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Del Mar City Council Meeting Agenda

City of Del Mar, Town Hall
1050 Camino del Mar, Del Mar, California
And via teleconference
128 Ritchie Ave., Silver Spring, MD 20910

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.

Regular Meeting

Monday, September 9, 2024 at 4:30 PM

Dave Druker
Mayor

Terry Gaasterland
Deputy Mayor

Tracy Martinez
Council Member

Dan Quirk
Council Member

Dwight Worden
Council Member

Ashley Jones
City Manager

Leslie E. Devaney
City Attorney

Sarah Krietor
Administrative Services
Manager/City Clerk

Public Participation/Comment: Members of the public can participate in City Council meetings in-person or via written comment (Red Dot). Anyone may address the City Council for up to three minutes, at the Mayor's discretion, on items on the agenda. Members of the public wishing to speak on items not on the agenda may do so under Public Oral Communications. Agenda items may be addressed in any order at the discretion of the Mayor. When addressing the Council, please state your name for the record. Any electronic presentations must be received before 9 a.m. on the date of the Council meeting. No PowerPoint presentations can be loaded during the meeting.

In-Person Participation: Please submit a completed "Speaker Slip", including the item number you wish to speak on, to the City Clerk prior to the Mayor announcing the agenda item. The forms are located near the door at the rear of the Meeting Room. When called to speak, please approach the podium and state your name for the record.

Written Comments: Members of the public can participate in the meeting by submitting a written red dot comment via email to cityclerk@delmar.ca.us. 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.

Remote Participation: Due to technical issues, remote participation will not be offered at this City Council meeting.

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 4:30 PM. Agenda materials and communications from the public on agenda items, "Red Dots", are available on the City's website: <http://www.delmar.ca.us/AgendaCenter> and a hard copy of the agenda materials are available at Del Mar City Hall and the Del Mar Library during their business hours.

Assistance for Persons with Disabilities: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administrative Services Department at 1050 Camino del Mar or by calling (858) 755-9313. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

- I. CALL TO ORDER/ROLL CALL
- II. CITY ATTORNEY CLOSED SESSION REPORT
- III. PLEDGE OF ALLEGIANCE
- IV. PUBLIC ORAL COMMUNICATIONS

Each person wishing to speak before the City Council on any matter not on the agenda shall submit a "Speaker Slip" to the City Clerk when Public Oral Communication is announced. Each speaker will have up to three (3) minutes to speak at the discretion of the Mayor and may be asked clarifying questions. Information received during Public Oral Communication may be received, placed on a future agenda, or referred to the City Manager by the City Council. State law generally precludes the City Council from discussing or acting upon any topic presented during oral communications that is not described on the posted agenda.

Note: there is a time limit of 30 minutes for this section of public communications and each speaker will be heard in the order of the submission of their speaker slip. Speakers who have turned in a speaker slip prior to the time oral communications was called on the agenda, but were not heard during the initial time period shall be called to speak at the end of the agenda.

- V. CITY COUNCIL COMMENTS
- VI. COMMUNITY ANNOUNCEMENTS
- VII. CITY MANAGER'S REPORT
- VIII. PRESENTATIONS
- IX. CONSENT CALENDAR

All items listed on the Consent Calendar are considered to be routine and will be acted upon with one motion. There will be no separate discussion of these items unless a member of the City Council or the public so requests, in which event, the item will be pulled from the Consent Calendar and considered separately after the motion to approve the Consent Calendar. If you wish to remove an item from the Consent Calendar, please submit a "Speaker Slip" to the City Clerk.

1. Approval of Minutes: August 26, 2024 Regular and Special Meeting

Recommended Action: Approve Minutes.

Reference: Clerk's Minutes Book

2. Ratification of List of Demands, dated September 9, 2024

Recommended Action: Ratify the List of Demands.

Reference: Clerk's File No. 201-3

3. Waiver of Reading of Ordinances on Agenda

Recommended Action: Waive Reading of Ordinances.

Reference: Clerk's File No. 401-4

4. License Agreement with Saint Peter's Parish for Parking Meter Management, Enforcement and Revenue Sharing

Recommended Action: Staff recommends that the City Council: 1) Approve a Parking Management License Agreement with Saint Peter's Parish (License Agreement) (Attachment A) to reestablish a formal parking meter management, enforcement, and revenue share arrangement with the City; and 2) Authorize the City Manager to execute the License Agreement.

Reference: Clerk's File No. 406-1, 905-4

5. Second Reading and Adoption of an Ordinance Updating the City's Purchasing Code

Recommended Action: Staff recommends that the City Council adopt an Ordinance (Attachment A) amending the Del Mar Municipal Code Title 7 to revise various procedures related to City purchasing.

Reference: Clerk's File No. 201-9, 401-4, 401-9, 601-5

X. PUBLIC HEARING

6. Continued to September 23, 2024 City Council Meeting - Introduction of Ordinances to Repeal and Replace Del Mar Municipal Code Chapters 24.21 and 24.40 Relating to Inclusionary Housing and Condominium Conversion Regulations and Amend the Zoning Code and Local Coastal Program to Make Minor Corrections to the North Commercial and Professional Commercial Zones for Consistency with the Citywide Inclusionary Housing Regulations

Recommended Action: This item is continued to the September 23, 2024 City Council Meeting.

Reference: Clerk's File No. 303-1, 401-4, 401-9

7. Resolution Approving Tentative Parcel Map TPMC23-001 and Coastal Development Permit CDP24-004

Applicant/Owner: Deal Del Mar LLC

**Assessor Parcel Numbers (APN): 300-181-07-00
Location: 730-750 Stratford Court**

Recommended Action: Staff recommends that the City Council adopt a Resolution (Attachment A) conditionally approving Tentative Parcel Map TPMC23-001 and Coastal Development Permit CDP24-004 to convert an existing detached residential duplex (two detached dwelling units) to condominium ownership.

Reference: Clerk's File No. 301-2

8. Introduction of Ordinance to Establish Short Term Rental Regulations

Recommended Action: Staff recommends that the City Council take the following actions: 1) Confirm the environmental determination that the proposed Short-Term Rental (STR) Regulations Ordinance (Ordinance) is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) because CEQA only applies to projects with the potential for causing a significant effect on the environment; and 2) Introduce an Ordinance (Attachment A) amending the Title 30 Zoning Code in the Del Mar Municipal Code (DMMC) and the certified Local Coastal Program (ZA 24-004/LCPA 24-003) to establish regulations for STRs under a new DMMC Chapter 30.96.

Reference: Clerk's File No. 301-19, 401-4, 401-9

XI. COUNCIL MEETING RECESS

XII. CITY COUNCIL OTHER BUSINESS

9. Joint Resolution Regarding the LOSSAN Rail Realignment Project

Recommended Action: Mayor Dave Druker and Councilmember Tracy Martinez recommend that the City Council adopt a joint resolution (Attachment A) from the cities of Del Mar, Solana Beach, and San Diego and the 22nd District Agricultural Association (22nd DAA) regarding the San Diego Association of Government's (SANDAG) LOSSAN Rail Realignment Project.

Reference: Clerk's File No. 1005-2

10. Options for Filling Upcoming City Councilmember Vacancy

Recommended Action: Staff recommends the City Council consider whether to fill the upcoming Councilmember vacancy created by Councilmember Dwight Worden's resignation, effective September 24, 2024, by appointment or by special election, and provide direction to staff regarding the desired process.

Reference: Clerk's File No. 401-1

XIII. REGIONAL ORGANIZATION REPORTS

A Councilmember assigned as a liaison to a regional organization may make a written or oral report. State law precludes the Council from commenting on, discussing, or acting on a report unless the item of business within the report is described in the agenda.

- A. 22nd District Agricultural Association Community Relations Committee (Martinez/Worden)
- B. Clean Energy Alliance JPA (CEA) Board of Directors (Druker/Worden)
- C. CSA-17 Ambulance District Advisory Board (Martinez/Quirk)
- D. Fire Governance Board, Solana Beach/Del Mar/Encinitas (Martinez/Druker)
- E. League of California Cities – San Diego Chapter (Martinez/Worden)
- F. League of California Cities – Coastal Cities Group (Worden)
- G. North County Transit District (NCTD) (Martinez/Druker)
- H. Regional Solid Waste Association (Worden/Quirk)
- I. San Diego Association of Governments Board (SANDAG) (Gaasterland/Martinez/Druker)
- J. SANDAG Borders Committee (Gaasterland)
- K. SANDAG Regional Planning Committee (Martinez)
- L. SANDAG Shoreline Preservation Working Group (Worden/Gaasterland/Martinez)
- M. SANDAG LOSSAN Executive Task Force (Druker/Gaasterland)
- N. San Diego Metropolitan Wastewater Commission/JPA (Worden/Quirk/Druker)
- O. San Dieguito River Valley Regional Open Space Park JPA –Executive Committee (Worden/Quirk)
- P. Other Regional Organization Reports

XIV. COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORG REPORTS

A Councilmember assigned as a liaison to a City Committee, Council Subcommittee OR Community Organization may make a written or oral report. State law precludes the Council from commenting on, discussing, or acting on a report, unless the item of business within the report is described in this agenda.

- A. Arts Advisory Committee (Druker)
- B. Clean Water Rate Project
- C. Del Mar Community Connections (Martinez/Worden)
- D. Del Mar Village Association (Gaasterland/Martinez)
- E. Finance Committee (Druker/Worden)
- F. Housing Subcommittee (Gaasterland/Martinez)
- G. Human Resources Subcommittee (Druker/Worden)
- H. Legislative Subcommittee (Gaasterland/Martinez)
- I. Measure Q Citizen Oversight Committee (Gaasterland/Quirk)
- J. Parks and Recreation Committee (Martinez/Gaasterland)
- K. Del Mar Railroad Committee (Druker/Gaasterland)
- L. Lagoon Committee (Quirk/Worden)
- M. Sea-Level Rise Adaptation Plan Implementation Subcommittee (Gaasterland/Martinez)
- N. Shores Advisory Committee
- O. Sustainability Advisory Committee (Martinez/Worden)
- P. Traffic and Parking Advisory Committee (Quirk/Worden)
- Q. Undergrounding Project Advisory Committee (Druker/Gaasterland)

R. Other Committee-Subcommittee Reports

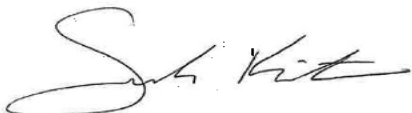
XV. UPCOMING AGENDA ITEMS

The following topics/items are tentatively planned for upcoming agendas. The title, wording, and planned date for these items are subject to change. Final agendas are posted at City Hall 72 hours in advance of the meetings and are also posted on our web site with the accompanying staff report. Please watch our web site: www.delmar.ca.us for City Council Agendas.

September 23, 2024
Resolution of Appreciation/Outgoing Councilmember Activities – Councilmember Worden
Contract with Redflex for Traffic Signal Enforcement Cameras
Acceptance of 2023 State Homeland Security Program Grant Funds
Second Reading/Adoption of Short-Term Rental Regulations Ordinance
Amendments to Agreements for As-Needed Environmental Consulting Services
Agreement for Investment Advisory Services
Amendments to Reclaimed Water Agreements with San Elijo JPA and 22nd District Agricultural Association (Tentative)
Approval to Submit Holleman Grant Application & Acceptance of Donation for Fire Station Equipment
Finance Committee Appointment
Introduction of Inclusionary Housing/Condo Conversion Ordinances
Second Reading/Adoption of Ordinance for Establishing Multi-Unit and Mixed-Use Objective Design Standards for “By-Right” Housing Development Projects

XVI. CERTIFICATION

I, Sarah Krietor, Administrative Services Manager/City Clerk for the City of Del Mar, hereby certify that a copy of this agenda was posted at City Hall on the 4th day of September, 2024, at approximately 5:50 p.m.



Sarah Krietor, Administrative Services Manager/
City Clerk

9/4/2024

Date



**DEL MAR CITY COUNCIL
SPECIAL MEETING MINUTES
CLOSED SESSION
AUGUST 26, 2024**

City of Del Mar Town Hall
1050 Camino del Mar, Del Mar, California

CALL TO ORDER

Mayor Druker called the meeting to order at 3:15 P.M.

ROLL CALL

Present: Mayor Dave Druker; Deputy Mayor Terry Gaasterland; Councilmembers Tracy Martinez and Dwight Worden

Absent: Councilmember Dan Quirk

CLOSED SESSION

- A) Conference with Legal Counsel - Initiation of Litigation
Number of Cases: One
Description: Request for City Participation in Amicus Curiae Brief in Casa Mira Homeowners Association v. California Coastal Commission
Authority: Government Code Section 54956.9(d)(4)
Reportable Action: City Council voted 4-0-1 with Councilmember Quirk absent to join the Amicus Curiae Brief.

- B) Conference with Legal Counsel- Existing Litigation
Lazier v. City of Del Mar
San Diego Superior Court Case No. 37-2024-00009804-CU-WM-CTL
Authority: Government Code Section 54956.9(d)(1)
Reportable Action: None.

- C) Conference with Legal Counsel - Significant Exposure to Litigation
Number of Cases: One
Description: Short Term Rental Regulations
Authority: Government Code Section 54956.9(d)(2)
Reportable Action: None. Deputy Mayor Terry Gaasterland recused.

ADJOURNMENT

Mayor Druker adjourned the meeting at 4:17 P.M.

Sarah Krietor, Administrative Services Manager/
City Clerk



**CITY OF DEL MAR
CITY COUNCIL REGULAR MEETING MINUTES
AUGUST 26, 2024
City of Del Mar Town Hall
1050 Camino del Mar, Del Mar California 92014**

The minutes set forth the actions taken by the City Council on the matters stated. Audio/video recordings of the City Council 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 City Council, including Red Dots (materials provided to the City Council 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

Mayor Druker called the Regular Meeting to order at 4:30 p.m.

ROLL CALL

Present: Mayor Dave Druker; Deputy Mayor Terry Gaasterland; Councilmembers Tracy Martinez, Dan Quirk, and Dwight Worden

CITY ATTORNEY CLOSED SESSION REPORT

City Attorney Leslie Devaney reported on the August 26, 2024, City Council Closed Session meeting. She reported that Councilmember Quirk was absent for closed session and Deputy Mayor Gaasterland was recused from Item C. For item A, she reported that the City Council voted 4-0-1 (with Councilmember Quirk absent) to join the Amicus Curiae Brief at no cost to the City. There were no reportable actions for Items B and C.

PLEDGE OF ALLEGIANCE

Councilmember Quirk led the Pledge of Allegiance.

PUBLIC ORAL COMMUNICATIONS

Mayor Druker opened public oral communications and Shirli Weiss spoke with two donations of time from Karen Lare and John Spelich regarding the San Diego Association of Governments (SANDAG) LOSSAN Rail Realignment Project. Mayor Druker closed public oral communications.

CITY COUNCIL COMMENTS & COMMUNITY ANNOUNCEMENTS

Councilmember Worden announced his resignation from City Council effective September 24, 2024, and read a related statement into the record. Mayor Druker, Deputy Mayor Gaasterland, and Councilmember Martinez expressed their appreciation to Councilmember Worden for his service on the City Council and his contributions to the Del Mar community. Deputy Mayor Gaasterland announced that she will be leaving the meeting at 7:30 p.m. due to a death in the family.

CITY MANAGER'S REPORT

City Manager Ashley Jones reported on the next steps related to the LOSSAN Rail Realignment Project including the Values Analysis process that is underway and will be completed later this fall; EDCO and Fire Department's efforts to eliminate green waste and brush in the City; and Del Mar Recycles event hosted by EDCO on Saturday, September 14, 2024, from 9:00 a.m. – 12:00 p.m. Administrative Services Manager/City Clerk Krietor provided an update on the 2024 General Municipal Election.

PRESENTATIONS

ITEM 1: CITY OF SAN DIEGO PURE WATER PROJECT UPDATE (CLERK’S FILE NO. 906-11, 1504-5)

Mayor Druker introduced the item. A presentation was provided by City of San Diego Public Utilities Department Assistant Director Amy Dorman.

City Council questions focused on reclaimed water percentage goal; cost of the project phases; whether the City of San Diego analyzed pure water versus desalinated water and whether their analysis takes into account decreased water over the last few years.

There were no public speakers for this item.

Council discussion focused on appreciation to the presenter; history regarding the City’s water distribution system; need for the region to be independent and less reliant on outside water sources; importance of public information regarding the project; reservoirs; and capture of storm water runoff.

CITY COUNCIL MEETING RECESS

City Council took a brief recess from 5:25 p.m. to 5:30 p.m. due to HVAC issues.

CONSENT CALENDAR

Administrative Services Manager/City Clerk Sarah Krietor read the titles of the items included on the Consent Calendar. There were no public speakers for the consent calendar items.

IT WAS MOVED BY DEPUTY MAYOR GAASTERLAND, SECONDED BY COUNCILMEMBER WORDEN TO APPROVE THE CONSENT CALENDAR ITEMS 2 THROUGH 9, 12, 13, 14, 15 and 16 WITH AMENDMENT TO RESOLUTION 2024-40 FOR ITEM 13. (VOTE 5-0 WITH COUNCILMEMBER WORDEN RECUSED FROM ITEM 9; COUNCILMEMBERS MARTINEZ AND QUIRK RECUSED FROM ACTION #1 FOR ITEM 15; AND COUNCILMEMBER QUIRK RECUSED FROM ACTION #2 FOR ITEM 15)

Ayes: Mayor Druker, Deputy Mayor Gaasterland, and Councilmembers Martinez, Quirk and Worden;
Noes: 0; Recuse: Councilmember Worden on item 9; Councilmembers Martinez and Quirk on Action #1 for Item 15; and Councilmember Quirk recused on Action #2 for item 15; Absent: 0; Abstain: 0.

ITEM 2: APPROVAL OF MINUTES: JULY 8, 2024 REGULAR AND SPECIAL MEETING, JULY 16, 2024 SPECIAL MEETINGS (CLERK’S MINUTES BOOK)

Council approved the minutes, on consent.

ITEM 3: RATIFICATION OF LIST OF DEMANDS, DATED AUGUST 26, 2024 (CLERK’S FILE NO. 201-3)

Council approved the list of demands, on consent.

ITEM 4: WAIVER OF READING OF ORDINANCES ON AGENDA (CLERK’S FILE NO. 401-4)

Council waived the reading of ordinances, on consent.

ITEM 5: APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH SANDAG TO RENEW THE REGIONAL SHORELINE MONITORING AGREEMENT FOR FISCAL YEARS 2025-2027 (CLERK'S FILE NO. 406-1, 1404-1, 1506-1)

Council approved a Memorandum of Understanding (MOU) with the San Diego Association of Governments (SANDAG) for Fiscal Years 2025-2027 to renew the longstanding regional shoreline monitoring program; and authorized the City Manager to execute the Memorandum of Understanding (MOU) and related documents, on consent.

ITEM 6: TASK ORDER APPROVAL FOR MICHAEL BAKER INTERNATIONAL TO PERFORM ENGINEERING DESIGN, LANDSCAPE ARCHITECTURE, BID PACKAGE PREPARATION, AND ENVIRONMENTAL PERMITTING FOR THE JIMMY DURANTE BOULEVARD BLUFF PROJECT (CLERK'S FILE NO. 406-1)

Council approved a \$184,200 Task Order with Michael Baker International (MBI) to perform engineering design, landscape architecture, bid package preparation, and environmental permitting; and amended the Fiscal Year (FY) 2024-2025 Operating and Capital Budget as described in the Fiscal Impact section of this report, on consent.

ITEM 7: AUTHORIZATION TO APPLY FOR LAND AND WATER CONSERVATION GRANT FOR THE RIVERPATH DEL MAR EXTENSION PROJECT PHASE 3 (CLERK'S FILE NO. 201-13, 406-1)

Council adopted Resolution 2024-37, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA AUTHORIZING THE APPLICATION FOR THE LAND AND WATER CONSERVATION FUND RIVERPATH DEL MAR EXTENSION PROJECT PHASE 3 PROJECT" and authorized the City Manager to execute the necessary grant documents and agreements, on consent.

ITEM 8: UTILITY/LANDSCAPE SPECIALIST POSITION COMPENSATION ADJUSTMENT (CLERK'S FILE NO. 502-1)

Council adopted Resolution 2024-38, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING THE GENERAL EMPLOYEES COMPENSATION PLAN FOR FISCAL YEAR 2024-2025 TO CHANGE THE COMPENSATION FOR THE UTILITY/LANDSCAPE SPECIALIST POSITION", on consent.

ITEM 9: ACCEPTANCE OF DEDICATIONS TO THE CITY OF DEL MAR FOR REAL PROPERTY AT 1904 BALBOA AVENUE FOR ROADWAY PURPOSES AND UTILITY ACCESS EASEMENTS

**APPLICANT/OWNER: TANYA XAVIER
PROPERTY ADDRESS: 1904 BALBOA AVENUE
APN: 299-174-04-00 (CLERK'S FILE NO. 901-12, 1306-1)**

Council adopted Resolution 2024-39, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ACCEPTING OF AN IN-FEE TITLE DEDICATION, FOR PUBLIC ROAD PURPOSES, THAT PORTION OF PROPERTY LOCATED WITHIN 1904 BALBOA AVENUE THAT IS CURRENTLY PAVED AND IS COMMONLY USED

FOR PUBLIC VEHICULAR TRAVEL AND FOR ACCEPTANCE OF PUBLIC WATER AND STORMWATER EASEMENTS ON 1904 BALBOA AVENUE (APN 299-174-04-00) FOR THE USE, OPERATON AND MAINTENANCE OF PUBLIC UTILITIES TO THE CITY OF DEL MAR “, on consent.

COMMISSION AND COMMITTEE INTERVIEWS

ITEM 10: PLANNING COMMISSION INTERVIEWS AND APPOINTMENTS (CLERK’S FILE NO. 401-5)

A presentation was provided by Administrative Services Manager Krietor. The City Council interviewed the candidates.

There were no public speakers for the item.

City Council voted to appointed Mark Rittenbaum and Patrick Leonard to serve as voting members on the Planning Commission for full four-year terms effective October 1, 2024, and expiring on October 31, 2028.

PUBLIC HEARING

ITEM 11: INTRODUCTION OF AN ORDINANCE (A24-003) TO AMEND THE DEL MAR MUNICIPAL CODE AND IMPLEMENT 6TH CYCLE HOUSING ELEMENT PROGRAM 6G BY ESTABLISHING MULTI-UNIT AND MIXED-USE OBJECTIVE DESIGN STANDARDS FOR “BY-RIGHT” HOUSING DEVELOPMENT PROJECTS (CLERK’S FILE NO. 304-7, 401-4, 401-9)

An introduction to the item was provided by Mayor Druker. A presentation was provided by Principal Planner Matt Bator and City consultant Matt Gelbman Senior Urban Planner with Ascent. Deputy Mayor Terry Gaasterland was recused from the item due to living within the subject zoning affected area.

Council questions and discussion focused on whether the variance provision of the Del Mar Municipal Code would apply to the objective design standards; California Coastal Commission (CCC) appeal process related to this item; maximum grading; fireplaces and chiming stacks; air conditioning units on roof tops and noise considerations; maximum height measurements; whether the City’s approach is consistent with other coastal agencies; and desire for staff to include a redline version of the changes when the ordinance returns to City Council for adoption.

There were no public speakers for the item.

IT WAS MOVED BY COUNCILMEMBER WORDEN, SECONDED BY COUNCILMEMBER MARTINEZ TO INTRODUCE AN ORDINANCE TO AMEND DEL MAR MUNICIPAL CODE (DMMC) TITLE 23 AND ESTABLISH A NEW CHAPTER 23.06 TO APPROVE AND IMPLEMENT MULTI-UNIT AND MIXED-USE OBJECTIVE DESIGN STANDARDS FOR “BY-RIGHT” HOUSING DEVELOPMENT PROJECTS, WITH THE IDENTIFIED AMENDEMNENTS. (VOTE 4-0-1 WITH DEPUTY MAYOR GAASTERLAND RECUSED)

Ayes: Mayor Druker, and Councilmembers Martinez, Quirk and Worden; Noes: 0; Recuse: Deputy Mayor Gaasterland; Absent: 0; Abstain: 0.

ITEM 12: INTRODUCTION OF AN ORDINANCE TO UPDATE THE CITY'S PURCHASING CODE (CLERK'S FILE NO. 201-9, 401-4, 401-9, 601-5)

Mayor Druker opened the public hearing and there were no public speakers. The item was moved to the Consent Calendar, whereby Council approved introduction of an Ordinance amending the Del Mar Municipal Code Title 7 related to City purchasing.

ITEM 13: APPROVAL OF A REVISION TO CONDITIONS OF APPROVAL ON PREVIOUSLY APPROVED TENTATIVE TRACT MAP (TTM) TTM18-004 (RM23-001) AND APPROVAL OF COASTAL DEVELOPMENT PERMIT (CDP) CDP24-008 AND CONDITIONAL USE PERMIT (CUP) CUP24-001 FOR THE CONSTRUCTION OF ROADWAY, UTILITY, AND SAFETY IMPROVEMENTS LOCATED IN A STEEP SLOPE SETBACK WITHIN THE BLUFF, SLOPE, AND CANYON OVERLAY AND LAGOON OVERLAY ZONES.

APPLICANT/OWNER: LA ATALAYA, LLC

ASSESSOR PARCEL NUMBERS (APNS): 299-200-65-00, 299-261-43-00, 299-261-42-00, 299-261-14-00, 299-192-24-00, 299-200-64-00, 299-200-62-00, AND 299-200-63-00

LOCATION: SOUTH OF SAN DIEGUITO ROAD, NORTH OF ZAPO STREET, EAST OF GATUN ROAD, AND WEST OF SERPENTINE DRIVE. THE PROJECT IS IN THE CALIFORNIA COASTAL COMMISSION'S APPEAL JURISDICTION. (CLERK'S FILE NO. 301-1, 301-4, 301-18)

Mayor Druker opened the public hearing and there were no public speakers for the item. Mayor Druker closed the public hearing. The item was moved to the Consent Calendar, whereby Council approved Resolution 2024-40, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING A REVISION TO COUNCIL RESOLUTION 2021-05 (RM23-001) AND APPROVING A COASTAL DEVELOPMENT PERMIT (CDP24-008) AND A CONDITIONAL USE PERMIT (CUP24-001) FOR THE CONSTRUCTION OF REQUIRED ROADWAY, UTILITY, AND SAFETY IMPROVEMENTS WITHIN THE BLUFF, SLOPE, AND CANYON, OPEN SPACE, AND LAGOON OVERLAY ZONES (APNS: 299-192-24-00, 299-261-14-00, 299-261-42-00, 299-261-43-00, 299-200-62-00, 299-200-63-00, 299-200-64-00, 299-200-65-00)", with amendments.

ITEM 14: ENCROACHMENT PERMIT EP24-075 – REQUEST TO RETAIN THE EXISTING ENCROACHMENT OF A DETACHED RESIDENTIAL STRUCTURE INTO A CITY ALLEY AT 1329 STRATFORD COURT

APPLICANT: ALEXANDER HERTZBERG (CLERK'S FILE NO. 802-1)

Mayor Druker opened the public hearing and there were no public speakers for the item. Mayor Druker closed the public hearing. The item was moved to the Consent Calendar, whereby Council approved Resolution 2024-41, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING ENCROACHMENT PERMIT EP24-075 TO RETAIN A PORTION OF AN EXISTING DETACHED ACCESSORY STRUCTURE THAT EXTENDS INTO THE PUBLIC RIGHT-OF-WAY (DEL MAR LANE ALLEY) AT 1329 STRATFORD COURT; (APN: 300-012-10) IN DEL MAR, CALIFORNIA".

ITEM 15: RESOLUTIONS DESIGNATING UNDERGROUNDING UTILITY DISTRICTS 2 (BEACH COLONY) AND 25TH STREET (CLERK’S FILE NO. 1001-2)

Mayor Druker opened the public hearing and Shirli Weiss spoke in support of the item. Greg Rizzi and Cynthia Bolker submitted speaker slips in support of the item but did not wish to speak. Council requested that staff follow up on a red dot related to street lighting in the area. Mayor Druker closed the public hearing. The item was moved to the Consent Calendar, whereby Council approved Resolution 2024-42, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ESTABLISHING AN UNDERGROUND UTILITY DISTRICT IN THE CITY OF DEL MAR, ON COAST BOULEVARD AND CAMINO DEL MAR (WEST OF THE RAILROAD TO THE COAST AND FROM 18TH STREET TO SAN DIEGUITO RIVER)” and Resolution 2024-43, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ESTABLISHING AN UNDERGROUND UTILITY DISTRICT IN THE CITY OF DEL MAR, ON 25TH STREET FROM CAMINO DEL MAR TO OCEAN FRONT”

ITEM 16: APPROVAL OF COASTAL DEVELOPMENT PERMIT 24-026 FOR PAVING, SURFACE DRAINAGE IMPROVEMENTS, AND SUBSURFACE DRAINAGE IMPROVEMENTS IN HOSKA ALLEY (CLERK’S FILE NO. 301-18)

Mayor Druker opened the public hearing and Scott Garrett spoke. Mayor Druker closed the public hearing. Mayor Druker closed the public hearing. Council comments focused on the public comments related to the walking area and red dot related to pipes located in the project area. The item was moved to the Consent Calendar, whereby Council approved Resolution 2024-44, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, CONDITIONALLY APPROVING COASTAL DEVELOPMENT PERMIT CDP24-026, TO INSTALL NEW PAVING AND SURFACE DRAINAGE IMPROVEMENTS AND NEW SUBSURFACE DRAINAGE IMPROVEMENTS IN THE CITY ALLEY THAT IS LOCATED BETWEEN 8TH AND 9TH STREETS AND ACCESSED FROM HOSKA DRIVE”.

CITY COUNCIL OTHER BUSINESS

ITEM 17: CONSIDERATION OF AN EXEMPTION FOR MONTHLY RENTALS FROM COMPLIANCE WITH THE CITY’S PROPOSED SHORT-TERM RENTAL REGULATIONS AND TRANSIENT OCCUPANCY TAX REGULATIONS; AND AMENDMENTS TO THE DEFINITIONS OF “SHORT-TERM RENTAL” AND “LONG-TERM RENTAL” UNDER THE PROPOSED SHORT-TERM RENTAL ORDINANCE (CLERK’S FILE NO. 301-19)

An introduction to the item was provided by City Manager Jones. A presentation was provided by Assistant City Attorney Wendy House.

Mayor Druker opened the item to public comment and the following people spoke:

- 1) Shirli Weiss
- 2) Karen Lare
- 3) Laura DeMarco

Mayor Druker closed the item to public comment.

Council discussion focused on relationship between Short-Term Rental (STRs) definition and other definitions in the Del Mar Municipal Code and state regulations; rationale for staff’s recommendation to define STRs as 30 days or less and providing an exemption for monthly rentals; enforcement considerations; desire to exempt monthly rentals from STR regulations including Transient Occupancy Tax (TOT) collection; support for staff’s recommendation; and regulations used by other agencies.

Council consensus was to provide an exemption for monthly short-term rentals in the Short-term Rental Ordinance which will be presented to City Council for initial consideration on September 9, 2024.

REGIONAL ORGANIZATION AND COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORGANIZATION REPORTS

City Council provided written reports as part of the published agenda packet for the meeting and no oral reports were provided.

ADJOURNMENT

Mayor Druker adjourned the meeting at 7:58 p.m.

Sarah Krietor, Administrative Services Manager/
City Clerk

DRAFT



LIST OF DEMANDS
CITY OF DEL MAR
for
City Council Meeting
September 9, 2024

Vendor Payment Checks	\$ 201,840.50
Voids	-
Electronic Fund Transfers (EFT)	677,885.13
Electronic Wires	177,347.17
Total	<u>\$ 1,057,072.80</u>

Approved by:


Monica Molina
Finance Manager/Treasurer

Approved by:

Dave Druker
Mayor

Date:

Date:

Attachments: Check Registers

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
6165	8/23/2024	ace02	ACE UNIFORMS LLC	VS0119207	8/7/2024	UNIFORMS FIRE	676.53
	Voucher:	6165		VS0119275	8/9/2024	UNIFORMS FIRE	205.66
6166	8/23/2024	als02	ALS GROUP USA CORP	522404107	8/8/2024	WATER SAMPLING AUG	760.00
	Voucher:	6166		522404183	8/12/2024	WATER SAMPLING AUG	701.00
				522404173	8/12/2024	WATER SAMPLING AUG	220.00
6167	8/23/2024	avi03	AVI SYSTEMS INC	88983896	7/31/2024	WIRELESS DISCUSSION SYS	13,017.47
	Voucher:	6167					1,681.00
6168	8/23/2024	bak09	BAKER ELECTRIC	4375	7/9/2024	ANNUAL SOLAR MAINT	3,077.20
	Voucher:	6168					3,077.20
6169	8/23/2024	cal81	CALLTOWER INC	202046239	7/25/2024	TELEPHONE AUG	2,914.58
	Voucher:	6169					2,914.58
6170	8/23/2024	cdw01	CDW GOVERNMENT	SK11149	7/18/2024	CROWDSTRIKE ENDPT LIC RWL	3,771.27
	Voucher:	6170					3,771.27
6171	8/23/2024	sun07	CENTRALSQUARE TECH LLC	417672	8/7/2024	TRAKIT UPDATES	1,950.00
	Voucher:	6171					1,950.00
6172	8/23/2024	del02	DEL MAR BLUE PRINT CO, IN	606101	8/15/2024	CUSTOM STICKERS CS	16.26
	Voucher:	6172					16.26
6173	8/23/2024	dev02	DEVANEY PATE MORRIS & C	9581	8/8/2024	LEGAL FEES JUL	854.00
	Voucher:	6173					854.00
6174	8/23/2024	dix01	DIXIELINE LUMBER CO	06-0565098	8/13/2024	MAINT/REPAIR SUPPLIES PW	91.59
	Voucher:	6174		06-0564890	8/12/2024	OPERATING SUPPLIES PW	61.94
				06-0565299	8/14/2024	TOOLS PW	61.92
				06-0565149	8/13/2024	OPERATING SUPPLIES PW	45.08
				06-0564938	8/12/2024	OPERATING SUPPLIES PW	19.15
				06-0564998	8/13/2024	OPERATING SUPPLIES PW	10.76
				06-0565886	8/19/2024	OPERATING SUPPLIES CS	4.67
6175	8/23/2024	man12	MANERI TRAFFIC CONTROL	22171	8/14/2024	BIKE LANE SIGNS PW	870.00
	Voucher:	6175		22172	8/14/2024	CUSTOM TRAFFIC SIGNS	326.25
6176	8/23/2024	mes03	MES - CALIFORNIA	IN2070903	6/18/2024	EMERGENCY SRVCS SUPP FIRE	2,415.20
	Voucher:	6176					2,415.20
6177	8/23/2024	mic11	MICHAEL BAKER INTERNATI	1219460	7/24/2024	CITY ENGINEER JUN	30,225.53
	Voucher:	6177					30,225.53

Bank : eusbnk EFT GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
6178	8/23/2024	pru01	PRUDENTIAL OVERALL SUP	132268283	8/9/2024	MATS PW 8/9	15.47
	Voucher:	6178		132268284	8/9/2024	SHOP TOWELS PW 8/9	4.93
				131017565	8/15/2024	UNIFORMS REFUND PW 8/15	-10.88
							9.52
6179	8/23/2024	san03	SAN DIEGO COUNTY WATEF	0724-2	8/9/2024	RAW WATER JUL	205,024.20
	Voucher:	6179					205,024.20
6180	8/23/2024	sca12	SCA OF CA LLC	158519PS	7/31/2024	SWEEPING SRVCS JUL	2,868.10
	Voucher:	6180					2,868.10
6181	8/23/2024	uti01	UTILITY SPECIALISTS INC	27143	7/31/2024	UP - X1A CREST CNYN JUN	13,453.00
	Voucher:	6181		27144	7/31/2024	UP - 1B STRATFORD JUN	8,604.00
				27145	7/31/2024	UP - SOUTH HILL JUN	5,516.25
							27,573.25
6182	8/23/2024	wex01	WEX BANK	0496-00-496745-1	7/23/2024	GAS & OIL CS JUL	1,560.37
	Voucher:	6182					1,560.37
Sub total for EFT GENERAL ACCOUNT US BANK:							299,331.50

Bank : qusbk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
138613	8/23/2024	32001	320 SERPENTINE LLC	Ref000176719	8/15/2024	UB Refund Cst #00008325	489.75	489.75
		Voucher: 138613						
138614	8/23/2024	adt02	ADT SECURITY SERVICES	1082627048	8/13/2024	ALARM 1700 COAST SEP/NOV	257.94	
		Voucher: 138614		1082630196	8/13/2024	ALARM PW SEP	123.09	381.03
138615	8/23/2024	bad01	BADGER METER INC	1676677	8/13/2024	MAINT/REPAIR SUPP PW	1,107.24	1,107.24
		Voucher: 138615						
138616	8/23/2024	bou02	BOUND TREE MEDICAL LLC	85452544	8/14/2024	EMERGENCY SUPPLIES CS	411.85	
		Voucher: 138616		85452545	8/14/2024	EMERGENCY SUPPLIES CS	14.03	425.88
138617	8/23/2024	car32	CARSON, ROBERT	08052024	8/5/2024	PERMIT REFUND	560.00	560.00
		Voucher: 138617						
138618	8/23/2024	coa21	COAST NEWS GROUP	00153718	8/2/2024	AD - PLANNING COMM AGENDA	345.00	
		Voucher: 138618		00153717	8/2/2024	AD - NOTICE OF INTENT	277.50	622.50
138619	8/23/2024	int09	GREGORY CONLEY, DBA IN1	441	8/8/2024	SCADA MAINT MAY/JUL	936.25	936.25
		Voucher: 138619						
138620	8/23/2024	har20	HARKEY, SHAY	08122024	8/12/2024	REFUND PHCC EVENT	800.00	800.00
		Voucher: 138620						
138621	8/23/2024	hil01	HF&H CONSULTANTS LLC	9721225	6/11/2024	WTR-WSTEWATR RATE STDY M/	1,470.00	1,470.00
		Voucher: 138621						
138622	8/23/2024	hin06	HINDERLITER DE LLAMAS A	SIN041981	8/16/2024	SALES TAX SRVCS JUL/SEP	310.50	310.50
		Voucher: 138622						
138623	8/23/2024	lip06	LIPMAN WESTBURG INC	08192024	8/19/2024	REFUND PHCC EVENT	800.00	800.00
		Voucher: 138623						
138624	8/23/2024	mar11	MARSHALLS INDUSTRIAL H/	779489/1	7/16/2024	TOOLS PW	531.99	
		Voucher: 138624		778834/1	6/26/2024	TOOLS PW	249.86	
				777365/1	5/16/2024	VEH MAINT SUPPLIES PW	168.48	
				777396/1	5/17/2024	VEH MAINT SUPPLIES PW	40.49	990.82
138625	8/23/2024	mis11	MISSION CRITICAL PROTOC	85ADE6EC-0001	7/1/2024	OPERATING SUPPLIES FIRE	216.00	216.00
		Voucher: 138625						
138626	8/23/2024	mun11	MUNICIPAL SEWER TOOLS	INV-000573	8/14/2024	DEBRIS BASKET PW	318.63	318.63
		Voucher: 138626						
138627	8/23/2024	ost05	OSTARI INC	502188	8/1/2024	PALO ALTO FIREWALL FY25	2,633.21	
		Voucher: 138627		502191	8/1/2024	VPN SFTWRE MAINT/LIC	280.50	2,913.71
138628	8/23/2024	fir12	PAUL ROTTENBERG, DBA FI	2024029	5/9/2024	MONTHLY FEES APR	125.00	
		Voucher: 138628		2024116	8/13/2024	FIRE STATS PROG Q1	125.00	250.00

Bank : qusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
138629	8/23/2024	qua09	QUAIL BOTANICAL GARDEN: 02142024	2/14/2024	REFUND PHCC EVENT	800.00	800.00
		Voucher: 138629					
138630	8/23/2024	cen02	SAN DIEGO CENTRE FOR, C TCFOE4672	6/11/2024	LEADERSHIP OFFSITE - MAY	5,400.00	5,400.00
		Voucher: 138630					
138631	8/23/2024	san107	SAN DIEGO DIVERS 2686	8/16/2024	SCUBA EQUIP INSP	11.25	11.25
		Voucher: 138631					
138632	8/23/2024	san138	SAN DIEGO ELEVATOR & LIF 8325	7/31/2024	ELEVATOR MAINT CH JUL	200.00	
		Voucher: 138632	8326	8/14/2024	ELEVATOR MAINT CH AUG	200.00	400.00
138633	8/23/2024	sdq01	SAN DIEGO GAS & ELECTRI 0042 2198 4063 2	8/14/2024	UTILITIES JUL	8,805.79	8,805.79
		Voucher: 138633					
138634	8/23/2024	sdq02	SAN DIEGO GAS & ELECTRI 0067 3735 0888 1	8/6/2024	UTILITIES JUL	295.82	
		Voucher: 138634	0092 4576 5583 8	8/12/2024	UTILITIES JUL	142.95	438.77
138635	8/23/2024	sce02	SCENIC GRIFFIN PROPERTI 08122024	8/12/2024	REFUND PHCC EVENT	800.00	800.00
		Voucher: 138635					
138636	8/23/2024	sha17	SHAPIRO, RAUB 08122024	8/12/2024	REFUND PHCC EVENT	800.00	800.00
		Voucher: 138636					
138637	8/23/2024	sig12	SIGNA DIGITAL SOLUTIONS 34516837	8/12/2024	COPIER CH AUG	766.91	
		Voucher: 138637	34516365	8/12/2024	COPIER CS AUG	45.73	812.64
138638	8/23/2024	spa01	SPARKLETTS 18139543 081124	8/11/2024	WATER CH	74.92	74.92
		Voucher: 138638					
138639	8/23/2024	sta36	STANDARD PLUMBING SUPI XDZY90	8/8/2024	WATER PARTS PW	23.87	23.87
		Voucher: 138639					
138640	8/23/2024	ter01	TERMINIX INT CO LTD, PART 450119630	8/6/2024	PEST CONTROL SRVCS FIRE	54.00	54.00
		Voucher: 138640					
138641	8/23/2024	dis05	THE REINALT-THOMAS COR 1610957	8/13/2024	NEW VEH TIRES PW #82	1,270.81	1,270.81
		Voucher: 138641					
138642	8/23/2024	ver12	VERIZON 72867829	3/20/2024	SCADA SECURE CLOUD FEB	128.54	128.54
		Voucher: 138642					
138643	8/23/2024	wei02	WEIR, LANCE 08192024	8/19/2024	HEARING REFUND	291.00	291.00
		Voucher: 138643					
138644	8/23/2024	wes29	WEST COAST ARBORISTS IN 217358	7/15/2024	TREE MAINT SRVCS 7/1-7/15	8,595.19	8,595.19
		Voucher: 138644					
Sub total for GENERAL ACCOUNT US BANK:							41,299.09

50 checks in this report.

Grand Total All Checks: 340,630.59



Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
4022	8/23/2024	irs01	IRS, UNITED STATES TRE	Ben176758	8/23/2024	FEDERAL TAX: PAYMENT	42,263.85	42,263.85
		Voucher: 4022						
4023	8/23/2024	per01	PERS	Ben176760	8/23/2024	PERS CONTRIBUTIONS: PAYI	52,958.11	52,958.11
		Voucher: 4023						
4024	8/23/2024	edd01	EMPLOYMENT DEVELOPI	Ben176762	8/23/2024	STATE TAX: PAYMENT	12,088.05	12,088.05
		Voucher: 4024						
4025	8/23/2024	per02	PERS 457	Ben176764	8/23/2024	CALPERS 457 DEFERRED CC	2,272.70	2,272.70
		Voucher: 4025						
4026	8/23/2024	ida01	IDAHO STATE TAX COMM	Ben176766	8/23/2024	IDAHO STATE TAX COMMISSI	226.73	226.73
		Voucher: 4026						
Sub total for GENERAL ACCOUNT US BANK:							109,809.44	

Bank : eusbnk EFT GENERAL ACCOUNT US E

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
6183	8/26/2024	mis07	107413 STATE ST BANK & Ben176754	8/23/2024	401A PLAN: PAYMENT	539.00	539.00
		Voucher: 6183					
6184	8/26/2024	mis08	303845 STATE ST BANK & Ben176748	8/23/2024	MISSION SQUARE 457B: PAYI	8,938.77	8,938.77
		Voucher: 6184					
6185	8/26/2024	mis09	803808 STATE ST BANK & Ben176756	8/23/2024	RETIREMENT HEALTH SAVIN	684.09	684.09
		Voucher: 6185					
6186	8/26/2024	uni21	DEL MAR CITY EMPLOYE Ben176750	8/23/2024	DMCEA DUES: PAYMENT	242.00	242.00
		Voucher: 6186					
6187	8/26/2024	nat15	NATIONAL BENEFIT SER\ Ben176752	8/23/2024	SEC. 125 FLEXIBLE SAVINGS	945.76	945.76
		Voucher: 6187					
6188	8/26/2024	par21	U.S. BANK PARS FFC 674\ Ben176746	8/23/2024	PUBLIC AGENCY RETIREMEN	4,173.04	4,173.04
		Voucher: 6188					
Sub total for EFT GENERAL ACCOUNT US BANK:							15,522.66

Bank : gusbnk GENERAL ACCOUNT US BANK

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
8068	8/23/2024	cal62 Voucher: 8068	CALPERS 17645382	8/14/2024	PERS GASB 68 INVOICE	2,800.00	2,800.00
Sub total for GENERAL ACCOUNT US BANK:							2,800.00

12 checks in this report.

Grand Total All Checks: 128,132.10

CC 8-26-24

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
6189	8/30/2024	22n01	22ND DISTRICT AGRICULTUI	03651	7/1/2024	FIRE STATION LEASE 2025	129,004.00	129,004.00
	Voucher:	6189						
6190	8/30/2024	cdw01	CDW GOVERNMENT	SK11595	7/18/2024	CISCO MERAKI ANNUAL LIC	2,293.34	2,293.34
	Voucher:	6190						
6191	8/30/2024	cha71	CHARTER COMM HOLDINGS	8448 41 006 0171	8/13/2024	PUBLIC WIFI PHCC AUG	166.24	166.24
	Voucher:	6191						
6192	8/30/2024	cor07	CORODATA RECORDS MGT	RS5029211	6/30/2024	STORAGE SRVCS JUN	150.51	150.51
	Voucher:	6192						
6193	8/30/2024	dai03	DAILY DIRECT MAIL	14614-13	8/23/2024	UNDERGROUNDING MAILING	515.00	515.00
	Voucher:	6193						
6194	8/30/2024	del31	DELL MARKETING L.P.	10759221105	7/10/2024	MICROSOFT ANNUAL LICENSINC	22,890.18	
	Voucher:	6194		10760932248	7/18/2024	DELL COMPUTERS	10,999.18	
				10757814166	7/2/2024	NETWORK SWITCH WARRANTY	2,932.69	36,822.05
6195	8/30/2024	dix01	DIXIELINE LUMBER CO	06-0566649	8/26/2024	OPERATING SUPPLIES CS	455.40	
	Voucher:	6195		06-0565943	8/20/2024	OPERATING SUPPLIES PW	78.52	
				06-0565488	8/16/2024	OPERATING SUPPLIES PW	19.21	
				06-0565283	8/14/2024	MAINT/REPAIR SUPP PW	19.07	
				06-0566106	8/20/2024	OPERATING SUPPLIES PW	9.58	581.78
6196	8/30/2024	duk01	DUDEK & ASSOCIATES	202406331	8/19/2024	WTR/WSTWTR/PVMT/STRM DRN	3,020.00	3,020.00
	Voucher:	6196						
6197	8/30/2024	kle01	KLEINFELDER	1494023	8/19/2024	CDM BRIDGE JUL	156,726.70	156,726.70
	Voucher:	6197						
6198	8/30/2024	nha01	NHA ADVISORS, LLC	01452	8/20/2024	MQ FIN ADVISOR	7,887.50	7,887.50
	Voucher:	6198						
6199	8/30/2024	par51	PARKWOOD LANDSCAPE M	107953	8/14/2024	LANDSCAPING SRVCS PH/GROV	4,314.00	4,314.00
	Voucher:	6199						
6200	8/30/2024	pho01	PHOENIX GROUP INFO SYS	072024036	8/19/2024	CITE SRVCS - JUL	18,339.62	
	Voucher:	6200		0720241036	8/19/2024	ADMIN CITE SRVCS - JUL	313.08	18,652.70

Bank : eusbnk EFT GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
6201	8/30/2024 Voucher:	pru01 6201	PRUDENTIAL OVERALL SUP	132269612	8/16/2024	UNIFORMS - PW	192.14
				132268285	8/9/2024	UNIFORMS PW 8/9	113.86
				132270789	8/23/2024	UNIFORMS PW - 8/23	98.95
				132270787	8/23/2024	MATS PW - 8/23	15.47
				132270788	8/23/2024	SHOP TOWELS PW - 8/23	4.93
				131017613	8/23/2024	UNIFORMS REFUND PW	-40.44
				131017614	8/23/2024	UNIFORMS REFUND PW	-52.74
6202	8/30/2024 Voucher:	wex01 6202	WEX BANK	0496-00-495760-1	8/6/2024	GAS & OIL FIRE - JUL/AUG	1,157.69
				0496-00-496745-1	8/23/2024	GAS & OIL CS AUG	1,090.92
Sub total for EFT GENERAL ACCOUNT US BANK:							362,714.60

Bank : qusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
138645	8/30/2024	bng01	05 BNG LLC, DBA QUIKSILVE 75011438	7/15/2024	UNIFORM - LG	569.70	569.70
		Voucher: 138645					
138646	8/30/2024	adt02	ADT SECURITY SERVICES 1083789082	8/19/2024	ALARM 1700 COAST SEP/DEC	145.47	145.47
		Voucher: 138646					
138647	8/30/2024	adv12	ADVOCATE INVESTIGATIVE 13940	7/26/2024	CLAIM REVIEW JUL	7,373.07	7,373.07
		Voucher: 138647					
138648	8/30/2024	sbc03	AT&T	9391054486	8/20/2024	TELEPHONE AUG	186.26
		Voucher: 138648		9391026230	8/20/2024	TELEPHONE AUG	62.05
				9391031506	8/20/2024	TELEPHONE AUG	60.95
				9391026231	8/20/2024	TELEPHONE AUG	60.95
				9391026228	8/20/2024	TELEPHONE AUG	31.26
							401.47
138649	8/30/2024	bad01	BADGER METER INC 1677843	8/19/2024	MAINT/REPAIR SUPP PW	1,027.61	1,027.61
		Voucher: 138649					
138650	8/30/2024	boo07	BOONE, JASON & SARAH 08282024	8/28/2024	SEAGROVE/PHCC EVENT REFUI	2,806.00	2,806.00
		Voucher: 138650					
138651	8/30/2024	can08	CANTEEN SAN90451	8/12/2024	COFFEE SUPPLIES CH	239.39	239.39
		Voucher: 138651					
138652	8/30/2024	cit07	CITY OF SAN DIEGO 1000393889	8/15/2024	WATER TREATMENT JUL	41,454.61	41,454.61
		Voucher: 138652					
138653	8/30/2024	sol01	CITY OF SOLANA BEACH 220950	6/30/2024	FIRE TRAINING	142.00	142.00
		Voucher: 138653					
138654	8/30/2024	cla15	CLAIMS MANAGEMENT ASS 522149	8/11/2024	CLAIMS ADMIN DEC-JUN	1,415.10	
		Voucher: 138654		522152	8/11/2024	LOSS RUNS JAN-JUN	750.00
				522147	8/11/2024	CLAIMS ADMIN JUN	731.40
				522146	8/11/2024	CLAIMS ADMIN MAY/JUN	675.75
				522148	8/11/2024	CLAIMS ADMIN MAY/JUN	214.65
				522150	8/11/2024	CLAIMS ADMIN JAN-MAY	174.90
				522151	8/11/2024	CLAIMS ADMIN MAY/JUN	95.40
							4,057.20
138655	8/30/2024	cou65	COUNTY OF SAN DIEGO DEH2016-FFPP-01	7/17/2024	CH COUNTY PERMIT	412.50	412.50
		Voucher: 138655					
138656	8/30/2024	cou16	COUNTY OF SAN DIEGO - RI 24CTOFDMM12	7/1/2024	RADIO MAINT - LFGD	1,314.74	1,314.74
		Voucher: 138656					
138657	8/30/2024	dai03	DAILY DIRECT MAIL 14614-5	3/13/2024	UTILITY BILLS MARCH	215.00	215.00
		Voucher: 138657					

Bank : qusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
138658	8/30/2024	gal02	GALLS LLC	028710237	8/7/2024	UNIFORMS CS	69.60
	Voucher:	138658		028721522	8/8/2024	UNIFORMS CS	35.62
				027890641	5/8/2024	UNIFORMS CS REFUND	-45.68
							59.54
138659	8/30/2024	hen09	HENDRICKS, ALYSSA	08262024	8/26/2024	PHCC EVENT REFUND	800.00
	Voucher:	138659					800.00
138660	8/30/2024	chu11	JANET CHURCHES DBA:, JC	05282024	5/28/2024	PHCC IMP PROJECT	1,180.00
	Voucher:	138660					1,180.00
138661	8/30/2024	lop04	LOPEZ, VIRGINIA	08212024	8/21/2024	DUP PMT REFUND	105.00
	Voucher:	138661					105.00
138662	8/30/2024	boh02	NANCY K. BOHL INC. DBA:, T	INV101295	8/23/2024	EAP SERVICES	2,012.50
	Voucher:	138662					2,012.50
138663	8/30/2024	con17	OCCUPATIONAL HEALTH CT	84067588	8/9/2024	EMPLOYEE TESTING AUG	1,255.00
	Voucher:	138663		83993045	7/31/2024	EMPLOYEE TESTING JUL/AUG	442.00
							1,697.00
138664	8/30/2024	par35	PARADIGM MECHANICAL CC	6506	5/31/2024	QTRLY MAINT SRVCS CH	2,062.00
	Voucher:	138664					2,062.00
138665	8/30/2024	pha02	PHARMALINK INC	842440	3/12/2024	DISPOSAL PHARMACEUTICALS	150.00
	Voucher:	138665					150.00
138666	8/30/2024	por10	PORTABLE STORAGE CORP	161070	8/21/2024	STORAGE CS SEP	176.00
	Voucher:	138666					176.00
138667	8/30/2024	san138	SAN DIEGO ELEVATOR & LIF	8349	8/19/2024	ELEVATOR MAINT AUG	150.00
	Voucher:	138667		8347	8/19/2024	ELEVATOR MAINT PH AUG	150.00
							300.00
138668	8/30/2024	san20	SAN DIEGUITO RIVER PARK	25-07	8/15/2024	MEMBERSHIP FY25	77,542.00
	Voucher:	138668					77,542.00
138669	8/30/2024	sig12	SIGNA DIGITAL SOLUTIONS	34516364	8/12/2024	COPIER PW AUG	138.74
	Voucher:	138669					138.74
138670	8/30/2024	sip01	SIPE, BRIAN	08262024	8/26/2024	PHCC EVENT REFUND	800.00
	Voucher:	138670					800.00
138671	8/30/2024	sou02	SOUTHCOAST HEATING & A	1396532	8/15/2024	HVAC SRVCS LIBRARY	285.00
	Voucher:	138671		1396538	8/15/2024	HVAC SRVCS 225 9TH ST	87.04
							372.04
138672	8/30/2024	sta36	STANDARD PLUMBING SUPI	XGGM52	8/20/2024	WATER PARTS PW	90.70
	Voucher:	138672					90.70
138673	8/30/2024	sup01	SUPERIOR READY MIX CON	443206	8/12/2024	FILL SAND PW	470.62
	Voucher:	138673					470.62
138674	8/30/2024	ter01	TERMINIX INT CO LTD, PART	446719783	5/10/2024	PEST CONTROL SRVCS PHCC	103.00
	Voucher:	138674					103.00

Bank : qusbk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
138675	8/30/2024	thi02	THIENES, TRICIA	08222024	8/22/2024	SEAGROVE EVENT REFUND	1,500.00	1,500.00
		Voucher:	138675					
138676	8/30/2024	uli02	ULINE	181635025	8/9/2024	SAFETY GLASSES PW	486.29	
		Voucher:	138676	181476957	8/6/2024	MAINT/REPAIR SUPP PW	59.73	546.02
138677	8/30/2024	uni31	UNITED SITE SRVCS OF, CA	114-13912596	8/15/2024	PORTABLE RESTROOM SRVCS	320.82	320.82
		Voucher:	138677					
138678	8/30/2024	ver03	VERIZON WIRELESS	570653198-00008	8/18/2024	TELEPHONE AUG	367.94	
		Voucher:	138678	570653198-00006	8/18/2024	TELEPHONE AUG	289.70	
				570653198-00007	8/18/2024	TELEPHONE AUG	114.03	
				570653198-00009	8/18/2024	TELEPHONE AUG	38.01	809.68
138679	8/30/2024	wax02	WAXIE'S ENTERPRISES, LLC	82677684	8/21/2024	JANITORIAL SUPPLIES PW	1,245.79	
		Voucher:	138679	82678993	8/21/2024	JANITORIAL SUPPLIES PW	16.68	1,262.47
138680	8/30/2024	wes29	WEST COAST ARBORISTS IN	217930	7/31/2024	TREE MAINT 7/16 - 7/31	6,962.25	6,962.25
		Voucher:	138680					
138681	8/30/2024	act03	WILLIAMS SCOTSMAN INC	9021672554	8/15/2024	MOBILE OFFICE PW AUG/SEP	156.12	156.12
		Voucher:	138681					
138682	8/30/2024	ste28	STENO AGENCY, INC	1152083	8/26/2024	LEGAL SRVCS	558.15	558.15
		Voucher:	138682					
Sub total for GENERAL ACCOUNT US BANK:								160,333.41

52 checks in this report.

Grand Total All Checks: 523,048.01



Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
6203	8/30/2024	lif06	GEN DIGITAL INC.	CDM0074	8/28/2024	VOL LIFELOCK BENEFIT AUGUS	118.92	118.92
	Voucher:	6203						
6204	8/30/2024	leg04	LEGALACCESSPLANS USA,	40893	8/28/2024	B&D VOL LEGAL INS AUG	197.45	197.45
	Voucher:	6204						
Sub total for EFT GENERAL ACCOUNT US BANK:								316.37

Bank : qusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
8037	8/30/2024	hea02	HEALTH NET	BFC29ASEPT24	8/28/2024	HEALTH INS SEPT	38,546.23	38,546.23
	Voucher:	8037						
8038	8/30/2024	kai01	KAISER PERMANENTE	4753118405	8/28/2024	HEALTH INS SEPT	16,226.73	16,226.73
	Voucher:	8038						
8039	8/30/2024	mut01	MUTUAL OF OMAHA	001749703044	8/28/2024	AD&D B&D SEPT	4,639.52	4,639.52
	Voucher:	8039						
8040	8/30/2024	pri11	PRINCIPAL FINANCIAL GROU	1003938-10001SE	8/28/2024	DENTAL B&D SEPT	5,277.25	5,277.25
	Voucher:	8040						
8041	8/30/2024	sun11	SUN LIFE ASSURANCE CO, (915639-0001SEP1	8/28/2024	FF SUNLIFE INS SEPT	48.00	48.00
	Voucher:	8041						
138683	8/30/2024	cap01	CAPF CA PUBLIC SAFETY AI	Ben176744	8/23/2024	CAPF: PAYMENT	208.00	208.00
	Voucher:	138683						
Sub total for GENERAL ACCOUNT US BANK:							64,945.73	

8 checks in this report.

Grand Total All Checks: 65,262.10





City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Jon Edelbrock, Director of Community Services
Clem Brown, Assistant City Manager
Via Ashley Jones, City Manager

DATE: September 9, 2024

SUBJECT: License Agreement with Saint Peter's Parish for Parking Meter Management, Enforcement and Revenue Sharing

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council: 1) Approve a Parking Management License Agreement with Saint Peter's Parish (License Agreement) (Attachment A) to reestablish a formal parking meter management, enforcement, and revenue share arrangement with the City; and 2) Authorize the City Manager to execute the license agreement.

DISCUSSION/ANALYSIS:

Saint Peter's Parish (Parish) owns the St. Peter's Episcopal Parish Campus located at 334 14th Street, which includes the current paid public parking area along the 1400 Block of Maiden Lane. The Parish and the City have a long-standing arrangement in which the City manages and enforces parking meters located in publicly available parking spaces on Parish property to increase public access and parking in the City's downtown area as well as address unauthorized public parking that interferes with Parish activities during periods when the parking is intended for the Parish's exclusive use.

On July 13, 2010, the City Council approved Resolution 2010-54 authorizing the City Manager to execute a license agreement with the Parish to enable City staff to enforce parking rules and manage a public parking meter area consisting of twenty-one parking spaces on their property. Although the formal agreement expired in 2015, the Parish and City have continued to operate under the same terms and conditions since that time with the only change being the expansion of the number of parking spaces from twenty-one to twenty-two.

Recognizing the need to formally reestablish the arrangement, the Parties have negotiated a new License Agreement that: 1) expands the number of parking spaces included in the revenue share arrangement; and 2) provides for the upgrade of the

City Council Action:

existing single space meters to multi-space smart meters that accept both coin and credit cards and ensures the mutually beneficial arrangement continues.

Per the proposed License Agreement (Attachment A), the Parish will license parking management and enforcement rights to the City on the portion of the property comprising of fifty-three (53) regular size parking spaces for an initial five (5) year term, which will be automatically extended for successive five (5) year periods unless otherwise terminated. If needed, the City or Parish can terminate the License Agreement at any time with proper written notice.

Per the proposed License Agreement, the Parish would be paid percent (50%) of the gross revenue earned from City parking operations on their property, less a percentage share of the City's costs to provide parking management of the licensed area. More specifically, fifty percent (50%) of the City's costs to install and maintain parking meters and associated equipment, ongoing maintenance of the licensed area, and parking meter revenue collection and processing would be deducted from the Parish's share of the gross revenue earned from the licensed area. The proposed License Agreement does not include the sharing of parking enforcement (i.e., citation) revenue. All citation revenue generated from licensed area would remain with the City.

If approved, the License Agreement will provide additional parking revenue and fifty-three (53) publicly accessible paid parking spaces to the City. The spaces will be available twenty-four (24) hours a day, seven (7) days a week, including holidays, at the Parish lot when the spaces are not exclusively reserved for church activities. Having these spaces available for public parking when they are not needed for church activities provides a unique opportunity for the City to reduce the demand for public parking on the adjacent residential streets.

The provisions of the License Agreement will allow the expanded parking use to operate at times when the parking spaces are not needed for church activities/services as calculated by the Parish's planning entitlement, Conditional Use Permit CUP-96-04. Per the CUP, the Parish's parking requirement is based on its most intensive use, which would be use of the Sanctuary (worship building) during church services and events. The License Agreement would provide the Parish the ability to utilize the unused parking spaces specifically when the Sanctuary is not in use and only a minimal amount of on-site parking is needed for the Parish's other uses.

FISCAL IMPACT:

There is no fiscal action to be taken by the City Council related to this agenda item. On average, the City receives \$50,000 annually in gross revenue (before any parking

City Council Action:

expenses) from St. Peter's 22 publicly available parking spaces; however, the actual revenue fluctuates from year to year depending on the revenue collected and associated expenses with maintaining the licensed area. Under the terms of the proposed license agreement, the City is expected to receive around \$22,000 in revenue (net of parking expenses) for those 22 publicly available parking spaces. The proposed License Agreement expands the number of publicly available parking spaces in the Licensed Area from 22 to 53; however, staff is not able to accurately predict the parking demand for those additional spaces and any associated increased revenue collection until the City has more data. Staff does anticipate that expanding the number of paid public parking spaces will increase the City's share of parking collection revenue above the \$22,000 that it typically averages per year. It is also worth noting that 100% of any increase in citation revenue realized from expanding the number of paid public parking spaces included in the License Agreement would remain with the City.

ENVIRONMENTAL IMPACT:

The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This is an operational item and is not included in the City Council's list of Goals & Priorities.

ATTACHMENTS:

Attachment A – Parking Management License Agreement with Saint Peter's Parish
Exhibit A – Licensed Area

City Council Action:

**PARKING MANAGEMENT LICENSE AGREEMENT BETWEEN
THE CITY OF DEL MAR AND
THE RECTOR, WARDENS AND VESTRYMEN OF SAINT PETER’S PARISH**

This **PARKING MANAGEMENT LICENSE AGREEMENT** (“Agreement”) is made and entered into this 9th day of September, 2024 (“Effective Date”), by and between the **CITY OF DEL MAR**, a Charter City and a municipal corporation (“City”) and **THE RECTOR, WARDENS AND VESTRYMEN OF SAINT PETER’S PARISH**, a California nonprofit corporation (“Parish”) in Del Mar, California, each occasionally referred to as “Party” and collectively, the “Parties”.

For and in consideration of the representations, covenants and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Premises.** Parish owns certain private real property commonly known as St. Peter’s Episcopal Parish Campus located at 334 14th Street, Del Mar, CA 92014 (“**Property**”), described and depicted in Exhibit A, attached hereto and incorporated herein by this reference. Parish hereby licenses to the City parking management and enforcement rights to those portions of the Property comprising fifty-three (53) regular size parking spaces (individually and collectively, the “**Licensed Area**”) marked on Exhibit A, together with the attendant drive aisles and walkways used for vehicular and pedestrian ingress and egress to and from the Licensed Area, Property and the public right-of-way (collectively, the “**Premises**”).
2. **Permitted Uses.** City shall have the right to use the Licensed Area for public parking and ingress and egress, twenty-four (24) hours a day, seven (7) days a week, including holidays, during periods of limited use or non-use by the Parish and signed appropriately to adequately advise the public. City shall have the right to re-stripe the spaces and to place and maintain parking meters in the Licensed Area and place identifying and wayfinding signs at locations on the Premises as determined appropriate by City and reasonably agreed upon by Parish. City, and its employees, agents, contractors, and authorized representatives shall have the right to enter the Licensed Area to enforce City's parking policies and regulations. Parish shall have the right to reserve Licensed Area for church activities. The Parish shall notify the City of the needed spaces and time duration of use at least 24 hours prior. The usage rights set forth in this Section 2 are collectively referred to as the (“**Permitted Uses**”).
3. **Restrictions on Use.** City shall not unreasonably interfere with any of Parish's normal activities and operations at the Property; provided, however, in no event shall use of the Licensed Area for any of the Permitted Uses be deemed to interfere with Parish's normal activities or operations at the Property. City shall not permit or allow the parking or placement of commercial vehicles or large trucks over 8,000 pounds in the Licensed Area.

4. **Term.** The term of this Agreement shall be five (5) years commencing September 9, 2024, through September 8, 2029 (“**Term**”). Thereafter, the Term of this Agreement shall automatically extend for successive five (5) year periods unless otherwise terminated as set forth in Section 9 below.
5. **Parking Meter Revenue Share.** Parish shall be paid semi-annually fifty percent (50%) of the gross revenue earned from parking operations by City (“**Parking Revenue Share**”), less the following costs, which the City shall deduct fifty percent (50%) from the Parish Parking Revenue Share:
 - 5.1. Installation and Maintenance of Parking Meters and Equipment. Costs relating to the purchase, installation and maintenance of parking meters and parking meter equipment, signage, and markings within the Licensed Area.
 - 5.2. Maintenance of Licensed Area. Costs relating to the maintenance of the Licensed Area, as required by Section 6, below.
 - 5.3. Parking Meter Revenue Collection and Processing. Costs relating to credit card transaction fees associated with the use of a credit card for the parking meters.
 - 5.4. Licensed Area Improvement Value and Credit. The amortized value of improvements constructed by City in the Licensed Area pursuant to the terms of this Agreement (“**Licensed Area Improvements**”), shall be subject to Parish’s prior verification and approval (which shall not be unreasonably withheld). The value of the Licensed Area Improvements shall be applied against the annual Parking Revenue Share until it is depleted. When the value of the Licensed Area Improvements is depleted, the annual Parking Revenue Share shall be payable in full for the remaining years of this Agreement, subject to the provisions in Section 5.

Parking Revenue Share shall be paid to Parish semi-annually within one hundred twenty (120) days of December 31 and the close of City’s fiscal year (June 30), and shall include documentation that supports the gross revenue collected and all deductions. The Parties agree that the primary purpose of the Licensed Area will be to increase public access and parking to the City of Del Mar Commercial Zone, and that Parish is under no obligation to maximize the revenue received from parking operations.

6. Maintenance, Repairs, Alterations and Common Area Service.

- 6.1. Maintenance and Repairs. Parish shall keep the Premises, as set forth in Section 1, in good condition and repair; clean, sanitary, and free of debris and graffiti. All graffiti will be removed by Parish within 72 hours. City shall keep their parking meter equipment located within the Licensed Area in good condition and repair. All parking meter equipment will be repaired or replaced by City within a reasonable amount of time and subject to the terms in Section 5.1.

6.2. Alterations and Additions. City shall not, without Parish's prior written consent, make any alterations or additions related to parking meters and associated signage and markings on or about the Licensed Area other than as specified under this Agreement. At the termination or expiration of the Term of this Agreement, the City may elect, or the Parish may require, the removal of any or all parking meters and associated signage and markings, and the restoration of the Licensed Area to its prior condition. All costs and/or revenue associated with the removal and sale of equipment and the restoration of the site shall be shared equally by the Parties.

6.2.1. City shall carry out any Alteration and Additions (as noted in Section 6.2 above) of the Licensed Area in conformity with all applicable federal and state labor laws. City shall be solely responsible for determining and effectuating compliance with applicable laws, and Parish makes no representation as to the applicability or non-applicability of the laws to any construction, expansion and/or development of the Licensed Area by City.

6.2.2. City shall give Parish not less than ten (10) days' notice prior to the commencement of any work in the Licensed Area by City, and Parish shall have the right to post notices of non-responsibility in or on the Licensed Area as provided by law. In the event of emergency repairs requiring immediate attention, the City shall attempt to give Parish twenty-four (24) hours advance notice, if feasible, but shall be permitted to make such emergency repairs.

7. Indemnification.

7.1. Parish shall agree to, to the fullest extent permitted by law, to hold harmless, protect, defend (with counsel approved by the City) and indemnify the City, the City Council and each member thereof, its officers, agents, employee, representatives, and their successors and assigns, from and against any and all losses, liabilities, claims, suit damage, expenses and costs, including reasonable attorney's fees and costs, and expert costs and investigation expenses ("Claims"), which arise out of or are in any way connected to Parish's use of the Licensed Area or performances under the license or any negligent or wrongful act or omission by Parish, its officers, employees, representatives, subcontractors, or agents, regardless of whether or not such claim, loss or liability is caused in part by a party indemnified hereunder. Parish shall have no obligation, however, to defend or indemnify if it is determined by a court of competent jurisdiction that such claim was caused by the sole negligence or willful misconduct of City.

7.2. Parish agrees that its duty to defend the indemnities arises upon an allegation of liability based upon the use of the Licensed Area or performance under the license by Parish, its officers, agents, representatives, employees, subcontractors, or anyone for whom Parish is liable, and that an adjudication of Parish's liability is not a condition precedent to Parish's duty to defend. This and all other Parish

indemnity obligations related to the Licensed Area shall survive the termination of the Agreement and shall remain in effect for as long as the underlying claim or action remains viable.

7.3. City agrees to, to the fullest extent permitted by law, to hold harmless and indemnify Parish and its officers, agents, employee, representatives, and their successors and assigns, from and against any and all losses, liabilities, claims, suit damage, expenses and costs, including reasonable attorney's fees and costs, and expert costs and investigation expenses ("Claims"), which arise out of or are in any way connected to any negligent act or omission by City, its officers, employees, representatives, subcontractors, or agents. City shall have no obligation, however, to defend or indemnify if it is determined by a court of competent jurisdiction that such claim was caused by the sole negligence or willful misconduct of Parish.

8. **Insurance.** Commencing on the date that this Agreement is signed by both Parties, City and Parish shall maintain and furnish evidence of the following insurance:

8.1. City Insurance.

8.1.1. A policy of comprehensive general liability insurance, including automobile, having a combined single limit of not less than two million dollars (\$2,000,000) per occurrence and naming Parish as an additional insured.

8.1.2. Worker's Compensation coverage as provided by the California Labor Code.

8.1.3. City shall pay all premiums and assessments on the insurance coverage required by this Section when due and shall provide Parish certificates of insurance for all insurance required to be maintained by City. Each certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to modification except after thirty (30) calendar days' prior written notice to Parish.

8.1.4. Notwithstanding the foregoing, the insurance requirements set forth in this Section 8 may be satisfied by City providing evidence that it is legally self-insured. City agrees that any program of self-insurance shall protect the interests of the Parish in the same manner as those interests would have been protected had a policy of commercial insurance been in effect.

8.2. Parish Insurance.

8.2.1. Parish is hereby advised and understands that the personal property of the Parish and Parish's operations on and use of the Licensed Area are not insured by the City for either damage or loss, and the City assumes no liability for any such loss. Parish shall purchase and maintain at all times during the

Term of this Agreement insurance policies of the types, at the same limits, and subject to the same conditions and requirements as required under section 8.1.1 – 8.1.4 of this Agreement, which is incorporated herein by reference and made a part hereof. Such requirements include, but are not limited to, the policies containing, or being endorsed to contain, provisions naming City of Del Mar, its elective and appointive boards, commissions, officers, employees, contractors, agents, and volunteers as additional insureds.

9. **Termination.** This Agreement may be terminated as follows:

9.1. Either Party may provide not less than ninety (90) days' advance written notice of termination of this Agreement to the other Party at any time, without cause.

9.2. Either Party (the "Non-Breaching Party") may terminate this Agreement and be relieved of the obligations hereunder if the other Party ("**Breaching Party**") fails to perform any covenant or condition contained in this Agreement (each, a "**Breach**") and (i) fails to cure such Breach within ninety (90) days after having received written notice from the Non-Breaching Party describing the nature of the Breach in reasonable detail, or (ii) in the event of a Breach that cannot reasonably be cured within ninety (90) days, the Breaching Party fails to commence to cure such Breach within ninety (90) days after having received written notice from the Non-Breaching Party regarding such Breach and diligently pursue the cure to completion; or

9.3. Either Party may provide twenty four (24) hours' notice of suspension of Section 2 of the Agreement to the other Party due to a dangerous condition in, on or around the Premises (including the Licensed Area) that is a threat to public safety or creates an endangerment to human life, and renders the Premises substantially unusable for any of the Permitted Uses; thereafter, the Agreement may be terminated upon reasonable mutual concurrence between the Parties regarding the continuing existence of the dangerous condition and impracticability of continuation of this Agreement for any of the Permitted Uses.

10. **Notices.** All communications to either Party by the other Party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States Mail, postage prepaid and properly addressed as noted below

To Parish: Rector, Wardens and Vestrymen of Saint Peter's Parish
Attn: Treasurer
P.O. Box 336
Del Mar, California 92014

To City: City of Del Mar

Attn: City Manager
1050 Camino Del Mar
Del Mar, CA 92014

11. **Entire Agreement.** This Agreement and the Exhibits hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior verbal or written agreements and understandings between the Parties with respect to the items set forth herein.
12. **Modifications.** This Agreement may be amended at any time by the written agreement of the Parties. All amendments, changes, revisions, and discharges of this Agreement in whole or in part, and from time to time, shall be binding upon the Parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the Parties hereto.
13. **Severability.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.
15. **Signing Authority.** The representative for each Party signing on behalf of their respective entity declares that authority has been obtained to sign on behalf of their respective entity and agrees to hold the other Party hereto harmless if it is later determined that such authority does not exist.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Execution Date listed above.

CITY OF DEL MAR, a charter city and a municipal corporation

THE RECTOR, WARDENS AND VESTRYMEN OF SAINT PETER'S PARISH, a California non-profit corporation

By: _____
Ashley Jones, City Manager

By: _____
Paige Blair-Hubert, Rector

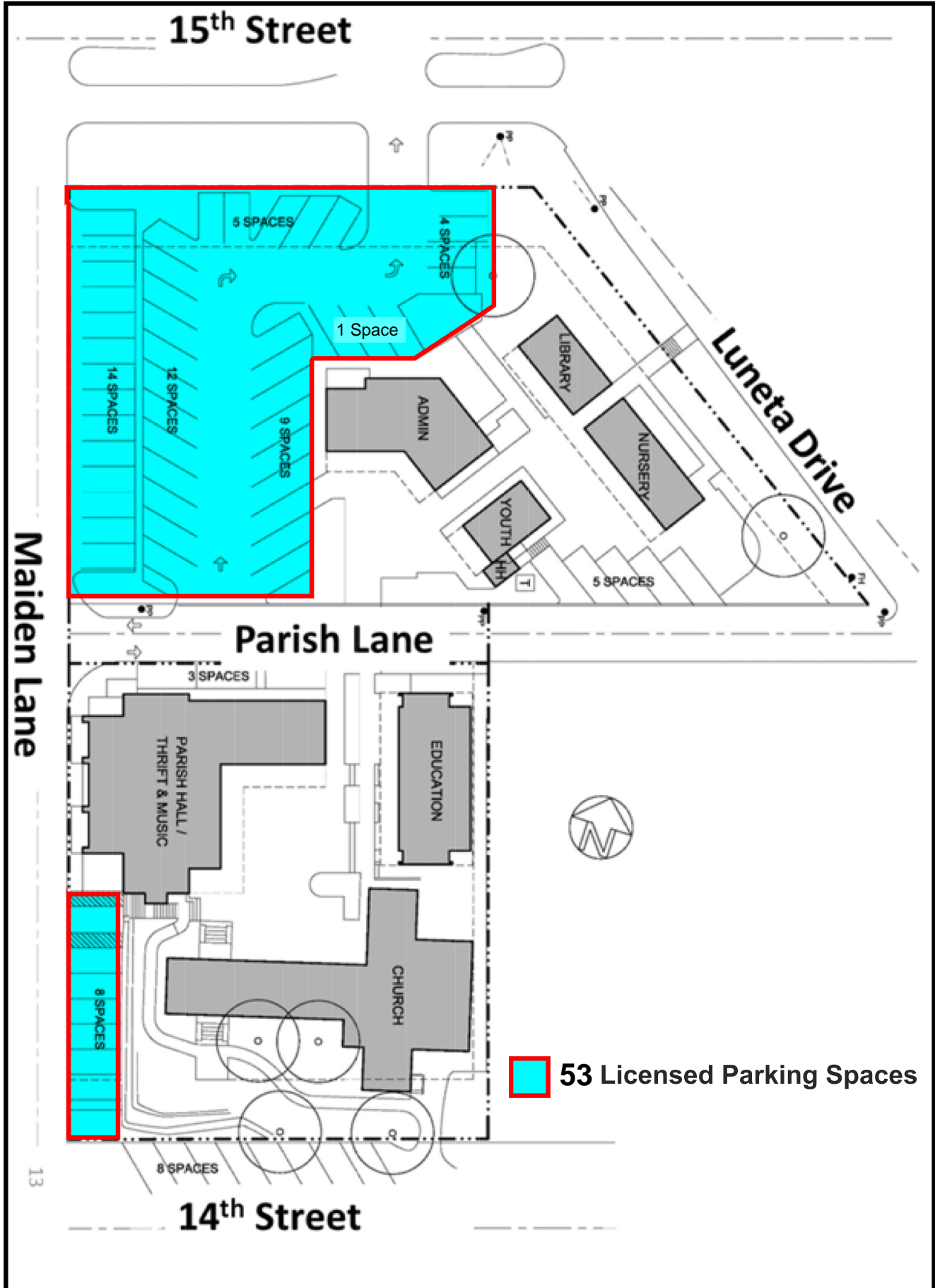
APPROVED AS TO FORM:

By: _____
Leslie Devaney, City Attorney

ATTEST:

By: _____
Sarah Krietor, Administrative Services Manager/City Clerk

Exhibit A - Licensed Area





City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Kseniia Izgarskaia, Senior Management Analyst
Monica Molina, Finance Manager/Treasurer
Sarah Krietor, Administrative Services Manager/City Clerk
Via Ashley Jones, City Manager

DATE: September 9, 2024

SUBJECT: Second Reading and Adoption of an Ordinance Updating the City's Purchasing Code

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council adopt an Ordinance (Attachment A) amending the Del Mar Municipal Code Title 7 to revise various procedures related to City purchasing.

BACKGROUND:

The City's current purchasing regulations are included in Del Mar Municipal Code (DMMC) Title 7 – Expenditures (Purchasing Code), which guides procurement of supplies, equipment, services, public works projects, and other related expenditures. The Purchasing Code also sets the City Manager's contract awarding/signing authority (last amended in 2009), and the procedures for formal bidding, informal bidding, or when no competitive bidding is required for the purchase of supplies, services, and equipment (last amended in 1989).

The cost of goods and services has substantially increased since most of the Purchasing Code provisions were last amended. On August 26, 2024, the City Council conducted a public hearing and voted unanimously to introduce an Ordinance amending the DMMC Title 7 to revise various procedures related to City purchasing.

The City held a public hearing and voted unanimously to introduce the Ordinance (Attachment A) on August 26, 2024. If adopted, the Ordinance would go into effect October 9, 2024 (30 days from the date of adoption).

DISCUSSION/ANALYSIS:

City staff conducted a comprehensive review of DMMC Title 7 and identified several key areas that can be updated and modernized to be in line with current industry best practices and market environment. Staff also reviewed purchasing policies of other municipalities in the region and took common practices into consideration. As a result,

City Council Action:

staff proposes the following changes to DMMC Title 7 outlined below to provide greater flexibility, administrative efficiencies, reduced costs, and enhanced ability to acquire goods and services in a timely manner.

Increase Purchasing Thresholds

DMMC Chapter 7.04 establishes purchasing thresholds for non-competitive bidding, and informal and formal bidding purchases. The cost of goods and services, as well as the size of the City's budget have substantially increased since those thresholds were established in 1989. To make the purchasing process more efficient, provide the required supplies or services to the City in a timely manner, and reduce staff time and related costs, staff recommends updating purchasing thresholds as described in the table below:

Type of Purchase	Current Procurement Threshold	Recommended Procurement Threshold
No Competitive Bidding	\$1,500 or less	\$5,000 or less ("basic purchase")
Informal Bidding (without public noticing)	\$1,500.01 - \$5,000	\$5,000.01 - \$60,000 ("minor purchase")
Informal Bidding (with public noticing)	\$5,000.01 - \$15,000	Remove and combine with informal bidding above
Formal Bidding	\$15,000.01 or more	\$60,000.01 or more ("major purchase")

Increase City Manager's Purchasing Authority

DMMC Section 7.04.120 establishes the City Manager's authority to award contracts and purchases up to \$15,000. Staff recommends the City Council increase the City Manager's purchasing authority from \$15,000 to \$60,000, which would align with the recommended threshold for triggering the formal bidding procedure requirement and is consistent with other cities in the region. The City Manager's revised signing authority will include task orders, one-time purchases, amendments, and change orders in the amount of up to \$60,000 or the contingency amount authorized by the City Council for each individual project at the time of the contract's approval.

Establish Contractor Debarment Procedures

Occasionally, the City encounters situations when irresponsible contractors repeatedly submit bids with computational or other errors, have contract performance issues, fail to complete the project within a reasonable timeframe or request unjustified contract amount increases. While there are some legal remedies to correct a contractor's performance, those contractors are not prohibited from submitting bids for future projects and being awarded other contracts if they are the lowest bidder. Therefore, staff recommends adding a chapter establishing procedures for temporary and permanent contractor debarment. This would allow city staff to disbar contractors and prohibit the contract award to such contractors.

Include Administrative Clarifications

It is also recommended that several administrative revisions and clarifications be incorporated to modernize the Purchasing Code language and simplify the applicable procedures when possible. Specifically, staff recommends:

- Adding sections for definitions, emergency purchases, and compliance provisions.
- Combining acquisition of services from architects, engineers, land surveyors, and construction management firms with the acquisition of other professional services, to simplify the process and clarify procedures applicable to all similar services.
- Clarifying and modernizing the procedures for professional services purchasing.
- Clarifying and expanding the language related to cooperative purchasing, or “piggybacking.”
- Adding a few exemptions from bidding, such as purchase of gasoline, information technology purchases, and payroll related activities.
- Public noticing, security bond requirements, and the award process clarifications for formal bidding procurement.
- Other administrative language clean-up and clarifications.

FISCAL IMPACT:

There is no fiscal impact or action to be taken by the Council related to this agenda item.

ENVIRONMENTAL IMPACT:

The proposed City Council action does not constitute a “project” under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

Update of the City's Purchasing Code is a Tier 2 Priority for Fiscal Year 2024-2025.

ATTACHMENTS:

Attachment A – Proposed Ordinance Amending DMMC Title 7 – Expenditures
Exhibit A to Attachment A – Amended DMMC Title 7 – Expenditures (Clean)
Attachment B – Redlined DMMC Title 7 – Expenditures

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING TITLE 7 OF THE CITY OF DEL MAR MUNICIPAL CODE – EXPENDITURES

WHEREAS, Government Code Section 54202 requires that every local agency adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency; and

WHEREAS, the City of Del Mar's current purchasing system is set forth in the Del Mar Municipal Code (DMMC) Title 7 – Expenditures, which guides the process for the procurement of supplies, equipment, services, public works projects, and other related expenditures; and

WHEREAS, there have been significant increases to the San Diego regional consumer price index (CPI) since the City's last major revisions to its purchasing regulations; and

WHEREAS, the impacts of the COVID-19 pandemic have further hampered the City's ability to procure goods, equipment, and services in a timely manner due to lingering delays within supply chains; and

WHEREAS, a comprehensive review of DMMC Title 7 was conducted, and certain efficiencies were identified that could be realized with additional amendments to Title 7, including revising City Manager's purchasing authority, bidding thresholds, and other administrative language clarifications to modernize and clarify procurement procedures; and

WHEREAS, based on the results of the regional procurement practices review and analysis, the City Council desires to modernize and clarify provisions of the DMMC Title 7 to increase the City Manager's purchasing authority from \$15,000 to \$60,000, and to further clarify the City Manager's signing authority to include task orders, amendments, and change orders in the amount of up to \$60,000, unless a lower contingency was authorized by the City Council for each individual project at the time of the contract approval; and

WHEREAS, the City Council desires to increase procurement threshold for no competitive bidding from \$1,500 or less to \$5,000 or less ("basic purchase"); increase procurement threshold for informal bidding without public noticing from \$5,000 or less to \$60,000 or less ("minor purchase"); remove the category of informal bidding with public noticing; and increase procurement threshold for formal bidding from \$15,000.01 or more to \$60,000.01 or more ("major purchase"); and

WHEREAS, the City Council further desires to establish procedures for temporary and permanent debarment of contractors as an administrative sanction to be imposed only in the public interest for the City's protection; and

WHEREAS, the City Council further desires to amend other various sections of DMMC Title 7 to incorporate administrative revisions and clarifications in order to modernize the language and simplify applicable procedures, when possible, as described in Exhibit "A" incorporated herein.

NOW THEREFORE, the City Council of the City of Del Mar does hereby ordain as follows:

SECTION ONE

That the foregoing recitals are true and correct.

SECTION TWO

Title 7 of the Del Mar Municipal Code is hereby amended to read as shown in the attached Exhibit A, which is incorporated herein by this reference as though set forth in full at this point.

SECTION THREE

If any section, sentence, clause, or phrase of this Ordinance is determined to be invalid, illegal, or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause, or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION FOUR

This Ordinance was introduced by the City Council on August 26, 2024.

SECTION FIVE

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION SIX

The Ordinance will take effect and be in force 30 days from the date that the City Council takes action to adopt the Ordinance.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Del Mar, California, held this 9th day of September 2024.

Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. XXXX, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 9th day of September, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar

Del Mar, California, Municipal Code
TITLE 7 EXPENDITURES

TITLE 7
EXPENDITURES**Chapter 7.04 PURCHASE OF SUPPLIES, EQUIPMENT AND SERVICES****7.04.010 Purpose.**

The purposes of this Chapter are to define the centralized system of the City of the purchase of supplies, equipment and services to provide for the fair and equitable treatment of all persons involved in the purchasing process, to obtain the highest possible value in exchange for public funds and to safeguard the quality and the integrity of the purchasing system.

(Ord. No. 547; Ord. No. 827)

7.04.015 Definitions.

For the purposes of this chapter, the following definitions apply:

- A. **"Appropriation"** refers to funds set aside through the budgeting process by the City Council for a specific use.
- B. **"Best Value"** means the best value to the City based on all factors, including, but not limited to, the following:
 - 1. Cost;
 - 2. The ability, capacity and skill of a vendor/contractor/consultant to perform a contract or provide the supplies, services or equipment required;
 - 3. The ability of a vendor/contractor/consultant to provide the supplies, services or equipment promptly or within the time specified without delay or interferences;
 - 4. The character, integrity, reputation, judgment, experience and efficiency of a vendor/contractor/consultant;
 - 5. The quality of a vendor/contractor/consultant's performance on previous purchases by the City; and
 - 6. The ability of a vendor/contractor/consultant to provide future maintenance, repairs, parts and services for the use of the supplies purchased.
- C. **"Change Order"** is synonymous to "amendment" and is a written amendment executed by both parties to a contract modifying the terms of an existing contract. A change order may revise, add to, or delete previous requirements of the work, adjust the contract sum, or adjust the time for completion of the contract.
- D. **"Contract"** is synonymous to "Agreement" and, regardless of which term is used, it means an agreement between the City and one or more other parties for the purchase or disposition of goods, services, professional services, and/or construction projects.
- E. **"Cooperative Purchasing"** is a form of purchasing that utilizes the competitive pricing and terms of a contract or program entered into by another government entity or cooperative program that includes other governmental agencies following a bidding process (also referenced as "piggybacking").

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- F. **“Debarment”** or **“Debarred”** means the administrative action taken by the City to declare that a Contractor is ineligible to submit a bid, or be awarded a service, procurement, public works contract, or any other contract with the City. Debarment is an administrative sanction to be imposed only in the public interest for the City's protection, and is not imposed for purposes of punishment.
 - G. **“Emergency”** means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Determination of an "emergency" is defined as any breakdown in machinery or equipment, the interruption of an essential service, or any threat to public health, safety or welfare. Determination of emergency shall not require a formal proclamation, but shall be based upon the sound judgment and discretion of the City Manager or an authorized Purchasing Officer, as applicable.
 - H. **“Responsible Bidder”** means a bidder determined by the awarding authority to have demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract, including but not limited to being able to provide future maintenance, repair, parts and service for the use of the goods purchased, and if applicable; and having a record of satisfactory performance under prior contracts with the City or other purchasers where such bidder has previously been awarded such contract.
 - I. **“Responsive Bidder”** means a bidder determined by the City to have submitted a bid or proposal that conforms in all material respects to the requirements of the bid, contract, or proposal documents.
 - J. **“Professional Services”** means all professional or special services that involve the exercise of professional discretion and independent judgment based on advanced or specialized knowledge, expertise or training gained by formal study or experience. Professional services are performed by persons in a professional occupation, provide a recommended course of action or personal expertise, or provide an end product or service. Professional services include, but are not limited to, consulting and performing services for accounting, auditing, computer hardware and software support, architectural, engineering, planning, environmental, land surveying, construction project management, redevelopment, financial, economic, personnel, social services, animal control, legal, management, communication, and other similar professional functions which may be necessary for the operation of the City.
 - K. **“Proposal”** is synonymous to “bid” and means an offer at set prices and terms or an offer to enter into a contract submitted in response to a notice inviting bids or a request for proposals or request for qualifications.
 - L. **“Purchases”** means supplies, materials, equipment and personal property and any transaction by which the City acquires ownership, as well as leases or rentals.
 - M. **“Specifications”** means the description of the physical and/or functional characteristics or of the nature of the required goods, services, professional services, and/or construction projects.
 - N. **“Task Order”** is a type of sub-contract issued by the City to a vendor/consultant/contractor who has already been awarded the initial contract. Task Orders are intended to initiate a specific job to meet the over-arching goals of the main contract.

7.04.020 Purchasing Officer.

- A. A "Purchasing Officer" is each department head of the City or their designee for the department they oversee.
- B. In addition to administering the other procedures of this Chapter, the Purchasing Officer:

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1. Shall keep informed of current developments in market conditions and new products and shall maintain records needed for the efficient purchase of supplies and equipment for the Purchasing Officer's department
 2. Shall first consider sources of supplies, services and equipment located within the City;
 3. Shall inspect supplies and equipment delivered to determine their conformance with the specifications, and may require the vendor to reimburse the City for the performance of chemical and physical tests on samples;
 4. For services, shall review the services performed by the consultant/service provider and authorize payment only after determining services have been satisfactorily performed.
- C. The City Manager may authorize, in writing, a City employee to purchase specified supplies and equipment, independently from the Purchasing Officer of a City department. The authorized employee shall comply with the procedures of this Chapter and shall make periodic reports to the City Manager on the status of the purchase. The City Manager shall ensure that each individual so authorized has filed a financial disclosure statement in accordance with this Code.

7.04.030 Determination of Requirement and Status for Purchasing Supplies, Services and Equipment.

- A. The adopted budget for each department shall include the needs for supplies and equipment of that department during the fiscal year.
- B. Each Purchasing Officer shall ensure that sufficient documentation is submitted with the request for payment to demonstrate compliance with the procedures of this Chapter and to justify the acquisition and acceptance of the supplies or equipment.
- C. Each Purchasing Officer shall submit a report to the City Manager showing all supplies and equipment on hand in the department that are no longer useful to the department upon request. The Purchasing Officer may exchange or trade in such supplies and equipment as part of a purchase only after approval from City Manager. The City Manager may direct the transfer of surplus supplies and equipment to another City department. The City Manager may direct the disposal of such surplus supplies and equipment. The City Manager shall have the authority to delegate the disposal of such surplus and equipment as set forth in this Chapter by memorandum or by administrative order.

7.04.040 Basic Purchase —\$5,000.00 or Less.

If the estimated value of the purchase of supplies, services or equipment is \$5,000.00 or less, the Purchasing Officer may:

- A. Select a vendor, without bid;
- B. Complete the purchase transaction or place the order; and
- C. After supplies, services or equipment have been received, submit the invoice to the Finance Division head for placement on the warrant list/list of demands.

7.04.050 Minor Purchase —\$5,000.01 - \$60,000.00.

If the estimated value of the purchase of supplies, services, excluding professional services, or equipment is \$5,000.01 or more, but less than \$60,000.01, the Purchasing Officer shall:

- A. Solicit informal bids/proposals by written and telephonic request to prospective vendors.

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- B. Require bids/proposals to be in writing and transmitted to the City as specified in the bid documents.
 - C. Seek at least three bids/proposals, unless the purchase qualifies for exemption procedure set forth in Chapter 7.04.090.
 - D. Recommend the responsible and responsive bidder in conformity with the specifications and/or qualifications as appropriate.
 - 1. If the goods, services, and/or equipment specified in the request are of a generic quality and a vendor with particular attributes is not required to meet the needs of the City and the purposes of this chapter, then the Purchasing Officer shall select the bidder whose proposal offers to sell the supplies/equipment at the lowest price.
 - 2. If vendor reliability, experience, availability, or expertise is a component of meeting the needs of the City and the purposes of this Chapter, then the Purchasing Officer shall award a purchase based on best value and need not necessarily purchase from the bidder proposing the lowest price.
 - E. Prepare and submit a requisition to the Finance Division head for approval.
 - F. The Finance Division head or their designee will issue a purchase order to the selected vendor.
 - G. After supplies, services or equipment have been received, the Purchasing Officer shall submit the invoice to the Finance Division head for placement on the warrant list/list of demands.
 - H. The Purchasing Officer shall have the option to purchase goods, services, and/or equipment in an amount of \$5,000.01 or more, but less than \$60,000.01, utilizing the formal bidding procedure set forth in Chapter 7.04.060.

7.04.060 Major Purchase—\$60,000.01 or More.

If the estimated value of the purchase of supplies, services, excluding professional services, or equipment is \$60,000.01 or more, the following provisions shall be satisfied:

- A. If funds have not been appropriated in the current fiscal year for the supplies, services or equipment, the Purchasing Officer shall receive authorization from City Council to solicit bids and/or proposals.
- B. Provided the City Council has authorized the solicitation of bids and/or proposals or funds have been appropriated in the current fiscal year, the Purchasing Officer shall proceed as follows:
 - 1. For the purchase of supplies, equipment, and services, excluding professional services, the Purchasing Officer shall publish an electronic notice soliciting bids/proposals on the City's website at least fifteen days before the date of opening of the bids or proposal submittal date.
 - 2. For the purchase of Public Works construction and capital improvement projects that are not subject to the alternative bidding procedure as set forth in Chapter 7.20, a notice soliciting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The first publication or posting of the notice shall be at least 15 days before the date of opening the bids. In addition to posting the Notice on the City's website or bid platform, the Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, or as required by the Public Contract Code.
- C. The Purchasing Officer shall include in the notice soliciting bids/proposals:
 - 1. The requirement that the bid/proposal be in writing.
 - 2. For Public Works construction and capital improvement projects, the requirement that the bid must be sealed.

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3. A general description of the supplies, services or equipment sought to be purchased.
 4. The location where bid blanks, specifications and/or required services and qualifications may be obtained.
 5. The time and place for opening bids/proposals.
 6. The security required, if any.
 7. The Purchasing Officer has authority to require a performance and/or payment bond as a condition of any contract in such amount as is reasonably necessary to protect the best interests of the City. If the Purchasing Officer requires a performance/payment bond, the form and amount of the bond shall be described in the notice inviting bids.
- D. The Purchasing Officer may require a security deposit to be submitted as a condition for considering a bid/proposal. The amount of the security deposit shall be sufficient to reimburse the City for costs incurred if the bidder is successful but fails to execute the contract or fails to perform obligations under the contract. Bid security shall be returned to each unsuccessful bidder. A successful bidder shall forfeit their security upon refusal or failure to execute a contract within 15 days after notice of award of that contract, unless the City is responsible for the delay. The City may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible and responsive bidder. If the City awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.
- E. The City Clerk or their designee shall open the sealed bids in public and non-sealed bids/proposals internally and submit to the City Council a recommendation regarding the award of the contract.
- F. The City Council may award the contract to the responsible and responsive bidder submitting the lowest bid for Public Works constructions and capital improvement projects, in conformity with the specifications, or to other bidder for other services, or may reject all bids presented, or waive any minor irregularity or informality in such bids.
- G. If two or more bids received are of the same total amount, the City Council may award the contract to the bidder of the Council's choice or direct the Purchasing Officer to further negotiate with the tie bidders and award the contract to the lowest negotiated bidder.
- H. After the City Council awards the contract, the Purchasing Officer may submit a purchase requisition to the Finance Division head to encumber the funds.

7.04.070 Issuance of Requisition and Purchase Order.

Except where specific authority is first obtained from the City Manager, the Purchasing Officer may not prepare or submit a requisition for supplies, services or equipment unless there exist an unencumbered appropriation in the fund account against which the purchase is to be charged.

7.04.080 Emergency Purchases

In case of an emergency as defined in Section 7.04.015 of this Chapter, which requires immediate purchase of supplies, materials, equipment or contractual services, the City Manager may authorize the Purchasing Officer to secure in the open market at the lowest obtainable price any supplies, materials, equipment or contractual services, regardless of the amount of the expenditure; provided, however, that any expenditure exceeding the City Manager's established approval authority shall be later ratified by the City Council at the first available public meeting following the commitment to the expenditure.

7.04.090 Exemption from Bidding.

Where otherwise required by this Chapter, the following procurements, contracts or transactions are exempted from the provisions of this Chapter, at the discretion of the City Manager:

- A. Emergency procurements for construction, equipment, repairs, goods, and/or services;
- B. Goods and/or services that can be reasonably obtained from only a single source;
- C. Sufficient, satisfactory bids are not received or after solicitation of a number of sources, competition is determined inadequate;
- D. Items required to match or be compatible with other goods, furnishings, materials or equipment previously purchased by the City;
- E. Goods, furnishings, types of materials or equipment that have been standardized for the City by the City Manager or by the City Council;
- F. Utility services and related charges;
- G. Goods, services and/or professional services obtained from or through agreement with any governmental, public or quasi-public agency where the agency contracted for goods, services and/or services through a competitive process as described in Section 7.04.100;
- H. Real property leases or purchases and related title and escrow fees, to the extent permitted by law;
- I. Insurance and bonds;
- J. Advertising in magazines, newspapers or other media;
- K. Works of art, entertainment or performers;
- L. Library collection materials or services or other books or periodicals;
- M. Membership dues, conventions, training, travel arrangements including hotels, car rentals and airfare;
- N. Surplus personal property owned by another government, public or quasi-public entity;
- O. Public projects governed by alternative bidding procedures as set forth in Chapter 7.20;
- P. Purchases of gasoline, oil or emergency automotive needs;
- Q. Transportation and freight charges when not specifically included on a purchase order;
- R. Demolition or abatement of dangerous structures or hazardous or unsafe conditions;
- S. Information technology purchases and software licensing, maintenance or upgrades to existing software purchased from the same contractor;
- T. Payroll related activities or transactions;
- U. For procurement under award of Federal assistance, when the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City;
- V. Situations where solicitations of bids or proposals for goods, services and/or professional services would be, in the discretion of the awarding authority, impractical, unavailing, impossible, or not in the best interests of the City.

7.04.100 Cooperative Purchasing.

The Purchasing Officer shall have the authority to join with other public or quasi-public agencies in cooperative purchasing plans or programs for the purchase of goods and/or services by contract, arrangement or agreement as allowed by law and as determined by the Purchasing Officer to be in the City's best interest. For purposes of this section, the determination of whether it is in the City's best interest shall include consideration of whether the procedure used by the public or quasi-public entity was competitive or otherwise resulted in a competitive price. The Purchasing Officer may buy directly from a vendor at a price established by another public agency when the other agency has made their purchase in a competitive manner. Such cooperative purchasing programs and agreements include, but are not limited to, the California Multiple Award Schedules program ("CMAS"), the U.S. General Services Administration ("GSA") Multiple Award Schedule program, Sourcewell, the U.S. Communities Government Purchasing Alliance, and other similar programs. The Purchasing Officer also may purchase from the United States of America or any state, municipality or other public corporation or agency without following formal or informal purchasing procedures.

7.04.110 Professional Services.

For purposes of this section, Professional Services as defined in Section 7.04.015 of this Chapter, shall be purchased as follows:

- A. It is in the best interest of the public, as allowed by State law, that contracts for professional and special services be awarded based on the demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. The Purchasing Officer may negotiate with qualified firms or individuals to obtain a fair and reasonable price for the services to ensure best value to the City and is not required to award a contract to the lowest responsible bidder. Notwithstanding the foregoing, once demonstrated competence and qualifications have been established, expense may be considered as one factor in the selection of a consultant hereunder.
- B. Procurement of professional or special services where the total cost of services provided in a contract period is \$60,000.00 or less shall be made using simplified and cost effective operational procedures and forms approved by the City Manager and in accordance with Section 7.04.050 of this Chapter.
- C. Professional or special services where the cost of services provided in a contract period is \$60,000.01 or more, or has no pre-determined cost (for example, as-needed services) shall be procured as follows:
 1. The Purchasing Officer shall obtain the names of at least three firms or individuals that are, or have within the preceding 12 months, provided substantially similar services to public agencies. The Purchasing Officer may waive the requirements for solicitation of multiple proposals if only one individual or firm can reasonably provide the professional services, and it is in the best interest of the City to waive the requirement.
 2. A request for proposal or qualifications shall be published on the City's website and provided to all potential candidates outlining the scope of services required, time frame for completion, pricing structure, liability insurance information and coverage and other pertinent information. Professionals must submit their responses in the specified format no later than the stated final due date for proposals. The response must include written acceptance of the terms of City's standard agreement, including liability and other insurance coverage requirements.
 3. The evaluation process will be based on the criteria stated in the request for proposal but will generally include the scope of services offered, the professional's capabilities and previous experience in the field.
 4. After the proposals are evaluated, the Purchasing Officer may negotiate an agreement with the selected professional. If an agreement is not reached within a reasonable time, the Purchasing

Officer may terminate discussion with the first candidate and open negotiations with the second choice.

5. The City Council shall approve agreement for as-needed professional services with no pre-determined contractual cost or those with the total contractual cost exceeding City Manager's signing authority.
6. The City Council may waive the bid requirements of this chapter when it is necessary or convenient for the management of the City's affairs.
7. The provisions of this Chapter shall not apply where the City Manager determines that the services needed are of a technical nature and involve little professional judgment, and that selecting the lowest responsible bidder would be in the public's interest.

- D. The City Manager may develop and maintain a procedure whereby architects, engineers, land surveyors and construction project management firms may submit annual statements of qualifications and performance data. The Purchasing Officer may directly solicit proposals from appropriate firms from the list in-lieu of competitive solicitation.

7.04.120 City Manager Contracting Authority.

- A. The City Manager shall have the authority to award the contracts as below.
 1. All procurement of professional services, supplies, goods and/or materials, capital outlay items approved by the City Council during the applicable budget year for which the total contractual cost to the City is \$60,000.00 or less.
 2. Change orders/amendments, including term extensions, for contracts for the purchases of supplies, services and equipment provided the total contractual cost does not exceed the lesser \$60,000.00 or the contingency amount set when the initial contract was awarded, and sufficient unencumbered funds exist or have been previously appropriated for the specific contract. In circumstances when the Council-approved contingency exceeds \$60,000.00, and the delay in work is anticipated to result in significant costs, the City Manager is authorized to execute a single change order up to the full amount of the approved contingency, provided that there are sufficient funds in the allocated project budget. The City Manager shall report the change order to the City Council at its next regularly scheduled meeting.
 3. Task orders for as-needed agreements approved by City Council with each task order amount not exceeding \$60,000.00.
 4. Task orders for as-needed agreements approved by City Council for any task order amount if the City acts as a pass-through agency and the cost is covered by a third party.
 5. Public Works projects in accordance with Chapter 7.20.020 of this Chapter.
 6. Emergency purchases exceeding \$60,000.00 as set forth in Chapter 7.04.080
 7. Notwithstanding the foregoing, any change order that results in the need for additional budget appropriation or that is in excess of the City Manager's authority as described above shall be approved by the City Council.
- B. The City Manager shall approve alternate procurement methods, if appropriate, for use on an experimental basis, and recommend to the City Council additions, deletions or modifications to the City's procurement methods.
- C. The City Manager shall have the authority to delegate the awarding of contracts, amendments and change orders for goods and services as set forth in this Chapter by memorandum or by administrative order.

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(Supp. No. 8, Update 5)

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- D. Upon request of the City Council, the City Manager shall submit a report to the City Council identifying all contracts, including the amount of each contract that has been awarded administratively.

7.04.130 Compliance Required—Effect of Noncompliance.

No obligation for the payment of supplies, services and equipment shall be incurred by the City except as prescribed by this Chapter. Any agreement entered into contrary to the provisions of this Chapter shall be void and any claim or demand against the City based thereon shall be invalid.

Chapter 7.06 DEBARMENT OF CONTRACTORS

7.06.010 Purpose.

Debarment is an administrative sanction to be imposed only in the public interest or for the City's protection, and not for purposes of punishment. Debarment is designed to ensure full and open competition by granting awards only to responsible contractors. Debarment prohibits the awarding of contracts to, and the execution of contracts with, a debarred contractor. This Chapter establishes debarment and the procedure for imposition of debarment.

7.06.020 Grounds for Temporary Debarment.

In addition to all other remedies permitted by law, upon a finding of grounds as set forth in this Chapter, the Assistant City Manager, or designee, may declare debarment of a contractor for any of the following reasons:

1. Two or more counts of computational or other errors in bid submission within a two-year period;
2. Failure or refusal to timely provide or properly execute contract documents, meet bonding or insurance requirements acceptable to the City in the time periods required by the contract;
3. Unsatisfactory performance of contract, including, but not limited to:
 - (a) material breach of the contract or failure or refusal to honor or observe contractual obligations or legal requirements pertaining to the contract;
 - (b) unjustified failure to complete the required work on time and/or within budget;
 - (c) substandard quality of work and/or materials;
 - (d) failure or refusal to properly perform or complete contract work or warranty performance.
4. Violations of any labor or safety statutes, regulations or standards including, but not limited to, applicable local, state, or federal statutes, regulations or standards governing prevailing wage, occupational safety and health, and nondiscrimination requirements;
5. Violations of any law or regulation governing the handling, transfer, storage, or disposal of hazardous materials or hazardous waste, or of solid waste generated in connection with construction or demolition;
6. Submission of a bid, proposal, or other document which is known by contractor to be false, or the submission of a false or fraudulent claim;
7. Knowingly doing business with a debarred third party in performance of any City contract awarded after debarment of said third party;
8. Any finalized debarment of the contractor by another governmental agency on grounds justifying debarment under this Chapter, during the period of such debarment;

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9. The contractor, subcontractor or consultant performs, or fails to perform, the contract in such a way that environmental damage results, or a violation of environmental laws or permits is committed.

7.06.030 Grounds for Permanent Debarment.

Any of the following may constitute grounds for permanent debarment of the contractor, subcontractor or consultant:

1. A final conviction under any state or federal statute or municipal ordinance, including a plea of nolo contendere, or final unappealable civil judgment of any one or more of the grounds listed below:
 - A. Fraud, bribery, collusion, conspiracy, theft, bid rigging, forgery, falsification, or destruction of records, receiving stolen property, perjury, embezzlement, or any other similar crime;
 - B. For commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contractor subcontract, or in the performance of such contractor subcontract;
 - C. For any offense, action, or inaction indicating a lack of business integrity or business honesty.
2. The contractor has engaged in any corrupt practice in bidding, award, administration, or performance of a contract.
3. Person(s) representing contractor committed an act or omission so serious or compelling in nature that it affects the present responsibility of the contractor to be awarded a contract or to participate as a subcontractor.

7.06.040 Determination and Notice.

If grounds for debarment are found to exist under sections 7.06.020 or 7.06.030 above, the Assistant City Manager shall state the determination and the basis thereof in writing, and shall deliver a copy of such determination notice to the contractor via personal delivery or United States mail in a manner ensuring written confirmation of delivery.

7.06.050 Appeal Process.

The contractor shall have the opportunity to rebut any evidence used as a basis for the debarment and to present evidence to the City relating to why the contractor should not be debarred. The contractor may give written notice requesting the appeal to the City Clerk within ten (10) days following service of the City's debarment determination. Within thirty (30) days following receipt of the request for an appeal, the City Manager shall hear the appeal and may affirm or reverse the debarment or reverse the debarment. The City Manager's appeal determination shall serve as the City's final determination, and serves to exhaust the contractor's administrative remedies.

7.06.060 Term and Effect of Debarment.

- A. Debarment constitutes debarment of all divisions or other organizational elements of the contractor for an initial period of up to three (3) years, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities, or unless the debarment is made permanent pursuant to Chapter 7.06.030 above.
- B. Prior to expiration of the time period of any nonpermanent debarment imposed under this Chapter, the Assistant City Manager, or designee, may review the record of the evidence presented during the debarment proceedings, as well as any additional facts or information relevant to a review of the debarment. The Assistant City Manager may extend the existing non-permanent debarment, for an additional period of up to two (2) years, if the Assistant City Manager determines that such extension is necessary to protect the public interest. The appeal procedures established by Chapter 7.06.050 above, shall be applicable to such decision.

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- C. Prior to expiration of the time period of any nonpermanent debarment imposed under this Chapter, the Assistant City Manager may shorten the debarment period for any reason which obviates the need for the debarment or which indicates a shorter debarment period will adequately protect the public interest. Such reasons include, but are not limited to, the following:
- (a) Newly-discovered material evidence that was not previously available to the parties;
 - (b) Reversal of the conviction, civil judgment, or administrative penalty or sanction upon which the debarment was based;
 - (c) Bona fide changes in ownership or management;
 - (d) Elimination of other grounds for which debarment was imposed.

7.06.070 Continuation of Existing Contracts.

Debarment shall be deemed a material breach of any other contract between the City and the contractor, and any existing contracts between the City and the contractor may be terminated immediately upon debarment. Notwithstanding the foregoing, the City may continue any and all contracts in existence at the time of debarment, upon a determination by the City Manager that such renewal or extensions is in the best interest of the City.

7.06.080 List of Debarred Contractors.

The City Clerk shall maintain a current consolidated list of all debarments. The list shall indicate the names and addresses of all debarred contractors, the grounds for debarment, and the termination date for each listing. After the opening of bids or receipt of proposals, the City Clerk shall review the list of the debarments. Bids received from any listed contractor shall be recorded as received, and then rejected by reason of debarment. Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive process by the applicable City department during the period the contractor is on the debarment list.

Chapter 7.08 PAYMENT OF DEMANDS

7.08.010 Purpose.

It is the purpose of this Chapter to describe procedures for the processing and payment of demands, bills, and other claims against the City arising out of contract, including bills for labor, material, and supplies furnished, not including payroll or claims for damages.

(Ord. No. 483)

7.08.020 Submission of Demand.

- A. The demands shall contain a brief description of the labor, material, or supplies furnished, and the date and price.
- B. The demands shall be accompanied by a requisition/purchase order signed by the City official ordering the labor, material, or supplies.
- C. Contracts executed by the City calling for specific payments on specified dates shall constitute a demand for payment on such dates.
- D. Demands shall be submitted to the Finance Division head.

7.08.030 Register of Demands.

- A. The Finance Division head shall prepare a register of demands containing demands submitted over a preceding period of time. The Finance Division head shall sign a certificate on the register of demands that:
 - 1. Each demand on this register reflects an indebtedness authorized by this City;
 - 2. The financial data is correct; and
 - 3. There are funds available to pay each demand.
- B. When the register of demands has been certified by the Finance Division Head, it shall be submitted to the City Council for approval or rejection.
- C. When the register of demands has been approved by the City Council, the City Clerk shall note the date on which the register was approved and the Mayor shall sign the document authorizing payment.

Chapter 7.20 ALTERNATIVE BID PROCEDURES FOR PUBLIC WORKS PROJECTS

7.20.010 Purpose.

The purpose of the following sections is to establish alternative bid procedures for public works projects ("Alternative procedures" or "Alternative bids"), as provided for by the California Uniform Public Construction Cost Accounting Act (the "Act").

(Ord. No. 866; Ord. No. 959 , § 1, 4-6-2020)

7.20.020 Alternative Bid Procedures.

Public projects, as defined by the Act and in accordance with the limits listed below pursuant to the Public Contract Code, may be let to contract by Alternative procedures. The applicable thresholds (provided below for reference purposes) shall be as provided in the Public Contract Code as the same may be amended from time to time.

- A. Public projects of \$60,000.00 or less may be performed by City employees by force account, by negotiated contract, or by purchase order.
- B. Public projects of \$60,000.01 - \$200,000.00 may be let to contract by Alternative procedures as set forth in this Chapter. If all bids received are in excess of \$200,000.00, the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at \$212,500.00 or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.
- C. Public projects of more than \$200,000.00 shall, except as otherwise provided in the Act and this Chapter, be let to contract by formal bidding procedures.

(Ord. No. 959 , § 1, 4-6-2020)

7.20.030 Contractors List.

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (the "Commission").

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(Supp. No. 8, Update 5)

(Ord. No. 959 , § 1, 4-6-2020)

7.20.040 Notice Inviting Alternative Bids.

- A. Where a public project is to be performed pursuant to Subsection B of Section 7.20.020, a notice inviting Alternative bids shall be mailed, faxed, or e-mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 7.20.030, or mailed, faxed, or e-mailed to all construction trade journals as specified by the Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids.
 - 1. If there is no list of qualified contractors maintained by the City for the category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
 - 2. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting information bids may be sent exclusively to such contractor or contractors.
- B. All mailing of notices to contractors and construction trade journals pursuant to Subsection A shall be completed not less than 15 calendar days before bids are due.
- C. The notice inviting Alternative bids shall describe the project in general terms and how to obtain more detailed information about the project and shall state the time and place for the submission of bids.

(Ord. No. 959 , § 1, 4-6-2020)

7.20.050 Award of Contracts.

The City Manager, or designee, is authorized to award contracts pursuant to Subsections A and B of Section 7.20.020 of this Chapter.

(Ord. No. 959 , § 1, 4-6-2020)

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(Supp. No. 8, Update 5)

TITLE 7 EXPENDITURES

Chapter 7.04 PURCHASE OF SUPPLIES, EQUIPMENT AND SERVICES

7.04.010 Purpose.

The purposes of this Chapter are to define the centralized system of the City of the purchase of supplies, equipment and services to provide for the fair and equitable treatment of all persons involved in the purchasing process, to obtain the highest possible value in exchange for public funds and to safeguard the quality and the integrity of the purchasing system.

(Ord. No. 547; Ord. No. 827)

7.04.015 Definitions.

For the purposes of this chapter, the following definitions apply:

- A. “Appropriation” refers to funds set aside through the budgeting process by the City Council for a specific use.
- B. “Best Value” means the best value to the City based on all factors, including, but not limited to, the following:
 - 1. Cost;
 - 2. The ability, capacity and skill of a vendor/contractor/consultant to perform a contract or provide the supplies, services or equipment required;
 - 3. The ability of a vendor/contractor/consultant to provide the supplies, services or equipment promptly or within the time specified without delay or interferences;
 - 4. The character, integrity, reputation, judgment, experience and efficiency of a vendor/contractor/consultant;
 - 5. The quality of a vendor/contractor/consultant’s performance on previous purchases by the City; and
 - 6. The ability of a vendor/contractor/consultant to provide future maintenance, repairs, parts and services for the use of the supplies purchased.
- C. “Change Order” is synonymous to “amendment” and is a written amendment executed by both parties to a contract modifying the terms of an existing contract. A change order may revise, add to, or delete previous requirements of the work, adjust the contract sum, or adjust the time for completion of the contract.
- D. “Contract” is synonymous to “Agreement” and, regardless of which term is used, it means an agreement between the City and one or more other parties for the purchase or disposition of goods, services, professional services, and/or construction projects.

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- E. **“Cooperative Purchasing”** is a form of purchasing that utilizes the competitive pricing and terms of a contract or program entered into by another government entity or cooperative program that includes other governmental agencies following a bidding process (also referenced as "piggybacking").
- F. **“Debarment” or “Debarred”** means the administrative action taken by the City to declare that a Contractor is ineligible to submit a bid, or be awarded a service, procurement, public works contract, or any other contract with the City. Debarment is an administrative sanction to be imposed only in the public interest for the City's protection, and is not imposed for purposes of punishment.
- G. **“Emergency”** means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Determination of an "emergency" is defined as any breakdown in machinery or equipment, the interruption of an essential service, or any threat to public health, safety or welfare. Determination of emergency shall not require a formal proclamation, but shall be based upon the sound judgment and discretion of the City Manager or an authorized Purchasing Officer, as applicable.
- H. **“Responsible Bidder”** means a bidder determined by the awarding authority to have demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract, including but not limited to being able to provide future maintenance, repair, parts and service for the use of the goods purchased, and if applicable; and having a record of satisfactory performance under prior contracts with the City or other purchasers where such bidder has previously been awarded such contract.
- I. **“Responsive Bidder”** means a bidder determined by the City to have submitted a bid or proposal that conforms in all material respects to the requirements of the bid, contract, or proposal documents.
- J. **“Professional Services”** means all professional or special services that involve the exercise of professional discretion and independent judgment based on advanced or specialized knowledge, expertise or training gained by formal study or experience. Professional services are performed by persons in a professional occupation, provide a recommended course of action or personal expertise, or provide an end product or service. Professional services include, but are not limited to, consulting and performing services for accounting, auditing, computer hardware and software support, architectural, engineering, planning, environmental, land surveying, construction project management, redevelopment, financial, economic, personnel, social services, animal control, legal, management, communication, and other similar professional functions which may be necessary for the operation of the City.
- K. **“Proposal”** is synonymous to “bid” and means an offer at set prices and terms or an offer to enter into a contract submitted in response to a notice inviting bids or a request for proposals or request for qualifications.
- L. **“Purchases”** means supplies, materials, equipment and personal property and any transaction by which the City acquires ownership, as well as leases or rentals.
- M. **“Specifications”** means the description of the physical and/or functional characteristics or of the nature of the required goods, services, professional services, and/or construction projects.
- A-N. **“Task Order”** is a type of sub-contract issued by the City to a vendor/consultant/contractor who has already been awarded the initial contract. Task Orders are intended to initiate a specific job to meet the over-arching goals of the main contract.

7.04.020 Purchasing Officer.

- A. ~~Each department head of the City is designated as a~~ "Purchasing Officer" is each department head of the City or their designee for that department head's department/the department they oversee.
- B. In addition to administering the other procedures of this Chapter, the Purchasing Officer:
 - 1. Shall keep informed of current developments in market conditions and new products and shall maintain ~~a bidders list, vendors catalogue file, and~~ records needed for the efficient purchase of supplies and equipment for the Purchasing Officer's department;
 - 2. Shall first consider sources of supplies, services and equipment located within the City;
 - ~~3. May prescribe and maintain such forms and supplemental procedures as are reasonably necessary for the operation of the Purchasing Officer's department in accordance with this Chapter; and~~
 - 34. Shall inspect supplies and equipment delivered to determine their conformance with the specifications, and may require the vendor to reimburse the City for the performance of chemical and physical tests on samples.
 - 54. For services, shall review the services performed by the consultant/service provider and authorize payment only after determining services have been satisfactorily performed.
- C. The City Manager may authorize, in writing, a City employee to purchase specified supplies and equipment, independently from the Purchasing Officer of a City department. The authorized employee shall comply with the procedures of this Chapter and shall make periodic reports to the City Manager on the status of the purchase. The City Manager shall ensure that each individual so authorized has filed a financial disclosure statement in accordance with this Code.

7.04.030 Determination of Requirement and Status for Purchasing Supplies, Services and Equipment.

- A. The adopted budget for each department shall include the needs for supplies and equipment of that department during the fiscal year.
- B. Each Purchasing Officer shall ensure that sufficient documentation is submitted with the request for payment to demonstrate compliance with the procedures of this Chapter and to justify the acquisition and acceptance of the supplies or equipment.
- C. Each Purchasing Officer shall submit a report to the City Manager showing all supplies and equipment on hand in the department that are no longer useful to the department upon request. The Purchasing Officer may exchange or trade in such supplies and equipment as part of a purchase only after approval from City Manager. The City Manager may direct the transfer of surplus supplies and equipment to another City department. The City Manager may direct the disposal of such surplus supplies and equipment. The City Manager shall have the authority to delegate the disposal of such surplus and equipment as set forth in this Chapter by memorandum or by administrative order.

7.04.040 ~~Requisition~~ Basic Purchase — \$1,500,000.00 or Less.

If the estimated value of the purchase of supplies, services or equipment is \$1,500,000.00 or less, the Purchasing Officer may:

- A. Select a vendor, without bid;
- ~~B. Send requisition to Finance Department;~~

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- BC. Complete the purchase transaction or place the order; and
 - CD. After supplies, services or equipment have been received, submit the invoice to the Director of Finance Division head for placement on the warrant list/list of demands.

7.04.050 Same Minor Purchase — \$1,500.01 to \$5,000.01 - \$60,000.00.

If the estimated value of the purchase of supplies, services, excluding professional services, or equipment is ~~\$1,500~~\$5,000.01 or more, but less than ~~\$650,000.01~~, the Purchasing Officer shall:

- A. Solicit informal bids/proposals by written and telephonic request to prospective vendors.
- B. Require bids/proposals to be in writing and transmitted to the City as specified in the bid documents.
- C. Seek at least three bids/proposals, unless the purchase qualifies for exemption procedure set forth in Chapter 7.04.090.
- D. Recommend the responsible and responsive bidder with the lowest bid price in conformity with the specifications and/or qualifications as appropriate.
 - 1. If the goods, services, and/or equipment specified in the request are of a generic quality and a vendor with particular attributes is not required to meet the needs of the City and the purposes of this chapter, then the Purchasing Officer shall select the bidder whose proposal offers to sell the supplies/equipment at the lowest price.
 - 2. If vendor reliability, experience, availability, or expertise is a component of meeting the needs of the City and the purposes of this Chapter, then the Purchasing Officer shall award a purchase based on best value and need not necessarily purchase from the bidder proposing the lowest price.
- E. Prepare and submit a requisition to the Director of Finance Division head for approval.
- F. The Director of Finance Division head or their designee will issue a purchase order to the selected vendor.
- G. After supplies, services or equipment have been received, the Purchasing Officer shall submit the invoice to the Director of Finance Division head for placement on the warrant list/list of demands.
- H. The Purchasing Officer shall have the option to purchase goods, services, and/or equipment in an amount of \$5,000.01 or more, but less than \$60,000.01, utilizing the formal bidding procedure set forth in Chapter 7.04.060.

~~7.04.060 Same — \$5,000.01 to \$15,000.00.~~

~~If the estimated value of the purchase of supplies, services or equipment is \$5,000.01 or more, but less than \$15,000.01, the Purchasing Officer shall:~~

- ~~A. — Post a notice inviting bids/proposals on the bulletin board in City Hall at least ten days before the date of opening of the bids.~~
- ~~B. — Solicit bids/proposals by written and telephonic request to prospective vendors.~~
- ~~C. — Require bids/proposals to be in writing.~~
- ~~D. — Seek at least three bids/proposals.~~

- ~~E. Recommend the responsible vendor with the lowest bid price in conformity with the specifications and/or qualifications as appropriate.~~
- ~~F. Prepare and submit requisition to the Director of Finance for approval.~~
- ~~G. The Director of Finance will issue a purchase order to the selected vendor.~~
- ~~H. After supplies, services or equipment have been received, submit the invoice to the Director of Finance for placement on the warrant list.~~

~~7.04.070 Issuance of Requisition and Purchase Order.~~

~~Except where specific authority is first obtained from the City Manager, the Purchasing Officer may not prepare or submit a requisition for supplies, services or equipment unless there exist an unencumbered appropriation in the fund account against which the purchase is to be charged.~~

~~7.04.0680 Contract Major Purchase — More than \$6015,000.010 or more.~~

If the estimated value of the purchase of supplies, services, excluding professional services, or equipment is more than \$6015,000.01 or more, the following provisions shall be satisfied:

- A. If funds have not been appropriated in the current fiscal year for the supplies, services or equipment, the Purchasing Officer shall receive authorization from City Council to solicit bids and/or proposals.
- B. Provided the City Council has authorized the solicitation of bids and/or proposals or funds have been appropriated in the current fiscal year, the Purchasing Officer shall proceed as follows:
 - ~~1. For the purchase of supplies, equipment, and services, excluding professional services, the Purchasing Officer shall publish an electronic notice soliciting bids/proposals on the City's website at least ten-fifteen days before the date of opening of the bids or proposal submittal date.~~
 - ~~2. Mail the notice soliciting bids/proposals at least ten days before the date of opening of the bids.~~
 - ~~3. Post the notice soliciting bids/proposals on the public bulletin board in City Hall.~~
 - 2. For the purchase of Public Works construction and capital improvement projects that are not subject to the alternative bidding procedure as set forth in Chapter 7.20, a notice soliciting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The first publication or posting of the notice shall be at least 15 days before the date of opening the bids. In addition to posting the Notice on the City's website or bid platform, the Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, or as required by the Public Contract Code.
- C. The Purchasing Officer shall include in the notice soliciting bids/proposals:
 - 1. The requirement that the bid/proposal be in writing.
 - 2. For Public Works construction and capital improvement projects, the requirement that the bid must be sealed, and that it be sealed.
 - 32. A general description of the supplies, services or equipment sought to be purchased.
 - 43. The location where bid blanks, specifications and/or required services and qualifications may be obtained.
 - 54. The time and place for opening bids/proposals.

65. The security required, if any.

7. The Purchasing Officer has authority to require a performance and/or payment bond as a condition of any contract in such amount as is reasonably necessary to protect the best interests of the City. If the Purchasing Officer requires a performance/payment bond, the form and amount of the bond shall be described in the notice inviting bids.

D. The Purchasing Officer may require a security deposit to be submitted as a condition for considering a bid/proposal. The amount of the security deposit shall be sufficient to reimburse the City for costs incurred if the bidder is successful but fails to execute the contract or fails to perform obligations under the contract. Bid security shall be returned to each unsuccessful bidder. A successful bidder shall forfeit their security upon refusal or failure to execute a contract within 15 days after notice of award of that contract, unless the City is responsible for the delay. The City may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible and responsive bidder. If the City awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

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E. The City Clerk or their designee shall open the sealed bids/proposals in public and non-sealed bids/proposals internally and submit to the City Council a recommendation regarding the award of the contract.

F. The City Council may award the contract to the responsible and responsive bidder submitting the lowest bid for Public Works constructions and capital improvement projects, in conformity with the specifications, or to other bidder for other services, or may reject all bids presented, or waive any minor irregularity or informality in such bids.

G. If two or more bids received are of the same total amount, the City Council may award the contract to the bidder of the Council's choice or direct the Purchasing Officer to further negotiate with the tie bidders. ~~The City Council may and thereafter the City Council~~ award the contract to the lowest negotiated bidder.;

H. After the City Council awards the contract, the Purchasing Officer ~~shall~~ may submit a written request/purchase requisition to the ~~Director of Finance~~ Division head to encumber the funds.

7.04.070 Issuance of Requisition and Purchase Order.

Except where specific authority is first obtained from the City Manager, the Purchasing Officer may not prepare or submit a requisition for supplies, services or equipment unless there exist an unencumbered appropriation in the fund account against which the purchase is to be charged.

7.04.080 Emergency Purchases

In case of an emergency as defined in Section 7.04.015 of this Chapter, which requires immediate purchase of supplies, materials, equipment or contractual services, the City Manager may authorize the Purchasing Officer to secure in the open market at the lowest obtainable price any supplies, materials, equipment or contractual services, regardless of the amount of the expenditure; provided, however, that any expenditure exceeding the City Manager's established approval authority shall be later ratified by the City Council at the first available public meeting following the commitment to the expenditure.

7.04.090 Exemption from Bidding.

Where otherwise required by this Chapter, the following procurements, contracts or transactions are exempted from the provisions of this Chapter, at the discretion of the City Manager:

- A. Emergency procurements for construction, equipment, ~~or~~ repairs, goods, and/or services;
- B. Goods and/or services that can be reasonably obtained from only a single source;
- C. Sufficient, satisfactory bids are not received or after solicitation of a number of sources, competition is determined inadequate;
- D. Items required to match or be compatible with other goods, furnishings, materials or equipment previously purchased by the City;
- E. Goods, furnishings, types of materials or equipment that have been standardized for the City by the City Manager or by the City Council;
- F. Utility services and related charges;
- G. Goods, services and/or professional services obtained from or through agreement with any governmental, public or quasi-public agency where the agency contracted for goods, services and/or services through a competitive process as described in Section 7.04.100;
- H. Real property leases or purchases and related title and escrow fees, to the extent permitted by law;
- I. Insurance and bonds;
- J. Advertising in magazines, newspapers or other media;
- K. Works of art, entertainment or performers;
- L. Library collection materials or services or other books or periodicals;
- M. Membership dues, conventions, training, travel arrangements including hotels, car rentals and airfare;
- N. Surplus personal property owned by another government, public or quasi-public entity;
- O. Public projects governed by alternative bidding procedures as set forth in Chapter 7.20;
- P. Purchases of gasoline, oil or emergency automotive needs;
- Q. Transportation and freight charges when not specifically included on a purchase order;
- R. Demolition or abatement of dangerous structures or hazardous or unsafe conditions;
- S. Information technology purchases and software licensing, maintenance or upgrades to existing software purchased from the same contractor;
- T. Payroll related activities or transactions;
- U. For procurement under award of Federal assistance, when the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City;
- ∅. Situations where solicitations of bids or proposals for goods, services and/or professional services would be, in the discretion of the awarding authority, impractical, unavailing, impossible, or not in the best interests of the City.

7.04.100 Cooperative Purchasing.

The Purchasing Officer shall have the authority to join with other public or quasi-public agencies in cooperative purchasing plans or programs for the purchase of goods and/or services by contract, arrangement or agreement as allowed by law and as determined by the Purchasing Officer to be in the City's best interest. For purposes of this section, the determination of whether it is in the City's best interest shall include consideration of whether the procedure used by the public or quasi-public entity was competitive or otherwise resulted in a competitive price. The Purchasing Officer may buy directly from a vendor at a price established by another public agency when the other agency has made their purchase in a competitive manner. Such cooperative purchasing programs and agreements include, but are not limited to, the California Multiple Award Schedules program ("CMAS"), the U.S. General Services Administration ("GSA") Multiple Award Schedule program, Sourcwell, the U.S. Communities Government Purchasing Alliance, and other similar programs. The Purchasing Officer also may purchase from the United States of America or any state, municipality or other public corporation or agency without following formal or informal purchasing procedures.

7.04.110 Professional ~~and Special~~ Services.

For purposes of this section, Professional Services as defined in Section 7.04.015 of this Chapter, shall be purchased as follows: ~~shall mean the procurement of services that involve the exercise of professional discretion and independent judgment based on advanced or specialized knowledge, expertise or training gained by formal study or experience. Special services shall mean those services that the City Manager has determined the City lacks sufficient personnel with the necessary training and expertise to perform the services or to perform such services in a timely manner.~~

- A. It is in the best interest of the public, as allowed by State law, that contracts for professional and special services be awarded based on the demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. The Purchasing Officer may negotiate with qualified firms or individuals to obtain a fair and reasonable price for the services to ensure best value to the City and is not required to award a contract to the lowest responsible bidder. Notwithstanding the foregoing, once demonstrated competence and qualifications have been established, expense may be considered as one factor in the selection of a consultant hereunder.
- B. Procurement of professional or special services where the total cost of services provided in a 12-month contract period is \$6015,000.00 or less shall be made using simplified and cost effective operational procedures and forms approved by the City Manager and in accordance with Sections 7.04.040, 7.04.050 and 7.04.060 and of this Chapter.
- C. Professional or special services where the cost of services provided in a 12-month period contract period is more than \$6015,000.01 or more, 0 or has no pre-determined cost (for example, as-needed services) shall be procured as follows:
 - 1. The Purchasing Officer shall obtain the names of at least three firms or individuals that are, or have within the preceding 12 months, provided substantially similar services to public agencies. The Purchasing Officer may waive the requirements for solicitation of multiple proposals if only one individual or firm can reasonably provide the professional services, and it is in the best interest of the City to waive the requirement.
 - 2. A request for proposal or qualifications shall be published on the City's website and provided to all potential candidates outlining the scope of services required, time frame for completion, pricing structure, liability insurance information and coverage and other pertinent information. Professionals must submit their responses in the specified format no later than the stated final due date for proposals. The response must include written acceptance of the terms of City's

standard agreement, Including liability and other insurance information and coverage requirements.

3. The evaluation process will be based on the criteria stated in the request for proposal but will generally include the scope of services offered, the professional's capabilities and previous experience in the field.
4. After the proposals are evaluated, the Purchasing Officer will may negotiate an agreement with the selected professional. If an agreement is not reached within a reasonable time, the Purchasing Officer will may terminate discussion with the first candidate and open negotiations with the second choice.
5. The City Council shall approve agreement for as-needed professional services with no pre-determined contractual cost or those with the total contractual cost exceeding City Manager's signing authority.
6. The City Council may waive the bid requirements of this chapter when it is necessary or convenient for the management of the City's affairs.
7. The provisions of this Chapter shall not apply where the City Manager determines that the services needed are of a technical nature and involve little professional judgment, and that selecting the lowest responsible bidder would be in the public's interest.

D. The City Manager shall may develop and maintain a procedure whereby architects, engineers, land surveyors and construction project management firms may submit annual statements of qualifications and performance data. The Purchasing Officer may directly solicit proposals from appropriate firms from the list in-lieu of competitive solicitation.

7.04.120 City Manager Contracting Authority.

A. The City Manager shall have the authority to award the contracts as below.

1. All procurement of Professional/Special professional services, supplies, goods and/or materials, capital outlay items approved by the City Council during the applicable budget year including those procured by Chapter 7.16, for which the total contractual cost to the City is \$6015,000.00 or less.
- ~~2. All procurement of supplies, goods and/or materials for which the cost to the City is \$15,000.00 or less; and~~
- ~~3. All capital outlay items approved by the City Council during the applicable budget year in an amount of \$15,000.00 or less; and~~
24. Change orders/amendments, including term extensions, for contracts for the purchases of supplies, services and equipment provided the total contractual cost does not exceed the lesser ~~of 20 percent of the original bid amount or \$6015,000.00~~ or the contingency amount set when the initial contract was awarded, and sufficient unencumbered funds exist or have been previously appropriated for the specific contract. In circumstances when the Council-approved contingency exceeds \$60,000.00, and the delay in work is anticipated to result in significant costs, the City Manager is authorized to execute a single change order up to the full amount of the approved contingency, provided that there are sufficient funds in the allocated project budget. The City Manager shall report the change order to the City Council at its next regularly scheduled meeting.; ~~and~~

Change orders for an amount of more than \$15,000.00 shall require City Council approval. ~~3. Task orders for as-needed agreements approved by City Council with each task order amount not exceeding \$60,000.00.~~

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4. Task orders for as-needed agreements approved by City Council for any task order amount if the City acts as a pass-through agency and the cost is covered by a third party.
 5. Public Works projects in accordance with Chapter 7.20.020 of this Chapter.
 6. Emergency purchases exceeding \$60,000.00 as set forth in Chapter 7.04.080
 7. ~~Notwithstanding the foregoing, any change order that results in the need for additional budget appropriation or that is in excess of the City Manager's authority as described above or extends the term of a contract for more than three months beyond the original term shall be approved by the City Council.~~
- B. The City Manager shall approve alternate procurement methods, if appropriate, for use on an experimental basis, and recommend to the City Council additions, deletions or modifications to the City's procurement methods.
 - C. The City Manager shall have the authority to delegate the awarding of contracts, amendments and change orders for goods and services as set forth in this Chapter by memorandum or by administrative order.
 - D. Upon request of the City Council, the City Manager shall submit a report to the City Council identifying all contracts, including the amount of each contract that has been awarded administratively.

7.04.130 Compliance Required—Effect of Noncompliance.

No obligation for the payment of supplies, services and equipment shall be incurred by the City except as prescribed by this Chapter. Any agreement entered into contrary to the provisions of this Chapter shall be void and any claim or demand against the City based thereon shall be invalid.

Chapter 7.06 DEBARMENT OF CONTRACTORS

7.06.010 Purpose.

Debarment is an administrative sanction to be imposed only in the public interest or for the City's protection, and not for purposes of punishment. Debarment is designed to ensure full and open competition by granting awards only to responsible contractors. Debarment prohibits the awarding of contracts to, and the execution of contracts with, a debarred contractor. This Chapter establishes debarment and the procedure for imposition of debarment.

7.06.020 Grounds for Temporary Debarment.

In addition to all other remedies permitted by law, upon a finding of grounds as set forth in this Chapter, the Assistant City Manager, or designee, may declare debarment of a contractor for any of the following reasons:

1. Two or more counts of computational or other errors in bid submission within a two-year period;
2. Failure or refusal to timely provide or properly execute contract documents, meet bonding or insurance requirements acceptable to the City in the time periods required by the contract;
3. Unsatisfactory performance of contract, including, but not limited to:
 - (a) material breach of the contract or failure or refusal to honor or observe contractual obligations or legal requirements pertaining to the contract;
 - (b) unjustified failure to complete the required work on time and/or within budget;
 - (c) substandard quality of work and/or materials;

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- (d) failure or refusal to properly perform or complete contract work or warranty performance.
4. Violations of any labor or safety statutes, regulations or standards including, but not limited to, applicable local, state, or federal statutes, regulations or standards governing prevailing wage, occupational safety and health, and nondiscrimination requirements;
 5. Violations of any law or regulation governing the handling, transfer, storage, or disposal of hazardous materials or hazardous waste, or of solid waste generated in connection with construction or demolition;
 6. Submission of a bid, proposal, or other document which is known by contractor to be false, or the submission of a false or fraudulent claim;
 7. Knowingly doing business with a debarred third party in performance of any City contract awarded after debarment of said third party;
 8. Any finalized debarment of the contractor by another governmental agency on grounds justifying debarment under this Chapter, during the period of such debarment;
 9. The contractor, subcontractor or consultant performs, or fails to perform, the contract in such a way that environmental damage results, or a violation of environmental laws or permits is committed.

7.06.030 Grounds for Permanent Debarment.

Any of the following may constitute grounds for permanent debarment of the contractor, subcontractor or consultant:

1. A final conviction under any state or federal statute or municipal ordinance, including a plea of nolo contendere, or final unappealable civil judgment of any one or more of the grounds listed below:
 - A. Fraud, bribery, collusion, conspiracy, theft, bid rigging, forgery, falsification, or destruction of records, receiving stolen property, perjury, embezzlement, or any other similar crime;
 - B. For commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contractor subcontract, or in the performance of such contractor subcontract;
 - C. For any offense, action, or inaction indicating a lack of business integrity or business honesty.
2. The contractor has engaged in any corrupt practice in bidding, award, administration, or performance of a contract.
3. Person(s) representing contractor committed an act or omission so serious or compelling in nature that it affects the present responsibility of the contractor to be awarded a contract or to participate as a subcontractor.

7.06.040 Determination and Notice.

If grounds for debarment are found to exist under sections 7.06.020 or 7.06.030 above, the Assistant City Manager shall state the determination and the basis thereof in writing, and shall deliver a copy of such determination notice to the contractor via personal delivery or United States mail in a manner ensuring written confirmation of delivery.

7.06.050 Appeal Process.

The contractor shall have the opportunity to rebut any evidence used as a basis for the debarment and to present evidence to the City relating to why the contractor should not be debarred. The contractor may give written notice requesting the appeal to the City Clerk within ten (10) days following service of the City's debarment determination. Within thirty (30) days following receipt of the request for an appeal, the City Manager shall hear the appeal and may affirm or reverse the debarment or reverse the debarment. The City Manager's appeal

determination shall serve as the City's final determination, and serves to exhaust the contractor's administrative remedies.

7.06.060 Term and Effect of Debarment.

- A. Debarment constitutes debarment of all divisions or other organizational elements of the contractor for an initial period of up to three (3) years, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities, or unless the debarment is made permanent pursuant to Chapter 7.06.030 above.
- B. Prior to expiration of the time period of any nonpermanent debarment imposed under this Chapter, the Assistant City Manager, or designee, may review the record of the evidence presented during the debarment proceedings, as well as any additional facts or information relevant to a review of the debarment. The Assistant City Manager may extend the existing non-permanent debarment, for an additional period of up to two (2) years, if the Assistant City Manager determines that such extension is necessary to protect the public interest. The appeal procedures established by Chapter 7.06.050 above, shall be applicable to such decision.
- C. Prior to expiration of the time period of any nonpermanent debarment imposed under this Chapter, the Assistant City Manager may shorten the debarment period for any reason which obviates the need for the debarment or which indicates a shorter debarment period will adequately protect the public interest. Such reasons include, but are not limited to, the following:
 - (a) Newly-discovered material evidence that was not previously available to the parties;
 - (b) Reversal of the conviction, civil judgment, or administrative penalty or sanction upon which the debarment was based;
 - (c) Bona fide changes in ownership or management;
 - (d) Elimination of other grounds for which debarment was imposed.

7.06.070 Continuation of Existing Contracts.

Debarment shall be deemed a material breach of any other contract between the City and the contractor, and any existing contracts between the City and the contractor may be terminated immediately upon debarment. Notwithstanding the foregoing, the City may continue any and all contracts in existence at the time of debarment, upon a determination by the City Manager that such renewal or extensions is in the best interest of the City.

7.06.080 List of Debarred Contractors.

The City Clerk shall maintain a current consolidated list of all debarments. The list shall indicate the names and addresses of all debarred contractors, the grounds for debarment, and the termination date for each listing. After the opening of bids or receipt of proposals, the City Clerk shall review the list of the debarments. Bids received from any listed contractor shall be recorded as received, and then rejected by reason of debarment. Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive process by the applicable City department during the period the contractor is on the debarment list.

Chapter 7.08 PAYMENT OF DEMANDS

7.08.010 Purpose.

It is the purpose of this Chapter to describe procedures for the processing and payment of demands, bills, and other claims against the City arising out of contract, including bills for labor, material, and supplies furnished, not including payroll or claims for damages.

(Ord. No. 483)

7.08.020 Submission of Demand.

- A. The demands shall contain a brief description of the labor, material, or supplies furnished, and the date and price.
- B. The demands shall be accompanied by a requisition/purchase order signed by the City official ordering the labor, material, or supplies.
- C. Contracts executed by the City calling for specific payments on specified dates shall constitute a demand for payment on such dates.
- D. Demands shall be submitted to the ~~Director of Finance~~ Division head.

7.08.030 Register of Demands.

- A. The ~~Director of Finance~~ Division head shall prepare a register of demands containing demands submitted over a preceding period of time. The ~~Director of Finance~~ Division head shall sign a certificate on the register of demands that:
 - 1. Each demand on this register reflects an indebtedness authorized by this City;
 - 2. The financial data is correct; and
 - 3. There are funds available to pay each demand.
- B. When the register of demands has been certified by the ~~Director of Finance~~ Division Head, it shall be submitted to the City Council for approval or rejection.
- C. When the register of demands has been approved by the City Council, the City Clerk shall note the date on which the register was approved and the Mayor shall sign the document authorizing payment.

~~Chapter 7.16 ACQUISITION OF SERVICES FROM ARCHITECTS, ENGINEERS, LAND SURVEYORS, CONSTRUCTION MANAGEMENT FIRMS~~

~~7.16.010 Requirement.~~

- ~~A. Unless otherwise provided, the City's selection of architects, engineers, land surveyors, and construction project management firms to provide professional services by contract with the City shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the professional services required. (Government Code §§ 4525, et seq.)~~
- ~~B. The provisions of this Chapter shall not apply where the City Manager determines that the services needed are of a technical nature and involve little professional judgment, and that selecting the lowest responsible bidder would be in the public's interest.~~

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(Supp. No. 8, Update 5)

(Ord. No. 534)

~~7.16.020 Contracting Officer.~~

~~Unless otherwise specified by the City Council for a particular contract, the City Manager or his designee shall be the Contracting Officer for purposes of this Chapter.~~

~~7.16.030 Annual Statements of Qualifications.~~

~~The City Manager shall develop and maintain a procedure whereby architects, engineers, land surveyors and construction project management firms may submit annual statements of qualifications and performance data.~~

~~7.16.040 Selection Procedures.~~

~~For each proposed professional contract:~~

- ~~A. The Contracting Officer shall establish the professional competence and qualifications necessary to be possessed by a firm in order to be awarded the proposed professional services contract.~~
- ~~B. The Contracting Officer may publish a notice that the City is proposing to award a contract to obtain specified, professional services.~~
- ~~C. The Contracting Officer may directly solicit proposals from appropriate firms.~~
- ~~D. The Contracting Officer may discuss with one or more firms the alternative methods for providing the required professional services.~~
- ~~E. The Contracting Officer may conduct further negotiations with one or more of the most qualified firms to fully clarify each firm's offer to provide services.~~

~~7.16.050 Award of Contract.~~

~~For any contract over \$15,000.00, the Contracting Officer shall submit the proposals of the most qualified firm or firms together with a recommended action to the City Council for review and awarding of the professional services contract.~~

(Ord. No. 827)

Chapter 7.20 ALTERNATIVE BID PROCEDURES FOR PUBLIC WORKS PROJECTS

7.20.010 Purpose.

The purpose of the following sections is to establish alternative bid procedures for public works projects ("Alternative procedures" or "Alternative bids"), as provided for by the California Uniform Public Construction Cost Accounting Act (the "Act").

(Ord. No. 866; Ord. No. 959 , § 1, 4-6-2020)

(Supp. No. 8, Update 5)

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7.20.020 Alternative Bid Procedures.

Public projects, as defined by the Act and in accordance with the limits listed below pursuant to the Public Contract Code, may be let to contract by Alternative procedures. The applicable thresholds (provided below for reference purposes) shall be as provided in the Public Contract Code as the same may be amended from time to time.

- A. Public projects of \$60,000.00 or less may be performed by City employees by force account, by negotiated contract, or by purchase order.
- B. Public projects of \$60,000.01 - \$200,000.00 ~~or less~~ may be let to contract by Alternative procedures as set forth in this Chapter. If all bids received are in excess of \$200,000.00, the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at \$212,500.00 or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.
- C. Public projects of more than \$200,000.00 shall, except as otherwise provided in the Act and this Chapter, be let to contract by formal bidding procedures.

(Ord. No. 959 , § 1, 4-6-2020)

7.20.030 Contractors List.

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (the "Commission").

(Ord. No. 959 , § 1, 4-6-2020)

7.20.040 Notice Inviting Alternative Bids.

- A. Where a public project is to be performed pursuant to Subsection B of Section 7.20.020, a notice inviting Alternative bids shall be mailed, faxed, or e-mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 7.20.030, or mailed, faxed, or e-mailed to all construction trade journals as specified by the Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids.
 - 1. If there is no list of qualified contractors maintained by the City for the category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
 - 2. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting information bids may be sent exclusively to such contractor or contractors.
- B. All mailing of notices to contractors and construction trade journals pursuant to Subsection A shall be completed not less than ~~ten~~ 15 calendar days before bids are due.
- C. The notice inviting Alternative bids shall describe the project in general terms and how to obtain more detailed information about the project and shall state the time and place for the submission of bids.

(Ord. No. 959 , § 1, 4-6-2020)

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(Supp. No. 8, Update 5)

7.20.050 Award of Contracts.

The City Manager, or designee, is authorized to award contracts pursuant to Subsections A and B of Section 7.20.020 of this Chapter.

(Ord. No. 959 , § 1, 4-6-2020)

Created: 2024-02-23 09:16:09 [EST]

(Supp. No. 8, Update 5)



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Jennifer Gavin, Associate Planner
Karen Brindley, Planning and Community Development Director
Via Ashley Jones, City Manager

DATE: September 9, 2024

SUBJECT: Resolution Approving Tentative Parcel Map TPMC23-001 and Coastal Development Permit CDP24-004

Applicant/Owner: Deal Del Mar LLC
Assessor Parcel Numbers (APN): 300-181-07-00
Location: 730-750 Stratford Court

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council adopt a Resolution (Attachment A) conditionally approving Tentative Parcel Map TPMC23-001 and Coastal Development Permit CDP24-004 to convert an existing detached residential duplex (two detached dwelling units) to condominium ownership.

BACKGROUND:

The subject property comprises a single lot measuring 7,994 square feet and is developed with two (2) detached, two-story residential units originally constructed in 2012 pursuant to approved Design Review Permit DRB08-20 and Coastal Development Permit CDP08-11. The lot is defined as a corner lot with frontages on Little Orphan Alley to the south, 8th Street to the north, and Stratford Court to the east. The property is rectangular in shape, compliant with minimum size and dimensional standards for the R2 Zone, and is landscaped with mature vegetation. The site's topography is relatively flat with the property to the west terraced down at a lower elevation. All surrounding properties are developed with exclusively single-family or duplex residential structures of similar age, scale, and massing.

Planning Commission Review/Recommendation

On August 13, 2024, the Planning Commission unanimously recommended City Council approval of applications TPMC23-001 and CDP24-004 via Resolution (Attachment B).

City Council Action:

DISCUSSION/ANALYSIS:

Project Description

The applicant is requesting approval of Tentative Parcel Map TPMC23-001 and Coastal Development Permit CDP24-004 to allow for a subdivision of airspace and individual (condominium) ownership of each of the property's two (2) residential dwelling units. The property would remain a single lot and with ownership and maintenance shared by the two (2) owners in accordance with recorded covenants, codes, and restrictions (CC&R's). Minor physical improvements to the pool/spa and fencing/walls to facilitate the physical division of ownership areas on the site were proposed and approved under a separate application (ADR24-003). No physical improvements to the residential structures (including changes to existing landscaping and trees) are proposed.

Subdivision Review (DMMC Title 24)

Title 24 of the Del Mar Municipal Code (DMMC) stipulates requirements for subdivisions and further implements requirements of California's Subdivision Map Act. Chapter 24.40 of the DMMC provides specific procedures and requirements that regulate conversion of existing rental housing to condominium ownership (subdivision of airspace) with the goals of:

- *Reducing the impact of such conversions on residents who may be required to relocate due to the conversion of apartments to condominiums by providing procedures for notification and adequate time and assistance for such relocation.*
- *Assuring that purchasers of converted housing have been properly informed as to the physical conditions of the structure which is offered for purchase.*
- *Ensuring that converted housing achieves a high degree of appearance, quality, and safety, and is consistent with the goals of the City.*

Specifically, staff finds that the Tentative Map is consistent with the relevant sections of the DMMC as further described in the Planning Commission agenda report (August 13, 2024) included as Attachment C.

Coastal Development Permit Review (DMMC Chapter 30.75)

The applicant is proposing a condominium subdivision (as defined in §30.04.180 of the DMMC) on land located within the City's Coastal Overlay and the appeals jurisdiction of the California Coastal Commission, and therefore requires approval of a Coastal Development Permit (CDP) in accordance with the City's Local Coastal Program (LCP).

Staff finds that the proposed subdivision complies with all applicable standards for subdivisions and is consistent with the City's LCP. As such, staff recommends approval of the CDP as provided in the Resolution (Attachment A) and as further described in the Planning Commission (August 13, 2024) agenda report included as Attachment C.

FISCAL IMPACT:

There is no fiscal impact or action to be taken by the City Council related to this agenda item as this is a private development proposal. All fees associated with the project and CEQA processing have been paid by the Applicant.

ENVIRONMENTAL IMPACT:

Pursuant to the California Environmental Quality Act (CEQA), the Project is found to be Categorically Exempt pursuant to Section 15315 (Class 15 - Minor Land Divisions) in that it proposes a division of property zoned for residential use within an urbanized area into four or fewer parcels, in conformance with the General Plan and Zoning, which does not request a variance from standards, has all services and access available, has not been involved in a division of a larger parcel within the previous two years, and does not have an average slope greater than 20 percent.

HOUSING IMPACT:

The recommended action will not have any impact to the number of residential units in the City as the existing units will remain. An in-lieu housing impact fee will be paid to accommodate future low-income housing efforts for the City.

ATTACHMENTS:

Attachment A - Resolution Approving TPMC23-001/CDP24-004
Attachment B - Planning Commission Resolution PC-2024-07
Attachment C - Planning Commission agenda report (August 13, 2024)

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, APPROVING TENTATIVE PARCEL MAP (CONDOMINIUM) TPMC23-001 AND COASTAL DEVELOPMENT PERMIT CDP24-004 TO CONVERT AN EXISTING RESIDENTIAL DUPLEX (AS TWO DETACHED UNITS) TO CONDOMINIUM OWNERSHIP, ON LAND LOCATED WITHIN THE HIGH DENSITY RESIDENTIAL (R2) ZONING AND COASTAL OVERLAY DISTRICTS AT 730 AND 750 STRATFORD COURT, DEL MAR, CALIFORNIA (APN: 300-181-07-00)

WHEREAS, Deal Del Mar, LLC (Applicant) applied for Tentative Parcel Map (Condo) TPMC23-001 and Coastal Development Permit CDP24-004; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act ("CEQA") the Project is found to be Categorically Exempt per Section 15315 (Class 15 - Minor Land Divisions) because the Project is two lot subdivision of property zoned for residential use within an urbanized area into four or fewer parcels, in conformance with the General Plan and Zoning, does not request a variance from standards, has all services and access available, has not been involved in a division of a larger parcel within the previous two years, and does not have an average slope greater than twenty (20) percent and does not otherwise significantly impact the environment; and

WHEREAS, on August 13, 2024, the Planning Commission of the City of Del Mar held a public hearing to consider a recommendation to the Del Mar City Council regarding approval of **TPMC23-001 and CDP24-004** and at which time all persons desiring to be heard were heard; and

WHEREAS, written and oral evidence was submitted and considered during the Planning Commission public hearing which includes 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 report, dated August 13, 2024, which is incorporated by this reference, as though fully set forth herein.
- e. Additional information submitted during the hearing.

WHEREAS, the Planning Commission unanimously recommended approval of TPMC23-001, CDP24-004; and

WHEREAS, on September 9, 2024, the City Council of the City of Del Mar held a public hearing to consider approval of **TPMC23-001 and CDP24-004** and at which time all persons desiring to be heard were heard; and

WHEREAS, written and oral evidence was submitted and considered during the City Council public hearing which includes 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. Agenda report, dated September 9, 2024, which is incorporated by this reference, as though fully set forth herein.
- e. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar approves Tentative Parcel Map (Condominium) (TPMC23-001) based upon the following findings:

1. The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Municipal Code, specifically Chapters 24.01 (General Provisions), 24.21 (Dedication: Affordable Housing Mitigation), 24.40 (Conversion of Residential Property), 30.20 (R2, High Density Mixed Residential), and Chapter 30.80 (Parking).
2. The proposed map is consistent with the Del Mar General Plan in that the proposed residential use in the R2 Zoning Designation and density of development (12.5 units per net acre) are permitted under the Community Plan requirements for the South Beach neighborhood.
3. As conditioned, the design of the proposed subdivision will conform with the Municipal Code in effect at the time of tentative map in that all requirements have been met for residential conversion of the existing two units to condominium ownership.
4. The overall design and physical condition of the conversion achieves a high degree of appearance, quality and safety as provided in the Applicant's Physical Elements Report
5. The conversion will not displace low and moderate income households or tenants without adequate provision for suitable relocation of such families or tenants because there are no existing tenants on this property; and

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, that Coastal Development Permit (CDP24-004) be approved based upon the following findings:

- 1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located**

Pursuant to the adopted City of Del Mar Community (General) Plan and Zoning Ordinance, two units on one lot is a permitted use in the R2 Zone and the project meets the density requirement for this lot of 12.5 units per net acre.

2. That the proposal meets the criteria of the applicable chapters of DMMC Title 30, Zoning

The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapters 24.01 (General Provisions), 24.21 (Dedication: Affordable Housing Mitigation), 24.40 (Conversion of Residential Property), 30.20 (R2, High Density Mixed Residential), and Chapter 30.80 (Parking).

3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program

The proposed subdivision (tentative parcel map) has been reviewed by the Planning, Public Works and Engineering Departments and found with conditions to comply with all applicable standards of design. The condominium Tentative Map will not have any impact on Coastal Resources or Public Views because there are no new structures as a part of the Project and public access is not required to be provided as a part of this Subdivision Map as the nearest public access point is located near 15th Street and the Project is separated from the ocean by other private properties, the existing rail line, and then the Coastal Bluffs beyond.

4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.

While the subject property is located between the first public road and the sea, adequate public access to the coast exists elsewhere in proximity at (public) Seagrove and Powerhouse Parks. Moreover, as the property is separated from coastal access by other developed and privately owned properties, existing railroad tracks, as well as a steep coastal bluff, existing opportunities do not exist to create new public access. No public recreation facilities exist on the property and none would be impacted with implementation of the Project.

5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable

requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.

The Project site is not located in the Beach Overlay Zone, therefore this finding is not applicable.

6. That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.

The Project is proposed on privately owned property where no public views presently exist and the property is not located within nor does it contain any natural features as those referenced in Policy Numbers IV-22 through IV-27 of the LCP Land Use Plan.

7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.

The Project site does not contain wetland resources nor will it result in the creation of a wetland as defined in the LCP and so this finding is not applicable.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar that applications TPMC23-001 and CDP24-004 are approved subject to the following conditions:

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

General Conditions:

G-7 [Code Compliance]

Approval of this application shall not waive the requirement for compliance with the provisions of the DMMC or other applicable City regulations in effect at the time of Building Permit issuance, unless specifically waived in this Permit authorization.

G-15 [Indemnification]

By accepting this permit and Tentative Map authorized herein, the applicant agrees to the fullest extent of the law to indemnify, defend (as a separate obligation), hold harmless, and save the City of Del Mar, Councilmembers, employees, or its authorized agents, officers, Commissioners, or other representatives ("Indemnified Parties") from and against any and all claims, penalties, liabilities, annoyances, injuries, or loss

resulting from any claim or court action and arising out of any accident, loss or damage to persons or property happening or occurring as a proximate result of any work undertaken under the permit. Such indemnification obligations shall not extend where any Indemnified Party commits willful acts or gross negligence.

Miscellaneous

M-1 [*Easement holder outreach and final map approval*]

Prior to recordation of the final parcel map, the Applicant shall submit correspondence from all onsite public utilities holding easements within the proposed subdivision acknowledging receipt of a copy of the proposed Final Parcel Map and stating their objection or approval of the filing of the map without their signature.

M-2 [*Payment of City fees*]

Prior to recordation of the Final Map, all outstanding City fees shall be paid.

M-3 [*Map titles*]

At the time of recordation of the Final Map, the name of the person(s) authorizing the map and whose name(s) appears on the map as the person (s) who requested the map, shall be the name of the owner(s) of the subject property and shall be the same party or parties as shown on the Tentative Parcel Map unless the Director of Planning and Community Development has approved the substitution of a successor-in-interest to such party or parties.

M-4 [*Requirement for an encroachment permit*]

An Encroachment Permit for any work within public right-of-way shall be obtained prior to issuance of building permits.

M-5 [*Final map conformance to requirements of Subdivision Map Act*]

The Final Map shall comply with the most current provisions of the Subdivision Map Act and City of Del Mar Municipal Code Title 24 (Subdivision Ordinance).

M-6 [*Submittal of title report, verification of property ownership*]

Prior to the approval of the Final Map by the City Engineer, the Applicant shall submit a title report dated within six months of the date of submittal, copies of sufficient documentation to verify lot legality and current ownership, and a subdivision guarantee from a qualified title insurance company. The guarantee shall have a minimum \$1,000 liability coverage and in a form acceptable to the Director of Planning and Community Development as well as the City Engineer.

M-7 [*Updated date of map preparation*]

The date of preparation should be updated as needed on the map.

Planning

PLN-2 [*Payment of In-Lieu Housing Mitigation fees*]

In accordance with Del Mar Municipal Code Chapter 24.21.015, prior to the recordation of the Final Map the subdivider shall pay In-Lieu Housing Mitigation fees in the amount that such fees exist at the time of payment per resolution of the City Council.

PLN-3 [*Coastal Development Permit expiration*]

If the development approved by Coastal Development Permit CDP23-004 is not established within three years (36 months) of the date its approval by the City Council, the approval shall expire and become null and void.

PLN-4 [*Map expirations*]

Tentative Parcel Map TPMC23-001 shall expire two years (24 months) after its approval or conditional approval by the City Council. Upon application received at a meeting of the City Council at least sixty (60) days prior to the expiration of - TPMC23-001, the City Council may extend the time of expiration for a period consistent with Map Act requirements.

Engineering

E-1 [*Separate Permits for Off-site Work*]

All improvements to off-site facilities, including the provision of reciprocal access and/or utility lines as proposed or required pursuant to the conditions of this Permit, shall be subject to the receipt of separate City permits, as applicable.

E-2 [*Engineering Fee*]

Prior to approval of the Parcel Map, the applicant shall provide fees as delineated in the City's Engineering Review Fee Schedule as funds necessary for Engineering Department review of the proposed site improvements, if needed. If additional review beyond the scope outlined in the Engineering Review Fee Schedule becomes necessary, a supplemental deposit(s) will be required.

E-3 [*In-Lieu Fee- Improvement of 8th Street*]

Prior to first submittal of the Parcel Map for review, the applicant shall pay an in-lieu fee, to the City of Del Mar, for future improvement of 8th Street as indicated in the approved cost estimate prepared by the Engineer of Work.

E-4 [*Water Service*]

If not already existing, each residence will require its own dedicated metered water service.

E-4A Any water lines that cross between the exclusive use areas of the condominium parcel must be severed and capped so each exclusive use area's water system is isolated within said exclusive use area.

E-4B Any landscaping in common areas shall require a separate water meter and irrigation system with controller. The monthly water service shall be paid for by the Home Owner's Association.

E-5 [*Sewer Service*]

Each structure withing the one lot condominium Parcel Map shall have its own sewer service. Should a new sewer lateral(s) be required, then an improvement plan, for the new lateral, shall be required.

E-6 [*Compliance with Applicable Laws*]

The applicant shall comply with all City, County, State and Federal laws and regulations applicable to this Parcel Map.

E-7 [*Parcel Map Conditions*]

- E-7A A final condominium Parcel Map shall be required to consolidate the two lots into one parcel for condominium purposes. With the Parcel Map, the project developer shall set forth the maintenance areas of the proposed development and maintenance responsibilities. The project developer shall record CC&R's at the time of recordation of the Parcel Map which shall create a Homeowners Association for the development. The CC&R's shall be subject to the review and approval of the City Attorney, Planning Director and the City Engineer prior to recordation of the Parcel Map. The Homeowners Association shall be responsible for the maintenance of the Common areas, on the property and other common areas not within the area of a dedicated public street and facilities on the site. The project CC&R's shall include an exhibit showing the location of all the common private improvements to be maintained by the Homeowners Association. The City shall be granted the rights and remedies of the association, but not the obligation, to enforce the maintenance responsibilities of the Home Owner's Association;
- E-7B The applicant's engineer/surveyor shall submit a preliminary copy of the condominium Parcel Map along with a preliminary copy of the title report, traverse calculations, monumentation bond estimate and a copy of the adjoining deeds and/or recorded maps to the City for review.
- E-7C Any dedications, open offers of dedication, or grants of easements to the City may be dedicated and accepted on the face of the Parcel Map. Agreement or other required items shall be recorded as separate documents concurrently after recordation of the Parcel Map;
- E-7D The project developer shall create private storm drainage easements on the Parcel Map, if needed, across the project for the benefit of the

individual exclusive use areas, subject to the review and approval of the City Engineer; and

- E-7E The condominium Parcel Map shall be in substantial conformance to the approved Tentative Parcel Map and must be submitted to the City Engineering Department for review and approval. The condominium Parcel Map shall be prepared, wet signed and sealed by a Civil Engineer or Land Surveyor, registered in the State of California and licensed to prepare maps.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held the 9th day of September, 2024.

Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, Sarah Krietor, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 9th day of September 2024 by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

Sarah Krietor
Administrative Services Manager/City Clerk
City of Del Mar

RESOLUTION NO. **PC-2024-07**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR, RECOMMENDING THAT THE CITY COUNCIL APPROVE TENTATIVE PARCEL MAP (CONDOMINIUM) TPMC23-001 AND COASTAL DEVELOPMENT PERMIT CDP24-004 TO ALLOW THE CONVERSION OF AN EXISTING RESIDENTIAL DUPLEX (TWO DETACHED UNITS) TO CONDOMINIUM OWNERSHIP, ON LAND LOCATED WITHIN THE R2 (HIGH DENSITY RESIDENTIAL) ZONING AND COASTAL OVERLAY DISTRICTS AT 730 AND 750 STRATFORD COURT, DEL MAR, CALIFORNIA

APN: 300-181-07-00

WHEREAS, Deal Del Mar, LLC (“Applicant”) is the owner of real property commonly referred to as 730 and 750 Stratford Court (APN 300-181-07-00) (the “Property”); and

WHEREAS, the Applicant filed a verified application for a Tentative Parcel Map (Condominium) (TPMC) and Coastal Development Permit (CDP) to allow the conversion of two existing detached residential units to condominium ownership (the “Project”) on land located within the R2 (High Density Residential) Zoning, South Beach Community Plan Designation, and Coastal Overlay at the Property; and

WHEREAS, said verified application constitutes a request as provided by Titles 24 and 30 of the Del Mar Municipal Code (DMMC); and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the Project is found to be Categorically Exempt per Section 15315 (Class 15 - Minor Land Divisions) in that it proposes a division of property zoned for residential use within an urbanized area into four or fewer parcels, in conformance with the General Plan and Zoning, does not request a variance from standards, has all services and access available, has not been involved in a division of a larger parcel within the previous two years, and does not have an average slope greater than 20 percent; and

WHEREAS, on August 13, 2024, the Planning Commission of the City of Del Mar held a duly noticed public hearing to review TPMC23-001 and CDP23-004, and at which time all persons desiring to be heard were heard; and

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

- a. Tentative Parcel Map TPMC23-001 submitted by the Applicant.
- b. Written information submitted with the application.
- c. Oral testimony from City staff, the Applicant and the public (if any).
- d. Staff Report, dated August 13, 2024, which is incorporated by this reference as though fully set forth herein.
- e. Additional information submitted during the hearing (if any); and

WHEREAS, DMMC §30.75.080 (B)(7) states:

Unless otherwise specified in this Chapter, the Planning Commission shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits for applications for the subdivision of land; and

WHEREAS, DMMC §24.60.020 states:

Tentative parcel maps shall be subject to the requirements and procedures applicable to tentative maps contained in Chapter 24.50; and

WHEREAS, DMMC §24.50.110(A) and (C) (respectively) state:

The Planning Commission shall conduct a public hearing on the proposed tentative map; and

Within fifty days of the filing of the tentative map with the secretary of the Planning Commission, the Planning Commission shall file with City Clerk its findings and its recommendation based on those findings. The Planning Commission will recommend to the City Council the approval, conditional approval or denial of the tentative map. As appropriate, the Planning Commission shall recommend the kind, nature, and extent of improvements should be constructed or installed.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar Finds the project to be Categorically Exempt per Section 15315 (Class 15 - Minor Land Divisions) in that it proposes a division of property zoned for residential use within an urbanized area into four or fewer parcels, in conformance with the General Plan and Zoning, does not request a variance from standards, has all services and access available, has not been involved in a division of a larger parcel within the previous two years, and does not have an average slope greater than 20 percent' and

THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Del Mar adopts the following findings and recommends that the City Council approve TPMC23-001 subject to conditions of approval:

1. The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapters 24.01 (General Provisions), 24.21 (Dedication: Affordable Housing Mitigation), 24.40 (Conversion of Residential Property), 30.20 (R2, High Density Mixed Residential), and Chapter 30.80 (Parking).

2. The proposed map is consistent with the Del Mar General Plan in that the proposed residential use in the R2 Zoning Designation and density of development (12.5 units per net acre) are permitted under the Community Plan requirements for the South Beach neighborhood.
3. As conditioned, the design of the proposed subdivision will conform with the Municipal Code in effect at the time of tentative map in that all requirements have been met for residential conversion of the existing two units to condominium ownership.
4. The overall design and physical condition of the conversion achieves a high degree of appearance, quality and safety as provided in the Applicant's Physical Elements Report
5. The conversion will not displace predominantly low and moderate income families or tenants without adequate provision for suitable relocation of such families or tenants in that there are no tenants on this property; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar adopts the following findings and recommends that the City Council approve CDP24-004 subject to conditions of approval:

- 1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located**

Pursuant to the adopted City of Del Mar Community (General) Plan and Zoning Ordinance, two units on one lot is a permitted use in the R2 Zone and the project meets the density requirement for this lot of 12.5 units per net acre.

- 2. That the proposal meets the criteria of the applicable chapters of this Title**

The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapters 24.01 (General Provisions), 24.21 (Dedication: Affordable Housing Mitigation), 24.40 (Conversion of Residential Property), 30.20 (R2, High Density Mixed Residential), and Chapter 30.80 (Parking).

- 3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program**

The proposed subdivision (tentative parcel map) has been reviewed by the Planning, Public Works and Engineering Departments and found to conditionally comply with all applicable standards of design. The condominium Tentative Map will not have any impact on Coastal Resources or Public Views as there are no new structures as a part of this request and public access is not required to be provided as a part of this Map as the nearest public access point is located at nearby 15th Street since this property is separated from the ocean by other private properties, the existing rail line, and then the Coastal Bluffs beyond.

- 4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

While the subject property is located between the first public road and the sea, adequate public access to the coast exists elsewhere in close proximity at (public) Seagrove and Powerhouse Parks. Moreover, as the property is separated from coastal access by other developed and privately owned properties, existing railroad tracks, as well as a steep coastal bluff, existing opportunities do not exist to create new public access. No public recreation facilities exist on the property and none would be impacted with implementation of the Project.

- 5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.**

The Project site is not located in the Beach Overlay Zone, therefore this finding is not applicable.

- 6. That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.**

The Project is proposed on privately owned property where no public views presently exist and the property is not located within nor does it contain any natural features as those referenced in Policy Numbers IV-22 through IV-27 of the LCP Land Use Plan.

- 7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.**

The Project site does not contain wetland resources nor will it result in the creation of a wetland as defined in the LCP and so this finding is not applicable.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the recommendations for approval are subject to the following conditions:

General

G-7 [Code Compliance]

Approval of this application shall not waive the requirement for compliance with the provisions of the DMMC or other applicable City regulations in effect at the time of Building Permit issuance, unless specifically waived in this Permit authorization.

G-15 *[Indemnification]*

By accepting this permit and Tentative Map authorized herein, the applicant agrees to indemnify, defend and save the City of Del Mar, its authorized agents, officers, representatives and employees harmless from and against any and all penalties, liabilities, annoyances, or loss resulting from claims or court action and arising out of any accident, loss or damage to persons or property happening or occurring as a proximate result of any work undertaken under the permit.

Miscellaneous

M-1 *[Easement holder outreach and final map approval]*

Prior to recordation of the final parcel map, the Applicant shall submit correspondence from all onsite public utilities holding easements within the proposed subdivision acknowledging receipt of a copy of the proposed Final Parcel Map and stating their objection or approval of the filing of the map without their signature.

M-2 *[Payment of City fees]*

Prior to recordation of the Final Map, all outstanding City fees shall be paid.

M-3 *[Map titles]*

At the time of recordation of the Final Map, the name of the person(s) authorizing the map and whose name(s) appears on the map as the person (s) who requested the map, shall be the name of the owner(s) of the subject property and shall be the same party or parties as shown on the Tentative Parcel Map unless the Director of Planning and Community Development has approved the substitution of a successor-in-interest to such party or parties.

M-4 *[Requirement for an encroachment permit]*

An Encroachment Permit for any work within public right-of-way shall be obtained prior to issuance of building permits.

M-5 *[Final map conformance to requirements of Subdivision Map Act]*

The Final Map shall comply with the most current provisions of the Subdivision Map Act and City of Del Mar Municipal Code Title 24 (Subdivision Ordinance).

M-6 *[Submittal of title report, verification of property ownership]*

Prior to the approval of the Final Map by the City Engineer, the Applicant shall submit a title report dated within six months of the date of submittal, copies of sufficient documentation to verify lot legality and current ownership, and a subdivision guarantee from a qualified title insurance company. The guarantee shall have a minimum \$1,000 liability coverage and in a form acceptable to the Director of Planning and Community Development as well as the City Engineer.

M-7 *[Updated date of map preparation]*

The date of preparation should be updated as needed on the map.

Planning

PLN-2 [Payment of In-Lieu Housing Mitigation fees]

In accordance with Del Mar Municipal Code Chapter 24.21.015, prior to the recordation of the Final Map the subdivider shall pay In-Lieu Housing Mitigation fees in the amount that such fees exist at the time of payment per resolution of the City Council.

PLN-3 [Coastal Development Permit expiration]

If the development approved by Coastal Development Permit CDP23-004 is not established within three years (36 months) of the date its approval by the City Council, the approval shall expire and become null and void.

PLN-4 [Map expirations]

Tentative Parcel Map TPMC23-001 shall expire two years (24 months) after its approval or conditional approval by the City Council. Upon application received at a meeting of the City Council at least sixty (60) days prior to the expiration of -TPMC23-001, the City Council may extend the time of expiration for a period consistent with Map Act requirements.

Engineering

E-1 [Separate Permits for Off-site Work]

All improvements to off-site facilities, including the provision of reciprocal access and/or utility lines as proposed or required pursuant to the conditions of this Permit, shall be subject to the receipt of separate City permits, as applicable.

E-2 [Engineering Fee]

Prior to approval of the Parcel Map, the applicant shall provide fees as delineated in the City's Engineering Review Fee Schedule as funds necessary for Engineering Department review of the proposed site improvements, if needed. If additional review beyond the scope outlined in the Engineering Review Fee Schedule becomes necessary, a supplemental deposit(s) will be required.

E-3 Prior to first submittal of the Parcel Map for review, the applicant shall pay an in-lieu fee, to the City of Del Mar, for future improvement of 8th Street as indicated in the approved cost estimate prepared by the Engineer of Work.

E-4 [Water Service]

If not already existing, each residence will require its own dedicated metered water service.

E-4A Any water lines that cross between the exclusive use areas of the condominium parcel must be severed and capped so each exclusive use area's water system is isolated within said exclusive use area.

E-4B Any landscaping in common areas shall require a separate water meter and irrigation system with controller. The monthly water service shall be paid for by the Home Owner's Association.

- E-5 Each structure withing the one lot condominium Parcel Map shall have its own sewer service. Should a new sewer lateral(s) be required, then an improvement plan, for the new lateral, shall be required.
- E-6 The applicant shall comply with all City, County, State and Federal laws and regulations applicable to this Parcel Map.
- E-7 [Parcel Map Conditions]
- E-7A A final condominium Parcel Map shall be required to consolidate the two lots into one parcel for condominium purposes. With the Parcel Map, the project developer shall set forth the maintenance areas of the proposed development and maintenance responsibilities. The project developer shall record CC&R's at the time of recordation of the Parcel Map which shall create a Homeowners Association for the development. The CC&R's shall be subject to the review and approval of the City Attorney, Planning Director and the City Engineer prior to recordation of the Parcel Map. The Homeowners Association shall be responsible for the maintenance of the Common areas, on the property and other common areas not within the area of a dedicated public street and facilities on the site. The project CC&R's shall include an exhibit showing the location of all the common private improvements to be maintained by the Homeowners Association. The City shall be granted the rights and remedies of the association, but not the obligation, to enforce the maintenance responsibilities of the Home Owner's Association;
- E-7B The applicant's engineer/surveyor shall submit a preliminary copy of the condominium Parcel Map along with a preliminary copy of the title report, traverse calculations, monumentation bond estimate and a copy of the adjoining deeds and/or recorded maps to the City for review.
- E-7C Any dedications, open offers of dedication, or grants of easements to the City may be dedicated and accepted on the face of the Parcel Map. Agreement or other required items shall be recorded as separate documents concurrently after recordation of the Parcel Map;
- E-7D The project developer shall create private storm drainage easements on the Parcel Map, if needed, across the project for the benefit of the individual exclusive use areas, subject to the review and approval of the City Engineer; and
- E-7E The condominium Parcel Map shall be in substantial conformance to the approved Tentative Parcel Map and must be submitted to the City Engineering Department for review and approval. The condominium Parcel Map shall be prepared, wet signed and sealed by a Civil Engineer or Land Surveyor, registered in the State of California and licensed to prepare maps.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar, this **13th day of August, 2024** by the following vote:

AYES: Chair Posner, Commissioners Bakker, Grewal and Spelich

NOES: None

ABSENT: None

ABSTAIN: None

Philip Posner, Chair
Planning Commission
City of Del Mar, California

ATTEST:

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



City of Del Mar Staff Report

PLANNING COMMISSION
STAFF REPORT
August 13, 2024

APPLICATION: TPMC23-001/CDP24-004

REQUEST: A recommendation from the Planning Commission to the City Council to recommend approval of a Tentative Parcel Map (TPMC23-001) and Coastal Development Permit (CDP24-004) to allow the conversion of an existing detached residential duplex (two units) to condominium ownership.

APPLICANTS/OWNERS: Deal Del Mar LLC

OWNER’S AGENT: Jorge H. Palacios (JP Engineering, Inc.)

SITE LOCATION: 730-750 Stratford Court

ASSESSOR PARCEL NUMBER (APN): 300-181-07-00

COMMUNITY (GENERAL) PLAN DESIGNATION: High Density Residential

ZONING: R2 (High Density Mixed Residential)

OVERLAY(S): Coastal Overlay (Appeals Jurisdiction)

ENVIRONMENTAL STATUS: Pursuant to the California Environmental Quality Act (CEQA), the Project is found to be Categorically Exempt pursuant to Section 15315 (Class 15 - Minor Land Divisions) in that it proposes a division of property zoned for residential use within an urbanized area into four or fewer parcels, in conformance with the General Plan and Zoning, which does not request a variance from standards, has all services and access available, has not been involved in a division of a larger parcel within the previous two years, and does not have an average slope greater than 20 percent.

HOUSING IMPACT STATEMENT: This action is related to existing residential units to remain and therefore will not have any impact to the number of residential units in Del Mar. An in-lieu housing impact fee will be paid to accommodate future low-income housing efforts for the City.

BACKGROUND:

The subject property comprises a single lot measuring 7,994 square feet and is developed with two, detached, two-story residential units originally constructed in 2012 pursuant to approved Design Review Permit DRB08-20 and Coastal Development Permit CDP08-11. The lot itself is defined as a corner lot, with frontages on Little Orphan Alley to the south, 8th Street to the north, and Stratford Court to the east. The property is uniformly rectangular in shape, compliant with minimum size and dimensional standards for the R2 Zone, and is thoroughly landscaped with mature vegetation. The site's topography is relatively flat with the property to the west terraced down at a lower elevation. All surrounding properties are developed with exclusively single-family or duplex residential structures of similar age, scale and massing.

ANALYSIS:

Project Description:

The applicant is requesting approval of Tentative Parcel Map TPMC23-001 and Coastal Development Permit CDP24-004 to allow a subdivision of airspace and individual (condominium) ownership of each of the property's two residential dwelling units. The property itself would remain a single lot and with ownership and maintenance shared by the two owners in accordance with recorded covenants, codes and restrictions (CC&R's). Minor physical improvements to the pool/spa and fencing/walls are proposed under a separate application (ADR24-003) and are not under the purview of the Planning Commission. No physical improvements to the residential structures (including changes to existing landscaping and trees) are proposed otherwise.

Subdivision Review (DMMC Title 24):

Title 24 of the Del Mar Municipal Code (DMMC) stipulates requirements for subdivisions and further implements requirements of California's Subdivision Map Act. Chapter 24.40 of the DMMC provides specific procedures and requirements that regulate conversion of existing rental housing to condominium ownership (subdivision of airspace), with the goals of:

- *Reducing the impact of such conversions on residents who may be required to relocate due to the conversion of apartments to condominiums by providing procedures for notification and adequate time and assistance for such relocation.*
- *Assuring that purchasers of converted housing have been properly informed as to the physical conditions of the structure which is offered for purchase.*
- *Ensuring that converted housing achieves a high degree of appearance, quality, and safety, and is consistent with the goals of the City.*

Specifically, the Tentative Map has been found to be consistent with the following relevant sections of the City's Municipal Code:

Engineering Review - Per DMMC 24.01.060- 24.01.070, the Tentative Map has been reviewed by the City’s Project Engineer and Public Works Department and with the inclusion of suggested conditions of approval (Exhibit A) found the Tentative Map to be consistent with map design standards, requirements for Grading and Erosion Control, and Storm Water Management and Discharge Control. A new Soils Report was not required in that all of these issue areas were addressed in the project when constructed and there are no new improvements to warrant a new review.

Further, monumentation consistent with DMMC 24.01.150 will be required to be provided per the conditions of approval included in the draft resolution (Exhibit A).

Physical Elements Report - In accordance with §24.40.020 of the DMMC, the Applicant has provided a “Physical Elements Report” (Bokal and Sneed Architecture, February 22, 2024) which details the condition of the building and the broader property. The intent in providing the document and analysis is to ensure that residential conversions occur only when a structure maintains or creates a “high degree of appearance, quality and safety, consistent with the goals of the City.” The report concludes that the structures have been built in accordance with contemporary codes and construction methods, resulting in an estimated remaining useful life of not less than 35 years. Therefore, staff finds that the subject residences conform to the standards and intent of DMMC §24.40.020 and is accordingly suitable for conversion to condominium ownership.

Physical Standards - §24.40.060 of the DMMC stipulates Specific Physical Standards criteria to which any residential conversion must adhere, including conformance with applicable City building codes, Zoning Regulations, provisions for fire prevention, separate utility metering for each converted unit, a provision of 200 square feet of private storage space, laundry facilities, and landscape maintenance. These two units comply with the conversion design criteria enumerated in §24.40.060 and with standards of the California Building Code when the structures received final inspection.

Specifically, the property is in conformance with the R2 Development Standards as analyzed below:

Standards	R2 Zone	Existing Condition
Density	12.5 dwelling units per net acre. (2.3 units)	2 units
Min. lot size	7,000 sq. ft.	7,994 sq. ft.
Min. street frontage	35 feet	50 feet (8 th Street); 160 feet (Stratford Court)
Min lot width	50 feet	50 feet
Min. lot depth	90 feet	160 feet
Front yard setback	20 ft.	20 ft.
Rear yard setback	20 ft.	20 ft.
Street side yard (East)	10 ft.	10 ft.
Interior side yard (West)	5 ft.	5 ft.

FAR	35%	34.9%
Max. lot coverage	50%.	31.2%
Height limitation	26 ft.	730 Stratford Ct.: 25' 6" 750 Stratford Ct: 23' 7"

A breakdown of each unit's floor area follows below:

Unit 1 (730 Stratford Court)

Floor Area:

First Floor:	712 square feet
Second Floor:	490 square feet
Basement (Exempt FAR)	941 square feet
Garage (one vehicle):	200 square feet

Total FAR for Unit 1: 1,402 square feet
 Total for Unit 1 (including basement): 2,343 square feet

Unit 2 (750 Stratford Court)

Floor Area:

First Floor:	712 square feet
Second Floor:	475 square feet
Basement (Exempt FAR)	923 square feet
Garage (one vehicle):	200 square feet

Total FAR for Unit 2: 1,387 square feet
 Total for Unit 2 (including basement): 2,310 square feet

Total floor area of duplex: 2,789 square feet
 Total (including basement) 4,653 square feet

Per DMMC 30.80.030 B. two- or three-bedroom units (on a multi-family lot) must provide two parking spaces per unit (one space in a 200 square foot garage). Both units at 730 and 750 Stratford Court are three- bedroom units and provide one 200 square foot garage and one carport each accessed by driveways off Stratford Court consistent with the parking requirements of the DMMC.

Affordable Housing Mitigation - Pursuant to DMMC Chapter 24.21 (Affordable Housing Mitigation), to minimize the potential for adverse impacts to the supply and availability of rental housing that may occur with conversion to individual ownership, a condition of approval has been included in the attached, draft resolution that an In-lieu Housing Mitigation Fee shall be paid by the Applicant to the City. The adopted In-Lieu fee is \$35 per square foot of habitable area. The existing habitable area of both units is 4,653 which equates to an in-lieu fee of \$162,855. These funds will be placed into the City's Housing Assistance Fund and utilized to acquire property, property rights and/or to construct new housing for individuals or households of moderate, low, very low and extremely low incomes. Further, the approval of this Tentative Map is consistent with DMMC 24.21.060 in

that the City has not authorized any other condominium conversions in the last year which means that less than 60 dwelling units have been approved in the last calendar year.

There are no tenants on this property so the noticing provisions for tenants per DMMC 24.40.070 and 24.21.105 are not required.

Subdivision Findings - Pursuant to DMMC 24.40.100 the Tentative Map can be approved making the required findings in that, as analyzed in the report previously, the Tentative Map meets the requirements for Subdivisions per DMMC 24.40.100 and is consistent with the City's General Plan in that the action is consistent with the R2 zoning and density requirements (2 units). The two units are a more recent build (2012) and have been maintained to a high degree of appearance, quality, and safety, per the Physical Elements Report. Further, there are no current or recent tenants of the property so this conversion would not displace any tenants of any income level.

Coastal Development Permit Review (DMMC Chapter 30.75):

The subject project proposes a subdivision (as defined in Chapter 30.04.180 of the DMMC) on land located with the City's Coastal Overlay and the appeals jurisdiction of the California Coastal Commission, and requires approval of a Coastal Development Permit (CDP) in accordance with the City's Local Coastal Program (LCP).

Per DMMC §30.75.140 the following seven findings must be made for approval of a CDP:

1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located

Pursuant to the adopted City of Del Mar Community (General) Plan and Zoning Ordinance, two units on one lot is a permitted use in the R2 Zone and the project meets the density requirement for this lot of 12.5 units per net acre.

2. That the proposal meets the criteria of the applicable chapters of this Title

The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapters 24.01 (General Provisions), 24.21 (Dedication: Affordable Housing Mitigation), 24.40 (Conversion of Residential Property), 30.20 (R2, High Density Mixed Residential), and Chapter 30.80 (Parking).

3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program

The proposed subdivision (tentative parcel map) has been reviewed by the Planning, Public Works and Engineering Departments and found to conditionally comply with all applicable standards of design. The condominium Tentative Map will not have any impact on Coastal Resources as there are no new structures as a part of this request and public access is not required to be provided as a part of this Map as the nearest public access point is located at

nearby 15th Street since this property is separated from the ocean by other private properties, the existing rail line, and then the Coastal Bluffs beyond.

- 4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

While the subject property is located between the first public road and the sea, adequate public access to the coast exists elsewhere in close proximity at (public) Seagrove and Powerhouse Parks. Moreover, as the property is separated from coastal access by other developed and privately owned properties, existing railroad tracks, as well as a steep coastal bluff, existing opportunities do not exist to create new public access. No public recreation facilities exist on the property and none would be impacted with implementation of the Project.

- 5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.**

The Project site is not located in the Beach Overlay Zone, therefore this finding is not applicable.

- 6. That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.**

The Project is proposed on privately owned property where no public views presently exist and the property is not located within nor does it contain any natural features as those referenced in Policy Numbers IV-22 through IV-27 of the LCP Land Use Plan.

- 7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.**

The Project site does not contain wetland resources nor will it result in the creation of a wetland as defined in the LCP and so this finding is not applicable.

As the proposed subdivision is found to comply with all applicable standards for subdivisions and is consistent with the City's Local Coastal Program all findings can be made to allow the Planning Commission to recommend (to the City Council) approval of the CDP request as found in the draft resolution (Exhibit A).

PLANNING COMMISSION
STAFF REPORT: TPMC23-001 and CDP24-004
August 13, 2024
Page 7 of 7

CORRESPONDENCE:

No correspondence has been received concerning this Project.

RECOMMENDATIONS:

This Project has been reviewed by the Planning, Public Works and Engineering Departments and has been found to comply with applicable standards of the DMMC. Therefore, the Planning Commission should recommend that the City Council conditionally approve Tentative Parcel Map TPMC23-001 and Coastal Development Permit CDP24-004 as proposed.



Jennifer Gavin
Associate Planner

EXHIBITS:

Exhibit A - Draft Planning Commission Resolution PC-2024-xx

RESOLUTION NO. PC-2024-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR, RECOMMENDING THAT THE CITY COUNCIL APPROVE TENTATIVE PARCEL MAP (CONDOMINIUM) TPMC23-001 AND COASTAL DEVELOPMENT PERMIT CDP24-004 TO ALLOW THE CONVERSION OF AN EXISTING RESIDENTIAL DUPLEX (TWO DETACHED UNITS) TO CONDOMINIUM OWNERSHIP, ON LAND LOCATED WITHIN THE R2 (HIGH DENSITY RESIDENTIAL) ZONING AND COASTAL OVERLAY DISTRICTS AT 730 AND 750 STRATFORD COURT, DEL MAR, CALIFORNIA

APN: 300-181-07-00

WHEREAS, Deal Del Mar, LLC (“Applicant”) is the owner of real property commonly referred to as 730 and 750 Stratford Court (APN 300-181-07-00) (the “Property”); and

WHEREAS, the Applicant filed a verified application for a Tentative Parcel Map (Condominium) (TPMC) and Coastal Development Permit (CDP) to allow the conversion of two existing detached residential units to condominium ownership (the “Project”) on land located within the R2 (High Density Residential) Zoning, South Beach Community Plan Designation, and Coastal Overlay at the Property; and

WHEREAS, said verified application constitutes a request as provided by Titles 24 and 30 of the Del Mar Municipal Code (DMMC); and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the Project is found to be Categorically Exempt per Section 15315 (Class 15 - Minor Land Divisions) in that it proposes a division of property zoned for residential use within an urbanized area into four or fewer parcels, in conformance with the General Plan and Zoning, does not request a variance from standards, has all services and access available, has not been involved in a division of a larger parcel within the previous two years, and does not have an average slope greater than 20 percent; and

WHEREAS, on August 13, 2024, the Planning Commission of the City of Del Mar held a duly noticed public hearing to review TPMC23-001 and CDP23-004, and at which time all persons desiring to be heard were heard; and

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

- a. Tentative Parcel Map TPMC23-001 submitted by the Applicant.
- b. Written information submitted with the application.
- c. Oral testimony from City staff, the Applicant and the public (if any).
- d. Staff Report, dated August 13, 2024, which is incorporated by this reference as though fully set forth herein.
- e. Additional information submitted during the hearing (if any); and

WHEREAS, DMMC §30.75.080 (B)(7) states:

Unless otherwise specified in this Chapter, the Planning Commission shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits for applications for the subdivision of land; and

WHEREAS, DMMC §24.60.020 states:

Tentative parcel maps shall be subject to the requirements and procedures applicable to tentative maps contained in Chapter 24.50; and

WHEREAS, DMMC §24.50.110(A) and (C) (respectively) state:

The Planning Commission shall conduct a public hearing on the proposed tentative map; and

Within fifty days of the filing of the tentative map with the secretary of the Planning Commission, the Planning Commission shall file with City Clerk its findings and its recommendation based on those findings. The Planning Commission will recommend to the City Council the approval, conditional approval or denial of the tentative map. As appropriate, the Planning Commission shall recommend the kind, nature, and extent of improvements should be constructed or installed.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar Finds the project to be Categorically Exempt per Section 15315 (Class 15 - Minor Land Divisions) in that it proposes a division of property zoned for residential use within an urbanized area into four or fewer parcels, in conformance with the General Plan and Zoning, does not request a variance from standards, has all services and access available, has not been involved in a division of a larger parcel within the previous two years, and does not have an average slope greater than 20 percent' and

THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Del Mar adopts the following findings and recommends that the City Council approve TPMC23-001 subject to conditions of approval:

1. The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapters 24.01 (General Provisions), 24.21 (Dedication: Affordable Housing Mitigation), 24.40 (Conversion of Residential Property), 30.20 (R2, High Density Mixed Residential), and Chapter 30.80 (Parking).

2. The proposed map is consistent with the Del Mar General Plan in that the proposed residential use in the R2 Zoning Designation and density of development (12.5 units per net acre) are permitted under the Community Plan requirements for the South Beach neighborhood.
3. As conditioned, the design of the proposed subdivision will conform with the Municipal Code in effect at the time of tentative map in that all requirements have been met for residential conversion of the existing two units to condominium ownership.
4. The overall design and physical condition of the conversion achieves a high degree of appearance, quality and safety as provided in the Applicant's Physical Elements Report
5. The conversion will not displace predominantly low and moderate income families or tenants without adequate provision for suitable relocation of such families or tenants in that there are no tenants on this property; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar adopts the following findings and recommends that the City Council approve CDP24-004 subject to conditions of approval:

- 1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located**

Pursuant to the adopted City of Del Mar Community (General) Plan and Zoning Ordinance, two units on one lot is a permitted use in the R2 Zone and the project meets the density requirement for this lot of 12.5 units per net acre.

- 2. That the proposal meets the criteria of the applicable chapters of this Title**

The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapters 24.01 (General Provisions), 24.21 (Dedication: Affordable Housing Mitigation), 24.40 (Conversion of Residential Property), 30.20 (R2, High Density Mixed Residential), and Chapter 30.80 (Parking).

- 3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program**

The proposed subdivision (tentative parcel map) has been reviewed by the Planning, Public Works and Engineering Departments and found to conditionally comply with all applicable standards of design. The condominium Tentative Map will not have any impact on Coastal Resources or Public Views as there are no new structures as a part of this request and public access is not required to be provided as a part of this Map as the nearest public access point is located at nearby 15th Street since this property is separated from the ocean by other private properties, the existing rail line, and then the Coastal Bluffs beyond.

- 4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable**

requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.

While the subject property is located between the first public road and the sea, adequate public access to the coast exists elsewhere in close proximity at (public) Seagrove and Powerhouse Parks. Moreover, as the property is separated from coastal access by other developed and privately owned properties, existing railroad tracks, as well as a steep coastal bluff, existing opportunities do not exist to create new public access. No public recreation facilities exist on the property and none would be impacted with implementation of the Project.

- 5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.**

The Project site is not located in the Beach Overlay Zone, therefore this finding is not applicable.

- 6. That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.**

The Project is proposed on privately owned property where no public views presently exist and the property is not located within nor does it contain any natural features as those referenced in Policy Numbers IV-22 through IV-27 of the LCP Land Use Plan.

- 7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.**

The Project site does not contain wetland resources nor will it result in the creation of a wetland as defined in the LCP and so this finding is not applicable.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the recommendations for approval are subject to the following conditions:

General

G-7 [Code Compliance]

Approval of this application shall not waive the requirement for compliance with the provisions of the DMMC or other applicable City regulations in effect at the time of Building Permit issuance, unless specifically waived in this Permit authorization.

G-15 *[Indemnification]*

By accepting this permit and Tentative Map authorized herein, the applicant agrees to indemnify, defend and save the City of Del Mar, its authorized agents, officers, representatives and employees harmless from and against any and all penalties, liabilities, annoyances, or loss resulting from claims or court action and arising out of any accident, loss or damage to persons or property happening or occurring as a proximate result of any work undertaken under the permit.

Miscellaneous

M-1 *[Easement holder outreach and final map approval]*

Prior to recordation of the final parcel map, the Applicant shall submit correspondence from all onsite public utilities holding easements within the proposed subdivision acknowledging receipt of a copy of the proposed Final Parcel Map and stating their objection or approval of the filing of the map without their signature.

M-2 *[Payment of City fees]*

Prior to recordation of the Final Map, all outstanding City fees shall be paid.

M-3 *[Map titles]*

At the time of recordation of the Final Map, the name of the person(s) authorizing the map and whose name(s) appears on the map as the person (s) who requested the map, shall be the name of the owner(s) of the subject property and shall be the same party or parties as shown on the Tentative Parcel Map unless the Director of Planning and Community Development has approved the substitution of a successor-in-interest to such party or parties.

M-4 *[Requirement for an encroachment permit]*

An Encroachment Permit for any work within public right-of-way shall be obtained prior to issuance of building permits.

M-5 *[Final map conformance to requirements of Subdivision Map Act]*

The Final Map shall comply with the most current provisions of the Subdivision Map Act and City of Del Mar Municipal Code Title 24 (Subdivision Ordinance).

M-6 *[Submittal of title report, verification of property ownership]*

Prior to the approval of the Final Map by the City Engineer, the Applicant shall submit a title report dated within six months of the date of submittal, copies of sufficient documentation to verify lot legality and current ownership, and a subdivision guarantee from a qualified title insurance company. The guarantee shall have a minimum \$1,000 liability coverage and in a form acceptable to the Director of Planning and Community Development as well as the City Engineer.

M-7 *[Updated date of map preparation]*

The date of preparation should be updated as needed on the map.

Planning

PLN-2 [Payment of In-Lieu Housing Mitigation fees]

In accordance with Del Mar Municipal Code Chapter 24.21.015, prior to the recordation of the Final Map the subdivider shall pay In-Lieu Housing Mitigation fees in the amount that such fees exist at the time of payment per resolution of the City Council.

PLN-3 [Coastal Development Permit expiration]

If the development approved by Coastal Development Permit CDP23-004 is not established within three years (36 months) of the date its approval by the City Council, the approval shall expire and become null and void.

PLN-4 [Map expirations]

Tentative Parcel Map TPMC23-001 shall expire two years (24 months) after its approval or conditional approval by the City Council. Upon application received at a meeting of the City Council at least sixty (60) days prior to the expiration of -TPMC23-001, the City Council may extend the time of expiration for a period consistent with Map Act requirements.

Engineering

E-1 [Separate Permits for Off-site Work]

All improvements to off-site facilities, including the provision of reciprocal access and/or utility lines as proposed or required pursuant to the conditions of this Permit, shall be subject to the receipt of separate City permits, as applicable.

E-2 [Engineering Fee]

Prior to approval of the Parcel Map, the applicant shall provide fees as delineated in the City's Engineering Review Fee Schedule as funds necessary for Engineering Department review of the proposed site improvements, if needed. If additional review beyond the scope outlined in the Engineering Review Fee Schedule becomes necessary, a supplemental deposit(s) will be required.

E-3 Prior to first submittal of the Parcel Map for review, the applicant shall pay an in-lieu fee, to the City of Del Mar, for future improvement of 9th Street as indicated in the approved cost estimate prepared by the Engineer of Work.

E-4 [Water Service]

If not already existing, each residence will require its own dedicated metered water service.

E-4A Any water lines that cross between the exclusive use areas of the condominium parcel must be severed and capped so each exclusive use area's water system is isolated within said exclusive use area.

E-4B Any landscaping in common areas shall require a separate water meter and irrigation system with controller. The monthly water service shall be paid for by the Home Owner's Association.

- E-5 Each structure withing the one lot condominium Parcel Map shall have its own sewer service. Should a new sewer lateral(s) be required, then an improvement plan, for the new lateral, shall be required.
- E-6 The applicant shall comply with all City, County, State and Federal laws and regulations applicable to this Parcel Map.
- E-7 [Parcel Map Conditions]
- E-7A A final condominium Parcel Map shall be required to consolidate the two lots into one parcel for condominium purposes. With the Parcel Map, the project developer shall set forth the maintenance areas of the proposed development and maintenance responsibilities. The project developer shall record CC&R's at the time of recordation of the Parcel Map which shall create a Homeowners Association for the development. The CC&R's shall be subject to the review and approval of the City Attorney, Planning Director and the City Engineer prior to recordation of the Parcel Map. The Homeowners Association shall be responsible for the maintenance of the Common areas, on the property and other common areas not within the area of a dedicated public street and facilities on the site. The project CC&R's shall include an exhibit showing the location of all the common private improvements to be maintained by the Homeowners Association. The City shall be granted the rights and remedies of the association, but not the obligation, to enforce the maintenance responsibilities of the Home Owner's Association;
- E-7B The applicant's engineer/surveyor shall submit a preliminary copy of the condominium Parcel Map along with a preliminary copy of the title report, traverse calculations, monumentation bond estimate and a copy of the adjoining deeds and/or recorded maps to the City for review.
- E-7C Any dedications, open offers of dedication, or grants of easements to the City may be dedicated and accepted on the face of the Parcel Map. Agreement or other required items shall be recorded as separate documents concurrently after recordation of the Parcel Map;
- E-7D The project developer shall create private storm drainage easements on the Parcel Map, if needed, across the project for the benefit of the individual exclusive use areas, subject to the review and approval of the City Engineer; and
- E-7E The condominium Parcel Map shall be in substantial conformance to the approved Tentative Parcel Map and must be submitted to the City Engineering Department for review and approval. The condominium Parcel Map shall be prepared, wet signed and sealed by a Civil Engineer or Land Surveyor, registered in the State of California and licensed to prepare maps.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar, this 13th day of August, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Philip Posner, Chair
Planning Commission
City of Del Mar, California

ATTEST:

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



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Amanda Lee, Principal Planner
Karen Brindley, Planning and Community Development Director
Wendy House, Deputy City Attorney
Via Ashley Jones, City Manager

DATE: September 9, 2024

SUBJECT: Introduction of Ordinance to Establish Short Term Rental Regulations

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council take the following actions:

- 1) Confirm the environmental determination that the proposed Short-Term Rental (STR) Regulations Ordinance (Ordinance) is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) because CEQA only applies to projects with the potential for causing a significant effect on the environment; and
- 2) Introduce an Ordinance (Attachment A) amending the Title 30 Zoning Code in the Del Mar Municipal Code (DMMC) and the certified Local Coastal Program (ZA 24-004/LCPA 24-003) to establish regulations for STRs under a new DMMC Chapter 30.96.

BACKGROUND:

Preparation of regulations for STRs has been a multi-year process, which has involved studies and consideration of how the availability of dwelling units in the community for short-term visitor use can supplement the availability of visitor accommodations and support visitor-serving uses without sacrificing the City's need to maintain its long-term housing stock. The proposed Ordinance (Attachment A) will accommodate existing STR owners and preserve long term housing stock. Attachment B includes a strikeout-underline copy of the changes made since prior City Council review in May 2024, and Attachment C includes a summary of additional background details.

Staff prepared a regulatory framework in accordance with City Council direction provided between October 2023 and May 2024. On August 13, 2024, the Planning Commission voted 4-0 to confirm the environmental determination and recommend approval of the

City Council Action:

code amendments with a recommendation to modify the definition of “short term rental” to define STRs as less than one month and define what that means.

On August 26, 2024, the City Council considered and discussed the definition of “short-term rental” and whether to expressly exempt longer term rentals from the STR regulations and the requirement to pay Transient Occupancy Tax (TOT). The City Council consensus was to direct staff to modify the definition of “long-term rental” and the “Purpose” section, and craft an “Exemptions” section under the Ordinance consistent with the Council’s stated intent to expressly exempt rentals of a dwelling unit for terms of one month or longer. This includes rentals for a fixed term (e.g., annual) or periodic tenancy (e.g., month-to-month) with a total rental period of more than 30 days, as well as rentals for a month.

The Council further agreed that rentals for a month means a dwelling unit, or any portion thereof, that is rented for a month – whether the rental period starts at the beginning of the calendar month and goes through the end of the calendar month, or whether the rental period starts on someday within the calendar month and goes through the same day of the subsequent calendar month.

The Council directed staff to utilize staff’s recommended definition for “short-term rental” (with slight amendments for clarity purposes), which the Council acknowledged was consistent with both State and local laws governing STRs, including the requirement to collect TOT. The definition of “short-term rental” means the rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less, unless otherwise exempted.

The definitions and exemptions have been clarified accordingly in Sections 30.96.010 (Purpose), 30.96.020 (Definitions), and 30.96.025 (Exemptions) of the Ordinance to exempt rentals for one month and longer terms. The City Attorney clarified that the Ordinance, as amended to exempt long-term rentals, including monthly rentals, does not conflict with, and will not affect, or invalidate the TOT ballot measure (Measure M), which will be decided by the City’s voters in the General Election to be held on November 5, 2024.

The proposed Ordinance also clarifies the regulations for STR ownership, including how to demonstrate the proof of address requirement when the owner is a business entity as provided for in the Ordinance (i.e., Existing STRs). The amended provision requires the owner to provide the City with proof of a current Certificate of Status, or similar documentation demonstrating the business entity is active and in good standing with the State of Formation. The Certificate of Status applies to State-registered business entities.

Adoption of the Ordinance will implement the City's 6th Cycle Housing Element Program 5C (Preserve the City's Existing Housing Stock). The proposed regulations align with the City's certified Housing Element, certified Local Coastal Program, and the following City Council-adopted guiding principles and objectives to:

1. Honor the existing policies in the Del Mar Community Plan.
2. Maintain the residential character of neighborhoods in residential zones.
3. Honor the tradition of vacation rentals during the summers, holidays, and horse-racing season.
4. Ensure protection of the public health, safety, and general welfare.
5. Ensure the City's natural resources will be preserved and protected.
6. Ensure STRs will not overburden public improvements, facilities, and services.
7. Minimize adverse impacts to adjacent private properties and the surrounding neighborhood.
8. Consider distribution and concentration of STRs throughout the community.
9. Craft regulations that are easy to understand and implement.
10. Communicate expectations for civil conduct in line with "good neighbor" policies.
11. Establish enforcement protocols, and ensure regulation of short-term rentals is, at a minimum, revenue neutral to the City.
12. Work towards a solution for STRs that works for Del Mar and will pass muster with the Coastal Commission.

Del Mar is a small coastal city that hosts millions of visitors each year. Overnight visitors are accommodated by hotels that are in Del Mar or nearby with a combined total of 2,379 hotel guest rooms, as well as STR visitor lodging options, as follows:

- Within the City, there are 400 guest rooms between six hotels and two additional visitor-serving lodging businesses.
- Within a five-mile radius of the City of Del Mar's jurisdictional boundary, there are an additional 1,979 guest rooms between 13 hotels.
- There are also hundreds of STRs located in neighboring communities in the City of San Diego, City of Solana Beach, and County of San Diego, which are advertised as being in "Del Mar," as well as informal STR accommodations in Del Mar neighborhoods that to date have been unregulated.

By comparison, the City has a total of 2,574 dwelling units per the 2020 United States Census, which means the number of visitor-serving accommodations in the greater Del Mar area exceed the total number of dwelling units in Del Mar. The City's policy intent is for the proposed STR regulations to accommodate visitors while still maintaining the majority of the local housing stock for use by long term residents. This is consistent with the policy intent of Program 5C in the City's certified Housing Element and consistent with Coastal Commission policy direction on STRs.

A dedicated City web page was created to share information with the public about the STR regulations development process: <https://www.delmar.ca.us/563/Short-Term-Rentals>

DISCUSSION/ANALYSIS:

The proposed STR regulations align with the Del Mar Community Plan, certified Housing Element, and certified Local Coastal Program. This includes Community Plan goals to preserve and enhance Del Mar's special residential character and small-town atmosphere; preserve housing for diverse age and socio-economic groups at a range of income levels; and Local Coastal Program goals to provide the public with quality overnight accommodations and other visitor-serving facilities, which enhance the unique village character; and ensure visitor-serving facilities are compatible with surrounding development (Attachment C).

Below is a summary of the proposed STR regulations. The revisions incorporated since the City Council meeting on May 20, 2024, Planning Commission hearing on August 13, 2024, and City Council meeting on August 26, 2024, are noted with an asterisk (*):

Citywide Cap

The Ordinance sets the maximum number of STRs at 5% of the City's total dwelling units based on the most current United States Census data (proposed DMMC Section 30.96.050(B)).

- This equates to a citywide cap of 129 STRs based on the 2020 US Census.
- The cap will apply citywide in residential and commercial zones and may initially be exceeded if necessary to accommodate existing STRs.
- Once the cap is reached (or exceeded through accommodation of existing STRs), any applications for new STRs would be placed on a waitlist in the order in which the STR permit applications are received. Once contacted by the City, owners on the waitlist will have 30 days to submit an application to the City, or the City will move on to the next owner on the waitlist.

Existing STRs

The Ordinance accommodates existing STR owners who timely register with the City and obtain a STR Permit (proposed DMMC Sections 30.96.020, 30.96.040, 30.96.050, 30.96.080).

- Defines "Existing STR" as a STR in operation prior to adoption of the City's STR Ordinance where the owner timely registers the existing STR with the City.
- *As proposed, the deadline for owners to register Existing STRs is December 31, 2024. Owners must provide at least one of the document types listed on the STR Registry webpage: fully executed rental agreement that identifies STR address; business license indicating STR business at subject property; Federal or State

income tax return specifying a STR business at subject property; printed or online advertising or contract indicating actively advertised STR operations at subject property; or other evidence of STR operations at subject property within the last ten years may be submitted for consideration. At least 81% of the Existing STR owners have already provided evidence of their prior STR rental agreements at the registered property. Existing STR owners must register at the following link: <https://www.delmar.ca.us/FormCenter/Planning-6/ShortTerm-Rental-Registry-51>

- To date, owners have registered 117 Existing STRs with the City. Attachment E includes the locations of Existing STRs. By comparison, prior data (provided by City consultant, DTA) identified 125 STRs were advertised for rent in Del Mar in June 2023.
- Permit applications for Existing STRs must be submitted within 60 days of the effective date of the Ordinance and will be processed before applications for new STRs (see Attachment G).
- Existing STRs will be accommodated and issued a STR Permit even where the existing operations do not conform with specific requirements applicable to new STRs including:
 - May exceed Citywide cap and/or neighborhood caps applicable to the location. Currently, all existing STRs in the registry are within the identified cap limits.
 - May continue operating more than one STR per owner (on same lot or separate lots). Currently, there are 95 total owners of the 117 Existing STRs and 17 of the 95 owners own multiple STRs. There are 39 properties with multiple STRs.
 - May continue operating full-time STRs (even if not in a primary residence). It appears that at least 74% of the existing STRs are not in primary residences based on the limited registry data provided. The 86 owners who provided a separate mailing address (different from the STR address) were considered likely to be operating STRs that are not in primary residences.
 - May continue operating as a business entity if that is the existing STR ownership in place. Currently, 28 of the 117 registered STRs are owned by businesses including sixteen (16) owned by LLCs, nine (9) owned by Limited Partnerships, and three (3) owned by other business entity types.
- Existing STRs are subject to all other applicable provisions of Chapter 30.96 (i.e., maintaining STR permit in good standing and compliance with good neighbor/operation requirements).
- A termination of existing rights will occur upon any of the following:
 - The STR permit is not maintained in good standing.
 - The STR Permit is not timely renewed prior to the date of expiration or the STR permit is revoked due to non-compliance.
 - The transfer of ownership of the STR property, except in situations where a change in ownership occurs and the original owner remains on the title. This allows Existing STR owners to transfer the property title to their families and continue operating as Existing STRs (Section 30.96.030(G)).

STR Permits

Consistent with City Council direction since October 2023, the Ordinance requires the property owner to obtain a STR Permit to allow STR use (proposed DMMC 30.96.030).

- *Clarifies that rentals for one month, monthly rentals, and longer term rentals are exempt from the STR regulations. Requires a STR Permit for the short-term rental of a dwelling unit, or portion thereof, for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less, unless the dwelling unit, or portion thereof, is exempt as a long-term rental. Proposed DMMC Sections 30.96.020 (Definitions) and 30.96.025 (Exemptions) further explain what constitutes a rental that is subject to the STR regulations and what is exempt. Attachment G includes a summary of the proposed STR Permit procedures.
- STR Permits for new STRs will be issued only to “Owner” with recorded interest in the unit.
- *Clarifies that when the owner is a business entity, the application requirement to demonstrate proof of address will involve providing the City with a current Certificate of Status, or similar documentation demonstrating the business entity is active and in good standing with the State of Formation.
- Prohibits subletting for STR use and owner’s tenants are not eligible to obtain a STR Permit.
- Allows Existing STR owners to continue operating the existing STR ownership in place. Existing STRs that have registered to-date include STRs owned by natural persons, personal trusts, family trusts, limited liability companies (LLCs), limited partnerships (LPs), limited liability partnerships (LLPs), and corporations.
- Owners of new STRs must be natural persons who live in the unit as their primary residence for more than six (6) months per year.
- *Clarifies new STR owners who meet the primary residence requirement may be personal or family trusts, LLCs, LPs, or LLPs if they are natural persons with at least one member (trust beneficiary or manager/member) who lives in the unit as a primary residence. Owners of new STRs may not be timeshares, business trusts, corporations, general partnerships, or other business entities.
- *Clarifies that a new STR Permit is not required for changes in title to the dwelling unit resulting from inheritance or where an original owner under the STR Permit remains an owner under the new title. This simplified the prior draft language by removing references to more specific circumstances (i.e., marriage, divorce, death, or transfers to a trust, LLC, LP, or LLP) and clarifying the intent to allow the original owner to modify property ownership on the title to add or remove members while maintaining continuity of the original owner.
- Limits permit issuance for new STR operations to only one STR per owner; owners with more than one Existing STR would be accommodated.

- Requires a designated local contact person to act as the responsible person to be available twenty-four (24) hours per day, seven (7) days per week for the purpose of responding within thirty (30) minutes to complaints.
- Requires the STR permit holder to obtain and maintain property liability insurance (minimum \$1 million policy). The City is not required to be listed as an additional insured on the policy.
- *Requires STR permit holder to indemnify, hold harmless, and defend the City from liability claims.
- Requires STR Permit renewal every two (2) years. Applications for a renewal permit must be submitted prior to the permit expiration date.
- Requires notice of STR Permit approval to owners within three hundred (300) feet.
- The STR Permit application will include owner authorization for the City to conduct a reasonable inspection for safety compliance. The City may, but is not required to, conduct an inspection (Sections 30.96.050(E)(5) and 30.96.070(F)(3)).
- A STR Permit is not required for non-commercial home exchanges (no monetary or other consideration exchanged between parties), the L'Auberge Vacation Villas, Wavecrest Resort Timeshares, or hotels who continue to collect and remit TOT.

Residential Zones

Limits new STRs in residential zones to maintain neighborhood character and maintain housing as primary use of dwelling units (proposed DMMC Section 30.96.060).

- Limits new STRs to primary residences occupied by the owner as their principal place of residence for more than six (6) months per year.
- Maximum of one STR per lot in R1 zones (R1-40, R1-14, R1-10, R1-10B, R1-5, R1-5B, Carmel Valley Precise Plan) and on lots with one primary unit in R2 and RM zones.
- For lots with two primary units (R2 and RM zones):
 - Allows STR use in each unit on two-unit condominium lots.
 - Limits to one STR for lots with two units and only one owner.
 - Accommodates existing STR owners with two STRs on their lot.
 - Prohibits STR use in Accessory Dwelling Units (ADUs) in residential zones per State ADU law and in accordance with the City's ADU Ordinance No. 1002.

Apartments/Condominiums

Limits STRs in multi-unit condos and prohibits STRs in apartments to preserve the City's older, more affordable rental units for housing (proposed DMMC Section 30.96.060).

- Limits new STRs to primary residences that are occupied by the owner as their principal place of residence for more than six (6) months per year.
- Prohibits STRs in existing apartments in the RM-South, RM-West, RM-East, and R2 residential zones to preserve these units for housing. In residential zones, there are nine (9) existing apartment complexes with 321 total units (Attachment D).

- Limits STRs in multi-unit condos in the RM-South, RM-East, RM-West, and R2 residential zones to a maximum of 10% of the total primary dwelling units and requires written consent of the homeowner's association. Creates potential capacity for 45 STRs in the 17 existing condo complexes with 421 total units that range in size from 5-unit to 126-unit complexes (Attachment D).
- Prohibits STRs in units that are subject to affordable housing restrictions.

Commercial Zones

Allows STRs in commercial zones (except the Beach Commercial (BC) zone) for consistency with the Coastal Act, which prioritizes visitor serving uses over residential (proposed DMMC Section 30.96.060).

- Limits new STRs to primary residences occupied by the owner as principal place of residence for more than six (6) months per year.
- Allows STR use in the Visitor Commercial (VC) zone.
- Allows STRs in zones that allow residential: Residential-Commercial (RC), Central Commercial (CC), North Commercial (NC), Professional Commercial (PC), and the 941 CDM Specific Plan.
- STR use will be permitted in an ADU in commercial zones only where the ADU is used as a primary residence, which is consistent with State Housing law, the Coastal Act, and the ADU Ordinance adopted by the City Council in December 2023 that is currently pending Coastal Commission certification.
- Limits STRs in apartments and condos in commercial zones to 10% of the primary dwelling units (there are no existing apartments in the RC, CC, NC, or PC zones).
- Continues to allow visitor accommodation use in the Wavecrest Resort Timeshares, Hotel Specific Plan, 941 CDM Specific Plan, VC Zone and CC Zone per applicable entitlements and zoning.
- Attachment D includes an analysis of STR potential in commercial zones as summarized below:
 - VC zone: Allows STR use. The existing Terraces Apartments is a 53-unit complex of older studio apartments (non-conforming use) where STR use would be limited to 10%, which would provide potential capacity for five (5) STRs (consistent with LCP) and maintain the other 48 units as lower cost housing options.
 - NC Zone: Allows STR use. Creates potential capacity for four (4) STRs in entitled 50-unit residential project (pending building permit approval and construction), which includes 10 deed-restricted lower income units that are prohibited from use as STRs.
 - PC Zone: Allows STR use. There are no existing dwelling units in zone.
 - 941 Camino del Mar Specific Plan: Existing Specific Plan allows STR use. Potential capacity for six (6) STRs in 8-unit residential/STR project (pending

- building permit approval), which includes two (2) deed-restricted low-income units that prohibit STR use.
- CC Zone: Allows STR use. Potential capacity for five (5) STRs where five (5) lots each have one (1) unit accessory to the existing commercial uses: 300 9th Street (at 915 Camino del Mar), 1101 Camino del Mar, 1105 Camino del Mar, 1202 Camino del Mar, and 1126 Camino del Mar. For use as new STRs, units would need to be maintained as primary residences.
 - RC zone: Allows STR use. Potential capacity for six (6) STRs on six (6) lots, including three (3) lots that each have a single unit and three (3) lots that each have two (2) units per lot.

Neighborhood Caps

The proposed Ordinance establishes caps to mimic historic use patterns and minimize potential for overconcentration (proposed DMMC Section 30.96.060).

- Sets neighborhood concentration limits as percentage of the total STRs allowed per citywide cap. Based on 2020 Census Data, the citywide cap will be 129 at the time of the Ordinance adoption. Attachment E identifies the location of the existing STRs registered to-date and capacity with respect to neighborhood cap.
- Attachment F includes the three neighborhood cap areas, identified as North Beach, South Bluff, and Hills.
- Sets a 60% cap in North Beach neighborhood (R1-5B, R1-10B, RM-East, RM-West) – Capacity for 77 STRs. The City has record of 74 existing STRs registered in North Beach. (By comparison, 71 STRs were advertised in June 2023).
- Sets a 25% cap in South Bluff neighborhood (R1-40, R2 south of 15th Street, RM-South, RC) – Capacity for 32 STRs. The City has record of 25 existing STRs registered in South Bluff. (By comparison, 32 STRs were advertised in June 2023).
- Sets a 15% cap in Hills neighborhood (R1-40, R1-10, R1-5, RM-Central, northerly R2, CVPP) – Capacity for 19 STRs. The City has record of 18 existing STRs registered in Hills. (By comparison, 19 STRs were advertised in June 2023).
- In locations where no concentration limit is set (i.e., North Bluff or commercial zones), STRs would still count towards the citywide cap.

Good Neighbor Provisions/Operating Requirements

The proposed Ordinance communicates expectations for civil conduct and includes provisions to protect public health, safety, and welfare in surrounding neighborhoods (proposed DMMC Sections 30.96.050 and 30.96.070).

- Owner must provide copy of standard rental agreement to confirm inclusion of required content per STR regulations.
- *Clarifies STR advertisements including those posted on or by web- or application-based hosting platform or third-party booking vendor websites must include STR Permit number.

- Owner must acknowledge review of Good Neighbor Policy (Attachment H).
- Approved STR permits to be posted on website and notice mailed to owners within three hundred (300) feet.
- Requires rental agreements provide a minimum three (3)-night stay and limit STR occupancy to two (2) persons per bedroom plus two (2) additional persons.
- Limits additional guests to visits during the hours of 8:00 a.m. and 10:00 p.m. daily.
- Requires primary rental guest to be at least twenty-five (25) years of age, listed on rental application, and present at the STR during the rental period.
- Requires rental agreement specify regulations for occupancy, parking, trash, noise limits, and other details.
- *Clarifies the trash disposal includes organic waste and recycling in appropriate containers.
- *Clarifies local contact person must be available twenty-four (24) hours per day, seven (7) days per week to promptly respond to complaints within thirty (30) minutes of receipt from the City, County Sheriff's Department, or residents.
- Requires interior display of STR Permit, TOT rate, and Good Neighbor Policy and requires exterior display of the STR notice and designated twenty-four (24) hour local contact person.
- Limits use to lodging and prohibits events (i.e., weddings, receptions, commercial functions, bachelor/bachelorette parties, and similar events).
- Prohibits STR use in non-dwelling units (i.e., tents, garages, or vehicles).

Enforcement

The Ordinance establishes enforcement protocols (proposed DMMC Section 30.96.080).

- Identifies violations, penalties, enforcement provisions consistent with citywide enforcement procedures and in accordance with the monetary penalties set forth under State law.
- Sets forth the procedures and required grounds for decisions to suspend or revoke STR permit.
- Identifies the process to appeal a permit denial, suspension, or revocation.
- Applies fine amounts specific to the Ordinance per Government Code Section 36900(d).

STR Permit Fee and Transient Occupancy Tax (TOT)

The proposed Ordinance requires payment of a STR Permit Fee and collection/remittance of TOT (proposed DMMC Section 30.96.070).

- The STR Permit Fee would establish cost recovery consistent with the City's fee schedule. The STR Permit Fee will be set at a future date when the costs for implementation and enforcement are known.
- DMMC Chapter 3.12 sets forth the requirements for collection and remittance of TOT for all types of transient occupancy uses citywide.

- Under the proposed Ordinance, rentals of a dwelling unit for terms of one month or longer would be expressly exempt from the requirement to collect and remit TOT during rental periods when the dwelling unit, or portion thereof, is operating as a long-term rental including:
 - Rentals for a fixed term (e.g., annual) or periodic tenancy (e.g., month-to-month) with a total rental period of more than 30 days; and
 - Rentals for a month.

Correspondence

In preparation for the hearing, the City received comments related to the proposed Ordinance that are summarized below. The most frequently asked questions have been regarding the definition of a STR, accommodation of Existing STRs, the citywide and neighborhood caps, the primary residence requirement/limit on ownership types for new STRs, the ability for the City to conduct inspections if needed, the environmental determination, and the plan for implementation and enforcement of the Ordinance. The proposed Ordinance was prepared consistent with the policy direction provided by the City Council. The City Council can modify provisions within the draft Ordinance; however, all regulations must be clearly stated in the written public record when the City Council takes action to introduce the Ordinance.

- Definition of STR: Comments have been received in opposition to the Ordinance definition of STR as a rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less, unless otherwise exempted. Consistent with City Council direction on August 26, 2024, exemption provisions were incorporated to clarify that rentals of a dwelling unit for one month or longer terms will be expressly exempt from the STR regulations in Chapter 30.96 and requirement to collect and remit TOT.
- Accommodation of Existing STRs: Consistent with City Council direction the proposed Ordinance accommodates Existing STRs operating in the City prior to adoption of the Ordinance so long as the Owner timely registers the Existing STR with the City as of the date stated in the Ordinance. As proposed, all Existing STR owners who register their STRs with the City by December 31, 2024, and who submit STR Permit applications within 60 days of the effective date of the Ordinance, will be accommodated as Existing STRs. Existing STRs may exceed the citywide cap and/or neighborhood caps applicable to the location; may continue operating more than one (1) STR per owner (on same lot or separate lots); may continue operating full-time STRs (even if not in a primary residence); and may continue operating as a business entity if that is the existing STR ownership in place.

- Citywide and Neighborhood Caps: Comments have been received regarding the Ordinance provisions for citywide and neighborhood caps asking for the citywide cap to be set as a hard cap based on the total units in the 2020 US Census, which would not allow for any increase in capacity beyond the 129 unless the Ordinance is formally amended by the City Council. Per City Council direction, calculation of the citywide cap is set at 5% of the City's total dwelling units based on the most current US Census data. The City also received requests seeking to reduce the neighborhood cap limit for the Hills neighborhood cap boundary (Attachments E and F). These caps included in the Ordinance are consistent with City Council direction. Currently, the number and location of Existing STRs registered with the City have been consistent with what was advertised for STR use in 2023 and with the citywide and neighborhood caps set in the proposed Ordinance (Attachment C).
- Primary Residence Requirement for New STRs: Comments have been received in opposition to the Ordinance provision for owners of new STRs to be natural persons who live in the unit as their primary residence for more than six (6) months per year. Consistent with City Council direction, Existing STRs are exempt from the primary residence requirement and only new STRs that are not in a primary residence are prohibited. This regulatory approach is consistent with the City's Housing Element and the latest California Coastal Commission policy guidance.
- STR Ownership Types: Comments have been received expressing concerns regarding the Ordinance provision relating to allowable ownership types. Consistent with City Council direction, the existing ownership format for all Existing STRs will be accommodated. This means that all Existing STRs are being accommodated regardless of ownership type. The City Council's initial direction was to preclude new STRs from being owned by business entities. In consideration of public comment indicating that LLCs can function as primary residences, the City Council directed that the Ordinance also accommodate LLC ownership for new STRs. Staff has since been asked to clarify that new STRs may be owned by LLCs, LPs, and LLPs where they are primary residences. This means that new STRs may be owned by natural persons, personal trusts, family trusts, LLCs, LPs, and LLPs where at least one of the natural persons who is the owner of record occupies the dwelling unit as their primary residence (See definition of "Owner" in Section 30.96.020).
- Inspections: Comments have been received from Existing STR owners in opposition to the Ordinance provision for a reasonable inspection to be conducted for safety compliance. Consistent with City Council direction, each STR Permit application will include the owner's authorization for the City to conduct a

reasonable inspection for safety compliance. The City may, but is not required to, conduct an inspection (Sections 30.96.050(E)(5) and 30.96.070(F)(3)).

- **Environmental Determination:** As noted in the Environmental Impact statement below, the proposed STR regulations were analyzed in accordance with applicable law. The proposed regulations do not provide for any new development or construction. STR is a land use type that operates within an existing dwelling unit. The proposed regulations accommodate existing STR operations and maintain the existing baseline environmental conditions. The proposed regulations are consistent with the data collected and public testimony in terms of the number of existing STRs, geographic location, and the manner of operations. The Ordinance is creating new citywide STR regulations and a permit process in the Del Mar Municipal Code to explicitly allow for STR use in accordance with specified requirements. There are no proposed changes to the existing regulations or permit procedures for development, and there is no potential for the STR regulations, if approved, to cause a significant effect on the environment or impact to public health and safety.
- **Implementation/Enforcement:** Implementation and enforcement of the new STR regulations is anticipated to be managed primarily by a third-party vendor. This will include management of the STR Permit issuance process, resources to assist STR Operators and interested persons in the community, monitoring and reporting, and enforcement. It is anticipated that updates will be provided to the City Council on an annual basis. The City Council can adopt amendments to the Ordinance and provide direction to modify the initial implementation protocol.

Next Steps

- Introduce and adopt the Ordinance.
- Submit the adopted Ordinance to the Coastal Commission for certification.
- Evaluate third-party vendors for implementation/enforcement of the Ordinance.
- Set permit fee to establish cost recovery for implementation of the Ordinance.

FISCAL IMPACT:

There is no fiscal action to be taken by the City Council for this agenda item.

HOUSING IMPACT:

Adoption of the Ordinance will implement the City's 6th Cycle Housing Element. STRs involve commercial use of a dwelling unit, which has the potential to decrease the availability of housing options if left unregulated. Housing Element Program 5C commits the City to implement measures to reduce current vacancy rates with the intent to maintain dwelling units for long term housing. A unit is recorded as "vacant" when off-site owners report their units as unoccupied with no housing tenant. The proposed STR regulations

include measures to maintain dwelling units for long term housing including a citywide cap on the total number of STRs; and require new STRs to be primary residences where the occupants live more than six (6) months per year.

ENVIRONMENTAL IMPACT:

The Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) because CEQA only applies to projects with the potential for causing a significant effect on the environment. There is no change in baseline environmental conditions or potential to cause a significant effect on the environment. On April 17, 2024, the City’s CEQA consultant, Interwest Group, completed an Initial Study evaluation, which concluded that no environmental factors would be potentially affected by the STR Regulations contemplated by the City Council. The subsequent revisions to the regulations also would not result in a change in baseline environmental conditions or potential to cause a significant effect on the environment. A Notice of Exemption will be prepared identifying that the activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

PRIOR CITY COUNCIL REVIEW:

The City Council previously provided the following direction on various policy items to facilitate preparation of draft STR regulations:

City Council Date	Action
September 5, 2023	The City Council provided direction to establish a database of existing STRs in operation to inform the City of a reasonable baseline to use for future City Council determinations and understanding of the number of existing STRs to be accommodated. The City Council also voted unanimously to finalize its twelve Guiding Principles and Objectives.
October 2, 2023	The City Council provided direction on various policy items related to the desired regulatory approach to facilitate preparation of a draft STR regulation framework. Staff solicited input on provisions including, but not limited to, whether there should be citywide and/or neighborhood caps, how to accommodate existing STRs, whether to limit STR permits to owners, whether to limit ownership to non-business entities, registry of existing STRs, public notice, permit renewal requirements, differences in context of single dwelling unit, two-unit, and multiple dwelling unit residential zones and commercial zones, and various options for operational requirements, good

	neighbor policies, and enforcement. The City Council provided direction by consensus. No formal action was taken.
January 22, 2024	The City Council reviewed the draft STR regulatory framework prepared in accordance with Council direction provided on October 2, 2023, and provided formal direction for staff to prepare draft STR regulations that accommodate existing STRs until the property changes ownership, the STR Permit is not renewed, or the permit is revoked due to con-compliance. (vote 3-2)
May 20, 2024	The City Council reviewed the revised draft STR regulatory framework prepared in accordance with City Council direction provided on January 22, 2024. No formal action was taken.
August 26, 2024	The City Council consensus was to define STR as rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less, unless otherwise exempted, and direct staff to modify the definition of “long-term rental” and the “Purpose” section, and craft an “Exemptions” section under the STR Ordinance consistent with the Council’s stated intent to expressly exempt rentals of a dwelling unit for terms of one month or longer. No formal action was taken.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This is a Tier 1 City Council priority special project with the City Council adoption of the STR Regulations Ordinance to be completed by December 2024.

ATTACHMENTS:

- Attachment A – Proposed STR Regulations Ordinance
- Attachment B – Strikeout-Underline of changes since prior Council review (May 2024)
- Attachment C – STR Background Summary
- Attachment D – Multi-Unit Development Site Analysis
- Attachment E – Maps of Existing STR Locations
- Attachment F – Map of Neighborhood Cap Locations
- Attachment G – Summary of STR Permit Procedure
- Attachment H – Good Neighbor Policy

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING THE DEL MAR MUNICIPAL CODE (TITLE 30 ZONING CODE) TO ESTABLISH A NEW CHAPTER 30.96 SHORT TERM RENTAL REGULATIONS; AND AMENDING THE CITY'S CERTIFIED LOCAL COASTAL PROGRAM ALL RELATING TO THE ESTABLISHMENT OF SHORT TERM RENTAL REGULATIONS AND PERMIT REQUIREMENTS AND IMPLEMENTATION OF THE 6TH CYCLE HOUSING ELEMENT PROGRAM 5C (PRESERVE THE CITY'S EXISTING HOUSING STOCK)

WHEREAS, the term short term rental (STR) means the rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less, unless otherwise exempted as a rental for a term of at least one month or longer; and

WHEREAS, the purpose of this Ordinance is to create a new Del Mar Municipal Code Chapter 30.96 to establish short term rental regulations that provide a permitting process and reasonable standards regulating the use and operation of STRs with the intent to preserve long term housing; and

WHEREAS, preparation of the STR Regulations Ordinance has been a multi-year process, which has involved studies and consideration of how the availability of dwelling units in the community for short-term visitor use can supplement the availability of visitor accommodations and support visitor-serving uses without sacrificing the City's need to maintain its long-term housing stock; and

WHEREAS, the State legislature declared that "Housing is a statewide concern", that California faces a housing crisis, and that local jurisdictions are mandated to comply with applicable State housing laws; and

WHEREAS, the City of Del Mar Community Plan is the General Plan for the City of Del Mar and has an overall goal to "preserve and enhance the special character of Del Mar," this includes maintaining the "village-like community of substantially single family residential character, a picturesque and rugged site, and a beautiful beach" as well as preserving and enhancing "Del Mar's special residential character and small town atmosphere with its harmonious blending of buildings and landscape in proximity to a beautiful shoreline"; and

WHEREAS, the City's certified Housing Element is one of many required components that is part of the Del Mar Community Plan consistent with State laws applicable to General Plans; and

WHEREAS, the certified Housing Element identifies programs and resources required for the preservation, improvement, and production of housing to meet the existing and projected needs of its population which requires the creation of additional affordable housing stock; and

WHEREAS, the proposed amendments to the Del Mar Municipal Code and Local Coastal Program (LCP) are required to implement the City's 6th Cycle Housing Element commitments identified in Program 5C (Preserve the City's Existing Housing Stock); and

WHEREAS, the City of Del Mar is located entirely within the "Coastal Zone" boundary and is therefore subject to compliance with the California Coastal Act, including the required submittal of all amendments to the City's certified LCP land use policies and zoning regulations for certification by the California Coastal Commission consistent with the Coastal Act; and

WHEREAS, City staff engaged in a multi-year public outreach process to encourage public participation for the formulation of guiding principles and objectives, draft regulations, and this Ordinance, which included articles posted on the City's website, multiple announcements made in the City's weekly updates, and multiple announcements made during public meetings including the Planning Commission and City Council meetings; and

WHEREAS, on September 5, 2023, the City Council provided direction to staff to establish a database of existing STRs in operation within the last ten (10) years to inform the City of a reasonable baseline to use for future City Council determinations of the number of existing STRs to be accommodated; and

WHEREAS, an online registry was established on the City of Del Mar website and beginning September 8, 2023, multiple newsflash articles were published and distributed in the City's weekly update and in all Agenda Reports to the City Council and Planning Commission relating to short term rentals from that date to the present to encourage existing STR owners seeking to continue their existing operations to add their properties to the database; and

WHEREAS, on January 22, 2024, the City Council provided policy direction to accommodate existing STRs under the new STR regulations where the existing STR owners timely register with the City and obtain a STR Permit to allow their existing STR operations to exist subject to compliance with the STR regulations, as applicable, until the property changes ownership, the STR Permit is not renewed, or the permit is revoked for non-compliance; and

WHEREAS, this STR Ordinance will accommodate existing STR owners operating in the City of Del Mar prior to adoption of the Ordinance where the owner timely registers the existing STR with the City by December 31, 2024;

WHEREAS, STR Permit applications for existing STRs must be submitted within sixty (60) days of the effective date of the Ordinance which will be the date the Coastal Commission grants final certification of the Ordinance; and

WHEREAS, the Notice of Availability and Notice of Planning Commission public hearing for the Amendments to the Community Plan, Zoning Ordinance, and LCP was posted in the Coast News on July 26, 2024, and individual mailed notices were sent to all interested parties who participated by submitting written correspondence, requested notification, and/or submitted speaker slips on the topic of short term rentals in the public meetings of the Planning Commission and City Council held between January 2023 through September 2024; and

WHEREAS, on August 13, 2024, the Planning Commission recommended approval of the CEQA determination and recommended the City Council adopt the amendments and modify the definition of short-term rentals to define STRs as less than one month and define what that means; and

WHEREAS, on August 23, 2024, the notice of City Council public hearing was published in the San Diego Union Tribune and mailed notices were sent to all interested parties including those who participated through the Planning Commission hearing on August 13, 2024; and

WHEREAS, as part of Item 17 on the August 26, 2024, City Council meeting, the City Council reviewed options for definitions of short-term rental, long-term rental, and exemptions for monthly rentals, and the Council expressed a desire to exempt rentals for a month from the STR regulations and the requirement to collect and remit Transient Occupancy Tax (TOT); and

WHEREAS, on September 9, 2024, the City Council held a duly noticed public hearing for introduction of the Ordinance; and

WHEREAS, adoption of this Ordinance will amend the Del Mar Municipal Code Title 30 (Zoning) and certified Local Coastal Program to establish short term rental regulations in a new Del Mar Municipal Code Chapter 30.96 and implement the 6th Cycle Housing Element Program 5C commitment for preservation of existing stock which is consistent with the California Coastal Commission policy guidance to limit new short term rentals to primary residences.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Del Mar, California, based on substantial evidence in the whole of the administrative record, hereby finds and declares the following:

SECTION ONE: The above stated Recitals are true and correct and are incorporated by reference into this action.

SECTION TWO: That a new Chapter 30.96 be added to the Del Mar Municipal Code and the City's Local Coastal Program as follows:

Chapter 30.96 – Short-Term Rentals

30.96.010 – Purpose

The purpose of this Chapter is to provide a permitting process and reasonable standards regulating the use and operation of Short-Term Rentals (STRs) for visitor lodging involving timeframes of thirty (30) consecutive days or less, with the intent to maintain long-term housing stock in the City of Del Mar; honor the existing policies in the Del Mar Community Plan; maintain the residential character of neighborhoods in residential zones; honor the tradition of vacation rentals during the summer, holiday, and horse-racing seasons; ensure protection of the public health, safety, and general welfare; ensure the City's natural resources will be preserved and protected; ensure STRs will not overburden public improvements, facilities, and services; minimize adverse impacts to adjacent private properties and the surrounding neighborhood; establish distribution and concentration of STRs throughout the community; establish enforcement protocols; and ensure the regulation of STRs is, at a minimum, revenue-neutral to the City. For purposes of this Chapter, long-term rentals (including rentals for a fixed-term or periodic tenancy and rentals for a month), and home exchanges are exempt from compliance with the provisions of this Chapter.

30.96.020 – Definitions

For purposes of Chapter 30.96, the following definitions shall apply:

Accessory Dwelling Unit (ADU) shall have the same meaning as in Section 30.04.010(C) of this Municipal Code.

Bedroom shall be defined as an enclosed space within a dwelling unit that is designed for or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from the kitchen, living room, and hallway areas.

Designated Local Contact Person means the person designated by the Owner to be available twenty-four (24) hours per day, seven (7) days per week, for the purpose of responding within thirty (30) minutes to complaints regarding the condition, operation, and/or conduct of occupants and guests of the STR, and taking remedial action to resolve any such complaints.

Existing Short-Term Rental (Existing STR) means a STR operating in the City prior to adoption of the City's STR Ordinance where the Owner timely registered the STR with the City as of the date stated in the Ordinance. A STR shall cease to be protected as an Existing STR upon any of the following: the transfer of ownership of the STR property, the STR Permit is not maintained in good

standing, including a STR Permit that is not timely renewed prior to the permit expiration date, or the STR Permit is revoked due to non-compliance with any provision of this Chapter. A change in title that is processed in accordance with Section 30.96.030(G) shall not be considered a transfer of ownership that would terminate rights to an Existing STR. Unless otherwise expressly stated herein, an Existing STR is subject to all applicable provisions of this Chapter.

Home Exchange means an agreement between parties for exclusive use of each other's homes for dwelling, lodging, or sleeping purposes, for a set period of time, with no monetary exchange or other consideration exchanged between the parties.

Long-Term Rental means the rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, subject to a rental agreement, for (i) a fixed-term (e.g., annual) or periodic tenancy (e.g., month-to-month), with a total rental period of more than thirty (30) consecutive calendar days; or (ii) a rental for a month as described in Section 30.96.025 of this Chapter.

Owner means the natural person(s) who is/are the owner(s) of record of the dwelling unit, at least one of whom occupies the dwelling unit at which the STR will operate as their Primary Residence, unless identified as an Existing STR by the City. All owner(s) of record of the dwelling unit are required to sign the STR Permit application and shall be held jointly and severally liable for any violation(s) of this Chapter. For purposes of this Chapter, "Owner" may also include:

(i) A personal trust or family trust whose beneficiaries consist solely of natural persons and the trustee(s) of such trust, so long as at least one beneficiary or trustee of the trust occupies the dwelling unit at which the STR will operate as their Primary Residence. If the dwelling unit is held in a personal or family trust, each trustee must sign the STR Permit application, and shall be held jointly and severally liable for any violation(s) of this Chapter; and

(ii) A limited liability company (LLC), limited partnership (LP), or limited liability partnership (LLP) owned by natural persons (not business entities), so long as at least one manager/member occupies the dwelling unit at which the STR will operate as their Primary Residence. Each manager/member of the LLC, LP, or LLP must sign the STR Permit application, and shall be held jointly and severally liable for any violation(s) of this Chapter.

Unless identified as an Existing STR by the City, the term "Owner" does not include a dwelling unit that is fully or partially owned as a timeshare, a business trust, corporation, general partnership, or any other business entity other than a LLC, LP, or LLP.

Primary Residence means a dwelling unit owned and occupied as the Owner's principal place of residence, where the Owner lives more than six (6) months per year. For purposes of this Chapter, an Owner can only have one Primary Residence at any given time.

Short-Term Rental (STR) means, unless otherwise exempt under Section 30.96.025 of this Chapter, the rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, for a period of thirty (30) consecutive calendar days or less. For purposes of this Chapter, Home Exchanges and Long-Term Rentals (each defined by this Chapter) are not considered STRs, and are expressly exempt from the requirements of this Chapter under Section 30.96.025.

30.96.025 – Exemptions

A. The following uses are exempt from the provisions of this Chapter:

1. Home Exchanges, as that term is defined in Section 30.96.020; and
2. Long-Term Rentals, as that term is defined in Section 30.96.020, to include (i) rentals for a fixed-term (e.g., annual) or periodic tenancy (e.g., month-to-month) totaling more than thirty (30) consecutive calendar days; and (ii) rentals for a month, as described below.

For purposes of this Section, a "rental for a month" must meet all of the following requirements to be considered exempt from the provisions of this Chapter:

- a. The rental of the dwelling unit, or portion thereof, is rented for a month. This includes a rental period that starts at the beginning of a calendar month and goes through the end of the same calendar month, or a rental period that starts on a certain day within the calendar month and goes through the same day of the subsequent calendar month;
- b. The rental of the dwelling unit, or portion thereof, is reserved to the same renter for the entire rental period of a month; and
- c. Should the renter leave the dwelling unit, or the rented portion thereof, prior to the expiration of the monthly rental period, then the dwelling unit, or the rented portion thereof, shall not be re-rented for a new rental period prior to the expiration of the monthly rental period. If the dwelling unit, or the rented portion thereof, is re-rented prior to the expiration of the monthly rental period, then the rental of the dwelling unit, or the rented portion thereof, is no longer exempt from the provisions of this Chapter and becomes subject to compliance with the requirements of this Chapter.

An Owner may choose to rent their dwelling unit, or portion thereof, both as a STR subject to compliance with this Chapter, and as a Long-Term Rental exempt from the provisions of this Chapter, so long as the Owner applies for and obtains a valid and current STR Permit issued by the City in accordance with the terms of this Chapter. During those rental periods in which the dwelling unit, or portion thereof, is rented as a STR and is not considered exempt under this Section, the Owner shall be subject to all requirements of this Chapter, including the requirement to collect and remit Transient Occupancy Tax to the City.

- B. In addition to an exemption from the provisions of this Chapter, the above uses under (A)(1) and (A)(2) of this Section are further exempt from the requirement to collect and remit Transient Occupancy Tax to the City in accordance with Chapter 3.12 of this Municipal Code.

30.96.030 – When a Short-Term Rental Permit is Required

- A. Any person or entity operating a STR in the City of Del Mar must have a valid STR Permit issued by the City pursuant to Section 30.96.050 of this Chapter. Notwithstanding Section 30.96.060(A) and (B), the following properties have existing entitlements for visitor accommodations that are subject to the requirement to collect and remit Transient Occupancy Tax under Chapter 3.12 of this Municipal Code, but are not subject to the requirement to obtain a STR Permit pursuant to this Chapter:
 - 1. Hotels in the Visitor Commercial Zone including the Best Western Premier (720 Camino del Mar), Del Mar Beach Hotel (1702 Coast Boulevard), Hotel Indigo (710 Camino del Mar), Hotel L’Auberge (1540 Camino del Mar), Les Artistes (944 Camino del Mar), and Secret Garden Inn (1140 Camino del Mar);
 - 2. L’Auberge Vacation Villas (1570 Camino del Mar) in the Hotel Specific Plan Zone; and
 - 3. Wavecrest Resort Timeshares (1400 Ocean Avenue) in the R2 Zone.
- B. A STR Permit will only be issued to the Owner of the dwelling unit.
- C. No person shall rent, offer to rent, or advertise a STR without a valid STR Permit.
- D. A STR Permit shall be valid for a period of two (2) years from the date of issuance, and must be timely renewed prior to the STR Permit expiration date every two (2) years thereafter to maintain a valid STR Permit for STR operations.

- E. The subletting of a STR is prohibited. Only an Owner with a valid STR Permit issued by the City is permitted to rent out a dwelling unit or portion thereof as a STR.
- F. A STR Permit shall not be transferred, sold or assigned to any other person or entity. Upon transfer of ownership of a dwelling unit at which an STR operates, the STR Permit shall automatically terminate and no STR may be operated at the dwelling unit until a new STR Permit is issued by the City.
- G. A new STR Permit is not required for changes in title to the dwelling unit resulting from inheritance or where an original Owner under the STR Permit remains an Owner under the new title. In such an event, notice of the change of title shall be provided to the City within thirty (30) days of such transfer.

30.96.040 – Application Requirements

An application for a STR Permit, or renewal thereof, shall be filed on a form provided by the City, shall be signed by the applicant(s) under penalty of perjury, and must include all of the following information, which shall be updated when there is any change to ensure that the City has current information on file at all times relating to the STR:

- A. Legal name, address, telephone number, and email address of each Owner and the address and Assessor’s Parcel Number (APN) of the STR.
 - 1. Each Owner of the dwelling unit is required to sign the STR Permit application and acknowledge that (i) all information contained in the STR Permit application is true and correct; (ii) each Owner and the Designated Local Contact Person have reviewed, understand and are familiar with the requirements of this Chapter; (iii) each Owner and the Designated Local Contact Person are responsible for ensuring compliance with this Chapter; (iv) failure to comply with this Chapter and all applicable provisions of the Del Mar Municipal Code may result in suspension and/or revocation of a STR Permit; and (v) each Owner may be held jointly and severally liable for any violation(s) of this Chapter.
 - 2. If the dwelling unit is held in a personal or family trust, the trustee(s) must sign the STR Permit application and must acknowledge the information is true and correct in accordance with Section 30.96.040(A)(1).
 - 3. If the dwelling unit Owner is a LLC, LP, LLP, or other form of business entity operating as an Existing STR, each manager/member of the entity must sign the STR Permit application and must acknowledge the information is true and correct in accordance with Section 30.96.040(A)(1).
 - 4. Each Owner of a STR, or multiple Existing STRs, operating in the City shall disclose the name(s) and contact information for each person holding the

legal, equitable, and/or beneficial interest of each of their respective STR ownership properties, as applicable.

5. Except for Existing STRs, documentation that the STR will operate as a Primary Residence shall be demonstrated by providing proof of the Owner's STR address as follows:
 - a. Proof of address on at least two (2) of the following documents:
 - i. Federal and State tax returns
 - ii. Bank account
 - iii. Vehicle registration
 - iv. Driver's license
 - v. Voter registration
 - vi. Employment records
 - vii. Homeowner's tax exemption
 - b. If the Owner is a LLC, LP, LLP, or other form of business entity operating as an Existing STR, the Owner shall demonstrate proof of address by providing a current Certificate of Status, or similar documentation demonstrating the business entity is active and in good standing with the state of formation.
 6. Written consent from the homeowners' association (HOA), if applicable, or acknowledgement that there are no CC&Rs, private covenants, deed restrictions, or any other governing documents that prohibit or limit STR use of the dwelling unit.
- B. Commencing from the effective date of this Ordinance, the Owner of an Existing STR, which meets the definition of an Existing STR as defined in Section 30.96.020 of this Chapter, will be eligible to apply for a STR Permit. The Owner of an Existing STR must submit and have all STR Permit application requirements to the City within sixty (60) days following the effective date of this Chapter to be considered an Existing STR.
 - C. Legal name, address, telephone number, and email address of the Designated Local Contact Person, if different from the Owner, and written consent from the Designated Local Contact Person to act as the responsible person designated by the Owner to be available twenty-four (24) hours a day, seven (7) days a week, for the purpose of responding within thirty (30) minutes to complaints regarding the condition, operation, and/or conduct of occupants and guests of the STR and taking remedial action to resolve any such complaints.
 - D. Owner shall provide a Deed or Title Report for the STR property to confirm ownership interest in the property.

E. STR Rental Agreement and Site-Specific Details.

1. Owner shall provide a copy of their standard STR rental agreement, which shall, at a minimum, include the following information: STR Permit number, STR address and information regarding the maximum STR occupancy, parking capacity, noise restrictions, trash, organics, and recycling disposal requirements, and rules and regulations that will be distributed to STR occupants and acknowledgment of receipt and review of the City's Good Neighbor Policy.
2. Site plan and/or photos showing the number and location of designated off-street parking spaces for the exclusive use of the STR.
3. Floor plan(s) showing the layout of the dwelling unit, including all bedrooms and bathrooms; and the location of fire extinguishers, smoke alarms, and carbon monoxide alarms.
4. Acknowledgement that the STR Permit does not authorize STR lodging in non-dwelling units such as garages or vehicles (e.g., recreational vehicles, motor homes, travel trailers, truck campers, tent trailers), treehouses, tents and other temporary shelters.
5. Authorization for the City to conduct an inspection of the STR for safety compliance in accordance with Section 30.96.070(F). The Owner shall allow the City to inspect the STR and property at any time prior to issuance of a STR Permit and/or during the operation of the STR for the purpose of making a reasonable inspection to observe and enforce compliance with applicable laws, rules and regulations of the STR, including the provisions of this Chapter. The City may, but is not required to, conduct an inspection of the STR and property pursuant to the requirements of this Section.

F. Evidence of property liability insurance in the amount of at least One Million Dollars (\$1,000,000), combined single limit, which insurance shall be maintained during the entire term of any STR Permit issued by the City. Evidence of insurance renewal must be provided to the City before expiration of the policy.

G. Each Owner shall jointly and severally agree to indemnify, hold harmless, and defend the City and its officials, employees and agents from any and all liability, actions, claims, damages, costs, and expenses of any kind whatsoever, including reasonable attorneys' fees and costs, which may be asserted by any person or entity arising from or relating to the issuance of a STR Permit or operation of a STR.

H. Any other information as the City Manager, or designee, deems reasonably necessary to administer this Chapter.

- I. Payment of STR Permit application fee or renewal fee, as applicable, for initial application or STR Permit renewal in accordance with the fee schedule established by the City Council, which may be amended from time-to-time.

30.96.050 – Permit Issuance

- A. STR Permits shall be issued on a first-come, first-served basis, except that an Existing STR Owner, which applies for a STR Permit in accordance with Section 30.96.040(B), shall be granted priority to obtain a STR Permit.

1. Notwithstanding the permit issuance and locational requirements applicable to new STRs under Chapter 30.96, Existing STRs shall be accommodated as allowable uses in accordance with a valid STR Permit unless a termination of existing rights occurs upon any of the following: the transfer of ownership of the STR property, the STR Permit is not maintained in good standing, including a STR Permit that is not timely renewed prior to the date of STR Permit expiration, or the STR Permit is revoked due to non-compliance with any provision(s) of this Chapter. A change in title that is processed in accordance with Section 30.96.030(G) shall not be considered a transfer of ownership that would terminate rights to an Existing STR.

2. Notwithstanding Sections 30.96.060(A)(3)(a), (A)(4) and (A)(5) of this Chapter, Existing STRs shall be accommodated as allowable uses with a valid STR Permit, regardless of whether the existing operations are non-conforming with respect to operation of more than one STR (on the same lot or separate lots), and/or whether the operations are not within a Primary Residence.

- B. The maximum number of STR Permits issued by the City shall be limited to not more than five percent (5%) of the total number of dwelling units located in the City based on the most current United States Census data.

1. STR Permits for new STRs shall be restricted to one (1) per Owner and Existing STRs shall be restricted in accordance with Section 30.96.050(B)(3). Once the maximum allowable number of STR Permits has been issued by the City (including Existing STRs and new STRs), the Owner of any applications submitted that would exceed the cap identified in this Section shall be placed on a waitlist that will be established based on the order the applications are filed and applications will be processed in the order in which the applications are received.

2. Once a STR Permit becomes available for issuance, application submittals will be accepted by the City in the order appearing on the City's STR Permit waitlist. Person(s) listed on the City's STR Permit waitlist, who are contacted by the City to submit a STR Permit application, will have thirty

(30) days from the date of notification by the City to submit a STR Permit application for consideration. If the person(s) contacted by the City do not submit a STR Permit application to the City within the required thirty (30) day period, that person(s) will be removed from the waitlist and the City will move on to notifying the next person appearing on the City's STR Permit waitlist.

3. The Owner of an Existing STR may request a separate STR Permit for each Existing STR in operation by the Owner and registered with the City as of December 31, 2024 as stated in the STR Ordinance. If the number of Existing STRs exceeds the cap identified by this Section, then no additional STR Permits shall be issued by the City for new STRs until available capacity is reached within the cap through attrition (including, but not limited to, when existing rights are terminated for Existing STRs in accordance with Section 30.96.050(A)(1)).
- C. New STR Owners may not include a dwelling unit fully or partially owned as a timeshare, a business trust, corporation, limited partnership, general partnership, or other business entity other than a LLC, LP, or LLP.
- D. A STR Permit shall be issued by the City if the applicant meets the conditions and requirements of this Chapter 30.96.
- E. A STR Permit shall not be issued by the City if:
1. The maximum number of STR Permits issued by the City already meets or exceeds the Citywide cap on STRs or exceeds the maximum number of permits allowed per Owner as established by Section 30.96.050(B).
 2. The STR is a new STR, which is proposed in a prohibited location as set forth in Section 30.96.060 of this Chapter, or in a location that would exceed the neighborhood cap on STRs established by Section 30.96.060(A)(5).
 3. The Owner has a pending enforcement action by the City for any violation of the Del Mar Municipal Code relating to the operation of a STR, unless the approval is required to resolve the enforcement action.
- F. Following the issuance of a STR Permit, the City will provide written, mailed notice of the STR Permit approval to all property owners located within 300 feet of the STR. Such notice shall include the address of the STR, number of bedrooms available for rent, number of available on-site parking spaces, and contact information for the STR's Designated Local Contact Person.
- G. STR Permits may be suspended, revoked, or not renewed by the City in accordance with Section 30.96.080 of this Chapter.

30.96.060 – STR Locational Requirements

A. Residential Zones.

1. STRs may be permitted in the following residential zones:
 - a. Single dwelling unit zones

Very low Density Residential (R1-40)
Modified Low Density Residential (R1-14)
Low Density Residential (R1-10)
Low Density Residential-Beach (R1-10B)
Medium Density Single Family Residential (R1-5)
Medium Density Single Family Residential-Beach (R1-5B)
Carmel Valley Precise Plan (CVPP)
 - b. Multiple dwelling unit zones

Medium Density Single-Mixed Residential-East (RM-East)
Medium Density Mixed Residential-West (RM-West)
Medium Density Mixed Residential-Central (RM-Central)
Medium Density Mixed Residential-South (RM-South)
High Density Mixed Residential (R2)
2. New STRs that are not within a Primary Residence shall be prohibited.
3. STRs are a prohibited use within:
 - a. Multi-dwelling unit rental apartment development located in residential zones.
 - b. Any dwelling units that are subject to deed restrictions or affordable housing covenants that limit rental of the unit to housing for specific income-restricted households.
 - c. An Accessory Dwelling Unit located in residential zones.
 - d. Non-dwelling units including, but not limited to, garages or vehicles or temporary shelters such as tents.
4. Except for Existing STRs with a valid STR Permit, the maximum number of STRs per lot shall be restricted to:
 - a. Maximum of one (1) STR per lot developed with one dwelling unit, including lots developed with one primary dwelling unit and ADU development.

- b. Maximum of one (1) STR per Owner on a lot that is developed with two dwelling units, including lots developed with two primary dwelling units and ADU development.
 - c. Maximum of ten percent (10%) of the total primary dwelling units on a lot developed with multi-unit condominium development (three or more units). Lots with condominium development must provide documentation of written consent to operate a STR by the homeowner's association (HOA).
5. The total number of STRs permitted shall be further limited as follows to minimize the potential for overconcentration:
- a. A maximum of sixty percent (60%) of the total number of STRs may be located in the North Beach neighborhood, which includes the R1-5B, R1-10B, RM-East and RM-West zones.
 - b. A maximum of twenty-five percent (25%) of the total number of STRs may be located in the South Bluff neighborhood, which includes the R1-40, R2, RM-South, and RC zones.
 - c. A maximum of fifteen (15%) of the total number of STRs may be located in the Hills neighborhood, which includes the R1-5, R1-10, R1-14, R1-40, and RM-Central zones and the northerly R2 zone located north of 15th Street.

B. Commercial Zones.

1. STRs may be permitted within the following commercial zones:
- Residential-Commercial (RC)
 - Central Commercial (CC)
 - North Commercial (NC)
 - Professional Commercial (PC)
 - Visitor Commercial (VC)
 - 941 Camino del Mar Specific Plan (941SP)
2. STRs in commercial zones are subject to the requirements in Section 30.96.060(A)(2), (A)(4) and (A)(5) of this Chapter.
3. STR use is permitted in an Accessory Dwelling Unit (ADU) subject to the regulations in Chapter 30.91 of this Municipal Code, only where the ADU is used as a Primary Residence.
4. STRs are a prohibited use within:

- a. The Beach Commercial (BC), Public Facilities (PF), Public Parkland (PP), Railroad Right-of-Way (RR), and Floodway zones.
- b. Any dwelling units that are subject to deed restrictions or affordable housing covenants that limit rental of the unit to housing for specific income-restricted households.
- c. Non-dwelling units including, but not limited to, garages or vehicles (e.g., recreational vehicles, motor homes, travel trailers, truck campers, tent trailers), treehouses, or temporary shelters such as tents.

30.96.070 – Operating Requirements

STRs shall comply with all of the following operating requirements:

- A. Owner shall ensure that STR occupants and guests comply with all federal, state, and local laws, rules, and regulations including local regulations specific to noise, trash disposal, parking, coastal resources, and disclosure, inclusive of the following:
 1. Noise Control.
 - a. It shall be unlawful and shall constitute a public nuisance for any Owner of a STR to cause, allow or permit the emission or transmission of any loud noise from any sound-making equipment or sound-amplifying device to occur or be maintained at a STR, which may include, but is not limited to, the following: yelling, screaming, shouting, or other disturbing noises which unreasonably interfere with the peace and quiet of the nearby residents or members of the public. Owner shall ensure that STR occupants and guests comply with the noise provisions set forth in Del Mar Municipal Code Chapter 9.20 (Noise Regulations). DMMC Section 9.20.090 specifies that any noise that is plainly audible at a distance of fifty (50) feet between the hours of 10:00 p.m. and 8:00 a.m. is considered a prima facie violation.
 - b. STRs are for overnight lodging. Hosting of weddings, receptions, corporate events, commercial functions, bachelor or bachelorette parties, and any other similar events or gatherings that have the potential to cause a public nuisance are strictly prohibited.
 - c. Guest hours at STRs shall be limited from 8:00 a.m. to 10:00 p.m. daily.

2. **Trash Disposal.** Trash, organic waste and recycling shall not be left or stored within public view, except in the appropriate container at a location that is designated for collection from 4:00 p.m. on the day prior to trash pick-up until up to 12:00 p.m. on the day following the day designated for pick-up. All trash and recycling shall be in approved receptacles pursuant to Del Mar Municipal Code Chapter 11.20 (Management of Solid Waste).
3. **Parking.** Owner shall limit the number of vehicles at the STR to the number designated in the STR Permit, which shall be determined by the City at the time of permit issuance based on the number of available on-site parking spaces. All garage, driveway, and designated on-site parking spaces shall be made available for the vehicles of STR occupants and guests. Vehicles shall not impede access to sidewalks and neighboring properties or driveways.
4. **Coastal Resource Protection.** The coastal resource protections in the California Coastal Act Chapter 3, Article 6, Section 30240 (Cal. Pub. Res. Code Section 30240) and the City's certified Local Coastal Program are not to be superseded or lessened in any way through implementation of the Chapter 30.96 STR regulations. The Owner shall disclose if the property contains environmentally sensitive habitat areas, and shall identify STR operational requirements to avoid potential impacts to coastal resources.
5. **Disclosure of Site-Specific STR Requirements and Contact Information.**
 - a. The primary STR occupant listed on the STR rental application and present at the STR during the STR rental period must be at least twenty-five (25) years of age, provide the Owner with a telephone number, and shall be accessible to the Owner or Local Designated Contact Person by telephone at all times during the STR rental period.
 - b. **Interior Display of STR Permit.** Owner shall affix the valid STR Permit provided by the City, which shall include reference to the City's Good Neighbor Policy and Transient Occupancy Tax rate, for interior display on the inside of the main entry door of the STR.
 - c. **Exterior Display of STR Notice.** Owner shall affix a sign on the exterior of the STR during operation, at a minimum size of 8.5 inches by 11 inches, identifying the STR Permit number, name and contact information for the Designated Local Contact Person, the maximum number of occupants and guests permitted at the STR, and the maximum number of vehicles allowed at the property. The notice shall be located on-site in plain view of the general public and/or common areas and shall be maintained in good condition.

- d. Signs advertising availability of the STR for rent are not permitted on the property.
- B. Minimum Night Stay. STRs shall have a minimum night stay of three (3) consecutive calendar nights.
- C. Overnight Occupancy. Owner shall limit overnight STR occupancy to a specific number of occupants, not to exceed two (2) persons per Bedroom plus two (2) additional persons per dwelling unit. All other applicable occupancy laws shall apply.
- D. Avoidance of Public Nuisance. Owner shall ensure that the STR occupants and/or guests do not create a public nuisance. Owner shall ensure that any unreasonable noise disturbances, unruly gatherings, disorderly conduct, or other violations are timely abated.
- E. Prompt Response to Complaints. Owner and/or the Designated Local Contact Person must be available twenty-four (24) hours per day, seven (7) days per week, to respond to complaints. Complaints received from the City, the Sheriff's Department, or a resident must be addressed within thirty (30) minutes of receipt of the complaint. It is not intended that an Owner or Designated Local Contact Person act as a peace officer or place themselves in an at-risk situation. In follow up, Owner shall provide documentation to the City on what steps were taken to mitigate the issue. Failure to timely respond to complaints is grounds for enforcement as set forth in Section 39.96.080 of this Chapter.
- F. Safety Compliance.
 - 1. The STR property must meet basic life safety requirements, including but not limited to, maintaining operable smoke alarms and carbon monoxide alarms, fire extinguishers, and first aid kits.
 - 2. All Bedrooms within a STR shall meet all applicable California Building Code life safety requirements.
 - 3. Owner shall permit the City to inspect the STR prior to the issuance of a STR Permit and/or for the purpose of making a reasonable inspection to observe and enforce compliance with the provisions of Chapter 30.96.
- G. Advertisements. All STR advertisements, including those posted on or by web- or application-based hosting platform or third-party booking vendor websites, must include the STR Permit number provided by the City.

- H. Record Keeping, Audit. STR Owner shall maintain records related to use and occupancy of the STR for the purpose of inspection and/or audit to demonstrate compliance with Chapter 30.96.
- I. Payment of Transient Occupancy Tax. Unless otherwise exempt under Section 30.96.025 of this Chapter, Owner shall comply with all provisions of Del Mar Municipal Code Chapter 3.12 concerning the collection and remittance of Transient Occupancy Tax (TOT) for STR rentals. The TOT calculation shall include cleaning fees, resort fees, and all other fees collected as part of the total rent charged for the STR. If the STR Owner uses a web- or application-based hosting platform or third-party booking vendor, the hosting platform or booking vendor shall be considered an agent of the STR Owner for purposes of collecting and remitting the TOT to the City.

30.96.080 – Enforcement

- A. It shall be unlawful for any person to fail to comply with any of the requirements of this Chapter or with any standards/conditions of a STR Permit, or to operate a STR within the jurisdiction of the City contrary to or in violation of any of the provisions of this Chapter, any applicable provisions of this Municipal Code, or any other applicable laws, rules, and regulations.
- B. Any person who violates any provision of this Chapter shall be subject to the fine amounts set forth in Government Code Section 36900(d), as that Section may be amended from time to time.
- C. Violations of this Chapter may be enforced by any method allowed in Del Mar Municipal Code Title 1 (General Provisions), Title 30 (Zoning Regulations), or any other applicable enforcement mechanism available to the City.
- D. Suspension or Revocation of STR Permit. In addition to any other remedy provided by this Chapter, a STR Permit may be suspended or revoked by the City Manager, or designee pursuant to this Section.
 - 1. The decision shall be based on at least one of the following grounds:
 - a. A material misrepresentation, false or misleading information was included on the application or renewal application for a STR Permit.
 - b. A violation of any applicable provision of the Del Mar Municipal Code or other applicable law relating to the operation of the STR.
 - c. An authorized official has given notification of existing health or safety violations on the STR property, or non-compliance with applicable laws, rules or regulations relating to fire, building, health or safety on the STR property.

- d. An applicant or STR Permit holder is delinquent in the payment of any outstanding fees, assessments or taxes owed to the City related to any property located in the City that is owned by the applicant, including, but not limited to, Transient Occupancy Taxes (TOT).
2. If a STR Permit is revoked, the Owner shall not operate a STR at the property for a period of twelve (12) months from the date of such revocation; and no STR Permit that is revoked may be transferred to any other person or entity to operate a STR at the property during such period of revocation.
3. The appeal procedures for the denial, suspension or revocation of a STR Permit are as follows:
 - a. A STR Permit applicant or STR Permit holder may request an administrative hearing to appeal the denial, suspension or revocation of a STR Permit by the City. The request for a hearing shall be submitted to the City Clerk within fifteen (15) days from the date the denial, suspension or revocation of the STR Permit is provided in writing.
 - b. The City Manager shall designate a fair and impartial administrative hearing officer to determine whether to uphold the City's decision to deny, suspend or revoke the STR Permit. Compensation for the hearing officer, if any, shall be paid by the City.
 - c. An administrative hearing shall be set for a date that is not sooner than thirty (30) days and not more than sixty (60) days from the date the request for the hearing is filed with the City, unless extended in writing by the City and the appellant. The appellant shall be notified of the time and place set for the hearing at least fifteen (15) days prior to the date of the hearing, unless the hearing date has been expedited.
 - d. The City and the appellant shall each submit all documents relating to the denial, suspension or revocation of the STR Permit that the respective party intends to discuss during the administrative hearing to the hearing officer and the other party at least seven (7) days in advance of the hearing date.
 - e. At the administrative hearing, the hearing officer shall only consider evidence that is relevant to determine whether the denial, suspension or revocation of a STR Permit is warranted. Courtroom rules of evidence shall not apply. Relevant hearsay evidence and written reports may be admitted whether or not the speaker or author

is present to testify, if the hearing officer determines that the evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by the hearing officer in accordance with the fundamentals of due process. The hearing officer may limit the total length of the hearing to one (1) hour, at the hearing officer's discretion, and shall allow the appellant at least as much time to present its case as is allowed the City.

- f. The appellant shall be given the opportunity to testify and present witnesses and evidence concerning the denial, suspension or revocation of the STR Permit. The appellant may be represented by counsel. The City's case shall be presented by a Code Enforcement Officer or by any other authorized agent of the City.
- g. The hearing officer may continue the hearing and request additional information from the City or the appellant prior to issuing a written decision.
- h. After considering all testimony and evidence submitted at the hearing, the hearing officer may announce a decision orally, but in any event, shall prepare a written decision. The decision shall be provided to the parties within ten (10) days of the hearing and shall either uphold the denial, suspension or revocation of the STR Permit or withdrawal the denial, suspension or revocation of the STR Permit. The decision shall briefly state the reason for the conclusion of the hearing officer. The City shall serve the decision on the appellant. The decision of the hearing officer shall be final and shall not be subject to further appeal to the City.
- i. The failure of the appellant to appear at the administrative hearing shall result in the hearing officer issuing a final decision to uphold the City's denial, suspension or revocation of the STR Permit and the appellant's exhaustion of administrative remedies.

SECTION THREE:

This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (General Rule) because CEQA only applies to projects with the potential for causing a significant effect on the environment. There is no change in baseline environmental conditions or potential to cause a significant effect on the environment. On April 17, 2024, the City's CEQA consultant, Interwest Group, completed an Initial Study evaluation, which concluded that no environmental factors would be potentially affected by the STR Regulations contemplated by the City Council. The subsequent revisions to the regulations also would not result in a change in baseline environmental conditions or potential to cause a significant effect on the environment. A Notice of Exemption will be prepared identifying that the activity is covered by the

common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

SECTION FOUR:

This Ordinance establishes STR Regulations that will accommodate existing STR owners operating in the City of Del Mar prior to adoption of the Ordinance where the STR owner timely registers the existing STR with the City by December 31, 2024, and submits a STR Permit application within sixty (60) days of the effective date of the Ordinance which will be the date the California Coastal Commission grants final certification of the Ordinance. Applications for all STRs will be accepted following the date this Ordinance takes effect. Permits for existing STRs will be processed prior to applications for new STRs.

Prior to finalizing the Existing STR registry process, the City will verify that the owner has provided proof of at least one of the approved documents listed on the City's voluntary registry webpage. This document should be provided to the City (and verified by the City) prior to the December 31, 2024 deadline.

The list of acceptable documents includes provision of at least ONE supporting document to demonstrate that the STR was in operation within the past ten years. Just one of the options below will suffice for supporting documentation:

1. Fully executed rental agreement that identifies the STR address; or
2. A City of Del Mar business license indicating the short-term rental business at the subject property; or
3. A federal or state income tax return specifying a STR business operation at the subject property. Please be sure to redact all sensitive personal information such as social security number; or
4. Printed or online advertising, or contracts, indicating actively advertised STR operations at the subject property; or
5. Other evidence of STR operations at the subject property within the past ten years may be submitted for consideration.

SECTION FIVE:

This Ordinance was introduced by the City Council on September 9, 2024.

SECTION SIX:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION SEVEN:

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION EIGHT:

Upon adoption, the Ordinance will be submitted to the California Coastal Commission for certification as a Local Coastal Program Amendment. The Ordinance will take effect and be in force on the date that the California Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 23rd day of September 2024.

Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No.____, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 23rd day of September, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar

This copy of the draft STR Regulations shows text that is proposed to be added to the Del Mar Municipal Code (DMMC) as a new Chapter 30.96 in the City's Zoning Code and certified Local Coastal Program. All changes presented to the City Council on May 20, 2024, the Planning Commission on August 13, 2024, and City Council on August 26, 2024, are reflected. Additional non-substantive changes for clerical, grammatical, and/or clarity purposes for consistency are also included, as proposed and recommended by staff. Text shown in underline has been added and text shown in strikeout is text that was deleted.

Chapter 30.96 – Short-Term Rentals

30.96.010 – Purpose

The purpose of this Chapter is to provide a permitting process and reasonable standards regulating the use and operation of Short-Term Rentals (STRs) for visitor lodging involving timeframes of thirty (30) consecutive days or less, with the intent to maintain long-term housing stock in the City of Del Mar; honor the existing policies in the Del Mar Community Plan; maintain the residential character of neighborhoods in residential zones; honor the tradition of vacation rentals during the summer, holiday, and horse-racing seasons; ensure protection of the public health, safety, and general welfare; ensure the City's natural resources will be preserved and protected; ensure STRs will not overburden public improvements, facilities, and services; minimize adverse impacts to adjacent private properties and the surrounding neighborhood; establish distribution and concentration of STRs throughout the community; establish enforcement protocols; and ensure the regulation of STRs is, at a minimum, revenue-neutral to the City. For purposes of this Chapter, long-term rentals (including rentals for a fixed-term or periodic tenancy and rentals for a month), and home exchanges are exempt from compliance with the provisions of this Chapter.

30.96.020 – Definitions

For purposes of Chapter 30.96, the following definitions shall apply:

Accessory Dwelling Unit (ADU) shall have the same meaning as in Section 30.04.010(C) of this Municipal Code.

Bedroom shall be defined as an enclosed space within a dwelling unit that is designed for or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from the kitchen, living room, and hallway areas.

Designated Local Contact Person means the person designated by the Owner to be available twenty-four (24) hours per day, seven (7) days per week, for the purpose of responding within thirty (30) minutes to complaints regarding the condition, operation, and/or conduct of occupants and guests of the STR, and taking remedial action to resolve any such complaints.

Existing Short-Term Rental (Existing STR) means a STR operating in the City prior to adoption of the City's STR Ordinance where the Owner timely registered the STR with the City as of the date stated in the Ordinance. A STR shall cease to be protected as an Existing STR upon any of the following: the transfer of ownership of the STR property, the STR Permit is not maintained in good standing, including a STR Permit that is not timely renewed prior to the permit expiration date, or the STR Permit is revoked due to non-compliance with any provision of this Chapter. A change in title that is processed in accordance with Section 30.96.030(G) shall not be considered a transfer of ownership that would terminate rights to an Existing STR. Unless otherwise expressly stated herein, an Existing STR is subject to all applicable provisions of this Chapter.

Home Exchange means an agreement between parties for exclusive use of each other's homes for ~~living and~~ dwelling, lodging, or sleeping purposes, for a set period of time, with no monetary exchange or other consideration exchanged between the parties.

Long-Term Rental means the rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, subject to a rental agreement, for (i) a fixed-term (e.g., annual) or periodic tenancy (e.g., month-to-month), with a total rental period of more than thirty (30) consecutive calendar days; or (ii) a rental for a month as described in Section 30.96.025 of this Chapter.

Owner means the natural person(s) who is/are the owner(s) of record of the dwelling unit, at least one of whom occupies the dwelling unit at which the STR will operate as their Primary Residence, unless identified as an Existing STR by the City. All owner(s) of record of the dwelling unit are required to sign the STR Permit application and shall be held jointly and severally liable for any violation(s) of this Chapter. For purposes of this Chapter, "Owner" may also include:

- (i) A personal trust or family trust whose beneficiaries consist solely of natural persons and the trustee(s) of such trust, so long as at least one beneficiary or trustee of the trust occupies the dwelling unit at which the STR will operate as their Primary Residence. If the dwelling unit is held in a personal or family trust, each trustee must sign the STR Permit application, and shall be held jointly and severally liable for any violation(s) of this Chapter; and
- (ii) A limited liability company (LLC), limited partnership (LP), or limited liability partnership (LLP) owned by natural persons (not business entities), so long as at least one manager/member ~~of the LLC~~ occupies the dwelling unit at which the STR will operate as their Primary Residence. ~~If the dwelling unit is part of a LLC, each~~ Each manager/member of the LLC, LP, or LLP must sign the STR Permit application, and shall be held jointly and severally liable for any violation(s) of this Chapter.

Unless identified as an Existing STR by the City, ~~The~~ the term “Owner” does not include a dwelling unit that is fully or partially owned as a timeshare, a business trust, ~~or by any entity other than a LLC (e.g., corporation, limited partnership,~~ general partnership, ~~or any other business entity other than a LLC, LP, or LLP limited liability partnership, etc.).~~

Primary Residence means a dwelling unit owned and occupied as the Owner’s principal place of residence, where the Owner lives more than six (6) months per year. For purposes of this Chapter, an Owner can only have one Primary Residence at any given time.

Short-Term Rental (STR) means, unless otherwise exempt under Section 30.96.025 of this Chapter, the rental of a dwelling unit, or any portion thereof, for dwelling, lodging, or sleeping purposes, for ~~not more than a period of~~ thirty (30) consecutive calendar days or less. For purposes of this Chapter, Home Exchanges and Long-Term Rentals (each defined by this Chapter) are not considered STRs, and are expressly exempt from the requirements of this Chapter under Section 30.96.025.

30.96.025 – Exemptions

A. The following uses are exempt from the provisions of this Chapter:

1. Home Exchanges, as that term is defined in Section 30.96.020; and
2. Long-Term Rentals, as that term is defined in Section 30.96.020, to include (i) rentals for a fixed-term (e.g., annual) or periodic tenancy (e.g., month-to-month) totaling more than thirty (30) consecutive calendar days; and (ii) rentals for a month, as described below.

For purposes of this Section, a “rental for a month” must meet all of the following requirements to be considered exempt from the provisions of this Chapter:

- a. The rental of the dwelling unit, or portion thereof, is rented for a month. This includes a rental period that starts at the beginning of a calendar month and goes through the end of the same calendar month, or a rental period that starts on a certain day within the calendar month and goes through the same day of the subsequent calendar month;
- b. The rental of the dwelling unit, or portion thereof, is reserved to the same renter for the entire rental period of a month; and
- c. Should the renter leave the dwelling unit, or the rented portion thereof, prior to the expiration of the monthly rental period, then the

dwelling unit, or the rented portion thereof, shall not be re-rented for a new rental period prior to the expiration of the monthly rental period. If the dwelling unit, or the rented portion thereof, is re-rented prior to the expiration of the monthly rental period, then the rental of the dwelling unit, or the rented portion thereof, is no longer exempt from the provisions of this Chapter and becomes subject to compliance with the requirements of this Chapter.

An Owner may choose to rent their dwelling unit, or portion thereof, both as a STR subject to compliance with this Chapter, and as a Long-Term Rental exempt from the provisions of this Chapter, so long as the Owner applies for and obtains a valid and current STR Permit issued by the City in accordance with the terms of this Chapter. During those rental periods in which the dwelling unit, or portion thereof, is rented as a STR and is not considered exempt under this Section, the Owner shall be subject to all requirements of this Chapter, including the requirement to collect and remit Transient Occupancy Tax to the City.

B. In addition to an exemption from the provisions of this Chapter, the above uses under (A)(1) and (A)(2) of this Section are further exempt from the requirement to collect and remit Transient Occupancy Tax to the City in accordance with Chapter 3.12 of this Municipal Code.

30.96.030 – When a Short-Term Rental Permit is Required

- A. Any person or entity operating a STR in the City of Del Mar must have a valid STR Permit issued by the City pursuant to Section 30.96.050 of this Chapter. Notwithstanding Section 30.96.060(A) and (B), the following properties have existing entitlements for visitor accommodations that are subject to the payment of requirement to collect and remit Transient Occupancy Tax under Chapter 3.12 of this Municipal Code, but are not subject to the requirement to obtain a STR Permit pursuant to this Chapter:
1. Hotels in the Visitor Commercial Zone including the Best Western Premier (720 Camino del Mar), Del Mar Beach Hotel (1702 Coast Boulevard), Hotel Indigo (710 Camino del Mar), Hotel L’Auberge (1540 Camino del Mar), Les Artistes (944 Camino del Mar), and Secret Garden Inn (1140 Camino del Mar);
 2. L’Auberge Vacation Villas (1570 Camino del Mar) in the Hotel Specific Plan Zone; and
 3. Wavecrest Resort Timeshares (1400 Ocean Avenue) in the R2 Zone.
- B. A STR Permit will only be issued to the Owner of the dwelling unit.

- C. No person shall rent, offer to rent, or advertise a STR without a valid STR Permit.
- D. A STR Permit shall be valid for a period of two (2) years from the date of issuance, and must be timely renewed prior to the [permit-STR Permit](#) expiration date every two (2) years thereafter to maintain a valid [permit-STR Permit](#) for STR operations.
- E. The subletting of a STR is prohibited. Only an Owner with a valid STR Permit issued by the City is permitted to rent out a dwelling unit or portion thereof as a STR.
- F. A STR Permit shall not be transferred, sold or assigned to any other person or entity. Upon transfer of ownership of a dwelling unit at which an STR operates, the STR Permit shall automatically terminate and no STR may be operated at the dwelling unit until a new STR Permit is issued by the City.
- G. A new STR Permit is not required for changes in title to the dwelling unit resulting from inheritance or where an original Owner under the STR Permit remains an Owner under the new title. In such an event, notice of the change of title shall be provided to the City within thirty (30) days of such transfer.

30.96.040 – Application Requirements

An application for a STR Permit, or renewal thereof, shall be filed on a form provided by the City, shall be signed by the applicant(s) under penalty of perjury, and must include all of the following information, which shall be updated when there is any change to ensure that the City has current information on file at all times relating to the STR:

- A. Legal name, address, telephone number, and email address of each Owner and the address and Assessor's Parcel Number (APN) of the STR.
 - 1. Each Owner of the dwelling unit is required to sign the STR Permit application and acknowledge that (i) all information contained in the STR Permit application is true and correct; (ii) each Owner and the Designated Local Contact Person have reviewed, understand and are familiar with the requirements of this Chapter; (iii) each Owner and the Designated Local Contact Person are responsible for ensuring compliance with this Chapter; (iv) failure to comply with this Chapter and all applicable provisions of the Del Mar Municipal Code may result in suspension and/or revocation of a STR Permit; and (v) each Owner may be held jointly and severally liable for any violation(s) of this Chapter.
 - 2. If the dwelling unit is held in a personal or family trust, the trustee(s) must sign the STR Permit application and must acknowledge the information is true and correct in accordance with Section 30.96.040(A)(1).

3. If the dwelling unit Owner is a LLC, LP, LLP, or other form of business entity operating as an Existing STR, each manager/member of the ~~LLC~~ entity must sign the STR Permit application and must acknowledge the information is true and correct in accordance with Section 30.96.040(A)(1).
 4. Each Owner of a STR, or multiple Existing STRs, operating in the City shall disclose the name(s) and contact information for each person holding the legal, equitable, and/or beneficial interest of each of their respective STR ownership properties, as applicable.
 5. Except for Existing STRs, documentation that the STR will operate as a Primary Residence shall be demonstrated by providing proof of the Owner's STR address as follows:
 - a. Proof of address on at least two (2) of the following documents:
 - a.i. Federal and State tax returns
 - b.ii. Bank account
 - c.iii. Vehicle registration
 - d.iv. Driver's license
 - e.v. Voter registration
 - f.vi. Employment records
 - f.vii. Homeowner's tax exemption
 - b. If the Owner is a LLC, LP, LLP, or other form of business entity operating as an Existing STR, the Owner shall demonstrate proof of address by providing a current Certificate of Status, or similar documentation demonstrating the business entity is active and in good standing with the state of formation.
 6. Written consent from the homeowners' association (HOA), if applicable, or acknowledgement that there are no CC&Rs, private covenants, deed restrictions, or any other governing documents that prohibit or limit STR use of the dwelling unit.
- B. Commencing from the effective date of this Ordinance, the Owner of an Existing STR, which meets the definition of an Existing STR as defined in Section 30.96.020 of this Chapter, will be eligible to apply for a STR Permit. The Owner of an Existing STR must submit and have all STR Permit application requirements to the City within sixty (60) days following the effective date of this Chapter to be considered ~~as~~ an Existing STR.
- C. Legal name, address, telephone number, and email address of the Designated Local Contact Person, if different from the Owner, and written consent from the Designated Local Contact Person to act as the responsible person designated by the Owner to be available twenty-four (24) hours a day, seven (7) days a week, for

the purpose of responding within thirty (30) minutes to complaints regarding the condition, operation, and/or conduct of occupants and guests of the STR and taking remedial action to resolve any such complaints.

- D. Owner shall provide a Deed or Title Report for the STR property to confirm ownership interest in the property.
- E. STR Rental Agreement and Site-Specific Details.
1. Owner shall provide a copy of their standard STR rental agreement, which shall, at a minimum, include the following information: STR Permit number, STR address and information regarding the maximum STR occupancy, parking capacity, noise restrictions, trash, organics, and recycling disposal requirements, and rules and regulations that will be distributed to STR occupants and acknowledgment of receipt and review of the City's Good Neighbor Policy.
 2. Site plan and/or photos showing the number and location of designated off-street parking spaces for the exclusive use of the STR.
 3. Floor plan(s) showing the layout of the dwelling unit, including all bedrooms and bathrooms; and the location of fire extinguishers, smoke alarms, and carbon monoxide alarms.
 4. Acknowledgement that the STR Permit does not authorize STR lodging in non-dwelling units such as garages or vehicles (e.g., recreational vehicles, motor homes, travel trailers, truck campers, tent trailers), ~~tree-~~[housestreehouses](#), tents and other temporary shelters.
 5. Authorization for the City to conduct an inspection of the STR for safety compliance in accordance with Section 30.96.070(F). The Owner shall allow the City to inspect the STR and property at any time prior to issuance of a ~~permit~~[STR Permit](#) and/or during the operation of the STR for the purpose of making a reasonable inspection to observe and enforce compliance with applicable laws, rules and regulations of the STR, including the provisions of this Chapter. The City may, but is not required to, conduct an inspection of the STR and property pursuant to the requirements of this Section.
- F. Evidence of property liability insurance in the amount of at least One Million Dollars (\$1,000,000), combined single limit, which insurance shall be maintained during the entire term of any STR Permit issued by the City. Evidence of insurance renewal must be provided to the City before expiration of the policy.
- G. Each Owner shall jointly and severally agree to indemnify, hold harmless, and defend the City and its officials, employees and agents from any and all liability,

actions, claims, damages, costs, and expenses of any kind whatsoever, including reasonable attorneys' fees and costs, which may be asserted by any person or entity arising from or relating to the issuance of ~~the a~~ STR ~~permit~~ Permit or its operation of a STR.

- H. Any other information as the City Manager, or designee, deems reasonably necessary to administer this Chapter.
- I. Payment of STR Permit application fee or renewal fee, as applicable, for initial application or STR Permit ~~permit~~ renewal in accordance with the fee schedule established by the City Council, which may be amended from time-to-time.

30.96.050 – Permit Issuance

- A. STR Permits shall be issued on a first-come, first-served basis, except that an Existing STR Owner, which applies for a STR Permit in accordance with Section 30.96.040(B), shall be granted priority to obtain a STR Permit.
1. Notwithstanding the permit issuance and locational requirements applicable to new STRs under Chapter 30.96, Existing STRs shall be accommodated as allowable uses in accordance with a valid STR Permit unless a termination of existing rights occurs upon any of the following: the transfer of ownership of the STR property, the STR Permit is not maintained in good standing, including a STR Permit that is not timely renewed prior to the date of ~~permit~~ STR Permit expiration, or the STR Permit is revoked due to non-compliance with any provision(s) of this Chapter. A change in title that is processed in accordance with Section 30.96.030(G) shall not be considered a transfer of ownership that would terminate rights to an Existing STR.
 2. Notwithstanding Sections 30.96.060(A)(3)(a), (A)(4) and (A)(5) of this Chapter, Existing STRs shall be accommodated as allowable uses with a valid STR Permit, regardless of whether the existing operations are non-conforming with respect to operation of more than one STR (on the same lot or separate lots), and/or whether the operations are not within a Primary Residence.
- B. The maximum number of STR Permits issued by the City shall be limited to not more than five percent (5%) of the total number of dwelling units located in the City based on the most current United States Census data.
1. STR Permits for new STRs shall be restricted to one (1) per Owner and Existing STRs shall be restricted in accordance with Section 30.96.050(B)(3). Once the maximum allowable number of STR Permits has been issued by the City (including Existing STRs and new STRs), the Owner of any applications submitted that would exceed the cap identified in this Section shall be placed on a waitlist that will be established based on

the order the applications are filed and applications will be processed in the order in which the applications are received.

2. Once a STR Permit becomes available for issuance, application submittals will be accepted by the City in the order appearing on the City's STR Permit waitlist. Person(s) listed on the City's STR Permit waitlist, who are contacted by the City to submit a STR Permit application, will have thirty (30) days from the date of notification by the City to submit a STR Permit application for consideration. If the person(s) contacted by the City do not submit a STR Permit application to the City within the required thirty (30) -day period, that person(s) will be removed from the waitlist and the City will move on to notifying the next person appearing on the City's STR Permit waitlist.
 3. The Owner of an Existing STR may request a separate STR Permit for each Existing STR in operation by the Owner and registered with the City as of December 31, 2024 date as stated in the STR Ordinance. If the number of Existing STRs exceeds the cap identified by this Section, then no additional STR Permits shall be issued by the City for new STRs until available capacity is reached within the cap through attrition (including, but not limited to, when existing rights are terminated for Existing STRs in accordance with Section 30.96.050(A)(1)).
- C. New STR Owners may not include a dwelling unit fully or partially owned as a timeshare, a business trust, ~~or by any entity other than a LLC (e.g., corporation, limited partnership, general partnership, or other business entity other than a LLC, LP, or LLP limited liability partnership, etc.)~~.
- D. A STR Permit shall be issued by the City if the applicant meets the conditions and requirements of this Chapter 30.96.
- E. A STR Permit shall not be issued by the City if:
1. The maximum number of STR Permits issued by the City already meets or exceeds the Citywide cap on STRs or exceeds the maximum number of permits allowed per Owner as established by Section 30.96.050(B).
 2. The STR is a new STR, which is proposed in a prohibited location as set forth in Section 30.96.060 of this Chapter, or in a location that would exceed the neighborhood cap on STRs established by Section 30.96.060(A)(5).
 3. The Owner has a pending enforcement action by the City for any violation of the Del Mar Municipal Code relating to the operation of a STR, unless the approval is required to resolve the enforcement action.

~~4. The property had a STR Permit revoked in the previous twelve (12) months, unless the STR Permit will be issued to a new Owner that meets the eligibility requirements.~~

- F. Following the issuance of a STR Permit, the City will provide written, mailed notice of the STR Permit approval to all property owners located within 300 feet of the STR. Such notice shall include the address of the STR, number of bedrooms available for rent, number of available on-site parking spaces, and contact information for the STR's Designated Local Contact Person.
- G. STR Permits may be suspended, revoked, or not renewed by the City in accordance with Section 30.96.080 of this Chapter.

30.96.060 – STR Locational Requirements

A. Residential Zones.

1. STRs may be permitted in the following residential zones:
 - a. Single dwelling unit zones
 - Very low Density Residential (R1-40)
 - Modified Low Density Residential (R1-14)
 - Low Density Residential (R1-10)
 - Low Density Residential-Beach (R1-10B)
 - Medium Density Single Family Residential (R1-5)
 - Medium Density Single Family Residential-Beach (R1-5B)
 - Carmel Valley Precise Plan (CVPP)
 - b. Multiple dwelling unit zones
 - Medium Density Single-Mixed Residential-East (RM-East)
 - Medium Density Mixed Residential-West (RM-West)
 - Medium Density Mixed Residential-Central (RM-Central)
 - Medium Density Mixed Residential-South (RM-South)
 - High Density Mixed Residential (R2)
2. New STRs that are not within a Primary Residence shall be prohibited.
3. STRs are a prohibited use within:
 - a. Multi-dwelling unit rental apartment development located in residential zones.

- b. Any dwelling units that are subject to deed restrictions or affordable housing covenants that limit rental of the unit to housing for specific income-restricted households.
 - c. An Accessory Dwelling Unit located in residential zones.
 - d. Non-dwelling units including, but not limited to, garages or vehicles or temporary shelters such as tents.
4. Except for Existing STRs with a valid STR Permit, the maximum number of STRs per lot shall be restricted to:
- a. Maximum of one (1) STR per lot developed with one dwelling unit, including lots developed with one primary dwelling unit and ADU development.
 - b. Maximum of one (1) STR per Owner on a lot that is developed with two dwelling units, including lots developed with two primary dwelling units and ADU development.
 - c. Maximum of ten percent (10%) of the total primary dwelling units on a lot developed with multi-unit condominium development (three or more units). Lots with condominium development must provide documentation of written consent to operate a STR by the homeowner's association (HOA).
5. The total number of STRs permitted shall be further limited as follows to minimize the potential for overconcentration:
- a. A maximum of sixty percent (60%) of the total number of STRs may be located in the North Beach neighborhood, which includes the R1-5B, R1-10B, RM-East and RM-West zones.
 - b. A maximum of twenty-five percent (25%) of the total number of STRs may be located in the South Bluff neighborhood, which includes the R1-40, R2, RM-South, and RC zones.
 - c. A maximum of fifteen (15%) of the total number of STRs may be located in the Hills neighborhood, which includes the R1-5, R1-10, R1-14, R1-40, and RM-Central zones and the northerly R2 zone located north of 15th Street.

B. Commercial Zones.

1. STRs may be permitted within the following commercial zones:

Residential-Commercial (RC)
 Central Commercial (CC)
 North Commercial (NC)
 Professional Commercial (PC)
 Visitor Commercial (VC)
 941 Camino del Mar Specific Plan (941SP)

2. STRs in commercial zones are subject to the requirements in Section 30.96.060(A)(2), (A)(4) and (A)(5) of this Chapter.
3. STR use is permitted in an Accessory Dwelling Unit (ADU) subject to the regulations in Chapter 30.91 of this Municipal Code, only where the ADU is used as a Primary Residence.
4. STRs are a prohibited use within:
 - a. The Beach Commercial (BC), Public Facilities (PF), Public Parkland (PP), Railroad Right-of-Way (RR), and Floodway zones.
 - b. Any dwelling units that are subject to deed restrictions or affordable housing covenants that limit rental of the unit to housing for specific income-restricted households.
 - c. Non-dwelling units including, but not limited to, garages or vehicles (e.g., recreational vehicles, motor homes, travel trailers, truck campers, tent trailers), ~~tree-houses~~treehouses, or temporary shelters such as tents.

30.96.070 – Operating Requirements

STRs shall comply with all of the following operating requirements:

- A. Owner shall ensure that STR occupants and guests comply with all federal, state, and local laws, rules, and regulations including local regulations specific to noise, trash disposal, parking, coastal resources, and disclosure, inclusive of the following:
 1. Noise Control.
 - a. It shall be unlawful and shall constitute a public nuisance for any Owner of a STR to cause, allow or permit the emission or transmission of any loud noise from any sound-making equipment or sound-amplifying device to occur or be maintained at a STR, which may include, but is not limited to, the following: yelling, screaming, shouting, or other disturbing noises which unreasonably interfere with the peace and quiet of the nearby residents or members of the

- public. Owner shall ensure that STR occupants and guests comply with the noise provisions set forth in Del Mar Municipal Code Chapter 9.20 (Noise Regulations). DMMC Section 9.20.090 specifies that any noise that is plainly audible at a distance of fifty (50) feet between the hours of 10:00 p.m. and 8:00 a.m. is considered a prima facie violation.
- b. STRs are for overnight lodging. Hosting of weddings, receptions, corporate events, commercial functions, bachelor or bachelorette parties, and any other similar events or gatherings that have the potential to cause a public nuisance are strictly prohibited.
 - c. Guest hours at STRs shall be limited from 8:00 a.m. to 10:00 p.m. daily.
2. **Trash Disposal.** Trash, organic waste and recycling shall not be left or stored within public view, except in the appropriate container at a location that is designated for collection from 4:00 p.m. on the day prior to trash pick-up until up to 12:00 p.m. on the day following the day designated for pick-up. All trash and recycling shall be in approved receptacles pursuant to Del Mar Municipal Code Chapter 11.20 (Management of Solid Waste).
 3. **Parking.** Owner shall limit the number of vehicles at the STR to the number designated in the STR Permit, which shall be determined by the City at the time of permit issuance based on the number of available on-site parking spaces. All garage, driveway, and designated on-site parking spaces shall be made available for the vehicles of STR occupants and guests. Vehicles shall not impede access to sidewalks and neighboring properties or driveways.
 4. **Coastal Resource Protection.** The coastal resource protections in the California Coastal Act Chapter 3, Article 6, Section 30240 (Cal. Pub. Res. Code Section 30240) and the City's certified Local Coastal Program are not to be superseded or lessened in any way through implementation of the Chapter 30.96 STR regulations. The Owner shall disclose if the property contains environmentally sensitive habitat areas, and shall identify STR operational requirements to avoid potential impacts to coastal resources.
 5. **Disclosure of Site-Specific STR Requirements and Contact Information.**
 - a. The primary STR occupant listed on the STR rental application and present at the STR during the STR rental period must be at least twenty-five (25) years of age, provide the Owner with a telephone number, and shall be accessible to the Owner or Local Designated Contact Person by telephone at all times during the STR rental period.

- b. Interior Display of STR Permit. Owner shall affix the valid STR Permit provided by the City, which shall include reference to the City's Good Neighbor Policy and Transient Occupancy Tax rate, for interior display on the inside of the main entry door of the STR.
 - c. Exterior Display of STR Notice. Owner shall affix a sign on the exterior of the STR during operation, at a minimum size of 8.5 inches by 11 inches, identifying the STR Permit number, name and contact information for the Designated Local Contact Person, the maximum number of occupants and guests permitted at the STR, and the maximum number of vehicles allowed at the property. The notice shall be located on-site in plain view of the general public and/or common areas and shall be maintained in good condition.
 - d. Signs advertising availability of the STR for rent are not permitted on the property.
- B. Minimum Night Stay. STRs shall have a minimum night stay of three (3) consecutive calendar nights.
- C. Overnight Occupancy. Owner shall limit overnight STR occupancy to a specific number of occupants, not to exceed two (2) persons per Bedroom plus two (2) additional persons per dwelling unit. All other applicable occupancy laws shall apply.
- D. Avoidance of Public Nuisance. Owner shall ensure that the STR occupants and/or guests do not create a public nuisance. Owner shall ensure that any unreasonable noise disturbances, unruly gatherings, disorderly conduct, or other violations are timely abated.
- E. Prompt Response to Complaints. Owner and/or the Designated Local Contact Person must be available twenty-four (24) hours per day, seven (7) days per week, to respond to complaints. Complaints received from the City, the Sheriff's Department, or a resident must be addressed within thirty (30) minutes of receipt of the complaint. It is not intended that an Owner or Designated Local Contact Person act as a peace officer or place themselves in an at-risk situation. In follow up, Owner shall provide documentation to the City on what steps were taken to mitigate the issue. Failure to timely respond to complaints is grounds for enforcement as set forth in Section 39.96.080 of this Chapter.
- F. Safety Compliance.
1. The STR property must meet basic life safety requirements, including but not limited to, maintaining operable smoke alarms and carbon monoxide alarms, fire extinguishers, and first aid kits.

2. All Bedrooms within a STR shall meet all applicable California Building Code life safety requirements.
 3. Owner shall permit the City to inspect the STR prior to the issuance of a STR Permit and/or for the purpose of making a reasonable inspection to observe and enforce compliance with the provisions of Chapter 30.96.
- G. Advertisements. All STR advertisements, including those posted on or by web- or application-based hosting platform or third-party booking vendor websites, must include the STR Permit number provided by the City.
- H. Record Keeping, Audit. STR Owner shall maintain records related to use and occupancy of the STR for the purpose of inspection and/or audit to demonstrate compliance with Chapter 30.96.
- I. Payment of Transient Occupancy Tax. [Unless otherwise exempt under Section 30.96.025 of this Chapter](#), Owner shall comply with all provisions of Del Mar Municipal Code Chapter 3.12 concerning the [payment collection and remittance](#) of Transient Occupancy Tax (TOT) for STR rentals. The TOT calculation shall include cleaning fees, resort fees, and all other fees collected as part of the total rent charged for the STR. If the STR Owner uses a web- or application-based hosting platform or third-party booking vendor, the hosting platform or booking vendor shall be considered an agent of the STR Owner for purposes of collecting and remitting the TOT to the City.

30.96.080 – Enforcement

- A. It shall be unlawful for any person to fail to comply with any of the requirements of this Chapter or with any standards/conditions of a STR Permit, or to operate a STR within the jurisdiction of the City contrary to or in violation of any of the provisions of this Chapter, any applicable provisions of this Municipal Code, or any other applicable laws, rules, and regulations.
- B. Any person who violates any provision of this Chapter shall be subject to the fine amounts set forth in Government Code Section 36900(d), as that Section may be amended from time to time.
- C. Violations of this Chapter may be enforced by any method allowed in Del Mar Municipal Code Title 1 (General Provisions), Title 30 (Zoning Regulations), or any other applicable enforcement mechanism available to the City.
- D. Suspension or Revocation of STR Permit. In addition to any other remedy provided by this Chapter, a STR Permit may be suspended or revoked by the City Manager, or designee pursuant to this Section.

1. The decision shall be based on at least one of the following grounds:
 - a. A material misrepresentation, false or misleading information was included on the application [or renewal application](#) for a STR Permit.
 - b. A violation of any applicable provision of the Del Mar Municipal Code or other applicable law relating to the operation of the STR.
 - c. An authorized official has given notification of existing health or safety violations on the STR property, or non-compliance with applicable laws, rules or regulations relating to fire, building, health or safety on the STR property.
 - d. An applicant or STR Permit holder is delinquent in the payment of any outstanding fees, assessments or taxes owed to the City related to any property located in the City that is owned by the applicant, including, but not limited to, Transient Occupancy Taxes (TOT).
2. If a STR Permit is revoked, the Owner shall not operate a STR at the property for a period of twelve (12) months from the date of such revocation; and no STR Permit that is revoked may be transferred to any other person or entity to operate a STR at the property during such period of revocation.
3. The appeal procedures for the denial, suspension or revocation of a STR Permit are as follows:
 - a. A STR Permit applicant or STR Permit holder may request an administrative hearing to appeal the denial, suspension or revocation of a STR Permit by the City. The request for a hearing shall be submitted to the City Clerk within fifteen (15) days from the date the denial, suspension or revocation of the STR Permit is provided in writing.
 - b. The City Manager shall designate a fair and impartial administrative hearing officer to determine whether to uphold the City's decision to deny, suspend or revoke the STR Permit. Compensation for the hearing officer, if any, shall be paid by the City.
 - c. An administrative hearing shall be set for a date that is not sooner than thirty (30) days and not more than sixty (60) days from the date the request for the hearing is filed with the City, [unless extended in writing by the City and the appellant](#). The appellant shall be notified of the time and place set for the hearing at least fifteen (15) days prior to the date of the hearing, unless the hearing date has been expedited.

- d. The City and the appellant shall each submit all documents relating to the denial, suspension or revocation of the STR Permit that the respective party intends to discuss during the administrative hearing to the hearing officer and the other party at least seven (7) days in advance of the hearing date.
- e. At the administrative hearing, the hearing officer shall only consider evidence that is relevant to determine whether the denial, suspension or revocation of a STR Permit is warranted. Courtroom rules of evidence shall not apply. Relevant hearsay evidence and written reports may be admitted whether or not the speaker or author is present to testify, if the hearing officer determines that the evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by the hearing officer in accordance with the fundamentals of due process. The hearing officer may limit the total length of the hearing to one (1) hour, at the hearing officer's discretion, and shall allow the appellant at least as much time to present its case as is allowed the City.
- f. The appellant shall be given the opportunity to testify and present witnesses and evidence concerning the denial, suspension or revocation of the STR Permit. The appellant may be represented by counsel. The City's case shall be presented by a Code Enforcement Officer or by any other authorized agent of the City.
- g. The hearing officer may continue the hearing and request additional information from the City or the appellant prior to issuing a written decision.
- h. After considering all testimony and evidence submitted at the hearing, the hearing officer may announce a decision orally, but in any event, shall prepare a written decision. The decision shall be provided to the parties within ten (10) days of the hearing and shall either uphold the denial, suspension or revocation of the STR Permit or withdrawal the denial, suspension or revocation of the STR Permit. The decision shall briefly state the reason for the conclusion of the hearing officer. The City shall serve the decision on the appellant. The decision of the hearing officer shall be final and shall not be subject to further appeal to the City.
- i. The failure of the appellant to appear at the administrative hearing shall result in the hearing officer issuing a final decision to uphold the City's denial, suspension or revocation of the STR Permit and the appellant's exhaustion of administrative remedies.

BACKGROUND

This City Council priority special project initially began in 2016 and resumed in January 2023 after various processing delays due to the timing of court decisions rendered during the COVID-19 pandemic. Following is a summary of actions that have occurred to date:

Council Guiding Principles & Objectives for STR Regulations

On July 24 and September 5, 2023, the City Council determined the twelve guiding principles and objectives to guide the process for development of new STR regulations:

1. Honor the existing policies in the Del Mar Community Plan.
2. Maintain the residential character of neighborhoods in residential zones.
3. Honor the tradition of vacation rentals during the summers, holidays, and horse-racing season.
4. Ensure protection of the public health, safety, and general welfare.
5. Ensure the City's natural resources will be preserved and protected.
6. Ensure STRs will not overburden public improvements, facilities, and services.
7. Minimize adverse impacts to adjacent private properties and the surrounding neighborhood.
8. Consider distribution and concentration of STRs throughout the community.
9. Craft regulations that are easy to understand and implement.
10. Communicate expectations for civil conduct in line with "good neighbor" policies.
11. Establish enforcement protocols, and ensure regulation of short-term rentals is, at a minimum, revenue neutral to the City.
12. Work towards a solution for STRs that works for Del Mar and will pass muster with the Coastal Commission.

STR Data and Database of Existing STRs to Identify Baseline Conditions

In January 2023, the City contracted with consulting firm DTA to collect STR data specific to the City of Del Mar. DTA collected data between January 1, 2023, through June 30, 2023, to provide a general understanding of existing STRs in Del Mar (i.e., number, type, average length of stay, rental rate, and occupancy rates; and general location in the City). The STR data sets (April 2023 and June 2023) were presented to the City Council on July 10 and September 5, 2023, as described below.

- The number of STRs in Del Mar increased from 107 (April 2023) to 125 (June 2023), which represents an increase in the percentage of STRs compared to total dwelling units from 4.2% to 4.9% of the City's total 2,574 dwelling units per the 2020 Census. This comparison does not include the 43 STRs advertised in the Wavecrest Resort Timeshares (31 units) or L'Auberge Vacation Villas (12 units).
- For the greater 92014 zip code, which includes the City of Del Mar and portions of the cities of San Diego and Solana Beach and County of San Diego, following is a

summary of the change in trends identified between the April 2023 and June 2023 data related to length of stay, daily rental costs, and availability:

- An increase in the average days per rental from three to five days;
 - A slight decrease in average daily rental rate from \$630 to \$625; and
 - An increase in the average STR occupancy rate (occupancy compared to availability) from 62% to 82%.
- The breakdown of existing STRs in the City of Del Mar by location is as follows:
- 57-59% of the existing STRs are operating in residential zones in the North Beach neighborhood (RM-West, RM-East, and R1-5 zones);
 - 26-28% of the existing STRs are operating in residential zones in the south bluff neighborhoods (R2 and RM-South zones);
 - 15% of the existing STRs are operating in residential zones in the hills neighborhoods (R1-10 and CVPP); and
 - The Wavcrest Resort and L'Auberge Villas provide an additional 43 STR options allowed per existing entitlements (R2 zone and Hotel Specific Plan).

On September 5, 2023, the City Council provided direction to staff to establish a database of existing STRs in operation to inform the City of the number of existing STRs that need to be accommodated. Multiple newsflash articles were published and distributed in the City's weekly update beginning September 8, 2023, to encourage existing STR owners to add their properties to the database. Owners will be required to register their existing STRs prior to the effective date of the Ordinance. Owners are encouraged to register existing STRs at following link:

<https://www.delmar.ca.us/FormCenter/Planning-6/ShortTerm-Rental-Registry-51>

As of August 8, 2024, there have been 115 existing STRs registered in the STR database.

Consideration of Benchmarks: Other Cities, Coastal Commission, and the Courts

On September 5, 2023, the City Council received a report with an overview of past Coastal Commission actions, court decisions, and legal parameters to help guide community discussions focused on the creation of a new STR regulatory framework.

General Description of Coastal Act

The Coastal Act requires public access to be protected, provided, and maximized. The CCC considers STRs as a means for visitors to access the coast. The relevant policy Section 30213 of the Coastal Act states "Lower cost visitor and recreation facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred." The CCC has interpreted that STRs are a type of lower cost visitor accommodation, more affordable than traditional hotels that can facilitate members of the public with low or moderate incomes to access and recreate at the coast. Further, the CCC has taken the position that coastal jurisdictions should expressly accommodate STRs

within Local Coastal Program policies and regulations. The CCC has generally interpreted STRs to be both a visitor-serving use and a form of residential use. In terms of length of stay, CCC staff has indicated an expectation in the past that the local regulations accommodate the ability for a weekend getaway to provide visitor opportunities during the most common times individuals are able to travel. That being said, the CCC has expressed recognition that each community is unique and may address STRs differently.

Local Policy Context

Del Mar Community Plan (General Plan)

The Del Mar Community Plan expresses the community's policy vision to guide development. It is the main point of reference for all land use-related decisions. The Community Development section of the Community Plan includes the City's Land Use Element and the most relevant land use policies related to the topics of STRs and housing included below:

Overall Goal: Preserve and enhance the special character of Del Mar, the elements of which are a village-like community of substantially single family residential character, a picturesque and rugged site, and a beautiful beach.

Community Development Goal 3: Preserve and enhance Del Mar's special residential character and small town atmosphere with its harmonious blending of buildings and landscape in proximity to a beautiful shoreline.

Goal 3 Objective C: Adopt strong positive controls to prevent future commercial development which is incompatible with the existing residential character of the community.

Goal 3 Objective D: Preserve existing and insure adequate housing for diverse age and socio-economic groups within the community.

Goal 3 Objective E: Encourage and facilitate provision of lower cost housing for low- and moderate-income households.

Community Development Goal 5: Preserve the economic integrity of the community.

Goal 5 Objective A: Maintain a balanced philosophy toward commercial growth which permits the City's income to keep pace with its expenditures while insuring compatibility with all other goals and objectives of the Community Plan.

Goal 5 Objective B: Promote those uses of the commercial area which will be of greatest economic benefit to the community while insuring compatibility with all other goals and objectives of the Community Plan.

Goal 5 Objective D: When feasible and appropriate, require an economic analysis on any future proposed community plan revisions.

Community Development Goal 6: Assure continuing public participation in city planning by developing procedures in which citizens can participate in updating General Plan goals and policies and help in implementing programs including consultation and advice on enabling legislation.

City of Del Mar Community Plan - Housing Element (6th Cycle 2021-2029)

The Housing Element identifies the following goals, policies, and programs:

- Provide new types of housing opportunities and housing capacity for a greater range of income levels by pursuing development at the State Fairgrounds, promoting accessory dwelling units, and incorporating multiple dwelling unit development in various commercial zones;
- Remove governmental constraints to create new opportunities for affordable housing through modified regulations, incentives, and streamlining of processes;
- Establish a regulatory framework that supports the maintenance and improvement of existing housing, including the preservation of affordable housing;
- Provide equal opportunities and access to housing options within the community for residents of all abilities consistent with the City’s overall housing policy goal to “Inspire a more diverse, sustainable, and balanced community through implementation of strategies and programs that will result in economically and socially diversified housing choices that preserve and enhance the special character of Del Mar.”;
- Provide affordable housing assistance resources and information to residents, property owners, and individuals seeking to remain living in the community or to relocate to Del Mar; and
- Identify the challenges faced by special needs groups working and/or living in the community and taking actionable steps towards assisting those groups consistent with the City’s housing goals.

Housing Element Program 5C commits the City to implement measures to reduce current vacancy rates in units that off-site property owners report as unoccupied and having no long-term housing tenant.

Local Coastal Program (LCP) Land Use Plan (LUP)

Any proposed land uses must conform with the policies of the Coastal Act. The standard of review for any prospective STR Ordinance will be the City’s certified LCP LUP. Relevant LCP policies include:

LUP Goal IV-A: Provide physical and visual access to coastal recreation areas for all segments of the population without creating a public safety concern,

overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties.

LUP Policy II-6: Encourage visitor-serving and recreation-oriented businesses that blend harmoniously with the traditional small-town character of the community.

LUP Goal V-B: Provide the public with quality overnight accommodations and other visitor-serving facilities which enhance the unique village character of the community.

LUP Policy V-10: The City shall ensure that development of visitor-serving facilities is compatible with surrounding development and is consistent with the policies of this Land Use Plan intended to preserve environmentally sensitive resources.

Regulatory Context – Zoning Code/Certified Local Coastal Program (LCP)

Title 30 of the Del Mar Municipal Code sets forth the City's Zoning regulations. The DMMC Title 30 regulations and associated maps applicable to base zones, overlay zones, permitted/allowed uses, required discretionary permit types, public access, and coastal resources comprise the City's certified LCP implementing ordinances. Until new STR regulations are adopted and become effective, new STR's are only an allowed use in commercial zones, including the Residential-Commercial (RC), Central Commercial (CC), North Commercial (NC), Professional Commercial (PC), Visitor-Commercial (VC), Hotel Specific Plan, and 941 Camino Del Mar Specific Plan zones; and as provided for by development entitlement (i.e., Wave Crest Resort Time Shares and L'Auberge Vacation Villas). STRs are currently not an allowed use in any residential zones, including R1-40, R1-14, R1-10, R1-0B, R1-5, R1-5B, RM-east, RM-West, RM-Central, RM-South, and R2 zones.

On October 2, 2023, the Council considered regulation examples from 17 jurisdictions:

- *San Diego region:* Cities of Carlsbad, Encinitas, Oceanside, San Diego, and Solana Beach.
- *Other California Jurisdictions:* Cities of Avalon, Carmel by the Sea, Carpinteria, Dana Point, Half Moon Bay, Laguna Beach, Newport Beach, Palm Springs, Pismo Beach, San Clemente, Santa Cruz, and Trinidad.

On January 22, 2024, the Council reviewed a draft STR framework and directed staff to revise the draft to allow existing STRs to exist until the property changes ownership, the permit is not renewed, or the permit is revoked due to non-compliance. On May 20, 2024, Council review of a revised STR framework focused on the permit process; the ability to maintain rights as an existing STR operator; enforcement and good neighbor policies; transient occupancy tax; primary residence requirement for new STRs; the changing perspective of CCC related to long-term housing and STRs; and the schedule to bring forward a STR Ordinance to Planning Commission, City Council, and CCC.

Prior Actions to Accommodate Existing STRs Until New Regulations Take Effect

Initial Moratorium:

After experiencing a significant increase in the number of STRs operating in residential zones, on April 4, 2016, the City Council adopted a moratorium on new STRs in residential zones and provided for existing, non-conforming STRs to temporarily continue to operate while new regulations are processed. The moratorium ended on November 6, 2017 (when Ordinance 934 was adopted). The moratorium was replaced with a Council-adopted forbearance policy to accommodate STRs in operation prior to April 4, 2016, until new STR regulations take effect (see forbearance discussion below).

STR “7/28 Ordinance” - Ordinance 934:

November 6, 2017 - The City Council adopted Ordinance 934 to establish new STR regulations. This ordinance, also referred to as the “7/28 ordinance”, never became effective because Zoning/Local Coastal Program Amendments require CCC certification per the California Coastal Act in order to take effect.

June 7, 2018 – After the CCC conditionally certified Ordinance 934 in June 2018, the City processed an extension. However, while the City was waiting for final resolution of litigation, the conditional CCC approval expired on December 13, 2019.

February 7, 2021 - The court dismissed the final case (City of Del Mar v. California Coastal Commission) because the CCC’s conditional approval had expired on December 13, 2019.

Adoption of Forbearance Policy Currently in Effect:

The forbearance policy was adopted by Council Resolution 2017-71 on November 6, 2017, to accommodate STRs in operation prior to April 4, 2016, until new STR regulations take effect. The forbearance has been consistently applied, enforced, and maintained:

Date	City Council Action
Nov 6, 2017	Adopted STR Ordinance 934 and Resolution 2017-71 to establish Forbearance Policy
Sep 4, 2018	Approved 6-month extension to March 2019 (Resolution 2018-61)
Feb 11, 2019	Approved 1-year extension to February 2020 (Resolution 2019-09)
Feb 3, 2020	Approved 1-year extension to February 2021 (Resolution 2020-05)
Feb 1, 2021	Approved 2-year extension to February 2023 (Resolution 2021-04)
Jan 23, 2023	Approved 2-year extension to January 2025 (Resolution 2023-02)

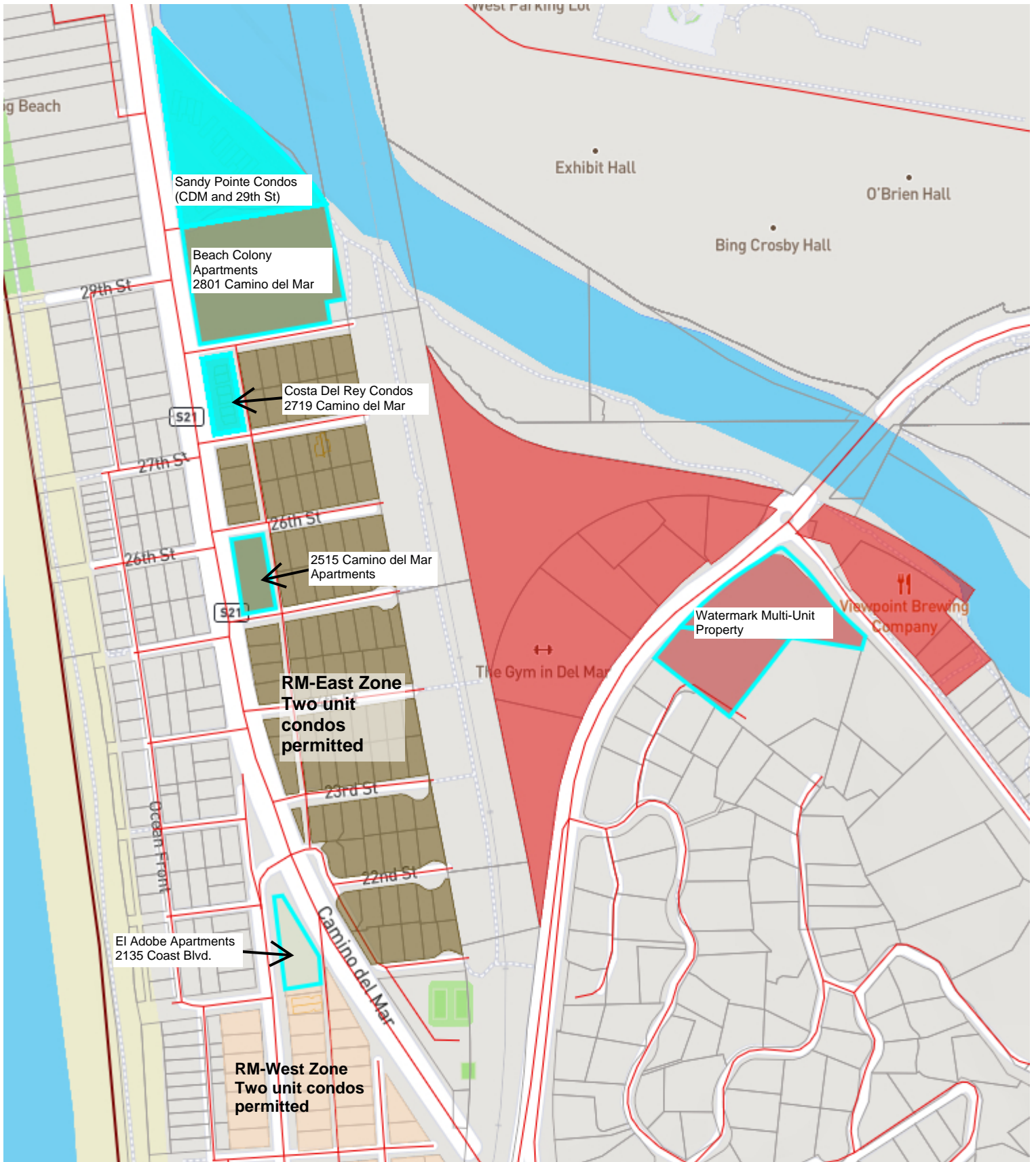
ANALYSIS OF MULTI-UNIT PROPERTIES (August 2024) –Tables and Maps

	Multi-Unit Condos in Residential Zones	# of Units	Max New STRs	Zone
1	Del Mar Woods Condos	126	13	RM-South
2	212 4 th Street Condos	18	2	RM-South
3	424 Stratford Court Condos	38	4	RM-South
4	515 Stratford Court Condos	10	1	RM-South
5	519 Stratford Court Condos	18	2	RM-South
6	460 Camino del Mar Condos	18	2	RM-South
7	Sea Cliff Way Condos (Stratford Ct/Sea Cliff)	5	1	RM-South
8	155 15 th Street Condos	28	3	R2
9	1552 Camino del Mar Condos	24	2	R2
10	1558 Camino del Mar Condos	20	2	R2
11	1562 Camino del Mar Condos	36	4	R2
12	1844 Camino del Mar (Del Mar Villas Condos)	24	2	R2
13	1735 Coast Blvd Condos	5	1	RM-West
14	1757 Coast Blvd Condos	10	1	RM-West
15	1750 Ocean Front Condos	5	1	RM-West
16	Costa Del Rey Condos (2719 Camino del Mar)	16	2	RM-East
17	Sandy Pointe Condos (CDM and 29 th Street)	20	2	RM-East
	*10% calculation of total units rounded to nearest whole number	421 units total	Capacity: 45 STRs	

	Apartment Properties in Residential Zones	# of Units	Max New STRs	Zone
1	Los Arboles Apartments (201 4 th Street)	97	-	RM-South
2	167 4 th Street Apartments	12	-	RM-South
3	425 Stratford Court Apartments	18	-	RM-South
4	510 Stratford Court Apartments	48	-	RM-South
5	703 Stratford Court Apartments	12	-	RM-South
6	Ocean Village Apartments (1425 Ocean Avenue)	22	-	R2
7	El Adobe Apartments (2135 Coast Blvd)	12	-	RM-West
8	2515 Camino del Mar Apartments	14	-	RM-East
9	Beach Colony Apartments (2801 Camino del Mar)	86	-	RM-East
		321 units total	Capacity: 0 STRs	

	Apartments in Commercial Zones that Allow STR Use	# of Units	Max New STRs	Zone
1	Terraces at Del Mar Apartments (526 Camino del Mar)	53	5	VC
2	941 CDM Multi-Unit – construction pending <i>Includes 2 deed-restricted affordable units that preclude STR use and 6 unrestricted units</i>	8	6	941 CDM SP
3	Watermark Multi-Unit – construction pending <i>Includes 10 deed-restricted affordable units that preclude STR use and 40 unrestricted units</i>	50	4*	NC
	* 10% calculation is based on 40 units total in order to subtract out the 10 deed-restricted affordable units	111 units total	Capacity: 15 STRs	

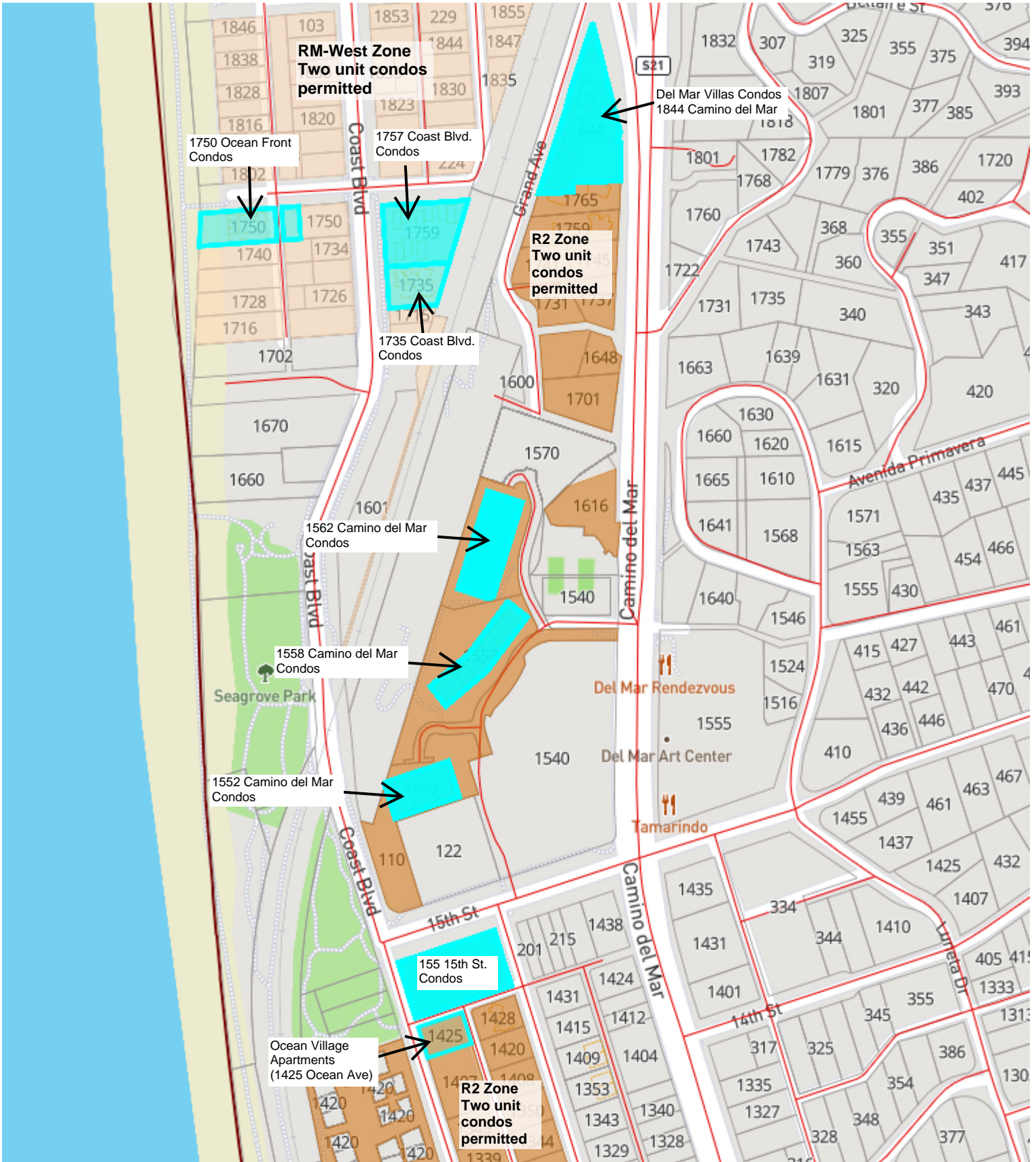
North Beach and North Commercial Zone Multi-Unit Properties



<p>1" = 425 ft</p>	<p> Multi-Unit Property</p>	<p> RM-East Zone</p> <p> RM-West Zone</p>	<p> North Commercial Zone</p>
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This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

City Center Multi-Unit Properties



<p>1" = 344 ft</p>	<p> Multi-Unit Property</p>	<p> RM-West Zone</p> <p> R2 Zone</p>	
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This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

South Stratford Multi-Unit Properties



<p>1" = 472 ft</p>	<p> Multi-Unit Property</p>	<p> R2 Zone</p> <p> RM-South Zone</p>	<p> RM-Central Zone</p> <p> Visitor Commercial Zone</p>
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This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

Analysis of STR Cap, Neighborhood Caps, and Existing STRs

Citywide Cap on STRs

The draft STR regulations set a 5% cap on the total number of allowed STRs, which would be 129 STRs maximum. The draft also establishes neighborhood caps to mimic historic use patterns and minimize the potential for overconcentration of STRs in one neighborhood. Currently, the City has a record of 117 existing STRs and potential capacity for a maximum of an additional 12 new STRs spread between the North Beach, South Bluff, and Hills neighborhoods and other areas with limited options (North Bluff/Via de la Valle (R1-14, R1-40 zones) and the 941 CDM Specific Plan, CC, VC, NC, and RC zones).

North Beach Neighborhood Cap

The North Beach neighborhood includes the RM-West, RM-East, R1-5B, and R1-10B zones. The draft sets a 60% cap on STRs in the North Beach neighborhood. The percentage is taken from the total 129 STRs allowed citywide. A maximum of 77 STRs would be allowed in North Beach neighborhood.

South Bluff Neighborhood Cap

For the purpose of the STR Ordinance, the South Bluff neighborhood includes portions of the R2 and R1-40 zones, and RM-South and RC zones. The draft sets a 25% cap on STRs allowed. A maximum of 32 STRs would be allowed in the South Bluff neighborhood.

Hills Neighborhood Cap

For the purpose of the STR Ordinance, the Hills neighborhood includes portions of the R1-40 and R2 zones, R1-10, RM-Central, and Carmel Valley Precise Plan (CVPP) zones. The draft sets a 15% cap on the total number of STRs allowed. A maximum of 19 STRs would be allowed in the Hills Neighborhood.

Potential STRs in Capped Neighborhoods and Other Locations in Residential and Commercial Zones

Analysis of STR Potential in Residential Zones			
	<i>Existing STRs</i>	<i>Max STRs per Cap</i>	<i>Potential New STRs</i>
North Beach	74	77	Up to 3 more
South Bluff	25	32	Up to 9 more
Hills	18	19	Up to 1 more
Other: North Bluff and Via de la Valle	0	N/A	One per lot if capacity under citywide cap

Analysis of STR Potential in Commercial Zones			
	<i>Non-Restricted Dwelling Units</i>	<i>Existing STRs</i>	<i>Potential New STRs</i>
CC Zone	5	0	5 (One per lot)
VC Zone	53	0	5 (at 10% of units)
941 CDM SP	6	0	6 (per entitlement)
NC Zone	40	0	4 (at 10% of units)
PC Zone	0	0	0
RC Zone	9	0	6 (One per lot)

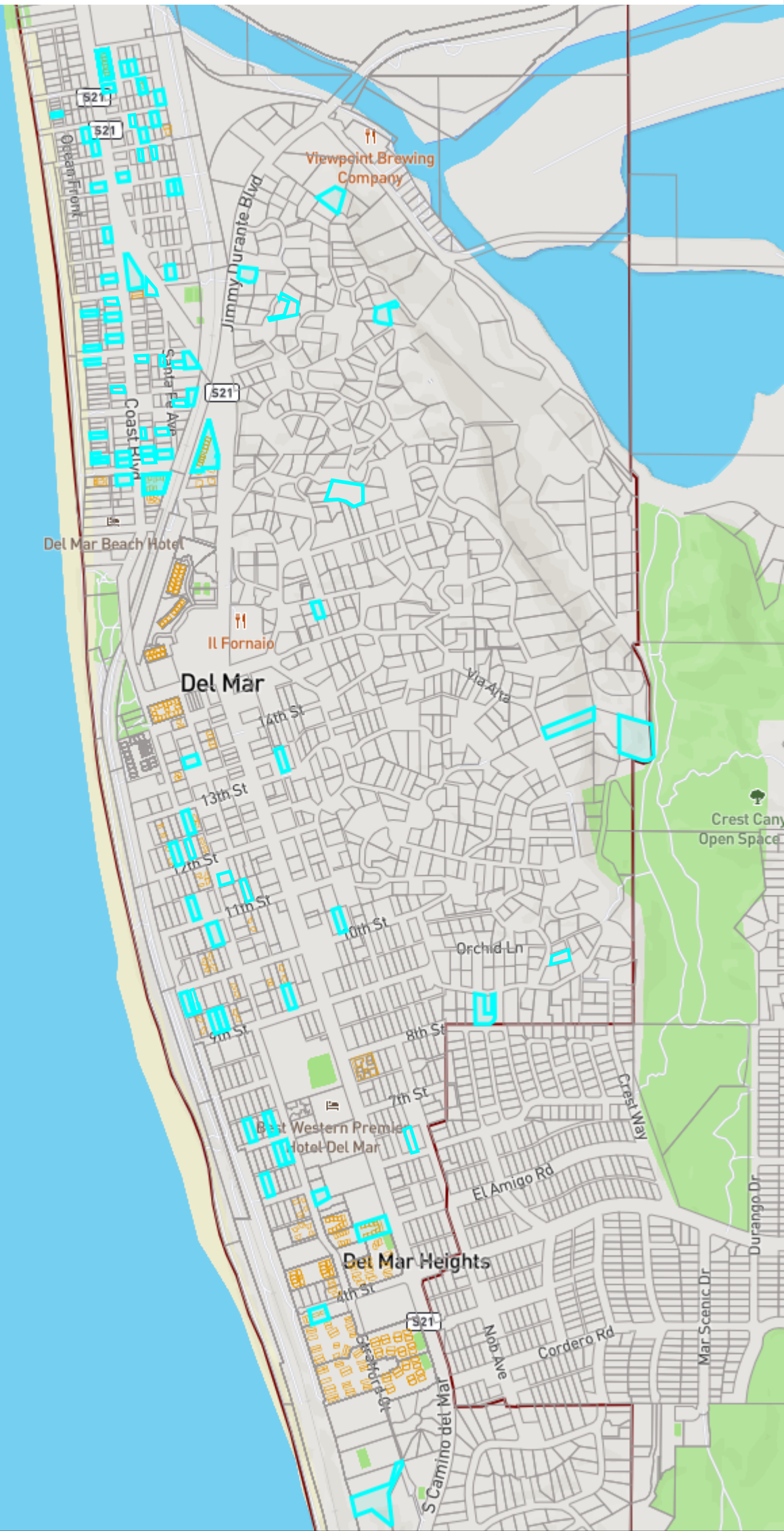
Following is a description of the set of maps in this Exhibit which show:

- The locations of the 117 Existing STRs citywide include:
 - Existing STRs in North Beach (74 STRs)
 - Existing STRs in South Bluff (25 STRs)
 - Existing STRs in Hills (18 STRs)

- The three areas that have neighborhood caps on STRs include:
 - **North Beach neighborhood** (cap at 60% - maximum 77 STRs): RM-West, RM-East, R1-5B, and R1-10B zones
 - **South Bluff neighborhood** (cap at 25% - maximum 32 STRs): portions of the R2 and R1-40 zones, and the RM-South and RC zones
 - **Hills neighborhood** (cap at 15% - maximum 19 STRs): portions of R1-40 and R2 zones, and the R1-10, RM-Central, and Carmel Valley Precise Plan (CVPP) zones

- The commercial zones with additional existing and future capacity for STRs include:
 - CC Zone
 - VC Zone
 - 941 CDM SP
 - NC Zone
 - PC Zone
 - RC Zone

City of Del Mar - Existing STRs



STR Total = 117



Short Term Rental

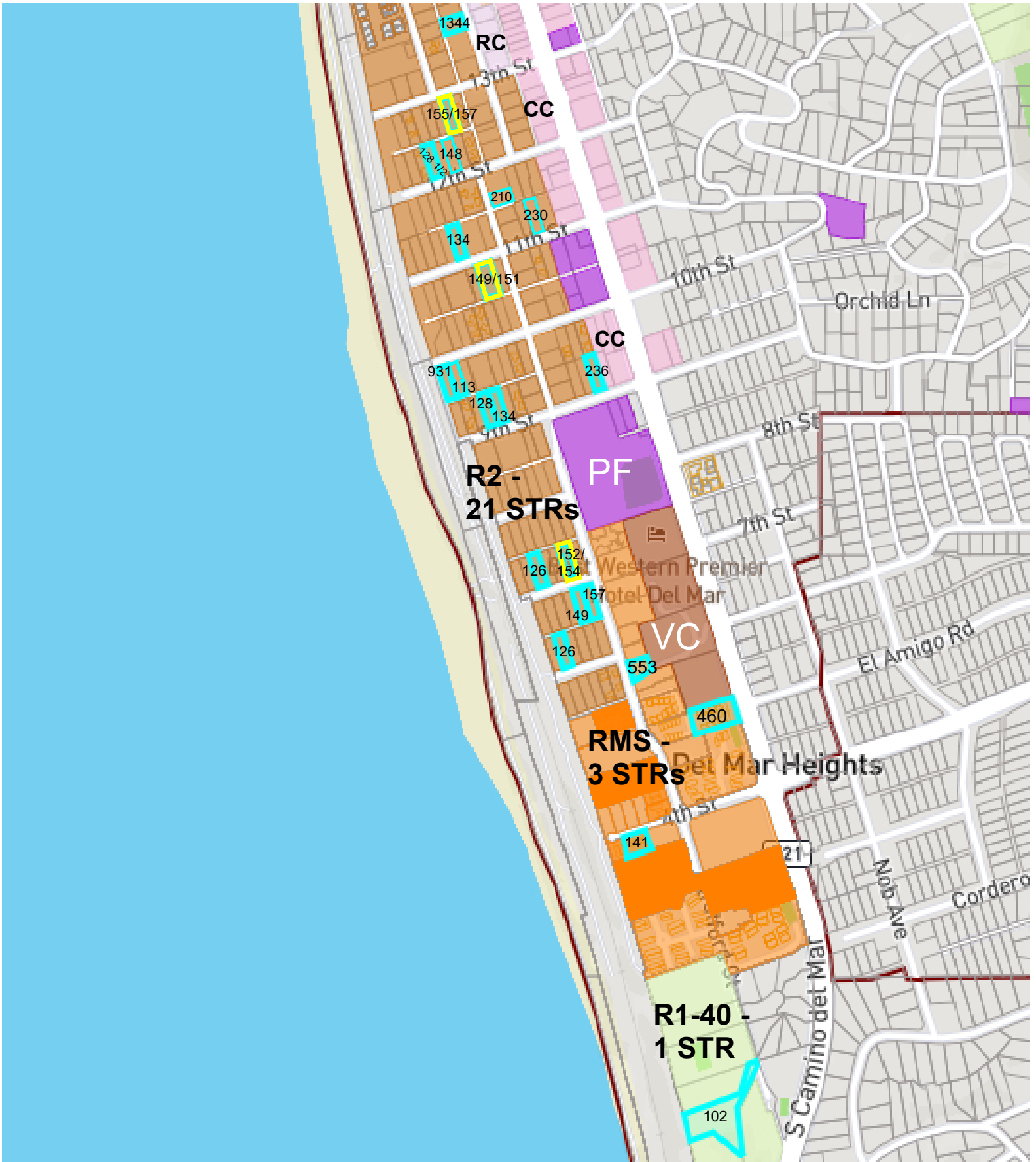
City of Del Mar - North Beach Existing STRs






1" = 451 ft	STR Total = 74	 One STR on lot  Two STRs on lot	 Three or more STRs on lot
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This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

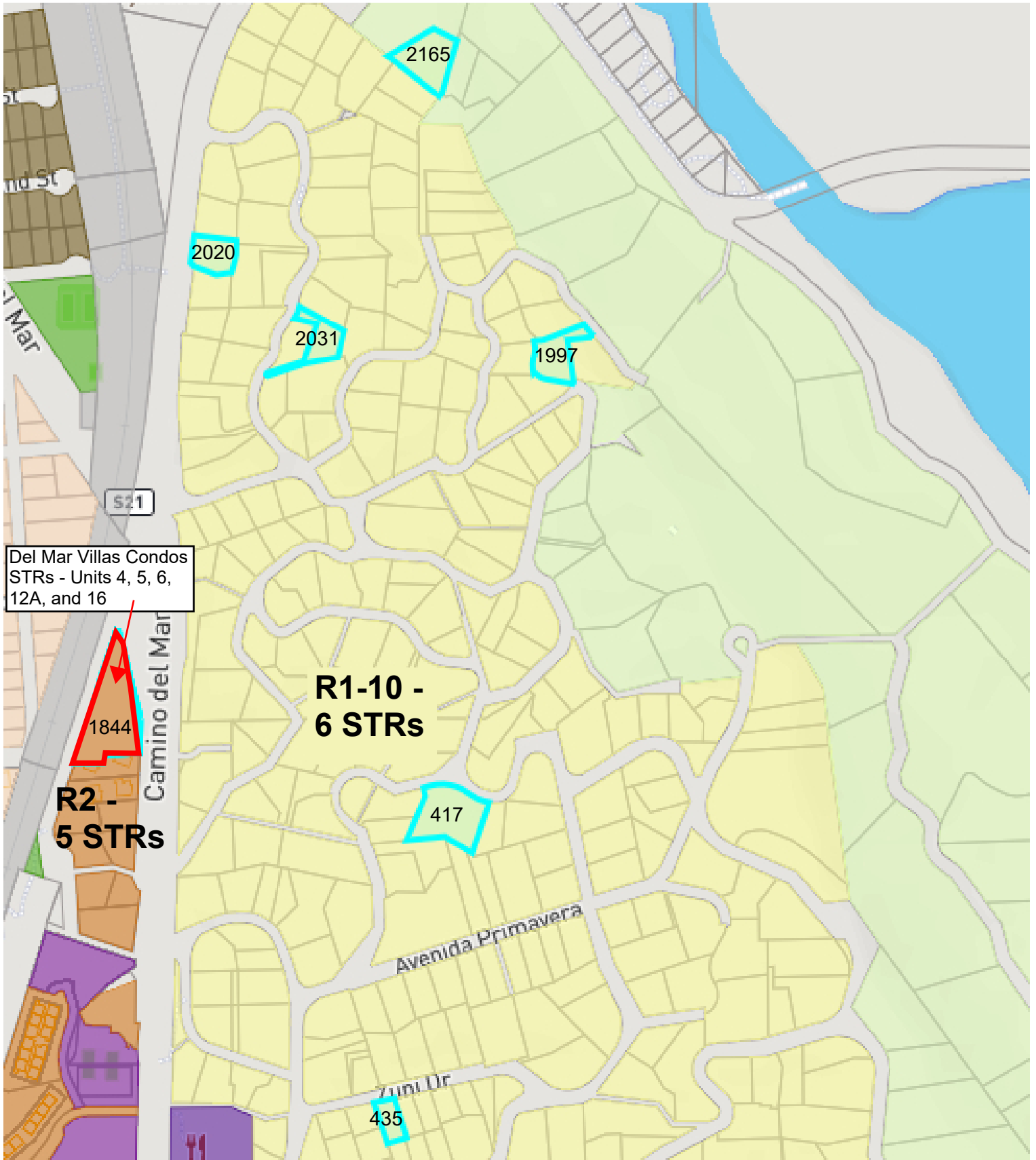
City of Del Mar - South Bluff Existing STRs



1" = 1085 ft	STR Total = 25	 One STR on lot  Two STRs on lot	
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This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

City of Del Mar - Hills Existing STRs (North)



Del Mar Villas Condos
STRs - Units 4, 5, 6,
12A, and 16

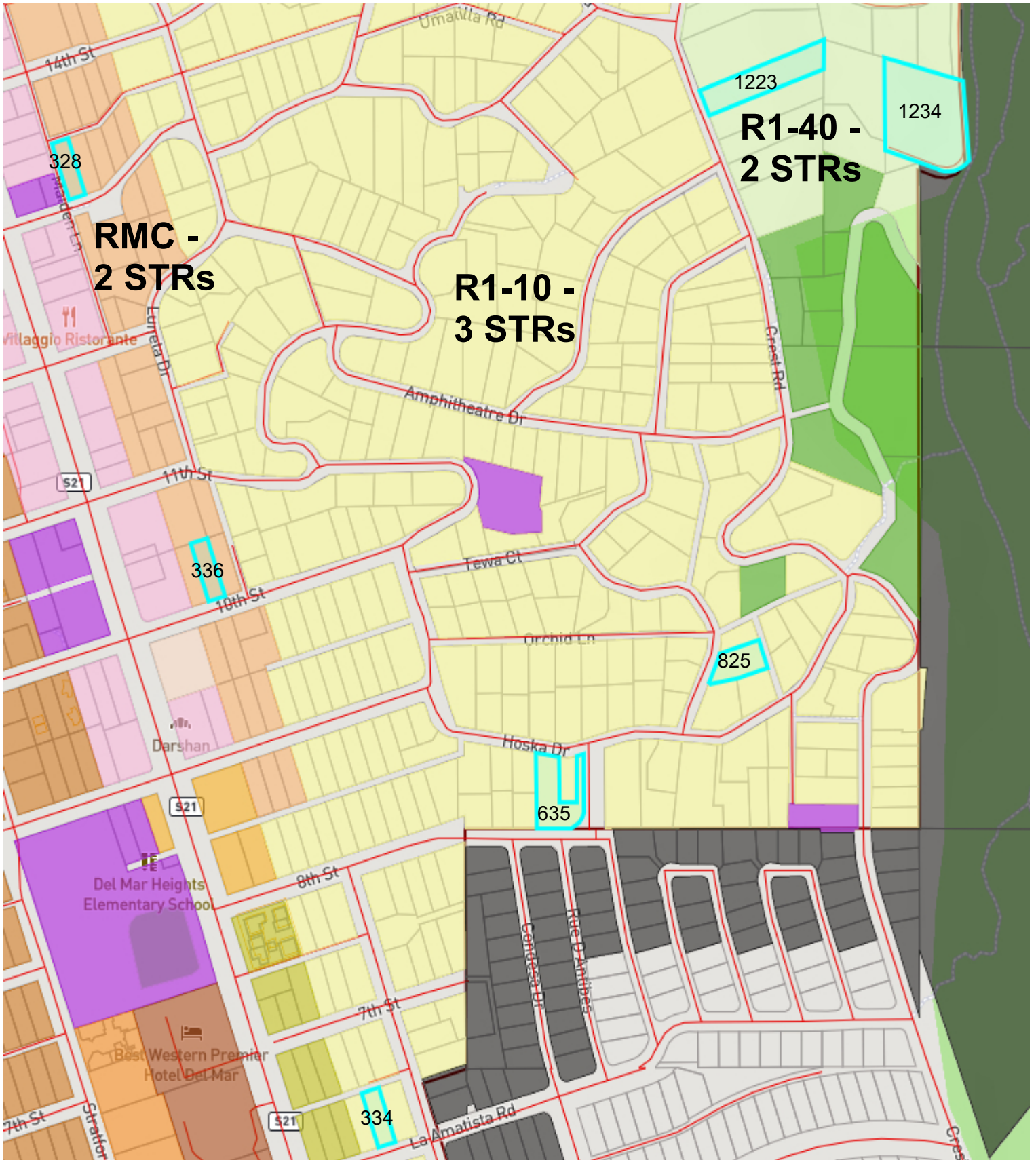
**R1-10 -
6 STRs**

**R2 -
5 STRs**

1" = 622 ft	STR Total = 11	 One STR on lot  Three or more STRs on lot	
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This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

City of Del Mar - Hills Existing STRs (South)



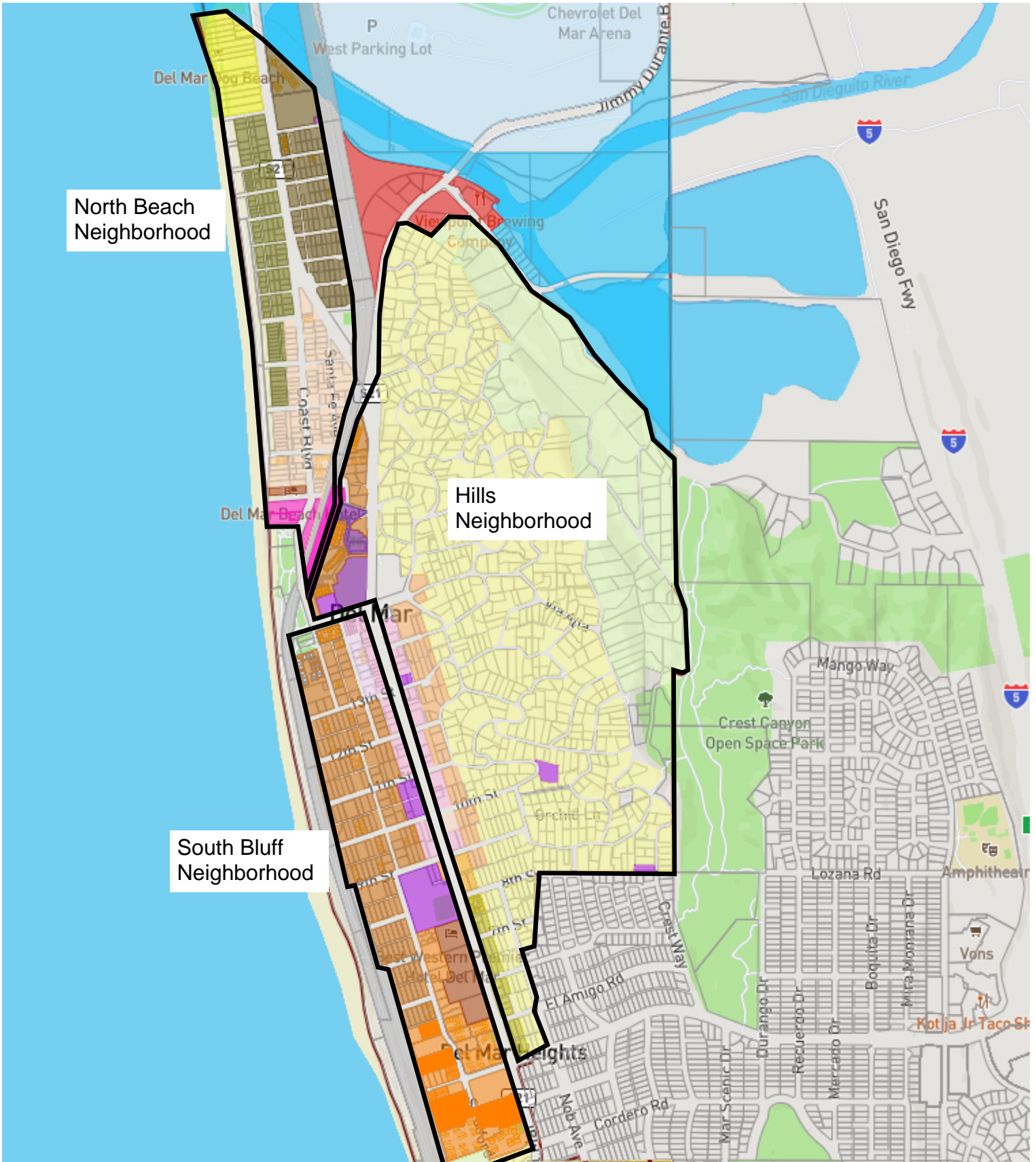
1" = 450 ft

STR Total = 7

 One STR on lot



This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.



North Beach Neighborhood

Hills Neighborhood

South Bluff Neighborhood

1" = 1480 ft	Sub Title	08/06/2024	
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This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

Qualifying Existing STRs - STRs in operation prior to adoption of STR Ordinance

Existing STRs must timely register with the City of Del Mar

- The City Council will specify the deadline to register within the STR Ordinance
- Registry deadline will be at least 30 days from STR Ordinance adoption



Must apply for STR Permit within 60 days following the effective date of the STR Ordinance

- Permit applications will be accepted following the date the STR Ordinance takes effect
- Effective date of Ordinance is date Coastal Commission grants final certification
- Permits for Existing STRs will be processed prior to applications for new STRs
- Allows existing STRs to exceed caps (i.e., citywide, neighborhood), owners to submit a permit for each existing STR, continue operating without primary residence requirement, and continue operating until change in ownership, permit expires, or permit is revoked



Must renew STR Permit prior to permit expiration date

- STR Permits will expire after two years
- Must maintain STR Permit in good standing with no lapse in permit expiration in order to maintain rights as Existing STR per STR Ordinance

New STRs - All STR Permit Applications other than Existing STRs:

Can apply for STR Permit following Ordinance effective date

- Permit applications will be accepted following the date the STR Ordinance takes effect
- Effective date of Ordinance is date Coastal Commission grants final certification
- Permits for Existing STRs will be processed prior to applications for new STRs
- A maximum of one STR Permit application may be submitted per owner



New STRs must comply with specified caps in STR Ordinance

- New STRs will be processed in the order permit application is received
- Waitlist will be established if there is not available capacity within the specified caps (i.e., citywide, neighborhood) to accommodate new STRs



Procedures for Individuals on Waitlist to submit application when capacity is available

- City will contact individuals in the order added to the waitlist
- Individual must submit STR Permit application within 30 days of contact by City
- If applicant does not timely submit, they will be removed from the waitlist and the City will contact the next name on the waitlist to apply for a STR Permit



Must renew STR Permit prior to permit expiration date

- STR Permits will expire after two years

**CITY OF DEL MAR
SHORT-TERM RENTAL GOOD NEIGHBOR POLICY**

This Good Neighbor Policy (Policy) was created to minimize potentially adverse impacts that Short-Term Rental (STR) properties may have on surrounding neighborhoods. STR owners, occupants and guests are responsible for ensuring compliance with the following rules. The capitalized terms in this Policy shall have the same meaning as the definitions in Del Mar Municipal Code (DMMC) Chapter 30.96 (STR Regulations).

STR Permit #: _____ **Exp.:** _____

STR Address: _____

Owner Name: _____ **Phone:** _____

- **24/7 Local Contact** – Owner or Owner’s Designated Local Contact Person must be available 24 hours per day, seven days per week, to respond to complaints during STR operations.

Name: _____ **Phone:** _____

- **Complaint Response Time** – Complaints received from the City, the Sheriff’s Department, or a resident must be addressed within 30 minutes of receipt of the complaint.
- **Overnight Occupancy** – Maximum overnight occupancy is limited to two persons per bedroom, plus two people for the unit as a whole consistent with the California Building Code.

Max. Overnight Occupancy: _____

- **Daytime Guests** – Daytime guests are permitted between the hours of 8:00 am and 10:00 pm.
- **Parking** – All garage, driveway, and designated on-site parking spaces must be made available for STR occupants and guests. Vehicles shall not impede access to sidewalks or neighboring properties or driveways.
- **Minimum Night Stay** – A three-night minimum stay is required.
- **Minimum Rental Age** – No person under the age of 25 years shall be permitted to rent a STR.
- **Exterior Signage** – The required exterior display sign identifying the Designated Local Contact Person, maximum number of occupants, and maximum number of vehicles shall be displayed and maintained on-site as a public notice during STR operations per DMMC Section 30.96.070(A)(5).
- **Interior Signage** – A copy of the STR permit, this Policy, and the Transient Occupancy Tax (TOT) rate shall be displayed on the inside of the main entry door of the STR (DMMC Section 30.96.070).
- **Public Nuisance Noise** – Any disturbing, excessive or offensive noises as defined in Chapter 9.20 of the DMMC shall be prohibited.
- **Trash/Recycling** – Properties shall be kept clean with no visible trash. Receptacles shall be stored out of public view, except on collection days in designated locations (DMMC Chapter 11.20).
- **No Special Events Permitted Onsite** – Includes weddings, commercial functions, parties, etc.
- **Enforcement** – STR permits may be denied, suspended or revoked for violations of the STR Ordinance. Violations are subject to DMMC Title 1 (General Provisions), Title 30 (Zoning), or any other applicable enforcement mechanism. This includes, but is not limited to, misdemeanor criminal prosecution, administrative monetary citations, and/or civil nuisance abatement actions.

For additional information, visit the City’s STR webpage at: www.delmar.ca.us/563/Short-Term-Rentals



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Mayor Dave Druker and Councilmember Tracy Martinez
Clem Brown, Assistant City Manager
Ashley Jones, City Manager

DATE: September 9, 2024

SUBJECT: Joint Resolution Regarding the LOSSAN Rail Realignment Project

REQUESTED ACTION/RECOMMENDATION:

Mayor Dave Druker and Councilmember Tracy Martinez recommend that the City Council adopt a joint resolution (Attachment A) from the cities of Del Mar, Solana Beach, and San Diego and the 22nd District Agricultural Association (22nd DAA) regarding the San Diego Association of Government's (SANDAG) LOSSAN Rail Realignment Project.

BACKGROUND:

The City of Del Mar has closely monitored the SANDAG LOSSAN Rail Realignment project (Project) since public outreach began in 2020. The Project includes studying options for removing the rail line from the fragile Del Mar coastal bluffs to an inland location by a SANDAG targeted date of 2035. The Project has generated a high level of community concern and engagement. While SANDAG is leading and has ultimate authority over the Project, the City has taken significant steps to keep the public informed, share information in a timely manner, and stay actively engaged on the Project. Current information on the Project can be found on the City's website at <http://tiny.cc/dm-rail-projects>.

The Project is currently in the environmental review phase, which began with the issuance of a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) on June 4, 2024, and an associated public scoping meeting on June 18, 2024. The NOP is the preliminary step in the State's California Environmental Quality Act (CEQA) process that will determine the technical studies needed to develop an EIR for the Project. The 45-day public comment period for the NOP closed on July 19, 2024, and SANDAG has since reported receiving approximately 1,500 responsive comments. It is the City's understanding that SANDAG will be making these comments publicly available in the coming weeks.

At the direction of the City Council, staff coordinated with City on-call environmental consulting firm SWCA Environmental Consultants (SWCA), to review the NOP document for consistency with CEQA guidelines. SWCA's comments and recommendations were incorporated as appropriate into the City's comments. In addition, the City Council retained special legal counsel with CEQA expertise, Doug Carstens with Carstens, Black & Minter, LLP, to review the NOP and assist with finalizing the City's NOP comments. As part of this

City Council Action:

effort, all public comments provided to date orally or in writing to the City were taken into consideration.

On July 16, 2024, the City Council discussed the City's final comments on the NOP and directed staff to submit the formal response to SANDAG by the July 19 deadline. The agenda report and NOP comment letter are available on the City's website at <http://tiny.cc/dm-nop-comments>.

DISCUSSION/ANALYSIS:

Stakeholder Concerns with NOP Alignments and Joint Resolution

During the NOP public comment process, significant concerns were raised by stakeholders and the public regarding all three proposed Project alignments (Alternative A – I-5 Alignment; Alternative B – Crest Canyon Alignment; and Alternative C – Camino del Mar Alignment).

In response to these concerns, the City of Del Mar spearheaded a collaborative effort with the City of Solana Beach, City of San Diego, and the 22nd District Agricultural Association (Fairgrounds) to develop a Joint Resolution related to the LOSSAN Rail Realignment Project that calls for fair and equal engagement of the primary governing body project stakeholders (Primary Stakeholders) moving forward and asks SANDAG to work with the parties to: 1) develop mutually agreed upon project goals and objectives; 2) identify a clear project description, and 3) determine new or modified rail realignment alternatives that take into consideration the adverse impacts to public and private property, businesses, homeowners/residents, tourism, public safety, sensitive environmental areas, and the regional economy during and after construction.

This collaborative effort began at the start of the Del Mar City Council recess, and participation in these discussions was determined based on Council availability and including those members who would have the highest chance of success in negotiating with representatives from other agencies. As such, Mayor Dave Druker and Councilmember Tracy Martinez (representatives to SANDAG/North County Transit District (NCTD) Boards) participated in these discussions for Del Mar.

To comply with the Brown Act, and to ensure consistency and continuity in the SANDAG Value Analysis Process as discussed further below and related actions, it is recommended that Mayor Druker and Councilmember Martinez continue to represent the City in these project related discussions and activities through Mayor Druker's service on Council, which will come to an end in December 2024.

Value Analysis Process

SANDAG has initiated a value analysis study to further evaluate alignment alternatives to advance into the environmental analysis process. This technical study, which will be done in collaboration with stakeholders from Carlsbad, Del Mar, Encinitas, San Diego, Solana Beach, Oceanside, the 22nd District Agricultural Association, North County Transit District, Metropolitan Transit System, and Caltrans, will seek to improve the existing alignment alternatives or identify new ones for additional consideration. The value analysis study is expected to be completed later this fall.

Military Use of the LOSSAN Rail Corridor

At the City Council meeting on June 16, 2024, it was requested that staff work with Councilmember Martinez as the City’s primary representative to NCTD, to research information related to the military’s use of the LOSSAN rail corridor. As such, staff did some research and learned that the military’s use of the LOSSAN Corridor occurs as part of BNSF’s use of the rail line, and is primarily managed by the Railroads for National Defense (RND) Program.

The RND Program ensures the readiness capability of the national railroad industry to support DOD’s defense deployment and peacetime needs. The DOD, in partnership with the Federal Railroad Administration, oversees the Strategic Rail Corridor Network (STRACNET) to ensure DOD’s minimum rail needs are specifically identified and coordinated with the appropriate transportation agencies. The LOSSAN rail corridor is part of STRACNET as the only connection between Marine Corps Base Camp Pendleton and the Port of San Diego, a strategic seaport, to the rest of the United States’ rail network.

Staff met virtually with Daniel Zedack, Chief of the RND Program, which is under the DOD’s United States Transportation Command (USTRANSCOM). Chief Zedack provided staff with the attached unclassified document on the DOD’s defense equities of the LOSSAN rail corridor (Attachment B), which clarifies the military’s use of the rail corridor.

FISCAL IMPACT:

There is no fiscal action to be taken by the Council related to this agenda item.

ENVIRONMENTAL IMPACT:

The proposed City Council action does not constitute a “project” under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

NEXUS TO COUNCIL GOALS AND PRIORITIES:

City involvement in major SANDAG initiatives, including the LOSSAN Rail Realignment Project, is a Tier 1 City Council priority.

ATTACHMENTS:

Attachment A – Proposed Joint Resolution

Attachment B – Department of Defense’s Use of the LOSSAN Rail Corridor

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR (DEL MAR), CITY COUNCIL OF THE CITY OF SOLANA BEACH (SOLANA BEACH), CITY COUNCIL OF THE CITY OF SAN DIEGO (SAN DIEGO), 22ND DISTRICT AGRICULTURAL ASSOCIATION (22ND DAA), (TOGETHER THE “PARTIES”), REGARDING THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG) LOSSAN RAIL REALIGNMENT PROJECT

WHEREAS, the Los Angeles—San Diego—San Luis Obispo (LOSSAN) rail corridor is an important part of the region’s economy, has a role in our nation’s defense by providing direct rail access to key ports and military bases, and is a significant component of achieving SANDAG’s adopted climate goals; and

WHEREAS, the LOSSAN corridor also supports ridership for North County Transit District (NCTD), Amtrak Pacific Surfliner, and the transit of goods for the BNSF railway; and

WHEREAS, a portion of this rail line runs along the environmentally sensitive and fragile Del Mar bluffs, the erosion of which continues to affect passenger and freight rail operations and has been identified for realignment by SANDAG; and

WHEREAS, as part of the rail realignment effort, it is critically important that SANDAG undertake robust outreach and engagement throughout the process, which should include sharing information and engaging equally with each of the primary governing body project stakeholders (Primary Stakeholders) to determine a long-term solution to continue passenger and freight rail operations to the north and south; and

WHEREAS, the built environment in which this project will be undertaken poses many challenges including potentially adverse impacts to public and private property (including acquisition of rights-of-way and eminent domain), businesses, homeowners/residents, tourism, public safety, sensitive environmental areas, and the regional economy during and following construction, which must be considered and minimized to the greatest extent feasible when identifying potential rail realignment options; and

WHEREAS, SANDAG is the Lead Agency under the California Environmental Quality Act (CEQA), and the Primary Stakeholders may have discretionary actions at some point in the future making them a Responsible Agency under CEQA; and

WHEREAS, significant negative concerns about each of the proposed project alignments (A, B, and C) have been raised by project stakeholders and the public as part of the project Notice of Preparation (NOP) public comment process, which closed on July 19, 2024.

NOW, THEREFORE, BE IT RESOLVED by the Parties that:

1. The above recitals are true and correct.
2. In light of the significant concerns that have been raised about proposed Alignments A, B, and C, including a lack of sufficient engagement with the Primary Stakeholders, the Parties request that SANDAG undertake more detailed engagement with the Primary Stakeholders to develop mutually agreed upon

project goals and objectives, identify a clear project description, and determine new or modified rail realignment options.

3. Throughout the planning, analysis, and design of this project, SANDAG should take into consideration how to minimize or, if possible, avoid negative or adverse impacts as outlined by the Parties above.
4. Decision making should be based on publicly available documentation derived from research, engineering, and technical evaluations, including but not limited to selection of the proposed project and alternatives, attainment of the majority of defined key project objectives, and determinations of significance under CEQA for issue areas, environmentally preferred alternative, and statement of overriding considerations.
5. The Parties direct that a copy of this Resolution be provided to SANDAG once fully executed.

PASSED, APPROVED AND ADOPTED by the Parties as indicated by the following authorized signors as of the dates identified below:

CITY OF DEL MAR

CITY OF SOLANA BEACH

Dave Druker, Mayor

Lesa Heebner, Mayor

DATE: _____

DATE: _____

CITY OF SAN DIEGO

22ND DAA

Todd Gloria, Mayor

Frederick Schenk, Board President

DATE: _____

DATE: _____



DEPARTMENT OF THE ARMY
MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND
1 SOLDIER WAY
SCOTT AIR FORCE BASE, ILLINOIS 62225-5006

22 February 2024

Mr. Omar Atayee
Acting Director of Engineering and Construction
San Diego Association of Governments
401 B Street, Suite 800
San Diego, CA 92101

Dear Mr. Atayee:

Per your request, the Military Surface Deployment and Distribution Command Transportation Engineering Agency, Railroads for National Defense Program provides the attached information paper detailing the defense equities of the LOSSAN rail corridor.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Zedack", is written over a horizontal line.

Daniel G. Zedack, P. E.
Chief, Railroads for National
Defense Program

SUBJECT: DOD Equities in the San Diego-Los Angeles-San Luis Obispo Rail Corridor

USTRANSCOM POSITION:

The Railroads for National Defense (RND) Program collaborates closely with public and private sector rail transportation partners to ensure that the railroad industry adequately meets military needs. The Strategic Rail Corridor Network (STRACNET) identifies commercial rail corridors and rail lines with military importance. As a part of STRACNET, the worsening trackbed conditions caused by seaside erosion along the Los Angeles-San Diego rail line is a concern to the DOD. The military relies on this rail line as the only connection between Marine Corps Base Camp Pendleton and the Port of San Diego, a Strategic Seaport, to the rest of the US rail network. The DOD will continue to monitor STRACNET infrastructure and will rely on infrastructure owners and regulators to fulfill their responsibility to ensure common-carrier railroad lines are well-maintained.

BACKGROUND:

- On behalf of USTRANSCOM, the Railroads for National Defense (RND) program ensures the readiness capability of the national railroad industry to support defense deployment and peacetime needs. Rail transportation is extremely important to the DOD. Heavy tracked vehicles, high volume movements of wheeled vehicles, and bulk shipments of ammunition must use rail to meet contingency deployment timelines between inland installations and seaports of embarkation.
- The DOD, in conjunction with the Federal Railroad Administration (FRA), established the Strategic Rail Corridor Network (STRACNET) to ensure DOD's minimum rail needs are specifically identified and coordinated with appropriate transportation authorities. STRACNET and the associated connectors form a continuous rail line network consisting of over 41,000 miles of railroad lines serving over 140 defense sites and both military and commercial Strategic Seaports.
- The STRACNET is assessed and updated for sufficiency on a 5-year cycle, with the most recent update published in June 2023. This update concluded that STRACNET, and the nation's rail lines overall, are in acceptable defense readiness condition and are prepared to meet military needs. Defense readiness considerations include rail network maintenance condition, clearance, and gross weight capabilities. The overall current good health of STRACNET can be attributed to the rail carriers' ability to effectively manage their network, which was enabled through previous rail industry deregulation.
- The Surface Transportation Board (STB) regulates the railroad industry, including proposed railroad abandonments and mergers. The RND Program monitors all STB rail industry filings (e.g., proposed abandonments and mergers), and, as appropriate, files comments on railroad regulatory matters with a military impact.
- It is DOD policy to integrate defense rail line needs into civil sector policy, plans, standards, programs, and regulations. RND engineers consult with the FRA in the development, planning, construction, retention, rehabilitation, maintenance, and operation of civil sector rail lines as they relate to DOD requirements.

DISCUSSION:

- The rail corridor between San Diego, Los Angeles, and San Luis Obispo, commonly referred to as the LOSSAN corridor, is identified as a defense-important corridor within the STRACNET. This rail line is owned in different sections by BNSF Railway (BNSF), Union Pacific Railroad (UP), and regional commuter rail authorities. Between San Diego and Los Angeles counties, freight service is provided wholly by BNSF via trackage rights over track owned by commuter rail authorities. It is the only functional freight rail connection between the San Diego metro area and the US rail network. There is no alternate rail route to MCB Camp Pendleton or the Port of San Diego, a Strategic Seaport. The LOSSAN rail corridor also serves the Port of Long Beach and Naval Base Ventura County (Port Hueneme), both of which are designated Strategic Seaports, as well as the Port of Los Angeles, a designated alternate commercial Strategic Seaport.
- From 2013 to 2023, this corridor carried about 278,000 tons of military cargo by rail to the Port of San Diego. In 2022, the line transported over 500 carloads of DOD equipment, totaling nearly 2,000 pieces of equipment weighing approximately 32,000 tons. The vast majority of this equipment is wheeled and tracked vehicles loaded on flatcars. As a Strategic Seaport, the port serves as a key seaport of embarkation (SPOE) for both peacetime rotations and surge deployments of large military units. The port is well equipped to efficiently load DOD cargo to Military Sealift Command (MSC) and commercial Roll-On/Roll-Off (RORO) vessels. In addition to military benefits, DOD's use of the port economically benefits the community as the DOD pays for use of port infrastructure and utilizes port labor during onload/offload operations.



*US Army soldiers offload M1 Abrams tanks and other military equipment from railcars at the Port of San Diego.
Photo Credit: SDDC TEA*

UNCLASSIFIED

- For bulk ammunition movements, the DOD largely ships containerized ammunition by rail from inland ammunition depots to designated Military Ocean Terminals or Naval Magazines not located on the LOSSAN rail corridor. These military-owned seaports are specifically designed to store and ship large quantities of bulk ammunition with reinforced holding areas, specially designed vessel docks, and standoff distances to protect surrounding communities. Due to safety requirements, the Port of San Diego has a low capacity of ammunition shipping capability, and is not ideal for shipping large quantities of ammunition.
- As part of normal duties, RND coordinates with BNSF regarding the condition of all BNSF-operated STRACNET rail lines. The Los Angeles-San Diego section of the LOSSAN corridor is consistently a topic of discussion in these forums given the erosion issues in multiple areas along the route. BNSF keeps the military adequately informed of infrastructure status. The recent erosion issues in the San Clemente area triggered several embargos of the rail line, resulting in multi-day outages. Immediate problems were expediently repaired, however, freight trains are currently directed to ‘slow-order’ in certain zones. While not ideal, the recent embargos did not affect military shipments and this corridor remains open for military traffic.
- DOD is supportive of actions by infrastructure owners and/or regulators to ensure the long-term viability and capacity of this rail corridor. While there is no DOD funding stream for off-installation rail projects, RND has provided information on the current defense use of the LOSSAN corridor to local, state, and federal transportation officials in support of infrastructure upgrades. Specifically, RND has provided letters verifying the defense benefit of projects eligible for federal discretionary grant funding to the North County Transit District (NCTD) and the San Diego Association of Governments (SANDAG). RND has advocated for well-maintained and reliable operation of the corridor to the California State Transportation Agency (CalSTA) and the Surface Transportation Board (STB). Additionally, RND has provided information on the defense importance of the corridor to the California State Senate Subcommittee on LOSSAN Rail Corridor Resiliency.



*BNSF train along San Clemente bluffs hauling military cargo to the Port of San Diego
Photo Credit: Mark MacDougall, used with permission*

UNCLASSIFIED

SUMMARY/RECOMMENDATION:

Through the RND program, USTRANSCOM will continue to monitor the infrastructure condition along the San Diego-Los Angeles-San Luis Obispo rail line and advocate for the defense importance of this corridor. Infrastructure owners and regulators should continue to take action to preserve safe and reliable rail service on this rail corridor.



City of Del Mar Agenda Report

TO: Honorable Mayor and City Councilmembers

FROM: Sarah Krietor, Administrative Services Manager
Wendy House, Deputy City Attorney
Via Ashley Jones, City Manager

DATE: September 9, 2024

SUBJECT: Options for Filling Upcoming City Councilmember Vacancy

REQUESTED ACTION/RECOMMENDATION:

Staff recommends the City Council consider whether to fill the upcoming Councilmember vacancy created by Councilmember Dwight Worden's resignation, effective September 24, 2024, by appointment or by special election, and provide direction to staff regarding the desired process.

BACKGROUND:

The Del Mar City Council is comprised of five Councilmembers elected to four-year terms. Councilmembers serve at-large, meaning there are no Council districts in Del Mar.

At the August 26, 2024 City Council meeting, Councilmember Worden announced his resignation, effective September 24, 2024 (Attachment A), with his last City Council meeting being September 23, 2024.

In accordance with California Government Code Section 36512, the City Council must either (1) call a special election; or (2) make an appointment to fill the vacancy by November 23, 2024, which is 60 days from the date of the vacancy. The successor Councilmember will serve until the expiration of Councilmember Worden's term, which is through December 2026.

The person appointed or elected must be 18 years or older and a resident and registered voter of the City of Del Mar.

DISCUSSION/ANALYSIS:

As discussed above and in accordance with State law, the City Council is required to make an appointment or call for a special election by November 23, 2024. Below is a more detailed description of each option.

Special Election

On or before November 23, 2024, the City Council may call a special election to fill the seat for the remainder of Councilmember Worden's term (December 2026). Should the

City Council Action:

Council decide to hold an election, the special election must be held on the next regularly scheduled election date, not less than 114 days from the call of the special election (Government Code § 36512(b)(1).) The deadline has passed for consolidating an election for Councilmember Worden's seat with the upcoming November 5, 2024, General Municipal Election.

The earliest opportunity to consolidate a special election with the next regularly scheduled County election process would be March 4, 2025. This timing would result in the Councilmember seat being vacant for six (6) months, at a minimum. Staff has requested but has not yet received as of the time of publishing this agenda report, a cost estimate for the special election from the County of San Diego Registrar of Voters (ROV). Based on recent special election costs held by other agencies, a rough estimate is \$100,000.

Should the City Council decide to proceed with this option, staff would confer with the ROV to obtain more specific cost and logistical information to provide to the City Council at a subsequent meeting. The City Council would also need to adopt the required resolutions calling for a consolidated special election on or before November 23, 2024.

Appointment

The City Council also has the option to fill the vacant seat by appointment at any regular or special City Council meeting held on or before November 23, 2024. An appointment requires a majority affirmative vote of the City Council. The appointment process has a minimal cost impact, consisting primarily of staff time.

The Government Code and the Del Mar Municipal Code do not specify the procedure for making a City Council appointment. As such, staff has provided the following additional information and options for City Council consideration.

Application or Nomination Process

Options to consider for Council appointment include the nomination of individuals for appointment by Councilmembers or facilitation of an application and interview process consistent with how the Council considers applicants for appointment to the Planning Commission (PC) and Design Review Board (DRB).

Consistent with the City's existing procedures for PC and DRB appointments, the City Council could proceed with an application and public interview process, which would ensure applicants are willing and qualified to serve on the City Council, provide opportunity for the public to hear from applicants and provide comment for Council consideration, give Councilmembers the opportunity to review relevant information provided by the applicant in a standard format, and follow an already established City appointment process.

City Council Action:

Attached is a sample application form (Attachment B) for the City Council’s review and feedback. A potential schedule for making an appointment through the application process, could be as follows:

- **September 10, 2024** - City Clerk to post and publish City Council application form.
- **September 27, 2024** - Applications due to the City Clerk’s Office by 4:30 p.m.
- **October 7, 2024** (or any time before November 23, 2024) - City Council interviews the applicants and votes on an appointment during open session of the City Council meeting, or directs staff to re-open the application period and solicit additional interest.
- **November 23, 2024** (Saturday) – Deadline for the City Council to appoint a successor to fill the vacancy. If no appointment is made by this date the vacancy will be filled at the next regularly scheduled election in November 2026.

FISCAL IMPACT:

There is no fiscal action to be taken by the City Council related to this agenda item. Should the Council proceed with a special election, the estimated cost is approximately \$100,000, and would require an allocation of funds from the General Fund. There is little to no cost for facilitating a Council appointment process outside of related staff time, which would not be significant.

ATTACHMENTS:

Attachment A – Dwight Worden Letter of Resignation dated August 26, 2024
Attachment B – Sample City Council Application

City Council Action:

Dwight Worden

Del Mar, CA 92014

August 26, 2024

Sarah Krietor
City Clerk, City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014

Hand-delivered

Dear Sarah,

Please accept this as my letter of resignation, resigning my position as City Councilmember effective September 24, 2024.

The attached statement sets for my reasons for this resignation.

Best regards,



Dwight Worden



CITY OF DEL MAR

CITY COUNCIL APPLICATION

IMPORTANT: *Save the form on your computer prior to filling it out. Do not fill out the form in the Internet browser.*

The City Council is soliciting qualified applicants from September 10 - 27, 2024, to fill a City Council seat that will become vacant on September 24, 2024. The appointed City Councilmember will serve until December 2026. Appointments and interviews are tentatively scheduled for the October 7, 2024, City Council Meeting.

In order to be considered for Council appointment, applicants must be 18 years or older and a resident and registered voter of the City of Del Mar.

The City Council meets the first Monday and Wednesday of each month at 4:30 p.m. and may hold special meetings periodically as needed. Closed Session is typically held prior to each regular meeting at approximately 3:00 p.m. (start time varies). The 2024 [City Council Meeting Schedule](#) is available on the City's website and the remaining meetings for the 2024 calendar year are listed below. Meeting dates for 2025 have not been set at this time.

2024 City Council Meeting Schedule

- October 7, 2024 (tentative appointment date)
- October 21, 2024
- November 18, 2024
- December 2, 2024
- December 16, 2024

In addition to City Council meetings, individual City Councilmembers are appointed by the City Council to serve as liaisons to City advisory committees; local non-profits; and regional organizations.

More information about the City Council's Policies, City Council and City Manager Guiding Principles, City Council's Fiscal Year 2024-2025 Goals and Priorities, and other helpful information is available on the [City Council's webpage](#).

Form Submittal: *The deadline to submit applications is Friday, September 27, 2024, at 4:30 p.m.* Forms can be submitted via email: cityclerk@delmar.ca.us or in-person/by mail at: Del Mar City Hall, 1050 Camino del Mar, Del Mar 92014. Please contact Administrative Services Manager/City Clerk Sarah Krietor with any questions (858) 375-9517.

Please name all the Boards/Commissions/Committee/Task Forces that you have served on in the past, and if you can, the dates of your service:

Optional: Please list three Del Mar residents who can provide a reference**:

NAME	STREET NAME (no house number)	Phone Number

****IMPORTANT:** Due to Brown Act limitations that restrict communications between Councilmembers regarding upcoming actions of the City Council, please do not include a current sitting Councilmember as a reference for your appointment.

Residency:

	Month	Year
I have been a resident of California since:		
I have been a resident of San Diego County since:		
I have been a resident of Del Mar since:		

Are you a full-time or part-time resident of Del Mar? Full-time Part-time

Is Del Mar your primary place of residence? Yes No

Are you a registered voter in Del Mar? Yes No

Additional Information: Please provide any additional information that you think is important for the Council to take into consideration regarding your potential appointment to serve on the City Council.

III. ADDITIONAL QUESTIONS

The following are additional questions related to specific committees. Please answer the questions only for the committee(s) you are applying for.

Why are you interested in serving on the Del Mar City Council?

What do you see as the biggest issues or challenges facing the City of Del Mar?

IV. SIGNATURE AND ACKNOWLEDGEMENT

By submitting this application, you are signing under penalty of perjury that the information you are providing, is true and correct to the best of your knowledge.

Signature

Date

Within one (1) business days you will receive a confirmation email that your application is received. If you have questions, please email cityclerk@delmar.ca.us or call (858) 755-9313 and a staff member will get back to you promptly.