



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Legislation Details (With Board Report)

<b>File #:</b>	RES 21-139	<b>Name:</b>	PLN200192 and DA210122 - SCHWARTZ
<b>Type:</b>	BoS Resolution	<b>Status:</b>	Passed
<b>File created:</b>	7/20/2021	<b>In control:</b>	Board of Supervisors
<b>On agenda:</b>	7/27/2021	<b>Final action:</b>	7/27/2021
<b>Title:</b>	PLN200192 and DA210122/SCHWARTZ MAL Public hearing to consider a remodel, 531-square foot studio addition, conversion of an attached garage to habitable space, construction of a new 447-square foot 2-car carport, new cedar fence, re-finish an existing chimney with a tan Carmel stone and add a metal flue cap and spark arrestor, after-the fact approval to paint the single-family residence a white "swiss coffee," (PLN200192 - remodel/addition) and after-the-fact relocation and height increase of a previously permitted 120 square foot shed (DA210122 - shed). Project Location: 24980 Outlook Drive, Carmel, Carmel Valley Master Plan Proposed CEQA Action: Find the project Categorical Exemption pursuant to section 15303 of the CEQA Guidelines.		

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Attachment A - Discussion Exhibit, 2. Attachment B - Draft Reso (Revised), 3. Attachment B - Draft Resolution, 4. Attachment C - Notice of Appeal, Kemp, Filed June 1, 2021, 5. Attachment D - Zoning Administrator Resolution No. 21-025, 6. Attachment E - Site Photographs, 7. Attachment F - Previous Entitlement Information, 8. Attachment G - April 1, 2021 Staff Memorandum routing project to LUAC, 9. Attachment H - April 19, 2021 Carmel Valley LUAC Minutes, 10. Attachment I - Revised Conceptual Site Plans, 11. Attachment J - Vicinity Map, 12. Board Report, 13. MEMO Staff, 14. PowerPoint presentation, 15. Revised Attachment B - Draft Resolution, 16. Completed Board Order and Resolution Item No. 15

Date	Ver.	Action By	Action	Result
7/27/2021	1	Board of Supervisors	adopted	Pass

### PLN200192 and DA210122/SCHWARTZ MAL

Public hearing to consider a remodel, 531-square foot studio addition, conversion of an attached garage to habitable space, construction of a new 447-square foot 2-car carport, new cedar fence, re-finish an existing chimney with a tan Carmel stone and add a metal flue cap and spark arrestor, after-the fact approval to paint the single-family residence a white "swiss coffee," (PLN200192 - remodel/addition) and after-the-fact relocation and height increase of a previously permitted 120 square foot shed (DA210122 - shed).

**Project Location:** 24980 Outlook Drive, Carmel, Carmel Valley Master Plan

**Proposed CEQA Action:** Find the project Categorical Exemption pursuant to section 15303 of the CEQA Guidelines.

### RECOMMENDATION:

Adopt a resolution to:

- Partially Grant an Appeal by Christine Kemp challenging the Zoning Administrator's approval of a Design Approval (HCD-Planning File No. PLN200192);
- Find that the project qualifies as a Class 3 Categorical Exemption under section 15303 of the CEQA Guidelines, and there are no exceptions pursuant to section 15300.2, and;
- Approve a Design Approval to amend PLN170572 to allow expansion of a studio addition from 355 square feet (previously permitted) to 531 square feet and add a 63 square foot landing (proposed); modify

the roof of the studio addition to have 2 skylights instead of 1 skylight; allow 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; allow construction of a new 447- square foot attached two-car carport; re-finish the chimney with a Carmel Stone to address the presently unpermitted white “swiss coffee” smooth stucco finish which was not an approved color and material, and; construction of a 4 foot tall to 6 foot tall cedar fence. The project also includes an after-the-fact 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; and

- d. Approve design approval DA210122 modifying a previously approved Design Approval (DA190154) that permitted an eight foot tall, 120 square foot shed. The modification includes permitting the “as built” height and location of the 120 square foot shed increasing the height of a previously permitted shed to 13 feet and approving its slightly revised location.

A draft resolution, including findings and evidence, is attached for consideration (**Attachment B**). Staff recommends approval subject to 6 conditions.

**PROJECT INFORMATION:**

**Project Owner:** Mal Schwartz & Laura Tryon

**APNs:** 015-522-008-000

**Zoning:** Low Density Residential, with Building Site 6, Site Plan Review, Design Control, and Residential Allocation Zoning overlays (LDR/B-6-D-S-RAZ).

**Parcel Size:** 0.57651 acres (25,113 square feet)

**Flagged and Staked:** Yes

**SUMMARY:**

Beginning in 2017, repairs and modifications to a single-family dwelling located at 24980 Outlook Drive in the Carmel Views neighborhood have been applied for and approved. First, A 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 was approved in 2017 (PLN170572). In 2018, another Design Approval was approved for a deck, garden wall, fire pit, hot tub and patio pavers (DA180250). In 2019, a third Design Approval was approved for an eight-foot tall, 120 square foot storage shed (DA190154). Some of the work permitted has been completed however, the work completed made use of different colors and materials than were permitted and the shed was built to a height of 13 feet and placed in a slightly different location of the property than shown in the approved plans.

The subject permit applications rectify some of the as-built changes and expand upon the scope of the previous approvals to include a larger studio addition (355 square feet to 531 square feet), conversion of an attached garage to habitable space, construction of a new carport, and new cedar fence. It was identified in the planning review process that the home was painted white and that the chimney was modified without benefit of a permit. As such, the owner requested an after-the-fact approval of the paint color and addition of the spark arrestor to the chimney with a modification to the chimney finish to include a tan Carmel stone finish.

The Zoning Administrator approved the Design Approval request on May 13, 2021. Christine Kemp, on behalf of Robert Kahn, timely appealed the Zoning Administrator’s approval on June 1, 2021. Ms. Kemp contends that the unauthorized activities should not be granted approval, that the design is not consistent with design review criteria, that it impacts the Kahn’s private view, and that irregularities in the process resulted in her client not receiving a fair and impartial hearing.

One contention, that the shed in the backyard was installed higher than was originally approved, is with merit.

Consequently, staff recommends that the Board also consider granting Design Approval request DA210122, which would retroactively approve both the shed's existing height and present location on the property. Ms. Kemp's other contentions have been reviewed and considered. Despite claims from the appellant, staff has found the proposed project consistent with the relevant policies of the 2010 General Plan and County Code.

It should be noted that the applicant and appellant advised Staff that they are attempting to mediate their dispute, which could result in a modified project design. Hence, staff suggests that the Board consider continuing consideration of this appeal to allow for completion of mediation which could result in design changes. Staff reached out to both parties regarding the possibility of deferring the appeal hearing until August 24, 2021, to allow time for them to come to an agreement and to resolve any uncertainties regarding the design before the item was scheduled before the board. The appellant agreed to the deferral, while the applicant did not, citing the hardship this process has taken on them and advice from their legal counsel that no new issues have been raised which were not already addressed in the Zoning Administrator's decision.

#### DISCUSSION:

A detailed discussion is attached as **Attachment A**.

#### ENVIRONMENTAL REVIEW

California Environmental Quality Act (CEQA) Guidelines section 15303 categorically exempts new construction and conversion of small structures from environmental review. The project consists of the remodel of and addition to an existing single-family dwelling, and construction of accessory structures (a 2-car carport and a fence) to a residentially zoned parcel within a developed neighborhood. Therefore, the proposed development is consistent with CEQA Guidelines section 15303. Additionally, staff did not identify evidence of significant adverse environmental effects or of any other factor triggering an exception to this CEQA exemption. Consequently, further CEQA review is not required.

#### FINANCING:

Funding for staff time associated with this project is included in the FY2021-22 HCD Adopted Budget, Appropriation Unit HCD002 Unit 8543. Funding is partially recovered through application and appeal fees.

#### OTHER AGENCY INVOLVEMENT:

No other County agencies or departments reviewed this project.

In accordance with the procedures and guidelines adopted by the Monterey County Board of Supervisors regarding Land Use Advisory Committees (LUAC), this project was referred to the Carmel Valley LUAC for review and recommendation. The LUAC reviewed the project at a duly notice public meeting on April 19, 2021 and voted 6 - 0 to recommend approval with the design changes specified in the Discussion Exhibit Attachment A.

Prepared by: Phil Angelo, Assistant Planner, ext. 5731

Reviewed by: Craig Spencer, HCD Services Manager

Approved by: Erik V. Lundquist, AICP, HCD Director

The following attachments on file with the Clerk of the Board:

Attachment A - Discussion Exhibit

Attachment B - Draft Resolution including:

- Recommended Conditions of Approval
- Site Plan, Floor Plans, Elevations, Chimney Exhibit, and Color and Material Finishes

- Existing Shed Site Plan and Elevations

Attachment C - Notice of Appeal, Kemp, Filed June 1, 2021

Attachment D - Zoning Administrator Resolution No. 21-025

Attachment E - Site Photographs

Attachment F - Previous Entitlement Information including:

- PLN170572 Resolution and Plans
- DA190154 Resolution and Plans

Attachment G - April 1, 2021 Staff Memorandum routing project to LUAC

Attachment H - April 19, 2021 Carmel Valley LUAC Minutes

Attachment I - Revised Conceptual Site Plans

Attachment J - Vicinity Map

cc: Front Counter Copy; Phil Angelo, Assistant Planner; Anna Quenga, AICP, HCD Services Manager; Craig Spencer, HCD Services Manager; Mal Schwartz & Laura Tryon, Property Owners; Robert Carver, Applicant; Christine Kemp; John Bridges; Robert Kahn; The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN200192