



TO: Zoning Board of Appeals Members **MEETING DATE:** Tuesday, January 21, 2025
LOCATION: 4711 Meadowlawn Drive **PARCEL #:** 74-20-015-4016-000
ZONING: C-2 General Business **MASTER PLAN:** Uptown Business District
OWNER(S): Barrett Investments, LLC **APPLICANT(S):** Roger Wesch, Realtor/Manager

Request: Class A Designation for lawfully existing single-family dwelling in the C-2 General Business District, pursuant to Section 38-618, attached.



Findings of Facts:

- This property is not within a High-Risk Erosion Area.
- The structure is not within a Special Flood Hazard area, FEMA FIRM 07/19/2022, Panel 0237E.
- This parcel is a lawfully existing non-conforming unplatted lot.
- The house was built in 1997 and is a lawfully existing non-conforming use.
- The east front yard and north side yard are deficient; the south side yard and west rear yard exceed the minimum required setbacks.
- On November 20, 2006, the property was one of eight parcels rezoned from R-1B Single Family Residential to C-2 General Business, pursuant to Ordinance No. 199, and no Class A Designation has been granted on the home.
- The property and dwelling are considered a Class B non-conforming use. No class B nonconforming use shall be resumed if it has been discontinued for a continuous period at least six months or if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure. No class B nonconforming structure shall be enlarged or structurally altered, or shall it be repaired or reconstructed if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure.
- Granting a Class A Designation allows the property owner to maintain and repair, use, alter and enlarge the dwelling, When the property converts to commercial, the Class A for the residential use is void. A Class A Designation allows the property to be mortgaged and insured as a single-family home.
- The continuance of Class B structures can lead from dwellings no longer being maintained to completely abandoned or unable to be repaired.

Reasons for Decision:

*-A request may be **granted** upon findings that:*

- (1) Continuance thereof would not be contrary to public health, safety, or welfare.
- (2) The structure does not and is not likely to significantly depress the value of nearby properties.
- (3) The use or structure was lawful at the time of its inception.
- (4) No useful purposes would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

*-A request may be **denied** upon finding that:*

- (1) Public services cannot be adequately provided; i.e. water, sewer, gas, electric.
- (2) The proposed construction could hinder public safety response and put the property and surrounding properties at additional risk.
- (3) A hardship (non-financial in nature) or practical difficulty (such as a natural feature of the land) has not been demonstrated.

Contacts/Communications/Correspondence:

No correspondence has been received.

Recommendations:

- The building official recommends approval with no conditions.
 - The department of public works recommends approval with no conditions.
 - The fire chief recommends approval with no conditions.
 - The zoning administrator recommends approval of the Class A Designation based on the findings of fact and (1) through (4,) above, the 2006 zoning change, and the ability for the dwelling to continue to be maintained for safety and to protect surrounding property values.
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Sec. 38-618. - Nonconforming lots, nonconforming uses of land, nonconforming structures and nonconforming characteristics of use.

- (a) *Applicability.* To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the approved plans, construction or designated use of any structure or land on which actual construction was lawfully begun prior to the effective date of adoption of this chapter and that there is likelihood that such lawful construction will be completed 12 months after the effective date of the ordinance from which this chapter is derived. Actual construction is hereby defined to include any lawful and approved physical operation on the premises which is preparatory to intend development or to the establishment of a use such as excavation, grading, fill, drainage and the like or the excavation, grading, fill, drainage and the like or the placing of construction materials in permanent position and fastened in a permanent manner; except that where lawful and approved demolition or removal has begun preparatory to rebuilding, such lawful and approved demolition or removal shall be deemed to be actual construction, provided that such lawful and approved demolition and subsequent reconstruction within 18 months after the effective date of the ordinance from which this chapter is derived. The adoption of this chapter shall not be deemed to affect, alter or change any conditional use, special exception, interpretation or variance previously decided or granted by the appropriate administrative or legislative body of the township or by a court of competent jurisdiction upon review of the action of such administrative or legislative body.
- (b) *Lawfully existing nonconforming lots.*
- (1) The intent of this section is to allow reasonable development of lawfully existing nonconforming lots.
 - (2) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This subsection shall apply even though such lot fails to meet the requirements for area of width, or both, that are generally applicable in the district; provided, however, that yard dimensions and other requirements not involving area or width, or both, or the lot shall conform to the regulations for the district in which such lot is located. Yard requirements variances may be obtained through approval of the zoning board of appeals. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance from which this chapter is derived, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for purposes of this chapter, and no portion of such parcel shall be used or occupied which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.
- (c) *Definition and classification of nonconforming uses and structures.* Nonconforming uses and structures are those which do not conform to certain provisions or requirements of this chapter but were lawfully established prior to the time of its applicability. Class A nonconforming uses and structures are those which have been so designated by the zoning board of appeals, after application by any interested person or the building inspector upon findings that:
- (1) Continuance thereof would be contrary to the public health, safety or welfare.
 - (2) The use or structure does not and is not likely to significantly depress the value of nearby properties.
 - (3) The use or structure was lawful at the time of its inception.
 - (4) No useful purposes would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

All nonconforming uses, buildings or structures not designated as class A are class B nonconforming uses, buildings or structures.

(d) *Procedure for obtaining class A designation; conditions.* A written application as provided by the Charter Township of Fort Gratiot must be filed with the zoning board of appeals. The provided form must be accompanied by a professionally prepared survey and shall include the following:

- (1) The actual shape, location, and dimensions of the property, utility lines, rights-of-way, public and private easements, fences, driveways, parking areas, and high risk erosion areas.
- (2) The shape, size, and location of all existing and proposed buildings or other structures to be erected, altered, or moved.
- (3) Setbacks from all property lines, the nearest fire hydrant, rights-of-way, drains, ponds, the outermost point (including overhangs, gutters, chimneys, architectural features) of existing and proposed structures, and structures on adjoining lots.
- (4) Existing and proposed elevations and finished grade.
- (5) If the property is located within a flood zone, either proof of removal from the flood zone or a professionally prepared elevation certificate must be provided.
- (6) The existing and intended use of the property and of all such structures upon it.
- (7) Such other information concerning the property, and adjoining properties, as may be essential for determining whether the provisions of this chapter are being met.

The zoning board of appeals may require the furnishing of such additional information, as it considers necessary. The notice and hearing procedure before the zoning board of appeals shall be the same as in the case of an application of a variance. The decision shall be in writing and shall set forth the findings and reasons on which it is based. Conditions may be attached, including any time limit, where necessary, to ensure that the use, building or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this chapter. No vested interest shall arise out of a class A designation.

(e) *Revocation of class A designation.* Any class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for class A designation.

(f) *Regulations pertaining to class A nonconforming uses and structures.*

- (1) No class A nonconforming use of land, building or structure shall be resumed if it has been, for any reason, discontinued for a continuous period of at least 18 months or if it has been changed to a conforming use for any period.
- (2) A class A use or structure may be used, altered or enlarged, provided that it does not violate any condition imposed by the zoning board of appeals at the time of its designation.

(g) *Regulations pertaining to class B nonconforming uses and structures.*

- (1) It is the purpose of this chapter to eliminate class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation.
- (2) No class B nonconforming use shall be resumed if it has been discontinued for a continuous period at least six months or if it has been changed to a conforming use for any period or if the structure in which use for any period or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure.

- (3) No class B nonconforming structure shall be enlarged or structurally altered, or shall it be repaired or reconstructed if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure.
 - (4) No class B nonconforming use shall be changed to a substantially different nonconforming use, or enlarged so as to make use of more land area than used at the time of becoming nonconforming.
 - (5) In the case of mineral removal operations, existing holes or shafts may be worked and enlarged on the land which constituted the lot on which operations were conducted at the time of becoming nonconforming, but no new holes or shafts shall be established.
 - (6) No class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time of its inception.
 - (7) No class B nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
 - (8) If a class B nonconforming structure is moved for any reason for any distance whatever; it shall thereafter conform to the regulations for the district in which it is located after it is moved.
 - (9) Ordinary repair and maintenance work may be done on any class B nonconforming structure including repair and replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the state equalized value of the structure provided that the cubic content of the building as it existed at the time of adoption of this chapter shall not be increased.
- (h) *Repairs and maintenance.* Nothing in this chapter shall be deemed to prevent the strengthening or restoring to safe condition of any nonconforming structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (i) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided that there is no change in the nature or character of such nonconforming uses.
- (j) *Record of nonconformity.* Within six months after the adoption of this chapter, the building inspector shall prepare and complete a record of all known nonconforming uses and structures existing at the adoption of this chapter. Such record shall contain the names and addresses of the owners of record of such nonconforming use and of any occupant, other than the owner, the legal description of the land, and the nature and extent of use. Such record shall also contain any information regarding action by the zoning board of appeals for designation of class A status.
- (k) *Nonconforming characteristics of use.*
- (1) It is the intent of this chapter to eliminate, as nearly as is practicable with the prevailing requirements of this chapter, nonconforming characteristics of use and to eliminate them as rapidly as is possible without payment of compensation.
 - (2) Notwithstanding other provisions of this chapter, whenever a change in use, ownership or tenancy occurs or when structural alterations are made, or when renewal of operating license as provided by other township ordinances is made, those nonconforming characteristics of use which were lawfully inadequate or totally lacking at the effective date of the ordinance from which this chapter is derived, or amendments thereto, shall be eliminated. Such upgrading of characteristics of use shall be completed within 12 months after the occurrence of a change in use, ownership or tenancy, or before the expiration date of the renewed operating license, or after issuance of a building permit for structural alterations.

- (3) The zoning board of appeals may grant an extension of time to remedy those deficient characteristics of use found to exist. In granting such extension of time, the zoning board of appeals shall base their written decision upon findings that:
- a. The applicant can document conclusively that personal hardship exists presently but there is likelihood that the improvements can be completed if the initial time allotment is extended; and
 - b. The reasons of personal hardship justify granting an extension of time so as to make possible the reasonable use of land or structure concurrent with the upgrading of those deficient characteristics of use found to exist.

(Ord. No. 62, § 7-16.18, 8-11-1984; Ord. No. 207, § 2, 2-1-2012; Ord. No. 212, § 1, 8-19-2015)

Cross reference— Buildings and building regulations, ch. 4.

State Law reference— Nonconforming uses, MCL 125.286.

**CHARTER TOWNSHIP OF FORT GRATIOT
ZBA DEPARTMENTAL REVIEW**

FROM: Building Department, Department of Public Works, Fire Department
 APPLICANT: Roger Wesch OWNER: Barrett Investments LLC
 LOCATION: 4711 Meadowlawn Drive Parcel I.D. #: 74-20-015-4016-000
 DATE: January 15, 2025 MEETING DATE: Tuesday, January 21, 2025

YES	NO	N/A	BUILDING DEPARTMENT:
		X	1. Will the new construction require additional fire proofing?
		X	2. Will the existing structure require additional fire proofing?

COMMENTS:

RECOMMENDATION:
 Deny Approve Approve w/conditions Postpone-additional information requested
 Reviewed By: Gary Beem, Building Official Date: 01/08/2025

YES	NO	N/A	DEPARTMENT OF PUBLIC WORKS:
	X		1. Are there conflicting or multiple structures?
	X		2. Are there any common service agreements?
			3. If yes, above, are easements/necessary paperwork recorded?
			4. Will the proposed construction interfere with any:
	X		sewer lines or mains? If yes, please indicate: <input type="checkbox"/> existing or <input type="checkbox"/> future
	X		water lines or mains? If yes, please indicate: <input type="checkbox"/> existing or <input type="checkbox"/> future
	X		storm drains? If yes, please indicate: <input type="checkbox"/> existing or <input type="checkbox"/> future

COMMENTS:

RECOMMENDATION:
 Deny Approve Approve w/conditions Postpone-additional information requested
 Reviewed By: Greg Randall, DPW Supervisor Date: 01/08/2025

YES	NO	N/A	FIRE DEPARTMENT:
X			1. Is there location and adequacy of water lines and fire hydrants?
	X		2. Are additional on-site fire protection systems necessary?
X			3. Can use or building be serviced, in case of fire, from all sides?
X			4. Is there adequate vehicle access for fire equipment?
	X		5. Are there special conditions which may necessitate further study or information? (i.e., paint, solvents, explosives, unstable chemicals)

COMMENTS:

RECOMMENDATION:
 Deny Approve Approve w/conditions Postpone-additional information requested
 Reviewed By: Michael F. Fronimos, Fire Chief Date: 01/08/2025



ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING

For Office Use Only

Parcel #: 015-4016-000
 File #(s): V25-003
 Type: Class A \$550

The completed original application must be submitted with 2 copies of the pertinent data, as required and outlined in the Fort Gratiot "Procedures Guide for Submittal to Zoning Board of Appeals" and the applicable filing fee. The ZBA meets on the 3rd Tuesday of each month at 7:00 PM in the Township Administration Building. The applicant, owner, or a representative must be present for the Board to act on the request. **DO NOT SUBMIT COPIES OF THE APPLICATION; SUBMIT THE ORIGINAL ONLY.**

Property and Owner/Applicant Information.

Location/Address: 4711 Meadowlawn Dr. Lot/Unit/Map #: TOM BARRETT
 Owner Name: Barrett Investments LLC Phone: 610 434 7165
 Mailing Address: 71 Thompson St. Alpharetta, GA 30009 Email: Weschworks4u@gmail.com
 If different from owner- Applicant Name: Roger Wesch Manager/Realtor Phone: 810 956 6109
 Mailing Address: 7716 Metcalf Rd Greenwood MI 48006 Email: same

Description of Appeal. Provide a brief description of the appeal. For a variance request, the distance to the nearest fire hydrant MUST be provided. Incomplete requests will be returned to the applicant for completion. See the "Procedures Guide for Submittal to Zoning Board of Appeals" for specific instructions.

Ordinance Number or Section: 38-618 Zoning District: - C2
 Surrounding Property Zoning: N: - C2 S: - C2 E: - R1B W: - C2 Master Plan Designation: -

Proposed: (Plot plan MUST be attached)
CLASS A Designation

Reason: Selling property as a residential listing. Bank requiring zoning change to mortgage property (must be 100% rebuildable)

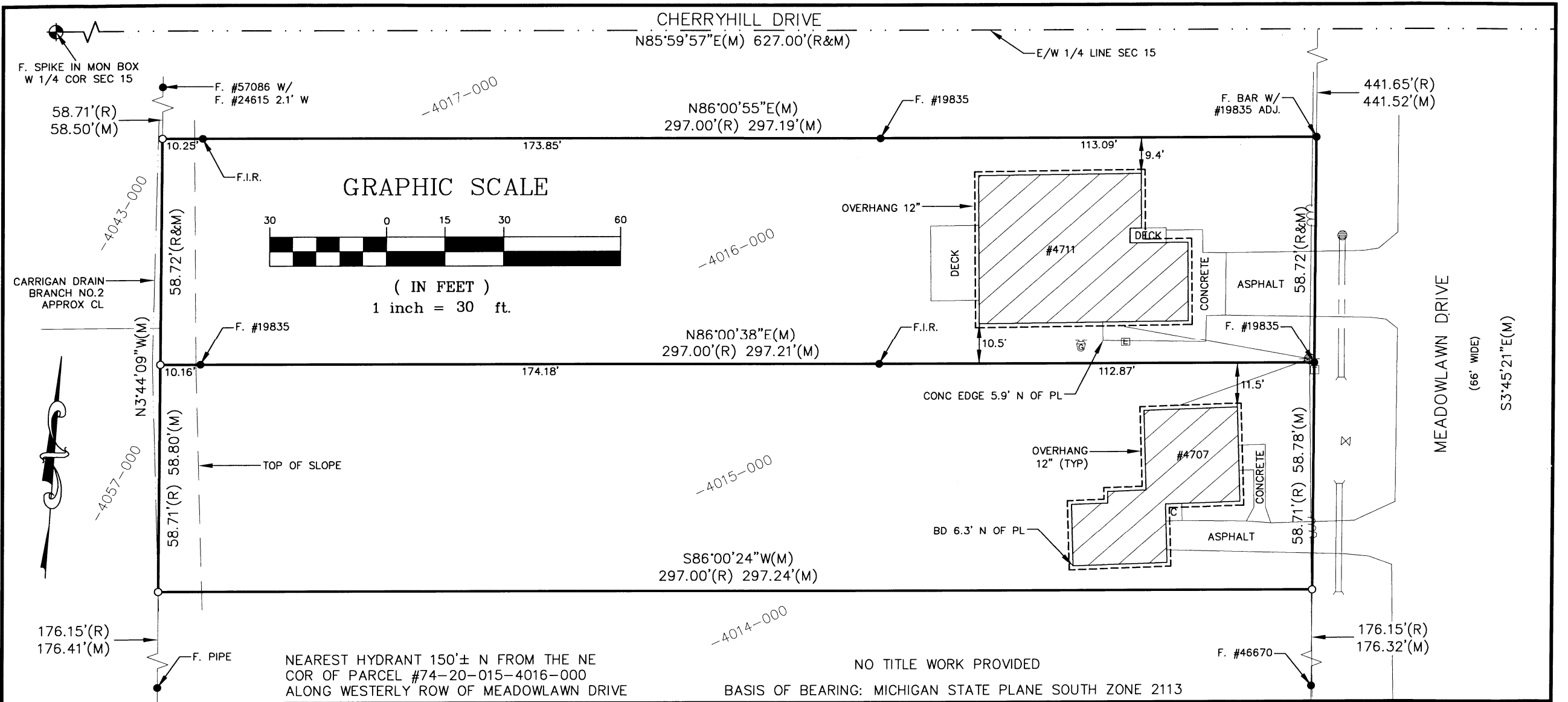
The undersigned deposes that foregoing statements, answers, and accompanying information are true and correct and grants permission for authorized township representatives, Zoning Board of Appeals members and the Zoning Administrator to enter the above described property/properties for the purposes of gathering information related to this application.

BARRETT Investments LLC 12/18/21 [Signature] 12/18/21
 Signature of Owner Date Signature of Applicant Date

For Office Use Only

Request: _____

Public Hearing Date	Publication Date (not less than 15 days)	Decision	Expiration Date of Approval
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- LEGEND**
- SET 1/2" IRON WITH CAP #52471
 - SET CONCRETE MONUMENT
 - FOUND PROPERTY IRON
 - FOUND CONCRETE MONUMENT
 - FENCE LINE
 - ⊙ GOVERNMENT CORNER
 - CENTERLINE
 - RIGHT-OF-WAY LINE
 - (R) RECORDED DATA
 - (M) MEASURED DATA
 - (C) CALCULATED DATA

SURVEYOR'S CERTIFICATE

AS A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, I HEREBY STATE THAT I HAVE CAUSED TO BE SURVEYED THE PARCEL OF LAND DESCRIBED AND DELINEATED HEREON, THAT SAID PLAT IS A TRUE REPRESENTATION OF THE SURVEY AS DIRECTED BY ME, AND THE RELATIVE POSITIONAL PRECISION OF THE CORNERS IDENTIFIED FOR THIS SURVEY AND SHOWN ON THE MAP ARE WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING. I CERTIFY THAT THE REQUIREMENTS FOR 1970 PA 132, MCL 54.213 HAVE BEEN MET.

Robert J. Arnold Jr., P.S. No. 52471

BMJ
ENGINEERS & SURVEYORS, INC.

CIVIL ENGINEERS & LAND SURVEYORS
519 HURON AVE. PORT HURON, MI 48060
TEL: 810-984-5596 FAX: 810-984-8760
Web Page: www.bmjinc.com
Email: mail@bmjinc.com

SCALE: 1"=30'	DATE: 12-11-2024	
SURVEYED: LC	DRAWN: CMC	CHK'D: RJA
JOB NO. 2412-01	PAGE 1 OF 2	

CERTIFICATE OF SURVEY

BOUNDARY SURVEY OF PARCELS
#74-20-015-4015-000 AND -4016-000
BEING PART OF THE SW 1/4 OF SEC 15,
FORT GRATIOT TOWNSHIP,
ST. CLAIR COUNTY, MICHIGAN
FOR: ROGER WESCH

LEGAL DESCRIPTIONS:

74-20-015-4015-000: WARRANTY DEED (L.3534, P.324)

The following described premises Land in the County of St. Clair, State of Michigan, Township Fort Gratiot, is described as follows:
South 58.71 feet of the North 559.08 feet of the East 297 feet of the West 627 feet of the Southwest 1/4, Fractional Section 15, Town 7 North, Range 17 East.

74-20-015-4016-000: WARRANTY DEED (L.3526, P.554)

The following described premises situated in the Township of Fort Gratiot, St. Clair County, MI, described as:
The South 58.72 feet of the North 500.37 feet of the East 297.00 feet of the West 627.00 feet of the Southwest 1/4 of Fractional Section 15, Town 7 North, Range 17 East.

LEGEND

- SET 1/2" IRON WITH CAP #52471
- SET CONCRETE MONUMENT
- FOUND PROPERTY IRON
- FOUND CONCRETE MONUMENT
- FENCE LINE
- ⊙ GOVERNMENT CORNER
- CENTERLINE
- RIGHT-OF-WAY LINE
- (R) RECORDED DATA
- (M) MEASURED DATA
- (C) CALCULATED DATA

SURVEYOR'S CERTIFICATE

AS A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, I HEREBY STATE THAT I HAVE CAUSED TO BE SURVEYED THE PARCEL OF LAND DESCRIBED AND DELINEATED HEREON, THAT SAID PLAT IS A TRUE REPRESENTATION OF THE SURVEY AS DIRECTED BY ME, AND THE RELATIVE POSITIONAL PRECISION OF THE CORNERS IDENTIFIED FOR THIS SURVEY AND SHOWN ON THE MAP ARE WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING. I CERTIFY THAT THE REQUIREMENTS FOR 1970 PA 132, MCL 54.213 HAVE BEEN MET.

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519 HURON AVE. PORT HURON, MI 48060
TEL: 810-984-5596 FAX: 810-984-8760
Web Page: www.bmjinc.com
Email: mail@bmjinc.com

SCALE: N/A	DATE: 12-11-2024	
SURVEYED: LC	DRAWN: CMC	CHK'D: RJA
JOB NO. 2412-01	PAGE 2 OF 2	

CERTIFICATE OF SURVEY

BOUNDARY SURVEY OF PARCELS
#74-20-015-4015-000 AND -4016-000
BEING PART OF THE SW 1/4 OF SEC 15,
FORT GRATIOT TOWNSHIP,
ST. CLAIR COUNTY, MICHIGAN
FOR: ROGER WESCH