

October 21, 2022

*Via E-mail ([sschaan@woodsidetown.org](mailto:sschaan@woodsidetown.org))*

Sage Schaan  
Deputy Planning Director  
Town of Woodside  
P.O. Box 620005  
2955 Woodside Road  
Woodside, CA 94062

Re: 3036-3062 Woodside Road (APNs 072-162-350 and 072-162-360)  
Use Permit Application (Permit # CUSE2022-0002) and Variance Application  
(VAR12022-0006)

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Dear Deputy Director Schaan:

We represent Meyer Malka and Becky Kleiner, the owners of 155 Prospect Street in the Town of Woodside (the “Town”). Mr. Malka and Ms. Kleiner have retained Farella Braun + Martel LLP to monitor and oppose, on all possible grounds, the proposed parking lot development on the property located at APN 072-162-360, which is the subject of an Open Space Easement granted to and accepted by the Town in 1980.<sup>1</sup>

It is our understanding that on August 5, 2022, Dave Tanner, on behalf of the George S. Roberts Trust (the “Roberts Trust”), applied to amend Use Permit #80-81 and for a variance, to allow for the construction of 35 new surface parking spaces within the area of the Open Space Easement. It also is our understanding that on September 2, 2022, you provided the applicant with an Application Review Checklist, summarizing the Town’s initial review of the Roberts Trust’s applications.

While our review is in its initial stages, based on the Roberts Trust’s applications and the Application Review Checklist, we have several immediate questions and requests:

- The Open Space Easement precludes the Roberts Trust from constructing, placing, or erecting any improvements, buildings, or structures on the property subject to the Easement. The Open Space Easement also precludes the Roberts Trust from using or permitting anyone else to use the property subject to the Easement for any purpose

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<sup>1</sup> Mr. Malka and Ms. Kleiner are not alone. We understand that two other property owners who abut APN 072-162-350 and APN 072-162-350 also oppose the Roberts Trusts’ proposed project.

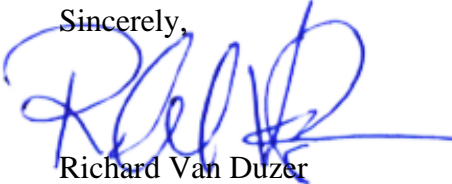
other than as open space. The parking spaces the Roberts Trust has asked the Town for permission to construct are within the area of the Open Space Easement and, therefore, are only allowed if the Town legally abandons the Open Space Easement pursuant to Government Code Section 51061. In order to abandon the Open Space Easement, the Town must find that no public purpose described in Government Code Section 51056 will be served any longer by keeping the land as open space. Because the Open Space Easement will no doubt continue to serve a purpose described in Government Code Section 51056, we do not believe there are any grounds on which the Town may reasonably and in good faith abandon the Open Space Easement. On what basis does the Town believe it may do so?

- In its Application Review Checklist, the Town indicates that, subject to complying with any recommendations, it is “likely” that the Town will determine that the project proposed by the Roberts Trust is exempt from CEQA review. Why at this early stage in the process has the Town jumped to the conclusion that the project will likely be exempt from CEQA review? To the contrary, because the Town must formally abandon the Open Space Easement to allow the new parking lot to proceed, Exemption Class 17 of CEQA (which exempts the grant of open space easements but observes that cancelling such easements “will normally be an action subject to CEQA process”) appears to indicate expressly that the project is subject to full CEQA review. We also believe that, given its size, location, and context, the project does not qualify as a “small parking lot” and, therefore, is not exempt under Exemption Class 11. Please let me know on which exemption(s) under CEQA the Town expects to rely.
- We do not believe that the Roberts Trust’s proposed project is consistent with the General Plan of the Town. We also do not find persuasive the recommended “findings” outlined in the August 2, 2022 letter from Ms. Prince at Jorgenson Siegel McClure and Flegal LLP, which was submitted to the Town on behalf of the Roberts Trust. Although we will address Ms. Prince’s comments separately, we find particularly troubling her conclusion that the “overall look and feel” of the area will “remain natural” – nothing could be further from the truth. Please let me know on what basis the Town believes the Roberts Trust’s proposed construction of 35 new surface parking spaces on roughly 18,000 square feet of open space is consistent with the General Plan.
- We understand from the Application Review Checklist that the Town is in the process of obtaining a biological assessment, noise study, and traffic analysis. Please notify us when the assessment, study and analysis are completed so we may obtain copies.
- If the Roberts Trust has responded to the Application Review Checklist in any substantive manner, please let us know, so that we may obtain copies of its response(s).

- Please provide me with a full copy of the Open Space Easement, including all Exhibits.
- Please notify me at [rvanduzer@fbm.com](mailto:rvanduzer@fbm.com) of any hearings, committee meetings, or material actions planned or taken by the Town relating to the Roberts Trust's applications, and please add me to the distribution list for all formal notices, including but not limited to any notices required by CEQA.

I look forward to your response. In the meantime, if you have any questions, please let me know.

Sincerely,



Richard Van Duzer

RVD:jl

cc: Meyer Malka  
Becky Kleiner