



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: November 29, 2012
AGENDA DATE: December 6, 2012
PROJECT ADDRESS: 1654 Shoreline Drive (MST2012-00319)

TO: Planning Commission
FROM: Planning Division, (805) 564-5470
 Danny Kato, Senior Planner *AKD*
 Suzanne Riegle, Assistant Planner *for DYK*
SR

I. BACKGROUND

On October 3, 2012, the Staff Hearing Officer (SHO) considered a proposal for additions and alterations to an existing residence and detached accessory building located at 1654 Shoreline Drive. Please refer to SHO Staff Report October 3, 2012 for details (Exhibit A).

The SHO approved a Modification for the “as-built” conversion of a portion of a detached garage building to habitable space within the required setback, and denied a Modification to allow “as-built” mechanical equipment to remain within the interior setback, as described in SHO Resolution No. 039-12 (Exhibit B). On October 15, 2012, the applicants appealed the SHO denial of the second modification. The appeal letter (Exhibit C) states the property owner’s concerns regarding the denial of the modification to allow the pool equipment to encroach into the required interior setback and the resulting condition that was added requiring the mechanical equipment to be removed from the setback and located in the rear yard observing the required setbacks.

II. PROJECT DESCRIPTION

The existing 9,205 square foot site is currently developed with a 1,525 square foot residence with an attached two-car garage and a detached, 700 square foot, accessory/garage building. The proposal includes a 225 square foot addition to the main residence, relocation of the front entry porch and landing, roof replacement, permitting of an “as-built” spa, “as-built” pool equipment, “as-built” paving, and “as-built” alterations to the existing detached accessory/garage building to create a pool cabana not to exceed 500 square feet.

III. REQUIRED APPLICATIONS

The discretionary applications required for this project are:

- A. A Modification to allow the “as-built” conversion of the garage portion of the detached accessory building to habitable space within the required six-foot interior setback (SBMC § 28.15.060 and SBMC § 28.92.110); and
- B. A Modification to allow the “as-built” pool equipment to encroach into the required six-foot interior setback. (SBMC § 28.15.060 and SBMC § 28.92.110)

IV. ISSUES

Staff recommends that the Planning Commission focus on the issue of the location of the mechanical equipment, and the findings necessary to support the encroachment of the equipment into the setback, which are described in detail in this Staff Report. Staff has identified these as important issues because the Staff Hearing Officer state that the encroachment was inconsistent with the purpose and intent of the ordinance and was unable to make the findings to grant the modification.

V. DISCUSSION

The proposed project to abate the violations (“as-built” improvements listed above) involves other alterations to the existing one-story residence including a 225 square foot, one-story addition, the relocation of the front entry porch and landing, and roof replacement. The addition would occur in front of the existing attached garage, so that the garage can be moved forward to create an additional workshop / storage area at the rear of the residence. Changes in the rear yard include permitting an unpermitted spa, unpermitted mechanical equipment, unpermitted paving, and unpermitted alterations to the detached accessory/garage building to create a pool cabana.

The mechanical equipment was previously permitted and shown on plans in the location of the unpermitted spa, and observed the required setbacks. The mechanical equipment was relocated without permit to an area at the side of the residence, within the required interior setback along the easterly property line. The Staff Hearing Officer did not support the modification because there is an alternate location that would observe the required setbacks and open yard requirements. For this reason, Staff recommends denial of the modification to allow the mechanical equipment to encroach into the required setback and requests that Planning Commission maintain the SHO’s condition to either remove the pool and spa equipment, or relocate it to a conforming location. The requested modification is inconsistent with the purpose and intent of the ordinance and is not necessary to complete the improvement.

Finally, there are two pieces of equipment (identified as a “Whisperflo” and an “Intelliflo” pumps) that are the subject of the modification request. This equipment must also comply with the noise regulations specified in SBMC §9.16.025, which requires that mechanical equipment not exceed 60dBA CNEL at the closest property line to a parcel zoned or used for residential purposes. The applicant provided noise specifications for mechanical equipment that indicate the noise level expressed as dB instead of CNEL. CNEL averages noise over a 24-hour period, adding a penalty for noise generated at night. The dB noise level when converted to CNEL or L_{dn} will usually be higher. For example, 53 dB equates to approximately 59 dBA CNEL. Staff reviews projects for compliance with the ordinance.

The documentation provided by the applicant states that for the quietest “Whisperflo” model (WFE-3), noise was measured at unknown distance from the pump and would generate 64 dB at a rate of 40 gpm. The information shows that the various “Whisperflo” pump models cannot meet the noise regulations under any flow rate and would have to be replaced with another piece of equipment. Information was not provided for the specifications of the replacement equipment.

The documentation provided by the applicant for the second piece of equipment identified as an "Intelliflo Variable Speed Pump" states that the noise was measured at three feet from the pump and would generate 58 dB at a rate of 36 gpm. The equipment is located three-feet from the property line. Based on this information the second piece of equipment could not meet the noise requirement. The combined noise measurement of both pieces of equipment would be approximately 65 dB. As previously stated, when the measurement is converted to CNEL it would likely be higher and therefore the equipment would not meet the City's noise regulations.

Staff reviewed the noise specification material provided by the applicant on October 2, 2012 prior to the SHO review of the project, and at the hearing stated for the record that the proposed "Intelliflo" equipment will meet the noise requirements identified in SBMC§9.16.025 when the equipment is ran at a speed of 35 gpm. Staff assumed that the noise measurement was measured at the source in error. If the pool equipment observed the required six-foot setback, the "Intelliflo" pump could meet the City's noise regulations.

This project as proposed is exempt from review by the Single Family Design Board.

VI. RECOMMENDATION

Staff recommends that the Planning Commission deny the appeal and uphold the Staff Hearing Officer's decision to approve the modification to allow the as-built conversion of the garage to accessory space within the interior setback and deny the modification to allow the pool equipment to encroach into the required interior setback, making the findings and subject to the conditions of approval contained in SHO Resolution No. 102-07.

Exhibits:

- A. Staff Hearing Officer Staff Report, dated October 3, 2012
- B. Staff Hearing Officer Resolution No. 039-12
- C. Appellant (Michael McLaughlin) letter, dated October 15, 2012
- D. SHO Minutes, dated October 3, 2012
- E. Site Plan (under separate cover)



City of Santa Barbara California

STAFF HEARING OFFICER STAFF REPORT

REPORT DATE: September 26, 2012
AGENDA DATE: October 3, 2012
PROJECT ADDRESS: 1654 Shoreline Drive (MST2012-00319)
TO: Susan Reardon, Senior Planner, Staff Hearing Officer
FROM: Planning Division, (805) 564-5470
Renee Brooke, AICP, Senior Planner *RLB*
Suzanne Riegler, Assistant Planner *SR*

I. PROJECT DESCRIPTION

The existing 9,205 square foot site is currently developed with a 1,525 square foot residence with an attached two-car garage and a detached, 700 square foot, accessory/garage building. The proposal includes a 225 square foot addition to the main residence, relocation of the front entry porch and landing, roof replacement, new pool and spa, permitting of pool equipment, and alterations to the existing detached accessory/garage building to create a pool cabana not to exceed 500 square feet. The discretionary applications required for this project are:

1. A Modification to allow the garage portion of the detached accessory building to be converted to habitable space within the required six-foot interior setback (SBMC § 28.15.060 and SBMC § 28.92.110); and
2. A Modification to allow the pool equipment to encroach into the required six-foot interior setback. (SBMC § 28.15.060 and SBMC § 28.92.110)

Date Application Accepted: 8/20/12

Date Action Required: 11/16/12

II. RECOMMENDATION

Staff recommends that the Staff Hearing Officer approve the project, subject to conditions.

III. SITE INFORMATION AND PROJECT STATISTICS

A. SITE INFORMATION

Applicant:	Howard Wittausch	Property Owner:	Mike McLaughlin
Parcel Number:	045-172-022	Lot Area:	9,205 square feet
General Plan:	Low Density Residential	Zoning:	E-3/SD-3
Existing Use:	Residential	Topography:	12% slope

Adjacent Land Uses: Residential (one-story)

B. PROJECT STATISTICS

	Existing	Proposed
Residence	1,525 sq. ft.	+ 70 sq.ft =1,595 sq. ft.
Garage (Attached to Residence)	420sq. ft.	-20 sq. ft = 400 sq. ft.
Accessory /Workshop (Attached to Residence)	0 sq. ft.	+187 sq. ft. = 187 sq. ft.
Detached Garage (Convert to Accessory)	700 sq. ft.	-201 sq. ft. = 499 sq. ft.
Total Development	2,645 sq. ft.	2,681 sq. ft.

IV. BACKGROUND

The original 1,680 square foot residence was constructed in 1958 with an attached 420 square foot garage. In 1959, a permit was issued to construct a 700 square foot detached garage at the rear of the property. In 1978 there were several permits and related archive plans for improvements in the rear yard including: the existing pool, pool equipment located outside of the rear setback behind the pool, pool decking, a 600 square foot shade structure, and a retaining wall. The 708 square foot garage at the rear of the property is reflected as a number of uses on these 1978 archive plans, including garage, guest house, and pool cabana. Santa Barbara Municipal Code (SBMC) § 28.87.160 limits the maximum square footage of accessory and garage floor area on a single family lot to 500 square feet each. The property is existing non-conforming to this provision of the code, with 1,128 square feet of garage area.

The County Assessor's information states that the property was sold to the current owner in October 1999. Records for the property show that a Zoning Information Report was not completed at the time of this sale. A Zoning Information Report was prepared in 2008, which noted several zoning and building violations that are currently the subject of an enforcement case (ENF2008-00178). The zoning violations consisted of two illegal dwelling units created by converting both garages into separate dwelling units and eliminating all of the required covered off-street parking. In addition, a number stored items were located within the side and rear yards encroaching into the required interior setback. The building violations noted were for work without permit including an interior remodel of the residence, new hardscape around the spa and pool, a new spa, the use of the shade structure as a carport, and the conversion of the garage floor area to habitable space.

V. DISCUSSION

The proposed project to abate the violations involves other alterations to the existing one-story residence including a 225 square one-story addition, the relocation of the front entry porch and landing, and roof replacement. The additions will occur in front of the existing attached garage. so that the garage can be moved forward to create an additional workshop / storage area at the rear of the residence. Changes in the rear yard include permitting an unpermitted spa, unpermitted pool equipment, unpermitted paving, and alterations to the detached accessory/garage building to create a pool cabana.

The current proposal to abate violations and permit work that was completed without a permit requires two setback modifications. The alterations to the rear garage to create an accessory

space will abate the violation by demolishing square footage so that the accessory building does not exceed 500 net square feet, removing bathing facilities, and removing interior food preparation facilities. A corner of the rear garage, approximately 14.5 square feet, encroaches up to two and one-half feet into the six-foot interior setback at the westerly property line and requires a Modification to allow the conversion of this portion of the building to habitable floor area. The encroaching area includes as-built clearstory windows that are not expected to impact adjacent neighbors. Staff recommends that a condition be added to require a Zoning Compliance Declaration and to revise the floor plan to eliminate the closets and storage areas adjacent to the bathroom and outdoor kitchen, consistent with staff's interpretation of the definition of a residential unit.

The permitted location of the pool equipment was previously permitted and shown on plans in the location of the unpermitted spa, outside of the setbacks. The pool and spa equipment was relocated without permit to an area at the side of the residence, within the required interior setback, at the easterly property line.

Typically, staff discourages the placement of noise-generating equipment within setbacks. In some cases, with supporting noise specifications or a noise study, and site-specific characteristics, an encroachment can be found acceptable. SBMC §9.16.025 requires that mechanical equipment (such as A/C units, pool equipment, generators, etc.) not exceed 60dBA CNEL at the closest property line to a parcel zoned or used for residential purposes. The applicant has not provided noise specifications or a noise study for the unpermitted equipment to show compliance with the requirement. Also, due to a change in topography, the subject property sits approximately two to three feet above the neighbor to the east, and staff anticipates that there may be noise impacts to the adjacent neighbor. Finally, there is a conforming option on-site to relocate the equipment outside of the setback. For these reasons, Staff recommends denial of the Modification to allow the pool equipment to encroach into the required setback and requests that a condition be added to either remove or relocate the mechanical equipment, including pool and spa equipment, to a conforming location. The property owner of the rental property to the east has submitted a letter of support of the proposed modification (attached as Exhibit C).

This project as proposed was exempt from review by the Single Family Design Board.

VI. FINDINGS AND CONDITIONS

The Staff Hearing Officer finds that the Modification to allow the alteration and conversion of floor area within the required setback to habitable area is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed alteration of the existing garage to an accessory building is appropriate and allows the re-use of the former garage with no anticipated impacts to adjacent neighbors.

The Staff Hearing Officer finds that the Modification to allow the pool equipment to encroach into the required interior setback is inconsistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot. A conforming option exists on-site and supporting evidence has not been provided to indicate that the equipment can comply with the Municipal Code.

Said approval is subject to the following conditions:

1. Record a Zoning Compliance Declaration against the property title due to the configuration of the accessory building.
2. Revise the floor plan of the detached accessory building to eliminate the closets and storage areas within the changing area adjacent to the half-bathroom and outdoor kitchen areas.
3. Remove and/or relocate the unpermitted mechanical equipment, including pool and spa equipment, from the required setback to a conforming location.

Exhibits:

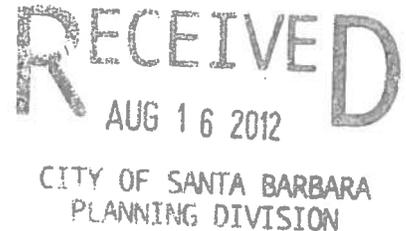
- A. Site Plan (under separate cover)
- B. Applicant's letter, dated August 12, 2012
- C. Letter of Support, dated July 20, 2012

Contact/Case Planner: Suzanne Riegle, Assistant Planner
(SRiegle@SantaBarbaraCA.gov)
630 Garden Street, Santa Barbara, CA 93101
Phone: (805) 564-5470 x 2687

MICHAEL McLAUGHLIN
1654 Shoreline Drive, Santa Barbara, CA 93110
Tel (805) 636-7532 OR (805) 560-8498
mmc2000sb@gmail.com

August 13th, 2012

Susan Reardon, Modification Hearing Officer
Planning & Development
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101



Re: Modification Request - 1654 Shoreline Drive, Santa Barbara
APN 045-172-022

Attachments:

1. Pentair Intelliflow Pump Brochure with specific db rating
2. Photographic documentation of pool equipment, barriers and neighbors' sight lines
3. Modification support letter from neighbor/owner at 1648 Shoreline Dr.

Dear Ms. Reardon,

The subject .21 acre parcel is zoned E-1 Residential and is located in the Coastal Zone and has an FAR of .31 excluding pool, spa and patio. The existing main residence has a floor area of 2,030 SF and the garage is 425 SF. The existing detached studio/pool house with a floor area of 580 square feet was permitted in 1959 as a two-car garage. It is proposed to convert this to the originally approved use. The trellis over the driveway, also permitted in 1959, is proposed to remain. Only the plastic roof cover is proposed to be removed. Retaining walls at all 4 property lines, installed at the time the property was developed to create a level building pad and which block views to and from neighboring properties, are proposed to remain. The original site slope was 12%.

This is to request two modifications to Santa Barbara Municipal Code as follows:

- I. (§28.87.062.C.1 and D.7b) Permit pool equipment to encroach 30" into the required 6 foot interior setback.
- II. (§28.87.160.D) Permit the existing accessory building to encroach 30" into the required 6 foot interior setback.

Modification I is requested for the following reasons:

1. Pool equipment was relocated to the side yard due to site constraints. There is no room to place the equipment in the back yard because the entire back yard provides the required open space.
2. Pool equipment generates less than 53 decibels at the source as indicated in attached manufacturers specification sheets and complies with Santa Barbara City Noise Ordinance (Santa Barbara Municipal Code §9.16.025). (see attached brochure)
3. The existing 2.5-3 foot retaining and 4 foot wood fence at the property line screens the equipment so that it is not visible from the neighboring property. (see attached photographic documentation)
4. The neighbor, on the side of the home directly affected by location of the pool equipment in the side yard, is supporting the modification (see attached letter)
5. City archives indicate and interior yard/building setback of 8 feet. The house was not constructed as shown on approved drawings. Owner's survey in 2008, after pool equipment was located in the side yard, indicated the building to be 6'-2" from the property line.

Modification II is requested for the following reasons:

1. The existing accessory building was approved as-built with the encroachment. It was subsequently converted to living space without permit by previous owners prior to the property being sold to the current owner/applicant in 1999. The encroachment was unknown until the Owner's survey revealed that existing buildings were not constructed as shown on the approved plans as to location.
2. The legal nonconforming use is a 2-car garage but, because the current use as a pool house is more compatible with existing as-built development, City staff has advised it would support maintaining the current use.
3. The building encroachment is screened by an existing 5-foot retaining wall in the side yard and an existing 5-foot wood fence at the property line. Only the tip of the roof is visible above the fence line of the neighboring/adjoining properties

If you have any questions or suggestions or should you required additional information please call me Thank you for your consideration.

Sincerely,

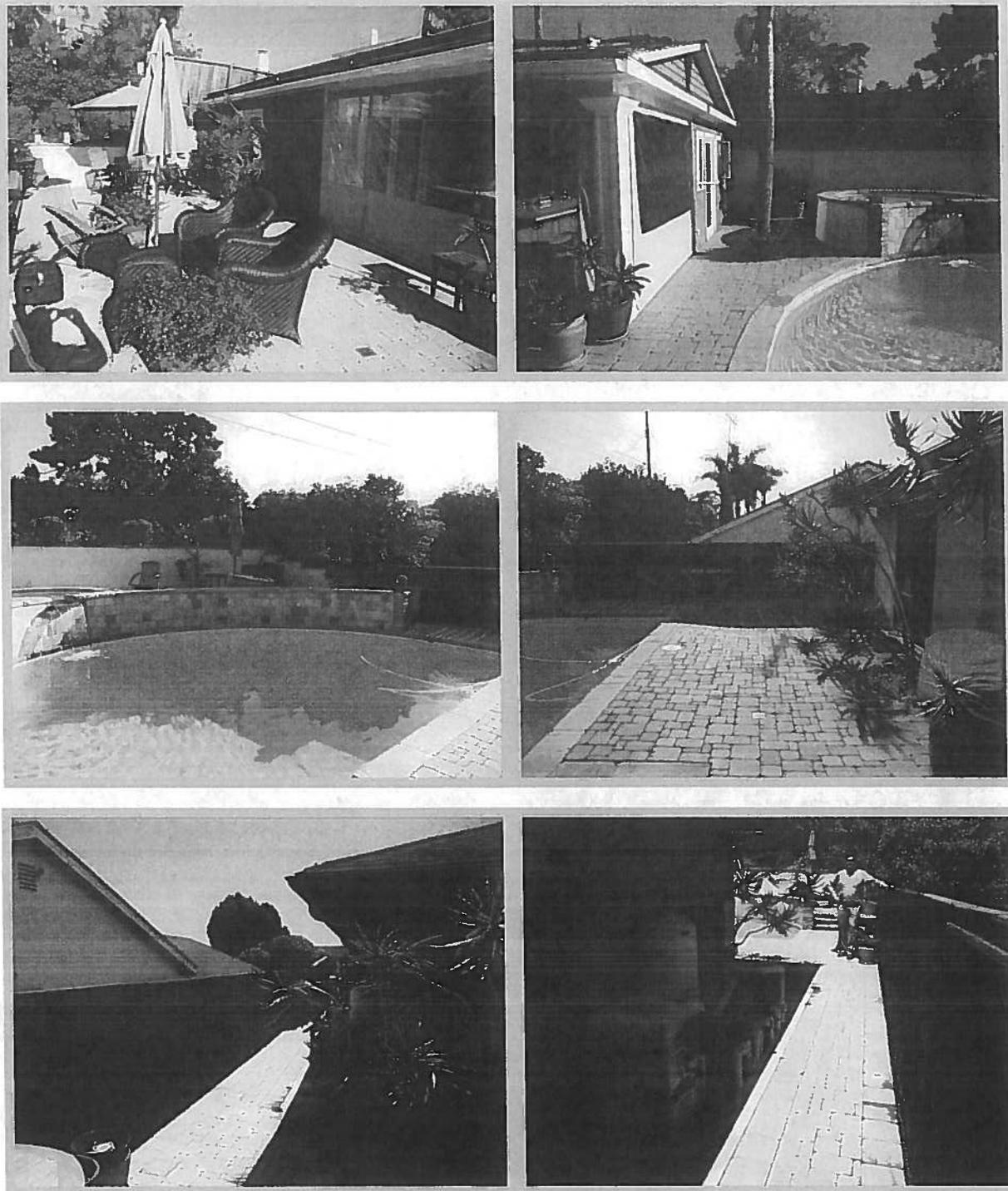


Michael McLaughlin
Owner

cc: Wm. Howard Wittausch, Architect Civil Engineer

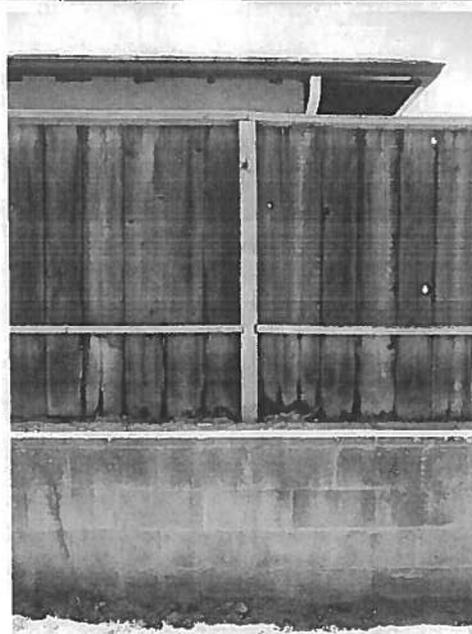
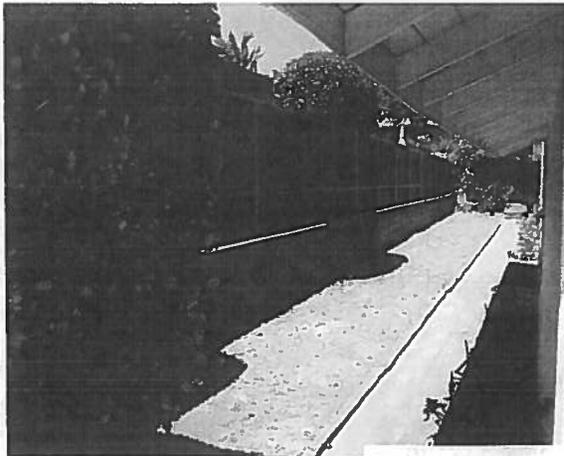
Photographic Documentation supporting Modification I:

Pool equipment was relocated to the side yard due to site constraints. There is no room to place the equipment in the back yard because the entire back yard provides the required open space.



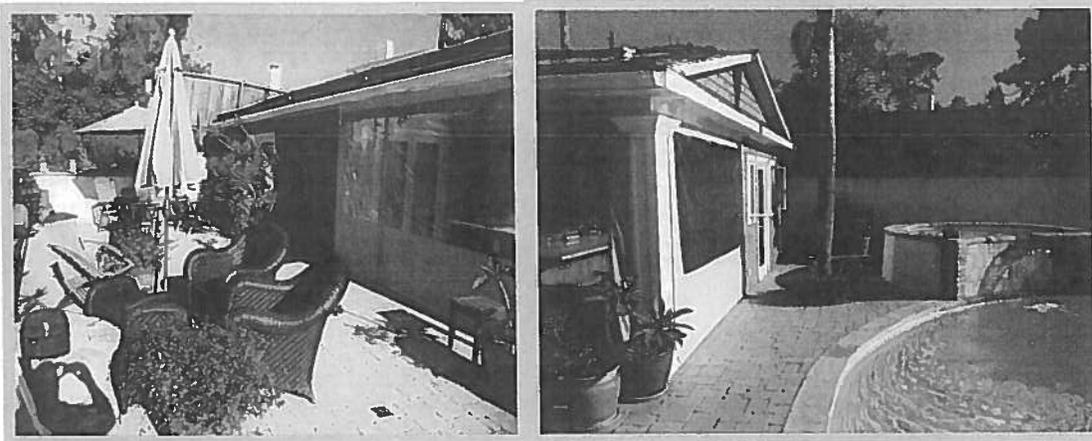
City archives indicate an interior yard/building setback of 8 feet. The house was not constructed as shown on approved drawings. Owner's survey in 2008, after pool equipment was located in the side yard, indicated the building to be 6'-2" from the property line.

The existing 3 foot retaining and 4 foot wood fence at the property line screens the equipment so that it is not visible from the neighboring property.



Photographic Documentation supporting Modification I:

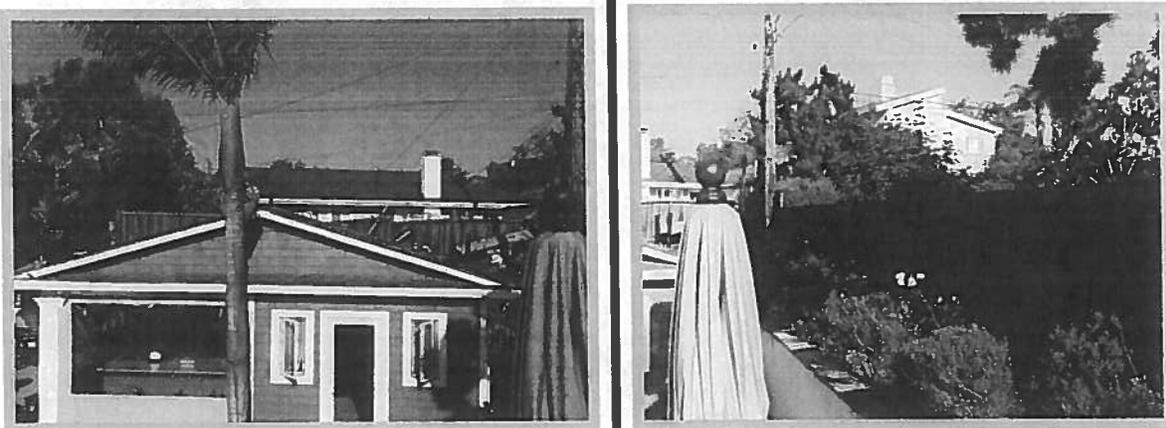
The legal nonconforming use is a 2-car garage but, because the current use as a pool house is more compatible with existing as-built development, City staff has advised it would support maintaining the current use.



The building encroachment is screened by an existing 5-foot retaining wall in the side yard and an existing 5-foot wood fence at the property line.



Only the tip of the roof is visible above the fence line of the neighboring/adjoining properties.



July 20, 2012

Susan Reardon, Modification Hearing Officer
Planning & Development
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101

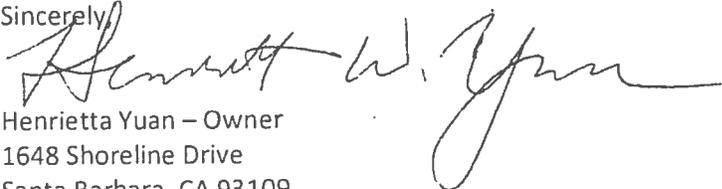
Dear Ms. Reardon,

I am the owner of the property at 1648 Shoreline Drive immediately adjacent to the parcel owned by Michael McLaughlin at 1654 Shoreline Drive, Santa Barbara, CA 93109. Michael has been our neighbor since 1999, when he purchased the un-maintained property from the former and original owner Ms. Dorothy Thompson. Since Michael moved to the neighborhood, he has continuously improved the property and surroundings of his home. He has looked out for our home in our absence and when both of our yards and common retaining wall were damaged by a drunk driver a number of years ago, he handled all of the details surrounding negotiating and contracting out the repair of our yards and retaining wall. Michael has since repaired and replaced the common fence that physically and visually separates our properties as it lies on his side above the common retaining wall.

When we are at our residence in Santa Barbara, we often perform yard work by hand in our back, side and front yards, and we were not even aware of the presence of pool equipment in Michael's side yard between his home and ours. This is most likely the case as his property sits elevated above ours by 2-3 feet and the high fence visually blocks our view of the side yard below the eaves.

As such, we are not concerned with the City of Santa Barbara granting a modification to Michael to allow his pool equipment to remain in the side yard between our homes.

Sincerely,

A handwritten signature in black ink, appearing to read "Henrietta Yuan", written in a cursive style.

Henrietta Yuan – Owner
1648 Shoreline Drive
Santa Barbara, CA 93109



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 039-12
1654 SHORELINE DRIVE
MODIFICATIONS
OCTOBER 3, 2012

**APPLICATION OF HOWARD WITTAUSCH, ARCHITECT FOR MIKE MCLAUGHLIN,
1654 SHORELINE DRIVE, APN 045-172-022, E-3 SINGLE-FAMILY RESIDENCE/SD-3
COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: LOW DENSITY
RESIDENTIAL (MST2012-00319) POSTPONED FROM SEPTEMBER 19, 2012**

The existing 9,205 square foot site is currently developed with a 1,525 square foot residence with an attached two-car garage and a detached, 700 square foot, accessory/garage building. The proposal includes a 255 square foot addition to the main residence, relocation of the front entry porch and landing, roof replacement, new pool and spa, permitting of pool equipment, and alterations to the existing detached accessory/garage building to create a pool cabana not to exceed 500 square feet. The discretionary application required for this project is a Modification to allow the garage portion of the detached accessory building to be converted to habitable space within the required six-foot interior setback. (SBMC § 28.15.060 and SBMC § 28.92.110)

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Existing Facilities).

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, no one appeared to speak either in favor or in opposition of the application thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 26, 2012.
2. Site Plans
3. Correspondence received in opposition to the project:
 - a. Paula Westbury, Santa Barbara, CA.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

- I. Approved the Modification making the findings and determinations:
 - A. The Modification to allow the alteration and conversion of floor area within the required setback to habitable area is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed alteration of the existing garage to an accessory building is appropriate, and allows the re-use of the former garage with no anticipated impacts to adjacent neighbors.

EXHIBIT B

- B. The Modification to allow the pool equipment to encroach into the required interior setback is inconsistent with the purposes and intent of the Zoning Ordinance and is not necessary to secure an appropriate improvement on the lot. A conforming option exists on-site.

II. Said approval is subject to the following conditions:

- A. Record a Zoning Compliance Declaration against the property title due to the configuration of the accessory building.
- B. Revise the floor plan of the detached accessory building to eliminate the closets and storage areas within the changing area adjacent to the half-bathroom and outdoor kitchen areas.
- C. Remove and/or relocate the unpermitted mechanical equipment, including pool and spa equipment, from the required setback to a conforming location.
- D. Remove the portion of the new trellis at the front of the garage from the required west interior setback.
- E. The outdoor kitchen amenities are limited to a sink and barbeque.
- F. The plastic outside drapes surrounding the outdoor kitchen area attached to the "pool house" shall be removed.
- G. Submit for a public works encroachment for the improvements proposed within the public right-of-way (e.g. widened driveway curb cut).

This motion was passed and adopted on the 3rd day of October, 2012, by the Staff Hearing Officer of the City of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.

Kathleen Goo, Staff Hearing Officer Secretary

Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
5. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

MICHAEL McLAUGHLIN
1654 Shoreline Drive, Santa Barbara, CA 93110
Tel (805) 636-7542 OR (805) 560-8498

RECEIVED
OCT 15 2012

CITY OF SANTA BARBARA
PLANNING DIVISION

October 15, 2012

Planning Commission
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101

Subject: Appeal of Staff Hearing Officer decision of Oct 3rd, 2012, regarding discretionary action #2 "A modification to allow the pool equipment to encroach into the required six-foot interior setback"

Reference:

1. Letter support from Henrietta Yuan – Owner of 1648 Shoreline Drive, the property directly adjacent set back under discussion/impacted by equipment in interior setback.
2. Response to Staff Report with "...alternate proposal to comply with Municipal Code, based on new noise specification data made available from pool pump manufacturer on September 28, 2012"
3. Staff Report dated: September 26, 2012 / Agenda date: October 3, 2012
Project address: 1654 Shoreline Drive (MST2012-00319)

Dear Planning Commission Members,

I brought this project to the city's attention in 2008 with a desire to bring this project into compliance with code. It was at that time, when discussing the project with city staff that I was informed a Zoning Information Report was required and only then, was I subsequently was informed of zoning violations, those not created by me, that dated back to at least, and likely before, the permitted changes to the property noted in staff report in 1978.

Those have all been addressed in the plans submitted for the modification hearing and will soon be subject to plan review and guidance.

My appeal to this commission is to consider overturning the Staff Hearing Officer decision of Oct 3rd, 2012, requiring removal and relocation of pool equipment currently in the required six-foot interior setback. As I understand it, SHO decision was to require compliance with Municipal Code regarding no encroachment in the interior 6 foot setback, even after proving additional manufacture data showing pool equipment can comply with Municipal Code for noise generating equipment at the property line and proposing a Code compliant alternative.

I understand and agree that Municipal Codes are necessary and required. I also understand that at limited times, there are unique and extenuating circumstances, that require disagreements on hearing outcomes to be heard by a larger body, this appeal process to the Planning Commission is my only avenue to be heard on this topic.

EXHIBIT C

I believe, and expect that the Planning Commission would agree, that there are 3 main factors that need to be considered, and we might not agree on the order of precedence or weight. These factors are 1) Safety, 2) Impact on neighbors/neighborhood and 3) conformance with Municipal Codes. But these factors cannot, and should not, be viewed in a vacuum. This is where the history of the property, my project, and it's wants need to be considered.

The safety of the pool equipment in the setback was never questioned by anyone in the process.

Impact on the neighbors was a key topic of discussion at a draft plan review with staff this summer. At that time it was indicated that for the pool equipment to have any chance of remaining in place, a letter of support from my directly impacted neighbor should be solicited. That was requested and supplied to staff. It was also indicated that noise specification data showing that the equipment conforms with Municipal Code would be required.

This letter of support was discussed with Henrietta Yuan, the owner (reproduced below) and her son Don Yuan. In her letter, the "we" she talks about are herself, her husband William and their kids and grandchildren who work in the yard often. She indicates:

"we were not even aware of the presence of pool equipment in Michael's side yard between his home and ours.....are not concerned with the City of Santa Barbara granting a modification to Michael to allow his pool equipment to remain in the side yard between our homes."

I believe that those directly impacted, the neighbors, should weigh heaviest in the decision on whether to grant my appeal, overturn the SHO decision and allow the pool equipment to remain encroaching in the interior setback,

July 20, 2012

Susan Reardon, Modification Hearing Officer
Planning & Development
City of Santa Barbara
630 Garden Street
Santa Barbara, CA 93101

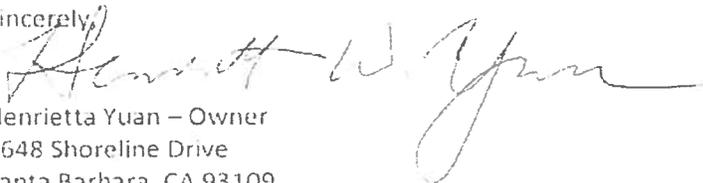
Dear Ms. Reardon,

I am the owner of the property at 1648 Shoreline Drive immediately adjacent to the parcel owned by Michael McLaughlin at 1654 Shoreline Drive, Santa Barbara, CA 93109. Michael has been our neighbor since 1999, when he purchased the un-maintained property from the former and original owner Ms. Dorothy Thompson. Since Michael moved to the neighborhood, he has continuously improved the property and surroundings of his home. He has looked out for our home in our absence and when both of our yards and common retaining wall were damaged by a drunk driver a number of years ago, he handled all of the details surrounding negotiating and contracting out the repair of our yards and retaining wall. Michael has since repaired and replaced the common fence that physically and visually separates our properties as it lies on his side above the common retaining wall.

When we are at our residence in Santa Barbara, we often perform yard work by hand in our back, side and front yards, and we were not even aware of the presence of pool equipment in Michael's side yard between his home and ours. This is most likely the case as his property sits elevated above ours by 2-3 feet and the high fence visually blocks our view of the side yard below the eaves.

As such, we are not concerned with the City of Santa Barbara granting a modification to Michael to allow his pool equipment to remain in the side yard between our homes.

Sincerely,



Henrietta Yuan – Owner
1648 Shoreline Drive
Santa Barbara, CA 93109

In the excerpt below from referenced Staff report, dated: September 26, 2012, the following regarding noise compliance appears to be the rationale against granting of the modification.

Typically, staff discourages the placement of noise-generating equipment within setbacks. In some cases, with supporting noise specifications or a noise study, and site-specific characteristics, an encroachment can be found acceptable. SBMC §9.16.025 requires that mechanical equipment (such as A/C units, pool equipment, generators, etc.) not exceed 60dBA CNEL at the closest property line to a parcel zoned or used for residential purposes. The

In my response to the reference staff report, I provide this new information to Staff the only the day before the hearing, it shows today's pool equipment can comply with the SBMC #9.16.025 regarding

noise from mechanical equipment. This additional information made available by Pentair Pool products, the manufacturer of the pool equipment under discussion demonstrates noise performance complying with Municipal Code under certain conditions, which are represented on this property.

Previously submitted Pentair consumer oriented sales information showed only limited data. This latest information shows that the installed Intelliflo Variable Speed Pump generates 58 decibels at a derived flow rate of approx. 36 gallons per minute (see attached calculations) which carries a 16% margin in complying with noise requirement of 60db in the Municipal Code at 3 feet from the closest property or approximately the distance from one end of the pump to the property line. It is also shown that the other pump, a Whisperflo Single Speed pump, cannot under any flow rate conditions meet the noise requirements of the Municipal Code. So based on this new manufacturer data, as an alternate mitigation to removal or relocation of the pool equipment, I proposed removing and replacing the non-conforming Whisperflo pump with a conforming Intelliflo Variable Speed Pump.

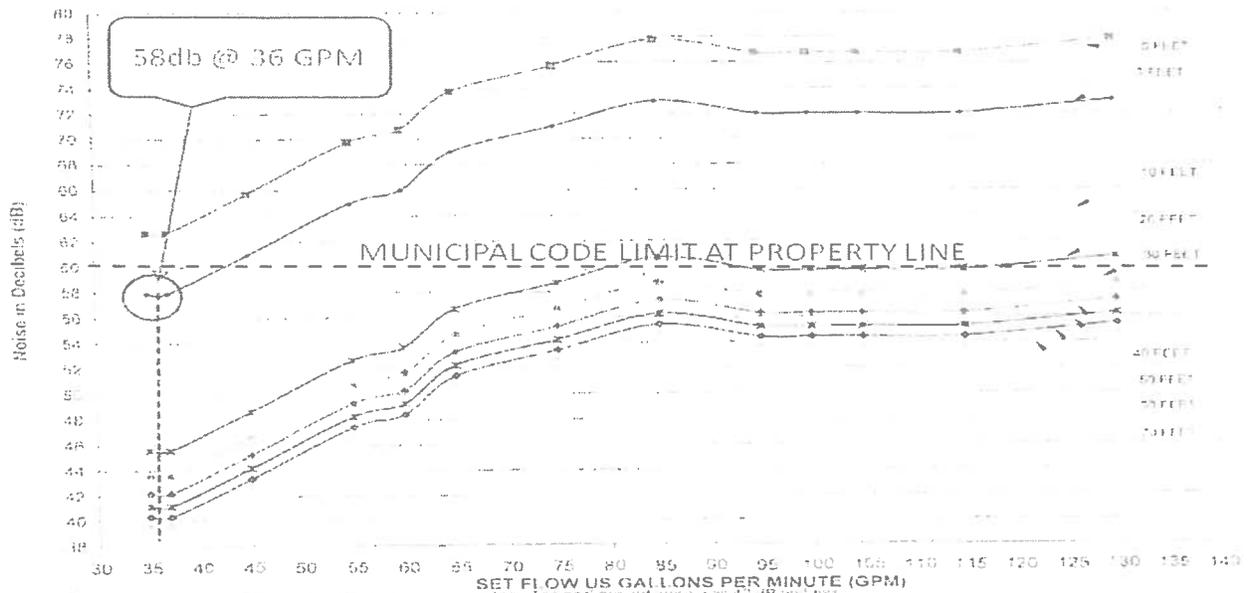


Detailed Background information:

When approached by a pool design professional, the following detailed information from Pentair, was made available. This data is highly representative of a real in-ground installation as in the Pentair note on the attached information that reads: *"This testing was performed on a typical in-ground pool system. The background noise was 42 db and has already been subtracted out. The system included a cartridge filter, heat pump, valves, tees and elbows. The noise above (attached chart, image below) includes all the piping noise and not just the isolated pump. The pump was measured at 3 feet and the other distances are projected by noise formulas"*

This latest information shows that the installed Intelliflo Variable Speed Pump (shown above), complies with noise requirement of the Municipal Code at 3 feet from the pump or approximately the property line, as it generates only 58 decibels. This is derived from the data at a flow rate of approx. 36 gallons per minute (see below and attached full size), which is consistent with water turnover and filtration requirements for this size and configuration of pool.

INTELLIFLO SET FLOW NOISE DISTANCE FROM PUMP

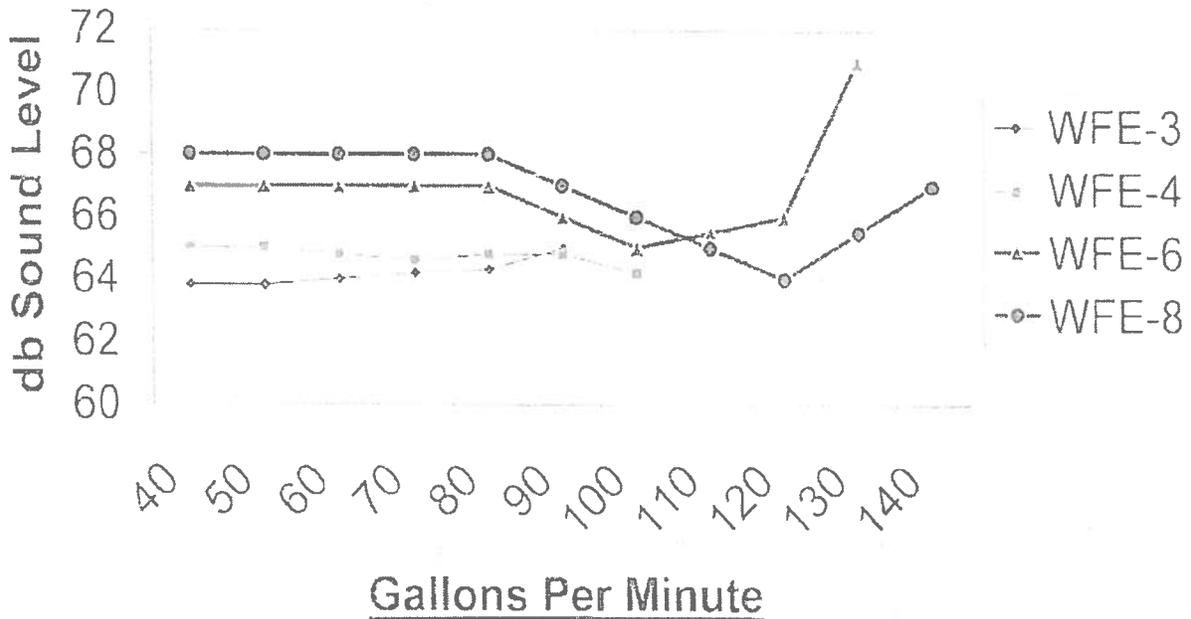


Note: This testing was performed on a typical "ground pod" system. The background noise was 48 dB and has a read, been subtracted out. The system included a cartridge filter, 1 set pump, valves, lines and elbows. The noise shown includes all the piping noise and not just the isolated pump. The data was measured at 3 feet and the other distances are projected by noise formulae.

- 3 FEET
- 5 FEET
- △ 10 FEET
- ◇ 20 FEET
- ▽ 30 FEET
- ◊ 40 FEET
- ◓ 50 FEET
- ◔ 60 FEET
- ◕ 70 FEET
- ◖ 80 FEET
- ◗ 90 FEET
- ◘ 100 FEET
- ◙ 110 FEET
- ◚ 120 FEET
- ◛ 130 FEET

Also in the data made available from Pentair (see below), was the information that shows the existing installed "Whisperflo" pump cannot meet code (60db) under any flow rate conditions.

WHISPERFLO db CHART



db's Measure @ 3 ft from pump

Hydraulic (Pool Water) Calculations:

The following flow rate calculations were created using Hayward Pools Industry standard calculations (attached) for water turnover and filtration/equipment dynamic head pressure assumptions for this similar pipe size and equipment.

Pool Surface area (approx)	476	sq ft
Pool Average depth	6	ft
Pool Volume (surface area x ave depth)	2856	cu ft
Pool Capacity (Pvol x 7.5 gals/cu ft)	21420	gallons
Flow rate		
Minimum flow (pool cap div 10 hrs)	2142	gals per hr
in gals per minute (gph/60)	35.7	gals per min

With the concurrence of my directly impacted neighbor, the supporting noise conformance information and the unique differences between property lines, location of building shown on the accepted 1978 plans, I ask that my appeal be considered.

Thank you in advance for your consideration and attention to this matter.

A handwritten signature in black ink, appearing to read "Mike McLaughlin". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

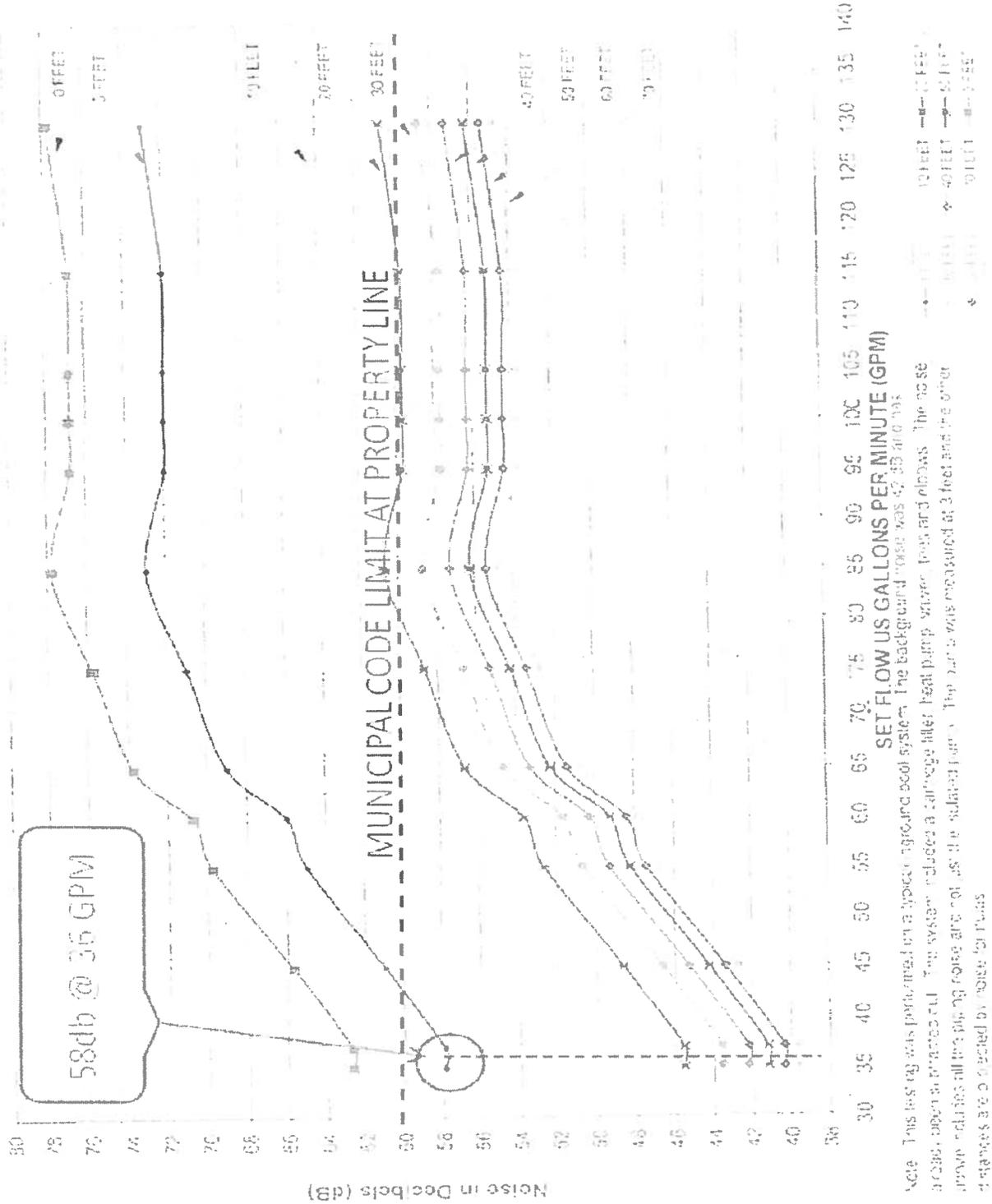
Mike McLaughlin

Attachments:

1. Pentair – Intelliflo noise vs flow rate chart
2. Pentair – Whisperflo noise vs flow rate chart

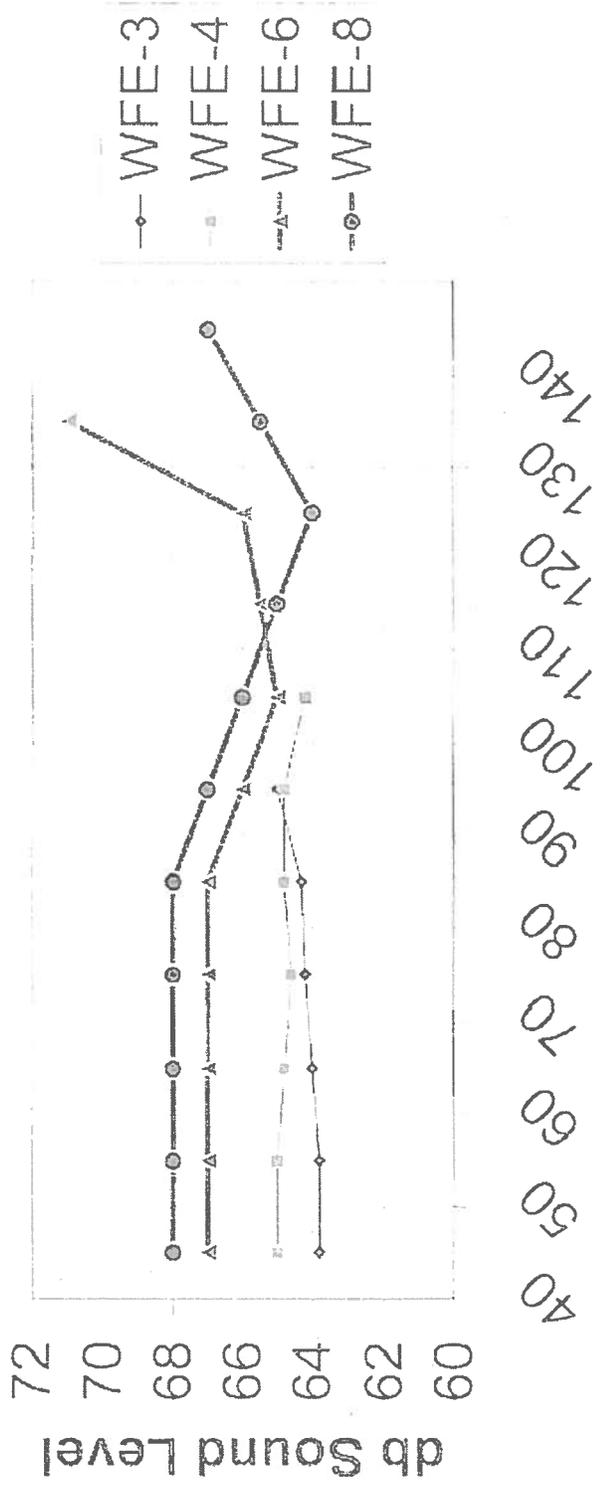
Attachment 1: Pentair – Intelliflo noise vs flow rate chart

INTELLIFLO SET FLOW NOISE DISTANCE FROM PUMP



Note: This testing was performed on a typical inground pool system. The background noise was 42 dB and has a 60dB upper frequency limit. The system includes a cartridge filter, heat pump, water, frost and elbows. The noise above indicates all the piping noise and not just the isolated pump. The data was measured at 3 feet and the other distances are indicated by noise for pumps.

WHISPERFLO db CHART



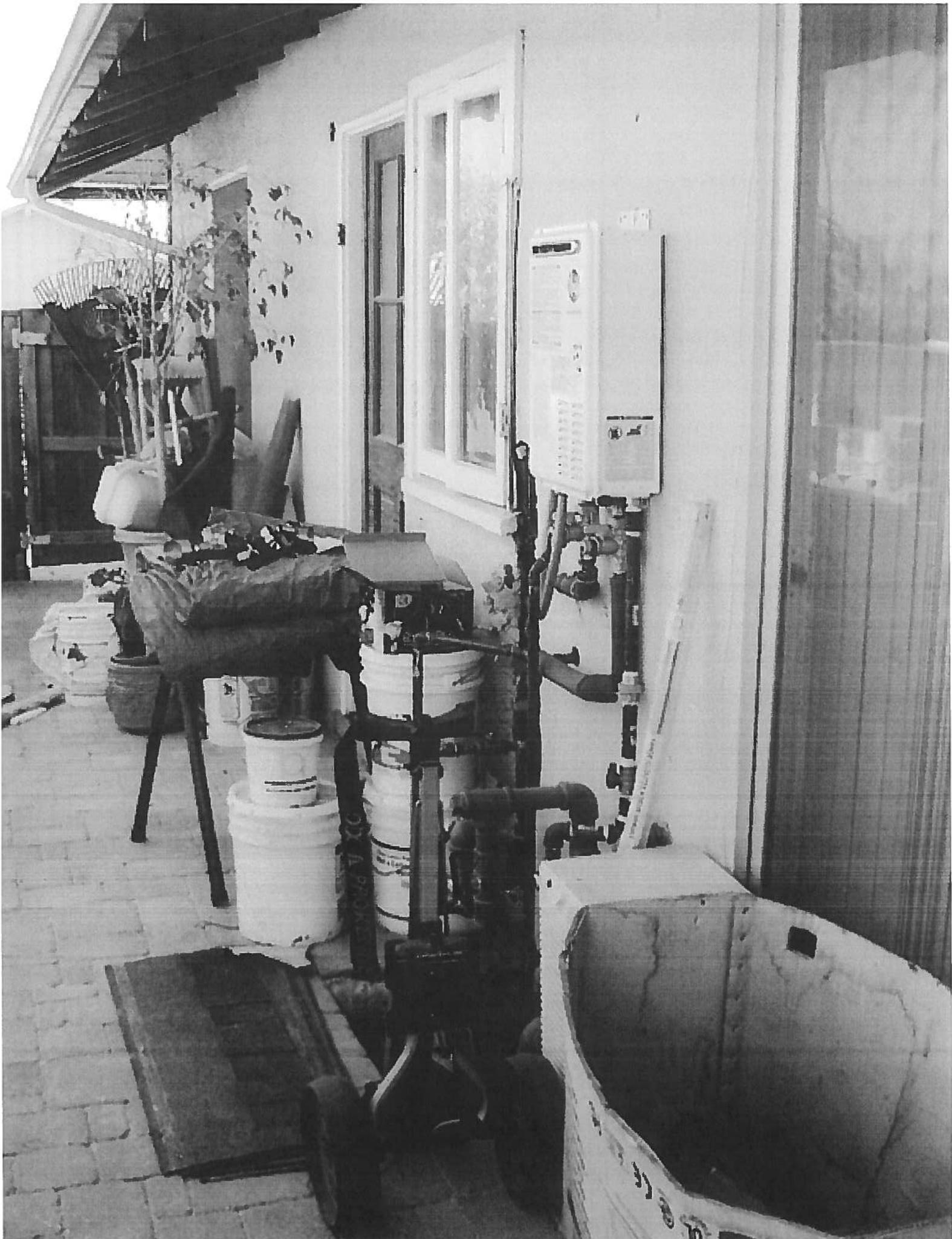
Gallons Per Minute

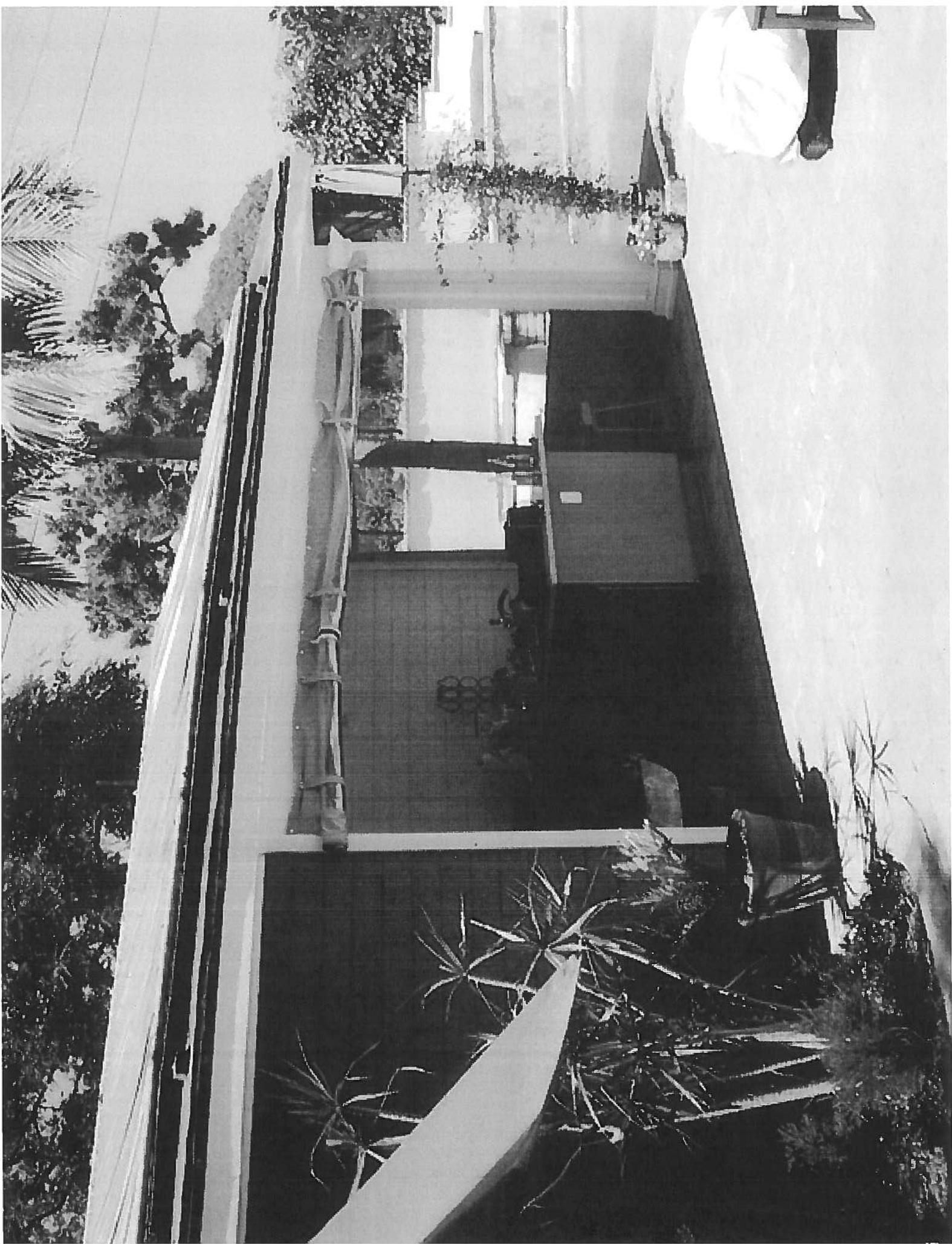
db's Measure @ 3 ft from pump

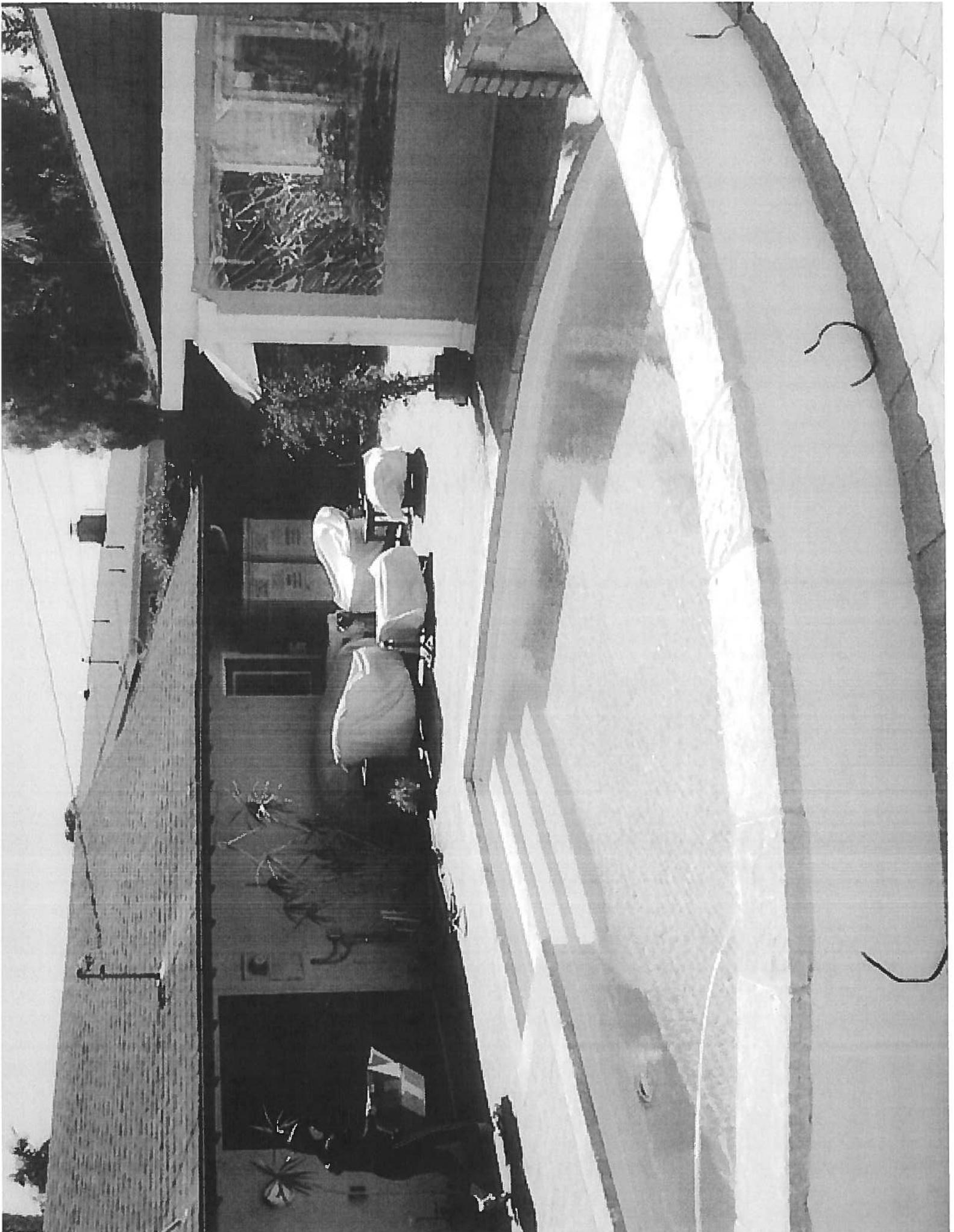
















ACTUAL TIME: 10:04 A.M.

E. APPLICATION OF HOWARD WITTAUSCH, ARCHITECT FOR MIKE MCLAUGHLIN, 1654 SHORELINE DRIVE, APN 045-172-022, E-3 SINGLE-FAMILY RESIDENCE/SD-3 COASTAL OVERLAY ZONES, GENERAL PLAN DESIGNATION: LOW DENSITY RESIDENTIAL (MST2012-00319) POSTPONED FROM SEPTEMBER 19, 2012

The existing 9,205 square foot site is currently developed with a 1,525 square foot residence with an attached two-car garage and a detached, 700 square foot, accessory/garage building. The proposal includes a 255 square foot addition to the main residence, relocation of the front entry porch and landing, roof replacement, new pool and spa, permitting of pool equipment, and alterations to the existing detached accessory/garage building to create a pool cabana not to exceed 500 square feet. The discretionary application required for this project is a Modification to allow the garage portion of the detached accessory building to be converted to habitable space within the required six-foot interior setback. (SBMC § 28.15.060 and SBMC § 28.92.110)

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301 (Existing Facilities).

Present: Howard Wittausch, Architect; and Mike McLaughlin, Owner.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Suzanne Riegle, Assistant Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 10:06 a.m.; and, with no one wishing to speak, the Public Hearing was closed.

A letter of concern from Paula Westbury was acknowledged.

ACTION: **Assigned Resolution No. 039-12**
Approved the Modification making the findings as outlined in the Staff Report dated September 26, 2012.

Said approval is subject to the conditions as outlined in the Staff Report dated September 26, 2012, and as revised at the hearing.

The ten calendar day appeal period to the Planning Commission was announced and is subject to suspension for review by the Planning Commission.

