

**Zoning Board of Appeals
June 26, 2013 Regular Meeting**

STAFF REPORT

ZBA13-013, 1383-85 Bemidji

Summary

Daniel Lorts is requesting one variance from Chapter 55(Zoning) Section 5:30(R2A), of 4 feet from the required 5 foot side setback in order to permit an unenclosed balcony 1 foot from the side property line.

Description and Discussion

The subject parcel is located at 1383-85 Bemidji, just north of West Liberty. The parcel is zoned R2A (Two-Family Residential). The structure was constructed as a duplex in 1966 and is 2,510 square feet in floor area.

The request is discussed in detail below:

The existing duplex is setback 5 feet from the side property line (required side setback is 5 feet) and has a 7 by 20 foot (140 square feet) second story deck that extends onto the adjacent property 2 feet. The petitioner is proposing to remove the existing second story deck and re-construct a deck that will measure 20 by 4 feet (80 square feet) and will be 1 foot from the side property line after completion. The deck will be 8 feet from the ground level and remain unenclosed underneath.

According to Chapter 55, 5:54, an attached deck is not permitted within the required side open space. The proposed deck will extend 4 feet from the side of the house and will result in a one foot side setback, requiring a variance of four feet from the side setback requirement of 5 feet. There is 5 feet between the house and the side property line. The adjacent property to West is also zoned R2A with a required 5 foot side setback. The house on this lot (1400 W Liberty) is approximately 100 feet from the proposed deck.

Standards for Approval- Variance

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

- (a). That the practical difficulties are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City.***

The parcel is .25 acre (10,977 sq ft) and is a conforming R2A lot. The existing house was constructed in 1966 exactly at the 5 foot side setback with a seven foot wide deck encroaching onto the adjacent property 2 feet. The required side setback is 5 feet for the adjacent property and the house on this lot is approximately 100 feet from the proposed deck.

- (b). *That the practical difficulties which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.***

The variance is being requested in order to permit the owner to perform structural repairs through re-construction of the deck. If the variance is not granted, the deck would need to be removed and the door wall sealed off securely to prevent egress.

- (c). *That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.***

The existing deck encroaches 2 feet onto the adjacent neighbor's property. The proposed plan would eliminate this encroachment, but still allow a deck within the required side setback, one foot from the property line. The deck as proposed would be over 100 feet from the nearest structure and visually buffered by dense vegetation. The required side setback on the adjacent property is 5 feet.

- (d). *That the conditions and circumstances on which the variance request is based shall not be a self imposed hardship or practical difficulty.***

The house was constructed in 1966 at the five foot required side setback. It is unclear if the deck was constructed at that time; however city records do indicate that the deck was constructed prior to 1976.

- (e). *A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure***

The requested variance will allow a 4-foot wide deck, which can be considered close to the minimum dimension necessary to make reasonable use of this particular structure minimal in area and dimensions. However, it would place an elevated deck one foot from the side property line. The requested size of 4 feet by 20 feet is more conforming than the existing deck, which encroaches 2 feet over the property line onto the adjacent property. The deck will be reduced in

Zoning Board of Appeals
Variance
June 26, 2013 - Page 3

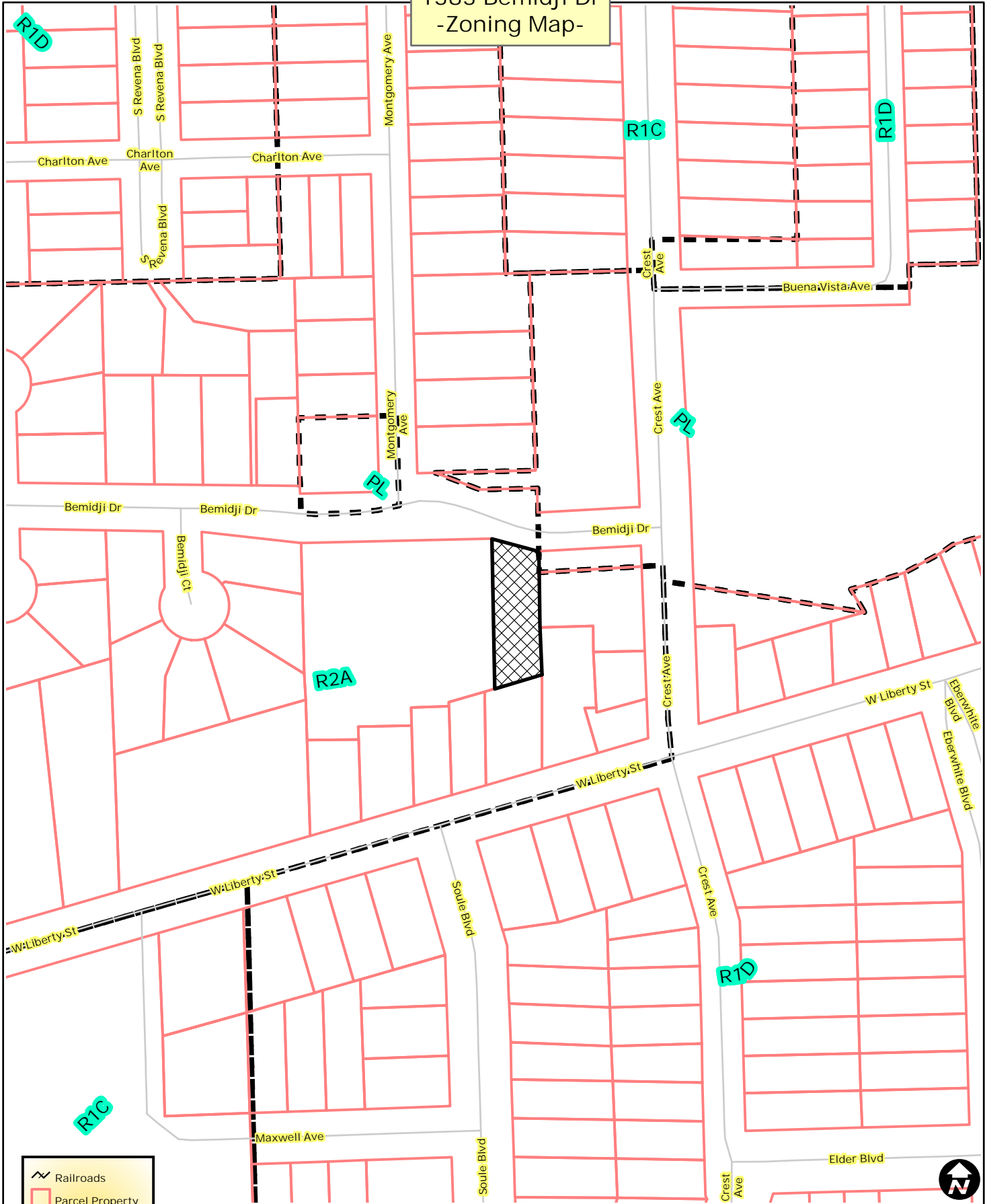
size from 140 square feet to 80 square feet and from 7 feet wide (2 foot encroachment onto neighbors property) to 4 feet in wide (proposed setback 1 foot). Building code requires a minimum of 3 feet in width for any exterior decks.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. J. Kowalski', written in a cursive style.

Matthew J. Kowalski, AICP
City Planner

1383 Bemidji Dr -Zoning Map-



	Railroads
	Parcel Property
	Zoning
	Township Island
	Zoning



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 Map Created: 6/5/2013

1383 Bemidji Dr
-Aerial Map-



 Railroads
 Parcel Property



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1383 Bemidji Dr
-Aerial Map-



-  Railroads
-  Parcel Property



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Map Created: 6/5/2013

APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE
ZONING BOARD OF APPEALS

Section 1: Applicant Information

Name of Applicant: DANIEL LORTS
Address of Applicant: 607 HISCOCK, Ann Arbor 48103
Daytime Phone: 248 515 5995
Fax: _____
Email: DanielLorts@gmail.com
Applicant's Relationship to Property: Owner

Section 2: Property Information

Address of Property: 1383 Bemidji
Zoning Classification: _____
Tax ID# (if known): _____
*Name of Property Owner: Daniel Lorts

**If different than applicant, a letter of authorization from the property owner must be provided.*

Section 3: Request Information

Variance

Chapter(s) and Section(s) from which a variance is requested: _____ Required dimension: _____ PROPOSED dimension: _____

Example: Chapter 55, Section 5:26 Example: 40' front setback Example: 32'

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

Improvements and repairs to structure per attached documents.

Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when ALL of the following is found TRUE. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)

1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?

The west wall of this duplex was built exactly on the five-foot setback line on the west side of property. It was built with a second-story balcony into this setback and additional 2' into west neighbor property. Doors open onto balcony.

2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)

Improvements to property can't be done without either 1. Removal of balcony, or 2. Variance. Complete removal of balcony would reduce quality of living environment of the 2ND floor, and reduce appearance of structure.

3. What effect will granting the variance have on the neighboring properties? —

Granting the variance will enhance on neighboring properties, because it will allow reduction in balcony size and improvements to the building.

4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?

Structure was built too close to the property line.

A few years ago, a permit was approved and issued, and support posts were installed beyond the setback.

5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

The condition came about when the original owner built the duplex with the encroachments. This was allowed, supposedly, because she/he owned both properties.

Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property residential duplex

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

(1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:

- a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
- b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3, or R4 district.
- c. The structure is considered non-conforming due to the following reasons

(continued)

Existing Condition

Code Requirement

Lot area 10,800 s.f.

Lot width 62 ft.

Floor area ratio 13% 1421:10800

Open space ratio 87%

Setbacks 5 ft west side

Parking _____

Landscaping _____

Other _____

Describe the proposed alterations and state why you are requesting this approval:

Proposed alteration: Reduce the depth of the existing balcony from 7' to 4' to eliminate 2' encroachment on neighboring property, and bring railing inside existing fence line. Make improvements to existing structure per plans.

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

The existing encroachment will be reduced, eliminating adjacent property overlap, and improve the safety and appearance of the structure from all views.

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit _____

Section 6: Required Materials

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on 8 1/2" by 11" sheets. (Continued.....)

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

Section 7: Acknowledgement

SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC

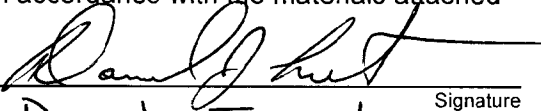
I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

248-515-5995

Phone Number

daniel.horts@gmail.com

Email Address

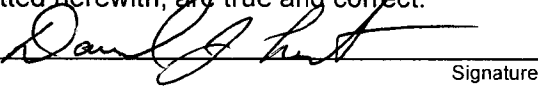


Signature

Daniel J. Horts

Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.



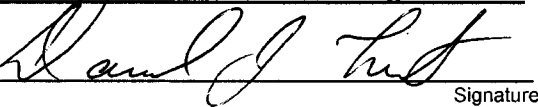
Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.



Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**



Signature

On this _____ day of _____, 20____, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

Notary Public Signature

Notary Commission Expiration Date

Print Name

Staff Use Only

Date Submitted: _____

Fee Paid: _____

File No.: _____

Date of Public Hearing _____

Pre-filing Staff Reviewer & Date _____

ZBA Action: _____

Pre-Filing Review: _____

Staff Reviewer & Date: _____

1383 Bemidji Request for Variance and Alteration

Description and history:

This duplex was built about 50 years ago, directly on the 5' setback on the west side of the lot, with sliding glass doors opening onto a 7'x20' balcony. The balcony was built encroaching into the 5' setback area, and an additional 2' into the yard of the neighbor to the west. It extends 2' over a fence on the lot line.

A permit was issued a few years ago to the previous owner to repair the balcony. Three columns of treated wood were installed on footings 3 ½ ' from the house (1.5' from the lot line, and 3 ½ beyond the 5' setback line.) New beams were added to support the balcony. However, further work is needed for structural and aesthetic reasons.

Proposed solution:

In addition to dramatically updating the building architecturally, I would like to obtain a variance allowing me to reduce the deck size back as close as possible to the existing columns (i.e. make the balcony 4.0' wide instead of the current 7.0') This would bring it inside the lot line and fence line. Without a variance, no updates can be made to the building without complete removal of the balcony, and a less-attractive safety barrier would have to be installed across existing doors on the west side.

Why I believe this variance is beneficial and not a detriment to the community.

- I believe the building is more attractive with a balcony than it would be without one (i.e. otherwise, just a large flat wall,) especially when the proposed improvements are made.
- My current tenants love the balcony and have expressed profound disappointment of its destined removal. I talked to the neighbors whose property is encroached upon, and they do not object to the balcony as is.
- The balcony is almost completely hidden by thick trees and foliage from all directions (please see attached pictures.)
- All of my neighbors' structures on all sides of the property are more than 50' from any point on the existing balcony.
- Approving the variance would allow me to tear down a large unsightly shed and replace it with attractive attached garages

**1383 Bemidji
East Side Elevation**



West Side Elevation

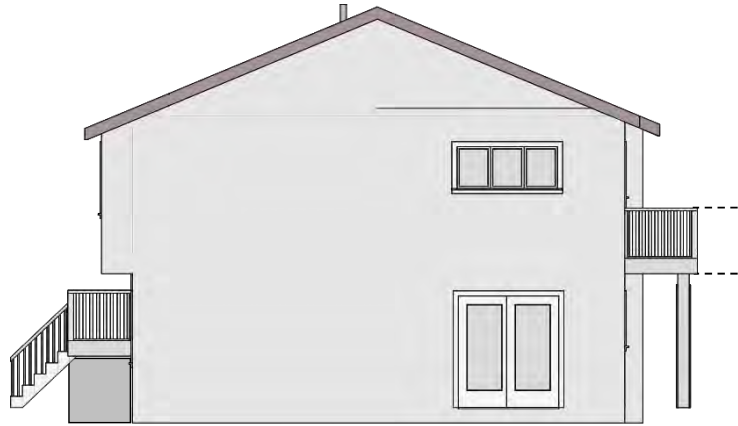


Scale: 1/8" = 1 ft
Date: May 9, 2013

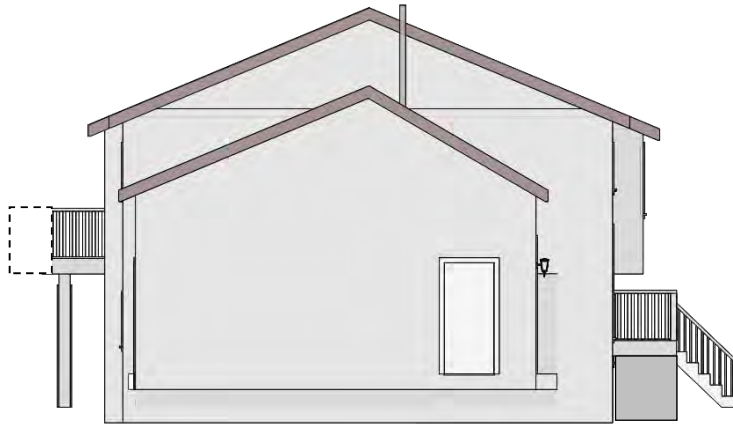
1383 Bemidji
Ann Arbor, MI
Dan Lorts, Owner
248-515-5995

Drawings By:
Ian Mailing, Builder
Prize Properties LLC
248-932-3900

North Side Elevation

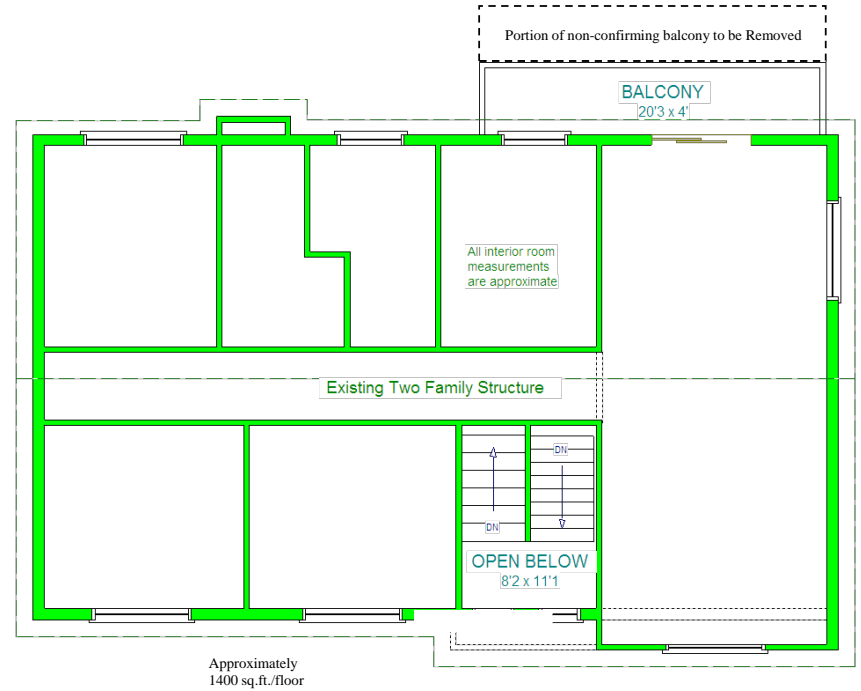


South Side Elevation



Scale: 1/8" = 1 ft
Date: May 9, 2013

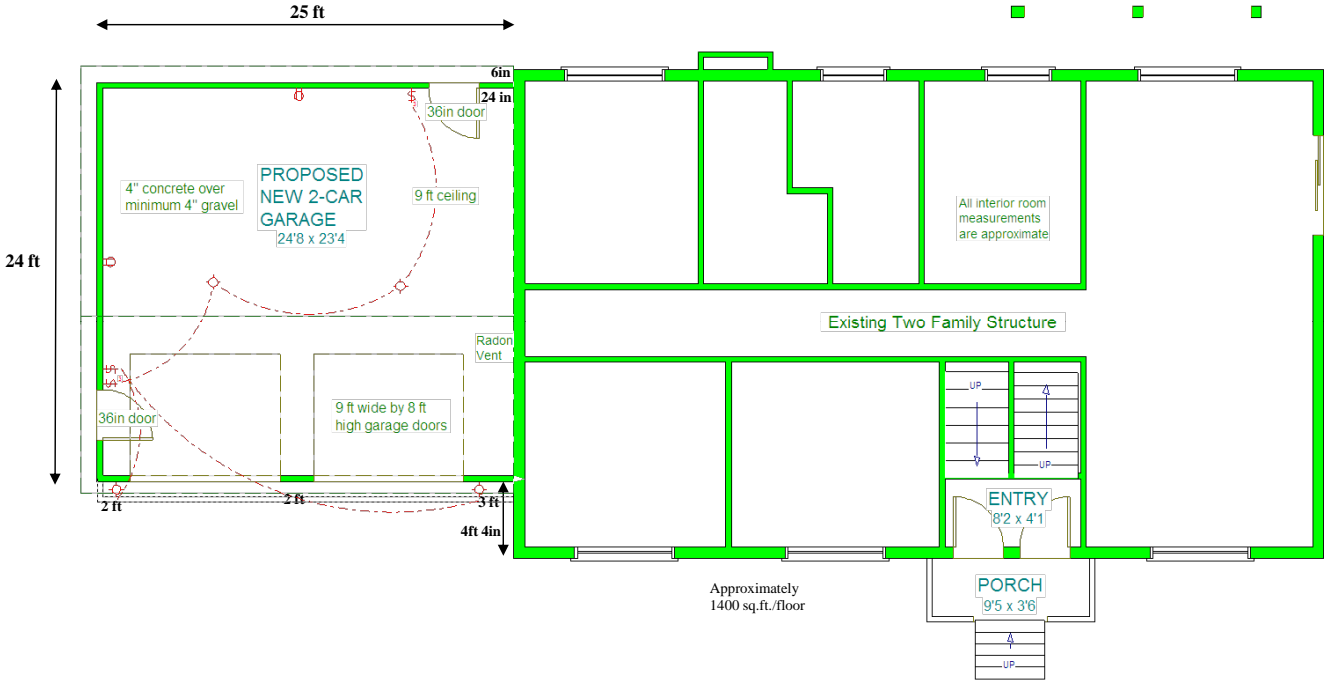
Second Floor



1383 Bemidji
Ann Arbor, MI
Dan Lorts, Owner
248-515-5995

Drawings By:
Ian Mailing, Builder
Prize Properties LLC
248-932-3900

First Floor

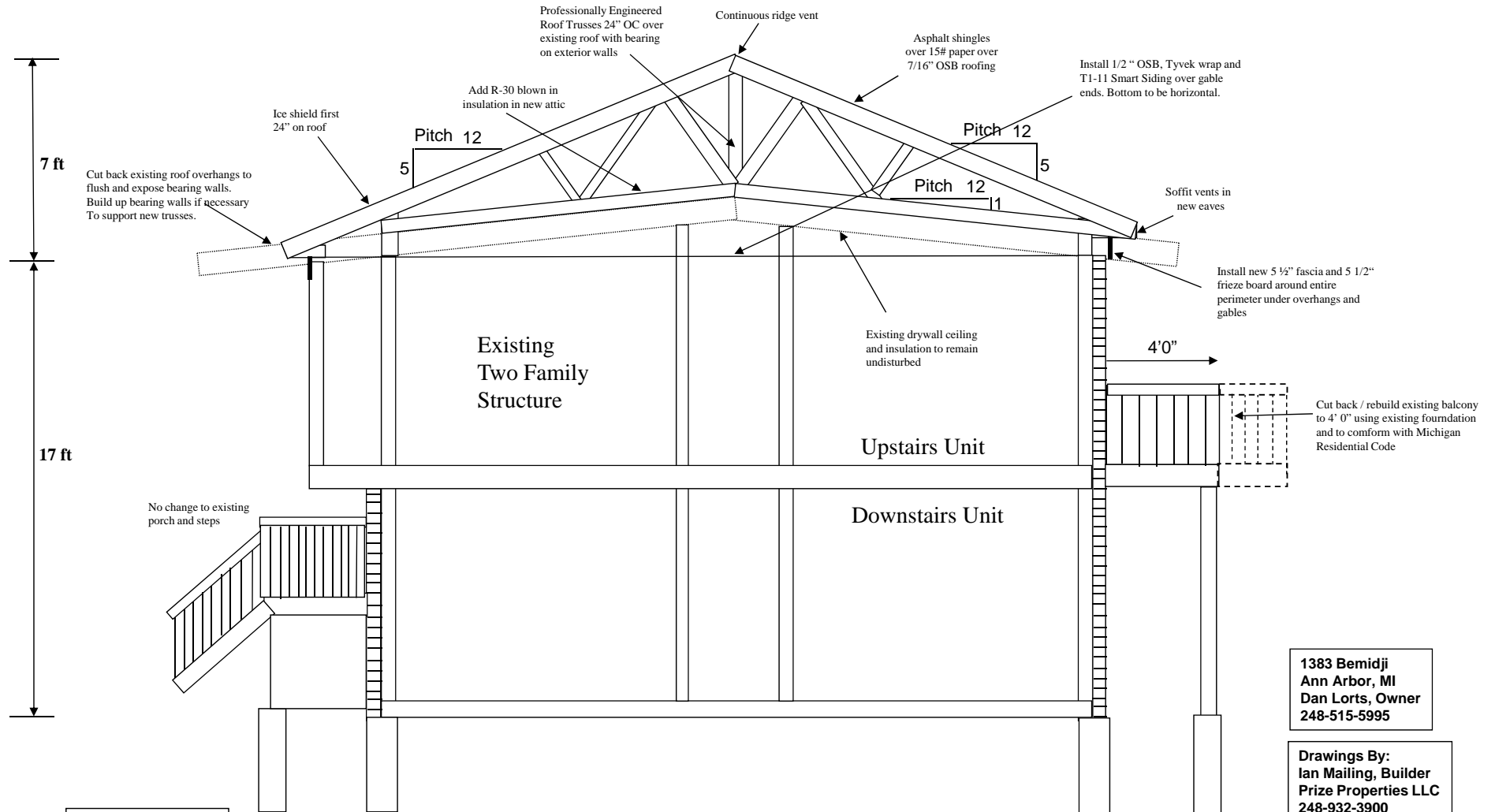


Scale: 1/8" = 1 ft
Date: May 9, 2013

1383 Bemidji
Ann Arbor, MI
Dan Lorts, Owner
248-515-5995

Drawings By:
Ian Mailing, Builder
Prize Properties LLC
248-932-3900

Cross Section North Side (Proposed New Roof Structure)

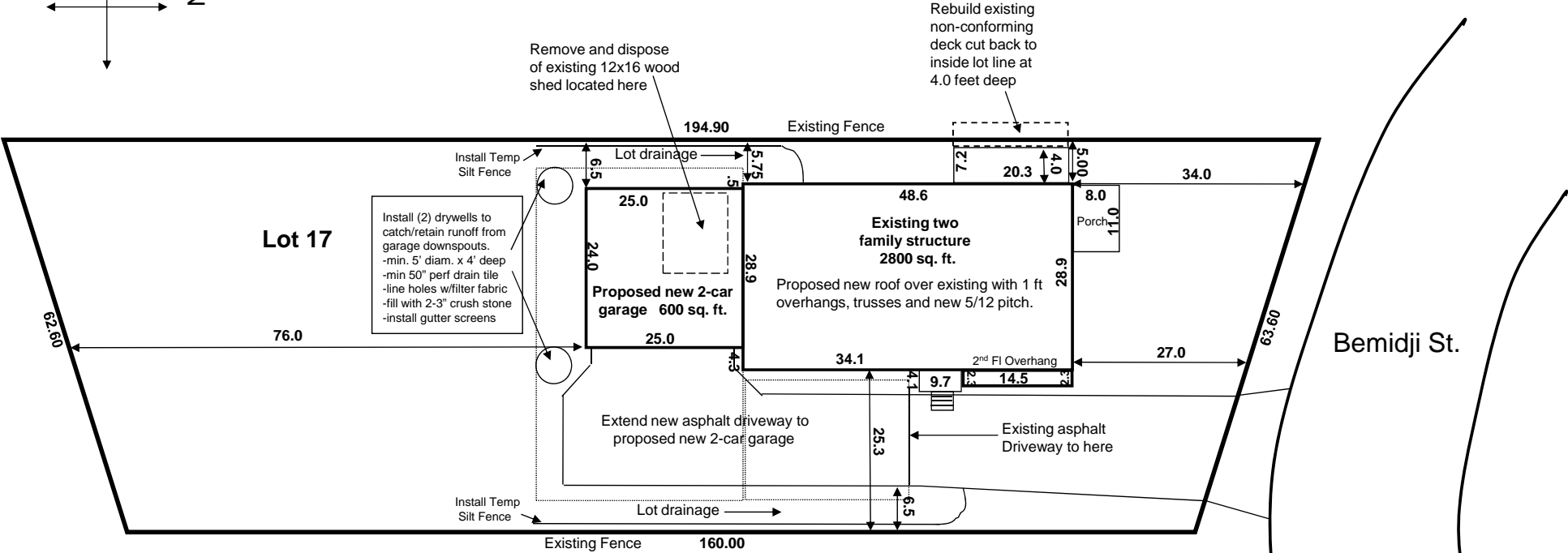
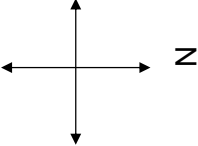


Scale: 1/4" = 1 ft
Date: May 9, 2013

1383 Bemidji
Ann Arbor, MI
Dan Lorts, Owner
248-515-5995

Drawings By:
Ian Mailing, Builder
Prize Properties LLC
248-932-3900

1383 Bemidji Plot Plan



Install (2) drywells to catch/retain runoff from garage downspouts.
 -min. 5' diam. x 4' deep
 -min 50" perf drain tile
 -line holes w/filter fabric
 -fill with 2-3" crush stone
 -install gutter screens

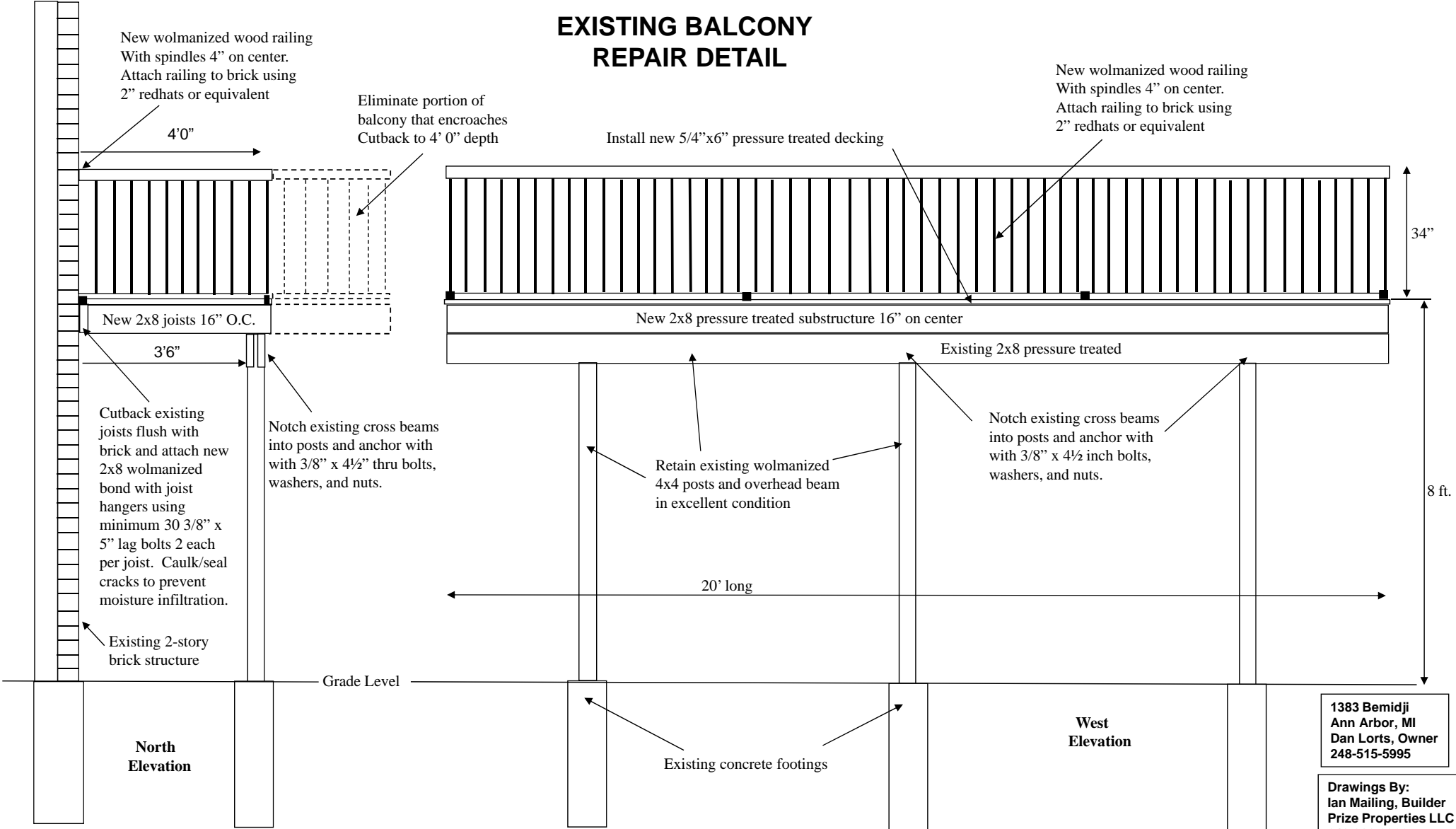
Grading Plan
 Install silt fencing on east and west lot line as shown
 Install two drywells to catch runoff from garage as shown
 Maintain existing drainage paths as indicated
 Dotted lines show disturbed area for new garage and driveway
 Install 1 row of block around garage perimeter.
 Remove excess dirt from property as necessary.
 Sod, seed landscape all disturbed areas upon completion.

1383 Bemidji
 Ann Arbor, MI
 Dan Lorts, Owner
 248-515-5995

Drawings By:
 Ian Mailing, Builder
 Prize Properties LLC
 248-932-3900

Scale: 1/16" = 1 ft
 Date: May 9, 2013

EXISTING BALCONY REPAIR DETAIL



Scale: 1/2" = Approx. 1 ft
Date: May 9, 2013

1383 Bemidji
Ann Arbor, MI
Dan Lorts, Owner
248-515-5995

Drawings By:
Ian Mailing, Builder
Prize Properties LLC
248-932-3900









