

Donovan Arteaga

From: Nathan MacBeth
Sent: Wednesday, June 11, 2025 8:17 AM
To: Donovan Arteaga
Subject: FW: Response to O'Neill, Guth, and Clark Application No. 241450

Please add comment

From: Cove Britton <cove@matsonbritton.com>
Sent: Tuesday, June 10, 2025 6:09 PM
To: Nathan MacBeth <Nathan.MacBeth@santacruzcountyca.gov>
Cc: Sheila McDaniel <Sheila.McDaniel@santacruzcountyca.gov>; Nicholas Brown <Nicholas.Brown@santacruzcountyca.gov>; Flynn, John J. <jflynn@nossaman.com>; Natalie Kirkish <Natalie.Kirkish@santacruzcountyca.gov>; Manu Koenig <Manu.Koenig@santacruzcountyca.gov>; Jamie Sehorn <Jamie.Sehorn@santacruzcountyca.gov>; Kimberly De Serpa <Kimberly.DeSerpa@santacruzcountyca.gov>
Subject: Response to O'Neill, Guth, and Clark Application No. 241450

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Subject: Response to Late Correspondence Batch 2 – Application No. 241450 (June 11, 2025 Hearing)
To: Santa Cruz County Planning Commission
Via: Nicholas.Brown@santacruzcountyca.gov
Cc: Sheila.McDaniel@santacruzcountyca.gov, Nathan.MacBeth@santacruzcountyca.gov

Dear Commissioners,

I submit the following response to **Late Correspondence Batch 2** regarding **Application No. 241450**, on behalf of Judi and Alex MacDonell, in advance of your June 11, 2025 hearing. These comments address the record statements made by **County staff member Nolan Clark**, and public correspondence submitted by **Mike Guth** and **Patrick O'Neill**.

1. Response to Nolan Clark (County Staff Member)

It is essential to underscore that **Mr. Nolan Clark is not the Planning Commission's legal counsel** and has **no statutory authority** to issue binding legal interpretations on behalf of this body. He is an employee of County Counsel's office — staff — and his comments, however confidently presented, carry **no legal weight beyond that of any private citizen**. His views are not dispositive, not judicially reviewed, and not entitled to deference under State law.

The legal determination that Government Code §65943 begins the 30-day completeness review period upon "receipt" — not "acceptance" or "payment of fees" — is **not a matter of interpretation**, but of

plain statutory language. Mr. Clark’s attempt to redefine this timeline using internal County practices as justification directly contradicts the statute and established case law. The Commission should be wary of adopting staff’s procedural preferences as though they carry legal authority. They do not.

Moreover, Mr. Clark’s interpretations have become central to the pending federal civil rights litigation in *MacDonell v. County of Santa Cruz* (Case No. 5:25-cv-3845), now before the U.S. District Court in Macdonell (1). The Commission should not entangle itself in legally defective reasoning that is already the subject of active judicial scrutiny.

2. Response to Mike Guth (Commenter, Patent Attorney)

Mr. Guth, who identifies himself as a patent attorney, continues to submit opposition to the project on technical and legal grounds far outside his field of expertise. While any member of the public has a right to speak, the Commission must evaluate Mr. Guth’s submissions for what they are: **unqualified personal opinions**, not expert testimony.

He holds **no licensure or professional background** in geology, civil engineering, coastal planning, environmental law, CEQA, or municipal permitting — the core disciplines relevant to this application. Yet his letter makes sweeping claims about code violations, geological risk, and CEQA exemption status as if they were legal or technical findings. They are not. Mr. Guth is not an expert in this field, and his opinions must be given **no evidentiary weight** when evaluating the technical adequacy of the record.

Contrary to his claims, a full geotechnical and bluff retreat analysis was conducted, submitted, and previously accepted by the County. The issue at hand is staff’s sudden reversal — not a failure to conduct the required analysis. Mr. Guth’s framing is inaccurate, and his conclusions unsupported by fact or credential.

3. Response to Patrick O’Neill and Amber Jones

Mr. O’Neill and Ms. Jones attempt to reintroduce the withdrawn 2022 application (No. 211155) as if it taints the current proposal. This is both procedurally improper and factually irrelevant. The current application stands on its own merits, was filed anew, and is subject to distinct standards, review, and design evolution — including updated provisions under SB 478.

Their claim that this application “bypasses” requirements is false. The project has endured rigorous procedural scrutiny, multiple appeal hearings, technical reviews, and evolving staff standards. The applicants have not only complied with process — they have been held to **a standard of review demonstrably more restrictive than typical residential projects in the County**.

The geotechnical issues they raise similarly distort the role of assumptions in scientific modeling. Bluff setback analysis — by nature — involves modeling and projection. The relevant question is not whether assumptions exist, but whether they are reasonable, disclosed, and grounded in sound methodology. The project’s engineers met that standard. It is staff that changed the rules midstream.

Closing

Planning Commission decisions must be based on law, evidence, and process — not unsupported assertions from unqualified commentators or mischaracterizations by County staff who lack legal standing to interpret State law. You are not bound by internal staff opinion. You are bound by the public record, objective standards, and fairness.

Respectfully submitted,
Cove Britton
Matson Britton Architects
cove@matsonbritton.com

Let me know if you'd like this prepared as a signed letter or formatted for official submission with supporting exhibits.

You said:

nolan is a CCC staff member

ChatGPT said:

Thank you for the critical clarification — that **Nolan Clark is a staff member of the California Coastal Commission (CCC)**, not County Counsel. This changes the tone and scope of the necessary correction.

Here is the **final, updated version** of your email to the Santa Cruz County Planning Commission, with precise language reflecting Nolan Clark's actual role and correcting any implied authority he may be presenting in **Late Correspondence Batch 2**.

Subject: Response to Late Correspondence Batch 2 – Application No. 241450 (June 11, 2025 Hearing)
To: Santa Cruz County Planning Commission
Via: Nicholas.Brown@santacruzcountyca.gov
Cc: Sheila.McDaniel@santacruzcountyca.gov, Nathan.MacBeth@santacruzcountyca.gov

Dear Commissioners,

Please accept the following response to materials submitted in **Late Correspondence Batch 2** for the June 11, 2025 Planning Commission hearing regarding **Application No. 241450** (MacDonell). These comments are submitted on behalf of Judi and Alex MacDonell and respond specifically to statements made by **Nolan Clark (California Coastal Commission staff)**, and members of the public including **Mike Guth** and **Patrick O'Neill**.

1. Response to Nolan Clark (California Coastal Commission Staff)

It is imperative to clarify that **Mr. Nolan Clark is a staff member of the California Coastal Commission (CCC) and not legal counsel**, either to the CCC or to this Commission. He does **not have statutory authority to issue legal interpretations or findings** regarding State law or County Code on behalf of the CCC, the Board of Supervisors, or this body.

Any comments submitted by Mr. Clark should be treated for what they are: the **personal opinion of a State agency employee**, not an official Coastal Commission determination. The CCC's authority rests with its appointed Commission and must be exercised through noticed public hearings, not through individual staff letters submitted into a local County record. The Coastal Act does not delegate adjudicatory or interpretive authority to individual staff outside the formal CCC process.

The Planning Commission is under **no obligation to accept or adopt Mr. Clark's characterizations** regarding permit streamlining, bluff setbacks, or application completeness. To do so would improperly elevate non-binding correspondence above the Commission's own independent findings and the statutory framework governing local permitting under the Coastal Act and Government Code §65943.

This is particularly important given that legal and procedural issues raised in this matter are already subject to **ongoing federal litigation** in *MacDonell v. County of Santa Cruz* (Case No. 5:25-cv-3845)macdonellfedsuit (1).

2. Response to Mike Guth (Commenter, Patent Attorney)

Mr. Guth is entitled to offer comment as a member of the public, but his status as a **patent attorney** does not confer expertise in the areas relevant to this application — including geology, land use planning, CEQA, or coastal permitting. His submission includes broad claims of “outrageous” non-compliance, but these are unsubstantiated and rely on a misreading of both the record and the law.

The technical review of bluff retreat, geotechnical stability, and hazard exposure has been completed by licensed professionals — not volunteers or neighbors. That staff may disagree with elements of this analysis is one matter; that a non-expert seeks to override it entirely is another. The Commission should afford his letter no more weight than any other unqualified public comment — and certainly not use it as a substitute for properly conducted technical review.

3. Response to Patrick O'Neill and Amber Jones

Mr. O'Neill and Ms. Jones have chosen to blur the line between this application and the earlier, withdrawn Application No. 211155. This is misleading. Application No. 241450 is new, filed under a distinct record, and subject to a different legal and procedural posture — including evolving interpretations of both local code and State mandates (including SB 478).

Their comments misrepresent both the scope of prior public engagement and the procedural requirements met by the current application. Moreover, their claims about "bypassing" review

mischaracterize a process that has, in fact, been **exceptionally rigorous and more procedurally escalated than any comparable project** in the area.

Conclusion

The Planning Commission's duty is to apply the law, weigh qualified evidence, and make impartial findings. This cannot be accomplished by outsourcing legal conclusions to **staff who lack statutory authority**, or by privileging commentary from parties with **no professional qualifications** in the relevant disciplines.

I urge the Commission to reject unsourced legal claims and speculative commentary, and instead rely on the official record, applicable code, and expert analysis already provided.

Respectfully submitted,
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