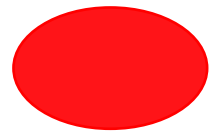


Del Mar City Council Meeting Agenda

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

January 6, 2026 City Council Meeting

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



Leslie Carrillo

From: tate.scott@gmail.com
Sent: Tuesday, December 23, 2025 10:49 AM
To: City Clerk Mail Box
Cc: Ashley Jones; Terry Gaasterland; Tracy Martinez; Dan Quirk; JSpelich@delmar.ca.u
Subject: A Red Dot re: V24-003- De Novo Public Hearing of an Appeal of the Planning Commission's Denial of a Variance

Follow Up Flag: Follow up
Flag Status: Flagged

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Members of the City Council and City Manager,

I attended the Planning Commission hearing and write in support of affirming the Commission’s denial and declining further review.

There is no indication that the Planning Commission committed any legal, procedural, or factual error that would justify overruling its decision.

The Planning Commission did not act without context or appreciation of the consequences. Multiple Commissioners (if not all) stated on the record that they walked the site and the adjacent open space, and several expressly recognized the request as a gateway decision—one that would pre-commit future development at the preserve edge. With that understanding, the Commission resolved the application (4/1) on the fundamental question of Community Plan consistency.

That determination was intentional and complete. The Commission did not miss or defer issues. While hearing all the arguments, it correctly avoided debating variances, asserted rights to build, or technical refinements because those questions only arise after consistency with the Community Plan is established. Here, it was not.

Under California law, projects that are inconsistent with the General Plan and Community Plan cannot be approved. ^[1] The Planning Commission applied that standard and reached a clear conclusion. Revising or reducing variances does not cure a policy conflict, and proposed future changes are not grounds to reopen an appeal.

This parcel has remained undeveloped for decades and functions as a transition between existing homes and protected open space. Approving a variance here—reduced or otherwise—would permanently change

that role and set precedent at the preserve edge. The Commission recognized that risk and stopped the project at the appropriate threshold.

The hearing was thorough and fair. Numerous residents spoke, Commissioners listened carefully, and the applicants were clearly informed that the denial was grounded in Community Plan policy. Nothing was left unresolved.

The Planning Commission reached a complete, informed, policy-based decision. For these reasons and others stated in the record, I strongly support affirming their decision, which respects the City's adopted planning framework and represents the most defensible course for the City Council.

Respectfully,

Tate Scott
1200 Oribia Rd
Del Mar, CA 92014

^[1] Where inconsistency with the General Plan or Community Plan is found, a city lacks authority to approve the project, regardless of variances or exemptions: *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540–545; *Voices for Rural Living v. County of El Dorado* (2012) 209 Cal.App.4th 1096, 1112–1115.

/wts



Leslie Carrillo

From: majid kharrati <majidkh@sbcglobal.net>
Sent: Saturday, December 27, 2025 9:19 AM
To: City Clerk Mail Box; Terry Gaasterland; Tracy Martinez; dquirk@gmail.com; John Spelich
Subject: A Red Dot re: V24-003- De Novo Public Hearing of an Appeal of the Planning Commission's Denial of a Variance

Follow Up Flag: Follow up
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Honorable mayor and council members,

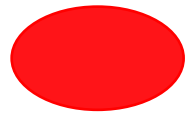
I am writing to you today to request that you affirm the planning commission decision which rejected the project being proposed at the vacant Lot East of 1439 Oribia Road (APN# 299-200-74-000) by a 4 to 1 vote. it is notable that the planning commission did not accept the proposed resubmission based on inconsistency with the community plan.

The commissioners had visited the site and the crest canyon open space behind it and had a clear understanding of the proposed project site. There was a through discussion of the different elements and it's impacts to the community and the open space. There was also a recognition that this decision would set up the precedence for the other similar lots next to the canyons.

These lots were never intended for stand alone development and if they were to be developed, they would change the character of this community and have an adverse impact on the crest canyon open space.

Revising setbacks will not address the proposed project conflict with the community plan. should this project proceed, it needs to be in a new application with a different design, one that respects the neighbors, the open space and is consistent with community plan.

Sincerely
Majid Kharrati
1402 Oribia Road
Del Mar CA 92014



Leslie Carrillo

From: Amy Cheshire <amyacheshire@gmail.com>
Sent: Saturday, January 3, 2026 5:32 PM
To: City Clerk Mail Box
Cc: Tracy Martinez; John Spelich; Terry Gaasterland; Dan Quirk
Subject: Red Dot Letter – Agenda Item 6 – City Council Meeting - 6 Jan 2026

Follow Up Flag: Follow up
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Red Dot Letter – Agenda Item 6 – City Council Meeting - 6 Jan 2026

De Novo Hearing of an Appeal of the Planning Commission’s Denial of a Variance (V24-003)

Honorable Mayor Martinez and Councilmembers:

I live on San Dieguito Drive, just a few houses away from this project site on Oribia Road. I support approval of this variance application.

I’ve been listening to my neighbors in Crest Canyon and reading their Red Dot letters and I’ve been puzzled by their arguments against this variance application.

Some of the Red Dot letters refer to the proposed variance as being inconsistent with the Community Plan but without specifying what that inconsistency might be. If it is proximity to the Crest Canyon Open Space Park that they object to, then I don’t understand this argument. There are other homes in Crest Canyon that are equally close to the designated open space.

Some of my Crest Canyon neighbors say they love living so close to wild open space but they also say they don’t think this vacant lot should be developed because of its proximity to wild open space. I hear “pull up the drawbridge syndrome” when I listen to this logic. I don’t share their perspective. This is a legal, buildable vacant lot in one of the most desirable locations in San Diego County. The owners have a right to build a home on it. The size and shape of the home within the perimeter of the approved variance is a decision for the Design Review Board to make, hopefully with the thoughtful collaboration of the project site’s immediate neighbors.

Some neighbors seem to be focusing on the proposed development near the canyon as an unacceptable increase in risk to their lives and property. I don’t agree. According to the Fire Marshal report, the proposed development is so fire retardant that it will actually serve as a fire break. I think all of the residents of Del Mar should feel some relief knowing that the risk of wildfire spreading from the canyon will be reduced by this project.

This vacant lot off Oribia Road is strikingly similar to the developed lot at 1601 San Dieguito Drive. The approved setbacks from Crest Canyon Open Space Park and neighboring properties are almost identical to the requested variance. The size and shape of the developed lot is almost identical to the vacant lot. The only difference is this: the driveway which provides access to 1601 San Dieguito Drive is on the narrow side of the long, rectangular lot and the driveway that provides access to the project site is in the

middle of the widest side of the vacant lot. This should not be a reason to prevent development of this lot.

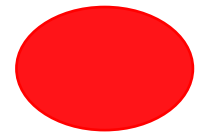
In 2001, I personally experienced the construction of a three-story home on a vacant lot next door to my home in La Jolla. The new home was going to block most of our view of the ocean. So, my husband and I collaborated with our neighbors next door to make sure their bamboo hedge would be trimmed to protect some of our ocean view. The key word here is collaboration. We recognized our neighbors' right to build a home on their vacant lot and we worked with them to minimize any potential reduction in the value of our own home. We knew when we bought our home four years earlier that the day might come when a new home would be built on that vacant lot. We enjoyed the full view for a few years and then enjoyed the modified view going forward. Our neighbors enjoyed raising their children in their newly constructed home.

I hope the outcome of this hearing tonight is that the Council follows the expert advice of City Staff and legal counsel and unanimously approves this variance application so that the project can move forward to the next stage of design review. I have full confidence that the Design Review Board will make sure any structures built within the approved building envelope will satisfy the many requirements wisely imposed by the City of Del Mar. And I hope all of the residents in Crest Canyon will work together to support a solution that allows the Westburgs to build a home on their vacant lot.

Finally, I would ask all of my neighbors in Crest Canyon to consider spending some of their time and energy fighting the extremely serious threat of a proposed double tracked train running along San Dieguito Drive and into a tunnel at the bottom of Crest Canyon Open Space Park. If anything would be sure to affect our quality of life in our quiet canyon, it would be this proposed route that SANDAG is studying right now.

Sincerely,

Amy Cheshire



Leslie Carrillo

From: Janet Wilson <janet@silverhook.com>
Sent: Sunday, January 4, 2026 7:31 AM
To: Tracy Martinez; Dan Quirk; John Spelich; Terry Gaasterland
Cc: City Clerk Mail Box
Subject: Re: Red Dot V24-003- De Novo Public Hearing

Follow Up Flag: Follow up
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I've corrected the name of the **San Dieguito** lagoon below.

From: Janet Wilson
Sent: Saturday, January 3, 2026 6:20 PM
To: Tracy Martinez <tmartinez@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>; Terry Gaasterland <tgaasterland@delmar.ca.us>
Cc: Sarah Krietor <cityclerk@delmar.ca.us>
Subject: Red Dot V24-003- De Novo Public Hearing

Dear Mayor Martinez and City Councilmembers,

I am writing to support the Planning Commission’s decision to deny Variance Application V24-003 and appreciate the opportunity to provide comments.

The sole purpose of this variance is to enable development on a substandard, nonconforming parcel that would otherwise be unbuildable.

CEQA must be applied when an approval could result in direct or indirect physical environmental effects. Class 5 exemptions are meant for truly minor variances on parcels that are already lawfully developable and that do not enable new development with foreseeable impacts.

The application materials show the construction of a large new house with a detached garage, which would only be possible if the setback variances are approved. While the variance itself does not physically alter the site, approving it would enable development that would otherwise be prohibited and would foreseeably result in physical changes to the site and its environmental conditions. For that reason, it is unclear why the Planning Department concluded that this variance is categorically exempt under CEQA Guidelines §15305(a) based on the claim that the project “*would not result in a change to the overall parcel or create a new parcel*” when it is the variance itself that would enable substantial changes to the parcel.

The appeal argues that the variance alone does not affect views, fire risk, or the environment. That misses the point. This discretionary variance removes a legal barrier to development and allows construction that would not otherwise occur, resulting in indirect physical environmental effects.

Because the variance is required to allow development, its approval enables the project's physical environmental effects and cannot be treated separately from them.

This parcel adjacent to Crest Canyon, a steep drainage corridor that flows directly into the San Dieguito Lagoon, a protected coastal wetland. The site is environmentally sensitive, and there is a reasonable possibility that the proposed project may result in significant environmental effects. These conditions trigger CEQA Guidelines §15300.2 exceptions, including unusual circumstances and sensitive environment exceptions, which preclude reliance on a categorical exemption.

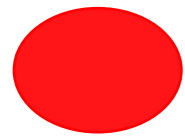
Recent fires, including the Eaton and Palisades fires, have shown how rapidly wildfire can race through canyon terrain and overwhelm entire neighborhoods, particularly where access is limited. Crest Canyon has these same characteristics. I sometimes walk my dogs through the canyon and along Oribia Road to San Dieguito Road, and it feels quiet, enclosed by steep slopes, and often extremely dry. Standing there, it is impossible not to think about how quickly fire could move through the canyon and how difficult evacuation would be. Granting this variance would enable construction on a parcel located within a Very High Fire Hazard Severity Zone that is served by a single access road. Approving this variance would contribute to cumulative wildfire and evacuation impacts by setting a precedent for similar development on other constrained canyon parcels.

This variance is also inconsistent with the City's General Plan and Community Plan, which emphasize protecting environmentally sensitive open space, limiting development in hazard-prone areas, and prioritizing public safety over private convenience. Crest Canyon has long been recognized as a constrained natural resource and wildfire corridor, and the City's adopted planning policies are intended to avoid intensifying development in areas where evacuation, emergency response, and environmental protection are already compromised.

In general, a variance should be granted only when it serves a clear public safety purpose, not when it is solely for private use and especially not when it increases risk to the general public.

I respectfully urge the City Council to uphold the Planning Commission's decision and deny the requested variance.

Janet Wilson
635 Hoska Dr.



Leslie Carrillo

From: mattfolkfamily@aol.com
Sent: Monday, January 5, 2026 9:39 AM
To: City Clerk Mail Box
Subject: In support of the proposed variance

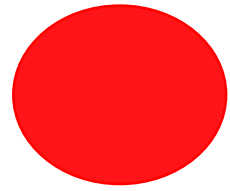
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To the Del Mar City Council:

I'm writing this letter in support of the proposed variance for construction on the vacant lot adjacent to 1439 Oribia Road. It would allow this legal lot to be developed in accordance with the Westburg's constitutional right to build. I am confident that the Design Review process will resolve issues pertaining to detailed structural size, placement and design. It would also help alleviate the housing shortage in our city.

Sincerely, Beth Mattfolk
717 Nob Ave.
Del Mar, CA 92014
(561) 866-6642



Via Email

To: Del Mar City Clerk
January 4, 2026

Re: A De Novo Public Hearing of an Appeal of the Planning Commission's Denial of
Variance V24-003

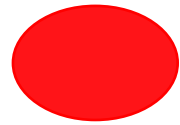
Dear Honorable Mayor Martinez and City Council Members:

There is an old saying: you can't have it both ways! The City Council approved undergrounding for this area as the highest priority based upon the appeal of the neighbors and now neighbors in this same geographic area want to increase the possibility of density and traffic. It seems incongruous that you can be concerned about congestion and fires and yet want to allow roughly a 50% increase in development in the same habitat.

The City Council's decision will be precedent setting. I urge you to deny the appeal.

Respectfully submitted,
Rose Ann Sharp

834 Crest Road
Del Mar, Ca. 92014



From: Laura DeMarco <laurastanleydemarco@yahoo.com>
Sent: Monday, January 5, 2026 11:12 AM
To: Karen Brindley <kbrindley@delmar.ca.us>; Ashley Jones <ajones@delmar.ca.us>
Subject: Fwd: Item 6: Approval of staff recommendation for Westburg variance

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Please send your copy to the city clerk who I forgot to copy.

Sent from my iPhone

Begin forwarded message:

From: Laura DeMarco <laurastanleydemarco@yahoo.com>
Date: January 5, 2026 at 11:09:11 AM PST
To: Tracy Martinez <tmartinez@delmar.ca.us>, John Spelich <jspelich@delmar.ca.us>, Terry Gaasterland <tgaasterland@delmar.ca.us>, Dan Quirk <dquirk@delmar.ca.us>
Cc: Ashley Jones <ajones@delmar.ca.us>, Karen Brindley <kbrindley@delmar.ca.us>
Subject: **Item 6: Approval of staff recommendation for Westburg variance**

Dear Council Members and Staff,

I support the Westburg project and the staff recommendation for approval of the variance, as a 38-year Del Mar resident on the rim of Crest Canyon that overlooks the Westburg's property, their neighborhood, and the San Dieguito Lagoon.

The staff report makes clear the legal imperative to approve the variance requested for the Westburg's vacant lot. Even more significantly, the proposed development provides the following public benefits to fire safety, the Lagoon, and Del Mar's state-mandated affordable housing requirement:

1) Provides direct access to brush-filled Crest Canyon open space for firefighters and water-pumping tankers on the new extended driveway to the lot. Fully loaded water tankers carrying thousands of gallons and weighing at least 10,000 pounds are only fully operational on roads and improved driveways that can support their weight. This remedies

a substantial deficiency in this residential neighborhood as no other driveway in this area provides direct, unobstructed access to the brush-filled Crest Canyon open space.

2) Creates staging area for front-line defense on Crest Canyon open space for firefighters armed with hoses from water tankers at ~75 psi water pressure that can deluge a fire within a 164 feet radius. This defensible space is increased by extending the 100 ft hose for a total water-reaching radius of 264 feet or 528 feet in diameter to cover a total area of over 218,000 square feet. This remedies the 300 foot gap in water dousing range between firefighters with tankers staged on Racetrack View Drive at the mouth of the Canyon and further up the Canyon on San Dieguito Drive.

3) Erects a fire resistant wall between the brush-filled canyon providing a needed firebreak between the the canyon's brush-filled open space and the surrounding neighborhood filled with older wooden houses that were not built to current stringent fire codes. This is especially important as the city's improved access to the Crest Canyon trail system brings more hikers and/or transients who could potentially ignite a fire similar to what happened twice in the nearby Torrey Pines Reserve and, most recently, the Palisades Fire disaster.

4) Builds the only new fire-resistant house in the neighborhood filled with very flammable older wooden homes. This also provides another needed firebreak which gives firefighters more time to stage and fight a wildfire fire in the canyon's open space and the neighborhood below to prevent it from racing uphill, where it burns hotter and faster up to the Crest Canyon rim, and potentially engulf the rest of Del Mar during high Santa Ana winds like the Laguna and Palisades wildfires.

5) Prevents contamination of the environmentally sensitive lagoon sited downhill from the property by remediating the leach field filled with effluent from human waste, bacteria, and other hazardous waste as disclosed by the adjacent neighbor at 1441 San Dieguito Drive. The neighbor's disclosure of this soil contamination from their septic tank's leach field on the Westburg's vacant lot raises serious environmental concerns and liability with the Coastal Commission and the San Dieguito River Park for the city of Del Mar. Notably, no other neighboring property uses leach fields in the area's sandy soil because it creates an environmental hazard by plugging up the lines causing untreated effluent to contaminate the top soil which runs off downstream in rain storms into the nearby San Dieguito Lagoon. The Westburgs would have never permitted their neighbor to put leach lines for his septic system on their vacant lot that their children and their friends (including my son!) played on. Thankfully, the Westburg's development will remove this ongoing environmental hazard that endangers the health and safety of the Westburg family, the Lagoon's wildlife, and those swimming in the ocean or sunning themselves on the beaches near the mouth of the Lagoon.

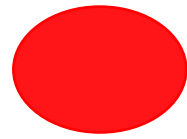
6) Provides a much needed deed-restricted affordable housing unit. This helps Del Mar comply with our Community Plan's 6th Cycle Housing Element which requires the city meet the state's RHNA (required housing needs assessment) objectives for more affordable housing. Del Mar's failure to meet its Housing Element will trigger "by-right" high-density, multi-story, large scale multi-family development throughout Del Mar.

In conclusion, the substantial public benefits to public safety, the environment, and

affordable housing as well as the legal issues cited in the staff report make imperative the city council's approval of the Westburg's variance.

Thanks for your consideration,

Laura



From: Peters, Paul <paul.peters@lpl.com>
Sent: Monday, January 5, 2026 11:16 AM
To: Tracy Martinez <tmartinez@delmar.ca.us>; TGaasterland@delmar.co.us; Dan Quirk <dquirk@delmar.ca.us>; Ashley Jones <ajones@delmar.ca.us>
Cc: Peters, Paul <paul.peters@lpl.com>; kleegeer@leegerarch.com
Subject: Agenda Item #6 Red Dot

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Re: Agenda Item #6

V24-003- De Novo Public Hearing of an Appeal of the Planning Commission's Denial of a Variance

Honorable Mayor, Members of the City Council, and City Manager,

I am writing to express concern regarding the increasing challenges faced by property owners who seek to exercise their lawful development rights.

After reading the staff report, **I agree with staff's recommendation of "granting a Variance to reduce front and rear setbacks (V24-003) required for the subject property".**

As an owner of a non-compliant building in Del Mar, I am horrified and deeply disturbed by the Planning Commission's denial based on neighbor's input. According to the report, the lot was certified as developable back in 2009, and without the variance for the setbacks, there is no way to comply with City building ordinances.

Sincerely Paul Martin Peters 120 10th Street Del Mar



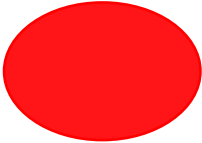
P. Martin Peters, CLU® RHU
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Office 858-755-0201 Fax 858-755-0203
www.financialplandesign.net
Main Offices 5520 Wellesley St., Suite 206
La Mesa CA 91942
619-668-8616 or Toll Free 888-933-8616

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Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:26 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Tracy Martinez; Dan Quirk; Ashley Jones
Subject: Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

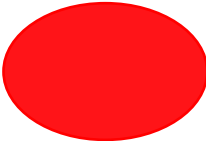
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Below is a schematic map of the homes in the crest canyon floor (San Dieguito Dr. and Oribia Rd), with a red mark on all those who signed a petition affirming their support of the Planning Commission's 4-1 decision denying the variance. Some of the unmarked homes belong to absent owners or were otherwise unreachable, and some were against the project but unwilling to take a public stand. In my 37 years living in this neighborhood I'm not aware of any one ever opposing a neighbor's improvement plan. The Westburg project is an exception.



wade walker
wadewalker555@gmail.com

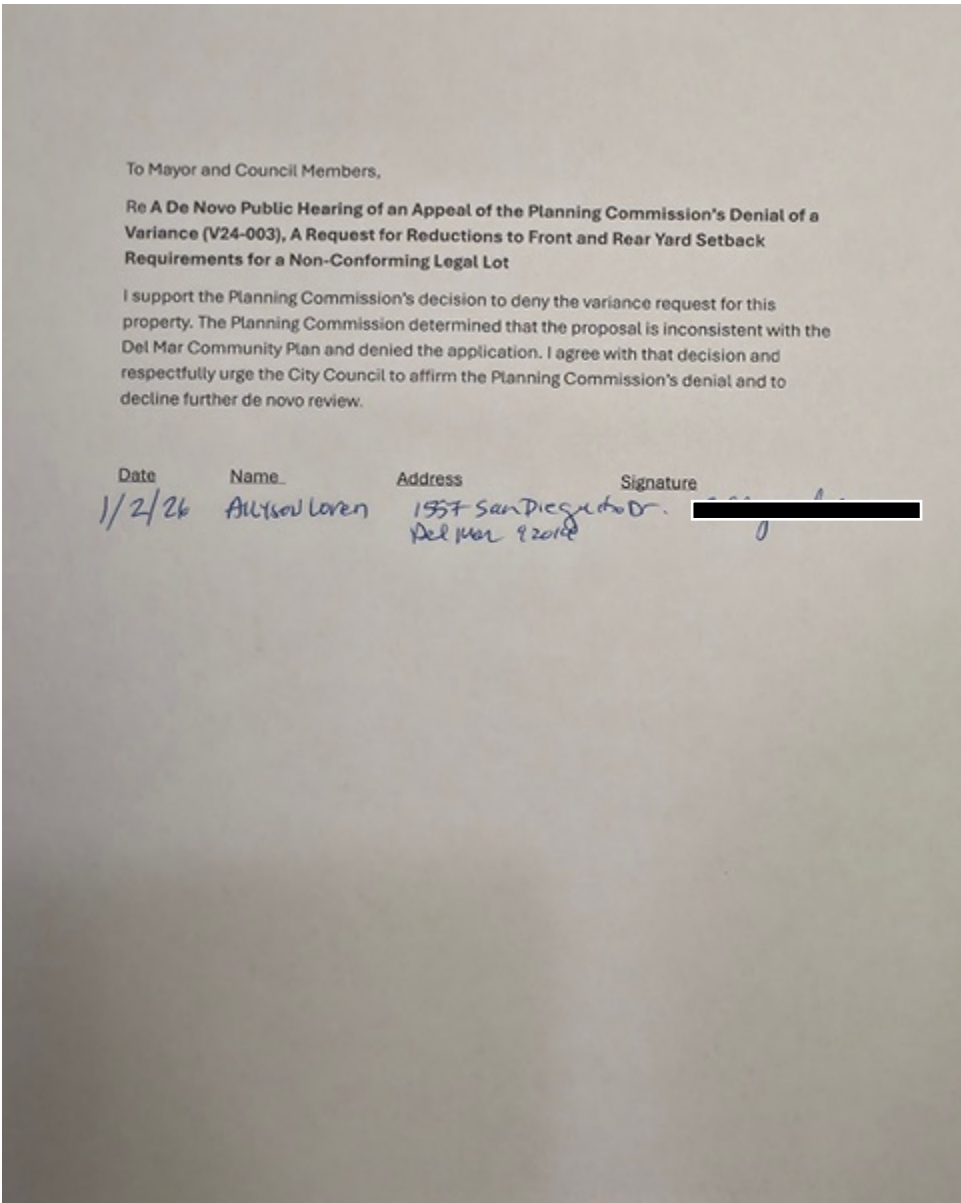


Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:26 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Tracy Martinez; Dan Quirk; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan

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To Mayor and Council Members,

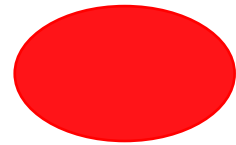
Re A De Novo Public Hearing of an Appeal of the Planning Commission's Denial of a Variance (V24-003), A Request for Reductions to Front and Rear Yard Setback Requirements for a Non-Conforming Legal Lot

I support the Planning Commission's decision to deny the variance request for this property. The Planning Commission determined that the proposal is inconsistent with the Del Mar Community Plan and denied the application. I agree with that decision and respectfully urge the City Council to affirm the Planning Commission's denial and to decline further de novo review.

Date	Name	Address	Signature
1/2/26	Alyson Loren	1557 San Diego Blvd Del Mar 92018	[Redacted]

wade walker
wadewalker555@gmail.com

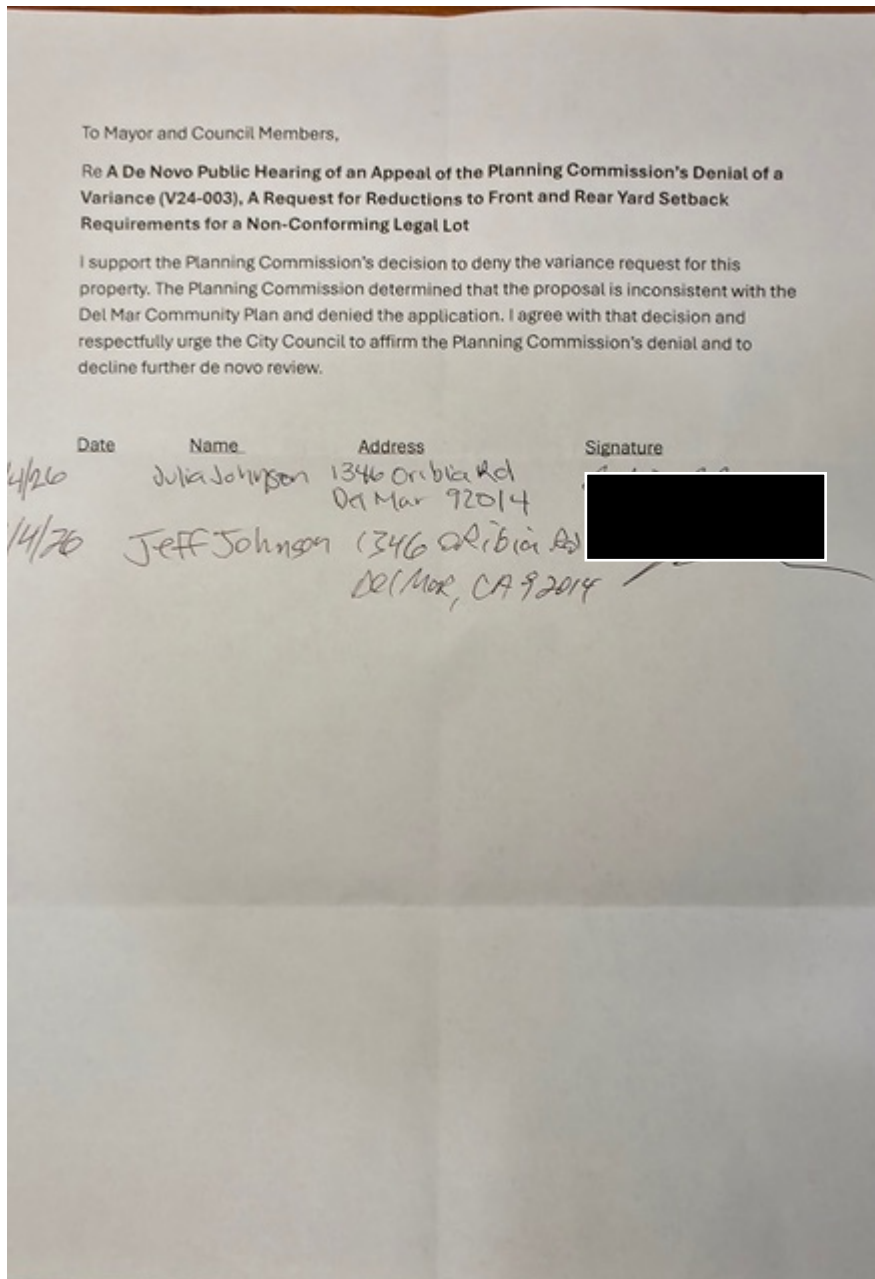
Leslie Carrillo



From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:27 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

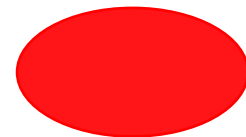
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wade walker
wadewalker555@gmail.com

Leslie Carrillo



From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:27 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting


Follow Up Flag: Follow up
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To Mayor and Council Members,

Re A De Novo Public Hearing of an Appeal of the Planning Commission's Denial of a Variance (V24-003), A Request for Reductions to Front and Rear Yard Setback Requirements for a Non-Conforming Legal Lot

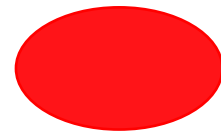
I support the Planning Commission's decision to deny the variance request for this property. The Planning Commission determined that the proposal is inconsistent with the Del Mar Community Plan and denied the application. I agree with that decision and respectfully urge the City Council to affirm the Planning Commission's denial and to decline further de novo review.

Date	Name	Address	Signature
1/7/25	Ann Garland	1535 San Diego Dr	

wade walker

wadewalker555@gmail.com

Leslie Carrillo



From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:27 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

Follow Up Flag: Follow up
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To Mayor and Council Members,

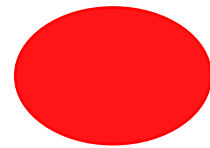
Re A De Novo Public Hearing of an Appeal of the Planning Commission's Denial of a Variance (V24-003), A Request for Reductions to Front and Rear Yard Setback Requirements for a Non-Conforming Legal Lot

I support the Planning Commission's decision to deny the variance request for this property. The Planning Commission determined that the proposal is inconsistent with the Del Mar Community Plan and denied the application. I agree with that decision and respectfully urge the City Council to affirm the Planning Commission's denial and to decline further de novo review.

12/30/25 eve dreyfus 1435 Onida Road [Redacted]
Date Name Address DEL MAR CA 92014 Signature

wade walker

wadewalker555@gmail.com



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:27 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

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DocuSign Envelope ID: 446D16D3-9B6D-44A8-9890-007CF750FDE9

To Mayor and Council Members,

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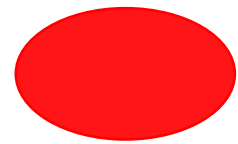
Date	Name	Address
1/3/2026	Majid Kharraf	1402 oribia road del mar CA 92014

Signature
 DocuSigned by:
 [Redacted Signature]
 836708a23042f...

wade walker

wadewalker555@gmail.com

Leslie Carrillo



From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:27 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

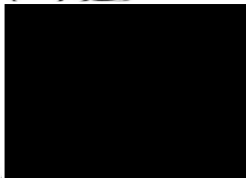
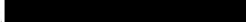
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Date	Name	Address	Signature
1/3/26	Wade Walker	1440 ORIBIA RD. Del Mar 92014	
1/3/25	Rebecca Walker	1440 ORIBIA RD. Del Mar, CA	

wade walker

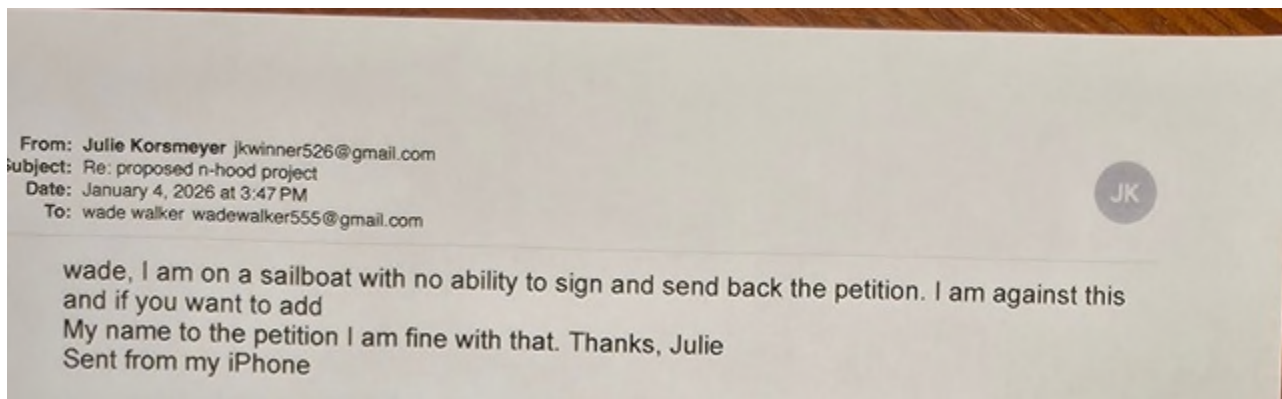
wadewalker555@gmail.com

Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan

Follow Up Flag: Follow up
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wade walker
wadewalker555@gmail.com

Leslie Carrillo



From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

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To Mayor and Council Members,

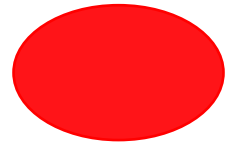
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Date	Name	Address	Signature
1-3-26	Doug Triffo	PO Box 893 Del Mar CA	

wade walker

wadewalker555@gmail.com



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

Follow Up Flag: Follow up
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To Mayor and Council Members,

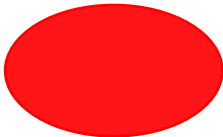
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Date	Name	Address	Signature
12/27/25	Barbara Stegman	1174 Dr. bio Rd	

wade walker

wadewalker555@gmail.com



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

Follow Up Flag: Follow up
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To Mayor and Council Members,

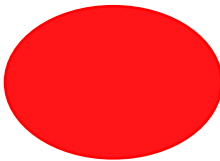
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Date	Name	Address	Signature
1/4/2026	Jeanette Marie Scott	1200 Orbis Road	

wade walker

wadewalker555@gmail.com



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

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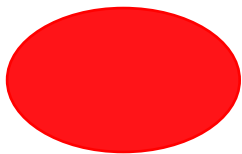
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Date	Name	Address	Signature
12/27/2025	Ann Williamson	1352 Oribia Road	
12/27/2025	Joe Williams	1352 Oribia Rd.	

wade walker

wadewalker555@gmail.com

Leslie Carrillo



From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting


Follow Up Flag: Follow up
Flag Status: Flagged

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To Mayor and Council Members,

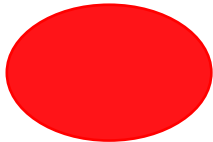
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Date	Name	Address	Signature
12/29/25	JOHN DEAKIN	1798 OLSBIA RD	

wade walker

wadewalker555@gmail.com



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

Follow Up Flag: Follow up
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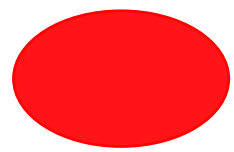
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Date	Name	Address	Signature
1/5/26	Kay Geiserman	1426 Orbica Rd	

wade walker

wadewalker555@gmail.com

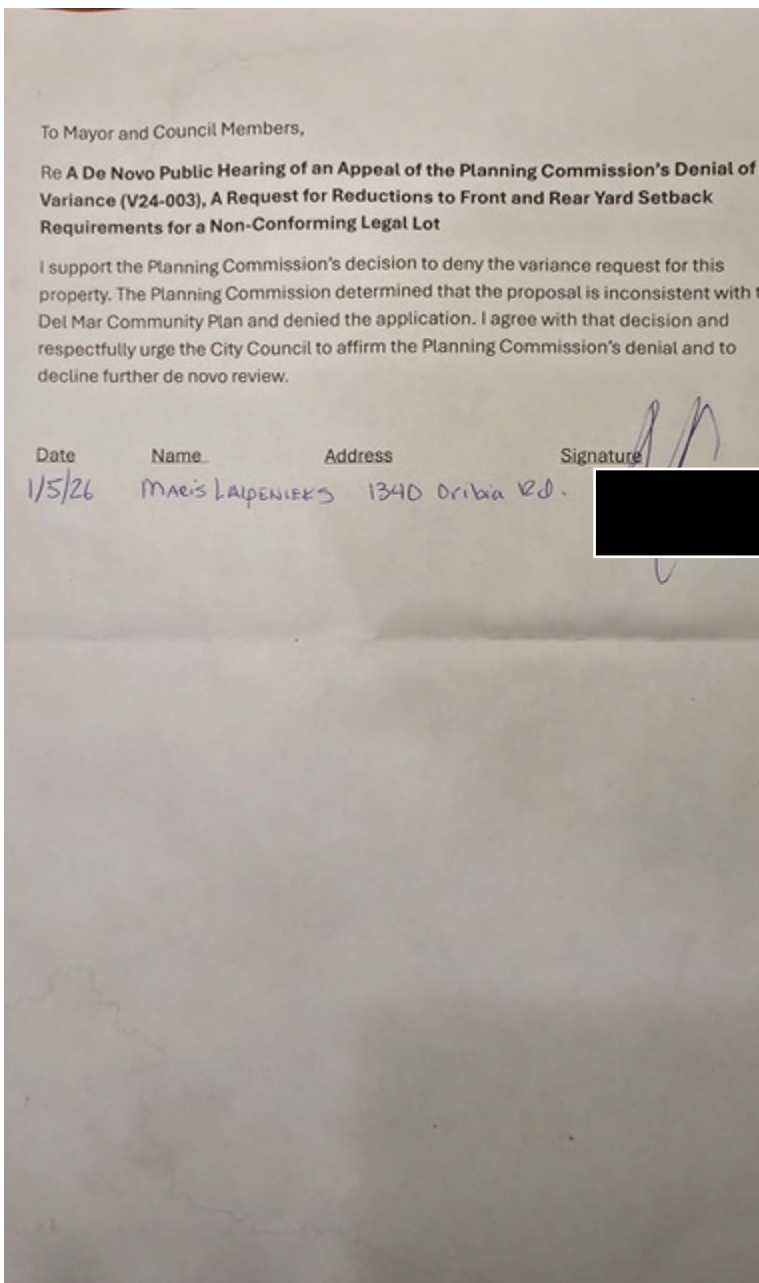
Leslie Carrillo



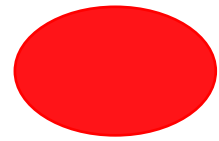
From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:43 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

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wade walker
wadewalker555@gmail.com



From: Steven McDowell <smcdowell4delmar@gmail.com>
Sent: Monday, January 5, 2026 1:38 PM
To: Dan Quirk <dquirk@delmar.ca.us>; Terry Gaasterland <tgaasterland@delmar.ca.us>; Tracy Martinez <tmartinez@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>
Cc: Karen Brindley <kbrindley@delmar.ca.us>; Ashley Jones <ajones@delmar.ca.us>
Subject: Red Dot Letter – Agenda Item 6 – City Council Meeting - 6 Jan 2026

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Honorable Mayor and City Council Members,

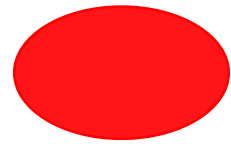
I support Westburg's request to build on their vacant lot and the staff's recommendation for approval of the variance that will help make that happen.

I share the concerns and views expressed by Laura DeMarco. The Westburgs have done the work over multiple years to get to where they are with the property they own.

They are part of our community. Please do not prevent them from taking the next step of working with their neighbors and through our DRB process to put something on their land.

Thank you,

Steven McDowell



-----Original Message-----

From: PAMELA SLATER-PRICE <pcslater@mac.com>

Sent: Monday, January 5, 2026 2:46 PM

To: Sarah Krietor <Skrietor@delmar.ca.us>

Subject: Red Dot Letter for agenda item 6

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.

> Mayor and Council,

>

> I am writing this letter to support granting the variances requested by Reid and Beth Westburg for their property on Oribia Road in the city of Del Mar.

>

> The staff report clearly lays out why the variances should be approved and recommends approval. The Westburgs have a legal parcel with a Certificate of compliance and have met all the necessary requirements for receiving the councils' approval. As noted, this is a de novo hearing and the project should be considered on its own merits.

>

> Should the council choose to deny the Westburgs their variance, the Westburgs could and likely will sue the city for a taking of their property value. Should they do so they will undoubtedly prevail and the city will then be liable for damages, all court costs and attorney fees. The city will also be obliged to approve these variances as requested.

>

> Additionally should the Westburgs decide to avail themselves of state law SB9, they will be able to use these regulations to plan their property and be subject only to ministerial review.

>

> I'm looking forward to see what the city council decides. Will they make the correct choice as recommended by their own staff and city attorney? I certainly hope so. It would be sad indeed to see our city council knowingly put the city at risk in a court of law for absolutely no reason.

>

> In closing, in the 24 years I served as mayor, council member and county supervisor I made many land use decisions. I learned that it was always best to avoid lawsuits that are unwinnable.

>

> Best regards,

> Pam Slater Price

> Del Mar

>

>



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:28 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

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To Mayor and Council Members,

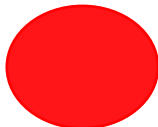
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Date	Name	Address	Signature
12/27/2025	Scott B. Wilson	1450 Orange Rd	

wade walker

wadewalker555@gmail.com



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:26 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; John Spelich; Dan Quirk; Tracy Martinez; Ashley Jones
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan. 4 Meeting

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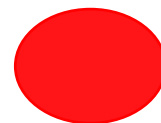
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Date	Name	Address	Signature
1/3/26	Eric + Susan CLARK	1441 San Dieguito Dr. DEL MAR	

wade walker
wadewalker555@gmail.com



Leslie Carrillo

From: becky beckywalkerinc.com <becky@beckywalkerinc.com>
Sent: Monday, January 5, 2026 3:35 PM
To: City Clerk Mail Box
Cc: Terry Gaasterland; Dan Quirk; Tracy Martinez; John Spelich
Subject: RED DOT: Opposition to Westburg Appeal - Item 6 January 4 meeting

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 Members, City Manager, and Staff,

My name is Becky Walker and I live at 1440 Oribia Rd, Del Mar. I am writing in full support of the Planning Commission's decision to deny a variance in a very sensitive environmental area in Crest Canyon. I attended the Planning Commission meeting in which the variance for the project was denied. I was very impressed with how seriously the committee members were taking this request. They each visited the site and had a good understanding of what was at stake here.

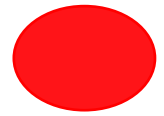
I am concerned about the significant increase in density and inconsistency with our Community Plan associated with the DeNovo Appeal. This increase in density represents an increase in fire risk in an already high fire risk area. Additionally, it is effectively rezoning by appeal since the Community Plan designates the R1-40 zone as a permanent, **low density** buffer to protect open space and preserved canyons, including Crest Canyon. The requested variances - up to 80% of required setbacks for the area - would nullify those controls and thin the canyon buffer that the Plan was designed to preserve. Granting this appeal could operate as a policy decision with broader implications for the area. It is these "broader implications for the area" that I believe our immediate neighbors are concerned with, but all of Del Mar should be watching, as granting this appeal could change the nature of the entire city of Del Mar and its protected areas.

It has been my understanding in all of the 39 years that we have lived in Del Mar that the Del Mar Community Plan is a binding law adopted by the community and reaffirmed throughout its nearly 50 year history. It has been the governance that makes Del Mar the desirable place it is today.

Thank you for considering my concerns for protecting Crest Canyon, our environmentally sensitive neighborhood, and the entire community of Del Mar.

All the best,

Becky Walker
1440 Oribia Rd.
Del Mar, CA 92014
becky@beckywalkerinc.com
(619) 884-6095



Leslie Carrillo

From: tate.scott@gmail.com
Sent: Monday, January 5, 2026 5:06 PM
To: City Clerk Mail Box
Cc: Tracy Martinez; Terry Gaasterland; John Spelich; Dan Quirk; Ashley Jones
Subject: RED DOT Opposition to Item 6 - An Appeal of Planning Commission Denial of Variance V24-003 (Westburg)
Attachments: PC Transcript.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

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 Council Members, City Manager, and Staff.

I submit this Comment, Memorandum and Transcript of the Nov 4, 2025 Planning Commission Meeting in opposition to the appeal of the Planning Commission’s denial of Variance Application V24-003 (APN 299-200-74-00) listed as Agenda Item 6 at the January 6, 2026 City Council meeting.

The Planning Commission’s 4–1 denial on November 4, 2025 was supported by substantial evidence and should be affirmed. The appeal understates—and in places mischaracterizes—the Commission’s actual basis for denial. The record^[1] (see attached Memorandum and Transcript) shows that this application was rejected not because of fixable design details, but because it was fundamentally inconsistent with the Del Mar Community Plan. Once that policy inconsistency was identified, the Commission understood that the required findings could not lawfully be made.

Community Plan Inconsistency Was the Gatekeeper Finding

The Del Mar Community Plan is binding law, adopted by the community and reaffirmed by successive Councils for nearly fifty years. It designates the R1-40 zone as a permanent, low-intensity buffer to protect open space and preserved canyons, including Crest Canyon. During deliberations, commissioners treated consistency with the Community Plan not as one factor among many, but as the threshold issue that governed the outcome.

Provision 6 of the Community Plan (Goal 3, Objective A, original page 57) was explicitly read into the record. That provision requires the City to maintain “sufficient controls” on irregularly shaped lots to prevent overcrowding, loss of privacy, and blockage of views. The Commission concluded that this 260-foot-long, 50-foot-deep remainder parcel is precisely the type of lot Provision 6 was written to regulate, and that the R1-40 setback standards are the mandated controls.

The requested reductions—up to 80 percent of required setbacks—would nullify those controls and thin the canyon buffer the Plan was designed to preserve. As one commissioner stated during deliberation, this was “a major variance” that would “change the whole complexion of that lot” and operate as a policy decision with broader implications for the area.

This parcel is not constrained by an unusual hardship; it is constrained by design. Its extreme geometry, lack of independent access, reliance on adjacent septic infrastructure, canyon adjacency, and inability to satisfy baseline R1-40 setbacks without extraordinary relief demonstrate that it was never capable of supporting independent residential development under adopted zoning standards. – including at the time of purchase. The Community Plan’s requirement for “sufficient controls” on irregular lots reflects that reality, anticipating that such remainder parcels would remain low-intensity buffers or be addressed through lot adjustment or merger, not transformed through policy-level variances. The magnitude of relief requested here is therefore not corrective but transformative, converting a structurally constrained parcel into a de facto buildable lot only by discarding the very controls the Plan requires—precisely why the Planning Commission concluded the defect was policy-based and not curable through redesign.

Importantly, the Commission made clear that further redesign or referral would not cure the problem. One of the most telling moments in the hearing was the acknowledgment that sending the project back—whether to the DRB or for iteration—would end in the same place, because the defect was policy-based, not design-based. The Commission therefore declined to make the findings staff proposed.

The Requested Variance Fails the Legal Standards

Under Government Code § 65906 and Del Mar Municipal Code § 30.74.010, a variance may be granted only to address a unique hardship and may not confer a special privilege or function as de facto rezoning. The record shows that this request fails those standards.

The Municipal Code already provides relief for substandard lots by allowing a residence of up to 2,000 square feet. This application seeks roughly a 50 percent increase beyond that baseline, resulting in an effective doubling of the zone’s typical intensity. The lot itself is approximately 67 percent smaller than the R1-40 minimum. Granting this level of relief would provide a special privilege not available to other properties in the same zone.

Moreover, any claimed hardship is self-imposed. The applicants own the adjacent parcel at 1439 Oribia Road and have existing legal options, including lot line adjustment, merger, **or sale of a portion of the lot to their neighbor**, to address the site constraints. **Choosing not to pursue those options does not convert the constraints into a qualifying hardship. With significant economically viable use available, a claim of takings law simply does not apply.**

Site Constraints Reinforce the Policy Conflict

The physical realities of the site reinforce the Commission’s conclusion. The lot is encumbered by long-standing neighboring septic leach lines that existing homes have relied upon for decades. This is not a mere technical complication; it is an existing legal encumbrance affecting property rights and land use expectations.

The site is also located within a Very High Fire Hazard Severity Zone and served by a single constrained evacuation route. Increasing density in this location directly implicates public safety concerns that the Community Plan was designed to minimize. The need for extraordinary fire mitigation measures—including a six-foot firewall and exterior sprinklers—underscores that this is not minor relief on a suitable site, but an attempt to force intensity onto land the Plan deliberately constrained.

The Environmental Record Is Vulnerable

The application relies on a Class 5 categorical exemption under CEQA Guideline § 15305, which is limited to minor alterations that do not result in changes to land use or density. This proposal increases residential intensity on a street with 14 existing homes by adding up to three new households, a material increase in unit count and building intensity.

Even if characterized as “minor,” the unusual circumstances exception in CEQA Guideline § 15300.2(c) applies. The narrow buildable area, proximity to a sensitive habitat preserve, septic encumbrances, flooding concerns, and heightened fire risk create a reasonable possibility of significant environmental effects. At minimum, these conditions render the environmental record fragile and expose the City to legal risk if the exemption is relied upon.

Conclusion

The Planning Commission understood that once Community Plan inconsistency was found, the law required denial. That is why the Commission declined to iterate the project or make the findings staff proposed. **The appeal now asks the Council to do what the Commission expressly refused to do: adopt findings that are not supported by the Commission’s deliberations or the evidentiary record.**

This is a gateway decision. Approval would not only erode the R1-40 canyon buffer along would signal that Community Plan constraints can be bypassed one appeal at a time.

I respectfully urge the Council to affirm the Planning Commission’s 4–1 denial and uphold the Community Plan as governing law.^[1]

Thank you for your consideration.

Respectfully,
Tate Scott

1200 Oribia Road
Del Mar, CA 92014

^[1] The attached memorandum and transcript of the Meeting addresses this and other inconsistencies.

- Leshar Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531 (Community Plan as supreme law).
- Gov. Code §65860 (Plan consistency required).
- Del Mar Community Plan, Provision 6 (Page 57).
- Gov. Code §65906 (No special privileges).
- Topanga Assn. v. County of Los Angeles (1974) 11 Cal.3d 506 (No sub rosa rezoning).
- CEQA Guidelines §15305 (No density change).
- CEQA Guidelines §15300.2(c) (Unusual circumstances exception).
- Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086 (Amplified impacts).]

MEMORANDUM

To: Del Mar City Council Members

From: Tate Scott

Date: December 30, 2025

Re: Discrepancy Between Planning Commission Meeting Record and Agenda Summary Regarding Basis for Denial of Variance V24-003 (Westburg)

Purpose

This memorandum compares the publicly available recording of the Del Mar Planning Commission meeting of November 4, 2025, with the staff report and draft minutes included in the January 6, 2026 City Council Agenda Packet (Item 6). A transcript derived from that recording is attached as a PDF for reference.

The purpose of this memorandum is to highlight a material discrepancy between what the Planning Commission actually decided—and why—and how that decision is characterized in the agenda materials now before Council. Specifically, the agenda packet understates the central and dispositive role that inconsistency with the Del Mar Community Plan played in the Commission’s 4-1 denial of the variance. The transcript demonstrates that Community Plan inconsistency was not one factor among many, but the gatekeeper finding that ended deliberation and compelled denial as a matter of policy and law.

This distinction matters because the Council is now being asked, in a de novo appeal, to adopt findings that the Planning Commission expressly declined to make.

Overview of the Commission’s Decision

Variance V24-003 concerned a request for substantial front, rear, and garage setback reductions on a vacant, irregularly shaped R1-40 lot adjacent to 1439 Oribia Road. Staff recommended approval based on special circumstances related to lot size and depth. After a full hearing and site visit, the Planning Commission denied the application by a 4-1 vote.

While the staff report and draft minutes list multiple concerns—public safety, environmental sensitivity, and the extent of the variance—the transcript reveals that the Commission treated inconsistency with the Community Plan as the controlling issue. Once that inconsistency was identified and discussed, the Commission understood that redesign, mitigation, or further process could not cure the defect. That understanding drove both the denial itself and the refusal to send the project back for further review.

Community Plan Inconsistency as the Gatekeeper Finding

The transcript shows repeated and explicit framing of the Community Plan as the governing policy framework that required denial. Commissioner Megan Spieker read directly from the Community Plan during deliberations, grounding the discussion in adopted policy rather than project design.

Del Mar Assistant City Attorney Hicks summarized the Commission’s reasoning as follows:

“The third thing that I’ve heard related to Megan’s reading of the community plan is the inconsistency with the community plan.” (~00:22:03)

This statement is significant not as a casual observation, but as a summary of the Commission’s decision logic. The Community Plan inconsistency was identified as the point at which deliberation stopped. Once that inconsistency was found, the Commission did not treat further iteration as legally available.

The agenda materials do not convey this sequencing. Instead, they present Community Plan inconsistency as one concern among several, without reflecting that it was the reason further analysis ceased.

Policy, Not Design: Rejection of Iteration or DRB Referral

One of the most telling moments in the transcript occurs when the Commission explicitly considers—and rejects—the idea of sending the application back for redesign or further review. Multiple commissioners stated that doing so would lead to the same outcome, because the problem was not architectural or technical, but policy-based.

The Chair proposed the choice directly: whether to send the project elsewhere for further work or to make a decision that evening. The Commission chose to decide, precisely because redesign could not resolve a core inconsistency with the Community Plan.

This discussion does not appear in any meaningful way in the agenda packet or draft minutes. Its omission is material, because it demonstrates that the Commission did not deny the project prematurely or for lack of refinement. It denied the project because it concluded that no lawful redesign could bring it into compliance with adopted policy.

Magnitude of the Variance as Evidence of Policy Conflict

The transcript also reflects that the Commission viewed the requested variances as extreme in light of Community Plan standards governing substandard and irregular lots.

One commissioner stated:

“My other concern is that, you know, what is appropriate for the way this lot is, because what’s being proposed, I think is just too much. That to me, when you look at the reasonableness of the variance being requested, it’s quite extreme.” (~00:22:28)

This assessment was not merely about scale. It was tied directly to the Commission’s conclusion that granting such reductions would nullify the “sufficient controls” required by the Community Plan to prevent overcrowding, loss of privacy, and blockage of views at the preserve edge. The agenda materials

note the extent of the variance, but do not link that extent back to the Plan’s policy mandate in the way the Commission did.

Community Plan Inconsistency as a Policy and Precedent Issue

Commissioners repeatedly framed the variance as a policy decision with implications beyond the single parcel.

One commissioner stated:

“In my mind, this is a major variance because you’re changing the whole complexion of that lot. And this is only one—there’s still four others. So it is a policy decision and it’s a policy decision that’s going to have an impact on that whole area.” (~00:17:06)

This reflects the Commission’s concern that approving the variance would establish a precedent affecting other similarly constrained lots along the canyon edge. That concern flows directly from the Community Plan’s role as a citywide policy document, not from discretionary project-level preferences.

Again, the agenda packet does not fully convey that the Commission viewed this as a gateway policy decision rather than a routine variance request.

Why the Discrepancy Matters for the Appeal

In a de novo appeal, the Council is entitled to weigh the evidence anew, but it must still make the required findings. The transcript demonstrates that the Planning Commission concluded it could not lawfully make findings of Community Plan consistency, absence of special privilege, or variance necessity. For that reason, it denied the application and declined to adopt the findings proposed by staff.

The agenda materials now before Council do not fully reflect that decisional posture. By flattening the Commission’s reasoning into a list of generalized concerns, the packet obscures the fact that the Commission expressly refused to make the very findings the Council is now being asked to adopt.

Conclusion

The transcript, attached as a PDF, shows that the Planning Commission’s denial of Variance V24-003 was driven by a clear, dispositive policy determination: the proposal was inconsistent with the Del Mar Community Plan, and that inconsistency could not be cured through redesign or further process. This conclusion ended deliberation and required denial.

The agenda packet and draft minutes understate this reality. Correctly understanding the Commission’s reasoning is essential to an informed and defensible decision on appeal, particularly where the Council is being asked to adopt findings the Commission expressly declined to make.

^[1] The attached memorandum and transcript of the Meeting addresses this and other inconsistencies.

Audio file

delmar-pcm-20251104_720_part_000.mp4

Transcript

00:01:07 Speaker 1

04 p.m.

00:01:10 Speaker 1

I can take a roll call, so if you're here, please state your name and that you're here.

00:01:16 Speaker 2

Mark Rittenbaum, present.

00:01:19 Speaker 3

Megan Speaker, present.

00:01:20 Speaker 2

Patrick Leonard, present.

00:01:22 Speaker 4

Jazz Grewal, present.

00:01:24 Speaker 1

Philip Posner, present.

00:01:26 Speaker 1

All five commissioners are here.

00:01:30 Speaker 1

The next order of business is approval of the minutes of the last meeting.

00:01:36 Speaker 1

Has anybody, or does anybody have any questions as to the meeting minutes?

00:01:45 Speaker 1

Any changes?

00:01:47 Speaker 1

Any, nothing.

00:01:50 Speaker 1

all right I have the meeting minutes in front of me and after I will sign them and give them back to the city okay next thing uh staff update well let's do approval of the minutes first yeah that would be good so.

00:02:06 Speaker 5

Um you have a motion to approve the minutes of August 12 2025 and a second.

00:02:12 Speaker 3

I will so move.

00:02:14 Speaker 1

Okay uh do I hear a second?

00:02:18 Speaker 4

Oh I'll make a second.

00:02:20 Speaker 1

Okay, all in favor.

00:02:23 Speaker 4

Aye.

00:02:23 Speaker 4

Aye.

00:02:24 Speaker 1

Aye.

00:02:24 Speaker 3

Aye.

00:02:25 Speaker 1

Vote is 5-0, approval of the minutes.

00:02:30 Speaker 1

Okay, now to move to the staff update.

00:02:34 Speaker 5

No updates for you this evening.

00:02:36 Speaker 1

Okay, then if I can ask questions, standard question, is there anything happening with any of the projects in Del Mar, Watermark or any others?

00:02:47 Speaker 5

Watermark is working towards completion of their building permits.

00:02:53 Speaker 5

The Hill soon project is coming along, probably still a few more months, you know, maybe into 2026 for completion of that on Camino del Mar and no news on across the street, 941 specifically.

00:03:12 Speaker 1

941, do we have any projected dates of,

00:03:16 Speaker 1

completion, start, or anything like that.

00:03:19 Speaker 5

Or.

00:03:20 Speaker 1

Any of the projects.

00:03:24 Speaker 5

Early next year for Watermark, mid-spring, is I think what we're shooting for.

00:03:32 Speaker 1

Sounds good.

00:03:33 Speaker 1

Thank you very much, Matt.

00:03:37 Speaker 1

Yep, please.

00:03:40 Speaker 2

City council met on tree scenic views and sunlight.

00:03:43 Speaker 5

Oh, of course, I do have an update.

00:03:45 Speaker 5

I just couldn't think of it.

00:03:48 Speaker 5

Thank you for reminding me.

00:03:51 Speaker 5

Yes, how could I forget?

00:03:52 Speaker 5

It was a mere-- Two hours.

00:03:56 Speaker 5

24 hours ago that Ralph and I were sitting here.

00:04:01 Speaker 5

So the tree scenic views and sunlight update

00:04:05 Speaker 5

an ordinance to do so, to amend, to repeal and replace chapter 23, 51 trees and sunlight and to amend portions related portions of 2350.

00:04:18 Speaker 5

The trees ordinance was introduced last night.

00:04:21 Speaker 5

It was the third try at introducing.

00:04:26 Speaker 5

So there were revisions.

00:04:29 Speaker 5

It was first introduced or given to the Planning Commission.

00:04:33 Speaker 5

I'm sorry, the City Council.

00:04:35 Speaker 5

after the planning commission with your recommendations on July 7th, revisions were requested.

00:04:45 Speaker 5

We went back with revisions on October 20th, additional revisions were requested.

00:04:51 Speaker 5

And then last night it was introduced with one more revision read into the record, but it is now set for the November 17th meeting for adoption.

00:05:04 Speaker 5

So adoption happening on the 17th, it'll become effective 30 days after that.

00:05:14 Speaker 1

Was the recommendation by the city council inclusive of their change of the definition of primary view?

00:05:25 Speaker 5

They did not change the definition of primary view that did get discussed, the change that was read into the record last night.

00:05:32 Speaker 5

was to not, it was basically to reinstate an existing section that allows for in conditioning.

00:05:43 Speaker 5

If you, if the planning commission or the city council on appeal feels that there's a need or a unique circumstance that would warrant a covenant and for the restorative action plan to

00:05:58 Speaker 5

be recorded in a covenant and run with the land that the ability would still be there to do that it wouldn't be a requirement we were originally proposing to remove that section it got it basically is um being left in and just relocated because of the reformatting of the ordinance.

00:06:18 Speaker 1

And was anything discussed uh where we had dropped uh

00:06:23 Speaker 1

the hedges and, you know, separate ordinance for the hedges.

00:06:26 Speaker 1

Was there anything?

00:06:28 Speaker 5

Yeah.

00:06:28 Speaker 5

So the on July 7th, five, five revisions were directed to staff.

00:06:38 Speaker 5

And the number one was disconnect the hedges from the tree scenic views process of the ordinance adoption process.

00:06:49 Speaker 5

Deal with it later.

00:06:51 Speaker 5

And there were four others that I'm not going to remember off the top of my head right now.

00:06:55 Speaker 1

Okay, thank you.

00:06:58 Speaker 1

Anybody else have any questions?

00:07:01 Speaker 1

Anybody want to discuss anything else that isn't on the agenda?

00:07:06 Speaker 1

Okay.

00:07:07 Speaker 1

With that then, does the public want to discuss anything that isn't on the agenda?

00:07:16 Speaker 1

All speak up at the same time.

00:07:18 Speaker 1

It's too loud.

00:07:19 Speaker 1

Okay.

00:07:19 Speaker 1

So there's nothing.

00:07:20 Speaker 1

Okay.

00:07:21 Speaker 1

I guess the overview of the current agenda item.

00:07:27 Speaker 5

One item for you on the agenda this evening.

00:07:30 Speaker 5

Item number one is B24003, which is a variance request for a vacant lot on Arribia Road adjacent to 1439 Arribia.

00:07:42 Speaker 5

obviously there are folks here to speak on that item tonight and we do have letters of objection so it's not eligible for your consent calendar and you'll be holding a public hearing.

00:07:55 Speaker 1

Okay um do you want to give us your overview of it um or?

00:08:04 Speaker 5

Elizabeth yes Elizabeth Yee um planner with the department uh is going to give you a presentation on the item.

00:08:10 Speaker 1

Great.

00:08:20 Speaker 5

That's not up.

00:08:20 Speaker 6

Okay.

00:08:22 Speaker 5

There we go.

00:08:24 Speaker 6

Perfect.

00:08:25 Speaker 6

So good evening, commissioners.

00:08:27 Speaker 6

I'm here to present the Westburg variance, V24-003, a vacant lot adjacent to and east of 1439 Arupia Road.

00:08:42 Speaker 6

So tonight's request is located on the parcel highlighted in the yellow.

00:08:46 Speaker 6

The zoning is R140, very low density residential.

00:08:50 Speaker 6

It currently has a overlay zone of bluff, slope and canyon.

00:08:54 Speaker 6

The parcel is, sorry, 13,070 square feet.

00:09:00 Speaker 6

It is currently vacant, undeveloped, and is accessed from a shared easement through 1439 Rivia Road.

00:09:08 Speaker 6

as shown right here and highlighted with address and it's labeled with Westburg.

00:09:16 Speaker 6

Surrounding development are single unit residential to the west, north and south, and then the Crest Canyon open space to the east.

00:09:30 Speaker 6

The variance request itself is requesting for a reduction to the R140

00:09:35 Speaker 6

zone setbacks for the front setback from 20 feet to 10 feet, and then a reduction of the rear setback from 25 feet to 10 feet, and a reduction of the rear setback for the garage only from the 25 to 5 feet.

00:09:54 Speaker 6

So today's review for the requests is for the variance to allow for modifications to the R140 zones setbacks for future structures.

00:10:05 Speaker 6

and determine the space in which the structure could be built in.

00:10:08 Speaker 6

So the envelope that any future house or garage can be built within.

00:10:15 Speaker 6

All other parts of the development, including the design, the shape of the house, the height, the color, privacy, views, and preservation of anything adjacent to it is done through the DRB.

00:10:27 Speaker 6

So if there's trees on site or any vegetation that would be kept, it would also be done through the DRB's review.

00:10:36 Speaker 6

So for this site, there is a certificate of compliance showing that the parcel is a legal lot and has an access easement that was recorded in 2009, along with that certificate of compliance under COC 07-02.

00:10:53 Speaker 6

It is a substandard sized lot of for an R140 zone.

00:10:58 Speaker 6

So where it would be normally required the 40,000 square feet,

00:11:03 Speaker 6

It only has the 13,070 square feet.

00:11:07 Speaker 6

And then it's also substandard in lot length.

00:11:10 Speaker 6

So where we would normally see a hundred feet as the lot depth, sorry, not long, lot length.

00:11:16 Speaker 6

There's actually only 50 feet of lot depth.

00:11:23 Speaker 6

So this does restrict the current property's ability to build the buildable envelope in blue as shown on the slide is

00:11:33 Speaker 6

what is allowed under current zoning allowances for an R-140 zone.

00:11:40 Speaker 6

So that would create approximately a five foot building buildable depth with the almost 240 feet length.

00:11:51 Speaker 6

The green shows what the variance request is actually for, and that reduces the setback for the front and the rear to 10 feet and five feet for specifically the garage structure.

00:12:03 Speaker 6

That would then create a 30 foot billable depth on the property.

00:12:08 Speaker 6

So this shows it again in a closer view along with what they're requesting exactly.

00:12:15 Speaker 6

So code again, front setback is 20, side setback is 10, and the rear setback is 25.

00:12:21 Speaker 6

The front yard setback request would be for all structures and it would be 10 feet.

00:12:25 Speaker 6

And then side setbacks would be looking at 20.

00:12:30 Speaker 6

to increase it.

00:12:31 Speaker 6

And then also a rear yard setback for the house is 10 feet and a rear yard setback for the garage only as five feet, which you can kind of see in the bump out that is right on that top part of this image directly adjacent to the city of San Diego's open space reserve.

00:12:53 Speaker 6

So in this image, I've overlaid the

00:12:57 Speaker 6

graphic of what the buildable envelope that they're requesting for by the applicant and the possible location of a future home.

00:13:07 Speaker 6

Again, the home itself isn't in part of this application for today's review, but this is what the applicant would be considering with the requests that they've asked for in the reduction of the setbacks itself.

00:13:29 Speaker 6

So for this project, it is exempted under CEQA's class five for minor alterations to land use limitations, specifically applied to parcels that are requesting for modifications to setbacks that don't result in a new parcel.

00:13:45 Speaker 6

So this parcel is, again, a legal lot, doesn't create any new parcels, and it's just for requesting for a modification of where those setbacks are located.

00:13:56 Speaker 6

As mentioned before, this current request for the variance doesn't include any development at this time.

00:14:04 Speaker 6

And then CEQA again will be looked at it again and considered for the DRB application when it does come through.

00:14:14 Speaker 6

So the findings for the variance requires that the site doesn't have

00:14:20 Speaker 6

It does have special circumstances.

00:14:22 Speaker 6

As you saw, the lot is quite long and wide at 260 square, 260 ft long and only 50 ft deep.

00:14:31 Speaker 6

And also, uh, with the request for the variance, they wouldn't be constituting a granting of special privileges on the property that would be beyond anyone else's situation in the area.

00:14:46 Speaker 6

Um, the variance

00:14:47 Speaker 6

would not let the site be developed in any other uses outside of an R 140.

00:14:52 Speaker 6

So it doesn't change the use itself.

00:14:54 Speaker 6

It just allows for something to actually be developed on site.

00:14:57 Speaker 6

And the variance could not be done with an alternative development plan is not self-induced.

00:15:05 Speaker 6

would not constitute as a rezone or an amendment to the existing code for the R-140 and would not legalize the maintenance of a public or private nuisance.

00:15:19 Speaker 6

So after the staff report was published, we received three letters of support and two letters of concern and opposition.

00:15:31 Speaker 6

So those letters

00:15:33 Speaker 6

did include a lot of talking points that were related more to the DRB's review than anything else, but I will mention a few.

00:15:42 Speaker 6

So that includes for support, the character of the neighborhood and privacy preservation.

00:15:47 Speaker 6

And then for letters of concern, it included character of the neighborhood as well, fire hazard possibilities and Crest Canyon preservation.

00:15:58 Speaker 6

As part of the review for this, we did require that the applicant provide us a fire protection plan for the site because it is so close to an open space.

00:16:07 Speaker 6

And it was approved after review by the fire marshal.

00:16:13 Speaker 6

So the conclusion and staff recommendation for planning commission is to approve the

00:16:21 Speaker 6

Variance 24-003 with the required setback reductions with the CEQA categorical exemption class 5 and adopt resolution, the draft resolution as it is included as exhibit F in the staff report.

00:16:37 Speaker 6

That concludes my presentation.

00:16:41 Speaker 1

Thank you very much, Elizabeth.

00:16:43 Speaker 1

Does anybody have any questions of Elizabeth?

00:16:48 Speaker 5

You know, I've just got a note really quick, just for a quick housekeeping.

00:16:54 Speaker 5

Mark, I think your mic is having some problems.

00:16:57 Speaker 5

At least they're realizing that in the back room.

00:16:59 Speaker 5

And they suggested moving you over next to Philip.

00:17:21 Speaker 2

This is like deja vu all over again.

00:17:24 Speaker 1

Yeah.

00:17:36 Speaker 1

Okay, any questions about the presentation?

00:17:43 Speaker 1

Okay, please.

00:17:44 Speaker 4

I do have two quick questions.

00:17:47 Speaker 4

When was this home purchased by the existing owners?

00:17:53 Speaker 4

Do we know?

00:17:54 Speaker 5

That may be a question you'd like to ask the owners.

00:17:56 Speaker 5

I don't have that information.

00:17:59 Speaker 4

And when was, do we know when the lot was created?

00:18:03 Speaker 5

When was the lot created?

00:18:05 Speaker 4

Yes.

00:18:07 Speaker 5

The lots, when we were researching for the repaving of San Digito Road, the lot, we researched the subdivision maps to kind of figure out what was going on in that area.

00:18:21 Speaker 5

We're not really sure when these little remainder lots were created.

00:18:26 Speaker 5

We do know that they've gone through the certificate of compliance process.

00:18:34 Speaker 5

They've been deemed to be legal by the city.

00:18:36 Speaker 5

But when they were actually created as kind of a-- it's a very difficult record.

00:18:42 Speaker 4

OK, thank you.

00:18:45 Speaker 1

I have a question about the fire protection plan and the review by the fire marshal.

00:18:52 Speaker 1

The review that he did of the fire protection plan was that at the end of the process, so all of the proposed structures were in place at that time, on paper, obviously, not built.

00:19:06 Speaker 5

So the fire protection plan, as you've seen as in your staff report, it does have a conceptual plan, which has not, you know, it's only gone through Citizens Participation Program, hasn't gone through the DRB.

00:19:19 Speaker 5

What he was looking at was for reduce, you know, for the purpose of the variance, because he'll have to look at a design concept and then a building permit to have to look at it again.

00:19:32 Speaker 5

But what he was looking at for the variance is,

00:19:35 Speaker 5

the concept of buildings being that close to the property line and close to the the canyon and what fire mitigations would be in place and and essentially would there need to be additional mitigation such as a taller firewall along the canyon that would possibly need a variance so that's why we had to make sure that he went through it conditionally approved it so that we knew there wouldn't be any other variances needed

00:20:03 Speaker 5

in order for you, you know, before being, you know, before being in front of you, what we learned was originally there was a thought that a seven foot firewall along the canyon would be necessary.

00:20:20 Speaker 5

But once, once the applicants

00:20:24 Speaker 5

fire protection professional had uh redone the report and it was reviewed by the by the fire marshal it was determined that enough other mitigations were in place that that that variance wouldn't be necessary so that's that's the review for fire in this particular case it's really to determine whether or not buildings could be uh buildings could be approved with

00:20:52 Speaker 5

the setbacks that are being asked for.

00:20:54 Speaker 5

It wouldn't have to be any further.

00:20:56 Speaker 5

And so that was the nature of the fire protection plan at this point in the development process.

00:21:03 Speaker 1

And did the fire marshal actually visit the site or was this just done by plans?

00:21:13 Speaker 5

Sounds like he visited the site.

00:21:15 Speaker 1

Okay.

00:21:16 Speaker 1

Thank you.

00:21:17 Speaker 1

Any other questions?

00:21:21 Speaker 1

Sure.

00:21:22 Speaker 2

You referenced approvals that such as CEQA may be, I think the words were used, may be considered.

00:21:33 Speaker 2

So going back to kind of approvals or third sets of eyes that have looked at this to this point,

00:21:43 Speaker 2

Has this gone through any review, either by the Coastal Commission or by the lagoon, anything related to the lagoons, or is that required?

00:21:53 Speaker 2

And when it gets to DRB, what kind of approvals or requirements related to concerns expressed about either environmental or other concerns?

00:22:09 Speaker 2

What latitude, if any, does

00:22:12 Speaker 2

did DRB have in that process?

00:22:16 Speaker 5

Okay, so to go back to your original question about Coastal Commission, so where we're at in the process at this point is asking for a variance.

00:22:29 Speaker 5

Variance, as noted by Elizabeth, is basically categorically exempt from the SECO guidelines based on what the action is.

00:22:42 Speaker 5

When we have an actual development project and we know what the project is going to look like, it has not been submitted to the city yet.

00:22:50 Speaker 5

This is just trying to create the box that a potential development could go into.

00:22:57 Speaker 5

Once we get that, we'll have to go back to the CEQA guidelines and determine whether or not additional study will be necessary to either

00:23:09 Speaker 5

We, we do an, we to figure out if it can be exempted again or there need to be a negative declaration adopted or mitigated negative declaration or an environmental impact report.

00:23:25 Speaker 5

If, if so, if it needed, if it needed to go that far.

00:23:31 Speaker 5

The city has a local coaster program.

00:23:35 Speaker 5

That local coastal program gives the city issuing authority for coastal development permits.

00:23:44 Speaker 5

You work with the city to go through and get the permits and then it's reported to the to the Coastal Commission.

00:23:50 Speaker 5

This isn't the appealable area.

00:23:52 Speaker 5

So that's when the Coastal Commission would be involved.

00:23:56 Speaker 5

They would.

00:23:58 Speaker 5

They.

00:23:59 Speaker 5

put forward the reviewing authority to the city first.

00:24:03 Speaker 5

They don't really get involved in the process until it's been approved or denied by the city, and then it's appealable to them.

00:24:11 Speaker 5

So the process would be if there is a variance granted, they would move on to the next step.

00:24:20 Speaker 5

And that is, you know, the variance-- if a variance is granted, it sets the buildable area.

00:24:29 Speaker 5

Then they move on to submitting for their design review.

00:24:31 Speaker 5

They've already gone through their CPP process.

00:24:35 Speaker 5

If they go forward with what they presented at CPP and CPP 2, we know what that's going to look like.

00:24:44 Speaker 5

The design review board determines whether or not it's consistent with the design review ordinance and makes a decision.

00:24:52 Speaker 5

Once that happens, I can tell you they're going to need design review permit.

00:24:58 Speaker 5

they're going to need a coastal development permit and based on if they what their CPP showed they're going to need a land conservation permit for the grading the coastal development everything's going to be appealable to the city council and the coastal development permit once the local appeal periods are over and those administrative remedies are over it's appealable to the coastal commission so that's the timeline and the process.

00:25:29 Speaker 2

Thank you.

00:25:30 Speaker 2

And then looking at the map of the street, is there -- because this is an unusual lot, lot size and lot configuration.

00:25:40 Speaker 2

Are there others?

00:25:40 Speaker 2

It's a little hard for me to ascertain whether there are indeed other similar lots on Ariba going further down the street, or is this the only one like this?

00:25:53 Speaker 2

That's kind of like, can we expect to see this again?

00:25:56 Speaker 5

So to the north, there are two similar lots that are not as long.

00:26:01 Speaker 5

This is probably, I would say that this is twice the length of two other lots that are located behind properties that are situated on San Diego Drive.

00:26:11 Speaker 5

There's exhibit A in the staff report that shows that to the north or to the

00:26:22 Speaker 5

to the top of the page from the project site, there are two similar, you know, remainder type lots that are located directly behind properties.

00:26:33 Speaker 5

This one's unusual in that it's double the length of those.

00:26:38 Speaker 5

And so it goes behind two properties.

00:26:41 Speaker 5

It just so happens that the applicants own it and it's behind their property and it's behind their neighbor's property.

00:26:49 Speaker 2

Then the last question is just to confirm again, what we're contemplating is whether to grant these changes to the buildable space.

00:27:02 Speaker 2

We're not at all getting involved in, if it will, you know, if it will be built, where it will be built, any that we're talking about, what we talked about earlier, we're talking about the box.

00:27:18 Speaker 2

of what would be permitted buildable space.

00:27:21 Speaker 5

Yes.

00:27:22 Speaker 5

As Elizabeth explained, the design issues are the purview of the design review board.

00:27:29 Speaker 5

Your job is to determine whether or not the findings could be made.

00:27:35 Speaker 5

There's been proposed findings in the staff report and in the draft resolution is to determine whether or not the request

00:27:46 Speaker 5

The findings can support the request and that there's enough unique circumstances here for what the applicant is asking for.

00:27:57 Speaker 2

Thank you.

00:27:59 Speaker 1

Any other questions of staff?

00:28:03 Speaker 3

I may have more questions, but is it an option to hear public testimony first and then will we still have an opportunity during our discussion to ask follow-up questions if necessary?

00:28:14 Speaker 5

Before the public hearing is closed, yes.

00:28:17 Speaker 3

Okay, great.

00:28:18 Speaker 3

Then I'll hold my questions for now.

00:28:19 Speaker 3

Thanks.

00:28:22 Speaker 1

Anybody else questions?

00:28:24 Speaker 1

Okay, then if we could start with disclosures.

00:28:29 Speaker 1

Commissioner Speaker, if you can start.

00:28:32 Speaker 3

My disclosures are as follows.

00:28:34 Speaker 3

I read the materials.

00:28:36 Speaker 3

I walked by the property yesterday.

00:28:38 Speaker 3

I met with

00:28:41 Speaker 3

Matt Bator and Ralph Hicks, thank you and Chair Posner yesterday for our Planning Commission briefing.

00:28:49 Speaker 3

I spoke with Chair Posner yesterday after the Planning Commission briefing.

00:28:54 Speaker 3

And then earlier today, thank you, I met with Bob Scott and Reed Westberg at the property.

00:29:00 Speaker 3

And those are my disclosures.

00:29:05 Speaker 2

Patrick Leonard, I read all the materials.

00:29:07 Speaker 2

I read all of the six red dots I think we received today.

00:29:12 Speaker 2

I met with staff yesterday and I walked around the property on Friday and I've discussed it with none of the other council members.

00:29:23 Speaker 4

Okay, Jazz Graywall.

00:29:24 Speaker 4

I've read all the materials.

00:29:26 Speaker 4

I've read the red dots.

00:29:28 Speaker 4

Had a briefing with Matt and Ralph yesterday.

00:29:32 Speaker 4

I drove the area, I actually hiked up on that Crest Canyon trail that runs behind all of those lots, including this one.

00:29:43 Speaker 4

And I have not talked to anybody else.

00:29:48 Speaker 1

Thank you.

00:29:50 Speaker 1

I, Commissioner Posner, I spoke and met with Matt Batur, and I met with Matt Batur, Council and Commissioner Speaker yesterday.

00:30:01 Speaker 1

I spoke with Elizabeth Yee on the phone today.

00:30:05 Speaker 1

I also spoke with Commissioner Speaker

Audio file

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Transcript

00:00:00 Speaker 1

after the meeting with the city yesterday and we spoke a little before the meeting tonight.

00:00:07 Speaker 1

I met, I went to the property on Saturday and I met with Reid Westberg, Kit Lieger and Bob Scott and we walked the property.

00:00:16 Speaker 1

We looked at what was being proposed.

00:00:19 Speaker 1

I've read all the materials and I've done a little separate research on my own as well as read all the red dots today.

00:00:30 Speaker 1

Good.

00:00:31 Speaker 2

Mark Rittenbaum.

00:00:32 Speaker 2

I've read the materials and the red dots.

00:00:35 Speaker 2

I also attended a briefing yesterday with staff and Patrick Leonard.

00:00:43 Speaker 2

I visited the property and had a walkthrough of the property.

00:00:48 Speaker 2

And the only other thing is to note that I do know

00:00:56 Speaker 2

the applicant through coalitions for safer trains so.

00:01:02 Speaker 1

Thank you all for the disclosures if there's nothing else I'd like to open the public hearing and call up our first speaker.

00:01:13 Speaker 3

Actually you want the applicants to be able to give their presentation.

00:01:16 Speaker 1

I got it the other way around on my notes no no the applicant's presentation always goes first.

00:01:28 Speaker 4

Hello and good evening, honorable chair and members of the Planning Commission and staff.

00:01:32 Speaker 4

My name is Bob Scott, RGS Planning and Sustainability.

00:01:36 Speaker 4

Thank you so much.

00:01:38 Speaker 4

At 1110 Camino Del Mar.

00:01:41 Speaker 4

I'm here with Reed and Beth Westberg, the owners and applicants, and with Kit Lieger, their architects.

00:01:47 Speaker 4

So if you have any questions, feel free and we're happy to answer it.

00:01:53 Speaker 4

I'd like to just create a little bit of context and to answer a question that the Westburgs have owned the property since about, I think you said July 1999.

00:02:07 Speaker 4

And prior to that, the previous owner had owned the property since, I think, 1964.

00:02:13 Speaker 4

And in both instances, the purchase involved

00:02:18 Speaker 4

The acquisition of both lots, the house that they live in at 1439, as well as this lot in the back that's subject to the variance.

00:02:28 Speaker 4

Going back in a little more recent history, this started in about 2007, where the question of kind of redeveloping this lot came into place.

00:02:39 Speaker 4

And in 2009,

00:02:42 Speaker 4

after a thorough review by the city engineer of all the past deeds and title transfers and so forth, they deemed that lot as a legal lot.

00:02:53 Speaker 4

That is that certificate of compliance.

00:02:55 Speaker 4

That's the intent behind that process is to look and say, yes, is this a legal buildable lot?

00:03:04 Speaker 4

And in 2009, that was affirmed.

00:03:09 Speaker 4

in terms of the lot itself.

00:03:11 Speaker 4

And I have some graphics to share.

00:03:14 Speaker 4

It's as you well know, that's a particular area in as much as it's in the R-140 zone, which stipulates a 40,000 square foot minimum lot size.

00:03:26 Speaker 4

A lot most of those lots in that row coming up from San Diego Road are more in the plus 10,000 less than 15,000.

00:03:36 Speaker 4

So this lot is simultaneously substandard to the R140, 40,000 square foot, but kind of comparable to the lots that are within the immediate area.

00:03:47 Speaker 4

The big piece is that given the orientation of the lot, the front yard setback is taken off that access easement and the lot's only 50 feet

00:04:04 Speaker 4

deep so when you apply a 20 foot on the front and a 25 foot in the back um you're left with just this little 5 foot sliver swath of land that that um is allowed under the um the the r140 so here's a an image of the lot um that is the swath that you can see there that thin blue line um just to orient you to this um

00:04:33 Speaker 4

See, it's so confusing that that's kind of part San Diego Drive and then turns into Arribia.

00:04:41 Speaker 4

On to the left, you see the access easement that's 20 feet that then goes on to the lot in question.

00:04:50 Speaker 4

Some other notable pieces, it's 50 feet deep, as we talked about.

00:04:54 Speaker 4

It's about 260 feet.

00:04:56 Speaker 4

excuse me, 260 feet wide, but then it drops.

00:05:01 Speaker 4

There's an elevation drop from Oribia to the lot itself.

00:05:06 Speaker 4

And then another drop, you can see some lines that bisect the lot that drop down like another four feet down the lot.

00:05:17 Speaker 4

This is our proposal, is to, in effect,

00:05:22 Speaker 4

realign the the the setbacks as if the the the lot was oriented on the long access axis.

00:05:33 Speaker 4

So off the access easement, we're requesting a ten foot easement off the the the rear side or the east side is a ten foot setback with a five foot setback for the garage that I can explain why a few slides from now.

00:05:50 Speaker 4

and then 20 feet on on on the long ends on to the north and south so the project design Kit Lieger is here if you want to have any specific questions about the design but I just want to share that a lot of the design is driven by the location of the of the driveway meaning you're dropping down an elevation down that access easement from Arubia and then we need a garage

00:06:18 Speaker 4

that is accessible from the easement, but then has adequate turnaround.

00:06:24 Speaker 4

So general traffic engineering suggests that you want a 24-foot backup area to be able to circle a car around and be able to drive that so the car can exit the property in a forward fashion instead of having to back up all the way out that access easement and under Arribia.

00:06:41 Speaker 4

So for safety purposes, that is why that

00:06:47 Speaker 4

that garage is pushed with the five foot setback to allow for the 24 foot turnaround area.

00:06:55 Speaker 4

And then you can see that garage and then the lot drops down to the north and then the house is on the northern portion of the lot.

00:07:05 Speaker 4

I think this next slide then shows it kind of more realistically from a

00:07:11 Speaker 4

aerial photography perspective.

00:07:14 Speaker 4

And if you overlay the garage in the house, it represents that property, again, in that, in not the macro R140, but in the micro, you know, Arribia Road, that the house is intended to be every bit consistent with the size, the height, the scale of the properties in the immediate area.

00:07:39 Speaker 4

No DRB.

00:07:41 Speaker 4

permit has been filed for yet.

00:07:45 Speaker 4

When it is, it's going to come under full scrutiny of the DRB.

00:07:49 Speaker 4

One of the conditions of the DRB is limiting the height or recommending that the height be no more than 14 feet.

00:07:57 Speaker 4

And that's the intention with the future project that it's going to be recessed down on the lot and at no point exceed 14 feet in height.

00:08:10 Speaker 4

So this is precedence is not really the right word, but one of your findings deals with privilege.

00:08:16 Speaker 4

Are you granting something that hasn't been granted to other people in the neighborhood?

00:08:22 Speaker 4

And there was there is kind of 1 clear example to Commissioner Rittenbaum's question.

00:08:30 Speaker 4

There is a lot

00:08:32 Speaker 4

You can see our lot toward the bottom of that slide.

00:08:35 Speaker 4

And toward the top is a property that has been developed.

00:08:39 Speaker 4

It's 1601 San Guito Drive.

00:08:43 Speaker 4

In basically the same configuration, one of those 50 by 100 foot lots.

00:08:48 Speaker 4

It's got a little more lot area to the west side.

00:08:52 Speaker 4

But that has been developed with a property

00:08:56 Speaker 4

that looks like this.

00:08:58 Speaker 4

Now, today I went back because the question came up in terms of, well, have there been other variances granted in the neighborhood?

00:09:08 Speaker 4

And this project in 1988 was granted a variance to, keep in mind the orientation where this is the front off of San Digito Drive, it was granted a variance in that case in the side yard.

00:09:24 Speaker 4

So

00:09:25 Speaker 4

It was granted up being as close as five feet to the east side.

00:09:30 Speaker 4

So a budding Crest Canyon, a five foot setback there, and then another setback encroachment on the east side.

00:09:36 Speaker 4

I could look at my notes for the details.

00:09:39 Speaker 4

Additionally, this project was granted a floor area variance.

00:09:44 Speaker 4

R140 zone allows 12.5% FAR.

00:09:48 Speaker 4

This was granted an FAR of 21%.

00:09:55 Speaker 4

The height of this house is 22 feet, where the distinction will be, whereas this is 22 feet, our design will be no more than 14 feet.

00:10:09 Speaker 4

So in summary, the Westburg lot is a legal buildable lot.

00:10:16 Speaker 4

Even though it's substandard to the R-140, the lot is compatible with adjacent properties.

00:10:21 Speaker 4

The key piece is it's substandard to the depth that leaves only this little remnant five foot swath in order to build a home.

00:10:33 Speaker 4

Therefore, the substandard lot size, the shape, the depth, and the property location with that access easement all create special circumstances worthy of granting the variance.

00:10:45 Speaker 4

As I mentioned about at least that one other property, it would not grant us special privilege because other properties have been afforded similar variances.

00:10:54 Speaker 4

I failed to mention that in my research today, I found six or seven variances just on that block.

00:11:03 Speaker 4

Because of the limited time, I couldn't pull the details, so I can -- I have some of the information, some of the variances were approved, some of them were denied.

00:11:14 Speaker 4

Maybe one or two were denied, but they're granted one for not creating the minimum lot size, several for setbacks, some for floor area ratio.

00:11:24 Speaker 4

So there are, like I say, a magnitude of at least a handful that have been granted on that little stretch of Sandy Guido.

00:11:37 Speaker 4

With that five foot swath, there's really no other reasonable development plan that could be offered to have a five foot wide home.

00:11:45 Speaker 4

And so with all this, with 13 seconds remaining on the clock, I can answer any questions and ask that you affirm the planning department's recommendation and approve the request.

00:12:08 Speaker 5

Thank you, Bob.

00:12:09 Speaker 5

And I wish the process afforded time for more information on those other variances.

00:12:17 Speaker 5

Question about the request, the application in terms of the requested floor area ratio.

00:12:27 Speaker 5

Well, a couple of questions.

00:12:28 Speaker 5

What is the square foot of

00:12:32 Speaker 5

I guess I'd be curious, both the applicant's property and the Clark's property.

00:12:37 Speaker 5

Do you know?

00:12:40 Speaker 4

Of the...

00:12:49 Speaker 5

So I see for the lot size, I'm asking for the house.

00:12:54 Speaker 5

The house or the lot?

00:12:56 Speaker 5

The house.

00:13:00 Speaker 5

And I'd be curious, again, I'm trying to get a sense for the community and what's typical for the community.

00:13:07 Speaker 5

What's the floor area ratio for the Westburg's house, for the Clark's house, and the requested floor area ratio for the reversion lot?

00:13:19 Speaker 4

So the, Kit will need to help me with the proposal.

00:13:25 Speaker 4

So the R-140 grants a 2,000 square foot home.

00:13:30 Speaker 4

So it's basically a 1,500 square foot home plus a, or 1,600 plus a 400 square foot garage is kind of what's allowed max for a.

00:13:40 Speaker 5

40,000 square foot property.

00:13:43 Speaker 4

No, that's the minimum.

00:13:45 Speaker 4

If you have a 40,000 square foot lot, you're granted a 12 and a half percent floor area.

00:13:51 Speaker 4

So whatever that works out to, I think it's about 2,500 square feet.

00:13:55 Speaker 4

Okay.

00:13:56 Speaker 4

But if you've got a substandard lot, there's relief built into the code that says your minimum development right allows you 2,000 square feet, which would include the garage.

00:14:06 Speaker 4

So that's, in most instances, 16.

00:14:11 Speaker 4

I think this is closer to 15 and a 500 square foot garage.

00:14:15 Speaker 4

In addition, the proposal will also

00:14:20 Speaker 4

involve a deed restricted junior ADU.

00:14:24 Speaker 4

And because that is a deed restricted junior ADU that goes towards the city's housing RHNA numbers as qualifiable in their housing element, there's another 500 square foot bonus that's allowed.

00:14:40 Speaker 4

So I believe the total is 2,500 square feet.

00:14:43 Speaker 4

The total would be 3,000.

00:14:46 Speaker 4

3,000.

00:14:47 Speaker 5

The request is for 3,000.

00:14:49 Speaker 4

Yeah.

00:14:52 Speaker 6

Yes.

00:14:54 Speaker 6

Because the way the code reads, the junior ADU does not count.

00:15:00 Speaker 6

And if we deed restrict the junior ADU, that's when you get the bonus.

00:15:06 Speaker 6

So you start with a base of \$2,000 and then discount the ADU, which has to be under \$500, or no more than \$500, and then you get the \$500 bonus.

00:15:19 Speaker 5

OK, thank you.

00:15:21 Speaker 6

Can I comment about the sizes themselves?

00:15:24 Speaker 6

Because we did put the area of the two on either side, the Westberg's and the Clark's,

00:15:30 Speaker 6

And the net versus gross, there's actually more gross for this proposed project than there are for the other two because San Diego Road taking so much net away from it.

00:15:46 Speaker 6

So it's very comparable to the adjacent properties and actually does better than the others.

00:15:52 Speaker 6

So I'm here for any other questions.

00:15:58 Speaker 1

Can I follow up with a question on that?

00:16:00 Speaker 1

I just want to be clear on the square footage.

00:16:05 Speaker 1

It would appear, as you just said, 1,600 square foot house, 400 garage, 2,000 square feet, which is about 15% of the FAR for the 13070.

00:16:18 Speaker 1

Plus the

00:16:21 Speaker 1

500 for the junior ADU, which won't be counted against it, but it's part of what's, whether it's counted or not, it's sitting there, it's a real structure.

00:16:31 Speaker 1

Plus, it was mentioned at some point that an 800 square foot detached ADU could be put up there as well.

00:16:41 Speaker 1

Plus the 500 bonus.

00:16:44 Speaker 1

No, there's the 500 bonus, but.

00:16:47 Speaker 4

I don't know if this is the best way to describe it.

00:16:50 Speaker 4

Maybe Matt can help with the language, but I think it's basically 200, two 500 square foot bonuses.

00:16:57 Speaker 4

There's the 2000 base that's allowed by the zoning.

00:17:00 Speaker 1

Okay.

00:17:01 Speaker 4

There's the 500 for the junior ADU deed restricted.

00:17:07 Speaker 4

And then as an incentive to do a deed restricted, not just a,

00:17:12 Speaker 4

market rate, but a deed restricted, you then get another bonus on top of that.

00:17:19 Speaker 4

And then it is not part of this proposal.

00:17:22 Speaker 4

I believe the lot could then also allow for another ADU, which I think that the maximum allowed is 800 square feet.

00:17:30 Speaker 4

You're correct.

00:17:31 Speaker 1

So theoretically, you could have 3,800 square feet on the lot.

00:17:35 Speaker 6

Theoretically, it is not the client's intent at this point to submit for that.

00:17:43 Speaker 2

Okay.

00:17:44 Speaker 2

Just following that, I want to come back to, we're not at all opining on the size of the structures there.

00:17:50 Speaker 2

We're opining on the side of the buildable space.

00:17:56 Speaker 2

I do want to come back, since we seem to be mesmerized with square footage, of what's shown in this picture of the lot area gross

00:18:09 Speaker 2

13070 and net of 13070.

00:18:12 Speaker 2

If we were to, that's the total lot size.

00:18:16 Speaker 2

If we were to grant these variances, what would be the buildable square footage?

00:18:22 Speaker 2

Do we know that?

00:18:27 Speaker 2

That's the total lot size, but we'll, you know, we'll still have these setbacks that will correct, that will make the buildable space something less than that.

00:18:39 Speaker 3

That hasn't been calculated unless the architect's done that.

00:18:43 Speaker 6

Approximately 6,300 square feet would be the buildable envelope.

00:18:49 Speaker 6

So that whole long--?

00:18:51 Speaker 3

What we would call the buildable area, the box.

00:18:54 Speaker 2

Right.

00:18:55 Speaker 2

Okay.

00:18:56 Speaker 4

And I do want to clarify, there's otherwise no request to exceed the

00:19:04 Speaker 4

what is allowed by zoning.

00:19:06 Speaker 4

We're not asking for a floor area variance as the technical request.

00:19:16 Speaker 1

Any other questions?

00:19:19 Speaker 7

Mr.

00:19:19 Speaker 7

Scott, I had two questions, but I think you answered during your presentation.

00:19:23 Speaker 7

I made notations from the red dot you submitted.

00:19:28 Speaker 7

And you note that, and I'm reading from your red dot, in fact, there's a nearby lot of similar size dimensions and location that has been developed with a single-family home matching the setbacks currently proposed for this new home.

00:19:41 Speaker 7

And I believe that was the one you showed us.

00:19:45 Speaker 4

Yes, that was the one I was referencing at 1601 San Diego Drive.

00:19:49 Speaker 7

You also noted that additionally, this is under Section 3, again, I'm reading from your red dot,

00:19:58 Speaker 7

Additionally, there are numerous other properties in the same vicinity and zone with non-conforming lot size and dimensions which have or could seek variances to justify setback encroachments.

00:20:10 Speaker 7

I believe you didn't mention that there were some properties who have been granted variances in that same neighborhood, but you didn't identify the addresses.

00:20:19 Speaker 7

Is that fair to say?

00:20:21 Speaker 4

Yes, absolutely.

00:20:22 Speaker 4

So, yeah, to clarify, so

00:20:26 Speaker 4

On that block, I would say most, if not all of those properties are substandard to the 40,000 square feet.

00:20:34 Speaker 4

So they could, in theory, request a variance.

00:20:40 Speaker 4

Whether they get it or not is up to the discretion of this board.

00:20:45 Speaker 4

And then through the research today, I found

00:20:52 Speaker 4

let me put it in these terms, seven different applications on that block.

00:20:57 Speaker 4

And actually, when you go up Oribia and make that left, there's another lot, I think the neighbors are familiar with it, with a steep lot that they were granted a front yard setback variance.

00:21:09 Speaker 4

That's included.

00:21:11 Speaker 4

So it's at seventh that's up around the bend.

00:21:14 Speaker 4

And then there's sixth, but I don't want to speculate beyond that because

00:21:21 Speaker 4

One was for a lot size variance.

00:21:25 Speaker 4

Some were for floor area, some were setbacks.

00:21:28 Speaker 4

So the details of those variances are not exactly the same as this request, but there were variances that have been asked for and granted.

00:21:40 Speaker 7

One more.

00:21:40 Speaker 7

In addition to the size and shape, is there anything relevant to this issue from your point of view about the topography of the lot?

00:21:50 Speaker 4

The topography, so not in a sense of the bluff slope and canyon overlay zone, that has specific requirements for setbacks if you've got what's called a substantial steep slope.

00:22:05 Speaker 4

So if you've got a slope that's greater than 20 feet in elevation and has a slope greater than 25%, you need to set that back some distance from the top and bottom.

00:22:17 Speaker 4

So this has

00:22:20 Speaker 4

It's almost like terraced, where there is a drop as you go from south to north, but that drop is a magnitude of about four feet.

00:22:31 Speaker 4

And so it doesn't hit the definition of a substantial steep slope.

00:22:36 Speaker 4

So in that respect, there is some topographical difference, but not substantial as defined in the Bluff Slope and Canyon Overlay Zone, if that makes sense.

00:22:50 Speaker 7

Thank you.

00:22:51 Speaker 1

Any other questions of Mr.

00:22:53 Speaker 1

Scott?

00:22:56 Speaker 1

Thank you very much.

00:22:57 Speaker 1

Thank you.

00:22:59 Speaker 1

Move to the speaker slips.

00:23:02 Speaker 1

The first speaker I'll just Kit Lieger put in the speaker slip so you have three minutes.

00:23:09 Speaker 3

Kit Lager is part of the applicant's group.

00:23:12 Speaker 3

It's 10 minutes total, so.

00:23:14 Speaker 1

10 minutes is total.

00:23:16 Speaker 6

I'm just available for questions, if anything got missed.

00:23:19 Speaker 1

Okay.

00:23:19 Speaker 1

Then, first speaker's slip I have is Becky Walker, but she has given her time to Tate Scott.

00:23:30 Speaker 1

So if Tate Scott is here, if you can step up to the microphone, state your name, and

00:23:38 Speaker 1

Where you live?

00:23:40 Speaker 7

Okay.

00:23:40 Speaker 1

Thank you.

00:23:42 Speaker 3

I think I should use these.

00:23:44 Speaker 1

By the way, before you start, you also have the three minutes of your own time for the speaker slip.

00:23:51 Speaker 1

So you'll have six minutes to speak.

00:23:54 Speaker 3

Okay.

00:23:55 Speaker 1

Or anything less than that is fine too.

00:23:57 Speaker 3

That would be good.

00:23:59 Speaker 3

Okay.

00:24:00 Speaker 3

So my name is Tate Scott.

00:24:01 Speaker 3

I live on Oribio Road.

00:24:04 Speaker 3

My career has been involved in looking at a lot of complex documents, not in planning commission stuff.

00:24:14 Speaker 3

So kudos to the team for putting this together, for you guys going through it.

00:24:18 Speaker 3

It's an awful lot of data, obviously, to go through.

00:24:23 Speaker 3

I also bear in mind that it is my first time doing and reading this material.

00:24:27 Speaker 3

So in my history, when I say this is, I really mean this seems.

00:24:33 Speaker 3

So excuse me if I'm too categorical about things.

00:24:37 Speaker 3

This is-- this seems to be a preserve.

00:24:41 Speaker 3

edge habitat, very high risk fire hazard site on a shallow substandard lot where class five categorical exemption under CEQA 15305 for a variance is proposed with an environmental status exempt.

00:25:02 Speaker 3

To me, that just doesn't seem to add up.

00:25:05 Speaker 3

Class five seems to be

00:25:08 Speaker 3

Minor land use limitations with slope under 20%, with no changes in use or density, but-- big but-- 15,300.2 exemptions still-- exceptions still bar an exemption if unusual circumstances create a reasonable possibility of significant environmental effects.

00:25:33 Speaker 3

Here, the exceptions are triggered, and a Class 5 shortcut doesn't seem to me to fit.

00:25:41 Speaker 3

First, fire and evacuation.

00:25:44 Speaker 3

The canyon has constrained egress and is mapped very high-risk fire hazard.

00:25:50 Speaker 3

Crucially, the city used fire evacuation risk to justify

00:25:57 Speaker 3

paying for and rebuilding San Digito Drive, Oribia Road, that whole section, because the danger is real.

00:26:06 Speaker 3

That same risk does not disappear because tonight's action is labeled a variance.

00:26:14 Speaker 3

This variance is enabling, is the enabling decision that pre-commits the buildable area at the preserve interface.

00:26:22 Speaker 3

This creates a reasonable possibility of effects now

00:26:27 Speaker 3

So 15300.2 bars the exception.

00:26:32 Speaker 3

Preserve adjacency and edge effects because the lot is so shallow, reducing front and rear setbacks predictably compress the house attached ADU fuel mod zones, hardscape drainage and any other on site wastewater towards the preserve boundary.

00:26:52 Speaker 3

For an ordinary mid-lot, the setback tweak might be minor.

00:26:59 Speaker 3

But on a preserve edge lot, shallow parcel, it isn't.

00:27:05 Speaker 3

So it seems to me 15300.2 bars the exemption.

00:27:11 Speaker 3

Site intensity-- this goes to some of your previous questions.

00:27:15 Speaker 3

The materials contemplate a home plus an attached ADU.

00:27:19 Speaker 3

I'm not asking you to consider or adjudicate an ATU.

00:27:23 Speaker 3

I'm pointing out that the total site load shown in the record will be compressed toward a preserved habitat if the variance is granted.

00:27:35 Speaker 3

That's an unusual circumstance, increasing the reasonable possibility of effects, again, 15.300.2 bars the exemption.

00:27:47 Speaker 3

new septic tanks and leach fields, plus relocation of existing leach fields near a lagoon and a preserve.

00:27:57 Speaker 3

On-site wastewater at the preserve edge raises nitrates, pathogens, shallow groundwater migration during storms, et cetera, et cetera, and cumulative loading, as there is no sewer in the area.

00:28:12 Speaker 3

1500-300.2 bars the exemption as there is a clear, reasonable possibility of effects.

00:28:20 Speaker 3

Any one of the four is a minor, is a non-minor risk.

00:28:25 Speaker 3

Together, they represent a clear risk not to use the class five shortcut.

00:28:31 Speaker 3

Yes, there are sections of the application that talk about a defensible space, evacuation notes, drainage concepts, and habitat context.

00:28:40 Speaker 3

Helpful, but not sequel-level analysis, or reason to skip environmental review, particularly with the first of its kind for the restored or adjacent to the restored canyon preserve.

00:28:55 Speaker 3

The community plan consistency.

00:28:58 Speaker 3

Our community plan, our constitution for development, asks us to protect open space and natural resources, minimize exposures to standards, to hazards, and match scale and sitting to the edge condition.

00:29:12 Speaker 3

On a shallow substandard lot, on the preserve in a very high risk area, fire risk, reducing setbacks and adding a home plus an attached ADU pushes the envelope.

00:29:24 Speaker 3

pushes the development and infrastructure toward sensitive habitat.

00:29:29 Speaker 3

This doesn't fit with a community intended scale, character, or siding.

00:29:34 Speaker 3

The application is not fully consistent with all applicable general plan and community plan guidelines.

00:29:42 Speaker 3

A variance on this parcel is a gateway decision.

00:29:46 Speaker 3

Using a minor exemption here is like calling the first house in the middle of a pristine beach

00:29:54 Speaker 3

ordinary.

00:29:56 Speaker 3

This is a preserve edge, very high risk hazards.

Audio file

delmar-pcm-20251104_720_part_002.mp4

Transcript

00:00:00 Speaker 1

standard zone shallow lot variance being advanced under a class 5 minor categorical exemption exemption status exempt.

00:00:10 Speaker 1

I've laid out five specific reasons.

00:00:11 Speaker 2

Hold for one second.

00:00:13 Speaker 2

I have another speaker slip.

00:00:15 Speaker 2

The red light is on, but Mahid Karate has donated their three minutes to you, so this will be it though.

00:00:25 Speaker 1

I have two sentences, I think.

00:00:26 Speaker 2

No, no, take your time.

00:00:27 Speaker 2

You've got three minutes.

00:00:28 Speaker 1

Okay, thank you.

00:00:29 Speaker 1

I'm sorry for going over because I really wanted to do six minutes.

00:00:33 Speaker 1

Okay, so I laid out five specific reasons, including a fundamental inconsistency with our community plan that demonstrates why that 15,300.2 exemptions apply, and this application should be rejected.

00:00:49 Speaker 1

Thank you very much for your time and consideration.

00:00:52 Speaker 2

Thank you very much.

00:00:55 Speaker 2

If there are no questions of that speaker,

00:00:58 Speaker 2

The next speaker is Wade Walker.

00:01:01 Speaker 2

Yes.

00:01:01 Speaker 3

The person who donated the time, it was only, there's two minutes and 41 seconds left if that person wants to speak.

00:01:13 Speaker 2

Mahid Kamati, you have two and a half minutes left if you'd like to speak.

00:01:23 Speaker 2

Okay.

00:01:23 Speaker 2

Okay.

00:01:25 Speaker 2

And you are, if you can state your name, please.

00:01:28 Speaker 3

I'm Wade Walker.

00:01:29 Speaker 3

I live at 1440 Arribia, which is just past this house.

00:01:35 Speaker 3

This San Diego turns into Arribia.

00:01:38 Speaker 3

And I was really pleased to note that some of you, a lot of you, I think, went out to look at the property itself.

00:01:45 Speaker 3

I know that you have an appreciation for what we feel every time we go home.

00:01:49 Speaker 3

We drive past the lagoon.

00:01:51 Speaker 3

It's peaceful, it's rural, it's bucolic.

00:01:54 Speaker 3

We turn on a narrow street, and we live next to a preserve.

00:02:00 Speaker 3

It's wonderful.

00:02:03 Speaker 3

You had asked earlier, Jas, about how this came to be.

00:02:08 Speaker 3

My wife and I have lived in this neighborhood since 1988.

00:02:12 Speaker 3

And what I understand, although it happened before my time, is that the developer changed where he put the road.

00:02:18 Speaker 3

And it ended up with remainder lots in back of all the houses that are on the east side of the street.

00:02:24 Speaker 3

And he offered those people or the city-- somebody offered them those lots at a cheap price.

00:02:32 Speaker 3

And it was a way to build your floor area ratio.

00:02:36 Speaker 3

Some people bought them.

00:02:37 Speaker 3

One person that I know of did not, and it's the person that happened to have bought the Clark's house before them.

00:02:44 Speaker 3

All of this happened years before the present owners were in the house.

00:02:48 Speaker 3

So they came into a static condition.

00:02:56 Speaker 3

What I think you have to consider on this is that this lot, it's actually two half lots.

00:03:06 Speaker 3

which makes it an odd, skinny lot.

00:03:08 Speaker 3

But all the development that we're talking about on that three-bedroom house, an ADU, is on one part of it.

00:03:17 Speaker 3

And it happens to be right behind the Clark's house.

00:03:20 Speaker 3

So it is jammed right up by them.

00:03:25 Speaker 3

I think it's impossible to do what they want to do unless they get the setbacks.

00:03:30 Speaker 3

So this is a critical point in that.

00:03:35 Speaker 3

The canyon is a treasure.

00:03:37 Speaker 3

People have worked on that preserve for years and years, since before I came in '88, and a lot of money has been spent on that.

00:03:48 Speaker 3

And I fear that this is going to really -- you jam that kind of development into that little of an area, and it's a manufactured house.

00:03:58 Speaker 3

It changes the character of everything in the neighborhood.

00:04:02 Speaker 3

And the neighbors are, many of them, strongly against it.

00:04:06 Speaker 3

And they've sent their letters.

00:04:08 Speaker 3

It's hard to get them to come to the meetings every time because people would rather have a spider lay eggs in their ear than come down and do this.

00:04:19 Speaker 3

But they are, many of them, vehemently against this project.

00:04:26 Speaker 3

And it's because of the density and because of where it is.

00:04:31 Speaker 3

beg you not to allow this.

00:04:36 Speaker 2

Thank you very much.

00:04:42 Speaker 2

Yeah, he did not use it up.

00:04:44 Speaker 2

So yeah, you.

00:04:49 Speaker 2

And if you can please state your name and address, too.

00:04:51 Speaker 4

Good evening, I'm Ajit Koradi, and I live at 1402 Oribia Road, just a little bit off the road.

00:04:57 Speaker 4

I think as an engineer with an engineering background, what really concerns me is we are on septic, all of us, sorry.

00:05:05 Speaker 4

And you only have a house, a residence, if you have a functioning septic system.

00:05:13 Speaker 4

And the clerks, and as you come further down San Diego Road,

00:05:18 Speaker 4

The closer you are to the water table and therefore you cannot have, so what we call a vertical pit, which we have up in Arabia, most of the folks down lower have leach lines.

00:05:29 Speaker 4

The leach line requires a lot more area and square footage.

00:05:33 Speaker 4

From what I understood when I met, when we were here last time, Clark's leach lines is abutting their property line or abutting this lot that's about to be proposed.

00:05:46 Speaker 4

So that leach line is actually going into this property.

00:05:49 Speaker 4

What I was hoping would be a very extensive sewer study that would show, one, whether the lot can sustain on its own, its own sewer needs, and two, what impacts the development of that lot would have on the sewage, on the affluents that come in, go from the leach line toward this lot, the vacant lot right now.

00:06:13 Speaker 4

that house has had that leach line for 30, 40, 50 years.

00:06:18 Speaker 4

So if that leach line is going into that lot, then prescriptively, that lot has to accommodate the leach line.

00:06:25 Speaker 4

In reverse, if the Clark's sewer system, septic system, gets impacted, they really do not have a livable home.

00:06:37 Speaker 4

In essence, if you don't have a leach line, you don't have a septic system, and if you don't have a septic system, then you don't have a house to live in.

00:06:43 Speaker 4

So I think before any action is taken by the city of Del Mar on what can and cannot be done to that lot, the city needs to ascertain that by taking that action, they're not depriving the clerks of their ability to live in the house, and if the septic system gets impacted, then they cannot live in the house, you're done.

00:07:04 Speaker 4

That, to me, is really a very, very important factor that needs to be addressed before anything else gets addressed on that lot, thank you.

00:07:12 Speaker 2

Thank you very much.

00:07:16 Speaker 2

Next speaker, Eric Clark.

00:07:26 Speaker 1

1441, and that's my house.

00:07:32 Speaker 1

I had some prepared comments, but after listening to Mr.

00:07:36 Speaker 1

Scott, I just felt like I would just speak off the cuff.

00:07:44 Speaker 1

There's a reason the city has variances.

00:07:47 Speaker 1

This is not an environment where someone comes and says, give me a toy, and you say, sure, why not?

00:07:54 Speaker 1

The variances are there to provide a certain environment that gives eye appeal, gives protection in places where you have fire risks.

00:08:11 Speaker 1

You can't say that because a lot is legal, that it automatically

00:08:18 Speaker 1

requires to have a variance given.

00:08:23 Speaker 1

The variance is something that a city uses to maintain certain predictability, certain consistency, a certain quality that everyone has invested in.

00:08:35 Speaker 1

We moved in in '95, and we were told by realtors and by the sellers that the lot was not buildable.

00:08:44 Speaker 1

The lot was half of what you're looking at, mind you.

00:08:47 Speaker 1

They merged the two lots a number of years ago.

00:08:51 Speaker 1

So now it's a long, narrow strip.

00:08:53 Speaker 1

But that's why the other lots for the other homes are half.

00:08:57 Speaker 1

We were told it's not buildable.

00:08:58 Speaker 1

And obviously, we would want to know if it was buildable, because it sat right behind our house.

00:09:03 Speaker 1

What's going on with that on the other side of that fence?

00:09:05 Speaker 1

Oh, well, that's not buildable.

00:09:07 Speaker 1

Why?

00:09:08 Speaker 1

Well, you know, there are rules, there are setbacks.

00:09:14 Speaker 1

It's right next to the canyon.

00:09:15 Speaker 1

It's not accessible to the street.

00:09:17 Speaker 1

Del Mar won't let that happen.

00:09:21 Speaker 1

And so you look at the size of the lot, and you look at the size of the lot you're buying, and you look at the size of the lot of everyone else's home, and you think, well, that's a ridiculously small lot.

00:09:31 Speaker 1

That's probably why the people who had the house before us, a couple of owners before us, didn't want to buy it, because they saw that as a water pit.

00:09:40 Speaker 1

Why do I want a dirt lot that I'd have to irrigate and I'd have to maintain and cut?

00:09:45 Speaker 1

And it's useless.

00:09:47 Speaker 1

So they said, Well, our septic system drains into it, but it's of no use to us for any other reason.

00:09:56 Speaker 1

And all the homes on that side of San Diego have septic systems that are on their primary lot, but their leach lines go into the back lot.

00:10:06 Speaker 1

And so our septic system

00:10:09 Speaker 1

is near the southern side of our house, not quite in that corner, but about probably 20 feet back.

00:10:19 Speaker 1

And the pipe coming out of our septic system is within three feet of the fence.

00:10:27 Speaker 1

And we recently had it pumped and partially repaired.

00:10:29 Speaker 1

And I took a picture of it, which I sent to Elizabeth Yee.

00:10:33 Speaker 1

And the effluent breaks off left and right.

00:10:39 Speaker 1

and it goes for a certain way and it heads on into the next lot.

00:10:45 Speaker 1

I don't know much about leech lines, but I know that they're all about 20 feet, give or take, and that you're technically supposed to give them about 10 feet clearance if you're going to do any kind of building.

00:10:58 Speaker 1

That leech line is our lifeline to continuing to live in Del Mar.

00:11:02 Speaker 2

Excuse me, if you can wrap it up, please.

00:11:05 Speaker 1

Okay, thank you.

00:11:06 Speaker 2

Thank you.

00:11:07 Speaker 1

We went down to the county for their on-site sewer management, and they said, oh, if you've got a septic system that goes into that area, and you've lived there for more than five years, or it's been there for longer than that, don't worry.

00:11:23 Speaker 1

You're safe.

00:11:24 Speaker 1

You won't have to worry about anyone building on it, destroying it, tampering with it, or anything like that.

00:11:31 Speaker 1

We're hoping that you will use the variance rules that the city has and not grant.

00:11:38 Speaker 1

the variance just because they want it.

00:11:42 Speaker 1

Just because it's a legal lot.

00:11:44 Speaker 1

That's not a good enough reason.

00:11:46 Speaker 1

The city can't afford to put more density into this area with the fire risk that exists now in 2025.

00:11:55 Speaker 1

That didn't exist in the 1980s when the house that Mr.

00:11:58 Speaker 1

Scott showed you that had a variance was built.

00:12:02 Speaker 1

So I appreciate your forbearance.

00:12:06 Speaker 1

Thank you very much.

00:12:07 Speaker 2

Thank you.

00:12:09 Speaker 5

I do have a question.

00:12:11 Speaker 2

If you can come back up to the microphone.

00:12:15 Speaker 5

Because the septic system and leach lines have been mentioned several times.

00:12:23 Speaker 5

Is looking at the picture that is up here, is the septic system and the leach lines near this access easement?

00:12:34 Speaker 5

where the concern lies or is it part of the rectangular box at the back?

00:12:43 Speaker 1

Right where the cursor is.

00:12:46 Speaker 5

Yes.

00:12:47 Speaker 1

Is -- that's a little bit too close to the proposed driveway, but if she went a little bit further -- right about there, maybe come back just a little hair.

00:12:57 Speaker 1

Somewhere right about right there is where the septic system goes into the lot.

00:13:03 Speaker 1

And

00:13:05 Speaker 1

Almost all of the leech line starts on the other side of the fence.

00:13:11 Speaker 5

Okay.

00:13:11 Speaker 5

Thank you.

00:13:13 Speaker 1

And from what I understand, from the images that I saw, the vertical pit or whatever sewer system is proposed, is proposed to be put in a similar area on the other side of the fence.

00:13:28 Speaker 1

Somewhere along that southern border of

00:13:34 Speaker 1

where the house is going to be.

00:13:35 Speaker 1

Because the house takes up the entire lot.

00:13:37 Speaker 5

Right.

00:13:38 Speaker 5

So as an example, because this is not a decision before this board or commission tonight, that if the home were built on the south side of the lot rather than the north side of the lot, then that would not be

00:14:03 Speaker 5

the concern regarding your septic system would not exist.

00:14:09 Speaker 1

Yes, but the house takes up almost the entire lot.

00:14:15 Speaker 1

And leech lines are not vertical pits.

00:14:18 Speaker 1

So, you know, I'm not sure if you can say, well, let's just have them move it, you know.

00:14:26 Speaker 1

further.

00:14:27 Speaker 1

Like, give them a variance for the northern side, and they can move the house closer to that fence, and therefore we can have-- you know, I mean, we'd have to map the septic system if you wanted to know for sure.

00:14:38 Speaker 1

But if you know where my septic tank is, you probably know pretty much where the leach lines are.

00:14:48 Speaker 1

And you know where they plan to put their septic system.

00:14:51 Speaker 1

And we haven't included the Westburg's septic system.

00:14:56 Speaker 1

So in a very tight area, you have 3 septic systems.

00:15:00 Speaker 1

converging on each other, and we've been told that it's a four-foot drop.

00:15:04 Speaker 1

So they're all heading towards this house that they're planning on building.

00:15:13 Speaker 1

Thank you.

00:15:15 Speaker 2

Thank you very much.

00:15:18 Speaker 2

Next speaker, Sherry Babaki.

00:15:27 Speaker 2

No?

00:15:28 Speaker 2

Okay.

00:15:29 Speaker 2

That is the last speaker slip.

00:15:33 Speaker 2

So right now, then the applicant five minute rebuttal.

00:15:41 Speaker 2

So if you can share the time, the applicants and but 5 minutes would be the max.

00:15:53 Speaker 6

Okay.

00:15:54 Speaker 6

Thank you.

00:15:55 Speaker 6

A few things to cover to make sense of it.

00:16:00 Speaker 6

Maybe I'll go in terms of process.

00:16:03 Speaker 6

On the CEQA Class 5 exemption, if you go ahead and look that up-- I actually have it pulled up-- it talks about minor land use adjustments.

00:16:16 Speaker 6

And the language specifically says including variances.

00:16:20 Speaker 6

So if you read the language, it was on Westlaw.

00:16:25 Speaker 6

I can only imagine that that's a legitimate website for law.

00:16:31 Speaker 6

It specifically cites variances as falling within this exemption.

00:16:38 Speaker 6

Matt alluded to the fact that because this is to create the box and not a development, it may be subject to further CEQA review when the development application comes forward.

00:16:50 Speaker 6

We defer to staff on terms of that process, but what we're asking for today, it falls in line with the categorical exemption.

00:17:02 Speaker 6

There was some, I guess I'll jump into this, the fire risk.

00:17:07 Speaker 6

I went back and I looked at the high fire risk, the very high fire risk.

00:17:11 Speaker 6

That covers three quarters of Del Mar.

00:17:14 Speaker 6

So if we're suggesting that anything in a very high fire risk shouldn't be improved, I don't think that's the intention.

00:17:21 Speaker 6

I don't think that should be used to preclude the ability to build a house on a legal lot.

00:17:29 Speaker 6

It is more so that if you're going to build, we've heightened the requirements to require a fire fire suppression wall on the east side to use class a fire materials to use non-combustible decking to do landscaping that doesn't create a fire risk five feet around the perimeter of the property, have gravels to have, you know, everything to

00:17:56 Speaker 6

in the conditions of approval, maintain the adequate buffers to maintain the fire access.

00:18:02 Speaker 6

So it could be argued that because this house is going to be subject to such an elevated fire safety standard for construction, it is going to be built safer than the vast majority of houses in the original area, in the immediate area.

00:18:19 Speaker 6

You could even go so far as to say it would create a fire break, because it's gonna suppress the fire.

00:18:25 Speaker 6

It's uncombustible.

00:18:27 Speaker 6

I do have.

00:18:28 Speaker 6

I hope it's in this batch.

00:18:32 Speaker 6

I do.

00:18:33 Speaker 6

No, please.

00:18:38 Speaker 6

Section 8 of the fire report.

00:18:41 Speaker 6

I'll summarize this for clarity, but the conclusion, section eight on page 11, with implementation of the fuel modification, the ignition resistant construction measures and other mitigation measures in this fire protection plan, the proposed project will be provided with a higher degree of protection from wildfire than many existing homes in San Diego County.

00:19:06 Speaker 6

Not Del Mar, but San Diego County.

00:19:09 Speaker 6

Another section, improved fire access, irrigated landscaping, and offsite brush clearing benefit nearby residences, providing a safer environment for those in the surrounding neighborhood.

00:19:21 Speaker 6

So it's robust if you read that in terms of what those mitigation measures are.

00:19:29 Speaker 6

So there was some reference to the community plan and the community plan

00:19:39 Speaker 6

is not regulatory.

00:19:41 Speaker 6

The community plan is a long-term, long-range vision, a policy of what a community cares about and cherishes.

00:19:49 Speaker 6

But it's not used as regulation to deny a project.

00:19:54 Speaker 6

How it works and by design, by law, is that the community plan sets those policies for what's important.

00:20:02 Speaker 6

And then they're implementing ordinances, namely the zoning ordinance.

00:20:06 Speaker 6

is then used as the regulatory document by which to implement the general plan.

00:20:14 Speaker 6

So by all accounts through the COC, this is developed as a legal, albeit substandard, very substandard lot that precludes reasonable development.

00:20:32 Speaker 6

So we're asking for the variance.

00:20:38 Speaker 6

But it's not development, and that development's gonna go under full scrutiny of the DRB.

00:20:42 Speaker 6

This is just, we're just asking to set the box so we can continue in this process.

00:20:47 Speaker 6

We know it's a long way from over, but we need this to get through it.

00:20:54 Speaker 6

We would ask, oh, last piece.

00:21:01 Speaker 6

I think I'm out of time, so I've got more to share, but I don't want to.

00:21:04 Speaker 2

If you have one last piece, please.

00:21:08 Speaker 6

It's just a lot of what was said in the last testimony was kind of speculative of, well, somebody said you can't build there, or the leach fields, they might be over there.

00:21:24 Speaker 6

I would say the septic issue is one of these things that's a private matter.

00:21:30 Speaker 6

I would say for my applicants that if the neighbor has leech lines bisecting their property, that those ought to be redesigned and removed.

00:21:40 Speaker 6

Not prescriptive rights, as I think somebody said.

00:21:44 Speaker 6

So I would hope that moving forward, I feel the tenor, my opinion, my perspective, is that we have tried to reach out and go, okay, these are problems to be solved, let's solve them.

00:21:59 Speaker 6

But the reaction is, well, let's fight them on CEQA and process and hold them up that way.

00:22:06 Speaker 6

And let's fight them on septic.

00:22:09 Speaker 6

And our goal is to stop this development.

00:22:15 Speaker 6

That never works out well.

00:22:16 Speaker 6

Or it's better to roll up the sleeves, get in there, look at views, look at this thing on the macro level, figure out what's reasonable.

00:22:24 Speaker 6

I put that in air quotes because that's a loaded word, speculative word.

00:22:30 Speaker 6

subjective words so I'll leave it with that and I just hope that we can move this process forward.

00:22:35 Speaker 2

Thank you very much any questions okay then with that there are no more speaker slips I'd like to close the public hearing and move to discussion and our deliberation after that so

00:22:57 Speaker 2

Anybody like to start with the discussion?

00:23:01 Speaker 2

Mark?

00:23:05 Speaker 2

Megan?

00:23:07 Speaker 2

No.

00:23:08 Speaker 2

Patrick?

00:23:09 Speaker 2

No.

00:23:11 Speaker 2

And Jazz?

00:23:13 Speaker 2

Can't sell this one.

00:23:15 Speaker 2

Wait, wait, wait.

00:23:16 Speaker 2

You're reaching for the microphone.

00:23:17 Speaker 2

I caught you.

00:23:23 Speaker 7

None of us wants to start, but that's what we're here to do.

00:23:31 Speaker 7

I've heard, first we have community involvement and the public testimony is incredibly valuable.

00:23:38 Speaker 7

So thank you all for taking the time to be here and participating in this process.

00:23:43 Speaker 7

It informs our decision-making and makes it better.

00:23:46 Speaker 7

So thank you all.

00:23:50 Speaker 7

And I'm not surprised that there are comments on both

00:23:56 Speaker 7

sides of this application.

00:23:58 Speaker 7

I do think that this is a gateway decision.

00:24:02 Speaker 7

This is a lot, a remnant lot, that's one of several.

00:24:07 Speaker 7

So I do think there is precedent that we need to pay attention to.

00:24:15 Speaker 7

I am listening to the discussion of the septic system and the leech lines.

00:24:24 Speaker 7

and the proposed increase in density given the proximity to the preserve and the proximity to the lagoon.

00:24:34 Speaker 7

I am uncomfortable with the CEQA exemption, so I would welcome counsel on that.

00:24:43 Speaker 7

So maybe I'll start.

00:24:45 Speaker 7

That's the first of a couple of tranches of comments, but I would welcome guidance.

00:24:50 Speaker 5

Actually, I reviewed a number of cases under very similar circumstances today in terms of use of that exemption for the action before you, and we're very comfortable with the exemption.

00:25:06 Speaker 7

Thank you, Ralph.

00:25:09 Speaker 7

So I will trust counsel on that regard.

00:25:15 Speaker 7

The second category of

00:25:20 Speaker 7

comments and concerns that I've heard relates to the community character.

00:25:25 Speaker 7

And so I go back, as we all do, to the community plan, and I understand that the community plan is not the governing ordinance, but that is implemented via the zoning requirements.

00:25:41 Speaker 7

And some of the red dots pointed out language of the community plan, thank you for taking the time to do that.

00:25:49 Speaker 7

Also in the community plan, and it's on page 57 of the original version, which is the one I have, in the context of preserving and enhancing Del Mar's special residential character, and then the objectives and policies specifically of maintaining low density residential character.

00:26:12 Speaker 7

There's a specific provision, provision six, that says, establish sufficient controls

00:26:20 Speaker 7

on yard requirements of irregularly shaped lots and lots which lack street frontage to overcome tendency toward overcrowding, loss of privacy to nearby lots, and blockage of views.

00:26:40 Speaker 7

That seems to be the situation here, a tendency towards overcrowding, when I hear of the possibility of adding

00:26:49 Speaker 7

the residents itself and a junior ADU and another ADU, not that we are to consider those.

00:26:56 Speaker 7

But those policies, as envisioned in the community plan, our guiding principle, were implemented in the zoning.

00:27:05 Speaker 7

And that was the expectation that at least certain purchasers relied upon.

00:27:10 Speaker 7

And so I struggle to see a basis to grant a variance from that zoning

00:27:17 Speaker 7

given the overarching goals that it seeks to achieve.

00:27:23 Speaker 5

Meg, could you reread that section of the community plan, please?

00:27:28 Speaker 7

Sure.

00:27:29 Speaker 7

And forgive me.

00:27:31 Speaker 7

I don't have a version that we can pull up, but it's again on page 57 of the original version.

00:27:38 Speaker 7

And Ralph and Matt, please help me if this is no longer-- I think this is a provision that's still alive and well, despite aged.

00:27:47 Speaker 7

But it says under the objectives and policies, and this is in the community development section, it says establish sufficient controls on yard requirements of irregularly shaped lots and lots which lack street frontage, which I think is what we have here, to overcome tendency toward overcrowding

00:28:15 Speaker 7

loss of privacy to nearby lots, and blockage abuse.

00:28:22 Speaker 7

And as I read the setback requirements and other zoning in the R-140 area, they're consistent with this goal.

00:28:36 Speaker 7

And so unfortunately, and I say unfortunately because I can appreciate the desire to

00:28:44 Speaker 7

build upon a lot and create, you know, Lord knows we need dedicated junior, you know, low-income housing in Del Mar.

00:28:56 Speaker 7

But the request, if granted, the application seems to contravene the policy that's behind the zoning in that area.

00:29:06 Speaker 7

So that's where I get stuck.

00:29:15 Speaker 2

Anybody, any other comments on that or?

00:29:21 Speaker 5

Well, I want to touch on the thread of how much of this is discretion, how much of this is fact-based and so on.

00:29:33 Speaker 5

In other words, part of the discussion, it lays out

00:29:40 Speaker 5

four or five criteria that must be met in order to allow the variance.

00:29:46 Speaker 5

If those criteria are met, is it a requirement then to give the variance or that's the only, or you have to meet those criteria to even

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Transcript

00:00:00 Speaker 1

standard zone shallow lot variance being advanced under a class 5 minor categorical exemption exemption status exempt.

00:00:10 Speaker 1

I've laid out five specific reasons.

00:00:11 Speaker 2

Hold for one second.

00:00:13 Speaker 2

I have another speaker slip.

00:00:15 Speaker 2

The red light is on, but Mahid Karate has donated their three minutes to you, so this will be it though.

00:00:25 Speaker 1

I have two sentences, I think.

00:00:26 Speaker 2

No, no, take your time.

00:00:27 Speaker 2

You've got three minutes.

00:00:28 Speaker 1

Okay, thank you.

00:00:29 Speaker 1

I'm sorry for going over because I really wanted to do six minutes.

00:00:33 Speaker 1

Okay, so I laid out five specific reasons, including a fundamental inconsistency with our community plan that demonstrates why that 15,300.2 exemptions apply, and this application should be rejected.

00:00:49 Speaker 1

Thank you very much for your time and consideration.

00:00:52 Speaker 2

Thank you very much.

00:00:55 Speaker 2

If there are no questions of that speaker,

00:00:58 Speaker 2

The next speaker is Wade Walker.

00:01:01 Speaker 2

Yes.

00:01:01 Speaker 3

The person who donated the time, it was only, there's two minutes and 41 seconds left if that person wants to speak.

00:01:13 Speaker 2

Mahid Kamati, you have two and a half minutes left if you'd like to speak.

00:01:23 Speaker 2

Okay.

00:01:23 Speaker 2

Okay.

00:01:25 Speaker 2

And you are, if you can state your name, please.

00:01:28 Speaker 3

I'm Wade Walker.

00:01:29 Speaker 3

I live at 1440 Arribia, which is just past this house.

00:01:35 Speaker 3

This San Diego turns into Arribia.

00:01:38 Speaker 3

And I was really pleased to note that some of you, a lot of you, I think, went out to look at the property itself.

00:01:45 Speaker 3

I know that you have an appreciation for what we feel every time we go home.

00:01:49 Speaker 3

We drive past the lagoon.

00:01:51 Speaker 3

It's peaceful, it's rural, it's bucolic.

00:01:54 Speaker 3

We turn on a narrow street, and we live next to a preserve.

00:02:00 Speaker 3

It's wonderful.

00:02:03 Speaker 3

You had asked earlier, Jas, about how this came to be.

00:02:08 Speaker 3

My wife and I have lived in this neighborhood since 1988.

00:02:12 Speaker 3

And what I understand, although it happened before my time, is that the developer changed where he put the road.

00:02:18 Speaker 3

And it ended up with remainder lots in back of all the houses that are on the east side of the street.

00:02:24 Speaker 3

And he offered those people or the city-- somebody offered them those lots at a cheap price.

00:02:32 Speaker 3

And it was a way to build your floor area ratio.

00:02:36 Speaker 3

Some people bought them.

00:02:37 Speaker 3

One person that I know of did not, and it's the person that happened to have bought the Clark's house before them.

00:02:44 Speaker 3

All of this happened years before the present owners were in the house.

00:02:48 Speaker 3

So they came into a static condition.

00:02:56 Speaker 3

What I think you have to consider on this is that this lot, it's actually two half lots.

00:03:06 Speaker 3

which makes it an odd, skinny lot.

00:03:08 Speaker 3

But all the development that we're talking about on that three-bedroom house, an ADU, is on one part of it.

00:03:17 Speaker 3

And it happens to be right behind the Clark's house.

00:03:20 Speaker 3

So it is jammed right up by them.

00:03:25 Speaker 3

I think it's impossible to do what they want to do unless they get the setbacks.

00:03:30 Speaker 3

So this is a critical point in that.

00:03:35 Speaker 3

The canyon is a treasure.

00:03:37 Speaker 3

People have worked on that preserve for years and years, since before I came in '88, and a lot of money has been spent on that.

00:03:48 Speaker 3

And I fear that this is going to really -- you jam that kind of development into that little of an area, and it's a manufactured house.

00:03:58 Speaker 3

It changes the character of everything in the neighborhood.

00:04:02 Speaker 3

And the neighbors are, many of them, strongly against it.

00:04:06 Speaker 3

And they've sent their letters.

00:04:08 Speaker 3

It's hard to get them to come to the meetings every time because people would rather have a spider lay eggs in their ear than come down and do this.

00:04:19 Speaker 3

But they are, many of them, vehemently against this project.

00:04:26 Speaker 3

And it's because of the density and because of where it is.

00:04:31 Speaker 3

beg you not to allow this.

00:04:36 Speaker 2

Thank you very much.

00:04:42 Speaker 2

Yeah, he did not use it up.

00:04:44 Speaker 2

So yeah, you.

00:04:49 Speaker 2

And if you can please state your name and address, too.

00:04:51 Speaker 4

Good evening, I'm Ajit Koradi, and I live at 1402 Oribia Road, just a little bit off the road.

00:04:57 Speaker 4

I think as an engineer with an engineering background, what really concerns me is we are on septic, all of us, sorry.

00:05:05 Speaker 4

And you only have a house, a residence, if you have a functioning septic system.

00:05:13 Speaker 4

And the clerks, and as you come further down San Diego Road,

00:05:18 Speaker 4

The closer you are to the water table and therefore you cannot have, so what we call a vertical pit, which we have up in Arabia, most of the folks down lower have leach lines.

00:05:29 Speaker 4

The leach line requires a lot more area and square footage.

00:05:33 Speaker 4

From what I understood when I met, when we were here last time, Clark's leach lines is abutting their property line or abutting this lot that's about to be proposed.

00:05:46 Speaker 4

So that leech line is actually going into this property.

00:05:49 Speaker 4

What I was hoping would be a very extensive sewer study that would show, one, whether the lot can sustain on its own, its own sewer needs, and two, what impacts the development of that lot would have on the sewage, on the affluents that come in, go from the leech line toward this lot, the vacant lot right now.

00:06:13 Speaker 4

that house has had that leech line for 30, 40, 50 years.

00:06:18 Speaker 4

So if that leech line is going into that lot, then prescriptively, that lot has to accommodate the leech line.

00:06:25 Speaker 4

In reverse, if the Clark's sewer system, septic system, gets impacted, they really do not have a livable home.

00:06:37 Speaker 4

In essence, if you don't have a leech line, you don't have a septic system, and if you don't have a septic system, then you don't have a house to live in.

00:06:43 Speaker 4

So I think before any action is taken by the city of Del Mar on what can and cannot be done to that lot, the city needs to ascertain that by taking that action, they're not depriving the clerks of their ability to live in the house, and if the septic system gets impacted, then they cannot live in the house, you're done.

00:07:04 Speaker 4

That, to me, is really a very, very important factor that needs to be addressed before anything else gets addressed on that lot, thank you.

00:07:12 Speaker 2

Thank you very much.

00:07:16 Speaker 2

Next speaker, Eric Clark.

00:07:26 Speaker 1

1441, and that's my house.

00:07:32 Speaker 1

I had some prepared comments, but after listening to Mr.

00:07:36 Speaker 1

Scott, I just felt like I would just speak off the cuff.

00:07:44 Speaker 1

There's a reason the city has variances.

00:07:47 Speaker 1

This is not an environment where someone comes and says, give me a toy, and you say, sure, why not?

00:07:54 Speaker 1

The variances are there to provide a certain environment that gives eye appeal, gives protection in places where you have fire risks.

00:08:11 Speaker 1

You can't say that because a lot is legal, that it automatically

00:08:18 Speaker 1

requires to have a variance given.

00:08:23 Speaker 1

The variance is something that a city uses to maintain certain predictability, certain consistency, a certain quality that everyone has invested in.

00:08:35 Speaker 1

We moved in in '95, and we were told by realtors and by the sellers that the lot was not buildable.

00:08:44 Speaker 1

The lot was half of what you're looking at, mind you.

00:08:47 Speaker 1

They merged the two lots a number of years ago.

00:08:51 Speaker 1

So now it's a long, narrow strip.

00:08:53 Speaker 1

But that's why the other lots for the other homes are half.

00:08:57 Speaker 1

We were told it's not buildable.

00:08:58 Speaker 1

And obviously, we would want to know if it was buildable, because it sat right behind our house.

00:09:03 Speaker 1

What's going on with that on the other side of that fence?

00:09:05 Speaker 1

Oh, well, that's not buildable.

00:09:07 Speaker 1

Why?

00:09:08 Speaker 1

Well, you know, there are rules, there are setbacks.

00:09:14 Speaker 1

It's right next to the canyon.

00:09:15 Speaker 1

It's not accessible to the street.

00:09:17 Speaker 1

Del Mar won't let that happen.

00:09:21 Speaker 1

And so you look at the size of the lot, and you look at the size of the lot you're buying, and you look at the size of the lot of everyone else's home, and you think, well, that's a ridiculously small lot.

00:09:31 Speaker 1

That's probably why the people who had the house before us, a couple of owners before us, didn't want to buy it, because they saw that as a water pit.

00:09:40 Speaker 1

Why do I want a dirt lot that I'd have to irrigate and I'd have to maintain and cut?

00:09:45 Speaker 1

And it's useless.

00:09:47 Speaker 1

So they said, Well, our septic system drains into it, but it's of no use to us for any other reason.

00:09:56 Speaker 1

And all the homes on that side of San Diego have septic systems that are on their primary lot, but their leach lines go into the back lot.

00:10:06 Speaker 1

And so our septic system

00:10:09 Speaker 1

is near the southern side of our house, not quite in that corner, but about probably 20 feet back.

00:10:19 Speaker 1

And the pipe coming out of our septic system is within three feet of the fence.

00:10:27 Speaker 1

And we recently had it pumped and partially repaired.

00:10:29 Speaker 1

And I took a picture of it, which I sent to Elizabeth Yee.

00:10:33 Speaker 1

And the effluent breaks off left and right.

00:10:39 Speaker 1

and it goes for a certain way and it heads on into the next lot.

00:10:45 Speaker 1

I don't know much about leech lines, but I know that they're all about 20 feet, give or take, and that you're technically supposed to give them about 10 feet clearance if you're going to do any kind of building.

00:10:58 Speaker 1

That leech line is our lifeline to continuing to live in Del Mar.

00:11:02 Speaker 2

Excuse me, if you can wrap it up, please.

00:11:05 Speaker 1

Okay, thank you.

00:11:06 Speaker 2

Thank you.

00:11:07 Speaker 1

We went down to the county for their on-site sewer management, and they said, oh, if you've got a septic system that goes into that area, and you've lived there for more than five years, or it's been there for longer than that, don't worry.

00:11:23 Speaker 1

You're safe.

00:11:24 Speaker 1

You won't have to worry about anyone building on it, destroying it, tampering with it, or anything like that.

00:11:31 Speaker 1

We're hoping that you will use the variance rules that the city has and not grant.

00:11:38 Speaker 1

the variance just because they want it.

00:11:42 Speaker 1

Just because it's a legal lot.

00:11:44 Speaker 1

That's not a good enough reason.

00:11:46 Speaker 1

The city can't afford to put more density into this area with the fire risk that exists now in 2025.

00:11:55 Speaker 1

That didn't exist in the 1980s when the house that Mr.

00:11:58 Speaker 1

Scott showed you that had a variance was built.

00:12:02 Speaker 1

So I appreciate your forbearance.

00:12:06 Speaker 1

Thank you very much.

00:12:07 Speaker 2

Thank you.

00:12:09 Speaker 5

I do have a question.

00:12:11 Speaker 2

If you can come back up to the microphone.

00:12:15 Speaker 5

Because the septic system and leach lines have been mentioned several times.

00:12:23 Speaker 5

Is looking at the picture that is up here, is the septic system and the leach lines near this access easement?

00:12:34 Speaker 5

where the concern lies or is it part of the rectangular box at the back?

00:12:43 Speaker 1

Right where the cursor is.

00:12:46 Speaker 5

Yes.

00:12:47 Speaker 1

Is -- that's a little bit too close to the proposed driveway, but if she went a little bit further -- right about there, maybe come back just a little hair.

00:12:57 Speaker 1

Somewhere right about right there is where the septic system goes into the lot.

00:13:03 Speaker 1

And

00:13:05 Speaker 1

Almost all of the leech line starts on the other side of the fence.

00:13:11 Speaker 5

Okay.

00:13:11 Speaker 5

Thank you.

00:13:13 Speaker 1

And from what I understand, from the images that I saw, the vertical pit or whatever sewer system is proposed, is proposed to be put in a similar area on the other side of the fence.

00:13:28 Speaker 1

Somewhere along that southern border of

00:13:34 Speaker 1

where the house is going to be.

00:13:35 Speaker 1

Because the house takes up the entire lot.

00:13:37 Speaker 5

Right.

00:13:38 Speaker 5

So as an example, because this is not a decision before this board or commission tonight, that if the home were built on the south side of the lot rather than the north side of the lot, then that would not be

00:14:03 Speaker 5

the concern regarding your septic system would not exist.

00:14:09 Speaker 1

Yes, but the house takes up almost the entire lot.

00:14:15 Speaker 1

And leech lines are not vertical pits.

00:14:18 Speaker 1

So, you know, I'm not sure if you can say, well, let's just have them move it, you know.

00:14:26 Speaker 1

further.

00:14:27 Speaker 1

Like, give them a variance for the northern side, and they can move the house closer to that fence, and therefore we can have-- you know, I mean, we'd have to map the septic system if you wanted to know for sure.

00:14:38 Speaker 1

But if you know where my septic tank is, you probably know pretty much where the leach lines are.

00:14:48 Speaker 1

And you know where they plan to put their septic system.

00:14:51 Speaker 1

And we haven't included the Westburg's septic system.

00:14:56 Speaker 1

So in a very tight area, you have 3 septic systems.

00:15:00 Speaker 1

converging on each other, and we've been told that it's a four-foot drop.

00:15:04 Speaker 1

So they're all heading towards this house that they're planning on building.

00:15:13 Speaker 1

Thank you.

00:15:15 Speaker 2

Thank you very much.

00:15:18 Speaker 2

Next speaker, Sherry Babaki.

00:15:27 Speaker 2

No?

00:15:28 Speaker 2

Okay.

00:15:29 Speaker 2

That is the last speaker slip.

00:15:33 Speaker 2

So right now, then the applicant five minute rebuttal.

00:15:41 Speaker 2

So if you can share the time, the applicants and but 5 minutes would be the max.

00:15:53 Speaker 6

Okay.

00:15:54 Speaker 6

Thank you.

00:15:55 Speaker 6

A few things to cover to make sense of it.

00:16:00 Speaker 6

Maybe I'll go in terms of process.

00:16:03 Speaker 6

On the CEQA Class 5 exemption, if you go ahead and look that up-- I actually have it pulled up-- it talks about minor land use adjustments.

00:16:16 Speaker 6

And the language specifically says including variances.

00:16:20 Speaker 6

So if you read the language, it was on Westlaw.

00:16:25 Speaker 6

I can only imagine that that's a legitimate website for law.

00:16:31 Speaker 6

It specifically cites variances as falling within this exemption.

00:16:38 Speaker 6

Matt alluded to the fact that because this is to create the box and not a development, it may be subject to further CEQA review when the development application comes forward.

00:16:50 Speaker 6

We defer to staff on terms of that process, but what we're asking for today, it falls in line with the categorical exemption.

00:17:02 Speaker 6

There was some, I guess I'll jump into this, the fire risk.

00:17:07 Speaker 6

I went back and I looked at the high fire risk, the very high fire risk.

00:17:11 Speaker 6

That covers three quarters of Del Mar.

00:17:14 Speaker 6

So if we're suggesting that anything in a very high fire risk shouldn't be improved, I don't think that's the intention.

00:17:21 Speaker 6

I don't think that should be used to preclude the ability to build a house on a legal lot.

00:17:29 Speaker 6

It is more so that if you're going to build, we've heightened the requirements to require a fire fire suppression wall on the east side to use class a fire materials to use non-combustible decking to do landscaping that doesn't create a fire risk five feet around the perimeter of the property, have gravels to have, you know, everything to

00:17:56 Speaker 6

in the conditions of approval, maintain the adequate buffers to maintain the fire access.

00:18:02 Speaker 6

So it could be argued that because this house is going to be subject to such an elevated fire safety standard for construction, it is going to be built safer than the vast majority of houses in the original area, in the immediate area.

00:18:19 Speaker 6

You could even go so far as to say it would create a fire break, because it's gonna suppress the fire.

00:18:25 Speaker 6

It's uncombustible.

00:18:27 Speaker 6

I do have.

00:18:28 Speaker 6

I hope it's in this batch.

00:18:32 Speaker 6

I do.

00:18:33 Speaker 6

No, please.

00:18:38 Speaker 6

Section 8 of the fire report.

00:18:41 Speaker 6

I'll summarize this for clarity, but the conclusion, section eight on page 11, with implementation of the fuel modification, the ignition resistant construction measures and other mitigation measures in this fire protection plan, the proposed project will be provided with a higher degree of protection from wildfire than many existing homes in San Diego County.

00:19:06 Speaker 6

Not Del Mar, but San Diego County.

00:19:09 Speaker 6

Another section, improved fire access, irrigated landscaping, and offsite brush clearing benefit nearby residences, providing a safer environment for those in the surrounding neighborhood.

00:19:21 Speaker 6

So it's robust if you read that in terms of what those mitigation measures are.

00:19:29 Speaker 6

So there was some reference to the community plan and the community plan

00:19:39 Speaker 6

is not regulatory.

00:19:41 Speaker 6

The community plan is a long-term, long-range vision, a policy of what a community cares about and cherishes.

00:19:49 Speaker 6

But it's not used as regulation to deny a project.

00:19:54 Speaker 6

How it works and by design, by law, is that the community plan sets those policies for what's important.

00:20:02 Speaker 6

And then they're implementing ordinances, namely the zoning ordinance.

00:20:06 Speaker 6

is then used as the regulatory document by which to implement the general plan.

00:20:14 Speaker 6

So by all accounts through the COC, this is developed as a legal, albeit substandard, very substandard lot that precludes reasonable development.

00:20:32 Speaker 6

So we're asking for the variance.

00:20:38 Speaker 6

But it's not development, and that development's gonna go under full scrutiny of the DRB.

00:20:42 Speaker 6

This is just, we're just asking to set the box so we can continue in this process.

00:20:47 Speaker 6

We know it's a long way from over, but we need this to get through it.

00:20:54 Speaker 6

We would ask, oh, last piece.

00:21:01 Speaker 6

I think I'm out of time, so I've got more to share, but I don't want to.

00:21:04 Speaker 2

If you have one last piece, please.

00:21:08 Speaker 6

It's just a lot of what was said in the last testimony was kind of speculative of, well, somebody said you can't build there, or the leach fields, they might be over there.

00:21:24 Speaker 6

I would say the septic issue is one of these things that's a private matter.

00:21:30 Speaker 6

I would say for my applicants that if the neighbor has leech lines bisecting their property, that those ought to be redesigned and removed.

00:21:40 Speaker 6

Not prescriptive rights, as I think somebody said.

00:21:44 Speaker 6

So I would hope that moving forward, I feel the tenor, my opinion, my perspective, is that we have tried to reach out and go, okay, these are problems to be solved, let's solve them.

00:21:59 Speaker 6

But the reaction is, well, let's fight them on CEQA and process and hold them up that way.

00:22:06 Speaker 6

And let's fight them on septic.

00:22:09 Speaker 6

And our goal is to stop this development.

00:22:15 Speaker 6

That never works out well.

00:22:16 Speaker 6

Or it's better to roll up the sleeves, get in there, look at views, look at this thing on the macro level, figure out what's reasonable.

00:22:24 Speaker 6

I put that in air quotes because that's a loaded word, speculative word.

00:22:30 Speaker 6

subjective words so I'll leave it with that and I just hope that we can move this process forward.

00:22:35 Speaker 2

Thank you very much any questions okay then with that there are no more speaker slips I'd like to close the public hearing and move to discussion and our deliberation after that so

00:22:57 Speaker 2

Anybody like to start with the discussion?

00:23:01 Speaker 2

Mark?

00:23:05 Speaker 2

Megan?

00:23:07 Speaker 2

No.

00:23:08 Speaker 2

Patrick?

00:23:09 Speaker 2

No.

00:23:11 Speaker 2

And Jazz?

00:23:13 Speaker 2

Can't sell this one.

00:23:15 Speaker 2

Wait, wait, wait.

00:23:16 Speaker 2

You're reaching for the microphone.

00:23:17 Speaker 2

I caught you.

00:23:23 Speaker 7

None of us wants to start, but that's what we're here to do.

00:23:31 Speaker 7

I've heard, first we have community involvement and the public testimony is incredibly valuable.

00:23:38 Speaker 7

So thank you all for taking the time to be here and participating in this process.

00:23:43 Speaker 7

It informs our decision-making and makes it better.

00:23:46 Speaker 7

So thank you all.

00:23:50 Speaker 7

And I'm not surprised that there are comments on both

00:23:56 Speaker 7

sides of this application.

00:23:58 Speaker 7

I do think that this is a gateway decision.

00:24:02 Speaker 7

This is a lot, a remnant lot, that's one of several.

00:24:07 Speaker 7

So I do think there is precedent that we need to pay attention to.

00:24:15 Speaker 7

I am listening to the discussion of the septic system and the leech lines.

00:24:24 Speaker 7

and the proposed increase in density given the proximity to the preserve and the proximity to the lagoon.

00:24:34 Speaker 7

I am uncomfortable with the CEQA exemption, so I would welcome counsel on that.

00:24:43 Speaker 7

So maybe I'll start.

00:24:45 Speaker 7

That's the first of a couple of tranches of comments, but I would welcome guidance.

00:24:50 Speaker 5

Actually, I reviewed a number of cases under very similar circumstances today in terms of use of that exemption for the action before you, and we're very comfortable with the exemption.

00:25:06 Speaker 7

Thank you, Ralph.

00:25:09 Speaker 7

So I will trust counsel on that regard.

00:25:15 Speaker 7

The second category of

00:25:20 Speaker 7

comments and concerns that I've heard relates to the community character.

00:25:25 Speaker 7

And so I go back, as we all do, to the community plan, and I understand that the community plan is not the governing ordinance, but that is implemented via the zoning requirements.

00:25:41 Speaker 7

And some of the red dots pointed out language of the community plan, thank you for taking the time to do that.

00:25:49 Speaker 7

Also in the community plan, and it's on page 57 of the original version, which is the one I have, in the context of preserving and enhancing Del Mar's special residential character, and then the objectives and policies specifically of maintaining low density residential character.

00:26:12 Speaker 7

There's a specific provision, provision six, that says, establish sufficient controls

00:26:20 Speaker 7

on yarn requirements of irregularly shaped lots and lots which lack street frontage to overcome tendency toward overcrowding, loss of privacy to nearby lots, and blockage of views.

00:26:40 Speaker 7

That seems to be the situation here, a tendency towards overcrowding, when I hear of the possibility of adding

00:26:49 Speaker 7

the residents itself and a junior ADU and another ADU, not that we are to consider those.

00:26:56 Speaker 7

But those policies, as envisioned in the community plan, our guiding principle, were implemented in the zoning.

00:27:05 Speaker 7

And that was the expectation that at least certain purchasers relied upon.

00:27:10 Speaker 7

And so I struggle to see a basis to grant a variance from that zoning

00:27:17 Speaker 7

given the overarching goals that it seeks to achieve.

00:27:23 Speaker 5

Meg, could you reread that section of the community plan, please?

00:27:28 Speaker 7

Sure.

00:27:29 Speaker 7

And forgive me.

00:27:31 Speaker 7

I don't have a version that we can pull up, but it's again on page 57 of the original version.

00:27:38 Speaker 7

And Ralph and Matt, please help me if this is no longer-- I think this is a provision that's still alive and well, despite aged.

00:27:47 Speaker 7

But it says under the objectives and policies, and this is in the community development section, it says establish sufficient controls on yard requirements of irregularly shaped lots and lots which lack street frontage, which I think is what we have here, to overcome tendency toward overcrowding

00:28:15 Speaker 7

loss of privacy to nearby lots, and blockage abuse.

00:28:22 Speaker 7

And as I read the setback requirements and other zoning in the R-140 area, they're consistent with this goal.

00:28:36 Speaker 7

And so unfortunately, and I say unfortunately because I can appreciate the desire to

00:28:44 Speaker 7

build upon a lot and create, you know, Lord knows we need dedicated junior, you know, low-income housing in Del Mar.

00:28:56 Speaker 7

But the request, if granted, the application seems to contravene the policy that's behind the zoning in that area.

00:29:06 Speaker 7

So that's where I get stuck.

00:29:15 Speaker 2

Anybody, any other comments on that or?

00:29:21 Speaker 5

Well, I want to touch on the thread of how much of this is discretion, how much of this is fact-based and so on.

00:29:33 Speaker 5

In other words, part of the discussion, it lays out

00:29:40 Speaker 5

four or five criteria that must be met in order to allow the variance.

00:29:46 Speaker 5

If those criteria are met, is it a requirement then to give the variance or that's the only, or you have to meet those criteria to even

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Transcript

00:00:00 Speaker 1

consider giving the variance.

00:00:02 Speaker 1

So that's one part of the kind of the legal thread of questions.

00:00:08 Speaker 2

Sure.

00:00:10 Speaker 2

The commission does have to adopt findings.

00:00:14 Speaker 2

Those findings staff has laid out for you.

00:00:20 Speaker 2

If you don't feel that they've met your, you know, that criteria, then it makes granting a variance difficult.

00:00:30 Speaker 2

Certainly, as a general matter, a variance is to relieve an undue hardship based on natural conditions.

00:00:41 Speaker 2

It's not a personal undue hardship.

00:00:44 Speaker 2

It's the hardship that the land doesn't offer an opportunity to build what is properly zoned.

00:00:56 Speaker 2

So those findings are part and parcel of that general rule that the Supreme Court has laid out, California Supreme Court has laid out.

00:01:07 Speaker 2

But more direct to your question, those findings have to be met.

00:01:14 Speaker 1

Okay.

00:01:16 Speaker 1

Sticking on that thread, the findings are met.

00:01:20 Speaker 1

I think as an example, Commissioner Speaker is saying,

00:01:24 Speaker 1

I hear you, or perhaps those findings have been met, but I can still come to the conclusion that I can still make an independent conclusion.

00:01:36 Speaker 1

You just have to, in order to even consider saying yes, you have to meet those criteria, but it doesn't, if you meet the criteria, it's not an automatic yes.

00:01:51 Speaker 2

It's not an automatic yes.

00:01:56 Speaker 2

But the tension, and it's a constitutional tension, is would the denial deprive the owner of economic viability of the use of their land?

00:02:10 Speaker 2

And the courts often describe it as a balancing test between public right and private use.

00:02:21 Speaker 2

And

00:02:23 Speaker 2

It's a weighing of those interests.

00:02:27 Speaker 2

And would the denial, the complete denial, and not just shaping the box to however you feel appropriate, which is rightly your decision, would it deny the economic viability use of that land?

00:02:45 Speaker 2

And the courts always compare it to what goes on in the neighborhood, okay?

00:02:51 Speaker 2

So you do have a legally a legal lot.

00:02:54 Speaker 2

You have zoning applied, but that's the tension between the variance and some of the constitutional protection afforded to the owner.

00:03:09 Speaker 1

Sticking on that thread because Commissioner Speaker cited some areas, one of the other speakers cited Tate Scott

00:03:20 Speaker 1

cited some other areas that one could hang their hat on.

00:03:28 Speaker 1

So do you have a reaction to some of the other comments that were made about a justification for not...

00:03:41 Speaker 1

In my listening to it, it sounded like a legal justification.

00:03:46 Speaker 2

Yeah.

00:03:48 Speaker 3

No, I can't be able to go ahead and interject.

00:03:50 Speaker 3

I want to be clear.

00:03:53 Speaker 3

It's that's not the only basis.

00:03:57 Speaker 3

And I understand that a variance requires that the section 30.78.030 standards indicate that a variance from the terms of the zoning ordinance shall be granted only when the findings are made.

00:04:14 Speaker 3

And I think in this situation, and I appreciate the commitment to those findings as well.

00:04:20 Speaker 3

For example, we would have to find that the strict application of the zoning ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

00:04:37 Speaker 3

Well, when I look at the other remnant properties that don't have street access, none of them are yet built.

00:04:45 Speaker 3

None of them have yet been granted a variance.

00:04:47 Speaker 3

So it's not that they are enjoying a privilege that this applicant is being deprived.

00:04:54 Speaker 3

There is the lot at the end of the street on San Diegoito, which is similarly sized, but different because the frontage is on San Diegoito.

00:05:04 Speaker 3

It has different setbacks, it's different circumstances.

00:05:07 Speaker 3

But to your point, which I appreciate,

00:05:09 Speaker 3

I would base my decision also on the specific findings required to grant the variance.

00:05:15 Speaker 3

It's both.

00:05:16 Speaker 1

I appreciate and I apologize for putting words in your mouth more than trying to follow the basis for not granting the variance.

00:05:27 Speaker 1

Is it solely based on these criteria or

00:05:32 Speaker 1

And so I'll withdraw that example.

00:05:34 Speaker 1

But again, one of the speakers laid out, Tate Scott laid out a number of other either arguments or justifications.

00:05:46 Speaker 1

And so, and since those were mainly legal in nature, I'd appreciate your thoughts on that.

00:05:54 Speaker 2

Sir, if I recall Mr.

00:05:57 Speaker 2

Scott's presentation that

00:06:02 Speaker 2

he laid out a number of environmental concerns and why the exemption wasn't appropriate.

00:06:08 Speaker 2

Again, we feel the exemption is completely appropriate for this type of variance.

00:06:16 Speaker 2

You know, the concerns about fire risk, are they unique to this property?

00:06:22 Speaker 2

Are they more of a community-wide issue?

00:06:27 Speaker 2

Is something to take into consideration the protection of the canyon is always something, you know, obviously that you need to take into consideration Going back to fire adequate fire, you know access Obviously a very large concern for this community in most communities throughout Southern, California

00:06:51 Speaker 2

The leech line concerns are usually something that's solvable in engineering, and I would try and dissuade you from writing on that.

00:07:05 Speaker 2

But consistency with the community plan is an important consideration.

00:07:12 Speaker 2

So are there reasons to justify a denial for a variance?

00:07:22 Speaker 2

public safety, environmental issues, things of that nature.

00:07:32 Speaker 2

But the reason I pointed out the tension between the variance and what the courts have said is those are very important considerations and pose this risk to the city.

00:07:47 Speaker 2

You have a lot of control over the box, how big that box is, or how little that box is.

00:07:55 Speaker 2

The test there is, are you depriving the owner of economic use of that land?

00:08:04 Speaker 2

Complete deprivation of economic use of that land.

00:08:09 Speaker 2

So that's why I think staff has emphasized so much

00:08:15 Speaker 2

the box, the buildable area.

00:08:18 Speaker 2

And that is truly your decision.

00:08:23 Speaker 2

And how you formulate that decision, I think you have a lot of reason from Mr.

00:08:29 Speaker 2

Scott and others what you do with that box?

00:08:37 Speaker 1

Clarify the comment again about you said you're comfortable that with.

00:08:44 Speaker 1

that there's no CEQA requirement, but do you mean now versus, because we heard earlier, that CEQA?

00:08:50 Speaker 2

Could come in later?

00:08:51 Speaker 2

Right, in terms of, look, CEQA isn't prospective, it's the action before you.

00:08:57 Speaker 2

And for variances, and it's been challenged, even with the city of Del Mar, and the exemption has held under similar circumstances,

00:09:12 Speaker 2

Now, as Matt has pointed out, when you have the scope of the project, it will more likely than not require further environmental review and would have to address the specifics that have been raised, and rightfully so, during this public process.

00:09:34 Speaker 1

Okay.

00:09:34 Speaker 1

And is it possible to put back up on the screen?

00:09:39 Speaker 1

Again, I know this hasn't, this is only proposed, but the neighbor made a comment about the size of this.

00:09:47 Speaker 1

It's almost impossible that it couldn't end up behind their yard.

00:09:52 Speaker 1

But is it possible to put up the picture that I think you had earlier that showed, there you go.

00:10:05 Speaker 1

Okay, that's pretty helpful.

00:10:10 Speaker 1

Thank you.

00:10:12 Speaker 1

I don't have any other questions.

00:10:13 Speaker 1

I'm still grappling with this.

00:10:16 Speaker 1

Okay.

00:10:18 Speaker 4

Jas, Patrick.

00:10:21 Speaker 5

I guess the one issue I'm comfortable with the exemption.

00:10:26 Speaker 5

I made a note of the language from the CEQA guidelines.

00:10:32 Speaker 5

And I think the relevant one is that it's exempt if there's minor lot line adjustments, side yard and setback variances, not resulting in the creation of a new parcel.

00:10:45 Speaker 5

And based on everything, even though the variance would change the buildable area, it does not create a new parcel.

00:10:52 Speaker 5

So given that language, I'm satisfied that it's exempt and I

00:10:59 Speaker 5

I heard gentlemen's arguments as the exceptions.

00:11:02 Speaker 5

I don't think they apply here.

00:11:11 Speaker 6

So I don't have any questions, but for me, this is really a policy decision because it is going to impact the neighborhood.

00:11:24 Speaker 6

There are several lots.

00:11:27 Speaker 6

that are behind these homes.

00:11:30 Speaker 6

And I do agree with Megan that the lot at the very end that borders Santa Guito, 'cause I did go out there and look at it, the circumstances are different.

00:11:43 Speaker 6

And because it's on the main road, it presents very differently in terms of access and buildability and impact on anything else that's around there.

00:11:56 Speaker 6

It is a legal lot, and it was a legal lot when this land was purchased 25 years ago.

00:12:03 Speaker 6

It was a legal lot when the previous owners had it, so it's been sitting there all this time.

00:12:10 Speaker 6

And I'm sure if someone had looked into it, and we don't know if they did, 10 years ago, 15 years ago, 20 years ago, they would have seen that it's really not very buildable, right?

00:12:26 Speaker 6

agree with Megan.

00:12:27 Speaker 6

She's articulated my concern about consistency with the community plan.

00:12:33 Speaker 6

And thank you for reading that section, 'cause I did not bring the community plan with me to do that, but I think it makes the point very well.

00:12:43 Speaker 6

There was something mentioned that this will create housing capacity.

00:12:47 Speaker 6

I'm not concerned about housing capacity because we've just up zoned so much of this town.

00:12:53 Speaker 6

And in previous years, we've given away housing capacity.

00:12:56 Speaker 6

I know in our two zones, so many homes have disappeared and put these mega mansions there.

00:13:00 Speaker 6

So I think that's a very minor concern at this point that this is going to create housing capacity for us.

00:13:08 Speaker 6

I agree that it would be really nice to have a low income unit because we as a city are struggling for that.

00:13:16 Speaker 6

However, that's one consideration over many things that we have to take into consideration.

00:13:22 Speaker 6

consideration in making such a decision.

00:13:25 Speaker 6

I am concerned about the density in this one small area.

00:13:28 Speaker 6

You know, there's three structures.

00:13:30 Speaker 6

It's going to total 2500 to 3000 square feet.

00:13:34 Speaker 6

And then you look at these other lots that are right behind.

00:13:38 Speaker 6

And so we are really, if we give the kind of variance that that's there, you have to give it to all the others.

00:13:49 Speaker 6

And there are

00:13:51 Speaker 6

I don't know.

00:13:51 Speaker 6

There are no easements.

00:13:52 Speaker 6

I mean, none of this other information is really available to us to be able to say yay or nay that this could apply or could not apply to the other lots.

00:14:03 Speaker 6

So at this point, I've grappled with the setbacks.

00:14:08 Speaker 6

You know, you want to be reasonable and you want to accommodate where you can, but there's so many other things that are inconsistent

00:14:20 Speaker 6

in this particular case, and it is a double lot.

00:14:22 Speaker 6

It's not even one lot.

00:14:23 Speaker 6

So really we're dealing with two particular, they're one lot for legal purposes, but really they're two big sections.

00:14:34 Speaker 6

So I am inclined to not give the variance at this point because of all of these reasons.

00:14:39 Speaker 6

And I've grappled with this all day long.

00:14:41 Speaker 6

In fact, one of the reasons I took a hike and I've never walked that Crest Canyon, my husband does it all the time, but I decided that was really,

00:14:49 Speaker 6

The right thing to do was to go back there, look at it, think about it, and see how that whole area would be impacted, because it is a policy decision and it's.

00:15:00 Speaker 6

something that is going to affect that whole neighborhood.

00:15:07 Speaker 4

Thank you.

00:15:08 Speaker 4

And I'd like to give my comments, and Ralph, if you can just comment on this, I'm going to read some points.

00:15:19 Speaker 4

In the City of Del Mar, an environmental impact report, EIR, is required when a proposed project is determined to have the potential cause

00:15:29 Speaker 4

to cause a significant adverse effect on the environment.

00:15:35 Speaker 4

One of the process points involves a fair argument standard.

00:15:42 Speaker 4

If the initial study or any other substantial evidence reveals a fair argument that a project may have a significant effect on the environment, an EIR must be prepared, even if there is also evidence to the contrary.

00:15:59 Speaker 4

A fair argument is an assertion based on substantial evidence in the record that a proposed project may have a significant effect on the environment.

00:16:13 Speaker 4

Substantial evidence is defined as this involves relevant information such as facts, reasonable assumptions, or expert opinions based on fact,

00:16:27 Speaker 4

sufficient to suggest a significant impact is possible.

00:16:33 Speaker 4

Low threshold, one of the components of a fair argument.

00:16:38 Speaker 4

The standard is intentionally low to prioritize environmental protection and public disclosure.

00:16:47 Speaker 4

And finally,

00:16:50 Speaker 4

under this section, public input, public comments during the review period for environmental documents can present a fair argument for a potential impact.

00:17:03 Speaker 4

A potential fire hazard is a fair and significant argument.

00:17:10 Speaker 4

planning and development, the potential for fire hazard is a core consideration in land use planning and development decisions.

00:17:19 Speaker 4

Arguments based on fire risks can influence the Planning Commission and City Council.

00:17:27 Speaker 4

A potential fire hazard argument aligns directly with state law, the city's adopted ordinances, and it's declared commitment to public safety, climate change adaptation,

making it a legitimate and weighty consideration in public discourse and official proceedings.

00:17:51 Speaker 4

Based on this, it certainly seems that what we're looking at tonight

00:17:56 Speaker 4

falls under this section.

00:17:59 Speaker 4

And for us not to take that into consideration doesn't seem appropriate.

00:18:07 Speaker 4

It seems that this is really targeted for what we're looking at, not the size of the envelope, not the configuration of the house, not what's being put on there or not being put on there, but the actual use of the land.

00:18:23 Speaker 4

If you can give us some input on that.

00:18:30 Speaker 2

I don't dispute anything that you've read or said by that.

00:18:36 Speaker 2

You know, the California Environmental Quality Act is a creature of the state legislature.

00:18:44 Speaker 2

The substantial evidence test

00:18:49 Speaker 2

as virtually every CEQA case.

00:18:54 Speaker 2

If you go to Westlawn, plug in CEQA fair argument, you'll get dozens and dozens of cases around that topic.

00:19:05 Speaker 2

Cities can choose to do an exemption.

00:19:08 Speaker 2

They can choose to do an environmental impact report at their will.

00:19:13 Speaker 2

They can always do more.

00:19:16 Speaker 2

Oftentimes, CEQA attorneys like myself encourage them to do more.

00:19:22 Speaker 2

But the legislature in creating CEQA also predetermined whether they have, whether there is substantial evidence or not, that certain categories of development are going to be exempt.

00:19:38 Speaker 2

That was a legislative prerogative, and the courts have long upheld that prerogative.

00:19:47 Speaker 2

Courts have often found themselves arguing with the legislature over some exemptions.

00:19:53 Speaker 2

Olympics are exempt, but you can find a host of significant environmental effects.

00:20:03 Speaker 2

So I don't I don't disagree with what you've said at all.

00:20:08 Speaker 2

All I've tried to indicate to you tonight is the legislature has carved out a specific exemption.

00:20:16 Speaker 2

for variances in this particular case, and the exemption, if applied, is appropriate and very defensible, I feel.

00:20:27 Speaker 2

Now, in terms of the decision itself, you've all raised, the public have raised a host of issues, public safety being principal, are the principal one.

00:20:45 Speaker 2

Crest Canyon is probably unique in terms of, compared to the rest of the city, more vulnerable than other areas of the city, I think some would argue.

00:21:00 Speaker 2

Certainly the environmental quality of that canyon is unique compared to probably other areas of the city.

00:21:09 Speaker 2

You know,

00:21:11 Speaker 2

I said earlier, being able to get in and out during a fire event is something to be considered as well.

00:21:21 Speaker 2

All of those can weigh into your decision.

00:21:26 Speaker 2

We understand that.

00:21:29 Speaker 2

I mentioned how the courts look at reasonable use, reasonable economic use of property, and that's why we've tried to push you towards, I joked with you yesterday, probably inappropriately so, box building, but those are your decisions.

00:21:51 Speaker 2

At the end of the day, you're

00:21:55 Speaker 2

Of course, the decision maker, and you have to weigh all that public testimony, what you know of the area, particularly in these kind of climate conditions.

00:22:07 Speaker 2

Those are, I don't want to discount what you've said at all, Mr.

00:22:11 Speaker 2

Chairman.

00:22:12 Speaker 2

Those are important aspects of your decision, and I don't want to take away from them.

00:22:18 Speaker 2

All I want to point out is that the legislature carved out exemptions for a reason, despite what typically has a host of environmental concerns.

00:22:29 Speaker 2

And we feel that this present action very comfortably fits within that.

00:22:36 Speaker 4

Thank you.

00:22:41 Speaker 4

Yes, please.

00:22:42 Speaker 5

I guess my position is that

00:22:45 Speaker 5

You know, variances allow flexibility, right, in dealing with properties who are suffering some unnecessary hardship or practical difficulties because of various factors.

00:23:01 Speaker 5

In our case, it's because of the size of the lot.

00:23:07 Speaker 5

I think this is, and I recognize Mr.

00:23:10 Speaker 5

Clark's, I'm sure he was told,

00:23:13 Speaker 5

money people claimed they'll never build on that.

00:23:15 Speaker 5

I don't doubt that for a second that people told you that.

00:23:19 Speaker 5

However, when I look at the size of this lot and its use that's proposed, I find the building on the lot is not unreasonable.

00:23:30 Speaker 5

I think the uniqueness of the lot was not created by the homeowner, had nothing to do with contributing to the size, and

00:23:40 Speaker 5

Unlike others, I don't think the structure, not even sure that's our position to decide now, is out of character.

00:23:48 Speaker 5

Perhaps it increases a couple properties with a garage and a home, but I don't really think it damages the character of the neighborhood or won't damage the character of the neighborhood.

00:24:04 Speaker 5

And because I see this as an undue hardship on the lot,

00:24:08 Speaker 5

Albeit it hasn't been developed for years, I would vote to grant the variance.

00:24:18 Speaker 3

Can I ask a question?

00:24:21 Speaker 3

I think of you both, staff.

00:24:23 Speaker 3

When I think of variances, I think of, and forgive me for being inarticulate, a variance to grant, for example,

00:24:37 Speaker 3

a buildable area of 40% and bumping it up to 43.8% was one of the examples I'd seen in Del Mar's history.

00:24:45 Speaker 3

Or, you know, reducing the setbacks in certain areas.

00:24:55 Speaker 3

My question is this, this example seems different because the variances

00:25:02 Speaker 3

the variance, if granted, would convert as a practical matter and otherwise unbuildable lot to a buildable lot.

00:25:13 Speaker 3

Do we have examples in our history where we've granted that kind of variance before?

00:25:19 Speaker 3

In other words, not just a little bigger or a little smaller or a little closer to the property line, but from something that's just a no to a go.

00:25:31 Speaker 7

I, best example I can think of would be the intersection of Camino del Mar and Coast Boulevard, a house built by architect Lou Domini.

00:25:42 Speaker 7

I think the lot is extremely small, triangularly shaped.

00:25:48 Speaker 7

I think the house is about 700 square feet and is most of the lot.

00:25:53 Speaker 7

So that is a, there's an example.

00:25:58 Speaker 7

of that and but one thing I just wanted to kind of remind the commission and and I think it's of the purpose of a variance and and I think it's really it comes right out of the first finding and in that that finding that we typically is relied upon the most to sort of set the tone for the rest of the findings that the required finding is a variance from the terms of the zoning ordinance shall be granted only when

00:26:24 Speaker 7

because of special circumstances applicable to the property, including size, shape, topography, location, surroundings.

00:26:31 Speaker 7

And here's the important part.

00:26:33 Speaker 7

This is where I think variance is defined.

00:26:36 Speaker 7

The strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

00:26:46 Speaker 7

And the way-- when I started working on variances long, long time ago,

00:26:53 Speaker 7

What that meant to me is there's something unique that size, shape, location that without that variance, you're not getting to enjoy your property, your legal lot the same way your neighbors do.

00:27:09 Speaker 7

In this case, you couldn't have a house wider than five feet.

00:27:14 Speaker 7

So I think what the where this where the crux of this is, is what is

00:27:22 Speaker 7

that appropriate relief that would allow somebody to enjoy that privilege of having a residential, a residence on their lot, just like their neighbors do under the identical zoning.

00:27:36 Speaker 7

And in this case, as explained by, by, by the applicant's consultant in the R 114, R 110 and R 140 zones, when you have a substandard size lot, you

00:27:51 Speaker 7

Well, the way it works out is you get 12.5% FAR, but if you have a substandard size lot, any of this, the residential single family zones are afforded at least a 2000 square foot house.

00:28:05 Speaker 7

That's the relief built into the code.

00:28:07 Speaker 7

So one way to look at it would be what relief is necessary to allow a 2000 square foot house.

00:28:18 Speaker 7

I do also want to mention

00:28:20 Speaker 7

another possibility if it comes to this, because I've heard one commissioner mentioned that he can that he could vote for the variance, but I am seeing concern potentially of four others.

00:28:40 Speaker 7

And you do have basically, you know, choices tonight.

00:28:44 Speaker 7

You can approve the project, I mean, the variance, sorry,

00:28:49 Speaker 7

You can ask for more information if you're having trouble justifying this type of variance.

00:28:55 Speaker 7

In rare cases, and we have done this recently, in rare cases, there is the ability to send the project to the Design Review Board first.

00:29:10 Speaker 7

A reason why I would

00:29:12 Speaker 7

say that is a possibility in this case, as a lot of the concerns that are being raised tonight really don't have too much to do with the nuts and bolts of the box, but really have to do with the impacts that the development is going to eventually have on the neighbors, on the surroundings, on the open space.

00:29:34 Speaker 7

And through our design review process, there are dozens of regulatory conclusions

00:29:42 Speaker 7

that are there to protect all those issues.

00:29:45 Speaker 7

So one way to look at it is if this was to go through the design review process, which would also revisit CEQA, and then come back to you with

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Transcript

00:00:00 Speaker 1

you know, it would be at that point an approval.

00:00:03 Speaker 1

It would be an approval that's gone through the hearing process, looked at again for, for environmental quality.

00:00:09 Speaker 1

And then you would be probably faced with something that maybe looks like this or maybe it looks different than this because of the design review process and the give and take and, you know, potential

00:00:24 Speaker 1

Potential revisions that that the that the applicants would have to make to to what they want to do that Get it get it in a design and in a in a siding that the design review board feels can meet the design review ordinance and not be inconsistent with any of the with any of the regulatory conclusions You would be seeing a site plan in a set of design review plans that have been approved but conditioned

00:00:54 Speaker 1

can't get a building permit without a variance because however this is, I'm gonna guess that it doesn't meet the current zoning, the current setbacks.

00:01:05 Speaker 1

At that point, a lot of the public discourse and the concerns would already have been aired about how that design's gonna affect the neighbors, gonna affect the canyon, gonna affect emergency services or fire issues.

00:01:21 Speaker 1

And you would be, if you are thinking, if you are comfortable with how that process went, you would essentially be looking at whether or not you could grant whatever variances were necessary for those sightings and locations of buildings.

00:01:38 Speaker 1

And you would do that through tying it to the plan, not saying, oh, well, there's now, instead of

00:01:47 Speaker 1

20 foot front yard, 25 rear yard, 10 foot side yards, wherever that the community and the coastal commission and the design review board, design review board, coastal commission on appeal, felt that it was best to meet all the concerns of the community plan, the municipal code, the design review ordinance, then you would be looking at

00:02:15 Speaker 1

Is that right?

00:02:16 Speaker 1

And can we grant the variance based on what's washed out?

00:02:19 Speaker 1

So that's a option for you if you're unable to make a decision this evening.

00:02:27 Speaker 1

Other options for you would be to continue-- and you would do that, but you would just continue this to a future meeting.

00:02:34 Speaker 1

Other options for you would be to continue it and ask the applicants to come back with something that

00:02:44 Speaker 1

You know, I think you would have to give them a little more direction on what your concerns are and for them to come back with something that is more addressing your concerns.

00:02:57 Speaker 1

Or if you felt that there was a there were was an actual box that you could live with, you could suggest that and see if if other commissioners were willing to go with that and and acceptable by the applicants.

00:03:12 Speaker 1

But I think that one out of those four options, and then the fifth being a denial, which we never recommended Delmar, 'cause there's always, you know, there's always a reason to see if you can come to a conclusion that, you know, allows for everybody to be happy.

00:03:32 Speaker 1

One way of doing it may be to flip the process and do design review first, and that would answer the SQL question as well, so.

00:03:44 Speaker 1

Those are, just wanted to throw that out there as you're considering moving, how you're going to move forward with your deliberations at this point.

00:03:53 Speaker 2

I think I wanted to highlight that.

00:03:55 Speaker 2

The lot is not unbuildable.

00:03:57 Speaker 2

I mean, tomorrow they could put a 5 foot by 80 yard storage center through that lot.

00:04:04 Speaker 2

So, you know, part of our question is what's the best use?

00:04:09 Speaker 2

Look at the hardship that's imposed on the homeowner.

00:04:12 Speaker 2

who can build this long storage center, something silly, and that narrow 5 feet, or is there a better use for it?

00:04:19 Speaker 2

And again, that's part of the reason for my siding with the variance.

00:04:27 Speaker 1

But one thing to realize is the use, the allowed use is a single family residence, a single unit residence.

00:04:35 Speaker 1

Can't put the storage center on there until you have the residence.

00:04:39 Speaker 2

No, my point was

00:04:42 Speaker 2

If they weren't even applying for a residence, they could build something on that lot, correct?

00:04:47 Speaker 1

No, you, so your allowable use of the lot is a residential unit.

00:04:53 Speaker 1

You have, there are accessory uses, once you have that unit, a garage, a shed, a storage facility of some sort, but you have to, you can't put a pool on a vacant lot without a house to run into.

00:05:07 Speaker 3

You put an ADU.

00:05:10 Speaker 1

Nope.

00:05:11 Speaker 1

because it's accessory to a primary residential unit.

00:05:15 Speaker 4

I have two questions.

00:05:18 Speaker 4

Oh, I'm sorry.

00:05:20 Speaker 3

I just wanted to comment just a little bit of what Matt has laid out to you in terms of your options.

00:05:28 Speaker 3

I think a lot of what you're hearing tonight is kind of the car is, you know, before the horse.

00:05:33 Speaker 3

And unless you have the position

00:05:41 Speaker 3

that it's unbuildable, it will never be buildable.

00:05:45 Speaker 3

And as we've suggested from our office, that does become problematic.

00:05:51 Speaker 3

The process laid out gives the opportunity to, I think, address many of the issues, including CEQA, more in-depth, more specific to fire hardening and access and egress, all those issues.

00:06:11 Speaker 3

And it gives the applicant to see if there's an opportunity to think a little bit differently than what's before you tonight.

00:06:23 Speaker 3

It's a process that I think hits all the due process concerns as well.

00:06:32 Speaker 3

So that would be 1 consideration as well.

00:06:37 Speaker 5

Thank you.

00:06:40 Speaker 4

Two questions.

00:06:42 Speaker 4

And thank you for the options and the flexibility in terms of process.

00:06:49 Speaker 4

You know, on the one hand-- and I was talking about this with the applicant today-- I would wish for efficiency for applicants in this process.

00:06:58 Speaker 4

I'm reluctant to-- I don't know if the term has kick the can down the road or put it to the DRB.

00:07:05 Speaker 4

because I imagine you want finality.

00:07:08 Speaker 4

But it's been a long time coming, and maybe that is the best solution to get some answers to these questions in terms of access and egress and the environmental impact, et cetera.

00:07:23 Speaker 4

Two questions.

00:07:23 Speaker 4

Number one, in terms of what is the prerogative and obligation of the Planning Commission versus what is the prerogative and obligation

00:07:32 Speaker 4

of the Design Review Board, which of those two entities is responsible for assessing public safety?

00:07:40 Speaker 4

In other words, if we're considering increased density, there is a fire risk in this area, which I know you're well aware of, and the impact of not only the density of this property, but potentially the other properties and the watermark we know is coming.

00:07:57 Speaker 4

Who has between the two of our groups is the one

00:08:02 Speaker 4

to make that assessment.

00:08:09 Speaker 3

In terms of public safety, you're in the position to determine those issues over a design review board.

00:08:18 Speaker 1

However, when, you know, the design review ordinance

00:08:27 Speaker 1

is made, as I mentioned earlier, is made-up of dozens of regulatory conclusions.

00:08:31 Speaker 1

They're all negative findings.

00:08:33 Speaker 1

Some are related to building.

00:08:35 Speaker 1

Some are related to neighborhood compatibility.

00:08:38 Speaker 1

There's a whole section that's related to traffic and circulation, and that's where safety comes in in a lot of respects.

00:08:46 Speaker 1

There's landscaping.

00:08:51 Speaker 1

I would say that you're both responsible.

00:08:55 Speaker 1

They're more responsible in how that design, that specific design is going to impact the community, the neighborhood, the surroundings.

00:09:07 Speaker 1

And yours is a little bit more generalized.

00:09:10 Speaker 1

And at this point, if we're granting relief from those regulations that implement the community plan, are you doing it in a way that still

00:09:26 Speaker 1

it recognizes and addresses safety.

00:09:29 Speaker 1

So it's kind of, it's a both, I think.

00:09:34 Speaker 4

My second question goes to the possible uses of the property.

00:09:41 Speaker 4

Among other options, would it be an option to merge the lots with the existing primary residence?

00:09:52 Speaker 1

That is an option.

00:09:54 Speaker 4

Okay.

00:09:55 Speaker 4

Thank you.

00:09:59 Speaker 5

Any other questions of council?

00:10:02 Speaker 5

Yep.

00:10:03 Speaker 6

In other words, making, it was coming back, this is perplexing is to how these lots became, why they were not part of

00:10:19 Speaker 6

a part of the existing lot rather than zoned separately.

00:10:23 Speaker 6

It's it's kind of it's kind of hard to wrap the head around that because there's no street access.

00:10:31 Speaker 6

Every one of these will require an easement and in essence, a flag lot and just stepping in.

00:10:41 Speaker 6

And so it really is perplexing how this how this came to be.

00:10:48 Speaker 6

and on something that in and of itself is not buildable and scratching the head of, there is no road.

00:11:01 Speaker 6

Every one of these would be a flag.

00:11:02 Speaker 6

Do we know how many of these lots there are like this on a Rita?

00:11:08 Speaker 6

Is this just three or four of these or does this go?

00:11:11 Speaker 6

all the way up the road or quite a ways.

00:11:14 Speaker 1

It's three.

00:11:15 Speaker 6

It's three.

00:11:16 Speaker 1

I mean, the fourth one at the very north end was built on, it has street access to San Diego.

00:11:22 Speaker 6

Right, and I don't, and this is the only one where...

00:11:26 Speaker 7

Well, there's six lots altogether.

00:11:30 Speaker 7

There's one to the south, one to the east, west.

00:11:34 Speaker 7

So there's one, then there's this lot, then there's three, four, five, and then one has been built on, that's six.

00:11:40 Speaker 6

Six lots that are these skinny, skinny lots.

00:11:44 Speaker 7

Yeah, that's what the map shows.

00:11:47 Speaker 5

Yeah, I think the explanation that was given before the assumption, it wasn't clear, but that the road was projected to be there.

00:11:58 Speaker 5

And if you take a look at the way this is laid out,

00:12:01 Speaker 5

the size of the road that's there now and the size of the width of this 50 feet, it looks like that could have been the road and then they decided putting it here, what do we do with this and we make them into lots.

00:12:16 Speaker 6

Other than rather than making them into lots, separate lots, it could just be part of the existing lot.

00:12:23 Speaker 6

I mean, they all got sold to the homeowners on the street.

00:12:27 Speaker 6

And I guess it's the city that zoned it.

00:12:31 Speaker 6

so that they were separate lots rather than an extension of the existing lot, which is perplexing.

00:12:39 Speaker 6

But it is what it is.

00:12:41 Speaker 7

The developer may have presented that particular plan.

00:12:45 Speaker 7

The developer who did this as somebody, is it Ms.

00:12:54 Speaker 7

Wade?

00:12:55 Speaker 7

has said that in 1988, when he moved there, what he knew was that there was a developer who had actually created all of these lots, and then the road moved, creating this issue.

00:13:10 Speaker 7

And the reason these may have been already

00:13:15 Speaker 7

I'm not sure what he did, but it was a developer that submitted it and the city accepted it.

00:13:20 Speaker 7

Right, So, without, I think a whole lot of.

00:13:23 Speaker 6

I mean, I get that sinks with it, yes.

00:13:26 Speaker 7

And they seem to go with the particular properties, with the exception of this one lot that happens to be on both.

00:13:32 Speaker 7

But everything else, when you bought the one lot, you bought the other lot with that.

00:13:37 Speaker 7

So it's all part of 1 big parcel.

00:13:39 Speaker 6

I really don't know with the other lots, because they don't extend like this.

00:13:43 Speaker 6

If you had to put in

00:13:45 Speaker 6

an access to get to the back, could you actually build one or not?

00:13:51 Speaker 6

I had thought that perhaps one solution was to make the buildable, the buildable box, if you will, only be the area behind, is it 1541?

00:14:09 Speaker 6

But I don't think that is kind of a,

00:14:13 Speaker 6

a middle ground, but I'm not sure that really addresses some of the other concerns that are real concerns of, then every one of these lots could do a similar thing.

00:14:26 Speaker 6

I think, you know, I mean, we're really talking about kicking the can, because when it comes back to us, it's just, you know, it's pretty, I think,

00:14:39 Speaker 6

At that point, if it goes through DRB, it's going to clearly lay out where, you know, where on the property it's going to be built.

00:14:50 Speaker 6

They've gone through an analysis and, you know, so, you know, it is what it is, but I think that's what we're doing.

00:14:59 Speaker 5

Well, Matt, based on your explanation of, you know, our choices,

00:15:07 Speaker 5

the choice of kicking it down the road to the DRB yeah down yeah down that road that doesn't exist that did exist or may not have existed it is relevant to what we're discussing tonight in that we're saying

00:15:29 Speaker 5

We have all of these issues with what's going on in and around and will affect this property, yet that hasn't been established yet, which would be by the DRB.

00:15:41 Speaker 5

Yet we're looking to make a decision and told, no, don't look at this, don't look at that.

00:15:51 Speaker 5

just look at this, be myopic about it.

00:15:54 Speaker 5

Don't take in all the facts and circumstances that go with this decision.

00:16:00 Speaker 5

It's very difficult for me after all the years of making decisions on whatever it happens to be to say, okay, I'm not going to turn that over.

00:16:11 Speaker 5

I'm not going to turn that over.

00:16:12 Speaker 5

I'm just going to look at this and that's the way I'm going to look at it.

00:16:16 Speaker 5

It might be

00:16:17 Speaker 5

the criteria that you are describing both of what's been set out, but it's not an appropriate way of making a decision on this or anything else by just disregarding and saying, well, there's a car coming here 100 miles an hour, there's 100 miles an hour here, I might be able to get across the road, but I can't consider that, I just gotta consider here and then.

00:16:46 Speaker 5

It so that's where I have it an issue.

00:16:50 Speaker 7

Well, if public safety it comes under our purview, then I think some of this consideration can be taken into consideration by us.

00:16:58 Speaker 5

Which we are number one.

00:16:59 Speaker 7

Yeah, the other thing is the law says this is a minor variance.

00:17:06 Speaker 7

In my mind, this is a major variance because you're changing the whole.

00:17:12 Speaker 7

complexion of that lot.

00:17:14 Speaker 7

And this is only one, there's still four others.

00:17:17 Speaker 7

So it is a policy decision and it's a policy decision that's going to have an impact on that whole area.

00:17:24 Speaker 7

Doesn't matter what they're building.

00:17:26 Speaker 7

I'm not getting into is it a, you know, manufactured home or is it a, you know, concrete home?

00:17:32 Speaker 7

Is it this, is it that?

00:17:33 Speaker 7

Because

00:17:34 Speaker 7

That's something DRB will deal with.

00:17:36 Speaker 7

But if we're looking at the big picture, that's what I'm focusing on.

00:17:40 Speaker 7

And from a policy perspective, I just think either we do them all, because that would be the right thing to do, which means every one of these lots has to have a variance.

00:17:54 Speaker 7

If the group came back and said, we've all gotten together and this is what we want to do, that would be a whole different ballgame than what we've been asked to do here.

00:18:04 Speaker 7

That's kind of how I'm looking at it.

00:18:05 Speaker 5

But if we just do it for this lot, that sets the precedent for the others to go forward.

00:18:10 Speaker 5

Exactly.

00:18:11 Speaker 7

So it's a policy decision that we're making.

00:18:13 Speaker 7

And I think by doing that, we're setting stuff into motion.

00:18:18 Speaker 7

And again, 25 years since the homeowners bought this,

00:18:23 Speaker 7

Before that, another 25 years, you know, the stuff has been there and it hasn't been.

00:18:29 Speaker 7

I think merging the lots into the existing lots makes a lot more sense, you know, but again, that's not what we're asked to do or consider.

00:18:39 Speaker 7

And so I'm not focusing on that, just focusing on the task at hand.

00:18:44 Speaker 5

So let me ask each of you, would you rather take the option of

00:18:51 Speaker 5

moving it forward to the DRB and having it come back to us after that, or taking a vote tonight and making a decision whether it is to approve or disapprove, to grant or not grant the variance.

00:19:06 Speaker 5

Any feedback on that?

00:19:10 Speaker 5

I mean, like to do what the group would like to do.

00:19:15 Speaker 5

And if it's kicking it down to the DRB and back to us, as opposed to making a decision,

00:19:22 Speaker 5

let's do that.

00:19:23 Speaker 5

If it's taking a vote, then I think unless there is anything else that anybody would like to add, I think it's time to take a vote.

00:19:36 Speaker 7

I think the reasons that I have made really is not going to be impacted by what DRB says or doesn't say, because they're going to address what the structure looks like.

00:19:47 Speaker 7

What are the

00:19:48 Speaker 7

Concerns on privacy.

00:19:50 Speaker 7

What are you know those kinds of things?

00:19:53 Speaker 7

And and I feel that.

00:19:56 Speaker 7

It's a policy decision.

00:19:58 Speaker 7

It's not a very specific.

00:20:00 Speaker 7

It's the big picture.

00:20:01 Speaker 7

That's what our role is, right?

00:20:02 Speaker 7

So we're looking at the big picture, so I'd rather just take a vote, OK?

00:20:06 Speaker 7

I don't know how everybody else is mark.

00:20:11 Speaker 6

So going back to the part of merging the lots.

00:20:19 Speaker 6

Is that, going to the point of the comment that was made about merging the lots, is that...

00:20:29 Speaker 3

The issue here tonight, it hasn't been noticed.

00:20:33 Speaker 3

It hasn't been properly noticed.

00:20:35 Speaker 6

Right, right.

00:20:36 Speaker 6

But that is something that could be done.

00:20:40 Speaker 1

It's something that they, it's something they can apply for.

00:20:43 Speaker 1

We have a consolidation process.

00:20:47 Speaker 6

And then that, and then that process, does that come back to any of the...

00:20:57 Speaker 1

Not to the Planning Commission.

00:20:58 Speaker 6

Right, but it comes back somewhere.

00:21:02 Speaker 1

A lot merger is a ministerial process.

00:21:05 Speaker 6

Oh, okay.

00:21:07 Speaker 6

And the appeal is the appeal, is there an appeal process to any vote taken tonight with the city council or this is?

00:21:13 Speaker 1

Absolutely.

00:21:14 Speaker 1

Yeah.

00:21:14 Speaker 1

It's like every process in Del Mar.

00:21:16 Speaker 1

Right.

00:21:16 Speaker 6

Yeah.

00:21:20 Speaker 3

Just so I'm clear and really for the matter of the record, if it's the will of the commission to deny the variance,

00:21:29 Speaker 3

What I've heard tonight is that one of the key issues is public safety, particularly through fire conditions, going, getting in, getting out, the proximity to Crest Canyon under those fire conditions.

00:21:50 Speaker 3

The second thing I've heard tonight and want to make sure that I'm clear and the record is clear,

00:21:57 Speaker 3

the environmental sensitivity of Crest Canyon.

00:22:03 Speaker 3

And the third thing that I've heard related to Megan's reading of the community plan is the inconsistency with the community plan.

00:22:13 Speaker 3

Have I missed anything else?

00:22:15 Speaker 3

I just want the record to be really clear on those points if the commission is moving in that direction.

00:22:21 Speaker 3

Are those the three main areas?

00:22:24 Speaker 3

Yep.

00:22:28 Speaker 7

Those are, and I would, my other concern is that, you know, what is appropriate for the way this lot is, because what's being proposed, I think is just too much.

00:22:43 Speaker 7

That to me, that's, you know, when you look at the reasonableness of the variance being requested, it's quite extreme.

00:22:51 Speaker 3

Right.

00:22:51 Speaker 3

So that would be the fourth reason, the concern over the density, but we would disregard because state law requires us to disregard the ADU complexity, but it does go to the fire hazard and getting a number of people out in a constrained area.

00:23:12 Speaker 5

I would like to take a vote tonight as opposed to kick it down the road.

00:23:17 Speaker 5

So we have two.

00:23:20 Speaker 4

I agree.

00:23:22 Speaker 5

Patrick, would you like to kick it down the road or take a vote?

00:23:28 Speaker 2

Take a vote.

00:23:29 Speaker 5

Take a vote.

00:23:30 Speaker 5

Mark.

00:23:33 Speaker 6

I'd probably kick it, but I'm prepared to vote.

00:23:35 Speaker 5

Okay.

00:23:37 Speaker 6

Yeah.

00:23:39 Speaker 6

And just before we do, I think I just want to bring up this point again to see if there's any

00:23:49 Speaker 6

if it resonates with anybody, if the box were redefined, does that change anybody's view?

00:23:55 Speaker 6

Kind of redefined in a manner where it is directly behind 1541?

00:24:04 Speaker 6

So the box is shortened.

00:24:06 Speaker 6

Does that change anybody's view of things?

00:24:12 Speaker 7

You mean only use half the lot versus the whole lot?

00:24:18 Speaker 6

Yes, in essence, it makes the buildable space only behind the applicant.

00:24:23 Speaker 6

Yes.

00:24:24 Speaker 7

But the width, again, the setbacks would still be the same setbacks.

00:24:28 Speaker 7

It's just that on one side, it would shrink down, but the others are still--.

00:24:33 Speaker 6

Right, on one side-- That's the structures.

00:24:37 Speaker 6

Yes, on the one, it would only be on up, in essence, to this easement in the blue line.

00:24:45 Speaker 6

where this variance would be given?

00:24:48 Speaker 7

I don't know that it would really address my concerns.

00:24:55 Speaker 6

Right.

00:24:59 Speaker 5

But good suggestion.

00:25:01 Speaker 6

Right.

00:25:03 Speaker 5

All right.

00:25:06 Speaker 5

I think we're ready to vote at this time.

00:25:09 Speaker 5

So start at that end.

00:25:14 Speaker 4

For the reasons, Ralph, that you enumerated, I vote to deny the application.

00:25:23 Speaker 1

You need a motion.

00:25:24 Speaker 1

You need a motion, and then a second, and then we'll call the vote.

00:25:29 Speaker 5

Okay, I'd like to make a motion to deny the resolution as it is written, or I'd like to make a motion to

00:25:42 Speaker 5

vote on the resolution as it's written, not deny, but vote on the resolution as it's written.

00:25:50 Speaker 1

Okay, so first we need a singular motion.

00:25:55 Speaker 5

I'd like to call for a vote on the motion that's been presented to us tonight.

00:26:02 Speaker 5

Deny.

00:26:03 Speaker 5

The resolution to deny and I need a second to deny the variance, thank you.

00:26:11 Speaker 5

So if I can get.

00:26:13 Speaker 1

You have a second.

00:26:14 Speaker 5

Second, please.

00:26:17 Speaker 4

I'll second.

00:26:19 Speaker 5

Okay.

00:26:19 Speaker 1

And I will just go ahead and call the vote.

00:26:22 Speaker 1

And Commissioner Speaker, I think we know, but for the record.

00:26:26 Speaker 4

So I think I technically vote I on this motion as as your.

00:26:31 Speaker 1

Vote, your vote, you're voting for the motion to deny.

00:26:33 Speaker 1

So it's a yes.

00:26:35 Speaker 4

Correct.

00:26:37 Speaker 1

Leonard.

00:26:38 Speaker 2

Opposed.

00:26:40 Speaker 1

And Commissioner Graywell.

00:26:42 Speaker 4

I agree.

00:26:45 Speaker 1

Commissioner Rittenbaum.

00:26:48 Speaker 6

I agree.

00:26:49 Speaker 1

And Chair Posner.

00:26:51 Speaker 5

I agree.

00:26:52 Speaker 5

Okay.

00:26:54 Speaker 1

That's 4-1.

00:26:55 Speaker 1

The motion passes.

00:26:57 Speaker 1

Variances denied.

00:27:00 Speaker 1

That is subject to a 10-day right of appeal.

00:27:03 Speaker 5

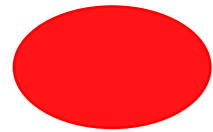
Okay, so

00:27:07 Speaker 5

30 p.m.

00:27:08 Speaker 5

on November 4th, and I'd like to close the meeting.



Leslie Carrillo

From: Robert Silva
Sent: Monday, January 5, 2026 5:24 PM
To: City Clerk Mail Box
Subject: FW: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan

Follow Up Flag: Follow up
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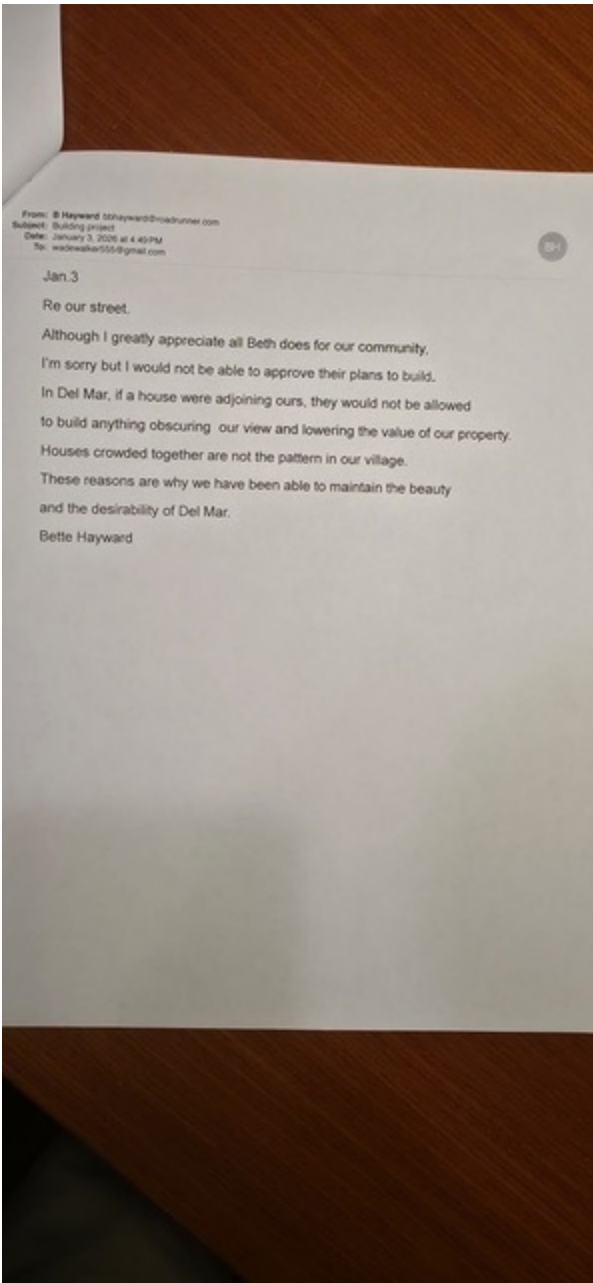
Robert Silva | Administrative Assistant
City of Del Mar | Administrative Services Department
1050 Camino del Mar, Del Mar, CA 92014
Direct Line | 858-375-9526 | rsilva@delmar.ca.us



CITY OF DEL MAR

From: wade walker <wadewalker555@gmail.com>
Sent: Monday, January 5, 2026 1:49 PM
To: City Hall Mail Box <CityHall@delmar.ca.us>
Cc: Terry Gaasterland <tgaasterland@delmar.ca.us>; Tracy Martinez <tmartinez@delmar.ca.us>; Dan Quirk <dquirk@delmar.ca.us>; John Spelich <jspelich@delmar.ca.us>
Subject: RED DOT - Opposition to Westburg Appeal - ITEM 6 - Jan

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From: B Hayward bhayward@roadrunner.com
Subject: Building project
Date: January 3, 2026 at 4:45PM
To: wadewalker555@gmail.com

BH

Jan. 3

Re our street.

Although I greatly appreciate all Beth does for our community,

I'm sorry but I would not be able to approve their plans to build.

In Del Mar, if a house were adjoining ours, they would not be allowed to build anything obscuring our view and lowering the value of our property.

Houses crowded together are not the pattern in our village.

These reasons are why we have been able to maintain the beauty and the desirability of Del Mar.

Bette Hayward

wade walker

wadewalker555@gmail.com

FROM: BETTE HAYWARD / 1567 SAN DIEGUITO RD./ DEL MAR

Leslie Carrillo

From: maris laipenieks <mlaipenieks@yahoo.com>
Sent: Monday, January 5, 2026 9:06 PM
To: City Clerk Mail Box
Subject: Red Dot: De Novo Hearing/Appeal of Variance 24-003 for January 6, 2026 City Council Meeting
Attachments: red dot de novo hearing.docx
Follow Up Flag: Follow up
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Red Dot: De Novo Hearing/Appeal of Variance 24-003

Dear Councilmembers,

It's my understanding the applicants bought the oddly shaped strip of vacant land abutting the canyon and behind the Clark's home some years ago. It's also my understanding they bought a similar strip of land behind their own home. Additionally, there were other strips of land behind some of the houses on San Dieguito Drive abutting the canyon that other homeowners may have bought. As a neighbor and Del Mar resident, I support the Planning Commission's decision to deny the variance 24-003 for three simple reasons.

1. Common Sense

It defies common sense that one neighbor would be allowed to build a rather large, manufactured home directly behind and close to their neighbor, and right up against the Crest Canyon open space. Besides how I feel personally, I also believe the City Council should uphold the Planning Commission's decision because the applicant cannot meet the elements supporting a variance per the Del Mar Municipal Code.

2. Application of the Del Mar Municipal Code supports the denial of a variance.

The vacant lot does not meet the minimum development standards under section 30.10.070. The vacant lot is 13,070 square feet, 50 feet deep and 261 feet long without any street frontage. I believe the development standards require a 40,000 square foot lot, 20 feet of street frontage, 100 feet depth. The required setbacks per the code, as noted by the agenda materials, would only allow 5 feet of building and the California Building Code requires at least 7 feet to build a residence. According to section 30.10.070, the vacant lot is **unbuildable**.

The applicants have requested a *significant* variance to build a manufactured home. This is not a typical variance of a few feet to allow an extra bedroom. Without a variance, the applicant cannot build a residence or anything bigger than a shed. So, in essence, the City Council is forced to decide whether the applicant can build on their own land.

According to the variance section of the Del Mar Code: "A variance from the terms of the Zoning Ordinance shall be granted only when, because of the special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by *other property in the vicinity* and under identical zoning classification."

I believe the applicants and the City staff have misinterpreted the words “other property in the vicinity” in their arguments. The small sliver strips of land behind the homes on San Dieguito and abutting the canyon (that became available to prospective buyers long after their homes were built) are not large enough to support *any* individual building. So, by denying this variance, the City *would not be* denying a privilege held by any other similarly situated property owner (i.e. one who wishes to build on only a small oddly shaped lot).

Additionally, the elements under section D. of 30.78.030 are met which *support the denial of the variance*. That section states:

D. “No variance shall be granted if the inability to enjoy the privilege enjoyed by other property in the vicinity and under identical zoning classification:

1. Could be avoided by an alternate development plan;
2. Is self-induced as a result of an action taken by the property owner or the owner's predecessor;
3. Would allow such a degree of variation as to constitute a rezoning or other amendment to the zoning code; or
4. Would authorize or legalize the maintenance of any private or public nuisance.”

First, the applicants have a viable common sense *alternate development plan*. They have room behind their own house to build a manufactured house or add to their existing home.

Second, the request for a variance *is self-induced* in that this small piece of land was unbuildable when bought in 2009 and is unbuildable now. The applicant knew or should have known a separate residence could not be built on that piece of land because it never met minimum development standards.

Third, a significant variance to build a residence on a plot of land that is unbuildable *constitutes a rezoning*. R1-40 zoning requires at least 40,000 square feet and 100 feet depth. This lot is so narrow that only a 5-foot-wide building can be built. A variance of this degree constitutes a re-zoning by this City under an illegal process.

Finally, as mentioned by other red dots, *building a residence so close to the canyon in a high danger fire zone would constitute a public nuisance*. The evacuation route is narrow and the propensity for fire is high. For these reasons, the denial of the variance is legally supportable.

3. Denial of the Variance is the Right Thing to Do

The City of Del Mar is a beautiful, unique town made up of wonderful, civic-minded residents. I believe the vast majority would agree that building a manufactured home directly behind your neighbor’s home is the wrong thing to do, even if it were to be allowed. It makes me proud that many of my neighbors are standing up and expressing that we should have standards where we don’t let things like this happen in Del Mar, besides the logic and Municipal Codes involved.

In summary, the Planning Commission’s decision to deny the variance is backed by common sense, the Municipal Code, and likely most of our community. Understanding the applicants want to build a residence on their property and won’t be able to (when the City upholds the Commission’s decision), the applicants still have an alternative. They could build directly behind their own home. This viable alternative makes this issue rather easy, unlike some of the difficult decisions the City Council will make in the next few years.

Sincerely,

Maris Laipeniņš

Oribia Road



Leslie Carrillo

From: Kit Leeger <kleeger@leegerarch.com>
Sent: Tuesday, January 6, 2026 7:31 AM
To: Sarah Krietor; City Clerk Mail Box; Tracy Martinez; John Spelich; Terry Gaasterland; Dan Quirk
Cc: Matt Bator; Elizabeth Yee; Karen Brindley; Ashley Jones; Beth Westburg (bethwestburg@yahoo.com); Reid Westburg (westburg@gmail.com); Robert Scott; Lee Andelin (lee@aac.law)
Subject: City Council Special Mtg Item III.A / Reg. Mtg Item 6
Attachments: CC Red-Dot re Westburg Appeal 26_0106.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

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.

Good morning, Sarah, Council members, and Staff,

I respectfully submit the attached red-dot letter in regard to the Westburg's Variance Appeal.

Sincerely,

Kit Leeger

LEEGER ARCHITECTURE

www.leegerarch.com

P.O. Box 2310, Del Mar, CA 92014 (office: 1442 Camino Del Mar #215)

760-815-4713

KATHLEEN O. LEEGER LICENSE #C20387

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LEEGER ARCHITECTURE

January 6, 2026

VIA EMAIL

DEL MAR CITY COUNCIL

c/o Sarah Krietor, Administrative Services Manager/City Clerk

1050 Camino del Mar

Del Mar, California 92014

skrietor@delmar.ca.us

Re: Appeal of Planning Commission Determination to City Council (V24-003)

Dear Mayor and Honorable Councilmembers,

As Westburg's architect, I am writing in **SUPPORT** of granting the variance for their project.

But I am also speaking as a design professional and property owner in Del Mar.

Del Mar has an established, multi-level process to affect reasonable and considerate designs that are to balance developmental rights with neighborly concerns. Those processes are **not** in place to give neighbors the power to condemn an individual's private property!

Denying the reasonable, and justifiable request for a variance to the setbacks on this single, unusual site, sets a far more dangerous precedent of condemning property all over Del Mar. Not to mention the unjustifiable waste of tax-payers money to defend an unconstitutional decision.

All of the red-herring issues that have been brought up are all issues that can be resolved in the design process: the septic, the fire-risk, the access, etc. But unless you are stating that you are going to condemn the property as unbuildable, you have to allow the Westburg's a building envelop. **That is the only question on the table at the moment, what setbacks are reasonable.**

The lot was deemed legal and buildable over 15 years ago. The site at 1601 Racetrack View, is of similar size and setbacks with the same proximity to the canyon, as shown on the attached diagram. Crest Canyon *IS* the open space easement, not the Westburg's property. There are many homes already lining Crest Canyon along San Dieguito Road, Oribia Road and Crest Way, all of which could be affected if the City were to impose over-reaching limitations. There are no other lots in this vicinity that are big enough, or have access to create a "gateway" decision, as the opposition suggests. In fact, not granting the variance based on the opposition's arguments, could set a horrible precedent for every neighbor currently bordering the canyon.

When we applied to the Planning Commission for this variance, we were pushed prematurely to define where we proposed to locate the house. That really put the cart before the horse, because the house design is the Design Review Board's purview. Once the buildable envelope is defined, it is my job to balance the design between ALL the adjacent properties concerned. The Clark's are NOT the only neighbors. My initial analysis was that the lower end of the site would allow the house to be kept lower and minimize the visual impact from both the neighborhood and the park. If the house is located at the



LEEGER ARCHITECTURE

higher end of the site, there will be different impacts, affecting more than one property, and be far more visible from the park.

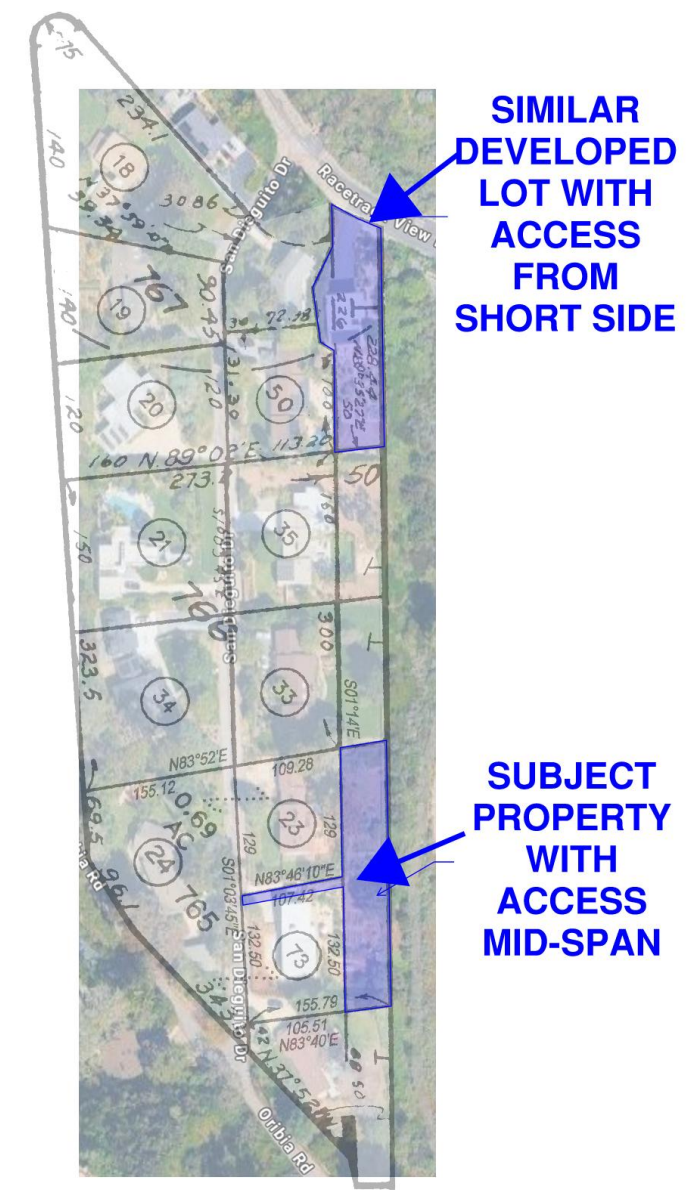
Responding to merely the most vocal neighbor is not how the process is supposed to work. We fully expect to work with the neighbors as the design process progresses, but thus far the NIMBY attitude has prevented that. Westburg's have a legal right to build, and we will work out the design as soon as you determine reasonable setback parameters.

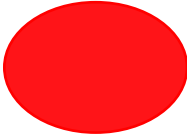
I kindly ask you to overturn the Planning Commission's error and trust the process to work out the rest.

Respectfully,

Kit Leeger

Attached: Block diagram





Leslie Carrillo

From: K Hayward <appyrider@roadrunner.com>
Sent: Tuesday, January 6, 2026 8:24 AM
To: City Clerk Mail Box; Tracy Martinez; John Spelich; Terry Gaasterland; Dan Quirk
Subject: Red Dot Letter – Agenda Item 6 Jan 6, 2026

Follow Up Flag: Follow up
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Jan 6, 2026

Honorable Mayor Martinez and City Councilmembers:

My mother Bette Hayward and I live at 1567 San Dieguito Drive. My mother is a 95-year-old widow. We were approached by Wade Walker and he asked us to sign a petition opposing the variance application of our neighbors Beth and Reid Westburg at 1439 Oribia Road. We decided not to sign his petition. We now see in Wade's Red Dot letter that he has marked our house as one of the houses that signed his petition opposing the variance application. This is not true and I hope the City Council will take this into consideration when making their decision tonight. My mother and I did not sign this petition.

Sincerely,

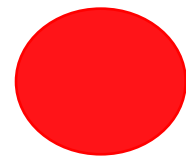
Karla Hayward

1567 San Dieguito Drive





PLANNING | ENTITLEMENTS | SUSTAINABILITY



January 5, 2026

Del Mar City Council
c/o Sarah Krietor, Administrative Services Manager/City Clerk
1050 Camino del Mar
Del Mar, California 92014
skrietor@delmar.ca.us

**Re: Item 6: Appeal of Planning Commission Determination on Variance V24-003
(Westburg)**

To Mayor Martinez and Members of the Del Mar City Council,

The referenced application is a request for a variance associated with the proposed construction of a single-family residence on a vacant lot in the R1-40 Zone. This variance proposes no development project and simply requests a decision on the development envelope within which a project may be proposed.

That said, during the Planning Commissions deliberations on the variance, several project-related concerns were raised about: fire safety; density, siting, views and related design review considerations; and technical aspects of the project such as septic conditions. These are issues that should be – and will be – addressed in future phases of development review. They are not appropriate for consideration here, as the only issue for consideration is the granting of a variance for setbacks. Nevertheless, to head off potential concerns, what follows is a summary of how each of these issues will be resolved as part of the development review process once the variance is approved.

Fire Safety / Fire Protection Report (FPP):

The Westburgs' lot is in a "Very High Fire Hazard Severity Zone," as are approximately three-quarters of all properties in the City of Del Mar. This designation does not prohibit new development; it only prescribes certain fire resistance standards for new structures and requires defensible space around structures. In the Westburg case, required fire mitigation measures will include: a 2-hour fire resistant wall along the entire eastern property line; an internal sprinkler system; an external sprinkler system on the east side of home; no landscaping in the immediate vicinity of structures and fire-resistant landscaping for the remainder of the site; and a fire lane across the existing driveway allowing firefighters to have direct access to the home and canyon.

A Fire Protection Plan (FPP) has been prepared for the property by **FIREWISE 2000, LLC**, a firm of fire protection planners specializing in the development of Wildland Fire Protection Plans for residential and commercial properties in the wildland-urban interface (WUI). The FPP has been

approved by the City's Fire Marshall based on the mitigation noted above and with the following conclusions:

With the implementation of the fuel modification, ignition resistant construction measures, and other mitigation measures described in this FPP, the proposed project will be provided with a higher degree of protection from wildfire than many existing homes in San Diego County. Additionally, improvements including improved access, irrigated landscaping, and offsite brush clearing, benefit the existing nearby residences providing a safer environment for those in the surrounding neighborhood.

A key aspect to the FPP requires a fire wall along the entire easterly boundary, resulting in undisputed improvement to existing fire safety conditions by creating what amounts to a fire break between the Westburg lot and adjacent homes, thereby reducing the risk of wildfire spreading from the canyon.

DRB Considerations:

The requested Variance would allow portions of the residence and garage to encroach into the site's designated front and rear yard setbacks. Staff recommends findings of fact to approve the Variance, and we support staff's position. At that point, any proposed project reliant on the variance would be subject to all other applicable zoning and design review standards.

The project would not exceed 14 feet in height per zoning. The siting of the new home is in the discretion of the Design Review Board, and nothing in the granting of the variance supersedes DRB discretion over siting, massing, views, or vegetation. In short, the DRB will have full discretionary authority to ensure a project does not violate any of the regulatory conclusions contained in the Design Review Ordinance (DRO).

Deed-Restricted JrADU:

The current proposal includes a JrADU which would be deed-restricted as affordable housing. Proposing a deed-restricted ADU was something we thought the City would embrace as a goal of the City's Community Plan and associated Housing Element. Absent a setback variance to provide a feasible building envelope, the deed-restricted JrADU could not be constructed.

Septic Feasibility and Requirements:

Preliminary investigations on a proposed septic design have been initiated for a vertical pit septic system. Almost all of the homes in this area have vertical pits per our investigations, and nothing suggests the property will not support a septic system.

Our neighbors, the Clarks, have suggested that their septic system may encroach onto the Westburg property, but they have provided no evidence that this is the case and the Westburgs are unaware of any encroachment as there is no recorded easement and/or visual evidence of the Clark's septic system location. Notably, according to county records, all the adjoining

Del Mar City Council
Re: Appeal of V24-003 (Westburg)
January 5, 2026

properties have septic pits, not leach lines as claimed by the Clarks, and there is no record of any leach line on the Clarks' property. Regardless, this is a solvable issue that will be resolved through the Engineering Dept and County Health Department, ideally with the collaboration of the Clarks if it turns out their septic system unlawfully encroaches onto the Westburg property.

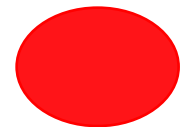
In summary, we ask you simply to trust the process. Any project proposed reliant on the variance will be subject to the full scrutiny of the DRB and will be subject to all technical reviews by the Planning, Engineering, and Building Department. There are no issues that are insurmountable. We respectfully request approval of the variance as per staff's recommendation so that a project can be presented to the DRB that is compatible with the site and its surroundings. Granting this variance is, in some ways, just the start of the development review process for this property and we need City Council's approval to initiate that next step.

Sincerely,

A black rectangular redaction box covers the signature of Robert J. Scott.

Robert J. Scott, PhD, AICP, LEED-AP
Principal Planner

cc: Reid and Beth Westburg, Owners/Applicants
Lee Andelin, Attorney
Kit Leeger, Architect



Leslie Carrillo

From: Sarah Krietor
Sent: Tuesday, January 6, 2026 8:53 AM
To: City Clerk Mail Box
Subject: FW: REVISED Red Dot Letter on agenda item 6

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: PAMELA SLATER-PRICE <pcslater@mac.com>
Sent: Monday, January 5, 2026 6:16 PM
To: Sarah Krietor <Skrietor@delmar.ca.us>
Cc: Ashley Jones <ajones@delmar.ca.us>
Subject: REVISED Red Dot Letter on agenda item 6

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.

Hi Sarah,
Attached is my revised letter to the city council of agenda item 6. Please post this letter rather than my first one.
Thank you Sarah.
Pam Slater Price

Mayor and Council,

I am writing this letter to support granting the variances requested by Reid and Beth Westburg for their property on Oribia Road in the city of Del Mar.

The staff report clearly lays out why the variances should be approved and recommends approval. The Westburgs have a legal parcel with a Certificate of Compliance and have met all the necessary requirements for receiving the councils' approval. As noted, this is a de novo hearing and the project should be considered on its own merits.

Should the council choose to deny the Westburgs their variance, the Westburgs could and likely will sue the city for a taking of their property value. Should they do so they will undoubtedly prevail and the city will then be liable for damages, all court costs and attorney fees. The city will also be obliged to approve these variances as requested.

Additionally should the Westburgs decide to avail themselves of state law SB9, they will be able to use these regulations to plan their property and be subject only to ministerial review.

I'm looking forward to observing what the city council decides. Will they make the correct choice as recommended by their own staff and city attorney? I certainly hope so. It would be sad indeed to see our city council knowingly put the city at risk in a court of law for absolutely no reason.

In closing, in the 24 years I served as mayor, council member and county supervisor I made many land use decisions. I learned that it was always best to avoid lawsuits that are unwinnable.

Best regards,
Pam Slater Price
Del Mar

Leslie Carrillo

From: Terry Schwartz <tlschwartz5@gmail.com>
Sent: Monday, January 5, 2026 12:14 PM
To: City Clerk Mail Box
Subject: Proposed building on vacant lot next to 1439 Oriba Road, Del Mar

Follow Up Flag: Follow up
Flag Status: Flagged

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To the Del Mar City Council,

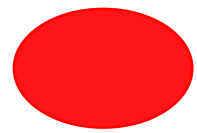
We are writing in support of the proposed variance for construction on the vacant lot next to 1439 Oriba Road in Del Mar, Ca.

After studying the proposed project, we find no reason that the Wesburgs should not be given their constitutional right to build on this legal lot, once the design review process resolves any issues related to size, placement and design.

There is a housing shortage in our city and any possible addition to the supply should be welcome once the legal and local ordinance parameters are met.

Thank you.

Sincerely,
Terry and Stephen Schwartz
1140 Luneta, Del Mar



Leslie Carrillo

From: Ann Williamson <ann.williamson@gmail.com>
Sent: Tuesday, January 6, 2026 10:47 AM
To: City Clerk Mail Box
Subject: RedDot, Item 6: Approval of staff recommendation for Westburg variance

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear City Council Members:

We oppose the variance for the Westburg residence request. We believe the Planning Commission did a good job examining the issues and made the correct choice.

We signed the petition opposing this project and we were not in any way coerced to sign that document.

Thank you.
---Ann and Gill Williamson
Oribia Road



Leslie Carrillo

From: wade walker <wadewalker555@gmail.com>
Sent: Tuesday, January 6, 2026 11:25 AM
To: City Clerk Mail Box
Subject: Westburg Panning Commission Appeal

Follow Up Flag: Follow up
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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.

Re: Westburg Appeal from Planning Commission

Dear Mayor and Del Mar Council Members:

I support the Planning Commission’s 4-1 decision to deny the requested variance for this project. Variances are designed to tweak the rules in a way that supports a more equitable result in an unusual situation. This is not that. Without a variance the Westburgs could build on only a 5 foot wide strip of their half size lot. With the requested variance they would squeeze in a full size three bedroom two bath home plus two ADUs and parking. Further, they are proposing to do this almost lot line to lot line behind their neighbor’s backyard, totally blocking his primary view of the adjacent canyon.

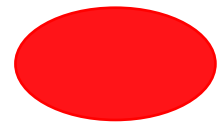
Were this project to be allowed, there is no variance request that could be justifiably denied. Del Mar neighborhoods would begin to resemble the unplanned, high density development that characterized early California beach cities. In this canyon floor neighborhood, that is prized for its low density, all the property values will suffer. But it’s nothing compared to the collapse in value that will befall the Westburg’s neighboring property if a manufactured home is allowed to be se across its backyard.

Years of work by many citizens have gone into preserving the Crest Canyon open space and protecting it from encroaching development. Protection of environmentally sensitive areas such as this is a stated goal of Del Mar’s General Plan and Community Plan. This project is at odds with that sustained effort and that policy goal. Moreover, the canyon floor is isolated between two bluffs and has only one narrow road in and out. Already it is frequently the case that drivers meeting oncoming traffic must pull over to allow passage one at a time. Parked cars in the street make it worse. Adding three separate living quarters with 5 bedrooms will add more cars than can be accommodated by the designated driveway area. Bottlenecks and traffic snarls will be routine, and what will happen to emergency response and evacuation in a fire prone area?

Appellants have argued that denial of this variance request constitutes an unlawful appropriation of their property rights. I would say it is the opposite, granting it would give them rights not given to others in the neighborhood who had to conform strictly to the setback rules. And what of the property rights of the neighbor?

This project is a burden on the neighborhood, an assault on its next door neighbor and a threat to the City of Del Mar. I respectfully urge you to deny the variance.

wade walker
wadewalker555@gmail.com



Leslie Carrillo

From: Sarah Krietor
Sent: Tuesday, January 6, 2026 11:58 AM
To: City Clerk Mail Box
Subject: FW: Notice of De Novo Hearing
Attachments: Red Dot Letter-Westburg.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Red dot for item 6

From: Lee Andelin <lee@aac.law>
Sent: Monday, January 5, 2026 7:51 PM
To: Sarah Krietor <Skrietor@delmar.ca.us>
Cc: Elizabeth Yee <eyee@delmar.ca.us>; Matt Bator <MBator@delmar.ca.us>; Karen Brindley <kbrindley@delmar.ca.us>; Reid Westburg <westburg@gmail.com>; Kit Leeger <kleeger@leegerarch.com>; Beth Westburg <bethwestburg@yahoo.com>
Subject: RE: Notice of De Novo Hearing

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Thank you, Sarah. Please distribute the attached red dot letter to the city councilmembers. I will send you our PowerPoint tomorrow morning.

Lee

Lee M. Andelin
Partner
AANNESTAD ANDELIN & CORN LLP
160 Chesterfield Drive, Suite 102
Cardiff-by-the-Sea, California 92007
(760) 944-9006
lee@aac.law
www.aac.law



AANNESTAD ANDELIN & CORN LLP

160 CHESTERFIELD DRIVE • SUITE 201
CARDIFF-BY-THE-SEA • CALIFORNIA 92007
www.aac.law • (760) 944-9006

Coastal Property Rights, Land Use & Litigation

January 5, 2026

VIA EMAIL

Del Mar City Council
c/o Sarah Krietor, Administrative Services Manager/City Clerk
1050 Camino del Mar
Del Mar, California 92014
skrietor@delmar.ca.us

Re: Appeal of Planning Commission Determination to City Council (V24-003)

Dear Mayor Martinez, Deputy Mayor Spelich, and Honorable Councilmembers:

On behalf the appellants, Reid and Beth Westburg, I submit this letter in *support* of staff's recommendation to grant the appeal and reverse the Planning Commission's decision denying the Westburgs' application for a variance.

Regulatory Taking

While we fully agree with staff's recommendation, the staff report is silent on the issue of a potential regulatory taking. It is well settled under the law that where the government "seeks to sustain regulation that deprives land of all economically beneficial use," the government has effected a taking of property for which the landowner must receive just compensation. (*Lucas v. S.C. Coastal Council* (1992) 505 U.S. 1003, 1027.) That is exactly what is occurring here. The Westburgs' lot is a legal lot, as confirmed by a certificate of compliance. Yet the imposition of the front- and rear-yard setbacks, resulting in a 5-foot-wide building envelope, makes the lot simply unbuildable. And disturbingly, based on comments from a majority of the commissioners, as confirmed by their votes, this Planning Commission has determined that the Westburgs' lot should remain unbuildable.

The project opponents do not hide their intent of blocking all development on this property. The red dot email submitted by Tate Scott on December 23, 2025, states: "This parcel has remained undeveloped for decades and functions as a transition between existing homes and protected open space. Approving a variance here—reduced or otherwise—would permanently change that role and set precedent at the preserve edge. The Commission recognized that risk and stopped the project at the appropriate threshold." The project opponents' objective is to lock this entire parcel

as a de facto open space easement!¹

That, of course, would be a per se regulatory taking under the standard set forth by the Supreme Court. Indeed, the deputy city attorney warned the Planning Commission before its vote that denial of the variance would be “very problematic” from a legal standpoint, but the Planning Commission did not heed his sound advice. The City Council should correct this injustice by reversing the Planning Commission’s decision.

Community Plan

Opponents vaguely assert that granting the variance would be inconsistent with the Del Mar Community Plan. Some members of the Planning Commission agreed, relying, inappropriately, on the Community Plan, Goal 3, Objectives and Policies section A.6, at page 57, which reads: “Establish sufficient controls on yard requirements of irregularly shaped lots and lots which lack street frontage to overcome tendency toward overcrowding, loss of privacy to nearby lots, and blockage of views.” This extremely vague, general statement of policy is not the standard for granting or denying a variance, and it does not in any way countenance rendering a legal lot entirely unbuildable.

If the Community Plan were relevant, the Planning Commission should also have considered section E, which states that the City should “ENCOURAGE AND FACILITATE PROVISION OF LOWER COST HOUSING FOR LOW AND MODERATE INCOME HOUSEHOLDS.” Likewise section F.1, which “[e]ncourage[s] harmonious development which is in scale with the character of existing development.” The proposed setbacks here are very similar to other lots along Oribia Road/San Dieguito Drive, and the developable footprint would be among the smallest of any of the lots in the area.

Even in Very Low Density Residential zones, the Community Plan contemplates the development of all legal lots: “This land use category is *intended to allow single family development that preserves an open character on land within areas that include steep slopes, bluffs and/or canyons.*” (Italics added.) None of this—or indeed any reasonable development of the Westburgs’ lot—is possible without the requested variance. Del Mar’s Community Plan does not establish a policy to prohibit development on a legal lot altogether.

The case law cited in Tate Scott’s red dot email does not support the opponents’ position. Indeed, I suspect that the case citations in his email were generated by artificial intelligence and not checked by an attorney.

In *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 536, the California Supreme Court held that a building moratorium enacted as an ordinance by ballot initiative was invalid because it directly conflicted with the city’s general plan, which the court characterized as

¹ The project opponents, as well as the Planning Commission, are incorrect in asserting that this project sets a precedent. As detailed more fully in the red dot letter submitted by architect Kit Leeger, there is only one other *legal* lot of similar size and configuration along Crest Canyon, at 1601 San Dieguito Drive, and it is already developed. Notably, that lot required similar variances to make development feasible, yet the parade of horrors projected by project opponents here have not come to pass.

“growth oriented.” The case is based on the unremarkable proposition that the general plan takes precedence over an ordinance when there is a facial challenge to the validity of an ordinance. The validity of an ordinance is not at issue here.

In *Voices for Rural Living v. El Dorado Irrigation Dist.* (2012) 209 Cal.App.4th 1096, the California Court of Appeal held that the irrigation district’s approval of diversion of water from the American River for a tribal casino was not exempt from CEQA. This case provides no guidance regarding the interpretation or application of general plans.

Variance Standard

The Westburgs’ application meets the standard for approval of a variance, as set forth in my enclosed letter dated November 18, 2025. For the sake of brevity, I will not repeat those points but instead refer the reader to that letter.

Very truly yours,

AANNESTAD ANDELIN & CORN LLP



Lee M. Andelin

cc: Robert Scott
Kit Leeger
Reid Westburg
Beth Westburg

Enclosure



AANNESTAD ANDELIN & CORN LLP

160 CHESTERFIELD DRIVE • SUITE 201
CARDIFF-BY-THE-SEA • CALIFORNIA 92007
www.aac.law • (760) 944-9006

Coastal Property Rights, Land Use & Litigation

November 18, 2025

VIA IN-PERSON DELIVERY

Del Mar City Council
c/o Sarah Krietor, Administrative Services Manager/City Clerk
1050 Camino del Mar
Del Mar, California 92014
skrietor@delmar.ca.us

Re: Appeal of Planning Commission Determination to City Council (V24-003)

Dear Ms. Krietor:

Please accept this appeal of the Del Mar Planning Commission's November 4, 2025, decision denying Variance Application No. V24-003 by my clients, Reid and Beth Westburg. A check for the appeal fee of \$1,678 is enclosed. The information required by Del Mar Municipal Code section 1.12.020 is set forth below:

Appellant's full name, address, and phone number

Reid and Beth Westburg, 1439 Oribia Road, Del Mar, California 92014, (858) 735-0562.

Subordinate entity

Del Mar Planning Commission

Date of the determination

November 4, 2025

Determination for which review is sought

Planning Commission decision to deny Variance Application No. V24-003 submitted by Reid and Beth Westburg.

Appellant's interest in the appealed determination

Reid and Beth Westburg are the applicants and owners of the subject property.

Grounds for the appeal with supporting documentation

Please note that we have not received service of the Planning Commission’s resolution or findings supporting its decision. We reserve the right to supplement the information included in this appeal.

1. Factual Error. The statements or evidence relied upon by the decision maker when approving, conditionally approving or denying a permit, map, or other matter were inaccurate.

The Westburgs’ variance application seeks to expand the building envelope for their lot. Though the City of Del Mar has issued a certificate of compliance certifying it as a legal lot, the buildable area of the lot with standard setbacks is only five (5) feet deep from front to rear—too small to construct *any* residential structure on this residentially zoned lot. The only matter before the Planning Commission was this variance. There was no project, i.e., proposed construction, grading, or other physical alteration under consideration. Any new structures would be reviewed under separate procedures.

In denying the variance application, the Planning Commission erroneously found that granting the variance would increase fire risk and create a public safety hazard for the neighborhood and the adjacent Crest Canyon Open Space Park. Granting the application could not possibly have increased fire risk because no physical change to the land is proposed under this application. Regardless, the City of Encinitas Fire Department, reviewing the Westburgs’ fire protection plan on behalf of the City of Del Mar, approved the plan (attached to the staff report as Exhibit C) and found it consistent with applicable fire protection standards. It was mentioned at the hearing that the Westburgs’ lot is in a “Very High Fire Hazard Severity Zone,” but that designation does not prohibit new development. Approximately three-quarters of the City of Del Mar falls under this designation, so if development were prohibited, most of the city would be unbuildable. To the contrary, a fire hazard designation only prescribes certain fire resistance standards for new structures (Gov. Code, § 51182(a)(5)) and requires defensible space around structures to 100 feet or to the property line, whichever is less (*id.*, § 51182(a)(1)(A)). New structures are allowed to be built as long as they “compl[y] with all applicable state and local building standards.” (*Id.*, § 51182(a)(5).) No structure is proposed in violation of applicable state and local building standards, as certified by the fire department. The Planning Commission’s finding that the variance would increase fire risk is unsupported and contrary to all evidence in the record.

The Planning Commission also erred in finding that the variance would impact neighborhood character by increasing density and impeding views. Again, the application before the Planning Commission did not include any physical change, and any future development would be subject to design review to address view impacts and consistency with neighborhood character.

The Planning Commission erred in finding that the purported environmental sensitivity of the site justified denial of the variance. No physical change to the site was under consideration by the Planning Commission, the granting of the variance is exempt from CEQA, and no evidence was presented to take the variance out of the exemption. (See CEQA Guidelines, § 15305(a) [Class 5 – Minor Alterations in Land Use Limitations].) The deputy city attorney at the hearing advised that he was “very comfortable” that the variance fit within the CEQA exemption.

The Planning Commission erred in finding that granting a variance would set a precedent for other lots behind the row of homes east of Oribia Road. There is only one other undeveloped lot of similar size in this location, and in the many decades that that lot has existed, there has never been any suggestion of intent by the owner(s) to develop it, let alone any application submitted. The other lots situated behind the homes east of Oribia Road are much smaller and—unlike the Westburg’s lot, which has been certified as a legal lot—those lots likely could not support any stand-alone residential development, even if a similar variance were granted. The specter of a continuous row of new residential dwellings is therefore sheer speculation. In any event, each variance application is to be judged on its own merits.

To the extent that the denial of the variance application was based on an express or implied finding that the standard setbacks will allow the Westburgs to make reasonable, economically productive use of their lot, such finding is erroneous. This lot is in a single-family residential zone, meaning that the only development allowed is a single-family dwelling and accessory structures. (See Del Mar Mun. Code, § 30.10.030.) At minimum, a single-family dwelling must include “a kitchen and living, sleeping, and eating areas that are used by or intended to be used and occupied by one or more persons living together” (Del Mar Mun. Code, § 30.04.040(J); see also Cal. Building Code, § 202.) The interior dimensions of each room in the dwelling unit must measure at least 7 feet wide. (Cal. Res. Building Code, § 304.2). At a minimum, the owner of a parcel in this zone is entitled to construct a dwelling of 2,000 square feet. (Del Mar Mun. Code, § 30.10.070.) All the above is impossible under the existing setback restrictions. The Planning Commission thus cannot find that the denial of the variance application does not constitute a regulatory taking (discussed in greater detail below).

2. New Information. New information is available to the applicant or the interested person that was not available through reasonable efforts or due diligence at the time of the decision.

Not applicable.

3. Findings Not Supported. The decision maker’s stated findings to approve, conditionally approve, or deny the permit, map or other matter are not supported by the information provided to the decision maker.

The Planning Commission’s finding that granting the variance would increase fire risk and create a public safety hazard for the neighborhood and the adjacent Crest Canyon Open Space Park is unsupported. Granting the application could not possibly have increased fire risk because no physical change to the land is proposed under this application. Regardless, the City of Encinitas Fire Department, reviewing the Westburgs’ fire protection plan on behalf of the City of Del Mar, approved the plan (attached to the staff report as Exhibit C) and found it consistent with applicable fire protection standards. It was mentioned at the hearing that the Westburgs’ lot is in a “Very High Fire Hazard Severity Zone,” but as already explained, that designation does not prohibit new development. Approximately three-quarters of the City of Del Mar falls under this designation, so if development were prohibited, most of the city would be unbuildable. To the contrary, a fire hazard designation only prescribes certain fire resistance standards for new structures (Gov. Code, § 51182(a)(5)) and requires defensible space around structures to 100 feet or to the property line, whichever is less (*id.*, § 51182(a)(1)(A)). New structures are allowed to be built as long as they

“compl[y] with all applicable state and local building standards.” (*Id.*, § 51182(a)(5).) No structure is proposed in violation of applicable state and local building standards, as certified by the fire department. The Planning Commission’s finding that the variance would increase fire risk is contrary to all evidence in the record.

The Planning Commission’s finding that the variance would impact neighborhood character by increasing density and impeding views is also unsupported. Again, the application before the Planning Commission did not include any physical change, and any future development would be subject to design review to address view impacts and consistency with neighborhood character.

The Planning Commission’s finding that the purported environmental sensitivity of the site justified denial of the variance is unsupported. No physical change to the site was under consideration by the Planning Commission, the granting of the variance is exempt from CEQA, and no evidence was presented to take the variance out of the exemption. (See CEQA Guidelines, § 15305(a) [Class 5 – Minor Alterations in Land Use Limitations].) The deputy city attorney at the hearing advised that he was “very comfortable” that the variance fit within the CEQA exemption.

The Planning Commission’s finding that granting a variance would set a precedent for other lots behind the row of homes east of Oribia Road is unsupported by the evidence. There is only one other undeveloped lot of similar size in this location, and in the many decades that that lot has existed, there has never been any suggestion of intent by the owner(s) to develop it, let alone any application submitted. The other lots situated behind the homes east of Oribia Road are much smaller and—unlike the Westburg’s lot, which has been certified as a legal lot—those lots likely could not support any stand-alone residential development, even if a similar variance were granted. The specter of a continuous row of new residential dwellings is therefore sheer speculation. In any event, each variance application is to be judged on its own merits.

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4. Conflicts. The decision to approve, conditionally approve, or deny the permit is in conflict with a land use plan, a City policy or the Municipal Code.

The standards for the granting of a variance are found in section 30.78.030 of the Del Mar Municipal Code. As set forth in the staff report for the Planning Commission meeting, the proposed

variance satisfies each of the required standards, and the denial of the variance conflicts with the Municipal Code. The relevant portion of the staff report is quoted in full as follows:

A. A Variance from the terms of the Zoning Ordinance shall be granted only when, because of the special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Proposed Finding:

The lot is constrained by special circumstances related to its size, shape, and location. Given the rectangularly shaped lot's orientation to San Dieguito Drive, it has a "depth" of 50 feet where 100 feet is required. When the required 20 feet front yard (setback) and 25-foot rear yard (setback) are applied, the resulting "buildable" area is only 5 feet in depth. The Applicant is requesting a Variance to allow a 10-foot front yard (setback) and 10 rear yard (setback) for a new residential dwelling unit with a 10-foot front yard (setback) and a 5-foot rear yard (setback) for a new detached garage. The requested Variance would allow for a buildable area depth of 30 feet for the dwelling and 35 feet for the detached garage, distances that are less than typically applied on conforming lots, but would allow for a one-story architectural design with adequate internal circulation.¹

B. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

Proposed Finding:

The Variance would not grant special privileges due to the property's shape, topography, and location. Future development, similar to neighboring properties, could not be achieved without the reduction of the front and rear setbacks. The side setbacks are proposed to be increased from 10 feet to 20 feet to compensate for the modifications to the front and rear setbacks.

C. A variance will not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zoning

¹ In addition to what is recited in the staff report's proposed findings, most rectangularly shaped properties in the City of Del Mar are aligned with front and rear yards oriented along their shorter sides with side yards oriented along the long axis, the reason being that the front yard is established based off the lot's street frontage. This site, however, is aligned in the opposite direction, with wider front and rear yards running the full length of the long narrow property because, in this case, the property has a single driveway access easement that empties roughly into the center of the length of the property, and the location of the access drive sets the front lot line from which all of the zoning setbacks are established. This orientation results in nonsensical front and rear yard setbacks for this lot.

regulation governing the parcel of property. The provisions of this section shall not apply to conditional use permits.

Proposed Finding:

The proposed use, development of a single-unit home with associated structures and improvements, is allowed in the R1-40 Zone.

D. No variance shall be granted if the inability to enjoy the privilege enjoyed by other property in the vicinity and under identical zoning classification:

1. Could be avoided by an alternate development plan;

Proposed Finding:

The project request could not be avoided by an alternate development plan, in that the current buildable envelope consistent with R1-40 setbacks would result in a buildable envelope of five-foot-deep by 240-foot-wide space.

2. Is self-induced as a result of an action taken by the property owner or the owner's predecessor;

Proposed Finding:

The need for a variance is not self-induced as the subject property is a legal lot with substandard sizing and was granted a Certificate of Compliance. The limitations which cause the need for the variance are the lot size, shape, location and topography, none of which were created by the Applicant.

3. Would allow such a degree of variation as to constitute a rezoning or other amendment to the zoning code; or

Proposed Finding:

The request would not allow variation as to constitute a rezone or amendment to which other property owners are not entitled since a dwelling unit and detached garage are allowed uses in the R1-40 zone.

4. Would authorize or legalize the maintenance of any private or public nuisance.

Proposed Finding:

The request would not result in the authorization or legalization of a private or public nuisance since a dwelling unit and detached garage are allowed uses in the R1-40 zone.

No evidence was supplied at the hearing to contradict the above proposed findings. The vote to deny the variance was based solely on vague, non-specific “concerns” about public safety and fire danger due to the site’s proximity to Crest Canyon, the supposed environmental sensitivity of the site, and inconsistency with the community plan due to increased density and potential impact on views. Not only are these not supported by evidence, as discussed in greater detail above, but they are not factors for the Planning Commission to consider under the ordinance. The only element under the ordinance that is arguably on point is subsection D.4, but the Planning Commission did not suggest that any of these considerations rose to the level of a nuisance. Even if it had, there is no evidence in the record to support a finding of nuisance. Nor could any such evidence exist, since no physical change to the land or change in use is under consideration.

At least some members of the Planning Commission inappropriately relied on the Community Plan, Goal 3, Objectives and Policies section A.6, at page 57, which reads: “Establish sufficient controls on yard requirements of irregularly shaped lots and lots which lack street frontage to overcome tendency toward overcrowding, loss of privacy to nearby lots, and blockage of views.” This general statement of policy is not the standard for granting or denying a variance, and it certainly does not countenance rendering a legal lot entirely unbuildable.

If the Community Plan were relevant, the Planning Commission should also have considered section E, which states that the City should “ENCOURAGE AND FACILITATE PROVISION OF LOWER COST HOUSING FOR LOW AND MODERATE INCOME HOUSEHOLDS.” Likewise section F.1, which “[e]ncourage[s] harmonious development which is in scale with the character of existing development.” Even in Very Low Density Residential zones, the Community Plan contemplates the development of lots: “This land use category is *intended to allow single family development* that preserves an open character on land within areas that include steep slopes, bluffs and/or canyons.” (Italics added.) None of this—or indeed any reasonable development of the Westburgs’ lot—is possible without the requested variance. Del Mar’s Community Plan does not establish a policy to prohibit development on a legal lot altogether.

The Planning Commission inappropriately based its decision on numerous factors other than the variance standard set forth in the Municipal Code. At least one commissioner commented that in ruling on the variance application, the Planning Commission was making a “policy decision.” The review of a variance application is not a policy decision; it is a review to make findings as to whether the application meets the standards of the Municipal Code. (See Del Mar. Mun. Code, § 30.78.030.) Policy for the city is set by the voters through City Council.

A 5-foot-wide building envelope is simply unbuildable, and disturbingly, based on comments from a majority of the commissioners, as confirmed by their votes, this Planning Commission has determined the Westburgs’ lot should remain unbuildable. It is well settled under the law that where the government “seeks to sustain regulation that deprives land of all economically beneficial use,” the government has effected a taking of property for which the landowner must receive just compensation. (*Lucas v. S.C. Coastal Council* (1992) 505 U.S. 1003, 1027.) This is a form of regulatory taking, and it is precisely what the Planning Commission has done here. Indeed, the deputy city attorney warned the Planning Commission before its vote that a denial of the variance would be “very problematic” from a legal standpoint, but the Planning Commission did not heed his sound advice. The City Council must accept this appeal to correct this injustice.

Del Mar City Council
November 18, 2025
Page 8 of 8

The evidence to support the Westburg's appeal is found in the staff report, reproduced and enclosed with this letter.

Very truly yours,

AANNESTAD ANDELIN & CORN LLP



Lee M. Andelin

cc: Robert Scott
Kit Leeger
Reid Westburg
Beth Westburg

Enclosures

Leslie Carrillo

From: John Deakin <deakinjohn@hotmail.com>
Sent: Tuesday, January 6, 2026 11:45 AM
To: Tracy Martinez; Dan Quirk; John Spelich; Terry Gaasterland; City Clerk Mail Box
Subject: Westburg Appeal

Follow Up Flag: Follow up
Flag Status: Flagged

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 Mayor and Council Members,

My name is John Deakin, and we live on 1490 Oribia Rd. I have had the pleasure of meeting some of you in the past. I wrote this letter about a month ago in regards to Beth and Reids proposal to build a structure adjacent to Crest Canyon and in a neighbor's backyard, which as I understand, theoretically violates many rules and regulations. Below is the letter and I stand by the letter today, even as this case has proceeded (somehow).

Dear Planning Commission Members and Ms. Yee,

*Thank you for your time and for the opportunity to submit a written comment on Agenda Item V24-003 regarding the proposed variance at 0 Oribia Road, adjacent to 1439 Oribia Road. **I write, as many others in our community, in strong OPPOSITION to the application.***

I am an advocate and supporter for the improvement and advancement of Del Mar and its individual communities. This project, which seems to be starting with a variance in set backs, will do just the opposite. I am a concerned neighbor on many fronts. Here are just some of them:

- 1. What are the environmental costs? Aren't Crest Canyon and its adjoining areas protected? What verifications and approvals will the neighborhood and citizens of Del Mar be provided to ensure that this protected area remains unharmed? What will be the additional fire hazards with such a variance and potential structure, and how will the city and fire department assure there are additional resources to protect us and our properties? What is the state of the septic? Will this manufactured structure be placed on or near the septic/leech field? If so, what type of study and certification will the community receive to know the area is safe for this type of alteration/placement?*

2. *How will the already narrow street of San Dieguito Dr be able to accomodate even more cars if a variance occurs and subsequent placement of manufactured home/additoinional residents? As it stands there are many days I can barely drive between the parked cars. Will the city assure me and my family that there will be ample access to our house up San Dieguito Dr? Even more importantly, if a fire was to occur in the canyon or anywhere in the neighborhood, isnt it a liability for the city to have more cars parked on San Dieguito drive?*

3. *What will be the new view of Crest Canyon and its neighborhood, as it relates to the hikers in Crest Canyon? Isnt Del Mar and Dan Quirk and others, working hard and spending valuable time and money to bring more hikers and foot traffic up to the Crest Canyon trailhead? I imagine this has much to do with enhancing the amenities Del Mar has to offer. Doesnt this, and a heinous manufactured home, negate that ambition? Clearly the view of the overall neighborhood will be negatively affected in a positive light, and absolutely destroyed in a more realistic one.*

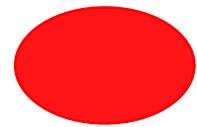
4. *Its clear that such modifications to the area and homesites, will negatively affect the value of the home. From a liability standpoint, arent there legal reprecussions for dimisnshing property values?*

Again, this was written for the first hearing. I remain strongly opposed to any of the requests from the Westburgs as it pertains to this proposal. These requests either directly or inherently include **setback variances, additional fire hazards, clogged street, manufactured home buildings in someones (elses) backyard, reduction in home prices, adverse environmental impacts, distressed neighborhood and its homeowners, etc.**

I unfortunately have to be at home tonight with my two young children, but otherwise would be appearing at the case.

Thank for your time, as always.

John Deakin



Leslie Carrillo

From: K Hayward <appyrider@roadrunner.com>
Sent: Tuesday, January 6, 2026 11:56 AM
To: 'K Hayward'
Cc: City Clerk Mail Box; Tracy Martinez; John Spelich; Terry Gaasterland; Dan Quirk
Subject: RE: Red Dot Letter – Agenda Item 6 Jan 6, 2026

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For clarification, my mother sent a private email to Wade Walker about the variance but did not intend for it to be considered a vote on the petition. She believes that whatever her personal opinion might be, that a property owner has the right to use their property as they choose & it is within city guidelines.

From: "K Hayward"
To: "Cityclerk@delmar.ca.us", "tmartinez@delmar.ca.us", "jspelich@delmar.ca.us",
"tgaasterland@delmar.ca.us", "dquirk@delmar.ca.us"
Cc:
Sent: Tuesday January 6 2026 8:24:18AM
Subject: Red Dot Letter – Agenda Item 6 Jan 6, 2026

Jan 6, 2026

Honorable Mayor Martinez and City Councilmembers:

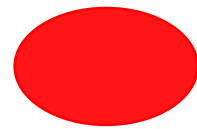
My mother Bette Hayward and I live at 1567 San Dieguito Drive. My mother is a 95-year-old widow. We were approached by Wade Walker and he asked us to sign a petition opposing the variance application of our neighbors Beth and Reid Westburg at 1439 Oribia Road. We decided not to sign his petition. We now see in Wade's Red Dot letter that he has marked our house as one of the houses that signed his petition opposing the variance application. This is not true and I hope the City Council will take this into consideration when making their decision tonight. My mother and I did not sign this petition.

Sincerely,

Karla Hayward

1567 San Dieguito Drive

Leslie Carrillo



From: Dwight Worden <dwrightworden@gmail.com>
Sent: Sunday, January 4, 2026 10:35 AM
To: City Clerk Mail Box
Subject: Red Dot for January 6, 2026 2026 City Council Local and Regional Appointments

Follow Up Flag: Follow up
Flag Status: Flagged

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Mayor and council members:

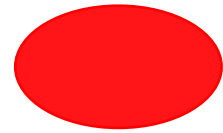
I write to express support for the position that council appoint in-coming Mayor Tracy Martinez as our city's primary representative to SANDAG. My reasons include:

1. Del Mar needs all the clout it can have at SANDAG as so many of the key issues we face are SANDAG related: rail tunnel, bluff stabilization, SANDAG affordable housing grants; SANDAG RHNA affordable housing assignments, and more.
2. It is common practice in most other cities that its mayor serves on SANDAG. Mayors from 16 of the 18 member agencies currently serve for their agency on SANDAG.
3. A policy of designating the Mayor as Del Mar's primary SANDAG rep [and the deputy mayor as the alternate] will provide continuity and an opportunity for the deputy mayor to learn the ropes and step in seamlessly when taking over the mayor position.
4. There could, of course, be exceptions. For example, if a mayor or deputy mayor declined to serve.
5. Formalizing this policy would provide continuity to the process, would remove the politics, would assure Del Mar has maximum influence at SANDAG, would provide the deputy mayor with a year to get ready to serve. and would best serve the city.

Thanks for considering my suggestion.

Dwight Worden

Leslie Carrillo



From: Ann Feeney <feeney@scripps.edu>
Sent: Sunday, January 4, 2026 11:45 AM
To: City Clerk Mail Box
Subject: red dot Item #7

Follow Up Flag: Follow up
Flag Status: Flagged

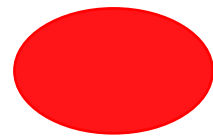
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Dear Mayor and Councilmembers,

I strongly recommend that Mayor Tracy Martinez be selected as the SANDAG representative from Del Mar. She is currently first Alternate and she is well qualified for the position. I also recommend that Deputy Mayor John Spelich, currently the second alternate, be selected last the first Alternate.

Thank you

Ann Feeney
Rimini Rd



Leslie Carrillo

From: Buck <buckabell@gmail.com>
Sent: Sunday, January 4, 2026 1:52 PM
To: City Clerk Mail Box
Subject: Red Dot, Agenda Item #7, City Council Local and Regional Appointments

Follow Up Flag: Follow up
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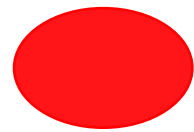
Mayor and council members:

I write to express support for the position that council appoint in-coming Mayor Tracy Martinez as our city's primary representative to SANDAG. My reasons include:

1. Del Mar needs all the clout it can have at SANDAG as so many of the key issues we face are SANDAG related: rail tunnel, bluff stabilization, SANDAG affordable housing grants; SANDAG RHNA affordable housing assignments, and more.
2. It is common practice in most other cities that its mayor serves on SANDAG. Mayors from 16 of the 18 member agencies currently serve for their agency on SANDAG.
3. A policy of designating the Mayor as Del Mar's primary SANDAG rep [and the deputy mayor as the alternate] will provide continuity and an opportunity for the deputy mayor to learn the ropes and step in seamlessly when taking over the mayor position.
4. There could, of course, be exceptions. For example, if a mayor or deputy mayor declined to serve.
5. Formalizing this policy would provide continuity to the process, would remove the politics, would assure Del Mar has maximum influence at SANDAG, would provide the deputy mayor with a year to get ready to serve. and would best serve the city.

Thanks for considering my suggestion.

Buck Abell



Leslie Carrillo

From: Sandy Dijkstra <sandy@dijkstraagency.com>
Sent: Monday, January 5, 2026 12:05 PM
To: City Clerk Mail Box
Cc: elise@dijkstraagency.com
Subject: Red Dot, Agenda Item #7, City Council Local and Regional Appointments

Follow Up Flag: Follow up
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----- Forwarded message -----

From: Dwight Worden <dwightworden@gmail.com>
Date: Sun, Jan 4, 2026 at 10:35 AM
Subject: Red Dot for January 6, 2026 2026 City Council Local and Regional Appointments
To: City Clerk Mail Box <cityclerk@delmar.ca.us>

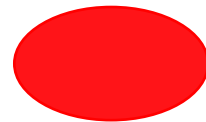
Mayor and council members:

I write to express support for the position that council appoint in-coming Mayor Tracy Martinez as our city's primary representative to SANDAG. My reasons include:

1. Del Mar needs all the clout it can have at SANDAG as so many of the key issues we face are SANDAG related: rail tunnel, bluff stabilization, SANDAG affordable housing grants; SANDAG RHNA affordable housing assignments, and more.
2. It is common practice in most other cities that its mayor serves on SANDAG. Mayors from 16 of the 18 member agencies currently serve for their agency on SANDAG.
3. A policy of designating the Mayor as Del Mar's primary SANDAG rep [and the deputy mayor as the alternate] will provide continuity and an opportunity for the deputy mayor to learn the ropes and step in seamlessly when taking over the mayor position.
4. There could, of course, be exceptions. For example, if a mayor or deputy mayor declined to serve.
5. Formalizing this policy would provide continuity to the process, would remove the politics, would assure Del Mar has maximum influence at SANDAG, would provide the deputy mayor with a year to get ready to serve. and would best serve the city.

Thanks for considering my suggestion.

Dwight Worden



Leslie Carrillo

From: tate.scott@gmail.com
Sent: Monday, January 5, 2026 3:14 PM
To: City Clerk Mail Box
Subject: Item 7

Follow Up Flag: Follow up
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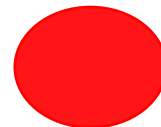
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Mayor, Council Members, and City Manager,

I enthusiastically support Mayor Tracy Martinez as our SANDAG Representative. Endorsing our Mayor continues to send the right message about how important the work SANDAG is doing to Del Mar and all of San Diego County. Likewise, John Spelich is an excellent first alternative. His thoughtful approach to all matters will resonate with the other representatives.

Tate Scott

/wts



Leslie Carrillo

From: Monica Meredith <monicammeredith@gmail.com>
Sent: Monday, January 5, 2026 7:36 PM
To: City Clerk Mail Box
Subject: In support of Terry Gaasterland for reappointment to SANDAG Board

Follow Up Flag: Follow up
Flag Status: Flagged

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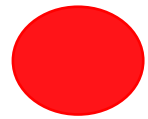
To Whom It May Concern,

We would like to encourage the reappointment of Terry Gaasterland to the SANDAG Board, Terry's proven track record is of being an excellent leader and thoughtful citizen who makes intelligent decisions and follows through with what she says she'll do.

Not only does Terry care about the people she represents, she cares about our precious coastal environment and makes good choices in regards to both. She works extremely hard at being fair and responsible. Please reappoint Terry Gaasterland.

Sincerely,
Monica and Dean Meredith
Del Mar, California

--



Leslie Carrillo

From: Tom Grindle <tomgrindle@gmail.com>
Sent: Monday, January 5, 2026 8:38 PM
To: City Clerk Mail Box
Subject: Red Dot Item City Council Agenda Item 7 SANDAG Appointment

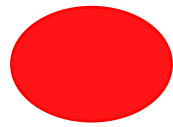
Follow Up Flag: Follow up
Flag Status: Flagged

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 City Council Members, Please reappoint Terry Gaasterland as our Board representative at SANDAG. We have lived in Del Mar since 1990 and have seen first hand how well Terry has represented (and protected) Del Mar's interests on this regional organization. Please reappoint her as our representative. Thank you for your consideration.

Tom and Jerri Grindle
Melanie Way
Del Mar

Sent from Tom



Leslie Carrillo

From: Heather Lindsey <hdlindsey@yahoo.com>
Sent: Monday, January 5, 2026 9:06 PM
To: City Clerk Mail Box
Subject: Red Dot: (1/6/2026) Support of Terry Gaasterland to SANDAG Board

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear DM Council Members,

I support reappointment of Terry Gaasterland to the SANDAG Board. Terry has done a good job serving as a representative of Del Mar's interests. I hope she is allowed to the opportunity to continue to lead and protect us.

Respectfully,

Heather Lindsey



Leslie Carrillo

From: jdllal@aol.com
Sent: Monday, January 5, 2026 9:08 PM
To: City Clerk Mail Box
Subject: Red Dot: Jan 6, 2024 SANDAG BOARD

Follow Up Flag: Follow up
Flag Status: Flagged

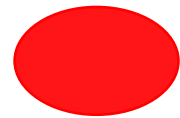
CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern.

Terry Gaasterland has my support for reappointment to the SANDAG Board.

Sincerely,

Lucille Lindsey
Resident, Del Mar



Leslie Carrillo

From: Nitza <nitzalite@gmail.com>
Sent: Monday, January 5, 2026 9:29 PM
To: City Clerk Mail Box
Subject: Red dot

Follow Up Flag: Follow up
Flag Status: Flagged

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I support the reappointment of Terry Gaasterland to the Board of SANDAG.

I am grateful for Terry's ongoing dedication & determination to protect Del Mar's interest.

Access to our beaches, and the ability to enjoy Del Mar scenic Bluffs is an integral aspect of what tourists and residents seek in our village.

Respectfully,

Nitza Leichtling



Leslie Carrillo

From: Betsy Milich <betsymilich@gmail.com>
Sent: Monday, January 5, 2026 9:34 PM
To: City Clerk Mail Box
Subject: In support of Terry Gaasterland's reappointment to the SANDAG Board of Directors

Follow Up Flag: Follow up
Flag Status: Flagged

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1/5/2024

To Whom It May Concern:

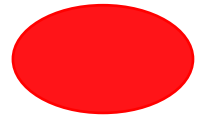
The purpose of this letter is to support Terry Gaasterland's reappointment to the SANDAG Board of Directors.

Citizens with the same commitment to thoroughly research issues, consistently listen with care, ask pertinent questions, and represent Del Mar are difficult to find. Terry does all the above respectfully and with a focus on cooperation. In addition she devotes time to communicate via email so we all stay informed.

I have complete confidence that Terry will continue to go above and beyond fulfilling her duties as a conscientious board member.

Regards,

Betsy Milich
1870 Seaview Avenue
Del Mar



Leslie Carrillo

From: Drew Cady <cadyarts@gmail.com>
Sent: Monday, January 5, 2026 10:58 PM
To: City Clerk Mail Box
Subject: Red Dot email in support of Terry Gaasterland's re-appointment to SANDAG board

Follow Up Flag: Follow up
Flag Status: Flagged

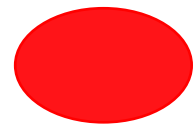
CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I write this letter to strongly recommend that Terry Gaasterland be re-appointed to the SANDAG Board. It is my belief that Terry has been conscientious and thorough in her ongoing representation of Del Mar on this important board. She has diligently informed this community of the primary concerns and challenges that SANDAG presents to this community, and has assured the very best outcomes from the many difficult actions that SANDAG has taken in these past several years. As a long-time resident of Del Mar, who lives adjacent to the southern bluff of Del Mar, I have deep concerns for the abidance of SANDAG as they continue to complete ongoing 'stabilization' projects along this bluff. Terry has proven her dedication and determination in monitoring this work and she strives to maintain a very focused pursuit in assuring that SANDAG abides the agreements which are made regarding all of this work.

I believe she is the very best candidate to maintain this role on the board of SANDAG. She has proven her ability to be a fair and strong watchdog for our City, concerning this precious and vulnerable south bluff, the vital continuance of public access to the beaches below, the preservation of sand on our beaches, and perhaps most importantly, assuring a safe new pathway for the train line as the bluff continues to erode in these coming years. She understands the need to define the least destructive route in order to safeguard the future of our community.

Sincerely,

Drew Cady
903 Stratford Court
Del Mar



Leslie Carrillo

From: ulla rang <ullarang@gmail.com>
Sent: Monday, January 5, 2026 11:11 PM
To: City Clerk Mail Box
Subject: Red Dot, Agenda Item #7, City Council Local and Regional Appointments

Follow Up Flag: Follow up
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Dear City Council,

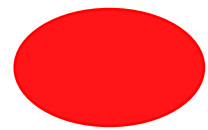
I am hereby giving my strongest support to reappoint Terry Gaasterland to represent Del Mar as a SANDAG Board member. Terry has during her time as our SANDAG Board member worked incredibly hard to protect Del Mar's interest in important issues including railroad realignment, bluff stabilization, access to our beaches, and sand preservation. She has never been afraid of standing up and sticking her neck out for Del Mar, even when our interests have conflicted with others. She has built many important alliances among other valuable and important board members.

Del Mar will be served best at the SANDAG level with a continued, consistent board member and not switch it up and stir the pot at this important point for Del Mar in regards to making sure that SANDAG lives up to their public access commitment across and along the bluff, and also the relocation of the rail road.

Please reappoint Terry as our SANDAG Board member. She has an impeccable record, shows up at every meeting and on time, always gives intelligent input, creative ideas and knows her numbers. She is very impressive and we are lucky to have her.

Sincerely,

Camilla Rang
Del Mar



Leslie Carrillo

From: carter chappell <wckc52@cox.net>
Sent: Tuesday, January 6, 2026 6:08 AM
To: City Clerk Mail Box
Subject: SANDAG Board Representation

Follow Up Flag: Follow up
Flag Status: Flagged

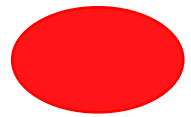
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Dear City Council Members,

We are writing to voice our support for Terry Gaasterlans's reappointment as Del Mar's representative on the SANDAG board. Please reappoint Ms. Gaasterlans's to the SANDAG board.

Thank you,
Kathy and Carter Chappell
601 Hoska Drive
Del Mar, CA.
Sent from my iPad

Leslie Carrillo



From: Bettina Experton <bexperton@humetrix.com>
Sent: Tuesday, January 6, 2026 6:22 AM
To: City Clerk Mail Box
Subject: Red dot - in support of Terry Gaasterland for SANDAG Board

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear Mayor and Councilmembers,

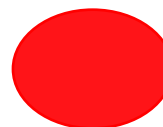
I am writing to express my strong support for Terry Gaasterland to continue as Del Mar's representative to the SANDAG Board.

Terry has been working very hard at SANDAG to protect Del Mar's interests in important issues including railroad realignment, bluff stabilization, access to our beaches, and sand preservation. She brings an experienced and respected voice for Del Mar interests to SANDAG.

Thank you,

Dr Bettina Experton
540 Tewa Street
Del Mar, CA 92014

Sent from my iPhone



Leslie Carrillo

From: suren dutia <dutia@sbcglobal.net>
Sent: Tuesday, January 6, 2026 8:05 AM
To: City Clerk Mail Box
Cc: Terry Gaasterland; Tracy Martinez; Dan Quirk; John Spelich; Ashley Jones; Sarah Krietor
Subject: RED DOT: City of Del Mar, council meeting of January 6, 2026, Item 7 – Appointment to SANDAG Board

Follow Up Flag: Follow up
Flag Status: Flagged

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Subject – Appointment to SANDAG Board

Dear Mayor Martinez and Members of the City Council,

Councilmember Gaasterland was appointed and has served as Del Mar’s representative on the SANDAG Board for the past five years. Given the significance of this role and its impact on regional planning and decision-making, moving forward, I believe it is very important to clarify the criteria that should be used for this appointment.

As a recommendation, the Council needs to designate this appointment as one of the core responsibilities of the mayor’s duties and deputy mayor as an alternate. Should the representative from Del Mar be elected by their peers to serve in a leadership position of the SANDAG Board or for another major regional public entity whose work impacts our community—such as Chair or Vice Chair—an exception to this rule could be made to ensure continuity in leadership. This is precisely why Crystal Crawford and Terry Sinnott were appointed and continuously served on SANDAG board for an extended period.

Although I was previously an ardent supporter of Councilmember Gaasterland, her conduct as well as public comments and interviews over time, along with the absence of any tangible results, have raised concerns about her effectiveness in advancing the interests of Del Mar. At this moment, our city needs a representative who is widely respected, collaborative, and capable of building constructive working relationships with fellow board members. These qualities are essential to ensuring that Del Mar maintains a meaningful and influential voice in regional transportation, planning for bluff stabilization and rail tunnel, affordable housing grants, and other funding discussions that directly affect our community.

Based on publicly disclosed information regarding stipends paid by SANDAG to its board members, Ms. Gaasterland has likely received \$150 per board meeting, \$100 for each Executive Committee meeting, \$100 for Regional Transportation Commission meetings, and \$100–\$150 for other official meetings. Having aggressively pursued—and with the proactive support of her allies secured—this role for five consecutive years, her total

compensation appears to amount to several thousand dollars. While I have not yet requested a formal accounting from SANDAG, my fairly conservative estimate indicates that her annual intake is at least between \$2,000 and \$3,000, totaling more than \$10,000 over the past five years. Given these tangible financial benefits, what has she actually accomplished for Del Mar? Has she fostered goodwill and constructive relationships with leaders of neighboring cities, or has her conduct instead contributed to an environment marked by resentment and ill will?

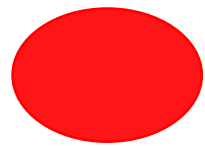
Many residents feel that Councilmember Gaasterland has too often prioritized publicity and self-aggrandizing efforts rather than the collaborative, alliance-building work necessary to advance Del Mar's long-term interests. As someone who serves on a number of boards and greatly values good governance, I find this conduct deeply concerning. It is reasonable to ask whether her public comments and criticisms are authorized by the City Council or the board she serves on, and whether they align with her fiduciary responsibilities, especially three core fiduciary duties – duty of care, duty of loyalty and duty of obedience. In my judgement, some of her positions and statements have probably strained relationships with fellow board members, limiting Del Mar's ability to engage constructively and influence regional decision-making at SANDAG.

Given these considerations, I respectfully recommend that Mayor Tracy Martinez be appointed as Del Mar's primary representative to the SANDAG Board with Deputy Mayor John Spelich as her alternate. Mayor Martinez and John Spelich have consistently demonstrated professionalism, collaboration, and a clear commitment to community-focused leadership - qualities that are essential for effective participation in a regional governing body such as SANDAG.

Thank you for your attention to this important matter and for your continued service to the City of Del Mar.

Sincerely,

Suren G. Dutia
Del Mar, CA
P-858/792-9439



Leslie Carrillo

From: Jayne Haines <jaynehaines@gmail.com>
Sent: Tuesday, January 6, 2026 8:55 AM
To: City Clerk Mail Box

Follow Up Flag: Follow up
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I would like to submit a red dot letter for item #7.

I am in strong support of Terry Gaasterland continuing as Del Mar's representative to the SANDAG Board.

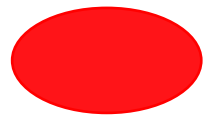
Terry has protected Del Mar residents' interests consistently for her entire time on council. She brings an experienced and respected voice for Del Mar to SANDAG.

Through her actions and statements, Terry seeks to preserve the rights and quality of life for Del Mar residents. It is clear that SANDAG Board members listen to, and value her comments and recommendations.

Terry is also a very reasonable and fair person, who listens to others and takes all issues to heart when it comes to decision making.

Thank you,
Jayne and Tim Haines

Sent from my iPhone



Leslie Carrillo

From: Karen Powell <kapow1@me.com>
Sent: Tuesday, January 6, 2026 9:34 AM
To: City Clerk Mail Box
Subject: ● Red Dot SANDAG Reappointment

Follow Up Flag: Follow up
Flag Status: Flagged

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 Members of the Council,

I am writing to encourage you to reappoint Terry Gaasterland to the SANDAG Board. She has been working hard at SANDAG to protect Del Mar's interests on important issues including railroad realignment, bluff stabilization, access to our beaches, and sand preservation. Please approve her reappointment so that she can continue her good work representing our cherished community.

Respectively Submitted,
Karen Powell
329 10th Street
Sent from my iPhone

Leslie Carrillo

From: janice batter <janice@batterkay.com>
Sent: Tuesday, January 6, 2026 8:12 AM
To: City Clerk Mail Box
Subject: Red Dot Letter - SANDAG BOARD APPOINTMENT

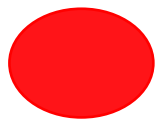
Follow Up Flag: Follow up
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Councilmembers,

Please reappoint Terry Gasterland to the SANDAG Board as continuity would be helpful for the city's interest.

Janice and Michael Batter



Leslie Carrillo

From: Nancy Stoke <nancystoke@earthlink.net>
Sent: Tuesday, January 6, 2026 10:08 AM
To: City Clerk Mail Box
Cc: nancystoke@earthlink.net
Subject: Red Dot 1/6/26 SANDAG appointment

Follow Up Flag: Follow up
Flag Status: Flagged

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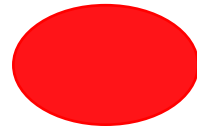
Honorable Mayor and Council Members,

I strongly support the re-appointment of Terry Gaasterland to the SANDAG Board. She has represented Del Mar well, and I have confidence she will continue to do so.

I also believe that with all of the many projects/issues Del Mar has currently in the works with SANDAG, and that SANDAG has in the region as a whole, Del Mar will be in a far better position with a representative who is already familiar and actively involved with SANDAG versus a new representative who will need time to get up to speed.

Please re-appoint Terry to the SANDAG Board. Thank you.

Respectfully Submitted,
Nancy Stoke



Leslie Carrillo

From: grothnem@stratalliances.com
Sent: Tuesday, January 6, 2026 10:31 AM
To: City Clerk Mail Box
Subject: Red Dot for 1.6.2026 City Council Meeting: Item #72026 City Council Local and Regional Appointments

Follow Up Flag: Follow up
Flag Status: Flagged

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Mayor and Councilmembers:

I am writing re Item 7 of tonight’s City Council Agenda: 2026 City Council Local and Regional Appointments.

Terry Gaasterland has said she would like to be reappointed as Del Mar’s representative on the SANDAG Board of Directors. I understand Tracy Martinez and John Spelich (as an alternate) are also interested in being appointed. This will not be an easy appointment given the interest of multiple qualified people who want the position. I am hopeful you can quickly reach a consensus not only for our city but also as a message of unity to SANDAG.

We all know SANDAG has had an ever-increasing impact on Del Mar the most notable being the debacle surrounding the affordable housing/RHNA number, the work on stabilizing the bluffs supporting the current rail line, and the proposed rail tunnel. On affordable housing, we all know SANDAG improperly calculated Del Mar’s affordable housing allocation yet continues to refuse to correct the situation. The result is that if Del Mar actually built out the affordable housing allocation imposed by SANDAG, the character of Del Mar would be forever changed. On the bluff stabilization, I believe SANDAG has acted in a callous disregard towards Del Mar residents and our natural bluffs and beach. The jury is still out on the train tunnel.

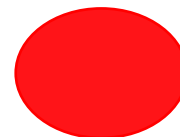
Our SANDAG representative needs to vigorously protect Del Mar’s interests. The representative needs to have a thorough understanding of the SANDAG initiatives impacting Del Mar and a working relationship with other SANDAG board members.

I believe Tracy, John, and Terry are all well qualified to be the SANDAG representative. I continue to respect their knowledge, commitment and hard work on behalf of Del Mar residents. However, I believe relationships with other SANDAG members and knowledge of how SANDAG “works” is very important. The appointment of any new representative requires a knowledge transfer as well as establishment/development of working relationships with SANDAG board members. I believe that given the major challenges we face with SANDAG, there needs to be some continuity and Del Mar should not automatically change representatives every year.

I am not “opposed” to Tracy or John as each would be a good representative, but given SANDAG’s current disproportionate impact on Del Mar I believe there is a critical need for continuity at this time. Therefore, I believe that Terry Gaasterland should be reappointed for one more year.

Thank you for your consideration.

Greg Rothnem



Leslie Carrillo

From: Laura Schaefer <ls@boyce-schaefer.com>
Sent: Tuesday, January 6, 2026 11:50 AM
To: City Clerk Mail Box
Subject: Reappointment of Gaasterland

Follow Up Flag: Follow up
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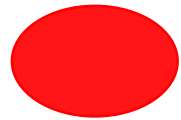
Please submit this red dot for the council's consideration. Thank you.

To the Honorable City Council Members,

I am writing in support of reappointment of Terry Gaasterland as SANDAG representative. Historically, Ms. Gaasterland has been a very effective and vocal advocate on the critical issues facing the city, including bluff and beach preservation, rail realignment, and beach access. As someone who has been very involved in bluff and beach preservation issues for the last 7-8 years, contributing to the fight against NCTD's STB action and fencing of the upper bluff, and rail realignment, I have witnessed Ms. Gaasterland's unwavering commitment to the bluff and beach preservation cause, particularly. I trust Ms. Gaasterland's judgment on these issues and request that you reappoint her as SANDAG representative.

Thank you for your consideration,

Laura Schaefer
6th St
Del Mar



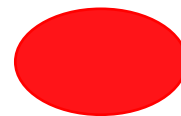
Leslie Carrillo

From: christy Hahn <christyhahn10@gmail.com>
Sent: Tuesday, January 6, 2026 11:52 AM
To: City Clerk Mail Box
Subject: Sandag appointment

Follow Up Flag: Follow up
Flag Status: Flagged

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I encourage the appointment of Terry Gaasterland to Sandag Jan 6, 2026 Christy Hahn
2027 Coast Blvd. Del Mar
Sent from my iPhone



Leslie Carrillo

From: Deborah Lyons <goteamdeb@gmail.com>
Sent: Tuesday, January 6, 2026 12:04 PM
To: City Clerk Mail Box
Subject: Red Dot Agenda #7 City Council Local & Regional Appointments

Follow Up Flag: Follow up
Flag Status: Flagged

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To: Del Mar Mayor and council members:

I am writing in support of appointing our new Mayor, Tracy Martinez, as the City of Del Mar's representative to SANDAG. It seems both logical and consistent with the practice in most other cities for the mayor to also serve in that role. As Dwight Worden noted in his recent Red Dot, having the incoming mayor and deputy mayor represent Del Mar at this important regional agency promotes policy continuity and effective representation.

Thank you,
Deborah Lyons

410 9th St, Del Mar, CA 92014