

Donovan Arteaga

From: Cove Britton <cove@matsonbritton.com>
Sent: Tuesday, October 21, 2025 3:23 PM
To: John Hunter; Donovan Arteaga
Cc: Nick Boyd; valerie hart; brg@cruzio.com
Subject: Re: APN 101-041-09

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Donovan Arteaga added. County of Santa Clara Planning Commission removed :)

On Tue, Oct 21, 2025 at 3:06 PM Cove Britton <cove@matsonbritton.com> wrote:

REBUTTAL TO STAFF REPORT – APPEAL OF APPLICATION NO. 241335 (APN 101-041-09)

Planning Commission Hearing – October 22 2025
Submitted by Cove Britton, Architect (C23616)
Agent for Nicholas & Elissa Boyd

I. The Project Team Has Acted in Good Faith

Since filing, the applicant team—including Biotic Resources Group (Kathleen Lyons, Plant Ecologist)—has provided all requested materials, including a complete **Oak Woodland and Riparian Corridor Restoration Plan** (April 8 2025) and supporting grading, drainage, and erosion-control documentation. The team repeatedly invited constructive meetings to clarify any remaining technical issues on condition that they were not open-ended requirements to relocate the proposed location of structures. The well qualified and experienced project team have full faith that the location of the proposed structures are appropriate and balance the various concerns regarding the oak woodland and appropriate grading.

Nevertheless, Environmental Planning continued to demand **major redesigns** of the residence and ADU that are **not supported by the professional biologist of record** nor the project engineer, and that exceed the scope of review authorized by County Code Chapter 16.32.

These requests persisted even after the application was deemed **complete for processing** on June 26 2025.

II. Determination of Siting Is a Planning Commission Function—Not Staff’s

Under **SCCC § 18.10.340 et seq.**, discretionary findings regarding site design, avoidance, and minimization of impacts fall within the authority of the **Planning Commission**, not administrative staff. Staff’s role is limited to **technical review and recommendation**, not to impose new siting or redesign requirements once an application is complete.

By conditioning permit issuance on staff “**acceptance**” of a biotic report that dictates “the final siting of the dwelling”, Environmental Planning has effectively **appropriated the Commission’s discretionary authority**.

That violates both the Permit Streamlining Act and County procedures that reserve project-level findings to the decision-making body. The acceptance of the biotic report is a judgement and one that should not rely on staff insistence that the location of the proposed structures must be relocated and is fully within the authority of the Planning Commission.

III. The Record Already Supports Striking Condition II(H)

The April 2025 Restoration Plan and accompanying analyses satisfy all technical criteria of **SCCC §§ 16.32.070–.080**:

- Over **1.0 acre** of oak-woodland restoration (1:1 ratio).
- **0.018 acre** of riparian rehabilitation at a **20:1 ratio**.
- Five-year monitoring, performance metrics, and a Mitigation Monitoring and Reporting Program consistent with the signed **Stipulation and Order**.

These documents provide substantial evidence that sensitive-habitat standards are met. No further “acceptance” process is needed; the Commission can adopt these reports as part of the project record and lawfully (and appropriately) strike Condition II(H) accordingly.

IV. CEQA Review Is Complete and Cannot Be Reopened Through “Acceptance”

The County filed a **Class 3 Notice of Exemption**, thereby completing CEQA review. Requiring post-hoc “acceptance” of a biotic report as a pre-condition to a building permit effectively re-opens environmental review without a noticed hearing—something neither CEQA nor local code allows. All substantive environmental determinations must occur **here**, before the Commission, based on the evidence in the record. At this time staff have already recommended approval and determined the project CEQA exempt. Thus violating CEQA by proposing further environmental review.

V. Requested Commission Action

1. **Grant the Appeal and Strike Condition II(H).**

Substitute the following:

“The Planning Commission finds the Oak Woodland and Riparian Corridor Restoration Plan (REV

241187) acceptable and directs staff to incorporate it into the permit record. No further staff 'acceptance' shall be required."

2. Affirm Commission Authority Over Site Design and Findings.

Direct that any future habitat-related conditions be considered through public findings at the Commission level, not through administrative reinterpretation.

3. Confirm that the Project Is CEQA-Exempt and Complete for Processing.

All further review should occur within normal building-permit procedures, not as a discretionary obstacle.

VI. Conclusion

The applicant team has delivered comprehensive technical documentation and made every effort to collaborate with County staff *appropriately*.

Staff's insistence on unsupported redesigns and retention of unilateral "acceptance" authority undermines both the completeness determination and the Commission's role under County Code. The Planning Commission should strike Condition II(H), accept the submitted biotic and restoration reports into the record, and direct staff to process the project consistent with the approved CEQA exemption and County ordinances.

Ultimately this hearing is not about the biotic report, it is about staff insistence that structures be relocated in order to accept the biotic reports.

Respectfully submitted,

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Authorized Agent for Nicholas & Elissa Boyd

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