

JANE HAINES

September 16, 2013

email to: cob@co.monterey.ca.us

Monterey County Board of Supervisors
168 W. Alisal Street
Salinas, CA 93901

Re: September 17 public hearing regarding reconsideration of 2013 Board of Supervisors resolution finding and certifying that the 2010 Monterey County General Plan as amended is consistent with, and intended to be carried out in a manner fully in conformity with, the Fort Ord Base Reuse Plan, the Fort Ord Reuse Authority's plans and policies, including the Master Resolution, and the Fort Ord Reuse Authority Act.

Dear Board of Supervisors:

Tomorrow you will reconsider your August 27 approval of a resolution certifying that the 2010 Monterey County General Plan is consistent with the Fort Ord Base Reuse Plan. I sent you a letter on August 26 requesting you not to adopt a finding of consistency until the General Plan is in substantial compliance with applicable programs specified in the Base Reuse Plan. This letter addresses that same topic, but from a different perspective. The following discussion shows that the 2010 Monterey County General Plan materially misstates an applicable Base Reuse Plan policy and wholly omits an applicable Base Reuse Plan program.

Your August 27 approval should be rescinded for the following reasons.

First, the Fort Ord Master Plan, which is Chapter 9E in the 2010 General Plan, misstates Recreation/Open Space Land Use Policy A-1 from the Base Reuse Plan (hereafter Policy A-1). The wording of Policy A-1 was revised prior to the 1997 adoption of the Base Reuse Plan as shown in the analysis in pages 4-13 and 4-14 of the Base Reuse Plan Final Environmental Impact Report (hereafter EIR). That analysis determined that certain changes were needed in the Monterey County Base Reuse Plan land use element related to both the protection of open space and compatibility of open space areas with adjacent areas. (Base Reuse Plan EIR pg. 4-14.) Otherwise, a potentially significant environmental impact could result to Monterey County open space lands and lands with irreplaceable natural resources from reuse of the former Fort Ord.

The EIR therefore revised the wording of Policy A-1 using underlining and strike-outs, shown on EIR page 4-14 as follows:

"Recreation/Open Space Land Use Policy A-1: The County of Monterey shall protect ~~encourage the conservation and preservation of~~ irreplaceable natural resources and open space at former Fort Ord." (See also Base Reuse Plan pg. 270.)

The 2010 Fort Ord Master Plan uses the pre-revision wording for Policy A-1. (See Chapter 9E of the 2010 General Plan, page FO-21.) Consistency between the Master Plan and the Base Reuse Plan requires that the Master Plan use the same wording for Policy A-1 that is used in the Base Reuse Plan. (See the wording in Base Reuse Plan Volume 2, page 270 and Base Reuse Plan EIR at page 4-14.) Policy A-1 in the Monterey County Fort Ord Master Plan must be amended to be consistent with the revised wording for Policy A-1 in the Base Reuse Plan.

Second, the Fort Ord Master Plan omits Base Reuse Plan Recreation/Open Space Land Use Program A-1.2 (hereafter Program A-1.2). Page 4-14 of the Base Reuse Plan EIR added Program A-1.2 to the Base Reuse Plan as a mitigation to prevent significant adverse impacts to Monterey County open space land and land with irreplaceable natural resources. (Volume 2, page 270, see also EIR pg. 4-14.) The Master Plan must be amended to add Policy A-1.2.

Third, the Master Plan's misstatement of Policy A-1 and omission of Program A-1.2 are likely to cause significant adverse environmental impacts to the 72.5-acre Monterey County Habitat Reserve parcel which the Monterey Downs project will request be annexed from Monterey County into Seaside, known as Army Parcel E19a.2, plus the six Monterey County Open Space/Recreation parcels shown in dark green in the map at Figure #LU6a in the Master Plan, plus any other Monterey County open space lands and lands containing irreplaceable natural resources.

For example, Army Parcel E19a.2 is included within Seaside's proposed Monterey Downs project even though the parcel is currently under Monterey County jurisdiction. It is a 72.5-acre habitat reserve parcel subject to the *Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord* (hereafter HMP). The HMP requires that Parcel E19a.2 and twelve other parcels which about the Natural Resource Management Area have management requirements adjoining where the abutment occurs. (See HMP pgs. 4-56 - 4-57). Specifically, fire breaks are required in the area of the abutment and limitations to vehicle access must be installed along the interface. In assessing the implementation status of Program A-1.2, FORA's 2012 Final Base Reuse Plan Reassessment Report describes the reasons for Program A-1.2a and the fact that Monterey County has not yet implemented it:

SEPTEMBER 16, 2013

RE: RECONSIDERATION OF AUGUST 27 CONSISTENCY FINDING

"Deed restrictions require compliance with the HMP and implementation of habitat management requirements identified in the HMP. However, the County has not recorded a Natural Ecosystem Easement on open space lands." (8/15/2012 Scoping Report pgs. 4-34 and 4-35.)

Since the County has not implemented Program A-1.2, the Natural Ecosystem Easement deed restriction for Parcel E19.2 has not yet been recorded. However, if the 2010 General Plan is amended to include Program A-1.2 (as consistency requires), the program's inclusion would provide a legal means to compel the County, or Seaside if the annexation occurs, to record the deed restriction prior to approval of development entitlement. On the other hand, if the Base Reuse Plan and the current version of the 2010 Monterey County General Plan are found to be consistent notwithstanding the omission of Policy A-1.2 in the General Plan, it may become impossible to enforce the habitat reserve requirements for Parcel E19.2. That result could cause significant adverse environmental impacts.

Parcel E19a.2 and the six open space parcels shown in Figure LU6a are comprised of environmentally sensitive land under Monterey County jurisdiction. Past California Environmental Quality Act review necessitated adoption of Policy A-1 and Program A-1.2 to reduce potentially significant adverse environmental impacts to those parcels. (EIR pg. 4-14.) That protection cannot lawfully be removed in the manner in which it was removed on August 27.

For the foregoing reasons, I request you to rescind your August 27 finding of consistency between the 2010 Monterey County General Plan and the Base Reuse Plan.

Sincerely,

Jane Haines

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September 17, 2013

Via Hand Delivery

Fernando Armenta, Chair
and Members of the Board of Supervisors
County of Monterey
168 West Alisal Street, 1st Floor
Salinas, CA 93901

Subject: Agenda item 7.1 (added via addendum after 4:15 PM on Friday)
County plans' inconsistency with Fort Ord Reuse Plan

Dear Chair Armenta and Members of the Board of Supervisors:

This Office represents Keep Fort Ord Wild and The Open Monterey Project. We submit these comments on the matter of the 2010 Monterey County General Plan consistency with the Fort Ord Reuse Plan.¹ KFOW and TOMP also join in the comments of LandWatch and the Sierra Club.

The County 2010 General Plan is inconsistent with the Reuse Plan in significant material ways. Some of the problems are explained below.

California Environmental Quality Act (CEQA)

It appears that the County has positioned itself as the lead agency under CEQA for this project. Is it the County position that the County is the lead agency?

Inconsistency #1:

Fort Ord Does Not Have a Long Term Sustainable Water Supply,
Contrary to County General Plan Policy PS-3.1

The County policy PS-3.1, as amended, states that there is a rebuttable presumption that all development in Zone 2C has a long term sustainable water supply. Fort Ord is in Zone 2C. Large parts of Fort Ord, including land designated for the County, are not over a usable groundwater aquifer. Other parts of Fort Ord are over the aquifers that are seawater intruded. Other parts of Fort Ord are over the contaminated groundwater. The rebuttable presumption of a long term sustainable water supply is inconsistent with reality. It also is inconsistent with the Fort Ord Reuse Plan.

¹ The proper name is of the document is the Fort Ord Reuse Plan. The County repeatedly and incorrectly refers to the document as the "Base Reuse Plan."

The presumption ignores the very serious water supply issues and limitations in the Reuse Plan and in the County/Army/MCWRA agreement.

Lack of available water supply is a significant issue. The Reuse Plan and the EIR calls water a "scarce resource" and is concerned with water's "scarce resource availability" (p. 197). The Reuse Plan Table 3.11-2, "Allocation of Existing Potable Water Supply by Jurisdiction," states that Monterey County has a "total water allocation" of 545 acre feet per year at the former Fort Ord. That very limited supply is inconsistent with the General Plan's presumption of a long term sustainable water supply. And as we explain elsewhere, the 545 AFY figure is more water than actually exists or has been documented.

- 3.11.5.4 (d) Water Supply Management and Augmentation Programs. The management of existing groundwater supplies, water conservation, and providing alternative sources of water supply are all necessary water management measures required to implement the objectives of the Reuse Plan. Development beyond the limits defined in the DRMP will be allowed only upon the augmentation of existing water supplies.
- 1) Protection of Yield and Quality of Water Supplies. Pumping from the on-site well-water supply for FORA has been shown to [a]ffect the extent of seawater intrusion into the shallow aquifers.

(Republished Fort Ord Reuse Plan, p. 199, underlining added for emphasis.)

The Fort Ord Reuse Plan policies require:

3.11.5.4 Management of Water Supply
Water supply is a central resource constraint for development of Fort Ord. Insuring that development does not exceed the available water supply and safe yield is a major component of the DRMP. The following measures ensure that development is managed within this resource constraint.

(Republished Fort Ord Reuse Plan, p. 196, underlining added for emphasis.)

Land Use Jurisdiction Responsibility. Development projects approved by each land use jurisdiction will require a finding by that land use jurisdiction that the project can be served with their jurisdictional water allocation or by water imported to the former Fort Ord from another available water source.

FORA Responsibility. If projects approved by the land use jurisdictions cannot be served by water supplied by the FORA water purveyor from the jurisdiction's allocation or by water imported to the former Fort Ord from another available water source, the FORA Board will be required to determine that the project is Not Consistent with the Reuse Plan.

(Republished Fort Ord Reuse Plan, p. 197, underlining added for emphasis.)

- Managed Water Supply. Assure a sufficient water supply for the major economic and employment-generating uses, so as to accommodate 16,000 to 18,000 replacement jobs at the former Fort Ord by the time the 6,600 acre feet/year of available water is in use.
- Managed Residential Development. Monitor residential development so that demand for water does not outstrip the available supply for employment-generating uses in the 2015 period.

(Republished Fort Ord Reuse Plan, p. 187, underlining added for emphasis.)

The Plan sets a standard as follows:

Water supply should be guaranteed and available before any building permits are issued.

(Republished Fort Ord Reuse Plan, p. 192, underlining added for emphasis.)

FORA Master Resolution section 8.01.010, subdivision (h) states in pertinent part as follows:

No development will be approved by FORA or any land use agency or local agency . . . unless and until the water supplies, wastewater disposal, road capacity, and the infrastructure to supply these resources to serve such development have been identified, evaluated, assessed, and a plan for mitigation has been adopted as required by

California Environmental Quality Act ("CEQA"), the Authority Act, the Master Resolution, and all applicable environmental laws.

In that same section, subdivision (j) states as follows:

The Authority will record a notice on all property in the Fort Ord Territory advising all current and future owners of property . . . that development of such property is limited by the Reuse Plan, the policies and programs of the Authority, including the Master Resolution, and/or the constraints on development identified in the Reuse Plan, including lack of available water supply . . .

The Reuse Plan alludes to an "existing potable water supply of 6,600 afy" (e.g., p. 197) which is reliance on paper water – the Army/MCWRA agreement from the 1990s. That agreement purported to transfer water rights, but the Army had no right to transfer groundwater rights in that way, and MCWRA, which does not own land at Fort Ord, had no right to hold any overlying groundwater rights at Fort Ord. The 6,600 AFY has been improperly relied on by the agencies. No environmental review has ever been done of the actual amount of water available to Fort Ord, and its sustainability, or lack thereof.

Further, the EIR on the Fort Ord Reuse Plan specifically stated that the 6,600 acre feet could only be used if the pumping did not exacerbate seawater intrusion:

Through an agreement between the Army and MCWRA, 6,600 acre feet per year (afy) of water is available from the Salinas Valley groundwater basin for former Fort Ord land uses, provided that such provisions do not aggravate or accelerate the existing seawater intrusion.

(EIR, p. 4-49.) Of course, since the EIR was certified, the pumping of the Salinas Valley Groundwater Basin has aggravated and accelerated the existing seawater intrusion, as County records demonstrate. For this reason, under the EIR, the 6,600 AF pumping should not be allowed now, even if it were a valid pumping right, which it is not.

The EIR expressed serious concerns with the water supply for Fort Ord, as shown here:

By reason of an Army agreement with the Monterey County Water Resources Agency (MCWRA), a potable water supply of 6,600 afy is assumed to be assured from well water until a

replacement is made available by the MCWRA (provided that such withdrawals do not accelerate the overdraft and seawater intrusion problems in the Salinas Valley groundwater aquifer). The 6,600 afy of well water could support the first phase of development of the proposed project to the year 2015. . . . However, given the existing condition of the groundwater aquifer, there is public concern over the ability of the water wells to "assure" even 6,600 afy.

(EIR, p. 4-53, underlining added.) As a result, the EIR merely "assumed" that groundwater wells on the former Fort Ord would be able to supply 6,600 AFY. The EIR did not investigate whether that assumption was true, or what the environmental impacts would be.

The Reuse Plan required the County to do the following:

Hydrology and Water Quality Policy B-2: The City/County shall condition approval of development plans on verification of an assured long-term water supply for the projects.

(EIR, p. 4-55.) The County General Plan policy's rebuttable presumption (PS-3.1) is inconsistent with the Reuse Plan's requirement of a "verification of an assured long-term water supply."

In the past, Fort Ord got its water supply from the 180-foot and 400-foot aquifers, but those groundwater aquifers became so contaminated with seawater and manmade contaminants from the Army use, that those two aquifers' supply had to be abandoned due to permanently compromised water quality. Currently, Marina Coast Water District provides water to Marina and more than 99% of Fort Ord from the Deep Aquifers. Essentially all Fort Ord water is supplied by the Deep Aquifers.

All foreseeable development on Fort Ord will depend on additional withdrawals from the Deep Aquifers. The Deep Aquifers are at approximately 900 feet and 1200 feet below ground. The only studies of the Deep Aquifers show as follows:

- In the deep aquifers, the volume of stored groundwater is "small."
- Deep Aquifers are ancient water, not sustainable water.
- Recharge to the deep aquifers comes from the overlying shallower aquifers (180' and 400') which are contaminated by seawater intrusion.
- The safe yield of the Deep Aquifers is exceeded by current pumping.

(See enclosed materials on the Deep Aquifers, environmental analysis of development at Fort Ord, and FORA water allocation.)

The baseline groundwater pumping at the three MCWD wells is 2,400 AF [which is a total of] 1,750 AFY from layer 3, and 650 AFY from layer 4. (WRIME, Marina Coast Water District Deep Aquifer Study, 2003, p. 4-1.) All the figures indicate that groundwater heads will continue to decline in almost all aquifer layers if groundwater production from the deep aquifers is increased significantly from baseline levels [of 2400 AF]. (WRIME, Marina Coast Water District Deep Aquifer Study, 2003, p. 4-7, p. 4-1 (baseline).) In 2011, Marina Coast pumped 4,046 AF from the Deep Aquifers. (Marina Coast Water District, 2011 well production summary.) That is more than 1600 AF over the baseline amount of 2400 AF, which, if exceeded, will cause seawater intrusion in almost all aquifer layers.

"Water levels in the Marina area deep aquifers have been substantially below mean sea level since the initiation of extractions." (WRIME, Marina Coast Water District Deep Aquifer Study, 2003, p. 5-1.) Geologic, hydraulic, and geochemical data all suggest the "deep aquifer" to be two distinct aquifers. (WRIME, Marina Coast Water District Deep Aquifer Study, 2003, p. 5-1.) "[S]torage coefficients suggest that the volume of groundwater in storage in the lower [Deep] aquifers is small." (WRIME, Marina Coast Water District Deep Aquifer Study, 2003, p. 5-1.) The Salinas Valley Water Project EIR does not analyze the deep aquifer. The EIR merely makes brief mentions in passing. (Salinas Valley Water Project EIR, 2001 and 2002.)

A safe yield (discussed in the Army's Final EIS, Volume I, page 4-57) is that amount of water that can be pumped annually on a long-term basis without causing undesirable effects, the greatest of which in the Fort Ord area are excessive drawdown which precipitates seawater intrusion. A drawdown associated with well pumping creates a downhill gradient vis-a-vis the seawater. The seawater will then flow (through capillary action) inland and down gradient toward the wells. It is such a situation that occurred over a period of years which precipitated the U.S. Army to relocate its [shallow-aquifer] wells further inland in 1986. (Fort Ord Reuse Plan Final Program EIR, 1997, Volume II, p. 27-28.)

Limiting future development to a safe yield water supply without any regional approach to ameliorate seawater intrusion would require a significant reduction in well pumping along the entire Monterey County coastal area. This would result in massive economic impacts to farmers and would be expected to significantly reduce Fort Ord development opportunities and options. Of course, to not limit use of water to a safe yield level will also result in a similar outcome. (Fort Ord Reuse Plan Final Program EIR, Volume II, p. 28.)

"The exact nature of the connection between the Deep Zone and the ocean is unknown. Seawater intrusion has not been detected in Deep Zone wells, but there is

no evidence indicating that the Deep Zone is not connected to the ocean. Lacking this evidence, it must be assumed that the Deep Zone, like the 180-foot and 400-foot aquifers above it, is connected to the ocean and vulnerable to seawater intrusion if ground water levels fall below sea level. Similarly, the aquitards between the 400-foot and the Deep Zone are subject to leakage of degraded water downward to the Deep Zone as the water level is lowered.” (Fort Ord Reuse Plan Final Program EIR, Volume II, p. 32-33.) “The hydrogeologic interpretation of the deep aquifers raises questions regarding the nature and magnitude of recharge to these aquifers. . . . [T]he low estimates for storage coefficients for this aquifer system suggest that the volume of groundwater that can be removed from storage is not large.” (WRIME, Marina Coast Water District Deep Aquifer Study, 2003, p. 2-32.)

The County General Plan and the Fort Ord Master Plan are inconsistent with these FORA policies described in this letter and other FORA policies because of the County’s presumption of long term sustainable water supply in Zone 2C. The County has failed to state how the presumption can be rebutted in Fort Ord. Monterey County and MCWRA are attempting to use the rebuttable presumption under General Plan policy PS-3.1 in place of proof of actual (wet) sustainable water supplies. The effort fails, and the effort is inconsistent with CEQA, CEQA’s policies and goals, and CEQA case law. These are very serious inconsistencies. As a long line of CEQA cases hold, water is too important to be given such cursory treatment.

Inconsistency #2:

The Fort Ord Area Plan Does Not Comply with the Land Swap Agreement

The Land Swap Agreement is a contract between the County and other agencies. It is a binding agreement. The County and other agencies have relied on the contract to take several actions to implement the land swap agreement. The County General Plan and Fort Ord Master Plan do not reflect the land swap in numerous significant and material ways. The County statements to the contrary are not accurate (e.g., the first and sixth whereas on page two of the proposed resolution). We provide here some specific examples of what the Land Swap Agreement required, the County’s violation of the Land Swap Agreement, the lack of consistency, and the inaccuracy of the proposed County resolution.

Master Plan/Land Swap Violation 2A: The Land Swap Agreement traded residential density at Parker Flats for increased residential density at East Garrison. Pursuant to the Land Swap Agreement, the County increased the residential density at East Garrison, and adjusted the County plans accordingly. However, the County did not reduce the residential density at Parker Flats as the County has agreed in the Land Swap Agreement. That is a breach of contract and a violation of the purpose and terms of the Agreement: a trade.

The Parker Flats area is an area of dense oak woodlands. The Land Swap Agreement was to protect the oak woodlands and adjacent area as habitat, as described in the agreement and the assessment.

To resolve the land use conflicts posed by competing requests in the East Garrison Area, and to meet the County's need for developing work-force housing at former Fort Ord, MPC, the County and FORA have generally agreed to an exchange of uses between the Parker Flats and East Garrison areas. Under the agreement, MPC would locate its law enforcement training center and EVOC facility at Parker Flats. MPC would reuse existing Range 45 just south of Parker Flats and also be granted management responsibility of the former Military Operations/Urban Terrain (MOUT) facility for use in cooperation with other law enforcement agencies. The County would pursue community-based residential development at East Garrison instead of Parker Flats and would accommodate other potential East Garrison stakeholders.

(Land Swap Agreement Assessment, p. 8.) The County accommodated MPC as described in the Agreement, but the County did not transfer away its residential designations or policies applicable to Parker Flats, which violated the Agreement. The Agreement was for Parker Flats Area would have "all housing eliminated" (Land Swap Agreement Assessment, p. 9, § 3.2.2).

The Parker Flats area is comprised of several HMP polygons (E19a series, E21a, E21b series, L23.2) and Base Reuse Plan polygons (19a and 21 a, b, c) that are all designated for development without restrictions. The Parker Flats area occupies about 1200 acres in the central part of the former base generally bounded by Watkins Gate Road, the Multi-Range Area (MRA) and the NRMA on the south, Gigling Road and lands of California State University (CSUMB) on the north, the City of Seaside city limits on the west

(Land Swap Agreement Assessment, p. 9, footnote deleted.) "NRMA" refers to the property of the Bureau of Land Management, and now is the National Monument.

Under the Agreement, the Parker Flats development was to change: residential development was to be eliminated.

The Base Reuse Plan designates the Parker Flats area primarily for low density residential, commercial, office and light industrial development. It also anticipates opportunities for equestrian center, hotel resort and golf course development in the area.

3.3.2 Proposed Parker Flats Land Uses

The modifications proposed for Parker Flats would change the Base Reuse Plan designations for the area by removing the residential, light industrial, golf course and other uses to accommodate the MPC officer training and EVOC facilities.

(Land Swap Agreement Assessment, p. 11.)

The County increased residential density at East Garrison, that increased density would not have happened but for the Land Swap Agreement. After the increase, the East Garrison development ended up larger – more units and with more acreage – than the County had originally planned. The County sacrificed the habitat at East Garrison as a tradeoff for protecting the habitat at Parker Flats. There was no environmental review of the Land Swap Agreement because environmentalists believed that there was an adequate trade. But it is not a tradeoff. The County got what it wanted at East Garrison, but has violated the agreement because the County has not fulfilled its contractual commitment to amend the plans and policies that affect Parker Flats.

After the Land Swap Agreement was executed, the County did not amend its Fort Ord plan. Further, in its General and master plans (former and current), the County did not reduce the allowable development and density at Parker Flats. As a result, the County plans are vertically inconsistent with the County contracts, which is illegal.

The County has not designated its land in Parker Flats pursuant to the Land Swap Agreement.

4.1.2 Parker Flats

The existing HMP land use designation for most of the Parker Flats area is development with no restrictions. The proposed modifications would require boundary adjustments to designate approximately 380 acres adjacent to BLM's NRMA and the central habitat corridor polygon (HMP polygon L20.2.1) as habitat reserve. Approximately 70 acres of oak woodlands within the proposed Monterey Horse

Park area would also need to be designated as habitat reserve . . .

(Land Swap Agreement Assessment, p. 17.)

“Development with no restrictions” means no development, pursuant to the Habitat Management Plan that has been adopted by FORA and the County. (See Habitat Management Plan, p. 19.) In contrast, “Development with Reserve Areas” are “habitat reserve requirements that apply to a portion of a larger area” (Republished Fort Ord Reuse Plan, p. 7.)

The Parker Flats development footprint as proposed (Figure [8]) would result in the preservation of about 249 acres of oak woodland, 196 acres of maritime chaparral and 18 acres of grassland habitats that were not anticipated for preservation in the HMP (Table 3).

(Land Swap Agreement Assessment, p. 19.)

Under the Land Swap contract, the County committed itself to, but failed to carry out, the following action:

The area proposed for use as the Monterey Horse Park, as illustrated on Figure 5 in this report, shall be designated as development with reserve area and restrictions An approximately 150-foot wide section of a proposed cross-country course shall be allowed through the eastern end of oak woodland reserve, or possibly through the oak woodlands and grasslands to the east of the Horse Park area, but shall be sited and designed to minimize vegetation removal and maintain wildlife movement corridors between habitat reserves. Any other trails and courses through habitat reserves shall use existing or realigned roads and trails. No buildings, grandstands, corrals, parking areas or other developments shall be allowed in designated habitat reserves.

(Land Swap Agreement Assessment, p. C-2, underlining added.) The County has not implemented these land designations “as development with reserve area.” Instead of prohibiting development in designated habitat reserves, the County has thrown its full weight behind constructing the Eastside Parkway, a brand new road that would cut across the area that is required to be “designated habitat reserves” under the County contract.

Master Plan/Land Swap Violation 2B: The Land Swap Agreement makes the Eastside Parkway no longer desirable or planned as a primary travel route.

With the proposed modifications, Parker Flats would become less of a destination or source of traffic, almost certainly reducing travel on these connector roads below the levels that would have accompanied HMP buildout.

(Land Swap Agreement Assessment, p. 16, underlining added.)

Inter-Garrison Road and Reservation Road (via the future road corridor connection) are expected to be the primary travel routes servicing East Garrison . . . [not a future Eastside Parkway]

(Land Swap Agreement Assessment, p. 17.)

However, the County plans do not reflect that change or the reduction in Parker flats as a destination and source of traffic. Instead, the County plans still show Eastside Parkway as a major roadway through Parker Flats. And the County and FORA have aggressively push to build Eastside Parkway. The County and FORA approved a specific alignment for the road, and the road's 90% plans have already been prepared by the engineer. FORA's environmental consultant has recommended an EIR due to the major impacts that the proposed road would have.

Master Plan/Land Swap Violation 2C: The Land Swap Agreement says this:

The parties acknowledge that the portion of Eucalyptus Road identified as Segment L20-18 will be closed, and that Eucalyptus Road will be re-routed to avoid habitat around the easterly side of MPC's facilities within Polygons 19a, 21a, 21b and 21c.

(Land Swap Agreement Assessment, p. 4.) This material term of the Agreement has already been significantly violated in two ways: (1) FORA has already extended Eucalyptus Rd. into L20.18 and (2) alignment of the ESP continues to ignore this term of the Agreement.

In fact, Eucalyptus Road was not re-routed around the identified habitat. The location of the newly developed large Eucalyptus Road directly affects the identified habitat. The location also directly affects the designated plant reserve that is protected under Army agreements, called in some documents the "MPC reserve" or similar. (See, e.g., "MPC Reserve" on Figures 5 and 6 of the Agreement Assessment, and p. 11 of the Agreement Assessment, referring to "a relatively small (+15-acre) parcel (HMP

polygon L23.2) is a PBC transfer as a plant reserve and outdoor teaching facility for the MPC Biology Department.”)

As a whole, the County has not conformed its Master Plan to all of the terms of the Land Swap Agreement. The County has cherry-picked the terms of the Agreement that the County has implemented (e.g., intensified development at East Garrison, accommodating MPC uses). At the same time, the County has refused to implement key terms including the elimination of residential development at Parker Flats. Under the doctrine of equal dignities, the County’s highest planning documents – the General Plan and Master Plan – must be amended to reflect the Agreement.

Inconsistency #3:
A Veterans Cemetery Is Not in the Fort Ord Reuse Plan,
Contrary to the 2010 County Fort Ord Area Plan

The County Master Plan includes a Veterans Cemetery. But there is no Veterans Cemetery in the adopted Fort Ord Reuse Plan. This is a significant inconsistency between the plans. A Veterans Cemetery has not been evaluated under CEQA by any agency.

Supervisors Potter, Calcagno and Parker are aware that there is no Veterans Cemetery in the adopted Fort Ord Reuse Plan because they sit on the FORA Board where that omission has been a big issue. This Office made a presentation to the FORA Board. In that presentation, we showed that the adopted 1997 Reuse Plan map was later doctored. The map was doctored to add a designation that said “VC” and to label an area on the map as “VC.” The doctored map was not adopted by the Board and was not evaluated under CEQA. FORA staff has admitted that the doctored map showing the VC has not been adopted by the FORA Board.

We enclose the presentation in which we showed how the doctored map came about. The County documentation is clear that the County relied on the inaccurate and unadopted map on the FORA website in order to create the County’s map in the Fort Ord Master Plan. We have an email from Carl Holm that confirms that when the County prepared the Fort Ord Master Plan in the 2010 General Plan, the County relied on the doctored Land Use Concept Map on the FORA website. That email is dated after the Master Plan was prepared. The email is one of the County public records on this item.

Inconsistency #4
County Still Has Not Complied with Fort Ord Reuse Plan Policies
after Fifteen (15 Years)

The Fort Ord Reuse Plan was adopted in 1997. Now, 15 years later, the County still has not complied with the mandatory policies in the Reuse Plan. The General Plan

and Fort Ord Master Plan are not consistent with the Reuse Plan. As Attachment C admits, the County has not implemented numerous significant Reuse Plan policies and programs. Attachment C is not a complete or accurate list of the policies and programs that have not been implemented. Implementation of the County plans is not a different issue from the consistency of the County plans with the Fort Ord Reuse Plan.

The County deliberately has not complied with the Fort Ord Reuse Plan for 15 years. The County's lack of compliance for one-and-a-half decades with Plan policies and programs cannot be considered "consistent" with the Plan under any interpretation. The County should be embarrassed – both for its lack of compliance for 15 years, and its current brazen and wrongheaded insistence that it is in compliance.

The Last Board Meeting On This Issue

County planning staff emailed to us the planning staff's request for this item to be continued based on the absence of Supervisor Potter from the meeting. We asked Mr. Novo for a clarification of this issue, because it would not be productive for us to drive to Salinas if the item would be continued to a future date. Mr. Novo stated that he had intended that the continuance show on the face of the agenda.

On Friday afternoon, August 23, 2013, John Ford called me, stating that Mr. Novo had asked him to call. Mr. Ford told me: "Our intent is fully that it is to be continued. It did not get marked on the Clerk's agenda as continued. Because the continuance did not get on the agenda, the public hearing may be opened on August 27 in case anyone cannot be there on September 10. But Staff will make sure that the public hearing will stay open through September 10 so that the public can speak then. The full oral staff report will not be made until September 10." (Quoted words taken from my contemporaneous notes, underlining added for emphasis.)

Accordingly, we advised County Planning Staff of our intent not to attend the hearing for that reason. The Board went ahead and acted anyway. The Board took final action. The Board resolution 13-290 had been signed and published. It is a final action by the Board.

Enclosures

Enclosed are various records that have been obtained from files of the County and the Fort Ord Reuse Authority, or have been submitted to the County and FORA in the past. These records contain information referenced in this letter. The County no doubt is familiar with these records, which have been referenced in the past by our Office and by others, including LandWatch. To conserve resources, I enclose them in electronic format on a CD. I also include by reference the County's records showing the East Garrison development density changes, the MPC actions to implement the land swap, and other implementation of the land swap agreement. If the County wants

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me to file a paper copy of any of these records with the County, please let me know and I will be happy to do so.

The County frequently provides records on CD. As one example, for today's hearing on this item, the County sent me the brief two-page staff report, and enclosed a CD containing the hundreds and hundreds of pages of attachments. The approach we take here is consistent with the County's approach.

Interests of Keep Fort Ord Wild and The Open Monterey Project


Keep Fort Ord Wild is an unincorporated association under California law. Keep Fort Ord Wild and its members are beneficially interested in the enforcement and application of environmental laws and laws assuring public disclosure and responsible decision making by local governments. Keep Fort Ord Wild and its members are beneficially interested in the way and manner that land use decisions are made and in the environmental consequences of development in Fort Ord, including the impacts of the Eastside Parkway project. Keep Fort Ord Wild has successfully litigated a California Public Records Act lawsuit against the Fort Ord Reuse Authority, resulting in the release of thousands of documents that FORA had kept secret.

The Open Monterey Project is an unincorporated association under California law. The Open Monterey Project and its members are beneficially interested in the enforcement and application of environmental laws and laws assuring public accountability of decision makers in local government. TOMP and its members are beneficially interested in the way and manner that land use decisions are made and in the environmental consequences of development throughout the County of Monterey. For more than ten years, The Open Monterey Project has actively participated in the public processes of Monterey County.

Conclusion

The County Plan is not consistent with the Fort Ord Reuse Plan. The Board should take the appropriate action to amend the County plans to make them consistent.

Very truly yours,


Molly Erickson

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Enclosures (on CD):

- (1) Presentation to FORA on Original 1997 Land Use Concept Map in Fort Ord Reuse Plan, and How in 2001 Veterans Cemetery was added to "map" without amending Fort Ord Reuse Plan, and therefore Cemetery is not in Plan Map; includes Original 1997 Land Use Concept Map in Fort ord Reuse Plan
- (2) Original 1997 Fort Ord Reuse Plan
- (3) Board approval A-09555 of Land Swap Agreement and Board report dated September 23, 2003
- (4) Assessment of Land Swap (2002)
- (5) Chart and Maps showing parcel numbers at the former Fort Ord
- (7) MCWRA maps showing seawater intrusion of 180' and 400' aquifers
- (8) (A) Records showing that available groundwater in deep aquifers is "small" and finite, has been carbon dated to show age over 10,000 years, is not being recharged, and is not sustainable.
(B) Water supply pumping records from MCWD - showing amount pumped from Deep Aquifer
- (9) MCWRA/Army agreement re Fort Ord
- (10) Eastside Parkway 90% plans (excerpts)
- (11) The Open Monterey Project letter objecting to the General Plan amendments, February 2013
- (12) Monterey County Weekly article
- (13) Monterey Herald article
- (14) Water Allocations at Fort Ord
- (15) Installation- Wide Multispecies Habitat Management Plan (excerpts)

