

MONTEREY COUNTY PLANNING COMMISSION

MEETING: November 18, 2009 9:00AM		AGENDA NO: 1
Project Description: Deny applicant’s appeal of an administrative interpretation by the Director of Planning on the applicability and intent of the regulations for historic resources (Section 20.64.300 of Monterey County Code) as it applies to the proposed addition to an existing historic structure.		
Project Location: 2575 14 th Avenue, Carmel		APN: 009-401-019-000
Planning Number: PLN090315		Owner: Heyermann, Cheryl Agent: Gretchen Flesher Architects
Plan Area: Carmel Area Land Use Plan		Flagged and Staked: No
Zoning Designation: MDR/2-D (18) (CZ)		
CEQA Action: CEQA Section 1		
DEPARTMENT: RMA – Planning Department		

RECOMMENDATION:

It is recommended that the Planning Commission; 1) deny the applicant's appeal of an administrative interpretation by the Director of Planning on the applicability and intent of the regulations for historic resources (Section 20.64.300 of Monterey County Code) as it applies to the proposed addition to an existing historic structure; and 2) uphold the administrative interpretation by the Director of Planning that the applicant must apply for variances.

SUMMARY:

Applicant has applied for the rehabilitation and new addition to an historic structure known as the Hopper-Chanslor House which is listed on the Monterey County Historic Resource Inventory. The Director of Planning has issued an interpretation of Title 20 regulations concluding that variances would be required for the floor area and lot coverage.

Applicant is requesting exceptions to building site coverage and floor area regulations based on Section 20.64.300 of Title 20, Regulations for Historic Resources. The purpose of this section is to "provide reasonable flexibility of zoning standards to encourage and accommodate the renovation and rehabilitation of historic structures within historic districts." It further states, "The Director of Planning may grant the exception to the zoning district regulations when such exception is necessary to permit the preservation or restoration of or improvements to a structure designated as historically significant pursuant to the provisions of Chapter 18.85 of Monterey County Code. Such exceptions may include, but not limited to, parking, yards, height, and coverage regulations".

Section 20.64.300 applies to properties designated with an Historic Resources "HR" overlay. The HR overlay has not been applied to the subject property. Therefore, Section 20.64.300 does not apply in this case. Even if the property were to have an HR overlay, Section 20.54.080.C. of the Historic Resources zoning district regulations states that "new construction on designated sites shall be subject to the height and setback provisions of the district with which the "HR" district is combined."

Staff disagrees with the applicant's contentions for the reasons set forth in **Exhibit A**.

DISCUSSION:

See **Exhibit A** for a detailed discussion of the project.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel is the only agency that has been consulted.

Elizabeth Gonzales
Associate Planner
(831) 755-5102, gonzalesl@co.monterey.ca.us

Cc: Front Counter Copy; Planning Commission; County Counsel; Mike Novo, Carl Holm; Laura Lawrence; Carol Allen; Cheryl Heyermann, Owner; Gretchen Flesher, Architect; Project Files (PLN090171 and PLN090315)

This report was reviewed by Laura Lawrence, Coastal Team Manager

Attachments:	Exhibit A	Project Discussion
	Exhibit B	Draft Resolution
	Exhibit C	Notice of Appeal (September 16, 2009)
	Exhibit D	Planning Department Determination dated September 2, 2009
	Exhibit E	Historic Resources Review Board minutes dated July 2, 2009
	Exhibit F	Excerpts from Monterey County Code, Chapter 20.64.300, Chapter 20.54, and Chapter 20.68
	Exhibit G	Full size set of plans dated October 22, 2009

EXHIBIT A PROJECT DISCUSSION

I. INTRODUCTION

Applicant, Cheryl Heyermann, has applied for the rehabilitation and new addition to an Historic structure listed on the Monterey County Historic Resource Inventory known as the Hopper-Chanslor House.

The property is located on 2575 14th Street in Carmel. The site area consists of 4000 square feet. The property is zoned Medium Density Residential/ 2 units per acre, 18 feet height limit, in the Coastal Zone (“MDR/2-D (18) (CZ)”). Allowable building site coverage maximum is 1,400 square feet (35 %), and allowable floor area ratio maximum is 1,800 square feet (45%). The existing historic structure is 1057 square feet, is currently over the 18 foot height limit by 4 feet and encroaches into the 20 foot front setback by 16 feet, 4 inches.

Applicant proposes a 1,330 square foot addition along with a 520 square foot basement. The historic building would be rehabilitated to convert the lower floor to a two car garage and to add a bedroom and bath on the upper floor. The addition would consist of a below grade basement of habitable areas and the residence main floor. Site work would include a new on grade patio, driveway, walkways and a dining room deck. The addition would exceed building site coverage and floor area ratio as follows:

Building Site Coverage:

Allowed: 35%	existing: 17.2%	proposed: 44.6%	over: 14.6%
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Floor Area:

Allowed: 45%	existing: 26.4%	proposed: 59.8%	over: 19.8%
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Applicant is requesting exceptions to the zoning district regulations based on Section 20.64.300 of Title 20, Regulations for Historic Resources. The purpose of this Section is to provide “reasonable flexibility of zoning standards to encourage and accommodate the renovation and rehabilitation of historic structures within historic districts.” (Section 20.64.300.A) Under this section, the Director of Planning may grant exceptions to the zoning district regulations “when such exception is necessary to permit the preservation or restoration of or improvements to a structure designated as historically significant pursuant to the provisions of Chapter 18.85 of the Monterey County Code.” Such exceptions may include, but are not limited to, parking, yard, height, and coverage regulations. (Section 20.64.300.B) The Planning Department’s interpretation of this section is that it applies to only “within historic districts”. Because the subject property is not in a Historic Resources (HR) overlay zone, the Director cannot grant the requested exception. Even if the property were to have an HR overlay, Section 20.54.080.C. states that “new construction on designated sites shall be subject to the height and setback provisions of the district with which the “HR” district is combined.” (Chapter 20.54, Regulations for Historic Resources Zoning Districts or “HR” Districts)

On July 2, 2009, staff took the project before the Historic Resources Review Board (HRRB) early in the application process for direction regarding the applicant’s proposed zoning exceptions. The consensus at the HRRB was favorable towards the project, its unique solution, and its variance on the historic zoning. The focus, however, was on design changes to provide consistency with the Secretary of Interior standards. The project would have to come back to the HRRB so a resolution can be adopted confirming consistency with the Secretary of Interior standards. (*See Exhibit E*)

II. ANALYSIS

On August 5, 2009, the applicant requested the Director's interpretation regarding Chapter 20.64.300 of Title 20, Regulations for Historic Resources and how it applies to the proposed project.

On September 2, 2009, the Planning Department provided an interpretation that Section 20.64.300 is intended to apply only to properties that are in Historic Resource (HR) overlay districts. Because the subject property is not in an HR district, the Planning Department concluded that variances would be required for the proposed floor area and lot coverage.

The existing home currently encroaches into the front setback and exceeds height limit; it is considered legal nonconforming as to height and setback regulations. (Section 20.68.040 of Monterey County Code) If the project were to request an HR zoning overlay, the existing designated structure would not be subject to the height and setback provisions of the district with which the HR district is combined. (Section 20.54.080.C of Monterey County Code) However, the exception would not be extended to the new construction, and variances would be required for floor area and lot coverage. (Section 20.54.080.D of Monterey County Code)

Staff researched the lot sizes and coverage information of 20 neighboring parcels. Out of the 20 parcels, three of them were considered with variances. Two of the variance requests were denied and the third granted because there was a total net reduction of floor area and lot coverage from the existing non-conforming condition.

Existing structure sizes range from 625 square feet to as high as 2,860 square feet, with an average of 2,008 square feet. Several of the parcels currently exceed lot coverage and floor area and are considered to be legal nonconforming. As such, they cannot expand and would be required to construct a home that meets current standards if more than 50% of the home is destroyed or remodeled. (Section 20.68.040.A re: Legal Nonconforming Uses of Monterey County Code)

Therefore, it is the interpretation of the RMA Planning Department that since an HR overlay has not been applied to the subject property, Section 20.64.300 does not apply in this case, and any new additions to the existing structure must conform to current zoning standards. Because the existing balcony must remain as part of the historic structure, a variance to exceed floor area ratio may be considered provided: 1) the required lot coverage of 35% is met, and 2) the floor area ratio is exceeded by the area of the balcony only.

Staff Response to Appellant Contentions

The Appellant contends that the Director's decision was not supported by the evidence for the reasons outlined below. Staff's response to the contention follows.

Appellant's Contention 1:

The interpretation/decision doesn't allow for reasonable FAR or Lot Coverage as necessary to develop Historic Resource that supports neighborhood/residential and economic consistency to rehabilitate structure suitable to today's standards.

Staff's Response No. 1:

The existing home currently encroaches into the front setback and exceeds height limit; it is considered legal nonconforming as to height and setback regulations. (Section 20.68.040 of Monterey County Code) If the project were to request an HR zoning overlay, the existing designated structure would not be subject to the height and setback provisions of the district with which the HR district is combined. (Section 20.54.080.C of Monterey County Code) However, the exception would not be extended to the new construction, and variances would be required for floor area and lot coverage. (Section 20.54.080.D of Monterey County Code)

Pursuant to Chapter 20.78 of Monterey County Code, variances from zoning regulations shall only be granted based upon the following findings:

- A. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title (Title 20) is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and
- B. That the variance not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- C. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

If the applicant applies for a variance, the application would be taken to hearing, and the County decision-maker would determine whether these findings can be made.

Appellant's Contention #2:

The applicant does not agree that the interpretation supports intended project's rehabilitation and addition being completed as submitted – which are reasonable, supported by the HRRB and consistent with Standards of HR and lifestyles.

Staff's Response No. 2:

The HRRB recommended design changes to provide consistency with the Secretary of Interior standards, which is a different question than the process required under County zoning for consideration of exceptions to zoning regulations. If the project were to request an HR zoning overlay, the existing designated structure would not be subject to the height and setback provisions of the district with which the HR district is combined. (Section 20.54.080.C of Monterey County Code) However, the exception would not be extended to the new construction and variances would be required for floor area and lot coverage. (Section 20.54.080.D of Monterey County Code)

Appellant's Contention #3:

The following outlines applicant's rationale in the development of the project, highlighting issues critical to the incorporation of the historic resource and the new addition:

Existing non-conformities and site utilization:

- ***The proximity of the existing structure***
- ***The existing proposal's site coverage is only 357 square feet in excess***
- ***Due to the existing structure being set so close to the front property line, eliminating any off-street parking, the only viable use of the 1st floor is parking***

- *To protect the integrity of the historic structure's orientation and visible presence from the street we felt it unacceptable to park in front of the structure's east elevation*

Efficient utilization of existing structure in connection with an addition:

- *No surrounding 4000 square feet lots have 588 square feet of the allowable site coverage allocated to non living areas.*
- *The 812 square feet allowable expansion is inadequate to house reasonable development of living spaces, kitchen, master bedroom, bathroom and stairs.*

How to use the upper floor was carefully evaluated:

- *Proximity of existing fenestration constrains a reasonable configuration of upstairs for multiple room layouts.*
- *Demographics of Carmel are predominately older citizens with less desire for upstairs spaces and particularly essential living spaces. An elevator in this location would be a financial burden to the property. The design utilizes the upper floor as the second bedroom or flexible space consistent with the original studio use.*

Lot proportions and orientation pose limitations for sustainable design solutions:

- *New construction on the interior site is constrained by the narrow lot*
- *The existing 2 story structure at the south end results in limited potential to design for optimum exposure and natural day*

The proposed project reflects considerable effort to design a sustainable home for the stewards of the historic resource. The massing and proportions of the addition are modest in scale and appearance to be compatible with the historic character. A minimal connection has been designed to join the two structures to differentiate between new and old. We feel this project is consistent with the scale of the neighborhood and that something less than parity with the surrounding residences endangers the resource and its perpetuation of use.

Staff's Response No. 3:

The applicant's arguments go to the issue of whether the variance findings can be made, which is not before the Planning Commission at this time. Applicant can apply for a variance.

Staff researched the lot sizes and coverage information of 20 neighboring parcels. Out of the 20 parcels, three of them were considered with variances. Two of the variance requests were denied and the third granted because there was a total net reduction of floor area and lot coverage from the existing non-conforming condition.

Existing structure sizes range from 625 square feet to as high as 2,860 square feet, with an average of 2,008 square feet. Several of the parcels currently exceed lot coverage and floor area and are considered to be legal nonconforming. As such, they cannot expand and would be required to construct a home that meets current standards if more than 50% of the home is destroyed or remodeled. (Section 20.68.040.A re: Legal Nonconforming Uses of Monterey County Code)

Variances shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

Staff would evaluate a proposal from the applicant for a variance. In discussions with the applicant, staff has indicated that because the existing balcony must remain as part of the historic

structure, a variance to exceed floor area ratio may be considered provided: 1) the required lot coverage of 35% is met, and 2) the floor area ratio is exceeded by the area of the balcony only. However, applicant's current proposal is requesting a more extensive variance.

Conclusion:

Therefore, it is the interpretation of the RMA Planning Department that since an HR overlay has not been applied to the subject property, Section 20.64.300 does not apply in this case, and any new additions to the existing structure must conform to current zoning standards unless a variance is granted.

EXHIBIT B
DRAFT RESOLUTION

**Before the Planning Commission in and for the
County of Monterey, State of California**

Resolution No.: _____

Deny applicant's appeal of an administrative)
interpretation by the Director of Planning on)
the applicability and intent of the regulations)
for historic resources (Section 20.64.300 of)
Monterey County Code) as it applies to the)
proposed addition to an existing historic)
structure.

CHERYL HEYERMANN (PLN090315) 2575
14th AVENUE, CARMEL AREA COASTAL
ZONE

The appeal of Cheryl Heyermann from the administrative interpretation by the Director of Planning came on for a public hearing before the Planning Commission of the County of Monterey on November 18, 2009. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission hereby finds and decides as follows:

I. RECITALS, FINDINGS & EVIDENCE

1. On August 6, 2009, pursuant to Monterey County Code Section 20.80.010, Cheryl Heyermann submitted a request for an Administrative Interpretation by the Director of Planning on the applicability and intent of the historic resources zoning overlay (Section 20.64.300 of Monterey County Code) as it applies to their proposed addition to an existing historic structure on a parcel located at 2575 14th Avenue in Carmel (Assessor's Parcel Number 009-401-019-000).
2. On September 2, 2009, the Planning Department issued a determination that Section 20.64.300 is intended to apply to properties that are in Historic Resource (HR) overlay districts. Because the subject property is not in an HR district, the Planning Department concluded that variances would be required for the floor area and lot coverage.
3. On September 2, 2009, the Planning Department issued the determination letter indicating that the decision is appealable to the Planning Commission pursuant to Monterey County Code Section 20.88.040 and that said appeal should be filed no later than September 16, 2009 at 5:00 PM.
4. On September 16, 2009, the Appellant, Cheryl Heyermann, filed a timely appeal of the September 2, 2009, determination of the Director of Planning.
5. Said appeal was timely brought to a duly noticed public hearing before the Planning Commission on November 18, 2009.
6. The Director of Planning cannot grant exceptions to this property under Section 20.64.300 because the section is not applicable. The property is located on 2575 14th Street in Carmel. The site area consists of 4000 square feet. The property is zoned Medium Density Residential/ 2 units per acre, 18 feet height limit, in the Coastal Zone ("MDR/2-D (18)

(CZ)”). Allowable building site coverage maximum is 1,400 square feet (35 %), and allowable floor area ratio maximum is 1,800 square feet (45%). The existing historic structure is 1057 square feet, is currently over the 18 foot height limit by 4 feet and encroaches into the 20 foot front setback by 16 feet, 4 inches.

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Applicant is requesting exceptions to the zoning district regulations based on Section 20.64.300 of Title 20, Regulations for Historic Resources. The purpose of this Section is to provide “reasonable flexibility of zoning standards to encourage and accommodate the renovation and rehabilitation of historic structures within historic districts.” (Section 20.64.300.A) Under this section, the Director of Planning may grant exceptions to the zoning district regulations “when such exception is necessary to permit the preservation or restoration of or improvements to a structure designated as historically significant pursuant to the provisions of Chapter 18.85 of the Monterey County Code.” Such exceptions may include, but are not limited to, parking, yard, height, and coverage regulations. (Section 20.64.300.B) The Planning Department’s interpretation of this section is that it applies to only “within historic districts”. Because the subject property is not in a Historic Resources (HR) overlay zone, the Director cannot grant the requested exception. Even if the property were to have an HR overlay, Section 20.54.080.C. states that “new construction on designated sites shall be subject to the height and setback provisions of the district with which the “HR” district is combined.” (Chapter 20.54, Regulations for Historic Resources Zoning Districts or “HR” Districts)

7. The Planning Commission has reviewed, evaluated, and considered the appeal and responds as follows:

County’s Response to Appellant Contentions

The Appellant contends that the Director’s decision was not supported by the evidence for the reasons outlined below. Responses to the contentions are as follows.

Appellant’s Contention 1:

The interpretation/decision doesn’t allow for reasonable FAR or Lot Coverage as necessary to develop Historic Resource that supports neighborhood/residential and economic consistency to rehabilitate structure suitable to today’s standards.

County’s Response No. 1:

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Pursuant to Chapter 20.78 of Monterey County Code, variances from zoning regulations shall only be granted based upon the following findings:

- D. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title (Title 20) is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and
- E. That the variance not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- F. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

If the applicant applies for a variance, the application would be taken to hearing, and the County decision-maker would determine whether these findings can be made.

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II. DECISION

NOW THEREFORE, BASED ON THE ABOVE RECITALS, FINDINGS AND EVIDENCE AND THE RECORD AS A WHOLE, BE IT RESOLVED that the Planning Commission hereby 1) denies the applicant's appeal of an administrative interpretation by the Director of Planning on the applicability and intent of the regulations for historic resources (Section 20.64.300 of Monterey County Code) as it applies to the proposed addition to an existing historic structure; and 2) upholds the administrative interpretation by the Director of Planning that the applicant must apply for variances for PLN090315.

PASSED AND ADOPTED on this 18th day of November, 2009, upon motion of Commissioner _____, seconded by Commissioner _____, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Mike Novo, Secretary to the Planning Commission of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Planning Commission duly made and entered in Resolution _____, on _____, 2009.

Dated: _____, 2009

Mike Novo, Secretary to the Planning Commission, County of Monterey, and State of California.

By _____