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VIA E-MAIL ONLY

May 5, 2025

Hon. Felipe Hernandez, Chair
Honorable Members of the Board of Supervisors
County of Santa Cruz
701 Ocean Street, #500A
Santa Cruz, CA 95060
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BoardOfSupervisors@santacruzcountyca.gov
felipe.hernandez@santacruzcounty.us

Re: **Meeting of Board of Supervisors, May 6, 2025, Regular Agenda Item 8**

To Chair Hernandez and the Members of the Board:

As you know from prior communications, this law firm represents Alex and Judi MacDonell and Cove Britton, in regard to Application No. 241450, APN 028-242-25.

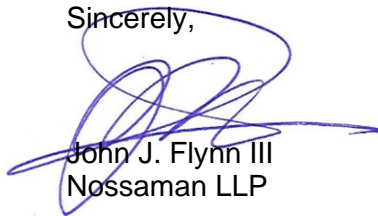
As you know from the Staff Report, we filed our appeal of Mr. MacBeth's "incompleteness" letter on January 9, 2025. Under section 65943(c) of the Government Code, a final determination on the appeal was required to have been made within 60 days of the filing of the appeal, in this case, by March 10, 2025. The hearing by the Board of Supervisors is scheduled for May 6, 2025, **long** after the County was required to provide its final decision on the January 9 appeal. Under section 65943, for that additional reason, the application must be deemed complete.

As for the staff's insistence that the 30 days does not begin to run until payment of fees, under section 65943 of the Government Code, the time period for completeness review is 30 days from the date of receipt of the project application. No provision is made in state law for any extension or additional time related to payment of the fees. The County may not, by its code, override state law. The County staff has provided **no** legal authority for the proposition that commencement of review under the Permit Streamlining Act before the payment of fees would constitute an unlawful gift of public funds. Any such "gift" can be easily averted by charging a standard fee at the time the application is received, to be adjusted upward or downward after further review of the application. In other words, the "fee issue" is an entirely invented issue, and one that is easily averted by the application of a bit of practical common sense. In any event, the County's code provisions pertaining to payment of fees for applications cannot override the plain language of the Permit Streamlining Act.

Finally, there is nothing in section 65943 that confers upon the Board the right to hold a "jurisdictional" hearing on whether to even consider the MacDonells' appeal. The County's procedures concerning appeals from completeness determinations are governed by state law, in this case, section 65943, and the County may not alter the obligations imposed by the Legislature via inconsistent provisions of the County Code. The Board **must** hear the appeal, and it has no discretion to decline to hear it.

We look forward to appearing before you tomorrow morning, to be further heard on the matter. We of course reserve all rights to address any and all pertinent issues at the hearing, and to present new arguments prior to a final decision.

Sincerely,



John J. Flynn III
Nossaman LLP

JJF:art

cc: Jason M. Heath, Esq., County Counsel (Jason.Heath@santacruzcounty.us)
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