

## DEVELOPMENT REVIEW APPLICATION

| STAFF CONTACT         |            | For Office Use Only   |           | PRE-APPLICATION NO. |
|-----------------------|------------|-----------------------|-----------|---------------------|
| Chris Myers           |            | PROJECT NO(S)         | VAR-24-18 | PA-24-18            |
| NON-REFUNDABLE FEE(S) | \$3,450.00 | REFUNDABLE DEPOSIT(S) | 0         | TOTAL               |
|                       |            |                       |           | \$3,450.00          |

**Type of Review** (Please check all that apply):

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Annexation (ANX)               | <input type="checkbox"/> Final Plat (FP) <i>Related File#</i>   | <input type="checkbox"/> Subdivision (SUB)                               |
| <input type="checkbox"/> Appeal (AP)                    | <input type="checkbox"/> Flood Management Area (FMA)            | <input type="checkbox"/> Temporary Uses (MISC)                           |
| <input type="checkbox"/> CDC Amendment (CDC)            | <input type="checkbox"/> Historic Review (HDR)                  | <input type="checkbox"/> Time Extension (EXT)                            |
| <input type="checkbox"/> Code Interpretation (MISC)     | <input type="checkbox"/> Lot Line Adjustment (LLA)              | <input type="checkbox"/> Right of Way Vacation (VAC)                     |
| <input type="checkbox"/> Conditional Use (CUP)          | <input type="checkbox"/> Minor Partition (MIP)                  | <input checked="" type="checkbox"/> Variance (VAR)                       |
| <input type="checkbox"/> Design Review (DR)             | <input type="checkbox"/> Modification of Approval (MOD)         | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Tree Easement Vacation (MISC)  | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP)    |
| <input type="checkbox"/> Expediated Land Division (ELD) | <input type="checkbox"/> Planned Unit Development (PUD)         | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG)      |
| <input type="checkbox"/> Extension of Approval (EXT)    | <input type="checkbox"/> Street Vacation                        | <input type="checkbox"/> Zone Change (ZC)                                |

Pre-Application, Home Occupation, Sidewalk Use, Addressing, and Sign applications require different forms, available on the website.

|  |                              |
|--|------------------------------|
| <b>Site Location/Address:</b><br>1490 Skye Pkwy West Linn OR 97068 | Assessor's Map No.: 00302924 |
|  | Tax Lot(s): 21E14CCO11       |
|  | Total Land Area: .23 ACRES   |

**Brief Description of Proposal:**

Application for a Class II Variance to exceed the 500-square-foot limit for an accessory structure located 3 feet from the rear property line.

|   |  |
|---|--|
| <b>Applicant Name*:</b> Clement Walsh<br>Address: 8215 SW Tualatin-Sherwood Rd #200<br>City State Zip: Tualatin OR 97062  | Phone: 503 898 0130<br>Email: clement@clementwalsh.com |
| <b>Owner Name (required):</b> Megan and Brandon Kemp<br>Address: 1490 Skye Pkwy<br>City State Zip: West Linn, OR 97068    | Phone: 503 688 4091<br>Email: meg@provprops.com        |
| <b>Consultant Name:</b> Clement Walsh<br>Address: 8215 SW Tualatin-Sherwood Rd #200<br>City State Zip: Tualatin, OR 97062 | Phone: 503 898 0130<br>Email: clement@clementwalsh.com |

1. Application fees are non-refundable (excluding deposit). Applications with deposits will be billed monthly for time and materials above the initial deposit. **\*The applicant is financially responsible for all permit costs.**
2. The owner/applicant or their representative should attend all public hearings related to the propose land use.
3. A decision may be reversed on appeal. The decision will become effective once the appeal period has expired.
4. Submit this form, application narrative, and all supporting documents as a single PDF through the Submit a Land Use Application web page: <https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner authorizes the application and grants city staff the **right of entry** onto the property to review the application. Applications with deposits will be billed monthly for time and materials incurred above the initial deposit. The applicant agrees to pay additional billable charges.

*Clement Walsh*  
Applicant's signature

10/10/2024  
Date

*Meg Kemp & Brandon Kemp*  
Owner's signature (required)

Date 10-15-24



City of West Linn  
Planning Department  
22500 Salamo Rd. #900  
West Linn, OR 97068

October 10, 2024

Kemp Residence – Proposed Class II Variance  
Project Narrative: Class II Variance for Swimming Pool at 1490 Skye Parkway  
Owners: Megan and Brandon Kemp  
Property Address: 1490 Skye Parkway, West Linn, OR

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The owners propose the installation of a 741-square-foot inground swimming pool in the rear yard of 1490 Skye Parkway. Due to the constraints of the site, they are requesting a Class II Variance to exceed the 500-square-foot limit for an accessory structure located 3 feet from the rear property line.

The applicants are seeking to install a swimming pool that exceeds the typical 500-square-foot limitation associated with standard permits. The primary motivation for this request is the well-being of their four children, two of whom have ADHD and benefit from water therapy. As a family that prefers non-medication approaches, they seek alternative ways to support their children. Swimming has proven to be an effective treatment that helps improve cognitive skills, behavior, academic performance, and mental health for kids with ADHD. The applicant is applying for a Class II permit because the proposed pool's size is essential for allowing their children enough space to float and enjoy the water comfortably.

The angled property line at the northwest corner limits the available space for pool placement. The property's sloping terrain and the proximity of a large 40" DBH Douglas Fir tree make complying with the setback difficult. Complying with the 20' setback would require significant additional soil excavation, increasing costs and potentially harming the site's natural features, including the large tree, which the applicants seek to preserve.

The in-ground design of the pool also minimizes visual impact on neighboring properties, as it will be flush with the ground and less intrusive compared to an above-ground structure. Also, there is existing fencing on the property that shields, to an extent, the swimming pool from the adjoining property owners view.



## SUMMARY OF SUBMITTED MATERIALS

**The land use application consists of the following documentation:**

- Proposed Class II Variance Narrative
- Tualatin Valley Fire & Rescue Service Provider Email Correspondence
- Site Plan, Sheet S100
- Existing Conditions Plan, Sheet E100
- Landscape Plan, Sheet L100

**SUBJECT: Project No.: PA-24-18: Application for a Class II Variance to exceed the 500-square-foot limit for an accessory structure located 3 feet from the rear property line.**

We have performed a review of the City of West Linn variance requirements, and the following is our formal application for a Class II Variance for and on behalf of Megan and Brandon Kemp.

### *WEST LINN COMMUNITY DEVELOPMENT CODE*

#### *CHAPTER 11: RESIDENTIAL, R-10*

##### *11.030 Permitted Uses*

*The following are uses permitted outright in this zoning district:*

- 1. Single-family attached or detached residential unit.*

**Applicant Response: The existing single-family detached home is a permitted use in this zone.**

#### *CHAPTER 34: ACCESSORY STRUCTURES, ACCESSORY DWELLING UNITS, AND ACCESSORY USES*

##### *34.060 SETBACK PROVISIONS FOR ACCESSORY STRUCTURES (NON-DWELLING)*

*A. Accessory structures shall comply with all requirements for the principal use except as provided in CDC [34.040](#) and where specifically modified by this code as follows.*

*B. A side yard or rear yard requirement may be reduced to three feet for an accessory structure except for a side or rear yard abutting a street, with the exception of alleys platted and dedicated prior to September 30, 1984, as defined in this code; provided, that:*

- 3. The structure does not exceed an area of 500 square feet; and*
- 4. The structure does not violate any existing utility easements*

**Applicant Response: We request approval for a Class II Variance to allow our accessory structure to exceed the 500-square-foot limit, while maintaining a 3-foot distance from the rear property line.**

## CHAPTER 75: VARIANCES AND SPECIAL WAIVERS

### 75.020 CLASSIFICATION OF VARIANCES

*B. Class II Variance. Class II variances may be utilized when strict application of code requirements would be inconsistent with the general purpose of the CDC and would create a burden upon a property owner with no corresponding public benefit. A Class II variance will involve a significant change from the code requirements and may create adverse impacts on adjacent property or occupants. It includes any variance that is not classified as a Class I variance or special waiver.*

*1. Class II Variance Approval Criteria. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared.*

*a. The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:*

*1) Whether the development is similar in size, intensity and type to developments on other properties in the City that have the same zoning designation.*

**Applicant Response:** Our proposed accessory structure is a swimming pool that is smaller than the standard size of 20x40'. This smaller design, which measures 38'x18', reflects our intention to complement the existing backyard and preserve the mature tree on the property.

*2) Physical characteristics of the property such as lot size or shape, topography, or the existence of natural resources.*

**Applicant Response:** The request for a variance is based on several unique physical characteristics of the property, which makes compliance with the 20-foot rear setback requirement impractical to have a reasonable sized swimming pool off the house:

- **Significant Tree Preservation:** The property contains a large 40" DBH Douglas fir tree, which would need to be removed if the pool were to be constructed without a variance.
- **Topographical Challenges:** Adhering to the current setback would require substantial soil excavation due to the site's topography. Lowering the grade in this area would significantly increase

construction costs and potentially cause further disruption to the property.

- **Irregular Lot Shape:** The angled property line at the northwest corner of the lot restricts the available buildable space. This irregularity makes it difficult to situate the pool while maintaining both the design and functional requirements of the pool area.

3) *The potential for economic development of the subject property.*

**Applicant Response: The potential for economic development on this property is not a factor.**

- b. The variance will not result in violation(s) of any other code standard, and the variance will meet the purposes of the regulation being modified.*

**Applicant Response: The variance will not result in the violation of any other code standards. (The five-foot easement on the rear property line will be maintained.)**

- c. The need for the variance was not created by the applicant and/or owner requesting the variance.*

**Applicant Response: The need for this variance arises from the existing conditions of the property, specifically the irregular lot shape, the presence of a 40" DBH Douglas fir tree, and the natural topography, all of which were present prior to the applicant's request. The applicant did not create these physical constraints.**

- d. If more than one variance is requested, the cumulative effect of the variances results in a project that is consistent with the overall purpose of the zone.*

**Applicant Response: This request is for one variance only. No special waivers, other than what is included within, are proposed.**

**Additional information that is relevant to this variance request;**

**As an in-ground pool, its installation within the setback area is less intrusive and visible compared to above-ground options. This placement minimizes sight disturbance to neighbors, as the pool's level is flush with the ground and less conspicuous from neighboring properties.**



**Also, there is existing fencing on the property that shields, to an extent, the swimming pool from the adjoining property owner's view.**

**The pre-application conference for this Class II variance application has been completed on date October the 3<sup>rd</sup> at 9 a.m.**

**From:** Arn, Jason S. Jason.Arn@tvfr.com  
**Subject:** New Pool for Megan and Brandon Kemp- 1490 Skye Pkwy  
**Date:** October 22, 2024 at 1:59 PM  
**To:** clement@clementwalsh.com  
**Cc:** McGladrey, Alexander M. alexander.mcgladrey@tvfr.com

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Hi,

We have reviewed your permit application, and it does not meet our permitting requirements. Tualatin Valley Fire & Rescue has no conditions to apply to this project.

Thank you for reaching out.

**Jason Arn | Deputy Fire Marshal CFI**  
Tualatin Valley Fire & Rescue  
Direct: 503-259-1510  
[www.tvfr.com](http://www.tvfr.com)



Revisions:

Project Information:

Project name:  
**KEMP RESIDENCE**  
Project address:  
1490 SKYE PKWY  
WEST LINN, OR 97068

Issue Information:



CLEMENT WALSH  
LANDSCAPE ARCHITECT, INC.  
8215 SW Tualatin-Sherwood Rd. Suite #200  
Tualatin, OR 97062  
503.898.0130 ClementWalsh.com

Project no.: 2024-027  
Drawn by: Danielle Street  
Checked by: Clement Walsh  
Sheet size: 24" x 36"  
Scale: Noted  
Plot date: October 11, 2024  
Sheet no.: 1 of 1

SITE PLAN

Drawing:

S100

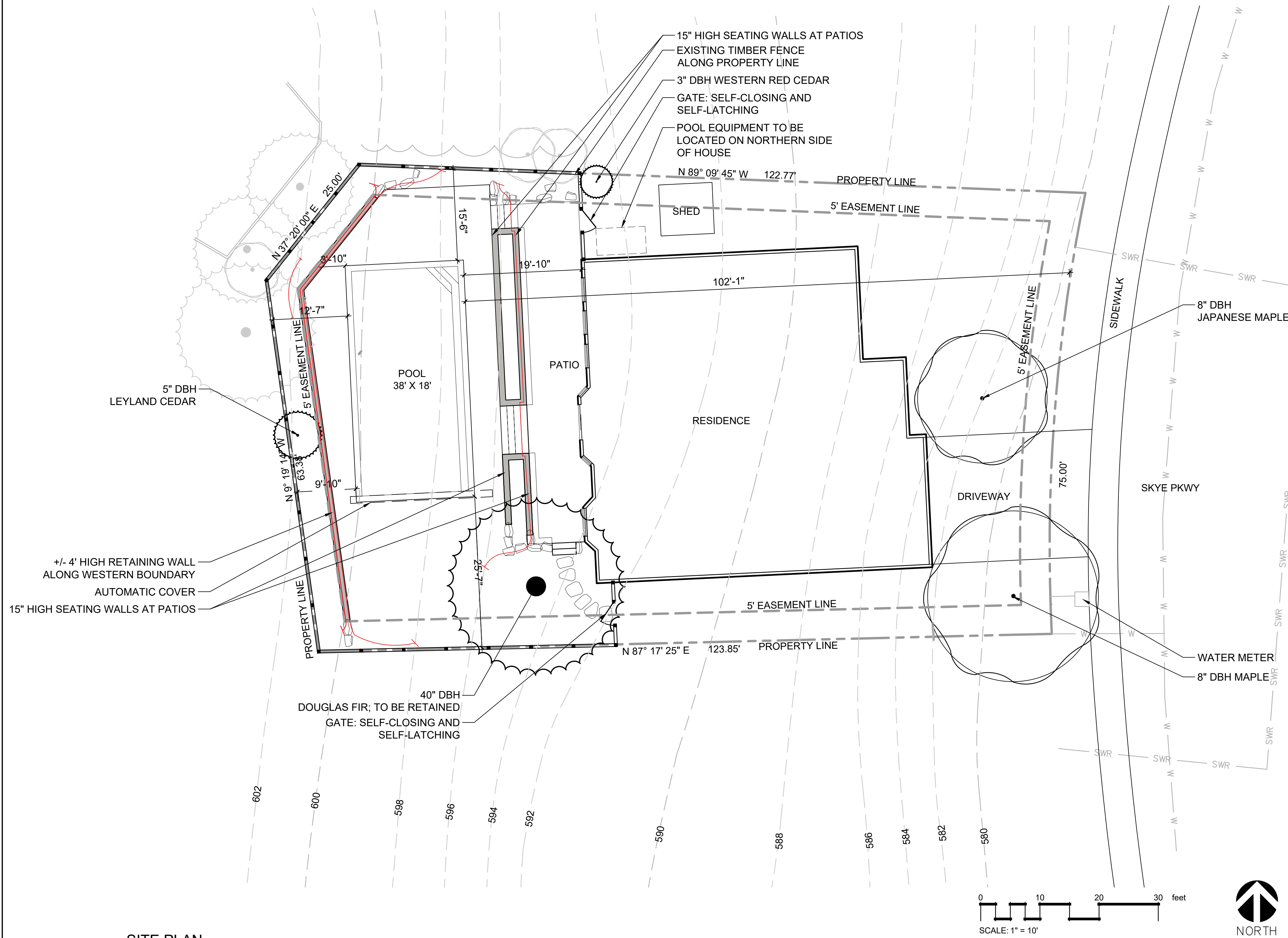
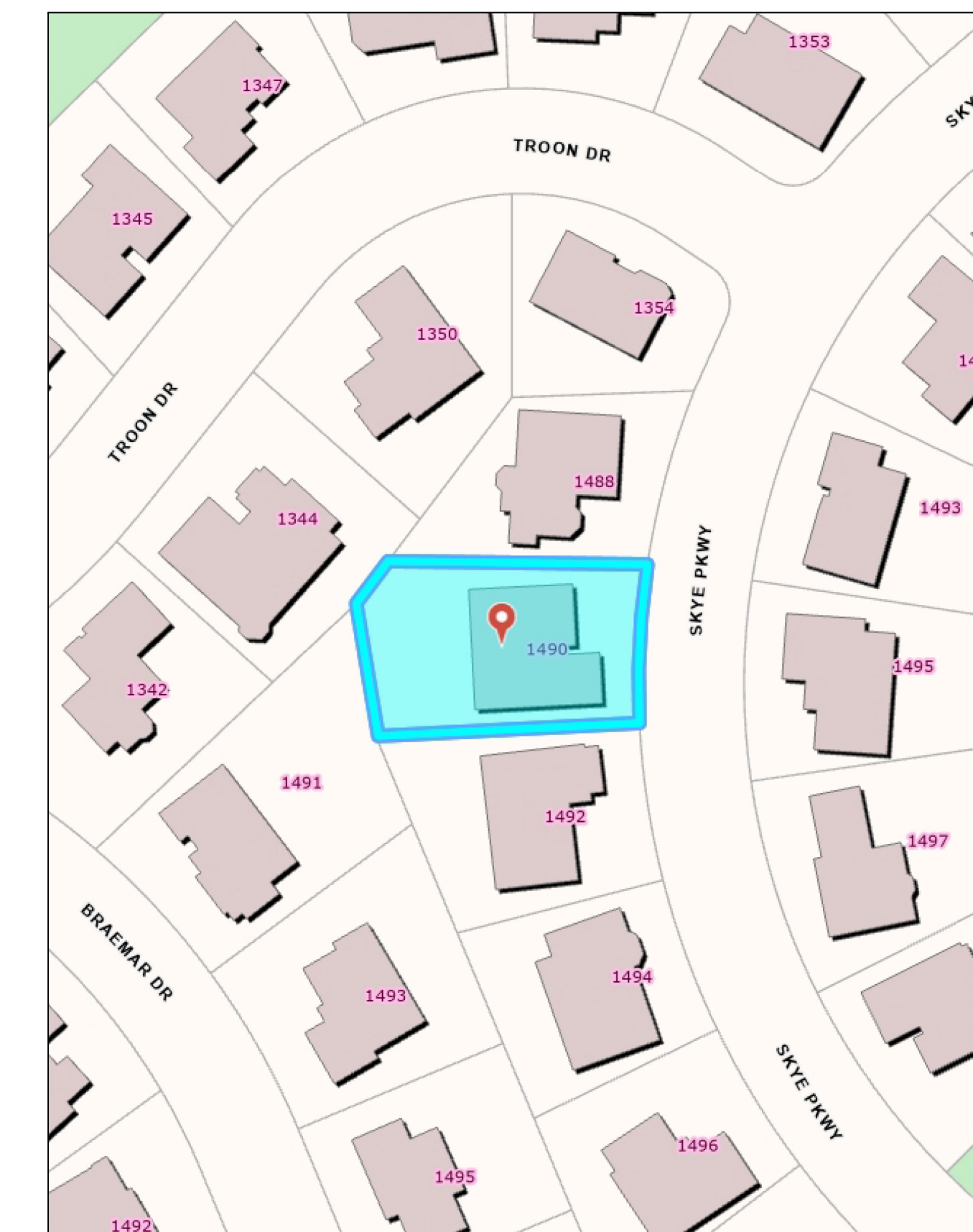
LEGEND

|  |                          |
|--|--------------------------|
|  | PROPERTY LINE            |
|  | 5' EASEMENT LINE         |
|  | WATER LINE               |
|  | SEWER LINE               |
|  | EXISTING 2' CONTOURS     |
|  | PROPOSED 2' CONTOURS     |
|  | PROPOSED RETAINING WALLS |

POOL GENERAL NOTES:

- SWIMMING POOL HAS AN AUTOMATIC COVER THAT COMPLIES WITH ASTM F1346-91 (LATEST EDITION) STANDARD PERFORMANCE SPECIFICATIONS FOR SAFETY COVERS AND LABELING REQUIREMENTS FOR ALL COVERS FOR SWIMMING POOLS, SPAS AND HOT TUBS.
- POOL BARRIER SHALL CONFORM TO OREGON RESIDENTIAL SPECIALTY CODE (LATEST EDITION) APPENDIX G SECTION AG105 TITLES BARRIER REQUIREMENTS.
- GATES TO BE SELF-CLOSING AND SELF-LATCHING.

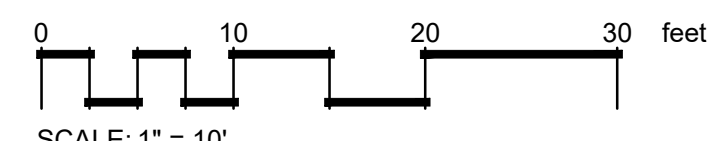
VICINITY MAP



SITE PLAN

SITE INFORMATION:

SITE ADDRESS: 1490 SKYE PARKWAY  
LEGAL DESCRIPTION: SECTION 14, TOWNSHIP 2S, RANGE 1E, TAX LOT 01100  
TAX LOT NO.: 21E14CC01100  
SITE AREA: ~10,159 SQUARE FEET  
NEIGHBORHOOD: SKYLINE RIDGE NEIGHBORHOOD ASSOCIATION  
COMP. PLAN: LOW-DENSITY RESIDENTIAL  
ZONING: R-10, RESIDENTIAL  
ZONING OVERLAYS: NO ENVIRONMENTAL ZONING OVERLAYS





Revisions:

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Project name:  
**KEMP RESIDENCE**

Project address:  
1490 SKYE PKWY  
WEST LINN, OR 97068

Issue Information:

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LANDSCAPE ARCHITECT, INC.  
8215 SW Tualatin-Sherwood Rd. Suite  
#200  
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503.898.0130 ClementWalsh.com

Project no.: 2024-027  
Drawn by: Danielle Street  
Checked by: Clement Walsh  
Sheet size: 24" x 36"  
Scale: Noted  
Plot date: October 3, 2024  
Sheet no.: 1 of 1

Sheet title:  
**EXISTING  
CONDITIONS  
PLAN**

Drawing:

**E100**

**DEMOLITION GENERAL NOTES:**

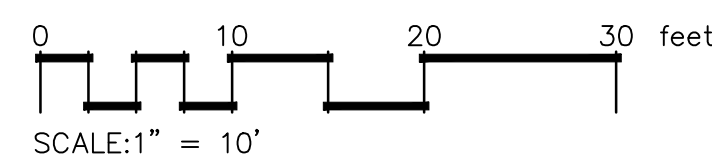
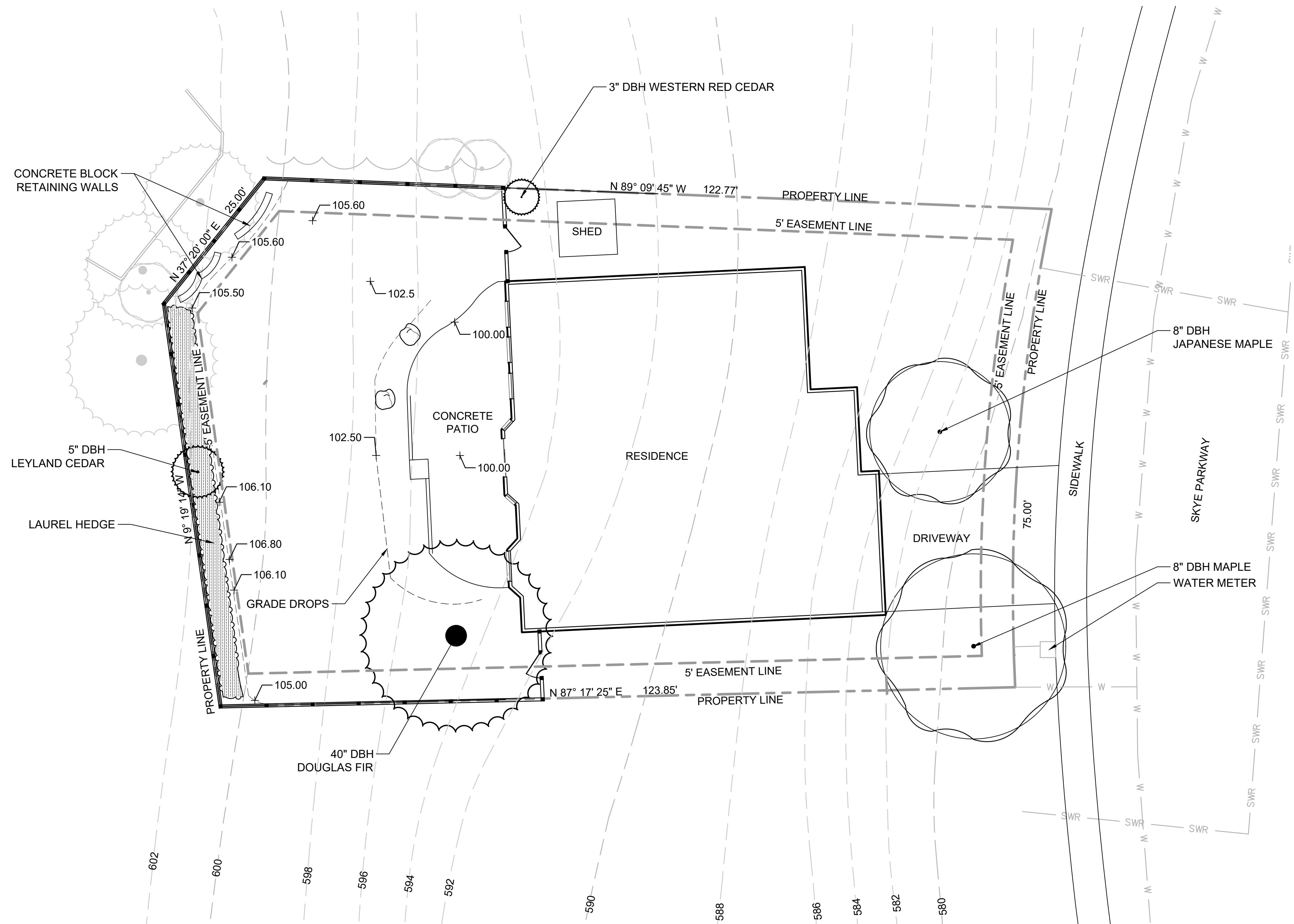
1. CONTRACTOR SHALL PROTECT AND MAINTAIN UNINTERRUPTED UTILITY SERVICE TO NEIGHBORING HOMES DURING DEMOLITION AND CONSTRUCTION.
2. SURFACE AND BELOW GRADE IMPROVEMENTS INTENDED TO REMAIN INTACT SHALL BE REPLACED AT CONTRACTOR'S EXPENSE IF DAMAGED DURING DEMOLITION OR CONSTRUCTION ACTIVITIES.
3. CONTRACTOR SHALL PROVIDE CONSTRUCTION FENCING, SIGNAGE, AND BARRIERS AS REQUIRED TO PREVENT UNAUTHORIZED ACCESS INTO DEMOLITION AREA.

**EXISTING CONDITIONS GENERAL NOTES:**

1. EXISTING CONDITIONS PLAN IS A SCHEMATIC/CONCEPTUAL DRAWING. PROPERTY LINES, HOUSE LAYOUT, STRUCTURE, TREES, AND LANDSCAPE LAYOUT ARE REPRESENTED ON THIS PLAN AND ARE CONCEPTUAL IN NATURE.
2. LOCATION OF EXISTING TREES SHALL BE VERIFIED IN THE FIELD BY THE CONTRACTOR PRIOR TO COMMENCEMENT OF WORK. PROTECT & KEEP EXISTING TREES AND COORDINATE WITH ARBORIST FOR PRUNING IF NECESSARY.

**LEGEND**

- 5' EASEMENT LINE
- PROPERTY LINE
- SWR SEWER LINE
- W WATER LINE
- - - - - EXISTING 2' CONTOURS



**EXISTING CONDITIONS PLAN**

LOT SIZE: 10,159 SF



Revisions:

Project Information:

**KEMP RESIDENCE**

Project address:  
1490 SKYE PKWY  
WEST LINN, OR 97068

Issue Information:

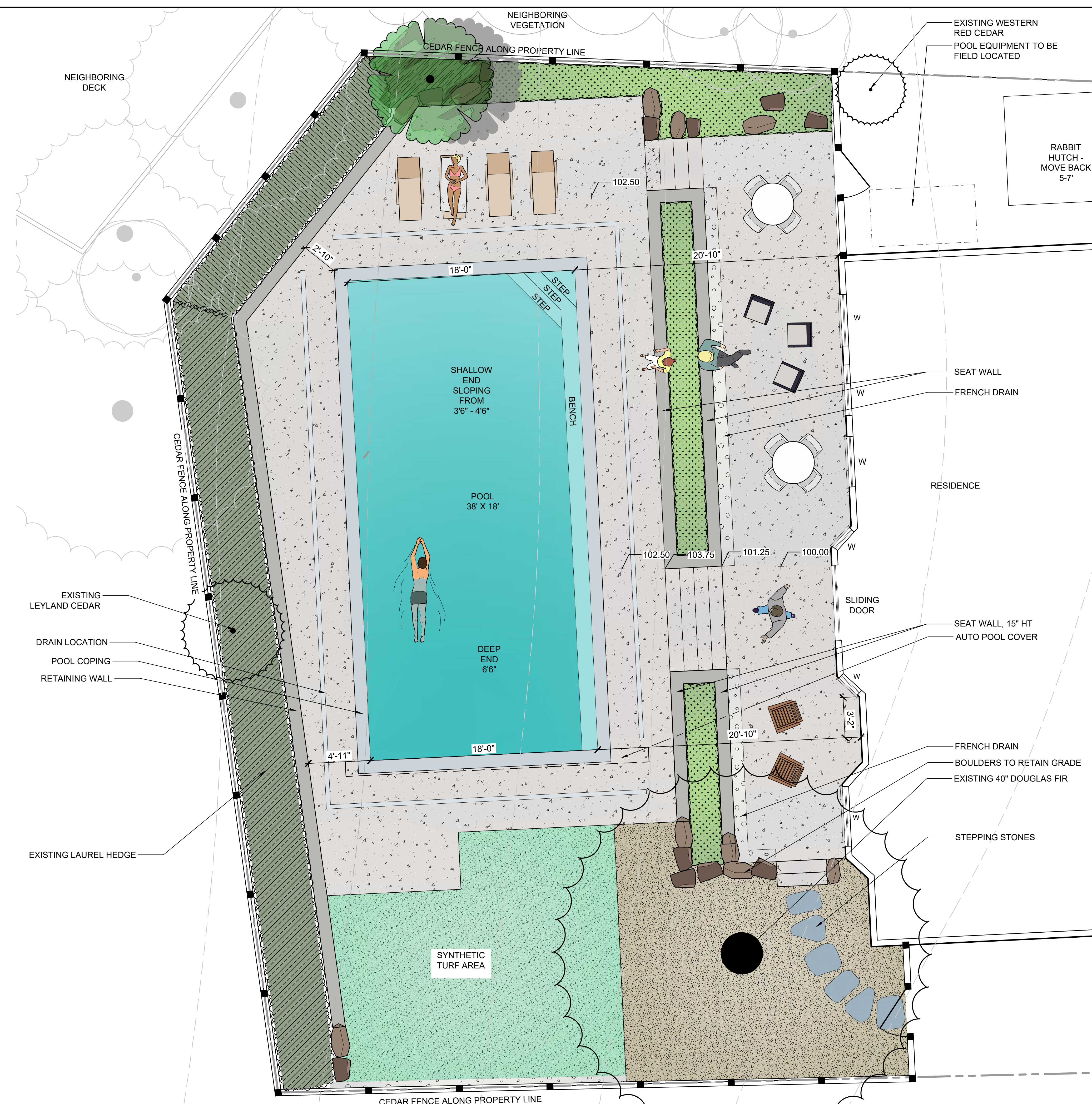
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Sheet no. 1 of 1

LANDSCAPE PLAN

Drawing:

**L100**



**CONCEPT PLANT SCHEDULE**

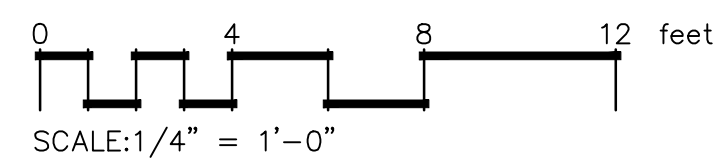
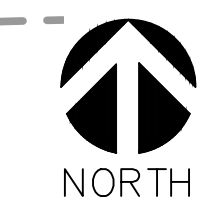
|  |                                      |        |
|--|--------------------------------------|--------|
|  | PROPOSED SMALL SPECIMEN TREE - 10 FT | 1      |
|  | PLANT BED                            | 210 sf |
|  | HEDGE                                | 60 sf  |
|  | GROUND COVER 2                       | 32 sf  |

**REFERENCE NOTES SCHEDULE**

| SYMBOL | DESCRIPTION                          | QTY      |
|--------|--------------------------------------|----------|
|        | Stepping Stones                      | 6        |
|        | Mulch                                | 366 sf   |
|        | Synthetic Turf                       | 419 sf   |
|        | 1.5" - 3" Diameter River Rock        | 59 sf    |
|        | Retaining Wall - Board-form Concrete | 198 lf   |
|        | Concrete - Sand Finish               | 2,356 sf |

**LANDSCAPE PLAN GENERAL NOTES:**

- CONTRACTOR SHALL VERIFY UTILITY LOCATIONS PRIOR TO CONSTRUCTION.
- CONTRACTOR SHALL TAKE NECESSARY PRECAUTIONS TO PROTECT EXISTING SITE IMPROVEMENTS, PAVING, WALLS, AND UNDERGROUND UTILITIES. DAMAGE SHALL BE REPAIRED TO THE OWNER'S SATISFACTION AT NO ADDITIONAL COST.
- CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE:
  - IF ANY CONFLICTS OR DISCREPANCIES ARE OBSERVED BETWEEN THE LANDSCAPE DRAWINGS, EXISTING CONDITIONS, AND/OR UTILITY LOCATIONS.
  - OF ANY SITE CHANGES THAT MAY BE DAMAGING TO PLANT HEALTH OR CAUSE FUTURE PROBLEMS.
  - IF SPECIFIED MATERIALS OR METHODS ARE NOT CONSISTENT WITH LOCAL CLIMATE AND/OR PRACTICES.
- THE PROPOSED LANDSCAPE IMPROVEMENTS ARE DEPENDENT ON CITY APPROVAL AND PERMITS.



**SCHMATIC LANDSCAPE PLAN**