	n/a	Class	201		
Property Address	9 S BARTON ST NEW BUFFALO	Acreage	n/a		
District	11200				
Brief Tax Description	LOT 11 BLK 28 VILLAGE PLAT OF NEW BUFFALO <i>(Note: Not to be used on legal documents)</i>				

Date created: 1/28/2021
Last Data Uploaded: 1/28/2021 1:06:28 AM

Developed by  Schneider
GEO SPATIAL







City of New Buffalo, MI
Thursday, January 28, 2021

Appendix A. Zoning Ordinance

Article 10. CBD Central Business District

Section 10-1. Intent and purpose.

This district is intended to provide convenience retail and services, specialty retail, tourist-oriented retail and services, entertainment establishments, and professional offices in a concentrated, but well-designed manner. This district is intended to serve the local residents as well as the vacationing or visiting public.

Section 10-2. Uses permitted by right and special use permit.

[Amended 2-19-2008 by Ord. No. 175; 9-22-2008 by Ord. No. 177; 2-2-2012 by Ord. No. 184]
Land or buildings in the CBD District may be used for the following uses "by right" or by "special use permit" as identified. Those uses permitted by special use permit shall be reviewed in accordance with provisions contained in Article 17.

Land Use	Permitted by Right	Special Use
GROCERY, FOOD STUFFS, PHARMACIES AND RELATED USES		
1. Grocery store	X	
2. Convenience store selling foods, without gasoline sales	X	
3. Specialty food stores including: meat market, bakery, produce, candy/nuts, and health food store	X	
4. Bulk food sales (retail)	X	
5. Pharmacy (without drive-through service)	X	
6. Pharmacy (with drive-through service)		X
7. Medical supplies	X	
8. Liquor sales	X	
AUTOMOTIVE, GASOLINE, AND MARINE SALES AND SERVICE		
9. Automotive parts		X
10. Marine supplies (not including watercraft sales and service)	X	
11. Marine supplies (including watercraft sales and service)		X
OFFICES		
12. Executive, professional, and administrative offices	X	

Land Use	Permitted by Right	Special Use
13. Medical offices, out-patient clinics, and emergency medical center		X
14. Real estate and insurance	X	
15. Veterinary office (but not including outdoor kennels, run, or exercise facilities)	X	
16. Government and community service facility (but not including penal institutions, halfway houses, work release facilities, or facilities of a similar character)	X	
17. Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, but without drive-through facilities	X	
18. Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, with drive-through facilities		X
RESTAURANTS, LOUNGES, BARS, AND PUBS		
19. Restaurants, cafes, coffee shops and ice cream shops (without drive-through service)	X	
20. Outdoor seating/service		X
21. Bars, lounges, or pubs (not including adult entertainment)	X	
GENERAL AND SPECIALITY RETAIL AND PERSONAL SERVICES		
22. Sporting goods (not including recreational vehicle sales and service)	X	
23. Bait shops	X	
24. General merchandise stores limited to new merchandise and entirely within an enclosed building (includes department and variety stores)	X	
25. Used retail merchandise sales conducted entirely within an enclosed building and handling product lines classified as antiques, used, secondhand, surplus or factory seconds		X
26. Stores selling small appliances, computers/software, office equipment, camera/photo supplies, and electronics	X	
27. Personal services including: hair salons, beauty/barber shops, florists, health and fitness clubs, photographic studios, travel agencies, locksmith, tax services, video rental (non-adult), dry cleaners (non-industrial), pet grooming and commercial day care	X	
28. Massage services		X

Land Use	Permitted by Right	Special Use
29. Specialty retail stores including: books/news/magazine (non-adult), stationery, jewelry, hobby/toys, gift/novelty, luggage/leather, sewing/needlework, tobacco, music/compact discs/tapes, and musical instruments	X	
30. Apparel, including shoes and clothing accessories	X	
31. Hardware stores	X	
RECREATION, LEISURE, HOTELS, AND MOTELS		
32. Bowling alley, with or without the sale of food and alcoholic beverages		X
33. Miniature golf		X
34. Indoor movie theater or performing arts theater (not including adult entertainment)		X
35. Lodge halls, social clubs, fraternal organizations, banquet halls, and other similar uses not involving residential occupancy or adult entertainment		X
36. Municipal parks	X	
37. Hotels		X
38. Motels		X
39. Bed-and-breakfast		X
MISCELLANEOUS		
40. Public utility buildings and uses, but not including storage yards		X
41. Educational institution offices or facilities		X
42. Open-air businesses		X
43. Parking structures		X
44. Residential dwellings		X
45. Religious institutions		X

Section 10-3. Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- A. Site plan review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Setbacks, height, area, and lot dimensions are required as noted below.
[Amended 3-18-2003 by Ord. No. 141]

CBD SETBACK, HEIGHT, AREA AND LOT REQUIREMENTS

Minimum lot size	8,000 square feet
Minimums lot width	66 feet
Maximum building height	35 feet

Front yard setback	None required
Side yard setback	When abutting nonresidentially used or zoned property: 10 feet, however, the Planning Commission may approve up to a zero setback if it can be demonstrated that the lesser setback will not adversely affect adjoining properties, and specifically light availability to existing or proposed buildings. Where abutting lots have buildings employing a common party wall no side yard shall be required. When abutting residentially zoned property: 30 feet
Rear yard setback	25 feet
Maximum lot coverage	70% of the total lot area

Section 19-1 Purpose.

The purpose of this article is to require and review those documents or drawings as specified in the ordinance, to ensure that a proposed land use or development is in compliance with this ordinance, other local ordinances, state statutes, and federal statutes. And furthermore, its purpose is to ensure that development taking place within the City of New Buffalo is properly designed, safe, efficient, environmentally sound, and developed in such a manner as to protect adjacent properties from adverse impacts.

Section 19-2 Uses requiring site plan review.

All new construction and new uses, including the expansion of existing buildings, structures, and uses (other than single-family or two-family dwelling that are permitted by right in the zoning district in which they are located) shall require site plan review. This shall include uses permitted by right, private streets, public buildings and structures, planned unit developments, special uses, mobile home parks, and site condominium subdivisions.

Section 19-3 Authority and responsibility for site plan review.

The Planning Commission shall have the authority and responsibility to review and make decisions regarding all plans submitted for site plan review, except where this ordinance specifically provides authority for other officials to conduct specified types of plan reviews. The Planning Commission may delegate specified review activities to staff or consultants as they may decide is appropriate.

Section 19-4 Prohibitions prior to site plan approval.

Until a site plan is approved and in effect, no grading, removal of vegetation, filling of land, or construction shall commence for any development or use for which site plan approval is required.

Section 19-5 Site plan review process.

[Amended 9-20-2016 by Ord. No. 219]

- A. Ten copies of a complete site plan shall be submitted to the Zoning Administrator, along with an application for that purpose and a fee, as established by resolution of the City Council from time to time.
- B. The Zoning Administrator shall review the site plan for completeness, and shall obtain comments, as the Zoning Administrator considers necessary, from the Department of Public Works, Water Department, Police Department, Fire Department, City Planner, and other City departments or consultants. Notice that site plan approval has been requested shall be mailed for information purposes only to the owners of all abutting properties, and other persons whom the Zoning Administrator deems appropriate. All such notices shall be mailed at least seven days prior to the meeting at which the Planning Commission will consider the site plan. Any failure to give notice to the owners of abutting property pursuant to this section shall not affect the validity of any action taken by the Planning Commission pursuant to this chapter.
- C. Once the Zoning Administrator determines that the site plan is complete, the Zoning Administrator shall transmit the site plan, along with comments from City departments and consultants, to the Planning Commission at least two weeks prior to the next meeting. The Zoning Administrator shall not be required to submit any site plan for review which was submitted less than 40 days prior to the next regularly scheduled Planning Commission meeting.
- D. The Planning Commission shall consider the site plan and shall recommend to City Council: (1) approval of the site plan, as submitted, if all applicable requirements and standards have been met; (2) approval of the site plan with conditions; or (3) denial of the site plan if applicable requirements and standards have not been met. All recommendations of the Planning Commission with regard to site plans shall be accompanied by written findings of fact to support its position for each item under Section 19-9, Standards for site plan review.
- E. The reasons for the Planning Commission's action, along with any conditions that may be attached, shall be stated in the meeting minutes and a copy provided to the applicant.
- F. If approved, two copies of the final site plan shall be signed and dated by the Secretary of the Planning Commission and the applicant. One copy shall be kept on file with the City and one copy shall be returned to the applicant or his designated

representative.

Section 19-6 Required contents of site plan.

The following information shall be required to be submitted for site plan review.

A. General information:

1. The applicant's name, address, telephone number, and their interest in the project and/or property.
2. The name, address, and telephone numbers of the owner(s) of record (or the firm or corporation having a legal or equitable interest in the land), and the signatures of the owners authorizing the site plan submittal.
3. The name, address, and telephone number of the individual or firm preparing the site plan.
4. Project title.
5. Proof of property ownership or purchase agreement.
6. The legal description, address, and tax identification number of the parcel.
7. Written permission, signed by the property owner, granting the Planning Commission and City Officials authority to enter onto property which is the subject of an application for site plan approval. (This item is optional.)
8. Deed restrictions, master deed restrictions, and bylaws as applicable.

B. Site analysis/project impact information:

1. Existing topographic elevations at two-foot intervals, proposed grades, and direction of drainage flows.
2. The location of existing structures on the subject site and on adjacent parcels within 50 feet of subject parcel.
3. Location and type of significant existing vegetation.
4. Location and elevations of existing watercourses and water bodies, including county drains, and man-made surface drainage ways, floodplains, and wetlands.

C. Site plan information.

1. A vicinity map.
2. North arrow, and date of original submittal and all revisions.
3. A grading plan showing finished contours at a minimum interval of one foot, and correlated with existing contours so as to clearly indicate cut and fill required (All finished contour lines are to be connected to existing contour lines at or before the lot lines).
4. Location of proposed and/or existing property lines with dimensions, legal description, and statement or illustration of building setback lines.
5. The size of parcel (in acres) and a breakdown of use areas using the categories: street rights-of-way, development area, and open space.
6. The gross and net acreage of all parcels in the project. (Net acreage is the size of the parcel in acres after subtracting any area that is within a street right-of-way or formal access easement.)
7. Land uses (residential, commercial, industrial, vacant, etc.) and zoning classification for the subject parcel and adjoining parcels.

8. Location of proposed buildings (including accessory buildings) and intended uses thereof, as well as the length, width, height, and total square footage of each building. For buildings housing multiple use types, the square footage for each use type shall be provided.
 9. Indication of phases, if applicable.
 10. Location of existing streets, street rights-of-way and private easements of record.
 11. Location and dimensions of proposed streets, drives, curb cuts, driveway radii, access easements, deceleration/acceleration lanes or tapers, and passing lanes as applicable.
 12. Location, design, and dimensions of proposed parking areas (including indication of all spaces, dimensions of spaces, handicapped spaces, and method of surfacing), and fire lanes.
 13. Location, design, and dimensions of loading and unloading areas.
 14. Location, and design of all sidewalks, walkways, bicycle paths, and areas for public use.
 15. Location of water supply lines and/or wells including fire hydrants; a storm drainage plan showing storm sewers, exterior drains, dry wells, catch basins, retention/detention areas, and point of discharge for all drains; and sanitary sewer system, including septic systems, if applicable.
 16. Location of all other utilities on the site.
 17. The description of measures to be taken to control soil erosion, and sedimentation during and after completion of grading and construction operations.
 18. Location, size, and specifications of all signs with cross-sections.
 19. Exterior lighting locations whether pole-mounted or building-mounted and a statement included that all lighting will be shielded to avoid spill over to adjacent properties or streets. If pole-mounted, the height of pole shall be included.
 20. Location and specifications for all proposed perimeter and internal landscaping and other screening features. For all new landscape material the proposed size upon installation shall be indicated. Existing landscaping to be retained shall also be indicated.
 21. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
 22. Seal of the registered engineer, architect, or surveyor who prepared the site plan.
- D. Waiver of site plan requirements. Specific requirements of this section may be waived by the Planning Commission where it is determined that such information is not applicable to the subject request.

Section 19-7 Expiration of site plan approval.

Unless a building permit has been issued, and on-site construction has actually started within one year of the date of the Planning Commission's approval of the site plan, approval of the site plan shall expire and be of no effect. If an approved site plan expires per this section, no permits for development or use of the subject property shall be issued until the site plan has been resubmitted and approved, subject to the provisions of Article 19. The Planning Commission, in its discretion, may authorize up to one extension of this time limit up to one additional year; provided a written request for such extension is submitted by the property owner to the Planning Commission prior to the expiration of the original approval. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction during the extension period.

Section 19-8 Amendment of approved site plan.

A site plan may be amended based upon whether the desired amendment is classified as a major or minor amendment to the site plan. Major amendments shall require review and approval by the Planning Commission and minor amendments shall only require the approval of the Zoning Administrator.

- A. Major amendments shall include one or more of the following:
1. A change in the original concept of the development.
 2. A change in the use or character of the development.
 3. A change in the type of dwelling unit being proposed.
 4. An increase in the number of dwelling units planned.
 5. An increase in floor area of more than 10%.
 6. A change in the basic layout or design of the project.
 7. A change in the character, function, or location of any street or access driveway.
 8. A reduction in the amount of open space, or relocation of open space areas.
 9. The movement of a building footprint by more than 10 feet.
- B. Minor amendments shall include one or more of the following:
1. A change in floor area of 10% or less.
 2. Additions to parking lots of up to 10 spaces.
 3. The movement of a building footprint of 10 feet or less.
 4. Substitutions in type of landscape plantings not to exceed 20% of the total amount of landscape materials; provided such materials are comparable to those they would replace.
 5. Accessory buildings having less than 1,000 square feet of area for commercial, industrial, or institutional uses.

Section 19-9 Standards for site plan review.

To promote orderly development which is safe, efficient, attractive, sensitive to environmental concerns, and generally promotes the welfare of the City's citizens, all developments and uses, in addition to meeting applicable specific standards as identified in this ordinance, shall also meet the following general standards.

- A. Organization of elements. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be designed so that there will be no impediment to the development of adjoining property.
- B. Landscape preservation. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
- C. Drainage design. The drainage portion of the site plan shall be designed to City storm design standards and not increase water run-off to adjoining properties, nor overburden watercourses in the area. Retention or detention areas shall be kept to the smallest number possible.
- D. Soil preservation. Site plans shall be developed to prevent or minimize problems with soil erosion or sedimentation.
- E. Privacy provisions. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of occupants.
- F. Emergency vehicle accessibility. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle accessibility. Fire lanes shall be provided as deemed necessary by the Fire Chief to provide adequate fire protection.

- G. Connective access to public streets. Every building or dwelling unit shall have connective access to a public or private street by some form of pedestrian sidewalk or pathway.
- H. Pedestrian circulation system. Sidewalks shall be provided, unless specifically waived by the Planning Commission.
- I. Compatibility with existing or planned streets and pathways. The arrangement of streets, sidewalks, and other path systems shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern shall be of a width appropriate to the traffic volume they will carry, and shall have a dedicated right-of-way equal to that specified in any formally-adopted street plan or planned right-of-way.
- J. Efficient and safe traffic systems. Street systems shall be designed to be as efficient as possible, and in compliance with commonly accepted traffic engineering standards for safety.

Section 19-10 Site plan inspection.

The applicant shall notify the Zoning Administrator when any project that required site plan review is finished and occupancy is desired. A site plan inspection shall be undertaken by the Zoning Administrator prior to an occupancy permit being issued. The Zoning Administrator shall make the determination that the completed project has met the site plan requirements, or identify incomplete items. If the site plan is deemed complete, the City may issue the occupancy permit. If the project is deemed incomplete the Zoning Administrator shall inform the applicant of the items which must be completed before occupancy will be granted. The City may allow occupancy prior to 100% completion of the site plan, if the undone portion will not jeopardize the safe use of the building, and the applicant provides the City with a performance bond or other financial guarantee acceptable to the City that gives the City the means to complete the project in case of default by the applicant.

Section 19-11 Fees.

Fees for the review of site plans and inspections as required by this article, shall be established and may be amended by resolution of the City Council. Fees may include base fees or escrow fees, as established by the City Council.

Section 19-12 Violations.

Any failure on the part of the applicant or landowner to comply with any of the provisions of the site plan approval shall be deemed a violation of this ordinance and subject to the penalties prescribed in Article 22. Furthermore, any project for which construction has commenced and no construction activity has taken place for a six-month period shall be a violation of this ordinance.



STAFF REPORT

The Beer Church

Meeting Date: May 3, 2021

Project Number: PZ2021-0001

Project Name: The Beer Church Outside Seating

Applicant: The Beer Church, 36 S. Whittaker Street, New Buffalo, MI 49117

Property Location: 36 S. Whittaker Street, New Buffalo, MI 49117, 11-62-0340-0329-01-0

Owner: Jane Simon, [REDACTED]

Dimensions: 198'x132' (26,136 SF)

Proposed Use: Outdoor seating and parking

Zoning: Central Business District (CBD)

Action Requested: Site Plan Review

OVERVIEW

The applicant requests approval of a Site Plan to expand the outdoor seating area by constructing a raised deck, that is an add onto the existing patio, to include an outdoor pizza oven and pizza bar area.

Section 19-6, A, General Information

The applications submitted are complete.

Section 19-6, B, Site Analysis/Project Impact

The drawings as submitted satisfy the requirements of this section in every respect.

Section 19-6, C and 19-9, Site Plan Information and Approval Standards

The drawings as submitted satisfy the requirements of this section in all respects.

Section 17-2 Standards for Approval

A. Basic Approval Standards. Prior to approving a special land use application, the following general standards, in addition to any specific standards required for an individual special use shall be satisfied. The proposed use or activity shall:

1. Be compatible and in accordance with the City of New Buffalo Master Plan.
2. Be designed, constructed, operated, and maintained to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.

3. Be adequately served by public facilities and services such as streets, police, fire protection, drainage structures, water and sewage facilities recreation facilities, and primary and secondary schools.
4. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.
5. Promote the public interest through provision of a service, facility, or use determined to be non-detrimental to the residents of the City.
6. Be in compliance with all City ordinances, and state and federal statutes, and licensing provisions as applicable.
7. Not create safety concerns for pedestrian or vehicular circulation

FINDINGS/RECOMMENDATION

After review of the application materials, confirmation of the facts reported, site inspections, evaluation of the site plan review criteria by the City's Building Department, and the approval of the Planning Commission, it is recommended that the Site Plan for Project #PZ2021-0001, referred to as Beer Church be approved as submitted.

Respectfully,
Darwin Watson, City Manager



**City of New Buffalo
PLANNING COMMISSION
Site Plan Application
Staff Report**

Hearing Date: February 17, 2021

Project Number: PZ2021-0001

Applicant: John Lustina

Property Owner: Jane Simon

Subject Property Address: 36 S Whittaker Street, New Buffalo, MI 49117

Nature of the Request: Site Plan application for construction of additional outdoor restaurant seating expansion.

Zoning District: CBD "Central Business District"

OVERVIEW

The applicant is Rockford Construction, of [REDACTED]
The applicant requests site plan approval for construction of additional outdoor seating and service area for existing restaurant. a special use permit for eating establishment outdoor seating. Article 10 Sec. 10-2 "Uses permitted by right and special use permit". Allows (item 20) "Outdoor seating/service with special use permit. Original Site Plan and Special Use permit for outdoor seating was approved in 2018.

All appropriate Building permits will be required for this project.

Recommendation: Upon review of the application materials, validation of the facts reported, site inspection and evaluation of each of the criteria required for review and noted in this staff report, it is the recommendation of the Zoning Administrator to approve the special use request for outside seating expansion at 36 S Whittaker Street with any requested stipulations from Planning Commission.

Respectfully submitted,

Ted Hanson
Building Official
City of New Buffalo

Beer Church Brewing Co. saved the landmark iconic church built in 1861 when it first purchased the building in 2015 and saved it from knockdown while committing to rebuilding the landmark from its very foundation with an investment that now tops several million dollars.

The majority owners are full-time residents of New Buffalo and its Central Business District—fully participating in, and paying tax dollars to, the local community.

Beer Church Brewing Co. employs in excess of 60 locals and last year alone, even during a Pandemic and two state shutdowns, contributed over 80,000 visitors to the local economy.

Since 2017, Beer Church Brewing Co. has been mentioned as a travel destination in the Chicago Tribune, Indianapolis Star, Forbes, Food & Wine, and WTTW 11 Chicago, as well as local TV and Print across SWMI, South Bend, and NW Indiana media outlets.

Beer Church Brewing Co. has over 100,000 Social Media and Email Followers and Subscribers.

Beer Church Brewing Co. now wishes to fund further investment in New Buffalo by adding this addition to the outside space, which adds in excess of 20 new jobs and expends funds close to \$1 million.

The addition conforms with all local, state, federal, and Central Business District codes and regulations.

The addition will lessen noise because wait times and milling about will be more than halved with the extra space.

The addition will lead to more organized crowds with an additional kitchen, bar, walkways, and storage all designed with crowd-flow patterns having been studied of the current layout.

Beer Church Brewing Co. has started the renovation and revitalization wave on South Whittaker Street, resulting in increased property values.

The addition will provide necessary weather cover so that inclement weather will no longer mean lost tourism to the city.

Beer Church Brewing Co. is committed to becoming the finest destination brewery pizzeria in the entire Midwest, if not country.

CITY OF NEW BUFFALO

PLANNING COMMISSION/ ZONING BOARD OF APPEALS APPLICATION



City Staff Use Only	Project Name	
	Project Number	
	Review Fee Paid	
	Escrow Fee Paid	PZ 21-0001 \$350 Paid

APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

Instructions: Fill-in all blanks and 'X' applicable boxes (). Incomplete applications cannot be processed.

I. Applicant and Owner Information

A) Applicant(s) principal contact:

Name John Lustina

Address

Telephone

E) Property owner(s) principal contact:

Name Jane Simon

Address

Telephone

B) Applicant(s) secondary contact:

Name James Zehr - Rockford Const. PM

Address

Telephone

F) Architect (if applicable):

Name Rockford Construction - Josh Strautz

Address

Telephone

C) Agent or Attorney (if applicable):

Name

Address

Telephone

G) Engineer (if applicable):

Name

Address

Telephone

D) Is the property held in Trust*:

Yes - Answer below No - Skip below

Name of Trust

Address

Telephone

H) Applicant is (check one):

Property owner

Attorney

Agent

Engineer

Other: Construction Manager

* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.

II. Purpose of Application

A) This application is a request for the following action:

- Rezoning of Property
- Subdivision Approval
- Site Plan Approval
- Rezoning Amendment
- Variance(s) Approval
- Special Use Approval
- Lot Split – Subdivision or Land Division
- Other: _____

B) The reasons for the requested action(s) are as follows:

Approval of proposed construction - See attached rendering.

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

- Given that the current property is zoned CBD, we are requesting the permission to _____
- expand the outdoor seating by constructing a raised deck which allows for more _____
- seating, an outdoor pizza oven and pizza bar area. The raised deck is designed to _____
- add onto the design intent of the existing patio and allow the restaurant to continue to _____
- serve customers at peak times. _____

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property: Yes No

2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

does not apply

III. Site and Surrounding Property Information

A) Common address or property location of subject property:

24 S. Whittaker St. New Buffalo, MI 49117

BS+A is 36 S. Whittaker

Beacon is 36 S. Whittaker

B) Legal description (attach an additional sheet if necessary):

SPLIT/COMBINED ON 09/07/2016 FROM 62-0340-0327-00-4, 62-0340-0329-00-7; LOTS 3 THROUGH 5 INCLUSIVE BLK 28 ORIG PLAT OF VILL (NOW CITY) OF NEW BUFFALO A SUB IN SECS 9 & 10 T8S R21W CITY OF NEW BUFFALO BERRIEN COUNTY MICHIGAN EXC THEREFROM THE NELY 121.21'

C) Permanent Real Estate Tax Identification Number: 11-62-0340-0329-01-0

D) Parcel Size: 26,136 S.F. Square feet

.42 Acres

198' Dimension of lot frontage

132' Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	Central Business District	Commercial use in Central Business District
2. Adjoining property:		
a) North of Site	Central Business District	Grandfathered-in Residential Use
b) South of Site	Central Business District	Vacant retail/office
c) East of Site	Central Business District	Apartments, small businesses
d) West of Site	Residential	Restaurant and residential homes

F) Describe any existing structures or other improvements and physical attributes of the site:

Existing structure is Beer Church with combined exterior patio.

IV. Description of the Proposed Development

A) Please describe the proposed use of the land and/or building assuming approval of the request:

Proposed use is to construct an elevated patio over existing exterior patio. Construction would be from heavy timbers, concrete, steel - closely resembling similar construction materials currently on the property.

B) What is the proposed time frame for the build-out of this development: 3-4 Months

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1						
Two Family R-2						
Mufty-Family R-3						
Central Business CBD	NA	New Patio	SF: 2,016		Utilizing existing utilities.	
Gen. Commercial GCD						
Waterfront Marina WM						
General Industrial I-1						
TOTAL						

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

1) Average daily traffic count for the proposed development: Not Applicable

2) Peak traffic flow count for the proposed development: Not Applicable

3) How many lineal feet of roadway is proposed to be developed: Not Applicable

4) How many cul-de-sacs will be constructed as part of this project: Not Applicable

5) How many curb cuts to City, County or State roads are proposed: Not Applicable

E) Does the request contemplated in this application concern any hazardous materials:

No Yes – describe the type and quantity of materials (attach extra pages if necessary):

VII. Signature and Declaratory Statement

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, Jane Simon, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature: Jane Simon Date: 1-27-21

D) Notary Public Certification Statement:

I, Melinda Foster, Notary Public in and for the State of Michigan this 27th day of January, 2021 the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: 3-7-25 Melinda Foster
Notary Public, State of Michigan
MELINDA FOSTER
County Of Berrien
My Commission Expires
3-7-25
Acting in the County of Berrien

VIII. City Staff Review

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

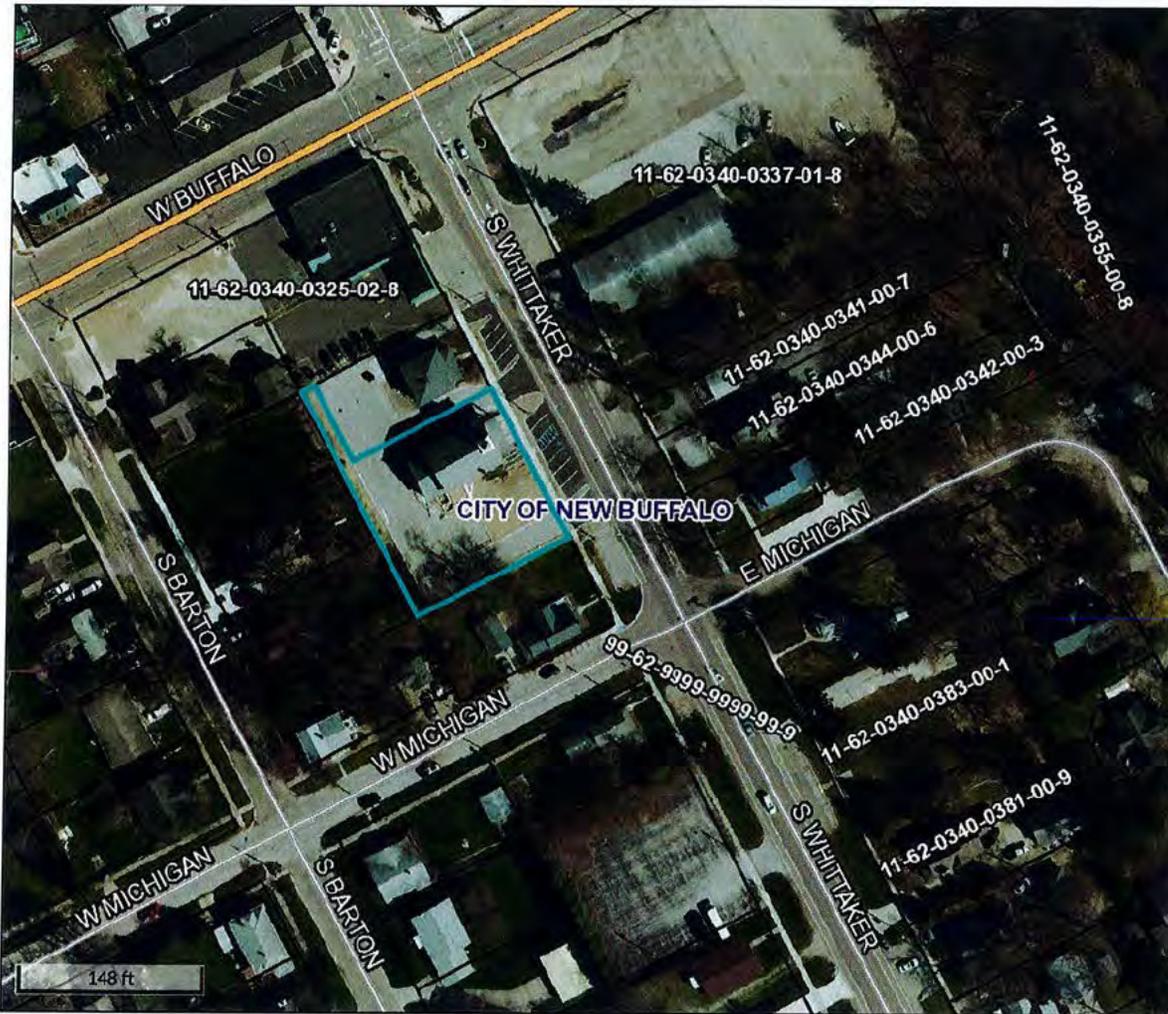
Approval: Yes No Signature: Chris Neun
Conditions: Attached None Title: Fire Chief
Review Date: 2-1-21

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: [Signature] Date: 2-1-21

Zoning Administrator: [Signature] Date: 2-1-21

Initial meeting date: _____



Overview



Legend

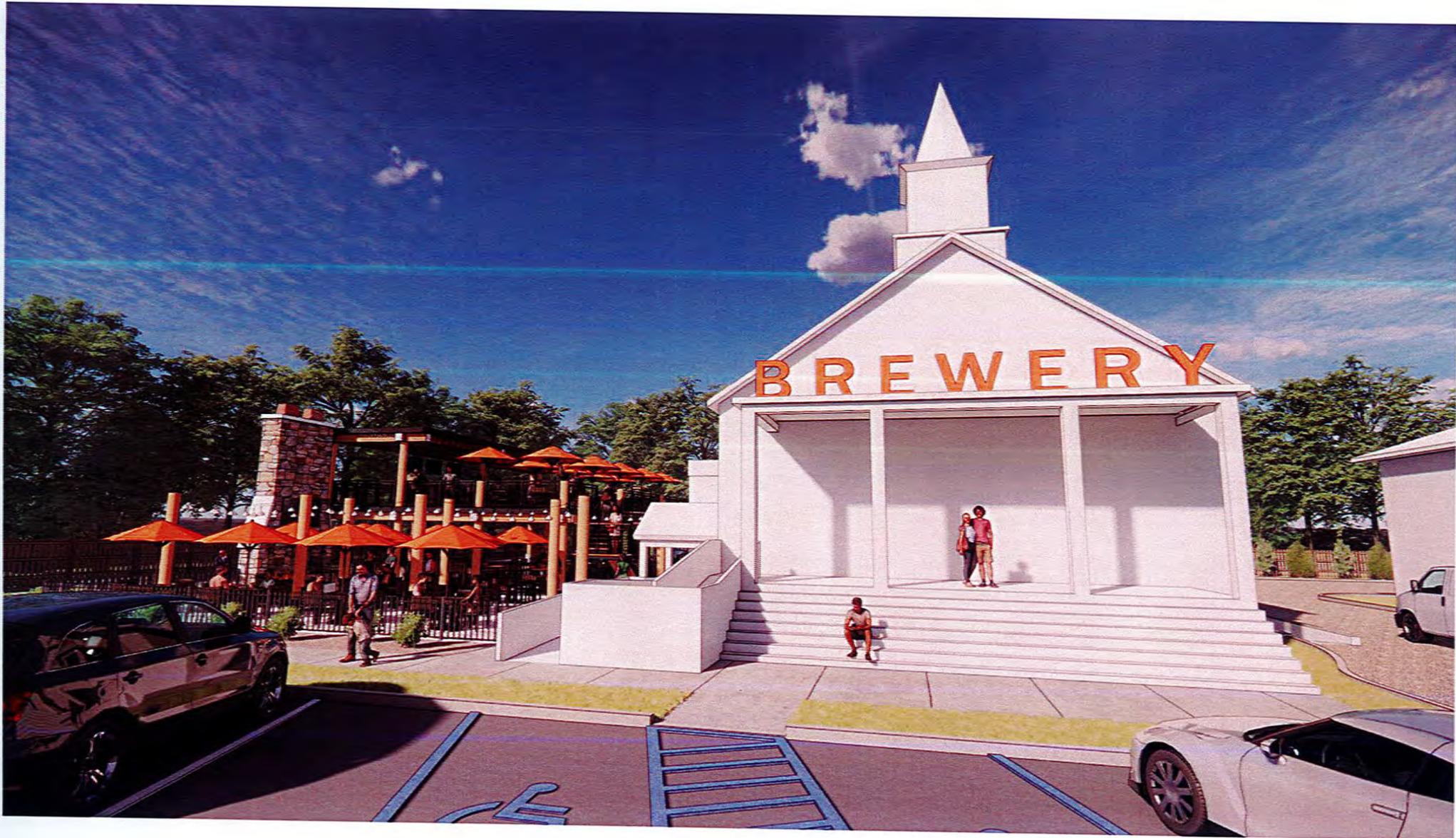
-  Railroads
- Roads**
-  <all other values>
-  Interstate
-  Major Arterial
-  Minor Arterial
-  Roads
-  Parcels
-  Lakes
-  Rivers
-  Parcel
-  Lake Michigan

Parcel ID	11-62-0340-0329-01-0	Alternate ID	n/a	Owner Address	BIG BROTHER REAL ESTATE HOLDINGS
Sec/Twp/Rng	n/a	Class	201		LLC
Property Address	36 S WHITTAKER ST NEW BUFFALO	Acreage	0.42		
District	11200				
Brief Tax Description	SPLIT/COMBINED ON 09/07/2016 FROM 62-0340-0327-00-4, 62-0340-0329-00-7; LOTS 3 THROUGH 5 INCLUSIVE BLK 28 ORIG PLAT OF VILL (NOW CITY) OF NEW BUFFALO A SUB IN SECS 9 & 10 T8S R21W CITY OF NEW BUFFALO BERRIEN COUNTY MICHIGAN EXC THEREFROM THE NELY 121.21'				
	<i>(Note: Not to be used on legal documents)</i>				

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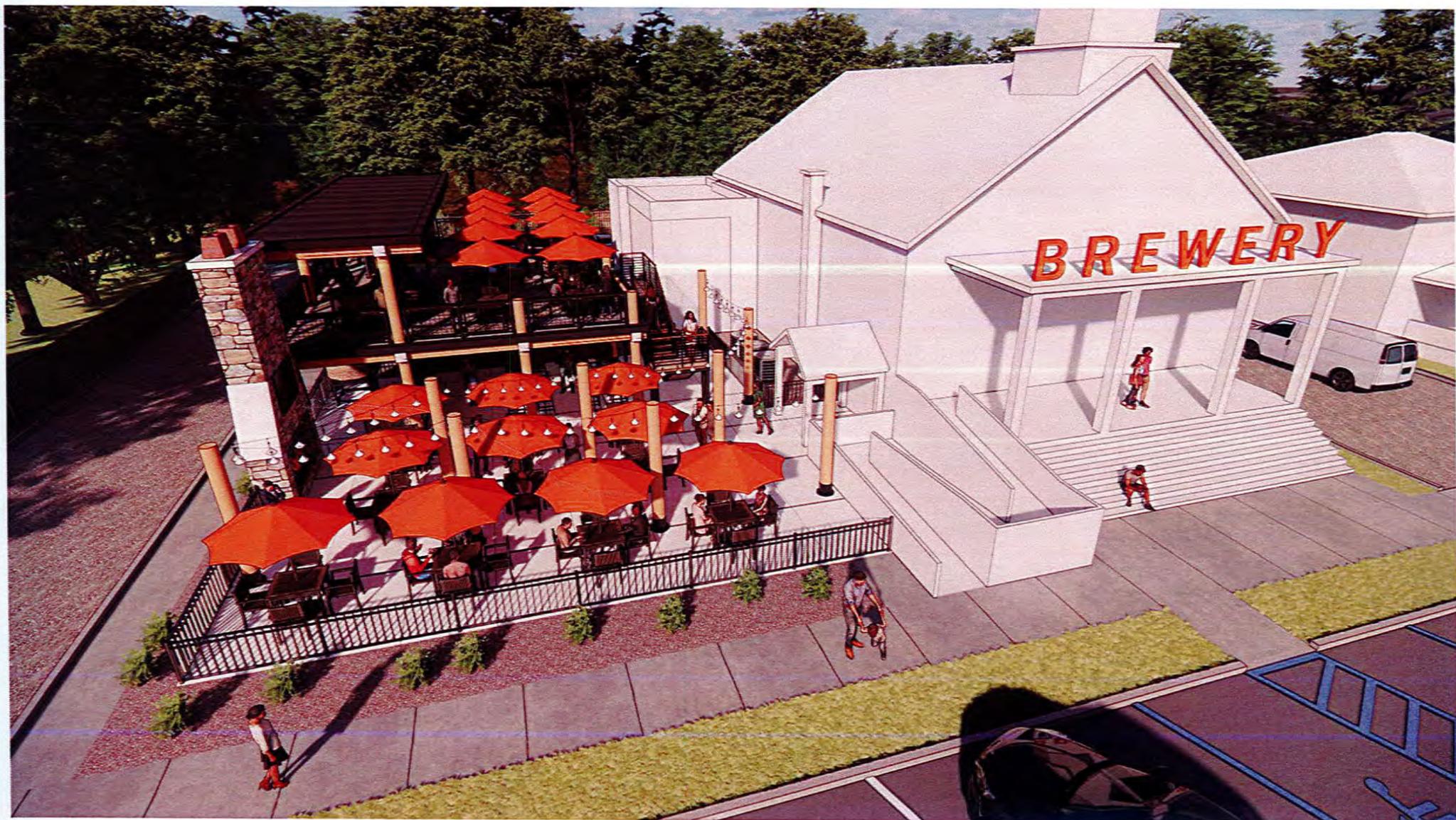














Section 19-1 Purpose.

The purpose of this article is to require and review those documents or drawings as specified in the ordinance, to ensure that a proposed land use or development is in compliance with this ordinance, other local ordinances, state statutes, and federal statutes. And furthermore, its purpose is to ensure that development taking place within the City of New Buffalo is properly designed, safe, efficient, environmentally sound, and developed in such a manner as to protect adjacent properties from adverse impacts.

Section 19-2 Uses requiring site plan review.

All new construction and new uses, including the expansion of existing buildings, structures, and uses (other than single-family or two-family dwelling that are permitted by right in the zoning district in which they are located) shall require site plan review. This shall include uses permitted by right, private streets, public buildings and structures, planned unit developments, special uses, mobile home parks, and site condominium subdivisions.

Section 19-3 Authority and responsibility for site plan review.

The Planning Commission shall have the authority and responsibility to review and make decisions regarding all plans submitted for site plan review, except where this ordinance specifically provides authority for other officials to conduct specified types of plan reviews. The Planning Commission may delegate specified review activities to staff or consultants as they may decide is appropriate.

Section 19-4 Prohibitions prior to site plan approval.

Until a site plan is approved and in effect, no grading, removal of vegetation, filling of land, or construction shall commence for any development or use for which site plan approval is required.

Section 19-5 Site plan review process.

[Amended 9-20-2016 by Ord. No. 219]

- A. Ten copies of a complete site plan shall be submitted to the Zoning Administrator, along with an application for that purpose and a fee, as established by resolution of the City Council from time to time.
- B. The Zoning Administrator shall review the site plan for completeness, and shall obtain comments, as the Zoning Administrator considers necessary, from the Department of Public Works, Water Department, Police Department, Fire Department, City Planner, and other City departments or consultants. Notice that site plan approval has been requested shall be mailed for information purposes only to the owners of all abutting properties, and other persons whom the Zoning Administrator deems appropriate. All such notices shall be mailed at least seven days prior to the meeting at which the Planning Commission will consider the site plan. Any failure to give notice to the owners of abutting property pursuant to this section shall not affect the validity of any action taken by the Planning Commission pursuant to this chapter.
- C. Once the Zoning Administrator determines that the site plan is complete, the Zoning Administrator shall transmit the site plan, along with comments from City departments and consultants, to the Planning Commission at least two weeks prior to the next meeting. The Zoning Administrator shall not be required to submit any site plan for review which was submitted less than 40 days prior to the next regularly scheduled Planning Commission meeting.
- D. The Planning Commission shall consider the site plan and shall recommend to City Council: (1) approval of the site plan, as submitted, if all applicable requirements and standards have been met; (2) approval of the site plan with conditions; or (3) denial of the site plan if applicable requirements and standards have not been met. All recommendations of the Planning Commission with regard to site plans shall be accompanied by written findings of fact to support its position for each item under Section 19-9, Standards for site plan review.
- E. The reasons for the Planning Commission's action, along with any conditions that may be attached, shall be stated in the meeting minutes and a copy provided to the applicant.
- F. If approved, two copies of the final site plan shall be signed and dated by the Secretary of the Planning Commission and the applicant. One copy shall be kept on file with the City and one copy shall be returned to the applicant or his designated

representative.

Section 19-6 Required contents of site plan.

The following information shall be required to be submitted for site plan review.

A. General information:

1. The applicant's name, address, telephone number, and their interest in the project and/or property.
2. The name, address, and telephone numbers of the owner(s) of record (or the firm or corporation having a legal or equitable interest in the land), and the signatures of the owners authorizing the site plan submittal.
3. The name, address, and telephone number of the individual or firm preparing the site plan.
4. Project title.
5. Proof of property ownership or purchase agreement.
6. The legal description, address, and tax identification number of the parcel.
7. Written permission, signed by the property owner, granting the Planning Commission and City Officials authority to enter onto property which is the subject of an application for site plan approval. (This item is optional.)
8. Deed restrictions, master deed restrictions, and bylaws as applicable.

B. Site analysis/project impact information:

1. Existing topographic elevations at two-foot intervals, proposed grades, and direction of drainage flows.
2. The location of existing structures on the subject site and on adjacent parcels within 50 feet of subject parcel.
3. Location and type of significant existing vegetation.
4. Location and elevations of existing watercourses and water bodies, including county drains, and man-made surface drainage ways, floodplains, and wetlands.

C. Site plan information.

1. A vicinity map.
2. North arrow, and date of original submittal and all revisions.
3. A grading plan showing finished contours at a minimum interval of one foot, and correlated with existing contours so as to clearly indicate cut and fill required (All finished contour lines are to be connected to existing contour lines at or before the lot lines).
4. Location of proposed and/or existing property lines with dimensions, legal description, and statement or illustration of building setback lines.
5. The size of parcel (in acres) and a breakdown of use areas using the categories: street rights-of-way, development area, and open space.
6. The gross and net acreage of all parcels in the project. (Net acreage is the size of the parcel in acres after subtracting any area that is within a street right-of-way or formal access easement.)
7. Land uses (residential, commercial, industrial, vacant, etc.) and zoning classification for the subject parcel and adjoining parcels.

8. Location of proposed buildings (including accessory buildings) and intended uses thereof, as well as the length, width, height, and total square footage of each building. For buildings housing multiple use types, the square footage for each use type shall be provided.
 9. Indication of phases, if applicable.
 10. Location of existing streets, street rights-of-way and private easements of record.
 11. Location and dimensions of proposed streets, drives, curb cuts, driveway radii, access easements, deceleration/acceleration lanes or tapers, and passing lanes as applicable.
 12. Location, design, and dimensions of proposed parking areas (including indication of all spaces, dimensions of spaces, handicapped spaces, and method of surfacing), and fire lanes.
 13. Location, design, and dimensions of loading and unloading areas.
 14. Location, and design of all sidewalks, walkways, bicycle paths, and areas for public use.
 15. Location of water supply lines and/or wells including fire hydrants; a storm drainage plan showing storm sewers, exterior drains, dry wells, catch basins, retention/detention areas, and point of discharge for all drains; and sanitary sewer system, including septic systems, if applicable.
 16. Location of all other utilities on the site.
 17. The description of measures to be taken to control soil erosion, and sedimentation during and after completion of grading and construction operations.
 18. Location, size, and specifications of all signs with cross-sections.
 19. Exterior lighting locations whether pole-mounted or building-mounted and a statement included that all lighting will be shielded to avoid spill over to adjacent properties or streets. If pole-mounted, the height of pole shall be included.
 20. Location and specifications for all proposed perimeter and internal landscaping and other screening features. For all new landscape material the proposed size upon installation shall be indicated. Existing landscaping to be retained shall also be indicated.
 21. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
 22. Seal of the registered engineer, architect, or surveyor who prepared the site plan.
- D. Waiver of site plan requirements. Specific requirements of this section may be waived by the Planning Commission where it is determined that such information is not applicable to the subject request.

Section 19-7 Expiration of site plan approval.

Unless a building permit has been issued, and on-site construction has actually started within one year of the date of the Planning Commission's approval of the site plan, approval of the site plan shall expire and be of no effect. If an approved site plan expires per this section, no permits for development or use of the subject property shall be issued until the site plan has been resubmitted and approved, subject to the provisions of Article 19. The Planning Commission, in its discretion, may authorize up to one extension of this time limit up to one additional year; provided a written request for such extension is submitted by the property owner to the Planning Commission prior to the expiration of the original approval. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction during the extension period.

Section 19-8 Amendment of approved site plan.

A site plan may be amended based upon whether the desired amendment is classified as a major or minor amendment to the site plan. Major amendments shall require review and approval by the Planning Commission and minor amendments shall only require the approval of the Zoning Administrator.

- A. Major amendments shall include one or more of the following:
1. A change in the original concept of the development.
 2. A change in the use or character of the development.
 3. A change in the type of dwelling unit being proposed.
 4. An increase in the number of dwelling units planned.
 5. An increase in floor area of more than 10%.
 6. A change in the basic layout or design of the project.
 7. A change in the character, function, or location of any street or access driveway.
 8. A reduction in the amount of open space, or relocation of open space areas.
 9. The movement of a building footprint by more than 10 feet.
- B. Minor amendments shall include one or more of the following:
1. A change in floor area of 10% or less.
 2. Additions to parking lots of up to 10 spaces.
 3. The movement of a building footprint of 10 feet or less.
 4. Substitutions in type of landscape plantings not to exceed 20% of the total amount of landscape materials; provided such materials are comparable to those they would replace.
 5. Accessory buildings having less than 1,000 square feet of area for commercial, industrial, or institutional uses.

Section 19-9 Standards for site plan review.

To promote orderly development which is safe, efficient, attractive, sensitive to environmental concerns, and generally promotes the welfare of the City's citizens, all developments and uses, in addition to meeting applicable specific standards as identified in this ordinance, shall also meet the following general standards.

- A. Organization of elements. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be designed so that there will be no impediment to the development of adjoining property.
- B. Landscape preservation. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
- C. Drainage design. The drainage portion of the site plan shall be designed to City storm design standards and not increase water run-off to adjoining properties, nor overburden watercourses in the area. Retention or detention areas shall be kept to the smallest number possible.
- D. Soil preservation. Site plans shall be developed to prevent or minimize problems with soil erosion or sedimentation.
- E. Privacy provisions. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of occupants.
- F. Emergency vehicle accessibility. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle accessibility. Fire lanes shall be provided as deemed necessary by the Fire Chief to provide adequate fire protection.

- G. Connective access to public streets. Every building or dwelling unit shall have connective access to a public or private street by some form of pedestrian sidewalk or pathway.
- H. Pedestrian circulation system. Sidewalks shall be provided, unless specifically waived by the Planning Commission.
- I. Compatibility with existing or planned streets and pathways. The arrangement of streets, sidewalks, and other path systems shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern shall be of a width appropriate to the traffic volume they will carry, and shall have a dedicated right-of-way equal to that specified in any formally-adopted street plan or planned right-of-way.
- J. Efficient and safe traffic systems. Street systems shall be designed to be as efficient as possible, and in compliance with commonly accepted traffic engineering standards for safety.

Section 19-10 Site plan inspection.

The applicant shall notify the Zoning Administrator when any project that required site plan review is finished and occupancy is desired. A site plan inspection shall be undertaken by the Zoning Administrator prior to an occupancy permit being issued. The Zoning Administrator shall make the determination that the completed project has met the site plan requirements, or identify incomplete items. If the site plan is deemed complete, the City may issue the occupancy permit. If the project is deemed incomplete the Zoning Administrator shall inform the applicant of the items which must be completed before occupancy will be granted. The City may allow occupancy prior to 100% completion of the site plan, if the undone portion will not jeopardize the safe use of the building, and the applicant provides the City with a performance bond or other financial guarantee acceptable to the City that gives the City the means to complete the project in case of default by the applicant.

Section 19-11 Fees.

Fees for the review of site plans and inspections as required by this article, shall be established and may be amended by resolution of the City Council. Fees may include base fees or escrow fees, as established by the City Council.

Section 19-12 Violations.

Any failure on the part of the applicant or landowner to comply with any of the provisions of the site plan approval shall be deemed a violation of this ordinance and subject to the penalties prescribed in Article 22. Furthermore, any project for which construction has commenced and no construction activity has taken place for a six-month period shall be a violation of this ordinance.



STAFF REPORT

New Office Construction at 120 W. Buffalo Street

Meeting Date: May 3, 2021

Project Number: 120 W. Buffalo

Project Name: N/A

Applicant: Neena Vlamis, 1945 N. Elston, Chicago, IL 60642

Property Location: 120 W. Buffalo Street, New Buffalo, MI 49117, 11-62-0340-0259-02-5

Owner: Neena Vlamis, [REDACTED]

Dimensions: 132'x132' (17,427 SF)

Proposed Use: Outdoor seating and parking

Zoning: Central Business District (CBD)

Action Requested: Site Plan Review

OVERVIEW

The applicant requests approval of a Site Plan for the construction of a new office building located on a vacant lot at 120 W. Buffalo.

Section 19-6, A, General Information

The applications submitted are complete.

Section 19-6, B, Site Analysis/Project Impact

The drawings as submitted satisfy the requirements of this section in every respect.

Section 19-6, C and 19-9, Site Plan Information and Approval Standards

The drawings as submitted satisfy the requirements of this section in all respects. The applicant presented and received a variance from the Zoning Board of Appeals on November 19, 2020.

Section 17-2 Standards for Approval

A. Basic Approval Standards. Prior to approving a special land use application, the following general standards, in addition to any specific standards required for an individual special use shall be satisfied. The proposed use or activity shall:

1. Be compatible and in accordance with the City of New Buffalo Master Plan.
2. Be designed, constructed, operated, and maintained to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.

3. Be adequately served by public facilities and services such as streets, police, fire protection, drainage structures, water and sewage facilities recreation facilities, and primary and secondary schools.
4. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, smoke, odors or other such nuisance.
5. Promote the public interest through provision of a service, facility, or use determined to be non-detrimental to the residents of the City.
6. Be in compliance with all City ordinances, and state and federal statutes, and licensing provisions as applicable.
7. Not create safety concerns for pedestrian or vehicular circulation

FINDINGS/RECOMMENDATION

After review of the application materials, confirmation of the facts reported, site inspections, evaluation of the site plan review criteria by the City's Building Department, and the approval of the Planning Commission, it is recommended that the Site Plan for Project 120 W. Buffalo be approved as submitted.

Respectfully,

Darwin Watson, City Manager



**City of New Buffalo
PLANNING COMMISSION
Site Plan Application
Staff Report**

Hearing Date: February 17, 2021

Project Number: 120 W Buffalo

Applicant: Ms. Neena Vlamis

Property Owner: Ms. Neena Vlamis

Subject Property Address: 120 W Buffalo Street, New Buffalo, MI 49117

Nature of the Request: Site Plan application for construction of new office building.

Zoning District: CBD "Central Business District"

OVERVIEW

The applicant is the property owner Ms. Neena Vlamis of [REDACTED].
[REDACTED] The applicant requests site plan approval for construction of a new office building located on vacant lot at 120 W. Buffalo Street.
Article 10 Sec. 10-2 "Uses permitted by right". Allows (item 12) "Office building permitted by right".

All appropriate Building permits will be required for this project.

Recommendation: Upon review of the application materials, validation of the facts reported, site inspection and evaluation of each of the criteria required for review and noted in this staff report, it is the recommendation of the Zoning Administrator to approve the site plan for new office building, with parking issue to be finalized and with any requested stipulations from Planning Commission.

Respectfully submitted,

Ted Hanson
Building Official
City of New Buffalo



City Staff Use Only	Project Name
	Project Number
	Review Fee Paid
	Escrow Fee Paid

APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

site

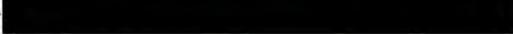
Instructions: Fill-in all blanks and 'X' applicable boxes (). Incomplete applications cannot be processed.



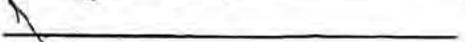
120 WEST BUFFALO

I. Applicant and Owner Information

A) Applicant(s) principal contact:

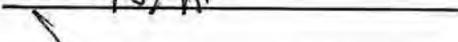
Name MS. NEENA VLAMIS
 Address 
 Telephone 

E) Property owner(s) principal contact:

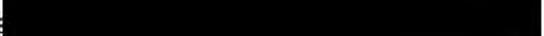
Name (SAME)
 Address 
 Telephone 

Neena VLamis

B) Applicant(s) secondary contact:

Name N/A
 Address 
 Telephone 

F) Architect (if applicable):

Name WM. MC COLUM
 Address 
 Telephone 

C) Agent or Attorney (if applicable):

Name N/A
 Address 
 Telephone 

G) Engineer (if applicable):

Name _____
 Address _____
 Telephone _____

D) Is the property held in Trust*:

Yes - Answer below No - Skip below

Name of Trust 
 Address 
 Telephone 

H) Applicant is (check one):

- Property owner
- Attorney
- Agent
- Engineer
- Other: _____

* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.

Received 2-1-21 JKH

II. Purpose of Application

A) This application is a request for the following action:

- ~~Rezoning of Property~~ Subdivision Approval Site Plan Approval
- ~~Rezoning Amendment~~ Variance(s) Approval ~~Special Use Approval~~
- ~~Lot Split - Subdivision or Land Division~~ Other: _____

B) The reasons for the requested action(s) are as follows:

SEE ATTACHMENT

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

SEE ATTACHMENTS

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property: Yes No
2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

SEE ATTACHMENTS

III. Site and Surrounding Property Information

A) Common address or property location of subject property:

120 W. BUFFALO
CORNER OF BUFFALO + BARBER ST. NW CORNER

B) Legal description (attach an additional sheet if necessary):

C) Permanent Real Estate Tax Identification Number: _____

D) Parcel Size: ~~17,427~~ 17,427 Square feet

.4 Acres

132 Dimension of lot frontage

132 Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	<u>CBD</u>	<u>VACANT + COMMERCIAL BLDG.</u>
2. Adjoining property:		
a) North of Site	<u>RESIDENTIAL</u>	_____
b) South of Site	<u>COMMERCIAL ; GAS STATION. (SMILBY'S)</u>	_____
c) East of Site	<u>COMMERCIAL ; GAS STATION (GO-LO)</u>	_____
d) West of Site	<u>RELIUS ; CHURCH.</u>	_____

F) Describe any existing structures or other improvements and physical attributes of the site:

SEE ATTACHED MEMOS

IV. Description of the Proposed Development

A) Please describe the proposed use of the land and/or building assuming approval of the request:

PROFESSIONAL BUSINESS USES.
MORTGAGE COMPANY

B) What is the proposed time frame for the build-out of this development:

START/DEC → FINISH/SPRING

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1						
Two Family R-2						
Multi-Family R-3						
Central Business CBD	(4) (2)	1800 3,600	5,400	0	2 3/4" + 2 3/4"	4" x 4"
Gen. Commercial GCD						
Waterfront Marina WMT						
General Industrial I-1						
TOTAL			5,400			

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: _____
- 2) Peak traffic flow count for the proposed development: _____
- 3) How many lineal feet of roadway is proposed to be developed: _____
- 4) How many cul-de-sacs will be constructed as part of this project: _____
- 5) How many curb cuts to City, County or State roads are proposed: _____

E) Does the request contemplated in this application concern any hazardous materials:
 No Yes – describe the type and quantity of materials (attach extra pages if necessary):

VII. Signature and Declaratory Statement

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

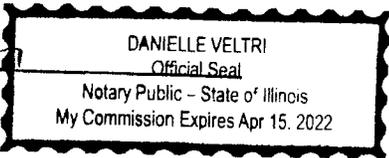
I, NEENA VLAMIS, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature: Neena Vlomis Date: 10/10/20

D) Notary Public Certification Statement:

I, Danielle Veltri, Notary Public in and for the State of ILLINOIS this 10th day of October, 2020 the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: April 15, 2022 Danielle Veltri



VIII. City Staff Review

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: _____

Approval: Yes No Signature: _____

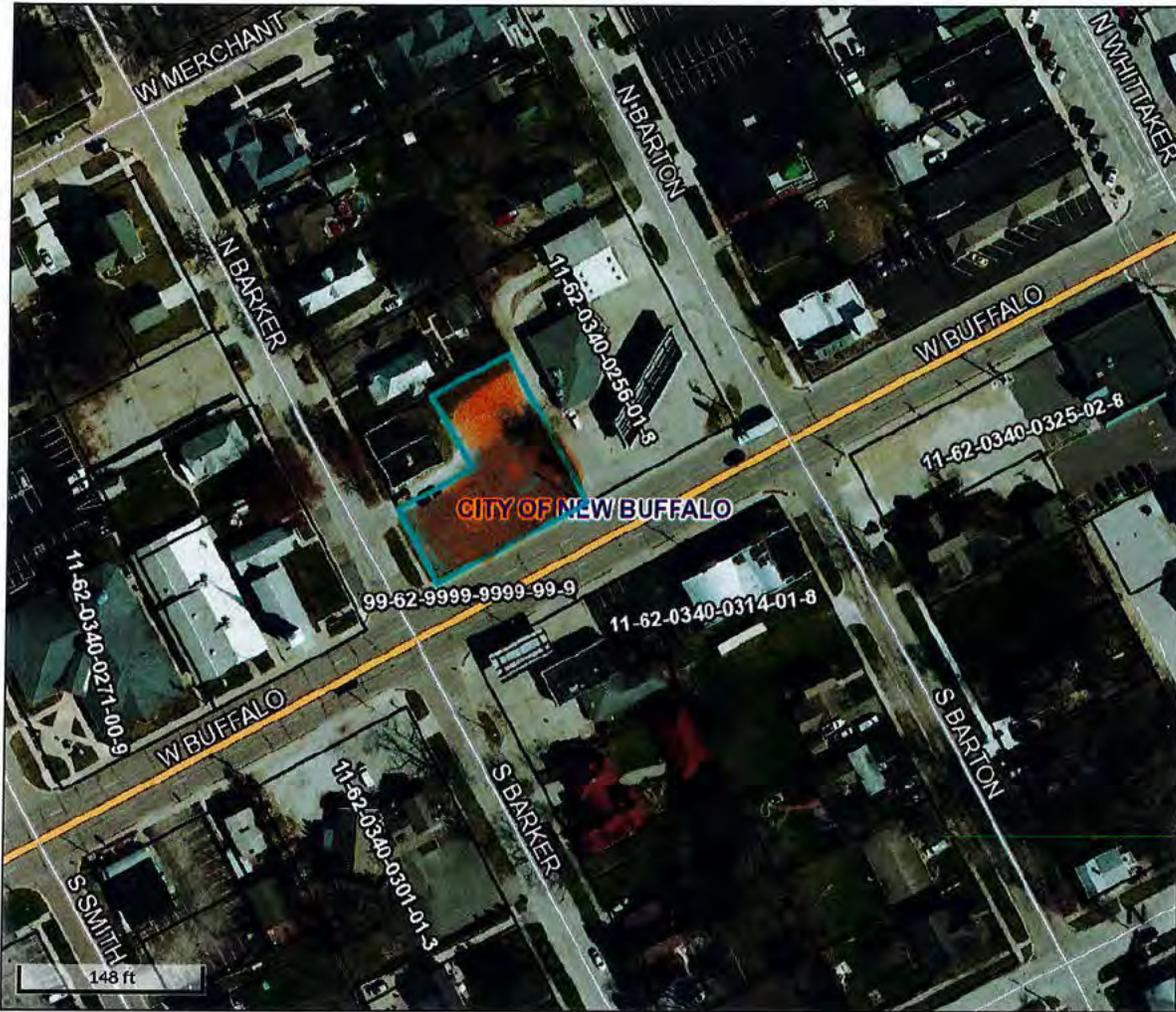
Conditions: Attached None Title: _____

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: _____ Date: _____

Zoning Administrator: _____ Date: _____

Initial meeting date: _____



Overview



Legend

- Railroads
- Roads
 - <all other values>
 - Interstate
 - Major Arterial
 - Minor Arterial
 - Roads
- Parcels
- Lakes
- Rivers
- Parcel
- Lake Michigan

Parcel ID	11-62-0340-0259-02-5	Alternate ID	n/a	Owner Address	VLAMIS NEENAL 2009 LIV TRUST
Sec/Twp/Rng	n/a	Class	202		
Property Address	120 W BUFFALO ST NEW BUFFALO	Acreeage	n/a		
District	11200				
Brief Tax Description	LOT 7 & THE ELY 1/2 OF LOT 8 BLK 22 VILLAGE PLAT OF NEW BUFFALO (Note: Not to be used on legal documents)				

Date created: 2/2/2021
Last Data Uploaded: 2/2/2021 1:24:48 AM

Developed by Schneider
GEO SPATIAL

Variance Request 120 W. Buffalo Street 11-62-0340-0259-02-5

Tony McGhee – Read the City Manager report.

Bill McCollum, applicant, gave a presentation explaining the proposed project.

Discussion followed concerning parking.

Motion by Joseph, seconded by Gabryszewski to **approve** the Variance Request for **120 W. Buffalo Street 11-62-0340-0259-02-5: roll call vote, motion carried, 6-0.**

Variance Request 123 S. Thompson Street 11-62-6750-0147-04-4

Tony McGhee – Read the City Manager report.

Motion by Joseph, seconded by Borg to **approve** the Variance Request for **123 S. Thompson Street 11-62-6750-0147-04-4 with smaller setback: roll call vote, motion carried, 6-0.**

Variance Request 529 North Drive 11-62-0009-0003-16-6

Tony McGhee – Read the City Manager report.

Detailed discussion took place regarding many aspects of the project including, the height, setbacks and parking.

Motion by Joseph, seconded by Gabryszewski to **table** the variance request at **529 North Drive 11-62-0009-0003-16-6: roll call vote, motion carried, 6-0.**

Board Comments

None

Motion by Joseph to adjourn, seconded by Borg at 7:03 pm to adjourn the meeting: roll call vote, motion carried, 6-0.

Adjournment at 7:04 pm.

ng

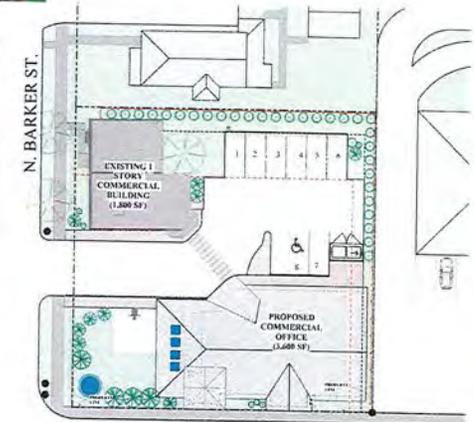
Tom Smith, ZBA Chairperson

Amy Fidler, City Clerk



FUTURE LOCATION OF A&N MORTGAGE

PLAN COMMISSION
APPLICATION
01/29/21



W. BUFFALO ST.

MCCOLLUM
ARCHITECTS
& BUILDERS

312-550-7008
www.mccollumarchitects.com

SITE CALCULATIONS; 24 South Whittaker Street New Buffalo, MI 49117				
10/22/2020				
Job Number 2150	Central Business District		Comments	
Proposed Use	Commercial Office			
Lot Area:	17,433 SF			
Lot A Dimensions	132' x 132'			
SETBACKS	Required	Existing	Proposed	
Front Yard; W. Buffalo St.	0'-0"	77'-10"	2'-0"	NEW
Front Yard; N. Barkers St.	0'-0"	6'-11"	6'-11"	EXISTING
Sidyard; North	30'-0"	4'-10"	4'-10"	EXISTING
Sidyard; East	10'-0"	81'-3"	5'-0"	NEW
Building Height	35/2.5 story	11'-5"	29'-1"	NEW
LOT COVERAGE CALCULATIONS				
Gross Lot Area	allowable sf coverage			
17,433	x70%	12,203 sf		
Area Calculations		Actual Coverage		
Existing Commercial Building (Existing Cov. 10%)		1,868		
Proposed Commercial Office		3,545		
Total Proposed Coverage		5,413		
Allowable Expansion		6,790		

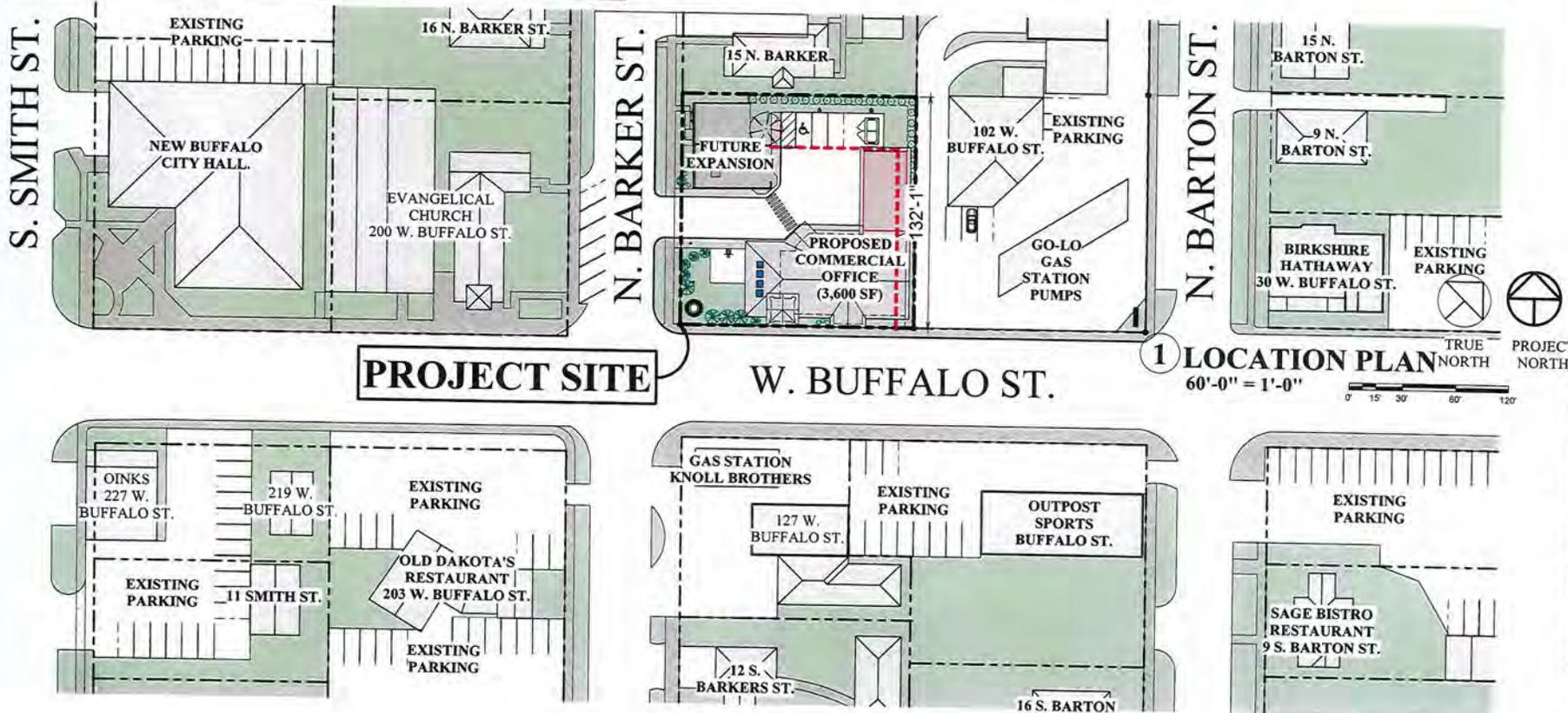
SITE PLAN APPROVAL APPLICATION ADDENDUM

We are submitting this site plan approval for a new office building for an owner who wishes to bring substantial investment to the city of New Buffalo in our CBD, bring new, non-tourist/permanent jobs to our city and construct the first new construction building in our city in over five years. Further, this owner understands the benefit of adding green space to the elevation and corner of this property and is willing to substitute productive building square footage for appealing community green space.

We are proposing to place the non-required parking lot towards the back of the property and placing the new front building towards the edge of the property of the Go-Lo Gas Station. This will allow more room for courtyard garden space as we "turn the corner" of this property at the corner of Buffalo Street and Barker Street.

ARCHITECTURAL	
A-0	COVER SHEET
A-0.1	LOCATION PLAN
A-0.2	SITE PLAN
A-0.3	SITE SURVEY
A-0.4	TOPOGRAPHY PLAN
A-0.5	LANDSCAPE PLAN
A-0.6	SITE UTILITY PLAN
A-0.7	LIGHTING/ FENCE PLAN
A-0.8	SITE DETAILS
A-1	BUILDING #1 1ST FLR PLAN
A-2	EXTERIOR ELEVATIONS
A-3	EXTERIOR ELEVATIONS

Architect
William O. McCollum
16109 Red Arrow Hwy.
Union Pier, MI 49129
phone: (312) 550-7008
fax: (269) 469-9219
w@mcollumarchitect.com



1 LOCATION PLAN
TRUE NORTH PROJECT NORTH
60'-0" = 1'-0"

A&N MORTGAGE

120 W. BUFFALO ST. NEW BUFFALO, MI 49117

REVISIONS	
SCHEMATIC	10/02/20
ZBA APPROVAL	11/19/20
SITE PLAN APPROVAL	01/29/21

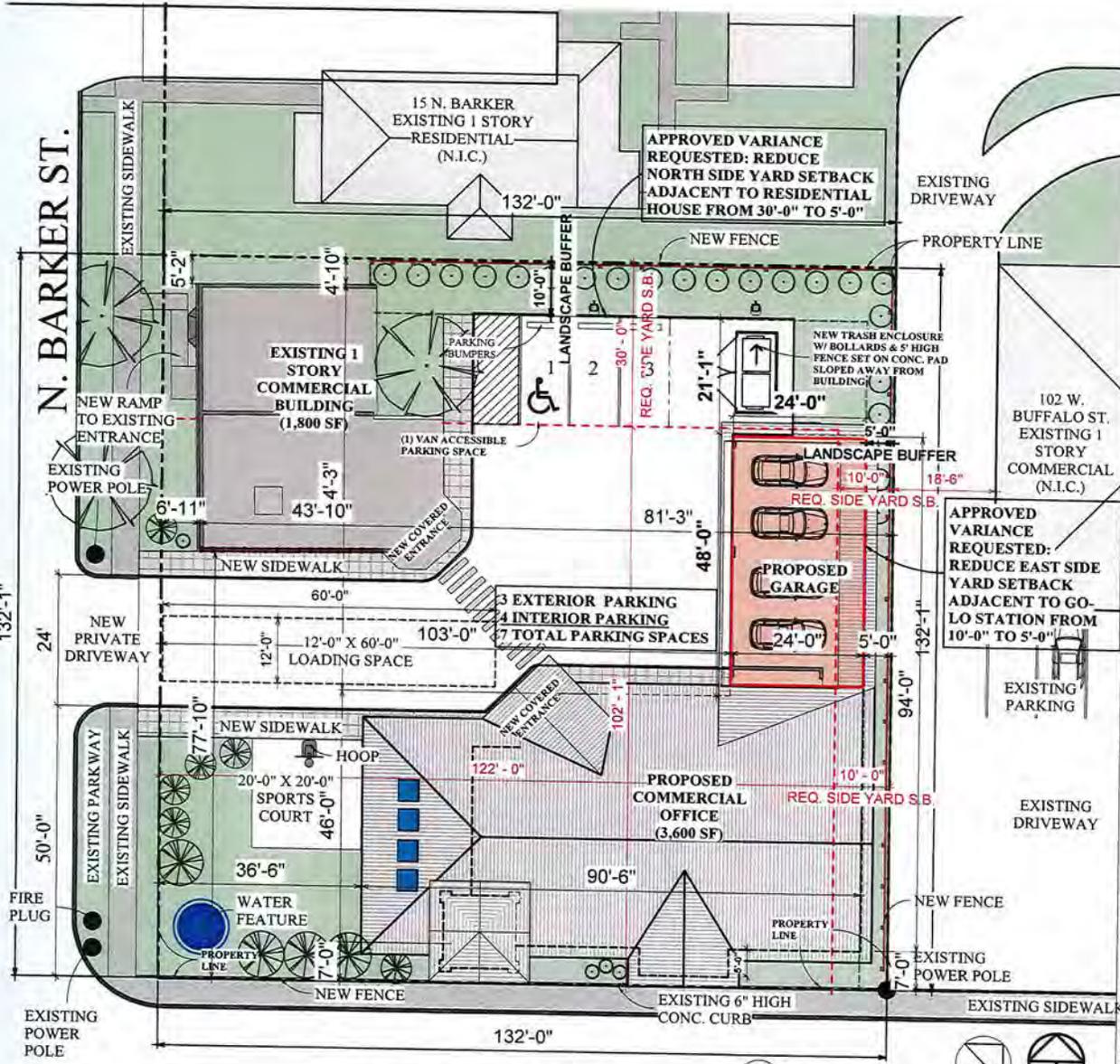
JOB #: 2150

Drawn by: Maitee Hueson-Kalbitz

LOCATION PLAN

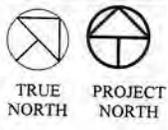
Sheet No.
A-0.1

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W. BUFFALO ST.

1 SITE PLAN
20'-0" = 1'-0"



We are requesting the following two variances:

1. Reduce North side yard set-back adjacent to the residential house from 30' to 5'. Rather than placing the parking at the front of the property, we are proposing parking towards the back and rear. In this way the front of the building and its corner garden will be more appealing and present a much nicer scale for New Buffalo. Our proposed layout places the edge of the parking lot 5' off the lot line. There is to be a solid fence that will prevent the headlights from shining through toward the adjacent house and a 5' wide landscaped buffer.
 - a. It should be noted that the North side Variance Area is for a non-building space and will be a flat, open parking area with very little use.
 - b. Referencing the site plan on Sheet A-1; 80% of the surrounding properties have placed their existing parking lots adjacent to the street, which is the old, outdated method for parking along a CBD and is not compatible with the City of New Buffalo and DDA's surface parking lot preferences for new projects. It is the trend for small and large town main streets to avoid and eliminate parking lots in the front of the lots on the main street thoroughfare. This trend is to encourage pedestrian and bike traffic which supports the central business district businesses. Detroit's Surface Parking Design Standards & Guidelines objectives are:
 - To line streets with buildings and/or other architectural site features to maintain a continuous street wall
 - To promote an urban style of shopping and dining experience where building storefronts line the main streets rather than parking lots.
2. Reduce East side yard set-back adjacent to the Go-Lo Gas Station from 10' to 5'. The zoning ordinance states that when commercial property abuts another commercial property there is to be a 10' setback.

Our proposed layout places the Eastern edge of the parking lot adjacent to the Go-Lo Gas Station 5' off the lot line to accommodate the parking in the rear of the property. There is to be a solid fence and 5' wide landscaped buffer. The zoning ordinance states this reduction can be permitted by the Plan Commission assuming there is no adverse effect on the adjacent property.

- C. 19-9 Standards for Site Plan review
We believe that all the requested information has been supplied on these drawings. More specifically:
1. **Drainage Design** is located on Sheet A-0.6
 2. **Privacy Provisions** are addressed on Sheet A-0.7 & A-0.8
 3. **Emergency Vehicle Accessibility**; we have maintained a 24' driveway leading to the parking lot with adequate turn around space; see sheet A-0.2
 4. **Connective Access to Public Streets** is provided by a new 24' wide driveway on Barker Street that is located 55' from the corner to reduce the possibility of any backups at the stop sign.
 - a. Although onsite parking is not required in the CBD, the owner has elected to provide seven parking spaces.
 5. **Pedestrian Circulation Systems**; we are utilizing the existing sidewalks and curbs that are in place; see Sheet A-0.2
 6. **Lighting and Fence Design** is located on Sheet A-0.7
 7. **Landscaping Design** is located on A-0.5
 8. **Accessibility**: The entire site and entrances to both buildings shall be accessible; see sheet A-0.2.

D. Both the City of New Buffalo and the DDA have stated that the preference is to have parking lots placed in the rear of the lots and behind structures. To comply with the City's and DDA's requirements, this is indeed a hardship for the owner who wishes to comply with the City's and DDA's future planning requirements. We think this is a better solution for New Buffalo streetscapes and hope this can help establish a sample precedent for future commercial structures, particularly for a business who will add permanent local jobs unrelated to the tourist industry which has been a long-term goal for New Buffalo. Further, this design is a better urban solution, presents a much more pleasant scale rather than having the parking lot in front of the structure along Buffalo Street, and avoids a front elevation that looks like a strip shopping center. Lastly, the non-required parking lot will rarely be used at night and will have very little use during the daytime.

Architect
William O. McCollum
16109 Red Arrow Hwy.
Union Pier, MI 49129
phone: (312) 556-7908
fax: (269) 469-9219
bill@womccollum.com

A&N MORTGAGE

120 W. BUFFALO ST. NEW BUFFALO, MI 49117

REVISIONS	
SCHEMATIC	10/02/20
ZBA APPROVAL	11/19/20
SITE PLAN APPROVAL	01/29/21

JOB #: 2150
Drawn by: Mateja Horvath-Kolar
SITE PLAN
Sheet No.
A-0.2

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ABONMARCHE

95 West Main Street
Benton Harbor, MI 49022
T 269.927.2295
F 269.927.1017
abonmarche.com

Battle Creek
Benton Harbor
Lafayette
South Bend
Valparaiso

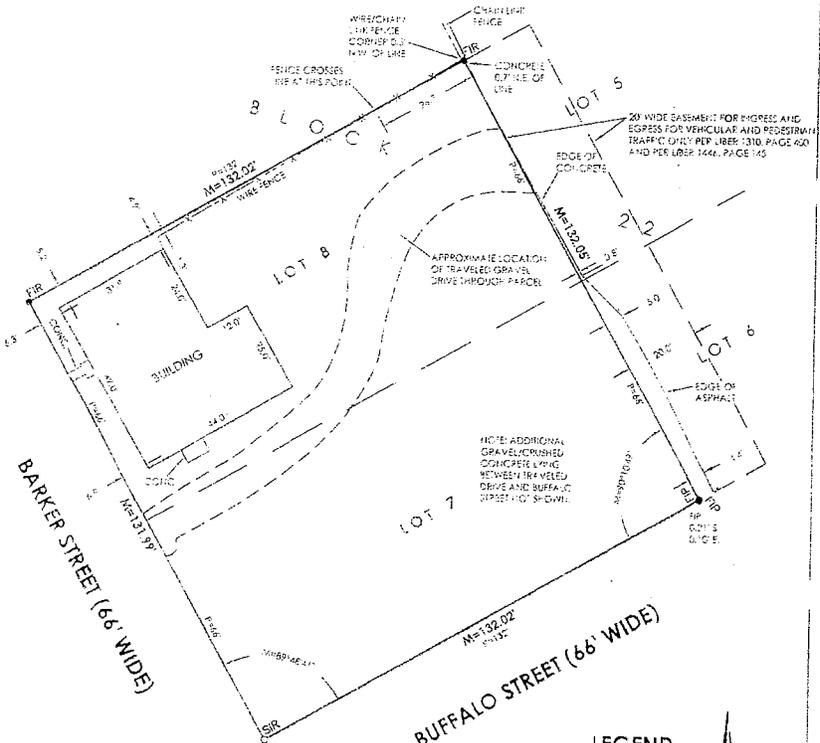
Goshen
Hobart
South Haven
Valparaiso

Engineering - Architecture - Land Surveying

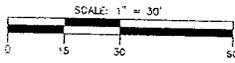
CERTIFICATE OF SURVEY

I, MATTHEW REINKING, A LICENSED PROFESSIONAL SURVEYOR, NUMBER 54057, IN MICHIGAN, CERTIFY THAT THIS DRAWING IS AN ACCURATE REPRESENTATION OF A BOUNDARY SURVEY PERFORMED UNDER MY DIRECTION FOR THE FOLLOWING DESCRIBED PARCEL OF LAND: LOTS 7 AND 8, BLOCK 22 OF ORIGINAL PLAT OF THE VILLAGE (NOW CITY) OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER C OF DEEDS, PAGE 105 OF BERRIEN COUNTY RECORDS. ALSO, AN EASEMENT FOR INGRESS AND EGRESS FOR VEHICULAR AND PEDESTRIAN TRAFFIC OVER THE WESTERLY 20 FEET OF LOTS 5 AND 4, BLOCK 22, ADJACENT TO SAID LOTS 7 AND 8, SAID PLAT.

SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD OR OTHERWISE, IF ANY EXIST.



SITE SURVEY
1"=0" = 1/32"



LEGEND

- P = PLATTED
- M = MEASURED
- FIR = FND. IRON ROD
- FIP = FND. IRON PIPE
- FIR = SET IRON ROD

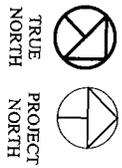


MATTHEW REINKING
LICENSED PROFESSIONAL SURVEYOR No. 54057

DATE OF CERTIFICATE

THIS SURVEY WAS BASED ON THE INCLUDED LEGAL DESCRIPTION AND APPEARS ON A DEED OR TITLE INSURANCE POLICY, AND SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE INSURANCE POLICY FOR ACCURACY. EASEMENTS OR EXCEPTIONS, ANY WRITTEN OR UNWRITTEN RIGHTS OF ADJOINERS ARE UNKNOWN UNLESS SPECIFICALLY NOTED.

PREPARED FOR:	DRAWN BY:	LOTS 7 & 8, BLOCK 22
MICHAEL KNIGHT	MGR	
CHICAGO TITLE INSURANCE COMPANY	APPROVED BY:	PLAT OF NEW BUFFALO
	MAF	
	DATE:	CITY OF NEW BUFFALO
	7/24/2019	
	SCALE:	SHEET 1 OF 1
	1" = 30'	



JCA NO. 19-01

A&N MORTGAGE
120 W. BUFFALO ST. NEW BUFFALO, MI 49117

Architect
William O. McCollum
16109 Red Arrow Hwy.
Luton, MI 49119
Phone: (269) 555-7068
Fax: (269) 495-2119

REVISIONS

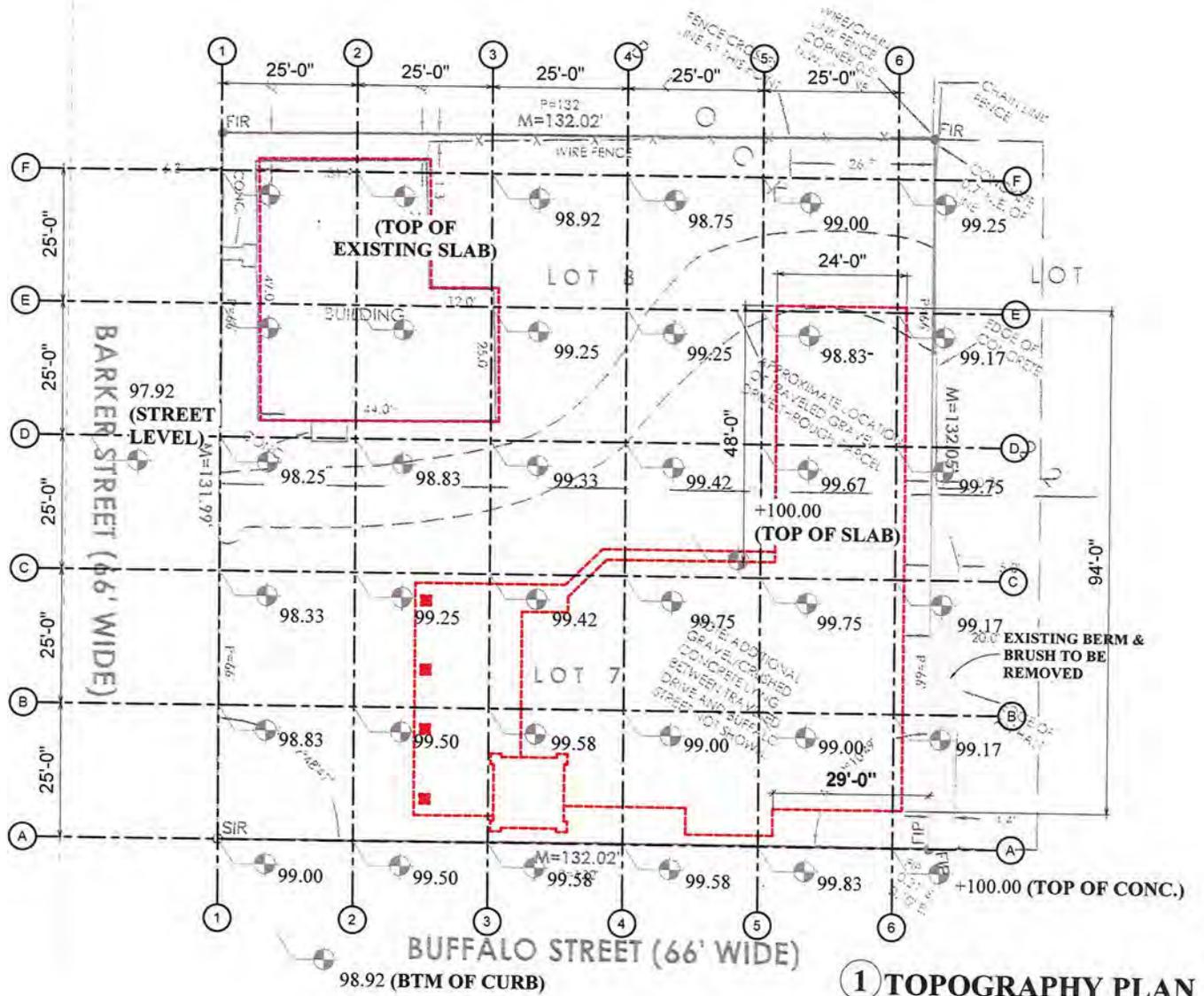
EXERCISES	10/02/20
SITE APPROVAL	01/25/21

JOB #: 2150

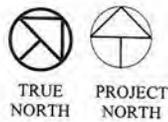
Drawn by: Matthew Reinking

SITE SURVEY

Sheet No. **A-0.3**



1 TOPOGRAPHY PLAN
 20'-0" = 1'-0"



Architect
William O. McCollum
 16109 Red Arrow Hwy.
 Union Pier, MI 49129
 phone: (312) 558-7008
 fax: (269) 469-9219
 wj@wocollumarchitect.com

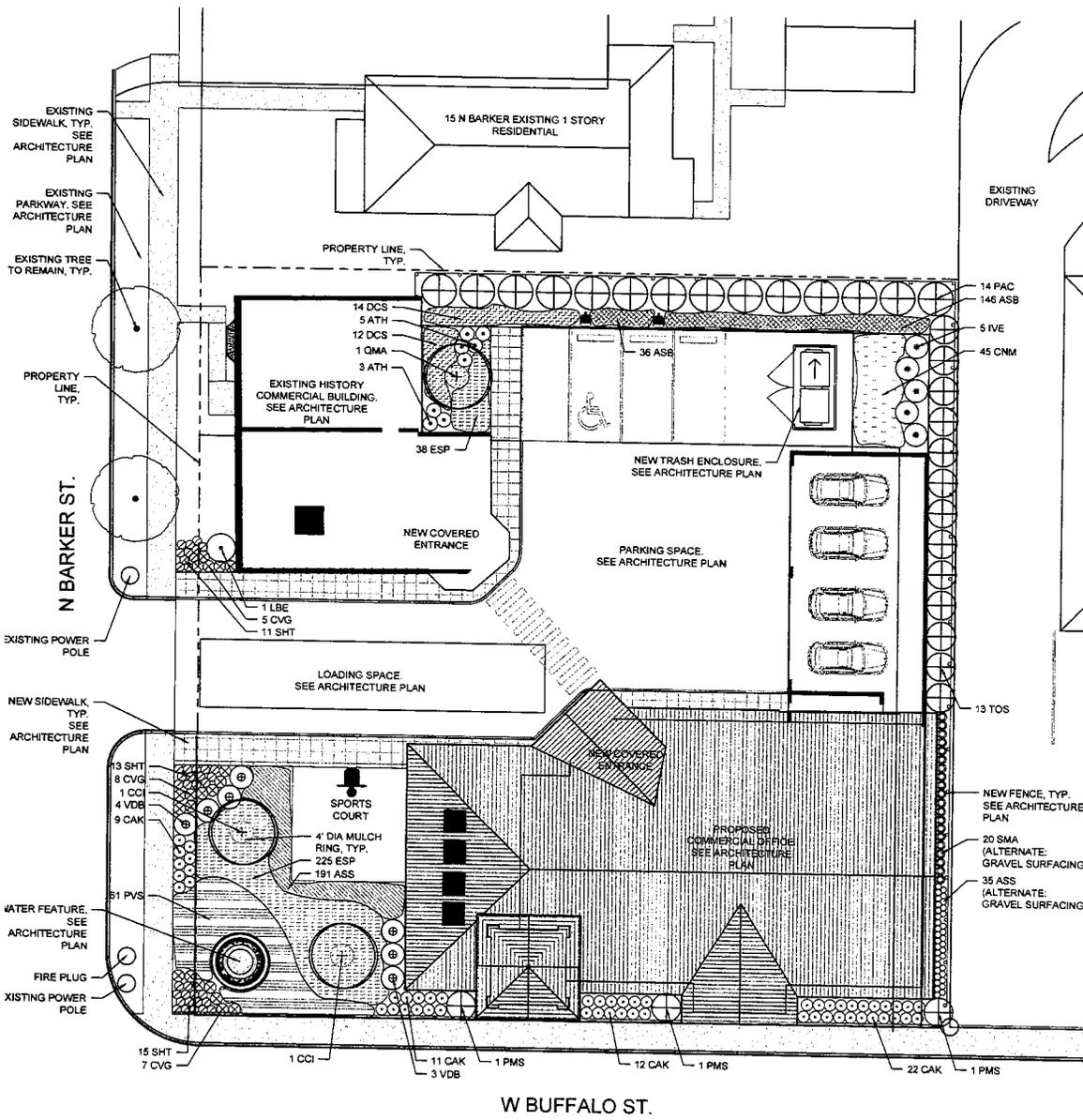
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REVISIONS	
SCHEMATIC	10/02/20
ZBA APPROVAL	11/19/20
SITE PLAN APPROVAL	01/29/21

JOB #: 2150
 Drawn by: *Margie Hines-Kidder*
TOPOGRAPHY PLAN

Sheet No.
A-0.4

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LEGEND

-  EXISTING TREE TO REMAIN
-  PROPOSED TREE
-  PROPOSED EVERGREEN
-  PROPOSED SHRUB
-  PROPOSED PERENNIALS
-  4" DIA. MULCH RING
-  PROPERTY LINE

MASTER PLANT SCHEDULE

Plant Code	Qty	Botanical Name	Common Name	Size	Comments	Spacing
Trees						
CCI	2	<i>Crataegus crus-galli</i> var. <i>inermis</i>	Thornless Cockspur Hawthorn	12" Ht.	B&B	as shown on plans
PAC	14	<i>Picea abies</i> 'Cupressina'	Columnar Norway Spruce	7" Ht.	B&B/CG	as shown on plans
QMA	1	<i>Quercus macrocarpa</i>	Burr Oak	4" caliper	B&B	as shown on plans

Plant Code	Qty	Botanical Name	Common Name	Size	Comments	Spacing
Shrubs						
NIH	5	<i>Ilex verticillata</i>	Michigan Holly	#5 container	B&B/CG	3' o.c.
LBE	1	<i>Lindera benzoin</i>	Spiricebush	#5 container	B&B/CG	5' o.c.
PMS	3	<i>Pinus mugo</i> 'Sherwood Compact'	Sherwood Compact Mugo Pine	#5 container	B&B/CG	as shown on plans
TOS	13	<i>Thuja occidentalis</i> 'Smaragd'	Emerald Green Arborvitae	7" Ht.	B&B/CG	5' o.c.
VDB	7	<i>Viburnum dentatum</i> 'Blue Muffin'	Blue Muffin Viburnum	#5 container	B&B/CG	4' o.c.

Plant Code	Qty	Botanical Name	Common Name	Size	Comments	Spacing
Perennials, Groundcovers and Grasses						
ASB	182	<i>Allium senescens</i> 'Blue Eddy'	Blue Eddy Allium	10 flat	CG	12" o.c.
ASS	226	<i>Allium recticorne</i> 'Summer Beauty'	Summer Beauty Allium	10 flat	CG	12" o.c.
ATH	8	<i>Asperula rubricapit</i>	Blue Star	1 gallon	CG	30" o.c.
CAK	54	<i>Calamagrostis acutifolia</i> 'Karl Forster'	Karl Forster Feather Reed Grass	1 gallon	CG	24" o.c.
CAW	45	<i>Calamintha nepeta</i> 'Monrose White'	Monrose White Calamint	1 gallon	CG	24" o.c.
CNM	20	<i>Coneopsis verticillata</i> 'Golden Showers'	Golden Showers Threadleaf Coneopsis	1 gallon	CG	24" o.c.
CVG	26	<i>Deschampsia cespitosa</i> 'Schiffliand'	Tufted Hair Grass	1 gallon	CG	24" o.c.
DCS	263	<i>Eragrostis spectabilis</i>	Purple Love Grass	1 gallon	CG	30" o.c.
ESP	61	<i>Panicum virgatum</i> 'Shenandoah'	Shenandoah Switch Grass	1 gallon	CG	30" o.c.
PVS	39	<i>Sporobolus heterolepis</i> 'Tara'	Tara Prairie Dropseed	1 gallon	CG	18" o.c.
SMA	30	<i>Sedum 'Mariano'</i>	Mariano Stonecrop	1 gallon	CG	18" o.c.

Architect
William O. McCollum
 16109 Red Arrow Hwy.
 Union Pier, MI 49129
 phone: (312) 550-7088
 fax: (269) 469-9219
 bill@mcollumarchitect.com

Altamano, Inc.
 1700 W Irving Park Rd., Suite 202
 Chicago, Illinois 60613
 ph. 773.528.7492

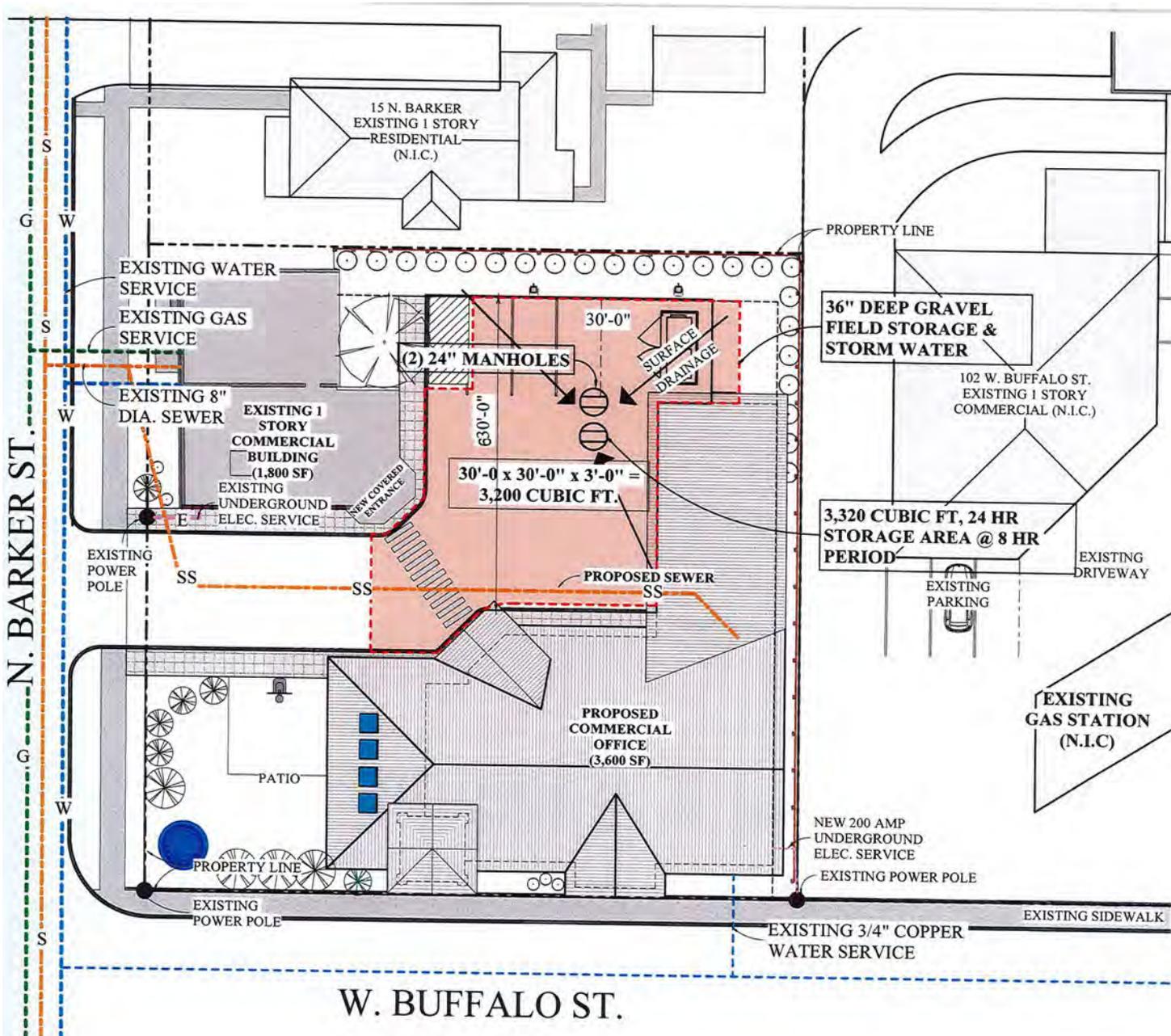
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REVISIONS	
SCHEMATIC	
ZBA APPROVAL	11/19/20
SITE PLAN	
APPROVAL	01/29/21

JOB #: 2150
 Drawn by: Mateo Horacio-Juarez
LANDSCAPE PLAN

Sheet No.
A-0.5
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UTILITY KEY

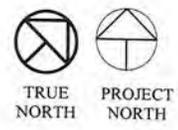
- - - S - - - STORM SEWER
- - - W - - - DOMESTIC WATER
- - - SS - - - SANITARY SEWER
- - - E - - - ELECTRICAL
- - - G - - - GAS

Architect
William O. McCollum
16109 Red Arrow Hwy.
Union Pier, MI 49129
phone: (312) 550-7068
fax: (269) 469-9219
woll@mcollumarchitect.com

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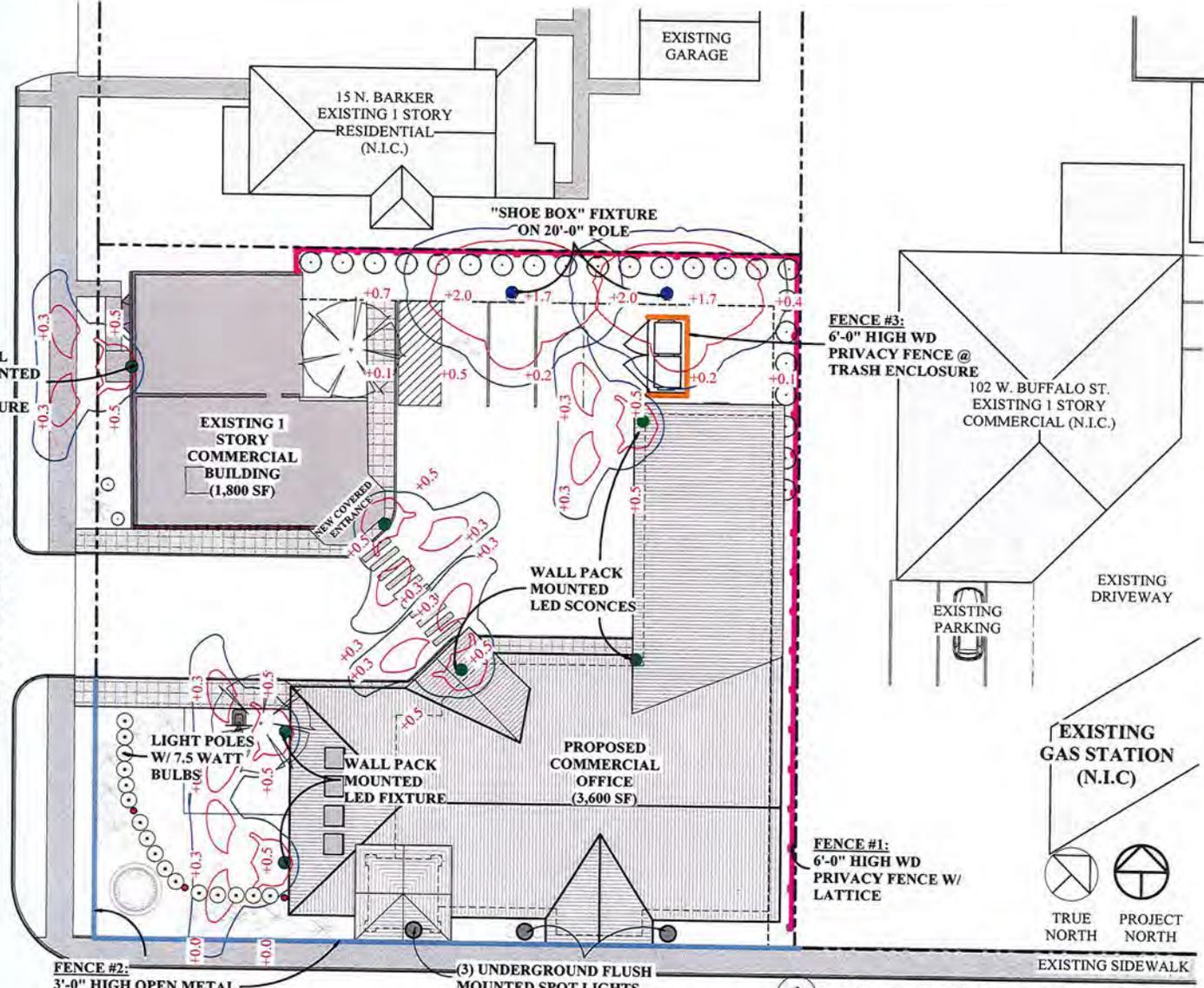
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Drawn by: Marja Harasac-Kistay
SITE UTILITY PLAN



1 SITE UTILITY PLAN
20'-0" = 1'-0"
0' 5' 10' 20' 30'

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N. BARKER ST.



LIGHTING KEY

- WALL PACK
- LIGHT POLES W/ 7.5 WATT LIGHT BULBS
- "SHOE BOX" FIXTURE ON 10'-0" POLE
- FLUSH MOUNTED SPOT LIGHTS

FENCE KEY

- - - - - FENCE #1: 6'-0" HIGH WD PRIVACY FENCE
- — — — — FENCE #2: 3'-0" HIGH OPEN METAL FENCE
- — — — — FENCE #3: TRASH ENCLOSURE

1 LIGHTING/ FENCE PLAN
 20'-0" = 1'-0" 0' 5' 10' 20' 30'

Architect
 William O. McCollum
 16109 Red Arrow Hwy.
 Union Pier, MI 49129
 phone: (312) 550-7008
 fax: (269) 469-9219
 will@mcollumarchitects.com

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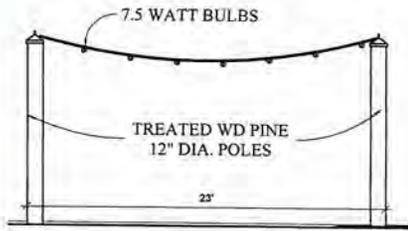
REVISIONS	
SCHEMATIC	10/02/20
ZBA APPROVAL	11/19/20
SITE PLAN APPROVAL	01/29/21

JOB #: 2150
 Drawn by: Mateja Horovic-Kidder

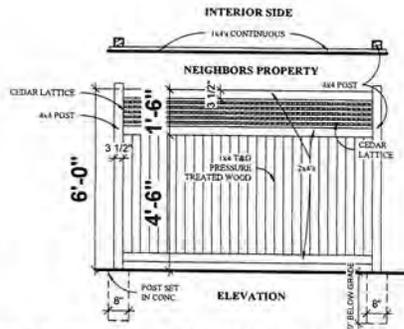
LIGHTING/ FENCE PLAN

Sheet No.
A-0.7

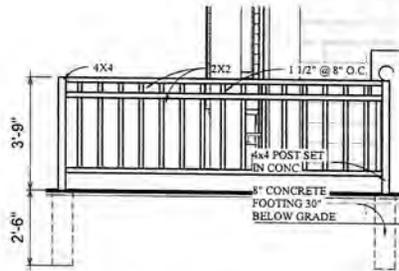
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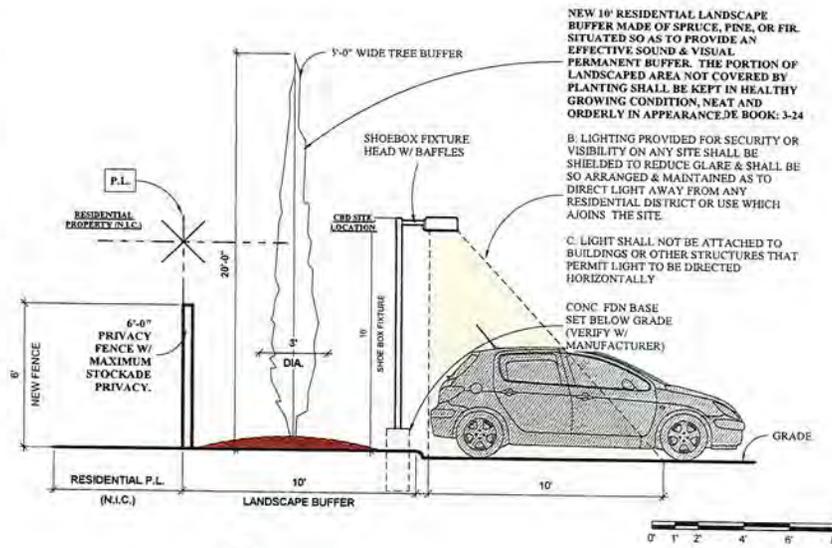
5 LIGHT POLE DETAIL
1/8" = 1'-0"



1 FENCE 1 @ PROPERTY LINE
1/4" = 1'-0"



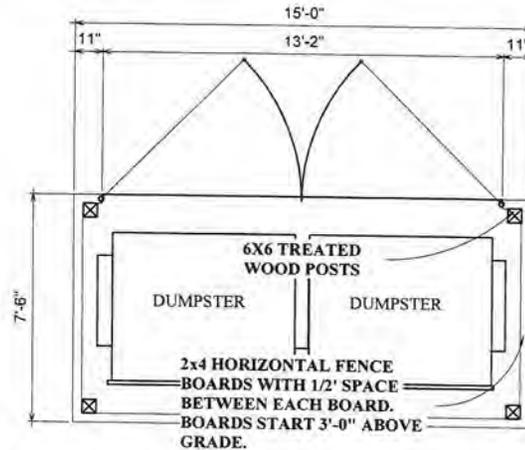
2 FENCE #2 @ 3'-0"
1/4" = 1'-0"



LANDSCAPE BUFFER DETAIL
3/16" = 1'-0"



3 FENCE 3 @ TRASH ENCLOSURE
1/4" = 1'-0"

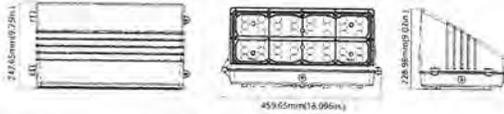


4 TRASH ENCLOSURE DETAIL
1/4" = 1'-0"

FULL CUTOFF WALL PACK

SPECIFICATION FEATURES

- Construction**
- Scaled die-casting profile for outdoor applications.
 - Casing thermally conducts LED heat to optimize performance and long life.
 - Suitable for applications requiring 3C testing prescribed by ANSI C136.31.
- Optics**
- Light engines are available in standard 4000 K and 5000 K (70 CRI) configurations.
 - Scalable Lumen Packages from 3,800 to 18,000 lumens.
 - Tempered UV coated flat lens provide outstanding performance, uniformity and glare control.
- Electrical**
- Universal 120-277 or 347-480 VAC input voltage.
 - Greater than 0.9 power factor, less than 20% harmonic distortion, and is suitable for operation in -40°C to 45°C ambient environments.



Net Weight: 90W: 1.0 (4.756) 135W: 1.1 (4.9528)

SYSTEM WATTS	VOLTAGE	CRI	LUMENS (4000K)	LPW (4000K)	LUMENS (5000K)	LPW (5000K)
135W	120-277V/347-480V AC	70	18000lm	133 lm/W	18000lm	133 lm/W

Architect
William O. McCollum
16109 Red Arrow Hwy.
Union Pier, MI 49129
phone: (312) 559-7008
fax: (269) 469-9219
william@williamocollum.com

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Drawn by: Mateja Hrivnac-Kolar
SITE DETAILS

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A-0.8

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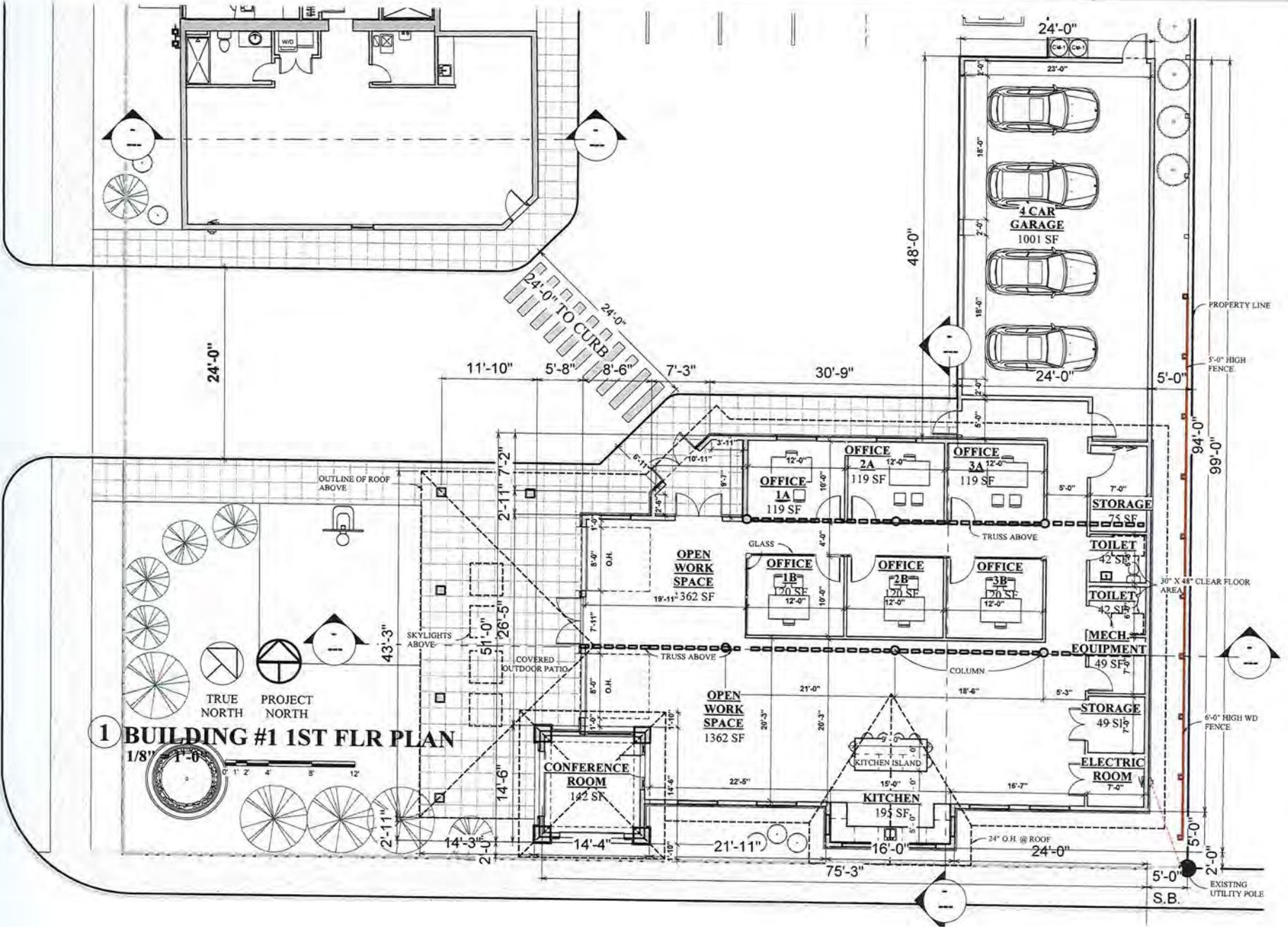
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SITE PLAN APPROVAL	01/29/21

JOB #: 2150
 Drawn by: Maria Horvath-Kidder

**BUILDING #1
 1ST FLR PLAN**

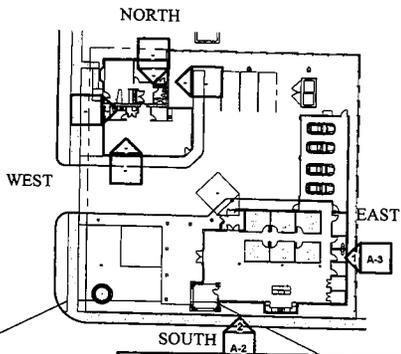
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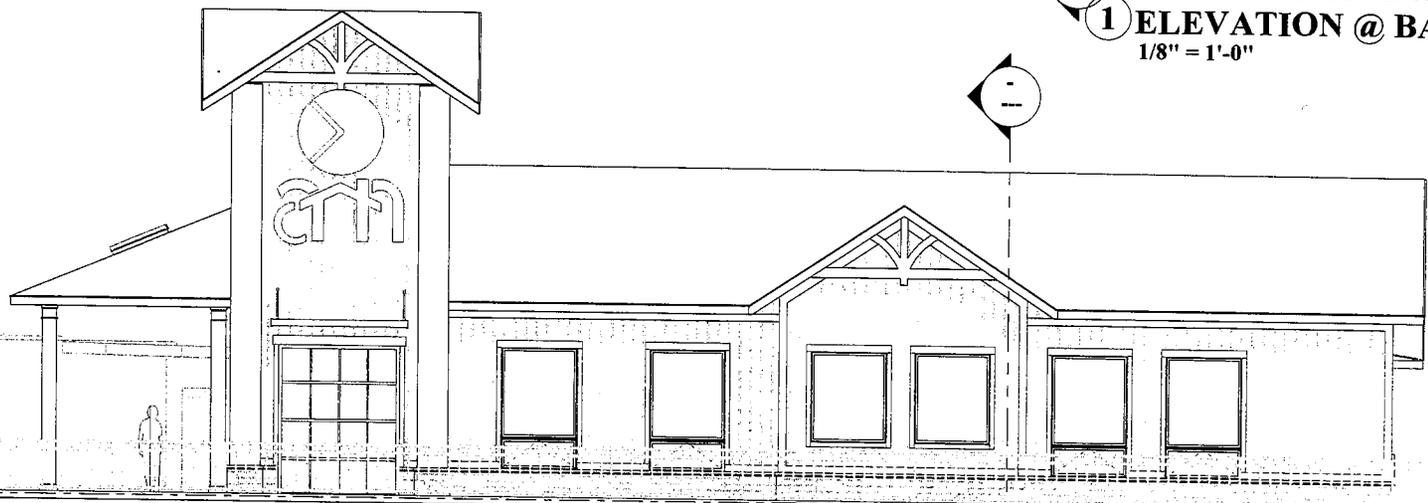


1 BUILDING #1 1ST FLR PLAN





**BUILDING #1 - FRONT
1 ELEVATION @ BARKER ST.**
1/8" = 1'-0"



**BUILDING #1 - FRONT
2 ELEVATION @ BUFFALO ST.**
1/8" = 1'-0"

Architect
William O. McCollum
16109 Red Arrow Hwy.
Union Pier, MI 49129
phone: (312) 558-7008
fax: (269) 469-9215
bill@mccollumarchitects.com

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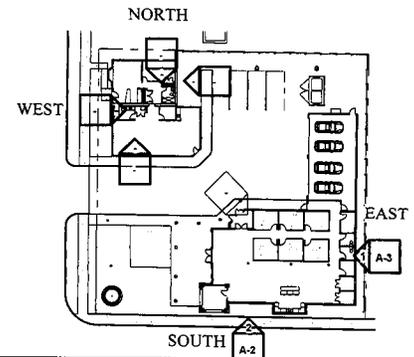
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SITE PLAN APPROVAL	01/29/21

JOB #: 2150
Drawn by: Micaela Horrocks-Kueller
EXTERIOR ELEVATIONS

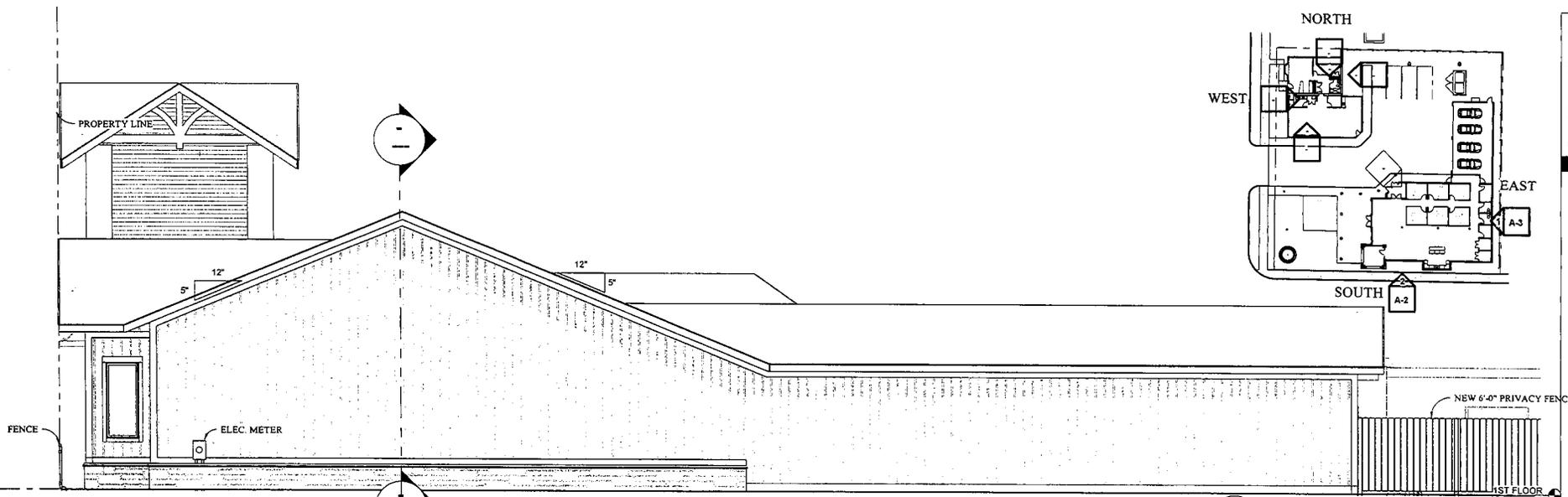
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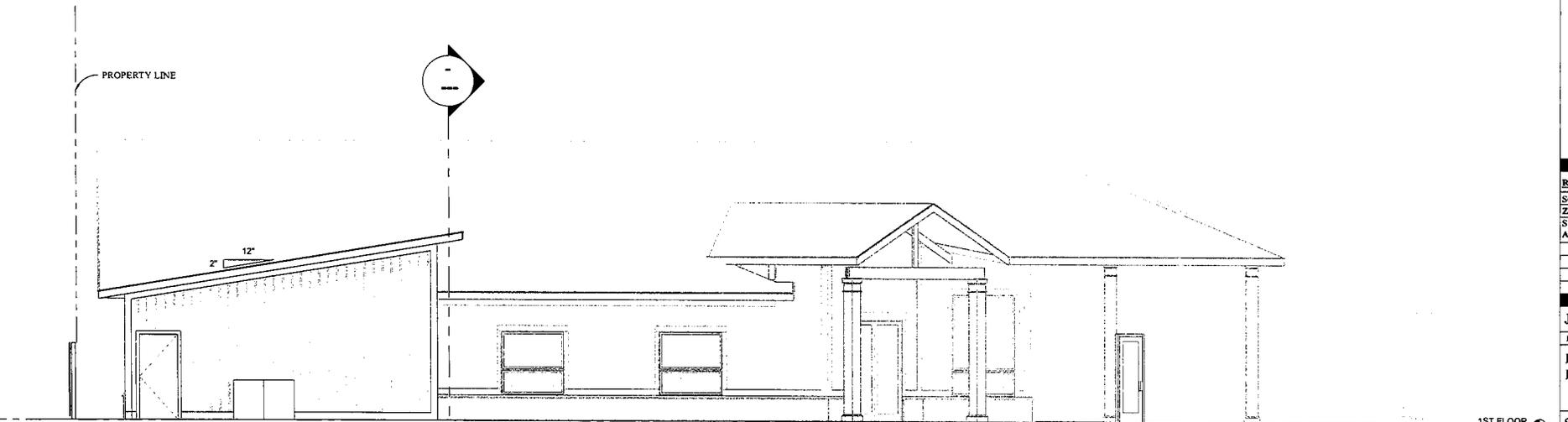
Architect
William O. McCollum
 16109 Red Arrow Hwy.
 Union Pier, MI 49129
 phone: (312) 550-7088
 fax: (269) 469-9219
 bill@mccollumarchitects.com



A&N MORTGAGE
 120 W. BUFFALO ST. NEW BUFFALO, MI 49117



1 BUILDING #1 - EAST
 1/8" = 1'-0"



2 BUILDING #1 - NORTH
 1/8" = 1'-0"

REVISIONS	
SCHEMATIC	10/02/20
ZBA APPROVAL	11/19/20
SITE PLAN APPROVAL	01/29/21

JOB #: 2150
 Drawn by: Matya Horvath-Kidder
EXTERIOR ELEVATIONS

Sheet No.
A-3

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Section 10-1 Intent and purpose.

This district is intended to provide convenience retail and services, specialty retail, tourist-oriented retail and services, entertainment establishments, and professional offices in a concentrated, but well-designed manner. This district is intended to serve the local residents as well as the vacationing or visiting public.

Section 10-2 Uses permitted by right and special use permit.

[Amended 2-19-2008 by Ord. No. 175; 9-22-2008 by Ord. No. 177; 2-2-2012 by Ord. No. 184]

Land or buildings in the CBD District may be used for the following uses "by right" or by "special use permit" as identified. Those uses permitted by special use permit shall be reviewed in accordance with provisions contained in Article 17.

Land Use	Permitted by Right	Special Use
GROCERY, FOOD STUFFS, PHARMACIES AND RELATED USES		
1. Grocery store	X	
2. Convenience store selling foods, without gasoline sales	X	
3. Specialty food stores including: meat market, bakery, produce, candy/nuts, and health food store	X	
4. Bulk food sales (retail)	X	
5. Pharmacy (without drive-through service)	X	
6. Pharmacy (with drive-through service)		X
7. Medical supplies	X	
8. Liquor sales	X	
AUTOMOTIVE, GASOLINE, AND MARINE SALES AND SERVICE		
9. Automotive parts		X
10. Marine supplies (not including watercraft sales and service)	X	
11. Marine supplies (including watercraft sales and service)		X
OFFICES		
12. Executive, professional, and administrative offices	X	
13. Medical offices, out-patient clinics, and emergency medical center		X
14. Real estate and insurance	X	
15. Veterinary office (but not including outdoor kennels, run, or exercise facilities)	X	
16. Government and community service facility (but not including penal institutions, halfway houses, work release facilities, or facilities of a similar character)	X	
17. Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, but without drive-through facilities	X	
18. Financial institutions including: banks, credit unions, savings and loan, mortgage, stock brokerage, and investments, with drive-through facilities		X
RESTAURANTS, LOUNGES, BARS, AND PUBS		
19. Restaurants, cafes, coffee shops and ice cream shops (without drive-through service)	X	
20. Outdoor seating/service		X
21. Bars, lounges, or pubs (not including adult entertainment)	X	
GENERAL AND SPECIALITY RETAIL AND PERSONAL SERVICES		
22. Sporting goods (not including recreational vehicle sales and service)	X	
23. Bait shops	X	
24. General merchandise stores limited to new merchandise and entirely within an enclosed building (includes department and variety stores)	X	
25. Used retail merchandise sales conducted entirely within an enclosed building and handling product lines classified as antiques, used, secondhand, surplus or factory seconds		X
26. Stores selling small appliances, computers/software, office equipment, camera/photo supplies, and electronics	X	
27. Personal services including: hair salons, beauty/barber shops, florists, health and fitness clubs, photographic studios, travel agencies, locksmith, tax services, video rental (non-adult), dry cleaners (non-industrial), pet grooming and commercial day care	X	
28. Massage services		X

29.	Specialty retail stores including: books/news/magazine (non-adult), stationery, jewelry, hobby/toys, gift/novelty, luggage/leather, sewing/needlework, tobacco, music/compact discs/tapes, and musical instruments	X	
30.	Apparel, including shoes and clothing accessories	X	
31.	Hardware stores	X	
RECREATION, LEISURE, HOTELS, AND MOTELS			
32.	Bowling alley, with or without the sale of food and alcoholic beverages		X
33.	Miniature golf		X
34.	Indoor movie theater or performing arts theater (not including adult entertainment)		X
35.	Lodge halls, social clubs, fraternal organizations, banquet halls, and other similar uses not involving residential occupancy or adult entertainment		X
36.	Municipal parks	X	
37.	Hotels		X
38.	Motels		X
39.	Bed-and-breakfast		X
MISCELLANEOUS			
40.	Public utility buildings and uses, but not including storage yards		X
41.	Educational institution offices or facilities		X
42.	Open-air businesses		X
43.	Parking structures		X
44.	Residential dwellings		X
45.	Religious institutions		X

Section 10-3 Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- A. Site plan review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Setbacks, height, area, and lot dimensions are required as noted below. [Amended 3-18-2003 by Ord. No. 141]

CBD SETBACK, HEIGHT, AREA AND LOT REQUIREMENTS

Minimum lot size	8,000 square feet
Minimums lot width	66 feet
Maximum building height	35 feet
Front yard setback	None required
Side yard setback	When abutting nonresidentially used or zoned property: 10 feet, however, the Planning Commission may approve up to a zero setback if it can be demonstrated that the lesser setback will not adversely affect adjoining properties, and specifically light availability to existing or proposed buildings. Where abutting lots have buildings employing a common party wall no side yard shall be required.
	When abutting residentially zoned property: 30 feet
Rear yard setback	25 feet
Maximum lot coverage	70% of the total lot area

Section 15-1 Purpose.

- A. The purpose of this article is to permit and regulate on-(off-street) parking of motor vehicles and the on-loading and unloading of vehicles in all zoning districts.
- B. In all zoning districts, on-premises parking facilities for the storage and parking of motor vehicles for the use of occupants, employees and patrons of buildings erected, altered, or extended after the effective date of this ordinance shall be provided as prescribed herein.

Section 15-2 Location of parking.

- A. One- and two-family dwellings. Required on-premises parking shall be provided on the same lot or parcel as the dwellings it is intended to serve. With the exception of driveways, no parking shall be allowed closer than 10 feet to a street right-of-way line. Driveways for single-family dwellings shall not exceed 30 feet in width. Total driveway width for two-family dwellings shall not exceed 48 feet. In no instance shall the total area devoted to driveways and parking areas for one or two-family dwellings exceed one-third of the front-yard area.
- B. Multiple-family dwellings. Required on-premises parking for multiple-family dwellings shall be provided on the same lot or parcel as the dwellings they are intended to serve. In no instance shall any parking space, other than that provided within an enclosed garage or carport, be located nearer than 15 feet to a residential building.

C. Other land uses.

- 1. Required on-premises parking for other than residential uses shall be located on the same lot, or within lots under the same ownership, within 300 feet of the building it is intended to serve, measured from the building to the nearest parking space of the on-premises parking lot.
- 2. 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.

Section 15-3 General requirements.

- A. Parking location standards.
 - 1. The parking of any vehicle on-in other than a designated parking area approved for such parking by the Planning Commission shall be prohibited.
 - 2. The parking of any vehicle on any lawn or landscaped area shall be prohibited. The Planning commission may require any person or business responsible for converting lawn or landscaped areas to parking, without having received site plan approval, to restore such areas to their original state.
 - 3. For all residential uses, the parking of motor homes, boats, trailers and other large recreational equipment in the front yard for longer than 48 hours in any seven-day period shall be prohibited.
 - 4. 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.
- B. Storage or repair in parking areas.
 - 1. The use of parking areas for the storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance, is prohibited, unless specifically approved by the Planning Commission as part of site plan review or by special use permit, as applicable.
 - 2. The storage of semi-trailers outside of areas approved for such storage on an approved site plan shall be prohibited.

3. The use of parking areas for the storage or parking of vehicles unrelated to the business for which the parking is intended shall be prohibited, except as permitted by Section 15-2C(2).
4. The use of semi-trailers for storage purposes on a long-term basis (longer than a week) is prohibited.

C. Determination of parking requirements.

1. The minimum parking space requirements for all uses shall be those identified in Section 15-6.
 2. For uses not specifically listed in Section 15-6, the requirements for on-premises parking shall be determined as follows:
 - a. The Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirement to a use which is listed in Section 15-6. In such case, the same parking requirement shall apply.
 - b. The Planning Commission may establish the parking requirement for the proposed use based on documentation pertaining to the parking demand for that use provided and substantiated by the applicant, or based on other professional planning resource material.
 3. Public street rights-of-way shall not be counted for meeting on-premises parking requirements.
 4. Outdoor parking spaces required for business-related vehicles shall be provided in addition to the parking spaces required in Section 15-6.
 5. Two or more buildings or uses may collectively provide the required on-premises parking if a signed agreement is provided by the property owners, and the number of spaces being provided meets the minimum required for all uses calculated individually. Such parking shall be convenient to all uses for which it is intended.
 6. Where two or more uses are present on the premises, parking requirements shall be calculated for each use, unless specifically provided otherwise herein.
- D. Maximum amount of parking.** In order to minimize excessive areas of pavement which results in adverse aesthetic and environmental impacts, and contributes to high rates of storm-water runoff, the Planning Commission may limit the total amount of parking to not exceed the minimum parking requirement by more than 30%.
- E. Conversion of parking areas to other uses.** Unless the Planning Commission has reviewed and approved the change, any parking area once approved as a required parking area shall not be changed to any other use.

Section 15-4 Design and construction requirements.

- A. Surface and drainage requirements.** All parking areas shall be surfaced with a durable and dustless surface and shall be properly graded and provided with adequate drainage facilities as approved by the City Engineer.
- B. Surface striping.** All paved parking spaces, aisles, and unloading zones shall be striped or marked. Such striping or other required demarcation shall be maintained permanently in a condition such that easy interpretation of such markings by intended users is possible. In approved unpaved parking areas, spaces shall be defined by wheel chocks, concrete bumpers, or other similar device.
- C. Lighting.** All parking lot lighting shall be designed, located, and/or shielded to prevent spill over onto adjacent properties, and shall be arranged to prohibit adverse affects on motorist visibility on adjacent public roadways. The maximum height of parking lot light fixtures shall be 20 feet for any fixture to be located within 150 feet of a residential district or use, and a maximum height of 30 feet for all other locations.
- D. Dimensional standards for parking spaces and aisles.** All on-premises parking areas shall meet the minimum parking space and maneuvering lane standards contained in the following table.

Minimum Parking Space and Maneuvering Lane Standards

Parking Pattern (degrees) Parking Pattern (degrees)	Minimum Parking Space and Maneuvering Lane Width One-Way (feet)	Minimum Parking Space and Maneuvering Lane Width Two-Way (feet)	Parking Space Width¹ (feet)	Parking Space Length² (feet)
Parallel	12	20	9	25
30° to 50°	12	20	9	25
54° to 74°	13	24	9	21
75° to 90°	20	24	9	20

NOTES:

- ¹ Parking space width measured perpendicular to the space center line.
- ² Parking space length measured along the space center line.

Section 15-5 Parking units of measurement.

A. Equivalency or substitution.

- 1. Wherever parking requirements are based on gross floor area, gross leasable area may be substituted if that figure is more readily available.
- 2. In calculating bench seating for places of assembly, two feet shall be the equivalent of one seat.
- 3. In those cases where the Planning Commission determines that striping of spaces would not be appropriate, 300 square feet of parking area shall be provided for each required parking space.

B. Rounding. In calculating the required amount of parking or loading spaces, any fraction of 0.5 or greater shall be rounded up, and any fraction of less than 0.5 shall be rounded down.

Section 15-6 Minimum parking space requirements.

The minimum amount of parking spaces required for designated uses are included in the tables below.

A. GENERAL RESIDENTIAL

Single-family and two-family dwellings	2.0 spaces per dwelling unit
Multiple-family dwelling and dormitories	2.0 spaces per each unit
Manufactured homes in a mobile home park	2.0 space per each manufactured home unit or site

B. SENIOR HOUSING

Housing for fully independent residents: Senior independent units and independent care retirement village or center	1.5 spaces per each room and living unit
Housing for residents requiring a moderate level of care: senior "interim care," "elder care," and "intermediate care" units	1.0 space per each room
Housing for residents whose care is fully dependent on others: Convalescent homes, nursing homes, rest homes, etc.	1.0 space per each 2 rooms

C. INSTITUTIONAL/CIVIC (Religious, Municipal, Hospital, Child Care, Schools, and Halls)

Churches, temples, synagogues and other places of worship	1.0 space per each 3 seats or 6 feet of pews
Municipal office buildings	4.0 spaces per 1,000 square feet of gross floor area, plus spaces required for any assembly hall, auditorium, and outdoor arena

Hospitals	2.5 spaces per each licensed bed, plus outpatient care and emergency care requirements
Outpatient care and emergency care services	Refer to medical office parking requirements
Child-care centers	3.0 spaces plus, 1.0 additional space for each 7 children of licensed authorized capacity
Primary schools (elementary and junior high)	2.0 spaces per classroom, plus 1 space for each 3 seats of maximum seating capacity for that indoor facility having the greatest seating capacity
Secondary schools (high)	8.0 spaces per each classroom, or 1 space per each 4 seats of maximum seating capacity for that indoor place of assembly having the greatest seating capacity
Auditoriums, assembly halls, and outdoor arenas	1.0 space per each 3 seats or 6 feet of bleachers
Public recreation centers	5.0 spaces per 1,000 square feet of gross floor area
Dance hall, union hall, lodge hall, fraternal hall/club and similar uses	1.0 space per every 2 persons of capacity authorized by the City Building Code or Fire Code if more stringent
D. OFFICE	
Medical, dental office, clinic	5.0 spaces per 1,000 square feet of gross floor area, plus outpatient care, emergency, twenty-four-hour medical station requirements, if applicable
Outpatient care, emergency care, 24-hour medical station	2.0 spaces per exam or outpatient procedure/operating room, plus 1.0 space per laboratory or recovery room, plus 1.0 space for each 2 rooms for employee parking
General office building and real estate offices	3.0 spaces per 1,000 square feet of gross floor area
Bank, credit union, savings and loan	6.0 spaces per 1,000 square feet of gross floor area, plus 4.0 stacking spaces per window and ATM
E. COMMERCIAL/RETAIL/SERVICE	
Appliance store	4.0 spaces per 1,000 square feet of gross floor area
Auto service station and auto care centers	3.0 spaces per each service bay, plus 1.0 space per each tow truck, plus 4.0 spaces per 1,000 square feet of area devoted to the sale of automotive goods, or convenience foods
Auto service-oil change/quick lube	3.0 spaces per service bay
Automotive sales	1.0 space per 5,000 square feet of outdoor sales area, plus 1.0 space per sales desk/office, plus 3.0 spaces per each service bay
Automobile wash (self-wash)	3.0 stacking spaces per bay
Automobile wash (automatic)	2.0 spaces plus 15 stacking spaces per bay
Bar (lounge)	16.0 spaces per 1,000 square feet of gross floor area, or 0.7 space per seat, whichever is greater
Barber shop, beauty salon, hair salon	2.5 spaces per each barber or beautician's chair or station
Bed-and-breakfast inn	2.0 spaces, plus 1.0 space per guest room
Conference rooms, exhibit halls, and similar uses	1.0 space per every 2 persons of capacity authorized by the City Building Code or fire official, or 10.0 spaces per 1,000 square feet of gross floor area, whichever is greater
Convenience store	4.0 spaces per 1,000 square feet of gross floor area or the area devoted to convenience sales when in a multi-use building
Discount retail store	5.0 spaces per 1,000 square feet of gross floor area
Dry cleaners	2.0 spaces per 1,000 square feet of gross floor area, plus 2.0 spaces per drive-up window
Funeral homes	1.0 space per 50 square feet of space devoted to service parlors, chapels, and reception area, plus 1.0 space per each funeral vehicle

9 required

per court, whichever is greater

Video arcade

1.0 space per 50 square feet of gross floor area, with a minimum of 6.0 spaces required

G. INDUSTRIAL

Light industrial, manufacturing, testing labs, research and development centers, other industrial

1.5 spaces per 1,000 square feet of gross floor area, with a minimum of 6.0 spaces

Warehousing

1.0 space per each 2,500 square feet of gross floor area, with a minimum of 4.0 spaces

Section 15-7 Deferred parking for commercial and industrial districts.

An applicant may request that a portion of the required parking be deferred from being constructed in cases where the applicant feels the minimum parking required is in excess of what is required for their business. Parking may not be deferred below the minimum standard of 0.5 space per 1,000 square feet of gross floor-area for industrial uses or 80% of the required parking for commercial uses. The applicant shall show that the deferred portion of the parking is possible to construct on the site by showing it on the site plan; and shall guarantee the availability of such area for future parking through a recorded deed restriction on the property, a copy of which shall be provided to the Zoning Administrator prior to commencing construction on the site. The City shall retain the right to revoke the deferral at any time if observations of the use indicate that the amount of parking is insufficient. In cases of revocation, the applicant shall construct the deferred portion of the parking within 90 days of being directed to do so by the City.

Section 15-8 Barrier-free parking and design requirements.

Within each parking lot, signed and marked barrier-free spaces shall be provided at a convenient location, in accordance with state and federal law. Wheelchair access requirements shall be according to state or federal barrier-free regulations, with most restrictive requirements applying.

Section 15-9 On-requirements for loading and unloading.

- A. Loading and unloading space shall not use any portion of any public right-of-way or private road easement area, except in the CBD District.
- B. Maneuvering space for trucks using the loading spaces shall be provided on-premises, and shall not necessitate the use of a public right-of-way or private road easement, except in the CBD District.
- C. Loading and unloading spaces shall be a minimum of 12 feet in width, 60 feet in length, and have a minimum clearance of 14 feet in height.
- D. If truck wells are to be used, a protective railing or wall shall be provided along the sides of the well.
- E. Required loading and unloading spaces shall not be included in calculations for parking spaces needed to meet general parking requirements.
- F. Loading and unloading spaces shall be constructed of either cement or asphalt with a base and thickness of pavement suitable for the anticipated weights of the trucks to be using it.
- G. Loading and unloading spaces shall be provided in accordance with minimum requirements contained in the following tables.

REQUIRED LOADING AND UNLOADING SPACES

Institutional, Commercial and Office Uses

Up to 2,000 square feet of gross floor area	None required
2,001 to 20,000 square feet of gross floor area	1.0 space
Exceeding 20,000 square feet of gross floor area	1.0 space per each 20,000 square feet of gross floor area, with a maximum of 5.0 spaces required

Variance Request 120 W. Buffalo Street 11-62-0340-0259-02-5

Tony McGhee – Read the City Manager report.

Bill McCollum, applicant, gave a presentation explaining the proposed project.

Discussion followed concerning parking.

Motion by Joseph, seconded by Gabryszewski to **approve** the Variance Request for **120 W. Buffalo Street 11-62-0340-0259-02-5: roll call vote, motion carried, 6-0.**

Variance Request 123 S. Thompson Street 11-62-6750-0147-04-4

Tony McGhee – Read the City Manager report.

Motion by Joseph, seconded by Borg to **approve** the Variance Request for **123 S. Thompson Street 11-62-6750-0147-04-4 with smaller setback: roll call vote, motion carried, 6-0.**

Variance Request 529 North Drive 11-62-0009-0003-16-6

Tony McGhee – Read the City Manager report.

Detailed discussion took place regarding many aspects of the project including, the height, setbacks and parking.

Motion by Joseph, seconded by Gabryszewski to **table** the variance request at **529 North Drive 11-62-0009-0003-16-6: roll call vote, motion carried, 6-0.**

Board Comments

None

Motion by Joseph to adjourn, seconded by Borg at 7:03 pm to adjourn the meeting: roll call vote, motion carried, 6-0.

Adjournment at 7:04 pm.

ng

Tom Smith, ZBA Chairperson

Amy Fidler, City Clerk

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

ORDINANCE NO. ____

**ORDINANCE TO AMMEND CHAPTER 11 OF THE NEW BUFFALO CITY
CODE OF ORDINANCES TO PROVIDE AN EFFICIENT PROCEDURE FOR
REVOKING RENTAL PERMITS AND MAKE OTHER MODIFICATIONS
ALLOWING MORE EFFECTIVE REGULATION OF SHORT-TERM RENTAL
UNITS**

The City of New Buffalo ordains:

Section 1. Amendment. Chapter 11 of the New Buffalo City Code, entitled “Short-Term Rental Units,” is amended to read in its entirety as follows:

**Chapter 11
Short-Term Rental Units**

Sec. 11-1. Purpose.

- A. The City recognizes that one of its largest industries is tourism. The tourism market supports many different types of businesses including the hospitality market, the restaurant/dining market, the shopping and retail market as well as a host of others. The City believes that the tourism industry will continue to grow.
- B. The City recognizes that a major part of the tourism industry is the short-term rental or vacation rental marketplace. This marketplace has grown exponentially with the increasing use of online booking websites, and it will most likely continue to grow as surrounding municipalities limit, restrict or eliminate the practice.
- C. While short-term rentals can provide community benefits, their proliferation in single-family neighborhoods can also cause difficulties where the character of the use takes on a more transitory and commercial character. Michigan courts have recognized that transitory and commercial uses are in tension with the traditional use of single-family dwellings.
- D. The City needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The character of residential zoning districts must also be restored and preserved.
- E. The City further recognizes that the establishment of a permit hearing system is needed in order to effectively enforce the short-rental regulations provided in this chapter in a cost-efficient manner. Final determinations made in any permit hearing shall be subject to judicial review.

Sec. 11-2. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. *Bedroom*. A room intended for sleeping or placement of a bed, separated from other spaces in a dwelling unit by one or more functional doors. The following spaces, which must be included in every dwelling unit, do not qualify as bedroom: (i) kitchens; (ii) dining areas; (iii) gathering spaces such as family rooms, dens, or living rooms; and (iv) attics or basements without egress meeting standards in applicable building, residential, and fire codes. To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in Chapter 3 of the Michigan residential code.
- B. *City*. The department, officer or individual designated by the City Manager or City Council to administer all or any part of the permitting and inspection programs under this chapter.

- C. *Good visitor guideline materials.* Materials prepared by the City's zoning administrator that include: (1) a summary of the City's noise ordinance, fireworks ordinance, trash disposal ordinances, and applicable offenses against the public peace, (2) a reminder that the rental property is located in a residential neighborhood and that neighbors may not be vacationing, and (3) a statement informing the renters that neighboring property owners may contact the local agent and local police to report any issues relating to the property.
- D. *Hearing Officer.* An individual designated by the City Council who presides over and adjudicates permit revocation hearings as described in Section 11-13. The hearing officer may be either an employee or independent contractor of the City, but in either case shall act as an impartial adjudicator. To ensure impartiality, an individual who serves as a hearing officer may not be involved in enforcing this chapter in any way other than as described in Section 11-13.
- E. *Local Agent.* An individual designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the City; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal paper's relating to the unit on the owner's behalf.
- F. *Occupant.* An individual who is living in, sleeping in, or otherwise having possession of a short-term rental dwelling unit. An individual present in a dwelling unit during the term of a short-term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours of 8:00 a.m. and 10:00 p.m. and will not stay overnight.
- G. *Off-Street Parking Space.* Shall mean a parking space that is provided on the same lot as the short-term rental unit that satisfies the requirements to count toward the minimum-parking calculation in Article 15 of the Zoning Ordinance.
- H. *Owner.* A natural person who is the legal or equitable titleholder of the premises in question. In situations where the record title holder is a trust, corporation, limited liability company, or other similar legal entity, the term "owner" shall refer to natural persons with control or partial control over such entity, *e.g.*, a trustee, designated corporate representative, any and all members and managers of a limited liability company, etc.
- I. *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.
- J. *Short-Term Rental Reservation Summary.* A standard form issued by the City Clerk on which the owner or local agent of a short-term rental dwelling unit shall document, for each anticipated short-term rental term, the name and date of birth of each occupant that will be staying at the property; the number of vehicles that will be parked on site; the make, model, and license number of each such vehicle; and the dates on which the short-term rental term will commence and end. At the discretion of the City Clerk, the form may also include information regarding any requirement of this ordinance.
- K. *Short-Term Rental Term.* The duration of a short-term rental occupancy by a given renter or group of renters. A rental term shall be deemed to end when there is a complete turnover in the occupancy of the dwelling unit.

- L. *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 the City's zoning ordinance.
- M. *Short-Term Rental Unit Permit.* A written document issued by the City indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental unit in accordance with this chapter. When used in this chapter, the word "permit" refers to short-term rental permits.

Sec. 11-3. Short-Term Rental Permits; Requirement, Applications, and Review Procedure.

- A. *Permits required.* All dwelling units used for short-term rental activity must be registered with and have a short-term rental unit permit issued by the City and must comply with any applicable provisions of the City's zoning ordinance.
- B. *Application.* To apply for a short-term rental unit permit, the owner(s) shall:
1. Provide and certify as true the following on a form provided by the City:
 - a. Name, date of birth, address, email address, and telephone numbers (local and cell phone) of each and every owner of the property, as well as the local agent designated by the owners.
 - b. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.
 - c. The number of short-term rental units in the building, if more than one.
 - d. The number of bedrooms in each short-term rental unit.
 - e. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit. Valid off-street parking spaces include space in a garage, on an improved driveway, or in a carport.
 - f. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner(s) or local agent will check those devices at least every 90 days.
 - g. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
 - h. A statement certifying that the owner(s) consent to inspections by the City and that the owner(s) or local agent will make the dwelling unit available to inspections upon request.
 - i. A statement acknowledging the requirement in Section 11-4(f) below to submit a short-term rental reservation summary to the City each time the property is rented on a short-term basis.
 - j. Such other information as the City requests.
 2. Sign the application form and provide the signature of the local agent.
 3. Pay an annual administrative fee, as set by resolution of the City Council.
 4. Submit the property to an annual inspection for compliance with applicable codes and ordinances. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void. Voiding a permit under this section is not subject to the procedures provided in Sections 11-11 and 11-13.
- C. *Local agent required.* All short-term rental units must have a designated local agent that satisfies the following:

1. The local agent shall be a natural person who resides within 20 miles of the geographic boundaries of the City of New Buffalo.
 2. An owner may serve as the local agent so long as he or she has the ability to continue residing at a location within 20 miles of the City of New Buffalo during the duration of any short-term rental term.
- D. *Permit issuance.* To the extent permits are available in the pertinent zoning district at the time of the application, a short-term rental unit permit shall be granted after a successful inspection if the requirements in this ordinance for short-term rental units and applications for a short-term rental unit permit are met.
- E. *Validity and renewal.* Short-term rental unit permits become invalid in each of the following circumstances:
1. A permit expires on year from the date of issuance of the permit;
 2. A permit is terminated when the property to which the permit applies is conveyed to another party;
 3. A permit is terminated when revoked in accordance with Section 11-11 below.
- A permit that expires or is terminated upon the conveyance of the property can be renewed so long as the application is submitted within 12 months of expiration or termination. A permit that is revoked in accordance with Section 11-11 can renewed at the end of the 1-year ineligibility period so long as the application is submitted within 12 months of the date when the permit first becomes eligible for renewal. The renewal process shall be subject to the same requirements as the initial application.
- F. *Delinquent payments.* No permit shall be issued or renewed unless the owner is current on the payment of all real property taxes, utility rates, fees, charges, special assessments and other amounts due to the City. Delinquencies on any such payments to the City, regardless of whether they relate to the rental unit for which a rental unit permit is sought shall result in denial of the permit.
- G. *Changes in information.* An owner or local agent shall notify the City in writing within 15 days of any change in the information provided on the application form. An owner of a short-term rental unit shall notify the City in writing within 15 days of any change in the designated local agent.

Sec. 11-4. Responsibilities of Short-Term Rental Operators.

The owner(s) and local agent for each short-term rental unit shall each be responsible for ensuring compliance with the following regulations, except where expressly provided otherwise:

- A. *Local agent availability.* During each short-term rental term, the local agent shall be available 24 hours per day, seven days per week for the purpose of responding within 30 minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit or their guests.
- B. *Timely and effective response.* The local agent shall, upon notification that any occupant or guest of the short-term rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, parked vehicles in violation of this ordinance, or committed any other violations of applicable laws, rule or regulation pertaining to the use and occupancy of the short-term rental unit, respond in a timely and appropriate manner to halt and prevent a recurrence of such violations.
- C. *Reasonably prudent business practices.* The owner and/or the owner's authorized agent shall use reasonably prudent business practices to ensure that the occupants and/or guests of the short-term vacation rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct,

or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental unit.

- D. *Duty to provide permit and post in window.* Upon request by any occupant or prospective occupant, the owner(s) or agent shall provide the occupant or prospective occupant with a copy of the short-term rental unit permit. Further, a full-sized copy of the short-term rental unit permit must be posted in a prominent first-floor window of any short-term rental during each short-term rental term.
- E. *Maximum occupancy; advertising regulations.* Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated pursuant to Section 11-9 below. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section. Any advertisement posted on an online short-term rental platform must state the maximum occupancy as calculated pursuant to Section 11-9.
- F. *Reservation requirements.* At least 24 hours prior to the commencement of a short-term rental term, the owner or the local agent shall:
1. Obtain the contact information for at least one of the occupants who will be staying in the unit;
 2. Complete a copy of the short-term rental reservation summary form and file it with the City Clerk or the Clerk's designee in a manner specified on the form;
 3. Ensure that a copy of the short-term rental reservation summary form is available within the dwelling unit during each short-term rental term so that rental occupants can produce it upon request in conformance with Section 11-5(B) below.
 3. Provide a copy of the good visitor guideline materials to the prospective occupants;
 4. Inform the prospective occupants of the maximum occupancy of the short-term rental dwelling unit; and
 5. Inform the prospective occupants of the number and location of off-street parking spaces provided on the lot and of the parking regulations provided in Section 11-5(A) below.
- G. *Basement regulations.* No basement can be used for a bedroom unless it has an egress window approved by the City inspector and found in compliance with local and state code requirements.
- H. *Curbside refuse pickup.* The owner or local agent must make provisions to have refuse picked up (curbside) at least once per week when the short-term rental unit is being rented. Where curbside pickup is not reasonably available, this requirement may be satisfied by provision of a communal dumpster available for use by occupants of the short-term rental unit. Further, it shall be responsibility of the owner and local agent to ensure compliance with Section 15-7 of the City Code, which regulates the times at which refuse and recycling receptacles may be set out for collection and left at the curb of the street.
- I. *Renter turnover procedure.* For short-term rental units, the local rental agent shall, at least once per month, inspect the premises (or ensure inspection by a designee of the agent) using a City-designated checklist and shall ensure that all smoke detectors, carbon monoxide detectors, lights in common areas and stairways, egress doors, and railings are in a safe and working condition; any defects discovered shall be corrected promptly. Upon inspection, the agent shall sign and date that checklist and shall maintain it for City inspection and copying for a period of at least two years.
- J. *Compliance with safety equipment requirements and applicable codes.* All short-term rental units shall comply with the safety equipment requirements in Section 11-8 below, as well as all applicable zoning, construction, fire, and property maintenance codes, ordinances, or other regulations. A violation of any of the foregoing shall also be a violation of this section.

- K. *Rental of partial dwelling units prohibited.* This chapter pertains only to the short-term rental of an entire dwelling unit. The short-term rental of partial dwelling units (e.g., a room or rooms within a dwelling unit) is prohibited.

Sec. 11-5. Responsibilities of Short-Term Rental Occupants and Guests.

- A. *Street parking prohibited.* No short-term rental occupant, nor any other guest visiting a short-term rental unit during a short-term rental term, shall park vehicles on public streets adjacent to the unit. Rather, the off-street parking spaces provided on the lot must be utilized, and any excess vehicles must be parked in public parking lots or other permitted off-site locations.
- B. *Short-term rental reservation summary.* Occupants shall produce a copy of the short-term rental reservation summary to a City police officer or other ordinance enforcement officer upon request.
- C. *Duty to comply with applicable laws.* Short-term rental occupants and guests shall comply with the City's noise ordinance, fireworks ordinance, trash disposal ordinances, open burning regulations, applicable offenses against the public peace, and any other applicable ordinances or laws. A violation of any of the foregoing shall also be a violation of this section.

Sec. 11-6. Unauthorized Rentals Without a Permit.

- A. *Unauthorized rentals.* It shall be unlawful to engage in short-term rental activity with respect to any dwelling unit that has not been issued a permit pursuant to this chapter. In any prosecution or action to determine a violation of this section, the following shall apply:
1. Advertising that offers a property as a short-term rental home shall constitute prima facie evidence of short-term rental activity involving the property and the burden of proof shall be on the property owner or other defendant to establish that the subject property has not been used for short-term rentals.
 2. Any communication in which a person offers a dwelling unit for rent for a term of less than one month shall constitute prima facie evidence of short-term rental activity and the burden of proof shall be on the property owner or other defendant to establish that the subject property had not been used for short-term rentals.
- B. *Unauthorized advertising.* It shall be unlawful to advertise any dwelling unit that does not have a short-term rental permit issued pursuant to this section for rent for a period of less than one month. Such advertisement shall constitute a violation of this ordinance separate and apart from a violation described in subsection A above.

Sec. 11-7. Inspections.

- A. *Scheduling.* Upon written notice from the City, it shall be the owner's and local agent's responsibility to schedule and allow the City's inspection of the short-term rental unit. Inspections shall generally occur during the City's regular business hours, except in emergency situations or when otherwise agreed to by the City and the owner or local agent. All fees shall be paid prior to the inspection.
- B. *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner(s) shall be provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.
- C. *Additional inspections.* The City may conduct additional inspections as it deems necessary, upon reasonable notice to the owner(s) or agent, such as when:
1. A complaint is filed with the City; or

2. The City otherwise has reasonable cause to believe a short-term rental unit is in violation of any City ordinance.
- D. *Changes in conditions following inspection.* The owner(s) or local agent shall notify the City in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the City.

Sec. 11-8. Safety Equipment.

- A. *Smoke detectors.* The owner(s) and local agent of each short-term rental unit shall each be responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the Michigan Residential Code and the household fire warning equipment provisions of the National Fire Protection Association (NFPA) Standards § 72.
- B. *Smoke detector locations.* Smoke detectors/alarms shall be installed in the following locations:
1. In each sleeping room;
 2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and
 3. On each additional story of the rental unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.
- C. *Carbon monoxide detectors.* The owner(s) and local agent of each short-term rental unit shall each be responsible for the installation of a carbon monoxide detector in each rental unit. All carbon monoxide detectors shall be of the type described in MCLA § 125.1504d.
- D. *Fire extinguisher.* The owner(s) of each short-term rental unit shall each be responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.
- E. *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section.

Sec. 11-9. Maximum Occupancy Calculation.

The number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of:

- A. Fourteen total occupants;
- B. Two occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code; or
- C. Except for units within a planned unit development, four occupants for every off-street parking space that is provided on the lot and reserved exclusively for occupants of the short-term rental unit. For units within a planned unit development, the occupancy is determined only by the limits described in Subsection A and B.

Sec. 11-10. Violations.

- A. *Violations as municipal civil infractions.* Any person who violates any of the provisions of this ordinance is responsible and may be prosecuted for a municipal civil infraction in court of competent jurisdiction, subject to payment of a civil fine of not less than \$500, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:
1. The fine for any offense which is a first repeat offense shall not be less than \$750 plus costs and other sanctions.

2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$1,000, plus costs and other sanctions.
 3. A repeat offense means a second (or any subsequent) violation of this ordinance:
 - a. Committed by a person within any twelve-month period; and
 - b. For which the person admits responsibility or is determined to be responsible.
- B. *Administrative notices in lieu of citations.* As an alternative or initial remedy, the City may seek to obtain compliance with this ordinance by issuing an administrative violation notice to the owner(s) and/or local agent for the unit to which the violation pertains. Each time a violation notice is issued, the owner(s) and local agent shall immediately cease the offending conduct or taking corrective action to terminate the violation described. Each violation notice shall be served in accordance with Section 11-12 and shall contain the following information:
1. The name of the responsible person(s);
 2. The code section violated;
 3. The address where the code violation occurred;
 4. A description of the code violation;
 5. The names of the issuing department and enforcement officer;

Sec. 11-11. Short-Term Rental Permit Revocation.

- A. *Grounds for revocation.* The City may revoke the short-term rental permit for any short-term rental unit which is the site of at least three separate incidents within a 12-month period (occurring on three separate days) constituting a violation of any provision of this ordinance, whether committed by an owner, local agent, occupant or guest. In order to qualify as an incident for purposes of this paragraph: (1) the City must have issued a civil infraction citation or administrative violation notice regarding the offending conduct prior to commencing revocation proceedings pursuant to subsection B below; and (2) the violation must be either admitted by the owner or proven by a preponderance of the evidence in a civil-infracton prosecution in state court or in a revocation hearing as provided in Section 11-13 below.
- B. *Revocation Procedure.* Upon a determination by the City that the short-term rental permit is subject to revocation pursuant to subsection A, the City shall serve a notice, pursuant to Section 11-12, to the property owner(s) and the local agent stating that the City intends to revoke the short-term rental permit. The notice shall inform the owner(s) and local agent of the date and time at which a revocation hearing will be conducted before a hearing officer, in accordance with Section 11-13. Determinations by the hearing officer regarding revocation shall constitute final orders of the City.
- C. *Period of ineligibility following revocation.* Upon revocation of a permit, a renewed short-term rental permit will not be issued for a period of 12 months and the unit cannot be used for short-term rentals until such permit is obtained.

Sec. 11-12. Service of Notices.

Any notice issued pursuant to this chapter shall be considered served as of the date of the earliest of any of the following events:

- A. The posting of the notice on or adjacent to the premises, in conjunction with the mailing of the notice to the responsible party's last known address by first-class mail;

- B. The sending of the notice by email to an email address designated on a short-term rental permit for the property;
- C. Personal delivery of the notice to the responsible party; or
- D. The responsible party’s receipt of the notice by certified U.S. mail, as indicated in a notification of receipt.

Sec. 11-13. Permit Revocation and Permit-Ineligibility Hearings.

The following standards and procedures shall apply in any permit revocation or permit-ineligibility hearing conducted under this chapter:

- A. *Opportunity to be heard.* Property owners and local agents shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. Hearings shall be scheduled with reasonable promptness, provided that the property owner(s) and local agent shall be given at least 14 days after service of process to prepare for the hearing.
- B. *Evidence.* The hearing officer may admit and give probative effect to evidence of any type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.
- C. *Burden of Proof.* The City shall have the burden of establishing that the grounds for permit revocation, as described in Section 11-10, by a preponderance of the evidence. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence.
- D. *Appeals.* Final determinations of the hearing officer shall be subject to judicial review in accordance with Article VI, Section 28 of the Michigan Constitution in an appeal taken pursuant to Michigan Court Rule 7.123.

Section 2. 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, Clerk

**CITY COUNCIL
CITY OF NEW BUFFALO
Berrien County, Michigan**

Council member _____, supported by Council member _____, moved the adoption of the following resolution:

RESOLUTION 2021-_____

**A RESOLUTION TO TERMINATE THE EXISTING MORATORIUM ON THE
REGISTRATION OF SHORT-TERM RENTAL UNITS IN THE CITY'S R-2, R-3,
PUD, GCD, CBD, I-1, WM, AND NCD ZONING DISTRICTS**

WHEREAS, on May 18, 2020, the City Council adopted a resolution imposing a temporary moratorium on the acceptance of new short-term rental registrations in certain areas of the City in order to allow further study and development of possible ordinance amendments; and

WHEREAS, on June 25, 2020, the City Council amended the moratorium to provide a number of exceptions to protect the investment-backed expectations of property owners who made substantial investments in prospective rental properties prior to the moratorium's effective date; and

WHEREAS, on December 20, 2020, the City Council extended the length of the moratorium so that it is now set to expire on August 31, 2021, for a total duration of approximately 16 months; and

WHEREAS, since the moratorium has been in effect, the City has made substantial progress in studying the various issues relating to short-term rentals and developing a new package of proposed regulations; and

WHEREAS, in the course of those efforts, the Planning Commission and City Council have determined that new zoning regulations to control the saturation of short-term rentals are needed only in the R-1 zoning district, which is intended to be the lowest intensity district in the City characterized by residential single-family neighborhoods; and

WHEREAS, the City Council wishes to terminate the moratorium as it applies to the other 8 zoning districts in the City while the Planning Commission continues its work to develop zoning ordinance amendments pertaining to the R-1 district.

NOW, THEREFORE, the City Council resolves as follows:

- A. The moratorium imposed on May 18, 2020 is hereby terminated in the City's R-2, R-3, PUD, GCD, CBD, I-1, WM, AND NCD zoning districts. City staff is authorized and directed to accept and process short-term rental registrations for applications pertaining to dwellings in those districts pursuant to applicable regulations.
- B. The moratorium shall remain in effect with respect to properties in the R-1 zoning district until August 31, 2021, or until the effective date of a zoning ordinance amendment providing short-term rental saturation controls for that district, whichever comes first.
- C. While the moratorium remains in effect in the R-1 district, City staff may accept and process applications to re-register currently registered short-term rental units in the R-1 district in the name of a new owner, but otherwise shall not accept or process applications pertaining to dwellings therein.
- D. All resolutions and parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

Yeas: Council member: _____

Nays: Council member: _____

Abstain: Council member: _____

Absent: Council member: _____

RESOLUTION DECLARED ADOPTED.

CERTIFICATION

As its Clerk, I certify that this is a true and complete copy of a resolution adopted by the City Council of the City of New Buffalo, Berrien County, Michigan, at a regularly scheduled meeting held on _____, 2021.

Date: _____, 2021

Ann M. Fidler, City Clerk