



December 2, 2019

Planning Commission Members
City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014

RE: December 3, 2019 Planning Commission Meeting, Item 2
ZA 18-002
GPA 19-002
LCPA 19-001

Dear Planning Commission Members:

Please review the attached correspondence dated March 14, 2019, and the associated petition from the majority of the NC and PC Zone property owners regarding the above-referenced amendments. The recommendations outlined on page 2 of the March 14, 2019 letter continue to be ignored.

We strongly urge you to take the necessary action to include modifications to the development standards in order to incentivize the construction of new housing units in the NC and PC Zones. We have outlined on page 2, seven specific recommendations for your consideration. Recommendations 1, 3, 4, 5, and 6 are critical to achieving the goals outlined in the Housing Element.

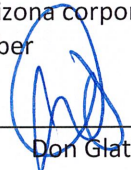
Continuing to apply the antiquated development standards found in the NC and PC Zones is seriously flawed. The rationale and recommendations for new development standards is clearly outlined in the March 14, 2019 letter.

We respectfully request your sincere reassessment of the proposed amendments in order to address numerous flaws and take the appropriate action to meet the Housing Element goals.

Watermark DM, L.P.,
an Arizona limited partnership

By: Watermark Del Mar, LLC
an Arizona limited liability company,
Its: General Partner

By: Kitchell Development Company,
an Arizona corporation
Its: Member

By: 
Don Glatthorn
Senior Vice President

c: Mayor Haviland
City Council Members
Shaun McMahan

March 14, 2019

Shaun McMahon
City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014

RE: Professional Commercial and North Commercial Zoning Code Amendments

Dear Shaun:

This letter provides program and EIR scope inputs on the above-referenced zoning code amendment from the undersigned collaboration of property owners in the NC and PC Zones.

As property owners in the NC and PC Zones, we are vital stakeholders who will be subject to any zoning code amendments affecting those zones that are adopted by the City of Del Mar. We appreciate the challenge the City faces in balancing community character concerns with the need for increased densities in order to fulfill the goals of the Housing Element. Our intention is to proactively support the City's efforts to modify these zones in order to achieve more market rate and affordable housing opportunities within Del Mar. We also recognize that the process for evaluating such changes in land use involves substantial costs in staff resources and consultant time for the EIR preparation. Therefore, we believe it is important to enact a zoning amendment that will support your goal of promoting the construction of new housing units. Our concern is that focusing only on adding residential as an approved use (without concurrently addressing development standards) will result in an EIR that may be insufficient to address the effects of the proposed zoning code amendments. (*See, City of Del Mar Community Plan Housing Element, p.46, stating: "In addition, the City will review its development codes to establish appropriate development standards for facilitating higher density residential development."*)

Without modifications to the development standards, it is unlikely that the currently proposed zoning amendment will be sufficient to incentivize the actual construction of new residential units. Additionally, converting market rate commercial space to affordable residential space is a substantial reduction in value and will serve as a disincentive to building residential units. The goal of promoting constructed affordable units requires incentives, not disincentives. Furthermore, the removal of location-specific constraints cannot be accomplished without consideration of modifications to the development standards.

We encourage you to take a comprehensive approach to the zoning code amendment process by determining appropriate development standards as part of the project scope that specifically address known constraints and physical challenges. Below are some suggestions for standards to be considered. The City could study additional options as part of the EIR process. Regardless, we feel incorporating such standards and parameters for future development is critical to completing an EIR that can properly address the effects of the proposed amendment. Our recommendations are as follows:

1. Add residential as a permitted use “by-right” without a CUP requirement in the NC and PC Zones. Any residential use shall require that 20% of the market-rate units be set aside for affordable housing. The minimum size of an affordable unit shall be 400 square feet with no additional requirements for sizes of units.
2. Allow a project to be 100% commercial or 100% residential or any mix of commercial and residential uses.
3. Evaluate the potential of increasing FAR allocated for NC commercial to be consistent with the existing PC zone of 0.60 and allow for additional residential FAR up to 1.0 for a mixed use project or 100% residential project. This should be applicable in both the NC and PC Zones.
4. Consider increasing lot coverage for mixed use and 100% residential projects to 0.90 in both the NC and PC Zones.
5. Allow properties within the 100 Year Flood Plain in the NC Zone to measure maximum height limits from two feet above the base flood elevation, or elevation 20, when existing grade is below elevation 20.
6. Evaluate the potential for increasing height above two stories and 26 feet high in appropriate locations.
7. Evaluate parking requirements including the potential for on-street parking within the public right of way to support on-site parking requirements.

Adopting zoning code amendments which include the above recommendations will provide significant and meaningful incentives to produce affordable and market rate housing units pursuant to the goals and programs of the Housing Element. For reference, we have included an evaluation of development standards on similarly zoned sites in neighboring cities and Del Mar which are as follows:

Neighboring City Commercial & Mixed Use Zones

- Solana Beach FAR: 1.20 (“C” Zone)
- Encinitas FAR: 1.0 (“GC/VSC” Zones)

Current Del Mar Zone with Highest Density

- Del Mar RM West Zone: FAR 0.45 @ 17.6 units/acre, Lot Coverage: 0.60


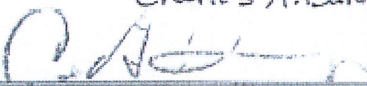
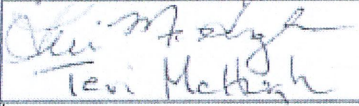
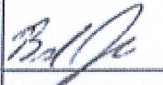
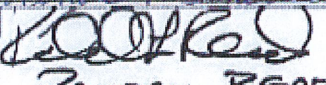
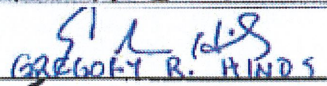
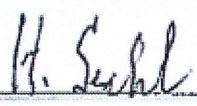
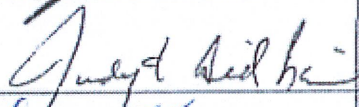
Proposed New City of Del Mar NC and PC Zones

- Del Mar Proposed NC Zone: FAR 0.30 @ 20 units/acre, Lot Coverage: 0.40
COMMENT: FAR is significantly below neighboring cities and significantly below existing Del Mar RM West Zone at only 17.6 units/acre.
- Del Mar Proposed PC Zone: FAR 0.60 @ 20 units/acre, Lot Coverage: 0.75
COMMENT: PC Zone is currently built out, FAR increase will be necessary to obtain housing units.

We urge you to revise the project details to be evaluated by the EIR in order to analyze the data correctly the first time, and provide meaningful input to the City Council in making decisions regarding this proposal.

Respectfully,

c: City Council
 Planning Commission

Name/Signature	Ownership Name	Property APN or Address
 Tom Glatthorn Charles A. Dunn	Watermark IM, LP	299-100-47 299-100-48
	Del Mar Bldg Group LLC	300-222-31-00
 Teri Matheson	2201 Del Mar LLC	299-100-34-00 2201 San Diegoita Drive
 BRAD JOHNSON	Harbor Associates	299-071-06-00 2010 Jimmy Durante Del Mar
Pamela Stonebreaker Pamela K. Stonebreaker	Pamela K Stonebreaker TRUST	299-100-29-00 2137 Jimmy Durante Blvd, Del Mar 92014
 RANDALL READ	READ FAMILY LLC	299-100-28-00 2126 Jimmy Durante Blvd
 GREGORY R. HINDS	HINDS INVESTMENTS L.P.	299-071-07-00 2002 Jimmy Durante
 H. Seibel	Wuotw LLC 300-222-33-00	807-823 Camino Del Mar
 Oceans 8 View	Oceans 8 View	322 8th St. Del Mar Ca. 300-222-32-00
Donna Knorr DONNA KNORR	DONNA M KNORR 1992 TRUST	2126 JIMMY DURANTE BLVD DEL MAR CA 92014 299-100-27-00

Council Members,

I am concerned that we are not taking this opportunity to modify the development regulations for the North Commercial Zone. With the Current Floor area ratio at .30, there is no incentive for anyone to develop any housing. Even on the the larger lots, this will not yield any housing opportunities. I realize that your initial desire was to just get the 20 unit per acre zoning in place, but I believe this is a lost opportunity. A floor area ratio of .60 makes much more sense for this zone. Lot coverage of .70- .80 seems appropriate.

I would require mixed use in this zone because allowing 100% commercial makes no sense if we are looking for housing units.

There is a clear need to allow height measured above the base flood elevation in this zone to no more than 26'.

Hopefully this can be accomplished without having to amend the EIR, but if required I suggest that you do so if time allows.

Don Countryman
Donald A. Countryman Design Associates, Inc
990 Highland Drive #110D
Solana Beach CA 92075
(858) 794-6299 M: (858) 472-0793

Shaun McMahan

From: Brad Walters <newsbrad24@gmail.com>
Sent: Friday, January 3, 2020 8:58 AM
To: Shaun McMahan
Subject: writing in support of proposed zoning changes

I'm writing today in full support of the zoning changes proposed in Del Mar along Jimmy Durante and CDM at 8th/9th.

Our region is badly in need of new housing to support growth. This zoning change allows Del Mar to commit to doing its fair share while keeping impacts minimal.

To my mind, these changes do nothing to run afoul of CEQA. I fear that anyone who claims otherwise is abusing the law out of misguided, and frankly selfish, concerns about their own home values or the perceived effect more residents will have on traffic. "I've got mine, now let's shut the door."

I'm grateful to the City for doing its part to be a good regional citizen.

Thank you,

Brad Walters
Del Mar

Shaun McMahon

From: Speaking of Health <speakingofhealth@gmail.com>
Sent: Saturday, January 11, 2020 8:02 AM
To: Shaun McMahon
Subject: Comment on Draft Program EIR

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Shaun,

We have reviewed the information that is currently available regarding placing high density (20 dwelling units) on Camino Del Mar at 9th and 8th streets. We believe that this would have a significant negative impact on the residential and commercial property surrounding this site regarding traffic, safety, community serenity and we would oppose this recommendation. There is already significant congestion at this location and adding more would cause excessive problems.

Sincerely,
Joseph & Nancy Weiss
10th St. Del Mar

Shaun McMahon

From: Josh <josh.e.rubin@gmail.com>
Sent: Saturday, January 11, 2020 11:53 AM
To: Shaun McMahon
Subject: Draft EIR

Follow Up Flag: Follow up
Flag Status: Flagged

Hi,
Hope all is well. I am writing to comment on the proposed amendments to 2 commercial zones in the north commercial zone. 20 dwellings per acre is much too dense in an area which is low density residential. I live at 2168 San Dieguito Dr, which seems to be abutting the proposed changes. 20 units per acre on this road is out of character for the neighborhood.
Josh Rubin

Sent from my iPhone

Shaun McMahan

From: Gwynn Thomas <gwynn.thomas@outlook.com>
Sent: Sunday, January 12, 2020 11:43 AM
To: Shaun McMahan
Subject: City of Del Mar Draft Program EIR - Proposed amendments to commercial zones

Follow Up Flag: Follow up
Flag Status: Completed

Dear Shaun,

I am the owner of the home located at 149 6th St and 151 6th Street, Del Mar.

I oppose the amendment to the commercial zone on Camino del Mar at 9th and 8th Streets to allow residential development of up to 20 dwelling units per acres.

This commercial zone is surrounded by lovely single family homes.

Allowing multi-residential development in this area would increase the density to unbearable and diminishes the aesthetics and ruins our neighborhood.

It does "fit in" with the surrounding neighborhood.

My homes sit in area where density is already an issue with 2 allowed on a lot.

I am opposed to this amendment for the Commercial Zone on Camino del Mar at 9th and 8th Streets.

Sincerely,
Gwynn Thomas
Owner of 149 & 151 6th St, Del Mar
(803 Amiford Dr, SD 92107)
619 997-5219

Shaun McMahon

From: wade walker <wadewalker555@gmail.com>
Sent: Friday, January 17, 2020 11:25 AM
To: Shaun McMahon
Subject: Proposed change to NC Zone

Follow Up Flag: Follow up
Flag Status: Flagged

Del Mar City Council:

I am writing to oppose the proposed change to the North Commercial Zone to 20 multi-dwelling units per acre. My wife and I have lived at 1440 Oribia Road for 33 years. We are intimately acquainted with the traffic issues associated with the bottleneck road access into our neighborhood. The traffic circle has been a boon, enabling the intersection of San Dieguito and Jimmy Durante to handle the increased congestion due to Del Mar's growth and the expanding event calendar at the fairgrounds. But there are limits.

Even with the circle, traffic slows to a crawl and sometimes comes to a full stop during racetrack start and end times. Worst of all is the Fair, when the congestion can last for hours.

Increasing residential density will push this problem past the limit more often. That will impact the quality of daily life for the Racetrack View and Crest Canyon communities, and threaten the availability of emergency services. This is especially important as Crest Canyon is vulnerable to fire.

To get accurate input for EIR traffic projections, I believe it makes common sense to measure the traffic at the times of high volume that are experienced by the neighborhood instead of relying on SANDAG default numbers. This proposed zoning change allows Del Mar's growth to be dumped into an area that is ill prepared to cope with it. Please don't allow this wholesale increase in density.

Wade Walker
1440 Oribia Road
Del Mar

Shaun McMahon

From: Matt Weiss <gotweiss@yahoo.com>
Sent: Wednesday, January 22, 2020 6:33 PM
To: Shaun McMahon
Subject: draft EIR comments

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Shaun,

I am vehemently opposed to the changes being suggested in the draft EIR changing commercial zones into 20 unit per acre apartment nightmares!

Just another money grab by big developers and the city hungry for the taxes driving this awful proposal!

This makes measure G look pale in comparison. Funny how they want to submit it while everyone is totally distracted by measure G. Nice try guys!

C'mon!, the last thing Del Mar needs is more high density housing and 20 units per acre??? Ridiculous!

NO, NO and NO!!!!

Matt Weiss

Help Us Protect Our Home

New zoning laws will negatively impact the beautiful town we all call home. A roundabout has dramatically slowed traffic already, during the summer high season, gridlock will be unbearable.

The proposed change in zoning laws are punishing us, Del Mar residents, as a result of poor city planning. The building restrictions already in place are there for a reason. They are strong and secure to protect the beach city oasis we all cherish. Without that protection, we lose the value of our town both monetarily and emotionally.

There are many things that make Del Mar special. The current zoning ensures it stays that way. I urge my neighbors (us who live here and deeply understand why this place is unique and beautiful) to fight to help keep our town special and prevent the developer greed from diminishing what we all know and love.

--

Augustus Wiesel
858-254-9829
2139 Heather Lane
Del Mar, CA 92014
augustuswiesel@yahoo.com

Paving Paradise to Build Massive Housing Units

Change of Zoning in North Del Mar Commercial Zone to high density residential zoning will forever change the character, beauty and calm life of all of Del Mar.

Traffic jams will be daily, not seasonal, all along Camino Del Mar and coast boulevard. Seasonal traffic jams will be gridlock to the extent of increased emergency response times / services.

Resident's daily movements will be sacrificed to the point of imprisonment.

Beautiful north and lagoon vistas and quiet evenings will now be filled with massive buildings, noise and congestion like other Los Angeles beach communities. Especially since this development is on the major entrance / exit road in and out of Del Mar which is already incumbered by a single lane roundabout.

Previous poor city planning, and no past affordable housing action has caused a serious problem that is now being dumped on and destroying the North end of town. As substantiated by no affordable housing units built in recent City Hall redevelopment.

Developers are hungry to develop / profit off Del Mar's problem to the point of asking for all possible exceptions from Del mar building restrictions. Del Mar is so desperate to fulfill and so afraid to fight State mandates for development that our beautiful community is at risk and will forever change from this massive zoning change.

Annette Wiesel
2139 Heather Lane
Del Mar, CA 92014
858-705-1862
Awiesel1@yahoo.com

To City Of Del Mar

Attention: Shawn McMahon

Please forward to all Del Mar Council Members

Re: PEIR: Environmental Impact Report of the North County Community Plan and Zoning for North Commercial and Business Zone

February 14, 2020

Submitted by:

Tracy Martinez and Dr Alan Wittgrove

2152 David Way

PEIR response:

The following are concerns that we have regarding the proposed re-zoning of the NC commercial and business areas to high density (20 units per acre) housing. Total of approximately 15.2 acres.

- 1) Disproportionate: This proposal could result in over 262 (conservatively) home units which would account for approximately 524 residents (this would be a conservative estimate with only two residents per home. In 2017, the official number of Del Mar residents was 4,363. **This proposal would create 12% of the total Del Mar population in 1.3% of the total land in Del Mar.** These are conservative estimates with only two people per home unit. **Currently, there are 3.8 residents per acre and this proposal would create 40 residents per acre all in the north part of town.** This are should not be allowed to build out on all parcels. The density would be a disaster.
- 2) Safety: Traffic congestions is real. We deal with severe congestion approximately 2 1/2 months a year. The congestion is so dense that we are concerned that if there were an urgent need for an emergency police response, fire truck or God forbid someone suffers a cardiac arrest which all could be fatal to the residents needing the help. Humans can die or have

irreversible brain damage if left without oxygen for 6 to 10 minutes. Please note that the fire department moves its trucks out of this area due to congestion at various times. (See attached traffic congestion photos during the fair and commute time below). This proposal would conservatively add over 600 cars in 15.2 acres just from the residents, not counting service cars for this proposed development.

- 3) Traffic and Quality of Life: Traffic can get so dense that we have had difficulty getting home. On two occasions last year it took over one- and one-half hours to get from Lomas Santa Fe Country Club home. On several other occasions it took 40 minutes to get from Vons on Lomas Santa Fe. We have to get up at 6am on a weekend to get any shopping or errands done to avoid delays in traffic in and out of my home. We don't have friends or family visit due to the traffic. As a surgeon, I often stay away from home if I am covering the ER because I can't get out of our street. Should I have to get a hotel room when I am on call? Can you please tell us if you have done traffic studies, and on what dates? Are you considering the fair, races and Kaboo car counts? And the added concert venue, which is a reality, will increase traffic throughout the year. Has this increase been considered? When we drive home from between 4-530pm, it takes me 15-18 minutes from the corner of CDM and Carmel Valley. It is only 3 miles!
- 4) Aesthetics: This would completely be aborting the community plan in just one area. This zone change would put the burden of most of high-density development in only one part of town and therefore effect only one neighborhood. Our home values would plummet. This change would have a significant impact on our neighborhood aesthetics, and environmental concerns with an increase in cars, exhaust, service vehicles, lawn mowers, noise, safety, quality of life all in a very small area. Wildlife will be impacted by the added lighting and potential landscape runoff.
- 5) Wildlife will be impacted by the increase in noise, lighting, runoff in the preserve, and increase in exhaust emissions, lawnmowers, delivery vehicles. Currently, the commercial buildings are quiet and have minimal lighting at night. The opposite would occur, in that the evenings would be filled with increase in lighting and noise.
- 6) Del Mar is in a high wildfire zone especially off San Dieguito Road. This area has nearly 100 homes with limited exit routes. This high-risk area has only **one**

direct exit route, which is where the proposed increase in density development is located (San Dieguito to Jimmy Durante). Emergency responder times could be critically affected which could result in property damage and/or deaths due to access delay.

The increased traffic from higher density redevelopment would delay first responders from combating wildfires and rescuing victims, in Del Mar. It would also prolong evacuation time for residents. A possible scenario of a swift moving wildfire; it would spread quickly due to the winds that are present with wildfires and leave evacuees 30-60 minutes to get out. It could force the closure of Del Mar Heights Road which would leave evacuees only one northbound lane on Jimmy Durante Blvd., one northbound lane on Camino Del Mar to Hwy 101, one southbound lane to Torrey Pines Road and one southbound lane to Carmel Valley Road.

According to the County Evacuation Plan, Del Mar already has over 3,700 residents who would need to be evacuated in case of a wildfire. Adding 800-1,000 new residents as shown in the following formula contained in the County's Operational Area Emergency Operations Plan evacuation plan could lead to fatalities of our residents if this area has the density proposed in this PEIR.

$$\text{Evacuation Time} = \frac{\left(\frac{\text{Evacuation Population}}{\text{Average Vehicle Occupancy}} \right)}{\text{Roadway Capacity}}$$

The evacuation time formula does not take into consideration the uniqueness of this area with the Fairgrounds numerous events which often has major traffic jams as pictured below. This is also a "pass through" for other commuters that drive through town to avoid interstate 5, especially during rush hour Monday through Friday.





In Conclusion: The re-zoning would have significant negative impacts as noted in the letter and the Staff Report dated December 3, 2019 including:

Environmental Impact Analysis: **“significant impact”** associated with aesthetics, cultural resources, biological resources, and noise. Mitigation measures cannot take away their irreversible damage. “Less significant” as noted in the analysis still means of this impactful on the environment; noise, greenhouse emissions near the preserve, and a change in air quality. It has been noted that this rezoning would have a negative impact on sensitive vegetation and wetlands. This is not

being environmentally friendly, its putting what we cherish, and have always protected, at risk.

Traffic is a serious problem and a concern of most residents. This is bound to become more of a problem, even without passage of this zoning change, due to the expended concert venue schedule. Has this been fully evaluated and entered into the equation? The safety risks and potential harm to residents and their homes in case of a medical or fire emergency must be considered. This is not something that can be mitigated in any way! This proposal places our residents' life and property at risk.

Affordable housing is necessary; however, it should be dispersed throughout the city and not the largest percentage developed in the NC for all the reasons mentioned above. I would suggest that parcel development be limited to one or two parcels as they become available and that they abide by all current building codes as promised (FAR, setbacks and height limits) .

Shaun McMahon

From: Bill Leopold <w.leopold@leopoldmanagement.com>
Sent: Friday, February 14, 2020 5:12 PM
To: Shaun McMahon; Ellie Haviland; Terry Gaasterland; Dwight Worden; David Druker; Sherryl L. Parks
Subject: Concerns regarding the proposed Del Mar rezoning Program Environmental Impact Report

Dear Council people, We have lived in Del Mar for almost thirty years. We have seen it grow from where nothing could be approved to be built to the mansionization of our lovely little town. Now there is a discussion of the rezoning.

My question is, have any of you noticed the difference between living in Del Mar in the Summer and living in Del Mar in the winter? Why are we changing our community planning and zoning laws to benefit developers and not the taxpaying residents?

All of you know how hard it is to get in and out of town during the summer. Why would we want to make it harder? How long does it take for an emergency vehicle to get the middle Del Mar during the Summer? How long does it take during the off-season months? My guess that it goes from well under 10 minutes in the winter to "no one knows" in the summer.

El Camino Real is a part of the tsunami and emergency disaster evacuation plan. Why would we want to intentionally create more traffic blocking the evacuation routes? Please do not vote to change the zoning laws to increase the density.

Sincerely Karla and Bill Leopold
125 11th St.
Del Mar, CA 92014
--

w.leopold@leopoldmanagement.com

Shaun McMahon

From: Neal Gobar <nealgobar@gmail.com>
Sent: Saturday, February 15, 2020 11:42 AM
To: Shaun McMahon; Neal Gobar
Subject: EIR 20dwellings in NORTH COMM'L & EofCDM @ 8&9STREETS

I approve. Allowing mix in same blocks of housing and commercial [especially retail serving low income people] makes sense to me. I know of no better [except fairgrounds which state controls] place in DM for low income housing. neal gobar



DELANO & DELANO

February 14, 2020

VIA E-MAIL

City of Del Mar
Attn: Shaun McMahon
1050 Camino Del Mar
Del Mar, CA 92014

Re: Professional Commercial and North Commercial Zoning Code Amendment Draft EIR: ZA18-002, GPA19-002, LCPA19-001, SCH No. 2019029058

Dear City of Del Mar:

This letter is submitted on behalf of Del Mar Hillside Community Association in connection with the proposed Professional Commercial and North Commercial Zoning Code Amendment project (“Project” or “Program”) and Draft EIR (“DEIR”).

I. Introduction

The California Environmental Quality Act (“CEQA”), Pub. Res. Code §§ 21000 – 21177, must be interpreted “so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal. App. 3d 247, 259. If an EIR fails to provide agency decision-makers and the public with all relevant information regarding a project that is necessary for informed decision-making and informed public participation, the EIR is legally deficient and the agency’s decision must be set aside. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 712. An EIR is “aptly described as the ‘heart of CEQA’”; its purpose is to inform the public and its responsible officials of the environmental consequences before they are made. *Laurel Heights Improvement Assoc. v. University of California* (1988) 47 Cal.3d 376, 392.

“An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.” CEQA Guidelines § 15151. A sufficient EIR demonstrates “adequacy, completeness and a good-faith effort at full disclosure.” *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1355 (quoting *Rio Vista Farm Bureau Center v. City of Solano* (1992) 5 Cal.App.4th 351, 368).

EVERETT L. DELANO III
Admitted in California and Colorado

M. DARE DELANO
Admitted in California and New York

TYLER T. HEE
Admitted in California and Hawaii

II. The DEIR's Project Description is Deficient

The DEIR claims the purpose of the Program is to “amend the provisions of the North Commercial (NC) and Professional Commercial (PC) zones to allow residential development at a density of 20 dwelling units per acre ... for future projects that include an affordable housing component, or otherwise comply with City current housing mitigation requirements” DEIR at S-1. However, the proposed zone amendment as described in the DEIR does not indicate any requirement either to “include an affordable housing component, or otherwise comply with City current housing mitigation requirements.” *Id.* at 3-9.

CEQA requires the EIR's project description to provide an accurate description of the entire project. “A curtailed, enigmatic or unstable project description draws a red herring across the path of public input.” *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 197 – 98. “The adequacy of an EIR's project description is closely linked to the adequacy of the EIR's analysis of the project's environmental effects. If the description is inadequate because it fails to discuss the complete project, the environmental analysis will probably reflect the same mistake.” *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 31 – 32 (citations omitted).

III. The DEIR's Discussion of Project Impacts is Deficient

The DEIR fails to adequately analyze land use, aesthetic, and community character impacts.

- “Aesthetic issues ‘are properly studied in an EIR to assess the impacts of a project.’” *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 937. Figures within Chapter 4.2 of the DEIR show substantial impacts to aesthetics and community character, yet the DEIR fails to acknowledge these impacts.
- The DEIR also fails to consider potential shade and shadowing impacts.

The DEIR fails to adequately analyze traffic impacts.

- The DEIR does not provide actual on-the-ground current traffic, but “projects” what such traffic “could” be based upon projected trip generation rates. *See* DEIR at Table 4.4-4. Actual traffic is considerably less than what the DEIR asserts could be generated.
- The failure to provide actual traffic data leads the DEIR to incorrectly conclude the Program will not increase traffic, when in fact it will. DEIR at Table 4.4-9.
- The DEIR also fails to provide any analysis of existing failing intersections.

The DEIR fails to adequately analyze impacts to air quality.

- The DEIR fails to analyze the combined emissions of construction and operational emissions.
- The DEIR relies upon vehicle trip estimates from the Transportation Impact Analysis. DEIR at 4.5-7. However, as noted above, that analysis is insufficient. Therefore, the analysis of air quality impacts is insufficient.

The DEIR fails to adequately analyze greenhouse gas emission impacts.

- The EIR relies primarily upon measures adopted by the State in order to meet its goals. *See* DEIR at 4.6-8. But as the California Supreme Court has noted, such reliance is insufficient to ensure compliance – “That a project is designed to meet high building efficiency and conservation standards, for example, does not establish that its greenhouse gas emissions from transportation activities lack significant impacts.” *Center for Biological Diversity v. Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 229.
- The DEIR relies upon vehicle trip estimates rather than providing actual on-the-ground counting of vehicles. DEIR at 4.6-7. However, as noted above, that analysis is insufficient. Therefore, the analysis of GHG emissions impacts is insufficient.

The DEIR fails to adequately analyze impacts to biological resources.

- The DEIR claims the Watermark property is disturbed land. DEIR at 4.9-11. However, as comments submitted in November of 2017 on the Watermark Del Mar Specific Plan Draft EIR noted, that project would negatively impact on-site habitat, water courses, and other biological resources. The analysis failed to adequately account for existing biological resources. Additionally, reports prepared for the prior project on the same site revealed biological resources that are not identified in the DEIR. These comments are attached and hereby incorporated by reference.

The DEIR fails to adequately analyze growth inducing impacts.

- The Program would lead to additional housing, yet the DEIR fails to discuss growth inducing impacts.

The DEIR fails to adequately analyze noise impacts.

- The EIR discusses potentially significant construction and operational noise impacts but chooses to assume they would be less than significant by using an hourly average. DEIR at 4.7-7. But the temporary nature of a noise impact does not make it insignificant. *See Berkeley Keep Jets Over the Bay Comm. v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1380 – 81.

- The DEIR acknowledges potentially significant noise impacts, but the proposed noise mitigation is insufficient. *See Citizens for Responsible and Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341 (“there is no evidence of any measures to be taken that would ensure that the noise standards would be effectively monitored and vigorously enforced”).

The DEIR fails to adequately analyze impacts to waters and drainages.

- The DEIR claims there will be no impacts to hydrology and water quality. DEIR at 6-4. However, as the attached comments demonstrate, the draft EIR for the Watermark project failed to adequately discuss and analyze existing water courses on and near the Watermark project site.

The DEIR fails to adequately analyze water supply impacts.

- There is an inadequate showing of water supply for the Program. The California Supreme Court recently identified three “principles for analytical adequacy under CEQA”: (1) “CEQA’s informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to a problem of supplying water to a proposed land use project”; (2) “an adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years”; and (3) “the future water supplies identified and analyzed must bear a likelihood of actually proving available An EIR for a land use project must address the impacts of likely future water sources, and the EIR’s discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water’s availability.” *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 430 – 32 (emphasis in original) (citations omitted). The DEIR fails to comply with these mandates, particularly in light of recent severe water shortages throughout the State.

IV. The DEIR’s Discussion of Mitigation and Alternatives is Deficient

The DEIR fails to adequately analyze alternatives. CEQA provides: “The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of such projects” (Pub. Res. Code § 21002.) “The purpose of an [EIR] is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.” (*Id.* § 21061.1.)

CEQA requires that an EIR “produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned.” *San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750 – 51. “[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” CEQA Guidelines § 15126.6(b). “Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process.” *Laurel Heights Improvement Assoc. v. University of California* (1988) 47 Cal.3d 376, 404. The DEIR fails to comply.

The Project and its objectives are defined too narrowly, thereby resulting in a narrowing of the consideration of alternatives to the Project. *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1455.

V. The DEIR Should be Recirculated

The DEIR is sufficiently lacking that the only way to fix these issues is to revise it and recirculate an adequate report.

VI. Conclusion

For the foregoing reasons, Del Mar Hillside Community Association urges you to reject the DEIR as drafted. Thank you for your consideration of these concerns.

Sincerely,



Everett DeLano

Enclosure



DELANO & DELANO

November 13, 2017

VIA E-MAIL

Planning and Community Development
City of Del Mar
2010 Jimmy Durante Blvd., Suite 120
Del Mar, CA 92014

Re: Watermark Del Mar Specific Plan Draft EIR

Dear City of Del Mar:

This letter is submitted on behalf of Del Mar Hillside Community Association in connection with the proposed Watermark project (“Project”) and Draft EIR (“DEIR”).

I. Introduction

The California Environmental Quality Act (“CEQA”), Pub. Res. Code §§ 21000 – 21177, must be interpreted “so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal. App. 3d 247, 259. If an EIR fails to provide agency decision-makers and the public with all relevant information regarding a project that is necessary for informed decision-making and informed public participation, the EIR is legally deficient and the agency’s decision must be set aside. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 712. An EIR is “aptly described as the ‘heart of CEQA’”; its purpose is to inform the public and its responsible officials of the environmental consequences before they are made. *Laurel Heights Improvement Assoc. v. University of California* (1988) 47 Cal.3d 376, 392.

II. The DEIR’s Discussion of Project Impacts is Deficient

The DEIR fails to adequately analyze land use, aesthetic, and community character impacts.

- The DEIR notes there are existing views from Heather Lane, but fails to provide any pictures demonstrating these views. DEIR at 4.1-10.
- The Project is likely to substantially affect views from locations along Heather Lane and the DEIR fails to adequately analyze impacts to these views. For example, the DEIR claims views of San Dieguito Lagoon are blocked by

EVERETT L. DELANO III
Admitted in California and Colorado

M. DARE DELANO
Admitted in California and New York

104 W. Grand Avenue, Suite C
Escondido, CA 92025

(760) 741-1200 :: Office
(760) 741-1212 :: Fax

vegetation. DEIR at 4.1-10. This is inaccurate, as the attached photo, taken from the end of Heather Lane, demonstrates.

- The DEIR fails to analyze impacts to views from the street of the bluffs. The attached photo, taken from the corner of Jimmy Durante Blvd and San Dieguito Drive, demonstrates the existing view conditions.
- The DEIR notes the “City of Del Mar places very high importance on the preservation of scenic views from both public areas and private residential properties.” DEIR at 4.1-19. Yet it fails to provide adequate analysis of the Project’s potential to impact such views. *Id.* at 4.1-20.
- The DEIR acknowledges the City’s Design Review Ordinance (DRO), but fails to discuss its requirements or provide relevant analysis. DEIR at 4.1-14.
- Among other things, the Project will:
 - create an unreasonable invasion of the privacy of neighboring properties, Muni. Code § 23.08.072(D);
 - “locate structures so as to unreasonably, adversely impact upon outdoor areas on adjacent properties,” Muni. Code § 23.08.072(J);
 - cause an adverse effect on traffic conditions on abutting streets, Muni. Code § 23.08.074(B);
 - lead to grading and vegetation changes that will unreasonably, adversely impact neighboring developed areas, Muni. Code § 23.08.076(B);
 - not minimize the disruption of existing natural features, Muni. Code § 23.08.076(C);
 - unreasonably disrupt the existing natural topography and vegetation, Muni. Code § 23.08.076(F);
 - block significant public coastal views, Muni. Code § 23.08.077(A);
 - be out of scale with other structures in the neighborhood, Muni. Code § 23.08.077(C);
 - not be harmonious with or functionally compatible with the surrounding neighborhood, Muni. Code § 23.08.077(D);
 - adversely affect the lighting and noise quality of the local neighborhood, Muni. Code § 23.08.077(F); and
 - unreasonably encroach upon primary scenic views of neighboring property, Muni. Code § 23.08.077(H).
- The DEIR also fails to consider impacts to hikers and visitors along the lagoon and neighboring trails.
- The DEIR briefly mentions there are many applicable requirements in the city’s municipal code. *See e.g.*, DEIR at 4.9-9 & 10. But it fails to provide analysis of the Project’s inconsistency with many of these requirements. *Id.* at 4.9-14.
- Among other things, the Project is inconsistent with the following:
 - Bluff, Slope and Canyon Overlay Zone requirements, including limitations on construction, grading and other encroachments on steep slopes, limitations on runoff, and limitations on height and view impacts. Muni. Code §§ 30.52.060 & 080.

- Lagoon Overlay Zone requirements, including limitations on the types of uses allowed in wetland buffer areas, requirements for the extent of wetland buffers, limitations on grading and erosion, and requirements for the retention of native vegetation. Muni. Code §§ 30.53.090, 100, 140 & 160.
- Floodplain Overlay Zone requirements, including limitations on construction in the floodplain. Muni. Code § 30.55.060.
- Conditional Use Permit requirements, including inconsistencies with required findings. Muni. Code § 30.74.020.
- Coastal Development Permit requirements, including inconsistencies with required findings. Muni. Code § 30.75.140.

The DEIR fails to adequately analyze impacts to soils and geology.

- The DEIR acknowledges potential liquefaction and soils instability. DEIR at 4.5-15 & 16. Yet it inappropriately defers analysis and mitigation. *Id.* at 4.5-18. CEQA requires an agency to prepare adequate analysis and mitigation prior to approval of a project. In *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, the court observed: “Numerous cases illustrate that reliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decisionmaking; and consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.” *Id.* at 92 (citations omitted).

The DEIR fails to adequately analyze impacts to air quality.

- The Project could have concurrent operational and construction emissions, yet the DEIR fails to analyze their combined emissions.

The DEIR fails to adequately analyze impacts to biological resources.

- The Project will negatively impact on-site habitat, water courses, and other biological resources. The analysis fails to adequately account for existing biological resources. See the attached comments from biologist Robb Hamilton, incorporated by reference.
- Reports prepared for the prior project on the same site revealed biological resources that are not identified in the DEIR. Some of these reports are attached and incorporated by reference.
- The DEIR claims a wetland buffer of less than 100 feet can be approved with concurrence from California Fish and Wildlife, but no evidence of such concurrence is provided. DEIR at 4.3-20.
- The DEIR mischaracterizes on-site resources, claiming the footprints of both options “are limited to areas of the site that have been previously graded and

disturbed.” DEIR at 4.3-21. In fact, the Project would disturb important biological resources.

The DEIR fails to adequately analyze greenhouse gas emission impacts.

- The DEIR relies primarily upon measures adopted by the State in order to meet its goals. But as the California Supreme Court has noted, such reliance is insufficient to ensure compliance – “That a project is designed to meet high building efficiency and conservation standards, for example, does not establish that its greenhouse gas emissions from transportation activities lack significant impacts.” *Center for Biological Diversity v. Dept. of Fish and Wildlife* (2015) 62 Cal.4th 204, 229.
- The DEIR averages construction emissions over the life of the Project. DEIR at 4.6-24. Such emissions should be calculated as they will actually occur, not averaged over a longer period of time. *See Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1049.
- On April 29, 2015, Governor Brown issued Executive Order B-30-15, which establishes a “new interim statewide greenhouse gas emission reduction target to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030” The DEIR does not address compliance with Executive Order B-30-15.

The DEIR fails to adequately analyze noise impacts.

- The DEIR acknowledges potentially significant impacts, but the proposed noise mitigation is insufficient. *See Citizens for Responsible and Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1341 (“there is no evidence of any measures to be taken that would ensure that the noise standards would be effectively monitored and vigorously enforced”).

The DEIR fails to adequately analyze traffic impacts.

- The DEIR acknowledges the obligations to improve transit. DEIR at 4.12-1 – 2. However, the DEIR fails to address transit requirements.

The DEIR fails to adequately analyze impacts to waters and drainages.

- The DEIR acknowledges General Plan policies emphasizing the importance of protecting and restoring natural drainage systems. DEIR at 4.8-8 – 10. Yet the DEIR fails to discuss the Project in relation to these standards and requirements.
- The DEIR fails to adequately discuss and analyze existing water courses on and near the Project Site, as the comments of Robb Hamilton note.

The DEIR fails to adequately analyze water supply impacts.

- There is an inadequate showing of water supply for the Project. The California Supreme Court recently identified three “principles for analytical adequacy under CEQA”: (1) “CEQA’s informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to a problem of supplying water to a proposed land use project”; (2) “an adequate environmental impact analysis for a large project, to be built and occupied over a number of years, cannot be limited to the water supply for the first stage or the first few years”; and (3) “the future water supplies identified and analyzed must bear a likelihood of actually proving available An EIR for a land use project must address the impacts of likely future water sources, and the EIR’s discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water’s availability.” *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 430 – 32 (emphasis in original) (citations omitted). The DEIR fails to comply with these mandates, particularly in light of recent severe water shortages throughout the State.

III. The DEIR’s Discussion of Alternatives is Deficient

The DEIR fails to adequately analyze alternatives.

- CEQA requires that an EIR “produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned.” *San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750 – 51. “Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process.” *Laurel Heights Improvement Assoc. v. University of California* (1988) 47 Cal.3d 376, 404. The DEIR fails to comply.
 - CEQA’s “substantive mandate” requires agencies to refrain from approving projects with significant effects where there are feasible mitigation measures or alternatives that can lessen or avoid those effects. *Mountain Lion Foundation v. Fish and Game Comm.* (1997) 16 Cal.4th 105, 134. “[T]he Legislature has [] declared it to be the policy of the state ‘that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects’” *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 597 – 98 (citations omitted). The City should adopt a reduced density alternative, even if it would not meet the Project objectives fully. Such an alternative would more appropriately respect the existing community, as well as the land use requirements found in the Municipal Code.

- The Project and its objectives are defined too narrowly, thereby resulting in a narrowing of the consideration of alternatives to the Project. *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1455.

IV. The Need to Recirculate

The DEIR is sufficiently lacking that the only way to fix these issues is to revise it and recirculate an adequate report.

V. Conclusion

For the foregoing reasons, Del Mar Hillside Community Association urges you to reject the Project and DEIR as drafted. Thank you for your consideration of these concerns.

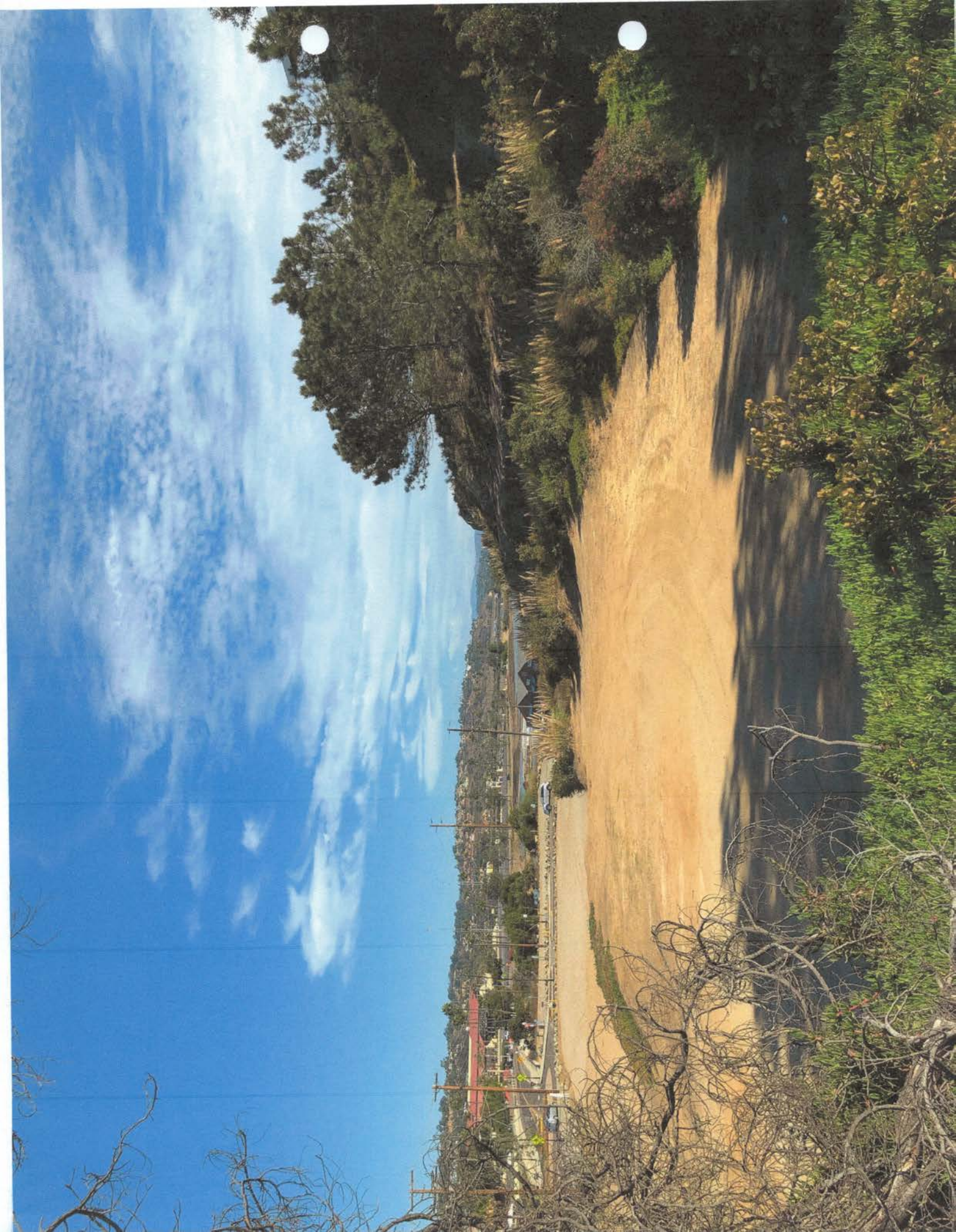
Sincerely,



Everett DeLano

Enclosures:

1. Photo taken from the end of Heather Lane on November 6, 2017;
2. Photo taken from the corner of Jimmy Durante Blvd and San Dieguito Drive on November 6, 2017;
3. Letter from Robert Hamilton to Everett DeLano (November 13, 2017);
4. Biological Resources Survey Letter Report, Riverview Office Development Project (January 30, 2006);
5. Biological Resources Report, Jefferson Property (June 28, 2004);
6. Biological Resources Report, Del Mar Office Project (May 5, 2000).





November 13, 2017

Everett DeLano
DeLano & DeLano
220 W. Grand Ave.
Escondido, CA 92025

**SUBJECT: ANALYSIS OF BIOLOGICAL RESOURCE ISSUES
DRAFT EIR FOR THE PROPOSED
WATERMARK DEL MAR SPECIFIC PLAN PROJECT**

Dear Mr. DeLano,

At your request, Hamilton Biological, Inc., has reviewed the Draft EIR (DEIR) for the Watermark Del Mar Specific Plan project, located in the City of Del Mar, San Diego County, California. Specifically, Robert Hamilton, President of Hamilton Biological, Inc., reviewed and analyzed DEIR Section 4.3 (Biological Resources), Section 7.3.3 (Cumulative Impacts, Biological Resources), and Section 8 (Alternatives), and DEIR Appendix D (Biological Technical Report and Jurisdictional Delineation by Cummings and Associates, dated June 5, 2017).

Hamilton Biological is a consultancy specializing in field reconnaissance, regulatory compliance, preparing CEQA documentation, and providing third-party review of CEQA documentation. This review has the following purposes:

- To identify any areas in which the CEQA document reaches conclusions not supported by adequate field work and/or thorough review of the scientific literature.
- To identify and discuss any biological impact analyses not treated in a manner consistent with CEQA, its guidelines, or relevant precedents.
- To recommend changes to impact analyses, project design, mitigation measures, and/or resource management practices to avoid or minimize to the maximum extent practicable potentially significant impacts to biological resources, as required under CEQA or other relevant resource-protection regulations.

HAMILTON BIOLOGICAL'S REVIEW PROCESS

To provide context for my evaluation of the current DEIR, I reviewed the relevant portions of the 2017 DEIR and its technical appendices, plus the following technical reports, prepared for various development projects proposed for this project site:

Merkel & Associates, Inc. 2000. Biological Resources Report, Del Mar Office Project. Report dated May 5, 2000, prepared for Ocean Properties Development, San Diego, CA.

Merkel & Associates, Inc. 2004. Biological Resources Report, Jefferson Property. Report dated June 28, 2004, prepared for Batter Kay and Associates, Del Mar, CA.

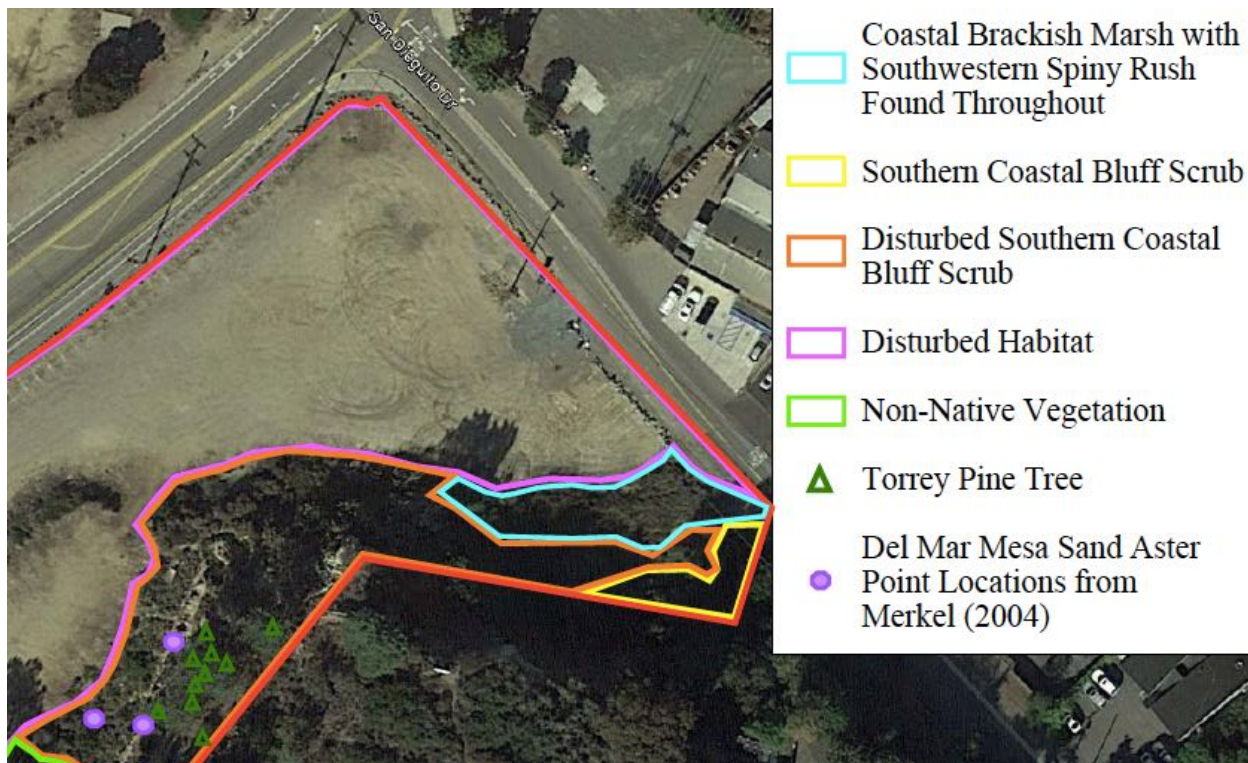
Dudek. 2006. Biological Resources Survey Letter, Riverside Office Development Project, City of Del Mar, California. Report dated January 30, 2006, prepared for Gatzke, Dillon & Balance, Carlsbad, CA.

Cummings & Associates. 2014. Wetland Delineation for the Over APNs 299-100-47 and 299-100-48, City of Del Mar, California. Report dated October 21, 2014, prepared for Watermark DM, L.P., Del Mar, CA. (This

In order to view the current conditions, I visited the project site and neighboring areas for 1.5 hours on November 7, 2017.

IMPROPER AND INADEQUATE DELINEATION OF WETLANDS

Several jurisdictional delineations have been conducted on the project site. The DEIR utilizes a delineation completed by Cummings and Associates (2014). Figure 4 from that report shows a very limited area of jurisdictional wetland in the eastern part of the site:



Reproduction of part of Figure 4 from Cummings and Associates (2014). The area of jurisdictional wetland (i.e., coastal brackish marsh) is limited to the vegetated area outlined in pale blue.

The wetland jurisdiction by Cummings & Associates (2014) updated an earlier unspecified delineation from 2004 – apparently Merkel and Associates (2004). Merkel and Associates' 2004 delineation, and the update by Cummings & Associates (2014) employed "routine on-site determination methods" (Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual. Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS). In order for "routine on-site determination methods" to be used in a given area, the relevant vegetation, soils, and hydrological indicators must be present and visible. In areas where "positive indicators of hydrophytic vegetation, hydric soils, and/or wetland hydrology could not be found due to effects of recent human activities or natural events," the Corps' "Atypical Situation" methodology should be applied (Environmental Laboratory 1987, p. 73).

In this case, because the wetland delineator failed to detect wetland indicators in the flat area adjacent to the on-site marsh, the delineator has assumed that this area fails to satisfy wetland criteria. But that area is flat due to extensive human modification and ongoing disturbance, actions that have removed or obscured the relevant wetland indicators, site-specific factors that should have led the delineator to employ Atypical Situation methodology.

Several of the Wetland Determination Data Forms that Cummings & Associates completed on the site in 2012 and 2014 include the following information in the "summary of findings":

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Is the Sampled Area within a Wetland? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Hydric Soil Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Remarks: - drought conditions - source of water unknown - soil at edge of wetland vege has been amended with gravel fill	

The excerpt shown above, from data sheet A-6, shows that the spot in question was delineated as wetland, but that "soil at edge of wetland vege[tation] has been amended with gravel fill." The gravel-amended soils outside of the area delineated as wetland should not be considered appropriate for a "routine" delineation.

Apart from this critical error in the methodology used, the EIR preparer took a risk in not updating the wetland delineation in 2017. Most of the wetland data points were collected in 2012, and only one data point was updated in 2014. As shown above, the data sheets state that the site was delineated under "drought conditions," when the groundwater table may have temporarily dropped. In cases where drought conditions have affected the normal hydrology, and where the soils have been altered and vegetation removed adjacent to the delineated wetland area, there is no way of discerning, through such indirect indicators as soils or vegetation, the actual limits of the area that would satisfy the criteria of a jurisdictional wetland under non-drought circumstances.

During the field visit on November 7, 2017, the most direct and irrefutable wetland indicator – saturation of the upper 12 inches of the soil profile – was clearly visible well outside of the delineated wetland area. Limited areas also supported wetland-indicator plants. See photos 1-6, below:



Photo 1. Facing east toward San Dieguito Drive on 11-7-17. The dark-colored soil shown ranged from moist to muddy.



Photo 2. Close-up view of muddy and moist soil in the area shown in Photo 1, taken on 11-7-17.



Photo 3. Facing north-east toward San Dieguito Drive on 11-7-17. The dark-colored soil shown ranged from moist to muddy.



Photo 4. Standing water and *Salicornia pacifica*, an obligate wetland indicator plant, at the eastern edge of the project site, along San Dieguito Drive, on 11-7-17.

[THIS AREA INTENTIONALLY BLANK]



Photo 5. *Jaumea car-nosa* and *Distichlis spicata*, both wetland indicators, growing at the eastern edge of the project site, along San Dieguito Drive, on 11-7-17. Note also dark-colored soil in background.

Photo 6. Close-up view of *Jaumea car-nosa* and *Distichlis spicata* in the area shown in Photo 5, taken on 11-7-17.



The wettest areas shown in these photos, as well as the areas vegetated with predominantly wetland-indicator plants, appear to satisfy the California Coastal Commission's one-parameter wetland definition.

During the field visit on November 7, 2017, I used an aerial-based GPS unit to map the approximate northerly limit of standing water, muddy soil, and wetland indicator plants in the northeast part of the project site. See Figure 1, below.



Figure 1. The yellow line shows the approximate northern limit of muddy or moist soil, and wetland indicator plants, observed during the field visit on November 7, 2017.

Given that no appreciable precipitation fell locally for at least several weeks prior to the field visit on November 7, 2017 (<http://w2.weather.gov/climate/index.php?wfo=sgx>), the areas of moist soil apparently represent a high groundwater table.

To determine the actual extent of wetlands— i.e., areas where the root zone remains saturated for at least 15 straight days per year — in areas that have been substantially altered by human activities, a qualified wetland delineator will typically install an array of shallow monitoring wells (i.e., perforated PVC pipes). The wells are monitored for the duration of a normal (non-drought) rainy season to map out the area that satisfies the wetland hydrology criterion under normal, or near-normal, environmental conditions. Without such a direct observation of wetland hydrology, there may be no way to reliably delineate the wetlands on this site, where both soils and vegetation indicators have been substantially altered or obscured.

Because it relies upon an inadequate wetland delineation, the DEIR contains inadequate evidence to support its conclusions about the extent of the wetlands and potential impacts to wetland resources. The available evidence suggests that wetland conditions extend well beyond the delineated area shown in the DEIR.

DEIR'S TREATMENT OF SENSITIVE PLANT SPECIES

Torrey Pine

The DEIR identifies a total of 13 Torrey Pines (*Pinus torreyana* ssp. *torreyana*) on the project site. The California Native Plant Society (CNPS) assigns this species Rank 1B.2, meaning that it is "rare or endangered in California and elsewhere" and "moderately threatened in California." As noted on Page 4.1-3 of the DEIR, Torrey Pine is "the rarest pine in North America," and naturally occurs only within a very limited range in coastal San Diego County that includes the project site. Review of the Consortium of California Herbaria web page shows that scientific collections of Torrey Pine in Del Mar date back to 1933, when Lyman Benson recorded the species on an ocean bluff within a half-mile of the project site. See (http://ucjeps.berkeley.edu/cgi-bin/new_detail.pl?accn_num=POM370044&YF=1):

Specimen number	POM370044
Determination	<i>Pinus torreyana</i> <small>More information: Jepson Online Interchange</small>
Collector, number, date	Lyman Benson, 4287, 4 2 1933
County	San Diego
Locality	US 101 Del Mar.
Elevation	30m
Habitat	Pacific Ocean watershed, upper Sonoran, sandy soil
Coordinates	32.96022 -117.26792 <small>BerkeleyMapper [or without layers, here]</small>
Datum	WGS84; ER = 805 m
Coordinate source	Google Earth
Voucher information	<i>phenology</i> fertile <i>other label numbers</i> 9f152bc0-07b6-4371-ba1f-6a35b8b4189c 100
Annotations and/or curatorial actions	: <i>Pinus torreyana</i> , Steve Boyd, 2002-02 current determination (uncorrected): <i>Pinus torreyana</i>
Notes	Ocean bluff.;

While acknowledging that they failed to determine whether this species was planted on and around the project site, or occurs there naturally, or some combination, the biologists of Merkel & Associates (2000) treated the trees on the project site as naturally occurring. Subsequent reports by Merkel & Associates (2004) and Dudek (2006) simply noted the species' presence and did not offer an opinion on the matter. At several points in the DEIR, the project biologists identify the Torrey Pines occurring on the site as a "sensitive species," rather than simply a landscaping element (see, for example, Pages 2-2, 4.3-5, 4.3-16).

Page 4.3-13 of the DEIR states:

Chapter 23.50 of the City of Del Mar's Municipal Code contains a number of codes regarding protected trees. The City of Del Mar Community Plan has as one of its major goals the preservation of natural vegetation, including tree species. The Tree Removal Ordinances identified in Chapter 23.50 identify protected trees, define acceptable reasons for removing

protected trees, and define when a Tree Removal Permit is required. **The Torrey Pine species is of particular significance to the City, and is therefore protected from removal without City authorization for just cause.** [emphasis added]

Page 4.1-4 states, "The Torrey pine is indigenous to this region and has become an iconic and protected tree by the City of Del Mar."

Despite the "particular significance" of this "iconic and protected tree" in the City of Del Mar, the DEIR's impact analysis writes off the 13 mature representatives of this rare species that exist on the project site:

According to the MSCP, the only naturally occurring population of Torrey Pines occurs at Torrey Pines State Preserve. As such, the Torrey Pines on-site are considered planted and are not naturally occurring.

The MSCP does not appear to provide a detailed analysis in support of its conclusion that Torrey Pines occur naturally only within Torrey Pines State Preserve, and other sources suggest that small numbers may naturally occur outside of the Preserve. For example, the IUCN Red List of Threatened Species provides the following analysis:

Urbanization is encroaching on the mainland population (*ssp. torreyana*) with the effect that trees outside the Torrey Pines State Park are still disappearing. There is also an acute risk of a major fire wiping out a large part of the population, a risk that is known to increase for various reasons where housing developments are near the population in a potentially fire-prone area. The present decline is probably slow, but ongoing in one of the two subspecies (mainland population). The actual area of occupancy is very small for the two subspecies combined, less than 1 km² and definitely less than 10 km². The population is severely fragmented (two subpopulations on an island and two on the mainland) and there is continuing decline. So although the island subspecies is listed as Vulnerable, the species as a whole qualifies for listing as Critically Endangered. If, the species in future is completely confined to the protected areas i.e. all plants outside of those areas have been lost, then the species status might well change to Vulnerable under criterion D2.

Regardless of whether the Torrey Pines on the project site are planted, they are mature, healthy specimens of a very rare tree species, growing in suitable coastal scrub habitat within the species' historical range. If the City is serious about preserving healthy examples of this "iconic and protected tree," the site plan should be revised to avoid the 13 Torrey Pines now proposed for removal or relocation.

Del Mar Mesa Sand Aster

The CNPS assigns this species Rank 1B.1, meaning that it is "rare or endangered in California and elsewhere" and "seriously threatened in California." This taxon is known from only a handful of sites between Point Loma and Encinitas, with most records in the Del Mar area (<http://www.calflora.org>). Rather than avoiding impacts to this extremely rare plant, the proposed project would remove all 40 plants known from the site and then attempt to relocate them "to a preserved area on site within the disturbed southern coastal bluff scrub or within the disturbed habitat to be enhanced to southern

coastal bluff scrub within the 50-foot wetland buffer.” Such translocation efforts have a spotty track record of long-term success, at best. Given the rarity of this plant, it would be preferable to avoid the existing plants and preserve them in place.

More importantly, an adequate CEQA document would acknowledge that the California Coastal Commission typically recognizes areas that support CNPS Rank 1B.1 plants as Environmentally Sensitive Habitat Area (ESHA). In a unanimous decision published earlier this year, the California Supreme Court held in *Banning Ranch Conservancy v. City of Newport Beach* that CEQA requires EIRs to identify potential ESHA and account for those areas in their analysis of project alternatives and mitigation measures. See:

<https://m.lw.com/thoughtLeadership/california-supreme-court-CEQA-requires-study-potential-impacts-ESHA>

The relevance is that, if the Coastal Commission were to conclude (as they normally do with regard to CNPS Rank 1B.1 plants) that areas supporting Del Mar Mesa Sand Aster satisfy ESHA criteria, Mitigation Measure MM-BIO-3 would be rendered inoperable. See *Bolsa Chica Land Trust v. Superior Court*:

. . . the language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits on the uses which may occur in an ESHA and by carefully controlling the manner uses in the area around the ESHA are developed.

Thus, were the Coastal Commission to identify as ESHA the on-site habitat of the Del Mar Mesa Sand Aster, no mechanism would be available under the Coastal Act to permit relocation of the 40 Del Mar Mesa Sand Aster plants to a more convenient location.

Since the DEIR fails to identify potential ESHA, in the form of disturbed coastal bluff scrub habitat occupied by the Del Mar Mesa Sand Aster, and does not account for that potential ESHA in its analysis of project alternatives and mitigation measures, the DEIR is deficient per the California Supreme Court’s unanimous published opinion in *Banning Ranch Conservancy v. City of Newport Beach*.

Cooper’s Rein Orchid

This plant is assigned CNPS Rank 4.2, referring to species of limited distribution in California that should be monitored regularly; moderately threatened in California.

Cooper’s Rein Orchid was previously reported to occur on the project site (Merkel & Associates 2000, 2004; Dudek 2006), but the DEIR fails to mention it. What is the known and potential status of this sensitive species on the project site, and what steps, if any, are being taken to avoid potentially significant impacts to Cooper’s Rein Orchid?

SUMMARY AND CONCLUSION

As discussed herein, the DEIR for the Watermark Del Mar Specific Plan Project contains two major deficiencies:

1. The DEIR's wetland delineation was conducted during drought conditions using routine methods not appropriate for use in a disturbed area that lacks the field indicators (vegetation, soils, and hydrology). cursory examination of the site on November 7, 2017, showed that moist/muddy soil, standing water, and wetland indicator plant species occur well outside of the delineated jurisdictional wetland. In order to provide the required avoidance of wetlands, plus a minimum 50-foot buffer, a completely revised wetland delineation must be completed using appropriate "Atypical Situation" methodology.
2. The DEIR fails to identify potential ESHA, in the form of habitat for the Del Mar Mesa Sand Aster, a CNPS Rank 1B.1 plant, and does not account for that potential ESHA in its analysis of project alternatives and mitigation measures. The DEIR is, therefore, inconsistent with the California Supreme Court's direction to CEQA Lead Agencies in *Banning Ranch Conservancy v. City of Newport Beach*.

These flaws in the CEQA analysis are so fundamental that they cannot be adequately addressed through response to comments and minor project alterations. Additional field work, analysis, and site-appropriate project design and mitigation planning will be required. At that point, a revised DEIR should be recirculated for another round of public review.

I appreciate the opportunity to evaluate the CEQA documentation for this important project. Please call me at 562-477-2181 if you have questions or wish to further discuss any matters; you may send e-mail to robb@hamiltonbiological.com.

Sincerely,



Robert A. Hamilton, President
Hamilton Biological, Inc.
<http://hamiltonbiological.com>

attachment: Curriculum Vitae

cc: David Mayer & Marilyn Fluharty, California Dept. of Fish & Wildlife

Karl Schwing, Deborah Lee, Erin Prahler, Gabriel Buhr, Jonna Engel, Laurie Kooten, Lauren Garske-Garcia, California Coastal Commission

Shaun McMahan

From: Jonathan Polikoff <jonpff@att.net>
Sent: Monday, February 17, 2020 5:50 PM
To: Shaun McMahan
Subject: Change in Zoning Businesses 8-9th Street-comments

Follow Up Flag: Follow up
Flag Status: Flagged

To Shaun McMahan:

Hope its not too late to register my comments.

I oppose the proposed change to residential zoning between the 8-9th Street business district on Camino Del Mar.

The allowed 26 units + the 12 units planned for the 941 project makes this area of Del Mar much too dense and likely to alter the quality of life for residents who live nearby.

My concerns include traffic, noise and litter.

Though residential evidently has less traffic than business - the timing of visits is likely to increase in the evenings and nighttime. I am particularly concerned about traffic using Nob Ave to bypass Camino Del Mar causing rush hour congestion and nocturnal noise and pollution.

Currently Del Mar has not passed an ordinance restricting vacation rentals. If they do it's likely legal challenges will occur. Vacation rentals are already allowed for the 941 project and I believe the area between 8-9th may also be in a nonrestricted commercial zone.

Essentially therefore we'll have a 38 unit hotel starting 2 blocks from our home - without the controls that occur with on-site management. (I feel sorry for Les Artistes which will likely be forced out of business).

Having vacation rentals of that density so close to our home will have huge impact on our quality of life. I cannot imagine the impact of noise from partying at all hours + litter from those who don't live here and therefore care for out community.

Though I realize the State has created mandates - we bought our home (and remodeled) specifically because of Del Mar's rural feel and walkability. I don't think its right for our city to penalize us this way. I'd not thought of leaving Del Mar (where we've lived for the last 20 years) but may need to consider this should the character of our neighborhood change.

Bottom line: 26 units for the 8-9th street business district is much too dense.

Thank you

Jonathan and Patricia Polikoff

640 Nob Ave Del Mar

PS:

I feel our city council has not done enough to oppose these density mandates. Del Mar does much for the surrounding communities maintaining the beaches and hiring lifeguards.

We have very dense development just on the other side of the 5 freeway on Del Mar Heights road. Essentially we get penalized for having a small city which was created to control our own destiny.

We need to fight harder to maintain our present community!

Shaun McMahan

From: Elizabeth Wohlford-MacLeod <lizziemac1@yahoo.com>
Sent: Monday, February 17, 2020 10:58 AM
To: Shaun McMahan
Subject: Fw: Draft Program EIR

Follow Up Flag: Follow up
Flag Status: Flagged

----- Forwarded Message -----

From: Elizabeth Wohlford-MacLeod <lizziemac1@yahoo.com>
To: scmcMahon@delmar.ca.us <scmcMahon@delmar.ca.us>
Sent: Monday, February 17, 2020, 10:54:56 AM PST
Subject: Draft Program EIR

To Whom It May Concern:

I am extremely opposed to the planned increase in dwelling units allowed in the North Commercial Zone on Jimmy Durante Blvd. Traffic in the area is already stressed beyond capacity and the increase in dwellings will only cause more congestion. Please do not allow this increase.

Respectfully,

Elizabeth Wohlford
2102 Ocean Front
Del Mar

Shaun McMahon

From: Burnet Wohlford <bfwohlford@yahoo.com>
Sent: Monday, February 17, 2020 11:03 AM
To: Shaun McMahon
Subject: Draft EIR Program

Follow Up Flag: Follow up
Flag Status: Flagged

To Whom It May Concern

Please be advised that I am opposed to the planned increase in dwelling unit in the North Commercial Zone on Jimmy Durante Blvd. That is not the location for more homes. Traffic is already extremely congested in that area especially during the summer when we have the Fair and horse racing.

Burnet F. Wohlford
2102 Ocean Front
DEL Mar

Sent from my iPad

Shaun McMahon

From: Lucy Eskeland <nleskeland@gmail.com>
Sent: Tuesday, February 18, 2020 10:18 AM
To: Shaun McMahon; Ellie Haviland; Terry Gaasterland; David Druker; Dwight Worden; Sherryl L. Parks
Subject: Against PEIR

Dear Mr. McMahon and City Council members,

We strongly disagree with PEIR on traffic results. Building high density residential apartments in the area just before the roundabout and fairgrounds will result in heavy traffic during events at the fairgrounds, especially the SD North County Fair and horse races (weekends are even worse). We rarely encounter traffic due to people visiting businesses at the commercial buildings. In addition, when Coast Highway is backed up, traffic gets diverted to Jimmy Durante. Traffic would also increase during the afternoon rush hour.

We strongly encourage you to consider the fairgrounds and locations in the downtown area for affordable housing. Please, keep the north commercial zone as is.

Thank you for your time and consideration in this important matter.

Lucy and Steve Eskeland
2015 Seaview Ave

--

DISCLAIMER: The information in this message is confidential and may be legally privileged. It is intended solely for the addressee. Access to this message by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, or distribution of the message, or any action or omission taken by you in reliance on it, is prohibited and may be unlawful. Please immediately contact the sender if you have received this message in error.

Shaun McMahon

From: Ruth Evans <evans.ruthtodd@gmail.com>
Sent: Tuesday, February 18, 2020 10:33 AM
To: Shaun McMahon
Subject: Draft Program EIR

We are opposed to the Draft EIR. We feel the increased density is not in keeping with Del Mar. We feel traffic will be increased. Very truly yours, Ruth and Ed Evans 2115 Balboa Avenue, Del Mar, CA 92014

Shaun McMahon

From: Dixie Welsh <dixiecruise@yahoo.com>
Sent: Sunday, February 16, 2020 5:00 PM
To: David Druker; Ellie Haviland; Terry Gaasterland; Dwight Worden; Sherryl L. Parks; Shaun McMahon
Subject: zoning changes in NC Zone

Dear friends,

How can our Community Plan and Zoning laws be so desecrated? This will completely overturn the "village" character of Del Mar that we have fought to maintain over many years.

As a longtime resident & taxpayer, this assault must be stopped. Affordable housing mandates need to be disputed, as they are based on inaccurate data, as the jobs numbers indicate.

We, your constituents, need you to stand up & fight. The State & SANDAG should not run Del Mar, nor should greedy developers!

On an overcast, chilly Thursday morning in February, it took 30 minutes at 11am to get from Flower Hill mall to my home on 15th St. What will be the response time in mid July, if I need Fire or Paramedic help? There were no accidents or anything like that...just traffic.

Our Community Plan and Zoning laws must be preserved. No increases in zoning density in Del Mar.

Thank you,
Mary D. Welsh

Shaun McMahon

From: Arnold Wiesel <delmarhillside@yahoo.com>
Sent: Tuesday, February 18, 2020 1:22 PM
To: Shaun McMahon; Ellie Haviland; Terry Gaasterland; David Druker; Dwight Worden; Sherryl L. Parks
Subject: Fw: Response to NC Zoning Change (PEIR)....

Follow Up Flag: Follow up
Flag Status: Flagged

RE: Response to NC Zoning Change (PEIR)....

(deadline for written submittal 2/18/20 4pm)

TO:
Planning Department: smcmahon@delmar.ca.us AND

City
Council Persons: ehaviland@delmar.ca.us, tgaasterland@delmar.ca.us, ddruker@delmar.ca.us, dworden@delmar.ca.us, sparks@delmar.ca.us

It is with great frustration and sorrow to witness the City of Del Mar government proceed in attempt to change the NC Zone.

Unfortunately, the City of Del Mar is not aware or simply has not exhibited an awareness of the real harms, damage and substantial negative impacts which will impact all people from within and without the City of Del Mar, including neighboring cities and tourists who flock to Del Mar annually, from this proposed zone change as described. Some of the specific substantial negative impacts, not mentioned by the City nor attended to by proposed regulations are herein explained.

First, the City of Del Mar has a Community Plan, a Character, and Zoning laws to ensure and enforce that which this city is and what all residents purchased into when they chose to invest and live here.

The harm and irrevocable damage which shall be caused to it's citizens, residents and guests from this area's zone change shall most devastatingly be felt by the immediate neighborhoods down San Dieguito Dr., David, Christy and Heather Ln., in Del Mar.

Wholesale zone law change of this NC zoned area will have substantial negative impacts to adjacent neighborhoods and much more. Changing zoning laws to the detriment and harm of adjacent residential neighborhoods and families is unacceptable. Accordingly, this actions should be fought against vigorously, whether against developers and/or the State of California. Basic concepts of existing residential neighborhoods usually include less lights and noises and stable home values. This should not be discarded without a fight by our government and citizens alike. The NC Zone area across from a residential neighborhood is not invasive nor obtrusive in sound, light or activity. Whereas, with the advent of approximately 300 residences and families in this area it will be pummeled with change in light, noise, traffic, green gas, etc...

Nonetheless, the City of Del Mar is attempting to prove this entire area can have its zoning laws changed. They are going through all the motions including this PEIR, filling the blanks, checking the squares, utilizing graphs and incorporating Sandag averages that are not correctly relevant to Del Mar. Del Mar's unique situation and location adjacent to State Fairgrounds and Single Lane Roundabout are extraordinary in combination in the same location and does not exist in other cities layouts which means Sandag's formulas are not applicable.

The most pathetic part about our Del Mar government is that they have yet to take the time and effort to understand, investigate or consider the substantial negative impacts this rezoning will cause, from the people's perspective whom shall be most negatively affected (most

negatively affected are the immediate neighborhoods down San Dieguito Dr., David, Christy and Heather Ln., in Del Mar in addition to all others).

Hence, the City of Del Mar is abandoning their responsibility to protect the health, safety and welfare of their citizens.

Issues of significant importance under 'health, safety and welfare' among many others would be: Noise, Traffic, Emergency rescue response times, etc... And, it is most important to realize the impacts from the perspective of those receiving the brunt of those impacts. Government must be open and deliberate to understand and consider not only what they want but all those affected - the full situation and the totality of the circumstances are imperative to understand.

AGAIN, THE MOST HARMFUL SUBSTANTIAL NEGATIVE IMPACTS ARE THOSE WHICH SHALL BE SHOULDERED AND BURDENED FOREVER BY THE IMMEDIATE SURROUNDING NEIGHBORHOODS AND FAMILIES. HENCE, THE CITY OF DEL MAR NEED FULLY UNDERSTAND THOSE IMPACTS, FROM THE PERSPECTIVE OF THOSE MOST AFFECTED Vs. MERELY FILING FORMS AND DOCUMENTS.

Noise - The City of Del Mar need be more engaged and diagnostically concerned and informed before moving forward. With the internet today, It is easy to reference material which explains the harm from noise and what other cities have done. Del mar needs to have the interests of their citizens at heart.

For example: click link to City of Vancouver Noise Control Manual, 'Sound Smart' - vancouver.ca/files/cov/noise-control-manual.pdf

This link will help edify ones insight and perspective concerning noise, among other details which is printed in their manual - reference Section 2 Subsection 2.3 'what effects can noise have on us'

2.3 What effects can noise have on us? At the levels and for the durations that most of us are exposed to unwanted sound in our homes or in the community, noise can have the following general types of negative effects: it can interfere with essential/important activities, it can cause annoyance/fear, or it can do both. The thresholds for interference with activities like speech and sleep are fairly well known and have been used to establish guidelines for acceptable levels of noise in residential areas such as the widely referenced 24-hour average noise level of 55 dBA established for road traffic noise by the Canada Mortgage and Housing Corporation, or CMHC (Reference 2). Intrusive noise at 55 to 60 dBA can begin to interfere with normal outdoor speech at a separation of 1 to 2 m. Speech interference can begin to occur at much lower levels (35 to 45 dBA) in classroom and group situations. The level at which noise will begin to disrupt sleep depends on how deeply one is sleeping (sleep stage) but can be as low as 30 to 35 dBA for sustained noise. Quite low levels of intrusive noise can also delay our falling asleep. Much louder noises are required to arouse people from the deepest sleep stages. While many sleepers appear to habituate or “get used to” familiar nighttime noises and are no longer regularly aroused or wakened by them, the body City of Vancouver Noise Control Manual 5 still reacts to such noises in sub-conscious ways which impair sleep quality and deprive the body of needed rest. It is more difficult to define a noise level threshold below which people will not be annoyed by noise. Annoyance due to intrusive noise, and the stress and aggravation that often accompanies it, are largely personal, subjective responses. Whether a particular noise is found annoying depends on the listener, their state of mind and health and the activity they are engaged in. Sensitivity to annoyance by noise varies greatly from person to person. Some are driven to distraction by sounds that others can barely hear and pay no notice to. Others live and work in very noisy environments with no apparent concern. Some noises can cause annoyance even at levels not much above the threshold of hearing, particularly if they have

undesirable characteristics such as tonality (e.g. hot tub or heat pump hum) or impulses (footsteps, or hammering), carry unwanted information (speech or music) or if past experience has caused the listener to become “sensitized” to the noise. Because of the many other physical and social factors involved, it has proven difficult for investigators to prove that prolonged exposure to excessive noise in the community or workplace is directly related to negative health effects other than hearing loss.

However, the World Health Organization (Reference 3) considers noise to be an “unspecific stressor” which stimulates body systems, and, along with other environmental and lifestyle factors, can have significant temporary and permanent effects on overall human health.

Del Mar government need see this problem, research and speak with the residents affected, in order to safeguard it's residents. Especially since they have always been protected under the the City Plan and Zoning laws against such negative impacts ever since they bought into Del Mar. Citizens should not now be thrown under the bus! To ignore or discard these negative impacts which work against residents is to abandon the government's primary obligation to protect the health, safety and welfare of its citizens and would also be a breach to the many implicit agreements to serve.

The above, is an obvious area of concern, which if explored would in itself be a mitigation through education and could cause subsequent creation and inclusion of codes necessary as restrictions for the protection of those in close proximity to this or any other zone law change(s).

Traffic - According to the PEIR, traffic would be less with residential vs. existing commercial. As a long time resident living adjacent to this NC Zone, I can confirm our NC zone is lightly used. Again, a reality which Sandag averages fail to realize or reflect. This is a commercial zone that

causes exceptionally light use / low traffic. That is a fact. However, the PEIR which did not take exact traffic counts, rather used Sandag averages, has perpetuated a fiction. This area is not accurately reflected according to Sandag averages. This area is uniquely Del Mar and has extremely low traffic from these existing commercial businesses.

Additionally, the PEIR again utilizes Sandag averages to quantify traffic flow through Del Mar's recently installed single lane roundabout which was specifically designed to slow traffic, located adjacent to the California State Fair (Del Mar Fairgrounds). However, the PEIR again did not take exact traffic counts, instead used Sandag averages, and has thus again perpetuated another false narrative. Again, this area is not according to Sandag averages. This area is uniquely Del Mar. Sandag averages do not consider or take into account, quantify or qualify traffic flow at and through this single lane roundabout adjacent to California State Fair grounds/traffic which is the only major north portal in and out of Del Mar. Which, if it were taken into account into the totality of the circumstances, would prove an impossible situation exists with gridlock during the summer season and during events into the winter.

To further burden this area by adding traffic from what could amount to be an additional 300 residences / 300 families in this proposed NC Zone change, would be a dramatic and shocking increase of traffic upon a roadway that already can not handle traffic flow - gridlock already exists here.

Because of this gridlock reality, the Del Mar Fire Department located near this roundabout and NC zone, as proof of fact, relocates its fire trucks during the summer season to the south end of Del Mar / the other end of the city. Obviously, residents/families, guests, tourists, etc., living and visiting in this area now live at risk of life because of slower emergency response times. Amazingly, the residents of Del Mar who have paid a fortune to live here, will not have safety like many other towns

(emergency response times) as Chula Vista, Lemon Grove, Golden Heights, etc. What is our city government doing to us?

Note, it already can take up to an hour for residents to get their homes from within the city of Del Mar. Doctors on emergency call are not able to live at home, due to traffic, they need stay at a hotel room so they are able to respond. Parents needing to get home in a timely manner to their children or elderly are not able. What is our city government doing to us?

Before an additional 300 families could ever be imagined at this location there need be drastic changes-mitigations to our roadways. To do anything less, would be tantamount to harming and damaging the health, safety and welfare of its citizens.

Furthermore - This PEIR is filled with projections based upon uncertainties. Please review the numerous insertions of projections based upon uncertainties. Lives and residences hang in the balance of this CEQA document which is at best mere speculation. The word illusory comes to mind.

This PEIR is not a well founded CEQA document upon which any reasonable person or government could or should rely upon nor act upon.

Additionally, noise measurements taken for short periods of time (minutes) is not a comprehensive study. This PEIR is more like a convenient means to placate CEQA demands. This PEIR does not seem up to CEQA standards.

Why were no noise measurements taken from where the residents live? No one asked to take readings from my balcony.

Why are there not more restrictive regulations for what could become years of massive construction across the street from residents in the NC Zone?

Why are there not more restrictive regulations when taking into account, noise during construction, and mandatory barriers, operating times, etc. Why not impose more restrictive codes since residents will be forced to endure that which no one would want, for years. This rezoning could foreseeably result in a duration of many years of construction. There should be special concerns and restrictions concerning the potential for construction during many years that these neighboring residents will be forced to live through, endure and suffer.

Why are there no stipulations for noise barriers while buildings are being built?

Why are there no design considerations mandated as to the positioning of proposed buildings on those lots to control and inhibit noise transferences toward the neighbors across the street where residents will be the receivers for all such noises 24/7?

Where are the intricate noise abatement studies to establish facts like (AirVac systems, cars, etc....)? Where are the intricate noise abatement studies for control to vitiate noise in this PEIR. It should be understood, this CEQA document is not intended by law to be a persuasive text. It is to be an objective detailed study exposing and detailing all aspects (pro and con), so prudent measures can be taken to avoid detrimental affects to the health, safety and welfare of a community and its residents.

In conclusion, this PEIR is vague at best with all its speculative projections based upon uncertainties. Additionally, it needs to be understood that some of the Sandag averages utilized are not relevant to the unique nature and

location of this specific area in Del Mar. Therefore, this PEIR is at best misleading.

The government's lack of insight and concern for surrounding neighborhoods and residents as to safety, noise and health, from their location, and their perspective as receivers of attendant and ancillary consequences, must be known and integrated into any real dependable CEQA document.

Our government need be vigilant and protective for the peoples right to health, safety and welfare.

I strongly suggest, if a PEIR is to be accepted, it need be based upon certainties from which speculation/projections can be valid and relied upon. Additionally, impacts to residents, citizens, families, etc., need be attended to and detailed as to how they will be protected vs. status quo for developers while undoing Del Mar's city plan, city character, zoning laws, etc.

I pray our city is on our side.

Respectfully,

Arnold Wiesel and family

2139 Heather Ln.

Del Mar, Ca 92014

(858) 663-4801

delmarhillside@yahoo.com

Shaun McMahon

From: Laura DeMarco <laurastanleydemarco@yahoo.com>
Sent: Tuesday, February 18, 2020 2:13 PM
To: Shaun McMahon
Subject: EIR comments on PC and NC rezoning to higher density residential development

Dear Planning Commissioners and Staff,

In considering the NC and PC rezone to high-density residential development, it is critical to consider Del Mar's high wildfire risk and the impact of high-density development on emergency response times, first-responder access and prioritization, and evacuation routes and timing.

The proposed high-density zoning could lead to the development of approximately 350 new residential units (including density bonuses for affordable housing) with [700-1000](#) new residents in the NC and PC zones. Notably, both the NC and PC zones are adjacent to high wildfire risk areas and evacuation routes that are already congested with rush-hour and event traffic.

The increased traffic from higher density redevelopment would delay first responders from combating wildfires in Del Mar and rescuing victims. It would also increase the critical time it takes for residents and visitors to evacuate from a fast-spreading wildfire. This may also lead to first responders prioritizing high-density residential structures (which would now house the majority of Del Mar residents) over single-family homes, even though many are occupied by seniors with limited mobility.

If a wildfire started in Crest Canyon with 50+ mph winds like those which propelled the raining embers that consumed the Oakland Hills and Paradise, CA, it could easily engulf most of Del Mar within an hour. It would force the closure of Del Mar Heights Road which would leave evacuees only one northbound lane on Jimmy Durante Blvd., one northbound lane on Camino Del Mar to Hwy [101, one southbound lane](#) to Torrey Pines Road and one southbound lane to Carmel Valley Road (assuming the southbound roads are still open if the wildfire spreads to Anderson Canyon).

According to the County Evacuation Plan, Del Mar already has 3,791 people who need to be evacuated in case of a wildfire. Adding 1,000 new residents without increasing roadway capacity is a recipe for disaster as shown in the following formula contained in the County's Operational Area Emergency Operations Plan evacuation plan:

$$\text{Evacuation Time} = \frac{\left(\frac{\text{Evacuation Population}}{\text{Average Vehicle Occupancy}} \right)}{\text{Roadway Capacity}}$$

The evacuation time formula assumes no traffic accidents and existing gridlock from beach traffic, rush hour and major events at the Fairgrounds as well as good drivers. However, Del Mar has the highest percentage of seniors in the county (20%) with many having limited mobility and driving ability. In addition, most seniors live in single-family homes in the highest wildfire danger area.

The NC zone is accessed from [Jimmy Durante](#) Blvd. and San Dieguito Road, which is adjacent to the high wildfire risk zone of Crest Canyon. San Dieguito Road provides the only vehicular access to firefighters to brush-filled and tree-lined Crest Canyon. It is also the only evacuation route for over 100 residents living in Crest Canyon and on Race Track View

Drive.

According to San Diego County's Operational Emergency Plan: Annex Q for Evacuation, Jimmy Durante Blvd. (JDB) is also a major evacuation route for others fleeing Del Mar in the event of a wildfire. Shown in the the table below is JDB's capacity expressed in vehicles per hour (vph):

TABLE 9: REPRESENTATIVE SAMPLE OF MAJOR TRANSPORTATION THOROUGHFARES PEAK HOURLY CAPACITIES (VPH)

JURISDICTION	ROADWAY	AB			BA		
		MIN	MAX	MEAN	MIN	MAX	MEAN
		NORTH/ WEST	NORTH/ WEST	NORTH/ WEST	SOUTH/ EAST	SOUTH/ EAST	SOUTH/ EAST
Carlsbad	El Camino Real	2154	5100	3892	2154	5100	3892
	Palomar Airport Rd	1300	5100	4006	1300	5428	3949
Chula Vista	H Street	1782	5286	3699	1338	5100	3614
	Telegraph Canyon Road	1036	5100	3460	1000	5286	3529
Coronado	SR-75 North Bound (Includes Ramp)	1000	6000	3783	NA	NA	NA
	Silver Strand	2122	3254	3082	2122	3524	3050
Del Mar	Camino Del Mar / Jimmy Durante Blvd	1000	3300	2042	1000	3300	2091
	Del Mar Heights	3102	5100	3738	2310	5100	3395
El Cajon	El Cajon/Main St	846	3348	2500	1000	4470	2511
	2nd Street	1632	5100	3683	1782	5100	3760
Encinitas	El Camino Real	702	5324	3819	500	5324	3584
	Hwy 101	1482	3300	2844	1482	3300	2803
	Leucadia Olivenhain	1152	5100	2536	1000	3760	2473
Escondido	Mission Rd	1000	5100	3030	1000	5100	3027
	Centre City Dr	1300	5100	2661	1300	5100	2901
Imperial Beach	Palm Ave	500	5100	2634	500	5100	2615
	Imperial Beach Blvd	964	3300	2423	964	3300	2377
La Mesa	El Cajon	1482	5100	2940	1482	5100	2985
	University Ave	1476	4578	2428	1000	3300	2379
Lemon Grove	Lemon Grove Ave / Imperial	1482	3300	2765	1482	3300	2703
	Broadway	1482	3300	2820	1482	3300	2803
National City	18th Street	792	3100	1260	792	1522	1196
	Highland Ave	1482	3102	2640	1482	3102	2586
Oceanside	Oceanside Blvd	702	5100	3120	1000	5100	3159
	Mission	964	3300	2613	1000	3300	2671

Notes: table shows the minimum, maximum, and mean peak hourly capacity. If the roadway runs east to west, the westbound lanes are represented in the "AB" columns and the eastbound lanes are represented in the "BA" columns. If the roadway runs north to south, the northbound lanes are in the "AB" columns and the southbound lanes are represented in the "BA" columns. If a roadway traverses multiple jurisdictions, the roadway boundaries were cut off at the jurisdictional boundary.

Please note that JDB's hourly capacity is for 2-way traffic. However, in the event of a wildfire evacuation, it would be unlikely that the southbound lane could be also be used for escaping northbound traffic because it would block responding fire engines. It would also be very dangerous in the roundabout unlike the other evacuation routes on Coast Blvd, Torrey Pines Road and Carmel Valley Road. Thus, JDB's peak capacity volume could be cut by approximately 50% as a northbound evacuation route.

Any substantial increase in residential density and traffic congestion along Del Mar's already narrow and congested wildfire evacuation routes, especially JDB, endangers our community.

Del Mar is paradise but we don't want to end up like tragic Paradise, CA by increasing density and traffic congestion on narrow wildfire evacuation routes which endangers residents, first responders and the very viability of our city.

Thanks for your consideration,

Laura DeMarco
Del Mar, CA