

**CHARTER TOWNSHIP OF VAN BUREN  
PLANNING COMMISSION  
March 11, 2020  
MINUTES**

Chairperson Thompson called the meeting to order at 7:30 p.m.

**ROLL CALL:**

**Present:** Atchinson, Budd, Kelley, Jahr and Thompson.

**Excused:** Boynton and Franzoi.

**Staff:** Director Best, Executive Assistant Renaud and Secretary Harman.

**Planning Representatives:** McKenna Associate, Vidya Krishnan.

**Audience:** Four (4).

**APPROVAL OF AGENDA:**

**Motion Kelley, Jahr second to approve the agenda of March 11, 2020 as presented. Motion Carried.**

**APPROVAL OF MINUTES:**

**Motion Jahr, Budd second to approve the regular meeting minutes of February 12, 2020 as presented. Motion Carried.**

**PUBLIC HEARING:**

**ITEM # 1                    19-036 - REZONING.**

**TITLE:                        THE APPLICANTS, CHARLES AND PATRICIA REAVIS, ARE REQUESTING TO REZONE THE PROPERTY LOCATED AT 1043 SAVAGE ROAD FROM M-1, LIGHT INDUSTRIAL TO R-1B, SINGLE FAMILY RESIDENTIAL.**

**LOCATION:                    SUBJECT PROPERTY IS LOCATED AT 1043 SAVAGE ROAD. (PARCEL ID # 83-105-99-0035-000).**

**Motion Atchinson, Kelley second to open the public hearing. Motion Carried.**

Director Best and McKenna Associate Vidya Krishnan informed Commission members and the audience that the applicants were unable to attend the meeting. In recent Planning Commission meetings, six (6) other properties in the Savage Road area were rezoned from M-1 (Light Industrial) to R-1B (Single Family Residential). The applicants are requesting the rezoning of the 1043 Savage Road for the same reason as the previous applicants, it being difficult to refinance or obtain a new mortgage for the property with the current M-1 zoning designation.

Vidya Krishan of McKenna Associates presented the staff review letter dated February 28, 2020 recommending the Planning Commission recommend approval to the Township Board of Trustees for the request to rezone parcel #83-105-99-0035-000, 1043 Savage Road, from M-1 (Light Industrial) to R-1B (Single Family Residential) based upon the following reasons:

1. **Section 12.504(A).** The proposed rezoning is consistent with the goals, policies, and objectives of the Master Plan and its subsequent amendments. The proposed R-1B zoning designation is

consistent with the residential designation envisioned in the Master Plan for the parcels and abutting properties.

2. **Section 12.504(B).** The proposed rezoning is consistent with the intent to the Zoning Ordinance and the existing development pattern of the area.
3. **Section 12.504(C).** The existing and proposed use of the parcel is not likely to generate any additional traffic and the street frontages are capable of handling any traffic generated from the sites.
4. **Section 12.504(D).** The parcel is currently served by Township services and utilities, and we are not aware of any constraints in the ability to continue to serve the parcel.
5. **Section 12.504(E).** The requested rezoning does not change the Zoning Ordinance but brings the Township further into compliance with the future land use map (2018).
6. **Section 12.504(F).** The proposed rezoning is not causing any exclusionary zoning.
7. **Section 12.504 (G).** The proposed rezoning is not affected by any known environmental constraints on the property at this time.
8. **Section 12.504(H).** The property will not be occupied by unpermitted business activities, and will be occupied by uses permitted by right and special land use in the proposed R-1B zoning district, and those uses are likely to have less adverse impacts on the adjacent neighborhood, than developing it under the current M-1 zoning designation.
9. **Section 12.504(I).** If rezoned, the parcel can be rebuilt upon in compliance with ordinance standards.
10. **Section 12.504(J).** Given the possible options, we believe the R-1B designation is the most appropriate.
11. **Section 12.504(K).** Amending the existing M-1 district to allow for single family residential uses would be inappropriate.
12. **Section 12.504(L).** The proposed R-1B zoning of the site will be compatible with the uses currently existing around it, and not create an isolated or incompatible zone. The requested rezoning also corrects the zoning of a split-zoned parcel to a single designation.

No questions or comments from the Commission or the audience.

**Motion Kelley, Atchinson second to close the public hearing. Motion Carried.**

**NEW BUSINESS:**

**ITEM # 1                    19-036 - REZONING.**

**TITLE:                    THE APPLICANTS, CHARLES AND PATRICIA REAVIS, ARE REQUESTING TO REZONE THE PROPERTY LOCATED AT 1043 SAVAGE ROAD FROM M-1, LIGHT INDUSTRIAL TO R1-B, SINGLE FAMILY RESIDENTIAL.**

**LOCATION:                SUBJECT PROPERTY IS LOCATED AT 1043 SAVAGE ROAD. (PARCEL ID # 83-105-99-0035-000).**

No further questions or comments from Commission members or the audience.

**Motion Kelley, Jahr second to recommend to the Township Board of Trustees approval of the applicants request to rezone 1043 Savage Road from M-1, Light Industrial to R1-B, Single Family Residential, based on the analysis and subject to the conditions in the staff review letter dated February 22, 2020:**

1. **Section 12.504(A).** The proposed rezoning is consistent with the goals, policies, and objectives of the Master Plan and its subsequent amendments. The proposed R-1B zoning designation is consistent with the residential designation envisioned in the Master Plan for the parcels and abutting properties.
2. **Section 12.504(B).** The proposed rezoning is consistent with the intent of the Zoning Ordinance and the existing development pattern of the area.
3. **Section 12.504(C).** The existing and proposed use of the parcel is not likely to generate any additional traffic and the street frontages are capable of handling any traffic generated from the sites.
4. **Section 12.504(D).** The parcel is currently served by Township services and utilities, and we are not aware of any constraints in the ability to continue to serve the parcel.
5. **Section 12.504(E).** The requested rezoning does not change the Zoning Ordinance but brings the Township further into compliance with the future land use map (2018).
6. **Section 12.504(F).** The proposed rezoning is not causing any exclusionary zoning.
7. **Section 12.504 (G).** The proposed rezoning is not affected by any known environmental constraints on the property at this time.
8. **Section 12.504(H).** The property will not be occupied by unpermitted business activities, and will be occupied by uses permitted by right and special land use in the proposed R-1B zoning district, and those uses are likely to have less adverse impacts on the adjacent neighborhood, than developing it under the current M-1 zoning designation.
9. **Section 12.504(I).** If rezoned, the parcel can be rebuilt upon in compliance with ordinance standards.
10. **Section 12.504(J).** Given the possible options, we believe the R-1B designation is the most appropriate.
11. **Section 12.504(K).** Amending the existing M-1 district to allow for single family residential uses would be inappropriate.
12. **Section 12.504(L).** The proposed R-1B zoning of the site will be compatible with the uses currently existing around it, and not create an isolated or incompatible zone. The requested rezoning also corrects the zoning of a split-zoned parcel to a single designation.

**Roll Call:**

**Yeas: Jahr, Kelley, Atchinson, Budd and Thompson.**

**Nays: None.**

**Absent: Boynton and Franzoi.**

**Motion Carried. (Letter Attached)**

**ITEM # 2                            20-004 – TNT FIREWORKS – TEMPORARY LAND USE.**

**TITLE:                                THE APPLICANT, TNT FIREWORKS, IS REQUESTING A TEMPORARY LAND USE PERMIT TO CONDUCT A TEMPORARY OUTDOOR FIREWORKS TENT SALE.**

**LOCATION: 10562 BELLEVILLE ROAD. THE SITE IS LOCATED IN THE WALMART PARKING LOT, WHICH IS ON THE WEST SIDE OF BELLEVILLE ROAD, NORTH OF THE I-94 NORTH SERVICE DRIVE.**

Director Best gave the presentation for the applicant, who was unable to attend. The applicant is requesting a temporary land use permit to operate a tent sale of fireworks at the Belleville Road Walmart, Store #2872, at 10562 Belleville Road from June 22, 2020 through July 5, 2020, operating hours of 9:00 a.m. to 10:00 p.m. This is the sixth (6<sup>th</sup>) year the applicant has requested a temporary land use permit for this location. There are no changes from last year's application.

Director Best presented his staff review letter dated March 3, 2020 recommending approval of the application subject to the following three (3) conditions:

1. That the applicant obtains approval from the Van Buren Township Fire Marshal.
2. That the applicant provides the Township with a current Consumer Fireworks Retail Facility: Non-Permanent license prior to the establishment of the temporary land use.
3. That all proposed signage complies with the Zoning Ordinance.

Commissioner inquired if the Non-Permanent license is the only license for this type for this use or if there was another class of license available. This Consumer Fireworks Retail Facility: Non-Permanent license is the only one. No comments from the audience.

**Motion Kelley, Jahr second to grant the applicant, TNT Fireworks, temporary land use approval to conduct a temporary outdoor fireworks tent sale located at 10562 Belleville Road, based on the analysis and subject to the conditions in the staff review letter dated March 3, 2020. Motion Carried. (Letter Attached).**

**ITEM # 3 DISCUSSION: ZONING ORDINANCE AMENDMENTS: C, LOCAL BUSINESS DISTRICT AMENDMENTS.**

**PROPOSED AMENDMENTS TO ADD CLARIFICATIONS IN ORDER TO DISTINGUISH COMMERCIAL AND RESIDENTIAL/NON-COMMERCIAL LAND USES IN THE C, LOCAL BUSINESS DISTRICT, WITH RESPECT TO MAXIMUM BUILDING SIZE, AND CLARIFY RESTRICTIONS ON DWELLINGS IN NON-RESIDENTIAL ZONING DISTRICTS. THE AMENDMENTS WILL BE TO SECTION 3.105 – FOOTNOTES TO THE TABLE OF PERMITTED USES AND SPECIAL LAND USES BY DISTRICT, SECTION 3.110(D) – REQUIRED CONDITIONS OF THE C, LOCAL BUSINESS DISTRICT AND SECTION 5.117 – DWELLINGS IN NON-RESIDENTIAL DISTRICTS.**

Vidya Krishnan of McKenna Associates presented her C (Local Commercial) District Amendment letter dated March 1, 2020, a draft of the zoning ordinance amendment, Trip Generation Manual Data, a map of the C, Local Business zoning district and examples of selected uses listed as currently permitted in the C, Local Business District.

The intent of the amendment at this time is not to address a specific project, but to correct a requirement of the ordinance that is too generalized and inappropriate for general application.

Addition of the clarification protects the Township and its residents from larger 'big box' development on these neighborhood parcels and at the same time allows for uses that may occupy a larger footprint but generate significantly lesser volumes of traffic and adverse impacts on the abutting areas.

Resident inquired if the ordinance amendment requires a public hearing prior to being approved. Director Best confirmed that it does and the public hearing has been scheduled for the March 25, 2020 Planning Commission meeting.

Commissioners inquired if there have been any other developers looking at the property on Tyler and Morton Taylor Road, if there are four (4) C parcels on the map or multiple parcels and if the amendment affects all of the parcels. There was a retail investor quite a while ago, which has not returned. The C parcels shown on the map are multiple parcels and the amendment would apply to all of them. Commissioners like the trip generation data and would like to see if for all projects.

Vidya Krishnan of McKenna Associates will get the trip data together for all C parcels and provide that data to the Commission. Director Best informed Commission members and the audience to email any additional questions or comments they may have to the office.

**GENERAL DISCUSSION:** None.

**ITEM #1                      UPCOMING TRAINING OPPORTUNITIES**

Executive Assistant Renaud announced the following upcoming training opportunities:

Planning & Zoning Essentials: Thursday, March 19 in Jackson, MI

Site Plan Review Workshop: Wednesday, March 18 in Taylor, MI

The training sessions are open to members of the Planning Commission and Board of Zoning Appeals (BZA). Members interested in signing up for a session are to contact Executive Assistant Renaud.

**ADJOURNMENT:**

**Motion Budd, Atchinson second to adjourn at 8:12 p.m. Motion Carried.**

Respectfully submitted,

Christina Harman  
Recording Secretary



**VAN BUREN**  
CHARTER TOWNSHIP

# Memo

**DATE:** February 28, 2020

**TO:** Van Buren Township Planning Commission

**RE:** 19-036 Rezoning Request at 1043 Savage Road

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## **Staff Report**

Dear Commissioners:

The request for rezoning from the applicant / property owner located at 1043 Savage Road to rezone the subject parcel from M-1 (Light Industrial) to R-1B (Single Family Residential) district has been reviewed. Information regarding this request is listed below and on the following page:

**File Number:** 19-036

**Site Address:** 1043 Savage Road

**Parcel Number:** 83 105 99 0035 000

**Parcel Size:** 3.29 acres

**Location:** North side of Savage Road between Arlene Lane and Martinsville Road

**Applicants:** Charles and Patricia Reavis, 1043 Savage Road, Van Buren Township, MI 48111

**Property Owners:** Same as applicants.

**Request:** Applicants are requesting to rezone their property from M-1 (Light Industrial) to R-1B (Single Family Residential)

**Zoning and Existing Use:** Split-zoned: M-1, Light Industrial (approximately northern 5/6 of parcel) & R-1 B, Single Family Residential (approximately southern 1/6) of parcel. Used for single family residential dwelling (1,684-sq. ft.) and accessory structures including a stables (1,632-sq. ft.) and farm utility building (2,016-sq. ft.).

**Adjacent Zoning and Existing Uses:**

**North:** Zoned R-1A (Single Family Residential) and vacant.

**East:** Split-zoned M-1 (Light Industrial) and R-1B (Single Family Residential) and used residentially.

**South:** Zoned AG (Agricultural and Estate) and vacant.

**West:** Split-zoned M-1 (Light Industrial) and R-1B (Single Family Residential) and used residentially.

**Other:** Public hearing notices were published in the Belleville Independent on February 20, 2020 and notices were sent to all property within 300’ of the subject property on February 21, 2020 in accordance with the Michigan Zoning Enabling Act.

A three-dimensional view of the parcel and the parcel’s current zoning configuration and are shown in the images below:



Image courtesy of Google Map data, 2020

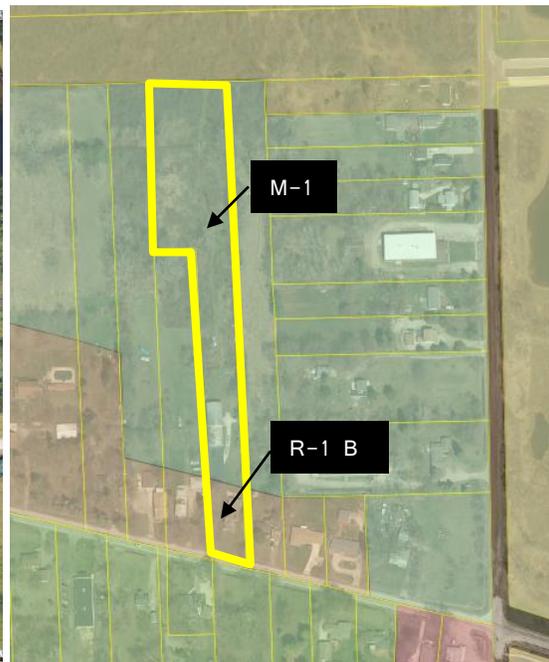


Image data provided by McKenna Associates, last updated 12/4/2015

Six (6) properties including 13414, 13440, 13510, and 13720 Martinsville Road and 791 and 1123 Savage Road were rezoned from industrial to residential zoning to enable sale of the property and obtain a mortgage in the year 2019. During this process, the Township had sent

a letter to all of the affected property owners in the Savage Road – Martinsville Road area, offering to rezone the parcels at no charge to the owners. The current review is prompted by one of the few formal applications made by property owners in response to this letter. Planning and zoning law provides that government has a legitimate interest in maintaining compatibility of surrounding areas, protecting and preserving natural resources, and ensuring adequate infrastructure such as roads, water supply and sanitary sewage disposal. Adoption of a master plan and imposition of zoning restrictions to accomplish those interests, as well as to avoid overcrowding and preserve and protect open space and area aesthetics are consistent with the Michigan Planning Enabling Act (PA 33 of 2008) and Michigan Zoning Enabling Act (PA 110 of 2006).

The Master Plan was originally adopted in 1989 and amended in 1999 (Single Family Residential Plan), 2000 (Ecorse–Haggerty Corridor Plan), 2001 (Grace Lake Area Plan), 2007 (South Side Master Plan), and 2010 (Belleville Road District Plan). The Master Plan is currently under review for a complete revision.

My analysis of the current request is included below and on the following pages.

#### **Standards of Review for Rezoning:**

Article 12, Chapter 5 of the Zoning Ordinance includes the procedures and standards for reviewing Zoning Ordinance amendment applications. Section 12.504 of the Zoning Ordinance includes specific standards for review for the Planning Commission and Township Board of Trustees to consider prior to taking action on an amendment application. These standards are as follows:

**(A) Consistency with the goals, policies, and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.**

The South Side Master Plan (2007) and the Township’s Future Land Use Map (2018) designate the property as “Village Residential”, which is a future land use category that correlates with a maximum recommended density of 4.1 to 5 units per acre with a minimum lot size of 8,400 square feet. It is the densest single family residential future land use designation in the township and is meant to support civic and business activities in the nearby City of Belleville. While this designation is directly correlated to the *R-1C* single family zoning district, which allows for a minimum lot area of 8,400 square feet and is the highest-density single family residential zoning district, rezoning to the R-1B designation would be consistent with sound planning and zoning practice for a number of reasons:

- R-1B zoned properties lie in close proximity to the site and several nearby properties have recently been rezoned to R-1B.

- The same permitted uses as are permitted in the R-1C district are permitted in the R-1 B district.
- The parcel meets minimum R-1B zoning requirements for lot width (80') and lot area (10,000 square feet).

Additionally, rezoning a parcel from split-zoning to a single zoning designation allows a parcel to achieve a cohesive and complete land use potential and is consistent with sound planning. The proposed rezoning is therefore consistent with the applicable Master Plan and sub-area plan documents and broader development trends.

**(B) Consistency with the basic intent and purpose of this Zoning Ordinance.**

Section 1.102 of the Van Buren Township Zoning Ordinance (*Purpose and Intent*) includes imposing regulations and restrictions governing the location and construction of structures and buildings to be used for business, industry, residence, social purposes, and other specified purposes. Based on that intent, the Zoning Ordinance includes provisions for zoning districts, setbacks, building height, land use, parking and loading, access management, landscaping and screening, and environmental performance. The M-1, Light Industrial zoning district currently assigned to the north and majority portion of the subject parcel permits uses such as wholesale sales, warehousing, light manufacturing and processing, minor and major laboratories, retail dry cleaning plants and laundries, public utility buildings, accessory outdoor storage, and accessory structures and uses related to the above permitted uses, and indoor recreation. Such uses are not compatible with the current residential use of the property.

By contrast, the R-1B, Single Family Residential zoning district allows permitted uses such as detached single-family dwellings, publicly-owned recreation facilities, local government buildings and similar uses, schools, private swimming pools, accessory buildings and uses, home occupations, adult foster care or family homes, horses for personal non-commercial uses, family day care homes, and accessory structures and uses related to those permitted uses. Such uses are compatible with the current use of the property. On a related note, the property owner appears to have a business license for an automotive-related business. The owner has been made aware that vehicle service uses associated with any business license will be off-site. The use of the site is and will continue to be residential. Rezoning the entirety of the property to R-1B is therefore consistent with the basic intent and purpose of the Zoning Ordinance.

**(C) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.**

The continuation of the single family residential and related accessory uses on the subject parcel is not anticipated to generate significant traffic on Savage Road.

**(D) The capacity of the Township's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the Township.**

The subject property is currently served by both public water and public sanitary sewage disposal, and there are no constraints on the water and sewer systems we are aware of that would prevent service to the subject sites.

**(E) That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.**

The requested rezoning does not change the Zoning Ordinance but rather brings the Township further into compliance with the South Side Master Plan and future land use map (2018). The requested rezoning does not correct an error in the Zoning Ordinance.

**(F) That the amendment will not be expected to result in exclusionary zoning.**

Exclusionary zoning is a prohibition of a land use when there is a demonstrated need for the use in the community. The subject request is not an amendment that will result in exclusionary zoning but rather a rezoning initiated by the Township to facilitate the change of zoning in an area of nonconforming lots / uses, to bring it more into conformance to the Township's future land use map.

**(G) If a rezoning is requested, compatibility of the site's physical, geological, hydrological, and other environmental features with the uses permitted in the proposed zoning district.**

The site's physical, geological, hydrological, and other environmental features currently support and are anticipated to continue to support and be compatible with the permitted uses in the proposed zoning district.

**(H) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.**

The property will continue to be used residentially as a dwelling, with related agricultural structures for permitted accessory residential uses, and the requested rezoning is intended to correct an existing nonconformity. The continuation of these uses will be compatible with the surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.

**(I) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.**

The parcels are located in the vicinity of properties that are currently residential or planned to be residential in the future. The boundaries of the proposed rezoning follow property boundary lines. Existing structures will be permitted to remain in place. The dwelling structure is lawfully located and can be redeveloped in accordance with the underlying zoning district dimensional requirements. The property's accessory structures have a combined area (3,648-sq. ft.) under the maximum combined accessory building area permitted (4,301.8-sq. ft.), and it is possible for demolition and construction of new structures to occur in a manner that complies with the dimensional regulations of the R-1 B zoning district.

**(J) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the Township's perspective than another zoning district.**

The future land use map (2018) designates the properties as residential, so the requested zoning district is the most appropriate from the Township's perspective when the zoning of surrounding properties is considered.

**(K) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.**

Rezoning is more appropriate than amending the list of permitted or special land uses in the M-1 zoning district. Amending the M-1 district, which is a purely industrial zoning district, to allow for residential uses would not be appropriate.

**(L) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.**

The parcel is adjacent to other residential dwellings and near a planned residential development (PRD) named *Arlene Arbors* on the south side of Savage Road. The requested rezoning would therefore not create an isolated or incompatible zone in the neighborhood, especially considering that multiple properties in the neighborhood are designated as residential in the South Side Master Plan and future land use map (2018). The Township has rezoned six (6) parcels in a similar manner in the past year.

**Recommendation:**

Staff recommends that the Planning Commission recommend approval of the request to rezone Parcel # 83 105 99 0035 000, 1043 Savage Road, from M-1(light industrial) to R-1B (single family residential) based upon the following reasons:

1. **Section 12.504(A).** The proposed rezoning is consistent with the goals, policies, and objectives of the Master Plan and its subsequent amendments. The proposed R-1B zoning designation is consistent with the residential designation envisioned in the Master Plan for the parcels and abutting properties.
2. **Section 12.504(B).** The proposed rezoning is consistent with the intent to the zoning ordinance and the existing development pattern of the area.
3. **Section 12.504 (C).** The existing and proposed use of the parcels is not likely to generate any additional traffic and the street frontages are capable of handling any traffic generated from the sites.
4. **Section 12.504 (D).** The parcels are currently served by Township services and utilities, and we are not aware of any constraints in the ability of to continue to serve the parcels.
5. **Section 12.504(E).** The requested rezoning does not change the Zoning Ordinance but brings the Township further into compliance with the future land use map (2018).
6. **Section 12.504 (F).** The proposed rezoning is not causing any exclusionary zoning.
7. **Section 12.504 (G).** The proposed rezoning is not affected by any known environmental constraints on the property at this time.
8. **Section 12.504 (H).** The property will not be occupied by unpermitted business activities, and will be occupied by uses permitted by right and special land use in the proposed R-1B zoning district, and those uses are likely to have less adverse impacts on the adjacent neighborhood, than developing it under the current M-1 zoning designation.
9. **Section 12.054(I).** If rezoned, the parcels can be rebuilt upon in compliance with ordinance standards.
10. **Section 12.054(J).** Given the possible options, we believe the R-1B designation is the most appropriate.
11. **Section 12.504 (K).** Amending the existing M-1 district to allow for single family residential uses would be inappropriate.
12. **Section 12.054(L).** The proposed R-1B zoning of the site will be compatible with the uses currently existing around it, and not create an isolated or incompatible zone. The requested rezoning also corrects the zoning of a split zoned parcel to a single designation.

Therefore, I recommend that the Planning Commission recommend approval of the requested amendment to the Zoning Ordinance to rezone the subject parcel from M-1 to R-1B designation, to the Township Board of Trustees.

Thank you for allowing me to comment on this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Power". The signature is fluid and cursive, with the first name "Dan" and the last name "Power" clearly distinguishable.

Dan Power, AICP - Van Buren Township Planning and Economic Development Director



## MEMO

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TO: Township Planning Commission  
FROM: Matthew R. Best – Director of Public Services  
RE: Review of Temporary Land Use Request #20-004 – TNT Fireworks  
DATE: March 3, 2020

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### PROJECT REVIEW

TNT Fireworks is requesting a Temporary Land Use permit for a tent sale of fireworks at the Belleville Road Walmart, Store #2872, at 10562 Belleville Road. The use is proposed to be from June 22, 2020 through July 5, 2020. Per Section 7.120 of the Zoning Ordinance, temporary land uses that operate for more than seven (7) consecutive days require Planning Commission approval.

Under Section 7 of Michigan Public Act 256 of 2011, local units of government are limited in their ability to regulate the sale of fireworks within their communities. The Michigan Attorney General has issued an Opinion on this section of the Act (Opinion #7266), which states, “so long as the local ordinance does not prohibit fireworks vendors from undertaking their commercial operations in any way that other vendors may undertake their operations, the ordinance is not preempted by the Act.” Therefore, fireworks vendors are subject to the same Zoning Ordinance regulations as any other temporary land use.

I have reviewed the application and the requirements of Section 7.120 for temporary land use approval and have the following comments:

1. **Adequacy of parking and access** (Section 7.120(C.1)) – The site has 714 public parking spaces, 23 of which are handicapped reserved. The site is currently is over-parked, and the tent will have a limited impact on the number of available parking spaces. This site is located in the heart of Van Buren’s downtown district, and sufficient access is available.
2. **Adequate drainage** (Section 7.120(C.2)) – The site is in an existing parking lot that already has storm water drainage. The tent will not affect the amount of impervious surface or water that would be diverted into the storm system.
3. **Compatibility with surrounding land uses** (Section 7.120(C.3)) – The surrounding parcels are all commercial in nature, and this temporary land use is not expected to impact the surrounding commercial uses.
4. **Size, height, and type of construction of proposed buildings and structures in relation to surrounding site** (Section 7.120(C.4)) – The tent is temporary in nature, and the

parking lot, Walmart store, and the surrounding commercial businesses will not be impacted by the bulk of the tent.

5. **Sufficient setbacks from road right-of-ways and lot lines** (Section 7.120(C.5)) – The tent is located behind a landscaping island within the Walmart Parking Lot. It is over 100 feet from the southern lot line, and 20 feet from the interior service road. Therefore, the setbacks are sufficient and the tent will not impact traffic flow or adjoining commercial businesses.
6. **Adequate utilities** (Section 7.120(C.6)) – TNT Fireworks will supply its own electrical generation. The generator and electrical hook-up will be inspected to ensure compliance with National Fire Protection Association requirements.
7. **Trash disposal and site clean-up** (Section 7.120(C.7)) – TNT Fireworks will be responsible for all trash disposal and site clean-up in relation to their lease agreement with Walmart.
8. **Sanitary facilities** (Section 7.120(C.8)) – Walmart has authorized all customers and TNT employees to use its restroom facilities.
9. **Hours of operation** (Section 7.120(C.9)) – The hours of operation will be from 9:00 a.m. to 10:00 p.m. Although Van Buren Township has a Fireworks Ordinance (adopted in 1986) which requires fireworks sales to conclude at 9:00 p.m., Act 256 preempts this requirement as there is no restriction on the hours of operation for other temporary uses. However, staff are not aware of any complaints with TNT Fireworks closing at 10:00 p.m. in previous years, so the hours of operation approved last year are reasonable and we recommend the same hours of operation for this year.
10. **Outdoor light and signs** (Section 7.120(C.10)) – No exterior lights are provided. Interior lights will be hung inside the tent. Although no temporary commercial sign permit requests have been received, the Zoning Ordinance permits one (1) 32 sq. ft. temporary sign for a period not to exceed 30 days. Any temporary signage must comply with the Zoning Ordinance before it obtains a sign permit from the Building Department.
11. **Other licenses and permits required** (Section 7.120(C.11)) – Last year, the applicant provided the Township with their Consumer Fireworks Retail Facility: Non-Permanent license. A current license must be provided by the applicant prior to the establishment of the temporary use. The Van Buren Fire Marshal shall be separately issuing his review letter.
12. **Potential noise, odor, dust, and glare** (Section 7.120(C.12)) – The proposed temporary use should not increase the noise, odor, dust or glare from their use.
13. **Fire lanes, fire protection, and security** (Section 7.120(C.13)) – The Van Buren Fire Marshal shall review the application for adequacy of fire lanes and fire protection. The site will be continually staffed. During non-operating hours, all products will be stored inside the tent and tent security will be maintained at all times by the tent operator or their representative.

14. **Off-site impacts of traffic volumes** (Section 7.120(C.14)) – The road in the immediate vicinity is a major Township road (Belleville Road) and this temporary use will not impact the flow or travel volumes. During 2014's Public Hearing, a resident raised a concern of the launching of fireworks at the site. No fireworks are permitted to be launched within 300 feet.
15. **Necessity of performance bond to ensure prompt removal** (Section 7.120(C.15)) – The property owner will be responsible for ensuring the site is returned to its pre-sale condition.
16. **Other concerns which may impact the public health, safety, or general welfare** (Section 7.120(C.16)) – There are no additional concerns; however, the applicant is subject to the regulations of Act 256 and applicable regulations of the Fire Department.

### **Recommendation**

This would be the sixth (6<sup>th</sup>) year that TNT Fireworks has been granted a temporary land use permit to operate at this location, and I am not aware of any issues or concerns from those previous years. Per my review of the application, I recommend approval of this application subject to the following three (3) conditions:

1. That the applicant obtains approval from the Van Buren Township Fire Marshal.
2. That the applicant provides the Township with a current Consumer Fireworks Retail Facility: Non-Permanent license prior to the establishment of the temporary use.
3. That all proposed signage complies with the Zoning Ordinance.