

RESOLUTION NO. 3680

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA CONDITIONALLY APPROVING AN ENCROACHMENT PERMIT TO CONSTRUCT TWO PRIVATE PARKING SPACES PARTIALLY WITHIN THE RIGHT-OF-WAY IN AN ENCLOSED GARAGE AT 30 CRESCENT ROAD

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

WHEREAS, on September 13, 2011, the Planning Commission conditionally approved Design Review No. 11-019 to construct a 2,288 sq. ft. Gross Floor Area new residence on a vacant lot, approved Variance No. 11-005 to waive the two on-site required parking spaces and to locate the two parking spaces partially within the public right-of-way in an enclosed garage, and recommended that the Town Council approve an Encroachment Permit to allow construction of a two-car garage partially within the public right-of-way at 30 Crescent Road; and

WHEREAS, on September 16, 2011, the owner of 30 Crescent Road applied to the Town Council for an Encroachment Permit for a private parking facility in the public right-of-way;

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;

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

WHEREAS, the following unique characteristics are associated with this application which is the subject of this Encroachment Permit: the subject lot is a steeply uphill sloping lot from Crescent Road, there is a 50'-wide public right-of-way where the actual front property line is located 23'-6" outboard from the existing edge of street pavement on Crescent Road, and the ground elevation at the front property line ranges between 12' to 14' above the street elevation which would otherwise preclude reasonable vehicular access to the lot;

WHEREAS, other similar private parking facilities are in the public right-of-way in the vicinity of 30 Crescent Road;

WHEREAS, on October 7, 2011, public hearing notices for the October 18, 2011 Town Council hearing for an Encroachment Permit at 30 Crescent Road addressed to all persons shown on the latest County Assessor's Tax Roll of owners owning real property within 300 feet of the property as indicated on the mailing label list that was prepared by Town staff using the Notification Application through www.MarinMap.org which provides current County Assessor's Tax Roll owner information, were deposited by Town staff in the United States mail with prepaid postage, and were posted by Town staff in three public places described by Municipal Code Section 1.08.010; namely, Corte Madera Town Hall located at 300 Tamalpais Drive, Corte Madera, CA 94925, the U.S. Post Office located at 7 Pixley Avenue, Corte Madera, CA 94925, and Corte Madera Fire Station #13 located at 5600 Paradise Drive, Corte Madera, CA 94925, in accordance with Corte Madera Municipal Code Section 18.36.040; and

WHEREAS, on October 18, 2011, the Corte Madera Town Council held a public hearing on the item, 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 a two-car garage located partially within the right-of-way at **30 Crescent Road** 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, Division 6, Chapter 3, ("CEQA Guidelines"), under Section 15303, Class 3(e), because said Guidelines provision exempts the new construction of "accessory (appurtenant) structures including garages." Because the subject application involves the new construction of a garage, the project which is the subject of said application is exempt under this Section 15303, Class 3(e).

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 the private parking facility is contiguous to the front property line which would be benefited by the construction of the proposed facilities, and does not extend beyond the side property lines of the property benefiting at 30 Crescent Road.

- 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 facilities because the subject lot is a steeply uphill sloping lot from Crescent Road, there is a 50'-wide public right-of-way where the actual front property line is located 23'-6" outboard from the existing edge of street pavement on Crescent Road, and the ground elevation at the front property line ranges between 12' to 14' above the street elevation which would otherwise preclude reasonable vehicular access to the lot. 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.

- 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.**

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

There are no existing parking facilities located on the property.

- 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.**

Due to its proposed location into the hill, the proposed two-car garage would not impede sight distance, block pedestrian or bicycle access in the right-of-way, adversely affect traffic nor public health, welfare, and safety, or be injurious to other near by property. The proposed 10'-6"-long driveway apron allows for adequate backup room.

- 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 along Crescent Road at 30 Crescent Road is undeveloped land and is not being used for parking or any other purpose. Due to the location of the right-of-way and other similar private parking facilities and private improvements in the public right-of-way in the vicinity of 30 Crescent Road, there is no other feasible public use for the portion of the right-of-way to be occupied by the facility.

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

The garage in its proposed location 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 from the Department of Public Works and a Building Permit from the Building Department.

CONDITIONS OF APPROVAL

1. All of the Conditions of Approval for Design Review Permit No. 11-019 and Variance Permit No. 11-005 approved by Planning Commission Resolution No. 11-009 shall apply to this Encroachment Permit.
2. The 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 Conditions herein set forth are binding on any successors and/or assigns in interest on the property and shall run with the land.

* * * * *

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 October 2011, by the following vote, to wit:

AYES: Councilmembers: Cock, Condon, Furst, Lappert, Ravasio

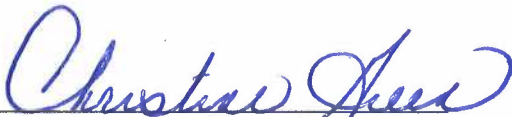
NOES: Councilmembers: - None -

ABSTAIN: Councilmembers: - None -

ABSENT: Councilmembers: - None -


Alexandra Cock, Mayor

ATTEST:


Christine Green, Town Clerk