

## Cyndie Martel

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**From:** Lucas, Jeff <JLucas@Related.com>  
**Sent:** Tuesday, October 8, 2024 4:31 PM  
**To:** Roberta Feliciano  
**Cc:** Bill Kircher; Elizabeth Robbins; Teri Dowling; Mathew Salter; bstock@bwslaw.com; Cyndie Martel  
**Subject:** [EXTERNAL] Resolution No. 2435

Roberta,

This is in response to your letter to the Mayor and Council members dated October 10, 2024. It should be noted at the outset that your letter does not mention the code section (18.41.100) that you previously cited to me as your authority to approve changes to previously-approved plans.

As discussed below, the recommendation of the Planning Department, if adopted, is an abuse of discretion and not authorized by the Planning Code.

**New Obtrusive Stair:** You state that the new stairs are “in the same location”. This is a misstatement. The existing spiral stair was off to the side and minimized encroachment toward my property. Town Planning is recommending approval of a large new structure, including footings, columns and structure, that is actually a further encroachment toward our property.

- You reference section 18.41.100 which specifically states “*Lot coverage and building footprints would be minimized to minimize site disturbance area and preserve large areas of undisturbed space*”. Your approval is opposite to you’re the planning code.
- Further, section 18.41.100 does not give the Town Planner any right to approve encroachments toward adjacent properties that are non-conforming. That process is defined to protect Homeowners. While the neighbor was originally granted an encroachment beyond code, with our consent, the Town Planner does not have the authority to grant an additional encroachment. This is clearly a violation.

**Rock Retaining Wall / Landscaping:** You have stated your decision to eliminate the stepped block wall and landscaping is “consistent with the intent and criteria of the Design Review chapter”.

- You reference section 18.41.100 which specifically states “*New buildings constructed on sloping land are designed to related to the natural landforms and step with the slope in order to minimize building mass, bulk and height*”. Your approval is again opposite to your code reference.
- This wall feature was specifically added by the homeowner and architect in an attempt to get us to support the project. Prior to ADR approval on 1/16/23 we sent an email to the neighbor and his architect with the specific concern of a “visual block”. The response was to add an architectural stone wall and lush plantings to break up the massing.

**Glass Railing to Cable Railing:** You have stated a “cable railing” is in “substantial conformity” with the approved plans.

- A cable railing and a glass railing are an apple and an orange. One is expensive, acoustically superior and clear. The other is cheap, sags over time and is “fencing” that is trying to look aesthetically pleasing to save money.
- This glass railing was also proposed by the Homeowners Architect and Homeowner to gain our support for the project. The precedence that the town planner is attempting to set is detrimental to the town and all future

projects. The town can no longer be counted on to enforce goodwill by adjacent neighbors and all future projects will become never ending legal battles.

- Regarding your statement that cost had no factor in this approval, this is just not true. You allowed for the railing system to be changed prior to us every being notified. We had to find this change on our own. After we complained, the Town Planning department wrote to us on 5/2/24 supporting their decision to allow the railing change and stated "Owner pointed out the glass was over budget, the reason for the new cable railing." Since when is cost to be a factor with regard to an ADR and encroachment approval.

I have copied the Mayor and Town Council because I believe your memo to them not only diminishes your direct contradiction to the code, but also ignores the entire process that the town encourages for concessions and agreements by a neighbor in order to support a project. We do not believe there is a code section that would allow this to proceed. Instead, Code Section 18.41.100 shows this recommendation is an abuse of discretion and does not support the changes that you are recommending here.

Sincerely,

Jeff C Lucas

Cc:

Bill Kircher - Mayor

Teri Dowling – Council Member

Elizabeth Robbins – Council Member

Mathew Salter – Council Member

Benjamin Stock – Burke, Williams & Sorenson

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