EXHIBIT 22-A

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February 26, 2010

Mr. Bob Brower
Chateau Julien Winery Estates
P. O. Box 221775
Carmel, CA 93923

Re: **Extension of Unexpired Water Credits**

Dear Bob:

Tony asked me to provide you with some information relating to a possible extension of unexpired water credits due to the current economic climate.

MPWMD Rule No. 25.5 comprises the District's water credit program (see Exhibit "A"). I have highlighted subsection C of Rule No. 25.5 which establishes a 60-month or five-year deadline to use the water credit after it has been issued. This section also provides for a single renewal period of an additional 60 months or five years, for a total of ten years.

As Tony discussed with you, the State Legislature unanimously passed AB 333 which automatically extended the life of unexpired subdivision maps an additional two years (see Exhibit "B"). The impetus for the legislation which is addressed in the Bill analysis was the current "market slump" and the possibility of losing development approvals (see Exhibit "C").

Similarly, on March 16th, the Monterey County Board of Supervisors is expected to adopt an ordinance extending the life of unexpired development permits an additional two years (see Exhibit "D"), based on the same rationale.

Unfortunately, in the current economy, many businesses, including many of our clients, cannot afford to proceed with projects that would benefit from previously approved water credits and risk losing these credits. To ensure that these credits are still available once the economy turns around and projects become more feasible, we respectfully request that the Board amend Rule No. 25.5 to extend any unexpired water credits for at least an additional two or, better, five years. I have attached suggested language that is similar to

the language being contemplated by the Board of Supervisors in their ordinance to effectuate this extension (see Exhibit "E").

Please call me or Tony if you have any questions or comments.

Sincerely,

Lombardo & Gilles, LLP

Jason S. Retterer

JSR:ncs

RULE 25.5 - WATER USE CREDITS AND ON-SITE WATER CREDITS

A. Except where a Water Permit has been abandoned, expired, Revoked, Suspended, or canceled under these Rules, a Person may receive a Water Use Credit for the permanent abandonment of some or all of the prior water use on that Site by one of the methods set forth in this Rule. Water Use Credits shall be documented by written correspondence between the District and the property owner, and shall remain valid unless prohibited by this Rule. Water Use Credits shall not be documented by notice on a property title, except as specified in Rule 25.5-G. Except as allowed by Rule 28, Water Use Credits shall not be transferable to any other Site.

B. Water savings resulting from mandatory District programs, including water savings resulting from the installation of Low Water Use Plumbing Fixtures Mandated by the District, shall not result in a Water Use Credit. Such savings shall be set aside as permanent water conservation savings essential to the District's 15 percent conservation goal approved by the Board in March 1984.

C. A Water Use Credit may be applied to and shall allow future water use on that Site at any time within a period of 60 months. After the 60th month, the General Manager shall allow renewal of this Water Use Credit only upon verification that some or all water savings represented by that credit are current (i.e. no Water Permit or other use or transfer of the Water Use Credit has occurred). If all savings are not current, a pro-rata reduction shall occur. A single renewal period of 60 months shall be allowed; thereafter any remaining unused Water Use Credit shall expire.

D. A Water Use Credit on a Redevelopment Project site may, in addition to the time limits and in the manner set forth above, have its expiration date extended for two (2) additional periods of sixty (60) months each, to afford any such Redevelopment Project a maximum period of two hundred forty (240) months to use that credit.

E. The following types of Permanent Abandonment of Capacity shall qualify for a Water Use Credit under this Rule:

1. Demolition of a building or use that has been recognized by the District as being a lawful water use;

2. Permanent disconnection of a lawful water use from a Water Distribution System;

3. Residential removal of water fixtures;

4. Permanent installation of non-Mandated water fixtures or appliances.

F. To determine a Water Use Credit, the General Manager shall:

Assembly Bill No. 333

CHAPTER 18

An act to amend Section 65961 of, and to add Section 66452.22 to, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 15, 2009. Filed with Secretary of State July 15, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 333, Fuentes. Land use: subdivision maps: expiration dates.

(1) The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land. It generally requires a subdivider to submit, and have approved by the city, county, or city and county in which the land is situated, a tentative or vesting tentative map, which confers a vested right to proceed with development in substantial compliance with specified ordinances, policies, and standards. The act provides for the expiration of tentative or vesting tentative maps, after specified periods of time, and specifically extends by 12 months the expiration date of any tentative or vesting tentative map or parcel map for which a tentative or vesting tentative map has been approved that had not expired on January 1, 2011. This extension is in addition to any other extension of the expiration date provided for in specified provisions of the act. Any legislative, administrative, or other approval by any local agency, state agency, or other political subdivision of the state that pertains to a development project included in a map that is extended is to be extended by 12 months under specified conditions.

This bill would extend the applicable expiration date to 24 months, as specified, for any vesting tentative map, in addition to a tentative map, generally, that has not expired as of the date adding these provisions and that will expire, as specified, before January 1, 2012. By adding to the procedures that officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 65961 of the Government Code is amended to read:

65961. Notwithstanding any other provision of law, except as provided in Section 66452.22, relating to the extension of the expiration date for subdivisions subject to that section, upon approval or conditional approval of a tentative map for a subdivision of single- or multiple-family residential units, or upon recordation of a parcel map for such a subdivision for which no tentative map was required, during the five-year period following recordation of the final map or parcel map for the subdivision, a city, county, or city and county shall not require as a condition to the issuance of any building permit or equivalent permit for such single- or multiple-family residential units, conformance with or the performance of any conditions that the city or county could have lawfully imposed as a condition to the previously approved tentative or parcel map. Nor shall a city, county, or city and county withhold or refuse to issue a building permit or equivalent permit for failure to conform with or perform any conditions that the city, county, or city and county could have lawfully imposed as a condition to the previously approved tentative or parcel map. However, the provisions of this section shall not prohibit a city, county, or city and county from doing any of the following:

(a) Imposing conditions or requirements upon the issuance of a building permit or equivalent permit which could have been lawfully imposed as a condition to the approval of a tentative or parcel map if the local agency finds it necessary to impose the condition or requirement for any of the following reasons:

(1) A failure to do so would place the residents of the subdivision or of the immediate community, or both, in a condition perilous to their health or safety, or both.

(2) The condition is required in order to comply with state or federal law.

(b) Withholding or refusing to issue a building permit or equivalent permit if the local agency finds it is required to do so in order to comply with state or federal law.

(c) Assuring compliance with the applicable zoning ordinance.

(d) This section shall also apply to a city or city and county which incorporates on or after January 1, 1985, and which includes within its boundaries any areas included in the tentative or parcel map described in this section.

When the incorporation includes areas included in the tentative or parcel map described in this section, "a condition that the city could have lawfully imposed as a condition to the previously approved tentative or parcel map," as used in this section, refers to conditions the county could have imposed had there been no incorporation.

SEC. 2. Section 66452.22 is added to the Government Code, to read:

66452.22. (a) The expiration date of any tentative or vesting tentative subdivision map or parcel map for which a tentative or vesting tentative

map, as the case may be, has been approved that has not expired on the date that the act that added this section became effective and that will expire before January 1, 2012, shall be extended by 24 months.

(b) The extension provided by subdivision (a) shall be in addition to any extension of the expiration date provided for in Section 66452.6, 66452.11, 66452.13, 66452.21, or 66463.5.

(c) Any legislative, administrative, or other approval by any state agency that pertains to a development project included in a map that is extended pursuant to subdivision (a) shall be extended by 24 months if this approval has not expired on the date that the act that added this section became effective. This extension shall be in addition to any extension provided for in Sections 66452.13 and 66452.21.

(d) (1) For purposes of this section, the determination of whether a tentative subdivision map or parcel map expires before January 1, 2012, shall count only those extensions of time pursuant to subdivision (e) of Section 66452.6 or subdivision (c) of Section 66463.5 approved on or before the date that the act that added this section became effective and any additional time in connection with the filing of a final map pursuant to subdivision (a) of Section 66452.6 for a map that was recorded on or before the date that the act that added this section became effective.

(2) The determination made pursuant to this subdivision shall not include any development moratorium or litigation stay allowed or permitted by Section 66452.6 or 66463.5.

(e) Section 65961 applies to a tentative subdivision map or parcel map that relies on the 24-month extension pursuant to this section, except for both of the following:

(1) The five-year period described in Section 65961 shall be three years.

(2) Section 65961 does not prohibit a city, county, or city and county from levying a fee or imposing a condition that requires the payment of a fee upon the issuance of a building permit or after the issuance, including, but not limited to, a fee as defined in Section 66000.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit cities, counties, and cities and counties to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry, it is necessary that this act take effect immediately.

O

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 333
Author: Fuentes (D)
Amended: 05/04/09 in Assembly
Vote: 27 - Urgency

SENATE LOCAL GOVERNMENT COMMITTEE: 5-0, 6/17/09
AYES: Wiggins, Cox, Aanestad, Kehoe, Wolk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/28/09 (Consent) - See last page for vote

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SUBJECT: Land use: subdivision maps: expiration dates

SOURCE: California Building Industry Association
California League of Cities

DIGEST: This bill extends the expiration dates by 24 months for tentative maps issued to developers, provided their approval date has not expired when this bill takes effect.

ANALYSIS: Under the Subdivision Map Act, cities and counties approve tentative maps that must be consistent with their general plans, attaching scores of conditions. Once subdividers comply with those conditions, local officials must issue final maps. For smaller subdivisions (lot splits) local officials usually use parcel maps, but they can require tentative parcel maps followed by final parcel maps.

Tentative maps can be valid for up to 16 years:

CONTINUED

The initial life of a tentative map is two years. At the option of the city or county, a map's initial life can be three years.

Local officials can grant extensions for up to six years.

If the subdivider spends substantial funds and files phased final maps, the remaining tentative map is automatically extended by three years, up to a maximum of ten years.

These deadlines don't apply during development moratoria (up to five years) or during pending litigation (up to five years).

The Legislature extended the life of unexpired tentative maps, without local review or approval. Legislators said that tentative maps that were valid on:

September 13, 1993, gained two more years (SB 428 [Thompson], Chapter 407, Statutes of 1993).

May 14, 1996, gained one more year (AB 771 [Aguiar], Chapter 46, Statutes of 1996).

July 15, 2008, gained one more year (SB 1185 [Lowenthal], Chapter 124, Statutes of 2008).

This bill extends the expiration date by 24 months for any tentative map, vesting tentative map, or parcel map for which a tentative map or tentative vesting map has been approved and the approval has not expired when this urgency bill takes effect. This extension is in addition to any other statutory extensions.

For any legislative, administrative or other approval by a state agency relating to a development project in a subdivision affected by this bill that has not expired when the bill takes effect, this bill extends the expiration date by 24 months. This extension is in addition to any other statutory extensions.

This bill reduces, from five years to three years, the period of time after the approval of a tentative map or recordation of a parcel map during which a city or county is prohibited, with exceptions, from imposing specified conditions on a building permit.

CONTINUED

The bill states that the prohibition on conditions being placed on building permits does not prohibit a city, county, or city and county from levying a fee or imposing a condition that requires the payment of a fee upon the issuance of a building permit or after the issuance, including a fee as defined in the Mitigation Fee Act.

Comments

Until the demand for new housing resumes, subdividers aren't likely to complete the required conditions of their tentative maps and qualify for final maps. With statutory time limits looming, some builders risk losing their earlier approvals and having to start over again. Similar to the Legislature's three earlier responses during other market slumps, this bill preserves subdividers' ability to complete their conditions so that they can build houses once California's economy picks up again.

This bill largely replicates the language in last year's Lowenthal bill. However, this bill includes additional provisions relating to the conditions that cities and counties can place on building permits during the five years after the approval of a tentative map or recordation of a parcel map. By reducing, from five years to three years, the period of time during which cities and counties are prohibited from placing specified conditions on the issuance of any building permit, and by stating that that prohibition does not apply to specified permit fees, this bill attempts to mitigate some of the impacts of repeated subdivision and parcel map extensions on cities and counties.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 6/29/09)

California Building Industry Association (co-source)
California League of Cities (co-source)
American Council of Engineering Companies of California
American Design Coatings, Inc.
American Federation of State, County and Municipal Employees
American Subcontractors Association California, Inc.
Art D's Concrete Co., Inc.
Associated General Contractors of California
Bay Area Construction Framers, Inc.
Bayside Concrete Construction Company

CONTINUED

Blackhawk Concrete Company, Inc.
Browning Contractors, Inc.
C Construction, Inc.
California Association of Realtors
California Business Properties Association
California Chamber of Commerce
California Major Builders Council
California Major Building Industry Association
California Manufacturers & Technology Association
California Professional Association of Specialty Contractors
Can–Do Electric
Coachella Valley Engineers
Conco
Custom the Works
Custom Tile Works
DPW, Inc.
Emerald Roofing, Inc.
Fredrickson, Mazeika & Grant, LLP.
GHA Communities
H&D Electric Inc.
JDM Construction Co. Inc.
Karsyn Construction
Lancaster Burns Construction, Inc.
Magik Glass and Door
Pacific Painting, Inc.
Palm Desert Door & Hardware, Inc.
Palm Springs Welding, Inc.
Porter Law Group
Protégé Commercial Builders, Inc.
RCR Plumbing & Mechanical, Inc.
Seawright Custom Precast, Inc.
Signal Heating & Air Conditioning Inc.
Southwest Finish & Supply Inc.
Swanillon, Inc.
Taylor Trim & Supply, Inc.
Team Heating and Air Conditioning, Inc.
The Land Stewards
Tri-Co Floors
Valley Industry and Commerce Association
Vic Ross's Masonry, Inc.
Western Concrete Pumping, Inc.

CONTINUED

ASSEMBLY FLOOR:

AYES: Adams, Ammiano, Anderson, Arambula, Beall, Bill Berryhill, Tom Berryhill, Blakeslee, Block, Blumenfield, Brownley, Buchanan, Caballero, Charles Calderon, Carter, Chesbro, Conway, Cook, Coto, Davis, De La Torre, De Leon, DeVore, Emmerson, Eng, Feuer, Fletcher, Fong, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garrick, Gilmore, Hagman, Hall, Harkey, Hayashi, Hernandez, Hill, Huber, Huffman, Jeffries, Jones, Knight, Krekorian, Lieu, Logue, Bonnie Lowenthal, Ma, Miller, Monning, Nava, Niello, Nielsen, John A. Perez, V. Manuel Perez, Portantino, Price, Ruskin, Salas, Saldana, Silva, Skinner, Smyth, Solorio, Audra Strickland, Swanson, Torlakson, Torres, Torrico, Tran, Villines, Yamada, Bass

NO VOTE RECORDED: Duvall, Evans, Mendoza, Nestande

AGB:do 6/29/09 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** **END** ****

EXHIBIT A
DRAFT ORDINANCE – INLAND
February 23, 2010

Ordinance No. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING SECTIONS 21.70.080.D, 21.72.070.D, 21.74.070.D, AND 21.76.070.E TO THE MONTEREY COUNTY CODE TO ESTABLISH A ONE-TIME 24-MONTH EXTENSION FOR CERTAIN VALID PERMITS IN EFFECT AS OF JANUARY 1, 2008 PROVIDED NO MORE THAN ONE PRIOR EXTENSION HAS BEEN GRANTED AND NO EXTENSION REQUEST HAS BEEN DENIED.

County Counsel Summary

This ordinance automatically extends by 24 months the expiration dates of discretionary Administrative Permits, Variances, Use Permits, and Combined Development Permits that were approved prior to January 1, 2008 and that had not expired as of that date, provided that no more than one prior extension request had been granted or denied for that permit. This ordinance does not extend the expiration dates of subdivision approvals, lot line adjustments, or emergency permits. This ordinance applies to the unincorporated inland area of the County of Monterey.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. FINDINGS AND DECLARATIONS.

1. Under the Monterey County Zoning Ordinance (Titles 20 and 21 of the County Code), a discretionary permit expires on the date stated on the permit or, if no date is stated, the permit expires after two years unless the use commences or unless actual construction has begun. In order to extend the permit beyond the initial time limit, the permit holder is required to apply for an extension and the County has discretion to grant or deny the request.

2. The County wishes to provide a reasonable opportunity for holders of discretionary use permits to commence the approved use before the expiration of the permit. In light of the economic and business climate beginning in 2007, permittees are having difficulty commencing use under the time granted under their discretionary permits before they expire. In 2008 and 2009, the California legislature adopted amendments to the Subdivision Map Act to provide for an automatic extension of 12 or 24 months to certain tentative subdivision maps. The purpose of this ordinance is similarly to amend the County Zoning Ordinance to provide for a one-time 24-month automatic extension to certain classes of discretionary use permits.

3. Pursuant to Article XI of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations to protect and promote the public health, safety, and welfare of its citizens. This ordinance serves the public welfare by reducing the cost to both applicants and the County of processing applications for permit extensions and by providing a reasonable opportunity under current economic circumstances for permittees to commence the approved use under an already approved discretionary permit.

SECTION 2. Subparagraph D of section 21.70.080 of the Monterey County Code relating to expiration of Administrative Permits is added to read as follows:

D. Notwithstanding subparagraphs A and B of this section, the expiration date of any Administrative Permit that was approved prior to January 1, 2008 and that has not expired prior to January 1, 2008 shall be automatically extended by 24 months from the date the permit would otherwise have expired provided the following criteria are met:

1. No more than one prior extension of the permit has been granted for the project; and
2. No permit extension request for the project has been previously denied.

SECTION 3. Subparagraph D of Section 21.72.070 of the Monterey County Code relating to expiration of Variances is added to read as follows:

D. Notwithstanding subparagraphs A and B of this section, the expiration date of any Variance that was approved prior to January 1, 2008 and that has not expired prior to January 1, 2008 shall be automatically extended by 24 months from the date the Variance would otherwise have expired provided the following criteria are met:

1. No more than one prior extension of the Variance has been granted for the project; and
2. No Variance extension request for the project has been previously denied.

SECTION 4. Subparagraph D of Section 21.74.070 of the Monterey County Code relating to expiration of Use Permits is added to read as follows:

D. Notwithstanding subparagraphs A and B of this section, the expiration date of any Use Permit that was approved prior to January 1, 2008 and that has not expired prior to January 1, 2008 shall be automatically extended by 24 months from the date the permit would otherwise have expired provided the following criteria are met:

1. No more than one prior extension of the permit has been granted for the project; and
2. No permit extension request for the project has been previously denied.

SECTION 5. Subparagraph E of Section 21.76.070 of the Monterey County Code relating to expiration of Combined Development Permits is added to read as follows:

DRAFT ORDINANCE – INLAND
February 23, 2010

E. Notwithstanding subparagraphs A and B of this section, the expiration date of any Combined Development Permit that was approved prior to January 1, 2008 and that has not expired prior to January 1, 2008 and that does not include a subdivision approval shall be automatically extended by 24 months from the date the permit would otherwise have expired provided the following criteria are met:

1. No more than one prior extension of the permit has been granted for the project; and
2. No permit extension request for the project has been previously denied.

SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective on the 31st day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2010, upon motion of Supervisor _____, seconded by Supervisor _____, by the following vote, to-wit:

AYES: Supervisors
NOES:
ABSTAIN:
ABSENT:

_____
Chair
Monterey County Board of Supervisors

Attest:
GAIL T. BORKOWSKI,
Clerk of the Board of Supervisors

By:_____
Deputy

APPROVED AS TO FORM:

LEROY W. BLANKENSHIP
Assistant County Counsel

EXHIBIT E
PROPOSED AMENDMENT TO RULE 25.5

RULE 25.5 WATER USE CREDITS AND ON-SITE WATER CREDITS

.....

(C) A Water Use Credit may be applied to and shall allow future water use on that Site at any time within a period of 60 months. After the 60th month, the General Manager shall allow renewal of this Water Use Credit only upon verification that some or all water savings represented by that credit are current (i.e. no Water Permit or other use or transfer of the Water Use Credit has occurred). If all savings are not current, a pro-rata reduction shall occur. A single renewal period of 60 months shall be allowed; thereafter any remaining unused Water Use Credit shall expire.

Notwithstanding the above, the expiration date of any Water Use Credit that was approved prior to **[ORDINANCE ADOPTION DATE]** and that has not expired prior to **[ORDINANCE ADOPTION DATE]** shall be automatically extended by 24 **[OR 60]** months from the date the permit would otherwise have expired.