



MEMORANDUM

May 3, 2022

TO: Marin County Planning Commission

FROM: Immanuel Bereket

SUBJECT: Corning Appeal of the Carter Coastal Permit, Design Review, and Variance Amendment
Item 5.: Marin County Planning Commission Hearing of May 9, 2022
Project Address: 228 Seadrift Road, Stinson Beach
Assessor's Parcel: 195-331-12

Since distribution of the staff report, staff has received additional communication from Mr. Riley Hurd, on behalf of the applicants.

ATTACHMENT:

1. Letter from Riley F. Hurd dated April 27, 2022.



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Riley F. Hurd III
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April 27, 2022

Via E-Mail Only

Planning Commission
County of Marin
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

**Re: 228 Seadrift Road, Stinson Beach – 2nd appeal of project
Project ID No. P3274**

Dear Members of the Planning Commission:

When the same neighbor appeals the same project twice, something is amiss. Unfortunately, in this case, a mandatory change to a minor design detail is being used to try to get a second bite at the apple. This is a continuation of a long and pervasive pattern by the appellant to use all means necessary to stop a code compliant home from being built. This time, the neighbor is opposing *lower* finished floor heights. There are literally no other changes requested for the already-approved project.

This innocuous request, which has been mandated by the local HOA, is being utilized to try and re-open the entire discussion surrounding the design of the home. When the actual narrow issue is considered, there is no doubt that the findings for the amendment can be made.

On multiple occasions the County's DZA and your Commission have approved the height and design of this house. The proposal to lower the finished floor heights has **zero** effect on any other aspect of the approved design, and in no way increases, or changes in any way, the impact of the house on the complaining neighbor.

If the coastal permit and design review findings could be made for the initial house design, they can absolutely be made for the same design, just with lower floors.



Background

Due to the unrelenting neighbor opposition and ever-changing FEMA regulatory landscape, this project has a lengthy history of review. However, the issue of the finished floor heights is relatively straightforward:

1. Based on a genuine and well-founded concern regarding the effects of sea level rise, the applicants designed a home with higher finished floor heights than the minimums required by FEMA. The idea was to future-proof the house against rising seas.
 - a. Importantly, despite seeking these higher floor heights, the applicants were still strictly held to the maximum height of 33.83.
2. County staff expressed support for planning more aggressively for sea level rise than just the bare minimum required by FEMA, and the house was approved by the DZA, and approved again after an appeal by the neighbor to the Planning Commission.
3. Unfortunately, when the applicants returned to the Seadrift HOA for final approval of their plans, they were informed that the HOA would not approve the elevated finished floors, and that the HOA would continue to strictly enforce their rule that finished floor height may not exceed eighteen (18) inches above the minimum set by FEMA.
4. Because of the HOA's inflexibility, the applicants were forced to return to the County and seek a minor amendment to their plans for just one thing: lower floors.
 - a. This amendment would actually **remove** the variance granted for the higher floors, thereby making the home fully compliant with all of the County and Seadrift HOA regulations.



DZA Approval

The request for the lower floors was summarily approved by the DZA on March 10, 2022. The findings for this approval were straightforward:

- “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.”
- “There are no new direct or indirect impacts that the proposed amendment would cause that were not previously considered.”

These findings make perfect sense, as the lower floors have zero perceptible impact on the neighbor. Despite this fact, the neighbor has now appealed the DZA decision to your Commission.

The Appeal

The neighbor, through their attorney, appealed the DZA approval of the lower floor heights on March 16, 2022. While the appeal has 8 points, the general crux of it is that the neighbor wants re-hash the whole house design again. The appeal still erroneously claims there is a new parapet proposed and that lower floors somehow affect privacy and light. In reality, it’s the exact same project, and lowering floor heights has no effect on the neighbor.

The findings can still be made

The appeal asserts that the design review findings that were made for the house somehow now can’t be made if the finished floors are lower. This assertion strains the credulity of the author.

Specifically, the neighbor’s lawyer again suggests that Design Review Findings B, C, F1 and F5 cannot be made if the floors are lower. This was also asserted in a letter to the DZA. When these findings are honestly considered in the context of the amendment, it is clear the floor height reduction changes nothing.



- **Finding B** addresses harmony with the neighborhood.
 - The appellant suggests that “the design creates substantial disharmony with 230 Seadrift both in form and function.”
 - **Response:** There is no way just a lower finished floor could have such an effect.

- **Finding C** addresses use or enjoyment of other property in the vicinity.
 - The appellant asserts that “the design substantially reduces the use and enjoyment of 230 Seadrift.”
 - **Response:** This amendment is *only* about lower floors, not the design of the house. Lower floors could never reduce the use and enjoyment of 230 Seadrift.

- **Findings F1 and F5** address the scale, mass, height, area and materials of buildings and structures, as well as diminution or elimination of sun and light exposure, views, vistas and privacy.
 - Again, the appellant conflates the amendment request for lower floors with the design of the house and references photos of the proposed home’s massing.
 - **Response:** Lower floors have nothing to do with mass, sunlight, privacy, or any other issue covered by Findings F1 and F5. **There is a 6’ fence at the shared property line, which means the change in floor heights is not even visible from the neighbor’s property.** The only difference is less visible freeboard from the beach and the street, a massing benefit.

The appeal also makes the allegation that the plans for the house now include a *new* parapet roof detail. This is not true. The parapet has always been a part of the design. The entire design of this house, including the parapet, was approved by the DZA via Resolution No.19-102, and confirmed by your Commission via Resolution No. PC19-004. These decisions followed the precedent for the neighborhood, **as multiple other homes on the street were approved at the same height, but with finished floors at 21.6, the exact floor height now requested.**



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Conclusion

This house was approved at the exact same height as the other new homes recently approved in Seadrift, but our clients just tried to be even more cognizant of sea level rise. Unfortunately, the HOA will not tolerate the higher floors, and this amendment had to be sought.

This is a narrow request that objectively has no impact on neighbors and in no way alters the previously made approval findings. The findings were made before, multiple times in fact. Lower floors does not somehow create impacts that would warrant a different outcome for the same house, in the same place, with just lower floors. While the neighbor may be disappointed about a new home next door, this minor change is not an opportunity for a 2nd (actually 4th or 5th) bite at the apple.

We would ask that the Commission approve the amendment.

Thank you.

Very Truly Yours,

A handwritten signature in blue ink that reads "Riley F. Hurd III". The signature is written in a cursive, flowing style.

Riley F. Hurd III

CC: Client