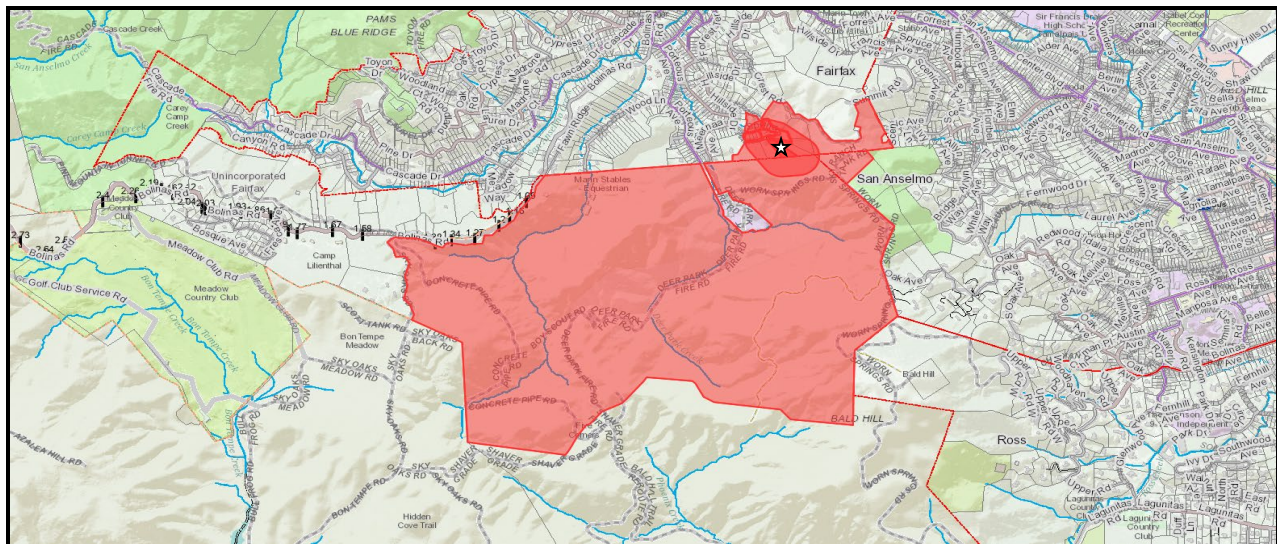


**TOWN OF FAIRFAX  
STAFF REPORT**  
**Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** February 18, 2021  
**FROM:** Linda Neal, Director of Planning and Building Services  
**LOCATION:** 63 Spring Lane; Assessor's Parcel No. 002-174-05  
**PROJECT:** New Single-family residence  
**ACTION:** Hill Area Residential Development, Design Review, Encroachment, Tree Removal and Excavation Permits and a Retaining Wall Height Variance; Application # 21-03  
**APPLICANT:** Doug Thompson, Architect  
**OWNER:** Stacy and John Peoples  
**CEQA STATUS:** Categorically exempt, § 15303(a) and 15332



**63 SPRING LANE**  
**Assessor's Parcel No. 002-174-05**

**DESCRIPTION**

The project encompasses the construction of a 23-foot tall, three story, 2,511 square-foot, three bedroom, two and a half bathroom, single-family residence with an attached first floor 648 square-foot, two car garage and 173 square-foot storage room/entry. The project also includes the construction of a private road that also provides emergency vehicle access to the site.

The first story includes the approximately 173 square-foot entryway, interior stairway, closet and the 648 square-foot garage/storage area, the 873 square-foot second floor includes two bedrooms, one bathroom and a laundry room while the third floor includes 1,485 square-foot third floor that includes the master bedroom, bath and dressing room, kitchen, living room and dining room.

The roadway situation in the area is confusing. To get oriented, please see Attachment B. It is the original subdivision map for the area and shows the Spring Lane right-of-way, portions of which are improved roadways and others which are unimproved “paper streets”. The roadway layout also has an unusual upside down “Y” shape, path with the eastern portion of the “Y” being unimproved while the western portion is improved and passes by the front corner of the project site and access several houses beyond. In essence, three roadways/paper streets are all Spring Lane.

**BACKGROUND**

Subdivision Map No. 3 of Deer Park was recorded at the Marin County Recorder’s Office on March 3, 1916 creating (among others) the 42,200 square-foot project site, which slopes up from Spring Lane at an average rate of 42%. The site was previously owned by the owner of 65 Spring Lane, so it has some graded areas, pathways, and a small wooden deck.

The applicant’s original submittal contained a driveway access/fire truck access that was deemed unacceptable by staff because it would have blocked future development of the Spring Lane public right-of-way. Allowing a private applicant to do that could have opened the Town to problems where property owners further along the unimproved portion of Spring Lane might assert that the Town has some responsibility to resolve the blockage. The current submittal provides a complying driveway access/fire truck access that avoids physically precluding future development of the eastern part of the Spring Lane roadway “Y” and properties fronting thereon.

**DISCUSSION**

The project complies with the regulations for the Residential Single-family RS-6 Zone as follows:

	<b>Front Setback</b>	<b>Rear Setback</b>	<b>Combined Front/rear Setback</b>	<b>Side Setbacks</b>	<b>Combined Side Setbacks</b>	<b>FAR</b>	<b>Coverage</b>	<b>Height</b>
<b>Required/ Permitted</b>	6 ft.	12 ft.	35 ft,	5 ft, & 5 ft,	20 ft.	.40	.35	28.5 ft., 3 stories
<b>Proposed</b>	37 ft.	187 ft.	224 ft.	15 ft. & 15 ft.	30 ft.	.06	.05	26 ft, 3 stories

The proposed structure compares to similar developments on similar sized and sloped lots in the Deer Park neighborhood as follows:

64 Spring Lane – COMPARABLE SITE NEIGHBORHOOD HOUSE SIZES AND FAR							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
002-093-08	21 Crest Road	71,874	3,941	6	4.5	0	.05
002-093-10	35 Crest Road	99,752	1,240	3	2	0	.01
002-152-15	25 Deer Park Dr.	21,250	2,755	4	4	472	.13
002-152-29	35 Deer Park Dr.	25,500	3,203	4	3	480	.13
002-152-31	98 Hillside Dr.	50,530	4,026	3	3	589	.08
002-162-15	89 Spring Lane	101,495	2,028	6	4		.02
002-162-17	81 Spring Lane	94,090	540	1	1	340	.005
002-171-09	30 Deer Park Dr.	27,300	3,204	2	3	560	.12
002-173-02	53 Spring Lane	39,710	644	3	2	603	.02
002-174-06	65 Spring Lane	45, 738	2,602	5	2	0	
002-181-03	232 Hillside Dr.	208,817	4,018	4	4	1003	.02
002-181-18	97 Crest Rd.	77,618	2,401	3	2	506	.03
SPRING LANE NEIGHBORHOOD - ADDITIONAL HOUSE SIZES AND FAR							
002-172-11	54 Spring Lane	4,551	2,132	3	2	0	.47
002-172-08	66 Spring Lane	5,130	1,832	3	3	1,128	.36
002-172-03	74 Spring Lane	5,929	1,920	3	2	0	.32
002-172-02	78 Spring Lane	6,000	1,344	2	2	0	.22
002-172-01	86 Spring Lane	8,840	1,882	4	3	0	.21
PROJECT							
002-174-05	63 Spring Lane	42,200	2,511	3	2.5	506	.06

The proposed house results in a .06 Floor Area Ratio that is similar to other residences in the hillside areas of Deer Park on properties of similar size and slopes.

The application requires the approval of the following discretionary permits:

### **Hill Area Residential Development Permit**

The purpose of the Hill Area Residential Development Ordinance is to: 1) encourage the maximum retention of natural features; 2) minimize grading of hillside areas; 3) provide a safe means of ingress and egress for vehicles and pedestrians; 4) minimize water runoff and soil erosion; 5) prevent loss of life, reduce injuries and property damage and minimize economic dislocations from geologic hazards; and, 6) ensure that infill development on hillside lots is of a size and scale appropriate to the property and that is consistent with other properties in the vicinity and with the same zone classification.

The site is cupped, being located between 2 swales on the adjacent properties. There is no evidence of active sliding on the site and the site rest borings has led the project geotechnical engineer to make the determination that the site is not likely to be affected by debris flow, landsliding, or seismically induced landsliding (see Attachment C – geotechnical report by Dave Olnes dated 11/15/19).

The convex nature of the site and its location off the end of a spur ridge ensures that the proposed project, as long as water from the improvements is collected and taken to the developed asphalt swale along the property frontage as proposed in the project plans, will ensure the site can be developed without endangering the stability of adjacent improvements or the properties. A horizontal 100-year storm water collection/retention pipe with the capacity to store 66 cubic feet of water is proposed on the west side of the house to retain water on the site during and after a 100-year storm, so peak water entering the drainage system will not exceed what enters the system from natural hillside runoff from the site now (Attachment D – DVC drainage report dated 5/21/20).

The site has some old unretained cuts north of proposed house site along with a deck installed by the previous owner. The project engineer has indicated, and the Town Engineer agrees, that these cuts may collapse unless they are either properly graded to have a 2:1 slope, or are retained. Any retaining walls built to address this concern are not expected to exceed the permitted 6 feet in height and can probably be considered landscaping walls, under 4 feet in height, and not requiring a building permit or wall height exceptions from the Planning Commission. Staff has included a condition of approval that all these retained areas be addressed in the final grading and drainage plan submitted with the application for building permit.

The Town Engineer has reviewed the following project reports and plans and has determined that the site can be developed as proposed in compliance with the Hill Area Residential Development Ordinance Development Standards (Town Code § 17.072.090) without negatively impacting neighboring properties or public improvements (see Attachment E – Town Engineer’s report dated 7/29/20):

1. Architectural plans by Doug Thompson, sheets A0.1, A1.0A, A1.0B, A1.1, A1.4, A1.4, A2.1, A2.2, A2.3, A2.4, A3.0, A3.1, A3.1R, A3.2R, A3.3 to A3.5 (revision date 10/16/20), Sheet A1.2, A1.3A, A1.3B, A1.3C, A1.6, (revision date 1/27/21 - driveway and wall),
2. Civil Engineering grading and Drainage plan pages C1 through C7 dated 8/4/20 and H1 dated 5/21/20.
3. Boundary and topographic map dated November 2018 and Record of Survey by Stephen Flatland.
4. Geotechnical report Dave Olnes, dated 11/15/19
5. Drainage Report by DVC Group dated 5/21/20 Huh??

The Town Engineer has indicated the project contains adequate information to recommend that the project proceed for a hearing before the Planning Commission, subject to the following conditions being met in the building permit application submittal stage and subject to their approval:

1. The minor discrepancies between the property legal description, boundary distances and dimensions shown on the Topographic and Boundary Survey and the Recorded Survey shall be addressed in writing by the project surveyor and shall include a brief commentary on the basis for his determination of the

property boundaries and reasons for the observed discrepancies for review and approval by the Town Engineer.

2. If approved and prior to issuance of the building permit the owner shall provide access easements across APN 002-174-05 for all applicable utility agencies, the Town of Fairfax and the owners of the 2 parcels to the east, APN # 002-174-03 and 04 (the parcels further east of APN # 002-174-04 have either been merged with developed parcels or are already developed on Crest Road or Deer Park Drive).
3. The height and proximity of the portion of the driveway retaining wall proposed on the neighboring 65 Spring Lane site will lie roughly 15 feet from the existing residence eastern wall . The retaining wall design and construction sequencing must be designed to maintain adequate lateral support for the property and improvements at 65 Spring Lane and include a detailed shoring plan with the structural plans submitted at the building permit stage, for review and approval by the Town Engineer.

### **Retaining Wall Height Variance**

Town Code § 17.044.080(A),(B)(1) and (B)(2) limit fences within the front yard setback to four feet in height and anywhere beyond the front setback to six feet in height. Therefore, the proposed driveway retaining wall that will reach 15 feet in height requires the approval of a retaining wall height variance from the Planning Commission.

The 1916 subdivision map that laid out the street easements for Spring Lane creates an acutely-angled hairpin turn where Spring Lane splits into a “T” at the project site’s northwestern corner (refer to Attachment B for diagram). The western portion of the “T” roadway is developed and provides public access to the houses with the western branch of the Spring Lane “Emergency vehicle access to the site has been designed within the private access driveway that will share an entrance with the driveway to the residence at 65 Spring Lane and a portion of the driveway will extend onto the 65 Spring Lane property in order to get the access circumference necessary for the large fire trucks (see sheet A1.2 of the project plan set). The owners have obtained an easement for these improvements and the owner of the neighboring site is aware of the design, location and height of the driveway retaining wall proposed along the southern side of the driveway curve that will vary in height from two ½ feet to 15 feet in height at its highest point.

The portion of the wall that exceeds the permitted six feet in height is the minimum necessary to create the fire truck accessible driveway while retaining the cut hillside above.

Other driveways have been granted retaining wall height variances when, due to changing topography and access requirements, they have to exceed the permitted four- or six-foot height limitations (i.e. 232 Hillside Drive, 95 Chester Avenue, 142 Pine Drive).

## Excavation Permit

Town Code 12.20.080(A) requires that an excavation permit be obtained from the Planning Commission prior to the excavation or fill of over 100 cubic yards of material. To approve an excavation, permit the Commission must be able to find the following:

1. The health safety and welfare of the public will not be adversely affected.
2. Adjacent properties are adequately protected by project investigation and design from geologic hazards because of the work.
3. Adjacent properties are adequately protected by project design from drainage and erosion problems because of the work.
4. The amount of the excavation or fill proposed is not more than is required to allow the property owner substantial use of his or her property.
5. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary.
6. Natural landscaping will not be removed by the project more than is necessary.
7. The time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.

This project will require the excavation of 855 cubic yards, 150 cubic yards of that material will be used to fill patio and underfloor areas resulting in an off-haul amount of 705 cubic yards of material.

The site is steep. It is the owner's intention to keep the site to the rear and sides of the house in their natural state except for approximately a 620 square-foot rear patio off the master bedroom, kitchen, dining and living rooms on the third floor, an approximately 110 square-foot patio off the master bathroom on the third floor and an approximately 220 square-foot patio off the western most bedroom on the second floor.

The inability of the approved subdivision roadways to meet modern fire truck access requirements, the Town's parking requirements and the type of foundation to build in landslide hazard areas all work together to result in this project generating the proposed excavation and fill amounts. The only way to decrease the amounts and retain the existing design would be to decrease the size of or eliminate the patio areas. However, it is standard for the Commission to grant permits that allow on a parcel of this size and slope reasonable outdoor areas in the hillsides where much of the site would/will remain in its natural hillside condition.

## **Encroachment Permit**

The project does not require the approval of an Encroachment permit for any structures within the right-of-way from the Planning Commission. The project will require the approval of a public works issued encroachment permit for the portions of the on-grade driveway approach paving improvements that are located within the Spring Lane right-of-way. This can be obtained along with the building permit application should the project be approved.

Also, of note regarding the driveway approach is that the Town Engineer has verified that as designed, the driveway will not block the future ability of the Town or any of the two vacant parcels further east on the undeveloped portion of Spring Lane to construct an extension of the improved roadway. Future developers of these properties would have to obtain easements from the owners of properties over which portions of the new private road is located to secure access to their property.

## **Design Review Permit**

To approve a Design Review Permit for a project the Commission must be able to determine that the project complies with the Design Review Criteria set forth in Town Code §17.020.040 which include but are not limited to the following:

1. The proposed development shall create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.
2. Only elements of design which have significant relationship to exterior appearance of structures and facilities shall be considered; these elements may include height, arrangement on the site, texture, material, color, signs, landscaping, and appurtenances.
3. The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.
4. The proposed development shall conform with all requirements for landscaping, screening, usable open space, and the design of parking and off-street loading areas set forth in this title.
5. There shall exist sufficient variety in the design of the structures and grounds to avoid monotony in external appearance.
6. The size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has a

balance and unity among its external features so as to present a harmonious appearance.

7. The extent to which the structure conforms to the general character of other structures in vicinity insofar as the character can be ascertained and is found to be architecturally desirable.
8. The extent to which natural features, including trees, shrubs, creeks and rocks, and the natural grade of the site are to be retained.
9. The accessibility of off-street parking areas and the relation of parking areas with respect to traffic on adjacent streets.
10. The reservation of landscaping areas for the purpose of separating or screening service and storage areas from the street and adjoining building sites, breaking up large expanses of paved areas, separating or screening parking lots from the street and adjoining building sites, and separating building areas from paved areas to provide access from buildings to open space areas.

The front façade of the structure has been articulated with its front walls staggered at different distances from the front property line as well as the inclusion of a covered entry porch on the first floor and the living and dining rooms stepped up the hillside from the garage, with a roof deck off those rooms on top of a portion of the garage and the stairway included in a stairway column that incorporates windows to let in natural light. The exterior materials have also been varied across the façade of the building, faced with natural cedar siding running horizontally along most of the building front, alternating with gray integrally colored concrete, and black metal roofing, painted gutters and downspouts and black painted metal window frames (see color board below).

The exterior fixture locations are shown on page A1.2 of the project plan set. The exterior lighting notes indicate that all the proposed lighting will be dark sky, directing the light downward in a manner that prevents light spillage beyond the project area. After staff expressed concern over two goosenecked lights proposed over the garage door the applicants have replaced them with lights that will project downward (fixture L3 on page A1.2 of the plan set).

The driveway retaining wall will be of dark brown lagging with I-beams painted to match the horizontal wood lagging (page A3.5 of the plan sets).





## Tree Removal Permit

The applicants have obtained a recommendation from the Fairfax Tree Committee for the removal of 28 Bay trees and 2 Coast Live Oaks (Attachment F – Tree Committee 2/27/20 letter of action with attached arborist report by Robert Morey dated 2/6/20, tree removal site plan and approved vegetative management plan from RVFD). All the trees being removed are being taken out either because they are within the footprint of the proposed construction, are recommended for removal for fire safety, or are dead (Attachment F – Tree Committee letter of action and arborist report).

The arborist report includes tree protection guidelines but did not include a recommended inspection schedule. Therefore, staff has included in the Resolution conditions the following required inspections by the project arborist should the project be approved:

1. Before Equipment Mobilization, Delivery of Materials, Tree Removal, Site Work. Prior to the start of construction, the project arborist will meet with the general

contractor and owners to review tree-protection measures, designated tree removals, identify and mark tree protection zone fencing, specify equipment access routes and storage areas, and review existing conditions of trees to provide any additional necessary protection measures

2. Following Installation of Tree-Protection Fencing/Armoring.

The project arborist will inspect the site to ensure that all protection measures are properly installed. Review contractor requests for access within tree-protection zones. Assess changes in tree health since previous inspection.

3. During Soil Excavation or Work Potentially Affecting Protected Trees.

The project arborist will inspect the site during any work within non-intrusion zones of protected trees and document implemented recommendations. Assess changes in tree health since previous inspection.

4. Final Site Inspection.

The project arborist will inspect tree health and provide necessary recommendations to promote tree health and longevity. A letter report will be provided to the Town of Fairfax that summarizes the project arborist's findings and conclusions.

The subsequent redesign of the driveway after the project was taken to the tree committee to obtain their recommendation, has resulted in an additional one tree, # 34 having to be removed to accommodate the fire truck turning radius. (although tree # 33 is shown on the plans as having to be removed a site inspection has verified that #33 does not exist – See applicants letter addressing tree #'s 33 and 34 as Attachment G). Staff is recommending the Commission approve the removal of tree #34, a Coast Live Oak, because its removal is necessary to construct the driveway approach in compliance with Ross Valley Fire Department access requirements.

If the Commission determines they are unable to approve the removal of oak tree # 34 trees without a recommendation from the Tree Committee, they can obtain agreement from the property owner and applicant to extend the amount of time in which the Town must process this application under the Permit Streamlining Act for an additional ninety (90) days and direct the applicants to obtain a recommendation from the Tree Committee for the oak #34 located at the driveway entrance.

Staff's opinion is that the removal of the oak tree to provide an access driveway that will also provide a fire truck staging and turn around area that will benefit this neighborhood is appropriate and we are recommending that the Commission approve their removal without an additional recommendation from the Tree Committee. A photograph of the tree to be removed is included in Attachment G and the same photo shows that there is no tree # 34.

## **Northern Spotted Owl Nesting Sites**

Staff has conferred with Renee Cormier, Avian Ecologist with Point Blue who has advised “We haven’t conducted surveys in that area, but in November 2019, I received an email from a resident of Spring Lane who had a Spotted Owl in their yard (they had a photo). And last year, I received a report from someone else about a pair (with fledglings) near the Deer Park Trail (which is about 0.25 miles south of Spring Lane). Due to the sighting in Deer Park, MMWD is going to have Point Blue to survey that site this year since that’s on their lands”.

She has advised that they will share any data they obtain from the survey with the Town once they have the information in the Spring. Staff has included a condition in the Resolution requiring the applicants to obtain their own survey prior to issuance of the building permit and if any evidence of nesting is found within ¼ mile of the project site, the following condition will be a requirement:

Construction shall be prohibited during the Northern Spotted Owl nesting season from February 1<sup>st</sup> through July 31<sup>st</sup> unless a plan for allowing construction activities during this period is submitted by a qualified spotted owl biologist and approved by the State, with documentation of the approval provided to the Town, prior to initiating any construction activities. All requirements listed in the plan, including potential onsite monitoring, must always be met by the applicants.

## **Other Agency/Department Comments/Conditions**

### **Ross Valley Fire Department (RVFD)**

RVFD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows:

All vegetation and construction materials are to be maintained away from the residence during construction, all vegetation must be removed within 10 feet of the either side of the access road, firefighting water shall be installed prior to delivery of combustible materials to the site, a fire sprinkler system must be installed throughout the entire building which complies with the National Fire Protection Association (NFPA) 13-R and local standards, smoke and carbon monoxide detectors provided with AC power and interconnected must be installed in all required locations throughout the building, address numbers at least four inches tall must be installed adjacent to the front door and at the bottom of the driveway where visible from Spring Lane and both must be illuminated at night.

Vegetation Management Plan conditions: all vegetation within the 30-foot zone shall be irrigated, no tree shall be removed without the approval of a tree removal permit, erosion control methods shall be maintained that are in compliance with the Town Regulations, vegetation shall be maintained to ensure address numbers are visible from

the street and these requirements shall be met prior to the final fire clearance of the project.

### **Marin Municipal Water District (MMWD)**

MMWD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows:

The project will require a pipeline extension from the end of the District's existing facilities, the applicant must enter a pipeline extension agreement for the installation of the necessary facilities and said agreement must be approved by the District's Board of Directors and all costs associated with the extension shall be borne by the applicant though the applicant may apply for a variance to these requirements, a copy of the building permit must be provided to the district along with the required applications and fees, the foundation must be completed within 120 days of the date of application, all indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with, any landscaping plans must be reviewed and approved by the District, backflow prevention requirements must be met, Ordinance 420, requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town, all of the District's rules and regulations in effect at the time service is requested must be complied with.

### **Ross Valley Sanitary District (RVSD)**

RVSD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows: The project will require a connection permit from the District, the size of the sewer lateral will depend on the fixture count calculated during the permitting process,

### **Building and Public Works Department**

The Building and Public Works Departments submitted requirements which have been incorporated into the conditions of approval in the attached resolution and are summarized below: all large trucks with more than 2 axels accessing the site for construction will be limited to the hours of 9 AM to 3 PM, trucks removing off-haul will be limited to 10-yard dump trucks, the driveway improvements shall be completed and be signed off by the Town Engineer, the Building Official/Public Works Manager and the Ross Valley Fire Department before construction on the house begins, road closures shall be noticed in the field a minimum of 5 days prior to the event and individual written notifications shall be delivered to each resident on Bay Road, if constructing the driveway approach will involve connecting to the Town road in a manner that will result in changes to the paved public roadway, an encroachment permit must be obtained from the Public Works Department prior to issuance of the building permit, a detailed construction management plan must be submitted with the building permit application that includes construction delivery routes, construction schedule (deliveries, worker

hours, etc.), notification to area residents, emergency access and egress routes and a carpooling plan for employees that will minimize the parking of additional private vehicles during construction on Spring Lane during construction and be approved by the Department of Public Works, the applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes, a bond will be submitted prior to issuance of the building permit in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage in an amount equaling 100% of the estimated construction costs and pay for the Town Engineer's/Plan Checker's time to review and confirm the contractor's estimate.

Staff received no comments or conditions from the Fairfax Police Department on the proposed project.

### **Applicant's Supplemental Information**

For additional project information provided by the applicant's architect see the attached letters dated 10/16/20 and 1/21/21 (Attachment G – includes driveway easement document).

### **RECOMMENDATION**

1. Conduct the public hearing.
2. Move to approve application 21-03 by adopting Resolution No. 2021-03 setting forth the findings and conditions for the project approval

### **ATTACHMENTS**

- A – Resolution No. 2021-03
- B – Deer Park Subdivision map identified improved Spring Lane roadway
- C – Dave Olnes geotechnical report dated 11/16/19
- D – DVD drainage report dated 5/21/20
- E – Town Engineer's 7/29/20 memorandum
- F – Tree Committee letter of action and attached arborist report
- G - Project Architect's letter dated 2/3/21 addressing tree #'s 33 and 34
- H - Project Architect's supplemental information letters dated 10/16/20, 1/26/20, 1/22/20 and driveway access easement

## RESOLUTION NO. 2021-03

### **A Resolution of the Fairfax Planning Commission Approving Application No. 21-03 for a Hill Area Residential Development Permit, Excavation Permit, Retaining Wall Height Variance, Design Review Permit and a Tree Removal Permit for a Residence at 63 Spring Lane**

**WHEREAS**, the Town of Fairfax has received an application from Stacy and John Peoples to build a 3-story, 2,511 square-foot, 3 bedroom, 2½ bathroom single-family residence with an attached 648 square-foot internally connected garage/storage room February 3, 2020; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on February 18, 2021 at which time the Planning Commission determined that the project complies with the Hill Area Residential Development Overlay Ordinance, Excavation Ordinance, Design Review Criteria and Tree Removal Regulations; and

**WHEREAS**, based on the plans and other documentary evidence in the record the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the Hill Area Residential Development, Retaining Wall Height Variance for the driveway retaining wall, Excavation and Design Review Permits; and

**WHEREAS**, the Commission has made the following findings:

The project is consistent with the 2010-2030 Fairfax General Plan as follows:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character, size and mass.

Policy LU-7.2.2: To the extent feasible natural features including the existing grade, mature trees and vegetation shall be preserved for new and renewed development.

Policy LU-4.1.4: New and renewed development shall be designed to minimize run-off in a manner that does not cause undue hardship on neighboring properties.

Policy S-3.1.3: Maximize access and egress for emergency response vehicles.

#### **Hill Area Residential Development**

The proposed development is consistent with the General Plan and the Residential Single-family RS 6 Zone regulations.

1. The site planning preserves identified natural features as much as possible while also complying with other agencies' regulations.

2. Vehicular access and parking are adequate.
3. The proposed development harmonizes with surrounding residential development and meets the design review criteria contained in Town Code § 17.020.040.
4. The approval of the Hill Area Residential Development permit for one single-family residence on this 42,200 square-foot parcel shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
5. The development and use of property as approved under the Hill Area Residential Development Permit will not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
6. Approval of the proposed Hill Area Residential Development permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
7. Approval of the Hill Area Residential Development permit will result in equal or better development of the premises than would otherwise be the case.

### **Excavation Permit**

8. The Town Engineers have reviewed the following plans and reports and have determined the project can be constructed, with certain conditions of approval, without creating any hazards:
  - Architectural plans by Doug Thompson, sheets A0.1, A1.0A, A1.0B, A1.1, A1.4, A1.4, A2.1, A2.2, A2.3, A2.4, A3.0, A3.1, A3.1R, A3.2R, A3.3 to A3.5 (revision date 10/16/20), Sheet A1.2, A1.3A, A1.3B, A1.3C, A1.6, (revision date 1/27/21 - driveway and wall),
  - Civil Engineering grading and Drainage plan pages C1 through C7 dated 8/4/20 and H1 dated 5/21/20.
  - Boundary and topographic map dated November 2018 and Record of Survey by Stephen Flatland.
  - Geotechnical report Dave Olnes, dated 11/15/19
  - Drainage Report by DVC Group dated 5/21/20
9. Based on the Town Engineer's review and recommendation that the project can be safely constructed, the Planning Commission finds that:
10. The health safety and welfare of the public will not be adversely affected;
11. Adjacent properties are adequately protected by project investigation and design

from geologic hazards as a result of the work;

12. Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;
13. The amount of the excavation or fill proposed is not more than that required to allow the property owner substantial use of his or her property;
14. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
15. Natural landscaping will not be removed by the project more than is necessary; and
16. The time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes (Town code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1<sup>st</sup> through April 1<sup>st</sup> of each year).
17. The 15.5 foot tall driveway retaining wall is necessary to create access to the structure and garage and to create a driveway that is accessible to Fire Trucks and other emergency vehicles. The wall cannot be stepped back as multiple walls due to the close proximity of the existing residence at 65 Spring Lane. The orientation of the site with respect to the improved roadway and the site slope necessitate the need for the wall height variance because the strict application of the retaining wall height limit will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.
18. The variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.
19. The strict application of this title would result in excessive or unreasonable hardship.
20. The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

**WHEREAS**, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. The project is limited to that shown in the Architectural plans by Doug Thompson, sheets A0.1, A1.0A, A1.0B, A1.1, A1.4, A1.4, A2.1, A2.2, A2.3, A2.4, A3.0, A3.1, A3.1R, A3.2R, A3.3 to A3.5 (revision date 10/16/20), Sheet A1.2, A1.3A, A1.3B, A1.3C, A1.6, (revision date 1/27/21 - driveway and wall), Civil Engineering grading and Drainage plan pages C1 through C7 dated 8/4/20 and H1 dated 5/21/20.  
Boundary and topographic map dated November 2018 and Record of Survey by



Stephen Flatland.

Geotechnical report Dave Olnes, dated 11/15/19

Drainage Report by DVC Group dated 5/21/20

2. Prior to issuance of any of the building permits for the project the applicant or his assigns shall:
3. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
  - a) Construction delivery routes approved by the Department of Public Works.
  - b) Construction schedule (deliveries, worker hours, etc.)
  - c) Notification to area residents
  - d) Emergency access routes
  - e) A detailed construction management plan must be submitted with the building permit application that includes construction delivery routes, construction schedule (deliveries, worker hours, etc.), notification to area residents, emergency access and egress routes and a carpooling plan for employees that will minimize the parking of additional private vehicles during construction on Spring Lane during construction and be approved by the Department of Public Works.
4. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director).
5. Submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible damage to public roadways. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a cash deposit, bond or letter of credit equaling 100% of the estimated construction costs.
6. The foundation and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Town Structural Engineer.
7. The grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to the recommendations made by the project Geotechnical Engineer.
8. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and the Ross Valley Sanitary District noting the development conformance with their

recommendations.

9. The minor discrepancies between the property legal description, boundary distances and dimensions shown on the Topographic and Boundary Survey and the Recorded Survey shall be addressed in writing by the project surveyor and shall include a brief commentary on the basis for his determination of the property boundaries and reasons for the observed discrepancies for review and approval by the Town Engineer.
10. If approved and prior to issuance of the building permit the owner shall provide access easements across APN 002-174-05 for all applicable utility agencies, the Town of Fairfax and the owners of the 2 parcels to the east, APN # 002-174-03 and 04 (the parcels further east of APN # 002-174-04 have either been merged with developed parcels or are already developed on Crest Road or Deer Park Drive).
11. The height and proximity of the driveway retaining wall proposed on the 165 Spring Lane property lies within roughly 15 feet of the 165 Spring Lane residential structure. The retaining wall design and construction sequencing must be designed to maintain adequate lateral support for the property and improvements at 165 Spring Lane and include a detailed shoring plan with the structural plans submitted at the building permit stage, for review and approval by the Town Engineer.
12. Submit 3 copies of the record of survey with the building permit plans.
13. All retaining walls that are visible from the street and are constructed of concrete shall be heavily textured and colorized or otherwise provided with a surface treatment in a manner approved by planning staff prior to issuance of the building permit. This condition is intended to mitigate the visual impact of the proposed walls.
14. Three copies of the Landscape Tree Inspection Report dated 2/6/20 by Robert Morey, Arborist, updated to include the removal of the two oak trees on the east side of the driveway approach, shall be submitted with the building permit application and all recommendations included in this report shall be conditions of the project approval. The Arborist shall perform the following inspections and provide a letter to the Town as a condition of the project final inspection that the inspections were performed in accordance with this condition: Before equipment mobilizations, delivery of materials, tree removal or site work, following installation of tree-protection fencing, during soil excavation or work potentially affecting protected trees, and a final site inspection.
15. Prior to the removal of any trees not approved by the Planning Commission through this action, the applicant shall secure a tree cutting permit, if required, from the Fairfax Tree Committee prior to removal of any on-site trees subject to a

permit under Town Code Chapter 8.36. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water and drainage) which incorporates the services of the project arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation or trenching operations. In particular, cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation and diversion dams. Any pruning shall take place during the winter when trees are dormant for deciduous species and during July to August for evergreen species.

16. The following arborist inspections shall occur:

- a. Before Equipment Mobilization, Delivery of Materials, Tree Removal, Site Work. Prior to the start of construction, the project arborist will meet with the general contractor and owners to review tree-protection measures, designated tree removals, identify and mark tree protection zone fencing, specify equipment access routes and storage areas, and review existing conditions of trees to provide any additional necessary protection measures
- b. Following Installation of Tree-Protection Fencing/Armoring. The project arborist will inspect the site to ensure that all protection measures are properly installed. Review contractor requests for access within tree-protection zones. Assess changes in tree health since previous inspection.
- c. During Soil Excavation or Work Potentially Affecting Protected Trees. The project arborist will inspect the site during any work within non-intrusion zones of protected trees and document implemented recommendations. Assess changes in tree health since previous inspection.
- d. Final Site Inspection. The project arborist will inspect tree health and provide necessary recommendations to promote tree health and longevity. A letter report will be provided to the Town of Fairfax that summarizes the project arborist's findings and conclusions.

17. If deemed necessary by the Town Engineers, the applicants shall prepare a drainage system maintenance agreement including a recordable exhibit of the proposed drainage system in its entirety including a maintenance schedule to be approved by the Town Engineer. The maintenance agreement will have to be signed by the owner, notarized and recorded at the Marin County Recorder's office prior to issuance of the building permit.

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

- a) The geotechnical engineer and the project arborist shall be on-site during the grading process and both shall submit written certification to Town Staff that the

grading and tree protection measures have been completed as recommended prior to installation of foundation and/or retaining forms and drainage improvements, piers ,and supply lines.

- b) Prior to the concrete form inspection by the building official, the geotechnical and structural engineers shall field check the forms of the foundations and retaining elements and provide written certification to Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.
- c) The Building Official shall field check the concrete forms prior to the pour.
- d) 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 project sponsor.
- e) Any proposed temporary closures 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.

19. Prior to issuance of an occupancy permit the following shall be completed:

- a) The geotechnical engineer shall field check the completed project and submit written certification to Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.
- b) The Planning Department and Town Engineer shall field check the completed project to verify that all planning commission conditions and required engineering improvements have been complied with including installation of landscaping and irrigation prior to issuance of the certificate of occupancy.

20. Excavation shall not occur between October 1st and April 1<sup>st</sup> of any year. The Town Engineer has the authority to waive this condition depending upon the weather.

21. The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.

22. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 21-03. Modifications that do not significantly change the project, the project design or the approved discretionary permits **may** be approved by the Planning Director. Any construction based on job

plans that have been altered without the benefit of an approved modification of Application 21-03 will result in the job being immediately stopped and red tagged.

23. Any damages to the public portions of Spring Lane, Meernaa Avenue, Creek Road, or other public roadway used to access the site resulting from construction-related activities shall be the responsibility of the property owner.
24. 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.
25. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
26. Conditions placed upon the project by outside agencies or by the Town Engineer may be eliminated or amended with that agency's or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.
27. Conditions placed upon the project by the project arborist may be amended or eliminated by the approval of the Planning Director after receiving a request for the elimination/amendment in writing from the project arborist.
28. The building permit plans especially the driveway plans, shall be reviewed and

approved by the Town Engineer, at the expense of the applicant, prior to issuance of the building permit. The project shall be inspected by the Town Engineer prior to issuance of the occupancy permit for the residential structures and driveway for compliance with the engineering plans.

## **29. Ross Valley Fire Department**

30. A fire sprinkler system that complies with the National Fire Protection Association regulation 13-D and local standards shall be installed throughout the entire structure. The system will require a permit from the Fire Department and the submittal of plans and specifications for a system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
31. The property is located within the Wildland Urban Interface Area for Fairfax and the new construction must comply with Chapter 7A of the California Building Code or equivalent.
32. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of 1 detector on each story of the occupied portion of the residence.
33. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition and the cost of the permit exceeds \$1,000.00. Carbon monoxide alarms shall be located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.
34. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers must be placed in location that is visible from the street. The numbers must be internally illuminated or illuminated by and adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.
35. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
36. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.
37. All vegetation within the 30 foot zone shall be irrigated.
38. No tree shall be removed without the approval of a tree removal permit.
39. Erosion control methods shall be maintained that are in compliance with the Town

Regulations.

40. Vegetation shall be maintained to ensure address numbers are visible from the street and these requirements shall be met prior to the final fire clearance of the project.

**Marin Municipal Water District (MMWD)**

41. The project will require a pipeline extension from the end of the District's existing facilities, the applicant must enter a pipeline extension agreement for the installation of the necessary facilities and said agreement must be approved by the District's Board of Directors. All costs associated with the extension shall be borne by the applicant though the applicant may apply for a variance to these requirements
42. A copy of the building permit must be provided to the district along with the required applications and fees.
43. The foundation must be completed within 120 days of the date of application.
44. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
45. Any landscaping plans must be reviewed and approved by the District.
46. Backflow prevention requirements must be met.
47. Ordinance 420, requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town.
48. All of the District's rules and regulations if effect at the time service is requested must be complied with.

**Ross Valley Sanitary District (RVSD)**

49. The project will require a connection permit from the District.
50. The size of the sewer lateral will depend on the fixture count calculated during the permitting process.

**Fairfax Building and Public Works Departments**

51. All large trucks with more than 2 axels accessing the site for construction will be limited to the hours of 9 AM to 3 PM.

52. Trucks removing off-haul will be limited to 10-yard dump trucks.
53. The driveway improvements shall be completed and be signed off by the Town Engineer, the Building Official/Public Works Managers and the Ross Valley Fire Department before construction on the house begins.
54. Road closures shall be noticed in the field a minimum of 5 days prior to the event and individual written notifications shall be delivered to each resident on Bay Road.
55. A flag person shall precede any vehicles accessing or leaving the site in reverse until they are positioned to proceed "front end" either down the private driveway or heading southeast down Scenic Road towards Sir Francis Drake Boulevard.
56. If constructing the driveway approach will involve connecting to the Town road in a manner that will result in changes to the paved public roadway, an encroachment permit must be obtained from the Public Works Department prior to issuance of the building permit.
57. A detailed construction management plan must be submitted with the building permit application that includes construction delivery routes, construction schedule (deliveries, worker hours, etc.), notification to area residents, emergency access and egress routes and a carpooling plan for employees that will minimize the parking of additional private vehicles during construction on Spring Lane during construction and be approved by the Department of Public Works.
58. Construction shall be prohibited during the Northern Spotted Owl nesting season from February 1<sup>st</sup> through July 31<sup>st</sup> unless a plan for allowing construction activities during this period is submitted by a qualified spotted owl biologist and approved by the State, with documentation of the approval provided to the Town, prior to initiating any construction activities. All requirements listed in the plan, including potential onsite monitoring, must always be met by the applicants.

**NOW, THEREFORE BE IT RESOLVED**, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Hill Area Residential Development Permit, Excavation Permit, Variance and Design Review Permit are in conformance with the 2010 – 2030 Fairfax General Plan, the Fairfax Town Code and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the project can occur without causing significant impacts on neighboring residences and the environment.



The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of February 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

\_\_\_\_\_  
Chair Rodriguez

Attest:

\_\_\_\_\_  
Ben Berto, Director of Planning and Building Services

The Croker Land Company, a corporation, the owner of the property shown upon this map at the time of its subdivision as indicated hereon, hereby consent to the making of said map and offers to dedicate to public use the land lying within the limits of all lanes, streets and avenues marked as such thereon.

SHEET No 1  
MAP No 3

# DEER PARK

FAIRFAX

MARIN CO. CAL.  
1916

Croker Land Company.  
by Geo. M. Dodge President.  
Frederick Croker Secretary.

State of California } s.s.  
County Marin

On this 5th day of March one thousand nine hundred and sixteen, before me H.W.B. Taylor a Notary Public in and for said County of Marin State of California personally appeared Geo. M. Dodge and Frederick Croker, known to me to be the President and Secretary, respectively of the corporation whose name is subscribed to the within instrument, and they acknowledged to me that such Corporation executed the same  
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written

SCALE 100 FEET TO ONE INCH

H.W.B. Taylor  
Notary Public in and for the county of Marin, State of California.

I, the undersigned Robt. E. Graham clerk of the Board of Supervisors of the county of Marin State of California certify that the Croker Land Company, a corporation, has filed with said Board a bond in an amount fixed by said Board, which in terms inures to the benefit of said County, conditioned for the payment of all taxes which at the time said bond was filed were alien against the tract of land or any part thereof, which is shown upon this map, but not then payable, which said bond has been approved by said Board  
IN WITNESS WHEREOF as clerk of said Board, I have set my hand the 7th day of March 1916.

I the undersigned Michael Burke chairman of the board of Supervisors of the county of Marin, State of California, hereby certify that the said board has approved the map upon which this certificate is endorsed, and that the offer expressed thereon to dedicate to public use the strips and parcels of land shown thereon as intended for public use, and has directed that this certificate be endorsed thereon.  
Dated March 7 1916.

Michael Burke  
Chairman of the Board of Supervisors, County of Marin State of California.

I, the undersigned E.J. Connell, County Auditor of Marin County State of California hereby Certify that there are no liens for unpaid State, County, Municipal or other taxes, except those not yet payable, against the tract of land, or any part thereof, which is shown on the map on which this certificate is endorsed.

IN WITNESS WHEREOF, as such County Auditor, I have hereunto set my hand this 7th day of March 1916.

E.J. Connell  
County Auditor, County of Marin State of California.

I, Geo. M. Dodge hereby certify that I am a Civil Engineer and that this map is made from my own survey of the ground.

Geo. M. Dodge

Recorded at the Request of  
B.M. Leach  
March 8th 1916

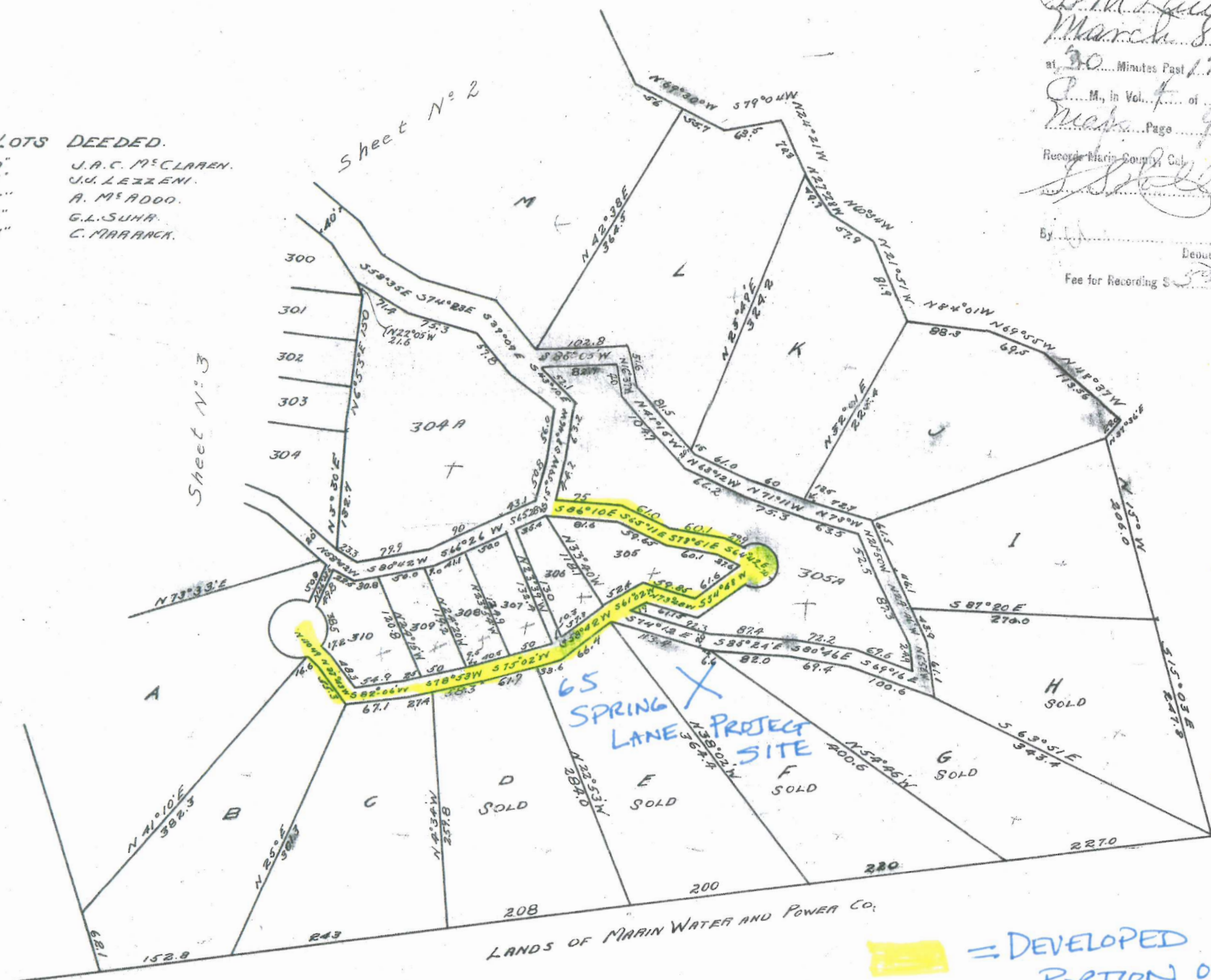
at 30 Minutes Past 12 o'clock  
P.M., in Vol. 4 of  
Maps Page 96

Recorded  
[Signature]

By [Signature]  
Deputy Recorder

Fee for Recording \$

- LOTS DEEDED.
- LOT "D" J.A.C. McCLAREN.
  - " " E" J.U. LEZZENI.
  - " " F" A. McADOO.
  - " " G" G.L. SUHA.
  - " " H" C. MARRACK.



ATTACHMENT

8