

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

M E M O R A N D U M

TO: Marin County Planning Commission
FROM: Sabrina Cardoza, Senior Planner
DATE: November 18, 2021
RE: Planning Commission Hearing of November 22, 2021, Agenda Item 4
Brian Johnson Trust Coastal Permit
21 Calle Del Onda, Stinson Beach
Assessor's Parcel 195-162-49
Project ID P3049

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

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

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

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

JACK SIEDMAN
Attorney At Law
P.O. Box 37
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E-Mail:
jsiedman@yahoo.com

November 9, 2021

RECEIVED

NOV 12 2021

Marin County CDA
Planning Division
3501 Civic Center Dr., Ste. 308
San Rafael, CA 94903

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

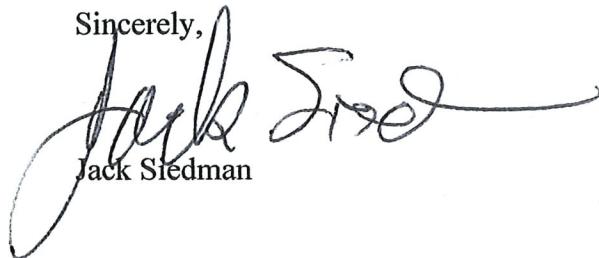
Re: AP # 192-111-31

Dear Planners:

On July 29, 2021 I wrote you on behalf of Robert Friedman regarding the above-referenced project, and a copy of that letter is enclosed. I am now informed that a Zoom hearing is scheduled for November 22.

In addition to the issues, I addressed in my July 29, 2021 letter, I also direct your attention to the requirements for a CEQA review which has yet to be completed. References by the applicant to a review by the Stinson Beach Water District is insufficient as that District's review of the project is expressly limited to issues of waste water, and does not otherwise address the issues required by CEQA.

Therefore, for all these reasons I again urge you on behalf of my client to deny the application. Thank you.

Sincerely,

Jack Siedman

JS/ms
cc: client
Elizabeth Brekhus

JACK SIEDMAN

Attorney At Law

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July 29, 2021

Marin CDA
Planning Division
3501 Civic Center Drive, Ste. 308
San Rafael, CA 94903-4157

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

To Whom It May Concern:

I have been retained by Robert Friedman, who owns the property at 17 Calle del Onda, to submit the following objections to the above-referenced permit application. As the next-door neighbor to the subject property Mr. Friedman clearly qualifies as an "interested person" with regard to the proposed project. The issues of concern, and the bases of his objections, are:

1. Flooding. The area has a history of flooding in time of strong winter storms, which have been increasing in severity as a consequence of climate change. Since it is within the AO Flood Zone construction is prohibited by the LCP, Policy IV-30, and by County Code, Sec. 22.56130I(1)(2). The plans show the septic system, the garage and driveway, and portions of the concrete slab all within the prohibited area of construction.

In addition, the project is also in a designated Floodplain, and Special Flood Hazard Zone. Therefore, minimum Base Flood Elevations are required by County Code Sec. 23.09. The project's plans fail to comply with these elevations. In light of projected levels of sea level rise it is inconceivable this project can withstand the combined effects of periodic flooding from severe storms and from sea level rise.

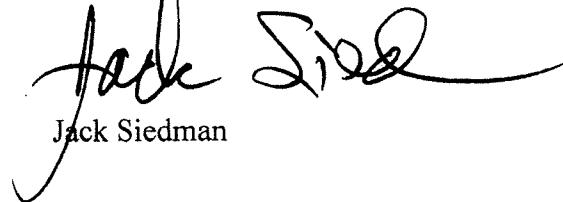
2. Geotechnical Risks. The project borders the San Andreas Fault and the risk of liquefaction from earthquakes is considered "moderate to high" according to Murray Engineers, hired by the project's applicants. Consequently, the engineers recommend concrete retaining walls and rammed piers to protect the proposed residence and site from damage due to liquefaction and erosion. However, those remedial measures are prohibited by the LCP and the Coastal Act as shoreline protective devices.

Marin CDA - Planning Division
July 29, 2021
Page Two

3. Environmental Damage. Although even a cursory observation of the project site reveals that a portion is comprised of sandy beach and sand dunes, the applicant ignores their existence, undoubtedly because such areas are protected as an Environmentally Sensitive Habitat Area (ESHA) under the LCP. My client is informed that the Coastal Commission has previously concluded that the project is within an ESHA. Therefore, the project is also in violation of that portion of the LCP as well.

Conclusion. Mr. Friedman, as well as myself, are long term residents of the area. We have personally witnessed the destructive effects of storm and flood damage to coastal structures, and specifically to the site which is the subject of this application. With weather conditions only expected to become more severe, and with sea level rise a scientific certainty, it would appear most foolhardy to allow anyone to build a house on the beach at this location. The application should be denied. Thank you.

Sincerely,



Jack Siedman

JS/ms
cc: Robert Friedman

November 14, 2021

Subject: Comment Letter

Regarding: Proposed New Beachfront Home for 21 Calle Del Onda, Stinson Beach, CA. 94970

Attention: Sabrina Cardoza, Planner in Charge; Marin County Planning Commission

Attachments: CA. Coastal Commission documents commenting on project

21 Calle Del Onda has been a vacant lot since the 1980's. Adjacent property owners confirm that the lot floods and has flooded for many years. It was for sale in 2015, on the MLS. Its current status: Buyer, Craig Nunes has a Contingent Purchase Agreement with Owner, referred to as the Brian Johnson Trust. This has been in effect since 06/29/15. These arrangements were stated by Craig Nunes at a Stinson Beach Water District board meeting, August 20,2016, and confirmed in the Stinson Beach Water District Meeting Minutes.

This proposed project violates the AO FLOOD ZONE MORATORIUM, WHICH THE COUNTY HAS IN PLACE. PAST COASTAL COMMISSION MEMOS CONFIRM THAT THIS MORATORIUM IS IN EFFECT. The genesis of the moratorium came from the CA. Coastal Commission. ALL PROPERTY OWNERS IN THIS ZONE RECEIVED A MEMO explaining that new construction in this zone is prohibited. The date of this memo from Marin County was 7.28.2015, signed by Tom Lai.

Furthermore, the lot floods. Marin County has developed many Sea Level Rise Studies recently, concluding The Calles are susceptible to Sea Level Rise within the next ten years. Development on 21 Calle del Onda would pose further danger to PUBLIC USE, as pedestrians would be prevented from accessing Stinson Beach when the lot floods. The septic system plans indicate its location in the AO FLOOD ZONE. If the septic system fails, associated seepage becomes a health hazard to PUBLIC USE; pedestrians using this street to access Stinson Beach. In addition, septic system failure would seep into adjacent property owners' parcels causing damage.

IN THE LAST SIX YEARS, THERE HAS BEEN A CONCERTED EFFORT BY CITIZENS AND STINSON BEACH PROPERTY OWNERS, EXPRESSING OPPOSITION TO THE DEVELOPMENT OF THIS LOT FOR THESE REASONS. THERE ARE SIX COASTAL COMMISSION COMMENT LETTERS THAT HAVE ADDRESSED THE PROPOSED PROJECT IN THE PAST SIX YEARS. THEY ARE ATTACHED. BECAUSE OF THIS, THERE ARE NOW PERMANENT DEED RESTRICTIONS ATTACHED TO THE LOT, IMPLEMENTED BY THE CA. COASTAL COMMISSION.

If the Brian Johnson Trust would like to sell the vacant lot, another option is approaching Marin County Parks and Open Space. They have a budget for procurement for parcels such as these. This would allow the Brian Johnson Trust to sell the property WHILE FURTHER PREVENTING FUTURE dangers to PUBLIC USE, pedestrians, and property owners adjacent to the lot.

From 2015-2021, 136 PARCELS in Stinson Beach have been listed on the MLS and sold. Craig Nunes has had AMPLE opportunity, and continues, to consider purchasing other residential parcels, BUT INSISTS ON BUILDING A RESIDENTIAL PROPERTY ON 21 CALLE DEL ONDA, A LOT THAT ALREADY FLOODS, WITH PLANS THAT VIOLATE CURRENT CODES AND REGULATIONS, AND SEA LEVEL RISE STUDIES THAT CONCLUDE THE CALLES WILL BE NEGATIVELY AFFECTED BY SEA LEVEL RISE IN OUR LIFE TIME.

Why would one FURTHER spend resources on environmental consultants, septic, and architectural plans with these conditions? Since rules and regulations apply to ALL citizens and residents of Stinson Beach, it is confusing.

ARE RULES AND REGULATIONS FOR EXISTING PROPERTY OWNERS IN MARIN COUNTY STEADFAST BUT NOT SO TO FUTURE PROPERTY OWNERS WITH RESOURCES TO BUILD?

Respectfully,

Marisa Atamian-Sarafian and Dr. Stephen Sarafian

Marisa Atamian-Sarafian and Dr. Stephen Sarafian

24 Calle del Sierra

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
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March 31, 2016

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

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

Dear Ms. Taylor,

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

Public Access and Dune and Sandy Beach Protection

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

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

Shoreline Protection and Hazard Areas

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

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

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

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

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

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

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

- (a) Assume Risks. To assume the risks to the Permittee and the property that is the subject of this Coastal Permit of injury and damage from coastal hazards;
- (b) Waive Liability. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards;
- (c) Indemnification. To indemnify and hold harmless the County of Marin, its officers, agents, and employees with respect to the County's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and
- (d) Permittee Responsible. That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.

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

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

Johnson Coastal Permit (P1162)

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
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WEB: WWW.COASTAL.CA.GOV



June 30, 2016

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

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

Dear Ms. Taylor,

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

Coastal Access

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

Dune protection

The Marin LCP (IP Section 22.56.130(H)) requires that development of storefront 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 storefront 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

Johnson Coastal Permit (P1162)

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 EHSA. 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.

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

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
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March 16, 2021

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

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

Dear Sabrina Cordoza,

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

Dune and Sandy Beach Habitat Protection

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

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

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

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

Sea Level Rise Hazards and Shoreline Protection

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

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

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

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

Given the sea level rise hazards described above, and the additional seismic and liquefaction 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.

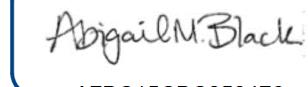
- e. **Assume Risks.** The Permittee: assumes the risks to the Permittee and the properties that are the subject of this CDP of injury and damage from such hazards in connection with this permitted development; unconditionally waives any claim of damage or liability against Marin County its officers, 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:


A7BC15CBC258476...
Abigail Black
Coastal Planner

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

Thu, Jul 1, 3:56 PM

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

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

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Good afternoon Sabrina,

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

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

Thank you,

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

3 Attachments



<https://mail.google.com/mail/u/0/?ui=2&ik=fc11a14b36&attid=0.1.0.2&permmsgid=msg-f:1...>

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

Pfeifer, Sara@Coastal -Sara.Pfeifer@coastal.ca.gov
to Cardoza, Sabrina, Rexing, Stephanie@Coastal, Steve Kinsey ▾

Thu, Jul 1, 3:56 PM

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

3 Attachments



CALIFORNIA COASTAL COMMISSION

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



August 5, 2021

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

Subject: P3049 Brian Johnson Trust Coastal Permit

Dear Ms. Cardoza:

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

Dune/Environmentally Sensitive Habitat Area (ESHA)

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

Hazards

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

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

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

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

Takings Analysis

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

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

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

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

Sincerely,



Sara Pfeifer
North Central Coast District Coastal Planner

Cc (via email):

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

From: [michael lemont](#)
To: [Cardoza, Sabrina](#)
Subject: Re: 21 Onda, Stinson Beach
Date: Tuesday, November 16, 2021 12:00:42 PM

Dear Mrs Cardoza, My name is Michael Lemont. I live at and own 15 Calle del Onda, Stinson Beach. I have lived at this address for the past 39 years. I want to take this opportunity to go on record to state my objection to the new construction being planned by Mr Robert Johnson for the vacant lot at 21 Calle del Onda, Stinson Beach.

My first objection is to the way in which the Stinson Beach Water Board caved into the lawsuit brought by Mr Johnson, his attorney and his Spokesperson former West Marin Supervisor Steven Kinsey. The Water Board had previously voted to not allow construction of a Waste Water System because it would be located only 70 feet from the high tide mark and the law states it must be 100 feet. This lawsuit cost the Water Board over \$20,000 in legal fees and they realized this could go on forever so they reach an agreement to reduce the size of the home and waste water system and allowed Mr Johnson to be granted a permit. They also refused to even consider a memo sent to all residents in the Easkoot Creek Floodplain on July 28, 2015 which states that the "Local Costal Program Unit 1, Policy IV-30 prohibits development that is located within the 100 year floodplain of Easkoot Creek." Mr Lai included a map that clearly shows the back part of 21 Onda (away from the ocean) where this waste water system is to be located and the proposed garage are both clearly within this floodplain. I guess Mr Lai's memo means nothing when the threat of another lawsuit looms and having the former West Marin Supervisor as a Spokesperson.

I also saw that former Supervisor Steven Kinsey is on the Costal Commission. Isn't that a conflict of interest? It seems to me that on one hand one of the objections of the Costal Commission to this construction is because there is a Moratorium on any construction within the 100 year floodplain and being a paid advocate of Mr Johnson for ignoring the Costal Commission objections.

How the Stinson Beach Water Board could have allowed both of these rules to be ignored only shows me what the fear of a costly lawsuit will do to make them look the other way. I wonder why are rules and regulations made that a threat of a

costly lawsuit can suddenly be overlooked? The newly permitted waste water system is NOT 100 FEET from the HIGH TIDE MARK and there is a MORATORIUM on any NEW CONSTRUCTION!

My next objection to this proposed new construction is that it is being built on a sand dune that has been slowly built up since the 82-83 El Niño winter destroyed a portion of the cabin that was located in the rear of this lot. It was rebuilt only to be burnt to the ground a year later by a teen relative cooking crystal meth. Since then a large protective sand dune has slowly been built up. This dune protects all of the residences on Calle del Onda when winter storms come in from the south and scour the beach and flood the Calles. This dune will be destroyed in order to build the proposed home at 21 Onda. In addition, Marin County is looking into building sand dunes to protect property in Stinson Beach???

I might also add that the house at 28 Onda was swept away in the 82-83 storms. Plus a damaged septic system would endanger not only the health of the neighborhood, but also the Public Access to the beach. On summer weekends literally a 100 pedestrians use Calle ONDA TO access the beach. The public parking lot often fills up by noon and people have to park on Hwy One and then use Onda to get to the beach.

I hope both the County of Marin and the Costal Commission will take a serious look at what rules are being overlooked and what damage this residence can to the existing homes on both Calle del Onda and neighboring Calle del Sierra.

Sincerely,
Michael Lemont
Lemontm@att.net

Sorry for the different spacing. . I can't seem to correct it.

[Sent from AT&T Yahoo Mail for iPad](#)

From: [michael lemont](#)
To: [Cardoza, Sabrina](#)
Subject: 21 Calle del Onda, Stinson Beach
Date: Tuesday, November 16, 2021 3:46:51 PM

To the Marin planning commission:

My name is Steven Trifone and I live/own 11 Calle del Onda. I am not at all in support of the proposed building permit for 21 Onda. This property has been a vacant lot for close to 40 years. The small cabin like home which used to sit on the back of this lot was first heavily damaged in the Winter storms of 1983 by flooding from the ocean and then shortly after it was repaired it was burnt to the ground. Since then a sand dune has built up, been destroyed then built up again and as of the late 80's has continued to build up and unlike the other Calles in Stinson where no sand dune exists and where storm flooding is common this sand dune has protected our Calle from flooding.

Much has been written lately about building sand dune type barriers at Stinson Beach to protect the homes and property on the various Calles that don't have protection from storm surges. Our Calle is the only one that has an existing sand dune that protects us from storms that come in from the south end of the beach. The sand dune on 21 Onda sits on the south end of our Calle and for the past 30 plus years has been our protection from the ocean during storms. This is one reason I do not want to see a home constructed on this sand dune. It will destroy the dune.

I also can't believe that with a construction Moratorium in place for all the other properties in the Calles this permit is even being considered. I can't even put a shed on my property. How the Stinson Beach Water Board would change their no vote to a later one approving a septic system for a property site that is clearly not the required 100 ft from the high tide mark is beyond us all.

Mine and my neighbors concern is that when this property floods and flood it will then what will protect us and the public access to the beach from this flooded septic waste contamination? Our Calle is a one of the main public access routes to the beach outside the National Park parking lot. Do you want to put beach going pedestrians in harms way?

I hope you will take my concerns, my neighbors concerns and the Costal Commission's concern into serious consideration.

Thank you,
Steven Trifone

[Sent from AT&T Yahoo Mail for iPad](#)