



**ITEM 12. CONSIDER REQUEST FOR VARIANCE FROM DISTRICT RULE 20, PERMITS REQUIRED, FOR A CHANGE OF USE FROM A DELI (GROUP ii USE TO A RESTAURANT (GROUP III) USE – 484 WASHINGTON ST, MONTEREY (APN: 001-692-011)**

Presented by:

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# Summary

- Appeal related to October 2013 notice from District to Mr. Grobecker (appellant), owner of Santa Lucia Café, that business was operating as a restaurant, not as a deli
  - Water Permit required for Change in Use (Rule 20)
  - Determination on appeal was continued to this meeting

# Summary

- The appellant is now requesting a variance to allow continuation of existing business practices, including:
  - Using glassware to serve beverages
  - Serving hot food, liquid food (e.g. pasta and soups), and food with high moisture content (e.g. salads with dressings) on china
  - Utilizing silverware
  - Providing full table service

# Summary

- In requesting a variance, the appellant cites the following reasons as justification to allow continued business practices:
  - Regulations are unclear regarding limitations on Group II food service
  - The business operated for 17 years before he was notified of any restrictions/limitations
  - There has been no change to the equipment used that would facilitate higher use
  - Because of the size of the lease space, it is unlikely water use would ever exceed Group II use.

# Summary

- Rule 20 requires permit for change from Group II (deli) to Group III (restaurant)
- District practice describes Group II deli as take out or disposable without full table service
- Uses are not defined in District rules
- Water Permit application completed by appellant stated “deli/retail food”
- City signed off and allocated water for deli/retail food



# Summary

- Business for sale in 2013 as a “restaurant”
- Staff met with appellant to discuss Water Permit status
- Notice of non-compliance sent October 30, 2013
- Business practices/operations appear to be mid-way between deli and full-service restaurant
- Building is master water metered and owner denied access to records. Use appears to be below Water Use Capacity

# Summary

- Appellant claims there are special circumstances and hardship to support his variance request
  - No variance would “result in a tremendous loss of value”
  - No variance would be “devastating to our family”
- Board must find Special Circumstances and Hardship to approve a variance
- Board may place conditions on the granting of any variance
- Board must adopt findings regarding its decision on this matter

# Summary

- Staff has proposed Conditions of Approval to limit business operations
  - Water use must stay below Water Use Capacity
  - Current business practices/operations must be continued
- Conditions are normally recorded on the property title to assist with enforcement and notification
  - Owner will not consent to encumber property
  - Owner will not consent to allowing access to water records



# Summary

- Appellant has requested the first three of the proposed Conditions of Approval be deleted
- General Manager recommends waiving only the third condition (recordation of conditions)
  - Without adequate enforcement, Water Use Capacity could be exceeded as a result of increases in the number of customers, changes in management, menus, hours, etc.
  - Without access to water records, MPWMD does not have ongoing authority to monitor and enforce water consumption



# Variance Process

- Rule 90: Board may exercise its discretion by granting a variance
- Must find Special Circumstances exist
- Must find that practical difficulties or Undue Hardship would result from strict interpretation and enforcement of District standards
- Must find that granting a variance would not defeat the purposes of the Rules

# Recommendation

- Disclose any oral or written ex parte communications
- Consider granting a variance
  - Including Conditions of Approval in full or in part
  - Does the property owner's refusal to restrict the property or allow access to water records effect this decision?
- Adopt Findings of Approval or Denial
- Make determination on continued Appeal (adopt Findings)
- Staff recommends referring the issue of whether definitions are needed to the Water Demand Committee

# For More Information

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

[www.mpwmd.net](http://www.mpwmd.net)

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