

Del Mar City Council Meeting Agenda

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

December 4, 2023 City Council Meeting

**INFORMATION RECEIVED
AFTER THE COUNCIL AGENDA
WAS DISTRIBUTED
("Red Dots")**



Melinda Gould

From: Nancy Hanley <nancyrhanley@me.com>
Sent: Sunday, December 3, 2023 10:30 AM
To: City Clerk Mail Box
Subject: City Council Agenda

Follow Up Flag: Follow up
Flag Status: Flagged

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On Item #8 of Monday's city council meeting please ask the council to remove the "anticipated lifetime" language from the proposed ADU ordinance.

Thank you,
Nancy Hanley Eriksson and Ron Eriksson
1846 Ocean Front
Del Mar CA 92014

Melinda Gould

From: Dolores Jamison <doloresdj@gmail.com>
Sent: Sunday, December 3, 2023 4:22 PM
To: City Clerk Mail Box; Tracy Martinez; Dwight Worden; Terry Gaasterland; David Druker; Dan Quirk
Subject: Council Item #8–ADU Ordinance-RED DOT

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December 3, 2023

Del Mar City Council
December 4, 2023 Agenda
Re: Item #8, ADU Ordinance-Red Dot

Dear Mayor Martinez and City Council Members:

We greatly appreciate the amount of work done by Planning Department staff in their efforts to make the the ADU ordinance more responsive to community concerns. While the changes made have certainly improved the ordinance and will help to ensure that community character and standards will be preserved, we did want to call your attention to a few important parts of the ordinance which still need to be addressed.

FIRE SAFETY CONCERNS

As you may recall, last October we submitted a letter to the City Council—signed by 36 residents of North Hill neighborhoods—expressing our concerns about ADU's in CalFire's Very High Hazard Severity Zone (HFHSZ). The revised ordinance does not address the three high priority policy recommendations we made for areas of Del Mar in the VHFHSZ. Specifically, we requested: a prohibition on attached ADU's; a maximum ADU size of 800 square feet; and a building separation of 10 feet. These recommendations are based on the "Special ADU" regulations in the City of Santa Barbara's ADU ordinance, which has been certified by the Coastal Commission.

While the updated ordinance includes a "Whereas" statement concerning the Community Plan Safety Element update, it does not mention the three policy recommendations specified above. Does the City intend to implement these policy recommendations during the Safety Element update or are they now off the table? Since the staff report fails to provide any further guidance on this topic, we would appreciate if staff could clarify this and assure us that are concerns relative to fire safety will be addressed.

TREE REPLACEMENT

Another important issue identified in the October letter sent to the Council (by Ad Hoc Committee members) that has not been addressed in the updated ordinance is a replacement ratio for trees displaced by ADU's and a ban on lot consolidations that could result in the replacement of dwelling units with ADU's. It would be helpful to have staff explain why these issues were not addressed, despite the fact that the Council directed staff to explore and address these policy options.

GRADING

While we were certainly pleased to see the revisions in the updated ordinance relative to grading, we would request that Paragraph W.4 be made crystal clear that the grading limit of 200 cubic yards for an ADU is a total that includes both the grading within the building footprint and the grading outside the building footprint (which requires a Land Conservation Permit). Preparatory grading of the ADU site approved concurrently with the grading for the primary residence by the DRB should be included in the 200 cubic yard total. Perhaps staff has a proposed solution for discouraging such preparatory grading in anticipation of a future ADU permit, as this is a loophole that needs to be closed.

RETAINING WALLS

Regarding the section of the updated ordinance on retaining walls (Paragraph 11.C), split-face block should not be a default choice for retaining walls that are visible from public streets. Allowing this would not be consistent with the Citywide Design Guidelines and the Administrative Design Review ordinance, as well as the retaining walls for the City's utilities undergrounding districts. Split-face block has a manufactured and institutional appearance that is more suitable for freeway ramps and commercial/public buildings and is not consistent with the character of Del Mar neighborhoods.

BASEMENTS & BALCONIES

While basements and balconies were not previously discussed, they certainly should be addressed in the ordinance. The SB 9 ordinance expressly prohibits basements and balconies on SB 9-eligible lots. Balconies on ADU's are no more appropriate than they are on SB 9 projects. In Paragraph G.3 of the revised ordinance, it appears that basements would be allowed in ADU's and the floor area of a basement would be counted in determining the maximum allowable size of an ADU. What really needs to be clarified is whether or not the basement for the primary residence could extend underneath the ADU, if the ADU has no internal basement access. What is the logic for allowing basements beneath ADU's? Basements can exacerbate the parking shortage in Del Mar (residents with more than 3 bedrooms don't require additional off-street parking for extra bedrooms in basements). It's also important to consider the environmental impacts of accelerated bluff erosion from large impervious underground structures that displace groundwater, and the loss of existing vegetation. Perhaps staff could explain the ADU policy concerning basements and balconies in greater detail, including the rationale for not excluding them as they are excluded in the SB 9 ordinance.

Thank you for your attention to these issues.

Sincerely,

Richard Jamison & Roseanne Holliday

Dolores Davies Jamison Crest Rd.

Crest Rd. Frank & Linda Chisari

Marc & Judy Schuckit Crest Rd.

Kalamath St. Sally & Ron Taylor

Joan & Craig Brown Crest Rd.

Crest Rd. Rose Ann Sharp

Gloria Sandvik & Crest Rd.

Harold Feder Anne & John Farrell

Crest Rd. Via Alta St.

Tom & Jackie Bruskotter Palmer & Susan Taylor

Crest Rd. Via Alta St.

Jackie & Jeff Workman Wendy & John Ross

Via Alta St. Klish Way

Scott & Lisa Renner Beth Levine

Via Alta St. Crest Rd.

Shirley King & Art Olson Sandy & Bram Dijkstra

Primavera St.

Umatilla St.

John & Gale Graybill

Valerie Dufort &

15th St.

Sudeepto Roy

Klish Way

cc: Del Mar City Council

Melinda Gould

From: Heather Lindsey <hdlindsey@yahoo.com>
Sent: Sunday, December 3, 2023 4:53 PM
To: City Clerk Mail Box
Subject: Red Dot: 12/4/23 meeting. Agenda Item #8 "Re-Introduction of an Ordinance to Amend the City's Accessory Dwelling Unit Regulations and Certified Local Coastal Program"

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council:

On Page 13 of the Agenda Report for Item #8 (page 202 of the complete Council package), please remove the language around the lifetime of the structure. And, even more, please do not adopt a city policy that allows for managed retreat in theory and takes a wait and see attitude on a parcel by parcel basis.

The City cannot abdicate its decision around managed retreat because it lacks expertise. If the City had taken that view in the past, we would be looking at a future of 1/3 of Del Mar being flooded. I want to remind the City and Council that when discussions about managed retreat in Del Mar first began the City was unaware that the natural topography of Del Mar married with managed retreat would have accidentally flooded a third of the town and destroyed the beach it is supposedly trying to protect. The City almost passed managed retreat without understanding the consequences to the City. We have been told that time and time again that the only line of defense against managed retreat, is at the City level, not a state level and not an individual level. We have been told that it must not be allowed in the governing documents; once that wall falls, we have managed retreat. That is what the experts have said. Allowing managed retreat in the documents and then fighting when this issue comes up related to a specific property in Del Mar is not an appropriate strategy. Experts have told us that this strategy is how one ends up with managed retreat. That is the strategy of a City that has accepted managed retreat.

On Page 13 of the Agenda Report for Item #8 (page 202 of the complete Council package) <https://www.delmar.ca.us/AgendaCenter/ViewFile/Agenda/12042023-3343> contains a paragraph entitled *Minimization of Flood Risk and Disclosure of Projected Sea Level Rise*. The paragraph contains a form of managed retreat, something the City has come out against numerous times. I have stricken through the language that one might consider removing. "Within the City there are hundreds of residential lots and existing homes located in Federal Emergency Management Agency (FEMA) flood management zones. Ordinance Section 30.91.040(X) clarifies the standards for development on lots in special flood hazard areas that are identified on the FEMA Flood Insurance Rate Map (FIRM). The ADU requirements (i.e., siting, base flood elevation, flood proofing, and height calculation) are standards that will apply to proposed development based on the existing context of the specific lot. These standards apply uniformly citywide to proposed development in special flood hazard areas, including proposed ADU development. The proposed ADU Ordinance/LCPA is consistent with existing citywide requirements in the certified LCP that apply to proposed residential development to minimize flood damage and avoid flood hazards, including those from projected sea level rise and flooding over the anticipated lifetime of the structure using best available science, in consideration of applicable adaptation measures, including the system of shoreline protection in the Beach Overlay Zone per the Beach Preservation Initiative, and consistent with the certified LCP."

In light of the above, I would like to take this moment, given the more recent discussion of sea level rise and its continuous inclusion in Del Mar's documents, to advocate for the reformation of STAC.

I also would like to remind Council and City Staff, that, despite what the CCC say, we are not required to include this language. As stated in the passages below from the Del Mar City Attorney's letter "Adoption and Processing of Sea-

Level Rise Adaptation Plan”, the Coastal Commission cannot force Del Mar to accept these changes nor the whims of the Coastal Commission outside of the Coastal Act. The specific language is as follow:

"The Commission Generally Cannot Require the City to Include Specific Content:

- The Coastal Act does not require this. The Commission could suggest modification as part of its periodic review of LCPs, but a local agency need not accept any of the suggestions
- The Commission cannot force this upon us -- if suggested modifications are rejected, the Commission’s only recourse is to request that the legislature address the issue, which they have not
- The Commission is not authorized to diminish or abridge the authority of the City to adopt and establish the precise content of its land use plan
 - Conformance with the policies and requirements of the Coastal Resources Planning and Management

Policies can be required only to the extent necessary to achieve the basic state goals specified in section 30001.5, i.e., coastal quality, utilization and conservation, public access, prioritized development, and coordinated planning and development"

Similar analysis can be found in "Should Del Mar’s Seal Level Rise Adaptation Plan Be Put In The Community Plan, In Our LCP, or Both? Recommendations From Dwight Worden, Mayor September 24, 2018”, which states:

- "The Coastal Commission cannot force Del Mar to adopt managed retreat. Del Mar has the right to reject those modifications."

Please remove the language around the lifetime of the structure. And, even more, please do not adopt a city policy that allows for managed retreat in theory and takes a wait and see attitude on a parcel by parcel basis.

Respectfully,

Heather Lindsey

Melinda Gould

From: jdllal@aol.com
Sent: Sunday, December 3, 2023 5:10 PM
To: City Clerk Mail Box
Subject: Red Dot: 12/4/23 meeting. Agenda Item #8

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Dear City Council:

Please remove the language around the anticipated lifetime of the structure on page 2020 of the complete Council package. It is a form of managed retreat. I thought we had already addressed this a few weeks ago but it seems to have returned. This language opens the door to managed retreat and subjective conversations around the mean high water elevation.

Thank you for taking the time to listen.

Sincerely,

Lucille Lindsey

Melinda Gould

From: Nancy Stoke <nancystoke@earthlink.net>
Sent: Sunday, December 3, 2023 10:48 PM
To: City Clerk Mail Box
Subject: 12/4/23 Agenda item #8 ZA22-001 LCPA22-001 ADU Implementation Ordinance/LCPA

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honorable Mayor and Council Members,

I write to ask you to please remove from the draft ordinance text the reference to “anticipated lifetime of the structure”. This re-write has made good progress on the bad text you were previously asked to consider, however it is not approvable yet.

For Del Mar residents, there are so many things wrong with the concept that un-elected bureaucrats in far off places can/will determine using “best available science” (whatever that is determined to be, and by whom?) when the sea level rise will impact a specific property thus pushing back the determined/projected mean high tide line and mandating that the property be abandoned by the rightful owner and considered public trust land (no longer private property). This “anticipated lifetime” policy is the definition of Managed Retreat that we all worked so hard to keep out of our Adaptation plans and that you all promised to protect us from.

We have all agreed that Del Mar is unique in that protection of the ocean front homes is critical for maintaining public access to the beach, and for maintaining the existence of the 600+ residential units in the Beach Colony neighborhood. Please don’t make the choice to usurp private property rights now, when no plan is in place to house all of our residents who will be forced from their homes by this egregious language (that is intended by the city’s own statements to encourage development of additional housing, not destroy housing). Anticipated lifetime language eliminates housing, it doesn’t build more housing!

There are several beach front homes that are over 100 years old now. Would a bureaucrat 80 years ago have anticipated that the homes would still be safe and wonderfully livable now? Probably not. Do you really want the responsibility of putting in place such misguided policy?

This bad policy will also reduce property values (property that can’t be developed isn’t worth much, and what buyer wants to take on the risk?) and reduce city property tax revenue (no properties, no property tax revenue). For your own constituents, the owners of said properties who want to live in and enjoy their property for generations to come, the “anticipated lifetime” language prevents lenders from lending on property (no lender is going to make a loan when they can’t anticipate how long the property will be viable collateral to support the loan). Little good will come from bad “anticipated lifetime” language.

I’m sure you are getting outside pressure to approve such language, as you’ve (hopefully unknowingly and not intentionally) already done so with your approval of the Public Trust doctrine earlier this year. What a mistake that decision was! You don’t have to continue further down the same damaging path; please take out the “anticipated lifetime” language and support your residents, not outside agencies. Thank you.

Respectfully Submitted,

Nancy Stoke



Please consider supporting Wreaths Across America's mission to Remember the fallen, Honor those who serve, and Teach the next generation the value of freedom.

<https://wreathscrossamerica.org/CA0452> For every 2 wreaths you donate an additional wreath will be donated. Wreaths will be placed Dec. 16th. If you wish to donate a grave-specific wreath, ask me how! Thank you!

Melinda Gould

From: Lori Larcher <lorilarcher1@gmail.com>
Sent: Monday, December 4, 2023 5:31 AM
To: City Clerk Mail Box
Subject: Red Dot! ●

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RED DOT for Agenda Item #8 of Monday's meeting I am urging the Council to please remove the "anticipated lifetime" language from the proposed ADU ordinance

Lori Larcher
1828 Oceanfront
DelMar, CA 92014

Sent from my iPhone

Melinda Gould

From: dave@syko.com
Sent: Monday, December 4, 2023 7:54 AM
To: City Clerk Mail Box; dave@syko.com
Subject: Please add my comments to the agenda regarding item 8 of the December 4th City Council Meeting - Re-Introduction of an Ordinance to Amend the City's Accessory Dwelling Unit Regulations and Certified Local Coastal Program

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Hello City Council and City Manager

I would like you to consider the following regarding agenda item #8. This is the item that is headlined with - **Re-Introduction of an Ordinance to Amend the City's Accessory Dwelling Unit Regulations and Certified Local Coastal Program**

I am requesting the City remove the language around the "anticipated lifetime of the structure" on page 202 of the complete Council package. I believe it is a form of managed retreat and we have already dealt with this in the past.

Thank you.

Dave Sykes

dave@syko.com
122 15th Street #788
Del Mar CA 92014
619-987-9191

Melinda Gould

From: john imperato <jimperato@hotmail.com>
Sent: Monday, December 4, 2023 8:08 AM
To: City Clerk Mail Box
Cc: Tracy Martinez; Dan Quirk; Terry TG. Gaasterland; Dwight Worden; David Druker
Subject: RED DOT AGENDA ITEM 8 ADU/LCPA

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Dear Honorable Mayor and Council Members,

Thank you for your positive response to prior neighborhood objections to draft language in the ADU ordinance and proposed LCP amendment. The “anticipated lifetime of the structure” language still present in the proposal provides too much uncertainty and discretion in the permitting of ADUs.

This limitation -- “anticipated lifetime of the structure” should be stricken from the proposed ADU ordinance/LCPA.

The beach colony is relying on you too protect the interest of residents and all users of the Del Mar beach.

Please eliminate the anticipated lifetime clause, as others have suggested in their red dots.

Regards,

John Imperato
Sand Barr Lane



Melinda Gould

From: City Clerk Mail Box
Subject: FW: FW: Del Mar's Lagoon Trail Project Delayed Due To High Costs, Lack of Transparency

From: Tate Scott <tate.scott@gmail.com>
Sent: Thursday, November 30, 2023 7:50 AM
To: City Clerk Mail Box <CityClerk@delmar.ca.us>
Subject: Fwd: FW: Del Mar's Lagoon Trail Project Delayed Due To High Costs, Lack of Transparency

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I write in support of Item 11 to Censor Deputy Mayor Quirk.

We count on our elected officials to offer opinions, facts, and debate as an important part of our amazing democratic process.

Blatant misrepresentations such as the following from DM Quirk regarding San Dieguito Drive harm everyone. DM Quirk was at the meeting. He heard the facts, but chose quite obviously to distort and misrepresent them.

Then ask for a Grand Jury type investigation of our City?

Here's "the thing".

Hyperbolically calling people liars and cheats seems to be the thing in politics as a way to get attention.

Calling people wrong or misinformed is part of our process.

Quirk doesn't seem to understand the difference or the amplification resulting from his position as a representative of Del Mar.

Identifying the position or hat one wears when making statements is requisite part of a council member's job in addition to an unwavering commitment to being fact based.

I thank Councilmembers Druker and Gaasterland for bringing this motion forward and urge the Council to Vote Yes.

Tate Scott
1200 Oribia Rd, Del Mar, CA 92014

/wts

----- Forwarded message -----

From: <tate.scott@gmail.com>

Date: Mon, Sep 18, 2023 at 12:52 PM

Subject: FW: Del Mar's Lagoon Trail Project Delayed Due To High Costs, Lack of Transparency

To: <cityclerk@delmar.ca.us>

The following response to Council Member Quirk's email this am (also follows) is submitted as a red dot relative to Item #18.

Dan, I fully support fiscal responsibility and your work to highlight that need in our City Government.

However, I encourage you to avoid comments you are aware are incorrect and/or misleading. I distinctly remember Staff explaining to you, the council, and the public in significant detail all about the expired \$179k Peter's Pavers option, and why the \$179k option was not an option the City could accept. Then quite oddly, almost as if you weren't present at the meeting or read the presentation and Agenda, you claim you voted against the Item because you wanted the exact information that was provided at the meeting. You also knew the Item, the one you voted against, was to further refine the City's estimated costs.

The "slurry coat" comment was indeed inaccurate and misleading. However, the Peter's Quote was included in the Agenda package containing the full details of a concrete swale and there was no confusion at the meeting. You heard from the resident, a civil engineer, that worked with Peter's Pavers to obtain their now expired quote, and why it was for a different purpose than for dedication of the road to the city.

At that meeting Staff provided to you, the council, and the public the City's requirements which understandably are different than for a group of residents as that resident explained.

You are aware of the procurement process required by the state, and reasonable requirements for drawings, engineering input, warranty, etc all of which were discussed at the meeting.

It is disingenuous to say you voted against the Item because you needed more information when clearly you had been provided that information.

Your highlighted comment below about Grand Jury Investigation was beyond hyperbole. Suggesting a similar approach (Grand Jury Investigation) is destructive as you clearly seek only to sow distrust. I get being voted down. It happens, but jeeze Dan, the process provided you with the very information you are claiming you didn't know – you just disagree with it and the outcome – but you got the information - as did the public.

Dan, thank you for your continued focus on fiscal responsibility. I respectfully submit in your email blast that you materially misrepresented the highly collaborative process for San Dieguito Drive and it should be favorably highlighted not used for your agenda.

Tate