



PLANNING COMMISSION

AGENDA

Regular Meeting

7:00 P.M. on Tuesday, August 14, 2018

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

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

2. ADMINISTRATIVE

- 2.a. Selection of Chair and Vice Chair.
- 2.b. Review of agenda items.
- 2.c. Declaration of Conflict of Interest.
- 2.d. Commissioner Cloven to report at the City Council meeting of June 5, 2018 (alternate Vice Chair Bassam Altwal).

3. PUBLIC COMMENT

4. MINUTES

- 4.a. Approval of the minutes for the June 26, 2018 Planning Commission meeting.

5. PUBLIC HEARINGS

- 5.a. **SPR-03-18, CDD-04-18, Site Plan Review Permit and Reasonable Accommodation Request, Jeff Daley, 229 El Pueblo Place, APN: 119-600-006.** A request for approval of a Site Plan Review Permit to allow the construction of a rear yard deck, with an accessible ramp, measuring approximately 770 square feet in area and a total of 12.83 feet in height, and a Reasonable Accommodation request to allow an accessible ramp to project into the required ten-foot interior right (north) side setback on an existing split-level two-story single-family residence.

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 following requests:

- A Site Plan Review Permit (SPR-03-18) to allow the construction of a rear yard deck, with an accessible ramp, on an existing split-level two-story single-family residence located at 229 El Pueblo Place (APN: 119-600-006); and
- A Reasonable Accommodation request (CDD-04-18) to allow an accessible ramp to project into the required ten-foot interior right (north) side setback.

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, August 28, 2018.**

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 925-673-7300. 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, June 26, 2018

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

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

Present: Chair Carl Wolfe
 Vice Chair Bassam Altwal
 Commissioner A. J. Chippero
 Commissioner Peter Cloven
 Commissioner William Gall

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.
- 2.c. Commissioner Chippero to report at the City Council meeting of July 17, 2018.

3. PUBLIC COMMENT

None.

4. MINUTES

- 4.a. Approval of the minutes for the May 22, 2018 Planning Commission meeting.

Commissioner Gall moved and Commissioner Cloven seconded a motion to approve the minutes, as submitted. The motion passed 5-0.

5. PUBLIC HEARINGS

None.

6. OLD BUSINESS

None.

7. NEW BUSINESS

- 7.a. **GPA-01-17, City of Clayton.** Review of the Fiscal Year 2018-2019 Capital Improvement Program Projects for Conformity with the Clayton General Plan.

Director Gentry presented the staff report.

Commissioner Gall had the following questions:

- Is the Pine Hollow Road improvement project connected with the six-lot Verna Way Residential Subdivision? Director Gentry responded that the two projects are stand-alone projects and are not related to each other.
- Regarding the project involving the front door of City Hall compliant with ADA requirements, my understanding is that a half-circle of glass will be installed at the top of the opening which will allow a regular store front door design; how will that automatic door system work? Director Gentry responded that a mechanical door system will be installed with an automatic door opener push button. This automatic system will replace the heavy winery doors and will provide City Hall with ADA-compliant front door system.

Vice Chair Altwal had the following questions and comment:

- Regarding the project involving the front door of City Hall compliant with ADA requirements, the \$35,000 amount seems exorbitant. I have seen automatic door systems installed for approximately \$5,000. Director Gentry indicated that there are electrical issues related to the new automatic door system and the custom glass that needed to be created for the project resulted in a higher cost for the project. Director Gentry clarified that the Planning Commission's review of the Fiscal Year 2018-2019 Capital Improvement Program (CIP) Projects is for conformity with the Clayton General Plan rather than a review of the costs of the CIP Projects.
- Based on my experience with ADA-related issues, it has come to my attention that the word "handicap/handicapped" should not be used and instead the term "person/persons with disability" since they are a person first and disabled second.
- I would rather see turf installed at the Clayton Community Park.

Chair Wolfe inquired how the work for the CIP Projects is contracted out. Are there bids submitted to the City by different contractors? Director Gentry responded that the City Engineer issues bid specifications, receives bids in response to the issuance of bid specifications, and then the City has to choose the lowest bidder.

Commissioner Chippero inquired if the teams that play at the Clayton Community Park pay for use of the fields? Director Gentry indicated the teams pay a reduced cost which helps offset the costs for improvements to the Clayton Community Park.

Vice Chair Atwal inquired, does the City have an ADA Transition Plan? Director Gentry responded that, yes, the City has an ADA Transition Plan in place.

The public hearing was opened.

Marci Longchamps, 3001 Coyote Circle, thanked Vice Chair Atwal for the information regarding using the terms “person/persons with disability” rather than “handicap/handicapped”.

The public hearing was closed.

Vice Chair Atwal moved and Commissioner Gall seconded a motion to find the City’s Capital Improvement Program Projects for the Fiscal Year 2018-2019 are in conformity with the Clayton General Plan and there is no possibility this finding may have a significant effect on the environment. The motion passed 5-0.

8. COMMUNICATIONS

8.a. Staff

None.

8.b. Commission

None.

9. ADJOURNMENT

9.a. The meeting was adjourned at 7:18 p.m. to the regularly-scheduled meeting of the Planning Commission on July 10, 2018.


Submitted by
Mindy Gentry
Community Development Director

Approved by
Carl Wolfe
Chair

**PLANNING COMMISSION
STAFF REPORT**

Meeting Date: August 14, 2018

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 an exterior side yard accessible ramp and rear yard deck on an existing split-level two-story single-family residence (SPR-03-18, CDD-04-18)

Applicant: Jeff Daley

REQUEST

Jeff Daley is requesting a public hearing for the consideration of a Site Plan Review Permit to allow the construction of the rear yard deck, with an accessible ramp, measuring approximately 770 square feet in area and a total of 12.83 feet in height, and a Reasonable Accommodation request to encroach into the interior side setback on an existing split-level two-story single-family residence.

PROJECT INFORMATION

Location: 229 El Pueblo Place (**Attachment A**)
APN: 119-600-006

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

Zoning: Single Family Residential R-10 District (10,000 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 August 3, 2018, 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 rear yard deck, with an accessible ramp, measuring approximately a maximum of 770 square feet in area and 12.83 feet in height. As part of the discretionary review for the Site Plan Review Permit, the applicant is requesting approval of a Reasonable Accommodation request. The site plan, elevations, deck overview, and details of the accessible ramp, stairs, railing, and deck supports along with the Reasonable Accommodation request and physician letter have been provided as **Attachment B**.

The subject residence is a split-level two-story single-family residence. There are three components to the home: the lower level of the first floor, the upper level of the first floor—hence the “split level” component of the residence (which the applicant refers to as the second floor in the application materials), and the second floor which is above the upper level of the first floor of the residence.

A large portion of the rear yard area contains a slope of varying degrees. When going toward the rear property line from the back of the subject residence (“residence”), the topography is level with a slight downward slope for approximately the first ten feet, and then more steeply slopes downward toward the rear property line. As a result, the proposed deck is approximately one to two feet above the ground, adjacent to the residence, and then, less than halfway along the extent of the deck, the ground drops more steeply, which results in the rear edge of the floor of the deck being over nine feet above the ground. Furthermore, the California Building Standards Code (CBC) requires a minimum of a 42-inch tall safety railing, bringing the total maximum height of the deck (floor level plus safety railing) at the rearmost section to slightly less than thirteen feet in height.

As part of the deck, an accessible ramp is also proposed to extend from the right (north) side gate—where it leads from an accessible path starting at the sidewalk on El Pueblo Place—wrapping around the right (north) side of the residence to the rear yard deck. The deck and ramp materials are proposed to be constructed of wood and finished in earth tones, which integrate with the exterior colors and materials of the residence. The materials for the portion of the accessible path in the front yard are proposed as stone dust.

Section 17.44.020.E of the CMC requires, in part, that a Site Plan Review Permit be required for any deck whose floor elevation is over four feet in height from the underlying grade encompassing an area of ten square feet or greater. Since the floor elevation of the deck is just over nine feet above the grade and encompasses an area of approximately 770 square feet, the project requires review and approval of a Site Plan Review Permit.

Staff contacted the Contra Costa County Building Department regarding safety railing requirements, and was informed that the proposed accessible ramp connecting the accessible front yard path to the rear yard deck would be required to have a minimum 36-inch tall safety railing along the outside edge. The railing would only be required for the outside edge of the accessible ramp since the inside edge of the accessible ramp would be adjacent to the right (north) wall of the residence. As a result of the CBC safety railing requirements, staff has provided a condition that a minimum 36-inch tall safety railing be installed along the outside edge of the accessible ramp.

The accessible path extending through the front yard connects to the sidewalk through the public right-of-way (extends approximately 5 feet behind the sidewalk). The City Engineer determined the path will not require an encroachment agreement for locating in the public right-of-way because the materials being proposed by the applicant are “stone dust”, which are considered to be a type of permeable, impermanent flatwork that would not physically alter the sidewalk and could be moved for access to utilities or City-generated or other agency-generated right-of-way work, if the need arose. Staff has still provided a proposed condition of approval that an encroachment permit is required for all work in the City’s right-of-way.

Setback Analysis

The project meets the R-10 District standards as shown below.

Required Setbacks	Existing Setbacks	Proposed Setbacks	Project Compliance
Front Setback 20’	East 20’	East No Change	Yes
Side Setback 10’ interior	South 10’	South No Change	Yes
20’ aggregate	North 13’ Aggregate 23’	North 5’4” Aggregate 15’4”	No* No*
Rear Setback 15’	West 34’8”	West 15’	Yes

*Please see the Reasonable Accommodation Request discussion below.

The existing right (north) interior side setback from the residence to the side property line is thirteen feet. The required minimum interior side setback for residential properties located in the R-10 district is ten feet. The applicant is proposing to have the accessible ramp project into the right (north) side interior setback by one foot, placing the accessible ramp a minimum of nine feet from the side property line. The deck is also proposed to project into the side setback by 4 feet 8 inches, placing the deck a minimum of 5 feet 4 inches from the side property line. This request for a reduction in the minimum required interior side yard setback to allow for the accessible ramp and deck is discussed in further detail below as part of the Reasonable Accommodation request and staff analysis.

During the setback analysis, staff observed that the proposed interior side setbacks along the right (north) side of the deck decrease by ten inches (6 feet 2 inches at the front corner and 5 feet 4 inches at the rear corner) because the residence was oriented on the lot slightly askew relative to the side property line. However, the proposed deck is to be aligned with the exterior side and rear walls of the residence in order to provide design continuity.

Residential Floor Area Analysis

Section 17.78.030.D.3 of the CMC excludes, in part, decks (or other structures) where at least one of the longest dimensions is unenclosed. Since the longest dimension of deck (34'8") and accessible ramp (24') are unenclosed, both structures would qualify for exclusion from the City's residential floor area requirements.

Comments Received

Staff has received comments regarding the visibility of the deck from surrounding property owners. Currently, trees are located along the rear property line, providing screening. However, staff discussed the possibility of adding more screening foliage along the right (north) side property line which is the closest property line to the deck. The applicant concurred that this would assist in providing additional screening. As a result, staff has provided a condition that additional trees be planted along the right (north) side property line to reduce visibility impacts to the property located closest to the deck.

Reasonable Accommodation Request

The applicant is the caretaker for his brother-in-law, both of whom live at the subject residence. 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. 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 (HUD) 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."

Section 15.90.040.B of the CMC states that if "the project for which the request for 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" and adds that the "processing procedures applicable to the discretionary permit will govern the joint processing of both the reasonable accommodation and the discretionary permit."

As a result, since the project requires Planning Commission review and approval of a Site Plan Review Permit, the Reasonable Accommodation has also been brought before the Planning Commission as a companion entitlement request.

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 B, Pages B3 and B4**). According to the letter, the applicant's brother-in-law ("requester") has a disability which substantially limits one or more major life activities, making performance of major life activities difficult, and requires the permanent use of a wheelchair for mobility purposes.

Given the split-level design of the residence, the requester is unable to access the upper level component of the split-level residence. The upper level contains the main living spaces: kitchen, living room, and dining room. Due to stairs located both inside the residence and outside in the rear yard, this design prevents the requester from independently accessing the main living spaces, which restricts access to making and eating food as well as interacting with the family. As a result, the applicant is requesting Planning Commission consideration of a Reasonable Accommodation request to encroach into the required setback for the construction of an accessible ramp to facilitate the requester to access the kitchen, living room, and dining room.

The requester utilizes an electric wheelchair which is larger in size. In order to allow the deck and accessible ramp to be wide enough for safe and spacious accessibility and maneuverability for the larger electric wheelchair, the accessible ramp and deck are proposed to project into the ten-foot interior right (north) side yard setback by one foot and up to 4 feet 8 inches, respectively. The proposal is to install an accessible path traversing the front yard and connecting to an accessible ramp which will then connect to the rear yard deck, allowing the requester to access the upper level of the residence through the sliding glass doors on the rear of the upper level of the residence.

Staff has concerns regarding the proposed minimum setback between the deck and the right (north) side property line, which projects into the required ten-foot setback by 4 feet 8 inches. The ten-foot interior minimum side yard setbacks for residences located in R-10 district was established to maintain an open, spacious distance between homes, which is in keeping with the more low-density development pattern for R-10 districts. The minimum width requirement for accessibility purposes is four feet. However, in order to provide a balance between the project's encroachment into the side yard setback for the four-foot wide ramp and staff's concerns over maintaining the ten-foot setback, staff is recommending to Planning Commission a variation in the design of the deck.

The revised design proposed by staff would require a revision in the deck's design so that, as the ramp transitions to the deck, the four-foot width is maintained around the rear corner of the home. This would essentially allow the approximate one-foot encroachment into the setback to continue along the outer edge of the deck until the point where the four-foot access width could make the turn around the rear corner of the residence. Once the turn is made, then the deck can be tapered away from the right (north) side property line to the point where the deck would maintain a minimum setback of ten feet between its outer edge and the right (north) side property for the remaining extent of the deck. Staff has provided a condition that the deck be revised with this setback-sensitive configuration, subject to the review and approval of the Community Development Director.

Overall, from staff's perspective, the accessible ramp is necessary to provide the requester with greater mobility and access in and around the property as well as by facilitating access to the kitchen, living room, and dining room, thereby granting the requester equal opportunity as an individual with a disability to enjoy his dwelling. This situation meets the purpose, intent, and findings of approval in accordance with the City's Reasonable Accommodation requirements. Furthermore, the applicant designed the project so the requester could have enough space to safely access the upper level of the residence as well as have some use and enjoyment of the rear yard area of the property. Given the elevation changes in the topography of the rear yard area, much of the rear yard area is not accessible and useable for the requester. As a result, the deck is integral to allowing more area to have greater enjoyment of the rear yard.

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 those standards. Staff has also reviewed the information submitted by the applicant regarding the Reasonable Accommodation request relative to the required findings 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-03-18) to allow the construction of a rear yard deck, with accessible ramp on an existing split-level two-story single-family residence located at 229 El Pueblo Place (APN: 119-600-006); and
- A Reasonable Accommodation request (CDD-04-18) to allow an ADA-compliant four-foot-wide ramp project into the ten-foot interior right (north) side setback to facilitate and transition access to the deck.

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-03-18, 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 construction of a deck and accessible ramp for accessibility purposes on a single-family residence which is 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 project 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, California Building Standards 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 deck and accessible ramp, as conditioned, comply with the setback requirements of the Clayton Municipal Code and, where projecting into the interior right (north) side setback, the setback requirements are being modified by the approval of the Reasonable Accommodation request as allowed by the Zoning Ordinance. In addition, the project has been conditioned to include additional plantings (trees) to provide screening from adjacent properties.

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 deck and accessible ramp, as conditioned, comply with the setback requirements of the Clayton Municipal Code and, where projecting into the interior right (north) side setback, the setback requirements are being modified by the approval of the Reasonable Accommodation request as allowed by the Zoning Ordinance. In addition, the project will not block views of Mount Diablo or the surrounding foothills from adjacent properties.

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 ramp, deck, and railings have been designed with wood materials and colors which utilize earth tones that architecturally complement the surrounding residences; and the massing and scale of the project, as conditioned, complies with all applicable zoning regulations and development standards for setback, building footprint, and residential floor area requirements and, where projecting into the interior right (north) side setback, the setback requirements are being modified by the approval of the Reasonable Accommodation request as allowed by the Zoning Ordinance. In addition, the wood materials and colors proposed for the project will provide aesthetic integration with earth tones utilized for the exterior colors and materials of the subject residence.

8. Is in accordance with the design standards for manufactured homes per Section 17.36.078 of the Clayton Municipal Code.

The project is not 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 brother-in-law ("requester") 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 is necessary in order to allow the requester greater mobility and access, thereby granting the requester equal opportunity to enjoy the 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 deck and accessible ramp 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, 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.

The deck and accessible ramp result in allowing the requester greater mobility and access, thereby granting the requester equal opportunity to enjoy the dwelling which does not constitute 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.

No direct threat to the health or safety of other individuals or substantial physical damage to the property of others will occur with the construction of the deck and accessible ramp. The deck and accessible ramp will allow the requester 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 Daley Residence site plan, elevations, deck overview, and details of the accessible ramp, stairs, railing, and deck supports, submitted by the applicant, date stamped July 26, 2018.

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 plans shall be revised to minimize the projection of the deck into the side (north) interior setback by only allowing for a four-foot-wide transition area from the ramp to the deck and to eliminate the remaining deck encroachment into the setback, subject to the review and approval of the Community Development Director.
3. A safety railing shall be installed along the outside edge of the accessible ramp. The safety railing shall comply with the design and minimum height requirements as required by current California Building Code standards.
4. In order to provide screening for the project, additional trees shall be planted along the right (north) side property line. The trees shall be a minimum of 15 gallons in size and shall be evergreen, subject to the review and approval of the Community Development Director.

5. The project shall be constructed in accordance with the approved plans, submitted by the applicant, date stamped July 26, 2018, and as conditionally approved by the Clayton Planning Commission on August 14, 2018.
6. 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.
7. 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.
8. 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).
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 Standards 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 4005 Port Chicago Highway, Suite 250, Concord, 925-941-3300.
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. Daley Residence reasonable accommodation letter, physician letter, site plan, elevations, deck overview, and details of the accessible ramp, stairs, railing, and deck supports, submitted by the applicant, date stamped July 26, 2018
- C. Clayton Municipal Code Chapter 15.90 – Reasonable Accommodation

ATTACHMENT A



VICINITY MAP

	<p>Daley Residence Site Plan Review Permit SPR-03-18 Reasonable Accommodation CDD-04-18 229 El Pueblo Place APN: 119-600-006</p>	<p>N</p>  <p>(Not to Scale)</p>
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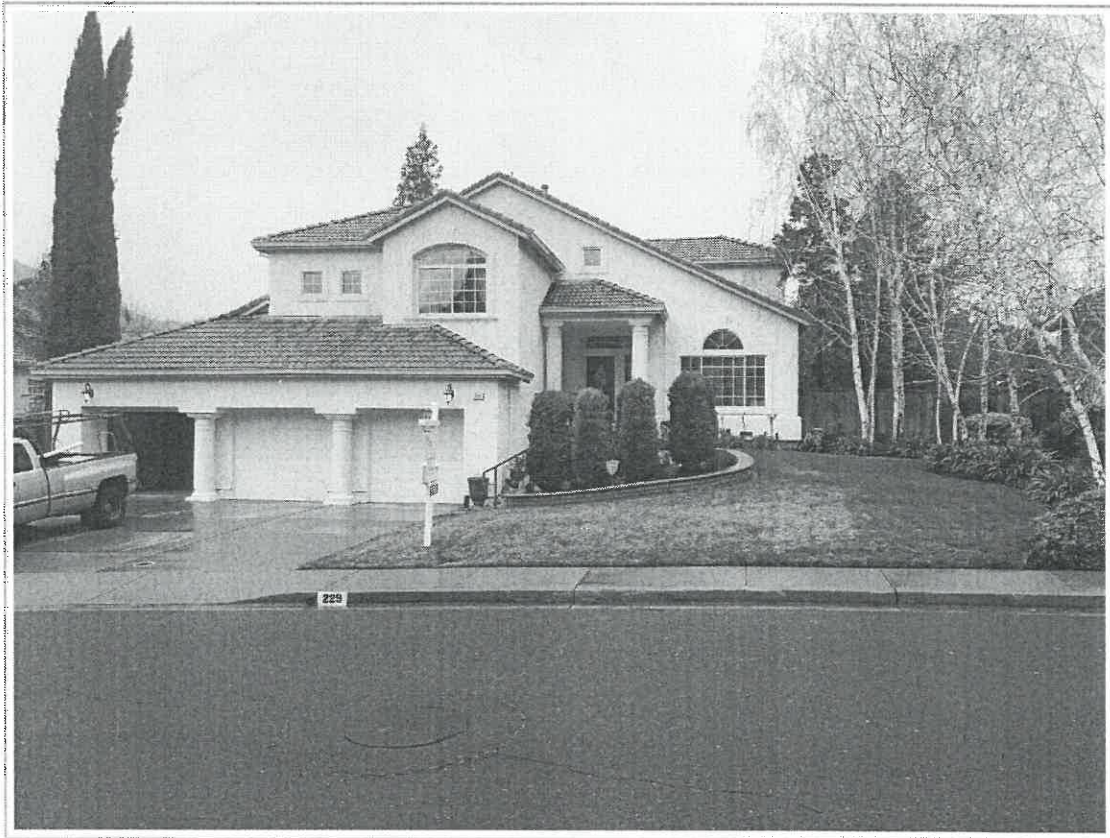
ATTACHMENT B

RECEIVED

JUL 26 2018

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

229 El Pueblo Place



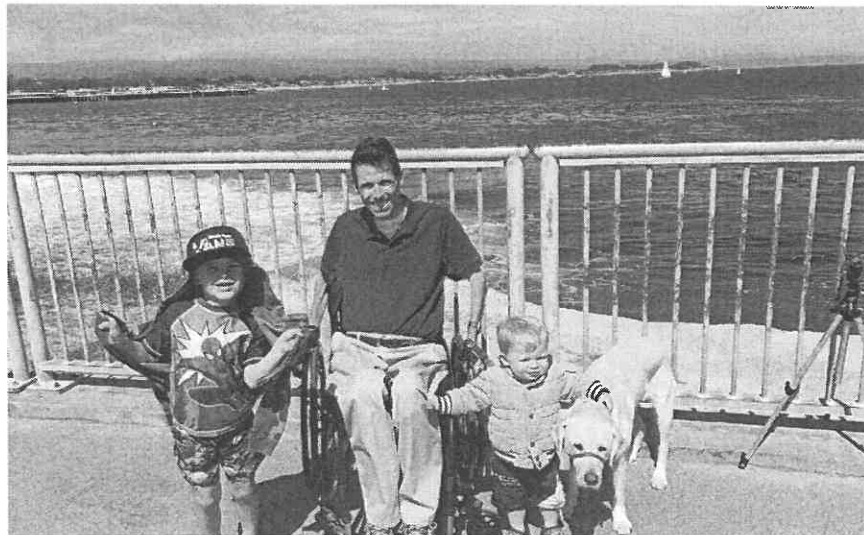
June 2018

229 El Pueblo Place

Proposed Wheelchair Accessible Ramp and Deck

Table Of Contents

Reasonable Accommodation Request letter	3-4
Physician letter	5
Site Plan	6
North Elevation (showing ADA ramp and deck)	7
South Elevation (showing ADA deck)	8
Wheelchair ramp overview (building specifics)	9
Deck overview (building specifics)	10
Deck stairs (building specifics)	11
Deck railings (building specifics)	12
Deck structure	13



Laurence Brennan, center, and family members

June 7, 2018

Ms. Mindy Gentry
Community Development Director
Mr. Milan J. Sikela, Jr.
Assistant Planner
6000 Heritage Trail
Clayton, CA 94517

Dear Ms. Gentry and Mr. Sikela:

We are kindly submitting a reasonable accommodation request as part of a proposed wheelchair accessible ramp and deck at 229 El Pueblo Place to allow Laurence Brennan, who has a disability and lives in the home, full and complete access to the house's second floor (a split level home) and the property.

Requester:

Laurence Brennan
229 El Pueblo Place
Clayton, CA 94517
617 840-7403

Home Owners:

Jeffrey Daley and Kathleen Brennan-Daley
229 El Pueblo Place
Clayton, CA 94517
559 355-8720

We kindly request **confidentiality** throughout review and approval process as Laurence's disability and any additional related health information is protected through HIPPA, Health Insurance Portability and Accountability Act, and undue exposure could expose Laurence, and as a result, the Daley family, to unwarranted bias, discrimination and stigma in the community.

Said Requester, Laurence, has a disability as defined by fair housing laws as having any mental or physical impairment, disorder, or condition, which "substantially limits" one or more major life activities, and additionally by California law, which defines disability as an impairment that makes performance of a major life activity "difficult." Laurence suffered a spinal cord injury in 1991 and needs to use a wheelchair for mobility. Please see attached physician letter.

Currently, Laurence, given his disability and wheelchair use, is not able to access the second floor (including kitchen, living room and dining room) due to stairs outside and inside of the house. As such, Laurence is not able to independently access food, or even eat or interact fully with the family - drastically limiting Laurence's ability to live fully in Clayton.

Under Title II of the ADA, Section 504, and the federal Fair Housing Act, as well as state laws such as California's Fair Employment and Housing Act and the Unruh Civil Rights Act and Clayton, CA Municipal Code (**Chapter 15.90**), we kindly request a reasonable accommodation to allow full and equal housing access for Laurence. The homeowners, Jeffrey Daley and Kathleen Brennan-Daley (who are related to Laurence) jointly submit this request.

The reasonable accommodation that we are requesting is due to the property's zoning in Clayton as R10 and the side setback requiring 10 feet to the property line (**17.16.090 - Interior Side Setbacks**). As the property line to the house on the North facing side is 13 feet, we kindly ask for the reasonable accommodation to allow for a 4 foot wide wheelchair ramp adjacent to house (North Side) and the deck continuing to rear to access house (East). Additionally, a reasonable accommodation from the 10 foot setback along the North side of the deck is requested to allow safe transition from ramp to the deck, including space to maneuver and turn without being encumbered.

The proposed wheelchair ramp and deck will be accessed through the front yard by a meandering stone dust path on the North side of property, using the existing front yard hill slope from existing sidewalk on El Pueblo Place to connect to the accessible wheelchair ramp and deck.

In addition to the proposed wheelchair accessible ramp and deck allowing Laurence access to the house's second floor through existing sliding glass doors, it also provides additional outdoor accessible living space on the deck for Laurence (as much of the backyard is not usable for him due to the slope). Furthermore, as Laurence uses both a large power wheelchair and a power assist "push" wheelchair, the deck layout affords more space to allow easier and safe navigation given outdoor dining table and chairs and patio furniture.

Thank you for your consideration as you review the proposed submission. We appreciate any assistance in expediting the review and approval to allow Laurence to live more fully. Clayton is a beautiful city, and we look forward to a long and happy life in the community. We would be happy to answer any questions to help in decision making.

Sincerely,

Laurence Brennan

Jeffrey Daley and Kathleen Brennan-Daley



JOHN MUIR HEALTH RESIDENCY CLINIC
1450 Treat Blvd Suite 320
Walnut Creek CA 94597
Dept: 925-296-9880

6/4/2018

Laurence Brennan
229 El Pueblo Pl
Clayton CA 94517

To Whom It May Concern,

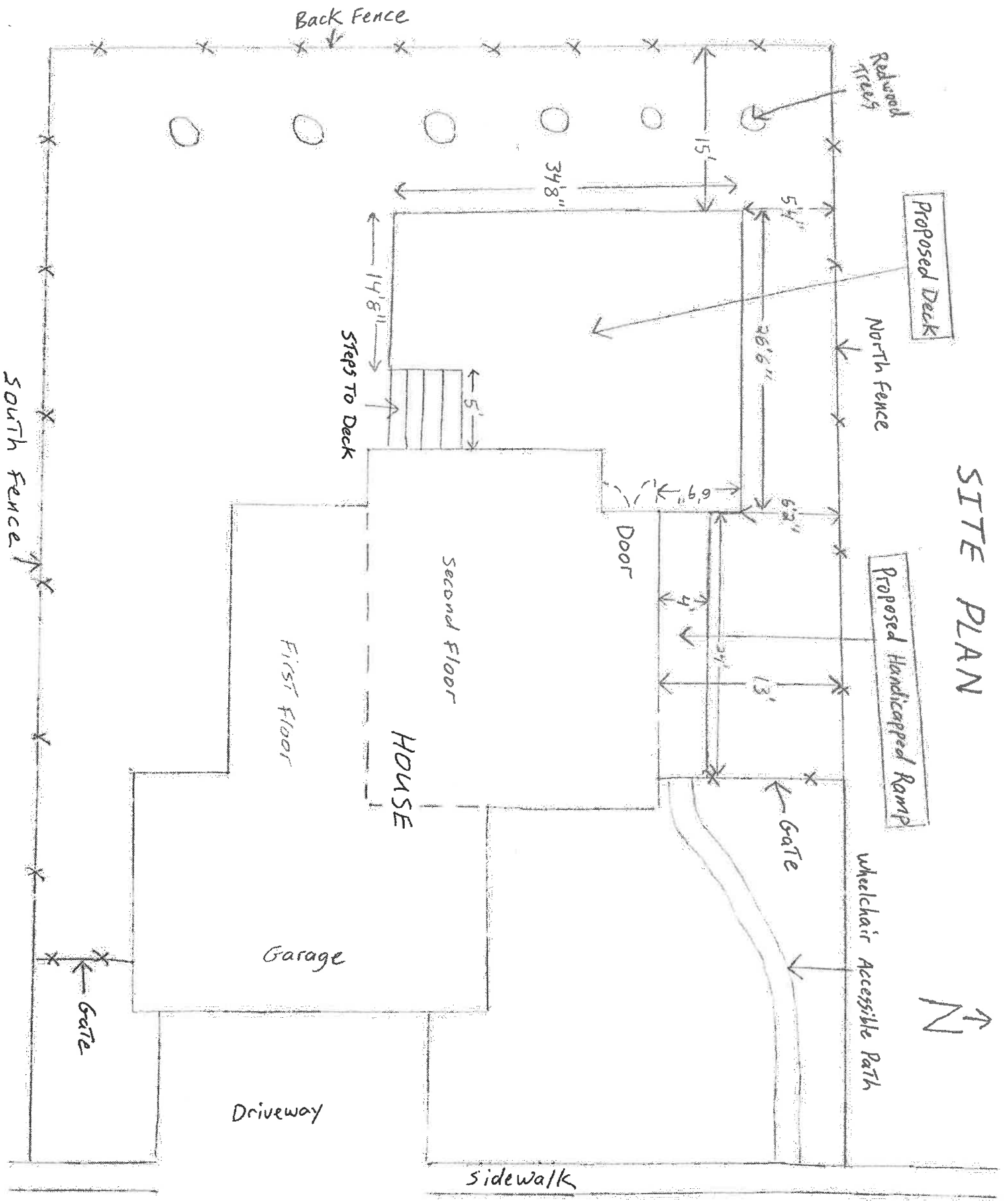
Mr Brennan is under my care and this letter is to confirm that he has a significant spinal cord lesion resulting in him being wheelchair dependent. His disability significantly affects more than one life activity.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read 'D Thwaites'.

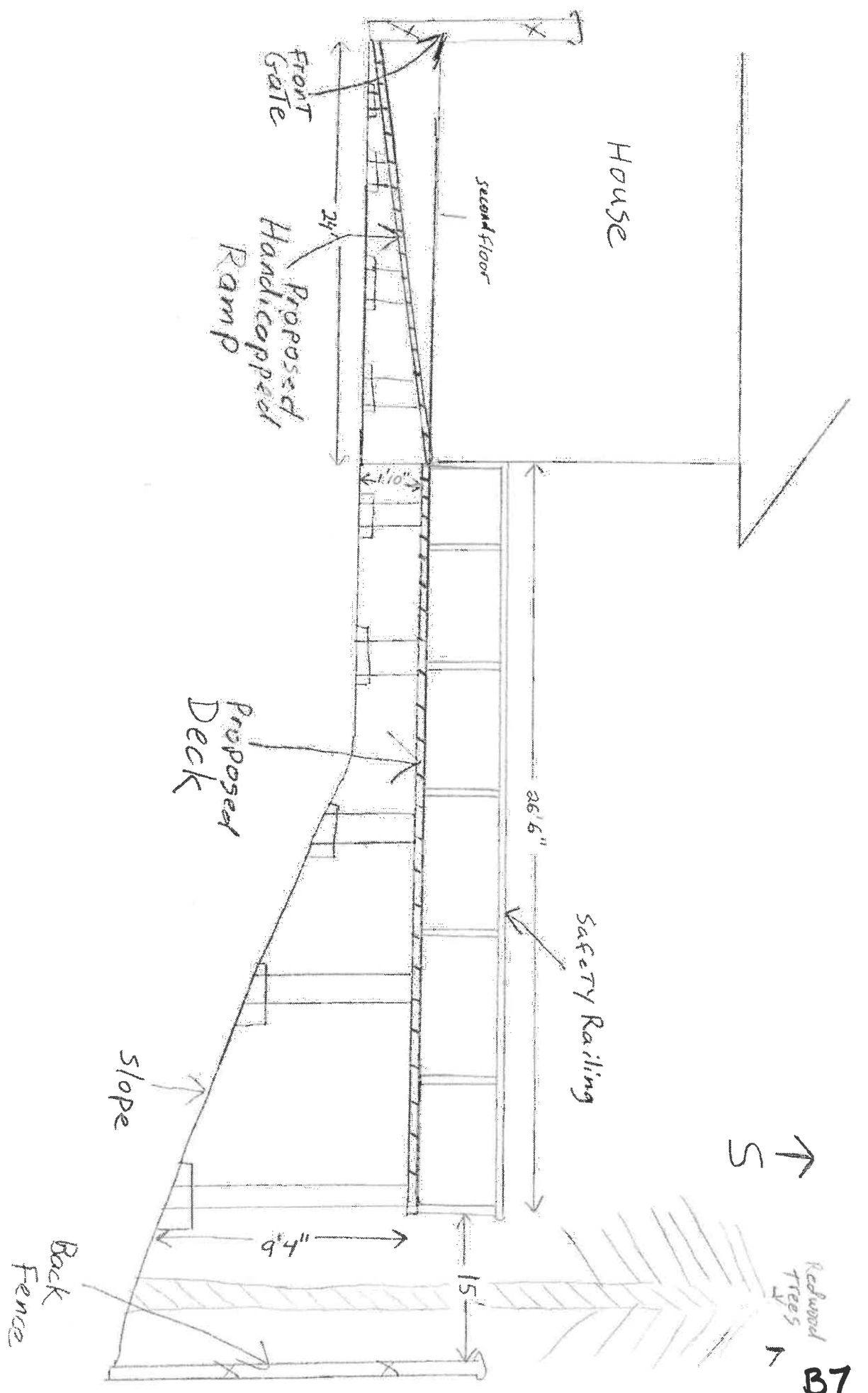
DANIEL THWAITES, MD

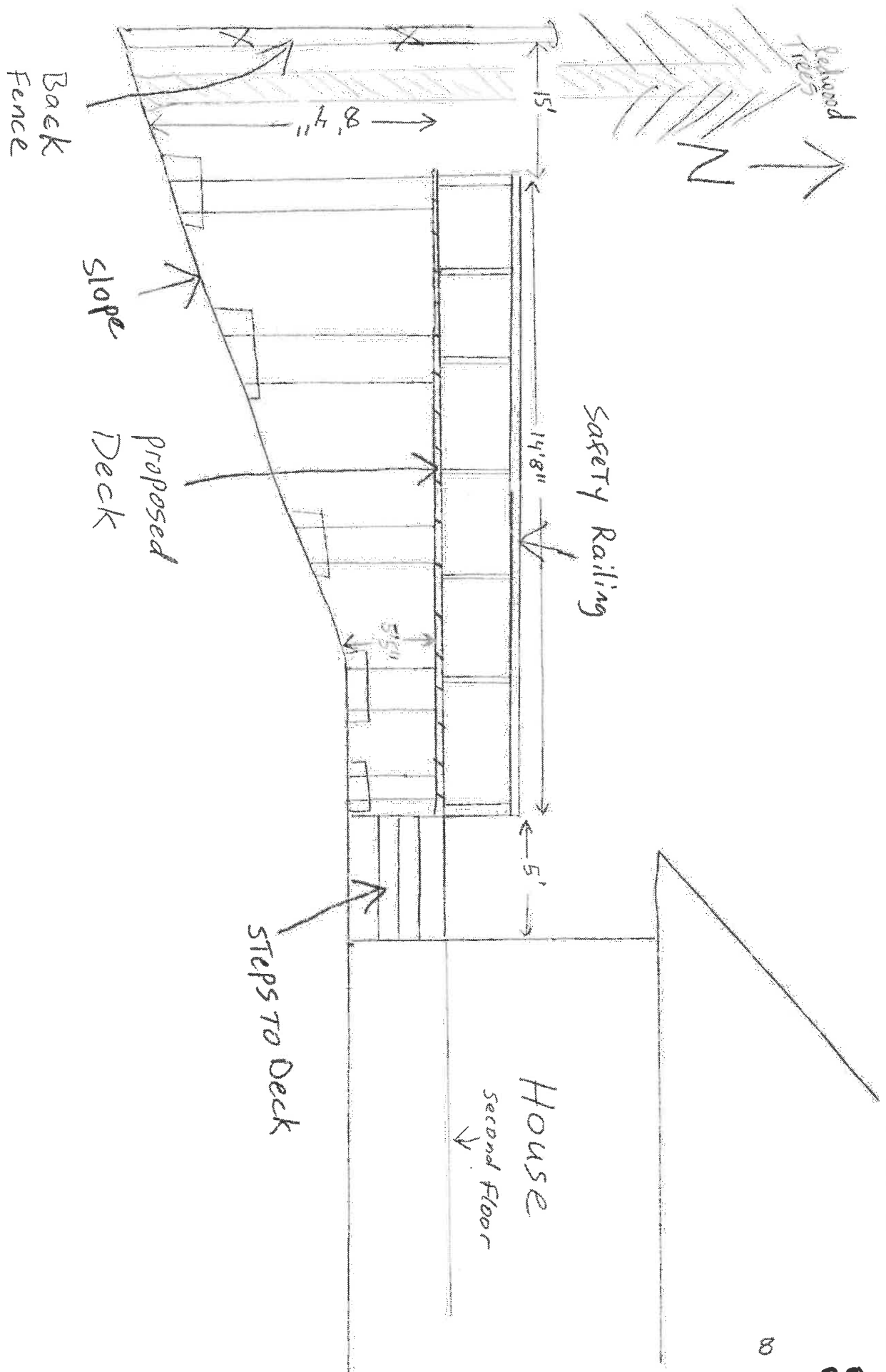


SITE PLAN

Street - El Pueblo Place

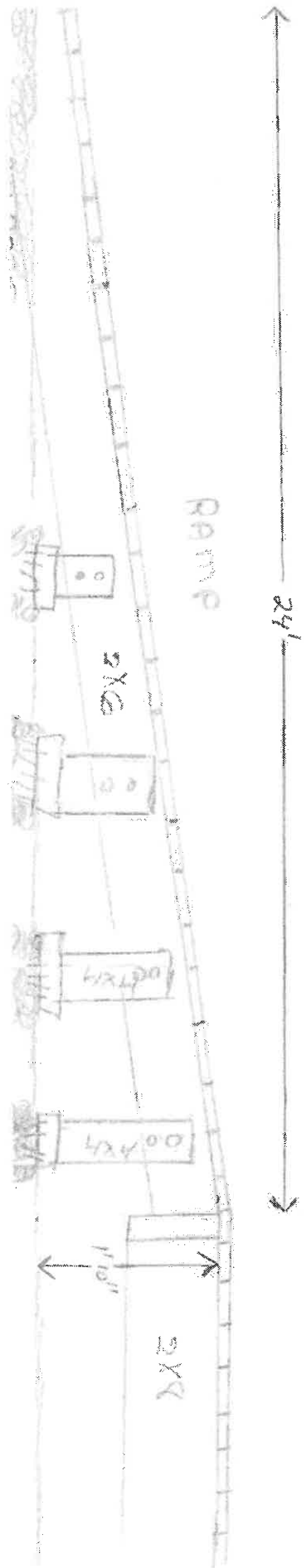
North Elevation of Handicapped Ramp and Deck

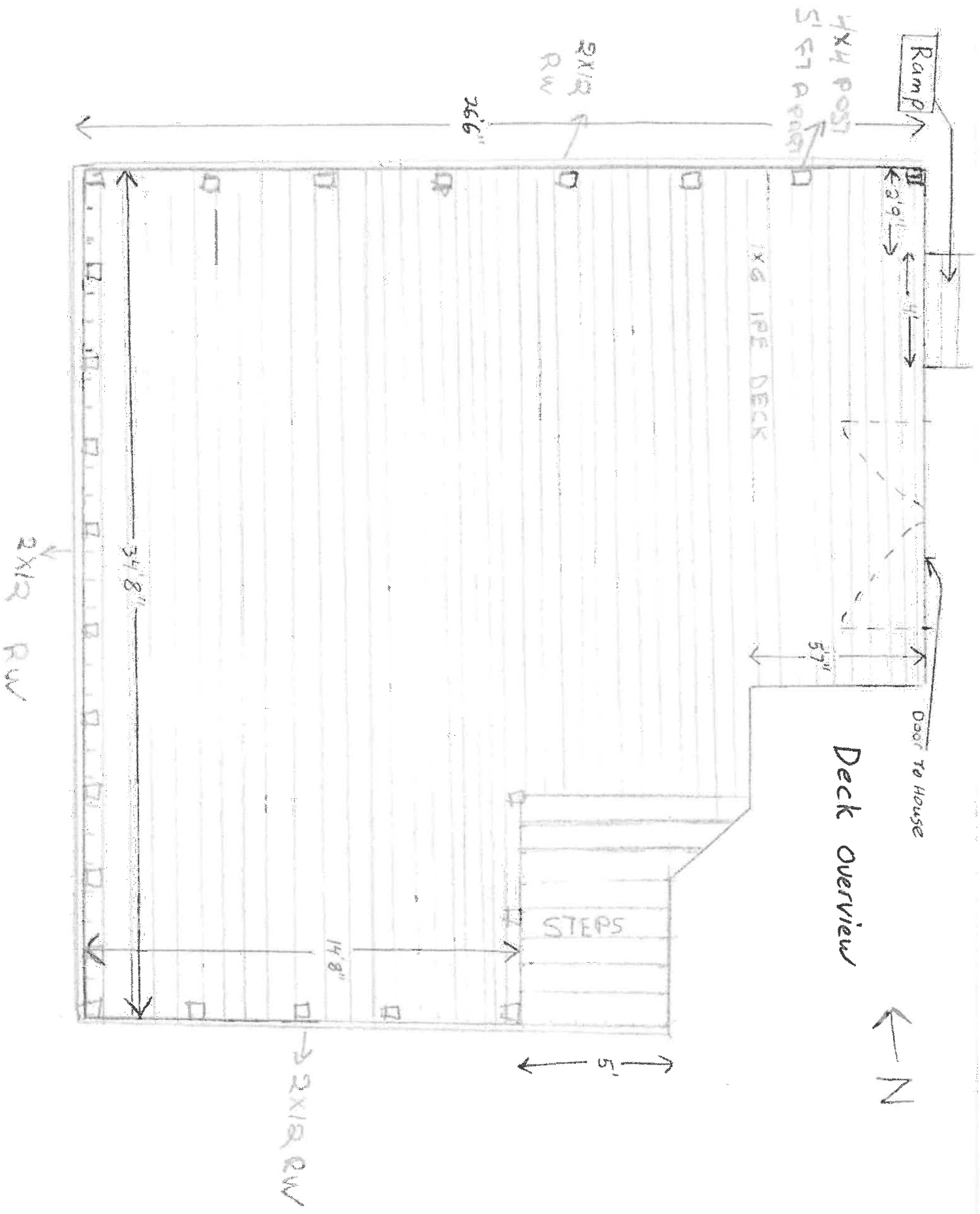




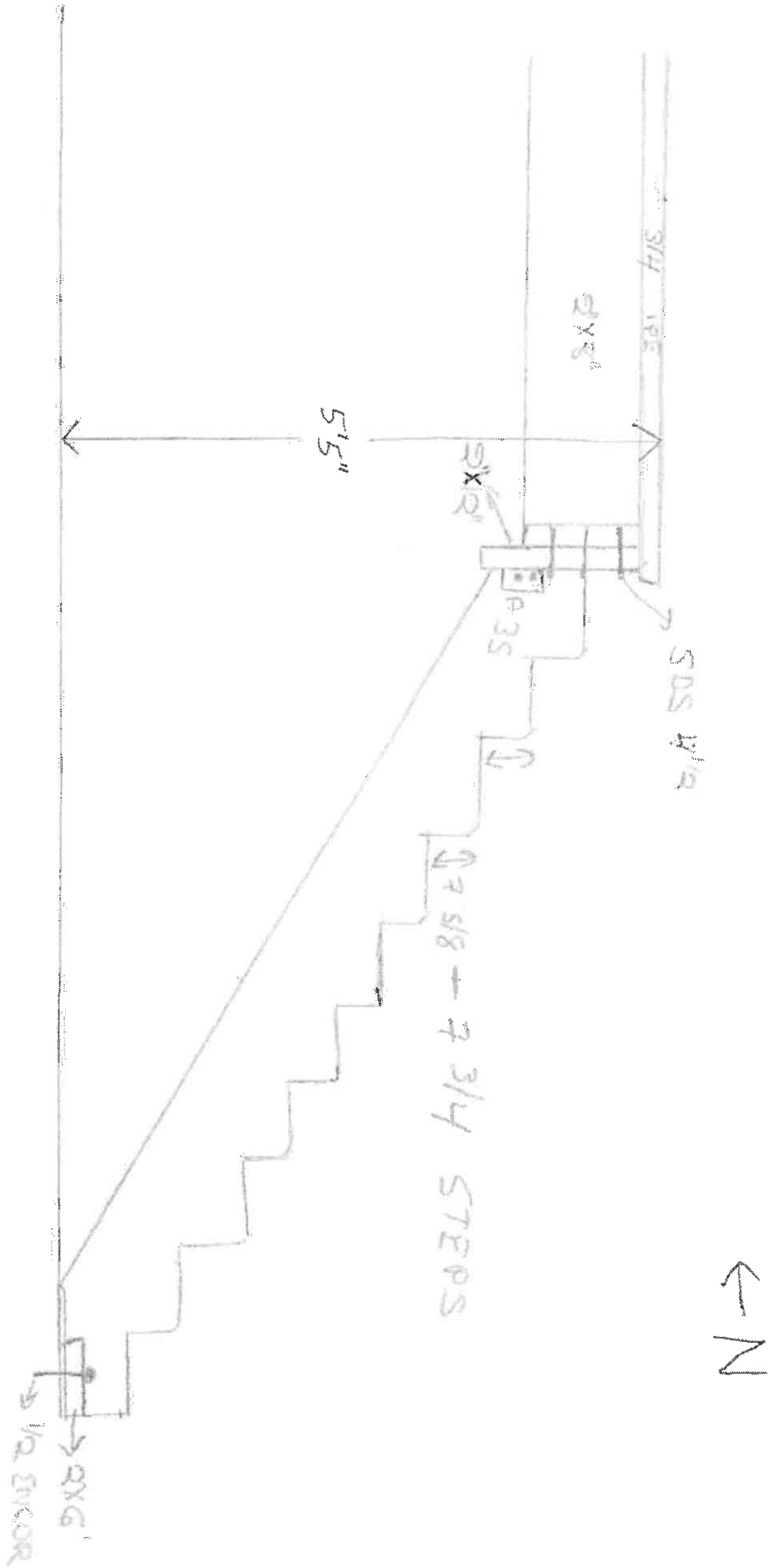
SOUTH ELEVATION OF Handicapped Ramp and Deck

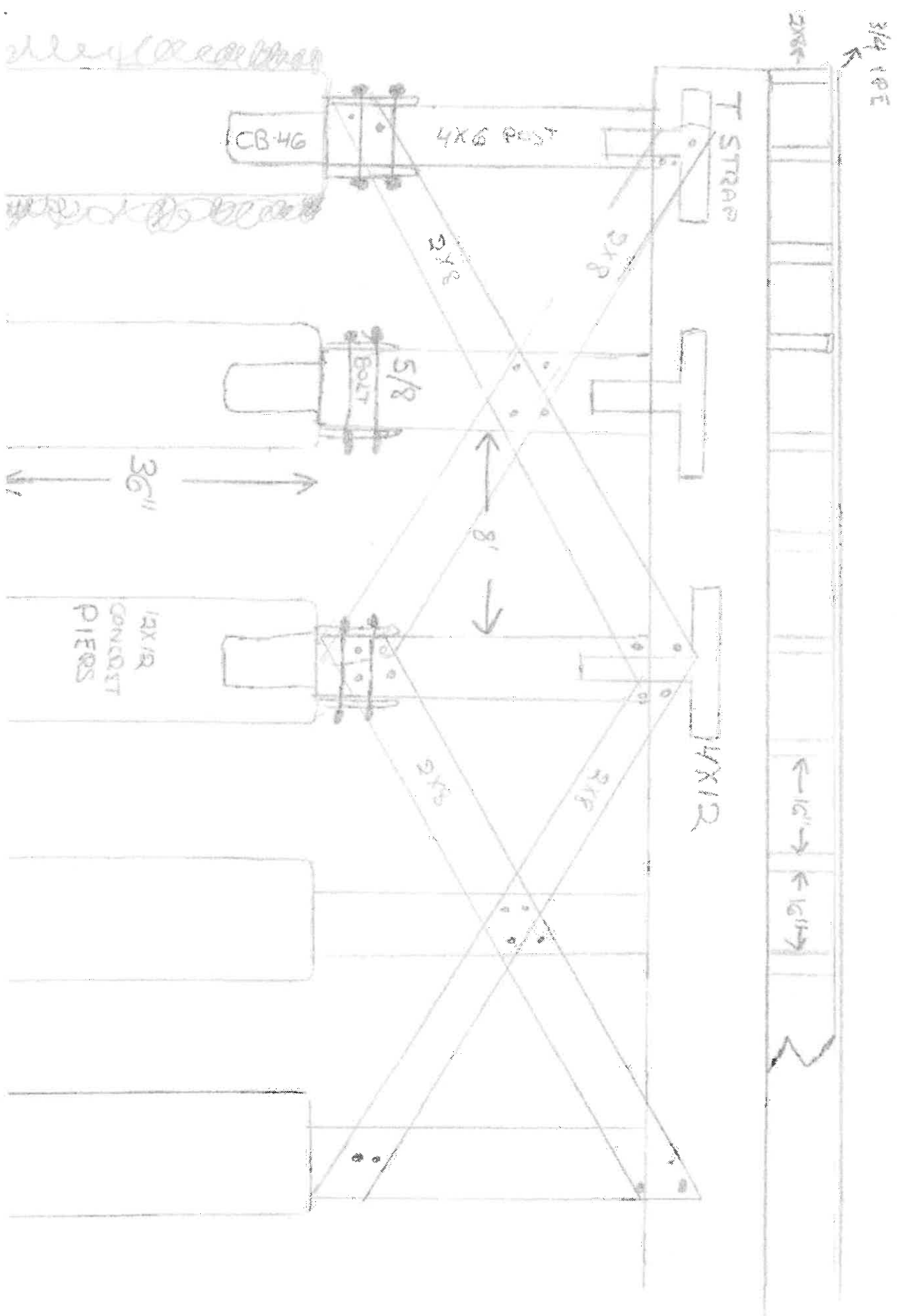
Wheelchair Ramp Overview





Deck Stairs





Deck Structure

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).