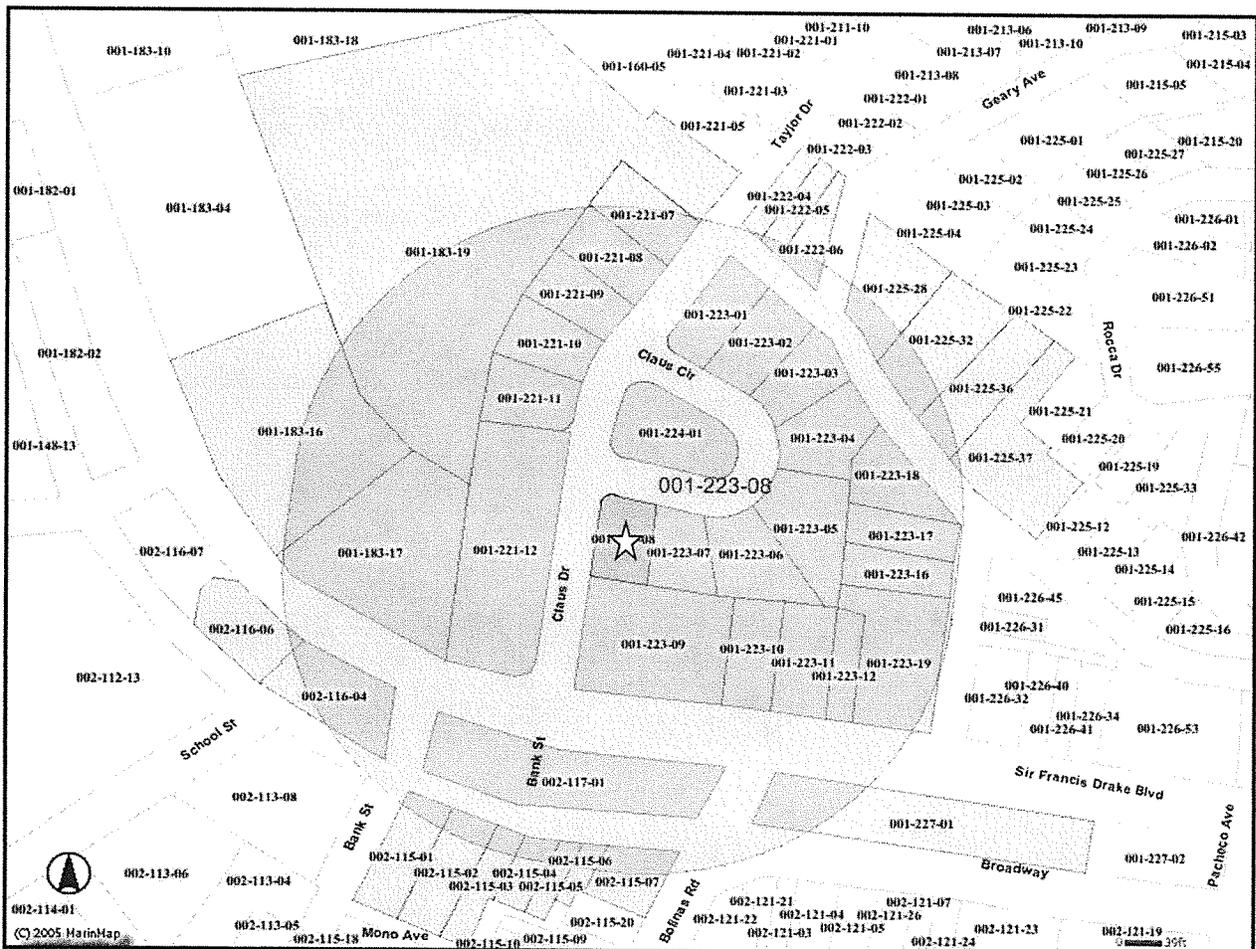


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: September 25, 2014
FROM: Jim Moore, Director of Planning and Building Services
 Linda Neal, Senior Planner
LOCATION: 2 Claus Circle; Assessor's Parcel No. 001-223-08
ZONING: Residential Single-family RS 6 Zone
PROJECT: Master bedroom/bath addition
ACTION: Use Permit; Application # 14-33
APPLICANT: Daniel and Adrienne Peixotto
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(e)(1)



2 CLAUS CIRCLE

BACKGROUND

The 5,060 square foot site has a 7% slope and is developed with a 1,028 square foot single-family residence constructed in 1948 with two bedrooms and 1 bathroom and a two car garage.

The 2005 Residential Resale Inspection of the property, prior to the applicant's purchase, documented that the attic area over the garage had been converted into a bedroom and bathroom with substandard ceiling heights and could not be used as legal living space.

DISCUSSION

The owners/applicants are now applying to legalize the living area over the garage by raising the roof over the garage 6 feet to create a 462 square foot master bedroom/bath/walk-in closet addition to this 1,028 square foot residence resulting in a 1,490 square foot residence.

The project complies with the regulations for the RS 6 Zone District where the property is located as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft	6 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	28.5ft, 2 stories
Existing	20 ft	14 ft	34 ft	8 ft & 16 ft	24 ft	.20	.25	17ft, 2 stories
Proposed	same	same	same	same	same	.29	.25	23 ft, 2 stories

The 5,060 square foot site is less than the minimum required 6,000 square foot parcel size and it has less than the minimum required 60 foot width (it varies from 50 to 57 feet in width). Therefore, based on Town Code § 17.080.050(A), the project requires the approval of a Use Permit by the Planning Commission.

The project does not constitute a 50% remodel and therefore, it does not require the design review approval (Town Code § 17.020.030).

The project will not result in any site disturbance because the addition is located over the garage.

In order to approve a Use Permit the Commission must be able to determine that the proposed project will not negatively impact the neighboring properties and that the project is in scale with the project site and similar to the character of other structures in the vicinity.

30 Claus Circle, the other house located at the corner of Claus Drive and Clause Circle, is two stories, with living space above the garage, similar to what is being proposed for this 2 Claus Circle project site which is also located at the corner of Claus Circle and Claus Drive. The proposed second story is 18 feet away from the closest neighboring house to the east at 6 Claus Circle and the property to the south is developed as a gas station and is zoned for commercial use. Therefore, the proposed 6 foot increase in height of the structure to accommodate a master bedroom suite should have a minimal impact on the neighboring properties.

Houses in the neighborhood range in size from 979 square feet on a 6,000 square foot site (23 Claus Circle) to 1,913 square feet on a 5,342 square foot site (30 Claus Circle). Therefore, the proposed 1,492 square foot residence will not be out of character with other homes throughout the immediate neighborhood.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detector shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
2. A Vegetative Management Plan designed in accordance with Ross Valley Fire Standard 220 is required for this project. A separate deferred permit shall be required for this plan. Please submit directly to the Fire Department for review.
3. Carbon monoxide alarms shall be provided.
4. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

Ross Valley Sanitary District

The project will require a connection permit from the Ross Valley Sanitary District. The size of the sewer lateral will depend on the fixture count calculated during the Ross Valley Sanitary District permitting process. If the existing lateral meets the size requirement of the fixture count, the applicant will have the option of installing a new lateral or, testing the old lateral in the presence of a District Inspector to verify it meets all current District requirements.

Marin Municipal Water District

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Fairfax Building Department

Engineered plans must be submitted with the building permit application.

The Fairfax Police Department did not comment on the project.

RECOMMENDATION

Move to approve application # 14-33 based on the following findings and subject to the following conditions of approval:

Recommended Findings

Use Permit Findings

1. The proposal for the 462 square foot expansion will not result in a residence that is out of scale with the 5,060 square foot lot or out of character with the neighborhood. 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.
2. The proposed addition will not encroach into the required setbacks and will not exceed Floor Area Ratio .40 limitation for the RS 6 Zone District. The addition also will comply with the height limits and will not increase the site lot coverage. Therefore, 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.

3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent the Town Zoning Ordinance, Title 17.
4. The addition will not extend beyond the foot print of the existing house. Therefore, approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and the project will not have any significant impacts on the site or the neighbors.

Recommended Conditions

Planning Conditions:

1. This approval is limited to the development illustrated on the preliminary plans submitted to the Town and date stamped received on August 20, 2014, sheets 1 through 12.
2. Prior to issuance of a building permit the applicant or his assigns shall:
 - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
 - Construction delivery routes approved by the Department of Public Works.
 - Construction schedule (deliveries, worker hours, etc.)
 - Notification to area residents
 - Emergency access routes
 - Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking
 - b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director).
 - c. Submit a bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a bond or letter of credit equaling 100% of the estimated construction costs.

- d. If required by the Building Department, the foundation and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Town Engineer.
 - e. If required by the Building Department the grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to the recommendations made by the project engineer.
 - f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
3. During the construction process the following shall be required:
- a. The project engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town staff that the grading has been completed as recommended prior to installation of foundation and retaining forms and piers.
 - b. Prior to any concrete form inspection by the building official, the structural engineer shall field check the forms of the foundations and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.
 - c. The building official shall field check the concrete forms prior to the pour.
 - d. All construction related vehicles including 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.
 - e. Additionally, 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. Prior to issuance of an occupancy permit the following shall be completed:

- a. The project engineer shall field check the completed project and submit written certification to the Town Staff that the foundation elements have been installed in conformance with the approved building plans.
 - b. The Planning Department shall field check the completed project to verify that the construction reflects the design approved by the Planning Commission and to verify that all design review and/or planning commission conditions have been complied with including , if applicable, installation of landscaping and irrigation.
5. 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.
6. During construction developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."
7. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, **any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 14-33. **Any** construction based on job plans that have been altered without the benefit of an approved modification Use Permit 14-33 will result in the job being immediately stopped and red tagged.
8. Any damages to Claus Drive or Claus Circle resulting from construction activities shall be the responsibility of the property owner. The owner or contractor shall videotape or otherwise document as approved by the Public Works Director the existing condition of the roads in the vicinity of the site prior to starting construction of the residence. Road closures, if necessary, shall be coordinated with the Fairfax Police Department and the Ross Valley Fire Department.
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, Design Review Board 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 Fire Department Conditions:

5. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detector shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
6. A Vegetative Management Plan designed in accordance with Ross Valley Fire Standard 220 is required for this project. A separate deferred permit shall be required for this plan. Please submit directly to the Fire Department for review.
7. Carbon monoxide alarms shall be provided.
8. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

Marin Municipal Water District

3. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
4. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

1. A new sewer connection will be required and the size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirements of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral needs to be tested in

the presence of a District Inspector and found to meet all current District requirements. The cost will be based on the number of fixtures.

2. Occupancy will not be approved until District's permit and sewer requirements are fulfilled.

Miscellaneous Conditions

1. 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.
2. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing.

ATTACHMENTS

Exhibit A – Applicant's supplemental information

Town of Fairfax Planning Department
Use Permit application Attachment
Page 1 - Responses

2 Claus Circle Master Bedroom Project
APN: 001-223-08

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.

This is a residential remodel project, other than the construction activities during the project, which will conform within the town's ordinances; we do not foresee any disturbances to the public.

- Floor plans must include location of any special equipment.

This is a residential remodel project, there will be no special equipment installed.

- Designate customer, employee and living areas.

This is a residential remodel project. The project is converting an existing loft/living space above the garage, into a Master Bedroom, which is designated in the included drawings.

- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

This is a residential remodel project, converting an existing loft/living space into a Master Bedroom, the total square footage of the remodel is 462 sq. ft.

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 or economic impacts on adjacent property and provides for equal treatment with similar properties in town.

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

The residential remodel project that we are proposing will have no negative impact on the general public nor our neighbors, it will conform to the policies of the town, and it is our intention for it to enhance not only our property but to help enhance the neighborhood.

EXHIBIT #

A

Use Permit application attachment page 2
2 Claus Circle Master Bedroom Project
APN: 001-223-08

The final disposition of each use permit shall be in accordance with the facts of the particular case, and such facts must support the following determinations and findings before a use permit may be approved. Indicate how the findings below can be made:

- 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.

We in no way feel that we should receive any special privileges by being issued a use permit, it is our intention to be as discrete as possible as to not disrupt anyone's day to day living.

- The development and use of the property, as approved under the use permit, shall not create a public nuisance, 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

As mentioned previously, this project is a residential remodel converting a loft/living area into a Master Bedroom. We do not intend to be a nuisance to the public nor to the neighbors during or after construction.

- 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 any master plan, development plan or other policy, officially adopted by the town.

To the best of our knowledge our proposed project should not be interfering with any of the town's Master plan, development plan or other policies.