



March 14, 2018

Mayor Ralph Rubio and Members of the Seaside City Council
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Subject: Agenda Item 9.A. Consistency of the Seaside Zoning Ordinance with the Fort Ord Reuse Plan

Mayor Rubio and City Councilmembers,

LandWatch opposes voting to reaffirm consistency of the comprehensive updates to the zoning ordinance, amending Title 17 of the Seaside Municipal Code with the Fort Ord Reuse Plan for the following reasons:

- It is unclear from the March 15, 2018 memo from Rick Medina to Craig Malin whether text changes have been made to the City's Zoning Code since February 20, 2014. An actual redlined comparison between the February 20, 2014 zoning ordinance and the current ordinance should be prepared for public review.
- It is also unclear that the City's current Zoning Code is consistent with [FORA's Regional Urban Design Guidelines](#). Since the Guidelines were adopted in June 2016, after the February 20, 2014 comprehensive update of the Zoning Code, it is unlikely that the Zoning code implements the Guidelines. The Guidelines establish standards for road design, setbacks, building height, landscaping, signage, and other matters of visual importance, standards with which the Zoning Code either omits or is likely to be inconsistent. For example, the Zoning Code does not implement the Guidelines' building orientation requirements or its requirements for mixes of building types, mixed-use neighborhoods, or setbacks and height; and the existing Zoning Code requirements may be inconsistent. The City should prepare an analysis of the consistency of its Zoning code with the new Guidelines, which are mandated by the Fort Ord Reuse plan as enforceable implementation measures and refinements of its policies, and should share that analysis with the public before voting on consistency.
- As one example of an inconsistency that we know of, the City's Zoning Code noise standards at section 17.30.060 fail to implement the statistical noise standards mandated by the Fort Ord Reuse Plan. The zoning standards in section 17.30.060 in Tables 3.2 and 3.3 are all based on 24-hour average CNEL measurements and contain

no reference to the Fort Ord Reuse plan's mandated statistical noise standards. Statistical noise standards ("Ln" standards or "Exceedence Level" standards) are standards for the noise levels that may not be exceeded for various periods of time, typically much shorter than 24 hours. Statistical noise standards are highly relevant to determining annoyance from noise, particularly when a noise source is not continuous over a 24-hour period but instead consists of short-term, episodic and/or irregular loud noise. The rationale for applying statistical noise standards in addition to 24-hour noise standards is that irritation can be caused by these short periods of relatively loud noise, even if the average noise level complies with standards for longer periods, e.g., 24-hour average CNEL standards. The Reuse plan includes both 24-hour standards and statistical noise standards for just this reason. Fort Ord Reuse Plan Noise Policies B-1, B-2, B-3, and B-5 require compliance with the statistical noise standards from its Table 4.5-3. Under those statistical noise standards, applicable from 7 am to 10 pm, noise may not ever exceed 65 dBA, may not exceed 60 dBA for more than 1 minute, may not exceed 55 dBA for more than 5 minutes, may not exceed 50 dBA for more than 15 minutes, and may not exceed 45 dBA for more than 30 minutes, e.g., for one minute, five minutes, ten minutes, 15 minutes, or 30 minutes. The Zoning Code noise standards at section 17.30.060 not only fail to include the statistical noise standards, but also are inconsistent with those standards. For example, under the Fort Ord Reuse plan, it is never acceptable to exceed 65 dBA, whereas the Zoning Code Table 3-2 would permit noise levels to exceed 65 dBA. Furthermore, the noise standards in the Zoning Code fail to include the Fort Ord Reuse plan noise standards that are intended to protect open space uses. The Zoning code does not even identify a standard applicable to open space uses, whereas the Fort Ord Reuse Plan requires protection of open spaces via a 50 dBA CNEL/Ldn noise standard specifically applicable to passively used open space; via its statistical noise standards, which are applicable at the property line of noise-generating uses; and via Policy B-8, barring a 3 dB Ldn/CNEL increase where noise levels are already over the 50 dBA standard. FORA cannot reasonably find the Zoning Ordinance to be consistent with the Fort Ord Reuse Plan in view of these omissions and inconsistencies.

- Finally, the City is currently updating its 2004 General Plan and zoning ordinances. The City should prepare a comprehensive consistency determination once the General Plan has been updated rather than piecemeal confirmation. Such consistency determination should include a careful analysis of the updated General Plan and [FORA's Regional Urban Design Guidelines](#).

Regards,



Michael DeLapa
Executive Director