

# ATTACHMENT A

## Discussion of the 2010 General Plan – Fort Ord Base Reuse Plan Consistency Certification (REF130071)

### Background

Pursuant to the Fort Ord Reuse Authority Act and the Fort Ord Reuse Authority (FORA) Master Resolution, upon adopting or amending the General Plan affecting territory of Fort Ord, the County must certify that the portion of the General Plan applicable to the territory of Fort Ord is intended to be carried out in a manner fully in conformity with the Authority Act and Fort Ord Base Reuse Plan, and the County must submit the General Plan to FORA for a determination of consistency with the Authority Act and Reuse Plan.

In 2012 the County submitted the 2010 General Plan for the consistency determination with FORA. FORA deemed the application incomplete because the consistency determination did not include a resolution with findings and certification from the Board. This finding was made within the adopted Fort Ord Master Plan chapter of the General Plan itself. The plan clearly states that *“the purpose of the plan is to designate land uses and incorporate objectives, programs, and policies to be consistent with the Fort Ord Reuse Plan adopted by FORA”*. However, the finding was not made separately within the resolution adopting the General Plan. According to FORA staff, this finding and certification must be made by a separate resolution and cannot be accomplished solely with language within the plan as was done in the Fort Ord Master Plan section of the 2010 Monterey County General Plan.

Following FORA staff’s determination, the required resolution was not immediately prepared and presented for consideration because of the initiation of the Reassessment process and uncertainty with other land use considerations such as the development decisions on the landfill parcel. FORA’s reassessment process continues to seek establishment of a baseline of all land use decisions in Fort Ord before evaluating any desired changes. For this reason staff finds that it is appropriate to submit the 2010 General Plan Consistency Determination now to establish our General Plan, as amended in 2012 and 2013, as part of the baseline of decisions made by FORA to date.

This item came before the Board of Supervisors on August 27, 2013. Prior to the Board of Supervisors hearing, staff prepared and distributed a memorandum requesting that the item be continued to September 10, 2013 to enable both members of the Fort Ord Subcommittee to be present at the Board of Supervisors’ hearing to consider this item (Supervisor Potter was absent). The Board of Supervisors did not continue the hearing on August 27, 2013 and, on that day, voted by a vote of 3 ayes, 1 no, and 1 absent to approve a resolution finding that the 2010 General Plan as amended is consistent with the Fort Ord Base Reuse Plan. The Open Monterey Project objected to the hearing on the basis of their expectation that the hearing would remain open until September 10. This item is now being placed back on the Board agenda to enable the Board to consider whether to affirm or rescind the August 27, 2013 decision. Hearing the matter again will

provide the opportunity for those members of the public who may have elected not to attend the previous meeting to attend and comment on the item. Staff has also presented additional response to questions raised at the August 27 hearing, including further analysis of the so-called Land Swap Agreement. This hearing provides the opportunity for the Board of Supervisors to affirm or rescind their previous decision based on any new testimony and evidence presented.

Two comment letters were received on this item. The first letter was from Jane Haines. Mrs. Haines' letter requested the Board not certify the County's 2010 General Plan as consistent with the 1997 Base Reuse Plan. The argument made in that letter was that the General Plan is not in substantial conformance with applicable programs specified in the Base Reuse Plan because of an alleged lack of implementation of required programs. Staff response is provided under the Consistency Evaluation discussion below.

The second comment letter was provided by LandWatch Monterey County at the August 27, 2013 hearing. That letter objected to adoption of a resolution finding the General Plan consistent with the Base Reuse Plan and alleged that the General Plan is inconsistent due to a lack of land use clarity surrounding the previously executed "Land Swap Agreement". Staff response is provided under the "Land Swap Agreement" discussion below.

### **Consistency Evaluation**

Staff finds that the General Plan as amended is consistent with the Authority Act and the Base Reuse Plan, as shown in the consistency analysis matrix (**Exhibit 1** to the attached Resolution). The Fort Ord Master Plan was originally prepared using the language of the Reuse Plan applicable to the County. In 2001, the Fort Ord Master Plan was adopted by the County and was found consistent with the Base Reuse Plan by FORA in 2002. The 2010 General Plan included some minor amendments to some of the policy language to reflect modifications made as part of the approved East Garrison development and an executed Agreement (East Garrison - Parker Flats Land Swap Agreement). All of the modifications were done in consultation with FORA staff.

There are two separate but related questions that have been raised as part of this action. First, there may be areas of the Fort Ord Master Plan which the Board of Supervisors or the public would like to amend. Changes desired beyond what was adopted in the 2010 General Plan are not a consistency issue, and can be undertaken following this consistency determination process. The determination of consistency should focus on whether the 2010 General Plan, as adopted and recently amended, is consistent with the Fort Ord Base Reuse Plan.

Second, there are a number of programs and ordinances that are required to "implement" the General Plan and the Base Reuse Plan. Many of these programs and ordinances are not yet in place but are in progress. Having incomplete implementation actions is not a consistency issue. Ms. Haines requests the Board not certify the General Plan on the basis of Section 8.02.020(a)(3) [sic] of the FORA Master Resolution. Section 8.02.010(a)(3) of the Master Resolution provides that FORA may disapprove a member's

legislative action if, based on substantial evidence, it finds that the action “is not in substantial conformance with applicable programs specified in the Reuse Plan.” The General Plan includes the applicable policies and programs, so there is no lack of conformance; where the Base Reuse Plan calls for the implementation of policies and programs, the Fort Ord Master Plan calls for their implementation. (See Exhibit 1 to the draft resolution.) That not every program has yet been implemented is not evidence of lack of conformity. Moreover, implementation is on-going. A work program for the implementation of the 2010 General Plan, including the Fort Ord Master Plan, was approved by the Board of Supervisors for this fiscal year. Staff is engaged in achieving the goals established by this work program.

### **Land Swap Assessment**

At the August 27, 2013 hearing, Landwatch provided testimony and a comment letter objecting to finding the 2010 General Plan consistent with the Fort Ord Reuse Plan due to a “lack of clarity about the intensity and density of land use permitted in the Parker Flats and East Garrison areas.” The objection focused on alleged land use modifications stemming from a Land Swap Agreement and more specifically, the remaining development potential in the “Parker Flats” area and the “East Garrison” area of Fort Ord. Staff has reviewed the comment letter and the testimony provided and provides the following analysis.

The “Land Swap Agreement” (LSA) refers to a “Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land Use Modification” between the County, Fort Ord Reuse Authority (FORA), the United States Army, the Bureau of Land Management (BLM), and Monterey Peninsula College (MPC) (Agreement #A-09555, approved by the County Board of Supervisors on September 23, 2003.) One of its purposes was to “help resolve conflicting land-uses and conveyance requests” between MPC, BLM, and the County surrounding the MPC Public Safety Officer Training Facility in the East Garrison area. It was not drafted to amend the Base Reuse Plan, and it did not amend land use designations in the Base Reuse Plan.

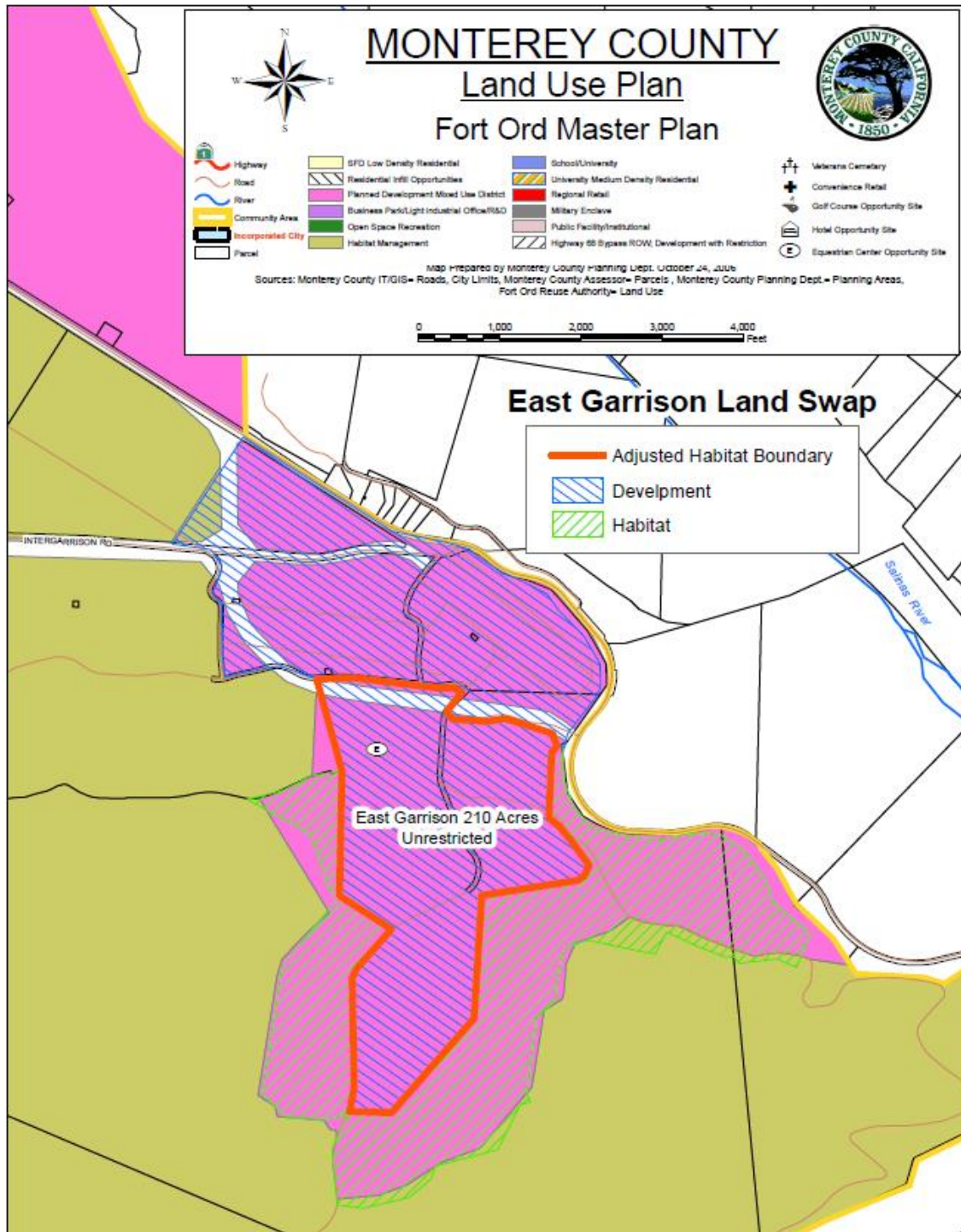
The LSA was intended to facilitate the relocation of MPC’s proposed Public Safety Officer Training Facility from East Garrison to Parker Flats Military Operations Urban Terrain (MOUT) facility. In order to implement the relocation, existing agreements between the Army and the Bureau of Land Management regarding Fort Ord activities and use of the MOUT facility needed to be modified. The MOU addressed these needed modifications. These modifications allowed the Army, through FORA and the County, to transfer lands to MPC at the MOUT facility in Parker Flats rather than previously slated lands in the East Garrison area. The MOUT facility was previously slated to be transferred to BLM for ownership, maintenance, and operation.

The LSA also amended the Habitat Management Plan (HMP). The HMP was prepared by the Army and is a supplemental document to the Base Reuse Plan that addresses habitat preservation and corridors on two-thirds of the former army base. The LSA included amendments to the “Habitat Management Plan” (HMP) and not the Base Reuse Plan land

use designations. The HMP overlays the land uses and places restrictions on the use of property based upon habitat considerations. The HMP designates lands in four categories: habitat reserve, habitat corridor, development with reserve areas and restrictions, and development with no restrictions. Properties within the former Fort Ord are subject to the HMP and its restrictions in addition to the Base Reuse Plan land use designations and policies. For instance, a property designated for development with restrictions may have a Base Reuse Plan land use designation of Planned Development/Mixed Use but due to HMP restrictions, only a portion of the property might be appropriate for development with the remaining portion required by the HMP to be retained for habitat. The Base Reuse Plan requires recipients of former Fort Ord lands to comply with the HMP. (Base Reuse Plan, at page 356.)

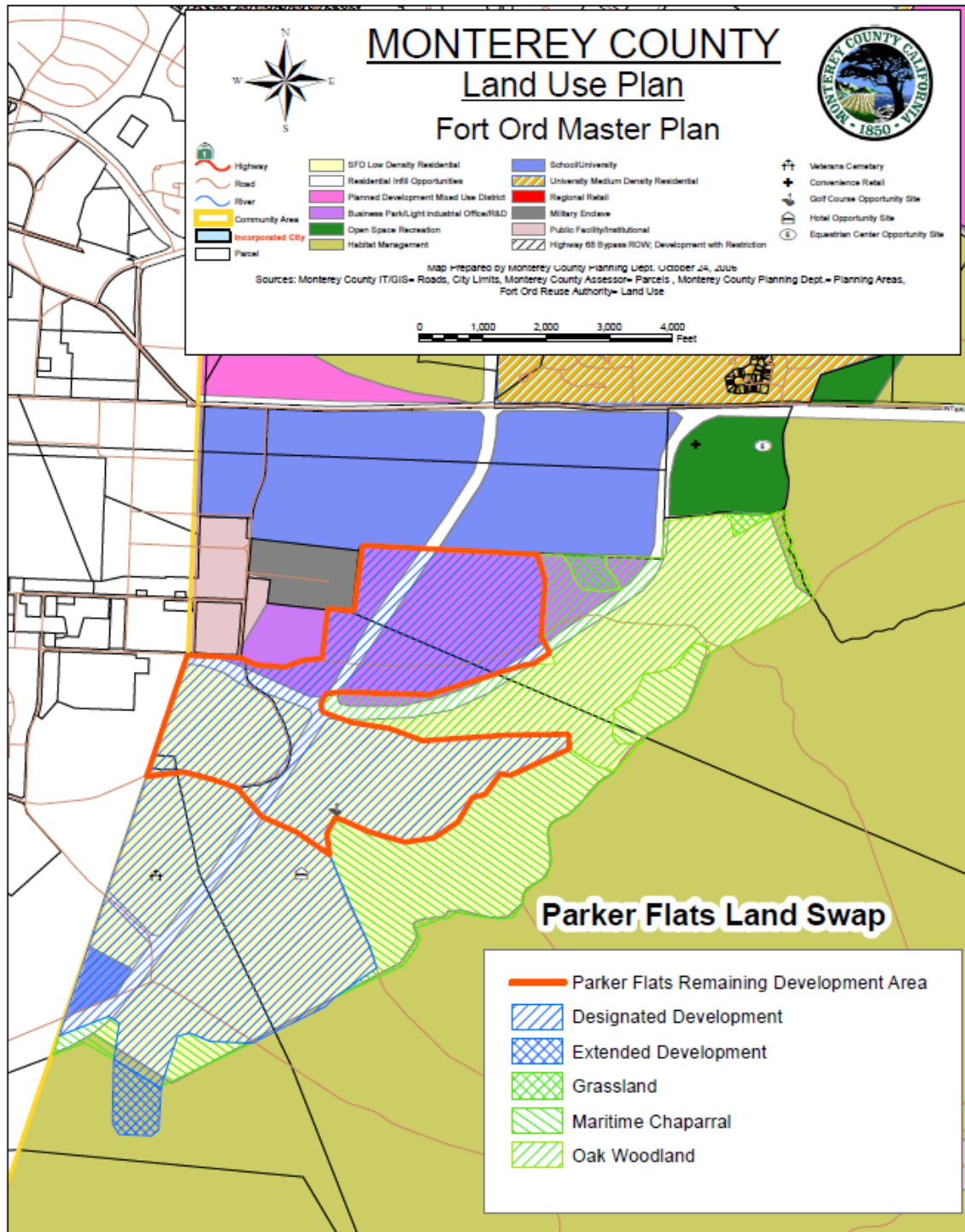
The LSA modified the HMP by moving habitat reserve areas from the East Garrison area to the Parker Flats area. The MOU, as executed in 2003 and as noted in the Fort Ord Master Plan “*Overall habitat Losses/Gains in Land Swap Agreement Table*”, removed the habitat reserve on 210 acres in the East Garrison area and in exchange overlaid a habitat reserve or habitat corridor designation on 463.2 acres in the Parker Flats planning area. The adjusted habitat reserve/habitat corridor area addressed a boundary issue at the MOUT facility, removed HMP habitat restrictions on a 210 acre portion of the East Garrison area and added HMP habitat restrictions to 463.2 acres of land within the Parker Flats area resulting in an overall net gain in habitat land of 246.7 acres. The LSA did not modify the Fort Ord Base Reuse Plan Land Use Designations. Projects must be evaluated based upon their consistency with the Fort Ord Base Reuse Plan, 2010 Monterey County General Plan and the HMP. Below is a summary and maps for both of the affected Planning areas.

*East Garrison* – Under the original HMP, the East Garrison area was designated development with restrictions and allowed a maximum of 241 acres to be developed. This 241 acres has been accounted for in the East Garrison Development already approved by the County and found consistent by FORA. The LSA amended the HMP to remove habitat restrictions on an additional 210 acres in the East Garrison area (including the former MPC Officer Training area). The East Garrison area has always been designated Planned Development Mixed Use. That Base Reuse Plan land use designation has not changed. The map below illustrates the effect of the LSA: the underlying land use designation has not changed but the habitat restricted lands have.



*Parker Flats* - Under the original HMP, Parker Flats was designated as development without restrictions. The Base Reuse Plan designates much of the 946 acres in the Parker Flats area for Low Density Residential use and contemplated a total of 3,184 residential units in this area. This area also has a cemetery and horse park opportunity site. The LSA placed 463.2 acres of the 946 acre Parker Flats area into habitat reserve area, thus changing Parker Flats to a development with restrictions designation under the HMP.

The LSA did not change the Base Reuse Plan land use designation. The map below illustrates the effect of the LSA: the underlying land use designation has not changed but the habitat restricted lands have. The area outside of the Parker Flats Remaining Development Area designated grassland, Maritime Chaparral or Oak Woodland is the location of the habitat reserve. The area to the south designated for development is the MPC land.





A biological assessment prepared by Zander Associates was attached to the LSA. Zander's assessment refers to intent to develop residential units in the East Garrison area rather than Parker Flats; however, the Assessment was not a formal transfer of development potential or land use. The purpose of the Zander Assessment was to provide an evaluation of habitat areas to demonstrate that the HMP amendment would not alter the goals, objectives, and overall intent of the HMP and would afford an equivalent or greater protection for all habitat types and sensitive species, not to amend any General Plan policies, assumptions, or land use designations. The parties to the Land Swap Agreement agreed to implement the conditions of the Zander Assessment, but as explained, these pertained to the habitat reserve boundaries of the HMP and other matters and did not amend or intend to amend the underlying land use designations of the Base Reuse Plan.

The issue in the consistency determination before the Board of Supervisors is whether the 2010 Monterey County General Plan is consistent and implements the Fort Ord Reuse Plan. The Fort Ord Master Plan adopted as part of the 2010 General Plan included a discussion of the Land Swap Agreement with a text and a table showing the habitat losses and gains. This information was added to reflect changes that the LSA made with respect to the HMP. The 2010 Monterey County General Plan with this reference to the LSA accurately expresses the regulatory design of the Base Reuse Plan. The Base Reuse Plan requires compliance with the HMP. The County's General Plan is consistent with this mandate. Additionally, even if the LSA's modification to the HMP habitat reserve areas are considered a transfer of development intensity or density under the Base Reuse Plan, FORA does not preclude jurisdictions from transferring intensity and density of development if the cumulative net density or intensity of the jurisdiction's Fort Ord territory is not increased. (FORA Master Resolution section 8.02.010(b).) The modifications to the HMP effected by the LSA resulted in a net gain of habitat reserve area. Accordingly, the Fort Ord Master Plan's recognition of the LSA does not result in inconsistency with the Base Reuse Plan.

The public and members of the Board of Supervisors may want to amend what was done in the past. Areas of concern should be identified and pursued as future amendments to the Base Reuse Plan and the Fort Ord Master Plan as part of the Reassessment process or through later plan amendments. To illustrate the consistency of the Fort Ord Master Plan with the Base Reuse Plan, below are land use maps from the Master Plan and from the Base Reuse Plan for comparison. With the exception of the Del Rey Oaks area (which is not within the County's jurisdiction), these land use maps are clearly consistent.

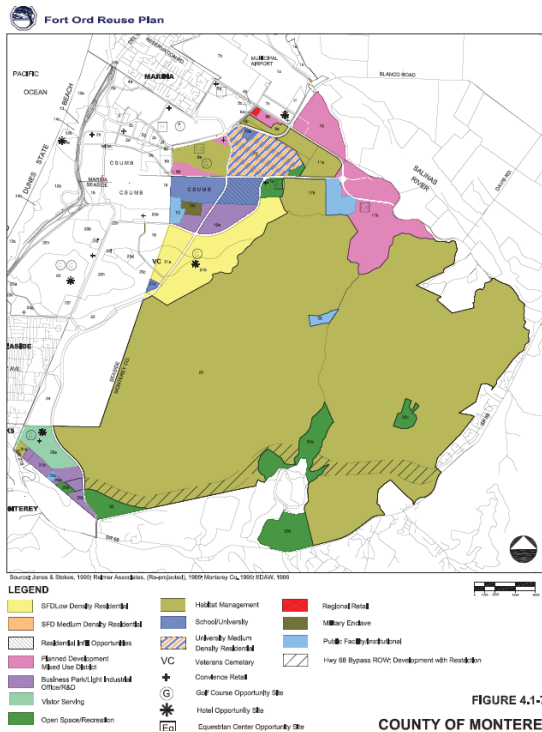


FIGURE 4.1-7  
COUNTY OF MONTEREY

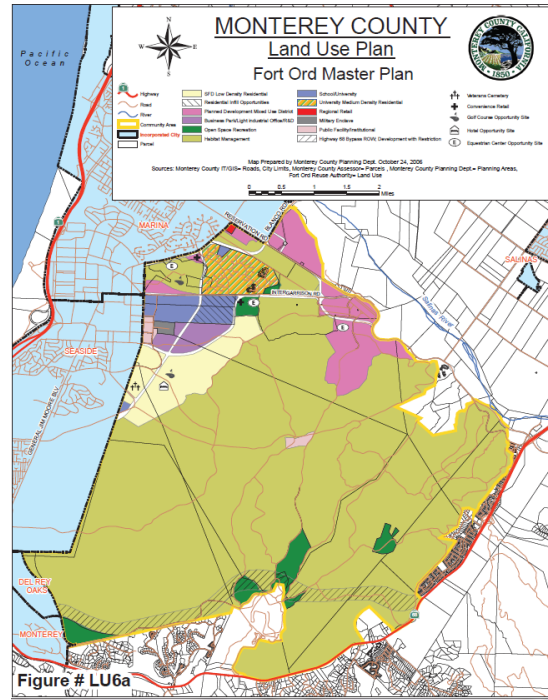


Figure # LU6a

The LandWatch letter incorrectly summarizes the FORA Reassessment Report by stating on page 1 of their letter that “*The Final Reassessment Report suggests that the issues should be resolved in the context of a future consistency determination for the County’s 2010 General Plan.*” The Reassessment Report actually identifies FORA evaluation of the topic at such time that the Monterey County 2010 General Plan is submitted for consistency with the Base Reuse Plan as one of three potential options for the FORA Board to consider. The first option is to maintain the Base Reuse Plan Land Use Concept map as it currently exists and the second option is to evaluate the need to modify the Base Reuse Plan Land Use Concept map. The recommendation presented to the Board of Supervisors is to find the General Plan consistent with the Base Reuse Plan as laid out in the first option of the Reassessment Report. This approach recognizes that actions have already been taken and no further action is necessary at this time. There may be changes desired resulting from the LSA, but these are more appropriately addressed as part of the FORA Reassessment process and other avenues to amend the plan sometime in the future.

### California Environmental Quality Act (CEQA)

The proposed action does not require subsequent environmental review pursuant to Section 15162 of the California Environmental Quality Act Guidelines. An Environmental Impact Report was certified for the 2010 General Plan on October 26, 2010 (Resolution # 10-290). Addenda to the General Plan EIR were prepared for the 2013 General Plan amendments. The subject action involves certifying that the adopted General Plan is consistent with the Base Reuse Plan. The consistency determination does not propose changes to the General Plan as amended, and no substantial changes have occurred with respect to the circumstances under which the General Plan was approved nor is there new information of substantial importance which was not known and could



not have been known at the time of the previous EIR and its Addenda that would require major revisions to the EIR, and its Addenda, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

**Conclusion**

Staff is recommending that the Board affirm its decision 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 and directing staff to submit the 2010 General Plan as amended along with the required documentation to the Fort Ord Reuse Authority for a consistency determination.