



# CPED STAFF REPORT

Prepared for the Board of Adjustment

BOA Agenda Item #2  
August 21, 2014  
BZZ-6705

## LAND USE APPLICATION SUMMARY

*Property Location:* 5104 26<sup>th</sup> Avenue South  
*Project Name:* New stairs  
*Prepared By:* [Shanna Sether](#), Senior City Planner, (612) 673-2307  
*Applicant:* Jennifer Porter  
*Project Contact:* Jennifer Porter  
*Request:* To allow for new concrete stairs accessory to an existing single-family dwelling.  
*Required Applications:*

|                 |  |
|-----------------|--|
| <b>Variance</b> | To allow for development within 40 feet of the top of a steep slope to allow for new concrete stairs accessory to a single-family dwelling in the SH Shoreland Overlay District. |
|-----------------|--|

## SITE DATA

|                                   |   |
|-----------------------------------|---|
| <b>Existing Zoning</b>            | RIA Single-Family District<br>SH Shoreland Overlay District |
| <b>Lot Area</b>                   | 4,841 square feet / .11 acres                               |
| <b>Ward(s)</b>                    | 11  |
| <b>Neighborhood(s)</b>            | Nokomis East Neighborhood Association                       |
| <b>Designated Future Land Use</b> | Urban Neighborhood  |
| <b>Land Use Features</b>          | Not applicable  |
| <b>Small Area Plan(s)</b>         | Not applicable  |

|   |                    |                                       |                |
|---|--------------------|---------------------------------------|----------------|
| <b>Date Application Deemed Complete</b> | July 24, 2014      | <b>Date Extension Letter Sent</b>     | Not applicable |
| <b>End of 60-Day Decision Period</b>    | September 22, 2014 | <b>End of 120-Day Decision Period</b> | Not applicable |

## BACKGROUND

**SITE DESCRIPTION AND PRESENT USE.** The subject property is approximately 4,841 square feet and has an existing single-family dwelling. The subject property is immediately to the east of Park Board property along Lake Nokomis. The subject property is not located on a steep slope, however, the Park Board property to the east has a slope greater than 18% and taller than 10 feet in height.

**SURROUNDING PROPERTIES AND NEIGHBORHOOD.** The surrounding properties are low density residential uses. Lake Nokomis is west of the subject property.

**PROJECT DESCRIPTION.** The applicant is proposing to replace the existing concrete stairs at the rear of the property, because they are damaged and failing. The proposed stairs will increase in area from the existing concrete stairs, but will not be located on the steep slope. The proposed stairs, however, will be located approximately 32 feet, at the closest, from the steep slope immediately to the east of the subject property. In the SH Shoreland Overlay District, all development within 40 feet of the top of a steep slope is prohibited without a variance.

**PUBLIC COMMENTS.** Staff has not received correspondence regarding the requested sign variance. Any correspondence received prior to the public meeting will be forwarded on to the Board of Adjustment for consideration.

## ANALYSIS

### VARIANCE

To apply for a variance to allow for development on or within 40 feet of a steep slope or bluff the following four items must be met:

1. *Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.*

The existing single-family dwelling and concrete steps are located within 40 feet of the top of the steep slope and require a variance to allow for the development.

2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type. The applicant will be remodeling and replacing the existing concrete steps with new ones, which will be located between 32 and 37 feet of the top of a steep slope. The applicant will be installing a total of two new footings for the proposed steps; this is the required to stabilize the stairs.

3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*

The proposed concrete stairs do not present danger of falling rock, mud, uprooted trees or other materials. There will be minimal disturbance of existing ground and no change to the slope or soil on the steep slope.

4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.*

The project area is located within 40 feet of the top of a steep slope and is located in the SH Shoreland Overlay District. The view of the property from Lake Nokomis will be consistent with what has existed on this property for many years.

The Department of Community Planning and Economic Development has analyzed the application for a variance to allow for development on or within 40 feet of the top of a steep slope in the SH Shoreland Overlay District based on the following [findings](#):

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

The circumstances upon which the variance is requested are unique to the parcel of land due to the existing steep slope and the proximity to Lake Nokomis. The applicant is proposing to replace failing concrete steps with larger concrete steps within 40 feet of the top of a steep slope. There will be minimal disturbance of the soil to allow for the footings to support the steps and the proposed project will not be located on the steep slope.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The applicant is seeking a variance to allow for the replacement of existing concrete steps, approximately 56 square feet, within 40 feet of the top of a steep slope in the SH Shoreland Overlay District. The intent of the ordinance is to protect both the water body and other properties located below a steep slope from erosion and runoff and to minimize visual impacts from the protected body of water. The applicant has demonstrated that the necessary precautions will be taken during the constructions of the concrete steps. There will be minimal disturbance of the soil to allow for two new footings to support the steps and the proposed project will not be located on the steep slope. Further, proposed stairs will not be visible from the protected water and the remainder of the property will be consistent with the appearance of the existing structure and adjacent properties. Staff finds that the applicant is proposing to use the property in a reasonable manner consistent with the zoning code and comprehensive plan; the subject site will not be significantly altered to adversely affect the water quality of Lake Nokomis.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

Staff finds that the granting of this variance would not negatively alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. The project area is located 32 feet, at the closest point, from the top of a steep slope in the SH Overlay District. The applicant has demonstrated that the necessary precautions will be taken during construction and no significant changes to the soil will be made and the construction will not take place on the steep slope. Therefore, the subject site will not be significantly altered to adversely affect the water quality

of Lake Nokomis. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

***In addition to the variance standards contained in Chapter 525 and this article, the Board of Adjustment shall consider, but not be limited to, the following factors when determining SH variances or conditional use permits:***

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

Staff finds that the proposed project will not result in soil erosion or other possible pollution during and after construction. The applicant has demonstrated that the necessary precautions will be taken during construction. There will be minimal disturbance of the soil to allow for two new footings to support the steps and the proposed project will not be located on the steep slope. Therefore, the subject site will not be significantly altered to adversely affect the water quality of Lake Nokomis.

2. *Limiting the visibility of structures and other development from protected waters.*

The proposed structure will be two and half stories and approximately 26 feet in height and consistent with the appearance of the existing structure.

3. *The suitability of the protected water to safely accommodate types, uses and numbers of watercraft that the development may generate.*

The subject property does not have direct access to Minnehaha Creek. Therefore, the proposed additions will not impact watercraft usage on Minnehaha Creek.

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development for the Variance:**

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt the above findings and **approve** the application for a variance 40 feet of the top of a steep slope to allow for new concrete stairs accessory to a single-family dwelling located at 5104 26<sup>th</sup> Avenue South in the RIA Single-Family District and SH Shoreland Overlay District, subject to the following conditions of approval:

1. Approval of the final site plans by the Department of Community Planning and Economic Development.

2. All site improvements shall be completed by August 21, 2016, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

## **ATTACHMENTS**

1. Written description and findings submitted by applicant
2. Zoning map
3. Site plan
4. Site survey
5. Sign plans
6. Building elevations
7. Photos
8. Correspondence

July 24, 2014

Jennifer M Porter  
Homeowner  
5104 26<sup>th</sup> Ave S  
Minneapolis, MN 55417

STATEMENT OF PROPOSED USE & DESCRIPTION OF PROJECT – Variance  
Application

SUBJECT PROPERTY: 5104 26<sup>TH</sup> AVE S. MPLS, MN 55417

TO: City of Minneapolis

I am seeking a variance of the zoning code to allow for the development of a concrete stoop and stairs to the backyard, due to the fact that the property is within forty (40) feet from the top of a steep slope in the SH Shoreland Overlay District in the R1-A Single Family District. The proposed expanded steps complies with the zoning code except for the SH Shoreland Overlay District requirements. The distance from the top of the steep slope to the closest corner of my proposed project is 32 feet. (see survey)

1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.
  - a. Whereas, the back yard is flat and level until you get to the west property line at the top of the steep slope.
  - b. Whereas, at the west property line and the start of the City of Minneapolis East Nokomis Park, a drop-off occurs that exceeds the <18% grade as stated in the Article VI ,Section 551.500, of the SH Shoreland Overlay District rules.
  - c. Whereas, the location of the proposed expanded steps has an outside corner that will be 32 feet to the top of that steep slope and not within the 40 ft. mark as mandated by the SH Shoreland Overlay District requirements.

2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.
  - a. The existing steps are 8' deep x 5' wide. I am seeking approval to replace the failing steps with an upgraded design by expanding the steps footprint in width of an additional 7' to make the proposed expanded stairs, 8' deep x 12' wide, which will fit into the notch or "L" of the house, literally squaring it off. This proposed project will merely widen the steps area, not expand toward the parkland or slope to the park and lake.
  
3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.
  - a. Granting this variance would not negatively alter the essential character of the area...in fact, maintaining architectural significance of my property is of the utmost concern. I want this expanded step area to look as if it has been a part of the house since 1926. This design is consistent with the look of other homes located in the area.

In addition, the following findings must be addressed for a variance required by the ***SHORELAND OVERLAY DISTRICT***:

- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction. The removal and construction of these steps will not affect the steep slope to the Minneapolis Park property, nor will it disturb any trees or other foliage. Only during the digging for frost footings will soil be disturbed. If for some reason there is rain before the footings can be poured, proper protection and covering will be observed to prevent any runoff, site, and/or additional soil disturbance. The soil on my property is composed of normal black dirt.
  
- (2) Limiting the visibility of structures and other development from protected waters. This proposed project will not limit or impede the visibility of the water for other structures.
  
- (3) The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate. The proposed project will not affect the use and enjoyment of watercraft using the water.

I appreciate your consideration in my proposal for a variance to rebuild and expand my back steps.

Respectfully submitted,

Jennifer M Porter  
Homeowner  
5104 26<sup>th</sup> Ave S  
Minneapolis, MN 55417  
612-865-8333  
ShootTheMoon@usinternet.com

**From:** JP Porter <ShootTheMoon@usinternet.com>  
**Subject:** Variance Application notice (5104 26th Ave S)  
**Date:** July 24, 2014 1:19:22 PM CDT  
**To:** John.Quincy@minneapolismn.gov  
**Cc:** JP Porter <shootTheMoon@usinternet.com>, Shanna.Sether@minneapolismn.gov  
▶ 1 Attachment, 153 KB



To: John Quincy  
Ward 11 Council Member  
350 S. 5<sup>th</sup> St Room 307  
Minneapolis, MN 55415

RE: Zoning Variance – General Land Use – 5104 26<sup>th</sup> Ave S. Mpls, MN 55417

Dear Mr. Quincy...

I am a 14 year resident in your Ward (west Keewaydin) and am applying to the city for a zoning variance for a small project of replacing and slightly expanding a set of failing steps that lead out my back door and into my backyard.

I am asking for a variance to allow development (concrete steps) within 40 feet of the top of a steep slope in the SH Shoreland Overlay District. The distance to from the top of the steep slope to the closest corner of my proposed project is 32 feet. (see survey)

5104 26<sup>th</sup> Ave S. is quite unique in that it directly abuts East Nokomis parkland and because of that, there are conditions that affect my small project that I need a variance for.

My property falls within the Shoreland Overlay District and because of that, there is an ordinance in Chapter 525, Article VI Section 551.470 that states that there needs to be a setback of forty (40) feet of a steep slope of over 18% grade for any development:

**ARTICLE VI. SH SHORELAND OVERLAY DISTRICT**

**‘Section 551.470. Location of development.’**

*(a) Location prohibited except as authorized by variance. Except as allowed in section (b) below or where approved by a variance as provided in this article and Chapter 525, Administration and Enforcement, development in the SH Overlay District shall be prohibited on steep slopes or within forty (40) feet of the top of a steep slope or bluff, and shall not be located within fifty (50) feet of the ordinary high water mark of any protected water. Development authorized by variance shall be subject to the following:*

*(1) Development must currently exist on the steep slope or within forty (40) feet of the top of a steep slope within five hundred (500) feet of the proposed development.*

My 1926 craftsman home falls a mere 30 feet from the property line that abuts the park land and crest of the slope, so no matter what, I need to apply for a variance in order to do anything on this side of my property.

The proposed project expansion does not grow west into the yard toward the steep slope & lake, rather, it fills in a notch or “L” in the footprint of my home, literally squaring off the house. This project complies within the necessary 5 foot set back of the north property line between my neighbor and me.

(see survey)

The proposed project falls in an 8' deep x 12' wide area and will have a design that will look as if it has been a part of the home since 1926. The existing steps that are deteriorating are 8' deep x 5' wide. I am proposing to expand the area by only 7 feet in width.

As an old home enthusiast, I am extremely interested in maintaining the architectural integrity of the craftsman/stucco style that prevails in our wonderful neighborhood, as well as maintaining the protections of the parkland and the ordinances that fall within the Shoreland Overlay District.

The proposed construction will be made of concrete, have the proper frost footings and be finished with lower brick work that will exactly match the existing lower veneer "rugg" brick that has been on the home since 1926. In the end, the project will look seamless to the home.

If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

I thank you for your consideration in a necessary variance to take care of these failing steps.

Sincerely,

Jennifer M Porter

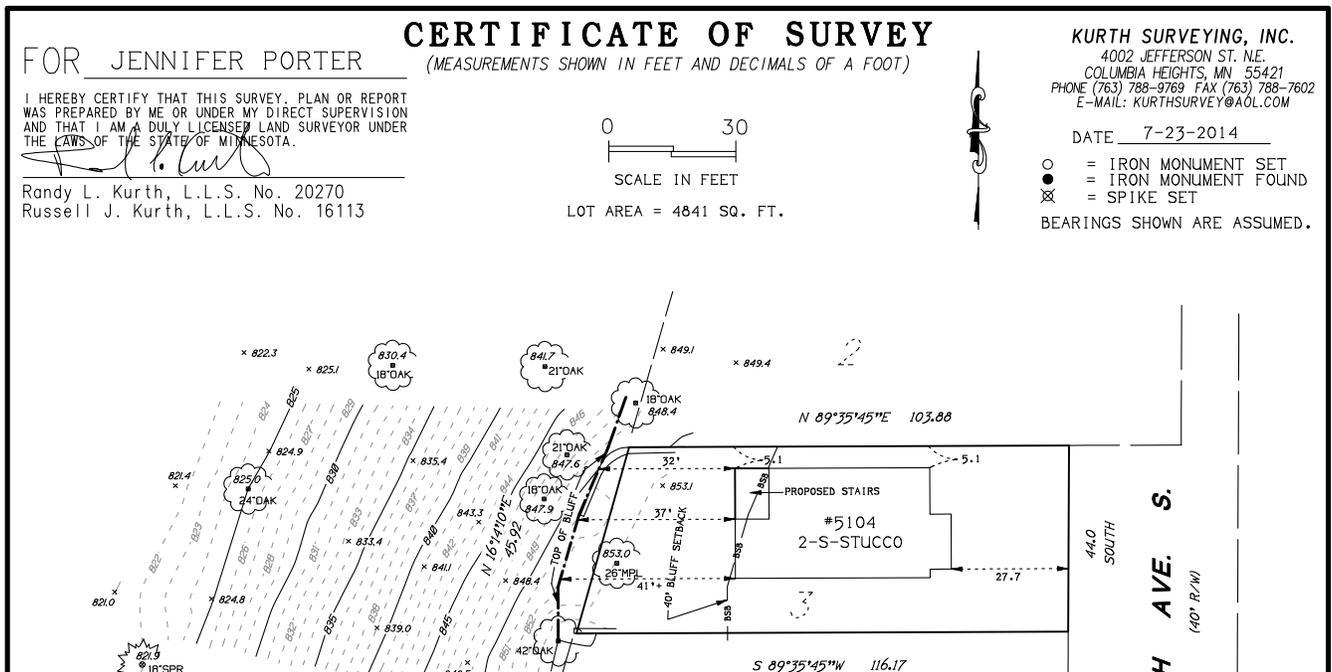
Homeowner

5104 26<sup>th</sup> Ave S

Minneapolis, MN 55417

612-865-8333

[ShootTheMoon@usinternet.com](mailto:ShootTheMoon@usinternet.com)



244

267

NOTE: THIS IS A COMPILATION SURVEY FOR BLUFF SETBACK DETERMINATION AND VARIANCE PURPOSES. TOPOGRAPHY SHOWN FROM A SURVEY DONE FOR MPLS. PARK AND REC. BOARD BY SUNDE LAND SURVEYING, INC. DATED 6-2-2014. BOUNDARIES AND BUILDING LOCATION SHOWN FROM A SURVEY DONE FOR THE APPLICANT BY SURVEY SPECIALISTS DATED 6-8-2002 AND FIELD VERIFIED BY KURTH SURVEYING, INC.

PROPERTY DESCRIPTION

LOT 3  
AUDITORS SUBDIVISION  
NO. 124,  
HENNEPIN CO., MN.

rik-mpls\aud sub 124\Lot3.gxd

sec.13-28-24

plat folder

Attachment: Survey

**JP Porter** ★ Executive Producer ★ Shoot the Moon Productions ★ 612.865.8333

**From:** JP Porter <ShootTheMoon@usinternet.com>  
**Subject:** Variance Application notice (5104 26th Ave S)  
**Date:** July 24, 2014 1:19:19 PM CDT  
**To:** rulrich@nokomiseast.org  
**Cc:** JP Porter <ShootTheMoon@usinternet.com>, Shanna.Sether@minneapolismn.gov  
▶ 1 Attachment, 153 KB



To: Rita Ulrich  
Executive Director – Nokomis East Neighborhood Assn. (NENA)  
3000 E. 50<sup>th</sup> Street  
Minneapolis, MN 55417

RE: Zoning Variance Application – General Land Use – 5104 26<sup>th</sup> Ave S.

Dear Ms. Ulrich and NENA...

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Homeowner

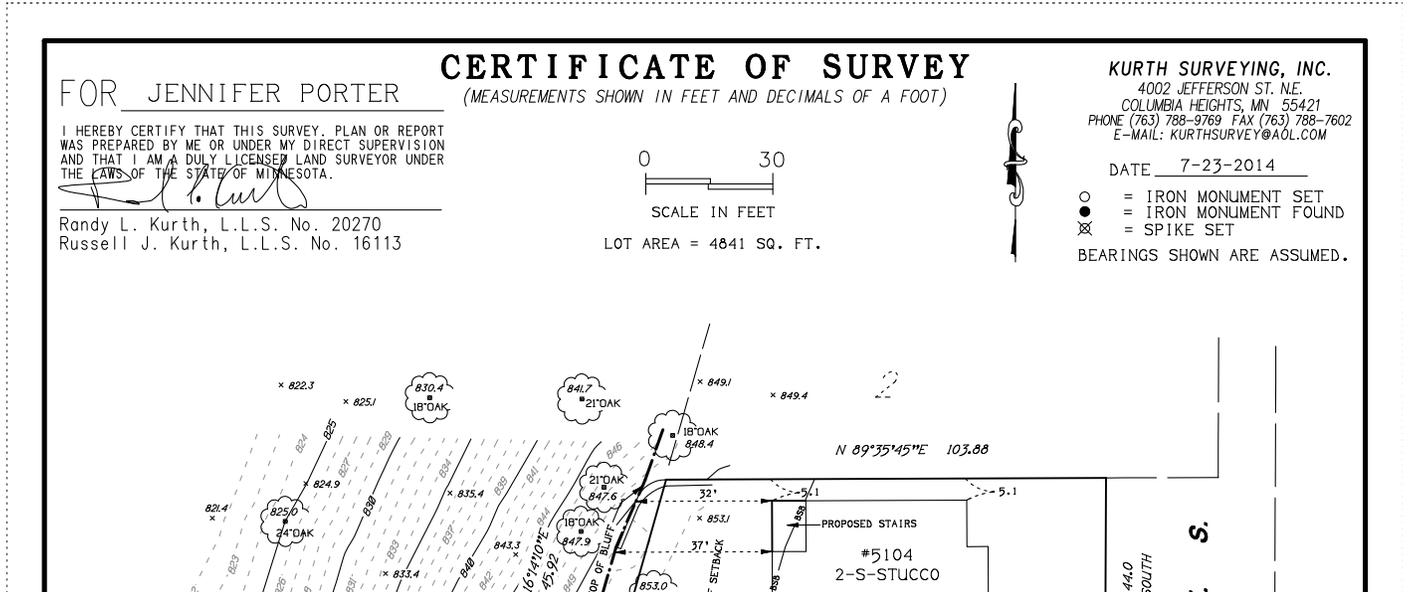
5104 26<sup>th</sup> Ave S

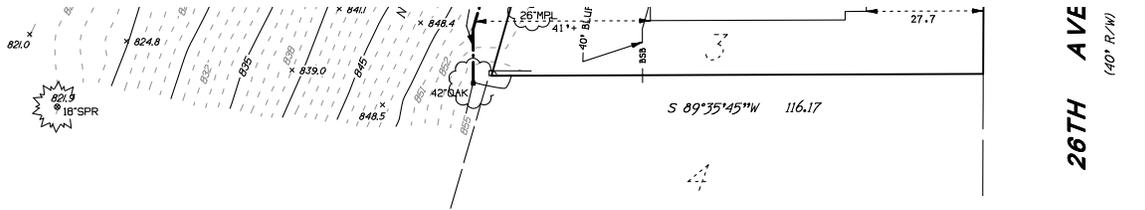
Minneapolis, MN 55417

612-865-8333

[ShootTheMoon@usinternet.com](mailto:ShootTheMoon@usinternet.com)

Attachment: Survey





**26TH AVE**  
(40' R/W)

NOTE: THIS IS A COMPILATION SURVEY FOR BLUFF SETBACK DETERMINATION AND VARIANCE PURPOSES. TOPOGRAPHY SHOWN FROM A SURVEY DONE FOR MPLS. PARK AND REC. BOARD BY SUNDE LAND SURVEYING, INC. DATED 6-2-2014. BOUNDARIES AND BUILDING LOCATION SHOWN FROM A SURVEY DONE FOR THE APPLICANT BY SURVEY SPECIALISTS DATED 6-8-2002 AND FIELD VERIFIED BY KURTH SURVEYING, INC.

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rik-mpls\aud sub 124\Lot3.grd

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plat folder

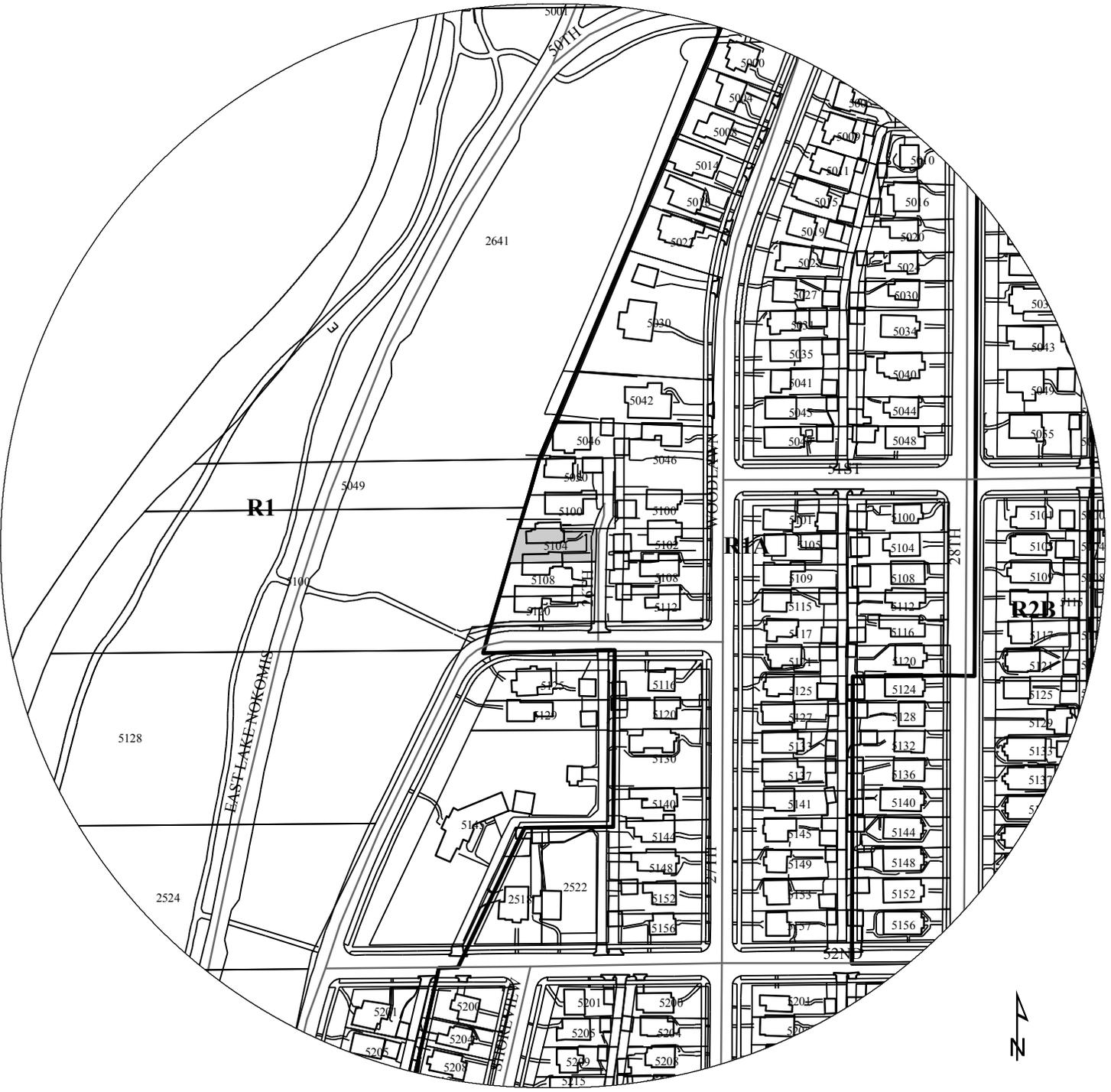
JP Porter ★ Executive Producer ★ Shoot the Moon Productions ★ 612.865.8333

**Jennifer Porter**

**11th**

NAME OF APPLICANT

WARD



PROPERTY ADDRESS

**5104 Drew Avenue South**

FILE NUMBER

**BZZ-6705**

# CERTIFICATE OF SURVEY

(MEASUREMENTS SHOWN IN FEET AND DECIMALS OF A FOOT)

FOR JENNIFER PORTER

I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.



Randy L. Kurth, L.L.S. No. 20270  
 Russell J. Kurth, L.L.S. No. 16113



SCALE IN FEET

LOT AREA = 4841 SQ. FT.

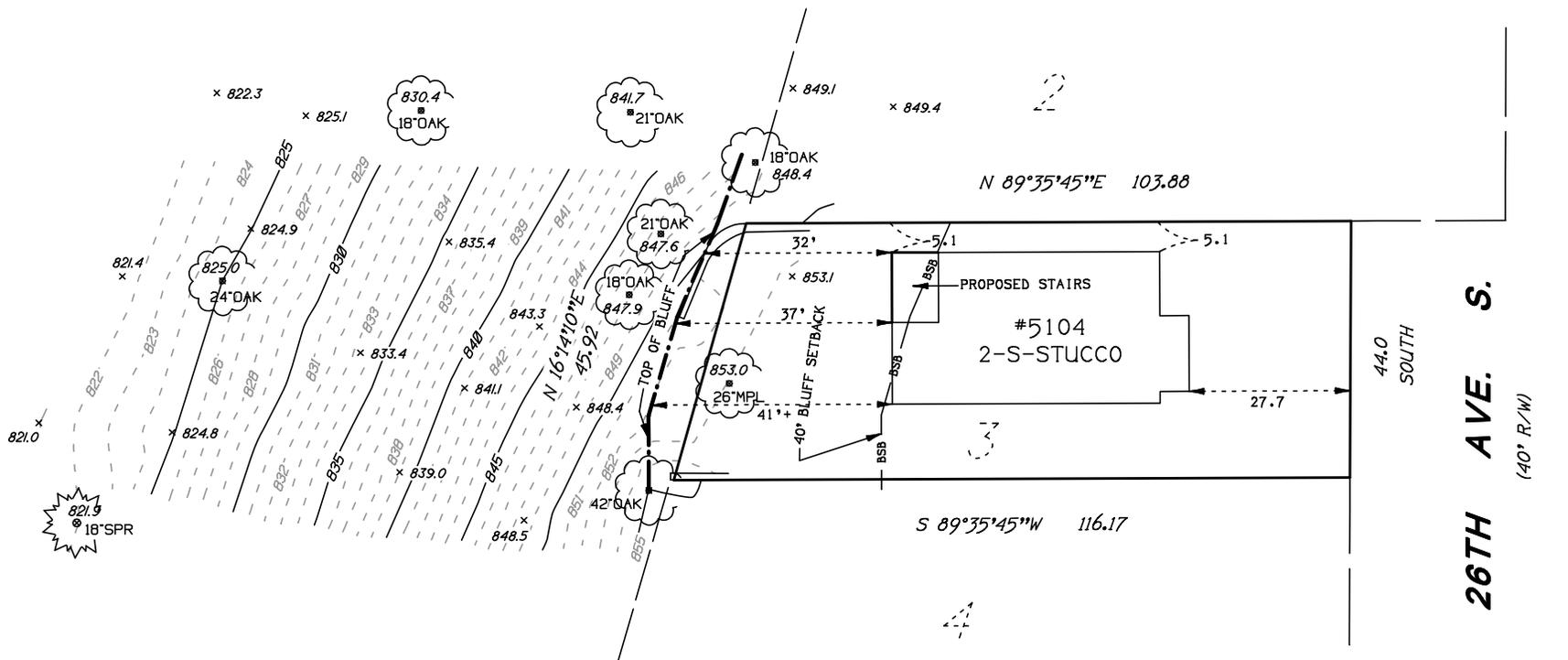
**KURTH SURVEYING, INC.**

4002 JEFFERSON ST. N.E.  
 COLUMBIA HEIGHTS, MN 55421  
 PHONE (763) 788-9769 FAX (763) 788-7602  
 E-MAIL: KURTHSURVEY@AOL.COM

DATE 7-23-2014

- = IRON MONUMENT SET
- = IRON MONUMENT FOUND
- ⊗ = SPIKE SET

BEARINGS SHOWN ARE ASSUMED.



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LOT 3  
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 HENNEPIN CO., MN.

5104 26<sup>th</sup> Ave S Minneapolis, MN 55417 – PID# 13-028-24-42-0006

Photos of backdoor steps to be replaced and expanded in “notch” of house:





Backyard. Facing east. Standing on the west property line (crest of the slope/hill) :



Standing at the west property line abutting Lake Nokomis & Park:



Aerial view. Red roof. Blue dot

