

Kelsey Rogers

Communication No. 2, Item 4

From: Joyce Britt [joyceebritt@yahoo.com]
Sent: Friday, June 01, 2012 7:54 PM
To: Garry Lion; Shawn Marshall; wachtel@ix.netcom.com; city clerk
Cc: Betsy Wanner Bikle
Subject: MONDAY Public hearing Laurelwood
Attachments: June 1laurelwood.doc

To the City Clerk: Please deliver to Mr. Berman and Ms. Moulton-Peters this email with attachment.

Mayor Lion and Council Members:

May 21st, we delivered hard copies of our letter dated May 20, and photo copies of the floodplain ordinances cited in that letter, to City Hall for distribution to you.

Today at 3:30pm we sent by email our second letter, noting differences of opinion the Planning Department had with that letter.

At 7:00pm, the City put up Monday night's agenda and the staff report recommendations.

The second letter was not part of the public record, and so we attach it here.

Joyce Britt

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JUN 4 2012
CITY OF HILL VALLEY

June 1, 2012

Mayor Lion
Members of the City Council
26 Corte Madera Ave.
Mill Valley CA 94941

RE: 30 Laurelwood
On Appeal

Dear Mayor Lion and Members of the City Council:

While the agenda and staff report have not yet been noticed for the Monday meeting, we are sending this letter in response to the Planning Department's comments on our first letter of appeal.

The Planning Department maintains the following:

1. The floodplain review is after design review, not part of it.
2. The design guidelines trump the municipal code.
3. There is no discretion with respect to the enforcement of Chap. 18.

Our response, in the same order:

1. Chapter 18 is its own design review; it is not subject to Chapter 20, or subordinate to it. Chapter 18 is not a permitting ordinance, as can be readily seen by reading the provisions of the Municipal Code which are. For example, Chapter 14, the Building Code and Chapter 15, the Fire Code are permitting ordinances. They do not have the public notice and hearing requirements, the quasi-judicial administrative process of Chapter 18. Indeed, there are no provisions such as are set forth in Chap. 18. If a landowner has a complaint, he complains to the Board of Appeals, or to the Fire Chief. There is no process before the Planning Commission, or appeals to the City Council as set forth in Chapter 18.

The City website on Floodplain management also makes clear by referring **directly to the Municipal Code, Chapter 18, that the code provisions are paramount.**

2. The Design Review Handbook states: "This handbook has no legal status....It does not represent the actual zoning code language.....For [that] refer to the City of Mill Valley Municipal Code". Similarly the Design Guidelines are clear that they supplement the technical provisions of the Code; they do not replace them. Moreover, the Guidelines do not even mention the requirements of development in the Floodplain. For that, developers are specifically directed to Chapter 18 of the Municipal Code.

3. Of course, the provisions of Chapter 18 require discretion. All one need do is compare the conditions of development of 15 La Goma with those of 30 Laurelwood. Curiously, although La Goma was on the creek, the conditions of development were not nearly as comprehensive as those for Laurelwood.

And this is where the need for a public hearing becomes evident. People have a right to know what kind of protections are afforded when development in such sensitive areas is proposed. How can they know, if the facts are hidden?

One of the basic rules of legal interpretation is that of the plain meaning of a law. There is nothing obscure about Chapter 18, which would require 'interpretation.' In order to interpret as suggested by the Planning Department, you would, in effect, strike much of Chapter 18. To do this, without a legal repeal of the law should give pause.

We are aware that legal advice to both the Planning Commission and to the City Council is often "it's in your discretion". Here, think about what that means. Think about the fact that citizens have faith that their city will abide by its own rules, and particularly when they are federal and state rules as well. Think about the community's right to know, to be informed, to participate. It's difficult to participate without knowing.

Respectfully submitted,

Mill Valley StreamKeepers

Betsy Bikle
Joyce Britt

CC: James McCann
City Manager