

April 29, 2024

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Re: City of Monterey April 2024 Revised Draft Housing Element

Dear Ms. Lee and Mssrs. Errichetto and McDougall:

I write on behalf of LandWatch Monterey County (“LandWatch”) in connection with the April 2024 Revised Draft Housing Element for the City of Monterey. LandWatch applauds the City for its revisions to the site inventory, made in response to HCD’s December 22, 2023 letter. These revisions will create many more opportunities for dense infill housing, especially affordable housing, in the already urbanized core of the City. LandWatch supports a focus on affordable infill housing on the Monterey Peninsula to improve the jobs/housing balance, to reduce VMT and greenhouse gas emissions, and to avoid greenfield sprawl development, especially in the former Fort Ord.

We write to make three critical points. First, Fort Ord housing development is not needed to meet the City’s RHNA site inventory. Second, counting Fort Ord sites toward lower income RHNA violates HCD guidance and is bad planning. Third, Fort Ord remains ineligible for RHNA compliance because of the lack of water supply.

We have repeatedly advised City staff of these points and are hopeful that decision makers will approve the so-called “Relocated Housing Growth Alternative” that is evaluated in the environmental impact report for the Housing Element. This alternative would not develop housing on Fort Ord and would instead increase infill densities.

We ask that HCD advise the City that it should not and may not rely on Fort sites to meet its RHNA goals.

1. Fort Ord development is not needed to meet the City’s RHNA.

The revisions to the site inventory made in the April 2024 Revised Draft Housing Element demonstrate that the Fort Ord units are not needed to meet the City’s RHNA. Table 3-4,

summarizing the various sites, demonstrates that the City can meet its RHNA targets in each income category with an ample buffer without counting any units from Fort Ord.¹

2. Counting Fort Ord sites toward lower income units violates HCD guidance.

The April 2024 Revised Draft Housing Element counts 100 units of lower income housing in Fort Ord based on the City's inclusionary housing ordinance.² HCD's guidance bars reliance on inclusionary housing ordinance buildout projections in a site inventory:

The analysis of "appropriate zoning" should not include residential buildout projections resulting from the implementation of a jurisdiction's inclusionary program or potential increase in density due to a density bonus, because these tools are not a substitute for addressing whether the underlining (base) zoning densities are appropriate to accommodate the RHNA for lower income households. Additionally, inclusionary housing ordinances applied to rental housing must include options for the developer to meet the inclusionary requirements other than exclusively requiring building affordable units on site. While an inclusionary requirement may be a development criterion, it is not a substitute for zoning.³

Furthermore, it is bad planning to make provision of lower income housing contingent on provision of subsidies from market rate housing projects, which may never be built. This uncertainty is increased by the availability of alternative means of compliance with an inclusionary housing ordinance, such as payment of in lieu fees.

3. There is no water supply for City of Monterey housing on Fort Ord.

In our September 21, 2023 letter to Mr. Errichetto, we explained that HCD should advise local jurisdictions not to rely on sites in the former Fort Ord due to the lack of the required "mandatory program or plan . . . to secure sufficient water . . . to support housing development."⁴ We made the following points about the City of Monterey's reliance on Fort Ord.

- The 65 AFY groundwater supply allocation from Marina Coast Water District for the City of Monterey would support only 250 housing units, not the 2,100 units then proposed.

¹ City of Monterey, April 2024 Revised Draft Housing Element, Table 3-4, available at <https://haveyoursaymonterey.org/monterey2031>

² City of Monterey, April 2024 Revised Draft Housing Element, p. 3-22, available at <https://haveyoursaymonterey.org/monterey2031>.

³ HCD, Site Inventory Guidebook, May 2020, p. 3-14, available at https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf.

⁴ Gov. Code, § 65583.2(b)(5)(B).

- MCWD is bound by its settlement agreement with Keep Fort Ord Wild and LandWatch not to provide groundwater supplies for more than 6,160 new residential units. That 6,160-unit cap has already been reached with previously approved projects. Thus, none of Monterey's small groundwater allocation can be used for housing.
- There is no non-groundwater supply or mandatory program or plan in place to provide an alternative to groundwater supplies, as required by Government Code Section 65583.2(b)(5)(B).⁵

Despite this, the City's December 2023 Revised Draft Housing Element and its draft Environmental Impact Report ("EIR") continued to rely on Fort Ord, albeit for only 1,660 units. And, incredibly, the draft EIR admits there is no water supply:

MCWD does not currently have a plan or funding in place to reactivate the pilot seawater desalination plant or procure additional supply from Phase 2 of the Pure Water Monterey Expansion Project. No other feasible sources of additional water supply have been identified. Therefore, this impact is considered significant and unavoidable."⁶

LandWatch's comments on the draft EIR reiterated in detail that there is no planned water supply for Fort Ord housing, based on an exhaustive review of the applicable water supply planning documents including MCWD's most recent Urban Water Management Plan.⁷

HCD's December 22, 2023 letter to the City pointed out that public comments have noted the lack of water supply for Fort Ord development and asked the City to provide "the most current information" about water supply availability. The most current substantive and documented information is the draft EIR's admission that no feasible sources of water have been identified and LandWatch's detailed comments on the draft EIR explaining why there is in fact no planned or funded water supply.

However, the City has now solicited and forwarded to HCD a one-page letter from MCWD stating that MCWD will include the City's needs in its future supply planning. The MCWD letter also states that it is considering various water supply projects. However, none of these projects are funded or committed. The MCWD letter does not demonstrate that there is a "mandatory program or plan" for the water supply needed for housing in Fort Ord. Accordingly, we ask HCD to advise the City that

⁵ LandWatch to Anthony Errichetto, HCD, Sept. 21, 2023, available at <https://landwatch.org/pages-new/policy/housing/092123-LWComments-Fort-Ord-Site-Inventories.pdf>

⁶ City of Monterey, Monterey 2031 General Plan Update Draft EIR, February 9, 2024, pp. 3.14-28 to 3.14-29, available at <https://haveyoursaymonterey.org/monterey2031>.

⁷ LandWatch to Christy Sabdo, City of Monterey, March 21, 2024, available at <https://landwatch.org/pages-new/monterey-peninsula/Monterey/032124-LWComments-Monterey2031GPUDEIR.pdf>

the Fort Ord sites do not meet the infrastructure availability requirements of the Housing Element Law.

In sum, the Fort Ord sites are not needed to meet any of the City's RHNA income categories. They should not be counted for lower income units. And they should not be counted at all due to the lack of a committed water supply.

As such, we ask that HCD advise the City that it should not and may not rely on Fort sites to meet its RHNA goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Delapa". The signature is stylized with a large initial "M" and a long, sweeping underline.

Michael Delapa
Executive Director