

MONTEREY DOWNS AND HORSE PARK AND CENTRAL COAST VETERANS CEMETERY SPECIFIC PLAN

ACTIONS REQUIRED FOR APPROVAL OF SUBMITTED APPLICATIONS

Revised April 18, 2014

Applications

The following applications were submitted to the City of Seaside in 2012.

Specific Plan (SPL-12-01). This application is for adoption of a specific plan encompassing 710.5 acres. (*Legislative Act*)

City of Seaside Planning Area Boundary Amendment (PAA-12-01). This application is to amend the City of Seaside Planning Area (a.k.a. General Plan area) to include the entire Specific Plan area – an addition of about 562.5 acres. (*Legislative Act*)

There is no Planning Area boundary in the City's general plan; therefore, there is no boundary to amend. The SOI amendment accomplishes this change. The applicant has discussed it with their legal counsel and they intend to submit a request to withdraw this application.

City of Seaside Sphere-of-Influence Amendment Application (SOI-12-01). Action by the City Council to support and file an application to LAFCO to amend the City of Seaside Sphere-of-Influence to include the entire Specific Plan area – an addition of about 562.5 acres.

Rezoning (PZ-12-01) and Annexation (ANX-12-01). This application is to rezone, and annex 562.5 acres into the City of Seaside. This action includes both mapping and text amendments with the 562.5 acres. (*Legislative Act*)

General Plan Amendment (GPA-12-01). This application is to amend the City of Seaside General Plan, which includes both mapping and text amendments associated with the entire 710.5 acres. (*Legislative Act*)

Zoning Amendment (ZA-12-02). This application is to amend the City of Seaside Zoning Ordinance, which includes both mapping and text amendments associated with the portion of the project site currently within the City of Seaside, 148 acres. (*Legislative Act*)

Master Tentative Tract Map and Tentative Subdivision Map (TM -12-01). This application is for a master tentative tract map and a tentative subdivision map of the Monterey Downs and Monterey Horse Park portion of the proposed project. (*Quasi-judicial Act*)

Development Agreement. Although there is no “application” for a development agreement, one is required for this project. (*Legislative Act*)

Review and Approvals

The following review and approvals are presented in chronological order.

Seaside Board of Architectural Review (BAR) – Advisory

- Specific Plan (Design Guidelines) Advisory to the Planning Commission and City Council (Occurs as recommendation only, no resolution)

Seaside Planning Commission – Advisory Only

- EIR Certification
- Planning Area Boundary Amendment - Legislative Act (Expect application to be withdrawn)
- Sphere-of-Influence Application – Recommend to Council that the City support and file an application to LAFCo
- Rezoning and Annexation - Legislative Act
- General Plan Amendment – Legislative Act
- Zoning Amendment – Legislative Act
- Specific Plan Adoption – Legislative Act
- Master Tentative Tract Map and Tentative Subdivision Map
- Development Agreement (finding of consistency with the general plan)

All of the above are by resolution.

Seaside City Council – Approving Body

- EIR Certification (Resolution)

- Planning Area Boundary Amendment - Legislative Act (Resolution) (Expect application to be withdrawn)
- Sphere-of-Influence Application – (Resolution)
- Rezoning and Annexation - Legislative Act (Ordinance). The City would accomplish “pre-zoning” by adopting an ordinance in the same manner that it would adopt any other zoning ordinance. The Monterey County LAFCO application specifically requests a copy of the pre-zoning ordinance adopted by the City Council. The pre-zoning becomes the zoning for the annexed territory upon approval of the annexation. The pre-zoning designations cannot be amended for two years after the approval of the annexation, unless the City Council makes a specific finding required by State law. See Gov. Code § 56375(e).
- General Plan Amendment – Legislative Act (Resolution) The General Plan Land Use Element may include a designation on its Land Use Element Map referring to the Specific Plan. The Land Use Element map does not need to only use generic Land Use Element designations for the area to be covered by the Specific Plan.
- Zoning Amendment – Legislative Act (Ordinance – two readings). Zoning text changes and map changes reflecting the project site (currently within the city limits) as “Monterey Downs and Monterey Horse Park and Central Coast Veterans Cemetery Specific Plan”.
- Specific Plan Adoption – Legislative Act - A specific plan may be adopted by resolution or by ordinance (Gov. Code § 65453(a)). “A specific plan shall be prepared, adopted, and amended in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by the legislative body.”

If the City wants the specific plan to be incorporated into the Zoning Code by reference and then have the traditional tools to enforce violations of the Zoning Code and Municipal Code for violations of the Specific Plan, then the City would need to adopt an ordinance adding a Chapter or Article into the Zoning Code and making reference to the Specific Plan, a copy of which is on file with the City Clerk. The City is not required to duplicate the entire text of the Specific Plan as a Chapter or Article in the Zoning Code. Rather there a few sections the City can add that provide a reference to it and provide how it is enforced and amended, etc. Kevin Ennis can provide some examples of how it has been accomplished in other cities.

- Master Tentative Tract Map and Tentative Subdivision Map Quasi-judicial Act (Resolution)
- Development Agreement – Legislative Act 90-day statute of limitations (Ordinance – 2 readings)

FORA Board – Consistency Determination

See FORA response to the NOP, D. Steven Endsley, Assistant Executive Officer, October 26, 2012. Kevin Ennis’s office has researched the California Government Code provisions regarding the FORA Board’s consistency finding requirement. Government Code Section 67675.8 states that no local agency shall permit development that is inconsistent with the Fort Ord Reuse Plan. The statute provides that the FORA Board shall be the “final judge of this consistency” with the statute’s requirements (Gov. Code § 67675.8(b)(1)). There is no indication in the statute whether this is a legislative or a quasi-judicial decision. As a whole, the FORA Board’s decisions are potentially subject to referendum under Section 67659, which states: “In accordance with Section 317 of the Elections Code, the authority is a district for purposes of initiative and referendum under Chapter 4 (commencing with Section 9300) of Division 9 of that code and the voters of the authority are the voters of Monterey County.”

Kevin thinks this potential for a referendum probably would apply to the adoption and amendment of the Fort Ord Reuse Plan under Government Code Section 67675, which is more clearly a legislative act, but not to the decisions regarding consistency between a locally approved development project and the Fort Ord Reuse Plan.

In a somewhat analogous case, albeit in dicta, a California Court of Appeals indicated in a footnote that the Coastal Commission acts in a “quasi-judicial capacity” when reviewing Local Coastal Plan submittals for consistency with the Coastal Act (San Mateo County Coastal Landowners’ Assn. v. County of San Mateo (1995) 38 Cal. App. 4th 523, 539, fn. 9). The court noted that the “Commission performs a judicial function when it reviews a local government’s [Local Coastal Program (“LCP”)]-it determines whether the LCP meets the minimum standards of the act...” (Id. at 539). The court noted that if there were a legal challenge to the Commission’s determination that Measure A amendments to the LCP were consistent with the Coastal Act, the challenge should have been brought under a writ of administrative mandamus pursuant to Code of Civil Procedure Section 1094.5 (Id. at 539, fn. 9). The court concluded that this constituted an action “in a quasi-judicial capacity” and although it did not consider whether a referendum would apply, its determination that this decision would be quasi-judicial is arguably instructive.

Again, per Kevin, he thinks the consistency finding appears to be a quasi-judicial finding that would not be subject to referendum. That said, if the consistency finding were determined to be subject to referendum, Section 67659 would require that the referendum be put to the voters of all of Monterey County.

- Consideration of the EIR – Findings
- Planning Area Boundary Amendment (Expect application to be withdrawn)

- Sphere-of-Influence Amendment Application
- Rezoning and Annexation
- General Plan Amendment
- Zoning Amendment
- Specific Plan Adoption
- Development Agreement

Maps go to FORA staff only as a ministerial act.

Monterey County Local Agency Formation Commission

- Consideration of the EIR – Findings
- Seaside Sphere-of-Influence Amendment
- Annexation to the City of Seaside
- Detachment from the Monterey County Regional Fire Protection District
- Detachment from the Resource Conservation District of Monterey County
- Annexation to the Marina Coast Water District (Water and Possibly Sewer)*
- Annexation to the Seaside County Sanitation District (Possibly Sewer)*

* These actions would be required unless each special district has annexed the property associated with another action.

LAFCO actions legislative acts.