

# Attachment C

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# NOTICE OF APPEAL

Monterey County Code  
Title 19 (Subdivisions)  
Title 20 (Zoning)  
Title 21 (Zoning)

RECEIVED  
MONTEREY COUNTY  
2021 JUN -1 PM 12:30  
CLERK OF THE BOARD  
*Cassandra Quinto*  
CLERK

No appeal will be accepted until written notice of the decision has been given. If you wish to file an appeal, you must do so on or before June 1, 2021 (10 days after written notice of the decision has been mailed to the applicant).

Date of decision: May 13, 2021 (Resolution No. 21-025) Mailed May 20, 2021

1. Appellant Name: Robert Kahn c/o Christine Kemp, Esq.

Address: Noland, Hamerly, Etienne & Hoss P.O. Box 2510, Salinas, CA 93902

Telephone: (831) 424-1414 email: ckemp@nheh

2. Indicate your interest in the decision by placing a check mark below:

Applicant

Neighbor

Other (please state) \_\_\_\_\_

3. If you are not the applicant, please give the applicant's name:

Mal Schwartz

4. Fill in the file number of the application that is the subject of this appeal below:

Type of Application Area

a) Planning Commission: PC- \_\_\_\_\_

b) Zoning Administrator: ZA- PLN200192 (Res. No. 21-025)

c) Administrative Permit: AP- \_\_\_\_\_

## Notice of Appeal

5. What is the nature of your appeal?

a) Are you appealing the approval or denial of an application? Approval

b) If you are appealing one or more conditions of approval, list the condition number and state the condition(s) you are appealing. (Attach extra sheet if necessary)

\_\_\_\_\_

\_\_\_\_\_

6. Place a check mark beside the reason(s) for your appeal:

There was a lack of fair or impartial hearing  X

The findings or decision or conditions are not supported by the evidence  X

The decision was contrary to law  X

7. Give a brief and specific statement in support of each of the reasons for your appeal checked above. The Board of Supervisors will not accept an application for an appeal that is stated in generalities, legal or otherwise. If you are appealing specific conditions, you must list the number of each condition and the basis for your appeal. (Attach extra sheets if necessary)

\_\_\_\_\_

See Attachments A and B and Appeal Exhibits

\_\_\_\_\_

\_\_\_\_\_

8. As part of the application approval or denial process, findings were made by the decision-making body (Planning Commission, Zoning Administrator, or Chief of Planning). In order to file a valid appeal, you must give specific reasons why you disagree with the findings made. (Attach extra sheets if necessary)

\_\_\_\_\_

See Attachments A and B and Appeal Exhibits

\_\_\_\_\_

\_\_\_\_\_

9. You must pay the required filing fee of \$3,540.00 (make check payable to "County of Monterey") at the time you file your appeal. (Please note that appeals of projects in the Coastal Zone are not subject to the filing fee.)

10. Your appeal is accepted when the Clerk to the Board accepts the appeal as complete and receives the required filing fee. Once the appeal has been accepted, the Clerk to the Board will set a date for the public hearing on the appeal before the Board of Supervisors.

**The appeal and applicable filing fee must be delivered to the Clerk to the Board or mailed and postmarked by the filing deadline to PO Box 1728, Salinas CA 93902. A facsimile copy of the appeal will be accepted only if the hard copy of the appeal and applicable filing fee are mailed and postmarked by the deadline.**

APPELLANT SIGNATURE  *Ch. Hayes, attorney for Robert Kahn*  Date:  6/1/21

RECEIVED SIGNATURE \_\_\_\_\_ Date: \_\_\_\_\_

# **Attachment A**

**Appeal to Board of Supervisors  
Zoning Administrator Resolution No. 21-025  
Schwartz, Mal – PLN200192**

## **Attachment A**

### **Appeal to Board of Supervisors Zoning Administrator Resolution No. 21-025 Schwartz, Mal – PLN200192**

**Filed on behalf of Robert Kahn**

#### **Grant the Appeal and Deny the Schwartz Permit**

The Applicant, Mal Schwartz (“Schwartz”) engaged in a series of illegal actions, violating issued County permits, which actions should not be condoned or approved by the County, after the fact. Moreover, no further permitting should be allowed on this site until all of these flagrant violations are corrected.

#### **Schwartz Illegal Actions in Violation of County Permits**

Schwartz submitted plans for, and obtained County approval for, an addition to their house, showing the house to be painted a “Woodstock brown” color with no change to their existing natural brick chimney.

Instead, Schwartz, in clear and knowing violation of their County permit, decided to ignore their approved plans and paint their house a bright white color, and decided to cover the natural brick chimney with stucco, making it taller and broader with a highly reflective stucco coating painted bright white directly in Kahn’s principal view without County permits.

Schwartz submitted plans for, and obtained County approval to install an 8ft high “tuff” shed with no electricity.

Instead, Schwartz, in clear and knowing violation of their County permit, decided to ignore their approved plans and install a 12 ft. tall bright white “tuff” shed with 4 reflective skylights and install electricity in the shed, one (1) foot off the Kahn property line, not for storage, but to use as an artist studio.

Schwartz flagrantly ignored all of these permit requirements and simply built what they wanted.

It is inexplicable why the building and construction inspectors responsible for this project did not review the approved plans permits, and actual construction, for consistency between the original submitted plans, the issued permit, and actual construction that took place in violation of their permit.

## **Schwartz Should be Required to Adhere to their Approved Plans**

Schwartz should be required to:

1. Return their chimney to the original height, mass, and natural brick earthtone color;
2. Repaint their house the approved and permitted Woodstock Brown color;
3. Reduce the rear shed to the permitted 8ft height and paint it an earthtone color;
4. Permanently remove the illegally connected electricity to the shed.

With no further County permitting allowed on the site until they rectify their flagrant actions and adhere to the initial permits they sought and were issued.

## **After the Fact Permits**

Following these violations, Schwartz submitted the current Project plans to County Planning for an enlarged addition to their home, which plans still showed no change to the height of the original chimney, with the chimney shown as the same height as the top of the roof ridge line of the original home, but this time Schwartz included a request to paint the house white, resurface the chimney with stucco and paint it white, making it appear that these items were all new requests for new work, when, in fact, they had already done all of this work without permits.

When the current application was presented to the LUAC, the Committee members reviewed an application for what they thought was new work, when in fact these were “after the fact” permit requests related to code violations for work already done. Additionally, the LUAC was provided with inaccurate plans which did not show the increased chimney height and mass, and the LUAC was also told by Schwartz that Carmel Stone had already been approved for the chimney facade, which it had not.

LUAC Committee members were not provided with clear answers or delineation between the work that had already been done in violation of their first permit, and what work was additional work for which they were seeking permits to construct and modify their inner courtyard, garage and 3 new carports.

After the April 19<sup>th</sup> LUAC meeting, Schwartz’s quickly revised their plans and submitted new plans to the County Planning on May 4<sup>th</sup> for the Zoning Administrator to review. The revised plans for the first time referenced a request for “after the fact” permits for the unpermitted color they painted their house in violation of their permit, clearly illustrating the increased height of the “as built” chimney they had covered with a reflective white stucco surface increasing the height and mass of the chimney in violation of their permit, and further included the Carmel Stone chimney façade that Schwartz represented to the LUAC was already approved by the County.

For this process to have been a fair and equitable review, the LUAC should have had all of the appropriate relative materials to review for full disclosure of the facts and issues.

The use of inaccurate information was unfair to the LUAC Committee members and the Kahn family. With the LUAC discussion based upon the inaccurate information provided by Schwartz, the discussion and outcome should be voided and a second review by LUAC using the accurate “as built” information should have occurred before the matter was set for hearing before the Zoning Administrator.

The LUAC reviewed one set of plans, the Zoning Administrator reviewed a second set of plans, and the ZA approval now reflects a third project description, which was not the description before either the LUAC or the ZA.

### **There Was a Lack of Fair and Impartial Hearing**

As set forth above, procedural irregularities and Applicant misrepresentations resulted in the lack of a fair hearing, which lack of fairness was exacerbated by the Schwartz’s last minute change to the Project Description and their Project plans after the LUAC meeting, but before the Zoning Administrator hearing.

The LUAC Committee reviewed an application for:

Design Approval to allow: the addition of a 531 square foot studio with two (2) skylights and a 63 square foot landing on an existing 2,645 square foot single family residence; replacement of the exterior siding, doors & windows on the residence; conversion of the existing attached garage to living space, including removal of the garage door & replacement with lap siding; construction of a new 447 square foot attached two-car carport; construction of a new 4’ – 6’ cedar fence; painting the exterior of the primary residence a white “swiss coffee” color; finishing of the chimney with a smooth coat stucco and painting it a white “swiss coffee” color and adding a metal flue cap to the top of the chimney.

The yellowed part of this description was for work Schwartz had already illegally done in violation of their first County permit, yet there was no mention made of this being “after the fact” permitting related to code violations anywhere in the project description before the LUAC.

Nor was the raised chimney height/mass or Carmel Stone on the chimney shown on the plans the LUAC reviewed. The Applicant told the LUAC that Carmel Stone was on the original plans and that there was no increase in the chimney height or mass, and the LUAC believed them.

Yet, immediately AFTER the 4/19/21 LUAC meeting the Applicant revised their plans and submitted new plans, at the last minute (5/4/21 for a 5/13/21 ZA meeting), with a changed Project Description for the hearing before the Zoning Administrator showing they were, in fact, requesting “after the fact permits”, showed Carmel Stone on the chimney and showed the raised chimney, none of which was seen by the LUAC.

The Project before the ZA was then described as:

Public hearing to consider the remodel of an existing single-family home, with a 531 square foot studio addition, new 447 square foot 2-car carport, cedar fence, and after-the fact design approval to paint the single-family residence a white “swiss coffee,” refinish the chimney with a Carmel Stone and add a metal flue cap.



This was an entirely different description and set of plans presented to the ZA than what was presented to the LUAC for review, which project description still did not daylight the fact this work was related to existing code violations.

Moreover, the final ZA Resolution of Approval now contains a third project description that does not match either the LUAC or ZA project descriptions:

Approve a design approval to amend PLN170572 to permit expanding the studio addition from 355 square feet to 531 square feet and a 63 square foot landing; modifying the roof of the studio addition to have (2) skylights instead of (1) skylight; an interior remodel of the southeastern portion of the home, including conversion of the garage to living space and removal and replacement of the garage door with lap siding; construction of a new 447 square foot attached two-car carport; re-finishing the chimney with a Carmel Stone to address the presently unpermitted white "swiss coffee" smooth stucco finish, and; construction of a 4 foot tall to 6 foot tall cedar fence. The project also includes retro-active design approval for: painting the exterior of the primary residence a white "swiss coffee" color, and; adding a metal flue cap and spark arrestor to the top of the chimney.

### **The Findings and Decision Not Supported by the Evidence**

**Resolution Finding 1 – Evidence j)** states the Project was reviewed by the CV LUAC, however, the Project reviewed by the LUAC had an entirely different Project Description, and different set of plans before them, than the Project reviewed by the Zoning Administrator on May 13<sup>th</sup>.

The LUAC Committee reviewed an Application for:

Design Approval to allow: the addition of a 531 square foot studio with two (2) skylights and a 63 square foot landing on an existing 2,645 square foot single family residence; replacement of the exterior siding, doors & windows on the residence; conversion of the existing attached garage to living space, including removal of the garage door & replacement with lap siding; construction of a new 447 square foot attached two-car carport; construction of a new 4' – 6' cedar fence; painting the exterior of the primary residence a white "swiss coffee" color; finishing of the chimney with a smooth coat stucco and painting it a white "swiss coffee" color and adding a metal flue cap to the top of the chimney.

Nothing in the Project Description before the LUAC referenced the fact that the white house paint color or the increased chimney height/mass with white stucco reflective surface and new metal flue, was illegal work that had already done by Schwartz without permits, nor was there any reference to Carmel Stone on the chimney on the plans, although the Applicant misled the LUAC telling them that Carmel Stone on the chimney was already permitted.

Admitting that the plans and information presented to the LUAC were inaccurate, after the April 29<sup>th</sup> LUAC meeting, the Project Description and Project plans were corrected on May 4th for the May 13<sup>th</sup> ZA causing the Zoning Administrator to review a different Project, with a different set of plans, than reviewed by the LUAC.

The Zoning Administrator reviewed an Application for:

Public hearing to consider the remodel of an existing single-family home, with a 531 square foot studio addition, new 447 square foot 2-car carport, cedar fence, and after-the fact design approval to paint the single-family residence a white "swiss coffee," refinish the chimney with a Carmel Stone

The evidence does not support a finding that the LUAC reviewed the project as presented to the

ZA. They did not. Moreover the final ZA Resolution contains a third project description.

**Resolution Finding 1; Evidence c)** states the Project is consistent with the County Code Ordinance Title 21 and the Carmel Valley Master Plan, yet the Project's illegally painted bright white color is not an earthtone color and is not in keeping with the neighborhood character, or the visual integrity of the surrounding development as required by the County's Design Approval criteria. (Title 21, Section 21.44.010, Design Approval criteria).

**Resolution Finding 3, Evidence a)** states the Project is consistent with the Carmel Valley Master Plan, yet the illegal stucco with reflective white paint and surface and enlarged chimney violate the Carmel Valley Area Plan policy CV-1.20 by creating a large white reflective structure with too much mass and bulk, and causing a disruption of views from the Kahns' existing home. Under policy CV-120, the following guidelines apply:

b. Development either shall be visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development.

c. Materials and colors used in construction shall be selected for compatibility with the structural system of the building and with the appearance of the building's natural and man-made surroundings.

d. Structures should be controlled in height and bulk in order to retain an appropriate scale.

e. Development, including road cuts as well as structures, should be located in a manner that minimizes disruption of views from existing homes.

The illegally enlarged stucco reflective white chimney was not controlled in height or bulk, and clearly disrupts views from the Kahn's house.

**Resolution Finding 1; Evidence e)** states no variance is required, yet the existing non-conforming garage is being converted to habitable use creating structural expansions within the setback area. The existing home is already non-conforming as to the side yard setback on the east side of the property, adjacent to the Kahn property, where the majority of this work is occurring. In particular, the project proposes to convert the existing non-habitable garage into habitable living space for a fourth bedroom and expanded third bathroom. The existing garage encroaches into the east side yard setback as shown on new Plan Sheets A1.0 and A2.1.

Pursuant to Title 21 Section 21.68.030.A, the non-conforming use of a structure can only be changed to the same or a more restrictive use, and to do so, requires a use permit. Here the use is being changed from non-habitable to habitable living space. It also appears the garage conversion area is over 120 sf., above the threshold of sub-section C, notwithstanding the issue of converting the space from non-habitable to habitable space. Accordingly, the change in use requires either a use permit to allow the change in non-conforming use, or a variance to allow the use. For the reasons set forth above, the proper hearing body was the Planning Commission, not the Zoning Administrator, with a Combined Development Permit for a variance or use permit.

**Resolution Finding 6 – Evidence c)** acknowledges there are existing unresolved code violations on the site, including two shed violation related to unpermitted height and unpermitted electrical connection, yet the Project was allowed to move forward in violation of Title 21 Section 21.84.120, which requires no further permitting be allowed until existing violations are remedied. These acknowledged shed violations are in addition to the paint and chimney violations also existing on the site.

Staff has had since October 3, 2020, when the County was notified of the shed violations, as to both illegal height and illegal electrical hookup, to investigate these clear violations, yet these admitted glaring unresolved code violations were minimized as a reason to prevent the Project from going forward, contrary to the Monterey County code, with staff even suggesting the shed violations could be remedied, on the spot, at the May 13<sup>th</sup> ZA meeting with no Public Notice at all. There was no legal basis to allow the Project to go forward with these known and admitted code violations on site.

### **The Decision was Contrary to the Law**

#### **The Project Cannot Proceed Until All Existing Code Violations Are Resolved**

Schwartz was already in violation of the County code when they applied for this permit having illegally painted their house an unpermitted white color, as well as enlarged the height, size and mass chimney with a white stucco reflective surface in violation of their County permit.

On top of these admitted existing violations, Schwartz admittedly remains in violation of County Codes with regard to other permits issued for their property (see Finding 1, Evidence e) (Res. Pg. 4) *“At the hearing, representatives of the applicants confirmed that the shed was twelve feet, high than is originally approve height of eight feed in DA190154.”* with regard to the shed at the rear of the property adjacent to the Kahn property line.

Pursuant to Title 21 Section 21.84.120, **no** further permitting is allowed on the Schwartz property until these existing violations are remedied, yet the County let them proceed. This is contrary to the law as expressly stated in the County Code.

### **Request**

Deny the Schwartz permit;

Order the chimney be returned to its original height, size, mass, and natural color;

Order house be repainted Woodstock brown as approved;

Order shed height be reduced to 8ft as approved;

Order electricity be permanently removed from the shed as approved;

Order no further permitting be allowed on the Schwartz property until these flagrante code violations are corrected.

## **Attachment B**

**Appeal to Board of Supervisors  
Zoning Administrator Resolution No. 21-025  
Schwartz, Mal – PLN200192**

## **Attachment B**

### **Appeal to Board of Supervisors Zoning Administrator Resolution No. 21-025 Schwartz, Mal – PLN200192**

#### **Statement of Robert Kahn**

This matter arises out of Mr. Schwartz and Ms. Tryon's arrogance and lack of appreciation or sensitivity to long time residences (47 years) now elderly at 85 and 89 years old, no appreciation or sensitivity for County legal and permitting processes, overt misrepresentations, and systemic and institutional support for these illegal actions, and the County's clear bias in support of, and promotion of, such illegal actions to the detriment of our family. Those within our regulatory bodies are supposed to respect, represent and protect all residents. We have not been protected.

Schwartz illegally built an unpermitted chimney directly in our view - *negatively impacting our family.*

Schwartz illegally placed a 12 ft high shed right next to our property, when only an 8ft high shed was permitted - *negatively impacting our family.*

Schwartz illegally brought unpermitted electricity to shed – *negatively impacting our family.*

Schwartz illegally painted their house, their shed and the larger chimney an unpermitted bright white color versus the permitted "Woodstock brown siding" - *negatively impacting our family.*

Schwartz illegally trespassed onto our property and aggressively cut and decimated our Cypress trees (that my brother and I planted as a hedge) – *negatively impacting our family.*

Mr. Schwartz and Ms. Tryon have essentially done everything they can, regardless of neighborly sensitivity, regulations, County codes, and the highly evolved permitting process, to support their illegal actions. Schwartz has had the benefit of professional and licensed architects, licensed builders, and licensed landscapers and now licensed legal representation to support, execute and push through their arrogant, insensitive and illegal activities. Any excuse pertaining to lack of knowledge, understanding of building codes, permits or simple mistakes is a complete ruse. These were overt, conscious and purposeful actions on their behalf. Building an unpermitted chimney; placing 12-foot shed onsite, when an 8-foot shed is clearly permitted; and painting the house white versus the approved brown color, had to be known by Schwartz, his architect, builder and their painter subcontractor.

There was illegal and insensitive action at the job site level (what happened during onsite inspections and squaring what was being built with permits issued), illegal and insensitive action with the County permitting activity, and illegal and insensitive activity at the post permitting activity - one description at LUAC, a different description at ZA meeting, specifically as it relates to the chimney, shed, and County violations, and now a third description for the project approval. I am sorry, but their respective description(s) of the same project – appears to magically and creatively change relative to the audience Schwartz is presenting to. Again, with full apologies, but it's so bizarre, that I'm not sure if they are providing a description of the same project or writing chapters for an upcoming book?

Schwartz garnered institutional support from licensed professionals for their illegal actions.

Carmel Building Design submitted plans, on Schwartz's behalf, for the shed - clearly stating and permitting an 8 feet high shed, yet Carmel Building Design placed a 12 ft. high shed on the property. I believe Mr. Nicely, of Camel Building Design, the actual building contractor that did the construction, did the shed placement, added electricity, painted the house white, and so on, all in violation of the Schwartz's County permit.

Mr. Carver, of Carver Studios, submitted drawings to the County and LUAC clearly showing the chimney at the existing roof "ridge level," yet the chimney is now almost two feet taller than shown on the plans covered with stucco and painted bright white. Mr. Carver would have been fully aware of a white house (or at least should have) versus a permitted brown color for the house, yet the house was painted white. The chimney was made higher and wider, was enclosed in smooth highly reflective stucco then painted it white. Mr. Carver certainly had to know, since he drew up all the plans and pulled permits, that **no permit** existed for modifications, building or changes to the chimney. Is this because he was aware of the highly regulated environment, Carmel Views, that our homes are situated in? Besides the County permitting process, County inspection process, our subdivisions CC&R's are very specific about views and building or modifying any structure that may impact a neighbor's view.

Ironically, letters supposedly in support of Schwartz's illegal activities actually highlight the architect and builder's awareness of the 8 foot shed permit, yet they and Schwarz completely and overtly disregarded the permit by placing a 12 foot shed on site, painting it white and then adding electricity. Seriously – these are all licensed, professionals and a homeowner simply doing what they wanted to do with no concern for the County permits.

What occurred with the County inspections? Why did the County not see that what Schwartz was building was non-permitted? Why did the inspector not stop the project when Schwartz, Carver and Nicely were clearly not adhering to their permit (and original description) that they pulled and was issued. Why have we needed to make a complaint? Why wasn't the County also looking out for my 85 year old Mother and 89 year old Stepdad? Why do we have to go through this grueling, emotional and expensive process to rectify what should have been the County's responsibility to monitor, regulate and to stop them once they started to build and modify – at will, without proper permitting and based upon personal design choices – from the outset. I apologize for repeating myself, but the County and its professionals are supposed to protect "all" of us.

When Schwartz was in clear violation of their permit, why did County staff support the wrong doing by Schwartz and his licensed professionals, by supporting their actions and masking their blatant wrong doing in the project description as if everything was copacetic, rather than telling them to comply with their original approvals, or prohibiting further approvals, as required by the County Code, until the flagrant code violations were remedied. Please keep in mind that this is not just a single, insignificant "code" violation of a fence being too high, but rather a coordinated, sophisticated and multiple issue execution by Schwartz and his licensed professionals – that Mr. Schwartz described as highly talented. Obviously, Mr. Schwartz and I disagree on a number of items.

Once Schwartz undertook the illegal work clearly outside of, and in violation of, their permit, and then submitted plans for an addition to their previous approved plans, why did the County allowed them to simply wrap their misdoings into the new permit and "white wash" the process, not even mentioning the code violations, or the after the fact permitting, in the project description and project plans presented to the LUAC. Schwartz also claimed Carmel Stone was already permitted on the chimney façade when the matter came before the LUAC, yet there was no mention of Carmel Stone whatsoever on any of the plans presented to the LUAC. When the LUAC questioned these inconsistencies, Staff's answers were less than clear. The LUAC had no clue regarding the illegal work that had been done, what work was being requested to be permitted, and staff supported the obfuscation of the wrong doing.

Once we brought the obfuscation to light, Schwartz quickly changed their plans and the County quickly changed the project description, to reflect Schwartz was seeking "after the fact permits", including the unpermitted increase in chimney height and unpermitted chimney resurfacing and color, just before the matter

was set for hearing before the ZA, yet the LUAC did not have the benefit of this information when they reviewed the project. Schwartz, with full staff support, presented two different projects to two different hearing bodies. When did the plans get changed, by whom and who signed off on the changes? As a public entity that should pursue transparency, I believe that I am entitled to know the process and who was involved in the process.

The institutional and systemic effort by Schwartz, licensed professionals and now lawyers, to intentionally disregard the planning process by building non permitted structures, and then, with full County support, at the building level, permit level and now at the regulatory level (two fully different “projects” represented to two different regulatory bodies, changes to the project description, lack of transparency, and so on) allow them to process inaccurate plans and convey inaccurate information, has been at the expense of my mom and stepdad, at 85 and 89 years old - and our family.

I must admit, this process has truly enlightened me on how people like Mr. Schwartz, Ms. Tyron, their connected professionals, and how either ambitious, naïve or impressionable young regulatory staff can systemically drive an effort against fairness, compassion and “doing the right thing” on behalf of other law abiding citizens.

Just so you have perspective, my Mom conceived of and developed the Cancer Wellness Center at CHOMP with Dr. Roger Shiffman, running it and teaching – just retiring a few years ago at 82. Carl Pohlhammer taught history at MPC for 40 plus years, chairing the social studies program. These are people who have given and supported many people either going through cancer or attempting to better themselves. They deserve better and to be protected by all of us.

The Schwartz’s arrogance, neighborly insensitively, selfishness, and a systemic effort to “bully” their way through the Planning process with illegal actions and misrepresentations, with full County staff support facilitating these actions, has resulted in the lack of fair hearings and prejudice to our family.

I ask, on behalf of my Mom, Carl and my brother, that your Board deny the Schwartz’s application and require them to return their chimney to it is original height, mass and color, paint their home the permitted Woodstock brown color, and reduce the shed to the permitted 8 ft high BEFORE any further permitting is allowed on their property.

Thank you,

Robert Kahn

# **Appeal Exhibits**

**Appeal to Board of Supervisors  
Zoning Administrator Resolution No. 21-025  
Schwartz, Mal – PLN200192**



## **Appeal Exhibits**

**Appeal to Board of Supervisors  
Zoning Administrator Resolution No. 21-025  
Schwartz, Mal – PLN200192**

**Filed on behalf of Robert Kahn**

### **Appeal Exhibits**

October 9, 2020 letter Kemp to Bettencourt

April 9, 2021 letter Kemp to Brennan/CV LUAC

April 28, 2021 letter Kemp to Dugan

May 10, 2021 e-mail Kemp – Ruiz, et. al.

May 11, 2021 e-mail Kemp – Angelo, et. al

May 11, 2021 letter Kahn to Angelo

May 17, 2021 e-mail Kahn to Dugan

May 18, 2021 letter Kahn to Brennan/CV LUAC

October 9, 2020 letter Kemp to Bettencourt

October 9, 2020

*Stephen W. Pearson*

*Anne K. Secker*

*Randy Meyenberg*

*Michael Masuda*

*Christine G. Kemp*

*Terrence R. O'Connor*

*Timothy J. Baldwin*

*\* Charles Des Roches*

*\* Leslie E. Finnegan*

*Ana C. Toledo*

*\* Robert D. Simpson*

*Lindsay Berg-James*

*Daniel J. Little*

*Ashley N. Garvey*

*Jennifer A. Mancera*

*Anthony Mendoza*

**E-MAIL - [bettencourtc@co.monterey.ca.us](mailto:bettencourtc@co.monterey.ca.us)**

**Cynthia Bettencourt, Permit Technician II  
Monterey County Resource Management Agency – Planning  
1441 Schilling Place South 2<sup>nd</sup> Floor  
Salinas, CA 93901**

**Re: PLN200192 & PLN17572 – Schwartz - 24980 Outlook Drive**

**Dear Ms. Bettencourt:**

I am writing on behalf of the Kahn family, owners of the property at 24970 Outlook Drive, immediately east of and above the Schwartz property at 24980 Outlook Drive, Carmel to request a public hearing on the Schwartz Design Approval request PLN200192.

The Kahns request this matter be set for public hearing based on the following:

1. The applicant, Schwartz, is in violation of their current permit PLN170572, and no further permitting should be allowed on this property until the current violations are resolved, as more fully set forth below.
2. The proposed project is a major remodel involving building within the side and rear setbacks, addition to the height and mass, is inconsistent with the Design Approval guidelines and Carmel Valley Area Plan, and has the potential to adversely impact the Kahn property, as more fully set forth below.
3. The project requires a variance or use permit to allow new construction within the existing non-conforming east side yard setback adjacent to the Kahn property.

Because the Design Approval will need to be combined with a request for a use permit or variance, the matter should be set for hearing before the Monterey County Planning Commission as a Combined Development Permit. (Title 21, Section 21.76.030).

*Harry L. Noland  
(1904-1991)*  
*Paul M. Hamerly  
(1920-2000)*  
*Myron E. Etienne, Jr.  
(1924-2016)*  
*Peter T. Hoss  
(1934-2018)*  
  
\* CERTIFIED SPECIALIST IN  
PROBATE, ESTATE PLANNING,  
AND TRUST LAW BY  
THE CALIFORNIA BOARD OF  
LEGAL SPECIALIZATION  
STATE BAR OF CALIFORNIA

**Existing Code Violations Prohibiting No Further Approvals Until Corrected**

The Schwartz's initial permit (PLN170572) required their remodeled home be painted dark brown, with no change to the existing chimney. In violation of their permit approval, Schwartz painted the house a bright white (not an earth-tone color) and enlarged the chimney, which is also painted white.

Researching the County Permit approval records for their initial home remodel (County Permit PLN170572) we find no record of them receiving approval to paint their house bright white or receiving approval to enlarge or modify their chimney, or paint it white, from its original natural brick facade.

In fact,

1. The Schwartz initial Design Approval Application/Approval expressly states the home colors will be "earthtones to blend in w/surroundings" and references original Plan Sheet A3.3. (See copy attached). The house is not an earthtone color, it is bright white.

2. Their approved house remodel plans, clearly state the house will be a dark "WOODSTOCK BROWN" color (See original Plan Sheet A3.3 and County DA approval summary, attached). The house is not brown, it is bright white.

3. Their approved house remodel plans show no change to the existing chimney, and reference only "EXPOSED FLUE E/SPARK ARRESTOR AND WIND CAP" (see original Plan Sheet A3.3) with respect to the fireplace and chimney, with no indication that any changes would be made to the size or shape material or color of the existing chimney. Instead, the chimney has been enlarged and also painted the bright white color. (See attached chimney photos).

Both the change in house color, from the approved earthtone dark brown, to a bright white, as well as, the enlarged chimney, also painted bright white, are violations of the Schwartz existing permit approval. (Title 21, Section 21.84.050).

In addition, shed at the rear of the property adjacent to the Kahn property line is also painted bright white, with skylights and electrical added.

Researching the County permit approval for the shed (DA190154), we find the County approval shows the shed being painted garden tan or dessert tan and white, but makes no reference to siding color versus the trim color. (See County Approval summary, attached). The garden tan or dessert tan color included in the application materials should be the shed siding, with white trim, consistent with the policies to use earthtone colors to blend in to the rural surroundings.

Moreover, we find no permit approval for the installation of electrical or skylights being installed on the roof in the Design Approval description.

Not only does the bright white color not blend in to the surroundings, the bright white color along, with the skylights, create excessive glare for the Kahns (See shed photo, attached).

Pursuant to Title 21 Section 21.84.120 no further permitting is allowed on the Schwartz property until the existing violations are remedied.

The Kahns also oppose any effort by Schwartz to attempt to apply for an “after the fact” permit to allow the existing white color, enlarged chimney, or electrical and skylights in the shed to remain.

The existing bright white color is not an earthtone color and is not in keeping with the neighborhood character, or the visual integrity of the surrounding development as required by the County’s Design Approval criteria (See photos, attached) (Title 21, Section 21.44.010, Design Approval criteria).

In addition the bright white color and enlarged chimney violate the Carmel Valley Area Plan policy CV-1.20 by creating a large white structure with too much mass and bulk, and causing a disruption of views from the Kahns’ existing home (See attached photos)

Under policy CV-120, the following guidelines apply:

b. Development either shall be visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development.

c. Materials and colors used in construction shall be selected for compatibility with the structural system of the building and with the appearance of the building’s natural and man-made surroundings.

d. Structures should be controlled in height and bulk in order to retain an appropriate scale.

e. Development, including road cuts as well as structures, should be located in a manner that minimizes disruption of views from existing homes.

Further evidence of the inconsistency with the neighborhood character, of the white color and large white chimney mass obstructing the Kahn’s view, is found in the area’s design guidelines the Carmel Views Community Association CC&Rs governing the Schwartz property at, Article V, Section 4 “Preservation of Views” (a), also prohibit an owner from constructing an addition to an existing structure that blocks principal views for a neighbors’ property.

Accordingly, before any further County permits are processed or reviewed for this property:

1. The house needs to be re-painted dark brown, as approved by the County;
2. The chimney size needs to be reduced to its original size, and chimney color returned to its natural brick color;
3. The shed needs to be painted garden tan or desert tan, with the electrical and skylights removed.

### **Objections to Current Project Requiring a Public Hearing**

The current project requires a public hearing as it is a major remodel project involving the construction of an additional 176 sf. to the unbuilt studio (which is now appears to be 531 sf.) with two very large skylights on the studio roof facing the Kahn property, as well as, the conversion of the non-habitable garage, located within the side yard setback to a new bedroom and expanded third bath, and the construction of a new 450 sf. covered and enclosed carport within the front yard setback, a with solar panels on the roof, also immediately adjacent to the Kahn property.

The project plans are incomplete as they do not show the existing shed adjacent to the Kahn property.

The project needs to be staked to obtain a clearer understanding of the height of the additions and the impact to the neighborhood.

Looking at the east elevation, it appears the new studio roof would create a structure higher than the existing chimney across the entire primary and principal view from the Kahn house in violation of Carmel Valley Area Plan policy CV-120, as well as the Carmel Views Community Association CC&Rs. (See attached photo of current enlarged chimney for reference, original Plan Sheet A3.2 east elevation, and new east elevation Plan Sheet A3.3).

There also needs to be a clear understanding of the reflective materials being installed, and also a better understanding regarding the dirt infill to front of the property, where the new carport is proposed, given the slope of the hillside.

### **The Project Requires a Use Permit or Variance to Allow New Construction Within The Existing Non-Conforming East Side Yard Setback**

The existing home is already non-conforming to as to the side yard setback on the east side of the property, adjacent to the Kahn property, where the majority of this work is occurring.

In particular, the project proposes convert the existing non-habitable garage into habitable living space for a fourth bedroom and expanded third bathroom. The existing garage encroaches into the east side yard setback as shown on new Plan Sheets A1.0 and A2.1.

Pursuant to Title 21 Section 21.68.030.A, the non-confirming use of a structure can only be changed to the same or a more restrictive use, and to do so, requires a use permit. Here the use is being changed from non-habitable to habitable living space. It also appears the garage conversion area is over 120 sf., above the threshold of sub-section C, notwithstanding the issue of converting the space from non-habitable to habitable space. Accordingly, the change in use requires either a use permit to allow the change in non-conforming use, or a variance to allow the use.

For the reasons set forth above, the application requires a public hearing before the Monterey County Planning Commission. However, at this point, the project should not move forward to hearing until the code violations are corrected, the project staked, the plans corrected, and the appropriate use permit or variance sought.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS  
A Professional Corporation

*Christine Kemp*  
Christine G. Kemp

CGK:acc

Attachments (14 total):

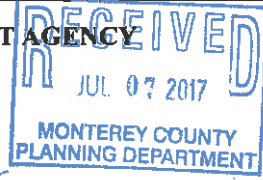
- Neighbor DA Approval Resda PLN170572
- Neighbor Admin DA PLN170572
- Prior Plans Sheet A3.3 – Woodstock Brown color
- Photo of Shed from Window
- Chimney Photo 1
- Chimney Photo 2
- Chimney Photo 4
- Neighbor DA190154 - shed
- Prior Floor Plan – first permit
- Prior Approval Setback Line
- New Floor Plan – garage converted to bedroom
- Original Plans 1<sup>st</sup> Sheet
- Prior East Elevation – Sheet A3.2
- New Plan East Elevation – Sheet A3.3

FILE #: PIN 170572



MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY PLANNING

168 West Alisal, 2nd Floor, Salinas, CA 93901
Telephone: (831) 755-5025 Fax: (831) 757-9516
http://www.co.monterey.ca.us/planning



INLAND DESIGN APPROVAL APPLICATION FORM

ASSESSOR'S PARCEL NUMBER: 015-522-008-000

PROJECT ADDRESS: 24980 OUTLOOK DR. CARMEL CA 93923

PROPERTY OWNER: MAL SCHWARTZ & LAURA TRYON Telephone: C/O ARCHITECT
Address: C/O ARCHITECT Fax:
City/State/Zip: Email:

APPLICANT: STUDIO CARVER ARCHITECTS Telephone: 831-624-2304
Address: PO BOX 2684 Fax: 831-624-0364
City/State/Zip: CARMEL, CA 93921 Email: robert@studiocarver.com

AGENT: Telephone:
Address: Fax:
City/State/Zip: Email:

Mail Notices to: [ ] Owner [X] Applicant [ ] Agent
(Select one)

PROJECT DESCRIPTION: (Attach Scope of Work) Remodel of an (E) 2,645 sf single story residence and the construction of a 355 addition with skylight. Scope of work also includes the replacement of exterior siding, doors, and windows. Proposed grading will include the import of 1448 cu yds of fill. 4 fruit trees are proposed and 2 planters for herb garden.

MATERIALS TO BE USED: Composition roofing, James Hardie siding, aluminum doors & windows
See sheet A2.3 & A3.3 for images

COLORS TO BE USED: Composition roofing to match existing, woodstock brown siding, bronze anodized aluminum doors and windows.

I acknowledge that I will need a building permit and must comply with the Monterey County Building Ordinance and that this approval is for design of the structures and compliance with zoning regulations and for properties served by Onsite Wastewater Treatment System (OWWS), the Environmental Health Bureau (EHB) will not review this application but may need to require a design of the project for the submittal construction permit application as additional impacts related to the existing OWWS or other structures. A project redesign may require a submittal Design Approval application and additional fees.

PROPERTY OWNER/AGENT SIGNATURE: [Signature] DATE: 7-7-17

FOR DEPARTMENT USE ONLY

ZONING: LDR/B-6-D-S-RAZ AREA PLAN: CARMEL VALLEY MASTER PLAN
ADVISORY COMMITTEE: CARMEL VALLEY MP RELATED PERMITS:
PLANNER:
WITHIN ARCH BUFFER ZONE? [ ] YES [X] NO ON SEPTIC SYSTEM (OWTS)? [ ] YES [X] NO
LEGAL LOT: CARMEL VIEWS NO 2 TRACK 628 [X] YES [ ] NO DOES THIS CORRECT A VIOLATION? [ ] YES [X] NO

FINDINGS:
[X] The project is consistent with the 2010 General Plan, the applicable Area Plan, and meets the regulations in Title 21 (Zoning Ordinance-Inland); and
[X] The design of the proposed project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property because: Minor change from existing exterior footprint. Re-design to avoid further encroachment into setback. Colors are earth-tone to blend w/ surroundings

DECISION: [ ] OVER-THE-COUNTER [X] ADMINISTRATIVE
ACTION: [X] APPROVED [ ] DENIED
CONDITIONS: [ ] ATTACHED [ ] NONE
APPROVED BY: [Signature] DATE: 10/17/17
COPY TO APPLICANT: [ ] IN PERSON OR [X] MAILED DATE: 10/17/17



Home Create Search Schedule

Announcements Planning Reports (4)

24980 outlook carmel

Search by permit number, parcel or address in the box to the right.

Permit Number PLN170572:
Minor
Current Permit Status: Cleared

Record Info Payments

Project Location

24980 OUTLOOK
CARMEL 93923

Record Details

Project Description:

Design Approval to allow remodel of a 2,670 square foot single family dwelling and a 355 square foot addition with skylight, an on-grade patio, and replacement of exterior siding, doors and windows. Colors are Woodstock brown siding, bronze anodized aluminum doors and windows. The property is located at 24980 Outlook Drive, Carmel (Assessor's Parcel Number 015-522-008-000), Carmel Valley Master Plan.

More Details

Application Information

GENERAL

Entitlement: Design Administrative

CEQA INFORMATION

CEQA Status: Categorical Exemption

Parcel Information

Parcel Number: 015-522-008-000

Planning Area: Carmel Valley Master Plan

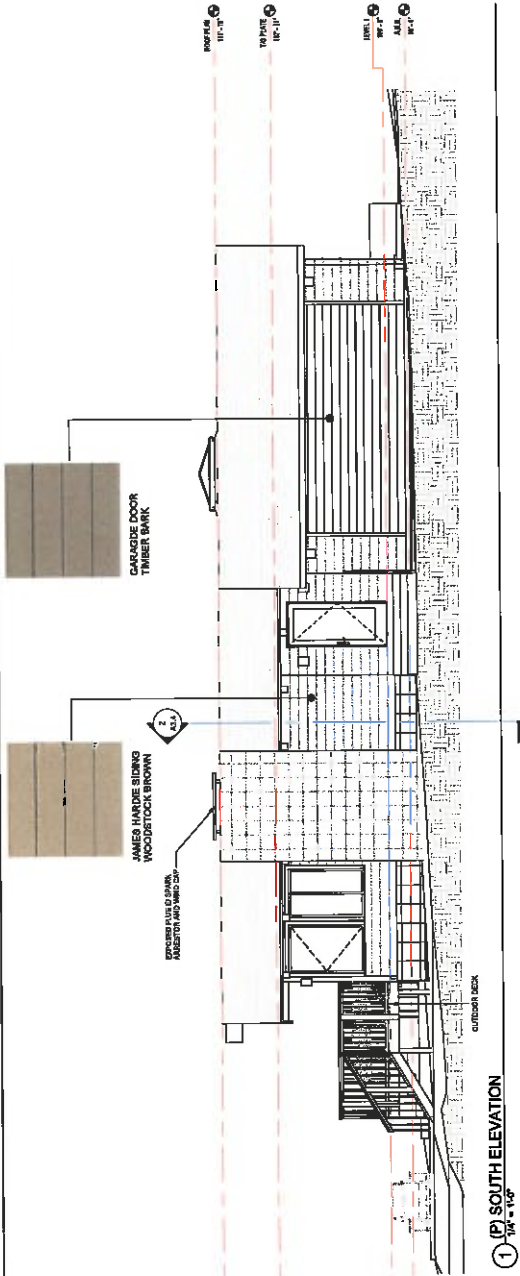
Fire District:

Cypress FPD

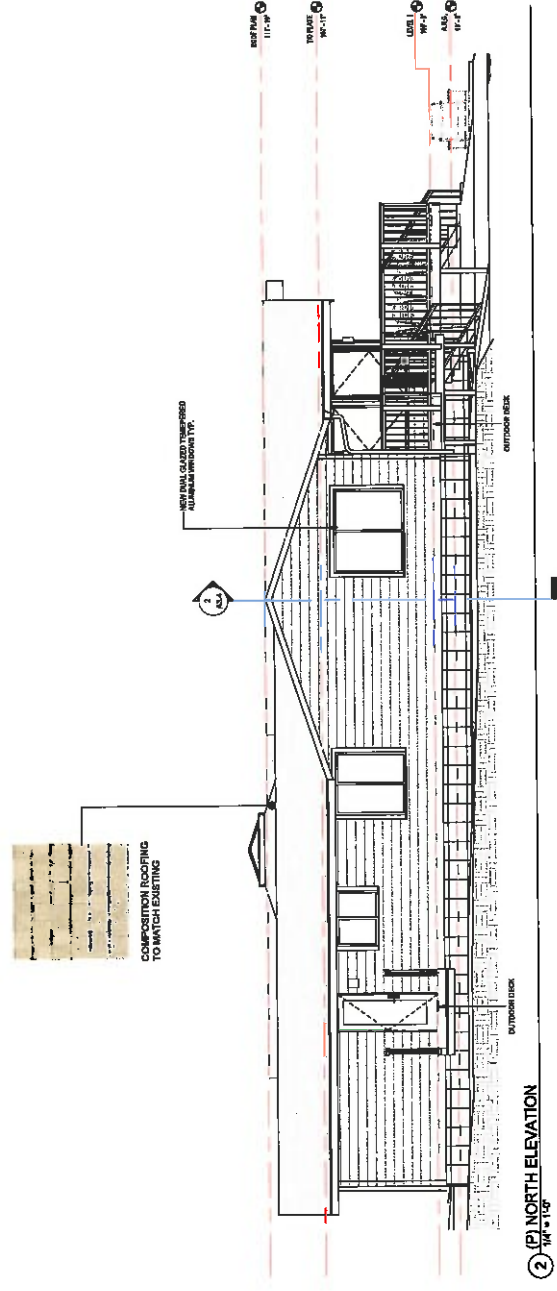
Zoning:

LDR/B-6-D-S-RAZ

Condition Compliance Status Conditions of Approval



**1 (P) SOUTH ELEVATION**  
1/4" = 1'-0"



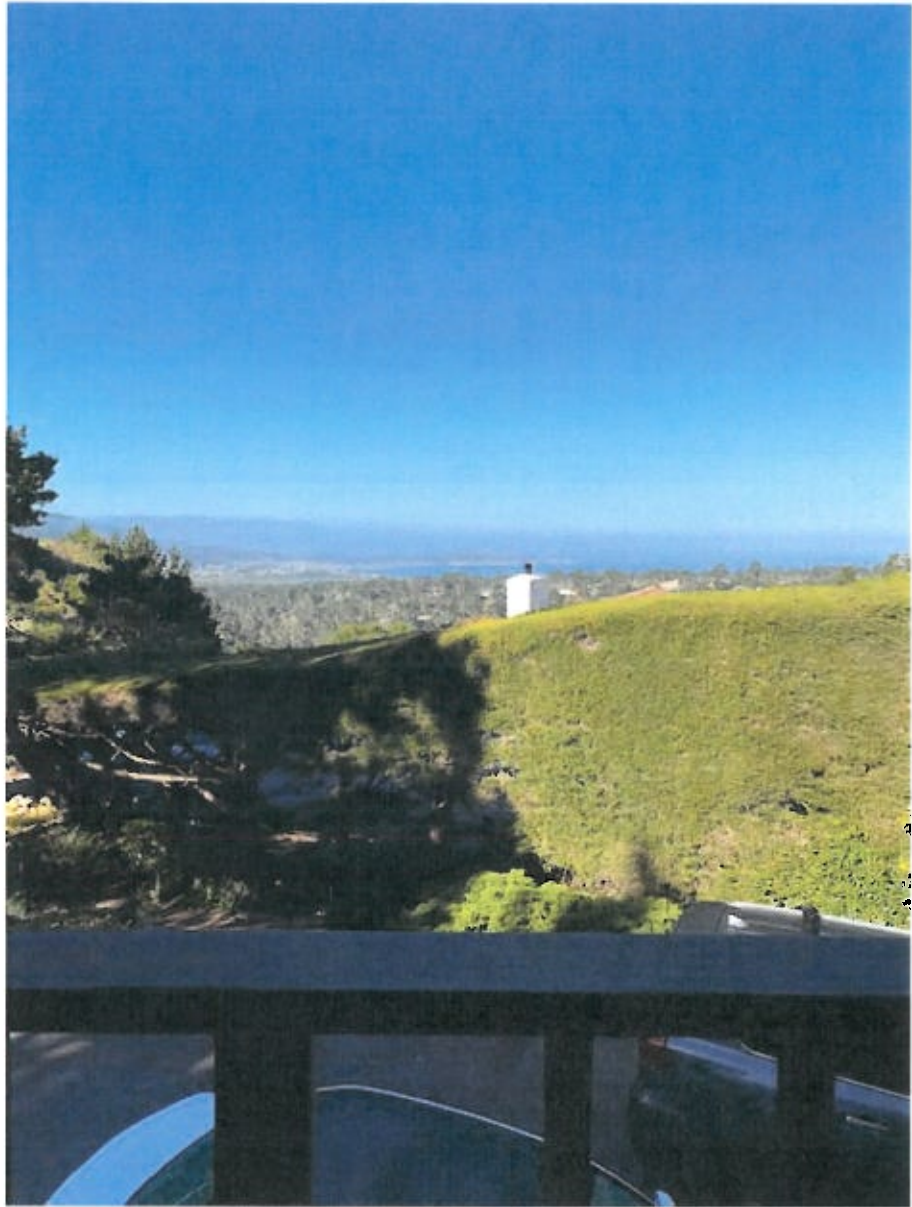
**2 (P) NORTH ELEVATION**  
1/4" = 1'-0"

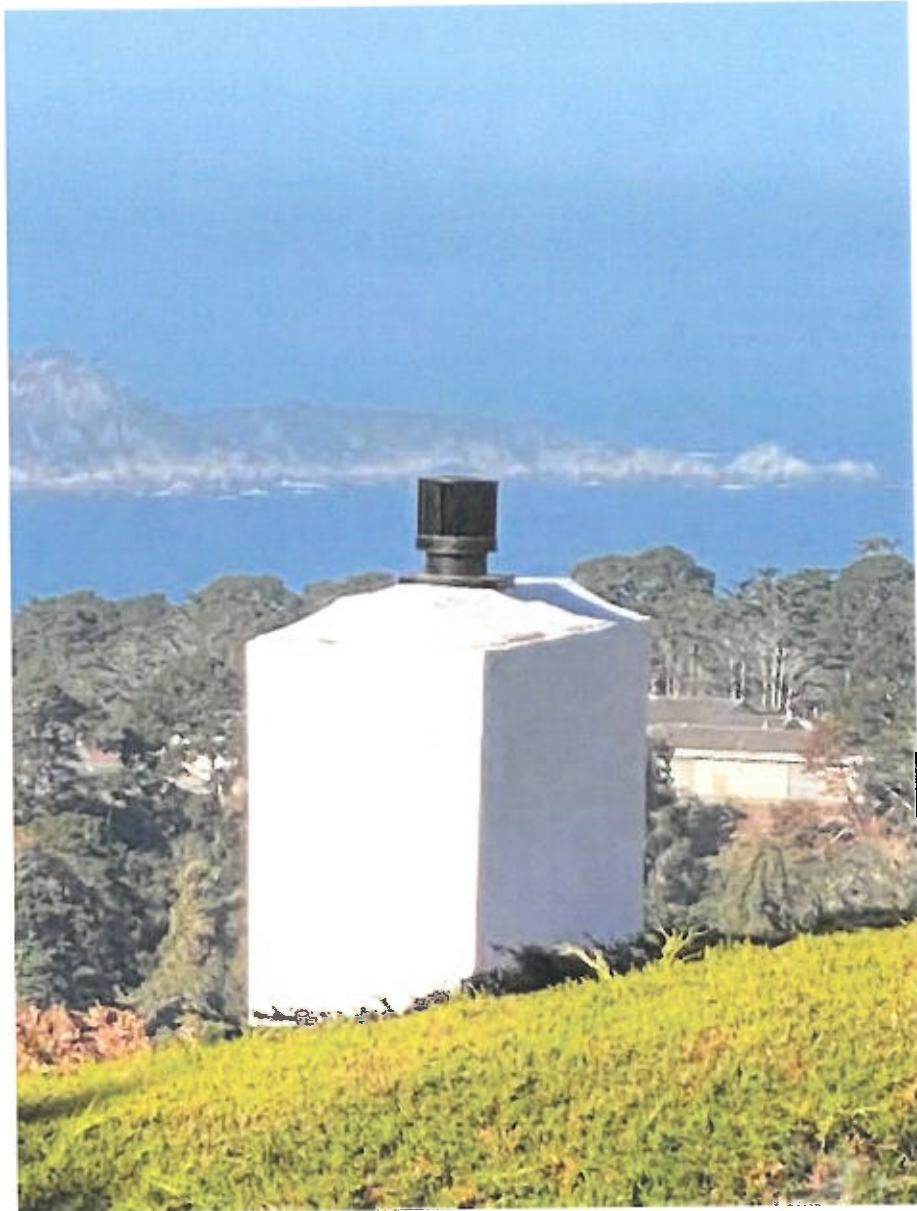


**NOT FOR CONSTRUCTION**

These drawings are prepared by the architect and are to be used for informational purposes only. They are not to be used for construction or other purposes without the written consent of the architect. The architect is not responsible for any errors or omissions in these drawings. The architect is not responsible for any construction or other purposes without the written consent of the architect. The architect is not responsible for any errors or omissions in these drawings. The architect is not responsible for any construction or other purposes without the written consent of the architect.







**Chimney from same perspective as Photo 2, but with chimney enlarged.**



Home Create Search Schedule

Announcements Planning Reports (4)

24980 outlook carmel

Search by permit number, parcel or address in the box to the right.

Permit Number DA190154:
Design Approval
Current Permit Status: Cleared

Record Info Payments

Project Location

24980 OUTLOOK
CARMEL 93923

Record Details

Project Description:

Design Approval to allow a 120 square foot, 8 ft high storage shed. Colors to consist of Delicate white, Garden tan and materials to consist of wood and composite shingles. The property is located at 24980 Outlook Drive, Carmel (Assessor's Parcel Number 015-522-008-000) Carmel Valley Master Plan

More Details

Related Contacts

Planning Staff information
MARIA SANCHEZ
COUNTY OF MONTEREY RMA BUILDING
1441 SCHILLING PL SOUTH 2ND FLR
SALINAS CA 93901
E-mail:sanchezm5@co.monterey.ca.us

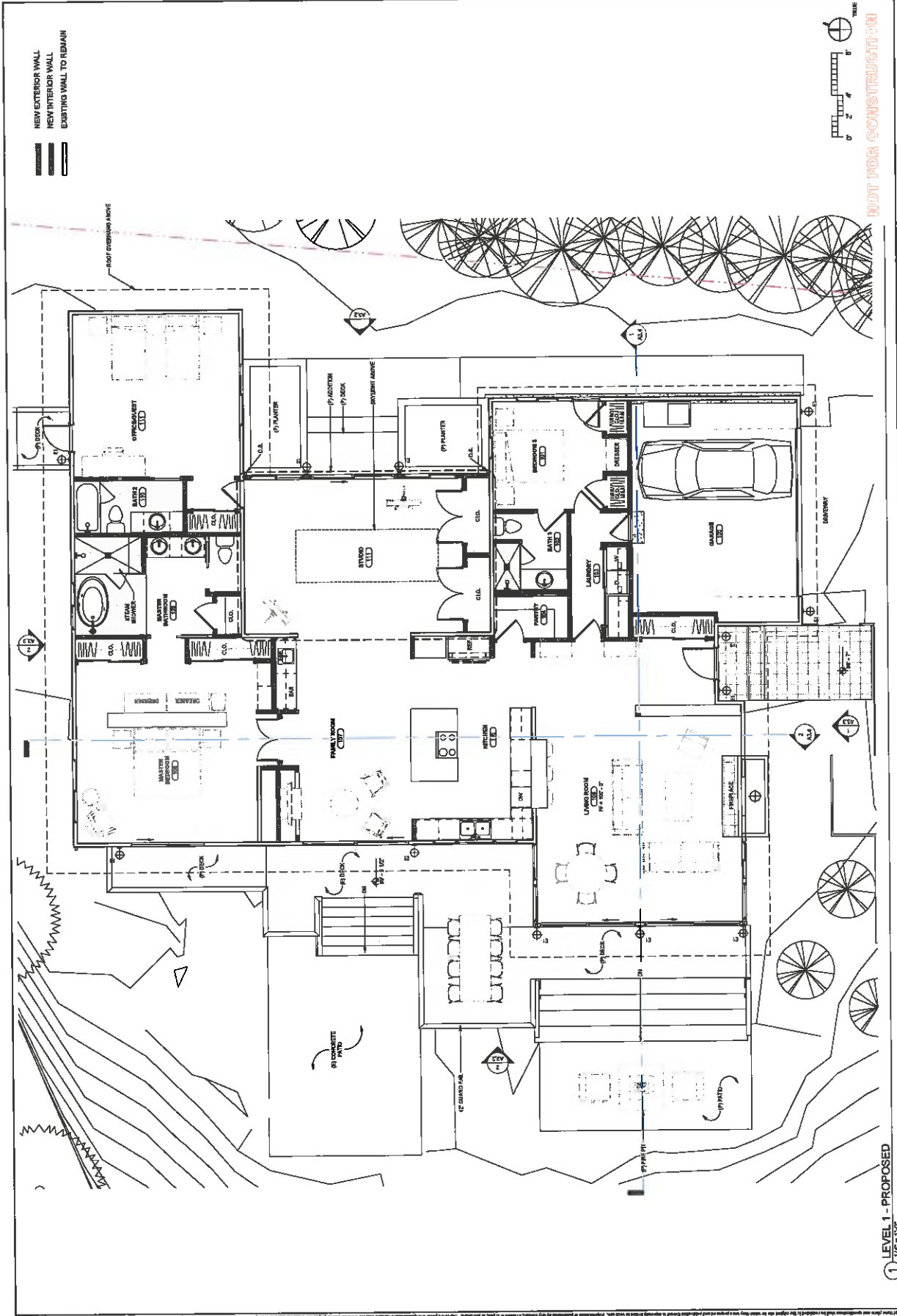
Application Information

GENERAL
Entitlement: Design OTC
DESIGN APPROVAL
Materials: Wood Composite Shingle
Colors: Delicate White Desert Tan

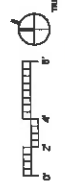
Parcel Information

Parcel Number: 015-522-008-000
Planning Area: Carmel Valley Master Plan
Fire District: Cypress FPD
Zoning: LDR/B-6-D-S-RAZ

Complain Complaints Status Conditions of Approval



NEW EXTERIOR WALL  
NEW INTERIOR WALL  
EXISTING WALL TO REMAIN



**NOT FOR CONSTRUCTION**

**1 LEVEL 1 - PROPOSED**  
1/8" = 1'-0"



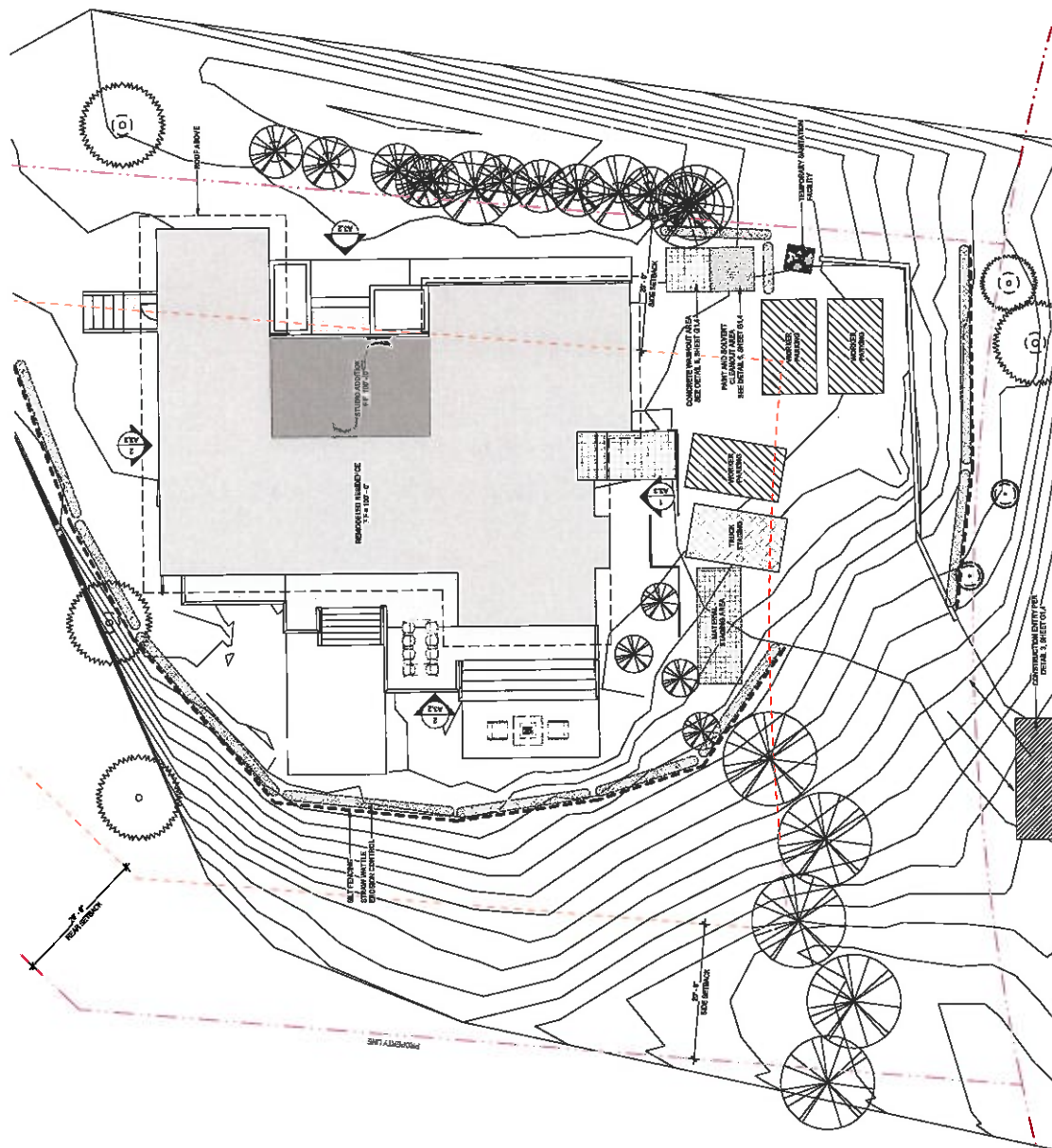


**CONSTRUCTION MANAGEMENT NOTES:**

1. CONSTRUCTION SHALL BE LIMITED TO BE 16 MONTHS EXCEPT FOR THE DATE PERMIT AND SITES.
2. WORK SHALL BE PERFORMED IN SEQUENCES BETWEEN THE HOUSES OF CONSTRUCTION. THE PERMITTED CONSTRUCTION ACTIVITY SHALL BE LIMITED TO THE PERMITTED CONSTRUCTION ACTIVITY PER HOUR.
3. TRUCKS WILL BE ROUTED TO AND FROM THE SITE ALONG HIGHWAY 174.
4. TRUCKS SHALL NOT BE ALLOWED TO ENTER THE CONSTRUCTION WORK AREA FROM 8:00 AM TO 5:00 PM.
5. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE PERMITTED CONSTRUCTION ACTIVITY.
6. STORM DRAIN SHALL BE REPAIRED AND DAMAGED DAMS SHALL BE REPAIRED TO CONTAIN STORM WATER AND PREVENT DAMAGING EQUIPMENT, WHERE APPLICABLE.
7. ALL ON AND OFFROAD DIESEL EQUIPMENT SHALL NOT BE FOR MORE THAN 8 HOURS.
8. USE ALTERNATIVE FUELED CONSTRUCTION EQUIPMENT (ELECTRIC OR NATURAL GAS) IN ALL PHASES OF CONSTRUCTION.
9. ALL CONSTRUCTION SHALL BE LIMITED TO THE EXISTING FOOTPRINT OF THE PROJECT.
10. ALL CONSTRUCTION SHALL BE LIMITED TO THE EXISTING FOOTPRINT OF THE PROJECT.
11. ALL CONSTRUCTION SHALL BE LIMITED TO THE EXISTING FOOTPRINT OF THE PROJECT.
12. ALL CONSTRUCTION SHALL BE LIMITED TO THE EXISTING FOOTPRINT OF THE PROJECT.

**STORMWATER DRAINAGE LEGEND**

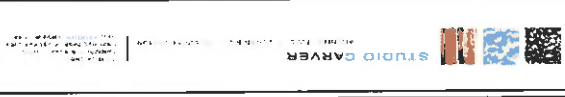
CONSTRUCTION ENTRY	
[Symbol]	WORKER PARKING
[Symbol]	CONCRETE WAREHOUSE AND MATERIAL STORAGE AREA
[Symbol]	TRUCK STORAGE
[Symbol]	PAINT AND SOLVENT CLEANUP AREA
[Symbol]	CONCRETE WAREHOUSE AREA
[Symbol]	TREE AND ROOT PROTECTION BOUNDARIES PER ARB/DCP
[Symbol]	STORMWATER EROSION CONTROL
[Symbol]	TRAFFIC
[Symbol]	SALT PILE



**1 EROSION CONTROL & CONSTRUCTION MANAGEMENT PLAN**  
TPR - 140

NOT FOR CONSTRUCTION





**PROJECT INFORMATION**

**PROPERTY ADDRESS**  
24690 OUTLOOK DR., CARMEL, CA 93823

**APN**  
015-522-008-000

**ZONING**  
LRUB-42-R-142

**RESIDENTIAL**

**GENERAL PLAN LAND USE DESIGNATION**  
RESIDENTIAL

**TYPE OF CONSTRUCTION**  
R-3 SINGLE FAMILY RESIDENCE

**OCCUPANCY GROUP**  
U / GARAGE

**YES**

**W/ADJACENT URBAN INTERFACE AREA (ALL MATERIALS & CONSTRUCTION TO COMPLY WITH CHAPTER 7A OF THE SUB CODES)**

**AVERAGE NATURAL GRADE**  
ELEV. = 8' - 0"

**ALLOWED HEIGHT LIMIT ABOVE A.M.G.**  
30' - 0" ELEV. = 128' - 0"

**(E) HEIGHT ABOVE A.M.G.**  
13' - 0" ELEV. = 117' - 10"

**(F) HEIGHT ABOVE A.M.G.**  
19' - 10 1/2" ELEV. = 112' - 4 1/2"

**BUILDING AREA**

(E) BUILDING AREA:  
(E) RESIDENCE & GARAGE 2,845 SF  
(E) DECKS (24' shy grade) 176 SF

REMODELED BUILDING AREA:  
REMODELED RESIDENCE & GARAGE 2,842 SF  
REMODELED & NEW DECKS 608 SF

**LOT COVERAGE**

ALLOWABLE LOT COVERAGE 57981 SQUARE FEET (131.9 SF)

(E) LOT COVERAGE:  
(E) RESIDENCE & GARAGE 2,845 SF  
(E) DECKS (24' shy grade) 176 SF  
TOTAL 3,021 SF OR 11.2%

NEW LOT COVERAGE:  
REMODELED RESIDENCE & GARAGE 2,842 SF  
REMODELED & NEW DECKS 608 SF  
TOTAL 3,450 SF OR 12.5%

**GRADING ESTIMATES**

GRADING CUT 3.44 CUYDOS  
GRADING FILL 17.28 CUYDOS  
GRADING NET IMPORT 14.84 CUYDOS

**MISCELLANEOUS**

WATER SOURCE CAL AM  
SEWER SYSTEM C&W  
TREES TO BE REMOVED 0  
REQUIRED PARKING 2 SPACES  
EXISTING PARKING 4 SPACES (1 COVERED)

**SHEET INDEX**

- G1.0 COVER SHEET
- G1.1 GENERAL NOTES
- G1.2 SURVEY
- G1.3 EROSION CONTROL / CONSTRUCTION MGMT PLAN
- G1.4 EROSION CONTROL / CONSTRUCTION MGMT NOTES
- G1.5 GRADING & DRAINAGE PLAN
- A1.0 SITE PLAN
- A1.1 PROPOSED FLOOR PLAN
- A2.1 PROPOSED ROOF PLAN
- A2.3 PROPOSED EXTERIOR ELEVATIONS
- A3.2 PROPOSED EXTERIOR ELEVATIONS
- A3.3 PROPOSED EXTERIOR ELEVATIONS
- A3.4 BUILDING SECTIONS

**SCOPE OF WORK**

REMODEL OF AN (E) 2,845 SF SINGLE STORY RESIDENCE AND THE CONSTRUCTION OF A 300 SF ADDITION WITH ITS LIMITS, SCOPE AND MATERIALS TO BE DETERMINED BY THE ARCHITECT. THE SCOPE INCLUDES THE IMPORT OF 14.84 CU YDS OF FILL, 4 FRUIT TREES AND 2 PLANTERS FOR FRONT GARDEN.

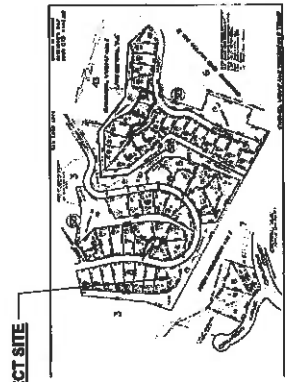
**PROJECT TEAM**

**OWNER**  
MIA SHWARTZ & LAURA TRYON

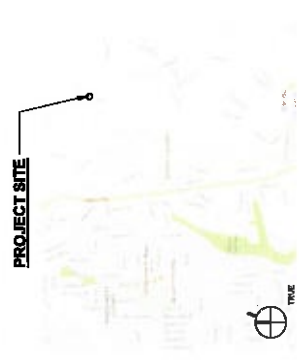
**ARCHITECT**  
STUDIO RARYM ARCHITECTS  
P.O. Box 2884, Carmel, CA 93821  
Phone: (831) 224-5654  
Fax: (831) 224-5654  
E-mail: robert@studiorarym.com  
Contact: Robert Carter, AIA, Lead AP

**ENGINEER**  
MONTGOMERY ENGINEERS, INC.  
877 Cheshire Ave., Suite B  
San Jose, CA 95128  
Phone: (408) 298-7000 Fax: (408) 298-7070  
E-mail: info@montgomeryengineers.com

**PARCEL MAP**



**PROJECT SITE**



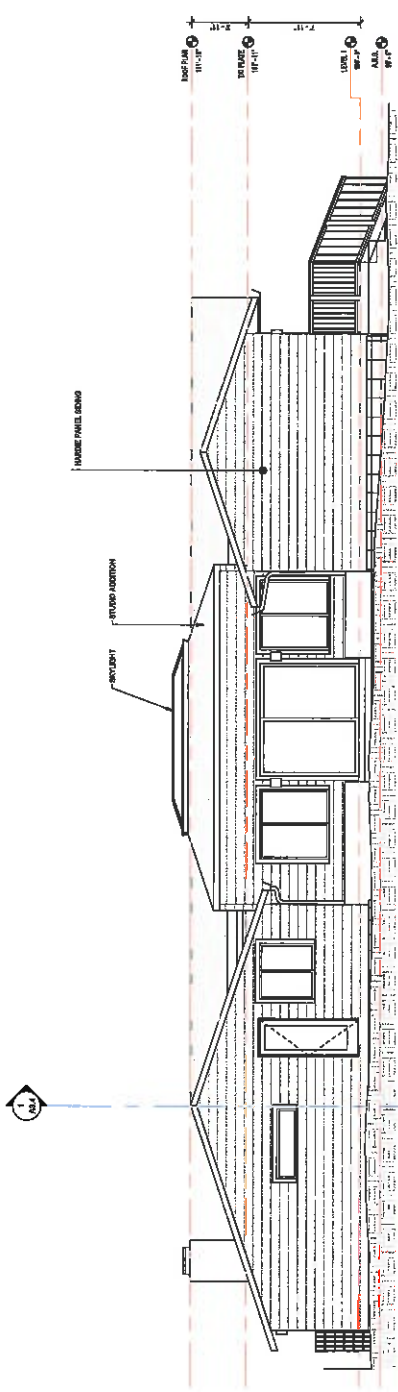
**VICINITY MAP**



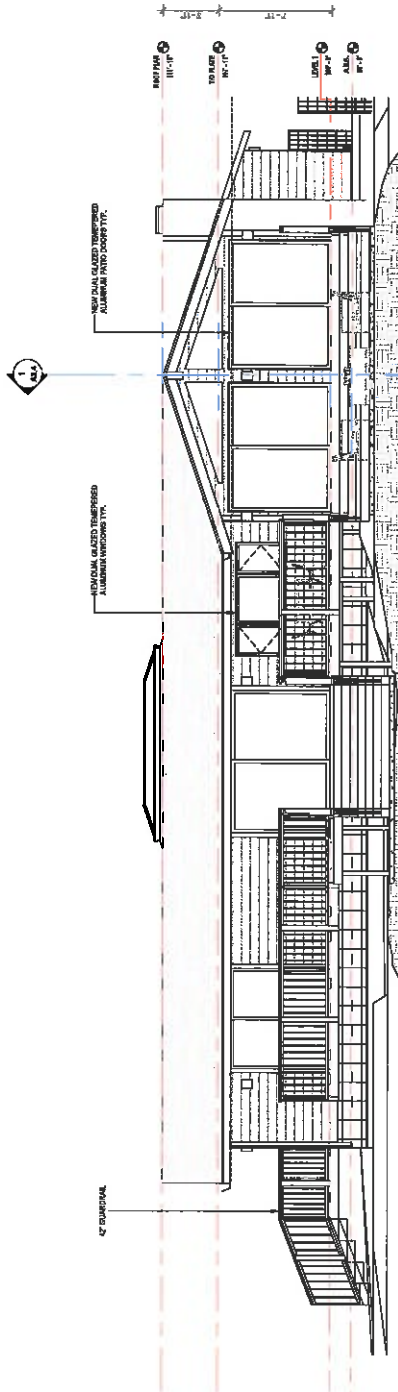
**EXISTING PROPERTY PHOTOS**



EXISTING EXTERIOR



① (P) EAST ELEVATION  
1/4" = 1'-0"

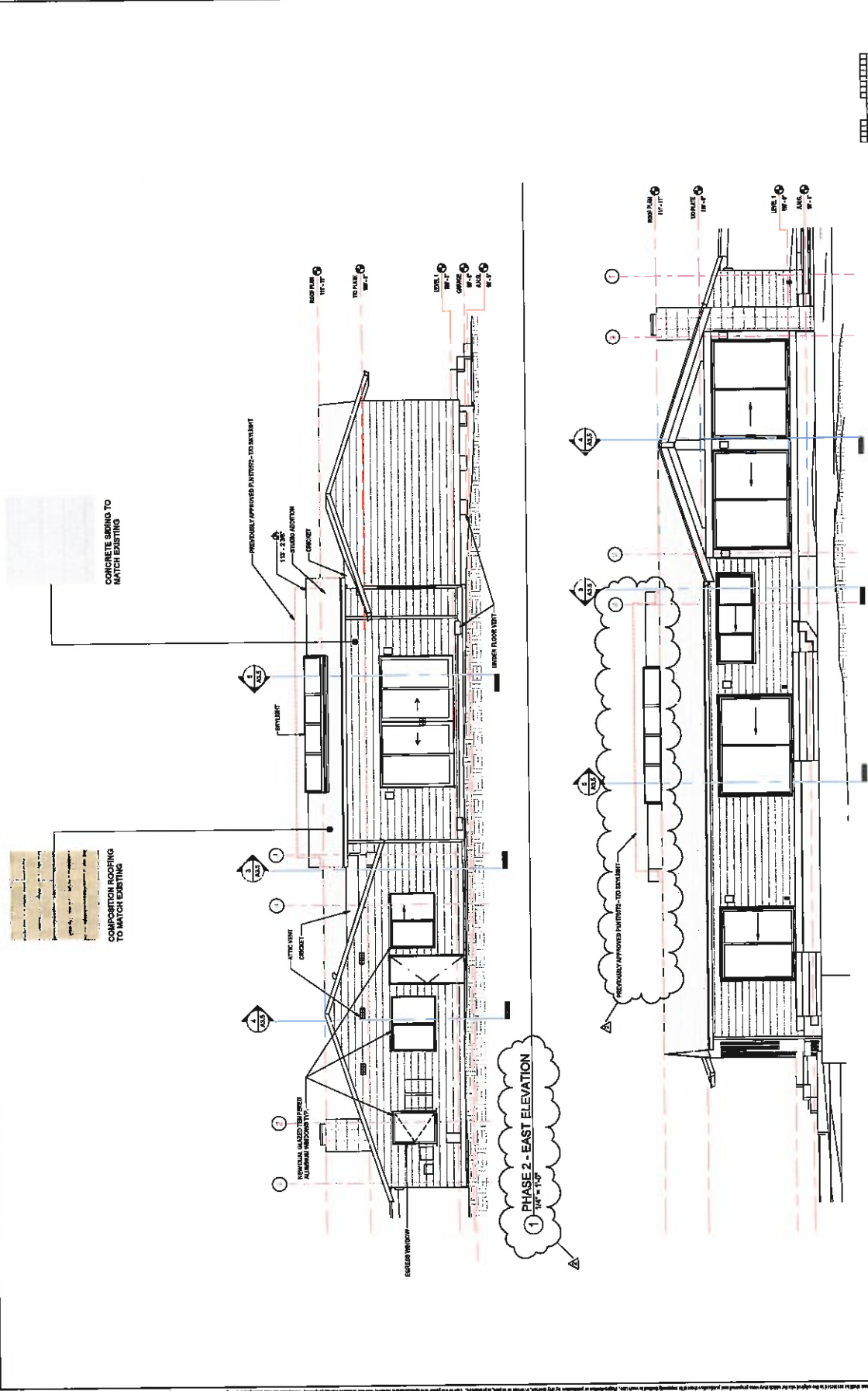


② (P) WEST ELEVATION  
1/4" = 1'-0"

NOT FOR CONSTRUCTION



1. 11/15/2017  
2. 11/15/2017  
3. 11/15/2017  
4. 11/15/2017  
5. 11/15/2017  
6. 11/15/2017  
7. 11/15/2017  
8. 11/15/2017  
9. 11/15/2017  
10. 11/15/2017



**PHASE 2 - EAST ELEVATION**  
1/4" = 1'-0"

**PHASE 2 - WEST ELEVATION**  
1/4" = 1'-0"

**NOT PER ARCHITECTURE**

1. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 2. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 3. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 4. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 5. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 6. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 7. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 8. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 9. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited. 10. The drawings and specifications shall be construed to be a contract for the work shown. Reproduction or publication of these drawings without the written consent of the architect is prohibited.

April 9, 2021  
letter Kemp to Brennan/CV LUAC

April 9, 2021

*Stephen W. Pearson*

*Anne K. Secker*

*Randy Meyenberg*

*Michael Masuda*

*Christine G. Kemp*

*Timothy J. Baldwin*

*\* Charles Des Roches*

*\* Robert D. Simpson*

*Ana C. Toledo*

*\* Leslie E. Finnegan*

*Lindsey Berg-James*

*Anne Frassetto Olsen*

*Daniel J. Little*

*Ashley N. Garvey*

*Anthony Mendoza*

*Harry L. Noland  
(1904-1991)*

*Paul M. Hamerly  
(1920-2000)*

*Myron E. Etienne, Jr.  
(1924-2016)*

*Peter T. Hoss  
(1934-2018)*

*\* CERTIFIED SPECIALIST IN  
PROBATE, ESTATE PLANNING,  
AND TRUST LAW BY  
THE CALIFORNIA BOARD OF  
LEGAL SPECIALIZATION  
STATE BAR OF CALIFORNIA*

**E-MAIL - [angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)**

Janet Brennan, Chair and Members of the Carmel Valley LUAC  
c/o Phillip Angelo, County Planner  
Monterey County Resource Management Agency – Planning  
1441 Schilling Place South 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: PLN200192 – Schwartz - 24980 Outlook Drive

Dear Ms. Brennan and Members of the Committee:

I am writing on behalf of the Kahn family, owners of the property at 24970 Outlook Drive, Carmel, immediately east of and above the Schwartz property at 24980 Outlook Drive, Carmel, to request that your Committee recommend denial of the Schwartz Design Approval Application, PLN200192, being heard by you this Monday 4/12/21.

The Kahns make this request based on the following:

1. The DA Application contains a request for “after the fact” approval of work done without County permits in violation of the Schwartz, original permit PLN170572. This unpermitted work should not be permitted after the fact, but restored to the original permitted work, as more fully set forth below.
2. In addition, to the “after fact permit”, the current proposal is a major remodel involving building within the side and rear setbacks, adding additional height and mass to the home inconsistent with the Design Approval guidelines and Carmel Valley Area Plan, and will adversely impact the Kahn property, as more fully set forth below.
3. The project requires a variance or use permit to allow new construction within the existing non-conforming east side yard setback adjacent to the Kahn property, yet there is no application for a variance.

**Existing Code Violations Should Not be Retroactively Approved, but Returned to What was Originally Approved by the County.**

The Schwartz's initial DA permit approval (PLN170572) required their remodeled home be painted dark brown, with no change to the existing natural brick chimney (See original Plan Sheet A.3.3 and original DA Approval PLN170572).

In violation of their permit approval, Schwartz painted their house a bright white (not an earth-tone color) and enlarged the height and mass of the brick chimney, covering it with a smooth stucco finish and also painting it white.

Researching the County Permit approval records for their initial home remodel (County Permit PLN170572) we found no record of them receiving approval to paint their house bright white or receiving approval to enlarge the height and mass of their chimney, change the surface smooth stucco or paint it white, from its original natural brick facade.

In fact,

1. The Schwartz initial plans and Design Approval Application/Approval expressly states the home colors will be "earthtones to blend in w/surroundings" and references original Plan Sheet A3.3. (See original Plan Sheet A.3.3 and original DA Approval PLN170572, attached). The house is not an earthtone color. Instead, they painted it bright white in violation of their DA permit.

2. Their approved house remodel plans, clearly state the house will be a dark "WOODSTOCK BROWN" color (See original Plan Sheet A3.3, original DA Approval PLN170572, and County DA approval summary, attached). The house is not brown. Instead they painted it bright white in violation of their DA permit.

3. Their approved house remodel plans show no change to the existing chimney, and reference only "EXPOSED FLUE E/SPARK ARRESTOR AND WIND CAP" (See attached original Plan Sheet A3.3) with respect to the fireplace and chimney, with no indication that any changes would be made to the size or shape, material, or color of the existing brick chimney.

Instead, the chimney height and mass was enlarged by over 1 foot in height, covered with a smooth stucco surface, and painted the bright white color, with an even taller and larger spark arrestor on top. The original chimney height on the original plans shows the chimney at the same



elevation as the existing roofline at elevation 111'- 11" (See attached Lucido Exhibit –Chimney (Before)). The elevations shot by the Kahn's surveyor, Frank Lucido, show the new chimney height at 113'-1", well over a foot higher than it was previously, and the much larger spark arrester at elevation 114' - 7" well over two feet higher than it was previously . (See attached Lucido Exhibit – Chimney (After); see also prior East Elevation Plan Sheet A3.2 and New East Elevation Plan Sheet A3.3).

In addition, shed at the rear of the property adjacent to the Kahn property line was also painted bright white, with unpermitted skylights and electrical added (See attached shed photo).

Researching the County permit approval for the shed (DA190154), we find the County approval shows approval only for a "premanufactured Tuft Shed" being painted garden tan or dessert tan and white, but makes no reference to siding color versus the trim color (See attached County Design Approval summary, and Shed Site plan). The garden tan or dessert tan color included in the application materials should be the shed siding, with white trim, consistent with the policies to use earthtone colors to blend in to the rural surroundings.

Moreover, there was no permit approval for the installation of electrical or skylights being installed on the roof in the Design Approval description or site plan, only a "premanufactured Tuft Shed" (See attached Shed site plan). That is all – no skylights and no electricity. Not only does the bright white color on the shed not blend in to the surroundings, the bright white color along, with the skylights, create excessive glare for the Kahns (See shed photo, attached).

The Schwartz's change in house color, from the approved earthtone dark brown, to a bright white, as well as, their enlarged height and mass, and smooth stucco surface of the chimney also painted white, along with the their addition of electricity and skylights to the storage shed, are all violations of the Schwartz existing permit approval. (Title 21, Section 21.84.050).

Pursuant to Title 21 Section 21.84.120 no further permitting is allowed on the Schwartz property until the existing violations are remedied.

Moreover, for the reasons set forth herein, the Kahns oppose the Schwartz's attempt to obtain an "after the fact" permit approval to allow the existing white color, enlarged chimney, or electrical and skylights in the shed to remain. These unpermitted changes all need to be removed and returned to what was originally approved.

The existing bright white color is not an earthtone color and is not in keeping with the neighborhood character, or the visual integrity of the surrounding development as required by the County's Design Approval criteria (See house and chimney photos, attached) (Title 21, Section 21.44.010, Design Approval criteria).

In addition the bright white color and enlarged height and mass of the chimney violate the Carmel Valley Area Plan policy CV-1.20 by creating a large white structure with too much mass and bulk, and causing a disruption of views from the Kahns' existing home (See attached photos)

Under policy CV-120, the following guidelines apply:

- b. Development either shall be visually compatible with the character of the valley and immediate surrounding areas or shall enhance the quality of areas that have been degraded by existing development.
- c. Materials and colors used in construction shall be selected for compatibility with the structural system of the building and with the appearance of the building's natural and man-made surroundings.
- d. Structures should be controlled in height and bulk in order to retain an appropriate scale.
- e. Development, including road cuts as well as structures, should be located in a manner that minimizes disruption of views from existing homes.

Further evidence of the inconsistency with the neighborhood character, of the white color and large white chimney mass obstructing the Kahn's view, is found in the area's design guidelines the Carmel Views Community Association CC&Rs governing the Schwartz property at, Article V, Section 4 "Preservation of Views" (a), also prohibit an owner from constructing an addition to an existing structure that blocks principal views for a neighbors' property.

Accordingly, before any further County permits are processed or reviewed for this property:

1. The house needs to be re-painted dark brown, as approved by the County;
2. The chimney height and mass and exterior surface needs to be returned to its original size, and the chimney color returned to its natural brick color;

3. The shed needs to be removed or painted garden tan or desert tan, with the electrical and skylights removed.

**The Current Proposed Plans Should be Denied**

In addition to attempting to obtain an “after the fact” for their existing code violations, the Schwartz’s current plans involve the construction of a 531 sf. studio with two very large skylights on the studio roof facing the Kahn property, as well as, the conversion of the non-habitable garage, located within the side yard setback to a new bedroom and expanded third bath, and the construction of a new 450 sf. covered and enclosed carport within the front yard setback, with solar panels on the roof, also immediately adjacent to the Kahn property.

The project plans are incomplete as they do not show the existing shed adjacent to the Kahn property (See attached Sheet A1.0).

Moreover, the new plans include a new roofline at elevation of 113’- 5¾”, and added skylights at elevation 114’- 0¾” which roofline will be even higher than the unpermitted chimney height of 113’- 1” across the entire primary and principal view from the Kahn house. (See Lucido Chimney Exhibits, original Plan Sheet A3.2 east elevation, and new east elevation Plan Sheet A3.3). This new Plan Sheet also continues to show the chimney at its original height at elevation 111’- 11”, in line with the original roof height, ignoring the unpermitted addition to the chimney height and mass which raised the chimney and mass to elevation 113’- 1”.

This added roofline height violates Carmel Valley Area Plan policy CV-120, as well as, the Carmel Views Community Association CC&Rs.

Additionally there is no understanding of the reflective materials being installed, and no understanding regarding the dirt infill to the front of the property, where the new carport is proposed, given the slope of the hillside.

**The Project Requires a Use Permit or Variance to Allow New Construction Within The Existing Non-Conforming East Side Yard Setback**

The existing home is already non-conforming as to the side yard setback on the east side of the property, adjacent to the Kahn property, where the majority of this work is occurring.

In particular, the project proposes to convert the existing non-habitable garage into habitable living space for a fourth bedroom and

Phillip Angelo  
April 9, 2021  
Page 6

expanded third bathroom. The existing garage encroaches into the east side yard setback as shown on new Plan Sheets A1.0 and A2.1.

Pursuant to Title 21 Section 21.68.030.A, the non-confirming use of a structure can only be changed to the same or a more restrictive use, and to do so, requires a use permit. Here the use is being changed from non-habitable to habitable living space. It also appears the garage conversion area is over 120 sf., above the threshold of sub-section C, notwithstanding the issue of converting the space from non-habitable to habitable space. Accordingly, the change in use requires either a use permit to allow the change in non-confirming use, or a variance to allow the use.

For the reasons set forth above, we urge your Committee to recommend denial of the Schwartz DA application PLN200192.

The project should not move forward to hearing until the existing code violations are corrected, the current plans revised and corrected, and the appropriate use permit or variance sought.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS  
A Professional Corporation

*Christine Kemp*  
Christine Kemp

CGK:acc

Attachments (12 total):

- Original Plan Sheet A3.3 – Woodstock Brown color
- Original DA Approval PLN170572 – Woodstock Brown color
- Screen Shot – unpermitted chimney height and color
- Lucido Exhibit – Chimney (Before)
- Lucido Exhibit – Chimney (After)
- Prior East Elevation – Plan Sheet A3.2
- New East Elevation – Plan Sheet A3.3
- Photo of shed from Kahn window
- Original DA190154 – shed
- Original DA190154 – shed site plan
- New Plan Sheet A1.0
- New Plan Sheet A2.1



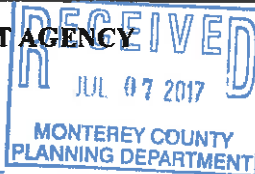
FILE #: PIN 170572



**MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY  
PLANNING**

168 West Alisal, 2nd Floor, Salinas, CA 93901  
Telephone: (831) 755-5025 Fax: (831) 757-9516

http://www.co.monterey.ca.us/planning PIN 170572



**INLAND DESIGN APPROVAL APPLICATION FORM**

ASSESSOR'S PARCEL NUMBER: 015-522-008-000

PROJECT ADDRESS: 24980 OUTLOOK DR. CARMEL CA 93923

PROPERTY OWNER: MAL SCHWARTZ & LAURA TRYON Telephone: C/O ARCHITECT  
Address: C/O ARCHITECT Fax: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ Email: \_\_\_\_\_

APPLICANT: STUDIO CARVER ARCHITECTS Telephone: 831-624-2304  
Address: PO BOX 2684 Fax: 831-624-0364  
City/State/Zip: CARMEL, CA 93921 Email: robert@studiocarver.com

AGENT: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Address: \_\_\_\_\_ Fax: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ Email: \_\_\_\_\_

Mail Notices to:  Owner  Applicant  Agent  
(Check only one)

PROJECT DESCRIPTION: (Attach Scope of Work) Remodel of an (E) 2,670 of single story residence and the construction of a 355 addition with skylight. Scope of work also includes the replacement of exterior siding, doors, and windows. Proposed grading will include the import of 1448 cu yds of fill. 4 fruit trees are proposed and 2 planters for herb garden.

MATERIALS TO BE USED: Composition roofing, James Hardie siding, aluminum doors & windows  
See sheet A2.3 & A3.3 for images

COLORS TO BE USED: Composition roofing to match existing, woodstock brown siding, bronze anodized aluminum doors and windows.

I acknowledge that I will need a building permit and must comply with the Monterey County Building Ordinance and that this approval is for design of the structure and compliance with zoning regulations only. For properties served by Onsite Wastewater Treatment System (OWTS), the Environmental Health Department (EHD) will not review this application but may need to require a design of the project to the subsequent construction permit application or address impacts related to the existing OWTS or future standards. A project permit may require a subsequent Design Approval application and additional fees.

PROPERTY OWNER/AGENT SIGNATURE: Robert Tryon DATE: 7-7-17  
Cheryl Ku 9/29/17

**FOR DEPARTMENT USE ONLY**

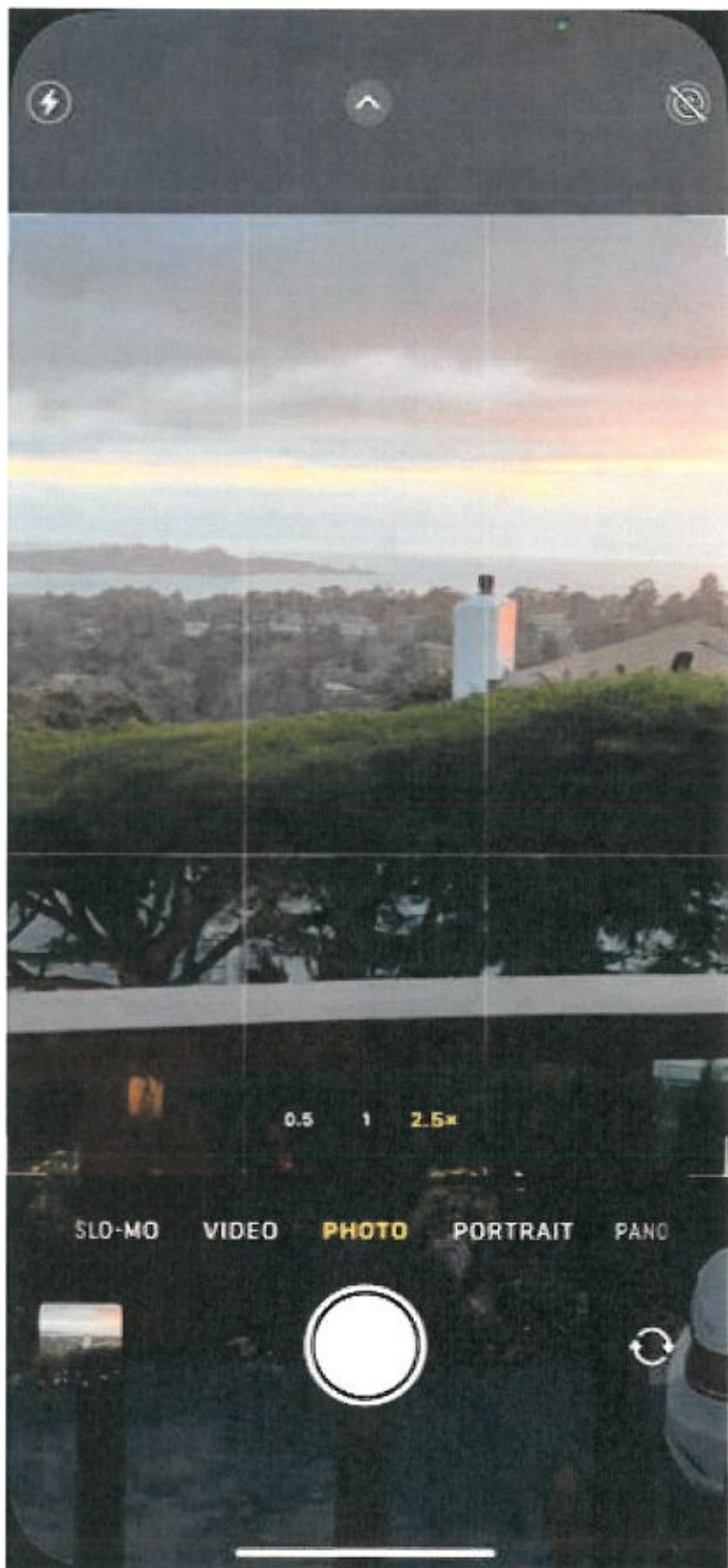
ZONING: LDR/B-6-D-S-RAZ AREA PLAN: CARMEL VALLEY MASTER PLAN  
ADVISORY COMMITTEE: CARMEL VALLEY MP RELATED PERMITS: \_\_\_\_\_  
PLANNER: \_\_\_\_\_  
WITHIN ARCH BUFFER ZONE?  YES  NO ON SEPTIC SYSTEM (OWTS)?  YES  NO  
LEGAL LOT: CARMEL VIEWS NO 2 TRACK 628  YES  NO DOES THIS CORRECT A VIOLATION?  YES  NO

FINDINGS:  
 The project is consistent with the 2010 General Plan, the applicable Area Plan, and meets the regulations in Title 21 (Zoning Ordinance-Inland); and  
 The design of the proposed project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property because: Minor change from existing exterior footprint. Re-designed to avoid further encroachment into setback. Colors are earth tones to blend w/ surroundings

DECISION:  OVER-THE-COUNTER  ADMINISTRATIVE  
ACTION:  APPROVED  DENIED  
CONDITIONS:  ATTACHED  NONE

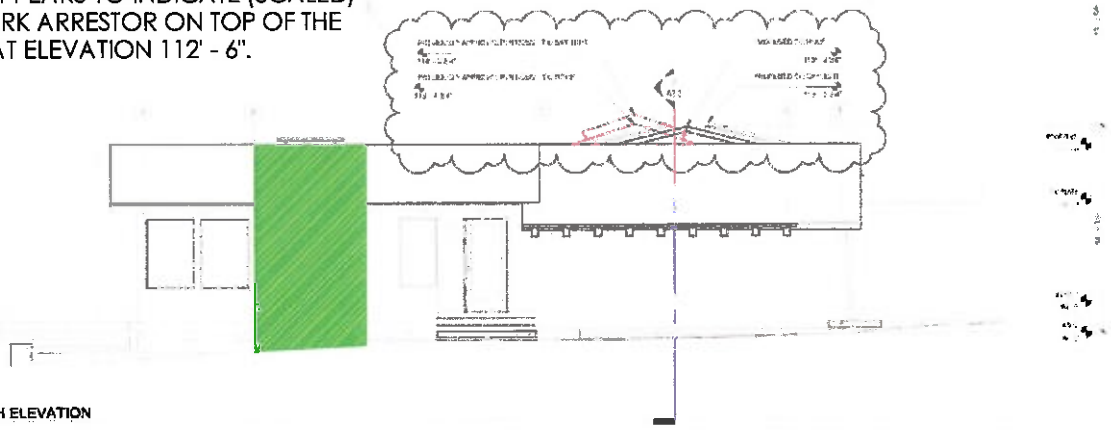
APPROVED BY: Cheryl Ku DATE: 10/17/17  
COPY TO APPLICANT:  IN PERSON OR  MAILED DATE: 10/17/17







THIS IMAGE WAS SHOWN ON DRAWING A3.2 PREPARED BY STUDIO CARVER (DATED 8/17/2020)  
 THE PHASE 2 - SOUTH ELEVATION SHOWS THE ROOF AT ELEVATION 111' - 11", AND  
 SHOWS THE CHIMNEY (SHADED IN GREEN FOR CLARITY) TO BE THE SAME ELEVATION (111' - 11").  
 THE IMAGE APPEARS TO INDICATE (SCALED)  
 THAT THE SPARK ARRESTOR ON TOP OF THE  
 CHIMNEY IS AT ELEVATION 112' - 6".



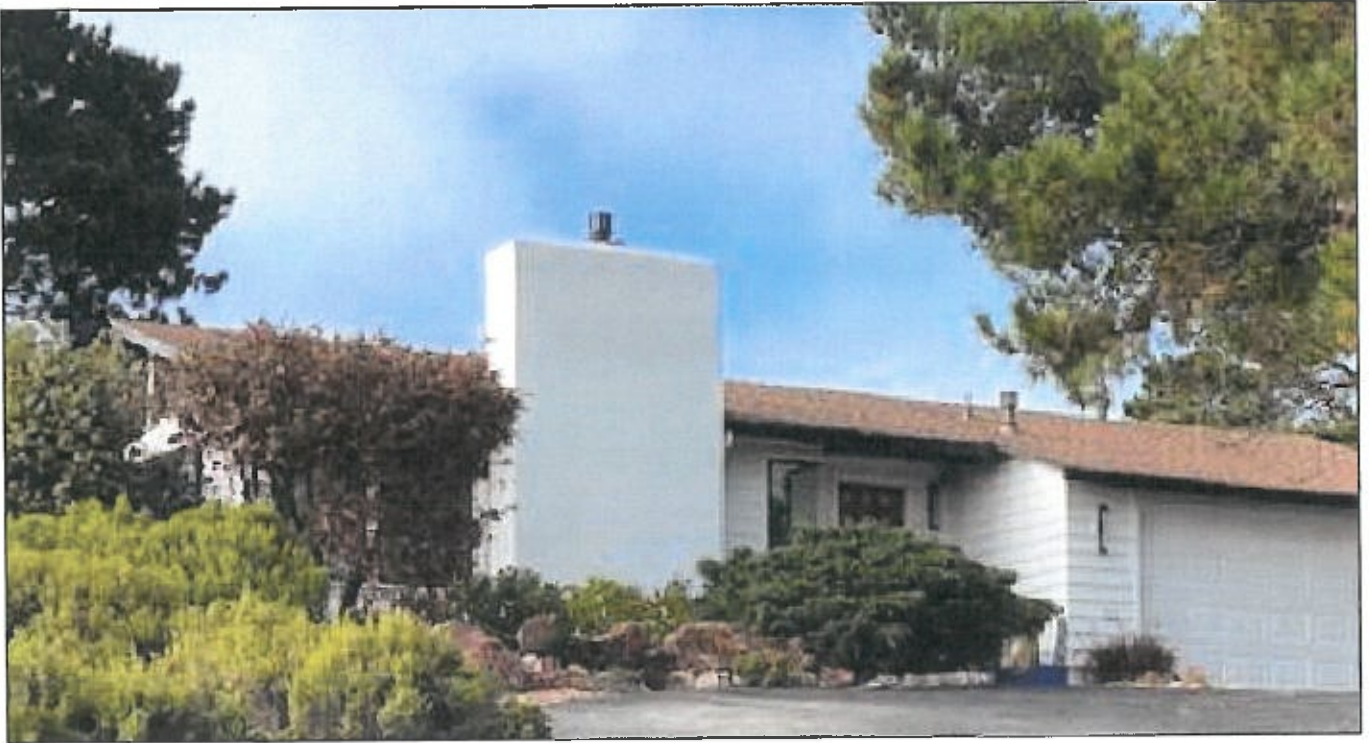
1 PHASE 2 - SOUTH ELEVATION  
 14-23-21

## ELEVATION STUDY SHOWING CHIMNEY (BEFORE)

at 24970 Outlook Drive in Carmel and the Schwartz property at 24980 Outlook Drive in Carmel  
 Prepared for: Robert Kahn

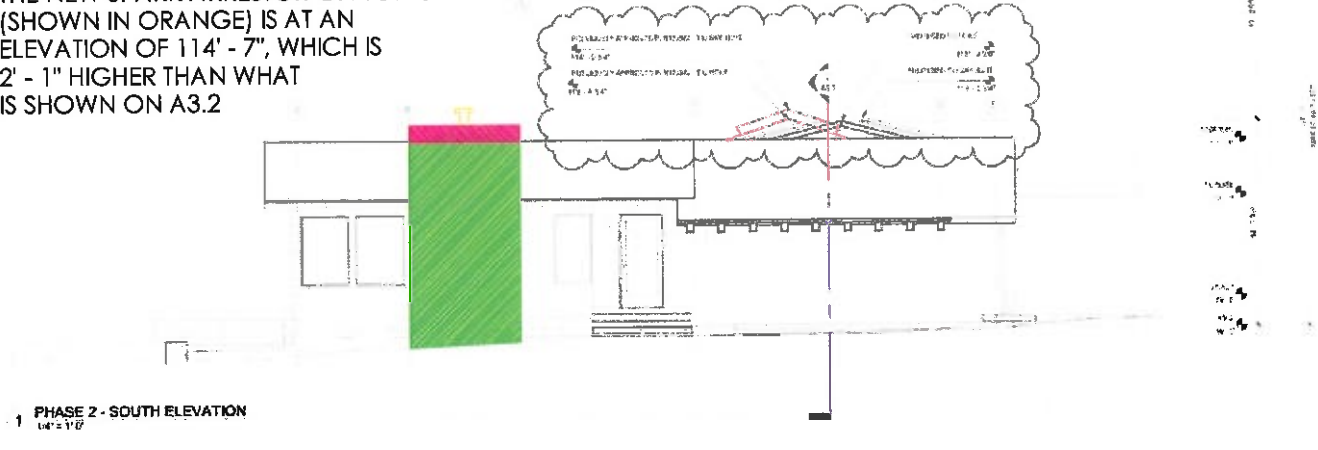
by LUCIDO SURVEYORS Del Rey Oaks, California





THIS IMAGE WAS SHOWN ON DRAWING A3.2 PREPARED BY STUDIO CARVER (DATED 8/17/2020)

THE AREA SHADED IN PURPLE IS THE CALCULATED AMOUNT THE CHIMNEY WAS EXTENDED.  
 AT AN ELEVATION OF 113' - 1", IT IS 1' - 2" HIGHER THAN WHAT IS SHOWN ON A3.2  
 THE NEW SPARK ARRESTOR ON TOP OF THE CHIMNEY  
 (SHOWN IN ORANGE) IS AT AN  
 ELEVATION OF 114' - 7", WHICH IS  
 2' - 1" HIGHER THAN WHAT  
 IS SHOWN ON A3.2



## ELEVATION STUDY

SHOWING

CHIMNEY (AFTER)

at 24970 Outlook Drive in Carmel and the Schwartz property at 24980 Outlook Drive in Carmel

Prepared for: Robert Kahn

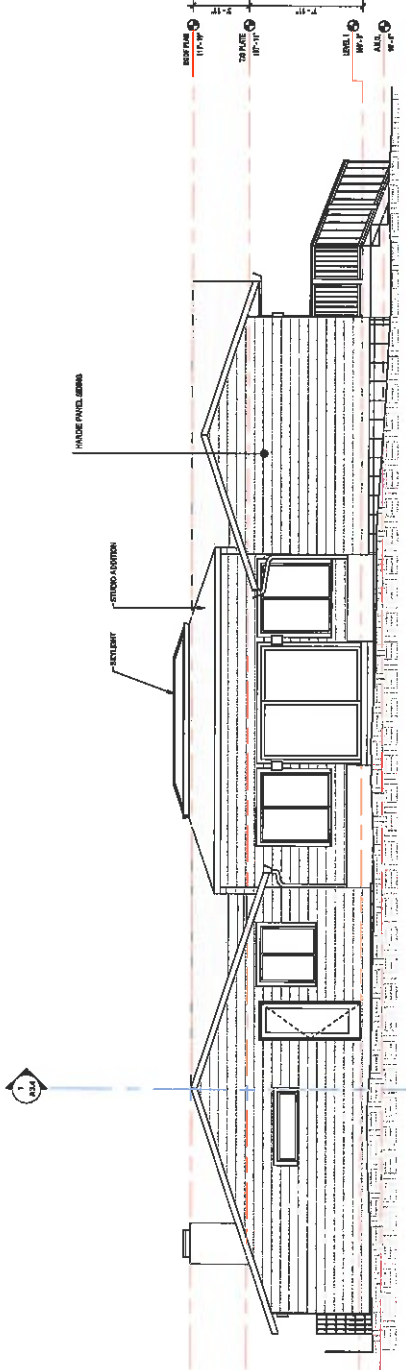
by LUCIDO SURVEYORS  Del Rey Oaks, California

SCALE: NONE

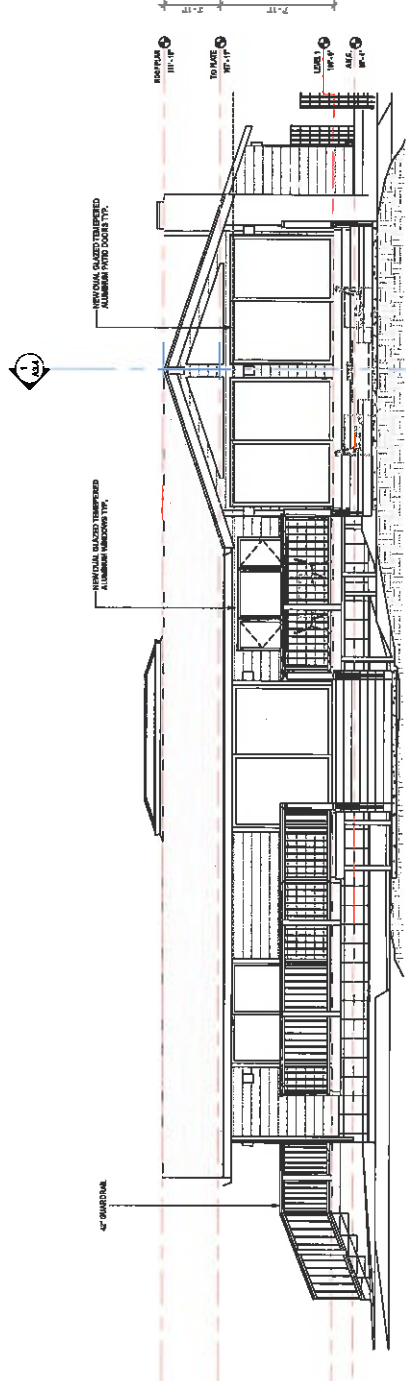
PROJECT No. 2648

MARCH 2021

ONE SHEET ONLY



**1 (P) EAST ELEVATION**  
1/4" = 1'-0"



**2 (P) WEST ELEVATION**  
1/4" = 1'-0"



**NOT FOR CONSTRUCTION**

These plans and specifications are intended to be used by the contractor and are subject to change without notice. The architect is not responsible for any errors or omissions on these plans. The contractor is responsible for obtaining all necessary permits and for providing all materials and labor for the project. The architect is not responsible for any construction delays or cost overruns. The contractor is responsible for all construction costs. The architect is not responsible for any construction delays or cost overruns. The contractor is responsible for all construction costs.





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Announcements Planning Reports (4)

24980 outlook carmel

Search by permit number, parcel or address in the box to the right.

Permit Number DA190154:  
Design Approval  
Current Permit Status: Cleared

Record Info Payments

Project Location

24980 OUTLOOK  
CARMEL 93923

Record Details

Project Description:

Design Approval to allow a 120 square foot, 8 ft high storage shed. Colors to consist of Delicate white, Garden tan and materials to consist of wood and composite shingles. The property is located at 24980 Outlook Drive, Carmel (Assessor's Parcel Number 015-522-008-000) Carmel Valley Master Plan

More Details

Related Contacts

Planning Staff information  
MARIA SANCHEZ  
COUNTY OF MONTEREY RMA BUILDING  
1441 SCHILLING PL SOUTH 2ND FLR  
SALINAS CA 93901  
E-mail: sanchezm5@co.monterey.ca.us

Application Information

GENERAL  
Entitlement: Design OTC  
DESIGN APPROVAL  
Materials: Wood Composite Shingle  
Colors: Delicate White Desert Tan

Parcel Information

Parcel Number: 015-522-008-000  
Planning Area: Carmel Valley Master Plan  
Fire District: Cypress FPD  
Zoning: LDR/B-6-D-S-RAZ

Condition Compliance Status Conditions of Approval

PROPOSED SITE PLAN

SCHWARTZ-TRYON  
 24980 OUTLOOK DR.  
 CARMEL, CA 93923  
 APN: 015-622-008

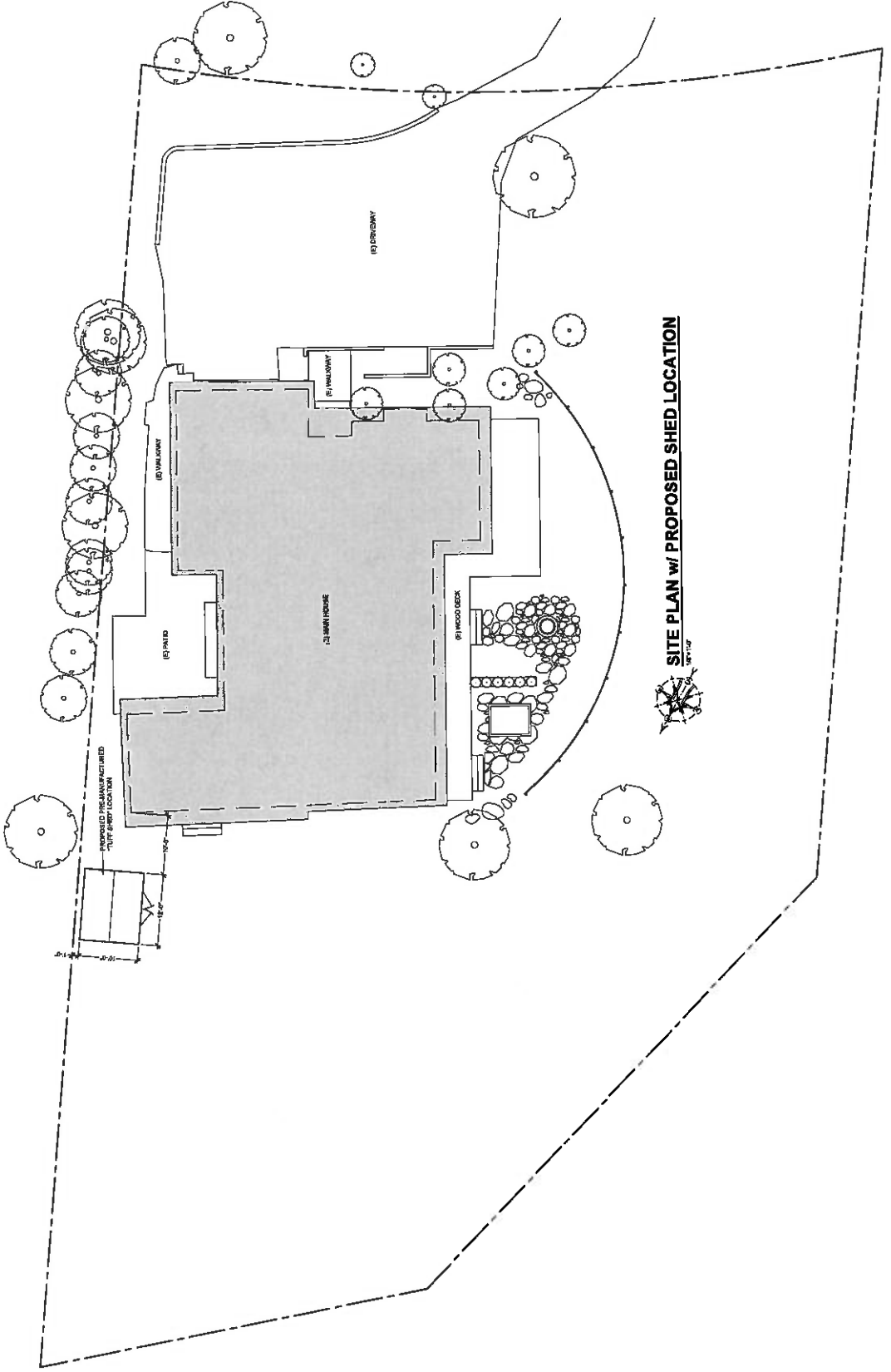
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SCALE:	SCALE
DRAWN BY:	TMR
REVISION:	

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 info@carmelbuilding.com



**GENERAL NOTES**

1. CONTRACTOR TO VERIFY ALL DIMENSIONS FROM TO CORNER/STATION
2. CONTRACTOR SHALL VERIFY ALL DIMENSIONS FROM TO CORNER/STATION
3. CONTRACTOR SHALL VERIFY ALL DIMENSIONS FROM TO CORNER/STATION
4. CONTRACTOR SHALL VERIFY ALL DIMENSIONS FROM TO CORNER/STATION
5. CONTRACTOR SHALL VERIFY ALL DIMENSIONS FROM TO CORNER/STATION
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9. CONTRACTOR SHALL VERIFY ALL DIMENSIONS FROM TO CORNER/STATION
10. CONTRACTOR SHALL VERIFY ALL DIMENSIONS FROM TO CORNER/STATION

**EXTERIOR LIGHTING FIXTURES**

1. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

2. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

3. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

4. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

5. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

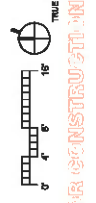
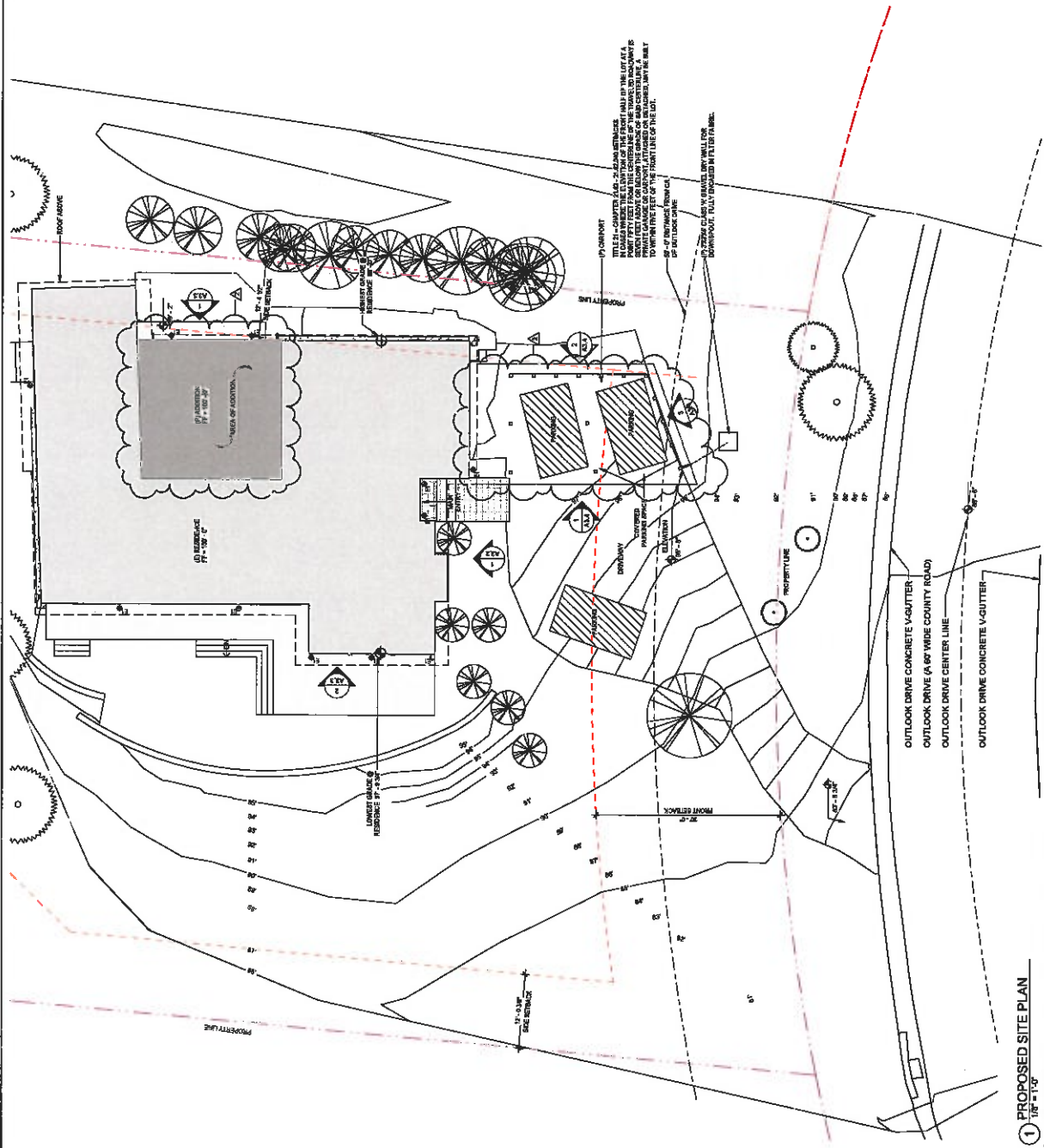
6. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

7. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

8. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

9. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN

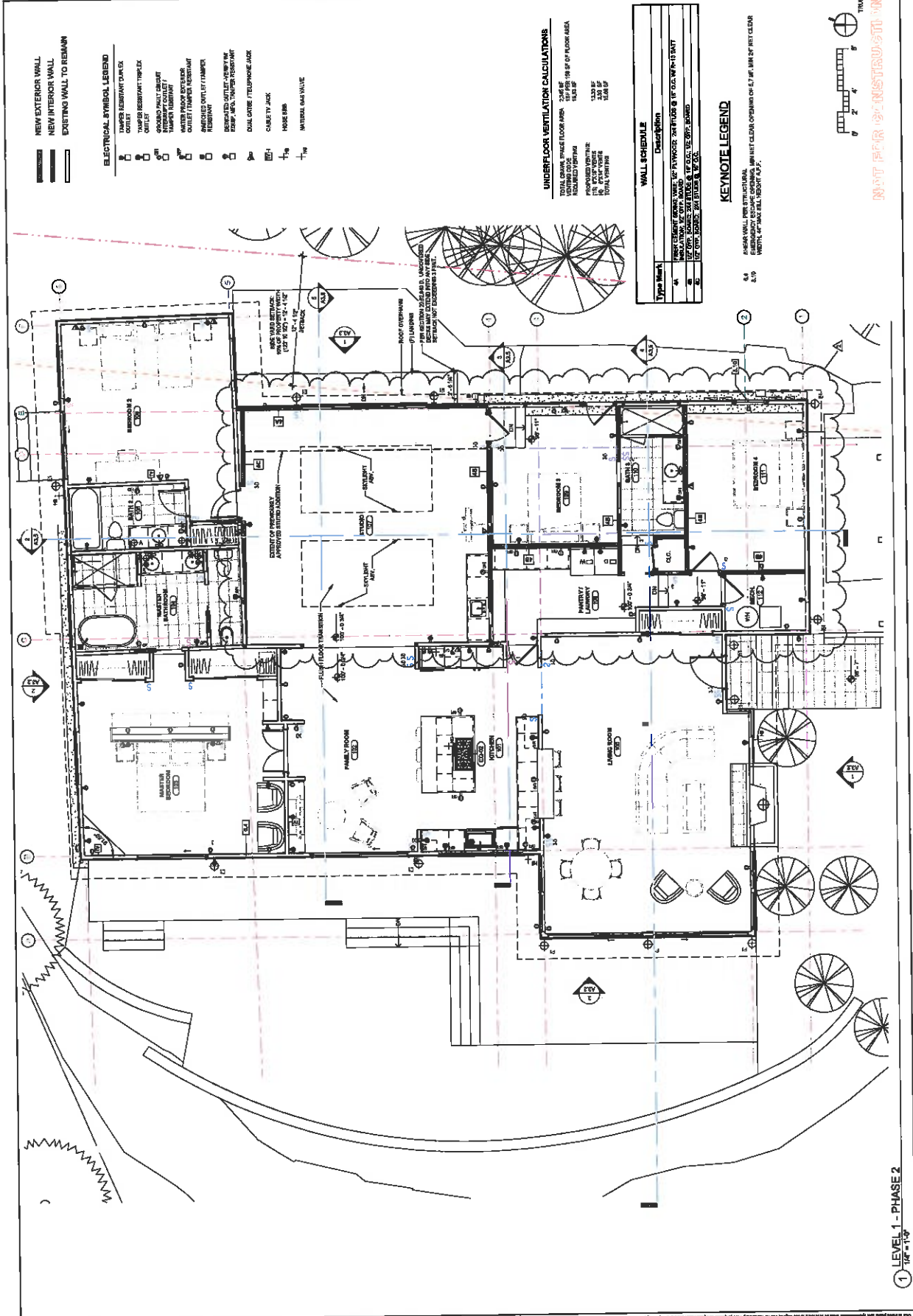
10. ALL LIGHTING FIXTURES TO BE INSTALLED AS SHOWN



1 PROPOSED SITE PLAN  
 1/8" = 1'-0"

NOT FOR CONSTRUCTION

THIS PLAN AND SPECIFICATIONS ARE THE PROPERTY OF SCHWARTZ TRYON ARCHITECTS AND ENGINEERS. NO PART OF THIS PLAN OR SPECIFICATIONS SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF SCHWARTZ TRYON ARCHITECTS AND ENGINEERS.



NEW EXTERIOR WALL  
 NEW INTERIOR WALL  
 EXISTING WALL TO REMAIN

- ELECTRICAL SYMBOL LEGEND**
- TRANSFORMER/OUTLET
  - OUTLET
  - TAMPON RESERVE/TAMPON
  - TAMPON
  - GROUND FAULT CIRCUIT INTERRUPT
  - TAMPON
  - WATER PROOF EXTERIOR
  - TAMPON
  - SELECT TAMPON FOR TAMPON
  - TAMPON
  - SELECTED OUTLET/CONDUIT
  - TAMPON
  - EXTERIOR TAMPON
  - TAMPON
  - DUAL CORE TELEPHONE JACK
  - TAMPON
  - CABLE TV JACK
  - TAMPON
  - HOSE BIB
  - TAMPON
  - INTERNAL GAS VALVE
  - TAMPON

**UNDERFLOOR VENTILATION CALCULATIONS**

TOTAL GRAIN SPACE FLOOR AREA: 2346 SF  
 VENTILATION AREA: 18.0 SF  
 PROPOSED VENTILATION: 1.00 SF  
 TOTAL VENTILATION: 19.00 SF

**WALL SCHEDULE**

Type Mark	Description
W1	INTERIOR CONCRETE WALL, 12" THICK, 2000 PSI, 4" OF G.C. ON INSIDE SURF
W2	EXTERIOR CONCRETE WALL, 12" THICK, 2000 PSI, 4" OF G.C. ON BOTH SIDES
W3	CONCRETE WALL, 12" THICK, 2000 PSI, 4" OF G.C. ON INSIDE SURF

**KEYNOTE LEGEND**

1.00 1.00  
 2.00 2.00



**1 LEVEL 1 - PHASE 2**  
 1/8" = 1'-0"

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April 28, 2021 letter Kemp to Dugan

April 28, 2021

*Stephen W. Pearson*

*Anne K. Secker*

*Randy Meyenberg*

*Michael Masuda*

*Christine G. Kemp*

*Timothy J. Baldwin*

\* *Charles Des Roches*

\* *Robert D. Simpson*

*Ana C. Toledo*

\* *Leslie E. Finnegan*

*Lindsey Berg-James*

*Anne Frassetto Olsen*

*Daniel J. Little*

*Ashley N. Garvey*

*Anthony Mendoza*

*Harry L. Noland  
(1904-1991)*

*Paul M. Hamerly  
(1920-2000)*

*Myron E. Etienne, Jr.  
(1924-2016)*

*Peter T. Hoss  
(1934-2018)*

\* CERTIFIED SPECIALIST IN  
PROBATE, ESTATE PLANNING,  
AND TRUST LAW BY  
THE CALIFORNIA BOARD OF  
LEGAL SPECIALIZATION  
STATE BAR OF CALIFORNIA

E-MAIL – [duganj@co.monterey.ca.us](mailto:duganj@co.monterey.ca.us); [angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)

John Dugan, Zoning Administrator  
Janet Brennan, Chair and Members of the Carmel Valley LUAC  
Phillip Angelo, County Planner  
Monterey County Resource Management Agency – Planning  
1441 Schilling Place South 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: PLN200192 – Schwartz - 24980 Outlook Drive

Dear Mr. Dugan, Ms. Brennan, Members of the LUAC, and Mr. Angelo:

I am writing on behalf of the Kahn family regarding the Schwartz Design Approval Application, PLN200192 and the Zoning Administrator (ZA) meeting set for 4/29/21.

For the reasons set forth below, **the ZA meeting should be continued to date uncertain.** No action should be taken on this permit at this time because:

1. There are numerous irregularities with this permit that need to be addressed before the matter goes forward to hearing;

2. The project plans need to be revised to clearly reflect the “after the fact” work being sought, as lack of clarity, in conjunction with project misrepresentations, caused mass confusion at the LUAC meeting;

3. The new plans submitted have not been reviewed by the LUAC. They need to be resubmitted to the LUAC for consideration with appropriate time to review; and

4. The existing shed violation of having the shed 12 ft. tall needs to be corrected.

There were several key misrepresentations made and procedural irregularities at the Carmel Valley LUAC meeting held Monday (4/19/21)

resulting in the lack of a fair hearing. These errors need to be addressed before any further action is taken on this permit.

Moreover, these misrepresentations are now being further exacerbated by the Schwartz's manipulation of the LUAC action, to claim these misrepresentations were LUAC recommendations. They were not.

The LUAC Committee reviewed an application for:

Design Approval to allow: the addition of a 531 square foot studio with two (2) skylights and a 63 square foot landing on an existing 2,645 square foot single family residence; replacement of the exterior siding, doors & windows on the residence; conversion of the existing attached garage to living space, including removal of the garage door & replacement with lap siding; construction of a new 447 square foot attached two-car carport; construction of a new 4' – 6' cedar fence; painting the exterior of the primary residence a white "swiss coffee" color; finishing of the chimney with a smooth coat stucco and painting it a white "swiss coffee" color and adding a metal flue cap to the top of the chimney.

The yellowed part of this description is, in fact, for "after the fact work" done by Schwartz without a permit, yet there was no mention made of this "after the fact" permitting in the project description before the LUAC. To reiterate, these items are already completed without permits.

The fact is, Schwartz is now seeking an "after the fact" approval of work done without County permits in violation of the Schwartz's original permit PLN170572, which unpermitted work included:

- Raising the chimney, painting it white and changing the surface to smooth reflective white, as well as,
- Painting the entire house bright white in violation of their permitted "Woodstock brown" approved color.

Yet, this work was not clearly described in the project description or on the plans before the LUAC as being after the fact work, causing substantial confusion for the Committee.

Ms. Brennan was quick to comment on this omission when it was pointed out to the Committee, questioning what was permitted and what was not permitted work. Staff's explanation to Ms. Brennan was confusing and unclear, making it impossible for the LUAC to understand what was and was not previously permitted. .

The lack of clarity, lack of a proper description, proper plans, and clear direction and explanation created so much confusion it was prejudicial

John Dugan, ZA  
April 28, 2021  
Page 3

to a fair hearing, as the LUAC was unclear about what they were reviewing and the action before them.

We now find that, after the confusing and misleading representations were made to the LUAC, the Applicant has now changed the project description of the project going before the Zoning Administrator to be:

Public hearing to consider the remodel of an existing single-family home, with a 531 square foot studio addition, new 447 square foot 2-car carport, cedar fence, and after-the fact design approval to paint the single-family residence a white "swiss coffee," refinish the chimney with a Carmel Stone and add a metal flue cap.

This is an entirely different description than what was presented to the LUAC for review. Any revised plans need to go back to the LUAC for review with the permits sought clearly delineated and shown on the plans.

The "after the fact permit", was never stated in the project description before the LUAC, nor were there any plans submitted to the County or the LUAC showing the "after the fact" work for which the "after the fact" permit was being sought. Sadly, the Applicant is attempting to use this confusion to their benefit.

In fact, the current project submittal reviewed by the LUAC still shows the original chimney height at the existing roof line – see Plan Sheet A3.2, and still shows NO change in height, color or surface, let alone a Carmel stone façade on the chimney, which the project application misrepresented being on the original plans.

The LUAC did not review accurate plans for the work sought, let alone, the new project description now being presented to the ZA for consideration.

As Ms. Brennen pointed out, without the project description and plans clearly identifying this is a request for "after the fact" permit to correct code violations resulting from unpermitted work, and without submitting plans showing the requested work done, for which they were seeking permits. This created confusion over "was" and "was not" included in the Application, and what the LUAC was actually reviewing, resulting an lack of fair hearing.

Moreover, the Applicant misled the LUAC by stating they had not increased the height of the chimney in violation of their permit, yet the Kahn photos, particularly the photo of the chimney close-up showing the clear change in stucco line (photo attached) and the data compiled by the Kahn's surveyor. It is not reasonable to have shot elevations of the entire house, show the chimney height in line with the existing roof line on the project plans, and then claim to have no knowledge of the original chimney height,

or not to be conscientious about view sight lines, particularly when views are protected under the Carmel Valley Area plan, as well as, protected under the CC&Rs in a community named "Carmel Views". In addition, the spark arrester was shown on the original plans as being flat on the submitted documents, yet a tall black spark arrester was added on top.

Any claim they did not raise the height of the chimney, is not accurate. And, as stated above, their current Application submittal still shows the chimney elevation in line with the existing roof line, which plans were reviewed by the LUAC.

The Applicants also mislead the LUAC by stating that adding Carmel stone to the chimney façade was part of the original application, making reference to original Plan sheets A3.2 or A3.3, attached. Carmel Stone façade was never a part of the original project approval documents – see original Plan Sheets A3.2 and A3.3; nor is a part of their current application - see new Plan Sheet A3.2 reviewed by the LUAC. Both the original and the new plans show NO change whatsoever to the chimney as it previously existed. Any review of this change to the chimney was not properly before the LUAC.

Adding Carmel Stone, now, to the chimney facade was not before the LUAC, it was not on the project plans, nor was any work on the chimney shown on the plans. The first time any Carmel stone on the chimney was ever mentioned was at Monday's meeting, and seemingly tossed out at the last minute to throw the Committee off guard. Now the Applicant claims the Carmel Stone was a LUAC recommendation, it was not. It was a misrepresentation by the Application that it was already on the initial set of plans and the LUAC accepted that.

There is also an additional code violation on the Schwartz property which needs to be addressed before any further permitting is allowed on this property. The shed at the rear of the property adjacent to the Kahn property line was approved for 8 ft. tall and is, in fact, 12 ft. tall. That is a factual finding that can be measured and confirmed. Pursuant to Title 21 Section 21.84.120, no further permitting is allowed on the Schwartz property until these existing violations are remedied.

Once the current code violation is addressed, accurate and complete plans showing what is "an after the fact" permit and what is the new work, needs to be brought back before the LUAC with the a proper project description showing the "after the fact" work for which they are seeking approval, with correct information related to the chimney height, color, and materials, as well as, correct and verifiable information regarding the height of the chimney.

John Dugan, ZA  
April 28, 2021  
Page 5

No action should be taken on this permit until:

1. The project plans are corrected to clearly reflect the “after the fact” work being sought, the “new work” being sought, and the proper elevations, diagrams reflecting that work is on the shown on the plans.
2. Any revised plans are submitted to the LUAC for consideration, with accurate information for their consideration with sufficient time to review.
3. The existing shed violation is corrected.

Sincerely,

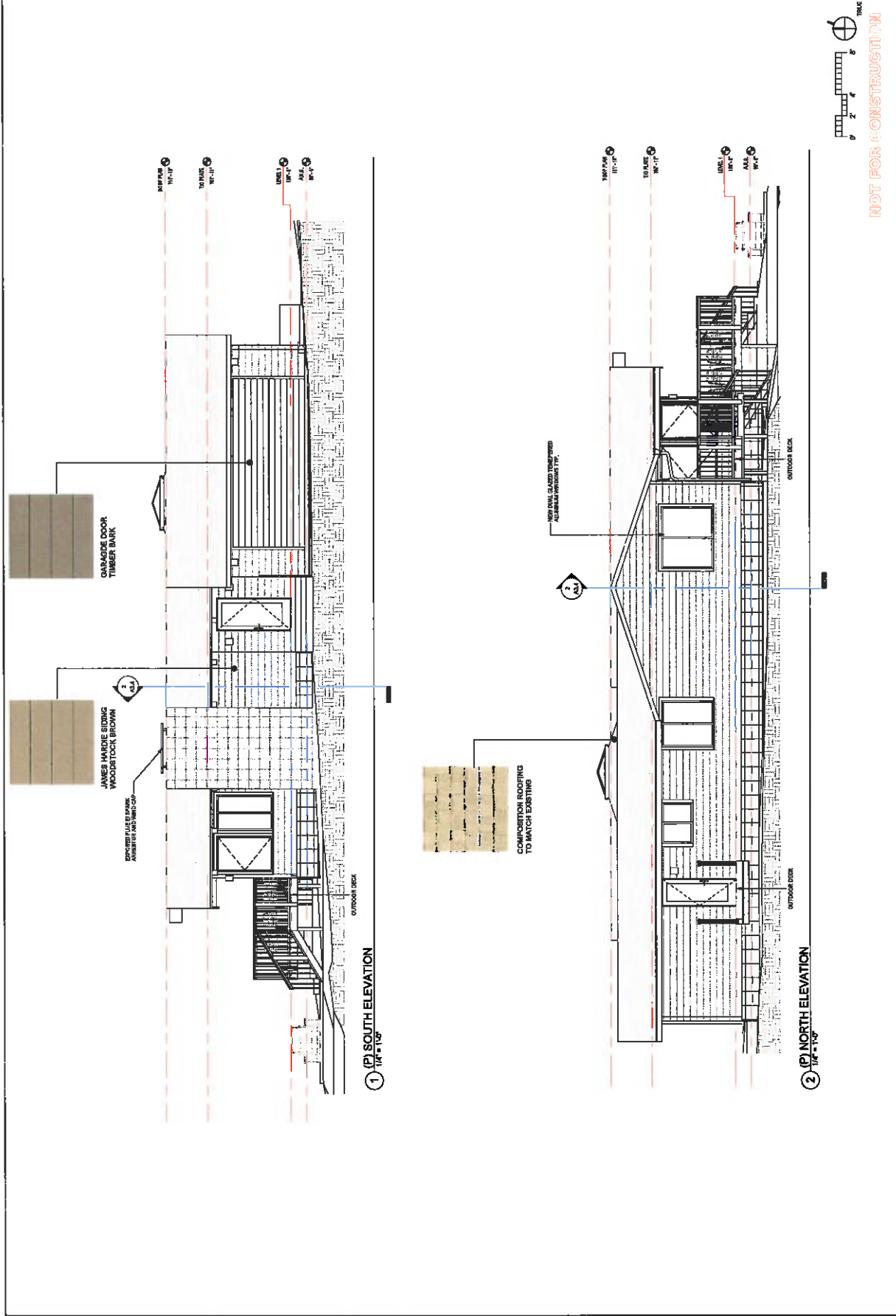
NOLAND, HAMERLY, ETIENNE & HOSS  
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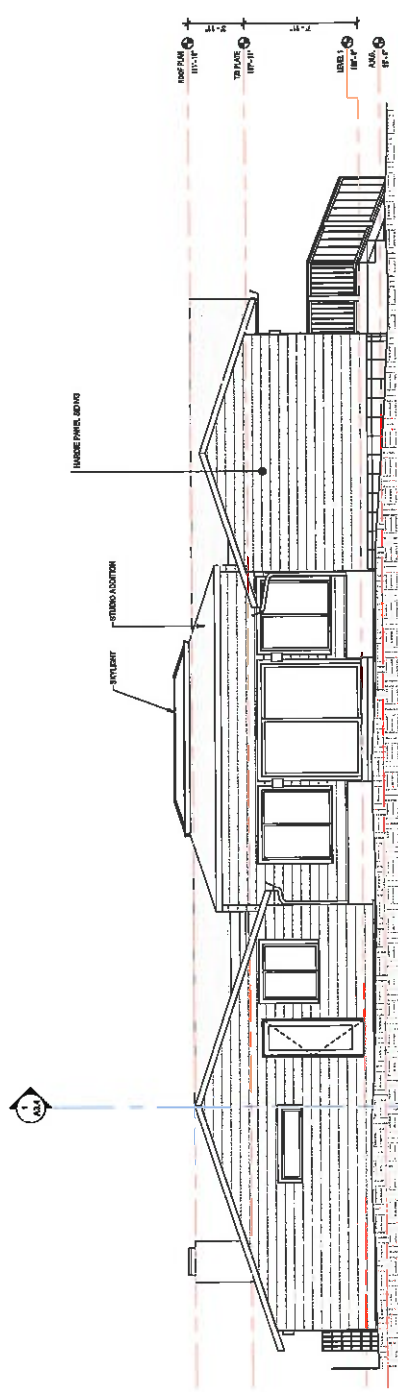
*Christine Kemp*  
Christine Kemp

CGK:acc

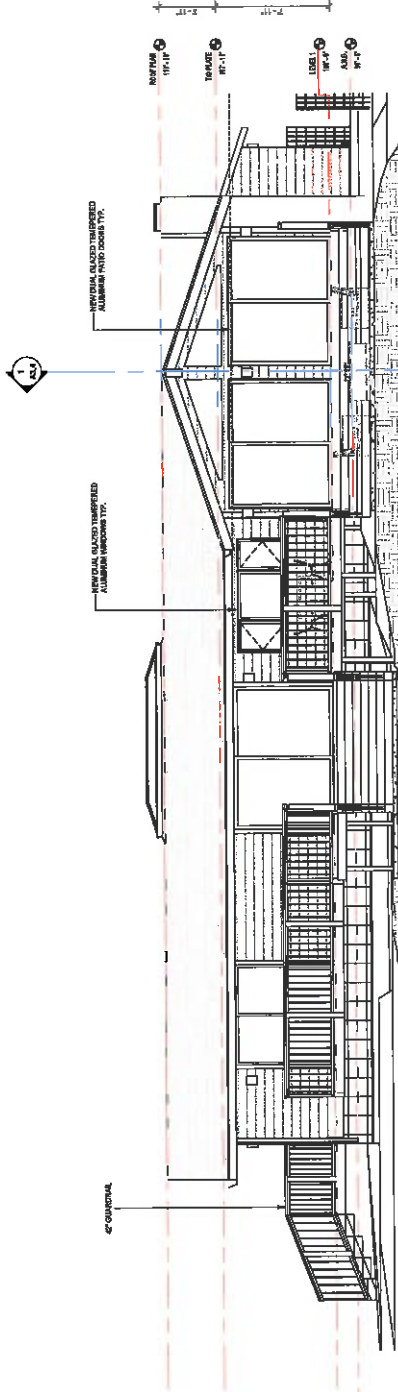
Attachments:

- Original Plan Sheet A3.3 – Woodstock Brown, no change to chimney
- Original Plan Sheet A3.2 – no Carmel Stone or change to chimney
- New Plan Sheet A3.3 – no change to original chimney shown
- Photo of chimney height addition





**1 (P) EAST ELEVATION**  
1/8" = 1'-0"

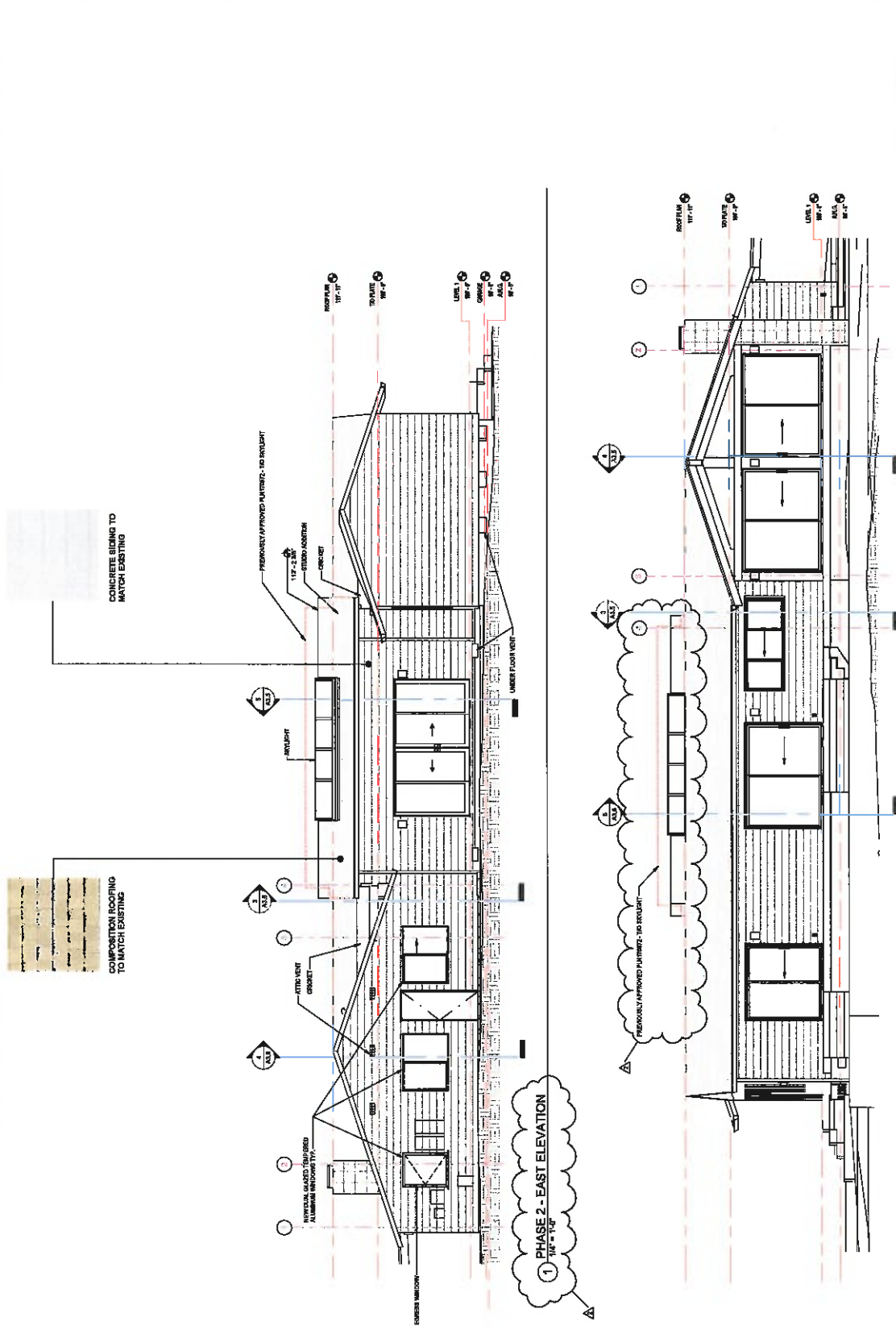


**2 (P) WEST ELEVATION**  
1/8" = 1'-0"



**NOT FOR CONSTRUCTION**





**NPT FOR CONSTRUCTION**

These plans and specifications are prepared by the architect and are subject to the provisions of the contract documents. The architect is not responsible for any errors or omissions in these plans and specifications. The contractor shall be responsible for verifying all dimensions and conditions of the site and existing structures before construction. The architect is not responsible for any delays or cost overruns caused by the contractor's failure to follow these plans and specifications.



May 10, 2021 e-mail Kemp – Ruiz, et. al.

## Kemp, Christine

---

**From:** Ruiz, Elizabeth x6657 <RuizE@co.monterey.ca.us>  
**Sent:** Monday, May 10, 2021 11:24 AM  
**To:** Kemp, Christine; Nichols, Wyndee x7647  
**Cc:** Dugan, John x6654; Lundquist, Erik; Bowling, Joshua x5227  
**Subject:** RE: Schwartz PLN200192 - further code violations

Good morning Christine,

Confirmation of receipt of email from last week.

Please note that Wyndee has already issued an Administrative Citation, which have identified the violations submitted in the complaint.

Thank you,

Liz Ruiz

---

**From:** Kemp, Christine <CKemp@nheh.com>  
**Sent:** Monday, May 10, 2021 10:42 AM  
**To:** Ruiz, Elizabeth x6657 <RuizE@co.monterey.ca.us>; Nichols, Wyndee x7647 <NicholsW@co.monterey.ca.us>  
**Cc:** Dugan, John x6654 <DuganJ@co.monterey.ca.us>; Lundquist, Erik <LundquistE@co.monterey.ca.us>  
**Subject:** FW: Schwartz PLN200192 - further code violations

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Good morning Elizabeth and Wyndee,

I am following up on my last Tuesday's e-mail to confirm that a formal Code Enforcement case has been opened regarding the Schwartz shed violation on their property. The shed height is clearly well over, and in violation of, the approved 8 ft. height. The shed needs to be reduced to 8ft. tall to resolve the code violation.

I would appreciate you confirming a case has been opened.

Thank you,

*Christine*

Christine G. Kemp  
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A Professional Corporation  
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P.O. Box 2510  
Salinas, CA 93901  
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[ckemp@nheh.com](mailto:ckemp@nheh.com)

*During this time of unprecedented actions, as an Essential Business under the governmental orders, our attorneys remain available to assist you with your legal needs. We encourage telephone and e-mail communications, rather than in-office meetings. As needed, office meetings can be arranged for unique matters with the recommended safety precautions in place. Please do not hesitate to contact us if you have legal needs during this time.*

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---

**From:** Kemp, Christine  
**Sent:** Tuesday, May 4, 2021 1:19 PM  
**To:** 'Friedrich, Michele x5189'; 'Quenga, Anna V. x5175'; 'Angelo, Philip'; 'Spencer, Craig x5233'; 'lundquiste@co.monterey.ca.us'  
**Cc:** 'McDougal, Melissa x5146'; Dugan, John x6654 ([DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us)); 'Ruiz, Elizabeth x6657'; Nichols, Wyndee x7647 ([NicholsW@co.monterey.ca.us](mailto:NicholsW@co.monterey.ca.us)); 'strimlingw@co.monterey.ca.us'  
**Subject:** RE: Schwartz PLN200192 - further code violations

Additionally, to All,

I also want to reiterate, that in addition to the unpermitted chimney work and unpermitted painting, there remains another existing code violation on the Schwartz property.

The Schwartz backyard shed was approved for 8 ft. high (see attached approval). However, it is 12 ft. high, clearly higher than the adjacent house eave (see attached photo). It is on a foundation, but not a 4 ft. high foundation. Until this existing shed code violation is resolved, no further permitting can be approved by the County pursuant to Title 21 Section 21.84.120.

If the County is reluctant to send our information to the CV LUAC for their review and to keep them informed as to what is occurring, we would ask that you send us the LUAC contact information so we can provide them with the relevant information. They need to know that representations made at their meeting were not accurate (Carmel Stone chimney was never part of application; shed is 12 ft. tall not 8 ft. tall, chimney was raised, but plans did not show raised chimney height, lack of clarity on what was and was not permitted) and, also that new plans are being submitted to the County that the LUAC has not reviewed.

It is unfortunate that continued irregularities with this project and its processing are causing so much difficulty and, frankly, a lack of a fair hearing related to our client's concerns, whose adjacent property is being impacted by the project.

Thank you in advance,

*Christine*

Christine G. Kemp

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---

**From:** Kemp, Christine  
**Sent:** Tuesday, May 4, 2021 9:19 AM  
**To:** 'Friedrich, Michele x5189'; 'Quenga, Anna V. x5175'; 'Angelo, Philip'; 'Spencer, Craig x5233'; 'lundquiste@co.monterey.ca.us'  
**Cc:** 'McDougal, Melissa x5146'; Dugan, John x6654 ([DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us))  
**Subject:** Schwartz PLN200192

To all,

By this e-mail, we are reiterating our request that the Carmel Valley LUAC members receive a copy of both my 4/28/21 letter and this e-mail exchange, and that the original plans, along with any revised plans, be sent back to the CV LUAC for reconsideration, before the Zoning Administrator takes any action on this permit.

Please note that **all** plans to date (original submittal and subsequent submittal) continue to incorrectly show the chimney height at 111'-11" elevation, in line with the existing roof line (see attached Plan Sheets A3.3 (prior) and A3.2 (new)). The "after the fact" chimney height is, in fact, 113'-1" elevation, with the spark arrestor even higher at 114'-7" (see before and after chimney studies).

This, alone, points to the fact that the LUAC did not have accurate plans and information before them when they reviewed the project. They need to reconsider this project with accurate information presented.

We also request that a copy of any revised plans submitted to the County be sent to us when received.

Thank you,

*Christine*

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---

**From:** Kemp, Christine  
**Sent:** Monday, May 3, 2021 12:55 PM  
**To:** 'Friedrich, Michele x5189'; Quenga, Anna V. x5175; Angelo, Philip; Spencer, Craig x5233; 'lundquiste@co.monterey.ca.us'  
**Cc:** McDougal, Melissa x5146  
**Subject:** RE: 4/29/21 ZA hearing - Schwartz PLN200192

Thank you Michele –

We believe it is important for the LUAC to understand the misrepresentations that were made at their meeting, and also know that what is now being presented to the ZA is a different project description and revised plans from that which was reviewed by them. So many irregulars in the process, is troubling.

The Applicant represented to the LUAC that Carmel Stone was part of the original application, it was not. Now the Applicant is adding Carmel Stone to the application as a "CV LUAC" recommendation. It was never part of the application, but CV LUAC was told it was.

Also neither the current "as built" chimney height nor original chimney height was correctly shown in the plans. It appears the Applicant is now resubmitting plans with new information on the chimney height and now calling it "after the fact". This should have been clearly before the LUAC, but it was not. The application before the LUAC did not show current completed chimney height nor did it state this was after the fact work. The information presented to the LUAC was inaccurate and confusing, and now the Applicant is making changes, which the LUAC has not even seen.

LUAC should review the new plans submitted, before new plans and new project description it goes back to ZA hearing. I would like the LUAC members to know what is occurring, hence our request to have the LUAC get this letter, as well as, this e-mail.

There is a process for reconsideration when a project description and project changes are being made and recommendations were made on misinformation. We want the LUAC to see clearly what is occurring and make their recommendations on all of the facts and correct information presented, including any new plans submitted.

*Christine*

Christine G. Kemp

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---

**From:** Friedrich, Michele x5189 [<mailto:friedrichm@co.monterey.ca.us>]

**Sent:** Monday, May 3, 2021 12:18 PM

**To:** Kemp, Christine; Quenga, Anna V. x5175; Angelo, Philip

**Cc:** McDougal, Melissa x5146

**Subject:** RE: 4/29/21 ZA hearing - Schwartz PLN200192

Christine –

The protocol is that once a project has been reviewed by a Land Use Advisory Committee at their meeting, staff does not forward letters to their attention related to an upcoming public hearing. They have made their recommendation to HCD Planning staff which are reflected in the minutes from their meeting.

The Zoning Administrator should have received your letters regarding the April 29, 2021 ZA hearing; and made part of the public record.

Hope this information is helpful.

**Michele Friedrich**

**Principal Office Assistant**

**County of Monterey Housing & Community Development Department – Permit Center**

**Direct Line: (831) 755-5189**

**Main Line: (831) 755-5025**

To access our permit database, please go to: <https://aca-prod.accela.com/monterey/Default.aspx>



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---

**From:** Kemp, Christine <[CKemp@nheh.com](mailto:CKemp@nheh.com)>  
**Sent:** Monday, May 3, 2021 12:11 PM  
**To:** Quenga, Anna V. x5175 <[QuengaAV@co.monterey.ca.us](mailto:QuengaAV@co.monterey.ca.us)>; Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>  
**Cc:** McDougal, Melissa x5146 <[McDougalM@co.monterey.ca.us](mailto:McDougalM@co.monterey.ca.us)>; Friedrich, Michele x5189 <[friedrichm@co.monterey.ca.us](mailto:friedrichm@co.monterey.ca.us)>  
**Subject:** FW: 4/29/21 ZA hearing - Schwartz PLN200192

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Good Afternoon,

Can one of you please confirm that my 4/28 letter to Mr. Dugan and the CV LUAC members attached was distributed to all CV LUAC members.

Thank you,

*Christine*

Christine G. Kemp  
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---

**From:** Kemp, Christine  
**Sent:** Wednesday, April 28, 2021 6:37 PM  
**To:** Dugan, John x6654 ([DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us)); [angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)  
**Cc:** Quenga, Anna V. x5175  
**Subject:** 4/29/21 ZA hearing - Schwartz PLN200192

Dear Mr. Dugan and Mr. Angelo:

Attached please find my letter, with attachments, requesting the Zoning Administrator's hearing on the Schwartz matter, PLN200192, be continued to a date uncertain, for the reasons set forth in my letter.

I will make this request at the Zoom ZA meeting tomorrow, as well.

Thank you,

*Christine*

Christine G. Kemp

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May 11, 2021 e-mail Kemp – Angelo, et. al

## Kemp, Christine

---

**From:** Angelo, Philip <AngeloP@co.monterey.ca.us>  
**Sent:** Tuesday, May 11, 2021 10:03 AM  
**To:** Kemp, Christine  
**Cc:** Lundquist, Erik; Quenga, Anna V. x5175; Nichols, Wyndee x7647  
**Subject:** RE: Schwartz PLN200192 - further code violations

**Follow Up Flag:** Copied to Worldox (Client Files\20948\005\01373539.MSG)

Good Morning Ms. Kemp,

Thank you for your comment, it's been forwarded to the Zoning Administrator for his Consideration.

Best Regards,

**Phil Angelo**

**Assistant Planner**

Monterey County - Housing & Community Development

1441 Schilling Place, South 2<sup>nd</sup> Floor

Main: (831) 755-5025

Direct: (831) 784-5731

[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)

---

**From:** Kemp, Christine <CKemp@nheh.com>  
**Sent:** Monday, May 10, 2021 4:30 PM  
**To:** Dugan, John x6654 <DuganJ@co.monterey.ca.us>; Angelo, Philip <AngeloP@co.monterey.ca.us>  
**Cc:** Lundquist, Erik <LundquistE@co.monterey.ca.us>; Quenga, Anna V. x5175 <QuengaAV@co.monterey.ca.us>; Ruiz, Elizabeth x6657 <RuizE@co.monterey.ca.us>; Nichols, Wyndee x7647 <NicholsW@co.monterey.ca.us>; Strimling, Wendy x5430 <strimlingw@co.monterey.ca.us>; Briggs, Brian P. x5702 <BriggsBP@co.monterey.ca.us>  
**Subject:** RE: Schwartz PLN200192 - further code violations

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Mr. Dugan and Mr. Angelo,

I am writing again to reiterate that the hearing on the Schwartz matter needs to be tabled until:

1. The existing code violation/Notice of Citation involving the shed height is resolved;
2. The irregularities with the permit processing are resolved; and
3. The Applicant applies for a Variance or Use Permit to address intensification of the non-conforming garage side yard setback

1. Existing Code Violation – Notice of Citation Issued

County Code Enforcement confirmed a Notice of Citation has been issued to Schwartz related to the shed height. Pursuant to Title 21 Section 21.84.120, no further action can be taken on permit Application until this violation is resolved.

2. Continued Processing Irregularities

Attached are the house plans that were in Accela on August 4, 2020 when I pulled them up off Accela at that time. These plans are dated 6/30/17 and show a Woodstock Brown siding and no changes to the chimney whatsoever, and certainly no increase in height of the chimney. Additionally, the attached County Project Description and attached October 17, 2017 DA approval reflect no change to the chimney and approval of Woodstock Brown siding. If further plans were submitted to the County for approval, they were not reflected on the DA project description, were not in Accela for public review in October 2017, and were not reflected in any of the Design Approval documents. Now, revised plans dated 9/27/17, show up from the County and Applicant attached to the Zoning Administrator staff report, yet these plans would have been changed in Accela, well after the DA approval in October 2017, as the attached plans dated 6/30/17 were in Accela in August 2020 – nearly three years later. Additionally, as previously pointed out, the plans remain incomplete as they do not show the shed on the plans. All of this shows continued irregularities with this permit processing.

3. Change in Non-Conforming Use Requires a Use Permit which Requires a Planning Commission hearing

Pursuant to Title 21 Section 21.68.030.A, the non-confirming use of a structure can only be changed to the same or a more restrictive use, and to do so, requires a use permit. Because the Design Approval will need to be combined with a request for a use permit or variance, the matter should be set for hearing before the Monterey County Planning Commission as a Combined Development Permit. (Title 21, Section 21.76.030).

Conclusion

The current code violation, the permit processing irregularities, and due process violations, need to be corrected before additional permitting is set for hearing before the County.

On behalf of Robert Kahn, we again reiterate that this permit needs to be tabled and no further action taken until these issues are properly addressed.

Sincerely,

*Christine*

Christine G. Kemp

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---

**From:** Kemp, Christine  
**Sent:** Monday, May 10, 2021 10:52 AM  
**To:** 'Ruiz, Elizabeth x6657'; Nichols, Wyndee x7647 ([NicholsW@co.monterey.ca.us](mailto:NicholsW@co.monterey.ca.us))  
**Cc:** Dugan, John x6654 ([DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us)); [lundquiste@co.monterey.ca.us](mailto:lundquiste@co.monterey.ca.us)  
**Subject:** FW: Schwartz PLN200192 - further code violations

Good morning Elizabeth and Wyndee,

I am following up on my last Tuesday's e-mail to confirm that a formal Code Enforcement case has been opened regarding the Schwartz shed violation on their property. The shed height is clearly well over, and in violation of, the approved 8 ft. height. The shed needs to be reduced to 8ft. tall to resolve the code violation.

I would appreciate you confirming a case has been opened.

Thank you,

*Christine*

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**From:** Kemp, Christine

**Sent:** Tuesday, May 4, 2021 1:19 PM

**To:** 'Friedrich, Michele x5189'; 'Quenga, Anna V. x5175'; 'Angelo, Philip'; 'Spencer, Craig x5233'; 'lundquiste@co.monterey.ca.us'

**Cc:** 'McDougal, Melissa x5146'; Dugan, John x6654 ([DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us)); 'Ruiz, Elizabeth x6657'; Nichols, Wyndee x7647 ([NicholsW@co.monterey.ca.us](mailto:NicholsW@co.monterey.ca.us)); 'strimlingw@co.monterey.ca.us'

**Subject:** RE: Schwartz PLN200192 - further code violations

Additionally, to All,

I also want to reiterate, that in addition to the unpermitted chimney work and unpermitted painting, there remains another existing code violation on the Schwartz property.

The Schwartz backyard shed was approved for 8 ft. high (see attached approval). However, it is 12 ft. high, clearly higher than the adjacent house eave (see attached photo). It is on a foundation, but not a 4 ft. high foundation. Until this existing shed code violation is resolved, no further permitting can be approved by the County pursuant to Title 21 Section 21.84.120.

If the County is reluctant to send our information to the CV LUAC for their review and to keep them informed as to what is occurring, we would ask that you send us the LUAC contact information so we can provide them with the relevant information. They need to know that representations made at their meeting were not accurate (Carmel Stone chimney was never part of application; shed is 12 ft. tall not 8 ft. tall, chimney was raised, but plans did not show raised chimney height, lack of clarity on what was and was not permitted) and, also that new plans are being submitted to the County that the LUAC has not reviewed.

It is unfortunate that continued irregularities with this project and its processing are causing so much difficulty and, frankly, a lack of a fair hearing related to our client's concerns, whose adjacent property is being impacted by the project.

Thank you in advance,

*Christine*

Christine G. Kemp

NOLAND, HAMERLY, ETIENNE & HOSS

A Professional Corporation

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**From:** Kemp, Christine  
**Sent:** Tuesday, May 4, 2021 9:19 AM  
**To:** 'Friedrich, Michele x5189'; 'Quenga, Anna V. x5175'; 'Angelo, Philip'; 'Spencer, Craig x5233'; 'lundquiste@co.monterey.ca.us'  
**Cc:** 'McDougal, Melissa x5146'; Dugan, John x6654 ([DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us))  
**Subject:** Schwartz PLN200192

To all,

By this e-mail, we are reiterating our request that the Carmel Valley LUAC members receive a copy of both my 4/28/21 letter and this e-mail exchange, and that the original plans, along with any revised plans, be sent back to the CV LUAC for reconsideration, before the Zoning Administrator takes any action on this permit.

Please note that **all** plans to date (original submittal and subsequent submittal) continue to incorrectly show the chimney height at 111'-11" elevation, in line with the existing roof line (see attached Plan Sheets A3.3 (prior) and A3.2 (new)). The "after the fact" chimney height is, in fact, 113'-1" elevation, with the spark arrestor even higher at 114'-7" (see before and after chimney studies).

This, alone, points to the fact that the LUAC did not have accurate plans and information before them when they reviewed the project. They need to reconsider this project with accurate information presented.

We also request that a copy of any revised plans submitted to the County be sent to us when received.

Thank you,

*Christine*

Christine G. Kemp  
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**From:** Kemp, Christine  
**Sent:** Monday, May 3, 2021 12:55 PM  
**To:** 'Friedrich, Michele x5189'; Quenga, Anna V. x5175; Angelo, Philip; Spencer, Craig x5233; 'lundquiste@co.monterey.ca.us'  
**Cc:** McDougal, Melissa x5146  
**Subject:** RE: 4/29/21 ZA hearing - Schwartz PLN200192

Thank you Michele –

We believe it is important for the LUAC to understand the misrepresentations that were made at their meeting, and also know that what is now being presented to the ZA is a different project description and revised plans from that which was reviewed by them. So many irregulars in the process, is troubling.

The Applicant represented to the LUAC that Carmel Stone was part of the original application, it was not. Now the Applicant is adding Carmel Stone to the application as a "CV LUAC" recommendation. It was never part of the application, but CV LUAC was told it was.

Also neither the current "as built" chimney height nor original chimney height was correctly shown in the plans. It appears the Applicant is now resubmitting plans with new information on the chimney height and now calling it "after the fact". This should have been clearly before the LUAC, but it was not. The application before the LUAC did not show current completed chimney height nor did it state this was after the fact work. The information presented to the LUAC was inaccurate and confusing, and now the Applicant is making changes, which the LUAC has not even seen.

LUAC should review the new plans submitted, before new plans and new project description it goes back to ZA hearing. I would like the LUAC members to know what is occurring, hence our request to have the LUAC get this letter, as well as, this e-mail.

There is a process for reconsideration when a project description and project changes are being made and recommendations were made on misinformation. We want the LUAC to see clearly what is occurring and make their recommendations on all of the facts and correct information presented, including any new plans submitted.

*Christine*

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**From:** Friedrich, Michele x5189 [<mailto:friedrichm@co.monterey.ca.us>]  
**Sent:** Monday, May 3, 2021 12:18 PM  
**To:** Kemp, Christine; Quenga, Anna V. x5175; Angelo, Philip  
**Cc:** McDougal, Melissa x5146  
**Subject:** RE: 4/29/21 ZA hearing - Schwartz PLN200192

Christine –

The protocol is that once a project has been reviewed by a Land Use Advisory Committee at their meeting, staff does not forward letters to their attention related to an upcoming public hearing. They have made their recommendation to HCD Planning staff which are reflected in the minutes from their meeting.

The Zoning Administrator should have received your letters regarding the April 29, 2021 ZA hearing; and made part of the public record.

Hope this information is helpful.

**Michele Friedrich**  
**Principal Office Assistant**  
**County of Monterey Housing & Community Development Department – Permit Center**  
**Direct Line: (831) 755-5189**  
**Main Line: (831) 755-5025**

To access our permit database, please go to: <https://aca-prod.accela.com/monterey/Default.aspx>

*The Monterey County Housing and Community Development Department is currently operating with limited in-office staff to reduce risk of COVID-19 transfer to and between its workforce and our customers. During this time, responses may be delayed, but staff is checking email and will respond to you. If you have an urgent issue that requires immediate attention, please contact our main line at: [831-755-5025](tel:831-755-5025).*

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**From:** Kemp, Christine <[CKemp@nheh.com](mailto:CKemp@nheh.com)>  
**Sent:** Monday, May 3, 2021 12:11 PM  
**To:** Quenga, Anna V. x5175 <[QuengaAV@co.monterey.ca.us](mailto:QuengaAV@co.monterey.ca.us)>; Angelo, Philip <[AngeloP@co.monterey.ca.us](mailto:AngeloP@co.monterey.ca.us)>  
**Cc:** McDougal, Melissa x5146 <[McDougalM@co.monterey.ca.us](mailto:McDougalM@co.monterey.ca.us)>; Friedrich, Michele x5189 <[friedrichm@co.monterey.ca.us](mailto:friedrichm@co.monterey.ca.us)>  
**Subject:** FW: 4/29/21 ZA hearing - Schwartz PLN200192

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe. ]

Good Afternoon,

Can one of you please confirm that my 4/28 letter to Mr. Dugan and the CV LUAC members attached was distributed to all CV LUAC members.

Thank you,

*Christine*

Christine G. Kemp

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**From:** Kemp, Christine

**Sent:** Wednesday, April 28, 2021 6:37 PM

**To:** Dugan, John x6654 ([DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us)); [angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)

**Cc:** Quenga, Anna V. x5175

**Subject:** 4/29/21 ZA hearing - Schwartz PLN200192

Dear Mr. Dugan and Mr. Angelo:

Attached please find my letter, with attachments, requesting the Zoning Administrator's hearing on the Schwartz matter, PLN200192, be continued to a date uncertain, for the reasons set forth in my letter.

I will make this request at the Zoom ZA meeting tomorrow, as well.

Thank you,

*Christine*

Christine G. Kemp

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May 11, 2021 letter Kahn to Angelo

**Robert Kahn**  
310.490.2424  
Robert.Kahn@AlphaNext.com

May 11, 2021:

Mr. Philip Angelo  
Assistant Planner  
Monterey County  
Housing and Community Development  
Via Email.

Re: 24980 Outlook Drive, Carmel, CA 93923/Mal Schwartz & Laura Tryon Vs Kahn Family at  
24970 Outlook Drive, Carmel, CA 93923.

Dear Mr. Angelo,

I am representing our family pertaining to our home of 47 years at 24970 Outlook Drive. Our home resides south east of our home relative to the ocean that Mr. Schwartz and Ms. Tryon purchased about 4 years ago. For perspective, Mr. Schwartz's one-story home sits in front and just below our principal view of Point Lobos that we have held dear since our family moved here in 1974.

Before continuing, please note that our family appreciates the challenges that you and your team have of balancing out the unique desires of property owners such as Mr. Schwartz and Ms. Tryon and our family within neighborhoods such as Carmel Views.

Summary Current Issues:

Schwartz/Tryon (S/T) constructed an unpermitted chimney taller, broader with a highly reflective stucco coating painted bright white directly into our principal View.

S/T placed an unpermitted 12- foot bright white "tuff" shed with 4 reflective skylights 1-2 feet from the mutual property line. Your office issued a permit for an 8 feet-tall non inhabited shed.

S/T attached electricity to the unpermitted "non-habitable shed. No permit was issued.

S/T painted their home an unpermitted bright white color. Your office issued a 2017 permit for Oxford Brown siding.

S/T received was issued a permit from your office in 2017 for their project.

S/T submitted plans to your office in 2017 that illustrated no elevation changes to the chimney. With the chimney shown as same height as the top of roof ridge line of the original home. Your departments original and only permit was based on these plans.

S/T constructed an unpermitted chimney substantially higher and broader than the original plans or permit allowed directly into our principal view blocking and negatively impacting our view. It's confusing why the building and constructing inspector, responsible for this project did not review the plans, permits and actual construction for consistency between the original submitted plans, the issued permit and actual construction that took place in violation of the permit.

LUAC committee members reviewing the application for "after the fact" permits were provided with original and inaccurate plans by the S/T lawyers and architect which did not show the increased height of the unpermitted chimney. The use of inaccurate information was not fair to the LUAC committee members or our family, but is also legally suspect as S/T, their lawyer and architect provided the LUAC committee with inaccurate, noncurrent and irrelevant information for their review. Due to inaccurate information provided to LUAC by S/T's lawyer and architect for their review and with the discussion based upon the inaccurate information, the discussion and outcome should be voided. A second review by LUAC using accurate "as built" information should occur

LUAC committee members were also not provided with clear answers and a strong delineation between the for first request for "after the fact permits" and the second request for "new permits" that by S/T currently are seeking to construct and modify their inner courtyard, garage and 3 new carports. The

Mr. Bridges (Lawyer for Schwartz project) and Mr. Carver (Architect for Schwartz project) intentionally attempted to create confusion and obfuscation – in my opinion - during the LUAC meeting by providing misleading and untruthful answers to the good people on the LUAC committee pertaining to the increased height and mass of the chimney and whether S/T were seeking "after the fact" permits for unpermitted building or "new permits" for additional modifications.

Mr. Nicely, of Carmel Building and Design, a licensed contractor, who actually constructed and built the unpermitted chimney and developed plans for the unpermitted 12-foot-tall shed, should have been on the LUAC meeting so that the LUAC committee members could ask him direct questions about the height, mass and color of unpermitted structures. His absence was not fair to the LUAC committee or our family further illustrating procedural, technical and perhaps legal issues surrounding the April 19<sup>th</sup> LUAC meeting.

The newly revised plans submitted by Mr. Carver to your office on May 4<sup>th</sup> – clearly illustrate the increased height of the "as built" chimney constructed by S/T in violation of the original plans and permit. These revised and accurate plans now need to be reviewed by LUAC in conjunction with the original plans. "For this process to be fair, equitable and consistent, LUAC should have all of the appropriate relative materials to review for full disclosure of all facts and issues.

LUAC also did not have the benefit of an appropriate amount of time to review the actual construction pertaining to the "After the Fact" permits currently being requested by S/T. And for the new permits being asked S/T for additional construction. Out of fairness, and perhaps in conjunction with ethical and legal requirements, they deserve the appropriate time to review all plans that include the most current revised plans highlighting the currently nonpermitted construction in addition to the newly requested permits for additional modifications – especially while unpermitted code violations remain outstanding.

Mr. Carver's May 4<sup>th</sup> newly revised plans submitted to your office highlight and directly contradict Mr. Bridges and Mr. Carver's dishonest responses to the LUAC committee that no modifications had taken place to the chimney – in my opinion. LUAC and other interested parties need access to these plans – out of fairness. It's the right thing to do.

After reviewing the Monterey County Planning & Building Inspection Department "permit" guide, please note on page 27, it states that "no permit will be issued until all violation is cleared." Mr. Angelo, there are many violations currently in place on the S/T property (e.g.- unpermitted chimney, unpermitted shed, unpermitted electricity connected to the shed, unpermitted home color in "literal" contrast to the brown per the permit. Out of fairness, ethically, and per your county codes and rules, no new construction or modification permits can be granted or issued without all current code violations rectified. This appears to be a legal requirement as stated in your departments permit guide.

Please keep in mind that I had gently asked S/T, at the top of the pandemic, if they could paint their substantially taller monolithic white, reflective chimney and "tuff" shed an earth tone to mitigate the negative impact that they each were having on our view and our quality of life. They declined. According to Mr. Schwartz, Ms. Tryon said she would plant vegetation on the chimney and around the shed.

\*\*

Having grown up here at 24970 Outlook Drive since 1974, I would like to give you some background information and a perspective while we continue to go through review process.

As you know, they are seeking to receive:

**1) An "after the fact" permit for the unpermitted construction and modification to their new taller, broader and monolithic style chimney now negatively affecting and blocking our view in addition to other variances from their original permit. These modifications appear to be based on personal preferences. Please note that they:**

- ◆ Have acted in complete disregard for the normal review, notification and permitting process as set up by your office.
- ◆ As recent neighbors, been insensitive and arrogant about our local regulatory process and insensitive to those of us that have lived here for a "very" long-time.



Mr. Angelo – please note that we appreciate that this project was initiated prior to your tenure at MCRMA. I am sorry that this has put you and your team in the middle of an unfortunate dynamic. However, it is incumbent upon you to confirm and affirm that any past construction activities have been performed in accordance with the appropriate review, permitting and community notification process necessary to maintain the integrity of the development and permitting process that your office has developed over the years. Perhaps, S/T anticipating issues about building a higher and broader chimney directly into our principal view and in violation LUAC, county and most importantly, Carmel Views CC& R's rules, they simply chose to build and modify their home as they wished avoiding going through the appropriate community regulatory channels. Mr. Angelo, these are smart, resourceful educated people with a professional and licensed architect designing their project and a professional and a licensed builder constructing their newly remodeled home. This is not like Mr. Schwartz is pursuing his complete remodel as "DIY" project. He has robust, "theoretically" knowledgeable and technically proficient professionals engaged in the remodel that should know all the state, county and Carmel Views rules and regulations. Mr. Angelo, we all need to follow the rules for the benefit and harmony of the community.

**Currently, Mr. Schwartz and Ms. Tyron do not have:**

- A) A permit for their taller, broader, monolithic bright white chimney – built directly into our principal view.
  - 1) No permit was issued by our office for the structure.
  - 2) They acted in violation of the review and permitting process.
- B) A permit for their 12-foot-high bright white "tuff" shed sitting within a few feet of our mutual property line.
  - 1) A permit for an 8-foot shed was issued by your office.
  - 2) They acted in violation of the review and permitting process.
- C) A permit to attach electricity to the unpermitted shed.
  - 1) They acted in violation of the review and permitting process.
- D) A permit to paint their home a bright white:
  - 1) Your office issued a permit for "Oxford Brown Siding."
  - 2) They acted in violation of the review and permitting process.

**Currently, while they are in violation of their "prior" permit, Mr. Schwartz and Ms. Tryon are now seeking new and additional permits\***

- A) To modify and build a sunroom in their inner courtyard
  - B) To Convert their garage into a habitable room
  - C) To build new carports.)
- (\*There may be additional "asks.")

Mr. Angelo, it would not be fair, at a very basic level, to issue them new permits for additional modifications to their home until they rectify and fix outstanding unpermitted construction performed without regard and in violation of your department's well documented permit

protocol. Out of fairness, equity and perhaps based on legal precedent, they should be issued new permits.

- A) They disregarded your departments permitting process, building and placing unpermitted structures on their property as they desired and no concern for your process or the impact their behavior would have on their neighbors or community at large. They have full professional and licensed representation at every level of their project highly educated in the appropriate process permitting process.
- B) They trespassed onto our property to cut and decimate our cypress trees.

There appears to be a pattern of arrogance, self-entitlement and little concern for those of us in the community

They provided misleading information and answers (in my opinion) to the good people on the LUAC committee during the April 19<sup>th</sup> call and the follow up planning call participants on April 29<sup>th</sup> by stating that that the chimney had not been altered, which was false. Although our excellent surveyor documented their modified chimney, more importantly, their newly "revised plans" submitted to your office on May 4<sup>th</sup> clearly showing the taller chimney confirming that their lawyer and architect were not being truthful (or are incompetent) in my opinion. The misinformation that they provided to the LUAC committee in addition to your office should dictate that LUAC needs to revisit the situation. This is certainly an ethical, if not a legal issue.

\*\*

#### **LUAC Meeting of April 19<sup>th</sup>.**

Mr. Angelo, with full respect and appreciation that we all perceive the world differently, our respective interpretations of the LUAC meeting that took place on April 19<sup>th</sup> are different. As you had reported during the follow up planning conference with Mr. Dugan on April 29<sup>th</sup> that the good people on the LUAC committee viewed Mr. Schwartz's project positively, I personally remember a number of members being conflicted over the unpermitted building and modifications that were performed on the Schwartz property. Secondly, and more importantly, I recall substantial confusion by the good people on the LUAC committee on what they were being called on to discuss and vote on. The committee members appeared confused, understandably, over whether they were voting on "after the fact" permits or "new" permits pertaining to Mr. Schwartz's new project as the "old" and "new" all seemed to be rolled into a single vote. Again, I don't want to minimize, invalidate or criticize your memory of the meeting, but our respective view and memory of the meeting do not correlate, which is perhaps from simple human nature and honest differences of interpretation. Perhaps, Ms. Kemp, Ms. Quenga or one of the committee members can weigh in pertaining to their respective view on the "clarity of purpose" of the meeting.

The confusion exhibited at the meeting also appeared to be purposely exacerbated, in my opinion, by Mr. Bridges and Mr. Carver in their clients' interest.

If you recall, Ms. Brennan attempted to seek clarification multiple times by asking if they were voting on "after the fact" permits for unpermitted construction or "new permits" for a new

modification to their home." Unfortunately, in my view and opinion, Ms. Brennan did not receive a clear and concise answer.

Mr. Bridges and Mr. Carver appeared to intentionally obfuscate the situation, in my opinion, by stating that:

**A) No modifications (in height and mass) had occurred to the chimney:**

Mr. Bridges and Mr. Carver were not truthful as documented by the revised April 4<sup>th</sup> plans submitted to your office clearly showing the chimney at a higher elevation than on the original plans and as also documented by our surveyor.

**B) That any "new permit" that they are now seeking to further modify the property is simply "part two" of their ongoing "permitted" remodeling project.**

In my opinion, Mr. Bridges and Mr. Carver were not truthful or are attempting to exploit a legal technicality to that I am not aware of relative to people that know the technicalities like you, Ms. Kemp and the other much more technically knowledgeable people than me.

In my opinion, Mr. Bridges and Mr. Carver's conscious effort to confuse and convince the good people on the LUAC committee and during the follow up planning meeting by stating that the new permits were always considered to be "a part of the overall plan" was a ruse of untruthful comments. If you recall, Mr. Schwartz also spoke about expenses, which may have impacted their plans, but to tie their lack of funding to the new "ask" was nonsense and disingenuous. Their collective effort to confuse the good people on the LUAC was not nice to LUAC committee members. Please keep in mind that procedurally, for LUAC not to have the latest plans (original and those submitted April 4<sup>th</sup>), a lack of clarity over what had been constructed with permits and constructed without, lack of clarity over whether they were voting on such as "after the fact" permits or new permits regarding S/T's new project illustrates a lack of fair "due process." As I previously mentioned it was not ethically fair to the good people on the LUAC committee in addition to our family. The lack of a clear, appropriate information and process may also be illegal.

Mr. Angelo, as you and your team reflect on the meeting and their comments, please keep in mind that your office had only issued one permit in 2017 for the Schwartz and Tryon remodel prior to its recent completion. The permit, let alone the originally submitted plans, did not show the increased height of the chimney versus the newly revised plans, which do not support any of the "facts" that Mr. Bridges and Mr. Carver had offered up during the LUAC or follow up planning for the unpermitted work. Again, in my opinion, Mr. Bridges and Mr. Carver crossed the line of legality by misleading the LUAC committee stating that no changes in height had taken place while constructing and modifying S/T chimney.

To reiterate, the misleading comments made by Mr. Bridges and Mr. Carver during the LUAC meeting "that no changes to the chimney had occurred" are betrayed and in direct contradiction to their recently revised plans submitted to your office on the May 4th. Their hands have been caught in the "cookie jar."

The “revised” plans submitted on May 4<sup>th</sup>, clearly shows the illegally increased height of the chimney in direct contrast to the “facts” Bridges offered during the meeting. In my opinion, Mr. Bridges appeared willing to offer up “whatever facts” he thought would be advantageous for his cause, regardless of their accuracy, truth or impact on others. Then again, he is a lawyer. *(My full apologies to the talented thoughtful lawyers involved with this case that are seeking and pursuing a thoughtful, fair and viable outcome. Please remember this only my view and opinion.)*

Also, in my opinion, I would have assumed that Mr. Carver, as a professional licensed architect, would have had more integrity to state the facts as they are rather than seek to confuse LUAC volunteers Mr. Carver appeared, to mislead and misstate the facts to the committee in pursuit of supporting the illegal building of the chimney on behalf of his client and constructed on his watch.

Here again, the “revised” plans submitted to your office on May 4<sup>th</sup>, **drawn and produced by Mr. Carver**, clearly illustrate the increased height of the chimney in full contradiction to his comments during the LUAC meeting on April 19<sup>th</sup> and the follow up planning meeting. Mr. Carver’s hand was also caught in the cookie jar! *(If Mr. Bridges and Mr. Carver are not careful, they are going to get fat from all the cookies they are eating.)*

Also, if you recall, Mr. Carver stated during the meeting that he did not measure the chimney. Really now?

Mr. Angelo, as a professional in your field, you know construction as well as they do. Would you measure the entire home for a comprehensive and complete “rebuild” down to the studs, which I personally and visually observed, creating a “see through” structure, but then not measure the chimney, especially within our highly regulated environment such as Carmel Views that is covered by county codes and our Carmel Views subdivision CC&R’s. In my opinion, he is either being untruthful or if he did not actually measure the chimney within the context of doing a remodel within our highly regulatory environment here in Carmel Views, perhaps his license should be reviewed for lack of technical knowledge and professionalism. Again, these are just my opinions as it’s challenging to understand how a licensed architect would participate at building an unpermitted structure and also only measure certain parts of a structure undergoing a complete remodel. Confusing.

To be clear:

- A) The original and only plans submitted to your office in 2017 for Mr. Schwartz’s project show the height of the chimney at the same level as the ridge of the roofline.
- B) The newly revised plans, produced by Mr. Carver, submitted to your office on May 4<sup>th</sup> clearly show the chimney extending above the ridge line by 2 feet +/- as previously highlighted by our “most excellent” surveyor, Mr. Frank Lucido.

Also, why wasn’t Mr. Nicely of Carmel Building and Design, not on the April 19<sup>th</sup> LUAC zoom call? Mr. Nicely did the remodel and should know every board, nail and change made to the structure. While Mr. Carver is apparently disavowing responsibility for the illegally constructed chimney (didn’t measure it?), and stating that no changes in elevation occurred to the chimney, should

we infer that Mr. Nicely went “rogue and radical” on us and built the chimney without permits on his own. (In my opinion, that was not very nice of Mr. Carver to throw Mr. Nicely under a bus - as he appeared to do. Ouch!

Also, please keep in mind that Mr. Schwartz and Ms. Tyron trespassed on to our property to cut and decimate our Cypress trees. Unfortunately, they cut our cypress trees while my 85-year-old Mother and 89-year-old Stepfather were out of town. That was really rude beside being illegal.

Mr. Angelo:

Please note that I had gently asked Mr. Schwartz early on if he could modify and paint the chimney a darker color to mitigate the negative impact that their taller, broader, brighter monolithic chimney was (and is) having on our view. I had also gently asked them if they could paint the shed a darker color to mitigate the negative impact that was (and is) having on our northern view from every window on the backside of our home. I was attempting to find a mutually easy “fix,” to resolve the problem, during the very difficult circumstances of this last year while simply trying to keep my elderly parents alive during the pandemic, in addition to my wife and daughter in Los Angeles. I literally was driving back and forth from Los Angeles to Carmel every few weeks as we were concerned about the substantial challenges that “assisted care centers” were having. And bringing in a talented caregiver had its own challenges.

During the discussion, my impression was that Mr. Schwartz appeared to feel that it was reasonable idea. He then said that he would get back to me. Unfortunately, when I had mentioned the issue later, he said that they would make any changes. (I learned long ago not to judge or get in between relationships.). However, he did say that they would grow vines on the chimney and the shed to assist at mitigating the issue. Please note the current pictures of the vines on the chimney and shed. Later and upon my further inquiry (and our last conversation about the issue), Mr. Schwartz told me that:

***“I will have to get used to having a house between our home and the ocean,”***

Personally, I thought his comment and attitude was a bit arrogant and not very neighborly or nice.

Please note the attached diagrams and pictures for your review.

- ◆ Prior chimney – (please note: the lower, earth tone, brick and heterogeneous surface which aids at dispersing and scattering the sun’s reflection versus the current bright white, smooth monolithic chimney recently constructed.)
- ◆ Current chimney (Please note: the purple portion at top was highlighted by our licensed and experienced surveyor who took measurements)
- ◆ Permit (Please note: no mention of any changes to the chimney)
- ◆ Original plans for house (Please note: no change to the height or mass to the chimney)
- ◆ Recent plans for new and additional construction to their inner courtyard.
- ◆ Multiple pictures of how they cut our Cypress trees (all – completely on our property)

\*\*

There is an amicable fix to the new construction and modifications done without permits and in violation of the county codes and Carmel Views Community Association CC&R's that are now blocking and negatively impacting our view.

- A) Please have them reduce the height and mass of chimney, to reduce its negative impact on our view.
- B) Please have them paint or modify the reduced and reconfigured chimney with a less reflective color, material or texture reduce the sun's reflection back into our home.
- C) Please have them remove the 12-foot shed, reduce its height or move it to the front of their property to mitigate the negative impact it has on family.
- D) Please have them paint the house and revised lowered shed (assuming it is not moved to the front of their home) the brown color as stated on the permit to be more consistent with environment.
- E) Please confirm that any new construction – in the courtyard, the garage and the car port that is being designed (with skylights) will not negatively impact our view.
- F) Please do not allow any additional permits to be issues until their past violations are cured and fixed.

\*\*

Mr. Angelo, we want to be reasonable, neighborly and accommodating with their desire to upgrade their home in way that works well for them. We just do not want our family to suffer and be harmed by having it negatively impact our view due to their personal choices and "rogue" behavior by bypassing the permitting process set up by your office let along violating our Carmel Views CC&R's.

Please do not reward them by granting "after the fact" permits for their strategy of "doing whatever they want, regardless of consequences, and then ask for forgiveness." Or, in this case, "after the fact" permits. That would create an unfortunate precedent and perhaps encourage others to pursue their strategy. They had a licensed architect and a licensed builder involved that certainly should know our county codes, building procedures and inspection process. They have now hired an expensive lawyer to defend not one, but their multiple construction violations done with purpose and intent. It would not be fair to those of us that follow the law and the appropriate permitting process.

On behalf of my family, and to be clear with LUAC, you, Mr. Dugan and Ms. Quenga, please also understand that do not have any issues with their most recent new "asks" or "requests" to upgrade their center courtyard. We only ask that they rectify and correct their past illegal activity before any further work is to be approved or permitted. We also need to confirm that their new construction modifications will not negatively impact our view consistent with LUAC, your office's permitting process and to confirm that our Carmel Views CC&R's are followed.

With all due respect, my Mom developed the Cancer Wellness program at Community Hospital almost 40 years ago leading and teaching it until she retired at the age of 82. She supported and

stood by many, many people over the years going through very difficult times. Carl Pohlhammer taught history at MPC for more than 40 years and was also Chairman of the Social Studies program for many years. He mentored and supported many students during those years. Carl was also very involved in the Central Coast political movement attempting to make our community a better place for all of us. My Mom and Carl have given to and supported our community in generous, deep and meaningful ways. They deserve to be treated with dignity, care and concern by all of us – as they supported many of us.

Mr. Angelo, if you and your colleagues can please review the current circumstances within the context of fairness, equity and neighborly sensitively in mind, our family would appreciate it. There have been many conscious choices made by our neighbors that were done based on their personal choice and desires, which unfortunately have negatively affected us. These span from increasing the height of the chimney directly into our view to illegally trespassing and aggressively cutting our Cypress tress without permission. Also, please keep in mind that this not about attempting to limit them from pursuing “their dream,” but rather confirm that we are going through the appropriate process to maintain a balance of preservation and development in a fair, honest and reasonable way that does not take away our dream. Is that unreasonable to ask? We ask that you not approve further “forward” action until we can better understand the past transgressions, seek to rectify them fairly and then thoughtful way forward to review the new requests in a balanced and mutually beneficial way.

Candidly, their unilateral and unpermitted actions based upon personal choices have taken an enormous emotional toll on my Mom, stepfather Carl - and our family. Please think about this situation within the context of fairness and neighborly conduct. They have not been very nice to our family.

On behalf of the Kahn family,

Thank you for your time and consideration.

Robert Kahn

cc. Family

May 17, 2021 e-mail Kahn to Dugan



**From:** Robert Kahn <[robert.kahn@alphanextinvestment.com](mailto:robert.kahn@alphanextinvestment.com)>  
**Subject:** Thank you - Schwartz vs Kahn  
**Date:** May 17, 2021 at 12:14:44 PM PDT  
**To:** [duganj@co.monterey.ca.us](mailto:duganj@co.monterey.ca.us), "Quenga, Anna V. x5175"  
<[quengaav@co.monterey.ca.us](mailto:quengaav@co.monterey.ca.us)>, Melissa x5146 McDougal  
<[McDougalM@co.monterey.ca.us](mailto:McDougalM@co.monterey.ca.us)>

Mr. Dugan,

I want to thank you for your time and thoughtful assessment regarding the issues, especially the "tuff" shed that they attempted to slip in there as a minor issue. As you can imagine, I wish that they had been declined any affirmative action in light of their disregard for the permitting process, violations and insensitively to our family, but I appreciate the fact that you had your staff, you asked your staff their opinion, which they gave and you made the best decision with the information that you had and were given by the people paid to advise you. I do find it perplexing that your staff appears to support those that violated the process your department has developed, the codes in place and the actions taken without permission while my Mom and Step dad have done nothing. I would think that the effort, out of fairness, is to confirm that all parties are following the rules first, then seeking ways to fix them, but until all is fixed, nothing should be affirmed to move forward. And they have attempted to position themselves as the victims, which as you know is far from the case as they have a licensed architect, a licensed builder and a very creative lawyer that should be writing for Hollywood and I presume has passed the bar. It's like really - give me a break?

As we move forward to pursue all options available to us, I want to overtly thank you for your thoughtful response and the questions you asked.

Best,

Robert

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Robert A. Kahn  
Managing Director  
310.553.5396  
1901 Avenue of the Stars, Suite 1025  
Los Angeles, CA, 90067-6002

Alternative Contact:

Brenda Gonzalez  
Vice President  
[brenda.gonzalez@alphanext.com](mailto:brenda.gonzalez@alphanext.com)  
424.295.9702

May 18, 2021  
letter Kahn to Brennan/CV LUAC

Robert Kahn

May 18, 2021

Ms. Janet Brennan  
Chairperson  
Carmel Valley Land Use Advisory Committee

Mr. David Burbidge  
Secretary

General Committee Members.

Dear Ms. Brennan, Mr. Burbidge and honorable Committee members:

Regarding: LUAC meeting April 19<sup>th</sup>, 2021 per Schwartz (Mal) project/PLN 200192  
Location: 24980 Outlook Drive, Carmel, CA 93923//APN: 015-522-008-000

In light that you were provided with misleading, wrong and incomplete information by Mr. Schwartz, his wife, Laura Tyron, his attorney Mr. John Bridges and his architect, Robert Carver, you have a moral, ethical and perhaps legal obligation to vacate your earlier review and recommendation and review within their application and request with current, clear and appropriate information. Mr. Schwartz and Ms. Tryon live next door to my Mom, Sandra Kahn and stepfather, Carl Pohlhammer.

Per the attached materials, it appears that:

- 1) The LUAC committee was provided with an inaccurate description of the project by Mr. Schwartz, his professionals and HCD:
  - a. They mislead the committee by describing the construction as "to be done" rather than be truthful and tell the committee that much of the work has already been done.
    - i. The reason for confusion over "new permits" or "after the fact" permits during the discussion.
    - ii. Please compare to the description of page 2, provided to the Zoning Administrator.
    - iii. They provided your good committee with one description of the project, while providing a different description of the project to HCD/ How did that happen?
      1. Although they ask for "retro-active" design approval (after the fact permits?), they still mislead and are not truthful – as they say the "project," as if it's all one project. It is not. They only had one permit.
        - a. the permit did not include raising and increasing the mass of the chimney.
        - b. As noted by the permit on page 2 – there was very little to be done on the outside except put "Woodstock brown siding."



- b. They provide your committee with inaccurate plans showing the chimney at the same height. It is not. It is taller by over 2 feet, broader and now bright white (Swiss coffee paint has a reflective rate of close to 84 – which means it's very bright – and outside, even more so.
  - i. Please note on page 4 – their new requests as provided to you as the chimney at the elevation. On page 5, for plans submitted to HCD, they show the chimney at a higher elevation.
    1. They provided your committee attempting with one set of plans while giving the planning department a different set up plans. How did that happen.
- 2) They also did not show you the 12-foot-tall tool "tuff" shed that they had placed a foot away from our mutual property line.
  - a. They did not mention it, because their permit was for an 8-foot-shed.
  - b. They also did not mention it because they had connected electricity to it – with no permit. Imagine that?
  - c. Please note the pictures attached. Although we had our surveyor measure the shed at 12 feet, I also put up a "washer pole" so you may see the size. Also, as I am just shy of 5'8" (and as my daughter says, bald – I prefer balding), you can see that it's pretty big – with its four skylights. Also, as it's very white, it reflects the sun robustly.

Ms. Brennan, Mr. Burbidge and committee members – You unfortunately were provided with untruthful, misleading and were not told about their clear and present violations of enlarging the chimney and placing a 12-foot-tall tool "tuff" shed on the property when they only had permit for an eight-foot-unit. And they certainly didn't highlight the fact that they had illegally connected electricity to the shed without a permit.

In light that their illegal actions have negatively affected our home of 47 years (next door), you have an moral, ethical and perhaps legal obligation to vacate your earlier ruling based on the misleading information provided. Additionally, you were unaware of the outstanding permit code violations which also means that you, out of fairness and appreciation for fairness, should vacate your earlier ruling and review their application with accurate information – once the code violations are cleared up.

On behalf of our family,

Thank you,

Robert Kahn  
(310)490-2424



# Carmel Valley Land Use Advisory Committee

Monday, April 19, 2021

6:30 PM

## IMPORTANT NOTICE REGARDING COVID-19 & PARTICIPATION IN THE LAND USE ADVISORY COMMITTEE MEETINGS

Monterey County Land Use Advisory Committees shall be held by teleconference in order to minimize the spread of the COVID-19 virus, in accordance with the State of Emergency proclaimed by Governor Newsom on March 4, 2020, Executive Order N-29-20 issued by Governor Newsom on March 17, 2020, and the Shelter in Place Order issued by the Monterey County Health Officer on March 17, 2020, as may be periodically amended.

To participate in this Monterey County Land Use Advisory Committee meeting, the public are invited to observe and address the Committee telephonically or electronically. Instructions for public participation are below:

### Participate via Zoom Meeting Link:

<https://montereycty.zoom.us/j/97710242254?pwd=Zk1ycVFSVj9jT0ZudWdpZlBwRjJvUT09>

**Participate via Phone:** Dial 1-669-900-6833; when prompted enter Meeting ID # 977 1024 2254

**Password (if required):** 959798

### Public Participation Instructions:

The meeting will be conducted via teleconference using the Zoom program, and Committee Members will attend electronically or telephonically. The meeting will have no physical location to physically attend. The public may observe the Zoom meeting via computer by clicking on the meeting link listed above, or the public may listen via phone by dialing the phone number listed above and then when prompted, entering the Meeting ID Access Code listed above as well.

You will be asked for a "Participant ID". You do not need a Participant ID to join the meeting, press the pound key (#) again and you will be automatically connected.

1. If a member of the public wishes to comment on a particular agenda item, the public is strongly encouraged to submit their comments in writing via email to the assigned planner. Email addresses can be found on the Monterey County HCD Planning website at the following link:

<https://www.co.monterey.ca.us/government/departments-1/z/resource-management-agency-rma-planning/about-us>. Comments should be submitted by 2:00 p.m. the business day prior to the committee meeting date. To assist County staff in identifying the agenda item to which the comment relates, the public is requested to include the file number in the subject line. Comments received by the 2:00 p.m. deadline will be distributed to the Committee and will be placed in the record.

2. Applicants and members of the public wishing to comment on a specific agenda item while the matter is being heard during the meeting may participate by any of the following means:
  - a. When the Chair calls for public comment on an agenda item, the County staff member running the Zoom meeting will first ascertain who wants to testify (among those who are in the meeting electronically or telephonically) and will then call on speakers and unmute their device one at a time. Public speakers including the applicant may be broadcast in audio form only.



b. If speakers or other members of the public have documents they wish to distribute to the Committee for an agenda item, they are encouraged to submit such documents via email to the assigned planner at their email address. Email addresses can be found on the Monterey County HCD Planning website at the following link:

<https://www.co.monterey.ca.us/government/departments/1-2/resource-management-agency-rma-planning/about-us> Documents should be submitted by 2:00 p.m. to the assigned planner on the business day prior to the committee meeting date. To assist staff in identifying the agenda item to which the comment relates, the public is requested to include the file number in the subject line.

c. If applicants or members of the public want to present documents/Power Point presentations while speaking, they should submit the document electronically by 2:00 p.m. on business day prior to the committee meeting date to the assigned planner at their email address. Email addresses can be found on the Monterey County HCD Planning website at the following link:

<https://www.co.monterey.ca.us/government/departments/1-2/resource-management-agency-rma-planning/about-us> (If submitted after that deadline, staff will make best efforts, but cannot guarantee, to make it available to present during the meeting.)

d. While the matter is being heard, a member of the public may submit a comment via email, preferably limited to 250 words or less, to the Land Use Advisory Committee liaison listed on the agenda. To assist staff in identifying the agenda item to which the comment relates, the public is requested to include the file number in the subject line. If the comment is received prior to close of public comment on an agenda item, every effort will be made to read the comment into the record, but some comments may not be read out loud due to time limitations or length of the comment (if the comment exceeds 250 words).

Comments received prior to the close of the public comment period on an agenda item will be made part of the record for that item.

3. Members of the public who wish to make a general public comment for items not on the day's agenda may submit their comment via email, preferably limited to 250 words or less, to the Land Use Advisory Committee liaison listed on the agenda. The Land Use Advisory Committee name & meeting date and "general comment" should be indicated in the subject line. The comment will be placed in the record for the meeting, and every effort will be made to read the comment into the record at the appropriate time on the agenda.
4. Individuals with disabilities who desire to request a reasonable accommodation or modification to observe or participate in the meeting may make such request by sending an email to the planning clerical support staff at [frednichm@co.monterey.ca.us](mailto:frednichm@co.monterey.ca.us). The request should be made no later than noon two (2) business days prior to the Land Use Advisory Committee meeting date in order to provide time for the County to address the request.
5. The Chair and/or Secretary may set reasonable rules as needed to conduct the meeting in an orderly manner.

### Site Visits and Staking/Flagging:

In accordance with the State Brown Act exception, HCD will schedule LUAC meetings to be held remotely to help prevent the spread of COVID. Construction activities have resumed, so staking and flagging can now be installed on project sites, and site visits will resume on a modified/limited basis. In an effort to promote physical distancing, site visits with the entire LUAC will not be scheduled while the County Health order remains in place. However, individual LUAC member site visits may be coordinated with the project planner and applicant, pursuant to the following guidelines:

- Site visits will not be scheduled for more than one (1) LUAC member to be on site at a time.
- When on site, LUAC members and County staff should adhere to the current County Health Order regarding physical distancing and protective equipment (i.e.: face masks, etc.)
- LUAC members visiting a site cannot enter private property without permission, so visits should be coordinated with the project planner and property owner/agent.
- Site visits by LUAC members are not open to the public
- Permission/coordination is not needed by LUAC members or the public to view a property from a public road.
- In accordance with the Brown Act, LUAC members should not share any thoughts/comments with other LUAC members regarding their site visit except during the scheduled public LUAC meeting.

**Note:** To view documents related to project(s) listed on the Land Use Advisory Committee agenda, please visit <https://acc-prod.aecola.com/MONTEREY/Default.aspx>. Enter the file number in the "Quick Search" box; click on "Record Info" tab; click on "Attachments" in the drop-down menu; finally click on the document you wish to view

### CALL TO ORDER

### ROLL CALL

### APPROVAL OF MINUTES

### PUBLIC COMMENT

The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair. The Planning staff liaison is Anna Quenga at [quengaav@co.monterey.ca.us](mailto:quengaav@co.monterey.ca.us)

### SCHEDULED ITEM(S)

1. 

<b>Project Name:</b>	SCHWARTZ MAL
<b>File Number:</b>	PLN200192
<b>Project Location:</b>	24980 OUTLOOK DR CARMEL
<b>Assessor's Parcel Number(s):</b>	015-522-008-000
<b>Project Planner:</b>	PHIL ANGELO
<b>Area Plan:</b>	CARMEL VALLEY MASTER PLAN
<b>Project Description:</b>	Design Approval to allow: the addition of a 531 square foot studio with two (2) skylights and a 63 square foot landing on an existing 2,645 square foot single family residence; replacement of the exterior siding, doors & windows on the residence; conversion of the existing attached garage to living space, including removal of the garage door & replacement with lap siding; construction of a new 447 square foot attached two-car carport; construction of a new 4' - 6' cedar fence; painting the exterior of the primary residence a white "swiss coffee" color; finishing of the chimney with a smooth coat stucco and painting it a white "swiss coffee" color and adding a metal flue cap to the top of the chimney.

### OTHER ITEMS

- A) Preliminary Courtesy Presentation by Applicants Regarding Potential Projects
- B) Announcements

### ADJOURNMENT





# Notice of Public Hearing

## Monterey County Zoning Administrator

NOTICE IS HEREBY GIVEN that the Zoning Administrator of the County of Monterey, State of California will hold a public hearing to consider taking action on the project described below. The hearing will be held on Thursday, April 29, 2021 at the hour of 9:30 a.m. at the meeting of the Zoning Administrator. Due to the COVID-19 emergency and Shelter in Place order issued by the Health Officer of Monterey County, the Zoning Administrator meeting will be held via teleconference. The Zoning Administrator agenda will provide specific information about how the public can observe the meeting and address the Administrator telephonically or electronically during the hearing. At least 72 hours ahead of the Zoning Administrator meeting, the Zoning Administrator meeting agenda will be posted in the case outside the Monterey County Government Center, 168 W. Alisal Street, Salinas, CA and on the County website at the following address.

<https://www.co.monterey.ca.us/government/departments-1-z/Resource-Management-Agency-rma/planning/committees-agendas>

Any and all persons interested in participating in the public hearing on the project are encouraged to submit comments via email to [publichearingcomments@co.monterey.ca.us](mailto:publichearingcomments@co.monterey.ca.us) by 2:00 p.m. the Wednesday prior to the Zoning Administrator hearing to facilitate distribution of the comments to the Administrator.

**Project Name:** SCHWARTZ MAL  
**Project File No.:** PLN200192  
**Project Location:** 24980 OUTLOOK DR, CARMEL  
**Assessor's Parcel No.:** 015-522-008-000  
**Permit Type:** Design Approval  
**Planning Area:** Carmel Valley Master Plan  
**Project Description:** Consider the addition of a 531 square foot studio with (2) skylights and a 63 square foot landing on an existing 2,645 square foot single-family residence; replacement of the exterior siding, doors, and windows on the residence; conversion of the existing attached garage to living space, including removal of the garage door and replacement with lap siding; construction of a new 447 square foot attached two-car carport; construction of a new 4' - 6' cedar fence. The project includes a retro-active Design Approval for: painting the exterior of the primary residence a white "swiss coffee" color; finishing of the chimney with a smooth coat stucco and painting it a white "swiss coffee" color, and adding a metal flue cap to the top of the chimney.  
**Proposed CEQA Status:** Categorically Exempt per Section 15303 of the CEQA Guidelines

IF YOU CHALLENGE THIS MATTER IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS PUBLIC NOTICE OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE ZONING ADMINISTRATOR AT OR BEFORE THE PUBLIC HEARING.

### FOR ADDITIONAL INFORMATION CONTACT:

Philip Angelo, Assistant Planner  
Monterey County Housing and Community Development  
1441 Schilling Place - South, 2nd Floor, Salinas CA, 93901  
(831) 784-5731 or [angelop@co.monterey.ca.us](mailto:angelop@co.monterey.ca.us)



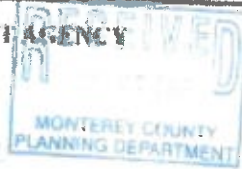
FILE #:

*PIN 170572*



**MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY  
PLANNING**

1616 West Alisal, 2nd Floor, Salinas, CA 93901  
Telephone: (831) 755-5025 Fax: (831) 757-9516



*PIN 170572*

**INLAND DESIGN APPROVAL APPLICATION FORM**

ASSESSOR'S PARCEL NUMBER: 015-522 008-000

PROJECT ADDRESS: 24980 OUTLOOK DR CARMEL CA 93923

PROPERTY OWNER: MAL SCHWARTZ & LAURA TRYON Telephone: C/O ARCHITECT  
Address: C/O ARCHITECT Fax:  
City/State/Zip Email:

APPLICANT: STUDIO CARVER ARCHITECTS Telephone: 831-624-2304  
Address: PO BOX 2684 Fax: 831-624-0364  
City/State/Zip: CARMEL, CA 93921 Email: robert@studiocarver.com

AGENT: Telephone:  
Address: Fax:  
City/State/Zip: Email:

Mail Notices to:  Owner  Applicant  Agent  
(check only one)

PROJECT DESCRIPTION: (Attach Scope of Work) Remodel of an existing 2,870 sq ft of single story residence and the construction of a 250 sq ft addition with 10' high scope of work includes the replacement of exterior siding, doors, and windows. Proposed grading will increase the extent of 10' on east of lot. 4 front trees are proposed and 2 patches for herb garden.  
*107.3*

MATERIALS TO BE USED: Composition roofing, James Hardie siding, aluminum doors & windows  
See sheet A2.3 & A3.3 for images

COLORS TO BE USED: Composition roofing to match existing, woodstock brown siding, bronze anodized aluminum doors and windows

PROPERTY OWNER/AGENT SIGNATURE: *[Signature]* DATE: *7/7/17*  
*[Signature]* *7/29/17*

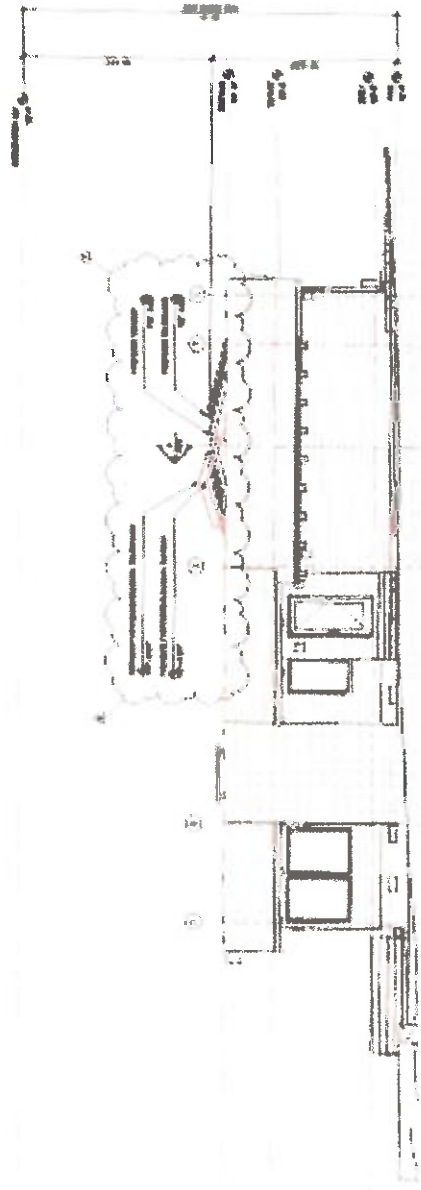
**FOR DEPARTMENT USE ONLY**

ZONING: URB:R5D-S-HAZ AREA PLAN: CARMEL VALLEY MASTER PLAN  
ADVISORY COMMITTEE: CARMEL VALLEY M.P. PLANNER RELATED PERMITS:  
WITHIN ARCH BUFFER ZONE?  YES  NO ON SEPTIC SYSTEM (OWTS)?  YES  NO  
LEGAL LOT, (APPLICABLE TO THIS USE)  YES  NO DOES THIS CORRECT A VIOLATION?  YES  NO

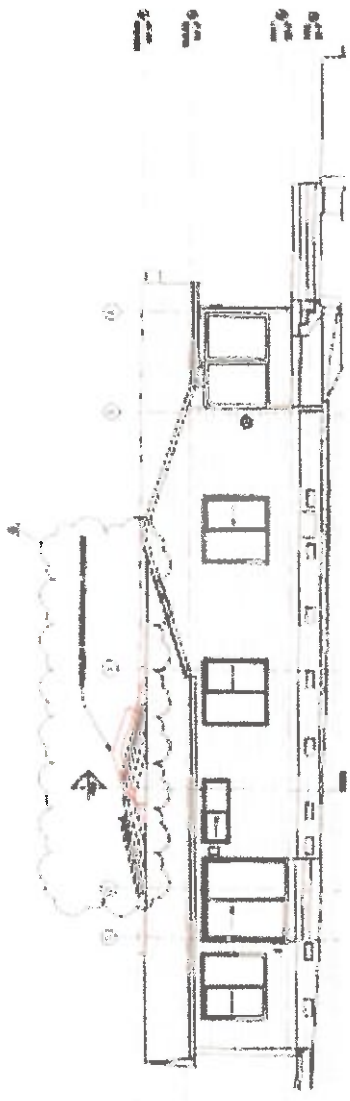
FINDINGS:  
 The project is consistent with the 2010 General Plan, the applicable Area Plan, and meets the regulations in Title 21 (Zoning Ordinance-Inland); and  
 The design of the proposed project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity without imposing undue restrictions on private property because: *Less change than zoning color, material, etc. to give to the environment as set forth in the*

DECISION:  OVER THE COUNTER  ADMINISTRATIVE  
ACTION:  APPROVED  DENIED  
CONDITIONS:  ATTACHED  NONE  
APPROVED BY: *[Signature]* DATE: *10/17/17*  
COPY TO APPLICANT:  IN PERSON OR  MAILED DATE: *10/17/17*





1 - SOUTH ELEVATION

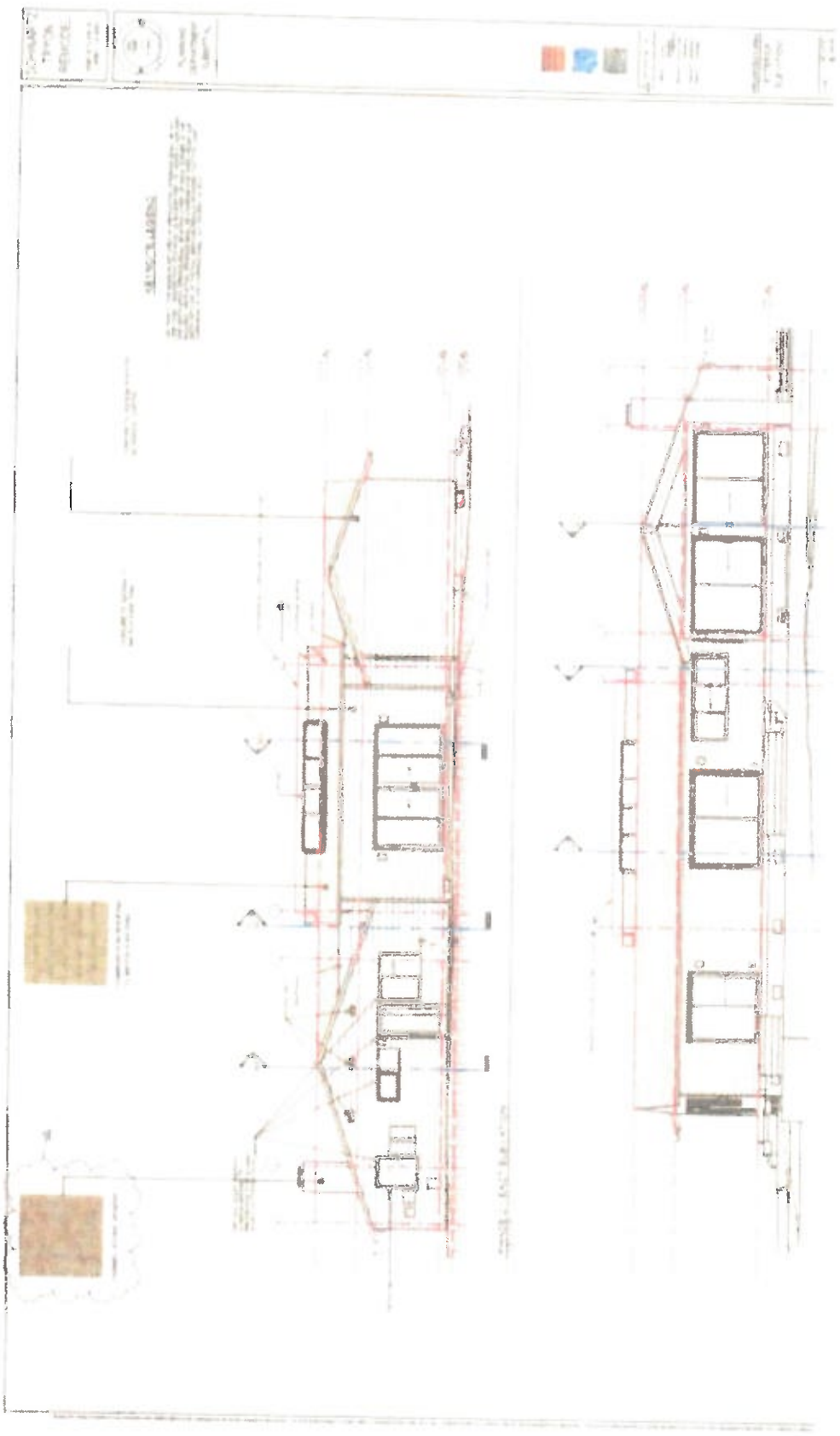


2 - NORTH ELEVATION



NOT TO SCALE







# Monterey County Planning and Building Inspection

## PERMIT GUIDE

### Monterey County Planning & Building Inspection Department

Salinas Office Call Center (Not Open to the Public)  
Post Office Box 1208  
Salinas, CA 93902  
Main Telephone Number: (831) 755-5025  
Facsimile: (831) 757-9516

Coastal Office  
2620 1<sup>st</sup> Avenue  
Marina, CA 93933  
Main Telephone Number: (831) 883-7500  
Facsimile: (831) 384-3261

Office Hours:           Monday, Wednesday & Friday 8:30 a.m. - 4:30 p.m.  
                                  Tuesday & Thursday 9:00 a.m. - 4:30 p.m.  
                                  Building Permits Issued Daily from 8:30 a.m. to 3:45 p.m.

Express Permits are available on Wednesdays – 9:00 a.m. to 2:00 p.m.

Monterey County Building Department, King City Office  
522 N. 2<sup>nd</sup> Street  
King City, CA 93930  
Telephone Number: (831) 385-8315  
Facsimile: (831) 385-8367

Office Hours:           Monday – Friday 8:00 a.m. - 9:30 a.m.



# County Hand Book

The transportation of a structure slated for relocation may require a permit from the agency with jurisdiction over the road to be used. (California Highway Patrol, City Police, CalTrans, etc.)

## DO I NEED A PERMIT FOR A JOB SHACK?

A building permit is required for the use of a temporary job trailer. The temporary office must comply with the requirements of the Uniform Building Code, Title 16 and Chapter 15.20 of the Monterey County Code.

Temporary job trailers may not be lived in and must be removed prior to the granting of occupancy or final inspection of the permanent structure.

## HOW DO I GET ELECTRICITY AND GAS SERVICE TO THE PROPERTY?

Building Inspection Staff must authorize electric and gas service activation. A building inspector will give you direction on when and how this authorization is granted.

Gas & electrical service authorization will not normally be granted prior to the establishment of a primary use on the property.

## HOW DO I CLEAR A VIOLATION?

If you have been notified of a violation by the posting of a Stop Work Order (red tag) or Notice of Monterey County Code Violation, these documents give you directions on clearing the violation. If you have received notice in the mail of a violation on your property, the notice will instruct you on how to proceed.

For building code violations (construction without permits), you may submit an application for the building permit after the fact along with all required construction plans and supplemental reports and documents. You will be assessed an investigation fee equal to the permit fee.

You may also apply for and obtain a demolition permit to demolish the illegal structure.

For violations of the building code which also violate the zoning ordinances, you may be required to restore the property to its pre-violation state prior to proceeding with development. This restoration may involve hiring consultants to provide direction for restoration of environmentally sensitive habitat, restoration of biologic habitats (vegetation/trees), restoration of rivers and streambeds, restoration of grading.

You may also be required to obtain development permits to clear zoning violations (use permits, administrative permits, design approvals, etc.) You will be assessed an investigation fee equal to the permit fee.

You will be required to work closely with the County's Code Enforcement Staff, Building Inspection Staff and Planning Staff to clear violations.

**\*No permit will be issued until the violation is cleared.**



# Monterey County Permit Tracker

5° 02' 07" N 122° 05' 41" W

Planning #DA190154  
 SCHWARTZ MAL (Design Approval)  
 Cleared

Application  
 May 14, 2019

Hearing

Compliance

May 14 2019



### Description

Design Approval to allow a 120 square foot, 8 ft high storage shed. Colors to consist of Delicate white, Garden paint and materials to consist of wood and composite shingles. The property is located at 24980 Outlook Drive Carmel (Assessor's Parcel Number 015-522-008-0001 Carmel Valley Master Plan

**Project Coordinator:**  
 Maria Sanchez  
 831-755-5075

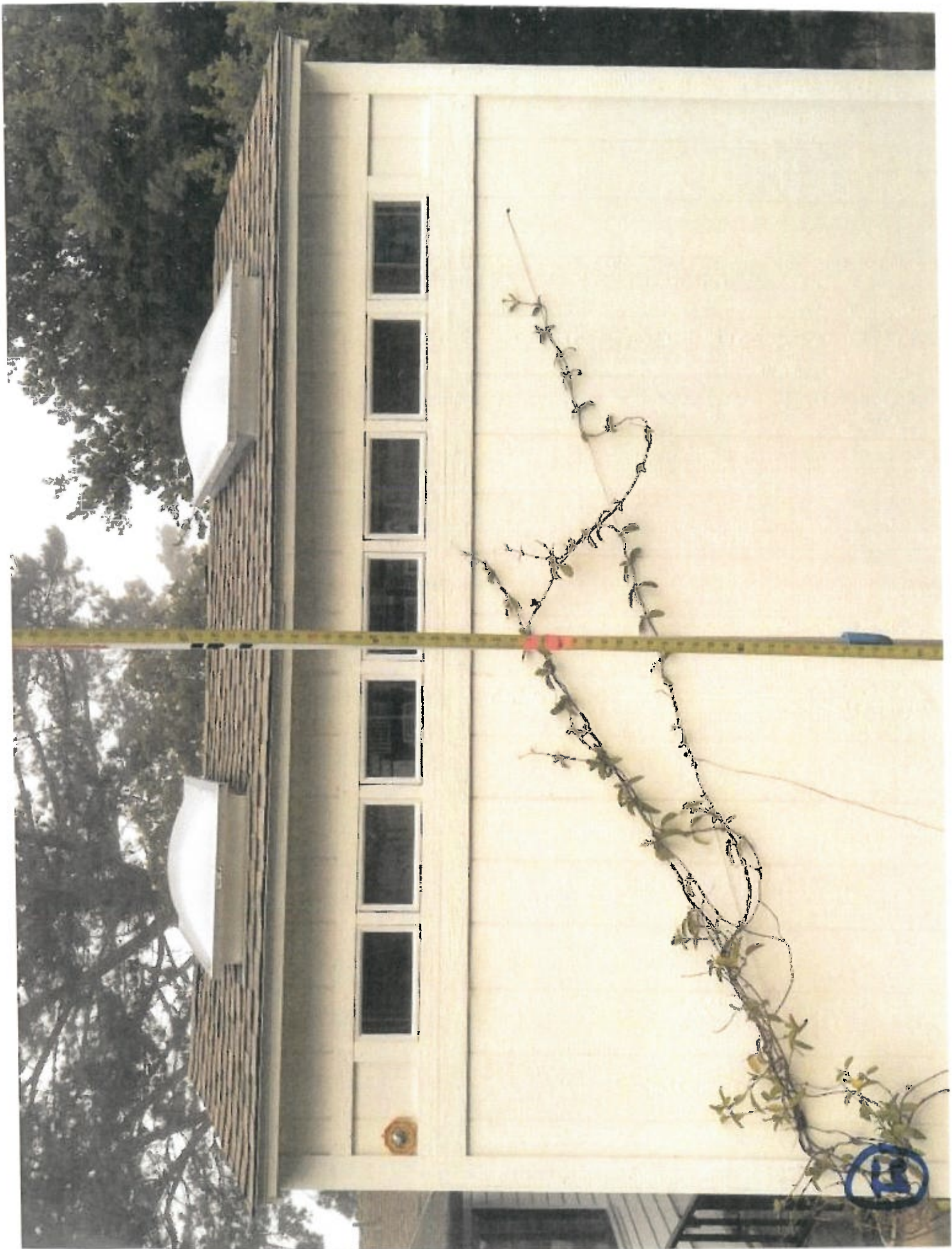
[sanchezm@salcs.monterey.ca.gov](#)

### More Info

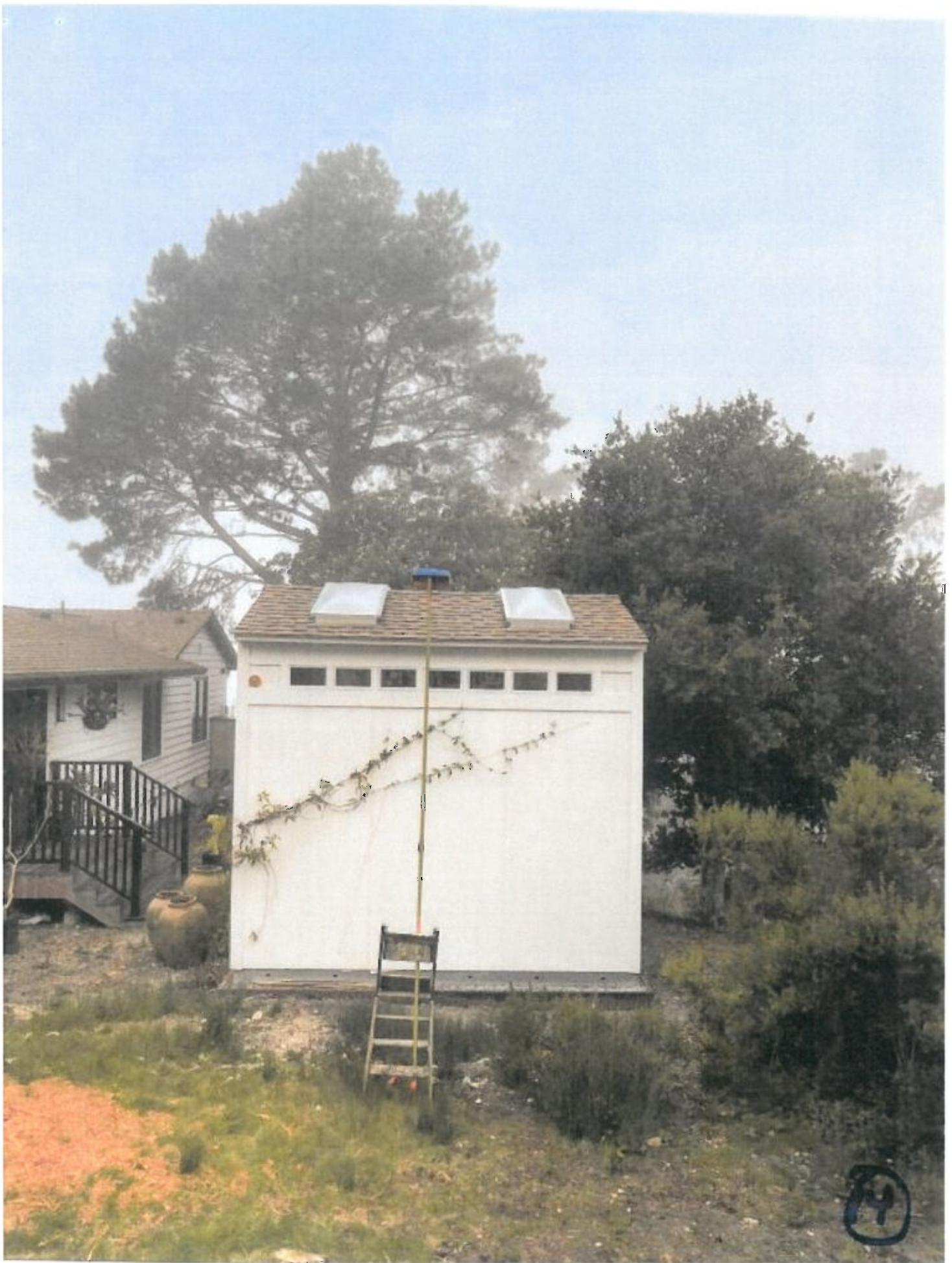
Last Updated: May 14, 2019



1 Conditions









From: Kemp, Christine [ckemp@nhcb.com](mailto:ckemp@nhcb.com)  
Subject: FW: Schwartz PLN200192 - further code violations  
Date: May 11, 2021 at 5:28:51 PM  
To: Robert Kahn [robert.kahn@alphanext.com](mailto:robert.kahn@alphanext.com)

FYI

From: Kemp, Christine  
Sent: Monday, May 10, 2021 2:18 PM  
To: 'Ruiz, Elizabeth x6657'; Nichols, Wyndee x7647  
Cc: Dugan, John x6654; Lundquist, Erik; Bowling, Joshua x5227  
Subject: RE: Schwartz PLN200192 - further code violations

Thank you Elizabeth.

I appreciate your reply.

Take care,

**Christine**

**Christine G. Kemp**

**NOLAND, HAMERLY, ETIENNE & HOSS**

A Professional Corporation

333 Salinas Street

P.O. Box 2510

Salinas, CA 93901

(831) 424-1414 ext. 271

(831) 424-1975 (fax)

[ckemp@nhcb.com](mailto:ckemp@nhcb.com)

[www.nhcb.com](http://www.nhcb.com)

*During this time of unprecedented actions, as an Essential Business under the governmental orders, our attorneys remain available to assist you with your legal needs. We encourage telephone and e-mail communications, rather than in-office meetings. As needed, office meetings can be arranged for unique matters with the recommended safety precautions in place. Please do not hesitate to contact us if you have legal needs during this time.*

*Serving the Central Coast Since 1928*

From: Ruiz, Elizabeth x6657 [mailto:[ruizl@co.monterey.ca.us](mailto:ruizl@co.monterey.ca.us)]  
Sent: Monday, May 10, 2021 11:24 AM  
To: Kemp, Christine; Nichols, Wyndee x7647  
Cc: Dugan, John x6654; Lundquist, Erik; Bowling, Joshua x5227  
Subject: RE: Schwartz PLN200192 - further code violations



Good morning Christine,

Confirmation of receipt of email from last week.

Please note that Wyndee has already issued an Administrative Citation, which have identified the violations submitted in the complaint.

Thank you.

Liz Ruiz

**From:** Kemp, Christine <[CKemp@nhch.com](mailto:CKemp@nhch.com)>  
**Sent:** Monday, May 10, 2021 10:42 AM  
**To:** Ruiz, Elizabeth x6657 <[RuizE@co.monterey.ca.us](mailto:RuizE@co.monterey.ca.us)>; Nichols, Wyndee x7647 <[NicholsW@co.monterey.ca.us](mailto:NicholsW@co.monterey.ca.us)>  
**Cc:** Dugan, John x6654 <[DuganJ@co.monterey.ca.us](mailto:DuganJ@co.monterey.ca.us)>; Lundquist, Erik <[LundquistE@co.monterey.ca.us](mailto:LundquistE@co.monterey.ca.us)>  
**Subject:** FW: Schwartz PLN200192 - further code violations

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Good morning Elizabeth and Wyndee,

I am following up on my last Tuesday's e-mail to confirm that a formal Code Enforcement case has been opened regarding the Schwartz shed violation on their property. The shed height is clearly well over, and in violation of, the approved 8 ft. height. The shed needs to be reduced to 8ft. tall to resolve the code violation.

I would appreciate you confirming a case has been opened.

Thank you,

**Christine**

Christine G. Kemp

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17

[www.nhch.com](http://www.nhch.com)

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**Serving the Central Coast Since 1928**

**From:** Kemp, Christine  
**Sent:** Tuesday, May 4, 2021 1:19 PM  
**To:** 'Friedrich, Michele x5189'; 'Quenga, Anns V. x5175'; 'Angelo, Philip'; 'Spencer, Craig x5233'; '[hundquiste@co.monterey.ca.us](mailto:hundquiste@co.monterey.ca.us)'  
**Cc:** 'McDougal, Melissa x5146'; Dugan, John x6654 ([jdugan@co.monterey.ca.us](mailto:jdugan@co.monterey.ca.us)); 'Ruiz, Elizabeth x6657'; Nichols, Wyndee x7647 ([Wynichols@co.monterey.ca.us](mailto:Wynichols@co.monterey.ca.us)); '[stirlingw@co.monterey.ca.us](mailto:stirlingw@co.monterey.ca.us)'  
**Subject:** RE: Schwartz PI N200192 - further code violations

Additionally, to All,

I also want to reiterate, that in addition to the unpermitted chimney work and unpermitted painting, there remains another existing code violation on the Schwartz property.

The Schwartz backyard shed was approved for 8 ft. high (see attached approval). However, it is 12 ft. high, clearly higher than the adjacent house eave (see attached photo). It is on a foundation, but not a 4 ft. high foundation. Until this existing shed code violation is resolved, no further permitting can be approved by the County pursuant to Title 21 Section 21.84.120.

If the County is reluctant to send our information to the CV LUAC for their review and to keep them informed as to what is occurring, we would ask that you send us the LUAC contact information so we can provide them with the relevant information. They need to know that representations made at their meeting were not accurate (Carmel Stone chimney was never part of application; shed is 12 ft. tall not 8 ft. tall, chimney was raised, but plans did not show raised chimney height, lack of clarity on what was and was not permitted) and, also that new plans are being submitted to the County that the LUAC has not reviewed.

It is unfortunate that continued irregularities with this project and its processing are causing so much difficulty and, frankly, a lack of a fair hearing related to our client's concerns, whose adjacent property is being impacted by the project.



Thank you in advance,

**Christine**

Christine G. Kemp

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*Serving the Central Coast Since 1928*

**From:** Kemp, Christine

**Sent:** Tuesday, May 4, 2021 9:19 AM

**To:** 'Friedrich, Michele x5189'; 'Quenga, Anna V. x5175'; 'Angelo, Philip'; 'Spencer, Craig x5233'; '[lundquist@co.monterey.ca.us](mailto:lundquist@co.monterey.ca.us)'

**Cc:** 'McDougal, Melissa x5146'; Dugan, John x6654 ([JDugan@co.monterey.ca.us](mailto:JDugan@co.monterey.ca.us))

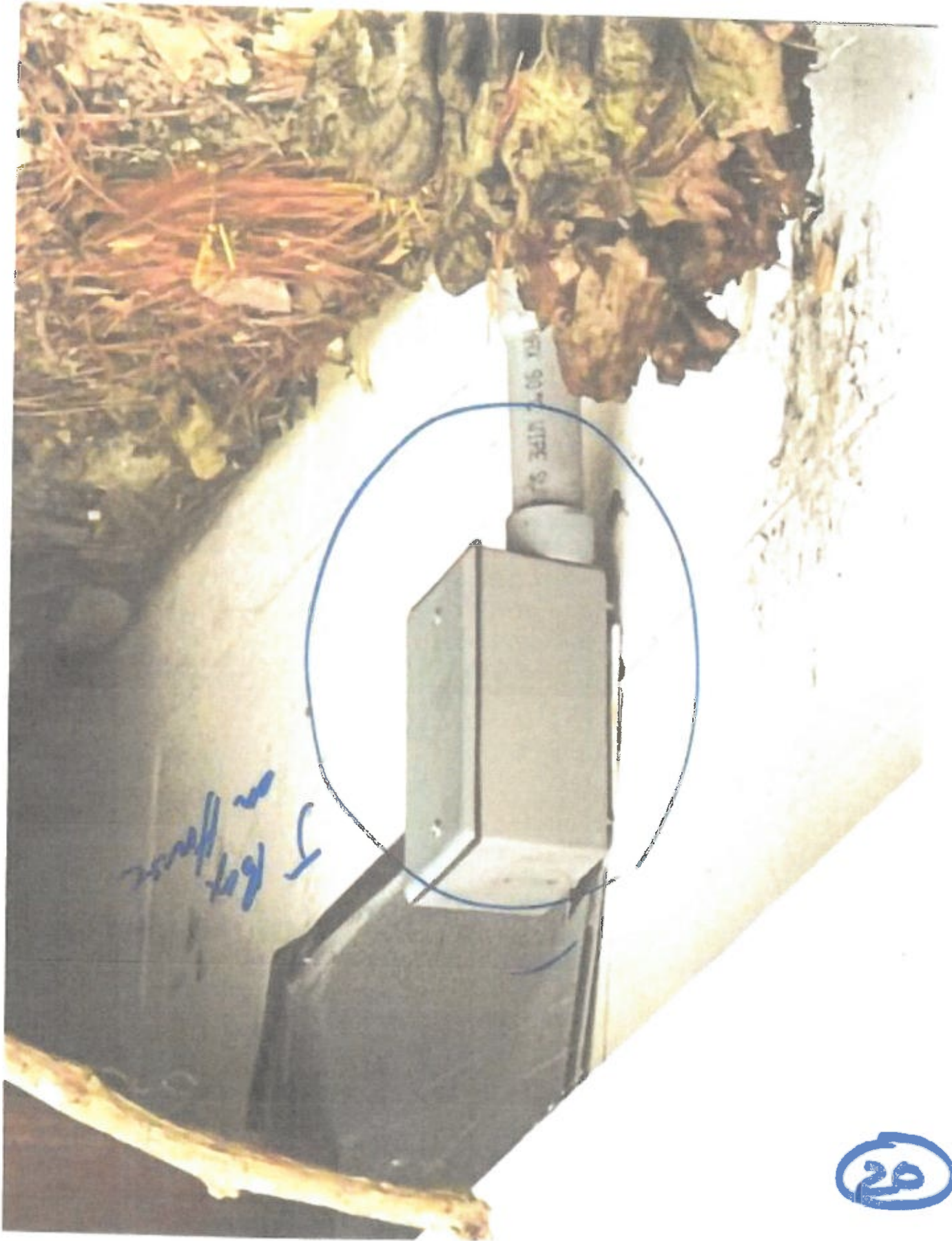
**Subject:** Schwartz PLN200192

To all,

By this e-mail, we are reiterating our request that the Carmel Valley LUAC members receive a copy of both my 4/28/21 letter and this e-mail exchange, and that the original plans, along with any revised plans, be sent back to the CV LUAC for reconsideration, before the Zoning Administrator takes any action on this permit.

Please note that all plans to date (original submittal and subsequent submittal) continue to incorrectly show the chimney height at 111'-11" elevation, in line with the existing roof line (see

19



5 Box on house



Box on shed

21



# County planners to weigh in on Rancho Cañada

By CHRIS COUJINS

**TWO MONTHS** after the Carmel Valley Land Use Advisory Committee recommended denial of a plan to create 130 lots on land on Rancho Cañada's former West Course -- along with 25 rental units for local workforce housing and flood control measures that would benefit 400 houses and 270 businesses -- the Monterey County Planning Commission will take a look at the plan. An online hearing is set for Wednesday at 9 a.m.

Besides seeking permission to move forward with his plan, builder Alan Williams and partners also want to amend the text of the Carmel Valley Master Plan to allow for a density of up to 16 units per acre with a minimum requirement of 20 percent housing. The master plan contains a "preference" for 50 percent affordable housing, while it allows up to four units per acre if the tenants are of low or

moderate income, or are eligible for workforce housing. The LUAC voted 4 to 1 Feb. 16 to recommend denial of the project because they said it "doesn't meet" the requirements of the Monterey County General Plan.

According to Carmel Valley Land Use Advisory Committee chair Janet Brennan, the project should have at least 25 percent affordable housing, based on the inclusionary housing requirement. She suggested the county could set the number as high as 50 percent, because that's what the late Nick Lombardo once suggested when he first proposed doing the subdivision. She said existing zoning calls for 35 percent.

The Carmel Valley Association sued the county after San Monterey County Board of Supervisors approved the plan in 2016. The group's president told The Pine Cone the project shouldn't be approved until the legal action is resolved.

22

ALPHA COPY

OFFICIAL RECEIPT

COUNTY OF MONTEREY

NHEH

Jun. 1 21

RECEIVED FROM

DATE

333 Salinas St, Street

STREET

Salinas CA 93902

CITY

Notice of Appeal

FOR

PLN: 200192

Check #: 101114

OFFICE	MAIL	FIELD	CASH	<input checked="" type="checkbox"/> CHECK	OTHER
PREVIOUS BALANCE				AMOUNT PRESENTED	3,540 00
AMOUNT PAID				AMOUNT OF PAYMENT	3,540 00
NEW BALANCE				CHANGE REFUNDED	
ON ACCOUNT NO.				THE AMOUNT OF	\$ 3,540 00

CENTRAL VALLEY BUSINESS FORMS - (559) 561-3595

506474

REC'D. BY

Cassandra G... (signature)

FORM #111-71