

TOWN OF CAREFREE NOTICE OF PUBLIC MEETING of the BOARD OF ADJUSTMENT

WHEN:MONDAY, DECEMBER 14, 2020WHERE:ZOOM WEB*TIME:5:00 p.m.

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the Carefree Board Of Adjustment and to the public that the Board will hold a public meeting on **MONDAY**, **DECEMBER 14**, **2020** at 5:00 p.m.

Members of the Planning and Zoning Commission are participating by technological means or methods pursuant to A.R.S. §38-431(4).

THE AGENDA FOR THE MEETING IS AS FOLLOWS: CALL TO ORDER, SILENT ROLL CALL and PLEDGE OF ALLEGIANCE.

ITEM 1. APPROVAL of **BOA MEETING MINUTES** for the meeting of **JULY 15, 2019**.

- **ITEM 2. PUBLIC HEARING,** discussion and possible action on the following request for a VARIANCE. Public comments will be taken.
- **CASE #:** 20-10-V
- APPLICANT: Mr. Tyler Green 11480 North 85th Street Scottsdale, AZ 85260
- CASE2021 Smoketree DriveLOCATION:APN: 216-33-361
- **ZONING:** R1-18, Single-Family Residential Zoning District 18,000 square feet minimum lot size
- **REQUEST: APPROVAL** of a **VARIANCE** to the Zoning Ordinance standards to allow for a pool and pool barrier within a portion of the rear yard building setback where such structures are not allowed or restricted.

The proposed encroachment would be 15 feet into the required 30foot rear yard setback for the pool and 2 feet into the required 30-foot rear yard setback for the fence.

- **NOTE:** The lot is smaller than the minimum size for its zoning district. This request is for relief from the **rear yard** setback requirements.
- ITEM 3. ANNOUNCEMENTS
- ITEM 4. ADJOURNMENTS

BOARD OF ADJUSTMENT COMMISSION

Samantha Gesell

Samantha Gesell, Planning Clerk 12/09/2020

Join Zoom Meeting

https://zoom.us

Meeting ID: 986 2613 2975

Dial by phone +1 253 215 8782 US (Tacoma)

NOTE: A quorum of another public body of the Town of Carefree such as the Town Council or other committee, board, or commission created by the Town of Carefree, may be present and may participate in the public meeting noticed herein by discussing, proposing, and/or deliberating legal action to be taken by the BOARD OF ADJUSTMENT, although no legal action will be taken by such other body of the Town.



IF YOU REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY:

At least three (3) working days prior to the meeting date, please contact the:

Carefree Town Clerk 8 Sundial Circle PO Box 740 Carefree, AZ 85377 PHONE (480) 488-3686 FAX (480) 488-3845 email: kandace@carefree.org

TOWN OF CAREFREE DRAFT MINUTES of a PUBLIC MEETING of the BOARD OF ADJUSTMENT MONDAY, JULY 15, 2019 TOWN HALL COUNCIL CHAMBERS 33 EASY STREET, CAREFREE ARIZONA

Chairman Mascha called the meeting to order and led the Pledge of Allegiance at 5:01 p.m.

COMMISSIONERS PRESENT:

Chairman – Al Mascha Commissioner – Dan Davee Commissioner – Lyn Hitchon Commissioner – Scott Sperl

COMMISSIONERS ABSENT:

Vice Chair – Tom Cross Commissioner – Heather Burgett Commissioner – Dick Tatlow

STAFF PRESENT:

APPLICANT:

Planning Director – Stacey Bridge-Denzak Town Clerk – Kandace French Contreras Planning Clerk – Samantha Gesell

ITEM 1. APPROVAL of the BOARD OF ADJUSTMENT meeting minutes dated MARCH 11, 2019.

Commissioner Hitchon **MOVED** to **APPROVE** the minutes as submitted. **SECONDED** by Commissioner Sperl, **PASSED** unanimously.

ITEM 2. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION on a request for a **VARIANCE**.

CASE #: 18-12-V

Applicant Mr. Dan Fain R-Net Custom Homes 7500 E. Pinnacle Peak Road Scottsdale, AZ 85255

<u>Owner</u>

Howard and Janice McCarthy 1801 Eagle Claw Drive

Carefree, AZ 85377

- CASE LOCATION: 1801 Eagle Claw Drive, Lot 28 The Boulders, Carefree 2 Phase 2 (MCR: 147-46) APN: 216-33-258
- **ZONING:** R1-18 (18,000 square foot minimum lot size)
- **REQUEST:** VARIANCE to Article VI. Intensity Schedule and Development Standards of the Zoning Ordinance on a legal non-conforming lot to allow for a small site wall within a portion of the front building setback where such structures are not allowed. The request is as follows:
 - 1) Allow encroachment of 19.2 feet into the required 30foot front yard setback for a 3-foot tall site wall.

Planning Director Bridge-Denzak introduced the proposed variance application, via PowerPoint and noted:

- 1) The Boulders Homeowners Association originally provided the homeowners with an approval for the existing site wall; however, the Town of Carefree permits were not acquired. Town of Carefree Zoning Ordinances allow for site walls in the side and rear yard setbacks, front yard site walls are not permitted.
- 2) Proposal includes a front yard site wall to create an entry courtyard to the residence.
- 3) Existing legal nonconforming features include the following:
 - a) Existing encroachment into the front and rear building setbacks for the existing residence.
 - **b)** The lot is undersized (16,941 square feet) according to the R1-18 Single Family Residential development standards.
- 4) Based upon the legal nonconforming status of the subject property involved and pursuant to Arizona Revised Statutes, there are unique circumstances on this lot which supports the subject request. Other nearby lots have walls in the front yard setback.
- 5) Citizen participation requirements were met. A call was received from one resident. There were no objections to the application.

Director Bridge-Denzak responded to comment from Commissioner Sperl regarding the precedent that the proposed request sets, as the wall was installed without Town of Carefree approval. She responded that it does not; the situation does meet the criteria for a variance. It would have been best to request a variance first. There was a misunderstanding by the owner and builder that the wall was permissible. Commissioner Davee inquired, regarding the Boulder's front yard setback requirements. Director Bridge-Denzak explained, the Boulders enforces 30' foot setbacks front and rear, however, they may allow for walls in the front setback, the Town does not.

Applicant, Mr. Dan Fain addressed the Commission. Fain explained history and

details of the nonconforming site wall installation.

There was no public comment on the item.

Chairman Mascha called for a motion on case **#18-12-V**.

Commissioner Hitchon <u>MOVED</u> to <u>APPROVE</u> the zoning variance to maintain a site wall in the front building setback with the following condition:

1) Allow for a 3-foot tall site wall within a portion of the front building setback where such structures are not allowed.

Commissioner Sperl **SECONDED** the motion, **PASSED** unanimously.

ITEM 3. ANNOUNCEMENTS.

Planning Director Bridge – Denzak introduced the Town of Carefree's new Planning Clerk, Samantha Gesell.

ITEM 4. ADJOURNMENT.

There being no additional business, Commissioner Sperl **MOVED** to **ADJOURN**. **SECONDED** by Commissioner Hitchon, **PASSED** unanimously. The meeting was **ADJOURNED** at 5:14 p.m.

BOARD OF ADJUSTMENT

Al Mascha, Chairman

ATTEST:

Samantha Gesell, Planning Clerk



STAFF REPORT – Board of Adjustment

MEETING DATE: DECEMBER 14, 2020

Item No. 2

SUBJECT Zoning Variance - Case #20-10-V REQUEST This is a request for variances to Article VI. Intensity Schedule and Development Standards of the Zoning Ordinance on a legal non-conforming lot to allow for the construction of a new pool and spa within portions of the rear building setback where such structures are not allowed and/or restricted. The encroachments are as follows: 1) Fifteen feet (15') into the required thirty foot (30') rear yard setback for the pool location. 2) Two feet (2') into the required thirty foot (30') rear yard setback of which a wall/fence may be located within 1/2 the setback to install a view fence in order to meet pool barrier requirements. Key Items for Consideration: 1) Subject property location: 2021 Smoketree Drive, Lot 107 of The Boulders Carefree Unit 4 Phase 1. 2) Proposal is for a new pool and spa. The pool and spa shall be constructed in the north rear yard setback. The pool equipment will be located within the buildable area of the lot and screened. 3) The required pool barrier shall be located no closer than 2 feet to the north rear property line, where typically 15 feet is the maximum distance from this property line. 4) Existing legal nonconforming features include the following: a) Lot size. 5) As a result of past approvals for similar variances in this area, which were based upon the legal nonconforming status of the properties involved, and pursuant to Arizona Revised Statutes, there exists a unique circumstance on this lot which also supports the subject request. 6) Citizen participation requirements have been met. APPLICANT/ Applicant/Architect: Owner: Mr. Tyler Green Mr. and Mrs. Mark and Barbara Davies **OWNER INFO** 11480 N. 85th Street 2021 Smoketree Drive Scottsdale, AZ 85260 Carefree, AZ 85377 LAND USE General Plan The Carefree General Plan designates the subject site and surrounding properties as Low Density Residential (LDR), 1 acre minimum. Zoning The zoning for the subject lot and surrounding properties in Carefree is R1-18 (18,000 square foot minimum lot size). Many of the lots in the

Carefree Boulders HOA are considered legal nonconforming where lot lines,

STAFF REPORT - Board of Adjustment

residences, and structures were established and built prior to the Town's incorporation in 1984 and before the current standards were in place regarding building setbacks. The lot in question is 17,164 square feet and considered legal nonconforming.

Existing Use

A single-family residence is located on the subject property. A single-family residence is west of the parcel, open space (Boulders Homeowner's Association property) is to the north, and a vacant residential parcel is to the east of the subject site.

LOCATION 2021 Smoketree Drive, Lot 107 of The Boulders Carefree Unit 4 Phase 1 (MCR: 173-38), APN 216-33-361



Source: Maricopa County Assessor, 2020

No Scale

STAFF REPORT - Board of Adjustment

Zoning Standards



ZONING STANDARDS

See Table 1 below for a summary of existing conditions and the request.

Table 1 Development Standards

Standard	Required	Project	Variance Required
Lot Area	18,000 sq.ft.	17,164 sq.ft. *	No
Lot Frontage	120 ft.	138.81 ft.	No
Setbacks:			
Front	30 ft.	30 ft.	No
Rear	30 ft.	15 ft./Pool	Yes
		2 ft./Fence	
West Side	10 ft.	10 ft.	No
East Side	10 ft.	10 ft.	No
Max. height	24 ft.	Not Applicable	No
Max. Lot Coverage	25%	Not Applicable	No

* Legal nonconforming condition.

PROJECT SUMMARY

<u>Summary</u> The new pool and spa are proposed partly within the rear yard setback, 15 feet from the rear property line, where a pool typically is not permitted at all. The required pool barrier is also within the rear yard setback, 2 feet at its closest point from the rear property line. Walls and fences are permitted in a rear and/or side yard ½ the setback distance from the property line. The west

STAFF REPORT - Board of Adjustment

side yard fence is compliant with the Zoning regulations. While not shown on the plan, the pool/spa equipment is located in the buildable area of the lot as required under the Ordinance, and will be appropriately screened. See Diagram 1 below; the purple areas indicate proposed work in the setback.

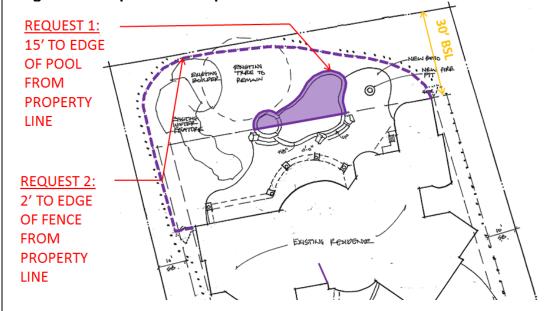


Diagram 1: Proposed Pool/Spa and Fence Site Plan

Currently, the existing backyard includes a patio area with seating, a fire pit, and bar-b-que area, buffered by existing vegetation and boulder outcroppings. The proposed pool and fence shall not disturb these rock formations. Beyond the property line to the north is open space owned by the Boulders Homeowners Association. Furthermore, the proposal meets the allowable maximum disturbance of 75% of the property or 12,800 square feet.

Citizen Participation

The applicant has fulfilled the requirements for Citizen Participation. Property owners within 500 feet of the subject lot were notified of this application. One letter was received by resident at 2013 Smoketree Drive and he had no objections (see Exhibit B).

Variance Analysis

The existing parcel size of the subject property constitutes a condition unique to the subject property. This existing site condition presents a situation where it is more difficult for the property owner to comply with the zoning standards than they would for a lot in the same zoning district without the unique nonconforming features. First, the lot is undersized according to the requirements of the R1-18 Zoning District.

The property to the north is open space and the lot to the east is vacant; therefore, the proposal has little impact to nearby neighbors. Additionally, the nature of the site with its rock formations as well as nearby open space provides neighboring properties a visual and sound buffer. One neighbor

STAFF REPORT – Board of Adjustment

approximately 200 feet away has partial views to this area. The proposal will meet all required building code regulations including pool barrier criteria. This condition is not self-imposed.

VARIANCE CRITERIA	 State Statutory Requirements Decisions of the Board of Adjustment must fall within the guidelines of the Arizona Revised Statutes as contained in Title 9-462.06, Board of Adjustment. 1. The Board of Adjustment can approve variances only if the following special circumstances and the strict application of the zoning ordinance will deprive the property of privileges enjoyed by other property in the same zoning district: a) Size b) Shape c) Topography d) Location e) Surroundings 2) Variances shall not be granted as a special privilege that is not available to all other properties with the same conditions in the same zoning district. 3) Variances may be subject to conditions. 4) A Board of Adjustment may not: a) Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance. b) Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner. 	
BOARD OF ADJUSTMENT	Should the Board of Adjustment approve the variance, the conditions for approval attached as Exhibit "A" are provided for consideration.	
Attachments	Exhibit A. Conditions for Approval Exhibit B. Citizen Participation Report Exhibit C. Narrative Exhibit D. Site Plan	

EXHIBIT A Case #20-10-V CONDITIONS FOR APPROVAL 2021 Smoketree Drive Lot 107 of The Boulders Carefree Unit 4 Phase 1 (MCR: 173-38), Tax Parcel #216-33-361

- 1. Two zoning variances are hereby granted for construction of the following:
 - Fifteen feet (15') into the required thirty foot (30') rear yard setback for the pool and spa location.
 - Two feet (2') into the required thirty foot (30') rear yard setback of which a wall/fence may locate within ½ the setback to install a view fence in order to meet pool barrier requirements.
- 2. The building permit development plans shall conform to the site plan date-stamped October 7, 2020 submitted in association with this application.
- 3. The granting of this variance shall be null and void if the building permit is not issued within one year of approval.

Citizen Participation Report

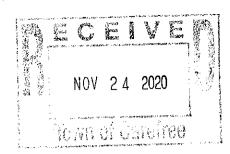


EXHIBIT B

The Davies Residence

2021 Smoketree Drive Carefree, Arizona 85377

Existing Use of Property: Residence

Request:

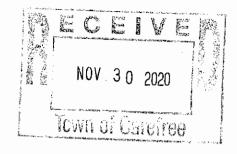
- 1. Build a pool within 15' of the rear setback where 30' is required.
- 2. Build a pool fence within 2' of the rear setback where 15' is required.
- Owner: Mark and Barbara Davies 2021 Smoketree Drive Carefree, Arizona 85377
- Applicant: Tyler Green 11480 N. 85th Street Scottsdale, Arizona 85260 phone: 480-348-2691

Contact: applicant

Responses:

The parties listed were notified by mail on November 10, 2020. There were no responses to the mailing.

November 24, 2020



Carefree Planning and Zoning Commission Regarding 2021 E Smoketree Drive

I own the vacant lot located at 2020 E Smoketree Dr. and the residence located at 2013 E Smoketree Dr. and have received the notice of a request for a zoning variance on the 2021 E Smoketree Dr. property.

My residence at 2013 E Smoketree Dr. is the property that would be most visible impacted by the improvements noted in the request for variance. That said, I would have no issue with the variation request and would recommend the Planning and Zoning Commission approve such request.

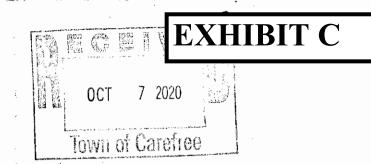
Thank you for your consideration.

Samuel J Parker

11.24.20

480-575-3168 parkersamj@aol.com

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Narrative for The Davies Residence Variance

2021 Smoketree Drive October 6, 2020

I am writing regarding the variance application for the Davies Residence at 2021 Smoketree Drive. We are asking for two variances as noted below.

1. Build a pool within 15' of the rear setback where 30' is required.

2. Build a pool fence within 2' of the rear setback where 15' is required.

We believe that this application for a variance from the setback requirements should be approved for the following reasons:

1. A property hardship is created by the facts that the lot is undersized for the zoning and there is a large rock outcropping at the rear of the property. The lot area is 17,164 sq. ft. where 18,000 sq. ft. is required by the zoning.

2. It is almost impossible to build a pool within the buildable area in R1-18 zoning. Many homes in The Boulders with pools have received variances to be able to build the pool.

3. The boulder outcropping makes it impossible to build the fence at the 15' setback line where required by the ordinance. The fence variance is need to keep from disturbing the boulders.

4. The home backs to open space so the encroachments do not affect any neighbors.

5. The proposal has been approved by The Boulders Homeowners' Association.

6. Approval of the application would not constitute a special privilege, but would allow the property owner to use the home as others in the neighborhood do. Other homes have received similar variances for pools and fences.

7. The hardship in this case is not self imposed. The home was built on this undersized property years ago, long before the current owners had the property. The hardship also did not arise out of a misunderstanding or mistake.

9. The application is in harmony with the intent of the zoning ordinance as the variance from the setback requirements does not impose on any neighbors or citizens.

General Structural Notes

Apply unless otherwise noted on structural drawings

1. ÇQDE:

a. All construction shall comply with the current adopted Code.

2. SHOP DRAWINGS:

a. The following drawings and calculations, where applicable, are required for submittal for structural review:

I. none

b. It is the contractor's responsibility to check all shop drawings prior to submittal.
 c. Concrete mix designs shall be prepared or certified to conform to ACI Code by an independent

testing laboratory prior to submittal. d. Any engineering submitted for review shall be appropriately sealed. Full responsibility for such

engineering rests with the person sealing the work.

3. FOUNDATIONS:

a. Foundations shall bear on firm, undisturbed or compacted soil at 1'-6" minimum below finish or natural grade, whichever is lower. For interior footings finish floor is considered as finish grade. Allowable bearing is

1500 p.s.f.b. Footing excavations shall be inspected and approved by the soils engineer before reinforcing steel or concrete are placed.

4. CONCRETE:

a. Shall meet all the requirements of ACI 301-84 with Type II cement. Minimum 28 day strength 2,500 p.s.i. Each yard of concrete shall contain 5 sacks minimum of Portland Cement, and shall not be reduced due to the addition of fly ash. No admixtures without approval. Concrete shall not be in contact with aluminum. Mechanically vibrate all concrete when placed, except slab on grade. Slump, 4-1/2 inches. The contractor shall fix all cracks and displacements larger than 1/16" up to project completion.

5. REINFORCING:

a. CRSI Manual and ACI Detailing Manual apply. ASTM A-615 Grade 60 deformed except as follows:
 i. #2 plain - Grade 40.
 ii. Wire mesh, flat sheets, plain - A-185.

b. Lap splices in masonry shall be 48 diameters.

c. Mesh spiice: Wire spacing plus 2 inches.

d. Lap splices and extensions in concrete: Unless noted otherwise on drawings provide the following lengths: #3 - 16", #4 - 22", #5 - 27", #6 - 35". Minimum clear cover for spliced reinforcing is greater than one bar diameter and minimum clear spacing is greater than two bar diameters. Provide bent comer rebar to match and lap with horizontal rebars at corners and intersection of walls, beams and footings per ACI Manual. Dowel all vertical rebar to foundations. Provide clearance coverages per ACI Code.

9. WOOD:

a. General: Comply with International Building Code standards. All lumber pieces, in place, shall be grade stamped.

- b. Sawn Lumber: West Coast Douglas Fir, unless noted otherwise.
- c. Posts and 4x and 6x Beams: NO. 1 DF-L.
- d. Built-up Beams and Headers: No. 2 DF-L or Hem Fir No. 2.
- e. Studs: Stud Grade or Hern Fir Stud Grade, 2x6 at 16" o.c.

f. GluLam Beams: West Coast Douglas Fir with 24F-V3 combination stress grade, except beams at cantilever conditions shall have 24F-V8 combination symbol. Materials, manufacture and quality control per PS 56-73, except that the moisture content at the time of manufacture shall not exceed 11 percent. Fabrication and handling by AIIC licensed fabricator, per latest AIIC standards. Beams to bear AIIC quality mark. Use wet service condition adhesive. Beams to be architectural grade, load wrapped. g. Contractor shall provide built-up posts in the wall to match width of all inframing beams or girders. Face nail each stud in built-up post to adjacent stud with one row of 16d nalling, staggered at 8 inches o.c.

h. See jamb framing detail for jamb framing.
 i. For non-bearing openings up to 8'-0", (2) 2x with depth in inches to be equal to or greater than the opening width in feet.

13. CONNECTIONS:

a. All framed connections shall be made with framing anchors each side of joist hangers, by "Simpson" or approved equal, appropriate for the member for upward and downward loads, in accordance with current I.C.C. reports. For Nalling Schedule see Code. All nails noted on the plans and details are common type nails. Field drill all holes for proper matching and bearing.

16. SUPPLEMENTARY NOTES:

a. Provide all temporary bracing, shoring, guying or other means to avoid excessive stress and to hold structural elements in place during construction.

b. Any members required to support equipment from the framing shown shall be designed and provided by the equipment contractor.
c. Any engineering design provided by others and submitted for review shall bear the seal of a Structural Engineer registered in Arizona. Shore all foundation retaining walls to prevent lateral movement while

backfill is being placed and until the floor slab and reinforcement are placed and have cured a minimum of 14 days.
d. Unless noted otherwise, details on structural drawings are typical as indicated by cuts, references or titles.

Garefree Godes and Notes

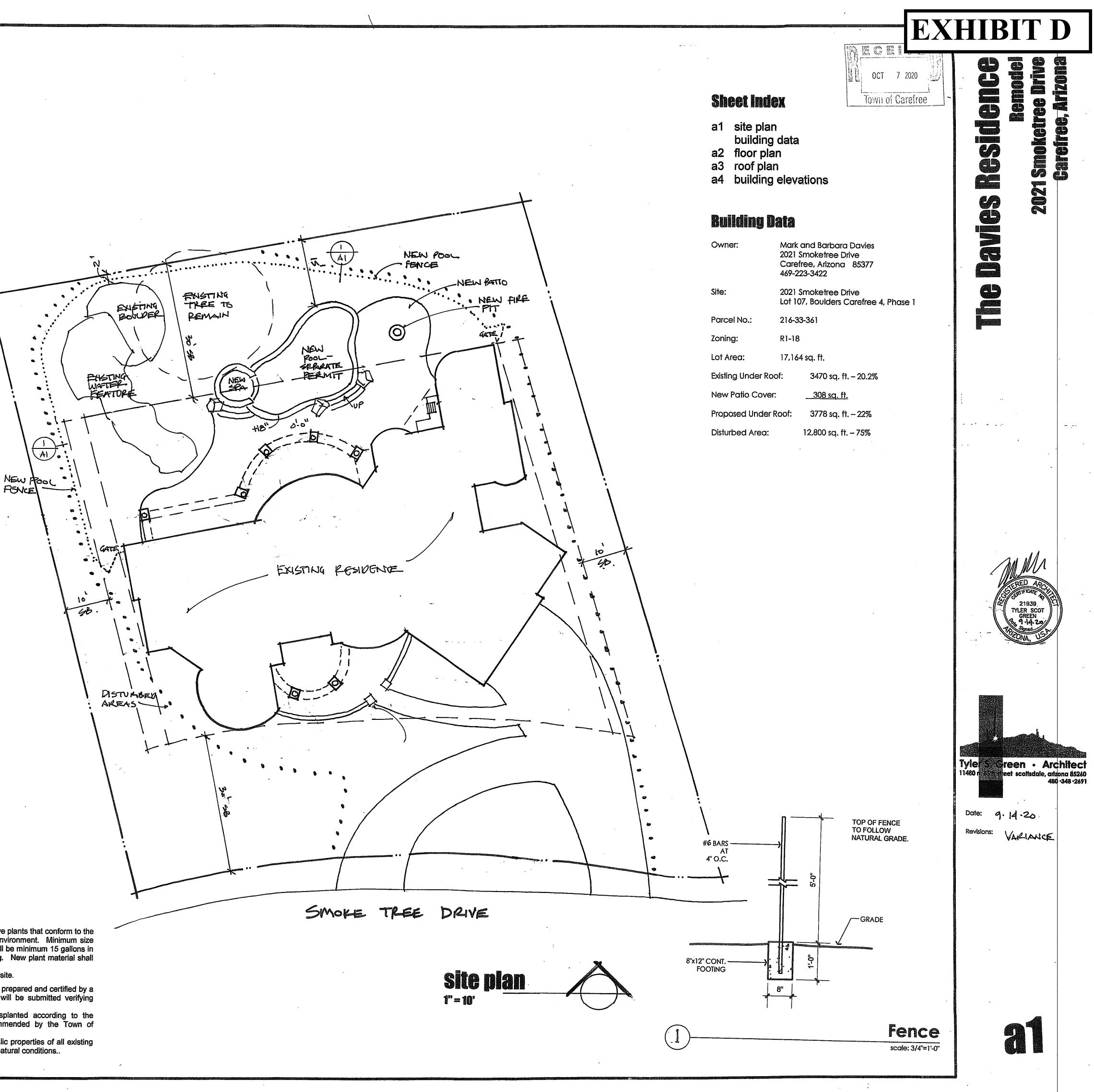
1. All construction shall comply with the following codes:

- 2003 International Building Code and Amendments
- 2003 International Residential Code and Amendments
- 1994 Uniform Plumbing Code and Amendments
- 2002 National Electrical Code and Amendments
 2003 International Mechanical Code and Amendments
- 2003 International Fire Code and Amendments
- All products listed by I.C.C. / N.E.R. numbers shall be installed per the report and manufacturer's written instructions. Product substitutions for products listed shall also have I.C.C. approved evaluation reports or be approved and listed by other nationally recognized testing agencies.
- 3. HVAC units and mechanical equipment including pool equipment shall be screened by solid walls and gated pursuant to Section 9.07 of the Carefree Zoning Ordinance and in conformance with the Carefree Building Code. Ground mounted equipment shall be fully enclosed at all sides. Roof mounted equipment shall be fully screened its total height by a parapet.
- 4. Finish grade shall slope away from the building a minimum of 5% for a distance of ten feet to an approved water disposal area. The finish floor level shall be a minimum of one foot above the one hundred year flood level.
- 5. All exterior lighting will be shielded to comply with Section 9.12 of the Carefree Zoning Ordinance.
- 6. All plants within the disturbed area, including small cacti protected by Carefree shall be salvaged and relocated to designated places.
- 7. A pre-grading inspection is required after the permit is issued and before any grading begins. All protected plants are to be moved into the designated areas, the disturbed area is to be cordoned off, and the Building Department is to be called for an inspection. A 6-foot chain link construction fence shall be placed on the disturbed area boundary prior to excavation and grading.
- 8. An as-built survey prepared by a certified surveyor registered in the State of Arizona will be submitted prior to pouring the floor, and will verify setbacks and finish floor elevations..
- Disturbed areas shall be revegetated with native plants that conform to the density of plants in the surrounding natural environment. Minimum size of shrubs/cacti shall be 1 gallon and trees shall be minimum 15 gallons in size. Revegetion shall include native seeding. New plant material shall be irrigated with drip irrigation.
- 10. Excess cut material shall be removed from the site.
- 11. At the framing inspection, a height certification prepared and certified by a surveyor registered in the State of Arizona will be submitted verifying building height.
- 12. All saguaros to be salvages shall be transplanted according to the Saguaro Salvage and Transplanting Recommended by the Town of
- Carefree methodology. 13. Historical entrance and exit points and hydraulic properties of all existing drainage channels shall be preserved in their natural conditions..

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