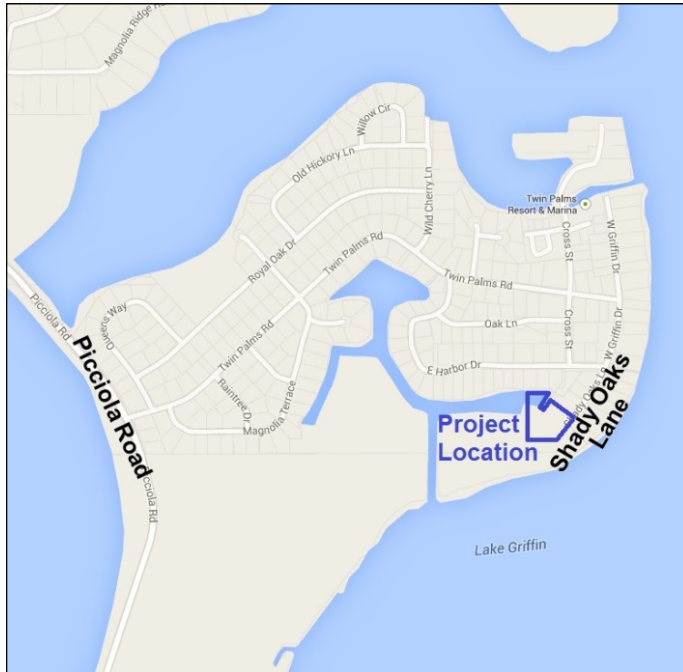




VARIANCE REQUEST
Presented to the
BOARD OF ADJUSTMENT
May 14, 2015

Case No. VAR-2015-05-5 **Agenda Item: 1**

REQUESTED ACTION: The applicant is requesting a variance from **Lake County Land Development Regulations (LDR)** to allow the expansion of the existing boathouse to exceed the maximum 10% allowed by LDR Section 1.08.02(A.1) for nonconforming structures and to encroach into the minimum 10 foot setback required by LDR Table 3.02.05.



Owners	Woodrow D. and Lisa S. Womack
Applicant	Woodrow D. Womack
Address	35015 Shady Oaks Lane, Fruitland Park, FL 34731
General Location	Fruitland Park area – end of Shady Oaks Lane and East of Picciola Road
Alternate Key	3693639
Zoning District	Rural Residential (R-1)
Future Land Use	Rural Transition
ISBA	Not Applicable

Approximate site location outlined in Blue

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Rural Transition	Rural Residential (R-1)	Single Family Residence and Canal
South	Rural Transition	Rural Residential (R-1)	Single Family Residence
East	Rural Transition	Rural Residential (R-1)	Single Family Residence
West	Rural Transition	Rural Residential (R-1)	Vacant Lot

Property Posted: May 1, 2015

Notification cards mailed-out: May 4, 2015

JOINT PLANNING AGREEMENT: N/A

WEKIVA RIVER PROTECTION AREA: N/A

LAKE AOPKA BASIN: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

FLOODPLAIN: Western portion of the property located within Flood Zone AE

ENVIRONMENTAL ISSUE: Wetlands located in the western side of the parcel.

14.15.01 Purpose of Variances. In the strict application of uniformly applicable Land Development Regulations (LDR), the Board of County Commissioners (BCC) finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the LDR. The Board of Adjustment (BOA) is authorized to grant variances to requirements of the LDR when its application leads to unreasonable, unfair, and unintended results to the development and use of land. However, the variance must be consistent with the rules contained in these regulations. This Section does not authorize the BOA to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to allow uses not generally permitted in the applicable zoning district or any use expressly or by implication, prohibited by the terms of the LDR for that zoning district. Additionally, the existence of nonconforming use of neighboring lands or unpermitted use of neighboring lands shall not be considered grounds for authorization of a variance.

14.15.02 Granting Variances and Appeals

Variances may be granted when the person subject to the LDR demonstrates that the purpose of the LDR will be or has been achieved by other means, and when application of a LDR would create a substantial hardship or would violate principles of fairness.

For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. The "principles of fairness" are violated when the literal application of a LDR affects a particular person in a manner significantly different from the way it affects other similarly situated persons or properties who are subject to the LDR.

Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

ANALYSIS:

The applicant is requesting two variances from Lake County Land Development Regulations. The first variance request is to allow a proposed expansion of an existing nonconforming boathouse to exceed the maximum 10% as allowed by LDR Section 1.08.02(A.1). The second variance request is to allow the existing nonconforming boathouse to remain within the 10 foot side setback and allow the proposed expansion to encroach into the minimum 10 foot side setback as required by LDR Table 3.02.05 for Rural Residential (R-1) zoning district.

The subject property obtained a Zoning Permit (Attachment #1) in 2004 for the construction of the boathouse, however staff incorrectly issued the permit on the adjacent parcel to the northeast. Staff signed off on a site plan that indicated the boathouse was not located on the subject property. Subsequently the boathouse was built on the subject property but encroaches into the setbacks from west property line. A Building Permit was also issued in 2004 (Attachment #2) and the Certificate of Occupancy was issued in 2013 (Attachment #3).

As shown in the survey (Exhibit "A" – *Survey*), the existing boathouse and proposed expansion encroaches into the minimum 10 foot setback required by LDR Table 3.02.05. In addition, the proposed expansion (192 square feet) exceeds the maximum 10% (64 square feet) allowed by LDR Section 1.08.02(A.1). Details of the proposed expansion and give by the Exhibit "B" *Engineering Plans* which are being included as part of the variance conditions for approval.

The **intent of the Code** (LDR Section 1.08.02(A.1) *Continuation of Nonconforming Development* and LDR Table 3.02.05 *Setback Requirements*) is to allow legally existing non-conforming development to remain in its current state and to allow expansions of non-conforming structures limited to a maximum of 10%. In addition, a minimum 10 foot setback is required for Rural Residential (R-1) zoning district from side property line.

The applicant submitted the following reasons as proof of meeting the **intent of the Code**:

"The purpose of the Land Development Regulation has been achieved by the alignment of geography and Property/riparian lines. The LDR for which this variance is being requested is where the property line extends over the water. The proposed addition will not make the structure more nonconforming."

The applicant submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**:

"Bringing the dock into Compliance will cause unfair economic hardship. Additionally, it will require dredging of the shallow grassy area behind the boathouse to the East, adversely impacting natural resources and encroaching upon 2 slips on the southern end of the boat club."

FINDINGS OF FACT: Staff has reviewed the application for this variance request and found:

- A Zoning Permit was approved and a Building Permit and Certificate of Occupancy were obtained for the existing boathouse.
- This request is consistent with Comprehensive Plan Policy III-2.2.7 *Protection of Shorelines*, which allows docks, platforms and pile supported walkways.
- The request is consistent with LDR 10.01.04, which allows private boat docks to be permitted as an accessory use within all residential zoning districts.

The owners have submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, Staff recommends **approval** of the variance request to allow the expansion of the existing boathouse to exceed the maximum 10% allowed for nonconforming structures and, to allow the existing boathouse and expansion to encroach into the minimum 10 foot setback required from west property line, all consistent with the attached Exhibit "A" *Survey* and Exhibit "B" *Engineering Plans*.

Attachments Index

Attachment 1 - Zoning Permit

Attachment 2 - Building Permit

Attachment 3 - Certificate of Occupancy

Attachment 2 - Building Permit

TAVARES OFFICE
P O BOX 7800
317 WEST MAIN STREET
TAVARES, FL
(352) 343-9653

Lake County BUILDING SERVICES DIVISION BUILDING PERMIT 2001 Florida Building Code w/ 2002 Revisions

CLERMONT OFFICE
1210 BOWMAN STREET
CLERMONT, FL 34711
(352) 394-5962

PERMIT

VALID #: 597

PERMIT #: 2004010760 **ISSUED:** 01-21-04 **MASTER #:** 2004010760 (597)

ALT KEY: 3693639

JOB: 35015 SHADY OAKS DR
ADDRESS: FRUITLAND PARK, FL 34731-

OWNER INFORMATION:
MC DERMOTT JAMES H & J ANN
12518 WEDGEFIELD DR

CONTRACTOR INFORMATION:
DAC CONSTRUCTION INC
40533 E 8TH AVE

GRAND ISLAND FL 32735-

UMATILLA FL 32784

STATE LIC. NBR: LOCAL

*Original
Not
Legible*

SUBDIVISION #: - BELLEAYRE ESTATES **LOT:** 06900 **BLOCK:** 000

RANGE-TOWNSHIP-SECTION: 24-19-01

JOB DESCRIPTION: DOCK & BOAT SHELTER

TOTAL SQFT: 880 **SEWER #:** **JOB VALUE:** 10,300.00

SETBACKS FRONT: 50'RW **REAR:** 10 **LEFT:** 50WJL **RIGHT:** 10

ADDL INFO: ****A FINAL INSPECTION CANNOT BE COMPLETED UNTIL THE SINGLE FAMILY RESIDENCE HAS BEEN COMPLETED***

This permit will become null and void if a satisfactory inspection is not completed within six (6) months. Permit void if work described hereon has not been completed and inspected within twelve (12) months from issue date.

Notice: In addition to the requirements in this permit, there may be additional restrictions applicable to this property that may be found in the records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies. s:553.79(10),P.S.

It is the responsibility of the owner or operator to comply with the provisions of s.469.003 of the Florida Statutes and to notify the Department of Environmental Regulation of his/her intentions to remove asbestos, when applicable, in accordance with state and federal laws.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOU PAYING TWICE FOR BUILDING IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT. s.713.135, P.S.

Building Official: D.T. Greiner
Permit Specialist: MCCARROLL, LORENA

JAN 21 2004

**For Inspections, Call
(352) 343-9634
Inspections will be
made the following
workday**

Cashier *T. Bates*
Daniel A. Connor

Date JAN 21 2004

Received By

Date

Attachment 3 - Certificate of Occupancy

CDPR2025

LAKE COUNTY
BOARD OF COUNTY COMMISSIONERS
CERTIFICATE OF OCCUPANCY
2010 Building Code

CERTIFICATE OF OCCUPANCY NO. 113377 BUILDING PERMIT NO. 2004010760 STATUS: ISSUED

OWNER: MC DERMOTT JAMES H & J ANN
12518 WEDGEFIELD DR
GRAND ISLAND FL 32735-

This Certificate is issued pursuant to the requirements of the Florida Building Code certifying that at the time of issuance this structure was in compliance with the various ordinances of Lake County regulating building construction or use. For the following:

CO TYPE: FINAL ISSUED DATE: September 25, 2013

ADDRESS: 35015 SHADY OAKS DR

SUBDIVISION: BELLEAYRE ESTATES ALTERNATE KEY: 3693639

LOT: 06900 BLOCK: 000 PARCEL/FOLIO NBR: 01-19-24-0004-000-06900

OCCUPANCY: : OCCUPANCY LOAD:

JOB DESCRIPTION: DOCK & BOAT SHELTER CONSTRUCT. TYPE: * BOAT HOUSES, DOCKS, DECKS

SPRINKLERS REQ'D: NO

CONTRACTOR: DANIEL CANNON
24223 WELDON DR
EUSTIS FL 32726

LEGAL DESCRIPTION:

REMARKS/
CONDITIONS/
RESTRICTIONS

NOTE:

This Certificate of Occupancy is issued to the above named, for building at the above named location only upon the express provision that the applicant will abide by and comply with all the conditions of the Zoning Ordinances and all Ordinances of Building Codes of Lake County.
The issuance of this Certificate grants permission to occupy and use the property described herein only for the use indicated. Any change in use will require a new certificate of occupancy.
Documentation of the first floor elevation is retained in the building permit records

Building Official: SHANE GERWIG
POST IN A CONSPICUOUS PLACE

**Final Development Order
Woodrow D. and Lisa S. Womack
VAR-2015-05-5**

A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Woodrow D. Womack (the "applicant"), on behalf of Woodrow D. and Lisa S. Womack (the "Owners"), requested a variance to allow the expansion of the existing boathouse to exceed the maximum 10% allowed for nonconforming structures and, to allow the existing boathouse and expansion to encroach into the minimum 10 foot setback required from west property line; and

WHEREAS, the subject property consists of 2.12 acres +/- and is generally in the Fruitland Park area, end of Shady Oaks Lane and East of Picciola Road, in Section 1, Township 19 South, Range 24 East, currently having alternate key number 3693639 and more particularly described as:

Parcel 3:

From the Southwest corner of Government Lot 4, Section 1, Township 19 South, Range 24 East, Lake County, Florida, run East along the South line of Government Lot 4 a distance of 717.52 feet; thence North, Parallel with the West line of said Government Lot 4 a distance of 100.00 feet; thence East 15.00 feet to the Point of Beginning of this description; from said Point of Beginning, run North 369.17 feet to a point on the South line of Rohr's Addition to Picciola Harbors, a subdivision recorded in Plat Book 17, Page 39 of the Public Records of Lake County, Florida; run thence East along said South line of Rohr's addition a distance of 35.00 feet; thence South 80.92 feet; thence South 54°40'00" East, 334.01 feet thence South 43°48'30" West, 131.75 feet; thence West 216.28 feet to the Point of Beginning.

Parcel 5:

From the Southwest corner of Government Lot 4, Section 1, Township 19 South, Range 24 East, Lake County, Florida, run East along the South line of Government Lot 4 a distance of 717.52 feet; thence North parallel with the West line of said Government Lot 4 a distance of 100.00 feet; thence East 231.28 feet; thence North 43°48'30" East, 131.75 feet to the Point of Beginning of this description; from said Point of Beginning, run North 54°40'00" West, 334.01 feet; thence North 00°00'00" West, 80.92 feet to a Point on the South line of Rohr's Addition to Picciola Harbors, a subdivision recorded in Plat Book 17, Page 39 of the Public Records of Lake County Florida; run thence East along said South line of Rohr's Addition a distance of 111.61 feet; thence South 35°11'01" West, 103.50 feet; thence South 54°48'35" East, 62.00 feet thence North 35°11'25" East, 70.61 feet; thence South 54°40'00" East, 230.65 feet; thence South 35°20'00" West, 77.74 feet; thence South 43°48'30" West, 20.31 feet to the Point of Beginning.

AND, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on May 14, 2015; and

WHEREAS, the Board of Adjustment reviewed said petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

WHEREAS, on May 14, 2015, the Lake County Board of Adjustment approved the variance for the above property; and

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property, subject to the following terms:

- Section 1.** **Terms:** The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-2015-05-5 to allow the expansion of the existing boathouse to exceed the maximum 10% allowed for nonconforming structures and, to allow the existing boathouse and expansion to encroach into the minimum 10 foot setback from west property line, consistent with the attached Exhibit "A" *Survey* and Exhibit "B" *Engineering Plans*.
- Section 2.** **Severability:** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.
- Section 3.** **Effective Date.** This Ordinance shall become effective as provided by law.

ENACTED May 14, 2015.

EFFECTIVE May 14, 2015.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Donald Schreiner, Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this May 14, 2015 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____

EXHIBIT "A" - Survey (continuation)

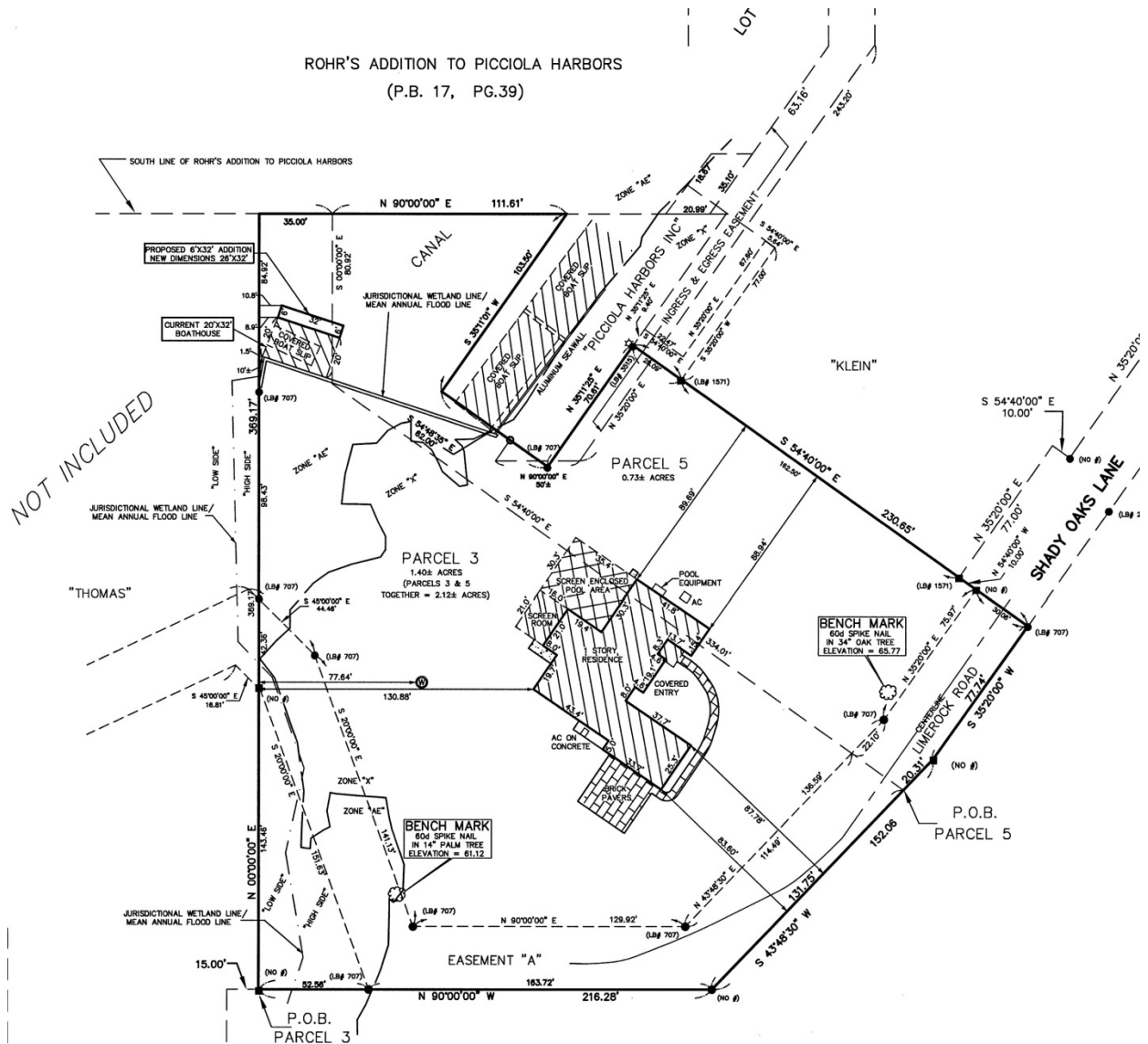
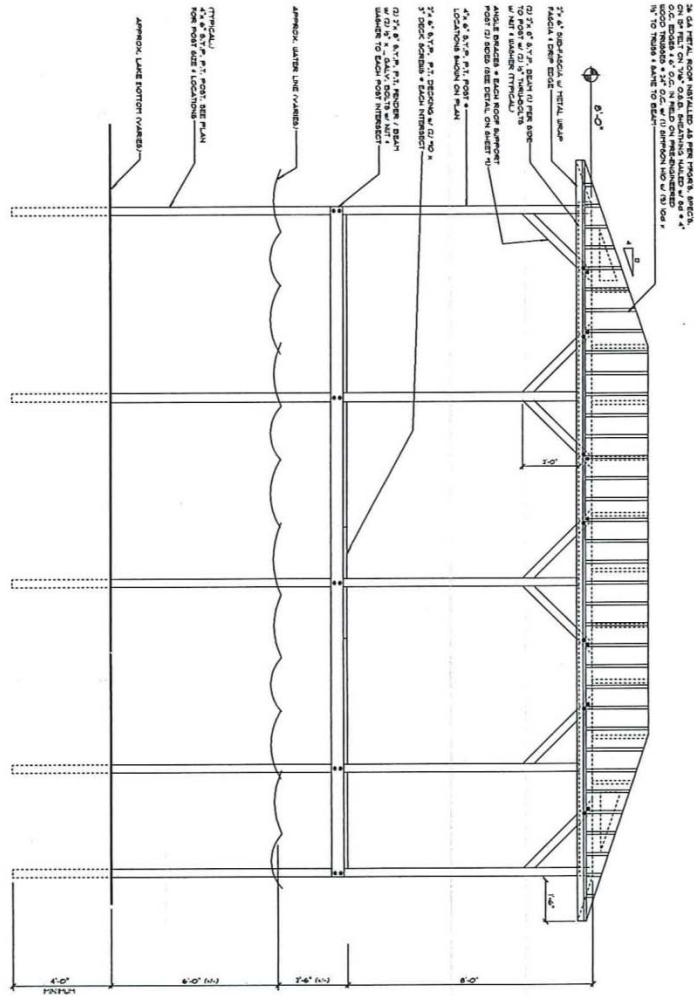


EXHIBIT "B" - Engineering Plans (continuation)



DOCK SECTION
SCALE: 1/2" = 1'-0"

<p>A PROPOSED ROOF-OVER & ADDITION TO AN EXISTING DOCK FOR: MR. WOODY WOMACK 3509 SHADY OAK LANE FRUITLAND PARK, 34731</p>		<p>GRIES ENGINEERING, INC. 715 BARRONAL CIRCLE LEESBURG, FL 34748 OFF: (352) 322-8161 FLORIDA P.E. LICENSE # 33570 FAX: (352) 326-2931</p>		REV	DESCRIPTION	DATE
<p>DESIGNED BY T. NICHOLS CHECKED BY J. GRIES DATE 2/2/15 SCALE 1/4" = 1'-0" PROJECT NO. # 2182 SHEET 2 OF 2</p>						