

Variance for Michael Baiamonte and Su-shien Cho, 5740 E. Via Los Ranchos

Parcel: 168-57-130
 Zoning: R-43
 Lot size: 43,729 sf, (1.004 ac)
 Subdivision: Via Los Ranchos Lot 9

Background

Town residents Michael Baiamonte and Su-shien Cho purchased the property in 2015 as their primary residence. The approximately 2,692 sf. house on the lot was built in 1976 in the Via Los Ranchos subdivision and conforms to all zoning regulations. The house has had some minor interior remodeling but for the most part remains as it was constructed 45 years ago. The house has a 744 sf. garage, for a total floor area of 3,722 sf. The floor area ratio is 8.54%

The lot is one acre, (43,729 sf, 1.004 ac) but odd-shaped with only 71' curvilinear frontage at the street (well under the 165' minimum in the R-43 district). More significantly, the disproportionately long rear dimension of 397 ft, coupled with a drainage easement of the Cherokee wash*, which runs in full-width through the property, renders approximately 40% of the lot unusable. The front and side setbacks remove another 21% of the lot, leaving a net buildable area of 16,977 sf, or 39% of the lot.

Table 1. Lot characteristics

	Square Feet	Acres	% of Lot
Gross lot size (5740 E. Via Los Ranchos)	43,729	1.004	100.00
Rear setback/drainage easement	17,487	0.401	39.99
Front and side setbacks	9,265	0.213	21.19
Total unbuildable area	26,752	0.614	61.18
Net buildable area	16,977	0.390	38.82
Typical square acre lot			
Typical square acre lot	43,560	1.000	100.00
Front, rear, and side setbacks	21,845	0.501	50.15
Net buildable area	21,715	0.499	49.85
Typical rectangular lot (170 ft frontage)			
Typical rectangular lot (170 ft frontage)	43,560	1.000	100.00
Front, rear, and side setbacks	18,071	.0414	41.40
Net buildable area	25,550	0.586	58.60

*Cherokee wash is a large wash in the town, collecting water in the basin formed north of Mummy Mountain and east of Piastawa Peak and channeling it to Indian Bend wash, about 0.4 miles to the east of the property.

Other Factors

The existing house was built approximately one foot from the front setback and one foot from the east side setback, significantly limiting any conforming expansion. Another unique

characteristic of this lot is the propensity of flooding. The lot is nearly flat from the street back to the bank of the wash, dropping just inches. The existing garage, whose floor is three inches lower than that of the house, floods during heavy rain events. Cherokee wash overflowed during the extremely heavy rains of Tropical Storm Rosa in October 2018, resulting in water rising to a depth of six inches in the east side yard. The previous owners experienced water intrusion in the west bedroom also and kept filled sandbags at the property.

The house floor elevation is 1341.1 and the garage floor elevation is 1340.8. The 1341 topo line runs parallel to the west property line. In a heavy rain, water from the neighborhood collects on Via Los Ranchos, including from parts of Caballo Drive. Some of this water is conveyed to Cherokee Wash via the drainage swale along the east property line. However, in a heavy enough rain, water from the cul-de-sac flows down the driveway towards Cherokee Wash. Some of this water enters the garage, as the topography directs water towards the house rather than away from it. Since the garage floor, by code, must slope away from the house floor, the garage floor height at the garage doors is less than 1341 making the garage susceptible to flooding. A linear trench drain in front of the existing garage is overwhelmed in heavy rains. See Figure 7.

Project Overview

The project consists of three distinct parts:

1. The existing house has an attached two-car garage. The owners desire to expand the garage area to allow parking for up to five vehicles as well as to provide additional bicycle parking, workshop and storage space. The proposed garage addition is 865 sf, of which 200 sf (23%) encroaches into the 20' side setback by 10'. The total floor area with the expanded garage is 4,897 sf. The floor area ratio is 11.2%. The garage encroachment is less than 4% of the entire project. The proposed garage is oriented with rear entry garage doors, allowing the south and west stem walls to act as a dam to channel heavy rain water around the garage and mitigate flooding of the garage. See Figure 7.
2. The owners wish to add a 680 sf addition to the east side of the house, increasing the size of the house from 2,692 to 3,392 sf. (livable space). This addition would allow expansion of the master bathroom/closet so that the master suite is more spacious as is typical with more recently constructed or renovated homes in the town. The addition would also include a fifth bedroom/fourth bathroom. Of the 680 sf proposed addition, 200 sf (29%), encroaches in a triangular fashion into the 20' side setback by 14' at the maximum extent. The total floor area with the house addition is 4,712 sf. The floor area ratio is 10.78%. The addition encroachment is less than 4% of the entire project.

NOTE: with both the garage and house additions, the total size is 5,577 sf and the floor area ratio is 12.75%. See Table 2.

3. The owners wish to add a sports court on the east side of the property. This is sized for pickleball at 30x60 ft, or 1800 sf. The lined playing area of the court is a 20x44 ft, or 880 sf. This is under the recommended size for pickleball of 34x64 sf, or 2176 sf.

The court would be at the approximate existing grade of the area of the lot where it is located. As the area has a slight slope of a few inches over most of the length, some leveling will be required for a level court surface.

In the proposed location, one corner of the court (345 sf) encroaches into the side setback (19.2% of the court is within the setback.) Considering just the playing area, one corner of the playing area (85 sf) encroaches into the side (9.7% of the playing area is within the setback.)

In the rear, 206 sf of the court encroaches into the drainage easement. The town engineer has indicated this is acceptable since a sports court is equivalent to pavement, which is allowed within the easement per the recorded Plat (see figure 22).

The court is to be lighted per USA Pickleball Association recommendations of four 20' high poles with luminaries with backlight shields provide average 30fc of illumination. The lighting will be in compliance with Section 1023 of the town Zoning Ordinance per a photometric lighting study performed by the supplier.

The court is to be partially enclosed on the south and east sides with a block wall to match existing, with a height of 6 feet or less above existing grade. On the east side, the fence will run parallel with the property line, not the court surface. It will end at the rear drainage easement.

Variance Criteria

Criteria No. 1 Town code section 2-5-3(C2) **“Such variance...will serve not merely as a convenience to the applicant, but (is) necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variance under the circumstances.”**

The variance is necessary to alleviate a **hardship** caused by the lot shape and drainage easement which severely limit developable area. As listed in Table 1, the odd shape of the lot combined with the large drainage easement result in a buildable area of only 16,977 sf, substantially less that owners have in most lots in the R-43 district. The massive wash and the unusual lot shape present a significant burden to this property.

As the garage is the largest proposed structural addition, it is located on the west side of the house where there is the most available space. This is also the location of the existing garage, which will be partially demolished. Locating the new garage here preserves the flow from the garage to the kitchen, and the vehicular access to the property in the existing location.

The bedroom/bath/closet addition is adjacent to the bedrooms on the east side of the lot; there is no other conceivable location to add a bedroom. The house is a mid-century architecture linear house with the bedrooms along the central hallway and it is desired to add in this area; it is the only reasonable place.

The sports court is located to the north east of the house. While a tennis court would be preferable, there is no conceivable way to add one, again, due to the large drainage easement. A pickleball court can fit, with encroachment into the side setback and the drainage easement. The town engineer has acknowledged the minor encroachment into the drainage easement is acceptable as a sports court would not impede the flow of water through the wash.

Criteria No. 2 Town Code Section 2-5-3(C) 4(b) **“The special circumstances, hardship or difficulty (do not) arise out of misunderstanding or mistake...”**

The hardship does not arise out of a misunderstanding or mistake; it is caused by the irregular shape of the lot and the drainage easement that significantly reduce the usable area of the lot. These were imposed upon the lot at the time of subdivision, and result from the natural wash and the lot’s location at the end of a cul-de-sac. Of the 10 lots in the Via Los Ranchos subdivision, lot 7 is not affected by the wash, and on lots 1-4, the wash is entirely within 20’ setbacks because the wash is split laterally by two properties. On the remaining lots, the entire 40’ drainages easement is within one property:

Lot	Address	Wash length (feet)	Area lost (sqft.)
5	5638 E Caballo Drive	230	9200
6	5640 E Caballo Drive	212	8480
8	5728 E Via Los Ranchos	136	5040
9	5740 E Via Los Ranchos	397	17487
10	5745 E Via Los Ranchos	70	1060

The subject property is burdened by the wash significantly more than other properties in the subdivision. In the next subdivision east, Equestrian Trails, the wash doe s not burden the

abutting properties at all as it runs in a forty foot-wide strip dedicated to the town. (See Figure 6)

Criteria No. 3 Town Section Code 2-5-3 (C) 2 **“Such variance from...the strict application of the terms of (Zoning Ordinance) are in harmony with its general purposes and intents...”**

The variances are in harmony with the general purposes and intents of the Zoning Ordinance as the encroachment is minimal. The house on the adjacent property to the west is approximately 29ft from the property line, so the separation between the structures will still be 39ft providing open space. The garage addition is designed with rear-entry garage doors, so from the adjacent house, the additional will appear as living space; the garage doors will not be visible. The garage will be only 11'4" in height, well under the 16' height limit at the setback line in the district.

The house on the adjacent property to the east is approximately 28ft from the property line, and the minimum separation between the structures will be over 42' at the two closest corner points. Since both houses are at angles with respect to the property line, the separation increases as the amount encroachment decreases towards the rear of the addition. The height of the house addition is 13'4", under the 16' height limit at the setback line in the district and the under 16' height of the highest part of the existing house.

The addition is designed to complement the architecture of the existing building and look cohesive, preserving the existing style with varying parapet heights, with lower heights on both sides. There are no encroachments into the front setback. The developed area (floor area ratio) is about 12%, less than half of what is allowed.

The additions will not block any views from any neighboring property because of the low height and the fact that the predominate view in the area is of Mummy Mountain, one mile to the south. More distant views of Piestewa Peak to the west are not compromised either.

The sports court will be located towards the rear and will hardly be noticeable from the street. The corner of the court in the setback is 138' away from the front property line putting this well into the backyard. It will be located in the most flood-prone area of the property, which is presently unlandscaped, and will improve the property asthetically as well as adding value.

Criteria No.4. Town Code Section Code 2-5-3 (C) 4 **“The special circumstances, hardship or difficulty applicable to the property are (not) self-imposed by the property owner or predecessor...”**

The hardship is not self-imposed but is a direct result of the lot's irregular shape and drainage easement, and the natural topography. The lot is almost triangular in shape with a large wash and drainage easement/rear setback. The resultant buildable area is less than 39% of the gross lot. In addition, the lot slopes from the street, northerly towards the wash. The existing house has experienced flooding in the garage and west bedroom, Prudence dictates that expansion occur laterally to the existing house to keep the improvements on the highest part of the lot farthest from the wash.

Due to the existing placement and angle of the house to the property line, there is no other way to add a fully functional 680 sf bedroom addition without encroachment into the side setback that does not have significant drawbacks. Pushing the addition north towards the pool would block an important existing window in the master bath (see Figure 21), would still encroach, would require removal of both mature pine trees, and would not connect well with the existing hallway. Also, the proposed addition is most congruent with the mid-century design of the existing house. This and other scenarios are explored further in Figures 10-14.

An alternative configuration for a five-car garage would be front-entry (figure 15). This would still have a minor encroachment, would require a massively wide hard-scape in the front yard limiting the street-visible landscaping, and be most susceptible to flooding. A side-entry garage (figure 16) would fit with no encroachment but would start at the front-setback, require removal of several mature palm trees and one giant eucalyptus. The proposed garage has the least negative-impact on the lot's limited landscaping as it mostly uses existing driveway and maneuvering space. Other alternatives exist by reducing the size to four or fewer vehicle spaces. (see figures 17-20).

Criteria No. 5. Arizona Revised Statutes 9-462.06 (G) (2) **“Because of Special circumstances to the property...strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.”**

Strict adherence to the zoning ordinance will deprive the property of privileges enjoyed by other property of the same classification/zoning district. Houses with three to five car garages and three to six thousand square feet or more are common in newer homes in the neighborhood on similar sized lots, but difficult to accommodate on this property due to the odd lot shape and drainage easement. The variance will allow the property owner to enjoy similar privileges to other properties of the same classification by allowing for similar development of the property. It will also bring this property up to date in appearance to the surrounding properties.

The town has granted variances for similar improvements to other properties with similar site challenges:

1. 6618 N. 46th St 169-46-037 R-43 44,869 sf (1.03ac), three-sided lot with long front and rear side and wash reducing buildable area significantly. House is 4,633 sf livable space. A variance was approved for encroachment into the front setback for the house, swimming pool, and guest house. See Figure 3.
2. 5430 E. Via Buena Vista 168-56-026 R-43 56,821 sf (1.30ac) three-sided lot with long front and rear sides. A variance was approved for encroachment into multiple setbacks for a sports court. See Figure 4.
3. 6538 E Hummingbird Lane 174-45-008E R-43 44,309 sf (1.02ac) odd-shaped five-sided lot with wash rendering much of the rear of the lot unusable. A variance was approved for encroachment into the side setback for a garage and casita. See Figure 5.

Criteria No 6. Arizona Revised Statutes 9-462.06 (G) (2) “The variance would not ‘constitute a grant of special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which such property is located.’”

The variance would not constitute an inconsistent special privilege. The minimal encroachment will allow an expansion of the house which is already the smallest on the street and will remain so. The request is in character with the Zoning Ordinance and the surrounding neighborhood. Furthermore, the garage addition is designed to not look like a garage from the front which will make the house look larger and more in character with other houses in the neighborhood and town.

An analysis of the 27 homes in the immediate area shows the subject property, at 2692 sf, is the smallest home in the area, which average 5005 sf. With the proposed addition, the subject property, at 3372 sf, is still one of the smallest of these homes at (67% of the average size). The house would be the fourth smallest of the 28 homes. The variance does not even make the house an average-size home. This is clearly not a special privilege but an attempt to keep the house in character with the neighborhood to the extent possible on the difficult lot. The house will still be small for the R-43 district. (See Table 5. for complete analysis)

Note: this analysis was done on the approximately 40 acre square parcel bordered by Cherokee Elementary School to the north and 56th St to the west. This parcel contains 27 developed lots and one vacant lot. See Figure 1.

Data tables

Table 2. Square footage table

	Existing	Garage only addition	House only addition	Garage and house addition
Net lot size	43,729 (1.004 ac)	43,729	43,729	43,729
Buildable area	16,977 (0.390 ac)	16,977	16,977	16,977
Existing house	2692	2692 (exist)	2692 (exist)	2692 (exist)
Existing garage	744	744 (exist)	744 (exist)	744 (exist)
Existing rear patio	351	351 (exist)	351 (exist)	351 (exist)
Existing front patios	245	245 (exist)	245 (exist)	245 (exist)
Garage add.	-	865 (new)	-	865 (new)
House add.	-	-	680 (new)	680 (new)
Livable space	2692	2692	3372	3372
Total floor area	4032	4897	4712	5577
Floor area ratio	9.21%	11.20%	10.48%	12.75%
Encroachment sf	0	200	200	400
% Encroachment	0%	3.59%	3.59%	7.17%

Table 3. Sports court square footage table

	Width	Length	Area	Encroachment	%Encroachment
Playing area (lined court area)	20	44	880	85	9.66%
Gross size (total court area)	30	60	1800	345	19.17%
Recommended size	34	64	2176	n/a	n/a

Table 4. Building Height Table

Area	Style	Parapet height (above foundation)	Height above lowest natural grade
Existing house	Single story flat roof with varying height parapets	10'4" to 16'	11'4" to 17'
Garage addition	Single story flat roof	10'4"	11' 4"
House addition	Single story flat roof	12'4"	13' 4"

Table 5. Neighborhood Analysis

APN	Address	Size Livable sqft	Floors	Bed	Bath	Gar. # of spaces	Gar. sqft	Sport Ct. sqft
168-57-013	5740 E Via Los Ranchos	2692	1	4	3	2	774	
168-57-007	5620 E Caballo Dr	3313	1		3	4	1094	1125-Sprt
168-57-011	5702 E Caballo Dr	3353	1		4	2	483	
168-57-006	5606 E Caballo Dr	3544	1		4	2	529	
168-57-020	5717 E Via Los Ranchos	3634	1	4	4	2	480	
168-57-021	5726 E Caballo Dr	3644	1		4	3	912	
168-57-005	8633 N 56 th St	3651	1	4	4	2-3	600	
168-57-010	5640 E Caballo Dr	4047	1		2	2	624	
168-47-012	5728 E Via Los Ranchos	4074	1		5	6	1995	
168-57-022	5746 E Caballo Dr	4151	1	4	4	3-4	756	1950-Sprt
168-57-030	8505 N 56 th St	4230	1		5	3-4	916	
168-57-024	5743 E Caballo Dr	4433	1		7	3	816	
168-57-009	5638 E Caballo Dr	4475	1		6	3	952	
168-57-014	5745 E Via Los Ranchos	4498	1	5	5	3	955	
168-57-031	8501 N 56 th St	4622	1	5	5	3	856	
168-57-008	5636 E Caballo Dr	4637	1	4	4	2	667	
168-57-002B	5702 E Via Buena Vista	4714	1	5	4	4	1490	
168-57-034	5602 E Via Buena Vista	4941	1		6	3-4	968	
168-57-035	5624 E Via Buena Vista	5513	1		7	3	924	1215-Sprt
168-57-036	5636 E Via Buena Vista	5546	1	5	6	4	1304	7200-Ten
168-57-023	5747 E Caballo Dr	6040	1	4	5	6-7	1848	
168-57-025	5739 E Caballo Dr	6082	1		7	5	1459	
168-57-019	5716 E Caballo Dr	6776	1	5	6	6	1460	
168-57-029	5601 E Caballo Dr	6802	1	5	7	5-6	1258	
168-57-033C	5625 E Caballo Dr	7040	1		8	3	1256	7200-Ten
168-57-002C	5738 E Via Buena Vista	7696	1		7	18	5650	
168-57-032	5665 E Caballo Dr	10984	1 *			8	3420	7200-Ten
Average size of these 27 houses		5005					1276	
168-57-013	5740 E Via Los Ranchos	3392**	1	5	4	5	1560	1800-Sprt
*Two stories over garages								
**With proposed addition								
All data from Assessor website and/or real estate listings								
All lots R-43. Most (23) lots are ~1 acre, 5 are larger (1.5, 2.25, 2.5, 2.5, 3 acre)								



Figure 1, Area used in area analysis



Figure 2, Subject property 5740 E. Via Los Ranchos

Baiamonte/Cho variance narrative



Figure 3, 6818 E. 46th St

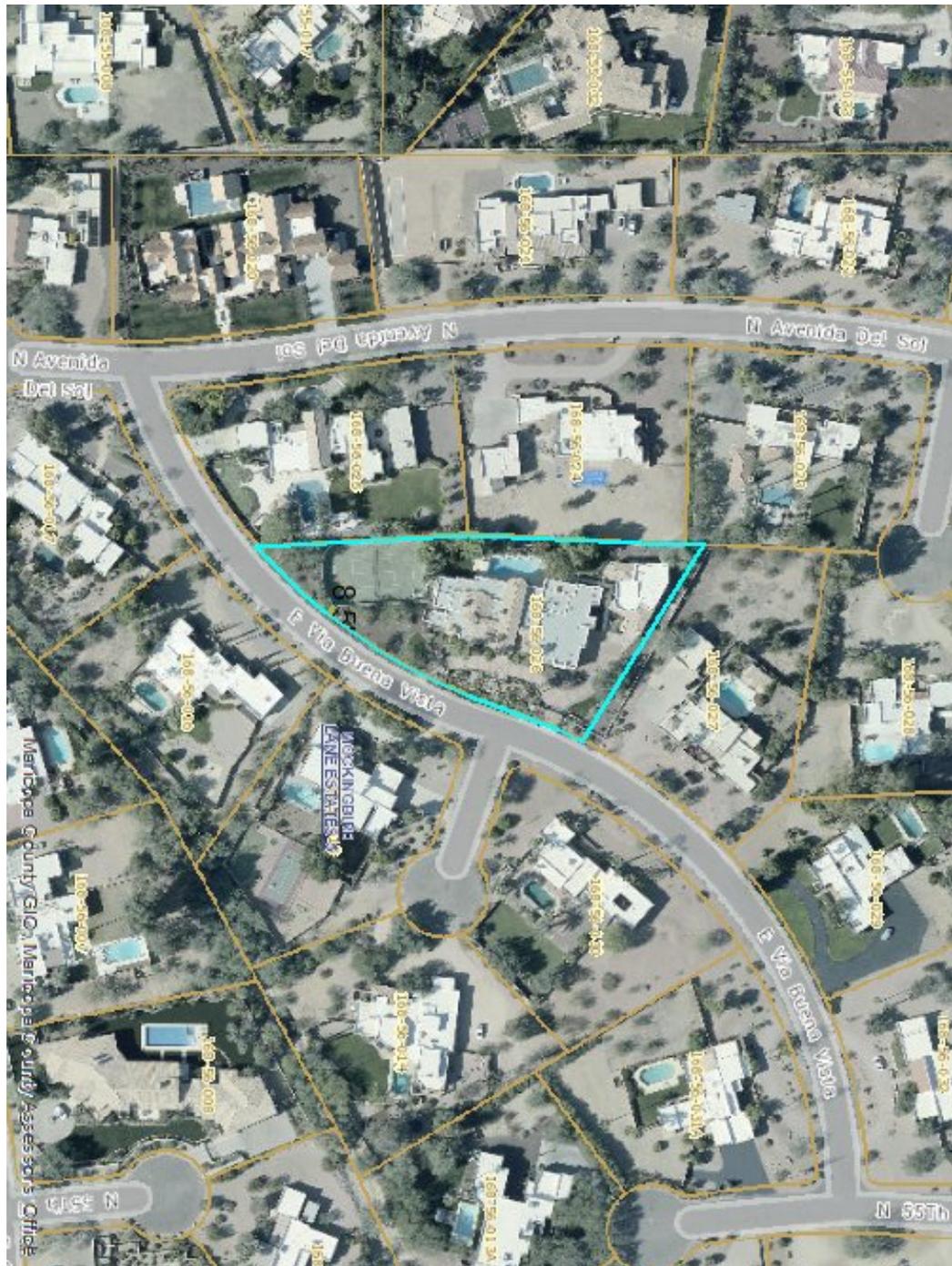


Figure 4, 5430 E. Buena Vista

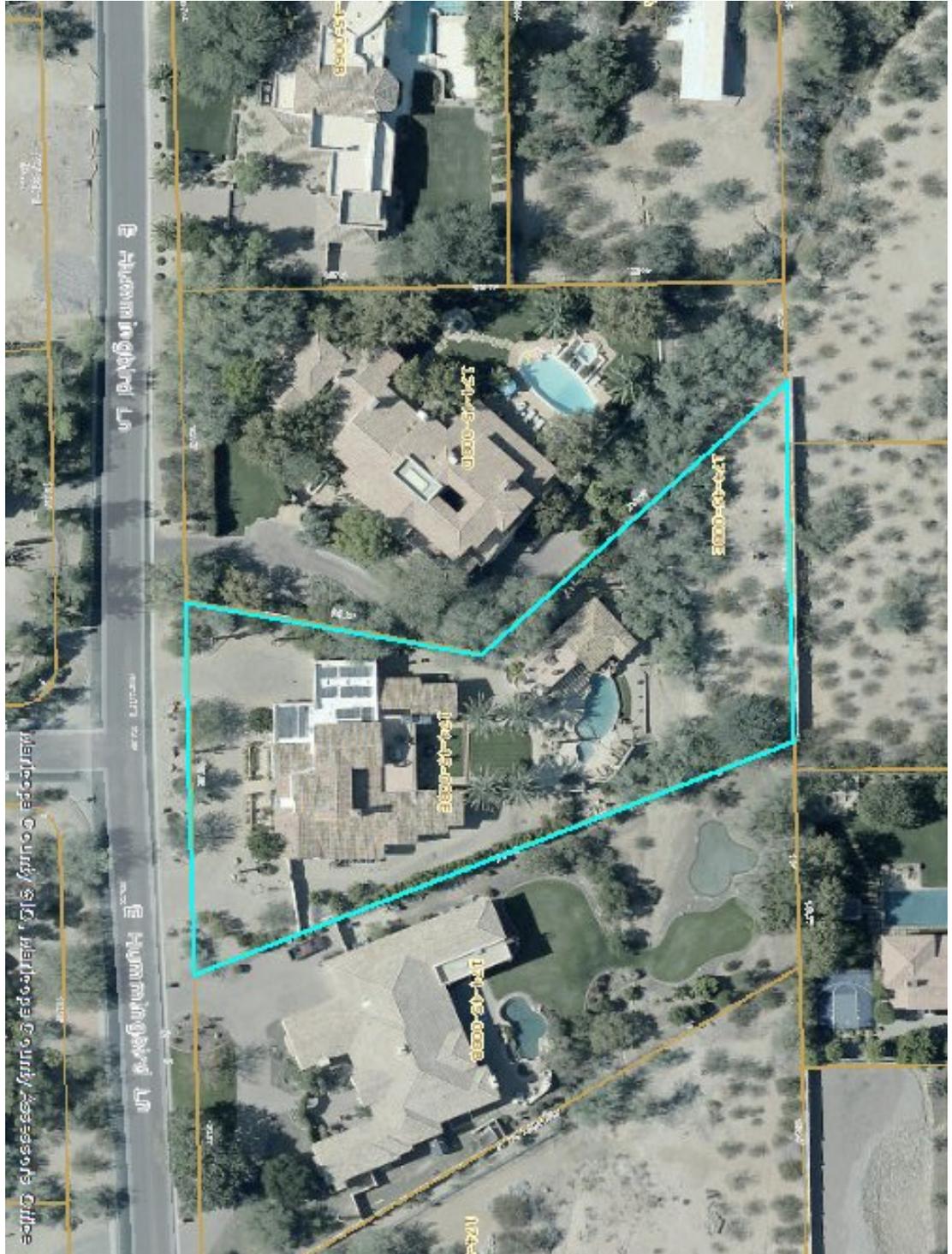
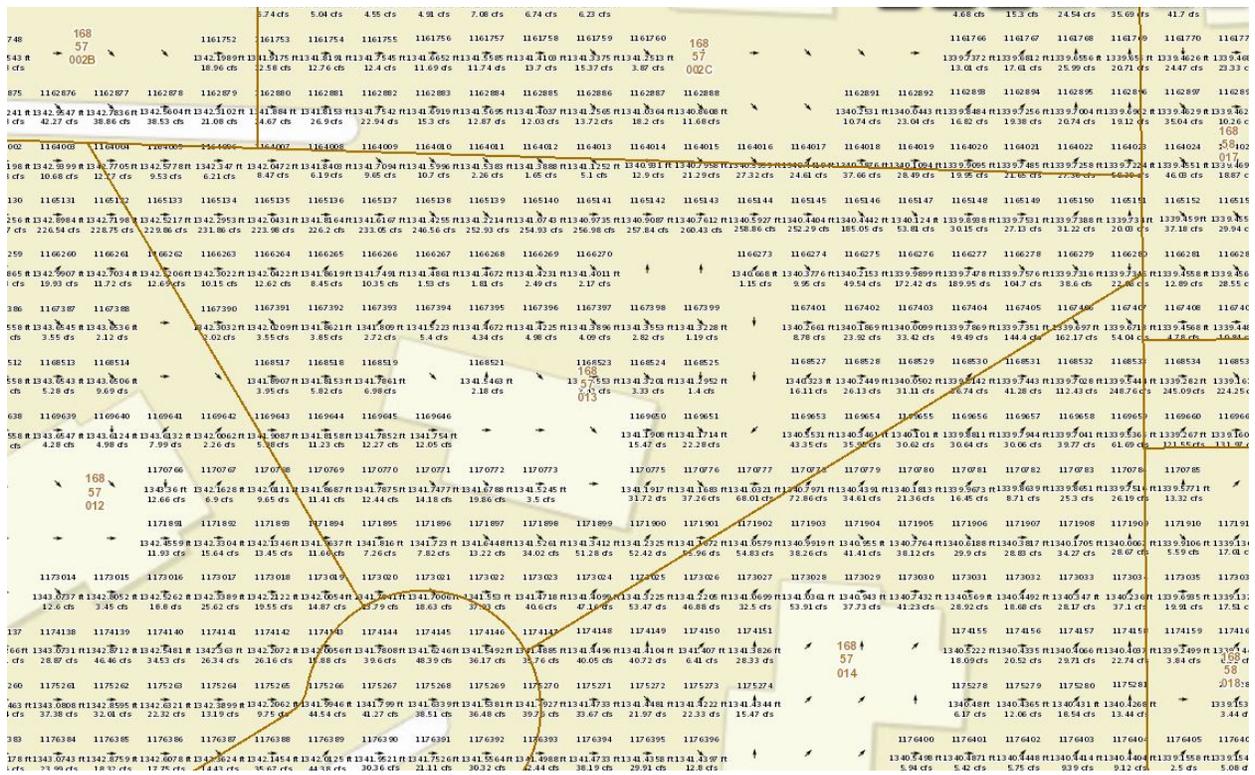


Figure 5, 6538 E Hummingbird Lane



To the east, the wash flows through town property, not through a drainage easement on private property. There is no burden to those property owners.

Figure 6. Cherokee Wash



Arrows indicate direction of rainwater flow. Existing garage floods during heavy rain.

Figure 7. Maricopa County Flood Control District rainwater rate and direction analysis

Specifications

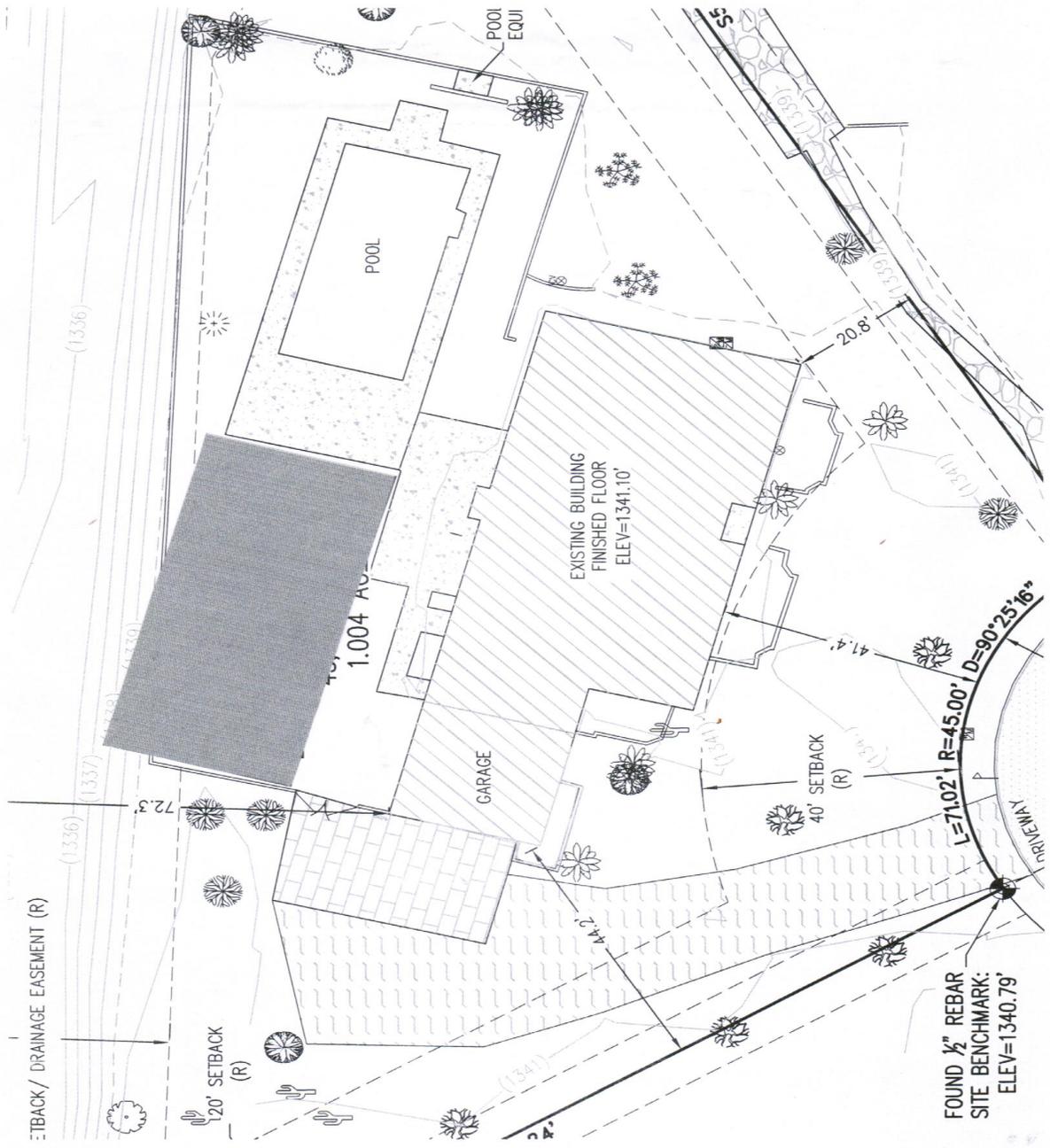
Lighting specs: <https://www.accessfixtures.com/p/pickleball-single-court-led-lighting-4-poles/>
(complete specifications linked there under “specs”)

Precision Design for a Pickleball Single Court

This Pickleball Single Court LED Lighting Package comes with 4 poles and is designed for one standard pickleball court measuring 20 ft. wide x 44 ft. long, with an additional 7 feet on either side of the court and 8 feet at the ends for a total playing surface of 60' x 34'. This package has 4 poles with 2 on either side of the net. The poles are installed approximately 5.5 feet outside the sideline. 1 luminaire is mounted on top of each pole for a total of 4 luminaires.

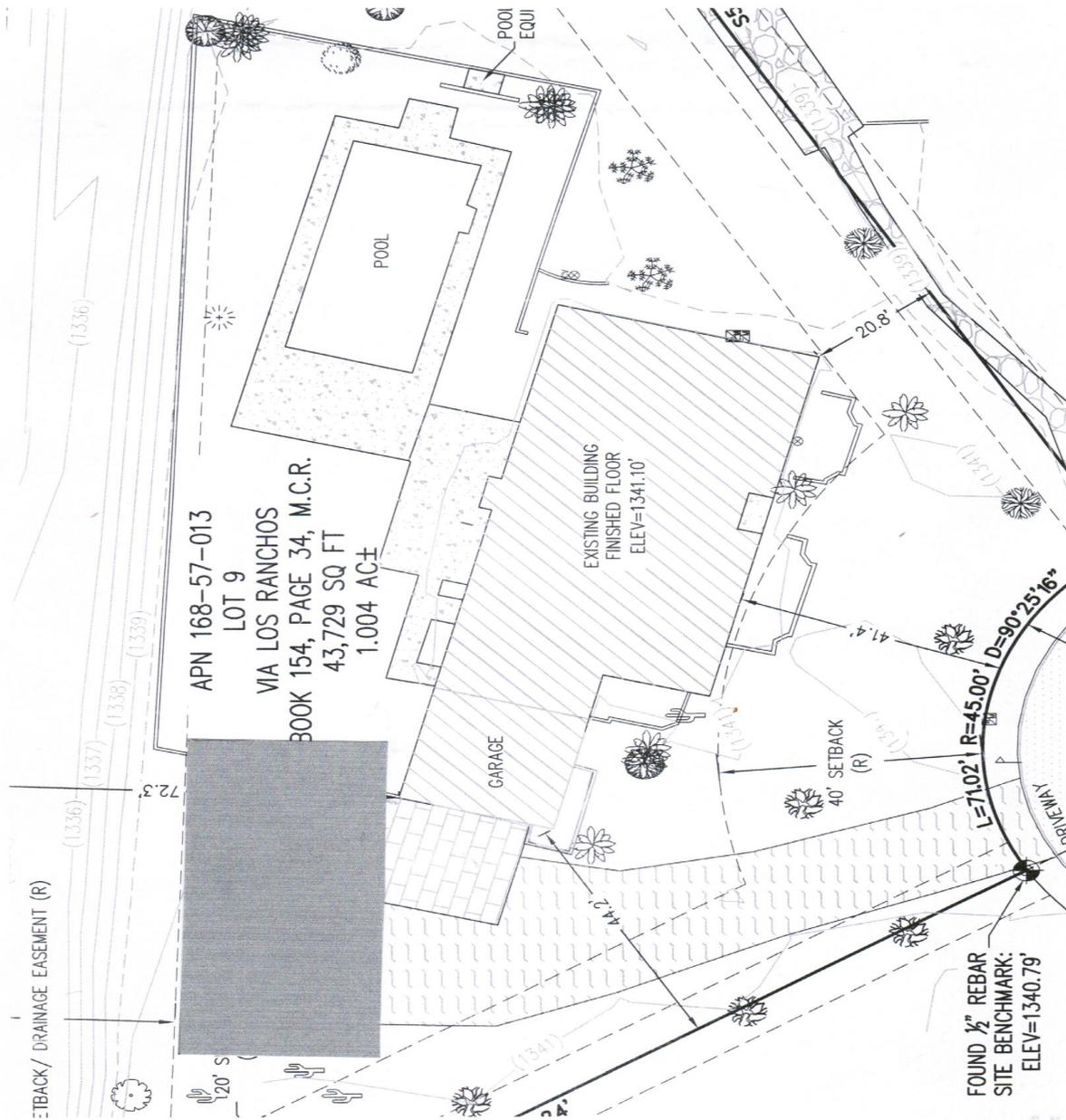
The fixtures will be mounted perpendicular to the poles in a full cutoff/dark sky compliant manner as shown in the following photograph. Poles are 4x4 bronze, height to top of fixture will be under twenty feet above grade.





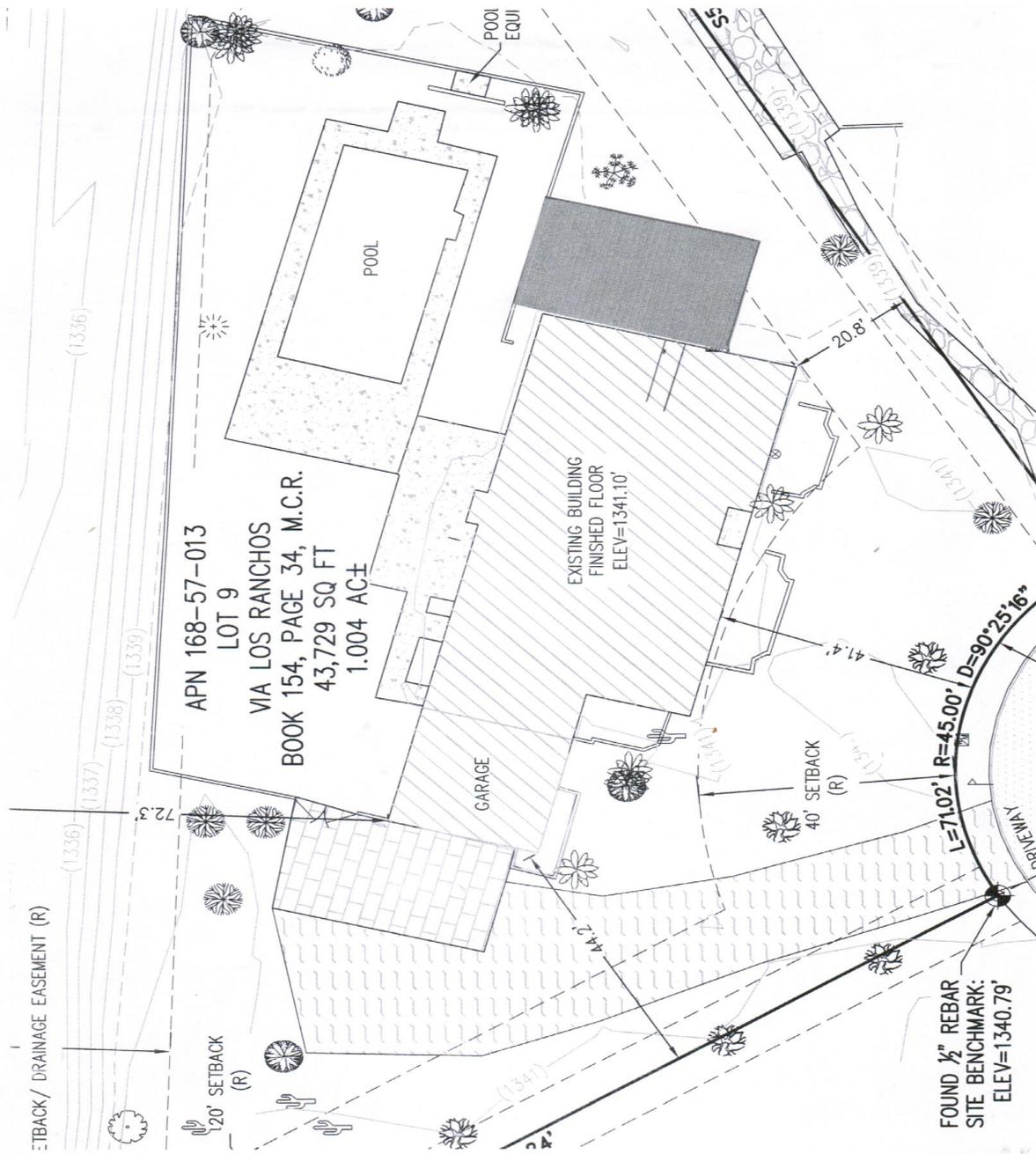
This figure shows the sports court placed in the backyard. This location is not workable as it would extend well into the flow-of-water in the wash. It also deprives us of the only major landscaped area of our backyard.

Figure 8, Sports court alternate location 1



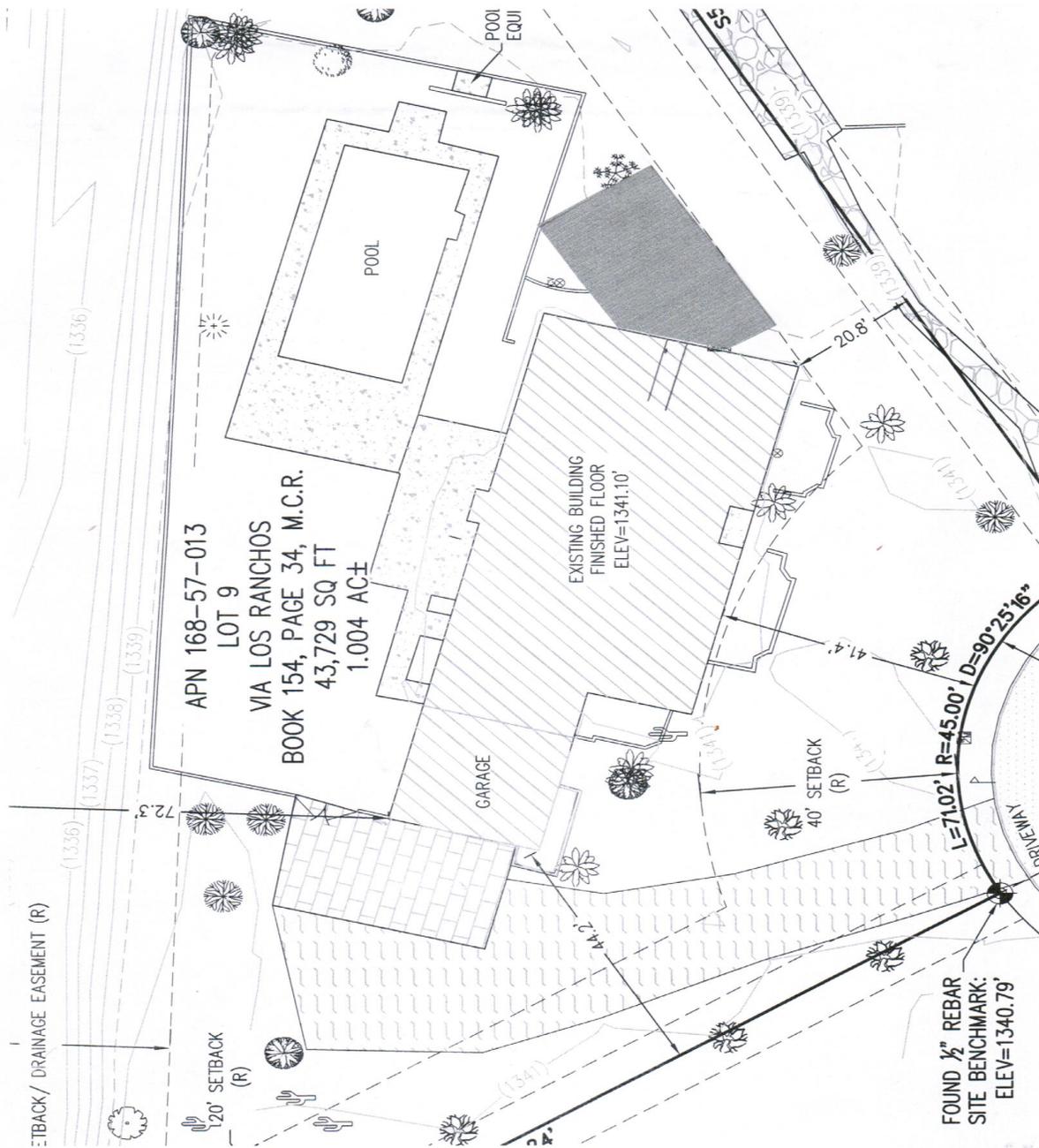
This figure shows the sports court placed in north-west corner. While it does fit within the setbacks, it would require removal of the three huge Eucalyptus trees that provide shade to the swimming pool. It would also consume another of the limited landscaped areas of the lot, block access to the backyard, and interfere with maneuverability into the garage.

Figure 9, Sports court alternate location 2



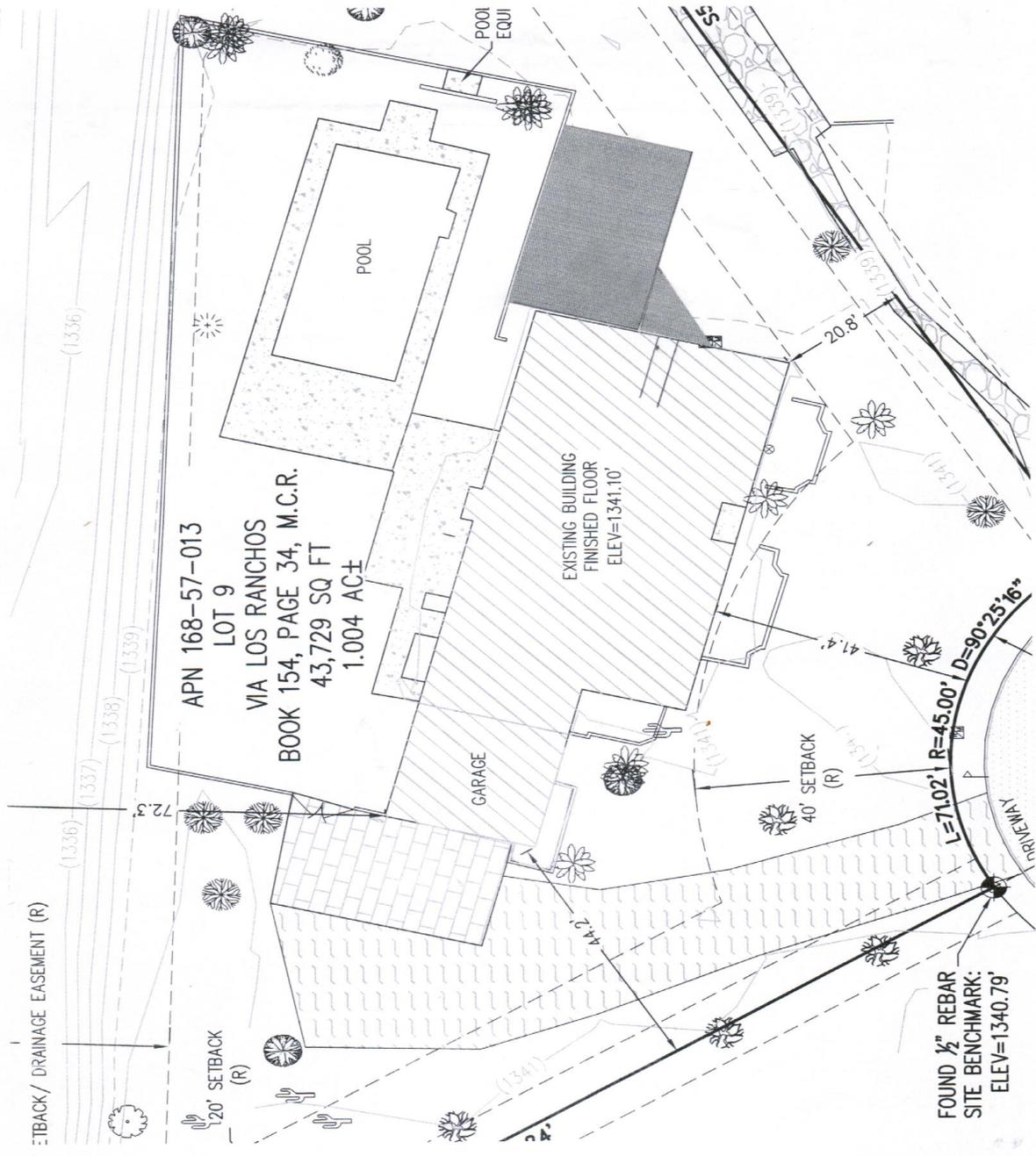
This figure shows the bedroom addition pushed back to the pool as much as possible. It still encroached into the side setback and is less functional as the hallway in the existing house it less aligned with the center of the addition. It also blocks the east window of the master bath.

Figure 10, Bedroom addition alternate location 1



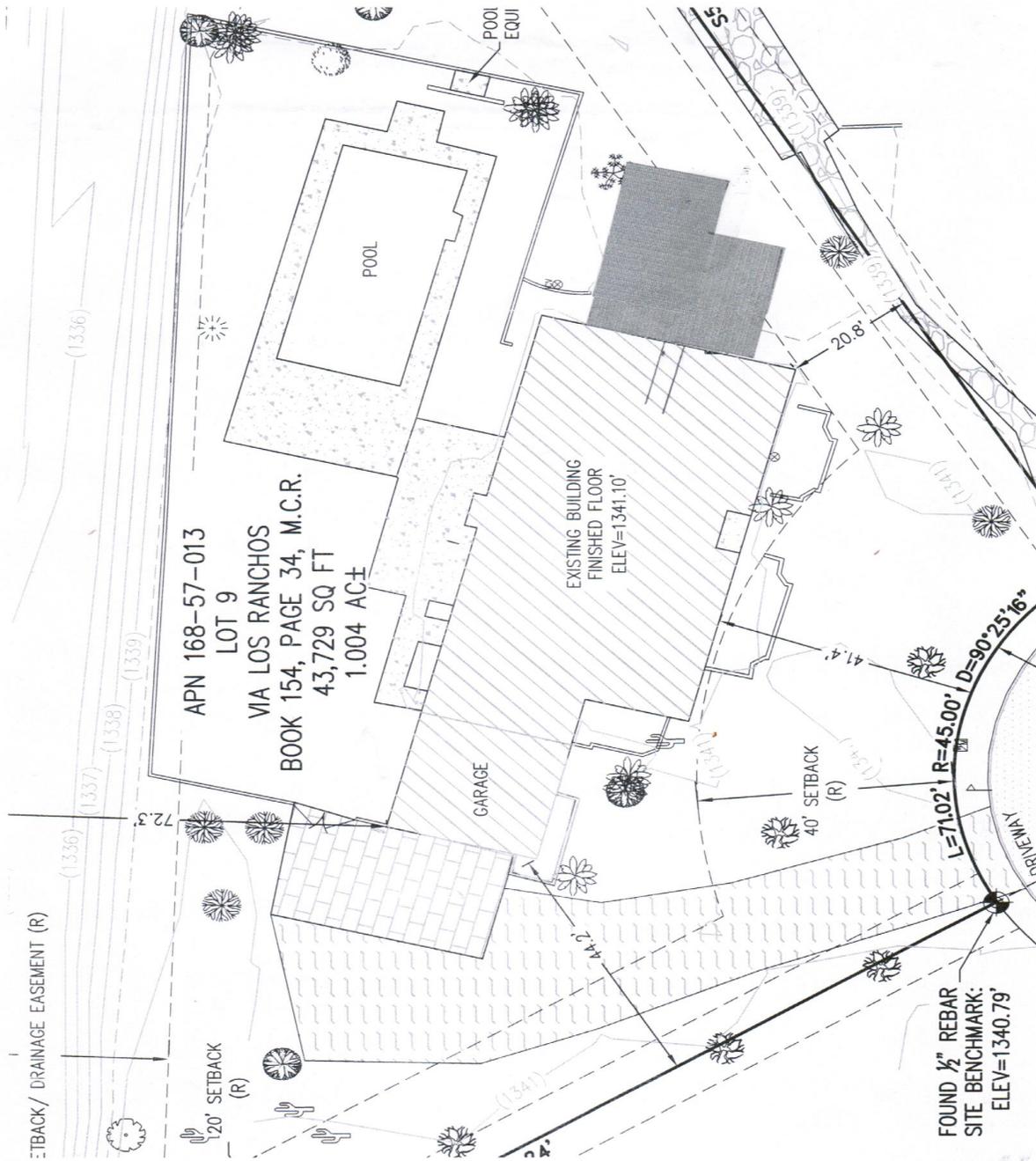
This figure shows the bedroom addition angled to the house and kept entirely within the setback. It is 72 sq. ft. smaller and much less functional with an angled wall and longer internal hallways and less useable space. It would also require removal of both mature pine trees in this area.

Figure 11, Bedroom addition alternate location 2



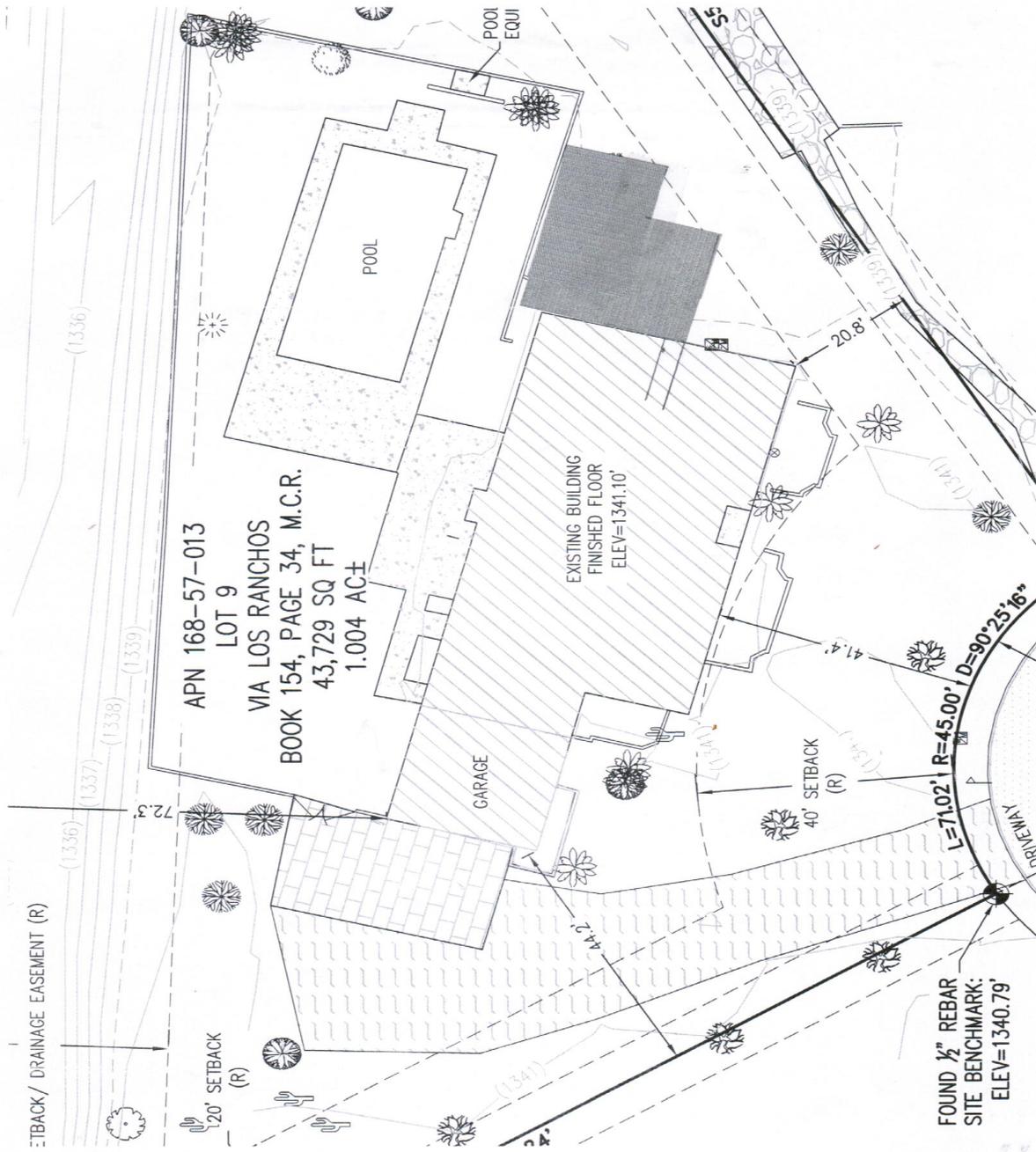
This figure shows the bedroom addition rotated and pushed back. It still encroaches into the setback and is much less functional with longer internal hallways and less useable space. It would also require removal of both mature pine trees in this area.

Figure 12, Bedroom addition alternate location 3



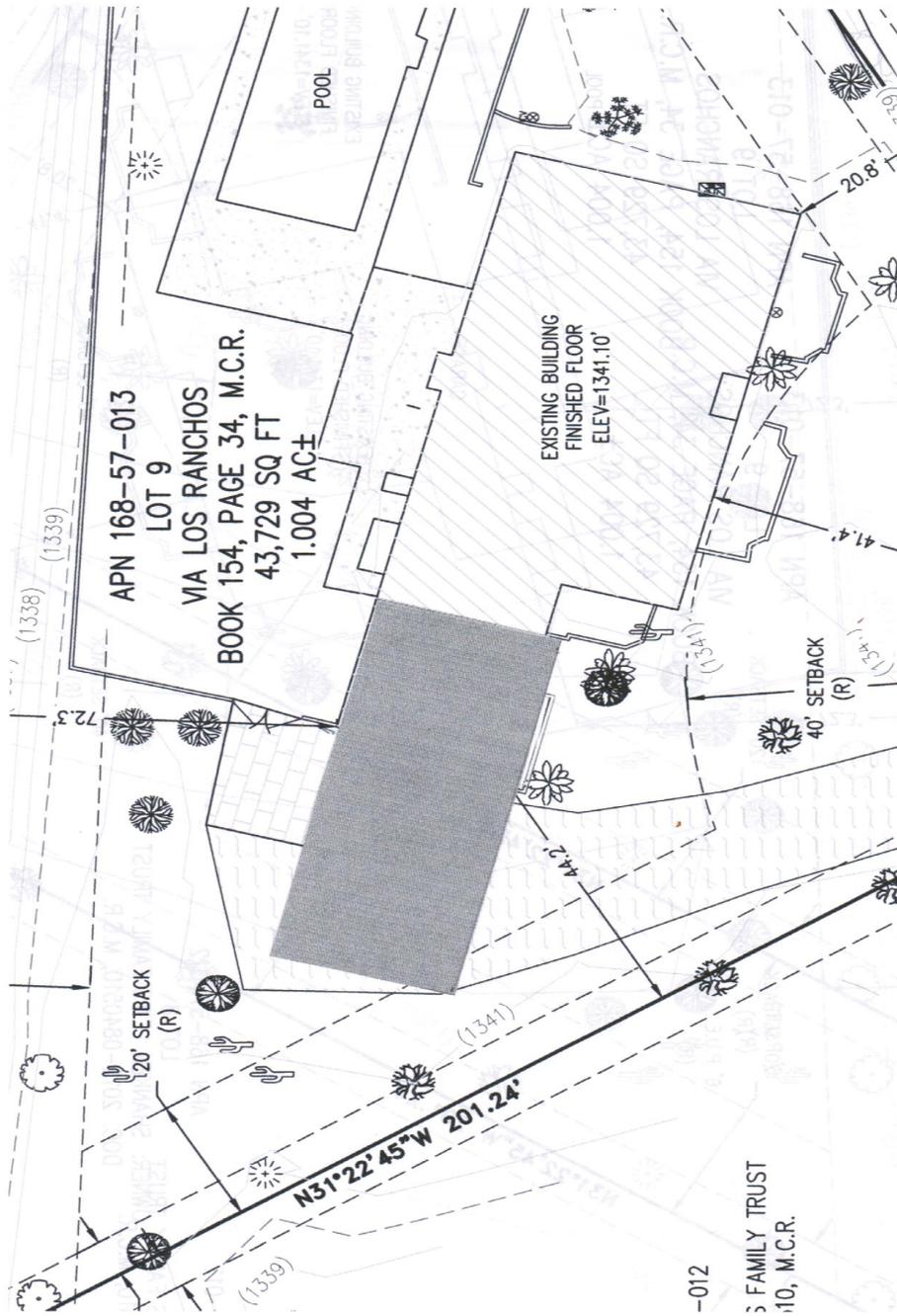
This figure shows the bedroom stepped back (with the same sq. ft.). It still encroaches into the setback and would require removal of both mature pine trees in this area.

Figure 13, Bedroom addition alternate location 4



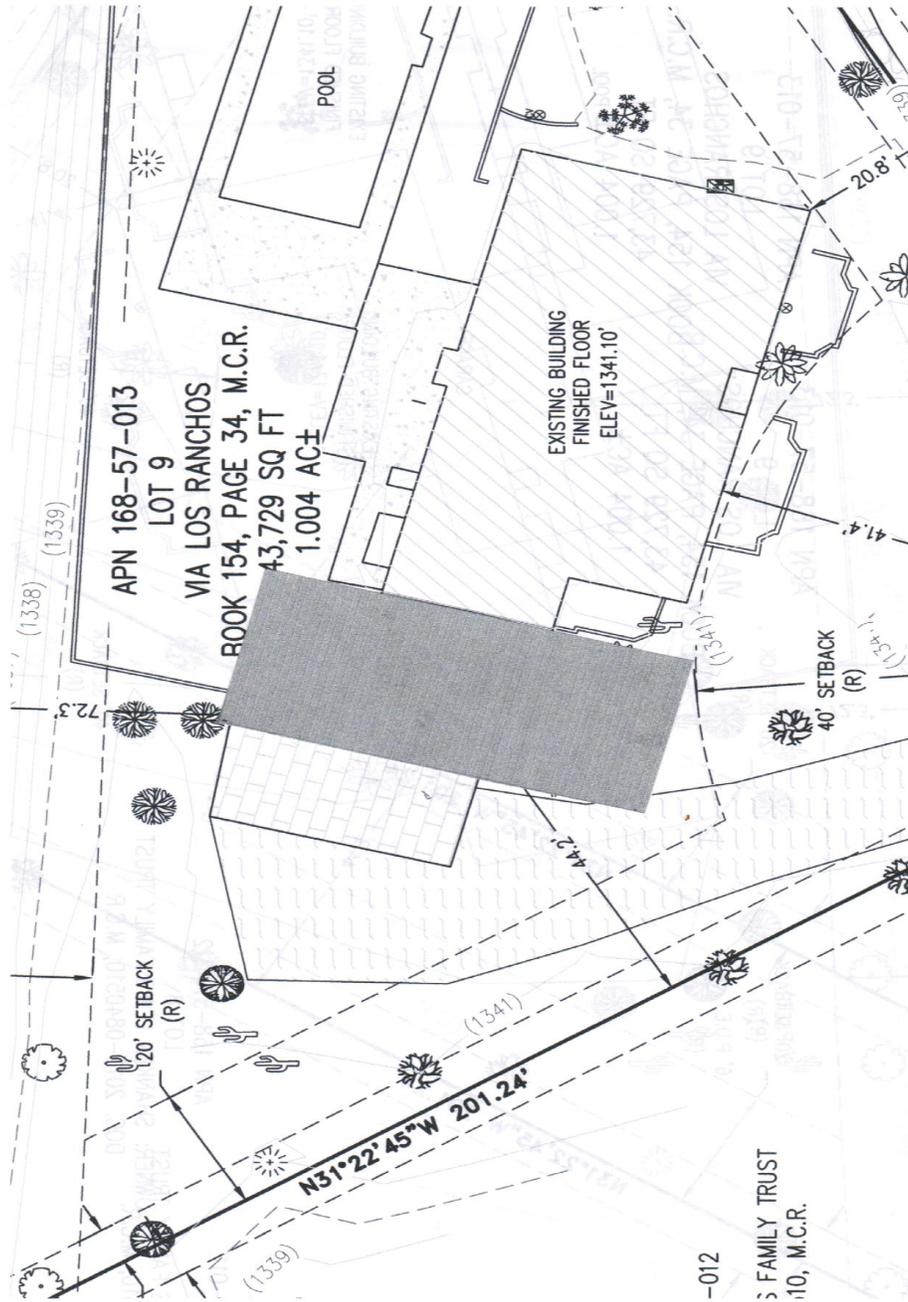
This figure shows the bedroom stepped back and moved towards the pool. It still has a minor setback encroachment, would require removal of both mature pine trees, blocks the existing master bathroom east window, and does not align with the existing hallway at all.

Figure 14, Bedroom addition alternate location 5



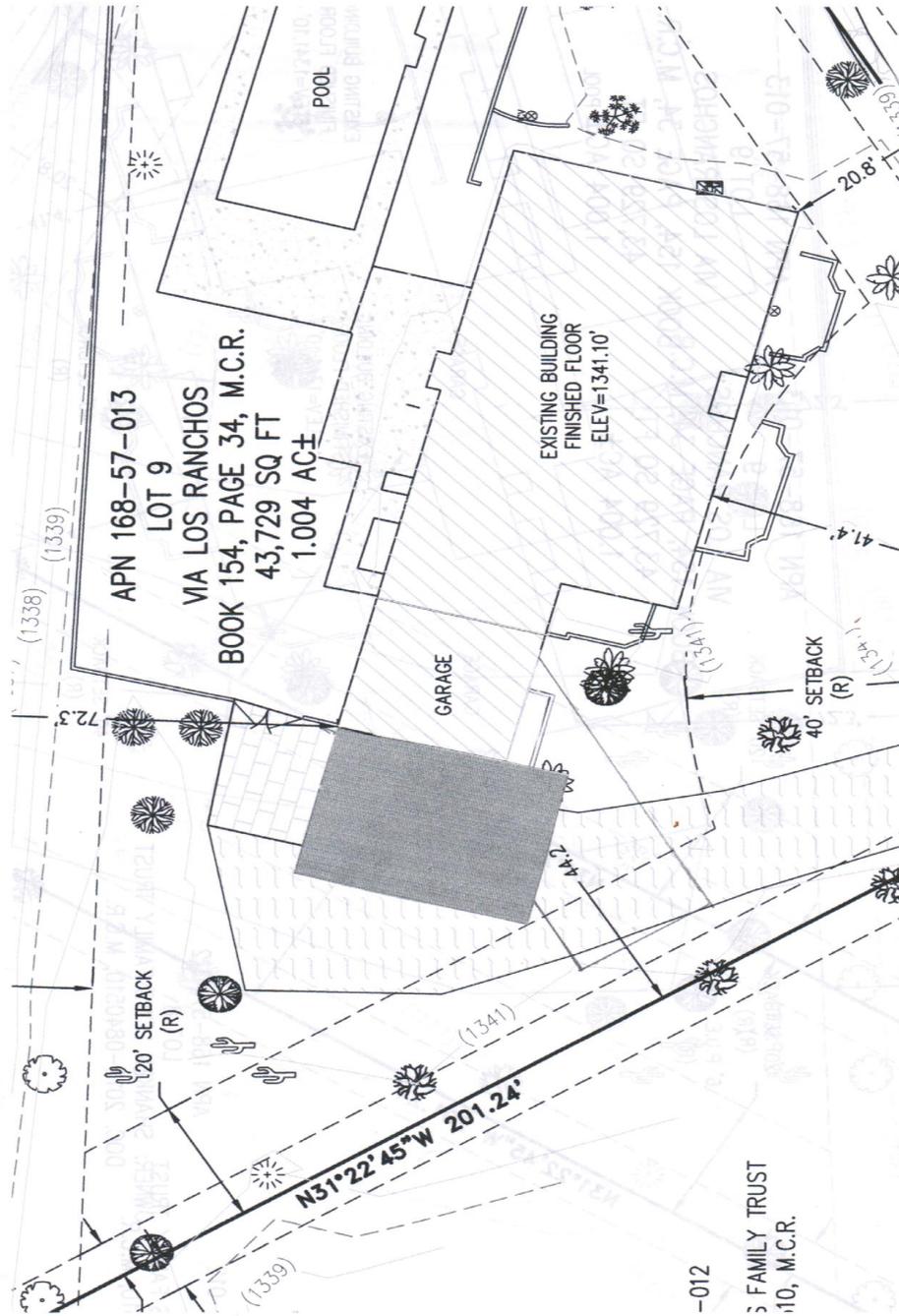
This figure shows a front-access garage of the equivalent size. It still has a minor encroachment into the side setback. It presents an expansive view of garage doors to the street, with a very wide driveway and less room for street-visible landscaping. It is also more susceptible to the garage flooding.

Figure 15, Garage addition alternate location 1



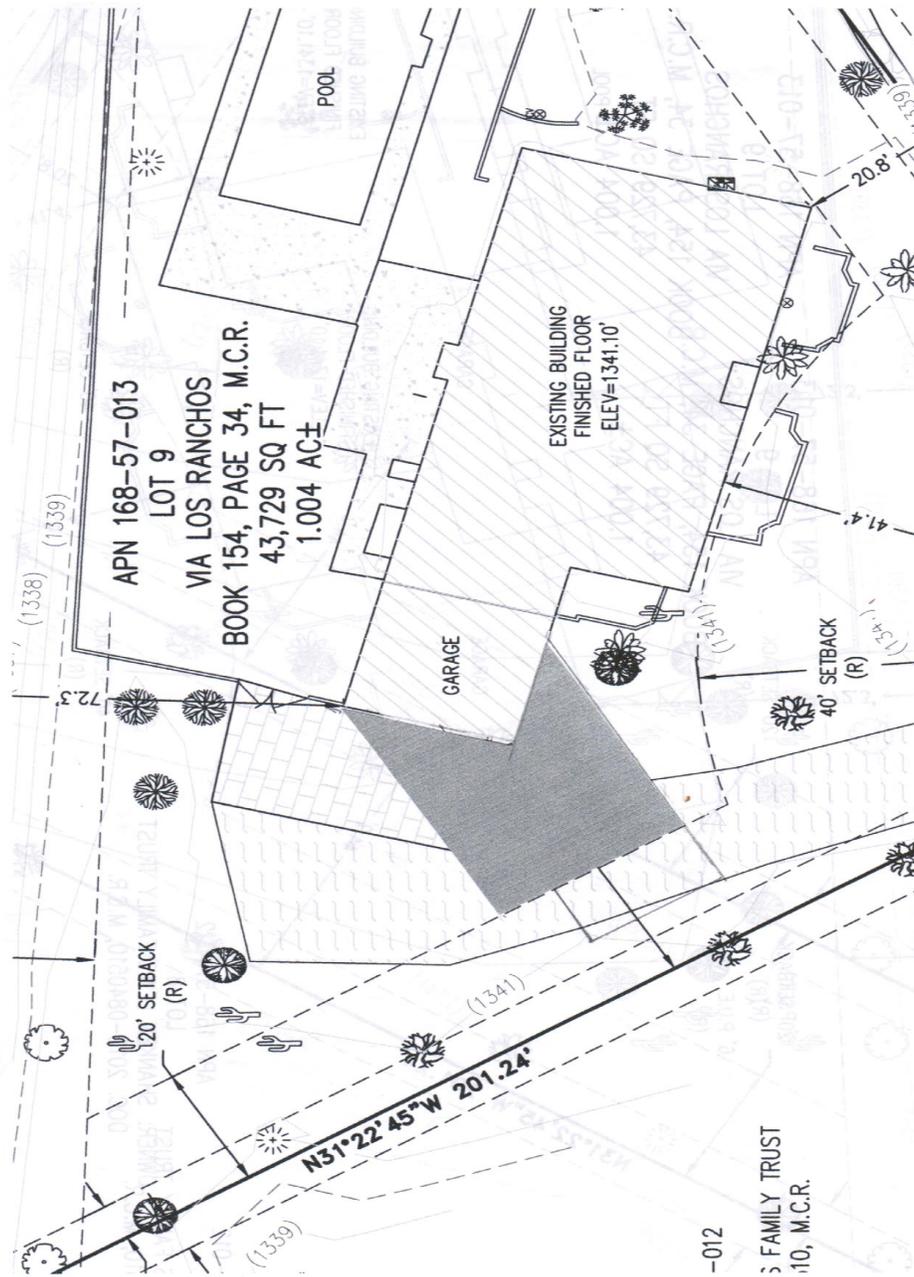
This figure shows a side-access garage of the equivalent size. It removes front yard street-visible landscaping extending the garage all the way to the front setback and makes access to the backyard more difficult. It would require removal of one mature Eucalyptus tree

Figure 16, Garage addition alternate location 2



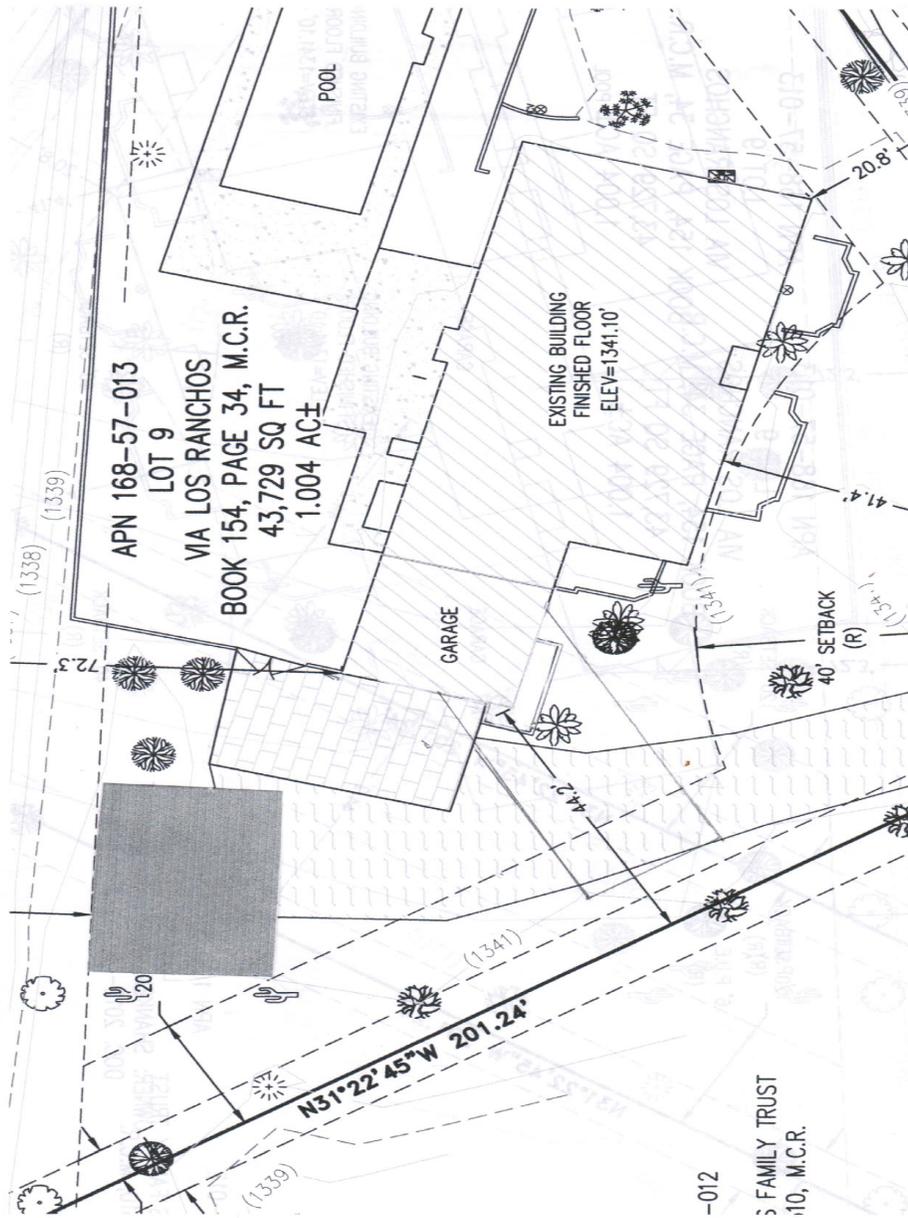
This figure shows a new side-access garage of the equivalent size. There is no setback encroachment, however it allows unrestricted access parking for only three vehicles without adding front-facing garage doors to the existing garage.

Figure 17, Garage addition alternate location 3



This figure shows the proposed addition still deeper and narrower to completely remove the setback encroachment. It would again allow only 4 vehicle bays instead of 5 and would provide less room to make the U-turn into the garage.

Figure 19, Garage addition alternate location 5



This figure shows a detached garage. While it would provide an additional 3 garage bays to the existing 2 and could fit within all setbacks, it is less desirable since it is not attached to the main house. In addition, instead of being built primarily on the existing driveway, it would be mostly built on one of landscaped areas of the lot - again, the amount of landscaping we have is quite limited due to the large portion of the lot taken by the wash.

Figure 20, Garage addition alternate location 6



Image of the view through the east-facing window of the existing master bathroom that would be blocked if the addition were pushed north towards the pool. This is one of two windows in the bathroom and provides a lot of natural lights. If blocked, the remaining window would be the north window.

Figure 21, Existing master bath view out east window

Mike,

Chris Martinez found his original email (see attached).

It appears that the sport court would be allowed under the current drainage easement language on the plat so long that it does not impede any storm water flows (see below). As such, the sport court would need to be on the upper bank (existing flat area) as to not to encroach into the wash bank area since it cannot handle the 100 year storm event.

The Flood Control District's Middle Indian Bend Wash Study for your area (see below) shows that the 100 yr storm event overtops the Cherokee Wash and inundates your property. If you want to move forward with the sport court, a drainage report and grading plans will be required, 100% on lot retention will be required for any new impervious surfaces as well as a drainage easement & maintenance agreement and a storm drainage facilities agreement. The drainage report and grading plan would need to show that no storm water flows are affected by the sport court. Fencing would not be allowed for the sport court within the easement area as it will obstruct flows, especially if debris gets caught on it.

Paul Mood

Town Engineer

Figure 22, Email from Town Engineer Paul Mood (3/17/21) stating conditions for sports court in drainage easement.

