

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b> August 9, 2012	<b>Time:</b> 1:30 pm	<b>Agenda Item No.:</b> 4
<b>Project Description:</b> Consider a Coastal Administrative Permit (PLN110367) to allow the conversion of an approved test well previously approved under PLN070074 (amended under PLN110366) to a domestic production well.		
<b>Project Location:</b> 3072 Serra Avenue Carmel		<b>APN:</b> 009-081-027-000
<b>Planning File Number:</b> PLN110367		<b>Owner:</b> William Dan Powell <b>Agent:</b> John Bridges
<b>Planning Area:</b> Carmel Area Land Use Plan		<b>Flagged and staked:</b> No
<b>Zoning Designation:</b> : "MDR/2 D (CZ)" [(Medium Density Residential, 2 units per acre with Design Control overlay (Coastal Zone)]		
<b>CEQA Action:</b> Categorically Exempt per Section 15304		
<b>Department:</b> RMA - Planning Department		

### RECOMMENDATION:

Staff recommends that the Zoning Administrator adopt a resolution (**Exhibit C**) to:

- 1) Find the project Categorically Exempt per Section 15304; and
- 2) Approve the Coastal Administrative Permit (PLN110367) to allow the conversion of an approved test well previously approved under PLN070074 (amended under PLN110366) to a domestic production well, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**)

### PROJECT OVERVIEW:

The application before the Zoning Administrator is to consider a Coastal Administrative Permit for the conversion of an approved test well previously approved under PLN070074 and (amended under PLN110366) to a domestic production well for the property located at 3072 Serra Avenue in the unincorporated area of Carmel. This Coastal Administrative Permit was scheduled for an administrative hearing before the Director of Planning on June 27, 2012. However, because the 25 foot setback radius for the well slightly encroaches on the neighbor's property, the adjacent property owner, Mr. Mozingo, requested in a letter dated June 4, 2012 that the project be referred to a public hearing. The County referred the both the amendment and this Coastal Administrative Permit to a public hearing to consider the public's concerns. This Coastal Administrative Permit, if granted, would allow the existing well to be the permanent water source for the property. The County reviewed public concerns regarding adequacy of the well and location of the well and has determined that the well meets all county requirements. Therefore, the conversion of the Powell test well as the primary water source for the Powell property may be considered as a permanent domestic production well.

See attached discussion for additional information (**Exhibit B**).

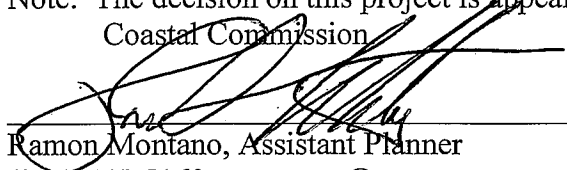
**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

- √ RMA - Planning Department
- √ Environmental Health Bureau
- √ Water Resources Agency
- California Coastal Commission

Agencies that submitted comments are noted with a check mark ("√"). Conditions recommended by RMA-Planning Department have been incorporated into the Conditions Compliance / Mitigation Monitoring and Reporting Plan attached to the draft resolution (**Exhibit C**).


The project was not referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because the project did not include a lot line adjustment, variance, or a Design Approval and was exemption from environmental review.

Note: The decision on this project is appealable to the Board of Supervisors and the California Coastal Commission

  
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Ramon Montano, Assistant Planner  
(831) 755-5169, montanor@co.monterey.ca.us  
August 2, 2012

cc: Front Counter Copy; Zoning Administrator; RMA - Planning; RMA - Public Works Department; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; Laura Lawrence, Planning Services Manager; Delinda Robinson Senior Planner; Ramon Montano, Project Planner; Carol Allen, Senior Secretary; Dan Powell, Lori Powell, Owner; John Bridges, Agent; Glen Mozingo, Steve Dallas, interested parties; The Open Monterey Project; LandWatch; Planning File PLN110367.

Attachments: Exhibit A      Project Data Sheet  
                  Exhibit B      Discussion  
                  Exhibit C      Resolution  
                                    • Recommended Conditions of Approval  
                                    • Site Plan  
                  Exhibit D      Vicinity Map

This report was reviewed by  Laura Lawrence, Planning Services Manager, and Delinda Robinson Senior Planner.

## EXHIBIT A

### Project Information for PLN110367

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#### Project Information:

<b>Project Name:</b>	POWELL WILLIAM DAN		
<b>Location:</b>	3072 SERRA AVE CARMEL		
<b>Permit Type:</b>	Coastal Administrative Permit		
<b>Environmental Status:</b>	Exempt	<b>Final Action Deadline (884):</b>	4/7/2012
<b>Existing Structures (sf):</b>	0	<b>Coverage Allowed:</b>	35%
<b>Proposed Structures (sf):</b>	0	<b>Coverage Proposed:</b>	0
<b>Total Sq. Ft.:</b>	0	<b>Height Allowed:</b>	30
<b>Tree Removal:</b>	NO	<b>Height Proposed:</b>	0
<b>Water Source:</b>	WELL	<b>FAR Allowed:</b>	45%
<b>Water Purveyor:</b>	CAL AM	<b>FAR Proposed:</b>	0
<b>Sewage Disposal (method):</b>	SEWER	<b>Lot Size:</b>	7573
<b>Sewer District:</b>	CAWD	<b>Grading (cubic yds.):</b>	0

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#### Parcel Information:

<b>Primary APN:</b>	009-081-027-000	<b>Seismic Hazard Zone:</b>	UNDETERMINED
<b>Applicable Plan:</b>	CARMEL LUP	<b>Erosion Hazard Zone:</b>	MONDERATE
<b>Advisory Committee:</b>	Carmel/Carmel Highlands Advisory Committee	<b>Fire Hazard Zone:</b>	URBAN
<b>Zoning:</b>	MDR/2-D(CZ)	<b>Flood Hazard Zone:</b>	NO
<b>Land Use Designation:</b>	2 UNITS PER ACRE	<b>Archaeological Sensitivity:</b>	MODERATE
<b>Coastal Zone:</b>	YES	<b>Viewshed:</b>	NO
<b>Fire District:</b>	CYPRESS FPD	<b>Special Setbacks on Parcel:</b>	NO

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#### Reports on Project Parcel:

<b>Soils Report #:</b>	N/A
<b>Biological Report #:</b>	N/A
<b>Geologic Report #:</b>	N/A
<b>Forest Management Rpt. #:</b>	N/A
<b>Archaeological Report #:</b>	LIB080294
<b>Traffic Report #:</b>	N/A

## **EXHIBIT B DISCUSSION**

### Project Description

Coastal Administrative Permit (PLN110367) to allow the conversion of an approved test well previously approved under PLN070074 (and amended under PLN110366) to a domestic production well. The property is located at 3072 Serra Avenue Carmel, (assessor's parcel number 009-081-027-000), located at the intersection of Serra avenue and Camino Del Monte, Carmel area, coastal zone.

### History of permit activity

The Powell Coastal Administrative Permit (PLN070074) was approved administratively on June 11, 2008. The original expiration date of the permit was June 11, 2010. Monterey County Ordinance No. 5155, adopted by the Board of Supervisors on March 16, 2010, amended the zoning ordinance to provide for an automatic 24 month extension to discretionary permits approved between January 1, 2006 and January 1, 2009 that had not expired as of that date. Thus, the permit was automatically extended to June 11, 2012. The applicant applied for an amendment to the Coastal Administrative Permit on January 19, 2012. During the processing of the application for amendment, the application stays the expiration of Coastal Administrative Permit PLN070074.

In January of 2009, the drilling contractor hired by the owner contacted the Environmental Health Bureau (EHB) requesting a well site inspection for a new well location on the Powell property. Environmental Health conducted a site inspection to consider the new location and found the new location to be consistent with all County regulations regarding site development standards, setback requirements from contaminant sources, Monterey County Code (MCC) Chapters 15.04, 15.08 (well ordinance), and the California Well Standards Bulletins 74-81 and 74-90. As a result, the well was allowed to be sited 50 feet from the original location.

The new location approved in the field by EHB and they allowed the well to be drilled in February of 2009. In a letter dated April 12, 2010, the Environmental Health Bureau informed Powell that the capacity, based on the pumping report, met the required capacity for a single family dwelling.

### Amended Permit (PLN110366)

An amended Coastal Administrative Permit (PLN110366) for the previously approved Coastal Administrative Permit (PLN070074) allowed the development of a test well. The after-the-fact Amendment approved the new well site and allows the completed test well to remain at its current location. For that, reason the County has determined that the existing well is consistent with all County requirements established to ensure the water source has sufficient water quantity and quality.

### Principle Project Issue

The EHB requires the well to maintain a setback radius of at least 25 feet from sewer mains or laterals. Due to the small size of the Powell property, approximately 7,573 square feet, the 25-foot radius around the well affects a significant portion of the Powell property prohibiting the development of sewer mains or laterals in this area. The distance from the well to the Mozingo property line is 15 feet. An additional 10 feet of the radius extends into the Mozingo property

(APN 009-081-028). The total effects of the 25-foot radius extending beyond the Powell property line encompasses a total of approximately 246 square feet. Of that, an area of approximately 54 square feet is outside the area reserved for setbacks. Site development standards in the Monterey County Coastal Implementation Plan Part I, Section 20.12.060 require main structures maintain a minimum distance of 20 feet from the front property line and a distance of 5 feet from each side property line and 10 feet from the rear property line. The sphere of influence created from the 25-foot radius required around the Powell well does not extend upon any existing structures on the Mozingo property. A significant portion of the 25 foot radius is within the front and side setback of the Mozingo property, of which only approximately 54 square feet could be developed. The 54 square foot area is currently located within the existing driveway and would not affect the current use of the property or restrict future development of the Mozingo property.

The County approved the relocation of the Powell well in 2009. Therefore, based on county standards at the time, the well in its new location complied with regulations set forth in California Well Bulletins 74-81 and 74-90, plus Monterey County Code (MCC) 15.08 (well ordinance), which establish setback distances from potential contaminating sources such as onsite sewage disposal systems, sewer pipes, animal enclosures, and feedlots. The practice of setbacks for wells crossing property lines without permission of the adjacent property owners occurs throughout the state. At the time this well was permitted and constructed, County regulations did not require an owner to obtain permission from the adjacent property owner for a setback from a well or an onsite sewage disposal system to cross property lines.

#### Environmental Review

California Environmental Quality Act (CEQA) Guidelines Section 15304 categorically exempts minor alterations to land, water, and or vegetation. The County previously approved the creation of a test well to determine if a domestic water source could be created for the Powell property. The California Environmental Quality Act (CEQA) Guidelines per Section 15304 categorically exempts minor alterations to land, water, and or vegetation. In addition, the well meets the County regulations regarding site development standards setback requirements from contaminant sources, Monterey County Code (MCC) Chapters 15.04, 15.08 (well ordinance), and the California Well Standards Bulletins 74-81 and 74-90. The Monterey County Environmental Health Bureau reviewed a pumping impact assessment report prepared for the project confirming that the well would not have a significant cumulative drawdown impacts on any neighboring wells within or out to 1,000 feet from the pumping well and meets the set back requirements and source capacity and water quality testing.

#### Recommendation

Staff recommends that the Zoning Administrator find the proposed Coastal Administrative Permit consistent with action of the previously approved amendment PLN110367 and approve the Coastal Administrative Permit to establish the well a domestic well and the property's principle water source subject to the findings evidences and conditions of approval contained within draft resolution **Exhibit C**.

**EXHIBIT C  
DRAFT RESOLUTION**

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**William Dan Powell (PLN110367)**

**RESOLUTION NO.**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Finding the project exempt from CEQA per CEQA Guidelines Section 15304; and
- 2) Approving a Coastal Administrative Permit (PLN110367) to allow the conversion of an approved test well previously approved under PLN070074 (amended under PLN110366) to a domestic production well, Powell, at 3072 Serra Avenue Carmel, Carmel Area Land Use Plan (Assessor's Parcel Number 009-081-027-000)

**The Powell application PLN110367 came on for public hearing before the Monterey County Zoning Administrator on August 9, 2012. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:  
During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - The 1982 Monterey County General Plan;
  - The Carmel Area Land Use Plan (LUP);
  - Monterey County Coastal Implementation Plan Part 4 (CIP); and
  - Monterey County Zoning Ordinance (Title 20).No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.  
b) The property is located at 3072 Serra Avenue Carmel, (Assessor's Parcel Number 009-081-027-000), located at the intersection of Serra Avenue and Camino Del Monte, Carmel Area, Coastal Zone. The parcel is zoned Medium Density Residential, 2 units per acre in the Coastal Zone ["MDR/2 D (CZ)"] which allows a density of two residential units per acre. The project is located in the Coastal Zone,

which allows for residential uses and the creation of wells with a Coastal Administrative Permit. Therefore, the project is an allowed land use for this site.

- c) The project is consistent with the applicable policies in the Carmel Area Land Use Plan (LUP) regarding Water Resources. LUP Policy 2.4.4.A.1 requires new development to demonstrate that adequate water is available. The test well yielded a capacity of approximately 29.51 gallons per minute which exceeds the Monterey Peninsula Water Management District's (MPWMD) calculated maximum day demand of 1.23 gallons per minute (gpm) thereby meeting the MPWMD requirements for obtaining a water distribution system permit. As stated in the well assessment, report a post-recovery sustainable pumping rate of 7.14 gpm exceeds the Monterey County Health Departments (MCHD) maximum day demand of 3 gpm thereby exceeding MCHD requirements for obtaining a single-connection water system permit.
- d) California Well Bulletins 74-81 and 74-90, and Monterey County Code Chapter 15.08, establishes setback distances from potential contaminating sources such as onsite sewage disposal systems, sewer pipes, animal enclosures, and feedlots. The practice of setbacks for wells crossing property lines without permission of the adjacent property owners occurs throughout the state. At the time this well was permitted and constructed, County regulations did not require an owner to obtain permission from the adjacent property owner for a setback from a well to cross property lines.
- e) In January of 2009, the Environmental Health Bureau (EHB) conducted a site inspection to consider the new location based upon interference from large oak trees near the original well site. The new well site being considered was 50-feet from the original site, north towards Serra Ave and 15-feet away from the neighboring property. The approved well site was originally to be located within a proposed driveway for the proposed Powell residence. The well was altered due to two factors: 1) the well was located in an area near existing trees, not permitted for removal, which could interfere with the driller accessing the area where the well was to be drilled; and 2) the EHB agreed that the locating the well in the driveway in a vault was not preferable. The well site was approved to be relocated approximately 50 feet north from the originally approved well site. The new well site would then be 15 feet away from the Mazingo property line adjacent to Serra Ave. The new location created a radius that would extend 10 feet into the adjacent property creating a sphere of influence over a portion of the driveway of the Mazingo property. Upon reviewing setback requirements established under the zoning, it was determined that the radius would only affect approximately 54 square feet of developable area. This would not exclude the property owner from developing the lot further.
- f) The distance from the well to the Mazingo property line is 15 feet. An additional 10 feet of the radius extends into the Mazingo property (APN 009-081-028). The total effects of the 25-foot radius extending beyond the Powell property line encompasses a total of

approximately 246 square feet. Of that, an area of approximately 54 square feet is outside the area reserved for setbacks. Site development standards in the Monterey County Coastal Implementation Plan Part I, Section 20.12.060 require main structures maintain a minimum distance of 20 feet from the front property line and a distance of 5 feet from each side property line and 10 feet from the rear property line. The sphere of influence created from the 25-foot radius required around the Powell well does not extend upon any existing structures on the Mazingo property. A significant portion of the 25 foot radius is within the front and side setback of the Mazingo property, of which only approximately 54 square feet could be developed. The 54 square foot area is currently located within the existing driveway and would not affect the use of the property or restrict future development of the Mazingo property.

- g) The property is located within a Design Control district zoning overlay. No design approval was required for this project because the entitlement does not allow the development of new structure. It authorizes the existing test well to become a permanent water source well to serve the subject property.
- h) The project planner conducted a site inspection in January of 2012 to verify that the project on the subject parcel conforms to the plans listed above.
- i) Water system facilities, including wells and storage tanks, are allowed pursuant to Title 20 (Section 20.12.040) and Title 15.04 Monterey County Code. The County requires water source wells to demonstrate source capacity over a 72 hour period and water quality when located in fractured rock. The Environmental Health Bureau reviewed the well completion report and has approved the well for domestic use.
- j) The project was not referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 08-338, this application did not warrant referral to the LUAC because the project did not include a lot line adjustment, variances, or a Design Approval referred to a public hearing. The project qualified for a categorical exemption from further environmental review and therefore, was not subject to referral to the Carmel Unincorporated/Highlands Land Use Advisory Committee.
- k) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110367.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

**EVIDENCE:** a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site



is not suitable for the proposed development. Conditions recommended have been incorporated.

- b) This permit is to establish the existing well as a permanent water source well. No new development has occurred or is required. However, staff identified potential impacts to Archaeological Resources, Hydrological Resources. The following reports have been prepared:
  - "Well Pumping Aquifer Recovery and Impact Assessment Report" (LIB120164) prepared by Bierman Hydrologic Consulting, Aptos, CA, January 27, 2010.
  - "Archaeological Report" (LIB080294) prepared by Archaeological Consulting, Salinas, CA, May 23, 2008.
- c) The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.
- d) Staff conducted a site inspection in January of 2012 to verify that the site is suitable for this use.
- e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110367.

**3. FINDING:**

**HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

**EVIDENCE:**

- a) The project was reviewed by the RMA - Planning Department, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Necessary public facilities are available; however because no new connection for water to can be provided from Cal Am, the property owner has been allowed to develop a ground water source to serve the property. A sewer connection is available and any new residential development shall be required to establish service through the sewer district.
- c) The test well developed to determine if an adequate water supply is available to serve future potential development of the parcel. A pumping impact assessment report was prepared for the project. Environmental Health Bureau reviewed the report and approved the test well for domestic use on the subject property.
- d) The report prepared by the consultant Bierman Hydrogeologic Company indicated that the well is within 1,000 feet of the Chopin

well PLN080017 which is 868 feet away. The report analyzed the Powell well to determine drawdown impact to surrounding wells. It was determined that the Powell and Chopin wells are not hydrogeologically linked. Additionally, the report concluded that there were no offsite impacts and that the use, as proposed, will not adversely affect the natural supply of water necessary to maintain the environment and the supply available to meet the minimum needs of existing users during the driest years.

- e) The well meets the County regulations regarding site development standards, setback requirements from contaminant sources, Title 15.08 of the Monterey County Code, and the California Uniform Plumbing Code. Based on the 25 foot radius or sphere of influence created, the well that affects the adjacent property would not limit residential uses to penetrate the sphere of influence.
- f) The County has process an application for the development of a single family residence on the property. Consequently, the application was suspended on June 6, 2002 pending water for the project and placed on a water waiting list. The application, PLN000109, designated a building site for the property. The single family residence is reasonably foreseeable use of the property but would be subject to the approval of a discretionary permit and associated review if any changes to the project are made.
- g) At the time of the source capacity test for the Powell well, there was one production well within 1,000, feet of the subject project. The Well Assessment Report prepared for the project concluded that the subject well will have an insignificant and immeasurable impact on the surrounding well or sensitive receptors.
- h) Findings 1, and 2 and the associated evidence in conjunction with the material in the Planning File PLN110367, support the conclusion that the establishment of the existing test well as permanent water source well will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- i) Staff conducted a site inspection in January of 2012 to verify that the site is suitable for this use.
- j) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110367.

**4. FINDING:**

**NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

**EVIDENCE:**

- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
- b) Staff conducted a site inspection in January of 2012 and researched County records to assess if any violation exists on the subject property.
- c) There are no known violations on the subject parcel.

- d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110367.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15304 categorically exempts minor alterations to land, water, and or vegetation.
  - b) The County previously approved the creation of a test well to determine if a domestic water source could be created for the Powell property. The well meets the County regulations set forth in California Well Bulletins 74-81 and 74-90, plus Monterey County Code (MCC) 15.08 (well ordinance) regarding set back requirements and source capacity and water quality testing. The Monterey County Environmental Health Bureau reviewed a report prepared for the project confirming that the well would not have a significant cumulative drawdown impacts on any neighboring wells within or out to 1,000 feet from the pumping well.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit in January of 2012.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2 applies to this project. The project is located in a residential zoning district which allows residential development and the development of a water source wells. The project is not located near a Scenic Highway, Hazardous Waste Sites, nor will it affect any Historical Resources.
  - e) The well Assessment Report (LIB120164) prepared for the project concluded that the subject well will individually have no direct or significant cumulative offsite impacts to neighboring wells.
  - f) Findings 1, and 2 and the associated evidence in conjunction with the material in the Planning File PLN110367, support the conclusion that the establishments of the existing test well as a permanent water source well not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - g) Staff conducted a site inspection in January of 2012 to verify that the site is suitable for this use.
  - h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN110367.

6. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in

Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan can be demonstrated.

- b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 3 in the Carmel Area Land Use Plan).
- c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- d) The application plans, and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN110367.
- e) The project planner conducted a site inspection in January of 2012.

**7. FINDING:**

**APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and not the California Coastal Commission.

**EVIDENCE:**

- a) Per Section 20.86.080 A. (Monterey County Coastal Implementation Plan Part 1) Title 20 Zoning Ordinance.
- b) Per Section 20.86.080.A.3. Monterey County Zoning Ordinance (Development Appealable to the Coastal Commission), The project is not subject to appeal by/to the California Coastal Commission because the project is listed as a principle use allowed and does not fall into categories under A. 1., 2., and 4

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

1. Finding the project exempt from CEQA per CEQA Guidelines Section 15304; and
2. Approving a Coastal Administrative Permit (PLN110367) to allow the conversion of an approved test well previously approved under PLN070074 (amended under PLN110366) to a domestic production well, in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 9<sup>th</sup> day of August by:

\_\_\_\_\_  
Jacqueline Onciano, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS / IS NOT APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM

MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

# Monterey County Planning Department

## DRAFT Conditions of Approval/Mitigation Monitoring Reporting Plan

PLN110367

### 1. PD001 - SPECIFIC USES ONLY

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** This Coastal Administrative Permit to allow the conversion of an approved test well to a domestic production well was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. The property is located at 3072 Serra Avenue, Carmel (Assessor's Parcel Number 009-081-027-000), located at the intersection of Serra avenue and Camino Del Monte, Coastal Zone. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.  
(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

### 2. PD002 - NOTICE PERMIT APPROVAL

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The applicant shall record a Permit Approval Notice.  
A Coastal Administrative Permit (Resolution No. 12-030) was approved by the Director of Planning for Assessor's Parcel Number 009-081-027-000 on August 9, 2012. "The permit was granted subject to 6 conditions of approval which run with the land" and "A copy of the permit is on file with the Monterey County RMA - Planning Department."  
Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.  
(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

### 3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. (RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** The Owner/Applicant shall adhere to this condition on an on-going basis. Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

### 4. PD004 - INDEMNIFICATION AGREEMENT

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

## 5. PD016 - NOTICE OF REPORT

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** Prior to issuance of building or grading permits, a notice shall be recorded with the Monterey County Recorder which states:  
A "Well Pumping Aquifer recovery and impact assessment report" (LIB120164) prepared by Bierman Hydrologic Consulting, Aptos, CA, January 27, 2010,  
An "Archaeological; Report" (LIB080294) prepared by Archaeological Consulting, Salinas, CA, May 23, 2008. and is on file in the Monterey County RMA - Planning Department. All development shall be in accordance with this report."  
(RMA - Planning Department)

**Compliance or Monitoring Action to be Performed:** Prior to the issuance of grading and building permits, the Owner/Applicant shall submit proof of recordation of this notice to the RMA - Planning Department.

Prior to occupancy, the Owner/Applicant shall submit proof, for review and approval, that all development has been implemented in accordance with the report to the RMA - Planning Department.

## 6. PD032(A) - PERMIT EXPIRATION

**Responsible Department:** Planning Department

**Condition/Mitigation Monitoring Measure:** The permit shall be granted for a time period of 3 years, to expire on August 9, 2015 unless use of the property or actual construction has begun within this period. (RMA-Planning Department)

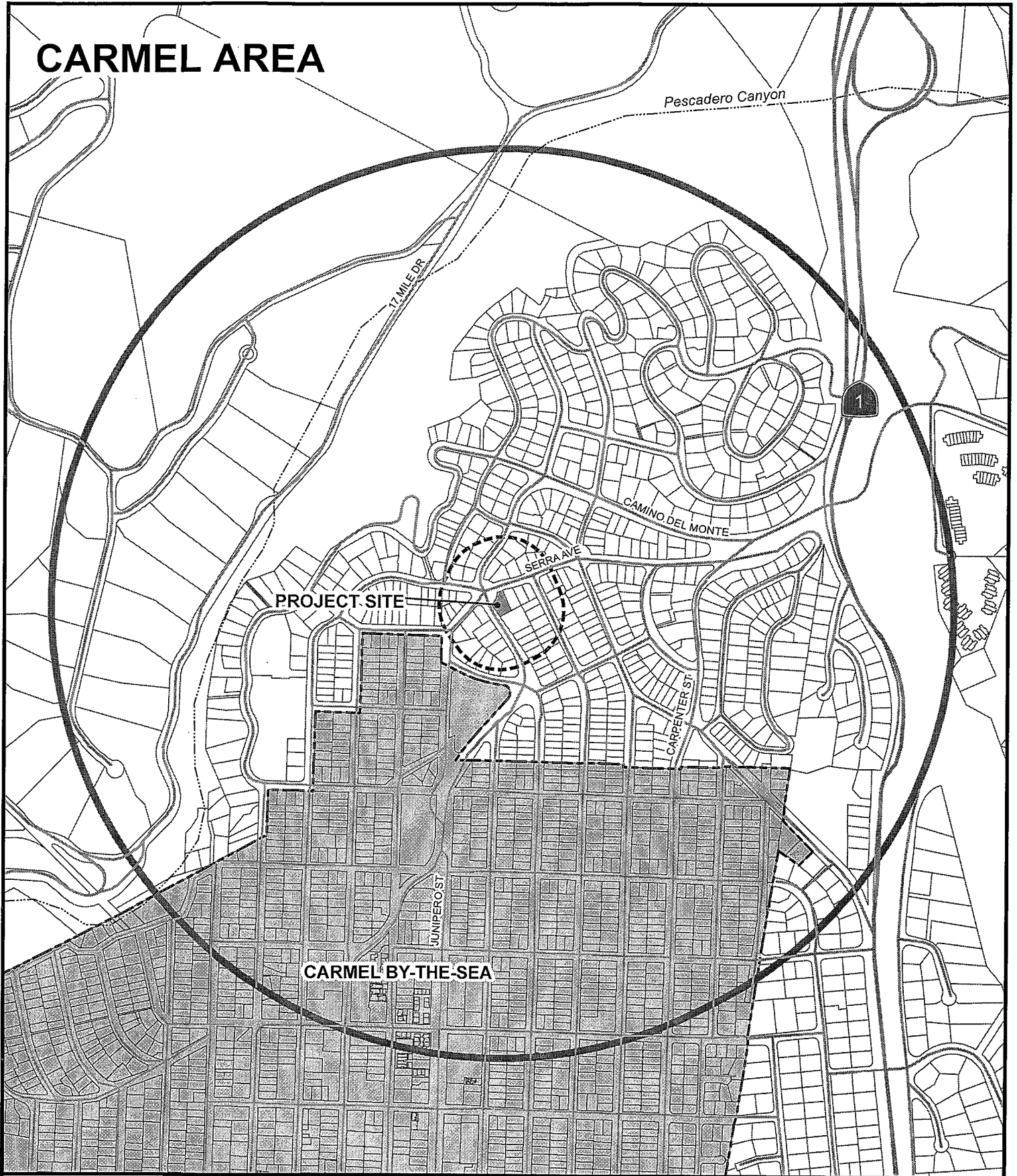
**Compliance or Monitoring Action to be Performed:** Prior to the expiration date stated in the condition, the Owner/Applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.





**EXHIBIT D**  
**POWELL PLN110367**  
**VICINITY MAP**

# CARMEL AREA

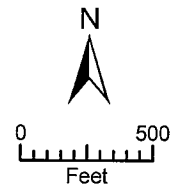


APPLICANT: POWELL

APN:009-081-027-000

FILE # PLN110367

Water 2500' Limit 300' Limit City Limits



PLANNER: MONTANO