

December 7, 2023

Andrew Myrick  
Economic Development and Community Planning Manager  
City of Seaside  
440 Harcourt Avenue  
Seaside California 93955  
via email: [amyrick@ci.seaside.ca.us](mailto:amyrick@ci.seaside.ca.us)

Re: Draft Environmental Impact Report for Seaside 2040 (SCH #2017071021)

Dear Mr. Myrick:

I submit the following comments on the draft Environmental Impact Report (EIR) for the Seaside 2040 General Plan Update on behalf of LandWatch Monterey County. A key shortcoming of the draft EIR is that it does not adequately evaluate the impacts of developing the Seaside East area. Nor does the draft EIR's alternatives analyses adequately discuss the alternatives that would decrease development in the Seaside East area. We ask that the City address the shortcomings identified in our comments below by revising and recirculating the draft EIR.

#### **A. Project Description**

The draft EIR contains conflicting and unjustified projections of the dwelling units, jobs, and population attributable to the General Plan Update. The projections of these increases differ throughout the draft EIR and some projections are inconsistent with the source cited. Some of the tables include projections beginning in 2010 or 2015, i.e., growth that should already have occurred and could not possibly be attributed to a project that will not be approved before 2024.

Most problematically, the projection of the General Plan Update's foreseeable jobs, housing, and population effects in Appendix B is unjustified and inconsistent with the AMBAG projections – fully two to three times higher. With a realistic projection of foreseeable growth, it is apparent that the city need not sprawl into Seaside East. Doing so will hollow out the existing City by redirecting foreseeable growth from infill sites to greenfield sites.

#### **B. Biological Resources**

As the draft EIR and the Biological Resources Assessment acknowledge, special status species and sensitive habitat are concentrated in the Seaside East area, and potential impacts to these

resources would occur primarily in that area. Thus, the careful description of these resources, coupled with careful assessment of potential impacts and proposal of mitigation measures is essential to an informed decision about the consequences of developing this area.

The biological resources impact analysis is based on the 2017 biological resources assessment document constituting Appendix D to the draft EIR. This six-year-old document was created before the Legislature terminated the Fort Ord Reuse Authority (FORA). This document also predates FORA's abandonment of a proposed multi-jurisdictional base-wide Habitat Conservation Plan, which was to be implemented by the Fort Ord Regional Habitat Cooperative. The Fort Ord Regional Habitat Cooperative, a proposed joint powers agreement, does not exist and was in fact never formed. The HCP proposed by FORA has never been adopted and has no legal effect. Indeed, Fort Ord land use jurisdictions rejected the adoption of a base-wide HCP and the formation of a joint powers authority to implement habitat conservation efforts in March 2020 because the proposed HCP did not reflect realistic development projections and because it was not financially feasible.

Despite this, the Conservation Element of the General Plan Update claims that the HCP is the "primary conservation planning document" for recipient of federal lands, e.g., Seaside as the recipient of Seaside East. Furthermore, the Conservation, Park, and Open Space Programs C2, C-3, and C4 call for partnering with other agencies to implement the programs outlined by the HCP, to develop a complementary Seaside Habitat Management Plan for areas outside the HCP, and to act as a member of the Fort Ord Regional Habitat Cooperative to "finalize the HCP Plan and Implementing Agreement." The impact analyses for special status species, sensitive habitat, and wetlands in the draft EIR and in the Biological Resources Assessment rely on the HCP to conclude that these impacts would be less than significant. The EIR is fundamentally defective because it relies on this illusory HCP as the basis for its conclusion that impacts would be less than significant.

Furthermore, the EIR's listing of other General Plan Update policies and programs does not cure the deficiency. The EIR simply lacks any meaningful analysis of development impacts to the Seaside East area or proposals for mitigation of those impacts. At most, the EIR provides some general information about the environmental setting in the Seaside East area and then simply defers the analysis of impacts and the formulation of mitigation to future studies. The policies and programs recited by the draft EIR as the basis for its impact conclusions amount to deferral of the formulation of mitigation without the elements that CEQA requires for such deferral.

First, the EIR must provide a reason for deferral. None is provided. The General Plan Update proposes substantial development in the Seaside East area, which is known to contain specific types of sensitive biological resources. The City has had six years since the Notice of Preparation to assess impacts and formulate mitigation. There is no reason that it could not have undertaken the analysis and formulated mitigation proposals.

Second, even if the EIR provided a reason for deferral, the EIR must also discuss the mitigation measures that will be considered and provide performance standards to be achieved by these deferred mitigation measures. Neither the draft EIR nor the General Plan policies it cites in the

biological resources section discuss mitigation measures that will be considered or identify performance standards to be adopted. For example, the policy under Goal LUD-2 and Goal C-2 – to “[e]stablish a habitat protection area, including criteria for defining the area, during the creation of a specific plan for Seaside East” – admits by its own terms that the City has not even identified the “criteria” to determine what habitat should be protected, much less identified performance standards for adequate mitigation measures. Similarly, the policy under Goal C-1 to “map and designate habitat management areas to be protected from future development, where appropriate” provides no standards to define habitat management areas, no standards for adequate “management” of habitat, and, more problematically, no explanation of what factors would determine where habitat management is “appropriate.” Other policies under Goal C-1 are vague and unenforceable. No enforceable standards define what it would mean to “minimize loss of sensitive species and critical habitat.” The public cannot guess what “planning carefully to avoid significant impacts” means because significant impacts are not defined. Nor is it clear what it means to “provide BLM evidence of habitat protection measures” because the EIR does not discuss such measures, much less standards for adequacy, and it does not explain what role BLM would have in mitigation. The development review policy under Goal C-2 is an empty shell with no standards to guide analysis and mitigation and no discussion of the mitigation measures that might be considered: it requires only that projects “submit analysis showing the existing habitat on the proposed plan, potential impacts to special-status species and sensitive natural communities or other biological resources (including nesting birds), and measures to avoid, minimize, and/or mitigate impacts, as necessary.”

Third, the City may not defer mitigation that is uncertain. Substantial portions of the proposed Seaside East area consist of sensitive habitat and oak woodlands and/or contain special status species. Without any analysis of biological constraints on the use of the Seaside East acreage, the EIR assumes that the Seaside East development can include 4,050 dwelling units, 220 hotel rooms, and over a million square feet of retail, service, industrial, and public sector development. The General Plan Update assumes that two thirds of the 635 acres will be developed and only one third left as open space. It also assumes that this open space will be used for parks and recreation. In sum, the EIR assumes that essentially all of the Seaside East area will be developed or used for parks and recreation. However, the EIR presents no evidence that these uses can be consistent with avoidance or minimization of significant impacts, which impacts the EIR does not actually define. In light of the lack of analysis, mitigation is clearly uncertain. Accordingly, mitigation should not be deferred.

Finally, the EIR fails to separate its discussion of impacts from its discussion of mitigation. Instead, it simply assumes that impacts will be mitigated to a less than significant level by virtue of certain policies that are part of the GPU. The point of separating the discussion of impacts from the discussion of mitigation is to ensure that the EIR considers alternative means to avoid or minimize significant impacts. Here, the conflation of the impact and mitigation discussions leaves no room for consideration of alternatives that would forego development of all or substantial portions of the Seaside East area.

### **C. Greenhouse Gas**

The draft EIR references several inconsistent emissions reduction targets. It is unclear what emission reduction target the draft EIR assumes would result in a less than significant or less than cumulatively considerable impact.

The draft EIR relies on meeting various state-level emission reduction goals without justifying the application of those goals to local conditions. For example, there is no way to determine from this record and the local development assumptions whether under local conditions a 40% reduction from 1990 emissions by 2040 would be sufficient to help attain state reduction goals or whether large emissions reductions would be required. This problem is compounded by references to various inconsistent reduction targets and the failure to provide any quantification of future emissions.

The draft EIR relies on future development of a “Climate Action Plan or similar” and future quantification of emissions to conclude that city will in fact attain statewide reduction goals by 2030 and 2045. However, deferral of the CAP “or similar” is improper for several reasons. First, CEQA does not permit deferral of a mitigation measure unless the EIR identifies a reason for deferral. There is no reason offered here.

Second, CEQA does not permit deferral of mitigation unless the EIR identifies performance standards and discusses the mitigation measures that may be considered. Mentioning the development of “a Climate Action Plan or similar” that would implement unspecified “greenhouse gas reduction measures” is not sufficient. Nor is a policy to “identify, prioritize, and update programs that effectively contribute to greenhouse gas reductions.” Furthermore, the only performance specifications offered are various inconsistent statewide emission reduction goals. But the City cannot identify a performance specification based on those reduction goals because the City has not shown that use of those reduction goals percentages reflects local conditions or would be sufficient to help achieve the statewide reduction goals and because the City has not even consistently identified the applicable state reduction goals.

Third, CEQA does not permit deferral of mitigation when its feasibility is uncertain. Feasibility here is uncertain because existing and projected emissions are not quantified. There is simply no basis from the record to identify the magnitude of needed emissions reductions or to conclude that Seaside could or will attain the emissions reduction targets. Feasibility is particularly uncertain because there are only 7 years left to attain 40% reductions below 1990 emissions by 2030.

### **D. Water**

The draft EIR addresses groundwater and hydrology impacts in section 4.9 and utility and service system impacts in section 4.16. Both of these discussions are based on the Water Supply Assessment (WSA) in the draft EIR’s Appendix F and on the most recent Urban Water Management Plans (UWMPs) adopted by CalAm and by Marina Coast Water District (MCWD) in 2021. However, the UWMPs cover different geographic regions than the General Plan Update, and they are based

on different assumptions about growth. Furthermore, the WSA and the draft EIR themselves contain inconsistent assumptions about growth and water demand. The draft EIR also fails to acknowledge that MCWD is obligated to limit service to new residential development in Fort Ord to 6,160 units, that this unit cap applies across all Fort Ord land use jurisdictions, and that the City's most recent accounting in the Campus Town EIR shows that there are only 10 units remaining. Nor does the EIR acknowledge the uncertainty of a potable water supply for Fort Ord areas. From the information provided, it is impossible to quantify either existing or future supply and demand conditions for the Fort Ord area within Seaside, the remainder of the MCWD service area within Seaside, the Seaside Municipal Water System area, the CalAm service area within Seaside, or the City as a whole. Nor is it possible to quantify the cumulative effects of the City's demand growth on the CalAm service area, the MCWD service area, or the aquifers and surface waters from which these service areas draw water supplies.

The differing water supply constraints by subarea are necessary to determine subarea impacts and to weigh alternatives about where the City should plan growth. For example, it is clear that the Fort Ord area faces substantially more severe water supply constraints than other areas in the City. The magnitude of the overall water supply constraint and the existence and magnitude of subarea shortfalls are also relevant to the City's decisions about the overall amount and type of growth. Despite this, the Alternatives analysis does not acknowledge that developing fewer units overall and fewer units in Fort Ord would reduce water supply impacts. And the cumulative analyses do not identify or justify the scope of their analyses, do not provide cumulative supply and demand data, and improperly assume that the General Plan Update's contribution to a significant cumulative impact would not be considerable simply because it is not by itself significant.

The draft EIR does not discuss the impacts of providing water supplies from existing or future sources. The WSA does not discuss entitlements, rights, and contracts related to future water supplies or the sufficiency of groundwater supplies to meet projected demands. It is not sufficient simply to rely on a water verification report as mitigation.

For all of these reasons, the draft EIR's discussion of water supply impacts and mitigation is inadequate and should be revised and recirculated.

## **E. Alternatives**

In light of the significant impacts related to water supply, wildfire, aesthetics, cultural and archeological resources, and biological resources in the former Fort Ord area, the draft EIR should evaluate an alternative that would eliminate additional development in the Fort Ord area. In particular, it should evaluate an alternative that would eliminate the proposed Seaside East specific plan. The draft EIR improperly eliminates this alternative from detailed discussion, arguing that it would not meet objectives 6, 9, 10, 11, and 12. It is improper to eliminate this alternative from discussion for inconsistency with a few objectives. Furthermore, there is no inconsistency with objective 6, which merely calls for completion of Campus Town. Nor is there any inconsistency with Objective 12, which calls for preserving habitat. Indeed, preserving habitat is a key purpose of an alternative that eliminates the Seaside East specific plan. Nor is there any inconsistency with

objective 11, which calls for creation of an active trails network that would include access to the Fort Ord National Monument and the FORTAG trail system. Again, avoiding development would create more rather than fewer opportunities for trails. This alternative is at most partially inconsistent with objective 10, which calls for creating more parks in areas all over Seaside, not just within Fort Ord. Indeed, this alternative is only actually inconsistent with objective 9, which has been narrowly drafted to require development of Seaside East.

Although Alternatives 2 and 3 would both reduce the development of Seaside East, the draft EIR does not provide an adequate or accurate assessment of their comparative impacts. First, the descriptions of development in Alternatives 2 and 3 are inconsistent with the project descriptions elsewhere in the EIR.

Second, Alternatives 2 and 3 were formulated to reduce jobs and housing in Seaside East, but they lack a discernable mechanism to limit either the location or quantity of future development of either jobs or housing. Furthermore, Alternatives 2 and 3 unaccountably project a greater reduction in jobs than in housing by eliminating jobs that require less employment space per job and retaining jobs that require more. And, the alternatives analysis analyses of air quality, GHG, and VMT impacts for Alternatives 2 and 3 are unsupported because they fail to consider the availability of substantial employment space outside Seaside East. Reducing the overall level of sprawl development into Seaside East and focusing that development on existing infill sites rather than sprawling onto undeveloped greenfield would reduce both the absolute and per capita impacts on air quality, GHG, and VMT.

Third, the conclusion that wildfire impacts would only be “slightly” reduced by foregoing some portion of proposed development of the very high fire hazard area that essentially blankets Seaside East, an area dominated by the highly flammable maritime chaparral, is unsupported. The alternatives analysis argues that the more natural area that is preserved, the more fire fuels there would be proximate to development. The implication is that the destruction of this habitat is the best way to save it from wildfire. If policies calling for minimizing “edge” by developing all of Seaside East as a contiguous block of development is indeed the wildfire mitigation policy, then the EIR has failed to assess the biological resource impacts of this proposed mitigation. Avoidance and minimization of impacts to dispersed special status species by retaining habitat areas within development areas may require precisely the kind of checkerboard development pattern that would maximize wildfire risk. The EIR fails to assess this in connection with the preferred project or in connection with Alternatives 2 and 3.

The total amount of development proximate to flammable vegetation, i.e., the amount of “edge,” is a function of the development pattern. Because the EIR fails to identify the locations within Seaside East that would be developed under the preferred project and those that would be developed under Alternatives 2 and 3, the EIR fails to provide evidence to support its conclusion that wildfire impacts would only be “slightly” reduced – even though Alternatives 2 and 3 reduce the amount of Seaside East development and thus allow its consolidation with fewer edge areas.

Similarly, the EIR fails to provide any justification for its conclusion that impacts to tribal cultural resources would only be “reduced” and not substantially reduced through Alternatives 2 and 3. The Cultural Resources Assessment in Appendix E concludes that the area east of General Jim Moore Boulevard on the former Fort Ord represents the vast majority of the archeological sensitive areas.

Because the EIR fails to quantify water demand and supply for each of its service areas, there is no basis in the Alternatives analysis to assess the relative impacts of Alternatives 2 and 3. However, the conclusion that water resource impacts would be greater under Alternative 2 than the preferred project because “it would place less emphasis on mixed-use, high-density development” is unsupported. Alternative 2 may put less emphasis on mixed-use, high-density development than Alternative 3, but the relevant comparison is to the preferred project, not to Alternative 3. Alternative 2 would develop fewer dwelling units than the preferred project and for that reason alone it would reduce impacts.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized with large, overlapping letters and a long, sweeping tail.

Michael DeLapa  
Executive Director