

# Attachment A

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## DISCUSSION:

### *Project Description and Design*

The project includes demolition of an 850 square foot single family dwelling, a 400 square foot shed, and septic system and construction of two new three story apartment buildings totaling 36,200 square feet primarily for use as housing for agricultural employees. The proposed buildings were initially proposed to contain 35 units in an apartment-style layout including a “manager unit” with the potential to house up to 272 agricultural employees (eight per unit) and one manager. The Project was modified to include a request for a Density Bonus and two incentives. To qualify for a Density Bonus and Incentives, three units within the development would be dedicated for very low income restricted rental housing (year-round occupancy rather than seasonal employees). With this change, the project would include 32 units (inclusive of the manager unit) capable of supporting up to 248 seasonal agricultural employees (up to eight employees in 31 units, excluding the income restricted units and the manager unit) and 3 units dedicated to very low income housing. With the three very low income units, the project qualifies for a 35% Density Bonus and two incentives under State and County laws.

In providing 11% of the units for very low income housing, the project would qualify for two incentives under state and local density bonus law in addition to the increased density. In this case, the applicant has requested two additional incentives. First is an increase in height from 35 feet maximum allowed under the zoning to 43 feet proposed. The second incentive is a reduction in parking from 78 spaces required for apartment-style multifamily housing to 56 spaces proposed. The added height and reduced parking will allow the project to elevate the finished floor of the structures above flood elevations in the area and will help cluster the buildings to meet setbacks from the toe of the river levee and from adjacent agricultural operations. With the density bonus and incentives, the buildings would reach a maximum height of 43 feet above average natural grade with 56 parking spaces and approximately 27% building site coverage. Income restricted units will be subject to the Monterey County Inclusionary Housing Ordinance (MCC Chapter 18.40).

*One of the Appellant’s contentions was that the decision of the Planning Commission was inconsistent with state law, particularly the Housing Accountability Act. The Housing Accountability Act requires the density bonus may not be disapproved unless the County makes specific written findings based on a preponderance of evidence in the record that the project will have a specific, adverse impact upon the public health and safety. A “specific adverse impact” is term defined in Govt Code section 65589.5 as a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. In response to this contention, staff notes that the Planning Commission did not disapprove the density bonus. Should the appeal hearing result in a denial of the density bonus in particular, these findings would need to be made.*

The Employee Housing Development Plan (**Attachment C**) included in the project application submittal describes the facility would include 31 two-bedroom units with eight-bed apartment units, three very low income units, one manager unit inclusive of an office. The applicant stated that the housing project would be occupied primarily during the region’s harvest season from March through November of each year. During project review discussions and in public

meetings (Land Use Advisory Committee and Agricultural Advisory Committee), the applicant stated that the onsite manager will be responsible for housing maintenance and up-keep. As shown in the site plan (**Attachment B**), a gated parking lot accommodate some onsite parking and shuttle pickup and drop-off on the west side of the parcel. Vehicular ingress and egress is proposed at the southern-most west border of the project site connecting the project to Gonda Street. The employer(s) will provide transportation to and from work sites via employer-owned shuttles. Shuttles are proposed to be stored offsite. The shuttles would pick up the agricultural employees at a designated pick-up location on the project site and return to drop workers off within the property each workday. Shuttles provided by the employer(s) may also be used to transport the residents approximately as many as three times weekly into Pajaro and Watsonville for shopping, recreation, and religious services. The specific employers have not been identified yet, so the hours and frequency of shuttle service are yet to be defined. *One of the Appellant's contentions questions the finding for denial based on traffic impacts of the project. This contention is supported, as there is ample evidence that the traffic created by the project will be absorbed into the transportation system without adverse effect.* (See attachment F and L; reference reports in the attachments are found in Accela as LIB210077, Traffic Impact Analysis by Traffic Engineer Keith Higgins dated March 25, 2021 and November 17, 2021.)

On the east side of the parcel, two three-story apartment style buildings will contain twenty-two 975 sf two-bedroom "corner units," twelve 971 sf two-bedroom "interior units," one 975 sf one-bedroom manager unit with an office in one building, and one 455 sf laundry facility and one 519 sf recreation/community room in the second of the buildings. Each residential unit would provide the essential needs such as kitchen and restroom amenities. On the north end of the parking lot and in the north open area, informal basketball and flat grassy areas would provide convenient and protected access for recreation.

*Variance:*

Appropriate findings can be made with evidence that granting the Project's Variance request for relief from the requirement to comply with the 200-foot agricultural buffer described in MCC Section 21.66.030.F.2.a does not grant a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property, does not constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zoning district, and does not grant a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The adjacent property to the east is zoned Farmland which the State Department of Conservation categorized as "Prime." MCC Section 21.66.030.F requires a well-defined buffer area in the form of an agricultural easement as partial mitigation for new non-agricultural development proposals that are located adjacent to agricultural land uses on farmlands designated as Prime, of Statewide Importance, Unique, or Local Importance. Although the adjacent parcel has supported farming in the past, an agricultural employee housing facility is entitled and under construction on the whole of that parcel (Rio Vista Group project - PLN210152, Board Resolution No. 22-505). The property would require significant changes to return to agricultural operations. The next farming operation in the area is on Assessor's Parcel Number 117-381-004-000, which is located two parcels to the east of the proposed Project. The parcel is 265 feet from the edge of the subject property line. The subject parcel for the Nicola project is only 220 feet wide at the widest portion. Due to the shape of the lot, the average width is much less. Furthermore, several other residential developments exist in

the area without such a buffer. In this case, staff recommends that the Board grant a Variance to the requirements for an agricultural buffer easement. *One of the Appellant's contentions stated that the project has an agricultural buffer 60 feet greater than the zoning code requires. As to the requirements of an agricultural buffer, Title 21 requires a buffer of 200 feet from "prime farmland" in Farmland zoned parcels regardless of whether there is active agriculture at the time of entitlement. Therefore, the project does not offer a buffer because the adjacent parcel to the east is zoned Farmland. The Planning Commission did not voice concern with the granting of a Variance to the zoning code, in this case.*

*Public Services:*

Consistent with 2010 GP Policy LU-2.5, project-related infrastructure improvements will be constructed concurrent with the project. The project has been conditioned to require drainage facilities (Condition No. 15 and related Conditions 17, 18, 19 and 20) and frontage improvements along Gonda Street (Condition No. 11). Additionally, adequate public water and wastewater facilities are available. Pajaro Sunny Mesa Community Service District (PSMCS) has provided a will serve letter indicating they have the capacity to and will provide water to the project. The project will be connected to the Pajaro County Service District (PCSD), which receives sewer treatment from the City of Watsonville. PCSD has provided a letter stating that it has the capacity and will serve the project. The project has been conditioned to provide any necessary improvements or upgrades to the wastewater system (Condition 34) resulting from connection of the project. In addition, the project is subject to 2010 GP Policies PS-3.1 and 3.2 for long-term sustainable water supply.

*Hydrology and Flood Control:*

The Project includes design features to reduce impacts from flooding. The project site is adjacent to the Pajaro levee and within the 100-year floodplain of the Pajaro River, according to Federal Emergency Management Agency (FEMA) and Flood Insurance Rate Maps (FIRM). The subject property's current elevations range from 29 feet to 35 feet, and below the proposed buildings the elevation averages approximately 30 feet. The one foot flooding depth would be 31 feet. MCC Title 16, Section 16.16.050.C.2, requires minimum finish floor elevation to be at least 1 foot above the specified FIRM flood depth, or 32 feet. As designed, the proposed finished floor elevation for the buildings is 36.5 feet. Although not required by MCC, the applicant has designed the finished floor elevations to exceed the estimated 100-year composite flood elevations provided by the PRFMA, which accounts for a 100-year flood and scenarios with multiple levee-overtopping scenarios. PRFMA is a joint powers authority of the County of Santa Cruz, Santa Cruz County Flood Control and Water Conservation Zone No. 7, the County of Monterey, the Monterey County Water Resources Agency, and the City of Watsonville. Modeling provided by PRFMA is not reflected in the FIRM and is not required for compliance with Title 16, but it is recognized pursuant to the California Environmental Quality Act (CEQA) as the most current and conservative data source for flooding prediction in the subject site.

In accordance with MCC Section 16.16.050, the buildings are setback more than 200 feet from the top of the bank of the Pajaro River. Part of the project fence and several parking spaces are within the 200-foot setback. The County Floodplain Administrator reviewed the project application and found it acceptable for construction because fence and parking lot allow pass-through of floodwaters and do not classify as flood barriers. The PRFMA have planned an

improvement to the Pajaro River levee to reduce flood risk from the lower Pajaro River and its tributaries in Santa Cruz and Monterey Counties. The levee project is to be cost-shared by the U.S. Army Corps of Engineers (USACE) and the DWR. The project is currently in the engineering and design phase and an Environmental Impact Report/Environmental Impact Statement is pending. Construction is expected to begin in 2025 and is expected to be managed by the USACE in partnership with PRFMA and the DWR. The Project was reviewed by representatives of PRFMA and the Monterey County Water Resources Agency to ensure that the setbacks required by the USACE for levee maintenance are not encroached. The setback of 15 feet from the foot of the levee is demonstrated in the Project plans (**Attachment B**).

*Two of the Appellant's contentions stated that the project was subject to extensive and detailed analysis with an IS and therefore the opinions of the Commissioners who opined that there are unmitigable hazards to human safety due to the location at the end of Gonda Street and the condition of the levee are not supported by evidence. While staff does agree that the analysis of location-related impact in the IS was thorough, it is also true that a decision maker may take into consideration all the evidence of the CEQA document and reports prepared by the applicant to support the decision and still find that "not the right location for the Project due to the proximity to the levee and the dead-end street." Public communications during meetings and in the record shared this perception, which may have swayed the discretionary decision. That is part of the discretion of the decision maker.*

The Project is located within the Pajaro Valley Groundwater Basin which is critically over drafted, according to the State Water Board. The 2010 GP Environmental Impact Report identified that the community of Pajaro is in an over-drafted groundwater basin and found that the designation of this area as a "community plan" area would have significant and unavoidable impacts to groundwater in the area. However, without an actual Plan for the area, HCD does not have specific local remedy for groundwater overdraft in relation to the Community Area's sustainability. The State-recognized Groundwater Sustainability Agency, PVWMA, has developed a "Pajaro Valley Groundwater Sustainability Plan Alternative" for the Pajaro Valley Groundwater Basin which the State found an acceptable Groundwater Sustainability Plan Alternative and shows significant promise to stop seawater intrusion and provide a long-term sustainable water supply. Based on evidence provided in reports from Schaaf & Wheeler (January 18, 2022 and October 27, 2023) and Bierman Hydrogeologic (March 6, 2023, HCD-Planning Library Document No. LIB230081) the IS estimated water usage in the following way: three units will have year-round occupancy which is just under 1 acre-foot per year (AFY) and the more densely occupied agricultural employee units, occupied for 9 months, would use 10.8 AFY, for a total estimated 11.8 AFY by the project. (Note that the estimate *includes* per person landscaping demand which does return to the soil and, should the occupancy durations increase, the Project would be redefined by an amended use permit and re-evaluated at that time). The current single family home residential water use within PSMCSD is estimated to be 0.27 AFY. PSMCSD has water rights for the wells that serve the Pajaro community and prioritizes service to the infill area. PSMCSD has provided a can and will serve letter dated September 3, 2020 for this project and has indicated that they have the capacity and ability to serve the project from their existing facilities. The Pajaro service area operated by PSMCSD draws water from wells located in the Pajaro Valley Groundwater Basin. PSMCSD has adequate groundwater supplies and water rights to serve existing development and the proposed development. No new wells will result from this project. Cumulative conditions were taken into account when establishing

significance criteria for the water supply analysis in the IS. The Project's water supply impact, when combined with the entitled Rio Vista Group agricultural employee project (PLN210152, Board Resolution No. 22-505), will not exceed the significance criteria of no net reduction in groundwater recharge and no substantial adverse change in instream flows in the Pajaro River. For the larger part, this is because the Nicola project can rely on PVWMA projects, both underway and planned, that are intended to balance the groundwater basin to provide long-term, sustainable water supply, both in quality and quantity, to serve the development of residential uses in Pajaro. PVWMA has been consulted and has verified that the project will not impact PVWMA Basin Management Plan projects and objectives. In addition, PVWMA staff stated in a letter to the applicant (**Attachment K**) that approximately half of the wastewater flow from the project is destined to be captured and recycled at the Watsonville Wastewater Treatment Plant. The letter also stated that the recycled fraction is higher during the growing season, which is when Project occupancy will be highest. 2010 GP Policies PS-3.1 and PS-3.2 requires long-term water supply to be evaluated and findings to be made in the entitlement of development beyond the first single family dwelling and non-habitable accessory structures on an existing lot of record or development designed to provide public infrastructure or development within Zone 2C of the Salinas Valley groundwater basin. The IS concluded that the Project is consistent with 2010 GP Policy PS-3.1 through the implementation of the PVWMA's groundwater sustainability planning efforts. As part of the motion for continuance on February 14, 2024, the Planning Commission requested clarification on the long-term sustainable water supply in relation to the identified Groundwater Sustainability Agency's plans and projects. Staff invited PVWMA staff to help explain their projects and the relation of development in the Pajaro area to their ability to meet their goals. The PVWMA Director plans to attend the April 10, 2024 hearing to give a short presentation and answer any questions the Commission may have. No further questions were raised on the matter in the April 10, 2024 hearing and it was not expressed as a denial findings.

*Grading, Erosion Control, and Geological Hazards:*

Approximately 1,000 cubic yards of grading is anticipated (500 cubic yards excavated, 200 cubic yard fill, and 300 cubic yards imported). The grading is the minimum required for the development and Best Management Practices (BMP) will be in place through regulations required for Grading Permits to minimize erosion. Also, the lot is generally flat. Pursuant to 2010 GP Safety Policy S-1.7, a site-specific report addressing geologic hazard and geotechnical conditions was required as part of the application submittal. In the amendment to the project Geotechnical Report (LIB210076, September 26, 2022) the geotechnical engineer stated that the risk for damaging liquefaction and/or differential compaction and settlement during a major seismic event is low, provided their recommendations are implemented. These recommendations include compaction grouting, which involves the pumping of a low viscosity grout bulb into the potential liquefiable soil at high pressure. The injection sites are placed on a grid and the bulb displaces and compacts the surrounding soil. The compaction grouting should extend a minimum of five feet beyond the building pad. The compaction grouting should be performed to a depth of five to 30 feet. These recommendations will be incorporated in the construction-level plans for development of the site which are reviewed and inspected by HCD staff.

*Traffic:*

A Traffic Impact Analysis prepared for the project determined that the project would not have significant traffic impacts. The analysis looked at the possible traffic impacts from the Project

Description (functioning as an H2-A employee housing project) and worst case scenario perspective based on normal residential facility occupancy of the units in terms of Level of Service (LOS) and Vehicle Miles Travelled (VMT). Per the Employee Housing Development Plan, transportation via bus will be provided to and from worksites for all employees. In its analysis to meet policy requirements of the 2010 GP, as a worst-case scenario, the Traffic Impact Analysis also analyzed traffic LOS impacts if the project were to function as a traditional apartment complex (which would require a new permit). In both scenarios, according to the analysis, the project will not have a significant effect on traffic patterns or LOS. When considered in cumulative setting with the Rio Vista project and other local traffic included, the model results were the same – the local intersections would operate below County thresholds of significance. Under CEQA, traffic is analyzed using VMT. The project is sited in an area that is below the County-wide average VMT. Residential development in the entire Pajaro area, including the project site, has been determined to generate VMT below the County threshold. The Traffic Report also notes that. . . “In areas where existing jobs-housing match is closer to optimal, low-income housing nevertheless generates less VMT than market-rate housing. Therefore, a project consisting of a high percentage of affordable housing may be a basis for the lead agency to find a less-than-significant impact on VMT. Evidence supports a presumption of less than significant impact for a 100 percent affordable residential development (or the residential component of a mixed-use development) in infill locations.” It is also exempt from further analysis based on available public transit service. In addition, Conditions of Approval Nos. 6 and 7 have been added to require frontage improvements and payment of traffic fees. Therefore, the project would have Less Than Significant impact.

*Land Use Compatibility:*

The proposed use is consistent with the 2010 GP, which calls for supporting development within Community Areas (Policy LU-2.20). It is also consistent with the GP intent to design Community Areas to support opportunities for workers to live near jobs (LU2.22). The project is consistent with 2010 GP Policy LU-2.25 for development of Community Areas prior to adoption of a community plan because adequate infrastructure is either in place or will be developed concurrently with the project and adequate water and wastewater services are available. *One of the Appellant’s contentions was that a Commissioner statement that “if the project were proposed in other areas of the County there would be greater concern with its impact on the relevant community was not supported by evidence because every H2-A project it has considered has been approved regardless of location. The Commissioner who made this statement did not clarify to what areas of the County she was referring. Consequently, the fact that similar projects were approved in certain areas is not necessarily responsive, as there is no indication if the areas where similar projects were proposed and approved were the areas to which the Commissioner was referring.*

The project site is within the Pajaro Community Area as identified in 2010 Monterey County General Plan (2010 GP) Policy LU2.21 and Figure CA1. 2010 GP Policy LU2.20 describes Community Areas as “planned population centers where new development in the unincorporated area shall be actively supported as the County’s primary planning priority.” A Community Plan for the Pajaro Community Area has not yet been adopted. *One of the Appellant’s contentions was that the Commissioner statement that granting entitlements for development of this type would be better done after the Community-level Planning document is completed is unfounded because it*

*is not uncommon for County to process applications for development prior to finalizing Community-level planning documents and that the statement is planning policy and not evidence this is an inappropriate site for this project. The Commissioner's statement expressed one of her concerns with the proposed project, namely, the lack of public participation in the planning process prior to the project's inception. Commissioner Diehl's concern was based on the evidence before the Planning Commission that 1) no community planning process predated this project; and 2) public testimony evinced numerous concerns as to the project's effect on the surrounding community. Although it is not uncommon for County to process applications for development prior to finalizing Community-level planning documents, that does not alter the possibility that a Community-level planning effort done prior to intensification of development in the Community could have assuaged public concerns or, alternatively, produced a Community-level planning document with guidance on the review of housing types in the area.*

Staff finds that the proposed use can be permitted under MCC Section 21.10.050.A as a residential use exceeding ten dwelling units/acre. Staff also finds that the proposed facility can be permitted under MCC Section 21.66.060. The criteria for a Use Permit for this type of housing project to be approved includes 1) a facility plan, 2) there can be established that adequate water and sewer are available to service the development, 3) the housing must not be located on prime agricultural land, 4) proper erosion and drainage controls are incorporated, 5) enclosed storage facilities shall be provided for each housing or dwelling unit, 6) laundry facilities are provided onsite, 7) in the case that there are more than twelve dwelling units, recreation facilities and open space are provided, 8) the development is landscaped, and 9) recreational areas and landscaping are installed prior to occupancy and the landscaping shall be maintained. All these development standards are met.

The project is consistent with the current Housing Element (2015-2023) Policies. Policy H-2.1, encourages planning of new residential development to ensure a range of housing types, prices and sizes including farmworker projects (consistent). Policy H-2.9 encourages the development of housing that is affordable to the general workforce of Monterey County and employers and other organizations to assist with the production of housing units needed for their employees. Policy H-2.11 states that County shall support private sector partnerships to increase the supply of farmworker housing. Policy H-5.3 states that County shall provide equal access to housing and supportive services to meet the special needs of seniors, people with disabilities (including developmental disabilities), single parents, large households, farmworkers, and the homeless. The project will house up to 250 agricultural employees (aka farmworkers) and is therefore consistent with Policies H-2.9, 2.11 and H-5.3. *One of the Appellant's contentions was that the Planning Commission decision does not comply with the County Housing Element, citing Policies H-2.1, H-2.11 and H-5.3 and quoting from the Housing Element that "there remains a serious need to provide housing for farmworkers, and oftentimes their families as well, during peak harvest seasons." The Project does meet Housing Element Policy H-2.1, H-2.11, and H-5.3. That is why, in large part, staff recommended approval. However, other factors are taken into account in the discretionary decision on particular projects. Discussion of the project at the first of two Planning Commission hearings included some statements by Commissioners that H-2A housing of individual workers is less appealing than farmworker housing for complete families.*

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