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**Before the Planning Commission in and for the
County of Monterey, State of California**

Resolution No. 24-011

Resolution by the Monterey County Planning)
Commission to state and issue a final)
determination that the Planning Commission had)
an unbreakable tie vote and neither approved nor)
denied the following application:)

ANTHONY NICOLA, INC. (PLN200203)

Combined Development Permit consisting of:

- a. Administrative Permit to demolish an existing approximately 850 square foot single family dwelling, 400 square foot shed, and septic system;
- b. 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
- c. Variance for less than 200-foot agricultural buffer.

Requiring CEQA action in the form of adoption of a Mitigated Negative Declaration (SCH#2023090035) and adoption of a Mitigation Monitoring and Reporting Plan.

[PLN200203, ANTHONY NICOLA, INC. 124 Gonda Street, Royal Oaks, North County Area Plan (APN: 117-361-017-000)]

WHEREAS, the County processed the subject Combined Development Permit application (Anthony Nicola, Inc., Planning File No. PLN200203) in compliance with all applicable procedural requirements; and

WHEREAS, the Anthony Nicola, Inc. application came on for a duly noticed public hearing at which all persons had the opportunity to be heard before the Monterey County Planning Commission at a special evening meeting on February 14, 2024; and

WHEREAS, the Commission heard oral testimony from staff, the agent for the applicant, and one neighbor as well as written comment from two other neighbors. After discussion, the Commissioners voted to continue the item to a date certain with request for additional information from staff and a draft Emergency Action Plan (pursuant to a proposed mitigation measure requirement) to be submitted by the applicant. These were prepared; and

WHEREAS, the Anthony Nicola, Inc. application came on again for public hearing at which all persons had the opportunity to be heard before the Monterey County Planning Commission on April 10, 2024. The Commission received additional written and oral information from staff, the agent for the applicant, and there were no additional comments from the public; and

WHEREAS, after review of the application with the additional material submitted and additional analysis by staff as requested, the Planning Commission considered many positive and negative aspects to the proposed Project. Only six members of the Commission were available to review and vote on the Project application. The Commission voted a motion for approval as proposed; however, the Planning Commission could not achieve a majority vote for approval and no substitute motion was made. After additional deliberation, they found that they would not be able to achieve a majority on a denial vote, either. Therefore, the Commission resolved to memorialize the split of the vote pursuant to section 12 of the Monterey County Planning Commission Rules for the Transaction of Business (“Planning Commission bylaws”). The personal reasoning which was conveyed by each of the six voting members are memorialized within this Resolution below:

- 1) Representation from District 1 was limited to one Commissioner. Commissioner Gonzalez voted in favor of the motion to approve and supported their vote with the statement that H-2A housing is needed and noted that if the project it had year-round residential farmworkers instead it might gain greater support.
- 2) Representation from District 2 was limited to one Commissioner. Commissioner Mendoza opined that the Project is very much needed, two three-story buildings could benefit Pajaro, and the location is a five-minute walk to both higher ground areas and potential Office of Emergency Services gathering points in the case of emergencies. Commissioner Mendoza also opined that the development could improve the cleanliness of the area and security due to increased surveillance.
- 3) Representation from District 3 was limited to one Commissioner. Commissioner Work, who seconded the motion to approve the Project as proposed, explained that the Agricultural Advisory Committee approved the Project and that held a lot of weight for him.
- 4) Representation from District 4 was from two Commissioners. Commissioner Roberts opined that it is not the right location for the Project due to the proximity to the levee and the dead-end street, and that after the agricultural employee housing facility went in on Susan Street there is the sense that HCD-Planning has “worn the community out.” Commissioner Monsalve explained her concerns for traffic safety and negative impacts to quality of life for the Gonda Street residents. Both Commissioners voted against the motion for approval.
- 5) Representation from District 5 was limited to one Commissioner. Commissioner Diehl expressed reservations given that the levee is not fully repaired and the subject site is at the end of a dead-end street to the levee. She opined that if this Project were proposed in other areas of the County there would be greater concern with its impact on the relevant community. Finally, she expressed the need for a Community Planning Process prior to intensification of uses such as the proposed Project. Commissioner Diehl voted against the motion for approval.

WHEREAS, this decision on the Project is statutorily exempt from environmental review based on California Environmental Quality Act (CEQA) Guidelines section 15270, which statutorily exempts projects that a public agency rejects or disapproves; and

WHEREAS, as set forth in rule 12, a majority vote is required for the Planning Commission to approve a project. Here, there was an unbreakable tie vote. Consequently, pursuant to rule 12, this is a final determination by the Planning Commission; and

WHEREAS, pursuant to Monterey County Code Section 21.80.040, the decision on this project may be appealed to the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Monterey does hereby:

- 1) Find that this decision on the Project is statutorily exempt from environmental review based on California Environmental Quality Act (CEQA) Guidelines section 15270, because the Planning Commission did not approve it; and
- 2) Adopt this resolution to state and issue a final determination that the Planning Commission had an unbreakable tie vote and neither approved nor denied the Anthony Nicola Inc. (PLN200203) Project, which as proposed would require a Combined Development Permit consisting of:
 - a. Administrative Permit to demolish an existing approximately 850 square foot single family dwelling, 400 square foot shed, and septic system;
 - b. 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
 - c. Variance for less than 200-foot agricultural buffer.

PASSED AND ADOPTED upon motion of Commissioner Monsalve, seconded by Commissioner Work, and carried this day of May 8, 2024 by the following vote:

AYES: Getzelman, Work, Mendoza, Diehl, Monsalve, Daniels, Gomez

NOES: None

ABSENT: Roberts Gonzalez, Shaw

ABSTAIN: None

Attest By

DocuSigned by:

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Melanie Beretti, AICP, Secretary to the Planning Commission

COPY OF THIS DECISION MAILED TO APPLICANT ON 05/09/24

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE 5/20/24

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.