LandWatch
monterey county

January 21, 2019

Clyde Roberson, Mayor
City of Monterey
580 Pacific Street
Monterey, CA 93940

Subject: Jan. 23, 2019 Item - Discuss Fort Ord Property Development Potential and Direct Staff to Release a Request for Proposals

Dear Mayor Roberson and City Councilmembers:

The City of Monterey owns a 126-acre parcel designated as *business park/light industrial* and *open space/recreational* on the former Fort Ord. Due to limited interest in developing the site, the City hired Economic and Planning Systems (EPS) to conduct a site opportunity and feasibility analysis. The EPS Report concludes that mixed residential use is likely the most feasible use of the property. However, that conclusion rests on a variety of unquestioned assumptions.

As you review the EPS Report and address your staff's questions, LandWatch encourages you to challenge the assumptions in the report. Please also consider these questions as you contemplate potential options for the property:

1. **What water is available for development on this parcel?**

Future development of this parcel relies on an unproven, unsustainable "paper water" allocation of 65 acre-feet per year (AFY) of a larger 6,600 AFY "paper water" allocation. The U.S. Government handed down the larger "paper water" allocation in 1993 when it transferred the lands on the former Fort Ord to Monterey County. Acknowledging that "The Salinas Basin has had a problem with seawater intrusion since the 1940's," the U.S. Government expected and defined a "Project," that is

> A future, long term, reliable, potable water system for the POM Annex/RC and other areas; the Project will provide at least 6,600 acre-feet per year which will permit all Salinas Basin wells on Fort Ord Lands to be shut down except during emergencies; stopping all pumping from the Salinas Basin on Fort Ord Lands is necessary to mitigate seawater intrusion …." (Agreement No. A-06404 Agreement Between the United States of America and the Monterey County Water Resources Agency Concerning Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency, Section 2 (J)

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Twenty-five years later, the proposed "Project" to supply a replacement potable water supply to Fort Ord has not been implemented. The Marina Coast Water District (MCWD) currently serves as the water provider to the parcel but in truth has no actual water to allocate for its development.

In connection with the [Final EIR for Monterey Downs and Monterey Horse Park and Central Coast Cemetery Specific Plan (SCH201291056) dated October 12, 2016](), LandWatch and its hydrologist Timothy Parker submitted extensive comments demonstrating that overdraft and seawater intrusion in the Silicon Valley Groundwater Basin continues and existing groundwater management efforts are insufficient to mitigate or halt it. In connection with the subsequently proposed Marina Coast Water District's annexation of Fort Ord lands, LandWatch again submitted extensive comments backed by Mr. Parker's opinion and backed by recent MCWRA reports of worsening seawater intrusion (see [here]() and [here]()). We incorporate those comments by reference and provide copies herewith. As Mr. Parker substantiates, cumulative pumping in the Salinas Valley Groundwater Basin and its Pressure Subarea has resulted in aquifer depletion and associated seawater intrusion, and current groundwater management efforts are not sufficient to avoid this significant cumulative impact. This conclusion is not controversial and is well documented by the technical reports cited by Mr. Parker, which we also incorporate by reference.

As LandWatch has repeatedly pointed out to the Fort Ord Reuse Authority (FORA) and its member agencies and twice litigated successfully (that is, Seaside's proposed Monterey Downs development and Marina Coast Water District's proposed annexation), the assumption that there is any available groundwater is invalid. It is virtually certain that any development that relies on this assumption would be challenged.

Moreover, previous attempts to develop open space at Fort Ord have been overturned by citizens, including two successful referendums of the County's approval of Whispering Oaks. It is therefore almost certain that development on this parcel will be eventually stopped, either by a lawsuit or a citizen's referendum, at a very significant cost to the City. Pursuing development on this parcel therefore entails very significant risks, including political and financial risks.

On balance, unless and until there is an alternative water supply, the City should not commit itself to residential uses for Fort Ord land. By contrast, residential infill within the City would not face the same constraints; water supplies in the Cal-Am service area should soon be available. In recent years, the City has done an excellent job of supporting infill and mixed-use development along Lighthouse Avenue and Alvarado Street. Currently, the City is considering additional mixed-use projects on Fremont Avenue and a proposal to rezone Garden Road for mixed use.

2. **Why does the City wish to develop a remote parcel of natural land, distant from city services and with no roads, water pipelines, sewers or other infrastructure, when there are other properties closer to city services and already supporting commercial uses?**

The site, located miles from shopping, public schools, alternative modes of transportation, is the antithesis of city-centered and smart growth. Development of the parcel will generate significant greenhouse gas emissions from transportation and be contrary to a wide variety of general plan policies that encourage sustainable development. There is no sewer and no water service to the property.

Even if water were available from MCWD, the City has not demonstrated that development of this parcel is necessary to meet either AMBAG housing or job forecasts.

A much better alternative to developing the lands on the periphery of the City would be to focus on infill and rezoning/upzoning land within already developed areas within the more central City, including Garden Road. Rezoning Ryan Ranch for mixed use is also worth considering, although less attractive because of Ryan Ranch's isolation from schools, stores, and public services. With regard to job creation, the low-density Ryan Ranch development offers ample opportunities for commercial upzoning.

3. **How will the City develop housing on this parcel when the Fort Ord housing cap of 6,160 is about to be reached by housing proposals in Seaside and Marina?**

Residential development on Fort Ord is constrained to 6,160 new units by both the Base Reuse Plan and by the settlement of the MCWD litigation between MCWD, LandWatch, and Keep Fort Ord Wild. This is due to water supply and other concerns. There are already close to 6,160 residential units approved at Fort Ord. The Fort Ord Reuse Plan states that it is first come, first served. That 6,160-unit cap did not assume any Monterey City residential units and will almost certainly be exhausted prior to any development approved by Monterey.

FORA's housing cap of 6,160 units, now built into MCWD's water allocations, is likely to be reached with the next Seaside project (e.g., Campus Town or Main Gate) or any number of other pending projects in Seaside or Marina. No additional housing is allowed beyond that until new (replacement) water supplies are developed.

4. **How will residential development of the parcel help the City meet RHNA goals?**

The "mixed residential" and "medium density mixed-use" scenarios described in the analysis would do little to address the Peninsula's real needs for housing. "Mixed residential" would generate 226 residential units and medium density mixed-use would generate 135 units. The feasibility analysis assumes that only 15% of the units would be affordable. Table 11 shows 33 or 18 affordable units for the "mixed residential" and "medium density mixed-use" scenarios. The remaining 85% of the units would be market rate. For mixed use, feasibility depends for on obtaining market rate sales prices, from $450,000 to $700,000 per unit sales and $2,300/month rentals.

Moreover, significant numbers of homes in each scenario would be "low density single-family," that is, suburban sprawl – exactly the kind of residential development our community doesn't need. It does not provide affordable housing, it worsens traffic, and it does not provide the tax base necessary to support it.

5. **What is the demand for commercial development and what competitive pressures would this parcel face?**

There is very little demand for new land for industrial development in Monterey County. More than 850,000 square feet of industrial development has already been approved in Monterey County, most of it on the former Fort Ord. If you include land zoned commercial, agricultural industrial, and office, the total is 8.5 million square feet.

There is even less demand for industrial development on the former Fort Ord. According to FORA's April 5, 2018 update, FORA claims credit for 691,000 square feet of commercial development over the past 25 years — only 23% of its goal of 3 million square feet projected in FORA's Base Reuse Plan.

Additionally, the Monterey Peninsula Regional Airport Master Plan designates over 900,000 square feet for similar non-aviation development.

It is not surprising that the EPS Report concludes that the LDR/Commercial scenario is uncertain. (EPS Report, p. 34.) Significantly, the EPS Report assumes that this scenario would only be even marginally feasible if there were to be a "cross subsidy" of the low-return commercial development by the assumed higher-return residential development. (EPS Report, p. 33.) What the EPS Report does not explain is how the City could compel a developer to actually build the highly speculative and potentially unprofitable commercial development portion of the LDR/Commercial scenario.

6. What costs and risks does the City face in attempting to development this land as compared with other land in the City?

As noted above, the City faces very substantial legal risks and costs related to "paper water." There are other planning challenges as well. If the City of Monterey were to seek to rezone the land for residential or mixed use, that would require CEQA review. Rezoning would also be inconsistent with the Fort Ord Base Reuse Plan. As the City notes, residential development would require additional ESCA cleanup because the parcel has only been cleared for "light industrial" use, not for residential use. The cost of this additional cleanup hasn't been estimated, but presumably it would be much greater than the cost of cleaning the land for light industrial use. Financing for this work has not been identified.

In addition, the site faces other environmental challenges, including mitigation for rare and endangered species. We understand that the property has the only stand of Monterey Pines on Fort Ord.

7. How will the City finance infrastructure and other improvements, with or without FORA?

The feasibility analysis assumes that infrastructure for sewers, roads, and water supply can be supplied for the cost of the existing CFD tax based on the Fort Ord Reuse Authority Capital Improvement Plan and the development assumptions for full buildout of the Fort Ord Base Reuse Plan on which that is predicated (see note on Table 10). The analysis further assumes that payment of the existing CFD tax would be sufficient to provide the required infrastructure (see Tables 12 and 13). The adequacy of these fees is questionable for several reasons.

First, if, as currently planned, FORA sunsets in 2020, these CFD taxes will not be available. As EPS has acknowledged in a previous report, "under a FORA sunset scenario, it is not clear that revenues from development occurring after June 30, 2020 will be available to fund remaining obligations." [1] EPS points out that every jurisdiction will be on its own when FORA sunsets, as FORA is currently expected and required to do by 2020.

Second, even if FORA were extended, CFD taxes may not generate infrastructure funds for the City for post-2020 projects (pre-2020 projects will be unaffected regardless whether FORA goes or stays). The FORA CIP analysis assumes that future CFD payments from other jurisdictions would be available to subsidize the infrastructure for future projects. However, the City may not get more than it gives. The only way to figure out whether there would be a "subsidy" to Monterey from continuing FORA is to look at the FORA Capital Improvement Project (CIP) list very carefully to determine what it assumes Monterey development will pay, what infrastructure it assumes Monterey will get, and whether the overall development assumptions and revenue forecasts for all jurisdictions are reasonable. If Monterey is counting on CFD funds from other jurisdictions paying for its infrastructure needs, it will want to be sure that those jurisdictions will really develop as projected. For example, if the FORA revenue assumptions from which Monterey expects a subsidy depends on development assumptions for Marina or Seaside or the County that don't materialize, then Monterey may be out of luck.

Furthermore, the CIP is subject to voting by other members and current plans may change. For example, FORA's CIP was predicated on industrial use for the City's site and does not assume the higher infrastructure costs that would be incurred for residential development (e.g., a higher level of toxic clean-up; more complex water and wastewater infrastructure; higher road capacity); and there is no reason to assume that FORA would be willing to assume those higher costs for development that is inconsistent with the Base Reuse Plan. On balance, unless the City has reason to expect significant subsidies from other FORA member agencies for a particular infrastructure project committed for the very near post-2020 future, the City will likely be better off with autonomy so it can control its own planning and revenue raising.[2]

To repeat, even if FORA were extended, there is no assurance that as a political matter, that FORA would provide the needed infrastructure to support Monterey development that differs from the BRP assumptions.

Third, the assumption in EPS Report Tables 12-14 that the current CFD taxes would approximate the infrastructure costs for development of the City's site is questionable, regardless whether FORA continues or sunsets. Analysis undertaken in connection with the FORA transition plan identified a substantial shortfall between the expected future CFD revenues and the needed $194 million in infrastructure spending. FORA's funding

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[1] EPS, FORA Transition Strategy Technical Analysis; EPS # 162127, August 21, 2018, p. 3, available at http://b77.402.myftpupload.com/wp-content/uploads/082118_EPS_Transition_Memorandum-FINAL.pdf

[2] Incidentally, if the City does entitle projects while FORA and its Community Facilities District (CFD) still exist, it should build in a replacement mechanism for development impact fees when the CFD expires (e.g., through a development agreement), because when FORA goes out of business, as it must eventually, the City will not be able to collect the CFD tax from development with vested entitlements from the City.

projections assume $67 million in revenues from future land sales and property taxes, even though it is unclear that there will be net cash buyers available for contaminated land in the future[3] FORA's projection of future CFD funding assumes that all of the future development planned in the Base Reuse Plan will actually seek entitlements and be built, generating another $55 million in CFD taxes. And FORA assumes that all the exiting entitled projects will be fully built out to generate another $72 million. Full buildout of the Base Reuse plan is a speculative assumption in light of the past 25 years of development progress.

Furthermore, even assuming full buildout occurs, FORA set its CFD tax at a level that would not actually fund all of the required infrastructure at buildout. This is particularly true for the commercial CFD tax, but the residential CFD tax is also less than needed to fund all of the assumed infrastructure. For example, if Fort Ord development were required to pay a nexus-based proportionate fair-share of the transportation infrastructure needed to support that development, it would pay $204 million.[4] But the actual impact fees collected through the current CFD taxes collected for transportation infrastructure will only pay $114 million. Indeed, EPS has previously acknowledged that the FORA CFD funding mechanism differs from traditional impact fees in that a CFD tax is not required to demonstrate nexus and proportionality.[5] Thus, regardless whether FORA is extended or whether it sunsets in 2020 as currently planned, the City should do its own analysis of the infrastructure actually needed for residential development on this site, which was not assumed by FORA, and determine if the costs per unit would be similar to the CFD costs assumed in the FORA CIP.

8. What other assumptions in the feasibility study should the City scrutinize?

The feasibility analysis for "Mixed Use" relies on critical assumptions that may not be valid. For example, it assumes that there would be a "cross subsidy of lower performing . . . high density residential products" (p. 33). Unless the City gets a developer to make an iron-clad commitment to build the high-density products as a condition of occupancy of the lower density units, there can be no assurance that this cross subsidy would occur.

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[3] See for example, Draft Transition Plan Study Session presentation, page 14, available at (https://www.fora.org/Board/2018/Presentations/06/TAC-Board_StudySession_060818.pdf.

[4] See Fort Ord Reuse Authority, Fee Reallocation Study: Deficiency Analysis and Fee Reallocation, April 27, 2017, Table 20, available at https://www.fora.org/Board/2017/Packet/Additional/051217-Item8c-Attach_B.pdf.

[5] EPS, FORA Transition Strategy Technical Analysis; EPS # 162127, August 21, 2018, p. 4, available at http://b77.402.myftpupload.com/wp-content/uploads/082118_EPS_Transition_Memorandum-FINAL.pdf.

Opportunity for Dialogue

The EPS Report is apparently premised on "interest expressed by private investors in alternative development concepts." (EPS Report, p. 5). LandWatch would like to enter into dialog with the City to help identify alternative developments that would support the Peninsula's needs and be financially viable, sustainable, and appropriate. LandWatch believes that there are better opportunities for future development within the City of Monterey.

Thank you for the opportunity to comment.

Sincerely,

Michael DeLapa
Executive Director

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12. MCWRA, Salinas Valley Water Project Final EIR, available at http://www.mcwra.co.monterey.ca.us/salinas_valley_water_project_I/documents/Final%20EIR-EIS%20SVWP_RTC-Vol%201.pdf.

13. MCWD, 2015 draft UWMP, available at http://www.mcwd.org/docs/agenda_minutes/2016-06-06_board/Item%2011-A%20-%20MCWD%20Draft%202015%20UWMP%20v20160520.pdf.

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16. Ground Water Summary Reports published by MCWRA in 1995-2014, available at http://www.mcwra.co.monterey.ca.us/groundwater_extraction_summary/groundwater_extraction_summary.php.

17. MCWRA, Salinas Valley Water Project Engineers Report, available at http://www.mcwra.co.monterey.ca.us/salinas_valley_water_project_I/documents/SVWP%20final_engineers_report.pdf.

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