

REGENCY COURT II, LLC  
8050 NORTH PALM AVENUE, SUITE 300  
FRESNO, CA 93711

June 22, 2022

Development Services Department  
City of Merced Civic Center  
678 West 18th Street  
Merced, CA 95340

Re : Site Plan Review Committee Decision,  
Item 4.1 for the June 16, 2022 Meeting

TO WHOM IT MAY CONCERN :

On Wednesday, June 15<sup>th</sup>, I sent the attached email to the Committee requesting a condition be added to Bright Development's Vesting Tentative Subdivision Map extension that would obligate Bright to dedicate its share of Merrill Place within ten (10) days following the Committee's extension approval. The Committee approved Bright's extension request without adding the recommended condition. This letter serves as my appeal to the Committee's decision. The reasoning, rationale and legal authority are included within the attached email.

Specifically, in Government Code Section 66498.1, which is the exact same code section referenced in both staff's Memorandum and Administrative Report, subsection (e) provides "...shall **not limit a local agency** from imposing reasonable conditions on subsequent required approvals...". [Emphasis added] Further, Government Code Section 66498.9 begins, "By the enactment of this article, the Legislature intends to accomplish all of the following objectives : (c) To ensure that local agencies have **maximum discretion**, consistent with Section 66498.1, in the imposition of conditions on any approvals occurring subsequent to the approval...of the vesting tentative map,...". [Emphasis added]

Thank you.



Rick Telegan, Member : (559.269.3441)

cc : Carol Ornelas, CEO, Visionary Homebuilders  
Loren Gonella  
Lee J. Kolligian

**ATTACHMENT L**

## Rick Telegan

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**From:** Rick Telegan <fresno3rdm@aol.com>  
**Sent:** Wednesday, June 15, 2022 7:36 AM  
**To:** 'Nelson, Julie'  
**Subject:** SITE PLAN COMMITTEE MEETING, ITEM 4.1 : JUNE 16,2022  
**Attachments:** 20220615064439046.pdf

Committee Members :

I believe the Site Plan Committee members are aware that 9.8 acres of City zoned Village Residential property located along the north side of future Merrill Place and adjacent to VTSM # 1291 (Modified) has recently been proposed to be developed for affordable housing by Visionary Homebuilders of California, Inc. ("Visionary"). The property owner, Regency Court II, LLC, and Visionary were under contract and in escrow for months until the intended transaction had to be terminated due to a lack of sufficient legal access to properly serve the multi-family development. While both the property owner and Visionary are desirous of moving forward with the affordable housing project, we are stymied from doing so because of the circumstance described above.

Consequently, I offer to the committee members copies of two (2) California Government Code sections (attached) for their consideration prior to approving Bright's extension request. I believe these two (2) code sections provide the City with more than ample authority to add a condition to any extension approval that would require Bright Development to dedicate, within ten (10) days of Committee approval, their share of the Merrill Place right-of-way. Bright has previously *committed to dedicate* said right-of-way per the Conditions of Approval for VTSM # 1291 (Modified), and as shown on the Draft Final Map which Bright submitted months ago to the City for review and approval.

[ NOTE : Gov't Code Section 66498.1 (is also known to be a part of the Subdivision Map Act and is the exact same code section referenced in the staff "Memorandum". The pertinent sections that provide for additional conditions are 66498.1(e) and 66498.9(c). ]

RICK TELEGAN, PARTNER  
**3rd MILLENNIUM INVESTMENTS**  
2206 East Muncie Avenue  
Fresno, California 93720  
Cell 559.269.3441

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 Code:  Section: 66498.1.



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### GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 2. SUBDIVISIONS [66410 - 66499.40] (*Division 2 added by Stats. 1974, Ch. 1536.*)

CHAPTER 4.5. Development Rights [66498.1 - 66498.9] (*Chapter 4.5 added by Stats. 1984, Ch. 1113, Sec. 8.*)

66498.1. (a) Whenever a provision of this division requires that a tentative map be filed, a vesting tentative map may instead be filed.

(b) When a local agency approves or conditionally approves a vesting tentative map, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section 66474.2. However, if Section 66474.2 is repealed, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

(c) Notwithstanding subdivision (b), the local agency may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with state or federal law.

(d) The rights conferred by this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map. If the final map is approved, the rights conferred by this section shall be subject to the periods of time set forth in subdivisions (b), (c), and (d) of Section 66498.5.

(e) Consistent with subdivision (b), an approved or conditionally approved vesting tentative map shall not limit a local agency from imposing reasonable conditions on subsequent required approvals or permits necessary for the development and authorized by the ordinances, policies, and standards described in subdivision (b).

(Amended by Stats. 1999, Ch. 550, Sec. 22. Effective September 28, 1999. Operative January 1, 2000, by Sec. 33 of Ch. 550.)



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CHAPTER 4.5. Development Rights [66498.1 - 66498.9] (*Chapter 4.5 added by Stats. 1984, Ch. 1113, Sec. 8.*)

66498.9. By the enactment of this article, the Legislature intends to accomplish all of the following objectives:

- (a) To establish a procedure for the approval of tentative maps that will provide certain statutorily vested rights to a subdivider.
- (b) To ensure that local requirements governing the development of a proposed subdivision are established in accordance with Section 66498.1 when a local agency approves or conditionally approves a vesting tentative map. The private sector should be able to rely upon an approved vesting tentative map prior to expending resources and incurring liabilities without the risk of having the project frustrated by subsequent action by the approving local agency, provided the time periods established by this article have not elapsed.
- (c) To ensure that local agencies have maximum discretion, consistent with Section 66498.1, in the imposition of conditions on any approvals occurring subsequent to the approval or conditional approval of the vesting tentative map, so long as that discretion is not exercised in a manner which precludes a subdivider from proceeding with the proposed subdivision.

(*Added by Stats. 1986, Ch. 613, Sec. 5.*)

