



DATE: PLANNING COMMISSION MEETING OF MARCH 25, 2015
TO: THE PLANNING COMMISSION
FROM: STEPHANIE DAVIS, AICP, SENIOR PLANNER
SUBJECT: REQUEST FOR A SPECIAL STRUCTURES PERMIT TO ALLOW A SWIMMING POOL WITHIN A PORTION OF THE FRONT YARD SETBACK AT 48 FAIRVIEW AVENUE (APN 070-152-030)

RECOMMENDATION:

For the reasons outlined in this staff report, Planning Staff recommends that the Planning Commission conduct the public hearing and approve the attached draft Special Structures Permit for the construction of a pool up to the front yard setback at 48 Fairview Avenue based on the following findings:

- A. The proposed building or structure will not negatively impact neighboring properties with respect to privacy and view;

Basis for Finding: The landscape screening, fencing, and the orientation of the lot will assist to screen the proposed pool from neighboring properties and the public right-of-way and will therefore not be detrimental to the community. Pool equipment operation will be limited to those hours as set forth in Atherton Municipal Code Section 17.40.050 (F), thus limiting the noise emitted from the equipment to specific hours. Further, all pool equipment is required to comply with the Town's Noise Ordinance.

- B. The proposed building or structure complies with other development standards, restrictions, or limitations for the proposed building or structure, such as height and landscaping screening; and

Basis for Finding: The pool complies with all other setback requirements and will be screened by existing landscaping and fencing, along with any additional landscape screening required.

- C. The granting of the special structure permit is consistent with the objectives of the general plan and this title.

Basis for Finding: The proposed pool meets the minimum front yard setback requirements in compliance with Municipal Code section 17.40.050 (E) with the issuance of a Special Structures Permit and meets and exceeds the rear and side yard setback requirements.

INTRODUCTION:

The subject site is located at 48 Fairview Avenue, and contains an existing two-story residence with a basement, and detached garage and cabana.

The applicant is requesting a Special Structures Permit to allow the construction of a swimming pool and spa to encroach within the front yard setback for accessory structures. Atherton Municipal Code section 17.40.050(E) allows exceptions to the setback requirement for pools, upon the issuance of a Special Structures Permit. The applicant is requesting the swimming pool and spa is located 70' from the front property line as this location attempts to protect an established grove of heritage Redwood trees located along the rear and right side property lines.

ANALYSIS:

The applicant is requesting a Special Structure Permit pursuant to Atherton Municipal Code Section 17.40.050, which allows pools to be located up to the front setback for the main residence. The letter of request states the pool is being sited in the proposed location to protect the established grove of heritage Redwood trees. Additionally, it is proposed to be located in the side versus the rear yard to provide more direct sunlight on the swimming pool and spa in the attempts at mainlining the water temperature and in turn reduce the reliance of the swimming pool on natural gas and electricity. Further, maintaining a greater distance from the grove of heritage Redwood trees will reduce the amount of foliage littering and staining the proposed swimming pool, spa, and respective decks and covers.

The proposed pool is being located 10 feet behind the front line of the main residence (70 feet from the front property line), 24 feet from the side property line and 65 feet from the rear property line. Please see the table below.

Proposed Swimming Pool and Spa:

Setbacks	Required	Provided
Front	30' behind the front line of the main building or a 120' setback from the front property line, whichever is closer to the property line.	10' behind the front line of the main residence (70 feet from the front property line)
Side	10	24
Rear	10	65

At the proposed location, the swimming pool and spa will be situated approximately 45 feet from the rear property heritage redwoods and approximately 20 feet from the redwoods along the side of

the property. The project arborist, Rob Weatherill from Advanced Tree Care, recommends that the swimming pool and spa be located adequate distance from these trees to protect their overall health and wellbeing. The Town Arborist concurs with this recommendation; it is the professional opinion of the Town Arborist that these distances are appropriate to lessen the impacts and damage to the root systems of all said redwood trees. The Town Arborist report summarizes that Redwood trees have shallow and wide-spreading lateral roots which mostly stay in the upper 6-12 inches of soil. If the pool were to be located within the allowable accessory structure area per the Zoning Ordinance, the arborist report notes that the existing trees and roots would be impacted by the construction. It is the professional opinion of the Town Arborist that the proposed location of the swimming pool and spa will thus reduce impacts to several heritage trees. Further, the applicant will be required to submit a Tree Protection Plan as part of the building permit submittal.

The pool equipment is currently proposed to be enclosed and located within the right side yard, meeting the minimum setback locations for an accessory structure.

To date, the Planning Department has not received any items of public comment regarding this proposal. Staff did speak with the adjacent right side neighbor at 36 Fairview Avenue. The neighbors expressed concern with noise related to the location of the swimming pool and pool equipment. A condition of approval has been added to the Special Structures Permit to require the pool equipment be enclosed with sound insulating material.

CONCLUSION:

In order to grant the Special Structures Permit to allow a pool to be located within the general front setback standards for accessory structures for interior lots, the Planning Commission would need to make the finding that such setback would be appropriate under the General Plan of the Town. The Commission shall consider any unique conditions of the property, trees, shrubs, screening, and the effect of the proposed construction on neighboring properties both as to privacy and view, and the impact, if any, of the proposed construction on the rural character of the neighborhood.

It is Planning Staff's opinion that the proposed project is consistent with the General Plan and will not be detrimental to the neighborhood. The location of the pool 10 feet behind the front line of the main residence (70 feet from the front property line), combined with required landscape screening, will not be detrimental to the public health and safety. No heritage trees will be removed or impacted as part of this proposal. Further, the applicant will be required to comply with the town's noise regulations contained in Municipal Code section 8.16 for the pool equipment as well as the Municipal Code section 17.40.050, regulating pool equipment hours of use.

ALTERNATIVES:

The Commission could deny the request, or request modification of the proposal.

FISCAL IMPACT:

All costs covering the processing of this application are paid for by the applicants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15303, Class 3(e) (construction of accessory structures).

FORMAL MOTION:

I move that the Planning Commission approve the Special Structured Permit at 48 Fairview Avenue based on the findings and for the reasons enumerated in the staff report, subject to the conditions listed in the Special Structures Permit certificate to allow a pool to be located to the front yard setback.

Maureen McNulty for Stephanie Davis
Stephanie Davis, AICP, Senior Planner

Attachments:

1. Draft Special Structure Permit
2. Town Arborist Memo, prepared by Sally Bentz, dated March 12, 2015
3. Letter of Request prepared by Joshua Toland, Carefree Toland Pools Inc., dated March 13, 2015
4. Site Plan prepared by Carefree Toland Pools Inc., dated March 13, 2015



Town of Atherton

Planning Department
91 Ashfield Road
Atherton, California 94027
Phone: (650) 752-0544
Fax: (650) 614-1224

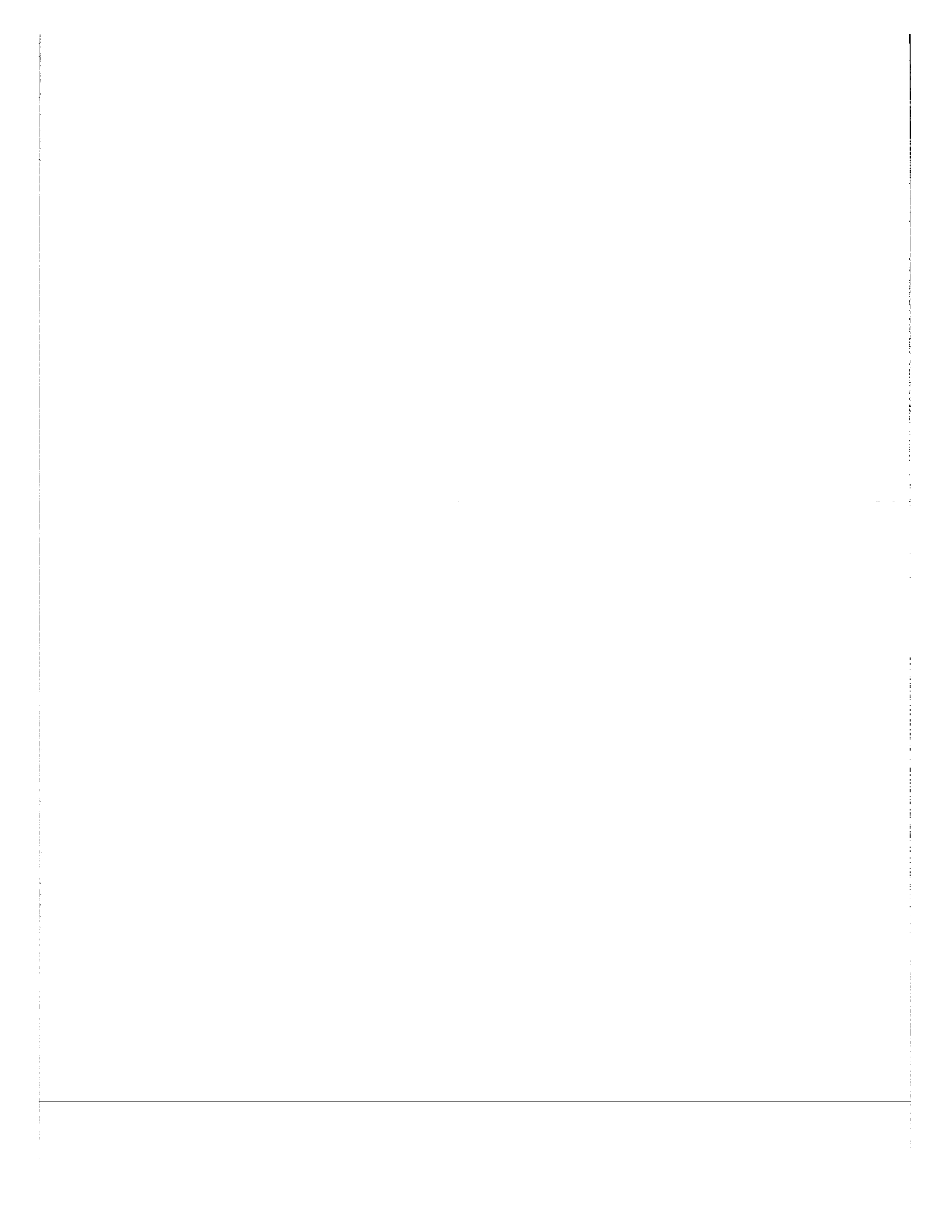
**TOWN OF ATHERTON
PLANNING COMMISSION
Draft SPECIAL STRUCTURES PERMIT**

THIS IS TO CERTIFY THAT the Atherton Planning Commission at a regular meeting thereof, held on Wednesday, March 25, 2015 did grant a Special Structures Permit to Nazhin Zarghamee and Kouroush Ghararchorloo pursuant to Atherton Municipal Code Section 17.40.050(E) to allow a pool to be located 70' from the front property line at 48 Fairview Avenue in Atherton (Assessor's Parcel Number 070-152-030). The Permit was approved subject to the following conditions:

1. Construction shall be in substantial compliance with the plans prepared by Carefree Toland Pool Inc., dated March 13, 2015 and reviewed by the Planning Commission on March 25, 2015. Any substantive changes to the plans shall be reviewed by the Planning Commission.
2. This and all other present and future improvements to the property shall comply with R1-A zoning provisions and other applicable ordinances.
3. The applicant shall submit a landscape screening plan and tree protection plan to the written satisfaction of the Town Arborist.
4. All pool and spa equipment shall comply with Municipal Code Section 8.16 for the pool equipment as well as the Municipal Code Section 17.40.050, regulating pool equipment noise limitations and hours of use.

Stephanie Davis, AICP
Senior Planner

Effective Date: _____
Atherton, CA





Memo

To: The Atherton Planning Commission
From: Sally D Bentz, Town Arborist
CC: Stephanie B Davis, Senior Planner
Date: 3/12/15
Re: Special Structures Permit, 48 Fairview Ave

I have reviewed the Special Structures application for 48 Fairview Avenue and offer the following observations for your review:

- The applicant, Carefree Toland Pools Inc. is requesting permission to build a new in ground concrete swimming pool and spa. Both the pool and spa will have electric covers. They would like to encroach 20 feet into the 30 feet front setback due to large redwood trees lining the rear property lines. The applicant spoke with Kevin Kielty on site and he recommended staying as far away as possible.
- I have visited the site to discuss impacts with the home owner and site arborist Rob Weatherill from Advanced Tree Care. He did not submit an official report, but agrees that the proposed location will be better for the redwoods and will help with any leaf litter that would fall from the trees and cause conflicts with the pool area.
- I agreed with Kevin that the pool should be as far from the heritage trees as possible. At the new location the pool will be approximately 45 feet from the rear property heritage redwoods and approximately 20 feet from the redwoods on the side of the property. These distances are appropriate to lessen the impacts and damage to the root systems of the heritage sized redwoods.
- Redwood trees have shallow roots and wide-spreading lateral roots mostly staying in the upper 6-12" of soil. If they would follow the required setbacks the existing trees and roots would be impacted by the construction. The applicant is proactive in wanting to save the Redwood trees on the site. From an arboricultural standpoint the proposed location will reduce impacts to several heritage trees. As the town arborist I can support the applicants plan for a Special Structures permit.

Sincerely,

Sally Bentz

Town Arborist, Certified Arborist WE#9238A

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Since 1975

Carefree

TOLAND POOLS INC.

1181 Quarry Lane, Building # 200, Pleasanton, CA 94566
(925) 462-1441 Office (925) 484-2509 Fax

March 13, 2015

Town of Atherton
Planning Department
91 Ashfield Road
Atherton, Cal. 94027

Stephanie B. Davis
Senior Planner
Planning Commission

Regarding:

- Special Structure Permit Application
- Project name: Nazhin Zarghamee & Kouros Gharachorloo
- Project address: 48 Fairview Avenue, Atherton Cal. 94027

Hi Stephanie,


Thank you for your time in advance for reviewing this project and meeting with Nazhin and me on site earlier this week. We have taken your recommendations as well as those from Sally Bentz and completed this revised submittal package.

We are requesting a Special Structure Permit that will allow a 16"x70' in-ground gunite swimming pool with an attached 8'x10' in-ground gunite spa each equipped with safety covers to be built on the side yard of this property.

We are requesting to encroach 20' into the allowable 30' accessory structure setback from the front of the house moving the pool up in order to protect an established Redwood tree grove which is thriving at the rear and rear-side property fence line.

We have met on-site with the town arborist (former Kevin Kielty) and current Sally Bentz. They have recommended we stay as far away as possible to avoid any impact and damage to the Redwoods root systems as these trees have very shallow and sprawling roots. Since some of these trees wrap to the side yard we are requesting a 20' encroachment into the accessory structure setback at the front of the house. This will provide enough clearance to ensure healthy roots and prevent the possibility of future damage to the pool.

The side yard also provides more direct sun light on the pool and spa which will assist in maintaining the mean temperature and reduce the reliance on natural gas and electricity. Moreover, keeping the swimming pool and spa away from the Redwood trees has the added benefit of less staining foliage in the pool, spa and on the safety covers.

Joshua Toland 
Vice President
Carefree Toland Pools Inc.
1181 Quarry Lane #200
Pleasanton, Ca, 94566
Office 925.462.1441

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