



April 27, 2023

Manuel Nieto
2717 Via de la Valle
Del Mar, CA 92014

Sent via U.S. Postal Service and Email to mnieto.nce@gmail.com

SUBJECT: Preliminary Review of Application CDP23-008 and Associated Materials Submitted for the Proposed 259 Multi-Unit Residential Development and Density Bonus Request (referred to as “Seaside Ridge”) at 929 Border (APN #'s 298-241-06, 298-241-07, and 299-030-14).

Subject Site Land Use and Zoning:

<u>Parcel</u>	<u>Land Use</u>	<u>Zone*</u>	<u>Overlay Zones*</u>
298-241-06	Very Low Density - Residential	<u>R1-40</u>	<u>Coastal Bluff; Beach; Bluff, Slope, Canyon</u>
298-241-07	Very Low Density - Residential	<u>R1-40</u> <u>Floodway</u> <u>(East of CDM)</u>	<u>Coastal Bluff; Beach; Bluff, Slope, Canyon; Lagoon;</u>
299-030-14	Very Low Density - Residential	<u>R1-40</u>	<u>Coastal Bluff; Beach; Bluff, Slope, Canyon</u>

*Del Mar Municipal Code Title 30 (Zoning), specifically the Chapters for these Zones and Overlay Zones, constitutes the applicable Local Coastal Program (LCP) Implementing Ordinances (IO) for the subject properties.

Dear Mr. Nieto:

The City of Del Mar Planning and Community Development Department has reviewed the subject Application and its entitlement materials, the legal supporting memorandum, and all technical studies which were submitted on March 30, 2023 and the City has now determined that the Application is deemed to be **INCOMPLETE** and contrary to the Applicant's legal representations is not supported by law.

In summary, the Project involves a 259-housing unit project located on an environmentally sensitive bluff that supports habitat for numerous coastal species, that serves as a major scenic view corridor, that has and will be subject to continuous erosion as a result of climate change, that provides major linkages for the public to access coastal resources and has very constrained vehicular access. Given the high likelihood that the proposed project will have significant unmitigable environmental and public health impacts there is no foundation in law that waives away the California Coastal Act or the California Environmental Quality Act (“CEQA”).

The fundamental fatal flaw in the Application is that it provides no information needed to address California Coastal Act protected resources and further fails to provide enough information to begin impact evaluation under CEQA.

Contrary to the Applicant’s legal position, both CEQA and the California Coastal Act do apply to the Seaside Ridge project. This is clearly stated in CA Gov. Code Sec. 65589.5 (e):

*“Nothing in this section shall be construed to relieve the local agency from complying with the *** California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).*

Additionally, the protection of coastal resources is clearly protected under the Density Bonus Act and the CA Coastal Act is clearly not “superseded” under the CA Gov. Code Sec. 65915 (m):

“This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.” (CA Gov. Code Sec. 65915(m)).

The relevance to CEQA and the Coastal Act were all but ignored in the Application and before the City can proceed with the appropriate project review the City requires the following information that is more fully described below.

Here, the subject project proposal and development application follows the Preliminary Development Application (PDA22-001) submitted to the City on October 4, 2022. On October 14, 2022, the City issued a determination letter that indicated the City’s adopted

Housing Element identifies a sufficient inventory of sites with correct zoning and capacity to meet the City's Regional Housing Needs Assessment (RHNA) without the requirement to rezone properties. The 6th Cycle Housing Element is in substantial compliance with Housing Element law. That is why the City's preliminary application determination letter also indicated the proposed development is inconsistent with the current zoning and density designation and identified the required entitlement applications that would be required if the proposed housing development application was submitted to the City in the future. The following applications for the required discretionary entitlements were identified: General Plan (Community Plan) Amendment; Rezone; Local Coastal Program Amendment; Environmental Assessment; Design Review Permit; Conditional Use Permit; Coastal Development Permit; Land Conservation Permit; Boundary Adjustment; Long-Term Major Encroachment Permit; and Tree Removal Permit.

Moreover, the following applications, materials, fees, and comments must be addressed and resubmitted in order for the application to be deemed complete:

1. The Preliminary Application is Deemed Not Submitted

Preliminary Development Application PDA22-001, submitted to the City of Del Mar on October 4, 2022, has been substantially revised in a manner that exceeds the square footage of the construction by greater than 20 percent. (See: CA Gov. Code Sec. 65941.1(c)).

“After submittal of all of the information required by subdivision (a), if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the housing development project shall not be deemed to have submitted a preliminary application that satisfies this section until the development proponent resubmits the information required by subdivision (a) so that it reflects the revisions. For purposes of this subdivision, “square footage of construction” means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).” (CA Gov. Code Sec. 65941.1(c)).

The Preliminary Development Application proposed a Housing Development Project consisting of 308,968 “square-feet of construction.” Now, the subject Coastal Development Permit (CDP) application materials propose a Housing Development Project consisting of 396,259 square-feet of construction. The additional square footage appears to be the result of adding a new level of parking structure.

Both the preliminary and development entitlement proposals for the subject Housing Development Project calculated square footage inclusive of density bonus units/construction areas. Therefore, the increase represents a change in “building area,” as defined by the California Building Standards Code, of 28 percent, which exceeds the allowance provided by the Government Code cited above. Therefore, pursuant to the cited Code, PDA22-001 application must be resubmitted to reflect the revisions to the project's “building area.” This substantial increase in building area results in the preliminary

application being void until such time that applicant resubmits the information required by CA Gov. Code Sec. 65941.1 (a) which is consistent with the Coastal Act and in this case the City's LCP.

2. The “Builder’s Remedy” Does Not Apply

The City's adopted 6th Cycle Housing Element is in substantial compliance and identifies sufficient inventory of sites with correct zoning and capacity to meet the City's RHNA without the requirement to rezone properties. The City is not relying on the subject properties to meet its RHNA obligation. The Applicant's two (APNs 298-241-06 & 298-241-07) of the three project site parcels are included as part of a contingency program that will only take effect in April 2024 if the City is unable to successfully implement the 6th Cycle Housing Element Program 3A.

The City's 6th Cycle Housing Element has met all statutory obligations and all substantive programs have always remained intact throughout the California Department of Housing and Community Development's (HCD) deliberative process. The comments received from HCD during the Housing Element review cycle were requests for additional data or clarifying requests none of which required the City to change any programmatic features contained in the City's Housing Element.

Moreover, given that substantial changes to the Seaside Ridge Project have occurred and because the present-day application has been deemed incomplete the assertion that Builder's Remedy applies is simply incorrect. Therefore, for the Applicant to assert that this large-scale housing project located in an area of sensitive coastal resources may be approved through a ministerial process is a misapplied interpretation of the law.

Additionally, the application materials are inconsistent with the determination and process described above. It is the determination of the City there is no obligation for the City to process the subject proposed housing development as a ministerial project and the applications and materials described below are required for the City to process the proposed project.

3. The Project is Inconsistent with Local Coastal Program (LCP), Land Use, and Zoning

Given the project's proposed density, heights, scale, location, and its likely environmental consequences there is no aspect of the proposed project that is consistent with the Coastal Act or the City's zoning regulations.

All properties within the City of Del Mar are located within the Coastal Zone, accordingly the City's Local Coastal Program (“LCP”) is the implementation arm of the California Coastal Act. The City's LCP is the controlling standard for development of the North Bluff properties. Therefore, each proposed housing development in the City requires processing of a Coastal Development Permit (CDP) and each CDP must demonstrate consistency with the City's certified LCP and the other provisions of the California Coastal Act. In order for the City to issue a CDP approval for a proposed housing development in the subject location, the City must process the CDP application in accordance with the

City's certified LCP and Coastal Act. This requires the City to make findings that the development is consistent with the allowed land uses and density, zoning, and additional Coastal Zone criteria to ensure protection of the public health and safety, environmentally sensitive habitat areas, public scenic views, and coastal access as identified in the City's certified LCP. In accordance with the certified LCP and Coastal Act, the proposed development requires local processing and approval of a discretionary CDP application where the final local decision on the CDP would be subject to appeal to the California Coastal Commission.

The LCP standard of review for the proposed coastal development housing project includes the zoning and density standards of the R1-40 base zone and the resource protection criteria of multiple overlay zones including the Beach Overlay, Coastal Bluff Overlay, Lagoon Overlay, and Bluff, Slope and Canyon Overlay Zones. These referenced LCP standards for the subject property are the same standards that apply to this property per the City's adopted General Plan (Community Plan), Housing Element, and Zoning Code. Missing from the Application are the studies and documents that would allow the City to determine if the project is consistent with these elements of LCP and its supporting standards. The City cannot proceed with evaluating the project without these studies and documents.

Moreover, it is important to understand that the City's Community Plan and more importantly its certified LCP Land Use Plan designates the proposed North Bluff development site as "Very Low Density Residential" land use, this designation is "intended to allow single family development that preserves an open character on land within areas that include steep slopes, bluffs and/or canyons." As specified in the City's Zoning Code and certified LCP implementing zoning, all property with this very low-density residential land use designation is zoned "R1-40", which allows for one (1) residential dwelling unit per net acre of land. Proposed development in this location is also subject to compliance with resource protection criteria in accordance with applicable overlay zones. These same "very low density" land use, zoning, and resource protection standards apply to other similarly situated properties that are in proximity to the proposed development.

Therefore, the proposed project is direct conflict with existing density and development standards contained in the City's LCP. And clearly there is no legal or regulatory authority that would allow the City's General Plan, Zoning Code, or certified LCP allowing an applicant self-assign a new regulatory process or create new base residential densities of 25 dwelling units per acre. Nowhere in all the recent changes in housing laws is it found that applicants can make up their own regulatory processes in order to facilitate project approval. Here, the Applicant is required to submit an application that reflects the discretionary actions needed to amend the existing LCP and related land use/zoning density standard (one dwelling unit per net acre).

The project site is an environmentally sensitive coastal bluff location, and the proposed development is of a scale that is in substantial conflict with the existing density and development standards that apply to the subject property and adjacent properties. The

project's land use and zoning inconsistencies and potential to result in significant environmental impacts, including impacts to similarly situated adjacent properties, have not been sufficiently analyzed, addressed, or disclosed in the application. All CEQA documentation will have to be provided (as addressed in the below) in addition to the requirements of the City's LCP. Until such time the application will remain incomplete.

4. "Administrative Rezone" is Inconsistent with California Law

Rezoning a property through the addition of an applicable overlay zone is a legislative act pursuant to Government Code Section 65854 *et seq.* However, the submitted project application materials request approval of a rezone action through an administrative approval process that does not exist and would be contrary to State law. The Housing Element Implementation Overlay Zone (HEI-OZ) is currently only applicable to one site (two legal lots) in the City of Del Mar, commonly known as the "Watermark" property. In order for the HEI-OZ to be applied to the proposed project site as proposed, a discretionary rezone action, consistent with the above-cited State code and DMMC Section 30.86.220, must be processed for adoption by the City Council. This also would require processing of an associated General (Community) Plan Amendment and Local Coastal Program Amendment to establish consistency between the land use and zoning. The applicant must also include proposed revisions and justifications for applicable LCP and Community Plan Goals and Policies (all proposed sections of the respective documents) and must submit proposed revised land use maps and LCP/Community Plan text revisions.

5. Applications Required for the Proposed Project for Compliance with the City's Local Coastal Program

Given the project's lack of compliance with the City of Del Mar Local Coastal Program (LCP), to proceed with the project as currently proposed, the following is a list of applications that must be submitted to the City. The estimated fee or deposit that would be associated with each application is also identified. Please note that the listed deposit and fee estimates are only accurate until June 30, 2023.

- a) Rezone Application – As stated above, a rezone is a legislative action that cannot be performed administratively. Therefore, your application request for an "Administrative Rezone" is rejected. The subject property is not eligible for "by right" housing development. Use and applicability of the HEI-OZ for implementation of the Housing Element is at the discretion of the Del Mar City Council and is not required, by ordinance or otherwise. If you would like to apply for a legislative action to rezone the subject site properties (APN 298-241-06, 298-241-07, & 299-030-14), then please prepare a separate letter of request to accompany the Uniform Development Application that provides the request, justifications for the rezone, and proposed findings for approval as are required in accordance with DMMC Section 30.86.220 (C). Exhibit shall also be prepared and submitted that identifies existing zoning designations and proposed zoning designations.

Required Deposit: \$10,609

- b) Local Coastal Program Amendment (LCPA) – Rezoning of the subject site would require an LCPA, adopted by the City Council, and Certified by the California Coastal Commission. Proposed/ revised text revisions and map exhibits of the City’s LCP are required with an LCPA application submittal.
Required Deposit: \$10,609
- c) General (Community) Plan Amendment (GPA) – Amendment of the City’s General (Community) Plan is required for any changes to the Very Low Residential Density Land Use Designation (located in the North Bluff District) to allow - multi-unit development on lots identified with the Assessor’s Parcel Numbers 298-241-06, 298-241-07, and 299-030-14. Proposed/ revised land use maps and Community Plan text revisions are required with the application submittal.
Required Deposit: \$10,609
- d) Environmental Assessment Application – The proposed project is subject to compliance with the California Environmental Quality Act (CEQA). Therefore, an Environmental Assessment (EA) application is required to determine the appropriate level environmental review that would be required for the project.

Required Deposit: \$1,000 (Additional funds will be required once a consultant from the City’s on-call environmental consultant list has been contracted to perform the Initial Study). To facilitate the processing of the re-submitted application additional technical information/reports will be required regarding the following areas of environmental concern:

- Public Coastal View Impact Analysis
- Air Quality Impacts
- Energy Conservation and Impact Analysis
- Greenhouse Gas Emissions Impacts Including during construction
- Hazards and Hazardous Materials Usage and Impacts
- Noise Impact Analysis
- Full Paleontological Report
- Tribal/Cultural Resources Impact
- Climate Change Impacts to the North Bluff
- Environmental Justice Analysis
- Proposed Roadway Impact Analysis
- Public Coastal Access Impact Analysis
- Conformity with LCP Impact Analysis

Upon completion of the Initial Study, additional technical reports and/or information may be required.

- e) Design Review Permit Application – Discretionary Design Review Permit approval is required for all development in the City of Del Mar not otherwise exempted. As it is the City’s determination that the subject Housing Development Project is not

subject to the provisions of AB 1398, discretionary development applications and approvals are required in accordance with DMMC Chapter 23.08. The Applicant shall submit an unaltered City of Del Mar Design Review Permit Submittal Checklist.

Required Application Fee: \$11,049

Required General Plan/Zoning Code Update Charge (10%): \$1,104.90

DRB Public Notice Fee: TBD at time of application submittal

- f) Due to the project site's location in the Beach Overlay Zone, Coastal Bluff Overlay Zone; and the Bluff, Slope and Canyon Overlay Zone, and Lagoon Overlay Zone, as well as the proposed grading that would be involved with the proposed access to the development, the following discretionary permit applications would also be required under the provisions of the current LCP:

- i. Conditional Use Permit Application – Required due to the project site's location within the Coastal Bluff Overlay Zone and the Bluff, Slope and Canyon Overlay Zone. Include a slope analysis for eastern slopes adjacent to the property, where project-related grading and improvements are proposed.

Required Application Fee: \$2,522

Planning Commission Public Notice Fee: TBD at time of submittal

- ii. Coastal Development Application – A CDP Supplemental questionnaire was submitted on March 30, 2023. However, it should be noted as discussed above, that pursuant to the City's current LCP provisions, the appropriate Coastal Development Permit for the project as submitted would be discretionary, not administrative. The required Application Fee for the appropriate CDP type would be: \$3,095.

- iii. Land Conservation Permit Application

Required Application Fee: \$3,095

- g) Tree Removal Permit Application

Identify the number of trees to be removed, the species, age, and location of all trees.

Required Application Fee: \$535

- h) Boundary Adjustment/Certificate of Compliance Application

Required Fees: \$3,450 (Planning Application Fee)

\$1,257 (Engineering Review Fee)

TBD (Public Notice Fee, determined at time of submittal)

6. Disposition of Materials and Fees Submitted on March 30, 2023

Written materials submitted to the City via email on March 30, 2023, indicate that the project submission includes requests for: an Administrative Coastal Development Permit;

Administrative Encroachment Permit; an Administrative Boundary Adjustment Permit; an Administrative “Rezone;” and an Administrative Tree Removal Permit.

City of Del Mar application forms for the Encroachment, Lot Line (Boundary) Adjustment, and Tree Removal Permits were not included in the submitted materials. The City does not have an application form for an “Administrative Rezone,” as such a process does not exist under State law. Therefore, the Planning Department will not consider any of those applications as being “submitted.”

Based on the preliminary review comments provided in this letter, the only valid application forms submitted for the subject project are the Uniform Development Application and the required Coastal Development Permit Supplemental Questionnaire. However, as previously indicated, that application would need to be processed as a discretionary CDP, appealable to the City Council and the Coastal Commission, and be consistent with the City’s Local Coastal Program, and it is not consistent as currently submitted. Once the application is deemed complete, the proposed project entitlements (applications noted above) will be processed concurrently.

Given that the project materials submitted on March 30, 2023, for the subject development project are significantly incomplete and the project itself is not consistent with the City’s Local Coastal program, the City is returning the \$26,740.40 check (check # 054 in the amount of 26,740.70) you remitted in association with the project submittal. It is recommended that, given the complexity of the project and amount of entitlement applications required, that the applicant schedule an appointment with Planning Department staff to review all materials prior to submittal. Upon submittal/resubmittal of the of applications and materials requested in this completeness review letter, and following the City’s standard application submittal process, the staff will provide an itemized fee/deposit invoice for your review and payment at that time.

7. Additional Review/Comments Pertaining to the Project Plans, Reports and Other Submitted Materials

The following comments and requests for information have been prepared in the event the entitlement applications, materials, and fees as described above are resubmitted and the project is processed in accordance with the City determinations stated in this letter.

DESIGN PLANS

General

1. Include Conceptual Landscape and Irrigation Plans, designed in accordance with Del Mar Municipal Code Chapter 23.60 (missing with this submittal)
2. Provide details (specification sheets) for all exterior HVAC equipment and pool/spa related mechanical equipment.

Cover Sheet (A-0.0)

3. Provide lot area verification each of the lots included in the project site by the licensed project engineer or surveyor.

4. The word "Density" is misspelled.
5. "Parking" tables for multi-unit project plans need to include unit/bedroom count information to provide verification of appropriate required parking in accordance with DMMC Section 30.80.030(B)(1).

Cover Sheet (A0.1)

6. Revise Minimum Landscape Requirements to be pursuant to City of Del Mar standards, not the City of San Diego.

Site Plan (A0.1)

7. Provide City Benchmark information (not just a reference to the civil plan).
8. Provide locations and dimensions of all easements (existing and proposed).
9. Call out pools and spas. Identify locations of associated mechanical equipment.
10. Depict and call-out any off-site Torrey Pine and/or Monterey Cypress trees. located within 10 feet of the project site boundary.
11. Provide drive aisle width dimension in outdoor parking area.
12. Provide typical parking space length and width dimensions.
13. Depict and identify Fire Lane Access #2.

Site Access Plan (AS-1.1)

14. Provide all drive aisle dimensions; identify access road cul-de-sac radius
15. Provide scale and north arrow
16. Label as "Fire Access" Plan

Floor Plans (All)

17. Per DMMC Section 30.80.030(B)(2)(c), identify locations of guest parking spaces on appropriate floor plans.
18. Spell out and provide abbreviations for parking space types in parking legend, then ensure abbreviation consistency on parking plan.
19. Provide typical parking space length and width dimensions.
20. Parking garage plans must provide drive aisle dimensions, proposed locations of clean energy vehicle spaces, location of proposed charging equipment; and bicycle spaces
21. For individual model floorplans, provide how many of each model will be included in entire development. This may also be supplied in table format.

Architectural Elevations (All)

22. Provide dimensions of proposed windows on all elevations. A properly keyed window schedule may be used in lieu of providing the dimensions on elevation drawings.
23. Continuously depict both the existing and finished grades as they appear adjacent to the building(s).
24. Provide floor and roof elevation heights per City benchmark on all building elevations. For all major roof elements, including the low and high elevations heights for sloped roof structures.

25. Call out HVAC screening structures.
26. For basements and subgrade garages, depict an outline of the subgrade structure on all elevation views and call out the elevation of that floor level. The depiction can be provided in the form of a dashed outline of the level.
27. Include (separate) fencing elevations drawings.
28. Depict and call-out the height of rooftop mechanical screening structures. Structural height from top of roof and total elevation heights should be shown.

Building Sections (All)

29. Provide existing grade depictions and heights on all building sections.

Roof Plans (A-1.5)

30. Depict maximum elevations of all roof ridgelines and roof edges.
31. Provide existing and proposed topographical contour lines on the plan.
32. Call out actual rooftop HVAC mechanical equipment, not just screening, and provide requested equipment specifications (see comment #2 on pg. 11 of this letter).

ENGINEERING/CIVIL PLANS AND RELATED DOCUMENTS

33. DMMC Section 30.52.110(A) requires a detail slope analysis for all areas subject to a Conditional Use Permit within the Bluff, Slope, and Canyon Overlay Zone. This includes the eastern bluff for which grading (excavation) is proposed as part of the project, regardless of its location within public right-of-way. Provide this information with any future submittal.
34. Bluff failures in the location of the “gazebo” foundation have occurred since 2016, as recently as March 2023. These failures should be reflected in geotechnical evaluations.

PROJECT DENSITY AND BASIS OF DENSITY BONUS CALCULATIONS AND DENSITY BONUS JUSTIFICATION AND EXHIBITS

35. As indicated earlier in this letter, the City’s existing LCP/LUP and Community Plan identify allowed density of the subject property to be one (1) dwelling unit per (net) acre. Project materials indicate a net acreage of 6.91, which would be a maximum density of 7 single family dwellings. This base density is that level of development that is currently allowed in the City’s LCP. Therefore, all bonus density calculations should be premised on the base densities contained in the City’s certified LCP and should not be based on an inapplicable overlay zone.
36. The “Preliminary Programmatic Level Cost Estimate” does not appear to support or validate the \$13,997,450 project saving if all concessions were granted by the City. The narrative that appears before the calculations prepared by Hennie Degenaar and dated March 28, 2023, appears to greatly inflate the project savings. What is required is a reasonable evaluation of each concession and its project savings. How the project savings were specifically calculated is required. The report should be an unbiased evaluation of project saving for each individual concession and not advocate for the project. Upon resubmission for any project,

the Applicant will be required to demonstrate how each project savings is supported. The blanket statement that the market rate homes will help subsidize the affordable homes should be demonstrated. The studies submitted should not be "preliminary" but should be made final.

**** The following items must be resubmitted:**

- All required forms and applications, and
- All other requested materials emailed to mbator@delmar.ca.us.
- An electronic iteration (PDF) of the project plan-set
- A written response to each of the comments provided in this letter
- Submittal of all fees as identified herein (upon receipt of City invoice)

If you have any questions, please contact me via phone at (858) 755-9313, ext. 1158, or by email at mbator@delmar.ca.us.

Sincerely,



Matt Bator, AICP
Principal Planner

Attachments:

- October 14, 2022, City of Del Mar Letter -SB 330 Preliminary Development Application Determination, 929 Border Ave.
- Check # 054 in the amount of \$26,740.70 (Check included with document sent via U.S. Postal Service)



October 14, 2022
Manuel Nieto
2717 Via de la Valle
Del Mar, CA 92014

RE: SB-330 Preliminary Development Application (929 Border Ave.)

Dear Mr. Nieto:

This letter serves to confirm receipt of your Preliminary Development Application (PDA) pursuant to California State Senate Bill 330 (SB-330). The PDA has been assigned the application number "PDA22-001." Please refer to PDA22-001 for any inquiries related to the application process or project. Included with this letter is an invoice for the required \$393 application review fee. Staff has reviewed your application, checklist, and associated submittal materials for a 259-unit housing development project with a density bonus request to be located at 929 Border Avenue, in the City of Del Mar. Pursuant to the stipulations of SB-330, upon payment of the required application fee, PDA22-001 will be deemed "submitted;" thereby, commencing a 180-day submittal timeline of any and all development entitlement applications required for the project described within PDA22-001.

This letter also serves to notify you that the City of Del Mar is not in agreement with the proposed legal basis by which the project has been designed. It is the City's position that the submitted application request is not consistent with the current zoning and density allowances for the property located at 929 Border Avenue. The City's adopted Housing Element identifies a sufficient inventory of sites with correct zoning and capacity to meet the City's RHNA without the need to rezone properties.

Therefore, please note that upon receipt of any future submittal of development applications for the project described in your Preliminary Development Application submittal, the City will find the submittal to be inconsistent with the City's General (Community) Plan, Zoning Code, and Local Coastal Program (LCP). In order to proceed with the proposed project as currently Zoned, the following applications must be submitted:

- General (Community) Plan Amendment
- Rezone Application
- Local Coastal Program Amendment (LCPA)
- Environmental Assessment Application
- Design Review Permit Application

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- Conditional Use Permit Application
- Coastal Development Application
- Land Conservation Permit Application
- Boundary Adjustment Application
- Long-Term Major Encroachment Permit
- Tree Removal Permit Application

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Matt Bator".

Matt Bator, AICP
Principal Planner

Enclosure - Application Fee Invoice for PDA22-001