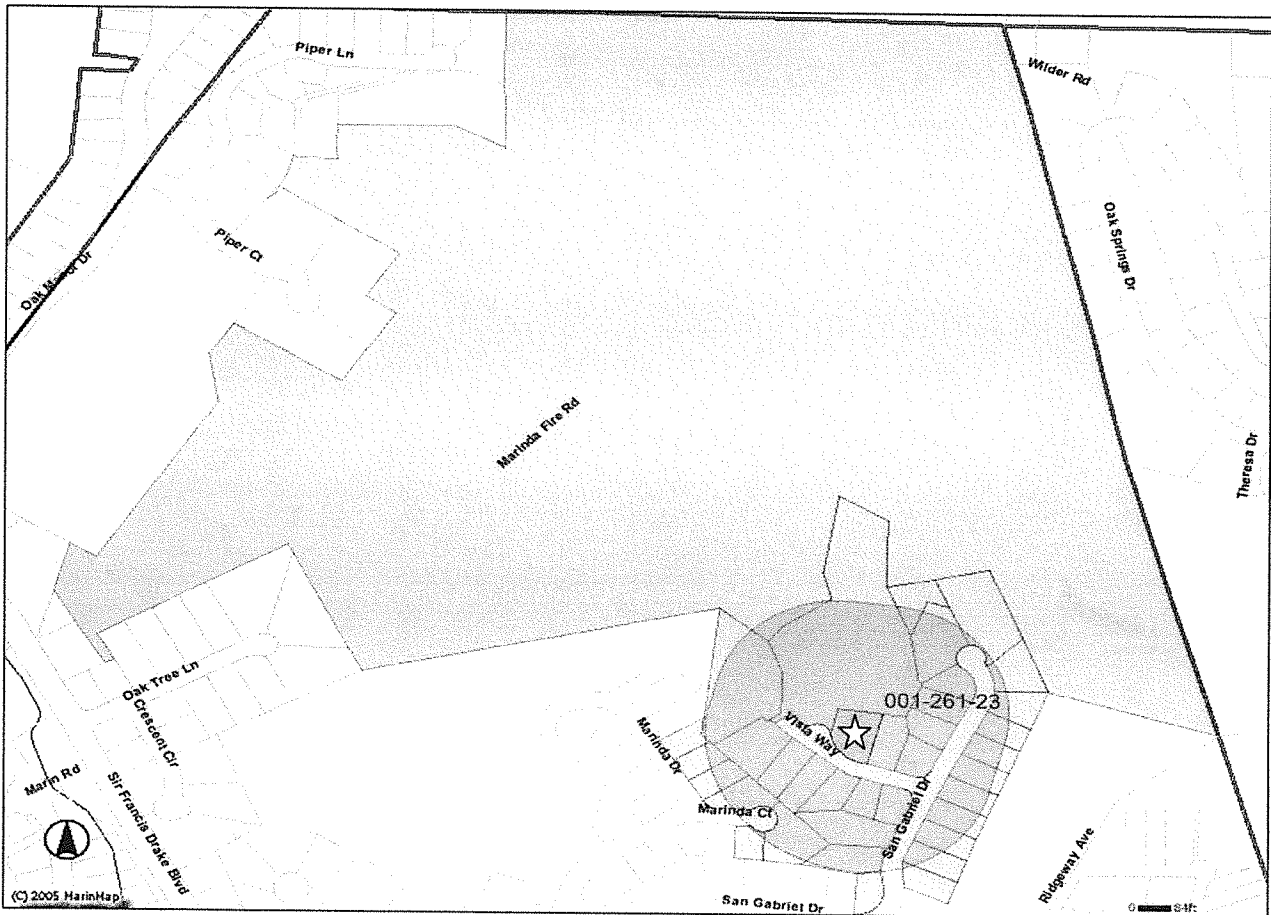


**TOWN OF FAIRFAX  
STAFF REPORT**  
**Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** February 20, 2014  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Senior Planner  
**LOCATION:** 12 Vista Way; Assessor's Parcel No. 001-261-23  
**PROJECT:** Modification of a previously approved Use Permit and Encroachment permit for driveway and planter  
**ACTION:** Use Permit Modification and Encroachment Permit; application # 14-03  
**APPLICANT:** Edward Scheidelman  
**OWNER:** Edward Scheidelman and Joanna Brook  
**CEQA STATUS:** Categorically exempt section(s) 15305(b)



**12 VISTA WAY**

## **BACKGROUND**

The site is 11,550 square feet in size and it slopes up from Vista Way at an average rate of 50%. The site is developed with a 1,608 square foot, three bedrooms, 2 bath single-family residence with a 279 square foot, attached, one-car garage. The residence was constructed as a two bedroom, 1 bath in 1959 and was remodeled in 2013 into a 3 bedroom, 2 bath home.

On April 18, 2013 the Commission approved a Use Permit and Variance to allow the location of a second parking space in the side yard setback so the owner could convert a portion of the existing garage and home office into a third bedroom, bathroom and laundry room.

## **DISCUSSION**

During the project construction the owner determined that in order for the driveway to function properly, certain areas previously unpaved, needed to be surfaced as driveway for the new parking space to connect up with the existing, original, 22 foot wide property curb cut and to provide safe ingress and egress to the site. The new areas that were paved and a small retaining wall bordering a portion of the driveway to hold the hill back are within the public right-of-way (see the small hatch marked areas on either side of the driveway).

Staff received notification from a neighbor that the construction had occurred without the proper approvals from the Town. The owner was unaware that this type of construction required additional review and approval by the Commission and is now applying for the modification.

The project will require the approval of the following discretionary permits:

**A Modification of the Use Permit:** The Use Permit that was approved on April 18<sup>th</sup> of 2013 included a condition that any changes, modifications or alterations to the plans would require a modification of the use permit. Widening the driveway and extending the parking/driveway retaining wall into the right-of-way is a modification to the approved plans and requires a modification of the Use Permit.

### **An Encroachment permit**

The portions of the driveway in the right-of-way that were not shown on the original plans are on grade and do not require the approval of an encroachment permit. However, Town Code § 12.32.010(B) prohibits anyone from erecting any structure in the public right-of-way without first obtaining an encroachment permit from the Planning Commission [also see Town Code § 12.32.010(A)].

The code allows any property owner to apply to use portions of the public right-of-way that are not being used for vehicular or pedestrian traffic where the owner has no suitable place on his or her property for the erection of said structure. The retaining wall (and new driveway areas) line up with the house entry walkway and parking space and the expansion allows for an easier and safer exist and entrance to the site.

The areas where the wall and new sections of driveway are located are not being used by the public.

An encroachment permit is revocable and can be rescinded at any time should the Town need the area for the use of the general public.

**Other Agency/Department Comments**

No other agencies or departments had any comments on this proposed modification.

**RECOMMENDATION**

Move to approve application # 14-03 based on the following findings and subject to the following condition:

Suggested Findings

1. The proposed driveway and wall modification do not substantially change the project nor do they result in any negative impact on the neighboring properties or the public roadway.
2. The areas where the wall and new sections of driveway are located are not being used by the public.

Suggested Condition

Prior to the project final inspection the owner shall sign, notarize and record a revocable encroachment document, prepared by staff, at the Marin County Recorder's Office.

**ATTACHMENTS**

Applicant's supplemental information

PROJECT DESCRIPTION: Use of egress to install retaining wall and widen driveway entrance. Propose to widen driveway entrance to accommodate reasonable access to both covered and uncovered parking areas of property by car (existing driveway width requires sharp turns to navigate to parking areas and necessitates running car wheels over curb)

GENERAL INFORMATION (if applicable): A retaining wall will be installed to support egress slope

Item	Existing	Proposed
Lot size	11550 SF	N/A
Size of structure(s) or commercial space (square feet)	80'-0" x 22'-0"	↓
Height and No. of stories	11'6" Height - One story	
Lot coverage	5078 SF	
No. of dwellings units	One	
Parking <sup>1</sup> No. of spaces	Two	
Size of spaces	10'5" x 19'0" and 9'-0" x 19'0"	

Amount of proposed excavation and fill	Excavation =	Fill =
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Estimated cost of construction \$ ~~2,000.00~~ 1,000.00

Lot Coverage is defined as the land area covered by all buildings and improvements with a finished height above grade and all impervious surfaces except driveways.

<sup>1</sup>Minimum parking dimensions are 9' wide by 19' long by 7' high. Do not count parking spaces that do not meet the minimum standards.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? None

[Signature]  
Signature of Property Owner

[Signature]  
Signature of Applicant

1/21/2014  
Date

1/21/2014  
Date

Planning Department staff is available by appointment between 8:30 a.m. and 12:00 noon and 1:00 p.m. and 5:00 p.m. Monday through Thursday at 142 Bolinas Road, Fairfax, CA. (415) 453-1584