

RESOLUTION NO. 3726

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA APPROVING AN ENCROACHMENT PERMIT TO CONSTRUCT ONE PRIVATE PARKING SPACE WITHIN THE RIGHT-OF-WAY AT 363 REDWOOD AVENUE

WHEREAS, the Town Council adopted procedures for granting encroachments for private parking in the public right-of-way in September 1983; and

WHEREAS, on July 3, 2012, the owner of 363 Redwood Avenue applied to the Town Council for an Encroachment Permit for a private parking space in the public right-of-way; and

WHEREAS, it is in the interest of the Town to assist residential property owners who wish to provide additional parking which meets standards for private parking in the public right-of-way; and

WHEREAS, the subject property is located on Christmas Tree Hill, which is characterized by narrow, winding roadways and very limited on-street parking; and

WHEREAS, various Conditions of Approval are necessary to ensure that the encroachment meets standards for private parking facilities in the public right-of-way; and

WHEREAS, other similar private parking spaces have been approved on Christmas Tree Hill; and

WHEREAS, on August 22, 2012, public hearing notices were sent to property owners within 300 feet of the property and were posted in three public places in accordance with Corte Madera Municipal Code Section 18.36.040 for a September 4, 2012 hearing date; and

WHEREAS, the Applicant requested that the hearing be postponed to September 18, 2012, the Corte Madera Town Council held a public hearing on that date, and heard testimony from the applicant and interested parties.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Corte Madera does hereby **approve** an Encroachment Permit to construct one parallel parking space within the right-of-way at **363 Redwood Avenue** in Corte Madera, based upon the findings listed below in accordance with Section 12.04.055(b) of the Municipal Code, and subject to the conditions listed herein:

CALIFORNIA ENVIRONMENTAL QUALITY ACT("CEQA") DETERMINATION

This project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to California Code of Regulations, Title 14, under Section 15304, Class 4, minor alterations to land.

ENCORACHMENT PERMIT FOR PRIVATE PARKING FACILITIES: REQUIRED FINDINGS

In order to grant Encroachment Permit approval, the Town Council must make the following findings required by Section 12.04.055(b) of the Corte Madera Municipal Code:

- 1. The public right-of-way which would be used for the private parking facility is contiguous to the front property line, side property line on a corner lot, or rear property line on a double-frontage lot, of the property which would be benefited by the construction of the proposed facilities, and does not extend beyond the side property lines of the property benefiting.**

The public right-of-way which would be used for one private parking space is contiguous to the front property line which would be benefited by the construction of the proposed parallel, parking space and does not extend beyond the side property lines of the property benefiting at 363 Redwood Avenue.

- 2. There is no feasible location on the benefiting property to construct the proposed private parking facilities. For the purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable time, taking into account environmental, engineering and architectural factors.**

There is no feasible location on the benefiting property to construct the proposed private parking space without benefit of the public right-of-way, since the right-of-way line (front property line) essentially abuts the front wall of the residence.

- 3. No more than two spaces will be constructed wholly or partially within the public right-of-way, and no other use will be located within the right-of-way.**

No more than one new parking space will be constructed within the public right-of-way in front of 363 Redwood Avenue.

- 4. No other parking facilities on the benefiting property have been or will be converted to another use.**

There is one existing parking space on the driveway apron which will remain a parking space.

- 5. The private parking facility will not impede sight distance within the right-of-way, has adequate backup room, will not block pedestrian or bicycle access, and otherwise will not adversely affect traffic safety or the public health, safety or welfare, cause other adverse traffic effects, or be injurious to other property in the vicinity.**

The Public Works Department has reviewed the proposed new private parallel parking space and has approved the design and location as a reasonable and viable parking space not unlike other private on-street parking spaces on Christmas Tree Hill.

- 6. The area proposed for the private parking facility is not now being used by the public for parking or for any other purpose, and there is no feasible public use for the portion of the right-of-way to be occupied by the facility.**

The public right-of-way in front of 363 Redwood Avenue has no on-street parking spaces striped as part of the Christmas Tree Hill Public Parking Program. Due to the narrowness of the roadway in the vicinity of 363 Redwood Avenue, there is no other feasible public use for the portion of the right-of-way to be occupied by the new parallel private parking space.

7. The private parking facility will not cut off any parcel from any utility service and will not adversely affect any drainage facilities.

The single parallel parking space will not cut off any parcel from any utility service and will not adversely affect any drainage facilities since the application will require a Grading and Drainage Permit and Encroachment Permit from the Department of Public Works.

CONDITIONS OF APPROVAL

1. The proposed project shall be constructed substantially in accordance with the plans stamped "Official Exhibit" with a RECEIVED date-stamp on August 7, 2012 except as amended by the conditions listed below:
2. The new private parking area shall only be used for the parking of vehicles and said parking of vehicles shall in all respects comply with all applicable laws, including the ordinances of the Town of Corte Madera.
3. The Applicant may install a "Private Parking Only" sign in the newly created parking space.
4. The Conditions herein set forth are binding on any successors and/or assigns in interest on the property and shall run with the land.
5. No changes shall be made to the approved project plans without written approval from the Corte Madera Planning Department. The Planning Director may refer changes to the Town Council for consideration and determination.
6. Prior to a final building inspection of this project, the applicants shall contact the Planning Department to schedule an inspection of the finished project to ensure compliance with all of the required conditions of approval.
7. Building permits are required for this project. Design and construction shall conform to applicable requirements of the 2010 California Building Standards Code. Please contact the Corte Madera Building Department for specific submittal requirements

CONDITIONS DURING CONSTRUCTION

8. Hours of construction shall be limited to 7:30 a.m. to 5:30 p.m., Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday, provided that if any work-related complaints are received about construction on a weekend, no further work shall be conducted on Saturday. No workers shall be on the site except during these hours. No work shall be performed on a legal holiday.

PUBLIC WORKS/ENGINEERING DEPARTMENT

Grading and Drainage

9. In accordance with section 15.20.030 of the Municipal Code, the applicant may be required to obtain a **Grading and Drainage Permit** from the Public Works Department prior to issuance of a Building Permit. The application for this permit shall include, but not be limited to, a site grading plan/drainage plan showing topographic information prepared by a licensed civil engineer or landscape architect. If a geotechnical report is required, the project geotechnical/soils engineer shall review and approve the grading/drainage plan for conformance to the report prepared for the project.
10. No earthwork shall take place during the rainy season between October 15th and April 15th without special written authorization from the Director of Public Works. Unless specifically

exempted, earthwork operations will require an **Erosion and Sediment Control Permit** from the Public Works Department per Municipal Code Section 15.20.285. The permit will require the installation and maintenance of appropriate erosion and sedimentation control measures for the proposed work. The applicant will be required to obtain the permit prior to the issuance of Building Permit.

11. The proposed concrete depressed curb along Redwood Avenue shall comply with the Marin Uniform Construction Standards.
12. Where possible, drainage facilities shall be installed to collect surface water runoff from driveways, walkways, and other paved surfaces. Drainage shall be conveyed and disposed in a manner that avoids concentrated flows and minimizes impacts to adjoining properties. Drainage collection systems shall be designed to Town standards and the flow shall be conveyed to a publicly maintained or natural storm drain system. Runoff shall not be diverted from one drainage area to another. The subsurface drainage system of the foundation or the retaining wall shall remain separate from the surface drainage system.

Work In Public Right-of-Way

13. Per Town Resolution No. 3314, a project over \$10,000.00 is subject to the **Street Impact Fee** equal to 1% of the project valuation. Applicability of this fee will be determined at the time of Building Permit.
14. At the time of Building Permit, the Public Works/Engineering Department will inspect encroachments, vegetation, sidewalks, and drainage at the property for compliance with the Town Municipal Code. The applicant shall bring the property into compliance with the Municipal Code in accordance with Town standards and to the satisfaction of the Public Works Director/Town Engineer prior to final acceptance of the project.
15. The applicant will be required to obtain an **Encroachment Permit** from the Public Works Department for all activities within, or use of, the public right-of-way (curbs, sidewalks, etc...) per Municipal Code Section 12.04.040. Work in the public right-of-way shall be in conformance with the Marin County Uniform Construction Standards and Specifications. The permit shall be obtained prior to any work being performed within the Town right-of-way.
16. Per Municipal Code Section 12.04.040, an **Encroachment Permit** from the Public Works Department will be required for any activities within, or use of, the public right-of-way such as placement of debris boxes, staging of equipment in the street, traffic control activities, or street closures, subject to the review and approval of the Public Works Department.
17. The applicant may be required to prepare and submit a **Construction Management Plan** to the Public Works/Engineering Department prior to the issuance of the Building Permit. The Plan shall provide a general overview of the construction process as it affects the public right-of-way and surrounding neighbors. At a minimum, the plan should outline the schedule of construction, the locations for staging of equipment and materials, and the truck routes that will be used for deliveries.
18. Prior to the issuance of the Building Permit, the applicant may be required to provide a **Construction Parking Plan** to Public Works. The Plan shall propose a system to minimize the effect of construction worker parking in the neighborhood, include an estimate of the number of workers and vehicles that will be present on the site during various phases of construction, and indicate where sufficient off-street parking will be provided.
19. The private use of public property, public easements, or right-of-ways, or the construction of private improvements thereon, may be subject to review by the Town Council, and a **License**

Agreement to Permit Encroachment on Town Property will be required to be executed by the applicant and recorded with the County.

Construction Operations

20. Prior to the issuance of a Building Permit, it may be required that a cash deposit up to a maximum amount of \$10,000 be posted for bonding purposes to ensure repair of any damage to roadways, landscaping, and other public improvements in the Town right-of-way caused by the applicant's construction-related activities. The amount of the cash deposit shall be determined at the time of the Building Permit. Said cash deposit shall not be released until the project, including all landscaping, is completed and all required repairs have been made.
21. Prior to the issuance of Building Permit, a video or photographic inspection of the existing conditions of the roadways and other public improvements adjoining the project may be required of the applicant. The inspection results shall be submitted to the Public Works Department.
22. Any damage to the street caused by heavy equipment or because of project construction activities shall be repaired, at the applicant's expense, prior to issuance of the Certificate of Occupancy. All hazardous damage shall be repaired immediately. Any heavy equipment brought to the construction site shall be transported by truck.
23. Per Municipal Code Section 9.33.100, the applicant shall employ best management practices (BMPs) as appropriate from the California Stormwater Best Management Practice Handbook for Construction Activity, latest edition, or from the Erosion and Sedimentation Control Field Manual published by the California Regional Water Quality Control Board, to control and prevent the discharge of sediment, debris and other construction related wastes to the storm drainage system or waterways, including, but not limited to, general construction, concrete and mortar application, heavy equipment operation, road work and paving, and earth-moving activities.

ENCROACHMENT PERMIT EXPIRATION

24. The Encroachment Permit shall lapse and become null and void one year following the date on which the approval becomes effective unless, prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the application.

INDEMNIFICATION AGREEMENT

25. The applicant/owner shall:
 - A. Defend, indemnify, and hold harmless the Town of Corte Madera and its agents, officers, attorneys, or employees from any claim, action or proceeding (collectively referred to as "proceeding") brought against the Town or its agents, officers, attorneys, or employees to attack, set aside, void, or annul an approval of Encroachment Permit for the private parking space within the public right-of-way, which proceeding is brought within the applicable statute of limitations. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town, if any, and the cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the Town, and/or the parties initiating or bringing such proceeding.
 - B. Defend, indemnify, and hold harmless the Town, its agents, officers, attorneys, or employees for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document, if made necessary by said proceeding and if applicant desires to pursue securing such approvals, after initiation of such proceeding, which are conditioned on the approval of such documents.

- C. In the event that a proceeding is brought, the Town shall promptly notify the applicant of the existence of the proceeding and the Town will cooperate fully in the defense of such proceeding. In the event that the applicant is required to defend the Town in connection with any said proceeding, the Town shall retain the right to (1) approve the counsel to defend the Town, (2) approve all significant decisions concerning the matter in which the defense is conducted, and (3) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with the applicant in the defense of said proceeding. If the Town chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town attorney's office participates in the defense, all Town attorney fees and costs shall be paid by the applicant.
- D. In the event that the Town is require to initiate legal action to enforce the above indemnification conditions, the applicant shall indemnify the Town for any and all costs and fees incurred by the Town in connection with that enforcement action.

STOP WORK ORDER - RED TAG ORDINANCE

26. Per Section 15.70.010 of the Municipal Code, whenever any construction or other work that is subject to any provision of the Code has been, or is being, done in any manner that is contrary to any of the provisions of the Code, any ordinance of the Town, or any condition of a permit, approval, or other entitlement granted by the Town, the Town Manager or his/her designee may order that all construction or work on the property be stopped immediately by notice in writing mailed to any person engaged in doing or causing such work to be done and the owner of the property, and by posting on the property where the violation has occurred, or is presently occurring, a notice to stop such construction or work. Such person shall forthwith stop such work until authorized by the Town to proceed.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Town Council of Corte Madera at the meeting held on the 18th day of September 2012, by the following vote, to wit:

AYES: Councilmembers: Cock, Condon, Furst, Ravasio

NOES: Councilmembers: - None -

ABSTAIN: Councilmembers: - None -

ABSENT: Councilmembers: Lappert



 Bob Ravasio, Mayor

ATTEST:



 Christine Green, Town Clerk