

02-23-21

ITEM# 6
RTC # 21-295

CITY OF SANTA CLARA
2021 FEB 22 AM 10:41

P. O. Box 4163
Santa Clara, Ca. 95056-4163
February 22, 2021

City of Santa Clara
Office of the City Clerk
1500 Warburton Avenue
Santa Clara, Ca. 95050

Subject: Submittal of Materials for February 23, 2021 City Council Hearing of Item 21-295
Reference: City of Santa Clara/Simrat Dhadli Memorandum dated February 18, 2021

Honorable City Clerk,

Please consider and attach the enclosed documents in support of the Petition, as amended, for Item 21-295 at the February 23, 2021 Council Meeting:

Chronological partial list of correspondence regarding this matter

A sample of 11 encroachment pictures, each numbered at the bottom left hand corner:

- 1 Silicon Valley Power encroachment in 2017 blocked Benton Street side. Note guy wire
- 2 View west of intersection with Benton Street from Scott Blvd. in 2017
- 3 Traffic light surface encroachment beginning about 1998. Note outline of underground base
- 4 Surveyed proposed wall location at northwest corner of lot June, 2020
- 5 Survey marking of property lines of Lot 90 at Scott Blvd. & Benton June, 2020
- 6 Truck blocking Scott Blvd. and Benton Street Driveways June, 2020
- 7 Tractor blocking driveway and working insider the property June, 2020
- 8 Truck blocking two driveways and parking area June, 2020
- 9 Truck blocking two driveways and parking area July, 2020
- 10 Two trucks blocking two driveways -- no customer parking July, 2020
- 11 Nailed concrete wall forms damaging+ encroaching on parking area/driveway July, 2020

These pictures demonstrate that the City has encroached on the property even before its letter of September 3, 2019. Applicant and the small businesses in the building suffered greatly, but quietly, in the spirit of cooperation, as requested. However, the City's intrusions require a collaborative solution to the continuing encroachments. The 1/25/2021 Amended Petition offers a mutually beneficial settlement.

Applicant will be available via Zoom on 2/23/2021 to answer any Council members' questions

Humbly,

Aryeh Korthamar

POST MEETING MATERIAL

Chronological Partial List of Correspondence
 For: City Council Meeting February 23, 2021
 Agenda Item 21-295 APN: 290-35-048 Applicant: A. Korthamar
 Petition dated October 6, 2020 as Updated January 25, 2021

<u>Date</u>	<u>From</u>	<u>Brief Description</u>
Dec 22, 1959	City of Santa Clara Resolution 814	Change Gould Street to Scott Blvd.
Aug 17, 1999	City of Santa Clara Engineering Dept	Draft underground traffic light easement
Jun 26, 2019	Public Works Dept/G. Gomez PE	City has no easements on APN 29035048
May 14, 2019	Applicant to City Clerk	Public Records Requests (3)
Sept. 3, 2019	Public Works Dept/H Nguyen PE	Construct in public right of way +Cooperation
Sept 25, 2019	Applicant to Public Works/G. Gomez PE	No survey done + offer to share cost of survey
Sept 26, 2019	Applicant to Public Works/ H Nguyen PE	Confirm Oct 2, 2019 meeting + Assurances
Oct 4, 2019	Applicant to Silicon Valley Power	Guy wire encroachment settlement Proposal
Oct 4, 2019	Applicant to H Nguyen PE	Encroachments + Suggested Settlement
Oct 4, 2019	Applicant to Ms. Falguni Amin PE	Compliance with ADA + Other Laws + Drawings
Aug 25, 2020	Applicant to City Manager	Request for City Drawings of APN 290-35-048
Sept 14, 2020	Applicant to Ms. Falguni Amin PE	Questions about City Right-of-Way Survey
Sept 25, 2020	Applicant to City Manager	Request for collaboration and co-operation
Oct 6, 2020	Applicant to City Clerk –Petition	City Council Hearing on encroachments
Jan 25, 2021	Applicant to City Clerk- Petition	Clarification and amendment of Petition

Issues to consider *if* Council will not like to consider this Petition, as amended, for a Future Agenda:

1. Council Policy 030 became effective after this Petition was submitted on October 6, 2020
2. Council is asked to retain continuing jurisdiction of this Petition so a new amended settlement proposal may be submitted by Applicant , if needed
3. Will the City provide Applicant with applicable drawings, surveys and documents?
4. Is there any other administrative avenue available in the City for further appeals, if need?











⑥

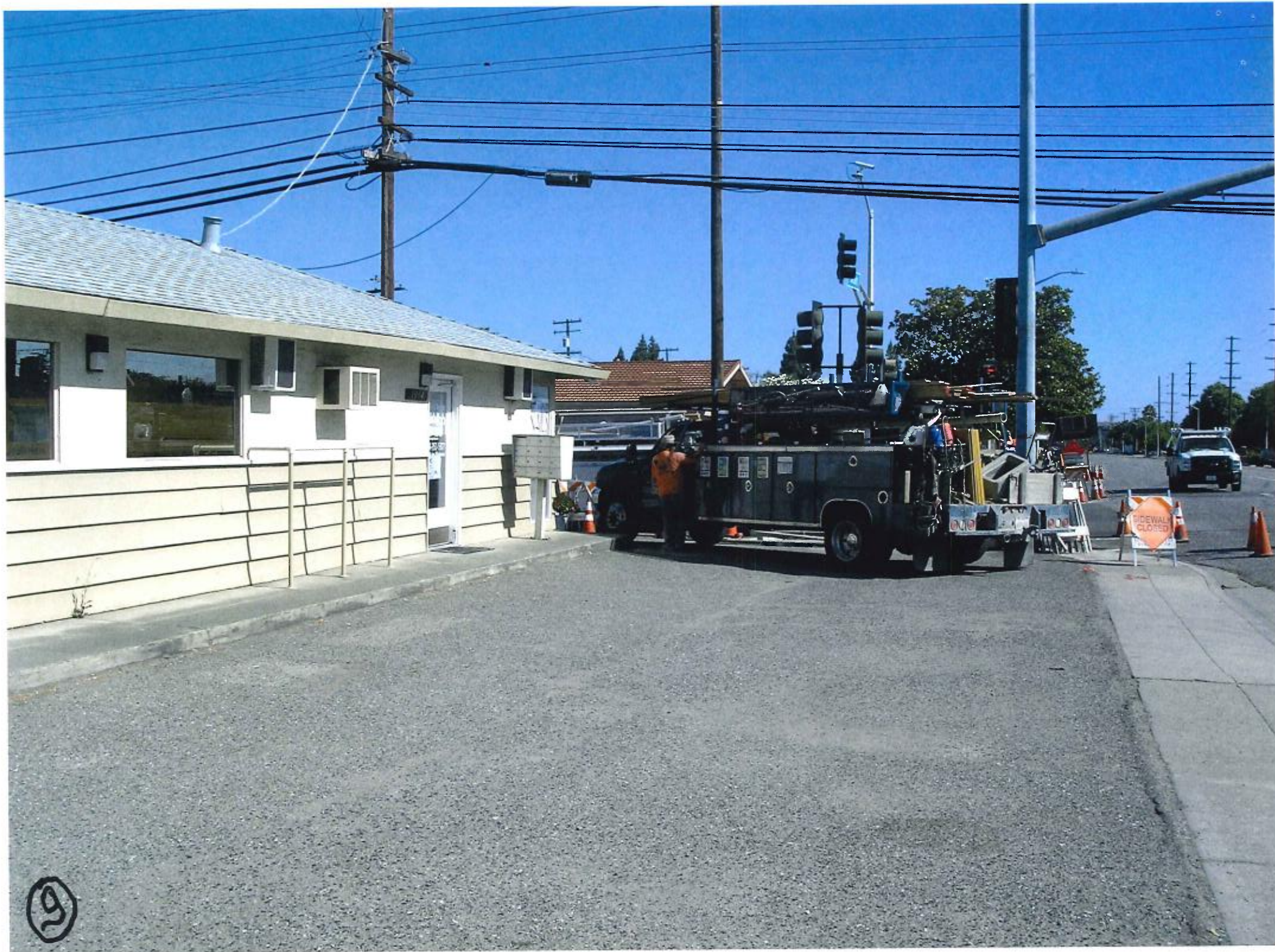


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02-23-21

ITEM#21-295

CITY OF SANTA CLARA
OFFICE OF THE CITY CLERK

2022 JAN 13 PM 3:06

P O Box 4163
Santa Clara, Ca. 95056-4163
January 13, 2022

City of Santa Clara
Office of the City Clerk
1500 Warburton Avenue
Santa Clara, Ca. 95050

Subject: Submittal of Updated Information for City Council Petition Item 21-295 Dated January 3, 2022
Reference: Letter dated April 19, 2021 from the Undersigned to Ms. Aileen Jackman, PE

Honorable City Clerk,

Please add this information to the January 3, 2022 Petition regarding Amendment # 1 to Council Item 21-295:

1. **Timely Notice:** On January 12, 2022 I had a wonderful and informative telephone conversation with Ms. Aileen Jackman, PE, DPW, regarding the January 3, 2022 Petition. Among other items discussed during said conversation, Ms. Jackman, PE alleged that somehow I failed to give timely notice *during construction* of any concerns regarding the encroachments. I plead not guilty to this new allegation. Please refer to the language in *italics* in the above referenced April 19, 2021 letter (copy attached)
2. **Guy Wire:** Ms. Jackman had some comments regarding my attempt to clear the SVP guy wire encroachment with the Assistant City Manager. I explained that I am waiting for a reply from SVP, and declined to discuss the matter without the participation or permission of the Assistant City Manager.
3. **Reports:** The January 3, 2022 Petition regarding Amendment # 1 to Council Item 21-295 requests, among other items, copies of DPW reports to Council, resulting from DPW evaluation of the integrated settlement proposal of Amendment # 1 to Council Agenda Item 21-295. On 1/12/2022 Ms. Jackman, PE, DPW, stated that no copies of such reports would be forthcoming. Council is requested to obtain these reports and deliver copies to me, so that I have not waited unnecessarily from February 23, 2021.
4. **Council Procedure 030:** If my understanding is correct, Ms. Jackman, PE, DPW, stated that Council Procedure 030 has not applied to this Petition 21-295, as amended, and Item 21-295 has been closed after the 2/23/2021 Council Meeting. Council is requested to rule whether or not Procedure 030, as amended, is still in effect and applicable, and that Item 21-295 remains open for consideration.
5. **No Writing:** Although I requested repeatedly and during various telephone conversation, Ms. Jackman, PE, DPW, stated that no DPW writing would be issued regarding our conversations. So be it!
6. **Remedies:** Why am I bothering City Council? Because I still believe the City is encroaching on my property, and a Google search suggests that I must "exhaust administrative remedies". So far, I have been unable to reach a resolution with DPW or SVP. *Mea culpa*; but Council has a proposed remedy to resolve these issues. Please consider Amendment # 1 of Council Agenda Item 21-295, first heard on 2/23/2021.

Thank you for your attention,

Humbly,
Aryeh Korthamar

Attachment

POST MEETING MATERIAL

P O Box 4163
Santa Clara, Ca. 95056-4163
April 19, 2021

City of Santa Clara
Department of Public Works
1500 Warburton Avenue
Santa Clara, Ca. 95050

ATTENTION: Ms. Aileen Jackman, P.E., Principal Engineer, Development Division Tel. 408-6153041

Subject: Initial Questions Regarding the Survey of Lot 90 Tract 705, Unit # 3, Recorded 2/14/1950
Reference: City of Santa Clara/Huy Nguyen, PE, Notice dated September 3, 2019
Letter dated August 25, 2020 from the Undersigned to City Manager
Letter dated September 14, 2020 from the Undersigned to Falguni Amin, PE, DPW

Dear Ms. Aileen Jackman, PE,

First, and foremost, please forgive me if I misspelled your name – unfortunately I do not have a written record of the proper spelling, so this is my best guess of the spelling. Please accept my apologies for this transgression.

Second, please review this transcript in *italics* of your August 12, 2020 voice message which was left on my telephone answering machine, below:

Hi this is Aileen Jackman of the City of Santa Clara. I am calling back to follow up on our conversation last week regarding your property over at Scott and Benton. I wanted to touch base because I have done some digging within our Public Works group, including talking with our Design Team and our Field Services Team who oversaw the construction at your property frontage, and I have determined and discussed with the City and staff that the program is completely on City property and in the public right of way. So there should be no concerns or issues on your end and we have stayed within the public right of way and City property. We even had our City Surveyor go out and check that information as well. I just wanted to circle back with you and if you have any questions or need any further information please call me at telephone 408-6153041. Thank you very much.

With respect to the above telephone message, in the above referenced August 25, 2020 letter I wrote that the message was "...polite, professional, clear and reassuring...that all is well". Now you can make the message satisfactory by responding in writing, with copies of applicable documents, to the following three requests:

Request # 1: Presumably "our Field Services Team" relied upon drawings, specifications, directions or other written documentation regarding the scope of the "program". If this information is not privileged, protected or otherwise private, please provide me with copies of all applicable documents, if any, used by said "Field Services Team who oversaw the construction at your property frontage". I shall pay upon demand any fees due for the copies of the requested documents.

Request # 2: On or about September 10, 2020 I received copies of City Survey Project S629 dated 9/4/2020 and the Assessor's Parcel Map for 2020-2021. On the north (Benton) side of said Survey drawing appears a notation "1.2' ROW Guy Anchor". This ROW appears neither on the above referenced Track Map 705, Unit # 3, Lot 90, nor on the Assessor's Parcel Map for Lot 90. If the applicable City documents for this ROW are not otherwise protected or private, please provide copies. I shall pay all applicable fees for such copies upon demand.

Request # 3: An unidentified dimension of 25' appears on the Benton side of the Survey. Please explain

Humbly,
Aryeh Korthamar