



Monterey County

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Board Report

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Receive a report regarding the “*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*” process as it relates to Monterey County.

RECOMMENDATION:

It is recommended that the Fort Ord Committee receive a report regarding the “*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*” process as it relates to Monterey County.

SUMMARY:

Supervisor Parker’s office requested that staff outline the process for consideration of the “*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*” with a focus on when/where the County is involved. This is a very complex matter considering that a number of steps/factors are involved:

- 1) Land Acquisition/Disposition
- 2) Land Use Entitlements
- 3) Environmental Review (CEQA)
- 4) FORA Consistency Determination
- 5) Sphere of Influence/Annexation
- 6) Agreements
 - a. FORA Implementation Agreement
 - b. Exclusive Negotiating Agreement(s)
 - c. Memorandum of Understanding
 - d. Pre-Annexation Revenue Sharing Agreement

DISCUSSION:

Within the Fort Ord Base Reuse Plan (BRP), lands where the “*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*” is located are partially located in unincorporated Monterey County and partially within the City of Seaside (area map, **Exhibit A**).

Land Acquisition/Disposition

The Fort Ord Reuse Authority (FORA) has been working with contractors to prepare lands for transfer to the agencies. Both the City and County agreed for FORA to transfer the cemetery lands to the State. In 2013, Monterey County accepted deeds for ownership of land containing portions of the site of the “*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*” (“Parker Flat Phase 1” and “County North” properties, **Exhibit B**).

The “County North” land, which contains properties designated in the Base Reuse Plan for

habitat reserve as well as for development, came to the County as a single parcel. Other land comprising the site of the Specific Plan project located between the Parker Flats Phase 1 and the County North deeded areas are still under FORA control and are planned for transfer around 2019.

The Monterey County Board of Supervisors is the authority to consider sale of lands transferred to Monterey County. Similarly, Seaside City Council is the authority to consider sale of lands transferred to the City of Seaside. When an agency sells former Fort Ord lands, the proceeds are split 50:50 between the agency and FORA. FORA's portion of these funds make up part of the funding needed to implement FORA's Capital Improvement Plan.

Land Use Entitlements

Lands within the project area are designated in the BRP and County General Plan for residential development as well as development opportunities for a hotel, an equestrian facility, and a golf course (land use map, **Exhibit C**). The East Garrison/Parker Flats Land Swap Agreement modified the land use concept for the project site, as well as the rest of Parker Flats, including the Monterey Peninsula College and FORHA parcels.

The project application that was submitted to the City of Seaside includes a request to pre-zone and annex all of the land that makes up the "*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*". The Specific Plan includes land designated for a Veteran Cemetery (specific plan map, **Exhibit D**). Although part of the land is located within the unincorporated County, the applicant has not submitted an application to the County. Monterey County has no authority to consider the land use entitlements in this situation. A project description and related entitlements from the City is included with **Exhibit D**.

Environmental Review (CEQA)

The City of Seaside is the Lead Agency for environmental review under CEQA on this project. As a CEQA Responsible Agency, LAFCO of Monterey County commented on the project's Notice of Preparation in October 2012.

The City prepared a draft environmental impact report (EIR). The comment period for this draft EIR closes June 1, 2015. County staff is reviewing this document through our County staff clearinghouse. County agencies will send their comments to RMA-Planning where they will be consolidated into a single comment letter that will be sent to the City.

Sphere of Influence/Annexation

Staff understands that LAFCO has not yet received any application for a Sphere of Influence amendment or annexation relating to the "*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*." Any such application will be filed by the City of Seaside as the Project Applicant and CEQA Lead Agency. The developer would not be the applicant. A number of steps have to happen before LAFCO would take action on an annexation, including:

- City planning and CEQA actions
- FORA consistency determination
- City-County property tax exchange agreement

- City-County consultation and memorandum of agreement relating to the Sphere of Influence application, and
- Possibly preparation of an updated City of Seaside Municipal Service Review by LAFCO.

LAFCO indicated that companion applications for Sphere of Influence amendments and annexations may be required from Marina Coast Water District and possibly the Seaside County Sanitation District. Those two agencies must first agree on water, wastewater and recycled water service and boundary issues in the former Fort Ord area, so that LAFCO can complete Municipal Service Reviews and Sphere of Influence studies for both districts. Another companion application to LAFCO will probably be needed to detach the project area from the local fire protection district and possibly from other districts, too.

The project EIR addresses all of the services and their capacity to serve the project (e.g. fire, police, schools, water, sewer, etc). Currently, LAFCO staff is reviewing the project Draft Environmental Impact Report released on March 31 by the City of Seaside, and will present a draft comment letter for Commission action in April or May. The City's application to LAFCO will include a Sphere of Influence (SOI) amendment to include 562.5 acres of unincorporated land; annexation of the 562.5 acres of unincorporated land; detachment of that same acreage from the Monterey County Regional Fire Protection District and the Resource Conservation District of Monterey County; and possible annexation to the Seaside County Sanitation District. The City believes that annexation to the Marina Coast Water District is not required as Marina Coast Water District is currently authorized to provide water and wastewater services to development on the former Fort Ord.

Agreements

Implementation Agreement

Local jurisdictions with lands in the former Fort Ord area are party to implementation agreements between the jurisdictions and the Fort Ord Reuse Authority (FORA). These implementation agreements set forth the specific terms and conditions governing conveyance of property in the former Fort Ord from FOR A to the respective jurisdictions. Under the Implementation Agreement with the County (dated May 8, 2001), FORA must transfer certain property, when it is ready, to the County, unless the County directs FORA to transfer property directly to a third party rather than to the County.

As noted above, pursuant to the Implementation Agreement, FORA has transferred certain portions of the proposed site for the "*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*" to the County, and County has accepted title to that property. Other lands have not yet transferred from FORA. The Board of Supervisors would have to agree to transfer property already transferred to Monterey County to the City of Seaside and instruct FORA to transfer the other part of the property site to City.

Exclusive Negotiating Rights Agreement

The Redevelopment Agency of the County of Monterey and Monterey Downs, LLC entered into an Exclusive Negotiating Rights Agreement (ENRA) in May 2010 (**Exhibit E**). The purpose of the agreement was to establish procedures and standards for negotiation of a Disposition and Development Agreement (DDA) with Monterey Downs, LLC. However, in

2011, the “Dissolution Act” (AB x1 26) was enacted, and effective February 1, 2012, all redevelopment agencies in California were dissolved by operation of law. *California Redevelopment Association v. Matosantos*, 53 Cal. 4th 231 (2011). Moreover, the ENRA appears to have expired by its own terms. The ENRA provides that the “Agreement shall terminate” if the parties have not agreed upon the terms of a DDA by the expiration of the “Phase 2 Negotiating Period,” and that period would have expired in 2012. The ENRA provides that neither party has any “further rights or obligations” under the agreement upon termination. Accordingly, neither the Successor Agency nor the County has any existing obligations under the ENRA.

MOU

A Memorandum of Understanding between City of Seaside and County of Monterey (MOU) was executed in January 2012 (**Exhibit F**). This agreement was based on the “*Monterey Downs, Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan*” being processed in two jurisdictions, that is, both the City and County. As such, it established an agreement for coordination and cooperation. The conditions presumed joint authority that changed with the City deciding to pursue an application to pre-zone and annex that portion of the site that has already been or would be transferred to the County under the Implementation Agreement. Accordingly, Monterey Downs LLC did not submit an application to the County. Accordingly, the MOU may have expired because the MOU provides that the agreement expires on its own terms if the developer withdraws a portion of the project located entirely within the jurisdiction of either the City or the County. The MOU also contemplated negotiation of a DDA by the County Redevelopment Agency under the ENRA and contemplated preparation by County of an economic analysis under Community Redevelopment Law. Those aspects of the MOU are no longer relevant, for the reasons explained in respect to the ENRA.

In short, City and County have not implemented the MOU. On September 20, 2012, the MOU was terminated by vote of the Seaside City Council, as both redevelopment agencies were dissolved and the project includes development within the City of Seaside only. A notice of termination was sent to the County (**Exhibit G**).

Tax-sharing agreement

As noted earlier, the LAFCO process includes a tax exchange agreement. Monterey County adopted a master revenue sharing resolution in the 1980s (**Exhibit H**). City and County staff have had some initial consultation relating to the Sphere of Influence application. However, no actions have been presented to the Board of Supervisors for consideration. A City-County property tax exchange agreement and City-County memorandum of agreement relating to the Sphere of Influence application will require review and approval by the Board of Supervisors.

OTHER AGENCY INVOLVEMENT:

Staff consulted with LAFCO, FORA and the City of Seaside in preparing this report. Staff from these agencies has been invited to attend the Fort Ord Committee meeting.

FINANCING:

At this point, there is no financial impact to Monterey County. Staff is reviewing the environmental documents as staff does for any agency submitting documents for comment. The

City-County property tax exchange agreement noted above will consider sharing all forms of revenue including, but not limited to; property taxes, transient occupancy tax, sales taxes, etc.

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Reviewed by: Wendy Strimling, Senior Deputy County Counsel

cc FO Committee (2), County Counsel (W. Strimling); LAFCO (K McKenna); FORA (M. Houlemard, S. Endsley, J. Garcia); City of Seaside (D. Ingersoll, L. Brinton, T. Wissler Adam), Monterey Downs LLC

Attachments:

- A. Area Map
- B. Current County Land Ownership Map
- C. Land Use Map
- D. Specific Plan Map/Project Description
- E. County RDA-Monterey Downs LLC ENA (2010)
- F. County-City MOU (2012)
- G. MOU Termination letters
- H. County Master Tax-Sharing Resolution