



# CITY OF DEL MAR

TO: Design Review Board Members and Interested Parties

FROM: Matt Bator, AICP, Principal Planner

DATE: March 24, 2021

RE: Review and Discussion of Additional Draft Updates to the Design Review Board Policy Manual

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Following the Design Review Board's approval of the DRB Policy Manual Update last fall, staff placed the document on the City Council's February 1, 2021 meeting agenda. The City Council chose to continue the item to a future meeting in order to be more fully prepared to discuss the revisions. However, prior to the meeting, staff received a list of comments, questions and suggestions from Council for review and consideration.

Below is the list, followed by staff's suggested edits in response to the Council member comments. Staff's suggested edits were crafted at that time to be simple changes which could be incorporated in the Council's approval by reference, then enacted afterwards. However, due to the continuance of the Council's consideration, staff has had time to provide more thorough revisions in some cases, and has added some additional revisions prompted by the Council comments. I have attached the newly updated manual to this email with staff's revisions shown in strikeout and underline.

**1. Can the manual clarify if "days" means calendar or business days?**

Staff Response: Staff suggests removal of the word "calendar" in that section for consistency. When required otherwise, the term "working days" is used.

**2. Can the manual reference the ADR process conducted by staff?**

Staff Response: Staff suggests a simple reference to the ADR section of the Design Review Ordinance (DMMC Chapter 23.08), where this information is already spelled out.

**3. Many provisions in the manual use the word "shall." Can we consider a lead in statement to the effect that this manual is intended to provide guidance and clarity but in all cases where it might conflict with the provisions of state law, the DMMC, or the DRO, those will control?**

Staff Response: Yes, this language can be added.

**4. Can we consider a reference to and explanation of the new DRB rules on ADUs/JrADUs?**

Staff Response: Staff's suggestion would be to add it if necessary at a later date, with a new section that highlights various "housing" programs that exempt certain developments from discretionary review. For now, staff suggests it remain a topic covered in new Board member training. (No revision was provided in response to this question).

- 5. Should the manual include the rules and procedure for DRB member site visits?**  
Staff Response: Staff suggests that this issue return to the DRB for consideration and development, to be reviewed by the City Council at a later date with other proposed updates. (This has been included with input given by the DRB's Policy Manual Update Subcommittee)
- 6. Can the role of the ex officio DRB member be addressed in the manual?**  
Staff Response: Staff agrees that Section 2.1 of the Policy Manual (DRB Membership) needs to be updated to include the ex-officio member and a brief statement of their role can be included, listing or cited with a reference to DMMC 2.38.010, where the standards of DRB membership are provided in the DMMC.
- 7. Can the manual include information on Board conflicts?**  
Staff Response: Staff suggests a reference to the City's current conflict of interest guidelines. (A more thorough revision was included in the attached draft)
- 8. Section 4.2: Requires mailing of notice. Aren't there situations when publishing can be done in lieu of mailing i.e. for city wide changes?**  
Staff Response: Not really in the case of development review before the DRB. Publishing notice for City-wide changes is used for legislative issues.
- 9. Does the language on Page 20, Section 6.4.B preclude simultaneous processing of DRB, LC, TRP, and CDP applications?**  
Staff Response: This can be clarified by adding reference to necessary "permits issued by the Planning Commission."
- 10. Page 24 Step 5: Is the person ceding time required to be present as is the rule at council?**  
Staff Response: Yes, the DRB follows the City Council's lead on this issue.

After preliminarily drafting the additional updates to the Policy Manual, staff provided them to the DRB's Policy Manual Update Subcommittee for review and comment. The Subcommittee's suggestions have been incorporated into the attached draft, with one exception, which has been highlighted in the attachment and will be discussed by staff during the at the DRB special/training meeting.

Please review the suggested additions and deletions proposed in the attached document. If you have any questions or suggestions regarding the draft edits, or have any additional revisions, we can discuss those at the meeting. One specific topic I would like Board members to think about and consider, is whether there are additional specific functions that could, or should, be added to role and responsibilities of the ex-officio DRB member.

**Design Review Board  
Policy Manual**



**Adopted June 29, 1994  
Revised July 9, 2003  
Revised Oct. 22, 2020**

**DESIGN REVIEW BOARD MANUAL  
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*Important Note: This manual is intended to provide guidance and clarity, but in all cases where it might conflict with the provisions of state law, the DMMC, or the DRO, those will control*

## 1.0 GENERAL PROVISIONS

### 1.1 PURPOSE OF DESIGN REVIEW PROCESS

A. The City of Del Mar's design review process seeks to ensure that the design of a proposed project:

1. Complies with the development standards in the Zoning Code (Title 30 of the Municipal Code (“DMMC”); and
2. Does not violate the design regulations set forth in the Design Review Ordinance (“DRO”) (Chapter 23.08 of the DMMC);
3. As applicable, does not conflict with any of the land conservation (“LC”) findings set forth in Section 23.33.040 of the DMMC; and
4. As applicable, meets all conditions for a Coastal Development Permit (“CDP”) set forth in Section 30.75.140 of the DMMC.

B. The Application's adherence to the zoning standards and the design regulations, and, as applicable, LC requirements and Coastal Development conditions, is a prerequisite for obtaining the City’s approval of a proposed project.

### 1.2 DESIGN REVIEW BOARD'S AUTHORITY

The Design Review Board (“DRB”) members occupy a position of special trust and confidence. They are an integral part of the community process to regulate how the citizens of Del Mar design projects for their private real property that are consistent with the character of Del Mar's community and Del Mar's Community Plan.

The Municipal Code provides:

A. Pursuant to DMMC Section 23.08.035, projects meeting certain criteria are eligible for the Administrative Design Review (ADR) process, through which approval is granted by the Director of Planning and Community Development, unless: 1) a timely written objection is filed by a member of the public; or 2) a DRB member requests consideration of the project by the DRB. ~~The DRB shall apply the provisions of the DRO to decide upon Applications for Design Review Permits. DRB members may also review requests for Administrative Design Review (“ADR’s”) to determine whether they require further application of the DRO by the full Board due to potential non-compliance with the provisions of the DRO. If an ADR is elevated to the DRB for a public hearing, t~~The DRB shall apply the provisions of the DRO when considering and making a decision on the application. ~~to decide upon Applications for Design Review Permits.~~

B. The DRB shall apply the provisions of the Land Conservation (“LC”) Ordinance to decide upon Applications for LC Permits;

C. As a condition of approving Applications for Coastal Development Permits (“CDP”), the DRB must make specific findings set forth in the Coastal Development Ordinance;

D. The DRB is also responsible for administering and enforcing DMMC Chapter 23.50 when an Application for a Tree Removal Permit (“TRP”) is a direct result of a concurrent development Permit Application reviewed by the DRB. The Board has the authority to grant or deny TRP’s and determine mitigation requirements for approved Tree Removal Permits;

E. When part of a concurrent development permit ~~A~~ application reviewed by the DRB, the Board shall decide on the certification or adoption of certain environmental documents (e.g., Negative Declaration) as provided by the City of Del Mar’s “Supplemental CEQA Guidelines” (amended by City Council Resolution No. 2020-24, June 1, 2020); and

F. The DRB shall study and report on matters as directed by the City Council.

The DRB is to approve an Application for a Design Review Permit, without requiring design changes, unless the DRB finds that the proposed design violates one or more of the design regulations. If such a finding is made, the DRB may deny the Application, impose conditions (design changes) on the project to cure the violation(s), or allow the APPLICANT the opportunity to modify the design to cure the violation(s).

The DRB is to approve an application for a LC Permit unless a finding is made pursuant to 23.33.040 that a provision of that section has been violated. In the event of a violation, the DRB may deny the application, impose conditions that will cure the violation(s), or allow the APPLICANT the opportunity to make changes to cure the violation(s).

A final decision by the DRB on an Application may be appealed to the City Council for decision in accordance with provisions of DMMC Chapter 1.12.

G. The DRB shall have the authority to appoint Subcommittees, which will consist of no more than three members. Subcommittees may be used in conjunction with conditions of project approval to resolve a specific design issue in a way that would bring the project into conformance with the DRO. . The Board may delegate the whole of its authority to the Subcommittee. In such case, the issue shall return to the full Board only when agreement between the APPLICANT and the Subcommittee cannot be attained. The Board may also appoint a Subcommittee for the purpose of providing a project APPLICANT with direction and feedback, prior to returning to the full DRB for review and consideration of design. In this case, the Subcommittee shall provide a recommendation for consideration and action by the full DRB. .Subcommittees may also be appointed to work on special projects, as determined by the DRB, for recommendation to the City Council.

### 1.3 PURPOSE OF MANUAL

This Manual, adopted by resolution of the DRB in accordance with the authority delegated in the Municipal Code, is intended to make the design review process more transparent. It contains policies and rules of procedure which are intended to:

- A. Encourage full participation in the design review process.
- B. Bring to the public's attention all the stages in the process and issues relevant to the consideration of an Application.
- C. Maintain, in fact and in appearance, a design review process that is fair and which operates within the scope of its lawful authority.
- D. Maximize the DRB member's ability to raise and address issues.

#### 1.4 AMENDMENTS TO MANUAL

A proposed amendment of this Manual may be placed on the Agenda of any regular DRB meeting. An amendment must receive the affirmative vote of at least four members of the DRB. Once the DRB approves the amendment, it is referred to the City Council for ~~final approval~~[ratification](#).



## **2.0 ORGANIZATION OF THE DRB**

### **2.1 DRB MEMBERSHIP**

The Design Review Board consists of seven voting members, each appointed by the City Council to serve at the discretion of the City Council for a term of four years. The terms are staggered.

The Design Review Board shall also include an eighth, ex-officio member and an ex-officio alternate, both appointed to a two-year term by a majority of the City Council. The ex-officio and alternate shall rotate annually in the role as the “participating” member at DRB meetings. The participating ex-officio member shall assist the Design Review Board members in their deliberations. As requested, the participating ex-officio member shall also assist the members in a determination of the existence of feasible design alternatives.

Membership criteria for voting and ex-officio members are provided in DMMC Section 2.38.020.

### **2.2 QUORUM**

A quorum shall consist of four voting members of the DRB. No DRB action shall be taken in the absence of a quorum, except that those members who are present shall be entitled by motion to adjourn the meeting to another date.

### **2.3 VOTING**

A. One vote per member. The Chairperson, Vice Chairperson, and each member shall be entitled to cast one vote.

B. Proxy and Absentee Votes. Neither proxy nor absentee votes are permitted. All votes must be personally cast during a meeting.

C. Roll Call. All votes shall be cast orally. All votes shall be recorded by name.

D. ~~Disqualification from Voting~~Recusal:

1. Prior to consideration of an application. Board members shall disclose any information that might subject them to recusal from the agenda item.

2. A voting member of the Design Review Board shall be disqualified from participating on an agenda item if:

a) The Board member has a financial interest involving the subject property or persons associated with the submittal and/or representation of the development project;

b) The Board member owns or leases (month to month basis excluded) property within 500 feet of the project;

- c) The Board member owns or leases (month to month excluded) property within 500-1,000 feet of the project and the decision will have a definitive financial effect on the Board member's property;
- d) The Board member owns or leases a property that is the subject of a decision to be made by the Design Review Board;
- e) The Board member has a relationship with the APPLICANT or an individual opposing the application that, in the opinion of the Board member, creates a real or perceived conflict of interest;
- f) The APPLICANT or an individual opposing the application alleges a Board member has a conflict of interest and the Chair, in consultation with staff, agrees.

2. ~~If a DRB member has a financial interest in the outcome of a project, resides within 500 feet of the project, and/or any other conflict of interest, the Board member is disqualified from participating in the matter. The DRB member shall state the basis for the conflict and shall remove him/herself from the meeting room.~~ The Secretary shall record in the minutes that said member is absent for that item.

3. If a member did not attend the entire public hearing on a matter, the member is disqualified from participating in the DRB's later consideration of the matter unless the member certifies that he or she has watched the entire recording of the prior public hearing and has reviewed all of the documentation.

E. A majority vote of the members present shall be necessary for the DRB to take action.

F. Tie Votes. Tie votes shall be recorded as a failure of the motion to pass. See Section 7.2.B.2.b.(4) below regarding tie votes which prevent the DRB from taking action on the merits of an Application.

#### 2.4 FILLING A VACANCY ON DRB

Should a vacancy occur on the DRB other than by expiration of a member's term, the Planning Director immediately shall notify the City Manager. City Council shall fill the vacancy by appointment for the unexpired portion of the term.

#### 2.5 OFFICERS

Officers of the DRB shall consist of a Chairperson, Vice Chairperson, and Substantial Conformance Officer. These officers shall be elected by the DRB annually, at the last regular meeting ~~in~~ of the calendar year. The newly elected officers shall take office at the next regular monthly meeting.

A. The Chairperson shall preside at all meetings and hearings of the DRB; call

special meetings, in accordance with these Rules of Procedure; sign documents in accordance with these Rules of Procedure and as prescribed by the DMMC and State law; serve as parliamentarian and determine procedural issues; and consult with the Planning Director, in accordance with DMMC Section 23.08.066.A.3, on whether a proposed project warrants implementation of a Citizens' Participation Program.

B. The Vice Chairperson shall perform all the duties of the Chairperson in case of the Chairperson's absence or disability; and shall perform such other duties as may from time to time be assigned by the Chairperson.

C. The Chairperson Pro Tem, chosen by a majority of a quorum, shall perform all the duties of the Chairperson in the absence of the Chairperson and Vice Chair.

D. The person running a DRB meeting shall ~~hereinafter~~ be referred to as "Chairperson".

E. Should the Chairperson, Vice Chairperson, or Substantial Conformance Officer cease to be a member of the DRB, the remaining members shall appoint a Chairperson, Vice Chairperson, Substantial Conformance Officer, by a majority vote of members present, provided there is a quorum. The officer so appointed shall serve for the unexpired portion of the term of office.

F. The Substantial Conformance Officer ("SCO") reviews proposed minor changes to a previously approved project and determines whether the project, if modified as proposed, would still be in substantial conformance with the project as it was previously authorized by the City. If a determination of Substantial Conformance is granted, the SCO initials the change and it is documented in the project file.

## 2.6 STAFF

A. The Director of Planning and Community Development, or the Director's designee, shall serve as the Secretary to the DRB and in that capacity:

1. Keep a true and correct record of all proceedings of the DRB.
2. Have custody of all records of the DRB.
3. Produce, distribute and certify copies of or extracts from the minutes and records of the DRB upon receipt of a properly presented demand.
4. Sign minutes and documents on behalf of the DRB as set forth in Section 7.3 of these Rules and Procedures.
5. Give and serve all notices required by law including public hearings.
6. Attend to DRB correspondence and communications.

B. In addition to serving as Secretary to the DRB, the Planning Director is responsible for providing the DRB with the necessary professional, technical and clerical

services, among which shall be the following:

1. Prepare and submit the Agenda and Staff reports.
2. Administratively process all Applications.
3. To the extent necessary introduce and factually explain each item at DRB meetings.
4. Present professional planning recommendations to the DRB.
5. Coordinate the services of all City Officials, City Department and other public sources of information on behalf of the DRB.

## 3.0 AGENDA

### 3.1 PLACING AN ITEM ON THE AGENDA

While the City Council and the DRB each has the authority to place any matter within the DRB's authority on a DRB Agenda, the most common source of an Agenda item is an Application filed by a property owner seeking a Design Review Permit.

### 3.2 PREPARATION OF AGENDA

A. CONTENTS OF AGENDA. The Agenda will present items in the following sequence:

1. CALL TO ORDER. The meeting shall be called to order by the Chairperson.
2. ROLL CALL. The Secretary records the members' attendance.
3. APPROVAL OF MINUTES. The Chairperson will ask for proposed corrections to the presented minutes. The Chairperson will ask for a motion to approve the minutes.
4. UPDATES FROM STAFF AND DRB. The Chairperson will ask Staff and DRB members for updates on matters related to DRB business and other matters of interest to the Board. Items presented in this category of the Agenda will not relate to Applications on the Agenda. Any DRB member may request that the item be placed on a future Agenda.
5. ORAL COMMUNICATIONS. ~~[Not Used for a Special Meeting]~~ Members of the audience have this opportunity to make a 3 (three)-minute presentation on matters which are within the jurisdiction of the DRB and are not on the Agenda. The DRB shall not discuss or take action on an off-Agenda item presented during Oral Communications. Any DRB member may request that the item be placed on a future Agenda.
6. BOARD/STAFF DISCUSSION ON NON-APPLICATION AGENDA ITEMS. At this time, the DRB and Staff discuss non-Application matters that have been placed on the Agenda. They will review any applicable memoranda included in the Agenda packet. If a matter is raised during the discussion that is not covered by the Agenda topic, it may not be discussed, but may, on request, be placed on a future Agenda.
7. DISCUSSION AND BRIEFING ON APPLICATION ITEMS. Staff reviews the items on the Application portion of the Agenda, indicating which items are eligible for the Consent Calendar and which items either have been continued or have a pending request for continuance. The DRB shall vote on the pending request(s) for continuance. See Section 4.3 below regarding the

procedure on continuances. Prior to approval of the Consent Calendar, the Chairperson shall ask if there are any members of the audience who object to an item being placed on the Consent Calendar. The Chairperson shall also ask if any Board member wishes to have a hearing on any item otherwise eligible for the Consent Calendar. The Board shall then approve on consent motion the remaining eligible items. The Board may include special conditions with the approval of a consent item.

8. APPLICATIONS.

9. ADJOURNMENT. At the conclusion of the meeting, the Chairperson shall adjourn the meeting. The adjournment will be no later than 11:00 p.m. unless a motion to extend the meeting passes. At the discretion of the Chairperson, or by motion adopted by the DRB, the meeting may be adjourned to a specified date and time to further conduct business.

B. POSTING OF AGENDA. The Agenda for each meeting must be posted at City Hall for public review in accordance with the requirements of the DMMC and State Law.

## **4.0 CONDUCT OF MEETINGS**

### **4.1 ORDER OF BUSINESS**

The order of business in which items shall be addressed is the sequence in which items are presented in the Agenda. However, at the discretion of the Chairperson, or by motion adopted by the DRB, an Agenda item may be taken out of order. Factors to be considered when changing the order of business include: the number of people present, the length of the Agenda in relation to the item, and the convenience to the APPLICANT and public. In the minutes, the item shall be reported in its Agenda sequence.

### **4.2 NOTICE OF ITEM REQUIRED FOR CONSIDERATION**

As a condition precedent to DRB consideration of an Application, it must be shown that notice was sent by first class mail, or delivered personally, to all property owners within a 300-foot radius of the project site. The APPLICANT is responsible for the accuracy and completeness of notice for the APPLICANT'S Application. Note: Consult the DMMC for additional noticing requirements and alternatives.

### **4.3 CONTINUANCE OF AN ITEM**

A. CONTINUANCE AT THE STAFF'S DIRECTION. City Staff may continue an item when it is determined by Staff that:

1. Additional information exists which would affect the facts of a case, but which is not yet fully available;
2. The noticing procedures required pursuant to the provisions of the Municipal Code were not correctly implemented and that such errors in implementation could result in limiting public input into the decision-making process, to the detriment of public interest; or
3. There is a lack of a required DRB quorum
4. Required Story – Poles were not placed on the development site within required time limits (see Section 4.4).

B. CONTINUANCE AT THE APPLICANT'S REQUEST.

1. An APPLICANT'S request for a continuance must include a full statement of the reasons that preclude the APPLICANT from proceeding at the scheduled meeting. The request shall be denied unless the APPLICANT demonstrates that:
  - a. The APPLICANT or an essential representative cannot physically be present at the meeting or essential information is not yet available; and
  - b. The granting of a continuance will not limit public input into the decision-making process, to the detriment of public interest.

2. The APPLICANT may submit a written request for a continuance to the Planning Department by the close of business on the second Tuesday prior to the scheduled DRB meeting. For good cause, the APPLICANT'S request may be approved by the Director of Planning and Community Development.
3. In cases where events affecting the APPLICANT'S ability to proceed at the scheduled meeting occur after the close of business on the second Tuesday prior to the scheduled DRB meeting, the APPLICANT or the APPLICANT'S representative may submit a written request for a continuance to the DRB. The DRB shall review and decide on an APPLICANT'S written request for a continuance during the Discussion and Briefing on Application Items portion of the DRB meeting.
4. During the hearing on an Application item, the APPLICANT may make an oral request for continuance.

C. CONTINUANCE AT DRB'S DIRECTION. An Agenda item may be continued upon a motion adopted by the DRB to:

1. Gain additional information, which is determined to be necessary to render a decision;
2. Give APPLICANT the opportunity to resubmit plans to cure violations of the DRO and/or LC Ordinance; or
3. Cure the deficiency in the assembly of story poles in accordance with Section 4.4.

D. All continuances shall be made to the next available Agenda, unless the item is taken off-Agenda, in which case, the item shall be subsequently re-noticed in accordance with the provisions of the DMMC, State law and this Manual.

E. In determining whether to continue a matter, the City and DRB shall take into consideration time constraints mandated by State law, the DMMC, and City Council direction.

#### 4.4 CONTINUANCE TO PLACE STORY POLES

Story poles, which accurately depict the proposed project, must be maintained for no less than 15 days prior to the DRB's consideration of the Application for Permit.

If the APPLICANT fails to have the story poles in place on the 15th day before the DRB's hearing on the Application for Permit, the Staff may announce the continuation of the Agenda item.

If the DRB finds that there is a deficiency in the erection of story poles which precluded members of the public from being informed concerning the proposed design's potential



visual impact on the environment, the DRB will continue the consideration of the Application to give the APPLICANT an opportunity to satisfy the story pole requirement.

#### 4.5 ORAL PRESENTATION TO THE DRB

Each person who wishes to make an oral presentation or ask a question to the DRB:

- A. Shall come to the podium and state his/her name and address;
- B. Speak into the microphone so that all present in the Chambers may hear what the person is saying and so that the record of the meeting will clearly reflect what is said.
- C. Address all statements and questions to the Chairperson of the DRB, unless given permission by the Chairperson to do otherwise.
- D. Shall be courteous in language and deportment.

#### 4.6 REGULATING ORAL PRESENTATIONS

The Chairperson is authorized to regulate oral presentations made to the DRB:

A. The Chairperson may fix reasonable limits on the total amount of time that oral presentations may be made on an item; and may fix a reasonable amount of time that each speaker has to make an oral presentation. [In general, the Chairperson will apply the time constraints set out in 8.2.A 2.](#)

B. Where large numbers of people are present representing the same view, or if it reasonably appears that the view has been expressed and that remarks are becoming repetitious, the Chairperson may ask all present that are of the same opinion to stand and be noted. Thereafter, speakers will be limited to those representing substantially different points of view.

C. Relevancy: The Chairperson may interrupt a speaker with an instruction to redirect the speaker's remarks to relevant points. The Chairperson may terminate a speaker's oral presentation when the remarks continue not to be relevant to the matter before the DRB.

#### 4.7 QUESTIONS

A. By Board Members and Staff. In any order at any time, at the pleasure of the Chairperson.

B. By Others. Only with the approval of the Chairperson. Directed only to the DRB, and then redirected by the DRB to the appropriate person.

C. Except by the DRB, there shall be no direct questioning of any person.

#### 4.8 CONTESTED APPLICATIONS

In considering an Application, the Chairperson shall provide reasonable opportunity to both proponents and opponents to make oral presentations;. The APPLICANT shall have the opportunity for one rebuttal.

#### 4.9 PARLIAMENTARY PROCEDURE

Except when otherwise provided for in State law, the DMMC or this Manual, Robert's Rules of Order shall serve as a guide for the DRB's conduct of meetings.

#### 4.10 RECORD OF ACTION

A. MINUTES. Minutes which, at a minimum record the actions and votes taken by the DRB for each item on the Agenda, shall be prepared by Staff and then reviewed by the DRB. Upon approval by the DRB, the Planning Director or the Planning Department Staff will sign the minutes.

#### B. SIGNATURES.

1. Resolutions adopted by the DRB, or as otherwise required by law, shall be signed by the Chairperson, the Vice Chairperson, or the Chairperson Pro Tem, as appropriate.
2. In form, the official signature shall be substantially as follows:

DEL MAR DESIGN REVIEW BOARD

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(Name, Title)

## **5.0 SCHEDULING OF MEETING**

### **5.1 REGULAR MEETINGS**

Regular meetings of the DRB shall be held at the City Council Chambers, Del Mar Town Hall, 1050 Camino del Mar, Del Mar, CA 92014, at 6:00 p.m., on the fourth Wednesday of each month; subject to City holidays and other exceptions, or as otherwise directed by the City Council.

### **5.2 ADJOURNED REGULAR MEETING**

A regular meeting may be adjourned to a designated time and place and when so adjourned shall be considered as a regular meeting.

### **5.3 SPECIAL MEETINGS**

In accordance with State law, the Chairperson or three or more members of the DRB may call a Special Meeting. The requestor(s) shall submit a request to the Director of Planning and Community Development, specifying the time, place, and purpose of such Special Meeting. Upon receipt of a complete request, the Planning Director shall immediately notify the City Manager and set the Special Meeting in accordance with State law.

### **5.4 RESCHEDULING A REGULAR OR ADJOURNED REGULAR MEETING**

For good cause, the Chairperson, or the DRB by motion, is authorized to reschedule a specific meeting to a location and time consistent with State law.

### **5.5 CANCELLATION OF MEETING**

Whenever there is a lack of a quorum, no business for the DRB to consider or for other good and valid reasons, a meeting may be canceled by the Planning Director, the Chairperson or the DRB members present. Such cancellation may be made at any time prior to the meeting. Every attempt shall be made to notify all involved parties, including the general public, at the earliest time.

### **5.6 TELEVISED, LIVE STREAM, AND ON DEMAND MEETINGS**

Regular meetings of the DRB are televised. Special meetings and training sessions of the DRB are televised upon approval of the City Council. Televised meetings of the DRB are available via live stream on the City of Del Mar's website. Past televised meetings are also available on demand.

**6.0 STAFF'S STANDARD PROCESSING OF AN APPLICATION FOR A DRB  
PERMIT**

**6.1 BEFORE THE PROJECT IS DESIGNED**

Most projects involving exterior construction require a Design Review Permit, and, in many cases, a Coastal Development Permit or Land Conservation Permit. Before having design plans drawn up for a new home or exterior modification, renovation or addition to an existing structure, the property owner ("APPLICANT") is required to contact the City's Planning Department, City Hall, 1050 Camino del Mar, Del Mar ( (858) 755-9313), to accomplish the following:

A. The APPLICANT shall thoroughly review the zoning provisions contained in Title 30 of the DMMC.

B. The APPLICANT shall thoroughly review Chapter 23.08 of the DMMC - the City's Design Review Ordinance. The APPLICANT chooses the design for the proposed project. So long as the chosen design does not have an impact that is prohibited by one or more of the design regulations, the DRO will not interfere with the APPLICANT'S choice of design.

C. The APPLICANT shall thoroughly review the Citywide Design Guidelines. The Citywide Design Guidelines are a companion to the City's Design Review Ordinance and provide quantifiable standards and criteria to add clarity, definition, and detail to the DRO standards of review used by the DRB in its deliberations. An APPLICANT who deviates from the Guidelines must be prepared to justify the deviation.

D. When applicable, the APPLICANT shall thoroughly review:

1. DMMC Chapter 23.33 for a Land Conservation Permit
2. DMMC Chapter 30.75 for a Coastal Development Permit; and
3. DMMC Chapter 23.50 for a Tree Removal Permit.

E. Some design review applications require the APPLICANT'S participation in the City's Citizens Participation Program ("CPP"). The CPP is a two-step outreach process intended to foster early and open communication between neighbors about a new project and its surrounding community. The APPLICANT shall thoroughly review the CPP provisions in the DRO (DMMC Sections 23.08.065 – 23.08.069). Even if a CPP is not required for a project, the APPLICANT is strongly encouraged to interact with the neighbors and respond to their concerns regarding the project. The APPLICANT shall review the City's Good Neighbor Guide.

F. The APPLICANT shall learn what must be included in a "complete" Application to be acceptable for placement on the DRB's Agenda.

G. The APPLICANT shall review the DRB's requirements for giving notice to the

community that a project is being proposed.

H. The APPLICANT shall review the City's requirement that the APPLICANT erect "story poles."

Upon request, but without recommending a specific firm, the Planning Staff may provide a list of architects who have represented property owners through the City's design review process.

## 6.2 CPP AND PRE-APPLICATION MEETINGS

A. CPP #1. Prior to any preparation of architectural design plans, the APPLICANT shall conduct an informal meeting with neighbors and all interested parties to discuss the APPLICANT'S development desires and conceptual design ideas. See DMMC Section 23.08.068.A.1.a.

B. After the design plans have been drawn up in sufficient detail to allow the Planning Staff to review the plans for zoning compliance, the DRB strongly encourages the APPLICANT to call the Planning Department to set up a pre-Application meeting. Pre-Application meetings can help deter the filing of Applications that are incomplete or that contain design aspects that may be obviously in conflict with the City's standards and regulations. By uncovering possible problems early on, the pre-Application meeting helps save the APPLICANT time and money that would otherwise have to be spent later in the process. For the pre-Application meeting, the design plans (elevations, sections, and site diagram) may not need to be in the final form that eventually will be required for submission to the DRB.

C. The APPLICANT will meet with a Planning Staff member who is knowledgeable about the DRB's process and applicable provisions of the DMMC. The Staff member will go through the APPLICANT'S proposed Application to:

1. Inform the APPLICANT what is required for an Application to qualify as "complete."
2. Alert the APPLICANT about aspects of the proposed design that may be in conflict with the zoning standards, DRO, Citywide Design Guidelines, and LC Permit, CDP, or TRP requirements, as applicable, and that could result in the Staff having to recommend that the DRB deny the Application; and
3. Suggest steps the APPLICANT may take to improve the likelihood that the APPLICANT'S design will receive the desired Permits.

D. CPP #2. As required in DMMC Section 23.08.068.A.1.b, the APPLICANT shall conduct a second meeting with neighbors and all parties interested in the development project. For this meeting, and to help facilitate understanding of the project and development review processing, the APPLICANT shall erect story poles and bring to the meeting conceptual architectural plans, photographic exhibits depicting neighboring structures, and 3-D computer modeling images. The APPLICANT shall provide the

opportunity to meet individually with neighbors and interested parties who are unable to attend either CPP #1 or CPP #2 at their scheduled times. An Application will not be considered by Staff to be complete without a written report from the APPLICANT responding to any concerns raised during the CPP Meeting process.

### 6.3 FILING THE APPLICATION

A. When the APPLICANT believes that the design plans are in final form, the APPLICANT should bring the Application to the Planning Department. The Staff member receiving the Application at the counter will look *very briefly* for: (1) obvious deficiencies in the completeness of the Application and (2) obvious failures in the proposed design to comply with the development standards of the Zoning Code.

B. If the Application is obviously incomplete, or obviously fails to comply with the development standards of the Zoning Code, the Staff member at the counter will immediately return the Application materials to the APPLICANT for correction and resubmission.

C. If the Application is retained by the Staff, the APPLICANT will be required to pay a filing fee for the Staff's further review of the design plans and other documents that make up the Application.

### 6.4 STAFF REVIEW OF FILED APPLICATION

A. After it is filed, the Application will receive a full Planning Staff review. If the Application is determined to be incomplete or the proposed design fails to comply with the development standards of the Zoning Code, the Planning Staff shall give written notice to the APPLICANT detailing the deficiencies; and may return the Application materials to the APPLICANT for correction and resubmission. If the Application is complete and complies with development standards of the Zoning Code, Staff shall give written notice to the APPLICANT detailing potential violations of the DRO, deviations from the Citywide Design Guidelines, and other applicable violations or deviations. Staff shall make clear to the APPLICANT that the potential violations and deviations could prevent DRB approval. Staff shall also discuss with the APPLICANT the recommendations Staff plans to make to the DRB regarding potential violations and deviations. Once the APPLICANT indicates they will make no further changes to the plans, the Planning Department will place the Application on the next available DRB Agenda.

B. The Application will not be complete, or placed on the DRB Agenda until the project has first obtained all other necessary permits and approvals required by the Zoning Code and the Subdivision Code [which require Planning Commission approval, unless specifically delayed via a staff initiated condition of approval.](#)

C. When required, an APPLICANT must erect "story poles." "Story poles" are placed upright in the ground at various, on-site locations. The poles are connected by rope or twine (at the height of a proposed roof or wall) to depict the outside dimensions of the

proposed project. The poles must accurately depict the proposed design's potential visual impact on the environment. Sometimes, for additional clarification, depiction of eaves, overhangs, deck outlines and railings, and patio covers may be required. The story poles must be maintained for at least 15 days prior to the DRB considering the APPLICANT'S Application. (See Story Pole handout, available from Planning Department.)

#### 6.5 PUBLIC NOTICE, PUBLIC'S WRITTEN COMMENT, APPLICANT'S COMMENT

A. The date of the DRB's Public Hearing for the Application shall be noticed in accordance with the directions of the Planning Staff, to satisfy the requirements of the DMMC.

B. Members of the public and the APPLICANT may submit written comments to the Planning Department concerning the Application. In order to be presented to the DRB as part of the Agenda packet, written comments must be received by the Planning Department no later than the close of business, 9 (nine) days prior to the date of the Public Hearing.

C. The Planning Staff will prepare a written report for the DRB that:

1. Briefly describes the project site, surrounding area and the proposed design.
2. Analyzes the most up-to-date version of the proposed design in terms of the zoning standards, DRO, Design Guidelines, land conservation requirements, and other applicable DMMC provisions.
3. Notes and discusses the written comments that have been submitted by members of the community and the APPLICANT.
4. May recommend an action; and
5. May present a draft Resolution for action.

D. The Staff Report will be placed in the Agenda Packet, together with the Application documents and all written comments concerning the Application received in a timely manner by the Planning Department.

E. Additional written communications regarding an Agenda item ("Red Dots") may be submitted to the Planning Department until Noon on the day of the DRB hearing. Staff forwards these Red Dots to the members of the DRB prior to the hearing. Staff cannot give any assurance that written communications received after Noon on the day of the hearing will be forwarded to the DRB members prior to the hearing.

## 7.0 DRB MEMBER DUTIES AND RESPONSIBILITIES

### 7.1 PREPARATION

A. It is the obligation of every Board member participating in a meeting to be familiar with the facts in order to reach an informed, independent judgment on each matter placed on the DRB's agenda.

B. To be fully prepared, it is the expectation that every participating Board member will have, to the best of their ability, thoroughly reviewed any prepared staff reports, project plans, and additional correspondence provided prior to participating in a public hearing or discussion (see Section 6.5-E regarding the submittal and Board consideration of "Red Dot" correspondence).

C. To be fully prepared, it is the expectation that every participating Board member will have, to the best of their ability, personally observed and assessed the location and neighborhood context of each site that is the subject of a Permit request before the DRB (see section 7.2 regarding "Site Visit Procedures")

### 7.2 SITE VISIT PROCEDURES

A. It may be possible to assess the impacts of a development without stepping into the subject property or neighboring properties. If it is necessary to enter into an occupied property, either the subject of the application or that of a neighbor; or to enter into a fenced or otherwise inaccessible portion of the subject or neighboring property, Board members must seek permission from and make arrangements with the owner, resident, or project representative of the property in question.

B. Pursuant to the Brown Act, under no circumstance shall more than three (3) voting Board members conduct a site visit at the same time. It is highly recommended that no more than two (2) Board members be on a project site at that same time.

C. Board members shall refrain from discussing their assessment or opinion of a project with members of the public during site visits. Board members shall refer any questions received regarding the project or its potential consistency with the Design Review Ordinance to the staff project planner.

## **87.0 DRB'S STANDARD PROCESS FOR DECIDING UPON AN APPLICATION FOR A DRB PERMIT**

### **87.1 CONSIDERATION OF APPLICATION BY THE DESIGN REVIEW BOARD BY CONSENT CALENDAR**

A. During the Discussion and Briefing portion of the meeting for which the Agenda lists the hearing for the subject Application, any DRB member may move to place the Application on the Consent Calendar, to be approved without a full public hearing.



B. An Application may be acted upon as a Consent item unless there is an objection from the APPLICANT, a member of the audience, a Board member, or Staff, or a written objection from the public filed with the Board.

C. Before the DRB votes on the Consent Calendar, any DRB member who is disqualified from participating in the decision-making process pertaining to the Application will so indicate. The disqualified DRB member may still vote to adopt the Consent Calendar but the record shall indicate that the disqualified DRB member was absent for the vote on the Application.

D. If the Application remains on the adopted Consent Calendar, the DRB's adoption of the Consent Calendar will normally constitute action on the Application as proposed in the Staff Report.

E. If an Application on the Consent Calendar of a posted Agenda is removed from the Consent Calendar, the Public Hearing on such Application will retain its place for hearing on the DRB Agenda.

#### 87.2 CONSIDERATION OF APPLICATION BY THE DESIGN REVIEW BOARD BY PUBLIC HEARING

When the DRB reaches the item on the Agenda that contains the Application, the DRB's Public Hearing will be conducted in two phases:

A. Phase 1: Discussion

1. The Phase 1 Discussion provides an opportunity to raise concerns and offer suggestions about the project's impact on the community. Because there is no "quantity" limitation on the opportunity of the APPLICANT and members of the public to submit written comments, time limits are imposed on oral presentations made during the Public Hearing.
2. The Discussion will be conducted in the following manner:

Step 1. When the Chairperson calls the item, any DRB member who is disqualified from participating in the decision-making process for the Application shall so indicate and will then excuse himself or herself for that item.

Step 2. The Staff will present an oral report to supplement the written Staff Report in the Agenda. [Board members may address any questions to staff.](#)

Step 3. If a DRB member has received any information which pertains to the proposed project but has not been presented in the Agenda material or the oral Staff report ("outside information"), the DRB member will disclose the contents of such outside information. Even if the outside information was not relied upon or believed, the APPLICANT and interested parties may respond

to such outside information during Steps 4 and 5 below.

Step 4. The APPLICANT shall have up to 10 (ten) minutes to [address the Board](#). ~~present orally the proposed project.~~ For good cause shown, due to the complexity of the project or the volume of outside information or opposition, the Chairperson may grant additional time for the presentation.

Step 5. Each member of the audience requesting to speak shall be given 3 (three) minutes to present oral comments concerning the proposed design. In order to be allotted time to speak, the audience member must first submit a speaker slip. The speaker slip shall include the speaker's name and whether the comments will be in favor of or in opposition to the Application. Blank speaker slips are available in the Town Hall. If a member of the audience does not wish to speak, but wishes to cede his or her time to another speaker, the audience member shall so indicate on his or her speaker slip. A single speaker may not be ceded more than 2 (two) audience members' time [and all time donors must be present at the meeting when their ceded time is used](#). For good cause shown, due to the complexity of the project or the volume of outside information or opposition, the Chairperson may grant additional time for oral presentations.

Step 6. The APPLICANT shall have 5 (five) minutes to respond to any new information presented during Step 5.

3. During the Phase 1 Discussion, DRB members shall listen to the information presented by the APPLICANT and members of the public. Phase 1 Discussion is the time for members of the DRB to clarify matters by asking questions of Staff, the APPLICANT, or a member of the public. DRB members may also make suggestions. However, DRB members will not make findings, reach conclusions or render decisions.
4. To address concerns raised during Phase 1 of the hearing, the APPLICANT has the opportunity to announce any amendment the APPLICANT wishes to make to the proposed design plans. If the APPLICANT announces an amendment to the proposed design plans, the DRB by a majority vote, may, depending on the complexity of the proposed change:
  - a. Direct that the APPLICANT'S proposed amendment be made immediately on the file copy of the design plans in the possession of the Staff, and that the APPLICANT initial the amendment; or
  - b. Continue Phase 1 to the next available meeting date and require the APPLICANT to submit redrawn design plans containing the amendment.
5. Further, if the APPLICANT amends the Application, the Chairperson, or the DRB by a majority vote, shall determine whether it is necessary, in order to accomplish the purposes of the DRO and in light of the DRB's desire to conduct business in an expeditious manner:

- a. To require the APPLICANT to erect new story poles;
  - b. To reopen Discussion for the sole purpose of providing an opportunity for public review and comment only on the amendment to the design.
6. Once the process above is complete and the design is finalized, the Chairperson shall close the public discussion phase of the Hearing. The DRB shall begin Phase 2: Deliberation and Decision.

B. Phase 2: DRB Deliberation and Decision

1. In Phase 2 of the Public Hearing, the Deliberation and Decision, only the DRB members participate. Since DRB members are to ask questions of the APPLICANT and members of the public during Phase 1: Discussion, asking questions to such persons during Phase 2 would be an exception, subject to approval by the Chairperson or by a majority vote of the DRB.
2. During deliberation and decision-making, the DRB shall address only how the proposed design conforms to the Zoning Code, DRO, Land Conservation Ordinance, Coastal Development Ordinance, and Tree Removal provisions, as applicable. In its deliberation and decision-making, the DRB shall consider the Citywide Design Guidelines in determining compliance with the DRO.

a. DELIBERATION

- (1) DRB members deliberate to make one or more findings. The DRB may incorporate by reference some or all of the reasoning and proposed findings in the Staff Report.
- (2) During deliberation, the DRB shall consider only the information that was presented during Phase 1, which includes:
  - i. Written Staff Report;
  - ii. Documents in the Agenda packet;
  - iii. Oral Staff Report;
  - iv. Disclosed "outside information";
  - v. Documents submitted during the hearing;
  - vi. Oral comments from the APPLICANT and public.

If a fact or issue arises during DRB deliberation that was not raised in Phase 1, the DRB Chairperson shall reopen Phase 1 to receive comment only on that fact or issue.

b. DECISION

(1) Grant Permit with Standard Conditions.

The DRB may find that the proposed design does not violate any of the regulatory prohibitions of the DRO and/or LC Ordinance, and/or meets the requirements for CD Permit or Tree Removal Permit, and conclude to grant the requested Permit(s), subject to the standard conditions of approval.

(2) Grant Permit With Design Conditions, Deny Permit, or Grant Continuance.

The DRB may find that the proposed design violates one or more of the regulatory prohibitions in the DRO and/or provisions of the LC Ordinance. When applicable, the DRB may find that the design fails to meet the requirements for a CD Permit and/or Tree Removal Permit. The DRB shall make findings, each of which indicates:

- (a) The Code section(s) which pertain(s) to the DRB's concerns;
- (b) The facts presented during Phase 1 which pertain to the identified Code sections;
- (c) The reasoning that relates the facts to the selected Code section to reach a conclusion that justifies:

- i. The imposition of one or more conditions, [including the appointment of a subcommittee](#), on an approval;

- ii. The denial of the Application; or

- iii. The continuance of the hearing on the Application;

(d) A conclusion which:

- i. Grants the Permit subject to the imposition of one or more design conditions and the standard conditions of approval.

- ii. Denies the Permit; or

- iii. Grants, with the APPLICANT'S concurrence, a continuance of the hearing on the Application to the next available Agenda. The continuance is to give the APPLICANT an opportunity to make design plan changes and/or provide additional information based on the DRB's guidance. The DRB discourages multiple continuances.

Failure to cure deficiencies in the Application may result in a denial."

(3) Decision by Resolution.

The DRB's findings and conclusion shall be contained in a Resolution adopted by a majority of the DRB quorum present at the meeting.

The DRB can:

- i. State their findings in public during Phase 2;
- ii. Adopt a Resolution read by title only;
- iii. Direct Staff to prepare a Resolution, after the meeting, that is to be signed by the Chairperson; or
- iv. Direct Staff to return at the next meeting with a Resolution for DRB action.

(4) Action Due to Tie Votes.

Whenever the DRB determines that it is unable to take action on an Application after two or more tie votes, the Staff shall place the Application on the next available Agenda of the City Council for action, not as an appeal.

C. MEMBER'S STATEMENT OF CONCERN

After the Resolution is adopted, but before the Public Hearing is ended, a DRB member may, on the record, direct the Staff to prepare a "Statement of Concern" which is to be an exact transcript of the statement that the DRB member then makes orally during the hearing. The Statement of Concern shall only contain points, issues or evaluations that were raised during the hearing in a manner that allowed interested persons to respond.

Each "Statement of Concern" will be included as part of the administrative record.

## 98.0 STANDARD PROCESS AFTER DRB DECISION

### 98.1 ADMINISTRATIVE RECORD ON APPEAL OF DRB DECISION

Any interested person as defined in DMMC Section 1.12.010 has 10 (ten) working days to submit to the City Council an appeal of a final decision of the DRB. If a DRB decision is appealed, the Staff will prepare a Staff Report to the City Council and present the administrative record of the DRB decision which shall consist of:

- A. Documents in the Agenda packet of the DRB;
- B. Documents submitted to the DRB before or during the hearing conducted by the DRB;
- C. DRB's Resolution of action;
- D. "Statement of Concern," if prepared; and
- E. Action minutes of the DRB hearing. The Planning Staff shall only prepare action minutes concerning the DRB hearing, and not verbatim minutes.

### 98.2 DRB MEMBERS' POST-DECISION ACTIVITY

A. DRB members have an extraordinary opportunity to be involved in the decision on a particular Application during the DRB's public hearing. To encourage full participation of DRB members during the DRB's hearing of the Application and to encourage the making of fully public decisions on every Design Review Permit Application, the DRB members shall not otherwise participate in the City Council's decision-making process. If the DRB decision is appealed to the City Council, an individual member of the DRB shall not:

- 1. Submit oral or written information to the City Council; or
- 2. Have outside oral or written contact (concerning the matter) with a City official (Staff member, City Council member) who may be involved in the appeal hearing on the matter.
- 3. The City Council may direct that the DRB have a DRB member present at the City Council's consideration of the appeal.

### 98.3 REMOVAL OF STORY POLES

No later than 7 (seven)-~~calendar~~ days after a decision on an Application is final, either by an unappealed DRB decision or a decision by the City Council, the APPLICANT shall remove the story poles from the subject property.