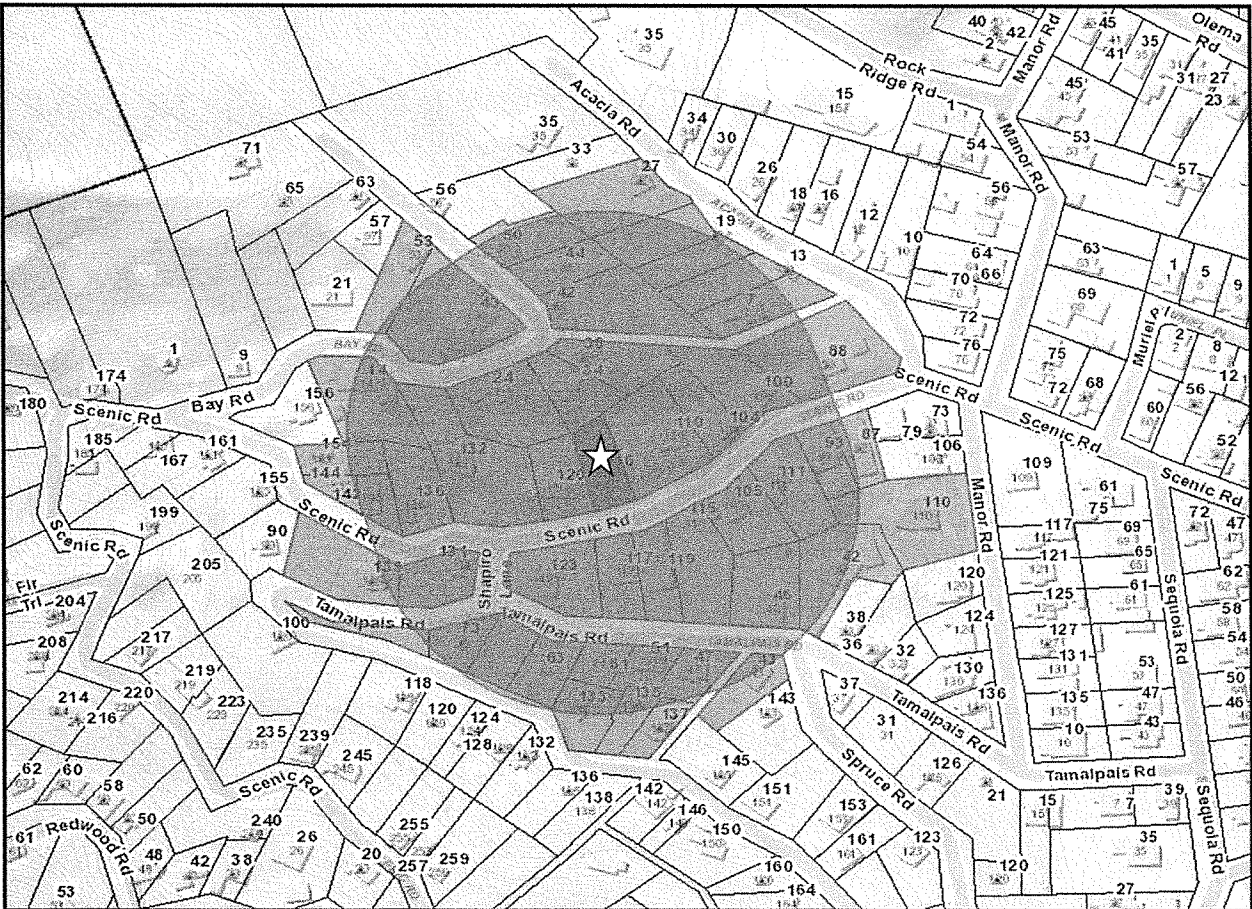


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: May 21, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 69 Spruce Road; Assessor's Parcel No. 001-145-01
PROJECT: Creation of off street parking space
ACTION: Preferential Parking; Application # 15-09
ZONING: Residential Single-family RS 6 Zone District
APPLICANT: Wendy Oliveira, Farallon Co.
OWNER: Ellen De Martini
CEQA STATUS: Categorically exempt section 15301(4)



69 SRPUCE ROAD

BACKGROUND

The 7,400 square foot and 30 foot wide site slopes up from Spruce Road at an average rate of 57% and the front property line is set back from the edge of the paved road 15 to 17 feet. The 1,123 square foot, three bedroom, 1 bath, single-family residence was constructed in 1922 and has no formal parking. The wood framed house is located on the lower portion of the property and is accessed by a long series of steps leading up from Spruce Road.

This item was original scheduled for the April 16, 2015 Commission meeting. At that meeting the owner of the neighboring property at 71 Spruce Road indicated to the Commission that she had not had time to review the plans and was asking for additional time to allow her engineer review them. She cited the proximity of the wall to the side of her house/property line, whether the depth of the excavation for the wall might compromise the stability/result in future settlement of her house and impacts of the wall on existing trees as her concerns. The Commission continued the public hearing to the May 21st, 2015 meeting.

DISCUSSION

The project encompasses creation of a 9 ft x 20 ft parking area and relocated entry stairs. The improvements will be created by constructing a retaining wall that will vary in height as one travels west on Spruce Road from 7 feet in height to 4 feet in height. The parking and access stairway improvements are proposed entirely within the public right-of-way.

Normally this type of parking development would require the approval of an Encroachment Permit and a Retaining Wall Height Variance from the Planning Commission. However, in 1994, the Fairfax Town Council adopted Ordinance No. 636 establishing preferential parking privileges for persons creating vehicle parking spaces within the Town rights-of-way. The ordinance allows persons spending \$10,000 or more to create the parking to post the parking for their own private use as long as they maintain the parking in a safe and sanitary manner.

The applicant proposes planting a combination of Asian Star Jasmine, Creeping Rosemary, Creeping Fig Vine and Boston Ivy along the top of the wall which is expected to grow over the wall to minimize its visual impact.

Construction will require the removal of 70 cubic yards of material and 3 bay trees from the site.

The provision of parking along this section of Spruce Road where parking is scarce and parked vehicles often narrow the roadway travel path for emergency vehicles will be more beneficial to the general Public than the retention of the existing bank and bay trees.

Ross Valley Fire Department

The Ross Valley Fire Department has indicated that they will not support the posting of this space in the public easement for use only by the property owners and they would like included in the recorded Revocable Encroachment document the condition that any remodeling, expansion or reconstruction of the dwelling that constitutes a 50% remodel will trigger the Fire Code requirement that the roadway in front of the residence be widened to 20 feet (effectively removing the parking space).

RECOMMENDATION

Move to approve application # 15-09 after finding that creation of the proposed parking space is in the public interest as long as the following conditions of approval are met:

Recommended Conditions of Approval

1. Construction plans must be submitted for the project building permit that are prepared by a licensed Civil Engineer that show existing conditions such as the house location, trees, utilities, the street and the stairs. Layout dimensions, property lines, drainage, elevations and all construction details must be shown.
2. The top of the retaining wall footing must be shown a minimum of 6 inches lower than the existing street pavement to minimize possible conflicts with future street work. The pavement over the footing in the parking area may be concrete or asphalt concrete. Concrete pavement must be separate from the wall footing so it can be removed if future street work requires removal.
3. The applicant shall comply with the conditions of the Fairfax Building Official, Public Works Director/Manager and Town Engineer.
4. The planting and irrigation plan for the area above the retaining wall shall be submitted with the building permit application. The plan shall be subject to review and approval by the Department of Planning and Building Services prior to issuance of the building permit.
5. This approval is limited to the development illustrated on the plans prepared by Vlad G. Iojica, Civil Engineer, pages C0.0 and C1.0 dated 11/17/14 and the property survey prepared by Robert J. Dains, dated 2/12/15.
6. Prior to issuance of a building permit the applicant or his assigns shall submit a bond, cash deposit or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Public Works Director. Upon approval of the contract costs, the applicant shall submit a cash deposit, letter of credit or bond equaling 100% of the estimated construction costs.

7. Prior to issuance of the building permit the applicant shall provide the Town with a video of the access streets to be used during construction. The Public Works Director shall make a decision prior to the project final, regarding street resurfacing and repair required as a result of damage and wear and tear from project vehicles.

8. Retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the retaining elements shall be stamped

and signed by the structural engineer and submitted to the satisfaction of the Town Engineer.

9. Submit 3 copies of the survey subject to review by the Town Engineer and the Public Works Director prior to issuance of the building permit.

10. During the construction process the following shall be required:

a. The project engineer shall be on-site during the grading process and shall submit written certification to the Town staff that the grading has been completed as designed and recommended prior to installation of retaining forms.

b. Prior to the concrete form inspection by the building official, the project engineer shall field check the forms of the foundations and retaining elements and provide written certification to the Town staff that the work to this point has been completed in conformance with the approved building plans and recommendations. The building official shall field check the concrete forms prior to the pour.

c. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the contractor.

d. Additionally, any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

11. Prior to the project final inspection the following shall be completed:

a. The project engineer shall field check the completed project and submit written certification to the Town Staff that the retaining, grading and drainage elements have been installed in conformance with the approved building plans.

b. The Building Official shall field check the completed project to verify that the

work has been installed as per approved plan.

c. The applicant shall submit a bond, letter of credit or a cash deposit to the Town in an amount that will cover the cost of landscaping and irrigation materials and installation. This amount will be kept for 18 months once the landscaping is installed to ensure the plant material has become established.

d. The Planning Department shall field check the completed project to verify that all planning commission conditions have been complied with including installation of landscaping and irrigation prior to the final inspection.

12. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

13. During construction developer and all employees, contractors and subcontractors must comply with all requirements set forth in Ordinance # 673 (Chapter 8.26 of the Town Code) "Storm Water Management and Discharge."

14. The applicant shall comply with Ordinance 656, An Ordinance of the Town of Fairfax Amending Section # 12.24.050 of the Fairfax Town Code relating to the "Issuance of Permit For Excavations In streets And Public Thoroughfares".

15. The applicant shall comply with the Town Noise Ordinance Chapter 8.16 of the Fairfax Town Code.

16. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of this preferential parking permit by the Fairfax Planning Commission. Any construction based on job plans that have been altered without the benefit of an approved modification will result in the job being immediately stopped and red tagged.

17. A detailed grading and erosion control plan must be submitted to the Town Engineer for review and be approval prior to issuance of the building permit.

18. Pavement restoration may include local repairs and overlay (rather than slurry sealing) depending on damage incurred due to construction and water and sewer line relocation. The final decision regarding street resurfacing shall be rendered by the Department of Public Works based on pavement conditions near the completion of construction.

19. Any modification of these conditions approval must be approved by the Fairfax Planning Commission.

20. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and

hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

21. The applicant must sign, have his signature notarized and record a Revocable Encroachment Permit Document at the Marin County Recorder's Office prior to issuance of the building permit for the project.

Tree Removal

22. The applicant must obtain a tree removal permit from the Fairfax Tree Committee and a building permit for the project prior to removing any trees from the site.

OTHER AGENCY/DEPARTMENT

Marin Municipal Water District and Ross Valley Sanitary District –

23. The District owns and maintain water and sewer facilities located within the Scenic Road right-of-way. No construction shall encroach upon or encumber access to District facilities. These facilities must be located and marked on the project construction plans to determine conflicts and may need to be relocated.

Ross Valley Fire Department –

24. The proposed parking area must not encroach into the existing roadway bed. The requires 9 feet of width for a parking space must be clear of the existing street area and parked vehicles may not extend beyond the approved parking area at any time.

25. Per the Ross Valley Fire Department the parking space may not be posted for the

sole use of 69 Spruce Road but must be available for use by the general public.

26. The Revocable Encroachment document shall include the condition that any remodeling, expansion or reconstruction of the dwelling that constitutes a 50% remodel will trigger the Fire Code requirement that the roadway in front of the residence be widened to 20 feet (effectively removing the parking space and requiring either the provision of alternative parking or a Parking Variance).

Miscellaneous Conditions

27. The applicant must comply with all outside agency conditions unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.

ATTACHMENTS

Exhibit A – Revocable Encroachment Permit

Exhibit B – e-mails and meeting memorandum between Ross Valley Fire and project engineer, Vlad Iojica, P.E.

Date: 04/07'15

MEETING MEMORANDUM

Subject: Fire Department Plan Review Comments —69 Spruce Road, Fairfax, CA, APN: 001-145-01. (dated 04/01/2015)

Participants: Robert Bastianon, Fire Inspector
Ross Valley Fire Department

Vlad Iojica, Civil Engineer
ViA - Engineering, inc



Civil Engineering
Land Surveying

Dear Robert,

Following our morning meeting to discuss application review comments by Ross Valley Fire Department, and forwarded into our attention by Town of Fairfax, Planning Department, we prepared this Memo to summarize our discussion. Please review and let us know if anything is missing. We will consider this Memo as official if no response will be received within the following three working days.

As stated in the document submitted to the Town of Fairfax, and dated 04/01/15, of concern is the substandard street section (<20-ft) of Spruce Road, in conflict with the requirements of 2013 CFC, along the right-of-way corresponding to parcel in question (APN: 001-145-01). Under current conditions, pavement section along Spruce Rd varies in width, between 11' and 14', and with a vehicle parked, the available pavement section it is further reduced by an additional one to one and a half feet. Due to site configuration, and existing improvement on adjacent parcels along the alignment of the road, an extension of the pavement section to 20' it is not feasible.

The proposed improvements, in the right-of-way of Spruce Street will provide sufficient space for a car to be parked off the paved surface of the street.

From our conversation resulted that in order to mitigate the conflict between the provisions of the 2013 CFC and site specific conditions, the space created by constructing the retaining wall cannot be dedicated to serve only parcel in question, and in order to obtain Fire Department Approval for constructing proposed improvements, the plan needs to be revised by removing the "new parking" designation. Improvements created in the public right-of-way will be public, and that the owner of the parcel cannot claim the ownership of the improvements constructed in the public right-of-way. It has been noted that a similar situation is encountered at the front of the adjacent parcel to the west.

The approval will be provided on revised improvement plans, with no designation for parking in front of the proposed retaining wall. In addition the owner of the parcel to acknowledge that it will not own, once constructed, the proposed improvements, to be located in the public right-of-way.

Action Items:

VIA-Engineering to provide revised improvement plans for new retaining wall and access staircase.

Sincerely,

ViA-Engineering, Inc.

A handwritten signature in black ink, appearing to read "V. Iojica", with a stylized flourish at the end.

Vlad Iojica, P.E., QSD.
Civil Engineer

Cc: Ms. Ellen DeMartini, Owner
Linda Neal, Town of Fairfax,
Wendy Oliveira, Farallon Co.

Linda Neal

From: Robert Bastianon <rbastianon@rossvalleyfire.org>
Sent: Friday, April 10, 2015 9:32 AM
To: Vlad Iojica
Cc: Linda Neal; Fernando Oliveira
Subject: Re: 69 Spruce Road

Both.

On Thu, Apr 9, 2015 at 7:30 AM, Vlad Iojica <viojica@via-eng.com> wrote:
Hello Robert,

Will minimum 20-ft minimum width of pavement be required, for any future significant additions or remodels, be triggered by currently proposed improvements in the right-of-way of Spruce Rd, or it will independently apply as a condition on a remodel/addition on the property?

Thank you,
Vlad

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Vlad Iojica, PE, QSD/P
Civil Engineer | Principal
VIA Engineering, Inc.
T: [415.774.6776](tel:415.774.6776)
E: viojica@via-eng.com

From: Robert Bastianon <rbastianon@rossvalleyfire.org>
To: Vlad Iojica <viojica@via-eng.com>
Cc: Linda Neal <lneal@townoffairfax.org>; Fernando Oliveira <faralloncompany@gmail.com>
Sent: Wednesday, April 8, 2015 11:30 AM
Subject: Re: 69 Spruce Road

Hi Vlad, Please also note that any additions or significant remodels to the mentioned property or neighboring properties will require a minimum 20 foot wide road. This may impact future improvements in the area.

On Wed, Apr 8, 2015 at 8:21 AM, Vlad Iojica <viojica@via-eng.com> wrote:
Good Morning Robert,

Following our conversation yesterday morning, I prepared and attached here a memo letter for your review. Please let me know if anything is missing, or any questions.

Thank you,
Vlad

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Vlad Iojica, PE, QSD/P
Civil Engineer | Principal
VIA Engineering, Inc.
T: [415.774.6776](tel:415.774.6776)
E: viojica@via-eng.com

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Linda Neal

From: Robert Bastianon <rbastianon@rossvalleyfire.org>
Sent: Wednesday, April 08, 2015 11:30 AM
To: Vlad Iojica
Cc: Linda Neal; Fernando Oliveira
Subject: Re: 69 Spruce Road

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Vlad

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