MONTEREY COUNTY
HOUSING ADVISORY COMMITTEE
AGENDA
Wednesday, April 8, 2015
Monterey County Government Center, Monterey Room, 2nd Floor
168 West Alisal Street, Salinas, CA
5:00 p.m. – 6:00 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 December 1, 2014 Meeting Minutes p. 2

4) New Business:
a. 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.

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.

c. Make a recommendation to the Director of Economic Development regarding a request from Carol Ann Aldrich to rent her inclusionary home for a period of two years.

5) Old Business:

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
• April 8, 2015: regular quarterly meeting
• May 13, 2015: Special meeting re draft Housing Element

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.
HOUSING ADVISORY COMMITTEE MINUTES

Monterey County Administration Building
Monterey Room
168 W. Alisal Street, Salinas, CA

Wednesday, January 14, 2015, 5:00 PM

Members Present: Karen Araujo, Ignacio “Mog” Cabatu, Jim Felton, Sabino Lopez, Margaret Robbins, Wayne Ross

Members Absent: None

Staff Present: Jane Barr, Emma Rodriguez, Dave Spaur

Guests Present: None

1) Call to Order:
Mr. Cabatu called the meeting to order at 5:00 p.m. and noted that a quorum was established.

Ms. Barr asked the Chair that Agenda Item 4a. - Receive a presentation on a request from CHISPA on behalf of Moro Cojo residents to reduce the duration of affordability on the single family homes from “in perpetuity” to fifteen years; and make a recommendation to the Board of Supervisors regarding a change in the duration of the affordability Moro Cojo - be continued to the next meeting as requested by CHISPA.

2) Public Comment:
None

3) Approval of the December 1, 2014 Meeting Minutes:
Ms. Robbins moved to approve the December 1, 2014 minutes. Wayne Ross seconded the motion.

VOTES:
AYES: Araujo, Cabatu, Felton, Lopez, Robbins, Ross,
NAYS: None
ABSTAINED: None

4) New Business:
a. Continued

5) Old Business
a. Receive a presentation in response to correspondence received from an Inclusionary Homeowner in regard to the Inclusionary Housing Program.

Ms. Barr gave an overview of Bruce Zanetta’s public comments at the October 8, 2015 HAC meeting and his presentation at the November 19, 2014 meeting at which time it was requested that we agendize the item. Mr. Zanetta provided responses on the 9th and the 12th.
Mr. Cabatu clarified that the intent of for-sale inclusionary housing units is to live in them and the intent of rental inclusionary housing units is to rent them. He asked if we want to consider amending the method by which potential renters are screened and evaluated in the process of renting a unit.

Mr. Ross stated the inclusionary program provides a vehicle to get into affordable housing. The intent of inclusionary housing is to maintain and retain the housing stock. Mr. Zanetta owned his home for 24 years and lived in it 7 years. Mr. Zanetta entered the program very early and is not subject to the restrictions that most owners are subject to. Usually, one would need to submit a request to be allowed to rent an inclusionary house and provide proof that there is a hardship. Renting would be for a very specific period of time. Mr. Zanetta’s request is for the approval of special process changes. The county can provide Mr. Zanetta with the documents required to qualify a renter and he can find the person to rent the unit.

Ms. Robbins stated that there was no reason to approve a change for Mr. Zanetta. The committee suggested that if Mr. Zanetta does not want to live in the home, he should sell it.

Mr. Zanetta asked the HAC committee to streamline the income qualifying process. He claimed that the rules and documents of the inclusionary housing program seem to change from time to time and cause renters to move out. He cited that he had listed his home on Craigslist as a rental and got 1,000 applicants yet, due to the affordability requirements, the middle income group do not qualify. He also questioned why a renter needs to move out due to a change in income when an owner does not. He stated he has a legal right to rent.

Mr. Spaur stated he does not have a legal right to rent. He is allowed to rent as an exception when there is a hardship.

Ms. Barr stated Mr. Zanetta signed agreements to purchase a home for the inclusionary housing program. In the past, a planning official had allowed him to rent the house. She stated that he is the only inclusionary housing owner that is allowed to rent. She also stated that the inclusionary purchase program is for homeownership and, just because renters are not mentioned, it does not mean you are allowed to rent.

Mr. Spaur stated we want owner occupants only. Mr. Zanetta created a unique situation. Mr. Spaur stated that he is reviewing the inclusionary housing policy and will suggest changes to the policy. He will interview the each committee member to determine what they believe the changes in policy should be. Then a formal process will be followed to see if everyone is willing to change the process. If he is successful, renters will not be allowed and Mr. Zanetta
Housing Advisory Committee Minutes

Monterey County Administration Building
Monterey Room
168 W. Alisal Street, Salinas, CA

Wednesday, January 14, 2015, 5:00 PM

will need to sell his property. He agreed that more rentals are needed including market rate
very low, low, and moderate income separate from the Inclusionary program.

Mr. Zanetta stated he got sidetracked. He stated he wants to rent to those who meet the
median income guidelines.

Mr. Cabatu restated single family homes purchased under the inclusionary housing program
were never intended to be rentals.

Ms. Araujo stated a lot of through information had been given and that staff is proceeding
properly. She stated that the committee had heard what was brought before the committee
but was not in agreement with what Mr. Zanetta requested and not due to lack of
understanding.

Mr. Zanetta shared he didn’t want what was recommended to work against him in the future.

Mr. Lopez was sympathetic to Mr. Zanetta. He would like to see if there is a way to review
to make it easier to work re the bureaucracy. He said he did not want to change the system
but did want to look at changing the process.

The committee closed discussion without action.

6) Updates:
Ms. Barr commented that applications for Urban County HUD funds were due on January
23, 2015. While HUD funding could be subject to a small decrease, we are assuming we will
receive the same funding.

7) Committee Members Reports:
There were none

8) Additions to Future Agendas:
Ms. Araujo reminded the committee that at the previous HAC meeting she had recommended
agendizing the historical use of in-lieu fees for the next meeting after January as well as
suggested changes to the Ordinance in regard to the fees and their use. She noted that the fee
is about half of the cost to build a unit. Ms. Araujo wanted to know why and what the history
was of it. Ms. Barr stated she could provide a short report in regard to the sources and uses
of funding and the number of inclusionary units built but that we don’t have the staff capacity
to start looking at the overall housing program and changes to it. However, Mr. Spaur agreed
that it would be worth a conversation. Mr. Cabatu said that the issue was brought up due to
Ferrini Ranch paying an in-lieu fee of $161,000, about half of the cost to build an affordable
rental unit. If we allow people to pay the inclusionary fee to actually get out of building the units, shouldn’t the fee be at least equal to the minimum cost to build a unit? Otherwise, you are creating a point of letting someone pay fees in-lieu of building the property.

Ms. Barr and Mr. Spaur suggested in-lieu fees be placed on a future agenda as start. Ms. Araujo suggested the discussion be focused on providing clarity about in-lieu fees.

Mr. Spaur commented Supervisors Parker and Salinas asked to start a regional housing committee and that there are not a lot of sites available which makes it difficult to meet our mandate for affordable housing.

8) **Schedule of Upcoming Meetings**
   - February 2015 – Date TBD
   - April 8, 2015: Regular Quarterly Meeting
   - May 13, 2015: Special Meeting re Draft Housing Element

9) **Adjournment:**
   Mr. Ross moved to adjourn the meeting and the motion was seconded by Ms. Robbins. The motion was approved unanimously and the meeting was adjourned at 6:27 p.m.
MONTEREY COUNTY HOUSING ADVISORY COMMITTEE

MEETING: 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.

DISCUSSION:
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). (See page 2 of the Initial Study /Proposed Negative Declaration [page 76 of the packet] for further background).

On behalf of 161 residents, CHISPA has submitted a request to amend Condition No. 99 of the original approval 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. 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. 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. 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 is attached.

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 outstanding. Of the 42 households participating in the CHISPA request, the County currently holds 42 Self Help loans and 34 FTHB loans. The outstanding loans balance estimated as of December 31, 2015 will be $1,130,000 for the Self Help loans and $445,000 for the FTHB loans for a total of $1,575,000. Any funds received by the County would be restricted by the State HOME program and would have to be used to benefit low income (80% of AMI) households. As it is doubtful that all of the owners will sell their houses by the end of this year, a more realistic expected repayment of both loans would range from $660,000 to $860,000 in the next two to 16 years.

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. CHISPA estimates their loan balances, as of December 31, 2015, will be approximately $1,926,000. As it is doubtful that all of the owners will sell their houses this year, the repayment amount diminishes with time. A more realistic expected repayment of the loans would range from $385,000 to $765,000 in the next seven years. While there are no restrictions on the use of these funds, CHISPA passed a resolution on April 22, 2010, and memorialized it through a second resolution on January 26, 2015, which directs “that after repaying the Corporation its legal fees incurred defending the Moro Cojo lawsuit, the balance of the fund can be used as acquisition and pre-development capital for Board approved single or multi-family projects.”
The implications of changing the restrictions from “permanent” to fifteen years are delineated below:

**PROS**
- Homeowners can sell their houses at market rates and thus realize more equity.
- There is more incentive for homeowners to invest in their houses.
- If homeowners sell in the next four to six years and the County receives repayment of loans, the County could reinvest the HOME loan money into the creation of additional affordable housing. If homeowners sell and CHISPA receives repayment of loans, CHISPA could reinvest the proceeds on the creation of additional affordable housing projects after repayment of legal fees associated with Moro Cojo.

**CONS**
- The loss of 161 moderate income single family houses now permanently affordable. If the deed restriction stands, the housing stock could benefit many other moderate income families for years to come.

**CEOA**
The County Resource Management Agency’s Planning Department has prepared a Negative Declaration. The public review period is from March 6, 2015 through April 6, 2015. It is attached for your information.

**STAFF RECOMMENDATION:**
It is recommended that the HAC review and discuss the request, formulate a recommendation to the Board of Supervisors, and direct staff to report the recommendation.

Prepared by:

[Signature]
Jane Royer-Barr
Housing Program Manager

Attachments:  Substantial Evidence letter with attachments
Correspondence
Settlement Agreement
Negative Declaration
January 10, 2014

Alfred Diaz-Infante, President/CEO
CHISPA
295 Main Street, Suite 100
Salinas, CA 93901

RE: Proposed Amendment - Moro Cojo Subdivision - Planning Department File No. PLN120650

Dear Mr. Diaz-Infante:

This is to notify you that the initial review of the subject application submitted on December 11, 2013 has been found incomplete pending submittal of the following information:

1. One copy of any funding agreements that may have been entered into with the County for development of any aspect of the subdivision. (Item No. 6 on the list of requirements provided to you dated November 26, 2013)

2. Your proposal of consistency of the amendment with the provisions of Section 66472.1 of the Government Code and Section 19.08.015.A.7 of the Subdivision Ordinance (Title 1). (Item No. 8 on the list of requirements provided to you dated November 26, 2013)

3. In order to evaluate the application per the Settlement Agreement and Stipulated Judgment, provide substantial evidence to support modification of the language of Condition No. 99 of the approval of the Subdivision. (This was included as Item No. 7 on our correspondence to you and Mr. Uranga dated February 1, 2013)

4. Clarify the date of the commencement of the 15-year affordability term; it is unclear whether the requested affordability period is to commence as of the first date of conveyance of the first lot by the developer to the original owner, and have that apply to all properties, or as of the first date of conveyance of each lot by the developer to the original owner, and have the affordability period apply individually to each owner.

This information will be evaluated once submitted in order to determine completeness of the application prior to proceeding with its processing.

Thank you,
Luis A. Osorio
Senior Planner
March 21, 2014

Mr. Luis Osorio
Monterey County Planning Department
Monterey County Government Center
168 W. Alisal St. 2nd Floor
Salinas, CA 93901

Re: Rancho Moro Cojo Subdivision Amendment (File No. PLNI20650)

Dear Mr. Osorio:

On behalf of 160 families within the Moro Cojo subdivision, CHISPA has submitted a request to amend Condition No. 99 of the original subdivision approval to expressly provide that the affordability term of the Moro Cojo lots included in the application shall be 15-years. CHISPA is the largest private, nonprofit housing developer in Monterey County, and has built and sold or rented more than 2,300 affordable single family homes and multi-family and senior apartments since its incorporation in 1980. CHISPA also was the original developer of Moro Cojo.

Unlike other residential subdivisions in Monterey County, Moro Cojo was not subject to the County’s inclusionary ordinance requirements because the project, itself, was a 100 percent affordable housing project. All of the “for sale” units in the Moro Cojo subdivision were constructed by the original owner of the unit under the USDA Rural Development mutual self-help program. Moro Cojo families worked together to build their homes and earned “sweat equity” under the supervision of experienced construction managers. These extensive labor contributions of these families mean that each family has equity in their home when it is finished, and that the new owners know how to repair their homes, know their neighbors, and have a strong sense of community. The families who participated in the mutual self-help housing program contributed approximately 65 percent of the labor in constructing each other’s home during a period of 10 – 12 months. All of the “for sale” units were affordable to very-low, low and moderate income households and have remained affordable to such households since they were first constructed in 1999 and 2000.

On January 10, 2014, you sent CHISPA a letter requesting that CHISPA clarify the commencement date of the proposed 15-year affordability term. CHISPA is requesting that the affordability term commence as of the date the developer executed the deed conveying the lot to the original owner of each lot. Accordingly, each lot could have a different commencement and ending date depending on date the developer executed the deed conveying the lot to the original owner.

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Community Housing Improvement Systems and Planning Association, Inc.
295 Main Street, Suite 100 • Salinas, CA 93901 • (831) 757-8251 • TDD: (831) 757-9451 • Fax (831) 757-7537 or (831) 757-6268
www.chispahousing.org
You also requested information on the proposal’s consistency with the provisions of Government Code 66472.1 and Section 19.08.015.A.7 of the County’s “Inland” Subdivision Ordinance and to identify the “substantial evidence” that supports CHISPA’s request. Because this property is located in the coastal zone, we believe that your reference to 19.08.015.A.7 is incorrect and that Section 20.08.015.A.7 of the “Coastal” Subdivision Ordinance applies here. We believe our request meets the requirement of that provision and is supported by “substantial evidence” for the following reasons.

I. There are Changes in Circumstances that Justify a Reduction in Affordability Term of Moro Cojo Units from “Perpetuity” to 15 Years

Due to the significant downturn in the economy, Moro Cojo homeowners have faced challenges selling their deed restricted homes. As market rate home prices have plummeted over the past 5 years due to the numerous foreclosures and short sales, the price of market rate homes currently approach or in some cases equal the price of deed restricted units. Based on CHISPA’s extensive experience managing and marketing affordable housing projects throughout the Central Coast, we have observed that buyers, who can qualify to purchase affordable housing, are generally not willing to purchase deed restricted units when they can afford similarly priced homes that are not deed restricted. Accordingly, affordable units either remain on the market for significant periods of time before they are ultimately or are taken off the market due to the lack of offers. We believe that revising the affordability term of the Moro Cojo units for a “perpetuity” term to a 15-year term will make the Moro Cojo units more attractive and competitive in the current real estate market. Moreover, CHISPA has operated its mutual self-help housing program since 1991 and none of the mutual self-help projects CHISPA has constructed require that the units remain affordable in perpetuity.

In addition, in 2010, the Board of Supervisor’s adopted an updated General Plan that included Policy LU 2.12, which eliminated any perpetuity requirement for inclusionary housing units and established that affordable housing units either conform to the affordability provisions in State Redevelopment law or be subject to new guidelines that provide for an equity share component. (Attachment A) In the case of mutual self-help projects, such as Moro Cojo, Section 33334.3 of the California Health and Safety Code sets a 15-year affordability term. (Attachment B) Therefore and while the County has not year adopted an Coastal Land Use Plan for the Moro Cojo area, the requested modification to Condition 99 to expressly establish a 15-year affordability term would be consistent with the General Plan and California Law.

We also recently contacted the California Coalition for Rural Housing (CCRH), which was established in 1976 and is one of the oldest state low-income housing coalitions in the country, about its experience with deed restrictions in perpetuity. CCRH indicated that they, too, are unaware of any other mutual self-help affordable housing development that has been subject to a deed restriction with a term of perpetuity and support CHISPA’s application. (Attachment C).
II. The Change Does Not Impose Additional Burdens on Moro Cojo Owners

The modification does not impose any additional burden on the Moro Cojo owners. On the contrary, the proposed modification, which will reduce the affordability term of the deed restrictions that have been recorded on these lots, will eliminate a burden on the Moro Cojo owners that has made it challenging for Moro Cojo owners in a depressed real estate market to sell their property.

III. The Proposed Change Does Not Alter any Right, Title or Interest in the Moro Cojo Lots

The proposed amendment does not propose any changes to the Moro Cojo final map that would impact the underlying right, title, or interest in the various lots that will be affected by the amendment. The amendment would only affect the affordability term of Deed Restrictions that have been recorded on the various lots by reducing such term from “perpetuity” to 15 years. Each Moro Cojo lot owner’s fee simple right, title and interest in their property would be unaffected by the amendment.

For the above reasons, we ask that Planning recommend approval of CHISPA’s proposed amendment to Condition No.99. Please call me if you need any additional information or clarification regarding the evidence that supports this amendment.

Sincerely,

[Signature]

Alfred Diaz-Infante, Pres./CEO

Cc: Jason Retterer, L+G, LLP
Juan Uranga, CCA

Enclosures (3)
33334.3. (a) The funds that are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.

(b) Any interest earned by the Low and Moderate Income Housing Fund and any repayments or other income to the agency for loans, advances, or grants, of any kind from the Low and Moderate Income Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing. The agency shall determine annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing.

(e) (1) Planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund are those expenses incurred by the agency which are directly related to the programs and activities authorized under subdivision (e) of Section 33334.2 and are limited to the following:
(A) Costs incurred for salaries, wages, and related costs of the agency's staff or for services provided through interagency agreements, and agreements with contractors, including usual indirect costs related thereto.
(B) Costs incurred by a nonprofit corporation which are not directly attributable to a specific project.
(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project that are authorized under subdivision (e) of Section 33334.2 and that are incurred by a nonprofit housing sponsor are not planning and administrative costs for the purposes of this section, but are instead project costs.

(f) (1) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, pursuant to an agreement approved by an agency on or after January 1, 1988. Except to the extent that a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision shall remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income and very low income and extremely low income households for the longest feasible time, but for not less than the following periods of time:
(A) Fifty-five years for rental units. However, the agency may
replace rental units with equally affordable and comparable rental units in another location within the community if (i) the replacement units are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (ii) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(B) Forty-five years for owner-occupied units. However, the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

(C) Fifteen years for mutual self-help housing units that are occupied by and affordable to very low and low-income households. However, the agency may permit sales of mutual self-help housing units prior to expiration of the 15-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that (i) protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy; and (ii) ensures through a recorded regulatory agreement, deed of trust, or similar recorded instrument that if a mutual self-help housing unit is sold at any time after expiration of the 15-year period and prior to 45 years after the date of recording of the covenants or restrictions required pursuant to paragraph (2), the agency recovers, at a minimum, its original principal from the Low and Moderate Income Housing Fund from the proceeds of the sale and deposits those funds into the Low and Moderate Income Housing Fund. The remainder of the excess proceeds of the sale not retained by the seller shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund. For the purposes of this subparagraph, "mutual self-help housing unit" means an owner-occupied housing unit for which persons and families of very low and low income contribute no fewer than 500 hours of their own labor in individual or group efforts to provide a decent, safe, and sanitary ownership housing unit for themselves, their families, and others authorized to occupy that unit. Nothing in this subparagraph precludes the agency and the developer of the mutual self-help housing units from agreeing to 45-year deed restrictions.
Plan and needed regional infrastructure as long as all project related infrastructure improvements are made concurrent with the development.

g. Within Rural Centers, affordable housing projects meeting the provisions of this policy may proceed prior to preparation of an Infrastructure and Financing Study as long as all project related infrastructure improvements are made concurrent with the development.

h. When affordable housing overlay projects are proposed in Community Areas that are also designated Redevelopment Areas, tax increment may be used from the project area to finance off-site infrastructure and level of service improvements and to subsidize the Very Low and Low income units within the Affordable Housing Overlay project.

i. The Board of Supervisors shall review the 25% exemption cap for market rate units (paragraph b.2 above) every two years to assure that this Affordable Housing Overlay policy achieves its intended goal of encouraging developers to voluntarily produce Affordable Housing Overlay projects.

LU-2.12 Monterey County shall establish a program for retaining affordable housing units. For-sale housing units with affordability restrictions developed within redevelopment project areas (Boronda, Castroville, Port Ord, and Pajaro), Community Areas and Rural Centers prior to the adoption of their Plans, as well as any project developed under the Affordable Housing Overlay Program shall be consistent with term of affordability provisions in State Redevelopment law. Rental units shall be deed restricted in perpetuity countywide. For-sale units with affordability restrictions in all other areas shall have the option of conforming to State Redevelopment law term of affordability criteria or conforming to the following guidelines:

a) Affordable housing units shall be offered to the County of Monterey who shall have a First Right of Refusal.

b) Units developed under this option shall be subject to a 30-year Program.

c) Within the first 15 years of this Program:
   1 Units must be resold to a qualified buyer at the same income level at which the unit was first sold.
   2 The 30-year restriction shall restart from the date of sale if the unit is sold.

d) Between year 16 and 30 of this Program, sale of units may be sold at market value but shall be subject to an Equity Sharing Program that increases based on the length of ownership.

e) Units retained by the same owner for more than 30 years shall not be subject to this Program.

LU-2.13 The County shall assure consistent application of an Affordable Housing Ordinance that requires 25% of new housing units be affordable to very low, low, moderate, and workforce income households. The Affordable Housing Ordinance shall include the following minimum requirements:

Monterey County General Plan
October 26, 2010
March 4, 2014

Mr. Luis Osorio
Monterey County Planning Department
Monterey County Government Center
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

Re: Rancho Moro Cojo Subdivision

Dear Monterey County Planning Commission:

The California Coalition for Rural Housing (CCRH) supports CHISPA’s application to modify the existing resale deed restriction in the Rancho Moro Cojo subdivision from a term of perpetuity to a term of 15 years.

Formed in 1976, CCRH is one of the oldest state low-income housing coalitions in the country. Through advocacy, organizing, research, and technical assistance, our goal is to make the case for rural housing improvement and strengthen the capacity of the nonprofit and public sectors to provide affordable housing and related facilities. Members are primarily community-based nonprofit and public developers, as well as local government officials, and local activists concerned about rural quality of life.

CCRH currently operates many programs, including, for example:

- **Internship Program for Diversity in Nonprofit Housing:** Places and trains university students from minority and immigrant communities to groom and prepare a new generation of rural community builders and leaders.
- **Assets for Financial Independence:** Via Individual Development Accounts, helps low-income families to save methodically towards purchase of a first-time home, a college education, or business start-up.
- **National Neighbors Silver:** Provides financial literacy education to older adults living in affordable rental housing to enable them to avoid financial abuse and access conventional bank services and products.
- **Farm Worker and Tribal Housing Capacity Development:** Builds the capacity of farm worker communities and tribes to identify, plan for, and seek funding to resolve critical housing and infrastructure needs.
Our members also include the largest self-help housing producers in the United States. We are very familiar with self-help projects like Rancho Moro Cojo and the opportunities these programs provide to homeowners who could not otherwise realize the dream of homeownership. We have been directly or indirectly involved in many mutual self-help projects in California and believe that CHISPA's Rancho Moro Cojo subdivision is the only development in the state that is subject to a deed restriction in perpetuity. Several years ago when the state modified language in State Redevelopment Law to lengthen the term of affordability to 45 years, CCRH advocated for and was successful in establishing an exemption for mutual self-help housing to a term of 15 years (See Attached Health & Safety Code §33334.3 (f)(1)(C)). CHISPA's request to modify the term of affordability to 15 years is consistent with the position that CCRH took with regard to State Redevelopment Law.

Families who participate in the mutual self-help housing program contribute 1,200 – 1,400 hours of labor in the construction of each other's homes. A resale deed restriction in perpetuity significantly limits the families’ ability to access the full equity they earn from their significant labor contributions to construct their home. Furthermore, a restriction in perpetuity makes it difficult for homeowners to refinance their homes.

Finally, in a depressed real estate market like the recent collapse in the real estate market, for-sale market rate housing units are being sold for the same price as units with perpetual affordability restriction. That means that homebuyers, who might qualify for a Moro Cojo deed-restricted unit, can legitimately afford unrestricted units. Even if the market-rate home is slightly more expensive than the restricted home, homebuyers will logically purchase the unrestricted home to maximize their equity when the real estate market turns around. In such a market scenario, Moro Cojo and other self-help homeowners face significant challenges in selling their units.

For the reasons stated above, CCRH supports CHISPA's request to modify the restriction from perpetuity to a term of 15 years.

Sincerely,

Robert Wiener, Executive Director

Cc: Alfred Diaz-Infante, CHISPA
July 15, 2014

Mr. Luis Osorio  
Monterey County Planning Department  
Monterey County Government Center  
168 W. Alisal St. 2nd Floor  
Salinas, CA 93901

Re: Rancho Moro Cojo Subdivision Amendment (File No. PLNI20650)

Dear Mr. Osorio:

We received your letter, dated April 18, 2014, notifying CHISPA that the above referenced application is incomplete pending submittal of “substantial evidence” to support modification of the language of Condition No. 99 of the Moro Cojo subdivision. In our letter to you dated, March 21, 2014, we provided the following “substantial evidence” to support the application and the findings needed to approve the application:

1. My professional opinion is based on decades of experience in developing and managing “for sale” affordable housing, including specifically the Moro Cojo subdivision. Affordable units with long restrictions either remain on the market for significant periods of time before they are ultimately sold or are taken off the market due to the lack of offers. Revising the affordability term of the Moro Cojo units from a “perpetuity” term to a 15-year term will make the Moro Cojo units more attractive and competitive in the current real estate market. I explained that CHISPA has operated its mutual self-help housing program since 1991 and, except for the Moro Cojo project, none of the mutual self-help projects CHISPA has constructed require that the units remain affordable in perpetuity.

2. General Plan Update Policy LU 2.12 provides for an affordability term and equity share program. The proposed modification to Condition No. 99 is consistent with the County’s policy decision to provide for a set term of affordability on inclusionary units within the County. In fact, the County has never had a policy for a term of “perpetuity” for mutual self-help projects such as Moro Cojo.

3. In the case of mutual self-help projects, such as Moro Cojo, Section 33334.3 of the California Health and Safety Code establishes a 15-year affordability term. Therefore, the proposed modification is consistent with State law affordability requirements for mutual self-help projects.

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Community Housing Improvement Systems and Planning Association, Inc.  
295 Main Street, Suite 100 • Salinas, CA 93901 • (831) 757-8251 • TDD: (831) 758-9481 • Fax (831) 757-7537 or (831) 757-8268  
www.chispahousing.org
4. The California Coalition for Rural Housing (CCRH), which was established in 1976 and is one of the oldest state low-income housing coalitions in the country, submitted a letter in support of CHISPA’s application confirming that mutual self-help affordable housing projects are not subject to a deed restriction with a term of perpetuity.

In addition to the above evidence, CHISPA has enclosed the following signed declarations from several original homeowners within Moro Cojo as further evidence to support CHISPA’s application:

1. J. Manuel Resendiz, who explains that he has been unable to refinance his loan to obtain more favorable financing terms due to the perpetuity restriction,
2. Yolanda Raya, who explains her unwillingness to invest in her home to enhance the value of her home due to the uncertainty of recouping her investment; and,
3. Leticia Enriquez, who explains her inability to refinance her home and to obtain a loan to consolidate debt that she incurred to repair and improve her home.

These homeowner declarations represent a small sampling of the challenges faced by Moro Cojo homeowners due to the perpetuity restriction.

It is unfair that, 14 years after constructing their homes, these families are constrained by obsolete restrictions that are not required under state law and were never required by Monterey County’s own policies.

We believe that the information that CHISPA has submitted constitutes substantial evidence to support its application and request that the County deem this application complete and proceed with completing and circulating the CEQA document. Please call me if you have any questions or require further clarification regarding any of the information that CHISPA has provided. Thank you.

Sincerely,

Alfred Diaz-Infante, Pres/CEO
Declaration of J. Manuel Resendiz

My name is J. Manuel Resendiz. I reside at 9485 Comunidad Way, in the Moro Cojo residential development, in Castroville, California. My family purchased our home under the "self-help" program administered by CHISPA and South County Housing Corporation.

Under the self-help program, our family was required to work 40 hours per week to build our house and those of our immediate neighbors. We did this for more than one year; during the week after laboring in the agricultural fields, and, on weekends, as well. We performed arduous labor, from digging dirt, to building walls to installing roofs. We did almost all the work except for the plumbing and electrical work. Our family worked more than 1,600 hours to build our homes at Moro Cojo.

I have tried to refinance my home to take advantage of lower interest rates, like many other homeowners in Monterey County. Unfortunately, finance companies refuse to refinance my home because of the perpetuity restriction that is part of my deed. This is not fair. I should be able to take advantage of lower interest rates like other homeowners. Instead, I am stuck with interest rates that existed almost 15 years ago.

In February 2013, we went to Coast Federal Credit Union to refinance our property. The bank offered us great refinance terms of 3.55% compared to the 6.8% we currently pay on our loan. This is a significant difference in our monthly payment. Unfortunately, the Credit Union withdrew its offer once it discovered that our property is subject to the perpetuity restriction that is at issue. They simply did not want to deal with that factor.

In March 2013, Chase Bank offered to refinance our property at 3.495%. Once again, the bank withdrew its offer once they discovered the perpetuity restriction.

As my declaration reveals, the perpetuity restriction is resulting in an unintended consequences that is severely prejudicing my home ownership at Moro Cojo. For that reason, I ask that you lift the restriction and replace it with a standard 15 year restriction that has been applied to other similar developments.

I declare, under penalty of perjury, that the foregoing is true and correct.

Date: 7-02-14

J. Manuel Resendiz
Declaration of Yolanda Raya

My name is Yolanda Raya. I reside at 9441 Comunidad Way, in the Moro Cojo residential development, in Castroville, California. My family purchased our home under the "self-help" program administered by CHISPA and South County Housing Corporation.

Under the self-help program, our family was required to work 40 hours per week to build our house and those of our immediate neighbors. We did this for more than one year; during the week after laboring in the agricultural fields, and, on weekends, as well. We performed arduous labor, from digging dirt, to building walls to installing roofs. We did almost all the work except for the plumbing and electrical work. Our family worked more than 1,600 hours to build our homes at Moro Cojo.

We built our home almost fifteen years ago. Like other similar homes, our home is beginning to need substantial repairs. We have to pay for those repairs, just like any other homeowner. The cost comes out of our pocket. To a regular homeowner, making repairs to a home is an investment that will enhance the value of a house. For us, however, that is not the case. The "perpetuity" limitation in our deeds makes it difficult to invest in our homes because we may not get our "investment" back.

I know many of my neighbors feel the same way. In the end, with homeowners not willing to invest to make substantial repairs, our neighborhood will become run down. This is sad but it is one of the unintended consequences of the "perpetuity" restriction.

As you can see, the perpetuity restriction is resulting in unintended consequences that are prejudicing the homeowners at Moro Cojo. For that reason, we ask that you lift the restriction and replace it with a standard 15 year restriction that has been applied to other similar developments.

I declare, under penalty of perjury, that the foregoing is true and correct.

Date: 7/3/14

Yolanda Raya
My name is Leticia Enriquez. I reside at 9835 Los Arboles Circle, in the Moro Cojo residential development, in Castroville, California. My family purchased our home under the "self-help" program administered by CHISPA and South County Housing Corporation.

Under the self-help program, our family was required to work 40 hours per week to build our house and those of our immediate neighbors. We did this for more than one year; during the week after laboring in the agricultural fields, and, on weekends, as well. We performed arduous labor, from digging dirt, to building walls to installing roofs. We did almost all the work except for the plumbing and electrical work. Our family worked more than 1,600 hours building our homes at Moro Cojo.

I have suffered two severe unintended consequences as a result of the perpetuity restriction that encumbers the title to my home. First, I have been unable to refinance my home as directed by the divorce decree issued by the Superior Court of Monterey County. The decree directed that I refinance the home in order to buy-out my former husband and place the house exclusively in my name. The Court issued these orders to protect me against unauthorized use by my ex-husband of our property. A finance company prequalified me for a refinance loan but then refused to finalize the loan because they discovered the existence of the perpetuity restriction.

Second, I later tried to consolidate significant debts that I had accumulated making repairs and upgrades to our house. Again, a finance company agreed to help me consolidate the loans but then reneged once the company discovered the perpetuity restriction on my deed. The finance company spoke to officials at the County of Monterey to try to clarify the matter but was unsuccessful. I, too, talked to county officials to try to get help but was unsuccessful.

As my declaration reveals, the perpetuity restriction is resulting in unintended consequences that are severely prejudicing my home ownership at Moro Cojo. For that reason, I ask that you lift the restriction and replace it with a standard 15 year restriction that has been applied to other similar developments.

I declare, under penalty of perjury, that the foregoing is true and correct.

Date: 7/02/14

Leticia Enriquez
<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
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<tbody>
<tr>
<td>Mary Tsui</td>
<td>March 16, 2015</td>
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<td>Jane Haines</td>
<td>March 16, 2015</td>
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<tr>
<td>Denise Visintine</td>
<td>March 17, 2015</td>
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<td>Jane Haines (article)</td>
<td>March 22, 2015</td>
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<td>League of Women Voters</td>
<td>March 23, 2015</td>
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<tr>
<td>Margaret Robbins</td>
<td>March 25, 2015</td>
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<tr>
<td>Martha Rau</td>
<td>March 26, 2015</td>
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</tbody>
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16 March 2015

Thank you for sending me a copy of the Negative Declaration addressing the proposal to remove Moro Cojo housing from the requirement to remain affordable. I was a part of the Alliance and this is the only occasion on which I have received timely notice. Having said that, however, I am very surprised that staff found that removing the affordability would result in no adverse effect on human beings and/or the environment. I must disagree and ask that you revisit the issue.

Although I moved from the area late last year, I retain an active interest in the area and in the issues impacting North County and thus feel compelled to reply and comment.

The very reason the Alliance formed was to guarantee the continued affordability of the housing built at considerable disadvantage to the environment. At the time, there was a lot of verbal discussion about the affordability of Moro Cojo housing, but next to nothing in the application itself about it. It was only through the condition arrived at through the work of the Alliance that the housing was made permanently available to low and very low income people.

The building of these homes required taking water from Oak Hills, where I then lived; since the development, new wells have been dug to make up for the loss — and as you well know, every water source in North County is in overdraft. While it may have been appropriate to take the water risk to create affordable housing, it’s clearly not appropriate to then turn this into market-rate housing. Further, substantial non-profit and public funds were used (either directly or through waivers) to build the homes. These are not available to those buying market-rate homes; turning those good deeds into meaningless acts is callous and could lead to a reduction in similar gestures in the future. It seems to indicate that the County is reversing itself on its support of affordable housing – is that the case?

The need for affordable housing remains high in Monterey County. Removing 161 homes from the ranks of the affordable will clearly have a negative impact on those with a need. Does the County have intentions to replace the homes with affordable housing?

I urge you to revise the conclusions made through this study and act to retain affordable housing at Moro Cojo. Thank you for your time and attention.

Sincerely,

Mary A. Tsui
March 16, 2015
CEQAcomments@co.monterey.ca.us
County of Monterey
Resource Management Agency — Planning
Attn: Mike Novo, Director of Planning
168 West Alisal, 2nd Floor
Salinas, CA 93901

Re: Moro Cojo Subdivision Amendment: File Number PLN120650

Dear Mr. Novo:

The following comments pertain to the 25-page Initial Study identified as PLN120650 - February 2015, the 1-page Negative Declaration filed March 4, 2015, and the 3-page Notice Of Intent to Adopt a Negative Declaration Monterey County (collectively “environmental analysis”).

Additional comments will be submitted later regarding auxiliary issues, such as whether the project constitutes a gift of public funds and the “substantial evidence” purportedly in support of the application to amend the “in perpetuity” requirement.

PROJECT DESCRIPTION

The proposed project is to amend Condition 99 of a coastal development permit. (See Attachment #1 showing that Resolution No. 94-524 approving the Moro Cojo project was the approval of a combined development permit consisting of three coastal development permits. See also Attachment #2 showing Condition 99 in Resolution No. 94-524.)

Nowhere in the environmental analysis is a “coastal development permit” mentioned.

The omission violates CEQA guideline section 15124 which requires the project description to contain a statement of the objectives sought by the proposed project and consultation requirements of state agencies. By omitting the critical fact that the proposed project is to amend a coastal development permit, the project description on page 2 is legally inadequate.

The omission appears to indicate bad faith on the part of the County because County personnel knew that amending a coastal development permit to change conditions pertaining to affordable housing violates State law. In a memorandum dated Feb. 9, 2015 and an email dated Feb. 11, I informed Jane Barr, Luis Osario and Senior Deputy County Counsel Wendy Strimling
of Public Resources Code section 30614 which prohibits an agency from changing conditions pertaining to affordable housing in coastal development permits existing as of January 1, 2002. (See 2/9/15 memorandum at attachment #3 and 2/11/15 email at attachment #4.) The fact that the subsequently-produced environmental analysis omits any mention whatsoever of the coastal development permit, and the fact that the environmental analysis repeatedly refers instead to amendment of condition 99 of the “combined development permit,” appears to be deliberate attempt to mislead the public and the Coastal Commission staff.

Public Resources Code section 30614 states that the Coastal Commission “shall” take appropriate steps to ensure that conditions of coastal development permits pertaining to affordable housing are not amended. Yet, page 4 of the environmental analysis states that “No approval by other agencies is required.” Since the Coastal Commission has a mandatory duty to ensure that conditions of coastal development permits pertaining to affordable housing are not amended, and because condition 99 is a condition of a coastal development permit, the Coastal Commission’s approval is required.

For the above reasons, the project description in the environmental analysis is legally inadequate.

7100 HOMELESS STUDENTS IN MONTEREY COUNTY

On March 12, 2015, just 4 days ago, KSBW broadcast a news report that more than 7,100 students in Monterey County schools are homeless, up from 5,800 students last year. Since the instructions for commenting on the Moro Cojo environmental analysis state that all attachments referenced in the comments should be attached, I have inserted below the below portion of transcript of the broadcast which can be seen in full at http://www.ksbw.com/news/united-way-addresses-student-homeless-problem/31772608

THE PROJECT TONIGHT LIVE FROM MONTEREY. LAUREN: DAN, YOU WILL NOT BELIEVE THE INCREDIBLE NUMBER OF KIDS WHO LEAVE SCHOOL WITH NO HOME TO GO TO. LAST YEAR MONTEREY COUNTY HAD 5800 HOMELESS STUDENTS. THIS YEAR, MORE THAN 7100. THIS IS WHAT YOU USUALLY THINK OF WHEN YOU HEAR OF HOMELESS PROBLEMS. HOMELESS PEOPLE.

It seems likely that at least one, if not more, of the currently-homeless 7100 Monterey County students will lose any opportunity s/he might otherwise have to grow up in a healthy, safe community like Moro Cojo if the selling price of the 161 homes is allowed to go to market rate, rather than to remain at an affordable rate as required by the “in perpetuity” deed restriction.
I realize that the environmental analysis pertains to changes in the physical environment, rather than to societal conditions, but there are likely to be adverse impacts to the physical environment if youngsters are deprived of safe and healthy communities because their parents cannot afford housing prices. If youngsters do not experience living in a home that engenders their sense of security through pride of ownership, it seems reasonably unlikely they will mature into adults oriented toward environmental protection. Rather, it seems reasonably likely they will mature into adults who subordinate the value of environmental protection to the value of protecting themselves against the environment. This can result in long-term future adverse environmental impacts.

In referring to the evaluation of environmental impacts, page 8 states: “All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project- level, indirect as well as direct, and construction as well as operational impacts.” Thus, the environmental impact of eliminating the possibility for a portion of the County’s population to be able to afford a home at Moro Gojo and the fact that this project makes them more likely to remain homeless, is part of the “whole action involved.”

By disguising the fact that this project involves amendment of a condition of a coastal development permit, the environmental analysis attempts to hide a critical fact that might otherwise allow the Coastal Commission to help at least one of those students have a chance at a more environmentally healthy childhood.

**MANDATORY FINDING OF SIGNIFICANCE**

Page 23 of the environmental analysis is confusing. Section VII, paragraph b), asks whether the project has impacts that are individually limited, but cumulatively considerable. It then defines “cumulative considerable” as including the effects of probable future projects. Toward the bottom of the page there’s a “Note” citing multiple references, including 13 sections of the Public Resources Code, 5 cases involving CEQA, and a Government Code section. There is no explanation for why the “Authority cited” includes the cited sources. For example, I looked up the first source, Public Resources Code section 21083; it defines the duty of the California Office of Planning and Research. I see no relevance of section 21083 to any issue discussed on page 23.

Under issue b) regarding whether the project has cumulatively considerable impacts, the Discussion/Conclusion/Mitigation on page 23 states that the “proposed project does not include any physical development that could affect.” The sentence ends after “affect.” Could affect what?

Page 23 contains no analysis of the project’s cumulative impacts. However, page 20 states:

“If approved, the change in the term of the affordability requirement would result in the removal of the subject 161 units from the affordable housing stock of the County. Conversion of the 161 residences from affordable moderate-income households to market rate housing could, over time, contribute to the need to construct replacement units in order to maintain the number of affordable units currently provided. The location and timing of any potential replacement units would be highly speculative, however, and subject to economic facts beyond the scope of this project. Therefore, the proposed modification to the affordability term of the
subject 161 units and the potential need for their replacement would not result in a potentially significant environmental impact."

Attachment #5 is a partial description of the environmental impacts that resulted from the initial construction of these 161 homes, including but not limited to the quantity of water that will be needed for the replacement units to maintain the number of affordable units currently provided.

Attachment #5 presents evidence showing that replacing these currently-affordable units may have significant effects on the environment, because environmental situations similar to those described in Attachment #5 are reasonably likely to result.

CEQA Guidelines section 15065 requires preparation of an environmental impact report when, as is the case here, “the project has possible environmental effects that are individually limited but cumulatively considerable. ‘Cumulatively considerable’ means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” Thus, section 15065 requires preparation of an environmental impact report to analyze the environmental impact from losing 161 units of the County's affordable housing stock.

CONCLUSION

Thank you for this opportunity to comment on the environmental analysis. As I stated in Attachments #3 and #4, I recommend that Monterey County consult with the California Coastal Commission as to the legality of amending a condition of a Coastal Development Permit that pertains to affordable housing.

Sincerely,

Jane Haines

Attachment #1: cover page of Resolution 94-524 showing that 3 coastal development permits are involved

Attachment #2: condition 99 of Resolution 94-524

Attachment #3: my 2/9/15 memorandum recommending consultation with Coastal Commission regarding effect of Public Resources section 30614

Attachment #4: my 2/11/15 email recommending consultation with Coastal Commission regarding effect of Public Resources section 30614

Attachment #5: (Separate attachment labelled “Pgs3-9.pdf” which is the description of environmental impacts resulting from past construction of the 161 homes, and which would be reasonably likely to occur from future construction of replacement homes.)
Resolution No. 94-524 --

Resolution by the Monterey County Board of Supervisors to:
Adopt the Findings, Evidence and Conditions for Approval of the Combined Development Permit applications consisting of:
Moro Cojo Standard Subdivision Development (SH 93001): A Combined Development Permit consisting of:
1) a Coastal Development Permit for a standard subdivision vesting tentative map to allow the division of a 125.6 acre parcel into 177 lots ranging in size from 5,000 square feet to 7.0 acres each, a request for waiver of lot width requirements;
2) a Coastal Development Permit for two clustered (rental) planned developments consisting of 90 multi-family 3 and 4 bedroom units, community buildings and recreational open space; 462,000 cubic yards (cy) of grading (251,000 cy of fill), a sedimentation and detention basin and infrastructure; 3) a Coastal Development Permit for a Community Center (approx. 4,550 sq. ft.) consisting of a daycare facility (Coastal Development Permit [Use Permit]), classroom, multi-purpose room, office, restrooms, laundry facility and storage; tot lot and open space for recreational activities: Moro Cojo Senior Housing Development (SH 93002): A Combined Development Permit Consisting of: 1) a Coastal Development Permit for a minor subdivision vesting tentative map to allow the division of a 51.7 acre parcel into 1 parcel of 7.0 acres and 3 open space parcels of 0.6 acres, 12.2 acres and 31.0 acres each, 25,500 cubic yards of grading (7,500 cy of cut/18,000 cy of fill), a sedimentation and detention basin and infrastructure; 2) a Coastal

ATTACHMENT #1 - RESOLUTION 94-524 SHOWING THE "COMBINED DEVELOPMENT PERMIT" CONSISTS OF 3 COASTAL DEVELOPMENT PERMITS
96. That prior to issuance of building or grading permits a deed restriction shall be recorded with the Monterey County Recorder which states: "That all landscaped areas, land sculpting and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition." Proof of recordation of this deed restriction shall be furnished to the Director of Planning and Building Inspection prior to issuance of grading or building permits. (Planning and Building Inspection)

97. Pursuant to the State Public Resources Code and the State Fish and Game Code, the applicant shall pay a fee to be collected by the County of Monterey for the amount of §875. This fee shall be paid prior to filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to commencement of use, or the issuance of grading and/or building permits. (Planning and Building Inspection)

98. Prior to recordation of the final/parcel maps, the developer shall record with the Monterey County Recorders Office notice that the property is within or partially within a floodplain and is subject to building and/or use restrictions and may also be subject to an indemnification agreement with the County of Monterey and a note to this affect be placed on the final/parcel maps. The form and content of said notice shall be approved by the Director of Planning and Building Inspection and the General Manager of the Water Resources Agency prior to recordation. (Planning and Building Inspection; Water Resources Agency)

99. That all the units in the Moro Cojo Inclusionary Housing Development Projects (EH 93001 and EH 93002) be affordable to very low, low and moderate income households as defined in Section 50093 of the California Health and Safety Code. (Planning and Building Inspection)

100. The applicant shall comply with all county building codes, including the Uniform Housing Code and the occupancy standards therein. (Planning and Building Inspection)

101. The applicant shall cooperate and assist the County in securing the eradication of substandard housing in the County by making a good faith effort to secure the consent of each person who purchases or occupies any premise in the project for the County to inspect the residential property occupied by such person prior to relocation to the project. (Planning and Building Inspection)

102. The property owner agrees as a condition of the approval of the Combined Development Permits (EH 93001 & EH 93002) which includes:

ATTACHMENT #2 - RESOLUTION 94-524 SHOWING CONDITION 99 OF THE COASTAL DEVELOPMENT PERMIT PERTAINS TO AFFORDABLE HOUSING
MEMORANDUM

DATE: February 8, 2015
TO: Jane Barr
FROM: Jane Haines (375-5913)
SUBJECT: Moro Cojo issues

Thank you for scheduling our 11 a.m. meeting today to discuss my January 26 questions based on the County’s January 22 response to my January 12 public records request. Subsequent to our scheduling today’s meeting, I received the County’s January 30 response to my January 20 public records request containing the Moro Cojo condition 99 deed restriction and other documents. Those public records raised additional concerns. Perhaps this morning is too soon to add those newest concerns to today’s discussion, but at least I wanted to notify you of them prior to my arrival:

1. The application for amending condition 99 must be denied under Public Resources Code section 30614. The Deed Restriction recorded in Document 9759925, sections VI and VII, states that “but for” the imposition of the affordability restriction in condition 99, “the proposed development could not be found consistent with the provisions of the California Coastal Act of 1976 and that a permit could therefore not have been granted.” Thus, since the County approved Coastal Development Permit No. SH 93001 and SH 93002 in 1994 dependent upon condition 99, Public Resources Code section 30614 disallows amendment of condition 99 because that section prohibits an agency from changing conditions pertaining to affordable housing in coastal development permits existing as of Jan. 1, 2002.1

2. The application for amending condition 99 must be denied under the express terms of the Deed Restriction recorded in Document 9759925, section VIII. Section VIII states that “it is intended that this Deed Restriction is irrevocable and shall constitute enforceable restrictions....”

3. The application for amending condition 99 is inconsistent with Finding #20 in Resolution No. 94-524 approving the Moro Cojo project. The Board found that the Moro Cojo project is consistent with the County’s Housing Element goal of “increasing” the supply of housing units to meet the needs of all current and future County residents. Allowing 161 homes to go to market rate will decrease the number of housing units ultimately affordable to lower income families. Thus, amending condition 99 to get rid of the affordability restriction conflicts with County policy for “increasing” the supply of affordable housing.

1 Public Resources Code section 30614 is at http://www.celaw.org/research/code/ca/PRC/30614/content.html#VIII-30614-1

ATTACHMENT #3: HAINES 2/9/15 MEMORANDUM TO BARR RECOMMENDING CONSULTATION WITH COASTAL COMMISSION REGARDING EFFECT OF PUBLIC RESOURCES SECTION 30614
Haines, Jane

To: Barr, Jane; Osorio, Wendy; Connolly, Luke

Moro Cojo — follow-up

Dear Jane,

I appreciate that you, Wendy, Luis, Luke and I could exchange information on Monday.

I said that I'd email you, the page from a brief in the 2005 litigation which names several members of Petitioner. It is attached; their names are Martha Rau, Denise Visintino, Gloria Sinisterra, Eleanor Gutierrez and Mary Teal. The partial page is in the form of a scanned pdf because currently my printer and computer are not communicating, so I couldn't print out the page.

To possibly save the County from further processing of CHISPA's application, I recommend that you or Wendy or Luis call Katie Butler, a Coastal Commission Planner at the Santa Cruz Coastal Commission office (651-207-4063), I called her yesterday and asked if Public Resources Code section 30614 prohibits Monterey County from amending condition 99. Katie is a planner and not an attorney so she said that she'd need to discuss that with a Coastal Commission attorney. However, I recommend that before you proceed with further work on CHISPA's application to amend condition 99, you or Wendy or Luis check with the Coastal Commission about the effect of Public Resources Code section 30614 in this matter. And if you decide to continue processing CHISPA's application, I request that you send a copy of the Initial Study to the Coastal Commission.

When I returned home after our discussion, I looked at the spreadsheet you referenced entitled "Global Budget for South County Housing's Moro Cojo Single Family For-Sale Home Project." I must have misunderstood you because I thought you'd said that it contained a list of the public funds expended on the Moro Cojo project. I'm not able to find that information on the spreadsheet.

However, yesterday I went to the Monterey County Recorder's Office and read the deed from the Resolution Trust Corporation granting the Moro Cojo real property to CHISPA (Record 2867 Page 767 recorded Nov. 3, 1992). The Resolution Trust Corporation was a U.S. government-owned asset management company charged with liquidating real estate-related assets between 1988 and 1995. My understanding is that Resolution Trust Corporation directed the Moro Cojo property to CHISPA expressly for an income-restricted home ownership developer. My understanding is correct, but the value of the Moro Cojo real estate should be included in any accounting for the value of the asset that the County would be transferring to the homeowners.

I also called the Attorney Generals office to request a 1988 AG opinion that may be relevant to the "gift of public funds" issue arising from the County altering an affordable housing project condition. The opinion hasn't arrived yet but when it does, I'll forward it to you.

Sincerely,

Jane Haines

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**ATTACHMENT #4: HAINES 2/11/15 EMAIL TO BARR, OSORIO, STRIMLING AND CONNOLLY RECOMMENDING CONSULTATION WITH COASTAL COMMISSION REGARDING EFFECT OF PUBLIC RESOURCES SECTION 30614**
ATTACHMENT #5 IS A SEPARATE ATTACHMENT LABELLED "PGS3_9.PDF" WHICH DESCRIBES THE ENVIRONMENTAL IMPACTS RESULTING FROM PAST CONSTRUCTION OF THE 161 HOMES.
ATTACHMENT #5: PAGES 3-9 OF RESOLUTION 94-524 DESCRIBING ENVIRONMENTAL IMPACTS THAT NEEDED TO BE MITIGATED FOR PAST CONSTRUCTION OF THE 161 HOMES.
reduce the impacts to a level of insignificance.

a. Geology and Soils

Implementation of Best Management Practices (BMPs) via preparation of an erosion and sedimentation control plan will reduce potential impacts of runoff caused erosion and sedimentation during and after construction of the project to a level of insignificance. The FEIR identified no potential significant effects from earthquake hazards or from soil expansion or corrosivity.

b. Groundwater

The project as proposed is consistent with Monterey County’s Water Conservation Ordinance No. 3539.

Conditions of approval require that the project proponent incorporate low flow plumbing fixtures and xeriscape landscaping principles into the proposed project.

The project will not produce significant adverse effects on regional groundwater resources and groundwater quality nor will the project increase the rate of saltwater intrusion in the Castroville area.

The annual gross water demand for the project is 131 acre-feet at full buildout. The water supply for the project will be provided by wells drawing from the Aromas Formation in the Prunedale Area Aquifer. The boundaries of the adjacent hydrogeologic units are not well defined and increased pumping of wells in the Prunedale Area could affect conditions in all of the hydrogeologic areas near the site, including the Pressure Subarea of the Salinas Valley Groundwater Basin.

The Pressure Area has been in a state of overdraft since the 1930’s. As a consequence of overdraft, saltwater has intruded the 180 and 400 foot aquifers to within 1,000 and 5,500 feet, respectively, of the project location.

Conditions of approval have been incorporated into the project to avoid effects of the project’s water demand on ground water
supplies by requiring a 100% offset of projected water use determined by the Monterey County Water Resources Agency and referenced in the FEIR.

c. Surface Water Hydrology and Water Quality

The project is required to implement three mitigation measures designed to reduce effects on surface water to a level of insignificance: 1) Implement an erosion control plan; 2) Schedule construction during the dry season; 3) implement a hazardous material management plan; and 4) Implement Best Management Practices.

The project is also required to contribute to the maintenance and improvement of existing facilities designed to accommodate runoff from development in the area.

d. Biological Resources

Conditions of approval require avoidance of delineated wetlands and the establishment of buffer areas and barriers to halt intrusion within such areas during and after completion of construction. Preparation and implementation of habitat management and monitoring program and plans following the conduct of focused surveys are required as conditions of approval.

The development project, is consistent with Monterey County General Plan, the Coastal Implementation Plan (Regulations for Development in the North County Land Use Area) and North County Land Use Plan Policies pertaining to environmentally sensitive habitat.

Specific elements of the project have been designed and conditions have been imposed to avoid wetlands and to avoid impacts and to ensure protection of environmentally sensitive species.

The project, as conditioned, is required to avoid wetlands, replace wetlands on site, implement Best Management Practices in the during and following construction, install fencing to avoid human intrusion into environmentally sensitive areas identified in the FEIR, install trails to channel access, limit domestic animal intrusion into
environmentally sensitive habitat areas, and develop and implement habitat enhancement and protection measures as referenced in the mitigation monitoring program.

The proposed project is consistent with North County Land Use Plan Policies which address environmentally sensitive habitat including Policies 2.3.2.2, 2.3.2.3, 2.3.2.5, 2.3.2.6, 2.3.2.8, 2.3.3.B(1), 2.3.3.B(5), 2.3.3.C(1) and 2.3.3.B(4). Jones and Stokes Associates, Inc. (1994), Moro Cojo Inclusionary Housing Development Project FEIR, Volumes II, Chapter 6, "Biological Resources" and Chapter 2, Table 2-1, page 2-22.

e. Visual Resources

Site grading and landscaping pursuant to approved plans have been imposed as conditions of approval to mitigate to a level of insignificance the long term impacts on scenic views from Highway 156. Required landscaping within the required setback along Castroville Boulevard will substantially lessen the impact of views of the subdivision site as seen from Castroville Boulevard and will reduce impacts to a level of insignificance.

The design of the subdivision and the proposed improvements will not result in visual impacts upon the public viewshed.

The proposed project is consistent with North County Land Use Plan Policies which address visual resources, including Policies 2.2.3.4, 2.2.2.5, of Part Two of the Coastal Implementation Plan (Development standards in North Monterey County Land Use Area); Jones and Stokes Associates, Inc. (1994), Moro Cojo Inclusionary Housing Development Project Environmental Impact Report, Volumes I & II, Chapter 7, "Visual Resources" and Chapter 2, Table 2-1, page 2-22.
f. Traffic

Conditions of approval for the project include construction of improvements to State Highways and County Roads including road widening, repaving and restriping, installation of signals, intersection reconstruction and relocation as required by CalTrans and in consultation with Monterey County.

Increased traffic generated from the project will be mitigated to a level of insignificance.

As a condition of approval, the developer is required to mitigate impacts caused by additional traffic generated from the project site.

g. Air Quality

Establishment and adherence to construction phasing to ensure that standards for PM10 emissions do not exceed air quality standards have imposed as a condition of approval. Conditions will reduce related impacts to a level of insignificance.

Construction related activities on the project site will not have an unavoidable significant impact on ambient air-quality.

Projected particulate matter emission of particles smaller than or equal to 10 microns in diameter (PM10) resulting from project site construction activities may exceed the Monterey Peninsula Unified Air Pollution Control District NSR threshold levels depending on the amount and timing of grading which will occur on the site.

As a condition of project approval, the developer is required to comply with conditions of approval requiring implementation of Air Quality Management Techniques. Conditions of approval and mitigations listed on page 9-14 of the project EIR require limiting the hours of operation of construction activities. The developer will be required to phase development to obtain compliance with MPUAPCD NSR threshold levels.
h. Noise

The development project, as conditioned, is consistent with the Noise Element of the County's General Plan and the County's Noise Ordinance.

The project EIR consultant field measured existing noise conditions in the project vicinity and calculated projected noise levels at the site and in the vicinity of the project resulting from increased traffic generated by the project and determined that they fall within the acceptable noise ranges set forth in the County's General Plan. Traffic noise impacts on the senior housing portion of the project may be reduced to a level of insignificance if noise reducing design elements are incorporated into the construction of residential structures.

Noise generated by construction activities which exceed County's noise ordinance will be mitigated to a level of less than significant by conditions limiting the days and hours of construction, requiring routine maintenance of all construction equipment and exhaust mufflers, and implementation of additional noise mitigation measures as deemed appropriate by the county ensuring compliance with the County's noise ordinance.

i. Public Service and Utilities

Water Service
Sewer Service
Schools
Fire Protection
Law Enforcement
Solid Waste
Recreation - Trails

Impacts on the above services and facilities will be mitigated through the payment of fees and adherence to plans and programs specified in conditions of approval referenced in the mitigation monitoring program.

Water for the project will be supplied by California Water Service Company, a water purveyor regulated by the Public Utilities Commission, State Department of Health Services and Monterey County Division of Environmental Health. Required conditions
insure appropriate approvals are received for domestic water supply prior to recordation of the maps, construction of water system improvements or issuance of building permits.

Fire protection capabilities of the water system will be constructed in accordance with state and local standards as required by conditions of approval.

Wastewater collection service for the project will be provided by County Service Area Number 14. Wastewater disposal will be provided by Monterey Regional Water Pollution Control Agency. Conditions of approval insure sufficient sewer connections are available, off-site collection works are adequate, and appropriate approvals are received prior to recordation of final map, construction of wastewater infrastructure or issuance of building permits.

Solid waste disposal will be provided by Salinas Rural Disposal Service. Recycling programs will be implemented within the development to aid the County in meeting the State's mandatory solid waste reduction standards.

j. Cultural Resources (archaeological sites)

Avoidance and the establishment of an open space buffer surrounding identified unrecorded sites referenced in the FEIR will mitigate any potential significant impacts to cultural resources.

The development project as conditioned, is consistent with Section 20.144.110 of Part Two of the Coastal Implementation Plan (Regulations for Development in the North County Land Use Area) pertaining to Cultural Resources.

An Archeology Survey and study were conducted on the site (BioSystems, 1994) and a significant cultural resource was determined to be on the site.

The proposed project is consistent with North County Land Use Plan Policies which address archaeological resources, including Policies 2.9.2.3, 2.9.2.4, 2.9.3.2, Jones and Stokes Associates, Inc. (1994), Moro Cojo Inclusionary Housing Development Project
Environmental Impact Report, Volumes II, Chapter 12, "Cultural Resources" and Chapter 2, Table 2-1, page 2-31.

Elements of the project are required by conditions of approval to be redesigned to avoid impacts to archaeological sites and to ensure consistency with North County Land Use Plan Policies which address protection of Archaeological Resources including Policies 2.9.2.3, 2.9.2.4, and 2.9.3.2.

Public Health (EMF)

Setbacks required as conditions of approval would be sufficient to protect future residents from the potential adverse EMF effects would be no greater than would result from standard residential electrical lines.

The design of the subdivision and the proposed improvements will not result in exposure to electric and magnetic fields which may cause adverse health effects. Field measurements of electric field intensity and magnetic flux density were performed by PG&E and indicate that the electric and magnetic field (EMF) intensity at a distance of 150 horizontal feet from the 500-kV PG&E transmission lines (50' from the edge of the easement) is equivalent to that of a standard electric distribution line.

The Division of Environmental Health has reviewed the proposed project and found that potential health risks associated with exposure to electric and magnetic fields are mitigated to a level of insignificance by requiring all residential units to maintain a 50 foot horizontal setback from PG&E's existing 500-kV transmission line easement.

EVIDENCE: Evidence in the record to support the above findings consist of the following:

a) Moro Cojo Inclusionary Housing Development Project Final Environmental Impact Report Volume I (Response to Comments) and Volume II (Revised Draft EIR) dated October 1994 (SCH #94083032)

b) The staff report to the Planning Commission and attachments thereto dated December 5, 1994 and considered by the
Planning Commission at its special meeting of December 8, 1994;
c) Responses to comments regarding the adequacy of the EIR and the CEQA process relative to the subject application attached to the staff report dated December 15, 1994 reviewed by the Board of Supervisors during their special meeting of December 20, 1994;
d) The Mitigation Monitoring Plan attached to the staff report to the Board of Supervisors dated December 15, 1994 is incorporated herein as if set forth in full;
e) Information contained in file EIR 94002;
f) Plans and documents contained in the files SH93001 and SH93002;
g) Relevant policies and standards of the North County Coastal Land Use Plan and Implementation Plan listed herein.

EVIDENCE: Correspondence from Jones and Stokes, Inc. dated December 14, 1994 is incorporated herein as findings and evidence.

II. FINDINGS AND EVIDENCE OF CONSISTENCY WITH THE MONTEREY COUNTY GENERAL PLAN:

2. FINDING: The Moro Cojo Inclusionary Housing Development Permit applications (SH 93001 - Moro Cojo Standard Subdivision Development & SH 93002 - Moro Cojo Senior Housing Development) are consistent with the following applicable policies of the Monterey County General Plan including policies regarding Natural Resources, Environmental Constraints, and County Development including Housing. The proposed project is consistent with sections 6.1.1, 7.1.1, 9.1.1, 9.2.1, 10.1.2, 13.3.1, 13.4.3, 17.3.4, 21.2.3, 26.1.18, 26.1.19, 37.2.1, 53.1.3, 22.2.1, 22.2.2, 22.2.3, 22.2.5, and 22.2.6.

EVIDENCE: Analysis of consistency with the General Plan contained in the FEIR pages 2-18 –2-33 and the staff report to the Planning Commission dated December 5, 1994 and the staff report to the Board of Supervisors dated December 15, 1994.
March 17, 2015
CEQAcomments@co.monterey.ca.us via email
County of Monterey hard copy by mail
Resource Management Agency — Planning
Attn: Mike Novo, Director of Planning
168 West Alisal, 2nd Floor
Salinas, CA 93901
Re: Moro Cojo Subdivision Amendment: File Number PLN120650

Dear Mr. Novo:

I was a part of the original Alliance and appreciate the opportunity to revisit the restrictions placed upon this project and the time to comment on them. Thank you for sending me the Negative Declaration. The alliance fought long and hard to make this an environmentally responsible project. To change the restrictions at this point will have a significant effect on the county’s goals and credibility. It also would cause substantial adverse effects on the very low, low and moderate income community that have homeownership dreams.

In the interest of the integrity of your contractual agreements and the promises that were made to people that so generously donated their money or their time to create homes that permanently met a need, it would be a betrayal of that trust and generosity to renege on the commitment to create these affordable homes.

It is my belief that now the county needs to be responsible to the needs of the very low, low and moderate income community that this project was designed to help and keep the homes affordable for this segment of the community.

I have had numerous residents of Moro Cojo that don’t speak English tell me, through an interpreter, that they were not informed of the restrictions when they purchased. I believe that the reason for requested change is few people understood the rules when they purchased. That is why they look as this as unfair now. The county was so trusting of the developer; to be open and truthful to the potential purchasers of the properties. In hindsight, the county should have had a safeguard that the potential owners meet with a bi-lingual county staff person before a purchase contract is approved, to verify they did indeed understand and agree with the restrictions.

The county had the noble goal of providing a path to home ownership to very low, low and moderate income families. It is so difficult to obtain that goal in a high priced area like Monterey County, so I know from 20 years of experience as Realtor working in Monterey County, close to Moro Cojo. In
talking to some of the owners in Moro Cojo, many of these families would not have purchased if they were aware of the restrictions. The county failed to put safeguards in place that guaranteed purchasers knew, understood and agreed with the restrictions. Now are you removing restrictions because the sales process was poorly and dishonestly executed by the developer?

If very low, low and moderate income housing is still needed, which I assume it is, why would you eliminate 161 units of affordable owner occupied housing?

On a constructive note; perhaps a Community alliance between the very low, low and moderate income community and the County for the purpose of brainstorming solutions to the affordability problem might be the way to go. Listening to this community directly may be very enlightening, just as my conversation with them was.

Living in another area has provided me with an interesting comparison. About 300 construction permits are issued annually in this town of only 54,842. Only 16% of the population rents, per city data. 48% rent in Salinas per city data. Solve the water problems before you can work towards the supply meeting the demand and watch affordability increase.

Environmental impacts matter but so do people and commitments.

Thank you for your attention.

Sincerely,

Denise Visintine
JANE HAINES: Affordable housing should remain that way forever - Monterey Bay Part...

Monterey Bay Partisan
A Fair Shake for Everyone

MONTEREY BAY PARTISAN
a fair shake for everyone

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JANE HAINES: Affordable housing should remain that way forever

by Jane Haines March 22, 2015

An effort to terminate affordable housing restrictions on 161 Monterey County homes is currently underway. You can help keep the homes affordable, but first you need to understand the following background:

The homes are located in the Moro Cojo housing project near Castroville. Built during the late 1990s, each home is subject to a deed restriction requiring that it remain permanently affordable to very low, low or moderate income households.

Owners of the homes, represented by Community Housing Improvement System Planning Association Inc. (CHISPA), applied to Monterey County to have the “permanent” deed restriction converted to a 15-year restriction whose term commences on the date when the homes were conveyed. Since most of the homes were conveyed between 1999-2001, approval of CHISPA’s application would mean that either this year or next, these 161 homes could be sold at unrestricted market rates, and Monterey County’s affordable housing stock would decrease by 161 homes.

Many government agencies made substantial financial contributions to make the Moro Cojo homes affordable. Monterey County waived $118,868 in processing fees and contributed a $476,150 Community Development Block Grant grant toward the project. The Red Cross donated generously. State and federal governments provided low-interest loans and other financial aid. The Federal Resolution Trust Co. sold the land for the project for an alleged “fraction of the amount [which had been] loaned on the property.”

The public purpose of those contributions was to significantly increase the supply of single-family homes affordable to very low and low income families.

Since the need for affordable homes is as great now as it was in the 1990s, I believe that changing the affordability from permanent to 15 years at this time would be an unlawful gift of public funds because it would be for the private gain of the 161 homeowners, rather than for the intended public purpose.

Please understand that I am not unbiased. I represented clients in two 1990s lawsuits about the Moro Cojo project. The first lawsuit resulted in a stipulated judgment interpreting a condition for project approval to mean that the homes were to remain permanently affordable until substantial evidence showed that the permanent restriction should be changed. The second lawsuit resulted in CHISPA suing my clients for tens of thousands of dollars, alleging that my clients’ lawsuit was frivolous and for the purpose of stopping the project.

The court rejected CHISPA’s allegation, affirmed the validity of that lawsuit (which had to do with water supply), and ordered CHISPA to pay my attorney fees for the time I spent defending against CHISPA’s unwarranted allegation.

http://www.montereybaypartisan.com/2015/03/22/jane-haines-affordable-housing-should-r... 3/31/2015
So, I'm not unbiased. Nonetheless, I do know a lot about origins of the homes' affordability.

First, it's understandable that the homeowners want the greater profit they would reap from selling their homes without limitation on the selling price. Those particular homeowners would become free of any obligation to use any portion of the equity they accrue to help other families wanting homeownership, and they could pocket their profits. However, they would be undermining the very policy that benefited them.

The homeowners argue that their homes were "self-help," meaning that each purchasing household spent 40 hours a week for eight to ten months doing non-specialized labor on their homes to provide "sweat equity." That's commendable. However their "sweat equity" substituted for a down payment valued at $16,000 plus specified interest. And when they do sell, even with the affordability restriction, they can make a modest profit.

The homeowners argue that redevelopment law puts a 15 year limit on affordability on self-help homes rather than making it permanent. That's true about now-defunct redevelopment law.

However redevelopment law has never applied to these homes, and the law that does apply commonly results in permanent restrictions on affordability.

The homeowners argue that permanent affordability deed restrictions are unlawful, and that they were not given adequate notice about the deed restrictions, and that the restriction makes it difficult to get home loans or refinancing. However a 2019 appeals court decision about the Moro Cojo permanent deed restrictions, Alfaro v. CHISPA, considered those same claims and rejected them.

It seems likely that, as in the past, issues pertaining to the homeowners' application will be obscured by charges of racism and classism. Thus, involvement in this public issue should not be undertaken by the delicate. Nonetheless, Partisan readers who care sufficiently about affordable housing and are willing to get involved, should send their comments to the Monterey County Housing Advisory Committee at 168 W. Alisal St., Salinas 93901 before the first hearing, which will be on April 8. Explain whether you think the affordability restriction on the 161 Moro Cojo homes should remain permanent, or whether 15 years of affordability is enough, and why.

Two subsequent public hearings will be held, one before the Planning Commission and one before the Board of Supervisors.

The Alfaro court best summarized the issue when it said: "Plaintiffs are essentially arguing that this housing program should have been designed differently, namely just to benefit them, the first wave of low income buyers. We acknowledge that it would be a more beneficial program to this first wave if they were able to sell their properties for whatever price they could command. However, plaintiffs do not discuss how avoiding the affordable housing deed restriction would benefit the second wave and later waves of low income buyers. There is an inherent conflict between the goals of maximizing the financial benefits to the first wave and preserving affordable housing for future buyers. We consider it reasonable to impose a continuing affordability requirement for the benefit of future low to moderate income homeowners."

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

{12 comments... add one}

- Larry GownMarch 22, 2015, 2:04 pm
  Classism is a word I have not heard or read in print before. I had to look up the definition and found this: 'Classism is differential treatment based on social class or perceived social class. Classism is the systematic oppression of subordinated class groups to advantage and strengthen the dominant class groups. It's the systematic assignment of characteristics of worth and ability based on social class.'
  [Reply Link]

- Jan HainesMarch 22, 2015, 2:22 pm
  L. Gown, I hadn't heard the word "classism" either until I read it in the 1/17/15 Herald article about the Moro Cojo affordability restriction. That article quotes CHISPA's CEO as follows: "Diaz-Infiante said project opponents made it clear during hearings on the proposal they were opposed to affordable housing on the site by belittling low-income people and resorting to 'classism' and 'racism'..." I attended those hearings too, What I heard was not what Diaz-Infiante heard. Rather, what I heard was CHISPA's lawyers repeatedly claiming that persons questioning aspects of the project were racist and anti-affordable housing. I'd never heard the word "classism" before I read the Herald's 1/17/15 article.
  [Reply Link]

- David EricksonMarch 22, 2015, 3:32 pm
  Jane, it is hard to have an opinion on this without knowing how the affordability restriction actually works. When the homes were first sold, what was the selling price and how was it set? What would the current selling price be (15+ years later), and how is it set? Are re-sale prices under the affordability restriction sensitive to the change in the real estate market during the intervening years?
  [Reply Link]

- Jean GatelyMarch 22, 2015, 3:53 pm
  We live in a finite world.
The need for affordable housing has not decreased.
How many market rate houses are being converted to affordable?
[Reply Link]

- Helga WelchMarch 22, 2015, 5:02 pm
  It seems to me that those government agencies that made substantial financial contributions to make the Moro Cojo homes affordable (Monterey County $118,868 in processing fees and $476,130 Community Development Block Grant grant, the Red Cross donation, State and federal low-interest loans and other financial aid, the Federal Resolution Trust Company which sold the land for a fraction of the amount) should get together as plaintiffs and file suit to be reimbursed for the donated sums of money, as they were donated solely on condition that the money would be spent on affordable housing, not for the purpose of unfairly enriching the first wave of buyers, especially as the need for affordable homes still exists today, perhaps even more so. I see this as a contracts case, and CHISPA can not simply change the terms of this contract 15 years later. After CHISPA reimburses the government, the Red Cross and others for the monies donated 15 years ago, I suppose then they could do what they want.
This case has nothing to do with classism or racism -- I have a pretty keen nose for sniffing out these issues, and they are simply not there. It's just a contracts case, and using public funds to unfairly enrich a certain number of private individuals. They signed on the dotted line, if they didn't read what they signed, that's on them.
I am sure that when these monies were donated, the donors were not told that this would only benefit a finite number of people for 15 years.
[Reply Link]

- Jan HainesMarch 22, 2015, 5:47 pm

http://www.montereybaypartisan.com/2015/03/22/jane-haines-affordable-housing-should-r... 3/31/2015
David E. I tried to answer your questions by looking up randomly-chose addresses on CHISPA’s application. Example #1 is a 2-bedroom, 2-bath, 1092 sq. ft. home. It was purchased for $55,500 in 1999. Today’s estimated market value is $289,394. Example #2 is a 4-bedroom, 2-bath, 1246 sq. ft. home, purchased for $55,000 in 1999. Today’s estimated market value is $307,500. Example #3 is a 4-bedroom, 2-bath, 1246 sq. ft. home, purchased for $58,500 in 2000. Today’s estimated market value is $289,394. I have a copy of a 1999 CHISPA ad which I interpret as meaning that today’s restricted selling prices would vary in accordance with the purchaser’s income, although I'm not sure about that. So I sent an email to the County Housing Officer asking her your remaining questions. I’ll post them if and when I receive a response.

Reply Link
· Jamie Woods March 22, 2015, 10:27 pm
I live near Moro Cojo and have friends who live in the development.
I have always felt that this was a great project. The “sweat equity” was a difficult hurdle for many low income people who could not be away from low paying jobs, or were infirm. But, the development was not designed to solve all housing needs.
I am glad for the families who were able to purchase these homes.
I also understand that some families need to relocate or have outgrown their homes and would want to take away a reasonable amount of equity with the sale of their home.

That said, it seems that 15 years, shorter than the average mortgage, is not a reasonable length of time to have the houses change their status and go on the market without significant restrictions. If they were allowed to be sold at a large profit it would undermine the possibility of another such development here or elsewhere. It would deprive the second wave of low income home buyers their chance to have a home of their own.

I am puzzled why CHISPA would want to change the rules so drastically. It seems that their role should be to come up with a formula that allows the original owners to take some equity, while allowing the next wave of owners to put in their own sweat equity (fixing up the houses or working on neighborhood improvement, and even own a home at the same low purchase price, (adjusted for current conditions), that the original owners paid.

I doubt that this dilemma is beyond resolution, though as with all compromises every one who wishes to will be able to grumble about how unfair it is. But I do feel that this is an opportunity to strengthen this model of low income housing by all sides in the dispute focusing on what they gained instead of what they hypothetically lost. And, by focusing on the next set of buyers, they can be part of the solution to the dilemma of affordable housing for others.

Reply Link
· Alan Elms March 23, 2015, 8:04 am
Helga is right; if affordable units that were publicly subsidized can become market rate after only 15 years, that would undermine the support for future projects. As someone who supports affordable housing programs, this would give me pause before approving a future project and definitely gives me pause about working with CHISPA in the future. It’s a disservice to other low-income people who need affordable housing now and in the future.

Reply Link
· Helga Felley March 23, 2015, 3:03 pm
Another thought occurred to me. I am not an attorney, but as money donated by the Red Cross comes from tax deductable charitable contributions to a 501(c)3 non-profit organization, would it not be illegal to suddenly, a few years later, convert this money (meaning the value this money now represents) into private, for profit value, serving something other than the common good? The Red Cross donated this money from tax-deductible donations to fill a need in the community in perpetuity, i.e. for as long as the housing exists. I am not suggesting that the 161 original owners should not benefit from the appreciation in the value of their homes, but I believe it needs to be subject to a formula taking into account the percentage of appreciation from the owner’s own contribution to the home vs. the percentage coming from public funds and charitable contributions, so that the latter percentage could then be re-invented into creating additional low-income housing for current and future low-income families.

Reply Link
· L. Parish March 23, 2015, 7:15 pm
These homes were sold at a reduced rate to people who couldn’t afford a more expensive market-rate home. They were not sold as investment property, which seems to be what the current owners apparently believe, or claim. Without the low-income program, they would never have been able to buy a home in the first place. And to set a precedent like the one being proposed by the current owner(s), could be a death blow to other programs or other properties. Greed is a snake with many heads – it can strike anybody.

Reply Link
· Helga Felley March 24, 2015, 10:05 am
Another thought occurred to me re the charges of racism and classism. Any program which provides and subsidizes benefits to low-income families only is by definition classist, i.e. it provides assistance to only one “class” of people, namely the low-income and, because racial minorities are disproportionately represented among the poor, it also indirectly impacts racial minorities. The program therefore does discriminate, but it is REVERSE discrimination. One might say it discriminates against those who are not low income. This is not illegal as rich white people are not a protected class under the law, at least not yet. The 161 original beneficiaries of the program knew this because they had to provide proof of their low incomes in order to qualify. None of them apparently refused to participate in the program because of “classism” or “racism” when it greatly benefited them 15 years ago. So those are completely frivolous charges which have no merit. Like Larry said: The program was to help them get into a home of their own, not to provide them with an investment property to make them rich. The public funds and charitable donations used need to serve other needy families in perpetuity.

Reply Link
· Julie Enge March 27, 2015, 2:36 am
This maneuver to remove the affordability restrictions at Moro Cojo started more than a decade ago. It was back when I still lived in Oak Hills, where we moved shortly after the project began construction. I learned that Monterey County Housing, CHISPA and their attorney, Tony Lombardo, Moro Cojo residents and their chosen spokesmen, Juan Uranga, and County Counsel, Charles McKee, were all meeting in McKee’s office to discuss removing the affordability restrictions on Moro Cojo. I asked to attend the meeting as a member of the general public because I was alarmed by the potential loss to the community of so many affordable homes. I was told by McKee that I had no standing in the issue and was denied access. He told me only original litigants had standing to participate and none of the opponents could be reached. I’m not sure if all the Moro Cojo residents represented by Juan Uranga, or if Juan Uranga himself, was among the original litigants, but that was the basis used by McKee for excluding me.

By the time Lou Calcagno hosted a community meeting in Castroville, those who had “standing” had already devised a legal and political strategy for pressing their position. The community meeting was, more than anything else, about uniting Moro Cojo residents in opposition to the affordability restrictions, which were designated by Diaz-Infante and Uranga, as a too used by white racists to deny equal economic opportunity to people of color. Their position was that it was discriminatory and should be abolished. Both men also stated that Moro Cojo homeowners would be better off as renters. I spoke against lifting the affordability restrictions, using many of the same arguments found in previous comments here. I also pointed out that even if Moro Cojo homeowners sold their homes for exactly

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what they paid for them, at least they weren’t throwing their money down the rent rat hole month after month. (There are provisions for moderate increases in home sales prices which are tied to median income levels.)

There was a translator present to translate English to Spanish and vice-versa. Things really got interesting when I objected because Uramo would frequently jump in and speak directly in Spanish to Moro Cojo residents who made statements in Spanish. When he did that, the translation was skipped, and I couldn’t follow what was being said. I protested that it was unfair and wouldn’t be tolerated by him if the situation were reversed. He advanced on me and yelled at me almost nose to nose. I can’t even remember what he said to me, but it was very uncomfortable. Not one of the good ol’ boys in the room told him to cool it — not Calcagno, not Jim Cook of Monterey County Housing, not Alfred Diaz-Infante of CHISPA or his lawyer Tony Lombardo and not Charles McKee, County Counsel.

Jane is right, involvement in this issue is not for the squeamish. Despite valid concerns her clients expressed about falling groundwater levels in North County, they were scoffed at as mere racists. Interestingly, years ago a friend of mine obtained pumping records for the project which revealed that the project was using about 30% more water than the project EIR claimed it would. Furthermore, water availability for the project was based upon transferring water credits from a fallowed agricultural parcel. The only trouble is that this parcel has been reported a couple of times for growing heavily irrigated crops.

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March 23, 2015

Monterey County Housing Advisory Committee
c/o Economic Development Department
168 West Alisal St., 3rd Floor
Salinas, CA 93901

SUBJECT: APRIL 8, 2015 AGENDA REGARDING AMENDMENTS TO CONDITION 99, MORO COJO SUBDIVISION

Dear Committee Members:

The League of Women Voters of Monterey County strongly opposes the proposed amendment to Condition 99 for the previously approved Moro Cojo Subdivision. Based on a 1995 Settlement Agreement, Condition 99 of the permit is interpreted to mean that the 175 single family homes are for low income households (80% of median income) and that the condition shall be a permanent deed restriction on the properties.

The proposed amendment would revise Condition No. 99 to establish a 15-year affordability covenant for the parcels/units included in the application; the 15-year affordability term would commence on the date of the first date of conveyance from the developer (CHISPA or South County Housing) to the original owner of the parcel/unit. The change to the language of Condition No. 99 and to the term of affordability would apply to 161 of the total of 175 single-family dwellings approved under the subdivision.

The League of Women Voters supports measures which would ensure an adequate supply of affordable housing. We recognize that the scarcity of affordable housing constitutes a crisis. According to the Monterey County Economic Development Department’s report, “Analysis of Impediments to Fair Housing Choice” (May 2013), a single person earning $14,550 a year is considered “very low income” and would not be able to rent or buy anywhere in Monterey County. A single person earning $24,250 a year (or slightly above minimum wage), is considered “low income” and would have difficulty finding housing. A single person earning $38,750 is considered “moderate income” and would also have difficulty finding housing. A single person earning $48,100 a year is considered “median income” in Monterey County, and could possibly afford to buy a lower priced house in unincorporated areas of the County, or rent in most of Monterey County.

§3

P.O. BOX 1995, MONTEREY, CALIFORNIA 93942  408•648•VOTE
As of 2010, the median income of households in Monterey County was $59,271 (which includes single persons and families of all sizes). While 70 percent of households are middle to upper income, 7.8 percent are very low income, 8.7 percent are low income, and 13.5 percent are moderate income (www.co.monterey.ca.us/Economic Development /pdf/HAC%20Uploads/Public%20Review%20Draft%20Al%20-%20Monterey%20County.pdf).

If the application is granted, Monterey County would lose 161 affordable homes. Most would be lost immediately since the application is to change the permanent affordability deed restriction to 15 years, with the date running from date of conveyance of the property. Most of the 161 properties were conveyed between 1999 and 2001, i.e., fifteen years ago. We further note that, unlike renters, even if the units are kept affordable, owners will see a profit from their investment after 15 years if they wish to sell.

We urge the Committee to recommend denial of the proposed amendment.

Sincerely,

Janet Brennan
President
County of Monterey
Resource Management Agency- Planning
Attn: Mike Novo, Director of Planning
168 West Alisal Street, 2nd floor
Salinas, CA 93901

Re: Moro Cojo Subdivision Amendment, File Number PLN120650

I agree with the initial study -- the 161 homeowner request to eliminate the" in perpetuity requirement" does not raise CEQA issues. However it raises moral issues. And flies in the face of the goals of the Housing Element.

The Moro Cojo homeowners were well aware that these units were to remain affordable forever. These same homeowners received not only a good roof over their heads but money to make down payments, extremely low interest rates, principle forgiveness, and loans that could be easily assumed. (See all the details on exhibit A). Over the years, one home has been sold to a qualified new buyer, two have been refinanced (allowing owners to pull cash out) and two more are being refinanced at this time. It appears that at least 5 of the 175 homeowners are satisfied with the equity they received. The other 161 are nothing but greedy. They don’t need anymore breaks--like being able to sell their homes at market rate and get double or triple the cash they normally would receive. What greed!

A statement is made that the money from loan repayments from these homeowners will be used to build more affordable units. This assumes that 161 sold units will produce 161 new affordable units. This is not true. If affordable land or lots can be found (and this is extremely hard to do), all 161 units could not be built at one time (this would provide economies of scale.) because all 161 units will not sell at market rates in one year. The report estimates loan repayments will be available in 2 to sixteen years.
It requires $300,000 to build one affordable home and that includes the cost of one affordable lot. I estimate that not more than 60 new affordable units will be built if condition #99 is modified. That's a loss of 101 affordable homes.

Please do not modify this condition. If you have questions or doubts about the dire need for affordable housing, come to the parking lot of Dennis the Menace Park in Monterey any Saturday morning at 9am. If you can, bring clothing to donate. Help Pass the Word Ministry make sandwiches. You'll meet lots of homeless who would be delighted to have even the simplest roof over their heads.

Margaret Robbins
3850 Rio Road Unit 26
Carmel, CA 93923
March 22, 2015
PS There is no need to respond!
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 terms. 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 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 outstanding. Of the 42 households participating in the request that received County financial assistance, there are 42 Self Help loans and 34 FTHB loans outstanding. The outstanding loans balance estimated as of December 31, 2015 will be $1,130,000 for the Self Help loans and $445,000 for the FTHB loans for a total of $1,575,000. Any funds received by the County would be restricted by the State HOME program and would have to be used to benefit low income (80% of AMI) households. As it is doubtful that all of the owners will sell their houses by the end of this year, a more realistic expected repayment of both loans would range from $660K to $860K in the next two to 16 years.

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. CHISPA estimates their loan balances, as of December 31, 2015, will be approximately $1,926,000. There are no restrictions on the use of these funds. However, CHISPA has offered to pass a resolution limiting loan fund repayments to new affordable housing projects. As it is doubtful that all of the owners will sell their houses this year, the repayment amount diminishes with time. A more realistic expected repayment of the loans would range from $385K to $765K in the next seven years.
9350 Canyon Oak Road
Salinas, CA 93907-1055

March 26, 2015

County Housing Advisory Committee
168 W. Alisal Street
Salinas, CA 93901

To Whom It May Concern:

I was surprised and very disappointed that a Negative Declaration was in progress for the Moro Cojo development.

According to the Monterey Herald of March 23, 2015, only 27% of homes in Monterey County are deemed affordable. This is a record low and a major change from 2011 when more than 50% were affordable. A monthly income of $2,290 is required to qualify for a minimum home payment.

Condition 99 (to keep Moro Cojo houses affordable) was written to ensure that Monterey County would always have a stock of low income housing. This would no longer be true. There would be a loss of 161 homes. Future generation of low income residents and their children would certainly be deprived of home ownership and a safe and secure place to live and grow up.

I was one of the original petitioners in the 2005 litigation to keep Moro Cojo affordable and I still believe in keeping the project affordable permanently despite being called a “meddling housewife” by the judge.

Sincerely,

Martha A. Rau

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By
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