

Attachment O  
Letter from  
John Bridges  
Attorney for Applicant  
Dated January 11, 2013

PLN110366/PLN110367  
Mozingo (Powell)



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January 11, 2013

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VIA EMAIL (cttb@co.monterey.ca.us)

Monterey County Board of Supervisors  
c/o Clerk to the Board  
168 W. Alisal Street, 1<sup>st</sup> Floor  
Salinas, CA 93901

Re: Powell Well (PLN110366; PLN110367); Response to Appeals by Mr. Mozingo  
Our File: 33686.31445

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Dear Members of the Board:

We represent the Powell family, the applicant for the above referenced permits. These permits have been twice approved by the County, once by the Director of Planning and once by the Zoning Administrator. Staff has also consistently recommended approval of the permits and, accordingly, is now recommending denial of Mr. Mozingo's appeals. We request the Board uphold the approvals of the Zoning Administrator and deny the appeals.

Prior to applying for the permits, we met with County staff (including County Counsel) to explain our position that the well had been constructed with appropriate County approvals<sup>1</sup> and in a location that complied with all applicable property line setback rules.<sup>2</sup> Staff nevertheless asked the Powells to apply for an administrative permit amendment to reflect the as-built location. In the spirit of cooperation, Mr. Powell agreed to submit and process such an application. The application was made subject to an agreement that it did not waive or prejudice the Powell's right to later reassert (should it become necessary) that no permit amendment was

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<sup>1</sup> The modified location of the well was approved by the Environmental Health Department consistent with Condition 1 of the original Coastal Administrative permit. The Environmental Health Department (Elizabeth Karis) was specifically identified to Mr. Powell as the appropriate authority to "determine the compliance of the well design and setback criteria as per Chapter 15.08 of the Monterey County Code." Notes in the Environmental Health Department file regarding well permit 06-10966 reflect final sign-off and approval of the as-built well by Ms. Karis on February 5, 2009.

<sup>2</sup> At the Zoning Administrator hearing Environmental Health Department staff specifically confirmed that the only property line setback rule in effect at the time the well was permitted and constructed was 10 feet and that the well complied with that setback rule.

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necessary in the first instance. The Powells also reserved their right to contest the matter in any subsequent code enforcement action that may thereafter ensue.<sup>3</sup> If the Board upholds the Zoning Administrator's approvals the matter will not have to go back through Code Enforcement proceedings.

We believe the staff report adequately addresses each of the appellant's contentions. We will, of course, be in attendance at the January 15 hearing to answer any specific questions you may have.

Thank you in advance for your consideration.

Very truly yours,

FENTON & KELLER  
A Professional Corporation



John S. Bridges

JSB:kmc

cc: (all via email)  
Supervisor Fernando Armenta  
Supervisor Louis Calcagno  
Supervisor Simon Salinas  
Supervisor Jane Parker  
Supervisor Dave Potter  
Laura Lawrence/Ramon Montano  
Charles McKee, County Counsel  
Lori Powell

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<sup>3</sup> In a Code Enforcement proceeding the County has the burden of proof to establish that a violation exists and the standard of proof is a preponderance of the evidence (County Code § 1.22.070.C).