



County of Monterey Planning Commission

Item No.6

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

Agenda Item No. 6

February 14, 2024

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PLN200203 - ANTHONY NICOLA, INC.

Public hearing to consider demolition of an existing single family dwelling and septic system and construction of two three-story buildings for 34 two-bedroom units and one one-bedroom unit with office totaling approximately 36,200 square feet for use as agricultural employee housing of up to 250 workers, a manager's suite, and three very low income level inclusionary housing units. The project also includes a Variance for less than 200 feet agricultural buffer.

Project Location: 124 Gonda Street, Royal Oaks

Proposed CEQA action: Adopt a Mitigated Negative Declaration

RECOMMENDATION:

It is recommended that the Planning Commission adopt a resolution to:

- a. Adopt a Mitigated Negative Declaration;
- b. Approve a Combined Development Permit consisting of:
 1. Administrative Permit to demolish an existing approximately 850 square foot single family dwelling, 400 square foot shed, and septic system;
 2. Use Permit to construct two three-story buildings for 34 two-bedroom units and one one-bedroom unit with office totaling 36,200 square feet for use as agricultural employee housing of up to 250 workers, a manager's suite, and three very low income level inclusionary housing units; and
 3. Variance for less than 200 feet agricultural buffer.
- c. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan.

The attached draft Resolution includes findings and evidence for consideration (**Exhibit B**). Staff recommends approval subject to 34 conditions of approval including ten mitigation measures.

PROJECT INFORMATION:

Agent: Dale Ellis

Property Owner: Anthony Nicola, Inc.

APN: 117-361-017-000

Zoning: HDR/20

Parcel Size: 1.3 Acres

Plan Area: North County Area Plan

Flagged and Staked: No

Project Planner: Mary Israel, ext. 5183, israelm@co.monterey.ca.us

SUMMARY/DISCUSSION:

Setting/Project Description and Density Bonus:

The project is located at 124 Gonda Street in the community of Pajaro and the site is zoned High Density Residential, with a maximum of 20 units per acre (HDR/20). The site is 1.3 acres in size and is located adjacent to the levee on the southern side of the Pajaro River. The Project Vicinity Map (**Exhibit C**) shows the project is located within the Pajaro Community Plan area at the end of a dead-end street off of San Juan Road. Adjacent land uses are residential and agricultural employee housing.

The project includes demolition of an existing approximately 850 square foot (sf) single family dwelling, 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. Project includes a request for a Density Bonus and two incentives, however. The Density Bonus would allow the project to increase the density allowed in the underlying zoning district (20 acres per unit on 1.3 acres) by 9 units. At 1.3 acres with a 20 unit per acre maximum, the zoning density would allow 26 units. By dedicating three units for very low income restricted rental housing in the development, the project qualifies for a 35% Density Bonus under State and County laws. Restricting three units for very low income rental housing means that the project would include three units for very low income rental housing, one manager unit and 31 units for agricultural employees. The agricultural employee housing would be capable of housing 248 employees (up to eight employees in 31 units, excluding the income restricted units and the manager unit).

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).

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.

Project Design:

The project has been designed to fit with the surrounding land uses and best serve the employees who will reside there. Based on input from staff and other agencies, the site plan was redesigned to increase density and to locate the structures away from the north edge of the property. The earliest site plan, reviewed in a Development Review Committee on September 29, 2020, was a set of mobile homes. In response, the Employee Housing Development Plan (**Exhibit B**) included in the project application submittal describes the facility would accommodate 272 agricultural employees without dependents with each of 34 units serving up to eight people. The project description changed a second time during a lengthy review of Density Bonus regulations with State and HCD-Housing staff input and how the Facility Plan shall be based on a project description consisting of 31 agricultural employee 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 (LUAC and AAC), the applicant stated that the onsite manager will be responsible for housing maintenance and up-keep. As shown in the site plan (**Exhibit A**), a gated parking lot accommodate some onsite parking and shuttle pickup and drop-off on the west side of the parcel. 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.

The applicant has stated that the project is primarily intended to serve H-2A Visa farmworkers. However, because these employment opportunities must be advertised domestically, with priority given to those workers, the development may end up serving some domestic workers. Therefore, it is possible that after entitlement, this Project may have many tenants coming from the domestic labor market, rather than from out of the country through the H-2A Visa program. Transportation by bus/shuttle to and from work sites for all employees is a requirement of the H-2A program. As shown in the site plan (**Exhibit A**), vehicular ingress and egress is proposed at the southern-most 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. Mitigation Measure PUBLIC-1 requires the owner to provide an Emergency Action Plan for the site. Statements of the timing of weekly shuttle service and a provision for clear paths in the parking lot would be anticipated as part of an effective Emergency Action Plan.

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 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 Planning Commission grant a Variance to the requirements for an agricultural buffer easement.

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 Policy PS-3 for long-term sustainable water supply because it is located in the Pajaro Valley Groundwater Basin.

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 (**Exhibit A**).

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 Initial Study (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). 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 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. This is due in part to the Rio Vista Group project's hydrology mitigation measure that ensures water balance for project, "Mitigation Measure HYD-1, enforcing that actual water use for the project shall not exceed 17.9 AFY." 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 (**Exhibit I**) 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. 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.

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.

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.

2010 GP Policy AG-1.6 states that farmworker housing projects "...shall be consistent with the nature of the surrounding land uses". Adjacent land uses are residential in nature and include single family homes, an apartment complex, and another agricultural employee housing facility (under construction). Existing codes require that building design and acoustical treatments ensure compliance with State and County noise standards for the residential use. Based on the results of an acoustical analysis, the IS found the project will meet State and County noise level standards with the standard apartment-building construction techniques. The project is consistent with the uses of the area. In addition, this location provides access to urban services, including several neighborhood markets within a half mile walk and other major shopping services within the Pajaro/Watsonville urban area.

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.

CEQA:

A Draft Mitigated Negative Declaration ("MND") for PLN200203 was prepared in accordance with CEQA and circulated for public review from September 5, 2023 through October 5, 2023 (SCH#2023090035). The document reflects the independent judgment of the County. Issues that were analyzed in the MND include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, energy, geology/soils, greenhouse gas emissions, hazards/hazardous

materials, hydrology/water quality, land use/planning, noise, population/housing, public services, recreation, transportation/traffic, tribal cultural resources, utility/service systems and wildfires. Potentially significant impacts were identified in the areas of biological resources, cultural resources, drainage/discharge, hazards/safety/public services and utilities but proposed mitigation measures will reduce the effects to a point where no significant impacts will occur. Six of the mitigation measures ensure avoidance of biological resources. Four others ensure safe evacuation through a project-specific Emergency Action Plan, safe drainage and wastewater delivery through a sewer system assessment and ensure that cultural and tribal cultural resources are not mishandled or destroyed during excavation.

Three comments were received (**Exhibit E**). Staff found some of the comments would best be handled with responsive errata edit in the text of the Initial Study. Staff requested additional information from the Project Civil Engineer to add clarification on one of the mitigation measures. The responsive edits and the civil engineer's memorandum are in a redline version of the Initial Study/Mitigated Negation Declaration (**Exhibit F**). It is this version which staff recommends the Planning Commission adopt.

In conclusion, the mitigation measures and conditions of approval effectively address all project issues and will mitigate all potentially significant impacts to less than significant. The project will provide necessary housing for the employees who support existing agricultural operations in the agricultural region. The project site is in close proximity to both agricultural fields and urban services, and the project will not negatively impact the surrounding land uses.

OTHER AGENCY INVOLVEMENT:

The following agencies and groups within HCD have reviewed the project, have commented, and/or have recommended conditions:

- Environmental Health Bureau
- Public Works, Facilities and Parks
- HCD-Environmental Services
- HCD-Engineering Services
- HCD-Housing
- Water Resources Agency
- North County Fire Protection District
- Agricultural Commissioner's Office
- Agricultural Advisory Committee

ADVISORY COMMITTEE REVIEW:

The proposed project was reviewed by the Agricultural Advisory Committee on May 27, 2021. The committee recommended approval of the project and adopted a recommendation of support by a 7 - 0 vote with five absent and none abstaining. The design shows a proposed 7-foot-tall security fence around the perimeter. The AAC recommended 8-foot-tall. The AAC recommended a 50-foot agricultural buffer easement. Instead, the applicant requested a Variance to the Title 21 code which requires a 200-foot agricultural buffer (section 21.66.030.F). (see Minutes, **Exhibit G**).

The proposed project was reviewed by the North County Land Use Advisory Committee on June 1, 2022. Several members of the public attended and three spoke against the Project, including in Spanish as a County-contracted translator was present. Their concerns were with public safety, the conditions of the neighborhood's services, concern for private views and general dislike of the idea of multistory agricultural housing facilities in the area. Committee members shared concerns with the Project including the potential for the Project to convert to a standard apartment complex after Density Bonus provisions have been granted, that traffic analysis needs to take into account traffic on San Juan Road from the two projects together (Rio Vista Group - PLN210152, and Nicola) and it was suggested that the two share an access driveway loop. Staff reviewed the concerns with the applicant. The IS did review cumulative traffic, and the applicant was not able to combine driveway access with the Rio Vista Group project. If, in future, the owner wishes the Project use to change, they will have to apply for an amendment to the permit and the impacts of the change would be analyzed at that time. Public concerns for safety influenced the subsequent IS analysis and precipitated, in part, the recommendation of Mitigation Measure PUBLIC-1, which requires the owner to provide an Emergency Action Plan for the site. The LUAC voted not to support the project as proposed 4 -1 with one member absent. (see Minutes, **Exhibit H**).

Prepared by: Mary Israel, Supervising Planner, 755-5183

Reviewed and approved by: Melanie Beretti, AICP, Acting Chief of Planning

The following attachments are on file with the HCD:

Exhibit A - Draft Resolution including:

- Conditions of approval
- Site Plans, Floor Plans, Elevations and Draft Landscape and Recreation Plans

Exhibit B - Employee Housing Development Plan

Exhibit C - Vicinity Map

Exhibit D - Public Draft Initial Study/Mitigated Negative Declaration (IS/MND)

Exhibit E - Comment Letters on the IS/MND

Exhibit F - Redline version of the IS/MND with new Attachment

Exhibit G - Agricultural Advisory Committee Meeting Minutes for May 27, 2021

Exhibit H - North County LUAC Meeting Minutes for June 1, 2022

Exhibit I - Letter from PVWMA to the applicant dated February 9, 2022

Exhibit J - PLN200203 Trip Generation

cc: Front Counter Copy; Planning Commission; Melanie Beretti, AICP, Acting Chief of Planning; Dale Ellis, Agent; Anthony Nicola, Applicant/Owner; HCD-Environmental Services; HCD-Engineering Services; Environmental Health Bureau; Laborers International Union of North America (Lozeau Drury LLP); The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Christine Shaw, Interested Party; Sister Dolores Rodriguez, Interested Party; Project File PLN200203.

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