



SPECIAL MEETING AGENDA  
CITY COUNCIL  
CITY OF WOODLAND

THURSDAY, AUGUST 27, 2015  
7:00 P.M.

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. ROLL CALL

Mayor Doak, Councilors Carlson, Massie, Newberry, and Weiner

3. PUBLIC HEARING

A. Public Hearing concerning a request for variances to encroach into the minimum required east side yard and front yard setbacks, to encroach into the required west side yard structure separation, and to exceed impervious surface lot coverage of 45% in the Groveland Assembly grounds for the construction of a new single family house for Boris Ninkovic for the property located at 2800 East Road.

4. ADJOURNMENT



**Agenda Date: 8-27-15**  
**CITY COUNCIL MEMO**  
**Variance Recommendation**

**Agenda Item:** Consider Variance Request, Boris Ninkovic, 2800 East Road

**Summary:** Copies of the application materials and staff report are attached for the City Council's reference. Notice of the public hearing was published in the Star Tribune newspaper on August 15, 2015. The City Council will hold a public hearing at an August 27, 2015 special meeting. The Council shall consider the public comments, applicant's comments, application materials, staff report and **must** address city code Section 900.14, Subdivision 5, "Variance Findings", as well as any conditions prior to taking any official action in the form of a motion.

**Council Action:** Action required by January 5, 2015. Potential motions ...

**Approval Motion:** *I move the council accept the recommendation of staff and **Conditionally Approve** the application for variances of Woodland Ordinance Sections 900.09(3) and 900.10(2): to encroach four feet, four inches (4'-4") into the required ten foot, eleven inch (10'-11") front yard setback, to encroach one foot, eleven inches (1'-11") into the required fifteen (15) foot exterior east side yard setback and to encroach nine feet (9') into the required twenty (20) foot structure separation and to exceed the maximum permitted impervious surface area allowed with a Conditional Use Permit of 45% by 2.5%, for an overall impervious surface area on the property of 47.5% as presented for the proposed single family home at 2800 East Road. The motion is conditioned on a) reducing stormwater runoff on the property to the equivalent of 40% impervious surface area or less; and b) compliance with the recommendations of the City Water Resources Engineer including the installation of a French Drain system.*

**a. The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance:**

Section 900.01 outlines the purpose and intent of the ordinance as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location.

The proposal removes a non-conforming structure and replaces it with a new non-conforming structure which slightly reduces the degree of two of the existing non-conformities. The two expanded encroachments would face adjoining roads and therefore have minimal impact on neighboring properties. The applicant is also proposing to mitigate stormwater for the impervious surface overage.

**b. The variance request is consistent with the comprehensive plan:**

The request is consistent with the Comprehensive Plan in that it maintains the single family nature of the neighborhood.

**c. The proposal puts the property to use in a reasonable manner:**

The proposal puts the property to a reasonable use by replacing the previous single family home, constructed in 1930, with a new single family structure.

**d. There are circumstances unique to the property not created by the landowner:**

The subject property is 3,110 square feet, which is approximately two-thirds the minimum required lot area for the Assembly Grounds, and which limits the ability to construct within the required setbacks and meet the impervious surface restrictions.

The previous structure did not have a garage and the addition of a garage on the proposed structure requires an enlarged footprint, making it difficult to comply with the required setbacks and the 45% impervious surface coverage.

**e. The variance(s) will not alter the essential character of the locality:**

The essential character of the neighborhood would not be impacted by the proposal. The house is consistent with the size and scale of many of the redeveloped properties within the Assembly Grounds.

**Denial Motion:** *I move the council deny the application for variances of Woodland Ordinance Sections 900.09(3) and 900.10(2): to encroach four feet, four inches (4'-4") into the required ten foot, eleven inch (10'-11") front yard setback, to encroach one foot, eleven inches (1'-11") into the required fifteen (15) foot exterior east side yard setback and to encroach nine feet (9') into the required twenty foot (20') structure separation and to exceed the maximum permitted impervious surface area allowed with a Conditional Use Permit of 45% by 2.5%, for an overall impervious surface area on the property of 47.5% as presented for the proposed single family home at 2800 East Road, based on the following findings:*

- a. The variance(s) **will NOT** be in harmony and keeping with the spirit and intent of the zoning ordinance:
- b. The variance(s) **will NOT** be consistent with the comprehensive plan:
- c. In proposal **will NOT** put the property to use in a reasonable manner:
- d. There are **NOT** circumstances unique to the property not created by the landowner:
- e. The variance(s) **WILL** alter the essential character of the locality:



**Agenda Date: 8-27-15 Special Meeting  
CITY COUNCIL MEMO**

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***Agenda item: Consider Requests of Boris Ninkovic, 2800 East Road:  
Variances to encroach into the required front yard setback, exterior east side yard setback,  
and required structure separation along the interior west side property line, and to exceed the  
45% impervious surface limit.***

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**Summary:** The City Council previously reviewed a similar set of variance requests at the December 8, 2014 City Council meeting. In early August, staff was made aware of possible inconsistencies between the approved variances and the actual home as it was being constructed. Staff issued a Stop Work order for the property on August 6 in order to allow the City Council time to review and remedy the situation. The City of Woodland informed Mr. Ninkovic that, in order to make the house legally compliant with the City Zoning Code, he would be required to submit a variance application for those elements of the home that are inconsistent with the approved variances. Alternatively, Mr. Ninkovic was informed he could remove the inconsistent elements from the house plan and proceed without further city intervention.

The elements in question, which were not a part of the originally approved site survey but were shown on the architectural renderings, include 18" cantilevers on the east and west side of the house, balconies on the front of the house, and revised hardcover calculations reflecting the addition of these elements. On August 14, Mr. Ninkovic submitted a new variance application requesting variances from the Assembly Grounds residential district requirements. Mr. Ninkovic is seeking variances to encroach into the required front yard setback, exterior east side yard setback, required structure separation along the interior west side property line, and to exceed the 45% impervious surface limit.

- **Ordinance Section 900.09(3)(b) requires a minimum front yard setback of ten feet, eleven inches (10'-11"). The applicant proposes a front yard setback of six feet, seven inches (6'-7") for the proposed single family home and is requesting a variance to encroach four feet, four inches (4'-4") into the required front yard setback.**

The proposed encroachment along the front property line faces Front Street. Due to the small lot size, there is limited space for patios and balconies. Applicant is proposing to reduce the previously proposed balcony cantilever from six feet to four feet, six inches. The required setback is based upon a 10'-11" setback for the previous structure on the property. The balconies on the property, while highly visible on this corner lot, are consistent in scale with other decks and balconies within the Assembly Grounds. The location of the balconies along Front Street provides significant distance between the proposed balconies and adjacent structures.

- **Ordinance Section 900.09(3)(a) requires an exterior east side yard setback of fifteen (15) feet. The applicant proposes an exterior east side yard setback of thirteen feet, one inch (13'-1") feet for the proposed single family home and is requesting a variance to encroach one foot, eleven inches (1'-11") into the required exterior east side yard setback.**

The encroachment distance has previously been approved by the city council. However, taking into account the cantilevers, the width of the encroachment is being expanded in this revised application. The expanded encroachment does not significantly change the impact of the previously approved encroachment.

- **Ordinance Section 900.09 (3)(a) requires a minimum setback from the nearest structure on an adjoining lot of twenty (20) feet. The applicant proposes a structure separation along the west side property line of eleven feet (11') for the proposed single family home and is requesting a variance to encroach nine feet (9') into the required structure separation setback.**

The proposed structure would also encroach one foot, six inches (1'-6") into the west side yard setback. The structure on the adjacent lot does not comply with the required side yard setback. Based upon the survey, the proposed structure slightly improves upon the west side yard setback from the previous structure.

The applicant has submitted an application requesting a variance to exceed the 45% impervious surface limit.

- **Ordinance Section 900.10(2) permits a maximum impervious surface area of forty-five (45) percent of the lot area for lots less than 16,500 square feet serviced by municipal water and sanitary sewer with the issuance of a conditional use permit. The applicant proposes an impervious surface area of 47.5%.**

The property has previously been approved for a conditional use permit to accommodate an impervious surface area of 44.9%, which was the same impervious surface area of the property's previously existing conditions. Any excess impervious surface area over 45% requires a variance. The revised application takes into account the house's cantilevers, which increase the impervious surface area to 47.5%.

The proposal modernizes the property from the previous structure (which did not include a garage) to include a two car garage, which makes meeting the hardcover restriction extremely challenging. It should be noted that, with a lot size of 3,110 square feet, the property is one of the smallest lots within the Assembly Grounds residential district. The applicant has made efficient use of a very limited lot size.

While it is in the best interest of the City of Woodland to manage uncontrolled expansion of impervious surfaces in the district, the city should also recognize the practical difficulties inherent in building a modern home on this small parcel. Recognizing the unique nature of the property and the impervious surface variance request, the applicant is proposing to mitigate 2x the overage of the impervious surface area with a cistern/holding tank. Due to the impervious surface conditions in this community, and the precedent that allowing a variance to exceed 45% impervious surface would represent, staff believes that mitigating below the Conditional Use Permit threshold of 40% would be an appropriate level of required mitigation. In this particular case, this would represent 3x the proposed excess impervious surface area (approximately 150 gallons of mitigation for a 1" rain event).

The City Water Resources Engineer has reviewed the proposal and has recommended the installation of a French drain system instead of a cistern/holding tank. The French Drain system is cost-effective and would not be dependent on the homeowner drawing down the excess water. The French Drain would be connected directly to the property's roof drain. The City Water Resources Engineer's comments are enclosed as an attachment to this staff report.

#### **STAFF RECOMMENDATION:**

*Staff recommends the Council **Approve with Conditions** the application for variances of Woodland Ordinance Sections 900.09(3) and 900.10(2): to encroach four feet, four inches (4'-4") into the required ten foot, eleven inch (10'-11") front yard setback, to encroach one foot, eleven inches (1'-11") into the required fifteen (15) foot exterior east side yard setback and to encroach nine feet (9') into the required twenty (20) foot structure separation and to exceed the maximum permitted impervious surface area allowed with a Conditional Use Permit of 45% by 2.5%, for an overall impervious surface area on the property of 47.5% as presented for the proposed single family home at 2800 East Road. The motion is conditioned on a) reducing stormwater runoff on the property to the equivalent of 40% impervious surface area or less; and b) compliance with the recommendations of the City Water Resources Engineer including the installation of a French Drain system.*

#### **VARIANCE FINDINGS BASED ON THE REVIEW AND APPROVAL PROCESS IN SECTION 900.14 OF THE ORDINANCE:**

Findings:

- a. The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance:**

Section 900.01 outlines the purpose and intent of the ordinance as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location.

The proposal removes a non-conforming structure and replaces it with a new non-conforming structure which slightly reduces the degree of two of the existing non-conformities. The two expanded encroachments would face adjoining roads and therefore have minimal impact on neighboring properties. The applicant is also proposing to mitigate stormwater for the impervious surface overage.

- b. The variance request is consistent with the comprehensive plan:**

The request is consistent with the Comprehensive Plan in that it maintains the single family nature of the neighborhood.

**c. The proposal puts the property to use in a reasonable manner:**

The proposal puts the property to a reasonable use by replacing the previous single family home, constructed in 1930, with a new single family structure.

**d. There are circumstances unique to the property not created by the landowner:**

The subject property is 3,110 square feet, which is approximately two-thirds the minimum required lot area for the Assembly Grounds, and which limits the ability to construct within the required setbacks and meet the impervious surface restrictions.

The previous structure did not have a garage and the addition of a garage on the proposed structure requires an enlarged footprint, making it difficult to comply with the required setbacks and the 45% impervious surface coverage.

**e. The variance(s) will not alter the essential character of the locality:**

The essential character of the neighborhood would not be impacted by the proposal. The house is consistent with the size and scale of many of the redeveloped properties within the Assembly Grounds.

**KEY DATES:**

Application complete:	August 13, 2015
Notice of Public Hearing published:	August 15, 2015
Public Hearing/City Council Consideration:	August 27, 2015
60-Day Deadline:	October 12, 2015
120-Day Deadline (if necessary):	December 11, 2015

*Note: MN statute 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).*

City of Woodland  
 20225 Cottagewood Road  
 Deephaven, MN 55331  
 952-474-4755  
 www.cityofwoodlanmn.org

Variance Application

Applicant is (circle one) **Owner** Developer Contractor Architect Other \_\_\_\_\_

Property address for which variance is requested **2800 East Road, Woodland, 55391**

Applicant (individual or company name): **Borislav and Milena Ninkovic**

Contact for Business: \_\_\_\_\_ Title: \_\_\_\_\_

Address: **16010 36th PI N**, City: **Plymouth** State: **MN** Zip: **55446**

Wk Phone: **763 582 6559** Hm Phone: **763 557 7105** Cell phone: **612 859 7445**

Email address: **ninkovici@att.net** Fax: \_\_\_\_\_

Present use of property: **rebuilding the previous structure**

Property acreage: **3110 sqft**

Existing Variances: Yes  No \_\_\_\_\_

If yes, please explain **Variance approved at December 2014 City Council session, some elements of the building plans omitted during the approval process, need amendment to improve consistency between elevation drawings and variances approved**

Describe Request: Build New  Add On \_\_\_\_\_ Remodel \_\_\_\_\_ Replace \_\_\_\_\_

What is the Variance being requested for: **Inclusion of second floor cantilevers in impervious surfaces, omission caused increase in encroachment on West side of 18", cantilever balconies on North side need variance for additional 4.5 ft (reduced from 6 ft) encroachment on North.**

Variance for:

		Required (approved Dec. 2014)		Proposed (built per elevations drawings)	
<input checked="" type="checkbox"/>	West Side Yard	<b>10</b>	feet	<b>8.5</b>	feet
<input checked="" type="checkbox"/>	Front Yard	<b>10' 9"</b>		<b>6' 6"</b>	
	Rear Yard		feet		feet
	Lake setback		feet		feet
	Building height		feet		feet
	Structure height		Feet		feet
	Wetland		feet		feet
<input checked="" type="checkbox"/>	Impervious Cover	<b>1398 (44.95%)</b>	sq ft	<b>1478 (+2.6%)</b>	sq ft
	Shoreland		feet		feet
	Massing		volume		volume
	Other		feet		feet
<b>If other, please explain</b>	Use of rainwater capture cistern to compensate for increase in impervious	Capture 2" of rain precipitation per sq ft of impervious over 1398 sq ft (80 sq ft increase)		<b>13.3 cu ft tanks/cistern</b>	

## MAKING YOUR CASE FOR THE GRANT OF A VARIANCE

STATE LAW: Minnesota Statutes 462.357 controls the grant of variances to established zoning codes. Before a variance can be granted the Applicant must establish to the satisfaction of the City that: A) Strict enforcement of the applicable code would cause a practical difficulty because of circumstances unique to the individual property under consideration, *and*, B) the grant of the requested variance will be in keeping with the spirit and intent of the ordinance.

"Practical Difficulty" as used in connection with the granting of a variance means: 1) the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls; 2) the plight of the landowner is due to circumstances unique to the property not created by the landowner, *and* 3) the variance, if granted, will not alter the essential character of the locality.

**NOTICE:** Simple inconvenience of a landowner or occupant, including self-created situations, are not considered a practical difficulty under Minnesota case law.

Economic considerations alone shall not constitute a practical difficulty if reasonable use of the property exists under the ordinance. (MN Statutes 462.357)

If you have difficulty is establishing an practical difficulty please consider alternatives to your construction plans that may remove the need for a variance.

*The Applicant must respond fully and in detail to each of the following questions and data requests or the Application may be rejected as incomplete.*

### Establishing that the requested variance will be in keeping with the spirit and intent of the Zoning Code:

The requested variance, if granted, will be in keeping with the spirit and intent of the City Zoning because:

- The encroachment on West side is still improved in comparison with grandfathered encroachment by previous building (rebuilt by this Project).
- Front balcony needs 4.5 ft encroachment variance but does not intrude to the neighboring properties (across the road, >60 ft structure separation is significantly better than average separations in GHA)
- Impervious surface is increased 2.6% (80 sq ft) and storm water will be captured in tank/cistern to mitigate the impact (cistern system will be used for plant watering, emptied by gravity, enabled by lot height difference of 5 ft)

### Establishing Practical Difficulty:

1. The landowner's (Applicant's) property cannot be put to a reasonable use if used under conditions allowed by the official controls because:

**Intended use is homestead, size of the lot does not support reasonable homestead standards for contemporary living (no available space for patio, outdoor use is possible only on balconies) unless variances are approved**

2. The plight of the landowner (Applicant) is due to circumstances unique to the property not created by the landowner property because:

**Groveland association (GHA) is high density development where full compliance to ordinance constraints in many cases is not possible without variances approved**

3. The variance, if granted, will not alter the essential character of the locality because:

**The new building will not increase grandfathered excesses of other objects in association or increase total amount of GHA encroachments if proposed variance is approved.**

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Establishing the variance, if granted, will not adversely impact the rights of others:

Describe the effect of the variance, if granted, on neighboring properties and on the neighborhood in general:

**Per already given approvals there is no impact and adding elements that were omitted in previous process will not change it. Rebuilt object was oriented the same way, windows are oriented as in approved elevation plans, and the number of windows is even reduced on West side**

Describe the effect of the variance, if granted, on supply of light and air to adjacent properties.  
**No impact**

Describe the effect of the variance, if granted, on traffic congestion in the public street.  
**No impact, the house has two garage places**

Describe the effect of the variance, if granted, on the danger of fire.  
**No Impact, the balconies satisfy the definition (unheated surface cantilevered to the house above the first floor, no supports at the front that could hinder the access in case of fire)**

Describe the effect of the variance, if granted, on the danger to public safety.  
**All impacts are positive, replaced building was non-compliant to the building Code, uninsulated, unstable, populated with critters**

Describe the effect of the variance, if granted, on established property values in the surrounding area.  
**The new house estimate made by USbank is significantly higher than median value in GHA and contributes increasing of the average house value in GHA. Without variance the house value will significantly decrease.**

Describe the effect of the variance, if granted, on the impairment of the public health, safety or welfare.  
**The new building, built according to the Code and using contemporary materials, elements of green building (modern insulation, air intrusion prevented with semi-permeable wrap, whole house forced ventilation, high-efficiency heating and cooling, "Low E" windows, balconies facing the park on the lakeshore, large glass surfaces and rainwater capture system contributes positively to healthy living and healthy environment.**

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Applicant(s) have determined that the following approvals may be necessary from other regulatory bodies:

~~LMCD # 052-745-0780~~      ~~Watershed District # 052-471-0500~~

### **Applicant's Acknowledgement & Signature(s)**

This is to certify that I am making application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application should be processed in my name, and I am the party whom the City should contact about this application. The applicant certifies that the information supplied is true and correct to the best of his/her knowledge.

The undersigned also acknowledges that she/he understands that before this request can be considered and/or approved, all required information and fees, including any deposits, must be paid to the City, and if additional fees are required to cover costs incurred by the City, the City has

the right to require additional payment from one or more of the undersigned, who shall be jointly liable for such fees.

An incomplete application will delay processing and may necessitate a re-scheduling of the review time frame. The application time line commences once an application is considered complete when all required information and fees are submitted to the City. The applicant recognizes that he/she is solely responsible for submitting a complete application being aware that upon failure to do so, the staff has no alternative but to reject it until it is complete or to recommend the request for denial regardless of its potential merit.

A determination of completeness of the application shall be made within 15 business days of the application submittal. A written notice of application deficiencies shall be mailed to the applicant within 15 business days of application.

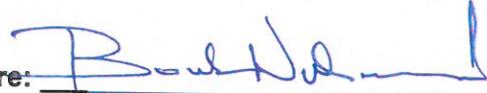
I am the authorized person to make this application and the fee owner has also signed this application.

Applicant's Signature:  Date: 8/12/2015

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Owner's Acknowledgement & Signature(s)**

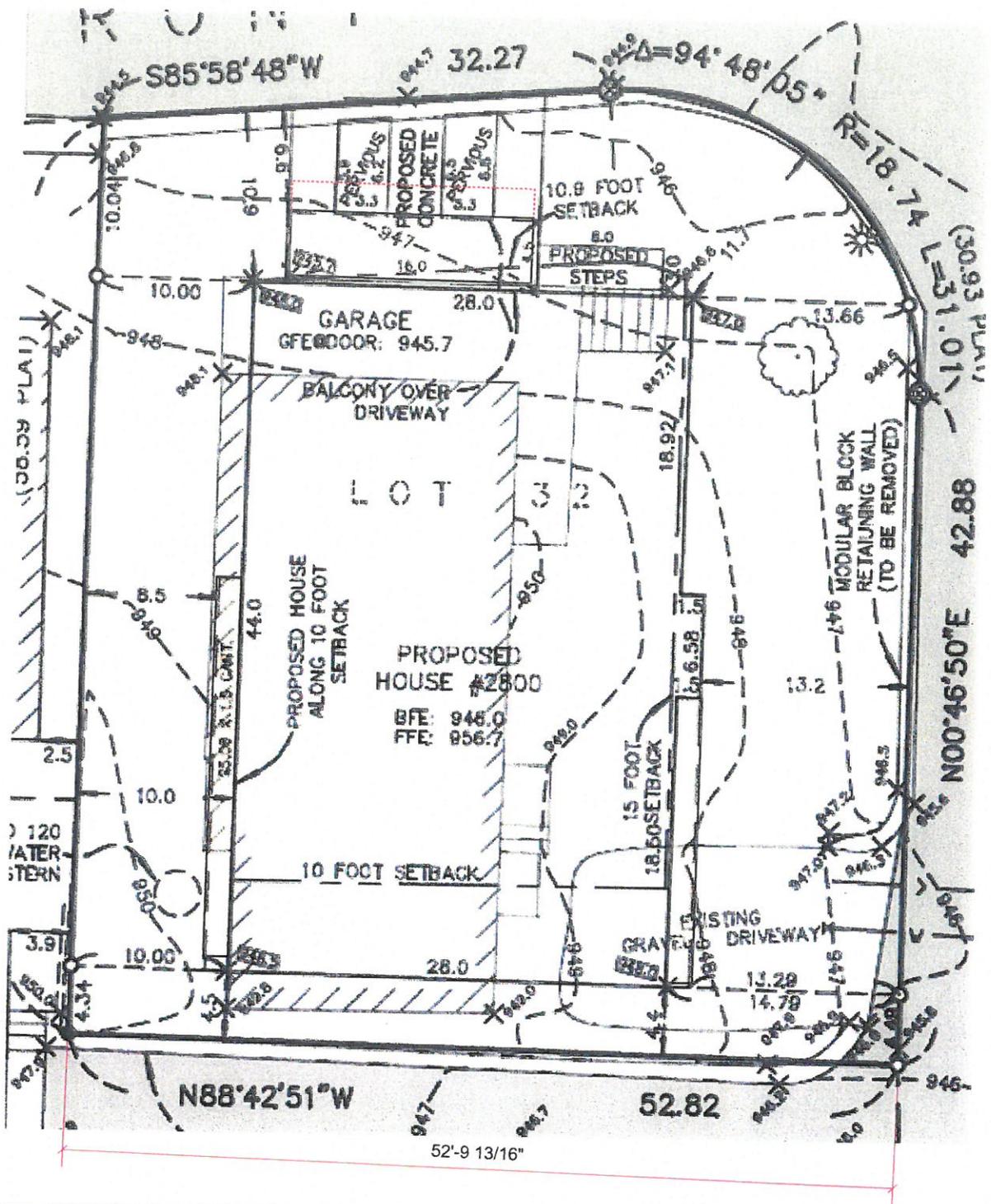
I am / we are the fee title owner of the above described property. I / we further acknowledge and agree to this application and further authorize reasonable entry onto the property by City Staff, Consultants, agents, and City Council Members for purposes of investigation and verification of this request.

Owner's Signature:  Date: 8/12/2015

Owner's Signature: Melen Novakovic Date: 8/13/2015

**Note** – Both signatures are required, if the owner is different than the applicant, before we can process the application, otherwise it is considered incomplete.





Lot size	3110 sq ft	%	Previous house	Approved in Dec. 2014	%	Diff
Proposed house	1241 sq ft					
Driveway	148 sq ft					
Steps	24 sq ft					
East and West cantilevers	65 sq ft					
<b>Total</b>	<b>1478 sq ft</b>	<b>47.50%</b>	<b>1395</b>	<b>1398</b>	<b>44.90%</b>	<b>2.60%</b>

Mitigation for 2" rainwater over additional imperv.	80 sq ft	=	13.3 cu ft	=	99 Gal
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