



DATE: February 6, 2019

AGENDA ITEM # 2

**TO:** Design Review Commission  
**FROM:** Eliana Hassan, Assistant Planner  
**SUBJECT:** 18-V-09 – 581 Van Buren Street

**RECOMMENDATION:**

Approve variance application 18-V-09 subject to the listed findings and conditions

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**PROJECT DESCRIPTION**

Variance request to allow an existing pool equipment enclosure that exceeds six feet in height to be maintained in an exterior side yard setback area. The structure, which is 70 square feet in size, has a height of up to 7.5 feet where a maximum of six feet is allowed by Code when located within an exterior side yard setback area.

**BACKGROUND**

**Parcel History**

The subject parcel is designated Single-Family, Medium Lot in the General Plan, zoned R1-10 (Single-Family) and is approximately 17,600 square feet in size. It is a corner lot where the front yard is located at the end of Van Buren Street, a cul-de-sac, and the exterior side yard is located along the private road, Van Buren Place, that extends off the cul-de-sac. The rear yard contains a water district easement and is adjacent to Adobe Creek, which flows along the edge of the property. The one-story house on the lot was originally built in 1964, with a 200 square-foot addition completed in 2016. More recently, the City issued a building permit that allowed for a remodel of the existing swimming pool. The permit included a new pool equipment enclosure, which would update the equipment to meet current Building Code requirements. A sound attenuating enclosure around the swimming pool's equipment is required to comply with the City's Noise Control Ordinance. During a site inspection, it was noted that the built enclosure exceeded the allowable maximum height of six feet and would need a variance in order to remain as constructed.

**Zoning Conformance**

The subject parcel is considered a corner lot in the R1-10 District since the lot abuts the intersection of two streets (§14.02.070). The Zoning Code allows for accessory structures to be located in the exterior side yard setback, but their height is limited a maximum of six feet (§14.15.020(B)). When an accessory structure is located in a side yard setback area, it shall also be screened from off-site view with solid fencing which is not lower in height than the accessory structure (§14.15.020(B)).

## **DISCUSSION**

### **Height Variance**

The applicant is seeking a variance to allow for the recently constructed pool equipment enclosure to extend beyond the allowable six-foot height limit for an accessory structure in the exterior side yard setback area. As built, the pool equipment enclosure is a maximum height of 7.5 feet. The structure measures 6.5 feet at the fence line, and tapers to a maximum height of 7.5 feet. This height was required in order to allow for the pool equipment to be properly maintained and meet minimum clearance requirements for the electrical panel.

Based on the findings from both the applicant's letters and site visits, the visibility of the pool equipment enclosure from the adjacent private street and cul-de-sac is minimized. The enclosure is built to have the lower height of 6.5 feet towards the street, while the taller 7.5-foot height faces the pool. The fence, which is six feet in height, matches the materials of the enclosure, which limits the visibility of the structure from neighboring properties. In addition, the structure is located between two large mature redwood trees, which further obscures the visibility of the enclosure.

### **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 variance is consistent with the objectives of the zoning plan because the pool equipment enclosure would not negatively affect the safety, peace, comfort, convenience, prosperity, or general welfare of the property owner or adjacent properties. The enclosure is in an area of convenience for the property owner and it is less impactful to height than the previous pool equipment enclosure. The current enclosure replaced the original equipment enclosure, which contained a chimney that had a height of nine feet. The limited views of the structure off-site ensure that the structure is not intrusive to neighbors, which limits its negative impacts to adjacent properties. Overall, due to its placement and integration with the fence, the enclosure appears to be consistent with the intent of the Code, which is to minimize off-site visibility of accessory structures.

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 pool equipment enclosure 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 fencing having similar materials, facing the taller portion of the structure away from the fence, and situating the structure between two large redwood trees for screening.

The unique shape of the lot and its limited buildable area due to its proximity to the creek and a private street are special circumstances that result in a smaller and less viable areas to build a pool equipment enclosure than other properties in the vicinity that are in the R1-10 District. The lot slopes downwards towards Adobe Creek, which flows through the rear of the property. Easements pertaining to the creek, along with a sloping topography towards the north and the existing mature redwood trees, limit the areas where a pool equipment enclosure can be placed. In order to accommodate the necessary space for enclosure, placement in the exterior side yard area appears to be the most viable location. The height of the structure is necessary to maintain the pool's filter, which must be lifted vertically beyond the height of the internal filters, and to provide clearance for the pool heater to vent. 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 pool equipment enclosure to be located within the exterior side 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 an addition of an accessory structure on a single-family zoned property.

### **Public Notification**

A public hearing notice was published in *Los Altos Town Crier*, posted on the property and mailed to all properties within 500 feet of the subject property. The mailed notification included 45 nearby properties. The Notification Map is included in Attachment D.

### **Public Correspondence**

Three emails were received from adjacent properties at 586, 587, and 576 Van Buren Street, which express support for the variance request to allow the pool equipment enclosure to remain as constructed. This correspondence is included in Attachment C.

Cc: Charles Eckel and Laura Fraser, Owners and Applicants  
Jeffrey Heid, Landscape Architect and Applicant

#### Attachments:

- A. Application and Justification Letter
- B. Area, Vicinity and Public Notification Maps
- C. Public Correspondence
- D. Site Plan and Pool Equipment Enclosure Elevations

## FINDINGS

18-V-09 – 581 Van Buren Street

Regarding the variance to allow a pool equipment enclosure to exceed the maximum height requirement in an exterior side 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 because; the pool equipment enclosure would not negatively affect the safety, peace, comfort, convenience, prosperity, or general welfare of the property owner or adjacent properties and is consistent with the intent of the Code to minimize off-site visibility of accessory structures in a side yard space.
2. 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 because; the pool equipment enclosure has been designed to minimize off-site views to the surrounding properties through a fence of similar materiality, the roof slopes towards the interior of the property, and is screened by existing mature redwood trees along the exterior side property line.
3. There is a special circumstance applicable to the property due to the unique shape of the lot and its limited buildable area due to its proximity to the creek and a private street, and strict application of the provisions of this chapter would deprive it of privileges enjoyed by other property in the vicinity and under identical zoning classifications. The limited buildable area of the lot combined with existing mature redwood trees and adjacency to Adobe Creek results in a smaller and less viable area to place a pool equipment enclosure than other properties in the vicinity that are in the R1-10 District.

## CONDITIONS

18-V-09 – 581 Van Buren Street

### **GENERAL**

**1. Approved Plans**

This approval is based on the plans received on January 23, 2019, 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

1108591

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

Permit # 65120344

<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"/>	RI-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: 581 Van Buren St., Los Altos, CA. 94022

Project Proposal/Use: Pool equipment enclosure Current Use of Property: Pool equipment enclosure.

Assessor Parcel Number(s): 167 20 057 Site Area: 70 square feet

New Sq. Ft.: 0 Altered/Rebuilt Sq. Ft.: 70 sq. ft. Existing Sq. Ft. to Remain: \_\_\_\_\_

Total Existing Sq. Ft.: 70 sq. ft. Total Proposed Sq. Ft. (including basement): 70 sq. ft.

Is the site fully accessible for City Staff inspection? Yes

Applicant's Name: Charles Eckel

Telephone No.: 408 832 8005 Email Address: eckelcu@stanfordalumni.org

Mailing Address: 581 Van Buren St.

City/State/Zip Code: Los Altos, CA. 94022

Property Owner's Name: same as applicant

Telephone No.: \_\_\_\_\_ Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Architect/Designer's Name: Jeffrey Heid

Telephone No.: 408 691 5207 Email Address: \_\_\_\_\_

Mailing Address: 6179 Onelda Drive

City/State/Zip Code: San Jose, CA. 95123

\* 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. \*

(continued on back)

18-V-09

City of Los Altos Planning Division,

We are requesting a variance for the pool equipment enclosure that was built as part of our pool remodel. The pool remodel included replacing the plaster, coping, and all the pool equipment. The new equipment was located on the same cement pad where the original equipment existed. The cement pad needed to be extended a bit toward our backyard to accommodate the larger footprint of the new equipment. The previous pool equipment enclosure consisted of four posts, a sloped roof, and a large metal chimney extending up roughly 3 feet from the roof for the heater. This enclosure was open on all four sides. Due to current codes, the pool equipment needs to be completely enclosed. In order to accommodate this, we demoed the existing enclosure and built a new enclosure. The new enclosure is slightly wider and deeper than the previous enclosure. The height of the roof of the new enclosure is slightly less than the previous enclosure to enable us to reuse the new front fences as one side of the enclosure. Thankfully, the chimney was no longer necessary, as it was aesthetically unappealing for the neighborhood. All of this resulted in the maximum height of the enclosure being reduced significantly from the previous structure.

Once all other work on the pool remodel was completed, we called for the final inspection believing we were in good shape. Unfortunately, we learned as a result of this inspection that the new pool equipment enclosure exceeded the 6-foot height limit that exists in current codes. The new enclosure is 6' 5" at the side facing the street. This is due to the roof sitting on top of the fence, which is 6' high. The side facing into our backyard is 7' 6" high. This is to create a slope for the roof such that water runs off it and also to accommodate doors and provide access to service the pool filter and other equipment. Cleaning the pool filters requires lifting the pool filter cover vertically beyond the height of the internal filters. We consulted with Sierra Lumber, the company that built the enclosure, on various options for reducing the height of the enclosure. Due to the location of the redwood trees and the pre-existing location of the pool, cement pad, and pool equipment, we could not arrive at a feasible solution for reducing the height of the enclosure to 6' while still enabling the pool equipment to remain enclosed yet serviceable.

The new enclosure is lower than the previous enclosure, completely encloses the equipment making it much quieter than the previous equipment, and is much more attractively constructed with materials that match the fence and house construction better than the previous enclosure. Our neighbors are happy with it as well and have provided statements via email confirming their approval. We hope and ask that the City of Los Altos Planning Division grants us a variance for our pool equipment enclosure as built.

The following photos show the location and size of the pool equipment enclosure from various angles. The location and direction from which each photo was taken is annotated in the following illustration, followed by the photos and a brief description of each.

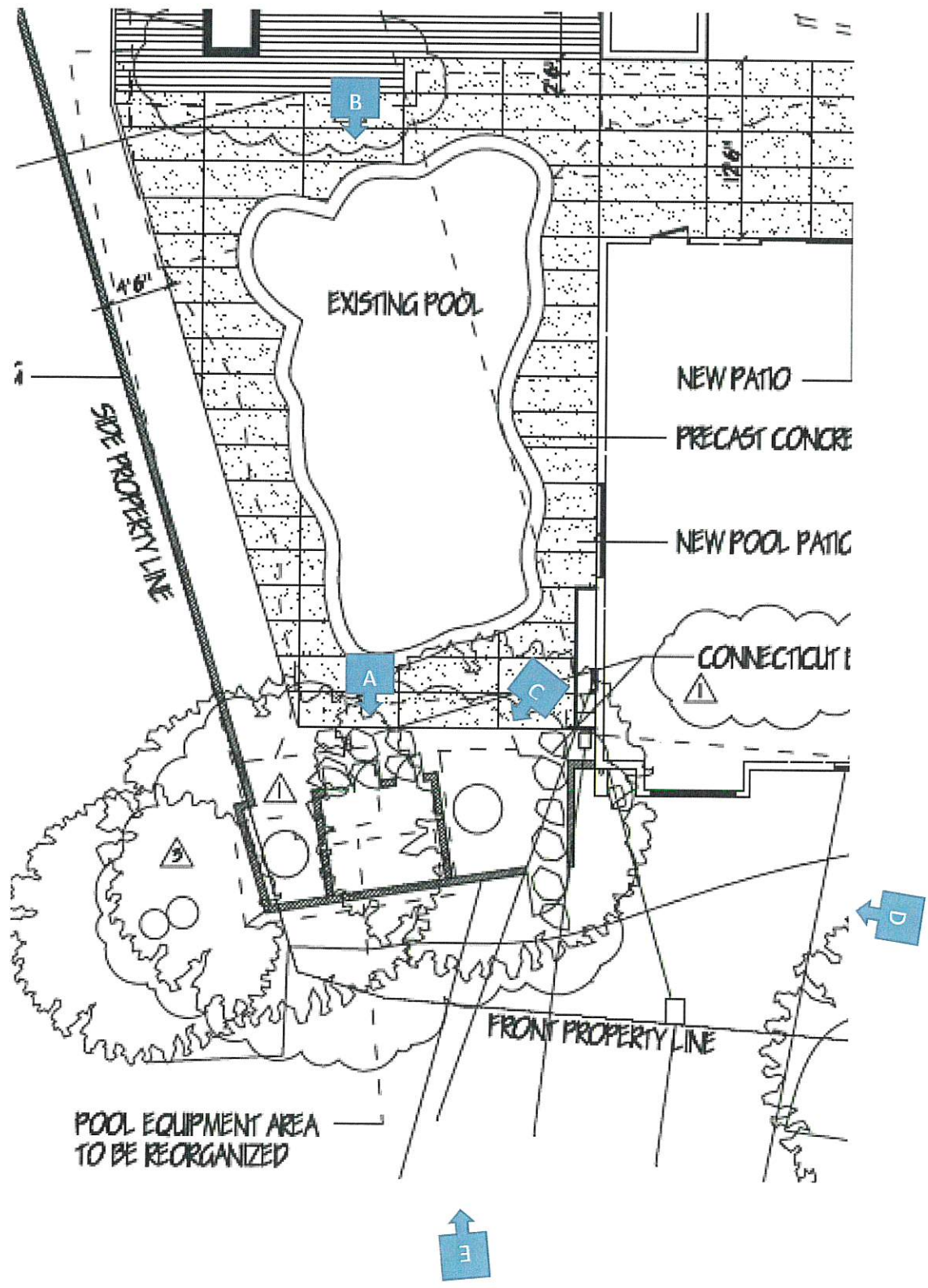




Photo A is taken standing in our backyard at the edge of the pool nearest the street looking toward to the street. The doors of the pool enclosure are open to show to arrangement of the pool equipment within the it. From left to right you see the heater, the electrical panel and the pool filter. It is important to have space between the top of the heater and the roof of the enclosure to allow for sufficient ventilation without requiring a chimney extending through and above the roof of the enclosure. To service the filter, the top section must be removed and the two filter cartridges inside must be lifted up and out. This requires a great deal of leverage and clearance, both of which would be compromised if the height of the enclosure was reduced.



Photo B is taken standing in our backyard at the end of the pool furthest from the street and looking toward to the street. Our house is on the left, the fence between our backyard and the neighbor's is on the right. This photo illustrates the restricted space for the pool enclosure between the two large redwood trees.



Photo C is taken sitting in our backyard (in an attempt to avoid glare from the sun) at the far left edge of the pool nearest the street looking toward to the street. This illustrates the relative position of the pool equipment enclosure to the redwoods. It also illustrates the open side of the enclosure for the heater to allow for sufficient ventilation without requiring a chimney extending through and above the roof of the enclosure.



Photo D is taken standing on our side driveway, showing our side yard fence and how the pool equipment enclosure incorporates one side of this fence. The roof of the enclosure rests on top of this fence and slopes up to facilitate drainage. This angles also illustrates the extent to which the enclosure is obscured by the fence and the redwood trees.

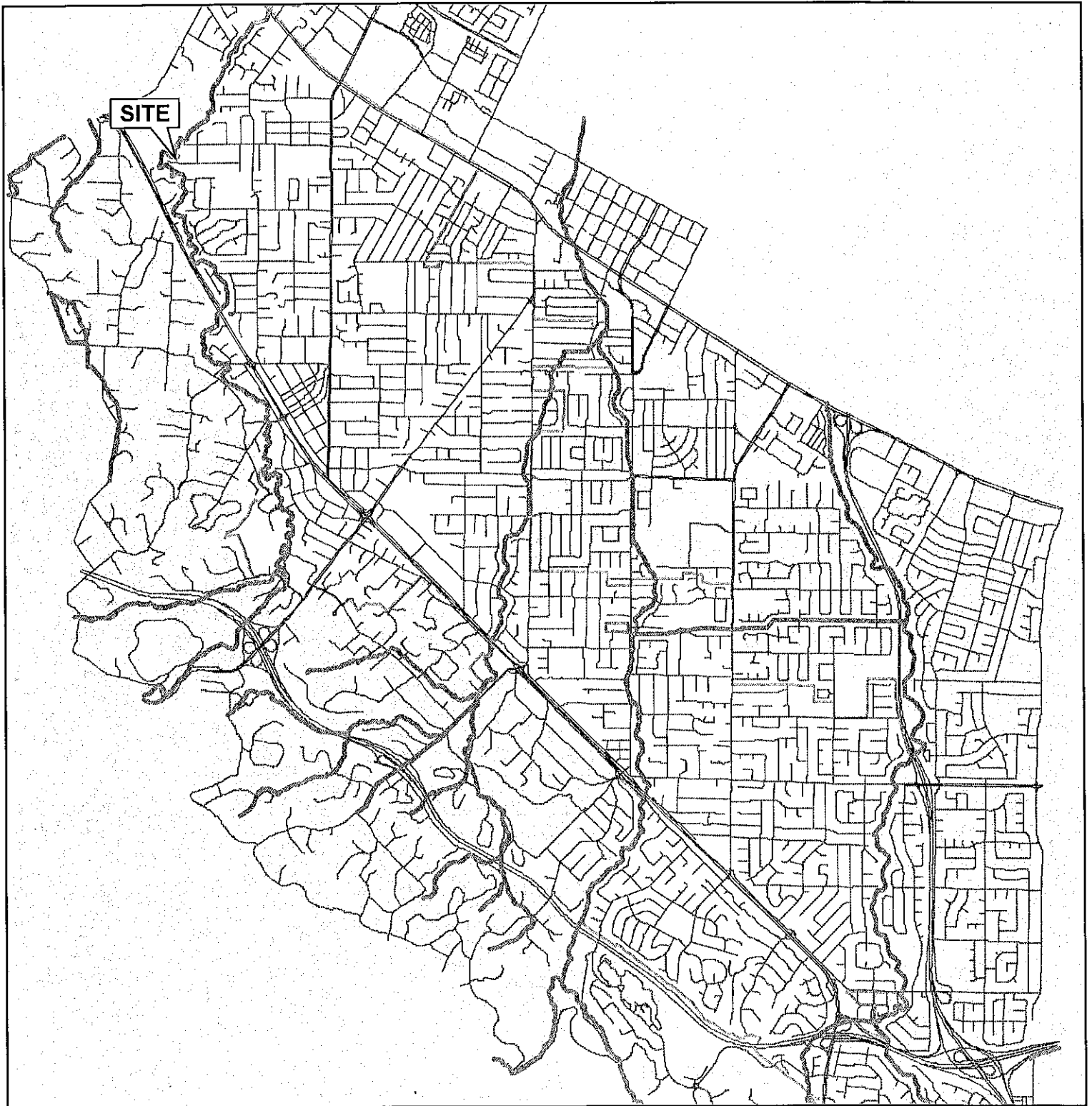


Photo E is taken standing in the street between our house and 580 Van Buren, looking toward our fence and the pool equipment enclosure. This illustrates the extent to which the enclosure is obscured by the fence and the redwood trees.



Best Regards,  
Charles Eckel and Laura Fraser  
581 Van Buren St., Los Altos, CA. 94022  
(408) 832 8005

# AREA MAP



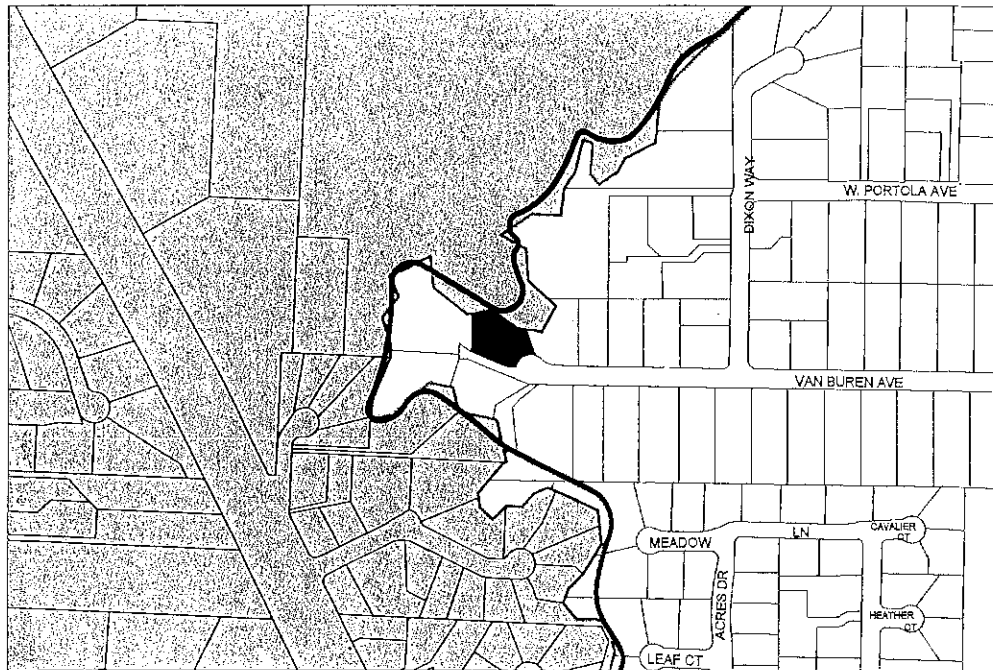
## CITY OF LOS ALTOS

**APPLICATION:** 18-V-09  
**APPLICANT:** Charles Eckel/ Jeffrey Heid, Landscape Architect  
**SITE ADDRESS:** 581 Van Buren Street

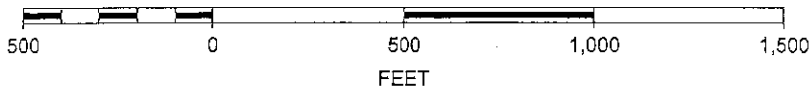


Not to Scale

# VICINITY MAP



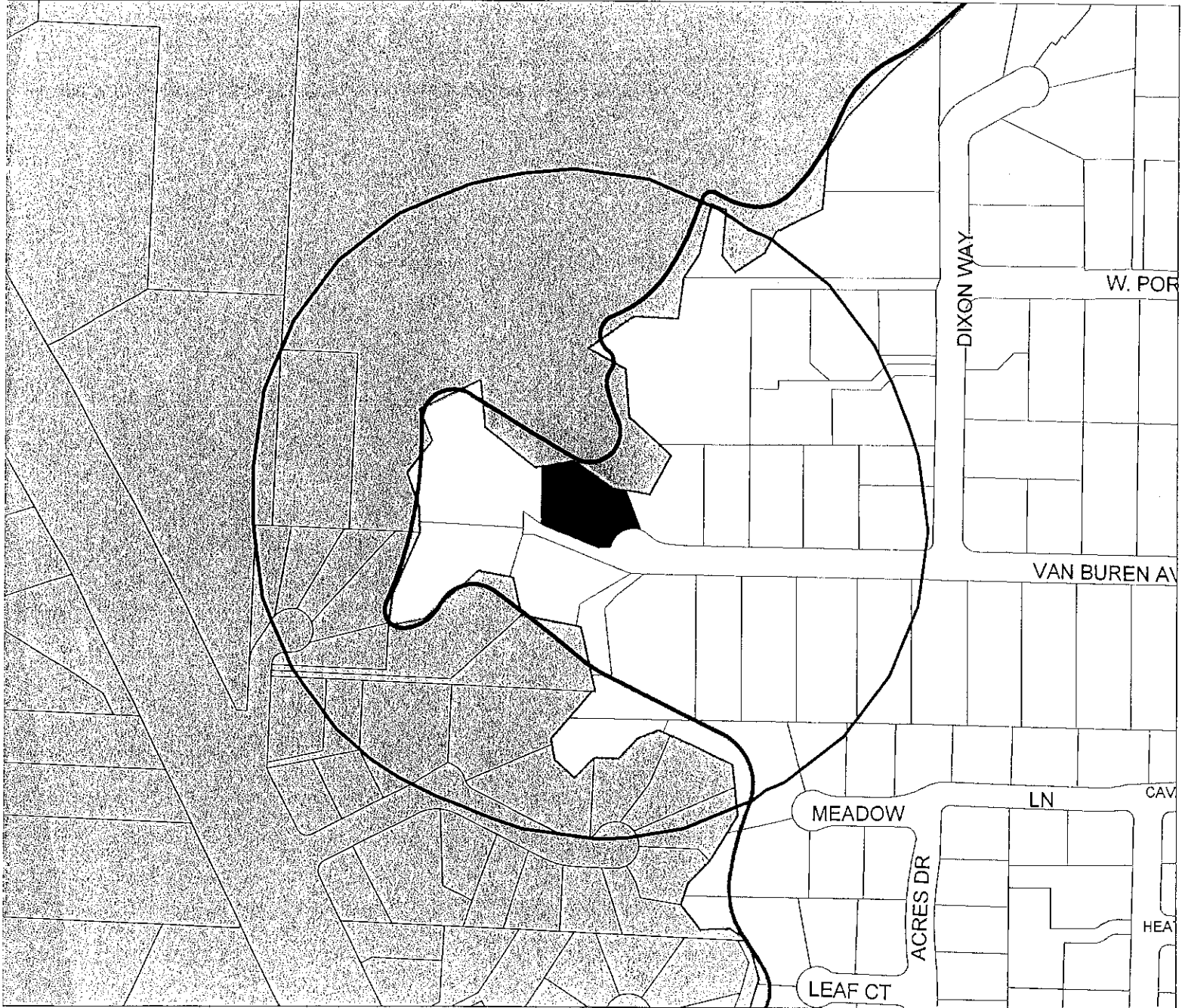
SCALE 1 : 6,000



## CITY OF LOS ALTOS

**APPLICATION:** 18-V-09  
**APPLICANT:** Charles Eckel/ Jeffrey Heid, Landscape Architect  
**SITE ADDRESS:** 581 Van Buren Street

# 581 Van Buren Street 500-foot Notification Map



SCALE 1 : 3,000



N





# ATTACHMENT C



Charles Eckel <eckelcu@alumni.stanford.edu>

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## Pool Enclosure

1 message

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**George Cover** <gcover@msn.com>

Wed, Nov 28, 2018 at 6:41 PM

To: Charles Eckel <eckelcu@stanfordalumni.org>

Good evening Charles,

This is in response to your inquiry about the appearance of your new pool enclosure. We think it is very attractive. It is clean, simple, and consistent in height, materials, and color with the rest of your remodel. We have no objection to what you have built. In fact, from our perspective the height is perfect since it lines up so naturally with the attached "good neighbor fence."

Regards,

George Cover

586 Van Buren Street



Charles Eckel <eckelcu@alumni.stanford.edu>

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**Re: Fwd: support for your new pool equipment housing height**

1 message

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**Larry Gardner** <larry\_gardner@xanda.com>  
Reply-To: Larry Gardner <larry\_gardner@xanda.com>  
To: Charles Eckel <eckelcu@stanfordalumni.org>

Sat, Dec 1, 2018 at 11:19 AM

Hi Charles,

As your neighbors, we have no problem with the height of your pool shed cover, as built.

Larry and Deanna Gardner

576 Van Buren St. Los Altos

On November 27, 2018 at 9:49 PM Charles Eckel <eckelcu@stanfordalumni.org> wrote:

Hi Larry,

I am pulling together the information requested by the city in order to file for a variance for our pool equipment enclosure. According to their code, the enclosure cannot exceed 6 feet in height. Our previous enclosure exceeded this, and so does the new/existing one. The previous enclosure was 7'6" high, higher if you count the vent that existed for the heater. The new one is also 7'6", allowing space to access and remove the pool filter for cleaning. We were not aware of this height restriction at the time the enclosure was being built, and we do not see a good way to alter it to meet the 6' limit.

Assuming you are okay with this, we would appreciate a brief email stating this on behalf of Boomer. We figured it is better if it comes from you and Dee than from Katherine and Val. I included the email from Nick for reference (see below). Happy to discuss in more detail as well if you like.

Thanks,  
Charles

----- Forwarded message -----

From: **Nick Huang** <nick\_c\_huang@yahoo.com>  
Date: Tue, Aug 21, 2018 at 8:40 AM  
Subject: support for your new pool equipment housing height  
To: Charles Eckel <eckelcu@stanfordalumni.org>  
Cc: May Cheung <ladycheung@yahoo.com>

Hi, Charles, I thought I'd drop you a note in full support of your pool equipment housing right next to our shared fence. The height is perfectly OK with us as is and would be happy to discuss with any interested party.

Cheers.  
Nick



Charles Eckel <eckelcu@alumni.stanford.edu>

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## support for your new pool equipment housing height

1 message

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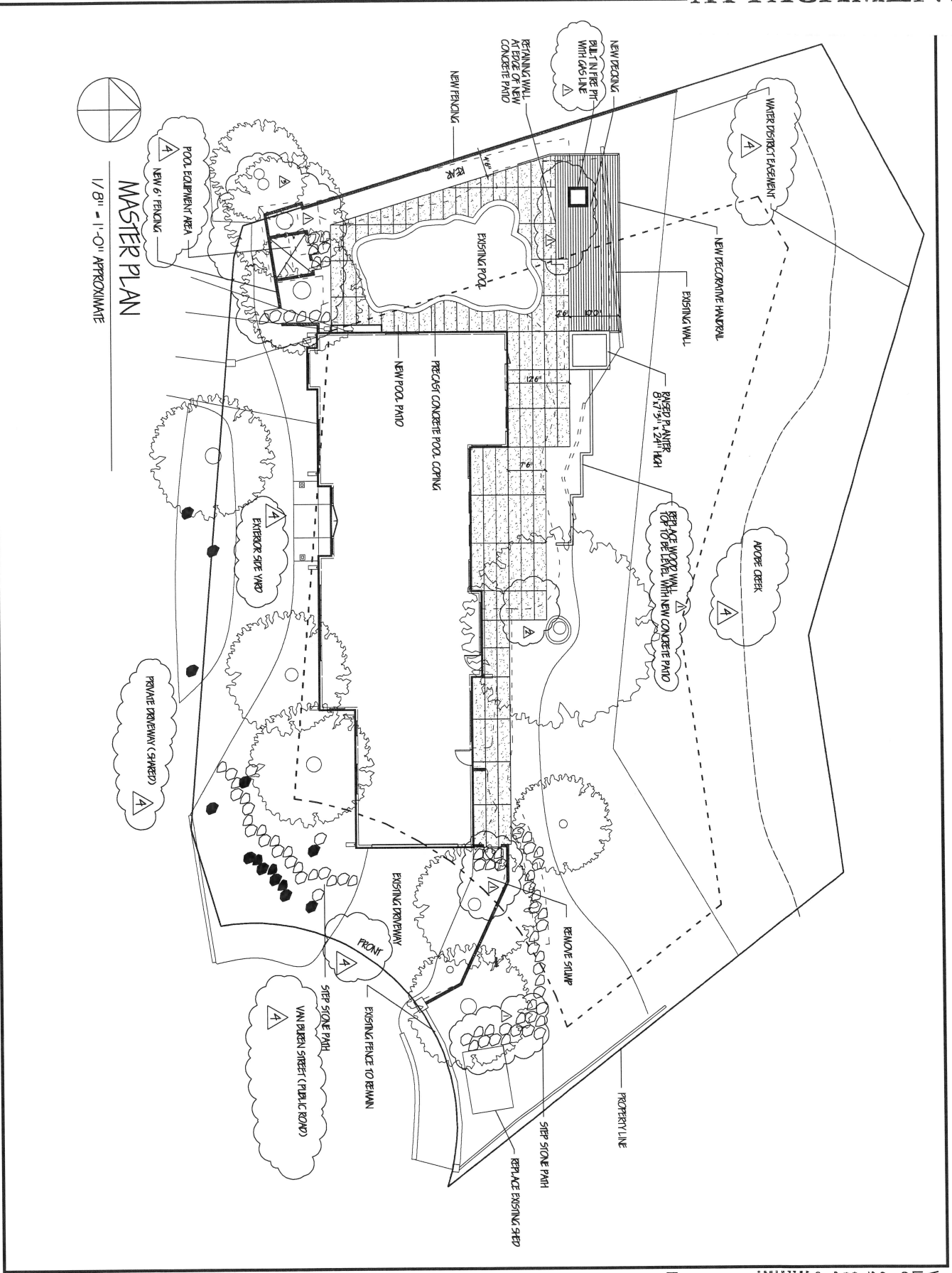
**Nick Huang** <nick\_c\_huang@yahoo.com>  
Reply-To: Nick Huang <nick\_c\_huang@yahoo.com>  
To: Charles Eckel <eckelcu@stanfordalumni.org>  
Cc: May Cheung <ladycheung@yahoo.com>

Tue, Aug 21, 2018 at 8:40 AM

Hi, Charles, I thought I'd drop you a note in full support of your pool equipment housing right next to our shared fence. The height is perfectly OK with us as is and would be happy to discuss with any interested party.

Cheers.

Nick



date: 9/2/17  
 scale: NOTED  
 drawn by: WJH  
 job no. 21770  
 sheet

of 1  
 sheets

FRASER/ECKEL  
 RESIDENCE  
 FOR:  
 LARA FRASER AND  
 CHARLES ECKEL  
 PER VARIATION OF  
 LOT 141029 ON 94022



W. Jeffrey Heidl  
 Landscape Architect  
 C-2205  
 6179 Orinda Drive  
 San Jose, California 95129  
 tel. 408 691-5007  
 fax 408 226-6095  
 email wjheidl@comcast.net

OWNER'S USE AND USE OF DRAWINGS  
 The undersigned, W. Jeffrey Heidl, is the author of the drawings and designs hereon contained for the project described above. The drawings and designs are the property of the undersigned and are to be used only for the project and site for which they were prepared. No part of the drawings and designs may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written consent of the undersigned.

REVISED 9/15/17  
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 REVISED 12/4/17  
 REVISED 12/26/17  
 REVISED 1/14/18  
 REVISED 1/20/18  
 3/16/18  
 REVISED 4/8/18  
 REVISED 1/20/19  
 REVISED 1/25/19

