



**ITEM 9. CONSIDER APPEAL OF DECISION TO
ISSUE WATER PERMIT #34741
FOR 150 SEA FOAM AVENUE, MONTEREY,
(APN 011-462-039)**

Presented by:

Stephanie Locke, Monterey Peninsula Water Management District
(MPWMD)

Summary

- On July 5, 2016, the District received an Application for Appeal of the decision to issue Water Permit 34741 for 150 Sea Foam Avenue, Monterey
- Water Permit 34741 was issued on 6/13/2016 for construction of a new Single Family Dwelling on a vacant lot located adjacent to 149 Spray Avenue, Monterey
- Appellants: Alan Cleaves, Marc Cusenza and Jayme Fields

Summary

- The appellants are asking to the Board to revoke the Water Permit pursuant to Rule 25-C and find “the property owner or permit applicant has misrepresented intentionally or negligently any material fact in the Water Permit application or in any supporting documents”

Summary

- The appellants contend that the District errantly issued the Water Permit by applying Water Credits to offset the new Water Use Capacity from the removal of (allegedly) unpermitted water fixtures from the adjacent house at 149 Spray Avenue
- The following water fixtures are in question:
 - One bathroom with four showerheads
 - One bathroom with two showerheads
 - One utility sink
 - *Credit for multiple Showerheads is limited to a maximum of one extra fixture per Separate Stall Shower or Bathtub*

Summary

The appeal documents include:

- Statement from Sandra Randazzo, Trustee for the Robert Bullock Trust (seller of both Parcels)
- Statement from Tom Loorz, the California State Certified General Real Estate Appraiser who appraised both properties for the Robert Bullock Trust.
- Appraisals for both properties. The appraisal for the vacant lot includes notes in the appraisal citing a lack of water for the site
- Floor plans from the City of Monterey showing no improvements to the property after construction

Summary

- On February 4, 2014, 149 Spray Avenue and 150 Sea Foam Avenue transferred ownership as a single transaction
- On February 27, 2014, an inspection to verify compliance with Change of Ownership water efficiency requirements took place on February 27, 2014
- A count of the existing water fixtures was included on the inspection report as a standard practice of the District.
- The property was in compliance with the water efficiency requirements for a Change of Ownership.

Summary

- On June 19, 2014, the District received a Water Release Form and Water Permit Application to remove four Showerheads and a Utility Sink from 149 Spray Avenue
- Water Permit 33370 documented these credits
- This permit was amended to reflect a second washbasin in the Master Bathroom
- On June 6, 2016, a subsequent Water Permit application was received to retrofit water fixtures at 149 Spray Avenue with all ultra-high efficiency water fixtures

Summary

- Water Permit 34723 (June 7, 2016) included:
 - Two Ultra-High Efficiency Toilets
 - One High Efficiency Dishwasher
 - One High Efficiency Clothes Washer
 - An Instant-Access Hot Water System
- These actions resulted in an additional four fixture units of credit
- A Site inspection was conducted on June 9, 2016, to verify the installation of the high efficiency appliances and removal of fixtures.

Summary

- An application for a Water Permit for a new Single Family Dwelling was received on June 8, 2016
- The application states that water for the new Water Use Capacity is based on “credit from 149 Spray”
- The District issued Water Permit 34741 for a new Single Family Dwelling utilizing sub-metering at 150 Sea Foam Avenue, Monterey, on June 13, 2016

Conclusion

- The Board is being asked to revoke the Water Permit pursuant to Rule 25-C and find “the property owner or permit applicant has misrepresented intentionally or negligently any material fact in the Water Permit application or in any supporting documents.”
 - District Rule 25.5-F-3 allows a Water Use Credit for permanent removal of water using fixtures provided that the fixture was properly and lawfully installed
 - At issue is whether there is sufficient evidence to find that the water fixtures that were removed for credit were not lawfully installed
- The Board should provide direction to staff on preparation of findings either approving or denying the appeal

Process

- A letter from the property owner's representative was provided to the Board this evening
- At this time, Mr. Laredo (District Counsel) will brief the Board on the appeal hearing process

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