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Napa County Public Works

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Steven E. Lederer
Director

January 5, 2018

Mr. Jeremy Sill
RSA+
1515 Fourth St.
Napa, CA 94559

Subject: Request for Exception to Road and Street Standards for Driveway Completed Without Approved Permits at 1023 Bell Lane (APN 049-223-003)

Dear Mr. Sill:

Thank you for your letter dated on and received December 21, 2017, requesting an exception from the Napa County Road and Street Standards for a recently completed (but not permitted) driveway at 1023 Bell Lane. The request is to waive the requirement for the type of materials to be allowed to be used for construction of the driveway, specifically requesting the use of Belgard pavers stones (pavers) instead of the required hot mix asphalt over 5 inches of class 2 aggregate base (asphalt).

The following provides a history of this case, a description of the requirements to be met, and the process for reaching a determination, followed by the decision itself and subsequent actions and options.

History and Background

Work week of October 30 – November 3: Craig Chapin (Roads Permitting Technician) was in the Monticello Park area inspecting encroachment work at 1191 Ross Circle. Driving back out of the area, he saw active construction equipment in the Bell Lane right of way at 1023 Bell Lane. Paver stones were being installed and since he knew there was no encroachment permit for this work, he stopped and spoke to two employees of Wright & Sons Construction and let them know an encroachment permit was required for the work. He supplied them an application and told them to not install the paver stones inside the county right of way (ROW) until the permitting issue could be resolved. He informed Roads Superintendent Steve Stangland.

Lance Wright of Wright and Sons Construction (the Contractor) subsequently called Mr. Chapin and stated he would submit an encroachment permit application. The paver stones were discussed and Mr.

Wright was informed that Napa County only allows asphalt or (in some unique cases) concrete driveway connections to county roads. Paver Stones and if/how/where/they are allowed and used and connected would have to be worked out with Superintendent Steve Stangland. Mr. Wright stated he would submit the original plan with the application, knowing that the final plan may have to be modified and re-submitted.

November 6: Encroachment Permit #W17-00373 submitted at Napa County Department of Public Works for the driveway work at 1023 Bell Lane.

November 17: Steve Lederer directed Mr. Chapin to call Jeremy Sill at RSA to find out details of their latest proposal concerning the driveway construction. Reception at RSA informed that he was out through the weekend. Left a voice message requesting Jeremy to call Public Works when he returned on Monday, the 20th.

November 22: Steve Lederer and Jeremy Sill telephone call; discussed that property owner wanted to use pavers "as much as possible"; discussed process for requesting an exception to the Standards; this required process was also communicated to the Contractor and the Property Owner in separate discussions.

Early December: Mr. Chapin was in Monticello Park area and passed by 1023 Bell Lane. Observed that driveway was completed with paver stones, including up to the county road.

December 21: Exception request received from Jeremy Sill at RSA+.

Requirements to be Met and Process for Requesting an Exception:

The Napa County Road and Street Standards (RSS) (through drawing P-2) requires a driveway connection to a rural county road be paved 30 feet from the edge of pavement into the property or 42 feet from the centerline of the County road whichever is greater. The standard states that the pavement section shall be a minimum of 2 inch of hot mix asphalt over 5 inches of class 2 aggregate base.

Some of the relevant goals in the RSS applicable to this situation include Section:

- Goal 1(h): To provide adequate safety and service
- Goal 1(i): To provide low maintenance cost facilities

In practice, this equates to:

- Providing an adequate surface for firefighting and other safety vehicles;
- Reducing the use of non-standard materials that will interfere with and make more expensive basic road maintenance; and
- Keeping non-standard materials (such as pavers) a reasonable distance away from the county road system so they are not damaged and become a cost and legal liability to the County.

The process for requesting an exception is contained in Sections 3 and 5 of the RSS. In summary, a property owner for a parcel that is in a Local Responsibility Area (LRA), and is not in a Very High Fire Hazard Severity Zone (VHFHSZ) may request an exception from these standards. This property does meet both of those criteria. Though not codified in the RSS, the Board has recently also voiced policy

support for being flexible with the standards where practical, thus requiring judgement in balancing the needs of each of these policies.

The exception request is to be submitted to the Director of PBES for review and concurrence by the County Engineer and Fire Marshal, with the Public Works Director having the responsibility to render a decision. While in this case the exception request was improperly submitted to the Deputy Director of Public Works, the County chose to remedy this error internally and has provided the proper routing of the request to all required parties.

Summary of Property Owner's request and Basis for Request:

Instead of meeting the requirement that asphalt be used for the first 30 feet into the property from edge of pavement, the applicant has instead requested the use of pavers to be used within 2 to 3 feet from the edge of roadway into the property, and use of decomposed granite (DG) or concrete instead of the asphalt in the remaining 2 to 3 feet between the pavers and the edge of roadway.

In support of this request, the applicant indicates that:

- The pavers are strong (in fact much stronger than the standard asphalt) and have sufficient load ratings and will be installed properly to meet the needs of all fire safety apparatus;
- That the homeowners understands that they will be responsible for any damage the county may cause to their pavers through the course of normal business;
- That the proposed configuration will not interfere with any county maintenance and should that maintenance damage the pavers that the property owner would be fully responsible for that damage;
- That the homeowner will be fully responsible for "reconnecting" their driveway with the road should the height of the road change with future maintenance;
- And that the 2 to 3 foot buffer distance (that represents the existing as constructed (but not permitted driveway) would be sufficient to deal with these height differentials.

Discussion:

As Public Works Director, I find some of your input useful and in support of your request, and other parts less so. A number of points are addressed as follows:

- With regards to fire safety, your proposal has been reviewed by the Fire Marshal and has been found to be acceptable;
- We agree with your statement that, when properly installed, the paver stones create "a more firm and unyielding surface". As such, it is important to keep the pavers separated from the County road by a reasonable buffer distance. Materials move and expand and contract with wear, loads, and temperature changes. Simply put, when the pavers and the asphalt come into contact, the asphalt will lose, resulting in damage to the county road that will need to be repaired by county forces. This is not consistent with RSS policy 1(i), as quoted above.
- We also agree with your statement that you will be fully responsible should any damage occur to your driveway as a result of County road maintenance. In this case, the Board's desire for flexibility must be balanced against dealing with the resulting conflicts and legal problems (and costs) that will inevitably occur with the pavers placed so close to the edge of the road, which is contrary to Policy 1(i).

- We also agree with your statements that the use of decomposed granite is not a good idea, as it is incapable of handling heavy loads and is easily tracked onto roadways.
- The applicant points to certain other driveway's condition as a means to make their point. The County Roads Superintendent (Steve Stangand), has reviewed hundreds of these driveway connections in his greater than 20 years in the business, and has also had to resolve the inevitable conflicts that occur when private improvements are placed too close to the County road. Mr. Stangand's input was that anything less 5 feet of buffer would inevitably result in a maintenance conflict, while of course meeting the full distance in the RSS would be much preferred. Distances in between provide varying levels of protection depending on the specific topography and road configuration.
- In personally walking Bell Lane and looking at your neighbor's driveways, I have found several that I consider on point as comparisons:
 - At 1039 Bell (a few houses to the south), there is an approximately 5.5 foot buffer between the edge of road and the paver system. This buffer is pretty beat up, but has provided adequate space to keep the pavers away from the county road system as well as providing distance to taper the road height up to match the driveway height. I find this to be acceptable.
 - At 1021 Bell (next door), the asphalt pavement buffer is 15 feet. This too is acceptable.
 - At 1048 Bell (across the street), the approximately 4 foot buffer, which appears to be concrete, has been partially asphalted over from past maintenance, and as such is not particularly attractive and shows significant wear and tear. The composite driveway behind the buffer appears relatively undamaged, though the impacts are quite close.

Given the above input from your submittal, my review of the standards, consulting with other County staff, and after conducting a site visit, I find in summary:

1. Bell Lane is a relatively short, low speed, residential street. Implementation of the full 30 foot standard is clearly possible, but is not necessary. A reduced distance can be approved while still meeting the key goals of the RSS as mentioned above;
2. Based on our experience at dozens of sites across the county, and informed by the applicant's submittal stating that approximately 3 feet is necessary to account for changes in road elevation over time, and the need to have a maintenance buffer beyond that; and
3. In looking at driveways in the immediate vicinity of this property, and finding where a 4 foot total buffer appears too small and a 5.5 foot buffer is working well;
4. As such, conflicts are likely to arise in the future, but the property owner had agreed to indemnify the county against and cost or legal liability;
5. And that, as RSA+ stated (and we agree) that DG is an inadequate surface for the buffer area;
6. And that, the pavers have been found to meet the needs of the fire department.

Determination and Next Steps:

I understand the nature and the reasons behind your request, approached it with an open mind, and tried hard to accommodate it, despite the fact that the work was intentionally completed without the benefit of permits (whether a code enforcement action will be brought due to that unpermitted work is a separate subject that will be decided by others). The Road and Street Standards exist to provide consistency, safety, ease of maintenance, cost effectiveness, and for the long term good of the community. Given the facts on hand for this specific project, and our mandate to balance all the direction provided by the Board, my determination is as follows:

1. An exception is granted, such that the 30 foot requirement included in the RSS be reduced to two to three feet (the driveway as currently constructed). Pavers as proposed are acceptable and may be used up to the two to three feet that forms the buffer zone between the pavers and the road.
2. An exception is granted, such that the remaining 2-3 feet between the edge of road and the pavers may be finished with concrete (as opposed to the asphalt finish required by the RSS), as offered in your submittal. Design/construction details (thickness, reinforcement, soil compaction) shall be included in your resubmitted encroachment permit.

The Exceptions shall take effect upon completion of:

3. The applicant must revise and, by February 1, 2018, resubmit their encroachment permit application prior to completing the concrete work to include the requirements of this exception and show as built conditions. (Craig Chapin in County Roads is your point of contact for this process).
4. The applicant shall prepare, in a form acceptable to County Counsel, a release of liability accepting responsibility for maintaining the concrete and pavers and for conforming the driveway to the county road, and waiving any responsibility the County may have should the concrete or pavers be damaged in any way during the course of maintaining the County road system. Such agreement must be completed and recorded against the property on or before May 1, 2018.

Failure to do so will result in the revocation of your encroachment permit.

This decision is appealable to the Board of Supervisors in accordance with the procedures and fees as established in County Code.

If you have any questions please feel free to contact me.

Sincerely,



Steven E. Lederer
Director of Public Works

Cc: David Morrison, Director, Planning, Building, and Environmental Services
Barry Biermann, Chief, Napa County Fire Department
Minh Tran, Chief Executive Officer
Dylan Roy, Deputy County Counsel
Steve Stangland, Roads Superintendent

