

From: [Cove Britton](#)
To: [Ling, Xue](#)
Cc: [frank@matsonbritton.com](#); [Mikhail, Leza](#); [Onciano, Jacqueline](#); [mfwaters3@gmail.com](#); [Loquist, Kristina](#); [Thomas Jamison](#); [Richard J. Irish](#); [Pianca, Elizabeth](#); [Cheleden, Christopher](#)
Subject: Re: [EXTERNAL] Re: PLN20-124_ZA Item 2 Posted
Date: Tuesday, November 2, 2021 4:11:12 PM
Attachments: [image001.png](#)

Dear Ms. Ling:

Respectfully the project attorney, my office, and the client does not agree with your statements and characterizations.

It is axiomatic that documentation may continue to be submitted for an application complete or not. That the County of Santa Clara staff has not asked for the documentation is irrelevant and counter productive. I do not think the legislature ever perceived a local jurisdiction having the belief they could reject submittals. I suspect the very basic questions of equity arrive here. Applicants are not supplicants and should not be treated as such.

We have repeatedly asked to submit documentation regarding an existing application. The County has repeatedly put caveats on that request that are not consistent with various State and Federal laws and basic concepts of equity. My client may be able to afford this type of nonsense....most cannot. We are in a housing crisis and whatever justification County staff has for this process, it clearly does not address truly serious issues for our State.

We will submit the documentation (and have already in some cases) via email to you. If County staff does not forward that documentation to the Zoning Administrator that is your and their responsibility.

I request that this email be supplied for the administrative record to be presented to the Zoning Administrator.

Sincerely:

On Tue, Nov 2, 2021 at 3:36 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hello Mr. Britton,

Thank you for your email. Please note that County Staff has never received any additional documents/materials uploaded to public portal, or a request to allow documents to be uploaded pursuant to County procedures. Staff also reviewed emails to ensure that the information you note in your email below (photo realistics) were not sent via email either, and Staff could not find evidence of this submitted information. Also, please note that Staff has not requested of the Applicant to clarify, amplify, correct, or otherwise supplement the information since the Planning Commission deemed the project complete.

Please note again that Staff has provided multiple opportunities and timeslots to accommodate you and/or Frank Kruzic to allow for new documents/materials to be submitted for the application electronically, and shared the procedures for using the County's public portal for electronic submittals of information through the link below.

<https://plandev.sccgov.org/how/apply-permit/applicant-procedures-planning-resubmittals>

No response has been received to-date or since the meeting with Mr. Kruzic on September 15, 2021, whereby Mr. Kruzic informed Ms. Mikhail and I that he did not wish to submit that day and would return with a new date to submit new and/or additional information/documents/materials to the County. Please provide times that you are available to submit the documentation/materials that you wish to submit electronically via the County public portal and County procedure (link above). Alternatively, if you do not wish to use the public portal procedure, I can make myself available in person at the County (70 W. Hedding Street, 7th Floor, East Wing / San Jose) **tomorrow morning if you confirm** this option.

Lastly, Staff has never concluded that new documents/materials submitted to the County would automatically void the “complete” status before reviewing the documents/materials/additional information. However, pursuant to Zoning Ordinance 5.20.090, “[a]n application may be modified by the applicant at any time prior to approval. Any prior finding of application completeness may be voided by submittal of a request for modification or withdrawal. Depending on the type and substance of the modification, the modified application may be distributed again for completeness review as provided in Section 5.20.080...” If the submitted information is considered as “modification” to the project application that was deemed complete by the Planning Commission, the completeness may be voided under Section 5.20.090.

We ask that you please provide the Department with any public notice that you have published or issued under Section 65956(b).



Xue Ling

Associate Planner

Department of Planning and Development

Direct: 408-299-5784

70 W. Hedding Street, 7th Floor, East Wing

San Jose, CA 95110

Please visit our [website](#).

Click [here](#) to look up unincorporated property zoning information.

Questions on the status of your permit? Please e-mail: E-Permits@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>
Sent: Tuesday, November 2, 2021 3:08 PM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: frank@matsonbritton.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>; mfwaters3@gmail.com; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>
Subject: [EXTERNAL] Re: PLN20-124_ZA Item 2 Posted

Dear Ms. Ling-

Due to the lack of response acknowledging that we have the right to submit to the Zoning Administrator even if planning staff refuses to accept documents with no caveats. Mr. Frank Kruzick from my office will submit pdf documents for the ZA to review as part of the public hearing to you directly.

Regards-

On Mon, Nov 1, 2021 at 5:32 PM Cove Britton <cove@matsonbritton.com> wrote:

Dear Ms. Ling:

I have noted in your summary statement that there appear to be factual several errors. For instance, new information has been submitted including photo realistics and a notice that this project has been determined approved under the Permit Streamlining Act (PSA) , neither were rejected. And despite multiple requests to resubmit documents consistent with the PSA your department has refused to open the portal unless the applicant agreed to a new application or a modification of the existing application voiding the determination of "complete" made by the Planning Commission. Such a condition of submission of documentation is an inherent violation of the PSA. The PSA is clear that we may submit additional documentation without triggering a new application nor a modification of the existing (and losing our status as a complete application). It has been solely at County staff's insistence that such documentation was not submitted.

That said, may we now submit documents for the ZA to review without caveat?

Regards-

On Mon, Nov 1, 2021 at 11:36 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hello Mr. Britton,

The staff report and attachments are now posted on the County Zoning Administration webpage and can be found in the link below.

https://stgenpln.blob.core.windows.net/document/PLN20_124_ZA_20211104_Item2_StaffReport.pdf

Sincerely,



Xue Ling

Associate Planner

Department of Planning and Development

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