



**MEMORANDUM**

**TO:** Marin County Planning Commission

**FROM:** Sabrina Cardoza, Senior Planner *SC*

**DATE:** July 21, 2023

**RE:** Planning Commission Hearing of July 31, 2023, Agenda Item 4  
Brian Johnson Trust Coastal Permit  
21 Calle Del Onda, Stinson Beach  
Assessor's Parcel 195-162-49  
Project ID P3049

On November 21, 2021, the Planning Commission conducted a public hearing to consider the Brian Johnson Trust Coastal Permit. The project presented and considered by the Planning Commission entailed the construction of a new two-story, 1,488 square-foot single-family residence, a 288 square-foot detached garage, a new septic system, decks, and landscaping improvements on the vacant lot. The previously proposed residence included a maximum building height of 25 feet above surrounding grade, and the exterior walls were proposed to have the following setbacks: 25 feet from the northwestern front property line; 53 feet from the northeastern side property line; 90 feet from the southwestern side property line; 25 feet from the southeastern rear property line.

Prior to this hearing, on November 19, 2021, via a memorandum to the Planning Commission, Rachel Reid, Environmental Planning Manager, requested a continuance. The continuance was requested because staff received public comment following the publishing of the staff report regarding the Initial Study/Mitigated Negative Declaration prepared by the Stinson Beach Water District, which required additional time to review.

On November 21, 2021, the Planning Commission continued the hearing to a date uncertain and requested staff to address issues regarding the environmental review for the project pursuant to the California Environmental Quality Act (CEQA), and to conduct a takings analysis on the siting of the residence due to its location in an environmentally sensitive habitat area, specifically coastal dunes.

**REVISED PROJECT**

Following the hearing continuance, the applicant revised the project and reduced the scope to include a new 1,296 square-foot single-family residence with a floor area ratio of nine percent on the 15,200 square-foot lot. The height of the proposed residence was reduced to 20 feet, seven inches above grade and the exterior walls would have the following setbacks: 25 feet from the northwestern front property line; 46 feet from the northeastern side property line; 100 feet from the southwestern side property line; 16 feet from the southeastern rear property line. The previous

288 square-foot detached garage was removed, and the proposed exterior decks were reduced in size.

Since the hearing continuance, the Planning Division has conducted an expanded takings analysis and completed additional environmental review on the revised project.

## **TAKINGS ANALYSIS**

Subsequent to the previous hearing, additional materials were submitted by the applicant's consultant, Civic Knit, on July 12, 2023, including two documents attached to this memorandum titled, "Ownership History 21 Calle del Onda, Stinson Beach California" (Attachment 3) and "Owner Investments – 21 Calle del Onda, Stinson Beach, California" (Attachment 4). In order to evaluate the applicant's reasonable investment-backed expectation that he would be permitted to develop the property, the takings analysis includes an evaluation of ownership history, owner investments in the property and its development, and land use regulations and restrictions that applied to the property at the time the applicant acquired it or have been imposed since acquisition.

## **ENVIRONMENTAL REVIEW**

As to additional environmental review conducted following the revisions to the project, the County, as a Responsible Agency per State CEQA Guidelines Section 15381, determined that it would be necessary to prepare a Supplemental Environmental Review (SER) document to determine the correct CEQA document to support a decision on the Project. Pursuant to State CEQA Guidelines Section 15162, an addendum can be prepared to a previous Initial Study/Mitigated Negative Declaration or to a previous Environmental Impact Report (EIR). The Marin County Environmental Coordinator determined that, based on the conclusions in the SER, a subsequent Mitigated Negative Declaration of Environmental Impact is required for the project pursuant to CEQA.

The Subsequent Mitigated Negative Declaration of Environmental Impact (SMND) was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County's CEQA process. Therefore, on Monday, January 9, 2023, the SER/SMND were completed and distributed to agencies and interested parties to commence a 30-day public review period for review and comment, and a notice of the public review period and public hearing was published in a general circulation newspaper pursuant to CEQA. Following the 30-day review period, ending on February 8, 2023, the County received five comments in response to the SER/SMND, including comments from the California Coastal Commission and the California Department of Fish and Wildlife. Due to the complexity of the comments, the County initiated and completed an additional Response to Comments (RTC) document to address issues that were raised, including additional analysis to address the severe storm effects of January 5, 2023, and dune habitat protection.

The SER/SMND identified and considered new impacts posed by the revised project, so it includes mitigations addressing off-road diesel-powered equipment, a dune habitat restoration plan, and vibration-reducing pile driving equipment. With the inclusion of mitigations, the SER/SMND, and as further affirmed by the RTC, concludes the project has been mitigated to a point where no significant effects on the environment would occur. Please refer to the SER/SMND that is included as Attachment 5 and the RTC that included as Attachment 6.

## RECOMMENDATION

As further discussed in the recommended resolution (Attachment 1), the revised project is inconsistent with Marin County Local Coastal Program (LCP) biological resource policies and regulations related to environmentally sensitive habitat areas and geologic hazards.

However, the LCP provides that if the application of the policies, standards or provisions of the Local Coastal Program to proposed development would potentially constitute a taking of private property, then a development that is not consistent with the LCP may be allowed on the property to avoid a taking, provided such development is as consistent as possible with all applicable policies and is the minimum amount of development necessary to avoid a taking as determined through a takings evaluation. A takings analysis was conducted pursuant to the LCP and the applicable findings have been made. Further, the project is consistent with other policies and regulations related to coastal access; agriculture and mariculture; water resources; community design; energy; housing; public facilities and services; transportation; historical and archaeological resources; and park, recreation, and visitor-serving uses.

Therefore, staff recommends that the project be conditionally approved based on the findings and subject to the conditions contained in Attachment 1, Recommended Resolution, and Attachment 2, CEQA Resolution.

### Attachments:

1. Recommended Resolution
2. CEQA Resolution
3. Ownership History 21 Calle del Onda, Stinson Beach California, provided by Civic Knit on July 12, 2023
4. Owner Investments – 21 Calle del Onda, Stinson Beach, California, provided by Civic Knit on July 12, 2023
5. Link to Brian Johnson Trust Coastal Permit Supplemental Environmental Review and Subsequent Mitigated Negative Declaration:  
[www.marincounty.org/-/media/files/departments/cd/planning/environmental-impact/johnson-trust-coastal-permit/johnson-trust-ser\\_mnd-010923.pdf?la=en](http://www.marincounty.org/-/media/files/departments/cd/planning/environmental-impact/johnson-trust-coastal-permit/johnson-trust-ser_mnd-010923.pdf?la=en)
6. Response to Comments document prepared by Sicular Environmental Consulting & Natural Lands Management on behalf of the Marin County Community Development Agency, Planning Division
7. Previous Land Division, 1979 – 1981
8. Marin County Uniformly Applied Conditions 2023
9. Revised Project Plans submitted June 6, 2022