MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

BRIAN JOHNSON TRUST COASTAL PERMIT SUPPLEMENTAL ENVIRONMENTAL REVIEW/DRAFT SUBSEQUENT MITIGATED NEGATIVE DECLARATION

COMMENTS ON THE SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RESPONSES TO COMMENTS

BOS ATTACHMENT 6

1. Introduction

This document contains comment letters on the Brian Johnson Trust Coastal Permit Supplemental Environmental Review/Draft Subsequent Mitigated Negative Declaration (SER/SMND) received during the public review period (January 9 – February 8, 2023), and the responses to those comments. The letters are included in Section 3, Comment Letters and Individual Responses. Each written comment letter is designated with a letter (A through E) in the upper right-hand corner of the first page of the letter. Within each written comment letter, individual comments are labeled with a number in the margin. Immediately following each comment letter is an individual response to each numbered comment.

Only comments on the scope of the Project and on the SER/SMND analysis and conclusions are responded to: comments expressing the commenter's support for or opposition to the Project, and comments addressing other issues not within the scope of the Project or the environmental review, are not responded to, as they are not relevant to the CEQA analysis for the Project.

Section 2 of this document presents two "Master Responses." Each Master Response addresses an issue or topic raised by several commenters, providing a unified and comprehensive response. Master Responses are cross-referenced in the individual responses.

Comments were received from the following individuals and organizations:

Letter Designation	Commenter's Name and Affiliation (if any)
A	Honora Montano, California Coastal Commission
B	Erin Chappell, California Department of Fish and Wildlife
C	Elizabeth Brekhus, Brekhus Law Partners
D	Michael Lemont
E	Steven Trifone

2. Master Responses

Master Response 1: Storm Effects

This Master Response responds to comments relating to the storm events occurring at Stinson Beach on and around January 5, 2023. The comments claim that the erosion, flooding, and structural damage to properties and structures resulting from the storms, including damage to residential septic systems on properties neighboring the Project site, alters the development potential of the site, necessitates Project redesign, and constitutes new information requiring additional analysis of current and future flood risks and coastal hazards on- and off-site. Comments also assert that the proposed residence, septic system and other ancillary structures would have been damaged during the storm due to flooding, resulting in water quality and hydrologic impacts on- and off-site. Conversely, a number of comments assert that the sand dunes on the seaward side of the proposed building envelope at the southeast corner of Calle del Onda protected the Project site and surrounding properties from severe flooding and/or damage as a result of storm surge, wave energy, and/or erosion (see Comment Letters D and E) and that the proposed Project would remove the protective dunes and increase off-site flood risks to neighboring properties.

This Master Response provides observations of conditions at the Project site immediately following, and again several months after, the severe storm that occurred on January 5, 2023. That storm was one of a series of storm events occurring during the 2022-2023 winter season characterized by frequent and severe atmospheric river storm events. Also provided here are clarifications regarding grading and the Project design. The details provided below further support the conclusion reached in the SER that implementation of the proposed Project would not result in significant impacts related to flooding, hydrology, and water quality on- or off-site.

In January 2023, Marin County experienced a series of severe storms with rainfall totals over two weeks exceeding 16 inches in parts of the County.[1] Marin County declared a state of emergency in response to the severe storms when heavy rains combined with saturated ground and high tides to cause neighborhood flooding, throughout the County.[2] Between January 5 and January 7, 2023, Stinson Beach was subject to significant coastal flooding from storm surge (i.e., wave run up) that resulted in property damage and beach erosion of several feet elevation[3] when swells of 19-20 feet (with some heights potentially up to 25 feet[4]) combined with severe winds, intense rainfall and high tide conditions. In response to coastal hazards from wave runup, coastal flooding, erosion, and sand

[1] Marin Independent-Journal (IJ), 2023a. Marin storms bring annoyance anxiety and devastation. January 10, 2023.

[2] Marin County, 2023. Marin County Proclaims Local Emergency. News Release, January 10, 2023.

[3] Marin IJ, 2023b. Marin absorbs storm deluge with more rain ahead. January 5, 2023.

[4] Marin IJ, 2023a. Marin storms bring annoyance anxiety and devastation. January 10, 2023

deposition on local streets, the Stinson Beach Fire Protection District and the Marin County Sheriff's Office evacuated residents on eight streets from Calle del Pinos to Calle del Occidente, including Calle del Onda where the Project site is located.[5] The January 5 storm event resulted in storm surge-related water damage to 45 residences and structural damage to approximately 22 structures[6] resulting in an estimated $20 million in damages to Stinson Beach homes.[7]

The Hydrologist and Certified Engineering Geologist who prepared the Hydrology and Water Quality section (Section 2.10) and the Geology and Soils section (Section 2.7) of the SER (see Appendix B, Report Preparers) conducted a site visit during preparation of the SER to observe site conditions. On January 18, 2023 and on April 18, 2023, additional site visits were conducted to assess site conditions following the January 5, 2023 storm event and at the end of the 2022-2023 winter season. Comparative photos from the three site visits are presented below. During the site visits of January 18 and April 18, 2023, the Hydrologist and Certified Engineering Geologist observed that:

- There was no evidence that the Project site had experienced flooding, either from storm surge, wave run-up, or overtopping of Easkoot Creek. No flood water debris or deposition was observed, cover vegetation was intact, and there was no evidence of substantial erosion, scour, or other flood related damage to the site. The site visits confirmed that the Project site did not experience flooding or inundation during the January 5 storm event (see View 1 photos, below).
- The sand dunes on the seaward side of the proposed building envelope at the southeast corner of Calle del Onda protected the Project site and surrounding properties from severe flooding, erosive forces from wave run-up, and/or damage as a result of storm surge. Minor erosion occurred at the extreme seaward toe of the fronting dunes, but the consolidated dune material remained intact (see Views 2 and 3 photos, below).
- By April, 2023 much of the sand that had been eroded from the beach face during the January 5, 2023, storm event had moved back onshore and a beach berm was beginning to reform.

The term "100-year storm" describes a storm that has a one percent chance of occurring in any given year (not a storm that occurs only once in 100 years). No evidence has been submitted to support the assertion that the storm event of January 5, 2023, was a 100-year storm event. The January 5, 2023 storm surge from high waves combined with high tides is comparable to a coastal flooding event that occurred in January, 1982[8,9] that

[5] Marin IJ, 2023c. Stinson Beach storm damage expected to worsen as sea rises. January 21, 2023.

[6] Marin County, 2023. Marin County Proclaims Local Emergency. News Release, January 10, 2023.

[7] Marin IJ, 2023c. Stinson Beach storm damage expected to worsen as sea rises. January 21, 2023.

[8] SF Gate, 2023. Shock flooding from huge California storm surge rocks Stinson Beach. January 8, 2023.

[9] SF Chronicle, 2023. These charts show how recent rains stack up to California's most recent storms. January 13, 2023.

resulted in major flooding, beach erosion, and wave runup damage to beach front properties, as well as other destructive storms that occurred in 2018[10], the late 1990s, and in 1940, 1956 and 1978.[11] Changes in the prevailing conditions, such as intense winter storms accompanied by high tides, can cause abrupt changes in beach conditions (such as beach elevation). During the winter of 1982-83, portions of Stinson Beach were almost completely denuded of sand, wave overwash[12] damaged the foredune,[13] vegetation on the foredune was destroyed, and backshore[14] flooding occurred. Subsequent recovery of the beach was rapid and within two to three months sand had moved back onshore and a beach berm was beginning to reform. A similar trajectory of reformed beach berm and sand dunes was observed during the April 2023 site visit. As with the storm event on January 5, 2023, the storm events of 1982-83 were characterized by large waves (wave heights up to 20.5 ft) in conjunction with high tide events. Such winter storms are estimated to have a recurrence interval of once in 10 to 12 years, with wave heights exceeding 19 feet occurring every two years and wave heights exceeding 23 feet every six years.[15]

Hydrologic, water quality, and flood related impacts associated with the proposed residence and septic system are discussed in SER Section 2.10. As described in detail in the SER under topic 2.10.c, the proposed septic system would not experience coastal flooding under existing conditions, but may be inundated in 50 years during a 100-year coastal flood event as a result of sea level rise. The analysis presented in the SER and its supporting studies (i.e., the Coastal Engineering Analysis) acknowledged that high water events with the potential to exert erosive forces on the Project site will become more frequent as sea level rises. Consequently, the proposed septic system has been designed to withstand erosive forces and would be located on the most landward portion of the Project site; the design and placement would ensure that the system would have a minimal effect on coastal erosion. The proposed concrete wall surrounding the septic system is a key element to protect the system from erosion and damage due to wave action. As described in detail in SER Section 2.10 under topic 2.10.c.i, because the proposed retaining wall would extend only 3-6 inches above existing grade, and because of its landward location, the retaining wall would not act as a shoreline protective device: the retaining wall, while designed to withstand wave run-up forces and protect the septic system from localized erosion during inundation, is not designed or intended to arrest shoreline or bluff erosion or coastal retreat (the intended function of seawalls and riprap

[10] Damage comparable to the January 2023 storms last occurred in 2018 according to National Park Service spokesperson Julian Espinoza (SF Chronicle, 2023. California beaches were dramatically damaged by recent storms. Can they recover? January 30, 2023).

[11] Mercury News, 2023. Stinson Beach storm damage expected to worsen as sea rises. January 23, 2023.

[12] When storm-induced waves exceed the height of foredunes, sand is transported over the top of the dune and deposited inland. This process is known as overwash.

[13] The part of a system of sand dunes on the side nearest to the sea.

[14] The zone of the shore or beach above the high-water line, acted upon only by severe storms or exceptionally high tides.

[15] Ecker, R.M. and Whelan, G. 1984. Investigation of Stinson Beach Park storm damage and evaluation of alternative shore protection measures. U.S. DOI, National Park Service. July, 1984. Accessed online on April 21, 2023 at: https://digital.library.unt.edu/ark:/67531/metadc1194408/m1/1/

armoring). Neither would it redirect wave energy in a manner that would create erosion, geologic instability, or destruction of the site or neighboring properties due to altered on-site conditions. The proposed septic system would not arrest natural coastal erosion or coastline recession resulting in substantially altered landforms. For these reasons, the proposed septic system barrier would not result in physical impacts that conflict with California Coastal Act shoreline protection policies.

The updated coastal engineering analysis completed for the proposed Project, which included a hazard analysis of shoreline erosion, flood condition, and wave runup (described in topic 2.10.c.i), concluded that while the septic system may be inundated in 50 years during a 100-year storm event as a result of wave runup (based on current sea level rise projections), it will not be directly exposed to wave action (and therefore erosive mechanical forces) from the ocean and would not impede or redirect flood flows associated with waves or wave runup off-site to neighboring properties. Appropriately, the SER concludes that the proposed Project would not result in a significant impact related to flooding, coastal erosion, and water quality on- or off-site.

As described in the Project plan set (AYS Engineering Group, Sheet C2, Grading Plan, May 18, 2022), when compared to existing conditions, Project implementation would not substantially alter the dune fronting the proposed building envelope seaward of the septic system. The proposed 1,296 square foot residence would be constructed on concrete piers to elevate it above calculated flood elevations to ensure that on-site drainage patterns, including wave runup processes, are not substantially changed from baseline conditions and that shoreline erosion patterns (i.e., wave runup and shoreline recession) over the projected 50-year Project life are not altered in a manner that would result in a significant impact.

Comments submitted on the SER have not provided substantial evidence to support a fair argument that the storm event on January 5, 2023, altered the development potential of the site, or that it calls into question the adequacy of the Project design, or to support a claim that the 2023 storm damage occurring in the Stinson Beach area represents new information requiring additional analysis of current and future flood risks and coastal hazards on- and off-site. Further, comments have not provided substantial evidence to support a fair argument that, had the Project been implemented, the proposed septic system, residence, and other ancillary structures would have been damaged during the storm due to flooding, resulting in water quality and hydrologic impacts on- and off-site. Finally, comments submitted on the SER have not provided substantial evidence to support a fair argument that implementation of the Project would increase flood risks to neighboring properties due to proposed grading, topographic contouring, or otherwise altering the existing dune. Consequently, comments submitted on the SER do not represent substantial evidence supporting a fair argument that the Project would result in a significant impact.

View 1: View of the Project site looking east from Calle del Onda prior to 2022-2023 winter season.

View 1: View of the Project site looking east from Calle del Onda, January 18, 2023.

View 1: View of the Project site looking east from Calle del Onda, April 18, 2023.

View 2: View of the Project site looking southeast from Upton Beach prior to 2022-2023 winter season.

View 2: View of the Project site looking southeast from Upton Beach, January 18, 2023.

View 2: View of the Project site looking southeast from Upton Beach, April 18, 2023.

View 3: View of the Project site looking northeast prior to 2022-2023 winter season.

View 3: View of the Project site looking north, January 18, 2023.

View 3: View of the Project site looking northwest, April 18, 2023.

Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations

This Master Response addresses comments related to impacts on dune habitat within the Project site, as well as conflicts with Local Coastal Program (LCP) policies protecting Environmentally Sensitive Habitat Areas (ESHA), which include coastal dunes. In particular, this Master Response responds to comments A-13, A-19, A-24, A-29, C-11, and C-33.

Adequacy of the Baseline Habitat Description

The presence of sandy beach and dune habitat on the property were identified in the WRA (2019) Biological Site Assessment[16] and acknowledged in the 2020 IS/MND and in SER/SMND Section 2.4, Biological Resources, topics 2.4.b and 2.4.e; as well as by the California Coastal Commission (Commission) (comments A-13, A-19, A-24, and A-29) and Brekhus Law Partners (comments C-11 and C-33) comment letters. As described in SER/SMND Section 2.4, Biological Resources, topics 2.4b and 2.4 e, commencing on page 2-21, a portion of the proposed 1,658-sf development footprint (this figure includes the proposed 1,296 sf residence and appurtenant facilities) is planned within coastal dune habitat, which all parties acknowledge as ESHA. As noted in the SER/SMND (p. 2-24) and by the Commission (comment A-19), dune habitat extends further inland than depicted in the 2019 Biological Site Assessment (WRA, 2019).

Following publication of the SER/SMND and in response to the above comments, the Certified Wildlife Biologist who prepared the Biological Resources section of the SER (see Appendix B, Report Preparers), conducted additional analysis of potential Project effects relative to dune habitat to clarify and add detail to the Project's impact on dune ESHA identified in SER Section 2.4, Biological Resources, topics 2.4.b and 2.4.e.[17] The findings of this additional analysis are presented below. The new information does not alter the conclusions reached in the SER/SMND that the Project, with the incorporation of Mitigation Measure BIO-2, would have only less-than-significant impacts on dune habitat. This additional analysis has, however, prompted a revision to Mitigation Measure BIO-2 to clarify and amplify the measure; see below.

Additional Analysis

The Certified Wildlife Biologist visited the Project site on April 26, 2023 to evaluate the distribution and extent of ESHA dune habitat and sandy beach area on the property. The seaward extent of dune habitat was determined by the abrupt topographic change where

[16] WRA Environmental Consultants, 2019. Memo to Ed Schmidt, General Manager, Stinson Beach County Water District, re: Biological Site Assessment for 21 Calle del Onda, Stinson Beach, California. October 2019. Appendix A to WRA, 2020.

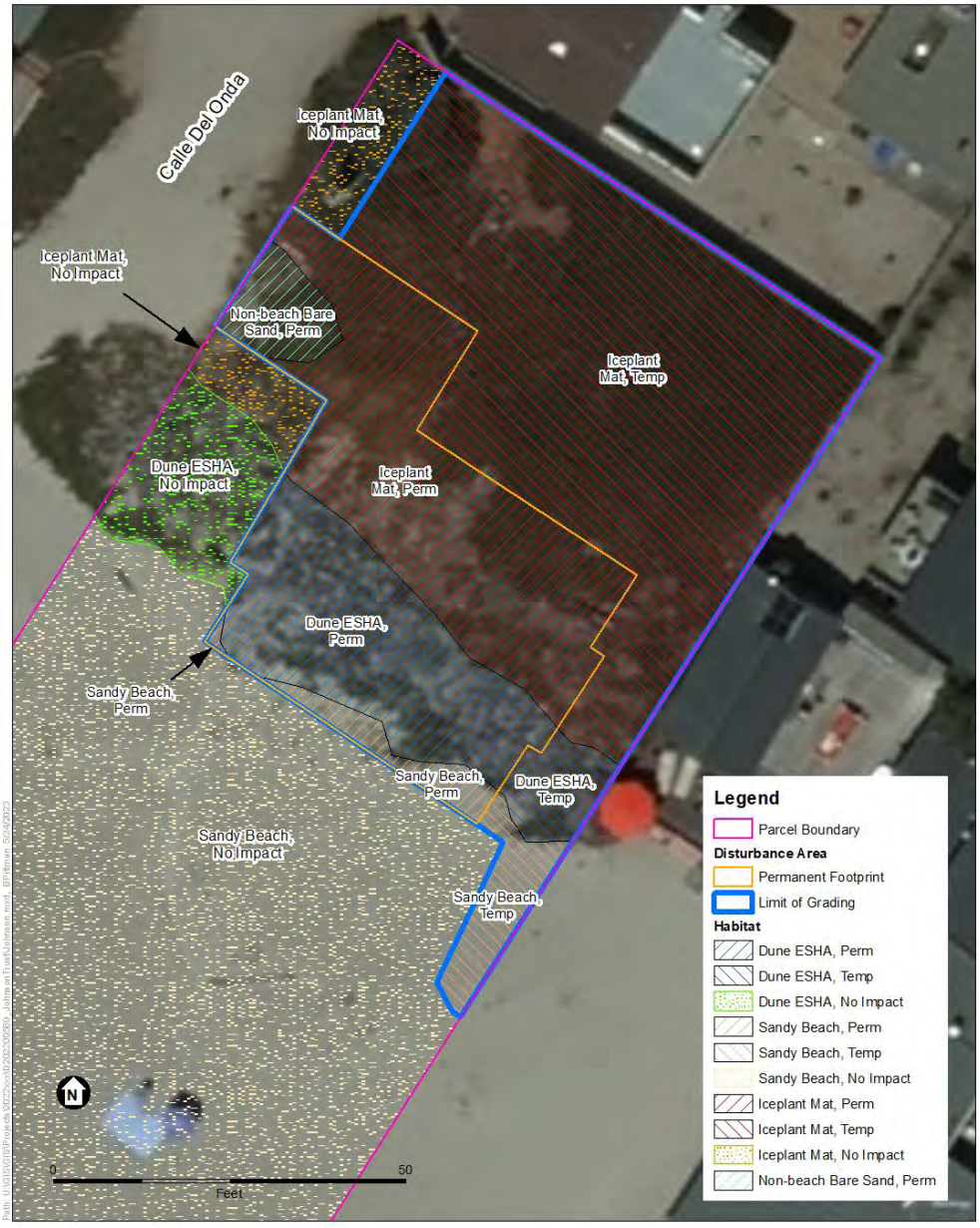
[17] Note that the additional analysis did not rely upon the original electronic data files from the applicant showing the precise development boundary; hence, square footage figures presented in this Master Response are generally accurate but should be considered preliminary.

the dune face was eroded by recent wave action. The outer dune edge showed a clear boundary that had eroded somewhat due to wave action since the WRA (2019) assessment, with an approximate height of 3 feet (see Master Response 1, Storm Effects). The landward side of dune habitat was characterized by the presence of fine wind-borne sand, mounded dune forms, and the absence of organic iceplant thatch (dense, mounded roots and associated organic soil). From this assessment, dune habitat consisting of dense ice plant with sparse ripgut brome within sandy substrate was found to extend approximately 11 to 24 feet inland from the sandy beach (Figure MR2-1). Further inland from this habitat, ice plant mats formed a thick, dense mat of organic material. These non-dune ice plant areas also lacked morphological dune forms (such as shadow dunes, hummocks, or mounds) and evidence of sand transport that are typical of dune habitat. As shown in Table MR2-1, approximately 1,573 sf of the Project site comprises coastal dune habitat that should be considered ESHA. Based on the above review, areas of dune ESHA, as well as non-ESHA habitats that would be temporarily and permanently affected by Project development, are shown in Table MR2-1 and depicted in Figure MR2-1. "Temporarily affected" refers to areas that are within the proposed grading footprint, but that would not be paved or built over. "Permanently affected" refers to areas that would be paved or built over.

In reviewing California Coastal Records Project imagery from 1972 to 2019, it is evident that dense ice plant mounds have dominated the northeastern portion of the site for greater than 50 years,[18] and as a result have greatly reduced the ecological potential of the site.

Mechanical placement or repositioning of sand was also noted during the April 26, 2023 site visit, at the west end of Calle Del Onda and extending onto the Project site (Figure MR2-2). Sand placed in this manner does not provide any habitat benefit for native plants or on-site wildlife and will likely be colonized by ice plant soon. Such sandy beach habitat is considered to provide low ecological value. Sandy beach is not identified as ESHA in the LCP (Policy C-Bio-1) or in the LCP Implementing Program Sec. 22.130-Definitions. The sandy beach area that would be affected by the Project does not fit the general definition of ESHA in the LCP and California Coastal Act section 30107.5 as "…any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Neither is sandy beach identified as

[18] For example, see California Coastal Records Project imagery from 2019: https://www.californiacoastline.org/cgi-bin/image.cgi?image=201906174&mode=sequential&flags=0&year=current and from 1972: https://www.californiacoastline.org/cgi-bin/image.cgi?image=7215092&mode=big&lastmode=timecompare&flags=0&year=1972



SOURCE: ESA, 2023

Johnson Trust Supplemental Review

Figure MR2-1
Habitat Distribution and Approximate Impacts

ESA

Figure MR2-2. Sand placement at the end of Calle Del Onda was noted on the Project site (photo date: April 26, 2023).

TABLE MR2-1
HABITAT TYPES WITHIN THE PROJECT SITE

	Approximate Area (sf)	
Project Effects	**Dune ESHA**	**Sandy Beach**
Total On-site Area	1,573	9,462
Permanently Affected	942	137
Temporarily Affected	169	203
Unaffected	462	9,122
Dune ESHA Available for Restoration (Unaffected + Temporarily Affected)	631 (36% of current dune ESHA	
Non-ESHA Iceplant Available for Restoration to Dune or Sandy Beach Habitat (Unaffected + Temporarily Affected)	3,569	

Source: ESA

ESHA by the Commission in their comments. Therefore, sandy beach is not considered ESHA in the SER or in this analysis. This assessment confirms the SER/SMND's finding that dune habitat that is considered ESHA is present on the Project site and would be affected by the Project, and adds new detail based on site reconnaissance of the extent of dune ESHA and sandy beach that would be temporarily and permanently affected by the Project.

The SER/SMND identifies a significant impact of the Project, not previously identified in the 2020 IS/MND, on sensitive habitat. The impact is also significant due to the location of the proposed residential use within and adjacent to dune ESHA, without any buffers, which would conflict with LCP polices prohibiting development within ESHAs, and requiring setbacks from terrestrial ESHAs. The SER/SMND identifies Mitigation Measure BIO-2, requiring preparation and implementation of a Dune Restoration Plan, to restore dune areas not permanently impacted by the proposed development. To clarify and amply the measure, and to incorporate information from the additional analysis of site conditions, Mitigation Measure BIO-2 on pages 2-23 through 2-25 of the SER is revised as follows (additions are underlined; deletions are ~~struck-through~~):

Mitigation Measure BIO-2. Dune Restoration Plan

Consistent with Certified Implementation Program Section 22.64.050(A)(1)(d), Habitat Mitigation, the Applicant shall prepare a Dune Restoration Plan for County review and approval that provides for dune and related habitat enhancement for all vegetated coastal dune habitat located between the unvegetated sandy beach and non-dune ice plant mats located behind the dunes outside the approved building envelope. The Dune Restoration Plan shall be prepared by a qualified restoration biologist, shall meet all the requirements of Certified Implementation Program Section 22.64.050(A)(1)(d)(3), and at a minimum shall include the following elements:

a) Dune Inventory. Coastal dune habitat shall be inventoried on the Project site to depict dune impact and restoration areas. [19] The restoration area shall be enumerated and drawn onto a site plan similar to that presented in Figure MR2-1. ~~the 2020 IS/MND (see 2020 IS/MND Appendix A, Figure 5, Project Impacts to Biological Communities).~~

b) Dune Contours. Final contours of the site, after project grading, necessary to support dune restoration and development screening, shall be identified.

c) Ice plant Removal. To accommodate native plantings, non-native ice plant shall be removed from the site by means such as those described by the California Invasive Plant Council (CAL-IPC, 2022).

d) Native Dune Plants. All required plantings shall be native dune species from local stock appropriate to the Stinson Beach area and shall be maintained in good growing conditions during a 10-year review period

[19] ~~As identified in California Coastal Commission comments (CCC, 2021, pg. 2), dune habitat extends further inland than depicted in the 2019 IS/MND. Aerial imagery from 2019 shows that some coastal dune habitat was mapped as iceplant mats (e.g., see California Coastal Records Project imagery from 2019; https://www.californiacoastline.org/cgi-bin/image.cgi?image=20190617&mode=big&lastmode=sequential&flags=0&year=current). Hence, a revised baseline habitat assessment showing the extent of coastal dune habitat is warranted.~~

and shall be replaced with new plant materials as necessary to ensure continued compliance with the restoration plan.

e) Initial Planting. Installation of all plants shall be completed prior to occupancy of the new home. Within 30 days of completion of initial native dune plant installation, the Applicant shall submit a letter to the County from the project biologist indicating that plant installation has taken place in accordance with the approved restoration plan, describing long-term maintenance requirements for the restoration, and identifying the five- and ten-year monitoring submittal deadlines (Measures g and i, below). At a minimum, long-term maintenance requirements shall include site inspections by a qualified biologist annually, or more frequently on the recommendation of the biologist, to identify and correct any restoration and maintenance issues.

f) Site Protection. During the initial plant establishment period, ropes or low-profile fencing shall be minimally used to screen planted areas from recreational users and dogs.

g) Monitoring. At five and ten years from the date of initial planting under the Dune Restoration Plan, the Applicant or his successors in interest shall submit, for the review and approval of the County, a restoration monitoring report prepared by a qualified specialist that certifies that the on-site restoration is in conformance with the approved Dune Restoration Plan, along with photographic documentation of plant species and plant coverage.

h) Remediation. If the restoration monitoring report or expert's inspection report indicates the restoration is not in conformance with or has failed to meet the performance standards specified in the approved Dune Restoration Plan, the Applicant shall submit a revised or supplemental restoration plan for the review and approval by the County. The revised restoration plan shall be prepared by a qualified restoration biologist and shall specify measures to remediate those portions of the original plan that have failed as identified in the restoration monitoring report or inspection report. These measures, and any subsequent measures necessary to carry out the approved Dune Restoration Plan, shall be carried out in coordination with the County until dune restoration is established in accordance with the Dune Restoration Plan's specified performance standards.

i) The restored dune areas shall meet the following minimum performance standards:

    1. Density (perennial native species only): average 1 plant per 4 square feet.

    2. Percent total cover (perennial native species only): 1 year: 15%; 2 years: 25%; 3 to 5 years and beyond: 35%.

3. Percent relative cover: all species are within normal range.
4. Composition: at least five native, perennial species.
5. Health and vigor: plants are in good health, exhibit normal flowering, and damage from people, deer, or pets is negligible.
6. Exotic species: within the restoration areas (i.e., not within outdoor living areas) invasive, non-native plants are few in number and not evident.
7. Provision for possible further action if monitoring indicates that initial restoration has failed.
8. Area: the total area of restored dune shall be equal to or greater than the area identified as dune habitat in the Dune Inventory.

As shown in Table MR2-1, there is adequate area within the Project site available for restoration to ensure that there is no net decrease in the area occupied by dune habitat, as required by the revision to Mitigation Measure BIO-2. This includes dune areas that would not be affected or that would be temporarily affected by Project development, as well as unaffected and temporarily affected non-dune ice plant mat area that could be restored as dune habitat.

The SER/SMND concludes that, with implementation of Mitigation Measure BIO-2, this impact would be reduced to less than significant, even if a conflict with LCP Policies prohibiting development in coastal dunes and avoiding disturbance of ESHA remains: according to State CEQA *Guidelines* §15382, "significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. Because Mitigation Measure BIO-2 would ensure that the Project does not result in a loss of the biological value of the Project site or a decrease in the extent of dune ESHA, the remaining conflict with LCP policies would not result in a "substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project," and so would not be a significant effect on the environment. Furthermore, as discussed in the SER/SMND (pp 2-22 and 2-23), Mitigation Measure BIO-2 is consistent with Marin County's recently certified Implementing Program for the LCP, Section 22.64.050(A)(1)(d), Habitat Mitigation, which requires a mitigation plan for proposed development that is a permissible use within ESHA, where there is no feasible alternative that can avoid significant impacts to ESHA.

Non-ESHA Areas of the Project Site

Comment C-11 states that,

> "[t]he 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 comment is partly correct regarding the ESHA status of ice plant. The April 26, 2023 habitat mapping exercise (Figure MR2-1) described the full extent of potential ESHA on the property with the finding that a portion of the ice plant habitat is not located in beach or dune areas. Ice plant habitat that is not located in coastal dune habitats is not considered ESHA under the LCP. This ice plant mat area would, however, be available for restoration to dune habitat pursuant to Mitigation Measure BIO-2.

As discussed above, the sandy beach area that would be affected by the Project is not considered ESHA under the Marin LCP and does not meet the LCP or California Coastal Act definition of ESHA. As shown in Figure MR2-1 and Table MR2-1, a small area of sandy beach habitat (approximately 137 square feet) would be permanently impacted by Project development. In addition, Project development would temporarily affect another 203 square feet of sandy beach habitat. Temporarily impacted sandy beach habitat would recover immediately. While the Project would result in the loss of a small part of the sandy beach (that is, it would be within the footprint of the proposed residence), the Project includes voluntary dedication of an easement on the majority of sandy beach area within the property, ensuring continued public access. The small area of sandy beach lost to development would not substantially interfere with recreational use of nor access to the beach, and would not result in a substantial adverse change in the biological value of the site, and therefore would not result in a significant environmental impact.

3. Comment Letters and Individual Responses

Comment Letter A

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

February 3, 2023

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

RE: Comments on CEQA Mitigated Negative Declaration (MND) for Brian Johnson Coastal Permit (P3049) – formerly Johnson (P1162) in Stinson Beach, CA

Dear Ms. Cardoza,

Thank you for the opportunity to provide additional comments on the proposal to construct a new single-family residence and associated development at 21 Calle del Onda in Stinson Beach (APN: 195-162-49). We received the Notice of Completion for the Mitigated Negative Declaration associated with the project on January 5, 2023 and would like to reiterate our previous comments regarding the project's consistency with the Marin County LCP and California Coastal Act. Since the last set of CCC staff comments regarding the proposal, the proposed residence has been reduced in size and the proposed garage has been eliminated from the design. 1

Commission staff has commented extensively on this proposal, including in comment letters dated March 31, 2016; June 30, 2016; March 16, 2021, August 5, 2021, and November 22, 2021, all of which are in the County's records and re-enclosed here. Throughout these letters, Commission staff has expressed significant concerns regarding potential impacts to environmentally sensitive habitat areas, including dune habitat; siting this development in such a hazardous area, the LCP's prohibition on new development in the designated Easkoot Creek 100-year floodplain, and modifying the project accordingly to account for such hazards; and has suggested were the County to approve any development here, the County should conduct a takings analysis to assess the actual investment-backed development expectations for this parcel. Those comments continue to apply even after the project as updated by the current MND document. 2

The most recent CCC staff comment letter, dated November 22, 2021, outlines specific recommendations related to the County's partial denial and partial approval, with conditions, of the proposal. These include alternative building configurations related to the takings conclusions, a redesign of the septic system without the retaining wall protective devices, and hazards-related conditions including the following: the applicant should assume the risks associated with the proposed development in such a hazardous location and should indemnify the County against damage due to such hazards. Additionally, CCC staff recommended that the County condition the project to 3

3 require that the current owner disclose the terms and conditions of the permit, including explicitly the coastal hazards requirements in any future sale of the residence, in order to notify potential buyers of the hazards that are applicable to the proposed development. In addition, CCC staff comments suggested the County require that a copy of the CDP be provided in all real estate disclosures. Additionally, please provide

4 any new assessments the County has made regarding the development potential of this site based on the series of January 2023 storms, which according to information provided to Commission staff, resulted in the failure of at least six septic systems and structural and water damage to dozens of homes in the immediate vicinity. Given the foregoing, we continue to strongly recommend modification of the project to account for our previous and ongoing feedback, as summarized in this letter.

Please feel free to contact me at honora.montano@coastal.ca.gov with any questions you may have regarding our feedback.

Thank you,

Honora Montano

Honora Montano

Encl.: Comment letters dated: March 31, 2016; June 30, 2016; March 16, 2021, August 5, 2021, and November 22, 2021

Attachments to Coastal Commission letter:
Prior comment letters 2016-2021

From: Rexing, Stephanie@Coastal
To: Cardoza, Sabrina
Cc: KoppmanNorton, Julia@Coastal
Subject: RE: 3rd Transmittal RE: P3049 Brian Johnson Trust Coastal Permit
Date: Monday, November 22, 2021 10:08:28 AM

Hi Sabrina,

5 Thank you for forwarding the link to the staff report, project plans, and files for the proposed single family residence, detached garage, new septic, driveway, decks, and landscaping at 21 Calle del Onda in Stinson Beach. Commission staff has commented extensively on this proposal in the past including in comment letters dated March 31, 2016; June 30, 2016; March 16, 2021; and most recently, August 5, 2021, all of which are in the County's records available on the project website for this proposal. Commission staff has expressed concerns regarding potential impacts to environmentally sensitive habitat areas, siting such development in hazardous areas generally, including specifically the LCP's prohibition on new development in the designated Easkoot Creek 100-year floodplain, and potential takings.

6 The County's staff report to the Planning Commission for today's (November 22, 2021) hearing regarding the CDP for this proposal recommends a partial denial and partial approval of the proposal, with conditions. County staff is recommending the garage portion of the proposal be denied, but is recommending approval of all other elements, including a septic system sited in the 100-year floodplain of Easkoot Creek/AO FEMA flood zone, which is not consistent with LCP Unit 1, Policy IV-30 and Marin County Interim Code Section 22.56.130L. The County is approving the septic despite LCP policies that would require otherwise in order to avoid a potential taking of private property. In approving the septic system, the County found that since a septic system is required to support the proposed residential development, this project element is required to be approved in order to allow for the "minimum necessary use of the property". Specifically, the County is recommending an approval of the septic system in an area where the LCP would not normally allow it, in order to "avoid a taking of the applicant's property." The County staff report concludes that the residence and septic can be approved in order to avoid a taking because "there is no other nonstructural alternative that is practical or preferable for the location of the septic", given the constraints of the site. The takings analysis provided in the County staff report concludes that the applicant obtained ownership interest in the property in 1979, prior to the Easkoot floodplain development prohibition, thus establishing the applicant's reasonable expectation that the septic could be developed onsite to support a single family residence. The County staff report further concludes that the 1,488 sf home (without the garage aspects, which are being denied), plus the other elements including the septic, "are the minimum necessary to avoid a taking" and that the project as approved by the County is the "least environmentally damaging project alternative".

7 While the house is reasonably sized, and similar to surrounding development, it is not clear from the County's staff report what other alternative project configurations were analyzed to draw the conclusion that the approved project is the "minimum" configuration necessary to avoid a takings. Were smaller homes or different configurations considered? If so, the County should include this analysis in their report to support their conclusions. In addition, the approved septic still relies on being raised and surrounded by retaining walls to "increase separation from seasonal high groundwater and to protect (it)…from flooding and potential wave erosion" in contradiction with

7 LCP policies that prohibit shoreline protective devices for new development, and in conflict with the County's conclusion that the County approved project is "consistent with all provisions of the certified LCP other than the provisions for which exception is necessary to avoid a taking". The County should require that the septic be redesigned without the retaining wall protective devices.

8 Finally, while the County's conditions of approval do require the applicant to waive liability, to record a deed restriction that would prohibit future shoreline armoring, and would require removal of all structures approved via this CDP at such time as a legally authorized public agency issues an order to do so, Commission staff still recommends the County require via a condition of approval that the applicant assumes the risks associated with the proposed development in such a hazardous location, and indemnifies the County against damage due to such hazards. In addition, Commission staff also still recommends the County condition the project to require that disclosure documents related to any future sale of the residence notify potential buyers of the terms and conditions of the permit, including explicitly the coastal hazards requirements, and require that a copy of the CDP be provided in all real estate disclosures.

In short, Commission staff recommends the following:

9 - **the County should include alternative configurations analysis in their report to support their takings conclusions**

10 - **the County should require that the septic be redesigned without the retaining wall protective devices**

11 - **the County should require via a condition of approval that the applicant assumes the risks associated with the proposed development in such a hazardous location, and indemnifies the County against damage due to such hazards**
- **the County should condition the project to require that disclosure documents related to any future sale of the residence notify potential buyers of the terms and conditions of the permit, including explicitly the coastal hazards requirements, and require that a copy of the CDP be provided in all real estate disclosures**

Please distribute these comments to Planning Commissioners and include them in the record for today's hearing. Let me know if you have any questions or would like to discuss. Thank you!

Stephanie R. Rexing
District Manager
North Central Coast District
California Coastal Commission
(415)-904-5260

From: Cardoza, Sabrina <scardoza@marincounty.org>
Sent: Monday, November 15, 2021 11:43 AM
To: Rexing, Stephanie@Coastal <Stephanie.Rexing@coastal.ca.gov>
Cc: KoppmanNorton, Julia@Coastal <julia.koppmannorton@coastal.ca.gov>
Subject: RE: 3rd Transmittal RE: P3049 Brian Johnson Trust Coastal Permit

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: 12

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. 13

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 14

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

15 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.

16 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:

17
- 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;

17

- 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

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. 18

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. 19

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.

19 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.

20 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.

21 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.

21

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.

22

   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

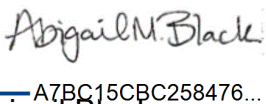
22

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:



A7BC15CBC258476...

Abigail Black
Coastal Planner

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.

23

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

24

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.

24

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.

25

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:

26

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.

26

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,

26

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

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,

27 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

28 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

29 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

29

Section 22.56.130(H)(5) states that no development shall be permitted in sensitive coastal dune habitat. Although the submitted biological site assessment concludes that the subject parcel is dominated by 'iceplant mats,' degraded habitat is nevertheless habitat and the presence of invasive, non-native species does not exclude the subject parcel from qualifying as dunes or environmentally sensitive habitat area (ESHA). Furthermore, the geomorphology of the subject parcel should be considered in addition to the vegetation communities. All or a portion of the subject parcel should be characterized as a dune ESHA. The biological report should be revised to appropriately delineate the extent of dune ESHA and adequate buffers on the property, and recommend appropriate mitigation measures to ensure protection of ESHA. The proposed project should be revised so that all development is located outside of dune ESHA and any required buffers. To the extent that the subject parcel is comprised entirely of dune ESHA and sandy beach area, no development could be approved consistent with the LCP unless all the required findings of a takings evaluation can be made.

30

Shoreline protection

While the submitted Coastal Engineering Analysis describes the nature and extent of coastal flooding hazards along the beach area and an explanation of how the physical impacts of flooding may constrain the project site, the analysis should be revised to describe the ability of the proposed development to withstand the anticipated wave run up. The coastal permit should include conditions requiring the applicant to record a document 1) acknowledging that the site is subject to coastal hazards which may include coastal erosion, shoreline retreat, flooding, and other geologic hazards; 2) acknowledging that future shoreline protective devices to protect authorized structures are prohibited; 3) acknowledging that public funds may be insufficient or unavailable to remedy damage to public roadways, infrastructure, and other facilities resulting from natural events such as sea level rise; 4) acknowledging that Housing Code provisions prohibit the occupancy of structures where sewage disposal or water systems are rendered inoperable; and 5) assuming all risks and waiving any claim of damage or liability against the County for personal or property damage resulting from such coastal hazards. The recorded document should also disclose potential vulnerability of the development site to flooding, inundation, and wave run up. The conditions should also require the removal and/or relocation, in part or in whole, of the authorized development when any government agency orders removal of the development in the future or when the development becomes threatened by coastal hazards, whichever happens sooner.

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

Letter A. Honora Montano, California Coastal Commission

A-1 Past comments from Coastal Commission staff are attached to this letter, and responded to commencing with the response to comment A-5. Please refer to those responses.

A-2 A takings analysis examines economic impacts, not environmental impacts, and is therefore beyond the scope of environmental review undertaken pursuant to the California Environmental Quality Act (CEQA). County staff previously conducted a takings analysis for an earlier iteration of the Project. That analysis is contained in a draft resolution attached to the Staff Report to the Marin County Planning Commission for a November 22, 2021 hearing. The takings analysis will be further addressed by County Staff prior to the Planning Commission's consideration of the current iteration of the Project.

A-3 The referenced letter is attached to this letter, commencing with comment A-5. In their Staff Report to the Planning Commission for the November 22, 2021 hearing, County staff recommended partial denial (denying construction of a detached garage) and partial approval of an earlier iteration of the Project. The Planning Commission acted on the Project by voting to continue the hearing and requesting further environmental review. Following the November 22, 2021 hearing, the Applicant amended their application, proposing a smaller residence without a garage. This iteration of the Project was evaluated in the SER/SMND.

Impacts associated with the proposed concrete containment structure surrounding the proposed septic system are discussed in SER/SMND Section 2.10, Hydrology and Water Quality, topic 2.10.c.i. The SER/SMND concludes that the proposed septic system would not have a significant adverse impact on the environment. See also the discussion in Master Response 1: Storm Damage.

As described in SER/SMND Chapter 1, Project Description, page 1-14, the Project includes voluntary dedication of a minimum 40-foot-wide and 80-foot-long lateral public access easement to be located across the southwestern (seaward) portion of the property. The Project also includes a voluntary dedication of a deed restriction against the title to the property that would serve to notify all current and future owners that the development authorized by the Coastal Permit, including the residential building and other development, would be removed when any government agency with legal jurisdiction has issued a final order 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 to the site due to the degradation and eventual failure of Calle del Onda as a viable roadway. Marin

County would not be required to maintain access and/or utility infrastructure to serve the development in such circumstances. The deed restriction would furthermore prevent the placement of any shoreline protective device on the property in perpetuity. Other conditions indemnifying the County may be considered by the Planning Commission when considering Project approval.

A-4 Please see Master Response 1: 2023 Storm Effects.

A-5 Referenced letters are included in Comment Letter A. Please see below for responses to the concerns summarized in this comment.

A-6 This comment summarizes portions of the Staff Report to the Marin County Planning Commission for the November 22, 2021 hearing.

A-7 The SER/SMND does not examine alternatives to the proposed Project design. The current iteration of residence design is, however, at least the third submitted to the County for approval since 2016. This iteration has been scaled back substantially compared to previous iterations. Given constraints on use of the Project site such as setbacks from the "stringline" established by existing developments onto the beach and from the property line, there are limited options for the placement of a residence and associated septic system within the Project site. The proposed design places the septic system at the inland limit of the property, in the area farthest away from the sandy beach and dunes. The proposed one-story residence itself would be elevated on piers above flood elevation. The SER/SMND finds that with the incorporation of identified mitigation measures the Project would not have a significant impact on the environment. Mitigation measures involving changes to the proposed site plan were not necessary to reduce impacts to less than significant. Inconsistencies with LCP or other policies, where such inconsistencies are not associated with a significant environmental impact, will be considered by County decisionmakers, who may choose to condition the Project to require changes to the proposed Project design to achieve greater consistency. Such changes are, however, outside of the scope of a CEQA review.

Impacts associated with the proposed concrete containment structure surrounding the proposed septic system are discussed in SER/SMND Section 2.10, Hydrology and Water Quality, topic 2.10.c.i, as well as in Master Response 1: 2023 Storm Effects. In summary, the concrete containment structure surrounding the proposed septic system would extend only 3-6 inches above existing grade, and because of its landward location and design, the retaining wall would not act as a shoreline protective device: the retaining wall, while designed to withstand wave run-up forces and protect the septic system from localized erosion during inundation, is not designed or intended to arrest shoreline or bluff erosion or coastal retreat (the intended function of seawalls and riprap armoring) and would not redirect wave energy in a manner that would

create erosion, geologic instability, or destruction of the site or neighboring properties due to altered on-site conditions. Nor is it intended or designed to arrest natural coastal erosion or coastline recession in a manner that would result in substantially altered landforms. The SER/SMND concludes that the proposed concrete containment system surrounding the septic system would not change on-site drainage patterns or shoreline erosion patterns relating to wave runup and shoreline recession processes over the projected 50-year life of the Project in a manner that would result in a significant impact, or that would conflict with Marin County Interim Code Section 22.56.130I.K regulating shoreline protection.

A-8 Please see the response to comment A-3.

A-9 Please see the responses to comments A-2 and A-7.

A-10 Please see the response to comment A-7

A-11 Please see the response to comment A-3.

A-12 This letter pre-dates the current iteration of the Project, which was the subject of the SER/SMND.

A-13 Please see Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations.

A-14 The comment partially summarizes analysis presented in the Coastal Engineering Analysis prepared by Noble Consultants, Inc. (Noble, 2021). Noble (2021) assessed coastal flooding and flood risks from storm surge, shoreline erosion, and sea level rise (SLR) hazards. The portion quoted in the comment omits a portion of the analysis that discusses the predicted 4.5 feet of overtopping as a worst-case scenario that is presented in the context of potential inundation that "could occur by 2050 if the unlikely (less than a 1% chance) rate of sea level rise proposed by the Coastal Commission occurs…. However, the Coastal Commission's projections predict that even in 2070, there is a 66% likelihood that such a level would not be reached."

As discussed in SER/SMND Section 2.10, Hydrology and Water Quality, supporting studies were reviewed by the County's environmental consultant for accuracy and to determine whether the methodologies employed and assumptions regarding hydrologic conditions were defensible and appropriate and that the results were valid. Where applicable, the results and findings of the supporting technical studies were used to support conclusions regarding the Project's potential environmental impacts. Topic 2.10.c. presents a detailed analysis of coastal flooding and flood risks from storm surge, shoreline erosion, wave runup, overtopping and overland wave propagation to determine wave conditions at the Project site based on the 100-year storm event in the year 2070, including consideration of the effects of sea level rise. The SER/SMND concludes

that impacts relating to coastal flooding, including wave overtopping resulting from storm surge during a 100-year storm event, would be less than significant.

Regarding the commenter's assertion that the proposed septic system would not be set back adequately or designed sufficiently to minimize risks to surrounding property or to minimize impacts to water quality, impacts associated with the proposed septic system are comprehensively assessed in SER/SMND Section 2.10, Hydrology and Water Quality, topics 2.10.a and 2.10.c.iv. In summary, the septic system has been designed to avoid impacts to surface and groundwater quality, including as a result of flooding or inundation during a 100 year storm from coastal wave runup and storm surge combined with high tide events, through the use of raised bed dispersal fields, an intermittent sand filter pretreatment unit, a concrete wall surrounding the septic system to protect the system from erosion and damage due to wave action, and the use of watertight tanks to increase separation between the wastewater system and seasonal and future high groundwater. The septic system is proposed to be located on the most landward portion of the Project site, set back from the shoreline to the greatest extent possible. Please see also the response to comment A-7.

Regarding flood risks related to the Easkoot Creek flood plain, a detailed flood analysis is presented under topic 2.10.c.iv, including potential flooding and inundation impacts from Easkoot Creek and coastal flood hazards. The 100-year flood elevation in 50 years with incorporation of potential sea level rise is considered in the analysis. The proposed Project, including the septic system, would not alter drainage patterns in a manner that would impede or redirect flood flows from Easkoot Creek and would not impede or redirect flood flows associated with waves or wave runup. Further, the proposed septic system would not increase flood risks to surrounding properties or increase the base flood levels in the surrounding area because of its relatively minor elevated volume relative to the entire Stinson Beach shoreline. The SER/SMND therefore concludes that impacts relating to flooding, erosion, and water quality would be less than significant.

As discussed in detail under topic 2.10.c.i, the proposed septic system would not result in physical impacts that conflict with the California Coastal Act. Inconsistencies with LCP policies or other policies, where such inconsistencies are not associated with a significant impact, will be considered by County decisionmakers, who may choose to condition the Project to require changes to the proposed Project design to achieve greater policy consistency. Such changes are, however, outside of the scope of a CEQA review.

A-15 Please see the response to comment A-7.

A-16 Please see the response to comment A-3.

A-17 Please see the response to comment A-2.

A-18 This comment describes an earlier iteration of the Project. The current iteration of the Project, which is the subject of the SER/SMND, is described in SER/SMND Chapter 1, Project Description.

A-19 Please see Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations.

A-20 The SER/SMND examines sea level rise hazards in Section 2.10, Hydrology and Water Quality, topic 2.10.a, 2.10.c.i, and 2.10.c.iv, and identifies no significant impact associated with this issue. Please see also Master Response 1: Storm Effects, and the response to comment A-14.

A-21 With regard to the proposed concrete containment structure around the septic system, please see the response to comment A-7. The use of foundation piers (rammed, driven, or drilled), does not violate the Local Coastal Plan or the Coastal Act because, as currently designed, they would not alter natural shoreline processes. As shown in the SER/SMND Chapter 1, Project Description, Figures 6-9, the vertical structural piers would be spaced far enough apart to allow flood water to flow beneath the residential structure without obstructing or substantially changing the flow patterns.

A-22 Seismic and liquefaction hazards are assessed in the geotechnical report prepared for the Project, which is reviewed and summarized in SER/SMND Section II.7, Geology and Soils. The SER/SMND concludes that, with implementation of recommendations contained in the geotechnical report, the Project would not have significant impacts related to these hazards. With regard to the recommended permit conditions listed in the remainder of this comment, please see the response to comment A-3.

A-23 This comment and the remaining comments from the California Coastal Commission are contained in correspondence from 2016, which addressed an earlier iteration of the Project. The current Project is described in SER/SMND Chapter 1, Project Description.

A-24 With regard to protection of public access to and along the shoreline, please see the response to comment A-3. Regarding dune habitat, please see Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations.

A-25 A sea level rise analysis and coastal engineering analysis were completed for the Project, and reviewed and summarized in SER/SMND Section II.10, Hydrology and Water Quality, topics 2.10.a, 2.10.c.i, and 2.10.c.iv, all of which conclude that impacts associated with sea level rise would be less than significant.

A-26 Please see the response to comment A-3.

A-27 Please see the response to comment A-23.

A-28 Please see the response to comment A-3.

A-29 Please see Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations.

A-30 Please see the responses to comments A-7 and A-25.

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

Comment Letter B

February 3, 2023

Sabrina Cardoza, Senior Planner
County of Marin
3501 Civic Center Drive, Room 308
San Rafael, CA 94903
envplanning@marincounty.org

Subject: Brian Johnson Trust Coastal Permit, Subsequent Mitigated Negative Declaration, SCH No. 2023010079, Community of Stinson Beach, County of Marin

Dear Ms. Cardoza:

1 The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Subsequent Mitigated Negative Declaration (SMND) from the County of Marin (County) for the Brian Johnson Trust Coastal Permit (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

CDFW is submitting comments on the SMND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

2 CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Brian Johnson Trust

3 **Objective:** Construct a one-unit residence with associated infrastructure including a septic system, permeable paving driveway, decks, and landscaping on a 15,200-square-foot (0.35-acre) lot.

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

3

Location: 21 Calle Del Onda, Stinson Beach, 94970, Marin County, approximate centroid of Latitude 37.899083 °N, Longitude 122.644889 °W, Assessor's Parcel Number 195-162-49.

REGULATORY REQUIREMENTS

Raptors and Other Nesting Birds

4

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds of prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below which are also included in Attachment 1 Draft Mitigation and Monitoring Reporting Plan, CDFW concludes that an SMND is appropriate for the Project.

I. Environmental Setting and Related Impact Shortcoming

5

MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare or threatened species?

COMMENT 1: Western snowy plover, SMND pages 2-19 and 2-20, Appendix A, page A-2; Initial MND, Appendix A, page 10

Issue: The Initial MND concludes that nesting habitat for western snowy plover (*Charadrius nivosus nivosus*) does not occur on or adjacent to the Project site; however, despite negative effects of recreational activity, western snowy plover nest success has been reported in areas frequented by beach goers (Ruhlen 2003). The SMND includes Mitigation Measure BIO-1 (SMND, Appendix A, page A-2), which would require initial ground disturbance and vegetation removal to occur from September 1 to January 31, outside of a nesting season of February 1 to August 31. The 2007 Western Snowy Plover Recovery Plan states that "the nesting season of the western snowy plover extends from early March through late September" and that "fledging (reaching flying

age) of late-season broods may extend into the third week of September throughout the breeding range" (United States Fish and Wildlife Service (USFWS) 2007). Therefore, the proposed Mitigation Measure BIO-1 does not include the full nesting season for western snowy plover.

Specific impacts, why they may occur and be potentially significant: If the Project occurs during the nesting season for western snowy plover, any plover nesting in the Project site or within 600 feet of the Project site could be disturbed directly or by visual or auditory effects caused by Project-related construction activities. Western snowy plover, Pacific coast Distinct Population Segment, is federally listed as endangered under the Endangered Species Act (ESA) and a California Species of Special Concern. If western snowy plover is nesting within 600 feet of the Project site, the above Project disturbances may result in nest abandonment or reduced health and vigor of young, take of the species pursuant to ESA, and a substantial reduction in the species' population, which would be a mandatory finding of significant impact (CEQA Guidelines, § 15065).

Recommended Mitigation Measure: To reduce potential impacts to western snowy plover to less-than-significant, CDFW recommends including the below mitigation measure in the SMND. 5

Mitigation Measure BIO-2 (Western Snowy Plover Avoidance): If Project activities are scheduled during the nesting season for western snowy plover (February 1 to September 30), a biologist approved in writing by CDFW shall perform a minimum of 3 focused surveys prior to the beginning of construction, on separate days, to determine the presence of western snowy plovers both at the work area and within 600 feet of the work area. Additional surveys shall be done once per week during Project construction in the breeding season. Surveys shall be conducted following the Western Snowy Plover Breeding Window Survey Protocol – Final Draft (USFWS 2007; see Attachment J, pages J-10 through J-16). The biologist shall notify CDFW at least 7 days prior to the initiation of surveys and within 24 hours of locating any western snowy plovers. The biologist shall notify CDFW and USFWS immediately if any of the below are found:

1. Any dead or injured western snowy plovers.
2. Any western snowy plovers observed at unoccupied beaches or in areas where they haven't been seen in recent years.
3. Any western snowy plover nests with eggs or adults with chicks.
4. Any females head-bobbing, males tail-dragging, or birds copulating or nest scraping.

5 If surveys are negative for western snowy plovers, work may proceed during the nesting season. If surveys are positive for western snowy plovers, a 600-foot no-work buffer will be maintained around active plover nests and monitored by the approved biologist to ensure it is not disturbed, and the Project shall consult with CDFW and USFWS.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNNDB field survey form can be filled out and submitted

6 online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

7 CDFW appreciates the opportunity to comment on the SMND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alex Single, Environmental Scientist, at (707) 799-4210 or Alex.Single@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell, Regional Manager
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023010079)

REFERENCES

Ruhlen, T. D., S. Abbott, L. E. Stenzel and G. W. Page. (2003). Evidence that human disturbance reduces Snowy Plover chick survival. Journal of Field Ornithology 74 (3):300-304.

USFWS. 2007. Status Recovery Plan for the Pacific Coast Population of the Western Snowy Plover (*Charadrius alexandrinus nivosus*). California/Nevada Operation Office, USFWS, Sacramento, CA. https://ecos.fws.gov/docs/recovery_plan/070924_2.pdf

ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

CDFW provides the following language to be incorporated into the Mitigation and Monitoring Program for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	**Description**	**Timing**	**Responsible Party**
BIO-2	*Mitigation Measure BIO-2* (Western Snowy Plover Avoidance): If Project activities are scheduled during the nesting season for western snowy plover (February 1 to September 30), a biologist approved in writing by CDFW shall perform a minimum of three focused surveys prior to the beginning of construction, on separate days, to determine the presence of western snowy plovers both at the work area and within 600 feet of the work area. Additional surveys shall be done once per week during Project construction in the breeding season. Surveys shall be conducted following the Western Snowy Plover Breeding Window Survey Protocol – Final Draft (USFWS 2007; see Attachment J, page J-10 through J-16). The biologist shall notify CDFW at least 7 days prior to the initiation of surveys and within 24 hours of locating any western snowy plovers. The biologist shall notify USFWS immediately if any of the below are found: 1. Any dead or injured western snowy plovers. 2. Any western snowy plovers observed at unoccupied beaches or in areas where they haven't been seen in recent years. 3. Any western snowy plover nests with eggs or adults with chicks. 4. Any females head-bobbing, males tail-dragging, or birds copulating or nest scraping.	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant

8

8

	If surveys are negative for western snowy plovers, work may proceed during the nesting season. If surveys are positive for western snowy plovers, a 600-foot no-work buffer will be maintained around active plover nests and monitored by the approved biologist to ensure it is not disturbed, and the Project shall consult with CDFW and USFWS.		

Letter B. Erin Chappell, California Department of Fish and Wildlife

B-1 This comment is preamble to those that follow, and does not require a substantive response. Please see the following responses.

B-2 The County is unaware of any requirements of the Project for any permits issued by California Department of Fish and Wildlife (CDFW), and so has not identified CDFW in the Required Approvals discussion on page 1-14 of Chapter 1, Project Description, of the SER/SMND. The County acknowledges CDFW's statutory responsibilities as a Trustee Agency.

B-3 The Project is described in SER/SMND Chapter 1, Project Description. The description of the Project included in this comment is consistent with that in the SER/SMND.

B-4 The County acknowledges CDFW's jurisdiction over actions that may result in the disturbance or destruction of birds and bird nests. Please see the following response (response to comment B-5).

B-5 The comment states that western snowy plover (WSP) may successfully nest on lands that are frequented by beach goers, citing Ruhlen (2003),[20] and notes that the WSP nesting season dates stated in the SER/SMND differ from those in the USFWS (2007) WSP Recovery Plan.[21] On this basis, the comment concludes that impacts to nesting WSP may be potentially significant and mitigation measures are recommended to reduce potential impacts to less than significant.

It is commonly known that WSP can nest or overwinter on lands that are used by recreational users. On the coast, such areas typically have a broad beach that can accommodate both recreational uses and roosting or nesting (e.g., winter roosting at Ocean Beach in San Francisco and Pacifica State Beach). On such multi-use beaches, successful nesting can be attributed to active conservation efforts such as the use of signage and fencing placed near the nest to deter beach goers and dogs from trampling nests. The study by Ruhlen (2003) mentioned in the comment examined WSP nesting at two remote beaches (Point Reyes and Limantour beaches at Point Reyes National Seashore, Marin County) with the finding that increased human recreation during weekends and holidays negatively affected WSP chick survival more than recreational use during non-peak use times.

[20] Ruhlen, T.D., Abbott, S., Stenzel, E., and G.W. Page. 2003. Evidence that human disturbance reduces snowy plover chick survival. J. Field Ornithol. 74(3):300–304, 2003.

[21] U.S. Fish and Wildlife Service (USFWS). 2007. Recovery plan for the Pacific Coast Population of the Western Snowy Plover (Charadrius alexandrinus nivosus). California/Nevada Operations Office, U.S. Fish and Wildlife Service, Sacramento, California. August 13, 2007.

Sandy beach habitat within 600 feet of the Project site regularly experiences heavy recreational use. In reviewing historical Google Earth aerial photographs of Stinson Beach near the Project site it is evident that recreational use exceeds the habitat suitability requirements of WSP. For example, Google Earth imagery on Saturday June 1, 2013, at the peak of the WSP nesting season, shows about five groups of beach goers within 50 feet of the property and approximately ten groups within 150 feet.

Adding to heavy recreational pressure, the California Natural Diversity Database[22] last documents WSP nesting on the Stinson Beach strand in 1977, on the spit area of Stinson Beach in the vicinity of Seadrift Road (as identified in the WRA 2019 Biological Site Assessment[23]). Since that observation, the only documented use of Stinson Beach by WSP has been in a non-breeding, overwintering capacity. As such, impacts to nesting WSP would be unlikely even in the absence of Project mitigation. Project construction has been seasonally adjusted by Mitigation Measure BIO-1 to delay initial Project construction until after the peak of the WSP nesting season, September 1 to January 31 (peak nesting is from mid-April to mid-June, with hatching from early April through mid-August (USFWS, 2007)). The comment correctly notes that late season WSP may not fledge until mid-September and infers that late season chicks may be prone to Project impacts. However, late season WSP chicks are precocial, leaving the nest within hours after hatching to search for food. While they are not able to fly (fledge) for approximately 1 month after hatching, broods rarely remain in the nesting area until fledging and may travel along the beach as far as 6.4 kilometers (4 miles) from their natal area (USFWS, 2007). In addition, recognizing that Stinson Beach is one of the most popular weekend and Labor Day beach destinations on the Marin County coast with visitation spiking on this early September holiday, there is a strong justification for the conclusion that WSP would not nest near the Project site and would be absent in the month of September (e.g., see Figure B5-1). Hence, Mitigation Measure BIO-1, as presented in the SER/SMND, would fully avoid impacts to nesting WSP.

B-6 The County understands and will comply with the requirements for reporting environmental data and for environmental document filing fees.

B-7 The County appreciates CDFW's comments.

B-8 Please see the response to comment B-5.

[22] California Department of Fish and Wildlife (CDFW). 2023. California Natural Diversity Database Summary Table Report for the Stinson Beach Region. April 26, 2023.

[23] WRA Environmental Consultants, 2019. Memo to Ed Schmidt, General Manager, Stinson Beach County Water District, re: Biological Site Assessment for 21 Calle del Onda, Stinson Beach, California. October 2019. Appendix A to WRA, 2020.

Figure B5-1. Stinson Beach at the peak of the western snowy plover nesting season on Saturday, June 27, 2009. The Project site is located roughly at center right. As shown in this image, weekend and holiday recreation makes the beach near the Project site unsuitable for western snowy plover nesting (Wikimedia Commons, 2023[24]).

[24] Wikimedia Commons. 2023. Open-source photograph entitled, “Stinson Beach, California on June 27, 2009, seen from the south.” https://commons.wikimedia.org/wiki/File:Crowded_day_at_Stinson_Beach.jpg

Comment Letter C

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

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:

1 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.

2 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.

3 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.

4 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

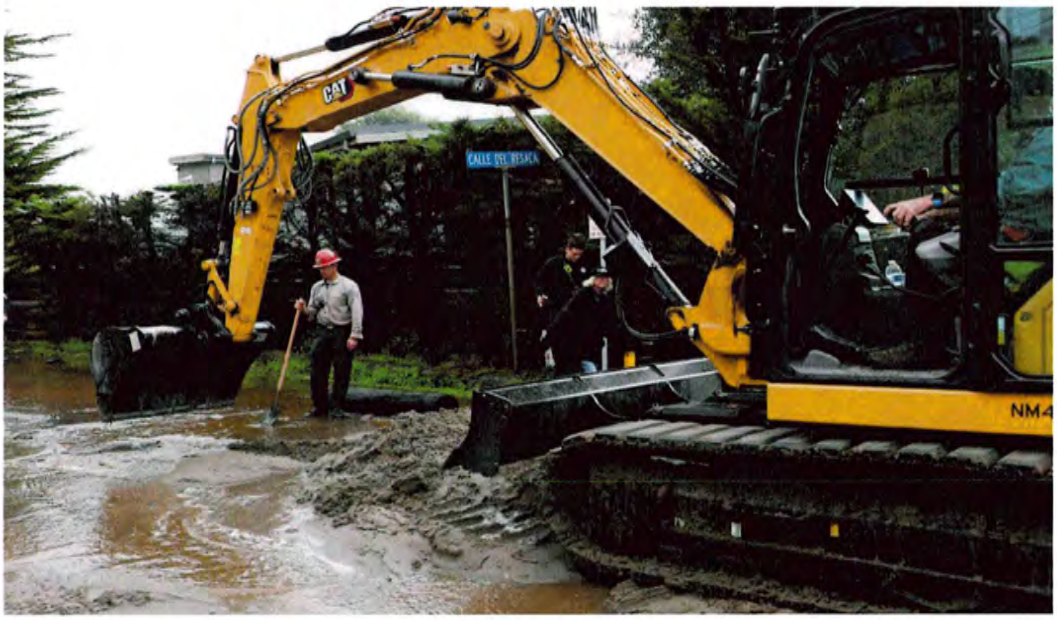
Stinson Beach County Water District in July 2020, which in light of the recent flooding on Calle del Onda can no longer be relied upon. Therefore, the inaccurate presumptions and data in the environmental review need to be reassessed in light of the recent flooding. If the project had been allowed with 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

4

4



Objections to Pending Application for Coastal Permit

5

1. <u>CEQA Review is Required</u>

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". 5

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. 6

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. 7

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. 8

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. 9

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.

10

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. 10

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. 11

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.

11

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

12

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)

13

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.

14 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:

15 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.
16 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.
17 3. Tsunamis and Seiches – ***high inherent risk;*** applicant does not address this risk despite his expert's study.
18 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.

19 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. 20

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)] 20

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. 21

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. 22

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 23

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).

23

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>

24

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

24 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>

25 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

26 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)

EXHIBIT A

EXHIBIT A

ELISABETH BREKHUS
elizabeth@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.

27

Objections to Pending Application for Coastal Permit

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

28

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

28

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

B. FEMA VE Floodplain Base Flood Elevation

29

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

30

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.)

31

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.

31

D. Sea Level Rise Hazards

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.

32

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

32

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.

33

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.

33

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. <u>Shoreline Protection</u>

34

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. <u>Impact on Neighboring Properties</u>

35

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.

35

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.

36

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.

36

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

37

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.

37

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

38

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

Pfeifer, Sara@Coastal

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) 904-5265 |

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.

39

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

STATE OF CALIFORNIA—NATURAL RESOURCES AGENCY EDMUND G. BROWN JR., GOVERNOR

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.

39

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

40

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

? **Pfeifer, Sara@Coastal**

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

Johnson Residen... Johnson Residen... Comment Letter...

ATTACHMENT 4

ATTACHMENT 4

STATE OF CALIFORNIA—NATURAL RESOURCES AGENCY EDMUND G. BROWN JR., GOVERNOR

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.

41

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.

41

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.

41

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.

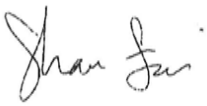
5. Future Removal of Development. The Permittee shall remove and/or relocate, in part or in whole, the development authorized by this CP, including, but not limited to development authorized under this CP, when any government agency orders removal of the development in the future or when the development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

41

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

42

From: [redacted]
Sent: Tuesday, February 02, 2021 3:41 PM
To: Levenson, Michelle <MLevenson@marincounty.org>
Cc: Lai, Thomas <TLai@marincounty.org>; Black, Abigail@Coastal <abigail.black@coastal.ca.gov>; Reising, Stephanie@Coastal <Stephanie.Reising@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 2018 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 the 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 <[redacted]>
Sent: Monday, February 1, 2021 2:53 PM
To: Marina, Jeannine@Coastal <[redacted]>
Subject: Retention of Coastal Permitting Jurisdiction 21 Calle del Onda, Stinson Beach

Dear Ms. Marina:
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 195-162-09, prior APN 195-162-21 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, CivilKnit, has requested guidance on applying for the necessary authorizations and I am 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?[3,5]

- 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[1]

- 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, 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/06283016.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 WATER

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 tl

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 apj 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 Sy 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 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

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 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 from 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 Direc 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.

45

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 thet 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.

46

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.

46

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.

46

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,

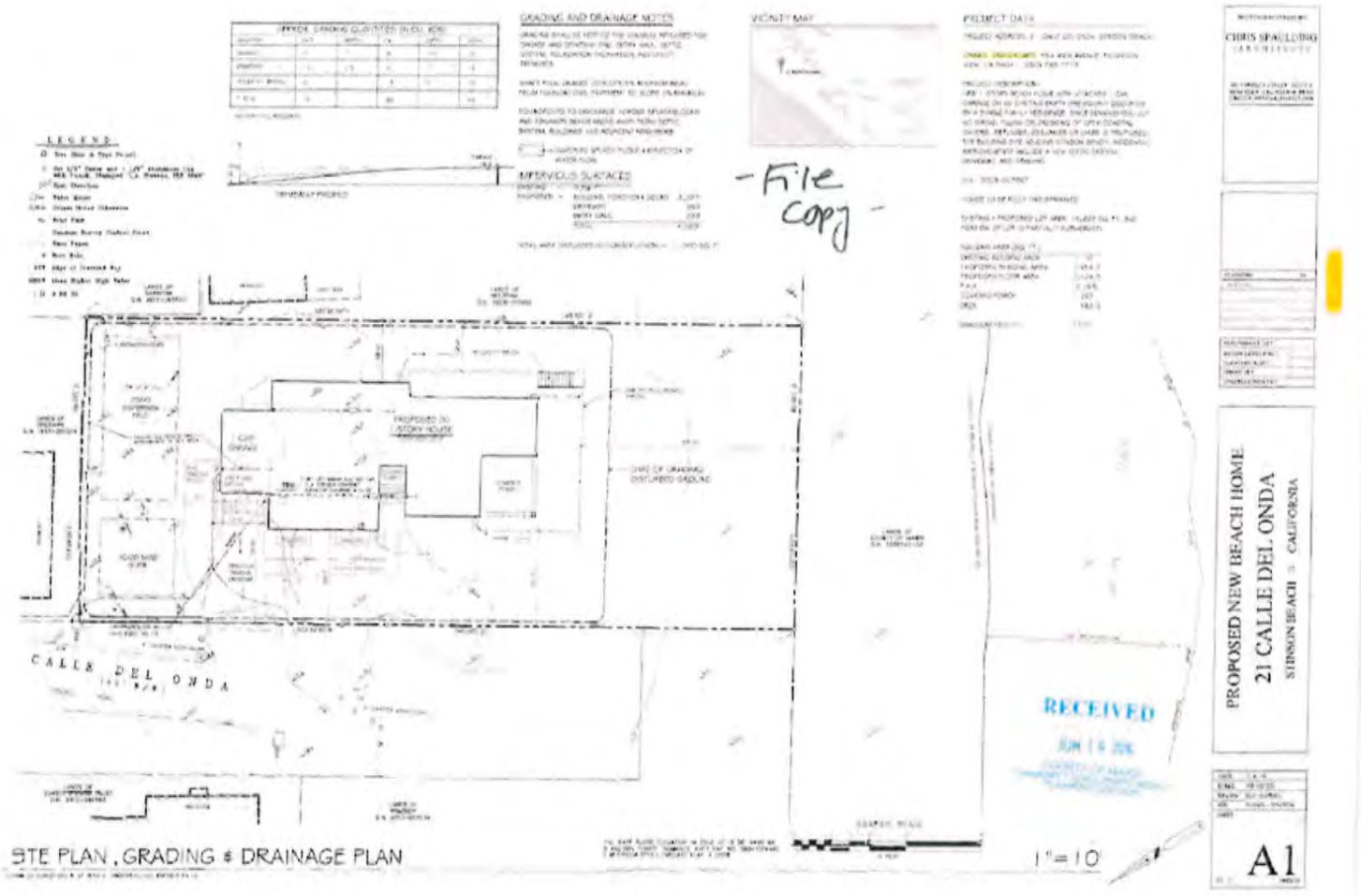
Tammy Taylor
Assistant Planner

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

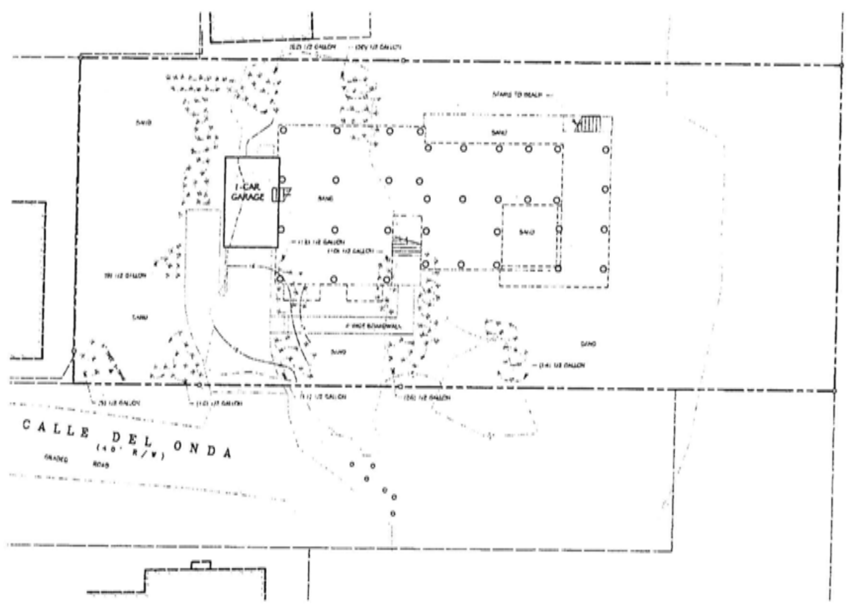
cc: Brian Johnson
P.O. Box 1139
Homewood, CA 96141

ATTACHMENT 10

ATTACHMENT 10


GRADING AND DRAINAGE NOTES
VICINITY MAP
PROJECT DATA
LEGEND
IMPERVIOUS SURFACES
- File Copy -
CALLE DEL ONDA
RECEIVED
CHRIS SPAULDING
PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH · CALIFORNIA
SITE PLAN, GRADING & DRAINAGE PLAN
1"=10'
A1

47



LANDSCAPE PLAN

1"=10'

DRAWN ON SURVEY BY L.A. STEVENS + ASSOCIATES, INC., DATED 7-24-15

GRAPHIC SCALE

LANDSCAPE NOTES

ALL PLANTING TO BE CAREX PRAEGRACILIS DUNE GRASS (CALIFORNIA NATIVE)
REMOVE ALL ICE PLANT

DRAWINGS PREPARED BY
CHRIS SPAULDING
ARCHITECTS
101 CAMELLIA STREET SUITE E
BERKELEY CALIFORNIA 94710
(510) 527-5997 FAX (510) 527-5998

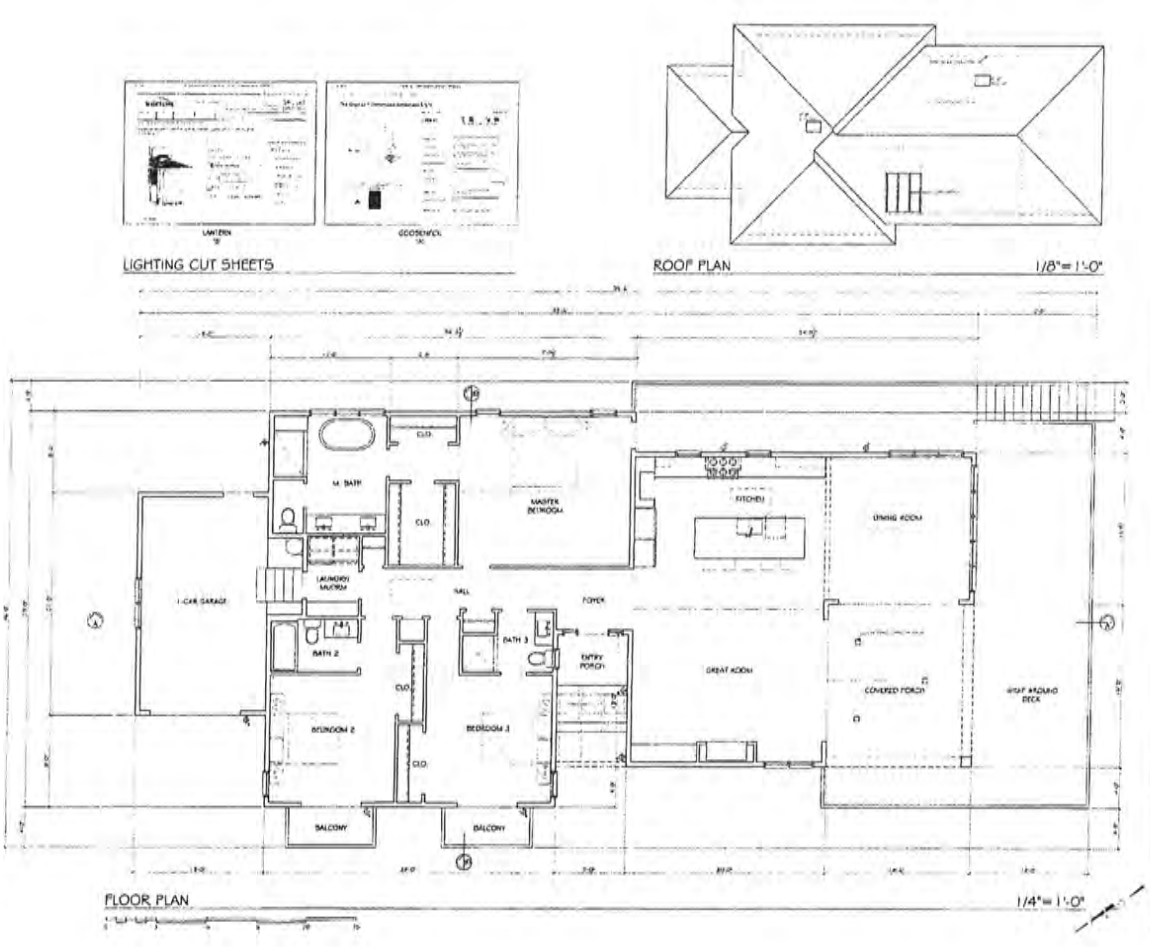
REVISIONS	BY
8-31-16	

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/SAPSAD
JOB: HUNES - STINSON
SHEET

A1.1
OF 5 SHEETS



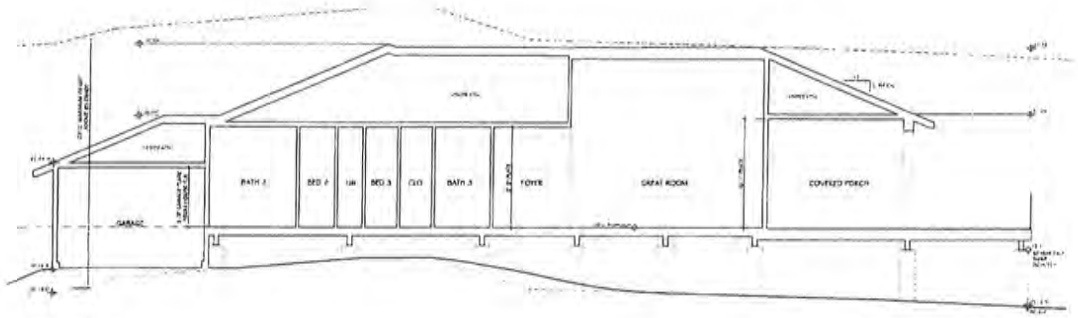
CHRIS SPAULDING
ARCHITECT

PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH :: CALIFORNIA

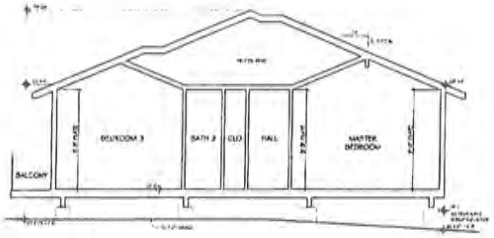
A2


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"
CYRUS SPAULDING
ARCHITECT
PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH CALIFORNIA
A3

47



SECTION A-A 1/4"= 1'-0"

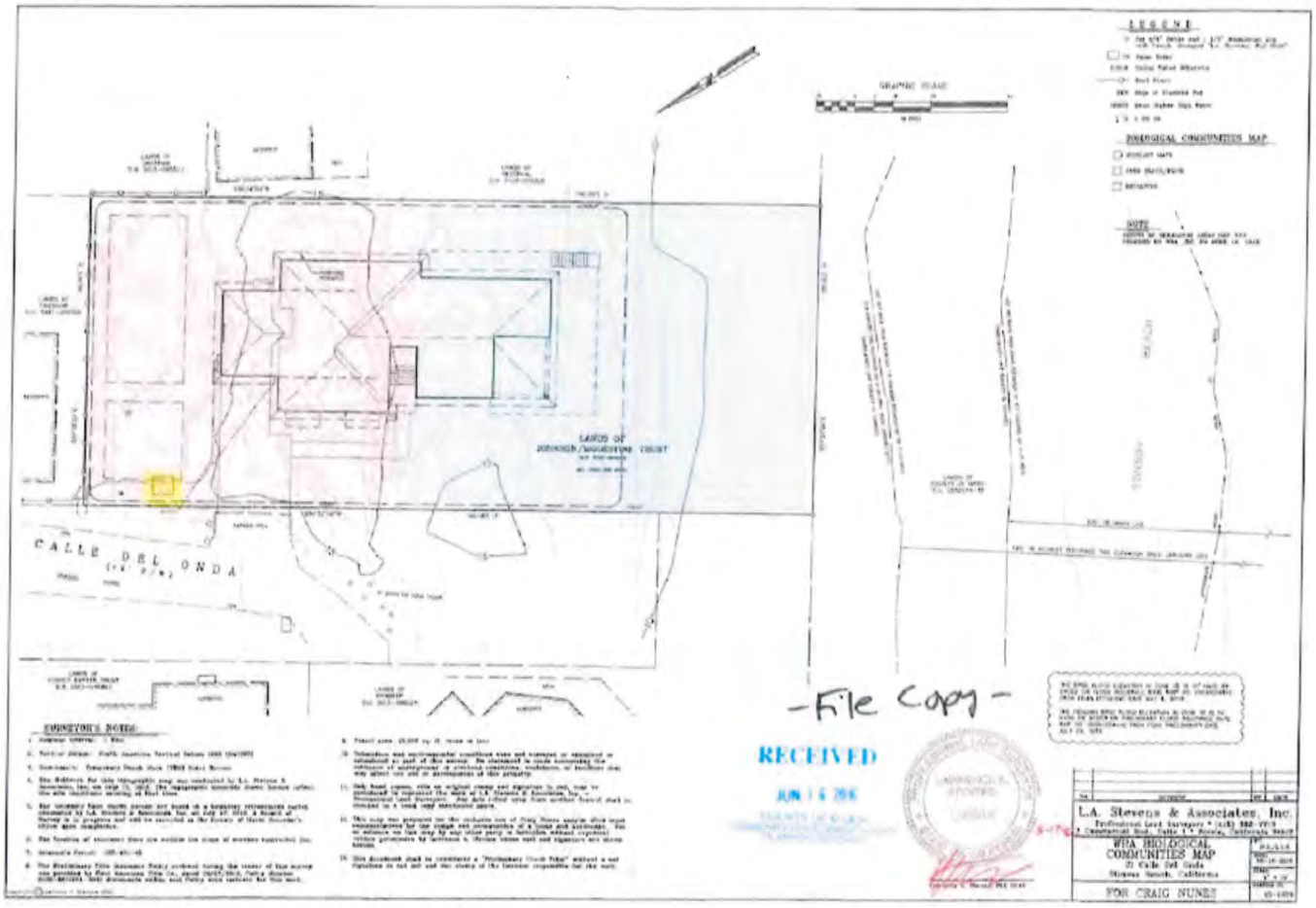


SECTION B-B 1/4"= 1'-0"

CHRIS SPAULDING
ARCHITECT

PROPOSED NEW BEACH HOME
21 CALLE DEL ONDA
STINSON BEACH CALIFORNIA

A4

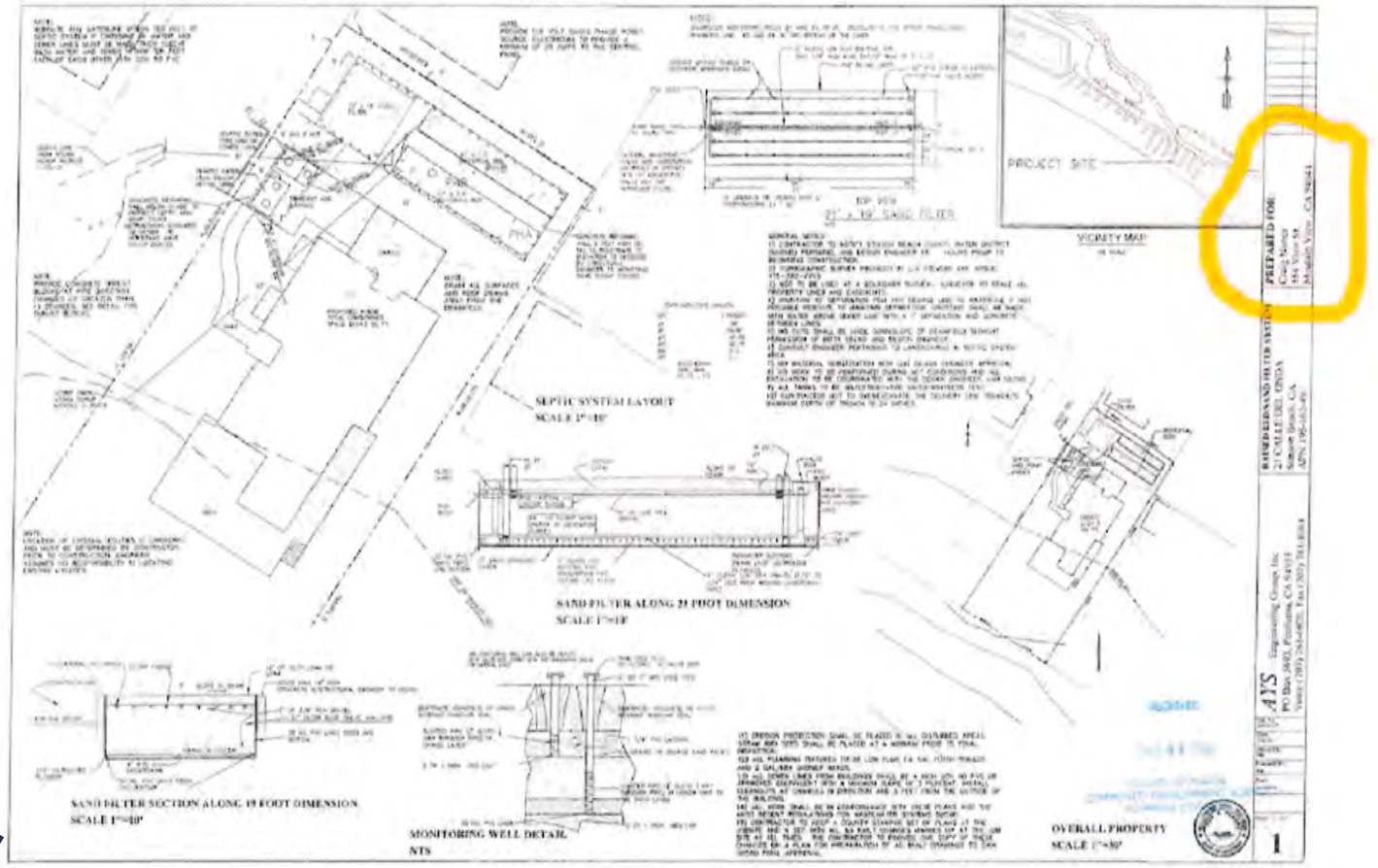

LEGEND
BIOLOGICAL COMMUNITIES MAP
NOTE
GRAPHIC SCALE
CALLE DEL ONDA
-File Copy-
RECEIVED
JUN 16 20
L.A. Stevens & Associates, Inc.
WPA BIOLOGICAL COMMUNITIES MAP
FOR CRAIG NUNES

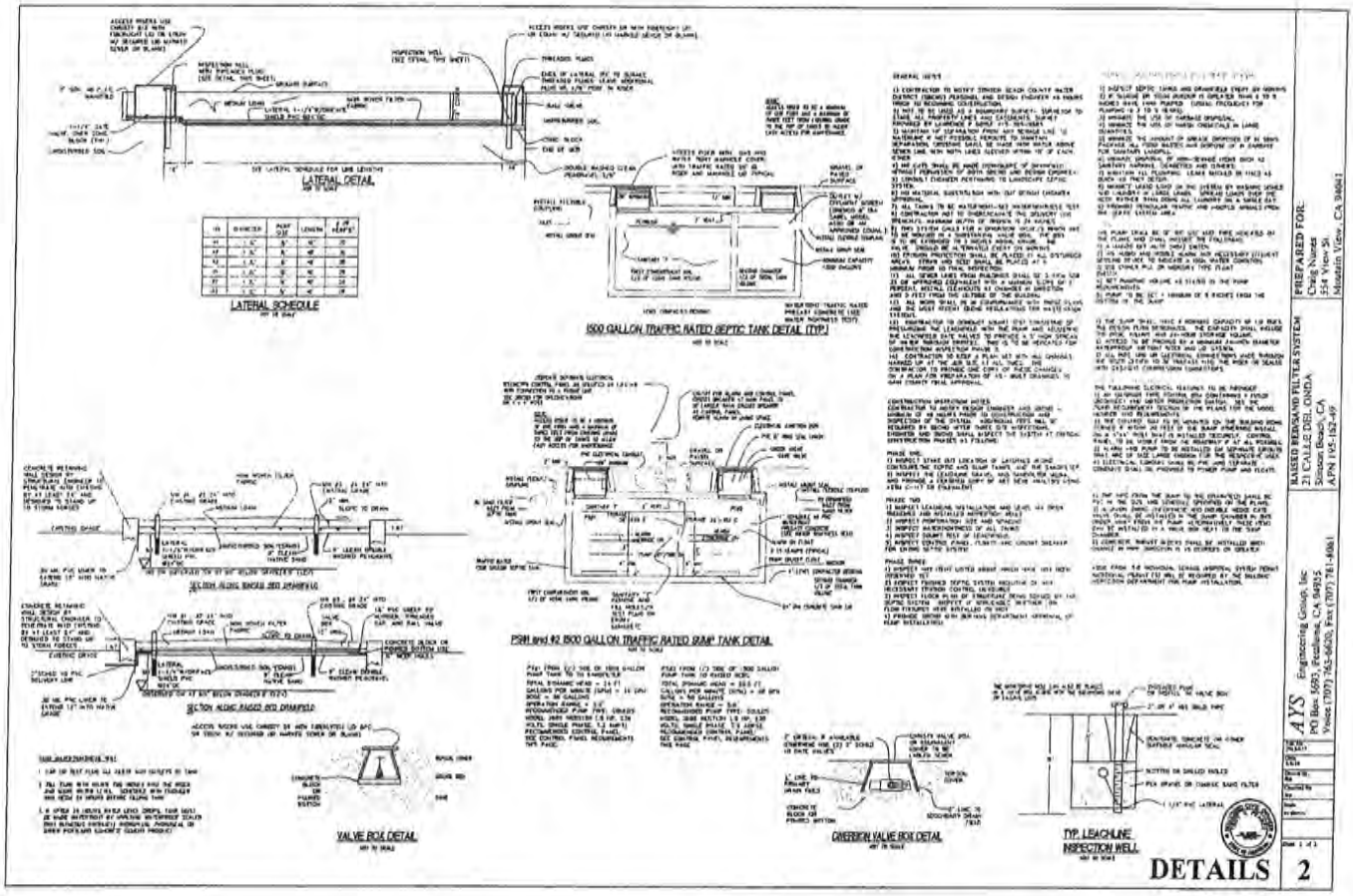
RECEIVED

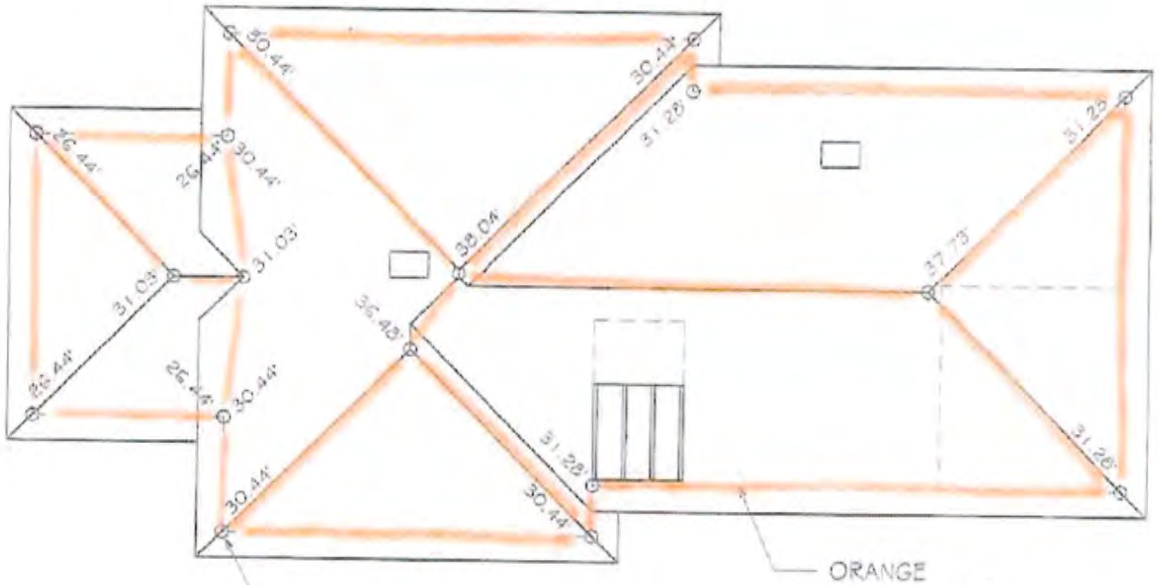
JUN 16 20[illegible]

COUNTY OF MARIN

-File Copy-


PROJECT SITE
VICINITY MAP
PREPARED FOR:
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'
ATS
1


LATERAL DETAIL
LATERAL SCHEDULE
1500 GALLON TRAFFIC RATED SEPTIC TANK DETAIL (TYP.)
PSH and #2 1500 GALLON TRAFFIC RATED PUMP TANK DETAIL
SECTION ALONG RAISED BED DRAINFIELD
SECTION ALONG SAND DRAINFIELD
VALVE BOX DETAIL
CHECK VALVE BOX DETAIL
TYP. LEACHLINE INSPECTION WELL
DETAILS
2
RAISED REDSAND FILTER SYSTEM
21 CALLE DEL ONDA
Santa Cruz, CA
APN 105-152-49
PREPARED FOR:
Craig Nunes
554 View St.
Mountain View, CA 94041
AYS Engineering Group, Inc.
PO Box 5693, Pasadena, CA 94835
Voice (707) 763-6620, Fax (707) 781-4061



STORY POLE, TYPICAL WITH ELEVATION AT TOP OF POLE

ORANGE CONSTRUCTION FENCING, TYPICAL

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

48

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

49

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

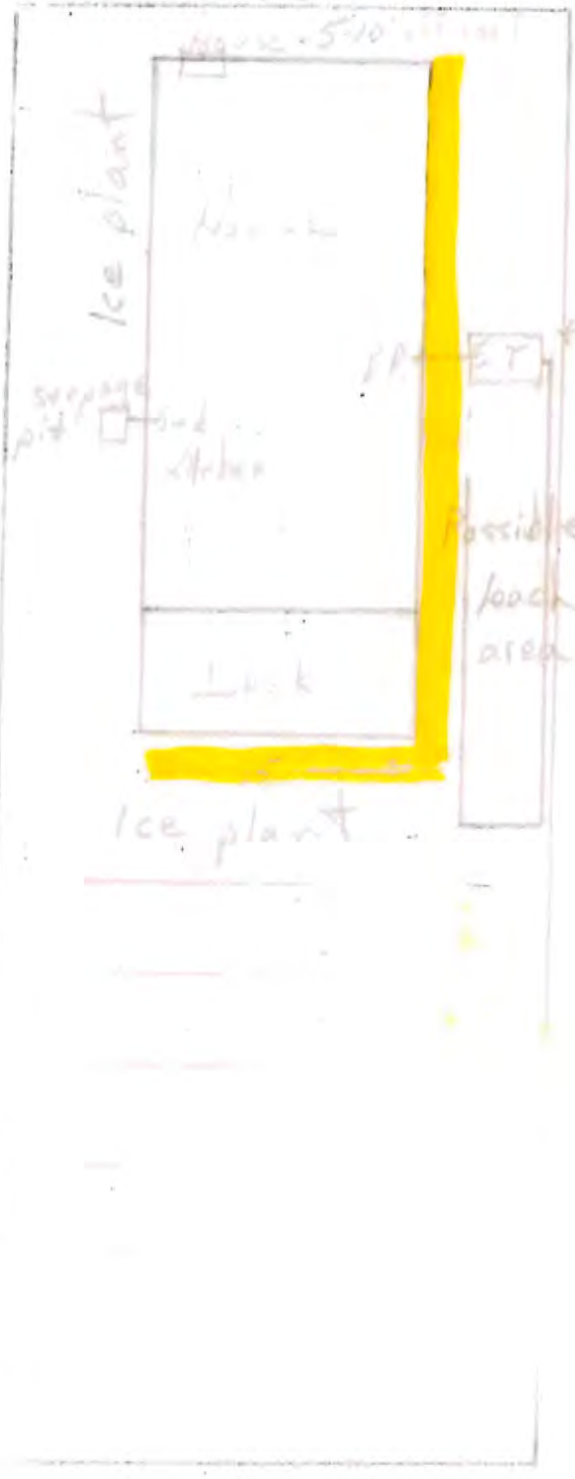
ATTACHMENT 13

50

7-053

OWNER:	ASSESSOR'S LOT NUMBER:
RESIDENT:	LOT AREA:
NUMBER & STREET:	FRONTAGE:
INTERVIEWER:	DATE:

B-122-1



SCALE:

EUTEK PROCESS DEVELOPMENT AND ENGINEERING - 1828 TRIBUTE RD., SUITE H, SACTO, CA.

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:

51

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.

51

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. 51

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

EXHIBIT B

EXHIBIT B

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.

52

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 & Ho

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

HOME VALUES BY NEIGHBORHOOD

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

229 Birch Rd, Bolinas, CA 94924

Lot/land Zestimate®: None

Contact Agent

Sort: Newest

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

- 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 sq 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

$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.

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

54

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/coc

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

Letter C. Elizabeth Brekhus, Brekhus Law Partners

C-1 The referenced letter is attached to comment letter C, and is responded to commencing with the response to comment 27.

C-2 As concluded in the SER/SMND, Chapter 3, Summary and Conclusion, 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.

Regarding the commenter's assertion that Project details are not adequately discussed in the SER/SMND, the commenter is in error. The SER/SMND thoroughly and accurately describes the current version of the Project, in Chapter 1, Project Description, and analyzes potential impacts of the Project in Chapter 2, SER Checklist. Chapter 2 examines all 21 CEQA categories of environmental impacts, addressing all topical questions posed in State CEQA *Guidelines* Appendix G. All significance conclusions are supported by substantial evidence in the record. The commenter does not state what Project details they allege are discussed inadequately, and presents no evidence of their claim.

C-3 Regarding a takings analysis, please see the response to comment A-2. Impacts of the Project associated with flood zones are considered in SER/SMND Section 2.10, Hydrology and Water Quality, and found to be less than significant. The SER/SMND, Section 2.4, Biological Resources, topic 2.4.a and e, identifies a significant impact of the Project on coastal dunes, but identifies Mitigation Measure BIO-2 to reduce this impact to less than significant. Please also see Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations. The comment does not offer any new information or analysis that calls into question the validity of the conclusions in the SER/SMND. As stated in the response to comment C-2, an EIR is not required for this Project.

C-4 Please see Master Response 1: 2023 Storm Effects. The comment is mistaken in its assertion that the detailed and comprehensive analysis of flooding and flood risks presented in SER/SMND Section 2.10, Hydrology and Water Quality, anticipates a 100-year storm to occur in 50 years. Topic 2.10.c. presents a detailed analysis of flooding from Easkoot Creek, coastal flooding and flood risks from storm surge, shoreline erosion, wave runup, overtopping and overland wave propagation based on the 100-year storm event under baseline conditions as well as in the year 2070 in order to incorporate consideration of the effects of predicted sea level rise. The SER/SMND concludes that impacts relating to coastal flooding, including wave overtopping resulting from storm surge during a 100-year storm event under both baseline and future conditions, would be less than significant. The term "100-year storm" describes a storm that has a 1% chance of occurring in any given year (not a storm that occurs only once in 100 years).

For example, Marin County has experienced three 100-year storms in the past several decades (1982, 1986, and 2006).

As described in SER/SMND Section 2.10, Hydrology and Water Quality, the analysis relating to flooding, flood hazards, drainage patterns, erosion, and water quality was based on the updated proposed Project design, including the residence, septic system, and ancillary structures, and incorporated consideration of new and updated technical studies (SER/SMND p. 2-55 to 2-56) completed subsequent to the publication of the 2020 IS/MND. The new and updated supporting studies, reflecting the Project described in SER/SMND Chapter 1, Project Description, were reviewed by the County's environmental consultant for accuracy and to determine whether the methodologies employed and assumptions regarding hydrologic conditions were defensible and appropriate and that the results were valid. Where applicable, the results and findings of the supporting technical studies were used to support conclusions regarding the Project's potential environmental impacts. The comment does not provide substantial evidence to support a fair argument that implementation of the Project would increase flood hazards to neighboring properties. Consequently, the comment does not represent substantial evidence supporting a fair argument that the Project would result in a significant impact. Regarding the December-January atmospheric river storms, please see Master Response 1, Storm Effects.

C-5 The 2020 Initial Study/Mitigated Negative Declaration (IS/MND) was adopted by the Stinson Beach County Water District and was not challenged in court, and so was not found to be deficient. The project examined in the 2020 Initial Study included a detailed design for the proposed septic system, and an assumption that a single-family residence up to 1,400 square feet would be constructed, though no design for the residence was considered. The current SER/SMND supplements the 2020 Initial Study by analyzing impacts of the entire Project currently proposed, including the septic system, which has not changed, and a 1,296-sf single-family residence. The SER/SMND is not deficient in its analysis or fulfillment of CEQA requirements, and may be relied upon by the County in considering approval of the Project.

With regard to effects of the December-January atmospheric river storms, please see Master Response 1: Storm Effects.

C-6 The Project is thoroughly and accurately described in SER/SMND Chapter 1, Project Description. No second story or loft is proposed. Substantial changes to the Project described in the SER/SMND following Project approval, if approval is granted, may be subject to further CEQA review.

The "environmental impact" referred to in the second paragraph of this comment is not identified.

C-7 As stated in SER/SMND Section 2.1, Aesthetics, topic 2.1.a (page 2-5,) views from the beach and ocean would not be substantially affected by the Project, as the proposed residence would be only one story, would be set back from the beach, and would be in alignment with the existing pattern of residential development in the neighborhood, which includes one and two story residences, including other two story residences and residences raised on stilts along the beach. The Project site itself contains no scenic resources. The SER/SMND correctly concludes that the Project would not result in a significant impact on scenic vistas or scenic resources. The comment does not offer any new information or analysis that calls into question the validity of the conclusions in the SER/SMND.

C-8 Comments from California Department of Fish and Wildlife are included in comment letter B. All significance conclusions in the SER/SMND, including the conclusions of less than significant for the biological resources and cultural resources topics cited in the comment, are supported by substantial evidence in the record. The comment does not offer any new information or analysis that calls into question the validity of the conclusions in the SER/SMND.

C-9 As described in SER/SMND Chapter 1, Project Description, construction grading would require an estimated 52 cubic yards (cy) of cut and 118 cy of fill, with an estimated fill deficit (66 cy) that would be imported from offsite. Project grading is intended to prepare the building site and achieve the desired finished grade. The cut and fill required for grading would not cause over-steepened slopes that are susceptible to landslides or excessive erosion. The potential for the Project to cause substantial erosion during and after construction was appropriately analyzed in the SER/SMND. As described in SER/SMND Section 2.7, Geology and Soils, topic 2.7.b, erosion control Best Management Practices (BMPs) employed during construction include covering and protecting material stockpiles, maintaining a gravel accessway, monitoring erosion controls and removing accumulated sediment, minimizing the amount of earthwork exposed at any one time, and hydroseeding/mulching or hand mulching all exposed earthen surfaces. As an additional schedule requirement, erosion control would be in place before the end of September. The SER/SMND concludes that the Project would not contribute to substantial erosion and the impact is therefore less than significant.

C-10 The determination of whether denial of the Project would constitute a “taking” is the province of County decision makers. As stated in the response to comment A-2, a takings analysis examines economic impacts, not environmental impacts, and is therefore beyond the scope of environmental review undertaken pursuant to CEQA. The SER/SMND makes one reference to this issue, on pages 2-22 and 2-23, but does not assume or suggest that Project denial would result in a taking.

C-11 Please see Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations.

With regard to the portion of comment C-11 which states that the WRA (2019) Biological Site Assessment was only done with respect to the septic system and not the entire property and is therefore deficient, we note that the WRA (2019) report assessed biological resources on the entire property. The report was relied upon to support the version of the Project analyzed in the 2020 IS/MND, which included an assumption that a residence up to 1,400 sf would be constructed, though no plans for a residence had yet been submitted. The SER/SMND analyzed the current version of the Project, including construction of a 1,296 sf residence and septic system, as described in SER/SMND Chapter 1, Project Description.

With regard to the portion of comment C-11 that states that a Dune Mitigation Plan should have been submitted with the Project application, Mitigation Measure BIO-2, which requires a Dune Mitigation Plan, is fully compliant with State CEQA Guidelines §15126.4(a)(1)(B).

C-12 The Project's potential for impacts related to risks to life and property from geologic, flood, and fire hazards are analyzed in SER/SMND Section 2.7, Geology and Soils, and Section 2.10, Hydrology and Water Quality, and Section 2.20, Wildfire, all of which conclude that the Project would have less than significant impacts of these kinds. As discussed in the response to comment A-7, the Project does not propose shoreline protective devices. Section 2.7, Geology and Soils, examines the potential for impacts related to stability of the proposed structures and of the site, and likewise concludes that such impacts would be less than significant. The comment does not offer any new information or analysis that calls into question the validity of the conclusions in the SER/SMND.

C-13 Impacts associated with the Project's location in FEMA flood zones are analyzed in SER/SMND Section 2.10, Hydrology and Water Quality, and found to be less than significant. With regard to effects of the December-January atmospheric river storms, please see Master Response 1: Storm Effects.

C-14 As discussed in the SER/SMND, Section 2.7, Geology and Soils, topic 2.7.c, Murray Engineer's 2021 geotechnical feasibility study recommended a design-level geotechnical investigation that would be completed prior to Project construction, as required by the County's building permit process. The design-level investigation stage is typically a more focused and comprehensive evaluation of site geology and would characterize the subsurface soil conditions, complete necessary soils strength testing, and provide final foundation design specifications, in accordance with the 2019 California Building Code (CBC), to ensure that the residence could withstand earthquake ground shaking and any associated secondary ground failure.

C-15 As discussed in the SER/SMND, Section 2.7, Geology and Soils, topic 2.7.a.ii, Murray Engineers (2021) estimated that earthquake ground shaking on the Project site would be strong to very violent during moderate to large earthquake events. Ground shaking is an inherent and unavoidable hazard associated with development at the Project site, as it is in much of California. Accordingly, Murray Engineers recommended that the proposed site improvements be designed and constructed in accordance with current earthquake resistant standards, including the guidelines and design criteria set forth in the CBC. Ground shaking hazards can be addressed through adequate structural and foundation engineering and adherence to the CBC earthquake design guidelines, which, in the case of the proposed Project, would be incorporated following the completion of the design level geotechnical investigation. While some structural damage could occur, the CBC seismic design criteria would reduce the potential for structural collapse. Adherence to the California seismic design standards would reduce the risk of injury and death from ground shaking to a level that is considered less than significant.

C-16 As discussed in the SER/SMND, Section 2.7, Geology and Soils, topic 2.7 a.iii, Murray Engineers (2021) concluded that there is a high potential for liquefaction and lateral spreading at and near the Project site during moderate to large seismic events. Murray Engineers concluded that the potential for liquefaction induced ground failure could be reduced by supporting the new residence on a relatively rigid shallow foundation in combination with ground improvement, or alternatively, by using deep foundations, such as drilled piers, extending below the liquifiable materials. The final foundation design would be determined following an analysis of liquefaction and lateral spreading displacement, which would be completed during a design-level geotechnical analysis. Liquefaction hazards can be appropriately mitigated through standard foundation design and/or soil improvement techniques and thus, the SER/SMND concludes that the liquefaction hazard is a less-than-significant impact.

Contrary to the commenter's assertion, the use of vertical foundation piers (rammed, driven or drilled), does not violate the Local Coastal Plan or the Coastal Act because, as currently designed, they would not alter natural shoreline processes. As shown in the SER/SMND Chapter 1, Project Description, Figures 6-9, the vertical structural piers would be spaced far enough apart to allow flood water to flow beneath the residential structure without obstructing or substantially changing the flow patterns.

C-17 SER/SMND Section 2.10, Hydrology and Water Quality, topic 2.10.d evaluates potential seiche and tsunami hazards and whether floodwater inundation during either of these events would risk the release of pollutants. Seiches are wave oscillations that occur during earthquakes in small, enclosed, or semi-enclosed basins (i.e., lake, bays, or harbors). Considering the location and orientation of Stinson Beach, the potential for a seiche impacting the Project site is low.

Tsunamis in the Pacific Ocean can arrive from the northwest, west, and southwest and there is a potential that a tsunami could impact the Project site at some time over the operational life of the Project. However, as analyzed in the SER/SMND, during the low-probability event of wave runup during a tsunami, if the proposed septic system—a primary source of pollutants—becomes inundated, the watertight tanks would sufficiently contain pollutants while the raised bed dispersal fields and pretreatment unit would only negligibly contribute to the pollutant load in the receiving waters. In addition, constructing the proposed residence on piers above the existing grade would further minimize the potential for inundation and subsequent release of pollutants in floodwaters. The SER/SMND therefore concludes that impacts associated with tsunamis are less than significant.

C-18 Please see Master Response 1: 2023 Storm Effects and the responses to comments A-14, C-4, and C-20 for additional discussion of waves, flooding, beach erosion, and sea level rise. The geotechnical feasibility study prepared by Murray Engineers in 2021 focused on the evaluation of geologic hazards and constraints, specifically, site soil conditions, distance from the San Andreas fault zone, ground shaking intensity, groundwater depth, liquefication susceptibility, slope gradient, and erosion potential. Based on its assessment of these hazards and constraints, Murray Engineers identified preliminary foundation recommendations, and in addition, recommended that a more comprehensive design-level geotechnical investigation be conducted prior to final structural design (see response to comment C-14). It is not standard practice for a geotechnical investigation, such as the one completed by Murray Engineers, to consider wave action, flooding, beach erosion and sea level rise in its evaluation of geotechnical issues as it would not be standard practice for R. M. Noble and Associates to address the geologic hazards and geotechnical constraints associated with foundation design in its May 13, 2021 letter or July 12, 2016 Coastal Engineering Analysis. Therefore, contrary to the commenter's assertion, the May 13, 2021, R. M. Noble letter and the Noble 2016 Coastal Analysis are not deficient because they do not address geotechnical findings or issues.

C-19 As discussed in SER/SMND Section 2.7, Geology and Soils and in the responses to comments C-14 and C-15, Murray Engineers recommended that a design-level geotechnical investigation be completed prior to design and construction of the proposed residence on the Project site. Such a study would be required by the County as part of the building permit process. In comparison to the Murray Engineers geotechnical feasibility study, the design-level geotechnical investigation is more comprehensive in that it involves onsite soil borings and laboratory testing with a focus on final grading, necessary ground improvement, and the structural design of the building foundation.

C-20 Regarding peer review of supporting technical studies, please see the response to comment C-4. Regarding the need for a full geotechnical analysis to be

completed, please see the responses to comments C-14 through C-18. Regarding the assertion that the analysis of flooding and flood hazards presented in SER/SMND Section 2.10, Hydrology and Water Quality, anticipates a 100-year storm to occur in 50 years, please see the response to comment C-4. Regarding analysis of coastal flooding and flood hazards from storm surge, shoreline erosion, wave runup, overtopping and overland wave propagation based on the 100-year storm event under baseline conditions and for the year 2070, incorporating consideration of the effects of sea level rise, please see the response to comment A-14. Regarding the storm event occurring on January 5, 2023 and the effects of the storm in the context of the presented impact analyses relating to flooding and flood hazards, please see Master Response 1: 2023 Storm Effects.

Regarding the analysis of flooding and flood hazard impacts relating to sea level rise, including consideration of high tides combining with storm surge and wave runup, as described in topic 2.10.c.i, the Coastal Engineering Analysis completed by Noble (2021), was based on the 2018 Ocean Protection Council Sea Level Rise Guidance report scenarios and incorporated consideration of the most recent updated 2018 California Coastal Commission (CCC) Sea Level Rise (SLR) Guidance. The SER/SMND concludes that impacts relating to coastal flooding, including wave overtopping resulting from storm surge during a 100-year storm event, under both baseline and future conditions, would be less than significant. The sea level rise scenarios presented in the Coastal Engineering Analysis are consistent with the sea level rise projections presented in both the 2019 U.S. Geological Survey report and the County of Marin's sea level rise vulnerability assessment referenced in the comment. A key aspect of the studies referenced in the comment is an updated assessment of potential hazards related to coastal flooding under future conditions that considers coastal flood hazards for a range of sea level rise scenarios in combination with wave models to identify areas that could be flooded due to the impacts of high tides, storms, wave runup, and erosion. Consistent with the methodology applied in the 2019 USGS study and the County of Marin sea level rise vulnerability assessment, the Coastal Engineering Analysis completed by Noble (2021) evaluated flood risks for the proposed Project under future conditions incorporating sea level rise increases for the year 2070 in combination with 100 year storm surge, wave runup, erosion, and scour. The projected sea level rise used in the Noble (2021) analysis considered multiple scenarios for sea level rise projections, from 0.8 to 5.2 foot of sea level elevation increase, consistent with the scenarios presented by USGS and the County of Marin. Consideration of the 2019 study conducted by the U.S. Geological Survey does not alter the analysis of impacts or the associated impact conclusions presented in the SER/SMND. Consequently, comments submitted on the SER/SMND do not represent substantial evidence supporting a fair argument that the Project would result in a significant impact.

C-21 Please see the response to comment A-7.

C-22 The comment summarizes the flood hazard setting information presented in SER/SMND Section 2.10, Hydrology and Water Quality, topic 2.10.c.iv. Inconsistencies with the 2015 Notice of Land Use Regulations from the County of Marin LCP policies, or other policies, where such inconsistencies are not associated with a significant environmental impact, will be considered by County decisionmakers, who may choose to condition the Project to require changes to the proposed Project design to achieve greater consistency. Such changes are, however, outside of the scope of a CEQA review.

C-23 Regarding policy inconsistencies relating to flood hazards zones and development moratoriums, please see the response to comment C-22. Regarding effects of the January 5, 2023 storms, please see Master Response 1: 2023 Storm Effects. Regarding the geotechnical analysis, please see the responses to comments C-14 through C-18. A comprehensive and detailed analysis of impacts relating to flooding and flood hazards from Easkoot Creek for a projected 100-year flood, including impacts during high tides and incorporating consideration of future conditions with sea level rise, is presented in SER/SMND Section 2.10, Hydrology and Water Quality, topic 2.10.c.iv. As discussed in detail, the analysis demonstrates that the proposed Project and the Project site flood hazards are associated with coastal flooding (discussed above), not flooding from Easkoot Creek, and impacts relating to impeding or redirecting flood flows from Easkoot Creek would be less than significant.

C-24 Regarding the January 5, 2023 storm event, please see Master Response 1: 2023 Storm Effects. Regarding the consistency of the proposed design with County of Marin LCP policies or other policies, please see the response to comment C-22.

C-25 Please see Master Response 1: Storm Effects.

C-26 The SER/SMND fully meets the requirements of CEQA. The commenter has not provided any substantial evidence to support a fair argument that the Project would result in a significant impact. Consistency of the Project with County policies will be determined by the decisionmakers when they consider Project approval.

C-27 This comment addresses a previous iteration of the Project. The SER/SMND, which analyzes the environmental impacts of the current Project as described in SER/SMND Chapter 1, Project Description, was prepared pursuant to CEQA and fulfills the County's CEQA obligations with regard to this Project.

C-28 Regarding the consistency of the proposed design with County of Marin, LCP policies or other policies, please see the response to comment C-22.

C-29 As discussed in detail in SER/SMND Section 2.10, Hydrology and Water Quality, topics 2.10.c.i and 2.10.c.iv, The proposed 1,296 square foot residence would be

constructed on concrete piers to elevate it above existing grade such that the minimum height of any structural member (other than foundation piers) would be 19.1 feet amsl. The proposed Project design is consistent with design requirements for development within a flood zone. As discussed in SER/SMND Section 2.10, Hydrology and Water Quality, topic 2.10.c.iv, the majority of the Project site is mapped as FEMA Flood Zone VE, with a portion of the site in FEMA Flood Zone AO (associated with Easkoot Creek). However, Easkoot Creek's estimated flood elevation during a 100-year event would not exceed 10'NAVD88, while the lowest elevation of the property is 12.2'NAVD88. The proposed Project design would not result in significant physical impacts related to flooding or flood hazards. Regarding the consistency of the proposed design with County of Marin LCP policies or other policies, please see the response to comment C-22.

C-30 Please see the response to comment C-12. The cited attachments are included in comment letter C. Please see responses to comments commencing with comment C-38.

C-31 This comment contains the same text as those found in comments C-14 through C-18. Please see the responses to those comments.

C-32 Regarding flooding and flood hazards relating to sea level rise, coastal flooding, and Easkoot Creek, see please see the responses to comments A-14 and C-20.

C-33 Please see Master Response 2: Dune Habitat Protection; Consistency with Local Planning Regulations.

C-34 Please see the response to comment A-7.

C-35 This comment addresses a previous iteration of the Project. The current Project proposes a much smaller development than described in this comment, at 1,296 sf. The comment addresses the 2021 Initial Study, not the current SER/SMND. The SER/SMND, Section 2.10, Hydrology and Water Quality, examines the impacts associated with development of the Project, including the proposed residence and septic system, within flood zones, and concludes there would not be a significant impact with respect to this topic. The Project proposes raising the residence on concrete piers above flood elevation, and there is no evidence for the potential for coastal or creek flooding to "wash the development into and destroy existing homes and compromise the safety of residents and members of the general public." Effects of the atmospheric river storms in December-January, 2023, after publication of the SER/SMND, are discussed in Master Response 1. An EIR is not required for the Project, as discussed in the response to comment C-2.

C-36 Please see the response to comment A-2.

C-37 This comment summarizes the points raised in comments 27-36. Please see the responses to those comments.

C-38 This email from California Coastal Commission staff to County staff, dated July 1, 2021, is a cover email for a re-transmittal of earlier Commission letters (included as attachments to letter C and letter A). This comment predates the release of the SER/SMND and does not address the environmental analysis contained in the SER/SMND. This comment is referred to in comment C-12. Please see the response to comment C-12.

C-39 This comment contains two letters from California Coastal Commission staff dated March 16, 2021 and June 30, 2016. These letters are also attached to comment letter A. Please see the response to comments A-18 through A-22 and A-27 through A-30. This comment is referred to in comment C-12. Please see the response to comment C-12.

C-40 This comment contains the same email from California Coastal Commission staff as comment C-38. Please see the response to comment C-38.

C-41 This March 31, 2016 letter from California Coastal Commission staff is also attached to comment letter A. Please see the responses to comments A-23 through A-26. This comment is referred to in comment C-12. Please see the response to comment C-12.

C-42 This email correspondence between California Coastal Commission staff and County staff from February 2021 addresses permitting authority for the Project site. Issues referred to by Commission staff regarding protection of sensitive dune and sandy beach access, public access, coastal hazards, and the prohibition on use of shoreline protective devices, are raised in comment Letter A. Please see responses to comment letter A. This comment is referred to in comment C-12. Please see the response to comment C-12.

C-43 Please see the responses to comments A-14 and C-20. Consideration of the information relating to coastal flood risks, sea level rise projections, and flood hazard risks by Climate Central does not alter the analysis of impacts or the associated impact conclusions presented in the SER/SMND. As described in detail in response to comment C-20, the Coastal Engineering Analysis completed by Noble (2021) evaluated flood risks for the proposed Project under future conditions incorporating sea level rise increases for the year 2070 in combination with 100-year storm surge, wave runup, erosion, and scour. The projected sea level rise used in the Noble (2021) analysis considered multiple scenarios for sea level rise projections, ranging from 0.8 to 5.2 foot of sea level elevation increase, consistent with the scenarios presented by the studies by Climate Central, USGS, and the County of Marin referenced in the comment. Consequently, this comment does not represent substantial evidence supporting a fair argument that the Project would result in a significant impact.

C-44 This comment contains minutes from a Stinson Beach County Water District Board meeting in September 2016 at which a previous request for approval of a septic system within the Project site was denied. This comment is referred to in comments C-10 and C-36, but does not address the current Project nor the environmental analysis contained in the SER/SMND. Please see the responses to comments C-10 and C-36.

C-45 This comment contains minutes from a Stinson Beach County Water District Board meeting in August 2016 at which the request for a septic system approval (see previous comment C-44 and the response to that comment) was discussed. No action was taken by the Board at that meeting, and the item was continued. This comment is referred to in comments C-10 and C-36, but does not address the current Project nor the environmental analysis contained in the SER/SMND. Please see the responses to comments C-10 and C-36.

C-46 This comment is referred to in comments C-10 and C-36, but does not address the current Project nor the environmental analysis contained in the SER/SMND. Please see the responses to comments C-10 and C-36.

C-47 This comment contains drawings of a previous iteration of the Project that was never approved. This comment is referred to in comments C-10 and C-36, but does not address the current Project nor the environmental analysis contained in the SER/SMND. Please see the responses to comments C-10 and C-36.

C-48 This comment describes a photograph of the area apparently at or near the Project site from 1978 during a large storm. The photograph itself is not included in the comment letter. It is referred to in comment C-35. Please see the response to comment C-35.

C-49 This comment describes a photograph of the area apparently at or near the Project site from 1983 during a large storm. The photograph itself is not included in the comment letter. It is referred to in comment C-35. Please see the response to comment C-35.

C-50 The drawing contained in this comment appears to be an old site plan of the Project site from 1975. It is referred to in comment C-25. Please see the response to comment C-25.

C-51 This August 5, 2021 letter from California Coastal Commission staff is also attached to comment letter A. Please see the responses to comments A-12 through A-17.

C-52 Application of and environmental effects of the Project associated with the Easkoot Creek floodplain moratorium are discussed in SER/SMND Section 2.11, Land Use and Planning, topic 2.11.b on page 2-68, which finds that impacts would be less than significant.

C-53 This comment does not address the Project nor the environmental analysis contained in the SER/SMND.

C-54 This comment does not address the Project nor the environmental analysis contained in the SER/SMND.

C-55 Please see Master Response 1: Storm Effects for a discussion of how the December-January atmospheric river storms affected the Project site and the environmental analysis contained in the SER/SMND.

Comment Letter D

From: michael lemont
To: EnvPlanning
Subject: 21 Calle del Onda
Date: Saturday, February 4, 2023 3:59:59 PM

1 My name is Michael Lemont and I'm a 40 year resident of 15 Calle del Onda. When I first moved here 21 Onda was a small cottage that had been badly damaged by the storms of the 1982-83 El Niño winter. Once repaired it was burnt down by a young relative of the owners who was cooking crystal meth. The cottage was never rebuilt. During the almost 40 years since the cottage was destroyed a large sand dune has formed on the ocean side of this property. This dune has protected our Calle from the worst effects of many winter storms. The storms usually come from the south and this dune is at the southwest corner of our Calle. As you can see from the photos I'm posting this dune took a beating, but it once again held up and protected us from the worst of what was called a "Storm Surge" at high ti de on January 5th.

2 I'm writing this email to state my objection to any type of building on this lot that will endanger this valuable dune from any further destruction.

3 Marin County is thinking of putting in new dunes to protect the multi million dollar homes on the beach at Stinson Beach. They certainly don't want to loose the property tax values that these homes represent. I'm mentioning this because I wonder why if building dunes to protect the homes on Stinson Beach is in the planning then why allow a home to be built that will destroy the only existing dune in the entire section of Stinson known as the Calles that already has a dune ???

4 I am also questioning how a concrete wall can be built when concrete walls are now forbidden in Stinson on beach properties.

5 Thank you for allowing me to express my concerns in a matter that will affect the future of our homes on Calle del Onda,
Michael Lemont

6

6

6

Sent from AT&T Yahoo Mail for iPad

Letter D. Michael Lemont

D-1 Please see Master Response 1: Storm Effects.

D-2 Please see Master Response 1: Storm Effects.

D-3 Please see Master Response 1: Storm Effects.

D-4 Please see the response to comment A-7.

D-5 Please see Master Response 1: Storm Effects.

D-6 Please see Master Response 1: Storm Effects.

Comment Letter E

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

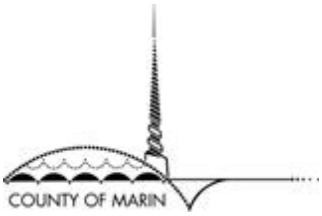
Hi Steven,
I am writing to confirm that your public comments, three received on February 5, 2023 at 11:53 AM, 11:56 AM, and 11:58 AM, were received by both me, project planner processing the application, and the Environmental Planning Team, processing the environmental review. Your comments have been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

1

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.

2

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.

3

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.

4

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)

5

Letter E. Steven Trifone

E-1 This comment is preamble to those that follow. Please see the following responses.

E-2 Please see Master Response 1: Storm Effects.

E-3 Please see Master Response 1: Storm Effects.

E-4 Please see Master Response 1: Storm Effects.

E-5 Please see Master Response 1: Storm Effects.

4. Changes to the Supplemental Environmental Review

Based on the additional analysis described in Master Response 2, changes are made to the text of the Supplemental Environmental Review (SER). These changes only clarify and amplify a mitigation measure already identified in the SER, and do not alter conclusions regarding the significance of impacts or the effectiveness of mitigation measures. No recirculation is required for this minor modification, per State CEQA *Guidelines* § 15073.5(c)(4).

Mitigation Measure BIO-2 on pages 2-23 through 2-25 is revised as follows (additions are underlined; deletions are ~~struck-through~~):

Mitigation Measure BIO-2. Dune Restoration Plan

Consistent with Certified Implementation Program Section 22.64.050(A)(1)(d), Habitat Mitigation, the Applicant shall prepare a Dune Restoration Plan for County review and approval that provides for dune and related habitat enhancement for all vegetated coastal dune habitat located between the unvegetated sandy beach and non-dune ice plant mats located behind the dunes outside the approved building envelope. The Dune Restoration Plan shall be prepared by a qualified restoration biologist, shall meet all the requirements of Certified Implementation Program Section 22.64.050(A)(1)(d)(3), and at a minimum shall include the following elements:

a) Dune Inventory. Coastal dune habitat shall be inventoried on the Project site to depict dune impact and restoration areas.[~~25~~] The restoration area shall be enumerated and drawn onto a site plan similar to that presented in Figure MR2-1. ~~the 2020 IS/MND (see 2020 IS/MND Appendix A, Figure 5, Project Impacts to Biological Communities).~~

b) Dune Contours. Final contours of the site, after project grading, necessary to support dune restoration and development screening, shall be identified.

c) Ice plant Removal. To accommodate native plantings, non-native ice plant shall be removed from the site by means such as those described by the California Invasive Plant Council (CAL-IPC, 2022).

~~[25] As identified in California Coastal Commission comments (CCC, 2021, pg. 2), dune habitat extends further inland than depicted in the 2019 IS/MND. Aerial imagery from 2019 shows that some coastal dune habitat was mapped as iceplant mats (e.g., see California Coastal Records Project imagery from 2019; https://www.californiacoastline.org/cgi-bin/image.cgi?image=20190617&mode=big&lastmode=sequential&flags=0&year=current). Hence, a revised baseline habitat assessment showing the extent of coastal dune habitat is warranted.~~

d) Native Dune Plants. All required plantings shall be native dune species from local stock appropriate to the Stinson Beach area and shall be maintained in good growing conditions during a 10-year review period and shall be replaced with new plant materials as necessary to ensure continued compliance with the restoration plan.

e) Initial Planting. Installation of all plants shall be completed prior to occupancy of the new home. Within 30 days of completion of initial native dune plant installation, the Applicant shall submit a letter to the County from the project biologist indicating that plant installation has taken place in accordance with the approved restoration plan, describing long-term maintenance requirements for the restoration, and identifying the five- and ten-year monitoring submittal deadlines (Measures g and i, below). At a minimum, long-term maintenance requirements shall include site inspections by a qualified biologist annually, or more frequently on the recommendation of the biologist, to identify and correct any restoration and maintenance issues.

f) Site Protection. During the initial plant establishment period, ropes or low-profile fencing shall be minimally used to screen planted areas from recreational users and dogs.

g) Monitoring. At five and ten years from the date of initial planting under the Dune Restoration Plan, the Applicant or his successors in interest shall submit, for the review and approval of the County, a restoration monitoring report prepared by a qualified specialist that certifies that the on-site restoration is in conformance with the approved Dune Restoration Plan, along with photographic documentation of plant species and plant coverage.

h) Remediation. If the restoration monitoring report or expert's inspection report indicates the restoration is not in conformance with or has failed to meet the performance standards specified in the approved Dune Restoration Plan, the Applicant shall submit a revised or supplemental restoration plan for the review and approval by the County. The revised restoration plan shall be prepared by a qualified restoration biologist and shall specify measures to remediate those portions of the original plan that have failed as identified in the restoration monitoring report or inspection report. These measures, and any subsequent measures necessary to carry out the approved Dune Restoration Plan, shall be carried out in coordination with the County until dune restoration is established in accordance with the Dune Restoration Plan's specified performance standards.

i) The restored dune areas shall meet the following minimum performance standards:

1. Density (perennial native species only): average 1 plant per 4 square feet.
2. Percent total cover (perennial native species only): 1 year: 15%; 2 years: 25%; 3 to 5 years and beyond: 35%.
3. Percent relative cover: all species are within normal range.
4. Composition: at least five native, perennial species.
5. Health and vigor: plants are in good health, exhibit normal flowering, and damage from people, deer, or pets is negligible.
6. Exotic species: within the restoration areas (i.e., not within outdoor living areas) invasive, non-native plants are few in number and not evident.
7. Provision for possible further action if monitoring indicates that initial restoration has failed.
8. Area: the total area of restored dune shall be equal to or greater than the area identified as dune habitat in the Dune Inventory.

5. Summary and Conclusion

This document includes responses to comments received by Marin County Community Development Agency during the public review period for the Supplemental Environmental Review/Draft Subsequent Mitigated Negative Declaration (SER/SMND) for the Brian Johnson Trust Coastal Permit Project. None of the comments provided new information of substantial importance that would require revisions to the SER/SMND. However, additional biological analysis of the Project site resulted in the modification of one of the new mitigation measures identified in the SER. This change only clarifies and adds specificity to a mitigation measure already identified in the SER, and does not alter conclusions regarding the significance of impacts or the effectiveness of mitigation measures. There have been no changes to the Project or changed circumstances under which the Project would be undertaken requiring further analysis or leading to revisions in the SER/SMND. None of the circumstances described in State CEQA *Guidelines* § 15073.5(b) have occurred, meaning recirculation of the SER/SMND is not required.

The conclusion of the SER/SMND remains unchanged: the Project, with the incorporation of mitigation measures identified in the previous, 2020 Initial Study/Mitigated Negative Declaration, as well as new mitigation measures identified in the SER/SMND, would have only less-than-significant environmental impacts. None of the comments provides substantial evidence to support a fair argument that the Project would have a significant effect on the environment. Therefore, per State CEQA *Guidelines* § 15064(f)(1), an Environmental Impact Report (EIR) is not required.

Appendix A: Marin County Community Development Agency Distribution List for the Supplemental Environmental Review/Draft Subsequent Mitigated Negative Declaration

Distribution List

Category	Company	FirstName	LastName	Address	City	State	Zip
A Proj Sponsor	CivicKnit	Steve	Kinsey	P.O. Box 81	Forest Knolls	CA	94933
B Fed	Golden Gate National Recreation Area	Attn: Superintendent		Bldg 201, Fort Mason	San Francisco	CA	94123
B State Agencies	CA Coastal Commission			455 Market Street, Suite 300	San Francisco	CA	94105
B State Agencies	CA Coastal Conservancy			1515 Clay Street #10	Oakland	CA	94612
B State Agencies	CA Dept. Fish & Wildlife Reg 3	Regional Manager		2825 Cordelia Road, Ste. 100	Fairfield	CA	94534
B State Agencies	CA Regional Water Quality Control Board	SF Bay Region #2	Ferguson, Leslie	1515 Clay Street, #1400	Oakland	CA	94612
C Local Gov	Stinson Beach Fire Protection Dist.	Kenny	Stevens, Fire Chief	P.O. Box 127	Stinson Beach	CA	94970
C Local Gov	Stinson Beach Water Dist.	Ed	Schmidt, General Manager	P.O. Box 245	Stinson Beach	CA	94970
C School Districts	Bolinas-Stinson Union School District	John	Carroll, Superintendent	125 Olema-Bolinas Road	Bolinas	CA	94929
D CDA Staff	Community Development Agency	Sarah	Jones	3501 Civic Center Drive, #308	San Rafael	CA	94903
D CDA Staff	Community Development Agency	Tammy	Taylor	3501 Civic Center Drive, #308	San Rafael	CA	94903
D CDA Staff	Community Development Agency	Rachel	Reid	3501 Civic Center Drive, #308	San Rafael	CA	94903
D CDA Staff	Community Development Agency	Sabrina	Cardoza	3501 Civic Center Drive, #308	San Rafael	CA	94903
D Marin County Library	Marin Co. Library, Stinson Beach Branch			3521 Shoreline Highway, P.O. Box 578	Stinson Beach	CA	94970
D Marin County Dept	Marin County Parks and Open Space	Max	Korten, Director	3501 Civic Center Drive, Rm 260	San Rafael	CA	94903
E Environmental Grp	EAC of West Marin	Amy	Trainer	P.O. Box 609	Pt. Reyes Station	CA	94956

Appendix B: Report Preparers

Report Preparers

The Supplemental Environmental Review/Draft Mitigated Negative Declaration, as well as this response to comment document, were prepare by Sicular Environmental Consulting and Natural Lands Management, under contract to the Marin County Community Development Agency. Report preparers included the following:

Sicular Environmental Consulting

Dan Sicular, Ph.D., Project Manager and Principal Author

Subcontractors to Sicular Environmental Consulting:

Sutro Science

Peter Hudson, PG, CEG, Geology and Soils

Justin Taplin, MS, Hydrology and Water Quality

Environmental Science Associates

Brian Pittman, CWB, Biological Resources

Eli Davidian, AICP, LEED AP, Biological Resources

Document Preparation:

Brian Vahey, Eagle Eye Editing

Linda Uehara, September People Graphic Arts

Resumes of report preparers follow.

DANIEL T. SICULAR, Ph.D.

Principal, Sicular Environmental Consulting and Natural Lands Management

Dan Sicular is the Principal of Sicular Environmental Consulting and Natural Lands Management, a firm specializing in CEQA environmental review, sustainable forest management, and habitat restoration. Dan is an experienced CEQA practitioner, having written and managed numerous Environmental Impact Reports and Initial Studies for projects ranging from State permitting programs, to solid waste landfills and mining operations, to urban development projects. In late 2017 and early 2018, Dan served as the Consulting Environmental Planning Manager for the Marin County Community Development Agency, filling in for the regular Environmental Planning Manager while she was on maternity leave. In this position, Dan worked closely with staff from the Marin County Community Development Agency, Public Works Department, and County Counsel's Office, providing oversight and guidance for several CEQA and NEPA environmental reviews. This experience, in addition to completion of several EIRs, Supplemental Environmental Reviews, and Initial Studies for the County, has given Dan an intimate knowledge of Marin County environmental review standards, practices, and procedures.

Positions Held

Current
Principal, Sicular Environmental Consulting and Natural Lands Management (2016-present)

Past
Consulting Environmental Planning Manager, Marin County Community Development Agency (Sept. 2017- March 2018)
Forest Manager, Pacific Forest Trust, San Francisco, CA (2015-2016)
Senior Project Manager, Environmental Science Associates, San Francisco, CA (1994-2015)
Instructor, University of California, Berkeley Extension Environmental Management Program (1991-1994)
Instructor, San Francisco State University Environmental Resources Program (1990-1993)

Education

Ph.D., Geography, University of California, Berkeley (1989)
M.A., Geography, University of California, Berkeley (1984)
B.A., Southeast Asian Studies, University of California, Berkeley (1982)

Relevant Experience

San Geronimo Valley Golf Course Club House Parcel Environmental Constraints Analysis (*Project Manager*). Dan prepared an environmental constraints analysis for Marin County, examining the feasibility of developing a portion of the former San Geronimo Valley Golf Course. Dan and his team focused on major environmental topics, including fisheries and other biological resources, hydrology, geology, hazardous materials, aesthetics, land use and planning, and cultural resources. The final report was completed in September 2021.

San Rafael Rock Quarry Supplemental Environmental Review (*Project Manager*). Dan assisted Marin County with preparation of a CEQA Supplemental Environmental Review and EIR Addendum for the proposed extension of the reclamation timeline for the San Rafael Rock Quarry. The Addendum was adopted, and the extension granted, by the Board of Supervisors in November 2021. The extension allows for continued mining through at least 2044. Dan previously managed the completion of an EIR for the Quarry (see below). The Supplemental Environmental Review covered the full range of environmental topics.

Dipsea Ranch Land Division Initial Study (*Project Manager*). Under contract to the Marin County Community Development Agency, Dan prepared a CEQA Initial Study for the Dipsea Ranch Land Division Project. The Project consisted of subdivision of an existing 8-acre parcel located on Panoramic Highway on

the southern slope of Mount Tamalpais, to create three lots. A Mitigated Negative Declaration for the Project was adopted by the Planning Commission in April, 2020, and, after appeal, upheld by the Board of Supervisors in October, 2020. The Project garnered intense opposition from neighbors. Dan and his team prepared written responses to the extensive comments submitted during the public review period, and responded, on a very short timeline, to additional comments received during the appeal.

Marin County Department of Public Works/Flood Control and Water Conservation District, Environmental Planning and Coordination Services (*Project Manager*). Dan is assisting the District with coordination and review of environmental review documents for the Ross Valley Watershed Program. These have included the San Anselmo Flood Risk Reduction Final EIR, the Corte Madera Creek Flood Risk Management Project Draft EIS/EIR, and the Corte Madera Creek Flood Risk Management Project Phase 1 EIR.

Gallinas Levee Upgrade Initial Study, Marin County Department of Public Works/Flood Control and Water Conservation District (*Project Manager*). Dan prepared a CEQA Initial Study for the planned raising of the timber reinforced berm atop the Gallinas Levee, which protects the Santa Venetia neighborhood from tidal and riverine flooding of Las Gallinas Creek. The Initial Study was completed in June, 2019 and a Mitigated Negative Declaration was adopted for the project in October, 2019.

Alta Way Extension Initial Study, Marin County (*Project Manager)*. Dan prepared a CEQA Initial Study for a proposed grading permit to extend an existing residential street in the Tamalpais Valley to access ten legal lots of record. Working closely with Community Development Agency and Department of Public Works staff, Dan navigated complex technical and planning issues as well as public controversy over the project. The Initial Study concludes that the project would have the potential for significant effects on the environment, and that an EIR should be prepared. The Initial Study was completed in April, 2018.

Marin County Federal Housing Grants Program NEPA Assistance, Marin County Community Development Agency (*Project Manager*). Since 2018, Dan has assisted the Community Development Agency with completion of NEPA reviews for the Federal Housing Grants Program. Grants, which originate with funding from the Department of Housing and Urban Development, are given for new construction and rehabilitation low-income housing. Each grant requires compliance with NEPA through preparation of an environmental review document.

Marin County Emergency Operations Facility EIR (***Project Manager) (ESA).*** Dan was ESA's project manager for preparation of an EIR for Marin County's proposed Emergency Operations Facility, which was being considered for location on the County Civic Center campus. Working with staff from the County Administrator's Office and Community Development Agency, Dan and his team examined in detail six potential locations for the facility, including four sites on the Civic Center campus as well as two off-site locations. Of paramount importance in the EIR was a consideration of the compatibility of the Emergency Operations Facility with the 2005 *Marin County Civic Center Master Design Guidelines*, which are intended to ensure that all future development on the Campus is consistent with Frank Lloyd Wright's original Master Plan. The EIR was unusual in conducting an economic analysis and architectural study of the alternative locations. Work was stopped on the EIR just before the Draft was due to be published in April 2011, as the Board of Supervisors began focusing attention on the Marin Commons office complex site, one of the alternatives being examined in the EIR; because this site was an existing office complex, purchasing and repurposing it for the Emergency Operations Facility were exempt from CEQA review.

San Rafael Rock Quarry EIR, **Marin County** (***Project Manager) (ESA).*** Working with the Marin County Department of Public Works and Community Development Agency, Dan and his team at ESA managed the preparation an EIR for the San Rafael Rock Quarry's Amended Reclamation Plan and Surface Mining and Quarrying Permit. The quarry, located at Point San Pedro near the City of San Rafael, extracts and processes

rock for use as aggregate, road base, rip-rap, and other products. Operation of the quarry had become a matter of considerable controversy, due to impacts on the residential neighborhood that adjoins the quarry property. Of particular concern to the site's neighbors were blasting, truck traffic, and a degraded view shed. The project included an analysis of potential impacts of planned post-reclamation use of the site, which included cutting a channel between the 400-foot deep main quarry bowl and San Pablo Bay in order to create a lagoon and ship channel. A mixed commercial, residential, and marina development was planned for the site. The Final EIR was certified, and the project approved by the Marin County Board of Supervisors, in 2009.

Redwood Landfill Expansion EIR, Marin County (*Project Manager) (ESA).* While at ESA, Dan managed the completion of a Subsequent EIR for the proposed expansion of the Redwood Landfill, located near Novato in Marin County. Dan worked closely with County Environmental Health Services and Community Development Agency staff to develop an alternative to the project that refocuses the facility on materials and energy recovery, rather than landfill disposal, and that limits the size of the expansion and daily waste intake to levels commensurate with the County's needs. Ultimately, the County approved the alternative, after certifying the EIR in 2008. Subsequently, Dan worked with the County on preparation of Supplemental Environmental Review leading to an Addendum to the EIR, examining a materials recovery facility and expansion of the existing composting operation.

Other EIRs

While at ESA, Dan managed through to certification the following Environmental Impact Reports (lead agency and date of certification provided; asterisk (*) indicates that the EIR withstood legal challenge):

Cold Creek Compost Facility EIR, Mendocino County (1998)*

Blue Line Transfer Station/Materials Recovery Facility EIR, South San Francisco (1999)

Ostrom Road Landfill Expansion, Yuba County (1999)*

Yolo County Central Landfill EIR, Yolo County (2005)

Redwood Landfill EIR, Marin County (2008)*

Shasta and Scott River Watershed-wide Permitting Programs EIRs, CA Depart. of Fish and Wildlife (2009)

San Rafael Rock Quarry Expansion and Reclamation Plan EIR, Marin County (2009)

San Francisco Bay and Delta Sand Mining EIR, California State Lands Commission (2012)*

Pilarcitos Quarry Expansion and Reclamation Plan EIR, San Mateo County (2012)

Sonoma County Compost Facility EIR, Sonoma County Waste Management Authority (2013)

Landbank Central and Wolfe Campus EIR, City of Sunnyvale (2014)

Roblar Road Quarry Supplemental EIR (as a Subcontractor to ESA), Sonoma County (2019)

PETER HUDSON PG, CEG

Principal/Senior Geologist

Pete Hudson has more than 30 years of broad-based experience in engineering geology, hydrogeology, environmental, geotechnical and surface water. He is a professional geologist and certified engineering geologist in the state of California and a registered geologist/engineering geologist in the state of Washington. His general responsibilities include providing geological, geotechnical, geophysical and hydrogeological technical support in water quality assessments, water resource and geological studies for planning, permit assistance, environmental impact assessments with emphasis on hydrological and geologic issues, soils investigations and erosion/geomorphic investigations, planning/policy assessments, and mitigation planning and monitoring. Pete has authored numerous geoscience and hydrology-related technical sections under CEQA and NEPA and provides technical input and senior review for completion of work products including EIRs and EISs, and EAs. Pete contributes his technical expertise to resource management plans, reclamation/restoration plans, erosion control plans, draft permits (e.g., NPDES), land development environmental feasibility analyses, and site selection/constraints studies. Pete is a Qualified SWPPP Practitioner (QSP) as required under California's Construction General Permit.

Education and Certifications

BA, Geology, San Francisco State University 1987
Pre-Engineering Coursework. University of San Francisco 1985
Professional Geologist, California (Registration No. 6730)
Certified Engineering Geologist, California (Registration No. 2368)
Qualified SWPPP Practitioner QSP (Certificate No. 21673)

RELEVANT PROJECT EXPERIENCE

Marin County Emergency Operation Facility Program EIR, San Rafael, CA, *Geologic/Geotechnical.* Pete was the senior technical advisor for geology and soil issues. Key concerns on the project were ensuring compliance with SB 1953 and associate seismic design requirements, fairly deep subgrade facilities and potential for structural dewatering, and contamination issues. An additional issue issue of concern was construction in an historic district, and related aesthetic and cultural resources impacts, particularly with regard to the Frank Lloyd Wright Civic Center buildings. The EIR included an extensive examination and comparison of alternative sites for the facility, both on and off the Civic Center campus.

San Rafael Rock Quarry Supplemental EIR, Marin County Public Works Department, Marin, CA. *Geology/Geotechnical*. Marin County conducted supplemental environmental review for the San Rafael Rock Quarry's (SRRQ) proposal to amend its approved Conforming Amended Reclamation Plan; the subject of a 2009 Final Environmental Impact Report (FEIR). The amendment allows SRRQ to extend the date to complete mine reclamation activities by 20 years to 2044. Pete was responsible for analysis of geology, soils, and geotechnical issues, (e.g., slope stability) for the proposed amendment. The analysis considered changes to baseline conditions, new applicable laws and regulations, and Quarry operations that affect reclamation that may have changed since publication of the 2009 FEIR.

San Rafael Rock Quarry Amended Reclamation Plan and Amended Quarry Permit EIR. (2009). *Geologic and Hydrogeologic.* Pete provided senior technical input and oversight for the preparation of the geology/seismicity and hydrology chapters of the EIR. He coordinated and led the technical aspects of the

sampling program developed for fugitive dust emissions and crystalline silica. Main technical issues involved erosion and storm water and post-reclamation conversion to a marina. Pete provided senior review of the DEIR sections and assisted with the response to public and agency comments.

Redwood Landfill Solid Waste Facilities Permit Revision EIR. ***Geology/Geotechnical, Hydrogeology Technical Analyst.*** Pete was involved in this project for 8 years as an analysts and geoscience technical advisor for issues with landfill cover, slope analysis, the Leachate Collection and Recovery System (LCRS) operations analysis and levee stability. This project is located on the Bay mud along the banks of the Petaluma River and thus presents challenging issues for geotechnical stability, groundwater/leachate management, and groundwater quality. As Technical Services Group manager, Pete supported staff hydrologists and geologists during the impact analysis, attended County/Applicant CEQA meetings, and provided senior technical review of EIR technical sections.

Dipsea Ranch Land Division Initial Study. ***Geology/Geotechnical.*** Sutro assisted Sicular Environmental Consultants with a CEQA Initial Study for a proposed land division to subdivide an existing 8.3-acre lot in unincorporated Mill Valley to create 3 single-family residential lots. Pete conducted a peer review of applicant geotechnical studies, verified slope instability assessment, and prepared the geology/seismicity section for the initial study. Analysis also involved review of the onsite sewage disposal analysis prepared for the applicant by an outside consultant. Impact analysis included past action involving the unpermitted grading of a fire road, placement of fill, and installation of a culvert.

Alta Way Extension Initial Study. ***Geology/Geotechnical.*** Sutro assisted Sicular Environmental Consultants with the CEQA Initial Study for this subdivision project off the Panoramic Highway in Mill Valley. Pete conducted a peer review of applicant-provided geotechnical investigation report and prepared a draft of the geology/seismicity chapter of the IS/MND. The primary geologic and geotechnical issues involved foundation placement and grading on slopes composed of sheared and fractured mélange of the Franciscan Complex containing sandstone and siltstone. The project is located in a seismically active area on unstable slopes.

San Geronimo Golf Course Constraints Analysis, Marin County Fire Department, Marin, CA. ***Geology/Geotechnical and Hazardous Materials.*** Marin County is considering locating a new fire station at the southwest corner of the site that was previously the San Geronimo Golf Course. Sutro teamed with Sicular Environmental Consulting to conduct a constraints analysis of the site, analyzing constraints in the areas of geology, surface water hydrology, groundwater hydrology, water quality, and hazardous materials. Pete was responsible for assessing constraints associated with geology, seismicity, soils, geotechnical, paleontology, and special geologic features and hazardous materials. Pete authored the geology and hazardous materials constraints chapters.

Eden/Whistlestop NEPA Review – Parcel 4 Remediation, 999 Third Street, San Rafael, CA. ***Hazardous Materials Analyst*** Pete reviewed relevant documentation and prepared a letter of professional opinion regarding the current onsite subsurface contamination and whether it would preclude Eden/Whistlestop from proceeding with its planned residential use at 999 Third Street (also known as Parcel 4), in San Rafael California. Sutro reviewed several site investigation reports and letters of correspondence from the Department of Toxic Substance Control (DTSC), available through the DTSC Envirostor website.

JUSTIN TAPLIN, MS

Principal/Senior Environmental Scientist

A skilled and effective scientist, technical manager, and strategic thinker, Justin brings more than 15 years of California based consulting experience to the environmental review and compliance process. He applies expertise in the arenas hydrology, water quality, and water resource regulation with a discerning eye to produce comprehensive and defensible environmental assessments and mitigation strategies. He acts as technical manager, senior reviewer, and lead author for large-scale, often contentious, complex program- and project-level Environmental Impact Reports, Environmental Impact Statements, and other documents pursuant to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). As technical manager, he routinely coordinates with engineering and technical sub-consultants with expertise in a variety of fields such as stormwater retention and conveyance, stormwater treatment, hydromodification, coastal hydrology and sea level rise dynamics, and water quality. Prior to co-founding Sutro Science LLC, Justin worked at Environmental Science Associates from 2007 to 2015 as a technical manager contributing to a wide range of development, water supply, energy and infrastructure projects.

Education and Certifications

M.S. Environmental Management. University of San Francisco, California.
B.S. (Hons) Biological Sciences. University of Westminster, UK.

Certified Fisheries Professional (#3146), American Fisheries Society
Advanced CEQA Workshop. AEP, 2015.
CEQA Case Law Updates, Issues, Trends. Sohagi Law Group, 2010.
Stormwater Regulations in CA. NWET, September 2009.
Management of Water in CA. UC Berkeley Extension, 2008.

Relevant Project Experience

34th America's Cup and Cruise Terminal EIR, San Francisco, CA. ***Hydrology and Water Quality.*** Environmental review for two projects was completed through a single EIR: 1) the 34th America's Cup sailing events; and 2) a new Cruise Terminal located along the San Francisco Bay shoreline. The America's Cup Event Authority proposed a variety of temporary coastal and offshore facilities. The Cruise Terminal involved in-water work along the Bay shoreline. Justin managed all tasks related to the hydrologic and water quality impacts analysis for the EIR and was the section lead author. Technical management required coordination of engineering and technical sub-consultants as well as a team of hydrologists and coastal process engineers. Justin evaluated the project components, which posed several unique hydrologic and water quality impacts along the Bay margin. Key issues included use of temporary project facilities, such as wave attenuators, in-water construction impacts, and temporary land use changes.

Dipsea Ranch Land Division IS/MND, Marin County Community Development Agency, Marin, CA. ***Hydrologist.*** Environmental review was conducted for a proposed land division to subdivide an existing 8.3-acre lot in unincorporated Mill Valley to create 3 single-family residential lots with two new on-site sewage disposal systems and a storm water management system that would treat and control runoff and mimic pre-project site hydrology. Justin was responsible for all aspects of hydrology and water quality analysis, including consideration of potential hydromodification impacts within the Redwood Creek watershed and impacts resulting from a past action involving the unpermitted grading of a fire road, placement of fill, and installation of a culvert. Justin supported County staff by providing technical input, including peer review of independent studies submitted by Petitioners, throughout the public comment period, public hearing phase, and following an appeal of the Planning Commission vote to adopt the MND and approve the Project.

JUSTIN TAPLIN, MS

Principal/Senior Environmental Scientist

Alta Way Extension IS/MND, Marin County Public Works Department, Marin, CA. ***Hydrologist.*** Marin County is conducting environmental review for a grading permit application to allow the extension of Alta Way, an existing residential street in unincorporated Mill Valley. The extension of Alta Way would provide access and utility extensions for six to ten undeveloped legal lots of record. Because approval of the grading permit would allow access to undeveloped lots, the analysis of impacts included the proposed extension of Alta Way and the future development of up to ten lots. Justin was responsible for all aspects of hydrology and water quality analysis for the future development of the ten new residential lots, located on steep slopes within the Coyote Creek watershed. Justin's analysis of impacts considered public scoping comments related to concerns that existing stormwater infrastructure is insufficient to accommodate stormwater from the project and that increased runoff from the site could increase flooding downgradient for roads, creeks, and residential properties.

San Rafael Rock Quarry Supplemental EIR, Marin County Public Works Department, Marin, CA. ***Hydrology and Water Quality.*** Marin County conducted supplemental environmental review for a proposal by San Rafael Rock Quarry (SRRQ) to amend its approved Conforming Amended Reclamation Plan, which was the subject of a 2009 Final Environmental Impact Report (FEIR). The amendment would allow SRRQ to extend the date to complete mine reclamation activities by 20 years to 2044. Justin was responsible for all aspects of hydrology and water quality analysis for the proposed amendment, including consideration of changes to baseline conditions, new applicable laws and regulations, and Quarry operations that affect reclamation that may have changed since publication of the 2009 FEIR.

San Geronimo Golf Course Constraints Analysis, Marin County Fire Department, Marin, CA. ***Hydrology and Water Quality.*** Marin County is considering locating a new fire station at the southwest corner of the site that was previously the San Geronimo Golf Course. Sutro teamed with Sicular Environmental Consulting to conduct a constraints analysis of the site, analyzing constraints in the areas of geology, surface water hydrology, groundwater hydrology, water quality, and hazardous materials. Justin was responsible for analyzing all surface water hydrologic and water quality constraints, including potential flooding, changes to stormwater runoff and retention, effects from construction and development on surface water quality, consistency with local and State storm water regulations and requirements, and whether site development could affect San Geronimo Creek.

Vista Grande Drainage Basin Improvement Project EIR/EIS, Daly City, CA. Technical Manager: Hydrology and Water Quality. Justin worked with Daly City and San Francisco Public Utilities to provide CEQA/NEPA documentation, and hydrologic and water quality technical support for a project that proposes to address storm-related residential flooding in the basin while beneficially re-using storm water for management of Lake Merced. Justin designed and implemented water quality investigations (including a water quality sampling program) related to Basin Plan, 303d, and NPDES issues and was lead author and analyst for the hydrology and water quality section of the EIR/EIS. Key issues include stormwater re-use impacts to lake water quality and stratification dynamics, fisheries habitat, coastal erosion impacts from and sea level rise resilience of outfall structures, Operation and management of stormwater treatment wetlands.

Relevant Publications

Roberts, J. W., J. Taplin, E. Zigas. 2017. Disposal of Seawater Desalination Brines and the CEQA/NEPA Process. American Society of Civil Engineers (ASCE): World Environmental and Water Resources Congress, May 1, 2017. Available at: https://ascelibrary.org/doi/abs/10.1061/9780784480632.021

Brian Pittman, CWB

Wildlife Program Manager / Sr. Wildlife Biologist

EDUCATION

M.S., Environmental Studies, San Jose State University

B.A., Biology, University of California, Santa Cruz

24 YEARS EXPERIENCE

CERTIFICATIONS/ REGISTRATION

Certified Wildlife Biologist - The Wildlife Society, 2004

California Scientific Collecting Permit ID# 003068

Federal Recovery Permit #TE-027422-6 (fairy shrimp, California tiger salamander, and California red-legged frog)

NMFS Federal Recovery Permit #16506 (Central California Coast coho salmon and CCC steelhead)

FAA-certified Unmanned Aircraft System (UAS) pilot

TRAINING

2017 Salt Marsh Harvest Mouse Workshop (2-day with field I.D. & handling)

CDFW California Aquatic Bioassessment Workshop

Wetland Delineation Training Course, U.S. Army Corps of Engineers

Desert Tortoise Survey Techniques Workshop, Desert Tortoise Council

Brian is a *Certified Wildlife Biologist* who offers specialized experience leading projects with complex regulatory, mitigation, and construction/environmental compliance backgrounds. He is experienced with biological resources throughout California and he routinely coordinates with scientists, planners, and resource agency staff to resolve issues that affect biological issues. Brian is trained and proficient in permitting procedures and requirements under CEQA, NEPA, the federal and California Endangered Species Act(s), California Fish & Game Code, and federal and California Clean Water Acts. He holds a 10(a) federal Recovery Permit for vernal pool branchiopods, California red-legged frog, and California tiger salamander; and he performs a wide range of focused biological surveys throughout the State. He is also a co-investigator on a federal 10(a) permit for Central California Coast (CCC) coho salmon and CCC steelhead.

Relevant Experience

Contra Costa County Flood Control & Water Conservation District, Lower Walnut Creek Channel Restoration Project, Martinez, CA. Senior Biologist. Brian is the Project Director and an agency-designated lead biologist for the Lower Walnut Creek Channel Restoration Project. Construction activities, including vegetation removal and channel excavation will be largely completed in late 2021. Focused monitoring activities, which have been ongoing since April 2021, include daily compliance monitoring for California black rail and salt marsh harvest mouse during the manual removal of coastal salt marsh habitat.

San Francisco Littoral Cell Coastal Regional Sediment Management Plan (CRSMP), San Francisco, CA. *Senior Biologist.* A CRSMP is a comprehensive guidance and policy document that discusses how regional sediment management can be implemented in an expeditious, cost-effective, and resource-protective manner. Brian led the biological analysis for the CRSMP for a segment of the Golden Gate Littoral Cell along the San Francisco and San Mateo County Pacific coastline.

North Bay Water Reuse Authority, North Bay Water Reuse Program Phase 2 EIR/EIS, Marin, Sonoma, and Napa Counties, CA. *Biological Resource Task Manager.* Brian led ESA's team of biologists for this combined CEQA/NEPA document evaluating the impacts associated with the implementation of 14 individual water reuse projects seeking funding from the U.S. Bureau of Reclamation's Title XVI program. Brian led the EIS/EIR biological resources analyses and the program-wide Biological Assessment to secure funding under the Title XVI grant program.

Ballona Wetlands Restoration Project, California Coastal Conservancy, Playa Del Rey, CA. Senior Biologist. Brian was a senior contributing biologist for the joint EIS/EIR that assessed the potential environmental impacts of wetland

restoration of the Ballona Wetlands. Brian prepared and provided senior oversight for the CEQA document and technical expertise relating to biological impacts.

S.F. Public Utilities Commission, Alameda Creek Recapture Project, Alameda Creek, CA. *Senior Biologist*. As part of the ESA/Orion team, Brian supported the CEQA analysis and performed focused habitat reviews for sensitive wildlife in Alameda Creek, including the foothill yellow-legged frog and California red-legged frog to better represent the impact of the proposed recapture on the wildlife resources within Alameda Creek.

California State Lands Commission, Hansen Sand Mining Project. *Senior Biologist.* Brian was the lead biologist on this CEQA project to allow the 10-year reauthorization of sand mining activities in Central San Francisco Bay and the Carquinez Straits. The analysis considered the potential effects of continued suction dredge mining on marine resources including the commercial Dungeness crab and Pacific herring fishery of San Francisco Bay, invertebrate food chain support, marine mammals, and common and special status fish. Particular attention was given to potential effects to delta smelt, longfin smelt and salmonids.

City of Petaluma Ellis Creek Water Recycling Facility. *Biological Specialist*. Brian provided specific expertise for the City of Petaluma's Ellis Creek Water Recycling Facility, which provides Petaluma with improved reliability, increased capacity, and higher quality wastewater treatment services. He performed focused surveys for California red-legged frog and was brought in to provide senior oversight of salt marsh harvest mouse management issues at the facility.

Zone 7 Flood Control Permitting and On-call Services 2001-2022. *Project Manager and Lead Biologist.* Over a 22-year contracting period, Brian has managed and directed on-call services related to CEQA compliance, biological surveys, stream restoration, permitting, and construction support. He has done focused surveys and provided permitting and construction support for more than 100 individual projects located throughout the Livermore-Amador Valley.

SELECTED PUBLICATIONS AND PRESENTATIONS

Sweet, R., and B. Pittman, 2022. Comparative Analysis of Arroyo Toad Populations in Los Padres National Forest from 2010 to 2019. Poster presentation at The Wildlife Society, Western Section Conference, Reno, NV.

Pittman, B. 2017. Stream-breeding Amphibians of The Geysers Region of Sonoma and Lake Counties: a Summary of 19 years of Aquatic Monitoring. Presentation at the California/Nevada Amphibian Populations Task Force 2017 meeting.

Pittman, B. 2010. California Tiger Salamander Larval Growth Observations. Presentation at the 2010 Wildlife Society Western Section Conference.

Pittman, B. 2005. Observations of Upland Habitat Use by California Tiger Salamanders Based on Burrow Excavation. *Transactions of the Western Section of the Wildlife Society* 41:26-30; 2005.

Pittman, B.T. 1996. *A Survey of Inbenthic Macrofauna at a South San Francisco Bay Salt Marsh*. Master's thesis, San Jose State University.

Elijah A. Davidian, AICP, LEED AP

Project Manager

EDUCATION

M.S., Natural Resource Policy, University of Michigan, Ann Arbor

M.U.P, University of Michigan, Ann Arbor

B.A., Environmental Studies, University of California, Santa Cruz

15 YEARS' EXPERIENCE

CERTIFICATIONS/ REGISTRATION

American Institute of Certified Planners (AICP)

LEED Accredited Professional, US Green Building Council

Elijah has 15 years of experience working on environmental planning projects with a focus on coastal resource planning and regulatory compliance. His responsibilities primarily include project management and technical support in the areas of CEQA, NEPA, and environmental regulatory permitting for a variety of project types throughout California. Elijah has extensive experience with projects involving water resources infrastructure, open space and recreation management, coastal land use policy and planning, and renewable energy. Prior to joining ESA, Elijah served as staff to the California Coastal Commission, the agency charged with regulating land use planning and development along the State's 1,100-mile Pacific coastline.

Relevant Experience

San Mateo County, Moss Beach/Seal Cove Roads Improvement Project IS/MND and Permitting, Moss Beach, California. *Project Manager.* Elijah managed the environmental review, design, and permitting of this coastal San Mateo County roadway and drainage improvement project. The project involved upgrades to three existing roads and construction of vegetated swales to comply with the C.3 provisions of the County's Regional Stormwater Permit. ESA designed the swale project, conducted the CEQA analysis, and obtained the regulatory agency approvals, including a coastal development permit, necessary to support project implementation.

Soquel Creek Water District, Pure Water Soquel Project. *Deputy Project Manager*. Elijah is supporting ESA's project manager in the development of CEQA compliance, regulatory permitting, and public outreach efforts for this indirect potable reuse project. The project involves development of an advanced water purification system for treating municipal wastewater to indirect potable reuse standards, and injecting the treated water into the groundwater aquifers underlying the District's service area. Elijah co-managed development of the environmental impact report (certified in December 2018), and is now overseeing the permitting process. As the project traverses the three local coastal jurisdictions, as well as Coastal Commission retained jurisdiction, the District obtained a consolidated coastal development permit through the Coastal Commission. The District is also seeking authorizations from the U.S. Army Corps of Engineers and Central Coast Regional Water Quality Control Board. Project construction is scheduled for summer 2021.

San Mateo County, Memorial Park Wastewater Treatment Improvements Project. *Project Manager.* ESA provided the San Mateo County Parks Department with environmental services in support of the Memorial Park Wastewater Treatment Facilities Improvement Project, near Pescadero, CA. The Project involves decommissioning and replacing the Park's existing wastewater

treatment plant, repairs and replacements of pipes and manholes, and other necessary upgrades to the wastewater treatment system from wastewater conveyance to disposal. The Project site is located in a coastal redwood forest, adjacent to Pescadero Creek, within critical habitat for endangered species, and near a number of documented archaeological sites. ESA prepared biological and cultural resources reports to document baseline conditions within the Park, and assist in crafting a project that is protective of sensitive resources while avoiding resources that would trigger resource agency permit requirements. ESA staff also assisted with CEQA compliance through the preparation of an IS/MND, which evaluates the potential effects of Project construction and operations across 18 environmental topics. The IS/MND was adopted in April 2019, and the project constructed in 2020.

San Mateo County, Alpine Road Trail Improvement Project Design, IS/MND, and Permitting. *Project Manager.* Elijah managed a team of ESA staff in support of the County's efforts to upgrade and stabilize a 1.8-mile segment of the Alpine Road Trail near Palo Alto in unincorporated San Mateo County. ESA engineers designed biotechnical bank-stabilization measures, including live-log crib walls, to protect the bank and trail from further erosion, while softening the project's long-term effect on the creek channel. Elijah managed ESA staff's preparation of engineering design documents, technical studies, an IS/MND (adopted in January 2016), regulatory permit applications, and agency consultations. The project was constructed in 2017.

San Francisco Public Utilities Commission, Southern Skyline Boulevard Ridge Trail Extension Project. *Project Manager.* Elijah is leading a team of ESA technical staff and subconsultants in preparing an Environmental Impact Report (EIR) for new trails and expanded public access within the SFPUC's 23,000-acre Peninsula Watershed. The Project involves construction of approximately 8 miles of new multi-use trails within portions of the watershed that have been closed to public access for more than 100 years, and expanding access within other portions of the watershed where visitation is highly restricted. Given its size, minimal development, and access restrictions, the Peninsula Watershed contains several rare species and sensitive habitats. The San Francisco Planning Department certified the EIR in April 2021, and the SFPUC approved the project in May 2021. Construction is anticipated in early 2022.

Daly City, Vista Grande Drainage Basin Improvement Project. *Regulatory Task Leader.* Elijah is providing regulatory compliance support for this stormwater control project. The project will replace a portion of Daly City's stormwater drainage canal with a debris screening structure, box culvert, and treatment wetland; divert some storm and authorized non-storm flows to Lake Merced; and will enlarge the existing drainage tunnel beneath Fort Funston to mitigate flooding in the Vista Grande watershed resulting from large storms. Elijah assisted with development of a joint EIR/EIS. As the project traverses the three local coastal jurisdictions (cities of San Francisco and San Mateo, and county of San Mateo), as well as Coastal Commission retained jurisdiction, Elijah is supporting Daly City with the process of consolidating coastal development permit application review through the Coastal Commission. He is also spearheading the process of renewing the City's lease agreement with the State Lands Commission.