

Attachment A

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Detailed Discussion

Overview

This project involves consideration of a Combined Development Permit consisting of a Use Permit to allow Agricultural Employee Housing and a Variance to allow an increase in lot coverage on a vacant (farmed) property in Pajaro. Staff has reviewed the project, all the relevant land use regulations, and prepared an Initial Study. The Initial Study identified potentially significant impacts on California Reg-legged Frog and bird nesting, liquefaction hazards, presence of dust and pesticides, groundwater, construction noise, tribal cultural resources, and storm water but mitigation measures have been agreed to that would reduce these impacts to a less than significant level. Comments have been received during the processing of this application and those comments are addressed in more detail in the discussion below.

The project previously consisted of constructing four two-story apartment buildings containing 61 units, capable of supporting up to 480 agricultural employees (8 per unit) and 1 manager unit was considered by the Monterey County Planning Commission on February 9, 2022, March 16, 2022, and September 28, 2022. This proposal, addressed throughout this discussion and the draft Resolution as the “previously proposed project”, has been controversial with a majority of residence along Susan Street objecting to the large increase of population at the end of Susan Street with is a narrow dead-end County Road. At the September 28, 2022 Planning Commission hearing, the Planning Commission denied the request finding that liquefaction, floods, traffic, and proximity to agriculture had not been adequate addressed. On November 11, 2022, the applicant submitted a reduced project scope, addressed as the “proposed project”, for consideration by the Board of Supervisors in effort to further address public comment and the Planning Commission’s concerns. The proposed project includes three 16,286 square foot two-story apartment buildings (reduced from 4) containing a total of 45 units for agricultural workforce housing plus 1 manager unit (reduced from 60 units and 1 manager unit).

Agricultural Employee Housing – Use Permit

The property is located at 51, 53, 55 & 57 Susan Street, Pajaro (Assessor’s Parcel Number 117-361-016-000), North County Area Plan. It is located within the Pajaro Community Plan area as shown in Figure CA5 of the 2010 General Plan. Community plan areas are the top priority for development in the unincorporated area (LU-1.19). The parcel has three separate zoning districts: Farmlands with 40 acres per unit (F/40), Resource Conservation 40 acres per unit (RC/40), and High Density Residential, 20 units per acre (HDR/20). The “HDR/20” zoning occupies a narrow strip along the front of the property where it connects with Susan Street. The “RC/40” zoning occupies a small portion of the rear of property where it meets the Pajaro Levee. The “F/40” zoning covers the majority of the parcel. All buildings are proposed within the Farmland zone. No development is proposed in the RC/40 zone and roads, parking, and infrastructure will be located in the HDR/20 zone. The Farmlands zoning district allows agricultural employee housing consisting of more than 12 units or 37 beds in group quarters with a Use Permit in each case (Section 21.30.050.AA of the Monterey County Code (“MCC”)).

Policy AG-1.6 of the 2010 General plan allows farmworker housing on lands designated for agriculture (i.e., Farmlands) subject to appropriate review and provided they are located to minimize the conversion of viable agricultural lands and consistent with the nature of the surrounding land uses. Surrounding land uses in this case include single family and multi-family

residential use within a High Density Residential zoning, the Pajaro River Levee with a Resource Conservation zoning, and Farmlands.

Use Permits for agricultural employee housing are subject to the specific standards contained in MCC Section 21.66.060. This Section of the County Code requires the applicant to submit a Facilities Plan containing information about the proposed project. A Facilities plan has been submitted and is attached as **Attachment H** to this report. Criteria to grant a permit for an Agricultural Employee Housing Development includes:

- a. There must be adequate water and sewer available to service the development, as determined by the Director of Environmental Health.
- b. The housing must be located off prime and productive agricultural land, or on the parcel where no other alternatives exist on site, on the least viable portion of the parcel.
- c. The development shall incorporate proper erosion and drainage controls.
- d. Enclosed storage facilities shall be provided for each housing or dwelling unit.
- e. Laundry facilities, including washers and dryers, shall be provided on-site.
- f. The site design of the facilities shall be subject to the approval of the Director of Planning.
- g. The development of more than 12 dwelling units shall require inclusion of recreation facilities and open space, proportional to the amount and type of facilities to be provided. The facilities shall require children's play equipment. Adult housing shall require the inclusion of appropriate recreational areas, such as for baseball, basketball, soccer or horseshoe pitching.
- h. The development shall be landscaped pursuant to a landscaping plan approved by the Director of Planning prior to issuance of building permits for the facility.
- i. All recreational areas and landscaping shall be installed prior to occupancy of the facilities. Landscaped areas shall be maintained.

This project will be served water by Pajaro/Sunny Mesa, there is no alternative location on this property for development to occur, erosion and drainage measures will be incorporated, and laundry, storage, recreational facilities, and landscaping will all be provided (See plans attached to **Attachment B** and the discussion that follows).

Variance

The proposed project exceeds the building site coverage regulations for the Farmland zoning district, which limits building site coverage to 5%. The project, inclusive of the building footprints, decks, trellises and a covered trash enclosure, proposes 30,214 square feet or approximately 20% of the lot size. A Variance is requested to allow the additional lot coverage. MCC Section 21.72.040 outlines the required findings for variances. Findings required to grant a Variance include:

- A. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title 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 property in the vicinity and zone in which such property is situated; and
- C. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regularly governing the parcel of property.

A letter has been submitted by the applicant with the application which describes the applicant's justification for the Variance request (**Attachment I**). Staff has reviewed the letter and identified unique circumstances applicable to this site. The site is located within the boundaries of the Pajaro Community Plan area (Figure CA5) which is an area that is a priority for development in the unincorporated areas of Monterey County. The property is much smaller in size, 3.41 acres, than typical Farmland properties. Properties in the Farmland zone typically have a minimum lot size of 40 acres. The project is located adjacent to properties zoned for High Density Residential use. Typical residential (housing) building site coverage is between 25% in Low Density Residential zones and 60% in High Density Residential Zones. Properties to the west and south are zoned for High Density Residential use and those properties enjoy a much higher building site coverage limitation. The site is 3.41 acres in size (148,536 square feet). At 5% of the lot size, the maximum building site coverage would be 7,426 square feet which would severely limit the ability to construct an agricultural employee housing project. The County has issued Variances for lot coverage on other properties zoned Farmland in the vicinity where the existing lot size is non-conforming (less than 40 acres) and where agricultural support uses are constructed. Therefore, the Variance would not grant a special privilege in this case. Finally agricultural employee housing is a use allowed in the Farmland zone.

Public Comments

Comments from residences and interested parties were submitted during review of the previously proposed project's application. For context, there is a separate application for agricultural employee housing on a property under separate ownership at the end of Gonda Street currently being considered by the County. Gonda Street is west of, and runs parallel to Susan Street. The two projects are located at the end of the respective streets and share a property line. For the previously proposed project, 19 property owners along Susan Street have signed a petition against the project. The Gonda Street project is still in process and has not been decided upon to date. Comments submitted by Susan Street neighbors have requested that the project not be approved as it would negatively impact neighborhood character, traffic (along Susan Street), fire, and flooding. There have also been requests for more notice (to all neighbors on Susan Street) and for notice in Spanish. Two other comments were received, one from Anthony Nicola and one from LandWatch, questioning the baseline (existing) water use for the agricultural operations.

Neighborhood Character: The proposed project would result in an increase in population and traffic on Susan Street and would introduce new multi-family housing in the area. This will change the nature of conditions on this small street. Staff does not dispute this. These factors have been weighed with the need for housing, particularly agricultural employee housing as described in the County's Housing Element. In addition, this area was contemplated in the 2010 General Plan which designates this area as a priority for development. Staff has found the site is capable of supporting the proposed housing.

Safety: Many local residents expressed safety concerns about the project's population. The project is serviced by the Monterey County Sheriff's Department and the closest police station is located approximately 0.8 miles away. The Monterey County Sheriff's HQ is located approximately 23.9 miles away. An Emergency Action Plan has been prepared for the proposed project.

Fire: A fuel management plan was prepared in accordance with local and state wildlife urban interface guidelines that focuses on irrigating and landscaping within 30 feet of structures and managing vegetation within 100 feet from structures or to the edge of the parcel, whichever comes first.

Notice: A notice of intent was distributed in English to all properties within 300 feet of the project site. Notice for this Planning Commission hearing, and for the March 16, 2022, Planning Commission hearing, have been provided in both English and Spanish and the notice has been distributed to everyone who requested notice of the hearing in addition to all property owners within 300 feet of the project. Separate notices have also been provided for advisory committee meetings including the North County Land Use Advisory Committee and the Agricultural Advisory Committee.

Baseline Water Use: Comments were received during the comment period on the Initial Study concerning the establishment of the current annual water demand for agricultural use (baseline water use). The Initial Study prepared for the project assumes an annual water use on the 3.41 acre property of 5.25 Acre Feet per Year (AFY) per acre for irrigation of celery, spinach, and brussels sprouts grown on-site in a one year period. This figure was based on information provided by Lakeside Organics who have been farming on this property, and other nearby properties, for the last 4 years. Comments from Anthony Nicola (neighbor) and LandWatch Monterey County suggest that this number is too high and request reconciliation of this water amount with average water use numbers published in the Monterey County Water Resources Agency (MCWRA) annual Groundwater Extraction Summary (GEMS) Report. Figures published in the MCWRA GEMS report do not cover the Pajaro groundwater basin since this basin falls under the jurisdiction of the Pajaro Valley Water Management Agency (PVMA) and not MCWRA. The 2020 GEMS report covers four groundwater basins in the Salinas Valley; Pressure, East Side, Forebay, and Upper Valley. Well data is used to average and summarize water use within the Basins for the GEMS report. In Figure 22 of the 2020 GEMS report, average water use by basin for "vegetable crop" irrigation is provided. Average water use ranges from between 2.3 (in the Pressure basin) and 3.2 AFY per acre (in the Upper Valley Basin). The average in all four basins is approximately 2.675 AFY per acre. This is significantly less (about half) than the stated 5.25 AFY per acre water demand. HCD-Planning staff reached out to MCWRA staff and learned that the data used in Figure 22 is an average of data which includes wells serving agricultural operations with a range of vegetable crops and irrigation systems and includes multiple operations with 1 crop rotation per year, 2 crop rotations per year, and 3 crop rotations per year. Three crop rotation operations use more water than 1 crop and 2 crop rotation agricultural harvesting operations. MCWRA staff confirmed that in their professional opinion that 5.25 AFY per acre use on a three-crop rotation farm is within range of other 3 crop rotation farming operations collected in the GEMS program. Site specific information is available in this case rather than averages applicable in other areas and the site-specific information is within the range of similar agricultural operations with similar crop

types, rotations, and irrigation systems. Revisions to the proposed project have been incorporated to reduce the proposed water demand by 4.1 AFY (assuming 8-month occupancy).

Flood Elevations:

At the March 16, 2022 Planning Commission hearing, Dr. Mark Strudley with the Pajaro Regional Flood Management Agency provided testimony that recent modeling data done for the Pajaro river levee improvement project suggest that flooding elevations at the site could be 3-5 feet rather than 1-3 feet. Monterey County Code Chapter 16.16 requires elevating the first floor of structures within a floodplain 1 foot above the “Base Flooding Elevation” (BFE). BFE is defined as: “...*the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of being equaled or exceeded in any given year.*” In this case, the Flood Insurance Rate Map for zone AO (applicable to this project site) describes a BFE of 1 foot. The proposed project was designed to be 1 foot above the BFE or 2 feet above the current elevation of the property. Staff worked with Dr. Strudley and the project engineers to share modeling data. New data was used to identify a potential 3-foot BFE rather than a 1-foot BFE. This data did not modify the Federal Flood Management Agency (FEMA) Flood Insurance Rate Maps on which the County floodplain management regulations are based, but the applicant chose to modify the project design to raise the proposed buildings approximately 4 feet rather than 2 feet above the average natural grade. The proposed project’s finished floor of 35.5 feet in elevation is compliant with Chapter 16.16 of the Monterey County Code and will elevate the buildings to protect residence from the potentially higher flooding elevations identified in the more recent modeling.

The increased height does require the applicant to import approximately 7,000 cubic yards of dirt. This will involve dump trucks carrying an average of about 12 cubic yards per load for a total of about 584 loads. About 80 loads will be delivered per 8-hour day, or about 10 loads per hour. The entire hauling operation will take about 7 to 10, or less than two weeks, to complete. To offset the need for more soil due to the project revisions, and as a benefit to the regional drainage facilities, the applicant is proposing to deepen the County’s stormwater retention pond on the east side of the property and transfer the dirt removed from deepening the pond to the project site. This is anticipated to provide 8,000 cubic yards of dirt and reduce the import of dirt in trucks by 42%. (See more detail in the drainage discussion below).

These measures will protect the occupants of the proposed project in the event of a flood by elevating the site and buildings above projected flooding elevations. Filling of land within the floodplain decreases the area for dispersal of floodwaters which has downstream considerations and potential effects within the larger floodplain. The project specific Potential Flood Hazard Impact report (**Attachment N**) concluded that that the proposed project will not have a significant impact on the floodplain. The proposed development will not adversely block overland (sheet flow) flow paths due to existing flow orientation. Chapter 16.16 generally requires certification that the fill will not increase the BFE by more than 1 foot. In this case, the Floodplain is large (thousands of acres) and filling of 3.5 acres within that floodplain will minor.

Liquefaction:

Members of the public commented that the project site is inappropriate for development because the site is categorized as having a high potential for “liquefaction”. Additionally, some commentors speculated that other projects in the area were found to be infeasible due to the liquefaction issue in the past. Liquefaction occurs when loose soils are vibrated or shaken (as in an earthquake) leading to the soils having a liquid characteristic rather than their non-agitated solid soil characteristics. As soils liquify, they become unstable and can lead to foundation movement or collapse. This issue is discussed in the proposed Initial Study/Mitigated Negative Declaration. A Geotechnical engineer has prepared a report for this project. The project engineer acknowledged the high liquefaction potential at the site and makes recommendations for foundation preparation and foundation design to mitigate the for the liquefaction potential. The engineer concludes that with the recommendations incorporated in the building design and construction, the site is appropriate for the proposed use. In this case, the applicant is required to excavate the top 5 feet of loose soils. The soils will then be put back and compacted. An additional 3.5 feet of compacted soils will be added on top of this to achieve the elevations needed to address flooding. On top of the engineered soils, engineered foundations will be constructed that resist settlement if liquefaction of soils occurs. The Monterey County Building Department reviews all building permit applications to ensure that the design of buildings comply with current building codes and engineering recommendations. Monitoring and final inspection of the soils and foundation will be provided by the project engineer. The geotechnical engineer has provided a supplemental letter (**Attachment J**) confirming that the contents of the original geotechnical reports are still valid for the proposed project scope.

Staff has been unable to verify historic projects being denied due to the potential for liquefaction. It is possible that site preparations and engineering requirements within liquifiable soils make a particular development less desirable from an environmental or financial perspective.

Failures in water and wastewater infrastructure:

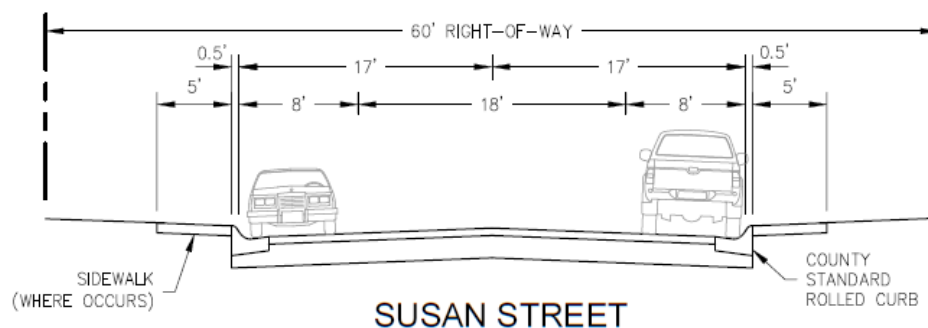
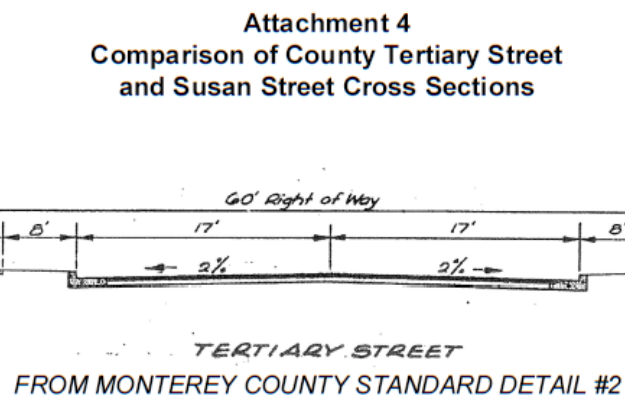
The County of Monterey’s Public Works, Facilities and Park’s Special Districts Division has confirmed that although there is always the possibility for the wastewater system to experience a temporary failure for a variety of reasons, the proposed project will not increase the likelihood of such a failure. All past wastewater failures have been resolved. No wastewater spills have occurred within the project vicinity in the last 10 years and one manhole failure occurred approximately 5 years ago as a result of a large winter storm. The Special Districts Division is using American Resource Plan Act (ARPA) funding to provide wastewater infrastructure improvements throughout the County. The Pajaro Sunny Mesa Community Services Districts has stated that no water infrastructure failures have recently occurred and that the proposed project will not create a water infrastructure failure.

Existing and proposed traffic conditions:

Traffic conditions were one of the primary concerns by commentors. The issues raised included both the width of Susan Street which does not allow for two-way traffic flows and with traffic congestion along San Juan Grade Road.

Street width: Susan Street is classified as a tertiary street because it does not provide through access for vehicles and because it serves a relatively small residential population. Monterey County has adopted Tertiary Street standards. Standards for a tertiary streets include a

minimum 34 feet width as measured between the face of the curbs on each side of the road. Susan Street is a modified tertiary street because it does not have typical curbs. It has rolled curbs. According to the project traffic engineer, Susan Street is 34 feet in width when measured between the base of the rolled curbs. Rolled curbs allow vehicles to park with the outside wheel at the back of the rolled curb which can add 6 inches to the street width for a total effective width of 35 feet if provided on both sides of the street. However, to be conservative, the street width only includes the distance from the face of curb to 6 inches inside the rolled curb, which indicates an effective width of 34 feet. Parking lanes are conservatively estimated to be 8 feet wide on both sides of the street although the typical vehicle is about 6 to 7 feet in width. On a 34 foot wide street with cars parked on both sides of the street subtracting 16 feet from the overall width (8 feet on both sides), there is an 18 foot wide travel lane remaining. A large vehicle such as a bus, garbage truck, or fire truck is approximately 9 to 9.5 feet wide (includes rearview mirror protrusions). Two large vehicles would have a difficult time passing if they were to meet traveling opposite directions on the road. Vehicles would need to pull over in gaps in cars parked on the street to comfortably pass in this scenario.



Susan Street trip counts: According to County road standards, a tertiary street is anticipated to be abutted by up to 100 lots or units. Nineteen residential lots and 1 commercial lot currently abut Susan Street. The proposed project would add 46 units at the end of the street with a maximum occupancy of up to 361 individuals. A traffic report prepared for the previously proposed project by Keith Higgins (traffic engineer), dated December 8, 2021, describes that traffic counts were conducted at the intersection of San Juan Grade Road and Susan Street on August 28, 2021. This count would include all cars passing through the intersection. 400 trips were counted at that time. It was recognized that trips do dissipate down to zero at the end of the street. A supplemental traffic report was prepared on November 11, 2022 to address the proposed

project's revised scope.

Traffic trips anticipated from the proposed project are discussed in two ways within the Initial Study prepared for the project. First, assuming that the proposed project is not restricted to agricultural employee housing, a typical 46-unit multi-family apartment building would be expected to generate about 341 daily traffic trips. This scenario would result in 741 total daily trips on Susan Street which is less than the 1,000 trips that maximum range expected for a tertiary street. Secondly, and as proposed, the project will be limited to occupancy by agricultural employees. Based on actual traffic counts conducted at the Casa Boronda and another Greenfield agricultural employee housing project, agricultural employee traffic trips are anticipated to be considerably less than a standard apartment because many employees will not have individual vehicles and are much more likely to rely on buses and vans for transport to/from work. As a 60-unit agricultural employee housing project, it was anticipated that the project would generate 175 daily trips for a total of 575 daily trips on Susan Street. However, as revised, the proposed project only consists of 45 workforce housing units. Therefore, the traffic engineer proposed a supplemental letter to address this 25% reduction (**Attachment K**). As a 45-unit agricultural employee housing project, it is anticipated that the project will generate 131 daily trips on an annual basis. With 131 daily trips, there would be approximately 531 trips on Susan Street per day. H2A projects are only occupied during the growing season in the Pajaro and Salinas Valleys which extends from March through the middle of November, about 8 ½ months. The proposed project would be unoccupied for the winter season, which lasts about 3 ½ months except for the managers unit. Therefore, on an annualized basis, the proposed project will generate 93 trips with 4 in the morning peak hour (3-4AM) and 6 in the evening peak hour (2-3PM). These peak trips are outside of the street peak hours of 6:30-10AM and 4-5PM. The below table details the existing average daily trips (ADT) and the proposed (current plus project) daily trips.

Location on Susan Street	Existing ADT (% of Capacity)	Existing + Original Project (% of Capacity)	Existing + Reduced Project (% of Capacity)
At San Juan Road	400 (40%)	575 (58%)	531 (53%)
North of Body Shop	300 (30%)	475 (48%)	431 (43%)
End of Street	0 (0%)	175 (18%)	131 (13%)

Drainage and Stormwater:

The site is currently farmed. Much of the water that crosses this site is absorbed into the ground but once the ground is saturated, some water flows from off site. The project includes covering about half of the soils with structures and parking lots (impervious surfaces) which can increase the amount of water the runs off-site. To address this, the applicant has hired a Civil engineer to prepare a stormwater control plan. The draft stormwater control plan incorporates landscape features (bioswales) and retention ponds that retain stormwater on-site, allowing it to percolate into the ground. The capacity of retention in the bioswales and ponds (amount of water that can be held) has been sized so that stormwater coming from the development will be captured and retained until it reaches that same level of saturation that would lead to the pre-development runoff. This works by having a holding tank or pit that fills with water until it overtops (the

point of saturation). In larger storm events, the excess stormwater that would have naturally flowed off site will be directed to the County storm drainage facility located just east of the project site. To better understand the functionality of the County's storm drain facilities, the applicant had their engineer analyze the existing drainage system (**Attachment M**). The engineer suggested that drainage facilities could be improved if:

1. The County's retention pond was deepened to allow a larger amount of storage before pumps are triggered to carry water over the levee;
2. An 18" diameter storm drain was installed at the project site's southerly boundary to allow future development along Gonda street to utilize the County stormwater facility (pond and lift station) in the event that the Pajaro River levels prevent drainage through the existing flap gate; and
3. The County could install a weir (or small bump) in the storm drain at the connection of the Susan Street drainage pipe (running in a north/south direction) to the San Juan Grade Road pipe (running in an east/west direction) to keep stormwater flowing down San Juan Grade Road from backing up into the Susan Street storm drain pipes.

In exchange for use of the soils excavated from the pond on the project site, the applicant has agreed to deepen the County's stormwater detention pond using their grading equipment. This reduces the quantity of soils that must be imported for the project. Additionally, the applicant has agreed to construct an 18" diameter storm drain along the property's southern boundary, connecting to the County stormwater detention pond and abutting the adjacent west parcel. There are no plans in place to place a weir in the existing storm drain but the County's Community Services District that maintains the system is aware of the recommendation. The storm drain analysis noted that a downstream flap gate was broken and needed replacement to prevent backflow from the Pajaro river. Monterey County Water Resources Agency has been notified and repairs to the flap gate are in the works.

Appeal Contention and Responses

This previously proposed project has been reviewed considered by the Agricultural Advisory Committee, the North County Land Use Advisory Committee, and the Planning Commission on three separate occasions.

On February 9, 2022, the Planning Commission considered the previously proposed project (four agricultural housing units) and motioned to the continue the item to a date uncertain to allow the application to conduct more public outreach, to provide additional analysis on flooding, to include the traffic report in the attachments to the staff report, and to schedule a special evening meeting when the item returns. Public and Commissioner comments addressed at the February 9, 2022 Planning Commission included neighborhood character, safety, traffic, noticing, and baseline water use.

On March 16, 2022, the item returned as part of a special evening meeting before the Planning Commission at which the Commission heard public testimony and continued the hearing to a date uncertain to allow staff to return with more details on flooding elevation, liquefaction, failures in water and wastewater infrastructure, existing and proposed traffic conditions, and stormwater drainage.

On September 28, 2022, the Planning Commission considered the previously proposed project during a special evening public meeting. Staff addressed the previously raised concerns of flooding elevation, liquefaction, failures in water and wastewater infrastructure, existing and proposed traffic conditions, and stormwater drainage. Conclusions of updated traffic data was also presented. During the public hearing, the Monterey County Agricultural Commissioner informed the Planning Commission that the neighboring property owners (Miller Trust) recently informed him that they intend to convert to conventional farming in the foreseeable future. Although the Agricultural Advisory Committee on January 27, 2022 voted 6-0 with 5 members absent to recommend “support” of the previously proposed project with a 100 foot buffer, the Agriculture Commissioner provided comment at the public hearing that a 150 foot buffer, or wider, and vegetative screening would be more appropriate and encouraged the applicant and neighboring property owner discuss buffer alternatives.

At the September 28, 2022 hearing, concerns relating to proximity to agriculture, liquefaction, traffic and street adequacy, and flooding were unresolved. The applicant requested that a decision be made on September 28, 2022, rather than continuing the item to a date certain or uncertain to allow staff adequate time to address said concerns. After public testimony, the Planning Commission motioned to deny the previously proposed project based on the above-mentioned unresolved concerns and directed staff to prepare a denial resolution (Resolution No. 22-024; **Attachment E**). In denying the permit, the Planning Commission found that the disapproval of the project is Statutorily Exempt from the California Environmental Quality Act per Section 15270 of the Guidelines.

On October 31, 2022, Rio Vista Group LLC (applicant or appellant), represented by JRG Attorneys at Law filed a timely appeal of the September 28, 2022 discretionary decision of the Planning Commission. The appeal concerns the Planning Commission’s decision to deny the previously proposed project. The Appellant’s contentions and the County’s responses to those contentions are set forth in the Draft Resolution at **Attachment B**. The full text of the Appellant’s contentions may also be found in the Notice of Appeal at **Attachment D**. County Staff has grouped and summarized the contentions as follows:

1. *“The Planning Commission's Finding No. 1 that the Project does not conform to applicable plans and policies is not supported by substantial evidence” and “... is based on unsubstantiated opinions or narrative, fears and speculation from the nearby neighbors, and evidence that is simply not credible...”*
2. *The “Planning Commission's finding (Finding I(g)) that the Project's proposed 100-foot buffer is inconsistent with the 200-foot buffer requirement that is set forth in the County's zoning ordinance is not a legal basis to deny this Project” and “...and even though the County zoning ordinance [Title 21 Section 21.66.030] has not been amended yet to implement this policy [AG 1.2], the 2010 General Plan governs over any conflicting zoning regulation, which is invalid on its fact.”*
3. *“...the Agricultural Commissioner, at the eleventh hour and during the September 28, 2022 and unbeknownst to the applicant team, claimed for the first time that a 150 foot agricultural would be required due to his discussions with a neighboring owner and known opponent of this Project that the adjacent farm would be converted at some time in the future from its current and historic organic farming to conventional*

farming. Such statements are not credible considering that the adjacent farm is currently leased to an organic farmer and the significant value and demand for organic farmland.”

4. *“The Planning Commission's Finding No. 2 that the site is not suitable for the Project is not supported by substantial evidence” and “The Planning Commission's finding that his site is somehow unsuitable for the Project is based on lay person claims and unsubstantiated opinions about this project's potential safety impacts relating to flooding, the limited bus trips that will occur only when this Project is occupied for the 8-month harvest season, proximity to agricultural fields, and liquefaction.”*
5. *The Planning Commission's Finding No. 3 that the Project may be detrimental to the health, safety, peace, morals, and general welfare of persons residing or working in the neighborhood of the Project is not supported by substantial evidence” and “...is based on the same unsubstantiated opinion or narrative, fears and speculation that purports to support its other findings.”*

Despite the appeal of the Planning Commission decision, the applicant has submitted a reduced project scope and is requesting the Board consider the project as revised.

Based on supplemental technical letters addressing the revised project, and in comparison to the 61-unit project, the proposed project scope will decrease the number daily trips by 44, decrease the proposed water demand by 5.6 AFY, decrease the sewer demand by 5,400 gallons per day, decrease the required grading quantities by 2,500 cubic yards, and decrease the occupancy by 120. Although the previously proposed project included a 100-foot buffer, the revised project scope incorporates a 200-foot agriculture buffer between the proposed three buildings (45 units of agriculture workforce housing) and the current organic farming operation to the west. As such, the proposed project is consistent with MCC Section 21.66.030 and exceeds the AAC's recommendation of a 100-foot buffer, which was recommended in accordance with General Plan Policy AG-1.2. The increased buffer width was recommended to combat the potential pesticide drift associated with conventional farming. Although not required, the applicant has designed the finished floor elevations to exceed the estimated 100-year composite flood elevations (35.3 to 35.4 feet) provided by the Pajaro Regional Flood Management Agency (PRFMA), which accounts for a 100-year flood and multiple levee overtopping scenarios. The applicant has also prepared a preliminary Emergency Action Plan (EAP) that includes emergency contact information, before -, during-, and after-evacuation procedures, specific duties of tenants, transportation arrangements, the draft North County Evacuation Guide (prepared by the Monterey County Office of Emergency Services), and a site plan illustrating emergency exit routes and areas of refuge.

Conclusion

Based on all the information in the record, staff recommends that the criteria to grant the Combined Development Permit consisting of a Use Permit and a Variance for the proposed project have been met. The applicant has agreed to mitigation measures that will reduce environmental impacts to a less than significant level. All comments have been reviewed and none of the comments change the analysis or conclusions contained in the Initial Study/Mitigated Negative Declaration prepared for the project. As detailed throughout this staff report, staff believes that public concerns have been adequately addressed and the revised project scope further reduces such concerns and is consistent with the goals, policies, and objectives in the

2010 General Plan and MCC Title 21. Therefore, staff recommends the Board of Supervisors grant the appeal of Rio Vista LLC from the September 28, 2022 Planning Commission and approve the Combined Development Permit for the revised project scope, as detailed in the draft Resolution (**Attachment B**).