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City of Del Mar
Planning Commission Agenda- **REVISED**
Del Mar Town Hall - **VIA TELECONFERENCE ONLY**
Tuesday, March 8, 2022 at 6 PM
(or as soon thereafter as practicable)

Civility Works: The Del Mar Code of Civil Discourse: *Together we will promote inclusion; listen to understand; show respect; be clear and fair; and focus on the issue.*

Remote Regular Meeting
VIA TELECONFERENCE ONLY
Tuesday, March 8, 2022 at 6 PM

In the interest of public health, the City of Del Mar is temporarily taking actions to mitigate the COVID-19 pandemic by holding Planning Commission Meetings electronically or by teleconference. The Town Hall will not be open to the public for this meeting.

Philip Posner
Chair

Don Countryman
Vice Chair

Ted Bakker
Commissioner

John Farrell
Commissioner

Claire McGreal
Commissioner

Karen Brindley
Planning & Community
Development Director

Amanda Lee
Principal Planner

Agenda

It is the intention of your Planning Commission to be receptive to your concerns about your community. Your participation in local government will assure a responsible and efficient City of Del Mar.

Public Participation/Comment

Members of the public can participate in the meeting by either submitting a written red dot comment via email to planning@delmar.ca.us or by speaking live using the Zoom link and/or dial-in information provided below. The deadline to submit written comments is 12 p.m. on the day of the meeting and the subject line of your email should clearly state the agenda item you are commenting on. Those wishing to comment live should join the Zoom meeting when the item(s) they wish to speak on is announced or at the meeting start time for items not on the agenda.

Zoom

Link: https://us02web.zoom.us/j/85719416064?pwd=_U3IOMUNYcDVER0duYlpQZTNtRWpNUT09

Phone: (669) 900-6833

Meeting ID: 857 1941 6064

While registration is not required, staff recommends members of the public submit an optional tele-comment request form (www.delmar.ca.us/telecomment) to assist with speaker management during the meeting. For more information please visit: www.delmar.ca.us/publiccomment.

Project Applicants/Representatives

Applicants/representatives will be provided a link to participate in the meeting and, unless otherwise noted, for items on the agenda, **applicants and their team of representatives shall limit their [total] presentations to 10 minutes or less.**

Viewing the Meeting and Access to Agenda Materials

Members of the public can watch the meeting live on the City's website at: <http://delmar.12milesout.com/Video/Live> and on Cable TV Spectrum Ch. 24, AT&T Ch. 99 starting at 6:00 PM.

Agenda materials and communications from the public on agenda items, "Red Dots", are available on the City's website only, as City Hall and the Del Mar Library are currently closed to the public. <http://www.delmar.ca.us/AgendaCenter>.

Regular Meetings of the Planning Commission are generally held on the second Tuesday of the month, beginning at 6:00 p.m. For further information regarding the scheduling of meetings or meeting agendas, check the **City's website at www.delmar.ca.us**, or call the Planning Department's office at 858-755-9313. A full Planning Commission agenda packet with all backup information is available at City Hall, the Del Mar Library, and on the City's web site the Friday before each Planning Commission meeting.

Meeting will end at 11:00 p.m. unless extended by a majority vote of the Commissioners. If all the items on the agenda are not heard, the remaining items will be heard the following Tuesday (if facilities are available) at 1050 Camino Del Mar.

Consent Calendar: The Consent Calendar is considered by the Planning Commission near the beginning of the agenda. Items placed on the Consent Calendar will be approved in accordance with the staff recommendations for the item unless removed from the Consent Calendar by Commissioners, staff, or a member of the public. If you wish to keep an item from being placed on the Consent Calendar, please submit an email to planning@delmar.ca.us or to the staff member prior to the meeting by 3:30 p.m. the day of the meeting.

This notice will be the only written notice sent. Items, which are continued by the Planning Commission from one Planning Commission meeting to another "date certain" meeting date, will not be re-noticed through the mail.

Final action. The decision of the Planning Commission is final unless a written appeal is filed with the City Clerk, accompanied with a processing fee, within ten (10) working days from the date of notice of the action taken on the application. An approved permit shall not be valid until the 10-day appeal period has expired. The appeal is then forwarded to the City Council, which determines at the Initial Consideration whether to reject the appeal, thereby upholding the Planning Commission's decision, or to set the matter for a subsequent date for a new (de novo) public hearing review. If a de novo public hearing is set by the City Council, an additional fee will be required.

Special Needs: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's office at 858-755-9313. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Meeting Decorum:

All persons attending the Planning Commission meeting shall conduct themselves in a courteous and respectful manner. Comments shall be directed to the members of the Commission, rather than to others in attendance at the meeting. The Chairperson (or Vice Chair or Chair pro-tem in their absence), is designated as the parliamentarian for the meeting. As deemed appropriate, they may interrupt a speaker with instruction to redirect their remarks to relevant points on the agenda item before the Commission. They may also terminate a speaker's oral presentation if comments continue to be non-relevant or become disrespectful.

Note: The entirety of the City of Del Mar is located within the Coastal Zone. Some of the development projects listed on this agenda, as noted, require the receipt of a Coastal Development Permit. Some of these projects may also lie in what is known as the "Coastal Development Appeals Area". For the projects located in the appeals area, the City's action on the requested Coastal Development Permit may be appealed to the California Coastal Commission. An appeal may be filed with the Coastal Commission within the ten calendar days following the Coastal Commission's receipt of a notice from the City of its final action on the Coastal Development Permit application. However, before an appeal may be filed with the Coastal Commission, the City's action on the CDP application must be final, meaning that all of the City's [separate and internal] appeals processes must first be exhausted.

ROLL CALL

APPROVAL OF MINUTES

1. Approval of February 8, 2021 Planning Commission Meeting Minutes

UPDATE

PLANNING COMMISSION/STAFF DISCUSSION (Non-Application Items)

1. Form 700 Presentation – Kseniia Izgarskaia

HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA (Oral Communications)

DISCUSSION AND BRIEFING (Application Items)

CONSENT CALENDAR:

The Planning Commission at the beginning of the meeting can place any item on the agenda upon the Consent Calendar. Consent Calendar items are not subject to public testimony. If you have a concern and wish to present information to the PC, you must be present at the beginning of the meeting to ensure the item will not be placed on consent or write a letter to the PC prior to the meeting expressing why the application should be taken off the Consent Calendar.

CONTINUED APPLICATION(S):

<p><u>ITEM 1</u> SEP22-001</p>	<p><u>Location:</u> 510 Stratford Court <u>Applicant:</u> Thomas Funk <u>Environmental Status:</u> Exempt <u>Staff Contact:</u> Beth Murray, Senior Management Analyst <u>Description:</u> A request for a Sign Encroachment Permit to allow a monument sign in the Public Right-of-Way.</p>
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** Please note that, while Agenda Items 2 and 3 below pertain to the same tree owner and vegetation, each application shall be considered during separate public hearings and will be acted upon individually by the Planning Commission.*

<p><u>ITEM 2</u> TVS21-002</p> <p><i>Item continued to future Planning Commission hearing.</i></p>	<p><u>Applicants:</u> Michael and Angela Deftos <u>Applicant's Address:</u> 225 Torrey Pines Terrace <u>Applicant's APN:</u> 301-033-32 <u>Tree Owners:</u> Harvey and Sheryl White <u>Site Address (Vegetation Location):</u> 473 W Ocean View Avenue <u>Site APN (Vegetation Location):</u> 301-033-04 <u>Staff Contact:</u> Adriana Jaramishian, Associate Planner <u>Environmental Status:</u> Exempt <u>Description:</u> The applicants are seeking relief under DMMC Chapter 23.51 (Trees, Scenic Views, and Sunlight) for claims of scenic view blockage from vegetation located on the neighboring property.</p> <p><i>(Note: Determinations regarding findings of unreasonable scenic view obstruction were made by the Planning Commission at its December 7, 2021 meeting. The purpose of the public hearing at the March 8, 2022 meeting is only to discuss and determine appropriate view restoration actions, in accordance with DMMC Chapter 23.51 and direction given by the Planning Commission at the December 7, 2021 meeting.)</i></p>
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<p><u>ITEM 3</u> TVS21-003</p> <p><i>Item continued to future</i></p>	<p><u>Applicants:</u> Harold and Carolyn Michaels <u>Applicant's Address:</u> 237 Torrey Pines Terrace <u>Applicant's APN:</u> 301-033-40 <u>Tree Owners:</u> Harvey and Sheryl White <u>Site Address (Vegetation Location):</u> 473 W Ocean View Avenue <u>Site APN (Vegetation Location):</u> 301-033-04</p>
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<p><i>Planning Commission hearing.</i></p>	<p>Staff Contact: Adriana Jaramishian, Associate Planner Environmental Status: Exempt Description: The applicants are seeking relief under DMMC Chapter 23.51 (Trees, Scenic Views, and Sunlight) for claims of scenic view blockage from vegetation located on the neighboring property.</p> <p><i>(Note: Determinations regarding findings of unreasonable scenic view obstruction were made by the Planning Commission at its December 7, 2021 meeting. The purpose of the public hearing at the March 8, 2022 meeting is only to discuss and determine appropriate view restoration actions, in accordance with DMMC Chapter 23.51 and direction given by the Planning Commission at the December 7, 2021 meeting.)</i></p>
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ADJOURNMENT:

I, Jennifer Gavin, Associate Planner for the City of Del Mar, certify that a copy of the foregoing was posted at the Del Mar City Hall on Tuesday, February 24, 2022; revised to add a staff discussion item on March 3, 2022.



Jennifer Gavin
Associate Planner



**CITY OF DEL MAR
PLANNING COMMISSION REGULAR MEETING
(ACTION) MINUTES (DRAFT)
February 8, 2022
Via Teleconference**

The minutes set forth the actions taken by the Planning Commission on the matters stated. Audio/video recordings of the Planning Commission proceedings are retained for a period of ten years, in accordance with the City's Records Retention Schedule. Audio/video recordings, as well as written materials presented to the Planning Commission, including Red Dots (materials provided to the Planning Commission after the agenda has published), are available on the City's website at www.delmar.ca.us/AgendaCenter or by contacting the Administrative Services Department at (858) 755-9313.

CALL TO ORDER

Chairperson Posner called the Regular Meeting to order at 6:05 p.m.

ROLL CALL

Chair Philip Posner and Commissioners John Farrell, Ted Bakker, and Claire McGreal.

Absent: Commissioner Don Countryman

Staff Present: Planning Director Karen Brindley, Principal Planner Amanda Lee, Principal Planner Matt Bator, Associate Planner Jennifer Gavin, and Senior Management Analyst Beth Murray

APPROVAL OF MINUTES

Commissioner Farrell requested a modification to replace text in the first sentence of the last paragraph on page 3 of the minutes for the December 7, 2021 Planning Commission meeting and read the requested edits into the record as follows:

Commissioner Farrell expressed concern regarding the intent of the Applicant in going ahead with their application even while the sale of their property is pending, with the transaction already in escrow ~~applying for this process and motioned to continue the item until escrow had closed on the sale of the Applicant's property.~~ No other Commissioner seconded the motion so the motion failed.

Motion by Commissioner McGreal, second by Commissioner Bakker to approve the minutes, as modified, passed by a vote of 4-0.

UPDATE

Principal Planner Lee introduced Karen Brindley as the City's new Planning and Community Development Director.

Principal Planner Lee provided three staff updates:

- 1) Notice of pending Coastal Commission certification action for the North Commercial/Professional Commercial (NC/PC) Local Coastal Program Amendment on February 10, 2022, and a reminded that this action is needed for compliance with State housing law;
- 2) That certification of the 6th Cycle Housing Element by the California Department of Housing and Community Development (HCD) is still pending; and
- 3) Notice of City Council adoption of new City Council Policy 203 on December 7, 2021. The policy is a supplemental policy to the Code of Civil Discourse and applies to all Councilmembers, City advisory committees, Planning Commissioners, DRB members, and members of the public at public meetings and workshops.

PLANNING COMMISSION/STAFF DISCUSSION (Non-Application Items)

ITEMS NOT LISTED ON THE AGENDA (Oral Communications)

None.

DISCUSSION AND BRIEFING (Application Items)

Principal Planner Lee described the two items on the agenda and confirmed that only Item 1 V21-001 was eligible for the consent calendar.

CONSENT CALENDAR

Commissioner Claire asked clarifying questions of staff related to Item 1 before it was approved on consent.

<p><u>ITEM 1</u> <u>V21-001</u></p>	<p><u>Applicants:</u> 2610 Ocean Front LLC <u>Applicant's Address:</u> 2610 Ocean Front <u>Applicant's APN:</u> 299-065-07 Applicant's Representative: Jim Sneed (Bokal and Sneed Architects) <u>Staff Contact:</u> Jennifer Gavin, Associate Planner <u>Environmental Status:</u> Exempt <u>Description:</u> A request for a Variance from Del Mar Municipal Code Section 30.16.070 to reduce the required side yard setbacks of a property in the R1-5B Zone to accommodate a new stair and roof deck on a single-dwelling unit.</p>
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MOTION BY Commissioner Bakker, SECOND BY Commissioner Farrell TO ADOPT THE RESOLUTION APPROVING VARIANCE APPLICATION V21-001 TO REDUCE THE REQUIRED SIDE YARD SETBACKS OF A PROPERTY IN THE R1-5B ZONE TO ACCOMMODATE A NEW STAIR AND ROOF DECK ON A SINGLE-DWELLING UNIT. (VOTE 4-0-1)

VOTE:

Ayes: Chair Posner and Commissioners McGreal, Farrell, and Bakker

Noes: None

Absent: Commissioner Countryman

Abstain: None

NEW ITEMS:

<u>ITEM 2</u> SEP22-001	<u>Location:</u> 510 Stratford Court <u>Applicant:</u> Thomas Funk <u>Environmental Status:</u> Exempt <u>Staff Contact:</u> Beth Murray, Senior Management Analyst <u>Description:</u> A request for a Sign Encroachment Permit to allow an unpermitted monument sign in the Public Right-of-Way.
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Senior Management Analyst Beth Murray provided the staff presentation and explained that the requested approval is for an existing monument sign associated with an apartment building that is located in the RM-South residential zone.

Senior Management Analyst Murray, Principal Planner Lee, and Principal Planner Bator answered Commissioner questions. Principal Planner Bator confirmed this was the first Sign EP permit application ever processed. Staff confirmed there is no record of nuisance related to the existing sign.

Disclosures:

Commissioner McGreal: Read the staff report and walked and drove by the subject property

Commissioner Farrell: Same as Commissioner McGreal and estimates the sign is approximately 2.5 feet based on his measurement

Chair Bakker: Same as Commissioner McGreal

Commissioner Posner: Same as Commissioner McGreal and spoke with the applicant's representative Kathryn Tejada who estimated the sign had been there since approximately 2011 or 2012.

Public Hearing:

The Applicant/Owner's representative, Kathryn Tejada, provided comments.

Mariella DeStout, representative for the applicant/owner, also provided comments.
Chair Posner closed the public hearing.

Planning Commission Deliberation/Discussion:

The Commissioners generally agreed that the sign fits in with the existing residential neighborhood and indicated their support for the sign to remain.

Staff confirmed that the application is being processed to address a code violation in response to code enforcement and that a decision to approve the Sign Encroachment Permit would require Commissioner input to staff applicable to the required findings for approval per DMMC Section 30.84.077.

Commissioners described the special circumstances as including the following:

- The sign has been there over 10 years with no record of any nuisance claims
- The sign is located in a residential neighborhood
- The existing location of the sign in a portion of the right-of-way does not interfere with pedestrian use of the existing sidewalk
- A requirement to relocate the sign onto the private property would require removal of existing mature plantings and vegetation, which is in conflict with City goals to maintain landscape and vegetation
- A requirement to move the sign would make the sign more noticeable and less in character with the existing neighborhood

Commissioners indicated that granting approval of the permit would not constitute a special privilege and noted that no applicant has previously requested this type of permit.

Commissioners emphasized that there is no available alternative that would be less impactful and noted that relocating the existing sign to the face of the building or in place of existing vegetation are both less desirable alternatives that would be less in character with the neighborhood than the existing sign.

Commissioners indicated that granting approval of the permit would not legalize a nuisance because it fits in visually in its current location and does not create a traffic hazard or interfere with pedestrian traffic. Commissioners also noted that the existing sign for which the approval is sought is in keeping with the intent of the City's sign ordinance in that it is a reasonable sign for the apartment building and has an aesthetically pleasing appearance in keeping with the character of the neighborhood.

The item was continued in order for the applicant to provide additional information and for staff to prepare a resolution for approval for consideration by the Commission at the March Planning

Commission meeting. Motion by Chair Posner, second Commissioner McGreal passed by a vote of 4-0.

ADJOURNMENT

The meeting was adjourned at 7:28 PM.



City of Del Mar Staff Report

PLANNING COMMISSION
STAFF REPORT
March 8, 2022

APPLICATION: Sign Encroachment Permit - SEP22-001

REQUEST: A request for a *Sign Encroachment Permit* to allow an existing monument sign to remain in the Public Right-of-Way.

APPLICANT/OWNER: Katherine Tejada for the Stratford Beach Apartments/Thomas Funk

SITE LOCATION: 510 Stratford Court

ASSESSOR PARCEL NUMBER: 300-321-03

ZONE: Medium Density Mixed Residential-South (RM-South)

ENVIRONMENTAL STATUS: The project is listed among the classes of projects determined to have less than significant adverse effect on the environment and therefore, would be exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301(e) Class 1 – Existing Facilities. Further, the project none of the six exceptions to the use of a Categorical Exemption would be applicable (Guidelines Section 15300.2).

BACKGROUND:

At the February 8, 2022 Planning Commission meeting, the commissioners received a presentation, heard public testimony, discussed, and considered the merits of the Sign Encroachment Permit application to allow an existing monument sign to remain within a planted area of the Stratford Court public right-of-way. It was the consensus of the commissioners present that the meeting that the site offers little alternatives for appropriate, visible placement of a sign, and that the existing sign does not present a hazard or nuisance in any way. Therefore, the Commission directed staff to return to the next meeting with a Resolution to conditionally approve the existing sign.

PROJECT DESCRIPTION:

The applicants are requesting a Sign Encroachment Permit (SEP) to allow an existing monument sign identifying the Stratford Beach Apartments to remain in a vegetated area, behind the sidewalk within the Stratford Court public right-of-way.

ANALYSIS:

At the February 8, 2022 Planning Commission meeting, the Commission generally agreed that the subject sign fits in with the existing residential neighborhood, indicated their support for the sign to remain, and directed staff to draft findings and conditions for approval of the requested Sign Encroachment Permit.

The findings required to grant a Sign Encroachment Permit are found in Del Mar Municipal Code (DMMC) Section 30.84.077 and are restated below along with staff's analysis to support of each of the findings:

- A. A Sign Encroachment Permit shall be granted only when, because of special circumstances applicable to the property in terms of location or surroundings, the strict application of the sign regulations deprives such property of a privilege to post a sign for public view enjoyed by other property in the vicinity and under identical zoning classification.**

Analysis: Although the subject property does not present special circumstances in terms of dimensions or topography, it does involve unique circumstances with respect to strict application of the Sign Encroachment Permit findings for an existing sign that is in a residential neighborhood for the purposes identifying an apartment complex. The Sign Encroachment Permit process as outlined in the DMMC was envisioned for commercial signage in commercial zones. Strict application of the findings are burdensome for a sign displaying the name of a residential apartment complex. Considerations in support of approving the sign include: a) that the sign has been there over 10 years with no record of any nuisance claims; b) the sign is located in a residential neighborhood; c) the existing location of the sign in a portion of the right-of-way does not interfere with pedestrian use of the existing sidewalk; d) a requirement to relocate the sign onto the private property would require removal of existing mature plantings and vegetation, which is in conflict with City goals to maintain landscape and vegetation; and e) a requirement to move the sign would diminish the existing character with the surrounding neighborhood.

- B. Any Sign Encroachment Permit shall be subject to such conditions as will assure that the grant of the permit will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.**

Analysis: This Sign Encroachment Permit will be subject to conditions to ensure that the granting of the permit will not constitute a grant of special privilege. The monument sign has been in place for a decade without any impacts to the surrounding area or public right-of-way. Alternative sign placement locations are very limited and relocating the existing sign to the face of the building or in place of existing vegetation would be less in-character with the neighborhood than the existing sign.

- C. A Sign Encroachment Permit shall not be granted if the applicant's inability to post a sign on private property so that the message is viewable by the public;**
- a. Could be avoided by an alternative development plan; or**
 - b. Is self-induced as a result of an action taken by the current property owner or a prior owner of the property.**

Analysis: While alternative development plans exist, they do not appear to be reasonable in that relocating the existing sign to the face of the building or in place of existing vegetation would be less in character with the neighborhood than the existing sign placement. The Sign Encroachment Permit process as outlined in the DMCC was envisioned for commercial signage in commercial zones. Strict application of the findings are burdensome for a sign displaying the name of a residential apartment complex in an area where excessive street right-of-way exists. While the sign may have been self-induced, relocation of the sign would have undesirable impacts to the mature vegetation in the vicinity, leading to a diminishment in the existing character of the overall neighborhood.

- D. A Sign Encroachment Permit shall not be granted if:**
- a. Granting the permit would authorize or legalize the maintenance of a public or private nuisance; or**
 - b. The property can serve as a site for a sign whose access to public view is the same or better than the access enjoyed by other property in the vicinity and under an identical zoning classification.**

Analysis: Granting approval of this Sign Encroachment Permit would not legalize a nuisance because it fits in visually in its current location and as conditioned, it would not create a traffic hazard or interfere with pedestrian circulation. Placing the subject signage on the private property would reduce the overall visibility of the sign message and would result in less visual access that that enjoyed by other property in the vicinity.

CORRESPONDENCE:

As of the writing of this report, Staff has not received any correspondence.

RECOMMENDATION:

It is staff's recommendation, supported by analysis provided herein, that the subject Sign Encroachment Permit application should be conditionally granted, as all required findings for approval can be made. Therefore, Staff recommends Planning Commission adoption of the attached draft resolution (Exhibit A).

PLANNING COMMISSION
STAFF REPORT: SEP22-001
March 8, 2022
Page 4

Respectfully submitted,

B Murray

Beth Murray
Senior Management Analyst

Exhibit A – Resolution Approving SEP22-001

RESOLUTION NO. PC-2022-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR, CALIFORNIA APPROVING A SIGN ENCROACHMENT PERMIT TO ALLOW AN EXISTING MONUMENT SIGN IN THE PUBLIC RIGHT OF WAY ADJACENT TO 510 STRATFORD COURT, DEL MAR, CALIFORNIA.

WHEREAS, on November 22, 2021, Katherine Tejada for Stratford Apartments (Applicant), applied for a Sign Encroachment Permit (**SEP22-001**) to allow for an existing monument sign to remain in the public right-of-way adjacent to 510 Stratford Court (APN: 300-321-03-00); and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the proposed project has been analyzed and determined to be Categorical Exempt pursuant to CEQA Guidelines Section 15301 (e) (Class 1 – Existing Facilities). This is appropriate for the proposed project because it involves keeping the existing monument sign. It is further determined that none of the six exceptions to the use of a Categorical Exemption apply to this project (CEQA Guidelines Section 15300.2); and

WHEREAS, on February 8, 2022, the Planning Commission of the City of Del Mar held a public hearing on the Sign Encroachment Permit application (SEP22-001), at which time all persons desiring to be heard were heard, and determined that findings could be made to approved the subject permit. The Planning Commission directed staff to return at the next regular meeting with a draft resolution to conditionally approve the existing sign placement within the public right-of-way; and

WHEREAS, on March 8, 2022, the Planning Commission of the City of Del Mar held a public hearing on the Sign Encroachment Permit application (**SEP22-001**) at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

- a. Plans submitted by the Applicant.
- b. Written information submitted with the application.
- c. Oral testimony from Staff, the applicant, and the public.
- d. Staff reports, dated **February 8, 2022** and **March 8, 2022**, which are incorporated by this reference, as though fully set forth herein.
- e. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Del Mar that with regard to application SEP22-001, the Planning Commission makes the following findings for approval:

1. Although the subject property does not present special circumstances in terms of dimensions or topography, it does involve unique circumstances with respect to strict application of the Sign Encroachment Permit findings for an existing sign that is in a

residential neighborhood for the purposes identifying an apartment complex. The Sign Encroachment Permit process as outlined in the DMMC was envisioned for commercial signage in commercial zones. Strict application of the findings are burdensome for a sign displaying the name of a residential apartment complex. Considerations in support of approving the sign include: a) that the sign has been there over 10 years with no record of any nuisance claims; b) the sign is located in a residential neighborhood; c) the existing location of the sign in a portion of the right-of-way does not interfere with pedestrian use of the existing sidewalk; d) a requirement to relocate the sign onto the private property would require removal of existing mature plantings and vegetation, which is in conflict with City goals to maintain landscape and vegetation; and e) a requirement to move the sign would diminish the existing character with the surrounding neighborhood.

2. This Sign Encroachment Permit will be subject to conditions to ensure that the granting of the permit will not constitute a grant of special privilege. The monument sign has been in place for a decade without any impacts to the surrounding area or public right-of-way. Alternative sign placement locations are very limited and relocating the existing sign to the face of the building or in place of existing vegetation would be less in-character with the neighborhood than the existing sign.
3. While alternative development plans exist, they do not appear to be reasonable in that relocating the existing sign to the face of the building or in place of existing vegetation would be less in character with the neighborhood than the existing sign placement. The Sign Encroachment Permit process as outlined in the DMCC was envisioned for commercial signage in commercial zones. Strict application of the findings are burdensome for a sign displaying the name of a residential apartment complex in an area where excessive street right-of-way exists. While the sign may have been self-induced, relocation of the sign would have undesirable impacts to the mature vegetation in the vicinity, leading to a diminishment in the existing character of the overall neighborhood.
4. Granting approval of this Sign Encroachment Permit would not legalize a nuisance because it fits in visually in its current location and as conditioned, it would not create a traffic hazard or interfere with pedestrian circulation. Placing the subject signage on the private property would reduce the overall visibility of the sign message and would result in less visual access that that enjoyed by other property in the vicinity.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar that application **SEP22-001** is approved, subject to the following conditions:

[Note: The conditions listed below may have intentional gaps in numbering or lettering.]

CODE ENFORCEMENT CONDITIONS

CE-1 *[Special Condition]*

The development / activity authorized with this permit is part of an active Code Enforcement case. As part of the conditions of approval, and to close the active code enforcement case, the applicant shall take all required steps to obtain the appropriate Design Review authorization and any required Building Permit (if applicable) within 45 calendar days of the City's action approving SEP22-001. Evidence of an approved DRB-Sign Permit and Building Permit (if applicable) shall be submitted to the Code Enforcement Official as proof of compliance. The applicant shall not commence any other development on the property until this condition has been satisfied, unless such work is performed to address other Code Enforcement violations and citations.

GENERAL CONDITIONS:

G-3 *[Development Authorization Limited to Plan Set]*

This Permit (SEP22-001) is granted based on submitted plans dated **November 23, 2022** and so identified by the staff of the Del Mar Planning Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-7 *[Code Compliance]*

Approval of this Permit (SEP22-001) shall not waive the requirement for compliance with the provisions of the Del Mar Municipal Code or other applicable City regulations in effect at the time of Building Permit issuance, unless specifically waived in this permit authorization.

G-13 *[Permit Expiration]*

This Permit (SEP22-001) shall expire three years from the date of approval, on **March 8, 2025**, unless all other permits reliant on this entitlements have been granted and the subject sign is installed within that timeframe.

SPECIAL CONDITIONS:

SC-1 *[Design Review Permit Required]*

In accordance with DMMC Section 30.84.078. A-1, separate receipt of a valid Design Review Permit shall be required.

SC-2 *[Traffic Engineer Review]*

In accordance with DMMC Section 30.84.078. A-2, the applicant shall submit for City Traffic Engineer review, materials and information to ensure adequate sight distances at all driveways and internal project intersections are maintained per guidelines in the current edition of the American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets." Applicable guidelines can be found in AASHTO Exhibits 3-1 (Stopping Sight Distance) and Exhibit 3-2 (Stopping Sight Distance on Grades). Procedures for

measuring stopping sight distance can be found at various locations within the document, and shall include the following general components:

- A driver's eye height and object height of 3.5 feet above grade;
- A clear line of sight between 3.5 feet and 7 feet above grade between the driver and object; and
- For driveways and intersections, the driver's location shall be measured starting from a point of 10 feet back from the edge of traveled way.

The applicants shall be responsible for payment of all fees associated with this review.

SC-3 [Requirement for Covenant]

Prior to closing of the active Code Enforcement case noted in condition CE-1, the applicant shall record a covenant against the deed of adjacent private property. The covenant shall serve to: 1) indemnify and hold the City harmless from and against all claims, demands, costs, losses, damages, injuries, litigation, and liability arising out of or related to the use, construction, encroachment or maintenance to be done by the Permittee or Permittee's agents, employees or contractors on City Property; 2) memorialize the applicants long-term maintenance responsibility for the sign, the conditions of SEP22-001; and 3) set forth the conditions of this Permit.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar, this **8th**
day of March 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Philip Posner, Chair
Del Mar Planning Commission

ATTEST:

Karen Brindley
Director of Planning and Community Development
City of Del Mar, California

THIS RESOLUTION AND AGREEMENT IS VALID WHEN SIGNED BY PARTIES TO THE APPLICATION. PLANNING COMMISSION APPROVAL IS BASED ON COMPLIANCE WITH THE AFOREMENTIONED CONDITIONS. NON-COMPLIANCE WITH ANY STATED CONDITION RENDERS THE PERMIT **SEP22-001** NULL AND VOID AND/OR SUBJECT TO CODE ENFORCEMENT.

*

I have read and understand the above conditions of approval for **SEP22-001** and hereby agree to abide by all conditions of approval.

Date

Thomas Funk, Owner