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A PROFESSIONAL CORPORATION

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October 10, 2023

Our File NO: 5209.001

Mary Israel, Senior Planner
Monterey County HCD
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901

RE: Initial Study/Mitigated Negative Declaration Comments (“IS/MND”)

Dear Mary:

Thank you for the opportunity to review and comment on the Nicola IS/MND for the 35-unit H2A/very low-income housing project proposed by Mr. Nicola. In general, we found the IS/MND to be comprehensive in its scope, well written with the significant issues fully discussed and where needed, sufficient mitigations were recommended to reduce the project’s impacts to a less than significant level. There are a few points we do believe need to be amended for clarity and consistency in the IS/MND.

GENERAL COMMENTS

Incentives and Concessions: The IS/MND uses the word incentive and concession interchangeably in discussing the density bonus for this project. The correct word is “incentive.” That is the word used in State law and the Monterey County Code. Monterey County Code Section 21.65.030 I defines incentives as “enticements for providing affordable housing proposed by the developer or the County that result in identifiable, financially sufficient, and actual cost reductions for a qualified housing development.” Incentive and the Code definition should be used consistently throughout the IS/MND.

Automobiles and Vehicles: The IS/MND uses the word automobile in several locations. We believe the word vehicle should be used instead. This would eliminate potential for future confusion when other types of vehicles, such as vans, might be parked on the property.

Leasing of the H2A units: The IS/MND states the H2A units will be leased to “one agricultural company. It should be recognized in the IS/MND that there is potential for different companies to lease units, but the environmental impact will not change.

Service Area: The IS/MND states in some places the farm workers will be working in the Pajaro area of Monterey County. Workers will be in Santa Cruz County as well and other areas of Monterey County beyond what might be considered the Pajaro area.

Pajaro Valley Ground Water Basin (“the Basin”): The IS/MND (page 5) states the Basin is “critically overdrafted.” While that is a correct statement it should also be noted the Basin is in recovery and has approval by the GSA for their ongoing recovery plans. We do recognize that is discussed later and includes the status of the PVGWB. We believe the statement the Basin is in recovery, with approved recovery plan, should also be stated here.

Potential to be Consistent: Throughout the IS/MND the phrase “potential to be consistent” is used. That is misleading in that it might confuse the reader as to whether the project is or is not consistent with the General Plan. It would be appropriate to state “the Project, if approved and conditioned as recommended will be consistent with the General Plan.”

Agricultural Buffers: As you know, we do not agree with the County’s application of zoning requirements that are inconsistent with the General Plan’s directive to develop regulations which are more fluid and adaptable than a hard line of 200 feet. Nonetheless, this project has been reviewed by the County’s Agricultural Advisory Committee and has been recommended for approval. The project as described and evaluated in this IS/MND is consistent with the intent of the General Plan and the recommendations of the Agricultural Advisory Committee.

Approval of Consultant Contracts: Several mitigations require submittal of consultant contracts for HCD review and approval. While we have no problem in doing that, we are very concerned about the length of time and the process the County will use to approve the contracts. We believe it would be more effective and efficient to require a copy of the contract provided the consultant is on the County’s approved list. If the consultant is not on that list, it might be reasonable for HCD to actually review the contract provided there is a quick turnaround.

Biological Mitigations: This section is quite complex requiring contracts, training, reporting on training, multiple inspection which seems excessive for the scale of the project. During active construction the entire site will be disturbed by the construction, storage of equipment and materials, vehicle movement and other typical construction site activities. It would be much simpler if the site were subject to preconstruction surveys then should resources be identified on the site, the consultant could have the authority to require the necessary actions be implemented to protect the resource. In an excess of caution, exclusionary fencing could also be installed to reduce the potential for special status species to move onto the site.

Archaeological and Cultural Resources Mitigations: Our comment here is essentially the same as for biological mitigations. Require preconstruction surveys and should resources be identified on the site, the consultant could have the authority to prescribe the necessary actions to protect the resource. The consultant should also be required to report their activities and actions to HCD.

Conclusions: We noted several of the Conclusion comments state “*With these mitigations incorporated, risks of loss, injury or death from ground-shaking, liquefaction and environmental impacts from erosion are reduced to a less-than-significant level.*” However, there are no mitigations for that particular section (see, for example, sections on Energy, Paleontology, Geology and Hydrology). We also note the same issue in some of the discussions (see

Hydrology, for example) where it is stated no impact with the mitigations, but there are no prescribed mitigations. Each Conclusion and similar comments should be reviewed for consistency between the discussion and the conclusions.

Density Bonus Discussion: In this section it is noted that the project will be consistent through “discretionary action.” It should be further discussed that the County has very limited discretion in considering density bonuses and incentives. The project clearly qualifies for a density bonus under both State law and County regulation. Given the 11% very low income contribution, the project is entitled to the two incentives requested unless very specific findings supported by substantial evidence are made by the appropriate authority.

Monterey County Code Section 21.65.050 “Eligibility for density bonus” provides that any project of five or more units providing more than 5% very low-income units or 10% low-income units “*shall qualify for a density bonus.*” The project is providing 11% of very low-income units and therefore qualifies for the density bonus. There is no discretion in that decision.

Section 21.65.070 (A) states that a “housing development qualifying for a density bonus is *entitled* to at least one incentive.” That same section also provides that a project providing 10% or more low-income units is *entitled* to two incentives.

Section 21.65.970 (B) provides that the requested incentives must be granted unless there is “written finding, based upon substantial evidence, of any of the following:

1. That the incentive is not necessary in order to provide for affordable housing costs; or,
2. That the incentive would result in specific adverse impacts upon the public health, safety, or the physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low-, low-, and moderate-income households.
3. That the incentive would be contrary to the County's certified Local Coastal Program or State or Federal law.”

Based on the County’s IS/MND as currently written, there is no substantial evidence to support points 1 or 2.

The property is not in the Coastal Zone.

Sewer System Assessment: This mitigation, as written is unacceptable for the following reasons:

- “The applicant shall perform an evaluation of the Pajaro County Sanitation District sewer system and identify any system improvements necessary to accommodate increased sewer flows resulting from the proposed project...” As written the applicant would be required to perform an evaluation *of the entire PCSD system*, not just the portion of the system that would service the project. The scope and location of the portions of the system in need of inspection should be clearly defined.

- “The applicant shall ... make any improvements to the system that may be required to ensure that the system can accommodate the new connection.” As written, the applicant could be required to repair or rebuild a substantial portion of the PCSD system, even though the project impact may be very small in light of the overall existing and future flows. The general plan is clear, an applicant is only required to pay their fair share of system improvements or repairs. If the PCSD is in fact in a state of disrepair, the PCSD should make those repairs and the cost should be assessed proportionately among existing users.
- “If the study finds that a sewer lift station or any impacted sewer lines are undersized to serve proposed development, the study shall include recommendations for necessary upgrades and an analysis of the downstream sewer main’s capacity for the increased flow, and these improvements must be done prior to construction of the project.” Again, this requirement could require to rebuild the system to service 35 units when in fact, the system serves thousands.

There is also a question of the legality of this requirement. The courts, including the U.S. Supreme Court, have been clear that there is a rational nexus between the impact of the project and the condition. It has also been made clear that there needs to be a rough proportionality between the impact and the project requirements. It does not seem this mitigation would pass either test.

The IS/MND does a more than adequate analysis of the potential impacts of this project. And, in most cases prescribes adequate mitigation for those impacts. The few areas we have highlighted do need some further discussion. We are available to you at almost any time.

If you have any questions feel free to call me. Also, please send us copies of all of the IS/MND comments HCD receives.

Thank you.

Sincerely,

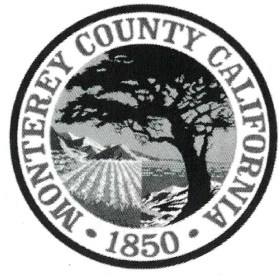


Dale Ellis
Director of Planning and Permit Services

cc: Client
Craig Spencer

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MONTEREY COUNTY
SEP 18 2023
HOUSING & COMMUNITY
DEVELOPMENT DEPARTMENT

Rec-23
9-1



MONTEREY COUNTY

HOUSING & COMMUNITY DEVELOPMENT
1441 SCHILLING PL SOUTH 2ND FLOOR, SALINAS, CA 93901
(831) 755-5025 FAX: (831) 757-9516

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION MONTEREY COUNTY PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that Monterey County Housing & Community Development has prepared a draft Mitigated Negative Declaration, pursuant to the requirements of CEQA, for a Combined Development Permit (Anthony Nicola, Inc., File Number PLN200203) at 124 Gonda Street, Royal Oaks (APN 117-361-017-000) (see description below). The project does not involve the burning of municipal wastes, hazardous waste, or refuse-derived fuel or is on a list enumerated under Section 65962.5 of the Government Code.

The Mitigated Negative Declaration and Initial Study, as well as referenced documents, are available for review at Monterey County Housing & Community Development – Planning, 1441 Schilling Pl South 2nd Floor, Salinas, California, and the Monterey County Free Libraries (Prunedale Branch) at 17822 Moro Road. The Mitigated Negative Declaration and Initial Study are also available for review in an electronic format by following the instructions at the following link: <https://www.co.monterey.ca.us/government/departments-a-h/housing-community-development/planning-services/current-planning/general-info/recent-environmental-documents>.

The Planning Commission will consider this proposal at a meeting tentatively scheduled on October 18, 2023 at 9:00 a.m. in the Monterey County Board of Supervisors Chambers, 168 West Alisal, 2nd Floor, Salinas, California and via Zoom. Written comments on this Mitigated Negative Declaration will be accepted from September 5, 2023 to October 5, 2023. Comments can also be made during the public hearing.

Project Description: Combined Development Permit consisting of: 1) Administrative Permit to demolish an existing single family dwelling and septic system, 2) Use Permit to construct two (2) three-story buildings for thirty-four (34) two bedroom units and one (1) 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 (3) very low income level inclusionary housing units.

* We welcome your comments during the 30-day public review period. You may submit your comments in hard copy to the name and address above. The Agency also accepts comments via e-mail or facsimile but requests that you follow these instructions to ensure that the Agency has received your comments. To submit your comments by e-mail, please send a complete document including all attachments to:

* CEQAcomments@co.monterey.ca.us

An e-mailed document should contain the name of the person or entity submitting the comments and contact information such as phone number, mailing address and/or e-mail address and include any and all attachments referenced in the e-mail. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the name and address listed above. If you do not wish to send a follow-up hard copy, then please send a second e-mail requesting confirmation of receipt of comments with enough information to confirm that the entire document was received. If you do not receive e-mail confirmation of receipt of comments, then please submit a hard copy of your comments to ensure inclusion in the environmental record or contact the Agency to ensure the Agency has received your comments.

Facsimile (fax) copies will be accepted with a cover page describing the extent (e.g. number of pages) being transmitted. A faxed document must contain a signature and all attachments referenced therein. Faxed document should be sent to the contact noted above at (831) 757-9516. To ensure a complete and accurate record, we request that you also provide a follow-up hard copy to the name and address listed above. If you do not wish to send a follow-up hard copy, then please contact the Agency to confirm that the entire document was received.

For reviewing agencies: Housing & Community Development requests that you review the enclosed materials and provide any appropriate comments related to your agency's area of responsibility. The space below may be used to indicate that your agency has no comments or to state brief comments. In compliance with Section 15097 of the CEQA Guidelines, please provide a draft mitigation monitoring or reporting program for mitigation measures proposed by your agency. This program should include specific performance objectives for mitigation measures identified (CEQA Section 21081.6(c)). Also inform this Agency if a fee needs to be collected in order to fund the mitigation monitoring or reporting by your agency and how that language should be incorporated into the mitigation measure.

All written comments on the Initial Study should be addressed to:

County of Monterey
Housing & Community Development
Attn: Mary Israel
1441 Schilling Pl South 2nd Floor
Salinas, CA 93901

Re: Anthony Nicola Inc.; File Number PLN200203

From: Agency Name: Maria Bravo - Homeowner
Contact Person: Maria Bravo
Phone Number: 831-254-3406

39 San Juan Rd
Royal Oaks, CA 95076

- No Comments provided
- Comments noted below
- Comments provided in separate letter

9-11-23

COMMENTS: I am concerned about the congestion of traffic. As it is right

now - there is a lot of it coming out of Gonda street I live in the corner
of Gonda st and San Juan Road. We need red zone on curb because

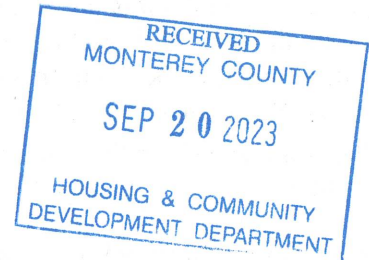
cars park at the edge of curb on both sides and also bus stops to pick-up and
drop off children from school. - We need stop lights in this corner with
crosswalk. Just this afternoon there was a accident right in front of
corner of San Juan and Susan st, Coast, San Juan Rd.
Also I have called about the sweeper coming to sweep more often.
The sidewalk from flood is still here. The county only swept back in after the flood
which cars were and still parked on curb. so they swept around them.

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County of Monterey
Housing & Community Development
Attn: Mary Israel
1441 Schilling Pl South 2nd Floor
Salinas, CA 93901



Re: Anthony Nicola Inc.; File Number PLN200203

From: Agency Name: _____
Contact Person: ROBERT KAV
Phone Number: 831-334-7454

119 San Juan Rd
Royal Oaks CA 95076

- No Comments provided
- Comments noted below
- Comments provided in separate letter

COMMENTS: This property owner has not maintained property since he acquired it. Always overgrown, trash everywhere, cars in disrepair. CARS already parked in Road and on sidewalk (daily). NO need to make it worse. Never any parking enforcement or owner pride in making Conda Street look better.

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SEP 20 2023

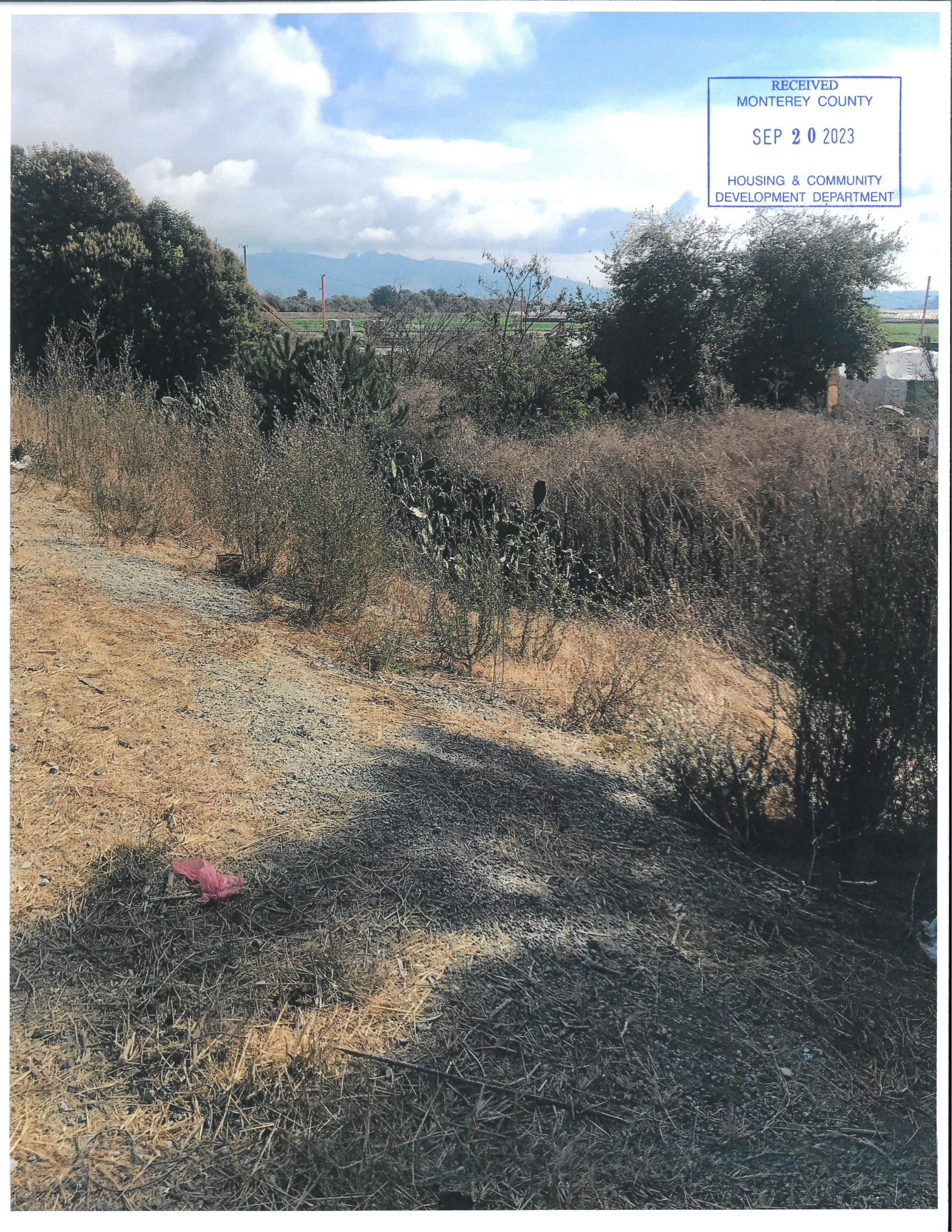
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