

**MEMORANDUM**

**TO: Marin County Planning Commission**

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

**DATE: July 28, 2023**

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

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

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

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

**Attachments:**

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

Parcel ID	Land SqFt	Living Area SqFt	Approx FAR
195-162-27	15,600	1,772	11%
195-133-11	2,400	1,745	72%
195-163-30	2,400	980	40%
195-133-10	2,400	1,449	45%
195-163-29	4,800	2,831	19%
195-163-22	4,800	1,432	39%
195-133-30	2,400	1,210	35%
195-134-13	4,800	1,783	35%
195-134-21	3,600	819	39%
195-163-14	2,400	1,304	74%
195-163-15	2,400	1,100	59%
195-163-31	2,400	1,187	52%
195-162-16	2,400	1,058	65%
195-163-16	4,800	2,342	31%
195-163-17	2,400	1,398	51%
195-162-47	4,800	1,471	38%
195-134-12	4,800	1,565	30%
195-164-13	2,400	906	97%
195-163-33	4,800	1,450	31%
195-163-13	2,400	1,316	35%
195-133-09	2,400	960	34%
195-162-26	4,800	1,905	22%
195-164-25	4,800	2,130	39%
195-162-11	5,200	1,687	25%
195-134-20	3,600	1,731	39%
195-162-15	4,800	960	39%
195-164-16	4,800	1,078	31%
195-134-08	2,400	912	61%
195-162-28	4,800	1,894	19%
195-162-08	2,400	833	89%
195-162-29	2,400	1,668	104%
195-162-33	4,800	1,404	77%
195-133-33	7,200	1,770	20%
195-164-19	4,800	1,416	34%
195-133-08	4,800	1,248	73%
195-163-32	4,800	1,556	23%
195-163-34	5,400	1,464	40%
195-134-11	4,800	1,235	34%
195-164-18	7,200	1,830	47%
195-162-09	4,800	1,444	52%
195-201-06	8,832	2,316	12%
195-134-23	4,800	1,496	28%
195-133-36	4,800	832	60%
195-162-17	4,800	817	58%
195-162-37	5,200	1,078	16%
195-162-38	7,200	1,851	11%

195-164-10	5,600	1,282	14%
195-162-40	6,000	1,404	13%
195-164-23	7,500	1,858	10%
195-164-24	7,200	1,497	10%
195-162-42	7,200	1,470	10%
195-134-22	7,200	900	10%
195-201-03	7,559	2,132	10%
195-133-34	9,600	2,500	7%
195-133-32	9,600	3,672	7%
195-162-41	9,600	1,431	7%
195-201-05	12,500	1,640	6%
195-164-01	13,600	3,492	5%
195-163-02	12,800	1,080	5%
195-162-48	13,912	2,186	4%
195-164-22	14,400	1,620	4%
195-163-35	16,000	3,358	4%
195-132-30	17,642	2,508	3%
195-162-50	25,970	1,075	2%
195-152-04	35,200	1,320	1%
195-152-06	45,900	2,863	1%
195-171-16	56,628	2,803	1%
195-134-10	2,400	816	0%
195-133-05	2,400	807	0%
195-134-17	2,400	797	0%
195-133-02	4,800	780	0%
195-134-02	3,360	768	0%
195-134-01	4,400	739	0%
195-162-19	2,400	728	0%
195-134-09	2,400	728	0%
195-133-01	5,600	725	0%
195-133-18	2,400	716	0%
195-164-17	2,400	716	0%
195-162-32	2,400	716	0%
195-163-24	4,700	711	0%
195-133-23	2,400	668	0%
195-133-22	2,400	648	0%
195-133-31	2,400	624	0%
195-164-14	2,400	600	0%
195-134-04	7,200	576	0%
195-162-35	2,400	504	0%
195-134-16	2,400	492	0%
195-164-04	2,400	474	0%
195-163-09	2,400	470	0%
195-133-35	4,500	422	0%





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

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You don't often get email from knelson@stinsonwater.org. [Learn why this is important](#)

Sabrina,

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

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

If you have any questions, please let me know.

Best regards,  
-Kent

**Kent Nelson, PE**  
*General Manager/CEO*

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

**From:** [Patricia Conway](#)  
**To:** [Cardoza, Sabrina](#)  
**Cc:** [Marisa Atamian-Sarafian](#); [ELIZABETH A. BREKHUS, ESQ.](#); [Jack Siedman, Esq.](#)  
**Subject:** Re: 21 Onda: Two Emails for our comment letters...  
**Date:** Friday, July 21, 2023 4:05:21 PM  
**Attachments:** [Marin County Memo- Repetitive Loss Area 3,2023.pdf](#)

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Dear Sabrina,

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

Could you please send us the following:

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

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

Thank you,

Patricia K. Conway, Esq.  
Brekhus Law Partners

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

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

Hi Marisa,

You can send to both. Any comments that are sent directly to me regarding the environmental review will be forwarded to the Environmental Review team. They manage the environmental review process but I will make sure your comments get to them.

Best,

Sabrina Cardoza (she/her)

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

**Senior Planner** | County of Marin

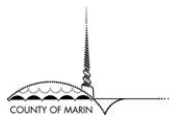
Community Development Agency, Planning Division

3501 Civic Center Drive, Suite 308

San Rafael, CA 94903

415-473-3607 T

415-473-7880 F



---

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

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

**Marisa Atamian-Sarafian, COMPASS**

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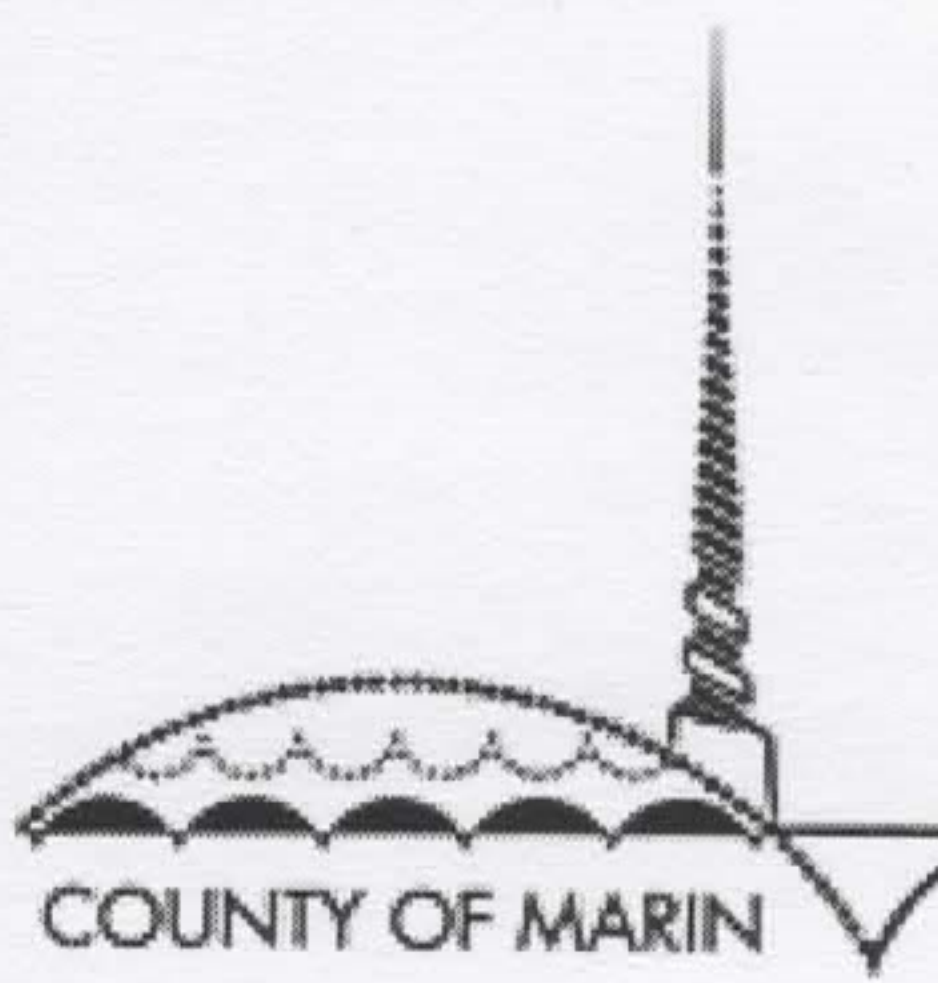
Patricia K. Conway, Esq.  
Brekhus Law Partners

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# DEPARTMENT OF PUBLIC WORKS

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Rosemarie R. Gaglione  
DIRECTOR

Dear Marin County Resident:

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

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

Accounting  
Administrative Services  
Airport  
Building Maintenance  
Capital Projects  
Certified Unified Program Agency (CUPA)  
Communications Maintenance  
Disability Access  
Engineering & Survey  
Fleet Operations  
Flood Control & Water Resources  
Land Development  
Procurement  
Real Estate  
Reprographic Services  
Road Maintenance  
Stormwater Program  
Transportation & Traffic Operations  
Waste Management

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

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

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

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

Sincerely

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



**From:** [zelljas@aol.com](mailto:zelljas@aol.com)  
**To:** [Cardoza, Sabrina](#)  
**Subject:** 21 Calle Del Onda  
**Date:** Wednesday, July 26, 2023 11:14:43 AM

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

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

Sent from my iPad

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

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July 27, 2023

**EMAIL TO**

Sabrina Cardoza

Re: Coastal Permit Application

# P3049

cc: Marisa.atamian-Sarafian

Elizabeth Brekhush

Hello Sabrina:

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

Sincerely,

*// Jack Siedman //*



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

Tele (415) 868-0997  
jsiedman@yahoo.com

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

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Some people who received this message don't often get email from [len@rifkindlawgroup.com](mailto:len@rifkindlawgroup.com). [Learn why this is important](#)

Dear Planning Commissioners:

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

Leonard ("Len") A. Rifkind

**RIFKIND LAW & MEDIATION, PC**

1010 B Street, Suite 200

San Rafael, California 94901

T: 415-785-7988,

C: 415-308-8269

E: [len@rifkindlawgroup.com](mailto:len@rifkindlawgroup.com)

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# Rifkind Law & Mediation, PC

1010 B Street, Suite 200, San Rafael, CA 94901  
Telephone: (415) 785-7988 \* [www.rifkindlawgroup.com](http://www.rifkindlawgroup.com)

Leonard A. Rifkind  
[len@rifkindlawgroup.com](mailto:len@rifkindlawgroup.com)

July 27, 2023

**VIA EMAIL ONLY:** [planningcommission@marincounty.org](mailto:planningcommission@marincounty.org)

Marin County Planning Commission  
Community Development Agency  
3501 Civic Center Drive, Rom 308  
San Rafael, CA 94903

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

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

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

## **Takings Analysis.**

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

RIFKIND LAW & MEDIATION, PC

By:   
Leonard A. Rifkind

LAR/es

cc: Client

Steve Kinsey, Civic Knit, [steve@civicknit.com](mailto:steve@civicknit.com)

Sabrina Cardoza, Planner, [scardoza@marincounty.org](mailto:scardoza@marincounty.org)

**From:** [PlanningCommission](#)  
**To:** [Cardoza, Sabrina](#)  
**Subject:** FW: 21 Calle del Onda\_P3049 formerly P1162  
**Date:** Thursday, July 27, 2023 1:52:12 PM  
**Attachments:** [Planning Commission Calle del Onda 7.27.2023.pdf](#)

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

Thanks,  
Michele

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**From:** Jamie Gallagher <[legalassist@brekhus.com](mailto:legalassist@brekhus.com)>  
**Sent:** Thursday, July 27, 2023 10:50 AM  
**To:** PlanningCommission <[PlanningCommission@marincounty.org](mailto:PlanningCommission@marincounty.org)>  
**Cc:** Elizabeth Brekhus <[elizabethb@brekhus.com](mailto:elizabethb@brekhus.com)>  
**Subject:** 21 Calle del Onda\_P3049 formerly P1162

You don't often get email from [legalassist@brekhus.com](mailto:legalassist@brekhus.com). [Learn why this is important](#)

Dear Planning Commissioners,

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

Best regards,

Jamie Gallagher

--

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

July 27, 2023

*Sent via Email Only*

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

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

Dear Planners:

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

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

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

Marin County Community Development Agency  
Planning Division  
July 27, 2023  
Page 2

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Elizabeth Brekhus". The signature is fluid and cursive, with the first name being the most prominent.

Elizabeth Brekhus

Attachment

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

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You don't often get email from knelson@stinsonwater.org. [Learn why this is important](#)

Sabrina,

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

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

If you have any questions, please let me know.

Best regards,  
-Kent

**Kent Nelson, PE**  
*General Manager/CEO*

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