



**AGENDA**  
**PLANNING COMMISSION**  
**Regular Meeting**

**7:00 P.M. on Tuesday, September 22, 2015**

Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, California

1. **CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**
2. **ADMINISTRATIVE**
  - 2.a. Review of agenda items.
  - 2.b. Declaration of Conflict of Interest.
  - 2.c. Commissioner Gregg Manning to report at the City Council meeting of October 6, 2015 (alternate Commissioner Tuija Catalano).
3. **PUBLIC COMMENT**
4. **MINUTES**
  - 4.a. Approval of the minutes for the September 8, 2015 Planning Commission meeting.
5. **PUBLIC HEARINGS**
  - 5.a. **SPR-04-15, CDD-13-15, Site Plan Review Permit and Reasonable Accommodation Request, Peter Bibeau, 964 Oak Street, APN: 119-021-038.** A request for approval of a Site Plan Review Permit and a Reasonable Accommodation to allow the construction of a 520 square-foot garage addition and 539 square-foot second-story addition (including a balcony) measuring a total of approximately 1,059 square feet in area and 22 feet in height on an existing two-story single-family residence. The Reasonable Accommodation is for an encroachment in to the rear setback in order to enlarge the master bathroom for increased mobility and access due to a disability. Pursuant to California Environmental Quality Act (CEQA) Guideline 15303 – New Construction or Conversion of Small Structures, the project is categorically exempt from CEQA.

**Staff Recommendation:** Staff recommends that the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider any public testimony and, if determined to be appropriate, conditionally approve the Peter Bibeau Site Plan Review Permit (SPR-04-15) and Reasonable Accommodation request (CDD-13-15).

**6. OLD BUSINESS**

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

8.a. Staff.

8.b. Commission.

**9. ADJOURNMENT**

9.a. **The next regularly-scheduled meeting of the Planning Commission will be held on Tuesday, October 13, 2015.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

**Minutes**  
**Clayton Planning Commission Meeting**  
**Tuesday, September 8, 2015**

**1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**

Chair David Bruzzone called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present: Chair David Bruzzone  
Vice Chair Sandra Johnson  
Commissioner Tuija Catalano  
Commissioner Dan Richardson  
Commissioner Gregg Manning (arriving at 7:01 PM)

Absent: None

Staff: Community Development Director Mindy Gentry  
Assistant Planner Milan Sikela, Jr.

**2. ADMINISTRATIVE**

2.a. Review of agenda items.

2.b. Declaration of Conflict of Interest.

Commissioner Tuija Catalano declared a conflict of interest on Agenda Item 5.b.

2.c. Commissioner Dan Richardson to report at the City Council meeting of September 15, 2015.

**3. PUBLIC COMMENT**

None.

**4. MINUTES**

4.a. Approval of the minutes for the July 14, 2015 Planning Commission meeting.

**Commissioner Manning moved and Commissioner Catalano seconded a motion to approve the minutes, as submitted. The motion passed 5-0.**

**5. PUBLIC HEARINGS**

5.a. **SPR-03-15, Site Plan Review Permit, Edward Criado, 973 Oak Street, APN: 119-022-006.** A request for approval of a Site Plan Review Permit to allow the construction of a two-story addition measuring approximately 1,500 square feet in area and 22 feet in height on an existing two-story single-family residence. Pursuant to California Environmental Quality Act (CEQA) Guideline 15303 – New Construction or Conversion of Small Structures, the project is categorically exempt from CEQA.

Assistant Planner Sikela presented the staff report.

Commissioner Catalano inquired why there was a discrepancy between the 4,718 square-foot combined gross floor area provided on Sheet A4 of the project plans and the 4,331 square-foot proposed floor area shown in the residential floor area analysis in the staff report.

Assistant Planner Sikela responded that the 4,331 square-foot figure is based on the fact that the 387 square-foot second-story component will be demolished, so staff calculated the proposed residential floor area by subtracting the 387 square-foot second-story component from the 4,718 square-foot combined gross floor area.

Commissioner Richardson inquired about the existing on-site detached accessory structures.

Assistant Planner Sikela indicated that, of the five existing on-site detached accessory structures, three of the structures are sheds that are under 120 square feet in area and 8 feet 6 inches in height and, as a result, would not require building permits and are located in compliance with the City's accessory building requirements. One of the structures is a pavilion which is located in compliance with setback requirements, although would be excluded from the City's floor area regulations since one of the longest sides of the pavilion is unenclosed. Staff did not analyze the fourth detached accessory structure, which is the largest detached structure on the lot, although staff indicated the issue will be looked into to ensure conformity with City standards.

Commissioner Manning and Commissioner Catalano expressed support for the project.

Vice Chair Johnson indicated that the proposed design will visually improve the residence.

Chair Bruzzone concurred with Vice Chair Johnson and indicated that the proposed design fits well with the neighborhood.

The public hearing was opened.

The applicant was available for questions.

The public hearing was closed.

**Commissioner Dan Richardson moved and Commissioner Manning seconded a motion to approve Site Plan Review Permit SPR-04-15, with the findings of approval and conditions of approval recommended by staff. The motion passed 5-0.**

- 5.b. **UP-01-15, Use Permit, T-Mobile**, north side of Marsh Creek Road, APN: 119-070-007. A request for approval of a Use Permit to allow the installation and operation of a wireless communications facility. The proposal would involve the construction of an approximate 40-foot antenna designed as a "monopine" (appearing as a tree), a 35-foot utility pole, and a fenced-in equipment enclosure for the equipment located at the base of the antenna and utility pole. Pursuant to California Environmental Quality Act (CEQA) Guideline 15303 – New Construction or Conversion of Small Structures, the project is categorically exempt from CEQA.

Commissioner Catalano recused herself due to a proximity conflict of interest related to this public hearing item and departed the meeting chambers.

Assistant Planner Sikela presented the staff report.

Vice Chair Johnson inquired about the existing monopine already located on the subject site.

Assistant Planner Sikela responded that the other monopine is for Verizon Wireless and was installed in 2001 under the Contra Costa County jurisdiction before the property was annexed into the City in 2005.

Commissioner Richardson inquired about the history of the Verizon Wireless monopine after the property was annexed into the City.

Assistant Planner Sikela indicated that, after the property was annexed into the City, Verizon submitted a proposal to upgrade the existing antenna array in order to provide better service. Staff reviewed the proposal to ascertain whether or not the proposal would need to come before the Commission for review and approval and decided that the modification was minor in nature and, therefore, could be approved administratively.

Chair Bruzzone inquired as to how many residential properties were noticed about the project.

Assistant Planner Sikela replied that, given the more remote location of the project site relative to existing residential subdivisions in Clayton, only a few residential properties along El Pueblo Place were located within the 300-foot noticing radius.

Vice Chair Johnson asked if a public hearing notice was sent to the developer of the proposed Oak Creek Canyon subdivision since the proposed subdivision is located directly adjacent to the subject site.

Assistant Planner Sikela indicated that, yes, a public hearing notice was sent to the developer of the proposed Oak Creek Canyon subdivision, West Coast Home Builders.

Chair Bruzzone inquired what approval method was used by Contra Costa County to approve the Verizon Wireless monopine in 2001?

Assistant Planner Sikela responded that City staff is not familiar with the County's approval process.

Director Gentry indicated the following:

- Cell sites are regulated by the Federal Communications Commission, which restricts local control.
- Local jurisdictions have very limited control over newly-proposed cell sites; the City can regulate aesthetics but there are timelines above and beyond the permit streamlining act which further restricts City latitude.
- Given that there is already a Public Facility designation on this site with the Contra Costa Water District tank and the existing Verizon Wireless monopine, it is one of the least intrusive sites to locate a new cell site.

The public hearing was opened.

The applicant was available for questions.

The public hearing was closed.

**Commissioner Richardson moved and Vice Chair Johnson second a motion to approve Use Permit UP-01-15, with the findings of approval and conditions of approval recommended by staff. The motion passed 4-0.**

Commissioner Catalano returned to the meeting chambers.

**6. OLD BUSINESS**

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

8.a. Staff.

Director Gentry provided project status updates on the Oak Creek Canyon subdivision, Creekside Terrace mixed-use development, Silver Oak Estates subdivision, Southbrook Drive subdivision, and the High Street townhouse development. In addition, Cemex will be holding an open house meeting in Hoyer Hall on Wednesday, September 9, 2015 at 6:30 p.m. regarding modifications to their quarry site on Mitchell Canyon Road south of Clayton. Also, the East Bay Regional Park District will be holding a meeting regarding the Clayton Ranch in Hoyer Hall on Wednesday, September 16, 2015 at 6:30 p.m.

Assistant Planner Sikela provided a project status update on the Verna Way subdivision.

8.b. Commission.

None.

**9. ADJOURNMENT**

9.a. The meeting was adjourned at 7:49 p.m. to the regularly-scheduled meeting of the Planning Commission on September 22, 2015.

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Submitted by  
Mindy Gentry  
Community Development Director

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Approved by  
David Bruzzone  
Chair

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**PLANNING COMMISSION  
STAFF REPORT**

**Meeting Date:** September 22, 2015

**Item Number:** 5.a.

**From:** Milan J. Sikela, Jr.   
Assistant Planner

**Subject:** Public Hearing to consider a Site Plan Review Permit and a Reasonable Accommodation request to construct a two-story addition on an existing two-story residence (SPR-04-15, CDD-13-15)

**Applicant:** Peter Bibeau

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**REQUEST**

Peter Bibeau is requesting a public hearing for the consideration of a Site Plan Review Permit and a Reasonable Accommodation request to allow the construction of a 520 square-foot garage addition and 539 square-foot second-story addition (including a balcony) measuring a total of approximately 1,059 square feet in area and 22 feet in height on an existing two-story single-family residence.

**PROJECT INFORMATION**

**Location:** 964 Oak Street  
APN: 119-021-038

**General Plan Designation:** Low Density – Single Family Residential (1.1 to 3.0 units per acre).

**Zoning:** Single Family Residential R-15 District (15,000 square-foot minimum lot area).

**Environmental Review:** Pursuant to California Environmental Quality Act (CEQA) Guideline 15303 – New Construction or Conversion of Small Structures, the project is categorically exempt from CEQA.

**Public Notice:** On September 11, 2015, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the project site.

**Authority:** Section 17.44.020 of the Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a Site Plan Review Permit in accordance with the standards of review in CMC Section 17.44.040.

Sections 15.90.050 and 15.90.060 of the CMC authorize the Planning Commission to approve a Reasonable Accommodation request in accordance with the findings in Section 15.90.070.A.

**DISCUSSION**

The applicant is requesting Planning Commission approval of a Site Plan Review Permit to allow the construction of a 520 square-foot garage addition and 539 square-foot second-story addition (including a balcony) measuring a total of approximately 1,059 square feet in area and 22 feet in height on an existing two-story single-family residence. As part of the discretionary review for the Site Plan Review Permit, the applicant is requesting that the Planning Commission consider and approve a Reasonable Accommodation request.

The addition will incorporate matching composition shingle roofing and matching exterior materials which are white horizontal lap siding, red brick siding, and white stucco. The project is proposed with a matching 4:12 roof pitch, except for the shed roof over the right rear portion of the new garage which is proposed with a 3:12 pitch in order for the garage roof to be able to fit under the railing of the new second-story balcony. The vicinity map is provided as **Attachment A** and the plot plan, floor plan, architectural elevations, and cross sections are provided as **Attachment B**.

Given the design of the existing residence, which was built in 1963, the applicant has provided architectural integration with a design that proposes to stay within the existing front and rear planes of the residence by keeping the addition in line with the existing home and only projecting outward on the right (south) side. The applicant has also provided visual interest with the proposed addition of a second-story balcony which does not protrude outward from the exterior wall of the residence, as is common with most balconies, but, instead, is recessed within the first floor footprint of the residence. By recessing the balcony it maintains the privacy of adjacent properties while fostering transitory articulation as the residence steps up from the single-story garage element to the second-story component of the dwelling.

**Setback Analysis**

The project meets the R-15 District standards as shown below.

Required Setbacks	Existing Setbacks		Proposed Setbacks		Project Compliance
Front Setback 20'	West	77' 7"	West	No Change	Yes
Side Setback 10' interior 25' aggregate	South North Aggregate	24' 11" 16' 40' 11"	South North Aggregate	10' No Change 26'	Yes Yes* Yes*
Rear Setback 15'	East	12' 5"	East	No Change	Yes with approval of a Reasonable Accommodation*

\*Please see discussion below.

A chimney is located on the north side of the existing residence that projects two feet from the wall. Although the chimney encroaches approximately one foot into the required 15-foot side setback that is needed to meet the required 25-foot aggregate side setback (with the 10-foot setback being provided on the other [south] side of the residence), Section 17.36.030 of the Clayton Municipal Code (CMC) exempts chimneys from required setback regulations as long as the chimney does not obstruct the light and ventilation of any adjoining parcel of land, which the subject chimney does not.

The existing rear setback is approximately 12 feet 5 inches. While the majority of the existing rear plane of the residence is 21 feet 6 inches from the rear property line—which complies with the 15-foot rear setback requirement for the R-15 District—a second-story bathroom component projects outward approximately 9 feet toward the rear property line, encroaching 2 feet 6 inches into the required rear setback. Since the residence was constructed in 1963, one year before Clayton was incorporated as a city, the structure was built under the jurisdiction of Contra Costa County. As a result, the residence is legal non-conforming. As part of the Site Plan Review request, the applicant is proposing to “square-off” the window section on the southeast corner of the second-story bathroom. Currently, the southeast corner of the second-story bathroom is already squared-off from the floor to approximately 3 feet above the floor, and then above the squared-off corner there is a diagonal recess for a bathroom window. The applicant is proposing to expand the recessed diagonal window component outward to match the existing squared-off corner below the window. Since this modification will increase the legal non-conforming aspect of the residence, the applicant is requesting that the Planning Commission consider a Reasonable Accommodation request, which is discussed in further detail below.

As for the remainder of the project (other than the second-story bathroom), the addition is in compliance with the required 15-foot rear setback by being approximately 21 feet 6 inches from the rear property line.

**Residential Floor Area Analysis**

**Building Footprint**

The proposal meets the building footprint requirements as shown below.

<b>Lot Size</b>	<b>Building Footprint Allowed</b>	<b>Existing Building Footprint</b>	<b>Proposed Building Footprint</b>	<b>Project Compliance</b>
13,500 sq ft	3,670 sq ft	1,727 sq ft	2,247 sq ft	Yes

**Floor Area**

The proposal meets the floor area requirements as shown below.

<b>Lot Area</b>	<b>Floor Area Allowed</b>	<b>Existing Floor Area</b>	<b>Proposed Floor Area</b>	<b>Project Compliance</b>
13,500 sq ft	5,416 sq ft	2,786 sq ft	3,691 sq ft	Yes*

\*Please see discussion below.

Although the total proposed floor area of the residence is 3,839 square feet, the 148 square-foot balcony is excluded from the City's residential floor area requirements per CMC Section 17.78.030.D.3 which excludes balconies where at least one of the longest dimensions is unenclosed. Since the south side of the balcony is the longest dimension (approximately 19 feet in length) and is unenclosed, the balcony would qualify for this exclusion from the City's residential floor area requirements.

### **Reasonable Accommodation Request**

Chapter 15.90 of the CMC establishes a process for individuals with disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's land use, zoning, or building standards, regulations, policies, and procedures (see **Attachment C**). According to CMC Section 15.90.020, "any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, may seek relief from any land use, zoning, or building standard, regulation, policy, or procedure" in the applicable sections of the CMC in order to "ensure equal access to housing and to facilitate the development of housing for individuals with disabilities by requesting a reasonable accommodation" in accordance with Chapter 15.90. The United States Department of Housing and Urban Development defines a disability as "any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."

As part of the Reasonable Accommodation request, information is required to be submitted to the City which addresses the items listed in CMC Section 15.90.040.A. This information may be provided in the form of a letter, which the applicant has submitted (see **Attachment D**). According to the letter, the applicant's spouse has Multiple Sclerosis. As mentioned above in the setback analysis, the second-story bathroom has an existing recessed diagonal window component which the applicant is proposing to square-off in order to match the existing southeast corner of the bathroom, which would exacerbate an existing legal non-conforming structure by increasing the encroachment into the required rear setback (see **Attachment E** for site photographs). In the letter, the applicant addresses the current interior arrangement of the second-story bathroom which includes a bathtub that is oriented parallel to the diagonal angle of the southeast corner of the bathroom. Because of this orientation, the tub constricts the space in the center of the bathroom, making mobility and access difficult. By squaring-off the southeast corner of the bathroom, the bathtub can be re-located in order to allow a larger area within the bathroom for greater ease of mobility and access. As a result, the applicant is requesting Planning Commission consideration of a Reasonable Accommodation request to further encroach into the rear setback in order to allow the upper portion of the southeast corner of the existing second-story bathroom to be modified to remove the recessed diagonal window component and match the existing right-angle corner of the lower portion of the southeast corner of the existing second-story bathroom.

From staff's perspective, the modification of the southeast corner would not entail an expansion of the existing "footprint" of the second-story bathroom. The lower half of the corner is already squared-off. The proposed modification would almost be more cosmetic in nature by simply allowing the upper half of the corner (which is diagonal) to be more integrated with the existing squared-off configuration of the lower half of the corner. As a result, the bathroom would not increase the encroachment into the rear setback, thereby maintaining the existing 12-foot 5-inch setback and current level of legal non-conformity.

Also, staff notes that a steep slope exists on the front portion of the lot which has pushed the level pad area toward the rear of the property. As a result, the residence is sited far back on the lot in close proximity to the rear property line (being oriented over 77 feet from the front property line while only being located just over 12 feet from the rear property line). Evidently, the Contra Costa County development standards in place at the time the residence was constructed in 1963 allowed for smaller rear setbacks. Because of this slope condition, the dwelling has been placed closer to the rear property line than a residence would normally be located on a lot within the R-15 District.

Furthermore, the modification of the southeast corner is necessary in order to re-orient the bathtub which would allow the applicant's spouse greater mobility and access within the bathroom, thereby granting her equal opportunity as a disabled resident to enjoy her dwelling, which warrants approval of the Reasonable Accommodation request. Staff notes that the proposed changes result in an increase of 4.5 square feet, which will result in matching the existing encroachment into the existing 12-foot 5-inch rear setback on the residence and, more specifically, the setback from the closest existing point of the bathroom to the rear property line. From staff's perspective, this situation meets the purpose, intent, and findings of approval in accordance with the City's Reasonable Accommodation requirements.

### **CONCLUSION**

Staff has reviewed the design aspects of the proposed plans relative to the standards for Site Plan Review Permits and development standards for the zoning district and has determined that the project, as conditioned, is in conformance with the Clayton Municipal Code. The proposed findings of approval listed below specifically address the standards. Staff has also reviewed the information submitted by the applicant regarding the Reasonable Accommodation request relative to the findings for Reasonable Accommodation and has determined that the request is in conformance with the Clayton Municipal Code. The proposed findings of approval for the Reasonable Accommodation are listed below.

### **RECOMMENDATION**

Staff recommends that the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider any public testimony and, if determined to be appropriate, conditionally approve the following requests:

- A Site Plan Review Permit SPR-04-15 to allow the construction of a 520 square-foot garage addition and 539 square-foot second-story addition (including a balcony) measuring a total of approximately 1,059 square feet in area and 22 feet in height on an existing two-story single-family residence at 964 Oak Street (APN: 119-021-038); and
- A Reasonable Accommodation request to allow further encroachment into the rear setback. The encroachment consists of a modification to the existing second-story bathroom by removing the recessed diagonal window component and extending the wall to match the existing right-angle corner. These modifications allow the bathtub to be re-located in order to allow greater ease of mobility and access for a disabled resident.

### **PROPOSED FINDINGS OF APPROVAL FOR THE SITE PLAN REVIEW PERMIT**

Based upon the evidence set forth in the staff report, which includes relevant information from the project application, as well as testimony at the public hearing, the Planning Commission makes the following findings that Site Plan Review Permit SPR-04-15, as conditioned:

1. Is consistent with the General Plan designation and policies.

The project is consistent with the General Plan designation and policies since the project consists of an enlargement of a single family home, an allowed use, within the Single Family Low Density designation.

2. Meets the standards and requirements of the Zoning Ordinance.

The project meets the standards and requirements of the Zoning Ordinance as it is not exceeding the building footprint area or floor area requirements. Further, the setback requirements are being modified with the approval of the Reasonable Accommodation request as allowed by the Zoning Ordinance. Lastly, the project will be constructed in compliance with Site Plan Review Permit requirements, findings, and conditions of approval.

3. Preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.

The addition preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards since the project will be constructed in compliance with the Clayton Municipal Code, Uniform Building Code, and other agency regulations where applicable.

4. Maintains solar rights of adjacent properties.

The project will not block adjacent properties from direct sunlight from any angle of the ecliptic.

5. Reasonably maintains the privacy of adjacent property owners and/or occupants.

The project reasonably maintains the privacy of adjacent property owners and/or occupants since the addition is located 21 feet 6 inches from the rear property line, which is 6 feet 6 inches greater than the required 15-foot rear setback, and complies with the other setback requirements of the Clayton Municipal Code.

6. Reasonably maintains the existing views of adjacent property owners and/or occupants.

The project reasonably maintains the existing views of adjacent property owners and/or occupants since the majority of the addition is located 21 feet 6 inches from the rear property line, which is 6 feet 6 inches greater than the required 15-foot rear setback. Also, the surrounding neighborhood lends itself to significant distances between neighboring properties, especially on the side of the proposed addition. Due to the distance and the fact that the subject residence already consists of two-stories, it is not anticipated the proposed addition will compromise the views of adjacent property owners and/or occupants.

7. Is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk.

The project is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk since the addition has been designed with exterior colors and materials that architecturally complement the surrounding residences and the massing of the project complies with all applicable zoning regulations and development standards for setback, building footprint, and residential floor area requirements. Also, the project will utilize the same exterior colors and materials as the existing residence, thereby matching the existing residence.

8. Is in accordance with the design standards for manufactured homes per Section 17.36.078.

The project consists of the expansion of an existing single family home and is not considered a manufactured home; therefore this finding is not applicable.

The above-stated findings assume acceptance and approval of the proposed conditions of approval listed below.

#### **PROPOSED FINDINGS OF APPROVAL FOR THE REASONABLE ACCOMMODATION REQUEST**

Based upon the evidence set forth in the staff report, which includes relevant information from the project application, as well as testimony at the public hearing, the Planning Commission makes the following findings for the Reasonable Accommodation request, as conditioned:

1. The reasonable accommodation is requested by or on behalf of one or more individuals with a disability protected under the fair housing laws.

The reasonable accommodation is requested by the applicant who has a spouse with a disability, as defined by the Department of Housing and Urban Development.

2. The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to enjoy a dwelling.

The requested accommodation to allow the upper portion of the southeast corner of the existing second-story bathroom to be modified to remove the recessed diagonal window component and match the existing right-angle corner of the lower portion of the southeast corner of the existing second-story bathroom is necessary in order to re-orient the bathtub which would allow the applicant's spouse greater mobility and access thereby granting her equal opportunity to enjoy her dwelling.

3. The requested accommodation will not impose an undue financial or administrative burden on the City, as defined in the fair housing laws.

The improvement of the applicant's private property will not cause an undue financial or administrative burden on the City since the project will occur entirely on private property and not on City-owned public streets, sidewalks, public right-of-ways, or other City-owned properties.

4. The requested accommodation will not result in a fundamental alteration in the nature of the City's Zoning Code, as defined in the fair housing laws.

The proposed changes result in an increase of 4.5 square feet, which will result in no fundamental alteration in the nature of the City's Zoning Code since the existing 12-foot 5-inch rear setback on the residence will not increase or be modified in a significant way.

5. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

No direct threat to the health or safety of other individuals or substantial physical damage to the property of others will occur with this nominal alteration. The change will allow the applicant's spouse greater mobility and access, which will not impact other individuals or result in any physical damage to any property.

The above-stated findings assume acceptance and approval of the proposed conditions of approval listed below.

#### **PROPOSED CONDITIONS OF APPROVAL**

These conditions of approval apply to the Bibeau Residence Plot Plan, Floor Plan, Architectural Elevations, and Cross Sections, prepared by By Marciano, date stamped September 11, 2015.

1. The applicant shall indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.
2. The project shall be constructed in accordance with the approved plans, prepared by By Marciano, date stamped September 11, 2015, and as conditionally approved by the Clayton Planning Commission on September 22, 2015.
3. Any major changes to the project shall require Planning Commission review and approval. Any minor changes to the project shall be subject to City staff review and approval.
4. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and any other payments that are due.
5. An encroachment permit shall be required for all work in the public right-of-way.

#### **ADVISORY NOTES**

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; and (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

1. The applicant shall comply with all applicable State, County, and City codes, regulations and adopted standards as well as pay all associated fees and charges.
2. This Site Plan Review Permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be null and void (Clayton Municipal Code Sections 17.64.010-17.64.030).
3. All construction and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless specifically authorized in writing by the City Engineer (Clayton Municipal Code Section 15.01.101) located at 5375 Clayton Road, Concord, 925-363-7433.
4. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department. All construction shall conform to the California Building Code.
5. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.
6. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.

#### **ATTACHMENTS**

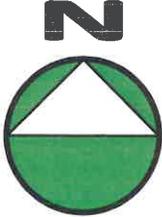
- A. Vicinity Map
- B. Bibeau Residence Plot Plan, Floor Plan, Architectural Elevations, and Cross Sections, prepared by By Marciano, date stamped September 11, 2015
- C. Clayton Municipal Code Chapter 15.90 – Reasonable Accommodation
- D. Reasonable Accommodation request from applicant Peter Bibeau, date stamped September 17, 2015
- E. Site Photographs, taken by staff on September 17, 2015

Com Dev\SPR\2015\SPR-04-15.bibeau.addition\SPR-04-15.bibeau.sr.for.pc.mtg.9.22.15

Community Development\Planning Commission\Final Staff Reports and Notices of Decision\2015\9-22-15\SPR-03-15.bibeau.sr.for.pc.mtg.9.22.15



**VICINITY MAP**

	<p><b>Bibeau Residence</b> <b>Site Plan Review Permit SPR-04-15</b> <b>964 Oak Street</b> <b>APN: 119-021-038</b></p>	<p><b>N</b></p>  <p><b>(Not to Scale)</b></p>
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**ATTACHMENT A**

### SHEET INDEX:

- A-1: PLOT PLAN
- A-2: GENERAL NOTES-INSTRUCTIONS
- A-3: EXISTING 1ST AND 2ND FLOOR PLAN
- A-4: PROPOSED 1ST AND 2ND FLOOR PLAN
- A-5: ELEVATIONS, ROOF PLAN
- A-6: CROSS SECTIONS
- SN-1: STRUCTURAL NOTES
- SN-2: STRUCTURAL NOTES
- S-1: FOUNDATION PLAN
- S-2: 2ND FLOOR FRAMING PLAN
- S-3: PROPOSED ROOF FRAMING PLAN
- S-4: STRUCTURAL DETAILS
- S-5: STRUCTURAL DETAILS
- S-6: STRUCTURAL DETAILS
- SN-1: STRUCTURAL NOTES
- T-1: TITLE 24
- T-2: TITLE 24

### SCOPE OF WORK:

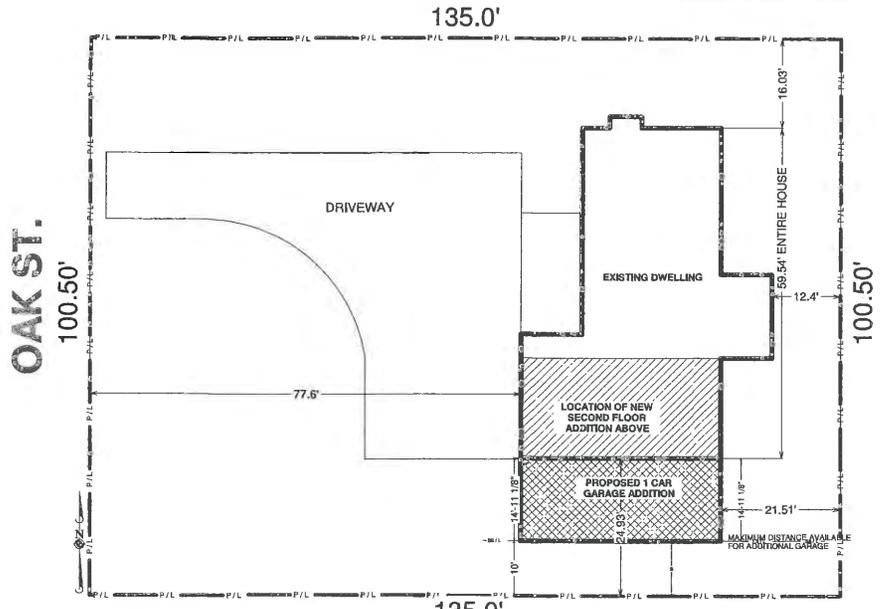
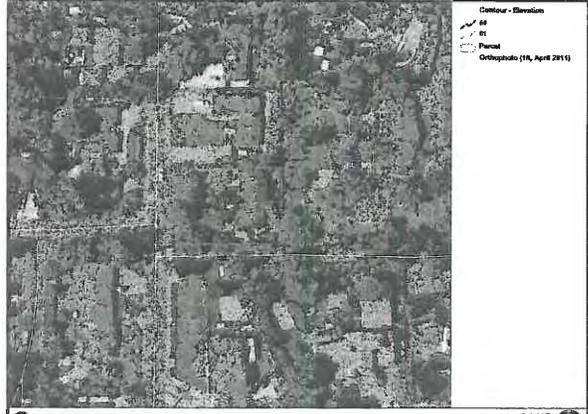
- (N) 391 SQ FT 2ND FLOOR ROOM ADDITION
- (N) 148 SQ. FT. BALCONY
- (N) 520 SQ. FT. GARAGE ADDITION

### LEGAL INFO:

- 2013 California Residential Code
- 2013 California Electrical Code
- 2013 California Plumbing Code
- 2013 California Mechanical Code
- 2013 California Green Building Standards Code

Property address 964 Oak St.  
 Property class Single Family Residential  
 Type of Construction Type VB  
 Occupancy Cat. R3/U  
 Clayton, CA 94517  
 Parcel ID: 1190210383  
 COUNTY: Contra Costa  
 Property class Single Family Residence(0510)  
 Lot: 0.31 acres  
 Single Family  
 Built in 1963  
 Existing Sq ft 2780 sqft  
 6 beds  
 3 baths  
**Proposed Sq ft 1,059 Sq ft**  
**Total Existing & Proposed Sq ft 3,839 SQ. FT.**

### VICINITY MAP



**1 PLOT PLAN**  
SCALE: 1"=10'-0"

DRAWINGS PROVIDED BY:  
**BY MARCIANO**  
 19528 VENTURA BLVD #641  
 TARZANA, CA 91356  
 310.779.6161  
**KOBE MARCIANO**

OWNERS INFO:  
**PETER & DELIA BIBEAU**  
 964 OAK ST.  
 CLAYTON, CA 94517

PROJECT DESCRIPTION:  
**2ND FLOOR AND GARAGE ADDITION**

SHEET TITLE:  
**SITE PLAN**

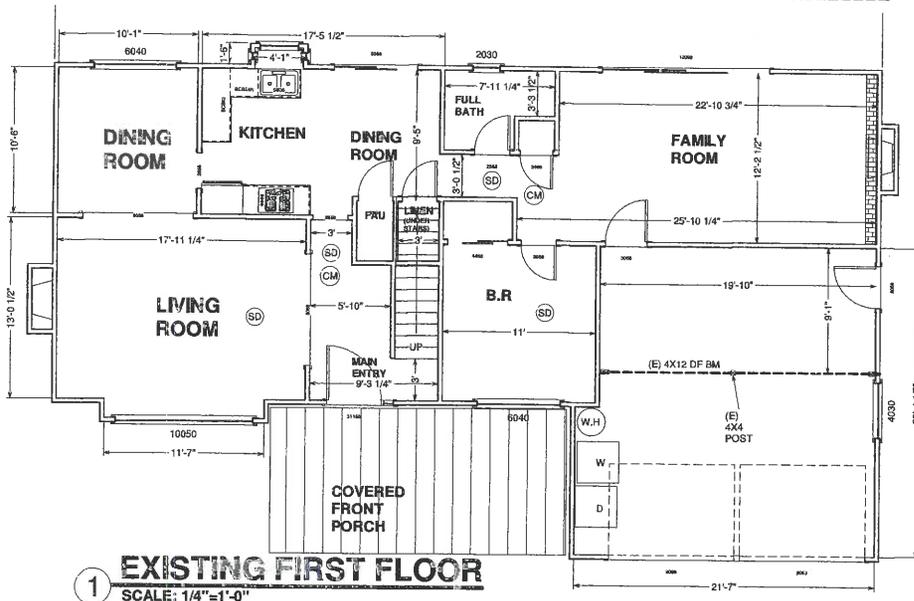
DATE:  
**9/10/2015**  
 SCALE:  
**NOTED**  
 SHEET:  
**A-1**

**BY MARCIANO ON ATTACHMENT B BY MARCIANO**

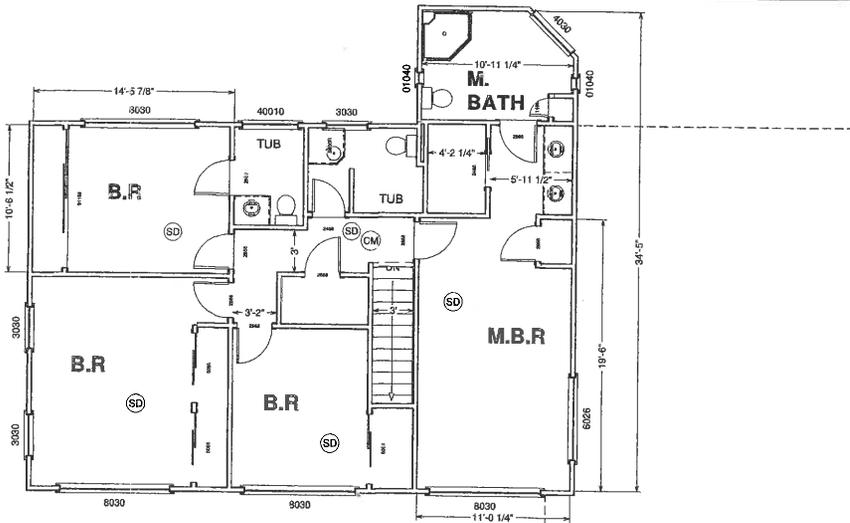
**1-8**



B-3



**1** EXISTING FIRST FLOOR  
SCALE: 1/4"=1'-0"

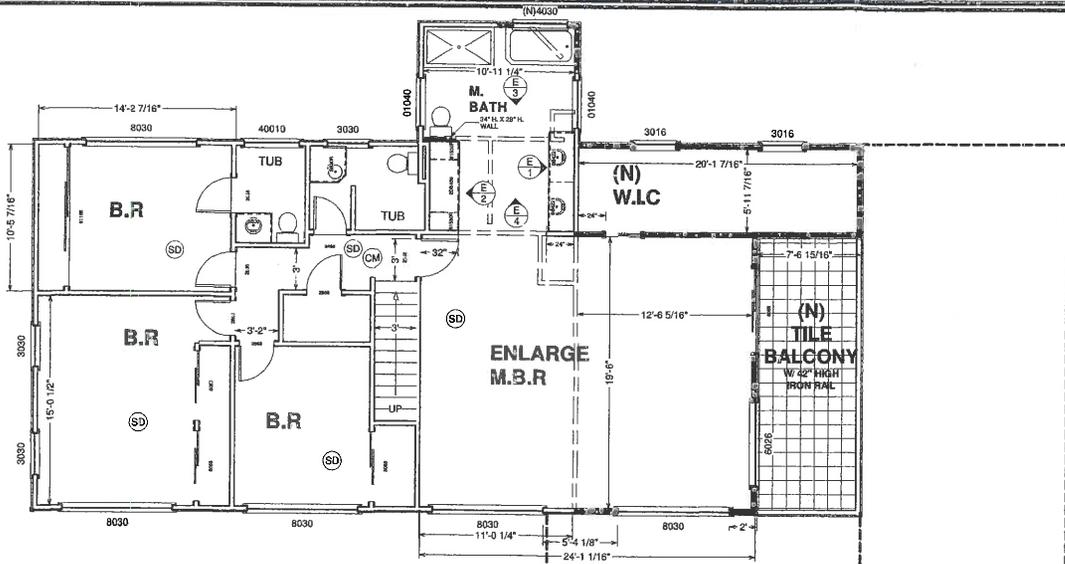


**2** EXISTING SECOND FLOOR  
SCALE: 1/4"=1'-0"

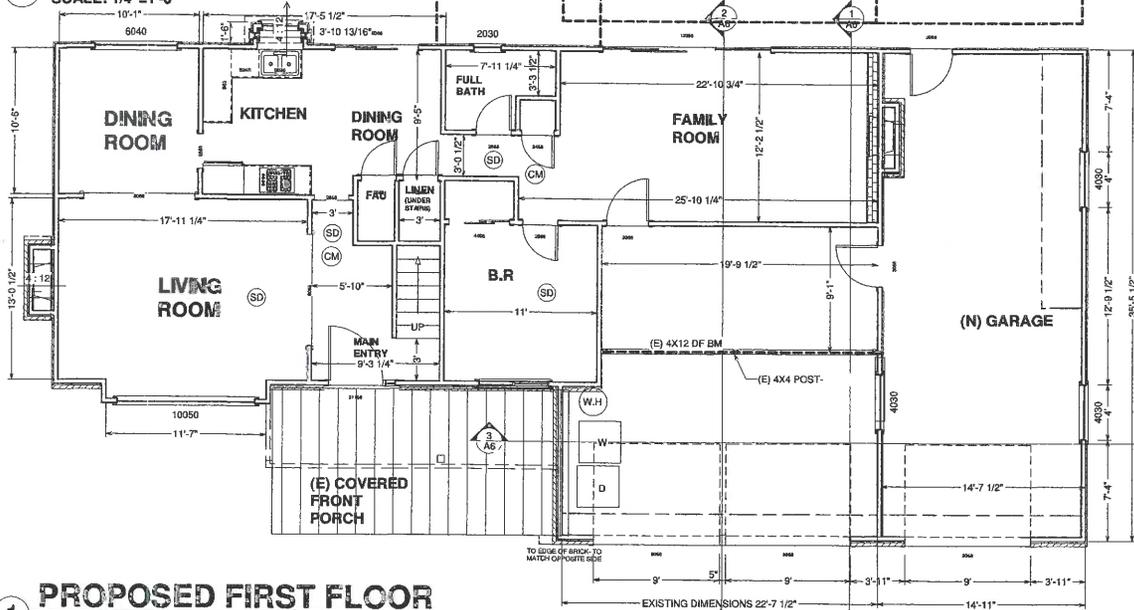
DRAWINGS PROVIDED BY:	BY MARCIANO 15528 VENTURA BLVD #841. TARZANA, CA, 91356. 310.779.6161 KOBE MARCIANO
	OWNERS INFO:
PROJECT DESCRIPTION:	PETER & DELIA BIBEAU 964 OAK ST. CLAYTON, CA 94517
SHEET TITLE:	EXISTING FLOOR PLANS
DATE:	9/10/2015
SCALE:	NOTED
SHEET:	A-3

BY MARCIANO BY MARCIANO BY MARCIANO BY MARCIANO

B-4

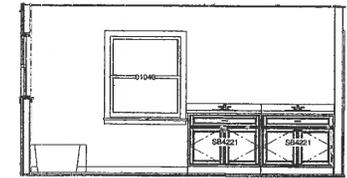


2 PROPOSED SECOND FLOOR  
SCALE: 1/4"=1'-0"

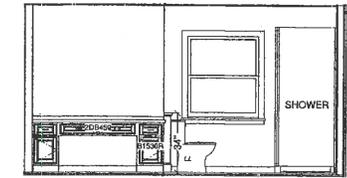


1 PROPOSED FIRST FLOOR  
SCALE: 1/4"=1'-0"  
GARAGE ADDTN= 200 S.F.

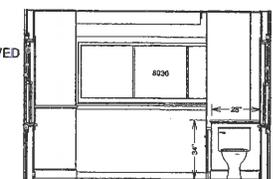
- DENOTE EXISTING WALLS
- DENOTE WALLS TO BE REMOVED
- DENOTE WALLS TO BE ADDED



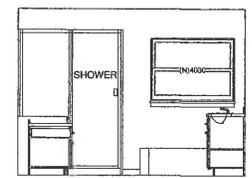
E 1 Sink Elevation  
SCALE: 3/8"=1'-0"



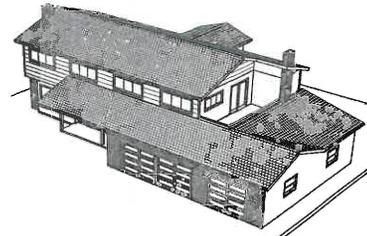
E 2 Vanity Elevation  
SCALE: 3/8"=1'-0"



E 3 Elevation Facing Master  
SCALE: 3/8"=1'-0"



E 4 Elevation Facing Shower  
SCALE: 3/8"=1'-0"



DRAWINGS PROVIDED BY: BY MARCIANO 19528 VENTURA BLVD #641, TARZANA, CA, 91356, 310.779.6161 KOBE MARCIANO

OWNER'S INFO: PETER & DELIA BIBEAU 964 OAK ST. CLAYTON, CA 94517

PROJECT DESCRIPTION: 2ND FLOOR AND GARAGE ADDITION

SHEET TITLE: PROPOSED FLOOR PLANS

DATE: 9/10/2015

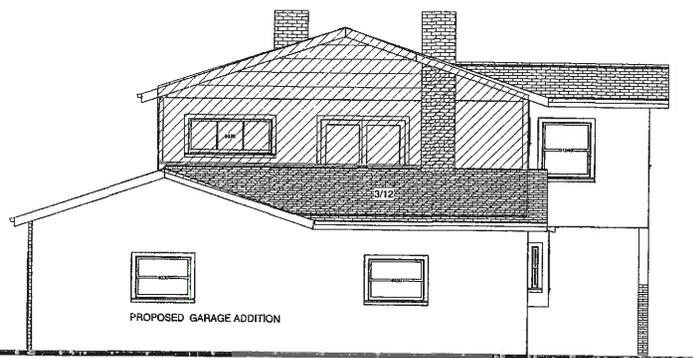
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SHEET: A-4

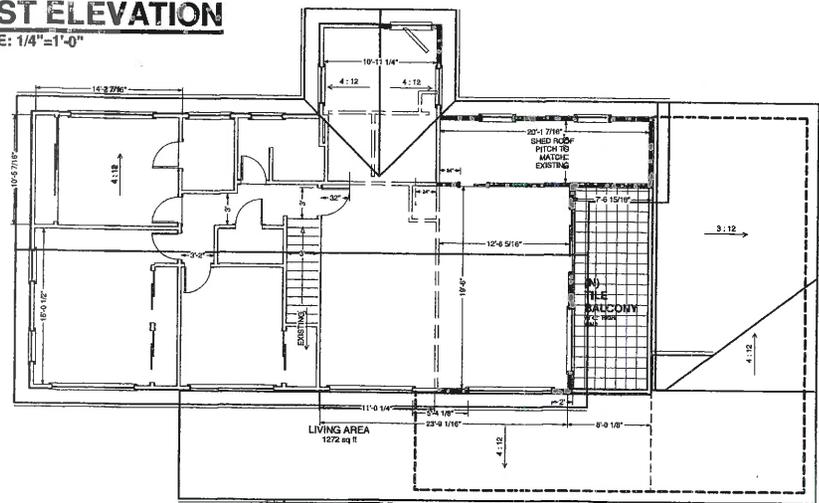
BY MARCIANO BY MARCIANO BY MARCIANO



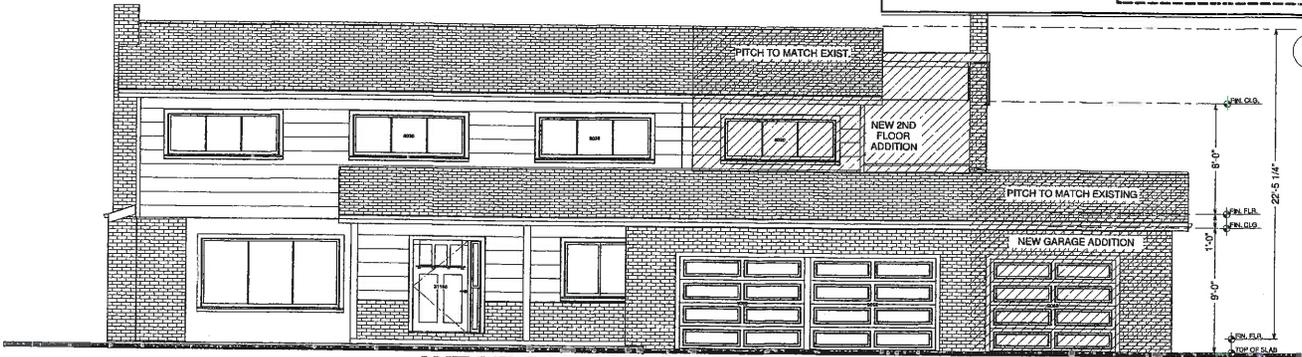
**3 EAST ELEVATION**  
SCALE: 1/4"=1'-0"



**2 SOUTH ELEVATION**  
SCALE: 1/4"=1'-0"



**4 ROOF PLAN**  
SCALE: 3/16"=1'-0"



**1 WEST ELEVATION**  
SCALE: 1/4"=1'-0"

B-5

DRAWINGS PROVIDED BY:  
**BY MARCIANO**  
19528 VENTURA BLVD #641  
TARZANA, CA, 91356  
310.779.6161  
**KOBE MARCIANO**

OWNER'S INFO:  
**PETER & DELIA BIBEAU**  
964 OAK ST.  
CLAYTON, CA 94517

PROJECT DESCRIPTION:  
**2ND FLOOR AND GARAGE ADDITION**

SHEET TITLE:  
**PROPOSED ELEVATIONS AND ROOF PLAN**

DATE:

9/10/2015

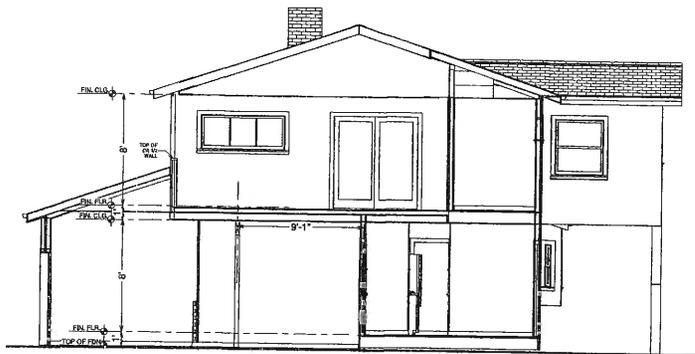
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NOTED

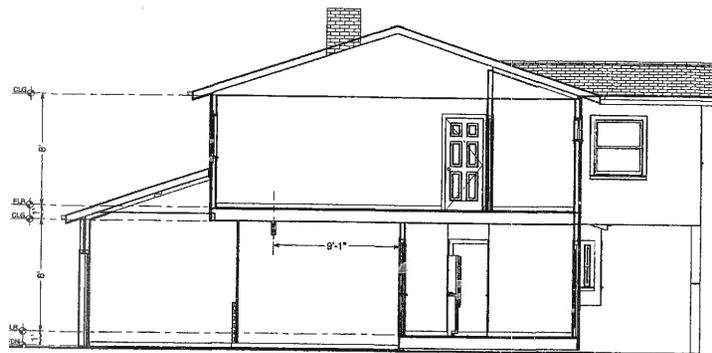
SHEET:

**A-5**

BY MARCIANO BY MARCIANO BY MARCIANO BY MARCIANO BY MARCIANO



① **CROSS SECTION**  
SCALE: 1/4"=1'-0"



② **CROSS SECTION**  
SCALE: 1/4"=1'-0"



③ **CROSS SECTION**  
SCALE: 1/4"=1'-0"

DRAWINGS PROVIDED BY:  
**BY MARCIANO**  
13218 VERNON BLVD #641  
TARZANA, CA 91356  
310.779.6161  
**KOBE MARCIANO**

OWNER'S INFO:  
**PETER & DELIA BIBEAU**  
964 OAK ST.  
CLAYTON, CA 94517

PROJECT DESCRIPTION:  
**2ND FLOOR AND GARAGE ADDITION**

SHEET TITLE:

DATE:  
**9/10/2015**

SCALE:  
**NOTED**

SHEET:

**A-6**

**BY MARCIANO BY MARCIANO BY MARCIANO**

B-6

# ATTACHMENT C

## Chapter 15.90

### REASONABLE ACCOMMODATIONS

#### Sections:

- 15.90.010 Purpose.
- 15.90.020 Applicability.
- 15.90.030 Definitions.
- 15.90.040 Application process.
- 15.90.050 Review authority.
- 15.90.060 Review procedure.
- 15.90.070 Findings and decision.
- 15.90.080 Appeals.
- 15.90.090 Expiration, revocation, termination.

#### **15.90.010 Purpose.**

The purpose of this Chapter is to establish a process for individuals with disabilities seeking equal access to housing to request reasonable accommodations in the application of the City's land use, zoning, or building standards, regulations, policies, and procedures and to establish relevant criteria for the City to use when considering such requests.

#### **15.90.020 Applicability.**

Any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, may seek relief from any land use, zoning, or building standard, regulation, policy, or procedure found in Title 15 or Title 17 of this Code to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities by requesting a reasonable accommodation in the manner prescribed in Section 15.90.040.

#### **15.90.030 Definitions.**

For the purposes of this Chapter, the following definitions apply:

- A. "Applicant" means an individual who files an application for a reasonable accommodation under this Chapter.
- B. "Department" means the Clayton Community Development Department.
- C. "Director" means the Community Development Director or the Director's designee.
- D. "Fair housing laws" means the federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sect. 3601 *et seq.*), the California Fair Employment and Housing Act (Government Code Sect. 12900 *et seq.*), and Civil Code Sect. 54, together with published judicial decisions interpreting such laws.
- E. "Individual with a disability" means an individual with a qualifying disability as defined by the fair housing laws, and generally includes any individual who has, or is regarded as having, any mental or physical impairment, disorder, or condition, which substantially limits one or more major life activities, including physical, mental, and social activities and working. "Disabled or individual with a disability" does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

- F. "Reasonable accommodation" means a modification or exception to the standards, regulations, policies, and procedures contained in Title 15 or Title 17 of this Code for the siting, development, and use of housing or housing-related facilities, that would eliminate regulatory barriers and provide an individual with a disability equal opportunity for the use and enjoyment of housing of their choice, and that does not impose undue financial or administrative burdens on the City or require a fundamental alteration of the City's planning and zoning program.

**15.90.040 Application process.**

- A. Application. Requests for a reasonable accommodation must be submitted on an application form provided by the Department, or in the form of a letter addressed to the Director, and must contain the following information:
1. The name, address, and telephone number of the applicant.
  2. The name, address, and telephone number of the individual with the disability for which the reasonable accommodation is being requested.
  3. The name, address, and telephone number of the owner of the property for which the reasonable accommodation request is being made.
  4. The address and current use of the property for which the reasonable accommodation is being made.
  5. If the applicant is someone other than the property owner, a letter of agency or authorization signed by the property owner consenting to the application being made.
  6. The basis for the claim that the individual to be reasonably accommodated is disabled within the meaning of the fair housing laws.
  7. A description of the reasonable accommodation request and the land use, zoning, or building standard, regulation, policy, or procedure to be modified or waived.
  8. A statement of the reason why the requested accommodation is necessary for the individual with a disability to use and enjoy the dwelling.
  9. An indication of the timing and anticipated duration for needing the reasonable accommodation.
- B. Other Discretionary Permits. If the project for which the request for a reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for the discretionary permit or approval. The processing procedures applicable to the discretionary permit will govern the joint processing of both the reasonable accommodation and the discretionary permit.
- C. If an individual needs assistance in making a request for a reasonable accommodation, the City will provide assistance to ensure that the process is accessible.
- D. A request for a reasonable accommodation may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with all other applicable regulations that are not being modified in response to the requested accommodation.

**15.90.050 Review authority.**

- A. The Director may approve, conditionally approve, or deny an application for a reasonable accommodation for an existing use or a proposed new use that only requires a ministerial permit or approval.
- B. If the project for which the request for a reasonable accommodation is made requires a discretionary permit or approval, then the application for a reasonable accommodation will be heard at the same time as the other discretionary permit or approval.

**15.90.060 Review procedure.**

- A. Director Review. The Director will issue a written determination to approve, conditionally approve, or deny a request for a reasonable accommodation within thirty (30) days of acceptance of a complete application. The written determination must explain in detail the basis of the decision, including the Director's findings required by Section 15.90.070. The Director must mail written notice of the determination to the applicant, and, as part of such notice, advise the applicant of the right to appeal the determination.
- B. Review By Planning Commission or City Council. If the application for a reasonable accommodation is heard simultaneously with the application for another discretionary approval, the decision to approve, conditionally approve, or deny a request for a reasonable accommodation will be made by the authority taking action on the other discretionary approval. The Planning Commission or City Council must make their decision in accordance with Section 15.90.070.

**15.90.070 Findings and decision.**

- A. Findings. The written decision to approve, conditionally approve, or deny a request for a reasonable accommodation must be based on the following findings, all of which are required for approval:
  - 1. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the fair housing laws.
  - 2. The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
  - 3. The requested accommodation will not impose an undue financial or administrative burden on the City, as defined in the fair housing laws.
  - 4. The requested accommodation will not result in a fundamental alteration in the nature of the City's Zoning Code, as defined in the fair housing laws.
  - 5. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.
- B. Conditions of Approval. In granting a request for a reasonable accommodation, the Director, Planning Commission, or City Council may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection A above.

**15.90.080 Appeals.**

- A. Director Decision. Any person who is dissatisfied by the decision made by the Director

on an application for a reasonable accommodation may appeal the Director's decision to the Planning Commission. The appeal must be filed within ten days of the mailing of the Director's decision. Upon the filing of a notice of appeal, the Director will set the matter for a hearing before the Planning Commission to occur not later than forty-five (45) days from the date of filing. Notice of the appeal hearing will be given to the applicant by mail at least ten days prior to the hearing. The appeal hearing will be conducted in accordance with the application procedures of Section 17.68.010 of this Code. Any person who is dissatisfied by the decision of the Planning Commission may make a further appeal to the City Council in accordance with applicable procedures of Sections 17.68.020 and 17.68.030 of this code. The Planning Commission's decision will be final absent an appeal timely filed with the City Council.

- B. Planning Commission Decision. A decision of the Planning Commission on an application for a reasonable accommodation considered concurrently with another application for a discretionary approval is subject to the same appeal rights and procedures that apply to the other discretionary approval.

**15.90.090 Expiration, revocation, termination.**

- A. Expiration. Any reasonable accommodation approved under this Chapter will expire within twelve (12) months from the effective date of approval or at such alternative time specified as a condition of approval unless:
  - 1. A building permit has been issued and construction has commenced;
  - 2. A certificate of occupancy has been issued;
  - 3. The use is established; or
  - 4. A time extension has been granted.
- B. Revocation. Any reasonable accommodation approved under this Chapter may be revoked if any of the conditions or terms of such reasonable accommodation are violated, or if any law or City ordinance is violated in connection with the reasonable accommodation. The revocation procedures in Section 17.64.050 *et seq.* of this Code will be followed to revoke a reasonable accommodation.
- C. Termination. If the individual with a disability who initially occupied the applicable dwelling ceases to reside at the premises, the property owner and/or occupant shall notify the City and the reasonable accommodation will automatically terminate, and the property owner or occupant shall be responsible for modifying the applicable premises so that it conforms to Code as directed by the City, unless the Director determines that: (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code, or (2) the accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling. A deed restriction shall be recorded against the property requiring the property owner to notify a buyer of the City's requirements pursuant to chapter 15.90. The Director shall require that any successor-in-interest to the property provide documentation that subsequent occupants are individuals with disabilities who also require the previously-established reasonable accommodation. Failure to provide such documentation within ten days of the date of a request by the Director will result in the termination of a previously-approved

reasonable accommodation and the property owner or occupant shall be responsible for modifying the applicable premises so that it conforms to Code as directed by the City (Ordinance No. 441, 2012).

# ATTACHMENT D

Milan Sikela

**From:** Peter Bibeau <peterbibeau@gmail.com>  
**Sent:** Thursday, September 17, 2015 4:54 PM  
**To:** msikela@ci.clayton.ca.us  
**Subject:** Reasonable Accommodations Application

Mr. Milan J. Sikela, Jr.  
Assistant Planner  
City of Clayton, Ca. 94517

Re: Reasonable Accommodations Application form #15.90.040 process:

#1- Peter & Delia Bibeau, 964 Oak St., Clayton, Ca. 94517; 925-825-0347

#2- Delia Bibeau, 964 Oak St., Clayton, Ca. 94517; 925-642-2853

#3- Peter & Delia Bibeau, 964 Oak St., Clayton, Ca, 94517; 925-825-0347

#4- 964 Oak St., Clayton Ca. 94517; residence

#5- n/a

#6- Delia, the applicant, has M/S & a walking/balancing problem & uses aids to help. She needs more room than is currently available in the bathroom, has a wheelchair which needs at least 4' diameter in the bathroom as per ADA requirements.

#7- The existing M/B in question, the basic frame/shell of the bathroom is already in place, the bathtub is set in at an angle at one of the outside wall corner with a window above. We are requesting that the tub be moved from the angle position to a straight position along the existing wall & the window above the tub be also re-installed on the straight wall above the tub again. The floor, lower half of the wall, ceiling, attic & roof are already in the straight position & do not need to be moved, just the tub & window need to be pushed out to meet the existing exterior house frame.

#8- Delia needs as much room as possible to move around comfortably & safely, esp. in the M/B bathroom To be able to use any ADA approved devices (wheelchair, crutches, grab bars, etc.) she may need to be able to function as normally as possible. Also more room is needed when a caregiver is required to be in the M/B at the same time to assist her.

#9- Delia will never much improve, but unfortunately as time goes by will only get worse. The need will be ongoing.

Thanks,

Peter & Delia

RECEIVED

SEP 17 2015

CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT





