



## Legislation Details (With Board Report)

**File #:** 12-993      **Name:** Mozingo (Powell)  
**Type:** General Agenda Item      **Status:** Scheduled AM  
**File created:** 10/16/2012      **In control:** Board of Supervisors  
**On agenda:** 10/23/2012      **Final action:**

**Title:** Public hearing to consider:  
a. Denial of the appeal by Glen R. Mozingo from the Zoning Administrator’s approval of an application by the Estate of William Dan Powell for an amendment to a Coastal Administrative Permit (PLN110366/Powell) to allow the development of a test well and authorize the construction and use of the well for testing to establish a water source in a new location from the location that was previously approved;  
b. Approval of the amendment to a Coastal Administrative Permit (PLN110366/Powell) to allow the development of a test well and authorize the construction and use of the well for testing to establish a water source;  
c. Denial of the appeal by Glen R. Mozingo from the Zoning Administrator’s approval of an application by the Estate of William Dan Powell for a Coastal Administrative Permit (PLN110367/Powell) to allow the conversion of the test well (previously approved under PLN070074 and amended under PLN110366) to a domestic production well; and  
d. Approval of a Coastal Administrative Permit (PLN110367/Powell) to allow the conversion of the test well (previously approved under PLN070074 and amended under PLN110366) to a domestic production well.  
(Appeal of Coastal Administrative Permits - PLN110366 and PLN110367/Mozingo (Powell) 3072 Serra Avenue, Carmel, Carmel Area Land Use Plan)  
[Board to consider applicant’s request for continuance of the hearing.]

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment A - Discussion, 2. Attachment B - Draft Board Resolution PLN110366, 3. Attachment C - Draft Board Resolution PLN110367, 4. Attachment D - Notice of Appeals, 5. Attachment E - Project Resolutions, 6. Attachment F - Vicinity Map, 7. Attachment G - Interim Ordinances, 8. Attachment H - Carmel Area Wastewater District Sewer Main, 9. Attachment I - Carmel Area Wastewater District correspondence, 10. Attachment J- Project Site & Vicinity Photos, 11. Attachment K - Map illustrating zoning setbacks ..., 12. Attachment L - Well location maps, 13. Attachment M - Memo from John Ramirez, 14. Attachment N - Request for a continuance by John Bridges, 15. Completed Board Order, 16. Revised Board Order

Date	Ver.	Action By	Action	Result
10/23/2012	1	Board of Supervisors	continued	Pass

**Public hearing to consider:**

- a. Denial of the appeal by Glen R. Mozingo from the Zoning Administrator’s approval of an application by the Estate of William Dan Powell for an amendment to a Coastal Administrative Permit (PLN110366/Powell) to allow the development of a test well and authorize the construction and use of the well for testing to establish a water source in a new location from the location that was previously approved;
- b. Approval of the amendment to a Coastal Administrative Permit (PLN110366/Powell) to allow the development of a test well and authorize the construction and use of the well for testing to establish a water source;

- c. Denial of the appeal by Glen R. Mozingo from the Zoning Administrator's approval of an application by the Estate of William Dan Powell for a Coastal Administrative Permit (PLN110367/Powell) to allow the conversion of the test well (previously approved under PLN070074 and amended under PLN110366) to a domestic production well; and
- d. Approval of a Coastal Administrative Permit (PLN110367/Powell) to allow the conversion of the test well (previously approved under PLN070074 and amended under PLN110366) to a domestic production well.

(Appeal of Coastal Administrative Permits - PLN110366 and PLN110367/Mozingo (Powell) 3072 Serra Avenue, Carmel, Carmel Area Land Use Plan)

[Board to consider applicant's request for continuance of the hearing.]

**PROJECT INFORMATION:**

**Planning File Number:** PLN110366 and PLN110367

**Owner:** William Dan Powell

**Project Location:** 3072 Serra Avenue, Carmel

**APN:** 009-081-027-000

**Agent:** John Bridges, Fenton & Keller

**Plan Area:** Carmel Area Land Use Plan

**Flagged and Staked:** No

**CEQA Action:** Exempt Per CEQA Section 15304

**RECOMMENDATION:**

It is recommended that the Board of Supervisors continue the public hearing to a date certain, at the Applicant's request, because the Applicant and the Applicant's Representative are unable to attend today's hearing.

**SUMMARY:**

On January 19, 2012, the Estate of William Dan Powell ("Applicant") applied for an amendment (PLN110366) to a previously approved Coastal Administrative Permit (PLN070074) to allow the development of a test well and authorize the construction and use of the well for testing to establish a water source in a new location from the location that was previously approved. On the same day, the Applicant also applied for a Coastal Administrative Permit (PLN110367) to allow the conversion of the test well (previously approved under PLN070074 and amended under PLN110366) to a domestic production well. On August 9, 2012, the Zoning Administrator approved both the amendment to the Coastal Administrative Permit for the test well and the Coastal Administrative Permit for the production well.

On September 4, 2012, Glen R. Mozingo ("Appellant") filed timely appeals from the Zoning Administrator's approval of the amendment to the Coastal Administrative Permit (PLN110366) and the Coastal Administrative Permit (PLN110367). The appeals are brought on the basis that the findings, or decision or conditions are not supported by the evidence and that the decision was contrary to law.

On September 24, 2012, the Applicant's attorney, John Bridges, requested a continuance of the hearing because neither he nor the Applicant was available on October 23 (**Attachment N**). The Appellant, Mr. Mozingo, has not agreed to a continuance. Section 21.80.090.E of the Monterey County Code provides that "the Appeal Authority shall consider an appeal and render a decision within sixty (60) days after receipt of the appeal." The Board's continuance policy, adopted on August 23, 2003, provides that the Board will allow one continuance of any public hearing without conducting a full public hearing on the item if the continuance request is received by the Tuesday preceding the hearing date. The Board's policy is attached to the Applicant's request at **Attachment N**. The County has interpreted these regulations to mean that, where the appellant is not

the applicant and where the appellant and the applicant do not mutually agree to waive the 60 day deadline, the matter is to be scheduled for public hearing within the 60 day period, whereupon the Board may consider and, at its discretion, grant or deny the request for continuance. Staff recommends that the Board grant the request for a continuance in order to provide the Applicant an opportunity to appear and be heard on the appeal.

Due to the short time between the appeal filing date (September 4<sup>th</sup>) and the administrative deadline for preparation of the staff report for the October 23<sup>rd</sup> hearing date, the staff report does not include draft resolutions. If the Board conducts a full public hearing on the appeals on October 23<sup>rd</sup>, staff proposes to return to the Board at a continued hearing date with draft resolutions with findings and evidence for the Board's consideration.

DISCUSSION:

Detailed discussion is provided in **Attachment A**.

OTHER AGENCY INVOLVEMENT:

The following agencies have reviewed the project, have comments, and/or have recommended conditions:

- Environmental Health Bureau
- Public Works Department
- Water Resources Agency
- Cypress Fire Protection District

FINANCING:

Funding for staff time associated with this project is included in the FY 12-13 Adopted Budget for the Planning Department.

Prepared by: Laura M. Lawrence, R.E.H.S., Planning Services Manager  
Approved by: Mike Novo, Director, RMA-Planning, ext. 5192  
<mailto:> Benny Young, Director Resource Management Agency

This report was reviewed by Mike Novo.

cc: Front Counter Copy; California Coastal Commission; Mike Novo; Ramon Montano, Assistant Planner; Laura Lawrence, Planning Services Manager; Glen R. Mozingo, Appellant; Estate of William Dan Powell, Applicant/Owner; John Bridges, Fenton & Keller, Representative for Applicant/Owner; The Open Monterey Project; LandWatch; Project Files PLN110366 and PLN110367.

The following attachments on file with the Clerk of the Board:

- Attachment A Discussion
- Attachment B Draft Board Resolution PLN110366  
(To be prepared per Board direction)
- Attachment C Draft Board Resolution PLN110367  
(To be prepared per Board direction)
- Attachment D Notice of Appeals for PLN110366 and PLN110367 (September 4, 2012)
- Attachment E Project Resolutions
  - Exhibit 1: Director of Planning Resolution No. 070074 for PLN070074
  - Exhibit 2: Zoning Administrator Resolution No. 12-027 for PLN110366
  - Exhibit 3: Zoning Administrator Resolution No. 12-028 for PLN110367
- Attachment F Vicinity Map

Attachment G	Interim Ordinances 5160, 5163, and 5176
Attachment H	Carmel Area Wastewater District Sewer Main and Lateral Plan for the project area
Attachment I	Carmel Area Wastewater District correspondence dated February 18, 2010
Attachment J	Project Site & Vicinity Photos
Attachment K	Map illustrating zoning setbacks and 25-foot setback radius
Attachment L	Well location maps from Environmental Health Bureau
Attachment M	Memo from John Ramirez, Director of Environmental Health Bureau, dated June 6, 2012
Attachment N	Request for a continuance by John Bridges, Applicant's Representative