

**NEW BUFFALO TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
May 7, 2024 6:30 PM  
17425 RED ARROW HIGHWAY,  
NEW BUFFALO, MI 49117  
Minutes**

The Meeting was called to order at 6:30 p.m.

**1. ROLL CALL & PLEDGE OF ALLEGIANCE**

Present: Armstrong, Iazzetto, Lauricella, Nesci, Schmidt, Wagner

Absent: Arvanitis

Pledge of Allegiance

**2. PUBLIC COMMENT – GENERAL NON-HEARING RELATED – None**

**3. PUBLIC HEARINGS**

**PUBLIC HEARING – Proposed Zoning Amendment tabled from February 6, 2024**

Iazzetto moved, Wagner seconded, opening the public hearing on the proposed Zoning Amendment at 6:33 p.m.

Verbal vote: CARRIED

The following is a summary of the amendments that are being proposed:

*455-1.5 Accessory Uses, Buildings, and Structures*

*A. Accessory Uses*

*Add subsection: 4. Waterfront Properties: Detached garages are permitted in the front yard of residential properties abutting Lake Michigan or the Galien River. The garage shall maintain a minimum front and side yard setback as required for the district.*

*455- 3.2 Regulated Uses Table – Manufactured Housing & Mobile Home Parks ADD as P (permitted) to Industrial. REMOVE as P (permitted) for AGR, R1 & R2*

**COMMENTS BY PLANNING COMMISSION**

The proposed amendment to this section will cure the current discrepancy between the ordinance and the Regulated Uses Table. It was also noted that a PUD would be required to create manufactured housing or mobile home parks outside of the Industrial zoning district.

*Article 13 Definitions*

*Add* \_\_\_\_\_

*Lot, Through: Any interior lot having frontage on two parallel streets. These lots are considered to have 2 front yards, with the remaining yards being side yards.*

*Add* \_\_\_\_\_

*455-4.4 Signs – add section*

*R. Business Center Signs*

*A sign located on a parcel of land that is developed to advertise a group of businesses, planned complex, or multi-tenant building on contiguous parcels within the same area no more than 1,500 ft from the proposed signage. Size: No greater than 80 square feet. Location: Minimum of 15 feet from any property line. Height: No higher than 10 feet.*

**COMMENTS BY PLANNING COMMISSION**

The proposed definition of "lot, through" is consistent with the existing ordinance. Business Center Signs are currently not allowed. The proposed amendment for Business Center Signs is specifically meant for places like Harbor Country Drive where not all businesses have frontage on the main road.

*Discussion on Rental Property Ordinance Chapter 332 placing limitations on number of structures that can be used for Short Term Rental in R1 and AGR districts.*

**COMMENTS BY PLANNING COMMISSION**

Accessory structures are currently limited by square footage and not the number of structures. The ordinance prohibits guest quarters from including cooking facilities and states that guest quarters can be rented separately from the main sleeping quarters. People are renting out pool houses, converted garages, etc. while not simultaneously living on the property. The new law proposed by the State will help differentiate between businesses and private citizens renting out their homes. Concerns were expressed about parking problems as a result of multiple rental units on one parcel.

**PUBLIC HEARING WRITTEN CORRESPONDENCE**

Correspondence was received from Joyce Mims of Union Pier in support of imposing limits on the number of Short-term Rentals in R1 and AGR zoning districts.

**PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH)**

Kathy and Harry Sorensen of Lubke Road discussed a property where the owner is trying to utilize pool house and barns as short-term rentals in addition to the main house. The Sorenson's home is downhill from the rental property and they are concerned that the current septic system is not large enough for the expanded occupancy – especially since the Sorensens' well is 60'-70' from the rental property. The Sorensens further noted that their septic system had to be elevated for proper drainage and the septic system at the rental property is not elevated. The Berrien County Health Department has been notified, but an inspection has not been done.

Joyce Mims of Union Pier inquired if rental properties can be owned by corporations and if those properties receive the homestead exemption. Zoning Administrator, Estelle Brinkman, stated that corporations can own rental properties. She stated further it can be difficult to determine if the corporation is an actual business or just a mechanism to shield potential liability. The new House Bill on short-term rentals tracks the number of days a property is rented, which will make it easier hold the owners rental properties accountable.

Iazzetto moved, Schmidt seconded, closing the public hearing on the proposed Zoning Amendment at 6:57 p.m.

Verbal vote: CARRIED

**PUBLIC HEARING – # 2024-05-01**

Armstrong moved, Schmidt seconded, opening the public hearing on the proposed SLU at 19689 US 12 New Buffalo, MI at 6:58 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Native Leaf, LLC regarding Petition for Special Land Use to operate an Adult-Use Marihuana Establishment at 19689 US 12, New Buffalo, MI 49117 parcel part of 11-13-0019-0009-00-1.

**COMMENTS BY APPLICANT**

The Applicant appeared with Architect Arthur Bates and stated that this will a 4,000 square foot facility with the operating hours of 9:00 a.m. to 9:00 p.m.

**COMMENTS BY THE PLANNING COMMISSION**

The Commission noted that the site plan shows two lights in the parking lot and asked if any other outdoor lighting was planned. The Applicant stated that there will only be two light poles, but each light pole will have two lights pointing down. The Commission asked the proposed site is a wet area. Applicant's Architect stated that the original parcel had wetlands delineated in the back corner and that they are working with EGLE to redefine the area. One Commissioner noticed lots of retention areas. Applicant's Architect noted that there isn't another place for drainage.

**COMMENTS BY ZONING ADMINISTRATOR (if any)**

Zoning Administrator, Estelle Brinkman, stated that a variance will be required for excess parking and parking within the front yard of an Industrial district. She also noted that a new parcel number issued to this address in 2025 due to there being a new parcel split.

**PUBLIC HEARING WRITTEN CORRESPONDENCE – None**

**PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH) – None**

Schmidt moved, Wagner seconded, closing the public hearing on the proposed SLU at 19689 US 12, New Buffalo, MI at 7:05 p.m.

Verbal vote: CARRIED

**PUBLIC HEARING – # 2024-05-02**

Iazzetto moved, Armstrong seconded, tabling the public hearing on the proposed SLU at 19615 US 12, New Buffalo, MI until the Planning Commission's June meeting.

Verbal vote: CARRIED

**PUBLIC HEARING – # 2024-05-03**

Armstrong moved, Schmidt seconded, opening the public hearing on the proposed SLU at 11509 Wilson Rd, New Buffalo, MI at 7:05 p.m.

Verbal vote: CARRIED

The Planning Commission heard comments on the request of Christopher Yermian regarding Petition for Special Land Use to operate an Adult-Use Marihuana Establishment at 11509 Wilson Rd, New Buffalo, MI 49117 parcel 11-13-0015-0012-01-8.

### **COMMENTS BY APPLICANT**

Applicant's Engineer and Attorney appeared to discuss this application. The proposed site is 188' from the house across the street. Discussion surrounding the portion of the Ordinance which states that a parcel does not abut a zoning district if a railroad or state highway separates the parcel from the zoning district. For this application, a county road divides the subject property from an AGR district. The question of why an exception was made for State highways, and not county roads, was raised. It was noted that the site plan needs one more bike parking spot and has more space for snow storage than is required. Variances need to be obtained for the setback and the number of parking spots. The site plan includes a rain garden system utilizing water run-off, which has been approved by the Drain Commission. Three light poles will be installed in the parking lot and the signage will be installed according to the ordinance requirements.

### **COMMENTS BY PLANNING COMMISSION**

The commission expressed concern that there is not enough parking planned to avoid overflow parking on Wilson Road. The commission inquired what the maximum occupancy is inside of the building, but no details could be provided. The commission noted that employees and security personnel alone could fill the current, planned number of spaces. Zoning Administrator, Estelle Brinkman, noted that the site plan meets the minimum parking requirements but the Applicant's Engineer stated that the plan can be reworked to add more parking. The commission noted that the site plan reflects a mural on the garage door but details could not be provided. The commission requested that more details be provided about the mural.

### **COMMENTS BY ZONING ADMINISTRATOR**

Zoning Administrator, Estelle Brinkman, stated that this parcel is considered to abut an AGR district and that the proposed use may not be on a parcel that abuts AGR. She stated further that proposed use was specifically slated (as per our ordinance) to be located on US 12; Grand Ave; Harbor Country Dr; Holiday Dr; and O'Brien Ct. and M239.

### **PUBLIC HEARING WRITTEN CORRESPONDENCE**

Correspondence in opposition to this proposed special land use was received from:

- John Boguslawski and Teresa Grabowski of 11514 Wilson Road;
- Jennifer Cochran of 11580 Wilson Road;
- Rita Cochran of 11538 Wilson Road; and
- Kim Landess.

Correspondence was also received in favor of this proposed special land use from Adam and Jolene Straka of 11509 Wilson Road.

### **PUBLIC COMMENT (LIMITED TO 3 MINUTES EACH)**

Jolene Straka of 11509 Wilson Road spoke in favor of granting this special land use. Her and her husband are the owners of the property that is the subject of this hearing. She noted that her home is now surrounded by dispensaries and discussed the ways it has negatively impacted her family's day-to-day life. As a result, this property can no longer be sold as a home. Ms. Straka requested that the Commission adjust the marijuana overlay to include her home.

Armstrong moved, Schmidt seconded, closing the public hearing on the proposed SLU at 11509 Wilson Rd, New Buffalo, MI at 7:45 p.m.

Verbal vote: CARRIED

**4. BUSINESS SECTION**

**Proposed Zoning Amendment tabled from February 6, 2024**

455-1.5 Accessory Uses, Buildings, and Structures

**5. Accessory Uses**

Add subsection: 4. Waterfront Properties: Detached garages are permitted in the front yard of residential properties abutting Lake Michigan or the Galien River. The garage shall maintain a minimum front and side yard setback as required for the district.

455- 3.2 Regulated Uses Table – Manufactured Housing & Mobile Home Parks ADD as P (permitted) to Industrial. REMOVE as P (permitted) for AGR, R1 & R2

Article 13 Definitions

Lot, Through: Any interior lot having frontage on two parallel streets. These lots are considered to have 2 front yards, with the remaining yards being side yards.

Armstrong moved, Wagner seconded, recommending approval as submitted (previously discussed and agreed during public hearing February 6, 2024).

Roll Call Vote:

Armstrong	<u>Yes</u>
Arvanitis	<u>Absent</u>
Iazzetto	<u>Yes</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Yes</u>
Wagner	<u>Yes</u>

455-4.4 Signs – add section

**R. Business Center Signs**

A sign located on a parcel of land that is developed to advertise a group of businesses, planned complex, or multi-tenant building on contiguous parcels within the same area no more than 1,500 ft from the proposed signage. Size: No greater than 80 square feet. Location: Minimum of 15 feet from any property line. Height: No higher than 10 feet.

Nesci moved, Armstrong seconded, recommending approval as submitted

Roll Call Vote:

Armstrong	<u>Yes</u>
Arvanitis	<u>Absent</u>
Iazzetto	<u>Yes</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>

Schmidt	<u>Yes</u>
Wagner	<u>Yes</u>

Rental Property Ordinance Chapter 332 placing limitations on number of structures that can be used for Short Term Rental in R1 and AGR districts.

Iazzetto moved, Wagner seconded, recommending approval with the following language: a maximum of two (2) structures per parcel, including residences and accessory dwelling units, shall qualify for use as short-term rentals. Compliance with New Buffalo Township's Short-Term Rental Ordinance and application process is required.

Roll Call Vote:

Armstrong	<u>Yes</u>
Arvanitis	<u>Absent</u>
Iazzetto	<u>Yes</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Yes</u>
Wagner	<u>Yes</u>

**a. Public Hearing Consideration for Special Land Use**

It should be noted that all of today's public hearings have been individually reviewed by each Commissioner by the standards outlined in the New Buffalo Township Zoning Ordinance Article 6.3 Site Plan Standards for Approval and 8.2 Standards for Special Land Use Approval.

**The Special Land Use applications have been reviewed under the following standards from the New Buffalo Township Zoning Ordinance Article 6.3 Site Plan Standards for Approval:**

A. Adequacy of Information. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.

B. Site Design Characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining land uses, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by these regulations. Where boundary concerns are present, the Zoning Administrator may require a staked survey.

C. Appearance. Landscaping, earth berms, fencing, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.

D. Compliance with district requirements. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Schedule of Dimensional Requirements, Section 2.2, unless otherwise provided in these regulations.

E. Emergency vehicle access. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.

F. Ingress and egress. Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.

G. Pedestrian circulation. The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system.

H. Vehicular and pedestrian circulation layout. The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing streets or pedestrian ways in the vicinity of the site. The width of streets and drives shall be appropriate for the volume of traffic they will carry. In order to ensure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.

I. Drainage. Grading and drainage shall comply with the Berrien County Drain Commission and all other applicable state and federal requirements.

J. Soil erosion and sedimentation. The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with Berrien County Erosion Control Standards. Article 6 Site Plan Review New Buffalo Township Zoning Ordinance 126

K. Exterior lighting. Exterior lighting shall be designed so that it is deflected away from adjoining properties, visual glare is minimized, and so that it does not impede vision of drivers along adjacent streets, as specified in this ordinance.

L. Public services. Adequate services and utilities, including water, sanitary sewer, and stormwater control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.

M. Screening. Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public roads, shall be screened by walls or landscaping of adequate height as specified in this ordinance.

N. Danger from hazards. The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the Township to respond to such hazardous incidents to prevent injury and loss of life and property. In making such an evaluation, the Township shall consider the location, type, characteristics, quantities, and use of hazardous materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the Township. Sites that include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, and public sewer system.

O. Health and safety concerns. Any use in any zoning district shall comply with applicable Federal, state, county, and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic radiation; radioactive materials; and toxic and hazardous materials.

P. Sequence of development. All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient, and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.

## **8.2 STANDARDS FOR SPECIAL LAND USE APPROVAL:**

**Each application shall be reviewed on an individual basis for conformity and compliance with the standards of this Ordinance, including those for site plan review and a finding that the special land use will meet all of the specific standards below:**

A. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.

B. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, and including, but not limited to streets, police and fire protection, drainage structures and refuse disposal. Adequate water and sanitation facilities must be available.

C. The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.

D. The use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.

E. The site plan proposed for such use demonstrates compliance with the applicable specific design standards for the special land use as contained in Article 5.

F. The use is consistent with the New Buffalo Township Master Plan.

### **Special Land Use Case Number 2024-05-01; Native Leaf, LLC**

#### Findings of Fact:

Yes The New Buffalo Township Zoning Administrator has received copy of all applicable applications required to obtain operating licenses and approval from LARA/CRA along with copy of any pre-approval letters.

Yes The New Buffalo Township Engineering firm Wightman & Associates has conducted a site plan review in compliance with the above stated standards and submitted its findings to the Township.

Yes The Zoning Administrator has reviewed the Special Land Use application; Wightman & Associates site plan review findings; and applicant provided corrections/modifications as request, and found the application to be in compliance with New Buffalo Township Ordinances.

Yes The Planning Commission has reviewed the application and site plan for compliance with the standards of the New Buffalo Township Zoning Ordinance detailed in Articles 6.3 and 8.2.

Nesci moved, Iazzetto seconded, recommending approval for Special Land Use for Case Number 2024-05-01 submitted by Native Leaf, LLC to operate an Adult-Use Marijuana Retail Establishment at 19689 US 12, New Buffalo, MI being part of 11-13-0019-0009-00-1 with the following conditions: a variance is obtained for excess parking and parking within the front yard of an Industrial district and a new parcel number is obtained due to the land split.

#### Roll Call Vote:

Armstrong	<u>Yes</u>
Arvanitis	<u>Absent</u>
Iazzetto	<u>Yes</u>
Lauricella	<u>Yes</u>
Nesci	<u>Yes</u>
Schmidt	<u>Yes</u>



Wagner Yes

**Special Land Use Case Number 2024-05-02; Stash Ventures, LLC**

This application was tabled until the Planning Commission's regularly scheduled meeting in June 2024.

**Special Land Use Case Number 2024-05-03; Christopher Yermian**

Findings of Fact:

Yes The New Buffalo Township Zoning Administrator has received copy of all applicable applications required to obtain operating licenses and approval from LARA/CRA along with copy of any pre-approval letters.

Yes The New Buffalo Township Engineering firm Wightman & Associates has conducted a site plan review in compliance with the above stated standards and submitted its findings to the Township.

No The Zoning Administrator has reviewed the Special Land Use application; Wightman & Associates site plan review findings; and applicant provided corrections/modifications as request, and found the application to be in compliance with New Buffalo Township Ordinances.

Yes The Planning Commission has reviewed the application and site plan for compliance with the standards of the New Buffalo Township Zoning Ordinance detailed in Articles 6.3 and 8.2.

Armstrong moved, Wagner seconded, recommending denial of Special Land Use for Special Land Use for Case Number 2024-05-03 submitted by Christopher Yermian to operate an Adult-Use Marihuana Retail Establishment at 11509 Wilson Rd, New Buffalo, MI being 11-13-0015-0012-01-8.

Roll Call Vote:

Armstrong Yes  
Arvanitis Absent  
Iazzetto Yes  
Lauricella Yes  
Nesci No  
Schmidt No  
Wagner Yes

b. Excused Absences (if any)

Armstrong moved, Iazzetto seconded, approving absences for Arvanitis at the present meeting.

Motion CARRIED

c. Approve Minutes

Iazzetto moved, Wagner seconded approving the minutes from the April 9, 2024 meeting.

Motion CARRIED

6. **CORRESPONDENCE** – None

7. **ADJOURNMENT**

Wagner moved, Armstrong seconded, adjourning at 8:01 p.m.

Motion CARRIED

Submitted by:

  
\_\_\_\_\_  
Michelle Hannon, Recording Secretary