



DATE: December 19, 2018

AGENDA ITEM # 2

TO: Design Review Commission
FROM: Eliana Hassan, Assistant Planner
SUBJECT: 18-V-08 – 1259 Heritage Court

RECOMMENDATION:

Approve variance application 18-V-08 subject to the listed findings

PROJECT DESCRIPTION

This is a variance application to allow a raised patio to be located within the rear yard setback area of a property with a one-story house that is currently being remodeled. The raised patio, approximately 430 square feet in size, has a height of up to 12-inches above grade where a maximum of six inches is allowed by Code when a patio is located within a rear yard setback.

BACKGROUND

Parcel History

The subject parcel is designated Single-Family Medium Lot in the General Plan, zoned R1-10 (single-family) and is 9,503 square feet in size. It is located at the end of Heritage Court, a meandering cul-de-sac street and abuts properties on Thorp Court to the north. The one-story house on the lot was originally built in 1956. More recently, the City issued a building permit that allowed for a remodel of the existing house and an addition of 300 square feet. The permit included a new patio in the rear yard that originally spanned 5 feet past the 20-foot rear yard setback (10.3 feet total length) and had a width of 25 feet. During a site visit for a tree removal permit, it was found that the built patio varied from the original proposed patio. The current built patio extends further into the rear yard and contains a built-in wooden bench facing the house. The maximum finished floor height has not changed between the proposed and built patio.

Zoning Conformance

The subject parcel is considered a shallow lot in the R1-10 District since it has an average depth of less than 100 feet. As a result, the required rear yard setback is reduced from 25 feet to 25 percent of the average depth, or 20 feet in this case (§14.06.080(F)). In addition, the Zoning Code allows for uncovered decks and porches to extend into a required rear yard up to six feet (§14.66.210(C)). Decks or porches that encroach further into the rear yard are limited to a height that does not exceed six-inches above grade.

DISCUSSION

Setback Variance

The applicant is seeking a variance to allow for the recently constructed raised patio that encroaches into the rear yard setback to be maintained. The Code requires the raised patio to be at least 14 feet from the rear yard setback, however, as built, a portion of the patio (approximately 130 square feet) extends 6.5 feet beyond the allowable 14-foot rear yard setback, leaving it with a setback of approximately seven feet from the property line. While the surface height of the patio is relatively low (between 6-12 inches above grade), its height exceeds the maximum allowed by Code and a variance is required to allow this portion of the patio to remain. A variance justification letter from the applicant that provides additional information to support the request is included in Attachment A.

Based on the findings from both the applicant's letters and site visits, the built patio appears to mitigate privacy issues that could arise. The wooden bench faces away from fences, resulting in users sitting away from the direction of neighbors for most of its use. The fence heights near the patio are proposed to be a height of between 6'6" and 7'9" tall, limiting views of the neighboring properties. The neighbors' properties were also shown to have no living or commonly used rooms in immediate vicinity of patio. Instead, the adjacent properties have a pool equipment enclosure with screening and a shed facing the patio. From the field visit, it was confirmed that while standing on the patio, users cannot see easily into any of the neighbor's windows. Even when standing on the bench itself, the viewshed into the neighbor's properties is limited.

Variance Findings

In order to approve a variance, the Commission must make three positive findings pursuant to Section 14.76.070 of the Zoning Code:

1. The granting of the variance will be consistent with the objectives of the City's zoning plan;
2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and
3. Variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

The granting of the variances is consistent with the objectives of the zoning plan because the patio would not negatively affect the safety, peace, comfort, convenience, prosperity, or general welfare of the property owner or adjacent properties. The patio is a reasonable amenity for a single-family property and it will help protect and enhance the real property value of the parcel by providing an enjoyable and aesthetic space for the residents.

The granting of the variances will not be detrimental to persons living or working in the vicinity or injurious to any properties in the vicinity because the patio space has been designed to have appropriate relationships and maintain privacy between the surrounding properties and the persons living in those surrounding areas. This includes the existing neighbor fence and several new screening trees and landscaping planted along the rear property line adjacent to the new patio as discussed above.

The shallow and asymmetrical shape of the lot is a special circumstance that results in a smaller and less usable backyard space than other properties in the vicinity that are in the R1-10 District. A strict application of the Code would deprive this property of privileges enjoyed by other properties under the identical zoning classification. Therefore, there is a special circumstance that justifies a variance to allow a raised patio to be located within the rear yard setback area.

Environmental Review

This project is categorically exempt from environmental review under Section 15303 of the California Environmental Quality Act because it involves improvements to an existing single-family house.

Public Notification

A public hearing notice was published in *Los Altos Town Crier*, posted on the property and mailed to 110 property owners within 500 feet of the subject property. The Notification Map is included in Attachment D.

Public Correspondence

Signed agreements were received from owners of both properties behind the built patio space. The documents are identical in content and confirm that the neighbor has met with the Shukhmans to review the patio proposal and are supportive of the project. One agreement was signed by David Pann of 1232 Thorpe Court (the left rear neighbors). A second agreement was signed by Alberto and Erin Montoya of 1236 Thorpe Court (the right rear neighbors). Both documents are included in Attachment C.

Cc: Bahi Oreizy, Applicant and Architect
Alex and Lana Shukhman, Owners

Attachments:

- A. Application
- B. Area, Vicinity and Public Notification Maps
- C. Public Correspondence
- D. Elevations and Landscape Variance Plan

FINDINGS

18-V-08 - 1259 Heritage Court

Regarding the variance to allow a raised patio to encroach into the rear yard setback, the Design Review Commission finds the following in accordance with Section 14.76.070 of the Municipal Code:

1. The granting of the variance will be consistent with the objectives of the City's zoning plan; the patio would not negatively affect the safety, peace, comfort, convenience, prosperity, or general welfare of the property owner or adjacent properties. The patio would protect and enhance the real property value of the parcel through an enjoyable space for the residents.
2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; the patio space has been designed to maintain privacy between the surrounding properties through the existing neighbor fence and several new screening trees and landscaping that will be planted along the rear property line.
3. Variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications. The shallow and asymmetrical shape of the lot is a special circumstance that results in a smaller and less usable backyard space than other properties in the vicinity that are in the R1-10 District.

CONDITIONS

18-V-08 - 1259 Heritage Court

GENERAL

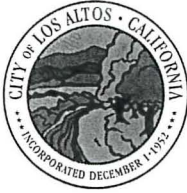
1. **Approved Plans**

This approval is based on the plans received on December 3, 2018, and the written application materials provided by the applicant, except as may be modified by these conditions.

2. **Indemnity and Hold Harmless**

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the City in connection with the City's defense of its actions in any proceedings brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project.

ATTACHMENT A



CITY OF LOS ALTOS GENERAL APPLICATION

Type of Review Requested: *(Check all boxes that apply)*

Permit # 1108536

<input type="checkbox"/>	One-Story Design Review	<input type="checkbox"/>	Commercial/Multi-Family	<input type="checkbox"/>	Environmental Review
<input type="checkbox"/>	Two-Story Design Review	<input type="checkbox"/>	Sign Permit	<input type="checkbox"/>	Rezoning
<input checked="" type="checkbox"/>	Variance	<input type="checkbox"/>	Use Permit	<input type="checkbox"/>	R1-S Overlay
<input type="checkbox"/>	Lot Line Adjustment	<input type="checkbox"/>	Tenant Improvement	<input type="checkbox"/>	General Plan/Code Amendment
<input type="checkbox"/>	Tentative Map/Division of Land	<input type="checkbox"/>	Sidewalk Display Permit	<input type="checkbox"/>	Appeal
<input type="checkbox"/>	Historical Review	<input type="checkbox"/>	Preliminary Project Review	<input type="checkbox"/>	Other:

Project Address/Location: 1259 Heritage Ct.

Project Proposal/Use: Residential Current Use of Property: Residential

Assessor Parcel Number(s): 198-38-047 Site Area: 9,503

New Sq. Ft.: No change Altered/Rebuilt Sq. Ft.: _____ Existing Sq. Ft. to Remain: _____

Total Existing Sq. Ft.: No change Total Proposed Sq. Ft. (including basement): _____

Is the site fully accessible for City Staff inspection? Yes

Applicant's Name: Bahi Oreizy

Telephone No.: 6503602905 Email Address: bahi@360designstudio.net

Mailing Address: 1491 Ben Roe Drive

City/State/Zip Code: Los Altos 94024

Property Owner's Name: Alex and Lana Shukhman

Telephone No.: 408-776-0859 Email Address: alex.shukhman@gmail.com

Mailing Address: 818-481-0631 (cell) 1259 Heritage Ct

City/State/Zip Code: Los Altos 94024

Architect/Designer's Name: Bahi Oreizy

Telephone No.: 6503602905 Email Address: bahi@360designstudio.net

Mailing Address: 1491 Ben Roe Drive Los Altos 94024

City/State/Zip Code: _____

* If your project includes complete or partial demolition of an existing residence or commercial building, a demolition permit must be issued and finalized prior to obtaining your building permit. Please contact the Building Division for a demolition package. *

Letter in Support of Variance Application

To: City of Los Altos Planning Department
From: Alex and Lana Shukhman
CC: Bahi Oreizy, Architect
Date: November 27, 2018
Re: Application for Variance 2018-1108536, 1259 Heritage Court

We are the homeowners of the property on 1259 Heritage Court. We want to thank the staff of City of Los Altos and the DRC for taking the time to review our application.

We hope that it is visible that the unique circumstances warrant the request of a variance and that we have also made reasonable effort to propose a variance that has minimal impact to our neighbors.

Unfortunately, our lot does not have as much depth in the front or the back as most lots in the city due to its odd shape (a comparatively wide but very shallow, uneven piece of a pie). As a result, the home does not have equal distances to the lot lines/setbacks at different parallel points from the home. This makes creation of a commonly shaped backyard entertainment area/deck within the setbacks very difficult. That is further complicated by the fact that we have uneven grading that slopes toward the house and away from the area where a large tulip tree that we recently removed with the city's permission due it being diseased and a safety concern was situated. The ground level around that trunk was almost a foot higher than the grading at the 14 foot setback.

If we tried to build a stone deck at or within six inches of the ground level (as per code), water run off would flow onto the deck in the direction of the home (as was the case before) because of the higher grading of the land in the northeast corner just outside the raised stone deck area in question.

Moreover, due to the extremely narrow, oddly shaped lot and situation of the home relative to the lot lines/setbacks, if we built the stone deck at the same height/elevation within the permissible 14 foot setback, this would mean that any table and seating area would have to be located right outside the opening of our accordion patio door. This would result in insufficient clearance and deprive us of the enjoyment that most other lots have.

The sought variance is limited in scope to a few areas within the setback area, not the entire square footage of the raised deck, and consequently of less concern to all impacted parties.

Please note that the areas of our back neighbors' lots that are most impacted by the variance do not have any living or commonly used areas in the immediate vicinity. In fact, the southwest corner of our northeast neighbor's lot has an approximately nine foot wide fence enclosed area for equipment/filter for their pool, surrounded by cement and a pool and then privacy screening running the remainder of the common fencing. In addition, the southeast corner of our northwest neighbor's lot has a very tall shed that is approximately 14 feet wide abutting our common back fence, approximately nine feet tall at its highest point (well above the fence line) and approximately six feet in depth with no windows from the home facing that corner.

We have sought to mitigate any remaining privacy concerns associated with the variance by including a somewhat permanent feature: bench seating spanning almost the entire length of the raised stone deck (with the objective of adding a table spanning most of it) facing away from our back side neighbors and toward the house in the area closest to the backside fence. This means that people will be commonly and primarily seated in the area exceeding much of the setback and not standing overlooking at neighbors and vice versa.

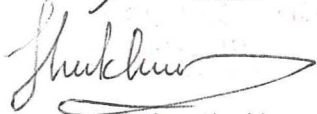
We have tried to mitigate any other privacy concerns with appropriate landscaping by proposing privacy screening in the form of two fairly mature trees (a 24" box Desert Willow and a 24" box Chitalpa Thaskentensis) and five very fast-growing, privacy screening plants (15 gallon Italian Buckhorn) between the raised stone deck and the fencing that will provide all parties with some nice greenery (including flowers), privacy and screening.

We have also met with our backside neighbors personally to discuss the stone deck in our back yard and showed them the drawings that were submitted to the city. In light of all of the above, they are very supportive of the variance.

(continues on next page)

Please see our neighbor's name(s) and signature(s) on the following pages indicating they're in agreement with our proposal.

Thanks,

A handwritten signature in cursive script, appearing to read "Alex Shukhman".A handwritten signature in cursive script, appearing to read "Lana Shukhman".

Lana and Alex Shukhman

Narrative in Support of Variance Application for Shukhman residence

To: City of Los Altos
Planning Division

Project: Lana and Alex Shukhman
1259 Heritage Court
Los Altos, CA 94024

Date: 11/20/2018

My name is Bahi Oreizy with 360 Design Studio. I'm the Architect and the applicant for the project on 1259 Heritage Court. The homeowners, Lana and Alex Shukhman recently completed construction of the addition/remodel of the house and they're in the process of finalizing the landscaping.

It has been brought to our attention that the newly constructed stone patio in the rear yard does not meet the standards of code section: 14.06.220 of the Los Altos Municipal Code:

Uncovered decks with a height greater than six inches (above grade) must maintain a minimum setback of 14 feet from the rear property line (*since this is a shallow lot with only a 20' rear setback)*

The total patio is 429 Sf and it is built a few inches below finish floor of the house. About 128 sf of the patio extends beyond the 14 ft limit. By code this area of the patio can only be 6 inches above grade. Since the property slopes down from east to west in the rear yard, the northeast corner is in compliance, but the north west corner is 12" above existing grade. See attached photos.

The patio was designed to maximize outdoor seating, simplify the drainage pattern and keep the water away from the house.

We are asking the commission to approve a variance request for the extra 6 inches of height for the rear patio at the northwest corner.

The unusual "pie" shape of the lot at the end of a cul de sac, with extremely narrow front property dimension and shallow depth has restricted any kind of development and has limited the size of a useable backyard for the homeowners. We feel that this **special circumstances**

deprives this property from enjoying the same privileges enjoyed by other properties in the same zoning district.

Granting of variance will not be detrimental to the health, safety, or welfare of the persons living in the vicinity or injurious to property or improvements in the vicinity.

The two adjacent properties in the rear of this property don't have any active living areas behind the patio. The landscape designer has proposed plenty of trees and shrubs for screening and also the neighbors already have thick foliage in this area. Additionally, the neighbors are fully supportive of this application and have provided signed letters in support.

Architecturally, **the addition is consistent with the objectives of the Los Altos zoning plan**
The rear patio will not be visible from the street and it fits very well with the natural setting in the rear.

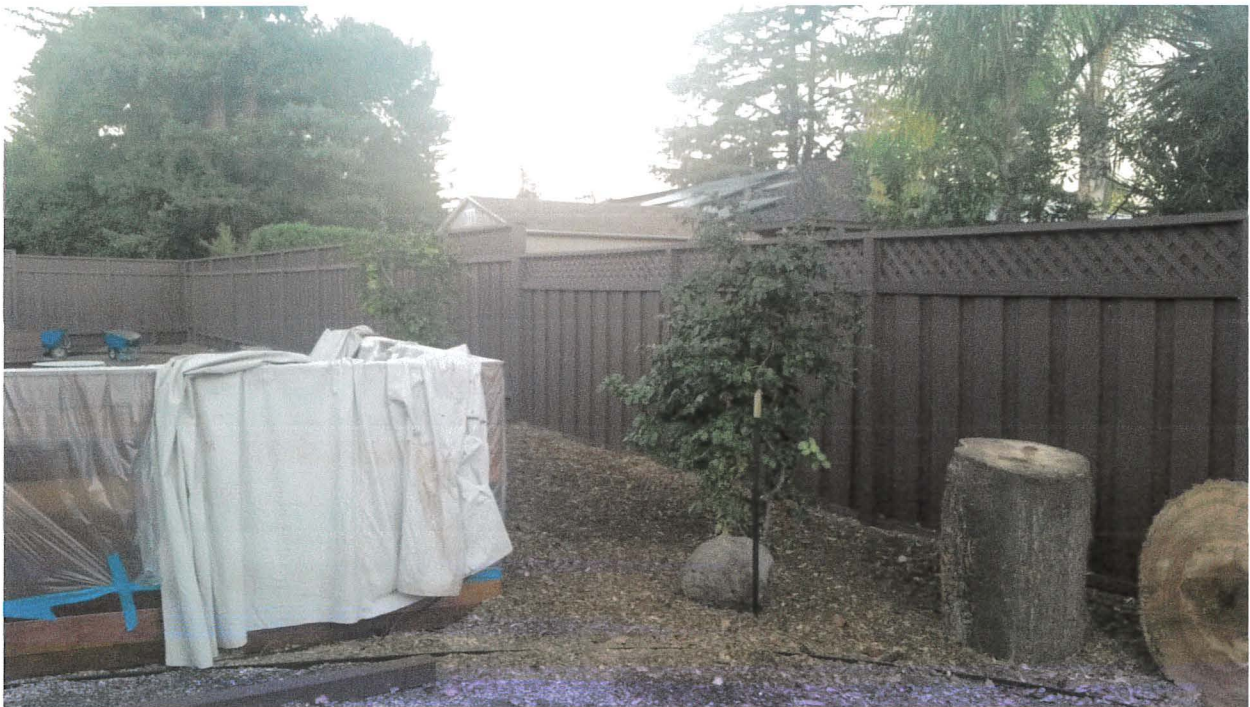
Thank you for your consideration,

Bahi Oreizy, Architect-principal

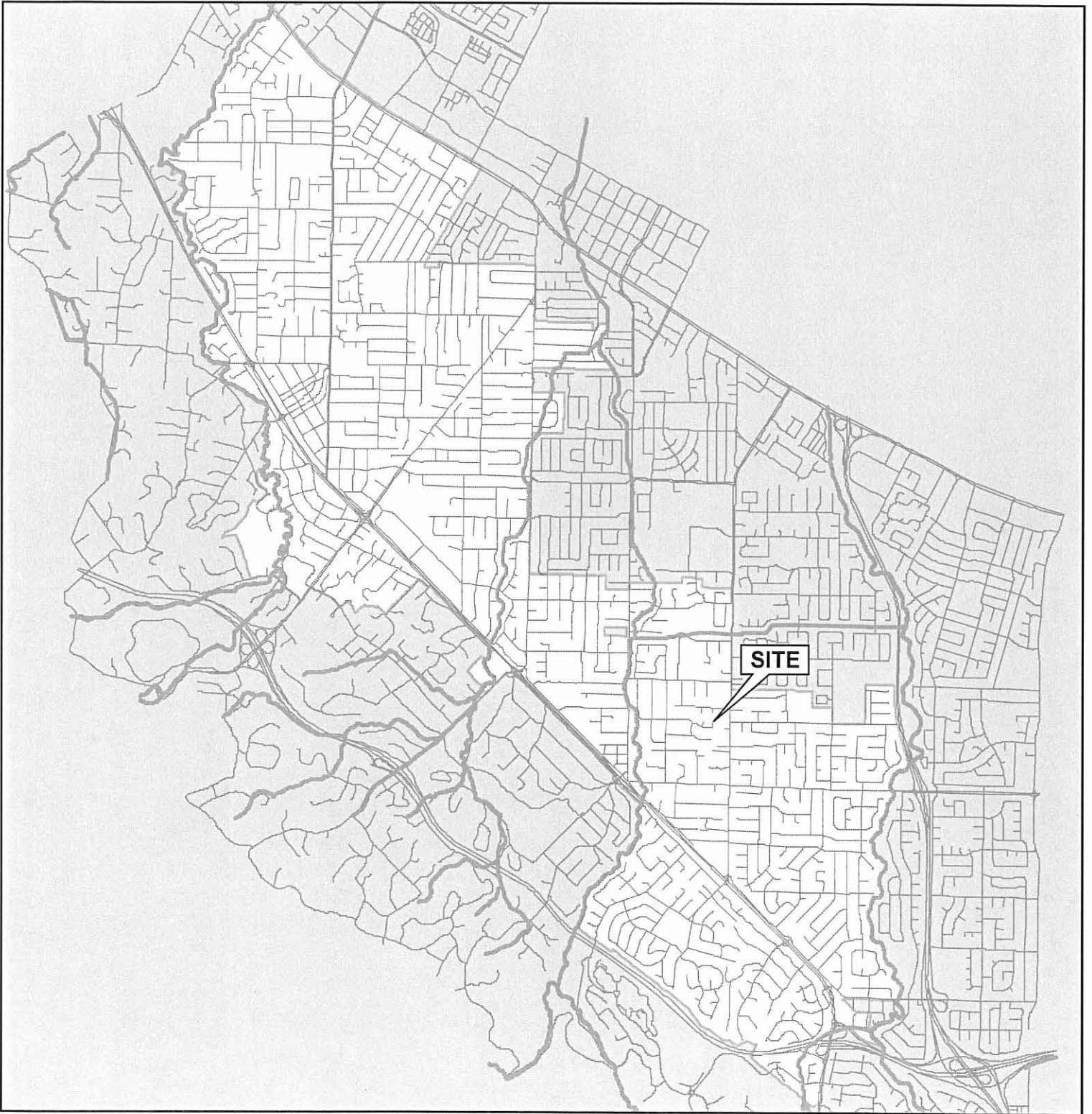
NORTHWEST CORNER:



NORTHEAST CORNER



AREA MAP



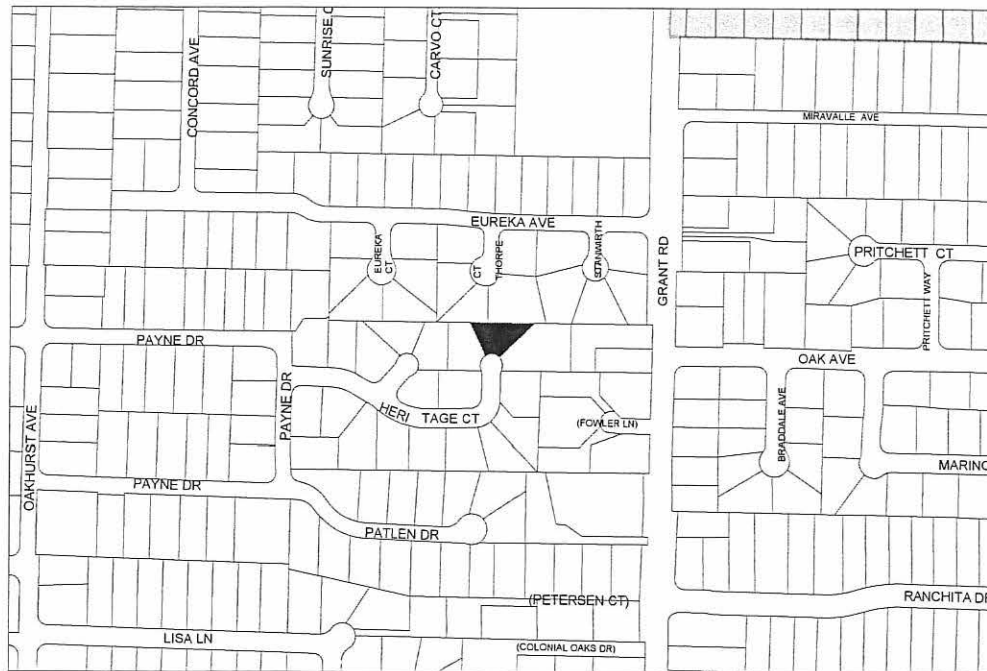
CITY OF LOS ALTOS

APPLICATION: 18-V-08
APPLICANT: Bahi Oreizy/ Alex and Lana Shukhman
SITE ADDRESS: 1259 Heritage Court

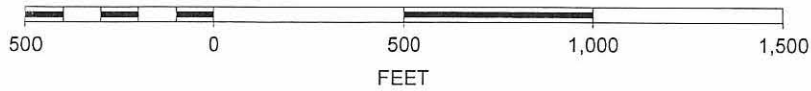


Not to Scale

VICINITY MAP



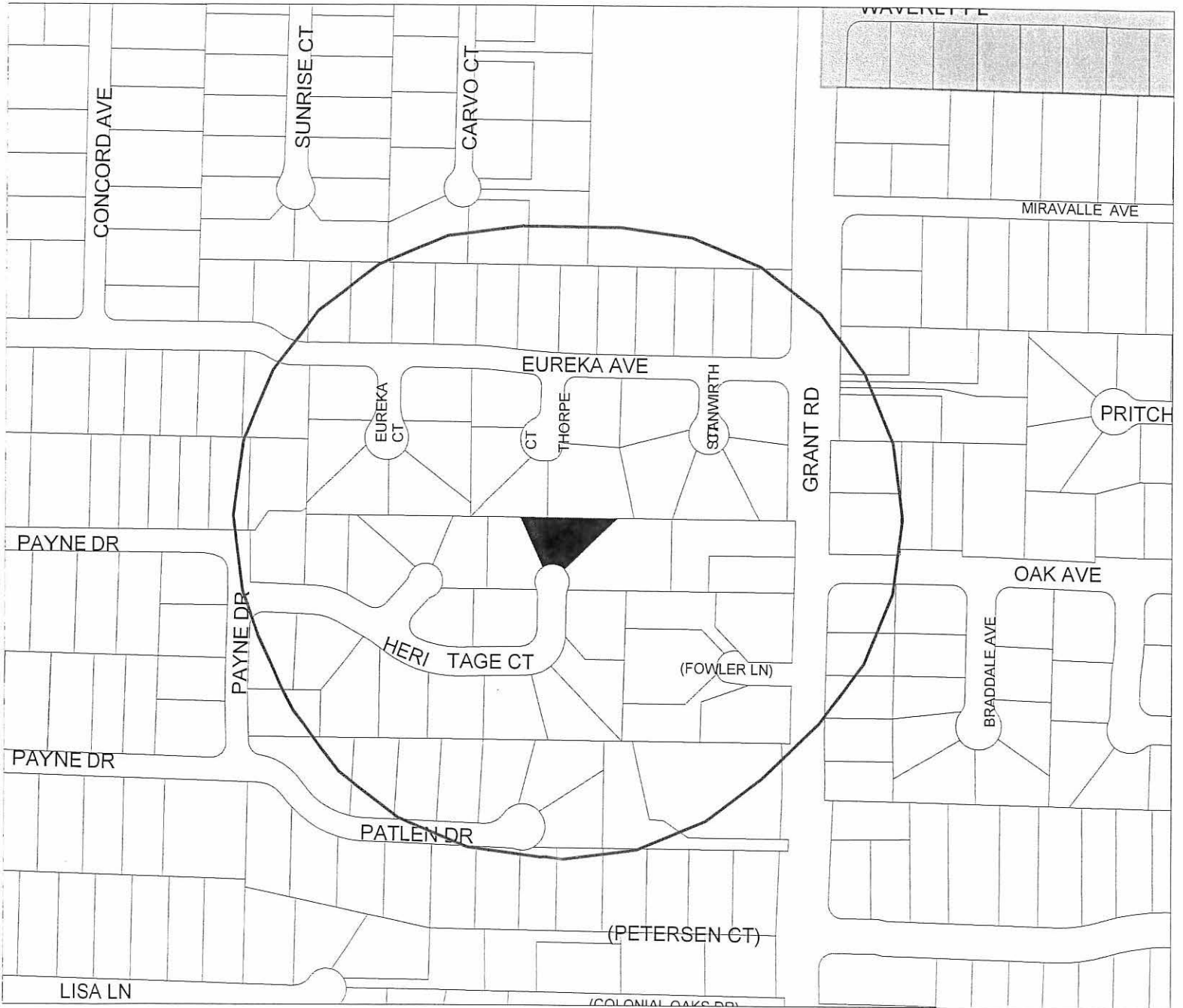
SCALE 1 : 6,000



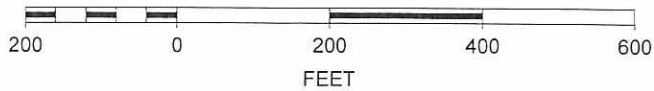
CITY OF LOS ALTOS

APPLICATION: 18-V-08
APPLICANT: Bahi Oreizy/ Alex and Lana Shukhman
SITE ADDRESS: 1259 Heritage Court

1259 Heritage Court 500-foot Notification Map



SCALE 1 : 3,000



ATTACHMENT C

We have met with Lana and Alex Shukhman to review their proposal with respect to their stone deck in the back yard.

We have reviewed the set of drawings submitted to the city and are supportive of this project and have no objections or concerns. In fact, we encourage the City of Los Altos and the City's Design Review Committee to approve their variance application.

Names: __David Pann_____

Address: 1232 Thorpe Court

Los Altos, CA 94024

Signatures: _____

Two handwritten signatures are written over two horizontal lines. The first signature is a cursive 'D' followed by 'Pann'. The second signature is a cursive 'A' followed by 'Shukhman'.

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We have reviewed the set of drawings submitted to the city and are supportive of this project and have no objections or concerns. In fact, we encourage the City of Los Altos and the City's Design Review Committee to approve their variance application.

Names: Alberto Montoya, Erin Montoya

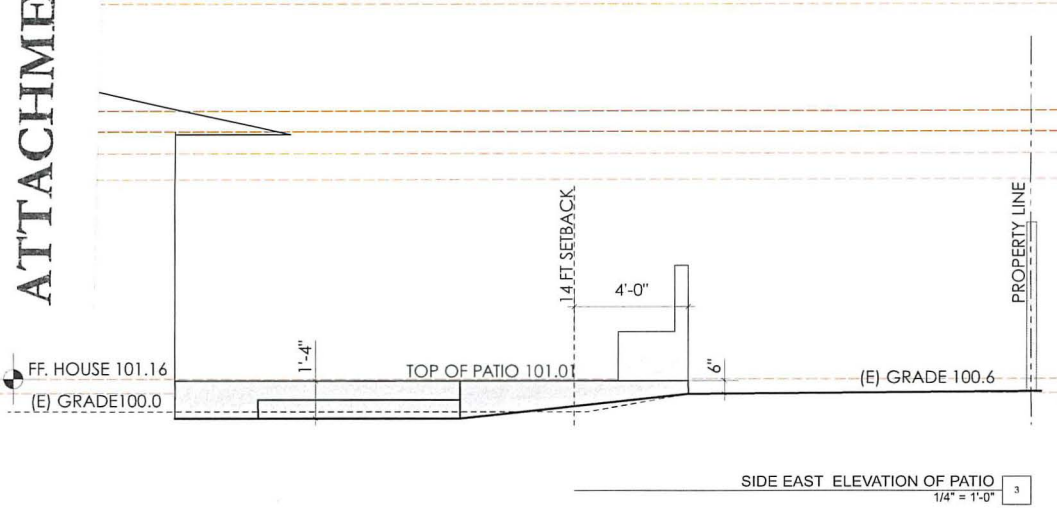
Address: 1236 Thorpe Court

Los Altos, CA 94024

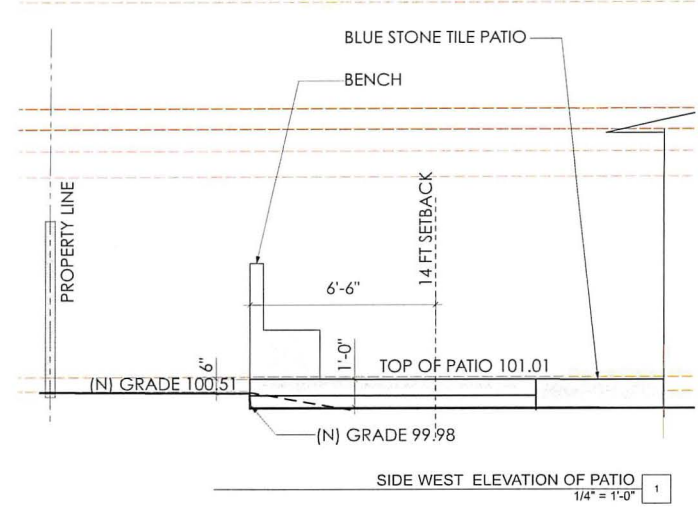
Signatures:

Alberto Montoya
Erin Montoya

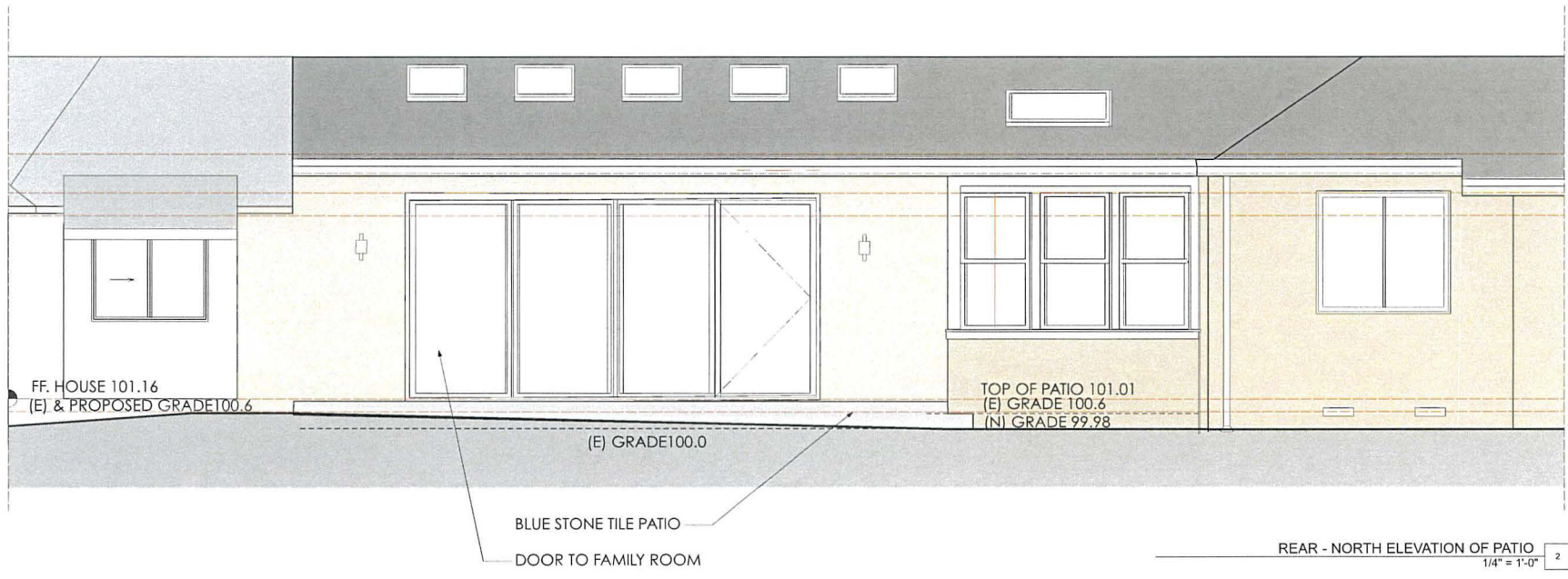
ATTACHMENT D



SIDE EAST ELEVATION OF PATIO
1/4" = 1'-0" 3



SIDE WEST ELEVATION OF PATIO
1/4" = 1'-0" 1



REAR - NORTH ELEVATION OF PATIO
1/4" = 1'-0" 2

360 design studio
1491 BEN ROE DRIVE
LOS ALTOS, CA 94024
phone 650.360.2905
info@360designstudio.net

SHUKHMAN RESIDENCE
1258 HERITAGE COURT,
LOS ALTOS, CA 94024



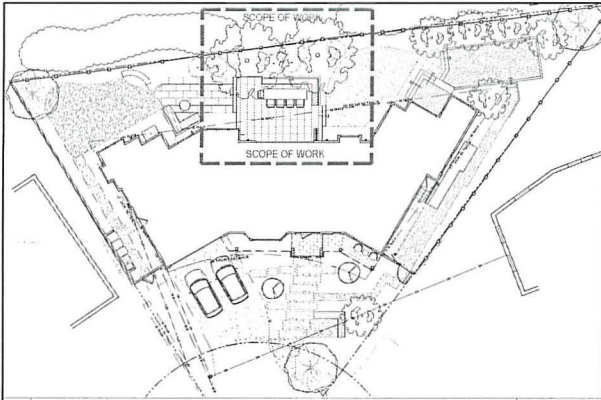
SHEET
EXTERIOR
ELEVATIONS
OF REAR PATIO

REVISIONS:

DATE: 11/29/2018
FILE:

VARIANCE APPLICATION

A1

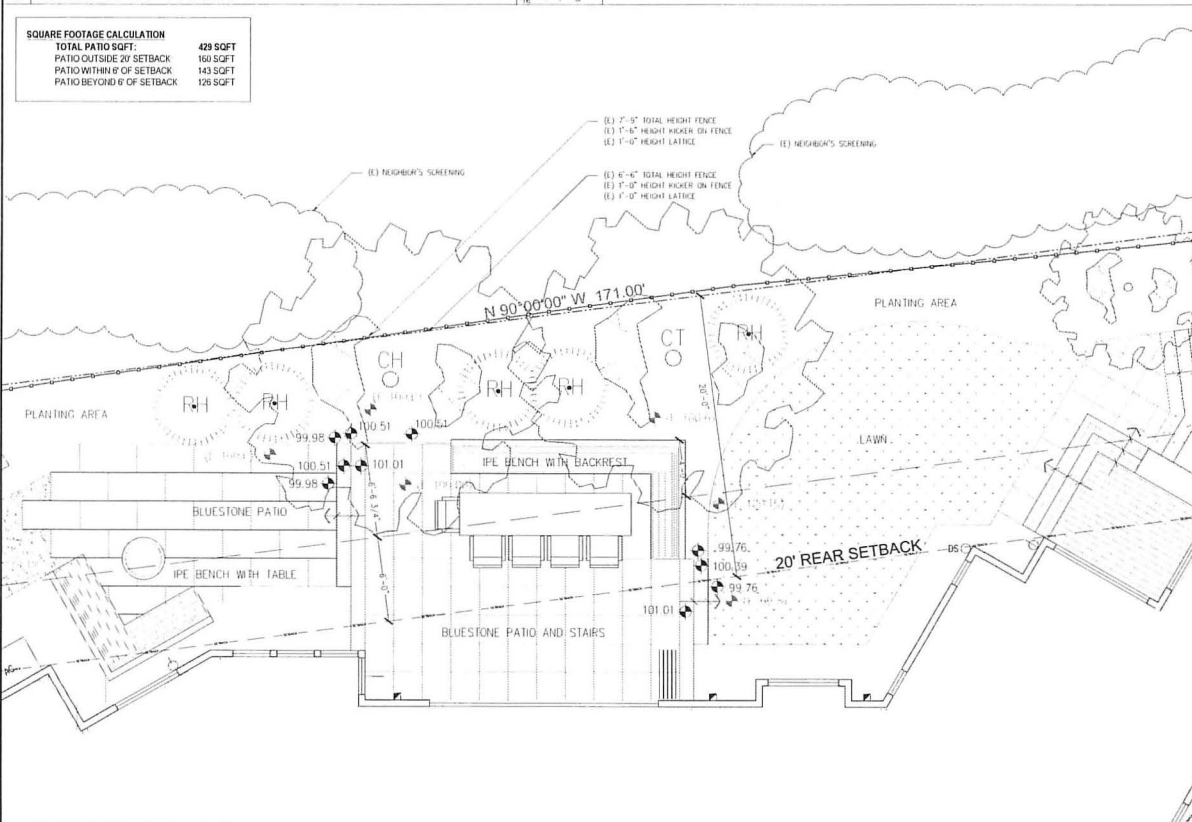


1 SCOPE OF WORK

SCALE:
1/8" = 1'-0"

SQUARE FOOTAGE CALCULATION

TOTAL PATIO SQFT:	429 SQFT
PATIO OUTSIDE 20' SETBACK	180 SQFT
PATIO WITHIN 6' OF SETBACK	143 SQFT
PATIO BEYOND 6' OF SETBACK	126 SQFT



2 STONE DECK VARIANCE

SCALE:
3/8" = 1'-0"

SYM	QTY.	SIZE	BOTANICAL NAME	COMMON NAME	TYPE	HEIGHT	WIDTH
CH	1	24" Box	Chilopsis linearis	Desert Willow	T	20'	20'
CT	1	24" Box	Chitalpa tashkentensis	Chitalpa	T	25'	25'
RH	5	15 Gal	Rhamnus alaternus	Italian Buckthorn	S	12'	6'

WUCOLS PLANT TYPES: S - SHRUB SU - SUCCULENT T - TREE V - VINE

SHUKHMAN RESIDENCE

1259 HERITAGE COURT
LOS ALTOS, CA 94024



REVISIONS

No	Date	Title
1	2018 11 14	LANDSCAPE VARIANCE
2	2018 11 20	LANDSCAPE VARIANCE
3	2018 11 27	LANDSCAPE VARIANCE
4	2018 11 29	LANDSCAPE VARIANCE
5	2018 12 05	LANDSCAPE VARIANCE

Registration and Signature



DATE: DECEMBER 5th 2018

LANDSCAPE VARIANCE
PLAN

Lead Associate: J.H.T.
Principal: R. RADFORD
Job Name: SHUKHMAN RESIDENCE
APN: 193-338-047



NORTH ARROW

SHEET NO.

LV1.1

SHEET 1 OF 1

DEVELOPER TO VERIFY LANDSCAPE VARIANCE OF ANY DISCREPANCY BY PLAN
 AND TO VERIFY THE ACCURACY OF ALL DATA AND TO VERIFY THE CONSTRUCTION