

# Attachment A

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The Corral de Tierra Neighborhood Retail Village was initially submitted as a 126,523 square foot shopping center with a tentative subdivision map and a request to remove the B-8 Zoning District from the subject site. Pursuant to Government Code section 66474.2, subdivision applications are subject to the rules in effect when the project is deemed complete. The project was initially being processed under the 1982 General Plan because the application included a subdivision map, and the 1982 General Plan was in effect when the application was deemed complete. On October 26, 2010, the Board of Supervisors adopted the 2010 General Plan, and the applicant subsequently eliminated the subdivision component from his project. Consequently, the application became subject to the 2010 Monterey County General Plan and its policies, including Policy PS-3.1 and Policy PS-3.2.

Policy 3.1 of the 2010 Monterey County General Plan provides: “new development for which a discretionary permit is required, and that will use or require the use of water, shall be prohibited without proof, based on specific findings and supported by the evidence, that there is a long-term, sustainable water supply, both in quality and quantity to serve the development.” Policy PS 3.2 provides criteria for developing an ordinance for determining whether a long term sustainable water supply (LTSWS) exists. Until the ordinance is adopted, staff has used the criteria in Policy PS 3.2 for guidance.

An EIR was prepared which determined that the project as originally proposed would have a significant adverse impact upon groundwater resources, but there was an alternative that would utilize water more efficiently and collect storm water runoff and direct that into infiltration chambers allowing water to infiltrate into the groundwater basin. The net result of this alternative would be that the center would use less water than the amount of water the recharge system would direct into the groundwater basin, resulting in a net benefit to the groundwater basin. The FEIR concluded that the alternatives that included the water recharge system would achieve a net benefit to the ground water basin. (FEIR, at page 19.)

The project was ultimately approved at 99,970 square feet, and that project approved by the Board included the water recharge system and a limit on water use. The center was conditioned to limit its water use to 9 acre feet per year, while the recharge system would provide 9.66 acre feet per year of water to the ground water basin. The proposed groundwater infiltration plan was developed and reviewed by engineers and hydro-geologists in consultation with the Monterey County Water Resources Agency. The plan included information from geological reports and other prior groundwater studies prepared for the area. In its intended decision, which was stayed by the court’s Order of Interlocutory Remand, the Monterey County Superior Court held that there is substantial evidence to support the County’s 2012 findings and conclusions regarding the water balance analysis, the water demand analysis, and recharge analysis.

The project site has a B-8 zoning overlay due to groundwater constraints. The applicant had requested that this zoning overlay be removed for the commercial center. The Geosyntec Study was prepared in part to evaluate this request. The Geosyntec study evaluated the study area as the “El Toro Primary Aquifer System” which was determined to be in overdraft. The Board denied the applicant’s request to remove the B-8 based in part on the overdraft. (Resolution No. 12-387.) The Board also found that the project which the Board approved was consistent with the B-8 zone because B-8 zoning allows development of commercial structures where such construction can be found to not adversely affect the constraints which cause the B-8 district to be applied to the property. In this particular case the water cap and storm water infiltration

system provided a net benefit to the ground water basin, and thus the project was found not to adversely affect the groundwater constraints of the area.

During the Board's hearings on the project, the basic facts that were used to evaluate the project under the B-8 were used to demonstrate that there was LTSWS. The Staff Report to the Board of Supervisors of April 12, 2011 included a complete analysis that there was LTSWS (See Attachment E). This was presented to the Board at that meeting as reflected in the meeting transcripts (Attachment F).

During the last hearing of the Board of Supervisors on the project on February 7, 2012, staff made the point that the project is consistent with the policies of the 2010 General Plan including PS-3.2. In making this point, the Board was referenced to Finding 9 of the draft resolution (now Resolution No. 12-040) which makes the finding that there is an "Adequate Long Term Water Supply" (See Attachment G, page 5 (transcript of hearing from court's administrative record at page 2255). Although Finding 9 used the term "adequate" (the terminology of the 1982 General Plan) rather than "sustainable," it was clearly staff's intent that the finding to be made by the Board of Supervisors was the finding of a Long Term Sustainable Water Supply. Additionally, Finding 1 of the resolution approving the project (Attachment D) found that the project is consistent with the 2010 General Plan, which implicitly includes Policy PS-3.1.

The hearing on remand enables the Board to consider and make a finding as to whether the project has a long term sustainable water supply. Staff recommends that the Board find that the project has a long term sustainable water supply within the meaning of Policies PS 3.1 and PS 3.2 based on the same evidence that enabled the Board to find on February 12, 2012 that the project is consistent with the 2010 Monterey County General Plan (Finding 1 of Resolution No. 12-040), has an adequate long term water supply (Finding 9 of Resolution No. 12-040), and is consistent with B-8 zoning (Finding 9 of Resolution No. 12-040; Resolution No. 12-387).