



**PLANNING COMMISSION  
AGENDA  
Regular Meeting  
Tuesday, September 26, 2023  
7:00 p.m.**

**Hoyer Hall at Clayton Community Library  
6125 Clayton Road, Clayton, California  
and  
Via Zoom Webinar  
Webinar ID: 864 7587 6752**

This meeting is being held with accommodations for both in-person and virtual attendance and participation by the public. Members of the public who prefer to view or listen to the meeting and to address the Planning Commission remotely during the meeting may do so using the methods listed under "Instructions for Virtual Planning Commission Meeting Participation" below.

**Chair:** Richard Enea  
**Vice Chair:** Maria Shulman  
**Commissioner:** Joseph Banchemo  
**Commissioner:** Bretten Casagrande  
**Commissioner:** Daniel Richardson

Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; and 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton. A digital copy of the Agenda with a complete packet of information including staff reports and exhibits related to each agenda item is available for public review on the City's website at <https://claytonca.gov/community-development/planning/planning-commission/planning-commission-agendas/>.

Any writings or documents provided to a majority of the Planning Commission after distribution of the Agenda Packet and regarding any public item on this Agenda are available for review on the City's website at <https://claytonca.gov/community-development/planning/planning-commission/planning-commission-agendas/>.

If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at 925-673-7300.

Most Planning Commission decisions are appealable to the City Council within 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 spoken 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.

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### **Instructions for Virtual Planning Commission Meeting Participation**

The following options are provided as a courtesy for those who would prefer to view, listen to, or provide comments remotely for the meeting. While City staff will make every effort to facilitate virtual participation in the meeting, the City cannot guarantee that the public's access to teleconferencing technology will be uninterrupted, and technical difficulties may occur from time to time.

**Videoconference:** To join the meeting on-line via smart phone or computer, click on the link: <https://us02web.zoom.us/j/86475876752>; or, through the Zoom application, enter **Webinar ID: 864 7587 6752**. No registration or meeting password is required.

**Phone-in:** Dial toll free 877-853-5257. When prompted, enter the Webinar ID above.

**E-mail Public Comments:** If preferred, please e-mail public comments to the Community Development Director at [danaa@claytonca.gov](mailto:danaa@claytonca.gov) by 5:00 p.m. on the day of the Planning Commission meeting. All emailed public comments received prior to 5:00 p.m. on the day of the Planning Commission meeting will be forwarded to the entire Planning Commission.

Each person attending the meeting via video conferencing or telephone and who wishes to speak on an agendized or non-agendized matter shall have a set amount of time to speak as determined by the Planning Commission Chair.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **ACCEPTANCE OF THE AGENDA:** The Planning Commission will discuss the order of the agenda, may amend the order, add urgency items, note disclosures or intentions to abstain due to conflict of interest on agenda items or action items, and request Consent Calendar items be removed from the Consent Calendar for discussion. The Planning Commission may also remove items from the Consent Calendar prior to that portion of the Agenda.
5. **PUBLIC COMMENT (Non-Agenda Items):** This time has been set aside for members of the public to address the Planning Commission on items of general interest within the subject matter jurisdiction of the City. Although the Planning Commission values your comments, pursuant to the Brown Act, the Planning Commission generally cannot take any action on items not listed on the posted agenda. At the Chair's discretion, up to 3 minutes will be allotted to each speaker.
6. **CONSENT CALENDAR:** The following routine matters may be acted upon by one motion. Individual items may be removed by the Planning Commission for separate discussion at this time or under Acceptance of the Agenda.
  - A. **Minutes:**  
Planning Commission Meeting of August 22, 2023
7. **PUBLIC HEARING**
  - A. **Munoz Variance (VAR-01-2023)**  
This is a public hearing on a request by Nina and John Munoz for approval of a Variance (VAR-01-2023) to allow an existing legal non-conforming 9.3-foot interior side yard setback to be reduced to 4 feet for purposes of constructing a bathroom addition to an existing single-family residence at 1217 Gamay Drive, Assessor's Parcel Number (APN) 119-552-011.
8. **COMMUNICATIONS:** This time is set aside for the Planning Commission to make requests of staff, and/or for issues of concern to Planning Commissioners to be briefly presented, prioritized, and set for future meeting dates. This time is also provided for staff to share any informational announcements with the Commission.
9. **ADJOURNMENT**

The next Planning Commission Regular Meeting is Tuesday, October 10, 2023.

**Minutes**  
**City of Clayton Planning Commission**  
**Regular Meeting**  
**Tuesday, August 22, 2023**

**1. CALL TO ORDER**

Chair Daniel Richardson called the meeting to order at 7:00 p.m.

**2. PLEDGE OF ALLEGIANCE**

Chair Richardson led the Pledge of Allegiance.

**3. ROLL CALL**

Present:                   Chair Daniel Richardson  
                                  Vice Chair Richard Enea  
                                  Commissioner Maria Shulman  
                                  Commissioner Joseph Banchemo  
                                  Commissioner Bretten Casagrande

Planning Commission Secretary/Community Development Director Dana Ayers and Assistant Planner Milan Sikela were present from City staff.

**4. ELECTION OF CHAIR AND VICE CHAIR**

Commissioner Shulman moved to elect Vice Chair Enea as Chair of the Planning Commission for the year starting July 1, 2023, through June 30, 2024. Chair Richardson seconded the motion. The motion passed by vote of 5 to 0.

Chair Enea took over as Chair of the meeting at this time. He invited a motion for election of the Planning Commission Vice Chair for the year starting July 1, 2023, through June 30, 2024. Commissioner Casagrande moved to elect Commissioner Shulman as Vice Chair. Commissioner Banchemo seconded the motion. The motion passed by vote of 5 to 0.

**5. ACCEPTANCE OF THE AGENDA**

There were no changes to the agenda as submitted.

**6. PUBLIC COMMENT**

City Manager Bret Prebula welcomed the two new Planning Commissioners to the Planning Commission and expressed gratitude for their commitment of service to the community.

A speaker from the audience congratulated Vice Chair Shulman and Chair Enea on being elected to the Vice Chair and Chair roles on the Planning Commission, and he thanked Commissioner Richardson for his time. He stated that he had previously been on the Commission for three and a half years, and in his opinion, this was the first orderly Chair/Vice Chair selection he had seen in three years. He said that on September 8, 2020, the next in line for Vice Chair had been passed over because he was running for an elected office. The speaker said that last year, the next in line declined a nomination because he was running for an elected office. The speaker stated that, if he had stayed on the Commission, he would have liked to have updated the Planning Commission procedures to require the Commission to meet in the first two weeks of July following City Council appointment of Planning Commissioners for the new term, regardless of availability of attendees, to reorganize the Commission. The speaker said he wanted politics to be taken out of the Planning Commission and felt that the Commission had become politicized. The speaker re-iterated that he wanted to see the Commission make it mandatory for a meeting to occur in the first two weeks of July.

Ann Stanaway said that she was not aware of any evidence that Planning Commissioners were studying or had studied the City's obligations under California accessible rights-of-way statutes and the California Unruh Civil Rights Act. She stated that a violation would threaten to bankrupt the City and affect its ability to obtain business liability insurance. She encouraged the Commission to review Government Code sections 830, 835 and 835.4.

## **7. CONSENT CALENDAR**

### **A. Minutes of Planning Commission Meeting of June 13, 2023.**

Commissioner Richardson moved to adopt the Consent Calendar with Meeting Minutes of the June 13, 2023, meeting, as submitted. Vice Chair Shulman seconded the motion. The motion passed by vote of 3 to 0. Commissioner Banchemo and Casagrande abstained from the vote.

## **8. STUDY SESSION**

### **A. Overview of Planning, Environmental and Land Use Legislation and Practice and Planning Commission Procedures**

This is an informational presentation on planning, environmental and land use concepts, practices and laws. Topics presented will include State statutes and the bases for local agency planning authority; pertinent land use documents such as the General Plan and Zoning Code; the California Environmental Quality Act; and the process of Planning Commission decision-making. Commissioners and members of the public are invited to ask questions at the study session. No decision of the Commission is otherwise requested at this meeting.

Director Ayers presented the item and shared a slide deck summarizing various regulations and best practices pertaining to land use, planning,

environmental impact analysis and the process of Planning Commission decision-making. Commissioners asked questions of staff. There were no questions or comments from the public. Following the presentation, Director Ayers advised that she was available at City Hall, by email or by phone to answer any other questions that might come up after tonight's meeting.

**9. COMMUNICATIONS**

Vice Chair Shulman advised that the California County Planning Commissioners training conference was coming up on October 6 and 7 in Tulare County.

**10. ADJOURNMENT**

The meeting was adjourned at 7:53 p.m. to the next regular meeting of the Planning Commission on September 12, 2023.

Respectfully submitted:

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Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:

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Richard Enea, Chair



## AGENDA REPORT

**To:** Honorable Chair and Planning Commissioners

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

**Date:** September 26, 2023

**Subject:** Agenda Item 7.A  
Munoz Variance (VAR-01-2023)

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### **SUMMARY**

This is a public hearing on a request by Nina and John Munoz for approval of a Variance (VAR-01-2023) to allow an existing legal non-conforming 9.3-foot interior side yard setback to be reduced to 4 feet for purposes of constructing a bathroom addition to an existing single-family residence at 1217 Gamay Drive, Assessor's Parcel Number (APN) 119-552-011.

### **RECOMMENDATION**

Staff recommends that the Planning Commission open the public hearing, accept written and spoken testimony, close the public hearing, and adopt the attached Resolution approving Variance VAR-01-2023.

### **PROJECT INFORMATION**

Applicants/Property Owners: Nina and John Munoz

Location: 1217 Gamay Drive  
APN 119-552-011  
See **Attachment B** for Vicinity Map

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

Zoning Classification: Single Family Residential R-12 District (12,600 square-foot minimum lot area)

Environmental Review: The subject Variance request is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Categorical Exemption Class 3 (New Construction or Conversion of Small Structures), Section 15303(a) of the State Guidelines for Implementation of CEQA.

Public Notice:

On or prior to September 15, 2023, a public hearing notice was posted at the project site and on the notice boards at Clayton City Hall, Clayton Community Library, and in the Town Center. The public hearing notice was also mailed via first class or electronic mail to the applicants and to owners of real property located within 300 feet of the subject property.

Existing Site Conditions: The property at 1217 Gamay Drive is currently developed with a single-family detached residence. The property fronts on Gamay Drive, and its rear property line is adjacent to Marsh Creek Road, though there is no access onto the property from the Marsh Creek Road right-of-way. The existing residence sits 20.1 feet away from the front property line (adjacent to Gamay Drive); 54.4 feet away from the rear property line (adjacent to Marsh Creek Road); 9.9 feet away from the south side property line; and 24.3 feet away from the north side property line. A 15-foot-wide trail easement spans the entirety of the property, parallel and adjacent to the north side property line. See **Attachment D, Site Survey**, for a site plan of the property.

## **ANALYSIS**

Applicable Zoning Regulations: Clayton Municipal Code (CMC) Section 17.16.090 requires side yard setbacks for properties in the R-12 District to be a minimum of 10 feet, with a combined total (aggregate) minimum of 25 feet for both side yards together. CMC Section 17.04.110.B further specifies that portions of a lot lying within an easement or right-of-way for pedestrian or vehicular access “shall not be included in order to satisfy minimum area, setback or dimensional requirements.” Therefore, while the existing residence is located 24.3 feet away from north side property line, the north side setback must exclude the 15-foot-wide trail easement, which reduces the existing north side setback to 9.3 feet. With both existing side yard setbacks for the residence being less than 10 feet, and with an aggregate of 19.2 feet where 25 feet aggregate is required, the existing residence on the subject property is classified as “legal nonconforming” because it was constructed with more lenient setback regulations that existed prior to those currently established in the CMC.

Variance Request: Nina and John Munoz, the applicants/property owners (applicants), are requesting approval of a variance to allow the existing legal non-conforming interior north side setback of approximately 9.3 feet from the edge of the pedestrian trail easement to be further reduced to 4 feet. The reduced setback would allow the applicants to construct a proposed master bathroom and closet addition (addition) on the rear the residence. All other building setbacks (front, rear, and south side) would remain unchanged with the project. A written description of the variance request prepared by the applicants is provided as **Attachment C**.

Required Findings: The variance standards for review specified in Clayton Municipal Code (CMC) Section 17.52.030 require certain findings to be made to approve the request. The required findings are listed below in **bold**, and staff comments are shown in standard typeface.

**The Planning Commission “shall find the following before approval of any application is given. Failure . . . to find the following [findings] requires that the application shall be denied. Circumstances to be found prior to the approval of an application are:**

**[Finding] A. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the same respective land use district in which the subject property is located;”**



Staff believes that authorization of a variance would not constitute a grant of special privilege because of the constrained building envelope of the subject lot caused by the existing 15-foot-wide trail easement running along the entirety of the 135-foot north side property line. In addition, this same north side property line tapers inward as it extends from the front lot line to the rear lot line, which further exacerbates the restricted nature of the building envelope on the subject lot. These existing conditions constrain the buildable area of the main residence in a manner that does not exist on other lots located within the Easley Estates subdivision where the subject lot is located and is not found on these same adjacent properties which have the identical Single Family Low Density (LD) land use designation and R-12 zoning classification as the subject lot (see **Attachment D** for a site survey provided by the applicants as well as a staff-annotated version of the site survey provided as **Exhibit E**).

The north interior side setback for the proposed addition must be measured from the edge of the existing trail easement rather than from the north side property line in accordance with CMC Section 17.04.110.B which requires, in part, that any easement established for purposes of pedestrian access (e.g., trail easement) cannot be included in a setback measurement. As a result, the application of the minimum 10-foot interior side setback requirement from the edge of the trail easement to the north wall of the proposed addition would preclude the construction of the addition altogether. When factoring in the tapered trajectory of the north side property line, this constrained nature of the north side yard further hinders the ability of the minor 375 square-foot bathroom addition to be constructed. When analyzing the existing constraints on the subject lot, staff notes that, if the trail easement did not exist, the proposed addition would easily comply with the minimum 10-foot interior side setback requirement (being located 28 feet from the north side property line), even when factoring in the tapering effect of the north property line. Therefore, given these existing factors that have caused these lot-specific constraints, authorization of a variance to allow the proposed addition to encroach 5 feet into the existing legal non-confirming 9.3-foot interior side setback is justified.

**“[Finding] B. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district;”**

As explained under Finding A above, there are existing conditions on the subject lot that constrain the ability of the applicants to improve their property (i.e., construct an addition on the residence) in a manner similar and equal to improvements that other lots in the neighborhood could potentially make. The existing 15-foot-wide trail easement that runs along the 135-foot-long north side property line removes 2,025 square feet of usable area from the 12,350 square-foot subject lot. As a result, the remaining usable area of the subject lot is 10,325 square feet in area, or 2,275 square feet smaller than the required minimum lot size of 12,600 square feet in the R-12 District.

Furthermore, the tapered nature of the north side property line of the subject property, which causes the subject property to gradually narrow from the front lot line to the back lot line, is also unique when compared to other lots in the neighborhood (see **Attachment F** for a staff-annotated excerpt of the Contra Costa County Assessor’s Parcel Map). As is evident by **Attachment F**, the other lots in the neighborhood do not have this tapering effect caused by a lot line that narrows the property down to such an extreme degree. When looking at the impacts to the buildable area of the lot caused by the tapered trajectory of the north side lot line, the subject property goes from 116 feet in width at the front lot line down to only 80 feet in width at the rear lot line. At 52 feet behind the front lot line, the subject lot becomes narrower than the 100-foot minimum lot width requirement and continues to narrow further for the remaining 83 feet of the subject property to the rear lot line (please see **Attachment G** for a staff-annotated excerpt of the Contra Costa County Geographic Information Systems Map). As is apparent from **Attachment G** (which shows

that, at 52 feet behind the front lot line, the subject property gets narrower than the 100-foot minimum lot width required for lots in the R-12 District). As a result, 62 percent of the subject property (83 feet of the remaining 135-foot lot depth as measured from 52 feet behind the front lot line to the rear lot line) is narrower than the 100-foot-wide minimum lot width requirement for properties located in the R-12 District. When subtracting the 15-foot-wide trail easement from these lot width dimensions, the constraints are even more evident with the subject lot width at the front property line being 101 feet and 65 feet at the rear property line.

Given the constraints of the reduced usable area of the subject lot caused by the existing trail easement as well as the reduced lot width caused by the tapering trajectory of the north side property line, staff believes that the strict application of the 10-foot interior side setback requirements would deprive the applicants of the ability to construct a minor 375-square-foot bathroom and closet addition in a manner similar and equal to other properties located within the same Single Family Low Density (LD) land use designation and R-12 zoning classification as that in which the subject lot is located.

**“[Finding] C. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.”**

In part, the intent and purpose of the Single Family Low Density (LD) land use designation and R-12 zoning classification is to allow reasonable expansion and improvement of detached single-family residential properties. Since the construction of the 375-square-foot bathroom and closet addition on the rear of the subject property comprises a reasonable expansion, authorization of a variance to allow the proposed addition to encroach 5 feet into the existing legal non-confirming 9.3-foot interior side setback would substantially meet the intent and purpose of the R-12 District.

## **ATTACHMENTS**

- A. Planning Commission Resolution No. 05-2023 (Proposed)
- B. Vicinity Map
- C. Written Description of Variance
- D. Site Survey
- E. Site Survey (staff-annotated excerpt)
- F. Contra Costa County Assessor’s Parcel Map (staff-annotated excerpt)
- G. Contra Costa County Geographic Information System Map (staff-annotated excerpt)

**CITY OF CLAYTON  
PLANNING COMMISSION  
PROPOSED  
RESOLUTION NO. 05-2023**

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**A RESOLUTION APPROVING A VARIANCE TO ALLOW A PROPOSED ADDITION  
ON AN EXISTING SINGLE-FAMILY RESIDENCE TO ENCROACH FIVE FEET INTO AN EXISTING  
SUBSTANDARD INTERIOR SIDE YARD SETBACK AT 1217 GAMAY DRIVE  
(VAR-01-2023)**

**WHEREAS**, the City received an application from Nina Munoz and John Munoz, property owners of 1217 Gamay Drive (Assessor's Parcel Number 119-552-011), requesting review and approval of a Variance (VAR-01-2023) to allow a proposed bathroom addition on an existing detached single-family residence to encroach 5 feet into an existing legal nonconforming 9.3-foot interior side setback; and

**WHEREAS**, the property at 1217 Gamay Drive (subject property) is currently developed with a single-family detached residence which is located 20.1 feet away from the front property line, 54.4 feet from the rear property line, 9.9 feet from the south side property line, and 24 feet from the north side property line; and

**WHEREAS**, an existing public trail easement occupies the northernmost 15 feet of the subject property from the front property line to the rear property line; and

**WHEREAS**, Clayton Municipal Code (CMC) Section 17.16.090 requires side yard setbacks for properties in the R-12 District to be a minimum of 10 feet, with a combined total (aggregate) minimum of 25 feet for both side yards together; and

**WHEREAS**, CMC Section 17.04.110.B specifies, in part, that portions of a lot lying within an easement for pedestrian or vehicular access "shall not be included in order to satisfy minimum area, setback or dimensional requirements"; and

**WHEREAS**, while the existing residence on the subject property is located 24 feet away from the north side property line, the north side setback must exclude the 15-foot-wide trail easement, which reduces the existing north side setback to 9.3 feet; and

**WHEREAS**, with both existing side yard setbacks on the subject property having a legal nonconforming setback less than 10 feet with an aggregate of 19.2 feet (9.3 feet for the north side setback and 9.9 feet for the south side setback), the existing residence on the subject property is classified as "legal nonconforming" because it was constructed under more lenient setback regulations that existed prior to those currently established in the CMC; and

**WHEREAS**, as a result of the existing legal nonconforming conditions and the constraints that these conditions place upon the setback compliance of a proposed minor addition that would otherwise be able to comply with the setback requirements in the CMC, Nina Munoz and John Munoz submitted a Variance application to the City; and

**WHEREAS**, the variance request is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Categorical Exemption Class 3 (New Construction or Conversion of Small Structures), Section 15303(a) of the State Guidelines for Implementation of CEQA; and

**WHEREAS**, CMC Section 17.52.030 authorizes the Planning Commission to approve a variance request; and

**WHEREAS**, on September 26, 2023, the Clayton Planning Commission held a duly-noticed public hearing on the Variance request (VAR-01-2023), and received and considered testimony and evidence, both spoken and documentary.

**NOW, THEREFORE, BE IT RESOLVED**, the Planning Commission does determine the foregoing recitals are true and correct and makes the following findings based on the Variance Standards of Review in Section 17.52.030 of the Clayton Municipal Code:

- A. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the same respective land use district in which the subject property is located.**

Authorization of a variance will not constitute a grant of special privilege because of the constrained building envelope of the subject lot caused by the existing 15-foot-wide trail easement running along the entirety of the 135-foot north side property line. In addition, this same north side property line tapers inward as it extends from the front lot line to the rear lot line, which further exacerbates the restricted nature of the building envelope on the subject lot. These existing conditions constrain the buildable area of the main residence in a manner that does not exist on other lots located within the Easley Estates subdivision where the subject lot is located and is not found on these same adjacent properties which have the identical Single Family Low Density (LD) land use designation and R-12 zoning classification as the subject lot.

The north interior side setback for the proposed addition must be measured from the edge of the existing trail easement rather than from the north side property line in accordance with CMC Section 17.04.110.B which requires, in part, that any easement established for purposes of pedestrian access (e.g., trail easement) cannot be included in a setback measurement. As a result, the application of the minimum 10-foot interior side setback requirement from the edge of the trail easement to the north wall of the proposed addition would preclude the construction of the addition altogether. When factoring in the tapered trajectory of the north side property line, this constrained nature of the north side yard further hinders the ability of the minor 375 square-foot bathroom addition to be constructed. If the trail easement did not exist, the proposed addition would easily comply with the minimum 10-foot interior side setback requirement (being located 28 feet from the north side property line), even when factoring in the tapering effect of the north property line. Therefore, given these existing factors that have caused these lot-specific constraints, authorization of a variance to allow the proposed addition to encroach 5 feet into the existing legal non-confirming 9.3-foot interior side setback is justified.

- B. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.**

There are existing conditions on the subject lot that constrain the ability of the applicants to improve their property (i.e., construct an addition on the residence) in a manner similar and equal to improvements that other lots in the neighborhood could potentially make. The existing 15-foot-wide trail easement that runs along the 135-foot-long north side property line removes 2,025 square feet of usable area from the 12,350 square-foot subject lot. As a result, the remaining usable area of the subject lot is 10,325 square feet in area, or 2,275 square feet smaller than the required minimum lot size of 12,600 square feet in the R-12 District.

Furthermore, the tapered nature of the north side property line of the subject property, which causes the subject property to gradually narrow from the front lot line to the back lot line, is also unique when compared to other lots in the neighborhood. Other lots in the neighborhood do not have this tapering effect caused by a lot line that narrows the property down to such an extreme degree. When looking at the impacts to the buildable area of the lot caused by the tapered trajectory of the north side lot line, the subject property goes from 116 feet in width at the front lot line down to only 80 feet in width at the rear lot line. At 52 feet behind the front lot line, the subject lot becomes narrower than the 100-foot minimum lot width requirement and continues to narrow further for the remaining 83 feet of the subject property to the rear lot line. As a result, 62 percent of the subject property (83 feet of the remaining 135-foot lot depth as measured from 52 feet behind the front lot line to the rear lot line) is narrower than the 100-foot-wide minimum lot width requirement for properties located in the R-12 District.

Given the constraints of the reduced usable area of the subject lot caused by the existing trail easement as well as the reduced lot width caused by the tapering trajectory of the north side property line, strict application of the 10-foot interior side setback requirements would deprive the applicants of the ability to construct a minor 375-square-foot bathroom and closet addition in a manner similar and equal to other properties located within the same Single Family Low Density (LD) land use designation and R-12 zoning classification as that in which the subject lot is located.

- C. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.**

In part, the intent and purpose of the Single Family Low Density (LD) land use designation and R-12 zoning classification is to allow reasonable expansion and improvement of single-family residential properties. Since the construction of the 375-square-foot bathroom and closet addition on the rear of the subject property comprises a reasonable expansion, authorization of a variance to allow the proposed addition to encroach 5 feet into the existing legal non-confirming 9.3-foot interior side setback would substantially meet the intent and purpose of the R-12 District.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission does hereby approve Variance VAR-01-2023 to allow a proposed addition on an existing single-family residence to encroach 5 feet into an existing legal nonconforming 9.3-foot interior side setback at 1217 Gamay Drive, subject to the following Conditions of Approval:

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. 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.
3. The applicant shall comply with the California Building Standards Code and all applicable regulations including, but not limited to, those of the Contra Costa County Fire Protection District, State of California, and any other agencies that are pertinent to the operation of the tutoring service business.

**PASSED AND ADOPTED** by the Planning Commission of the City of Clayton at a Regular Meeting on the 26<sup>th</sup> day of September, 2023.

AYES:

NOES:

ABSTAINED:

ABSENT:

APPROVED:

ATTEST:

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Rich Enea, Chair


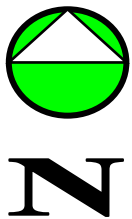
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Dana Ayers, AICP, Secretary





VICINITY MAP

	<p><b>Nina and John Munoz Variance VAR-01-2022 1217 Gamay Drive APN 119-552-011</b></p>	
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(Not to Scale)

Nina and John Munoz  
1217 Gamay Drive Clayton, CA 94517  
925 876 3481

Re: Variance Request

To: City of Clayton Building Dept.

We would like to request a variance for the property listed above. We have lived in this home for 40 years and love this town. We wish to add on a master bathroom and closet to our master bedroom (straight out the backyard).

We need the variance because there is an easement on our property which takes some of our square footage (on the north side). In addition, our property line was drawn at an angle cutting into our backyard also on the north side (near our master bedroom). The property line makes our lot a trapezoid rather than a rectangle. This makes the addition very difficult and the reason for our request of the variance.

As stated in Municipal Code 17.52.030 (B): Our property does have special circumstances as compared with other homes in our neighborhood.

I am including the proposed plan (close to scale) 20' deep and 18.8 wide. The width is exactly the width of our current master bedroom. Thus, the reason the variance is necessary. I am in the process of engaging an architect. I have included a very detailed site survey we had done for our property.

We only have a neighbor on the south side of us. I have included two envelopes as required to notify the two neighbors within the 300' distance. We are very friendly with our neighbors and see no reason there would be an objection to this small addition.

Thank you for your time and consideration.

Regards,

Nina and John Munoz



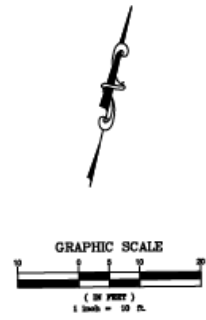
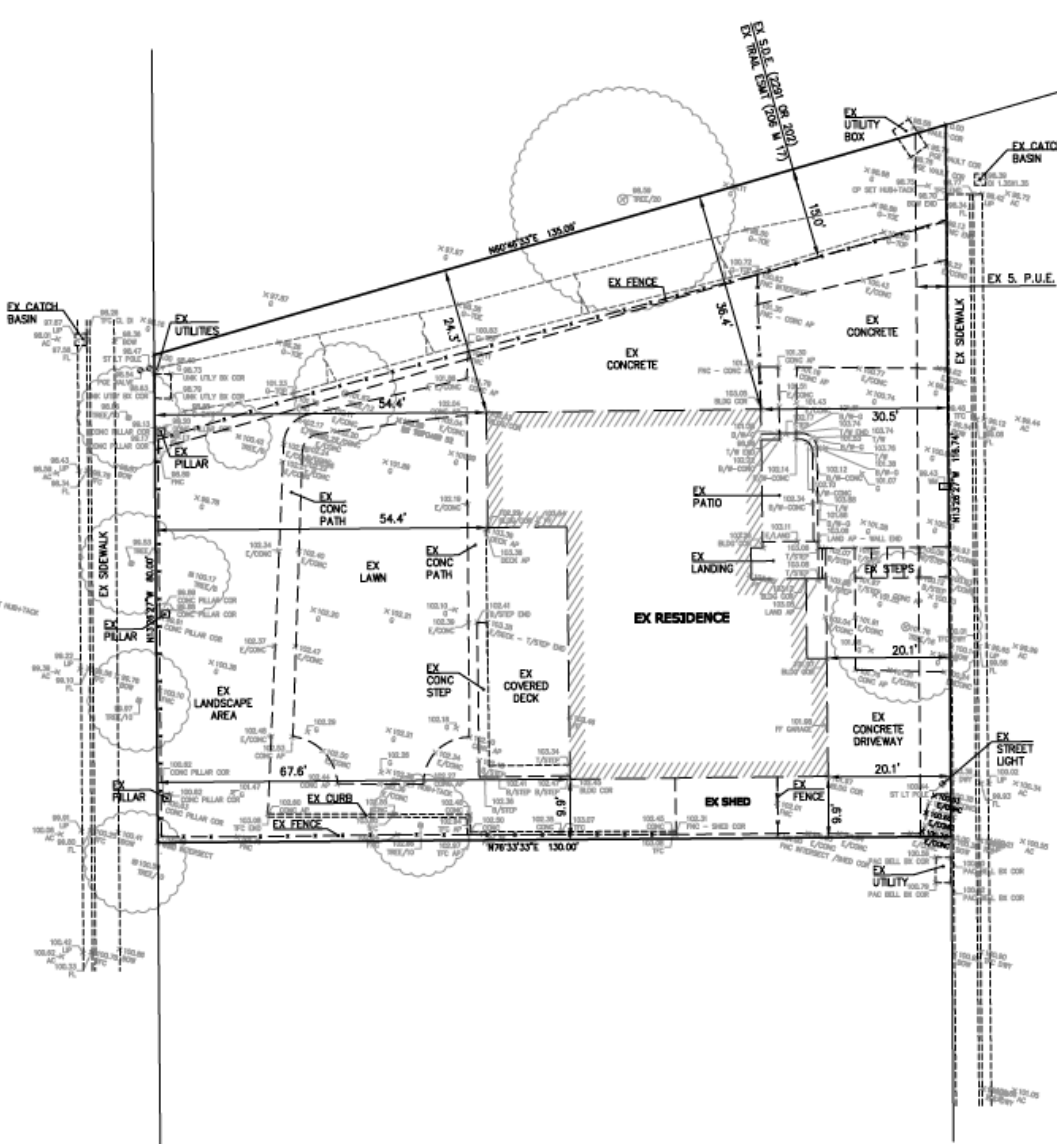
## LEGEND

- PROPERTY BOUNDARY LINE
- == WALL
- EP — EDGE OF PAVEMENT
- FNC — FENCE
- INT — INTERSECTION
- POT — POINT ON TANGENT
- x 105.4 — SPOT ELEVATION
- COR — CORNER
- FF — FINISH FLOOR
- TW — TOP OF WALL
- BW — BOTTOM OF WALL
- AC — ASPHALT CONCRETE
- TFC — TOP FACE OF CURB
- LIP — LIP OF GUTTER
- FL — FLOWLINE
- G — GROUND
- TOP — TOP SLOPE
- TOE — TOE SLOPE
- E — EDGE
- S.D.E. — STORM DRAIN EASEMENT
- P.U.E. — PUBLIC UTILITY EASEMENT
- WM — WATER METER

MARS CREEK ROAD

GAMAY DRIVE

SEMILLION CIRCLE



TOPOGRAPHIC SURVEY

1217 GAMAY DRIVE

CLAYTON

CONTRA COSTA COUNTY

CALIFORNIA

JANUARY 2008 - MAY 2008  
REVISION DATED

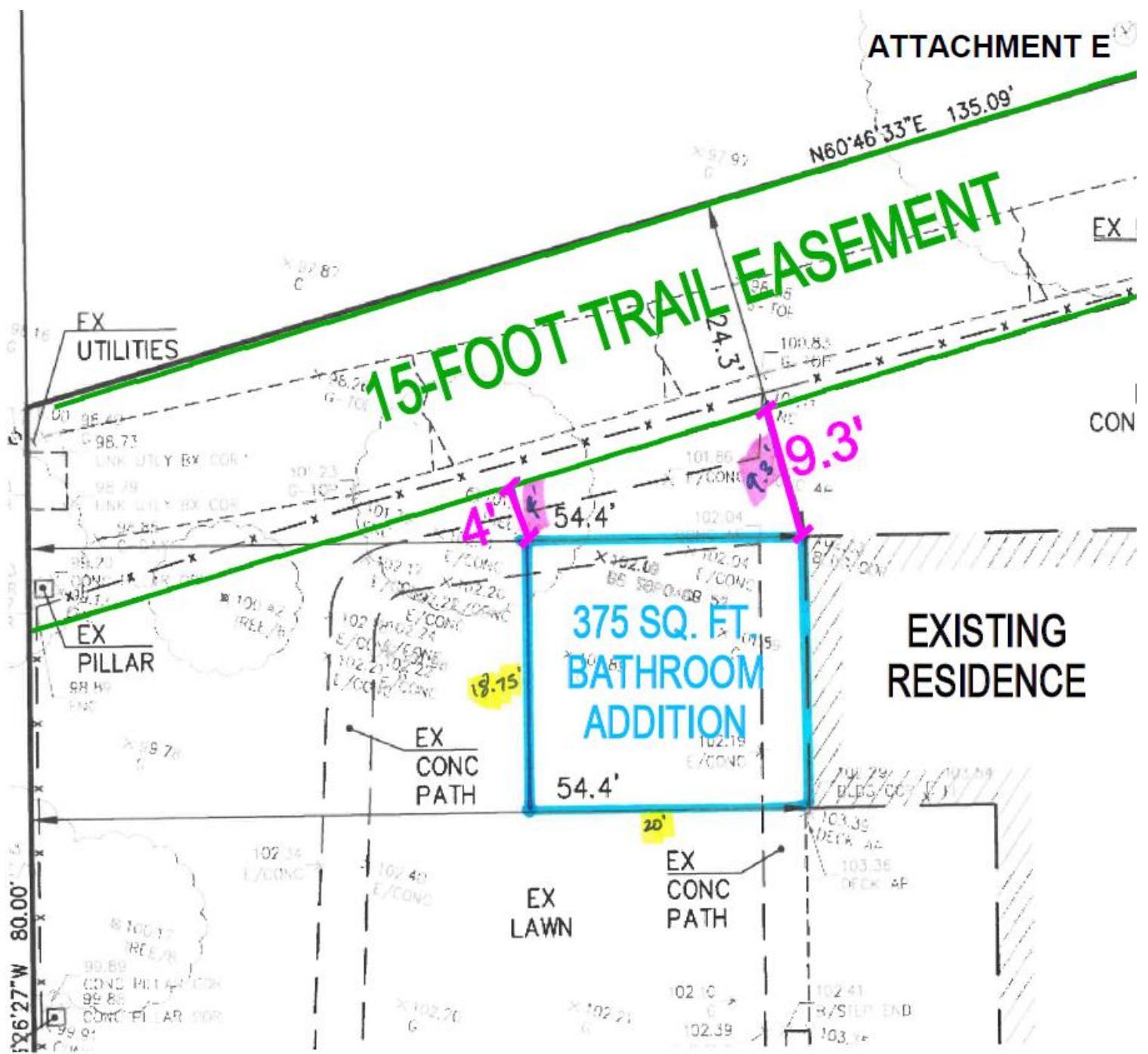
#	REVISIONS	DATE

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ALL PLANS ARE PRELIMINARY AND NOT FOR CONSTRUCTION UNLESS SHOWN AND STAMPED BY THE ENGINEER AND REGISTERING AGENCY.

# 15-FOOT TRAIL EASEMENT





- 551
- 552
- 553
- 554
- 555



