

Exhibit A

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**EXHIBIT A
DRAFT RESOLUTION**

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

In the matter of the application of:

VALENZUELA (PLN160629)

RESOLUTION NO. ---

Resolution by the Monterey County Zoning
Administrator:

- 1) Finding the project is an accessory structure which qualifies for a Class 3 Categorical Exemption pursuant to Section 15303(e) of the CEQA Guidelines; and there are no exceptions pursuant to Section 15300.2; and
- 2) Approve an after-the-fact Design Approval for construction of 1,433 square foot covered patio. [PLN160629, Valenzuela 24710 Foothill Drive, Salinas, Greater Salinas Area Plan (APN: 107-071-018-000)]

The Valenzuela application (PLN160629) came on for public hearing before the Monterey County Zoning Administrator on April 9, 2020. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Zoning Administrator finds and decides as follows:

FINDINGS

1. **FINDING:** **CONSISTENCY / HEALTH AND SAFETY / SITE SUITABILITY**
– The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.
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;
 - 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 24710 Foothill Drive, Salinas (Assessor's Parcel Number 107-071-018-000), Greater Salinas Area Plan. The parcel is zoned Low Density Residential with Building Site and Design Zoning Overlays (LDR/B-6-D) which allows for non-habitable accessory structures and accessory uses to any permitted use.
 - c) The project has been reviewed for site suitability by RMA-Planning. The project planner reviewed the application materials and plans, as well as the County's GIS database, to verify that the proposed project on

the subject site conforms to the applicable plans, and that the site is suitable for the proposed development. The project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

- d) Review of Development Standards. The site is located in a Low Density Residential zoning district with a Building Site-6 and Design Control Overlay in the Greater Salinas area. Applicable development standards in the LDR zoning district are contained in Monterey County Code (MCC) Section 21.14.070. Setbacks for non-habitable accessory structures in this area are:
- Front: 50 feet required
 - 210 feet proposed
 - Rear: 1 foot required
 - 75 feet proposed (on the rear half of the property)
 - Side: 6 feet on front on-half of property or one foot on rear one-half of property required
 - 55 feet proposed

Maximum allowed accessory structure height is 15 feet. The height for the patio, as constructed is 13'6". The allowed maximum site coverage in the LDR district is 25 percent on lots more than 20,000 square feet. The property is 43,870 square feet, which would allow site coverage of approximately 10,967 square feet. The existing dwelling and garage is 4,044 sq. ft., which accounts for approximate 9.2% of the site coverage. With the addition of the 1,433 square feet patio structure, the total square footage is 5,477 sq. ft., with a total site coverage of 12.5%. Therefore, as proposed, the project meets all required development standards.

- e) The project was subsequently brought before the Zoning Administrator on July 11th, 2019. However, it was continued at that hearing due to a concern from Monterey County Environmental Health Bureau (EHB); that is the patio structure was built above the septic system. The applicant worked with EHB to resolve the issue, and on November 18, 2019, EHB cleared the project and it is now before the Zoning Administrator again for a decision.
- f) The project was not referred to the Land Use Advisory Committee (LUAC) for review since there are no LUAC for this area.
- g) 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 PLN160629.

2. **FINDING:** **DESIGN** - 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.
- EVIDENCE:**
- a) The Applicant proposes a detached patio on an existing residential lot. The proposed patio incorporates simplified architectural lines and un-ornate features.
- b) Pursuant to Chapter 21.44, Title 21 (Zoning Ordinance) of the Monterey County Code (MCC), the proposed project site and surrounding area are designated as a Design Control Combining District (D District), which regulates the location, size, configuration, materials, and colors of

structures and fences to assure the protection of the public viewshed and neighborhood character.

- c) Material and Color Finishes. The patio exterior colors and materials are consistent with the residential setting. The proposed material comprised of primarily wood the color consists of a light almond to match with the existing residence. This would blend with the surrounding environment, are consistent with the surrounding residential neighborhood character, and are consistent with other dwellings in the neighborhood.
- d) The proposed development is not visible from a common public viewing area; therefore, the proposed dwelling would not have an impact on a public viewshed and would not create a substantially adverse visual impact when viewed from a common public viewing area. As proposed, the project assures protection of the public viewshed, is consistent with neighborhood character, and assures visual integrity.
- e) 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 PLN160629.

3. **FINDING:** **NO VIOLATIONS** - 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. A violation exist on the property. The approval of this permit will correct the violation and bring the property into compliance.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning and Building Services Department records and is aware a violation exist on the subject property prior to the site visit.
 - b) On March 28, 2016, a code enforcement case was initiated (16CE00075) for the construction of a structure without required permits. To rectify the violation, the applicant submitted for paid double fees for an after-the fact Design Approval for the construction of an accessory non-habitable structure constructed in the rear yard of an existing single family dwelling. The Design Approval was scheduled to be approved on November 2, 2018.
 - c) During the 10-day noticing period, the Salinas Valley Foothill Estates Homeowners Association (SVFEHA) submitted a letter to RMA opposing the project and requesting a public hearing. The Association claims the applicant did not follow proper procedures and constructed the patio without prior architectural review and approval pursuant to their Covenants, Conditions and Restrictions (CC&R's). Although the County does not enforce SVFEHA CC&R's, staff referred the Design Approval to the Zoning Administrator for a public hearing at the request of SVFEHA.
 - d) The Homeowner's Association provided County staff with a copy of a letter provided to the property owner which quotes section of the CC&R's and states:
"Prior written Approval of all plans and specifications for any structure or improvement whatsoever to be erected on or moved to any lot, or lots and the proposed location thereof any lot or lots, the construction material, the roofs and exterior color schemes, any later changes or additions after initial approval thereof, and any remodeling,

reconstruction, exterior color schemes, any later changes or additions after initial approval thereof, and any remodeling, reconstruction, alterations, or additions thereto on any lot shall be subject to and shall require the approval in writing of the Architectural Control Committee (The Committee) as the same is from time to time composed, before any such work is commenced”.

- e) Although the applicant did not get prior approval from the Homeowner Association, Monterey County does not enforce CC&R’s. It is strictly an agreement between the property owners and the Association. Therefore, any unresolved issues that may arise from the CC&R’s are civil matters between both parties. According to the letter from the SVFEHA on August 27, 2018, the SVFEHA requests that the homeowner revise the current structure so the roof does not exceed a maximum height of ten (10) feet. There is some resistance from the owners to lower the height of the structure to ten (10) feet per the HOA’s request. Both parties have not been able to resolve this issue.
- f) Pursuant to the requirements of the Monterey County Zoning Ordinance Section 21.84.140 (Fees of retroactive permit application), application for permits for any use for which a permit is required and where the use has been constructed, placed on the property, operated or has been otherwise established or initiated prior to the application for the permit, in violation of this Title, shall require a fee of twice the amount normally charged for the application. Therefore, the double-fee was applied to this application and paid by the applicant (Receipt #1039032).
- g) All applications for after-the-fact permits are treated with the same requirements as if they are new submittal irrespective of the unpermitted disturbance. In this case, the design and location of the proposed development are appropriate for the site. No trees were removed, slopes in excess of 25% were avoided, and the development will not adversely affect resources at the site or be adversely affected by those resources. The covered patio is in the rear yard of an existing single family residence.
- h) The proposed project corrects the existing violation. When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations.
- i) Zoning violation abatement costs, have been paid.
- j) 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 PLN190038.

4. **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(e) categorically exempts the construction of new, small facilities or structures, including habitable and non-habitable structures accessory to a single-family dwelling or residential use.
 - b) The subject project consists of the construction of a detached outdoor patio structure. Therefore, the proposed development is consistent with the exemption parameters of CEQA Guidelines Section 15303(e).

- c) No adverse environmental effects were identified during staff review of the development application during a site visit on June 18, 2019.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. Project location does not have sensitive environment to be of significant. There is no cumulative impact, since it's a vacant lot without any prior successive projects of the same type in the same place, over time. There is no significant effect on the environment due to unusual circumstances. The site is not included on any list compiled pursuant to Section 65962.5 of the Government Code to be considered on a hazardous waste site. No known historical resources are found in the geotechnical or archaeological reports which may cause a substantial adverse change in the significance of a historical resource. It is not within a officially designated highway areas.
- e) Staff conducted a site inspection on June 18, 2019 to verify that the site is suitable for this use.
- f) 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 PLN160629.

5. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Monterey County Planning Commission.
EVIDENCE: 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 Monterey County Zoning Administrator does hereby:

- 1. Find the project is an accessory structure which qualifies for a Class 3 Categorical Exemption pursuant to Section 15303(e) of the CEQA Guidelines; and does not meet any of the exceptions under pursuant to Section 15300.2; and
- 2. Approve an after-the-fact Design Approval for construction of a 1,433 square foot covered patio structure. In general conformance with the attached, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 9th day of April, 2020.

 Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

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 OF THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE]

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.

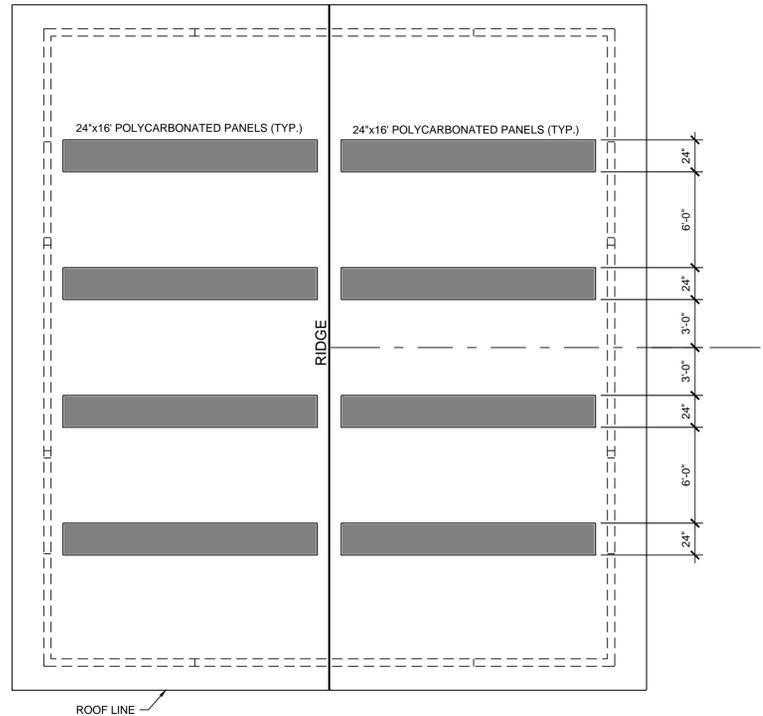
NOTES

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

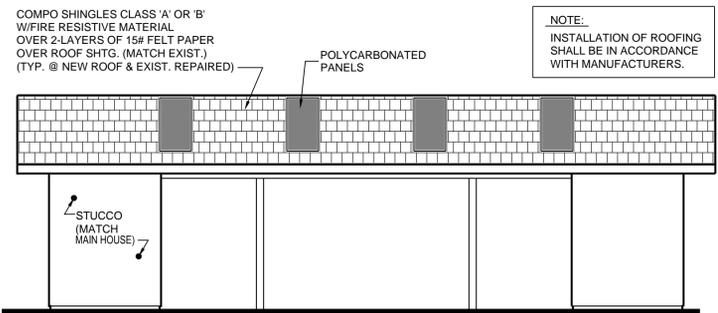
Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after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

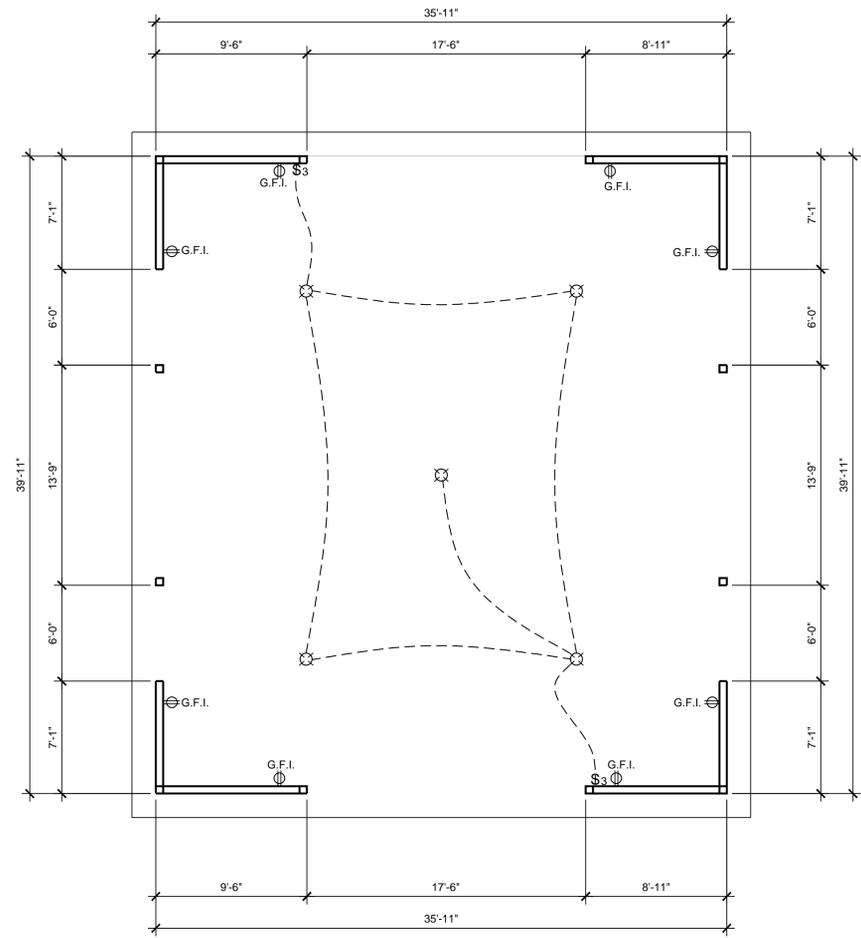
2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.



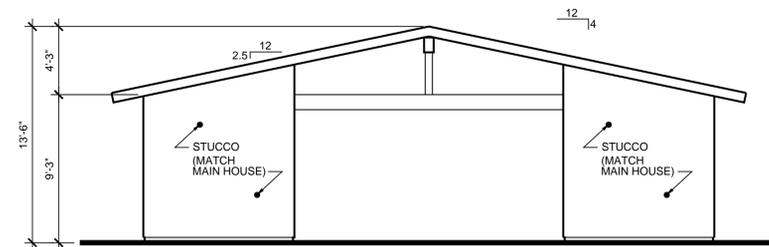
ROOF PLAN SC: 3/16"=1'-0"



EAST/WEST ELEVATION SC: 3/16"=1'-0"



FLOOR PLAN SC: 3/16"=1'-0"



NORTH/SOUTH ELEVATION SC: 3/16"=1'-0"

REVISION DATE	KEY
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THE USE OF THESE PLANS IS LIMITED TO THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR MODIFICATION OF THESE PLANS WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT IS PROHIBITED. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY DAMAGE OR INJURY TO PERSONS OR PROPERTY ARISING FROM THE USE OF THESE PLANS.

DESIGNER
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PROJECT
 CODE ENFORCEMENT, (COVERED PATIO W/ NO PERMIT) FOR:
 MR. & MRS. VALENZUELA
 24710 FOOTHILL CIR. SALINAS CA. 93908
 A.P.N. 107-071-018

SHEET TITLE
FLOOR PLAN ELEVATIONS

DATE SEP-2016
 SCALE AS NOTED
 DRAWN S.V.
 JOB 16-09
 SHEET
A2

OF SHEETS

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