

February 13, 2024

Via E-mail (sschaan@woodsidetown.org)

Sage Schaan
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)

Dear Director Schaan:

Thank you for your January 22, 2024 email in which you provided me with a copy of the Roberts Trust's latest submissions, proposing expansion of the existing parking lot at Canada Corners, as well as its request to add permanent outdoor dining spaces at The Village Bakery and Buck's.

For the reasons set forth in my September 23, 2023 letter, Mr. Malka and Ms. Kleiner, the owners of 155 Prospect Avenue, continue to object to the proposed Conditional Use Permit ("CPU") amendment, as well as the associated request for a variance from the Town's parking requirements. Although it does not appear that much has changed regarding the scope of the Project, the Roberts Trust's latest submissions include a few nuances in position and some additional information regarding the Project about which we would like to comment.

- There Is No Evidence That The Town Anticipated Needing Additional Parking In The Area Of The Open Space Easement When It Granted CUP #80-81 And Entered Into The Open Space Easement In 1980.

The Applicant's claim that, when read together, CUP #80-81 and the Open Space Easement, suggest that in 1980 the Town anticipated needing to add parking within the area of the Open Space Easement is nonsense. In fact, when read together, the two documents suggest just the opposite – that absent abandonment of the Open Space Easement, the Town intended to

prohibit the Applicant from constructing any new parking or other improvements in the rear parcel, except in the area expressly reserved for employee parking.¹

Condition No. 2 to CUP #80-81 required the Applicant to place into an open space easement the entire rear parcel, other than an area designated and reserved for employee parking. Condition No. 3 to CUP #80-81 simply provided that if the Applicant intended to pave more than 15,000 square feet in the portion of the rear parcel not encumbered by the open space easement, a new CUP amendment would be required. Consistent with Condition No. 3 of CUP #80-81, in Section 1 of the Open Space Easement, the Applicant relinquished in perpetuity all right to construct any improvements in the rear parcel, *except* in the area designated and reserved for employee parking. Like all such easements, the Open Space Easement also included boilerplate language, reserving the Town's statutory right to abandon the Open Space Easement under the Government Code. By simply reserving its rights to abandon the easement, the Town can hardly be said to have anticipated needing more parking over 40 years later.

- Measure A – Which Passed By Only A Handful Of Votes – Does Not Eliminate The Open Space Easement Or Permit The Open Space Easement To Be Modified Through Amendment of The Conditional Use Permit for Canada Corners.

The suggestion that Measure A reflects a show of support by the community for abandoning the Open Space Easement, or that Measure A somehow permits the Town to “modify” the Open Space Easement to permit additional parking is wrongheaded. In the first place, Measure A passed by less than five votes, with barely 50% of the registered voters in the Town casting a ballot. The results of the election, therefore, were hardly an overwhelming show of support for outdoor dining or additional parking. Moreover, as a matter of law, the Open Space Easement cannot be modified, as the Applicant suggests. In order to pave the way for the Applicant's proposed Project, the Town must abandon the Open Space Easement in accordance with the Government Code. Rather than wasting more time on reviewing and commenting on the Applicant's requests to modify the CUP and for a variance of the Town's parking requirements, we suggest the Town focus more on whether it ultimately will be able to demonstrate the necessary prerequisites to abandoning the Open Space Easement. It is our considered and informed view that any objective legal analysis will demonstrate that the Town will be unable to do so within the bounds of the law, requiring rejection of the Project altogether.

- Construction Will Be Extremely Disruptive.

The Applicant, for the first time, has come clean on how disruptive at least parts of the construction of the new parking lot will be. According to its submission, a total of at least 400 trips using a 12-yard super dump truck (photo below) will be required to remove soil and debris and import materials to/from the site alone during construction. Setting aside the actual

¹ In 1981, the Applicant did, in fact, add parking in the area designated and reserved for employee parking, and in 2016, Conditions No. 2 and 3 of CUP #80-81 were eliminated altogether as irrelevant.

construction of the lot itself, imagine what that alone will do to traffic in the area and the community's enjoyment of Canada Corner.



- Talk Of The Project Improving “Community Well-Being” And Serving The Day-To-Day Needs Of The Community Is A Charade.

The purpose of the amendment and variance the Applicant seeks is to bring more business to Canada Corners for its own benefit and the benefit of its tenants. It is by no means altruistic. The Town does not need substantially less open space, new outdoor dining parklets, or 50 more parking spaces. What the Town needs is to enforce existing seating limits at its restaurants and do what is right and necessary to protect and maintain its rural character. Removing nearly 70 trees – at least 25 of which are “significant” – and installing minimal new landscape screening will not adequately shield the new parking lot from view from adjacent homes, nor will it shield adjacent properties from additional exterior lighting at night or prevent the inevitable increase in traffic, noise and congestion the expansion will bring to the Town.

We look forward to your response to our mounting concerns. In particular, I would appreciate it if you would confirm that the Town agrees that abandonment of the Open Space Easement will be required to approve the Project and that the Town intends to proceed in that regard in accordance with the law, as set forth in the Government Code. Please also continue to provide me with copies of the Applicant's submissions and the Town's responses and notify me at rvanduzer@fbm.com of any hearings, committee meetings, or material actions planned or taken by the Town relating to the Roberts Trust's applications or requests.

Thank you for your attention to these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Van Duzer".

Richard Van Duzer

cc: Meyer Malka
Becky Kleiner