



VARIANCE

An applicant's guide to the process

updated 8/10

This pamphlet has been prepared to provide applicants and interested parties with information on the goals and steps involved with the City of Del Mar's Variance application review process. To obtain any additional information, including a copy of the Del Mar Municipal Code (DMMC) Zoning Code Chapter regarding variances (Chapter 30.78), please contact the Planning Department.

PURPOSE

Each zoning district within the City of Del Mar has specific regulations governing development including height limitations, setbacks, maximum lot coverage, and maximum floor area. In order to deviate from these specific regulations, a Variance must be granted by resolution of the Planning Commission or by City Council on appeal. Pursuant to the provisions (DMMC Chapter 30.78) a variance from the regulations 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 owners in the vicinity and under identical zoning classification.

PROCESS

Step 1 – Pre-application Conference

To process an application most effectively, a pre-application conference with a member of the Planning Department is highly recommended. The conference provides an opportunity for staff and an applicant/representative to review the application requirements and to discuss the issues that may arise as part of the processing of the application.

The applicant and/or applicant's representative should call to make an appointment and should be prepared at that appointment to provide information regarding the project site and the development proposal. This may include rough plans or sketches of the proposed development and information about existing site conditions and surrounding area.

Step 2 - Filing of Application

Applications must be submitted via email to planning@delmar.ca.us.

A Planning Staff member will review each application for completeness. Accepted applications shall contain all information listed below. Incomplete submittals will not be accepted.

APPLICATION SUBMITTAL REQUIREMENTS

The following is a list of documents or information that must be submitted as part of applications for a variance. There may be items on the list which staff determines are not required for a given application. These may be discussed at the suggested pre-application conference. **Unless directed otherwise by staff, each of the listed items is required. Incomplete submittals will not be accepted.**

- 1. Application Form** (Completed and signed)
- 2. a. Grant Deed** (Copy)
b. Title Report: if the Title Report is older than six months, a supplemental report or statement of “no changes” may be required.)
- 3. Application Fee** (see fee schedule)
- 4. Project Plans:** Nine (9) sets of the following plans to be submitted. Plan sets are to consist of 24” x 36” sheets. Sheets must be collated, stapled, and then folded to 8-1/2”x 14” (legal size). No additional, loose pages will be accepted.

Project plans shall include all of the information listed below and on the following pages unless otherwise waived or determined not applicable by the Planning Department. For architectural drawings, use of 1/8” or 1/4” scale is highly recommended.

a. Site Plan drawn accurately and to scale containing the following information:

- Scale and north arrow pointing to top of page
- Benchmark elevation (directly referenced to City Benchmark, see City handout)
- Name and address of applicant, engineer and/or architect
- Date of plan preparation, including revisions
- Location of all easements and indication of other property encumbrances
- Dimensions of distances between all buildings and/or structures
- Maximum elevation of major points of building (i.e. ridge lines)
- Required and proposed building setbacks (front, rear, and sides)
- Location, height, and materials of walls and fences with elevation of adjacent grade and of tops and bottoms of wall/fence
- Location of all signs (for commercial projects)
- Location of all buildings adjacent to subject property
- Location of all accessory structures (sheds, pools, fencing, etc.)
- Location of adjacent right-of-way paving or improvements
- Location of all existing Torrey Pine and Monterey Cypress trees on site with an indication of those to be removed or retained (also indicate location of such trees within 10 feet on neighboring properties)
- For projects within the Commercial or Open Space Overlay Zones, the location of all existing trees, regardless of species

- Summary Table indicating the following information:
 - Site acreage (net and gross size)
 - Existing zone and land use
 - Proposed land use
 - Building square footage
 - Number of parking spaces (parking stall dimensions also to be indicated on plans)
 - APN (Assessor's Parcel Number)
 - FAR (Floor Area Ratio)
 - Lot coverage
 - Labeling of existing structure(s) to be removed or retained
 - Cross hatching to delineate areas of new versus existing structures
 - Indication of any work proposed within a public right-of-way
- b. Topographical Map** prepared by registered civil engineer or licensed surveyor with existing and proposed grades for entire site indicated using two (2) foot contour lines. (The Topographical Map may be combined with required Site Plan.)
- c. Floor Plans** drawn accurately and to scale, containing the following information:
- scale and north arrow
 - floor area and FAR (Floor Area Ratio)
 - square footage of each room and each level
 - square footage of all proposed decks
 - lines and labels indicating alignment of cross-sections
- d. Building Elevations** drawn accurately and to scale, containing the following information:
- The appearance of the project from all adjacent properties and/or streets
 - Proposed and existing grades adjacent to the structure(s), floor elevations and building heights (relative to City Benchmark shown on site plan)
 - Maximum elevation of all major points of buildings, including ridge lines, chimneys and other roof penetrations
 - Labels for north, south, east and west elevations
 - For new basements, line of basement floor from all elevations, along with proposed ceiling heights and adjacent existing/proposed grades
 - Indication of (exterior) building materials
 - Location of any solar panels proposed
- e. Building Sections** drawn accurately and to scale, containing the following information:
- Drawing through structure and adjacent grade at critical points in at least two directions
 - if a basement is proposed, detailed section indicating dimensions and heights for basement ceiling, floor above, lightwells and adjacent proposed and existing grades
 - dimensions of structural height

f. Roof Plan drawn accurately and to scale, containing the following information:

- Maximum elevations of all roof ridge lines
- Location of all skylights, solar panels, and chimneys
- Topographical lines for area adjacent to structure
- Indication of roof eaves or overhangs

5. Reduced Plans: One set using sheets 11” x 17” in size.

6. Vicinity Map showing location of project in relation to adjacent land uses (may be shown on site plan).

7. Photographs of subject site and adjacent properties mounted on 8-1/2 x 11” durable cardboard or plastic board.

8. Public Noticing Package consisting of:

*For a fee, City staff will prepare the Notice Map and Notice List and will supply the required envelopes. For additional information, see the City’s separate handout on Public Noticing requirements.

a. Noticing Map - *A 300’ radius map drawn on assessor’s parcel maps and spliced together (when necessary) showing the 300’ radius measured from the exterior boundaries of the property of the subject property.

b. Noticing List - *A typewritten list of property owners that corresponds to the radius map required above. The list shall contain the names, addresses, and assessor’s parcel number for all parcels within the radius area (including the applicant and/or owner). For a fee, the City can provide this list for you.

c. Noticing Envelopes - *Stamped business size envelopes with typed address labels for all parties listed on the property owner’s list required above. The envelopes must also include a City of Del Mar return address.

d. Affidavit - Certification that the Public Notice Mailing List is accurate and up to date.

Note: In addition to the requirements listed above, notice must be posted on the project site. Planning staff will provide a **DEVELOPMENT PERMIT PENDING** sign. The sign must be posted in a conspicuous location along the property’s street frontage(s) at least 10 days prior to the Planning Commission hearing date.

9. Miscellaneous Information: Certain applications, due to their location in areas of steep slopes or adjacent to sensitive resources, may require the submittal of additional information such as a soils report, a survey of existing vegetation, or a slope analysis.

Step 3 - Staff Review of Application Submittals - Incomplete Applications

After the initial submittal of the application, the project will be assigned to a member of the Planning Department for a detailed analysis. The planner will review the application for completeness and for compliance with the applicable Zoning Codes. If it is determined that the application is missing information, or is somehow inconsistent with one or more provisions of the Zoning Code (other than those for which a variance is requested), it will be deemed Incomplete. A letter will be sent to the applicant regarding the necessary information and/or changes.

Generally, an incomplete application will not be placed on an agenda for a Planning Commission hearing. Further, if a project had been placed on a preliminary agenda, its status as Incomplete may result in its being removed from the final agenda and continued to a future meeting date.

California Environmental Quality Act (CEQA) Review

State law requires local jurisdictions such as Del Mar to gauge a project's potential impact on the environment. Once an application has been submitted, the staff analyst will determine the appropriate level of CEQA review. This review, and the associated documents, may range from the granting of an exemption, to the filing of a Negative Declaration, to the preparation of an EIR (Environmental Impact Report). The process for each, and the anticipated level of review that a project will undergo, may be discussed at the recommended pre-application conference.

Step 4 - Planning Commission Hearing

The Planning Commission will hold a public hearing. The applicant or his agent should obtain a copy of the staff report from the Planning Department prior to the hearing date (one will be mailed to the parties listed in the application form). The applicant or his agent must attend the hearing, or approval may not be granted. The Planning Commission will either approve the Variance as submitted, approve with conditions, or deny the application.

Generally, there is a seven-week period between the time of submittal of a complete application and the scheduled hearing date.

The length of time for the Planning Commission's processing of an application may vary, depending on the complexity of the proposal. In the majority of cases, the Planning Commission takes action on the application the first time it is on the agenda. However, the Planning Commission does have the discretion to continue an item to a future meeting date as necessary to gain additional information or to allow an applicant the opportunity to address concerns raised by the Planning Commission.

Step 5 – Appeal Period

The decision of the Planning Commission is final unless a written appeal is filed with the City Clerk, accompanied with a processing fee, within ten (10) working days from the date of notice of the action taken on the application. An approved permit shall not be valid until proper noticing and the 10-day appeal period has expired. The appeal is then forwarded to the City Council, which determines at the *Initial Consideration* whether to reject the appeal, thereby upholding the Planning Commission's

decision, or to set the matter for a subsequent date for a new (*de novo*) public hearing review. If a *de novo* public hearing is set by the City Council, an additional fee will be required.

PERMIT EXPIRATION/MODIFICATIONS TO PLANS

Any Variance granted by the Planning Commission or City Council will become null and void if not exercised and “vested” within the time specified in the permit, or if no date is specified, within two (2) years from the date of approval of the variance application.

APPLICATIONS AVAILABLE FOR PUBLIC REVIEW/REPRODUCTION

A submitted application is a matter of public record. With certain exceptions, any portion of the application may be reproduced and distributed to City staff, to other discretionary bodies, or to the general public for use in reviewing the project proposal. The noted exception involves project plans. Architectural drawings are protected by copyright laws and are, therefore, subject to a separate set of limitations regarding their duplication. In short, the copyright protection requires that, prior to releasing plans for reproduction, the party interested in receiving the duplication must provide staff with: 1) written permission from the architect or draftsman who prepared the plans; 2) written permission from the applicant; and 3) an affidavit that the reproductions will be used solely for purpose of application review. A separate handout is available for the required affidavit.

ADDITIONAL INFORMATION

These guidelines pertain only to the City of Del Mar Variance process. Development proposals may require other separate City permits or authorizations such as a Design Review Permit, Tree Removal Permit, or an Encroachment Permit for work within a public right-of-way. Please contact staff for further information.