



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Appeal to the City Council of Planning Commission Resolution No. 2007-38 approving Design Review and Non-Conformity Permit Application No. DR/NC 07-027 at 75 Cloud View Road.

RECOMMENDED MOTION:

Staff recommends the City Council adopt the resolution denying the appeal filed by Michael Rex, Architect, on behalf of the owner Matsuno Patrick, and upholding the Planning Commission's approval of Design Review and Non-Conformity Permit Application No. DR/NC 07-027 for the remodel of a single-family home at 75 Cloud View Road.

SUMMARY

Appellant Matsuno Patrick, represented by Michael Rex, Architect, is appealing Planning Commission Resolution No. 2007-38 adopted on November 28, 2007 approving the remodel of an existing single-family house located at 75 Cloud View Road. The approval would include 640 square-feet of additional floor area and the relocation and minor reduction of existing building coverage and impervious surfaces, which currently exceed development standards.

The letter from the appellant states that the appeal is based on a variety of issues including: insufficient neighborhood outreach was completed, Staff did not sufficiently address the appellant's concerns, Staff did not visit the inside of the home of the appellant, the Commissioners did not adequately consider the photos presented by the appellant, the applicant's architect submitted misleading photos of the proposed expansion, Staff did not adequately guide the appellant through the process, the revised story poles were constructed after completion of the Staff report, there were misstatements in the Staff report, the Heightened Review Findings were not properly made, the architectural gables are unnecessary, and other alternative design options are available.

The City Council considered the appeal on January 29, 2008 and continued the matter to allow the applicant to consider redesigning the residence to lower the roof line in response to concerns raised by the appellant. Since that time, staff has contacted the applicants' architect as well as the applicants on several occasions to determine if they have a redesigned plan to take back to the Council. On March 13, 2008, following the most recent conversation with staff, the applicants submitted the attached email, expressing their disappointment in the process and the fact that they have indicated that they are choosing not to continue.

BACKGROUND

Please refer to the attached City Council staff report dated January 29, 2008 for a thorough discussion of the proposed project and the appeal that was filed by architect Michael Rex on behalf of neighbor Matsuno Patrick.

ANALYSIS

At the conclusion of the January 29, 2008 hearing on the appeal filed on the Planning Commission's approval of the residence at 75 Cloud View Road, the Council discussed the revisions proposed by the appellant's architect and requested that the owners consider redesign. The Council continued the matter to allow the owners to work with their architect to determine if they could lower the roofline of their project. As indicated above, Staff has contacted the owner's architect and the owners on several occasions and has been told that they have chosen not to redesign.

As indicated in the attached email from the applicants, they are choosing not to continue at this time. As a result and since nothing has changed on the project, staff continues to support the analysis and recommendation in the January 29, 2008 Staff Report prepared on the appeal, supporting the Planning Commission's action to approve the project and recommending denial of the appeal. As with the January 29, 2008 Staff Report, draft resolution is attached. Should the City Council choose to take alternative action, staff should be accordingly directed to prepare the appropriate document.

PUBLIC COMMENT LETTERS

As of publication of this staff report, no new correspondence has been received from the public.

STAFF RECOMMENDATIONS

Staff recommends that the City Council adopt the Resolution of the City Council of the City of Sausalito Denying the Appeal of Michael Rex and upholding the Planning Commission's Approval of Design Review and Non-Conformity Permit Application No. DR/NC 07-027 for the remodel to an existing single-family home at 75 Cloud View Road.

ATTACHMENTS

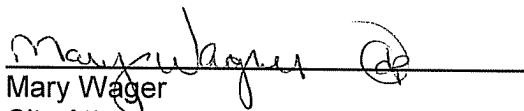
1. City Council Draft Resolution
2. City Council Staff Report dated January 29, 2008 with attachments
3. Email from applicants dated March 13, 2008

PREPARED BY:



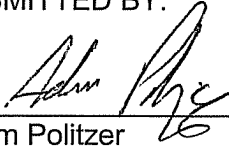
Diane Henderson
Interim Community Development Director

REVIEWED BY:



Mary Wager
City Attorney

SUBMITTED BY:



Adam Politzer
City Manager

RESOLUTION NO. 2008 -__

RESOLUTION OF THE SAUSALITO CITY COUNCIL DENYING THE APPEAL OF MICHAEL REX ON BEHALF OF MATSUNO PATRICK AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF DESIGN REVIEW AND NON-CONFORMITY PERMIT APPLICATION NO. DR/EP 07-027 FOR A REMODEL TO AN EXISTING SINGLE-FAMILY HOME AT 75 CLOUD VIEW ROAD

WHEREAS, an application was filed on December 6, 2007 by Michael Rex, on behalf of Matsuno Patrick, requesting Planning Commission approval of Design Review and Non-Conformity Permit for 75 Cloud View Road (DR/NC 07-027); and

WHEREAS, the Planning Commission conducted duly noticed public meetings on November 7, 2007 and November 28, 2007 in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the plans, maps, studies, and other documentation submitted for the project; and

WHEREAS, the Planning Commission received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission reviewed and considered the information contained in the November 7, 2007 and November 28, 2007 staff reports for the proposed project; and

WHEREAS, the Planning Commission, as conditioned, determined that the proposed Design Review and Non-Conformity Permit comply with the requirements of the Zoning Code including applicable Design Review, Heightened Review and Non-Conformity Findings; and

WHEREAS, the Planning Commission found that the proposed project is a Class 1 categorical exemption in conformance with CEQA Section 15301(e)(2); and

WHEREAS, the Planning Commission found that, as conditioned herein, the proposed project complies with the General Plan as outlined in the staff report;

WHEREAS, an appeal of the Planning Commission's decision was filed with the City of Sausalito on December 6, 2007 by Michael Rex on behalf of Matsuno Patrick, and based on view obstruction and privacy impacts from the real property located at 73 Cloud View Road; and

WHEREAS, the City Council conducted duly noticed public hearings on January 29, 2008 and March 25, 2008; and

WHEREAS, the City Council on January 29, 2008 and March 25, 2008 received and considered oral and written testimony, evidence obtained from site visits, staff reports, project plans and materials, prior minutes of the Planning Commission and Planning Commission Resolution No. 2007-38; and

WHEREAS, the City Council considered all issues presented by the appeal subject to the provisions of the Sausalito General Plan and the Sausalito Municipal Code; and

WHEREAS, based on the record of this proceeding, including the testimony and materials received and described above, the City Council finds that the Planning Commission did not err in its decision to approve Design Review Permit and Non-Conformity Permit Application No. DR/NC 07-027.

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS AND RESOLVES AS FOLLOWS:

The City Council hereby denies the appeal and upholds the decision of the Planning Commission. The City Council hereby affirms and incorporates the findings and conditions of approval outlined in the Planning Commission Resolution No. 2006-38.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Sausalito on the 25th day of March, 2008, by the following vote:

AYES: **Councilmember:**
NOES: **Councilmember:**
ABSENT: **Councilmember:**
ABSTAIN: **Councilmember:**

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

DEPUTY CITY CLERK

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Sierra Russell

From: Cecilia Vacherand [cecilia@vacherand.com]
Sent: Thursday, March 13, 2008 11:37 AM
To: Sierra Russell
Cc: pierre@vacherand.com
Subject: RE: 75 Cloud View appeal

Sierra,

I believe my exact words were that it is impossible for us to get a fair trial with the City of Sausalito.

We have spent an enormous amount of money on this project (\$75,000 in design fees alone), followed all the requirements of the city code, bent over backwards to meet the planning commission requests and received a unanimous approval from the Planning Commission just to have it revoked because one council member arbitrarily decides to reclassified an obvious accessory room as a primary room while another one stated, "I just don't know why people don't move their furniture to turn it into a primary room". This type of redefining of the rules and encouragement to bend the intent of the code shows to us a complete disrespect for the spirit of the law and those who follow it.

In addition, it seems there was a personal friend of Matsuno Patrick's on the City Council that had an obvious conflict of interest. It is unacceptable that he did not excuse himself from the proceedings, especially since he was specifically named in Ms. Patrick's documents as a friend.

It is very clear that the City of Sausalito is not interested in fairness or doing what is right. Revoking a project that has already been approved sets an alarming precedence that any approved project can be stopped at anytime merely at the whim of a neighbor. And it is a violation of our rights as homeowners that the City can give a neighbor the right to redesign our home according to her wishes.

There was so much concern about how much our remodel would affect the value of our neighbor's home. There was absolutely no concern shown for the money we had already spent (at the encouragement of the Planning commission who was consulted during each step of the process) when it is a given fact that home improvements of this type increase the value of all the surrounding homes. At what point does the City take responsibility for encouraging our project and then, after spending so much of our time and money, revoke their approval?

At this point, given all we've witnessed during this arduous process and as recipients of your unfair system, we chose not to continue.

Cecilia & Pierre Vacherand

From: Sierra Russell [mailto:srussell@ci.sausalito.ca.us]
Sent: Thursday, March 13, 2008 10:06 AM
To: Cecilia@vacherand.com
Subject: 75 Cloud View appeal

Cecilia:

In follow up to our discussion, if you and your husband have decided to no longer pursue approval of your home remodel, please email/fax/mail a formal statement of your withdrawal. On another note, if you have any questions regarding follow through with the appeal, or what the steps are necessary to continue with the application process, please do not hesitate to contact me.

Thanks very much,

-Sierra

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3/20/2008



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Appeal to the City Council of Planning Commission Resolution No. 2007-38 approving Design Review and Non-Conformity Permit Application No. DR/NC 07-027 at 75 Cloud View Road.

RECOMMENDED MOTION:

Staff recommends the City Council adopt the resolution denying the appeal filed by Michael Rex, Architect, on behalf of the owner Matsuno Patrick, and upholding the Planning Commission's approval of Design Review and Non-Conformity Permit Application No. DR/NC 07-027 for the remodel of a single-family home at 75 Cloud View Road.

SUMMARY

Appellant Matsuno Patrick, represented by Michael Rex, Architect, is appealing Planning Commission Resolution No. 2007-38 adopted on November 28, 2007 approving the remodel of an existing single-family house located at 75 Cloud View Road. The approval would include 640 square-feet of additional floor area and the relocation and minor reduction of existing building coverage and impervious surfaces, which currently exceed development standards.

The attached letter from the appellant states that the appeal is based on a variety of issues including: insufficient neighborhood outreach was completed, Staff did not sufficiently address the appellant's concerns, Staff did not visit the inside of the home of the appellant, the Commissioners did not adequately consider the photos presented by the appellant, the applicant's architect submitted misleading photos of the proposed expansion, Staff did not adequately guide the appellant through the process, the revised story poles were constructed after completion of the Staff report, there were misstatements in the Staff report, the Heightened Review Findings were not properly made, the architectural gables are unnecessary, and other alternative design options are available.

BACKGROUND

The project architect, David Kalb, initiated the project in the beginning of 2007 through multiple pre-application meetings scheduled with Staff to discuss the proposed application. Prior to the submittal of the application, the architect and owners also held neighborhood outreach meetings.

On November 7, 2007 the Planning Commission held a public hearing on the subject application for an interior and exterior remodel for the property located at 75 Cloud View Road. One neighbor opposed the project, Matsuno Patrick, who was not able to attend the Planning Commission meeting and thus sent two of her employees to represent her concerns. The representatives expressed her concern for the height of the roof and the impact it may have on

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views. The Planning Commission stated that, although they strongly supported the project, they wanted to ensure good neighborhood relations and thus requested the applicant drop the proposed main ridge to 50% of the proposed additional height. They also requested that new story poles be placed in order for Matsuno Patrick to view upon her return, which was the day before the next Planning Commission hearing.

The November 7, 2007 hearing concluded with the Planning Commission's request to place the item on the Consent Calendar with a resolution of approval for the November 28, 2007 meeting. During the November 28, 2007 meeting, Ms. Patrick requested to pull the item from the Consent Calendar, and expressed her concern with the gables and their potential impact. The Planning Commission considered her concerns, and reviewed her photographs submitted at the time of the hearing that illustrated her view concerns. Because the view impact was from a secondary view room and did not impact the home's primary views, the Planning Commission determined that the applicant had designed the project to minimize view obstructions to the extent feasible and unanimously approved the project. Ms. Patrick filed an appeal of the Planning Commission's approval on December 6, 2007.

The attached November 7, 2007 and November 28, 2007 Planning Commission Staff reports provide additional discussion of the project background prior to the Planning Commission hearings.

ISSUES

The issues raised by the appellant's architect are as follows:

1. Insufficient neighborhood outreach was completed.
2. Staff did not sufficiently address the appellant's concerns.
3. Staff did not visit the inside of the home of the appellant.
4. The Commissioners did not adequately consider the photos presented by the appellant.
5. The applicant's Architect submitted misleading photos of the proposed expansion.
6. Staff did not adequately guide the appellant through the process.
7. The revised story poles were constructed after the completion of the Staff report.
8. Misstatements in the Staff report.
9. Heightened Review Findings were not properly made.
10. The architectural gables are unnecessary.
11. Other design options are available.

Additional issues raised by the appellant's lawyer are as follows:

12. Inaccurate information was presented to Staff.
13. Staff failed to properly conduct the mandatory heightened review.
14. The decision does not conform to the evidence.
15. Staff failed to investigate and address the concerns of Ms. Patrick expressed to them about the project, telling her that she "could file an appeal".
16. The applicants never identified that there would be a significant increase in the building envelope.
17. The proposal would block a significant portion of the appellant's primary views.

1. Insufficient neighborhood outreach was completed.

Neighborhood outreach was conducted both by Staff, pursuant to State regulations, and by the applicant, pursuant to the Community Development Department's requirement for neighborhood outreach as part of the Design Review process.

Pursuant to California Planning and Zoning Law Section 65090(a), public notice is required for all public hearings and "shall be posted at least 10 days prior to the hearing in at least three public places within the jurisdiction of the local agency" and "shall be mailed or delivered at least 10 days prior to the hearing to all owners of the real property as shown on the latest equalized assessment roll within 300 feet of the real property that is subject to the hearing." On October 26, 2007 the required noticing was posted within a 300 foot radius of the home and in City Hall by Staff, as noted in Declaration of Noticing. Notices were also mailed on October 25, 2007 within the required 10 day noticing period, as documented in the attachments. The Brown Act requires that "at least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting." On October 26, 2007 the required noticing was posted on a public notice board within the Sausalito City Hall and in a locked notice board located on the exterior of the Sausalito City Hall, as noted in Declaration of Noticing.

In addition to the required public noticing completed by Staff, the applicant conducted neighborhood outreach, as included as an Exhibit in the attached November 7, 2008 Staff report. Neighbors from seven surrounding properties toured the house and reviewed the proposed plans and expressed general support for the project. The appellant's were invited to view the plans, but were out of town and could not attend.

2. Staff did not sufficiently address the appellant's concerns.

As no letter was submitted to Staff in opposition of the project, Staff was unable to formally address the appellant's concerns. When the appellant's representatives came to the Sausalito Community Development counter, Staff explained the Design Review process and how the forum of the project's public hearings were available to express their concerns. The appellant's representatives utilized the public hearings to express their concern to the Planning Commission regarding the potential view impact.

3. Staff did not visit the inside of the home of the appellant.

On Thursday, September 6, 2007 at 2pm, Staff met with the applicant and architect at 75 Cloud View for a walkthrough and to photograph the site and surrounding areas and views. On Friday, October 26, 2007, Staff met with the architect to review the story poles. Staff took photos of the story poles from the side of the appellant's home. Staff was unable to access the property as the appellant's property has a locked gate and no one was home. At this point, no public opposition had been expressed, and Staff was unaware of any view concerns. A few days prior to the November 7, 2007 Planning Commission hearing, the appellant's representatives discussed the appellant's concerns with Staff and stated that the appellant would return home on November 27, 2007. Although Staff did not view the story poles from within the appellant's home before the November 28, 2007 Planning Commission hearing, Staff has subsequently

viewed the story poles from inside the appellant's home and continues to recommend approval of the project.

4. The Commissioners did not adequately consider the photos presented by the appellant.

On November 28, 2007 the appellant and one of her representatives presented the Planning Commission with photos of the proposed story poles taken prior to the November 28, 2007 Planning Commission Hearing. Commissioner Kellman asked the appellant if the photos were zoomed in images of the roof and story poles. The appellant's representative nodded her head in affirmation of this question. The Commissioners expressed concern that the appellant's photos were exaggerated and did not accurately represent the actual view of concern.

5. The applicant's architect submitted misleading photos of the proposed expansion.

The photos of the proposed story poles were submitted as a part of the applicant's Design Review application. Staff visited the site to view the story poles and determined the photos submitted by the applicant adequately represented the proposed story poles.

6. Staff did not adequately guide the appellant through the process.

Prior to the November 7, 2007 and November 28, 2007 Planning Commission hearings, the appellant's representatives contacted Staff inquiring about the proposed application. Staff spent time with both representatives to identify the scope of work as well as to go over all information related to the project. In addition to the verbal information given to the appellant's representatives, Staff also provided staff reports for both hearings. Staff spent a significant amount of time with the appellant's representatives, and the representatives expressed to Staff that they thoroughly understood the process and the subject application.

7. The revised story poles were constructed after the completion of the staff report.

At the November 7, 2007 Planning Commission hearing, the Commission continued the item to a date certain of November 28, 2007 and requested the applicant construct revised story poles. The Commission requested the revised story poles be completed prior to November 27, 2007, in order to allow proper assessment by both the Commission and the appellant. In order for the Planning Commission to hear the item, the staff report was required to be completed and ready for distribution on November 22, 2007. However, the staff presentation provided an update on the story poles. The Planning Commission did not require the story poles to be constructed prior to the completion of the November 28, 2007 Staff report.

8. Misstatements in the staff report.

The appellant's representative, Michael Rex, states that the staff report only details the "roof forms will extend upward only one foot." The staff report clearly states "The revised plan set details that the increase in height of the new ridgeline located above the kitchen and dining room will be reduced by approximately half, measuring a total of one foot above the existing ridgeline." The new ridgeline will not increase above the existing tallest point of the ridgeline. The only increase of the structure, above the existing height, will be that of the gables. The staff report identifies the ridgeline, not "roof forms."

The appellant also states that "Staff points out in their report that the applicant had responded to input from the Commission when in fact, they had not fully complied." As further clarification of this statement is necessary, Staff is unaware of the intention of this statement and cannot respond.

9. Heightened Review Findings were not properly made, "The required finding states: "Particular care was taken to protect primary views." The fact is that such views are being seriously blocked.

Chapter 10.88 of the Sausalito Zoning ordinance defines a secondary view as a "view from bathrooms, accessory bedrooms, passageways, and utility areas." The view identified by the appellant as the view 'being seriously blocked' is a view from a lower level accessory bedroom, and as such is considered to be a secondary view, not a primary view.

10. The architectural gables are unnecessary.

The statement by Michael Rex, on behalf of the appellant, Matsuno Patrick, noted that the architectural gables were unnecessary. The gables are an architectural feature, integral to the design proposed by the applicant. They provide an attractive detail consistent with architectural design throughout Sausalito and in the neighboring community.

11. Other design options are available.

The approved design for the remodel to 75 Cloud View Road is that which was presented to the Planning Commission for their consideration. At the time the design was presented, no other design options were proposed by the applicant or the appellant.

12. Inaccurate information was presented to Staff.

The information submitted to Staff as part of the proposed Design Review and Non-Conformity Permit application was reviewed by Staff. Based on Staff's review of the application, Staff determined that the information submitted by the applicant was accurate and clearly representative for the proposed remodel.

13. Staff failed to properly conduct the mandatory heightened review.

Please see the response under issue number 9, which addresses this issue.

14. The decision does not conform to the evidence.

Based on Staff's analysis of the application, Staff believes that the information submitted is sufficient and adheres to all required Zoning Ordinances and Municipal Code requirements, and therefore can be recommended for approval. The Planning Commission considered the information in the staff report, project materials, and public testimony, and subsequently approved the project.

15. The applicants never identified that there would be a significant increase in the building envelope.

Please see the response under issue number 2.

16. The applicants never identified that there would be a significant increase in the building envelope.

As discussed in detail in the November 7, 2007 and November 28, 2007 staff reports, the habitable floor area of the structure was increased, but the total building coverage and impervious surface coverage was decreased. The proposed project would remove some impervious surface and reduce building coverage on the property, and would relocate a portion of the total removed impervious surface to another part of the parcel. The proposal would result in the removal of approximately 130 square-feet of impervious surface and building coverage, and would add 640 square feet of floor area, resulting in a 4,115 square-foot single-family home.

17. The proposal would block a significant portion of the appellant's primary views.

Refer to issue number 9.

PUBLIC COMMENT LETTERS

Staff has received public comment on January 22, 2007 from two neighbors concerned with the view impacts to the 73 and 89 Cloud View Road properties, after the Planning Commission's approval. These are included as attachments. Prior to the November 7, 2007 Planning Commission hearing, Staff received verbal support of the project from an adjacent neighbor.

STAFF RECOMMENDATIONS

Staff recommends that the City Council adopt the Resolution of the City Council of the City of Sausalito Denying the Appeal of Michael Rex and upholding the Planning Commission's Approval of Design Review and Non-Conformity Permit Application No. DR/NC 07-027 for the remodel to an existing single-family home at 75 Cloud View Road.

ATTACHMENTS

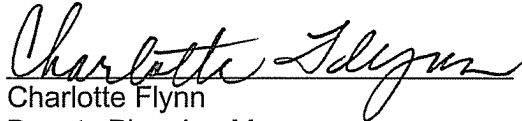
1. City Council Draft Resolution
2. Appeal letter from Michael Rex, December 6, 2007
3. Appeal Letter from Craig Miller, Esq., December 6, 2007
4. Letter from appellant, December 6, 2007
5. Letter from applicant, March 17, 2007
6. Declaration of Noticing, November 7, 2007
7. Planning Commission Notice, November 7, 2007
8. Planning Commission Staff Report Packet, November 7, 2007
9. Planning Commission Staff Report Packet, November 28, 2007
10. November 28, 2007 Planning Commission meeting minutes (Draft)
11. Staff rendering of views from 73 Cloud View Road, as presented to the Planning Commission no November 28, 2007, with and without the proposed 75 Cloud View Road project
12. Public Comment

PREPARED BY:



Diane Henderson
Interim Community Development Director

REVIEWED BY:

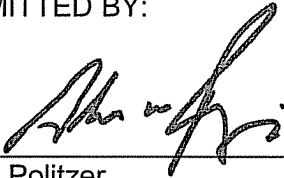


Charlotte Flynn
Deputy Planning Manager



Mary Wager
City Attorney

SUBMITTED BY:



Adam Politzer
City Manager

RESOLUTION NO. 2008 - __

RESOLUTION OF THE SAUSALITO CITY COUNCIL DENYING THE APPEAL OF MICHAEL REX ON BEHALF OF MATSUNO PATRICK AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF DESIGN REVIEW AND NON-CONFORMITY PERMIT APPLICATION NO. DR/EP 07-027 FOR A REMODEL TO AN EXISTING SINGLE-FAMILY HOME AT 75 CLOUD VIEW ROAD

WHEREAS, an application was filed on December 6, 2007 by Michael Rex, on behalf of Matsuno Patrick, requesting Planning Commission approval of Design Review and Non-Conformity Permit for 75 Cloud View Road (DR/NC 07-027); and

WHEREAS, the Planning Commission conducted duly noticed public meetings on November 7, 2007 and November 28, 2007 in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the plans, maps, studies, and other documentation submitted for the project; and

WHEREAS, the Planning Commission received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission reviewed and considered the information contained in the November 7, 2007 and November 28, 2007 staff reports for the proposed project; and

WHEREAS, the Planning Commission, as conditioned, determined that the proposed Design Review and Non-Conformity Permit comply with the requirements of the Zoning Code including applicable Design Review, Heightened Review and Non-Conformity Findings; and

WHEREAS, the Planning Commission found that the proposed project is a Class 1 categorical exemption in conformance with CEQA Section 15301(e)(2); and

WHEREAS, the Planning Commission found that, as conditioned herein, the proposed project complies with the General Plan as outlined in the staff report;

WHEREAS, an appeal of the Planning Commission's decision was filed with the City of Sausalito on December 6, 2007 by Michael Rex on behalf of Matsuno Patrick, and based on view obstruction and privacy impacts from the real property located at 73 Cloud View Road; and

WHEREAS, the City Council conducted a duly noticed public hearing on January 29, 2008; and

WHEREAS, the City Council on January 29, 2008 received and considered oral and written testimony, evidence obtained from site visits, staff reports, project plans and materials,

prior minutes of the Planning Commission and Planning Commission Resolution No. 2007-38;
and

WHEREAS, the City Council considered all issues presented by the appeal subject to the provisions of the Sausalito General Plan and the Sausalito Municipal Code; and

WHEREAS, based on the record of this proceeding, including the testimony and materials received and described above, the City Council finds that the Planning Commission did not err in its decision to approve Design Review Permit and Non-Conformity Permit Application No. DR/NC 07-027.

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS AND RESOLVES AS FOLLOWS:

The City Council hereby denies the appeal and upholds the decision of the Planning Commission. The City Council hereby affirms and incorporates the findings and conditions of approval outlined in the Planning Commission Resolution No. 2006-38.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Sausalito on the 29th day of January, 2008, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

DEPUTY CITY CLERK

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Page #: ~~10~~ 18

MICHAEL REX ASSOCIATES

ARCHITECTURE & DESIGN
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SAUSALITO
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T 415 331-1400
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RECEIVED

DEC 06 2007

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT.

December 5, 2007
City Council
City of Sausalito
420 Litho Street
Sausalito, CA 94965

**RE: 75 CLOUD VIEW ROAD /DR NC 07-027 / APN 065-191-25
APPEAL OF PLANNING COMMISSION APPROVAL FOR 75 CLOUD VIEW ROAD**

Dear Members of the City Council;

On behalf of Ms. Matsuno Patrick, owner of 73 Cloud View Road, the home adjacent and behind the home owned by Pierre and Cecilia Vacherand at 75 Cloud View Road, we write to appeal the action of the Planning Commission on November 28, 2007 approving renovations to the Vacherand residence illustrated on plans prepared by Architect, David R. Kalb, dated November 19, 2007.

Planning Commission approval will allow renovations to the Vacherand home that included new and higher roof forms which will significantly block primary views of the San Francisco Bay and City skyline from one of Ms. Patrick's primary living spaces, thereby reducing her enjoyment and the value of her home. Errors have occurred in the City's processing of the Vacherands' Design Review application, including misstatements made in the Staff Report. Proper review of the facts associated with this application will demonstrate that the findings required for granting approval cannot be made.

The short noticing period, coupled with the fact that Ms. Patrick was abroad taking care of an ageing member of her family during critical events associated with the City's processing of this application, has resulted in Ms. Patrick retaining our services to represent her only two days ago. More time is needed to absorb all the pertinent data. We also wish to meet with the applicant, the outcome of which is unknown at this time. For these reasons, we expect to submit to the City, at a later date and in addition to this letter, more detailed information concerning this appeal.

The primary errors that occurred and the reasons for the appeal include, but are not limited to the following:

- Insufficient neighborhood outreach.
- Lack of adequate Staff response to concerns expressed by Ms. Patrick and her agents prior to the Commission's action.
- Lack of a visit to Ms. Patrick's home by Staff and Commissioners necessary to properly assess the impacts of the proposed renovations.
- Lack of adequate consideration by Commissioners during their hearing of exhibits presented and to concerns raised by the most impacted neighbor.
- Misleading photographs of the proposed expansion presented by the applicant.
- Lack of proper guidance by Staff associated with the plan approval process provided to the concerned neighbor.
- Revised story poles being installed after the final Staff Report is written and distributed, preventing a proper assessment of project revisions.

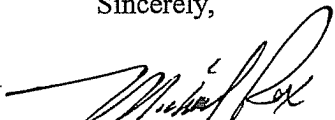
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- Numerous misstatements in the Staff Report, including an inaccurate project description. For example:
 1. The Staff Report states that roof forms will extend upward only one foot, when in fact, critical portions of the roof will rise six feet or more.
 2. Staff points out in their report that the applicant had responded to input from the Commission when in fact, they had not fully complied.
 3. Regarding the Design Review finding, "The proposed project has been designed to minimize obstruction of primary views from private property," Staff points out in their report that, "The home is situated in such an area that it is not significantly visible to the surrounding homes," Yet the Vacherand home is directly in front of Ms. Patrick's home and is the entire foreground of her only bay and city views.
- The Project was found to be consistent with the guidelines for heightened review when it is not. The required finding states: "Particular care was taken to protect primary views." The fact is that such views are being seriously blocked.
- The proposed encroachment into Ms. Patrick's beautiful primary views are for architectural features that are unnecessary and excessive.
- Numerous design options exist and are available to the applicant that would not diminish Ms. Patrick's enjoyment and value of her home, options that to our knowledge have not been explored by the applicant, Staff or the Commission.

In a later letter, we will explain these errors and others in more detail. In the interim, we are currently seeking a dialog with the applicant to explore options that will accommodate the needs of both neighbors.

We appreciate the Council's careful consideration of this appeal to right the Planning Commission's error in approving the Vacherands' renovation project as currently proposed. We trust you will protect Ms. Patrick's property rights and uphold our appeal.

Sincerely,



Michael Rex, Architect

c.c. Ms. Matsuno Patrick
Mr. Craig S. Miller, ESQ.

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