



## RESIDENT HANDBOOK Understanding the Design Review Process in the City of Del Mar

*Prepared by the Del Mar Ad Hoc Development Review Process Citizens' Advisory Committee / Research Subcommittee*

*July 19, 2016*

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### 1. Purpose of Design Review in Del Mar

Design Review is used as a means to implement the goals contained in the Del Mar Community Plan to preserve and improve Del Mar as a beautiful, pleasant residential community in which to live, work, shop, and pursue leisure time activities.

The Design Review process also serves to maintain property values, preserve the natural environment, protect primary scenic views, and ensure a high aesthetic quality for the community.

The Design Review process encourages good design, including the use of harmonious materials and colors, compatible proportional relationships, and appropriate use of landscaping for both residential and commercial development projects.

It also determines whether a project is compatible with the Del Mar Community (General) Plan and Zoning Ordinance

Design Review is not unique to Del Mar; it is discretionary form of development processing/entitlement widely practiced by many jurisdictions in California and elsewhere.

### 2. The Design Review Ordinance

The Design Review Ordinance (“DRO”) is Chapter 23.08 of the Del Mar Municipal Code (DMMC). See: <http://www.delmar.ca.us/DocumentCenter/Home/View/422>

The Design Review Board (“DRB”) is a citizen’s committee comprised of seven Del Mar residents and one (non-voting) ex-officio architectural design professional, appointed by the Del Mar City Council to examine a development project’s placement and size, the materials and colors to be used, and, in the case of new structures, the type, and extent of the landscaping proposed. The Design Review Board also evaluates the project’s compatibility with the uses and design of structures on surrounding properties, all based on the standards of review contained in the DRO. The DRO’s standards of review are called “Regulatory Conclusions.”

The DRO’s Regulatory Conclusions are written in the positive, meaning that a project application will be approved unless the project is found to be inconsistent with one or more of the Regulatory Conclusions in the DRO. Areas of potential inconsistency outlined in the Regulatory Conclusions include privacy, bulk and scale of structures, view obstruction, neighborhood compatibility, etc. A conclusion that a proposed design element is "unreasonable," must be supported by findings of fact by the DRB, and may be cause for a continuance of the project by the DRB to allow for project revisions that would address the concern, or possible denial of the development application.

In reviewing a project for a requested Design Review Permit, the DRB is given the authority to act on other types of development entitlement that may be related to the project and are required by the Municipal Code. These include the Land Conservation Permit (for grading), Coastal Development Permit, and Tree Removal Permit. A project approval that includes any or all of the above-mentioned permits generally includes a set of conditions that address health and safety issues and ensure a project’s continued compliance with the Del Mar Community Plan, Zoning Ordinance, DRO, Land Conservation Ordinance (DMMC Chapter 23.33), Coastal Development Ordinance (DMMC Chapter 30.75) and the Tree Ordinance (DMMC Chapter 23.50).

Construction standards such as setbacks, lot coverage, permitted Floor Area Ratio (“FAR”), and building height are contained in the Zoning Ordinance of the DMMC (Title 30). Depending on a project’s location, it may also be subject to additional design review standards contained in the underlying zoning chapter for the property. There are 12 residential zones, 5 commercial zones, and several special overlay zones in Del Mar. Zoning information concerning a specific parcel can be obtained from the Planning Department. It is possible for a project to be consistent with the Zoning Ordinance and inconsistent with the DRO and thereby conditionally modified or denied by the Design Review Board.

### 3. Types of Design Review Permits

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- a) Administrative Design Review (ADR) permit applications are intended for projects that are minor in nature and impact, but are not exempt from the Design Review process. ADR approval is based on neighborhood input rather review at a public hearing by Design Review Board. The ADR offers a streamlined process as the decision is made by the Director of Planning and Community Development (unless an objection is filed in a timely fashion during the 10-day notice period, in which case the project would be placed upon the next available agenda for a public hearing before the Design Review Board). **See: Administrative Design Review (“ADR”) A Guide To the Process <http://www.delmar.ca.us/DocumentCenter/View/1036>**
- b) Some projects and activities are exempt from the Design Review process. Examples include the repair, restoration, or reconstruction of an existing structure (where the work maintains the outer dimensions and surface relationships of the existing structure; i.e., “like-for-like”). Planning Department staff is ultimately responsible for determining if a project is exempt from Design Review.

- c) Regular DRB permit applications are required for all other projects that are neither minor nor exempt and are reviewed by the Design Review Board at noticed public hearings.

#### **4. Milestones in the Design Review Process**

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- a) As an initial step, the Planning Department can provide essential and helpful information and guidance to applicants who request a pre-application conference.
- b) Some projects require a Citizen’s Participation Program (“CPP”) meeting with neighbors before submittal of an application. **See: CPP Guide To The Process**  
**<http://www.delmar.ca.us/DocumentCenter/View/52>**
- c) A Design Review Application with the required supporting documentation is filed with the Planning Department.
- d) After all required documentation is reviewed, a Design Review Application may be deemed “complete” by the Planning Department and placed on the agenda of the next available DRB meeting.
  - 1) For those projects that require a separate approval from the Planning Director (e.g., Floodplain Development Permit) or the Planning Commission (e.g., Conditional Use Permit, Variance, or other Planning Commission approval), the DRB permit application will be deemed Incomplete until all other approvals are received. Generally, an Incomplete DRB application will not be placed on an agenda for consideration by the Design Review Board until all other approvals are obtained.
- e) Noticing
  - 1) Notice of the DRB hearing by first class mail is mailed to all property owners within a 300-foot radius of the project site at least 10 days prior to the DRB hearing.
  - 2) A “Development Permit Pending” sign is posted on the property at least 10 days prior to the DRB hearing.
  - 3) A notice is posted at City Hall at least 10 calendar days preceding the DRB hearing prior to the matter being first considered.
  - 4) A notice is published in a newspaper of general circulation at least one week prior to the matter first being considered.
  - 5) Neighbors may file a request with the Planning Department to receive e-mail notification of the progress of the project by making contact with the Planner assigned to the application.
- f) Certain projects require the installation of “Story Poles” to represent the siting and massing of a proposed structure or addition. Story Poles are required to be installed fifteen (15) calendar days prior to the Design Review Board hearing and their heights and locations certified by a licensed land surveyor or civil engineer 10 calendar days prior to the hearing.  
**For a detailed description of the City’s Story Pole requirements, see:**  
**<http://www.delmar.ca.us/DocumentCenter/View/91>**.
- g) A Staff Report will be issued by the Planning Department approximately seven (7) calendar days before the hearing. Staff reports are available for viewing and download at the City website at  
**<http://www.delmar.ca.us/AgendaCenter>**

- 1) The purpose of the Staff Report is to provide relevant information—based on a review of the application—which can be utilized by the DRB in their quasi-judicial function of fact finding, deliberation, and decision making. The Staff Report is included in a packet, along with letters of support and opposition from interested parties and other pertinent information.
  - 2) Letters not submitted to the Planning Department prior to the issuance of the Staff Report are deemed “red dot” letters. Red dot letters are posted to the DRB website and emailed to DRB members prior to the hearing. It is desirable to have letters delivered to the Planning Department prior to the issuance of the Staff Report so that they may be included in the packet.
- h) DRB members visit the project site after receiving the Staff Report packet. Neighbors can meet with DRB members at this time to discuss the project.

## 5. The DRB Hearing

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- a) The DRB typically meets once a month on the fourth Wednesday.
- b) The DRB consists of seven members, including a Chairperson and Vice Chairperson. A quorum consists of four members. The Design Review Board also includes an eighth, ex-officio member and an ex-officio alternate, neither of which participate in the votes on applications. One or more DRB members may be disqualified from voting due to a conflict of interest or failure to attend the entire public hearing. For information on the DRB see:  
<http://www.delmar.ca.us/DocumentCenter/Home/View/337>
- c) At the discretion of the Chairperson, or by motion adopted by the DRB, an agenda item may be taken out of order.
- d) A majority vote shall be necessary for the DRB to take action. Tie votes shall be recorded as a failure of the motion to pass. After two or more tie votes, the application will be placed on the next available agenda of the City Council for action, not as an appeal.
- e) An item on the Agenda may be continued at the direction of the DRB if the request to continue is made after the distribution of the meeting packet and staff report for that item. Items may be continued by Planning Staff or at the request of the Applicant, if the request is made prior to the distribution of the meeting packet. Continuances will be made to a time certain unless the item is taken off-agenda, in which case it will be re-noticed.
- f) At the beginning of a DRB meeting, Staff will brief the DRB on the agenda items and will indicate which items may be eligible for Board member nomination to the meeting’s Consent Calendar to be approved as recommended by Staff, without need for public hearing. To be eligible to be placed on the Consent Calendar, the application to be acted upon shall not have any objection from the applicant, a member of the audience, a Board member, or staff, or a written objection from the public filed with the Board. Any Board member may nominate an eligible application for the meeting’s Consent Calendar. If the Application remains on the adopted Consent Calendar, the DRB's adoption of the Consent Calendar will normally constitute action on the Application as proposed in the Staff Report.
- g) Phase 1 of the DRB hearing will commence with an oral report by the Planning Staff. Then the applicant and their representatives will have a combined amount of ten minutes to orally present the project (and may be allowed additional time by the Chairperson for good cause shown). After these presentations are complete, members of the public can provide testimony.

- h) The Chairperson is authorized to regulate oral presentations to the DRB. The Chairperson may fix reasonable limits on the total time that oral presentations may be made on an item; and may fix a reasonable amount of time that each speaker has to make an oral presentation. Notwithstanding the above, members of the public are generally allowed three minutes to complete their presentation, and may be allowed additional time by the Chairperson for good cause shown.
- i) After the public testimony is completed, the applicant and their representatives are allowed five minutes for rebuttal to address only items that were raised during public testimony.
- j) After the applicant's rebuttal, the public hearing is closed and the DRB begins deliberation and decision making (Phase 2). During Phase 2, the DRB shall address only how the proposed design conforms to the DRO and other applicable standards of review. During Phase 2, the DRB shall consider only the information presented during Phase 1. Phase 1 can be reopened by the Chairperson if a new fact or issue arises in Phase 2.
- k) The DRB may, by majority vote,:
  - 1) Approve; or
  - 2) Disapprove in accordance with the provisions of the DRO; or
  - 3) Conditionally approve; or
  - 4) Continue the application.

## **6. Resubmittal of Denied Project**

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- a) At least one year shall have elapsed since the effective date of disapproval of the application or revocation of a Design Review Permit before filing a new application seeking substantially the same Design Review Permit for any of the same property.

## **7. Appeals**

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- a) The decision of the Design Review Board is final unless a written appeal is filed with the City Administrative Services Department, accompanied with a processing fee, within ten (10) business days from the date action is taken on the application.
- b) If an appeal is filed with the Administrative Services Department during this period, it will be placed on an agenda of the City Council for an Initial Consideration hearing. At an Initial Consideration hearing, the Council will determine to either:
  - 1) Reject the appeal, thereby upholding the Design Review Board's decision;or
  - 2) Set the matter for a for a new (*de novo*) public hearing review at a subsequent City Council meeting.

## **8. Post-DRB Project Changes**

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- a) While staff does have discretion to authorize some minor changes to approved plans, that discretion is extremely limited. More often than not, a proposed change to approved construction

drawings will require the submittal of an application for formal authorization to modify the approved plans. The City Council has, therefore, established a procedure to determine whether those proposed changes are insignificant and can be authorized by staff, or if they should be reviewed through a process that involves more oversight and an opportunity for public input.

- b) The procedure involves a determination of whether a project, if modified as proposed, would still be in “substantial conformance” with the project as it was previously authorized by the City. An application may be filed with the City to initiate a Determination of Substantial Conformance review, with a member of the DRB specifically appointed by the Board this purpose on an annual basis. If the proposed change is deemed to be in substantial conformance, the change(s) will be recorded with the project file. If not deemed to be in substantial conformance, the modification(s) would be subject to a different review, one that would involve the opportunity for public review and comment. Typically, the change would be reviewed through the same type of review process as was originally employed for the review of the project (DRB or Conditional Use Permits etc.). Other times, a more streamlined Administrative Design Review (ADR) process may be applicable. **See: Determination of Substantial Conformance - A Guide To the Process**  
**<http://www.delmar.ca.us/DocumentCenter/View/59>**