

Attachment A

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ATTACHMENT A DISCUSSION

Background:

The Housing Element is one of seven mandated elements of the General Plan and must address the existing and projected housing needs for all economic segments of the County. State law requires that the County update its Housing Element every eight years based on a schedule set by legislation. State law also prescribes the content and process of the Housing Element and mandates review of the Element by the State Department of Housing and Community Development (HCD). The following are the statutory requirements of what the Housing Element must address:

- Identify adequate sites to meet the Regional Housing Needs Allocation (RHNA) through appropriate zoning and development standards to facilitate and encourage the development of a variety of housing types for all income levels;
- Assist in the development of adequate housing to meet the needs of lower and moderate income households;
- Address and, where possible, remove governmental constraints to the maintenance, improvement and development of housing;
- Conserve and improve the condition of the existing affordable housing stock; and
- Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, disability or sexual orientation.

State law specifies that the Housing Element must assess housing needs and evaluate the current housing market in the County and then identify programs that will meet housing needs. Also included in this evaluation is the RHNA which is an estimate of the number of housing units that should be provided in the County to meet its share of new households in the region. In addition to this information, the Housing Element document must evaluate and review its past housing programs and consider this review in planning future housing strategies.

A critical component of HCD's review of the Housing Element is the local jurisdiction's ability to accommodate its RHNA through land use planning efforts. Compliance with this requirement is measured by the jurisdiction's ability to provide adequate land with adequate density and appropriate development standards to accommodate the RHNA. The Association of Monterey Bay Area Governments (AMBAG), as the regional council of governments, is responsible for allocating the RHNA to individual jurisdictions within the region. For the 2015-2023 Housing Element update for the County of Monterey (fifth cycle), AMBAG has assigned a RHNA of 1,551 units for the 2014-2023 planning period, in the following income distribution:

- Very Low Income: 374 units
- Low Income: 244 units
- Moderate Income: 282 units
- Above Moderate Income: 651 units

As described in the Housing Element, the County has the ability to meet its RHNA with residential development potential available in various areas. (See *Tables 39- Progress toward RHNA for 2014-2023* and *Table 42- Vacant and Underutilized Sites* of the Housing Element, Attachment B-1).

Housing Element Not Subject to MCC Chapter 21.91- General Plan Amendments:

Because the Housing Element is one of the statutorily required elements of a county's general plan, the update of the Housing Element is technically an amendment of the County's General Plan (the 2010 General Plan in the non-coastal area and the 1982 General Plan in the coastal zone). The 2010 General Plan Policy LU-9.6 generally provides that General Plan amendments are to be considered only twice per year, and Monterey County Code (MCC) Chapter 21.91, implementing that policy, provides that the public hearings for such amendments occur in February or August before the Planning Commission and April or October before the Board of Supervisors. However, the subject Housing Element is not subject to these requirements, for the following reasons:

1. The subject Housing Element update will amend both the 1982 General Plan for the coastal areas, as well as the 2010 General Plan for the non-coastal areas of the County. MCC Chapter 21.91 specifically applies to the 2010 General Plan for the inland areas.
2. MCC Chapter 21.91 exempts "Periodic comprehensive updates of the 2010 Monterey County General Plan." Housing Element update is considered to be such a periodic comprehensive updates.

Housing Programs and Future Zoning Implementation:

Pursuant to new State law, the following programs have been added to the 2015-2023 Housing Element which may require future zoning text amendments:

- **Density Bonus and Incentives:** In accordance with State law, developers of qualifying affordable housing and senior housing projects are entitled a density bonus up to 35 percent over the otherwise maximum allowable residential density under the applicable zoning district and at least one concession or incentive. In addition, the recently adopted AB 2222 added new requirements to the State's density bonus provisions relating to replacement units and extended affordability control, which took effect in January 2015. Staff will amend both the non-coastal and coastal zoning ordinances to incorporate a density bonus ordinance that is consistent with the most up to date State density bonus law; staff already incorporated these state law changes into the coastal zoning ordinance that the Board of Supervisors recently adopted.
- **Emergency Shelters:** In 2011, the County amended Title 21(non-coastal zoning) to include provisions for the development of homeless shelters. At that time, State law allowed jurisdictions to place a 300 foot separation requirement between shelters, but this was not a mandatory provision. The County included this 300 foot separation standard between shelters, and also included a requirement that shelters be located in close proximity to public transit. HCD has expressed concern to other jurisdictions when they have instituted requirements which go beyond those recommended by the statute. To

address this, staff recommends amending Title 21 to remove this separation requirement because HCD could view it as a constraint to housing production or opportunity and HCD may reject the Housing Element update.

- Use Permit (UP) requirement for Multi-Family Housing: Currently the County requires a UP process for multi-family housing development that exceeds 10 units per acre. Staff may consider an amendment to remove the UP requirement for multi-family residential development, as a UP requirement may pose as a constraint to housing production or opportunity.

Updates to General Plan Triggered by Housing Element Update

Revision of the Housing Element triggers state law requirements to review and determine whether other elements of the General Plan require updating with respect to disadvantaged legacy communities, flood hazards, and fire hazards. Pursuant to SB244 (enacting Government Code section 65302.10), County staff is in the process of determining whether amendments to the Land Use Element are needed to identify and address disadvantaged legacy communities. Pursuant to Government Code section 65302, County staff is also reviewing the Conservation and Safety Elements to determine whether flood and fire hazard information needs to be updated. If such updates are needed, future amendments to the General Plan would be presented to the Board of Supervisors.

Planning Commission Hearing, November 18, 2015:

On November 18, 2015, the Monterey County Planning Commission conducted a public hearing on the draft Housing Element and adopted a resolution (Attachment I) recommending that the Board of Supervisors adopt the Negative Declaration and the 2015-2023 Housing Element with minor revisions to pages 124 and 127 of the Housing Element. These revisions have been made to the 2015-2023 Housing Element (Attachment B-1) and are shown in redline in Attachment C. A summary of the Planning Commission's recommended revisions are as follows:

- *Page 124- Goal H-1.* Revise to broaden the language of the goal to encompass preservation of all types of affordable housing, including ownership and rental units.
- *Page 127- Implementation No. H-1.d.* Add this additional implementation measure for preservation of affordable housing to help address the retention of affordable housing due to factors such as market conditions, including loss of affordable units due to conversion of these units into short-term rental (i.e. vacation rental properties, whether legally permitted or not). This implementation will help provide an action plan for the County to initiate discussions in 2016 to study options for retention of affordable housing.

Outreach/Other Agency Involvement:

In developing the Housing Element, the County has conducted outreach to community groups, service providers, and housing professionals to solicit input on needs, constraints, and opportunities. Letters were sent to 238 non-profits, jurisdictions, school districts, developers, and real estate housing professionals. Staff also conducted two meetings at the Housing Advisory Committee (HAC) on November 19, 2014 and July 8, 2015. In addition to the

November 18, 2015 hearing, the Planning Commission conducted an earlier workshop on July 29, 2015. A detailed description of each meeting is included in the *Appendix A: Outreach Efforts* section of the Housing Element. Lastly, since the Housing Element is a General Plan Amendment, staff referred the item to the Airport Land Use Commission (ALUC) and a duly noticed public meeting was conducted on October 26, 2015, where the ALUC found the project consistent with the Comprehensive Land Use Plans (CLUPs) for the County's airports. See Attachment H.

Additionally, the County has provided formal notification to local Native American Tribes (Tribes) of the County's intent to amend the County's General Plan by adopting the 2015-2023 Housing Element and provided the opportunity for the Tribes to request a formal consultation with the County regarding any potential impacts on tribal cultural resources. To date, none of the notified Tribes have requested consultation.

Environmental Review:

Pursuant to the California Environmental Quality Act (CEQA), the County prepared an Initial Study that resulted in a Negative Declaration (Attachment D). The Initial Study was circulated for public review from October 7, 2015 to November 5, 2015. Two comment letters were received from the State of California Public Utilities Commission and from the State of California Department of Transportation. A summary of the comments with staff responses are as follows:

Letter 1, California Public Utilities Commission (Attachment F)

Commenter: Ken Chiang

Date: October 23, 2015

Response 1.1

The commenter notes that the California Public Utilities Commission (CPUC) has jurisdiction over the safety of highway-rail crossings in California, and recommends that the County add language to the Housing Element so that future development near the railroad right-of-way is planned with the safety of the rail corridor in mind. This comment has been addressed by adding the following policy to the draft Housing Element.

New Policy H-3.10: Ensure that any future development adjacent to or near the railroad/light rail right of way is planned with the safety of the rail corridor in mind.

Letter 2, California Department of Transportation (Attachment G)

Commenter: John J. Olejnik

Date: October 28, 2015

Response 2.1

The commenter expresses support for policies that encourage consistency with other planning documents, particularly the AMBAG Sustainable Communities Strategy. The comment is noted.

Response 2.2

The commenter expresses concern over a specific project site within the North County Land Use Plan (LUP) area. The commenter acknowledges that the Housing Element does not create development entitlements and the associated impacts. As stated in the Initial Study –Negative Declaration, “the Housing Element itself does not provide specific new housing projects to meet the RHNA allocations. Rather, it identifies existing sites that can accommodate this growth under existing land use and zoning designations in order to demonstrate compliance with the RHNA. The Housing Element does not create new or additional housing, nor result in zoning amendments that would increase residential development potential in the unincorporated areas” (page 11 of the Initial Study/Negative Declaration, Attachment D). Thus, under existing land use policies, a project at the North County LUP site could be constructed independent of the adoption of the Housing Element.

The Initial Study/Negative Declaration concluded that the Housing Element document was a policy document that would not result in development entitlements and would not result in any new housing beyond which is already allowed by the current General Plans and zoning, therefore will not result in a significant impact to the environment.

Conclusion:

Staff recommends that the Board of Supervisors adopt the proposed resolution to:

- 1) Adopt the Negative Declaration;
- 2) Amend the County’s General Plan (the 2010 General Plan for the non-coastal area and the 1982 General Plan for the coastal zone) to replace the 2009-2014 Housing Element with the County of Monterey 2015-2023 Housing Element; and
- 3) Direct staff to submit the Monterey 2015-2023 Housing Element with related documents to the State Department of Housing and Community Development for certification.

