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July 24, 2017

Via Email

July 24, 2017

Sonoma County Permit &
Resource Management Department
Attention: Melinda Grosch
2550 Ventura Avenue
Santa Rosa, CA 95403

RE: Roseland Village
Sonoma County Assessor Parcel Number 125-111-37

Dear Ms. Grosch,

This letter responds to recent allegations by Mr. Paulsen related to the Reciprocal Parking and Driveway Easement, created in the document entitled "Grant of Reciprocal Easements" executed on July 25, 1956[1] ("Easement") between Sonoma County Assessor Parcel Number 125-111-37 ("Commission Property") and a portion of Sonoma County Assessor Parcel Number 125-111-45, 46, 47 and 48 ("Paulsen Property").

As set forth below, it is the conclusion of the Office of County Counsel that the terms of the Easement do not prevent or limit the development of the Roseland Village on the Commission Property as currently proposed. The Easement does not bar the development of the Commission Property, nor does the development of the Commission Property overburden the Easement. As such, there is no reason that Permit Sonoma should not continue with its review of the proposed plans of the Commission Property.

A. Background

On July 25, 1956, Roseland Village and Codding Enterprises executed the Easement. At the time of the Easement's creation, Roseland Village owned the parcels that make up the current Commission Property. Codding Enterprises owned a portion of what is today the Paulsen Property. The Paulsen Property has since expanded beyond what was originally owned by Codding Enterprises and, thus, what is the beneficiary of the Easement. When the Easement was created, the Commission Property and the relevant portion of the Paulsen Property contained various store buildings (and parking spaces to serve those stores), together, known as the Roseland Village shopping center.

[1] Recorded in Book 1467 Page 415 of the Official Records

The Easement states its purpose as follows:

> WHEREAS, the parties hereto desire to grant to each other reciprocal easements over that portion of said real property which has been, and will be in the future, set aside for vehicular parking lots and drive-ways;[2]

The Easement does not describe a specific location for vehicular parking and/or driveway uses on either the Commission or Paulsen Properties. Rather, Roseland Village and Codding Enterprises granted each other a "**non-exclusive easement** to use and to allow the use of vehicular parking lots and drive-ways which presently exist **or will be developed hereafter**... for all proper purposes connected with the operation of retail business establishments by the grantee..."[3] (emphasis added)

The current Commission Property parking configuration provides for approximately 270 parking spaces. The proposed parking configuration of the Commission property will provide for over 300 parking spaces. Nowhere in the Grant of the Easement does it restrict the Commission from developing the Commission Property. In fact, the Easement contemplates further development by both parties.

B. Development of the CDC Property does not impact rights under the Easement.

As discussed in the May 16, 2017 letter from Matthew D. Eschoo to Permit Sonoma, the owner of the Paulsen Property contends that the proposed development for the Commission Property violates the terms of the Easement because it will allegedly limit the number of parking spaces available to Paulsen. However as indicated above, the development of the Commission Property contemplates providing the Paulsen Property equivalent, if not additional, parking. Moreover, the proposed development does not infringe the driveway rights granted by the Easement. As such, the contemplated development of the Commission Property conforms to the Easement.

Governing case law provides that the owner of the Commission Property "is entitled to make all uses of the servient estate [Commission Property] that do not unreasonably interfere with the easement."[4] The Commission is entitled to make use of all the Commission Property so long as the changes to the use of the Commission Property do not unreasonably interfere with the Easement. Nothing in the proposed plans of the Commission Property would unreasonably interfere with the Easement: the Paulsen Property will continue to have non-exclusive parking and driveway rights on the Commission Property. Accordingly, we find no reason that Mr. Paulsen's allegations regarding the Easement should delay Permit Sonoma's review of the Commission Development.

Please feel free to contact our office if you have any questions or concerns or receive any additional information related to this matter.

Sincerely,

Aldo Mercado
Deputy County Counsel

AM:ARM

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[2] Easement Page 2
[3] Easement Page 3
[4] *Guerra v. Packard* (1965) 236 Cal.App.2d 272.

John C. Paulsen. President
Roseland Village, a Corporation
P.O. Box 7948
Santa Rosa, CA 95407

August 2, 2017

Sonoma County Project Review and Advisory Committee
Community Meeting August 3, 2017

Re: Roseland Village, A corporation (Paulsen Parcels) 125-111-45, 46, 47, 48

Dear Project Review and Advisory Committee Members,

In 1956 as part of the overall development of Roseland Village, Hugh Codding and Viggo Paulsen, principals, encumbered APN 125-111-37, (Codding Property) and 125-111-45, 46, 47 and 48 (Roseland Village/Paulsen Property) with mutual "Reciprocal Easements" for Parking and Access/Ingress/Egress.

In addition, since at least 1960, as confirmed by aerial photographs and building plans, there have been continuous Prescriptive Easements for access and parking used by the Paulsen Parcel Tenants and customers on Parcel APN 125-111-37.

These recorded and Prescriptive Easements were known to the County and Mid-Pen when the County purchased APN 125-111-37 and when County agencies "blessed" Mid-Pen with (I understand over $1.5 million) in "planning fees." No one ever approached me to discuss the inherent incompatibility with developing outside the Codding Enterprise building footprint, or by eliminating the existing Parking and Access Easements (Recorded and Prescriptive).

Rather, when I asked for and had a meeting with Mid-Pen and its co-venturer, and asked them to discuss the recorded and Prescriptive Easements they simply "shut down." The representatives were nice, but had no explanation for absolutely failing to address the reality that the existing Easements simply will not accommodate the high density development plans the County funded and is pushing.

As the owner of the Recorded and Prescriptive Easements, I invite the Community Development Commission and Mid-Pen to review with me how any development can occur consistent with the Easements. This has not been done to date.

Accordingly, I believe it is premature and unwise for any entity to entertain development of parcel APN 125-111-37 which is patently illegal and a clear violation of my Family's property rights. I challenge any one to visit Roseland Village and view for themselves the parking and access in use, which has undeniably existed since at least 1960, and tell me the proposed development will not substantially and irreparably destroy the use and value of Roseland Village. Right now Roseland Village is a thriving tax paying community resource. I will fight to keep it that way.

Sincerely,

John Paulsen

Cc: M. Grosch (via email)