

**STAFF REPORT TO THE MARIN COUNTY
PLANNING COMMISSION
Brian Johnson Trust Coastal Permit**

Recommendation: Partially deny and partially approve with conditions
Hearing Date: November 22, 2021

| | | | |
|------------------------------|------------------|--|----------------------------------|
| Application No(s): | P3049 | Owner(s): | Brian Johnson Trust |
| Agenda Item: | 4 | Assessor's Parcel No(s): | 195-162- 49 |
| Last Date for Action: | December 2, 2021 | Property Address: | 21 Calle Del Onda, Stinson Beach |
| | | Project Planner: | Sabrina Cardoza |
| | | Signature: | <i>Sabrina Cardoza</i> |
| Countywide Plan Designation: | | C-MF2 (Coastal, Multi-family, 1-4 units/acre) | |
| Community Plan Area: | | Stinson Beach Community Plan | |
| Zoning District: | | C-R2 (Coastal, Residential, Single-family, 7,500 square-foot minimum lot size) | |
| Environmental Determination: | | Negative Declaration State Clearinghouse #2019129048 | |

PROJECT SUMMARY

The applicant, Brian Johnson, on behalf of the owners, the Brian Johnson Trust, has submitted a Coastal Permit application to construct a new two-story, 1,488 square-foot single-family residence and a 288 square-foot detached garage on a vacant lot in Stinson Beach. The 1,488 square feet of proposed development would result in a floor area ratio of 9.8 percent on the 15,200 square-foot lot. The proposed building would reach a maximum height 25 feet above surrounding grade and the exterior walls would 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. Various site improvements would also be entailed in the proposed development, including a new septic system, a new driveway, decks, and landscaping improvements.

The property is located at 21 Calle Del Onda, Stinson Beach and is further identified as Assessor's Parcel 195-162-49.

BOS ATTACHMENT 10

PROJECT SETTING

Characteristics of the site and surrounding area are summarized below:

| | |
|------------------------|---|
| Total Lot Area: | 11,200 square feet |
| Adjacent Land Uses: | Single-family residences, Marin County Upton Beach and the Pacific Ocean to the south |
| Topography and Slope: | Relatively flat, with an average slope of 7.13 percent |
| Existing Vegetation: | Ice plant mats and sandy beach |
| Environmental Hazards: | The northern portion of the site is located within the AO FEMA Flood zone (2017) and the southern portion of the site is located with a VE FEMA flood hazard zone (2017). |

The site is a beachfront property adjacent to Marin County Upton beach located within the community of Stinson Beach. The property is currently vacant with the remains of a single-family residence previously destroyed by fire and is accessed by Calle Del Onda. The project site is surrounded on three sides by properties varying in size and developed primarily with single-family residences.

BACKGROUND

On February 16, 2021, the Planning Division received a Coastal Permit application for the subject property. The project was transmitted to the Department of Public Works (DPW). An Interagency Referral, dated February 24, 2021, was prepared and posted on the project website, along with the project materials, with a request for comments from public agencies with regulatory authority over the project to be submitted by March 12, 2021. Staff received written responses from DPW and the California Coastal Commission. The application was deemed incomplete on March 18, 2021, including information requested by the Planning Division and the California Coastal Commission.

The applicant submitted revised materials on June 8, 2021. A second Interagency Referral, dated June 10, 2021, was prepared and posted on the project website along with revised project materials, with a request for comments from public agencies with regulatory authority over the project to be submitted by June 24, 2021.

The application was deemed complete on July 7, 2021, and a Notice and Referral of Planning Application, dated July 12, 2021, was prepared and posted on the project website. Staff received a written response from the California Coastal Commission on August 5, 2021, which is attached to the staff report.

On July 29, 2021, the applicant's project consultant, Steve Kinsey of Civic Unit, submitted a letter to the Planning Division which provided the applicant's voluntary consent to extend the final date of action by 90 days in order for staff to conduct a takings analysis pursuant to the Marin County Local Coastal Program, which took effect on August 12, 2021. The last date for action has been extended to December 2, 2021.

The applicant provided the following reports as part of the application materials:

- Preliminary Geotechnical Feasibility Study prepared by Murray Engineers Inc, dated January 14, 2021, which concluded that the project is feasible from a geotechnical standpoint.

- Coastal Engineering Analysis prepared by Noble Consultants Inc, dated July 12, 2021, which provided an analysis of sea level rise and coastal flood hazards which concluded that the septic system may not be subjected to coastal flooding under current conditions but may be subjected to coastal flooding in 50 years without experiencing wave action or wave force.
- Supplemental letter prepared by Noble Consultants, dated May 13, 2021, which further clarified flood risks including impacts during high tides and sea level rise.
- Draft Initial Study/Proposed Mitigated Negative Declaration prepared by WRA Environmental Consultants for the Stinson Beach County Water District, dated December 2019, which included the Biological Site Assessment prepared by WRA Environmental Consultants. The document included an analysis prepared per State CEQA Guidelines and concluded that all impacts to the environment identified as potentially significant would be mitigated to a less than significant level.
- Supplemental letter prepared by WRA Environmental Consultants, dated October 1, 2021, which further clarified the natural communities on the site and concluded that the site does not provide habitat for rare or endangered species.
- Letters from the project consultant prepared by Civic Unit dated February 12, 2020; June 3, 2021, and October 4, 2021, which provides summary details related to the project including property ownership history and information.

An Initial Study was prepared for the project pursuant to the requirements of the California Environmental Quality Act (CEQA) by the Stinson Beach County Water District (SBCWD) acting as Lead Agency and qualified for a Mitigated Negative Declaration (see attachment 12 of the staff report). The Mitigated Negative Declaration was filed with the Marin County Recorder's Office on July 21, 2021, after satisfying all CEQA requirements. The project was found to have no significant effects on the environment, after mitigation. The mitigations are not required as conditions of approval because the SBCWD, as the lead agency, has adopted the Mitigated Negative Declaration and a Mitigation Monitoring Program.

On March 3, 2021, a site visit was conducted, and a notice was posted on the project site identifying the applicant and describing the project and its location. The story poles were installed on April 2, 2021. The Community Development Agency provided a mailed public notice dated October 28, 2021 identifying the applicant, describing the project and its location of a hearing date before the Planning Commission of November 22, 2021 in accordance with California Government Code requirements. This notice had been mailed to all property owners within 600 feet of the subject property.

KEY ISSUES

Public comments received for the project prior to the publishing of the staff report include letters from the California Coastal Commission, legal counsel for the property owner at 17 Calle del Onda, Stinson Beach and legal counsel for the property owner at 24 Calle del Sierra, Stinson Beach and an email from a property owner at 6 Calle Del Onda, Stinson Beach. The comments that have been raised are summarized in the following key issues: (1) flooding risk from Easkoot Creek and sea level rise; (2) geotechnical risks including liquefaction and erosion; and (3) impacts to Environmentally Sensitive Habitat Areas (ESHAs).

The application was deemed complete on July 7, 2021. Shortly thereafter, on July 13, 2021, the Marin County Board of Supervisor's (BOS) voted to activate the certified Local Coastal Program (LCP) Amendments, which were approved by the BOS and certified by the Coastal Commission

with the exception of chapters related to environmental hazards. On August 12, 2021, the certified LCP amendments were activated including policies under the Land Use Plan (LUP) and the Implementation Plan (IP), with the exceptions of chapters related to environmental hazards. As a result, the environmental hazards sections from the original versions of the LCP, certified by the Coastal Commission in 1980 (Unit I) and in 1981 (Unit II) and the Marin County Interim Code Sections 22.56.130I.H, 22.56.130I.K, and 22.56.130I.L apply to this development.

As such, the attached recommended resolution addresses and includes further discussions of issues related to flood and geotechnical risks under Marin County Interim Code Sections 22.56.130I.K and 22.56.130I.L and issues related to ESHAs under the applicable policies contained in the Biological Resources section of the Marin County Land Use Plan and applicable standards contained in Marin County Implementation Plan Section 22.64.050, as well as Marin County Interim Code Section 22.56.130I.H.

Further, the IP section 22.70.180 (Potential Takings Evaluation) states:

“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, including an evaluation of the materials required to be provided by the applicant [...]”

As further discussed in the attached recommended resolution, the proposed septic system and detached garage are inconsistent with Marin County Interim Code Section 22.56.130I.K due to their siting within the AO FEMA flood zone, which has been identified as being located within the floodplain of Easkoot Creek. As such, the recommended resolution includes a denial of the detached garage and a potential takings evaluation has been prepared pursuant to the supplemental findings for Coastal Permit approval under the IP section 22.70.180.C in the attached recommended resolution.

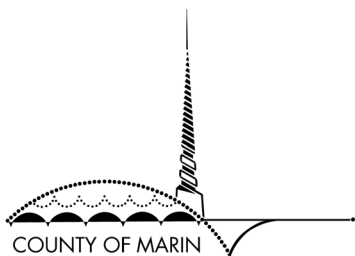
RECOMMENDATION

Staff recommends the Planning Commission review the administrative record, conduct a public hearing, and partially deny and partially approve the Brian Johnson Coastal Permit, based on the findings and subject to the conditions contained in the attached resolution.

Attachments:

1. Recommended resolution
2. Planning Application Review, Department of Public Works, dated March 16, 2021
3. Stinson Beach County Water District Variance, Resolution WW.2020-03
4. Letter from Civic Unit, dated February 12, 2020
5. Letter from Civic Unit, dated June 4, 2021
6. Letter from Civic Unit, dated October 4, 2021
7. Letter from staff of the California Coastal Commission, dated August 5, 2021
8. Email from Belinda and Jim Zell, dated April 15, 2021
9. Letter from Jack Siedman, legal counsel for the property owner at 17 Calle Del Onda, dated June 29, 2021
10. Email from Patricia Conway, legal counsel for the property owner at 24 Calle Del Sierra, dated July 8, 2021

11. Letter from Elizabeth A. Brekus, legal counsel for the property owner at 24 Calle Del Sierra, dated November 5, 2021
12. Link to the Initial Study/Proposed Mitigated Negative Declaration prepared for Stinson Beach County Water District by WRA Environmental Consultants:
https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/projects/brianjohnsontrust_p3049_cp_sb/p3049_initial-study.pdf?la=en
13. Project plans



MEMORANDUM

TO: Marin County Planning Commission

FROM: Sabrina Cardoza, Senior Planner

DATE: November 18, 2021

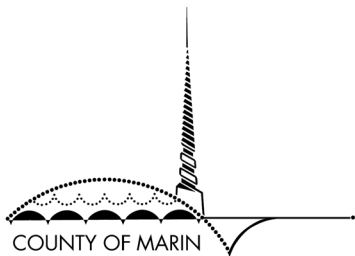
**RE: Planning Commission Hearing of November 22, 2021, Agenda Item 4
Brian Johnson Trust Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P3049**

The purpose of this memorandum is to provide additional correspondence received following the publishing of the staff report. They are listed in order of when they were received and are attached in that order.

1. Letter from Jack Siedman, dated November 9, 2021
2. Email from Marisa Atamian-Sarafian, dated November 14, 2021
3. Email from Michael Lemont, dated November 16, 2021
4. Email from Michael Lemont on behalf of Steven Trifone, dated November 16, 2021

The public comment from Jack Siedman, legal counsel for a property owner at 17 Calle Del Onda in Stinson Beach, expressed concerns that CEQA review has yet to be completed and the review by Stinson Beach Water District is insufficient as the district's review is limited to issues of wastewater.

As further discussed in the staff report and recommended resolution, the Stinson Beach Water District, acting as the lead agency, prepared an Initial Study pursuant to the requirements of the California Environmental Quality Act (CEQA) and qualified for a Mitigated Negative Declaration. The Initial Study contemplated the growth inducing impacts of the septic system, which included the reasonably foreseeable development of a future residence. The Initial Study concluded that impacts from the septic system and the subsequent development of a residence identified as potentially significant are to be mitigated to a less than significant level. The County, as a responsible agency under the State CEQA Guidelines Section 15381, reviewed and considered the information contained in the Mitigated Negative Declaration. As such, staff does not recommend additional modification to the project with respect to environmental review.



MEMORANDUM

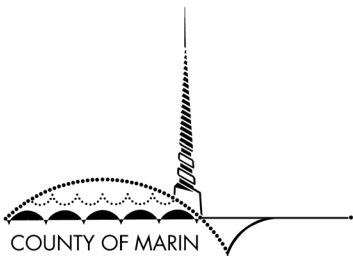
TO: Marin County Planning Commission

FROM: Rachel Reid, Environmental Planning Manager

DATE: November 19, 2021

**RE: Planning Commission Hearing of November 22, 2021, Agenda Item 4
Brian Johnson Trust Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P3049**

The purpose of this memorandum is to request a continuance for this agenda item, since staff received public comment following the publishing of the staff report related to the California Environmental Quality Act (CEQA) review for the project and requires additional time to review the Initial Study/Mitigated Negative Declaration prepared by the Stinson Beach Water District in relation to the proposed project.



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

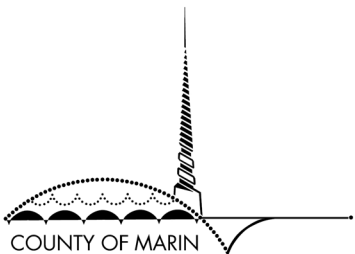
As further discussed in the recommended resolution (Attachment 1), the revised project is inconsistent with Marin County Local Coastal Program (LCP) biological resource policies and regulations related to environmentally sensitive habitat areas and geologic hazards.

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
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



MEMORANDUM

TO: Marin County Planning Commission

FROM: Sabrina Cardoza, Senior Planner *SC*

DATE: July 28, 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**

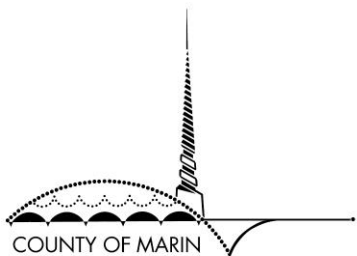
This supplemental memorandum is intended to provide the Marin County Assessor's data used to calculate the average floor area ratio discussed in section 7.C.3 of the Recommended Resolution.

Additionally, on July 21, 2023 at 10:58 AM, staff received an email from the Stinson Beach County Water District (SBCWD) following the mailing of the supplemental memorandum dated July 21, 2023 to the Planning Commissioners. The SBCWD email provided notice that the Design Variance issued on July 20, 2020 for the proposed septic system expired on July 20, 2023.

Lastly, comments received after the Supplemental Memorandum dated July 21, 2023 was posted on the project website on July 25, 2023, are attached to this memorandum in the order they were received.

Attachments:

1. Marin County Assessor's data
2. Email from Kent Nelson on behalf of Stinson Beach County Water District on July 21, 2023
3. Email from Jim Zell on July 26, 2023
4. Email from Len Rifkind on July 27, 2023
5. Email from Jack Siedman on July 27, 2023
6. Email from Jamie Gallagher on behalf of Elizabeth Brekhus to the Planning Commission on July 27, 2023



MEMORANDUM

TO: Marin County Planning Commission

FROM: Sabrina Cardoza, Senior Planner *SC*

DATE: August 10, 2023

**RE: Planning Commission Hearing of August 14, 2023, Agenda Item 5
Brian Johnson Trust Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P3049**

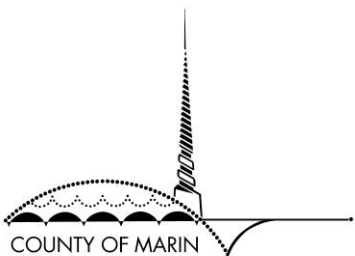
On July 31, 2023, the Planning Commission voted to continue the hearing to August 14, 2023. Following the July 31, 2023 hearing, staff contacted the Stinson Beach County Water District (SBCWD) and confirmed that none of the SBCWD standards for septic systems have been modified since the issuance of a variance previously approving the proposed septic system. As provided for the July 31, 2023 Planning Commission hearing, the variance for the septic system has expired.

The proposed septic system has been designed to meet the lowest wastewater design daily flow rate tier of 150-gallons pursuant to the standards of the SBWCD's requirements for septic systems. Therefore, a reduction in floor area would not result in a reduction in the septic system footprint. The SBCWD staff also confirmed that the applicant will need to reapply for a new Design Permit, which requires review and approval by the SBCWD Board of Directors.

Staff reviewed the record for the file and found information provided to the Planning Commission for the hearings of November 22, 2021 and July 31, 2023 to be complete. Additionally, staff reviewed the Recommended Resolution and revised it for clarity purposes and to correct minor typographical errors, as shown in track changes in Attachment 1. The CEQA resolution has also been revised for typographical errors as previously discussed and presented in the July 31, 2023 hearing. See Attachment 2.

Lastly, comments received after the Supplemental Memorandum dated July 28, 2023 was posted on the project website on July 25, 2023, were received and attached to this memorandum as follows:

1. Memorandum from Dan Sicular, Sicular Environmental Consulting and Natural Lands Management. This memorandum was prepared by the environmental consultant contracted by the County to conduct environmental review was forwarded to the Planning Commission on the day of the July 31, 2023 hearing. This memorandum provides a review of the comments sent to the Planning Commission via the staff memorandum dated July 28, 2023 and concludes that the none of the comments reviewed raised any new substantive issues not previously addressed in the January 2023 Supplemental Environmental Review or in the June 2023 Response to Comments document.



MEMORANDUM

TO: Marin County Planning Commission

FROM: Sabrina Cardoza, Senior Planner *SC*

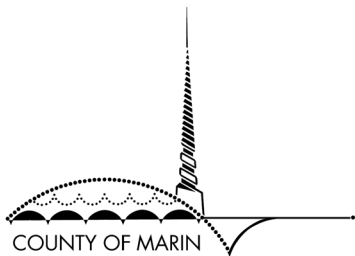
DATE: August 14, 2023

RE: Planning Commission Hearing of August 14, 2023, Agenda Item 5
Brian Johnson Trust Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P3049

The attached revised CEQA resolution is intended to replace the previously proposed CEQA resolution sent to the Planning Commission via staff's supplemental memorandum dated August 10, 2023. The attached resolution reflects the action taken by the Planning Commission on the July 31, 2023 hearing to deny the Subsequent Mitigated Negative Declaration by a vote of three ayes and three noes.


Attachment:

1. Revised CEQA Resolution



MEMORANDUM

TO: Marin County Planning Commission

FROM: Sabrina Cardoza, Senior Planner 

DATE: August 23, 2023

RE: Planning Commission Hearing of August 28, 2023, Agenda Item 5
Brian Johnson Trust Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P3049

Attachment 1 (Revised Recommended Resolution) entails additional revisions to the Recommended Resolution provided to the Planning Commission via staff's memorandum sent on August 10, 2023. Previously proposed and newly proposed revisions shown in track changes include:

1. Revisions to Recommended Resolution Section 5.J. (Public Facilities and Services) that reflect the expiration of the Stinson Beach County Water District's septic system variance approval;
2. Addition of a new Condition of Approval 3, which requires that the applicant shall submit evidence of a septic system approval from the Stinson Beach County Water District prior to the issuance of a Building Permit;
3. Revisions to Condition of Approval 8, which now includes monitoring of dune restoration at three, five, and ten years from the date of initial native plant installation and minimum performance standards which requires provisions for additional further action if monitoring conducted by a qualified biologist indicates that initial restoration has failed and for a new timetable for monitoring to be established should initial restoration fail;
4. Text edits for clarity purposes regarding the takings analysis under Recommended Resolution Section 7; and
5. Text edits to address typographical errors throughout the Recommended Resolution.

Additionally, attached are two resolutions related to the environmental review conducted for the project. Attachment 2 (CEQA Denial Resolution) is a revised CEQA resolution provided to the Planning Commission at the August 14, 2023 hearing. This resolution entails the action taken by the Planning Commission to deny the Subsequent Mitigated Negative Declaration by a vote of three ayes and three noes on July 31, 2023.

Attachment 3 (Recommended CEQA Resolution) is the recommended CEQA resolution proposed for the Planning Commission's reconsideration of the Subsequent Mitigated Negative Declaration denial issued on July 31, 2023.

RECOMMENDATION

On the August 14, 2023, the Planning Commission took a straw vote to approve the merits of the project with a vote of one no and five ayes. A motion was then made to reconsider the prior decision on the mitigated negative declaration that was made on July 31, 2023. This motion passed with a vote of one no and five ayes.

Staff's recommendation that the project be conditionally approved remains unchanged. However, the recommendation has been revised to approve subsequent Mitigated Negative Declaration based on attachment 3 (Recommended CEQA Resolution) and to conditionally approve the project based on the findings and subject to the conditions contained in Attachment 1 (Revised Recommended Resolution).

Attachments:

1. Revised Recommended Resolution
2. CEQA Denial Resolution, adopted July 31, 2023
3. Recommended CEQA Resolution