



**ITEM 21. CONSIDER APPEAL OF GENERAL MANAGER'S
DECISION TO REQUIRE A WATER PERMIT FOR A CHANGE OF
USE FROM A DELI (GROUP II) USE TO A RESTAURANT (GROUP
III) USE PURSUANT TO DISTRICT RULE 20, PERMITS REQUIRED
– 484 WASHINGTON ST, MONTEREY (APN: 001-692-011)**

Presented by:

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Summary

- The Santa Lucia Market located at 484 Washington, Monterey, was permitted as a Group II water use in February 1997.
- The application submitted by the appellant on February 11, 1997, identified the proposed project as “deli/retail food.”
- The appellant unconditionally accepted the terms of the Water Permit issued February 11, 1997.

Summary

- Santa Lucia Market is currently for sale, and the appellant was advertising it as a full-service restaurant.
- In October 2013, staff met with the business owner, Mr. Uwe Grobecker (appellant) after being prompted by the City of Monterey Planning Department staff to discuss a change in business practices that had occurred over the years.



Summary

- Initially, Santa Lucia Market was mostly retail and take-out sales, offering meats, cheeses, coffee, and other deli items.
- The appellant stated that after the business had been in operation, he removed the meat and cheese counters and replaced them with tables and chairs.
- He also hired waitresses, expanded the menu, and the business transformed into a full-service eating establishment offering complete meals.



Summary

- However, the appellant did not seek or gain approval for a Water Permit to facilitate this changed business practice or Expansion of Use.
- District staff notified the appellant that operating Santa Lucia Market as a full-service restaurant is a violation of the Water Permit.
- MPWMD Rule 20, *Permits Required*, states: “A Water Permit is required for every Change of Use and any expansion of a Non-Residential use to a more intensive use as shown on Table 2 (Rule 24).”



Summary

- There is a Water Use Capacity difference between Group II food uses (i.e., deli, coffee house, pizza, bakery and sandwich shop) and restaurant use.
- Group II food uses have been consistently described as businesses that primarily sell take-out food and other items on disposable plates and that do not offer full restaurant service (i.e., table service, china, etc.).
- Operation of Santa Lucia Market as a restaurant requires additional water from the City of Monterey's Allocation.

Conclusion

An appeal is not warranted in this case:

- The violation notice specified that a Water Permit is required to operate the Santa Lucia Market as a restaurant pursuant to MPWMD Rule 20
- The restaurant use was verified by an inspection.
- The appellant was given options to revert the business operation to the permitted delicatessen use or to permit up to 23 restaurant seats

Process

- Rule 70, *Appeals*, provides a setting whereby a decision by staff can be reconsidered.
- The appellant and/or Applicant and other Persons may present evidence concerning the appeal.
- The appellant must reference the provision of the Rules and Regulations which has been violated.
- The Board must then determine whether Staff made the decision in error.



Recommendation

- Staff recommends the Board deny the appeal and adopt the Findings of Denial.
- Staff's enforcement action was consistent with similar situations involving a Change of Use or Expansion of Use.
- There is no evidence to support a finding that a mistake was made by the District in enforcing the water permit condition.
- Granting an appeal would contradict the District's Rules and Regulations.
- The appellant should be required to permit a Change of Use to a restaurant with 23 seats or revert to a deli use.

For More Information

Staff reports, ordinances and presentation materials can be found on the District's website at:

www.mpwmd.net

PowerPoint presentations will be posted on the website the day after the meeting