ATTACHMENT 14

ATTACHMENT 14

STATE OF CALIFORNIA—NATURAL RESOURCES AGENCY GAVIN NEWSOM, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

August 5, 2021

Sabrina Cardoza
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Subject: P3049 Brian Johnson Trust Coastal Permit

Dear Ms. Cardoza:

Thank you for the opportunity to provide our comments on the proposed development at 21 Calle del Onda in the Stinson Beach Calles neighborhood. The proposed development includes construction of a new single-family residence and attached garage, as well as a new septic system, on a currently vacant lot. After our review of the project materials, Commission staff would like to share our concerns regarding the potential for coastal resource impacts related to the proposed development and recommendations for making the project consistent with Marin County's Local Coastal Plan (LCP), as follows:

Dune/Environmentally Sensitive Habitat Area (ESHA)
In response to our March 16, 2021 comments regarding the need to identify and protect dune habitat and/or ESHA, the Applicant responded that the "proposed building design protects the property's sandy beach setting as submitted." Regardless of the present condition of the dunes at this location, any development in dune ESHA, as well as within dune habitat and/or ESHA buffers would be inconsistent with the LCP. Too, the response did not provide clarification about the extent of ESHA onsite, make recommendations regarding buffers from ESHA, or describe any recommended mitigation measures to protect ESHA. The County should require the applicant submit a detailed biologic survey that provides the information needed to determine the extent of ESHA and appropriate buffers for avoiding such areas.

Hazards
In their recent submittal, the Applicant notes that by 2050, analyzing a 100-year storm plus sea level rise, a "100-year storm could produce wave runup that would overtop the wastewater system by as much as 4.5 feet. In addition, the scouring action could cause the shoreline to recede nearly to the edge of the system at a medium-high risk scenario." In addition, the Applicant erroneously states that the proposed development is sited "out of Eskoot's historic floodplain," but is actually within the floodplain when considering low risk scenario sea level rise projections and annual storms. Given this, it appears the septic system is not adequately set back and designed to minimize risks to surrounding property or minimize impacts to water quality over its economic life, considering both ocean flooding and creekside inundation from Eskoot Creek. We encourage the County to require the Applicant to explain how this element

of the project design would be consistent with LCP requirements regarding designing development to be safe from hazards over its economic life.

In addition, it appears from the Applicant's submittal as though Stinson Beach Community Water District (SCBWD) imposed a permit condition requiring a concrete perimeter system protection barrier to further reduce risk of damage to the septic system during historic storm events. The bottom of the barrier wall will be set at elevation of 9' NAVD88, which is expected to protect the system through 2070. However, because LCP hazards policies prohibit shoreline protective devices for new development, the County should require the Applicant to instead propose a wastewater treatment system that would be consistent with the LCP.

The Applicant has agreed to "assume the full risks associated with development of their property and to record a deed restriction that permits no future shoreline protection and requires removal of the structure at such time as a legally authorized public agency issues an order to do so," and as well notes that they would "record a deed restriction that commits them and all future property owners to participate in a community wastewater system if one is approved by the community. In addition, once a Wastewater Variance is granted, their single-family residence application to the County of Marin and the Coastal Commission will include a proposed condition binding any owner to apply for a Coastal Development Permit to remove the structure at such time as the State or County order removal based on an increased level of coastal hazard." While we agree with the Applicant regarding requirement of the first condition proposed regarding the assumption of risk and removal requirement, we recommend that, in reference to the second condition proposed, regardless of the approved wastewater treatment system, a permit for the proposed development should include a condition requiring the current or future property owners to apply for a Coastal Development Permit to remove the structure at such time as the State or County order removal related to coastal hazards. In addition, the County should require as conditions of approval *all* of the recommended hazard conditions as set out in the Commission's March 16, 2021 letter (see pages 3-5, specifically), attached.

Takings Analysis

The Applicant claims that because a house previously existed on this parcel, and because they have continually paid property taxes, "the owners have a reasonable expectation for their modest development to be approved." Additional factors should be taken into consideration to adequately assess the actual development expectations for this particular property including:

- Part of the parcel is covered by FEMA AO zone, resulting in that part of the property is subject to a development moratorium (the Eskoot FP moratorium), constraining its development potential;
- Date of purchase, purchase price, fair market value at the time of purchase;
- Any zoning changes that have occurred since time of purchase (and applicable changes explained);
- Any other development restrictions that applied at time of purchase besides the Eskoot Creek moratorium, including open space easements, restrictive covenants, etc.;
- Changes to the property boundaries or size since purchase;
- Any rents or other profits assessed from the lease or sale of portions of the property since time of purchase;

- Any title reports or litigation guarantees regarding the sale, refinance, or purchase for portions of the property that would apply, since the time of purchase;
- Costs associated with ownership of the property such as property taxes and assessments, mortgages or interest costs, and operation and/or management costs;
- Costs and income should be presented on an annualized basis; and
- Any offers or solicitations to purchase the property.

Please do not hesitate to contact me at sara.pfeifer@coastal.ca.gov or (415) 904-5255 if you have questions regarding our comments.

Sincerely,

Sara Pfeifer
North Central Coast District Coastal Planner

Cc (via email):

Julia Koppman Norton, North Central Coast District Supervisor, California Coastal Commission
Stephanie Rexing, North Central Coast District Manager, California Coastal Commission
Steve Kinsey, CivicKnit

COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

NOTICE OF LAND USE REGULATIONS THAT COULD AFFECT YOUR PROPERTY

July 28, 2015

TO: Owners of Property within the Floodplain of Easkoot Creek, Stinson Beach

Our records indicate that you are the owner of a property in the floodplain of Easkoot Creek. I am writing to inform you of the applicability of an existing coastal development policy that could affect your ability to obtain permits for improvements to your property.

Development of properties in Stinson Beach is regulated by the Marin County Local Coastal Program and the Zoning Ordinance. The Local Coastal Program Unit 1, Policy IV-30 prohibits development that is located within the 100-year floodplain of Easkoot Creek. This restriction is intended to minimize exposure of life and property to flood hazards and adverse impacts on the creek. Marin County Code Section 22.56.130I(L)(2) further states that development of permanent structures and other significant improvements shall not be permitted within the limits of the 100-year floodplain.

Recently, during the County's review of a development application to construct a residence on a property located within the floodplain of Easkoot Creek, staff from the California Coastal Commission informed the County that properties located within flood zones AO and AE as mapped by the Federal Emergency Management Agency (FEMA) are subject to the afore-mentioned limitations. A map of FEMA's AO and AE zones can be reviewed at:

http://www.marincounty.org/depts/cd/divisions/planning/FEMAMapEaskootCreek

Although this determination differs from the County's past interpretation of the Local Coastal Program, it is the County's intention to closely follow the guidance to the extent the Coastal Commission has the ultimate oversight of permits in the County's coastal areas and retains authority to overturn county decisions.

While the restriction will apply to most new development, some types of construction (repair/maintenance and work necessary for health and safety) may be allowable. In addition, if your property is located partially in the FEMA flood zone, improvements located outside of the flood zone would not be subject to the restriction. If you have questions about the applicability of the development restriction to work that you are planning to undertake, please contact our Permit Center at (415) 473-6269. Our public information hours are Monday through Thursday, 8am to 4pm.

Sincerely,

Tom Lai
Assistant Director

EXHIBIT C

EXHIBIT C

Bolinas CA

For Sale Price

Bolinas CA Real Estate & Hc

Popular Garage Fireplace

$100,000

8,002 sqft lot · Lot / Land for sale

229 Birch Rd, Bolinas, CA 94924

End of matching results

Try zooming out to include more re

Save this search to get email alerts v

BAREIS Listing information deemed Broker Participants of the M

For Sale: California · Marin County · Bol

BOLINAS REAL ESTATE FACTS

HOME VALUES BY CITY

Bolinas Homes for Sale

San Rafael Homes for Sale

Novato Homes for Sale

Mill Valley Homes for Sale

San Anselmo Homes for Sale

Sausalito Homes for Sale

Corte Madera Homes for Sale

Fairfax Homes for Sale

Kentfield Homes for Sale

Larkspur Homes for Sale

Ross Homes for Sale

Belvedere Homes for Sale

San Quentin Homes for Sale

Lagunitas Homes for Sale

Point Reyes Station Homes for Sale

Woodacre Homes for Sale

Nicasio Homes for Sale

Olema Homes for Sale

San Geronimo Homes for Sale

Stinson Beach Homes for Sale

HOME VALUES BY NEIGHBORHOOD

Terra Linda Homes for Sale

Contact Agent

Sort: Newest

Overview Facts and features Home value Price and tax history Monthly cost Nearby schools Si

Floor Walk

$100,000 8,002 Square Feet

229 Birch Rd, Bolinas, CA 94924

Lot/land Zestimate®: None

- Agriculture
- No data
- No data
- No data
- 2.5% buyers agency fee

Overview

Address number 229 is not a formal address but given for sake of map identification. Vacant 8,000 sc ft, sunny, level lot. The corners have been marked. Being sold as an unbuildable lot per a water moratorium (BPUD 1971). Buyer to consult with Marin County Planning regarding any other uses. Lo is in the Coastal Zone. Please be mindful of neighbors and their parking areas.

Show more

of compensation, if any, is made

$2,497,806
$1,448,010
$1,152,866
$2,146,501
$1,657,470
$1,679,998
$1,918,865
$1,329,020
$2,954,774
$2,162,052
$4,302,149
$5,002,499
$1,121,239
$1,575,880
$1,209,773
$1,998,349
$1,346,559
$4,757,559
$1,466,192

$100,000 **8,002 Square Feet**

229 Birch Rd, Bolinas, CA 94924

Lot/land ®: None

Overview | Facts and features | Home value | Price and tax history | Monthly cost | Nearby schools | Si >

- Agriculture
- No data
- No data
- No data
- 2.5%

Overview

Address number 229 is not a formal address but given for sake of map identification. Vacant 8,000 s ft, sunny, level lot. The corners have been marked. Being sold as an unbuildable lot per a water moratorium (BPUD 1971). Buyer to consult with Marin County Planning regarding any other uses. Lo is in the Coastal Zone. Please be mindful of neighbors and their parking areas.

HOME VALUES BY ZIP CODE

RELATED SEARCHES

Disclaimer: School attendance zone boundar decision based on these boundaries.

About the ratings: GreatSchools ratings are t le baseline comparisons, not the only factor in selecting the right school for your family. Learn

About

Zestimates

$100,000 **8,002 Square Feet**

229 Birch Rd, Bolinas, CA 94924

Lot/land ®: None

Overview | Facts and features | Home value | Price and tax history | Monthly cost | Nearby schools | Si >

Agriculture

No data

No data

No data

2.5%

Overview

Address number 229 is not a formal address but given for sake of map identification. Vacant 8,000 s ft, sunny, level lot. The corners have been marked. Being sold as an unbuildable lot per a water moratorium (BPUD 1971). Buyer to consult with Marin County Planning regarding any other uses. Lo is in the Coastal Zone. Please be mindful of neighbors and their parking areas.

EXHIBIT D

EXHIBIT D

PUBLIC MEETING AGENDA
WASTEWATER COMMITTEE MEETING

SBCWD
STINSON BEACH COUNTY WATER DISTRICT

HELD ON:
TUESDAY JANUARY 17, 2023 | 9:30 AM (*VIA ZOOM)*

STINSON BEACH COUNTY WATER DISTRICT | PO BOX 245
3785 SHORELINE HIGHWAY | STINSON BEACH CA | 94970
PHONE: 415-868-1333 | FAX: 415-868-9417
EMAIL: sbcwd@stinson-beach-cwd.dst.ca.us
WEBSITE: stinson-beach-cwd.dst.ca.us

Due to the COVID-19 pandemic and in accordance with Assembly Bill 361, which modifies Government Code 54953, this meeting will be conducted by teleconference only. Members of the public may not attend this meeting in person; however, members of the public may join the meeting online at www.zoom.us and entering Meeting ID: 267 817 2914 with password: 868123. Alternatively, members of the public may join the meeting by telephone by calling (408) 638-0968 and entering Meeting ID: 267 817 2914 with password: 868123.

A. CALL TO ORDER
The presiding officer will call the meeting to order.

B. TELECONFERENCE AUTHORIZATION
Consider and reaffirm Resolution GB 2022-08 making findings pursuant to Assembly Bill 361 to hold a teleconference meeting during a proclaimed state of emergency.

C. ADOPTION OF AGENDA
The Committee may revise or adopt the agenda as presented.

D. PUBLIC EXPRESSION
Audience members will be invited to speak regarding matters **not** on the agenda: the Committee cannot act on items brought up at this time. Audience members may speak regarding matters on the agenda at the appropriate time. Speakers may be limited to two minutes each.

E. GENERAL BUSINESS
The Committee will review wastewater related topics including, but not limited to:

1) Discussion and possible direction to staff regarding draft Resolution WW 2023-01, granting variances to property located at 106 Seadrift Road; Joanna Dachs, owner; account 6040.

2) Discussion and possible direction to staff regarding storm-related failed septic system at the following properties: 31 Calle del Pradero (owner: Hannah Kellogg), 32 Calle del Pradero (owner: Angela Rubin), 30 Calle del Sierra (owner: Roger and Diane Crist), 28 Calle del Onda (owner: Anantha Pradeep), 25 Calle del Resaca (owner: James and Rose Dixon) and 26 Calle del Resaca (owner: Linsey Barnett and Katie Behrs).

3) Discussion and possible direction to staff regarding the existing portable (chemical) toilet located at the tennis courts in Seadrift.

4) Discussion regarding property owner-proposed language changes to Resolution WW 2022-15 for the septic system at 17 Marine Way

5) Review of the Failed Systems Report

6) Review of the draft Onsite Wastewater Management Program 2022 Annual Report

F. ADJOURNMENT

The next meeting of the Wastewater Committee will be held on February 13, 2023, commencing at 9:30 am, via Zoom.

Notice regarding the Americans with Disabilities Act: The District adheres to the Americans with Disabilities Act. Persons requiring special accommodations or more information about accessibility should contact the District Office.

Notice regarding Rights of Appeal: Persons who are dissatisfied with the decisions of the SBCWD Board of Directors have the right to have the decision reviewed by a State Court. The District has adopted Section 1094.6 of the Code of Civil Procedure generally limiting the time within which the decision may be judicially challenged to 90 days.

Notice regarding Public Records: All documents relating to the open session items on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, are available at the District Office during regular business hours.

DISTRIBUTION LIST:

Posted:
101 Calle Del Mar (Stinson Beach Market)
15 Calle Del Mar (Post Office)
30 Belvedere (SBCC)
3785 Shoreline Highway (SBCWD Office)

US Mail:
Joanna Dachs

Emailed:
SBCWD Counsel
Point Reyes Light editor
Point Reyes Light calendar
Joe Bender
Stinson Beach Village Association
Seadrift Association
Stinson Beach Fire Department
Troy Pearce, AYS Engineering Group, Inc.
106 Seadrift Road LLC
Jill Williamson

EXHIBIT E

EXHIBIT E

COUNTY OF MARIN

OFFICE OF THE
COUNTY ADMINISTRATOR

Matthew H. Hymel
COUNTY ADMINISTRATOR

Daniel Eilerman
ASSISTANT COUNTY
ADMINISTRATOR

Marin County Civic Center
3501 Civic Center Drive
Suite 325
San Rafael, CA 94903
415 473 6358 T
415 473 4104 F
CRS Dial 711
www.marincounty.org/coo

APPROVED
JAN 10 2023
MARIN COUNTY
BOARD OF SUPERVISORS

January 10, 2023

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Urgency Request from County Administrator to consider adoption of a Resolution proclaiming a Local Emergency caused by severe winter storms related to a series of atmospheric river systems that struck California beginning on December 27, 2022, bringing high winds, substantial precipitation, coastal erosion, and river and urban flooding

RECOMMENDATION: Adopt attached Resolution

Dear Supervisors,

The Assistant Director of Emergency Services issued a Proclamation of Local Emergency for the County of Marin at 2:12 PM on January 6, 2023. This follows on Governor Newsom's decision to declare a state of emergency throughout California on January 4, 2023, due to severe winter storms related to a series of atmospheric river systems that struck California beginning December 27, 2022.

California State law requires that the local emergency shall not remain in effect for more than seven days unless it has been ratified by the governing body. Adoption of the attached Resolution will fulfill State requirements to ratify the Emergency Proclamation and allow further State and Federal processes related to providing financial assistance to Marin for the local emergency to proceed.

The emergency is caused by a series of severe storm systems and atmospheric river events with significant wind-driven rainfall that resulted in localized flooding, mudflows and road closures, coastal erosion and damage, levee overtopping, and other impacts, including significant private infrastructure damage, particularly in coastal areas such as Stinson Beach. Private infrastructure damage in the Stinson Beach area to date totals an estimated $15-$20 million, including 45 residences that have sustained water damage, 22 with structural damage, 2 County maintained roads damaged but currently remaining passable, and 8 non-County maintained roads similarly damaged but currently remaining passable. The County is continuing to conduct extensive emergency response related activities in the field, as well as coordinating with local cities and towns.

State law also requires that the governing body review the need for continuing the local emergency at its regularly scheduled meetings at least once every 60 days.

Item 5

The first review, in accordance with State requirements, will be scheduled for the March 7, 2023 Board of Supervisors meeting.

Please let me know if you have any questions or concerns.

Respectfully submitted,

Daniel Eilerman
Assistant County Administrator

Reviewed by,

Matthew H. Hymel
County Administrator

Attachments: Resolution Declaring Local Emergency
Proclamation of Local Emergency by Asst. Director of Emerg. Svs.
Proclamation of State Emergency

From:	Hall, Chelsea
To:	Hall, Chelsea
Subject:	FW: 21 Calle del Onda, Stinson Beach
Date:	Thursday, February 9, 2023 11:53:39 AM

From: Cardoza, Sabrina <scardoza@marincounty.org>
Sent: Monday, February 6, 2023 8:28 AM
To: Steven Trifone <strifone@icloud.com>; EnvPlanning <EnvPlanning@marincounty.org>
Subject: RE: 21 Calle del Onda, Stinson Beach

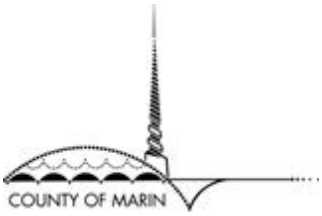
Hi Steven,
I am writing to confirm that your public comments, three received on February 5, 2023 at 11:53 AM, 11:56 AM, and 11:58 AM, were received by both me, project planner processing the application, and the Environmental Planning Team, processing the environmental review. Your comments have been entered into the record for the project.

Best,

Sabrina Cardoza (she/her)

****** Please note that I may be working remotely. Phone calls will be responded to in the order they are received.******

Senior Planner | County of Marin
Community Development Agency, Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903
415-473-3607 T
415-473-7880 F



From: Steven Trifone <strifone@icloud.com>
Sent: Sunday, February 5, 2023 11:51 AM
To: Cardoza, Sabrina <scardoza@marincounty.org>; EnvPlanning <EnvPlanning@marincounty.org>
Subject: 21 Calle del Onda, Stinson Beach

[You don't often get email from strifone@icloud.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

To whom it may concern;
I live at 11 Calle del Onda and have lived there for 24 years. My name is Steven Trifone. I'm writing this email to express my concern about the plans for building a home that is seeking your approval to be constructed at 21 Calle del Onda.

My concern is mainly that construction of this proposed home will severely damage or completely destroy the sand dune that is on the ocean front of this property. This dune protects our entire street/Calle and has prevented major damage over the course of many storms during the 24 years I have lived on this Calle. Storms come in from the southeast and this large dune is on the southeast corner of our Calle. I'm including a photo of this dune after the Storm Surge of this past January 5th. It was damaged, however it held up and saved our Calle and homes from extensive ocean water damage.

Why may I ask is the planning board considering approving a home construction project that will damage or destroy this dune when the County of Marin is considering building artificial dunes along Stinson Beach to prevent ocean water damage to the Calles and Patios in Stinson Beach? Why approve a project that will destroy a real dune and then plan to rebuild artificial dunes.

Saving this existing dune is the purpose of this email and I hope you will give it serious consideration. I know from previous meetings that the Costal Commission is concerned about this dune and I hope you will follow their lead.

Thank you ,
Steven Trifone
11 Calle del Onda, Stinson Beac h

Sent from my iPad

(Photos attached below)

From: Patricia Conway
To: Cardoza, Sabrina
Cc: Marisa Atamian-Sarafian; ELIZABETH A. BREKHUS, ESQ.; Jack Siedman, Esq.
Subject: Re: 21 Onda: Two Emails for our comment letters...
Date: Friday, July 21, 2023 4:05:21 PM
Attachments: Marin County Memo- Repetitive Loss Area 3.2023.pdf

---

Dear Sabrina,

We received notice that a Supplemental Memorandum was posted for the July 31, 2023 hearing. I did not see anything the Planning Page or the Environmental Review Page. I also wanted to note that all of the comments submitted during the January 9-February 8, 2023 comment period have been omitted.

Could you please send us the following:

- Latest Supplemental Memorandum for July 31, 2023 meeting;
- Supplemental Staff Report, if any;
- Supplemental Environmental Review, if any;
- All Public Comments submitted in 2023;
- All Inter-Agency Comments submitted in 2023, including but not limited to by the California Coastal Commission and / or Dept. Public Works.

Our client also received the following notice from the Marin County Dept. of Public Works that the area is designated a Repetitive Loss Area by FEMA, and we would like to know if this issue has been addressed by the Planning Department.

Thank you,

Patricia K. Conway, Esq.
Brekhus Law Partners

1000 Drakes Landing Road
Greenbrae, CA 94904
phone: (415) 461-1001
facsimile: (415) 461-7356

On Tue, Jan 31, 2023 at 1:31 PM Cardoza, Sabrina <scardoza@marincounty.org> wrote:

> Hi Marisa,
>
> You can send to both. Any comments that are sent directly to me regarding the environmental review will be forwarded to the Environmental Review team. They manage the environmental review process but I will make sure your comments get to them.
>
> Best,
>
> Sabrina Cardoza (she/her)
>
> ---
>
> ****** Please note that I may be working remotely. Phone calls will be responded to in the order they are received.******
>
> **Senior Planner** | County of Marin
>
> Community Development Agency, Planning Division
>
> 3501 Civic Center Drive, Suite 308
>
> San Rafael, CA 94903
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> 415-473-3607 T
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> 415-473-7880 F
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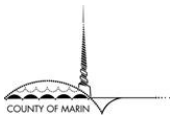
> 
>
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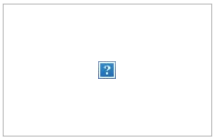
> ---
>
> **From:** Marisa Atamian-Sarafian <marisa.atamian@compass.com>
> **Sent:** Tuesday, January 31, 2023 1:22 PM
> **To:** ELIZABETH A. BREKHUS, ESQ. <Elizabethb@brekhus.com>; Jack Siedman, Esq. <jsiedman@yahoo.com>; Patricia Conway, Esq. <patriciac@brekhus.com>
> **Subject:** 21 Onda: Two Emails for our comment letters...

They've made it so confusing. Can we just email all prepared by Feb. 8th to both **envplanning@marincounty.org** and **scardoza@marincounty.org** to cover ourselves? THANKS! Can't hurt...

Marisa Atamian-Sarafian, COMPASS

DRE 01482275 | Realtor®

510.913.2242



--

Patricia K. Conway, Esq.
Brekhus Law Partners

1000 Drakes Landing Road
Greenbrae, CA 94904
phone: (415) 461-1001
facsimile: (415) 461-7356

COUNTY OF MARIN

DEPARTMENT OF PUBLIC WORKS

Quality, Excellence, Innovation

Rosemarie R. Gaglione
DIRECTOR

Administration
PO Box 4186
San Rafael, CA 94913-4186
415 473 6528T
415 473 3799 F
415 473 3232 TTY
CRS Dial 711
www.marincounty.org/pw

Dear Marin County Resident:

Marin County is concerned about flooding has active programs to help protect residents and property from future flooding. Marin County is sending you this letter because your property has been identified as located in a Repetitive Loss Area. A Repetitive Loss Area is an area where repetitive flood loss claims have been filed with the Federal Emergency Management Agency (FEMA). FEMA defines a repetitive loss area as a group of parcels which have similar flood risks to one or more parcels that have filed multiple claims for flood losses in a ten-year period.[1] Marin County continuously seeks to review and address repetitive flooding around the County and participates in the National Flood Insurance Program (NFIP).

As part of the NFIP program at effort, the County is updating our Repetitive Loss Area (RLA) Analysis. The 2022 Repetitive Loss Area (RLA) Analysis which assesses drainage patterns, causes of flooding, and suggests mitigation measures. Many of the Repetitive Loss Areas are located within FEMA Community Rating System (CRS) communities and receive discounts on their flood insurance based on these efforts.

The County is requesting your input on the description of flood hazards and flood protection recommendations identified the 2022 RLA Analysis report. The 2022 RLA report is posted at https://publicworks.marincounty.org/fema-resources/. Please provide comments via the online survey at https://www.surveymonkey.com/r/RLAA-Survey.

The County encourages property owners in repetitive loss areas to implement flood mitigation measures, maintain and frequently clean their drainage facilities (ditches, drains, etc.) of debris. Please review the suggested mitigation measures for your area that have been identified in the RLA Analysis report. Additional information on FEMA, flood insurance, drainage system maintenance and other topics is available at the County FEMA/CRS website at https://publicworks.marincounty.org/fema-flood-information-national-flood-insurance-program-nfip/, and the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) website at https://mcstoppp.org/.

Thank you for your response which helps improve flood resilience and supports Marin County's compliance with federal laws and qualification for community-wide insurance premium discounts. If you have any questions about the CRS Program or the online survey, please contact Beb Skye at 415-473-4284 or bskye@marincounty.org.

Sincerely

Hannah F. Lee, P.E., CFM
Senior Civil Engineer
Marin County Department of Public Works

From: zelljas@aol.com
To: Cardoza, Sabrina
Subject: 21 Calle Del Onda
Date: Wednesday, July 26, 2023 11:14:43 AM

[You don't often get email from zelljas@aol.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

I strongly object to the proposed project at 21 Calle Del Onda as it would certainly result in the destruction of one of the last natural dunes in Stinson Beach. All this at a time when the County of Marin is promoting sand dunes as a great resource to help with sea level rise, climate change and greater and more frequent, intense winter storms. Thank you, Jim Zell, 6 Calle Del Onda, Stinson Beach.

Sent from my iPad

From:	Jack Siedman
To:	Cardoza, Sabrina
Cc:	Marisa Atamian-Sarafian; Elizabeth Brekhus
Subject:	from Jack Siedman
Date:	Thursday, July 27, 2023 1:57:11 PM
Attachments:	friedman MCC(1).pdf

July 27, 2023

EMAIL TO

Sabrina Cardoza

Re: Coastal Permit Application

P3049

cc: Marisa.atamian-Sarafian

Elizabeth Brekhus

Hello Sabrina:

Please find attached a copy of the letter I sent to County Planning on June 22, 2023 regarding the project at 21 Calle del Onda, Stinson Beach. I understand the letter has not been included in the County's file. Please include it at once for consideration in this matter. Thank you.

Sincerely,

// Jack Siedman //

Jack Siedman
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June 22, 2023

Marin County Community
Development Agency
Planning Division
3501 Civic Center Dr., Ste. 308
San Rafael, CA 94903-4157

Re: Coastal Permit Application P3049
21 Calle del Onda, Stinson Beach

Dear Planners:

I represent Robert Friedman, who owns property located at 17 Calle del Onda, which is adjacent to the above-referenced parcel. I previously wrote you on July 29, 2021, and on November 9, 2021, expressing concerns over this project, the latter specifically addressed to the applicant's claim that CEQA review by the Stinson Beach Water District satisfied CEQA requirements. As I stated in that letter the Water District's review was limited to issues of waste water only, and did not otherwise address the issues required to be addressed by CEQA.

Since then, there has been some modification of the proposed project, including removal of the garage and reduction of the house's size from 1500 sq. ft to 1200 sq. ft. Nevertheless, it continues to be my client's view, shared with virtually every one of his neighbors, that the project is fundamentally flawed and ill-conceived for its location.

I understand that you have been provided with a copy of ESA's Stinson Beach Adaptation Response Collaboration dated April 24, 2023. That comprehensive study enumerates some half-dozen environmental "vulnerabilities" which collectively lead to the obvious conclusion that no building should be allowed at this site.

1. Easkoot Creek. In a letter to you dated February 3, 2023 from the Coastal Commission Staff, it was specifically pointed out that any development within the 100-year flood plain is contrary to the provisions of the LCP, Unit 1, Policy IV-30, and contrary to Marin Code Sec. 27.56.130L. In addition, the staff expressed concern that, in general, the project would have adverse impacts to environmentally sensitive habitat areas, including the Creek.

2. Erosion, Storm Flooding and Wave Run-up. After the storms in January of this year it became apparent that these issues were not something to be worried about in the future. In an article appearing in the January 23, 2023 edition of the *San Francisco*

Chronicle Sarah Jones, then acting director of CDA, toured Stinson Beach after those storms and said: "One thing this has told us is this is not a someday kind of thing." Photos of waves running over the dunes and down the Calle's clearly demonstrate the vulnerability of this project site to continued erosion, flooding and wave run up.

3. Septic. In the October 23, 2022 edition of the *San Francisco Chronicle* the following item appeared:

> **Septic tide** Home septic systems in communities near the coast are becoming less practical as rising sea levels cause ocean water to seep into the soil needed for wastewater to be treated and flushed into the environment, a report warns. As groundwater rises with the sea, coastal septic systems no longer work well, with a mix of groundwater and untreated waste being pushed to the surface."

Therefore, whatever conditions are currently used as the basis for allowing any septic system are temporary and will only diminish over time, thus threatening the surrounding ecosystem.

4. CEQA. If there was ever a project which required a complete and comprehensive review of CEQA requirements, this is that project, and cannot be avoided with a Negative Declaration. Unless and until such a comprehensive report is submitted addressing all of the issues discussed above the application cannot be approved.

5. Common Sense. In addition to the above there must be some consideration given to the common sense of not building a home with a septic system at the Stinson Beach sand dunes, especially near Easkoot Creek. From an environmental view, as well as benefit to the public, the site needs to remain undeveloped.

Thank you for your consideration in this matter. I hope your decision will concur with the conclusion that this is an ill-conceived project and should not be allowed.

Sincerely,

Jack Siedman

JS/ms
cc: client
Elizabeth Brekhus

From:	PlanningCommission
To:	Cardoza, Sabrina
Subject:	FW: 21 Calle del Onda_P3049 formerly P1162
Date:	Thursday, July 27, 2023 1:52:12 PM
Attachments:	Planning Commission_Calle del Onda_7.27.2023.pdf

Hi Sabrina. This comment came into the PC inbox. I see another one from Lee Rifkind that you were copied on. Sindy and I were wondering if you will be putting these two (and possibly more) into a Supplemental Memorandum.

Thanks,
Michele

From: Jamie Gallagher <legalassist@brekhus.com>
Sent: Thursday, July 27, 2023 10:50 AM
To: PlanningCommission <PlanningCommission@marincounty.org>
Cc: Elizabeth Brekhus <elizabethb@brekhus.com>
Subject: 21 Calle del Onda_P3049 formerly P1162

> You don't often get email from legalassist@brekhus.com. Learn why this is important

Dear Planning Commissioners,

Please see attached correspondence regarding the above referenced matter from Elizabeth Brekhus.

Best regards,

Jamie Gallagher
--
Paralegal/Assistant to Elizabeth Brekhus
BREKHUS LAW PARTNERS
1000 Drakes Landing Road
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July 27, 2023

Sent via Email Only

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157
planningcommission@marincounty.org

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planners:

I represent Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who own property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, and write to request a postponement of the hearing scheduled for July 31, 2023, as adequate time has not been provided to review and respond to the latest submissions posted online on July 26, 2023.

We contacted the Senior Planner in charge, Sabrina Cardoza, on multiple occasions including on June 30, 2023, finally reaching her July 25, 2023, as neither the planning page nor the Environmental Review page had any updated documents, even though the comment period had ended on February 8, 2023. On July 26, voluminous documents were finally uploaded to the Planning Page. There is a supplemental response by the Department by the Senior Planner with 9 attachments, including one attachment consisting of a 177 page Supplemental Environmental Review which appears to have been prepared in "June 2023" (attachment 6). This voluminous document was not on the Environmental Review Page for the project and instead the Environmental Review Page only posts the January 4, 2023 Draft Subsequent Environmental Review / Mitigated Negative Declaration. The Environmental Review Page has no subsequent postings, but we keep getting emails alerting us to new submissions so it is unclear whether there are additional documents / comments / etc. which have not been posted. For example, Sabrina Cardoza, has informed us that the attached letter from Stinson Beach Water District will also be addressed, however, no information regarding this letter is posted on the Planning Page or Environmental Review Page.

We are concerned that the Planning Commission also has not had access to these documents which were posted on July 26, 2023, and will not have time to adequately prepare for a hearing on July 31, 2023. Members of the public certainly will be deprived of the opportunity

to review and respond to the most recent voluminous submissions. Likewise, our office is still reviewing this document and will not be able to respond to it in time to get comments to the Planning Commission before the hearing. Given that we will only be afforded 3 minutes to discuss the project, it will be impossible to address all of the new materials in this time.

Accordingly, we respectfully request that the July 31, 2023, hearing be cancelled and postponed to a date which affords all affected the opportunity to review the additional materials.

Very truly yours,

Elizabeth Brekhus

Attachment

From: Kent Nelson
To: Cardoza, Sabrina
Cc: Rich
Subject: 21 Calle de Onda - Stinson Beach
Date: Friday, July 21, 2023 10:59:29 AM
Attachments: 21 Onda Variance Approval.pdf

Sabrina,

I saw the public notice for the Planning Commission Hearing scheduled on 7/31/23 regarding the aforementioned property and wanted to bring your attention to SBCWD Resolution 2020-03.1, which granted a Design Variance for this property subject to a Design Approval Permit from the District (see attached). **This permit was issued on 7/20/20 and expired on 7/20/23**.

Per the District's Title IV – Onsite Wastewater Code, no extensions shall be granted for Design Permits. If the owner wishes to install an onsite wastewater treatment system at this location, they will need to reapply for a new Design Permit which will then need to be approved by the SBCWD Board of Directors.

If you have any questions, please let me know.

Best regards,
-Kent

Kent Nelson, PE
General Manager/CEO

Stinson Beach County Water District
3785 Shoreline Hwy | PO Box 245
Stinson Beach, CA | 94970
e: knelson@stinsonwater.org
p: 415.868.1333

From:	Len Rifkind
To:	PlanningCommission
Cc:	steve@civicknit.com; Cardoza, Sabrina; Alyce Johnson
Subject:	21 Calle Del Onda, Stinson Beach, CA; Project ID: P3049
Date:	Thursday, July 27, 2023 1:06:10 PM
Attachments:	2023-07-27 Marin County Planning Commission 21 Calle Del Onda Stinson Beach.pdf

Dear Planning Commissioners:

Please find attached our correspondence regarding a takings analysis as it will apply to your decision regarding the referenced property to be heard at your July 31, 2023 public hearing.

Leonard ("Len") A. Rifkind
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1010 B Street, Suite 200
San Rafael, California 94901
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C: 415-308-8269
E: len@rifkindlawgroup.com
W: www.rifkindlawgroup.com
Named to Superlawyers, Northern California Real Estate Law, 2012-2023

Rifkind Law & Mediation, PC
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Telephone: (415) 785-7988 * www.rifkindlawgroup.com

Leonard A. Rifkind
len@rifkindlawgroup.com

July 27, 2023

VIA EMAIL ONLY: planningcommission@marincounty.org
Marin County Planning Commission
Community Development Agency
3501 Civic Center Drive, Rom 308
San Rafael, CA 94903

Re: **Agenda Item**: Brian John Trust Coastal Permit and Subsequent Mitigated Negative Declaration at 21 Calle Del Onda, Stinson Beach, CA (APN 195-162-49)
Public Hearing Date: July 31, 2023
Project ID: P3049
Time: 1:00 p.m.
Location: 3501 Civic Center Drive, Rooms 328-330, San Rafael, CA

To: Ms. Margot Biehle, Chair, and Members of the Marin County Planning Commission:

Our firm represents the applicant/owner Brian Johnson, Trustee of the Brian Johnson Trust, acting on his own behalf and all owners of record, regarding the referenced matter to construct a new one-story 1,296 square-foot single family residence (reduced from 1,488 SF) and the prior proposed 288 square foot garage has been eliminated, on a vacant lot in Stinson Beach (the "**Project**"). The Project complies with all zoning constraints (C-R2) and proposes only a nine (9) percent floor area ratio (half the average FAR of 20% within a 600-foot radius), and a modest height of 20 feet, 7 inches (reduced from 25 ft). The Property will have a new septic system approved by Stinson Beach County Water District that is vastly superior to existing environmental contamination in the event of inundation events when compared to existing neighboring systems.

Takings Analysis.

Failure to Approve the Project Would Constitute a Taking. We limit our comments to a takings analysis. Failure to approve the Property would constitute a taking of Brian Johnson's property under the Fifth Amendment to the United States Constitution, as applied to the states through the 14 Amendment. The Fifth Amendment states in pertinent part, ". . . *nor shall private property be taken for public use, without just compensation*." [Italics original]. Denial of this application would deny Brian Johnson all reasonable investment backed expectations for his property. The 14th Amendment states in pertinent part, " . . . *nor shall any state deprive any*

person of life, liberty, or property, without due process of law . . . ." [Italics original; Underlined emphasis added]. It is rare for a local planning board to have the opportunity to address issues of Constitutional import. This is such an application, requiring your Commission's careful and considered deliberation. We note, Staff recommends conditional approval because disapproval would result in an unconstitutional taking.

Similar rights to the 5th and 14th Amendments are provided in the California Constitution. Cal. Const. Art. 1, §19 ("Private property may be taken or damaged for a public use and only when just compensation . . . has first been paid to . . . the owner"). In California, just compensation is determined by a jury. *Property Reserve, Inc. v. Superior Court* (2016) 1 Cal. 5th 151. An inverse condemnation results from the invasion or appropriation of some valuable property right by or under the auspices of a public agency, which directly and specially injures the property owner. *Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110. The conduct of the public agency must have negatively affected the use or enjoyment of the property in a significant manner, lowering its value, imposing a physical burden, or decreasing the income it produced. *San Diego Metropolitan Transit Development Board v. Handlery Hotel, Inc.* (1999) 73 Cal.App.4th 517.

Failure to Approve the Project Would Create an Action for Inverse Condemnation Against the County. An action for inverse condemnation can be initiated by the property owner for the recovery of damages resulting from the improper "taking" of the owner's property by some activity or negligence of the agency, or by some cause for which the agency is responsible. *City of Los Angeles v. Superior Court* (2011) 194 Cal.App.4th 210. A property owner has an action for inverse condemnation whenever a valuable property right is appropriated or impaired by a public entity. *Holtz v. Superior Court* (1970) 3 Cal.3d 296. It must be shown that a governmental agency has taken some action that has caused an invasion or appropriation of private property rights. *Marina Plaza v. California Coastal Zone Conservation Commission* (1977) 73 Cal.App.3d 311. A "regulatory taking" occurs when some governmental action *so restricts* the owner's use and enjoyment of the property that it amounts to a "taking" even though there is no physical invasion or damage to the property and no planned or formal exercise of the power of eminent domain. When a restriction or regulation imposed by a public entity "goes too far" it constitutes a taking of private property for public use.

Here, failure to approve the Project will "go too far" because it will prevent reasonable and fair economic use of the property and constitute a regulatory taking. Precluding any building will reduce the property here to zero or even negative value when considering insurance and property tax obligations. *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003. A *de minimus* residual value remaining from a non-economic use does not preclude application of the takings rule. *Lost Tree Village Corp. v. U.S.* (Fed. Cir. 2015) 787 F.3d 1111, which held a permit denial resulting in 99.4 percent loss of value was a *per se* taking, even though property had *de minimus* residual value as a wetland. Here, the property has zero or negative residential value if the Project cannot be constructed.

To state a cause of action for inverse condemnation, the property owner must show that there was a taking or damaging by a public entity of a valuable property right that the property owner possesses, that the taking or damaging was for a public use, and that the invasion or

appropriation directly and specially affected the property owner to his or her injury. *City of Los Angeles, supra*., 194 Cal.App.4th at 221. Property is "taken or damaged" within the meaning of the California Constitution so as to give rise to a claim for inverse condemnation when an intangible intrusion onto the property has occurred, which has caused no damage to the property but places a burden on the property that is direct, substantial, and peculiar to the property itself. *Boxer v. City of Beverly Hills* (2016) 246 Cal.App.4th 1212.

Substantive Due Process, Equal Protection and Fundamental Fairness Also Require Approval of the Project. Substantive due process as required by the 14th Amendment prevents governmental power from being used for purposes of oppression or abuse of governmental power that shocks the conscience, or action that is legally irrational in that it is not sufficiently keyed to any legitimate state interests. Cal. Const. Art. I, §§ 7, 15; *Stubblefield Construction Co. v. San Bernardino* (1995) 32 Cal.App.4th 687. The California Constitution guarantees an individual's liberty interest to be free from arbitrary adjudicative procedures. *Ryan v. California Interscholastic Federation-San Diego Section* (2001) 94 Cal.App.4th 1048. Here, denial of the Project would easily constitute a denial substantive due process because there is no rational basis to support such a decision.

Damages. Compensation is required for a regulatory taking when the regulation denies the owner all economically viable use of his or her property. *First English Evangelical Lutheran Church of Glendale v. Los Angeles County* (1987) 482 U.S. 304. This is also considered a "per se" or "categorical" taking, because it is akin to a physical occupation of the property denying the owner all economic use of the property. Here, denial of permits to construct a modest single family residence in compliance with zoning, and minimizing impacts under the LCP would be construed as a per se categorical taking because there is no viable economic use of the Property. The test for regulatory takings requires a comparison of the value that has been taken from the property with the value that remains in the property. *Keystone Bituminous Coal Association v. DeBenedictis* (1987) 480 U.S. 470. In this case the value would be the fair market value of the property at its highest and best use. Code of Civ. Proc. §1263.320, subd. (a); *Avenida San Juan Partnership v. City of San Clemente* (2011) 201 Cal.App.44th 1256. Compensation is based on what the property owner has lost, not on what the public has gained from the activity of the public entity. *County of Ventura v. Channel Islands Marina, Inc.* (2008) 159 Cal.App.4th 615. The loss here would be in excess of three million five hundred thousand dollars, based upon appraisal value, as well as recovery of attorney's fees and costs. Code of Civ. Proc. §1036.

Staff Supports Approval of the Project. We do not repeat here Staff's careful and detailed analysis of Brian Johnson's ownership interest in the Property and the fair market value amounts that he paid for additional interests acquired over time with a reasonable expectation that the property would be developed. (Marin County Code §22.70.180). Brian Johnson and family members paid property taxes over the years on the property. They also have paid approximately $328,500 in development costs since 2018.

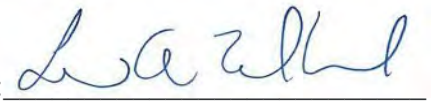
We also do not repeat here Staff's careful and detailed history of the general plan, zoning and land use designations applicable to the property at the times of Brian Johnson's various acquisitions of partial interests in the property. Brian Johnson's total financial investment in the property is equal to approximately $385,000. In sum, he had a reasonable basis to conclude that

modest residential development would likely be approved because there was a structure on the property that was destroyed in a 1985 fire; he was advised he could rebuild, and in 1979, while the Coastal Commission recommended denial of a proposed subdivision of the property, it did not state no development could occur.

Conclusion. This is not a close case to conclude that denial of the Project will preclude any reasonable investment-backed expectation, and therefore constitute a regulatory taking of private property rights. Brian Johnson has invested $108,000 to acquire his interest in the Property. Mr. Johnson and his family members have invested $328,500 towards development related expenses since 2018. They have paid property taxes, and the Assessor has more than doubled the assessed property value in 2021. Brian Johnson has reasonable expectations to modestly develop the property. Much of the expenses were incurred prior to the County's 2021 approval of LCP provisions that prohibit any development in ESHAs; however, modest development like the Project is permitted in ESHAs to eliminate takings claims. Finally, a March 2023 appraisal of a developed property opines fair market value equal to $3,559,000. The Property complies with C-R2 (Coastal, Residential, Two-Family) zoning. The Property design, siting and size are the minimum necessary to avoid a taking, and the least environmentally damaging alternative to no project. Based upon all of these facts, and the law of the United States, California and the Marin County Code, we respectfully request that you approve the requested Coastal Permit and mitigated negative declaration for the Project.

Sincerely,

RIFKIND LAW & MEDIATION, PC

By: 

Leonard A. Rifkind

LAR/es

cc: Client
Steve Kinsey, Civic Knit, steve@civicknit.com
Sabrina Cardoza, Planner, scardoza@marincounty.org

Sicular Environmental Consulting & Natural Lands Management
P.O. Box 582, Philo, CA 95466 (415) 717-6328
dan@sicularconsulting.com www.sicularconsulting.com

SUPPLEMENTAL MEMO ATTACHMENT 3

Memorandum

To: **Rachel Reid, Marin County CDA**

From: **Dan Sicular**

CC: **Tammy Taylor, Sabrina Cardoza, Marin County CDA**

Date: **July 30, 2023**

Subject: **Response to Comments Received on the Brian Johnson Trust Coastal Permit Project Prior to the July 31, 2023 Planning Commission Hearing**

This memo includes brief responses to comments received on the Brian Trust Coastal Permit Project by CDA in the week prior to the July 31, 2023 Planning Commission hearing. Responses are provided only for comments related to the CEQA analysis, and not for policy or merits issues. Overall, these comments raise no new substantive issues not previously addressed in the January 2023 Supplemental Environmental Review (SER) or in the June 2023 Response to Comments (RTC) document. Comments do not provide substantial evidence to support a fair argument of a significant impact that cannot be mitigated.

Comment letters were received from the following parties (letter designation sequence continued from the June 2023 RTC document):

Letter Designation	Author/Affiliation
F	Patricia K. Conway, Brekhus Law Partners, representing Marisa Atamian-Sarafian and Dr. Stephen Sarafian, Stinson Beach Residents
G	Jim Zell, Stinson Beach Resident
H	Jack Siedman, Attorney, representing Robert Friedman, Stinson Beach Resident
I	Elizabeth Brekhus, Brekhus Law Partners, representing Marisa Atamian-Sarafian and Dr. Stephen Sarafian, Stinson Beach Residents
J	Kent Nelson, Stinson Beach County Water District
K	Leonard Rifkin, representing Brian Johnson
L	Elizabeth Brekhus, Brekhus Law Partners, representing Marisa Atamian-Sarafian and Dr. Stephen Sarafian, Stinson Beach Residents

The comment letters, with alpha-numeric coding of individual comments, are attached to this memo.

Responses to Comments

Letter F: Patricia Conway

F-1 This comment is a request for documents, and does not comment on the environmental review.

F-2 This comment does not address the environmental analysis. Impacts related to the Project site's location in a flood zone are addressed in Supplemental Environmental Review (SER) Section 2.10, Hydrology and Water Quality. See also the June 2023 Response to Comments (RTC) document, Master Response 1.

F-3 Please see the response to comment F-2.

Letter G: Jim Zell

G-1 Impacts on dune habitat are addressed in SER Section 2.3, Biological Resources, and in the June 2023 RTC document, Master Response 2.

Letter H: Jack Siedman

H-1 The correspondence cited in this comment preceded the SER. The commenter did not submit comments on the SER. The commenter's client's view of the Project's merits is not relevant to the environmental analysis.

H-2 The Stinson Beach Adaptation Response Collaboration Sea Level Rise Vulnerability Assessment is being prepared by consulting firm ESA for the Marin County Community Development Agency (CDA). A draft report was released in April 2023 and was reviewed by the hydrologist who prepared the Hydrology and Water Quality section (Section 2.10) of the SER. The sea level rise predictions and community vulnerabilities identified in that report are consistent with those used in the analysis in the SER and further discussed in the June 2023 RTC document, Master Response 1 and response to comment C-20. No new information, including the information in this recent study, contradicts or calls into question the conclusion of less-than-significant impacts related to coastal flooding and sea level rise studies reached in the SER.

H-3 The California Coastal Commission's February 3, 2023 letter commenting on the SER was responded to in the June 2023 RTC document. Regarding the Commission's comments on Easkoot Creek's floodplain and the moratorium on building within the floodplain, please see response to comment A-14 in the June 2023 RTC document.

While a portion of the Project site is located within the Easkoot Creek floodplain, it is over 300 feet distant from the Easkoot Creek channel itself. There are at least four residences located along Calle del Onda between the Project site and the creek (see Figure 3 in Section 1, Project Description, in the SER). While Easkoot Creek contains sensitive riparian and aquatic habitat, the Project, given its distance, its small size, and its proposed controls on erosion and sedimentation during construction (see SER, Chapter 1, Project Description), would not have direct impacts on sensitive biological resources in and adjacent to the creek. SER Section 2.10, Hydrology and Water Quality, thoroughly analyzes the potential impacts of the Project related to both riverine and coastal flooding, and finds these to be less than significant. See also Master Response 1 in the June 2023 RTC document.

H-4 Impacts and implications of the January 2023 atmospheric river storms are considered in Master Response 1 in the June 2023 RTC document.

H-5 The potential for sea level rise to result in inadequate functioning of the proposed septic system is considered in the January 2023 SER, Section 2.10, Hydrology and Water Quality, as well as in Master Response 1 and the response to comment A-14 in the June 2023 RTC document. Impacts were found to be less than significant.

H-6 The Project was the subject of the 2020 Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the Stinson Beach County Water District, as well as the January 2023 SER. Both studies found that all significant Project impacts can be mitigated to less than significant. A Mitigated Negative Declaration is therefore the appropriate path to CEQA compliance, and an EIR is not necessary. See Chapter 3, Summary and Conclusion, in the SER, and Chapter 5, Summary and Conclusion, in the June 2023 RTC document.

H-7 This comment addresses the merits of the Project, not the environmental review.

Letter I: Elizabeth Brekhus

I-1 This comment requests a continuation of the Planning Commission hearing, and does not address specifics of the environmental review.

Letter J: Kent Nelson, Stinson Beach County Water District

J-1 The Stinson Beach County Water District (SBCWD) is the agency responsible for issuing the permit for an onsite wastewater treatment (i.e., septic) system for the Project. Should the applicant reapply for a permit, the SBCWD may choose to rely on the existing environmental documentation, including the 2020 IS/MND and the January 2023 SER, or may choose to prepare a new environmental document. Both the 2020 IS/MND and the

January 2023 SER examined impacts associated with the proposed septic system. The expiration of the permit has no bearing on the adequacy of the environmental documents. If a reapplication were to propose a substantially different onsite wastewater treatment system, additional environmental review could be required, as determined by the SBCWD or the County.

Letter K: Leonard A. Rifkind

K-1 This comment does not address the environmental analysis.

K-2 This comment analyzes the issue of a constitutional "taking" should the Project be denied. It does not address the environmental analysis.

Letter L: Elizabeth Brekhus

L-1 The commenter submitted lengthy comments on the January 2023 SER (comment letter C in the June 2023 RTC document), all of which were responded to in the June 2023 RTC. This letter essentially repeats comments contained in comment letter C.

L-2 The conclusion in the 2023 SER, reaffirmed in the June 2023 RTC document, that the Project, as mitigated, would not result in a significant impact on the environment is based on substantial evidence in the record cited and discussed for each impact conclusion. The expiration of the SBCWD Design Permit does not invalidate the environmental documents already prepared; see the response to comment J-1. The currently proposed 1,296 square foot residence, as well as the proposed septic system, were thoroughly analyzed in the January 2023 SER. Regarding the recent atmospheric river storms, please see Master Response 1 in the June 2023 RTC document.

L-3 The issue of a constitutional taking, should the Project be denied, is not an environmental issue.

L-4 The Project's impacts on dune and sandy beach habitat are discussed in Section 2.3, Biological Resources, in the January 2023 SER and in Master Response 2 in the June 2023 RTC document.

L-5 The commenter raised similar points in their comment on the SER. Please see responses to comments C-14, C-15, and C-19 in the June 2023 RTC document. The impact conclusions regarding geologic hazards are not conclusory, and in fact are based on substantial evidence in the record, including a Geotechnical Feasibility Study prepared by a Geotechnical Engineer, and reviewed by the Certified Engineering Geologist who prepared the Geology and Soils analysis in the January 2023 SER. The commenter presents no

substantial evidence to support a fair argument of a significant impact related to geologic hazards.

L-6 Please see Master Response 1 and the response to comment C-20 in the June 2023 RTC document. The comment provides no new or substantial evidence to support a fair argument that the Project would result in a significant impact related to sea level rise and coastal flooding.

L-7 The SER identifies the location of the Project site within the AO and VE flood zones and thoroughly analyzes the potential for flood-related impacts in Section 2.10, Hydrology and Water Quality. See also Master Response 1 and response to comments C-20, C-22, and C-23 in the June 2023 RTC document.

L-8 Please see Master Response 1 in the June 2023 RTC document. That Master Response recounts the severe flooding, evacuations, and property damage that occurred in Stinson Beach during the January atmospheric river storms. That Master Response also provides evidence that the Project site itself was not inundated, and discusses the potential for the Project to exacerbate coastal and riverine flooding impacts on neighboring properties, finding that any such impact would be less than significant.

Letter F

From: Patricia Conway
To: Cardoza, Sabrina
Cc: Marisa Atamian-Sarafian; ELIZABETH A. BREKHUS, ESQ.; Jack Siedman, Esq.
Subject: Re: 21 Onda: Two Emails for our comment letters...
Date: Friday, July 21, 2023 4:05:21 PM
Attachments: Marin County Memo- Repetitive Loss Area 3.2023.pdf

Dear Sabrina,

We received notice that a Supplemental Memorandum was posted for the July 31, 2023 hearing. I did not see anything the Planning Page or the Environmental Review Page. I also wanted to note that all of the comments submitted during the January 9-February 8, 2023 comment period have been omitted.

1

Could you please send us the following:

- Latest Supplemental Memorandum for July 31, 2023 meeting;
- Supplemental Staff Report, if any;
- Supplemental Environmental Review, if any;
- All Public Comments submitted in 2023;
- All Inter-Agency Comments submitted in 2023, including but not limited to by the California Coastal Commission and / or Dept. Public Works.

2

Our client also received the following notice from the Marin County Dept. of Public Works that the area is designated a Repetitive Loss Area by FEMA, and we would like to know if this issue has been addressed by the Planning Department.

Thank you,

Patricia K. Conway, Esq.
Brekhus Law Partners

1000 Drakes Landing Road
Greenbrae, CA 94904
phone: (415) 461-1001
facsimile: (415) 461-7356

On Tue, Jan 31, 2023 at 1:31 PM Cardoza, Sabrina <scardoza@marincounty.org> wrote:

> Hi Marisa,
>
> You can send to both. Any comments that are sent directly to me regarding the environmental review will be forwarded to the Environmental Review team. They manage the environmental review process but I will make sure your comments get to them.
>
> Best,
>
> Sabrina Cardoza (she/her)
>
> ---
>
> ****** Please note that I may be working remotely. Phone calls will be responded to in the order they are received.******
>
> **Senior Planner** | County of Marin
>
> Community Development Agency, Planning Division
>
> 3501 Civic Center Drive, Suite 308
>
> San Rafael, CA 94903
>
> 415-473-3607 T
>
> 415-473-7880 F
>
> 
>

From: Marisa Atamian-Sarafian <marisa.atamian@compass.com>
Sent: Tuesday, January 31, 2023 1:22 PM
To: ELIZABETH A. BREKHUS, ESQ. <Elizabethb@brekhus.com>; Jack Siedman, Esq. <jsiedman@yahoo.com>; Patricia Conway, Esq. <patriciac@brekhus.com>
Subject: 21 Onda: Two Emails for our comment letters...

They've made it so confusing. Can we just email all prepared by Feb. 8th to both **envplanning@marincounty.org** and **scardoza@marincounty.org** to cover ourselves? THANKS! Can't hurt...

Marisa Atamian-Sarafian, COMPASS

DRE 01482275 | Realtor®

510.913.2242

--

Patricia K. Conway. Esq.
Brekhus Law Partners

1000 Drakes Landing Road
Greenbrae, CA 94904
phone: (415) 461-1001
facsimile: (415) 461-7356

COUNTY OF MARIN

DEPARTMENT OF PUBLIC WORKS

Quality, Excellence, Innovation

Rosemarie R. Gaglione
DIRECTOR

Administration
PO Box 4186
San Rafael, CA 94913-4186
415 473 6528T
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415 473 3232 TTY
CRS Dial 711
www.marincounty.org/pw

Dear Marin County Resident:

Marin County is concerned about flooding has active programs to help protect residents and property from future flooding. Marin County is sending you this letter because your property has been identified as located in a Repetitive Loss Area. A Repetitive Loss Area is an area where repetitive flood loss claims have been filed with the Federal Emergency Management Agency (FEMA). FEMA defines a repetitive loss area as a group of parcels which have similar flood risks to one or more parcels that have filed multiple claims for flood losses in a ten-year period.[1] Marin County continuously seeks to review and address repetitive flooding around the County and participates in the National Flood Insurance Program (NFIP).

As part of the NFIP program at effort, the County is updating our Repetitive Loss Area (RLA) Analysis. The 2022 Repetitive Loss Area (RLA) Analysis which assesses drainage patterns, causes of flooding, and suggests mitigation measures. Many of the Repetitive Loss Areas are located within FEMA Community Rating System (CRS) communities and receive discounts on their flood insurance based on these efforts.

The County is requesting your input on the description of flood hazards and flood protection recommendations identified the 2022 RLA Analysis report. The 2022 RLA report is posted at https://publicworks.marincounty.org/fema-resources/. Please provide comments via the online survey at https://www.surveymonkey.com/r/RLAA-Survey.

The County encourages property owners in repetitive loss areas to implement flood mitigation measures, maintain and frequently clean their drainage facilities (ditches, drains, etc.) of debris. Please review the suggested mitigation measures for your area that have been identified in the RLA Analysis report. Additional information on FEMA, flood insurance, drainage system maintenance and other topics is available at the County FEMA/CRS website at https://publicworks.marincounty.org/fema-flood-information-national-flood-insurance-program-nfip/, and the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) website at https://mcstoppp.org/.

Thank you for your response which helps improve flood resilience and supports Marin County's compliance with federal laws and qualification for community-wide insurance premium discounts. If you have any questions about the CRS Program or the online survey, please contact Beb Skye at 415-473-4284 or bskye@marincounty.org.

Sincerely

Hannah F. Lee, P.E., CFM
Senior Civil Engineer
Marin County Department of Public Works

Letter G

From: zelljas@aol.com
To: Cardoza, Sabrina
Subject: 21 Calle Del Onda
Date: Wednesday, July 26, 2023 11:14:43 AM

[You don't often get email from zelljas@aol.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

1 I strongly object to the proposed project at 21 Calle Del Onda as it would certainly result in the destruction of one of the last natural dunes in Stinson Beach. All this at a time when the County of Marin is promoting sand dunes as a great resource to help with sea level rise, climate change and greater and more frequent, intense winter storms. Thank you, Jim Zell, 6 Calle Del Onda, Stinson Beach.

Sent from my iPad

Letter H

From: Jack Siedman
To: Cardoza, Sabrina
Cc: Marisa Atamian-Sarafian; Elizabeth Brekhus
Subject: from Jack Siedman
Date: Thursday, July 27, 2023 1:57:11 PM
Attachments: friedman MCC(1).pdf

July 27, 2023

EMAIL TO

Sabrina Cardoza

Re: Coastal Permit Application

P3049

cc: Marisa.atamian-Sarafian

Elizabeth Brekhus

Hello Sabrina:

Please find attached a copy of the letter I sent to County Planning on June 22, 2023 regarding the project at 21 Calle del Onda, Stinson Beach. I understand the letter has not been included in the County's file. Please include it at once for consideration in this matter. Thank you.

Sincerely,

// Jack Siedman //

Jack Siedman
Attorney at Law
P.O. Box 37
Bolinas, CA 94924

JACK SIEDMAN
ATTORNEY AT LAW
P.O. Box 37
BOLINAS, CALIFORNIA 94924

TELEPHONE: (415) 868-0997

E-MAIL: jsiedman@yahoo.com

June 22, 2023

Marin County Community
Development Agency
Planning Division
3501 Civic Center Dr., Ste. 308
San Rafael, CA 94903-4157

Re: Coastal Permit Application P3049
21 Calle del Onda, Stinson Beach

Dear Planners:

I represent Robert Friedman, who owns property located at 17 Calle del Onda, which is adjacent to the above-referenced parcel. I previously wrote you on July 29, 2021, and on November 9, 2021, expressing concerns over this project, the latter specifically addressed to the applicant's claim that CEQA review by the Stinson Beach Water District satisfied CEQA requirements. As I stated in that letter the Water District's review was limited to issues of waste water only, and did not otherwise address the issues required to be addressed by CEQA. 1

Since then, there has been some modification of the proposed project, including removal of the garage and reduction of the house's size from 1500 sq. ft to 1200 sq. ft. Nevertheless, it continues to be my client's view, shared with virtually every one of his neighbors, that the project is fundamentally flawed and ill-conceived for its location.

I understand that you have been provided with a copy of ESA's Stinson Beach Adaptation Response Collaboration dated April 24, 2023. That comprehensive study enumerates some half-dozen environmental "vulnerabilities" which collectively lead to the obvious conclusion that no building should be allowed at this site. 2

1. Easkoot Creek. In a letter to you dated February 3, 2023 from the Coastal Commission Staff, it was specifically pointed out that any development within the 100-year flood plain is contrary to the provisions of the LCP, Unit 1, Policy IV-30, and contrary to Marin Code Sec. 27.56.130L. In addition, the staff expressed concern that, in general, the project would have adverse impacts to environmentally sensitive habitat areas, including the Creek. 3

2. Erosion, Storm Flooding and Wave Run-up. After the storms in January of this year it became apparent that these issues were not something to be worried about in the future. In an article appearing in the January 23, 2023 edition of the *San Francisco* 4

Chronicle Sarah Jones, then acting director of CDA, toured Stinson Beach after those storms and said: "One thing this has told us is this is not a someday kind of thing." Photos of waves running over the dunes and down the Calle's clearly demonstrate the vulnerability of this project site to continued erosion, flooding and wave run up.

4 (cont)

3. Septic. In the October 23, 2022 edition of the *San Francisco Chronicle* the following item appeared:

> **Septic tide** Home septic systems in communities near the coast are becoming less practical as rising sea levels cause ocean water to seep into the soil needed for wastewater to be treated and flushed into the environment, a report warns. As groundwater rises with the sea, coastal septic systems no longer work well, with a mix of groundwater and untreated waste being pushed to the surface."

5

Therefore, whatever conditions are currently used as the basis for allowing any septic system are temporary and will only diminish over time, thus threatening the surrounding ecosystem.

4. CEQA. If there was ever a project which required a complete and comprehensive review of CEQA requirements, this is that project, and cannot be avoided with a Negative Declaration. Unless and until such a comprehensive report is submitted addressing all of the issues discussed above the application cannot be approved.

6

5. Common Sense. In addition to the above there must be some consideration given to the common sense of not building a home with a septic system at the Stinson Beach sand dunes, especially near Easkoot Creek. From an environmental view, as well as benefit to the public, the site needs to remain undeveloped.

7

Thank you for your consideration in this matter. I hope your decision will concur with the conclusion that this is an ill-conceived project and should not be allowed.

Sincerely,

Jack Siedman

JS/ms
cc: client
Elizabeth Brekhus

Letter I

ELIZABETH BREKHUS
elizabethb@brekhus.com
www.brekhus.com

Brekhus
Law
Partners

ATTORNEYS AT LAW

1000 DRAKES LANDING ROAD
GREENBRAE, CA 94904-3027
FACSIMILE: (415) 461-7356
(415) 461-1001

July 27, 2023

Sent via Email Only

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157
planningcommission@marincounty.org

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planners:

I represent Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who own property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, and write to request a postponement of the hearing scheduled for July 31, 2023, as adequate time has not been provided to review and respond to the latest submissions posted online on July 26, 2023.

We contacted the Senior Planner in charge, Sabrina Cardoza, on multiple occasions including on June 30, 2023, finally reaching her July 25, 2023, as neither the planning page nor the Environmental Review page had any updated documents, even though the comment period had ended on February 8, 2023. On July 26, voluminous documents were finally uploaded to the Planning Page. There is a supplemental response by the Department by the Senior Planner with 9 attachments, including one attachment consisting of a 177 page Supplemental Environmental Review which appears to have been prepared in "June 2023" (attachment 6). This voluminous document was not on the Environmental Review Page for the project and instead the Environmental Review Page only posts the January 4, 2023 Draft Subsequent Environmental Review / Mitigated Negative Declaration. The Environmental Review Page has no subsequent postings, but we keep getting emails alerting us to new submissions so it is unclear whether there are additional documents / comments / etc. which have not been posted. For example, Sabrina Cardoza, has informed us that the attached letter from Stinson Beach Water District will also be addressed, however, no information regarding this letter is posted on the Planning Page or Environmental Review Page.

1

We are concerned that the Planning Commission also has not had access to these documents which were posted on July 26, 2023, and will not have time to adequately prepare for a hearing on July 31, 2023. Members of the public certainly will be deprived of the opportunity

1 (cont)

to review and respond to the most recent voluminous submissions. Likewise, our office is still reviewing this document and will not be able to respond to it in time to get comments to the Planning Commission before the hearing. Given that we will only be afforded 3 minutes to discuss the project, it will be impossible to address all of the new materials in this time.

Accordingly, we respectfully request that the July 31, 2023, hearing be cancelled and postponed to a date which affords all affected the opportunity to review the additional materials.

Very truly yours,

Elizabeth Brekhus

Attachment

Letter J

From: Kent Nelson
To: Cardoza, Sabrina
Cc: Rich
Subject: 21 Calle de Onda - Stinson Beach
Date: Friday, July 21, 2023 10:59:29 AM
Attachments: 21 Onda Variance Approval.pdf

Sabrina,

I saw the public notice for the Planning Commission Hearing scheduled on 7/31/23 regarding the aforementioned property and wanted to bring your attention to SBCWD Resolution 2020-03.1, which granted a Design Variance for this property subject to a Design Approval Permit from the District (see attached). **This permit was issued on 7/20/20 and expired on 7/20/23.** 1

Per the District's Title IV – Onsite Wastewater Code, no extensions shall be granted for Design Permits. If the owner wishes to install an onsite wastewater treatment system at this location, they will need to reapply for a new Design Permit which will then need to be approved by the SBCWD Board of Directors.

If you have any questions, please let me know.

Best regards,
-Kent

Kent Nelson, PE
General Manager/CEO

Stinson Beach County Water District
3785 Shoreline Hwy | PO Box 245
Stinson Beach, CA | 94970
e: knelson@stinsonwater.org
p: 415.868.1333

Letter K

From: Len Rifkind
To: PlanningCommission
Cc: steve@civicknit.com; Cardoza, Sabrina; Alyce Johnson
Subject: 21 Calle Del Onda, Stinson Beach, CA; Project ID: P3049
Date: Thursday, July 27, 2023 1:06:10 PM
Attachments: 2023-07-27 Marin County Planning Commission 21 Calle Del Onda Stinson Beach.pdf

---

> Some people who received this message don't often get email from len@rifkindlawgroup.com. Learn why this is important

Dear Planning Commissioners:

Please find attached our correspondence regarding a takings analysis as it will apply to your decision regarding the referenced property to be heard at your July 31, 2023 public hearing.

Leonard ("Len") A. Rifkind
RIFKIND LAW & MEDIATION, PC
1010 B Street, Suite 200
San Rafael, California 94901
T: 415-785-7988,
C: 415-308-8269
E: len@rifkindlawgroup.com
W: www.rifkindlawgroup.com
Named to Superlawyers, Northern California Real Estate Law, 2012-2023

Rifkind Law & Mediation, PC
1010 B Street, Suite 200, San Rafael, CA 94901
Telephone: (415) 785-7988 * www.rifkindlawgroup.com

Leonard A. Rifkind
len@rifkindlawgroup.com

July 27, 2023

VIA EMAIL ONLY: planningcommission@marincounty.org
Marin County Planning Commission
Community Development Agency
3501 Civic Center Drive, Rom 308
San Rafael, CA 94903

Re: **Agenda Item**: Brian John Trust Coastal Permit and Subsequent Mitigated Negative Declaration at 21 Calle Del Onda, Stinson Beach, CA (APN 195-162-49)
Public Hearing Date: July 31, 2023
Project ID: P3049
Time: 1:00 p.m.
Location: 3501 Civic Center Drive, Rooms 328-330, San Rafael, CA

To: Ms. Margot Biehle, Chair, and Members of the Marin County Planning Commission:

1 Our firm represents the applicant/owner Brian Johnson, Trustee of the Brian Johnson Trust, acting on his own behalf and all owners of record, regarding the referenced matter to construct a new one-story 1,296 square-foot single family residence (reduced from 1,488 SF) and the prior proposed 288 square foot garage has been eliminated, on a vacant lot in Stinson Beach (the "**Project**"). The Project complies with all zoning constraints (C-R2) and proposes only a nine (9) percent floor area ratio (half the average FAR of 20% within a 600-foot radius), and a modest height of 20 feet, 7 inches (reduced from 25 ft). The Property will have a new septic system approved by Stinson Beach County Water District that is vastly superior to existing environmental contamination in the event of inundation events when compared to existing neighboring systems.

Takings Analysis.

2 **Failure to Approve the Project Would Constitute a Taking**. We limit our comments to a takings analysis. Failure to approve the Property would constitute a taking of Brian Johnson's property under the Fifth Amendment to the United States Constitution, as applied to the states through the 14 Amendment. The Fifth Amendment states in pertinent part, ". . . *nor shall private property be taken for public use, without just compensation*." [Italics original]. Denial of this application would deny Brian Johnson all reasonable investment backed expectations for his property. The 14th Amendment states in pertinent part, " . . . *nor shall any state deprive any*

person of life, liberty, or property, without due process of law . . . ." [Italics original; Underlined emphasis added]. It is rare for a local planning board to have the opportunity to address issues of Constitutional import. This is such an application, requiring your Commission's careful and considered deliberation. We note, Staff recommends conditional approval because disapproval would result in an unconstitutional taking.

Similar rights to the 5th and 14th Amendments are provided in the California Constitution. Cal. Const. Art. 1, §19 ("Private property may be taken or damaged for a public use and only when just compensation . . . has first been paid to . . . the owner"). In California, just compensation is determined by a jury. *Property Reserve, Inc. v. Superior Court* (2016) 1 Cal. 5th 151. An inverse condemnation results from the invasion or appropriation of some valuable property right by or under the auspices of a public agency, which directly and specially injures the property owner. *Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110. The conduct of the public agency must have negatively affected the use or enjoyment of the property in a significant manner, lowering its value, imposing a physical burden, or decreasing the income it produced. *San Diego Metropolitan Transit Development Board v. Handlery Hotel, Inc.* (1999) 73 Cal.App.4th 517.

2 (cont)

Failure to Approve the Project Would Create an Action for Inverse Condemnation Against the County. An action for inverse condemnation can be initiated by the property owner for the recovery of damages resulting from the improper "taking" of the owner's property by some activity or negligence of the agency, or by some cause for which the agency is responsible. *City of Los Angeles v. Superior Court* (2011) 194 Cal.App.4th 210. A property owner has an action for inverse condemnation whenever a valuable property right is appropriated or impaired by a public entity. *Holtz v. Superior Court* (1970) 3 Cal.3d 296. It must be shown that a governmental agency has taken some action that has caused an invasion or appropriation of private property rights. *Marina Plaza v. California Coastal Zone Conservation Commission* (1977) 73 Cal.App.3d 311. A "regulatory taking" occurs when some governmental action *so restricts* the owner's use and enjoyment of the property that it amounts to a "taking" even though there is no physical invasion or damage to the property and no planned or formal exercise of the power of eminent domain. When a restriction or regulation imposed by a public entity "goes too far" it constitutes a taking of private property for public use.

Here, failure to approve the Project will "go too far" because it will prevent reasonable and fair economic use of the property and constitute a regulatory taking. Precluding any building will reduce the property here to zero or even negative value when considering insurance and property tax obligations. *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003. A *de minimus* residual value remaining from a non-economic use does not preclude application of the takings rule. *Lost Tree Village Corp. v. U.S.* (Fed. Cir. 2015) 787 F.3d 1111, which held a permit denial resulting in 99.4 percent loss of value was a *per se* taking, even though property had *de minimus* residual value as a wetland. Here, the property has zero or negative residential value if the Project cannot be constructed.

To state a cause of action for inverse condemnation, the property owner must show that there was a taking or damaging by a public entity of a valuable property right that the property owner possesses, that the taking or damaging was for a public use, and that the invasion or

appropriation directly and specially affected the property owner to his or her injury. *City of Los Angeles, supra.*, 194 Cal.App.4th at 221. Property is "taken or damaged" within the meaning of the California Constitution so as to give rise to a claim for inverse condemnation when an intangible intrusion onto the property has occurred, which has caused no damage to the property but places a burden on the property that is direct, substantial, and peculiar to the property itself. *Boxer v. City of Beverly Hills* (2016) 246 Cal.App.4th 1212.

Substantive Due Process, Equal Protection and Fundamental Fairness Also Require Approval of the Project. Substantive due process as required by the 14th Amendment prevents governmental power from being used for purposes of oppression or abuse of governmental power that shocks the conscience, or action that is legally irrational in that it is not sufficiently keyed to any legitimate state interests. Cal. Const. Art. I, §§ 7, 15; *Stubblefield Construction Co. v. San Bernardino* (1995) 32 Cal.App.4th 687. The California Constitution guarantees an individual's liberty interest to be free from arbitrary adjudicative procedures. *Ryan v. California Interscholastic Federation-San Diego Section* (2001) 94 Cal.App.4th 1048. Here, denial of the Project would easily constitute a denial substantive due process because there is no rational basis to support such a decision.

2 (cont)

Damages. Compensation is required for a regulatory taking when the regulation denies the owner all economically viable use of his or her property. *First English Evangelical Lutheran Church of Glendale v. Los Angeles County* (1987) 482 U.S. 304. This is also considered a "per se" or "categorical" taking, because it is akin to a physical occupation of the property denying the owner all economic use of the property. Here, denial of permits to construct a modest single family residence in compliance with zoning, and minimizing impacts under the LCP would be construed as a per se categorical taking because there is no viable economic use of the Property. The test for regulatory takings requires a comparison of the value that has been taken from the property with the value that remains in the property. *Keystone Bituminous Coal Association v. DeBenedictis* (1987) 480 U.S. 470. In this case the value would be the fair market value of the property at its highest and best use. Code of Civ. Proc. §1263.320, subd. (a); *Avenida San Juan Partnership v. City of San Clemente* (2011) 201 Cal.App.44th 1256. Compensation is based on what the property owner has lost, not on what the public has gained from the activity of the public entity. *County of Ventura v. Channel Islands Marina, Inc.* (2008) 159 Cal.App.4th 615. The loss here would be in excess of three million five hundred thousand dollars, based upon appraisal value, as well as recovery of attorney's fees and costs. Code of Civ. Proc. §1036.

Staff Supports Approval of the Project. We do not repeat here Staff's careful and detailed analysis of Brian Johnson's ownership interest in the Property and the fair market value amounts that he paid for additional interests acquired over time with a reasonable expectation that the property would be developed. (Marin County Code §22.70.180). Brian Johnson and family members paid property taxes over the years on the property. They also have paid approximately $328,500 in development costs since 2018.

We also do not repeat here Staff's careful and detailed history of the general plan, zoning and land use designations applicable to the property at the times of Brian Johnson's various acquisitions of partial interests in the property. Brian Johnson's total financial investment in the property is equal to approximately $385,000. In sum, he had a reasonable basis to conclude that

modest residential development would likely be approved because there was a structure on the property that was destroyed in a 1985 fire; he was advised he could rebuild, and in 1979, while the Coastal Commission recommended denial of a proposed subdivision of the property, it did not state no development could occur.

2 (cont)

Conclusion. This is not a close case to conclude that denial of the Project will preclude any reasonable investment-backed expectation, and therefore constitute a regulatory taking of private property rights. Brian Johnson has invested $108,000 to acquire his interest in the Property. Mr. Johnson and his family members have invested $328,500 towards development related expenses since 2018. They have paid property taxes, and the Assessor has more than doubled the assessed property value in 2021. Brian Johnson has reasonable expectations to modestly develop the property. Much of the expenses were incurred prior to the County's 2021 approval of LCP provisions that prohibit any development in ESHAs; however, modest development like the Project is permitted in ESHAs to eliminate takings claims. Finally, a March 2023 appraisal of a developed property opines fair market value equal to $3,559,000. The Property complies with C-R2 (Coastal, Residential, Two-Family) zoning. The Property design, siting and size are the minimum necessary to avoid a taking, and the least environmentally damaging alternative to no project. Based upon all of these facts, and the law of the United States, California and the Marin County Code, we respectfully request that you approve the requested Coastal Permit and mitigated negative declaration for the Project.

Sincerely,

RIFKIND LAW & MEDIATION, PC

By: _____
Leonard A. Rifkind

LAR/es

cc: Client
Steve Kinsey, Civic Knit, steve@civicknit.com
Sabrina Cardoza, Planner, scardoza@marincounty.org

Letter L

ELIZABETH BREKHUS
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July 28, 2023

VIA EMAIL

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157
planningcommission@marincounty.org

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planners:

You will recall that we represent Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who own property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, CA. As our request for a continuance of the July 31, 2023 meeting has not been granted, and our clients and members of the public have not been afforded a full opportunity to respond to the Supplemental Memorandum and Subsequent Mitigated Negative Declaration, we are providing a truncated list of issues that should result in the denial of the application. 1

1. CEQA Review has not been Completed

The Subsequent Environmental Review (SER) claims no Environmental Impact Report (EIR) is required for the project in violation of CEQA. This explanation is wholly conclusory: "an EIR is not required for this Project, as the Project, with the incorporation of identified mitigation measures that the Applicant has already agreed to, would not result in any significant impacts." The SER continues to rely on the stale 2020 Initial Study / Mitigated Negative Declaration (IS/MND) adopted by Stinson Beach County Water District, which never considered or studied the construction of a residence. A full EIR should be required. Reliance on the SBCWD is further problematic as the SBCWD Design Permit has expired and the owner will need to reapply for a new Design Permit. The fact the permit expired and a new septic will need to be proposed is an issue that has not been analyzed or addressed by the Supplemental Memorandum. Moreover, conditions in the Stinson Beach shoreline have changed since the Initial Study was performed in 2020, as evidenced by the recent atmospheric river storm and violent flooding at the location of the application site in January 2023. 2

2. Denial of the Application is Not a Constitutional Taking

This issue is not addressed by the SER or Supplemental Memorandum. The Supplemental Memorandum from the Senior Planner, does not discuss the takings claim, except to note the 3

submission of the ownership history of the parcel and the claimed financial investment of the owner. There has been no Constitutional Taking as the applicant has failed to show that his

alleged investment of $385,291, would not be recouped if he sold the property "as is" or if the development plans matched the original structure on the property and were built outside the FEMA flood zones and the protected ESHA areas. No such showing has been made by the owner. As we previously explained, there is no Constitutional taking "where the government simply *restricts* the use of property without demanding the conveyance of some identifiable protected property interest (a dedication of property or the payment of money) as a condition of approval." *Lindstrom v. California Coastal Commission* (2019) 40 Cal.App.5th at 105 citing (*Id. At p. 105 citing* California *Building Industry Assn. v. City of San Jose (2015) 61* Cal.*4th 435*, 460, *Beach & Bluff Conservancy v. City of Solana Beach* (2018) 28 Cal.App.5th 244). There are many examples of development restrictions that do not result in a taking. For example, the applicant cannot construct a five story home or a hotel on the premises; as such, restricting the scale of his development based on the California Coastal Act and LCP does not result in a taking.

3 (cont)

3. The Application should be denied as the destruction of ESHA Dune and Sandy Habitat Violates the LCP and Mitigation Measures are Inadequate

It is undisputed that the current plans continue to be in violation of the newly activated Marin Local Coastal Program (LCP) as well as the Marin County LCP Land Use Plan (LUP) and Implementation Plan (IP) as it proposes construction on sandy beach / dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The SER acknowledges that dunes will be destroyed and contemplates approval of a permit without submission of a Dune Mitigation Plan. Moreover, the SER is incorrect in stating that sandy beach is not ESHA – whereas the LCP specifically requires the protection of "sandy beach habitat" in Stinson Beach. (See C-BIO-9)

4

4. **The Application continues to be in Violation of the California Coastal Act**

The SER acknowledges that a full geotechnical study is required prior to construction but suggests this can be done as part of the building permit process in violation of the California Coastal Act Section 30253 for new development, which requires development to: (a) minimize risks to life and property in areas of high geologic, flood, and fire hazard and (b) assure stability and structure integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter nature landforms along bluffs and cliffs. The SER concludes that the use of piers (rammed, driven or drilled), or the concrete retaining wall around the septic system do not violate the LCP even though no facts support this finding. Again, this is a conclusory finding, facts do not support the conclusion, and a full geotechnical study should be required before the application is approved.

5

5. The Application does not Adequately Address Sea Level Rise Hazards

The SER dismisses the recent flooding of Stinson Beach, including along the 21 Calle del Onda, and instead relies on prior sea level rise studies. The SER relies on site visits that occurred weeks after the storms instead of the videos, photos, and neighbor eye-witness accounts that demonstrate that the site actually flooded. 6

6. FEMA Flood Zones

The SER concludes that coastal flooding is outside of CEQA review notwithstanding that the project is in two FEMA flood zones (AO and VE) and development in those areas is prohibited. The SER incorrectly finds that since flooding from Eastkoot Creek "would be less than significant" which cannot be accurate since the property is specifically designated within the Eastkoot Creek flood zone as well as the coastal flood zone. The FEMA floodplain base flood elevation issue raised in our February 8, 2023, correspondence is not addressed by the SER or the Supplemental Memorandum / Draft Resolutions. While the re-submitted plans have elevated the Base Flood Elevation to the minimum that is required, i.e., one foot above that, the proposal does comply with the current Marin County policy to require the lowest floor to be three feet above the base flood elevation. In light of the recent severe flooding in the area, which none of applicant's studies nor the County Review took into account, the proposal should be denied and ordered to be revised prior to approval. 7

7. Impact on Neighboring Properties

The January 2023 storm demonstrated the severe impact that the planned construction will have on neighboring properties. The SER pretends the flooding never happened and instead relies on a site visit nearly two weeks after the storm that showed "no evidence" of flooding. The lack of thoughtful analysis of this project is an insult to the Calle del Onda neighbors who suffered severe damage from coastal flooding that crossed over and through the applicant's property. 8

Very truly yours,

BREKHUS LAW PARTNERS

Elizabeth A. Brekhus

EAB:cmr

From: no-reply@marincounty.org
To: Cardoza, Sabrina
Subject: Brian Johnson Trust Coastal Permit (P3049)
Date: Wednesday, August 9, 2023 2:37:04 PM

Jamie Sutton with email address 1jamiesutton@gmail.com would like information about: The severe storms of this year reveal that 1). he now natural level of the ocean front properties build on raised piers is identical to the level fo the Calles; 2). This proposed residence will build a raised septic leach field of these properties which will inevitably force the under-flowing waves to be forced from under the sturcture onto the Adjacent Calle; 3). It is the responsibility to this and other builders to protect the adjacent environment and public assets (like the Calle).

Whatever the county/Coastal Cammission plan is, to protect the Calles and the more distant residences from the flooding (like what we have already experienced this year, Note Parcel 195-162-26&25), that plan should be met and paid for by the ocean front builder/applicant. Respectfully submitted.

From: no-reply@marincounty.org
To: Cardoza, Sabrina
Subject: Brian Johnson Trust Coastal Permit (P3049)
Date: Wednesday, August 9, 2023 11:13:14 AM

Jamie Sutton with email address 1jamiesutton@gmail.com would like information about:
I live at 2 Calle Del Onda and I speak for others of my neighbors.
I am basically in favor of this project.

We have had recent flood events that sent a substantial volumn of sand down the Calle and onto the fronting properties. Recent investigations confirm that these events will be more frequent and severe.
Other Calles have constructed 'buttresses' at the head of the Calle to protect the road and neighbors further away from the ocean front.
I request that the Planning Commission add an additional condition that 1). the applicant have designed a 'buttress' (in conjunction with the other property on the opposite side of the street) that will portect the Calle and neighboring residences from wave and tidal asault; 2). the applicant submit the plan to neighbors for review and suggestions; 3) the applicant pay the cost of construction of the 'buttress' as designed and approved, with county/state and neighbor support.

I'm out of stste, will not be able to attend hearing. 415-298-1960

From: Jamie Sutton
To: Cardoza, Sabrina
Subject: Re: Brian Johnson Trust Coastal Permit (P3049)
Date: Wednesday, August 9, 2023 3:28:35 PM

Sabrina
Thanks for your courtesy and assistance.
I looked at the file and reviewed the plans and arguments in the 'expert' reports.
The drawings of the effect of sea-level rise seem to ignore the Leach field influence. I also know Steve Kinsey and what an effective advocate he is.

As you present, I hope you will consider the points made.
Thank you again.
After this winter, things appear to eb coming at us more quickly than I exected.

Jamie

James Hepburn Sutton, Esq.

P O Box 146

2 Calle del Onda

Stinson Beach, CA 94970

O = 415-868-1960

Cell = 415-298-1960

Res. = 415-868-1960

On Wed, Aug 9, 2023 at 1:48 PM Cardoza, Sabrina <scardoza@marincounty.org> wrote:

> Hi Jamie,
>
> Thank you for the additional comment. It has been entered into the record and also will be forwarded to the Planning Commission.
>
> As I mentioned over the phone, you can view the details of the project at this link
>
> https://www.marincounty.org/depts/cd/divisions/planning/projects/stinson-beach/brian_johnson_trust_p3049_cp_sb

The Planning Commission hearing can be viewed at this link:

https://www.marincounty.org/depts/cd/divisions/planning/boards-commissions-and-public-hearings/planning-commission-hearings-page

Best,

Sabrina Cardoza (she/her)

****** Please note that I may be working remotely. Phone calls will be responded to in the order they are received.******

Senior Planner | County of Marin

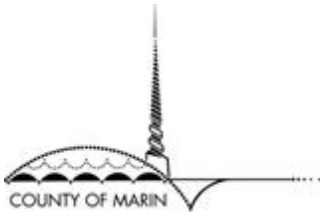
Community Development Agency, Planning Division

3501 Civic Center Drive, Suite 308

San Rafael, CA 94903

415-473-3607 T

415-473-7880 F



From: no-reply@marincounty.org <no-reply@marincounty.org>
Sent: Wednesday, August 9, 2023 2:38 PM
To: Cardoza, Sabrina <scardoza@marincounty.org>
Subject: Brian Johnson Trust Coastal Permit (P3049)

Jamie Sutton with email address 1jamiesutton@gmail.com would like information about: The severe storms of this year reveal that 1). he now natural level of the ocean front properties build on raised piers is identical to the level fo the Calles; 2). This proposed residence will build a raised septic leach field of these properties which will inevitably force the under-flowing waves to be forced from under the sturcture onto the Adjacent Calle; 3). It is the responsibility to this and other builders to protect the adjacent environment and public assets (like the Calle).

Whatever the county/Coastal Cammission plan is, to protect the Calles and the more distant residences from the flooding (like what we have already experienced this year, Note Parcel 195-162-26&25), that plan should be met and paid for by the ocean front builder/applicant. Respectfully submitted.

From:	Jamie Gallagher
To:	PlanningCommission; Cardoza, Sabrina; Elizabeth Brekhus
Subject:	21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)
Date:	Wednesday, August 9, 2023 4:48:19 PM
Attachments:	Planning Commission Letter_08.09.2023.pdf Attachment 5_ Assessor"s Record.pdf Attachment 3_ Ltr. to Planning Commission. 7.28.23.pdf Attachment 4_Contraints Map.pdf Attachment 2_ Ltr to Planning.Commission.2.8.23.pdf Attachment 1_ Ltr. to Planning.Commission.11.05.2021.pdf

---

Dear Planning Commissioners,

Please see the attached letter and attachments from Elizabeth Brekhus in regards to the above referenced matter.

Best regards,

Jamie Gallagher
--
Paralegal/Assistant to Elizabeth Brekhus
BREKHUS LAW PARTNERS
1000 Drakes Landing Road
Greenbrae, CA 94904
T:(415) 461-1001
F:(415) 461-7356

ELIZABETH BREKHUS
elizabethb@brekhus.com
www.brekhus.com

Brekhus
Law
Partners

ATTORNEYS AT LAW

1000 DRAKES LANDING ROAD
GREENBRAE, CA 94904-3027
FACSIMILE: (415) 461-7356
(415) 461-1001

August 9, 2023

Sent via Email Only

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planning Commissioners,

I am attaching my three prior letters because one was previously not posted although it was submitted and two prior letters were buried in a large report.

The dates of the correspondence are as follows:

1. November 5, 2021
2. February 8, 2023
3. July 28, 2023

I am also attaching the constraints map which the applicant omitted with the plans submitted with this recent application. As commissioners commented, where the environmental constraints are and where a building could be constructed without being in these "no building zones" was not clear and we continue to believe it is not clear from the applicant's constraints map which is vague and ambiguous as to what it is attempting to show.

We also note the applicant's hired consultant "CivicKnit" opines, without evidence, that the environmental sensitivity of the site (in terms of sand dunes and plant or wildlife habitat) is in question due to human activity but this argument was not supported by any facts to support the statement. This claim is on the constraints map and staff has echoed this statement as if it is fact. Our earlier criticism of this statement raised in out November 2021 letter is here:

The current plans are in violation of the newly activated Marin Local Coastal Program (LCP) as well as the Marin County LCP Land Use Plan (LUP) and Implementation Plan (IP) as it shows construction on sandy beach / dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The Constraints Map (p. 12 of the plans submitted on June 8, 2021) submitted by the applicant fails to adequately identify the extent of ESHA on the property or identify adequate buffers and mitigation measures to protect the ESHA consistent with the LCP even though specifically requested by the planning

department. The applicant had merely dismissed the issue out of hand by stating that based on the biological study commissioned in 2019 conducted by WRA with respect to the septic system, the site does not contain "dunes" and that there is no sensitive habitat due to ongoing human activity. These sweeping conclusions are not entirely consistent with the WRA study which specifically found that the property consists roughly of ".2 acre of sand beach/dune, and 0.16 acre of iceplant mats....The Marin Local Program designates beaches as an environmental sensitive habitat area (ESHA)." The plan also reflects over 4,000 square feet of grading of sandy beach / dune area plus over 6,400 of grading in iceplant areas without specifying if the iceplants are in beach or dune areas.

Finally, staff said that the prior structure was 540 square feet. But the only evidence of the size of the prior structure was submitted by our office which shows a 450 square foot structure including a deck. Please see accessor's record attached.

Very truly yours,

Elizabeth A. Brekhus

Attachments:
November 5, 2021 letter from Brekhus
February 8, 2023 letter from Brekhus
July 28, 2023 letter from Brekhus
Constraints Map
Assessor's Record

ELIZABETH BREKHUS
elizabethb@brekhus.com
www.brekhus.com

Brekhus
Law
Partners

ATTORNEYS AT LAW

1000 DRAKES LANDING ROAD
GREENBRAE, CA 94904-3027
FACSIMILE: (415) 461-7356
(415) 461-1001

November 5, 2021

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planners:

I represent Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who own property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, CA. While the current application for a coastal permit was submitted on February 16, 2021, the applicant had previously submitted an application which was not approved. The application, while referring to "Reconstruction" of a home is in fact for New Construction of a development that is nearly 9 times as large as the original cabin on this lot. While the applicant has made some minor changes to the prior application, the serious issues raised by the Planning Department as well as the Coastal Commission have not been adequately remedied and the application should be denied as discussed in further detail below. We also note that the project requires CEQA review and the County cannot approve the project absent said review.

Objections to Pending Application for Coastal Permit

A. <u>AO Flood Zone Moratorium</u>

The property is in an AO Zone which remains in a construction moratorium per the July 28, 2015 Notice of Land Use Regulations from the County of Marin Community Development Agency Planning Division. The most recent FEMA flood map for the area that a large portion of the property is in the AO zone (06041C044E effective 8/15/2017). Applicant concedes that the property is in an AO flood zone (as well as a VE flood zone). Any portion of the construction, including a septic system, which would occur in the AO Zone is strictly prohibited by the Local Coastal Program Unit 1, Policy IV-30 as well as County Code Section 22.56130I(L)(2). Applicant's revised plans show the entire septic system, garage, and driveway as well as a portion of a concrete slab all within the AO Flood Zone. In addition, the LCP has prohibited development in the Easkoot Creek

floodplain since 1980, and current amendments do not eliminate that prohibition. See Attachment 14.

B. FEMA VE Floodplain Base Flood Elevation

The re-submitted plans continue to show a minimum Base Flood Elevation (BFE) of 18'2" (p.6) which is incorrect and does not comply with Marin County Code Title 23.09 requirements. Moreover, applicant asserts that the lowest structural member will be placed at 19'1" which is in violation of FEMA and County guidelines as this is the current Base Flood Elevation for a property located within the Special Flood Hazard Zone VE as mapped by FEMA on their current Flood Insurance Rate Map (as of 8/15/2017). The lowest floor must be elevated at least one foot above the Base Flood Elevation per California Residential Code § R322.2.1(1) or the design flood elevation, whichever is higher. Applicant does not address the design flood elevation. Per California Residential Code § R322.2.1(2), in areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet on the FIRM plus 1 foot, or not less than 3 feet if a depth number is not specified. Moreover, current Marin County policy is to require the lowest floor to be three feet above the base flood elevation.

C. California Coastal Act

The new plans continue to violate California Coastal Act Section 30253 for new development: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard and (b) Assure stability and structure integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter nature landforms along bluffs and cliffs. (See Attachments 1-5, and 14.)

Not only is the property located in a FEMA flood zone, but there is also documented history of prior flooding at this location. Moreover, the initial Geotechnical feasibility study by Murray Engineers Inc. on January 14, 2021, submitted by the applicant, raises the following significant geotechnical constraints which would remain at a level of moderate to high risk even with mitigation measures taken during construction:

1. Strong to Very Violent Ground Shaking During an Earthquake – ***moderate to high risk;*** despite this finding by applicant's own retained expert, Kinsey's cover letter dismisses the risk altogether.
2. Liquefaction-Induced Settlement and Lateral Spreading – ***moderate to high risk;*** Kinsey's cover letter acknowledges this risk and the Murray Engineers

recommendation for rammed piers which are in violation of the LCP and the Coastal Act.

3. Tsunamis and Seiches – ***high inherent risk;*** applicant does not address this risk despite his expert's study.
4. Waves, Flooding, Beach Erosion, & Sea Level Rise – ***long term potential for waves and flooding to impact the proposed residence and for erosion of the site to occur.*** Murray Engineers defers to others on this issue, however these issues are discussed separately below as the R.M. Noble & Associates May 13, 2021 letter fails to address the geotechnical findings or issues.

D. <u>Sea Level Rise Hazards</u>

The Murray Engineers Inc. initial study has not been peer reviewed and in any event, recommends that a full geotechnical investigation be conducted before the County considers the permit application.

The applicant has failed to provide an adequate hazard assessment for the project site including analysis of risks from coastal sea level rise and flooding from Easkoot Creek. As discussed above, even the applicant's own study by Murray Engineering Inc. acknowledges the high risk of these events and that a full geotechnical investigation is needed to analyze changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks from both the Easkoot Creek side and the ocean side. The updated May 13, 2021 letter from R.M. Noble & Associates merely relies on the 2014 O'Connor study for the conclusion there is no potential flooding from the Eastkoot Creek side of the property with no reference to the Murray initial geotechnical study. The Coastal Commission has already commented that the flood maps / profiles provided by the applicant were not adequate and a full geotechnical investigation was required. The application references the 2018 Sea Level rise analysis and acknowledged the increase risk of storm wave runup, but then concluding there is no flood risk until 2050 without sufficient evidence to support this conclusion.

The risk to Stinson Beach is so significant that the County recently evaluated sea rise levels, severe risk of flooding and erosion. The purpose of the study was to create a nature-based defense plan specific to Stinson Beach. A more recent 2019 study from the U.S. Geological Survey, relied upon by the County, finds that the predicted damage from sea level rise in California *triples* once tides, storms and erosion are taken into account. [Marin Sea Level Rise - County of Marin (marincounty.org)]

For Stinson Beach lots like 21 Calle del Onda, which are along the seashore *and* along the Eastkoot river, the flood risk is further multiplied. The applicant and his technical experts do not address the 2019 U.S. Geological Survey. Stinson Beach has

also been identified by the California Coastal Commission as particularly at risk of sea level rise and coastal flooding. (See Attachment 6.) Applicant's technical reports should at a minimum be peer reviewed but due to the various discrepancies with agency findings, additional studies may be required.

E. Dune and Sandy Habitat Protection

The current plans are in violation of the newly activated Marin Local Coastal Program (LCP) as well as the Marin County LCP Land Use Plan (LUP) and Implementation Plan (IP) as it shows construction on sandy beach / dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The Constraints Map (p. 12 of the plans submitted on June 8, 2021) submitted by the applicant fails to adequately identify the extent of ESHA on the property or identify adequate buffers and mitigation measures to protect the ESHA consistent with the LCP even though specifically requested by the planning department. The applicant had merely dismissed the issue out of hand by stating that based on the biological study commissioned in 2019 conducted by WRA with respect to the septic system, the site does not contain "dunes" and that there is no sensitive habitat due to ongoing human activity. These sweeping conclusions are not entirely consistent with the WRA study which specifically found that the property consists roughly of ".2 acre of sand beach/dune, and 0.16 acre of iceplant mats....The Marin Local Program designates beaches as an environmental sensitive habitat area (ESHA)." The plan also reflects over 4,000 square feet of grading of sandy beach / dune area plus over 6,400 of grading in iceplant areas without specifying if the iceplants are in beach or dune areas.

More importantly, the Coastal Commission has specifically reviewed and commented on the WRA study and concluded that the proposed development is located within ESHA. Applicant's permit cannot be approved as the application continues to ignore ESHA and fails to provide the requested Constraints Map to adequately identify the extent of ESHA on the property and recommend adequate buffers and mitigation measures to protect ESHA consistent with LCP requirements as required by the County and the California Coastal Commission.

Plaintiff's Environmental Impact Draft Initial Study (updated in December 2019) only takes into account the septic system and not the entire proposed residence. The County needs to perform CEQA review for this project and has not adequately addressed the ESHA. Moreover, that study also only anticipated a residence which was less than 1,400 square feet, however, the current plans indicate a residence of 1,563 square foot with the total coverage of the project (garage, decks, stairs, concrete slabs, paving, etc.) at over 3,300 square feet. Again, the WRA study was an initial study only related to the septic system, has not been peer reviewed, and is at direct odds with the LCP and

California Coastal Commission's definition of ESHA. Further technical analysis of this issue is required and this preliminary septic system study cannot be relied upon for the entire project. C-BIO-2(4) provides as follows:

> Development proposals within or adjacent to ESHA will be reviewed subject to a biological site assessment prepared by a qualified biologist hired by the County and paid for by the applicant. The purpose of the biological site assessment is to confirm the extent of the ESHA, document any site constraints and the presence of other sensitive biological resources, recommend buffers, development timing, mitigation measures including precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource.

This requirement has not been met with respect to the entire proposed development and a further study of the impact on ESHA is necessary before the application can be considered. While in Applicant's most recent 10/2/2021 response, there is finally acknowledged that the sandy beach on the property is ESHA, applicant continues to deny the existence of dunes, even though referenced in the prior study, and while simultaneously admitting they do not know the definition of "dune". An obvious omission as C-BIO-7 prohibits development in coastal dunes. In any event, applicant also concedes that the proposed development will eliminate a portion of the sandy beach. Moreover, C-BIO-9 prohibits development that would adversely impact the natural sand dune formation and certain sandy beach habitats.

F. Shoreline Protection

The Marin LCP, in addition to the California Coastal Act, prohibits shoreline protection devices for new development. The revised plans continue to include large concrete retaining walls and concedes that the Murray Engineering initial geotechnical study finds that the home will likely require rammed piers to reduce the potential for liquefaction-induced ground failure to protect the home and septic system. Both the concrete walls and the deep piers are in violation of the LCP and the Coastal Act, and accordingly the permit application cannot be approved.

G. Impact on Neighboring Properties

The prior home on this property was less than 450 square feet (see Attachment 13). The current application is brand new construction of over 3,300 square feet of proposed development, and the Noble report still refers to the home as approximately 2,400 square feet. The plans not only do not comport with the traditional smaller cottage

cabin type homes that are in the area and specifically previously on this lot, this larger scale development puts the neighboring properties at significant risk of damage. The prior cabin was partially destroyed by flood in the 1982 storms before being completely lost to fire in 1983. The vacant lot typically floods during heavy rains which is understandably why it is in a designated flood zone. The first concern is failure of the septic system as the variance and permit is within the flood zone and requires that the entire development be under 1,400 square feet while this development exceeds 3,300 square feet which creates a significant risk of failure of the septic tank which would create a hazardous condition to the health and safety of the residents and the Eastkoot Creek itself in violation of CEQA. Moreover, the CEQA initial study was done only with respect to the septic system in the Eastkoot Flood Plain and does not take into account the shoreline hazards. In addition to the potential septic failure, the combination of the Eastkoot Creek flood plain with the Coastal Flooding dangers creates danger that flooding would wash the development into and destroy existing homes and compromise the safety of residents and members of the general public. (See Attachments 11 and 12 regarding historical flooding events.) At a minimum a full Environmental Impact Report should be required.

H. <u>Denying the Permit Does Not Result in a Constitutional Takings</u>

Applicant raises for the first time that a Takings Analysis is required to evaluate the permit application. In reference to a prior permit of the Hjorth Residence granted in 2016, Mr. Kinsey's cover letter on behalf of the applicant incorrectly asserts that "a strict application of the LCP development policies could result in a regulatory taking".

First, there is an issue of standing as the permit application is being advanced and funded by a potential buyer, Craig Nunes, and not the actual owner. (See Attachments 9 and 10.) Attached for your reference are minutes from two hearings before the Stinson Beach Water District in 2016 reflecting that Craig Nunes, who does not own the property, is the actual applicant. (See Attachments 7 and 8). The owners (the Johnsons) have held the property since their 450 small square foot cabin was damaged by flooding in 1982 and completely destroyed by fire in 1983. The lot was listed on MLS as "vacant land". Obviously both the owners and the potential buyer are well aware of the development restrictions and the proposed permit application is not reasonable. Moreover, there has been no showing of any substantial investment commensurate with reasonable investment-backed expectations for the site. *McAllister v. California Coastal Commission* (2008) 169 Cal.App. 4th 912, 940.

Second, there has been no physical invasion of the property by the government, nor has the applicant established that the denial of the permit "would deny them *all* economically beneficial or productive use of their land. *Linstrom v. California Coastal Commission* (2019) 40 Cal.App.5th 73, 106. Restricting the owner to only resource dependent use of the lot would not be inconsistent with the use during the last almost

forty years and the potential buyer who is actually trying to develop the lot has no standing to assert a takings challenge. The actual owner has not illustrated that he could not sell the property for the same price without development, such as to Open Space District, or other agencies, or private non-profit organizations which would maintain the property as resource dependent.

Finally, the Marin County Planning Commission as well as the California Coastal Commission, specifically found, when considering the Hjorth project proposal, that the granting of the Hjorth permit and the takings analysis was specific to that lot and does not create precedent or allow for redevelopment of previously developed lots in the floodplain. Applicant's reference to the Hjorth project should therefore be disregarded.

The Hjorth application should not be considered as it is not precedent, but nonetheless the Hjorth project is significantly different than the subject application. First, Hjorth purchased the property without knowing it could not be developed. The Board of Supervisors found that no amount of due diligence could have informed the property owner. They also found that the Hjorth's paid fair market value and their investment-backed expectations, based upon the information known at the time of purchase, were that the property could be developed.

In contrast with the current applicant, the current owners have held the property since the 1930s. The LCP has prohibited development in the Easkoot Creek floodplain since 1980. The home on the subject property was destroyed by fire around 1983 and there has been no development on that lot since that time reflecting that the owners were aware of the prohibition on development in the floodplain. Prior to the original submission by applicant in 2016 of the originally proposed development, the owners received the July 28, 2015, Notice that development was strictly prohibited in the AO floodplain, which further confirms that the owners have been fully aware that re-development of their lot was prohibited.

Perhaps the most significant difference between the current application and the Hjorth project is that the Hjorth property constituted infill residential development that would not adversely impact coastal resources. The Hjorth property was inland, not adjacent to the shoreline, and there are no natural dunes on the property. In stark contrast, the development of 21 Calle Onda would impact coastal resources, interfere with dune and sandy beach habitat protection, and impact flood hazards as discussed in detail above.

Conclusion

The applicant it attempting to circumvent FEMA, CEQA, the California Coastal Act, and the LCP, by proposing development which is inconsistent and could cause damage to the shoreline and neighboring homes without having conducted a full Environmental Impact Report or a full Geotechnical Investigation. As reflected in the attached e-mail and comment letters

from the Coastal Commission, the current application continues to fail to adequately address the various issues and conditions raised by the Coastal Commission. The Coastal Commission has provided substantial evidence regarding the presence of ESHA, sea level rise hazards and failure of adequate shoreline protection. The applicant's continued failure to adequately address these issues and conditions provides yet another ground to deny the permit application. *Martin v. California Coastal Commission* (2021) WL3021356. The denial of the permit would not be considered a taking as (1) the potential buyer applicant has no standing to assert a takings challenge and (2) there are potentially other resource dependent uses which could occur on the property within these guidelines. For the foregoing reasons the application should be denied.

Very truly yours,

Elizabeth A. Brekhus

Attachments:

1. July 1, 2021 e-mail from Sara Pfeiffer of California Coastal Commission to Sabrina Cardoza;
2. California Coastal Commission letter dated March 16, 2021;
3. California Coastal Commission letter dated June 30, 2016;
4. California Coastal Commission letter dated March 31, 2016;
5. February 2, 2021 e-mail from Jeanine Manna of California Coastal Commission to Sabrina Cardoza to Michelle Levinson;
6. June 26, 2021, Coastal Risks Stinson Beach Publication;
7. September 17, 2016 Stinson Beach Water District Minutes reflecting Applicant is Craig Nunes;
8. August 20, 2016 Stinson Beach Water District Minutes reflecting Applicant is Craig Nunes;
9. April 8, 2016 Project Status letter to Craig Nunes from Tammy Taylor of Planning Division;
10. 2016 Building Plans reflecting Craig Nunes as Owner of 21 Calle del Onda;
11. Stinson Beach Historical Society Storm of 1978 Description;
12. Stinson Beach Historical Society Storm of 1983 Description;
13. Blueprint of original 400 sq. ft. cabin at 21 Calle del Onda;
14. California Coastal Commission letter dated August 5, 2021.

Cc (via e-mail):

Clients

Jack Siedman

Sabrina Cardoza

ATTACHMENT 1

ATTACHMENT 1

Subject: P3049 (21 Calle del Onda, Stinson Beach)

Pfeifer, Sara@Coastal <Sara.Pfeifer@coastal.ca.gov>
To Cardoza, Sabrina; Roeing, Stephanie@Coastal; Steve Kinsey

You are viewing an attached message. Compass Mail can't verify the authenticity of attached messages.

Good afternoon Sabrina,

Thank you for providing us with the opportunity to submit comments on the proposed project for a new single-family residence at 21 Calle del Onda in Stinson Beach. The comments provided in our March 16, 2021 letter continue to reflect our concerns about the project's consistency with the Marin County LCP (see attached). Additionally, the 2021 comment letter suggests measures to ensure the project's consistency with the LCP that remain relevant to the Applicant's recently resubmittal materials (i.e., those dated June, 2021). Similarly, the overarching themes described in our March and June 2016 comment letters (attached), including as related to access, habitat protections, and coastal hazards, remain relevant with respect to project elements that do not adequately address these concerns.

Please feel free to contact me with any questions you may have regarding our feedback.

Thank you,

Sara Pfeifer | Coastal Planner
CALIFORNIA COASTAL COMMISSION
North Central Coast District Office
(415) 904-5255 | sara.pfeifer@coastal.ca.gov

3 Attachments

ATTACHMENT 2

ATTACHMENT 2

STATE OF CALIFORNIA — NATURAL RESOURCES AGENCY GAVIN NEWSOM, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

March 16, 2021

County of Marin
Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

RE: Comments on Interagency Referral for Brian Johnson Coastal Permit (P3049) - formerly Johnson (P1162) in Stinson Beach, CA

Dear Sabrina Cordoza,

Thank you for your request for comments regarding the Brian Johnson Coastal Permit (P3049) (formerly Johnson (P1162)) in Stinson Beach. The applicant is requesting a Coastal Permit to construct a new 1,488-square-foot single-family residence, a 288-square-foot garage, driveway, decks, patio, septic system, and landscaping improvements, located at 21 Calle del Onda, in Stinson Beach (APN: 195-162-49). The proposed residence would reach a height of 24 feet 5 inches above grade and would meet the minimum side, front, and rear LCP setback requirements. The project referral materials indicate that the lot was previously developed with a house, which was destroyed by a fire. After an initial review of this proposal, Commission staff would like to provide the following comments regarding sufficiency of information needed to make a recommendation on this proposal and its potential impact on coastal resources.

Dune and Sandy Beach Habitat Protection

The Marin LCP states that development on shorefront lots in Stinson Beach shall preserve the natural sand dune formations in order to protect environmentally sensitive habitat and maintain the natural protection from wave run-up. In addition, where no dunes are evident, the LCP requires development on shorefront lots be set back behind the first line of terrestrial vegetation to the maximum extent feasible, in order to protect sandy beach habitat and the public right of access to the use dry sand areas, and minimize the need for shoreline protection. Thus, development on shorefront lots must be adequately setback to protect both environmentally sensitive habitat areas and public access, and minimize the need for shoreline protection.

The 2019 biological evaluation conducted for the project by the Applicant's consultant, WRA, indicates the presence of both sandy beach and dunes on the subject property. The biological evaluation further concludes that there would be no impacts to such habitat areas as a result of the proposed development due to previous development on the subject property as well as exiting use of the area by pedestrians and dog walkers. As stated above, the Marin County LCP considers dunes as environmentally sensitive habitat areas (ESHA) and as such, development is prohibited in these areas other than resource dependent uses. In addition, the LCP requires that development be

adequately setback from ESHA to prevent impacts which would significantly degrade ESHAs and shall be compatible with the continuance of the ESHAs.

It appears that a portion the proposed development would be located within ESHA and related ESHA buffers, inconsistent with the LCP. Further, the extent of dune habitat/ESHA on the property appears to extend further inland than what is depicted in the environmental assessment. As such, we are having our Coastal Commission technical staff review the 2019 WRA report and may have further comments on this matter. We will note that the Commission has, and in this case, would consider any dune habitat ESHA regardless of its condition. Any development proposed at the project site must adequately identify the extent of ESHA on the property and recommend adequate buffers and mitigation measures to protect ESHA consistent with LCP requirements.

Sea Level Rise Hazards and Shoreline Protection

The Marin LCP states that development on all lots in the Calles neighborhood of Stinson Beach must be supported by analysis of the potential hazards present on the site. Given the project's location, Commission staff recommends that a hazard assessment for the project site include analysis of the risks from coastal sea level rise and flooding from Easkoot Creek. Although a limited preliminary geotechnical investigation was conducted in January 2021 and included a short section on sea level rise impacts, a full geotechnical investigation will have to be completed before project details are finalized.

Specifically, the analysis shall consider changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks to the site that may occur from both Easkoot Creek, as applicable, and ocean side of the site over the expected economic life of the development, assuming a 100-year storm event occurring during high tide and under a range of sea level rise conditions, including at a minimum the medium-high risk aversion scenario from the 2018 Ocean Protection Council State Sea-Level Rise Guidance . At a minimum, the submitted report shall provide: (1) maps/profiles of the project site that show long-term erosion, assuming an increase in erosion from sea level rise, (2) maps/profiles that show changes to the intertidal zone and the elevation and inland extent of flooding for the conditions noted above, (3) maps/profiles that identify a safe building envelope on the site or safe building elevation if no safe envelope is available, taking a range of sea level rise scenarios into account, (4) discussion of the study and assumptions used in the analysis, and (5) an analysis of the adequacy of the proposed building/foundation, design of the septic system, and potential impacts to road access to the site relative to expected sea level rise for the expected economic life of the development.

In addition, the Marin LCP prohibits shoreline protective devices, including revetments, seawalls, groins and other such construction that would alter natural shoreline

processes for new development. The proposed project appears to include large concrete retaining walls and deep piers to protect both the home and septic system, which would alter natural shoreline processes inconsistent with Marin LCP requirements. Thus, the project must be redesigned, including by increasing setbacks and removing hard armoring structures, to minimize risks to life and property in a manner that does not require shoreline protective devices over the life of the development.

Given the sea level rise hazards described above, and the additional seismic and liquification hazards described in the geotechnical investigation, development approval for the proposed project should be modified consistent with the requirements and specifications to address concerns outlined above and should be accompanied by the following permit conditions:

1. **Coastal Hazards.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that:

    a. **Coastal Hazards.** This site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, wave overtopping, coastal flooding, and their interaction, all of which may be exacerbated by sea level rise.

    b. **Permit Intent.** The intent of this CDP is to allow for the approved project to be constructed and used consistently with the terms and conditions of this CDP for only as long as the development remains safe for occupancy, use, and access, without additional substantive measures beyond ordinary repair or maintenance to protect the development from coastal hazards.

    c. **No Future Shoreline Armoring.** No shoreline armoring, including but not limited to additional or augmented piers or retaining walls, shall be constructed to protect the development approved pursuant to this CDP, including, but not limited to, residential buildings or other development associated with this CDP, in the event that the approved development is threatened with damage or destruction from coastal hazards in the future. Any rights to construct such armoring that may exist under Coastal Act Section 30235 or under any other applicable law area waived, and no portion of the approved development may be considered an "existing" structure for purposes of Section 30235.

    d. **Future Removal/Relocation.** The Permittee shall remove or relocate, in part or in whole, the development authorized by this CDP, including, but not limited to, the residential building and other development authorized under this CDP, when any government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the

structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of a shoreline protective device; or in the event that coastal hazards eliminate access for emergency vehicles, residents, and/or guests to the site due to the degradation and eventual failure of Calle Del Onda as a viable roadway. Marin County shall not be required to maintain access and/or utility infrastructure to serve the approved development in such circumstances. Development associated with removal or relocation of the residential building or other development authorized by this CDP shall require Executive Director approval of a plan to accommodate same prior to any such activities. In the event that portions of the development fall into the ocean or the beach, or to the ground, before they are removed or relocated, the Permittee shall remove all recoverable debris associated with the development from such areas, and lawfully dispose of the material in an approved disposal site, all subject to Executive Director approval.

e. **Assume Risks.** The Permittee: assumes the risks to the Permittee and the properties that are the subject of this CDP of injury and damage from such hazards in connection with this permitted development; unconditionally waives any claim of damage or liability against Marin County its officers, agents, and employees for injury or damage from such hazards; indemnifies and holds harmless Marin County, its officers, agents, and employees with respect to the County's approval of the CDP against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and accepts full responsibility for any adverse effects to property caused by the permitted project.

2. **Real Estate Disclosure.** Disclosure documents related to any future marketing and/or sale of the residence, including but not limited to marketing materials, sales contracts and similar documents, shall notify potential buyers of the terms and conditions of this CDP, including explicitly the coastal hazard requirements of **Special Condition 1**. A copy of this CDP shall be provided in all real estate disclosures.

3. **Deed Restriction**. Prior to issuance of the Coastal Permit, the Permittee shall submit to the Director for review and approval documentation demonstrating that the Permittee has executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Director: (1) indicating that, pursuant to this permit, the County of Marin has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed

restriction shall include a legal description and site plan of the property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

Thank you for the opportunity to comment on the planning transmittal. Please feel free to contact me at abigail.black@coastal.ca.gov if you wish to discuss these matters further.

Sincerely,

DocuSigned by:
Abigail M Black
A7BC15CBC258476...

Abigail Black
Coastal Planner

ATTACHMENT 3

ATTACHMENT 3

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

June 30, 2016

Marin County Community Development Agency
Attn: Tammy Taylor
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

RE: Planning Transmittal for Johnson Coastal Permit (P1162) in Stinson Beach, CA

Dear Ms. Taylor,

Thank you for your request for comments regarding the Johnson Coastal Permit (P1162) in Stinson Beach. The applicant is requesting a Coastal Permit to construct a new 2,454 square-foot single-family residence with attached one-car garage, in addition to new site improvements, including a septic system, driveway, boardwalk, and rope fence, located at 21 Calle del Onda in Stinson Beach (APN: 195-162-49). The proposed residence would be 23 feet 4 inches above grade and would meet the minimum setback requirements. The project referral materials indicate that the lot was previously developed with a house, which was destroyed by a fire, and has been vacant since the mid-1980's. After reviewing the second planning transmittal, Commission staff would like to provide the following comments regarding sufficiency of information needed to make a recommendation on this proposal and its potential impact on coastal resources.

Coastal Access
The Marin LCP (IP Section 22.56.130(E)) requires that all coastal permits shall be evaluated to determine the project's relationship to the maintenance and provision of public access and use of coastal beaches, waters and tidelands. For the proposed project, which is located between the sea and the first public road, the Marin LCP requires that the coastal permit include provisions to assure public access to coastal beaches and tidelands, including the offer of dedication of public access easements along the dry sand beach area adjacent to public tidelands for a minimum of twenty years. Impacts to public access should be evaluated, and appropriate provisions to protect public access should be provided, taking into account potential sea level rise over life of the development.

Dune protection
The Marin LCP (IP Section 22.56.130(H)) requires that development of shorefront lots within the Stinson Beach area assures preservation of existing sand dune formations in order to protect environmentally sensitive dune habitat, vegetation, and to maintain natural protection from wave runup. For the proposed project, which is located on a shorefront parcel, the Marin LCP requires that the coastal permit include findings, which demonstrate that the project's design and location eliminates the need for future shoreline protective devices, protects sandy beach habitat, provides a buffer area between public and private use areas, protects scenic and recreational character of the beach and maintains the public rights of access to, and use of, beach dry sand areas. Marin IP

Subject: P3049 (21 Calle del Onda, Stinson Beach)

Pfeifer, Sara@Coastal <Sara.Pfeifer@coastal.ca.gov>
to Cardoza, Sabrina; Rexing, Stephanie@Coastal; Steve Kinsey

Thu, Jul 1, 3:54 PM

You are viewing an attached message. Compass Mail can't verify the authenticity of attached messages.

Good afternoon Sabrina,

Thank you for providing us with the opportunity to submit comments on the proposed project for a new single-family residence at 21 Calle del Onda in Stinson Beach. The comments provided in our March 16, 2021 letter continue to reflect our concerns about the project's consistency with the Marin County LCP (see attached). Additionally, the 2021 comment letter suggests measures to ensure the project's consistency with the LCP that remain relevant to the Applicant's recently resubmittal materials (i.e., those dated June, 2021). Similarly, the overarching themes described in our March and June 2016 comment letters (attached), including as related to access, habitat protections, and coastal hazards, remain relevant with respect to project elements that do not adequately address these concerns.

Please feel free to contact me with any questions you may have regarding our feedback.

Thank you,

Sara Pfeifer | Coastal Planner
CALIFORNIA COASTAL COMMISSION
North Central Coast District Office
(415) 904-5255 | sara.pfeifer@coastal.ca.gov

3 Attachments

ATTACHMENT 4

ATTACHMENT 4

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

March 31, 2016

Marin County Community Development Agency
Attn: Tammy Taylor
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

RE: Planning Transmittal for Johnson Coastal Permit (P1162) in Stinson Beach, CA

Dear Ms. Taylor,

Thank you for your request for comments regarding the Johnson Coastal Permit (P1162) in Stinson Beach. The applicant is requesting a Coastal Permit to construct a new 2,454 square-foot single-family residence with attached one-car garage, in addition to new site improvements, including a septic system, driveway, boardwalk, and rope fence, located at 21 Calle del Onda in Stinson Beach (APN: 195-162-49). The proposed residence would be 23 feet 4 inches above grade and would meet the minimum side, front, and rear setback requirements. The project referral materials indicate that the lot was previously developed with a house, which was destroyed by a fire. After an initial review of this proposal, Commission staff would like to provide the following comments regarding sufficiency of information needed to make a recommendation on this proposal and its potential impact on coastal resources.

Public Access and Dune and Sandy Beach Protection
The Marin LCP includes policies protecting public access to and along the shoreline, which state that the County will require provisions for coastal access in all development proposals located between the sea and the first public road. The Marin LCP also states that development on shorefront lots in Stinson Beach shall preserve the natural sand dune formations in order to protect environmentally sensitive habitat and maintain the natural protection from wave run-up. Where no dunes are evident, the LCP requires development on shorefront lots be set back behind the first line of terrestrial vegetation to the maximum extent feasible, in order to protect sandy beach habitat and the public right of access to the use dry sand areas. As such, this permit application must include a biological evaluation of the property in order to assess the extent of sensitive dune habitat and species on or adjacent to the site (and appropriate buffers) and, in the event that no dune habitat exists, the first line of terrestrial vegetation. The project plans show that storm surge has extended underneath the proposed deck. Therefore, approval of a rope fence could prohibit lateral public access along the shoreline. The provision and protection of coastal access and protection of sandy beaches and dune habitat in this case could include 1) setting the development back from the beach and/or any sensitive dune habitat to the maximum extent feasible and consistent with any recommended sensitive habitat buffers (including by reducing the site of the proposed house if necessary); and/or 2) a lateral easement on the Applicant's property along the dry sand adjacent to tidelands that could be accepted by the Marin County Open Space District, which owns and maintains the adjacent beach; and/or 3) a prohibition on

the proposed rope fencing that could prevent lateral public access along the beach at high tide. As required by the Marin LCP, development approval for the proposed project must be accompanied by findings, including mitigation measures and conditions of approval, establishing that the project's design and location would protect sandy beach habitat, provide a buffer area between public and private use areas, protect the scenic and recreational character of the beach and maintain the public rights of access to and use of dry sand beach areas.

Shoreline Protection and Hazard Areas

The Marin LCP states that development on all lots in the Calles neighborhood of Stinson Beach must be supported by analysis of the potential hazards present on the site. In light of the coastal hazards that have been identified through Marin County's C-SMART process and the forthcoming LCP update, the hazard assessment for the project site should include analysis of risk from coastal sea level rise. The steps recommended in the Coastal Commission's Adopted Sea Level Rise Policy Guidance (2015) may be used as a reference. These steps include: 1) define the expected life of the project, in order to determine the appropriate sea level rise range or projection; 2) determine how physical impacts from sea level rise may constrain the project site, particularly increased groundwater, erosion, flooding, wave run-up and inundation; 3) determine how the project may impact coastal resources over time, considering the influence of sea level rise, particularly on water quality, public access and coastal habitat; 4) identify project alternatives (e.g., building a smaller structure in an unconstrained portion of the site, elevating the structure, or providing options that would allow for incremental or total removal of the structure if and when it is impacted in the future) that avoid resource impacts and minimize risks to the project; 5) finalize project design.

Step 2 should include an engineering analysis, prepared by a licensed civil engineer with experience in coastal processes, for the proposed development site. The analysis shall consider changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks to the site that may occur from both Easkoot Creek, as applicable, and ocean side of the site over the expected economic life of the development, assuming a 100-year storm event occurring during high tide and under a range of sea level rise conditions, including the high projection from the National Research Council's 2012 Report, *Sea Level Rise for the Coasts of California, Oregon and Washington: Past, Present and Future*. At a minimum, the submitted report shall provide: (1) maps/profiles of the project site that show long-term erosion, assuming an increase in erosion from sea level rise, (2) maps/profiles that show changes to the intertidal zone and the elevation and inland extent of flooding for the conditions noted above, (3) maps/profiles that identify a safe building envelope on the site or safe building elevation if no safe envelope is available, taking a range of sea level rise scenarios into account, (4) discussion of the study and assumptions used in the analysis, and (5) an analysis of the adequacy of the proposed building/foundation, design of the septic system, and potential impacts to road access to the site relative to expected sea level rise for the expected economic life of the development.

Development approval for the proposed project could be accompanied by the following permit conditions:

1. Deed Restriction. Prior to issuance of the Coastal Permit, the Permittee shall submit to the Director for review and approval documentation demonstrating that the Permittee has

executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Director: (1) indicating that, pursuant to this permit, the County of Marin has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

2. Disclosure of Permit Conditions. All documents related to any future marketing and sale of the subject property, including but not limited to marketing materials, sales contracts, deeds, and similar documents, shall notify buyers of the terms and conditions of this coastal development permit.

3. Coastal Hazards Risk. By acceptance of this Coastal Permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns:

(a) Assume Risks. To assume the risks to the Permittee and the property that is the subject of this Coastal Permit of injury and damage from coastal hazards;

(b) Waive Liability. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards;

(c) Indemnification. To indemnify and hold harmless the County of Marin, its officers, agents, and employees with respect to the County's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and

(d) Permittee Responsible. That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.

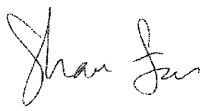
4. No Future Shoreline Protective Device. No additional protective structures, including but not limited to additional or augmented piers (including additional pier elevation) or retaining walls, shall be constructed to protect the development approved pursuant to CP #__ , including, but not limited to development associated with this CP, in the event that the approved development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence, or other natural hazards in the future. By acceptance of this CP, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, and agrees that no portion of the approved development may be considered an "existing" structure for purposes of Section 30235.

5. Future Removal of Development. The Permittee shall remove and/or relocate, in part or in whole, the development authorized by this CP, including, but not limited to development authorized under this CP, when any government agency orders removal of the development in the future or when the development becomes threatened by coastal hazards,

whichever happens sooner, or if the State Lands Commission requires that the structures be removed in the event that they encroach on to State tidelands. Development associated with removal of the residence or other authorized development shall require an amendment to this CP. In the event that portions of the development fall to the water or ground before they are removed, the Permittee shall remove all recoverable debris associated with the development from the ocean, intertidal areas, and wetlands and lawfully dispose of the material in an approved disposal site. Such removal shall require an amendment to this CP.

Thank you for the opportunity to comment on the planning transmittal. Please feel free to contact me at (415) 904-5266 or by email at shannon.fiala@coastal.ca.gov if you wish to discuss these matters further.

Sincerely,



Shannon Fiala
Coastal Planner

ATTACHMENT 5

ATTACHMENT 5

RE: Retention of Coastal Permitting Jurisdiction-21 Calle del Onda, Stinson Beach

From: Manna, Jeannine@Coastal [mailto:Jeannine.Manna@coastal.ca.gov]
Sent: Tuesday, February 02, 2021 2:41 PM
To: Levenson, Michelle <MLevenson@marincounty.org>
Cc: Lai, Thomas <TLai@marincounty.org>; Black, Abigail@Coastal <abigail.black@coastal.ca.gov>; Rexing, Stephanie@Coastal <Stephanie.Rexing@coastal.ca.gov>
Subject: RE: Retention of Coastal Permitting Jurisdiction-21 Calle del Onda, Stinson Beach

Hi Michelle,
Thanks for reaching out! Sounds like the property is within both the Commission and the County's CDP permitting jurisdiction. The applicant can reach out to our mapping department for a formal boundary determination if they want to know exactly where the line falls. Depending on where development is proposed on the property, they may need a CDP from both us and the County. If both agencies, then we could do a consolidated CDP if everyone agreed to such a process.
However, I will note that back in 2016 when a project was previously proposed on this property, Commission staff raised a number of concerns including related to setbacks needed to protect sensitive dune and sandy beach habitat and public access. We also previously noted that coastal hazard risk for the property should be evaluated and that any development in this location would need to be sited and designed safe from hazards without the need for future shoreline protection (accounting for sea level rise) over the anticipated life of the project.
Please keep our staff apprised as this project moves forward through the County process.
Thank you,
Jeannine

From: Levenson, Michelle <MLevenson@marincounty.org>
Sent: Monday, February 1, 2021 2:53 PM
To: Manna, Jeannine@Coastal <Jeannine.Manna@coastal.ca.gov>
Subject: Retention of Coastal Permitting Jurisdiction-21 Calle del Onda, Stinson Beach

Dear Ms. Manna-
Tom Lai requested that I reach out to you regarding an application that will be submitted to the County of Marin shortly. The application is for Coastal Permit and Design Review approval to construct a new, single family residence and detached garage on a vacant site at 21 Calle del Onda, Stinson Beach (current APN 195-162-49, prior APN 195-162-13, and -14). The site, located between the ocean and Highway One, has an interesting history. Back in 1981, the owner applied to the County to subdivide the property. At that time the CCC staff provided correspondence to Marin County (historical records attached) that the agency was retaining Coastal Permit authority over the site. The applicant, CivicKnit, has requested guidance on applying for the necessary authorizations and I was hoping to provide them with feedback on the Coastal Permit pathway. Thanks in advance for your guidance.

Sincerely,
Michelle Levenson

ATTACHMENT 6

ATTACHMENT 6

COASTAL RISKS FOR STINSON BEACH, CA

Selected water level: 3 feet. May occur from sea level rise, coastal flooding, or both.

What's at risk on land below 3 feet?[1,2]

- Miles of road: 1 miles
- Local roads: 1 miles
- Population: 33
- Homes: 53

3 feet in historical context [3,4]

- Highest observed area flood: 2.8 feet in 1983
- Statistical 1-in-100 year flood height: 2.9 feet

Unnatural Coastal Floods[5]

Since 1950, a tide station at San Francisco has recorded 474 days exceeding local National Weather Service flood thresholds. Without climate-driven sea level rise, the count would be 145. The station is 17 miles from Stinson Beach.

Rising seas = more floods[4]

- Stinson Beach, CA has already experienced about 8 inches of sea level rise over the last 112 years of records. Climate change is projected to drive much more rise this century.
- This raises the starting point for storm surges and high tides, making coastal floods more severe and more frequent.

When could a 3-foot flood happen?[3,4,6]

- Likelihood by 2030: 31% – 68%
- Likelihood by 2050: 80% – 100%
- Likelihood by 2100: 100% – 100%

The ranges shown derive from the intermediate low vs. intermediate high global sea-level scenarios from a 2017 NOAA technical report for use in the U.S. National Climate Assessment, which point to projected local rises of 1.7 vs. 5.9 feet by 2100. The more heat-trapping pollution emitted, the higher that sea-level rise is likely to be.

Find more places, water levels and downloads at riskfinder.org

Land and population below 3 feet in Stinson Beach, CA

Social vulnerability (e.g. from low income) compounds coastal risk. Land below 3 feet is colored according to the legend. Surging Seas uses high-accuracy lidar elevation data supplied by NOAA. Map reflects a uniform sea level and/or flood height. Individual storm surge, tidal or rainfall events cause more complex and uneven water surfaces.

Email sealevel@climatecentral.org to ask about tailored analysis

1 Floods and sea level rise are relative to local high tide lines circa 1992 (mean higher high water across 1983-2001).
2 Values exclude sub-3-ft areas potentially protected by levees, natural ridges, and other features.
3 Climate Central estimates risk by combining local sea level rise projections with flood height risk statistics based on historic data.
4 Flood risk projections and history are based on records from the NOAA water level station at San Francisco - San Francisco Bay, 17 miles from Stinson Beach, from 1901 to 2013.
5 Strauss, B. H., Kopp, R. E., Sweet, W. V. and Bittermann, K., 2016. Unnatural Coastal Floods. Climate Central Research Report.
6 Sea level projections are localized, and local flood risks projected, based on methods from Tebaldi et al. 2012 (Environmental Research Letters).

Surging Seas
Sea Level Rise Tools & Analysis by
CLIMATE CENTRAL

For more methods, limitations, full citations, see source: riskfinder.org

Citation: Coastal Risks for Stinson Beach, CA. Climate Central, 6/26/2021

SEA LEVEL RISE AND COASTAL FLOODING FAQS

What causes sea level to rise?

- **A warming ocean:** Thermometer and satellite measurements show that the ocean has been warming for more than a century. Water expands as it warms, and the only way the ocean can go is up and out.
- **Shrinking ice:** Warmer air and water temperatures are causing global glaciers and ice sheets on Greenland and Antarctica to melt or to break off into the ocean. Adding water or ice from land to the ocean raises sea level, and is by far the biggest future threat.
- **Sinking land:** In some places, coastal land is sinking, due to a variety of slow, long-term processes not linked to current climate change, or due to pump extraction of water or fossil fuels from underground formations.

What causes climate change?

- The main activity causing climate change is the burning of fossil fuels, which emits heat-trapping pollution.
- Leading scientific bodies agree: *Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research concludes that the greenhouse gases emitted by human activities are the primary driver.*[7]

Can sea level rise be slowed?

- Major cuts in heat-trapping pollution through measures such as a swift global transition to a clean energy economy, climate-friendly agriculture, and protecting forests would reduce future sea level rise.

Does sea level rise affect flooding?

- Sea level rise raises the starting point for waves, tides, and storm surge, making coastal floods more severe and more frequent.
- A February 2016 Climate Central analysis found that about two-thirds of U.S. coastal flood days since 1950 would not have met the National Weather Service's local definition of flooding without the few inches so far of human-caused, climate-driven global sea level rise.

What does the future hold?

- Some future sea level rise is inevitable due to pollution already in the atmosphere, forcing some adaptation.
- Rapid cuts in emissions of heat-trapping pollution would increase the chances of limiting global sea level rise to near 2 feet this century, but continuing unchecked pollution could lead to a rise of more than 6 feet.[8]
- A 2-foot rise would mean widespread, dramatic increases in flooding, and submergence of the very lowest coastal places. A 6-foot rise would pose severe and in cases existential threats to major coastal cities worldwide.
- Many places will be able to reduce sea level rise impacts by establishing defenses, accommodating floods, or relocating some development, at uncertain cost.
- Pollution this century will lock in sea level rise for hundreds of years to come – likely far more than 6 feet on the current path. The final amount will depend on how rapidly the world community can reduce and then stop heat-trapping pollution.

REDUCING YOUR RISK

Preparing yourself and your community

- Actions to curb heat-trapping pollution will reduce sea level rise, but some rise is unavoidable.
- Learn more about the actions you can take yourself at sealevel.climatecentral.org/flood-preparation
- Make sure leaders in your community know your area's risks by sharing this fact sheet and riskfinder.org
- Surging Seas can help your community participate in FEMA's Community Rating System. Contact us to learn more.
- Climate Central offers tailored mapping, projections and analysis to meet the specific needs of cities, counties, states and businesses, using scenarios and data you can choose: contact sealevel@climatecentral.org to learn more.

Resources available for California

- Sea Grant California: https://caseagrant.ucsd.edu/
- California Coastal Commission: Sea Level Rise: http://www.coastal.ca.gov/climate/slr/
- State of California: Coastal Conservancy Climate Change Projects: http://scc.ca.gov/climate-change/
- For a longer list see: sealevel.climatecentral.org/responses/plans

In the News

Our sea level research has been covered in USA Today, Time, the major networks, CNN, PBS, NPR, AP, Bloomberg, the Washington Post, the New York Times, and hundreds more outlets.

Climate Central

Climate Central is an independent nonprofit, nonadvocacy organization that researches climate impacts. Our web tools are based on peer-reviewed science and are included as resources on national portals such as NOAA's Digital Coast and the U.S. Climate Resilience Toolkit.

Get more analysis at riskfinder.org

7 Statement on climate change from 31 scientific associations (2016). http://www.aaas.org/sites/default/files/06282016.pdf (Accessed July 7, 2016). Learn more at http://climate.nasa.gov/scientific-consensus/

8 Based on local sea level projections from Kopp et al. 2014 (Earth's Future) and more recent Antarctic research in DeConto and Pollard 2016 (Nature). For full citations and methods visit: riskfinder.org

Surging Seas

Sea Level Rise Tools & Analysis by

CLIMATE CENTRAL

ATTACHMENT 7

ATTACHMENT 7

SBCWD

STINSON BEACH COUNTY WATE

BOARD MEETING MINUTES

REGULAR MEETING
Saturday, September 17, 2016

A. CALL TO ORDER/ROLL CALL

President Cross called the Regular meeting of the Board of Directors of the Stinson Beach County Water District to order on Saturday, September 17, 2016, at 9:3(Stinson Beach County Water District office, located at 3785 Shoreline Highway, Stinson Beach, CA 94970.

Directors present:
Sandra Cross, President
Morey Nelsen, Vice President
Lawrence Baskin, Director
Barbara Boucke, Director
Jim Zell, Director

Treasurer present:
Judy Stemen

General Manager present:
Ed Schmidt

Staff present:
Rich Souza - District Engineer
Helma Schwendig - Office Supervisor

B. PUBLIC EXPRESSION

None.

C. SETTING OF AGENDA

The agenda was unanimously adopted as set.

D. PUBLIC HEARING

1. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 21 Calle del Onda, Brian Johnson Bagwill, Owners, APN 195-162-49.**
At the request of the applicant, Craig Nunes, this matter was continued from the Saturday, August 20, 2016, Board meeting to enable four Board members (Pr Cross, Vice President Nelsen and Directors Baskin and Boucke) to vote on the merits of the project. Director Zell cannot vote as he resides within 500 feet of t

President Cross reiterated that the Stinson Beach County Water District has a limited scope of review over this project. The District is concerned only with the septic system, and applying to this application the rules and regulations of Title IV, the District's Onsite Wastewater Management Code. The District does not h authority to create public easements, view easements, or beach access. Ms. Cross requested that the members of the public that are present confine their rem septic system and water quality issues. Other issues are to be addressed to the County of Marin and the Coastal Commission. Director Zell then recused himse

President Cross thanked all the members of the public who submitted documentation, arguments and information about the proposed controversial wastewate Board had reviewed a bound Coastal Flood History submitted to the District on September 9, 2016 by community member Scott Tye. The History contained co photos, exhibits, letters from neighbors opposing the project, portions of the Draft Marin Coast Sea Level Rise Vulnerability Assessment, Flood Hazard Mapping items from the Stinson Beach County Water District files. Many of the photos came from the files of the Stinson Beach Historical Society.

Rich Souza, the District's Engineer, summarized the project, which had also been previously discussed at the April 20 and July 6, 2016 Wastewater Committee The application is for a standard intermittent sand filter system for a proposed residence of less than 2,800 square feet. The variance to Title IV Sec. 4.15.100 - Setbacks to Water Courses and Water Bodies is comprised of the following three individual parts: the setback to the dispersal field to be reduced from 100 to setback to the sand filter to be reduced from 50 to 36 feet, and the setback to the septic and sump tank to be reduced from 50 to 20 feet.

The property formerly consisted of multiple parcels which have been merged into a 15,200 square foot lot. An existing residence burned down in the 1980's. Tl sand berm in front of the property, the only berm along the entire beach.

The design is considered new construction and includes a 1,500 gallon septic tank and 1,500 gallon sump tank. It is a raised bed system and meets 36 inches from groundwater. A concrete 12 inch high retaining wall is proposed below grade and around the septic system components. The purpose of the retaining wal withstand erosion from wave run-up during significant storm events.

A Coastal Engineering Analysis report was prepared by Noble Consultants. President Cross noted that Figure 6 of the Noble report shows that the berm is subje erosion. She is concerned that the variance setbacks would increase even more over time with sea level rise and storm events.

The Board's questions regarding the proposed septic system's plans and layout were answered by the system's designer, Troy Pearce, of AYS Engineering Grou District recently found out from County staff that the building application has been withdrawn, but County staff thought they (the County) should ultimately be agency on this project for CEQA purposes.

Several neighboring property owners voiced their opposition to the project, citing health and safety issues.

Director Baskin made a motion to grant a variance to the requirements of the Stinson Beach County Water District Wastewater Treatment Regulations Ordinan 04 to Reduce Setback Requirements to a Water Body for Property Located at 21 Calle del Onda and to adopt the findings made in the March 14, 2016 letter of applicant, asking District staff to enhance the findings by including a few more facts from the Noble report. Vice President Nelsen seconded the motion.

Director Boucke could not find that the variances were reasonable or appropriate due to health and safety issues. Ms. Boucke felt she could not support the ap findings of fact No. 4 which states: "The Variance will not materially adversely affect the conditions of adjacent watercourses or wetlands, the conditions of sub water under adjacent properties, the health or safety of persons residing or working in the neighborhood of the property, and/or the general health and safety

public."

President Cross stated that there is more at stake here than the approval of the setbacks. The risks involved do not only affect the applicant. It is also the risk neighbors if the septic system fails. The precautionary principle to risk management states that if an action or policy has a suspected risk of causing harm to th to the environment, in the absence of scientific consensus (that the action or policy is not harmful), the burden of proof that it is not harmful falls on those tak that may or may not be a risk. Ms. Cross felt the requested variances are huge in relation to the normal setbacks and that credence should be given to the Dis regulations.

President Cross called the question: All of those Board members in favor of the motion to approve the request for variance? It was a difficult decision for the B Director Baskin and Vice President Nelsen voted "Aye". All opposed: Director Boucke and President Cross voted "No". The motion failed as it requires three "ye pass.

2. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 217 Seadrift Road, James Migdal APN 195-331-37.**
This residential wastewater design application is for a new alternative wastewater system on a 60' x 125' vacant parcel located along the Seadrift Lagoon. The designed for a single family residential home with up to 1,900 square feet of habitable space, and will have a maximum daily flow rate of 300 gallons and an a flow rate of 200 gallons. Based on the proposed use of the raised bed dispersal fields, there is over 36 inches of vertical separation from seasonal high groundv

The variance request to Title IV under Section 4.15.100 Site Criteria - Setbacks, consists of reducing the setback from the property line to the dispersal field fr 1 foot, reducing the setback from Seadrift Lagoon to the dispersal field from 100 feet to 94 feet, and under Section 4.19.010, Use of Alternative Wastewater S Designs to utilize a recirculating textile Advantex filter.

The design consists of a new 1,500 gallon traffic rated septic tank, an 810 gallon traffic rated sump tank, Advantex AX20, and dual raised bed dispersal fields.

The project had been heard at the August 25, 2016 Wastewater Committee meeting, a copy of the application documents and plans had been sent to the Regi Quality Control Board, and neighbor notifications were sent on August 30, 2016.

The Board requested that the relocation of the water main line to meet a 10 foot minimum setback to the proposed wastewater system be added to the draft r a condition prior to the issuance of a wastewater construction permit.

Vice President Nelsen moved to adopt Resolution No. WW 2016-10 Granting a Variance to the Requirements of the Stinson Beach County Water District Waste Treatment Regulations Ordinance No. 2014-04 to Reduce Setback Requirements to a Property Line and Seadrift Lagoon and to Utilize an Alternative Wastewat property located at 217 Seadrift Road, Stinson Beach. Director Boucke seconded the motion. The motion was passed by President Cross, Vice President Nelsen Directors Boucke and Baskin each voting "AYE." Director Zell voted "NO."

3. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 252 Seadrift Road, Maria and Joh Owners, APN 195-340-46.**
This project includes the demolition of the existing 1,873 square foot residence and its replacement with a new single family residence consisting of less than 2 feet on a 23,100 square foot lot located on the ocean side. The maximum and average daily flow rate of the new system will be 450 and 300 gallons, respectiv on the proposed raised bed leach field, there is over 36 inches of vertical separation from seasonable high groundwater to the bottom of the leach field.

A variance is required under Title IV Section 4.19.010 - Use of Alternative Wastewater Systems Designs for use of a recirculating textile (Advantex) filter.

The design consists of a new 1,500 gallon traffic rated septic tank, an 810 gallon traffic rated sump tank, Advantex AX20, and dual raised bed dispersal fields.

The project had been heard at the August 25, 2016 Wastewater Committee meeting, a copy of the application documents and plans had been sent to the Regi Quality Control Board, and neighbor notifications were sent on August 30, 2016.

Director Baskin moved to adopt Resolution No. WW 2016-09 Granting a Variance to the Requirements of the Stinson Beach County Water District Wastewater Regulations Ordinance No. 2014-04 to Utilize a New Alternative Type Wastewater System for property located at 252 Seadrift Road, Stinson Beach. Director Bo seconded the motion. The motion was passed unanimously by President Cross, Vice President Nelsen and Directors Baskin, Boucke, and Zell.

4. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 254 Seadrift Road, Kenneth Fran APN 195-340- 45.**
This variance request under Section 4.19.010 is for a new alternative wastewater system utilizing a recirculating textile filter, with a maximum and average da of 450 and 300 gallons, respectively. The system is designed for a new single family residential home with up to 2,800 square feet of habitable space on a 60' vacant lot, with the ocean along the southerly property line.

Based on the proposed 36 inch leach line depth, there is over 36 inches of vertical separation from seasonal high groundwater to the bottom of the leach field.

The wastewater design consists of a new 1,500 gallon traffic rated septic tank, a 1,200 gallon traffic rated sump tank, Advantex AX20, diversion valve, and du fields.

The application had been discussed at the August 25, 2016 Wastewater Committee meeting. A copy of the application documents and plans were sent to the R Water Quality Control Board and neighbor notifications were sent on August 30, 2016.

Director Boucke moved to adopt Resolution No. WW 2016-11 Granting a Variance to the Requirements of the Stinson Beach County Water District Wastewater Regulations Ordinance No. 2014-04 to Utilize a New Alternative Type Wastewater System for property located at 254 Seadrift Road, Stinson Beach. Vice Presid seconded the motion. The motion was passed unanimously by President Cross, Vice President Nelsen and Directors Boucke and Zell. Director Baskin had excus and was not present for the vote.

5. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 265 Belvedere Avenue, Alicia and Myers, Owners, APN 195-142-25.**
This variance application requests the approval to use an existing wastewater system for increasing the habitable space of the existing living area of 2,215 squ 184 square feet, comprised of two detached building structures. The lot is approximately 7,500 square feet. One of these detached units is elevated over a lea the other unit is located below the leach line.

A setback variance is required to the new shallow building pier foundations. A variance is also required to use the existing 1,200 gallon septic tank, as the mini capacity has been increased to 1,500 gallons since the existing system was installed in 1997. Based on the existing maximum and average daily flow rates of 4 and 300 gallons, respectively, the existing septic tank is sufficiently sized to treat wastewater effluent.

The application had been heard at the August 25, 2016 Wastewater Committee meeting, a copy of the application documents and plans were sent to the Regio Quality Control Board, and neighbor notifications were sent on August 30, 2016.

Director Zell moved to adopt Resolution No. WW 2016-08 Granting a Variance to the Requirements of the Stinson Beach County Water District Wastewater Tre Regulations Ordinance No. 2014-04 to Reduce Setback and Septic Tank Capacity Requirements for Property Located at 265 Belvedere Avenue, Stinson Beach. Cross seconded the motion. The motion was passed unanimously by President Cross, Vice President Nelsen and Directors Boucke and Zell. Director Baskin was for the vote.

E. APPROVAL OF MINUTES

The motion to approve the minutes of August 20, 2016 was passed unanimously by President Cross and Directors Boucke and Zell. Vice President Nelsen was a August 20, 2016 meeting.

F. APPROVAL OF DISBURSEMENTS

The motion to approve the disbursements of August 8 and August 25, 2016 was passed unanimously by President Cross, Vice President Nelsen and Directors Boucke

G. MANAGER'S REPORT

The General Manager discussed his monthly report. The field work needed for the District's financial audit as of June 30, 2016 by Cropper Accountancy will t November 9.

Zero Waste Marin has approved the District's $5,000 grant application for recycling. Half of the grant will be used for aluminum water bottles to replace plastic wate the remainder will be for small kitchen compost buckets to reduce food scraps taken to the landfill. The General Manager will arrange for a public meeting Community Center or Chapel where a compost expert will speak on the merits of composting.

Matt Leffert, Director of Development of "One Tam", will make a short presentation at the October 15 Board meeting.

Steve Ortega, GGNRA, will bring the Board up to date at a future Special Board meeting regarding the operation of the Park's new septic system, if there is capacity leased by the District in response to sea level rise, or if any GGNRA properties could be utilized by the District for septic system treatment if there is no capacity in system.

After additional review, new Section 4.07.071 concerning chemical toilets in the Village Green Parks will be added to the District's Title IV Onsite Wastewater Manage

H. COMMITTEE REPORTS

None.

I. CORRESPONDENCE

None.

J. ADJOURNMENT

The meeting was adjourned at 11:40 a.m. The next regular meeting will be on Saturday, October 15, 2016, at 9:30 a.m.

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ATTACHMENT 8

ATTACHMENT 8

SBCWD

STINSON BEACH COUNTY WATER

BOARD MEETING MINUTES

REGULAR MEETING
Saturday, August 20, 2016

A. CALL TO ORDER/ROLL CALL

President Cross called the Regular meeting of the Board of Directors of the Stinson Beach County Water District to order on Saturday, August 20, 2016, at 9:30 Stinson Beach County Water District office, located at 3785 Shoreline Highway, Stinson Beach, CA 94970.

Directors present:
Sandra Cross, President
Lawrence Baskin, Director
Barbara Boucke, Director
Jim Zell, Director

Morey Nelsen, Vice President
Directors absent:

General Manager present:
Ed Schmidt

Staff present:
Rich Souza - District Engineer
Helma Schwendig - Office Supervisor

B. PUBLIC EXPRESSION

Director Baskin requested that our field crew post notices on homeowner's front door a day or two before pending water shut off for new water meter installation.

C. SETTING OF AGENDA

The agenda was unanimously adopted as set.

D. PUBLIC HEARING

1. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 21 Calle del Onda, Brian Johnson Bagwill, Owners, APN 195-162-49.**
   This project has been discussed at Wastewater Committee meetings on April 20 and July 6, 2016, where concerns regarding potential erosion and flooding fror up during high tide and storm events were discussed.

   President Cross noted that Vice President Nelsen is out of the country, and Director Zell must abstain from voting as he resides within 500 feet from the projec only three Board members to vote on the merits of the project. Ms. Cross offered the applicant Craig Nunes the opportunity to continue his variance request to Saturday, September 17, 2016, Board meeting, so that the matter can be heard before four Board members (President Cross, Vice President Nelsen and Direct and Boucke).

   Mr. Nunes gave a short history of the property, his contingency to purchase the property based upon his ability to obtain the required permits, and his findings pertaining to his Variance request. Mr. Nunes then requested a continuance of the hearing to September 17, 2016.

   The Board noted it is not part of the District's purview to comment on issues raised by the Coastal Commission and Planning Department. The District's jurisdic limited to septic system safety issues. The District has no authority regarding dune habitat, public easements or view sheds.

   The Board requested that the General Manager contact Blair Allen of the Regional Water Quality Control Board regarding Mr. Allen's comments, if any, on the a Variance requests under Title IV Sec. 4.15.100 Site Criteria - Setbacks.

   A member of the public, Scott Tye, distributed to the Board copies of a letter dated August 24, 2015 from Stinson Beach Village Association President Mike Mat regarding the August 25, 2015 Public Hearing to consider policy revisions to the LCP and a copy of a Memorandum dated February 17, 1983 from George Tcho District Engineer, to Board of Directors re Action Plan for Mitigation of High Groundwater Effects on Onsite Wastewater Management Systems.

E. GENERAL BUSINESS

1. **Review the District's Financial Reports as of June 30, 2016.**
   The General Manager complimented Robyn on the preparation of the District's financial reports as of June 30, 2016. The Board requested that Robyn also prep summarizing the major budget changes occurring from month to month. The District's anticipated $505,000 grant reimbursement must be included as part of revenue. However, the District's pension liability must also be taken into account and will be reflected in the District's upcoming June 30, 2016 financial audit.

   The Board requested that the General Manager prepare a capital cash flow spreadsheet to determine if sufficient funds are available to undertake a feasibility s desal. Some funds are needed, however, for the District's tanks rehabilitation.

F. APPROVAL OF MINUTES

Director Baskin moved to approve the minutes of July 16, 2016. Director Boucke seconded the motion. The motion was passed unanimously by President Cross Baskin and Boucke. Director Zell was absent at the July 16, 2016 meeting.

G. APPROVAL OF DISBURSEMENTS

Director Baskin moved to approve the disbursements of July 19 and August 8, 2016. President Cross seconded the motion. The motion was passed unanimously Cross and Directors Baskin, Boucke and Zell.

H. MANAGER'S REPORT

The General Manager discussed his monthly report. Pacific Underground Services has been hired to replace the water meters on the Calles and Patios.

The General Manager and President Cross had a luncheon meeting with two Board members of the Muir Beach CSD.

The Board approved the $15 hourly rate increase to $165 per hour as requested by CSW/Stuber-Stroeh Engineering Group for Richard Souza, the District's Engineer

By consensus, the Board decided to schedule Wastewater Committee meetings (after the August 25, 2016 meeting) to be held on the second Thursday of each r schedule a workshop meeting to revisit Title IV and make redline changes.

The Board requested that the General Manager invite Monica Stafford of ONE TAM to make her presentation at the October 15, 2016 Board meeting. The Board a that the General Manager contact the GGNRA to determine if the Park's old septic system has been disconnected and if their new system has been connected yet.

I. COMMITTEE REPORTS

None.

J. CORRESPONDENCE

None.

K. ADJOURNMENT

The meeting was adjourned at 10:36 a.m. The next regular meeting will be on Saturday, September 17, 2016, at 9:30 a.m.

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Stinson Beach County Water District · 3785 Shoreline Highway · P. O. Box 245 · Stinson Beach, CA 94970
Phone: (415) 868-1333 · Fax: (415) 868-9417 · E-mail: sbcwd@stinson-beach-cwd.dst.ca.us

ATTACHMENT 9

ATTACHMENT 9

COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

PROJECT STATUS

April 8, 2016

Craig Nunes
554 View Street
Mountain View, CA 94041

RE: Johnson Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P1162

Dear Craig,

The Planning Division and reviewing agencies have examined your application and have determined that it is incomplete because additional information is required.

Incompleteness Items
Please carefully review the list of required items below and, unless specified otherwise, submit 5 copies of full sized plans, one copy of plans reduced to 11" by 17", and two copies of any required documents within the next 30 days.

Marin County Community Development Agency, Planning Division (Tammy Taylor, (415) 473-7873)

1. In conformance with submittal checklist item 12, please provide a Constraints Map that shows the distances from project site to any hazardous areas and flood zones. A constraints map shall be as close as possible to the same scale as the site plan.

2. In conformance with submittal checklist item 13, please provide a plan north reference on the site and floor plans.

3. In conformance with submittal checklist item 19, please provide a landscape or revegetation plan, which details existing versus proposed vegetation graphically distinguishable by connecting proposed plants and trees, on center, with a solid line leading to the label.

4. In conformance with submittal checklist item 34A, please provide a revised Geotechnical Report that recommends any special precautions required for erosion control, and the prevention of sedimentation or damage to the off-site property.

5. Please revise the plans to reflect the current base flood elevation (BFE) at 26 feet using the North American Vertical Datum (NAVD) of 1988, and in accordance with Marin County Code Title 23.09 for Flood Plain Management.

6. Please provide a graphical representation of the seaward edge of the existing neighboring properties east and west of the project site, including elevations.

7. Please provide a revised site plan with the edge of the terrestrial vegetation defined (based on the data included in the WRA Biological Assessment that was provided), and if no terrestrial vegetation presently exists on the site, please ask WRA to estimate where the edge of the terrestrial vegetation would occur if the predominant ice plant (*Carpobrotus edulis*) was not present.

Marin County Department of Public Works, Land Development Division (Richard Simonitch, (415) 473-4398)

Merit Comments

1. Plans propose inadequate onsite parking and are not approvable as presented. For a single family dwelling four on-site parking spaces are required to be plotted on the site plan which conform to the dimensional requirements of Marin County Code MCC) 24.04.380(a), specifically, exterior head in parking spaces shall be a minimum of 8.5 feet by 18 feet, and interior spaces shall be a minimum of 9 feet by 20 feet (parallel spaces shall be a minimum of 8 feet by 20 feet). Each parking space shall have adequate turnaround area to allow the attainment of the desired direction by a standard car in no more than one movement (MCC 24.04.277). Note that each of the two primary resident parking spaces shall be independently accessible and the two guest parking spaces shall be independently accessible, though the guest spaces may be in tandem with those for the primary residents.

2. Plans show an incorrect base flood elevation, fail to comply with Marin County Code Title 23.09 for Flood Plain Management and as such are not approvable as presented. The property is located within the Special Flood Hazard Area Zone VE, as mapped by FEMA on their current Flood Insurance Rate Map (FIRM) panel number 06041C, which became effective on March 14, 2014. Zone VE is an area subject to flooding by the 1% annual chance flood, where FEMA has determined the base flood elevation (BFE) to be at 26 feet using the North American Vertical Datum (NAVD) of 1988.

Per MCC 23.09.034, new construction or a substantial improvement of a structure shall have the lowest floor elevated above the base flood elevation (BFE), and upon completion of the structure, the elevation of the lowest floor shall be certified by a registered civil engineer or licensed land surveyor. Since the structure is located in a coastal high hazard area the horizontal members of the structure may also influence the finish floor elevation. If the lowest floor's horizontal members are perpendicular to the wave action they shall be elevated above the BFE. If all of the horizontal members are parallel to the wave action only the finish floor elevation is required to be above the BFE.

Per MCC 23.09.039 all new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation. Structures in such flood hazard zones shall not be constructed on fill.

Per MCC 23.09.034(b), (1) all new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage; (2) all new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and (3) all new construction and substantial improvements shall be

constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Provide notes and specifications to this effect on the plan. Refer to FEMA's National Flood Insurance Program's Technical Bulletin 2 for information on acceptable flood proof materials.

Submittal
Please submit all of the requested information together to the Planning Division at one time. The review of your application may be delayed if you submit information directly to the agency that requested the information. The time period required by State law for us to review the additional information will not commence until all of the required items are submitted to our office. If you require additional time to collect the information listed above, please send me a written request for an extension for a specific period of time. It is important to ask for an extension if you need one because your application will automatically expire unless an extension of time is requested and granted.

Appeal Rights
Pursuant to Marin County Code section 22.114.020 and Government Code section 65943, an applicant may appeal a determination that an application is incomplete. If you disagree with this decision regarding the incompleteness of your application, you may appeal it to the Planning Commission. A Petition for Appeal and a $600.00 filing fee must be submitted to the Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 P.M., April 22, 2016.

Preliminary Merit Comments
The proposed project is subject to the policies contained in the Marin Countywide Plan, the Stinson Beach Community Plan, the regulations contained in the Marin County Code, the Marin County Local Coastal Plan Title 22I, and the Single-family Residential Design Guidelines.

There are three potentially serious problems with the project proposal. One is the California Coastal Commission's position on development within a Shoreline Protection and Hazard Area (see attached letter), along with the other concerns that were raised in their letter; in particular referencing that the shorefront lots shall be set back behind the first line of terrestrial vegetation to the maximum extent feasible, per the Marin County Local Coastal Program Unit 1. Second, the Stinson Beach Water District will require a variance approval for the location of the septic system under a separate permit process. Lastly, the project as proposed is substantially inconsistent with the Base Flood Elevation (BFE) may change with FEMA's proposed revisions to the flood zones, and the revised FEMA maps may substantially impact the project design and development review process. Currently, your application shows the Base Flood Elevation at 18 feet, however per the letter from Department of Public Works, the Base Flood Elevation should be shown as 26 feet. Please consider these issues carefully before deciding whether to continue with the planning process. If you opt withdraw your application, we will refund any remaining portions of your fees.

These preliminary comments are not meant to be exhaustive, additional comments may be forthcoming after the revised plans have been reviewed, and the suggestions are advisory in nature.

Questions and Contacts
Please do not hesitate to call me at (415) 473-7873 or contact me via email at ttaylor@marincounty.org as questions arise regarding your application or the development review process. I will return voicemail messages before the end of the next business day.

Please do not visit our office expecting to meet with me without an appointment. If you wish to discuss your application in person, please contact me to schedule a time when we can meet. I will try to schedule an appointment within five business days. If you have questions about comments from another agency, please contact the staff from that agency directly. Thank you.

Sincerely,

Tammy Taylor
Assistant Planner

Attachments:
1. Email from Rich Souza, SBWD dated March 21, 2016
2. Email from Marisa Atamian dated March 22, 2016
3. Email from Carrie Varoquiers dated March 23, 2016
4. Email from Michael Lemont dated March 24, 2016
5. Inter-Office Memorandum from Department of Public Works dated March 25, 2016
6. Letter from CA Coastal Commission dated March 31, 2016
7. Letter from Rich Souza, SBWD dated March 28, 2016

cc: Brian Johnson
P.O. Box 1139
Homewood, CA 96141

From:	Christina Rhoades
To:	Cardoza, Sabrina
Cc:	Elizabeth Brekhus; Jamie Gallagher
Subject:	21 Calle del Onda, Stinson Beach - Appeal of Planning Commission
Date:	Tuesday, October 17, 2023 12:26:32 PM

Dear Sabriina:

On behalf of our clients Marisa Atamian-Sarafian and Dr. Stephen Sarafian, please find attached our letter with Exhibits1 through 8 with regard to the appeal in this matter. Because of its size we have attached the document as a google drive. If you have any questions or concerns please don't hesitate to contact us.

Sincerely,

Christina Rhoades
Legal Assistant
Brekhus Law Partners
1000 Drakes Landing Road
Greenbrae, CA 94904
415/461-1001

Board of Supervisors_Appeal 21 Calle del Onda_1...

ELIZABETH BREKHUS
elizabethb@brekhus.com
www.brekhus.com

Brekhus
Law
Partners

ATTORNEYS AT LAW

1000 DRAKES LANDING ROAD
GREENBRAE, CA 94904-3027
FACSIMILE: (415) 461-7356
(415) 461-1001

October 17, 2023

Sent via Email Only

Marin County Board of Supervisors
Room 329 Civic Center,
3501 Civic Center Drive
San Rafael, CA 94903

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162) Appeal of Planning Commission Approval of Coastal Permit Application

Dear Supervisor Sackett, Supervisor Rice, Supervisor Moulton-Peters, Supervisor Rodoni, and Supervisor Lucan:

I represent Appellants Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who owns property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, CA. Attached for your review is our prior correspondence submitted to the Planning Commission attached in chronological order from the most recent including exhibits:

Exhibit 1: Petition for Appeal dated August 23, 2023;

Exhibit 2: Correspondence dated August 9, 2023;

Exhibit 3: Correspondence dated July 28, 2023

Exhibit 4: Correspondence dated February 8, 2023

Exhibit 5: Correspondence dated November 5, 2021

Exhibit 6: California Coastal Commission – All Comment Letters since February 2023

For your reference, we have highlighted below the most significant errors and/or omissions made by the Planning Commission which merit reversal of their approval of the Applicants Coastal Permit Application.

I. The Planning Commission has failed to follow the Law

As an initial matter, this Appeal should not even be necessary as the permit categorically should have been denied when the Planning Commission voted (3-3 which constitutes a legal

denial) and denied approval of the Subsequent Mitigated Negative Declaration, i.e. CEQA Denial. Without this approval the Coastal Permit cannot be approved. Rather than follow the law, the Planning Commission held additional hearings (with no appeal by the Applicant or any member of the public or any other agency) and ultimately approved both the Subsequent Mitigated Negative Declaration and the Coastal Permit on August 28, 2023. Many of the planners acknowledged during the meetings that the Project was in a flood zone, destroyed ESHA and did not comply with the LCP, but essentially they were approving it because the Application had been around so long. Obviously, the Planning Commission role is to uphold the County and State requirements for the Project which they failed to do as outlined in further detail below.

II. Approval of the Subsequent Mitigated Negative Declaration is Impossible and the Permit must be Denied

A *prerequisite* to approval of the Coastal Permit is approval of the Subsequent Mitigated Negative Declaration. The Planning Commission cannot make the findings for the Subsequent Mitigated Negative Declaration for the following reasons:

- IP §22.70.070 requires the Applicant to show the Project conforms to Marin County Local Coastal Program and there is no dispute that it does not conform.
- The EIR from 2019 is stale and only pertained to the septic system and not the actual residence.
- The wastewater permit issued in 2020 for the septic system expired; Applicant is required to apply again to the Stinson Beach Water District and a new EIR is required as conditions have changed.
- In the January 2023 storm, as noted by Marin County Staff, there was damage to 20 houses in the Calles and 10 houses in Seadrift. In addition, Stinson Beach County Water District found that 6 septic systems failed and all of the septic systems in the Calles were ordered to be shutdown as holding tanks for fear of contamination of ocean and groundwater.
- Applicant and the Planning Commission did not adequately examine impact of flooding on the proposed septic system or potential construction as the site visit was two weeks after flooding (and as noted in the hearing, all but one story pole post had come down during the flooding).
- Since the time of the Application and issuance of the permit in 2020, the Stinson Beach County Water District adopted (Ordinance 2021-01) Title IV Onsite Wastewater Management Code on March 20, 2021. Applicant's new Application for a variance and septic permit must comply with these new regulations and despite County Staff's conjecture that approval is certain, there is no evidence to support that a new permit Application will be granted as the variance violates the current code regulations. Moreover, the Stinson Beach County Water District Onsite Wastewater Management Code requires review by the Executive Office of the California Regional Water Quality Control Board, San Francisco Bay Region

(Code 4.13.110) and the prior approval has no bearing on the current Water District's findings and decision.

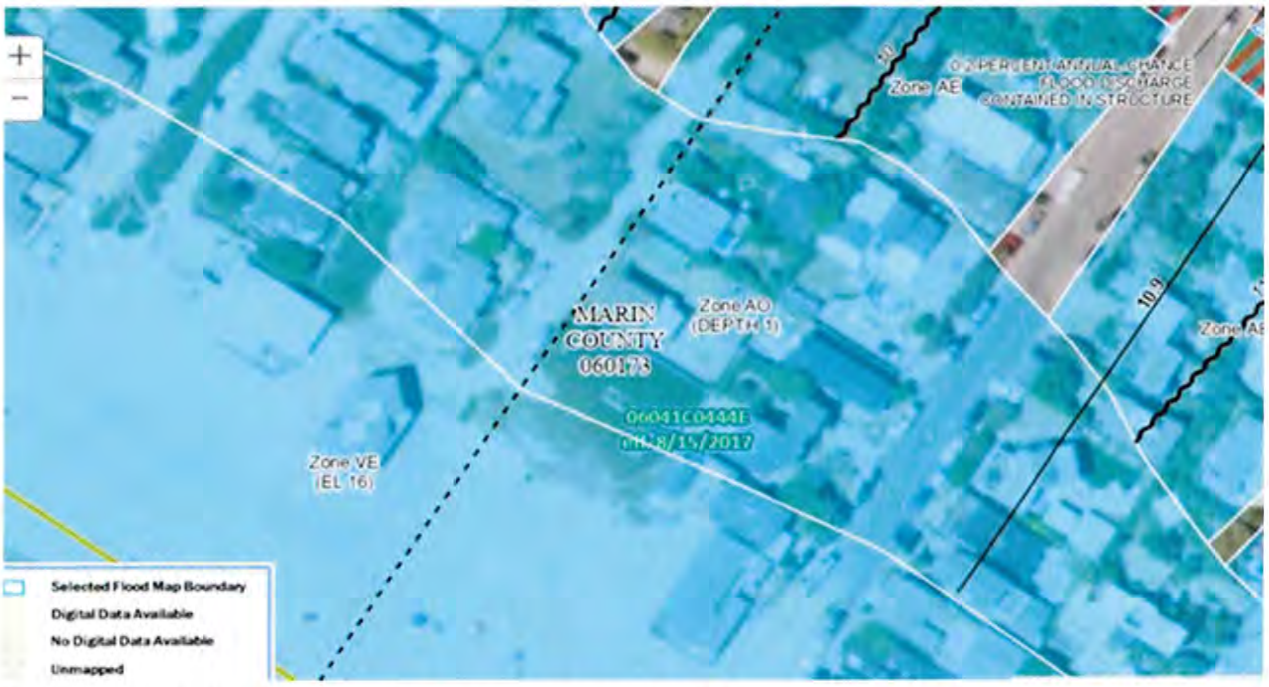
III. Approval of the Project violates the LCP and creates a Dangerous Precedent

The planners also acknowledge that the Project remains in violation of the LCP, which took years to adopt. There are over 1,500 square feet of ESHA, i.e. sand dunes, on the lot, over 1,100 of which will be destroyed. The Planning Commission has not asked the Applicant to provide alternatives where there is no construction within ESHA. While a "Dune Restoration" Plan will be required, the Applicant was not tasked with providing one prior to approval. This will create a dangerous precedent as it is the first development being approved after the LCP was adopted and violates the LCP providing no substance to the law in place. Similarly, the Project is in an AO Flood Zone which remains in a construction moratorium under the LCP. The Planning Commission ignores the moratorium wholesale and relies on anecdotal testimony that the property is not subject to flooding from the Eastkoot Creek despite recent January storms which proved otherwise. Finally, the LCP prohibits shoreline protections devices, such as the retaining wall surrounding the proposed septic system, and Applicant has made no efforts to propose an LCP compliant septic system or residence.

Staff found that over 3,500 square feet of the lot is outside of ESHA and potentially could be mitigated for the flood zones, yet Applicant has not proposed an alternative nor has Applicant submitted a current constraints map. The prior constraints map (p. 12 of the plans resubmitted on June 8, 2021) does not provide a clear depiction of whether the project could be further reduced to be outside the flood zones and without impact to ESHA. At a minimum, the Application should have been denied for Applicant's failure to provide an accurate and current constraints map with development and land use alternatives.

IV. The Project remains in a FEMA Flood Zone

Applicant and Staff ask us to ignore the current FEMA map for the area. Dismissing the FEMA flood zones is especially egregious where the recent January 2023 storm affirmatively proved flooding at the site. Applicant has not made any efforts to propose development outside the flood zones.



V. The Project violates the California Coastal Act

In addition to the LCP violations above which are also in violation of the California Coastal Act, the Project has not undergone a full Geotechnical study to address or mitigate the following risks identified in the initial Geotechnical feasibility study by Murray Engineers Inc. on January 14, 2021, submitted by the Applicant:

(1) Strong to Very Violent Ground Shaking During an Earthquake – ***moderate to high risk;***
(2) Liquefaction-Induced Settlement and Lateral Spreading – ***moderate to high risk;***
(3) Tsunamis and Seiches – ***high inherent risk;***
(4) Waves, Flooding, Beach Erosion, & Sea Level Rise – ***long term potential for waves and flooding to impact the proposed residence and for erosion of the site to occur.***

The Coastal Commission has already commented that the Applicant has failed to provide an adequate hazard assessment for the project site including analysis of risks from coastal sea level rise and flooding from Easkoot Creek, including changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks from both the Easkoot Creek side and the ocean side. The Coastal Commission has already commented that the flood maps / profiles provided by the Applicant were not adequate and a full geotechnical investigation was required. For these reasons, an appeal to the Coastal Commission would certainly result in a denial of the Coastal Permit. The County should not ignore these problems and deficiencies and approve a

project that the Coastal Commission staff has said does not comply with state and local laws and regulations.[1]

VI. Impact on Neighboring Properties will be Devastating

The prior home on this property was 450 square feet, including a deck. Applicant has made no efforts to propose a similar footprint for the project and instead the current application is brand new construction of nearly 1300 square feet of proposed development. The plans not only do not comport with the traditional smaller cottage / cabin type homes that are in the area and specifically previously on this lot, but this larger scale development also puts the neighboring properties at significant risk of damage. The prior cabin was partially destroyed by flood in the 1982 storms before being completely lost to fire in 1983. The vacant lot typically floods during heavy rains which is understandably why it is in a designated flood zone, and as illustrated most recently in the January 2023 storms.

[1] The California Coastal Commission staff letters submitted are also attached hereto as Exhibit 6.

VII. The Planning Commission's Decision was based on a its misplaced concern they had to approve the project or the Applicant could make a Takings Claim.

The Applicant *incorrectly* claimed that denying the application could be construed as a regulatory "taking" of the property owner's development rights and the County's Environmental Review accepted this argument. The County Review makes a conclusory statement regarding a regulatory "taking" with no actual legal analysis and does not address any of the legal elements of a regulatory taking. If the County granted all applications based on this premise, there would be no restrictions on development.

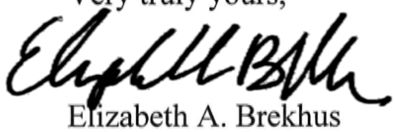
The owners (the Johnsons) have held the property since the 1930s. Their 450 small square foot cabin was damaged by flooding in 1982 and completely destroyed by fire in 1983. The Applicant failed to establish that the denial of the permit "would deny them *all* economically beneficial or productive use of the their land." *Linstrom v. California Coastal Commission* (2019) 40 Cal.App.5th 73, 106. Restricting the owner to only resource dependent use of the lot would not be inconsistent with the use during the last almost forty years as a vacant lot. Attached hereto as **Exhibit 7** is property that is for sale as raw land without development potential in the nearby community of Bolinas. As the Commissioners can see, the inability to build does not eliminate all economic value of the parcel. Parcels without water meters and without the ability to build still appear for sale for $50K to $100K. This amount likely exceeds the value of the parcel in 1983 when the 450 square foot cabin existed.

While we believe that there is no taking, assuming for argument's sake that a taking was possible, limiting the home to 450 square feet would prevent any such finding. Staff's analysis failed to consider and discuss development restrictions such as limiting the size of the home to the prior size that existed. Attached hereto **as Exhibit 8** is comps showing 6 homes selling for over a million dollars that were homes close is size to the original 450 square foot parcel. The Planning Commission erred in its conclusion that it had to approve a home at this size to avoid a taking.

CONCLUSION

Substantial issues have been raised which show that the Project does not meet County standards, there has not been an adequate Environmental Review thus the Subsequent Negative Mitigated Declaration should not have been approved, the burden has not been met to override the LCP, nor has a Constitutional taking been shown. Accordingly, we respectfully request that the Appeal be granted.

Very truly yours,



Elizabeth A. Brekhus

cc: Sabrina Cardoza

EXHIBIT 1

Appeal of Planning Commission Approval of Coastal Permit Application

EXHIBIT 1

Appeal of Planning Commission Approval of Coastal Permit Application

COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

PETITION FOR APPEAL

TO: THE MARIN COUNTY Board of Supervisors
3501 Civic Center Drive ***(Planning Commission or Board of Supervisors)***
San Rafael, CA 94903-4157

1. The undersigned, E. Brekhus for Sarafian; J.Siedman for R.Friedman*, hereby files an appeal
*(Appellant/Petitioner) * see Addendum 1 attached for signature*

of the decision issued by the Planning Commission on 8/14/2023 and 8/28/2023
(Director, or Deputy Zoning Administrator, or Planning Commission)

regarding the Project ID P3049

relating to property described and located as follows:

a) Assessor's Parcel Number 1 95-162-49

b) Street Address 21 Onda Del Calle, Stinson Beach

2. The basis of this appeal is:

See Attachment "A"

(The pertinent facts and the basis for the appeal shall be provided to the Agency at the time the appeal is filed, but no later than the last date established for the appeal period – usually 10 days following the date of the decision. If more space is needed, please attach additional pages setting forth the bases for appeal.)

Attorney for Stephen & Marisa Sarafian

FROM Elizabeth Brekhus *(Print Name)* — *(Signature)*

1000 Drakes Landing Road *(Address)* — (415) 461-1001 *(Telephone)*

Greenbrae, CA *(City/State/Zip Code)* — elizabethb@brekhus.com *(Email)*

Addendum 1

COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

PETITION FOR APPEAL

TO: **THE MARIN COUNTY** Board of Supervisor
3501 Civic Center Drive *(Planning Commission or Board of Supervisors)*
San Rafael, CA 94903-4157

1. The undersigned, JACK SIEDMAN, ON BEHALF OF ROBERT FRIEDMAN, hereby files an appeal
(Appellant/Petitioner)

of the decision issued by the _____
(Director, or Deputy Zoning Administrator, or Planning Commission)

regarding the _____

relating to property described and located as follows:

a) Assessor's Parcel Number _____

b) Street Address _____

2. The basis of this appeal is:
See Attached.

(The pertinent facts and the basis for the appeal shall be provided to the Agency at the time the appeal is filed, but no later than the last date established for the appeal period – usually 10 days following the date of the decision. If more space is needed, please attach additional pages setting forth the bases for appeal.)

FROM JACK SIEDMAN, ATTORNEY FOR ROBERT FRIEDMAN
(Print Name)

Jack Sied
(Signature)

P O BOX 37
(Address)

(415) 868-0997
(Telephone)

BOLINAS, CA 94924
(City/State/Zip Code)

JSIEDMAN@YAHOO.COM
(Email)

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

A. **AO Flood Zone Moratorium**

The development is proposed in an AO Zone which remains in a construction moratorium per the July 28, 2015 Notice of Land Use Regulations from the County of Marin Community Development Agency Planning Division. The most recent FEMA flood map for the area that a large portion of the property is in the AO zone (06041C044E effective 8/15/2017). Any portion of the construction, including a septic system, which would occur in the AO Zone is strictly prohibited by the Local Coastal Program Unit 1, Policy IV-30 as well as County Code Section 22.56130I(L)(2).

B. **FEMA VE Floodplain Base Flood Elevation**

The development identifies Base Flood Elevation (BFE) of 18'2" (p.6) which is incorrect and does not comply with Marin County Code Title 23.09 requirements. The lowest floor must be elevated at least one foot above the Base Flood Elevation per California Residential Code § R322.2.1(1) or the design flood elevation, whichever is higher. Per California Residential Code § R322.2.1(2), in areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet on the FIRM plus 1 foot, or not less than 3 feet if a depth number is not specified. Moreover, current Marin County policy is to require the lowest floor to be three feet above the base flood elevation. The proposed development does not comply with these standards.

C. **California Coastal Act**

The project plans violate California Coastal Act Section 30253 for new development which requires development to: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard and (b) Assure stability and structure integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter nature landforms along bluffs and cliffs.

There is a documented history of prior flooding at this location, most recently in January 2023 and the development poses a risk to other properties and the public.

Moreover, the initial Geotechnical feasibility study by Murray Engineers Inc. on January 14, 2021, submitted by the applicant, raises the following significant geotechnical

constraints which would remain at a level of moderate to high risk even with mitigation measures taken during construction:

(1) Strong to Very Violent Ground Shaking During an Earthquake – ***moderate to high risk;***
(2) Liquefaction-Induced Settlement and Lateral Spreading – ***moderate to high risk;***
(3) Tsunamis and Seiches – ***high inherent risk;***
(4) Waves, Flooding, Beach Erosion, & Sea Level Rise – ***long term potential for waves and flooding to impact the proposed residence and for erosion of the site to occur.***

The application should have been denied based on the fact that the risks identified have not been addressed or mitigated.

D. **Sea Level Rise Hazards**

The applicant has failed to provide an adequate hazard assessment for the project site including analysis of risks from coastal sea level rise and flooding from Easkoot Creek, including changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks from both the Easkoot Creek side and the ocean side. The Coastal Commission has already commented that the flood maps / profiles provided by the applicant were not adequate and a full geotechnical investigation was required.

E. **Dune and Sandy Habitat Protection**

The current plans are in violation of the Marin Local Coastal Program (LCP) as it shows construction on dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The Constraints Map (p. 12 of the plans submitted on June 8, 2021) submitted by the applicant fails to adequately identify the extent of ESHA on the property or identify adequate buffers and mitigation measures to protect the ESHA consistent with the LCP. The applicant's consultant, WRA, issued a report stating that the property consists roughly of ".2 acre of sand beach/dune, and 0.16 acre of iceplant mats....The Marin Local Program designates beaches as an environmental sensitive habitat area (ESHA)." The Coastal Commission has specifically reviewed and commented on the WRA study and concluded that the proposed development is located within ESHA. The Planning Commission decision ignores these findings and violates the LCP in approving development that would impact dunes in ESHA.

F. **Shoreline Protection**

The Marin LCP, in addition to the California Coastal Act, prohibits shoreline protection devices for new development. The plans include large concrete retaining walls and Murray Engineering initial geotechnical study finds that the home will likely require rammed piers to reduce the potential for liquefaction-induced ground failure to protect the home and septic system. Both the concrete walls and the deep piers are in violation of the LCP and the Coastal Act, and accordingly the permit application cannot be approved.

G. Impact on Neighboring Properties

The prior home on this property was 450 square feet. The current application is brand new construction of nearly 1300 square feet of proposed development. The plans not only do not comport with the traditional smaller cottage / cabin type homes that are in the area and specifically previously on this lot, but this larger scale development also puts the neighboring properties at significant risk of damage. The prior cabin was partially destroyed by flood in the 1982 storms before being completely lost to fire in 1983. The vacant lot typically floods during heavy rains which is understandably why it is in a designated flood zone. Moreover, the CEQA initial study was done only with respect to the septic system in the Eastkoot Flood Plain and does not take into account the shoreline hazards. In addition to the potential septic failure, the combination of the Eastkoot Creek flood plain with the Coastal Flooding dangers creates danger that flooding would wash the development into and destroy existing homes and compromise the safety of residents and members of the general public.

H. **Denying the Permit Does Not Result in a Constitutional Takings**

First, there has been no showing of any substantial investment commensurate with reasonable investment-backed expectations for the site. *McAllister v. California Coastal Commission* (2008) 169 Cal.App. 4th 912, 940. Prior to the original submission by applicant in 2016 of the proposed development, the owners received the July 28, 2015, Notice that development was strictly prohibited in the AO floodplain which further confirms that the owners have been fully aware that re-development of their lot was prohibited. Any expense they have spent was not in reliance on the right to develop.

Second, there has been no physical invasion of the property by the government, nor has the applicant established that the denial of the permit "would deny them *all* economically beneficial or productive use of their land. *Linstrom v. California Coastal Commission* (2019) 40 Cal.App.5th 73, 106. Restricting the owner to only resource dependent use of the lot would not be inconsistent with the use during the last almost forty years.

I. The Project was approved without an Approved Septic System

The applicant applied for a septic system permit and variance, but the permit expired. Despite this, the County Planning Commission approved the project without a valid septic system. IP §22.70.070 requires the applicant to show the project conforms to Marin County Local Coastal Program. §22.64.160(A) provide an application utilizing a private sewage disposal system should only be approved if the system is approved by the environmental health service division of the community development agency or other authorities and complies with all requirements for individual septic disposal system by the regional water quality control board. Because the septic system is not approved the required finding cannot be made. The septic system is integral to the project, the Mitigated Negative Declaration, and the takings analysis.

J. The Planning Commission Denied the Project at the hearing on July 31, 2023, and did not have authority to reconsider or approve the project on August 14, 2023, or approve the project piecemeal and revisit the project on August 28, 2023.

The project could not be reconsidered after the Planning Commission denied it on July 31, 2023. The piecemeal consideration of the project on August 14, 2023, and August 28, 2023, violates the denial and the procedures for project approval adopted by Marin County and State Law.

K. Project did not comply with CEQA

Planning Commission did not require a full CEQA review of the project, instead relying on the mitigated negative declaration done by the Stinson Beach Water and Sewer District for the septic system, which review was old and stale and for an expired permit. The Commission should have required a full CEQA review given the project location on the environmentally sensitive beach and dunes.

EXHIBIT 2

Appeal of Planning Commission Approval of Coastal Permit Application

EXHIBIT 2

Appeal of Planning Commission Approval of Coastal Permit Application

ELIZABETH BREKHUS
elizabethb@brekhus.com
www.brekhus.com

Brekhus
Law
Partners

ATTORNEYS AT LAW

1000 DRAKES LANDING ROAD
GREENBRAE, CA 94904-3027
FACSIMILE: (415) 461-7356
(415) 461-1001

August 9, 2023

Sent via Email Only

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planning Commissioners,

I am attaching my three prior letters because one was previously not posted although it was submitted and two prior letters were buried in a large report.

The dates of the correspondence are as follows:

1. November 5, 2021
2. February 8, 2023
3. July 28, 2023

I am also attaching the constraints map which the applicant omitted with the plans submitted with this recent application. As commissioners commented, where the environmental constraints are and where a building could be constructed without being in these "no building zones" was not clear and we continue to believe it is not clear from the applicant's constraints map which is vague and ambiguous as to what it is attempting to show.

We also note the applicant's hired consultant "CivicKnit" opines, without evidence, that the environmental sensitivity of the site (in terms of sand dunes and plant or wildlife habitat) is in question due to human activity but this argument was not supported by any facts to support the statement. This claim is on the constraints map and staff has echoed this statement as if it is fact. Our earlier criticism of this statement raised in out November 2021 letter is here:

The current plans are in violation of the newly activated Marin Local Coastal Program (LCP) as well as the Marin County LCP Land Use Plan (LUP) and Implementation Plan (IP) as it shows construction on sandy beach / dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The Constraints Map (p. 12 of the plans submitted on June 8, 2021) submitted by the applicant fails to adequately identify the extent of ESHA on the property or identify adequate buffers and mitigation measures to protect the ESHA consistent with the LCP even though specifically requested by the planning

department. The applicant had merely dismissed the issue out of hand by stating that based on the biological study commissioned in 2019 conducted by WRA with respect to the septic system, the site does not contain "dunes" and that there is no sensitive habitat due to ongoing human activity. These sweeping conclusions are not entirely consistent with the WRA study which specifically found that the property consists roughly of ".2 acre of sand beach/dune, and 0.16 acre of iceplant mats....The Marin Local Program designates beaches as an environmental sensitive habitat area (ESHA)." The plan also reflects over 4,000 square feet of grading of sandy beach / dune area plus over 6,400 of grading in iceplant areas without specifying if the iceplants are in beach or dune areas.

Finally, staff said that the prior structure was 540 square feet. But the only evidence of the size of the prior structure was submitted by our office which shows a 450 square foot structure including a deck. Please see accessor's record attached.

Very truly yours,

Elizabeth A. Brekhus

Attachments:
November 5, 2021 letter from Brekhus
February 8, 2023 letter from Brekhus
July 28, 2023 letter from Brekhus
Constraints Map
Assessor's Record

ELIZABETH BREKHUS
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November 5, 2021

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planners:

I represent Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who own property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, CA. While the current application for a coastal permit was submitted on February 16, 2021, the applicant had previously submitted an application which was not approved. The application, while referring to "Reconstruction" of a home is in fact for New Construction of a development that is nearly 9 times as large as the original cabin on this lot. While the applicant has made some minor changes to the prior application, the serious issues raised by the Planning Department as well as the Coastal Commission have not been adequately remedied and the application should be denied as discussed in further detail below. We also note that the project requires CEQA review and the County cannot approve the project absent said review.

Objections to Pending Application for Coastal Permit

A. <u>AO Flood Zone Moratorium</u>

The property is in an AO Zone which remains in a construction moratorium per the July 28, 2015 Notice of Land Use Regulations from the County of Marin Community Development Agency Planning Division. The most recent FEMA flood map for the area that a large portion of the property is in the AO zone (06041C044E effective 8/15/2017). Applicant concedes that the property is in an AO flood zone (as well as a VE flood zone). Any portion of the construction, including a septic system, which would occur in the AO Zone is strictly prohibited by the Local Coastal Program Unit 1, Policy IV-30 as well as County Code Section 22.56130I(L)(2). Applicant's revised plans show the entire septic system, garage, and driveway as well as a portion of a concrete slab all within the AO Flood Zone. In addition, the LCP has prohibited development in the Easkoot Creek

floodplain since 1980, and current amendments do not eliminate that prohibition. See Attachment 14.

B. FEMA VE Floodplain Base Flood Elevation

The re-submitted plans continue to show a minimum Base Flood Elevation (BFE) of 18'2" (p.6) which is incorrect and does not comply with Marin County Code Title 23.09 requirements. Moreover, applicant asserts that the lowest structural member will be placed at 19'1" which is in violation of FEMA and County guidelines as this is the current Base Flood Elevation for a property located within the Special Flood Hazard Zone VE as mapped by FEMA on their current Flood Insurance Rate Map (as of 8/15/2017). The lowest floor must be elevated at least one foot above the Base Flood Elevation per California Residential Code § R322.2.1(1) or the design flood elevation, whichever is higher. Applicant does not address the design flood elevation. Per California Residential Code § R322.2.1(2), in areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet on the FIRM plus 1 foot, or not less than 3 feet if a depth number is not specified. Moreover, current Marin County policy is to require the lowest floor to be three feet above the base flood elevation.

C. California Coastal Act

The new plans continue to violate California Coastal Act Section 30253 for new development: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard and (b) Assure stability and structure integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter nature landforms along bluffs and cliffs. (See Attachments 1-5, and 14.)

Not only is the property located in a FEMA flood zone, but there is also documented history of prior flooding at this location. Moreover, the initial Geotechnical feasibility study by Murray Engineers Inc. on January 14, 2021, submitted by the applicant, raises the following significant geotechnical constraints which would remain at a level of moderate to high risk even with mitigation measures taken during construction:

1. Strong to Very Violent Ground Shaking During an Earthquake – ***moderate to high risk;*** despite this finding by applicant's own retained expert, Kinsey's cover letter dismisses the risk altogether.
2. Liquefaction-Induced Settlement and Lateral Spreading – ***moderate to high risk;*** Kinsey's cover letter acknowledges this risk and the Murray Engineers

recommendation for rammed piers which are in violation of the LCP and the Coastal Act.

3. Tsunamis and Seiches – ***high inherent risk;*** applicant does not address this risk despite his expert's study.
4. Waves, Flooding, Beach Erosion, & Sea Level Rise – ***long term potential for waves and flooding to impact the proposed residence and for erosion of the site to occur.*** Murray Engineers defers to others on this issue, however these issues are discussed separately below as the R.M. Noble & Associates May 13, 2021 letter fails to address the geotechnical findings or issues.

D. <u>Sea Level Rise Hazards</u>

The Murray Engineers Inc. initial study has not been peer reviewed and in any event, recommends that a full geotechnical investigation be conducted before the County considers the permit application.

The applicant has failed to provide an adequate hazard assessment for the project site including analysis of risks from coastal sea level rise and flooding from Easkoot Creek. As discussed above, even the applicant's own study by Murray Engineering Inc. acknowledges the high risk of these events and that a full geotechnical investigation is needed to analyze changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks from both the Easkoot Creek side and the ocean side. The updated May 13, 2021 letter from R.M. Noble & Associates merely relies on the 2014 O'Connor study for the conclusion there is no potential flooding from the Eastkoot Creek side of the property with no reference to the Murray initial geotechnical study. The Coastal Commission has already commented that the flood maps / profiles provided by the applicant were not adequate and a full geotechnical investigation was required. The application references the 2018 Sea Level rise analysis and acknowledged the increase risk of storm wave runup, but then concluding there is no flood risk until 2050 without sufficient evidence to support this conclusion.

The risk to Stinson Beach is so significant that the County recently evaluated sea rise levels, severe risk of flooding and erosion. The purpose of the study was to create a nature-based defense plan specific to Stinson Beach. A more recent 2019 study from the U.S. Geological Survey, relied upon by the County, finds that the predicted damage from sea level rise in California *triples* once tides, storms and erosion are taken into account. [Marin Sea Level Rise - County of Marin (marincounty.org)]

For Stinson Beach lots like 21 Calle del Onda, which are along the seashore *and* along the Eastkoot river, the flood risk is further multiplied. The applicant and his technical experts do not address the 2019 U.S. Geological Survey. Stinson Beach has

also been identified by the California Coastal Commission as particularly at risk of sea level rise and coastal flooding. (See Attachment 6.) Applicant's technical reports should at a minimum be peer reviewed but due to the various discrepancies with agency findings, additional studies may be required.

E. Dune and Sandy Habitat Protection

The current plans are in violation of the newly activated Marin Local Coastal Program (LCP) as well as the Marin County LCP Land Use Plan (LUP) and Implementation Plan (IP) as it shows construction on sandy beach / dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The Constraints Map (p. 12 of the plans submitted on June 8, 2021) submitted by the applicant fails to adequately identify the extent of ESHA on the property or identify adequate buffers and mitigation measures to protect the ESHA consistent with the LCP even though specifically requested by the planning department. The applicant had merely dismissed the issue out of hand by stating that based on the biological study commissioned in 2019 conducted by WRA with respect to the septic system, the site does not contain "dunes" and that there is no sensitive habitat due to ongoing human activity. These sweeping conclusions are not entirely consistent with the WRA study which specifically found that the property consists roughly of ".2 acre of sand beach/dune, and 0.16 acre of iceplant mats....The Marin Local Program designates beaches as an environmental sensitive habitat area (ESHA)." The plan also reflects over 4,000 square feet of grading of sandy beach / dune area plus over 6,400 of grading in iceplant areas without specifying if the iceplants are in beach or dune areas.

More importantly, the Coastal Commission has specifically reviewed and commented on the WRA study and concluded that the proposed development is located within ESHA. Applicant's permit cannot be approved as the application continues to ignore ESHA and fails to provide the requested Constraints Map to adequately identify the extent of ESHA on the property and recommend adequate buffers and mitigation measures to protect ESHA consistent with LCP requirements as required by the County and the California Coastal Commission.

Plaintiff's Environmental Impact Draft Initial Study (updated in December 2019) only takes into account the septic system and not the entire proposed residence. The County needs to perform CEQA review for this project and has not adequately addressed the ESHA. Moreover, that study also only anticipated a residence which was less than 1,400 square feet, however, the current plans indicate a residence of 1,563 square foot with the total coverage of the project (garage, decks, stairs, concrete slabs, paving, etc.) at over 3,300 square feet. Again, the WRA study was an initial study only related to the septic system, has not been peer reviewed, and is at direct odds with the LCP and

California Coastal Commission's definition of ESHA. Further technical analysis of this issue is required and this preliminary septic system study cannot be relied upon for the entire project. C-BIO-2(4) provides as follows:

> Development proposals within or adjacent to ESHA will be reviewed subject to a biological site assessment prepared by a qualified biologist hired by the County and paid for by the applicant. The purpose of the biological site assessment is to confirm the extent of the ESHA, document any site constraints and the presence of other sensitive biological resources, recommend buffers, development timing, mitigation measures including precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource.

This requirement has not been met with respect to the entire proposed development and a further study of the impact on ESHA is necessary before the application can be considered. While in Applicant's most recent 10/2/2021 response, there is finally acknowledged that the sandy beach on the property is ESHA, applicant continues to deny the existence of dunes, even though referenced in the prior study, and while simultaneously admitting they do not know the definition of "dune". An obvious omission as C-BIO-7 prohibits development in coastal dunes. In any event, applicant also concedes that the proposed development will eliminate a portion of the sandy beach. Moreover, C-BIO-9 prohibits development that would adversely impact the natural sand dune formation and certain sandy beach habitats.

F. Shoreline Protection

The Marin LCP, in addition to the California Coastal Act, prohibits shoreline protection devices for new development. The revised plans continue to include large concrete retaining walls and concedes that the Murray Engineering initial geotechnical study finds that the home will likely require rammed piers to reduce the potential for liquefaction-induced ground failure to protect the home and septic system. Both the concrete walls and the deep piers are in violation of the LCP and the Coastal Act, and accordingly the permit application cannot be approved.

G. Impact on Neighboring Properties

The prior home on this property was less than 450 square feet (see Attachment 13). The current application is brand new construction of over 3,300 square feet of proposed development, and the Noble report still refers to the home as approximately 2,400 square feet. The plans not only do not comport with the traditional smaller cottage

cabin type homes that are in the area and specifically previously on this lot, this larger scale development puts the neighboring properties at significant risk of damage. The prior cabin was partially destroyed by flood in the 1982 storms before being completely lost to fire in 1983. The vacant lot typically floods during heavy rains which is understandably why it is in a designated flood zone. The first concern is failure of the septic system as the variance and permit is within the flood zone and requires that the entire development be under 1,400 square feet while this development exceeds 3,300 square feet which creates a significant risk of failure of the septic tank which would create a hazardous condition to the health and safety of the residents and the Eastkoot Creek itself in violation of CEQA. Moreover, the CEQA initial study was done only with respect to the septic system in the Eastkoot Flood Plain and does not take into account the shoreline hazards. In addition to the potential septic failure, the combination of the Eastkoot Creek flood plain with the Coastal Flooding dangers creates danger that flooding would wash the development into and destroy existing homes and compromise the safety of residents and members of the general public. (See Attachments 11 and 12 regarding historical flooding events.) At a minimum a full Environmental Impact Report should be required.

H. <u>Denying the Permit Does Not Result in a Constitutional Takings</u>

Applicant raises for the first time that a Takings Analysis is required to evaluate the permit application. In reference to a prior permit of the Hjorth Residence granted in 2016, Mr. Kinsey's cover letter on behalf of the applicant incorrectly asserts that "a strict application of the LCP development policies could result in a regulatory taking".

First, there is an issue of standing as the permit application is being advanced and funded by a potential buyer, Craig Nunes, and not the actual owner. (See Attachments 9 and 10.) Attached for your reference are minutes from two hearings before the Stinson Beach Water District in 2016 reflecting that Craig Nunes, who does not own the property, is the actual applicant. (See Attachments 7 and 8). The owners (the Johnsons) have held the property since their 450 small square foot cabin was damaged by flooding in 1982 and completely destroyed by fire in 1983. The lot was listed on MLS as "vacant land". Obviously both the owners and the potential buyer are well aware of the development restrictions and the proposed permit application is not reasonable. Moreover, there has been no showing of any substantial investment commensurate with reasonable investment-backed expectations for the site. *McAllister v. California Coastal Commission* (2008) 169 Cal.App. 4th 912, 940.

Second, there has been no physical invasion of the property by the government, nor has the applicant established that the denial of the permit "would deny them *all* economically beneficial or productive use of their land. *Linstrom v. California Coastal Commission* (2019) 40 Cal.App.5th 73, 106. Restricting the owner to only resource dependent use of the lot would not be inconsistent with the use during the last almost

forty years and the potential buyer who is actually trying to develop the lot has no standing to assert a takings challenge. The actual owner has not illustrated that he could not sell the property for the same price without development, such as to Open Space District, or other agencies, or private non-profit organizations which would maintain the property as resource dependent.

Finally, the Marin County Planning Commission as well as the California Coastal Commission, specifically found, when considering the Hjorth project proposal, that the granting of the Hjorth permit and the takings analysis was specific to that lot and does not create precedent or allow for redevelopment of previously developed lots in the floodplain. Applicant's reference to the Hjorth project should therefore be disregarded.

The Hjorth application should not be considered as it is not precedent, but nonetheless the Hjorth project is significantly different than the subject application. First, Hjorth purchased the property without knowing it could not be developed. The Board of Supervisors found that no amount of due diligence could have informed the property owner. They also found that the Hjorth's paid fair market value and their investment-backed expectations, based upon the information known at the time of purchase, were that the property could be developed.

In contrast with the current applicant, the current owners have held the property since the 1930s. The LCP has prohibited development in the Easkoot Creek floodplain since 1980. The home on the subject property was destroyed by fire around 1983 and there has been no development on that lot since that time reflecting that the owners were aware of the prohibition on development in the floodplain. Prior to the original submission by applicant in 2016 of the originally proposed development, the owners received the July 28, 2015, Notice that development was strictly prohibited in the AO floodplain, which further confirms that the owners have been fully aware that re-development of their lot was prohibited.

Perhaps the most significant difference between the current application and the Hjorth project is that the Hjorth property constituted infill residential development that would not adversely impact coastal resources. The Hjorth property was inland, not adjacent to the shoreline, and there are no natural dunes on the property. In stark contrast, the development of 21 Calle Onda would impact coastal resources, interfere with dune and sandy beach habitat protection, and impact flood hazards as discussed in detail above.

Conclusion

The applicant it attempting to circumvent FEMA, CEQA, the California Coastal Act, and the LCP, by proposing development which is inconsistent and could cause damage to the shoreline and neighboring homes without having conducted a full Environmental Impact Report or a full Geotechnical Investigation. As reflected in the attached e-mail and comment letters

from the Coastal Commission, the current application continues to fail to adequately address the various issues and conditions raised by the Coastal Commission. The Coastal Commission has provided substantial evidence regarding the presence of ESHA, sea level rise hazards and failure of adequate shoreline protection. The applicant's continued failure to adequately address these issues and conditions provides yet another ground to deny the permit application. *Martin v. California Coastal Commission* (2021) WL3021356. The denial of the permit would not be considered a taking as (1) the potential buyer applicant has no standing to assert a takings challenge and (2) there are potentially other resource dependent uses which could occur on the property within these guidelines. For the foregoing reasons the application should be denied.

Very truly yours,

Elizabeth A. Brekhus

Attachments:

1. July 1, 2021 e-mail from Sara Pfeiffer of California Coastal Commission to Sabrina Cardoza;
2. California Coastal Commission letter dated March 16, 2021;
3. California Coastal Commission letter dated June 30, 2016;
4. California Coastal Commission letter dated March 31, 2016;
5. February 2, 2021 e-mail from Jeanine Manna of California Coastal Commission to Sabrina Cardoza to Michelle Levinson;
6. June 26, 2021, Coastal Risks Stinson Beach Publication;
7. September 17, 2016 Stinson Beach Water District Minutes reflecting Applicant is Craig Nunes;
8. August 20, 2016 Stinson Beach Water District Minutes reflecting Applicant is Craig Nunes;
9. April 8, 2016 Project Status letter to Craig Nunes from Tammy Taylor of Planning Division;
10. 2016 Building Plans reflecting Craig Nunes as Owner of 21 Calle del Onda;
11. Stinson Beach Historical Society Storm of 1978 Description;
12. Stinson Beach Historical Society Storm of 1983 Description;
13. Blueprint of original 400 sq. ft. cabin at 21 Calle del Onda;
14. California Coastal Commission letter dated August 5, 2021.

Cc (via e-mail):

Clients

Jack Siedman

Sabrina Cardoza

ATTACHMENT 1

ATTACHMENT 1

Subject: P3049 (21 Calle del Onda, Stinson Beach)

Pfeifer, Sara@Coastal <Sara.Pfeifer@coastal.ca.gov>
To Cardoza, Sabrina; Roeing, Stephanie@Coastal; Steve Kinsey

You are viewing an attached message. Compass Mail can't verify the authenticity of attached messages.

Good afternoon Sabrina,

Thank you for providing us with the opportunity to submit comments on the proposed project for a new single-family residence at 21 Calle del Onda in Stinson Beach. The comments provided in our March 16, 2021 letter continue to reflect our concerns about the project's consistency with the Marin County LCP (see attached). Additionally, the 2021 comment letter suggests measures to ensure the project's consistency with the LCP that remain relevant to the Applicant's recently resubmittal materials (i.e., those dated June, 2021). Similarly, the overarching themes described in our March and June 2016 comment letters (attached), including as related to access, habitat protections, and coastal hazards, remain relevant with respect to project elements that do not adequately address these concerns.

Please feel free to contact me with any questions you may have regarding our feedback.

Thank you,

Sara Pfeifer | Coastal Planner
CALIFORNIA COASTAL COMMISSION
North Central Coast District Office
(415) 904-5255 | sara.pfeifer@coastal.ca.gov

3 Attachments

ATTACHMENT 2

ATTACHMENT 2

STATE OF CALIFORNIA — NATURAL RESOURCES AGENCY GAVIN NEWSOM, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
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WEB: WWW.COASTAL.CA.GOV

March 16, 2021

County of Marin
Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

RE: Comments on Interagency Referral for Brian Johnson Coastal Permit (P3049) - formerly Johnson (P1162) in Stinson Beach, CA

Dear Sabrina Cordoza,

Thank you for your request for comments regarding the Brian Johnson Coastal Permit (P3049) (formerly Johnson (P1162)) in Stinson Beach. The applicant is requesting a Coastal Permit to construct a new 1,488-square-foot single-family residence, a 288-square-foot garage, driveway, decks, patio, septic system, and landscaping improvements, located at 21 Calle del Onda, in Stinson Beach (APN: 195-162-49). The proposed residence would reach a height of 24 feet 5 inches above grade and would meet the minimum side, front, and rear LCP setback requirements. The project referral materials indicate that the lot was previously developed with a house, which was destroyed by a fire. After an initial review of this proposal, Commission staff would like to provide the following comments regarding sufficiency of information needed to make a recommendation on this proposal and its potential impact on coastal resources.

Dune and Sandy Beach Habitat Protection

The Marin LCP states that development on shorefront lots in Stinson Beach shall preserve the natural sand dune formations in order to protect environmentally sensitive habitat and maintain the natural protection from wave run-up. In addition, where no dunes are evident, the LCP requires development on shorefront lots be set back behind the first line of terrestrial vegetation to the maximum extent feasible, in order to protect sandy beach habitat and the public right of access to the use dry sand areas, and minimize the need for shoreline protection. Thus, development on shorefront lots must be adequately setback to protect both environmentally sensitive habitat areas and public access, and minimize the need for shoreline protection.

The 2019 biological evaluation conducted for the project by the Applicant's consultant, WRA, indicates the presence of both sandy beach and dunes on the subject property. The biological evaluation further concludes that there would be no impacts to such habitat areas as a result of the proposed development due to previous development on the subject property as well as exiting use of the area by pedestrians and dog walkers. As stated above, the Marin County LCP considers dunes as environmentally sensitive habitat areas (ESHA) and as such, development is prohibited in these areas other than resource dependent uses. In addition, the LCP requires that development be

adequately setback from ESHA to prevent impacts which would significantly degrade ESHAs and shall be compatible with the continuance of the ESHAs.

It appears that a portion the proposed development would be located within ESHA and related ESHA buffers, inconsistent with the LCP. Further, the extent of dune habitat/ESHA on the property appears to extend further inland than what is depicted in the environmental assessment. As such, we are having our Coastal Commission technical staff review the 2019 WRA report and may have further comments on this matter. We will note that the Commission has, and in this case, would consider any dune habitat ESHA regardless of its condition. Any development proposed at the project site must adequately identify the extent of ESHA on the property and recommend adequate buffers and mitigation measures to protect ESHA consistent with LCP requirements.

Sea Level Rise Hazards and Shoreline Protection

The Marin LCP states that development on all lots in the Calles neighborhood of Stinson Beach must be supported by analysis of the potential hazards present on the site. Given the project's location, Commission staff recommends that a hazard assessment for the project site include analysis of the risks from coastal sea level rise and flooding from Easkoot Creek. Although a limited preliminary geotechnical investigation was conducted in January 2021 and included a short section on sea level rise impacts, a full geotechnical investigation will have to be completed before project details are finalized.

Specifically, the analysis shall consider changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks to the site that may occur from both Easkoot Creek, as applicable, and ocean side of the site over the expected economic life of the development, assuming a 100-year storm event occurring during high tide and under a range of sea level rise conditions, including at a minimum the medium-high risk aversion scenario from the 2018 Ocean Protection Council State Sea-Level Rise Guidance . At a minimum, the submitted report shall provide: (1) maps/profiles of the project site that show long-term erosion, assuming an increase in erosion from sea level rise, (2) maps/profiles that show changes to the intertidal zone and the elevation and inland extent of flooding for the conditions noted above, (3) maps/profiles that identify a safe building envelope on the site or safe building elevation if no safe envelope is available, taking a range of sea level rise scenarios into account, (4) discussion of the study and assumptions used in the analysis, and (5) an analysis of the adequacy of the proposed building/foundation, design of the septic system, and potential impacts to road access to the site relative to expected sea level rise for the expected economic life of the development.

In addition, the Marin LCP prohibits shoreline protective devices, including revetments, seawalls, groins and other such construction that would alter natural shoreline

processes for new development. The proposed project appears to include large concrete retaining walls and deep piers to protect both the home and septic system, which would alter natural shoreline processes inconsistent with Marin LCP requirements. Thus, the project must be redesigned, including by increasing setbacks and removing hard armoring structures, to minimize risks to life and property in a manner that does not require shoreline protective devices over the life of the development.

Given the sea level rise hazards described above, and the additional seismic and liquification hazards described in the geotechnical investigation, development approval for the proposed project should be modified consistent with the requirements and specifications to address concerns outlined above and should be accompanied by the following permit conditions:

1. **Coastal Hazards.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that:

    a. **Coastal Hazards.** This site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, wave overtopping, coastal flooding, and their interaction, all of which may be exacerbated by sea level rise.

    b. **Permit Intent.** The intent of this CDP is to allow for the approved project to be constructed and used consistently with the terms and conditions of this CDP for only as long as the development remains safe for occupancy, use, and access, without additional substantive measures beyond ordinary repair or maintenance to protect the development from coastal hazards.

    c. **No Future Shoreline Armoring.** No shoreline armoring, including but not limited to additional or augmented piers or retaining walls, shall be constructed to protect the development approved pursuant to this CDP, including, but not limited to, residential buildings or other development associated with this CDP, in the event that the approved development is threatened with damage or destruction from coastal hazards in the future. Any rights to construct such armoring that may exist under Coastal Act Section 30235 or under any other applicable law area waived, and no portion of the approved development may be considered an "existing" structure for purposes of Section 30235.

    d. **Future Removal/Relocation.** The Permittee shall remove or relocate, in part or in whole, the development authorized by this CDP, including, but not limited to, the residential building and other development authorized under this CDP, when any government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the

structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of a shoreline protective device; or in the event that coastal hazards eliminate access for emergency vehicles, residents, and/or guests to the site due to the degradation and eventual failure of Calle Del Onda as a viable roadway. Marin County shall not be required to maintain access and/or utility infrastructure to serve the approved development in such circumstances. Development associated with removal or relocation of the residential building or other development authorized by this CDP shall require Executive Director approval of a plan to accommodate same prior to any such activities. In the event that portions of the development fall into the ocean or the beach, or to the ground, before they are removed or relocated, the Permittee shall remove all recoverable debris associated with the development from such areas, and lawfully dispose of the material in an approved disposal site, all subject to Executive Director approval.

e. **Assume Risks.** The Permittee: assumes the risks to the Permittee and the properties that are the subject of this CDP of injury and damage from such hazards in connection with this permitted development; unconditionally waives any claim of damage or liability against Marin County its officers, agents, and employees for injury or damage from such hazards; indemnifies and holds harmless Marin County, its officers, agents, and employees with respect to the County's approval of the CDP against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and accepts full responsibility for any adverse effects to property caused by the permitted project.

2. **Real Estate Disclosure.** Disclosure documents related to any future marketing and/or sale of the residence, including but not limited to marketing materials, sales contracts and similar documents, shall notify potential buyers of the terms and conditions of this CDP, including explicitly the coastal hazard requirements of **Special Condition 1**. A copy of this CDP shall be provided in all real estate disclosures.

3. **Deed Restriction**. Prior to issuance of the Coastal Permit, the Permittee shall submit to the Director for review and approval documentation demonstrating that the Permittee has executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Director: (1) indicating that, pursuant to this permit, the County of Marin has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed

restriction shall include a legal description and site plan of the property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

Thank you for the opportunity to comment on the planning transmittal. Please feel free to contact me at abigail.black@coastal.ca.gov if you wish to discuss these matters further.

Sincerely,

DocuSigned by:
Abigail M Black
A7BC15CBC258476...

Abigail Black
Coastal Planner

ATTACHMENT 3

ATTACHMENT 3

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

June 30, 2016

Marin County Community Development Agency
Attn: Tammy Taylor
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

RE: Planning Transmittal for Johnson Coastal Permit (P1162) in Stinson Beach, CA

Dear Ms. Taylor,

Thank you for your request for comments regarding the Johnson Coastal Permit (P1162) in Stinson Beach. The applicant is requesting a Coastal Permit to construct a new 2,454 square-foot single-family residence with attached one-car garage, in addition to new site improvements, including a septic system, driveway, boardwalk, and rope fence, located at 21 Calle del Onda in Stinson Beach (APN: 195-162-49). The proposed residence would be 23 feet 4 inches above grade and would meet the minimum setback requirements. The project referral materials indicate that the lot was previously developed with a house, which was destroyed by a fire, and has been vacant since the mid-1980's. After reviewing the second planning transmittal, Commission staff would like to provide the following comments regarding sufficiency of information needed to make a recommendation on this proposal and its potential impact on coastal resources.

Coastal Access
The Marin LCP (IP Section 22.56.130(E)) requires that all coastal permits shall be evaluated to determine the project's relationship to the maintenance and provision of public access and use of coastal beaches, waters and tidelands. For the proposed project, which is located between the sea and the first public road, the Marin LCP requires that the coastal permit include provisions to assure public access to coastal beaches and tidelands, including the offer of dedication of public access easements along the dry sand beach area adjacent to public tidelands for a minimum of twenty years. Impacts to public access should be evaluated, and appropriate provisions to protect public access should be provided, taking into account potential sea level rise over life of the development.

Dune protection
The Marin LCP (IP Section 22.56.130(H)) requires that development of shorefront lots within the Stinson Beach area assures preservation of existing sand dune formations in order to protect environmentally sensitive dune habitat, vegetation, and to maintain natural protection from wave runup. For the proposed project, which is located on a shorefront parcel, the Marin LCP requires that the coastal permit include findings, which demonstrate that the project's design and location eliminates the need for future shoreline protective devices, protects sandy beach habitat, provides a buffer area between public and private use areas, protects scenic and recreational character of the beach and maintains the public rights of access to, and use of, beach dry sand areas. Marin IP

Subject: P3049 (21 Calle del Onda, Stinson Beach)

Pfeifer, Sara@Coastal <Sara.Pfeifer@coastal.ca.gov>
to Cardoza, Sabrina; Rexing, Stephanie@Coastal; Steve Kinsey

Thu, Jul 1, 3:54 PM

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Good afternoon Sabrina,

Thank you for providing us with the opportunity to submit comments on the proposed project for a new single-family residence at 21 Calle del Onda in Stinson Beach. The comments provided in our March 16, 2021 letter continue to reflect our concerns about the project's consistency with the Marin County LCP (see attached). Additionally, the 2021 comment letter suggests measures to ensure the project's consistency with the LCP that remain relevant to the Applicant's recently resubmittal materials (i.e., those dated June, 2021). Similarly, the overarching themes described in our March and June 2016 comment letters (attached), including as related to access, habitat protections, and coastal hazards, remain relevant with respect to project elements that do not adequately address these concerns.

Please feel free to contact me with any questions you may have regarding our feedback.

Thank you,

Sara Pfeifer | Coastal Planner
CALIFORNIA COASTAL COMMISSION
North Central Coast District Office
(415) 904-5255 | sara.pfeifer@coastal.ca.gov

3 Attachments

ATTACHMENT 4

ATTACHMENT 4

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
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March 31, 2016

Marin County Community Development Agency
Attn: Tammy Taylor
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

RE: Planning Transmittal for Johnson Coastal Permit (P1162) in Stinson Beach, CA

Dear Ms. Taylor,

Thank you for your request for comments regarding the Johnson Coastal Permit (P1162) in Stinson Beach. The applicant is requesting a Coastal Permit to construct a new 2,454 square-foot single-family residence with attached one-car garage, in addition to new site improvements, including a septic system, driveway, boardwalk, and rope fence, located at 21 Calle del Onda in Stinson Beach (APN: 195-162-49). The proposed residence would be 23 feet 4 inches above grade and would meet the minimum side, front, and rear setback requirements. The project referral materials indicate that the lot was previously developed with a house, which was destroyed by a fire. After an initial review of this proposal, Commission staff would like to provide the following comments regarding sufficiency of information needed to make a recommendation on this proposal and its potential impact on coastal resources.

Public Access and Dune and Sandy Beach Protection
The Marin LCP includes policies protecting public access to and along the shoreline, which state that the County will require provisions for coastal access in all development proposals located between the sea and the first public road. The Marin LCP also states that development on shorefront lots in Stinson Beach shall preserve the natural sand dune formations in order to protect environmentally sensitive habitat and maintain the natural protection from wave run-up. Where no dunes are evident, the LCP requires development on shorefront lots be set back behind the first line of terrestrial vegetation to the maximum extent feasible, in order to protect sandy beach habitat and the public right of access to the use dry sand areas. As such, this permit application must include a biological evaluation of the property in order to assess the extent of sensitive dune habitat and species on or adjacent to the site (and appropriate buffers) and, in the event that no dune habitat exists, the first line of terrestrial vegetation. The project plans show that storm surge has extended underneath the proposed deck. Therefore, approval of a rope fence could prohibit lateral public access along the shoreline. The provision and protection of coastal access and protection of sandy beaches and dune habitat in this case could include 1) setting the development back from the beach and/or any sensitive dune habitat to the maximum extent feasible and consistent with any recommended sensitive habitat buffers (including by reducing the site of the proposed house if necessary); and/or 2) a lateral easement on the Applicant's property along the dry sand adjacent to tidelands that could be accepted by the Marin County Open Space District, which owns and maintains the adjacent beach; and/or 3) a prohibition on

the proposed rope fencing that could prevent lateral public access along the beach at high tide. As required by the Marin LCP, development approval for the proposed project must be accompanied by findings, including mitigation measures and conditions of approval, establishing that the project's design and location would protect sandy beach habitat, provide a buffer area between public and private use areas, protect the scenic and recreational character of the beach and maintain the public rights of access to and use of dry sand beach areas.

Shoreline Protection and Hazard Areas

The Marin LCP states that development on all lots in the Calles neighborhood of Stinson Beach must be supported by analysis of the potential hazards present on the site. In light of the coastal hazards that have been identified through Marin County's C-SMART process and the forthcoming LCP update, the hazard assessment for the project site should include analysis of risk from coastal sea level rise. The steps recommended in the Coastal Commission's Adopted Sea Level Rise Policy Guidance (2015) may be used as a reference. These steps include: 1) define the expected life of the project, in order to determine the appropriate sea level rise range or projection; 2) determine how physical impacts from sea level rise may constrain the project site, particularly increased groundwater, erosion, flooding, wave run-up and inundation; 3) determine how the project may impact coastal resources over time, considering the influence of sea level rise, particularly on water quality, public access and coastal habitat; 4) identify project alternatives (e.g., building a smaller structure in an unconstrained portion of the site, elevating the structure, or providing options that would allow for incremental or total removal of the structure if and when it is impacted in the future) that avoid resource impacts and minimize risks to the project; 5) finalize project design.

Step 2 should include an engineering analysis, prepared by a licensed civil engineer with experience in coastal processes, for the proposed development site. The analysis shall consider changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks to the site that may occur from both Easkoot Creek, as applicable, and ocean side of the site over the expected economic life of the development, assuming a 100-year storm event occurring during high tide and under a range of sea level rise conditions, including the high projection from the National Research Council's 2012 Report, *Sea Level Rise for the Coasts of California, Oregon and Washington: Past, Present and Future*. At a minimum, the submitted report shall provide: (1) maps/profiles of the project site that show long-term erosion, assuming an increase in erosion from sea level rise, (2) maps/profiles that show changes to the intertidal zone and the elevation and inland extent of flooding for the conditions noted above, (3) maps/profiles that identify a safe building envelope on the site or safe building elevation if no safe envelope is available, taking a range of sea level rise scenarios into account, (4) discussion of the study and assumptions used in the analysis, and (5) an analysis of the adequacy of the proposed building/foundation, design of the septic system, and potential impacts to road access to the site relative to expected sea level rise for the expected economic life of the development.

Development approval for the proposed project could be accompanied by the following permit conditions:

1. Deed Restriction. Prior to issuance of the Coastal Permit, the Permittee shall submit to the Director for review and approval documentation demonstrating that the Permittee has

executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Director: (1) indicating that, pursuant to this permit, the County of Marin has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

2. Disclosure of Permit Conditions. All documents related to any future marketing and sale of the subject property, including but not limited to marketing materials, sales contracts, deeds, and similar documents, shall notify buyers of the terms and conditions of this coastal development permit.

3. Coastal Hazards Risk. By acceptance of this Coastal Permit, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns:

(a) Assume Risks. To assume the risks to the Permittee and the property that is the subject of this Coastal Permit of injury and damage from coastal hazards;

(b) Waive Liability. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards;

(c) Indemnification. To indemnify and hold harmless the County of Marin, its officers, agents, and employees with respect to the County's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and

(d) Permittee Responsible. That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.

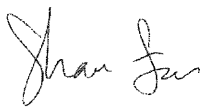
4. No Future Shoreline Protective Device. No additional protective structures, including but not limited to additional or augmented piers (including additional pier elevation) or retaining walls, shall be constructed to protect the development approved pursuant to CP #__ , including, but not limited to development associated with this CP, in the event that the approved development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence, or other natural hazards in the future. By acceptance of this CP, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, and agrees that no portion of the approved development may be considered an "existing" structure for purposes of Section 30235.

5. Future Removal of Development. The Permittee shall remove and/or relocate, in part or in whole, the development authorized by this CP, including, but not limited to development authorized under this CP, when any government agency orders removal of the development in the future or when the development becomes threatened by coastal hazards,

whichever happens sooner, or if the State Lands Commission requires that the structures be removed in the event that they encroach on to State tidelands. Development associated with removal of the residence or other authorized development shall require an amendment to this CP. In the event that portions of the development fall to the water or ground before they are removed, the Permittee shall remove all recoverable debris associated with the development from the ocean, intertidal areas, and wetlands and lawfully dispose of the material in an approved disposal site. Such removal shall require an amendment to this CP.

Thank you for the opportunity to comment on the planning transmittal. Please feel free to contact me at (415) 904-5266 or by email at shannon.fiala@coastal.ca.gov if you wish to discuss these matters further.

Sincerely,



Shannon Fiala
Coastal Planner

ATTACHMENT 5

ATTACHMENT 5

RE: Retention of Coastal Permitting Jurisdiction-21 Calle del Onda, Stinson Beach

From: Manna, Jeannine@Coastal [mailto:Jeannine.Manna@coastal.ca.gov]
Sent: Tuesday, February 02, 2021 2:41 PM
To: Levenson, Michelle <MLevenson@marincounty.org>
Cc: Lai, Thomas <TLai@marincounty.org>; Black, Abigail@Coastal <abigail.black@coastal.ca.gov>; Rexing, Stephanie@Coastal <Stephanie.Rexing@coastal.ca.gov>
Subject: RE: Retention of Coastal Permitting Jurisdiction-21 Calle del Onda, Stinson Beach

Hi Michelle,
Thanks for reaching out! Sounds like the property is within both the Commission and the County's CDP permitting jurisdiction. The applicant can reach out to our mapping department for a formal boundary determination if they want to know exactly where the line falls. Depending on where development is proposed on the property, they may need a CDP from both us and the County. If both agencies, then we could do a consolidated CDP if everyone agreed to such a process.
However, I will note that back in 2016 when a project was previously proposed on this property, Commission staff raised a number of concerns including related to setbacks needed to protect sensitive dune and sandy beach habitat and public access. We also previously noted that coastal hazard risk for the property should be evaluated and that any development in this location would need to be sited and designed safe from hazards without the need for future shoreline protection (accounting for sea level rise) over the anticipated life of the project.
Please keep our staff apprised as this project moves forward through the County process.
Thank you,
Jeannine

From: Levenson, Michelle <MLevenson@marincounty.org>
Sent: Monday, February 1, 2021 2:53 PM
To: Manna, Jeannine@Coastal <Jeannine.Manna@coastal.ca.gov>
Subject: Retention of Coastal Permitting Jurisdiction-21 Calle del Onda, Stinson Beach

Dear Ms. Manna-
Tom Lai requested that I reach out to you regarding an application that will be submitted to the County of Marin shortly. The application is for Coastal Permit and Design Review approval to construct a new, single family residence and detached garage on a vacant site at 21 Calle del Onda, Stinson Beach (current APN 195-162-49, prior APN 195-162-13, and -14). The site, located between the ocean and Highway One, has an interesting history. Back in 1981, the owner applied to the County to subdivide the property. At that time the CCC staff provided correspondence to Marin County (historical records attached) that the agency was retaining Coastal Permit authority over the site. The applicant, CivicKnit, has requested guidance on applying for the necessary authorizations and I was hoping to provide them with feedback on the Coastal Permit pathway. Thanks in advance for your guidance.

Sincerely,
Michelle Levenson

ATTACHMENT 6

ATTACHMENT 6

COASTAL RISKS FOR STINSON BEACH, CA

Selected water level: 3 feet. May occur from sea level rise, coastal flooding, or both.

What's at risk on land below 3 feet?[1,2]

- Miles of road: 1 miles
- Local roads: 1 miles
- Population: 33
- Homes: 53

3 feet in historical context [3,4]

- Highest observed area flood: 2.8 feet in 1983
- Statistical 1-in-100 year flood height: 2.9 feet

Unnatural Coastal Floods[5]

Since 1950, a tide station at San Francisco has recorded 474 days exceeding local National Weather Service flood thresholds. Without climate-driven sea level rise, the count would be 145. The station is 17 miles from Stinson Beach.

Rising seas = more floods[4]

- Stinson Beach, CA has already experienced about 8 inches of sea level rise over the last 112 years of records. Climate change is projected to drive much more rise this century.
- This raises the starting point for storm surges and high tides, making coastal floods more severe and more frequent.

When could a 3-foot flood happen?[3,4,6]

- Likelihood by 2030: 31% – 68%
- Likelihood by 2050: 80% – 100%
- Likelihood by 2100: 100% – 100%

The ranges shown derive from the intermediate low vs. intermediate high global sea-level scenarios from a 2017 NOAA technical report for use in the U.S. National Climate Assessment, which point to projected local rises of 1.7 vs. 5.9 feet by 2100. The more heat-trapping pollution emitted, the higher that sea-level rise is likely to be.

Find more places, water levels and downloads at riskfinder.org

Land and population below 3 feet in Stinson Beach, CA

Social vulnerability (e.g. from low income) compounds coastal risk. Land below 3 feet is colored according to the legend. Surging Seas uses high-accuracy lidar elevation data supplied by NOAA. Map reflects a uniform sea level and/or flood height. Individual storm surge, tidal or rainfall events cause more complex and uneven water surfaces.

Email sealevel@climatecentral.org to ask about tailored analysis

1 Floods and sea level rise are relative to local high tide lines circa 1992 (mean higher high water across 1983-2001).
2 Values exclude sub-3-ft areas potentially protected by levees, natural ridges, and other features.
3 Climate Central estimates risk by combining local sea level rise projections with flood height risk statistics based on historic data.
4 Flood risk projections and history are based on records from the NOAA water level station at San Francisco - San Francisco Bay, 17 miles from Stinson Beach, from 1901 to 2013.
5 Strauss, B. H., Kopp, R. E., Sweet, W. V. and Bittermann, K., 2016. Unnatural Coastal Floods. Climate Central Research Report.
6 Sea level projections are localized, and local flood risks projected, based on methods from Tebaldi et al. 2012 (Environmental Research Letters).

Surging Seas
Sea Level Rise Tools & Analysis by
CLIMATE CENTRAL

For more methods, limitations, full citations, see source: riskfinder.org

Citation: Coastal Risks for Stinson Beach, CA. Climate Central, 6/26/2021

SEA LEVEL RISE AND COASTAL FLOODING FAQS

What causes sea level to rise?

- **A warming ocean:** Thermometer and satellite measurements show that the ocean has been warming for more than a century. Water expands as it warms, and the only way the ocean can go is up and out.
- **Shrinking ice:** Warmer air and water temperatures are causing global glaciers and ice sheets on Greenland and Antarctica to melt or to break off into the ocean. Adding water or ice from land to the ocean raises sea level, and is by far the biggest future threat.
- **Sinking land:** In some places, coastal land is sinking, due to a variety of slow, long-term processes not linked to current climate change, or due to pump extraction of water or fossil fuels from underground formations.

What causes climate change?

- The main activity causing climate change is the burning of fossil fuels, which emits heat-trapping pollution.
- Leading scientific bodies agree: *Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research concludes that the greenhouse gases emitted by human activities are the primary driver.*[7]

Can sea level rise be slowed?

- Major cuts in heat-trapping pollution through measures such as a swift global transition to a clean energy economy, climate-friendly agriculture, and protecting forests would reduce future sea level rise.

Does sea level rise affect flooding?

- Sea level rise raises the starting point for waves, tides, and storm surge, making coastal floods more severe and more frequent.
- A February 2016 Climate Central analysis found that about two-thirds of U.S. coastal flood days since 1950 would not have met the National Weather Service's local definition of flooding without the few inches so far of human-caused, climate-driven global sea level rise.

What does the future hold?

- Some future sea level rise is inevitable due to pollution already in the atmosphere, forcing some adaptation.
- Rapid cuts in emissions of heat-trapping pollution would increase the chances of limiting global sea level rise to near 2 feet this century, but continuing unchecked pollution could lead to a rise of more than 6 feet.[8]
- A 2-foot rise would mean widespread, dramatic increases in flooding, and submergence of the very lowest coastal places. A 6-foot rise would pose severe and in cases existential threats to major coastal cities worldwide.
- Many places will be able to reduce sea level rise impacts by establishing defenses, accommodating floods, or relocating some development, at uncertain cost.
- Pollution this century will lock in sea level rise for hundreds of years to come – likely far more than 6 feet on the current path. The final amount will depend on how rapidly the world community can reduce and then stop heat-trapping pollution.

REDUCING YOUR RISK

Preparing yourself and your community

- Actions to curb heat-trapping pollution will reduce sea level rise, but some rise is unavoidable.
- Learn more about the actions you can take yourself at sealevel.climatecentral.org/flood-preparation
- Make sure leaders in your community know your area's risks by sharing this fact sheet and riskfinder.org
- Surging Seas can help your community participate in FEMA's Community Rating System. Contact us to learn more.
- Climate Central offers tailored mapping, projections and analysis to meet the specific needs of cities, counties, states and businesses, using scenarios and data you can choose: contact sealevel@climatecentral.org to learn more.

Resources available for California

- Sea Grant California: https://caseagrant.ucsd.edu/
- California Coastal Commission: Sea Level Rise: http://www.coastal.ca.gov/climate/slr/
- State of California: Coastal Conservancy Climate Change Projects: http://scc.ca.gov/climate-change/
- For a longer list see: sealevel.climatecentral.org/responses/plans

In the News

Our sea level research has been covered in USA Today, Time, the major networks, CNN, PBS, NPR, AP, Bloomberg, the Washington Post, the New York Times, and hundreds more outlets.

Climate Central

Climate Central is an independent nonprofit, nonadvocacy organization that researches climate impacts. Our web tools are based on peer-reviewed science and are included as resources on national portals such as NOAA's Digital Coast and the U.S. Climate Resilience Toolkit.

Get more analysis at riskfinder.org

7 Statement on climate change from 31 scientific associations (2016). http://www.aaas.org/sites/default/files/06282016.pdf (Accessed July 7, 2016). Learn more at http://climate.nasa.gov/scientific-consensus/

8 Based on local sea level projections from Kopp et al. 2014 (Earth's Future) and more recent Antarctic research in DeConto and Pollard 2016 (Nature). For full citations and methods visit: riskfinder.org

Surging Seas

Sea Level Rise Tools & Analysis by

CLIMATE CENTRAL

ATTACHMENT 7

ATTACHMENT 7

SBCWD

STINSON BEACH COUNTY WATE

BOARD MEETING MINUTES

REGULAR MEETING
Saturday, September 17, 2016

A. CALL TO ORDER/ROLL CALL

President Cross called the Regular meeting of the Board of Directors of the Stinson Beach County Water District to order on Saturday, September 17, 2016, at 9:3(Stinson Beach County Water District office, located at 3785 Shoreline Highway, Stinson Beach, CA 94970.

Directors present:
Sandra Cross, President
Morey Nelsen, Vice President
Lawrence Baskin, Director
Barbara Boucke, Director
Jim Zell, Director

Treasurer present:
Judy Stemen

General Manager present:
Ed Schmidt

Staff present:
Rich Souza - District Engineer
Helma Schwendig - Office Supervisor

B. PUBLIC EXPRESSION

None.

C. SETTING OF AGENDA

The agenda was unanimously adopted as set.

D. PUBLIC HEARING

1. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 21 Calle del Onda, Brian Johnson Bagwill, Owners, APN 195-162-49.**
At the request of the applicant, Craig Nunes, this matter was continued from the Saturday, August 20, 2016, Board meeting to enable four Board members (Pr Cross, Vice President Nelsen and Directors Baskin and Boucke) to vote on the merits of the project. Director Zell cannot vote as he resides within 500 feet of t

President Cross reiterated that the Stinson Beach County Water District has a limited scope of review over this project. The District is concerned only with the septic system, and applying to this application the rules and regulations of Title IV, the District's Onsite Wastewater Management Code. The District does not h authority to create public easements, view easements, or beach access. Ms. Cross requested that the members of the public that are present confine their rem septic system and water quality issues. Other issues are to be addressed to the County of Marin and the Coastal Commission. Director Zell then recused himse

President Cross thanked all the members of the public who submitted documentation, arguments and information about the proposed controversial wastewate Board had reviewed a bound Coastal Flood History submitted to the District on September 9, 2016 by community member Scott Tye. The History contained co photos, exhibits, letters from neighbors opposing the project, portions of the Draft Marin Coast Sea Level Rise Vulnerability Assessment, Flood Hazard Mapping items from the Stinson Beach County Water District files. Many of the photos came from the files of the Stinson Beach Historical Society.

Rich Souza, the District's Engineer, summarized the project, which had also been previously discussed at the April 20 and July 6, 2016 Wastewater Committee The application is for a standard intermittent sand filter system for a proposed residence of less than 2,800 square feet. The variance to Title IV Sec. 4.15.100 - Setbacks to Water Courses and Water Bodies is comprised of the following three individual parts: the setback to the dispersal field to be reduced from 100 to setback to the sand filter to be reduced from 50 to 36 feet, and the setback to the septic and sump tank to be reduced from 50 to 20 feet.

The property formerly consisted of multiple parcels which have been merged into a 15,200 square foot lot. An existing residence burned down in the 1980's. Tl sand berm in front of the property, the only berm along the entire beach.

The design is considered new construction and includes a 1,500 gallon septic tank and 1,500 gallon sump tank. It is a raised bed system and meets 36 inches from groundwater. A concrete 12 inch high retaining wall is proposed below grade and around the septic system components. The purpose of the retaining wal withstand erosion from wave run-up during significant storm events.

A Coastal Engineering Analysis report was prepared by Noble Consultants. President Cross noted that Figure 6 of the Noble report shows that the berm is subje erosion. She is concerned that the variance setbacks would increase even more over time with sea level rise and storm events.

The Board's questions regarding the proposed septic system's plans and layout were answered by the system's designer, Troy Pearce, of AYS Engineering Grou District recently found out from County staff that the building application has been withdrawn, but County staff thought they (the County) should ultimately be agency on this project for CEQA purposes.

Several neighboring property owners voiced their opposition to the project, citing health and safety issues.

Director Baskin made a motion to grant a variance to the requirements of the Stinson Beach County Water District Wastewater Treatment Regulations Ordinan 04 to Reduce Setback Requirements to a Water Body for Property Located at 21 Calle del Onda and to adopt the findings made in the March 14, 2016 letter of applicant, asking District staff to enhance the findings by including a few more facts from the Noble report. Vice President Nelsen seconded the motion.

Director Boucke could not find that the variances were reasonable or appropriate due to health and safety issues. Ms. Boucke felt she could not support the ap findings of fact No. 4 which states: "The Variance will not materially adversely affect the conditions of adjacent watercourses or wetlands, the conditions of sub water under adjacent properties, the health or safety of persons residing or working in the neighborhood of the property, and/or the general health and safety

public."

President Cross stated that there is more at stake here than the approval of the setbacks. The risks involved do not only affect the applicant. It is also the risk neighbors if the septic system fails. The precautionary principle to risk management states that if an action or policy has a suspected risk of causing harm to th to the environment, in the absence of scientific consensus (that the action or policy is not harmful), the burden of proof that it is not harmful falls on those tak that may or may not be a risk. Ms. Cross felt the requested variances are huge in relation to the normal setbacks and that credence should be given to the Dis regulations.

President Cross called the question: All of those Board members in favor of the motion to approve the request for variance? It was a difficult decision for the B Director Baskin and Vice President Nelsen voted "Aye". All opposed: Director Boucke and President Cross voted "No". The motion failed as it requires three "ye pass.

2. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 217 Seadrift Road, James Migdal APN 195-331-37.**
This residential wastewater design application is for a new alternative wastewater system on a 60' x 125' vacant parcel located along the Seadrift Lagoon. The designed for a single family residential home with up to 1,900 square feet of habitable space, and will have a maximum daily flow rate of 300 gallons and an a flow rate of 200 gallons. Based on the proposed use of the raised bed dispersal fields, there is over 36 inches of vertical separation from seasonal high groundv

The variance request to Title IV under Section 4.15.100 Site Criteria - Setbacks, consists of reducing the setback from the property line to the dispersal field fr 1 foot, reducing the setback from Seadrift Lagoon to the dispersal field from 100 feet to 94 feet, and under Section 4.19.010, Use of Alternative Wastewater S Designs to utilize a recirculating textile Advantex filter.

The design consists of a new 1,500 gallon traffic rated septic tank, an 810 gallon traffic rated sump tank, Advantex AX20, and dual raised bed dispersal fields.

The project had been heard at the August 25, 2016 Wastewater Committee meeting, a copy of the application documents and plans had been sent to the Regi Quality Control Board, and neighbor notifications were sent on August 30, 2016.

The Board requested that the relocation of the water main line to meet a 10 foot minimum setback to the proposed wastewater system be added to the draft r a condition prior to the issuance of a wastewater construction permit.

Vice President Nelsen moved to adopt Resolution No. WW 2016-10 Granting a Variance to the Requirements of the Stinson Beach County Water District Waste Treatment Regulations Ordinance No. 2014-04 to Reduce Setback Requirements to a Property Line and Seadrift Lagoon and to Utilize an Alternative Wastewat property located at 217 Seadrift Road, Stinson Beach. Director Boucke seconded the motion. The motion was passed by President Cross, Vice President Nelsen Directors Boucke and Baskin each voting "AYE." Director Zell voted "NO."

3. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 252 Seadrift Road, Maria and Joh Owners, APN 195-340-46.**
This project includes the demolition of the existing 1,873 square foot residence and its replacement with a new single family residence consisting of less than 2 feet on a 23,100 square foot lot located on the ocean side. The maximum and average daily flow rate of the new system will be 450 and 300 gallons, respectiv on the proposed raised bed leach field, there is over 36 inches of vertical separation from seasonable high groundwater to the bottom of the leach field.

A variance is required under Title IV Section 4.19.010 - Use of Alternative Wastewater Systems Designs for use of a recirculating textile (Advantex) filter.

The design consists of a new 1,500 gallon traffic rated septic tank, an 810 gallon traffic rated sump tank, Advantex AX20, and dual raised bed dispersal fields.

The project had been heard at the August 25, 2016 Wastewater Committee meeting, a copy of the application documents and plans had been sent to the Regi Quality Control Board, and neighbor notifications were sent on August 30, 2016.

Director Baskin moved to adopt Resolution No. WW 2016-09 Granting a Variance to the Requirements of the Stinson Beach County Water District Wastewater Regulations Ordinance No. 2014-04 to Utilize a New Alternative Type Wastewater System for property located at 252 Seadrift Road, Stinson Beach. Director Bo seconded the motion. The motion was passed unanimously by President Cross, Vice President Nelsen and Directors Baskin, Boucke, and Zell.

4. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 254 Seadrift Road, Kenneth Fran APN 195-340- 45.**
This variance request under Section 4.19.010 is for a new alternative wastewater system utilizing a recirculating textile filter, with a maximum and average da of 450 and 300 gallons, respectively. The system is designed for a new single family residential home with up to 2,800 square feet of habitable space on a 60' vacant lot, with the ocean along the southerly property line.

Based on the proposed 36 inch leach line depth, there is over 36 inches of vertical separation from seasonal high groundwater to the bottom of the leach field.

The wastewater design consists of a new 1,500 gallon traffic rated septic tank, a 1,200 gallon traffic rated sump tank, Advantex AX20, diversion valve, and du fields.

The application had been discussed at the August 25, 2016 Wastewater Committee meeting. A copy of the application documents and plans were sent to the R Water Quality Control Board and neighbor notifications were sent on August 30, 2016.

Director Boucke moved to adopt Resolution No. WW 2016-11 Granting a Variance to the Requirements of the Stinson Beach County Water District Wastewater Regulations Ordinance No. 2014-04 to Utilize a New Alternative Type Wastewater System for property located at 254 Seadrift Road, Stinson Beach. Vice Presid seconded the motion. The motion was passed unanimously by President Cross, Vice President Nelsen and Directors Boucke and Zell. Director Baskin had excus and was not present for the vote.

5. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 265 Belvedere Avenue, Alicia and Myers, Owners, APN 195-142-25.**
This variance application requests the approval to use an existing wastewater system for increasing the habitable space of the existing living area of 2,215 squ 184 square feet, comprised of two detached building structures. The lot is approximately 7,500 square feet. One of these detached units is elevated over a lea the other unit is located below the leach line.

A setback variance is required to the new shallow building pier foundations. A variance is also required to use the existing 1,200 gallon septic tank, as the mini capacity has been increased to 1,500 gallons since the existing system was installed in 1997. Based on the existing maximum and average daily flow rates of 4 and 300 gallons, respectively, the existing septic tank is sufficiently sized to treat wastewater effluent.

The application had been heard at the August 25, 2016 Wastewater Committee meeting, a copy of the application documents and plans were sent to the Regio Quality Control Board, and neighbor notifications were sent on August 30, 2016.

Director Zell moved to adopt Resolution No. WW 2016-08 Granting a Variance to the Requirements of the Stinson Beach County Water District Wastewater Tre Regulations Ordinance No. 2014-04 to Reduce Setback and Septic Tank Capacity Requirements for Property Located at 265 Belvedere Avenue, Stinson Beach. Cross seconded the motion. The motion was passed unanimously by President Cross, Vice President Nelsen and Directors Boucke and Zell. Director Baskin was for the vote.

E. APPROVAL OF MINUTES

The motion to approve the minutes of August 20, 2016 was passed unanimously by President Cross and Directors Boucke and Zell. Vice President Nelsen was a August 20, 2016 meeting.

F. APPROVAL OF DISBURSEMENTS

The motion to approve the disbursements of August 8 and August 25, 2016 was passed unanimously by President Cross, Vice President Nelsen and Directors Boucke

G. MANAGER'S REPORT

The General Manager discussed his monthly report. The field work needed for the District's financial audit as of June 30, 2016 by Cropper Accountancy will t November 9.

Zero Waste Marin has approved the District's $5,000 grant application for recycling. Half of the grant will be used for aluminum water bottles to replace plastic wate the remainder will be for small kitchen compost buckets to reduce food scraps taken to the landfill. The General Manager will arrange for a public meeting Community Center or Chapel where a compost expert will speak on the merits of composting.

Matt Leffert, Director of Development of "One Tam", will make a short presentation at the October 15 Board meeting.

Steve Ortega, GGNRA, will bring the Board up to date at a future Special Board meeting regarding the operation of the Park's new septic system, if there is capacity leased by the District in response to sea level rise, or if any GGNRA properties could be utilized by the District for septic system treatment if there is no capacity in system.

After additional review, new Section 4.07.071 concerning chemical toilets in the Village Green Parks will be added to the District's Title IV Onsite Wastewater Manage

H. COMMITTEE REPORTS

None.

I. CORRESPONDENCE

None.

J. ADJOURNMENT

The meeting was adjourned at 11:40 a.m. The next regular meeting will be on Saturday, October 15, 2016, at 9:30 a.m.

Return to Index of Board Meeting Minutes

ATTACHMENT 8

ATTACHMENT 8

SBCWD

STINSON BEACH COUNTY WATER

BOARD MEETING MINUTES

REGULAR MEETING
Saturday, August 20, 2016

A. CALL TO ORDER/ROLL CALL

President Cross called the Regular meeting of the Board of Directors of the Stinson Beach County Water District to order on Saturday, August 20, 2016, at 9:30 Stinson Beach County Water District office, located at 3785 Shoreline Highway, Stinson Beach, CA 94970.

Directors present:
Sandra Cross, President
Lawrence Baskin, Director
Barbara Boucke, Director
Jim Zell, Director

Morey Nelsen, Vice President
Directors absent:

General Manager present:
Ed Schmidt

Staff present:
Rich Souza - District Engineer
Helma Schwendig - Office Supervisor

B. PUBLIC EXPRESSION

Director Baskin requested that our field crew post notices on homeowner's front door a day or two before pending water shut off for new water meter installation.

C. SETTING OF AGENDA

The agenda was unanimously adopted as set.

D. PUBLIC HEARING

1. **Discussion and possible direction to staff re: a Variance Application to install an onsite wastewater system at 21 Calle del Onda, Brian Johnson Bagwill, Owners, APN 195-162-49.**
   This project has been discussed at Wastewater Committee meetings on April 20 and July 6, 2016, where concerns regarding potential erosion and flooding fror up during high tide and storm events were discussed.

   President Cross noted that Vice President Nelsen is out of the country, and Director Zell must abstain from voting as he resides within 500 feet from the projec only three Board members to vote on the merits of the project. Ms. Cross offered the applicant Craig Nunes the opportunity to continue his variance request to Saturday, September 17, 2016, Board meeting, so that the matter can be heard before four Board members (President Cross, Vice President Nelsen and Direct and Boucke).

   Mr. Nunes gave a short history of the property, his contingency to purchase the property based upon his ability to obtain the required permits, and his findings pertaining to his Variance request. Mr. Nunes then requested a continuance of the hearing to September 17, 2016.

   The Board noted it is not part of the District's purview to comment on issues raised by the Coastal Commission and Planning Department. The District's jurisdic limited to septic system safety issues. The District has no authority regarding dune habitat, public easements or view sheds.

   The Board requested that the General Manager contact Blair Allen of the Regional Water Quality Control Board regarding Mr. Allen's comments, if any, on the a Variance requests under Title IV Sec. 4.15.100 Site Criteria - Setbacks.

   A member of the public, Scott Tye, distributed to the Board copies of a letter dated August 24, 2015 from Stinson Beach Village Association President Mike Mat regarding the August 25, 2015 Public Hearing to consider policy revisions to the LCP and a copy of a Memorandum dated February 17, 1983 from George Tcho District Engineer, to Board of Directors re Action Plan for Mitigation of High Groundwater Effects on Onsite Wastewater Management Systems.

E. GENERAL BUSINESS

1. **Review the District's Financial Reports as of June 30, 2016.**
   The General Manager complimented Robyn on the preparation of the District's financial reports as of June 30, 2016. The Board requested that Robyn also prep summarizing the major budget changes occurring from month to month. The District's anticipated $505,000 grant reimbursement must be included as part of revenue. However, the District's pension liability must also be taken into account and will be reflected in the District's upcoming June 30, 2016 financial audit.

   The Board requested that the General Manager prepare a capital cash flow spreadsheet to determine if sufficient funds are available to undertake a feasibility s desal. Some funds are needed, however, for the District's tanks rehabilitation.

F. APPROVAL OF MINUTES

Director Baskin moved to approve the minutes of July 16, 2016. Director Boucke seconded the motion. The motion was passed unanimously by President Cross Baskin and Boucke. Director Zell was absent at the July 16, 2016 meeting.

G. APPROVAL OF DISBURSEMENTS

Director Baskin moved to approve the disbursements of July 19 and August 8, 2016. President Cross seconded the motion. The motion was passed unanimously Cross and Directors Baskin, Boucke and Zell.

H. MANAGER'S REPORT

The General Manager discussed his monthly report. Pacific Underground Services has been hired to replace the water meters on the Calles and Patios.

The General Manager and President Cross had a luncheon meeting with two Board members of the Muir Beach CSD.

The Board approved the $15 hourly rate increase to $165 per hour as requested by CSW/Stuber-Stroeh Engineering Group for Richard Souza, the District's Engineer

By consensus, the Board decided to schedule Wastewater Committee meetings (after the August 25, 2016 meeting) to be held on the second Thursday of each r schedule a workshop meeting to revisit Title IV and make redline changes.

The Board requested that the General Manager invite Monica Stafford of ONE TAM to make her presentation at the October 15, 2016 Board meeting. The Board a that the General Manager contact the GGNRA to determine if the Park's old septic system has been disconnected and if their new system has been connected yet.

I. COMMITTEE REPORTS

None.

J. CORRESPONDENCE

None.

K. ADJOURNMENT

The meeting was adjourned at 10:36 a.m. The next regular meeting will be on Saturday, September 17, 2016, at 9:30 a.m.

Return to Index of Board Meeting Minutes

Stinson Beach County Water District · 3785 Shoreline Highway · P. O. Box 245 · Stinson Beach, CA 94970
Phone: (415) 868-1333 · Fax: (415) 868-9417 · E-mail: sbcwd@stinson-beach-cwd.dst.ca.us

ATTACHMENT 9

ATTACHMENT 9

COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

PROJECT STATUS

April 8, 2016

Craig Nunes
554 View Street
Mountain View, CA 94041

RE: Johnson Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P1162

Dear Craig,

The Planning Division and reviewing agencies have examined your application and have determined that it is incomplete because additional information is required.

Incompleteness Items
Please carefully review the list of required items below and, unless specified otherwise, submit 5 copies of full sized plans, one copy of plans reduced to 11" by 17", and two copies of any required documents within the next 30 days.

Marin County Community Development Agency, Planning Division (Tammy Taylor, (415) 473-7873)

1. In conformance with submittal checklist item 12, please provide a Constraints Map that shows the distances from project site to any hazardous areas and flood zones. A constraints map shall be as close as possible to the same scale as the site plan.

2. In conformance with submittal checklist item 13, please provide a plan north reference on the site and floor plans.

3. In conformance with submittal checklist item 19, please provide a landscape or revegetation plan, which details existing versus proposed vegetation graphically distinguishable by connecting proposed plants and trees, on center, with a solid line leading to the label.

4. In conformance with submittal checklist item 34A, please provide a revised Geotechnical Report that recommends any special precautions required for erosion control, and the prevention of sedimentation or damage to the off-site property.

5. Please revise the plans to reflect the current base flood elevation (BFE) at 26 feet using the North American Vertical Datum (NAVD) of 1988, and in accordance with Marin County Code Title 23.09 for Flood Plain Management.

6. Please provide a graphical representation of the seaward edge of the existing neighboring properties east and west of the project site, including elevations.

7. Please provide a revised site plan with the edge of the terrestrial vegetation defined (based on the data included in the WRA Biological Assessment that was provided), and if no terrestrial vegetation presently exists on the site, please ask WRA to estimate where the edge of the terrestrial vegetation would occur if the predominant ice plant (*Carpobrotus edulis*) was not present.

Marin County Department of Public Works, Land Development Division (Richard Simonitch, (415) 473-4398)

Merit Comments

1. Plans propose inadequate onsite parking and are not approvable as presented. For a single family dwelling four on-site parking spaces are required to be plotted on the site plan which conform to the dimensional requirements of Marin County Code MCC) 24.04.380(a), specifically, exterior head in parking spaces shall be a minimum of 8.5 feet by 18 feet, and interior spaces shall be a minimum of 9 feet by 20 feet (parallel spaces shall be a minimum of 8 feet by 20 feet). Each parking space shall have adequate turnaround area to allow the attainment of the desired direction by a standard car in no more than one movement (MCC 24.04.277). Note that each of the two primary resident parking spaces shall be independently accessible and the two guest parking spaces shall be independently accessible, though the guest spaces may be in tandem with those for the primary residents.

2. Plans show an incorrect base flood elevation, fail to comply with Marin County Code Title 23.09 for Flood Plain Management and as such are not approvable as presented. The property is located within the Special Flood Hazard Area Zone VE, as mapped by FEMA on their current Flood Insurance Rate Map (FIRM) panel number 06041C, which became effective on March 14, 2014. Zone VE is an area subject to flooding by the 1% annual chance flood, where FEMA has determined the base flood elevation (BFE) to be at 26 feet using the North American Vertical Datum (NAVD) of 1988.

Per MCC 23.09.034, new construction or a substantial improvement of a structure shall have the lowest floor elevated above the base flood elevation (BFE), and upon completion of the structure, the elevation of the lowest floor shall be certified by a registered civil engineer or licensed land surveyor. Since the structure is located in a coastal high hazard area the horizontal members of the structure may also influence the finish floor elevation. If the lowest floor's horizontal members are perpendicular to the wave action they shall be elevated above the BFE. If all of the horizontal members are parallel to the wave action only the finish floor elevation is required to be above the BFE.

Per MCC 23.09.039 all new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation. Structures in such flood hazard zones shall not be constructed on fill.

Per MCC 23.09.034(b), (1) all new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage; (2) all new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and (3) all new construction and substantial improvements shall be

constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Provide notes and specifications to this effect on the plan. Refer to FEMA's National Flood Insurance Program's Technical Bulletin 2 for information on acceptable flood proof materials.

Submittal
Please submit all of the requested information together to the Planning Division at one time. The review of your application may be delayed if you submit information directly to the agency that requested the information. The time period required by State law for us to review the additional information will not commence until all of the required items are submitted to our office. If you require additional time to collect the information listed above, please send me a written request for an extension for a specific period of time. It is important to ask for an extension if you need one because your application will automatically expire unless an extension of time is requested and granted.

Appeal Rights
Pursuant to Marin County Code section 22.114.020 and Government Code section 65943, an applicant may appeal a determination that an application is incomplete. If you disagree with this decision regarding the incompleteness of your application, you may appeal it to the Planning Commission. A Petition for Appeal and a $600.00 filing fee must be submitted to the Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 P.M., April 22, 2016.

Preliminary Merit Comments
The proposed project is subject to the policies contained in the Marin Countywide Plan, the Stinson Beach Community Plan, the regulations contained in the Marin County Code, the Marin County Local Coastal Plan Title 22I, and the Single-family Residential Design Guidelines.

There are three potentially serious problems with the project proposal. One is the California Coastal Commission's position on development within a Shoreline Protection and Hazard Area (see attached letter), along with the other concerns that were raised in their letter; in particular referencing that the shorefront lots shall be set back behind the first line of terrestrial vegetation to the maximum extent feasible, per the Marin County Local Coastal Program Unit 1. Second, the Stinson Beach Water District will require a variance approval for the location of the septic system under a separate permit process. Lastly, the project as proposed is substantially inconsistent with the Base Flood Elevation (BFE) may change with FEMA's proposed revisions to the flood zones, and the revised FEMA maps may substantially impact the project design and development review process. Currently, your application shows the Base Flood Elevation at 18 feet, however per the letter from Department of Public Works, the Base Flood Elevation should be shown as 26 feet. Please consider these issues carefully before deciding whether to continue with the planning process. If you opt withdraw your application, we will refund any remaining portions of your fees.

These preliminary comments are not meant to be exhaustive, additional comments may be forthcoming after the revised plans have been reviewed, and the suggestions are advisory in nature.

Questions and Contacts
Please do not hesitate to call me at (415) 473-7873 or contact me via email at ttaylor@marincounty.org as questions arise regarding your application or the development review process. I will return voicemail messages before the end of the next business day.

Please do not visit our office expecting to meet with me without an appointment. If you wish to discuss your application in person, please contact me to schedule a time when we can meet. I will try to schedule an appointment within five business days. If you have questions about comments from another agency, please contact the staff from that agency directly. Thank you.

Sincerely,

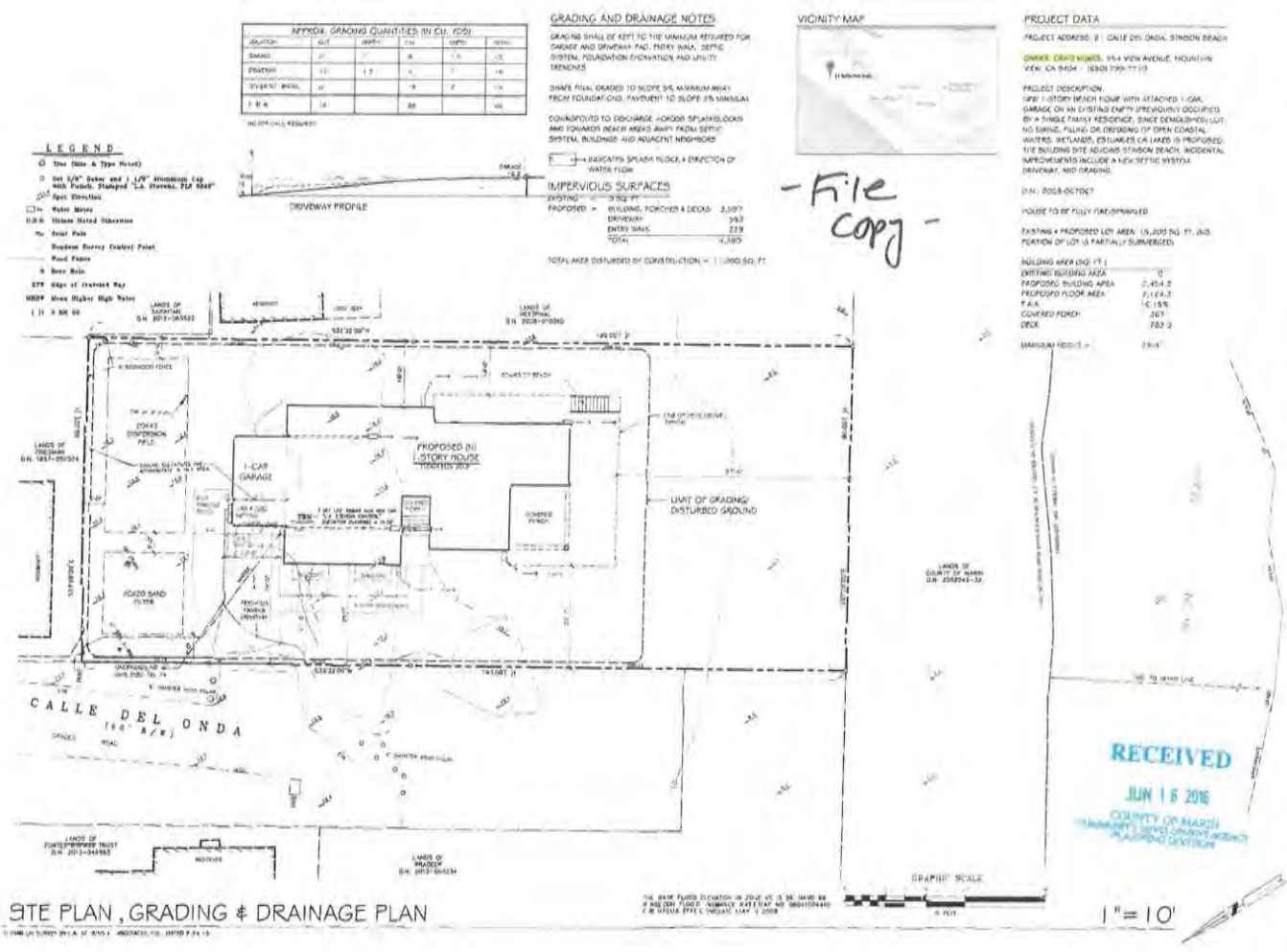
Tammy Taylor
Assistant Planner

Attachments:
1. Email from Rich Souza, SBWD dated March 21, 2016
2. Email from Marisa Atamian dated March 22, 2016
3. Email from Carrie Varoquiers dated March 23, 2016
4. Email from Michael Lemont dated March 24, 2016
5. Inter-Office Memorandum from Department of Public Works dated March 25, 2016
6. Letter from CA Coastal Commission dated March 31, 2016
7. Letter from Rich Souza, SBWD dated March 28, 2016

cc: Brian Johnson
P.O. Box 1139
Homewood, CA 96141

ATTACHMENT 10

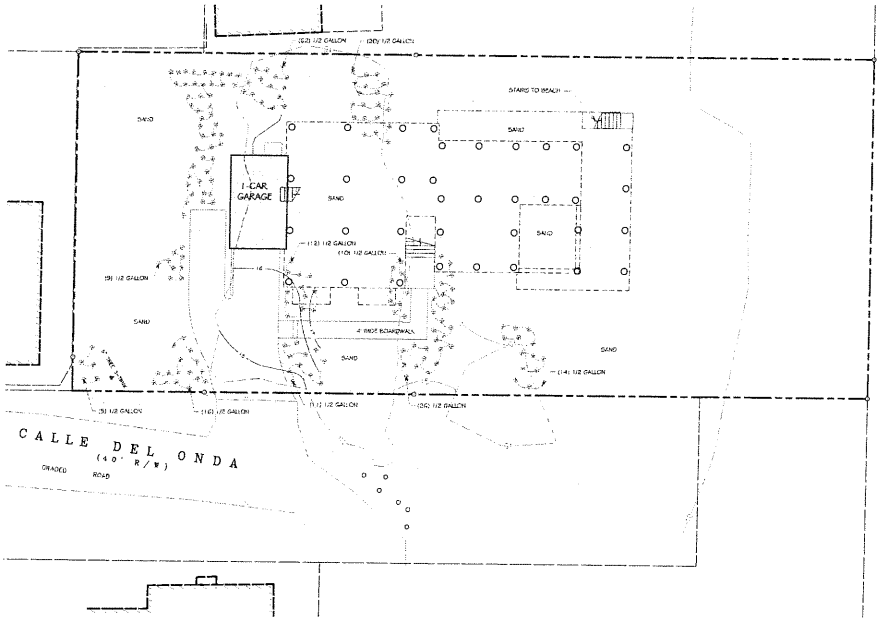
ATTACHMENT 10



SITE PLAN, GRADING & DRAINAGE PLAN

PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH ◻ CALIFORNIA

A1



LANDSCAPE PLAN

1"=10'

DRAWN ON SURVEY BY L.A. STEVENS & ASSOCIATES, INC., DATED 7-24-15

GRAPHIC SCALE

IN FEET

LANDSCAPE NOTES

ALL PLANTING TO BE CAREX PRAEGRACILIS DUNE GRASS (CALIFORNIA NATIVE)
REMOVE ALL ICE PLANT

DRAWINGS PREPARED BY
CHRIS SPAULDING
- ARCHITECT -
101 CAMELLIA STREET SUITE E
BERKELEY, CALIFORNIA 94710
(510) 527-5907 FAX (510) 527-5909

REVISIONS	BY
5-31-16	

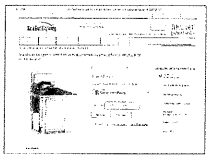
PRELIMINARY SET
DESIGN REVIEW SET
PLAN CHECK SET
PERMIT SET
CONSTRUCTION SET

PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH □ CALIFORNIA

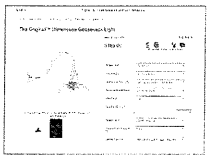
DATE:	2-4-16
SCALE:	AS NOTED
DRAWN:	LUCAS/DAD
JOB:	NUMBER - STINSON
SHEET	

A1.1

OF 5 SHEETS

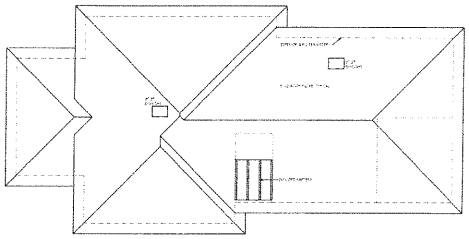


LANTERN
'B'

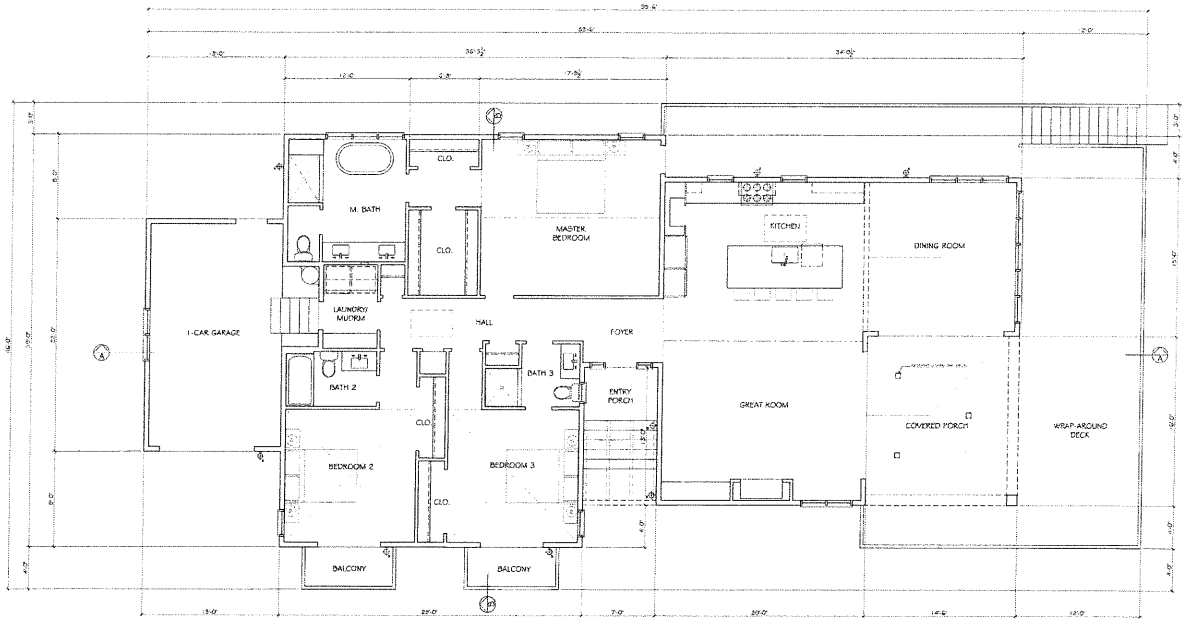


GOOSENECK
'A'

LIGHTING CUT SHEETS



ROOF PLAN 1/8"= 1'-0"



FLOOR PLAN 1/4"= 1'-0"

0 3 6 15 20 25

DRAWINGS PREPARED BY
CHRIS SPAULDING
- ARCHITECT -
861 CAMELLIA STREET SUITE 6
BERKELEY, CALIFORNIA 94710
(510) 527-5997 FAX (510) 527-5999

REVISIONS	BY
5-3-16	

PRELIMINARY SET
DESIGN REVIEW SET
PLAN CHECK SET
PERMIT SET
CONSTRUCTION SET

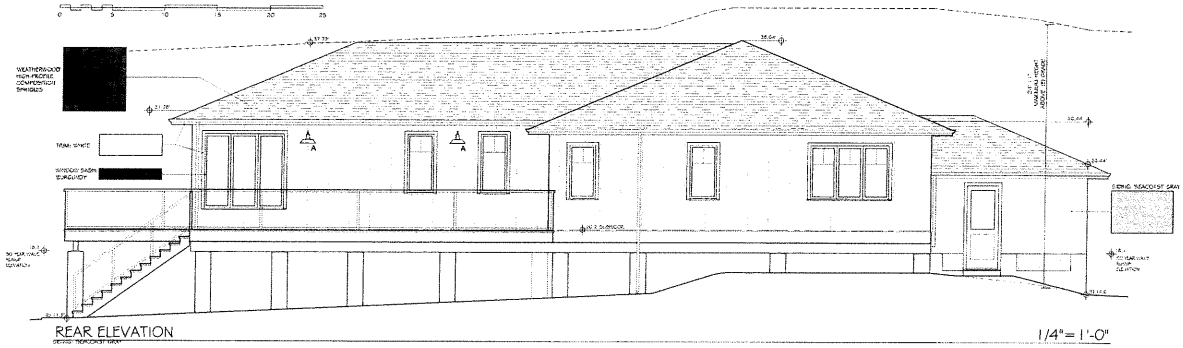
PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH CALIFORNIA

DATE: 2-4-16
SCALE: AS NOTED
DRAWN: CS/CD/RAD
JOB: 15NOV - STINSON
SHEET

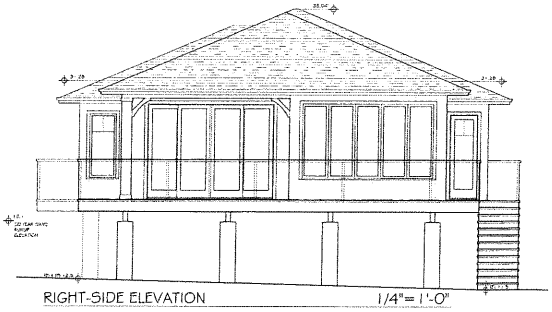
A2

OF 5 SHEETS

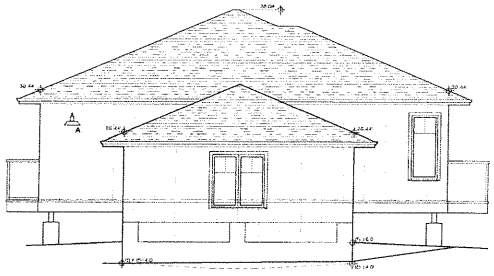
FRONT ELEVATION 1/4"= 1'-0"



REAR ELEVATION 1/4"= 1'-0"



RIGHT-SIDE ELEVATION 1/4"= 1'-0"



LEFT-SIDE ELEVATION 1/4"= 1'-0"

DRAWINGS PREPARED BY

CHRIS SPAULDING
ARCHITECTS

801 CAMELIA STREET SUITE E
BERKELEY, CALIFORNIA 94710
(510) 527-5992 FAX (510) 527-5996

REVISIONS	BY
5-27-16	

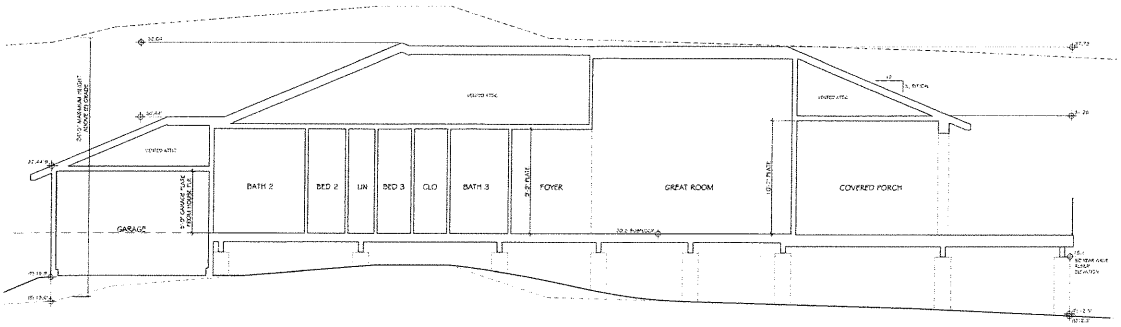
PRELIMINARY SET
DESIGN REVIEW SET
PLAN CHECK SET
PERMIT SET
CONSTRUCTION SET

PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH ◻ CALIFORNIA

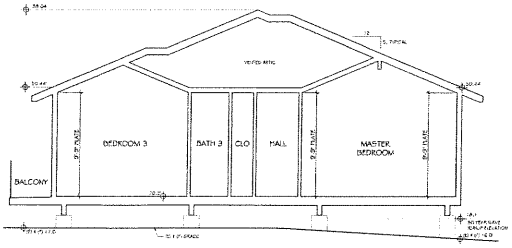
DATE: 2-4-16
SCALE: AS NOTED
DRAWN: EJC/GB/BAD
JOB: NUMES - STINSON
SHEET

A3

OF 5 SHEETS



SECTION A-A 1/4"= 1'-0"



SECTION B-B 1/4"= 1'-0"

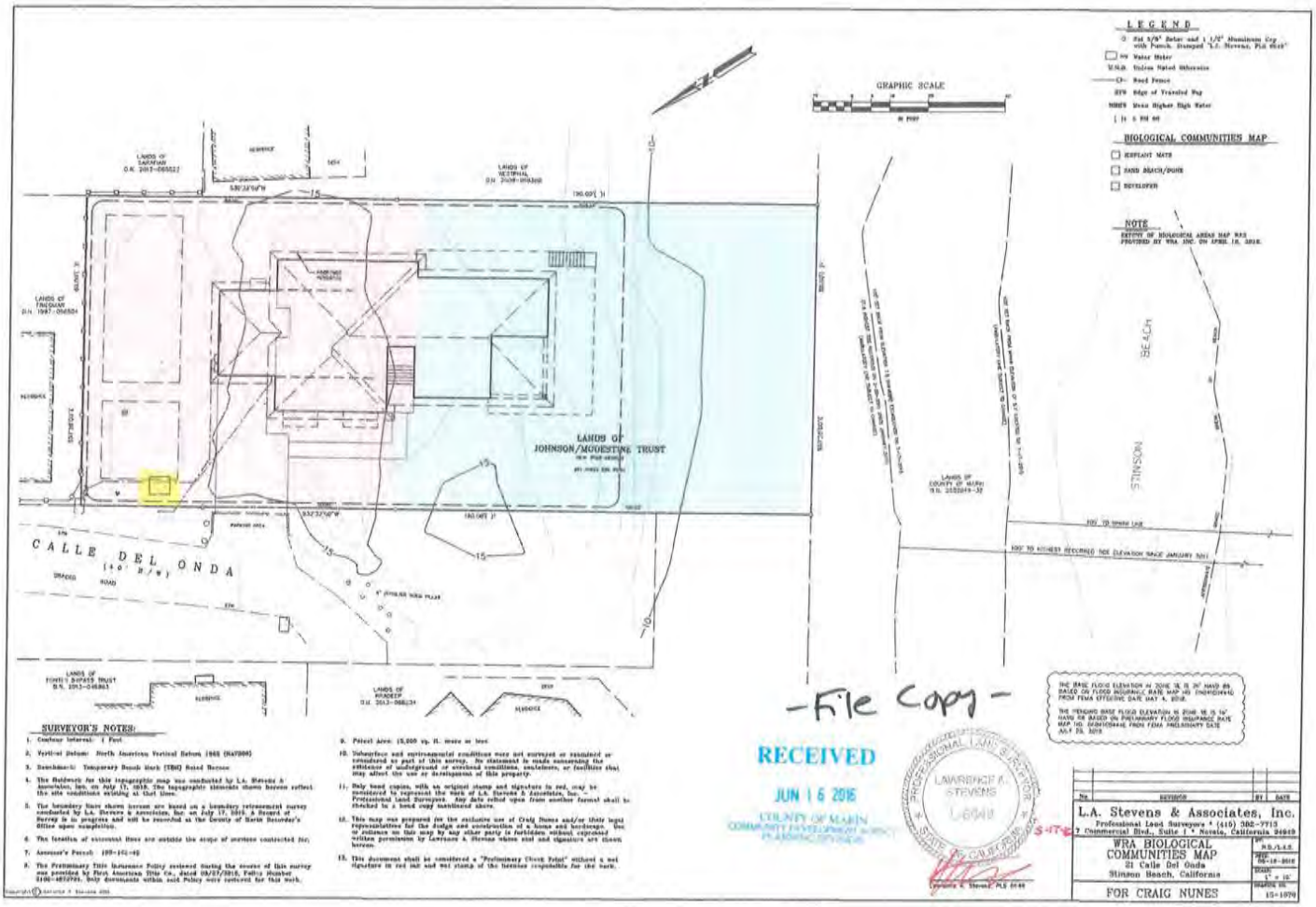
DRAWINGS PREPARED BY
CHRIS SPAULDING
- ARCHITECT -
201 CAMELLIA STREET, SUITE E
BERKELEY, CALIFORNIA 94710
(510) 523-3593 FAX (510) 527-5909

REVISIONS	BY
5-31-16	

PRELIMINARY SET
DESIGN REVIEW SET
PLAN CHECK SET
PERMIT SET
CONSTRUCTION SET

PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH ☐ CALIFORNIA

DATE:	2-4-16
SCALE:	AS NOTED
DRAWN:	EJC/SDS/KD
JOB:	NUNES - STINSON
SHEET	A4
OF 5	SHEETS


LEGEND
GRAPHIC SCALE
BIOLOGICAL COMMUNITIES MAP
NOTE
LANDS OF JOHNSON/MOUSTINE TRUST
CALLE DEL ONDA
BEACH
STINSON
-File Copy-
RECEIVED
JUN 16 2016
COUNTY OF MARIN
LAWRENCE K. STEVENS
L-6648
SURVEYOR'S NOTES:
FOR CRAIG NUNES

SURVEYOR'S NOTES:

RECEIVED

JUN 16 2016

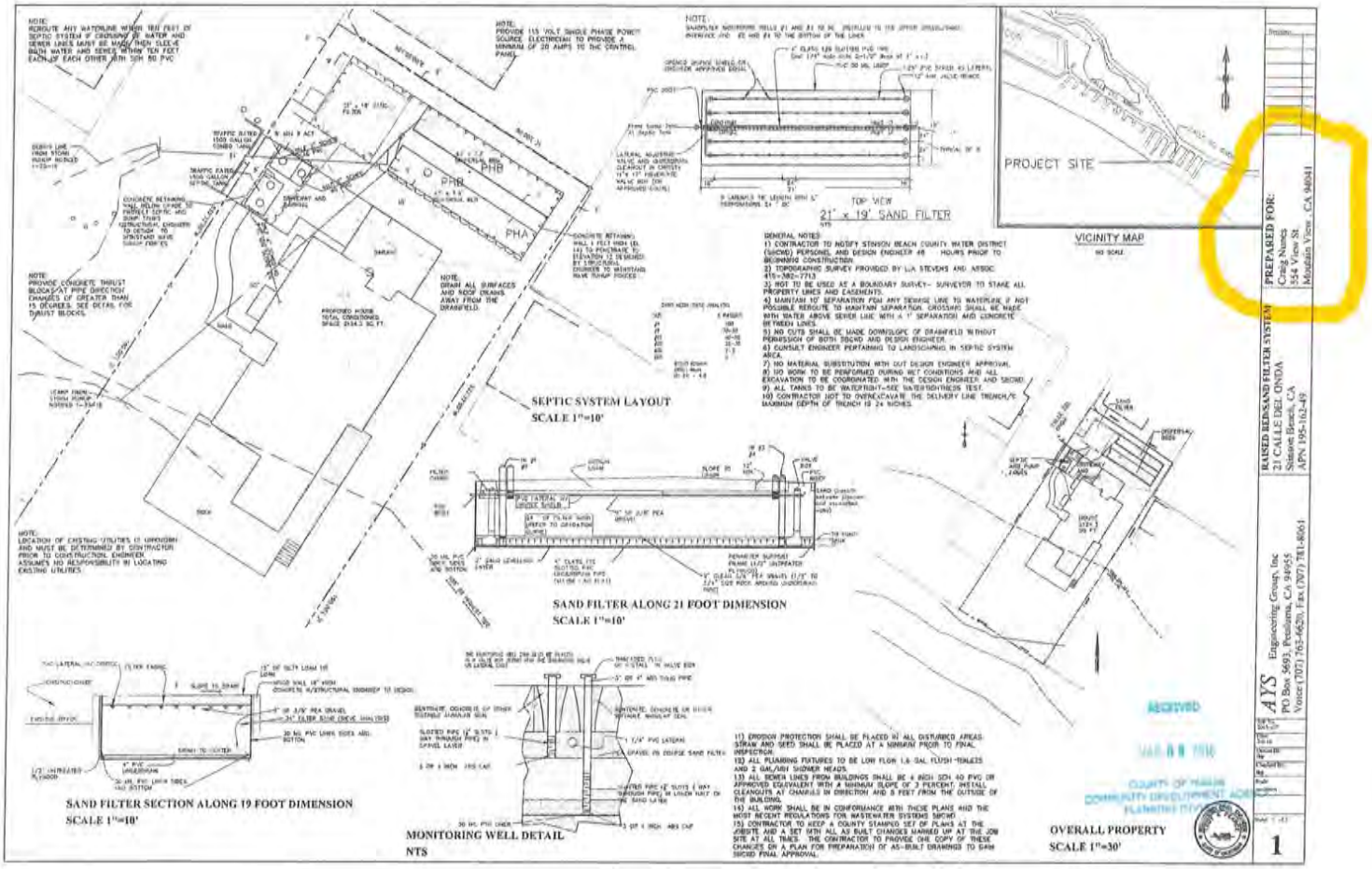
COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

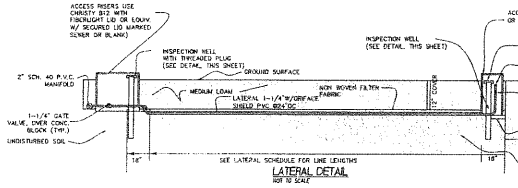
-File Copy-

L.A. Stevens & Associates, Inc.

CONSTRAINTS MAP

FOR CRAIG JUNES


PROJECT SITE
VICINITY MAP
NO SCALE
TOP VIEW
21' x 19' SAND FILTER
SEPTIC SYSTEM LAYOUT
SCALE 1"=10'
SAND FILTER ALONG 21 FOOT DIMENSION
SCALE 1"=10'
SAND FILTER SECTION ALONG 19 FOOT DIMENSION
SCALE 1"=10'
MONITORING WELL DETAIL
NTS
OVERALL PROPERTY
SCALE 1"=30'
GENERAL NOTES:
1) CONTRACTOR TO NOTIFY STINSON BEACH COUNTY WATER DISTRICT (SBCWD) PERSONEL AND DESIGN ENGINEER 48 HOURS PRIOR TO BEGINNING CONSTRUCTION.
2) TOPOGRAPHIC SURVEY PROVIDED BY LA STEVENS AND ASSOC. 415-383-7713
3) NOT TO BE USED AS A BOUNDARY SURVEY- SURVEYOR TO STAKE ALL PROPERTY LINES AND EASEMENTS.
4) MAINTAIN 10' SEPARATION FOR ANY SEWAGE LINE TO WATERLINE IF NOT POSSIBLE REROUTE TO MAINTAIN SEPARATION. CROSSING SHALL BE MADE WITH WATER ABOVE SEWER LINE WITH A 1' SEPARATION AND CONCRETE BETWEEN LINES.
5) NO CUTS SHALL BE MADE DOWNSLOPE OF DRAINFIELD WITHOUT PERMISSION OF BOTH SBCWD AND DESIGN ENGINEER.
6) CONSULT ENGINEER PERTAINING TO LANDSCAPING IN SEPTIC SYSTEM AREA.
7) NO MATERIAL SUBSTITUTION WITH OUT DESIGN ENGINEER APPROVAL.
8) NO WORK TO BE PERFORMED DURING WET CONDITIONS AND ALL EXCAVATION TO BE COORDINATED WITH THE DESIGN ENGINEER AND SBCWD.
9) ALL TANKS TO BE WATERTIGHT-SEE WATERTIGHTNESS TEST.
10) CONTRACTOR NOT TO INTERCEPT WITH THE DELIVERY LINE TRENCH/S MAXIMUM DEPTH OF TRENCH IS 24 INCHES.
11) EROSION PROTECTION SHALL BE PLACED AT ALL DISTURBED AREAS. STRAW AND SEED SHALL BE PLACED AT A MINIMUM PRIOR TO FINAL INSPECTION.
12) ALL PLUMBING FIXTURES TO BE LOW FLOW 1.6 GAL FLUSH TOILETS AND 2 GAL/MIN SHOWER HEADS.
13) ALL SEWER LINES FROM BUILDINGS SHALL BE 4 INCH SCH 40 PVC OR APPROVED EQUIVALENT WITH A MINIMUM SLOPE OF 2 PERCENT. INSTALL CLEANOUTS AT CHANGES IN DIRECTION AND 5 FEET FROM THE OUTSIDE OF THE BUILDING.
14) ALL WORK SHALL BE IN CONFORMANCE WITH THESE PLANS AND THE MOST RECENT REGULATIONS FOR WASTEWATER SYSTEMS SBCWD.
15) CONTRACTOR TO KEEP A COUNTY STAMPED SET OF PLANS AT THE JOBSITE AND A SET WITH ALL AS BUILT CHANGES MARKED UP AT THE JOB SITE AT ALL TIMES. THE CONTRACTOR TO PROVIDE ONE COPY OF THESE CHANGES OR A PLAN FOR PREPARATION OF AS-BUILT DRAWINGS TO SHOW SBCWD FINAL APPROVAL.
RECEIVED
COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION
PREPARED FOR:
Craig Nunes
554 View St.
Mountain View, CA 94041
RAISED BED/SAND FILTER SYSTEM
21 CALLE DEL ONDA
Stinson Beach, CA
APN 195-162-49
AYS Engineering Group, Inc.
PO Box 5693, Petaluma, CA 94955
Voice: (707) 763-4629, Fax: (707) 781-8061
1



mk	DIAMETER	PERF SIZE	LENGTH	# OF PERF'S
A1	1 ¼"	⅜"	40'	20
A2	1 ¼"	⅜"	40'	20
A3	1 ¼"	⅜"	40'	20
B1	1 ¼"	⅜"	40'	20
B2	1 ¼"	⅜"	40'	20
B3	1 ¼"	⅜"	40'	20

LATERAL SCHEDULE
NOT TO SCALE

GENERAL NOTES

1) CONTRACTOR TO NOTIFY STINSON BEACH COUNTY WATER DISTRICT (SBCWD) PERSONNEL AND DESIGN ENGINEER 48 HOURS PRIOR TO BEGINNING CONSTRUCTION.
2) NOT TO BE USED AS A BOUNDARY SURVEY- SURVEYOR TO STAKE ALL PROPERTY LINES AND EASEMENTS. SURVEY PERFORMED BY LAWRENCE P. GOYLE 415-388-4585
3) MAINTAIN 10' SEPARATION FROM ANY SEWAGE LINE TO WATERLINE IF NOT POSSIBLE REROUTE TO MAINTAIN SEPARATION. CROSSING SHALL BE MADE WITH WATER ABOVE SEWER LINE WITH BOTH LINES SLEEVED WITHIN 10' OF EACH OTHER.
4) NO CUTS SHALL BE MADE DOWNSLOPE OF DRAINFIELD WITHOUT PERMISSION OF BOTH SBCWD AND DESIGN ENGINEER
5) CONSULT ENGINEER PERTAINING TO LANDSCAPE SEPTIC SYSTEM.
6) NO MATERIAL SUBSTITUTION WITH OUT DESIGN ENGINEER APPROVAL
7) ALL TANKS TO BE WATERTIGHT- SEE WATERTIGHTNESS TEST.
8) CONTRACTOR NOT TO OVEREXCAVATE THE DELIVERY LINE TRENCH/S. MAXIMUM WIDTH OF TRENCH IS 24 INCHES
9) THIS SYSTEM CALLS FOR A DIVERSION VALVE/S WHICH ARE TO BE HOUSED IN A SUBSTANTIAL VALVE BOX. THE BOX IS TO BE EXTENDED TO 3 INCHES ABOVE GRADE. THE VALVE SHOULD BE ALTERNATED EVERY SIX MONTHS.
10) EROSION PROTECTION SHALL BE PLACED IN ALL DISTURBED AREAS. STRAW AND SEED SHALL BE PLACED AT A MINIMUM PRIOR TO FINAL INSPECTION.
11) ALL SEWER LINES FROM BUILDINGS SHALL BE 3 INCH FOR 25 OR APPROVED EQUIVALENT WITH A MINIMUM SLOPE OF 2 PERCENT. INSTALL CLEANOUTS AT CHANGES IN DIRECTION AND 5 FEET FROM THE OUTSIDE OF THE BUILDING
12) ALL WORK SHALL BE IN CONFORMANCE WITH THESE PLANS AND THE MOST RECENT SBCWD REGULATIONS FOR WASTEWATER SYSTEMS.
13) CONTRACTOR TO CONDUCT SCHMIT TEST CONSISTING OF PRESSURIZING THE LEACHFIELD WITH THE PUMP AND ADJUSTING THE LEACHFIELD GATE VALVES TO PROVIDE A 5" HIGH STREAM OF WATER THROUGH ORIFICES. THIS IS TO BE REPEATED FOR CONSTRUCTION INSPECTION PHASE 2
14) CONTRACTOR TO KEEP A RED LINE SET WITH ALL CHANGES MARKED UP AT THE JOB SITE AT ALL TIMES. THE CONTRACTOR TO PROVIDE ONE COPY OF THESE CHANGES ON A PLAN FOR PREPARATION OF AS - BUILT DRAWINGS TO MARIN COUNTY FINAL APPROVAL.

CONSTRUCTION INSPECTION NOTES
CONTRACTOR TO NOTIFY DESIGN ENGINEER AND SBCWD A MINIMUM OF 48 HOURS PRIOR TO CONSTRUCTION AND INSPECTION OF THE SYSTEM. ADDITIONAL FEES WILL BE REQUIRED BY SBCWD AFTER THREE SITE INSPECTIONS. ENGINEER AND SBCWD SHALL INSPECT THE SYSTEM AT CRITICAL CONSTRUCTION PHASES AS FOLLOWS:

PHASE ONE:
1) INSPECT STAKE OUT LOCATION OF LATERALS ALONG CONTOURS, THE SEPTIC AND SUMP TANKS, AND THE LANDFILL.
2) INSPECT THE LEACHLINE GRAVEL AND SAND/FILTER MEDIA, AND PROVIDE A CERTIFIED COPY OF WET SIEVE ANALYSIS USING ASTM C-117 OR EQUIVALENT.

PHASE TWO:
1) INSPECT LEACHLINE INSTALLATION AND LEVEL VIA OPEN TRENCHES INSTALLED INSPECTION WELLS
2) INSPECT PERFORATION SIZE AND SPACING
3) INSPECT WATERTIGHTNESS OF ALL TANKS
4) INSPECT SQUIRT TEST OF LEACHFIELD.
5) INSPECT CONTROL PANEL, FLOATS AND CIRCUIT BREAKER FOR ENTIRE SEPTIC SYSTEM.

PHASE THREE:
1) INSPECT ANY ITEMS LISTED ABOVE WHICH HAVE NOT BEEN OBSERVED YET.
2) INSPECT FINISHED SEPTIC SYSTEM INCLUDING ON ANY NECESSARY EROSION CONTROL MEASURES
3) INSPECT FLOOR PLANS OF STRUCTURE BEING SERVED BY THE SEPTIC SYSTEM. INSPECT IF APPLICABLE, WHETHER LOW FLOW FIXTURES WERE INSTALLED ON NOT.
4) PROVIDE SBCWD WITH PARKING DEPARTMENT APPROVAL OF PUMP INSTALLATION.

OPERATION AND MAINTENANCE OF A SEPTIC SYSTEM

1) INSPECT SEPTIC TANKS AND DRAINFIELD EVERY SIX MONTHS.
2) IF SLUDGE OR SCUM BUILDUP IS GREATER THAN 6 TO 8 INCHES HAVE TANK PUMPED. (USUAL FREQUENCY FOR PUMPING IS 3 TO 5 YEARS).
3) MINIMIZE THE USE OF GARBAGE DISPOSAL.
4) MINIMIZE THE USE OF HARSH CHEMICALS IN LARGE QUANTITIES
5) MINIMIZE THE AMOUNT OF GREASE DISPOSED OF IN SINKS. PACKAGE ALL FOOD WASTES AND DISPOSE OF IN GARBAGE FOR SANITARY LANDFILL.
6) MINIMIZE DISPOSAL OF NON-SEWAGE ITEMS SUCH AS SANITARY NAPKINS, CIGARETTES AND OTHERS.
7) MAINTAIN ALL PLUMBING. LEAKS SHOULD BE FIXED AS QUICK AS THEY OCCUR.
8) MINIMIZE LIQUID LOAD ON THE SYSTEM BY WASHING DISHES AND LAUNDRY IN LARGE LOADS. SPREAD LOADS OVER THE WEEK RATHER THAN DOING ALL LAUNDRY ON A SINGLE DAY.
9) PROHIBIT VEHICULAR TRAFFIC AND HOOFED ANIMALS FROM THE SEPTIC SYSTEM AREA.

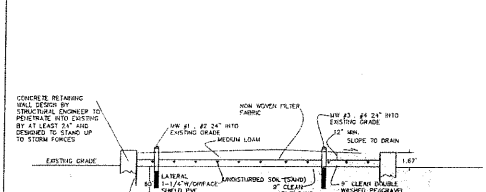
THE PUMP SHALL BE OF THE SIZE AND TYPE INDICATED ON THE PLANS AND SHALL INCLUDE THE FOLLOWING:
1) A LIQUID OFF /AUTO (HOA) SWITCH.
2) AN AUDIO AND VISIBLE ALARM AND NECESSARY EFFLUENT SENSING DEVICE TO INDICATE A HIGH WATER CONDITION
3) USE EITHER PILL OR MERCURY TYPE FLOAT SWITCH
4) SET PUMPING VOLUME AS STATED IN THE PUMP REQUIREMENTS.
5) PUMP TO BE SET A MINIMUM OF 6 INCHES FROM THE BOTTOM OF THE SUMP.

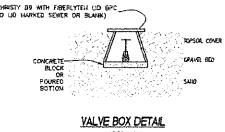
1) THE SUMP SHALL HAVE A WORKING CAPACITY OF 1.0 TIMES THE DESIGN FLOW DESIGNATED. THE CAPACITY SHALL INCLUDE THE DOSE VOLUME AND 24-HOUR STORAGE VOLUME.
2) ACCESS TO BE PROVIDE BY A MINIMUM 24-INCH DIAMETER WATERPROOF AIRTIGHT RISER AND LID SYSTEM.
3) ALL PIPE AND AIR ELECTRICAL CONNECTIONS MADE THROUGH THE RISER EITHER TO BE PRECAST INTO THE RISER OR SEALED WITH CASTOFF COMPRESSION CONNECTORS.

THE FOLLOWING ELECTRICAL FEATURES TO BE PROVIDED
1) AN OUTDOOR TYPE CONTROL BOX CONTAINING A FUSED DISCONNECT AND MOTOR PROTECTION SWITCH. SEE THE PUMP REQUIREMENT SECTION OF THE PLANS FOR THE MODEL NUMBER AND REQUIREMENTS.
2) THE CONTROL BOX TO BE MOUNTED ON THE BUILDING BEING SERVED IF WITHIN 20 FEET OF THE SUMP OTHERWISE INSTALL ON A 4"X4" POST THAT IS INSTALLED SECURELY. CONTROL PANEL TO BE VISIBLE FROM THE ROADWAY IF AT ALL POSSIBLE.
3) ALARM AND PUMP TO BE INSTALLED ON SEPARATE CIRCUITS THAT ARE OF SIZE LARGE ENOUGH FOR THIS RESPECTIVE USES.
4) ELECTRICAL CONDUIT SHALL BE PVC AND SEPARATE CONDUITS SHALL BE PROVIDED TO POWER PUMP AND FLOATS.

1) THE PIPE FROM THE SUMP TO THE DRAINFIELD SHALL BE PVC IN THE SIZE AND SCHEDULE SPECIFIED ON THE PLANS.
2) A UNION DWING CHECKVALVE AND DOUBLE WEDGE GATE VALVE SHALL BE INSTALLED IN THE SUMP CHAMBER IN THIS ORDER AWAY FROM THE PUMP. ALTERNATIVELY THESE ITEMS CAN BE INSTALLED IN A VALVE BOX NEXT TO THE SUMP CHAMBER.
3) CONCRETE THRUST BLOCKS SHALL BE INSTALLED WHEN CHANGE IN PIPE DIRECTION IS 45 DEGREES OR GREATER.

AREA FROM THE INDIVIDUAL SEWAGE DISPOSAL SYSTEM PERMIT ADDITIONAL PERMIT (S) WILL BE REQUIRED BY THE BUILDING INSPECTION DEPARTMENT FOR PUMP INSTALLATION.

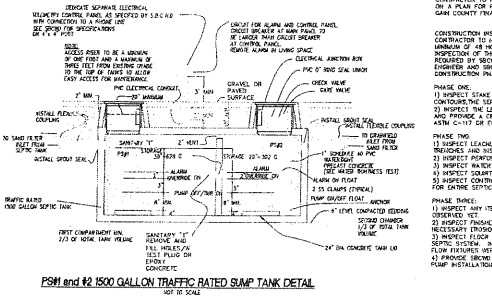




VALVE BOX DETAIL
NOT TO SCALE

TANK WATERTIGHTNESS TEST

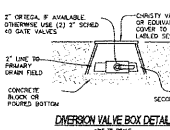
1. CAP OR TEST PLUG ALL INLETS AND OUTLETS TO TANK.
2. FILL TANK WITH WATER TWO INCHES INTO THE RISER AND MARK WATER LEVEL. SCHEDULE WITH ENGINEER AND WAIT 24 HOURS BEFORE FILLING TANK.
3. IF AFTER 24 HOURS WATER LEVEL DROPS, TANK MUST BE MADE WATERTIGHT BY APPLYING WATERPROOF SEALER (NOT BITUMOUS PRODUCT) SHOTCRETE, THOROSEAL OR OTHER PORTLAND CONCRETE CEMENT PRODUCT.



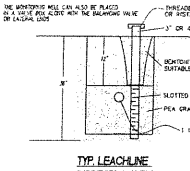
PS#1 and #2 1500 GALLON TRAFFIC RATED SUMP TANK DETAIL
NOT TO SCALE

PS#1 FROM 2/3 SIDE OF 1500 GALLON PUMP TANK TO TO SANDFILTER
TOTAL DYNAMIC HEAD = 24 FT
GALLONS PER MINUTE (GPM) = 34 GPM
DOSE = 50 GALLONS
OPERATION RANGE = 3.0"
RECOMMENDED PUMP TYPE: GOULDS MODEL 3685 NOSHUN (.5 HP, 230 VOLTS, SINGLE PHASE, 7.3 AMPS)
RECOMMENDED CONTROL PANEL SEE CONTROL PANEL REQUIREMENTS THIS PAGE.

PS#2 FROM 1/3 SIDE OF 1500 GALLON PUMP TANK TO RAISED BEDS
TOTAL DYNAMIC HEAD = 25.5 FT
GALLONS PER MINUTE (GPM) = 28 GPM
DOSE = 50 GALLONS
OPERATION RANGE = 5.0"
RECOMMENDED PUMP TYPE: GOULDS MODEL 3695 NOSHUN (.5 HP, 230 VOLTS, SINGLE PHASE, 7.5 AMPS)
RECOMMENDED CONTROL PANEL SEE CONTROL PANEL REQUIREMENTS THIS PAGE.



DIVERSION VALVE BOX DETAIL
NOT TO SCALE



TYP. LEACHLINE INSPECTION WELL
NOT TO SCALE

AYS Engineering Group, Inc.
PO Box 5693, Petaluma, CA 94955
Voice (707) 765-6620, Fax (707) 781-8061

PREPARED FOR:
Craig Nunes
554 View St.
Mountain View , CA 94041

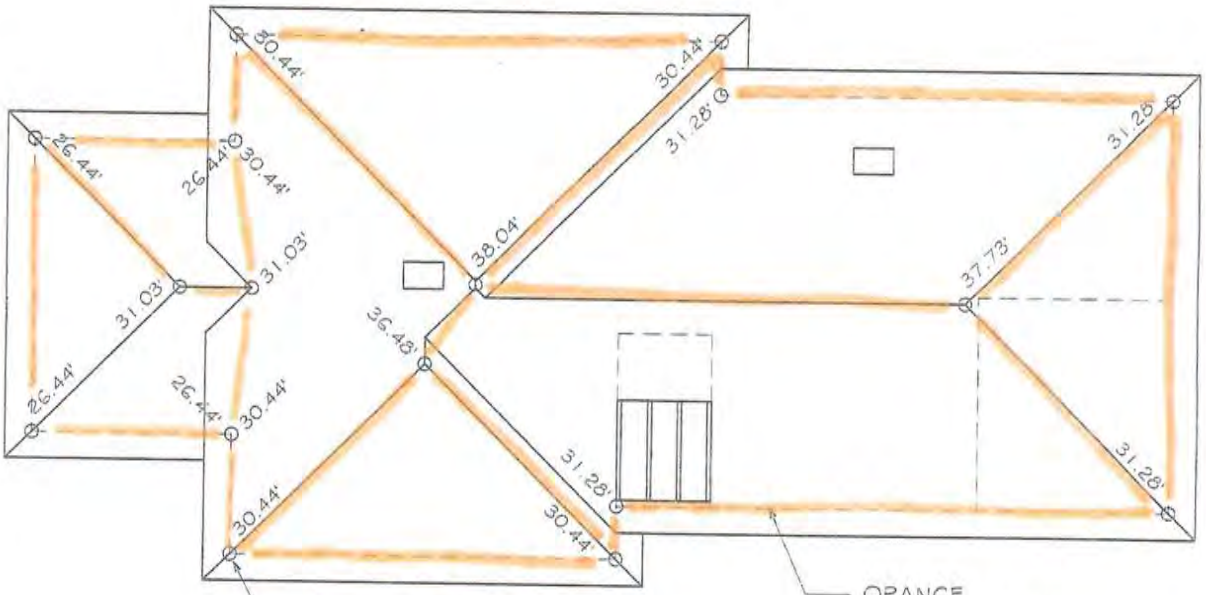
RAISED BED/SAND FILTER SYSTEM
21 CALLE DEL ONDA
Stinson Beach, CA
APN 195-162-49

Job No: 2015-017
Date: 2-9-16
Drawn By: RJP
Checked By: RJP
Scale: as shown

Sheet 2 of 2

DETAILS

2



RECEIVED

MAR 09 2016

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

FROM THE OFFICE OF
CHRIS SPAULDING
ARCHITECT
801 CAMELIA STREET, SUITE E
BERKELEY CA 94710

STORY POLE PLAN
21 CALLE DEL ONDA

STINSON BEACH ▫ CALIFORNIA

ATTACHMENT 11

ATTACHMENT 11

Accession#:	1998-123
Title:	Storm of 1978
Date:	1982-1983
Catalog Date:	08/04/2006
Category:	10: Unclassifiable Artifacts
Classification:	Disasters Storms Disasters Floods
Collection:	SBHS Photo Collection
Copyright:	SBHS
Description:	Storm of January 1978. Several houses are visible as the ocean swirls around them. They are identified from far to near as: Kelly house on Calle del Ribera (destroyed); Syd Boyle house on Calle del Resaca; and at the end of Calle del Onda, the Kugelgen house, which was washed out of sea; and
Event:	Storm/flood
Film Size:	35 mm
Medium:	Photographic Paper
Negative #:	75-2
Object ID:	1998-123
Object Name:	Print, copy
Orig/copy:	Photocopy
Place:	Stinson Beach
Print Size:	3 1/2" x 5"
Slide #:	474
Source:	Parsons, Erma & Denis
Subjects:	Disasters (Storms) Disasters(Floods) Neighborhoods calles
Year Range from:	1982
Year Range to:	1983

ATTACHMENT 12

ATTACHMENT 12

s and Flood :

Accession#:	1993-305
Title:	Besieged Houses
Date:	1983
Catalog Date:	11/25/2002
Category:	8: Communication Artifact
Classification:	Buildings Disasters Floods Storms
Collection:	SBHS
Copyright:	SBHS
Description:	A black and white photograph of Von Kugelgan house (Lee and Nancy Von Kugelgan) , center, and Boyle house, white square house on right standing in stormy surf with debris in front taken during the storm of 1983 by Barrie Stebbings, local photographer who worked for the Coastal Post. Both houses were demolished.
Event:	Flood
Film Size:	35 mm
Frame #:	25
Medium:	Photographic Paper
Negative #:	3
Object ID:	1993-305-01
Object Name:	Print, Photographic
Orig/copy:	Original
Photographer:	Stebbings, Barrie
Place:	Beach (On Bolinas Bay)/Neighborhoods/Calles/Stinson Beach/Calle del Onda
Print Size:	4" x 6"
Slide #:	25
Source:	Stebbings, Barrie
Studio:	Bolinas
Subjects:	Disasters (Storms) Disasters(Floods) Neighborhoods/Calles
Year Range from:	1983

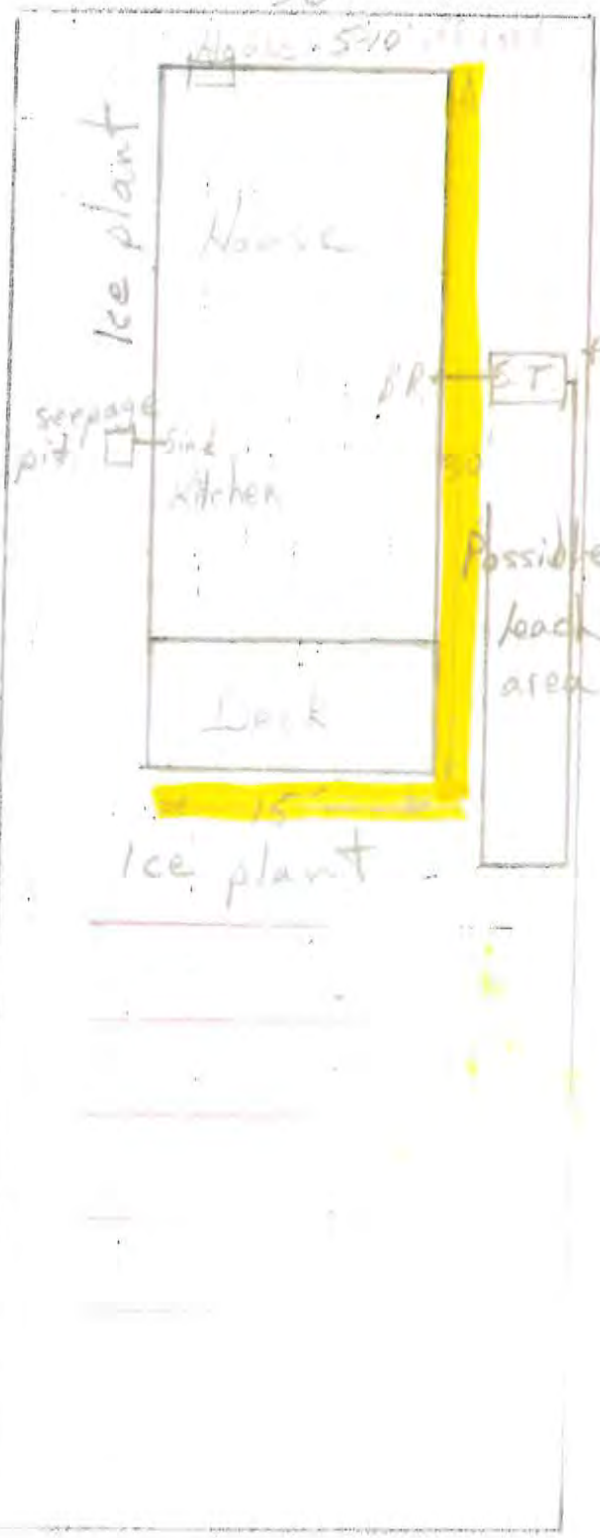
ATTACHMENT 13

ATTACHMENT 13

7-053

OWNER: Madeline Bagwell	ASSESSOR'S LOT NUMBER: 142 / 11-220
RESIDENT: Greta Bagwell	LOT AREA: 2480 sq ft / .06
NUMBER & STREET: 21 Calle Onda	FRONTAGE: 80' / SLOPE 7%
INTERVIEWER:	DATE: 11/15/78

B-122-1



SCALE: 1/8" = 1'

ATTACHMENT 14

ATTACHMENT 14

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5260
FAX: (415) 904-5400
WEB: WWW.COASTAL.CA.GOV

August 5, 2021

Sabrina Cardoza
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Subject: P3049 Brian Johnson Trust Coastal Permit

Dear Ms. Cardoza:

Thank you for the opportunity to provide our comments on the proposed development at 21 Calle del Onda in the Stinson Beach Calles neighborhood. The proposed development includes construction of a new single-family residence and attached garage, as well as a new septic system, on a currently vacant lot. After our review of the project materials, Commission staff would like to share our concerns regarding the potential for coastal resource impacts related to the proposed development and recommendations for making the project consistent with Marin County's Local Coastal Plan (LCP), as follows:

Dune/Environmentally Sensitive Habitat Area (ESHA)
In response to our March 16, 2021 comments regarding the need to identify and protect dune habitat and/or ESHA, the Applicant responded that the "proposed building design protects the property's sandy beach setting as submitted." Regardless of the present condition of the dunes at this location, any development in dune ESHA, as well as within dune habitat and/or ESHA buffers would be inconsistent with the LCP. Too, the response did not provide clarification about the extent of ESHA onsite, make recommendations regarding buffers from ESHA, or describe any recommended mitigation measures to protect ESHA. The County should require the applicant submit a detailed biologic survey that provides the information needed to determine the extent of ESHA and appropriate buffers for avoiding such areas.

Hazards
In their recent submittal, the Applicant notes that by 2050, analyzing a 100-year storm plus sea level rise, a "100-year storm could produce wave runup that would overtop the wastewater system by as much as 4.5 feet. In addition, the scouring action could cause the shoreline to recede nearly to the edge of the system at a medium-high risk scenario." In addition, the Applicant erroneously states that the proposed development is sited "out of Eskoot's historic floodplain," but is actually within the floodplain when considering low risk scenario sea level rise projections and annual storms. Given this, it appears the septic system is not adequately set back and designed to minimize risks to surrounding property or minimize impacts to water quality over its economic life, considering both ocean flooding and creekside inundation from Eskoot Creek. We encourage the County to require the Applicant to explain how this element

of the project design would be consistent with LCP requirements regarding designing development to be safe from hazards over its economic life.

In addition, it appears from the Applicant's submittal as though Stinson Beach Community Water District (SCBWD) imposed a permit condition requiring a concrete perimeter system protection barrier to further reduce risk of damage to the septic system during historic storm events. The bottom of the barrier wall will be set at elevation of 9' NAVD88, which is expected to protect the system through 2070. However, because LCP hazards policies prohibit shoreline protective devices for new development, the County should require the Applicant to instead propose a wastewater treatment system that would be consistent with the LCP.

The Applicant has agreed to "assume the full risks associated with development of their property and to record a deed restriction that permits no future shoreline protection and requires removal of the structure at such time as a legally authorized public agency issues an order to do so," and as well notes that they would "record a deed restriction that commits them and all future property owners to participate in a community wastewater system if one is approved by the community. In addition, once a Wastewater Variance is granted, their single-family residence application to the County of Marin and the Coastal Commission will include a proposed condition binding any owner to apply for a Coastal Development Permit to remove the structure at such time as the State or County order removal based on an increased level of coastal hazard." While we agree with the Applicant regarding requirement of the first condition proposed regarding the assumption of risk and removal requirement, we recommend that, in reference to the second condition proposed, regardless of the approved wastewater treatment system, a permit for the proposed development should include a condition requiring the current or future property owners to apply for a Coastal Development Permit to remove the structure at such time as the State or County order removal related to coastal hazards. In addition, the County should require as conditions of approval *all* of the recommended hazard conditions as set out in the Commission's March 16, 2021 letter (see pages 3-5, specifically), attached.

Takings Analysis

The Applicant claims that because a house previously existed on this parcel, and because they have continually paid property taxes, "the owners have a reasonable expectation for their modest development to be approved." Additional factors should be taken into consideration to adequately assess the actual development expectations for this particular property including:

- Part of the parcel is covered by FEMA AO zone, resulting in that part of the property is subject to a development moratorium (the Eskoot FP moratorium), constraining its development potential;
- Date of purchase, purchase price, fair market value at the time of purchase;
- Any zoning changes that have occurred since time of purchase (and applicable changes explained);
- Any other development restrictions that applied at time of purchase besides the Eskoot Creek moratorium, including open space easements, restrictive covenants, etc.;
- Changes to the property boundaries or size since purchase;
- Any rents or other profits assessed from the lease or sale of portions of the property since time of purchase;

- Any title reports or litigation guarantees regarding the sale, refinance, or purchase for portions of the property that would apply, since the time of purchase;
- Costs associated with ownership of the property such as property taxes and assessments, mortgages or interest costs, and operation and/or management costs;
- Costs and income should be presented on an annualized basis; and
- Any offers or solicitations to purchase the property.

Please do not hesitate to contact me at sara.pfeifer@coastal.ca.gov or (415) 904-5255 if you have questions regarding our comments.

Sincerely,

Sara Pfeifer
North Central Coast District Coastal Planner

Cc (via email):

Julia Koppman Norton, North Central Coast District Supervisor, California Coastal Commission
Stephanie Rexing, North Central Coast District Manager, California Coastal Commission
Steve Kinsey, CivicKnit

ELIZABETH BREKHUS
elizabethb@brekhus.com
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Brekhus
Law
Partners

ATTORNEYS AT LAW

1000 DRAKES LANDING ROAD
GREENBRAE, CA 94904-3027
FACSIMILE: (415) 461-7356
(415) 461-1001

February 8, 2023

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planners:

I represent Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who own property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, CA. I submitted a letter on the Sarafians behalf in opposition to the application for a coastal permit on November 5, 2021 (attached as **exhibit A**). We reiterate the previous objections to the application as the pending Subsequent Environmental Review and Subsequent Mitigated Negative Declaration (Marin County Environmental Review) does not resolve the previous issues raised.

As explained below, the County should require an EIR because the prior environmental review was inadequate for the new discretionary approval sought and the project details were not previously considered by the Mitigated Negative Declaration nor are they adequately discussed in the new Mitigated Negative Declaration.

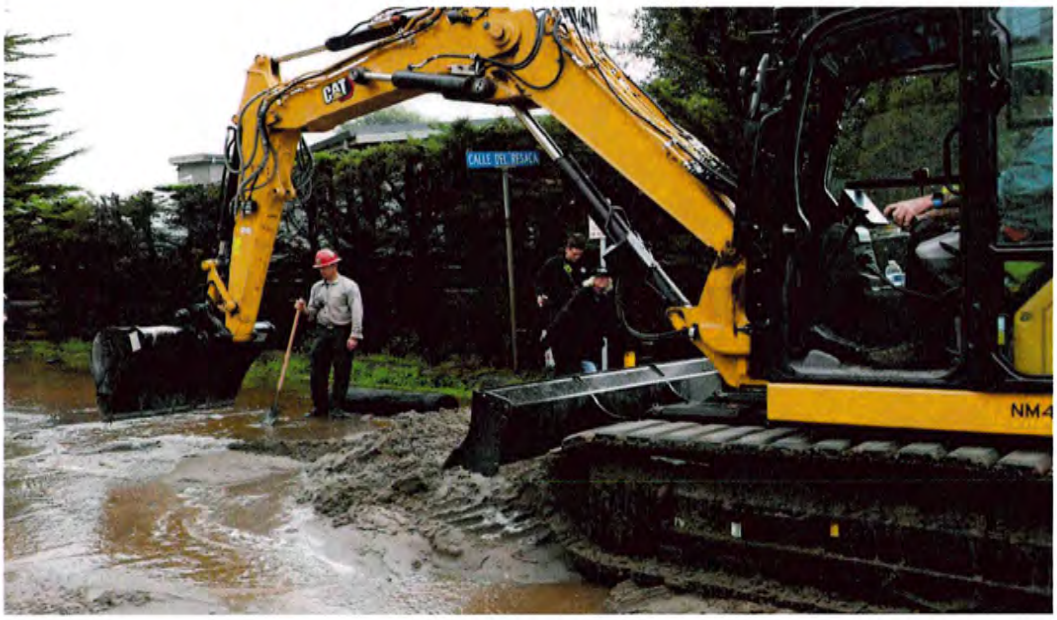
The applicant continues to mislead the planning commission into couching the denial of the permit as a Constitutional "taking". The original structure was a modest 450 square foot cabin that burned in a fire in 1983 and the lot has remained undeveloped since that time. Construction of a new home with a septic system in two FEMA flood zones and on coastal dunes should not be permitted, and risks damage to other residences in flood events. In addition, the new Mitigated Negative Declaration has failed to remedy the lack of a CEQA EIR review and the County cannot approve the application absent said review on this basis alone.

Finally, the County's Environmental review and Mitigated Negative Declaration preceded the recent violent flooding that occurred in Stinson Beach resulting in significant property damage to homes near the proposed project. The review anticipated a "100 year storm" in approximately 50 years, however, it occurred immediately after the Mitigated Negative Declaration issued. Moreover, the review relies on the previous environmental review by the

Stinson Beach County Water District in July 2020, which in light of the recent flooding on Calle del Onda can no longer be relied upon. Therefore, the inaccurate presumptions and data in the environmental review need to be reassessed in light of the recent flooding. If the project had been allowed with the current plans, including the septic system and propane tank, the recent flooding of that specific property would have been obviously devastating for not only my clients, but the entire Calle del Onda neighborhood. If construction had been permitted, there likely would have been a determination that the structures are permanently unsafe as evidenced by the video and photographs below and submitted herewith.

https://www.youtube.com/watch?v=aJV6tJY6rTE

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=video&cd=&cad=rja&uact=8&ved=2ahUKEwjPt5bqzIT9AhWSJX0KHdgjAi4QtwJ6BAgJEAI&url=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DWjryAgD-elE&usg=AOvVaw0TsK3VGU-KFUqIpIQ9u5



Objections to Pending Application for Coastal Permit

1. CEQA Review is Required

The application for the Coastal Permit qualifies as a "project" under the California Environmental Quality Act (CEQA). CEQA is a California State law that requires environmental review of most projects that could result in impacts to the physical environment and are subject

to discretionary approval by local or State agencies. A proper CEQA review has not been performed and is a prerequisite before the application can be considered.

The July 18, 2020, approval by the Stinson Beach County Water District (SBCWD) for a variance for the septic system on the Project site was in violation of CEQA. The reliance on this study (December 2019, updated in June 2020) in the Supplemental Environmental Review and Subsequent Mitigated Negative Declaration prepared for Marin County Community Development Agency dated January 4, 2023, (hereinafter referred to as "County Review") is likewise deficient as the Initial Study pertained only to the septic system and not the construction of the home. The 2019/2020 Initial Study contained no details regarding the planned residence including the Applicant's proposal to construct a 1296 square foot house on raised piers, with 52 cubic yards of cut, 118 cubic yards of fill, and a total of 1658 square feet of impervious surface, a portion of which sits in the "AO Zone" and "VE Zone".

The Initial Study obviously did not contemplate the recent atmospheric river storm which resulted in violent flooding in this very location on January 5, 2023. The County Review, therefore, cannot be considered to be based on accurate data for the location.

2. Project Plans are Misleading but Impact to Environment is Apparent

The project was originally proposed as a 3-bedroom house with a garage. After public comment and criticism of the plan by Commissioners at the last hearing, the Applicant is now describing the project as a "1-bedroom" house that is 1296 square feet with 2 bathrooms and a den. The loft that was previously planned is not detailed but the height of the roof and skylight suggests it is still there and thus this residence still functions as a 3-bedroom house. In contrast, the prior house that burned down was a 450 square foot, 2-bedroom house.

We believe the environmental impact is still ignored by the environmental review that the County has performed.

Section 2.1.a. Scenic Views – Analyzing the views of the project from the private road or the nearest public road is insufficient. The project should be analyzed from the beach where the public is most likely to see the project. Besides the house on stilts next door, this house appears to be the largest house on the beach and the review fails to note or discuss this impact.

Section 4.a (p. 2-19) disturbing habitat / species regulated by CA Dept of Fish and Wildlife; 4.b (p. 2-25) federally protected wetlands; 4.c (p. 2-26) conflict with adopted Conservation Plan; 2.5a and b. (p. 2-29) historical and archeological resources; 2.5c (p. 2-30). The discussion and analysis is almost entirely lacking and so inadequate to assess impacts and it is not clear Fish and Wildlife has been consulted.

Section 2.7.a.iv. (p.2-39) landslides; Section 2.7.b. substantial soil erosion or loss of topsoil. The impact of the cut and fill on erosion is not explained or studied and therefore inadequate.

3. Denying the Application Does Not Result in a Constitutional Taking

The County's Environmental Review correctly indicates that granting the application would result in the direct loss of dune ESHA in violation of LCP Policy C-BIO-7. The County Review *incorrectly* concludes that denying the application could be construed as a regulatory "taking" of the property owner's development rights. The County Review makes a conclusory statement regarding a regulatory "taking" with no actual legal analysis and does not address any of the legal elements of a regulatory taking. If the County granted all applications based on this premise, there would be no restrictions on development.

As an initial matter, the County Review does not address the issue of standing as the permit application is being advanced and funded by a potential buyer, Craig Nunes, and not the actual owner. (See Attachments 7-10 to our November 5, 2021 letter.)

As previously indicated in our November 5, 2021 letter, the owners (the Johnsons) have held the property since the 1930s. Their 450 small square foot cabin was damaged by flooding in 1982 and completely destroyed by fire in 1983. The LCP has prohibited development in the Easkoot Creek floodplain since 1980. The lot was listed in recent years on MLS as "vacant land" and the current application cannot be considered as commensurate with either the original use or the historical use over the last ninety plus years. Prior to the original submission by applicant in 2016 of the originally proposed development, the owners received the July 28, 2015, notice that development was strictly prohibited in the AO floodplain, which further confirms that the owners have been fully aware that re-development of their lot was prohibited. (See Notice dated July 28, 2015 attached **exhibit B**.) Obviously both the owners and the potential buyer are well aware of the development restrictions and the proposed permit application, even in its current form is still for a development more than three times the original size of the home originally on this lot and is not reasonable. Moreover, there has been no showing of any substantial investment commensurate with reasonable investment-backed expectations for the site which is a necessary element when conducting a takings analysis. *McAllister v. California Coastal Commission* (2008) 169 Cal.App. 4th 912, 940.

Another essential missing element in determining a taking is that there has been no physical invasion of the property by the government, nor has the applicant established that the denial of the permit "would deny them *all* economically beneficial or productive use of the their land. *Linstrom v. California Coastal Commission* (2019) 40 Cal.App.5th 73, 106. Restricting the owner to only resource dependent use of the lot would not be inconsistent with the use during the last almost forty years as a vacant lot, and the potential buyer who is actually trying to develop the lot has no standing to assert a takings challenge. The actual owner *still* has not illustrated that he could not sell the property for the same price without development, such as to Open Space District, or other agencies, or private non-profit organizations which would maintain the property as resource dependent.

Attached hereto as **exhibit C** is property that is for sale as raw land without development potential in the nearby community of Bolinas. As the Commissioners can see, the inability to

build does not eliminate all economic value of the parcel. Parcels without water meters and without the ability to build still appear for sale for $50K to $100K. This amount likely exceeds the value of the parcel in 1983 when the 450 square foot cabin existed.

While we believe that there is no taking, assuming for argument's sake that a taking was possible, limiting the home to 450 square feet would prevent any such finding. Staff's analysis fails to consider and discuss development restrictions such as limiting the size of the home to the prior size that existed.

4. **The Application Should be Denied as the Destruction of ESHA Dune and Sandy Habitat Violates the LCP**

As noted in the County Review, the current plans remain in violation of the newly activated Marin Local Coastal Program (LCP) as well as the Marin County LCP Land Use Plan (LUP) and Implementation Plan (IP) as it shows construction on sandy beach / dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The County Review again *incorrectly* states that "[u]se of the lot cannot avoid coastal dune habitat". (p. 2-19) There has been no actual analysis of alternate use of the lot other than the proposed development. The lot has been in "use" since the 1930s by the current owners without impact on the coastal dune habitat.

The County Review correctly points out that the proposed development is in conflict with the LCP and the 2020 Initial Study done for the septic system did not fully address the impacts to coastal dunes and whether mitigation could avoid those impacts. The lot is 15,200 square feet and only 1/3 is comprised of coastal dune habitat. As we know, development in that 1/3 area is strictly prohibited. The proposed residence is not commensurate with the prior modest development on the lot, and the fact that the applicant is not complying with local rules and regulations does not create a situation where the application must be granted. If the applicant wants to propose a development, it needs to fit within the confines of the County and Coastal guidelines which as repeated in the County Review, but the current application does not. It is not the job of the County Planners to accommodate the proposed development. The burden is on the applicant to propose a development that complies with all rules and regulation, whether they be County, State, or local. The conclusory statement that "the overall impacts of the residential use on-site coastal dune habitat cannot be fully eliminated without eliminating the residential use of the property" is simply untrue. There has been no analysis of the development of a 450 cabin or of the use of a mobile structure on the property or simply for passive, private recreational use. Those are residential or recreational uses that may not impact coastal dunes whatsoever.

The County Review also points out that applicant did not submit a proposed mitigation plan with the application which is required. While the County Review suggested a New Mitigation Measure BIO-2 Dune Restoration Plan to be prepared by the applicant, the County Review is putting the cart before the horse.

C-BIO-2(4) provides as follows:

> Development proposals within or adjacent to ESHA will be reviewed subject to a biological site assessment prepared by a qualified biologist hired by the County and paid for by the applicant. The purpose of the biological site assessment is to confirm the extent of the ESHA, document any site constraints and the presence of other sensitive biological resources, recommend buffers, development timing, mitigation measures including precise required setbacks, provide a site restoration program where necessary, and provide other information, analysis and modifications appropriate to protect the resource.

This application should not be even be considered, as the applicant had denied the existence of ESHA, specifically sand dunes, based on the biological study commissioned in 2019 conducted by WRA (which again was only done with respect to the septic system). Applicant maintains that the site does not contain "dunes" and that there is no sensitive habitat due to ongoing human activity which as fully acknowledged by the County and the Coastal Commission is not the case. The County Review also incorrectly concludes that there are "non-dune iceplant mats located behind the dunes", however there has not been any analysis of whether any of the iceplant areas are in beach or dune areas. Moreover, the Coastal Commission considers iceplants as potential ESHA as well as the Marin Local Program designates beaches as an environmental sensitive habitat area (ESHA)." The lot consists of over 4,000 square feet of grading of sandy beach / dune area plus over 6,400 of grading in iceplant areas without specifying if the iceplants are in beach or dune areas. Without the analysis of the iceplant areas, the full extent of ESHA cannot be determined.

5. The Application Remains in Violation of the California Coastal Act

The new plans continue to violate California Coastal Act Section 30253 for new development: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard and (b) Assure stability and structure integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter nature landforms along bluffs and cliffs. (See attachments 1-5 to exhibit A)

Not only is the property located in a FEMA flood zone, but there is also documented history of prior flooding at this location, most recently on January 5, 2023. Applicant's studies and the County Review contemplate this type of flooding in 50 years, but it is happening now and the entire project must be re-analyzed with the current state of flood risk. See for example, **exhibit D**, the January 17, 2023, Stinson Beach Wastewater Committee Meeting documenting 6 failed septic systems in the Calles in the January 2023 storms and **exhibit E**, the County Board of Supervisor staff report recommending adoption of a resolution to declare a state of emergency in Stinson Beach due to the January 2023 storm causing $15-20 Million dollars of damage due to water damage to 45 homes including 22 homes with structural damage.

A full geo-technical study is needed as the 2021 Murray Engineers Inc. on January 14, 2021, submitted by the applicant, raises the following significant geotechnical constraints which would remain at a level of moderate to high risk even with mitigation measures taken during construction outlined by the County Review:

1. Strong to Very Violent Ground Shaking During an Earthquake – ***moderate to high risk;*** despite this finding by applicant's own retained expert, Kinsey's cover letter dismisses the risk altogether.
2. Liquefaction-Induced Settlement and Lateral Spreading – ***moderate to high risk;*** Kinsey's cover letter acknowledges this risk and the Murray Engineers recommendation for rammed piers which are in violation of the LCP and the Coastal Act.
3. Tsunamis and Seiches – ***high inherent risk;*** applicant does not address this risk despite his expert's study.
4. Waves, Flooding, Beach Erosion, & Sea Level Rise – ***long term potential for waves and flooding to impact the proposed residence and for erosion of the site to occur.*** Murray Engineers defers to others on this issue, however these issues are discussed separately below as the R.M. Noble & Associates May 13, 2021 letter fails to address the geotechnical findings or issues.

The permit should be denied but at a minimum, a full geo-technical study following the recent violent flooding of this very lot should be undertaken before any further consideration is given to this application.

6. <u>The Application does not Adequately Address Sea Level Rise Hazards</u>

The Murray Engineers Inc. initial study has not been peer reviewed and in any event, recommends that a full geotechnical investigation be conducted before the County considers the permit application. As mentioned above, all of the studies rely on a storm that could destroy the proposed residence not occurring for 50 years. The storm that led to flooding on January 5, 2023, certainly would have destroyed the home as well as homes adjoining such as our clients.

The applicant still has not provided an adequate hazard assessment for the project site including analysis of risks from coastal sea level rise and flooding from Easkoot Creek. As discussed above, even the applicant's own study by Murray Engineering Inc. acknowledges the high risk of these events and that a full geotechnical investigation is needed to analyze changes to the groundwater level, inundation, flooding, wave run-up, and erosion risks from both the Easkoot Creek side and the ocean side. The application references the 2018 Sea Level rise analysis and acknowledged the increase risk of storm wave runup, but then concluding there is no flood risk until 2050 without sufficient evidence to support this conclusion. Obviously, Mother Nature has provided her own evidence on January 5, 2023 as to why these prior studies cannot be relied upon.

The risk to Stinson Beach is so significant that the County recently evaluated sea rise levels, severe risk of flooding and erosion. The purpose of the study was to create a nature-based defense plan specific to Stinson Beach. A more recent 2019 study from the U.S. Geological Survey, relied upon by the County, finds that the predicted damage from sea level rise in California *triples* once tides, storms and erosion are taken into account. [Marin Sea Level Rise - County of Marin (marincounty.org)]

For Stinson Beach lots like 21 Calle del Onda, which are along the seashore *and* along the Eastkoot river, the flood risk is further multiplied. The applicant and his technical experts do not address the 2019 U.S. Geological Survey, nor does the County Review. Stinson Beach has also been identified by the California Coastal Commission as particularly at risk of sea level rise and coastal flooding. Applicant's technical reports should at a minimum be peer reviewed but due to the various discrepancies with agency findings, additional studies may be required.

7. Shoreline Protection

The Marin LCP, in addition to the California Coastal Act, prohibits shoreline protection devices for new development. The revised plans continue to include large concrete retaining walls and concedes that the Murray Engineering initial geotechnical study finds that the home will likely require rammed piers to reduce the potential for liquefaction-induced ground failure to protect the home and septic system. Both the concrete walls and the deep piers are in violation of the LCP and the Coastal Act, and accordingly the permit application cannot be approved. The County Study does not provide adequate mitigation studies, even though they acknowledge that the installation of such piers alone could damage nearby homes.

8. FEMA Flood Zones

The project is currently in two FEMA flood zones (AO and VE) and development in those areas is prohibited and not adequately addressed by the County Review as discussed in detail below.

a. AO Flood Zone Moratorium

The property is in an AO Zone which remains in a construction moratorium per the July 28, 2015 Notice of Land Use Regulations from the County of Marin Community Development Agency Planning Division. The County Review makes no mention of the moratorium and relies on the incorrect conclusion of the Noble (2021) study that the site is not subject to flooding from Easkoot Creek. As previously provided to the planners in our November 5, 2021 letter, the updated May 13, 2021 letter from R.M. Noble & Associates merely relies on the 2014 O'Connor study for the conclusion there is no potential flooding from the Eastkoot Creek side of the property with no reference to the Murray initial geotechnical study, which specifically found a risk of flooding. It is surprising that the County Review relies on such inaccurate and outdated information for their conclusions. The Coastal Commission has already commented that the

flood maps / profiles provided by the applicant were not adequate and a full geotechnical investigation was required which still had not been done.

The most recent FEMA flood map for the area that a large portion of the property is in the AO zone (06041C044E effective 8/15/2017).

Applicant concedes that the property is in an AO flood zone (as well as a VE flood zone). Any portion of the construction, including a septic system, which would occur in the AO Zone is strictly prohibited by the Local Coastal Program Unit 1, Policy IV-30 as well as County Code Section 22.56130I(L)(2). Applicant's revised plans still show the entire septic system, and driveway as well as a portion of a concrete slab all within the AO Flood Zone. In addition, the LCP has prohibited development in the Easkoot Creek floodplain since 1980, and current amendments do not eliminate that prohibition. The County Review does not provide any justification for allowing development in the AO Zone. Certainly the January 5 storm evidences that this lot is susceptible to both Easkoot Creek as well as coastal flooding.

b. <u>FEMA VE Floodplain Base Flood Elevation</u>

While the re-submitted plans have elevated the Base Flood Elevation to the minimum that is required, i.e. one foot above that, the proposal does not address the current Marin County policy is to require the lowest floor to be three feet above the base flood elevation. In light of the recent

severe flooding in that area, which obviously none of applicant's studies, nor the County Review, took into account, this should be re-visited.

9. <u>Impact on Neighboring Properties</u>

The prior home on this property was less than 450 square feet (see Attachment 13) and the lot has been vacant since 1983. The videos and photos of the recent violent flooding on Calle del Onda provide the indisputable negative impact the development would have on the neighboring properties. The risk of failure of the septic system combined with the very real flood risk just demonstrated on January 5, 2023, shows with complete clarity that any development would be washed away and destroy existing homes and compromise the safety of residents and members of the general public.

Conclusion

The project does not meet County standards, the environmental review performed is deficient and a full CEQA review is required.

Very truly yours,

Elizabeth A. Brekhus

Attachments:
Exhibits A-E

cc (via e-mail):
Clients
envplanning@marincounty.org
Sabrina Cardoza (scardoza@marincounty.org)
Jack Siedman (jsiedman@yahoo.com)

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(415) 461-1001

July 28, 2023

VIA EMAIL

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903-4157
planningcommission@marincounty.org

Re: 21 Calle del Onda, Stinson Beach, Brian Johnson Trust Coastal Permit Application (P3049 formerly P1162)

Dear Planners:

You will recall that we represent Marisa Atamian-Sarafian and Dr. Stephen Sarafian, who own property located at 24 Calle del Sierra, Stinson Beach, CA, directly adjacent to the rear of the subject property located at 21 Calle del Onda, Stinson Beach, CA. As our request for a continuance of the July 31, 2023 meeting has not been granted, and our clients and members of the public have not been afforded a full opportunity to respond to the Supplemental Memorandum and Subsequent Mitigated Negative Declaration, we are providing a truncated list of issues that should result in the denial of the application.

1. **CEQA Review has not been Completed**

The Subsequent Environmental Review (SER) claims no Environmental Impact Report (EIR) is required for the project in violation of CEQA. This explanation is wholly conclusory: "an EIR is not required for this Project, as the Project, with the incorporation of identified mitigation measures that the Applicant has already agreed to, would not result in any significant impacts." The SER continues to rely on the stale 2020 Initial Study / Mitigated Negative Declaration (IS/MND) adopted by Stinson Beach County Water District, which never considered or studied the construction of a residence. A full EIR should be required. Reliance on the SBCWD is further problematic as the SBCWD Design Permit has expired and the owner will need to reapply for a new Design Permit. The fact the permit expired and a new septic will need to be proposed is an issue that has not been analyzed or addressed by the Supplemental Memorandum. Moreover, conditions in the Stinson Beach shoreline have changed since the Initial Study was performed in 2020, as evidenced by the recent atmospheric river storm and violent flooding at the location of the application site in January 2023.

2. **Denial of the Application is Not a Constitutional Taking**

This issue is not addressed by the SER or Supplemental Memorandum. The Supplemental Memorandum from the Senior Planner, does not discuss the takings claim, except to note the

submission of the ownership history of the parcel and the claimed financial investment of the owner. There has been no Constitutional Taking as the applicant has failed to show that his

alleged investment of $385,291, would not be recouped if he sold the property "as is" or if the development plans matched the original structure on the property and were built outside the FEMA flood zones and the protected ESHA areas. No such showing has been made by the owner. As we previously explained, there is no Constitutional taking "where the government simply *restricts* the use of property without demanding the conveyance of some identifiable protected property interest (a dedication of property or the payment of money) as a condition of approval." *Lindstrom v. California Coastal Commission* (2019) 40 Cal.App.5th at 105 citing (*Id. At p. 105 citing* California *Building Industry Assn. v. City of San Jose (2015) 61* Cal.*4th 435*, 460, *Beach & Bluff Conservancy v. City of Solana Beach* (2018) 28 Cal.App.5th 244). There are many examples of development restrictions that do not result in a taking. For example, the applicant cannot construct a five story home or a hotel on the premises; as such, restricting the scale of his development based on the California Coastal Act and LCP does not result in a taking.

3. **The Application should be denied as the destruction of ESHA Dune and Sandy Habitat Violates the LCP and Mitigation Measures are Inadequate**

It is undisputed that the current plans continue to be in violation of the newly activated Marin Local Coastal Program (LCP) as well as the Marin County LCP Land Use Plan (LUP) and Implementation Plan (IP) as it proposes construction on sandy beach / dunes which are considered Environmentally Sensitive Habitat Areas (ESHA), and development is strictly prohibited in these areas. The SER acknowledges that dunes will be destroyed and contemplates approval of a permit without submission of a Dune Mitigation Plan. Moreover, the SER is incorrect in stating that sandy beach is not ESHA – whereas the LCP specifically requires the protection of "sandy beach habitat" in Stinson Beach. (See C-BIO-9)

4. **The Application continues to be in Violation of the California Coastal Act**

The SER acknowledges that a full geotechnical study is required prior to construction but suggests this can be done as part of the building permit process in violation of the California Coastal Act Section 30253 for new development, which requires development to: (a) minimize risks to life and property in areas of high geologic, flood, and fire hazard and (b) assure stability and structure integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter nature landforms along bluffs and cliffs. The SER concludes that the use of piers (rammed, driven or drilled), or the concrete retaining wall around the septic system do not violate the LCP even though no facts support this finding. Again, this is a conclusory finding, facts do not support the conclusion, and a full geotechnical study should be required before the application is approved.

5. The Application does not Adequately Address Sea Level Rise Hazards

The SER dismisses the recent flooding of Stinson Beach, including along the 21 Calle del Onda, and instead relies on prior sea level rise studies. The SER relies on site visits that occurred weeks after the storms instead of the videos, photos, and neighbor eye-witness accounts that demonstrate that the site actually flooded.

6. FEMA Flood Zones

The SER concludes that coastal flooding is outside of CEQA review notwithstanding that the project is in two FEMA flood zones (AO and VE) and development in those areas is prohibited. The SER incorrectly finds that since flooding from Eastkoot Creek "would be less than significant" which cannot be accurate since the property is specifically designated within the Eastkoot Creek flood zone as well as the coastal flood zone. The FEMA floodplain base flood elevation issue raised in our February 8, 2023, correspondence is not addressed by the SER or the Supplemental Memorandum / Draft Resolutions. While the re-submitted plans have elevated the Base Flood Elevation to the minimum that is required, i.e., one foot above that, the proposal does comply with the current Marin County policy to require the lowest floor to be three feet above the base flood elevation. In light of the recent severe flooding in the area, which none of applicant's studies nor the County Review took into account, the proposal should be denied and ordered to be revised prior to approval.

7. Impact on Neighboring Properties

The January 2023 storm demonstrated the severe impact that the planned construction will have on neighboring properties. The SER pretends the flooding never happened and instead relies on a site visit nearly two weeks after the storm that showed "no evidence" of flooding. The lack of thoughtful analysis of this project is an insult to the Calle del Onda neighbors who suffered severe damage from coastal flooding that crossed over and through the applicant's property.

Very truly yours,

BREKHUS LAW PARTNERS

Elizabeth A. Brekhus

EAB:cmr

GROUNDWATER

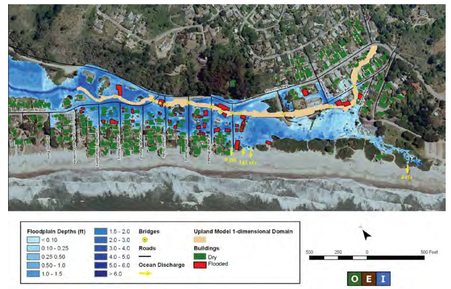
The approved wastewater design utilizes a raised bed with a retaining wall to increase separation from seasonal high groundwater and to protect the dispersal field from potential wave erosion in extreme sea level rise scenarios. The raised dispersal bed is located over three feet from seasonal high groundwater, and a cut-off switch will automatically terminate pump operation and dispersal of wastewater if there is flooding on the property. WRA'S Initial Study/MND stated that adequate groundwater separation would remain in 50 years, including considerationsof SLR.

ESHA

An Initial Study by WRA determined the property to be composed of iceplant mats and sand beach, delineated by the dotted line below which roughly traces the 14' to 15' elevation contour. The initial study determined that the project site does not contain coastal dunes.

There are no sensitive plant or wildlife habitat types within the project site. There is no suitable habitat for any of these species present within the project site due to on-site hydrologic, soil, topographic, and vegetative conditions. The project site's history of disturbance and ongoing human activity contribute to the lack of suitable habitat for special-status plant and animal species.

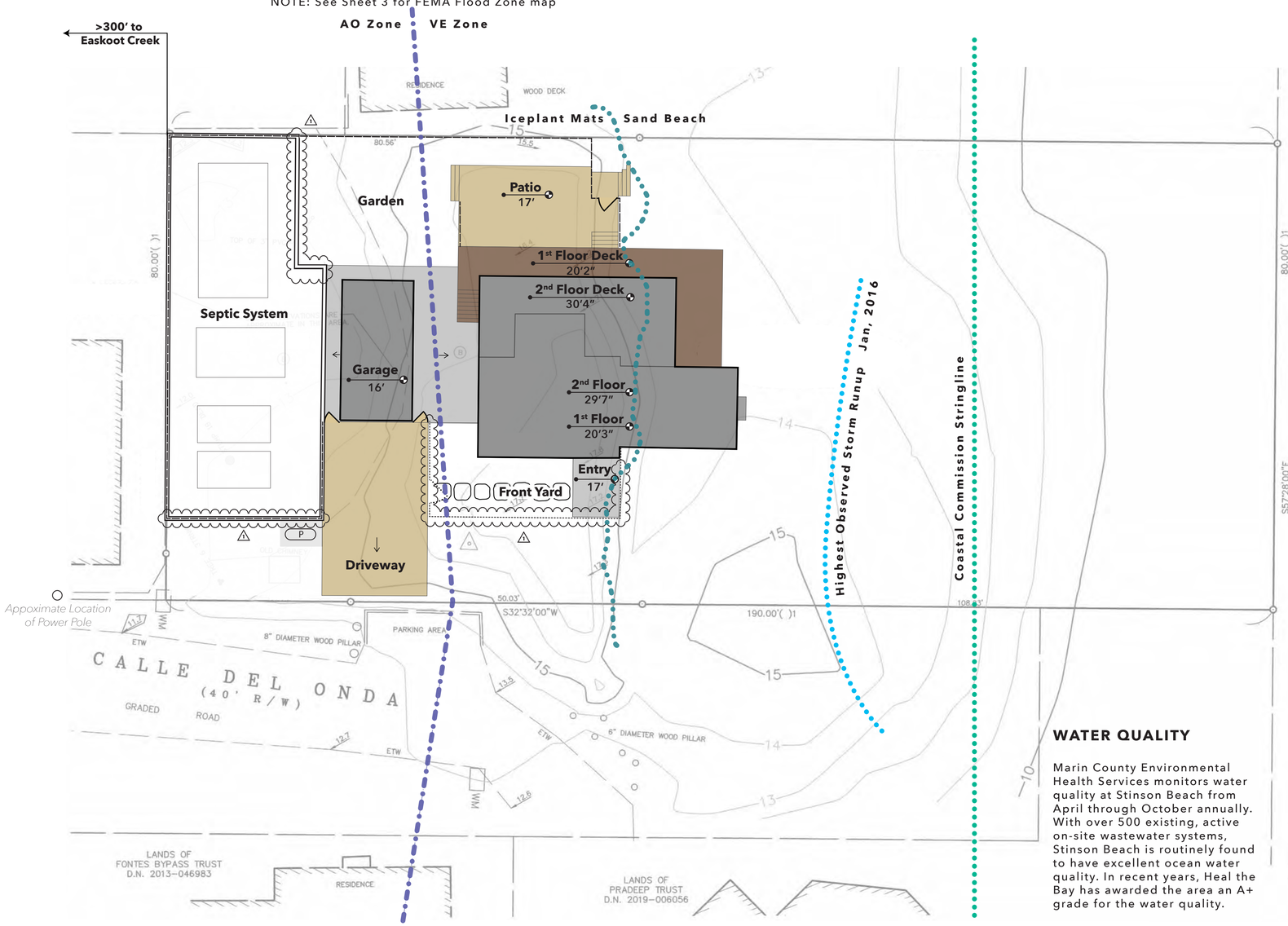
The California Coastal Commission identifies the site as dune ESHA, regardless of its disturbed condition.



Modelled Impacts of 100 Year Flood
from Stinson Beach Watershed Program Flood Study, 2014

NOTE: The County of Marin's modeling shows dramatically less potential for flooding than FEMA's flood zones would suggest is possible.

NOTE: See Sheet 3 for FEMA Flood Zone map

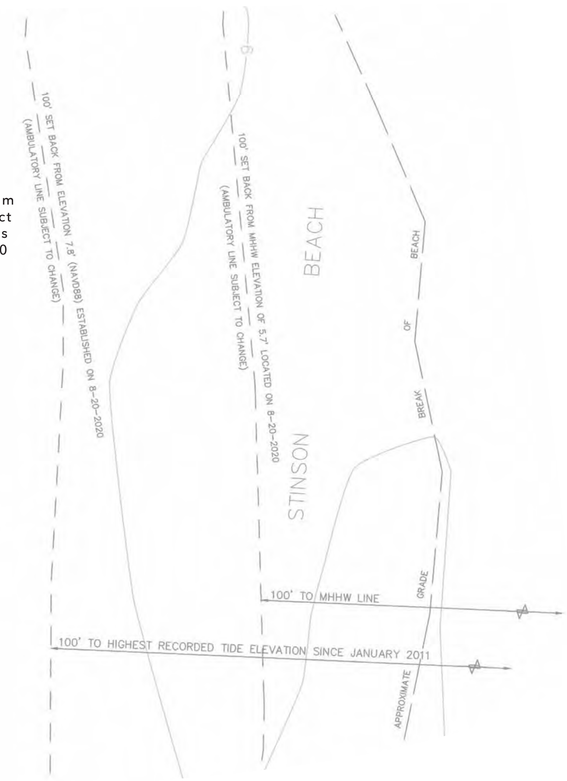


WATER QUALITY

Marin County Environmental Health Services monitors water quality at Stinson Beach from April through October annually. With over 500 existing, active on-site wastewater systems, Stinson Beach is routinely found to have excellent ocean water quality. In recent years, Heal the Bay has awarded the area an A+ grade for the water quality.

ACOE

The project site contains well-drained sands with rapid runoff and high permeability, making wetland conditions very unlikely. Lack of on-site wetlands was verified through a site visit and review of aerial imagery. Tidal waters at Stinson Beach at an elevation of 7.8 feet North American Vertical Datum of 1988 (NAVD88) are considered subject to the jurisdiction of the U.S. Army Corps of Engineers. The project site is over 100 feet east of this elevation.



AIR QUALITY

The project would not result in any significant and unavoidable air quality impacts. According to the Air District's guidance, the project would therefore be consistent with the applicable air quality plan.

ARCHAEOLOGICAL

The Initial Study determined that the site contains no known historical or archaeological resources and has a low potential to contain buried cultural deposits. A July 2019 site visit conducted by Origer and Associates found no historical resources.

Sheet 12

4/15/2021

Constraints Map

Reconstruction of a Residence
21 Calle del Onda, Stinson Beach, CA

0 10 20 40
1" = 10'

CivicKnit
P.O. Box 81
Forest Knolls, CA
94933
415.488.4193

7-053

SITE WASTEWATER

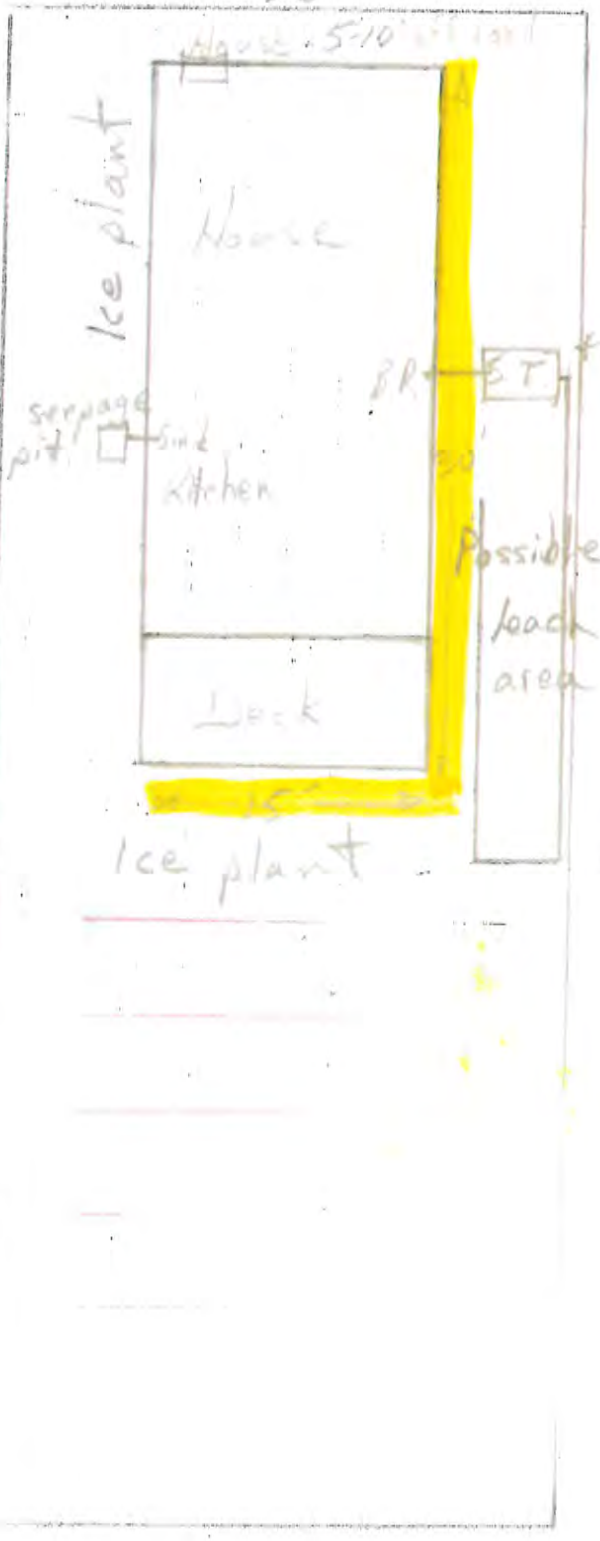
OWNER: Madeline Bagwell	ASSESSOR'S LOT NUMBER: 162 / 1-220
RESIDENT: Craig Bagwell	LOT AREA: 2480 sq ft / .06
NUMBER & STREET: 21 Calle Onda	FRONTAGE: 30' / SLOPE 7%
INTERVIEWER:	DATE: 11/15/95

339

Calle del Onda

30

B-122-1



approximate location of tank

owner doesn't know size or location of lines

80'

SCALE: 1/4" = 1'