



TOWN OF FAIRFAX

STAFF REPORT

June 2, 2021

TO: Mayor and Town Council

FROM: Linda Neal, Principal Planner

SUBJECT: 63 Spring Lane: Appeal of Planning Commission approval of Hill Area Residential Development, Design Review, Tree Removal, Excavation Permits, and Retaining Wall Height Variance to construct a single-family residence and access driveway. CEQA categorically exempt, § 15303(a).

RECOMMENDATION

- 1) Conduct public hearing.
- 2) Adopt attached Resolution upholding the February 18, 2021 decision of the Planning Commission, with two new conditions and one clarification of a previous Planning Commission condition approving Application # 21-03 for construction of a new single-family residence at 63 Spring Lane.

BACKGROUND

The 1916 subdivision map for the Spring Lane area included an unusual roadway easement layout, with Spring Lane branching into a “T” and running both east and the west at the project and featuring sharp turns that do not allow for the improvement of the unpaved portion of Spring Lane in compliance with modern fire access turning radius requirements to accommodate fire emergency response vehicles (Attachment E).

At the February 18, 2021 Planning Commission meeting, the Planning Commission reviewed the preliminary architectural plans, geotechnical report, drainage report, civil engineering grading and drainage plans, and preliminary driveway improvement plan for a proposed 23-foot-tall, three story, 2,511 square-foot, 3-bedroom, 2 ½ bathroom, single-family residence, and 2-car garage at 63 Spring Lane. The project includes the construction of a private driveway to provide access to the site that complies with emergency vehicle turning radius requirements .

Only two members of the public spoke at the public hearing. Their concerns related to drainage coming off the site and the site stability (see Attachment B – minutes from the 2/18/21 Commission meeting).

The original project design was deemed unacceptable by both the Planning Department, Town Engineer, and the Ross Valley Fire Department because it would have both blocked future access to the two vacant parcels east of the project site (APN #'s 002-174-04 and 2-174-03), and the proposed access did not meet the turning radius requirement for the fire trucks used by the Ross Valley Fire Department.

The applicants amended their design, which was accepted by the Ross Valley Fire Department as meeting the Fire Department regulations. The redesign provides a shared driveway access

between the developed house at 65 Spring Lane and the project site at the driveway beginning where it is located within the developed Spring Lane Roadway easement and then curves to the east, away from the existing driveway to 65 Spring Lane, to end in front of the proposed dwelling. The driveway includes a staging area for the fire trucks (see plan sheet A1.1 and A1.2). In order to design the driveway this way, the owners had to obtain an easement for driveway purposes from the then owner of 65 Spring Lane because a portion of the driveway curve to accommodate the fire trucks is located on that property. The easement was recorded at the Marin County Recorder's Office on November 26, 2019, doc. # 2019-0045015.

The project was approved by the Planning Commission with a 5-1 vote with the one dissenting Commissioner indicating she believed the height of the rear of the structure was too tall and that the design issue driving the height of the rear wall, a bathroom and closet with 16-foot-tall ceilings, was not appropriate.

DISCUSSION

The appellant, who was one of the persons who spoke at the 2/18/21 Commission meeting, appealed the project approval citing the following reasons for the appeal (Staff's responses to the appeal items are in bold, italicized font):

Appeal items included with the appeal form filed with the Town on 3/1/21.

1. Property owners of APN # 002-174-03 did not receive a notice.

The deed transferring ownership of APN # 002-174-03 to the new owner occurred 1/22/20 and the applicants filed their application with the required mailing labels on 2/3/20, just 12 days later, probably having paid to have the mailing labels prepared in mid-January. The Tax Assessor's Roll is updated once a year in June so the new owners name will not show up in the tax roll until July of 2021. The father of the new owner of APN # 002-174-03 (the appellant) attended the 2/18/21 meeting, having received a notice of the meeting since he owns the property directly to the north of the project site and northwest of APN # 002-174-03.

2. Package posted to the Town website on 2/13/21 for review was incomplete.

It appears that the project plans did not get posted to the website. Staff is uncertain why they were not posted but they often have to be posted as separate items if they are too large. The appellant did meet with staff and reviewed the plans prior to the Planning Commission meeting, but he did not have access to an electronic set prior to the meeting.

3. Transition from the Spring Lane paved roadway to the driveway entrance to the Spring Lane unpaved right-of-way shows a 2:1 grading at some points. Access to the unpaved right-of-way should be equal to or better than the current access. Applicant is using parts of the unpaved right-of-way to access the driveway. We would like to see the entrance to the unpaved road to the driveway construction be clearly defined for the 20-foot side unpaved portion as well as removing the asphalt curb in the right-of-way which

the applicant has agreed to do. Add to the resolution that the Planning Department Access to the unpaved right-of-way meets or exceeds existing access.

The Town Engineer has opined that the grade difference between the driveway and unpaved right-of-way would not represent a significant problem in providing future roadway access. However, a condition has been added to the attached Town Council Resolution upholding the action approving the project by the Planning Commission that "The transition between the private driveway and the entrance to the unpaved portion of Spring Lane and the transition from the top of the driveway to the unpaved portion of Spring Lane for emergency vehicle access shall be detailed in the building permit plans, the drainage plan shall be updated to include the graded transitions, and both shall be approved by the Town Engineer, prior to issuance of the project building permit. The transition grading and any drainage improvements related to the transitions, if any, shall also be improved per the approved plans and be inspected and approved by the Town Engineer prior to the project final inspection and issuance of certificate of occupancy".

4. Easement to unpaved right-of-way on Spring Lane from approved variance is blocked by a low retaining wall.

The wall between the approved new driveway and the existing grade of the unpaved portion of Spring Lane is roughly two feet in height. As noted above, the Town Engineer has reviewed the grade and determined that it will be possible to remove the wall to regrade/fill the area to get the unimproved portion of the Spring Lane right-of-way accessible by large fire trucks, utilizing standard engineering and construction methods.

5. Unclear on who has to grant easement for fire, utility and two properties to east. Applicant and/or 65 Spring Lane property owner as that owner previously granted access to 63 Spring Lane property.

The applicants negotiated easements for access and utilities to their site from the owner at 65 Spring Lane. A Condition of Approval for the project also requires the applicants to provide easements for access and utilities across their property. Although this project does not address easements from the 65 Spring Lane property owner for potential future access to the two properties further to the east of the project site, nothing in the project approval precludes future access and provision of associated easements to those sites. It will be up to those property owners to determine how best to achieve access and utilities to their site in compliance with current standards, if/when they pursue development of their sites.

6. Drainage runs down from Spring Lane where the project proposes to drain from pipe is deteriorated beyond practical use and should be repaired by the Town of Fairfax.

One small approximately five-foot section of the drainage swale that runs across the appellant's property frontage is damaged/missing. This deteriorated condition was not caused by the project, for which no development has yet occurred. If the

Fairfax Public Works Department determines that this section must be repaired for the continued stabilization of the appellant's property and the adjacent roadway, it will be included in the Capital Improvements Project List of the many roadway maintenance/repairs projects pending, with the order of repair to be determined by the Public Works Manager.

7. Drainage plan predates the revised plan submission and should be updated to address run-off across unpaved Spring Lane right-of-way.

The preliminary drainage plans prepared prior to the Planning Commission meeting demonstrated adequately to the Town Engineer that the project can be developed without increasing runoff from the hillsides, and project site, to the areas below. Final construction drainage plans will be subject to the review and approval of the Town Engineer prior to issuance of the building permit and will be inspected and approved by the Town Engineer prior to issuance of the certificate of occupancy. This is the standard approval process for projects similar to 63 Spring Lane.

Additional Appeal Items Submitted on May 19, 2021

1. Transition from the Spring Lane paved roadway to the driveway entrance to the Spring Lane unpaved right-of-way shows a 2:1 grading at some points. Access to the unpaved right-of-way should be equal to or better than the current access. Applicant is using part of the unpaved right-of-way to access the driveway. We would like to see the entrance to unpaved road to the driveway construction be clearly defined for the 20-foot-wide unpaved portion as well as removing the asphalt curb in that right-of-way which the applicant has agreed to do.

Ask: Add to the resolution that the Town Planning Department review final plans to verify transition from the proposed project driveway in the unpaved right-of-way meets or exceeds existing access.

See item #3 response to the 3/1/21 appeal items above.

2. It is difficult to understand the scale of the retaining wall variance as it is not marked and there are no property corners located at the uphill side of the unpaved Spring Lane right-of-way. Can the corner markers be put in and an outline of the driveway and fire department access be marked prior to the final approval? Would a lot line adjustment on the 53 Spring Lane (owned by appellant) property help in reducing the 14 to 15-foot height of the proposed retaining wall? The westernmost tip of the (53 Spring Lane) property is 19 feet wide and maybe 25 feet along the paved and unpaved portion of Spring Lane. Not sure if it is practical or helpful but we are willing to have a discussion.

Ask: Request Town Planning to review alternatives to 14–15-foot wall if west corner of APN # 002-173-02 grants 20-foot easement to reduce wall height and proximity to 65 Spring Lane property.

The appellant is indicating that he would be willing to grant the project proponent an easement over a portion of the 19-foot-wide tip of his property to be used to redesign the access driveway in a new location further away from 65 Spring Lane, which could possibly reduce the height of the wall on the 65 Spring Lane property. The project engineer examined the problem of designing a driveway in compliance with the turning radius requirements necessary to accommodate a large fire truck, they examined several options (Attachment D – architect description of the options investigated) and they settled on the proposed driveway as the most desirable access option, which was subsequently approved by the Planning Commission.

3. The resolution calls for an easement to be granted for fire department, utilities, and service vehicles (access) to the property owners of the two lots to the east of the applicant's property. Who is responsible for granting the easement as outlined in the resolution? The applicant has an easement on the 65 Spring Lane property. Can the applicant give an easement on that property or is an easement also required from the owner of 65 Spring Lane? Who is responsible for obtaining the easement documents? Without a predetermined and agreed path forward regarding the easement it grants a special privilege to the applicant and blocks the property owners to the east from use.

Ask: Clarify who is responsible for obtaining easement from both property owners as called for in the Town Engineer's report. Amend resolution to include easement from both the Peoples and the 65 Spring Lane property owner.

As noted in response no. 5 above, the applicants do not control disposition of easements from the neighboring property owner at 65 Spring Lane. It will be up to the owners of the two undeveloped properties to determine how best to achieve access and utility easements and improvements in compliance with current standards, if/when they pursue development of their sites.

4. It is unclear how the fire department return to the unpaved Spring Lane right-of-way is viable in the plan documented on sheet A1.01. The applicants have suggested that the unimproved Spring Lane right-of-way might have to be raised up in the future to meet the grade of the driveway. This would require substantial additional work and retaining walls on the downhill side. It is also unclear if the fire department has reviewed and approved this return to the unpaved right-of-way. Both of the property owners to the east would like to see the return to the unpaved right-of-way completed as part of the project. Keith Thomlinson the owner of the property adjacent to the project property would be willing to discuss alternatives to the proposed return if that plan is not considered viable.

Ask: Verify that the fire department has approved the proposed return to the unpaved Spring Lane right-of-way. If the fire department has approved that this is a viable plan have the return to the unpaved right-of-way completed to the People's property line as part of this project approval.

If the fire department has not approved the transition back to the unpaved right-of-way provide an approved plan from the fire department so that access to the two eastern lots will be assured in the future as called for in the resolution.

During an in-person meeting between Fire Marshall Bastianon and Principal Planner Neal on 5/20/21, the Fire Marshall verified that Ross Valley Fire has reviewed and approved the transition plan on page C7 of the project engineering plans. He did indicate that the Fire Department would support requiring that the transition between the top of the private driveway and the unimproved portion of Spring Lane being graded with the construction of the project. Staff has therefore incorporated such a condition in the Town Council Resolution upholding the Planning Commission approval of the project, attached Resolution # XX.

Fire Marshall Bastianon also indicated that the Fire Department did not have an opinion on whether the construction materials and parking should be relocated out of the unimproved portion of Spring Lane but agreed that allowing for vehicle access to their undeveloped properties east of the project site for those property owners would be beneficial.

Staff has included conditions in the attached Town Council resolution upholding the Planning Commission's approval of the project as follows:

a) The transition between the private driveway and the entrance to the unpaved portion of Spring Lane and a temporary transition from the top of the driveway to the unpaved portion of Spring Lane for emergency vehicle access shall be detailed in the building permit plans to provide temporary access and shall be approved by the Town Engineer prior to issuance of the project building permit. The transition grading shall be inspected and approved by the Town Engineer prior to the project final inspection and prior to issuance of certificate of occupancy; and

b) Use of the unpaved portion of the Spring Lane roadway for storage of construction materials and/or employee parking shall be limited to the side nearest the front property line of 63 Spring Lane, maintaining at least ten feet of unobstructed road width to allow access to the properties east of the project site by standard vehicles

5. The plans submitted show the unpaved portion of the Spring Lane right-of-way to be used for a concrete wash, worker parking and temporary materials storage. This blocks access to the two lots to the east. The resolution called for specific guidelines around street blockages. Does this apply to the unpaved portion of Spring Lane? If not, access to the two lots to the east will be blocked as the unpaved portion of the road is not wide enough for two vehicles to pass.

Ask: Use of the unpaved right-of-way to access the two lots to the east should not be obstructed for any extended period of time.

See recommended condition b above.

Staff has also clarified condition #7 of Planning Commission Resolution # 2021-03 in the Town Council resolution upholding the Planning Commission approval of the project as follows:

Prior to issuance of the building permit the owners have agreed to provide emergency access across APN 002-174-05 to APN #'s 002-174-03 and 04 for all applicable emergency response and utility agencies and the Town of Fairfax.

FISCAL IMPACT

None.

ATTACHMENTS

- A. Appeal
- B. Planning Commission Resolution approving project application and mtg. minutes from 2/18/21 meeting
- C. Spring Lane map
- D. Architect's letters dated 10/16/20, and 1/26/20
- E. 1916 recorded original subdivision map showing the Spring Lane roadway easement designed in a manner that cannot accommodate modern fire trucks making
- F. 2/18/21 Planning Commission staff report and attachments

- G. Proposed Town Council Resolution 21-__ upholding the action of the Commission approving Application # 21-03