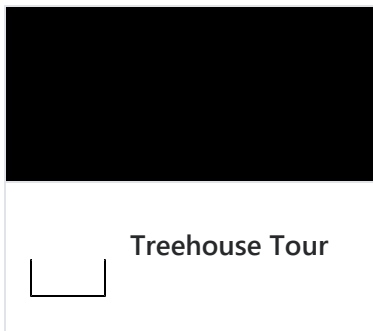


From: [Chris Jordan](#)
To: [Jolie Houston](#); [Andrea Chelemengos](#)
Subject: FW: Letter to the council regarding Treehouse at 714 Arroyo
Date: Thursday, August 20, 2020 3:18:33 PM
Attachments: [Letter to Los Altos City Council - Treehouse.pdf](#)
[Exhibits to Treehouse Letter.zip](#)
[image001.png](#)
[image002.emz](#)
[image003.png](#)

From: Rich Heley <richheley@yahoo.com>
Sent: Thursday, August 20, 2020 11:01 AM
To: Jon Biggs <jbiggs@losaltosca.gov>; City Council <council@losaltosca.gov>
Cc: Katie Heley <cemurphy80@gmail.com>; Harry Price <harry@priceslaw.com>
Subject: Letter to the council regarding Treehouse at 714 Arroyo

Jon Biggs and City Council,
Attached is my letter and exhibits in advance of the City Council Meeting on August 25, addressing the treehouse I built at 714 Arroyo Rd for my boys. You will see in the exhibits the tremendous community support for this treehouse and allowing safe treehouses and play structures in general. I am looking forward to reaching a resolution then. I am not sure if my 8 year old will decide to speak on Tuesday but he asked to film a short 1min video. [Treehouse Tour](#)



sincerely,
Rich Heley

August 17, 2020

City Council
Los Altos City Hall
1 North San Antonio Road
Los Altos, CA 94022

Dear Honorable Mayor Pepper and City Council Members:

We are the Heley Family, Rich, Katie, Hudson and August. We have been Los Altos residents, taxpayers and voters for the last five years. Rich is a mechanical engineer at Facebook, a Springer Cub Scout Leader for Pack 36 and a Bay Area native. Katie, a native New Yorker, has enthusiastically joined the Los Altos community, serving as a Parks and Recreation Commissioner, completing the LEAD program and volunteering with the Assistance League of Los Altos. Hudson Heley, age 8, and August Heley, age 6, attend Springer Elementary School. In advance of the City Council meeting on August 25, 2020, we provide this letter, which details the factual background of our appeal and the reasons the City Council should grant our request.

In summary:

- **The City of Los Altos gave us approval to build our treehouse with no permits under its long-standing policy not to regulate treehouses**
- **The Development Department changed their policy in 2019 after our treehouse was built, requiring treehouses to meet the same codes as an accessory structure**
- **No treehouse could meet the requirements of “accessory structure”**
- **There is a community interest in protecting residents’ ability to build treehouses on their property, especially now when children need safe spaces at home**
- **Our Mountain View neighbor’s privacy is not impeded by our treehouse**
- **Our proposed revisions to the treehouse are a reasonable compromise in light of the circumstances**
- **A compromise should be reached. Requiring removal of our treehouse would be unjust.**

I. **Factual Background**

A. **City Approval of Our Treehouse**

In August 2017, we had the idea to build a treehouse for our two young boys (ages 3 and 6 at the time). Our home had two trees that could support a treehouse, one on the East side of the yard and one on the West. That same month, we spoke with both of our Los Altos neighbors (the Mello family and the Klaassen family) to the East and West of our home. Neither neighbor objected to the build of a treehouse but one preferred that the treehouse be located in the South-West corner of our yard.

Prior to embarking on our treehouse project and in an effort to ensure that our treehouse would be fully compliant with any Los Altos City codes or guidelines, Katie went to the Los Altos Planning Department on August 21, 2017. At that time, Katie spoke with a permit technician (Lorrie Tanguay), at the department counter, who definitively told her that the City does not regulate treehouses, and therefore, no permits were required. *See* Ex. A. Lorrie also informed Katie that the City does not have any height restrictions or other regulations that govern treehouses. *Id.*

Prior to moving forward, and out of an abundance of caution, Katie emailed the Los Altos Planning Department on August 24, 2017 to confirm that the information provided by Lorrie was accurate. *Id.* Katie wrote: “

“My husband and sons are interested in building a tree house in our backyard. I stopped by the planning department earlier this week to inquire about any necessary permits for a treehouse. The lady that I spoke with said that a treehouse would not require a permit as long as it was truly a treehouse, intended for our kids use and play.

Before we move any further with the treehouse plan, I'd like to confirm that there aren't permits or other permission/forms that we would need from your office. Do I have the right? Additionally, is there a heigh [sic] limit on the treehouse and does the day-light plane calculation come into play?

We have already reached out to our neighbors and are hoping to build something that doesn't upset anyone (and that doesn't violate any Los Altos building rules). Thank you for providing clarification on this topic.

Less than four hours later that same day, David Kornfield, the Planning Services Manager – Advance Planning, responded and said “[t]he **City Council’s policy is to not regulate play structures (e.g. tree houses ...)** so long as there are located on residential properties. Therefore, there is no Planning or Building permit necessary and no zoning or building code to apply.” (first emphasis added). *Id.*

After receiving written confirmation from David Kornfield, we met, again, with our neighbors (The Mello Family, The Klaassen Family) in September and October 2017 to discuss any concerns that they might have about our treehouse and we received no objections.

In December 2017, having ascertained that no City permits were required, and with the blessing of our neighbors, we began designing our treehouse. Our design was thoughtful and intentional, ensuring that no windows or openings faced any neighboring property. After measuring and cutting the wood needed for the treehouse, Rich began putting it together on April 15, 2018.

Five months later, on September 7, 2018, after the treehouse was nearly complete, our rear neighbor (Michelle Mann), whose property is in Mountain View, began yelling over our shared fence. This would be our first interaction with this neighbor and her shouting was intended to communicate her displeasure about our treehouse. In an effort to diffuse the situation and to attempt a more neighborly discourse, Rich went to Ms. Mann's house to calmly discuss the matter. No progress was made as Ms. Mann continued to yell at Rich, and later at Katie, prior to her husband joining the conversation and apologizing for her behavior. One day later, unconvinced that a civilized discussion with her neighbors would be effective in finding a resolution, Ms. Mann filed a formal complaint with the City of Los Altos regarding the treehouse on September 8, 2018.

On September 14, 2018, Greg Anderson, a Los Altos Building Inspector, came to our home and issued a Stop Work order. Refusing to discuss why the stop work order was issued, Greg brusquely informed Katie to call Zach Dahl. Moments later, with our young sons watching, two police cars arrived and the officers came to our door to inform Katie that all work on the treehouse must cease. In tears, Katie reached out to Zach to inquire about the heavy handed enforcement approach. Zach informed Katie that Michelle Mann had been incessantly calling his office over the last week to complain about the treehouse. Zach felt the prudent course of action was to shut down the project.

B. We Appeal the Stop Work Order and Apply for a Variance in an Effort to Save Our Treehouse

On September 17, 2018, Rich met with Zach Dahl, the new Planning Services Manager, at City Hall to discuss our treehouse. Rich shared with him the email from Mr. Kornfield stating that no permits were required for treehouses. **Mr. Dahl told him it was "unfortunate" that Katie was given the wrong information but the City would not honor the permission we received from Mr. Kornfield.** He suggested that we apply for a variance through the Design Review Commission ("DRC") and stated that given the circumstances, the DRC would probably grant a variance.

On September 24, 2018, Rich met with Jon Biggs, the Community Development Director, at City Hall. *See* Ex. B (email dated Sept. 24, 2018). He told Rich that if a variance was granted, we would then need to apply for a building permit. *Id.*

On September 25, 2018, Mr. Dahl sent Rich an email which states "Due to its size and height, it is considered an accessory structure that is subject to the requirements prescribed in the

City's Zoning Ordinance (Chapter 14.15). So, a variance is required to allow for it to remain in its current location and configuration." *Id.* This was the first time that the City referred to our treehouse as an "accessory structure."

On November 2, 2018, we submitted our Variance Application to Mr. Dahl with a letter to the DRC and documentation showing the location of the treehouse. Ex. C. During the variance hearing on November 7, 2018, the DRC told us that they did not understand why this project came before them and did not have the ability to approve it. In the Denial Letter emailed to us on November 9, 2018, the DRC stated that they denied our variance request because it was not consistent with the objectives of the Zoning Code set forth in Chapter 14.02, and there were no special circumstances applicable to the property. Ex. D. We did not file an appeal of that decision.

C. We Propose Modifications to the Treehouse

On November 28, 2018, Mr. Dahl emailed Rich to ask for a timeline for removal of the treehouse in light of our non-appeal. Ex. E. Mr. Dahl continued to refer to the treehouse as an "accessory structure." *Id.* In our response later that same day, Rich told Mr. Dahl that we had applied for the variance on his advice and high confidence that the DRC would approve it. *Id.* In that same email, Rich offered to make modifications to the treehouse as a compromise to make clear that the treehouse was a "play structure ... intended for children's play" that does not require a Site Permit or Building Permit, according to the City's guidelines handout for "Accessory Structures and Swimming Pools in Single-Family (R1) Zone Districts." *Id.*

In additional back and forth between Rich, Jon Briggs and Zach Dahl, Mr. Dahl admitted on November 29, 2018 that "the City does not have criteria for treehouses nor any definitions." Ex. E. But claimed that any "play structure" over 6 feet in height would require a Building Permit. *Id.* Given that every swing set we could find online was over 6 feet in height, Rich asked Mr. Dahl to confirm that various popular playsets sold at Costco and on Amazon would need Building Permits to erect. *Id.* Mr. Dahl and Mr. Briggs did not meaningfully respond to those emails but would only tell Rich that we "have a structure that is not a treehouse." *Id.* They refused to tell us why it was not considered a treehouse or what a treehouse would look like, or would be considered. *Id.*

Despite our attempts to obtain clarity on the City's rules surrounding treehouses, we proposed a compromise position on September 18, 2019 that included all modifications we could make to the treehouse itself without tearing it all down, and losing the sizable investment we had already made. *See* Ex. F. In our revised plans, we suggested reducing the size of the treehouse to 120 sq ft of enclosed space, and increasing the setback from the rear property line from 4 feet to 7 feet. *Id.* The City rejected our proposed revisions almost entirely on the basis that the height of the treehouse requires that the setback from the rear yard be 25 feet and the setback from the side yard be 17.5 feet. Ex. G. **We now appeal that decision and ask the City Council to overturn that administrative decision.**

II. Reasons to Grant Our Appeal

A. The City of Los Altos Previously Gave Us Approval to Build Our Treehouse With No Permits

As detailed above, we went to great lengths, asking not one but two city employees to clarify the rules prior to designing our treehouse, to ensure it would be compliant with City guidelines and policies. We did that deliberately to avoid the current situation we are now facing.

We relied on this confirmation from Lorrie Tanguay, a long time Planning Department permit technician, and David Kornfield, a long time Planning Services Manager. Mr. Kornfield stated in writing (with emphasis) that “there is no Planning or Building permit necessary” for treehouses and also stated that “[t]he City Council’s policy is to **not regulate play structures (e.g. tree houses ...)** so long as they are located on residential property.” Ex. A (second emphasis added)

Based on both the verbal approval and the written approval from those two Community Development Department officials, we started designing and investing time, money, and resources into our treehouse.

At no time, did either of those two officials say that a treehouse needed to meet the “accessory structure” guidelines. At no time did either of those two officials say that a treehouse couldn’t have footings, or needed to meet size or height requirements. At no time, did either of those two officials say “treehouses are considered accessory structures.” And at no time, did either of those two officials even indicate that a treehouse could fall within an “accessory structure” if it was built in a certain way. Both individuals adamantly confirmed that no permits were needed for treehouses, no building code applied, and no regulations govern—none. *See* Ex. A.

B. Development Department Changed Their Policy in 2019 After Our Treehouse Was Built

Last week, Mr. Kornfield confirmed that his statement to Katie in his August 24, 2017 email was a true representation of the City’s policy at the time and “was a typical response to periodic queries from the public regarding play structures.” Ex. H. Mr. Kornfield further confirmed that during his 27 years in the Planning Department, the City of Los Altos “had a long-standing policy of not regulating play structures, including treehouses, and not requiring any planning or building permits for play structures, including treehouses.” *Id.* Mr. Kornfield states that “[t]he City’s policy of not regulating play structures was considered intermittently by the Los Altos City Council.” *Id.*

True to David’s words, the Los Altos City Council did consider this very issue in 1999. Larry Tong, then director of planning for the City of Los Altos, noted in an article that “Los Altos code exempts all play structures, no matter what the size.” Ex. I. The treehouse at issue that the City Council considered back then, was remarkably similar to our own—you couldn’t see the treehouse from the street, and the neighbors could only see a glimpse of a wall (no windows). *See id.* The neighbors in that case also tried to define the treehouse as an “accessory structure.” *Id.*

But the City Council considered a change in policy at that time, and decided against it in an effort to avoid “a huge bureaucracy regarding play structures.” *Id.*

It was not until 2019, after our treehouse was built that the Development Department updated their Handout for Accessory Structure Requirements to include a statement that “play structures that exceed 6 feet in height must comply with applicable site standards for an accessory structure.” Ex. J.

Changing City development policy and regulating the construction of new treehouses going forward is one thing. But enforcing a policy that was revised **after** we built our treehouse in reliance on City officials and City policy at the time sets a dangerous precedent that residents of Los Altos cannot rely on the word of their City officials nor the policies that are currently in effect.

C. No Treehouse Could Meet the Requirements of “Accessory Structure”

The City’s denial of our proposal is based solely on the fact that they are viewing our treehouse as an “accessory structure.” Unfortunately, no treehouse could reasonably meet that guidance. By its very definition, a treehouse is a house in a tree. Based on Accessory Structure code, the max height would be 12’ provided it was at least 10’ from rear and side property lines. Working down from the 12’ max height of an accessory structure 1’ of roofing and rafter thickness, 1’ slope to shed water, and a play house or treehouse for an elementary aged child would need to be to at least 5’ clear inside for the child to barely stand in. That consumes 7’ of the 12’ budget. Another 1’ for the flooring and floor joists leaves just 4’ clearance to the ground. That would prevent walking underneath the structure or hanging swings underneath and may as well be level with the ground and not a treehouse. But this requirement would preclude most (if not all) Los Altos residents from building a treehouse since the only trees within most residential properties that are large enough to support a treehouse would be alongside the perimeter of their property, closer to their fence. We are no different.

Our redwood trees that support the treehouse are approximately 13 feet from the rear fence and 12 feet from the East fence. The only other tree on our property that could support a treehouse is less than 1’ foot from our West fence. It is literally impossible to meet the City’s “accessory structure” guidance for a treehouse on our property.

D. Community Interest in Protecting Residents’ Ability to Build Treehouses on Their Property

Before even designing the treehouse we would build, we spoke with the Los Altos neighbors on both sides of our home. It had always been our intention not to cause any drama with our neighbors and to ensure that we were being considerate of them. We never thought to check with our rear neighbors simply because the redwood trees, and additional trees and shrubbery, block any view that they have of anything that we built. This point is illustrated by the fact that Ms. Mann did not seem to notice our treehouse until it was nearly 90% constructed.

The neighbors on our right (the Klaassens) did not object to our building a treehouse but did suggest that we put it in the trees towards the rear of our property. We were happy to do that

to accommodate their request. The neighbors on our left (the Mellos) were very supportive of the treehouse and arguably have the most visible view of it from their yard. They have submitted a letter expressing their strong support that we should be allowed to keep the treehouse in tact. Ex. K.

Other Los Altos residents also support a resident's ability to build a treehouse on their property. We have a signed letter of support from 35 neighbors, 25 Los Altos residents and 10 Mountain View residents. Ex. L. As of the date of this letter, we had 120 total signatures on the online petition to save treehouses and revert to the decades-long policy of not enforcing treehouses in the City of Los Altos, and 25 of those were Los Altos residents and 8 were from Mountain View. Ex. M. Some have commented on that petition as well, stating:

- “Play structures and treehouses foster healthy physical and cognitive development in children and are fun! Much safer than the park in a pandemic!” – Jacqueline Gorelick, Los Altos resident and teacher in Los Altos
- “Tree houses are fun! We need more fun!” – Alice Montgomery, Los Altos resident
- “Children should have fun, adventure & good use of imagination. Treehouses aren't a luxury. They're a necessity!” – Sallie Kassoff
- “The city has been completely unfair with this family. The tree fort should absolutely stay.” – Anne Battle
- “Too much government control over private property” – Nancy Lennartsson
- “The city has been completely unfair with this family. The tree fort should absolutely stay.” – Sally Kassoff
- “to provide children with Play facilities should be automatic, no other options should be considered” – Joseph Handley
- “We need more time outside for children, especially now on our own property !!” – Rita Schumann, Los Altos resident
- “I don't see a good reason to regulate play structures or tree houses. Please reverse this decision. Families need time to provide for their children, not waste time with unnecessary bureaucracy. And children need access to play.” – Pinar Erciyas Bailey, Los Altos resident

The support of our neighbors and other Los Altos residents demonstrates a sizeable community interest in protecting the ability of residents to build treehouses and play structures on their property. At a time when all schools, city playgrounds and community jungle gyms are closed because of COVID, it is essential that children have safe outdoor spaces where they can explore and use their imaginations. Los Altos residents agree. *See* Ex. L and M. And Los Altos residents don't want to see the City over-regulating these structures meant for children. There is

a community interest in protecting residents' ability to build those spaces for children on their own property, and the City Council should hear the voices of their residents.

E. Mountain View Neighbors' Concerns Are Not Warranted

Ms. Mann and Mr. Schmidt live in a home, which shares our rear property line, but which is located in the city of Mountain View, CA. Ms. Mann has aggressively raised her concerns to both Los Altos and Mountain View city employees, yet none of her concerns are valid.

The Mann/Schmidt neighbors state that privacy is their primary concern. Our treehouse has no windows facing their property, and no real view of their property. The redwood trees, which house the treehouse, provide nearly complete screening and substantially block any view of the treehouse to any part of their property. *See* Ex. N. Frankly, we have a much clearer view of their residence from our second floor bedroom windows than from the treehouse. *See* Ex. O. This is also obvious from the fact that you can't see the treehouse from their property. Nor can you see the treehouse from their street. The treehouse is almost entirely covered by the tree itself along our shared portion of the property line.

Their second concern is that the usage of the structure could change from a treehouse into something more invasive. However, the treehouse is a treehouse for our children. It is not big enough to be used for anything beyond a treehouse. The walkable space in the treehouse was sized with children in mind. While adults can fit in the treehouse, they have to duck under the tree as they walk and the enclosed space is no bigger than a closet. The treehouse cannot reasonably be used for anything beyond a treehouse.

Lastly, the Mann/Schmidt neighbors have raised a concern about the space under the treehouse being used for a "store-room, workshop, or barn." While it's inconceivable to understand how something like a "store-room" on the ground could inconvenience a neighbor or impede on their privacy, this concern could be true for anyone ever building anything on their property. Regardless, we will not build anything underneath the treehouse—it has always been and will always be used as a treehouse for our children.

Our neighbor's concerns are simply not valid and they are certainly not sufficient to warrant the unjust outcome of tearing down the entire treehouse that was built on the City's long-standing policy of not regulating treehouses.

III. Remedy

A. Proposed Revisions to Treehouse Build Are A Good Compromise

As a gesture of good faith to both the city and the Mann/Schmidt residence, we have proposed three main revisions to the treehouse that can be accomplished without tearing the entire treehouse down. *See* Ex. F. We propose decreasing the square footage, increasing the setback from the rear fence and planting additional screening trees at the fence line. *Id.*

Our proposed revisions are a compromise and an indication that we are willing to make changes so that we can keep our treehouse. Decreasing the enclosed square footage to 120sq feet will reduce the overall size of the treehouse and make the treehouse exempt from California Building Code. This was one of the key findings in the Development Department's initial determination that our "structure" was not a treehouse (*see* Ex. B – Sept. 25, 2018 email from Mr. Dahl) and thus, reducing the size of the treehouse would eliminate those requirements. Increasing the setback from 4ft to 7ft along the rear fence and planting additional screening trees along the fence will help offset any privacy concerns that our Mountain View neighbors have.

These modifications are reasonable given that we were initially told that there were no requirements at all with which we had to comply. They also are reasonable given that Ms. Mann and Mr. Schmidt waited until the treehouse was nearly complete before they complained, though this may be simply due to the fact that they didn't notice the treehouse until that time. Our proposed modifications also are the only modifications that are actually feasible. At this stage of the construction, anything beyond these modifications would require a total tear down of the treehouse, which would be an unjust outcome for our family.

B. Remedy of Tearing Down Our Treehouse is Unjust and Would Cause Us Damage

If the City of Los Altos wanted to regulate treehouse builds, the Planning Department could draft municipal code, regulations or guidance for treehouses. They cannot tell a resident that they can build a treehouse with no regulations, and then reverse course after that resident has relied on that statement, and spent substantial time and money building that treehouse. The Planning Department is attempting to claim that our treehouse is an "accessory structure" simply as a way to address our Mountain View neighbors' aggressive and frequent complaints, when very plainly, the guidance for "accessory structure" is not meant to cover treehouses.

If the City Council were to deny our appeal and to recommend the removal of our treehouse, we will be injured by the substantial loss of time and money that we have invested in the treehouse, and we reserve all rights to take any legal action needed to save our treehouse. The Los Altos Council and Planning Department have helped many developers find a path forward when their commercial projects violated existing city codes and/or encountered resistance from neighbors. It is our full expectation that the city will work just as hard to find a path forward for our project, a recreational treehouse for our children, which was fully compliant when it was constructed.

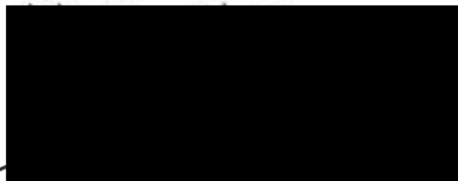
Our two young sons have watched our treehouse project since inception, when it was still a fun family project, to the day when our rear neighbors started shouting at us and the police arrived to stop it from being built. Over the last two years, our sons have stared at our nearly completed treehouse every time they've walked into our backyard. They continue to wonder when, if ever, they will be allowed to use it. We hope the day when they can use it is nearly upon us.

As our next door neighbor, Keith Mello, a teacher at Foothills Community College, stated "[t]he tree house is a wonderful place for their boys and friends to explore the outside and expand their imaginations. As a teacher, I can attest to the fact that way too many kids are plugged in these

days. The joy expressed by the young boys when they stood on that deck for the first time was something I will not soon forget.” Ex. K.

We implore you to carefully consider the facts on this matter and our willingness to compromise and make changes to the treehouse. With that, we ask that you grant our appeal. Thank you for your time and consideration.

Sincerely,



Rich, Katie, Hudson and August Heley
714 Arroyo Road
Los Altos, CA 94024

Exhibit

A

From: **Katie Heley** <cemurphy80@gmail.com>
Date: Thu, Aug 24, 2017 at 5:21 PM
Subject: Re: Tree Houses
To: David Kornfield <DKornfield@losaltosca.gov>

Hello David,

Thank you very much for the clarification and very prompt response! Our boys will be very excited and we do plan to work with our neighbor (only one would be impacted) to come up with something that's not intrusive to their privacy.

Thanks again,
Katie

On Thu, Aug 24, 2017 at 5:13 PM, David Kornfield <DKornfield@losaltosca.gov> wrote:

Dear Mrs. Heley:

The City Council's policy is to not regulate play structures (e.g., tree houses, forts, basketball hoops, jungle gyms, swing sets, et cetera) so long as they are located on residential properties. Therefore, there is no Planning or Building permit necessary and no zoning or building code to apply.

We suggest, however, to be mindful of potential privacy impacts from such structures (i.e., noise, line of sight) and locate them accordingly. It's great that you've already reached out to your neighbors to understand if there are any concerns.

Thanks for checking in with us. We appreciate the opportunity to answer the questions.

David

David Kornfield

Planning Services Manager – Advance Planning

650-947-2632

City of Los Altos

1 North San Antonio Road

Los Altos, CA 94022

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From: Planning Division (FAX)
Sent: Thursday, August 24, 2017 3:43 PM
To: David Kornfield <DKornfield@losaltosca.gov>
Subject: FW: Tree Houses
Importance: High

Please respond. Thanks!

From: Katie Heley [<mailto:cemurphy80@gmail.com>]
Sent: Thursday, August 24, 2017 1:39 PM
To: Planning Service <planning@losaltosca.gov>
Subject: Tree Houses

Hello,

My husband and sons are interested in building a tree house in our backyard. I stopped by the planning department earlier this week to inquire about any necessary permits for a treehouse. The lady that I spoke with said that a treehouse would not require a permit as long as it was truly a treehouse, intended for our kids use and play.

Before we move any further with the treehouse plan, I'd like to confirm that there aren't permits or other permission/forms that we would need from your office. Do I have the right? Additionally, is there a height limit on the treehouse and does the day-light plane calculation come into play?

We have already reached out to our neighbors and are hoping to build something that doesn't upset anyone (and that doesn't violate any Los Altos building rules). Thank you for providing clarification on this topic.

Thank you very much for your insights!

Katie Heley

Ph: 917-655-2967

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Exhibit

B

From: Katie Heley <cemurphy80@gmail.com>
Sent: Friday, October 26, 2018 12:39 PM
To: Zach Dahl <ZDahl@losaltosca.gov>
Cc: Rich Heley <richheley@yahoo.com>
Subject: Re: Treehouse

Hi Zach,

Thanks - I'll pick it up today. Does it need to be hung anywhere in particular?

Thanks,

Katie

On Fri, Oct 26, 2018 at 12:37 PM Zach Dahl <ZDahl@losaltosca.gov> wrote:

Hi Rich and Katie,

The property posting notice for your variance is ready to be picked up at the Planning Counter at City Hall. We are open today until 4pm and on Monday 7:30-12 and 1-5. If you can pick it up and have it posted on your property by end of the day on Monday that would be great. Thank you.

Zachary Dahl, AICP

Planning Services Manager

Community Development Department

City of Los Altos

(650) 947-2633

From: Rich H <richheley@yahoo.com>
Sent: Monday, October 15, 2018 4:14 PM
To: Zach Dahl <ZDahl@losaltosca.gov>
Cc: Katie Heley <cemurphy80@gmail.com>; Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: Treehouse

Thanks Zach for confirming the information I sent is sufficient. To confirm on the fee, the full published accessory structure variance fee is \$595 on your website https://www.losaltosca.gov/sites/default/files/fileattachments/community_development/page/41491/planning_division_fee_schedule_2018-2019_for_website_posting.pdf so doesn't seem to be reduced at all, but thanks for waiving the \$84 notification fee. If \$595 is the right amount we will drop off a check in that amount.

Rich

On Monday, October 15, 2018, 3:52:58 PM PDT, Zach Dahl <ZDahl@losaltosca.gov> wrote:

Hi Rich,

The information you attached with this email is sufficient to process your variance request. However, the application cannot be initiated, and the DRC meeting date set, until the application fee of \$595 has been paid. As noted in me email from Sept. 25th, this fee has been reduced from the full variance fee of \$1,785 and the public notification fee of \$84 has been waived. If you can submit the fee by Wednesday, October 17th at 4pm, we can confirm the 11/7 DRC meeting date.

Thank you.

Zachary Dahl, AICP

Planning Services Manager

Community Development Department

City of Los Altos

(650) 947-2633

From: Rich H <richheley@yahoo.com>

Sent: Monday, October 15, 2018 10:55 AM

To: Zach Dahl <ZDahl@losaltosca.gov>

Cc: Katie Heley <cemurphy80@gmail.com>; Jon Biggs <jbiggs@losaltosca.gov>

Subject: Re: Treehouse

Zach,

Here is the completed Variance application for the Treehouse. Please let me know if you feel anything is missing or should be additionally included to give the DRC all the necessary information to approve. Also, please confirm that we will be on the 11/7 agenda.

thanks

Rich

On Tuesday, October 9, 2018, 11:02:06 AM PDT, Rich H <richheley@yahoo.com> wrote:

Zach,

I am clear on how we got to where we are today, but it seems like there is still an opportunity to clarify any height, size, setback requirements for a treehouse as today there is no direction published on that and I was directed by planning that there are absolutely no permits required for a treehouse and no size or height limitations. As I have come to find out the hard way, that is not true.

As I stated in my last note, I would appreciate it if you can communicate the variance process to Michelle as I have already done so and she doesn't seem satisfied and is continuing to report every noise she hears through the fence.

Thanks for the deadline info as I never received that and didn't realize there was a 3 week delay. Getting you the application and info you require before 10/16 should be no problem to make it on the 11/7 agenda.

Rich

On Tuesday, October 9, 2018, 8:51:17 AM PDT, Zach Dahl <ZDahl@losaltosca.gov> wrote:

Morning Rich,

As we have previously discussed, your understanding of an exempt treehouse and what the City considers an exempt play structure are meaningfully different. And, the City never reviewed and confirmed that what you were building met that criteria for being exempt from permits. So, as currently built, the "treehouse" in your rear yard is considered a non-permitted structure. And, thank you for confirming that no work has occurred on the structure since the stop-work was issued.

In terms of a meeting date with the Design Review Commission (DRC), due to the noticing requirements, there is a minimum three-week lead time from submittal to the date of the meeting, so the deadline to get on the 10/17 agenda has already passed. At this point, the next available DRC meeting date is 11/7, but we will need to receive your application by end of the day on 10/16 in order to hold that date. If we miss that date, the next available date, due to the holidays, is 12/5.

Thank you.

Zachary Dahl, AICP

Planning Services Manager

Community Development Department

City of Los Altos

(650) 947-2633

From: Rich H <richheley@yahoo.com>
Sent: Monday, October 08, 2018 11:32 AM
To: Zach Dahl <ZDahl@losaltosca.gov>
Cc: Katie Heley <cemurphy80@gmail.com>; Jon Biggs <jbiggs@losaltosca.gov>
Subject: Re: Treehouse

Zach,

Firstly, I would like to remind everyone that I have done nothing wrong here since we are being treated like the perpetrators here. We have dealt with the police showing up at our house, an overly aggressive building inspector and now an unhappy neighbor filing complaints against us. All work on this treehouse was done under the explicit direction of the Planning Department that assured us no planing or building permit was required. I understand that your position has changed now and have admitted the city made a mistake with the direction I was given (twice) and now want me to apply for a variance and building permit. I expect that you will clearly communicate this to anyone who has inquired about this project as the assumption from Michelle is that I just tried to pull a fast one and build this without a permit and she feels compelled to fight it.

Secondly, yes I was using an impact driver in backyard yesterday that had nothing to do with the treehouse. Perhaps she was confused. You imply there are multiple reports with "have heard reports that work is continuing on this structure" so I'd love to address them if you can send me those reports.

Lastly, I am currently gathering and creating all the documentation that you asked for for this Variance application as it wasn't prepared in advance. When is the deadline to submit to get on the 10/17 agenda?

Rich

On Monday, October 8, 2018, 8:13:49 AM PDT, Zach Dahl <ZDahl@losaltosca.gov> wrote:

Morning Rich,

I am following up with you from our discussions two weeks ago. We have not yet received an application for a variance to allow the play structure to remain but have heard reports that work is continuing on this structure. Since there is an active stop work order on this structure, there should not be any further work

occurring until proper approvals and/or permits have been issued. Please provide an update and let us know when an application will be submitted.

Thank you.

Zachary Dahl, AICP

Planning Services Manager

Community Development Department

City of Los Altos

(650) 947-2633

From: Zach Dahl

Sent: Tuesday, September 25, 2018 11:40 AM

To: 'Rich H' <richheley@yahoo.com>

Cc: Katie Heley <cemurphy80@gmail.com>; Jon Biggs <jbiggs@losaltosca.gov>

Subject: RE: Treehouse

Morning Rich,

Thanks for the follow-up. I have further discussed the matter with Jon and Building Official Kirk Ballard. Based on these conversations, here is overview of the process that needs to be followed to get the existing raised structure in your rear yard approved.

Accessory Structure Variance

Due to its size and height, it is considered an accessory structure that is subject to the requirements proscribed in the City's Zoning Ordinance (Chapter 14.15). So, a variance is required to allow for it to remain in its current location and configuration. To apply for a variance, please submit the following:

- Completed general application form
- A variance justification letter that describe the special circumstances that are applicable to the property, such as size, shape, topography, location, surroundings or other elements, which justify a variance. Does strict application of the Zoning Code deprive the property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications?
- Plans for the structure, including a site plan, elevations, sections, etc., that provide enough information for the Design Review Commission to understand the scope of the project
- A variance application fee of \$595 (this is reduced from the full variance fee of \$1,785 and the public notification fee is being waived)

Once the application has been submitted, it will be scheduled for review by the Design Review Commission (DRC) at its next available meeting (meetings are held on the 1st and 3rd Wednesday of each month).

The general application form, accessory structures handout and other Planning reference materials can be found here: <https://www.losaltosca.gov/communitydevelopment/page/forms-and-handouts-0>

Building Permit

Assuming that the DRC approves the variance, the structure will be required to get a building permit. Since it is over 120 square feet in size, it is subject to the California Building Code. Plans, with calculations prepared by a licensed architect or engineer, will need to be submitted to Building, along with a plan check fee as required by the City's approved fee schedule. As long as a licensed architect or engineer is willing to provide calculations for this structure, as required by the California Building Code, the Building Official will be able to issue a building permit.

We fully understand your frustration about now needing to comply with City requirements since you received the earlier email from David noting that "treehouses" are exempt from Planning and Building requirements. However, the missing step in this whole process that would have avoided this situation was to have had someone from Planning and/or Building review the plans for your proposed "treehouse" to ensure that it met our criteria for being exempt from any permit requirements. The term "treehouse" is ambiguous and generally only applies to play structures that do not otherwise meet the Zoning Code's definition of an accessory structure and is under 120 square feet in size. In this case, it is clear, based on the structure's size and construction, that is subject to the Building Code. In addition, it is a long-established requirement that any structure over 120 square feet is subject to the California Building Code. So, with that said, this is the approval process that is required in order to retain the "treehouse" structure in its current size and location.

Thank you.

Zachary Dahl, AICP

Planning Services Manager

Community Development Department

City of Los Altos

(650) 947-2633

From: Rich H <richheley@yahoo.com>
Sent: Monday, September 24, 2018 10:51 PM
To: Jon Biggs <jbiggs@losaltosca.gov>; Zach Dahl <ZDahl@losaltosca.gov>
Cc: Katie Heley <cemurphy80@gmail.com>
Subject: Treehouse

Jon,

Thanks for meeting this morning to discuss the Treehouse I built. As I explained, I feel I went beyond what was necessary to check with the city twice on any limitations or regulations my treehouse had to conform to and even asked leading questions specifically asking for height or daylight plane restrictions. You have seen

the unambiguous response I received from David Kornfield who was the Planning Manager at the time "The City Council's policy is to not regulate play structures (e.g., tree houses, forts, basketball hoops, jungle gyms, swing sets, et cetera) so long as they are located on residential properties. Therefore, there is no Planning or Building permit necessary, and no zoning or building code to apply." The treehouse was then designed and built accordingly.

I was extremely surprised and disappointed to hear that you are not standing behind this and saying this is now not true, and now I need to attempt to get a planning variance approved and a building permit issued. The reason I met with and wrote to the city before starting the project was to ensure that what I designed and built would be fully compliant as built.

Additionally, when Greg Anderson, the building inspector, showed up at our house and trespassed through the yard without notice, he was incredibly disrespectful and unprofessional in his interactions with my wife, who was home at the time. After he rang our doorbell, my wife asked him if she could call me so that Greg could speak directly with me. While she made that call, Greg walked to his truck and started filling out the stop-work order. My wife approached him, he handed it to her and when she asked for his name, he refused to reveal it or to give her a business card. She inquired as to why their interaction had to be so aggressive and his response was "I don't have time for treehouses, I need to get back to real construction". Scott McCrossin, Police Captain, arrived minutes later, representing code enforcement, and found my wife in tears resulting from her conversation with Greg. Needless to say, I agree with Greg's sentiment about getting back to "real construction", but his behavior is completely unacceptable.

I will work with Zach to see what is needed for a variance submittal, and in parallel, it would be good to understand from the building department what they want to see to satisfy their requirements. It is my sincere hope that this matter be resolved as soon as possible.

thanks

Rich

Exhibit

C

11/02/2018

DESIGN REVIEW COMISSION

LOS ALTOS CITY HALL
1 N. SAN ANTONIO RD
LOS ALTOS, CA 94022

Attached please find our general application for a variance. We are requesting a variance for our tree house, which we've been building in a tree, in our backyard. We live at 714 Arroyo Road in Los Altos.

Per the instructions on the variance application, we understand that we are supposed to describe the special circumstances, applicable to our property, which justify a variance. In a nutshell, our special circumstance is that we were misled by the City of Los Altos Planning Department, regarding the permit requirements for tree houses and we have now nearly completed construction of our tree house. Specifically, David Kornfield (Advance Planning Manager for Los Altos) communicated, via email in August 2017, that "there is no Planning or Building permit necessary and no zoning or building code" applies to tree houses. Please see the attached email for your reference. Additionally, a very similar message was verbally communicated when we approached the Planning Department window and spoke with an employee regarding any procedures or permits necessary for tree houses in August 2017. With two separate confirmations that no permits were required, we began to design our tree house in September 2017. Prior to finalizing the design, we spent a significant amount of time discussing the project with our next door neighbors (Keith and Kirsten Mello, 722 Arroyo Road) as our tree house is easily viewed from their rear yard and we did not want to build something that would be obtrusive. The Mello Family were excited about this project and enthusiastically supported it. Feeling confident that we'd covered all the necessary bases, we finalized the design and started construction in March 2018.

We are now nearly finished with the construction of the tree house but we recently received a stop work notice on the project in August 2018. Our rear neighbor, who resides on Marilyn Avenue in Mountain View, apparently did not notice the treehouse during the past 6 months (possibly because it is obscured from her view by trees and shrubbery), but is now very upset that it is located in a tree, close to her rear property line. She is demanding that it be removed and is taking an aggressive approach to achieve her desired outcome, placing multiple calls to the City of Los Altos. In response to her calls, the City of Los Altos sent Greg Anderson (building inspector) to our house in August 2018. Greg immediately issued a stop work notice without inspecting the tree house, declined to speak with us about the circumstances surrounding the stop work notice and shouted "I need to get back to real construction. I don't have time for tree houses." when we attempted to discuss the situation with him. Moments after his departure, Police Captain Scott McCrossin visited our tree house, as a representative of Code Enforcement, and attempted to defuse the situation, as Greg's visit to our house was quite aggressive. Capt. McCrossin was very professional, took some photos of our tree house, reviewed David Kornfield's email and seemed sympathetic to our situation. Ultimately, we fully agreed with Greg's sentiment, but were left very confused as to our next steps for our tree house project. After Greg and Capt. McCrossin's visits, we met with Jon Biggs and Zach Dahl. During that meeting, both Jon and Zach fully acknowledged that we had received incorrect guidance from David and also from the planning window employee regarding tree houses and they informed us that we would need to apply for a variance and building permit for our tree house. As a point of information, and as illustrated by the accompanying photos, we did not reach out to our rear neighbors regarding the tree house project as the tree house does

not face their property and is barely visible from their yard. The rear wall of the tree house, which is intentionally windowless and designed to blend in with the tree, is the only part of the tree house that faces their lot. They did inform us that their primary concern was that our children would be playing in the tree house and would be making noise.

It has always been our intent to build a tree house that complies with the rules and requirements of the City of Los Altos. That is precisely why we reached out, both verbally and in writing, to city staff before starting this project. The tree house construction is now 90% complete and our sons, ages 4 & 6, are counting down the days until they are allowed to play in it. We respectfully ask that you approve our request for a variance so that we may complete our project. With regards to our rear neighbor, we are more than happy to install any additional screening that she may feel is necessary for noise or privacy concerns.

Thank you for considering our request.
Rich, Katie, Hudson & August Heley
714 Arroyo Road

ATTACHMENT A



CITY OF LOS ALTOS
GENERAL APPLICATION

Type of Review Requested: *(Check all boxes that apply)*

Permit # 1108505

<input type="checkbox"/>	One-Story Design Review	<input type="checkbox"/>	Commercial/Multi-Family	<input type="checkbox"/>	Environmental Review
<input type="checkbox"/>	Two-Story Design Review	<input type="checkbox"/>	Sign Permit	<input type="checkbox"/>	Rezoning
<input checked="" type="checkbox"/>	Variance	<input type="checkbox"/>	Use Permit	<input type="checkbox"/>	R1-S Overlay
<input type="checkbox"/>	Lot Line Adjustment	<input type="checkbox"/>	Tenant Improvement	<input type="checkbox"/>	General Plan/Code Amendment
<input type="checkbox"/>	Tentative Map/Division of Land	<input type="checkbox"/>	Sidewalk Display Permit	<input type="checkbox"/>	Appeal
<input type="checkbox"/>	Historical Review	<input type="checkbox"/>	Preliminary Project Review	<input type="checkbox"/>	Other:

Project Address/Location: 714 Arroyo Rd

Project Proposal/Use: Treehouse Current Use of Property: Single Family

Assessor Parcel Number(s): 18929002 Site Area: 17,500sf

New Sq. Ft.: 260 Altered/Rebuilt Sq. Ft.: 0 Existing Sq. Ft. to Remain: 3683

Total Existing Sq. Ft.: 3683 Total Proposed Sq. Ft. (including basement): _____

Is the site fully accessible for City Staff inspection? yes upon request

Applicant's Name: Richard Heley

Telephone No.: 9256391321 Email Address: richheley@yahoo.com

Mailing Address: 714 Arroyo Rd

City/State/Zip Code: Los Altos, CA 94024

Property Owner's Name: Richard Heley

Telephone No.: 9256391321 Email Address: richheley@yahoo.com

Mailing Address: _____

City/State/Zip Code: _____

Architect/Designer's Name: _____

Telephone No.: _____ Email Address: _____

Mailing Address: _____

City/State/Zip Code: _____

** If your project includes complete or partial demolition of an existing residence or commercial building, a demolition permit must be issued and finalized prior to obtaining your building permit. Please contact the Building Division for a demolition package. **

(continued on back)

Exhibit

D



Community Development Department

One North San Antonio Road
Los Altos, California 94022

November 9, 2018

Richard Heley
714 Arroyo Road
Los Altos, CA 94022

SECTION I

At its November 9, 2018 meeting, the Design Review Commission held a public hearing to consider variance application 18-V-06 to allow for increased height, reduced setbacks and a daylight plane encroachment for an existing accessory structure (also referred to as a treehouse) located in the rear yard of the property at 714 Arroyo Road.

Project Address: 714 Arroyo Road

SECTION II

Your application was presented to the Design Review Commission on the above date and was:

- ✓ **Denied:** The Design Review Commission voted unanimously to deny the variance application pursuant to negative findings.
- ✓ **Findings:** See attached.

Zachary Dahl, AICP
Planning Services Manager



FINDINGS

17-V-10 and 17-SC-36 – 714 Arroyo Road

With regard to the variance for increased height, reduced setbacks and a daylight plane encroachment for an existing accessory structure, the Design Review Commission finds the following in accordance with Section 14.76.070 of the Municipal Code:

1. The granting of the variance is NOT consistent with the objectives of the Zoning Code set forth in Chapter 14.02 because the project does not have a harmonious relationship among land uses and it will not conserve the city's natural beauty, improve its appearance, or preserve and enhance its distinctive physical character;
2. The granting of the variance WILL be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity because of the size and height of the accessory structure and its proximity to adjacent properties; and
3. There are NOT special circumstances applicable to the property, such as size, shape, topography, location, or surroundings, that justify the variance for increased height, reduced setbacks and a daylight plane encroachment for the existing accessory structure; and strict application of the provisions of the Zoning Code does NOT deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

Exhibit

E

Re: 714 Arroyo Rd Denial Letter

From: Rich H (richheley@yahoo.com)

To: ZDahl@losaltosca.gov; jbiggs@losaltosca.gov

Cc: cemurphy80@gmail.com; KBallard@losaltosca.gov; LTanguay@losaltosca.gov

Date: Thursday, November 29, 2018, 09:45 PM PST

Jon,

Please understand my frustration with you telling me "you have a structure that is not a treehouse" on the heels of Zach telling me mere hours ago "**The City does not have criteria for treehouses nor any definitions...**". How can you tell me I have not built a treehouse and then refuse to define a treehouse? What is a treehouse that doesn't require planning and building permits according to the City of Los Altos? If the city's policy is that no treehouses are allowed or that all treehouses require building and planning permits that would be great to know and I would expect you to enforce this consistently across the city.

To date, I have only received accessory structure code from Zach that no playhouse, swing set, or jungle gym I could find would comply with without a Building and possibly a Planning permit.

Rich

On Thursday, November 29, 2018, 4:49:40 PM PST, Jon Biggs <jbiggs@losaltosca.gov> wrote:

Rich –

I agree that we disagree, but that aside, you have a structure that is not a treehouse and it needs to be modified conform to our zoning requirements.

Advise as to when you will submit the plans and application as requested.

Jon Biggs, City of Los Altos

Community Development Director

From: Rich H <richheley@yahoo.com>

Sent: Thursday, November 29, 2018 4:42 PM

To: Zach Dahl <ZDahl@losaltosca.gov>

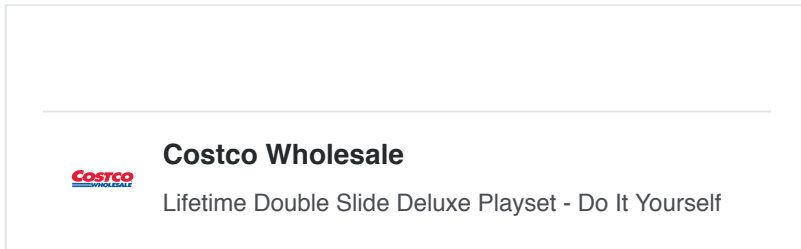
Cc: Katie Heley <cemurphy80@gmail.com>; Jon Biggs <jbiggs@losaltosca.gov>; Kirk Ballard <KBallard@losaltosca.gov>; Lorrie Tanguay <LTanguay@losaltosca.gov>

Subject: Re: 714 Arroyo Rd Denial Letter

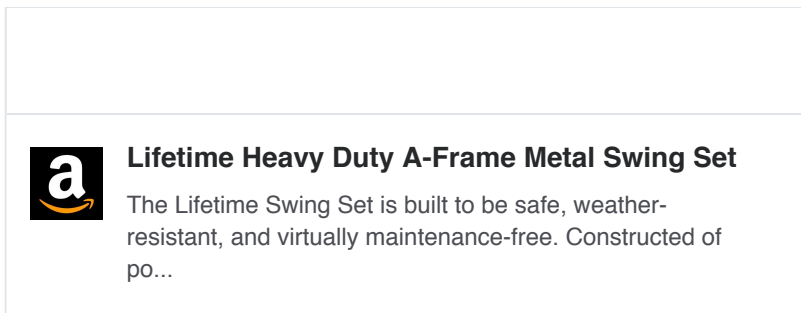
Zach,

If the city does not have criteria for treehouses nor any definitions, does that mean that ANY treehouse (play structure built in/around a tree) built (over 6' in height from grade) would require a Building Permit? Please confirm since according to what you say below it would.

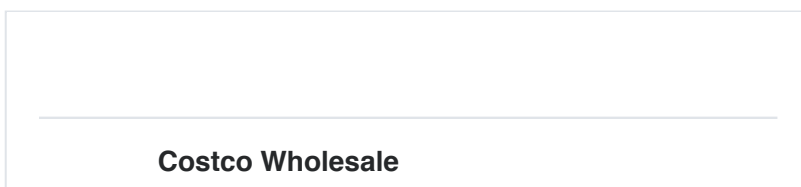
Additionally, here is a popular playset from Costco [Costco Wholesale](#). It is 11'5" high and covers 275sf. **Please confirm that this requires a Building Permit, and Planning review as it violates all 3 of your criteria below** if what you are saying exempt play structures must meet all 3 criteria. It is a Structure as "Structure" means anything constructed or erected which requires a location on the ground"



Here is a basic swing set from Amazon [Lifetime Heavy Duty A-Frame Metal Swing Set](#) It is 9'4" high and 141sf in footprint. **Please confirm that this requires a Building Permit, and Planning review as it violates all 3 of your criteria below** if what you are saying exempt play structures must meet all 3 criteria. As such, it would require a Building Permit and Planning Review. It is a Structure as "Structure" means anything constructed or erected which requires a location on the ground"



This playhouse [Costco Wholesale](#) is 7'3" high and 51sf (under 120sf). **Please confirm that this requires a Building Permit, and meet Floor Area and Lot Coverage as it violates 2 of your criteria below** if what you are saying exempt play structures must meet all 3 criteria. As such, it would require a Building Permit. It is a Structure as "Structure" means anything constructed or erected which requires a location on the ground"





According to your 3 criteria, you say my "treehouse" needs to meet to be exempt, all of these other "structures" above are also not exempt and would require Building Permits. I want to ensure that if that is the case you are enforcing this consistently within the city and guidance at the counter is reflecting this. Additionally, any existing such structures in Los Altos will be issued violations until such Building Permit is secured.

Rich

From: **Zach Dahl** <ZDahl@losaltosca.gov>
Date: Thu, Nov 29, 2018 at 2:16 PM
Subject: RE: 714 Arroyo Rd Denial Letter
To: Rich H <richheley@yahoo.com>, Katie Heley <cemurphy80@gmail.com>, Jon Biggs <jbiggs@losaltosca.gov>
Cc: Kirk Ballard <KBallard@losaltosca.gov>, Lorrie Tanguay <LTanguay@losaltosca.gov>

Hi Rich,

The City does not have criteria for treehouses nor any definitions...and what you find on Google does not have any bearing on how the City's regulations are applied. In order to be exempt from needing a building permit, you need to meet the criteria specified in the City's accessory structure handout. So, if you want your modified structure to fall under the category of being "Freestanding, unenclosed play structure, such as jungle gyms, swing sets, slides or other similar unenclosed structures intended for children's play, do not require a Site Permit or Building Permit," then you also need to make sure that it meets the following:

- Accessory structures over 120 square feet in floor area require a Building Permit, which includes administrative design review from Planning.
- Unenclosed accessory structures (open to light and air on at least two sides with a solid or semi-open roof) such as trellis', gazebos and pergolas, that exceed 6 feet in height, require a Building Permit.
- Accessory structures that exceed 6 feet in height must comply with a property's floor area and lot coverage requirements.

In addition, please note the following definition in the Zoning Code: "Structure" means anything constructed or erected which requires a location on the ground, but not including fences or walls used as fences. So, if any footings remain, regardless of how they are composed, this raised deck will continue to be considered a structure under the Zoning Ordinance and regulated as such.

Regardless of the past circumstances that got you to this point, the fact remains that you have an active Code violation on your property that will need to be corrected.

Zachary Dahl, AICP

Planning Services Manager

Community Development Department

City of Los Altos

(650) 947-2633

From: Rich H <richheley@yahoo.com>
Sent: Thursday, November 29, 2018 1:51 PM
To: Katie Heley <cemurphy80@gmail.com>; Zach Dahl <ZDahl@losaltosca.gov>; Jon Biggs <jbiggs@losaltosca.gov>
Cc: Kirk Ballard <KBallard@losaltosca.gov>; Lorrie Tanguay <LTanguay@losaltosca.gov>
Subject: Re: 714 Arroyo Rd Denial Letter

Jon,

We agree that I elected to apply for the variance. The reason I chose this option was a result of the direction I received from Zach (9/17 meeting you didn't attend) that this was the only path forward and high likelihood a variance would be granted.

Regarding your statement "You also elected to build something other than a tree house" I firmly disagree with. For your awareness I attached the top 10 Google image results for "treehouse". 70% are ground supported, 100% have integrated decks, 90% of them are larger than 120sf, and 90% are fully enclosed. The primary difference between what I built and these images is that what I built is substantially smaller and less elaborate than most of these treehouses. If you have your own definition of what a "treehouse" is, I would love to know what that is and I would encourage you to publish it for future inquiries.

Lastly, regarding "Please advise when we can expect to receive drawings and a permit application", if I am modifying the treehouse to be exempt from planning and building code (under play structure exemption), I don't understand the need to apply for a permit. Doesn't being exempt mean a permit isn't needed? Is there a permit I need to apply for to state the treehouse doesn't need a permit?

Thanks for your support is helping resolve this as the only reason we are here is because I was misdirected by your employees when I proactively inquired about building a treehouse and even specifically asked about height and setback requirements.

Rich

On Thursday, November 29, 2018, 7:26:32 AM PST, Jon Biggs <jbiggs@losaltosca.gov> wrote:

Rich –

I want to make one thing perfectly clear – you elected to apply for the variance. I was at the meeting at which you were advised of your options and the variance route was the option you selected. There were no predictions offered on the possible decision of the DRC, which is authorized to consider variance applications.

You also elected to build something other than a tree house, which now needs to be modified to comply with our zoning requirements. Please advise when we can expect to receive drawings and a permit application that show how the structure will be modified to comply with the zoning code.

Jon Biggs, City of Los Altos

Community Development Director

From: Rich H <richheley@yahoo.com>

Sent: Wednesday, November 28, 2018 5:38 PM

To: Katie Heley <cemurphy80@gmail.com>; Zach Dahl <ZDahl@losaltosca.gov>

Cc: Jon Biggs <jbiggs@losaltosca.gov>; Kirk Ballard <KBallard@losaltosca.gov>; Lorrie Tanguay <LTanguay@losaltosca.gov>

Subject: Re: 714 Arroyo Rd Denial Letter

Zach,

I don't have a timeline for removal.

I only applied for a variance based on your advice and high confidence that the DRC would approve the variance. You were wrong not just on the outcome, but also on your belief that the DRC had the authority to approve this variance. The DRC stated in the meeting that they didn't understand why this project came before them and didn't have the ability to approve it.

This treehouse was never intended to conform to the accessory structure code as I was told in writing by the city it didn't have to and was exempt. I am willing to make minor modifications to satisfy the exemption which I emailed you about this week. It sounds like there are 3 things that would need to be modified in the design to satisfy the exemption: 1. can't have permanent footings (I can remove poured concrete and use temporary concrete piers to satisfy this). 2. Under 120sf (I can reduce the enclosed area to not exceed 120sf), 3. not fully enclose structure (I can leave an opening in the wall so it's not fully enclosed).

If those 3 modifications are done I can draw that up and meet with you to confirm it's exempt and get on with finishing up and making modifications.

please advise if this satisfies exemption.

thanks

Rich

Morning Rich,

In response to your questions, your structure would not qualify as being a “freestanding unenclosed play structure” because of its structural elements. Any permanent footings disqualify it from falling into this category. Also, in its present form, it is considered a deck under the Code and not allowed to be more than 6-inches above grade in this location within the rear yard setback (Sec. 14.66.210). If you chose to full enclose the structure, then it would be subject to the 12-foot height limit for accessory structures. If you want to pursue rebuilding it to be a “freestanding unenclosed play structure” all permanent footings will need to be removed and it would need to be under 120 sq ft. Depending on the design, we would need to consider the raised deck ramifications...but, given the strong privacy concerns raised by your rear neighbors, we need to make sure any revised design cannot be construed as a raised deck under the Code.

Also, the Planning Counters closes at 4:30, so if you plan on filing an appeal, please make sure it is submitted before 4:30. Thanks.

Zachary Dahl, AICP

On Wednesday, November 28, 2018, 12:32:00 PM PST, Zach Dahl <ZDahl@losaltosca.gov> wrote:

Hi Rich and Katie,

I am confirming that the appeal period for your variance denial ended this past Monday, November 26, 2018 and we did not receive an appeal filing from you. Thus, we need to move forward with resolving the non-permitted raised accessory structure in your rear yard that has an active Stop-Work notice. What is your timeline for removal? The City typically requires the removal of a non-permitted structure within 30-60 days of notification.

Thank you.

Zachary Dahl, AICP

Planning Services Manager

Community Development Department

City of Los Altos

(650) 947-2633

From: Zach Dahl
Sent: Monday, November 26, 2018 8:37 AM
To: 'Rich H' <richheley@yahoo.com>
Cc: Katie Heley <cemurphy80@gmail.com>
Subject: RE: 714 Arroyo Rd Denial Letter

Morning Rich,

In response to your questions, your structure would not qualify as being a “freestanding unenclosed play structure” because of its structural elements. Any permanent footings disqualify it from falling into this category. Also, in its present form, it is considered a deck under the Code and not allowed to be more than 6-inches above grade in this location within the rear yard setback (Sec. 14.66.210). If you chose to full enclose the structure, then it would be subject to the 12-foot height limit for accessory structures. If you want to pursue rebuilding it to be a “freestanding unenclosed play structure” all permanent footings will need to be removed and it would need to be under 120 sq ft. Depending on the design, we would need to consider the raised deck ramifications...but, given the strong privacy concerns raised by your rear neighbors, we need to make sure any revised design cannot be construed as a raised deck under the Code.

Also, the Planning Counters closes at 4:30, so if you plan on filing an appeal, please make sure it is submitted before 4:30. Thanks.

Zachary Dahl, AICP
Planning Services Manager

Community Development Department
City of Los Altos
(650) 947-2633

From: Rich H <richheley@yahoo.com>
Sent: Tuesday, November 20, 2018 7:29 PM
To: Zach Dahl <ZDahl@losaltosca.gov>
Cc: Katie Heley <cemurphy80@gmail.com>
Subject: Re: 714 Arroyo Rd Denial Letter

Zach,

No worries I am sure you are busy with all the construction in town. Thanks for the extension to accommodate the city shut down.

I understand that the info needs to be taken together, however the first general clause of :

"Freestanding, unenclosed play structures, such as jungle gyms, swing sets, slides or other similar unenclosed structures intended for children's play, do not require a Site Permit or Building Permit."

states no size or height limit. If you are saying that ALL structures over 6' require building permit, that would also mean ALL swing sets and play structures would need a building permit as I have never seen a swing set under 6'. Most 'Costco' play structures are at least 10-12' in height and over 120sf meaning they would all need permits.

The only plausible reason play structures are specifically called out separately from gazebos is because they are treated differently.

The reason I ask is not to be pedantic, but I am trying to consider the many suggestions provided by the DRC to me to make it acceptable.

One path I would like you to consider is if I make the entire raised deck to be a legal permitted accessory structure within the daylight plane and under the 12' max height (I need to check but probably have to lower the entire deck to achieve this due to 42" hand rail. The treehouse portion is then shrunk to be under 120sf and the second story removed so total is under 120sf. Does that sound like it's on the path to meeting requirements? Just want to check before wasting more time and money drawing up to review.

thanks

Rich

On Tuesday, November 20, 2018, 6:51:46 PM MST, Zach Dahl <ZDahl@losaltosca.gov> wrote:

Hi Rich,

My apologies for the delayed response...I have been completely buried these past two weeks. Since your appeal deadline ends on the Thanksgiving week, we can extend it to Monday, November 26th at 5pm, but we cannot extend it a full additional week. With regard to the information contained in the accessory structure handout, all of the information needs to be taken together, not each item in isolation, so the following also apply to the play structure definition:

- Accessory structures over 120 square feet in floor area require a Building Permit, which includes administrative design review from Planning.
- Unenclosed accessory structures (open to light and air on at least two sides with a solid or semi-open roof) such as trellis', gazebos and pergolas, that exceed 6 feet in height, require a Building Permit.
- Accessory structures that exceed 6 feet in height must comply with a property's floor area and lot coverage requirements.

The handout also provides an answer to your question about what constitutes an unenclosed structure.

With regard to the appeals process, please see Section 14.76.100 of the Municipal Code. In general, once you submit an appeal, it is scheduled for the next available City Council meeting and the meeting is conducted in a

manner similar to the DRC meeting. There will be mailed public notification to all properties within 500 feet and a meeting notice will need to be posted on the property at least 10 days before the meeting. Members of the public will have an opportunity to comment and the City Council's action is final. A brief staff report will be prepared and all of the materials from the DRC meeting will be included. You will have the opportunity to make a presentation of up to 10 minutes plus any additional follow-up questions that the Council may have. The City Attorney will be present and provide answers to Council questions if needed.

Hopefully that gives you the information you need to make a decision on whether or not to appeal the DRC action. Thank you.

Zachary Dahl, AICP
Planning Services Manager

Community Development Department
City of Los Altos
(650) 947-2633

From: Rich H <richheley@yahoo.com>
Sent: Tuesday, November 20, 2018 12:36 PM
To: Zach Dahl <ZDahl@losaltosca.gov>
Subject: Re: 714 Arroyo Rd Denial Letter

Zach

I haven't seen a reply to this yet so I assume you won't be replying before the appeal deadline. That's disappointing you haven't had time to respond and I ask for a 1 week extension to appeal to give you extra time due to the holidays.

"Freestanding, unenclosed play structures, such as jungle gyms, swing sets, slides or other similar unenclosed structures intended for children's play, do not require a Site Permit or Building Permit."

Can you also clarify "unenclosed" here as that is an ambiguous word. It seems that if it were "unenclosed" it would then be exempt from this permit process. No size limitation is stated for playhouses.

thanks

Rich

On Thursday, November 15, 2018, 2:18:23 PM MST, Rich H <richheley@yahoo.com> wrote:

Zach,

I realize that I have until Wed. 11/21 to file an appeal with the City Council. Before I do that, I'd like to fully understand how the appeal process works. In addition, I'd like to understand the City Council's legal authority to issue a ruling on this matter.

Please provide the following information/guidance by Monday (11/19), so that I have enough time to file an appeal. I realize this week is a very short week for city employees and so is next week. Thank you.

1. Please send me a detailed explanation of the City Council appeal process or direct me to where I can find this information on the city website.
2. Please clarify City Council's legal authority to rule on this issue.
3. Lastly, will the City Attorney be involved in this matter? If so, in what capacity and when?

Katie and I were incredibly disappointed with the way the variance matter was handled with the Design Review Commission. You quite confident that the DRC would grant a variance for this given the circumstances and not only did they unanimously deny, they said this project should not have been in front of them. Nearly all of the public comments were personal lectures directed at Katie and I and our "poor judgment" and very few of them actually focused on the facts of the treehouse. Commissioner Bishop was openly hostile when interacting with Katie and he felt it prudent to question my professional background and judgment as opposed to talking about the treehouse structure. As a commissioner herself, Katie was very surprised that the hearing was conducted in this fashion. The actual topic of the treehouse and the facts surrounding it were barely discussed. We absolutely want to avoid a similar situation with the City Council and do not want to waste our time in another public forum if the City Council is not the final say on this matter.

Thanks,

Rich

On Friday, November 9, 2018, 4:05:14 PM PST, Zach Dahl <ZDahl@losaltosca.gov> wrote:

Hi Rich and Katie,

Attached is a copy of the denial letter based on the action from the Design Review Commission last Wednesday. If you wish to appeal the decision to the City Council, it will need to be submitted to the City by 5pm on Wednesday,

November 21, 2018. The appeal should include a letter that outlines the reasons for the appeal and an appeal fee of \$595. If you have any questions or would like to further discuss, please let me know.

Thank you.

Zachary Dahl, AICP
Planning Services Manager

Community Development Department
City of Los Altos
(650) 947-2633

Exhibit

F



HARRY I. PRICE

Attorney at Law

Tel 650.949.0840

Fax 650.949.0844

Harry@PricesLaw.com

September 18, 2019

via hand delivery and email

jbiggs@losaltosca.gov

Mr. Jon Biggs
City of Los Altos
Community Development Department
One North San Antonio Road
Los Altos, CA 94022-3087

Re: Play Structure - 714 Arroyo Road

Dear Mr. Biggs:

As you are aware, it has now been 12 months since my clients, Mr. and Mrs. Heley, were given a Stop Work notice from the City of Los Altos for the construction of a Treehouse. Before construction or design began, my clients had approached the city (both in person and in writing) to seek any permits and understand size and setback constraints, and they were told unambiguously that there were no building or planning permits required for a play structure and no code would apply. My clients were pleased to undertake the construction of their proposed treehouse for the benefit of their two young children.

The Heleys' next door neighbor at 722 Arroyo was consulted, as their property would have line of sight to the structure, and they were in full support of the plans and even wrote a letter of support. A rear neighbor at 1368 Marilyn Dr. in Mountain View (Michelle Mann) only began to vocally oppose the treehouse once construction was 90% complete, because due to the thick tree screening between the treehouse and their property they had been unaware of it up until that point. My clients have been trying to work with them over the past year to appease their concerns yet allow the treehouse to remain for their two children. They have been invited over to the Heleys' house to voice their concerns and allow them to offer suggestions on how to minimize the impact on them. My clients have never received specific requests as to how best to modify the

September 18, 2019

Page 2

treehouse, but instead those neighbors have simply expressed that they felt it was “too big,” “too close,” and “too tall.”

Although this treehouse was initially built with complete transparency to the city after my clients inquired about requirements to obtain any necessary permits, because maintaining neighbor relations is important to Mr. and Mrs. Heley, they are hereby submitting a new and different proposal, with the following modifications to further reduce the impact of neighboring properties:

1. Reduce the enclosed size to 120sf. This will both shrink the volume of the structure as well as make it exempt from any building permit requirements;
2. Increase the average setback to the property line with 1368 Marilyn Ave., Mountain View. This will be achieved by removing enclosed space from the side of the treehouse facing this rear property line of 1368 Marilyn Dr.; and
3. Plant additional screening at the fence line to further conceal the treehouse from view.

I submit this request, and believe that as it continues to fall under the category of treehouse, no accessory structure permit application is required. Consequently, I ask that you review this application, and contact me with any further questions or concerns, so that the needs of both the homeowners and the City can be addressed. Once approved, I request that you remove the “Stop Work” notice so that my clients will be allowed to complete the treehouse with the above outlined modifications in order to reduce the impact on neighboring properties. If you cannot approve this proposal, I request a written response, outlining the grounds for denial. Thank you for your anticipated attention to the requests set forth herein.

Very truly yours,

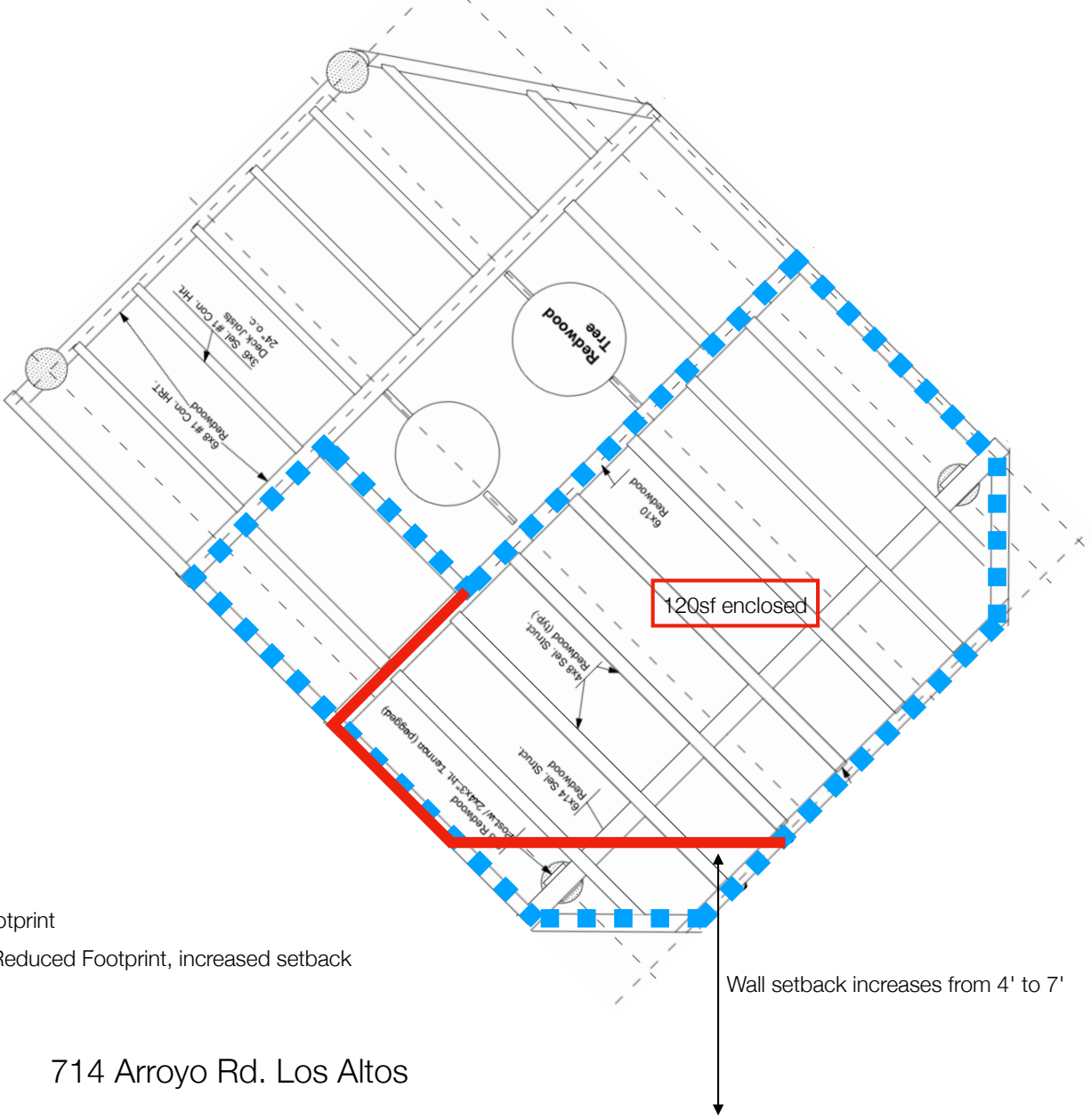
PRICE LAW FIRM



Harry I. Price
HIP/mc

cc: clients

Treehouse Reduced Floorplan - 09-18-19



- Existing Footprint
- Proposed Reduced Footprint, increased setback

120sf enclosed

Wall setback increases from 4' to 7'

714 Arroyo Rd. Los Altos

722 Arroyo Rd. Los Altos

1369 Marilyn Dr. Mountain View

Exhibit

G



City of Los Altos
Community Development Department

One North San Antonio Road
Los Altos, California 94022

March 5, 2020

Mr. Harry I. Price, Attorney at Law
40 Main Street
Los Altos, CA 94022

Project Address: 714 Arroyo Road, Detached Accessory Structure Determination

Dear Mr. Price:

The review of the revised plans for the existing detached accessory structure located at 714 Arroyo Road has been completed, and although the proposed plans reflect a reduction to 120 square feet of enclosed space, and an increase in the distance to the rear property line from 4' to 7', the height of the structure (24'5") requires compliance with the rear and side yard setback requirements, which are 25' and at 17.5' respectively. I note as well the plan provided, maintains an approximate 4' setback to the side property line and does not clarify whether there is a reduction in the area of the second story loft.

Given these facts, the subject structure must be removed, relocated, or modified to comply with the site development standards for detached accessory structures in the R1-10 zone district. Failure to bring the structure into compliance with zoning code requirements may result in the City taking enforcement action.

If you seek to appeal this administrative determination you may appeal it to the City Council within fifteen (15) days of the date of this determination (date of this letter) by filing a notice of appeal with the City Clerk that clearly identifies this decision and states the grounds for the appeal (Los Altos Municipal Code Section 1.12.010). The appeal must also be accompanied by the payment of a \$595.00 fee.

We anticipate your cooperation in this matter, and should you have any questions please feel free to contact me by phone at 650.947.2635.

Sincerely,

Jon Biggs
Community Development Director

C:
Jolie Houston, City Attorney
Mr. & Mrs. Heley

Exhibit

H

DECLARATION OF DAVID KORNFIELD

I, David Kornfield, declare as follows:

1. I am over eighteen years of age and make this declaration based on my personal knowledge;
2. From November 1991 through January 2018, I was employed by the City of Los Altos in the Planning Division of the Community Development Department (nee Planning Department). My title when I left in January 2018 was Planning Services Manager. In that role, and in preceding roles, among other responsibilities I managed development review and customer service functions; oversaw the Housing Element adoption, certification and implementation; conducted long range planning and special studies; and served as the liaison to the Planning Commission, Planning and Transportation Commission, Design Review Commission, Architecture and Site Review Committee, Board of Adjustments, and Environmental Committee;
3. The statement I made in my August 24, 2017, email to Katie Heley was a true representation of the City's policy at the time and was a typical response to periodic queries from the public regarding play structures;
4. During the approximately 27 years that I worked in the Planning Department for the City of Los Altos, the City had a long-standing policy of not regulating play structures, including treehouses, and not requiring any planning or building permits for play structures including treehouses; and
5. The City's policy of not regulating play structures was considered intermittently by the Los Altos City Council.

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink that reads "David Kornfield". The signature is written in a cursive style with a long horizontal stroke at the end.

David Kornfield

Executed August 14, 2020
San Jose, California

Exhibit

I



JulianaLee.com

Ranked #1, #2, #3 nationwide

650.857-1000

nomes@JulianaLee.com

J Lee Realty

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NEWS

Structure reaction beyond child's play (/news/sections/news/215-news-briefs/8258-J7631)

Published: **10 August 1999**

Written by **Joanne Griffith Domingue - Town Crier Staff Writer**



Photo by Monique Schoenfeld, Town Crier

In one part of town, concern over a play structure has moved way beyond child's play. Some wonder when a treehouse is too big. Others shudder at the thought of building permits for children's forts. City officials shake their heads.

Here's a tale of a family project vs. another's privacy. The Town Crier respected the requests of those involved not to use their names.

The family, which includes two little girls, chose their Los Altos home a year ago for its backyard tree that was big enough for a treehouse.



They hired an arborist, an architect and an engineer to make sure the tree, with its enormous spreading branches, could support the treehouse the dad had dreamed of building.

"We love that tree," the mom said. "We'd never hurt it intentionally."

Construction began Memorial Day weekend. The treehouse took shape. Now scalloped wooden trim, designed on graph paper by mom and hand cut with a jig saw by dad, edges the roof line. Inside, a ladder leads to a loft that looks out a child-sized dormer window into the family's back yard, but not into anyone else's yard.

What began as a treehouse, "now looks like an accessory structure," said one of the neighbors who is downhill from the treehouse.

She called city hall to complain. One weekend during construction, when the treehouse was just a platform, the folks building the treehouse "waved to me when I was in my bedroom in my nightie. It's an egregious invasion of privacy."

She said she has not talked to the treehouse neighbors about her concerns. But she has written city hall.

Los Altos does not regulate play structures. The state building code exempts them up to 120-square-feet of floor structure, said Larry Tong, director of planning for the city of Los Altos. "But Los Altos code exempts all play structures, no matter what the size," he said.

You can't see the treehouse from the street, not from the street of the neighbors who feels her privacy is invaded, nor from the treehouse owners' street.

Now that the treehouse is framed and enclosed, the only thing the neighbors can see from their back yard is a glimpse of wooden wall, through the tree branches, but no windows.



From the treehouse side, "We can't see the neighbor's house. We even had the tree trimmed and left all the lower branches,"

said the treehouse mom, because they are trying to be sensitive to neighbors' privacy.

Complaints have city officials scratching their heads about what to do.

Maybe there "should be some sort of approval when all of a sudden there's a change in privacy," said King Lear, a member of the city council.

But "people should be able to put up a swing set without a bureaucracy," Lear said. "The last thing we want is a huge bureaucracy regarding play structures. But where do you draw the line?"

The neighbor isn't happy. "The city has a 1950s idea about play structures," she said. "That's why the city has parks. We don't all have to re-create Great America in our back yards for our children," she said.

The treehouse owners are sad. They wish the neighbor had come to them before sending letters to the city.

"This is a labor of love," the mom said. They won't be putting in windows, but they do have a Dutch door they've recycled and cut down.

"I can't wait to put it in," she said.

Reader Comments – Please log in to join the discussion

Please log in to post a comment

We ask readers to log in using their real first and last name to comment.

We've found that conversations improve when people speak



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Exhibit

J



ACCESSORY STRUCTURES AND SWIMMING POOLS IN SINGLE-FAMILY (R1) ZONE DISTRICTS

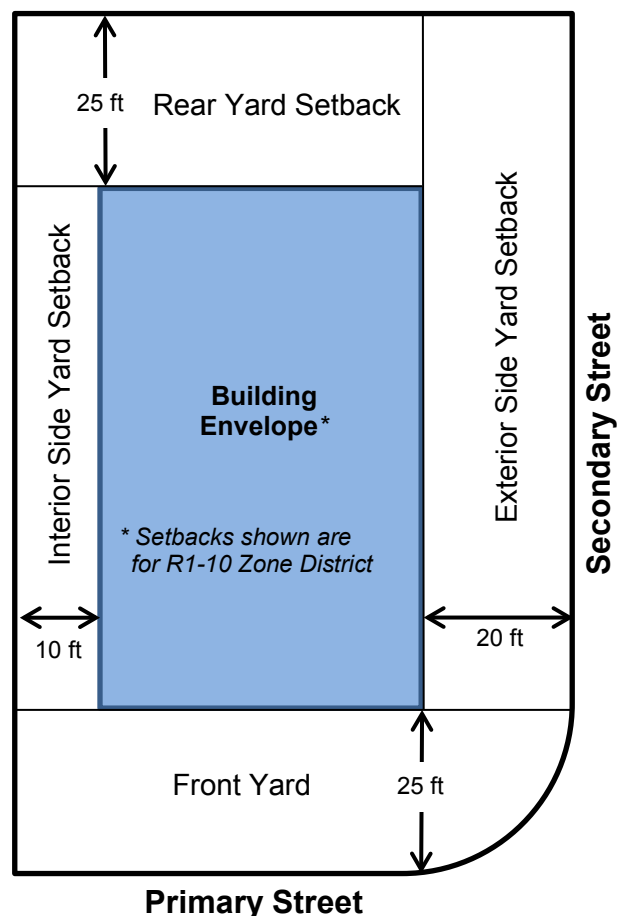
As prescribed in the Zoning Code (Chapter 14.15), accessory structures and swimming pools are allowed on single-family zoned properties. Any accessory structure, *temporary or permanent*, that exceeds six feet in height requires a Site Permit to verify Zoning Code compliance. Accessory structures over 120 square feet in size require a Building Permit, which includes administrative design review from Planning.

General

- Freestanding, unenclosed play structures, such as jungle gyms, swing sets, slides or other similar structures intended for children's play, do not require a Site Permit or Building Permit. *However, any play structure that exceeds 6 feet in height must meet comply with all applicable site standards for an accessory structure.*
- Unenclosed accessory structures (open to light and air on at least two sides with a solid or semi-open roof) such as trellis', gazebos and pergolas, that exceed 6 feet in height, require a Building Permit.
- Enclosed accessory structures (structures with three or more walls and a solid roof) such as playhouses, storage sheds, and pool houses that are over 6 feet in height, require a Site Permit and/or a Building Permit.
- Accessory structures that exceed 6 feet in height must comply with a property's floor area and lot coverage requirements.

Structures in a Side Yard Setback Area (Interior or Exterior)

- Maximum Height: 6 feet
- Maximum Size: 120 square feet
- Minimum Setbacks: None
- Separation: Accessory structures must have minimum separation of 5 feet, either between the accessory structure and the main house or the accessory structure and the property line, as measured to the nearest wall(s) or supports.
- Screening: Accessory structures must be screened (as viewed from a public street or adjacent property) with a solid fence that is of equal or greater height.¹
- Accessory structures containing swimming pool equipment *cannot* be located in a required interior side yard setback, but can be located in a required exterior side yard setback.

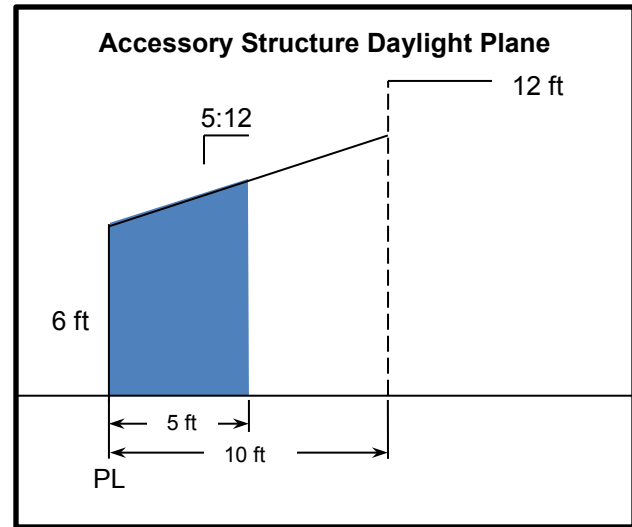


¹ Per the City's Fence Ordinance (LAMC Chapter 14.72), a solid fence cannot exceed 6 feet in height.

Structures in the Rear Yard Setback Area

- ❑ Maximum Height: 12 feet
- ❑ Maximum Size: 800 square feet
- ❑ Minimum Setbacks:
 - 0 feet when under 6 feet in height
 - 5 feet when between 6-12 feet in height
 - 2.5 feet for an eave overhang, or similar projection, when over 6 feet in height
- ❑ Accessory Structure Daylight Plane:

Begins at a height of six feet at the side and rear property lines and slopes into the property at a 5:12 pitch for a distance of 10 feet. All portions of an accessory structure, including roof eaves, chimneys and vents, must be within the daylight plane.
- ❑ Separation: An accessory structure must have a separation of at least 10 feet from the main house and at least 5 feet for another accessory structure, as measured to the nearest wall(s) or supports.
- ❑ Rear Yard Lot Coverage: In addition to compliance with the maximum allowable coverage and floor area ratio as provided by the subject zone district, the maximum coverage within the required rear yard setback area for all accessory structures, or portions thereof, that exceed six feet in height is 35 percent of the total rear yard setback area.



Structures Completely within the Main Building Envelope

- ❑ Maximum Height: 12 feet
 - The height limit may be extended up to 18 feet if the additional height is necessary to establish architectural compatibility with the main structure.
- ❑ Maximum Size: 800 square feet
- ❑ Minimum Setbacks: Must meet all setbacks for property's Zoning designation.
- ❑ Daylight Plane: Must meet the required daylight plane for property's Zoning designation.

Outdoor Barbeques and Fireplaces

- ❑ Outdoor barbeques, fireplaces, sinks and similar structures can be located within the building envelope or rear yard setback area, provided that they have a minimum setback of five feet from any property line. These structures are not allowed within a front yard or side yard setback area.

Hot Tubs and Swimming Pools

- ❑ Hot tubs and swimming pools can be located within the building envelope or rear yard setback area, provided that they have a minimum setback of five feet from any property line to the edge of the pool structure. These structures are not allowed within a front yard or side yard setback area.

Exhibit

K

Letter of support from 722 Arroyo (most impacted neighbor)

October 9, 2018

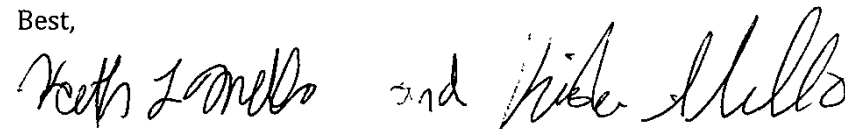
To Whom It May Concern at the City of Los Altos:

Mr. Rich Heley and Mrs. Katie Heley spoke to me and my wife Mrs. Kirsten Mello before embarking on the tree house construction in their backyard. They were excited to construct something for their young sons to enjoy but were concerned about the impact a structure placed in their redwood trees would have on our family. Rich and Katie explained the design of the tree house would only have windows facing into their yard and that the construction of the tree house would be from high quality materials that would be maintained over the years. In addition, they told us that the design of the tree house would be aesthetically pleasing yet blend in well to the redwood area.

All along the construction process Rich and Katie have asked for our input, as our yard is by far the most impacted from a view and privacy standpoint. As the construction of the structure and deck was complete, they have continually offered to construct any screening to minimize any impact of the structure. We appreciate their gesture, but do not believe any screening is necessary. They have told us that if we change our minds, they will construct something to our liking that is effective and aesthetically pleasing.

We know that Rich and Katie also went for approval from your offices before embarking on their project. We sincerely hope that you approve their request for a variance, as we believe they did what was necessary and neighborly. The tree house is a wonderful place for their boys and friends to explore the outside and expand their imaginations. As a teacher, I can attest to the fact that way too many kids are plugged in these days. The joy expressed by the young boys when they stood on that deck for the first time was something I will not soon forget.

Best,

Handwritten signatures of Keith L. Mello and Kirsten Mello in black ink. The signatures are written in a cursive style and are positioned above the typed names.

Keith and Kirsten Mello
722 Arroyo Road Los Altos, CA 94024

Exhibit

L

August 15, 2020

Mayor Jan Pepper and Los Altos City Council Members
c/o Mr. Jon Biggs
Community Development Director
City of Los Altos
One North San Antonio Road
Los Altos, CA 94022

Re: Support of the treehouse built at 714 Arroyo rd. to be classified as an exempt play structure and not an Accessory Structure

Dear Honorable Mayor Pepper and City Council Members:

The treehouse built at 714 Arroyo Rd. is clearly built for children's play and is intended for the two boys ages 5 and 8 who live there. The treehouse has no utilities and is a wonderful space for creative young minds to run wild. We need to be encouraging children to be active and play outside as much as possible and not succumb to the lure of looking at screens all day. This is especially important in the current Covid-19 environment where schools are all virtual and all public play structures in the city are closed indefinitely.

Los Altos has a long-standing history of exempting all play structures from code and not requiring planning or building permits. On August 10, 1999, Larry Tong, Director to Planning, was quoted in the Los Altos Town Crier saying, "But Los Altos code exempts all play structures, no matter what the size". On August 24, 2017 David Kornfield, Planning Services Manager, stated when responding to an inquiry to build a treehouse in Los Altos "there is no Planning or Building permit necessary and no zoning or building code to apply." On August 14, 2020, David Kornfield, (former) Planning Services Manager, stated "During the approximately 27 years that I worked in the planning Department for the City of Los Altos, the City had a long-standing policy of not regulating play structures, including treehouses, and not requiring any planning or building permits for play structures including treehouses;"

In April 2019 the Accessory Structure handout was amended to add the following language that has never existed in Los Altos, "...any play structure that exceeds 6 feet in height must comply with all applicable site standards for an accessory structure". By classifying treehouses and other play structures over 6 feet high in Los Altos as Accessory structures, the city is creating an unnecessary restriction on residents that want to have a safe outdoor play space for their children. There are likely hundreds of other residential play structures and treehouses in the city that would violate the Accessory Structure code and would have to be forced to comply

or removed creating a tremendous administrative burden and many upset residents, of all ages.

I am opposed to the added regulation and future enforcement of residential play structures in Los Altos. Treehouses, play houses, jungle gyms with no utilities should remain exempt from city code and enforcement including the treehouse at 714 Arroyo Rd.

Sincerely,

No.	Name	City of Residence
1	Rich Heley	Los Altos, CA
2	Katie Heley	Los Altos, CA
3	Kathy Murphy	Los Altos, CA
4	Tyler Hill	Los Altos, CA
5	Dee Miller	Los Altos, CA
6	Laura Kluge	Los Altos, CA
7	Missie Fennell	Los Altos, CA
8	Jim Miller	Los Altos, CA
9	Elizabeth Levy	Los Altos, CA
10	Bob Fennell	Los Altos, CA
11	Alla Hill	Los Altos, CA
12	Linda Palmer	Los Altos, CA
13	Jillian Wasson	Los Altos, CA
14	Laura Kluge	Los Altos, CA
15	William Hamblin	Los Altos, CA
16	Joy Hamblin	Los Altos, CA
17	George Crow	Los Altos, CA
18	Joseph Grippo	Los Altos, CA
19	Nancy Grippo	Los Altos, CA
20	Patricia Hong	Los Altos, CA
21	Sandy Polishook	Los Altos, CA
22	Burt Polishook	Los Altos, CA
23	Joan Bliss	Los Altos, CA
24	John Henderson	Los Altos, CA
25	Erika Wells	Los Altos, CA
26	Sonny Jandial	Mountain View, CA
27	Thea Jandial	Mountain View, CA
28	Joy Reeve-Mitta	Mountain View, CA
29	Laura Jammal	Mountain View, CA
30	Nancy Hollenbeck	Mountain View, CA
31	Teri Sawyer	Mountain View, CA
32	Kevin Sawyer	Mountain View, CA
33	Jeff Eirich	Mountain View, CA

34	Lori Eirich	Mountain View, CA
35	Vanessa Hannan	Mountain View, CA

Exhibit

M

Recipient: Los Altos city council, Jon Biggs

Letter: Greetings,

Allow the construction of treehouses for child play in Los Altos

Treehouses and play structures are wonderful places for children to explore the outside and expand their imaginations. With schools and community jungle gyms closed, children need safe spaces at home to play and discover now more than ever.

Los Altos used to be a city that supported residents' ability to build jungle gyms and treehouses for their children. There has been a decades-long policy of not regulating play structure and treehouses in the city.

But in 2019, Los Altos Planning changed their regulations to require that all play structures (including treehouses, swing sets, and jungle gyms) over 6 feet high on residential property must comply with the "Accessory Structure" code, which currently covers storage sheds and pool houses.

This change in the City's approach essentially eliminates a resident's ability to build a treehouse because every treehouse will be over 6 feet high in the tree, and treehouses must be built where the tree is located, thus making it impossible for most residents to meet the setback requirements for an "Accessory Structure."

This change will effectively ban the construction of new treehouses (and severely limit the purchase of modern swing sets and play structures) and force the removal of potentially hundreds of existing treehouses in the city.

This clamp down on treehouses and play structures is widely opposed by Los Altos residents and surrounding communities that value play spaces for children. I urge you to listen to the residents and revert to the city's stance for decades which has been not regulating play structures.

Signatures

Name	Location	Date
Rich Heley	US	2020-08-13
Katie Heley	Los Altos, CA	2020-08-15
Rich Heley	Los Altos, CA	2020-08-15
Heather Burke	Sunnyvale, CA	2020-08-15
Juliette DR	California	2020-08-15
Kathleen Murphy	Los Altos, CA	2020-08-15
Henry Wettersten	Daly City, CA	2020-08-15
Debbie Fetzer	Modesto, CA	2020-08-15
Shannon Durand	Oakland, CA	2020-08-15
Matthew Downing	Oklahoma City, OK	2020-08-15
Nancy Lennartsson	Huntsville, AL	2020-08-15
Terri Sawyer	Mountain View, CA	2020-08-15
nicole gunderson	Los Altos, CA	2020-08-15
Kelly McCreery	Mountain View, CA	2020-08-15
kathleen murphy	Los Altos, CA	2020-08-15
James Kohnke	San Ramon, CA	2020-08-15
Bert Rouleau	Los Altos, CA	2020-08-15
Andrea Scarboro	Mountain View, CA	2020-08-15
Deeksha talwar	Mountain View, CA	2020-08-15
Tanya Maluf	Los Altos, CA	2020-08-15

Name	Location	Date
Alice Montgomery	Arnold and Los Altos, CA	2020-08-15
Laura Kluge	Los Altos, CA	2020-08-15
Jacqueline Gorelick	Los Altos, CA	2020-08-15
Dee Miller	Los Altos, CA	2020-08-15
Dianne Weitzel	San Mateo, CA	2020-08-15
Gayle Dilley	Los Altos, CA	2020-08-15
KEVIN B SAWYER	Los Altos, CA	2020-08-15
Sally Kassoff	Fountain Valley, CA	2020-08-15
Gillian Brotherson	San Jose, CA	2020-08-15
Carl Riccoboni	Los Altos, CA	2020-08-15
Azadeh Hawkinson	Cupertino, CA	2020-08-15
Sharon Fiekowsky	Los Altos, CA	2020-08-15
Mike Pinkowish	San Francisco, CA	2020-08-15
Milena Adams	Pittston, US	2020-08-15
Paige Mitch	Salt Lake City, US	2020-08-15
Angie Cerroblanco	Edinburg, US	2020-08-16
Jonah Dulay	National City, US	2020-08-16
Armando Casillas	San Diego, US	2020-08-16
Asad Williams	Bear, US	2020-08-16
Vickie Patterson	Stuart, US	2020-08-16
Janelle Eyet	Lafayette, CA	2020-08-16
annie nguyen	San Jose, US	2020-08-16

Name	Location	Date
Allison Sarmiento	Bristol, US	2020-08-16
Alysia Ramirez	Lewis Center, US	2020-08-16
alicia evans	Los Altos, CA	2020-08-16
Maureen Henningsen	Morgan Hill, CA	2020-08-16
Lara Nevin	San Jose, CA	2020-08-16
Richard Jones	Honolulu, HI	2020-08-16
Anne Battle	US	2020-08-16
Alex Mortimer	Pacifica, CA	2020-08-16
Aya Hamdaoui	Malvern, US	2020-08-16
Ellen Nash	Santa Rosa, CA	2020-08-16
Leslee-Missie Fennell	Los Altos, CA	2020-08-16
Leland Panec	Mountain View, CA	2020-08-16
Lyndsie Cameron	Royal Oak, US	2020-08-16
Pamela Peak	Argyle, US	2020-08-16
Seth tucker	Saint Marys, US	2020-08-16
Nita Fautier	Los Altos, CA	2020-08-16
Linda Palmor	Mountain View, CA	2020-08-16
Jeanette Loretz	Los Altos, CA	2020-08-16
Megan Haller	Lexington, US	2020-08-16
Linda Callis-Bennett	Cold Spring, US	2020-08-16
Setare Fathi	Hayward, CA	2020-08-16
Taylor Holm	West Linn, OR	2020-08-16

Name	Location	Date
Angelica Idrovo	Danbury, US	2020-08-16
Makayla Whirley	Chicago, US	2020-08-16
lindsay topping	Hamlin, US	2020-08-16
stacy nepacena	Newark, US	2020-08-16
Rachel Fish	Sunnyvale, CA	2020-08-17
Ronald Boles	Hazel Green, US	2020-08-17
Kimber Thompson	Livingston, US	2020-08-17
ethan delagarza	Schertz, US	2020-08-17
Susan Dorman	Los Altos, CA	2020-08-17
Abbi Kiadii	US	2020-08-17
Abigail Excellent	Orange, US	2020-08-17
Robert Petersen	Los Altos, CA	2020-08-17
Austin Sills	Raymond, US	2020-08-17
Yahaira Castro	Washington, US	2020-08-17
mariane randall	Danville, US	2020-08-17
Zakya Ivery	Sulphur Springs, US	2020-08-17
breanne pitzer	Frankfort, US	2020-08-17
Kaleb Larin	US	2020-08-17
Jose Olmos	Roselle, US	2020-08-17
Michael Krolikiewicz	New York, US	2020-08-17
Marissa Palmor	Los Altos, CA	2020-08-17
Jeff Eirich	Mountain View, CA	2020-08-17

Name	Location	Date
JOSEPH HANDLEY	Stafford, England, UK	2020-08-17
Gabriel Arriola	Miami, US	2020-08-17
Tina Chang	Mountain View, CA	2020-08-17
Hasnat Rayhan	Falls Church, US	2020-08-17
Karen Nilsson	Poway, CA	2020-08-17
Mar C	Oakland, US	2020-08-17
Michel Kalosin	Rock Springs, US	2020-08-17
Emily Miller	Hillsborough, US	2020-08-18
Annabelle Thrash	Spring, US	2020-08-18
Millie Martinez	Boise, US	2020-08-18
Jason Kline	Ashland, US	2020-08-18
Alyssa Baca	Amarillo, US	2020-08-18
Lacee Krantz	Spring, US	2020-08-18
Bob Fennell	Antelope, CA	2020-08-18
Nadia Aly	Los Altos, CA	2020-08-18
Jon McCormack	Los Altos, CA	2020-08-18
Yvonne Grinie	Bayard, NM	2020-08-18
Bobbi-jo Pignone	US	2020-08-19
Cindy Zinn	Los Altos, CA	2020-08-19
Rita Schumann	Los Altos, CA	2020-08-19
Jenna Derzko	Cleveland, OH	2020-08-19
Victor Eboli	Coconut Creek, US	2020-08-19

Name	Location	Date
donavan powell	Zephyrhills, US	2020-08-19
Victoria S	Arlington, US	2020-08-19
Ashton Simon	Humble, US	2020-08-19
Leslie Austin	Sunnyvale, CA	2020-08-19
Troy Towner	SUNNYVALE, CA	2020-08-19
teya thornton	Sacramento, US	2020-08-19
Maddie K	Savage, US	2020-08-19
kim repelli	georgetown, US	2020-08-19
laura topper	Fall Creek, US	2020-08-19
tracy McPherson	jacumba, CA	2020-08-19
Trey Fanney	Columbus, GA	2020-08-19
Liliana Torre	Dallas, US	2020-08-19
Maham Ali	Los Angeles, US	2020-08-19
Pinar Erciyas Bailey	Los Altos, CA	2020-08-19

Comments

Name	Location	Date	Comment
Nancy Lennartsson	Huntsville, AL	2020-08-15	"Too much government control over private property."
Alice Montgomery	Arnold and Los Altos, CA	2020-08-15	"Tree Houses are fun! We need more fun!"
Jacqueline Gorelick	Los Altos, CA	2020-08-15	"Play structures and tree houses foster healthy physical and cognitive development in children and are fun! Much safer than the park in a pandemic!"
Sally Kassoff	Fountain Valley, CA	2020-08-15	"Children should have fun, adventure & good use of imagination. Treehouses aren't a luxury they're a necessity!"
Anne Battle	US	2020-08-16	"The city has been completely unfair with this family. The tree fort should absolutely stay."
JOSEPH HANDLEY	Stafford, England, UK	2020-08-17	"to provide children with Play facilities should be automatic, no other options should be considered."
Rita Schumann	Los Altos, CA	2020-08-19	"We need more time outside for children , especially now on our own property !!"
Pinar Erciyas Bailey	Los Altos, CA	2020-08-19	"I don't see a good reason to regulate play structures or tree houses. Please reverse this decision. Families need time to provide for their children, not waste time with unnecessary bureaucracy. And children need access to play."

Exhibit

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Exhibit

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