



**STAFF REPORT TO THE MARIN COUNTY  
PLANNING COMMISSION  
Corning Appeal of Carter Coastal Permit, Design Review and Variance**

**Recommendation:** Deny the Corning Appeal and sustain the Deputy Zoning Administrator's Decision conditionally approving the Carter Coastal Permit, Design Review and Variance Amendment Decision

**Hearing Date:** May 9, 2022

Application No(s): P3274  
Agenda Item: 2  
Last Date for Action: 5/23/2022

Owner(s): Todd & Susan Carter  
Assessor's Parcel No(s): 195-331-12  
Property Address: 228 Seadrift Road,  
Stinson Beach  
Project Planner: Immanuel Bereket  
Signature:

Countywide Plan Designation: C-SF5 (Low-Density Residential Coastal Zone)  
Community Plan Area: Stinson Beach  
Zoning District: C-RSPS-2.9 (Residential, Single-family, Planned)  
Environmental Determination: Exempt per CEQA Guidelines section 15301(I), Class 1 and 15303 (a) Class 3

**PROJECT SUMMARY**

On August 5, 2021, the applicants submitted a Coastal Permit, Variance, and Design Review Amendment to amend Carter Coastal Permit, Variance, and Design Review approval (P2010). The project was originally approved by the Planning Commission on March 25, 2019 (PC Resolution 19-004). As originally approved, the project entails the demolition of the existing house and the construction of a new 2,583 square foot residence and 286 square foot garage on a developed lot in the Seadrift area of Stinson Beach. The approved development would result in a floor area ratio of 10.6 percent on the 24,348 square foot lot. The approved building would reach a maximum height at the clerestory of 20 feet 6 inches above the surrounding grade and 37 feet NAVD-88, and no portion of the rest of the residence would exceed a maximum elevation of 33.83 feet NAVD-88. The exterior walls would have the following setbacks: 25 feet from the north front property line; 6 feet from the east side property line; 6 feet from the west side property line; 200 feet from the south rear property line.

The conditions of approval required that the lowest structural member of the residence to be raised three feet above the 19-foot Federal Flood Management Agency Base Flood Elevation

(FEMA BFE) requirement. Additionally, conditions of approval stipulated that any modification to the approved finished floor elevation must require a coastal permit amendment.

The proposed project would amend the conditions of the original approval related to the height of the development above the Base Flood Elevation established by the Federal Emergency Management Agency (FEMA). Specifically, the proposed amendment would modify Planning Commission Resolution No. 19-004, condition 2(B), as follows (new text is underlined while deleted text appears in ~~strikethrough~~):

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the plans to show that the lowest structural member of the residence has been raised three feet by one foot above the 19-foot Base Flood Elevation requirement. ~~If the applicant chooses to raise the lowest structural member less than three feet, an amendment to this approval shall be required.~~

No other amendments to the approved projects are proposed.

Under Marin County Local Coastal Program Implementation Section 22.71.130, Coastal Permit Amendment approval by the Deputy Zoning Administrator is required because the project proposes to amend the conditions of approval.

## PROJECT SETTING

Characteristics of the site and surrounding area are summarized below:

**Total Lot Area:** 24,348 square feet and dry lot area-8,267 square feet.  
**Adjacent Land Uses:** Single-family residences to the north, east, west, and south.  
**Topography and Slope:** Relatively flat, with an average slope of 5.74-percent.  
**Existing Vegetation:** Existing vegetation consists primarily of ornamental landscaping.  
**Environmental Hazards:** Moderate fire risk, moderate fire hazard severity zone, tsunami inundation area, very high liquefaction potential, "greater" ground shaking amplification hazard, and the southern portion of the site is located with a VE FEMA flood hazard zone (2017).

The property is a beachfront lot located in the Seadrift area of Stinson Beach. The property is currently developed with with a single-family home constructed prior to the current FEMA regulations. The existing house is proposed to be demolished as part of this project. The neighboring lots are also developed with pre-FEMA houses that were not built with the current finished floor area height requirements. Existing vegetation consists of ornamental landscaping.

## BACKGROUND

The current application was submitted on August 5, 2021. Upon receipt, the application was transmitted to the Department of Public Works (DPW), the Stinson Beach County Water District (SBCWD), the California Coastal Commission (CCC), and the application materials were posted online for public review. A site visit was made on August 12, 2021, and a project notice was installed the same day.

The project was deemed incomplete on September 6, 2021, and, upon the applicant's request, a 60-day extension was granted. On November 23, 2021, the applicant submitted the requested materials, including a letter from a licensed surveyor identifying the North American Vertical

Datum-88 (NAVD-88) and the NAVD-88 conversion to Mean Lower-Level Water (MLLW) datum applicable to the project site. On December 14, 2021, the application was deemed incomplete pending the installation of story poles and preparation and submittal of topographical and boundary survey maps.

The applicant installed story poles on December 14, 2021, and submitted revised plans on January 12, 2022. A second site visit was conducted on January 12, 2022, to confirm the installation of story poles and to erect a project notice for a second time. The application was deemed complete on January 14, 2022. Staff received written memorandums from DPW and Coastal Commission staff and written objection letters from the public. All written communications are provided as attachments to this report.

On March 10, 2022, the Deputy Zoning Administrator held a duly noticed public hearing to take public testimony, consider the project, and conditionally approved the requested amendment at the conclusion of the hearing. On March 16, 2022, Len Rifkind submitted a timely appeal on behalf of Lisa Wilcox Corning, an adjacent property owner at 230 Seadrift Road.

## **KEY ISSUES**

On July 13, 2021, the Marin County Board of Supervisors (BOS) voted to activate the certified Local Coastal Program (LCP) Amendments, except the chapters related to environmental hazards. The LCP amendments became effective on August 12, 2021. Since the application was deemed complete following the effective date of the LCP amendments, the project is subject to the requirements of the amended LCP.

Section 22.65.070 of the amended LCP Implementation Plan regulates building heights and finished floor elevations for properties in the Seadrift area of Stinson Beach. Height measurements based on the MLLW variables are no longer in effect. Instead, all height measurements are now based on NAVD-88.

Under Section 22.65.070(D)(1), the maximum permissible building height is 34.14 feet above NAVD-88 and the maximum permissible finished floor elevation is 19.14 feet above NAVD-88. In the areas of lots where FEMA requires minimum finished floor elevations to be set at levels higher than 19.14 feet above NAVD-88, the minimum floor elevations must comply with FEMA requirements, provided that the height of any structure may not be greater than 15 feet above the level of the minimum finished floor elevation required by FEMA. These maximum allowable height measurements may be modified through the review process.

The property is located on the seaward side of Seadrift Road, and the development is proposed to be encompassed within the VE FEMA Special Flood Zone, which requires a Base Flood Elevation (BFE) of 19 feet above NAVD-88. Further, the Marin County Land Development Division requires an additional one foot of freeboard above the BFE elevation to accommodate the structural supports. When accounting for the structural elements necessary to construct a building-code compliant floor assembly, the project results in a proposed finished floor elevation of 21.6 feet above NAVD-88, more than two feet higher than the FEMA requirement, but approximately two feet lower than previously approved. Further, the proposed amendment would not alter the approved overall height or affect the site layout. In order to retain the relationship between the finished floor and the windowsill heights, the windowsills would be lowered by two feet. However, the property is surrounded at the sides by a six foot-high fence and existing vegetation, with additional vegetation proposed, which would block views to neighboring properties from the lower portions of the windows. The maximum roof elevation for the clerestory

portion of the residence would remain as previously approved by the Deputy Zoning Administrator and affirmed by the Planning Commission. Therefore, there are no new direct or indirect impacts that the proposed amendment would cause that were not previously considered.

## **PUBLIC COMMENT**

The appellants are owners of 230 Seadrift Road and engaged the services of Bradford Hubbell and Len Rifkind, a licensed architect and an attorney, respectively, to review the project plans and provide comments on their behalf. Messrs. Hubbell and Rifkind submitted letters throughout the process objecting to the applicant's request to amend the previous approval. Mr. Riley Hurd, on behalf of the applicants, submitted a letter in support of the proposed amendments, arguing that the proposed amendment to lower the finished floor elevation does not change the overall height or in any way cause on- or off-site impacts that were not previously considered and dismissed by the Planning Commission. Additionally, letters and email correspondences were received from other surrounding neighbors objecting to the proposed project's height, mass, and bulk. All correspondences are included in the Deputy Zoning Administrator file for this project and provided as Attachment No. 9 to this report.

## **RECOMMENDATION**

Staff recommends that the Planning Commission review the administrative record, conduct a public hearing, and deny the Corning Appeal and sustain the Deputy Zoning Administrator Decision conditionally approving the Carter Coastal Permit, Design Review, and Variance Amendment, based on the findings and subject to the conditions contained in the attached resolution.

### Attachments:

1. Recommended resolution
2. Uniformly Applied Conditions 2022
3. CEQA exemption
4. Department of Public Works, Inter-Office memorandum dated December 20, 2021
5. Stinson Beach County Water District memorandum dated May 7, 2018
6. Coastal Commission, e-mail correspondence from Julia Koppman Norton, dated December 6, 2021
7. Minutes from the Deputy Zoning Administrator Hearings on March 10, 2022
8. Appeal filed the Lisa Wilcox Corning and Paul Corning at 230 Seadrift Road, Stinson Beach received March 16, 2022
9. Correspondences
10. Exhibit A - Project plans

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION DENYING THE CORNING APPEAL OF THE DEPUTY ZONING ADMINISTRATOR DECISION AND APPROVING THE CARTER COASTAL PERMIT, DESIGN REVIEW, AND VARIANCE APPLICATION

228 SEADRIFT ROAD, STINSON BEACH  
ASSESSOR'S PARCEL: 195-331-12

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SECTION I: FINDINGS

1. **WHEREAS**, Eugene Nahemow, on behalf of the owners, Todd & Susan Carter, requests a Coastal Permit, Design Review, and Variance Amendment to amend the previously approved Carter Coastal Permit, Design Review, and Variance (Resolution PC Number 19-004). The proposed amendment would modify Planning Commission Resolution No. 19-004, condition 2(B), as follows (new text is underlined while deleted text appears in strikethrough):

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the plans to show that the lowest structural member of the residence has been raised three feet by one foot above the 19-foot Base Flood Elevation requirement. ~~If the applicant chooses to raise the lowest structural member less than three feet, an amendment to this approval shall be required.~~

With the proposed amendment, the project would demolish the existing house and construct a new 2,583 square foot residence and 286 square foot garage on a developed lot in the Seadrift area of Stinson Beach. The 2,583 square feet of approved development would result in a floor area ratio of 10.6 percent on the 24,348 square foot lot. The proposed building would reach a maximum height at the clerestory of 20 feet 6 inches above the surrounding grade and 37 feet NAVD-88, and no portion of the rest of the residence would exceed a maximum elevation of 33.83 feet NAVD-88. The exterior walls will have the following setbacks: 25 feet from the north front property line; 6 feet from the east side property line; 6 feet from the west side property line; 200 feet from the south rear property line. No other amendments to the approved projects are proposed.

The property is located at 228 Seadrift Road, Stinson Beach, and is further identified as Assessor's Parcel 195-331-12.

2. **WHEREAS**, on March 10, 2022, the Marin County Deputy Zoning Administrator held a duly noticed public hearing to take public testimony and consider the project.

3. **WHEREAS**, on March 16, 2022, Lisa Wilcox Corning submitted a timely appeal of the Carter Coastal Permit, Design Review, and Variance decision.

4. **WHEREAS**, on May 9, 2022, the Marin County Planning Commission held a duly noticed public hearing to take public testimony, consider the project, and upheld the Deputy Zoning Administrator's decision.

5. **WHEREAS**, the bases of appeal are insufficient to overturn the Deputy Zoning Administrator's decision, for the reasons discussed below.

- A. The Appellant asserts that the DZA unreasonably limited her review of the amendment request without taking into consideration that the overall building height was based on a finished floor height two feet higher than the required by the code.**

*Response:*

In this appeal point, the Appellant argues that the DZA's review of the current application should have included a review of the entire project, including the site plan, building placement, building height, exterior design, the exterior colors, and the material pallet because lowering the finished floor by two feet will necessitate lowering all windowsills by two feet, thereby casing privacy impacts on the neighboring properties.

The DZA's review cannot include a review of the entire application as if it were not previously considered and approved. The standard of review for projects that seek amendments to previous approval, like this one, is restricted to the scope of the proposed amendment. Once a discretionary permit has been properly approved, and all the appeal process has been thoroughly exhausted, the County's ability to revoke or reconsider the discretionary permit or retroactively impose additional conditions of approval is limited. However, based on that scope, the review authority may impose conditions of approval that would modify other elements of the design apart from the proposed amendments.

In this case, the amendment is primarily limited to the interior space and would not modify any portion of the site plan, building placement, building height, the exterior colors, and the material pallet. The only proposed exterior modification relates to window placements and openings. The appellant's allegation that these window openings would cause new privacy impacts is unfounded.

In order to retain the relationship between the finished floor and the windowsill heights, the windowsills would be lowered by two feet. However, the property is surrounded at the sides by a six foot-high fence and existing vegetation, with additional vegetation proposed, which would block views to neighboring properties from the lower portions of the windows. Thus, privacy impacts from the project would be reasonable and not substantially detrimental.

- B. The Appellant asserts that the overall building height must be lowered by two feet since the proposed modification would lower the finished floor by two feet.**

*Response:*

In its review of the original application, the Planning Commission carefully considered the overall height that was proposed and granted a variance to exceed the maximum permissible under the zoning ordinance. The proposed finished floor elevation would still require a Variance approval because it would exceed the maximum height of prescribed by Section 22.65.070.D, which allows a maximum finished floor elevation of 19.14 feet above NAVD-88. The Planning Commission did not imposed a condition of approval that

required reduction of the building height by an equivalent amount should the finished floor be lowered.

Since there is no substantial evidence on the record to indicate that the proposed modification would introduce new impacts that were not previously considered, the Planning Commission should dismiss this appeal point.

**C. The Appellant asserts that the approved building has excessive roof plate heights in the main rooms and adjoining bedrooms.**

*Response:*

In this appeal point, the appellant requests reduction of interior floor-to-ceiling height. Although the original project was subject to the requirements of the previous version of the LCP, the proposed amendment is subject to the more recent LCP amendments. Specifically, Marin County Code Section 22.65.070 applies, which provides development standards for the C-RSPS zoning district (Seadrift Subdivision). Section 22.65.070(D)(1) provides exterior building height measurements based on the NAVD-88 datum consistent and in compliance with the Federal Emergency Management Agency (FEMA) flood zone VE. The County Code does not include any written requirements that establish the minimum or the maximum interior ceiling height. Rather, the overall height of the building and any related impacts should inform decisions.

**D. The Appellant asserts that the approved building adversely affects views, and privacy at 230 Seadrift Road.**

*Response:*

The primary issue here is whether the proposed amendment adheres to the visual resource policies of the County's certified LCP. The Coastal Act mandates that the scenic and visual qualities of the coast shall be considered and protected as a resource of public importance. In particular, views to and along the coast shall be protected. In addition, the County's certified LCP includes carefully considered measures to protect views and view corridors. Specifically, the LCP includes policies to protect those communities that are visitor destinations because of their unique characteristics. The LCP policies ensure that new structures are compatible with existing buildings' height, scale, and design while still accommodating compatible new development. These policies include C-DES-2 (Protection of Visual), C-DES-3 (Protection of Ridgeline Views), and C-DES-7 (Minimized Exterior Lighting).

The LCP Policy C-DES-2 requires that new development is sited and designed to protect significant views, including views both to and along the ocean and scenic coastal areas as seen from public viewing areas such as highways, roads, beaches, parks, coastal trails, and accessways, vista points, and coastal streams and waters used for recreational purposes.

The Seadrift neighborhood of Stinson Beach contains a mix of architectural styles, building bulk, height, and massing. Views of the ocean from Highway 1 in the vicinity of the project site are limited due to the sheer distance of the site from the highway and existing residential developments along the lagoon side of the Seadrift subdivision. Views towards

Mt. Tamalpais from the vantage point of the beach are interrupted by developments along Seadrift Road, within the Seadrift subdivision.

The modified project will not adversely impact abutting residences in terms of privacy or views more than the project previously approved because no changes to the exterior of the building are proposed for modification. The approved exterior building height, mass, bulk, placement, design, and landscaping will remain intact.

**E. The required Design Review findings under the Marin County Interim Code Sections 22.82.040I(B), (C), (F) cannot be made.**

*Response:*

In this appeal point, the Appellant references the Interim Zoning Ordinance related to the design compatibility (22.82.041I.B), orderly development with the built-in environment (22.82.041I.C), and scale, mass, protection of views and privacy (22.82.041I.F). The Interim Zoning Ordinance is no longer in effect.

For the proposed amendment, the standards of design review findings are detailed in the Marin County Code Section 22.42.060, which was adopted as part of the LCP amendment the BOS certified in July of last year. As stated above, the amendment is limited to the interior space and would not modify any portion of the exterior the site plan, building placement, building height, exterior design, the exterior colors, and the material pallet. The proposed amendment would not result in any additional impacts to views or privacy in comparison to the originally approved project.

**F. The relationship between the home at 230 Seadrift and the proposed building at 228 Seadrift is poor and should be redesigned. Additionally, the parapet element of the proposed project unnecessarily adds to the height and bulk of the structure and should be removed.**

*Response:*

The Commission's review and discretion are limited to the current application to modify the project. In this case, the amendment is limited to the interior space and would not modify any portion of the exterior, the site plan, building placement, building height, exterior design, the exterior colors, or the material pallet.

**G. The applicant cannot reopen the prior final approval and seek an amendment to a project for which the appeal period has lapsed. Therefore, the DZA had no jurisdiction to hear the amendment proposed and approved.**

*Response:*

Local Coastal Program Implementation Plan Section 22.70.130 (Amendments to Coastal Permits) affords a statutory basis to amend coastal permits. In fact, a Coastal Permit may be amended in the same manner required for initial approval, and amendment requests are subject to the appeal provisions of Section 22.70.080 (Appeal of Coastal Permit Decision). Amendments are also allowed for Design Review and Variance applications. Amendments are discretionary in the same way that the original decisions were

discretionary. If the amendments are denied, then the applicant would continue to have the entitlement to develop the project as originally approved.

6. **WHEREAS**, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15301, Class 1 and 15303, Class 3 of the CEQA Guidelines because it entails the demolition of an existing house and the construction of a new house on a developed lot in the Seadrift subdivision, and would not have significant impacts on the environment.

7. **WHEREAS**, the project is consistent with the goals and policies of the Marin Countywide Plan for the following reasons:

- A. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees.
- B. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.
- C. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, Baylands, or woodlands.
- D. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.
- E. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.
- F. The project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during the review of the Building Permit application, and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
- G. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during the review of the Building Permit application.
- H. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.
- I. The project is consistent with CWP residential design policies and programs (DES-3.b and DES-4c) because it would fit within the context of the neighborhood, minimize the perception of mass and bulk, and comply with the Single-family Residential Design Guidelines.

8. **WHEREAS**, the proposed amendment is consistent with the goals and policies of the Stinson Beach Community Plan for the following reasons (Sec. 22.66.040):

- A. Community character.** The Seadrift area of Stinson Beach comprises a varied mix of architectural styles. While older residences are generally one-story in height, the two-story residences are a combination of newer residences and older residences with second-floor additions. Single-story residences in the neighborhood tend to have a mid-century modern architectural style, while two-story residences tend to have a contemporary post-modern design. The bulk, height, and massing vary widely from single-story residences constructed before the latest Federal Emergency Management Agency (FEMA) requirements to taller, newer structures constructed in compliance with the latest FEMA requirements.

New structures located within the VE Flood Zone, such as this, must be elevated to meet the required FEMA Base Flood Elevation (BFE). In addition, the Marin County Land Development Division requires an additional one foot of freeboard above the BFE elevation to accommodate the structural supports. In this instance, the BFE (19.14 feet above NAVD-88) and DPW's requirements (BFE plus one) would result in the lower structural element of the roof assembly to be at least 20.14 feet above NAVD-88. When accounting for the structural elements necessary to construct a California Building Code (CBC) compliant floor assembly, the project results in a proposed finished floor elevation of 21.6 feet above NAVD-88, which is in keeping with the newer homes in the area. Accordingly, the single-family residence has been designed to comply with the required FEMA and corresponding CBC standards will be taller than older residences. The proposed amendment would not substantially alter the exterior appearance of the building that was originally approved, except that the windows would be lowered by two feet.

- B. Density and location of development in Seadrift.** The proposed amendment involves the construction of a single-family residence where single-family developments and uses are permitted. The proposed amendment would not change the permitted density in any way. Therefore, the project is consistent with Land Use Plan Policy C-SB-3.
- C. Stinson Beach dune and beach areas.** As approved, the residence would be built in the same general location as the existing house and would not obstruct sands on the beach or dunes that are present in the area of the proposed development. The proposed amendment would not change the approved setbacks, building placement on the site, or otherwise modify site conditions beyond the approved project. Therefore, the proposed amendment is consistent with Land Use Plan Policy C-BIO-9.

9. **WHEREAS**, the project is consistent with the mandatory findings for a Coastal Permit (Marin County Local Coastal Program Implementation Plan Section 22.70.070)

- A. Coastal Access.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Public Coastal Access section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.180 (Public Coastal Access). Where the project is located between the nearest public road and the sea, a specific finding must be made that the proposed project, as conditioned, is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act (commencing with Section 30200 of the Public Resources Code).

The project is consistent with the LUP public coastal access policies (C-PA-3, C-PA-4, C-PA-17, C-PA-21), and this finding because the project site is not near a bluff and would not interfere with or impact coastal access as it is not located on a coastal bluff. Additionally, the subject property is a previously developed oceanfront property with coastal access along the southern shoreline of the parcel. The proposed amendment will conform to the established building limit line for the property and will not affect existing coastal access. Further, no coastal access is provided from this private property.

**B. Biological Resources. The proposed project, as conditioned, is consistent with the applicable policies contained in the Biological Resources section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.050 (Biological Resources).**

The project site is a fully developed lot and currently contains ornamental landscaping typical of residential developments. The proposed amendment will have no impact on the habitat value of the site beyond the approved project, which would not extend into the dunes or onto the beach past the current area of disturbance.

**C. Environmental Hazards. The proposed project, as conditioned, is consistent with the applicable policies contained in the Environmental Hazards section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.060 (Environmental Hazards).**

On July 13, 2021, the Board of Supervisors voted to activate the certified Local Coastal Program (LCP) Amendments. All portions of Marin's LCP Amendments have been approved by the Board of Supervisors and certified by the Coastal Commission, with the exception of chapters related to environmental hazards, which remain the subject of ongoing work and public input. As a result, those sections of the original versions of the LCP, certified by the Coastal Commission in 1980 (Unit I) in 1981 (Unit II) and the Marin County Interim Code Sections 22.56.130I.H, 22.56.130I.K, and 22.56.130I.L still apply to environmental hazards and are further discussed in the Interim Code section of this report.

**D. Agriculture and Mariculture. The proposed project, as conditioned, is consistent with the applicable policies contained in the Agriculture and Mariculture sections of the Marin County Land Use Plan and the applicable agricultural and maricultural standards contained in Chapter 22.32.**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on agriculture and mariculture.

**E. Water Resources. The proposed project, as conditioned, is consistent with the applicable policies contained in the Water Resources section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.080 (Water Resources).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on water resources.

**F. Community Design. The proposed project, as conditioned, is consistent with the applicable policies contained in the Community Design section of the Marin County**

**Land Use Plan and the applicable standards contained in Chapter 22.66 (Community Design).**

The Seadrift neighborhood of Stinson Beach contains a mix of architectural styles. As discussed in Section 8(a) above, bulk, height, and massing vary from single-story residences constructed before the FEMA BFE requirements to taller, newer structures constructed in compliance with the latest FEMA requirements. Views of the ocean from Highway 1 in the vicinity of the project site are limited due to the sheer distance of the site from the highway and existing residential developments along the lagoon side of the Seadrift subdivision. Views towards Mt. Tamalpais from the vantage point of the beach are interrupted by developments along Seadrift Road, within the Seadrift subdivision.

The visual impacts from the vantage point of Highway 1 and the beach will not be impacted any more than they currently are due to the proposed amendment. As stated above, the project site is developed with a single-family residence, and views towards Mt. Tamalpais from the vantage point of the beach are currently interrupted. Likewise, ocean views from the vantage point of State Route 1 are obscured by existing vegetation and residential development along Dipsea Road. There are no direct and proximate impacts due to the proposed amendment that were not previously considered by the DZA and the Planning Commission when the project was initially approved.

The approved project utilizes the modern architectural expression of the recent development in the area by incorporating a varying roof profile. Additionally, the approved project uses color and material palette typical for this area of Stinson Beach. The proposed amendment would not change the approved mass, bulk, site design, circulation, exterior architecture, or previously approved color and material palette. Therefore, the proposed amendment is consistent with Section 22.64.100(A)(1) because the project entails a development that is consistent and compatible with the character of the surrounding natural and built environment, as required by Land Use Policies C-DES-1, C-DES-2, and C-DES-3.

**G. Community Development. The proposed project, as conditioned, is consistent with the applicable policies contained in the Community Development section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.110 (Community Development).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on community development.

**H. Energy. The proposed project, as conditioned, is consistent with the applicable policies contained in the Energy section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.120 (Energy).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on energy.

**I. Housing. The proposed project, as conditioned, is consistent with the applicable policies contained in the Housing section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.130 (Housing).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on housing.

- J. Public Facilities and Services. The proposed project, as conditioned, is consistent with the applicable policies contained in the Public Facilities and Services section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.140 (Public Facilities and Services).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on public facilities.

- K. Transportation. The proposed project, as conditioned, is consistent with the applicable policies contained in the Transportation section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.150 (Transportation).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on transportation.

- L. Historical and Archaeological Resources. The proposed project, as conditioned, is consistent with the applicable policies contained in the Historical and Archaeological Resources section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.160 (Historical and Archaeological Resources).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on historical and archaeological resources.

- M. Parks, Recreation, and Visitor-Serving Uses. The proposed project, as conditioned, is consistent with the applicable policies contained in the Parks, Recreation, and Visitor-Serving Uses section of the Marin County Land Use Plan and the applicable standards contained in Section 22.64.170 (Parks, Recreation, and Visitor-Serving Uses).**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on parks, recreation, and visitor serving uses.

10. Mandatory findings for Coastal Permit approval pursuant to Marin County Interim Code Sections 22.56.130I.H, 22.56.130I.K, and 22.56.130I.L.

**A. Dune Protection (Marin County Interim Code Section 22.56.130I.H)**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on dune protection.

**B. Shoreline Protection (Marin County Interim Code Section 22.56.130I.K)**

The proposed new residence is adequately set back from the ocean as required by the development limits applied to all oceanfront properties within the Seadrift Subdivision. The

proposed residence would replace an existing single-family residence on the lot with one that is set back even further from the shoreline; therefore, the proposed project would not impact shoreline resources.

### **C. Geologic Hazards (Marin County Interim Code Section 22.56.130I.L)**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on geologic hazards.

11. Mandatory Findings for Coastal Zone Variance (Marin County Local Coastal Program Implementation Plan Section 22.70.150)

#### **A. There are special circumstances unique to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.**

The property is located within the seaward side of Seadrift Road, and the development is proposed to be encompassed within the VE FEMA Special Flood Zone, which requires a Base Flood Elevation (BFE) of 19.14 feet above NAVD-88.

*Finished Floor Elevation:* Section 22.65.070(D)(1) of the Local Coastal Program Implementation Plan requires that in "the areas of lots or parcels where FEMA requires minimum finished floor elevations to be set at levels higher than 19.14 feet above NAVD-88, minimum floor elevations shall comply with FEMA requirements."

As stated above, the property is located within the seaward side of Seadrift Road, and the development is proposed to be encompassed within the VE FEMA Special Flood Zone, which requires a Base Flood Elevation (BFE) of 19 feet above NAVD-88. Further, the DPW Land Development Division requires an additional one foot of freeboard above the BFE elevation to accommodate the structural supports. Applications of both FEMA and the DPW regulations require the lowest floor assembly membrane to be 20 feet above NAVD-88. When accounting for the structural elements necessary to construct a building-code compliant floor assembly, the project results in a proposed finished floor elevation of 21.6 feet above NAVD-88.

The FEMA and DPW requirements contradict Marin County's Local Coastal Program Implementation Plan Section 22.65.070(D)(1) requirement for Seadrift Subdivision One, which stipulates a required finished floor elevation not to exceed 19.14 feet above NAVD-88. Without a variance for the finished floor, a code-compliant new residence cannot be constructed at this site. Additionally, the subject property's location within the flood zone has been established as an exceptional circumstance through past case law (*Craik v. County of Santa Cruz*, 2000, No. H020690); therefore, this finding can be made.

*Maximum Height of a Structure Above NAVD-88.* The Marin County Local Coastal Program Implementation Program Section 22.65.070(D)(1) requires that the "height of any structure shall not exceed 34.14 feet above NAVD-88, provided that in those portions of lots and parcels where FEMA requires minimum finished floor elevations to be set at a level higher than 19.14 feet above NAVD-88, the height of any structure shall not be greater than 15 feet above the level of the minimum."

The proposed amendment would not alter the approved overall height or affect the site layout or exterior of the building. The maximum roof elevation for the clerestory portion of the residence would exceed 36.14 feet above NAVD-88, as previously approved. The Deputy Zoning Administrator previously granted this height exceedance, and the Planning Commission reaffirmed the approval. The proposed amendment would not affect the overall height of the structure.

The amendment would not constitute a grant of special use or privilege not enjoyed by others in the vicinity and under the same zoning designation as the newer homes constructed in compliance with FEMA. California Building Code requirements have a similar finished floor and overall height.

- B. Granting the Variance may only provide relief from standards relating to height, floor area ratio, and yard setbacks, and does not grant relief from the use limitations, minimum lot size, density requirements, or any other LCP requirements, governing the subject development.**

In granting the original variances, the Planning Commission considered the conflicting Federal, State, and County requirements and weighted architectural merits of the project. The Planning Commission found a variance, in this case, was necessary for the clearstory portion of the project to exceed the height limit to add architectural expression to the design. Granting a variance for the finished floor elevation is necessary to cure the conflicting regulations related to finished floor elevations. The proposed amendment would not modify the overall height of the previously approved project.

- C. Granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located.**

A residence, regardless of design, could not be constructed on the subject site without a variance to the finished floor. Designing a residence in compliance with a finished floor height of 19.14 feet above NAVD-88 is not possible. When combined with the County's requirements, the FEMA requirements would make compliance difficult and necessitate a variance approval. Additionally, the Planning Commission previously reviewed and approved the overall height as proposed, deeming the proposal consistent with the newer developments in the vicinity. The proposed amendment would not modify the overall height of the previously approved project.

- D. Granting the Variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.**

Granting the Variance for the finished floor and building height would not authorize a use or activity that the governing C-RSPS-2.9 Zoning District does not authorize. The Variance would authorize the construction of a single-family residence use customarily allowed.

#### **Mandatory Findings for Design Review (Marin County Code Section 22.42.060)**

- A. The proposed amendment complies with the Single-family Design Guidelines, as applicable, the characteristics listed in Chapter 22.16 (Discretionary Development**

**Standards) and 22.32.168 (Tidelands), as well as any applicable standards of the special purpose combining districts provided in Chapter 22.14 of this Development Code.**

There are no standards provided in Chapter 22.14 that apply to the project, and the development would not occur within a tidelands area. The project, as conditionally approved, is consistent with the Design Guidelines and Discretionary Development Standards because it is designed to avoid adversely affecting natural resources or the character of the local community. The proposed amendment's consistency with the standards and guidelines most pertinent to the subject property is discussed below.

**SITE PREPARATION:** Development Standards J.1 through J.6; Design Guidelines A-1.2 through A-1.4

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on site preparation.

**BUILDING LOCATION:** Development Standards D.1 through D.4; Design Guidelines D-1.6

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on building location.

**PROJECT DESIGN:** Development Standard I.1 and I.2; Design Guideline D-1.7

As approved, the project design and site layout reflect the prevailing modern architecture in the Seadrift area of Stinson Beach. The project would feature a clerestory that would be offset from adjacent residences and, as a result, would not be visually obtrusive or prominent. Additionally, the approved project would incorporate colors and materials that are in keeping with the surrounding built environment and will not detract views from the State Route 1 looking towards the beach or from the beach's vantage point to Mt. Tamalpias. The proposed structure would be adequately screened by existing and proposed vegetation. The colors and materials that would be utilized in constructing the building are earth-tone, non-reflective, and unobtrusive. All exterior lighting would be directed downward and shielded so as not to cast glare on nearby properties.

The proposed amendment would not change the approved building style, architecture, setbacks, building placement on the site, or otherwise modify the approved exterior in any way.

**MASS AND BULK:** Design Guidelines D-1.1 through D-1.5

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on mass and bulk.

**EXTERIOR LIGHTING:** Development Standard G; Design Guideline C-1.11

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on exterior lighting.

**LANDSCAPING AND VEGETATION REMOVAL:** Development Standard F; Design Guideline A-1.1

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on landscaping.

**ACCESS:** Development standard C; Design Guidelines A-1.5

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on access.

**NEIGHBORHOOD COMPATIBILITY:** Design Guidelines B-1.1, C-1.1 through C-1.3, C-1.7

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on neighborhood compatibility.

**B. The proposed development provides architectural design, massing, materials, and scale that are compatible with the site surroundings and the community.**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on building mass or scale, and the only change to the architecture would be to lower the windows by two feet.

**C. The proposed development results in site layout and design that will not eliminate significant sun and light exposure or result in light pollution and glare; will not eliminate primary views and vistas; and will not eliminate privacy enjoyed on adjacent properties.**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on building mass or scale, and the only change to the architecture would be to lower the windows by two feet.

**D. The proposed development will not adversely affect and will enhance where appropriate those rights-of-way, streetscapes, and pathways for circulation passing through, fronting on, or leading to the property.**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on access or streetscapes.

**E. The proposed development will provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.**

The proposed amendment relates only to the elevation of the finished floor and related structural members. Therefore, it would not have any impact on the separation between buildings or the landscaping.

**SECTION II: ACTION**

NOW, THEREFORE, BE IT RESOLVED that the project described in condition of approval 1 is authorized by the Marin County Planning Commission and is subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

### **SECTION III: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby dismisses the appeal and approves the Carter Coastal Permit, Design Review, and Variance Amendment, subject to the conditions listed below.

#### **CDA-Planning Division**

1. This Coastal Permit, Design Review, and Variance Amendment approval authorizes the removal of Condition 2(B) of the previously approved Carter Coastal Permit, Variance and Design Review (PC Resolution Number 19-004). The approved amendment consists only of lowering the finished floor elevation reference of Section III: Conditions of Project Approval, Condition (2)(B) as follows:

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the plans to show that the lowest structural member of the residence has been raised ~~three feet~~ by one foot above the 19-foot Base Flood Elevation requirement. ~~If the applicant chooses to raise the lowest structural member less than three feet, an amendment to this approval shall be required.~~

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "The Carter Family Home," consisting of 25 sheets prepared by Studio Nahemow Design, received in final form on January 12, 2022, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. All conditions of approval, with the exception of Section III: Conditions of Project Approval, Condition (2)(B), required in the Carter Coastal Permit, Variance and Design Review (PC Resolution Number No. 19-004) apply.
4. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2022" with respect to all of the standard conditions of approval and the following special conditions: 4.

### **SECTION IV: VESTING**

NOW, THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

### **SECTION V: APPEAL RIGHTS**

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than ten business days from the date of this decision.

**SECTION VI: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 9<sup>th</sup> day of May 2022 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

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DON DICKENSON, CHAIR  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Ana Hilda Mosher  
Planning Commission Recording Secretary