

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE REVISING THE CONDITIONS OF APPROVAL FOR PLOT PLAN REVIEW 23-001 WHICH APPROVED THE INSTALLATION OF ONE (1) NEW DOMESTIC SUPPLY WELL ON PROPERTY ZONED PLANNED DEVELOPMENT LOCATED NORTHEAST OF THE INTERSECTION OF NOYES ROAD AND EQUESTRIAN WAY (APN: 007-781-055) AND FINDING THAT SAID ACTION IS CATEGORICALLY EXEMPT FROM CEQA PURSUANT TO STATE CEQA GUIDELINES SECTION 15303 (APPLICANT: MICHAEL HARRIS)**

**WHEREAS**, Michael Harris has submitted an application to drill and install one (1) new domestic supply well at a property on an unaddressed parcel on Noyes Road in Arroyo Grande (“Well Application”); and

**WHEREAS**, the Well Application would be on unaddressed property on Noyes Road (APN: 007-781-055), northeast of the intersection of Noyes Road and Equestrian Way (“Subject Property”); and

**WHEREAS**, Arroyo Grande Municipal Code (“AGMC”) Chapter 13.08 requires City Council to discretionarily review and approve or deny all new or replacement wells in the City; and

**WHEREAS**, the purpose of Chapter 13.08 is to provide for the construction, repair, modification, and destruction of wells in such a manner that the groundwater of the City will not be contaminated or polluted and that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety or welfare of the people of the City; and

**WHEREAS**, by virtue of its police power, the City has the authority to impose conditions of approval on new or replacement wells to protect the public health, safety, and welfare; and

**WHEREAS**, specifically, AGMC section 13.08.040 requires the City Council to consider, in its discretion, approval for new or replacement wells or abandonment of existing wells. Approval to drill a well within the City boundaries may be granted if the City Council determines: 1) the well will neither deplete nor contaminate the City water supply; and 2) service from the City’s water system is neither practical nor feasible; and

**WHEREAS**, the City Council held a noticed, continued public hearing on May 28, 2024, to consider the Well Application; and

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**WHEREAS**, the City Council approved the Well Application on May 28, 2024, subject to certain conditions of approval (“Original Conditions”) in the resolution adopted by City Council on May 28, 2024; and

**WHEREAS**, following the approval of the Well Application, Michael Harris’s newest legal counsel, Paul Beard II, sent a letter on June 19, 2024, to the City objecting to certain Original Conditions imposed (Original Conditions 6, 7, 8, 9, 13, 14, 15), and those conditions were subsequently negotiated between the parties; and

**WHEREAS**, Michael Harris, through his legal counsel, proposed and has represented agreement with revised conditions of approval, attached hereto as Exhibit “A”; and

**WHEREAS**, Michael Harris, through his legal counsel, requested that the conditions of approval be heard again by City Council so that the conditions of approval could be revised and approved, which requires a new public hearing; and

**WHEREAS**, the City Council held a noticed new public hearing on the Well Application on November 12, 2024, to consider revising the conditions of approval; and

**WHEREAS**, City Staff has conducted a thorough review of the Well Application and the City Council incorporates the analysis of the Staff Report dated November 12, 2024, prepared by the Community Development Director as part of the passage of this Resolution and relating to the same Well Application; and

**WHEREAS**, the Resolution imposes conditions of approval on the Well Application to mitigate potential impacts of the proposed well, and requires compliance with laws relating to the construction, repair, modification, and destruction of wells; and

**WHEREAS**, the City finds that the conditions of approval are reasonable, clearly articulated, and bear an essential nexus and rough proportionality to the impacts of the proposed project; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Arroyo Grande, as follows:

1. **RECITALS.** The foregoing recitals are true and correct and are incorporated herein.
2. **CEQA FINDINGS.** The City Council finds that the revision to the conditions of approval for the installation of a domestic water well is categorically exempt

from further review under the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15303, Class 3 (New Construction or Conversion of Small Structures.) This Project falls within the Class 3 exemption because approval of the Project would result in the installation of one small well structure. Furthermore, none of the exceptions outlined in State CEQA Guidelines section 15300.2 apply here. There is no possibility of a significant cumulative impact because only one domestic well is necessary to serve any future proposed residential use on the Project site. There is no unusual circumstances such as unusual resources, an unusual location, or unusual physical qualities inherent to the Project site that might result in significant impacts. The Project area is developed and does not contain any environmentally sensitive areas. The Project would not damage any scenic resources, including trees, historic buildings, rock outcroppings or similar resources, within a highway officially designated as a state scenic highway. The Project is not located on a hazardous waste site or any other site included on a list compiled pursuant to Government Code section 65962.5 and the Project will not cause a substantial adverse change in the significance of a historical resource because there are no historical resources near the proposed Project. Therefore, the Project is categorically exempt from CEQA and no further environmental review is required.

City Council directs staff to file a Notice of Exemption with the County Clerk and State Clearinghouse within five days of this Resolution.

3. **Well Application.** This resolution revises the conditions of approval for the approved application to drill and install one (1) new domestic supply well at the property located northeast of the intersection of Noyes Road and Equestrian Way (APN: 007-781-055), subject to the revised conditions as set forth in Exhibit "A", attached hereto and incorporated herein by this reference.
  
4. **Findings.** The revisions to the conditions and approval of the well application is based on the findings required by AGMC Section 13.08.040 and made below, and no other changes are proposed to the City Council's May 28, 2024 approval of the well application with the exception of the revised conditions set forth herein:
  - a. The drilling and operation of the well will neither deplete nor contaminate the City water supply because:
    - i. The proposed well does not access the same aquifer utilized by the City's wells, and no interference or depletion of the City's water system is anticipated.
    - ii. The proposed well will not impact adjacent properties because the owner will be required to obtain County

Environmental Health approval, be located at least 100 feet from septic system areas, and be metered to determine annual water usage.

iii. The conditions of approval limit the well approval to the parcel identified and do not allow development that would be created through future subdivisions, which prevents the impact of significant water usage expansion and protects the interests of the community who rely on a safe and reliable water supply.

b. Service from the city water system is neither practical nor feasible because:

i. The proposed well is on property that is predominantly covered by native oak woodland, includes steeper slopes and includes significant existing rock outcroppings, which when taken together require significant construction challenges in avoiding impacts from a City water system infrastructure extension for a single family residence.

ii. Although the Subject Property is immediately adjacent to the City's Reservoir No. 5 and is within the City's boundaries, and would not require any easements or improvements to existing City infrastructure, a direct water service connection for a single-family residence would necessitate construction of a service line that would have potential impacts to sensitive resources such as native oak woodland and existing rock outcroppings.

iii. The proposed well would require minor infrastructure that would not impact sensitive resources on the property.

5. **CUSTODIAN OF RECORDS.** The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at City Hall, 300 E Branch St Arroyo Grande CA 93420. The Director of Community Development is the custodian of records for the record of proceedings.

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

The foregoing Resolution was passed and adopted this 12<sup>th</sup> day of November 2024.

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**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

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**JESSICA MATSON, CITY CLERK**

**APPROVED AS TO CONTENT:**

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**MATTHEW DOWNING, CITY MANAGER**

**APPROVED AS TO FORM:**

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**ISAAC ROSEN, CITY ATTORNEY**

**EXHIBIT "A"  
REVISED CONDITIONS OF APPROVAL  
ONE (1) NEW DOMESTIC SUPPLY WELL  
NORTHEAST CORNER OF NOYES ROAD AND EQUESTRIAN WAY  
APN: 007-781-055**

**GENERAL CONDITIONS:**

1. The applicant shall ascertain and comply with all State, County and City requirements as are applicable to this project.
2. The project shall occur in substantial conformance with the application and plans on file in the Community Development Department office.
3. The applicant shall comply with all the conditions of the City Council Resolution adopted on November 12, 2024, as well as the terms, conditions, and standards specified in the written permit issued by the County of San Luis Obispo Public Health Department.
4. To the extent permitted by law, Applicant shall defend, indemnify and hold harmless the City of Arroyo Grande, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void any permit or approval for this project authorized by the City, including (without limitation) reimbursing the City its actual attorney's fees and costs in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice. The Applicant shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City related to this permit or approval. Although the Applicant is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the Applicant of any obligation under this condition.
5. This approval shall expire on November 12, 2026 unless a drilling permit is obtained from the County of San Luis Obispo Public Health Department. Time extensions may be requested in conformation with the Arroyo Grande Municipal Code.
6. This domestic well approval is valid for the parcel identified by APN 007-781-055 and for any beneficial use on said parcel allowed by the law.
7. The applicant shall install a meter on the well head that monitors all water drawn from the well and report annual pumping amounts as of December 31<sup>st</sup> to the City Public Works Department by January 31<sup>st</sup> of the following year.

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8. A copy of the well/driller report required by the provisions of Section 13751 of the Water Code of the State shall be submitted to the Public Works Department upon completion of the construction of the well.
9. The applicant shall obtain permits for all electrical connections required for the new well pumps.
10. The applicant shall produce survey verification that the distance of the well to any septic system (leach field) is greater than 100 feet to the satisfaction of the Director of Public Works.
11. During any period of noncompliance with these conditions, the well will be subject to the penalties and remedies of the Arroyo Grande Municipal Code.