



**SAN RAFAEL ZONING ADMINISTRATOR  
REGULAR HEARING  
July 19, 2023**

***Minutes and Notice of Decision (Pursuant to San Rafael Municipal Code 14.28.050)***

- 10:10 -11:00 am 1. **380 Margarita Drive** - Request for an Environmental and Design Review Permit for the construction of a new single-family home with a detached garage on a hillside property; APN: 015-320-03; Planned Development District (PD) 1808-H; Will Kelty, Owner and Applicant; File No: ED21-011 (PLAN21-019)

**Project Planner: Renee Nickenig**

**PERMITS REQUIRED**

A Minor Environmental and Design Review Permit, Zoning Administrator, is required for modifications to approved plans pursuant to Planned Development Villa Margarita Hillside Overlay District (PD 1808-H).

An Environmental and Design Review Permit and Design Review Board (DRB) recommendation is required for retaining walls over four feet (4') in height on hillside parcels (San Rafael Municipal Code Section 14.16.140.A.2.a).

**SITE DESCRIPTION**

Situated north of Margarita Drive, the project site is accessible via an access easement. Its surroundings comprise single-family residential properties to the south, southwest, and southeast, while to the north, northwest, and northeast, it is bordered by public open space and Harry Barbier Memorial Park. The majority of the property features undisturbed hillside terrain, except for a pre-existing graded portion in the southern area, which is designated for development.

**PROJECT DESCRIPTION**

The project proposes to construct an approximately 3,990 sq. ft. single-family home with an accompanying approximately 1,296 sq. ft. pool, and an approximately 1,767 sq. ft. detached garage. Both structures are one-story tall with flat roofs and overhanging eaves. The project includes a new paved driveway and turnaround. Retaining walls that range in height from 4 feet to 9 feet tall are proposed in order to clear space for the proposed driveway.

The proposed single-family residence includes a central dining and living area flanked by guest and master bedrooms and a separate closet. The detached accessory structure includes a two-car garage, a storage space, and an additional guest bedroom.

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The project is designed as a single rectangular primary structure with predominantly glass walls and a flat roof. The glass walls are interrupted with dark mullions, and remaining wall surfaces appear as solid concrete. The flat roof extends to overhanging eaves with wide vertical fascias. A pool extends from the southeast-face portion of the residence supported by unarticulated retaining walls (maximum 17 feet tall). A dark brown color for the exterior walls is proposed for the primary residence, guest house, pool wall, and driveway retaining wall. The design of the accessory guest house echoes that of the primary residence.

The proposed landscaping is minimal. The applicant has noted that Coast Live Oak (*Quercus agrifolia*) will be installed to screen the proposed pool wall.

### **BACKGROUND/PRIOR APPROVALS**

The project at 380 Margarita Drive proposes a single-family residence and guest house on a vacant parcel in Planned Development District (PD) 1808-H. A single-family home was previously approved at the property, for which parameters were developed to address the site constraints, including the overall grade and the significant ridgeline oriented north-south through the property.

PD 1808-H includes objective standards and includes a section titled “Architectural Standards”. These standards describe the house that was previously proposed for the subject lot (Lot B) as follows:

*“Lot B- The design consists of a tree-level integrated colored stucco home with “terra-cotta” colored barrel tile roofing. Driveway access follows already existing driveway cuts, includes a fire department required radius turn reconstruction, and terminates in a textured motor courtyard. The landscaping plan includes the addition of 59 new trees and is proposed for the immediate perimeter of the residence and framing the driving, leaving the great majority of the property in its natural state. Modifications to approved plans shall be process by the Zoning Administrator.”*

The current proposal complies with the site parameters outlined but deviates significantly from the described design. In addition to the Zoning Administrator hearing requirement, the project required review by the Design Review Board (DRB) for the over four-foot retaining walls proposed outside of the established “building envelope” (per SRMC Section 14.16.140.2.a.).

### **First DRB Meeting - November 8, 2022**

This project was previously reviewed by the DRB on November 8, 2022. The staff report included a detailed review of the property facts and development standards for the property (Exhibit 1). The DRB requested that the applicant submit additional materials for review, including:

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1. Confirmation that the Marin Municipal Water District (MMWD) can service the property without installing an above-grade water tank,
2. Color samples and renderings showing an alternative color for the residence that would better blend with the ground and surrounding environment,
3. Landscape plan,
4. Plan for proposed solar panels if any, and
5. Geotechnical analysis

The DRB also requested that the applicant address the large pool retaining walls with a screening technique and/or an alternative design that would minimize the visual impact.

### **Second DRB Meeting - March 21, 2023**

Member Summers moved, Vice Chair Kent seconded recommendation that the Zoning Administrator approve the project if the applicant addresses the following comments:

1. Provide at least five shrubs in front of the swimming pool retaining wall of a species and location to be approved by City staff in consultation with Vice Chair Kent.
2. The removal of existing invasive plants on the project site, such as pampas grass, is required.
3. The tree species originally proposed to be planted in front of the swimming pool retaining pool must be revised to a species that has been approved by City staff in consultation with Vice Chair Kent.
4. The material proposed for the retaining wall along the driveway must be changed to either board formed or split-faced concrete. Additionally, the color of this retaining wall should be revised to closely match the color of the building wall. The color must be achieved through pigmentation of the material, rather than applying paint onto the wall.

### **PUBLIC HEARING**

On July 19, 2023, a Zoning Administrator meeting was convened for this Minor Environmental and Design Review application (ED21-011). The Acting Zoning Administrator for this meeting, Renee Nickenig, Associate Planner, opened the meeting at 10:10 am.

#### **A. Applicant presentation**

The applicant was not present at the meeting. The Planner presented a summary of the project and the parameters of the project review.

#### **B. Public Comments**

There were three people in attendance wishing to provide public comment. Below is a summary of the comments provided during the meeting:

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Erica Blair (neighbor)

- Noted that while there will be limited visibility of the new residence from other locations in San Rafael, the new residence will be directly visible from the surrounding neighbors.
- Concern for potential landslide risk.
- Potential impact on surrounding property owners who share the private easement which provides access to the project site during and after construction.

Theresa Campbell (neighbor)

- Concern for potential landslides and requirement to stabilize the site
- Concern that the fire truck turnaround is not sufficient
- Concern regarding water availability for the site

Daniel Campbell (neighbor)

- Supported acknowledgment that the new residence will be directly visible from surrounding properties
- Concern of fire, flood, and landslide risk, noting recent fires and existing mudslide scars at and surrounding the project site
- Concern that the proposed installation of oak trees will significantly increase the vegetation output at the site and collection at Margarita Drive below.

**C. ZA discussion**

The Zoning Administrator summarized and addressed the concerns that have been disclosed by those in attendance. The Zoning Administrator reiterated the purview of the Planning Division to review the design change and retaining walls proposed and clarified that the life and safety concerns will be addressed in the building permit phase of the project.

The Zoning Administrator Conditionally Approved the project.

These conditions of approval are listed below and included as part of the Zoning Administrators decision. As such the request for an Environmental and Design Review to allow for the construction of a new single-family home with a detached garage on a hillside property at 380 Margarita Drive was approved with conditions.

The meeting was adjourned at 11:00 am.

**FINDINGS:**

**CEQA FINDINGS**

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines

(New Construction or Conversion of Small Structures). Furthermore, none of the exceptions found in Government Code §15300.2 apply.

**Environmental and Design Review Permit Findings (SRMC §14.25.090)**

**A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter;**

The project is located in Planned Development District (PD) 1808-H, where a single-family home on the lot (Lot B) was previously approved. The proposal to construct a single-family home is in keeping with the intent of PD 1808-H, the following General Plan 2040 policies in support of residential development and hillside protection and preservation: *Policy LU-1.8: Density of Residential Development; Policy CDP-1.3: Hillside Protection; and Policy C-1.10: Hillside Preservation.*

**B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located;**

The proposed project design has been evaluated against SRMC Section 14.12.030 and the *Design Guidelines Applicable to All Hillside Residential Development Projects* (Design Guidelines). The proposed design is in compliance with SRMC Section 14.12.030 but deviates from the published Design Guidelines. The DRB supports the design as proposed, noting that the elements that deviate from the Design Guidelines are appropriate for the site and will be overall less impactful than the design previously approved in PD 1808-H.

**C. That the project design minimizes adverse environmental impacts; and**

During the adoption of PD 1808-H and the establishment of the "building envelope," the potential impact on the existing site and environment was thoroughly considered. The proposed project will be confined within this designated "building envelope," with the exception of the necessary driveway and retaining walls. These elements are required for safe access to the site and the proposed single-family residence, as well as to minimize grading. Furthermore, the project applicant has submitted a soils report indicating that the project is feasible from a geotechnical perspective.

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- D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.**

The project is under review by the Building Division, the Fire Department, the Department of Public Works, and the Marin Municipal Water District.

The project proposes to install five (5) trees to screen the pool walls and vegetation in the identified bioretention areas. The applicant will be required to install plants and trees that are approved by the Marin Municipal Water District and the Fire Department to limit excessive water use and encourage fire safety. The Fire Department will additionally require a Vegetation Management Plan prior to building permit issuance.

**Planning Division Standard Conditions of Approval**

1. Approved Project. This Environmental and Design Review Permit conditionally approves a single-family home and accessory structure at the vacant lot located at 380 Margarita Drive. Plans submitted for building permit shall be in substantial conformance to the approved plans dated July 19, 2023, with regard to building techniques, materials, elevations, and overall project appearance except as modified by these conditions of approval. Minor modifications or revisions to the project shall be subject to review and approval by the Community Development Department, Planning Division. Modifications deemed greater than minor in nature by the Community Development Director shall require review and approval by the Planning Commission.
2. Subject to All Applicable Laws and Regulations. The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building Division, Public Works Department and other affected City divisions and departments.
3. Permit Validity. This Permit shall become effective on **July 27, 2023** and shall be valid for a period of two (2) years from the date of final approval or **July 27, 2025**, and shall become null and void if a building permit is not issued or a time extension granted by **July 27, 2025**. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.

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4. Building Permit. Prior to the commencement of work, a building permit shall be obtained from the Building Division.
5. Construction Hours. Except as otherwise provided in subsection B of the San Rafael Municipal Code Section 8.13.050, or by the planning commission or city council as part of the development review for the project, on any construction project on property within the city, construction, alteration, demolition, maintenance of construction equipment, deliveries of materials or equipment, or repair activities otherwise allowed under applicable law shall be allowed between the hours of seven a.m. (7:00 a.m.) and six p.m. (6:00 p.m.), Monday through Friday, and nine a.m. (9:00 a.m.) and six p.m. (6:00 p.m.) on Saturdays, provided that the noise level at any point outside of the property plane of the project shall not exceed ninety (90) dBA. All such activities shall be precluded on Sundays and holidays. Violation of the foregoing may subject the permittee to suspension of work by the chief building official for up to two (2) days per violation.
6. Colors, Materials, and Lighting. Colors, materials and lighting shall be designed to avoid creating undue off-site light and glare impacts. New or amended building or site colors, materials and lighting shall comply with San Rafael Municipal Code Section [14.16.227](#), subject to review and recommendation by the police department, public works department, and community development department.
7. Exterior Lighting. Any exterior lighting shall be subject to a 90-day post installation inspection to allow for adjustment and assure compliance with San Rafael Municipal Code Section [14.16.227](#) - Light and glare. The project proponent is responsible for hiring a qualified lighting expert to conduct the inspection and to prepare a summary analysis verifying the projects meets City standards to be submitted to the Planning Division.
8. Rooftop Equipment. Equipment placed on the rooftop of a building or in an exterior yard area shall be adequately screened from public view. See [Chapter 14.16](#) for exclusions to maximum height requirements and [Chapter 14.25](#) for design review requirements.
9. Mechanical Equipment. No swimming pool, hot tub, air conditioning unit or mechanical equipment shall encroach into any front yard or street side yard setback. No pump or filter installation, air conditioning unit or similar mechanical equipment, including new but not limited to transformers for electric vehicle charging stations and wind energy systems, shall be less than five feet (5') from any property line. If a pump or filter or any similar mechanical equipment, including new but not limited to transformers for electric vehicle charging stations and wind energy systems, is located within fifteen feet (15') of any bedroom window on an adjacent lot, a three (3) sided solid enclosure with baffles to screen the equipment from the bedroom, or equally effective



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measure(s), shall be provided to reduce noise impact. Sound attenuation shall be provided around mechanical equipment to ensure that any mechanical noise that is perceptible at the property line (and generally measured in direct line of sight of the equipment) is attenuated to the maximum extent practicable and that daytime/nighttime thresholds established under SRMC Table 8.13-1 for the applicable zoning district are not exceeded.

10. Temporary Fences. Temporary security fences may be erected around construction sites during the time a valid building permit is in effect for construction on the premises. Temporary security fences need not comply with San Rafael Municipal Section [14.16.140](#) and must be immediately removed upon completion of the construction authorized by the building permit.
11. Landscape Projects. For all applicable landscape projects (new or rehabilitated landscape area is equal to or greater than 5,000 square feet), landscape and irrigation plans required by and submitted with this permit application shall be designed and prepared to comply with the provisions and requirements of MMWD Ordinance as adopted and periodically amended. The applicant shall provide written verification of plan approval from MMWD prior to the issuance of a building permit and/or grading permit. See [Marin Water Landscape Plan Review](#).

**Site Specific Conditions of Approval**

12. Landscape Maintenance. All landscaping shall be maintained in good condition and any dead or dying plants, bushes, trees, or groundcover plantings shall be replaced with new healthy stock of a size appropriate and compatible with the remainder of the growth at the time of replacement.
13. Approved Materials and Colors. The approved materials and colors for the project shall be indicated on project plans submitted for building permit and implemented in the field. Any changes in materials or colors shall be subject to prior review and approval by the City Planning Division, and a determination as to whether the change is major or minor. Any changes to the approved materials or colors shall be clearly indicated on plans and receive written verification that this change has been reviewed and approved by the Planning Division.

**ACTION TAKEN: On July 19, 2023, the Zoning Administrator Conditionally Approved the requested Minor Environmental and Design Review (ED21-011) subject to the Findings and Conditions.**

This Notice of Zoning Administrator decision is provided in compliance with SRMC Section 14.28.050 - *Notice of decision*. Any aggrieved party may appeal this decision pursuant to SRMC Section 14.28.030 - *Filing and time limit of appeals*, by submitting a letter of appeal and the appropriate fees within five (5) working days of the date of



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approval, or by **July 26, 2023 at 5:00 p.m.** This approval shall become effective at the end of the appeal period.

Once a permit approval has been implemented/established in compliance with all City requirements, it shall run with the land and be valid for the time period specified; e.g., duration of the project/use.

*Renee Nickenig*  
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07/20/2023  
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Renee Nickenig, Acting Zoning Administrator

Date