



Board Report

File #: RES 19-181, **Version:** 1

PLN170624 - GREER (GLASS)

Public hearing, continued from December 12, 2018, to consider:

- a. An appeal by Andres Czerwiak from the August 9, 2018 Zoning Administrator decision approving a Coastal Administrative Permit to allow the conversion of an existing test well to a permanent, single connection well and a Design Approval for related appurtenant components; and
- b. Approval of a revised project consisting of a Coastal Administrative Permit to allow the conversion of an existing test well to a permanent, two-connection well and a Design Approval for related appurtenant components, including a water pipe up to the property line.

Project Location: 124 Fern Canyon, Carmel Highlands, Carmel Area Land Use Plan

Proposed CEQA Action: Categorical Exemption pursuant to Section 15303(e) of the CEQA Guidelines.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Find that the appeal has been resolved by revision of the project;
- b. Find that the project is categorically exempt pursuant to Section 15303(e) of the CEQA Guidelines; and
- c. Approve a Coastal Administrative Permit, as revised, to allow the conversion of an existing test well to a permanent, two-connection well, in general conformance with the attached sketch and subject to the attached conditions of approval; and
- d. Approve a Design Approval for appurtenant well facilities including: An electric powered pump, two (2) 119-gallon bladder tanks and water filtration system, water pipe up to the property line, two water meters to measure the quantity of water delivered to the respective properties, and a 5,000-gallon polyurethane water storage tank.

A draft resolution, including findings and evidence, is attached for consideration (**Attachment B**). Staff recommends approval subject to six (6) conditions.

PROJECT INFORMATION:

Project Owner: Timothy John Glass and Constance Glass

APN: 241-131-024-000

Agent: Nancy Isakson; Christine Kemp, Esq.

Zoning: Low Density Residential, 1 unit per acre, Design Control Overlay (Coastal Zone) [LDR/1-D (CZ)]

Parcel Size: 0.6215 acre (27,072.54 square feet)

Flagged and Staked: N/A

SUMMARY:

The proposed project involves the conversion of an existing test well to a permanent well. The Greer Trust was the initial applicant, but the property has since been sold to Timothy John Glass and Constance Glass, who have assumed the application. The project was approved by the Zoning Administrator on August 9, 2018. It was then appealed by the neighbor, Andres Czerwiak, with the main contentions revolving around a private Water Agreement regarding water distribution between two properties, and the application of CEQA.

On November 6, 2018, the Board of Supervisors considered the appeal of the Zoning Administrator's decision and continued the project to allow time for the applicant and appellant to resolve their dispute. The Appellant and the Applicant have since reached a mutually acceptable agreement about distribution of the water and agreed upon a Revised and Restated Water Agreement. Applicant has proposed minor modifications to the project in such a way as to implement the Revised and Restated Water Agreement. Appellant has indicated the revised agreement and the project revisions render their appeal moot. Accordingly, Staff is recommending that the Board find that the appeal has been resolved and that the Board approve the revised project as noted in this Staff Report and the Resolution. If the Board desires to take a different action, the Board could adopt a motion of intent and continue the hearing to a date certain for the staff to prepare a resolution with modified findings

DISCUSSION:

On August 9, 2018, the Zoning Administrator found the project to be categorically exempt from CEQA and approved a Coastal Administrative Permit and Design Approval to allow the conversion of the existing test well to a permanent well with appurtenant devices (Monterey County Zoning Administrator Resolution No. 18-046; **(Attachment F)**). An appeal of the Zoning Administrator's decision was subsequently filed by Andres Czerwiak, owner of adjacent property. The appeal contended that the findings, decision, or conditions adopted by the Zoning Administrator were not supported by the evidence, and the decision was contrary to law. Many of the contentions of the appellant were based on a Water Agreement, recorded February 25, 2008, between Applicant and Appellant. The Water Agreement is a civil matter between private parties and does not preclude the County from approving the conversion of the test well to a permanent well that meets various County development regulations found in the MCC, specifically Title 20 (County Zoning) and Title 15 (County Domestic Water Systems). However, the Appellant and the Applicant have reached a mutually acceptable agreement regarding the distribution of the water from the well that is consistent with County regulations. Thus the project has undergone a minor revision acceptable to both Applicant and Appellant.

Agreement and Revised Project

Based on water quantity testing, the subject well currently produces 4.98 gallons per minute which is sufficient capacity for a single connection that could provide potable water and fire protection for a single-family residence. Single-family residences require 3 gallons per minute pursuant to Monterey County Code. To address the appeal contentions, the project applicant and appellant have agreed to modify the project to provide a second connection from the well to appellant's adjacent property solely for purposes of landscape irrigation, gardening, and emergency fire suppression. Pursuant to the Revised and Restated Water Agreement, water produced by the well would be divided between two (2) properties, 124 Fern Canyon Rd / APN 241-131-024-000, and 125 Cypress Way / APN 241-131-025-000, with Applicant's property, 124 Fern Canyon Rd / APN 241-131-024-000, having priority use for domestic water supply and fire suppression, and the neighboring property (Appellant's property), 125 Cypress Way / APN 241-131-025-000, having the right to use the excess quantity for purposes of irrigating ornamental landscaping and emergency fire suppression. The well conversion also includes appurtenant devices: an electric powered pump, two (2) 119-gallon bladder storage tanks to regulate water pressure, a water filtration system that removes iron and manganese from the water, a water pipe up to the common property line, two (2) water meters to record delivery quantities to each connection, and a 5,000-gallon polyurethane water storage tank installed on a gravel pad.

The Environmental Health Bureau has reviewed the Revised and Restated Water Agreement. Conditions of approval have been added to the revised project to ensure appropriate cross-connection facilities are installed and to memorialize that water provided to 125 Cypress Way is only for landscape and fire suppression purposes, not for potable water. Minor revisions to the project have been incorporated in the project before the Board. Staff is recommending that the Board approve the revised project as noted in this staff report and the

Resolution. If approved as revised, the appeal contentions are resolved, and the conversion of the test well to the permanent well could be approved.

CEQA:

California Environmental Quality Act (CEQA) Guidelines Section 15303(e), Class 3, categorically exempts operation of and minor alterations to existing facilities. The proposed project involves the conversion of a test well to a permanent well to deliver potable water for human consumption, domestic use, and fire suppression, and water to a neighboring property for the purposes of irrigating ornamental landscaping and emergency fire suppression, as needed. Therefore, the project is consistent with the parameters of the Class 3 categorical exemption. No evidence of significant adverse environmental effects were identified during staff review of the development application pursuant to Section 15300.2 of the CEQA Guidelines.

OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

- RMA-Public Works
- RMA-Environmental Services
- Environmental Health Bureau
- Carmel Highlands FPD (Fire Protection District)
- Water Resources Agency

FINANCING:

Funding for staff time associated with this project has been included in the FY18-19 Adopted Budget for RMA-Planning, Appropriation Unit RMA001.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our RMA customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

LUAC

The project, PLN170624, was not referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review. This application was not required to be presented to the LUAC because the project is exempt from environmental review, does not involve a Lot Line Adjustment, Variance, or Design Approval requiring a public hearing.

Prepared by: R. Craig Smith, Associate Planner, x6408
Reviewed by: Craig Spencer, Interim RMA Planning Services Manager
Approved by: John M. Dugan, FAICP, RMA Deputy Director of Land Use and Development Services

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

Attachment A - Project Data Sheet

Attachment B - Draft Resolution, including:

- Recommended Conditions of Approval
- Site Plan
- Vicinity Map

Attachment C - Appeal request to Board of Supervisors

Attachment D - Letter, Fenton & Keller

Attachment E - Letter, Noland, Hamerly, Etienne, Hoss

Attachment F - ZA Resolution 18-046

Attachment G - Revised and Restated Water Agreement

cc: Front Counter Copy; Carmel Highlands FPD (Fire Protection District); RMA-Public Works; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; R. Craig Smith, Associate Planner; Brandon Swanson, Interim Chief of Planning; Timothy and Constance Glass, Property Owners; Nancy Isakson, Agent; Lloyd Lowery, Agent, The Open Monterey Project (Molly Erickson); LandWatch; Project File PLN170624