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Refer To File # 505726-0001

VIA EMAIL ONLY

July 13, 2026

Chair and Members of the Planning Commission
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
Trina.Barton@santacruzcountyca.gov; Riley.Rhodes@santacruzcountyca.gov

**Re: Scheinman Debris Fence; Application No. 251393 (APN 043-082-70)
Response to May 15, 2026 "Clarification" Letter Regarding Incompleteness
Appeal**

Dear Chair Barton and Commission Members:

Our law firm represents MSHINE LLC and Elan and Maureen Scheinman (the "Scheinmans") in connection with Application No. 251393 (the "Application") and the appeal of the County of Santa Cruz's ("County") incompleteness determination regarding their Application. This letter provides formal notice that the County's May 15, 2026 "Final Determination Regarding Appeal" and May 19, 2026 "Clarification" letters are legally ineffective and cannot serve as a valid final written determination under Government Code section 65943(c). Specifically, the County's position that the County Planning Commission's 2-2 vote at their May 13, 2026 hearing resulted in denial of the Scheinmans' incompleteness appeal is incorrect and the County failed to make a valid written final determination within the 60-day period as required by the Permit Streamlining Act.

As the County acknowledges in its May 19 letter, the Scheinmans submitted their appeal on March 16, 2026. Under section 65943(c) of the Permit Streamlining Act, the County was therefore required to issue a **valid** final written determination on the Scheinmans' appeal within the 60-day statutory deadline: May 15, 2026. The Planning Commission did not do so. Rather, while the Planning Commission heard the appeal on May 13, 2026, the Commission voted 2-2 on the Scheinmans' incompleteness appeal. Under section 2.3.4 of the Planning Commission's own bylaws, a tie vote does not constitute denial of the matter. Instead, "[i]f fewer than five members are present and the Commission is unable to reach any decision on an application or appeal, **that item will be continued to the next regularly-scheduled meeting of the Commission.**" (*Ibid.*, emphasis added.) It is only where no action is taken at a **continued** hearing that the application or appeal is deemed denied. (*Ibid.* ["If no action is taken at such a continued hearing, the application or appeal shall be deemed denied."].) Accordingly, the Planning Commission's 2-2 vote required continuance of the Scheinmans' appeal to the next regularly scheduled meeting and was not a final determination by the Commission.

The County did not continue the appeal as required. Instead, County staff and/or County Counsel attempted to convert the Planning Commission's non-action into a final action denying the appeal. The County's May 19, 2026 "clarification" letter asserts the legally erroneous position that the 2-2 vote was a final action by claiming that it is the required result under Rosenberg's Rules of Order. While the Planning Commission's bylaws generally adopt Rosenberg's Rules of Order, those bylaws specify that Rosenberg's Rules of Order apply **"except as may otherwise be set forth in these Bylaws"** or expressly dictated by applicable provisions of law." (Bylaws, § 2.1, emphasis added.) Here, the Commission's bylaws contain a specific provision addressing the precise circumstance presented: a tie vote with fewer than five Commissioners present. Section 2.3.4 therefore controls over any general parliamentary principle that a tie vote results in failure of a motion.

The County's May 15, 2026 "determination" letter does not cure this defect, as it does not constitute a valid final written determination under the Permit Streamlining Act. The Planning Commission had not taken final action on the appeal by May 15, 2026. Rather, because the Planning Commission's own bylaws required the Scheinmans' appeal be continued to the next regularly scheduled meeting following the 2-2 vote, the appeal remained pending before the Planning Commission. County staff therefore had no authority to issue a letter purporting to convert the Commission's non-action into a final denial of the appeal. Because the decision-making body – the Planning Commission – failed to take a final action, the May 15 letter was not, and could not be, a valid final written determination of the Scheinmans' appeal required by the Permit Streamlining Act.

The County's continued treatment of the Application as incomplete is therefore unlawful. No valid final written determination was made within the statutory deadline required by the Permit Streamlining Act. Failure to comply with that mandatory deadline results in the application being deemed complete by operation of law, and the County must process the Application as complete.

Because the application is deemed complete, the County was required to proceed with the required determination regarding the appropriate CEQA documentation for the project (i.e., whether the project requires an environmental impact report, a negative declaration, or is exempt from CEQA). The County was required to make this determination within 30 days of the application being deemed complete. (See Pub. Resources Code, §§ 21080.1, 21080.2; CEQA Guidelines, § 15102.) The County failed to make that determination within the required statutory period.

The County may not use its own unlawful incompleteness position to delay CEQA review, create new procedural obstacles, or manufacture belated environmental review. Based on the submitted project scope – removal of landslide debris, installation of drainage improvements, and construction of a debris interception fence landward of an existing residence – the appropriate CEQA determination should be a categorical exemption, including under Class 3, Class 4, and/or any other applicable exemption.

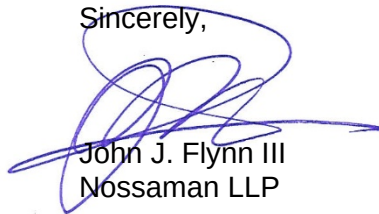
The County's conduct is arbitrary, capricious, and fundamentally unfair to the Scheinmans. The Planning Commission's 2-2 vote did not give County staff authority to declare the Scheinmans' appeal as denied. The Planning Commission's bylaws required a continuance, and the County's attempt to rewrite the procedural result after the fact has caused substantial prejudice to the Scheinmans, depriving them of their rights under the Permit Streamlining Act.

Accordingly, we demand that the County immediately withdraw or correct its May 15, 2026 and May 19, 2026 letters and confirm in writing that the County will immediately make the required CEQA determination, and that the Scheinmans' application is deemed complete by operation of law and must be processed as such.

Please provide the County's written confirmation no later than July 20, 2026. Nothing in this letter should be construed as a waiver of the Scheinmans' rights, claims, remedies, or objections, all of which are expressly reserved.

We appreciate your prompt attention to this matter.

Sincerely,



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