



City of Del Mar



DRAFT MINUTES

Del Mar Ad Hoc Development Review Process Citizens' Advisory Committee

City Council Liaisons: Ellen Haviland and Dwight Worden

**Council Chambers – 2010 Jimmy Durante Blvd. Suite #100
Wednesday, May 2, 2018 – 6:00 to 7:30pm**

Del Mar Ad Hoc Development Review Process Citizens' Advisory Committee Statement of Mission/Purpose:

- 1) Identify the concerns related to community impacts of new and remodeled homes;
- 2) Identify the goal to be achieved in potentially modifying regulations/procedures; and
- 3) Recommend solutions to remedy the situation, including possible amendments to the regulations in the Municipal Code and/or the City's development review procedures.

(Ref. City Council Resolution 2015-24)

RULES ON PUBLIC COMMENT:

Anyone may address the Committee for three minutes on items listed on the agenda. When recognized by the Committee Chairperson, please step forward and state your name and address. The committee may ask questions of you, to which you may respond. State law precludes the Committee from acting on any topic that is not an action item on the posted agenda. For items not on the agenda, please see: *Oral Communications*.

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.*

1. CALL TO ORDER; ROLL CALL

Chair Harold Feder called the meeting to order at 6:05 pm.

Ad Hoc Committee Members Present: Patricia Bone, Anne Farrell, Harold Feder, John Giebink, John Graybill, Richard Jamison, and Laurie Fisher. **Member Absent:** Nancy Banning Doyle. **Council Liaison Present:** Dwight Worden **Council Liaison Absent:** Ellie Haviland. **Staff Member Present:** Matt Bator

2. APPROVAL OF MINUTES

Approval of minutes of February 15, 2018. Moved by John Graybill, seconded by Richard Jamison.

3. CITY COUNCIL LIAISON COMMENTS

Councilmember Worden reported on the recent Council Retreat, at which time a question was asked about when the Ad Hoc Committee would complete its work; he reported that it would be completed by summer. Chairman Feder noted that he would like to present the committee's report at the June Council meetings (June 4 and June 18), and there was discussion about scheduling the next Ad Hoc meeting. Matt Bator stated that because of the move of City Hall, the council chamber time was constrained but he would find a convenient date.

4. **ORAL COMMUNICATIONS (NON-ACTION ITEMS)**

State law precludes the Committee from acting on any topic that is not an action item on the posted agenda. Your information may be received, placed on the next agenda, or referred to the Committee Chair.

There were no comments from the public.

5. **CHAIRMAN'S REMARKS**

Chairman Feder asked the four subcommittees to meet again very soon to finalize their research, recommendations, and reports, which will then be consolidated into a single report to the City Council from the Ad Hoc Committee and presented in June 2018.

6. **REPORT ON AD HOC SUBCOMMITTEE RESEARCH FROM OTHER JURISDICTIONS (DISCUSSION/POTENTIAL ACTION ITEM)**

- 1) **Nonconforming Subcommittee** (Richard Jamison reporting). He noted that Del Mar is not out of the mainstream in terms of addressing single-family residential nonconformities.
 - Del Mar is not outside the mainstream in terms of addressing single family residential nonconformities because there is no real mainstream. Some cities are more restrictive than a 50% annual increase (Carmel) and Tiburon doesn't have a strict threshold for construction work limits on nonconforming houses). Most cities have a 50% threshold.
 - A majority of cities allow complete re-establishment of Nonconforming Structures after Involuntary Destruction Less than 50 percent re-establishment after Involuntary Destruction like Del Mar (Los Altos, Rolling Hills); Saratoga - Intermediate threshold for Involuntary Destruction—can re-establish up to 75% without discretionary approval. 75-100% requires Planning Commission approval. The same building must address health and safety regulations, maintain same height and envelope
 - Footprint modification - "Demolition" defined as 50% exterior walls/roof; or 50% exterior walls/interior walls removed or covered
 - Footprint threshold may be easier to understand and achieve same goal as valuation threshold
 - There is a need to distinguish between interior and exterior remodels
 - Minor exceptions to encourage remodeling - Limited Expansion of Nominal Nonconformities
 - Example R-1: Minimum Side yard setback of 6 feet - building plane can be extended 15 feet / one story in an existing side yard
 - Aesthetic purpose - it looks better to match existing building plane
 - Would following Saratoga's model encourage more remodeling or are there too many economic incentives to scrape and rebuild?
 - John Graybill noted that the goal is to come to a simpler process, especially addressing the "50% valuation" rule, which will benefit homeowners. It also makes more sense for Del Mar, encourages people to improve their homes, and allows the rebuilding of iconic homes if there were an Act of God disaster.
 - Laurie Fisher asked: what is the goal? Encouraging more remodels as opposed to "scrapes" (total demolition of the existing property)? Or is it bringing existing properties into conformance?
 - Ms. Fisher believes the valuation method is cumbersome for architects, especially for

interior renovations. She notes that there is a lot that can be done on interiors that bumps up that 50% valuation rule. She thinks there are many “scrapes” in Del Mar because of the value of land and the fact that there are so many sales.

- Richard Jamison noted that a change in rules could help those who want to maintain period homes, but agreed that the current market economics of real estate make it harder to maintain community character.
- Harold Feder noted that in terms of a policy of “stabilizing” the community, we want to encourage anything that would allow people to become permanent residents here rather than simply “flipping” homes as investments. Pat Bone noted that “flipping” is not in itself a bad thing, only if it is done with no regard for community standards.
- There was a discussion of the issue of “iconic” homes that are legally non-conforming homes. The committee stated that an Act of God measure by the City Council should be explored, as Del Mar is vulnerable to fire, earthquake, etc.
- Matt Bator noted that the city is trying to address nonconformities as there are many nonconforming homes in Del Mar, particularly those built before the city incorporated in 1970. Mr. Jamison read the Purpose section of Carmel By The Sea Municipal Code chapter 17.36 regarding Nonconforming structures, as one alternative as to how community character can be balanced with the need to abate nonconformities.
- Dwight Worden asked at what point it is economically fair to bring residences up to code for energy conservation, etc.; e.g., if you replace windows, State standards require they be up to energy code.

2) BULK & MASS SUBCOMMITTEE (Richard Jamison reporting)

- Richard stated that basically, peer cities do a few things differently in regulating bulk and volume (Del Mar has a comparatively low FAR; other things). Noted from reading codes in other cities, they focus more on setbacks, 2nd story setbacks increased or limiting second story square footage relative to a ground floor; using an angle plane to limit bulk, height restrictions for sloping lots, etc. In general, there is more attention to detail than in the Del Mar Zoning Code. For the size of most Del Mar lots, setbacks are not as large as in most other cities. Other cities do not incentivize subterranean garages like Del Mar. Most cities seem to believe that Bulk & Mass is more effectively regulated by Design Review, not by zoning.
- Laurie Fisher noted that they discussed corner lots, basements/garages that appear 3-story, floodplain zone issue where the entire structure must go up 7 feet; and the number of zones in Del Mar. To codify this type of regulation would be hard to do effectively. Some recommendations instead: encouraging respect of the Design Guidelines; organizing more training of the DRB to define and evaluate “bulk and mass”; and better presentations by the applicants—a guideline that is directed to the professional (architect)—emphasizing how important it is to give the DRB an effective presentation that demonstrates how bulk & mass/volume has been limited in order to integrate the project into the neighborhood. There should be a 1-2 paragraph narrative that explains how they are addressing the Bulk & Mass DRO regulatory conclusion. It can be quantifiable but applicants should be required to do that.
- Matt Bator noted that the DRB Checklist could help address this concern, adding room for short paragraphs addressing issues. He also noted that the new Design Guidelines are impacting how applicants are presenting projects.
- Anne Farrell asked if the staff is speaking differently to applicants in a way that is helping them do a better job before they get to the DRB. Matt Bator stated that he felt that the Guidelines have made it easier and more effective for all parties to communicate and understand the spirit of the Community Plan.

3) BASEMENT SUBCOMMITTEE (Harold Feder reporting)

- Mr. Feder noted that the subcommittee found that Del Mar is the least restrictive of the

eight peer jurisdictions—some count basements as part of FAR; some define them differently. For instance, in Tiburon, basements that are not habitable are not counted; if habitable, they must be counted against FAR. In Carmel, the city encourages basements to be larger (counted against FAR) with the end result that a bigger basement results in a smaller house aboveground. In Carmel, if you reduce the aboveground space, you get a waiver of FAR-counted space to build a larger basement.

- The subcommittee struggled in its deliberations in trying to find balance between property rights and what can be the downsides of basements.
- After much discussion following extensive research, the subcommittee recommendation is that a basement should be built subterranean, within the footprint of the house, with limited light wells.
- Anne Farrell noted that land conservation issues vis-à-vis basements need to be addressed more overtly. While there are engineering requirements presently, and there are 7-page drainage plan requirements in Del Mar, as basements have gotten larger, there is inevitable impact to the flow of water underground—these issues should be addressed at an early stage of project development, rather than after a project is approved (as a “condition” of approval).
- Harold Feder asked Councilmember Worden what the Council expected from the committee in terms of basement recommendations: is the Ad Hoc Committee expected to suggest basement rules? Mr. Worden thought it important to identify problems; then address how others deal with it; then make suggestions for alternate recommendations.
- Pat Bone also noted that another issue in regards to basements: the relationship between parking spaces and basements—the need for extra off-street parking space if the basement exceeded a certain size.
- John Graybill noted that since land is expensive in Del Mar, applicants want to build to the max, including basements. All the jurisdictions he reviewed showed that other cities have far more regulation of basements than does Del Mar. In Los Altos, for instance, rules are much stricter.
- Richard Jamison and Matt Bator noted that the Design Guidelines now in use address some of these issues around basements, but that more clarity and regulation is needed.

4) DRB TRAINING SUBCOMMITTEE (Harold Feder reporting)

- Chairman Feder noted that currently, the Design Review Board is a cross between a judicial body and a mediating body. In many other jurisdictions, there is a different relationship of the staff to projects—staff is often even more involved, and most cities’ staff members make a recommendation of approval or disapproval on each project. This is not currently the case in Del Mar. The DRB Training subcommittee thought it was important to expand the staff’s role in this way—it could be good incentive for the applicant to make a more realistic application from the start, so the only issues that would come before the DRB in dispute would be the ones that cannot be resolved between the applicant and staff (who are so experienced and knowledgeable).
- In the peer cities that were reviewed, the boards do not have lengthy discussions at meetings, where the DRB becomes a mediator instead of taking a judicial approach (which in the recent past has been the case with the Del Mar Design Review Board). The subcommittee believes that a mutual understanding of this “quasi-judicial” role is a more objective and effective approach to design review in Del Mar, and there needs to be more training so that the volunteer members understand this role. Matt Bator noted that sometimes staff does make that definitive recommendation. Mr. Jamison remarked that “we want to have a process that tee’s applicants up for success if they follow the guidelines,” not put them in a contentious situation. Dwight Worden added that it was his understanding that many other review bodies do make changes made at the staff level. Mr. Bator noted that the Design Guidelines are helping back up the regulatory

conclusions, and he is encouraging staff analyses of pending DRB projects to be more robust. Overall, with the publication of the Design Guidelines, Mr. Bator said that he is seeing things work differently and better, and he is optimistic. Harold noted that his comments were by no means a reflection of the staff—in fact; we want to give the staff more power in the process initially. Mr. Jamison stated that the DRB's judgments will reflect the community more than the staff, so it is important that there be the proper balance between the two.

- John Graybill asked Mr. Bator the status of the Guidelines Checklist. Mr. Bator replied that the project is in process. Mr. Graybill stated that he had seen that the entire process has been improved now that the City is using the CPP pre-meetings, the Design Guidelines, and soon, the Checklist. These are all tools intended to make the DRB process more transparent, objective, and fair to all.
- Art Olson asked Mr. Bator if he had seen any changes now that the CPP process is taking place. Mr. Bator noted that there is an intention to do that comparison in October 2019, after there has been some time gone by to show the City Council the impact of these Design Review changes. He wants to have as much statistical data as possible.
- Mr. Jamison asked Matt Bator about the Database, which had been one of the recommendations of the Ad Hoc Committee (to establish a permanent database of project components including view declarations). Matt noted it is on the Work Program but has not yet been undertaken.

7. DATE FOR NEXT MEETING

Chairman Feder reiterated that it was important for the subcommittees to get together again. Each of the four subcommittees should finalize their recommendations. Chairman Feder suggested that each member submit their findings, referencing other jurisdictions and recommendations. Ultimately, all of this material will be consolidated for the City Council as a report from the Ad Hoc Committee. Dwight Worden recommended that the report contain a minimum of a 1-2 pages/maximum 5-pages per subcommittee.

At the next meeting, final recommendations will be presented for a vote and to move on to the City Council as the Ad Hoc Committee's recommendation. Matt Bator will send around the May 2018 date of the next meeting as soon as he learns the schedule for the council chambers.

8. ADJOURNMENT

Pat Bone moved to adjourn; John Graybill seconded. The Committee adjourned the meeting at 8:10pm.