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February 4, 2019

**Via Email Only**

City Council  
City of Larkspur  
400 Magnolia Ave.  
Larkspur, CA 94939

**Re: Funding for New Library and Community Center**

Dear Members of the Council:

Our office represents Dennis Gilardi for the purpose of commenting on Item 8.3, "Actions in Support of the Larkspur Library and Community Center Task Force," on the City Council's upcoming February 6, 2019, agenda. Item 8.3 is a proposal to transfer up to \$150,000.00 from an account for use by the Larkspur Library, to the Larkspur Library and Community Center ("LLCC") Foundation, a non-profit 501(c)(3) foundation. All of the funds at issue came from a 2016 donation by the Zimmer Family Estate for the sole purpose of supporting the library. The LLCC, however, was formed for the purpose of raising funds to construct a library **and a community center**, which thereby creates a potentially serious issue.

As the January 29, 2019, Staff Report regarding item 8.3 notes, "the only stipulation placed on the Zimmer donation was that it be **used for the Larkspur Library**. Support of the effort to build a new library appears consistent with this charge." (Emphasis added). Support for a library would be consistent with the intent of the bequest, but support for a library and a community center is a different story.

The City is obligated to honor the specific purpose of the Zimmer family's direct gift to the existing Larkspur Library. (See generally, *Holt v. College of Osteopathic Physicians & Surgeons* (1964) 61 Cal.2d 750, 754 "[C]haritable contributions must be used only for the purposes for which they were received in trust."). The City has previously authorized expenditures to benefit the existing Larkspur Library, thereby demonstrating that the intent of the gift can continue to be realized by the existing Larkspur Library.



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A community center, however, is not a library, existing or otherwise. Therefore, the use of the Zimmer donation to plan for, or construct, any part of a community center concept, is not consistent with the donor's explicit directive. The legal limitations on the funds at issue should be strongly considered in advance of any transfer. Deviating from the clear intent of the gift risks the loss of the bequest, and exposes the City to liability.

Thank you for your consideration of this issue.

Very Truly Yours,

A handwritten signature in blue ink that reads "Riley F. Hurd III". The signature is written in a cursive, flowing style.

Riley F. Hurd III

CC: Client

## Larkspur Commons – Commonsense Thinking

### Talking points

We are concerned that the City of Larkspur is moving forward without thinking through the longer-term strategic considerations of a Community Center/Library off Doherty Drive across from Hall Middle School.

Before we spend money on studies and consultants, let's do some basic commonsense thinking.

Here are a few considerations that we think are preliminary and important:

1) Both Corte Madera and Larkspur need a community center and use benefit from upgraded library facilities. Can we partner with our "Twin City" sister? Why shouldn't we partner with Corte Madera? Have we even talked to Corte Madera about our plans? Shouldn't that be step #1?

2) Is the donated site on Doherty the appropriate site? Is it appropriate to put a community center in the middle of a residential area?

3) Access. How will already overburdened Doherty Drive figure into the picture? If the idea is to burden Rose Lane and Orchid Lane with access and traffic? Is the City aware that these are private streets not maintained by the City and not intended for general public use? Who will pay for access upgrades and road maintenance?

4) Has anyone polled the residents and merchants of the impacted area to determine how local residents and Lucky Shopping Center merchants feel about a library/community center and likely overflow parking?

5) Will the residents of Larkspur and other likely donors be willing to finance a \$20-\$30 million project and the continued maintenance of such a library/community center? Who has information on the financing end? The easiest \$1 million to raise is the first \$1million. And it typically all goes to consultants and architects, along with the next \$5 million raised.

6) What's happening with Larkspur longer term? For example, if the fire station consolidates with Corte Madera, wouldn't the current fire station site be a better fit for an expanded library? Let's not build something with blinders on about other changes about to happen in our community.

7) Are there other, better, less costly uses that could be made of this relatively small parcel of land?