

From: [Ling, Xue](#)
To: [Cove Britton](#)
Cc: [Mikhail, Leza](#)
Subject: RE: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004
Date: Thursday, June 3, 2021 5:27:03 PM
Attachments: [image001.png](#)

Hi Cove,

Thank you for your prompt and comprehensive reply. I don't think another meeting is necessary at this moment, but could you let me know when all the documents will be resubmitted?

Sincerely,

Xue
408-299-5784

From: Cove Britton <cove@matsonbritton.com>
Sent: Thursday, June 3, 2021 5:07 PM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Mikhail, Leza <leza.mikhail@pln.sccgov.org>
Subject: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Hi Xue-

We pretty much intend to resubmit the full package. The civil engineers believe they have resolved the fire department issues (including CAL FIRE) , the geotechnical engineers also had a few minor comments but are resolved, and also septic's minor issues are resolved. Our plans had a couple of clarifications necessary but those are done or will be done shortly.

As Leza knows...I do not agree that everything noted in the completeness letter as completeness comments were indeed "completeness" issues under the Permit Streamlining Act.....but I also do not believe going to hearing with technical issues unresolved (whether or not they are actual completeness issues) is helpful.

As far as the discretionary issues, I have a 3d being prepared that should be helpful for all concerned. In addition a photo realistic is being prepared looking at the site from the valley floor.

But what I am attempting to do is get the technical issues resolved, if possible, and then address the subjective issues. I think I can demonstrate that indeed the project does comply with the subjective issues...but I do completely understand that planning staff may well disagree. Hopefully not ultimately but that is a whole nother ball of wax from the technical issues.

That all said.....)

I am available tomorrow at 9:30, I do have another meeting scheduled at 10ish. So let me know if you feel we need longer.

Cheers!

On Thu, Jun 3, 2021 at 2:51 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Cove,

I would like to introduce myself as your project planner. Before discussing the tentative hearing date, could you please let me know what documents you would like to resubmit? I am happy to schedule a meeting between you and me today or 8-10 am tomorrow morning (June 4, 2021). If you are not available during these time frames, please reach me via email.

Sincerely,



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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--

Cove Britton
Matson Britton Architects

O. (831) 425-0544

From: [Mikhail, Leza](#)
To: [Cove Britton](#)
Cc: [Ling, Xue](#)
Subject: RE: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004
Date: Wednesday, June 9, 2021 8:28:00 PM
Attachments: [image001.png](#)

Mr. Britton,
I will not be the Hearing Officer.

Thank you for your inquiry: Due to the immediate need of the Department of Planning and Development staff to support the County-wide effort regarding the COVID-19 Pandemic; there will be a delay in our ability to respond to telephone calls and emails.



LEZA MIKHAIL

Interim Planning Manager & Zoning Administrator

**Department of Planning and Development
County of Santa Clara**

70 W. Hedding Street | 7th Floor | East Wing
San Jose | CA 95110
Planning Division Inquiries: (408) 299-5700
Direct Line: (408) 299-5773
leza.mikhail@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>
Sent: Wednesday, June 9, 2021 8:01 PM
To: Mikhail, Leza <leza.mikhail@pln.sccgov.org>
Cc: Ling, Xue <xue.ling@pln.sccgov.org>
Subject: Re: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

If you have any ethics at all....it should not be you.

On Wed, Jun 9, 2021 at 7:53 PM Mikhail, Leza <leza.mikhail@pln.sccgov.org> wrote:

Mr. Britton,

We are taking your item to the July 1st Zoning Administration Hearing.

Thank you for your inquiry: Due to the immediate need of the Department of Planning and Development staff to support the County-wide effort regarding the COVID-19

Pandemic; there will be a delay in our ability to respond to telephone calls and emails.



LEZA MIKHAIL

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

From: Cove Britton <cove@matsonbritton.com>

Sent: Wednesday, June 9, 2021 7:52 PM

To: Mikhail, Leza <leza.mikhail@pln.sccgov.org>

Cc: Ling, Xue <xue.ling@pln.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Hi Leza-

Respectfully....I have specifically asked what is the date the County determined the application complete. I.e. the application was complete prior to the hearing...it was an appeal of completeness meaning the incomplete determination was invalid therefore the project was complete prior to the PC hearing. I am requesting a specific answer to that question.

I.e. In this email I am not asking when you are scheduling hearings....I am asking what the County believes they are required to do so under the PSA?

Respectfully you may want to review Government Code 65944. The County is required to provide that information.

I also want to note that I have the right to request an extension. That you have failed to notice us should be noted. The PSA requires the jurisdiction to inform the applicant of the PSA specifically (Government Code 65940-65945.7).

Under Government Code 65957 I may request an extension. Something I know but you have not informed me of....as required by the PSA.

I consider you to be rude, and you have ignored prior requests of information, and your actions

to be inconsistent with required State legislation.

I hereby request a determination on what date the project has been determined complete specifically. *And I do mean specifically.*

Based on your answer I *may* request a 90 day extension per the PSA.

I should note that you should not be the hearing officer in this situation. I can provide you the legal authority for that if you wish.

Regards-

On Wed, Jun 9, 2021 at 6:40 PM Mikhail, Leza <leza.mikhail@pln.sccgov.org> wrote:

Hello Mr. Britton,

I will step in here. This item is going to the July 1st Zoning Administration Hearing. We will be analyzing the plans that were deemed complete by the Planning Commission, since we do not have any resubmitted materials to consider, and the clock is ticking. Xue's Staff Report is due next Monday, so she is moving quickly.

The determination of the ZA Hearing Officer is appealable to the Planning Commission.

You can submit a photo-simulation at any stage, as this is not a required to process the application. Feel free to submit it when it is ready and we will include it with the packet. Alternatively, you may present it at the public hearing.

Thank you for your inquiry: Due to the immediate need of the Department of Planning and Development staff to support the County-wide effort regarding the COVID-19 Pandemic; there will be a delay in our ability to respond to telephone calls and emails.



LEZA MIKHAIL

Interim Planning Manager & Zoning Administrator

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leza.mikhail@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Wednesday, June 9, 2021 6:10 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Mikhail, Leza <leza.mikhail@pln.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Hi Xue-

The consultants are finishing things up....as you are aware probably....minor stuff but people are busy. I expect the package to be ready in a matter of days. The photorealistic showing the residence is largely not visible from the valley floor two miles away is being prepared and may take a bit longer. Hard to locate the site from the valley floor!

What would be *really helpful*:

Under the Permit Streamlining Act what exactly does the County of Santa Clara consider the required hearing date to be? Frankly that is a critical point.

Also my understanding from Leza, we were going to a ZA hearing first? I prefer going directly to the Planning Commission but I would like to understand why this project is skipping that step.

I should also note that once I have the photo realistic I believe I can demonstrate the project does address the County of Santa Clara issues and policies in a positive way. I hope to discuss that prior to any hearing.

Thank you!

On Wed, Jun 9, 2021 at 5:08 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Cove,

I haven't heard back from you on when you plan to resubmit the full package. Planning is going to bring this project as currently proposed and deemed complete by the Planning Commission to the July Zoning Administration Hearing.

Sincerely,



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

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From: Cove Britton <cove@matsonbritton.com>

Sent: Thursday, June 3, 2021 5:07 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Mikhail, Leza <leza.mikhail@pln.sccgov.org>

Subject: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Hi Xue-

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But what I am attempting to do is get the technical issues resolved, if possible, and then address the subjective issues. I think I can demonstrate that indeed the project does comply with the subjective issues...but I do completely understand that planning staff may well disagree. Hopefully not ultimately but that is a whole nother ball of wax from the technical issues.

That all said.....)

I am available tomorrow at 9:30, I do have another meeting scheduled at 10ish. So let me know if you feel we need longer.

Cheers!

On Thu, Jun 3, 2021 at 2:51 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

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I would like to introduce myself as your project planner. Before discussing the tentative hearing date, could you please let me know what documents you would like to resubmit? I am happy to schedule a meeting between you and me today or 8-10 am tomorrow morning (June 4, 2021). If you are not available during these time frames, please reach me via email.

Sincerely,



Xue Ling

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Cove Britton
Matson Britton Architects

O. (831) 425-0544

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Matson Britton Architects

O. (831) 425-0544

From: [Ling, Xue](#)
To: [Cove Britton](#); frank@matsonbritton.com; mfwaters3@gmail.com
Cc: [Mikhail, Leza](#)
Subject: Story Pole Requirement_PLN20-124_Peacock Ct
Date: Tuesday, June 15, 2021 2:28:37 PM
Attachments: [image001.png](#)
[Story_poles.pdf](#)
[FW out of office RE EXTERNAL Re PLN20-124 Peacock Court 351-41-004.msg](#)

Hi Cove,

As the project is a Tier 2 Design Review, story poles are required to be erected on the property seven (7) days prior to any scheduled hearing per Zoning Ordinance Section 3.20.040(A)(2)(c). Please see the attached story pole standards or access the file via the link below.

https://www.sccgov.org/sites/dpd/DocsForms/Documents/Story_poles.pdf

This item is schedule for July 1 Hearing. Please contact me prior to June 23, 2021 to inspect the story pole in order to meet the required deadline.

Sincerely,

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

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Story Poles

Definition:

Story poles are three-dimensional, full-scale, silhouette structures that outline the location, bulk and mass that a proposed structure will occupy on a site. They are required for certain design review applications and may be requested for any discretionary review where warranted by visual impact or location issues. Story poles allow Planning staff, neighbors and others to assess the location and general massing of a proposed building from various vantage points.

Story poles shall accurately outline the building's major wall planes, gables and ridges. They need not precisely detail secondary building features and forms.

Construction Requirements:

Story poles shall be constructed of 2x4, or 2x6 lumber or similar other sturdy building material (PVC pipe is not acceptable). Story poles should be braced at the base using diagonal supporting beams or guy wires to ensure that they remain correctly positioned, and can withstand strong winds, shaking and gravity. Additional bracing throughout the structure may be necessary for certain configurations.

Bright orange construction mesh (or similar, high-visibility material) at least 24 inches in width shall be placed connecting poles to show the building's major wall plates and roof ridgelines. Where grading would change the site's natural grade elevation, story poles shall represent the final height of the building, with grading accounted for in the height of the poles.

If at any time the story poles become unsafe, they shall be repaired and reset immediately. The County shall not be liable for any damage or injury associated with the erection of story poles.

Timing:

The story poles must be satisfactorily installed at least seven days before the scheduled hearing date. Photographs of the site with installed story poles (or other verification documentation) may be requested by the zoning administrator or other hearing authority prior to the hearing.

Story poles shall be maintained beyond the hearing date through the appeal period and, if applicable, subsequent appeal hearings. They must be removed within the seven calendar days following the expiration of final appeal period, unless other arrangements have been made with the Planning Department.



From: [Ling, Xue](#)
To: [Ling, Xue](#)
Subject: FW: out of office RE: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004
Date: Tuesday, June 15, 2021 2:25:43 PM

From: Cove Britton <cove@matsonbritton.com>
Sent: Tuesday, June 15, 2021 1:13 PM
To: Mikhail, Leza <leza.mikhail@pln.sccgov.org>
Subject: out of office RE: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

I will be out of the office until June 21, 2021

--

Cove Britton
Matson Britton Architects

O. (831) 425-0544

From: [Ling, Xue](#)
To: [Cove Britton](#); [Onciano, Jacqueline](#)
Cc: [Mikhail, Leza](#)
Subject: RE: [EXTERNAL] Re: ZA Webpage
Date: Wednesday, June 23, 2021 5:43:43 PM
Attachments: [image001.png](#)

You are welcome.

From: Cove Britton <cove@matsonbritton.com>
Sent: Wednesday, June 23, 2021 5:24 PM
To: Ling, Xue <xue.ling@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>
Subject: Re: [EXTERNAL] Re: ZA Webpage

Thank you.

On Wed, Jun 23, 2021 at 5:16 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Mr. Britton,

I have discussed your request with Leza. We are going to post the email below as requested as Additional Public Comments.

Sincerely,



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

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From: Cove Britton <cove@matsonbritton.com>
Sent: Wednesday, June 23, 2021 4:05 PM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Subject: Re: [EXTERNAL] Re: ZA Webpage

Dear Ms. Ling-

My apologies for the confusion.

Please include my prior (see below) email regarding the request for extension in the public comment.

[Redacted]

Cove Britton <cove@matsonbritton.com>

10:38 AM (5 hours ago)

to jacqueline.onciano, Xue

[Redacted]

[Redacted]

[Redacted]

Dear Ms. Onciano:

As the applicant for PLN20-124 (351-42-004) I am requesting an extension of 90 days under Government Code 65957.

Respectfully Ms. Leza Mikhail and I have had numerous interchanges where I consider her to be problematic in a professional sense. I can forward several emails that I believe substantiate that opinion.

Your County Counsel (Chris Cheleden) is familiar with my office and I can also refer you to current and past Planning Directors and Building Officials that can attest that I and my office are reputable.

Ms. Mikhail continues to not acknowledge errors made in the processing of this permit application have been made. Mistakes happen....we all make them but not acknowledging them is very disturbing.

However I would like to move on from that and have a reasonable discussion regarding this project with someone other than Ms. Mikhail (I suspect she would agree).

I want to point out some things that Ms. Mikhail made clear that no respectful dialog would be had between us regarding (and did not schedule a meeting to discuss despite my request). This house is not controversial. It is approximately 2 miles from the valley floor. I.e. virtually not discernible and it is not on a ridge line. The elevation facing the valley floor is well below the height limit. The downhill side of the house (the tallest portion of the house) does not face the valley and trees are proposed to soften that elevation. What is to me most perplexing/concerning, is the claim that the house does not step down the hill.....when the only reason that claim (inaccurate as it is) is because the uphill portion of the home is also well below the height limit. I.e. If we raised the uphill height of the house it would demonstrate that the house was stepping down the slope. But why do that? To me it was an ill informed comment but I was not afforded the opportunity to have a reasonable discussion regarding those types of matters.

To say that I am frustrated by the lack of respectful dialog is an understatement. But I would like to move on from that and request that opportunity with someone other than Ms. Mikhail (as in my experience no respectful *dialog* will occur).

I should note that the project is just about ready to resubmit addressing the incompleteness comments. As I noted to the Planning Commission our intent is to present them with a complete package. Frankly I think if Ms. Mikhail had politely acknowledged the error of contacting Melissa Waters (to gain an extension to the 30 day requirement) I would have granted it.

Thank you for your consideration.

Cove Britton
Matson Britton Architects

O. (831) 425-0544

On Wed, Jun 23, 2021 at 3:50 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hello Mr. Britton,

The email is uploaded under Additional Public Comment (highlight in yellow). You can also access the staff report by clicking the hyperlink in blue font (Item #4-PLN20-124).

- [Item #4 - PLN20-124](#) - Concurrent land use entitlement of a Design Review (Tier II) and Grading Approval for a 10,753-square-foot new single-family residence, with attached garages, and improvements of the driveway and septic system on a vacant lot. Grading consists of 1,425 cubic yards of cut and 1,937 cubic yards of fill (total 3,362 cubic yards). The project was deemed complete on May 27, 2021. The project required a Planning Commission Hearing due to misinterpretation of the Permit Streamline Act and failure to obtain an extension to the 30-day review period from the applicant. Incomplete comments from multiple agencies are not addressed in the current submittal package.

- [Additional Public Comment](#)

Best,

Xue

From: Cove Britton <cove@matsonbritton.com>

Sent: Wednesday, June 23, 2021 3:47 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Subject: [EXTERNAL] Re: ZA Webpage

Thank you.

Would you also please include the first email request for an extension.

On Wed, Jun 23, 2021 at 3:41 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hello Mr. Britton,

Please see the Zoning Administration webpage via the link below:

<https://www.sccgov.org/sites/dpd/Commissions/ZA/Pages/ZA.aspx>

Sincerely,



Xue Ling

Associate Planner
Department of Planning and Development
Direct: 408-299-5784
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San Jose, CA 95110

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O. (831) 425-0544

From: [Mikhail, Leza](#)
To: [Cove Britton](#); [Ling, Xue](#)
Cc: [Onciano, Jacqueline](#); [Pianca, Elizabeth](#)
Subject: RE: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004
Date: Wednesday, June 23, 2021 3:05:00 PM
Attachments: [image001.png](#)

Hello Mr. Britton,

We will include the correspondence to the website for the Hearing Officer.

We will also let the Hearing Officer know that you are requesting a continuance.

Xue – please make a pdf of this email chain and ask our website staff to add it as “additional public comment” under the Agenda Item.

Thank you for your inquiry: Due to the immediate need of the Department of Planning and Development staff to support the County-wide effort regarding the COVID-19 Pandemic; there will be a delay in our ability to respond to telephone calls and emails.



LEZA MIKHAIL

Interim Planning Manager & Zoning Administrator

**Department of Planning and Development
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leza.mikhail@pln.sccgov.org

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To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>
Subject: Re: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Dear Ms. Ling-

As noted I am asking for a 90 extension per Government Code 65957. My understanding from your email is that planning staff believes a request for continuance is consistent with Government Code section 65957.

Based on your communication:

As the applicant for PLN20-124 (APN 351-42-004) I hereby request a 90 day continuance consistent with a request of extension under Government Code 65957.

Please provide this email chain to the hearing officer as part of the planning package for this hearing (i.e. please provide this email chain to the hearing office *prior* to the hearing request).

Thank you for your consideration.

On Wed, Jun 23, 2021 at 1:32 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hello Mr. Britton,

I have spoken with Leza, and I am writing to confirm that the subject project was publicly noticed for the July 1, 2021 Zoning Administration Hearing which will begin at 10 am. The final staff will be posted on the County's Zoning Administration webpage by Thursday afternoon or earlier Friday morning. It may be up this afternoon as well, if the staff can upload the report today.

As will be addressed in the staff report in more detail, the application was deemed complete on March 18, 2021 by operation of law. Staff deemed the project exempt from CEQA on June 10th, 2021.

It appears you would like an one-time, 90-day extension to the Permit Streamline Act which we will mutually grant for the processing of this application and it will extend your application timeline. With regards to the July 1 ZA Hearing, you may ask the Hearing Officer for a continuance of the application and staff would not object, if asked. That being said, it is at the discretion of the Hearing Officer to grant the continuance or render a decision. At the end of staff's presentation on July 1st, staff will inform the hearing officer of your desired continuance, however, **please confirm your desire for a continuance**, as this would be staff's recommendation at this point.

Please let Leza and I know if you would like to discuss.

Sincerely,



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: Mikhail, Leza <leza.mikhail@pln.sccgov.org>
Sent: Wednesday, June 9, 2021 8:28 PM
To: Cove Britton <cove@matsonbritton.com>
Cc: Ling, Xue <xue.ling@pln.sccgov.org>
Subject: RE: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Mr. Britton,
I will not be the Hearing Officer.

Thank you for your inquiry: Due to the immediate need of the Department of Planning and Development staff to support the County-wide effort regarding the COVID-19 Pandemic; there will be a delay in our ability to respond to telephone calls and emails.



LEZA MIKHAIL

Interim Planning Manager & Zoning Administrator

**Department of Planning and Development
County of Santa Clara**

70 W. Hedding Street | 7th Floor | East Wing
San Jose | CA 95110
Planning Division Inquiries: (408) 299-5700
Direct Line: (408) 299-5773
leza.mikhail@pln.sccgov.org

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

From: Cove Britton <cove@matsonbritton.com>
Sent: Wednesday, June 9, 2021 8:01 PM
To: Mikhail, Leza <leza.mikhail@pln.sccgov.org>
Cc: Ling, Xue <xue.ling@pln.sccgov.org>
Subject: Re: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

If you have any ethics at all....it should not be you.

On Wed, Jun 9, 2021 at 7:53 PM Mikhail, Leza <leza.mikhail@pln.sccgov.org> wrote:

Mr. Britton,

We are taking your item to the July 1st Zoning Administration Hearing.

Thank you for your inquiry: Due to the immediate need of the Department of Planning and Development staff to support the County-wide effort regarding the COVID-19 Pandemic; there will be a delay in our ability to respond to telephone calls and emails.



LEZA MIKHAIL

Interim Planning Manager & Zoning Administrator

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

From: Cove Britton <cove@matsonbritton.com>

Sent: Wednesday, June 9, 2021 7:52 PM

To: Mikhail, Leza <leza.mikhail@pln.sccgov.org>

Cc: Ling, Xue <xue.ling@pln.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Hi Leza-

Respectfully....I have specifically asked what is the date the County determined the application complete. I.e. the application was complete prior to the hearing...it was an appeal of completeness meaning the incomplete determination was invalid therefore the project was complete prior to the PC hearing. I am requesting a specific answer to that question.

I.e. In this email I am not asking when you are scheduling hearings....I am asking what the County believes they are required to do so under the PSA?

Respectfully you may want to review Government Code 65944. The County is required to provide that information.

I also want to note that I have the right to request an extension. That you have failed to notice us should be noted. The PSA requires the jurisdiction to inform the applicant of the PSA specifically (Government Code 65940-65945.7).

Under Government Code 65957 I may request an extension. Something I know but you have not informed me of....as required by the PSA.

I consider you to be rude, and you have ignored prior requests of information, and your actions to be inconsistent with required State legislation.

I hereby request a determination on what date the project has been determined complete specifically. *And I do mean specifically.*

Based on your answer I *may* request a 90 day extension per the PSA.

I should note that you should not be the hearing officer in this situation. I can provide you the legal authority for that if you wish.

Regards-

On Wed, Jun 9, 2021 at 6:40 PM Mikhail, Leza <leza.mikhail@pln.sccgov.org> wrote:

Hello Mr. Britton,

I will step in here. This item is going to the July 1st Zoning Administration Hearing. We will be analyzing the plans that were deemed complete by the Planning Commission, since we do not have any resubmitted materials to consider, and the clock is ticking. Xue's Staff Report is due next Monday, so she is moving quickly.

The determination of the ZA Hearing Officer is appealable to the Planning Commission.

You can submit a photo-simulation at any stage, as this is not a required to process the application. Feel free to submit it when it is ready and we will include it with the packet. Alternatively, you may present it at the public hearing.

Thank you for your inquiry: Due to the immediate need of the Department of Planning and Development staff to support the County-wide effort regarding the COVID-19 Pandemic; there will be a delay in our ability to respond to telephone calls and emails.

LEZA MIKHAIL

Interim Planning Manager & Zoning Administrator

Department of Planning and Development



County of Santa Clara

70 W. Hedding Street | 7th Floor | East Wing
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Planning Division Inquiries: (408) 299-5700
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leza.mikhail@pln.sccgov.org

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

From: Cove Britton <cove@matsonbritton.com>

Sent: Wednesday, June 9, 2021 6:10 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Mikhail, Leza <leza.mikhail@pln.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Hi Xue-

The consultants are finishing things up....as you are aware probably....minor stuff but people are busy. I expect the package to be ready in a matter of days. The photorealistic showing the residence is largely not visible from the valley floor two miles away is being prepared and may take a bit longer. Hard to locate the site from the valley floor!

What would be *really helpful*:

Under the Permit Streamlining Act what exactly does the County of Santa Clara consider the required hearing date to be? Frankly that is a critical point.

Also my understanding from Leza, we were going to a ZA hearing first? I prefer going directly to the Planning Commission but I would like to understand why this project is skipping that step.

I should also note that once I have the photo realistic I believe I can demonstrate the project does address the County of Santa Clara issues and policies in a positive way. I hope to discuss that prior to any hearing.

Thank you!

On Wed, Jun 9, 2021 at 5:08 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Cove,

I haven't heard back from you on when you plan to resubmit the full package. Planning is going to bring this project as currently proposed and deemed complete by the Planning Commission to the July Zoning Administration Hearing.

Sincerely,



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

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From: Cove Britton <cove@matsonbritton.com>

Sent: Thursday, June 3, 2021 5:07 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Mikhail, Leza <leza.mikhail@pln.sccgov.org>

Subject: [EXTERNAL] Re: PLN20-124 Peacock Court 351-41-004

Hi Xue-

We pretty much intend to resubmit the full package. The civil engineers believe they have resolved the fire department issues (including CAL FIRE) , the geotechnical engineers also had a few minor comments but are resolved, and also septic's minor issues are resolved. Our plans had a couple of clarifications necessary but those are done or will be done shortly.

As Leza knows...I do not agree that everything noted in the completeness letter as completeness comments were indeed "completeness" issues under the Permit Streamlining Act.....but I also do not believe going to hearing with technical issues

unresolved (whether or not they are actual completeness issues) is helpful.

As far as the discretionary issues, I have a 3d being prepared that should be helpful for all concerned. In addition a photo realistic is being prepared looking at the site from the valley floor.

But what I am attempting to do is get the technical issues resolved, if possible, and then address the subjective issues. I think I can demonstrate that indeed the project does comply with the subjective issues...but I do completely understand that planning staff may well disagree. Hopefully not ultimately but that is a whole nother ball of wax from the technical issues.

That all said....:)

I am available tomorrow at 9:30, I do have another meeting scheduled at 10ish. So let me know if you feel we need longer.

Cheers!

On Thu, Jun 3, 2021 at 2:51 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Cove,

I would like to introduce myself as your project planner. Before discussing the tentative hearing date, could you please let me know what documents you would like to resubmit? I am happy to schedule a meeting between you and me today or 8-10 am tomorrow morning (June 4, 2021). If you are not available during these time frames, please reach me via email.

Sincerely,



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

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Cove Britton
Matson Britton Architects

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From: [Ling, Xue](#)
To: [Cove Britton](#)
Cc: [Mikhail, Leza](#)
Subject: PLN20-124_Peacock Ct_Staff Report
Date: Wednesday, June 30, 2021 8:26:49 AM
Attachments: [image001.png](#)

Good morning Mr. Britton,

The staff report for tomorrow's ZA Hearing is posted on the website and can be accessed via the link below.

<https://www.sccgov.org/sites/dpd/Commissions/ZA/Pages/ZA.aspx>

Sincerely,

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

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Ling, Xue

Subject: FW: FW: [EXTERNAL] Waters Peacock Court

From: Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>

Sent: Friday, September 3, 2021 5:36 PM

To: Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org>; Mikhail, Leza <leza.mikhail@pln.sccgov.org>

Subject: FW: FW: [EXTERNAL] Waters Peacock Court

I think this clarification was helpful.

Kristina

From: Cove Britton <cove@matsonbritton.com>

Sent: Friday, September 3, 2021 5:33 PM

To: Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>

Subject: Re: FW: [EXTERNAL] Waters Peacock Court

Very helpful!

Have a great holiday weekend!

On Fri, Sep 3, 2021 at 5:32 PM Loquist, Kristina <Kristina.Loquist@bos.sccgov.org> wrote:

Hi Cove,

There is not an appeal process for requesting you opt out of the videoconference. However, in speaking with staff I learned that it does not need to be a forum for extensive conversation. During the videoconference a link will be activated where you can transfer the files you are submitting. It's the mechanism for file transfer and the way you can get the information to the County.

Best Regards,

Kristina

Kristina Loquist, Chief of Staff

Office of County Supervisor Joe Simitian

408-299-5050

www.supervisorsimitian.org

[Newsletter Signup](#)

From: Cove Britton <cove@matsonbritton.com>
Sent: Thursday, September 2, 2021 2:49 PM
To: Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>
Subject: Re: FW: [EXTERNAL] Waters Peacock Court

Hi Kristina-

Thank you!

However our project is deemed complete.

County staff cannot require anything from us.

However as a rational way to proceed we want to resubmit.

Sounds like planning staff continue to ignore the Permit Streamlining lining Act and presented policy that does not follow the PSA.

I have a lot of respect for Chirs Cheleden who is County Counsel for the Planning Department...I suspect he would support this.

May I find out what the process is for appealing the requirement for a meeting? My impression is that the only way this moves forward is try to hold the Planning staff to what state legislation requires.

Respectfully-

On Thu, Sep 2, 2021 at 2:40 PM Loquist, Kristina <Kristina.Loquist@bos.sccgov.org> wrote:

Hi Cove,

Here is what I heard back from the Planning & Development Director regarding the videoconference:

I looked into the process and for Resubmittals, a Microsoft Teams videoconference with the assigned planner, Xue Ling, is part of the process

<https://www.sccgov.org/sites/dpd/Iwantto/Permits/Pages/PlanningResubmittalProcedures.aspx>

It looks like this is a required step in the process and cannot be waived. I checked the link, which lays out the resubmittal process step by step, and step #5 seems to get to the main purpose of the videoconference:

5. During the MS Teams meeting, the applicant is expected to present the project resubmittal materials. If materials are not complete, multiple meetings may be necessary.

Here's wishing you a "one and done" teleconference.

Best Regards,

Kristina

Kristina Loquist, Chief of Staff

Office of County Supervisor Joe Simitian

408-299-5050

www.supervisorsimitian.org

[Newsletter Signup](#)

--

Cove Britton

Matson Britton Architects

O. (831) 425-0544

--

Cove Britton

Matson Britton Architects

O. (831) 425-0544

From: [Ling, Xue](#)
To: [Frank Kruzic](#)
Cc: [Cove Britton](#); [Mikhail, Leza](#)
Subject: RE: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct
Date: Friday, September 10, 2021 9:09:00 AM
Attachments: [image001.png](#)

Hi Frank,

Yes. I can schedule the meeting at 10 am, next Wednesday.

Sincerely,

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.

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From: Frank Kruzic <frank@matsonbritton.com>
Sent: Friday, September 10, 2021 9:08 AM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Cove Britton <cove@matsonbritton.com>
Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Hi Xue,

We can do next Wednesday. Would the morning hours work for you?

Frank

Frank Kruzic | Project Manager

|
728 N Branciforte Avenue
Santa Cruz, CA 95062

831.425.0544 Ext. 5
Cell contact 707.623.4756

I currently work off-site.
It is best to contact me through email and my personal cell phone

On Thu, Sep 9, 2021 at 5:11 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

Currently, we can do next Wednesday, September 15, 10-2pm. Please let me know your availability.

Sincerely,



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

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From: Frank Kruzic <frank@matsonbritton.com>

Sent: Thursday, September 9, 2021 11:29 AM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Cove Britton <cove@matsonbritton.com>

Subject: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Hi Xue,

In regards to a phone conversation you and I had over a month ago now, I would like to set up a conference call meeting for our project. Would you please send me some dates available for this call?


I have the necessary files at my disposal, and would be ready to upload/transfer

those to you during our meeting.

I will be out of the office tomorrow and Monday, but should have some time later next week. Thank you.

Regards,
Frank Kruzic

Frank Kruzic | Project Manager


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[831.425.0544](tel:831.425.0544) Ext. 5
Cell contact 707.623.4756

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From: [Cove Britton](#)
To: [Ling, Xue](#)
Cc: [Frank Kruzic](#); [Mikhail, Leza](#); [Onciano, Jacqueline](#); [Loquist, Kristina](#)
Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct
Date: Monday, September 13, 2021 7:06:05 PM
Attachments: [image001.png](#)

Hi all-

I will not be participating in Wednesday's meeting and it is my understanding that it is a perfunctory meeting based on a County of Santa Clara policy not consistent with the Permit Streamlining Act. Mr. Kruzic shall attend but shall not be commenting.

We have plannings and photo realistics of the project awaiting to resubmit and it is unclear to me what the logic is for having this meeting prior to submission of those documents. To be very blunt, it clearly is a waste of everyone's time. Considering COVID and all the time pressures that have put on all of us....I really have a hard time with the rationale.

Regardless....Mr. Kruzic shall attend with the expectation we may submit after this "policy" requirement is made.

I continue to welcome and encourage a conversation that is technically and factually accurate regarding this project.

Respectfully-

On Fri, Sep 10, 2021 at 9:09 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

Yes. I can schedule the meeting at 10 am, next Wednesday.

Sincerely,



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

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From: Frank Kruzic <frank@matsonbritton.com>
Sent: Friday, September 10, 2021 9:08 AM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Cove Britton <cove@matsonbritton.com>
Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

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Frank

Frank Kruzic | Project Manager

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On Thu, Sep 9, 2021 at 5:11 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

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Sincerely,



Xue Ling

Associate Planner

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Direct: 408-299-5784

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San Jose, CA 95110

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From: Frank Kruzic <frank@matsonbritton.com>
Sent: Thursday, September 9, 2021 11:29 AM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Cove Britton <cove@matsonbritton.com>
Subject: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Hi Xue,

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I have the necessary files at my disposal, and would be ready to upload/transfer those to you during our meeting.

I will be out of the office tomorrow and Monday, but should have some time later next week. Thank you.

Regards,

Frank Kruzic

Frank Kruzic | Project Manager

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Cell contact 707.623.4756

I currently work off-site.

It is best to contact me through email and my personal cell phone

--

Cove Britton
Matson Britton Architects

O. (831) 425-0544

From: [Frank Kruzic](#)
To: [Ling, Xue](#)
Cc: [Cove Britton](#); [Mikhail, Leza](#)
Subject: Re: [EXTERNAL] Re: Master Application Form_PLN20-124_Peacock Ct
Date: Wednesday, September 15, 2021 11:04:41 AM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)

Thank you, Xue.
I will send the application out as soon as possible and hopefully get the signatures by tonight; and call you before 11am tomorrow.
Thanks again,
Frank

Frank Kruzic | Project Manager



728 N Branciforte Avenue
Santa Cruz, CA 95062

[831.425.0544](tel:831.425.0544) Ext. 5

Cell contact 707.623.4756

I currently work off-site.

It is best to contact me through email and my personal cell phone

On Wed, Sep 15, 2021 at 10:48 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

That's correct. Please see the screenshots below as an example. The first form is for the original submittal and the second one is for a resubmittal (project name end with -R1 and project description is resubmittal only). Both of the forms include owner's signatures.

SANTA CLARA COUNTY LAND DEVELOPMENT PERMIT APPLICATION

Owner's Name	Address	City	Zip	Phone (res./bus)
Ray Anderegg	320 B Los Gatos Saratoga Rd	Los Gatos	95030	354-8579
Applicant (Appellant)	Address	City	Zip	Phone (res./bus)
Carnes & Associates	9505 Sugar Babe Dr.	Gilroy	95020	847-2013
Address of Subject Property: <u>Old Santa Cruz Hwy, Los Gatos, CA 95033</u>		A.P.N. <u>558-41-033</u>		
Site Location: <u>South</u> side of <u>Old Santa Cruz Hwy</u> at/ between <u>Hwy 17</u> and <u>Idylwild Rd.</u> (north, south, east, west) (road or street) (road or street) (road or street)				
Existing Use of Property: <u>Vacant</u>		Access Restrictions (gate, dog, etc.): <u>None</u>		

PLEASE NOTE: (1) ALL APPLICATION FEES ARE NONREFUNDABLE. (2) THE OWNER/ APPLICANT OR REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC HEARINGS. (3) A DENIAL OR GRANT MAY BE REVERSED ON APPEAL. NO PERMIT WILL BE IN EFFECT UNTIL THE APPEAL PERIOD HAS EXPIRED.

The undersigned owner(s) of subject property hereby authorizes the filing of this application, and authorizes on-site review by authorized staff. I certify under penalty of perjury that the foregoing is true.

Signature of subject property owner(s) (or appellant): Raymond J. Anderegg Date 10-12-06

FOR DEPARTMENT USE ONLY

FILE #: 9567 - 26 - 45 - 066 - 06EA - - - - -

PROJECT DESCRIPTION: Grading associated with (1) an access road and (2) three building sites, (driveway, pad) files 9568, 9569, 9560 submitted Biology reports

TYPE OF APPLICATION(S)	FEE(S)	COMMENTS
<input type="checkbox"/> APPEAL		Appeal to: PC BS Date of Action: Attachments: Y N
<input type="checkbox"/> ARCHITECTURAL AND SITE APPROVAL		
<input type="checkbox"/> BUILDING SITE APPROVAL / BA		
<input type="checkbox"/> CERTIFICATE OF COMPLIANCE		
<input type="checkbox"/> DESIGN REVIEW		
<input type="checkbox"/> ENCROACHMENT / CONSTRUCTION PERMIT		
<input checked="" type="checkbox"/> ENVIRONMENTAL ASSESSMENT / EIR	2124	EA 11/03/06 5:36PM 001H1726 A
<input type="checkbox"/> GEOLOGIC REPORT REV. / LETTER REV.		ENV. ASSESSMENT 2124.00
<input checked="" type="checkbox"/> GRADING PERMIT / GRADING ABATEMENT	2186	11/03/06 5:36PM 001H1726 A
<input type="checkbox"/> LOT LINE ADJUSTMENT / LOT MERGER		GRADING \$2186.00
<input type="checkbox"/> SPECIAL PERMIT		
<input type="checkbox"/> SUBDIVISION		
<input type="checkbox"/> USE PERMIT		
<input type="checkbox"/> VARIANCE		
<input checked="" type="checkbox"/> ZONE CHANGE		
<input type="checkbox"/> OTHER		
TOTAL FEES	4310	IMPORTANT

Minimum non-refundable fee will be charged at the time of application. When 80% of that fee is exhausted, owner/applicant will be required to pay additional fees to cover the cost of staff time to process/review application. The hourly rate for actual cost application is \$92.00.

DATES	RESUBMITTAL DATES	Application Received by <u>Bob E</u>	500' Scale Map <u>152</u>
<u>12/06</u>		Distribution	Zoning <u>1253R</u>
		Application Deemed Complete	USA / SOI
		Date of Action(s) (CPO / ASA / ZA / PC / BS)	Parcel Size <u>12.73</u>
		Approval Expiration Date	Supervisory District <u>1</u>
		Date of Prelim. Report	Previous File(s) <u>8977-091A</u>
		Date of Noticing	<u>7959-02A</u>

SANTA CLARA COUNTY LAND DEVELOPMENT PERMIT APPLICATION

Owner's Name	Address	City	Zip	Phone (res./bus)
Ray Anderegg & others	320 B Los Gatos-Saratoga Rd.	Los Gatos	95030	354-8579
Applicant (Appellant)	Address	City	Zip	Phone (res./bus)
Carnes & Associates	9505 Sugar Babe Dr.	Gilroy	95020	847-2013
Address of Subject Property: <u>Old Santa Cruz Hwy</u>		A.P.N. <u>558-41-030 & 031 & 032 & 033</u>		
Site Location: <u>South</u> side of <u>Old Santa Cruz Hwy</u> at/ between <u>Hwy 17</u> and <u>Idylwild Rd.</u>	(north, south, east, west) (road or street) (road or street) (road or street)			
Existing Use of Property: <u>Vacant</u>	Access Restrictions (gate, dog, etc.): <u>None</u>			
<p>PLEASE NOTE: (1) ALL APPLICATION FEES ARE NONREFUNDABLE. (2) THE OWNER/ APPLICANT OR REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC HEARINGS. (3) A DENIAL OR GRANT MAY BE REVERSED ON APPEAL. NO PERMIT WILL BE IN EFFECT UNTIL THE APPEAL PERIOD HAS EXPIRED.</p> <p>The undersigned owner(s) of subject property hereby authorizes the filing of this application, and authorizes on-site review by authorized staff. I certify under penalty of perjury that the foregoing is true.</p> <p>Signature of subject property owner(s) (or appellant): <u>Raymond J. Anderegg</u> See attached supplemental sheet Date <u>9-14-07</u></p>				

FOR DEPARTMENT USE ONLY

FILE #: 9567 - 26 - 45 - 06 G (R)

PROJECT DESCRIPTION: Resubmittal per incomplete letter dated Dec 11, 2006. for Grading associated w/ access road & three BSA (files 9568, 9569, 9570)

TYPE OF APPLICATION(S)	FEE(S)	COMMENTS
<input type="checkbox"/> APPEAL		Appeal to: PC BS Date of Action: Attachments: Y N
<input type="checkbox"/> ARCHITECTURAL AND SITE APPROVAL		
<input type="checkbox"/> BUILDING SITE APPROVAL / BA		
<input type="checkbox"/> CERTIFICATE OF COMPLIANCE		
<input type="checkbox"/> DESIGN REVIEW		
<input type="checkbox"/> ENCROACHMENT / CONSTRUCTION PERMIT		
<input type="checkbox"/> ENVIRONMENTAL ASSESSMENT / EIR		
<input type="checkbox"/> GEOLOGIC REPORT REV. / LETTER REV.		
<input type="checkbox"/> GRADING PERMIT / GRADING ABATEMENT	<u>260.38</u>	<u>Resubmittal only.</u>
<input type="checkbox"/> LOT LINE ADJUSTMENT / LOT MERGER		
<input type="checkbox"/> SPECIAL PERMIT		
<input type="checkbox"/> SUBDIVISION		
<input type="checkbox"/> USE PERMIT		
<input type="checkbox"/> VARIANCE		
<input type="checkbox"/> ZONE CHANGE		
<input type="checkbox"/> OTHER		
TOTAL FEES	<u>260.38</u>	<u>10% fee for grading Resubmittal.</u>
		IMPORTANT

DATES: 12/5/07

RESUBMITTAL DATES

Application Received by PC

Distribution

Application Deemed Complete

Date of Action(s) (CPO / ASA / ZA / PC / BS)

Approval Expiration Date

*Minimum non-refundable fee will be charged at the time of application. When 80% of that fee is exhausted, owner/applicant will be required to pay additional fees to cover the cost of staff time to process/review application. The hourly rate for actual cost application is \$150.00 except for ALUC which has an hourly rate of \$117.00

Date of Prelim. Report

Date of Noticing

500' Scale Map 152

Zoning HS - Sr

USA / SOI

Parcel Size 12.73

Supervisory District 1

Previous File(s) 8977-04 PA

7959-00 LA

Sincerely,



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: Frank Kruzic <frank@matsonbritton.com>
Sent: Wednesday, September 15, 2021 10:39 AM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Cove Britton <cove@matsonbritton.com>; Mikhail, Leza <leza.mikhail@pln.sccgov.org>
Subject: [EXTERNAL] Re: Master Application Form_PLN20-124_Peacock Ct

Hi Xue,

Thank you for sending the application. I compared the application with the signed application we already have, and they are one-in-the-same applications. So if that is the case, would I still need to go through the exercise of contacting the owner to sign... again?

The date is from last year, but if that doesn't matter, then I think we would be good to go.

May I get your thoughts on this?

Frank

Frank Kruzic | Project Manager

728 N Branciforte Avenue

Santa Cruz, CA 95062

[831.425.0544](tel:831.425.0544) Ext. 5

Cell contact 707.623.4756

I currently work off-site.

It is best to contact me through email and my personal cell phone

On Wed, Sep 15, 2021 at 10:29 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

Please see the attached Master Application form to be filled out for a resubmittal. The owner's signature is required on the second page.

Per your request, the workflow is not open for resubmittal at this moment. Please contact me after you combine the plans and prepare the form with the owner's signature. We will arrange another resubmittal meeting accordingly.

Sincerely,



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

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From: [Cove Britton](#)
To: [Ling, Xue](#)
Cc: [Frank Kruzic](#); [Mikhail, Leza](#); [Onciano, Jacqueline](#); [Loquist, Kristina](#)
Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct
Date: Wednesday, September 15, 2021 2:35:03 PM
Attachments: [image001.png](#)

Dear Ms. Onciano:

My employee Mr. Kruzic was informed by Msl Ling and Ms. Mikahail today at their meeting regarding resubmittal.

Mr. Kruzic was informed that we must provide a new Santa Clara County Planning Development Application, which is tantamount to re-applying for a project that has been deemed complete and is awaiting hearing.

As you may imagine, we are not interested in re-applying and thus will not be providing a "new" Santa County Planning Development Application.

We are fast approaching the maximum 90 extension allowed by the PSA. I rather County staff have the opportunity to review the documents prior to the Zoning Administrator receiving them as public comment (if we're given no opportunity other than by re-applying). Typically we have found jurisdictions will continue to accept plans even once a project is deemed complete without requiring meeting(s) and re-application, so I am perplexed.

May we please discuss this project via phone?

Respectfully-

On Mon, Sep 13, 2021 at 7:05 PM Cove Britton <cove@matsonbritton.com> wrote:

Hi all-

I will not be participating in Wednesday's meeting and it is my understanding that it is a perfunctory meeting based on a County of Santa Clara policy not consistent with the Permit Streamlining Act. Mr. Kruzic shall attend but shall not be commenting.

We have plannings and photo realistics of the project awaiting to resubmit and it is unclear to me what the logic is for having this meeting prior to submission of those documents. To be very blunt, it clearly is a waste of everyone's time. Considering COVID and all the time pressures that have put on all of us....I really have a hard time with the rationale.

Regardless....Mr. Kruzic shall attend with the expectation we may submit after this "policy" requirement is made.

I continue to welcome and encourage a conversation that is technically and factually accurate regarding this project.

Respectfully-

On Fri, Sep 10, 2021 at 9:09 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

Yes. I can schedule the meeting at 10 am, next Wednesday.

Sincerely,



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

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From: Frank Kruzic <frank@matsonbritton.com>
Sent: Friday, September 10, 2021 9:08 AM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Cove Britton <cove@matsonbritton.com>
Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Hi Xue,

We can do next Wednesday. Would the morning hours work for you?

Frank

Frank Kruzic | Project Manager



728 N Branciforte Avenue

Santa Cruz, CA 95062

[831.425.0544](tel:831.425.0544) Ext. 5

Cell contact 707.623.4756

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On Thu, Sep 9, 2021 at 5:11 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

Currently, we can do next Wednesday, September 15, 10-2pm. Please let me know your

availability.

Sincerely,



Xue Ling

Associate Planner

Department of Planning and Development

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Subject: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Hi Xue,

In regards to a phone conversation you and I had over a month ago now, I would like to set up a conference call meeting for our project. Would you please send me some dates available for this call?

I have the necessary files at my disposal, and would be ready to upload/transfer those to you during our meeting.

I will be out of the office tomorrow and Monday, but should have some time later next week. Thank you.

Regards,

Frank Kruzic

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Cove Britton
Matson Britton Architects

O. (831) 425-0544

--

Cove Britton
Matson Britton Architects

O. (831) 425-0544

From: [Cove Britton](#)
To: [Onciano, Jacqueline](#)
Cc: [Ling, Xue](#); [Frank Kruzic](#); [Mikhail, Leza](#); [Loquist, Kristina](#)
Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct
Date: Friday, September 17, 2021 9:50:07 AM
Attachments: [image001.png](#)

Also-

May I get contact information for the ZA so we may submit the documents directly to them?

Thank You.

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Dear Ms. Onciano-

Thank you for your email.

However I think most would agree it is not "helpful" to require something that is *illegal* to require. Requiring a new application is not legal, any more than contacting someone other than the applicant asking for an extension to the PSA timeline is legal.

It was also not legal to require a meeting prior to a submission for a project deemed complete. It is also illegal to deny a project because staff was not able to meet the PSA timelines. I can go on but as I have been requesting for months, *I* would like to have a professional and respectful conversation regarding the project with you (or an appropriate subordinate other than Ms. Mikhail).

My understanding, from other professionals that are working with the County of Santa Clara, that there appears to be a pattern of illegal behavior and delays *caused* by the County of Santa Clara staff. I think everyone sympathizes with the difficulties of processing permits in a timely manner due to the strange times, but not with the concept of calling illegal behavior helpful.

And may I ask, when is the hearing scheduled? And if so, when? The hearing was continued to a date uncertain...I believe it is also legally (if not at least basic courtesy) required to keep the applicant informed of their hearing dates in a timely manner.

Respectfully-

On Thu, Sep 16, 2021 at 3:24 PM Onciano, Jacqueline
<jacqueline.unciano@pln.sccgov.org> wrote:

Good afternoon, Mr. Britton:

Staff has attempted to assist your employee, Frank Kruzic in submitting new plans and information. If you choose not to proceed as staff has instructed, you further delay the

processing of your clients development application. Therefore, staff will move forward accordingly.

Kind regards,

Jacqueline R. Onciano



JACQUELINE R. ONCIANO

Director

Department of Planning and Development

County of Santa Clara

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Wednesday, September 15, 2021 2:34 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; Mikhail, Leza

<leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline

<jacqueline.oncini@pln.sccgov.org>; Loquist, Kristina

<Kristina.Loquist@bos.sccgov.org>

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Sincerely,



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Department of Planning and Development

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Associate Planner

Department of Planning and Development

Direct: 408-299-5784

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From: [Onciano, Jacqueline](#)
To: ["Cove Britton"; Ling, Xue](#)
Cc: [Frank Kruzic](#); [Mikhail, Leza](#); [Loquist, Kristina](#)
Subject: RE: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct
Date: Friday, September 17, 2021 7:37:16 PM
Attachments: [image001.png](#)

Mr. Britton:

Please work with the assigned planner, Xue Ling regarding the hearing schedule. Additionally, new plans and information, at this processing point, to be routed to the Zoning Administrator are to be submitted through the assigned Planner, Xue Ling.

Kind regards,

Jacqueline Onciano



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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To: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>
Cc: Ling, Xue <xue.ling@pln.sccgov.org>; Frank Kruzic <frank@matsonbritton.com>; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>
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Good afternoon, Mr. Britton:

Staff has attempted to assist your employee, Frank Kruzic in submitting new plans and information. If you choose not to proceed as staff has instructed, you further delay the processing of your clients development application. Therefore, staff will move forward accordingly.

Kind regards,

Jacqueline R. Onciano



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.unciano@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Wednesday, September 15, 2021 2:34 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; Mikhail, Leza <leza.mikhail@pln.sccgov.org>;
Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org>; Loquist, Kristina
<Kristina.Loquist@bos.sccgov.org>

Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Dear Ms. Onciano:

My employee Mr. Kruzic was informed by Msl Ling and Ms. Mikahail today at their meeting regarding resubmittal.

Mr. Kruzic was informed that we must provide a new Santa Clara County Planning Development Application, which is tantamount to re-applying for a project that has been deemed complete and is awaiting hearing.

As you may imagine, we are not interested in re-applying and thus will not be providing a "new" Santa County Planning Development Application.

We are fast approaching the maximum 90 extension allowed by the PSA. I rather County staff have the opportunity to review the documents prior to the Zoning Administrator receiving them as public comment (if we're given no opportunity other than by re-applying). Typically we have found jurisdictions will continue to accept plans even once a project is deemed complete without requiring meeting(s) and re-application, so I am perplexed.

May we please discuss this project via phone?

Respectfully-

On Mon, Sep 13, 2021 at 7:05 PM Cove Britton <cove@matsonbritton.com> wrote:

| Hi all-

I will not be participating in Wednesday's meeting and it is my understanding that it is a perfunctory meeting based on a County of Santa Clara policy not consistent with the Permit Streamlining Act. Mr. Kruzic shall attend but shall not be commenting.

We have plannings and photo realistics of the project awaiting to resubmit and it is unclear to me what the logic is for having this meeting prior to submission of those documents. To be very blunt, it clearly is a waste of everyone's time. Considering COVID and all the time pressures that have put on all of us....I really have a hard time with the rationale.

Regardless....Mr. Kruzic shall attend with the expectation we may submit after this "policy" requirement is made.

I continue to welcome and encourage a conversation that is technically and factually accurate regarding this project.

Respectfully-

On Fri, Sep 10, 2021 at 9:09 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

Yes. I can schedule the meeting at 10 am, next Wednesday.

Sincerely,



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: Frank Kruzic <frank@matsonbritton.com>
Sent: Friday, September 10, 2021 9:08 AM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Cove Britton <cove@matsonbritton.com>
Subject: Re: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Hi Xue,

We can do next Wednesday. Would the morning hours work for you?

Frank

Frank Kruzic | Project Manager

728 N Branciforte Avenue
Santa Cruz, CA 95062
[831.425.0544](tel:831.425.0544) Ext. 5
Cell contact 707.623.4756

I currently work off-site.

It is best to contact me through email and my personal cell phone

On Thu, Sep 9, 2021 at 5:11 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hi Frank,

Currently, we can do next Wednesday, September 15, 10-2pm. Please let me know your availability.

Sincerely,



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

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received this message in error, please notify the sender by return email.

From: Frank Kruzic <frank@matsonbritton.com>

Sent: Thursday, September 9, 2021 11:29 AM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Cove Britton <cove@matsonbritton.com>

Subject: [EXTERNAL] Waters Residence PLN20-124_Peacock Ct

Hi Xue,


In regards to a phone conversation you and I had over a month ago now, I would like to set up a conference call meeting for our project. Would you please send me some dates available for this call?

I have the necessary files at my disposal, and would be ready to upload/transfer those to you during our meeting.

I will be out of the office tomorrow and Monday, but should have some time later next week. Thank you.

Regards,
Frank Kruzic

Frank Kruzic | Project Manager


728 N Branciforte Avenue
Santa Cruz, CA 95062
[831.425.0544](tel:831.425.0544) Ext. 5
Cell contact 707.623.4756

I currently work off-site.

It is best to contact me through email and my personal cell phone

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Cove Britton
Matson Britton Architects

O. (831) 425-0544

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Cove Britton
Matson Britton Architects

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--

Cove Britton
Matson Britton Architects

O. (831) 425-0544

--

Cove Britton
Matson Britton Architects

O. (831) 425-0544

From: [Ling, Xue](#)
To: [Cove Britton](#); [Frank Kruzic](#); mfwaters3@gmail.com
Cc: [Mikhail, Leza](#); [Onciano, Jacqueline](#)
Subject: PLN20-124_Peacock Court Resubmittal
Date: Tuesday, September 21, 2021 8:42:00 AM
Attachments: [image001.png](#)

Good morning Mr. Britton,

Pursuant to the County Ordinance Code, Section 5.20.090, an applicant can modify an application prior to approval. Although the County's practice is to receive a Master Application form with each new submittal, it has been determined that a new form is not technically required for this resubmittal. Please let me know your availability this week for a resubmittal meeting. As noted from the previous meeting, a single set of plans is required. I have copied the property owner and Frank Kruzic on this email.

Sincerely,

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

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From: [Onciano, Jacqueline](#)
To: ["Cove Britton"](#)
Cc: [Frank Kruzic](#); mfwaters3@gmail.com; [Mikhail, Leza](#); [Loquist, Kristina](#); [Thomas Jamison](#); [Richard J. Irish](#); [Ling, Xue](#); [Pianca, Elizabeth](#); [Cheleden, Christopher](#)
Subject: RE: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal
Date: Tuesday, September 21, 2021 5:14:26 PM
Attachments: [image001.png](#)

Good evening, Mr. Britton:

In accordance with Government Code 65944, staff is not requesting any new or additional information be submitted.

On May 27, 2021, the Planning Application (PLN20-124), was deemed complete by the Planning Commission, per your appeal. Staff is ready to move forward on the Planning Application materials, per the completeness determination of the Planning Commission. Staff scheduled the item, prepared a staff report and was in position to present the item at the July 1, 2021 Zoning Administrative hearing. Per an email exchange in June 2021, a request was received for a one-time 90 day extension. The request was mutually agreed to and granted per the Permit Streamlining Act; and the Zoning Administrative hearing Officer continued the item to a date uncertain, pursuant to your request.

As you are electing to submit new information, per Section 5.20.090 (Modification or Withdrawal of Permit Application) of the County Zoning Ordinance, it states:

- An application may be modified by the applicant at any time prior to approval. Any prior finding of application of completeness may be voided by submittal of a request for modification or withdrawal...

The process to submit new information has been outlined by staff, and staff has made every attempt to be available and assist with the process. Per the Permit Streamlining Act, the County will move the application forward prior to November 7, 2021, if the additional information you are electing to submit is not received by staff for processing.

Jacqueline O.



JACQUELINE R. ONCIANO
Director

Department of Planning and Development
County of Santa Clara
70 W. Hedding Street | 7th Floor | East Wing
San Jose | CA 95110
Phone: (408) 299-6741
jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 2:18 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>

Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Ling-

Respectfully -

Section 5.20.080 is for "Modification or withdrawal of permit application". Essentially for us to submit again under that section is to allow County staff to void the existing determination of a complete and potentially supplemental application fees.

We continue to request to be allowed to submit under the current application consistent with Government Code 65944. As you may recall, my stated reason for asking for an extension from the ZA was in order to submit additional information. I also stated at the Planning Commission that my office intended to submit additional information. To date my office has not been given that opportunity to submit that additional information in a manner that would be consistent with the Permit Streamlining Act and what is most concerning, in a manner that would not technically void the determination of "complete".

It is difficult to determine if it is the specific intention of Planning staff to technically void the determination of "complete" for this application, but it is a disturbing pattern, intentional or not.

I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

Regards-

On Tue, Sep 21, 2021 at 8:42 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Good morning Mr. Britton,

Pursuant to the County Ordinance Code, Section 5.20.090, an applicant can modify an application prior to approval. Although the County's practice is to receive a Master Application form with

each new submittal, it has been determined that a new form is not technically required for this resubmittal. Please let me know your availability this week for a resubmittal meeting. As noted from the previous meeting, a single set of plans is required. I have copied the property owner and Frank Kruzic on this email.

Sincerely,



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

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--

Cove Britton
Matson Britton Architects

O. (831) 425-0544

From: [Onciano, Jacqueline](#)
To: ["Cove Britton"](#)
Cc: [Frank Kruzic](#); mfwaters3@gmail.com; [Mikhail, Leza](#); [Loquist, Kristina](#); [Thomas Jamison](#); [Richard J. Irish](#); [Ling, Xue](#); [Pianca, Elizabeth](#); [Cheleden, Christopher](#)
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal
Date: Friday, September 24, 2021 10:20:53 PM
Attachments: [image001.png](#)
[PLN20-124_Mailing List.pdf](#)
[07-1-21_ZA Agenda FINAL.pdf](#)

Good evening: Mr. Britton:

Please see the information below.

- **March 18, 2021** - Application deemed complete (by operation of law as a result of the Planning Commission's (PC) application complete determination)
- County gets 30 days to determine CEQA processing
- **April 2, 2021** - Incomplete Appeal filed, with a decision by the PC on **May 27, 2021**. This established a "tolling" period. There were 15 days between March 18, 2021 and the filing of the appeal.
- **June 10, 2021** - CEQA determination made; this established a 60-day Permit Streamlining Act (PSA) deadline of **August 9, 2021**
- **June 23, 2021** - Applicant requested 90-day extension of time to the PSA on **June 23, 2021** (prior to the expiration of PSA deadline of August 9, 2021)
- **June 23, 2021** - Mutually accepted and granted one-time 90-day extension by Staff
- **July 1, 2021** - Public hearing not opened and project continued to a date uncertain
- Adding 90 days to the end of **August 9, 2021** establishes a new PSA deadline of **November 7, 2021**

Additionally, per your request see attached documents. Please note: The meeting Agenda is sent as the Notice.

Kind regards,

Jacqueline O.



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 6:11 PM

To: Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Onciano:

Thank you for your email. It is now imminently clear that there are now an intentional four attempts to deceive an applicant on their rights in this process. Your staff has not made every attempt to assist the applicant other than to completely and blatantly deceive them. My understanding is that is a pattern of behavior from your department.

Case and point (if not already made multiple times) per Government Code 65957 the extension granted by the ZA was for a maximum of 90 days.

The ZA hearing was on July 1st. May I request you state what is 90 days from that date?

Please provide the noticing your office sent...as requested prior.

On Tue, Sep 21, 2021 at 5:14 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

In accordance with Government Code 65944, staff is not requesting any new or additional information be submitted.

On May 27, 2021, the Planning Application (PLN20-124), was deemed complete by the Planning Commission, per your appeal. Staff is ready to move forward on the Planning Application materials, per the completeness determination of the Planning Commission. Staff scheduled the item, prepared a staff report and was in position to present the item at the July 1, 2021 Zoning Administrative hearing. Per an email exchange in June 2021, a request was received for a one-time 90 day extension. The request was mutually agreed to and granted per the Permit Streamlining Act; and the Zoning Administrative hearing Officer continued the item to a date uncertain, pursuant to your request.

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Jacqueline O.



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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Sent: Tuesday, September 21, 2021 2:18 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>

Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Ling-

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Regards-

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Sincerely,



Xue Ling

Associate Planner
Department of Planning and Development
Direct: 408-299-5784
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|

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Cove Britton
Matson Britton Architects

O. (831) 425-0544

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Cove Britton
Matson Britton Architects

O. (831) 425-0544

BRITTON COVE
C/O: MATSON BRITTON ARCHITECTS
728 N BRANCIFORTE AVE
SANTA CRUZ CA 95062

22757 STEVENS CREEK BLVD
CUPERTINO CA 95014-5628

21836 HYANNISPORT DR
CUPERTINO CA 95014

13201 MONTEBELLO RD
CUPERTINO CA 95014-5420

13212 PEACOCK CT
CUPERTINO CA 95014-5442

13208 PEACOCK CT
CUPERTINO CA 95014-5442

13228 PEACOCK CT
CUPERTINO CA 95014-5442

13231 MONTEBELLO RD
CUPERTINO CA 95014-5408

3520 PIEDMONT RD STE 410
ATLANTA GA 30305

3520 PIEDMONT RD STE 410
ATLANTA GA 30305

15595 SWISS CREEK
CUPERTINO CA 95014

10130 LOCKWOOD DR
CUPERTINO CA 95014-2614

13220 PEACOCK CT
CUPERTINO CA 95014

15545 SWISS CREEK LN
CUPERTINO CA 95014

22326 REGNART RD
CUPERTINO CA 95014-4825

22326 REGNART RD
CUPERTINO CA 95014-4825

MIDPENINSULA REGIONAL OPEN SPACE
DIST
330 DISTEL CIR
LOS ALTOS CA 94022

MIDPENINSULA REGIONAL OPEN SPACE
DIST
330 DISTEL CIR
LOS ALTOS CA 94022

13215 PEACOCK CT
CUPERTINO CA 95014-5442

13205 PEACOCK CT
CUPERTINO CA 95014

STEVENS CREEK QUARRY INC
C/O: RICHARD VOSS-STEVENS CREEK
QUARRY, INC.
12100 STEVENS CANYON RD
CUPERTINO CA 95014

STEVENS CREEK QUARRY INC
C/O: STEVENS CREEK QUARRY INC

12100 STEVENS CANYON RD
CUPERTINO CA 95014-5415

STEVENS CREEK QUARRY INC.
C/O: RICHARD VOSS-STEVENS CREEK
QUARRY, INC.
12100 STEVENS CANYON RD
CUPERTINO CA 95014

SUNNYVALE ROD AND GUN CLUB INC

P.O. BOX 2903
CUPERTINO CA 95015

15681 MONTEBELLO RD
CUPERTINO CA 95014-5404

13001 MONTEBELLO RD
CUPERTINO CA 95014-5408

13001 MONTEBELLO RD
CUPERTINO CA 95014-5408

13225 PEACOCK CT
CUPERTINO CA 95014-5442

WATERS JEFFREY W TRUSTEE & ET AL

C/O: THE WATERS FAMILY TRUST

1063 CHERRY AVE
SAN JOSE CA 95125

County of Santa Clara

Department of Planning and Development
Planning Office

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110-1705
(408) 299-5770 FAX (408) 288-9198
www.sccplanning.org



SANTA CLARA COUNTY ZONING ADMINISTRATION AGENDA

AGENDA

Thursday, July 1, 2021, 10:00 a.m.

****BY VIRTUAL TELECONFERENCE ONLY ****

NOTICE TO THE PUBLIC

Pursuant to the provisions of California Governor's Executive Order this hearing will be held by teleconference only. No physical location will be available for this hearing; however, members of the public will be able to participate in the hearing as noted below.

INSTRUCTIONS

The Santa Clara County Zoning Administration Hearing Officer will be conducting a public hearing to consider the projects identified below. The hearing will be conducted by virtual teleconference only.

The Agenda is published on the Department of Planning and Development's website under the Zoning Administration webpage (<https://www.sccgov.org/sites/dpd/Commissions/ZA/Pages/ZA.aspx>).

While COVID-19 Public Health Orders remain in effect, project plans and other documents will be available to the public **by virtual appointment only** on Mondays from 9:30 a.m. to 5:00 p.m. and Tuesdays through Fridays from 8:00 a.m. to 5:00 p.m. Documents will be available on the Zoning Administration webpage (<https://www.sccgov.org/sites/dpd/Commissions/ZA/Pages/ZA.aspx>) the Friday before the hearing.

Please submit document requests, questions, and written comments to the project planner at the email address listed in the Agenda. To attend the hearing, visit the County Zoning Administration webpage (<https://www.sccgov.org/sites/dpd/Commissions/ZA/Pages/ZA.aspx>) 48 hours prior to the meeting for instructions on how to participate by virtual teleconference through Zoom.

Appeals regarding decisions of the Zoning Administration Hearing Officer must be filed within 15 calendar days of the decision and shall be accompanied by a non-refundable filing fee. If you challenge a land use decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the County of Santa Clara at, or prior to, the public hearing.

HEARING OFFICER

Bharat Singh, Hearing Officer

CONTINUED PUBLIC HEARINGS

NONE.

PUBLIC HEARINGS

1. **File PLN14-10531 – Concurrent land use application for a Building Site Approval and Variance to construct a new residence.**
Owner: Patricia Diaz
Planner: Colleen Tsuchimoto (408) 299-5797 Colleen.Tsuchimoto@pln.sccgov.org

Request: Consider request for a concurrent land use entitlement for a Building Site Approval and Variance for the construction of a new residence.

Recommendation:

1. Deny the concurrent land use application for a of Building Site Approval and Variance.

Property Address: 0 Gronwall Lane
Present Land Use: Vacant lot
Env. Determination: N/A
Supervisory District: 5

APN: 336-10-038
Zoning: R1E-20-n1
GP: City of Los Altos
Parcel Size: .012 acres

2. **File: PLN20-048 – Architecture & Site Approval for the Collaboration Building in the Center for Advanced Behavioral Sciences (CASBS) Complex**
Owner/Applicant: Stanford University
Planner: Charu Ahluwalia (408)-299-5740
charu.ahluwalia@pln.sccgov.org

Request: Consider request for an Architecture & Site Approval (ASA) for the construction of a new 1,689 square-foot Collaboration Building in the CASBS Complex, that has been determined 'potentially eligible' for listing in the California Register of Historic Resources, and associated site improvements. The project includes demolition of two existing storage sheds and a shower facility, located at the far end of the CASBS Complex parking lot, equaling a total of 1,721 square-feet of demolition area.

In compliance with the Americans with Disabilities Act, those requiring special accommodations for this meeting should notify the Clerk of the Planning Office at (408) 299-6714, TDD (408) 993-8272, on or before the Friday preceeding the Thursday meeting date.

Recommendation:

1. Accept Addendum to 2000 Stanford Community Plan and GUP Program EIR; and,
2. Grant approval for an Architecture & Site Approval, pursuant to Conditions of Approval.

Property Address: 75 Alta Road, Stanford
Present Land Use: Academic Campus
Env. Determination: Addendum to 2000 Stanford
Community Plan and GUP Program EIR
Supervisory District: 5

APN: 142-12-002
Zoning: A1
GP: Major Educational &
Institutional Uses
Parcel Size: 12.04 acres

3. File PLN19-0141 – Building Site Approval and Design Review (-sr)

Owner: Rodnewy and Jenale Nielson

Planner: Xue Ling (408)299-5784, xue.ling@pln.sccgov.org

Request: Concurrent land use application for a Building Site Approval and Design Review (-sr) for the construction of a new 741 square foot single-family residence, with an attached garage on a vacant lot. Ancillary site improvements include construction of a new driveway and septic system. The proposed building site is located within 100 feet of a County-designate scenic road. Grading consists of 13 cubic yards of cut and 11 cubic yards of fill (total 24 cubic yards). A total of seven (7) trees are proposed to be removed for the subject project.

Recommendation:

1. Accept a Categorical Exemption, under Section 15303 (Class3)(a) of the CEQA Guidelines, Attachment A; and
2. Grant a concurrent land use application for a Building Site Approval and Design Review Approval, pursuant to Conditions of Approval.

Property Address: 0 Metcalf Road, San Jose
Present Land Use: vacant
Env. Determination: Categorical Exemption
Supervisory District: 1

APN: 627-12-018
Zoning: AR-sr
GP: Ranchlands
Parcel Size: 12,764 sq. ft.

4. File PLN20-124 – Design Review (Tier II) and Grading Approval

Applicant: Cove Britton

Owner: Jefferey William Waters and Melissa Faye Waters

Planner: Xue Ling (408)299-5784, xue.ling@pln.sccgov.org

Request: Concurrent land use entitlement of a Design Review (Tier II) and Grading Approval for a 10,753-square-foot new single-family residence, with attached garages, and improvements of the driveway and septic system on a vacant lot. Grading consists of 1,425 cubic yards of cut and 1,937 cubic yards of fill (total 3,362 cubic yards). The project was deemed complete on May 27, 2021. The project required a Planning Commission Hearing due to misinterpretation of the Permit Streamline Act and failure to obtain an extension to the 30-day review period from the

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applicant. Incomplete comments from multiple agencies are not addressed in the current submittal package.

Recommendation:

1. Deny the concurrent land use application for a Design Review (Tier II) and Grading Approval pursuant to the staff report.

Property Address: 0 Peacock Court, Cupertino
Present Land Use: Vacant
Env. Determination: Exempt (CEQA 15270)
Supervisory District: 5

APN: 351-42-004
Zoning: HS-d1
GP: Hillsides
Parcel Size: 5.9 acres

ADJOURNMENT

August 5, 2021 at 10:00 a.m.

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From: [Onciano, Jacqueline](#)
To: ["Cove Britton"](#)
Cc: [Frank Kruzic](#); mfwaters3@gmail.com; [Mikhail, Leza](#); [Loquist, Kristina](#); [Thomas Jamison](#); [Richard J. Irish](#); [Ling, Xue](#); [Pianca, Elizabeth](#); [Cheleden, Christopher](#)
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal
Date: Tuesday, October 12, 2021 11:47:00 PM
Attachments: [image001.png](#)

Good evening, Mr. Britton:

Please work with the assigned Planner, Xue Ling, regarding any information/documents you wish to submit.

Kind regards,

Jacqueline Onciano



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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That said:

Per Government Code 65956 please consider this the seven days notice required.

Also (but not limited too) please provide the information required by Government Code 65941.5. To date that information has not been provided.

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Regards-

On Fri, Sep 24, 2021 at 10:20 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening: Mr. Britton:

Please see the information below.

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- County gets 30 days to determine CEQA processing
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Additionally, per your request see attached documents. Please note: The meeting Agenda is sent as the Notice.

Kind regards,

Jacqueline O.



JACQUELINE R. ONCIANO

Director

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Subject: Re: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

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Case and point (if not already made multiple times) per Government Code 65957 the extension granted by the ZA was for a maximum of 90 days.

The ZA hearing was on July 1st. May I request you state what is 90 days from that date?

Please provide the noticing your office sent...as requested prior.

On Tue, Sep 21, 2021 at 5:14 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

In accordance with Government Code 65944, staff is not requesting any new or additional information be submitted.

On May 27, 2021, the Planning Application (PLN20-124), was deemed complete by the Planning Commission, per your appeal. Staff is ready to move forward on the Planning Application materials, per the completeness determination of the Planning Commission. Staff scheduled the item, prepared a staff report and was in position to present the item at the July 1, 2021 Zoning Administrative hearing. Per an email exchange in June 2021, a request was received for a one-time 90 day extension. The request was mutually agreed to and granted per the Permit Streamlining Act; and the Zoning Administrative hearing Officer continued the item to a date uncertain, pursuant to your request.

As you are electing to submit new information, per Section 5.20.090 (Modification or Withdrawal of Permit Application) of the County Zoning Ordinance, it states:

- An application may be modified by the applicant at any time prior to approval. Any prior finding of application of completeness may be voided by submittal of a request for modification or withdrawal...

The process to submit new information has been outlined by staff, and staff has made every attempt to be available and assist with the process. Per the Permit Streamlining Act, the County will move the application forward prior to November 7, 2021, if the additional information you are electing to submit is not received by staff for processing.

Jacqueline O.



JACQUELINE R. ONCIANO

Director

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County of Santa Clara**

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San Jose | CA 95110

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Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Ling-

Respectfully -

Section 5.20.080 is for "Modification or withdrawal of permit application". Essentially for us to submit again under that section is to allow County staff to void the existing determination of a complete and potentially supplemental application fees.

We continue to request to be allowed to submit under the current application consistent with Government Code 65944. As you may recall, my stated reason for asking for an extension from the ZA was in order to submit additional information. I also stated at the Planning Commission that my office intended to submit additional information. To date my office has not been given that opportunity to submit that additional information in a manner that would be consistent with the Permit Streamlining Act and what is most concerning, in a manner that would not technically void the determination of "complete".

It is difficult to determine if it is the specific intention of Planning staff to technically void the determination of "complete" for this application, but it is a disturbing pattern, intentional or not.

I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

Regards-

On Tue, Sep 21, 2021 at 8:42 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Good morning Mr. Britton,

Pursuant to the County Ordinance Code, Section 5.20.090, an applicant can modify an application prior to approval. Although the County's practice is to receive a Master Application form with each new submittal, it has been determined that a new form is not technically required for this resubmittal. Please let me know your availability this week for a resubmittal meeting. As noted from the previous meeting, a single set of plans is required. I have copied the property owner and Frank Kruzic on this email.

Sincerely,



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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Cove Britton
Matson Britton Architects

O. (831) 425-0544

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To: [Onciano, Jacqueline](#); "[Cove Britton](#)"
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Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal
Date: Wednesday, October 13, 2021 9:48:00 PM
Attachments: [image001.png](#)
[Story_poles.pdf](#)

Hello Mr. Britton,

The project is scheduled for the Zoning Administration Hearing on November 4, 2021. If you propose to submit additional documents, I am available for the resubmittal meeting during the following timeslots:

Monday, October 18, 1-2 pm, 4:30 -5pm

Tuesday, October 19, 4-5 pm

Thursday, October 21, 9-9:30 am, 1-1:30pm, 2-3 pm

Please let me know your availability for 30 minutes during these timeslots. I recommend setting down the meeting time ASAP.

As discussed with Mr. Kruzic before July 1 Hearing, the subject Tier II Design Review application requires a story pole to be constructed per the story pole standards (see attached guideline) at least seven (7) days prior to the hearing.

Sincerely,

Xue Ling
Associate Planner
Department of Planning and Development
Direct: 408-299-5784
70 W. Hedding Street, 7th Floor, East Wing
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I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

Regards-

On Tue, Sep 21, 2021 at 8:42 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

| Good morning Mr. Britton,

Pursuant to the County Ordinance Code, Section 5.20.090, an applicant can modify an application prior to approval. Although the County's practice is to receive a Master Application form with each new submittal, it has been determined that a new form is not technically required for this resubmittal. Please let me know your availability this week for a resubmittal meeting. As noted from the previous meeting, a single set of plans is required. I have copied the property owner and Frank Kruzic on this email.

Sincerely,



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: [Ling, Xue](#)
To: [Cove Britton](#)
Cc: [Onciano, Jacqueline](#); [Frank Kruzic](#); [mfwaters3@gmail.com](#); [Mikhail, Leza](#); [Loquist, Kristina](#); [Thomas Jamison](#); [Richard J. Irish](#); [Pianca, Elizabeth](#); [Cheleden, Christopher](#)
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal
Date: Thursday, October 14, 2021 4:28:00 PM
Attachments: [RE EXTERNAL Re PLN20-124_0 Peacock Court Resubmittal.msg](#)
[image001.png](#)

Hello Mr. Britton,

Please see the attached email sent at 9:49 pm, October 13, 2021. No additional documents have been submitted to date. Should you propose to submit additional information, please schedule an appointment during the timeslots mentioned in the attached email, following procedures for Planning Resubmittals via the link below.

<https://www.sccgov.org/sites/dpd/Iwantto/Permits/Pages/PlanningResubmittals.aspx>

Sincerely,

Xue Ling
Associate Planner
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From: Cove Britton <cove@matsonbritton.com>
Sent: Thursday, October 14, 2021 11:24 AM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>; Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; 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: Re: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Hi Ms. Ling-

I am pretty perplexed at this point. Did not Frank already meet regarding submission of documents

that at a minimum we would hope to go to the ZA?

I also need to confirm with you that as of now this application is "complete" and that no new application is required and no modification to the application is proposed. And please confirm that any submission of documents *does not* result in a change of the status of "complete" for this application.

Please note Policy R-GD 35 states:

"In applying and implementing Design Review requirements, the County shall also take into account such factors as distance from the valley floor, existing vegetation, intervening slopes and hillsides, and other factors that tend to mitigate visual impact of hillside."

As the photorealistic of the house (from the valley floor) indicates, the home is not discernible from the valley floor due to all the factors as noted under Policy R-GD 35 indicates. Thus the design review comments, and the requirement for story poles, are invalid. I cannot say the house is not visible....but it is, as said, *indiscernible* and the various comments contained in the staff report regarding the design would have no discernable impact.

I had hoped, and requested, to have a discussion regarding these matters but with no success. Briefly I will note some of my concerns with the staff report presented to the ZA regardless.

1. The size of the visible portion (not counting decks and basements) of the home is less than 7000 square feet including garages. However the staff report indicates that a nearby home that is far more visible, and is approximately 7000 square feet (and I believe that is without the garage), has less view impact. As the photo realistic indicates, the directly adjacent homes to the proposed home have significantly more view impact.
2. The staff report notes moving the home to another location on the site. However where the house is located is the flattest area on the site and there are no other locations that are less visible and viable.
3. The state staff report expresses concerns over retaining walls that are not visible to the valley floor. In addition: the retaining wall that appears to be of primary concern the height is misstated (a portion of that is railing), and that portion of retaining wall is supporting a pathway that allows a infirmed person to circumnavigate the upper portion of the property and to access a trail to the lower portion of the property.
4. Virtually all the retaining walls could be eliminated by using raised platforms on posts. However looking at the underside of a deck is typically considered unattractive. But as said, the retaining walls facing the valley floor are not visible.
5. The staff report makes statements regarding the roof of the project that appear to encourage the house to become more visible. I.e. The uphill portion of the home could be 5 feet taller than it is, that would certainly emphasize that the downhill portion of the house facing the valley floor is

stepping down the slope, but the result would be that the upper portion of the home would be more visible.

6. The home as designed is well below the height limit except for one gable end that does not face the valley floor.

7. The roof of the proposed home has been designed to provide optimum conditions for the use of solar panels (our client is an officer of a photovoltaic manufacturer). Planning staff's design suggestions are not conducive to such optimum conditions.

My comments above are just some of the subjective issues I would have liked to discuss prior to the ZA hearing. In addition the current set has all technical objective issues resolved. Again something that would have been good for staff to review and discuss prior hearing so that the ZA had an opportunity to review what was actually being presented with a staff report consistent with the actual project before him/her.

At this point I suggest that Frank Kruzic from my office merely pdf the current package to you and you may reject or not, as you wish, with the understanding that by our doing so in no way changes the status of complete for this application.

Respectfully-

On Wed, Oct 13, 2021 at 9:49 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Hello Mr. Britton,

The project is scheduled for the Zoning Administration Hearing on November 4, 2021. If you propose to submit additional documents, I am available for the resubmittal meeting during the following timeslots:

Monday, October 18, 1-2 pm, 4:30 -5pm

Tuesday, October 19, 4-5 pm

Thursday, October 21, 9-9:30 am, 1-1:30pm, 2-3 pm

Please let me know your availability for 30 minutes during these timeslots. I recommend setting down the meeting time ASAP.

As discussed with Mr. Kruzic before July 1 Hearing, the subject Tier II Design Review application requires a story pole to be constructed per the story pole standards (see attached guideline) at least seven (7) days prior to the hearing.

Sincerely,



Xue Ling

Associate Planner
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Direct: 408-299-5784
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From: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>

Sent: Tuesday, October 12, 2021 11:47 PM

To: 'Cove Britton' <cove@matsonbritton.com>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>

Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Good evening, Mr. Britton:

Please work with the assigned Planner, Xue Ling, regarding any information/documents you wish to submit.

Kind regards,

Jacqueline Onciano



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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Subject: Re: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Dear Ms. Onciano:

My wife (and fellow Architect and partner) have been away on our 33rd anniversary so my apologies for a late reply.

Respectfully: There was no written mutual agreement of a 90 day extension of the hearing date requirement (note it is extension of the hearing date) until the Zoning Administrator hearing (your staff refused to do so until the hearing). The idea that the 90 day is an extension of all Permit Streamlining Act time frames is disturbing on many levels and is not consistent with the PSA in concept or fact.

If you doubt that I am correct, I am more than happy to work with the Governor's Office of Planning Research and you to clarify. It would benefit all applicants of the County of Santa Clara (and the Governing Body) to understand the full extent of their rights under the Permit Streamlining Act. We are in a housing crisis and what appears to me to be your deliberate (?) obfuscation is telling. But I am more than willing to admit I am wrong if the Governor's Office of Planning and Research will support your position.

That said:

Per Government Code 65956 please consider this the seven days notice required.

Also (but not limited too) please provide the information required by Government Code 65941.5. To date that information has not been provided.

I also again request to submit information (that you specifically acknowledge does not trigger new PSA timelines as allowed under the PSA) and to meet with qualified County staff for a respectful conversation.

The positive thing I am seeing about this project is the possibility that all applicants may be aware of their rights....and I mean ALL. I have purposely left blank what the code references say above...as ALL applicants should be aware of them as PART of their submittals and County responses.

Regards-

On Fri, Sep 24, 2021 at 10:20 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening: Mr. Britton:

Please see the information below.

- **March 18, 2021** - Application deemed complete (by operation of law as a result of the Planning Commission's (PC) application complete determination)
- County gets 30 days to determine CEQA processing
- **April 2, 2021** - Incomplete Appeal filed, with a decision by the PC on **May 27, 2021**. This established a "tolling" period. There were 15 days between March 18, 2021 and the filing of the appeal.
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- **July 1, 2021** - Public hearing not opened and project continued to a date uncertain
- Adding 90 days to the end of **August 9, 2021** establishes a new PSA deadline of **November 7, 2021**

Additionally, per your request see attached documents. Please note: The meeting Agenda is sent as the Notice.

Kind regards,

Jacqueline O.



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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San Jose | CA 95110

Phone: (408) 299-6741

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 6:11 PM

To: Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Onciano:

Thank you for your email. It is now imminently clear that there are now an intentional four attempts to deceive an applicant on their rights in this process. Your staff has not made every attempt to assist the applicant other than to completely and blatantly deceive them. My understanding is that is a pattern of behavior from your department.

Case and point (if not already made multiple times) per Government Code 65957 the extension granted by the ZA was for a maximum of 90 days.

The ZA hearing was on July 1st. May I request you state what is 90 days from that date?

Please provide the noticing your office sent...as requested prior.

On Tue, Sep 21, 2021 at 5:14 PM Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

In accordance with Government Code 65944, staff is not requesting any new or additional information be submitted.

On May 27, 2021, the Planning Application (PLN20-124), was deemed complete by the Planning Commission, per your appeal. Staff is ready to move forward on the Planning Application materials, per the completeness determination of the Planning Commission. Staff scheduled the item, prepared a staff report and was in position to present the item at the

July 1, 2021 Zoning Administrative hearing. Per an email exchange in June 2021, a request was received for a one-time 90 day extension. The request was mutually agreed to and granted per the Permit Streamlining Act; and the Zoning Administrative hearing Officer continued the item to a date uncertain, pursuant to your request.

As you are electing to submit new information, per Section 5.20.090 (Modification or Withdrawal of Permit Application) of the County Zoning Ordinance, it states:

- An application may be modified by the applicant at any time prior to approval. Any prior finding of application of completeness may be voided by submittal of a request for modification or withdrawal...

The process to submit new information has been outlined by staff, and staff has made every attempt to be available and assist with the process. Per the Permit Streamlining Act, the County will move the application forward prior to November 7, 2021, if the additional information you are electing to submit is not received by staff for processing.

Jacqueline O.



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

70 W. Hedding Street | 7th Floor | East Wing
San Jose | CA 95110
Phone: (408) 299-6741
jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 2:18 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>

Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Ling-

Respectfully -

Section 5.20.080 is for "Modification or withdrawal of permit application". Essentially for us to submit again under that section is to allow County staff to void the existing determination of a complete and potentially supplemental application fees.

We continue to request to be allowed to submit under the current application consistent with Government Code 65944. As you may recall, my stated reason for asking for an extension from the ZA was in order to submit additional information. I also stated at the Planning Commission that my office intended to submit additional information. To date my office has not been given that opportunity to submit that additional information in a manner that would be consistent with the Permit Streamlining Act and what is most concerning, in a manner that would not technically void the determination of "complete".

It is difficult to determine if it is the specific intention of Planning staff to technically void the determination of "complete" for this application, but it is a disturbing pattern, intentional or not.

I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

Regards-

On Tue, Sep 21, 2021 at 8:42 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

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Sincerely,



Xue Ling

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From: [Ling, Xue](#)
To: [Onciano, Jacqueline](#); "[Cove Britton](#)"
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Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal
Date: Wednesday, October 13, 2021 9:48:00 PM
Attachments: [image001.png](#)
[Story_poles.pdf](#)

Hello Mr. Britton,

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Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison

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Subject: RE: [EXTERNAL] Re: PLN20-124_O Peacock Court Resubmittal

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Kind regards,

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Director

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Regards-

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Kind regards,

Jacqueline O.



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

70 W. Hedding Street | 7th Floor | East Wing
San Jose | CA 95110
Phone: (408) 299-6741
jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 6:11 PM

To: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Onciano:

Thank you for your email. It is now imminently clear that there are now an intentional four attempts to deceive an applicant on their rights in this process. Your staff has not made every attempt to assist the applicant other than to completely and blatantly deceive them. My understanding is that is a pattern of behavior from your department.

Case and point (if not already made multiple times) per Government Code 65957 the extension granted by the ZA was for a maximum of 90 days.

The ZA hearing was on July 1st. May I request you state what is 90 days from that date?

Please provide the noticing your office sent...as requested prior.

On Tue, Sep 21, 2021 at 5:14 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

In accordance with Government Code 65944, staff is not requesting any new or additional information be submitted.

On May 27, 2021, the Planning Application (PLN20-124), was deemed complete by the Planning Commission, per your appeal. Staff is ready to move forward on the Planning Application materials, per the completeness determination of the Planning Commission. Staff scheduled the item, prepared a staff report and was in position to present the item at the July 1, 2021 Zoning Administrative hearing. Per an email exchange in June 2021, a request was received for a one-time 90 day extension. The request was mutually agreed to and granted per the Permit Streamlining Act; and the Zoning Administrative hearing Officer continued the item to a date uncertain, pursuant to your request.

As you are electing to submit new information, per Section 5.20.090 (Modification or Withdrawal of Permit Application) of the County Zoning Ordinance, it states:

- An application may be modified by the applicant at any time prior to approval. Any prior finding of application of completeness may be voided by submittal of a request for modification or withdrawal...

The process to submit new information has been outlined by staff, and staff has made every attempt to be available and assist with the process. Per the Permit Streamlining Act, the County will move the application forward prior to November 7, 2021, if the additional information you are electing to submit is not received by staff for processing.

Jacqueline O.



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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 2:18 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>

Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Ling-

Respectfully -

Section 5.20.080 is for "Modification or withdrawal of permit application". Essentially for us to submit again under that section is to allow County staff to void the existing determination of a complete and potentially supplemental application fees.

We continue to request to be allowed to submit under the current application consistent with Government Code 65944. As you may recall, my stated reason for asking for an extension from the ZA was in order to submit additional information. I also stated at the Planning Commission that my office intended to submit additional information. To date my office has not been given that opportunity to submit that additional information in a manner that would be consistent with the Permit Streamlining Act and what is most concerning, in a manner that would not technically void the determination of "complete".

It is difficult to determine if it is the specific intention of Planning staff to technically void the determination of "complete" for this application, but it is a disturbing pattern, intentional or not.

I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

Regards-

On Tue, Sep 21, 2021 at 8:42 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

| Good morning Mr. Britton,

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Sincerely,



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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Cove Britton
Matson Britton Architects

O. (831) 425-0544

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From: [Cove Britton](#)
To: [Onciano, Jacqueline](#)
Cc: [Frank Kruzic](#); [mfwaters3@gmail.com](#); [Mikhail, Leza](#); [Loquist, Kristina](#); [Thomas Jamison](#); [Richard J. Irish](#); [Ling, Xue](#); [Pianca, Elizabeth](#); [Cheleden, Christopher](#)
Subject: Re: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal
Date: Tuesday, October 19, 2021 3:01:18 PM
Attachments: [image001.png](#)

Dear Ms Onciano:

I would challenge anybody to consider your email as helpful, consistent with the Permit Streamlining Act, and consistent with due process.

Some simple points:

1. *All* applicants should be properly informed regarding the PSA, as the PSA requires. It is useless legislation for 99.9% of the public if a government agency refuses to follow the legislation and refuses to inform the public of it in a understandable manner

The link below to a report regarding the PSA for San Francisco can literally be applied virtually verbatim for your department.

<https://sfbos.org/permit-streamlining-act>

2. This project is deemed complete, under the PSA, no further actions or documents may be required. If you disagree, please state why in a manner consistent with the PSA. I.e. specifics and not general references to "resubmittal" procedures for an application *that is not complete*.

3. This application has been duly deemed complete per the PSA. Planning staff, or any other government agency, has *no authority to deny submission of additional documentation or require any additional documentation or actions*. I informed your department, the Planning Commission, and the Zoning Administrator that additional documents would be submitted. Your department is legally required to accept those submissions without caveat.

These issues are relatively simple. If you continue to ignore my requests for a respectful conversation about the actual project, so be it, however we still have the right for the ZA to receive our documents in a timely manner.

Regards-

On Mon, Oct 18, 2021 at 11:19 PM Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

Please see responses below.

1. **Government Code Section 65941.5:**

- a. Please see email below, dated Fri, Sep 24, 2021 at 10:20 PM (time limits established for review of the subject application)
- b. 65962.5(e): Two links provided below in addition to citing the Cortese List on the County Hazardous Waste and Substance Sites List Questionnaire

i. [DTSC's Hazardous Waste and Substances Site List - Site Cleanup \(Cortese List\) | Department of Toxic Substances Control \(ca.gov\)](#)

ii. [EnviroStor \(ca.gov\)](#)

c. 65961: See link below

i. [Law section \(ca.gov\)](#)

d. County Public Notice Requirements for Planning Applications (Zoning Ordinance Section 5.20.110): https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITCCODELAUS_APXIZO_ART5PRAD_CH5.20COPR_S5.20.110PUNO

2. **Resubmittal Requirements for County of Santa Clara (links below and County Zoning Ordinance)**

- a. Please see email below, dated Sep 21, 2021 at 5:14 PM (supplemented emails between Applicant and Associate Planner, Xue Ling)
- b. Link: [Applicant Procedures For Planning Resubmittals - Planning and Development - County of Santa Clara \(sccgov.org\)](#)
- c. Zoning Ordinance:
https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITCCODELAUS_APXIZO_ART5PRAD_CH5.20COPR_S5.20.090MOWIPEAP

Finally, the Zoning Administration Hearing is scheduled for November 4, 2021.

Kind regards,



JACQUELINE R. ONCIANO

Director

Department of Planning and Development

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Sent: Monday, October 11, 2021 6:16 PM

To: Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org>

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Subject: Re: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Dear Ms. Onciano:

My wife (and fellow Architect and partner) have been away on our 33rd anniversary so my apologies for a late reply.

Respectfully: There was no written mutual agreement of a 90 day extension of the hearing date requirement (note it is extension of the hearing date) until the Zoning Administrator hearing (your staff refused to do so until the hearing). The idea that the 90 day is an extension of all Permit Streamlining Act time frames is disturbing on many levels and is not consistent with the PSA in concept or fact.

If you doubt that I am correct, I am more than happy to work with the Governor's Office of Planning Research and you to clarify. It would benefit all applicants of the County of Santa Clara (and the Governing Body) to understand the full extent of their rights under the Permit Streamlining Act. We are in a housing crisis and what appears to me to be your deliberate (?) obfuscation is telling. But I am more than willing to admit I am wrong if the Governor's Office of Planning and Research will support your position.

That said:

Per Government Code 65956 please consider this the seven days notice required.

Also (but not limited too) please provide the information required by Government Code 65941.5. To date that information has not been provided.

I also again request to submit information (that you specifically acknowledge does not trigger new PSA timelines as allowed under the PSA) and to meet with qualified County staff for a respectful conversation.

The positive thing I am seeing about this project is the possibility that all applicants may be aware of their rights....and I mean ALL. I have purposely left blank what the code references say above...as ALL applicants should be aware of them as PART of their submittals and County responses.

Regards-

On Fri, Sep 24, 2021 at 10:20 PM Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org> wrote:

Good evening: Mr. Britton:

Please see the information below.

- **March 18, 2021** - Application deemed complete (by operation of law as a result of the Planning Commission's (PC) application complete determination)
- County gets 30 days to determine CEQA processing
- **April 2, 2021** - Incomplete Appeal filed, with a decision by the PC on **May 27, 2021**. This established a "tolling" period. There were 15 days between March 18, 2021 and the filing of the appeal.
- **June 10, 2021** - CEQA determination made; this established a 60-day Permit Streamlining Act (PSA) deadline of **August 9, 2021**
- **June 23, 2021** - Applicant requested 90-day extension of time to the PSA on **June 23, 2021** (prior to the expiration of PSA deadline of August 9, 2021)
- **June 23, 2021** - Mutually accepted and granted one-time 90-day extension by Staff
- **July 1, 2021** - Public hearing not opened and project continued to a date uncertain
- Adding 90 days to the end of **August 9, 2021** establishes a new PSA deadline of **November 7, 2021**

Additionally, per your request see attached documents. Please note: The meeting Agenda is sent as the Notice.

Kind regards,

Jacqueline O.



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Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

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I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

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Sincerely,



Xue Ling

Associate Planner

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Direct: 408-299-5784

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Cove Britton

Matson Britton Architects

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From: [Thomas Jamison](#)
To: [Onciano, Jacqueline](#); "[Cove Britton](#)"
Cc: [Frank Kruzic](#); mfwaters3@gmail.com; [Mikhail, Leza](#); [Loquist, Kristina](#); [Richard J. Irish](#); [Ling, Xue](#); [Pianca, Elizabeth](#); [Cheleden, Christopher](#)
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal
Date: Thursday, October 21, 2021 8:51:59 PM
Attachments: [image001.png](#)
[Sig. Block.pdf](#)

Hello Jacqueline,

I remember you well from the Monterey County Planning Department, and I hope you remember me too as I have handled many projects with Fenton & Keller through the Department, although I don't think you and I worked on hardly any together. Anyway, congratulations on your new position as Director of the Santa Clara County Planning Department – that is really quite an accomplishment, with many responsibilities to go with it, I'm sure.

I've handled a number of projects with Cove Britton in Santa Cruz County, and he is a good friend of mine. He has asked me to briefly assist Mr. & Mrs. Waters with their house, which I am willing to do. Having reviewed the email exchanges, I've told him quite frankly that we need to turn down the heat on this. I can't say his emails have helped the situation much, and I think he agrees.

I'd like to suggest that there is a way under the Permit Streamlining Act to accomplish your objectives and his at the same time. His objective is simply to preserve the completeness determination that now exists. Beyond that, he really WANTS to respond to all of Staff's requests and submit the set of corrections, etc. to the plans. On your end, I assume you would just like to be able to deal with the revised set of plans without any undue pressure of time.

Section 65944 of the Permit Streamlining Act fits this situation perfectly. It states in part:

- a. After a public agency accepts an application as complete, [t]he agency may, in the course of processing the application request the applicant to clarify, amplify correct, or otherwise supplement the information required for the application.

That is what can happen here: Mr. Britton can submit the corrected plans without jeopardizing the completeness determination, and the County staff can review them and can request whatever additional information it desires and Mr. Britton will be required to respond to those requests.

I hope you can agree to this. It will get this particular disagreement out of everyone's way. If so, there seems to be no need to go through with the Zoning Administrator's hearing on November 4, although it can still go forward if you want. The result would simply be denial of the application. Mr. Britton, though, in fact requests a continuance of that meeting, and we can concurrently strategize on actions that will extend time periods sufficient for the County's review of the corrected plans.

Please feel free to call me to discuss this further. My number is (831) 277-0776.

Looking forward to hearing from you, and

**THOMAS H. JAMISON
LAWYER**

**2511 GARDEN ROAD, SUITE A 104
MONTEREY, CA 93940**

**EMAIL: TOMLAW@TJAMISON.COM
PHONE: (831) 277-0776**

With best regards,

Tom Jamison

From: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>
Sent: Thursday, October 21, 2021 12:00 AM
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Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Good evening, Mr. Britton:

Planning staff has offered multiple opportunities, for your employee, Frank Kruzic and you to submit new project information to no avail.

The item is scheduled to be considered by the Zoning Administrator on November 4, 2021.

Kind regards,

Jacqueline Onciano



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
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2. This project is deemed complete, under the PSA, no further actions or documents may be required. If you disagree, please state why in a manner consistent with the PSA. I.e. specifics and not general references to "resubmittal" procedures for an application *that is not complete*.

3. This application has been duly deemed complete per the PSA. Planning staff, or any other government agency, has *no authority to deny submission of additional documentation or require any additional documentation or actions*. I informed your department, the Planning Commission, and the Zoning Administrator that additional documents would be submitted. Your department is legally required to accept those submissions without caveat.

These issues are relatively simple. If you continue to ignore my requests for a respectful conversation about the actual project, so be it, however we still have the right for the ZA to receive our documents in a timely manner.

Regards-

On Mon, Oct 18, 2021 at 11:19 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

Please see responses below.

1. **Government Code Section 65941.5:**

- a. Please see email below, dated Fri, Sep 24, 2021 at 10:20 PM (time limits established for review of the subject application)
- b. 65962.5(e): Two links provided below in addition to citing the Cortese List on the County Hazardous Waste and Substance Sites List Questionnaire
 - i. [DTSC's Hazardous Waste and Substances Site List - Site Cleanup \(Cortese List\) | Department of Toxic Substances Control \(ca.gov\)](#)
 - ii. [EnviroStor \(ca.gov\)](#)
- c. 65961: See link below
 - i. [Law section \(ca.gov\)](#)
- d. County Public Notice Requirements for Planning Applications (Zoning Ordinance Section 5.20.110):
https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITCCODELAUS_APXIZO_ART5PRAD_CH5.20COPR_S5.20.110PUNO

2. **Resubmittal Requirements for County of Santa Clara (links below and County Zoning Ordinance)**

- a. Please see email below, dated Sep 21, 2021 at 5:14 PM (supplemented emails between Applicant and Associate Planner, Xue Ling)
- b. Link: [Applicant Procedures For Planning Resubmittals - Planning and Development - County of Santa Clara \(sccgov.org\)](#)
- c. Zoning Ordinance:
https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITCCODELAUS_APXIZO_ART5PRAD_CH5.20COPR_S5.20.090MOWIPEAP

Finally, the Zoning Administration Hearing is scheduled for November 4, 2021.

Kind regards,

JACQUELINE R. ONCIANO
Director



**Department of Planning and Development
County of Santa Clara**

70 W. Hedding Street | 7th Floor | East Wing
San Jose | CA 95110
Phone: (408) 299-6741
jacqueline.onciano@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Monday, October 11, 2021 6:16 PM

To: Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Dear Ms. Onciano:

My wife (and fellow Architect and partner) have been away on our 33rd anniversary so my apologies for a late reply.

Respectfully: There was no written mutual agreement of a 90 day extension of the hearing date requirement (note it is extension of the hearing date) until the Zoning Administrator hearing (your staff refused to do so until the hearing). The idea that the 90 day is an extension of **all** Permit Streamlining Act time frames is disturbing on many levels and is not consistent with the PSA in concept or fact.

If you doubt that I am correct, I am more than happy to work with the Governor's Office of Planning Research and you to clarify. It would benefit **all** applicants of the County of Santa Clara (and the Governing Body) to understand the full extent of their rights under the Permit Streamlining Act. We are in a housing crisis and what appears to me to be your deliberate (?) obfuscation is telling. But I am more than willing to admit I am wrong if the Governor's Office of Planning and Research will support your position.

That said:

Per Government Code 65956 please consider this the seven days notice required.

Also (but not limited too) please provide the information required by **Government Code 65941.5**. To date that information has not been provided.

I also again request to submit information (that you specifically acknowledge does not trigger new PSA timelines as allowed under the PSA) and to meet with qualified County staff for a respectful conversation.

The positive thing I am seeing about this project is the possibility that all applicants may be aware of their rights....and I mean ALL. I have purposely left blank what the code references say above...as ALL applicants should be aware of them as PART of their submittals and County responses.

Regards-

On Fri, Sep 24, 2021 at 10:20 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening: Mr. Britton:

Please see the information below.

- **March 18, 2021** - Application deemed complete (by operation of law as a result of the Planning Commission's (PC) application complete determination)
- County gets 30 days to determine CEQA processing
- **April 2, 2021** - Incomplete Appeal filed, with a decision by the PC on **May 27, 2021**. This established a "tolling" period. There were 15 days between March 18, 2021 and the filing of the appeal.
- **June 10, 2021** - CEQA determination made; this established a 60-day Permit Streamlining Act (PSA) deadline of **August 9, 2021**
- **June 23, 2021** - Applicant requested 90-day extension of time to the PSA on **June 23, 2021** (prior to the expiration of PSA deadline of August 9, 2021)
- **June 23, 2021** - Mutually accepted and granted one-time 90-day extension by Staff
- **July 1, 2021** - Public hearing not opened and project continued to a date uncertain
- Adding 90 days to the end of **August 9, 2021** establishes a new PSA deadline of **November 7, 2021**

Additionally, per your request see attached documents. Please note: The meeting Agenda is sent as the Notice.

Kind regards,

Jacqueline O.

JACQUELINE R. ONCIANO



Director

**Department of Planning and Development
County of Santa Clara**

70 W. Hedding Street | 7th Floor | East Wing
San Jose | CA 95110
Phone: (408) 299-6741
jacqueline.onciano@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 6:11 PM

To: Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Onciano:

Thank you for your email. It is now imminently clear that there are now an intentional four attempts to deceive an applicant on their rights in this process. Your staff has not made every attempt to assist the applicant other than to completely and blatantly deceive them. My understanding is that is a pattern of behavior from your department.

Case and point (if not already made multiple times) per Government Code 65957 the extension granted by the ZA was for a maximum of 90 days.

The ZA hearing was on July 1st. May I request you state what is 90 days from that date?

Please provide the noticing your office sent...as requested prior.

On Tue, Sep 21, 2021 at 5:14 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

In accordance with Government Code 65944, staff is not requesting any new or additional information be submitted.

On May 27, 2021, the Planning Application (PLN20-124), was deemed complete by the Planning Commission, per your appeal. Staff is ready to move forward on the Planning Application materials, per the completeness determination of the Planning Commission. Staff scheduled the item, prepared a staff report and was in position to present the item at the July 1, 2021 Zoning Administrative hearing. Per an email exchange in June 2021, a request was received for a one-time 90 day extension. The request was mutually agreed to and granted per the Permit Streamlining Act; and the Zoning Administrative hearing Officer continued the item to a date uncertain, pursuant to your request.

As you are electing to submit new information, per Section 5.20.090 (Modification or Withdrawal of Permit Application) of the County Zoning Ordinance, it states:

- An application may be modified by the applicant at any time prior to approval. Any prior finding of application of completeness may be voided by submittal of a request for modification or withdrawal...

The process to submit new information has been outlined by staff, and staff has made every attempt to be available and assist with the process. Per the Permit Streamlining Act, the County will move the application forward prior to November 7, 2021, if the additional information you are electing to submit is not received by staff for processing.

Jacqueline O.



JACQUELINE R. ONCIANO

Director

**Department of Planning and Development
County of Santa Clara**

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 2:18 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison

<tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>

Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Ling-

Respectfully -

Section 5.20.080 is for "Modification or withdrawal of permit application". Essentially for us to submit again under that section is to allow County staff to void the existing determination of a complete and potentially supplemental application fees.

We continue to request to be allowed to submit under the current application consistent with Government Code 65944. As you may recall, my stated reason for asking for an extension from the ZA was in order to submit additional information. I also stated at the Planning Commission that my office intended to submit additional information. To date my office has not been given that opportunity to submit that additional information in a manner that would be consistent with the Permit Streamlining Act and what is most concerning, in a manner that would not technically void the determination of "complete".

It is difficult to determine if it is the specific intention of Planning staff to technically void the determination of "complete" for this application, but it is a disturbing pattern, intentional or not.

I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

Regards-

On Tue, Sep 21, 2021 at 8:42 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Good morning Mr. Britton,

Pursuant to the County Ordinance Code, Section 5.20.090, an applicant can modify an application prior to approval. Although the County's practice is to receive a Master Application form with each new submittal, it has been determined that a new form is not technically required for this resubmittal. Please let me know your availability this week for a resubmittal meeting. As noted from the previous meeting, a single set of plans is required. I have copied the property owner and Frank Kruzic on this email.

Sincerely,



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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Cove Britton
Matson Britton Architects

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Cove Britton
Matson Britton Architects

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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 5:19:17 PM
Attachments: [image001.png](#)

Thank you Ms. Ling

Mr. Kruzick will submit tomorrow our "Upload of Correspondence".

I will follow up with a letter for the ZA to consider.

Regards-

On Tue, Nov 2, 2021 at 5:04 PM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Resending this email to the whole group.

Thank you, Mr. Britton.

Staff will upload your correspondence to the ZA webpage.

Sincerely,

Xue

408-299-5784

From: Cove Britton <cove@matsonbritton.com>
Sent: Tuesday, November 2, 2021 4:10 PM
To: Ling, Xue <xue.ling@pln.sccgov.org>
Cc: [frank@matsonbritton.com](#); [Mikhail, Leza](#) <leza.mikhail@pln.sccgov.org>; [Onciano, Jacqueline](#) <jacqueline.unciano@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: Re: [EXTERNAL] Re: PLN20-124_ZA Item 2 Posted

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

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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Cove Britton

Matson Britton Architects

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Cove Britton

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Cove Britton

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Cove Britton

Matson Britton Architects

O. (831) 425-0544

Ling, Xue

Subject: FW: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

From: Pianca, Elizabeth

Sent: Tuesday, November 2, 2021 2:51 PM

To: Thomas Jamison <tomlaw@tjamison.com>

Cc: Cove Britton <cove@matsonbritton.com>; mm <mfwaters3@gmail.com>; Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>

Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Tom—

The Department has not requested that Mr. Britton “clarify, amplify, correct, or otherwise supplement the information required for the application” since the application was deemed complete by the County and the information Mr. Britton now seeks to file with the County does not fall under section 65944 because it has not been requested by the County.

Per our discussion last week, Mr. Britton can submit the information and I defer to the Department on how that can be done using the portal since I too am not a tech wizard. Please be advised, however, that the Department reserves the right to review the new information submitted and to make a determination about whether the information submitted constitutes a modification of the application under Zoning Ordinance section 5.20.090 and, if so, whether the new materials submitted necessitate a new completeness review for the application.

Thank you.

Best,
Elizabeth

Elizabeth G. Pianca
Lead Deputy County Counsel
County of Santa Clara
70 W. Hedding Street
9th Floor, E. Wing
San Jose, CA 95110
tel: 408-299-5920
fax: 408-292-7240

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From: Thomas Jamison <tomlaw@tjamison.com>

Sent: Monday, November 1, 2021 8:54 AM

To: Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>

Cc: Cove Britton <cove@matsonbritton.com>; mm <mfwaters3@gmail.com>

Subject: FW: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Jacqueline and Elizabeth,

Thank you for engaging in our conference call last Tuesday.

I have talked with Cove, and as a follow-up he needs some assistance from you in getting the plans submitted.

Cove believes the modifications to the plans come well within section 65944 which we discussed. But the County's portal will not let him submit the plans under that section. According to Cove, the portal will only allow him to submit under the County code section that is for a "resubmit" which is treated essentially like a new application with a new completeness determination.

To get this off dead center and get the plan revisions into your hands, Cove is suggesting that you simply allow the plans to be submitted in pdf form to you. You can then make your own determination of whether the plans meet the criteria under section 65944. Or I suppose you could open a separate portal for applications under section 65944, but I am hardly a tech expert enough to understand that process.

This can happen by the Nov. 4 hearing, although he realizes it will be denied at that time. Nevertheless, you will finally have the revisions to the plans which you can analyze. As mentioned, Cove believes the revisions come under the criteria of section 65944 to "clarify, amplify, correct, or otherwise supplement" the information in the application, but that can be managed by you once the plans are submitted.

Again, since I am hardly a tech wizard, I hope I have explained Cove's dilemma, and a solution, properly.

Tom Jamison

From: Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>
Sent: Monday, October 25, 2021 8:33 AM
To: Thomas Jamison <tomlaw@tjamison.com>
Cc: Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org>; 'cove@matsonbritton.com' <cove@matsonbritton.com>; mm <mfwaters3@gmail.com>; Benabides, Sheila <sheila.benabides@pln.sccgov.org>
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Thank you.

The County will send you an invite with a call in #.

Best,
Elizabeth

Elizabeth G. Pianca
Lead Deputy County Counsel
County of Santa Clara
70 W. Hedding Street
9th Floor, E. Wing
San Jose, CA 95110
tel: 408-299-5920
fax: 408-292-7240

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From: Thomas Jamison <tomlaw@tjamison.com>
Sent: Monday, October 25, 2021 8:16 AM
To: Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>
Cc: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>; 'cove@matsonbritton.com' <cove@matsonbritton.com>;
mm <mfwaters3@gmail.com>; Benabides, Sheila <sheila.benabides@pln.sccgov.org>
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

That time is fine with me, Ms. Pianca. Perhaps it is best if you call me since you and Jacqueline will be together? My number is (831) 277-0776. Please confirm.

Thank you.

Tom Jamison

From: Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>
Sent: Friday, October 22, 2021 6:33 PM
To: Thomas Jamison <tomlaw@tjamison.com>
Cc: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>; 'cove@matsonbritton.com' <cove@matsonbritton.com>;
mm <mfwaters3@gmail.com>; Benabides, Sheila <sheila.benabides@pln.sccgov.org>
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Mr. Jamison:

Jacqueline and I are available at 6 pm on Tuesday, 10/26. Please let us know if that time works for you.

Thank you.

Best,
Elizabeth

Elizabeth G. Pianca
Lead Deputy County Counsel
County of Santa Clara
70 W. Hedding Street
9th Floor, E. Wing
San Jose, CA 95110
tel: 408-299-5920
fax: 408-292-7240

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From: Thomas Jamison <tomlaw@tjamison.com>
Sent: Friday, October 22, 2021 1:28 PM
To: Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>
Cc: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>; 'cove@matsonbritton.com' <cove@matsonbritton.com>;
mm <mfwaters3@gmail.com>
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Elizabeth,

Thank you for your response. It is appreciated.

I am available to talk this afternoon if you and Jacqueline are available, or anytime Monday or Tuesday. Please let me know your preference(s).

I think the rub is this. Mr. Britton has been concerned, reading the Streamlining Permit Act and your regulations, that if he "resubmits" his plans it will trigger a new "completeness" determination. It doesn't have to be that way; the applicable PSA sections and your regulations only say that it "may" allow the agency to make a new completeness determination. If we can reach an agreement that his resubmittal will not cause a new "completeness" determination to be made, that would eliminate his objection, and applicable time limits can be tolled or extended as necessary.

That is why section 65944 seemed (and still seems) so perfectly pertinent to this situation, because it allows the original completeness determination to stand, while allowing the County to get the revised plans and request any additional information that it desires. In fact, I think Mr. Britton may have a right to simply submit the revised plans under section 65944, and the County can proceed from there.

In any event, this seems like quite a small matter in the overall scheme of things, and there are easy solutions for it, so I hope that is where we can end up.

Thank you for your time, and please let me know when you would like to have a call.

Regards,
Tom Jamison

From: Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>
Sent: Friday, October 22, 2021 8:46 AM
To: Thomas Jamison <tomlaw@tjamison.com>
Cc: Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Mr. Jamison:

Thank you for your email.

I advise the Department of Planning and Development. I am happy to discuss your proposed plans with you and Jacqueline. To be clear, the Department does not dispute the completeness determination for the subject application and the Department is aware of Government Code section 65944. The challenge is that Mr. Britton apparently will not submit the supplemental information necessary to review the modification he is seeking to make to the completed application.

Please let us know a good time to discuss soon.

Best,
Elizabeth

Elizabeth G. Pianca
Lead Deputy County Counsel
County of Santa Clara
70 W. Hedding Street

9th Floor, E. Wing
San Jose, CA 95110
tel: 408-299-5920
fax: 408-292-7240

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From: Thomas Jamison <tomlaw@tjamison.com>
Sent: Thursday, October 21, 2021 8:52 PM
To: Onciano, Jacqueline <jacqueline.unciano@pln.sccgov.org>; 'Cove Britton' <cove@matsonbritton.com>
Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>;
Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Richard J. Irish <richard@riengineering.com>; Ling, Xue
<xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher
<Christopher.Cheleden@cco.sccgov.org>
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Hello Jacqueline,

I remember you well from the Monterey County Planning Department, and I hope you remember me too as I have handled many projects with Fenton & Keller through the Department, although I don't think you and I worked on hardly any together. Anyway, congratulations on your new position as Director of the Santa Clara County Planning Department – that is really quite an accomplishment, with many responsibilities to go with it, I'm sure.

I've handled a number of projects with Cove Britton in Santa Cruz County, and he is a good friend of mine. He has asked me to briefly assist Mr. & Mrs. Waters with their house, which I am willing to do. Having reviewed the email exchanges, I've told him quite frankly that we need to turn down the heat on this. I can't say his emails have helped the situation much, and I think he agrees.

I'd like to suggest that there is a way under the Permit Streamlining Act to accomplish your objectives and his at the same time. His objective is simply to preserve the completeness determination that now exists. Beyond that, he really WANTS to respond to all of Staff's requests and submit the set of corrections, etc. to the plans. On your end, I assume you would just like to be able to deal with the revised set of plans without any undue pressure of time.

Section 65944 of the Permit Streamlining Act fits this situation perfectly. It states in part:

- (a) After a public agency accepts an application as complete, [t]he agency may, in the course of processing the application request the applicant to clarify, amplify correct, or otherwise supplement the information required for the application.

That is what can happen here: Mr. Britton can submit the corrected plans without jeopardizing the completeness determination, and the County staff can review them and can request whatever additional information it desires and Mr. Britton will be required to respond to those requests.

I hope you can agree to this. It will get this particular disagreement out of everyone's way. If so, there seems to be no need to go through with the Zoning Administrator's hearing on November 4, although it can still go forward if you want. The result would simply be denial of the application. Mr. Britton, though, in fact requests a continuance of that meeting, and we can concurrently strategize on actions that will extend time periods sufficient for the County's review of the corrected plans.

Please feel free to call me to discuss this further. My number is (831) 277-0776.

Looking forward to hearing from you, and
With best regards,

Tom Jamison

From: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>
Sent: Thursday, October 21, 2021 12:00 AM
To: 'Cove Britton' <cove@matsonbritton.com>
Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>;
Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish
<richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth
<Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>
Subject: RE: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Good evening, Mr. Britton:

Planning staff has offered multiple opportunities, for your employee, Frank Kruzic and you to submit new project information to no avail.

The item is scheduled to be considered by the Zoning Administrator on November 4, 2021.

Kind regards,

Jacqueline Onciano



JACQUELINE R. ONCIANO

Director

Department of Planning and Development

County of Santa Clara

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>
Sent: Tuesday, October 19, 2021 3:01 PM
To: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>
Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>;
Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish
<richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth
<Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>
Subject: Re: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Dear Ms Onciano:

I would challenge anybody to consider your email as helpful, consistent with the Permit Streamlining Act, and consistent with due process.

Some simple points:

1. *All* applicants should be properly informed regarding the PSA, as the PSA requires. It is useless legislation for 99.9% of the public if a government agency refuses to follow the legislation and refuses to inform the public of it in a understandable manner

The link below to a report regarding the PSA for San Francisco can literally be applied virtually verbatim for your department.

<https://sfbos.org/permit-streamlining-act>

2. This project is deemed complete, under the PSA, no further actions or documents may be required. If you disagree, please state why in a manner consistent with the PSA. I.e. specifics and not general references to "resubmittal" procedures for an application *that is not complete*.

3. This application has been duly deemed complete per the PSA. Planning staff, or any other government agency, has *no authority to deny submission of additional documentation or require any additional documentation or actions*. I informed your department, the Planning Commission, and the Zoning Administrator that additional documents would be submitted. Your department is legally required to accept those submissions without caveat.

These issues are relatively simple. If you continue to ignore my requests for a respectful conversation about the actual project, so be it, however we still have the right for the ZA to receive our documents in a timely manner.

Regards-

On Mon, Oct 18, 2021 at 11:19 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

Please see responses below.

1. **Government Code Section 65941.5:**

- a. Please see email below, dated Fri, Sep 24, 2021 at 10:20 PM (time limits established for review of the subject application)
- b. 65962.5(e): Two links provided below in addition to citing the Cortese List on the County Hazardous Waste and Substance Sites List Questionnaire

i. [DTSC's Hazardous Waste and Substances Site List - Site Cleanup \(Cortese List\) | Department of Toxic Substances Control \(ca.gov\)](#)

ii. [EnviroStor \(ca.gov\)](#)

- c. 65961: See link below

- i. [Law section \(ca.gov\)](#)
 - d. County Public Notice Requirements for Planning Applications (Zoning Ordinance Section 5.20.110):
https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITCCO_DELAUS_APXIZO_ART5PRAD_CH5.20COPR_S5.20.110PUNO
2. **Resubmittal Requirements for County of Santa Clara (links below and County Zoning Ordinance)**
- a. Please see email below, dated Sep 21, 2021 at 5:14 PM (supplemented emails between Applicant and Associate Planner, Xue Ling)
 - b. Link: [Applicant Procedures For Planning Resubmittals - Planning and Development - County of Santa Clara \(sccgov.org\)](#)
 - c. Zoning Ordinance:
https://library.municode.com/ca/santa_clara_county/codes/code_of_ordinances?nodeId=TITCCO_DELAUS_APXIZO_ART5PRAD_CH5.20COPR_S5.20.090MOWIPEAP

Finally, the Zoning Administration Hearing is scheduled for November 4, 2021.

Kind regards,



JACQUELINE R. ONCIANO

Director

Department of Planning and Development

County of Santa Clara

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San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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distributing, printing, copying, or disclosing the message or content to others and must delete the message from your computer. If you have received this message in error, please notify the sender by return email.

From: Cove Britton <cove@matsonbritton.com>
Sent: Monday, October 11, 2021 6:16 PM
To: Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org>
Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>
Subject: Re: [EXTERNAL] Re: PLN20-124_0 Peacock Court Resubmittal

Dear Ms. Onciano:

My wife (and fellow Architect and partner) have been away on our 33rd anniversary so my apologies for a late reply.

Respectfully: There was no written mutual agreement of a 90 day extension of the hearing date requirement (note it is extension of the hearing date) until the Zoning Administrator hearing (your staff refused to do so until the hearing). The idea that the 90 day is an extension of all Permit Streamlining Act time frames is disturbing on many levels and is not consistent with the PSA in concept or fact.

If you doubt that I am correct, I am more than happy to work with the Governor's Office of Planning Research and you to clarify. It would benefit all applicants of the County of Santa Clara (and the Governing Body) to understand the full extent of their rights under the Permit Streamlining Act. We are in a housing crisis and what appears to me to be your deliberate (?) obfuscation is telling. But I am more than willing to admit I am wrong if the Governor's Office of Planning and Research will support your position.

That said:

Per Government Code 65956 please consider this the seven days notice required.

Also (but not limited too) please provide the information required by **Government Code 65941.5**. To date that information has not been provided.

I also again request to submit information (that you specifically acknowledge does not trigger new PSA timelines as allowed under the PSA) and to meet with qualified County staff for a respectful conversation.

The positive thing I am seeing about this project is the possibility that all applicants may be aware of their rights....and I mean ALL. I have purposely left blank what the code references say above...as ALL applicants should be aware of them as PART of their submittals and County responses.

Regards-

On Fri, Sep 24, 2021 at 10:20 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening: Mr. Britton:

Please see the information below.

- **March 18, 2021** - Application deemed complete (by operation of law as a result of the Planning Commission's (PC) application complete determination)
- County gets 30 days to determine CEQA processing
- **April 2, 2021** - Incomplete Appeal filed, with a decision by the PC on **May 27, 2021**. This established a "tolling" period. There were 15 days between March 18, 2021 and the filing of the appeal.
- **June 10, 2021** - CEQA determination made; this established a 60-day Permit Streamlining Act (PSA) deadline of **August 9, 2021**
- **June 23, 2021** - Applicant requested 90-day extension of time to the PSA on **June 23, 2021** (prior to the expiration of PSA deadline of August 9, 2021)
- **June 23, 2021** - Mutually accepted and granted one-time 90-day extension by Staff
- **July 1, 2021** - Public hearing not opened and project continued to a date uncertain
- Adding 90 days to the end of **August 9, 2021** establishes a new PSA deadline of **November 7, 2021**

Additionally, per your request see attached documents. Please note: The meeting Agenda is sent as the Notice.

Kind regards,

Jacqueline O.



JACQUELINE R. ONCIANO

Director

Department of Planning and Development

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jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 6:11 PM

To: Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>; Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>; Ling, Xue <xue.ling@pln.sccgov.org>; Pianca, Elizabeth <Elizabeth.Pianca@cco.sccgov.org>; Cheleden, Christopher <Christopher.Cheleden@cco.sccgov.org>

Subject: Re: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Onciano:

Thank you for your email. It is now imminently clear that there are now an intentional four attempts to deceive an applicant on their rights in this process. Your staff has not made every attempt to assist the applicant other than to completely and blatantly deceive them. My understanding is that is a pattern of behavior from your department.

Case and point (if not already made multiple times) per Government Code 65957 the extension granted by the ZA was for a maximum of 90 days.

The ZA hearing was on July 1st. May I request you state what is 90 days from that date?

Please provide the noticing your office sent...as requested prior.

On Tue, Sep 21, 2021 at 5:14 PM Onciano, Jacqueline <jacqueline.onciano@pln.sccgov.org> wrote:

Good evening, Mr. Britton:

In accordance with Government Code 65944, staff is not requesting any new or additional information be submitted.

On May 27, 2021, the Planning Application (PLN20-124), was deemed complete by the Planning Commission, per your appeal. Staff is ready to move forward on the Planning Application materials, per the completeness determination of the Planning Commission. Staff scheduled the item, prepared a staff report and was in position to present the item at the July 1, 2021 Zoning Administrative hearing. Per an email exchange in June 2021, a request was received for a one-time 90 day extension. The request was mutually agreed to and granted per the Permit Streamlining Act; and the Zoning Administrative hearing Officer continued the item to a date uncertain, pursuant to your request.

As you are electing to submit new information, per Section 5.20.090 (Modification or Withdrawal of Permit Application) of the County Zoning Ordinance, it states:

- An application may be modified by the applicant at any time prior to approval. Any prior finding of application of completeness may be voided by submittal of a request for modification or withdrawal...

The process to submit new information has been outlined by staff, and staff has made every attempt to be available and assist with the process. Per the Permit Streamlining Act, the County will move the application forward prior to November 7, 2021, if the additional information you are electing to submit is not received by staff for processing.

Jacqueline O.



JACQUELINE R. ONCIANO

Director

Department of Planning and Development

County of Santa Clara

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

San Jose | CA 95110

Phone: (408) 299-6741

jacqueline.oncini@pln.sccgov.org

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From: Cove Britton <cove@matsonbritton.com>

Sent: Tuesday, September 21, 2021 2:18 PM

To: Ling, Xue <xue.ling@pln.sccgov.org>

Cc: Frank Kruzic <frank@matsonbritton.com>; mfwaters3@gmail.com; Mikhail, Leza <leza.mikhail@pln.sccgov.org>; Onciano, Jacqueline <jacqueline.oncini@pln.sccgov.org>; Loquist, Kristina <Kristina.Loquist@bos.sccgov.org>;

Thomas Jamison <tomlaw@tjamison.com>; Richard J. Irish <richard@riengineering.com>

Subject: [EXTERNAL] Re: PLN20-124_Peacock Court Resubmittal

Dear Ms. Ling-

Respectfully -

Section 5.20.080 is for "Modification or withdrawal of permit application". Essentially for us to submit again under that section is to allow County staff to void the existing determination of a complete and potentially supplemental application fees.

We continue to request to be allowed to submit under the current application consistent with Government Code 65944. As you may recall, my stated reason for asking for an extension from the ZA was in order to submit additional information. I also stated at the Planning Commission that my office intended to submit additional information. To date my office has not been given that opportunity to submit that additional information in a manner that would be consistent with the Permit Streamlining Act and what is most concerning, in a manner that would not technically void the determination of "complete".

It is difficult to determine if it is the specific intention of Planning staff to technically void the determination of "complete" for this application, but it is a disturbing pattern, intentional or not.

I have cc'd attorney Tom Jamison here to assist us as we move forward.

On a side note, please provide the mailing list that you used for the required public noticing for our last ZA hearing.

Regards-

On Tue, Sep 21, 2021 at 8:42 AM Ling, Xue <xue.ling@pln.sccgov.org> wrote:

Good morning Mr. Britton,

Pursuant to the County Ordinance Code, Section 5.20.090, an applicant can modify an application prior to approval. Although the County's practice is to receive a Master Application form with each new submittal, it has been determined that a new form is not technically required for this resubmittal. Please let me know your availability this

week for a resubmittal meeting. As noted from the previous meeting, a single set of plans is required. I have copied the property owner and Frank Kruzic on this email.

Sincerely,



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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Cove Britton

Matson Britton Architects

O. (831) 425-0544

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