



County of Monterey

Item No.

Board Report

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

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PLN200203 - NICOLA ANTHONY INC

Public hearing to consider an appeal by Dale Ellis of Anthony Lombardo and Associates, on behalf of Anthony Nicola, Inc., from the April 10, 2024, unbreakable tie vote of the Planning Commission on permit for the

demolition of an existing single family dwelling and septic system and construction of two three-story buildings totaling approximately 36,200 square feet containing 34 two-bedroom units and one one-bedroom unit for agricultural employee housing of up to 250 employees, including a manager's suite, and three very low income 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 Board of Supervisors adopt a resolution to:

- a. Grant the appeal by Anthony Lombardo and Associates, on behalf of Anthony Nicola, Inc. from the April 10, 2024 unbreakable tie vote of the Planning Commission;
- b. Adopt a Mitigated Negative Declaration;
- c. 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 totaling 36,200 square feet containing 34 two-bedroom units and one one-bedroom unit for agricultural employee housing of up to 250 employees, including a manager's suite, and three very low income housing units; and
 3. Variance for less than 200 feet agricultural buffer.
- d. Adopt a Condition Compliance and Mitigation Monitoring and Reporting Plan.

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

PROJECT INFORMATION:

Agent: Dale Ellis, Anthony Lombardo and Associates

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:

The project is located at 124 Gonda Street in the community of Pajaro and 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 site is 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.

This project includes the demolition of a single family dwelling, a shed and septic system and the construction of two three-story buildings for 34 two-bedroom units and one one-bedroom unit with office totaling 36,200 square feet on a 1.3-acre lot. The project includes an agricultural employee housing facility which proposes to fill 31 units with 8 employees per unit, totaling 248 employees, and the 32nd unit for the facility manager's one bedroom apartment and office. With a Density Bonus pursuant to Monterey County Code (MCC) Title 21 Chapter 21.65, three of the two-bedroom units will be reserved for very-low income housing. The incentives for the Density Bonus are exceedance of the maximum height for the zoning district by seven feet and reduced parking requirements. The buildings are planned to reach 43 feet in height from average natural grade. The project will have 56 parking spaces and eight bicycle racks, approximately 4,090 square feet of turf for outdoor sports and recreation, a half-court striped for basketball in the parking lot (approximately 615 square feet), and approximately 515 square feet of outdoor seating and picnic areas. The project also includes construction of sidewalk improvements on Gonda Street and at an intersection with San Juan Road. A Traffic Impact Analysis prepared for the project determined that the project would not have significant traffic impacts. During project review, the North County Fire Marshal found the project had appropriate gate, turn-arounds, and hydrant placement. Approximately 1,000 cubic yards of grading is anticipated (500 cubic yards excavated, 200 cubic yard fill, and 300 cubic yards imported). The preliminary stormwater control plan proposes onsite bioswales and other measures to increase runoff retention, protect water quality, and enhance groundwater recharge. The plan shows that impervious stormwater runoff will be directed away from buildings and foundations, towards a series of on-site bioretention swales. The project plans include an 18-inch culvert underneath Gonda Street as part of HCD-Engineering and Public Works, Facilities and Park's (PWFP) recommended street and right-of-way improvements to ensure adequate drainage. The 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 one-foot flooding depth expected for this location is 31 feet in elevation. MCC Title 16 section 16.16.050.C.2 requires the lowest finished floor elevation to be at least one foot above the specified FIRM flood depth, which is 32 feet in this case. As designed, the proposed lowest finished floor elevation for the buildings is 36.5 feet. Although not required by MCC Title 16, the applicant designed the lowest finished floor elevations to exceed the estimated 100-year composite flood elevations provided by the Pajaro Regional Flood Management Agency (PRFMA), which accounts for a 100-year flood scenario as well as multiple levee-overtopping scenarios.

The project complies with the development standards for agricultural employee housing pursuant to MCC Title 21 section 21.66.060. Information has been provided that meets the intent of a facility plan. Adequate water and sewer shall be available to the project as conditioned and mitigated. The housing is on residentially zoned land. Erosion and drainage controls are incorporated and were found sufficient by reviewing departments and agencies. The project includes storage lockers with each bed for resident use. Individual food storage lockers are provided in the kitchen/dining area, and laundry facilities are provided onsite (six washers, six dryers, and three sinks). Additionally, recreation facilities and open spaces are included in the plan. The application included a draft landscaping plan utilizing native species and a low water usage drip system. Finally, the project has been conditioned to ensure the recreational areas and landscaping are installed prior to occupancy and the landscaping shall be maintained during the use phase of the project.

The project includes a Variance request for less than 200 feet of agricultural buffer. MCC Title 21 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. The adjacent property to the east is zoned Farmland which the State Department of Conservation categorized as “Prime.” 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. Due to the shape and size of the subject parcel and the pattern of development in the neighborhood, staff recommends the Variance be supported and no agricultural buffer easement be required.

This project was reviewed by the Planning Commission at a special evening hearing on February 14, 2024. After project review, discussion, and public comment, the Planning Commission continued the hearing to April 10, 2024, with direction to staff to provide information on whether there have been previous agricultural employee housing projects that utilized the Density Bonus provisions of the County of Monterey (County), add clarification on the long-term sustainable water supply in relation to the identified Groundwater Sustainability Agency’s plans and projects, amend the mitigation measure which requires sewer system assessment to align with the Pajaro Community Service District’s current needs, and to cause the applicant to prepare a draft Emergency Action Plan for their review.

At the April 10, 2024 hearing, the Planning Commission considered the project again. A single motion resulted in an unbreakable tie vote as to whether to approve or deny the project. The Planning Commission then adopted a motion, per Rule 12 of the Monterey County Planning Commission Rules for the Transaction of Business, to state and issue a final determination that the Planning Commission had an unbreakable tie vote and neither approved nor denied the application (**Attachment E**). Pursuant to the Planning Commission Rules, a resolution was adopted with reasons in support of denial and approval of the project. Reasons for denial included incompatibility with the neighborhood, premature development preceding Community Planning efforts, floodplain concerns, and the need for housing for residents in the area rather than for seasonal employees. Reasons for approval included the need for agricultural employee housing and consistency with the High Density Residential zoning designation.

Staff collected the evidence of these finding from the April 10, 2024 hearing and presented the Planning Commission Resolution on the matter as a consent item to the Commissioners at the May 8, 2024 hearing. The item was approved unanimously (7 ayes, 0 noes, 3 absent) without further discussion. A copy of the signed resolution was sent to the applicant on May 9, 2024.

The Appellant, Anthony Lombardo and Associates (agent for the applicant, Anthony Nicola, Inc.), timely appealed the Planning Commission decision (**Attachment M**). The Appellant is challenging the Planning Commission's final determination which is a de facto denial. Appellant's contentions can be summarized as:

- the project was subject to extensive and detailed analysis with an Initial Study (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, the condition of the levee, and traffic impacts are unfounded,
- the statements that HCD has "worn the community out" and that "negative impacts to quality of life for the Gonda Street residents" are not supported by evidence,
- the proposed project would be approved in a different location,
- it is not uncommon for the County to process applications for development prior to finalizing community-level planning documents, therefore waiting for a community-level planning document is unfounded,
- the County's denial of this housing development project was not consistent with State Law, particularly the Housing Accountability Act, the County committed to facilitate this type of development in the 2015-2023 Housing Element pursuant to Policies H-2.1, H-2.11, and H-5.3 and in the Housing Element's words, "there remains a serious need to provide housing for farmworkers, and oftentimes their families as well, during peak harvest seasons."
- The Appellant contends that the Planning Commission did not make appropriate findings to deny a Density Bonus pursuant to Govt. Code Section 65589.5.

Staff has reviewed and addressed the contentions by number in the Draft Resolution (**Attachment B**). Staff recognizes that there are significant housing needs in the Community of Pajaro and that this is the second agricultural employee housing development side-by-side on the east side of the community. Overall, the project is located within a Community Plan area which is designated in the General Plan as an area where growth should be encouraged, the site is zoned High Density Residential, and the project meets the development standards if concessions for parking and height are granted and a Variance for the setback from the adjacent property which is zoned Farmland but contains a developed agricultural employee housing project is granted.

The appeal hearing on the project at the Board of Supervisors (Board) is de novo. Staff recommends granting the appeal and approving the project. A new comment letter of support was received on June 10, 2024 (**Attachment N**) from the State Housing and Community Development Division of Housing Policy Development. Staff has prepared a Draft Resolution granting the appeal, adopting a Mitigated Negative Declaration (MND) pursuant to CEQA, approving the Combined Development Permit, and adopting a mitigation monitoring and reporting plan. If the Board desires a different action, the Board could adopt a motion of intent and continue the hearing to a date certain for the staff to prepare a Draft Resolution with modified findings.

OTHER AGENCY INVOLVEMENT:

The following County agencies reviewed this project:

Environmental Health Bureau
Public Works, Facilities and Parks
Water Resources Agency
North County Fire Protection District
Agricultural Commissioner's Office
Agricultural Advisory Committee
Office of the County Counsel

ADVISORY COMMITTEE REVIEW:

The proposed project was reviewed by the Agricultural Advisory Committee (AAC) on May 27, 2021. The AAC recommended approval of the project and adopted a recommendation of support by a 7-0 vote with five absent and none abstaining. The AAC recommended an 8-foot-tall security fence around the perimeter rather than the proposed 7-foot-tall fence and recommended a 50-foot agricultural buffer easement. Instead of offering a redesign with a buffer area, the applicant requested a Variance to the MCC Title 21 section 21.66.030.F requirement of a 200-foot agricultural buffer. The applicant kept the security fence at seven feet in height. (See **Attachment I**).

The proposed project was reviewed by the North County Land Use Advisory Committee (LUAC) on June 1, 2022. Several members of the public attended and three spoke against the project with concerns for public safety, the conditions of the neighborhood's services, reduction of private views, and general dislike of the idea of multistory agricultural housing facilities in the area. LUAC members shared concerns including the potential for the property 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. This project does not include a provision to share access with the property to the east (Rio Vista Group) despite that project having developed the infrastructure that would allow such a connection. Staff reviewed the concerns with the applicant. The IS included a review of cumulative traffic, and the applicant was not able to combine driveway access with the Rio Vista Group project. If, in the 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 **Attachment J**).

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

A Draft Mitigated Negative Declaration (MND) for PLN200203 was prepared in accordance with CEQA and circulated for public review from September 1, 2023 through October 2, 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 that cultural and tribal cultural resources are not mishandled or destroyed during excavation.

Three comments were received (**Attachment G**). Staff found some of the comments would best be handled with responsive errata edit in the text of the IS. Also, in the first hearing on the project (February 14, 2024), the applicant shared a comment related to recent communication from County Public Works staff that indicated Mitigation Measure UTIL-1 should be amended. Staff requested additional information from PWFP to add clarification on one of the mitigation measures. The responsive edits are in a redline version of the IS/MND (**Attachment H**). It is this version which staff recommends the Board of Supervisors adopt.

The proposed project involves the construction of a high-density agricultural employee housing facility in a high-density residentially zoned parcel within a developed neighborhood. The identified mitigation measures mitigate all potentially significant impacts to less than significant level. There is no substantial evidence that would support a fair argument that the project has a reasonable possibility of having a significant effect on the environment or that it would result in a cumulative significant impact.

FINANCING:

Funding for staff time associated with this project is included in the FY2023-24 and FY2024-25 Adopted Budgets for HCD, Appropriation Unit HCD002, Unit 8543. Application fees for the Use Permit, Environmental Review, and this appeal have been collected.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

☒ Administration

☐ Economic Development

☐ Health & Human Services

☐ Infrastructure

☐ Public Safety

Prepared by: Mary Israel, Supervising Planner

Reviewed and approved by: Craig Spencer, Housing Community Development Director

CS

The following attachments are on file with the Clerk of the Board:

Attachment A - Discussion

Attachment B - Draft Resolution for PLN200203, including:

- Mitigation Measures and Conditions of Approval
- Plans

Attachment C - Employee Housing Development Plan

Attachment D - Vicinity Map

Attachment E - Planning Commission Resolution No. 24-011

Attachment F - Public Draft IS-MND

Attachment G - Comment Letters on the IS-MND

Attachment H - IS-MND with post-circulation errata edits

Attachment I - Agricultural Advisory Committee Meeting Minutes (May 27, 2021)

Attachment J - North County LUAC Meeting Minutes for June 1, 2022

Attachment K - Letter from PVWMA to the applicant dated February 2, 2022

Attachment L - PLN200203 Trip Generation Memo

Attachment M - Notice of Appeal

Attachment N - June 10, 2024 Letter from State Housing and Community Development

cc: Front Counter Copy; Environmental Health Bureau; HCD-Engineering Services;
HCD-Environmental Services; Anna Quenga, Principal Planner; Mary Israel, Project Planner;
Anthony Lombardo, Agent; Anthony Nicola, Inc., Owner/Appellant; Jeffrey Nohr, Interested Party;
Dolores Rodriguez, Interested Party; Christine Shaw, Interested Party; The Open Monterey Project
(Molly Erickson); LandWatch; Planning File PLN200203