

**McDowell, John**


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**From:** David Clark [david1343@sbcglobal.net]  
**Sent:** Tuesday, April 21, 2009 5:15 PM  
**To:** Heather Phillips; McDowell, John; Scott, Terry  
**Subject:** Fw: Pavitt Variance  
**Attachments:** Pavitt Board 4.9.09.doc; Ross Planning.doc

Heather, Terry, and John,

The following is for your information. As you can see below in my cover note to the Board, the Pavitts now claim they consulted with a Napa land use attorney prior to purchasing their Calistoga property. You may remember Mr. Meibeyer, the Pavitts' land use attorney, saying that if only the Pavitts had come to someone like him, we wouldn't have had the setback issue. It now comes out that they did, yet we still had the issue.

My letter attached to the note, and the supporting documents, should make interesting reading to those of you involved in the lengthy hearings.

--- On Mon, 4/13/09, David Clark <david@davidsjewelers.com> wrote:

From: David Clark <david@davidsjewelers.com>  
 Subject: Pavitt Variance  
 To: mluce@co.napa.ca.us, "Bill Dodd" <BDODD@co.napa.ca.us>, ddillon@co.napa.ca.us, kcalldwell@co.napa.ca.us, bwagenknecht@co.napa.ca.us  
 Cc: "John McDowell" <jmcdowel@co.napa.co.us>  
 Date: Monday, April 13, 2009, 3:10 PM

Dear Supervisors,

I contacted attorney Mark Pollock to represent me regarding mitigation with the Pavitts. Mr. Pollock contacted their attorney, Mr. Meibeyer, who claimed that Mr. Pollock could not represent me because of a conflict of interest. Mr. Meibeyer told him that the Pavitts assert that they contacted Mr. Pollock prior to purchasing their Silverado Trail property. Mr. Pollock has no information in his files, or any notes or billings for the Pavitts, and does not remember the content of any conversation with them. After further conversations between the attorneys, it was not possible to reach an agreement.

Hoping an agreement could have been made, I waited until this point to send the **attached letter** to you, regarding critical information I have had for two weeks. The original 35 pages of supporting documents are also attached to this email, in case you want to view them.

Sincerely,

David Clark

Napa County Board of Supervisors  
1195 Third Street, Room 310  
Napa, CA 94559

April 9, 2009

Re: Appeal of Planning Commission Denial of Variance Request #P06-01427-VAR

Dear Supervisors,

I have new information that should cause you to reconsider your decision to grant the Pavitt variance. Please reopen the appeal hearing so that this can be considered, and a new vote taken. If you do grant this variance to allow them to make wine in their ag building, located so far from the required setback and so near to Silverado Trail, do so with the conditions that tours, tastings, and signage, which are of a retail nature and encouraged by the proximity to the road, are not permitted. The new information makes it clear that compliance cannot be expected from the Pavitts; it will only be possible to monitor tours if none at all are allowed. These conditions are rationally appropriate for the nexus of this variance.

At the appeal, their attorney firmly stated, **"The Pavitts would not have built this building intentionally that close to the road, and then later on come in for a variance. That just shocks the imagination that this is a calculated attempt."** Please remember this statement as you read the following information from the public records of the Ross, CA, Planning Department, involving Suzanne Phifer-Pavitt and her husband. The relevancy of the parallels and implications to the Pavitt's current application are undeniable.

**New Information**

12/22/94

Suzanne Phifer filed a **VARIANCE APPLICATION** for an addition to a house she had recently purchased in Ross, CA., citing that **"because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification."** The variance involved enlarged living areas, and setbacks.

01/05/95

Ross Town Council Project Summary from the Town Planner commented, **"If this project is approved, there seems to be little point to zoning ordinance regulations.** This parcel was recently acquired by the property owner. The Town of Ross has historically recognized that **potential buyers should select residences which meet their needs, rather than residences which require approval of extensive variances."** The application was continued.

04/13/95

Ross Council Design Review of revised application by Suzanne Phifer, with reduced floor areas was denied 4 to 1.

06/08/95

Ross Council Design Review of Phifer changes: Planner and Councilmembers were "concerned about the future use of the storage area in the attic."

06/12/95

Special Meeting of the Ross Town Council, Design Review of Phifer: Council approved the variance with conditions, including, "The attic may not be converted into finished floor area or used for any purposes other than storage. No windows shall be permitted. Plans submitted for a building permit shall not include any elements to allow the use of this area for anything other than storage." Another condition was, "No changes from the Council approved plans shall be permitted without prior approval of the Town of Ross." A letter was sent to Ms. Phifer "outlining the conditions of approval so that there would be no misunderstanding."

1/11/96

Ross Town Council: Suzanne Phifer asked what she needed to do to have the "Stop Work" order removed from her property; she felt she was complying with the approved Building Department plans. Mayor Goodman informed Ms. Phifer that the project must comply with the Council approved plans, or the "Stop Work" order would remain on the site, and that **neighbors are concerned about the project**. It was stressed that the attic area was not to be used for living area. Ms. Phifer said she understood, and that she had **"operated in good faith."** She felt that she was complying with the plans, but the mayor noted that "there is framing for an outside doorway showing every intention of it being used for something other than storage."

12/14/96

Ross Town Council: Suzanne Phifer requested permit extension to 4/16/97; approved.

09/19/2001

Town of Ross letter to S. Phifer, regarding **Violation of Conditions of Approval, and Failure to Obtain a Building Permit**: Notice was given by the Town Planner that "...extensive work had been performed, and was being performed, to the attic area without any planning or building department approvals. While we issued you a red-tag to stop any further construction and I faxed your husband the planning restrictions for your attic, you have continued construction activity without Town approval." Abatement and nuisance proceedings were declared, and all interior modifications to the attic were ordered removed.

10/18/2001

**Nuisance Abatement Order for S. Phifer-Pavitt**: "...after receiving a complaint from a neighbor, Mr. Broad and Mr. Jarjoura, the Public Works Director, visited the site and found that the attic was sheet rocked, had skylights, cabinets were installed and it had a bathroom and French doors had been installed, providing access into the attic. This work was done after the project had been finalized." Mrs. Phifer-Pavitt said "...she thought her only limitation was that she could not have a stairway from the house to the attic area." Mr. Pavitt apologized, and said he was not aware of the past history nor of the due process. The Pavitt's attorney requested another variance. The Council responded that the conditions were explicit, and there could be no new variance. One Councilmember commented, "It is unfortunate that Mrs. Pavitt did not share the prohibitions on the land with Mr. Pavitt. It is hard to be sympathetic when she was aware of specific letters and records but looked the other way." The Pavitts were given until December 13 to return the attic to unfinished condition, after which a fee of \$500 per day would be assessed.

12/13/2001

Ross Town Council: after “substantial progress” in removing improvements, the Pavitts requested an extra month to finish, including removing the toilet, which was wanted for the workmen still there. Council granted the request.

4/16/2007

Town of Ross Residential Building Report for present owner of former Pavitt home, states that the attic toilet and plumbing, carpeting, and French doors to the attic all require removal.

4/2/2008

**Napa County Planning Commission Hearing for Pavitt Variance and Winery Permit:**

The Pavitt’s attorney said, “The argument has been made, well, the Pavitts could have chosen to put the winery somewhere else before if they had, if they had not built their home there, then they could have put the winery...but again that kind of situation assumes that at the time they were aware of the 600’ setback, and aware of those issues, and there was a calculated choice. Now, frankly, these are, from my experience in this valley there’s almost a painful unawareness of some of what all of us, all of us, would know immediately. If they had come to someone like me in the beginning, we wouldn’t have this issue. There is an inadvertence that’s just painful to look at in retrospect. **But it was in good faith. It, it wasn’t like some people who buy property knowing that they’re going to be able to argue for a variance.**”

But from the Ross material, it appears that this was exactly what Suzanne Pavitt did in Ross, and she and her husband did in Calistoga. The Pavitts wanted a winery and knew of the 600’ setback before they bought the property, according to a sworn declaration. Mrs. Pavitt had experience with variances, setbacks, and attorneys before she and her husband bought their Calistoga property in 1999, and the language she used in her 1994 Ross variance application is almost identical to that used in Napa County’s Variance Code. In Ross in 2001, the Pavitts even asked for a second variance - after the fact - to legalize their remodel, but were told “no”. They have used a similar approach in Calistoga since 2000, permitting and constructing a “barn”, then requesting a variance to use it as a winery. Again, they should be told “no”.

From the beginning, the Pavitt’s applications, letters, discussions, and oral presentations have made a major issue of the “failure” of Napa County to inform them of the winery setback requirements. The Pavitts have represented themselves as uninformed, and unfamiliar with the processes, and as victims of a “disconnect” between County departments. During the voting at the Board’s appeal hearing, the responsibility of County departments was an important part of Supervisor Dodd’s comments; he said County staff did everyone a disservice, and that he was upset. It’s clear from the record that this affected his vote, and perhaps that of others. The Ross material is relevant because it shows that the Pavitts’ claims of ignorance and inexperience with respect to setback and variance processes are untrue. Furthermore, the details of the Ross situation require one to question the extent of, or possible reasons behind, the claimed “disconnect” between County departments.

Additionally, the Ross records are relevant to expectations of future compliance by the Pavitts with any variance granted, or conditions imposed upon them. In Ross, they disregarded conditions that were clearly communicated to them, they built without permits, they continued construction even when red-tagged, and they apparently didn’t complete corrections as ordered. In Calistoga, the Pavitts have already been cited in 2002, 2004, and 2007 for permit

violations. Mrs. Pavitt said, "With regards to the violations mentioned in the staff report, at the time these occurred we did not even live in the Napa Valley." Yet a few minutes earlier she had said, "We are full time residents of Calistoga since 2000."

### **Board Decision**

At least two alternate, WDO complying sites were recognized by the County planning professionals. Opportunities in a cave were also mentioned in the reports, and do exist. Just as the Board relies upon and doesn't debate the **facts** provided by County's legal counsel, the **facts** from the planners are provided as the basis for Board decisions. That the sites may be hard for a layperson to see, less convenient because of construction already in place, or falsely dismissed by the Pavitt's attorney, makes them no less factual or legally sound. Given the **facts** of alternate sites, this property is not deprived of the privilege of building a winery; given the legal language of the variance code, the only possible decision is to deny the variance.

The County's legal staff report prepared for the appeal explains that the variance findings cannot be met, and that Pavitt's prior legal argument that "62 precedents existed" for granting a variance do not apply here, as those examples involve pre-1990 buildings and there was no such structure on the Pavitt property.

Blame has been put on County departments for letting this setback situation arise. Changes in procedure are now relied upon to prevent this scenario, but Supervisor Dillon said she already has another similar situation within the setback. Now, any ag building could use Pavitt as precedent for a setback variance, as will any steep property. This goes against the intent of the WDO, and against the welfare of the County, which is not allowed under the variance findings. To grant this one variance - for which there is no precedent according to the Board's own legal staff report - actually creates a precedent and grants a special privilege that is not allowed by the variance ordinances. Granting this variance will create many legal challenges.

This is not an anti-winery issue. Instead, it's about County's ability to enforce its regulations, and the expectations of residents that they will be protected by that enforcement of the law. Why have a County Planning Department, if applicants can get what they want by ignoring the law and misrepresenting the truth during the process?

This variance should not be granted - to do so will set a new, unique precedent which threatens the WDO. If you do grant it, then in return attach strict conditions so that nobody will attempt this again, as the Commission indicated they were about to do at their first vote, before they reversed to deny. Supervisor Dodd was on the right track when he suggested to me that the Pavitt's application be delayed by County for five years. This would be within the rational nexus of this variance application.

Sincerely,

David Clark  
4704 Silverado Trail

TOWN OF ROSS  
PLANNING DEPARTMENT  
P.O. Box 320, Ross, California 94957  
(415) 453-7446

RECEIVED

DATE 12-22-94

TOWN OF ROSS

VARIANCE APPLICATION / Design Review

+ Design Review 600"  
Filing Fee \$400, plus the cost for time spent by the Town Planner, Town Engineer and other Town Consultants. The cost for their time will be separately billed to applicants.

A completed application accompanied by the \$400 filing fee is necessary for consideration of the variance request.

Applicant JAMES McDONALD Phone/Bus 415-454-5227 Res. 415-454-5822  
Applicant Address 292 REDHILL AVE. SAN ANSELMO P.O. Box \_\_\_\_\_  
City/Zip SAN ANSELMO CA 94960 Project Address 24 WOODSIDE WAY  
Assessor's Parcel # 73-231-13 Zoning District R1-B6

Legal Owner of Parcel A. SUSANNE PHIFER Phone/Bus 714-645-7188 Res 721-7318  
Address 24 WOODSIDE WAY P.O. Box 573  
City/Zip ROSS

**Variance Request**

Request for variance from the strict application of the Zoning Ordinance to permit the following:  
CONSTRUCT NEW M.BEDRM/BATH ADDITION TO WITHIN 6'-6" OF SIDE  
PROPERTY LINE & EXCEEDING REQUIRED F.A.R.

**Lot Coverage and Floor Area Ratio**

a. Lot Size	<u>6560 sq ft</u>		
b. Existing Floor Area (Incl. decks, balconies, porches, sheds & garages)	<u>1603 sq ft</u>	<u>= 14.7</u>	
c. Floor Area Added	<u>607 sq ft</u>		
d. New Floor Area	<u>2273 sq ft</u>		
e. Existing FAR (b/a)x100	<u>24.4</u>	%	
f. New FAR (d/a)x100	<u>34.6</u>	%	
g. Allowable FAR	<u>20.0</u>	%	
h. Existing Coverage (Land area covered by all buildings, incl. all projections)	<u>982 sq ft</u>		
i. New Coverage	<u>1058 sq ft</u>		
j. Existing Lot Coverage(h/a)x100	<u>14.9</u>	%	
k. New Lot Coverage(i/a)x100	<u>16.1</u>	%	
l. Allowable Lot Coverage	<u>20.0</u>	%	

**Mandatory Findings**

In order for a Variance to be granted, four mandatory findings must be made. Please describe the basis for each of these findings below.

Special Circumstances. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Application Statement

Describe what special circumstances are applicable to the property that prevent conformance to pertinent zoning regulations. THE NARROW STEEPLY UP SLOPING LOT DOES NOT PERMIT A REASONABLE ADDITION WHILE CONFORMING TO THE REQUIRED SETBACKS & F.A.R.

Substantial Property Rights. That the Variance is necessary for the preservation and enjoyment of substantial property rights.

Describe why the project is needed. PRESENTLY THIS HOME HAS A TOTAL LIVING AREA OF 1385 SQ. FT. THE OWNERS ARE IN NEED OF ADDITIONAL SPACE. WITHOUT THIS ADDITIONAL SPACE THEY WOULD BE REQUIRED TO LIVE IN A CROWDED CONDITION. IF PERMITTED TO EXPAND THE WOULD STILL CONTINUE TO BE ONE OF THE SMALLEST HOMES IN THE NEIGHBORHOOD.

Public Welfare. That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the neighborhood in which said property is situated.

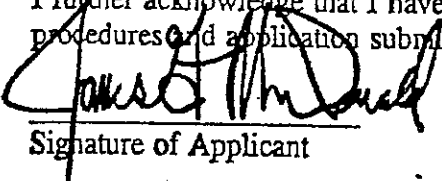
Describe why the Variance will not be harmful to or incompatible with other nearby properties. MOST OF THE HOMES IN THE AREA ARE COMPARABLE OR LARGER. THE OWNERS HAVE REVIEWED THEIR PROJECT WITH THEIR NEIGHBORS WHO ARE SUPPORTING THIS APPLICATION.

Special Privilege. That the granting of this Variance shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

Why is the Variance not a special privilege? MOST OF THE HOMES IN THE AREA ENJOY THE SAME PRIVILEGE WITH LARGER HOMES ON SMALL LOTS AND LESSER SETBACKS

I HEREBY CERTIFY under penalty of perjury that I have made every reasonable effort to ascertain the accuracy of the data contained in the statements, maps, drawings, plans and specifications submitted with this application and that said information is true and correct to the best of my knowledge and belief. I further consent to any permit issued in reliance thereon being declared by the Town Council to be null and void in the event that anything contained therein is found to be erroneous because of an intentional or negligent misstatement of fact.

I further acknowledge that I have read the Variance Fact Sheet and understand the Variance processing procedures and application submittal requirement

  
Signature of Applicant

22 DEC 94

Date

PLEASE NOTE:

THE VARIANCE APPROVAL EXPIRES 180 DAYS AFTER THE GRANTING THEREOF.

Agenda Item No. 20.

TO: Mayor and Ross Town Council  
FROM: Gary Broad, Town Planner  
RE: Phifer Variance and Design Review Request  
DATE: January 5, 1995

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**I. PROJECT SUMMARY**

Owner: A. Suzanne Phifer  
Property address: 24 Woodside Way  
A. P. No.: 72-231-13  
Zoning: R-1:B-6 (Single Family Residence, 6,000 sq. ft. min.)  
General Plan: Medium Density (6 - 10 units/acre)  
Lot Size: 6,560 sq. ft.

**II. PROJECT DESCRIPTION**

Variance and design review to allow additions and modifications to an existing two story residence including the following: 1) conversion of an existing lower story storage area into a bedroom; 2) conversion of an existing upper story storage area into a library and expansion of an existing deck area within the front yard setback (25 feet required, 23 feet proposed) and side yard setback (15 feet required, 6 feet proposed); 3) construction of an additional 556 square foot upper story master bedroom/bath addition. Some of the addition will be a 3rd story (2 permitted) and be 32 feet in height (30 feet permitted.) A proposed terrace around the upper level will encroach into the side yard setback (15 feet required, 1 foot proposed.)

Present Lot Coverage	14.9%	
Proposed Lot Coverage	16.1%	(20% permitted)
Present Floor Area Ratio	24.4%	
Proposed Floor Area Ratio	34.6%	(20% permitted)

The existing residence is nonconforming in side yard setback. The parcel does not provide the required two off-street parking spaces (one covered.)

**III. DISCUSSION**

This project proposes extensive modifications to an existing residence. The most extensive modification would be the addition of an upper level above the existing two levels of living area.

This project will significantly increase the nonconforming nature of this parcel. As proposed, the project will add a level constituting a third story, exceed the permitted 30 foot height limit, and raise the floor area ratio from 24.4% to 34.6%. If this project is approved, there seems to be little point to zoning ordinance regulations.

This parcel was recently acquired by the property owner. The Town of Ross has historically recognized that potential buyers should select residences which meet their needs, rather than residences which require approval of extensive variances.



General Plan Land Use policy LU-4 related to design also states the following:

Overall Town Character. The "small town", low -density character of Ross shall be retained by:

- e. minimizing overbuilding of existing lots. Minimizing overbuilding also helps to maintain moderate income housing.

The principal means through which overbuilding of lots is regulated is through adhering to floor area ratios and lot coverage limitations. A maximum floor area ratio of 20% obviously places a limitation on the potential amount of development possible on a small lot. However, General Plan policy LU-4 and the floor area ratios applicable to all parcels zoned R-1:B-6 have been adopted to regulate parcel development, regardless of lot size. A significant increase in the nonconformity of this parcel is therefore not recommended by staff.

Phiferrp/fileA

the applicant needed extra space and had received enthusiastic support from the neighbors. Doctor Malcolm gave a brief history of the property stating that he needed to repair dry rot damage and this was an appropriate time to do the entire work. Town Planner Broad felt the proposed additions could improve the visual appearance without adversely impacting surrounding properties.

Councilmember Goodman remembered a similar variance in the Winship area in 1988 which he did not support and said that although he was sympathetic to the applicant, it would be inconsistent if he voted for this application. He was concerned about adding too much bulk and density to the neighborhood.

Councilmember Brown said that she was not opposed and understood the problem the applicant had with drainage and his need to complete all the work at one time.

Councilmember Scott agreed and added that it would be a hardship not to remedy the situation while they are repairing the drainage problem.

Councilmember Reid moved approval with the following findings and conditions:

#### FINDINGS

1. It is consistent with the General Plan and Zoning Ordinances of the Town of Ross.
2. This project will not grant a special privilege; other parcels have been permitted variances due to existing site conditions.
3. The project will not be detrimental to the public welfare nor injurious to other property in the neighborhood.
4. This project is a CEQA Class 5 categorical exemption, minor alterations in land use limitations.

#### CONDITIONS:

1. A smoke detector shall be provided as per the Building Department.
2. The Town Council reserves the right to require additional landscape screening for up to two years from project final.
3. The existing screening between this parcel and Loma Linda Avenue must be retained by applicant.

This was seconded by Councilmember Brown and passed with four affirmative votes. Councilmember Goodman voted against.

#### 19. DESIGN REVIEW AND VARIANCE.

- 1/12/45
- a. Suzanne Phifer, 24 Woodside Way, AP 73-231-13, R-1:B-6 (Single Family Residence, 6,000 sq. ft. minimum) Request is to allow additions and modifications to an existing two story residence including the following:  
1) conversion of an existing lower story storage area

into a bedroom; 2) conversion of an existing upper story storage area into a library and expansion of an existing deck area within the front yard setback (25 feet required, - 23 feet proposed) and side yard setback (15 feet required, 6 feet proposed); 3) construction of an additional 556 square foot upper story master bedroom/bath addition. Some of the addition will be a 3rd story (2 permitted) and be 32 feet in height (30 feet permitted.) A proposed terrace around the upper level will encroach into the side yard setback (15 feet required, 1 foot proposed.)

Lot Area	6,560 sq. ft.
Present Lot Coverage	14.9%
Proposed Lot Coverage	16.1% (20% permitted)
Present Floor Area Ratio	24.4%
Proposed Floor Area Ratio	34.6% (20% permitted)

The existing residence is nonconforming in side yard setback. The parcel does not provide the required two off-street parking spaces (one covered.)

Ms. Phifer stated that she had recently been relocated to the Bay Area and purchased this house which is in a state of disrepair and was vacant for two years. She said that the neighbors were supportive of the proposed project. She felt that building in the rear would not be feasible and they did not wish to remove the Redwood in the center of the yard.

Town Planner Broad said that he had spoken to several potential purchasers over the past two years and explained to them that historically Ross has recognized that potential buyers should select residences which meet their needs, rather than residences which require approval of extensive variances. He felt approval of the application would make the Town's FAR limitations meaningless. He further stated that this lot could be defined as a hillside lot making the FAR even more above the allowable.

Councilmember Reid said that the proposed FAR makes approval very difficult.

Councilmember Scott pointed out that there is no adequate off-street parking and no covered parking. He reminded the Council that it denied a project about 100 feet away because it did not have sufficient off-street parking.

Mr. Phifer said there is not enough livable space and they cannot go out on either side of the building. She did not feel they could create parking spaces - she showed pictures of the area.

Councilmember Brown said that when visiting the site she noted that the parking was very limited on the street. She also expressed concern over the FAR. After further discussion, Councilmember Brown moved that the matter be continued to next month so that the applicant could meet with the Town Planner and her architect in an effort to submit an alternate plan. This was seconded by Councilmember Goodman and passed unanimously.

Mayor Barry said this matter will be placed on the agenda next month but if the applicant is not prepared, it may be continued to the following month.

# JAMES MCDONALD & ASSOCIATES ARCHITECTURE & PLANNING

JAMES G. MCDONALD W. ROBERT BAZZETTA A. RICHARD PULLEN

Susanne Phifer  
24 Woodside Way #573  
Ross, Ca., 94957

27 February 1995-

Dear Ms. Phifer:

As we have been discussing your project over the past weeks we have now completed the changes on the plans that will now permit you to resubmit your request back to the Town Council.

Below is a list of changes that have resulted in some dramatic statistical results. Those changes are as follows:

1. Lower Floor- A: Abandoned the Lower Floor Storage Area use thereby reducing the Floor Area from 621sf to 308 sf.. As before we are also anticipating the removal of the Arbor (128sf).
2. Main Floor- A: Removed the planned Bay Windows (36sf)  
B: Reduced the size of the deck from 166sf to 159sf..
3. Upper Floor- A: Reduced the Mstr. Bdr. Suite from 556 sf to 374 sf.  
In this change we have been able to respect the 'sideyard setback of 15' in lieu of the former proposed 6'-6"..  
B: Omitted the fireplace and chimney on north side.  
C: Omitted the skylight on the roof.
4. Recap Results  
A: Reduced the overall scale of the Upper Floor Addition respecting all required setbacks.  
B: Reduced the Lot Coverage from 16.1% to 15.9%  
C: Reduced the FAR from 34.6% to 26.3%  
D: Reduced the overall Living Area of the home from 1941sf to 1728 sf..  
E: Omitted the fireplace  
F: Omitted the skylight  
G: Reduced the size of the deck.

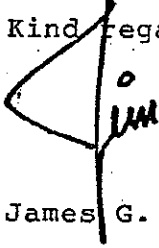
Concerning all of these dramatic changes I would suggest you attempt to personally review all of these changes with the Council members so that they can be aware prior to the next meeting date.

**PLANNER**

## Phifer Changes (continued)

Please call if I can assist you in any way otherwise I will plan to attend the next Council meeting. Please let me know when that will be.

Kind regards,

A handwritten signature in dark ink, appearing to be 'JGM', written over a vertical line that extends from the 'Kind regards,' text.

James G. McDonald

JGMc/bb

TOWN OF ROSS  
PLANNING DEPARTMENT  
P.O. Box 320, Ross, California 94957  
(415) 453-7446

### VARIANCE APPLICATION

Filing Fee \$400, plus the cost for time spent by the Town Planner, Town Engineer and other Town Consultants. The cost for their time will be separately billed to applicants.

A completed application accompanied by the \$400 filing fee is necessary for consideration of the variance request.

Applicant A. Suzanne Phifer Phone/Bus \_\_\_\_\_ Res (415) 721-7318  
Applicant Address 24 Woodside Way P.O. Box 573  
City/Zip Ross 94957 Project Address 24 Woodside Way  
Assessor's Parcel # 73-231-13 Zoning District R-1: B-1c

Legal Owner of Parcel A. Suzanne Phifer Phone/Bus \_\_\_\_\_ Res (415) 721-7318  
Address 24 Woodside Way P.O. Box 573  
City/Zip Ross 94957

#### Variance Request

Request for variance from the strict application of the Zoning Ordinance to permit the following:

Variance And Design Review to Allow Modifications to An existing two story Residence including the following: 1) To Bump out Existing Entry 2' From Existing (25 feet required, 29 feet Proposed), 2) Add Two Bay Windows to Second Floor, 3) Convert Lower Existing Storage to Living Area, 4) Replace Existing Plastic Roof with Gable Roof - 29'6" proposed 30' Permitted.

#### Lot Coverage and Floor Area Ratio

a. Lot Size	<u>6560</u> <sup>sq ft</sup>		
b. Existing Floor Area (Incl. decks, balconies, porches, sheds & garages)	<u>1435</u> <sup>sq ft</sup>	h. Existing Coverage (Land area covered by all buildings, incl. all projections)	<u>14.9%</u> <sup>977</sup> <sup>sq ft</sup>
c. Floor Area Added	<u>202</u> <sup>sq ft</sup>	i. New Coverage	<u>34</u> <sup>sq ft</sup>
d. New Floor Area	<u>1498</u> <sup>sq ft</sup>	j. Existing Lot Coverage(h/a)x100	<u>14.9</u> %
e. Existing FAR (b/a)x100	<u>21.9</u> %	k. New Lot Coverage(i/a)x100	<u>15.4</u> %
f. New FAR (d/a)x100	<u>22.8</u> %	l. Allowable Lot Coverage	<u>20</u> %
g. Allowable FAR	<u>20</u> %		

#### Mandatory Findings

In order for a Variance to be granted, four mandatory findings must be made. Please describe the basis for each of these findings below.

Special Circumstances. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Agenda Item No. 25.

TO: Mayor and Ross Town Council  
FROM: Gary Broad, Town Planner  
RE: Phifer Variance and Design Review Request  
DATE: April 7, 1995

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I. PROJECT SUMMARY

Owner: A. Suzanne Phifer  
Property address: 24 Woodside Way  
A. P. No.: 72-231-13  
Zoning: R-1:B-6 (Single Family Residence, 6,000 sq. ft. min.)  
General Plan: Medium Density (6 - 10 units/acre)  
Lot Size: 6,560 sq. ft.

II. PROJECT DESCRIPTION

Variance and design review to allow additions and modifications to an existing two story residence including:

a.) Conversion of an existing upper story covered storage area into a library and expansion of an existing deck from 90 to 154 square feet within the front yard setback (25 feet required, 23 feet proposed) and side yard setback (15 feet required, 9 feet proposed.) A bay addition is proposed 5 feet from the north side property line (15 feet required.)

b.) Construction of an additional 374 square foot upper story master bedroom/bath addition. The addition will reach 32 feet in height (30 feet permitted) as measured from existing grade. A proposed terrace around the upper level will encroach into the side yard setback (15 feet required, 1 foot proposed.)

Lot Area	6,560 sq. ft.
Present Lot Coverage	14.9%
Proposed Lot Coverage	15.9% (20% permitted)
Present Floor Area Ratio	24.4%
Proposed Floor Area Ratio	26.3% (20% permitted)

The existing residence is nonconforming in side yard setback. The parcel does not provide the required two off-street parking spaces (one covered.)

III. DISCUSSION

This project proposes extensive modifications to an existing residence. The most extensive modification would be the addition of an upper level above the existing two levels of living area.

This project was continued from the January Town Council meeting to allow the project proponents to rework their submittal in an effort to address issues raised at the January meeting.

This project has been improved from the earlier submittal. In particular, the proposed master bedroom upper level has been reduced in size by over 180 square feet. According to the project

architect, the proposed floor area has been reduced from the earlier submittal's 34.6% down to this proposal's 26.3%.

The project proponents have also created more usable parking spaces in the area in front of their residence in an effort to address council concerns regarding parking.

Part of the reduction in floor area has been achieved through keeping the lower level storage area unfinished, rather than converting it to finished space as occurred in the first proposal. It should be noted that the project architect incorrectly counted this storage area as existing floor area. The existing floor area, without including this unfinished storage space, would be 21.6%. The proposed floor area is 26.3%.

I am still not satisfied, from a design perspective, with the solution of adding another level of living area creeping up the hillside. Nor am I supportive of the proposed jump in floor area. At this juncture, I would recommend either that the council retain an independent architect at the applicant's expense to review these plans and make recommendation to the council, or else deny the application based on the proposed increased nonconforming situations and the proposed overbuilding.

PhiferR2/fileA



Councilmember Reid felt that the design is better than the previous plan but he could not support the increase in the FAR.

~~Councilmember Brown felt that the project was too massive.~~

Councilmember Barry agreed.

Councilmember Scott felt that the design was excellent and supported the application.

After consideration, Councilmember Barry moved denial of the application based on the findings in the staff report and the above-mentioned concerns, seconded by Councilmember Reid and passed with four votes. Councilmember Scott voted against.

25. DESIGN REVIEW AND VARIANCE.

A. Suzanne Phifer, 24 Woodside Way, AP 73-231-13, R-1:B-6 (Single Family Residence, 6,000 sq. ft. minimum)

Variance and design review to allow additions and modifications to an existing two story residence including:

- a. Conversion of an existing upper story covered storage area into a library and expansion of an existing deck from 90 to 154 square feet within the front yard setback (25 feet required, 23 feet proposed) and side yard setback (15 feet required, 9 feet proposed.) A bay addition is proposed 5 feet from the north side property line (15 feet required.)
- b. Construction of an additional 374 square foot upper story master bedroom/bath addition. The addition will reach 32 feet in height (30 feet permitted) as measured from existing grade. A proposed terrace around the upper level will encroach into the side yard setback (15 feet required, 1 foot proposed.)

Lot Area	6,560 sq. ft.
Present Lot Coverage	14.9%
Proposed Lot Coverage	15.9% (20% permitted)
Present Floor Area Ratio	24.4%
Proposed Floor Area Ratio	26.3% (20% permitted)

The existing residence is nonconforming in side yard setback. The parcel does not provide the required two off-street parking spaces (one covered.)

Mr. Chip Morris presented the plans and explained that when architect, Jim McDonald, submitted the plans he did not include all the FAR. He since recalculated the FAR.

Mr. Morris said that at the previous meeting, the Council's concerns were FAR and parking and he felt that he had addressed these concerns by downscaling the addition and adding two parking spaces.

Town Planner Broad said that the design had improved; however, he was concerned about the addition of another level, the high FAR and he did not see the hardship. He said that the Council could retain an independent architect to review the plans.

Mrs. Garril Page of Shady Lane said she was sympathetic to the applicants because she felt that the architect had not been helpful with the application process. She said that ~~when this occurs in other towns/cities, such an architect is~~ not invited to submit applications.

Mr. Bob Cameron of 26 Woodside said all the neighbors supported the plans.

Councilmember Reid felt that the configuration of the lot was a hardship. He asked that the FAR be reduced and favored retaining an independent architect.

Ms. Phifer said that they had retained a second architect and felt that the design was not going to change because of the topography of the lot.

Councilmember Barry suggested that the applicants just fix up the house without adding on.

Councilmember Scott did not feel that another architect would improve the numbers. He felt it was a problem lot and the remodeling would be a benefit to the neighborhood.

Mayor Goodman said that this is a classic example of an old summer house. He said the applicants were having such difficulty because it was never meant to be made any bigger.

Mayor Goodman said that a bedroom/nursery could be added to the back area. He said that the Council cannot keep adding more bedrooms because it will change the diversity of the community. He added that the applicants had not addressed the off-street parking issue.

Ms. Phiffer said that even with the addition, it would still remain one of the smaller homes in Ross.

Councilmember Scott moved approval, seconded by Councilmember Barry and the motioned failed to pass with the following vote: AYES: Councilmember Scott. NOES: Mayor Goodman, Councilmembers Reid, Brown and Barry.

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26. DESIGN REVIEW AND VARIANCE.

~~Kurt and Tamra Mobley, 140 Lagunitas Avenue, AP 73-201-13, R-1:B-A (Single Family Residence, One acre minimum) Variance and design review to allow additions and modifications to an existing residence including the following: 1) construction of a new entry and entry porch on the south elevation; 2) conversion of the existing two-car carport into a family room; 3) construction of a new two-car attached garage on the west end of the residence with a master bedroom suite/terrace above; 4) kitchen addition to the north elevation with a basement addition below; and 5) breakfast room addition to the north elevation with a bedroom above. The existing driveway will be relocated from the east side of the site to the western portion.~~

~~The proposed additions and modifications conform with all zoning ordinance requirements. A variance is required because the existing residence is nonconforming in height (37 feet existing, 30 feet permitted.)~~

Agenda Item No. 21b.

TO: Mayor and Ross Town Council  
FROM: Gary Broad, Town Planner  
RE: Phifer Variance and Design Review Request  
DATE: May 5, 1995

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I. PROJECT SUMMARY

Owner: A. Suzanne Phifer  
Property address: 24 Woodside Way  
A. P. No.: 72-231-13  
Zoning: R-1:B-6 (Single Family Residence, 6,000 sq. ft. min.)  
General Plan: Medium Density (6 - 10 units/acre)

II. PROJECT DESCRIPTION

Variance and design review to allow additions and modifications to an existing two story residence including the following: conversion of existing lower story storage area into finished floor area, conversion of an existing covered patio with plastic roof to enclosed floor area with gable roof, addition of two bay windows to the second floor east elevation and addition of two entry bays to the main level east elevation. The additions will encroach within the north side yard setback (15 feet required, approximately 8 feet proposed.)

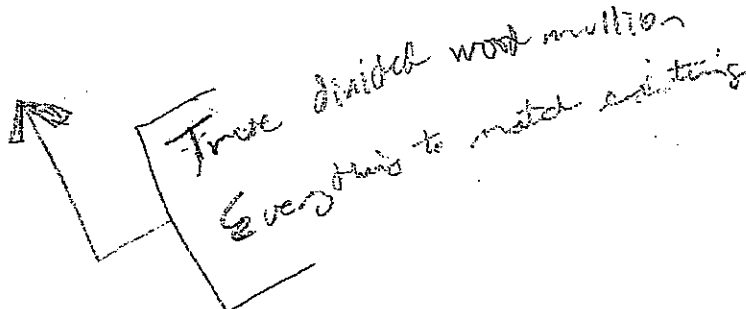
Lot Area	6,560 sq. ft.	
Present Lot Coverage	14.9%	
Proposed Lot Coverage	15.4%	(20% permitted)
Present Floor Area Ratio	21.9%	
Proposed Floor Area Ratio	22.8%	(20% permitted)

The existing residence is nonconforming in side yard setback. The parcel does not provide the required two off-street parking spaces (one covered.)

III. DISCUSSION

Plans for an extensive remodel of this residence were denied by the Town Council at the April council meeting. Revised plans have been submitted for council consideration that reduce the scope of the proposed remodel. In an effort to try to accommodate the applicant, this item was calendered for the May meeting. At present, however, the plans do not provide sufficient information and detail to clearly illustrate the proposal or allow for staff review of this item.

PhiferR3/fileA



allowed.) The fence will taper to 6 feet in height as it approaches Wellington Avenue. A 6 foot high fence segment will continue to the rear of the Wellington Avenue sidewalk for 16 feet and then extend 14 feet back toward the residence and a new gate. This project will not affect existing lot coverage or floor area ratios.

The existing residence and garage are nonconforming in side and rear yard setbacks.

Councilmember Reid moved approval of the application with the findings in the staff report and the following conditions:

- a. The fence shall be set back 1 - 2 feet from the rear of the Wellington Avenue sidewalk to allow landscaping to be planted in front of the fence to soften its appearance. Landscaping shall be provided along the rear yard fence.
- b. The Town Council reserves the right to require landscape screening for up to one year from landscaping installation.
- c. A street number must be posted (minimum 4 inches on contrasting background).

This was seconded by Councilmember Scott and passed unanimously.

- 5/11/95
- b. A. Suzanne Phifer, 24 Woodside Way, AP 73-231-13, R-1:B-6 (Single Family Residence, 6,000 sq. ft. minimum) Variance and design review to allow additions and modifications to an existing two story residence including the following: conversion of existing lower story storage area into finished floor area, conversion of an existing covered patio with plastic roof to enclosed floor area with gable roof, addition of two bay windows to the second floor east elevation and addition of two entry bays to the main level east elevation. The additions will encroach within the north side yard setback (15 feet required, approximately 8 feet proposed.)

Lot Area	6,560 sq. ft.
Present Lot Coverage	14.9%
Proposed Lot Coverage	15.4% (20% permitted)
Present Floor Area Ratio	21.9%
Proposed Floor Area Ratio	22.8% (20% permitted)

The existing residence is nonconforming in side yard setback. The parcel does not provide the required two off-street parking spaces (one covered.)

Mr. Chip Morris presented the plans on behalf of the applicant. He said he wished to add two entry bays that would function as doors.

Town Planner Broad said that he and Mr. Elias visited the site but were unable to make sense out of the plans at that time. Also, incorrect story poles were up. Although new plans were submitted to clarify the project, staff had not had time to review them. Mr. Broad said that he was not aware of the new storage level.

Councilmember Barry said that he favored the new plans; however, he felt that the staff should have adequate time to review them, prior to Council approval.

Councilmember Reid moved to continue the matter and that the renoticing fee of \$100 be waived, seconded by Councilmember Barry and passed unanimously.

Mayor Goodman asked Mr. Broad to work with the applicant. He added that he was surprised to see the new pitched roof as shown on the plans

- c. Ward and Melinda Ching, 102 Ivy Drive, AP 73-143-12, R-1:B-10. (Single Family Residence, 10,000 sq. ft. minimum). Variance and design review to allow the following alterations to an existing residence: 1) addition of a new entry and foyer within the front yard setback (25 feet required, 12 feet proposed); addition of a 35 square foot garage storage area within the front yard setback (17 feet proposed); and 3) addition of a 4 X 21 lower level expansion within the rear yard setback (40 feet required, 25 feet proposed.) Three new skylights are also proposed.

Lot Area	16,633 sq. ft.
Present Lot Coverage	15.9%
Proposed Lot Coverage	17.2% (20% permitted)
Present Floor Area Ratio	25.2%
Proposed Floor Area Ratio	26.5% (20% permitted)

The existing residence is nonconforming in front, side and rear yard setbacks.

David Kotzebue, AIA from Hank Bruce's office, submitted the plans to the Council.

Town Planner Broad stated that this is an unusually shaped lot at the end of the cul-de-sac; consequently, no other properties will be affected.

Councilmember Scott noted that all the neighbors had signed approval and added that the proposed changes would not be visible from the street.

After a brief discussion, Councilmember Reid moved approval with the findings in the staff report and the following conditions:

- The Town Council reserves the right to require additional landscape screening for up to one year from project final.
- Any new exterior lighting shall not create glare, hazard of annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
- Street numbers must be posted (minimum 4 inches) on contrasting background. A smoke detector shall be provided as required by the Building Department.

This was seconded by Councilmember Barry and passed unanimously.

Mayor Goodman reminded the applicant that any changes of these approved plans must come back for Council approval. The applicant indicated she understood this.

The existing residence is nonconforming in side yard setback. The existing garage is nonconforming in side and rear yard setbacks.

Councilmember Reid was concerned that there had been a change in the original plans. He noted that the storey poles had been blown down and he felt that the neighbors should be notified of the modified plans.

Dr. Cooper stated that they made the changes in response to the neighbors' concerns.

Councilmember Reid moved to continue the matter so that staff could review the revised plans. This was seconded by Councilmember Scott and passed unanimously.

19. DESIGN REVIEW.

Leslie Thornton, 57 Poplar Road, AP 73-313-05, R-1:B-7.5 (Single Family Residence, 7,500 sq. ft. minimum)

Design review to allow the construction of a 6 foot high redwood fence and gate extending 75 feet across the front of the property. The fence will be setback approximately 2 feet from the property line and located behind existing landscaping. This matter was withdrawn.

20. DESIGN REVIEW.

Gunther and Diane Bahrs, 3 Sir Francis Drake Boulevard, AP 73-273-38, R-1:B-7.5 (Single Family Residence, 7,500 sq. ft. minimum). Design review to allow the construction of a 6 foot high solid fence extending 50 feet across the front of the property. The fence will be setback approximately 6 feet from the sidewalk and located behind foliage and landscaping.

DESIGN REVIEW NO. 69. Councilmember Reid moved approval with the findings and conditions in the staff report:

- a. Fence shall be painted dark brown.
- b. A landscape plan to soften the appearance of the fence from Sir Francis Drake Boulevard shall be submitted for staff approval. Landscaping shall be permanently retained between the fence and the walkway to soften the appearance of the fence.
- c. The Town Council reserves the right to require additional landscape screening for up to two years from landscape installation.
- d. A street number shall be posted subject to Ross Public Safety Department approval (minimum 4 inches on contrasting background.)

This was seconded by Councilmember Brown and passed unanimously.

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AT 9:50 P.M., MAYOR GOODMAN CALLED FOR A RECESS AND THE MEETING RECONVENED AT 10:00. EVERYONE WAS PRESENT.

21. DESIGN REVIEW AND VARIANCE.

A. Suzanne Phifer, 24 Woodside Way, AP 73-231-13, R-1:B-6 (Single Family Residence, 6,000 sq. ft. minimum)

Variance and design review to allow additions and

modifications to an existing two story residence including the following: conversion of existing lower story storage area into finished floor area, conversion of an existing covered patio with plastic roof to enclosed floor area with gable roof, addition of two bay windows to the second floor east elevation and addition of two entry bays to the main level east elevation. The additions will encroach within the north side yard setback (15 feet required, approximately 8 feet proposed.)

Lot Area	6,560 sq. ft.
Present Lot Coverage	14.9%
Proposed Lot Coverage	15.4% (20% permitted)
Present Floor Area Ratio	21.9%
Proposed Floor Area Ratio	22.8% (20% permitted)

The existing residence is nonconforming in side yard setback. The parcel does not provide the required two off-street parking spaces (one covered.)

Mrs. Phifer gave a brief history of the application submittal.

Town Planner Broad had reservations about the application and was concerned about the future use of the storage area in the attic.

Councilmember Reid favored retaining an outside architect to review the plans.

Councilmember Brown was concerned about the storage area and also favored retaining an outside architect.

Councilmember Scott said that he was impressed with the efforts made by the applicants and their attempts to address the bulk of the house.

Mrs. Phifer said that the addition is not visible from the street and they had already retained two architects. She asked if they didn't change anything and just repaired the roof, would the Council approve the plan?

The staff felt that a plan should first be submitted.

After consideration, Councilmember Barry moved to approve the extension of the current roof design, subject to staff approval. This was seconded by Councilmember Brown.

Councilmember Reid felt the staff should have complete plans to review prior to approval. He felt the Council should reconsider this motion and allow staff to get findings and conditions. He added that the deck had not been noticed.

Councilmember Barry withdrew his motion, Councilmember Brown her second.

Councilmember Barry then moved to continue the matter to the special meeting of Monday, June 12, 1995. The applicant must submit drawings of deck and show height of the roof. Staff must submit a report to the Council. This was seconded by Councilmember Scott and passed unanimously.

#### VARIANCE AND DESIGN REVIEW.

~~Eric and Christine Lindner, 2 Fallen Leaf Avenue, AP 72-071-12 and 13, R-1:B-10 and R-1: B-20 (Single Family Residence, 10,000 and 20,000 sq. ft. minimums). Variance and design review to allow modifications and alterations to an existing residence including the construction of a stairway addition~~

**MINUTES**  
**SPECIAL MEETING OF THE ROSS TOWN COUNCIL**  
**HELD JUNE 12, 1995**

1. 7:30 P.M. Roll Call.

Mayor Goodman opened the meeting with a call for the roll.  
Present: Mayor Goodman, Mayor Pro Tempore Reid,  
Councilmembers Scott, Brown and Barry, and Town Attorney  
Hadden Roth.

2. Posting of Agenda.

The secretary reported the agenda was posted according to  
Government Code.

3. DESIGN REVIEW AND VARIANCE.

A. Suzanne Phifer, 24 Woodside Way, AP 73-231-13, R-1:B-6  
(Single Family Residence, 6,000 sq. ft. minimum)

Variance and design review to allow additions and  
modifications to an existing two story residence including  
the following: conversion of existing lower story storage  
area into finished floor area, conversion of an existing  
covered patio with plastic roof to enclosed floor area with  
gable roof, addition of two bay windows to the second floor  
east elevation and addition of two entry bays to the main  
level east elevation. The additions will encroach within the  
north side yard setback (15 feet required, approximately 8  
feet proposed.)

Lot Area	6,560 sq. ft.
Present Lot Coverage	14.9%
Proposed Lot Coverage	15.4% (20% permitted)
Present Floor Area Ratio	21.9%
Proposed Floor Area Ratio	22.8% (20% permitted)

The existing residence is nonconforming in side yard  
setback. The parcel does not provide the required two off-  
street parking spaces (one covered.)

(This item was continued from the June 8, 1995, meeting.  
Town Planner Broad said that the plans were now complete and  
with Council approval building permits could be issued.

Several members of the Council were concerned that the  
storage area could be used for living space and they asked  
that this be clearly written into the conditions. Mayor  
Goodman asked specifically that no windows be installed in  
the storage area.

After some discussion, Councilmember Reid moved approval  
with the findings in the staff report and the following  
conditions:

- a. The Town Council reserves the right to require  
landscape screening for up to two years from project  
final.
- b. Any new exterior lighting shall not create glare,  
hazard or annoyance to adjacent property owners.  
Lighting shall be shielded and directed downward.
- c. The lower level deck may not exceed 18 inches from  
grade.
- d. A smoke detector shall be provided as required by the  
building department. This project shall comply with  
the requirements of the Town of Ross Public Safety  
Department.
- e. Final roof material shall be subject to the approval of  
the Town of Ross Planning and Building departments.
- f. The attic may not be converted into finished floor area  
or used for any purposes other than storage. No  
windows shall be permitted. Plans submitted for a  
building permit shall not include any elements to allow  
the use of this area for anything other than storage.
- g. No changes from the Council approved plans shall be  
permitted without prior approval of the Town of Ross.

VARIANCE  
# 1133  
Design Review  
# 7119

a prohibition  
L?



This was seconded by Councilmember Barry and passed unanimously.

Mayor Goodman asked that a letter be sent to Ms. Phiffer outlining the conditions of approval so that there would be no misunderstanding.

Mrs. Garril Page of Shady Lane suggested that Ms. Phiffer sign the letter indicating that she understood the conditions.

4. CONSIDERATION OF ZONING AMENDMENT.

The Council will determine whether the Council, sitting as the Planning Commission, will consider recommending the Council introduce an amendment to the Town of Ross Zoning Map. A rezoning of the following parcels from R-1:B-5A (Single Family Residence, 5-acre minimum lot area) to R-1:B-10 A (Single Family Residence, 10-acre minimum lot area) is proposed:

73-011-01 and 73-011-30; Upper Road West, Asia Alliance Finance and Investment Limited, owner  
73-011-08, 9 Upper Road West, Robert & Virginia Cary, owners  
73-011-28, Upper Road, Town of Ross, owner  
73-011-29, Upper Road, Marin Municipal Water District, owner  
73-011-26, Upper Road, Robert and Susanna Toigo et al, owners

Mr. Robert Cary of Upper Road referred to his letter of June 12, 1995, and said that he has two sites on his property each with a residence, built with permits, in 1950 and 1952. He asked that the records be corrected to reflect this. He said that both homes have been occupied since they were built.

Town Planner Broad said that the Assessor's Parcel Map lists the parcel as a single lot of record encompassing the entire acreage.

Mayor Goodman directed staff to look into this matter and work with Mr. Cary.

Ms. Terry Hennessy, assistant to Mr. Berg, asked that the letter from Stephen Butler, dated June 12, 1995, be made part of the record. She said it was their understanding the Council was sitting as a Planning Commission.

Town Attorney Hadden Roth said he wished to clarify a misunderstanding in Skip Berg's attorney's letter dated June 12, 1995. Mr. Roth said that the Council is not sitting as a Planning Commission but sitting as a Council to determine if they wish to proceed with the rezoning project.

Jeff Brinton, attorney for Mr. Weisel of Upper Road, said that he, too, would like to clarify statements made in Mr. Butler's letter. He said that he and Mr. Weisel have reviewed the Initial Study and the proposed Negative Declaration and concur with the analysis and conclusions of these documents. He said that it is

TO: Mayor and Ross Town Council  
FROM: Gary Broad, Town Planner  
RE: Phifer Variance and Design Review Request  
DATE: June 12, 1995

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## **I. PROJECT SUMMARY**

Owner: A. Suzanne Phifer

Property address: 24 Woodside Way

A. P. No.: 72-231-13

Zoning: R-1:B-6 (Single Family Residence, 6,000 sq. ft. min.)

General Plan: Medium Density (6 - 10 units/acre)

Lot Size: 6,560 sq. ft.

## **II. RECOMMENDATION/FINDINGS/CONDITIONS**

Approve with the following findings and conditions:

### **A. Findings**

1. This project will result in a minor increase in the conforming lot coverage and floor area ratio. The minor side yard setback encroachments that will result from this project will not be detrimental to surrounding parcels. The small increase in f.a.r. and lot coverage are warranted given the small lot area and the difficulty of upgrading the aesthetics of this residence.
2. This project is not a grant of special privilege. Other nonconforming parcels have been permitted variances which result in minor setback encroachments.
3. This project will not be detrimental to the public welfare nor injurious to other property in the neighborhood.
4. This project is consistent with the Town of Ross Zoning Ordinance and General Plan. This project is consistent with the Town of Ross design review ordinance and its purpose, findings and design criteria.
5. This project is a CEQA Class 5 categorical exemption, minor alterations in land use limitations.

### **B. Conditions**

1. The Town Council reserves the right to require landscape screening for up to two year from project final.
2. Any new exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
3. The lower level deck may not exceed 18 inches from grade.
4. A smoke detector shall be provided as required by the building department. This project shall comply with the requirements of the Town of Ross Public Safety Department.
5. Final roof material shall be subject to the approval of the Town of Ross planning and building departments.
6. The attic may not be converted into finished floor area or used for any purposes other than storage. \*
7. No changes from the Council approved plans shall be permitted without prior approval of the Town of Ross.

*No windows shall be*

*Plans submitted for a building permit shall not include any  
plan to contribute use within the ... as within the ...*



June 13, 1995

Suzanne Phifer  
P. O. Box 573  
Ross, CA 94952

Re: Variance and Design Review Application

Dear Suzanne:

The Ross Town Council approved your application last night with the following conditions:

1. The Town Council reserves the right to require landscape screening for up to two year from project final.
2. Any new exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
3. The lower level deck may not exceed 18 inches from grade.
4. A smoke detector shall be provided as required by the building department. This project shall comply with the requirements of the Town of Ross Public Safety Department.
5. Final roof material shall be subject to the approval of the Town of Ross planning and building departments.
6. The attic may not be converted into finished floor area or used for any purposes other than storage. No windows shall be permitted. Plans submitted for a building permit shall not include any elements to allow the use of this area for anything other than storage.
7. No changes from the Council approved plans shall be permitted without prior approval of the Town of Ross.

Please feel free to call me at 453-7446 if I can be of assistance.

Sincerely,

Gary Broad  
Town Planner

**MINUTES**  
**REGULAR MEETING OF THE ROSS TOWN COUNCIL**  
**HELD JANUARY 11, 1996**

1. 7:00 P.M. Roll Call.

Mayor Goodman called the meeting to order at 7:05 P.M.  
Present: Mayor Goodman, Mayor Pro Tempore Reid,  
Councilmembers Brown, Scott and Barry.  
Absent: Town Attorney Hadden Roth.

2. Posting of Agenda.

The secretary reported the agenda had been posted according to Government Code.

3. Minutes.

The Minutes of the December 14, 1995 meeting were put over.

4. Demands.

Finance Director Brown reported she had reviewed the Demands and approved the following: General Fund: Payroll - 535 - 569; General 2596 - 2683; Permit Deposit Account 2598 - 2600; Drainage fund 2576 - 2677; Fire House Fund 2678 - 2679. This was seconded by Councilmember Scott and passed unanimously.

MAYOR GOODMAN ANNOUNCED THAT THE MEETING WOULD BE ADJOURNED IN MEMORY OF BARBARA FASKEN WHO RECENTLY PASSED AWAY. MRS. FASKEN WAS PRAISED FOR HER STRONG SUPPORT AND LOVE OF THE COMMUNITY. THROUGH HER GENEROUS SUPPORT, THE TOWN WAS ABLE TO RETAIN AN ADDITIONAL POLICE OFFICER.

5. Open Time for Public Expression.

1/11/96 Ms. Susan Phifer of Woodside Way asked what she needed to do to have the "Stop Work" order removed from her property. She felt she was complying with the approved Building Department plans.

Mayor Goodman informed Ms. Phifer that the project must comply with the Council approved plans or the "Stop Work" order would remain on the site until the matter could be placed on the next month's agenda. He said that neighbors are concerned about the project.

Ms. Phifer said she did not want to wait until next month. Town Planner Broad said that the Council held approximately four meetings on this issue and at each meeting the Council stressed that the attic area was not to be used for living area. He said that the front elevation is not being built according to the approved plans.

Ms. Phifer said that she understood that the attic was to be used for storage only and that she had operated in good faith. She felt that she was complying with the plans.

Mr. Broad said that the ceiling in the attic area was to be 7 1/2 feet but is being built at 13 feet.

Councilmember Scott said the attic was to be used for storage with no windows.

Mayor Goodman said that the Minutes are very clear that it should be used for storage only and noted that there is framing for an outside doorway showing every intention of it being used for something other than storage.

Mrs. Yoder, the next door neighbor, spoke in favor of the project and asked that the Council not put the matter over to next month, particularly since the roof was not completed and in view of the oncoming rains. She said that only one neighbor objected.

Councilmember Barry said that the Council was very specific on its use and the roof would have been completed if they followed the approved plans.

Mayor Goodman informed Ms. Phifer that she would have to comply with the approved plans or the "Stop Work" order would remain on the site until the issue could be heard at the next month's Council Meeting.

6. Report from Mayor Goodman.

Mayor Goodman reported that the Ross Grammar School would be holding an auction on February 10, 1996.

The Mayor thanked Chief Sciutto for installing the pedestrian sign by the Ross Post Office. He also thanked Mitch Weiner for repairing the sidewalk in front of the Post Office parking area and also for his work on the Fire House. The Mayor also asked that a letter be sent to Don Kelleher thanking him for his contribution of lumber for the Fire House.

There has been some concern about the trucks and equipment being parked behind the fire house area which is visible from the Lagunitas Bridge. The Mayor said that this is temporary due to the construction of the Fire House and all attempts are being made to keep the area clean.

7. Report from Public Safety Department.

Chief Sciutto said that donations are being received for the infra red system for the patrol cars.

The Sleepy Hollow Home Association asked to model their neighborhood watch program after the developed by the Town of Ross.

8. Discussion Re Distribution of The Town of Ross' Library funds.

Councilmember Barry said that the Town of Ross residents use the San Anselmo library more than they do the County library system. Some years ago the Town considered giving some of the tax money currently being given to the County to the San Anselmo library but the matter became complex. Also, there was some consideration of opening a library in the Town of Ross. However, the Town is now ready to renegotiate with San Anselmo and Councilmember Barry asked for input from the community.

It was the consensus of the Council that Councilmember Barry review the matter and report back to the Council.

9. Discussion Concerning the Town's Use of Privatizing Animal Control Services.

Councilmember Barry reported that the Town currently pays \$9000 annually to the Humane Society, in addition to the fines paid by the residents. The Ross Valley towns combined pay approximately \$120,000 in fees.

Chief Sciutto set up an animal control program in Clear Lake and felt that it could also be done in the Ross Valley.

Councilmember Reid was concerned about dog bites and Mr. Elias said that the animal control issue is currently being studied by the Marin Managers.

Councilmember Brown said that there had been some consideration of joining with Sonoma County.

Mayor Goodman asked Mr. Elias to report back to the Council on the feasibility study.

10. Report from Public Works and Building Department.

Mr. Elias reported that he planned to plant six redwood trees by the creek to shield the fire house annex; this would still allow access to the creek.

The work on the Bufano Bear has been completed by Daniel Oberti of Sebastopol at a cost of \$1883. Mr. Oberti will return in the summer months to apply a durable finish sealer at a cost of \$500. This will probably have to be done annually.

Code to add regulations related to the demolition and alteration of "historic" structures.  
Continued to January 1997 meeting.

17. Introduction of Ordinance No. 537 - Amending Chapters 5.22 and Chapters 18.40 (Zoning) of the Ross Municipal Code to clarify and amend existing regulations for public utility structures and antennas for transmission purposes.

Town Planner Broad explained that this issue was before the Council, sitting as a Planning Commission, last month. He recommended that the Council introduce the Ordinance. After a brief discussion, Councilmember Gray moved introduction and waiver of the reading. This was seconded by Councilmember Brown. Ordinance No. 537 passed for first reading by the following vote: AYES: Mayor Reid, Mayor Pro Tempore Brown, Councilmembers Curtiss, Gray and Goodman. NOES: NONE ABSENT: NONE.

18. Resolution No. 1383 - Findings and Conditions in Support of Variance and Design Review Approval for Courtlandt and Natalie Gates, 45 Redwood Drive, AP No. 073-312-06.

Town Planner Broad stated that the Council had three hearings on this matter and last month the application was passed with a 3-2 vote. A condition of approval was that a Resolutions of Findings and Conditions be submitted for Council approval at this meeting.

Mr. & Mrs. C. Gates were out of town.

Councilmember Goodman asked that Item No. 9 be clarified to show "studio" instead of "garage."

Councilmember Gray moved adoption of Resolution No. 1383 with the above amendment. This was seconded by Mayor Pro Tempore Brown and passed with four affirmative votes. Councilmember Goodman voted against.

19. CONSTRUCTION COMPLETION EXTENSION REQUESTS

- a. Marin Art and Garden Center, 16 Laurel Grove, AP No. 72-191-01. Building Permit No. 13805. Issued 2/6/96. Expired 11/6/96. Request Extension to 8/6/97.

NO. 25

Former Councilmember Preston Maginis and member of the Board of Directors for MA&GC explained that they retained a young man who works on weekends. He said that the work to be completed is primarily interior.

It was suggested that the extension be for 6 months, rather than the requested 9 months.

Upon motion by Councilmember Gray, seconded by Councilmember Curtiss the extension was unanimously granted to May 6, 1997.

- b. A. Suzanne Phifer, 24 Woodside, AP No. 73-231-13. Building Permit No. 13770. Issued 10/16/95. Expired 10/16/96. Request Extension to 4/16/97.

NO. 26

Mr. Chip Morris, contractor, spoke on behalf of Ms. Phifer. He said that the extension was requested due to the weather. There were no comments from the audience. Councilmember Curtiss noted the letter received from Mr. Cameron. Mr. Morris responded that the materials out in the front of the home were placed there while he was finishing the floors. He has since removed them. Councilmember Goodman moved approval, seconded by Councilmember Gray and passed unanimously.

2-14-96



September 19, 2001

Andrea S. Phifer  
P.O. Box 573  
Ross, CA 94957

Re: Violation of Town of Ross Conditions of Approval, Floor Area Regulations,  
Third Story Regulations, Failure to Obtain A Building Permit for 24 Woodside Way,  
A.P. No. 73-231-13

Dear Ms. Phifer:

As you are aware, Acting Public Works Director Mel JarJoura and I inspected your residence and found that extensive work had been performed, and was being performed, to the attic area without any planning or building department approvals. While we issued you a red-tag to stop any further construction and I faxed your husband the planning restrictions for your attic, you have continued construction activity without Town approval.

Please be advised that under Zoning Ordinance Section 18.64.035, your code violations shall be remedied through the abatement penalties and nuisance abatement proceedings in Municipal Code Section 9.04.150.

You are hereby advised that finishing your attic in violation of zoning ordinance and building code regulations and your failure to comply with the attached conditions of approval constitutes a nuisance and you are ordered to immediately take action to abate this nuisance through the removal of all interior modifications to the attic including, but not limited to, skylights, bathroom, carpeting, sheetrock, electrical, plumbing, cabinets and counters. All improvements must be removed to return this space to unfinished attic area. An as-built floor plan and a demolition plan must be submitted to the Town of Ross for approval. Please be further advised that if the attic has not been converted back to unfinished space prior to September 30, 2001, this letter is to serve as your formal notice that if this nuisance continues and is not abated prior to October 11, 2001, the Council will cause your nuisance to be abated through the adoption of a Nuisance Abatement Order at its October 11<sup>th</sup> Council meeting. The Council may impose penalties not to exceed one thousand dollars per day for each day that your nuisance occurs consistent with Municipal Code Section 9.04.150.5.

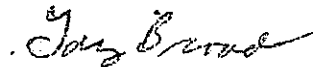
The Town Council meeting is held at Ross Town Hall at Sir Francis Drake Boulevard and Lagunitas Road and commences at 7:00 p.m. Any Council hearings on your

violations will be open to the public and you are encouraged to attend and to address the Council on this issue.

Please be further advised that you will be required to reimburse the Town of Ross for the costs we incur in abating your violation as per Resolution 1408.

Please feel free to contact me if you have any questions on this letter at 453-7446.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Broad".

Gary Broad



October 18, 2001

Mayor Hart recommended that the applicants study the hillside ordinance and the design guidelines and how they pertain to the environment, neighborhood, adjacent sites and impact from across the valley.

~~There was some discussion on whether the application should be denied and the applicant~~ return with a new submittal and after further discussion, Councilmember Gray moved that the matter be continued, seconded by Councilwoman Delanty Brown and passed unanimously.

5. **Council Consideration/Adoption of a Nuisance Abatement Order and Imposition of Penalties for Planning and Building Code Violations Creating a Public Nuisance Under Ross Municipal Code Chapter 9.04 for Property at 24 Woodside Avenue Belonging to Andrea S. Phifer, AP. No. 73-231-13.**

Mr. Broad, the Town Planner, explained that this hearing was scheduled for the Regular Council Meeting of October 11, 2001, but the property owner's attorney requested a continuance so it was agenzized for this special meeting. He said that no additional material had been submitted since the last staff report. The matter was before the Council for consideration of a nuisance abatement and for abatement penalties. Staff mailed a letter to the property owner listed at the Assessor's Office which is Andrea S. Phifer. The letter addressed the work that had been done in the attic which constituted work that finished off the attic, completely against the conditions of the variance granted by the Council in 1995. The property was red tagged in 1996 and a letter was then sent informing Ms. Phifer that the attic could not be used for any purposes rather than storage and it could not have windows. Again, in the January 11, 1996 Council Minutes, Ms. Phifer stated that "she understood that the attic was to be used for storage only and that she had operated in good faith." However, after receiving a complaint from a neighbor, Mr. Broad and Mr. Jarjoura, the Public Works Director, visited the site and found that the attic was sheet rocked, had skylights, cabinets were installed and it had a bathroom and French doors had been installed, providing access into the attic. This work was done after the project had been finaled. Consequently, Mr. Broad wrote a letter to the owners but to his knowledge no work has been done to correct this noncompliance. The Ross Town Code, Section 9.4, provides the Council an opportunity to assess fines up to \$1000/day until the matter is addressed. When Ms. Phifer permitted them to go up to the attic, she said that she thought her only limitation was that she could not have a stairway from the house to the attic area.

Mr. Jarjoura said that Ms. Phifer said that she was going to have a baby and she needed the area for storage.

Mr. Pavitt, Ms. Phifer's husband, apologized for any inconveniences he might have caused. He said that they meant no harm, but due to the premature birth of their son they could not address the issue as quickly as normal. He said that they planned to have the place as a play area for their child and he was not aware of the past history nor of the due process.

Mr. Neil Sorensen, attorney for Mr. & Mrs. Pavitt, said that his clients would like to apply for a variance to allow additional space that could be used for something besides storage.

He asked if the Town could hold off on the abatement while they apply for a variance. Then if they did not get the variance, they would have to abate. He felt this was their right and he showed pictures of the outside of the house and stated that they were not dealing with new bulk/mass but rather an area that already existed.

Councilwoman Delanty Brown said that the conditions of approval were explicit - there were to be no windows and Mrs. Pavitt said that she understood that the area was for storage only.

Mr. Broad said that procedurally this could not be a new variance, it would involve modifying the previous approvals and conditions which limit the use of the attic and the conditions of approval explicitly state that the attic can be used for storage only.

Mr. Pavitt said there may be different circumstances because his wife was not then married and did not have a child.

Council member Gray explained that special circumstances do not refer to the owner or personal needs but to the land. The Council looks at the property, not the applicants. He said that it is unfortunate that Mrs. Pavitt did not share the prohibitions on the land with

October 18, 2001

Mr. Pavitt. He said that it is hard to be sympathetic when she was aware of specific letters and records but looked the other way.

Mr. Neil Sorensen asked if his clients could go through the process and no further work would be done. He said that this is not a nuisance, a health hazard or problem to the neighborhood. He asked if the Council could accept a regular variance. He felt that this was his clients' right.

Council member Gray said that that would make it a three storey house, in addition to the FAR issue. He added that there were very clear reasons why the Council did what they did and the circumstances of the property have not changed.

Council member Curtiss said that Mr. Pavitt was asking for a variance but his wife came to the Council asking for a variance which was a privilege because the property was already overbuilt. The privilege was granted and she said in public that she understood the conditions of approval.

Mayor Hart said that in any town when one does improvements, a building permit is required. Whether Mr. Pavitt knew this constituted additional FAR or not, the work required a building permit. To not obtain a permit, is a complete violation throughout the state. Ninety nine percent of the people in the state, Mayor Hart continued, know that when you do work improvements to a structure, it requires a building permit - it is a fundamental requirement in any town.

Council member Curtiss said that he felt a sadness because this should not have happened. Town Attorney Roth said that there are no changed circumstances to justify a reconsideration by the Council.

Councilwoman Delanty Brown said that the Council allowed the space for storage. That was very specific. She felt insulted that this area had been changed into living space. Town attorney Roth recommended that the matter be continued for 30 days to give Mr. and Mrs. Pavitt an opportunity to do the work and that a resolution of findings be submitted. Council member Gray said that the Council is not interested in the fines but rather in getting the property back to its original state.

Town Attorney Roth then recited the Nuisance Abatement ordinance.

After further discussion, Council member Gray moved that Mr. and Mrs. Pavitt be given until December 13, to return the attic to its unfinished condition including, but not limited to, the elimination of skylights, French doors, bathroom, flooring, cabinets, plumbing and other elements that are not associated with an attic and if work is not completed by December 13, an administrative fine of \$500 per day shall be assessed. The Town Attorney shall submit a resolution of findings.

This was seconded by Council member Curtiss and passed unanimously.

Mayor Hart said that this is difficult for both the Council and Mr. & Mrs. Pavitt but the goal of the Council is to enforce the ordinances without any anger or evidence of personal impact.

6. Open Time for matters related to this Closed Session.

There were no comments.

7. COUNCIL WILL ADJOURN TO CLOSED SESSION: LABOR RELATIONS - GOVERNMENT CODE 54957.6 AND PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b)(1) REGARDING THE NUMBER OF LOTS OWNED BY THE GABRIELSENS AT 2 GLENWOOD AVENUE, AP. NO. 73-131-21. ALSO, GOVERNMENT CODE SECTION 54957 - PERSONNEL: PERFORMANCE EVALUATION RE TOWN PUBLIC SAFETY AND ADMINISTRATION.

Upon motion by Councilmember Delanty Brown, seconded by Councilmember Curtiss, the Council adjourned to Closed Session at 9:30 p.m.



November 19, 2001

Shane Pavitt and Suzanne Phifer-Pavitt  
P.O. Box 573  
Ross, CA 94957

Re: Violation of Town of Ross Conditions, Floor Area Regulations, Third Story  
Regulations, Failure to Obtain A Building Permit; 24 Woodside Way, 73-231-13

Dear Mr Pavitt and Ms. Phifer-Pavitt:

This letter is to memorialize that the Town Council at its Special Meeting of October 18, 2001 required that you remove the improvements made to your attic in violation of building code requirements, planning regulations and prior Council conditions of approval. The Council determined that the improvement of your attic constituted a nuisance and ordered that you abate this nuisance through the removal of all modifications not associated with an unfinished attic used for storage only including, but not limited to: skylights, French doors, windows, floor coverings, bathroom, sheetrock, electrical, plumbing, cabinets and counters.

The Council further directed that the removal of these improvements be completed by December 13, 2001. If work is not completed by this date, then administrative fines of \$500 per day would commence.

As we discussed Tuesday on the phone, Acting Public Works Director Mel Jarjoura and I are available to meet with your contractor to instruct them on what improvements must be removed. As I further advised you, your difficulty in obtaining a contractor does not relieve you of your responsibility to complete this work by December 13, 2001 to avoid the \$500 per day fine.

Please feel free to contact me if you have any questions on this letter at 453-7446.

Sincerely,

Gary Broad  
Town Planner

C: Neil Sorensen

neighborhood and Town character but with the Ross General Plan. He agreed with Council member Curtiss that the Plan contemplates protecting and conserving existing houses but he noted that the introduction of the General Plan states that there must be a certain degree of flexibility when the plan is applied to specific projects and that these projects are to be viewed in the context of achieving the Town's overall goals. He cited the preservation and enhancement of the community's historical small Town character and its low density of development as such overall goals that must be considered here. He expressed the view that the General Plan reflects a concern with providing more affordable housing because of the limited land supply in Ross but felt that the construction of another multi-million dollar house at 21 Fernhill would do nothing to preserve the small town character of Ross. He also added that the resolution before the Council does not constitute approval for consolidation of smaller lots on Fernhill or anywhere else into larger estates. He stated that such housing stock must be protected to provide more affordable housing and to assure the variety of housing that is important to the small town character of Ross.

Council member Gray said that he agreed with Council member Zorensky.

Mayor Hart said that he agreed with Council member Curtiss for all the reasons stated.

Councilmembers Gray moved approval of Resolution No. 1482, seconded by

Councilwoman Delanty Brown and passed with three affirmative votes. Mayor Hart and Council member Curtiss voted against

25. Resolution No. 1483 Establishing that a Nuisance Exists at 24 Woodside Way, Andrea Phifer and Shane Pavitt, AP No. 73-231-13, Imposing Administrative Penalties.

12-13-01  
Mr. Broad said that the resolution reflects Council discussion at the October meeting and there is no new information. The Council determined that a nuisance did exist and gave the applicant until December 13, 2001, to remove all improvements. Mr. Broad and Mr. Jarjoura went out this date and found there had been substantial progress towards the goal of abating the attic. The sheetrock, windows, electrical lights, most of the flooring and storage cabinets had been removed. The bathroom facilities had been removed with the exception of the toilet which the owners wanted kept in while the workmen are still there. The contractor did not come on Monday to complete the work. Mr. Broad said that the Council could give them another month to remove the remaining work, including the toilet. After a brief discussion, Councilmembers Gray moved that the matter be extended for 30 days and if the work is not completed, the Council agreed to impose a fine of \$500/day starting January 10, 2002. This was seconded by Council member Zorensky and passed unanimously.

26. VARIANCE.

Robert Rothman and Alyssa Taubman, 23 Garden Road, A.P. No. 72-154-02, R-1-B-10 (Single Family Residence, 10,000 square foot minimum). Variance to allow after-the-fact approval for the installation of a replacement exhaust fan mounted to a ledge on the residence's east wall. The fan is located approximately 9 feet from the east property line (15 feet required.)

Mr. Broad, the Ross Town Planner, said that this matter was continued from last month's meeting because the applicant indicated that she could not attend that meeting. A letter was sent to the applicant indicating that it was anticipated that the Council would take final action on this project at the December 10, meeting. The applicant was urged to provide

Report No. **154607**

**TOWN OF ROSS**

APPLICATION FOR RESIDENTIAL BUILDING REPORT  
BUILDING DEPARTMENT  
POST OFFICE BOX 320  
ROSS, CA 94957

Telephone: (415) 453-1453 Ext.6

Fax: (415) 460-9761

\*\*\*\*\*  
PARCEL NUMBER: **073-231-13**

STREET ADDRESS: **24 Woodside Way**

PRESENT OWNER: **Rob and Sheri Riedel**

NEW OWNER: \_\_\_\_\_

REALTOR: **Val Rogers, Pacific Union**

PHONE: **415-264-8058 or 415-464-3759**

SEND REPORT TO: **Val Rogers, Pacific Union**  
**189 SFD. Blvd**  
**Greenbrae, CA 94904**  
\_\_\_\_\_  
\_\_\_\_\_

Fee: \$275 payable to the Town of Ross at the time of application. \$50 per additional unit +\$50 non-cancellation penalty.

DATE AND TIME OF APPOINTMENT: **04-16-07, 10:00 am**

## CHAPTER 15.32 ROSS MUNICIPAL CODE

NEITHER THE ENACTMENT OF THIS CHAPTER NOR THE PREPARATION AND DELIVERY OF ANY REPORT REQUIRED HEREUNDER SHALL IMPOSE ANY LIABILITY UPON THE TOWN FOR ANY ERRORS OR OMISSIONS CONTAINED IN THE REPORT, NOR SHALL THE TOWN BEAR ANY LIABILITY IMPOSED BY LAW ( ORD. 310 S1 (part), 1970).

NO STATEMENT CONTAINED IN THIS REPORT SHALL AUTHORIZE THE USE OR OCCUPANCY OF ANY RESIDENTIAL BUILDING CONTRARY TO THE PROVISIONS OF ANY LAW OR ORDINANCE, NOR DOES IT CONSTITUTE A FULL DISCLOSURE OF ALL MATERIAL FACTS AFFECTING THE PROPERTY, OR THE DESIRABILITY OF ITS SALE.

This report must be delivered to the buyer and the receipt card attached must be completed and mailed back to the Town.

Assessor's Parcel No.: **073-231-13**PropertyAddress: **24 Woodside Way**

Town Maintained Street? Yes X NO       

Zoning Classification: R-1 **R-1:B-6** R-1: B-7.5 R-1:B-10 R-1:B-15

R-1:B-20      R:1-BA      R:1-B5A      R-1:B-10A

**RESIDENCE AUTHORIZED USE:** Single Family Residence    **EXISTING USE:** SFR

CONFORMING: \_\_\_\_\_ NON-CONFORMING: \_\_\_\_\_ X \_\_\_\_\_

NON-CONFORMITIES NOTED: in side yard setbacks, and in required off-street parking (2 required, one covered).

**VARIANCES GRANTED:** SEE ATTACHED HISTORY

USE PERMIT GRANTED: SEE ATTACHED HISTORY

RESIDENCE IN FLOOD PLAIN Yes: \_\_\_\_\_ No: \_\_\_\_\_ X \_\_\_\_\_

If Yes, Flood Zone \_\_\_\_\_ Depth: \_\_\_\_\_

National Flood Insurance program FIRM map, community panel 060179 0001 B. Effective date February 4, 1981. All residences in the flood plain have to comply with the Town Flood Ordinance including raising the house when "Substantial Improvements" are performed. "Substantial Improvements" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of that structure. Ross Municipal Code, Chapter 15.36, Section 2.0 "Flood Damage Prevention" Amended and Updated, June 11, 2000

**CORRECTION(s) REQUIRED:**

**Water Heater:**

- ☐ 1. Gas supply pipe to be stainless steel flexible connector.
- ☐ 2. Provide a pressure relief valve to the hot side of the water heater piping or to the appropriate manufacture's connection.
- ☐ 3. Overflow pipe from pressure relief valve to be metallic same size as valve to extend to the outside or within six inches of the floor.
- ☐ 4. Strap to resist earthquake motion,
- ☐ 5. Flue to be brought up to code

**Furnace:**

- ☐ 6. Gas supply pipe to be stainless steel, flexible connector.
- ☐ 7. Provide a disconnect switch.
- ☐ 8. Repair bad joints or loose connection in flue pipe.

**Electrical:**

- ☐ 9. Install exterior main disconnect switch for electric service.
- ☐ 10. All exposed Romex wiring must be protected from physical contact below eight feet in height in
- ☐ 11. All splices must be within junction boxes in \_\_\_\_\_
- ☐ 12. All three prong outlets that are not grounded to be grounded or original two prong installed in
- ☐ 13. Ground outlet
- ☒ 14. Install GFI outlets in outside balcony off master bedroom
- ☐ 15. All Edison based fuses must be fitted with type "S" fuses. Maximum 15 Amp for size 14 wire and 20 Amp for size 12 wire.
- ☐ 16. All junction boxes and switches to be covered in
- ☐ 17. Label all panels and breakers,
- ☐ 18. Pool/Spa equipment to be grounded.

**General:**

- ☐ 19. Provide safety barriers to code in pool area.
- ☐ 20. Install smoke detectors in ceiling in
- ☐ 21. All stairways, interior and exterior, with more than three risers shall be provided with handrail at
- ☐ 22. Guard rails shall be at least 36 inches high with openings sized so that 4" diameter sphere can not pass through
- ☐ 23. Provide sparks arrester at top of chimney, screening to be half inch maximum square openings.
- ☐ 24. Post your address in numerals at least 4 inches in height and in a contrasting color of background. Address has to be clearly visible from street.
- ☐ 25. The required fire wall of five eighth gypsum board type x fire taped must be installed on the garage side abutting living spaces.
- ☐ 26. Repair holes in Gypsum board and tape in
- ☐ 27. Door from garage to dwelling must be solid core and self closing
- ☒ 28. Chimney to be swept.
- ☐ 29. Repair, and fill in joints in fire bricks in fireplace.

## ADDITIONAL REQUIREMENTS AND CORRECTIONS

✓ 30. All exterior lighting oriented upward must be removed. All lighting must be shielded and directed downward.

✓ 31. The attic may not be used or finished except as storage. Toilet plumbing must be removed and the plumbing capped at the floor level. The carpet must be removed.

✓ 32. An after-the-fact variance is required for the brick patio established at the front entry.

✓ 33. The French doors must be removed to the attic.

✓ 34. Conditions 30 through 33 must be complied with within 60 days from the date of this report.

### Informational items:

The above corrections must be made within six months of the date of this report. Please contact the Building Department at 415-453-1453 Ext. 6 to schedule a re-inspection. There is no fee for re-inspection. The Town makes no recommendation as to whom, seller or buyer, makes the required corrections.

### Building permits will be required for items:

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This Residential Building Report is valid for six (6) months from the date of inspection and may be extended for an additional six (6) months by requesting a time extension from the Building Department prior to the expiration date.

Residential Building Report No. 154607

Inspection Date: 04-16-07

Expiration Date: 10-16-07

Extended to: \_\_\_\_\_

Building Inspector Signature: \_\_\_\_\_

*Rm Hart*