

ORDINANCE NO. 971

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING THE DEL MAR MUNICIPAL CODE CHAPTER 30.25 AND THE CITY'S CERTIFIED LOCAL COASTAL PROGRAM CONSISTENT WITH PROGRAM 2-F REQUIRED BY THE CITY'S EXISTING CERTIFIED HOUSING ELEMENT RELATING TO A TOTAL OF 4 EXISTING PARCELS LOCATED IN THE PROFESSIONAL COMMERCIAL ZONE IN THE CITY OF DEL MAR, CALIFORNIA

WHEREAS, the Housing Element is a required component of the City's Community Plan per State law; and

WHEREAS, the City's existing certified Housing Element requires implementation of Program 2-F relating to the Professional Commercial Zone that requires the City amend its Community Plan, Del Mar Municipal Code (Zoning) Chapter 30.25, and Local Coastal Program to add residential as an allowed primary use up to a density of 20 dwelling units per acre; and

WHEREAS, 20 dwelling units per acre is the density required by the Housing Element because, per the State, it is the minimum density that is feasible to support the development of affordable housing in a small jurisdiction the size of Del Mar; and

WHEREAS, "affordable housing" refers to units that are restricted for rent to households with an annual household income no greater than 80 percent of the area median income for the San Diego County region; and

WHEREAS, the City of Del Mar does not currently have any affordable housing units within the City and does not have any existing zones that allow sufficient residential density to accommodate the development of affordable housing; and

WHEREAS, the City's certified Housing Element for the 5th Cycle planning period (2013-2021) obligated the City to provide capacity for 22 affordable units for rent to low income households that factored in 12 affordable units from the regional housing needs allocation (RHNA) for the 5th Cycle and the shortfall of 10 affordable units that was a required carry over from the 4th Cycle; and

WHEREAS, the intent of Housing Element Program 2-F is to increase the City's planned housing capacity sufficiently to accommodate its RHNA and more specifically to accommodate development of affordable housing; and

WHEREAS, the State Department of Housing and Community Development (HCD) emphasized in a July 31, 2020 letter to the City that the State law requirement to create adequate sites to accommodate the City's RHNA is a fundamental component of Housing Element law and that HCD may revoke the certification status of the City's Housing Element and trigger further enforcement if the City fails timely implementation of the Program; and

WHEREAS, the State expected Housing Element Program 2-F to have been completed within 24 months of adoption of the 5th Cycle Housing Element; and

WHEREAS, if the City does not complete implementation of Program 2-F, the City will be subject to a range of enforcement penalties set forth per State housing law that could negatively impact the City by court orders, lawsuits and fines by the State, legal action by the State Attorney General, fiscal impacts to the General Fund, potential loss of local control over new housing development and risk to State grants in process and ineligibility for future State grant funding; and

WHEREAS, in June 2016 the City received a “Notice of Intent to Sue the City of Del Mar” if the Housing Element programs related to North Commercial and Professional Commercial are not implemented by the City; and

WHEREAS, if the City does not implement Program 2-F it also puts the City at risk of not being able to gain certification of the 6th Cycle Housing Element Update in process because the program is needed to create a sufficient number of housing sites to accommodate affordable housing as required per State law; and

WHEREAS, on August 11, 2020, the Planning Commission recommended certification of the PEIR and adoption of the Mitigation, Monitoring and Reporting Program, and adoption of amendments to the Del Mar Community Plan, DMMC Chapters 30.24 and 30.25, and Local Coastal Program; and

WHEREAS, on August 20, 2020, a notice of public hearing was posted and published and mailed notice was provided informing the public of the scheduled City Council public hearing on September 8, 2020; and

WHEREAS, on September 8, 2020, the City Council adopted a Resolution certifying a Program Environmental Impact Report (PEIR SCH No. 2019029058) and adopting a Mitigation, Monitoring and Reporting Program in accordance with the California Environmental Quality Act (CEQA) that analyzes and discloses the known potential impacts associated with the land use plan and code amendments covered by this Ordinance and identifies a mitigation framework that will apply to future housing development; and

WHEREAS, on September 8, 2020, the City Council adopted Resolution 2020-48 amending the City of Del Mar Community Plan consistent with Program 2-F in the City's existing certified Housing Element that is a part of the existing Community Plan (General Plan) to amend the land use designation relating to a total of four existing parcels located in the Professional Commercial Zone; and

WHEREAS, on September 8, 2020, the City Council introduced the Ordinance;
and

WHEREAS, the proposed amendments constitute a Zone Code Amendment and Local Coastal Program Amendment and following City Council action will be subject to review and unconditional certification by the Coastal Commission.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar, California, does hereby ordain as follows:

SECTION ONE: That DMMC Section 30.25.010 (PC Zone) be amended to read as follows:

30.25.010 Purpose

The PC Zone is designed to allow office and residential use within the village center in a manner that will not detract from the area's predominantly retail character. Office and professional uses should be geographically concentrated so as to minimize retail parking problems, disruption of pedestrian-oriented shops, and to soften the transition from retail to medium and low density residential at the south end of the village center.

SECTION TWO: That DMMC Section 30.25.030 (PC Zone) be amended to read as follows:

30.25.030 Allowable Uses

The following uses are allowable in the PC Zone:

- A. Offices, professional, medical, and dental.
- B. Banks and financial institutions, exclusive of drive-thru facilities.
- C. Parking lots and parking garages.
- D. Multiple dwelling unit residential up to a density of 20 dwelling units per acre.
- E. One dwelling unit as accessory to and on the same site as that of a permitted use, and conforming to the parking requirements of the R2 Zone.
- F. Short term rental of a dwelling unit.
- G. Any similar enterprise or business which conforms to the description and purpose of the PC Zone, and is not detrimental to the welfare of the community.

SECTION THREE: That DMMC Section 30.25.070 (PC Zone) be amended to read as follows:

30.25.070 Development Standards

- A. Density: Up to a maximum of 20 dwelling units per acre.
1. All residential development or conversions shall provide affordable housing pursuant to Chapter 24.21.
 2. Notwithstanding Section 24.21.030, residential development or conversions of two, three, four or five units on one lot shall set-aside one unit for rental at below market rate to a low income household or donate one off-site unit, within the City's jurisdiction, of a like size and condition to the City or a City approved organization to be reserved for use as Affordable Housing. The option for payment of the In-Lieu Housing Mitigation Fee shall not be allowed.

[No change to subsections B. (Lot Dimensions) through C. (Construction Standards)]

SECTION FOUR: That the Chapter II Land Use Development “section B” policies in the Del Mar certified Local Coastal Program be amended to add a new Policy II-4 and amend existing Policy II-8 to read as follows:

Policy II-4: Increase the City’s overall housing capacity and capability to accommodate housing units in commercial zones while minimizing potential land use compatibility conflicts and assuring priority for coastal-dependent and coastal related development.

Policy II-8: Retain a pedestrian-oriented downtown which groups housing, retail services, and commercial services with facilities for civic and community activities.

SECTION FIVE: That the Chapter II Land Use Development “section C” policies in the Del Mar certified Local Coastal Program be amended to amend the Village District policies to read as follows:

9. Village Center District

This area is designated primarily as Central Commercial (CC) and is Del Mar’s principal commercial, visitor serving and professional area. It extends along both sides of Camino del Mar, beginning at 9th Street and reaching north to 15th Street. The District contains the site of the U.S. Post Office, City Hall, and City of Del Mar’s branch of the County of San Diego Library designated as PF (Public Facilities) on the Land Use Map.

Multiple specific plan areas are also included in the Village District. The Specific Plan for the Del Mar Hotel, (HSP west side of Camino del Mar at 15th Street) generally limits the uses on the site to a hotel, timeshare and short term rental units and associated retail uses. The Specific Plan for the Del Mar Plaza, (PSP east side of Camino del Mar at 15th Street) generally limits the uses on site to restaurant and retail uses with a small percentage allowed for office use. The 941 Camino del Mar Specific Plan (941SP east side of Camino del Mar at 10th Street) generally limits the uses to a combination of restaurant, retail, short term rental, and residential uses. Each of the Specific Plan areas

devotes a portion of the property to public and quasi-public use. Each of these specific plans was voter approved and requires a recorded Development Agreement between the City and the developer/property owner. Where a particular conflict arises between the provisions of a valid and recorded Development Agreement and any policies of this Land Use Plan subsequently adopted, the former shall continue to be binding and shall supersede the subsequently adopted policies of this Land Use Plan. Subsequent development agreements or amendments to existing Development Agreements shall be consistent with the Land Use Plan in effect at the time.

The CC (Central Commercial) designation encompasses the majority of land within the Village District. The CC designation allows for a variety of commercial uses aimed at serving the needs of both residents and visitors to the area. Due to the City's popularity as a visitor-destination point, the majority of the property in the CC Zone has been developed with uses that serve both residents and visitors.

In order to facilitate the demand for more goods and services, the following policies have been developed to better utilize the commercially designated land in the Village Center District.

SECTION SIX: The City Council finds that approval of this ordinance is covered by the Program Environmental Impact Report (PEIR) document (SCH No. 2019029058) that was prepared and certified pursuant to the California Environmental Quality Act. The City Council bases this finding upon the record prepared by the City and the City's analysis of the potential environmental effects of this ordinance.

SECTION SEVEN: This Ordinance was introduced by the City Council on September 8, 2020.

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

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

SECTION TEN: The City shall file a copy of the adopted Ordinance with the State Department of Housing and Community Development.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California at the Regular Meeting held this 21st day of September, 2020.



Ellie Haviland, Mayor
City of Del Mar

APPROVED AS TO FORM:



Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 971, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 21st day of September, 2020, by the following vote:

AYES: Mayor Haviland, Deputy Mayor Gaasterland, Council Members
Druker, Parks and Worden

NOES: None

ABSENT: None

ABSTAIN: None



Ashley Jones, Administrative Services
Director/City Clerk
City of Del Mar