



# Monterey County Zoning Administrator

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

## Agenda Item No. 3

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Matter Type: Zoning Administrator

### PLN160629 - VALENZUELA

Public hearing to consider an after-the-fact permit to clear a code enforcement case (16CE00075) for the construction of a 1,433 square foot covered patio structure.

**Project Location:** 24710 Foothill Drive, Salinas (Assessor's Parcel Number 107-071-018-000), Greater Salinas Area Plan

**Proposed CEQA action:** Categorically Exempt per Section 15303 of the CEQA Guidelines

#### RECOMMENDATION:

It is recommended that the Zoning Administrator adopt a resolution to:

- 1) Find the project is an accessory structure which qualifies for a Class 3Categorical 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. The attached draft resolution includes findings and evidence for consideration (**Exhibit A**).

#### PROJECT INFORMATION:

**Agent:** Sergio Vaca

**Property Owner:** Guadalupe & Hipolito Valenzuela

**APN:** 107-071-018-000

**Parcel Size:** 1 acre

**Zoning:** Low Density Residential with a Building Site & Design overlay districts or "LDR/B-6-D"

**Plan Area:** Greater Salinas Area Plan

**Flagged and Staked:** Not Applicable - Already Built

#### SUMMARY:

The subject property is located on Foothill Drive approximately 3.5 miles east of Highway 101 and 3.0 miles northeast of the Salinas Municipal Airport. It's situated on a 1.0 acre lot, within the Foothills Estates Subdivision.

On March 28, 2016, a code enforcement case was initiated (16CE00075) for the construction of a 1,433 square foot structure with open sides and a pitched roof, constructed over a patio area in the rear yard of an existing residential dwelling unit, without the benefit of a Design Approval or Building Permit. The applicant subsequently applied for an after-the-fact Design Approval and the permit was reviewed by RMA Planning staff. Staff found that the structure was constructed in a manner that meets the height, setback, and Design Criteria for the district in which it is located. An administrative decision

on the matter was scheduled for November 2, 2018. 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.

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.

#### DISCUSSION:

##### HOA Issues

As previously stated, during the 10 day noticing period for action on the after-the-fact Design Approval, the Salinas Valley Foothill Estates Homeowners Association submitted a letter to RMA opposing the project stating the applicant constructed the patio and structure prior to architectural review and approval pursuant to their CC&R's. 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".*

Although the applicant did not receive 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 requested 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.

##### 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 are 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.

#### Design Review

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).

Furthermore, 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.

The proposed patio is compatible with the surrounding neighborhood character in terms of size, color, location and mass. The neighborhood consists of one and two-story dwellings ranging from approximately 3,000 - 4,000 square feet within a one mile radius. The architecture style of the neighborhood is comprised of traditional California Ranch and Spanish Revival architecture. Several other homes in the subdivision have accessory structures constructed in the rear yard of dwellings, some of which may be limited to 10 feet in accordance with adopted CC&R's. Proposed material of the structure is primarily wood. The color consists of a light almond to match with the existing residence, which is consistent with the surrounding neighborhood and setting.

#### Construction over Septic

At the July 11th, 2019 Zoning Administrator hearing, EHB had concern with the placement of the patio structure and requested the applicant to provide a letter from a civil engineer or other qualified professional to determine that the proposed structure will not negatively impact the onsite water treatment system (OWTS). A drawing received from Sergio Vaca, designer dated November 18,

2019, confirmed that the existing patio structure does not negatively impact OWTS. Therefore, EHB cleared this project to move forward.

CEQA

California Environmental Quality Act (CEQA) Guidelines Section 15303 categorically exempts construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior or the structure. The project is to correct a violation for construction of an unpermitted patio and patio cover. Therefore, the proposed project is consistent with the parameters of this Class 3 exemption. There are no exceptions pursuant to Section 15300.2. No evidence of significant adverse environmental effects were identified during staff review of the development application. 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 highway officially designated areas as a state scenic highway.

LUAC:

The project was not referred to the Land Use Advisory Committee (LUAC) for review since there is no LUAC for this area.

Prepared by: Son Pham-Gallardo, Associate Planner, x5226  
Reviewed by: Craig Spencer, RMA Services Manager  
Approved by: John M. Dugan, RMA Deputy Director of Land Use and Community Development

The following attachments are on file with the RMA:

Exhibit A - Draft Resolution including:

- A1 - Site & Elevation Plans

Exhibit B - Vicinity Map

Exhibit C - Foothill Estates CC&R's

Exhibit D - Letter from the SVFEHA

cc: Front Counter Copy; Planning Commission; Son Pham-Gallardo, Associate Planner, Craig Spencer, RMA Interim Services Manager; Sergio Vaca, Applicant; Guadalupe & Hipolito Valenzuela, Owner; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); John H. Farrow; Janet Brennan; Project File PLN160629