

From: [Dietz, Stephanie](#)
To: [Levesque, Jennifer](#)
Cc: [Flores, Kim](#)
Subject: FW: Connecting Attorney's only options that work for us
Date: Thursday, October 28, 2021 8:49:34 AM

Public comment?

From: Dwight Larks [REDACTED]
Sent: Wednesday, October 27, 2021 4:19 PM
To: Dietz, Stephanie <DietzS@cityofmerced.org>
Cc: Flores, Kim <FloresK@cityofmerced.org>; Stephanie M. Perez [REDACTED]
Subject: Re: Connecting Attorney's only options that work for us

Thank you Stephanie for your email.

It is my understanding that my attorney is in court the majority of today. I want to also clarify that after much consideration the only 2 options that may work for us are option 1 and 4, with 4 being abandonment subject to a right of way agreement that provides the general public a 4 foot wide unobstructed right of way for public travel from Main Street to the alley and vice versa during normal business hours 7:30AM until 5:30PM. Option 4 is the 2nd best chance we have to eliminate the criminal element that has plagued our property and tenants for so many years, while providing a clean inviting walkway for the general public during normal business hours. As mentioned to you we have gone from 3-5 calls a week for police intervention to no crime at all in 6 months since our gates have gone up and our construction started.

The general problem with "Easements" is they can never be legally completely blocked/fenced off. Keeping any sort of "Easement" over our property would quickly bring back the vagrancy, arson, burgaries and other public nuisance and crime, as it would legally be required to remain open 24 hours a day, 7 days a week.

As a stakeholder and developer here in Downtown Merced, I would hope that the City will work with us in this regard as an honest compromise if option full abandonment is not provided. Perhaps the City should consider a policy to eliminate all narrow "Easements" in the downtown core in favor of "right of way" agreements that are only open during normal business hours so that the downtown has a Greater chance to reduce crime and create a safer, cleaner and more prosperous downtown.

With right of way agreements, a public path of travel can remain open during normal business hours when the owners of the properties and businesses there can supervise the situation and take immediate action to curtail, correct and or report any vagrancy and or crime.

Easements are more appropriate for landlocked properties where the "Easement" is the only path of travel thus making them necessary.

Although we would object to the City not providing us at our property the same opportunity that the City of Merced has provided The El Capitan Hotel with their walkway, should the

City of Merced now insist that our walkway somehow remain open to the general public, we welcome the City participation in option 4 with the City removing the planter boxes, providing gates/with magnetic locks and paving over the walkway/ providing drainage and A.D.A. compliance in a delineated 4 foot path of travel with perhaps yellow lines on the ground to signify the unobstructed path of travel. The City could take liability for any and all incidents happening in the path of travel while we would take liability for any incidents happening after 5:30PM and until the gates unlock again at 7:30AM Monday through Friday.

I welcome any feedback that you or the City Attorney has in this regard.

Dwight Lawrence Larks

President/Broker DRE# 01314496

Merced Old 99 Realty, Inc. BRE# 0907157

PROPERTY MANAGEMENT & REAL ESTATE SALES

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On Wednesday, October 27, 2021, 10:16:59 AM PDT, Dietz, Stephanie <dietzs@cityofmerced.org> wrote:

Hi Dwight,

It's my understanding that Kim is waiting on a call back from your attorney. Our hope is that this takes place prior to noon today so that it can be included as part of the agenda packet.

These are the options that will be on the staff report for Council's consideration:

1. Approval of the vacation
2. Denial of the vacation
3. Direction to proceed with a partial vacation and retention of 51" easement for removal of the planter boxes and installation of the walkway and fencing – as agreed to as an option in the September 28, 2021 meeting. I sent those points to you after the meeting

4. Your proposal as outlined below – subject to our attorney’s discussing the remaining questions, i.e. legal land use and liability issues

This is where the item stands as of right now. We would need the two attorney’s to connect prior to our print deadline. If you could help with that, I’d greatly appreciate it!

Best,



Stephanie Dietz

City Manager

City of Merced | 678 W. 18th Street | Merced, CA 95340

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From: Dwight Larks [REDACTED]
Sent: Tuesday, October 26, 2021 12:10 PM
To: Dietz, Stephanie <DietzS@cityofmerced.org>
Cc: Flores, Kim <FloresK@cityofmerced.org>
Subject: Re: Connecting Attorney's

Good morning. Yes thank you for the call. Either full abandonment or full abandonment subject to a right away agreement over an unobstructed 4 foot path of travel for public available between the hours of 7:30 AM until 6pm for public travel will work with City removing planter boxes and paving over walkway and providing gates with automatic magnetic locks and fencing is something we can agree with. I am not aware of any other options. What are the other options you are referring to?

Kind Regards,

Dwight Lawrence Larks

President/Broker DRE# 01314496

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On Tuesday, October 26, 2021, 11:39:27 AM PDT, Dietz, Stephanie <dietzs@cityofmerced.org> wrote:

Good morning,

Thank you for the call this morning. Based on the dialog we had regarding a Right-of-Way v. Easement and how liability might work with limited public access.

Kim and Stephanie have worked together in the past. Kim has offered to call Stephanie.

Let's let them connect and then see where we are for presenting the 4th option to Council.

Thanks,



Stephanie Dietz

City Manager

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