

EXHIBIT B
DRAFT RESOLUTION

**Before the Zoning Administrator in and for the
County of Monterey, State of California**

In the matter of the application of:

Barth (PLN170394)

RESOLUTION NO. ----

Resolution by the Monterey County Zoning
Administrator:

- 1) Finding the project Categorically exempt from CEQA per Section 15303 of the CEQA Guidelines; and
- 2) Approving a Use Permit for an "after-the-fact" permit to allow that the two required parking spaces be uncovered and located partially within the front yard setback (driveway).

[PLN170394, Gerald R. & Joyce L. Barth TRS, 326
Kelton Drive, Salinas, Greater Salinas Area Plan
(APN: 211-191-055-000)]

The Use Permit application (PLN170394) came on for public hearing before the Monterey County Zoning Administrator on August 10, 2017. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **PROJECT DESCRIPTION** – The Project, as conditioned, is an "after-the-fact" Use Permit to allow that the two required parking spaces be uncovered and located partially within the front yard setback (driveway).
EVIDENCE: a) Pursuant to Section 21.58.050. C. of *Regulations for Parking*, modifications to the parking standards, may be granted by a Use Permit where appropriate, in cases which, due to the unusual characteristics of a site or its immediate vicinity, do not necessitate the number of parking spaces, type of design, or improvements required by that chapter.
b) Granting of a Use Permit would bring the subject site into conformance with the parking regulations pursuant to Chapter 21.58- Regulations for Parking, of the Monterey County Zoning Ordinance, Title 21.
c) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN170394.
2. **FINDING:** **CONSISTENCY/SITE SUITABILITY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this

area as appropriate for development. The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - the 2010 Monterey County General Plan;
 - Greater Salinas Area Plan Supplemental Policies;
 - Monterey County Zoning Ordinance (Title 21);No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
 - b) The property is located at 326 Kelton Drive, Salinas (Assessor's Parcel Number 211-191-055-000), Greater Salinas Area Plan. The parcel is zoned Medium Density Residential, 5 units per acre or "MDR/5", which allows for the establishment of a single-family dwelling and associated residential structures, such as a garage for required parking spaces. Therefore, the project is an allowed land use for this site.
 - c) The parking requirement for a detached single-family residence is two parking spaces, not located within the required parcel's setbacks and one of which shall be a covered parking space, such as a garage or carport. Pursuant to Section 21.58.050. C. of *Regulations for Parking*, modifications to the parking standards, may be granted by a Use Permit where appropriate, in cases which, due to the unusual characteristics of the site or its immediate vicinity, do not necessitate the number of parking spaces, type of design, or improvements required by that chapter.
 - d) In 1972, Gerald and Joyce Barth purchased their single-story 1,523 square foot home (1,123 square foot house; 400 square foot attached garage) and converted the attached 400 square foot garage into additional livable space for their family of five without a permit. Their children have grown, but they continue to utilize the extra livable space as a family room and laundry room. At the a recent appraisal of their home for a reverse mortgage, they learned their 45-year old garage conversion was a violation of building and planning codes. In order for the Barth's to finalize their reverse mortgage, the financial institution is requiring them to comply with applicable Monterey County regulations and bring the conversion into compliance. The Barth's have chosen to keep their conversion in place, rather than convert the area back to a garage. In order to comply, a Monterey County construction permit for the conversion of the garage into habitable space and a Use Permit for modification of parking standards are required. Approval of the subject Use Permit and issuance of a construction permit for the unpermitted conversion of the garage would bring the property into full compliance.
 - e) The zoning for the subject property requires a front yard setback of 20 feet. The plans show the Barth's 20-foot front yard setback line is located in the middle of the driveway, allowing only a space of 6 feet, 3 inches for parking that does not encroach on the front yard setback. A typical car is about 8 feet in length, therefore a car would encroach onto the front yard setback by approximately 2 feet.
 - f) Analysis on the feasibility of having the applicants provide covered parking that conforms with the development standards of the zoning

district, elsewhere on the property without converting the garage back to parking, was done. A determination was made that this was not feasible without a major remodel, since the existing home was built up to the required side yard setback lines, not allowing for sufficient room to accommodate a covered parking space that meets the setback requirements.

- g) Modification to parking standards shall be allowed for this project because:
 - 1. The two required off-street parking spaces are provided by parking on the driveway. Furthermore, up to 3 vehicles fit horizontally on the driveway, exceeding the off-street parking number requirement of 2 parking spaces;
 - 2. A covered structure for the covered parking requirement would not have the sufficient setback clearance; and
 - 3. In the case that the property has visitors and therefore visitor vehicles, there is sufficient street parking on the subject block and its vicinity. The block of Kelton Drive where the subject project is located, has single family residences on one side of the street and across the street is the back side of a commercial property, with no driveways. The entrance to the commercial parcel is off of San Juan Grade Road. There are sufficient parking spaces along the rear of the commercial property street sides. It is very unlikely that customers would park on Kelton Drive.
- h) The project has been reviewed for site suitability by the following departments and agencies: RMA- Planning, RMA-Public Works, RMA-Environmental Services, Monterey Regional Fire Protection District, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development.
- i) The project planner conducted a site inspection on August 2, 2017 to verify that the project on the subject parcel conforms to the plans listed above.
- j) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN170394.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: a) The project was reviewed by the RMA - Planning, Monterey County Regional Fire Protection District, RMA-Public Works, RMA-

Environmental Services, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

- b) Staff conducted a site inspection on August 2, 2017 to verify that the site is suitable for this use.
- c) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN170394.

4. **FINDING:** **VIOLATIONS EXIST-** The subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. Violations exist on the property.

- EVIDENCE:**
- a) The remodel of the garage into habitable space is in violation of building codes. The elimination of the covered parking requirements due to the garage conversion is also in violation of parking standards. This Use Permit, if granted, would bring the parking standards into compliance. In addition, securing the construction permit for unpermitted conversion of the garage into habitable space would bring the site into full compliance.
 - b) This matter was brought to the County's attention by the property owner, and not via a complaint. As such, no enforcement action was initiated to remedy the condition.
 - c) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN170394.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15303, categorically exempts conversion of small structures, such as a garage to habitable space.
 - b) No adverse environmental effects were identified during staff review of the development application during a site visit on August 2, 2017.
 - c) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project as the project will not create an impact within a particularly sensitive environment, will not have a significant cumulative impact or effect on the environment, is not located on a registered Hazardous Waste Site, and will not result in damage to scenic or historic resources.
 - d) Staff conducted a site inspection on August 2, 2017 to verify that the site is suitable for this use.
 - e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN170394.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Monterey County Planning Commission.

EVIDENCE: a) Section 21.80.040 of the Monterey County Zoning Ordinance (Title 21) states that the proposed project is appealable to the Planning Commission.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Find the project Categorically exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines; and
2. Approve the Use Permit for an "after-the-fact" permit to allow that the two required parking spaces be uncovered and located within the front yard setback (driveway), in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 10th day of August, 2017

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Monterey County RMA Planning

DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN170394

0. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Use Permit (PLN170394) allows for an "after-the-fact" permit to allow modification of parking standards for two required parking spaces to be uncovered and located within the front yard setback (driveway). The property is located at 326 Kelton Drive, Salinas (Assessor's Parcel Number 211-191-055-000), Greater Salinas Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

0. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Use Permit (Resolution Number ***) was approved by the Zoning Administrator for Assessor's Parcel Number 211-191-055-000 on August 10, 2017. The permit was granted subject to 2 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

