

April 13, 2010

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

SUBJECT: Call Appeal of the Popovich Minor Design Review
2077 Huckleberry Road, San Rafael
Assessor's Parcel 164-012-04

Dear Board Members:

RECOMMENDATION: On February 22, 2010, the Planning Commission voted unanimously (7-0) to grant in part and deny in part the Call appeal and conditionally approve the Popovich Minor Design Review to legalize a detached accessory structure located within the side and rear yard setbacks at 2077 Huckleberry Road, San Rafael. The Planning Commission's decision modified the project in several respects, including requiring the door on the southern side of the structure to be removed and walled in, and repainting the structure a dark earth tone color. Kimberly Call, owner of adjacent property at 2071 Huckleberry Road, appealed the Planning Commission's decision, asserting that the structure has diminished her views, privacy, quiet enjoyment of her home, and the value of her home, and should therefore be removed. Staff recommends that your Board deny the Call appeal and sustain the Planning Commission's conditional approval of the Popovich Minor Design Review.

SUMMARY: The 10,656 square foot subject property is located on Huckleberry Road in the Marinwood area of San Rafael. The 150 square foot, pool-side accessory structure is 8 feet, 9 inches in height, and is located in the corner of the rear yard, 3 feet 6 inches from the southern side property line, and 3 feet 9 inches from the western rear property line. The structure is painted light blue with white trim, with a slanted, Eichler-style flat roof.

In approving the project, the Planning Commission sustained staff's original administrative approval of the project, adding conditions to address some of the appellant's concerns, including removal of a side door, changing the color of the structure from light blue to a dark, non-reflective earth tone, and prohibitions on habitable use and exterior lighting. The accessory structure encloses pool equipment with extra space for storage.

The following provides a summary of the bases and analysis of the appeal:

The appellant asserts that the accessory structure should be removed due to the following reasons:

1. The accessory structure diminishes the appellant's views. The Planning Commission found that the structure is visible from the appellant's property, but it

does not significantly diminish, reduce, or interfere with her views of the surroundings beyond her property because it is only 8.5 feet in height. The appellant trims the applicant's plantings so they are not allowed to extend beyond the top of the fence to screen the structure from the appellant's property.

2. The accessory structure diminishes appellant's privacy. The accessory structure is a ground level, backyard structure, a reasonable improvement on a residential lot. The pool equipment is in the structure, which also has additional space for storage. There is no activity associated with the structure that would compromise the appellant's privacy. The Planning Commission required a condition prohibiting the use of the structure for habitation.
3. The accessory structure diminishes appellant's quiet enjoyment of her home. The Planning Commission found that the accessory structure encloses pool equipment and muffles the noise that was once a source of complaint from the appellant. The Commission required that a side door be removed and the wall opening closed off in order to ensure that noise from the pool equipment would be contained within the building.
4. The appellant asserts that the accessory structure diminishes the value of the appellant's home. The accessory structure is designed to match the main residence on the property. Although changes in the economic value of the property are not considered by the County's Design Review Findings, accessory structures are common improvements in back yards. The accessory structure next door does not conflict with the visual character of the area, nor would it result in other adverse effects to the appellant's property.

CONCLUSION:

Staff concludes that the Call appeal does not have sufficient basis to overturn the Planning Commission's conditional approval of the project. Accordingly, staff recommends that your Board uphold the Planning Commission's conditional approval of the application by reviewing the administrative record, conducting a public hearing, and adopting the attached resolution denying the Call Appeal and sustaining the Planning Commission's conditional approval of the Popovich Minor Design Review.

REVIEWED BY:

☐ Auditor Controller
☒ County Counsel
☐ Human Resources

☐ N/A
☐ N/A
☐ N/A

Respectfully Submitted,

Reviewed By:

Daniella Hamilton
Crawford
Planner
Director

Brian C.
Agency

Attachments:

1. Recommended Resolution denying the Call Appeal and conditionally approving the Popovich Minor Design Review.

2. Call Petition for Appeal, with attachment, received March 8, 2010
3. Project plans
4. Planning Commission minutes, March 8, 2010
5. Planning Commission Resolution approving the Popovich Minor Design Review, March 8, 2010
6. Planning Commission Staff Report, March 8, 2010, with attachments.