

From: Norm Matteoni
Sent: Wednesday, July 28, 2021 1:23 PM
To: Sean Mullin <SMullin@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>
Cc: Jeremy Cunningham ; Attorney <Attorney@losgatosca.gov>
Subject: Planning Commission Hearing July 28 Item 2 (Wood Rd.)

Sean Mullin

While my client does not object to the approval of the applicant's proposed single family residence and two car garage, it does seek to protect the right of way (extension of Wood Rd.) across the back of the property as shown in this 1965 Record of Survey (the applicant's parcel is at the upper left corner of what was then Parcel 2).

I understand that the Town Attorney is reviewing this issue.

Thus, it seems appropriate to continue the hearing to the next agenda to resolve the matter and/or determine any conditioning of the approval regarding the right of way.

Please advise the Commission of this request.

Norm



NORMAN E. MATTEONI
848 The Alameda
San Jose, California 95126
T: (408) 293-4300
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From: Robert Schultz <RSchultz@losgatosca.gov>
Sent: Sunday, August 1, 2021 3:16 PM
To: Sean Mullin <SMullin@losgatosca.gov>; Norm Matteoni ; Joel Paulson <jpaulson@losgatosca.gov>
Cc: Jeremy Cunningham ; Attorney <Attorney@losgatosca.gov>
Subject: RE: Planning Commission Hearing July 28 Item 2 (Wood Rd.)

Hello Norm,

The Planning Commission continued the matter until August 25. The 1965 survey you have provided does not establish a right of way (extension of Wood Rd.) across the back of the property. In order to establish a right of way you will need to provide documentation that the area was dedicated to the Town and then accepted by the Town. This documentation will be needed to be provided in order to for the Planning Commission to take your request into consideration.



Robert Schultz • Town Attorney

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In accordance with the Santa Clara County Public Health Office Order, Town Offices are closed until further notice. Essential Town operations are functioning and staff continues to perform necessary work.

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From: Norm Matteoni
Sent: Thursday, August 12, 2021 1:10 PM
To: Robert Schultz <RSchultz@losgatosca.gov>; Sean Mullin <SMullin@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>
Cc: Attorney <Attorney@losgatosca.gov>
Subject: RE: Planning Commission Hearing July 28 Item 2 (Wood Rd.) - continued

Robert

This will confirm that we did not find evidence of the upper portion of Wood Road had been dedicated to the Town.

But I have attached a report from a title expert – Jim Weller, who has had prior experience in Los Gatos and is a well-known title researcher.

It is his conclusion that the private easement remains in place, crossing the upper reaches of the applicant's parcel. Notwithstanding the RADE lot line adjustment that had the result of transferring the fee from a separate parcel, labelled as Wood Road pursuant to a 1965 Record of Survey, into the RADE adjacent holdings, in creating the current lot configuration, the easement was not extinguished. It remains running through the new lots.

Thus, my client again requests that any development approval consider and protect the easement, keeping it free of improvements.

Norm Matteoni



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July 31, 2021

Frank Lewis
145 Camino Pacifico
Aptos, CA 95003

Norman E. Matteoni
Matteoni O'Laughlin & Hechtman
848 The Alameda
San Jose CA 95126

RE: Wood Road, Los Gatos - APN: 510-46-043

Dear Mr. Lewis and Mr. Matteoni:

You have engaged me to provide my professional consulting services with regard to the above-referenced matter. As you know, I am an expert land title examiner, analyst, and advisor practicing independently from my office in Capitola, California. My qualifications and expertise come from some fifty years' professional experience in land title practice, in connection with a wide variety of California real property transactions and litigation. I am not an attorney at law. My services do not include the practice of law, and my advice is not to be relied upon as legal advice.

You have asked me to review a collection of maps and documents, some provided by you, and some collected by me, including publicly available Record of Survey maps, a Preliminary Report dated July 25, 2018, Order No. 4312-5756414 ("the Prelim") for David Ebrahimi and Jean Ebrahimoun, Trustees ("Ebrahimi"), and relevant deeds and other documents of record, concerning land in the Town of Los Gatos, County of Santa Clara, title to which is vested in your clients Ebrahmi, and relevant as well to nearby and adjoining lands. Ebrahimi's land, about six acres in area, is designated as Assessor's Parcels ("APN") No. 510-46-006 and 510-46-007 (together and separately, the "Ebrahimi land," including appurtenances, in some contexts).

I have reviewed the contents of all the maps and documents carefully, and I have examined the relevant land title record information indexed in the "title plant" maintained by Chicago Title Company in San Jose, California. I have likewise obtained and reviewed copies of numerous other relevant recorded deeds I was able to identify. I have carefully examined all of the relevant recorded survey maps, and also all the relevant recorded deeds disclosed by notations on those maps. I have provided you with digital copies of everything I have reviewed.

I have not myself conducted a comprehensive title search in the Santa Clara County Public records. Nonetheless, in view of all the documentation I have reviewed, I believe I understand the contents and significance of the relevant land title records adequately, so as to advise with regard to the matters of concern to your clients.

Summary of Facts and Observations

The Ebrahimi land abuts upon a private roadway area approximately 30 feet wide, commonly known as Wood Road. The northerly boundary of the Ebrahimi land is described in deeds of record as the southerly boundary of Wood Road. I have been unable to determine how the title in fee as to the roadway area adjoining the boundary of the Ebrahimi land is vested.

The adjacent part of Wood Road, extending easterly from the northerly corner of the Ebrahimi land, was designated as a separately assessed parcel of land by the County Assessor, APN 510-47-043 (“APN 043”) until February 15, 2017. Afterward, APN 043 was “retired” and combined with the adjacent 4.321 acres of land now or formerly owned by RADE Properties, LLC (“RADE”), now designated as APN 510-47-044 and 510-47-045 (the “RADE land.”)

This change was apparently made pursuant to the deed by Paul S. Liccardo and Toni A. Liccardo to RADE, recorded October 13, 2015, Document No. 23105140, Official Records (the “RADE deed”), and the Certificate of Lot Line Adjustment concerning the RADE land, recorded October 26, 2016, Document No. 23477967, Official Records (the “RADE LLA”). The RADE deed and the RADE LLA both described and depicted APN 043 as a part of the RADE land.

The RADE land, apparently including APN 043, was formerly owned by the Estate of Irma L. Farwell, deceased (“Farwell”), who died on March 4, 1964. The corpus of her estate (the “Farwell Estate”) was distributed according to a Decree of Final Distribution recorded September 14, 1965 in Volume 7102, pages 582-601, Official Records.

The relevant portion of the land belonging to the Farwell Estate was delineated and depicted on a Record of Survey map filed on February 10, 1965 in Book 190 of Maps, page 52, Santa Clara County Records (the “Farwell Survey.”) According to the Farwell Survey, the 30-foot wide segment of Wood Road (APN 043) that was situated between Parcel 1 (6.494 acres) and Parcel 2 (4.321 acres) was a separate parcel of land, not part of either Parcel 1 or Parcel 2.

According to a Quitclaim Deed dated December 29, 1971, recorded March 6, 1972, in Volume 9731, pages 555-556, Official Records, the distributees of the Farwell Estate remised and relinquished their right, title, interest, or claim as to APN 43 unto Werner J. Jasper and Louis L. Jasper (“Jasper”), who were then the owners of Parcel 2 of the Farwell Survey. In this 1971 Quitclaim Deed, APN 043 was described as “. . . a portion of the strip of land designated as Wood Road [according to the Farwell Survey].” It appears that the title in fee as to APN 043 was regarded as having been vested in the Farwell Estate, and it was the intent of the parties that it be vested in the owner of Parcel 2. Jasper’s title to Parcel 2 and APN 043 was subsequently transferred to RADE.

The Farwell Estate’s title in fee as to Wood Road apparently was subject to a private, expressly granted easement described as “an open, free and unobstructed right of way from the County Road known as the Santa Cruz Road to the above described property along the road now used and sometimes called the Woods[sic] Road, said road being 20 to 30 feet wide” (the “Wood Road right of way”) according to a deed dated January 24, 1948 by Albert Edward Gately, et al (“Gately”), to James L. Countryman and Edna Countryman (“Countryman”), recorded in Volume 1563, pages 273-274, Official Records.

The 1948 Countryman grantees were the predecessors in title to Ebrahimi, and “Countryman” was the owner of the Ebrahimi land in 1965, according to the Farwell Survey. Previously, James L. Countryman was the owner of the Ebrahimi land according to the Record of Survey filed September 21, 1951 in Book 35 of Maps, page 1, Santa Clara County Records. Alice Gately was the owner of the Ebrahimi land according to the Map of the Oak Knoll Tract filed May 16, 1914 in Book “O” of Maps, pages 50-51, Santa Clara County Records.

I have not determined by what conveyance of record Gately or their predecessor(s) may have acquired title to the Wood Road right of way, though I believe it is a reasonable conjecture that it was granted by a deed executed decades earlier by Farwell, or her apparent predecessor, J. W. Lyndon. The style of the language describing the Wood Road right of way indicates to me that it was very likely granted early in the 20th century, or perhaps some years before then.

Where in fact, precisely, the actual traveled way of Wood Road was situated at any time between 1914 and 1965 is indeterminate. The roadway through the RADE land, for travel to and from the Ebrahimi land, may have been relocated, according to the Easement Deed dated February 20, 1974 by Rex George Moores, et al (“Moores and Nickele”), to James L. Countryman, recorded July 31, 1974 in Volume B018, pages 553-554, Official Records.

In 1974, apparently, Moores and Nickele were the owners of the RADE land, that is, Parcel 2, and AP 43. According to this Easement Deed, Countryman was granted “an easement for ingress and egress for road purposes” in “a strip of land [within Parcel 2] . . . 36.00 feet wide” extending westerly from APN 043 to the easterly boundary of the Ebrahimi land (the “1974 roadway easement”). This roadway alignment is depicted in Exhibit “C” and Exhibit “E” attached to the 2016 RADE LLA.

Furthermore, it appears that an adjoining portion of the RADE land, according to Exhibit “D” and Exhibit “E” attached to the 2016 RADE LLA, was intended to become subject to an “easement for ingress, egress & utilities” that would also be appurtenant to the Ebrahimi land. Apparently, this additional easement was not granted of record to Ebrahimi.

Conclusions

In my opinion, the title in fee as to APN 043 is vested in RADE, or RADE’s successors in interest. The title to the RADE land, including APN 043, is subject to the effect of the Wood Road right of way, appurtenant to the Ebrahimi land, and the 1974 roadway easement, and the effect of the additional easement described in “Exhibit “D” and depicted in “Exhibit E” of the 2016 RADE LLA, both appurtenant to the Ebrahimi land.

Best regards,

Jas. E. Weller

Jim Weller