

TO: James L. App, City Manager
FROM: Doug Monn, Public Works Director
SUBJECT: Policies for Private Water Well Use
DATE: November 6, 2007

NEEDS: That the City Council consider a Municipal Code Amendment to Title 14 outlining permit requirements for the development and use of private wells.

FACTS:

1. On May 1, 2007, the City Council adopted the Integrated Water Resources Plan which provided the framework for water resource programs and policies over the coming decades. One premise of the integrated plan was to extend services throughout the City in a fashion that reduces groundwater dependence. It called for the City to adopt policies and programs that reflected careful stewardship of the groundwater basin and watershed such that a self-sustaining water resource portfolio may be assembled.
2. The 2006 Economic Strategy calls for new development to take place in existing urbanized areas before using more agricultural or open space lands. Policies addressing water supply to agricultural and open space properties that are remote from existing City infrastructure are in order.
3. Further, Action Item No. 7 of the Conservation Element of the General Plan states "Maintaining private water well use shall be allowed only for existing agriculture uses and then only when approved by the City Council".
4. Section 14.06 of the Municipal Code regulates the construction, repair, modification and destruction of water wells. Section 14.06.132 establishes "restrictions on non-City private wells within the boundaries of the City", allowing wells to be approved for 'agricultural uses.' Section 14.06.136 addresses "permit eligibility" and provides a five-year window (from 1997) under which permits for wells could be issued to residential, commercial or industrial establishments that meet listed specifications based primarily on "no access to City water supplies because of lack of facilities in the area". With the expiration of the five-year window, the Code provision limits well permits to agricultural uses only.
5. In recent years the Council has received requests for the use of private wells for: 1) expanded residential use of existing wells located on rural properties not near existing water mains; 2) resort use of existing and new wells for irrigation of golf courses and significant landscape areas; and 3) agricultural purposes.
6. The Paso Robles Groundwater Basin Study Phase 2 final report was released in February 2005. Principal findings of that report were; a) while the basin is not in overdraft, groundwater pumping is increasing and approaching the basin yield; b) increasing agricultural water usage across the basin combined with urban area build-out is projected to result in overdraft; c) the Estrella subarea, which envelops most of the City, is experiencing groundwater storage declines; d) nitrate concentrations

are increasing in the area north of Highway 46 between the Salinas River and the Huer Huero Creek, and; e) salt levels are increasing in other areas of the basin.

7. The City is party to the Paso Robles Groundwater Basin Agreement with the San Luis Obispo County Flood Control & Water Conservation District and with private landowners throughout the Paso Robles Groundwater Basin, some of whom are members of the organization "Paso Robles Imperiled Overlying Rights" (PRIOR). The agreement outlines a procedure for declaring the basin to be in overdraft and calls for cooperation in basin management activities. The PRIOR agreement sets the stage for the City, the San Luis Obispo County Flood Control & Water Conservation District, and participating private property owners to cooperate as stewards of beneficial use of groundwaters in the North County.

ANALYSIS &

CONCLUSION: The Municipal Code does not currently provide the direction necessary to make prudent decisions with regard to well requests, particularly cases involving residential properties in rural areas and resort properties with significant demands for water related to the development of golf courses and other outdoor amenities. Nor does the Code reflect the City's role in water resource stewardship in the North County or its acknowledgment of PRIOR's expressed concerns. Well requests continue to be considered by the Council on a case by case basis.

In order to fully implement the Integrated Water Resource Plan, protect the groundwater basin and meet the City's commitments in the PRIOR agreement, clear policies need to be in place to regulate the development of wells in all cases, including wells for agricultural purposes. The following outlines the issues involved in the cases of residential, resort and agricultural uses.

Residential use

Existing parcels in the agricultural and residential zoning categories are entitled to have one (1) dwelling unit per parcel. This may be referred to as the "Primary Dwelling Unit". The Zoning Code allows second dwelling units "by right" (without a discretionary approval process) in the R-1 and R-A Zones. The purpose and intent is both to promote affordable housing (consistent with State requirements), to provide farm housing, and to allow reasonable use of private property.

Since 2001, the Council has received four requests for the use of an existing private well to serve secondary residences as depicted on **Exhibit A**. Each of these properties installed their well when they were located in County jurisdiction prior to annexation into the City. In the cases of Butterfield (9-01), Canaday (7-04) and Root (8-06), the Council authorized continued use of the wells due to the extensive distance between the subject properties and the existing City water system.

In the case of Wilson (6-04), the Council denied continued use of an existing well because the property had direct access to a City water main in Airport Road. In addition, the applicant was unable to demonstrate any evidence of agricultural use. Finally it was determined that the Wilson property contained other dwellings evidencing domestic use in excess of the allowed number of residences.

Properties without access to City potable water are few. A very limited number of those properties are vacant without wells or have existing residences. These properties are

proposed to be exempted from the prohibition that new residential entitlements must hook up to City water consistent with past Council actions above. This exemption proposes a minimum distance from property line to the availability of City water (potable or recycled) or demonstrated agricultural use of the property and a minimum distance between the proposed residences to the availability of City water.

Resort use

Since 1998, the Council has received at least four requests for use of wells associated with the development of destination resorts and golf courses as depicted in **Exhibit B**.

In December 1998, the Council denied the use of a well for the irrigation of landscaping associated with the development of the Wine Country RV Park located at the northeast corner of Highway 46 and Airport Road. City water was available to the property from a relatively short water line extension in Airport Road.

In May 2003, the Council considered the request of Oak Knoll Ranch, LLC (Dick Willhoit, representative) to allow continued use of a private well, located on property that had been dedicated to the City, for the purposes of irrigating a golf course. The Council approved the request with the stipulation that the golf course hook up to reclaimed water when made available by the City.

In March 2004, the Council approved a similar request of the Black Ranch Resort to irrigate their golf courses with private well water with the same stipulation regarding hook up to reclaimed water when available.

In May 2004, the Council approved the request of the Vina Robles Resort to irrigate a small vineyard associated with a wine-tasting hospitality center. The Council denied the Resort's request to irrigate landscaping associated with their proposed hotel.

Again, consistent with past Council action, an exemption is proposed to allow for use of private wells to support recreational land uses (such as golf courses or athletic fields). The use of wells to serve recreational land uses will however be conditional upon the owner agreeing to use recycled water when that becomes available.

Agricultural Use

In early 2007, the Council considered a request for a private well from Tom Erskine pertaining to a property on Airport Road. The Council approved that request, noting that the property was zoned Agriculture, the house was accessory to the property's agricultural land use, and the proposed house was located a considerable distance from the existing potable water main.

Agricultural land within the City amounts to approximately 460 acres and it is the intent of the General Plan to accommodate agricultural land uses. The proposed Code amendment allows the use of private agricultural wells only when necessary to accommodate that land use, and when there is no feasible access to City water (1000 feet or greater), or the use of City water for the agricultural purpose would be inconsistent with other City policies such as water conservation goals, water recycling policies, or water quality concerns.

Abandonment of Wells

In cases where wells exist and connection to City water is required, there is an option to maintain a well as “inactive” as opposed to permanently eliminating the well. The State Health and Safety Code contains California Well Standards which define an “inactive well” as one not used for one year. Requirements for maintenance of an inactive well include insuring that the well does not impair groundwater quality, providing a welded cap on the well, clearly marking the above-ground portions as a well, keeping it clear of brush and debris, and maintaining access for City inspection.

Cases where inactive wells may be appropriately allowed may be Agricultural and Open Space zoning where tangible future agricultural uses are demonstrated.

Policy Considerations Associated With All Wells

a) Restrict use of wells

It would seem reasonable to clarify and reinforce the requirement that all projects involving a discretionary land use decision (e.g. subdivision, use permit, Planned Development, etc.) which characteristically involve an intensification of land use and significant capital investment, be required to connect to City water (potable and/or reclaimed water) for all uses that require potable water, or for which reclaimed water is appropriate. To permit these added land uses without connection to City water would result in “leapfrog development” (development of isolated parcels separated some distance away from existing City infrastructure); would divert resources from City-wide infrastructure planning and would compromise groundwater stewardship commitments.

Restricting well use in the City is supported by the following:

- Shared stewardship by the City, County, landowners and other involved parties of the Paso Robles Groundwater Basin resources.
- A commitment to prudent City-wide use of water and water conservation.
- Stated goals and objectives of City integrated water and wastewater plans to provide a long-term, reliable, and high quality water supply for the City.
- Support for the Water Master Plan; the water master plan is dependent upon completion of each individual link in the system. Unless each property is required to install or pay for its share of the system, the financial feasibility of completing the system is questionable.
- Benefits of minimizing potential conflicts with well users in the County.
- Need for cross-connection control and minimization of the threat that private wells might degrade the quality of groundwater
- The difficulty of policing the proper abandonment of wells.

b) Allow the use of wells subject to permit conditions

The City may consider the use of wells under certain circumstances subject to permits issued by the Public Works Director. New wells may be allowed where the following situations apply:

- Agricultural production
- Irrigation of resort or recreational uses
- Hardship due to distance between the structure and the City's water supply.
- Conservation of the City's supply of water for domestic use and creation of a customer base for City recycled water.
- Enhancement of the Council's goal as stated in the 2006 Economic Strategy to "expand and diversify hotel products, including end destination full-service resorts".
- Other extraordinary circumstances as defined by the Director of Public Works

If private well use is considered to be beneficial to the City under certain circumstances, regulations consistently covered by permit agreements may include:

- Use of private well water would be restricted to the subject property
- No threat to public health and safety shall be posed. Failure to adhere to this term may result in revocation of the City occupancy permit(s).
- Owner to provide accurate coordinates for wells
- City maintains right to inspect private wells
- Owner to bear cost of well operations, maintenance, and permit compliance
- City shall have the right to place a meter on the well and the Owner shall enroll in the County's groundwater monitoring program
- Owner to waive all claims against the City for well interference or perceived water quality impacts
- Private wells to be constructed, operated, and ultimately abandoned by the Owner according to applicable local, County, State, and Federal regulations.
- Private wells to be equipped with an approved, regularly inspected backflow prevention assembly and an air gap shall be maintained between the private well system and the City water system
- Private wells may be rendered inactive only in accordance with applicable codes

POLICY

REFERENCE: City Municipal Code Sections 14.06.132, 14.06.136 and 14.06138

FISCAL

IMPACT: None

- OPTIONS:**
- a.** Introduce for first reading Ordinance No. XXX N.S., Municipal Code Amendments outlining the terms for approval of the use of private wells, and set Tuesday, November 20, 2007 for adoption of said Ordinance; or
 - b.** Amend, modify or reject the above option.

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ATTACHMENTS: (3)

- 1) Exhibit A: Locations of Requests for Use of Existing Wells for Residential Uses
- 2) Exhibit B: Locations of Requests for Use of Wells for Resorts and Golf Courses
- 3) Amended Ordinance



Buena Vista Dr.

Butterfield

025-434-007

PASO ROBLES
AIRPORT

Airport Rd.

Dry Creek Rd.

Stratus Ln.

025-436-005
Canaday

025-436-006
Root

Wilson

025-436-018

025-435-009

Erskine

Highway 46

EXHIBIT A
Locations of Requests for Use of
Existing Private Wells
for Residential Uses



