MONTEREY COUNTY
HOUSING ADVISORY COMMITTEE
AGENDA
Wednesday, May 27, 2015
Monterey County Government Center, Monterey Room, 2nd Floor
168 West Alisal Street, Salinas, CA
5:00 p.m. – 6:30 p.m.

1) Call to Order

2) Public Comment:
The Housing Advisory Committee will receive public comment on items not listed on the agenda within the purview of the Housing Advisory Committee. The Chair may limit the length of individual presentations.

3) Approval of the April 8, 2015 Meeting Minutes

4) Old Business:
a. (continued from April 8, 2015)
   Make a recommendation to the Board of Supervisors on a request from CHISPA on behalf of 161 owners of single family homes in the Moro Cojo subdivision to reduce the duration of the affordability restriction on their homes from “permanent” to fifteen years.

5) New Business:
   None

6) Updates

7) Committee Member Reports
   Committee members will report on matters, events and activities as related to HAC goals and advocating for housing.

8) Additions to Future Agendas
   Committee members may give direction regarding future agenda items.

9) Schedule Of Upcoming Meetings
   • June 10, 2015: Special meeting re draft Housing Element
   • October 14, 2015: Regular quarterly meeting

10) Adjournment
    The Chair will adjourn the meeting.

If you have any disability that would require assistance to access the meeting room, please call (831) 755-5390.
Members Present: Karen Araujo, Ignacio “Mog” Cabatu, Margaret Robbins, Wayne Ross, Mark Trabing, and La’Quana Williams

Members Absent: Sabino Lopez

Staff Present: Jane Barr, Luke Connolly, Gretchen Markley, Luis Osorio, Dave Spaur, and Wendy Strimling

Guests Present: Alfred Diaz-Infante, CHISPA
Juan Uranga, CCA
Jane Haines
Todd and Amy Bales, Inclusionary home-owners
Approximately 57 Moro Cojo Homeowners/applicants

1) Call to Order:
Mr. Cabatu called the meeting to order at 5:03 p.m. and noted that a quorum was established.

2) Public Comment:
None

3) Approval of the January 14, 2015 Meeting Minutes:
Mr. Cabatu questioned Item #1, first paragraph, second sentence, Page 3: felt it was not in context and needed to be restated to read: “...if we were going to discuss how the units are rented, we should do that under the pretext of when we are discussing rental units as opposed to when we were in discussion, we were with an owner that wanted to rent his unit.”

Ms. Araujo commented on Page 5 of the January 14th HAC meeting Packet regarding in-lieu fees: her recollection was her request was not for a future meeting, it was for the next (HAC) meeting (sentence 3). Discussion ensued on what would be discussed and at which meeting in the future. Ms. Agaujo was not referring to recommending in-lieu fees be amended, wants clarity of in-lieu fees at the next meeting. Ms. Barr agreed to add to Ms. Araujo’s sentence “at the next meeting” in the minutes.

Motion: Ms. Williams moved minutes be approved as corrected; Ms. Araujo seconded the motion.

VOTES:
AYES: Araujo, Cabatu, Robbins, Ross, Trabing, and Williams
NAYS: None
4) New Business:
a. Request the Housing Advisory Committee (HAC) make a recommendation to the Board of Supervisors on a request from CHISPA on behalf of 161 owners of single family homes in the Moro Cojo Subdivision to reduce the duration of affordability on their homes from “permanent to 15 years”. Mr. Diaz-Infante presented the request to the HAC.

Staff recommendation is to review and discuss request and make a recommendation for Staff to take to the Board of Supervisors.

Twelve individuals spoke, including ten Moro Cojo homeowners. Extensive discussion followed.

Motion: Establish a 30 year deed restriction with an equity-share program, and if sold prior to 30 years, the affordability restriction would begin again. Motion made by Mr. Ross, seconded by Ms. Araujo.

VOTES:
AYES: Cabatu, Ross, and Trabing
NAYS: Araujo, Robbins, and Williams
ABSTAINED: None

The motion failed.

Motion: Recommend that the in perpetuity deed restriction remain. Motion made by Ms. Araujo and seconded by Mr. Ross.

VOTES:
AYES: Araujo, Cabatu, and Robbins
NAYS: Ross, Trabing, and Williams
ABSTAINED: None

The motion failed.

Chair recommended the Applicant (CHISPA) come up with a revised proposal, in consultation with staff to bring to an alternate solution to the HAC.

Motion: Continue discussion of amending condition 99 to reduce term of deed restriction on May 27, 2015. Motion made by Ms. Robbins, seconded by Ms. Araujo.
Wednesday, April 8, 2015, 5:00 PM

VOTES:
  AYES: Araujo, Cabatu, Robbins, Ross, Trabing, and Williams,
  NAYS: None
  ABSTAINED: None
The motion passed unanimously.

b. Make a recommendation to the Director of Economic Development regarding a request from Todd Bales to rent his Inclusionary home for a period of two years.

Motion: Accept Staff’s recommendation. Motion made by Mr. Ross, seconded by Mr. Trabing.

VOTES:
  AYES: Araujo, Cabatu, Robbins, Ross, Trabing, and Williams,
  NAYS: None
  ABSTAINED: None
The motion passed unanimously.

5) Old Business:
   None

6) Updates:
   None

7) Committee Members Reports:
   None

8) Additions to Future Agendas:
   Ms. Araujo requested clarity of Inclusionary In-Lieu-program

9) Schedule of Upcoming Meetings
   • May 13, 2015: Special Meeting re Draft Housing Element
   • May 27, 2015: continuation of discussion of request by Moro Cojo homeowners to amend Approval Condition 99 to reduce term of deed restriction

10) Adjournment:
    Mr. Ross moved to adjourn the meeting and the motion was seconded by Mr. Cabatu. The meeting was adjourned at 7:38 PM.
MONTEREY COUNTY HOUSING ADVISORY COMMITTEE

MEETING: May 27, 2015 (continued from April 8, 2015)  AGENDA NO.: 4a

SUBJECT: Make a recommendation to the Board of Supervisors on a request from CHISPA on behalf of 161 owners of single family homes in the Moro Cojo subdivision to reduce the duration of affordability on their homes from “permanent” to fifteen years.

DEPARTMENT Economic Development

RECOMMENDATION:
It is recommended that the Housing Advisory Committee (HAC) make a recommendation to the Board of Supervisors on a request from CHISPA on behalf of 161 owners of single family homes in the Moro Cojo subdivision to reduce the duration of affordability on their homes from “permanent” to fifteen years.

SUMMARY
On April 8, 2015, the HAC held a meeting to consider the request. The HAC took public comment, deliberated, and moved to continue the meeting on the issue to May 27, 2015 and directed staff to meet with CHISPA representatives and return with alternatives other than the existing “permanent” affordability requirement or the requested 15-year period of affordability.

BACKGROUND
The Moro Cojo project was developed by Community Housing Improvements and Planning Association (CHISPA) and includes 175 for-sale affordable single family homes and 90 multi-family housing units. The Moro Cojo subdivision is located on the east side of Castroville Boulevard north of Castroville in north Monterey County. The single family houses are not a part of the County’s Inclusionary Housing program. A request has been received from 161 single family homeowners at the Moro Cojo subdivision to amend a Condition of the Moro Cojo project approved by the Board of Supervisors on December 20, 1994. Fourteen homeowners chose not to participate in the request. The request is to reduce the term of affordability from “permanent” to fifteen years.

The single family homes were constructed by the owners under the United States Department of Agriculture (USDA) Rural Development Mutual Self-Help Program whereby families contributed to the building of their homes and earned “sweat equity”. The homes are currently allowed to be sold on the basis of “permanent” affordability to moderate income households who earn no more than 120% of the Area Median Income (AMI).

On behalf of 161 residents, CHISPA has submitted a request to amend Condition No. 99 of the original approval (Coastal Development Permit for subdivision) of the project to reduce the term of affordability from “permanent” to 15 years with the term starting from the date of the first deed of conveyance for each property from the developer to the original owner, which means that for the majority of the homes the affordability requirement would be eliminated over the next year. The basis of CHISPA’s request is that the term of affordability for Self-Help Housing is 15 years under former California Redevelopment law. This project is not, however, in a redevelopment project area nor were any Redevelopment funds provided to the project; CHISPA is simply making an analogy to the manner by which self-help housing was treated under State redevelopment law. The proposed amendment to
Condition 99 would constitute an amendment to the approved subdivision and therefore certain findings would have to be made to approve the proposed amendment. Additionally, a court settlement agreement dated November 28, 1995 stated that,

"In regard to any application or request for any modification of any condition of approval, the parties agree as follows:

A) The County shall not initiate any modification of any condition of approval;
B) Should the applicant request any modification of any condition of approval, the applicant shall have the burden of producing substantial evidence to support its request for said modification;
C) Where appropriate under the California Environmental Quality Act, any proposed change shall receive an initial review of its environmental effects.

Any decision made by the County pursuant to this Agreement shall be reviewable in the Superior Court in the manner permitted by law. The Superior Court expressly retains jurisdiction over the parties and the subject matter in order to effectuate the terms and purposes of this Settlement Agreement."

Per the Settlement Agreement, the County requested CHISPA to provide substantial evidence to support the application. CHISPA’s submittal in response was attached to the April 8th staff report to the HAC.

Fifty of the 175 single family homes were developed by South County Housing. The County assisted with the financing of these homes by providing two types of loans: HOME Self Help and First Time Homebuyer loans. The HOME Self Help loans ranging from $37,190 to $106,470 were provided by the County to all 50 homeowners. The terms of the loans are 3% interest with a 20 year term. Starting at the end of the 10th year of the loan, 10% of the principal is forgiven every year with the last 10% forgiven at the end of the 20 year loan term. The note is assumable as long as the new Buyer’s income does not exceed 80% of the AMI. The houses were originally sold between 1999 and 2001, so they are now in the 13th to 15th year of their loan term. First Time Homebuyer (FTHB) loans were also made to 37 homeowners ranging from $3,500 to $17,000. The term is for 30 years with 3% simple interest, and due upon sale. The loan can be assumed as above. To our knowledge, only one house has sold to date, and it was sold to a qualified household. There have been two refinances to date and two more are currently in process. In summary, there are currently 49 Self Help loans and 36 FTHB loans outstanding. Of the 42 households who own homes developed by South County Housing participating in the CHISPA request, the County currently holds 42 Self Help loans and 34 FTHB loans.

One hundred twenty five single family homes were developed by CHISPA, who also assisted with the financing of the homes. Loans ranged from $12,000 to $55,000 at 3% interest with a 20 year term. Starting at the end of the 10th year of the loan, 10% of the principal is forgiven every year with the last 10% forgiven at the end of the 20 year loan term. The note is assumable as long as the Buyer’s income does not exceed 80% of the median income. The houses were originally sold between 1999 and 2001 so they are now in the 13th to 15th year of their loan terms. Based upon information provided by CHISPA, to date 20% (25) of the loans have been repaid or written off: two were sold, four were foreclosed on, and 19 were refinanced.
DISCUSSION:

Correspondence:
Correspondence received since the April 8, 2015 HAC meeting is attached. Correspondence that was previously distributed to the HAC with the April 8, 2015 meeting packet and at the meeting is not included in this report. Additionally, correspondence from County Administrative Officer Dr. Bauman sent to Ms. Jane Haines based on comments Ms. Haines made at the April 14, 2015 Board of Supervisors meeting regarding the April 8, HAC meeting is also attached. Finally, a letter received by the Planning Department on April 24, 2014 is included. Housing staff was not previously aware of it but felt that it was pertinent to the issue.

Follow-up to public comments/misunderstandings of owners
A number of issues were raised by members of the public and questions were posed by HAC members at the April 8, 2015 meeting. Staff response is as follows:

- Are relatives of homeowners allowed to inherit the houses?
  There are no County restrictions on the houses that would prevent relatives from inheriting them. CHISPA has also confirmed that there are no restrictions placed on the houses by them as developers.

- Are homeowners unable to refinance their houses due to the affordability restrictions?
  In a January 6, 2015 email, CHISPA informed the County that there have been approximately 23 houses refinanced in which cash was taken out. CHISPA required that their equity notes be paid off if there was cash out. CHISPA said that an additional dozen or so homeowners refinanced with no cash out so CHISPA subordinated their note to the new loan. CHISPA also noted that a few were able to refinance without their knowledge. Further, CHISPA stated that once the equity notes and deed of trust are retired, there is no way for them to know whether a sale takes place. In regard to Moro Cojo homes on which the County has made loans, four owners have refinanced to date and another two are in process. The County refinances all took place in 2014.

- Are homeowners allowed to resell their homes?
  There are no restrictions in regard to the resale of the homes other than that they must be sold at a price affordable to a family that earns no more than 120% of the Area Median Income. The County has been enforcing this restriction when homeowners who purchased from South County and had loans with Monterey County resell their houses. If there are further sales of the homes after the County loans are paid off, those would be overseen by Neighborhood Works, successor to South County Housing.

In regard to the CHISPA developed homes, Condition 99 required a deed restriction in regard to the affordability. Mr. Diaz-Infante stated that they believe that there is no language in the agreement that specifies who is responsible for the administration of the program and that the settlement of the lawsuit does not say who is responsible or how to qualify families for ownership. CHISPA believes that they have no role or obligation to do so, as they say as it is silent. They have stated that they are not taking any efforts to ensure that the homes are sold at affordable rates.
• Have the homeowners been unduly disadvantaged due to the restrictions on their property? While there are permanent affordability restrictions on the homes, whether the owners have been disadvantaged is a matter of opinion and perspective. In the case of Moro Cojo’s homeowners, families were able to purchase homes with sweat equity and extremely favorable, forgivable loans that are rarely available in the marketplace. As an example, purchase prices ranged from $170,000 to $245,000 for the South County portion of Moro Cojo. The purchase price was comprised of sweat equity, a first loan from the USDA, sometimes a First Time Homebuyer loan, and two to three forgivable loans. Only five families had a down payment that ranged for $3,600 to $12,000 (three between 2-2.5% of purchase price with one at 4% and another at 5%). The balance of the funding was in the form of forgivable loans that had terms of 5 to 20 years. Thus, if a family owns their house for at least 20 years, all loans except the USDA and First Time Homebuyer loans are forgiven. The balance of the loans that fully amortized and required payment ranged from 46% to 64% of the purchase price. In comparison, the typical first loan on the purchase of a house represents 80-95% of the purchase price. On the other hand, with the deed restriction, the sale prices of the homes are controlled by the deed restrictions. If that controlled sale price is lower than fair market value, the resale price would be lower than the price without deed restrictions. The deed restriction may also limit the available lenders and could affect the terms of a loan on a refinance or new purchase.

• Does the North County Land Use Plan (LUP) policy related to Low and Moderate Income Housing apply to CHISPA’s request? According to RMA-Planning, the North County Land Use Plan Policy, “Low and Moderate Income Housing,” section 4.3.6.D 1 (a) does apply. The policy states:

“1. The County shall protect existing affordable housing opportunities in the North County coastal area from loss due to deterioration, conversion, or any other reason. The County will:
   a) Discourage demolition, but require replacement on a one by one basis of all demolished or converted units which were affordable to or occupied by low and moderate income persons….
   d) Replacement affordable housing units shall be retained as low and moderate income units through deed restrictions or other enforceable mechanisms.”

Alternatives:
At the April 8, 2015 meeting, the HAC directed staff to provide alternatives to either approving or denying the request for a reduction in the term of affordability. Since the HAC meeting, Planning and Housing staff met with CHISPA and CCA to discuss complying with the “one by one” replacement requirement specified in the North County LUP. Issues such as where the replacement housing would need to be located, the type of housing proposed as replacement units (rental or owner-occupied; multi-family or single-family), and the timing of providing the replacement units were all discussed. CHISPA discussed potential projects that could produce replacement units, such as the 116 multi-family rental units they have recently proposed as part of a potential project, the Castroville Oaks, located at Hwy 156 and Castroville Boulevard. Potential additional sites and projects that could provide replacement units were also discussed, and CHISPA suggested that providing replacement units could be achievable given their Board’s goal of developing 500 affordable units in the next five years. If replacements were identified, it was discussed that any change in the affordability for the Moro Cojo houses could be tied to the certificates of occupancy for replacement units. CHISPA
informed staff that a meeting of the Moro Cojo committee would be convened. Subsequently, CHISPA sent an email to staff which stated that they had met with the homeowners on May 11, 2015 and that CHISPA was willing to commit to a 55 year term of affordability on the 116 unit portion of the project aforementioned that was recently submitted to the County for review.

Variables in Regard to Replacement Housing
There are a number of variables in regard to replacement housing. All assume the one-to-one replacement requirement. Variables include: the type of units proposed; the degree of affordability of the units and the duration of their affordability; the term (years) to comply with conditions; the location of the replacement housing, and the number of new units that qualify as replacement units. The North County LUP does not provide guidance on these issues and to date the County has not had to consider the issue of affordable replacement units.

1. The type of housing could be single family housing or rental housing. While County staff does not have a preference, CHISPA has indicated that they would prefer to meet the replacement requirement with multi-family units.
2. The affordability of the units would not be greater than 120% of the Area Median Income but could be less than that.
3. The term to comply with the provision of the one-to-one replacement units could be five to ten years. It could also be the lesser of a certain number of years or the date at which replacement housing is met.
4. The location of the housing could be restricted to unincorporated areas of the County or within any part of the County.
5. The number of units that qualify would vary. If the units were located in other jurisdictions (cities), 100% of the units could be applied to the requirement for replacement if there was no jurisdictional inclusionary requirement. Otherwise, only the units not required by another jurisdiction would qualify.
6. If the units were located in the unincorporated areas of the county, 80% of the units (the balance left after accounting for the 20% inclusionary housing requirement) would apply toward the requirement for replacement. If the County funded any portion of the project, only 49% of the units could count as replacement housing due to lack of Article 34 authority per the California Constitution.

STAFF RECOMMENDATIONS OF ALTERNATIVES:

Options
Other than supporting or not supporting the current application as submitted, there are a number of options that could be considered.

1. Affordability restrictions are removed at the end of five years if the one-to-one replacement requirement has been met through entitlement and certificates of occupancy of the units with qualifying units located only in the unincorporated area of the county (assuming the unit count has been configured according to variables # 5 and 6 above), with replacement deed restricted for a minimum of 45 years for single family housing and 55 years for multifamily housing.
2. Affordability restrictions are removed at the end of ten years if the one-to-one replacement requirement has been met through entitlement and certificates of occupancy of the units with qualifying units located only in the unincorporated area of the county (assuming the unit count
has been configured according to variables # 5 and 6 above), with replacement deed restricted for a minimum of 45 years for single family housing and 55 years for multifamily housing.

3. Affordability restrictions are removed at the earlier of the end of ten years or when the one-to-one replacement requirement has been met through entitlement and certificates of occupancy of the units with qualifying units located only in the unincorporated area of the county (assuming the unit count has been configured according to variables # 5 and 6 above), with replacement deed restricted for a minimum of 45 years for single family housing and 55 years for multifamily housing.

4. The same as #1 above except that replacement units may also be located in cities in the County.

5. The same as #2 above except that replacement units may also be located in cities in the County.

6. The same as #3 above except that replacement units may also be located in cities in the County.

Credit for home improvements was mentioned as a possible option by a HAC member but it is deemed too hard to determine and administer and thus is not considered by staff to be a viable option. Equity sharing was also recommended by a HAC member as a possible alternative. It is not deemed feasible as there would be no retention of the unit if sold at market and the County may not be able to buy units with the equity share. The County would then have to provide subsidies to purchase homes and there are not enough resources to build replacement units.

Staff Recommendations
Staff recommends either denying the request or, in the alternative, recommending the following modification:

The deed restriction be modified from “permanent” to twenty five (25) years on condition that CHISPA obtain entitlement and receive certificates of occupancy of at least 161 qualified replacement housing units within the unincorporated County or cities located in the County within ten years from the date of approval of the modification.

It is recommended that the HAC: review and discuss the request, options, and recommendations; formulate a recommendation to the Board of Supervisors, and direct staff to report the recommendation to the Planning Commission and Board of Supervisors.

Prepared by:

Jane Royer Burr
Housing Program Manager

Attachments: CHISPA proposal
Correspondence
Jane,

I wanted to get back to you regarding the Housing Advisory Committee (HAC) meeting scheduled on May 27, 2015. CHISPA and CCA requests that the Moro Cojo item be considered at the May 27 HAC meeting. In other words, we do not want this item to be continued to a later date. CCA has scheduled a meeting with the Moro Cojo homeowners on Monday, May 11. CCA plans to update the homeowners on the issues that we discussed during our meeting this week with you, Luis Osorio and Luke Connolly.

Also, during our meeting this week, you asked if CHISPA was willing to deed restrict the rental units we propose to build at the intersection of Castroville Blvd. and Highway-156. After further thought, we are willing to commit to deed restrict these units to 55-years, which is consistent with TCAC requirements. We are concerned that tax credit investors and lenders may have an issue if we restrict these units to a term of perpetuity. Plus, we believe that 55-years is a significant period of time that the units will be affordable. We also want to make sure that we can properly maintain these units in the long-term and, if necessary, that we can secure financing in the future for any necessary major rehab.

Please let me know if you have any questions.

Regards,

Alfred Diaz-Infante, Pres./CEO
CHISPA
295 Main Street, Suite 100
Salinas, CA 93906
Cell Ph. (831) 682-8010
Ofc. Ph. (831) 757-6251, ext. 130
www.chispahousing.org
Correspondence

1. North Monterey County LULAC – April 23, 2014
3. PRAR Response to Jane Haines – April 17, 2015
4. Jane Haines Email – April 24, 2015 – Page 16
5. PRAR Response to Jane Haines – April 27, 2015
6. Jane Haines Email – April 28, 2015
7. Jane Haines Email – April 29, 2015
8. PRAR Response to Jane Haines – April 30, 2015
11. Jane Haines Email – May 4, 2015
12. Jane Haines Email – May 11, 2015
13. PRAR Response to Jane Haines – May 14, 2015
14. Denise Visintine Email – May 16, 2015
15. Mary Tsui Email– May 17, 2015
April 23, 2014

The Honorable Louis Calcagno, Chair
Monterey County Board Of Supervisors
The Honorable Jose Mendez, Chair
Monterey County Planning Commission
168 W. Alisal Street,
Salinas, CA 93901

SUBJECT: Moro Cojo Subdivision- Deed Restrictions

Dear Supervisor Calcagno, Members of the Board of Supervisors, and Planning Commissioners:

The NMC LULAC Council strongly supports CHISPA’s application to modify Rancho Moro Cojo’s resale deed restrictions from a term of perpetuity to a term of 15 years, and that these changes apply to all the 175 single-family home owners.

In 2004, we wrote a letter urging the Board to not approve deed restriction policies that have a lifetime affect on low-income homeowners and their children, and that the County establish a policy that resale deed restriction affecting inclusionary housing units should not exceed a reasonable time period such as ten years; we continue to support these policy changes.

We believe implementing lifetime deed restrictions whereby low-income homeowners like Moro Cojo residents are permanently limited to the amount of money they can sell their property for are discriminatory in practice. The lifetime deed restrictions does not afford a low-income minority group the same economic growth privileges and opportunities associated with homeownership that their neighbors have, marginalizes forever an already economically disadvantaged community, and creates a casting system for the current homeowners and their children.

All of Moro Cojo homeowners deserve the same privileges and opportunities afforded to all of us who are home owners. This includes: refinancing to take advantage of low interest rates; helping to pay for our children’s education, assisting our children buy their own home, and gaining economic growth and power as the economy improves.

Thank you for the opportunity to express our concerns and recommendations, and for your consideration of this important public issue.

Respectfully,

Diana Jimenez
NMC LULAC President

[Stamp: Received APR 24 2014 MONTEREY COUNTY PLANNING DEPARTMENT]
Paul Cortopassi  
11503 Merritt St  
Castroville, CA 95012  
April 10, 2015

Monterey County Resource Management Agency - Planning  
168 West Alisal St, 2nd Floor  
Salinas, CA 93901

Re: Negative declaration for Moro Cojo Subdivision

Dear Monterey County Resource Management Agency - Planning:

I am in disagreement to the amendment to revise the term to 15 years. Those homes were built on sweat equity in order to provide housing for very low and low income families thru special funding.

The idea of changing the terms would be detrimental to the town of Castroville as these families now have the idea of turning a profit to sell the homes which they moved into knowing that they could not be sold. That is taking advantage of the system. My fear is that if these homes are allowed to be sold for profit then it changes the affordable housing situation in Castroville and the county would find a way to place more affordable housing in Castroville proper and in my opinion this would be detrimental to the future growth of Castroville. Castroville does not need more section 8 or affordable housing. This is not the way to make our town grow in the proper manner. Our town is already deemed to be an low-income town and until we can get rid of that stigma, Castroville’s future will be bleak.

Sincerely,

[Signature]

Paul Cortopassi
David L. Spaur, Director

April 17, 2015

Via Electronic Mail to: janhaines80@gmail.com

Jane Haines
601 Ocean View Blvd., Apt. 1
Pacific Grove, CA 93950

RE: Public Records Act Request dated April 29, 2015, relating to the April 8, 2015, Housing Advisory Committee (HAC) meeting hearing concerning Condition 99 of the Moro Cojo Combined Coastal Development Permit

Dear Ms. Haines,

This letter responds to your Public Records Act Request (PRAR) dated and received via email April 29, 2015, requesting the following public records:

Request No. 1:

All comments received by the County on or before April 8 regarding condition 99 that were provided to all Housing Advisory Committee members BEFORE I made my public comment at the 4/8/15 hearing.

Response No. 1:

The HAC received all of the letters. Please refer to the May 1, 2015, memo from Lew Bowman to the Board of Supervisors which we have provided to you previously. We have responsive records: the three letter distributed to HAC at the meeting (Haines to Planning, dated 4/1/15; Fellay to HAC, received 4/8/15; and Land Watch to Planning, dated 4/7/15). Please let us know whether you would like another copy of the three.

Request No. 2:

All comments received by the County on or before April 8 regarding condition 99 that were provided to all Housing Advisory Committee members at the 4/8/15 hearing AFTER I made my public comment at that hearing.

Response No. 2:

We have a responsive record (Coastal Commission letter, dated 4/6/15). Please let us know whether you would like another copy.
Request No. 3:

All comments received by the County on or before April 8 regarding condition 99 that had not been provided to all Housing Advisory Committee members as of yesterday (April 28).

Response No. 3:

There is one responsive record attached hereto.

Request No. 4:

Excluding comments provided in response to the above requests, all comments received by the County pertaining to the Housing Advisory Committee's review of condition 99 received as of the date of the County's response to this public records request.

Response No. 4:

There are two responsive records attached hereto.

Please be advised that every effort has been made to provide you with a status update regarding the availability of all records that might fall within the scope of your request. Please contact me if you wish to receive copies of the letters previously sent to you.

Sincerely,

Gretchen Markley
Administrative Services Assistant

/Attachments
Jane,

This confirms the message I left for you this morning. I reminded you that a response to my April 16 public records request will be due on Monday; I asked whether anyone has investigated why HAC members were not told about my April 1 letter and the Coastal Commission’s April 6 letter until after I mentioned those letters at the April 8 HAC hearing; and, I asked whether the County will meet with Moro Cojo residents to give them factually accurate information about the status of their homeownership.

I will appreciate your responses.

Sincerely,
Jane Haines
375-5913
April 27, 2015

Jane Haines
Janehaines80@gmail.com

RE: Public Records Act Request (PRAR) dated April 16, 2015, received April 17, 2015
Regarding the April 8, 2015 Housing Advisory Committee meeting hearing concerning
Condition 99 of the Moro Cojo Combined Coastal Development Permit.

Dear Ms. Haines,

This letter responds to your Public Records Act Request dated April 16, 2015, at 5:03 PM, received by
received by our office on April 17, 2015, during regular business hours. In your request, you seek the
following:

Request No. 1:

"This is a Public Records request to inspect all documents which County staff provided to Housing
Advisory Committee (HAC) members in connection with the April 8 hearing on the application to
amend condition 99 of the Combined Coastal Development Permit other than the 102-page Agenda
Packets 1 and 2, including but not limited to emails and letters."

Response to Request No. 1:
We are in the process of identifying records responsive to this request, and they will be available for
inspection and duplication on or before May 8, 2015. At that time, please contact the undersigned to
arrange to view or obtain copies of the responsive documents. We have been advised by counsel that
some records otherwise responsive to this Request may not be subject to disclosure pursuant to
Government Code Section 6254(k) [privilege], and Section 6254(a) [preliminary drafts not retained by
the public agency in the ordinary course of business]. Other records may not be subject to disclosure
pursuant to Government Code Section 6255 and relate to “deliberative process.”

This determination was made by Jane Barr, Housing Programs Manager, in consultation with County
Counsel.

Request No. 2”:

“This is also a Public Records request to inspect all documents which the applicants and/or
representatives of the applicants distributed to HAC members which the members can be heard
referencing on the recording of the meeting with comments such as “on Page 15 it says” and “equity sharing 2.1.2.” and “second page of the document, paragraph (a).”

Response to Request No. 2:
We have searched our files and determined that we do not possess documents responsive to your request.

This determination was made by Jane Barr, Housing Programs Manager, in consultation with County Counsel.

Please be advised that every effort has been made to provide all of the records which might fall within the scope of your inquiry. As such, we believe our reply is quite thorough. However, if you have knowledge of a specific document which has not been provided in response to your inquiry, please notify us and we will be happy to provide the document(s) to you unless, of course, it is exempt from disclosure pursuant to Government Code Section 6254.

If you wish to dispute any of the determinations contained in this response to your requests, please advise us of your legal argument. If you would also, please, provide us with a citation or legal authority which supports your argument, we will be willing to reconsider our opinion.

Sincerely,

Gretchen Markley
Administrative Services Assistant

/Attachments
Dear Jane,

I request a 20-minute appointment with you, hopefully today or tomorrow afternoon. I would like to discuss Gretchen Markeley’s April 27 response to my April 16 Public Records Act request, the procedures to be followed for the May 27 Housing Advisory Committee hearing, and what, if anything, the County will do to inform Moro Cojo homeowners of their rights.

Regarding Gretchen’s April 27 letter, response #1 states that you determined not to allow me to inspect documents your office provided to HAC members in connection with the April 8 hearing until May 8. I understand why privileged documents would be withheld, but why will it take until May 8 to allow me to see non-privileged documents?

Regarding Gretchen’s response #2, does it mean that the applicants did not present any documents to HAC members, or that the documents they presented are not those that HAC members commented on? If the applicants presented any documents to the HAC members, I believe those are covered by my April 16 public records request. So will you please clarify what Gretchen means and if the applicants provided any documents during the April 8 hearing, please tell Gretchen that I have a right to inspect those documents now.

Regarding the May 27 HAC hearing, I’d like to learn when the staff report will be released, if only comments received prior to the staff report release date will be provided to HAC members, whether the staff report will mention such issues as whether or not HAC members should consider whether the declarations that the applicants submitted are relevant to whether or not County housing policies would be served by amending condition 99, whether the initial study will be revised to address policies in the North County Local Coastal Plan, whether the County has communicated with Coastal Commission staff about their April 6 letter, and other issues.

Regarding informing Moro Cojo homeowners of their rights, I request to learn what, if anything, the County will do to correct the homeowners’ mistaken understandings.

I’ll be at the Rental Summit at Coral de Tierra tomorrow evening. If you attend that, we could talk then. Otherwise, I promise not to take more than 20 minutes at your office.

I will appreciate your response to this request to confer with you at your office.

Sincerely,

Jane Haines
Dear Jane,

In addition to the public records I requested on April 16 plus the explanation pertaining to Gretchen Markely’s 4/27/15 public records response which I requested yesterday, and excluding the comments on condition 99 contained in the agenda packets for the 4/8/15 hearing, I request to inspect the following public records:

1. All comments received by the County on or before April 8 regarding condition 99 that were provided to all Housing Advisory Committee members BEFORE I made my public comment at the 4/8/15 hearing.
2. All comments received by the County on or before April 8 regarding condition 99 that were provided to all Housing Advisory Committee members at the 4/8/15 hearing AFTER I made my public comment at that hearing.
3. All comments received by the County on or before April 8 regarding condition 99 that had not been provided to all Housing Advisory Committee members as of yesterday (April 28).
4. Excluding comments provided in response to the above requests, all comments received by the County pertaining to the Housing Advisory Committee’s review of condition 99 received as of the date of the County’s response to this public records request.

Sincerely,

Jane Haines
April 30, 2015

Jane Haines
Janehaines80@gmail.com

RE: Public Records Act Request (PRAR) dated April 16, 2015, received April 16, 2015
Regarding the April 8, 2015 Housing Advisory Committee meeting hearing concerning Condition 99 of the Moro Cojo Combined Coastal Development Permit.

Dear Ms. Haines,

As a follow up to our April 27, 2015 letter in response to your Public Records Act Request dated April 16, 2015, we are hereby providing further responses.

Request No. 1:

"This is a Public Records request to inspect all documents which County staff provided to Housing Advisory Committee (HAC) members in connection with the April 8 hearing on the application to amend condition 99 of the Combined Coastal Development Permit other than the 102-page Agenda Packets 1 and 2, including but not limited to emails and letters."

Response to Request No. 1:

There are records responsive to your request. Please let us know whether you want the records in electronic form (which we will provide on a CD at a cost of $5.00) or in hard copy at a cost of 12 cents per page. We have not withheld any documents from disclosure. We have redacted one email to remove information about the personal address of a HAC member with its attachment with directions to his house pursuant to Government Code Section 6254 (c) (unwarranted invasion of personal privacy).

This determination was made by Jane Barr, Housing Programs Manager, in consultation with County Counsel.

Please contact the undersigned to arrange to view or obtain copies of the responsive documents.
Request No. 2:

"This is also a Public Records request to inspect all documents which the applicants and/or representatives of the applicants distributed to HAC members which the members can be heard referencing on the recording of the meeting with comments such as "on Page 15 it says" and "equity sharing 2.1.2." and "second page of the document, paragraph (a)."

Response to Request No. 2:

As indicated in our April 27 response, we are not aware of documents responsive to your request. We are not aware of any documents distributed to the HAC members by the applicants and/or representatives of the applicants at or prior to the April 8 meeting. We note that the HAC staff report for the April 8 meeting, which you already have, contains a March 21, 2014 letter from CHISPA containing a copy of a statute with subsections (page 13 of the staff report) and General Plan Policy LU-2.12 (p. 15 of the staff report).

This determination was made by Jane Barr, Housing Programs Manager, in consultation with County Counsel.

Please be advised that every effort has been made to provide all of the records which might fall within the scope of your inquiry. As such, we believe our reply is quite thorough. However, if you have knowledge of a specific document which has not been provided in response to your inquiry, please notify us and we will be happy to provide the document(s) to you unless, of course, it is exempt from disclosure pursuant to Government Code Section 6254.

If you wish to dispute any of the determinations contained in this response to your requests, please advise us of your legal argument with a citation or legal authority which supports your argument.

Sincerely,

Gretchen Markley
Administrative Services Assistant

CC: Mr. Lew Bauman, County Administrative Officer
    Ms. Wendy Stimling, Senior Deputy County Counsel
May 2, 2015

Housing Advisory Committee
c/o Mrs. Jane Barr
Monterey County Economic Department
168 W. Alisal Street
Salinas, CA 93901

Re: May 27, 2015 hearing on application by 161 Moro Cojo homeowners to amend condition 99 of the Moro Cojo combined coastal development permit to reduce the term of affordability to 15 years

Dear Members of the Housing Advisory Committee:

Two facts alone are reason enough to deny the application by 161 Moro Cojo homeowners to amend condition 99 of the combined coastal development permit to reduce the term of affordability.

Fact #1 is that State law would require the California Coastal Commission to overturn such an amendment. Section 30614 of the California Coastal Act states:

“(a) The commission shall take appropriate steps to ensure that coastal development permit conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.” (Emphasis added.)

Fact #2 is that North Monterey County Land Use Plan Policy 4.3.D.I requires Monterey County to protect existing affordable housing opportunities in the North County coastal area from conversion, plus subdivision (a) of Policy 4.3.D.1 requires that if Monterey County allows the 161 homes to be converted to market rate, Monterey County would need to replace them on a one-by-one basis. North Monterey County Land Use Plan Policy 4.3.D.1 states:

“1. The County shall protect existing affordable housing opportunities in the North County coastal area from loss due to deterioration, conversion, or any other reason. The County will:

a) Discourage demolitions, but, require replacement on a one by one basis of all demolished or converted units which were affordable to or occupied by low and moderate income persons.” (Emphasis added.)
Attached to this letter are the referenced statute, an April 6 letter from the Coastal Commission, and North Monterey County Land Use Policy 4.3.D.1:

- Attachment #1a is California Coastal Act section 30614,
- Attachment #1b is an April 6, 2015 letter from the Coastal Commission to Monterey County, and
- Attachment #2 is North Monterey County Land Use Plan policy 4.3.D.1.

There are many additional reasons why the application should be denied, many of which are explained in the letter I submitted to County staff eight days prior to the April 8 hearing. However, that letter wasn’t included in the packet for the April 8 hearing, nor was the Coastal Commission’s April 6 letter nor other relevant letters. So I wrote a commentary about the unique “rules” the County employed for that hearing. My commentary can be read at http://www.montereybaypartisan.com/2015/04/13/jane-haines-special-rules-are-being-used-to-end-moro-cojo-affordability-status/

I’ll submit this letter today, May 2, which I hope will be enough time to get it included in the packet for the May 27 HAC hearing.

I respectfully request the HAC to recommend that the Board of Supervisors deny the application by 161 Moro Cojo homeowners to amend condition 99.

Sincerely,

Jane Haines
Section 30614

(a) The commission shall take appropriate steps to ensure that coastal development permit conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.

(b) Nothing in this section is intended to retroactively authorize the release of any housing unit for persons and families of low or moderate income from coastal development permit requirements except as provided in Section 30607.2.

(Added by Stats. 2002, Ch. 297, Sec. 1. Effective January 1, 2003.)
attachment #1b

California Coastal Commission April 6 letter to Monterey County

State of California—Monterey County

California coastal commission

received

April 6, 2015

Monterey county planning department

Lupe Ocejo
Senior Planner
Monterey County Resource Management Agency – Planning Department
168 W. Alamillo Street, 2nd Floor
Salinas, CA 93901

Subject: Negative Declaration for the Moro Cojo Subdivision Amendment (PLNU20659)

Dear Mr. Ocejo:

Thank you for sending the Negative Declaration for the Moro Cojo Subdivision Amendment (PLNU20659) for our review. The proposed amendment would change Condition No. 99 of the Combined Development Permit for the Moro Cojo Subdivision Project (SHP93001 and SH93002), approved by the County on December 20, 1994. The proposed amendment would change the affordability requirement for 161 of the 175 units from perpetuity to a limited term of 15 years from the date of first sale. The original Combined Development Permit was appealable to the Coastal Commission because the subdivision was a conditional use in the high density residential zoning district, and as such, any amendment to the permit is also appealable to the Coastal Commission. We would like to provide the following comments on the proposed change and the Negative Declaration.

The proposed change would eliminate the requirement that 161 of the 175 units be affordable in perpetuity and would term these 161 into market rate units. North County Land Use Plan (LUP) Policy 4.3.6.D.1 (for low and moderate income housing) requires the County to “protect existing affordable housing opportunities in the North County coastal area from loss due to deterioration, conversion, or any other reason.” The LUP requires replacement of affordable housing units on a one-to-one basis should existing units be eliminated (4.3.6.D.1.e). Removal of the affordability requirement for 161 existing affordable units would be inconsistent with the LCP requirement to protect such units. And to our knowledge, neither the applicant nor the County has proposed or identified any replacement affordable housing units to replace the loss of these 161 units. We also note that the Negative Declaration does not analyze the proposed change against these applicable LUP policies.

In addition to the LCP requirements, the Coastal Act requires the Commission “to ensure that coastal development permit conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.” (FRC § 30514) Commission staff believes that 161 units is a significant amount of housing for lower-income residents of North Monterey County and the loss of these units would be clearly inconsistent with the LCP and Coastal Act requirements to protect them.
Thank you for the opportunity to provide comments on this proposed change and Negative Declaration. If you have any questions or would like to discuss, please feel free to contact me at (831) 427-4863 or katie.butler@coastal.ca.gov.

Regards,

Katie Butles
Coastal Planner,
Central Coast District Office
Attachment #2

North Monterey County Land Use Plan policy 4.3.6.D.1

1. The County shall protect existing affordable housing opportunities in the North County coastal area from loss due to deterioration, conversion, or any other reason. The County will:
   a) Discourage demolitions, but, require replacement on a one by one basis of all demolished or converted units which were affordable to or occupied by low and moderate income persons.
   b) Promote housing improvement and rehabilitation programs for low and moderate income persons in both owner-occupied and renter-occupied units.
   c) Study relaxation of building code requirements and if appropriate adopt minimum building code regulations for the rehabilitation of older housing units.
   d) Replacement affordable housing units shall be retained as low and moderate income units through deed restrictions or other enforceable mechanisms.

2. The County shall encourage the expansion of housing opportunities for low and moderate income households.
   a) Re-evaluate ordinances and policies which impose constraints to low and moderate income housing opportunities.
   b) Require employee housing as a condition of all permits related to additions to existing visitor facilities or the construction of new facilities. Such housing must be provided prior to or concurrent with the proposed development, and must be permanently linked to the visitor-serving use through appropriate binding guarantees.

3. The County shall provide where feasible, affordable housing through the continuing good faith and the diligent efforts by the public sector. The County will:
   a) Establish a fund, from in-lieu fees, sales of land, and transfer payments, for direct assistance to low and moderate income proposals.
   b) Protect the rights of both tenants and landlords with regard to housing issues.
   c) Provide means to expedite projects which demonstrate innovative ways to implement housing policy.

4. Consider adopting comprehensive guidelines for farm labor housing in Monterey County including the North County coastal zone as a separate entity. This should include an analysis of existing conditions, i.e., social, economic, cumulative impacts, public health concerns, environmental impacts, etc., and programs for alleviating these problems and establishing acceptable housing. Annual inspections should be required by Health and Building Departments of all units approved, by the Planning Commission and Building Departments, as farm labor housing.

5. Development of farmworker and non-farmworker cooperatives should be encouraged at appropriate locations and at site densities designated in the plan for residential use of an area.

6. The trailer and mobile home exclusion districts in the County Zoning Ordinance should be repealed to increase affordable housing opportunities and increase access to the Coastal Area for low and moderate income families.

E. Commercial and Visitor-Serving Facilities
MEMORANDUM

DATE: May 4, 2015

TO: Board of Supervisors

FROM: Lew C. Bauman
County Administrative Officer

SUBJECT: Public Comment

This transmittal provides follow up to Ms. Jane Haines comments made at your April 14, 2015 Board of Supervisors’ meeting. At that meeting, Ms. Haines requested that the CAO conduct an investigation of the April 8, 2015 County Housing Advisory Committee’s meeting that considered the application of Moro Cojo homeowners to change affordability restrictions on their homes.

Attached is staff’s response to each of Ms. Haines’ allegations. Additionally, County Counsel has analyzed Ms. Haines’ contention that a state law would require the Coastal Commission to overturn any approval by the Board of the request to change the affordability restriction. That analysis is also attached. County Counsel’s legal opinion is that the cited state law, Public Resources Code section 30614, does not apply to the project and that statute is not a legal impediment to County action.

These findings support the conclusion that the referenced Housing Advisory Committee’s hearing on the application was legally conducted.

Attachments

cc: Jane Haines
MEMORANDUM

OFFICE OF THE COUNTY COUNSEL

COUNTY OF MONTEREY

DATE: April 29, 2015

TO: Honorable Chair and Members of the Board of Supervisors

FROM: Wendy S. Strimling, Senior Deputy County Counsel

SUBJECT: Legal Analysis of Public Resources Code section 30614 as it pertains to the application to modify the affordability restriction on homes in the Moro Cojo subdivision

INTRODUCTION

At the April 14, 2015 Board of Supervisors’ meeting, during the time for public comment on matters not on the agenda, Ms. Jane Haines called for “an investigation of County staff’s handling” of the April 8, 2015 meeting of the County’s Housing Advisory Committee. Ms. Haines’ allegations pertain to the following item on the HAC’s April 8 agenda:

“Make a recommendation to the Board of Supervisors on a request from CHISPA on behalf of 161 owners of single family homes in the Moro Cojo subdivision to reduce the duration of affordability on their homes from “permanent” to fifteen years.”

One of Ms. Haines’ principal contentions is that staff presented a “prejudicially biased presentation resulting from staff withholding relevant information from Committee members, including the fact that a State law would require the California Coastal Commission to overturn any approval of the application, and an April 6 letter from Coastal Commission staff citing that law.” (Quotation from written “transcript,” transmitted to by Ms. Haines to the CAO.) The state law to which Ms. Haines is referring is Public Resources Code section 30614.

County Counsel’s legal opinion is that Public Resources Code section 30614 is inapplicable to the CHISPA request. The Board in the exercise of its discretion may or may not approve the CHISPA request, but Public Resources Code section 30614 is not itself a constraint on the exercise of that discretion.

QUESTION PRESENTED

1. Does Public Resources Code section 30614 prohibit the County from modifying the affordability restriction on the single family homes in the Moro Cojo subdivision from “permanent” to a term of fifteen years?
ANSWER

1. Public Resources Code section 30614 is not applicable to the 161 homeowners' application to modify the term of the affordability restriction on their homes. The statute does not legally prevent the County from amending the affordability restriction on the Moro Cojo homes. The statute also would not require the Coastal Commission to overturn a decision by the Board of Supervisors to modify the restriction, if the Board were ultimately to approve the modification.

FACTUAL BACKGROUND

On December 20, 1994, the Board of Supervisors approved an application by CHISPA (Community Housing and Improvement Systems and Planning Association, Inc.) for a Combined Development Permit for the “Moro Cojo Standard Subdivision Development,” which included a Coastal Development Permit for a vesting tentative map to subdivide 125.6 acres into 177 lots and a Coastal Development Permit for two clustered developments of 90 multi-family rental units. The Board of Supervisors accepted the final map on September 30, 1997.

Condition of approval number 99 of the Combined Development permit requires “that all the units in the Moro Cojo Inclusionary Development Projects (SH 93001 and SH 93002) be affordable to very low, low and moderate income households as defined in Section 50093 of the California Health and Safety Code.” As a result of a lawsuit on the project brought by The Alliance to Enforce Mandates Governing Project Review Procedures and Water and Traffic Standards and David Green, the parties entered into a settlement agreement that interprets Condition 99 to mean that the 175 single family homes are for low income households (80% of median income) and requires that Condition 99 “shall be a permanent deed restriction” on the properties. (Settlement Agreement and Stipulation for Judgment (“Settlement Agreement”), filed November 28, 1995 in Alliance to Enforce Mandates Governing Project Review Procedures and Water and Traffic Standards, et al v. County of Monterey, et al, (Monterey Superior Court Case No. 102344).) A deed restriction which recited the condition of approval was recorded on the property. (Document 9759925, recorded October 13, 1997.)

In 2005, CHISPA obtained a court order clarifying that Condition 99 and the recorded deed restriction “allow for and permit the resale of any and all of the Project Units to persons and families of very low, low, or moderate income.” (Order After Hearing Granting Motion for Clarification of Stipulated Settlement Entered as Judgment Pursuant to CCP §664.6, filed November 4, 2005, in Alliance to Enforce Mandates v. County of Monterey, supra.) This clarification enables resale of the single family homes to moderate income households, but the court order did not alter the duration of the affordability restriction, which remains permanent.

A request to amend the Combined Development Permit is now before the County. Specifically, 161 homeowners, represented by CHISPA, have filed an application to modify the duration of the affordability restriction from “permanent” to a term of fifteen years on their homes. The Settlement Agreement does not prohibit them from making this request. The Settlement Agreement does prohibit the County from initiating any modification of any condition of approval, but allows an applicant to request a modification, provided that the applicant has “the burden of producing substantial evidence to support its request for modification” and that “any
proposed change shall receive an initial review of its environmental effects” where appropriate under CEQA.

Staff is processing the application following normal procedures. Planning staff prepared an Initial Study/Notice of Intent to Adopt a Negative Declaration (IS/ND). The public review period for the IS/ND was March 6, 2015 to April 6, 2015. Comment letters were due on April 6, 2015. The application was heard by the County’s Housing Advisory Committee on April 8, 2015 for the HAC to make a recommendation on the application. The HAC held a public hearing at which all persons wishing to testify were heard, and, after much deliberation and several tie votes, the HAC voted to continue the hearing to May 27, 2015 to enable staff to present alternatives other than either 15 years (applicants’ proposal) or permanent (existing restriction). The application will also be heard at public hearings at the Planning Commission and the Board of Supervisors, with the Board of Supervisors designated as the appropriate authority to take the final County action on the application. At the request of the HAC, the Planning Commission hearing will not be scheduled until at least sometime after the May 27, 2015 continued HAC hearing. A Board action approving the application would be appealable to the Coastal Commission.

ANALYSIS

Our legal research indicates that Public Resources Code section 30614 does not apply to the application by 161 Moro Cojo homeowners to amend the affordability restriction of the Combined Development Permit. The statute does not curtail the County’s discretion to act on the application.

Public Resources Code section 30614 provides, in its entirety:

“(a) The commission shall take appropriate steps to ensure that coastal development permit conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.

(b) Nothing in this section is intended to retroactively authorize the release of any housing unit for persons and families of low and moderate income from coastal development permit requirements except as provided in Section 30607.2."

Ms. Haines argues that subsection (a) prohibits the County from amending the term of the affordability restriction in CHISPA’s coastal development permit. She contends this section of state law is fatal to the application of the 161 homeowners. Ms. Haines also seems to imply that staff intentionally withheld this information from the HAC and from the public in the Initial Study. For example, her Monterey Bay Partisan article states, “By never mentioning the state law, county staff keeps alive the illusion that the 1994 coastal development permit condition requiring permanent affordability can be amended.” (“Special ‘rules’ are being used to end Moro Cojo’s affordability status,” by Jane Haines, Monterey Bay Partisan, April 13, 2015, and distributed to the Board of Supervisors on April 13, 2015.)

1 Section 30607.2 applies to coastal development permits issued prior to January 1, 1982 which contain conditions for families and persons of low and moderate income.
The Coastal Commission staff also quotes Public Resources Code section 30614 in its April 6, 2015 comment letter on the Initial Study/proposed Negative Declaration (IS/ND). Coastal Commission staff submitted the letter to the Planning Department on April 6, 2015, the last day of the public comment period on the IS/ND. Quoting section 30614, Coastal Commission staff states the “Coastal Act requires the Commission ‘to ensure that coastal development permit conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.’” Ms. Haines’s charge of “highly irregular proceedings” of the April 8 HAC meeting and her call for investigation appears based, in large part, on the fact that County Housing staff did not initially distribute this Coastal Commission letter to the HAC.²

Our legal research indicates that Ms. Haines’ reading of section 30614 is, simply put, wrong. To the extent that Coastal Commission staff’s letter implies that section 30614 would prohibit amendment of the affordability restriction, Coastal Commission’s staff is also wrong on the law. Public Resources Code section 30614 does not, in fact, apply to this application. The legislative history of section 30614 reveals that section 30614 applies only in Orange County.

Section 30614 was added to the Coastal Act in 2002, via Assembly Bill 2158 (Lowenthal). The bill was approved by the Governor on August 28, 2002. The Senate Floor analysis explains:

“This bill applies only in Orange County, which is the only county where the Commission had an affordable housing program.” (Senate Floor Analysis, dated June 24, 2004, emphasis added.)

The Senate Floor Analysis explains that “[t]he Coastal Act no longer authorizes the Commission to impose conditions relative to affordable housing in permits. An Orange County program continues to have unfulfilled affordable housing commitments. This bill requires the Commission to take appropriate steps to ensure that those permit conditions are implemented.” The Senate Analysis goes on to explain the particular history of the Coastal Commission’s program of affordable housing in Orange County and the concern that “through a series of misadventures,” the affordable units that were in that program were in danger of losing their resale controls. (A copy of the Senate Floor Analysis is attached to this memo).

This Senate Floor Analysis is dated June 24, 2002, when the bill’s wording was in its final form and the bill was on its way unchanged to final readings in the Senate and Assembly. We have located no published case interpreting section 30614 and no legal authority contesting the Senate Floor Analysis.

The plain language of the statute also indicates that Public Resources Code section 30614 is directed at the Coastal Commission, not Monterey County. The plain language of the statute itself directs “the commission”—meaning the Coastal Commission—to take appropriate steps. Ms. Haines argues that this language would require the California Coastal Commission to overturn any approval of the application; this assertion is both premature and incorrect.

² The letter was sent to the Planning Department. The Planning Department is the point of contact for comment letters on the IS/ND. The letter was a comment on the CEQA document and the letter arrived on the last day of the public comment period, which was two days before the HAC hearing. Housing staff did not have a copy of the letter. Ms. Haines pointed out in testimony at the HAC’s April 8 meeting that the HAC did not have that letter. The HAC then promptly recessed on the advice of staff so that staff could make copies of the letter and provide it to the HAC members. The HAC members had the letter before them before they deliberated on the 161 homeowners’ request.
First, the Coastal Commission may never hear this application. Under the County’s certified Local Coastal Program, the County is the appropriate authority to render a decision on the application. The application would come before the Coastal Commission only if the Board approves the application and only if such approval were appealed to the Coastal Commission.

Second, as discussed above, the statute applies to a unique situation that apparently arose in Orange County. It is applicable only to Coastal Commission actions in relation to a program in Orange County. It does not limit the County’s discretion or the Coastal Commission’s discretion in regard to the application of the 161 homeowners to amend their Combined Development Permit. We trust that the Coastal Commission attorneys would so advise the Coastal Commission if the application is ever before the Coastal Commission. The Coastal Commission letter was authored by staff, not its attorneys. The Coastal Commission staff’s letter also comes relatively early in the application process, before the process has had a chance to work to resolve issues. The letter was submitted at the close of the public comment period on the Initial Study/Negative Declaration, only two days before the HAC meeting and before Planning Department staff had the opportunity to review comment letters received and confer with Coastal Commission staff about its comments. The HAC meeting is an early step in the processing of the application; one of the purposes of the public process is to provide an opportunity for agencies and the public to identify issues and for staff to resolve issues raised. Planning Department staff typically provides responses to issues raised in CEQA comment letters as part of staff reports to the Planning Commission and Board of Supervisors. With the benefit of the full hearing process and opportunity for County staff to respond to the Coastal Commission’s comments, we expect Coastal Commission staff would agree with our office’s analysis that section 30614 is inapplicable.

While Public Resources Code section 30614 is not applicable to the application, the proposed amendment is subject to the County’s certified Local Coastal Program (LCP). We expect that staff will fully analyze the issues of consistency of the application with the LCP and will present that analysis to the decision-makers, and the Board of Supervisors will, as part of its decision on the application, be required to determine whether the 161 homeowners’ proposed amendment is consistent with the County’s Local Coastal Program.

WENDY S. STRIMLING
Senior Deputy County Counsel

WSS:dv

ATTACHMENT: Bill Analysis
This bill requires the California Coastal Commission to take appropriate steps to ensure that coastal development permit conditions relating to affordable housing not expire during the term of the permit. This bill requires the Commission to take appropriate steps to ensure that those permit conditions are implemented.

This bill applies only in Orange County, which is the only county where the Commission had an affordable housing program. In the late 1970's and early 1980's, nearly 1,500 affordable housing units were constructed or required to be built. The Orange County Board of Supervisors terminated the county's involvement in this program in 1984. A non-profit group stepped in to briefly administer the program, followed again by the Coastal Commission. Through a series of misadventures, the affordable housing commitment is in danger of being substantially diminished if not dealt with according to the author.

Until 1981 the Coastal Act had specific language supporting the provision of affordable housing. When repealed, the replacement section of law authorized the demolition of affordable housing units. Local governments were required to construct replacement homes within 3 miles of the coastal zone within the same city or county.

FISCAL EFFECT: Appropriation: No  Fiscal Com.: Yes Local: No

Support: (Verified 6/24/02)

California Coastal Commission (source)
California Association of Homes and Services for the Aging
California Rural Legal Assistance Foundation
Western Center on Law and Poverty
Congress of California Seniors

ARGUMENTS IN SUPPORT: The California Rural Legal Assistance Foundation and the Western Center on Law and Poverty support the bill because it ensures "that existing affordable housing provisions will be enforced in the coastal zone." It argues that the cost of constructing new units is prohibitive, and that the bill is therefore timely and vitally necessary.

The California Association of Homes and Services for the Aging states that the bill will ensure "that projects intended to provide affordable housing in coastal regions (that were) built using state subsidies adhere to restrictions already in place."

ASSEMBLY FLOOR:

NOES: Ammendes, Ashburn, Bates, Bogh, Briggs, Bell, Campbell, John Campbell, Cordeli, Cox, Dauers, Harmon, Mallingsworth, Kelly, Le Sueur, Leach, Leonard, Leslee, Madden, Maldonado, Montjoy, Robert Pauchaud, Rod Pauchaud, Pescetti, Richman, Runner, Strickland, Wyland, Wyman, Zettel

CP: JR 6/24/02 Senate Floor Analyses

SUPPORT/OPPosition: See AboVE

*** END ***
DATE:        April 29, 2015
TO:          Honorable Chair and Members of the Board of Supervisors
FROM:        Jane Royer Barr, Housing Program Manager
RE:          Response to Ms. Jane Haines’ comments in regard to the April 8, 2015 Housing Advisory Committee’s consideration of the Moro Cojo application

INTRODUCTION

At the April 14, 2015 Board of Supervisors’ meeting, Ms. Jane Haines asked that the County investigate staff’s handling of the County’s Housing Advisory Committee (HAC) meeting held on April 8, 2015. Ms. Haines contends that staff’s presentation was prejudicially biased due to staff’s withholding relevant information from HAC members.

This memo is provided in response to Ms. Haines’ allegations made at the BOS meeting on April 14, 2015 as well as in an article authored by her in the Monterey Bay Partisan blog published on April 13, 2015 (see attached article entitled “Special ‘rules’ are being used to end Moro Cojo’s affordability status”) regarding the following HAC April 8 agenda item:

“Make a recommendation to the Board of Supervisors on a request from CHISPA on behalf of 161 owners of single family homes in the Moro Cojo subdivision to reduce the duration of affordability on their homes from “permanent” to fifteen years.”

Ms. Haines made a number of allegations about the process. This memo addresses those allegations. In a subsequent memo dated April 20, 2015, Ms. Haines requested the CAO to extend his investigation and to request referral to the District Attorney. This memo also addresses those requests.
CONCLUSION

There were two procedural errors: staff did not post the HAC staff report on the website in advance of the April 8, 2015 meeting; and HAC staff did not have a copy of the Coastal Commission April 6, 2015 comment letter on the Negative Declaration and hence did not distribute it at the outset of the HAC meeting. Both are clerical errors that were not prejudicial and did not invalidate the HAC meeting. Staff emailed the staff report to Ms. Haines on April 8, 2015, an hour before the hearing as soon as staff received the request for Ms. Haines, the report was posted on the web on April 10, 2015, and the Coastal Commission letter was distributed at the HAC hearing before the HAC deliberated. The significance of the Coastal Commission letter, according to Ms. Haines, is that it indicates that Public Resources Code section 30614 prevents County from approving the application, and from this premise, Ms. Haines concludes that the failure to distribute the letter was intentional. There is no evidence to support those allegations. Staff did not intentionally withhold any correspondence or information from the HAC. County Counsel has also separately provided a legal opinion that Public Resources Code section 30614 does not apply to the application and hence is not a prohibition on County action on the application.

The hearing was conducted fairly. Notice of the hearing was provided and all persons had an opportunity to testify and be heard. The HAC deliberated openly. There will be further opportunities for public participation and deliberation on the project by the HAC at its continued hearing on May 27th and at future public hearings on the application at the Planning Commission and the Board of Supervisors.

ANALYSIS

Factual Background

On December 20, 1994, the Board of Supervisors approved an application by CHISPA (Community Housing and Improvement Systems and Planning Association, Inc.) for a Combined Development Permit for the Moro Cojo Standard Subdivision Development. The Board of Supervisors accepted the final map on September 30, 1997.

Condition 99 of the Combined Development permit requires “that all the units in the Moro Cojo Inclusionary Development Projects (SH 93001 and SH 93002) be affordable to very low, low and moderate income households as defined in Section 50093 of the California Health and Safety Code.” As a result of a lawsuit on the project, the parties entered into a settlement agreement (“Settlement Agreement”) that interpreted Condition 99 to mean that the 175 single family homes are for low income households (80% of median income) and that the deed restriction shall be permanent. A deed restriction which recited the condition of approval was recorded on the property on October 13, 1997.
In 2005, CHISPA obtained a court order clarifying that Condition 99 and the recorded deed restriction “allow for and permit the resale of any and all of the Project Units to persons and families of very low, low, or moderate income.” This clarification enables resale of the single family homes to families of moderate income. The court order did not alter the duration of the affordability restriction which remained permanent.

An application to amend the Combined Development Permit is now before the County. Specifically, 161 homeowners, represented by CHISPA, have filed an application to modify the duration of the affordability restriction from permanent to a term of fifteen years. The proposed amendment to Condition 99 would constitute an amendment to the approved subdivision and therefore certain findings would have to be made to approve the proposed amendment. The Settlement Agreement states that,

“In regard to any application or request for any modification of any condition of approval, the parties agree as follows:

A) The County shall not initiate any modification of any condition of approval;

B) Should the applicant request any modification of any condition of approval, the applicant shall have the burden of producing substantial evidence to support its request for said modification;

C) Where appropriate under the California Environmental Quality Act, any proposed change shall receive an initial review of its environmental effects.

Any decision made by the County pursuant to this Agreement shall be reviewable in the Superior Court in the manner permitted by law. The Superior Court expressly retains jurisdiction over the parties and the subject matter in order to effectuate the terms and purposes of this Settlement Agreement.”

Per the Settlement Agreement, the County requested that CHISPA provide substantial evidence to support the application. CHISPA’s submittal in response was attached to the HAC staff report.

Planning staff prepared an Initial Study/Notice of Intent to Adopt a Negative Declaration (IS/ND). The public review period for the IS/ND was from March 6, 2015 to April 6, 2015 with comment letters due on April 6, 2015. The IS/ND was also attached to the HAC staff report.

The application was heard by the County’s Housing Advisory Committee on April 8, 2015 for the HAC to make a recommendation on the application. The HAC held a public hearing at which time all persons wishing to testify were heard. After deliberating and voting on motions which received tie votes, the HAC voted to continue the hearing to May 27, 2015 to enable staff to present alternatives other than either 15 years (applicants’ proposal) or permanent (existing restriction).
The application will also be heard at public hearings at the Planning Commission and the Board of Supervisors, with the Board of Supervisors taking the final action on the application. At the request of the HAC, the Planning Commission hearing will not be scheduled until at least sometime after the May 27, 2015 continued HAC hearing.

**Moro Cojo project**

The Moro Cojo project was developed by CHISPA and includes 175 for-sale affordable single family homes and 90 multi-family housing units. The single family housing development is not governed by the County’s Inclusionary Housing ordinance; it was approved as a 100% affordable housing development. It was found consistent with the then existing County Housing Element of the Monterey County General Plan.

The single family homes were constructed by the owners under the United States Department of Agriculture (USDA) Rural Development Mutual Self-Help Program whereby families contributed to the building of their homes and earned “sweat equity.” The County funded both State HOME First Time Homebuyer and Self Help loans to 50 of the 161 applicant homeowners. The homes are currently allowed to be sold on the basis of “permanent” affordability to moderate income households who earn no more than 120% of the Area Median Income (AMI).

The basis of CHISPA’s request is that the term of affordability for Self Help Housing is 15 years under former Redevelopment law. This project is not in a Redevelopment area nor were any Redevelopment funds provided to the project, but CHISPA is making an analogy.

**HAC Meeting Process**

In regard to the HAC meeting held on April 8, 2015, 30-day notice of the meeting was given to the remaining known members of the petitioner group that had sued the County in 1995. Letters with 30-day notice of the meeting were mailed on March 4, 2015 to five individuals who may have been members of the Alliance to Enforce Mandates Governing Project Review Procedures and Water and Traffic Standards as well as to Ms. Haines, CHISPA, and Community Center for Advocacy. Ms. Haines and Michael Stamp were Petitioners’ counsel at the time of the 1995 Settlement Agreement, but neither currently represent Petitioners. As far as staff knows, petitioners no longer have counsel.

The HAC meeting agenda was posted on March 4, 2015. Staff forwarded the IS/ND to HAC members on March 11, 2015. The HAC packet was sent to HAC members via email on April 1, 2015 at 12:28 p.m. A hard copy was mailed to one member the same day and, due to the length of the packet, hard copies of the packets were hand delivered to two members on April 1 and April 3, 2015.
The HAC packet contained the following items:

1. Agenda  p. 1
2. Minutes  p. 2-5
3. Moro Cojo staff report  p. 6-8
4. Moro Cojo staff report attachments:
   a. Substantial evidence request letter and CHISPA’s response p. 9-22
   b. Correspondence Received prior to April 1, 2015  p. 23-61
      i. Tsui to Planning Dept re Negative Declaration (received March 28, 2015);
      ii. Jane Haines to Planning Dept re Negative Declaration (received March 16, 2015);
      iii. Denise Visintine to Planning Dept re Negative Declaration (received March 18, 2015);
      iv. Jane Haines article in the Monterey Bay Partisan (dated March 22, 2015);
      v. League of Women Voters to HAC re proposed amendment (received March 25, 2015);
      vi. Margaret Robbins to Planning Dept re Negative Declaration (received March 25, 2015); and
      vii. Martha Rau to HAC re proposed amendment (received March 30, 2015) and to Planning Dept re Negative Declaration (received March 26, 2015).
   c. Settlement Agreement  p. 62-68
   d. Initial Study/Negative Declaration  p. 69-99

Other letters and an email were received after the HAC packet was issued. Staff distributed these communications to each HAC member at the meeting as follows:

1. Letter from Jane Haines to Planning Dept re Negative Declaration (received April 1, 2015 at 2:31 p.m. via email);
2. Letter from Helga Fellay to HAC re proposed amendment (received April 8, 2015); and
3. Letter from LandWatch to Planning Dept re Negative Declaration (received April 7, 2015).

These letters were placed in front of each HAC member’s seat, so the HAC members had the letters upon their arrival to the meeting. An additional copy of the agenda packet and the three letters were marked as a “Desk Copy” and placed on the table near the entrance door so that they were available for public inspection.
HAC staff was unaware of a letter which was addressed to and received by the Planning Department from the California Coastal Commission, dated April 6, 2015, in regard to the Negative Declaration. When the letter was mentioned in the HAC meeting, a recess was taken to copy and distribute the letter to the HAC members so that they could read it prior to deliberations. Staff did not deliberately withhold the Coastal Commission letter.

Response to Ms. Haines’ Allegations in April 13, 2015 Monterey Bay Partisan blog article (article is attached to this memo)

Ms. Haines wrote an article that was published in the Monterey Bay Partisan blog on April 13, 2015. Staff’s response to each of the allegations is as follows:

1. Contention: “...HAC members were not informed about any comments that arrived during the eight days preceding the hearing....”

Response: Letters that were received prior to the distribution of the HAC packet were included in that packet. Staff provided copies to HAC members at the meeting of the letters and email which were received after the HAC packet was issued and of which HAC staff was aware. These were:

   a. Letter from Jane Haines to Planning Dept re Negative Declaration (received April 1, 2015 at 2:31 via email);
   b. Letter from Helga Fellay to HAC re proposed amendment (received April 8, 2015); and
   c. Letter from LandWatch to Planning Dept re Negative Declaration (received April 7, 2015).

A “Desk Copy” of the agenda packet and the above three letters was also placed on the table near the entrance door at the meeting, so that they were available for public inspection. In regard to Ms. Haines’ comments/assertions during her testimony that the HAC members had not received certain letters, HAC staff Ms. Jane Barr stated that the letters had been distributed to the HAC members and copies made available to the public. The only letter distributed after her comments was the April 6, 2015 Coastal Commission letter. This is the only correspondence that had not been distributed to the HAC members prior to the start of the meeting. The Coastal Commission letter was addressed to and received by the Planning Department as a comment on the Negative Declaration, so HAC staff did not have a copy. When Ms. Haines mentioned the letter during the HAC meeting, a recess was taken so that Planning staff could copy and distribute the letter to the HAC members. They had these communications prior to deliberations.

2. Contention: “...the environmental analysis for the application considers only the application’s consistency with policies in the Monterey general plan, which do not apply because the Moro Cojo project is in the county’s coastal zone. However, the analysis does not consider the application’s consistency with the policies in the
North County Coastal Land Use Plan, which do apply because the project is in the North County Coastal zone”.

Response: The comment period on the IS/ND just ended on April 6, 2015. RMA-Planning will consider the issues raised in all comments and respond during the course of the public hearing process. The HAC meeting is an early step in the process, the purpose of which is for staff to receive input from HAC members on the request made by CHISPA on behalf of the 161 homeowners to amend the term of affordability prior to the issue being considered by the Planning Commission and the Board of Supervisors. Consideration of and comment on the IS/ND is not a necessary part of the HAC’s review because the purpose of the HAC is to advise on the housing policy aspects of the application; this, of course, does not preclude the HAC from considering the environmental review, and a copy of the IS/ND was provided to the HAC. Public comments received on the IS/ND will appropriately be addressed during the public hearings before the Planning Commission and Board of Supervisors. Staff agrees that it is appropriate to analyze consistency of the application with the North County Coastal Land Use Plan. It is also appropriate to analyze consistency of the application with the County Housing Element, which applies to both the coastal and non-coastal zones of the County.

3. Contention: State law “requires the California Coastal Commission to ‘take appropriate steps to ensure that coastal development conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.’”

Response: County Counsel has provided a legal opinion which concludes that Public Resources Code section 30614 which concludes that section 30614 is not applicable to the application. That opinion is being provided to the Board of Supervisors under separate cover.

4. Contention: The 102 page staff report for the April 8 hearing was not posted on the HAC website until after April 8.

Response: This was an oversight of HAC staff and was not intentional. After it was pointed out to staff, it was posted on April 10, 2015. We apologize for this oversight; however, it is not grounds for invalidation of the action taken by the HAC. (Government Code section 54954.1.)

5. Contention: HAC members did not learn about Coastal Commission staff’s April 6, 2015 letter, LandWatch’s April 7 letter, or Ms. Haines April 1 letter which were only distributed “AFTER” Ms. Haines mentioned them.

Response: This assertion is factually incorrect. As stated above, three letters received after the HAC packet was issued were provided to HAC members at the April 8 meeting, prior to the commencement of the meeting. The letters which staff
distributed included the April 1 letter from Jane Haines and April 7 letter from LandWatch. The Coastal Commission letter which was received by the Planning Department on April 6 but not given to HAC staff was distributed during the meeting.

Response to Ms. Haines’ April 20, 2015 letter to Lew Bauman, Jane Barr, and Wendy Strimling: (April 20 letter is attached to this memo)

1) Contention: Since Monterey County partnered with CHISPA in providing the Moro Cojo homes, Monterey County housing and legal staff should meet with Moro Cojo residents “independent” of CHISPA and CCA for the purpose of correcting Moro Cojo residents’ pervasive misunderstandings about their Moro Cojo homeownership rights.

Response: The Moro Cojo project is not a County project. Monterey County did not “partner with CHISPA in providing the Moro Cojo homes”. The County issued the land use entitlement. The County also provided direct financial assistance to 50 of the homeowners (via loans and grants), but the County was not the applicant nor the administrator of the housing. The County’s legal authority is limited to enforcing conditions of approval and now processing the application to amend the entitlement.

2) Contention: Mr. Uranga, CCA attorney, “explained the legislative history of portions of State law without explaining that neither the Law’s Legislative history nor the law itself applies now, or ever has applied, to the Moro Cojo project.”

Response: If Ms. Haines is referring to Self Help Housing under former Redevelopment law, page one of the staff report clearly stated that “This project is not in a redevelopment area nor were any Redevelopment funds provided to the project but CHISPA is making an analogy.” During deliberations, this point was made again.

3) Contention: The District attorney should investigate the sale prices of the Moro Cojo homes.

Response: To our knowledge, the fifty homes developed by South County sold for $170,000+. The County is not aware of any house that sold for $53,000. The spreadsheet which the County Economic Development Department previously provided to Ms. Haines shows the original sale prices ranging from $170,000 to $245,000. We do not have evidence of any illegality in the setting of the sale prices and therefore decline her invitation to refer that issue to the District Attorney.

4) Contention: A speaker stated that his USDA was at 6.8% interest. County staff stated that the USDA loans are at 3%.
Response: County was not involved in the USDA loans; however, County staff is aware of at least one USDA loan to a Moro Cojo home at the interest rate of 6.875 percent. We have no reason to believe that the interest rate on the other USDA loans to other Moro Cojo homes was different, but we do not have documentation of those. The loan rate for the HOME loans issued by the County is 3 percent.

5) Contention: Various speakers had misconceptions in regard to their ownership as well as the effect of the “in perpetuity” status of their homes. Ms. Haines contends that the County is partly responsible for the Moro Cojo residents living where they do but has left it up to CHISPA to inform residents of their rights. She states that “That was a reasonable thing to do UNTIL the April 8 testimony which shows the extent of misinformation which Moro Cojo residents have concerning the deed restriction and their rights as homeowners.”

Response: Ms. Haines is incorrect in her assertion that “Monterey County is partly responsible for the Moro Cojo residents living where they do.” This assertion confuses the role of the County with the role of the applicant/developer. The County issued the land use entitlement in its role as the regulatory authority over local land use. The County was not the applicant or the developer. The obligation to inform homeowners is the owner/developer’s. Whether CHISPA has accurately represented the information to the homeowners is a matter between CHISPA and the homeowners. To the extent County has provided financial assistance, County would have fulfilled its disclosure responsibilities as to the financing at the time it awarded the assistance. That said, in the course of the public hearings on this application, staff has strived and continues to strive to provide complete and accurate information.

6) Contention: The Planning Director told Ms. Haines that a staff report would be sent to her.

Response: Ms. Haines already made this objection to the Planning Director on April 8 and already received a response from the Planning Director. He responded:

“I'm sorry for the confusion. When I said you would get staff reports, I meant for those that we prepare in Planning. I did not know that a report was being prepared for the Housing Advisory Committee and didn't think about other departments preparing reports. My apology for not thinking of that.” (April 10, 2015 email)

As explained above, HAC staff’s not sending the report to Ms. Haines was an oversight and not intentional; however, it is not grounds for invalidation of the action taken by the HAC. (Government Code section 54954.1.)
7) Contention: Ms. Haines requests County Counsel's reasoning for concluding that Public Resources Code section 30614 applies only in Ventura County.

Response: County Counsel stated that section 30614 applies only in Orange County. No mention of Ventura County was made. We will provide Ms. Haines a copy of County Counsel's legal opinion to the Board of Supervisors explaining the reasoning for the conclusion.

8) Contention: Ms. Haines asks whether she "misunderstood [County Counsel's] advice to be that only the Board of Supervisors should consider comments on the initial study."

Response: Yes, we believe Ms. Haines did misunderstand the comments of County Counsel. The purpose of the HAC is to advise on the housing policy aspects of the application and its focus is on housing policy, not environmental review. The HAC does not always have the environmental review when it considers a project. However, the fact that environmental review is not the HAC's focus does not preclude the HAC from considering the environmental review. In this case, a copy of the IS/ND was provided to the HAC and was also in the staff report. A copy of five comment letters referencing the Negative Declaration which were received prior to compilation of the staff report were included in the staff report. As explained at length above, some comment letters on the IS/ND were not included in the packet because the comment period closed on the IS/ND only two days before the HAC meeting and after the staff report had been compiled and distributed. See responses above regarding distribution of comment letters that arrived after the staff report was compiled.

9) Contention: County planning staff did not provide the April 6 Coastal Commission letter to HAC staff and that it stemmed from "your apparent position that the negative declaration is not germane to the HAC's deliberation about amending condition 99".... There is "no authority that permits relevant material from being withheld from an advisory committee because it did not arrive prior to release of the agenda packet."

Response: As stated above, HAC staff did not provide the Coastal Commission letter because it did not have a copy. The fact that it was a comment on the IS/ND is relevant only because it explains why the letter was addressed to the Planning Department (because the Planning Department is listed in the IS/ND as the contact for comments). It also explains why Economic Development Office staff did not have a copy of the letter. This omission did not stem from any perceived position as to the relevance of the IS/ND. When Ms. Haines mentioned the letter during the HAC meeting, a recess was taken to copy and distribute the letter to the HAC members. Staff did not withhold relevant information from the HAC, nor did staff withhold materials received after the staff report was released. The timing of release of the report is relevant to explain why some letters are
included within the report and some not. Letters received after the distribution of
the report were distributed at the meeting, as more fully detailed above.

10) Contention: “the Moro Cojo condition 99 deed restriction was improperly before
the HAC because Section 18.40.120 of the County Code states that the HAC was
created for the purpose of advising the Board of Supervisors and Planning
Commission on matters relating to the Housing Element of the General Plan and
the Inclusionary Housing Ordinance.”

Response: Ms. Haines paraphrase of Section 18.40.120 A is incomplete. Section
18.40.120 also includes the following language as to purpose: “and such other
matters as the Board of Supervisors and Planning Commission, or County staff
shall direct.” (see attachment) The HAC has been specifically directed to make a
recommendation on the Moro Cojo request.

11) Contention: “...it took the HAC more than two hours to realize that it lacked
sufficient information to formulate a recommendation to the Board of
Supervisors,...”

Response: There is no indication that the length of the deliberation was due to
insufficient information or any failure of process. The HAC deliberated and
voted on motions that resulted in tie votes. After careful consideration and
deliberation, a majority of the HAC voted to explore possible alternate
recommendations instead of a “yes” or “no” to the request. Therefore, the HAC
directed staff to continue the hearing to May 27 in order to explore alternatives to
the request.

Enclosures:
Ms. Haines’ April 13 article in Monterey Bay Partisan
Ms. Haines April 20, 2015 memorandum to Bauman, Barr and Strimling
Section 18.40.120 of the County Code
Down Payment Grants
Homebuyer Grants up to $30,000 Quick, easy, all buyers welcomed

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JANE HAINES: Special “rules” are being used to end Moro Cojo’s affordability status

by Jane Haines on April 13, 2015

Monterey County followed some unique rules for the April 8 hearing.

Advisory Committee (HAC) hearing to consider an application by 161 homeowners at the Moro Cojo affordable housing project to reduce the affordability restrictions on their homes from permanent to 15 years from date of purchase.

If approved, that application would result in most of the homes jumping from affordable to market rate prices during 2015. Here are the unique rules employed at that hearing:

RULE #1 was that HAC members were not informed about any comments that arrived during the eight days preceding the hearing. This was handy since it excluded an April 6 letter from Coastal Commission staff stating that “Commission staff believes that 161 units is a significant amount of housing for lower-income residents of North Monterey County and the loss of these units would be clearly inconsistent with the LCP (Local Coastal Plan) and Coastal Act requirements to protect them.”

Rule #1 also excluded my April 1 letter and LandWatch’s April 7 letter.

RULE #2 was that the environmental analysis for the application considers only the application’s consistency with policies in the Monterey County general plan, which do not apply because the Moro Cojo project is in the county’s coastal zone. However, the analysis does not consider the application’s consistency with policies in the North County Coastal Land Use Plan, which do apply because the project is in the North County Coastal zone. That was handy because it allowed the environmental analysis to avoid evaluating the environmental consequences of a North County Coastal Land Use Plan policy that requires replacement of affordable housing units on a one-to-one basis when existing affordable units are eliminated.

RULE #3 was the most handy of all. It was to never mention the state law that requires the California Coastal Commission to “take appropriate steps to ensure that coastal development conditions existing as of January 1, 2002, relating to affordable housing are enforced and do not expire during the term of the permit.” (Public Resources Code § 30614.) By never mentioning the state law, county staff keeps alive the illusion that the 1994 coastal development permit condition requiring permanent affordability can be amended.

RULE #4 was not to post the 102-page staff report for the April 8 hearing on the HAC website until AFTER April 8. That was also handy because it prevented pesky members of the public from learning beforehand what staff had (and had not) told the HAC in preparation for the April 8 hearing.
I arrived late to the standing-room-only April 8 hearing but was kindly given a seat among the 50 or so Moro Cojo residents in attendance. The residents’ testimony was along the lines that if they weren’t allowed to sell their homes at market rate, they couldn’t get home improvement loans and that would result in the currently well-kept Moro Cojo project deteriorating into a “rat’s nest.” That claim was contradicted in part by a county staff member stating that owners of affordability-restricted homes are in fact eligible for home improvement loans, so I guess the gist should be understood as meaning that if the currently price-restricted 15-year-old homes can’t be sold for market rate rather than income-restricted affordable prices, home improvement loans can’t be as large as they would be if the home’s value were based on market rates.

I was the only person to speak against the application. I explained about the letters the HAC hadn’t seen. Staff distributed copies AFTER I mentioned them. Since I don’t speak Spanish, I was dependent on the translator when I stated my advice to those listening to the Spanish translation that if eventually they’re told that their application can’t be approved because approving it would be illegal, they should ask their leaders why they were asked to show up for the April 8 hearing. I sure hope the translator translated that exactly as I spoke it.

HAC members worked with the information they’d been given and tried to fashion some compromise between permanent affordability and 15-year affordability. However, they were unable to agree on a compromise so the hearing is continued to May 27. I don’t know whether the unique rules will be followed on May 27.

Despite the April 8 unique rules that resulted in HAC members not learning about Coastal Commission staff’s April 6 letter, LandWash’s April 7 letter, or my April 1 letter, and their not being told about applicable county policies and state law or the environmental consequences resulting from the applicable North Monterey County Coastal policy requiring a one-to-one replacement for the 161 affordable homes, nonetheless there was one aspect of the hearing that I really did find refreshing and very much appreciate. And that is because the April 8 hearing was the first time in my 20-plus years of attending hearings related to the Moro Cojo project that I was not accused of being racist.

I sincerely appreciate that.

Jane Haines is a retired lawyer who has been heavily involved in issues related to affordable housing.
MEMORANDUM

DATE: April 20, 2015

TO: Lew Bauman, Jane Barr and Wendy Strimling
FROM: Jane Haines (375-5913; janhaines80@gmail.com)
SUBJECT: Recording of April 8 Housing Advisory Committee meeting

I'm writing this memo for two reasons. First, based on content in the recording of the 2+ hour April 8 hearing by the Housing Advisory Committee (HAC), I request Lew to extend his investigation of that hearing to include the below-described issues which can be heard on the recording, plus to refer a below-described matter to the District Attorney; second, to request Jane and Wendy to arrange for Monterey County housing and legal staff to meet with Moro Cojo residents independent of Community Housing Improvement Systems Improvement (CHISPA) and Center for Community Advocacy (CCA) for the purpose of correcting Moro Cojo residents’ pervasive misunderstandings about their Moro Cojo homeownership rights.

Preliminarily, I express my concern that five times during the April 8 hearing, Jane responded to HAC members’ requests for information by saying that Monterey County could not provide the information, but rather that the information would need to come from CHISPA because it is CHISPA, rather than Monterey County, which administers the Moro Cojo project. Yet, Jane had just heard Moro Cojo residents make numerous misunderstandings of fact concerning their rights as homeowners. I do not fault the residents for their misunderstandings because whomever the residents have depended on in the past for an understanding of their rights as Moro Cojo homeowners has apparently failed to adequately inform them. Since Monterey County partnered with CHISPA in providing the Moro Cojo homes, Monterey County should ensure that the residents are provided with factually-correct information. If there is information that only CHISPA or South County Housing can provide, then they should be requested to provide it in writing so that County staff can present it based on written information.

Listed below are the twelve speakers¹ in the order in which they spoke, their gender and whether they spoke in English or through a translator. The portions of their testimony that concern me appear in small caps.

Speaker #1: Juan Uranga introduced himself as the CCA attorney who is representing the applicants. He explained the legislative history of portions of State law without explaining that

¹ I omit Alfred Diaz-Infante, who spoke first, because he spoke as the project proponent at Jane’s invitation.
NEITHER THE LAW’S LEGISLATIVE HISTORY NOR THE LAW ITSELF APPLIES NOW, OR EVER HAS APPLIED, TO THE MORO COJO PROJECT. As best I can tell from the recording, Mr. Uranga was apparently referring to copies of the inapplicable law and inapplicable policies that had been distributed minutes earlier by Mr. Díaz-Infante, and which HAC members later during the evening would focus on as a basis for amending existing affordability condition 99.

Speaker #2: male, translated by interpreter. Speaker #2 speaks of his family's hard work in building their home, then states that he and his family are NOT COMPLETE OWNERS OF OUR HOME BECAUSE OF THESE RESTRICTIONS.

Speaker #3: male, spoke in English. Speaker #3 states that his family has lived in their home for 15 years but the housing is “NOT LOW-INCOME HOUSING BECAUSE WE PAID $170,000 FOR OUR HOME.” This could involve a criminal act. I thought the homes were in the $55,000 range. Although I don't know the address of this speaker's home, I found a similar discrepancy stated in an ad by Redfin Realty for the Moro Cojo home at 9441 Comunidad Way. The Redfin ad cites two public records, both dated February 24, 2000, and states that one record says the sales price for 9441 Comunidad Way was $58,000 and the other public record dated the same day states 9441 Comunidad Way was sold for $170,000. https://www.redfin.com/CA/Castroville/9441-Comunidad-Way-95012/home/14904382 I recommend that the Redfin ad and the recording of the April 8 HAC hearing and this summary of Speaker #3 testimony be turned over to the District Attorney for investigation. Perhaps there is a satisfactory explanation for why two public records dated the same day give such disparate selling prices, but Speaker #3 testimony plus the public records referenced by the Redfin ad might also be evidence of criminal activity & CHISPA or South County Housing sold a $58,000 home for $170,000. It appears from the testimony of Speaker #3, plus the Redfin 9441 Comunidad Way ad, that more than one Moro Cojo home may have been sold for $170,000.

Speaker #4: male, spoke in English. Speaker #4 states that HIS FAMILY GOT A USDA LOAN BUT IS PAYING 6.8% INTEREST. Yet Jane said that USDA loans are at 3% interest. Thus, I recommend that the County call USDA (rather than ask CHISPA) and ask why someone with a USDA loan is paying 6.8% interest. Depending on what's learned from USDA, perhaps this too should be turned over to the District Attorney.

Speaker #5: male, translated by interpreter. I have no comment on the testimony of Speaker #5.
Speaker #6: female, translated by interpreter. Speaker #6 states that when she got a divorce, the court awarded her the Moro Cojo house so the children could remain with her in the home. She states her belief that THE REASON THAT SHE CAN’T GET HER EX-HUSBAND’S NAME OFF THE TITLE IS BECAUSE OF THE “IN PERPETUITY” DEED RESTRICTION. I seriously doubt that the “in perpetuity” deed restriction has anything to do with her inability to get her husband’s name off the title. However, if CHISPA or CRA provided her that information (and of course don’t know whether or not they did), I think the County should counteract the misinformation with correct information. Monterey County is partly responsible for the Moro Cojo residents living where they do. Apparently the County has left it up to CHISPA to inform residents of their rights. That was a reasonable thing to do UNTIL the April 8 testimony which shows the extent of misinformation which Moro Cojo residents have concerning the deed restriction and their rights as homeowners.

Speaker #7: female, translated by interpreter. Speaker #7 states that her neighbor died. She says that for a year before he died, he worried that THE IN PERPETUITY DEED RESTRICTION WOULD DEPRIVE HIS HEIRS OF HIS HOME. She said she is worried about the same thing happening to her and other Moro Cojo residents.

Speaker #8: female, translated by interpreter. Speaker #8 states that her CHILDREN FEAR THAT THEY WILL TAKE AWAY OUR HOME BECAUSE WE ARE POOR. IT’S NOT FAIR BECAUSE WE’RE LOW-INCOME THAT WE HAVE TO HAVE AN ‘IN PERPETUITY’ RESTRICTION. If Speaker #8 was speaking the truth, then she and her children are unnecessarily living with fear and insecurity about the effect of an ‘in perpetuity’ restriction.

Speaker #9: male, translated by interpreter. Speaker #9 expresses satisfaction with the Moro Cojo self-help program, although he states (uncomplainingly) that EVERY FAMILY HAD A CHECKBOOK THAT CHISPA WOULD ADMINISTER. HE SAID THAT HIS DREAM OF HOME OWNERSHIP HASN’T BEEN REALIZED YET. The “checkbook that CHISPA would administer” was likely CHISPA’s creative way of getting bills paid because this speaker didn’t seem at all resentful about the checkbook issue. Nonetheless, Speaker #9 is clearly misinformed when he states that his dream of homeownership hasn’t been realized yet.

Speaker #10: male, translated by interpreter. I have no comment on the testimony of Speaker #10.
Speaker #11: I was Speaker #11. I requested a one-month continuance of the April 8 hearing because to hold it now would be unfair for two reasons: (1) I'd been told in writing by the Planning Director that a staff report would be sent me, which it wasn't, that I'd checked the HAC website multiple times but had found no staff report, and I couldn't possibly read the 102-page staff packet that I received less than an hour ago, and (2) HAC members had not been provided the Coastal Commission April 6 letter, my April 1 letter, or the LandWatch April 7 letter.

Speaker #12: male, translated by interpreter. Speaker #12 states that his NEIGHBORS ARE DEFATED BECAUSE THEY CAN'T INVEST IN THEIR HOMES SO THEIR NEIGHBORHOOD WILL TURN INTO A 'RAT'S NEST BECAUSE THEY DO NOT OWN THEIR HOMES. County staff needs to meet with Moro Cojo residents to correct their mistaken belief that they don't fully own their own homes and that they can't invest in their homes.

The recorded April 8 testimony shows that Moro Cojo residents unnecessarily live in fear and insecurity as a result of their erroneously-held beliefs about what the “in perpetuity” restriction means and what could happen to them as a result of their status as low-income Moro Cojo residents.

Wendy, I am puzzled by your statement that your office's research indicates that Public Resources Code section 30614 does not apply because it applies only to Ventura County. I'm aware of the Ventura County situation involving changes in Coastal Development permits as the permits pertained to affordable housing conditions, but I find nothing in section 30614 that limits its application to Ventura County only. I'd appreciate learning your reasoning.

I'm also puzzled by your separation of comments on the initial study from the HAC's recommendation to the Board of Supervisors. As you know, the purpose of CEQA is informed decision-making. Additionally, the settlement agreement refers to “an initial study of [the amendment’s] environmental effects.” Did I misunderstand your advice to the HAC to be that only the Board of Supervisors should consider comments on the initial study?

I was startled to learn from the recording that apparently Luis had not shown the April 6 Coastal Commission letter to Jane. Is that possible? If so, could that stem from your apparent position that the negative declaration is not germane to the HAC's deliberations about amending condition 99?
Moreover, my April 1 letter was not limited to comments on the negative declaration. It analyzed the purportedly ‘substantial’ evidence submitted by CHISPA for the need to amend condition 99. Jane stated that she received my letter on April 1 but the reason she did not provide it to the HAC is because it arrived after she released the agenda packet on April 1. I know of no authority that permits relevant material from being withheld from an advisory committee because it did not arrive prior to release of the agenda packet. I request Wendy to discuss this with Jane.

Lastly, it appears that amendment of the Moro Cojo condition 99 deed restriction was improperly before the HAC. Section 18.40.120 of the County Code states that the HAC was created for the purpose of advising the Board of Supervisors and Planning Commission on matters relating to the Housing Element of the General Plan and the Inclusionary Housing Ordinance. Condition 99 of the Moro Cojo project is a condition of a combined coastal development permit and as such, is subject to policies in the Monterey County Land Use Plan which, although it must be consistent with the General Plan Housing Element, contains applicable housing policies not contained in the General Plan Housing Element. The Inclusionary Housing Ordinance is wholly inapplicable to the Moro Cojo 100% affordable housing project. Since the policies and ordinances of the Monterey County Coastal Plan control in the matter of this application to amend Moro Cojo condition 99, and because Section 18.40.120 does not apply to project conditions of the Monterey County Coastal Land Use Plan, it appears that the HAC has no jurisdiction over the application for amendment of condition 99.

Conclusion

On April 12, I requested the Board of Supervisors to ask Lew to investigate the April 8 HAC hearing. I now request Lew to include in his investigation the above-described issues demonstrated by the April 8 recording. I hope too that Wendy and Jane will reflect that it took the HAC more than two hours to realize that it lacked sufficient information to formulate a recommendation to the Board of Supervisors, and that hopefully they will initiate changes in County practices to prevent recurrence of what is so plainly shown by the recording.
The administrative manual shall set forth marketing and selection policies and/or procedures for inclusionary units and identify County staff responsible for supervising marketing. The manual shall contain policies favoring making inclusionary units available to households with members who live or work in Monterey County or those with household members who work near the units. The Housing Authority may be designated to review the income qualifications of potential applicants. If the County maintains a list or lists of eligible households, it may require that households newly occupying affordable units shall be selected first from one or more of those lists.

H. Administrative Manual:

The Board of Supervisors shall adopt and may from time to time amend an administrative manual, approved as to form by County Counsel, to establish guidelines to interpret and implement this Chapter, including without limitation income and maximum asset guidelines for inclusionary units and units assisted by in-lieu fee proceeds. All mandatory provisions of such manual, when adopted, shall bind applicants and other private parties subject to this Chapter. Maximum permitted sales prices shall be governed by the administrative manual. The Board of Supervisors shall conduct a duly noticed public hearing prior to the adoption or any amendment of the administrative manual.

SECTION 11: Section 18.40.120 is added to the Monterey County Code as follows:

18.40.120 HOUSING ADVISORY COMMITTEE

A. Purpose, Powers, and Duties

A Housing Advisory Committee was created pursuant to Ordinance Number 3093 for the purpose of advising the Board of Supervisors and Planning Commission on matters relating to the Housing Element of the General Plan and the Inclusionary Housing Ordinance. The Housing Advisory Committee shall continue in existence, and its purpose shall continue to be to advise the Board of Supervisors and Planning Commission on matters related to the Housing Element of the General Plan, the Inclusionary Housing Ordinance, and such other matters as the Board of Supervisors, Planning Commission, or County staff shall direct. The Housing Advisory Committee shall also evaluate proposals for disbursement of in-lieu fees in accordance with the procedures set forth in this Chapter.

B. Appointment

The Housing Advisory Committee shall be appointed by the Board of Supervisors and shall consist of ten members, comprised of two members from each supervisorial district. Members shall reside or work within the supervisorial district from which they are appointed. Each member shall serve for a term of two years from the date of appointment and shall continue to serve thereafter until a successor is appointed.

C. Adoption of By-Laws

Approved 4-22-03

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C. Adoption of By-Laws

Approved 4-22-03
Dear Lew Bauman,

Thank you for having staff conduct an investigation of, and report on, the issues raised by my various communications to the County related to the proposed amendment of condition 99 of the Moro Cojo combined coastal development permit.

Jane Barr forwarded me your May 4 memorandum this morning. I have read it and have no comment at this time.

Sincerely,
Jane Haines
Dear Jane,

This is a public records request to inspect the description of the event and/or the notice of hearing which the April 23, 2014 (not 2015) letter from North Monterey County LULAC is responding to. I refer to the April 23, 2014 letter Gretchen Markley provided me in response to my April 29, 2015 public records request (copy attached for your ease of reference).

The following three items refer to what I believe are Gretchen’s simple, inconsequential errors. If you agree that the following represent only mere oversights that are of no consequence to the ongoing condition 99 issues, then an email from you stating that you agree with that characterization will suffice as a response to all three. However, if any pertain to an issue of consequence, please respond with an explanation:

1. page 2 of Gretchen Markley’s response dated April 17 (received on May 8) contains the notation “STANDARD Refinance Value Letter: has Amendment No. 1.” If this is purely a typographical error, please so inform me. However, if it is referencing a document relevant to the Moro Cojo matter, I request to inspect that document.
2. Gretchen’s response which I received on May 8 is dated April 17 and refers to my April 29 public records response. I assume the April 17 date is an error and Gretchen intended to date her response May 8.
3. Gretchen’s May 8 response to my request no. 4 for all comments received by the County pertaining to the Housing Advisory Committee’s review of condition 99 received as of the date of the County’s response to this public records request omits to mention my May 2 comments sent to you electronically and by mail. If you received them, then the omission of them from Gretchen’s response is simply a simple error. However, if you didn’t receive them, that’s serious so please let me know at once if you didn’t receive them.

Sincerely,

Jane Haines
May 14, 2015

Via Electronic Mail to: jenhaines80@gmail.com

Jane Haines
601 Ocean View Blvd., Apt. 1
Pacific Grove, CA 93950


Dear Ms. Haines,

This letter responds to your most recent Public Records Act Request (PRAR) dated May 11, 2015, and received via email May 12, 2015 requesting the following:

Request No. 1:

To inspect the description of the event and/or the notice of hearing which the April 23, 2014 (not 2015) letter from North Monterey County LULAC is responding to. I refer to the April 23, 2014 letter Gretchen Markley provided me in response to my April 29, 2015 public records request (copy attached for your ease of reference).

Response No. 1:

The April 23, 2014 letter was received by the Planning Department. According to the Planning Department, the April 23, 2014 letter is responding to the submittal of an application by CHISPA on behalf of the Moro Cojo homeowners to change the term of affordability from permanent to 15 years. The County has already mailed you a copy of that application pursuant to your Public Record Act Requests. There are no other records responsive to this request.

In response to the other questions in your May 12th email, the Public Records Act does not require explanations. However, to correct any misunderstanding, we provide the following answers to your questions:

I. page 2 of Gretchen Markley’s response dated April 17 (received on May 8) contains the notation “STANDARD Refinance Value Letter: has Amendment No. 1.” If this is purely a typographical error, please so inform me. However, if it is referencing a document relevant to the Moro Cojo matter, I request to inspect that document.
Response to question number 1:

The footer on Page 2 which read “STANDARD Refinance Value Letter: has Amendment No. 1” was purely a typographical error and should not have appeared in our response.

2. Gretchen's response which I received on May 8 is dated April 17 and refers to my April 29, public records response. I assume the April 17 date is an error and Gretchen intended to date her response May 8.

Response to question number 2:

The letter dated April 17 was incorrectly dated and should have been dated May 8, 2015.

3. Gretchen's May 8 response to my request no. 4 for all comments received by the County pertaining to the Housing Advisory Committee's review of condition 99 received as of the date of the County's response to this public records request omits to mention my May 2 comments sent to you electronically and by mail. If your received them, then the omission of them from Gretchen's response is simply a simple error. However, if you didn't receive them, that's serious so please let me know at once if you didn't receive them.

Response to question number 3:

Our office did receive your two emails sent on May 2. Your request No. 4 (from your Public Records Act request dated April 29, 2015) was as follows:

4. “Excluding comments provided in response to the above requests, all comments received by the County pertaining to the Housing Advisory Committee’s review of condition 99 received as of the date of the County’s response to this public records request.”

We understood your request not to include correspondence from you because you were the author. We are aware of the following correspondence from you relating to condition 99 received by the County since April 8 (excluding your Public Records Act Requests):

- April 8, 2015 email to Jane Royer Barr
- April 10, 2015 email to Jane Royer Barr
- April 13, 2015 email to Supervisors and Clerk of the Board
- April 15, 2015 email to Lew Bauman, and Supervisors' offices
- April 20, 2015 email to Lew Bauman, Jane Royer Barr and Wendy Strimling
- April 24, 2015, two emails to Jane Royer Barr
- April 28, 2015, five emails to Jane Royer Barr
- April 28, 2015 email to Jane Royer Barr and Lew Bauman
- April 29, 2015 email to Jane Royer Barr
- April 30, 2015 email to Gretchen Markley and Jane Royer Barr
- May 2, 2015, two emails to Jane Royer Barr (hard copy received May 4th)
May 4, 2015 email to Lew Bauman, Jane Royer Barr, Wendy Strimling and Mike Novo
May 5, 2015 email to Wendy Strimling, Charles McKee and Louise Warren

This list may not be comprehensive as you may have sent correspondence to the Planning Department or other County Departments in addition to that listed above of which we are not aware. If you are requesting the County provide you copies of your correspondence to the County between April 8 and May 8, 2015, please let me know.

Sincerely,

Gretchen Markley
Administrative Services Assistant
Denise Visintine

2240 Bay Tree Drive

Saint Peters, Missouri 63376

visintine@gmail.com (formerly at oak_hills@prodigy.net)

May 17, 2015
Housing Advisory Committee
c/o Mrs. Jane Royer Barr
barj@co.monterey.ca.us
Economic Development Department
168 West Alisal, 2nd Floor
Salinas, CA 93901

Re: May 27, 2015 Housing Advisory Hearing on Moro Cojo condition 99

Dear Housing Advisory Committee:

I received a letter from Mrs. Barr enclosing a memorandum from Mr. Lew Bauman. I guess the memorandum means that Monterey County disagrees with the May 6 Coastal Commission letter.

However, the memorandum I received says nothing about the North County Coastal Plan policy that requires one-to-one replacement of any affordable housing that is converted to market rate.

How does Monterey County intend to pay for 161 affordable houses needed to pay for the 161 affordable houses that would be converted?

I've moved to Missouri so I can't attend your May 27 hearing, but please answer that question so that I can understand how Monterey County would pay for 161 new affordable houses.

Thank you for your attention.

Sincerely,

Denise Visintine
Ms Barr – thank you for your copy of Mr. Bauman’s memorandum and the notice of meeting for the HAC. You indicated that I should use this email address if I had any questions, so I am placing a question for you and the Housing Advisory Committee members here (see below). I would appreciate your passing along my question to that group.

Members of the Housing Advisory Committee:

You have been asked to consider and make a recommendation to the Board of Supervisors concerning the duration of the affordability restriction on homes in the Moro Cojo subdivision; however, the documents submitted to you for consideration include a Negative Declaration that does not mention the housing policy contained in the North Monterey County Coastal Land Use Plan (NMCCLUP). I note with interest that Counsel (Ms Strimling), in her analysis prepared for County Administrative Officer Bauman, DOES state that the proposed amendment is subject to the NMCCLUP.

It seems to me that the Negative Declaration provided to you should be revised by staff to include this instruction prior to your consideration. Indeed, I am not certain that you have received Counsel’s analysis on this matter; if you have not, then your instructions remain silent on the requirements of the NMCCLUP. In addition, the Negative Declaration neglects to mention (as I pointed out in an earlier communication) other environmental impacts.

I ask you to recommend non-certification of the Negative Declaration to the Board of Supervisors due to its failure to mention applicable County policy and fails to identify significant environmental impacts. Thank you -

Mary Tsui