# TOWN OF FAIRFAX STAFF REPORT

# **Department of Planning and Building Services**

TO: Fairfax Planning Commission

**DATE:** May 20, 2021

FROM: Linda Neal, Principal Planner

LOCATION: 204 Scenic Road; APN # 001-025-06

PROJECT: Addition of a conforming interior stairway and minor remodel of an existing

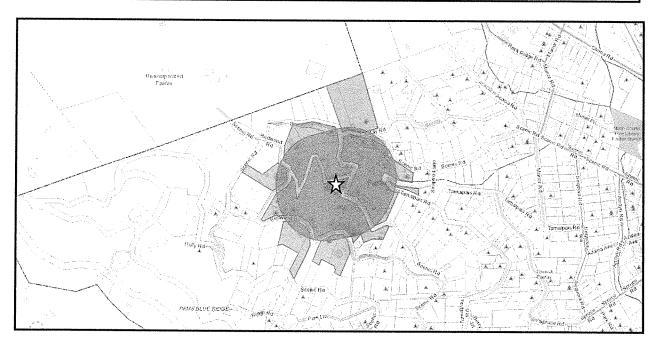
single-family residence

ACTION: Conditional Use Permit; Application # 21-11

**APPLICANT:**Lindsay and Eric Bolter

OWNER: Same

CEQA STATUS: Categorically exempt, § 15301(e)(1)



# **204 SCENIC ROAD**

## PROJECT DESCRIPTION

The project encompasses a request for approval of an as-built 108 square foot interior stairway/entry addition to the existing 1,159 square-foot, 2-story, 3-bedroom, 2-bathroom single family home to eliminate the existing non-building code compliant interior stairway that currently connect the upper floor to the lower floor and to do a minor remodel to the existing first and second story floor plans provide a small amount of additional usable floor space to the smaller of the two first floor bedrooms and to the second floor great-room through the elimination of the existing non-code compliant

interior stairway. The project will increase the structure square footage to 1,267 square feet (page P-1 of the plans sets indicates the addition is only 64 square-feet but the applicants were not calculating the additional square footage the way the Fairfax Town Code requires it to be calculated as set forth in Town Code § 17.008.020, definition of "floor area").

#### **BACKGROUND**

The 7,483 square-foot site is located on the corner of the intersection of Scenic Road and Fir Trail and it slopes up from the roadway at an average rate of 49%. The site is developed with the 1,159 square-foot structure that was built in 1924 before the Town's incorporation in 1931. The main upper level of the structure was the original entry for the house and was accessed via a flight of exterior stairs and an entry deck.

After experiencing several mishaps with the residents and visitors utilizing the previous substandard (with respect to head clearance and a very steep rise) 1924 interior stairway to access the lower floor where the bedrooms are located, the owner began installing without a building permit an enclosed stairway that complied with code dimensional requirements, to access both the lower floor and the upper floor at the front of the building. The Building Official stopped the job on March 17, 2021 and the owners immediately began preparing the required planning application which was submitted on April 29, 2021.

#### DISCUSSION

The site is zoned Residential Single-family RS 6 and the project complies with the RS 6 regulations as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Coverage	Height
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	28.5 ft., 2 stories
Existing	7 ft.	43 ft.	50 ft.	7 ft. & 8 ft.	15 ft.	.15	.17	23 ft.
Proposed	5 ft.	No change	49 ft.	No change	No change	.19		16 ft.

Note: The existing house does not comply with the current setback regulations but is considered legal non-conforming as it probably pre-dated the building code and probably predated the adoption of any Marin County standards.

The addition does not constitute a 50% remodel, it is located in an area of the site that was already graded and improved with a front patio, the excavation to construct footings under the new addition is minimal and the project does not require the removal of any trees.

Town Code § 17.080.050(C) requires that any site that has a 49% slope such this project site should have a minimum parcel size of 41,000 square-feet and a minimum width of 167 feet. Town Code § 17.080.050, the first paragraph requires that Conditional Use Permit or a Hill Area Residential Development Permit be obtained prior to any new construction on any site failing to meet the minimum size and width requirements based on the site slope. This project requires a Conditional Use Permit, but not a Hill Area Residential Development permit because the construction required only 2 cubic yards of fill and no excavation and therefore, did not have any of the characteristics that would elevate it to requiring the more detailed submittal requirements of a Hill Area Residential Development Permit [Town Code § 17.072.020(A), (B) or (C)].

The project is not a 50% remodel and therefore, does not require a design review permit [Town Code § 17.020.030(A)].

The addition does not project into any required setbacks, does not exceed the 28.5 ft. height limit and results in a structure that complies with the floor are ratio and lot coverage limitations, so the project does not require any variances. The project also does not require the removal of any trees.

#### **Conditional Use Permit**

The purpose of the Conditional Use Permit is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the town or only if the uses are designed or laid out on the site in a particular manner. In considering an application for a Conditional Use Permit the Commission shall give consideration to the nature and condition of all adjacent uses and structures, to the physical environment of the proposed use and to all pertinent aspects of the public health, safety, and general welfare.

The proposed addition complies with all the required setbacks, the .40 floor area ratio (FAR) and the .35 lot coverage limitation for the RS 6 Zone. The addition maintains large setbacks from all of the adjacent residences (see vicinity map, page 2, Attachment B), and it will not include the provision of any additional bedrooms so the expansion will not impact/potentially increase the need for additional parking.

Other residences on similar sized and sloped lots in the neighborhood range in size from 677 square feet to 2,279 square feet and maintain FAR's of .11 to .46 (see table below). The project will result in the residence at 204 Scenic being 1,267 square feet with a FAR of .17. Therefore, the proposed project will not result in a residence that is out of scale with the size of the site or out of character with the surrounding neighborhood.

204 SCENIE F	ROAD - COMPAR	ABLE HOUSE N	IEIGHBORHOOD I	HOUSE SIZES			- [
APN#	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
001-025-11	220 Scenic	6000	677	1	1.5	0	.11
001-025-12	58 Redwood	8000	2279	4	2	0	.28
001-024-08	192 Scenic	6000	1616	4	2	0	.27
001-121-56	217 Scenic	5400	1324	2	1	165	.25
001-121-01	185 Scenic	4900	2235	3	3	470	.46
001-121-65	219 Scenic	5700	1232	2	2	0	.22
001-121-74	199 Scenic	7749	986	2	1.5	0	.13
001-121-76	199 Scenic	7400	1144	3	2	0	.15
001-124-01	50 Redwood	6300	1806	4	2.5	400	.28
PROJECT SITE				1		············	<del></del>
001-025-06	204 Scenic	7483	1267	3	2	0	.17

# Other Agency/Department Comments/Conditions

We received no comments or conditions from any agency or department with jurisdiction over this property.

## RECOMMENDATION

Conduct the public hearing.

Move to approve application # 21-11 by adopting the attached Resolution 2021-13 which sets forth the findings and conditions for the project approval.

#### **ATTACHMENTS**

Attachment A – Resolution 2021-13

Attachment B - Applicant's supplemental information/vicinity map

Attachment C – letter from a neighbor

#### **RESOLUTION NO. 2021-13**

A Resolution of the Fairfax Planning Commission Approving Application No. 21-11 for a Use Permit to Construct a 108 Square-foot Enclosed Stairway and Minor Remodel Including Removal of a Non-Building Code Compliant Interior Stairway and Minor Interior Remodel at 204 Scenic Road

**WHEREAS**, the Town of Fairfax has received an application from Lindsay and Chris Bolter for after-the-fact approval to construct a 108 square-foot storage room addition onto an existing residence 150 Madrone Road; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on May 20, 2021, at which the Planning Commission determined that the project complies with the Town Code provisions regulating residential development permits; and

WHEREAS, based on the plans and other documentary evidence in the record, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the Conditional Use Permit for addition and remodel; and

WHEREAS, the Commission has made the following findings:

## General Plan Compliance

The project is consistent with the following 2010-2030 Fairfax General Plan Policies:

Policy LU-1.2.3: New and renewed development shall be designed and located so as to minimize the visual mass. The Town will require exterior materials and colors that blend the exterior appearance of structures with the surrounding natural landscape, allowing for architectural diversity.

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the town's neighborhoods in diversity, architectural character, size, and mass.

### Conditional Use Permit

- 1. The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment because the addition complies with all the setback, height, floor area ratio and lot coverage regulations required in the RS 6 Zone where the project is located.
- 2. The development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit. The addition is 20 feet away from the nearest

- residence at 208 scenic Road and at a lower elevation. Other adjacent residences are either across Fir Trail or across Scenic Road from the project site.
- 3. Approval of the use permit is not contrary to those objectives, goals, or standards pertinent to the particular case and contained or set forth in the Zoning Ordinance.
- 4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety, or welfare of the community.

**WHEREAS**, the Commission has approved the project subject to the applicant's compliance with the following conditions:

- 1. This approval is limited to the development illustrated on the plans prepared by Lindsay Bolter, stamped received by the Town on April 29, 2020.
- 2. During the construction process, all construction-related vehicles including fixture/supply or equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case-by-case basis with prior notification from the project sponsor.
- 3. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
- 4. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
- 5. The Planning Department shall field check the completed project to verify that the construction reflects the plans approved by the Planning Commission and to verify that all planning commission conditions have been complied with.
- 6. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel, and other construction materials by sweeping the roadway, daily, if necessary.
- 7. During construction, the property owner, and all employees, including contractors and subcontractors must comply with all requirements set forth in Chapter 8.32 of the Town Code entitled, "Urban Runoff and Pollution Prevention".

- 8. **Any** changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 21-11 or the approval of the Planning Director if the changes are minor and do not conflict with the intent of this ridgeline development or design review permit approvals. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No.21-11, or without the approval of the Planning Director, will result in the job being immediately stopped and red tagged.
- 9. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

# **Ross Valley Sanitary District (RVSD)**

- 10. The project triggers testing and lateral certification requirements.
- 11. All work on the lateral must be done under RVSD permit after payment of applicable fees and must be inspected by RVSD inspectors prior to any backfill.
- 12. Construction must comply with District Codes including Ordinance 100 and must obtain a Certificate of Compliance.

## **Miscellaneous Conditions**

13. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning

and Building Services. Waiver of an agency's conditions in writing by that agency will not require further Planning Commission review.

14. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.

**NOW, THEREFORE BE IT RESOLVED**, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Conditional Use Permit can occur without causing significant impacts on neighboring residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 20<sup>th</sup> day of May 2021, by the following vote:

AYES:		
NOES:		
ABSENT:		
	Chair, Michele Rodriguez	
Attest:		
Ben Berto, Director of Planning and Build	ing Services	

# Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- > Floor plans must include location of any special equipment.
- > Designate customer, employee and living areas.
- > If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare,

conforms with the policies of the Town, does not create excessive physical of economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

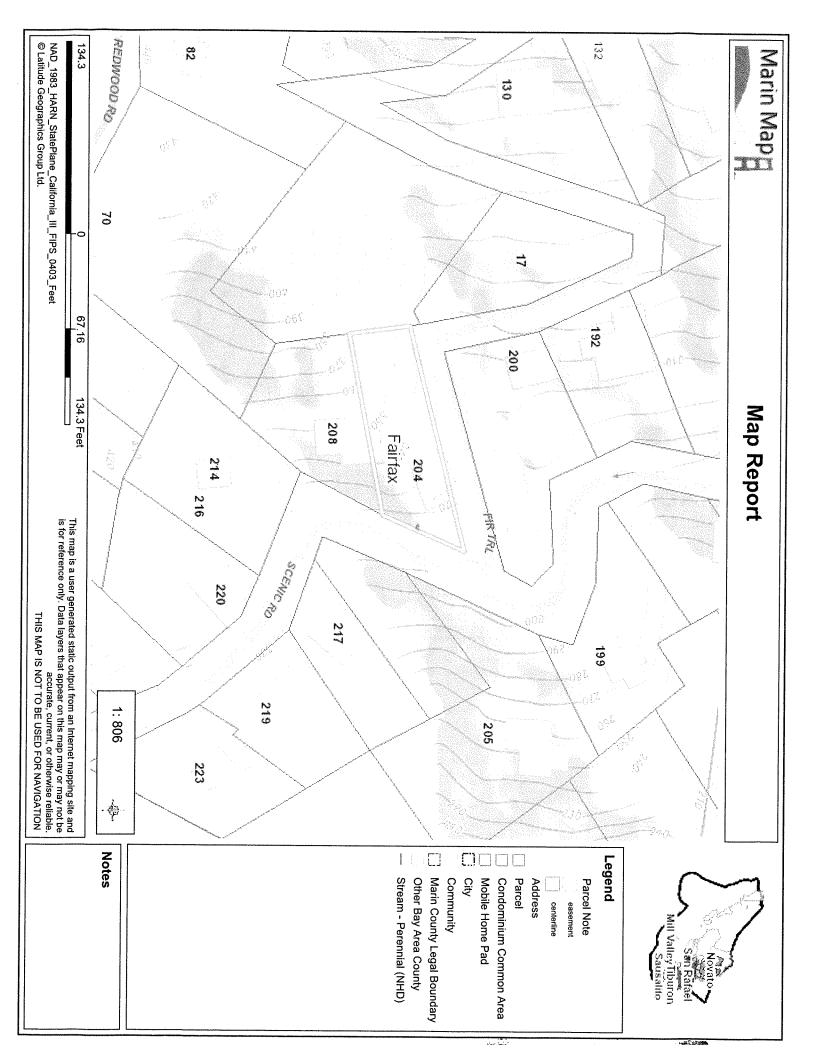
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In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

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Footprint



Ben Berto Building Services Town of Fairfax

April 1, 2021

We live at 199 Scenic Road and have just learned that our neighbors, the Bolter's, are having some difficulty with your department regarding their worn and unsafe staircase.

The new plan @ 204 Scenic Road, replaces a faulty design. It allows some cover, a much needed landing, safety and security. It adds no living space, blends seamlessly with their home and doesn't impact any neighbors view.

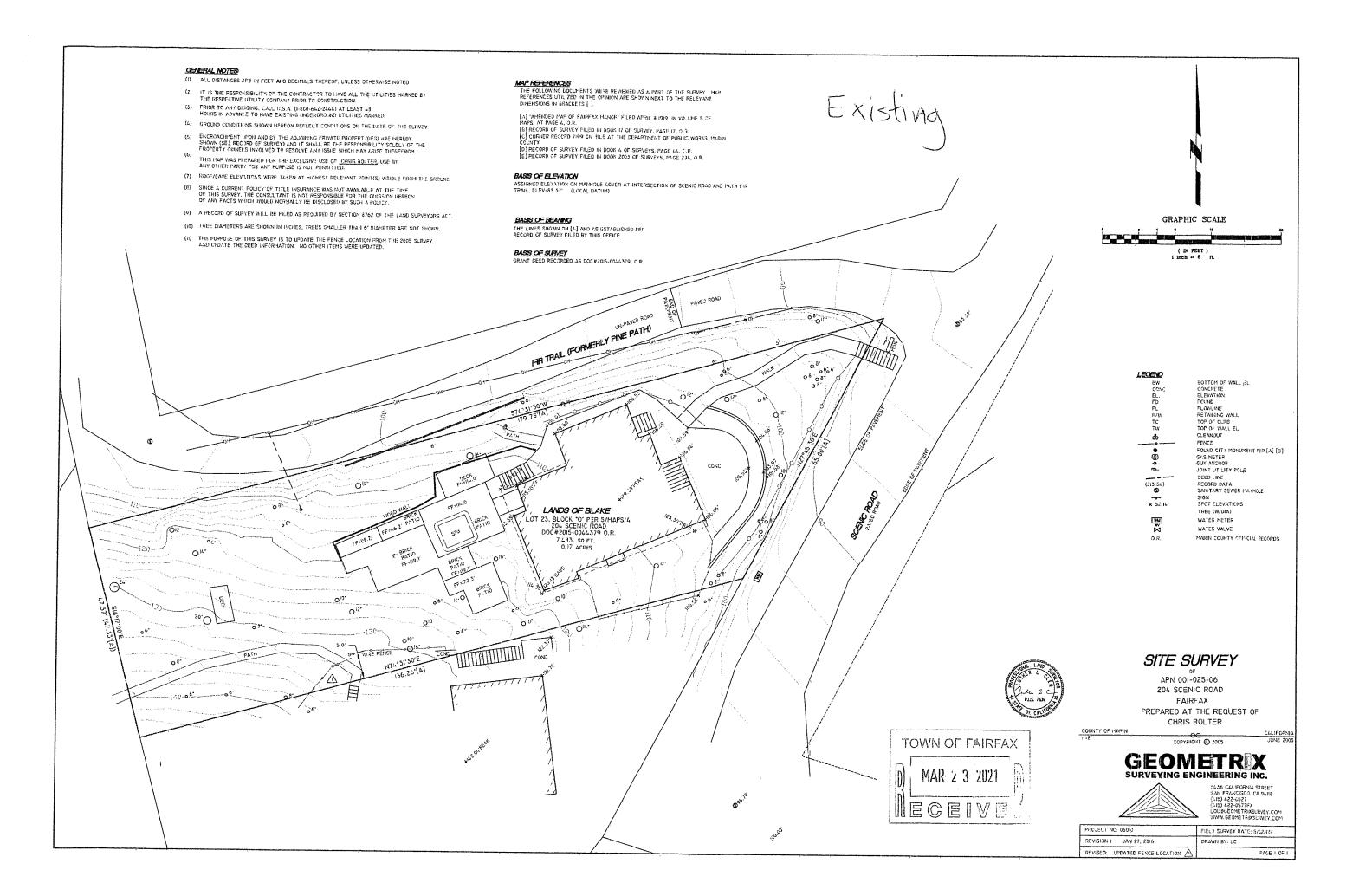
During this year of COVID19, this town has been a champion in allowing businesses to build parklets in order to help their bottom line. In allowing cooped up kids to have a skate park built on town property. I imagine no huge fees were tacked onto any of these projects and I believe the Bolter family should have the same consideration.

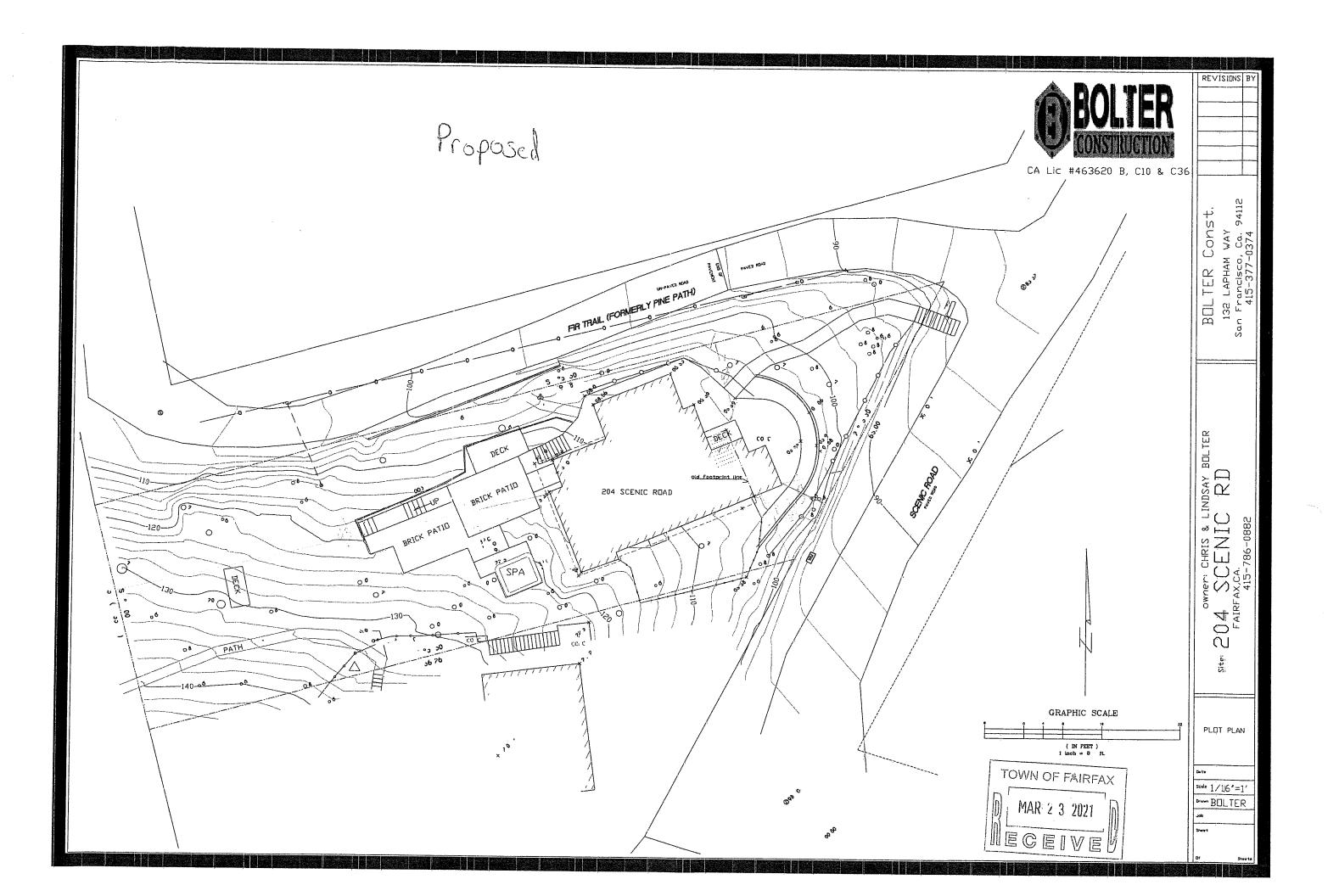
Make the same kind of exception you did for the builder @ 205 Scenic, he had no plans or approval for the stairway he built, or the prominent house on the hill @ 9 Bay Road, now expanded for the 3rd time.

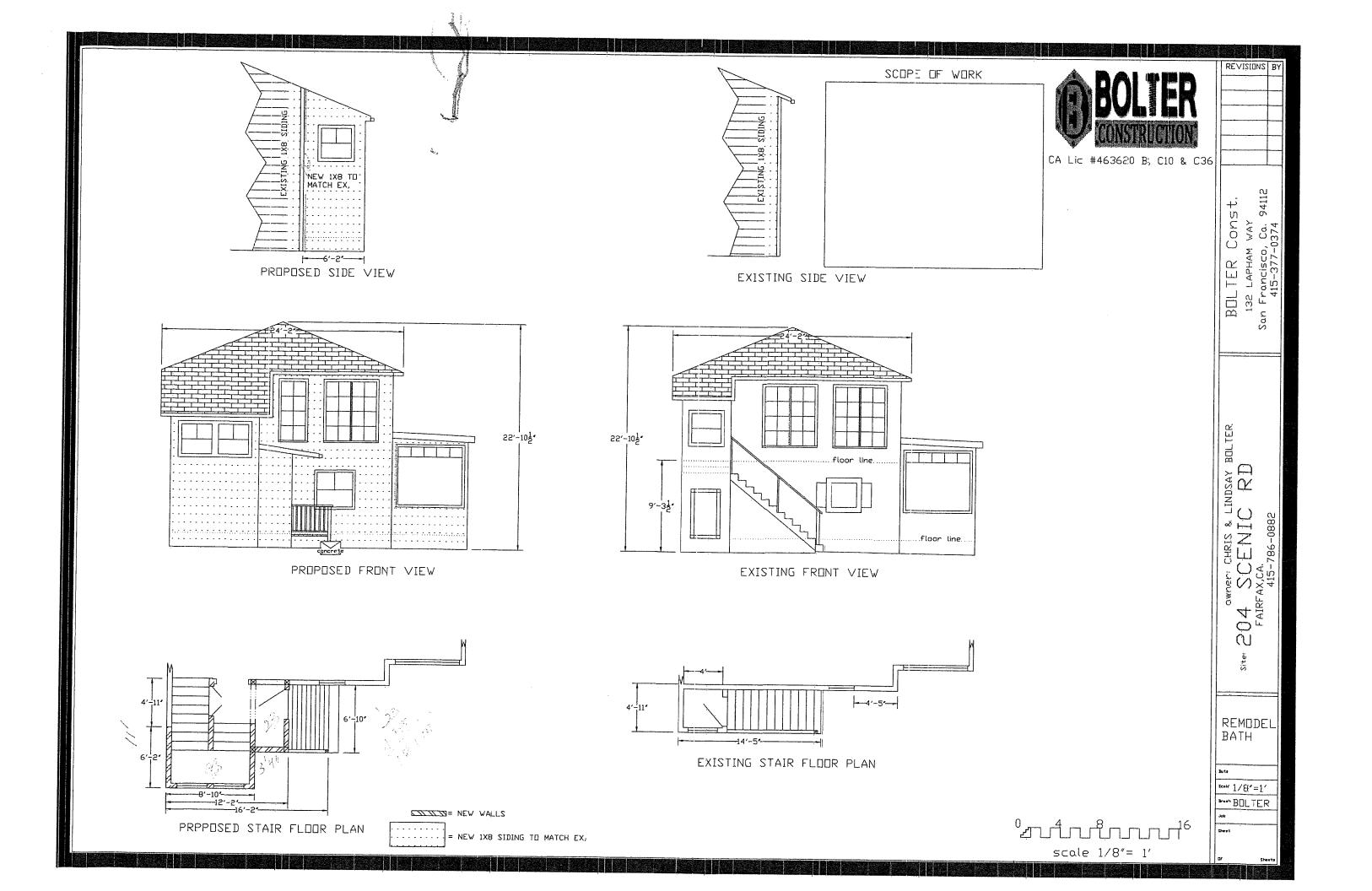
Sell them an over the counter permit and have the normal site inspections. Allowing them to carry their baby, due next week, in the front door.

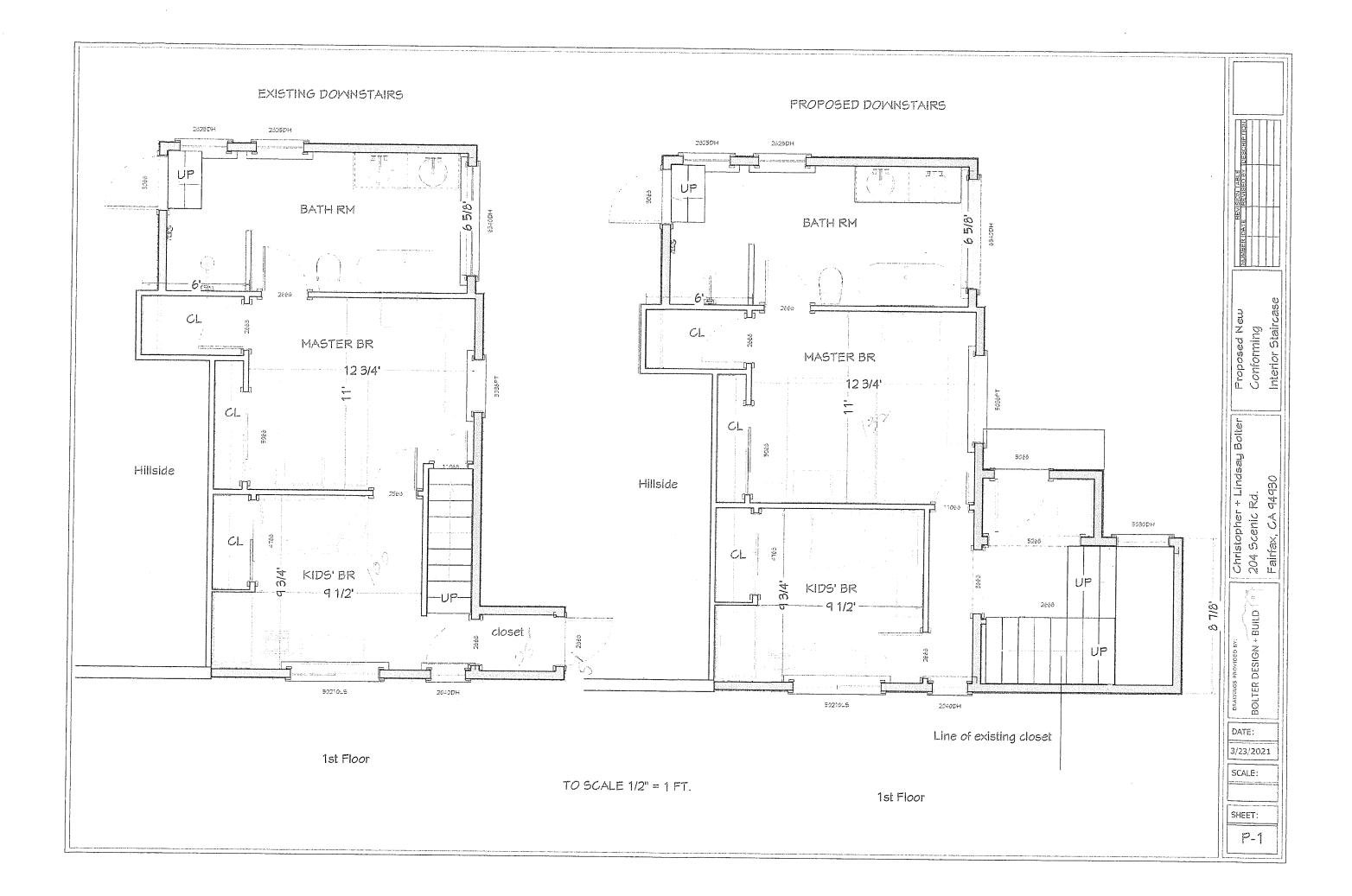
Diana & Robert Perdue 199 Scenic Road

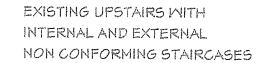


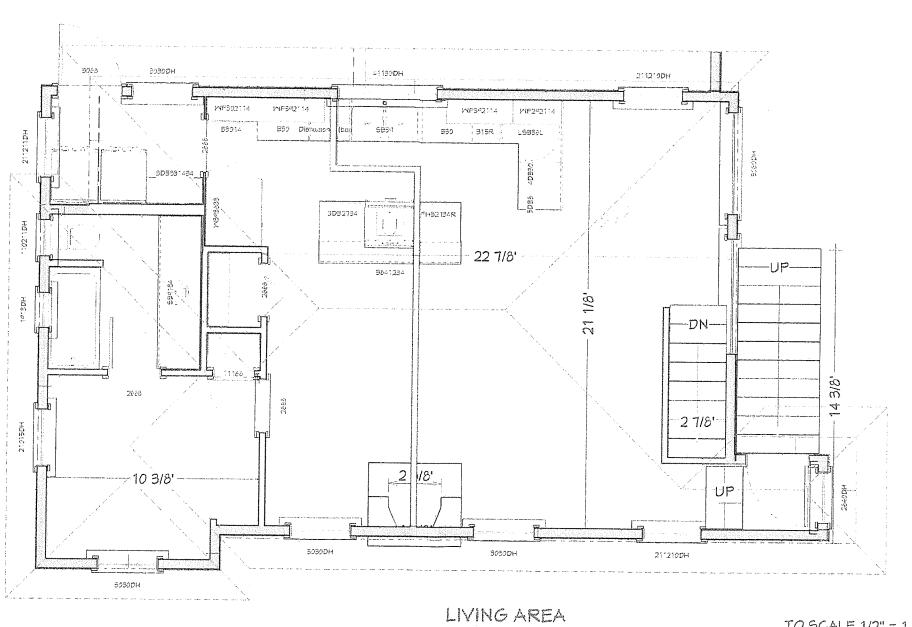












235 SQ FT

TO SCALE 1/2" = 1 FT.

2nd Floor

Proposed New Conforming Interior Staircase

Christopher + Lindsay Bolter 204 Scenic Rd. Fairfax, CA 94930

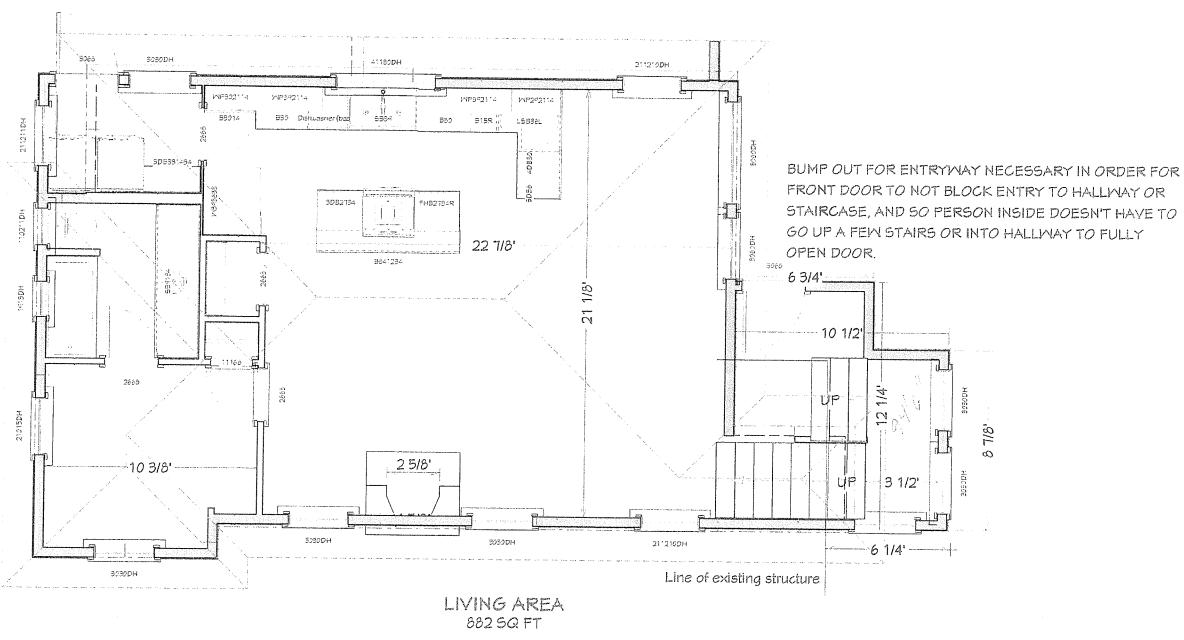
DRAWJIGS PROVIDED (NY)
BOLTER DESIGN + BUILD | 11

DATE:

3/23/2021 SCALE:

SHEET:

# PROPOSED UPSTAIRS WITH INTERNAL CONFORMING STAIRCASE



TO SCALE 1/2" = 1 FT.

2nd Floor

NUMBER DATE REVISION TABLE NUMBER DATE REVISED BY DESCRIPTION

Proposed New Conforming Interior Staircase

Christopher + Lindsay Bolter 204 Scenic Rd. Fairfax, CA 94930

DRAWINGS PROVIDED BY:
BOLTER DESIGN + BUILD

DATE:

3/23/2021

SCALE:

SHEET:

SHEET | OF |

