

**MARIN COUNTY PLANNING DIVISION**  
**ADMINISTRATIVE DECISION**  
Frishmann Design Review

**Decision:** Approved  
**Date:** April 3, 2022

Project ID No: P3327 Applicant(s): David Anderson, Monarch Gardens  
Owner(s): Justine Frishmann  
Assessor's Parcel No(s): 164-411-03  
Property Address: 85 Pikes Peak Dr., San Rafael, CA  
Project Planner: Joshua Bertain  
(415)473-3171  
[jbertain@marincounty.org](mailto:jbertain@marincounty.org)

Signature:

Countywide Plan Designation: SF6 (Low Density Residential)  
Community Plan Area: Not applicable  
Zoning District: R1-B-LV (Residential Single Family)  
Environmental Determination: CEQA Guidelines section 15303, Class 3

**PROJECT SUMMARY**

The applicant requests Design Review approval to construct a new pool and relocate an above ground spa in the rear yard of a developed property in San Rafael.

The proposed pool would be flush with the surrounding grade, measure 12 feet wide by 50 feet long, and would have the following setbacks: 92 feet, 6 inches from the eastern front property line; 4 feet, 7 inches from the southern side property line; 37 feet from the northern side property line; and 25 feet from the western rear property line. The relocated spa would have the following setbacks: 81 feet, 6 inches from the eastern front property line; 3 feet from the southern side property line; 80 feet from the northern side property line; and 55 feet from the western rear property line. Various site improvements would also be entailed in the proposed development, including a new pergola, pool equipment, retaining walls, and a deck. This application does not propose any change or modification to the existing floor area on the property.

Design Review approval is required pursuant to Section 22.30.040 of the Marin County Development Code because pools and spas do not qualify for an exemption when located in the R1-B-LV zoning district.

## **COUNTYWIDE PLAN CONSISTENCY**

The proposed project is consistent with the Marin Countywide Plan (CWP) 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 as verified by the biological site assessment prepared on December 30, 2021, by Richard Tanner, of Ecotech Resources, Inc.
- 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 as verified by the biological site assessment prepared on December 30, 2021, by Richard Tanner, of Ecotech Resources, Inc.
- 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 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 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.

## **DEVELOPMENT CODE CONSISTENCY**

### **Lucas Valley Community Standards 22.30.040**

The proposed project is consistent with the Lucas Valley Community Standards (Marin County Code Section 22.30.040 E) as discussed below.

1. All mandatory findings contained in Section 22.42.060 (Design Review - Decision and Findings) can be made.

The project entails relocating an existing above-ground spa and the construction of a new pool that is flush with the ground. All of the mandatory Design Review findings have been made in the section below (Mandatory Findings for Design Review- Marin County Code Section 22.42.060).

2. For an Eichler-design residence, the proposed development and improvements retain and preserve the classic architectural design elements and design concepts including, but not necessarily limited to: Retention of the simple, rectilinear style, form, and facades; respect of the post-and-beam detailing; window and door details; roof slopes; exterior finishes and colors; scale and proportions; transition of spaces; entry courtyards; atrium features; and deep roof overhangs.

The project includes a new pool that would be flush with the surrounding grade and the relocation of an existing above-ground spa. These features would not distract from or modify the Eichler-design. Therefore, the project is consistent with this finding.

3. The over-all residential development preserves, and is compatible with, the existing character and quality of the prevailing single-family residential neighborhood.

The project as proposed is compatible with the prevailing single-family neighborhood that is characterized by single-family Eichler-design residences on modestly sized lots. Properties within the vicinity include similar outdoor improvements such as pools, spas, and improved outdoor spaces in the rear yard.

4. The proposed development utilizes exterior building materials, surfaces, and colors consisting of natural and non-reflective materials and colors that blend into the natural environment unobtrusively. Exterior materials and colors on Eichler-design residences are consistent with the classic Eichler exterior characteristics and finishes.

The proposed pool will be flush with the surrounding grade and both the pool and the relocated spa will be placed behind an existing side yard fence as well as a proposed wood sound fence to limit noise and provide privacy. The improvements will be screened by existing ornamental landscaping that blends the improvements into the surrounding natural and built environment.

5. The landscaping design utilizes fire resistance, erosion control, and drought-tolerant species, provides visual buffering for privacy, and upon maturity will not obscure the major views of the off-site vistas as seen from public streets. The landscaping design utilizes landscaping material that blends and is consistent with the prevailing neighborhood design characteristics.

The project site is landscaped with ornamental landscaping including trees, grasses, and small shrubs. Ornamental landscaping located in the area of the proposed pool and relocated spa will be removed; however, the remaining ornamental landscaping, the existing fencing, and the proposed fencing will not obscure the views of the off-site vistas as seen from public streets and is consistent with the prevailing landscaping in the neighborhood.

6. Siting of additions preserves privacy and views between neighboring residences.

No additions are proposed in this development. Privacy impacts are not anticipated from this development because the proposed pool would be flush with the surrounding grade and the relocated above-ground spa would be positioned to not further encroach into the side yard setback. Lastly, the ornamental landscaping, the existing fencing, as well as the proposed wood fence, will provide for additional privacy along the perimeter of the site.

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

The project is consistent with the mandatory findings for Design Review approval for the reasons discussed below.

- A. The proposed development is consistent with the Design Guidelines and Discretionary Development Standards because it is designed to avoid adversely affecting natural resources and the character of the local community. Further, the exterior materials proposed for the development would complement the project design and the surrounding area. There are no standards provided in Chapter 22.14 that apply to the project.
- B. The proposed architectural design, massing, and scale of the project are compatible with the site surroundings and the community. Further, a standard condition of approval requires that exterior lighting installed for the project be unobtrusive to surrounding properties.
- C. The proposed site layout and design avoids eliminating sunlight, blocking primary views, or invading the privacy enjoyed on surrounding properties.
- D. The proposed development would not encroach into any streets or pathways and would not detract from the appeal of the streetscape.
- E. The proposed development would provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.

### **ACTION**

The project described in condition of approval 1 below is authorized by the Marin County Planning Division and is subject to the conditions of project approval.

This planning permit is an entitlement to apply for construction permits, not a guarantee that they can be obtained, and it does not establish any vested rights. 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.

### **CONDITIONS OF PROJECT APPROVAL**

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

1. This Design Review approval authorizes the construction of a new pool and the relocation of an above ground spa in the rear yard of a property developed with an existing single-family residence in an unincorporated area of San Rafael.

The approved pool shall be flush with the surrounding grade and shall maintain the following setbacks: 92 feet, 6 inches from the eastern front property line; 4 feet, 7 inches from the southern side property line; 37 feet from the northern side property line; and 25 feet from the western rear property line. The relocated spa shall have the following setbacks: 81 feet, 6 inches from the eastern front property line; 3 feet from the southern side property line; 80 feet from the northern side property line; and 55 feet from the western rear property line. Various site improvements shall also be entailed in the proposed development, including a new pergola, pool equipment, retaining walls, and a deck. This application does not propose any change or modification to the existing floor area on the property.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "85 Pikes Peak Drive," consisting of two sheets prepared by Monarch Gardens, received in final form on January 3, 2022, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2022" with respect to all of the standard conditions of approval.

**VESTING**

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.

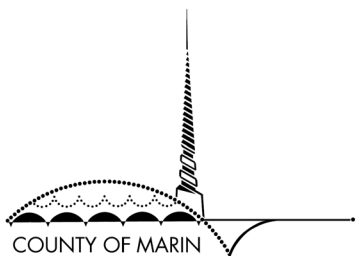
**RIGHT TO APPEAL**

This decision is final unless appealed to the Planning Commission. 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 eight business days from the date of this decision (April 13, 2022).

- cc: *{Via email to County departments and Design Review Board}*  
CDA – Assistant Director  
CDA – Planning Manager  
DPW – Land Development  
Marin Water District  
Las Gallinas Valley Sanitary District  
County Fire – CSA 13

Attachments:

1. Marin County Uniformly Applied Conditions 2022



**MARIN COUNTY UNIFORMLY APPLIED CONDITIONS  
FOR PROJECTS SUBJECT TO DISCRETIONARY PLANNING PERMITS**

**2022**

**STANDARD CONDITIONS**

1. The applicant/owner shall pay any deferred Planning Division fees as well as any fees required for mitigation monitoring or condition compliance review before vesting or final inspection of the approved project, as determined by the Director.
2. The applicant/owner shall defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations. The County of Marin shall promptly notify the applicant/owner of any claim, action, or proceeding that is served upon the County of Marin, and shall cooperate fully in the defense.
3. Exterior lighting for the approved development shall be located and shielded to avoid casting glare into the night sky or onto nearby properties, unless such lighting is necessary for safety purposes.
4. Building Permit applications shall substantially conform to the project that was approved by the planning permit. All Building Permit submittals shall be accompanied by an itemized list of any changes from the project approved by the planning permit. The list shall detail the changes and indicate where the changes are shown in the plan set. Construction involving modifications that do not substantially conform to the approved project, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications is obtained by the applicant.

**SPECIAL CONDITIONS**

1. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance prepared by a certified or licensed landscape design professional indicating that the landscape plan complies with the State of California's Model Water Efficient Landscape Ordinance and that a copy of the Landscape Documentation Package has been filed with the Community Development Agency.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call out the approved building setbacks on the Building Permit plans indicating the minimum distance of the building from the nearest property line or access easement at the closest point and any of the following features applicable to the project site: required tree protection zones, Wetland Conservation Areas, or Stream Conservation Areas.

3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off-site shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts to the night sky or on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless related to losses experienced due to geologic and hydrologic conditions and other natural hazards.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit written confirmation that the property owner has recorded the "Disclosure Statement Concerning Agricultural Activities," as required by Section 23.03.050 of the Marin County Code.
6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in the project approval, the applicant shall install 3-foot high temporary construction fencing demarcating established tree protection zones for all protected trees that are not being removed in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. Acceptable limits of the tree protection zones shall be the dripline of the branches or a radius surrounding the tree of one foot for each one inch diameter at breast height (4.5 feet above grade) of the tree trunk. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. If encroachment into the tree protection zone is necessary for development purposes, additional tree protection measures shall be identified by a licensed arborist, forester, or botanist, and the tree specialist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a tree protection zone occurs.
7. BEFORE FINAL INSPECTION, if encroachments into a tree protection zone have been approved, then the tree specialist shall submit a letter to the Planning Division verifying that the additional tree protection measures were properly implemented during construction activities.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, temporary construction fencing shall be installed on the subject property at edge of the Wetland Conservation Area and/or Stream Conservation Area, as applicable to the site. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency. The construction fencing shall remain until all construction activity is complete. No parking of vehicles, grading, materials/equipment storage, soil stockpiling, or other construction activity is allowed within the protected area. If encroachment into the protected area is necessary for development purposes, additional protection measures shall be identified by a qualified biologist and the biologist shall periodically monitor the construction activities to evaluate whether the measures are being properly followed. A

report with the additional measures shall be submitted for review and approval by the Planning Division before any encroachment into a protected area occurs.

9. BEFORE FINAL INSPECTION, if encroachments into a protected area have been approved, then the biologist shall submit a letter to the Planning Division verifying that the additional protection measures were properly implemented during construction activities.
10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must provide written evidence that all appropriate permits and authorizations have been secured for this project from the Bay Conservation and Development Commission, the California Department of Fish and Game, the Regional Water Quality Control Board, the California Coastal Commission, the California State Lands Commission, the Bay Area Air Quality Management District, and/or the United States Army Corps of Engineers.
11. BEFORE CLOSE-IN INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification prepare and submit written (stamped) Floor Elevation Certification to the Planning Division confirming that the building's finished floor elevation conforms to the floor elevation that is shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
12. BEFORE FINAL INSPECTION, the project shall substantially conform to the requirements for exterior materials and colors, as approved herein. Approved materials and colors shall substantially conform to the materials and colors samples shown in "Exhibit A" unless modified by the conditions of approval. The exterior materials or colors shall conform to any modifications required by the conditions of approval. All flashing, metalwork, and trim shall be treated or painted an appropriately subdued, non-reflective color.
13. BEFORE FINAL INSPECTION, the applicant shall install all approved landscaping that is required for the following purposes: (1) screening the project from the surrounding area; (2) replacing trees or other vegetation removed for the project; (3) implementing best management practices for drainage control; and, (4) enhancing the natural landscape or mitigating environmental impacts. If irrigation is necessary for landscaping, then an automatic drip irrigation system shall be installed. The species and size of those trees and plants installed for the project shall be clearly labeled in the field for inspection.
14. BEFORE FINAL INSPECTION, the applicant shall submit a Certificate of Completion prepared by a certified or licensed landscape design professional confirming that the installed landscaping complies with the State of California's Model Water Efficient Landscape Ordinance and the Landscape Documentation Package on file with the Community Development Agency.
15. BEFORE FINAL INSPECTION, the applicant shall submit written verification from a landscape design professional that all the approved and required landscaping has been completed and that any necessary irrigation has been installed.
16. BEFORE FINAL INSPECTION, utilities to serve the approved development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.
17. BEFORE FINAL INSPECTION, the applicant shall call for a Community Development Agency staff inspection of approved landscaping, building materials and colors, lighting and



compliance with conditions of project approval at least five business days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent reinspections.

### CODE ENFORCEMENT CONDITIONS

1. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the development. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
2. Within 60 days of this decision, a Building Permit for all approved work must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
3. Within 120 days of this decision, the applicant must complete the approved construction and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.