

The Del Mar Community Plan

Community planning started with incorporation in 1959. Bill Rick, whose firm is still active in land planning, was the first Del Mar Community Planner. He was available at City Hall, which was then on Maiden Lane, having moved from the old Del Mar Hotel, on a regular basis for consultation with interested residents. The Rick plan never went anywhere.

In 1964, as a result of Federal regulations requiring a community to have a General Plan in order to qualify for grants, mostly sewer improvement grants, the City hired a firm out of San Francisco to prepare a plan which would qualify the City for grants.

The planner was hired because of his expertise in working with community groups, such as the community of Tiburon which had just finished its community plan. The resulting Del Mar Plan was also put on the shelf, largely due to the attitudes of Mayor Earl J. Maas, Jr., and City Manager Paul Zimmer, both of whom readily acknowledged that it was a process plan--aimed at grants.

In the early '70's a group was formed, calling itself "The Friends of Del Mar." It was led by the likes of John Weare, a chemist at UCSD, and many of his UCSD associates. This group believed that they had just discovered Del Mar, and wanted to preserve this "quaint little village." That was the beginning of the campaign rhetoric, "I moved to Del Mar because----. and I want to keep it that way." Every candidate for election should feel free to use the concept--it works!

In the early days, planning was on a contract basis with the San Diego County Planning Department, in the same way that so many of the other services were provided under contract. The contract with the Sheriff's Department is the only remaining County contracted service.

Applications for permits were submitted to the County Planning Department, and on the designated night, the consulting planner would come to Del Mar for the Planning Commission meeting, and present the applications for consideration and action.

In 1973, partially as a result of the influence of the Friends of Del Mar, as well as the simple process of maturing of the City, Del Mar hired its own planner, Gary Binger. Gary wanted to make a contribution, and he inaugurated the process for the preparation of a Community Plan. It was sort of a Master's Thesis for Gary.

The word was put out, and committees were formed. A General Chairman of the group was elected. At the election, held in City Hall, which was then in the old Post Office building owned by Margaret Dixon, and is now a surf shop, the nominated candidates were Keeling and Ray (Rip) Jung, Jr. The voting was very close between the two factions. Reverend Tally Jarret was called away to attend to an alcoholic up at the church, and the vote went to Dave Keeling. The alcoholic will never know the impact that his need had on the development of the City of Del Mar.

It was also the beginning of the expansion of the bureaucracy. Jack Shelver, who had been City Manager for six years, moved back to Imperial Beach, and J. Wayne Dernetz, now the City Attorney for Vista, was hired as City Manager. His first act was to close his door and draw an organization chart on his blackboard. Then he filled the empty slots, and the Del Mar bureaucracy was born.

It was during this period that the City Council terminated the services of the City Attorney, Gerald J. Lewis, now Judge Lewis, retired from the Fourth District Court of Appeal. He was replaced with a young political opportunist named Roger Hedgecock, who portrayed himself as being on the cutting edge of environmental law.

Hedgecock worked hand in glove with the community planners and the City Council in the enactment of moratorium legislation, which essentially stopped all building in Del Mar, pending the completion of the Community Plan and the subsequent enabling ordinances. You couldn't even build a single family home without a special permit, because all vacant lots had been placed in a Conservation Study Zone, while the citizen planners decided what should be acquired for open space.

In the election of 1974, Nancy Hoover, who subsequently became infamous as the friend of J. David Dominelli, and John Weare were elected on an open space platform. They joined Richard Rypinski, Thomas Shepard and Tom Pearson on the City Council. It was shortly after this election that Lewis was terminated as City Attorney and Hedgecock was hired. Hedgecock had gained notoriety as a vocal proponent of Proposition 20, the Coastal Act, which was passed by the California voters in 1972.

The Community Plan was eventually put in ordinance form and was considered by the City Council after several public hearings. Although there was substantial community opposition to the form of the plan, the Council adopted it anyhow. During the 30 day period before the plan became law, a group of citizens presented a successful referendum petition, which required that the Council either rescind its action or put the plan to a public vote. The Council, afraid of a public vote, rescinded its adoption, whereupon the City Attorney (Hedgecock) decreed that the City was without a plan. And since there was no plan, there could be no zoning ordinances, and, therefore, the development of the City was totally shut down.

The property rights people, led largely by Julianna Bartanyi, filed a law suit challenging the opinion of the City Attorney. Clifford Duke represented the citizens and Hedgecock represented the City of Del Mar before Judge Charles Froelich in Superior Court downtown. Froelich sided with Duke, and declared that the old community plan was still in effect, and that the zoning ordinances were still valid.

However, outside the courtroom, a young reporter for the Union, Roger Showley, interrogated Hedgecock as to the meaning of the Judge's ruling, since the statements from the bench had not been all that clear to observers. Hedgecock lied to Showley, and told him that the City had won. That's the way the story ran the next day, much to the distress of the real winners. Only William F. Arballo, reporting for the Del Mar News Press, got the story right, because he

went up to the judge to ask him the essence of his ruling!! Roger Showley never got over the embarrassment, and never forgot the lesson.

More committees were formed to resolve the disputed issues in the Community Plan, among them being a trail system, which would have created walking trails throughout the community, often infringing on residential privacy. An economic impact report was required, and sections of the plan dealing with the economic integrity of the business area of town were beefed up.

As a result of the compromises, the Council realized that it would be possible to put the plan to a vote and to win. One final effort was made to cast the plan in concrete: in the preamble of the plan, there was added the requirement that any amendment to the plan by any City Council would require four out of five votes, making it essentially impossible to change the plan.

The Community Plan is the law of the City of Del Mar, all the stronger because it was enacted by the voters of the City. Any elected official is required by his oath of office to enforce the Community Plan. Critics who claim that so-and-so is against the Community Plan are guilty of smear tactics. Only the anointed are allowed to claim credit for supporting the Community Plan, but the plain and simple fact is that even they pay scant attention to it.

For the Plan to be an active document, someone ought to ask once in awhile, "What does the Community Plan say about this?" It never happens.

The Community Plan is the source of the Floor Area Ratio concept of limiting the size of houses in Del Mar. The Plan requires that new development be consistent in size with the existing development in the neighborhood. The Plan designates different neighborhoods in the City by character of land use, lot size, and intensity of existing development.

In preparation for the enactment of the Zoning Ordinance to implement the features of the Community Plan, the entire city was analyzed to determine the size of existing development in relationship to neighborhood and lot size. This analysis was converted to Floor Area Ratio for each of the neighborhoods.

In recent years, the FAR has become sacred as an absolute limit for development, regardless of the need of the family owning the property. Careful reading of the verbiage in the Plan would lead one to believe that deviations from the absolute FAR would be totally reasonable, and within the intent of the Plan. One would think there should be some forgiveness in the Plan to allow for individual living patterns and growing families. The goal is to provide for a continuation of the character of the neighborhoods, not to limit occupants to a spacial control from City Hall. But the enabling ordinance was written in such a way that the process for deviation from the FAR is the "variance." And the strictures of the variance procedure did not anticipate its application to something like a Floor Area Ratio.

Del Mar has lost fine residents due to their inability to expand their homes to accommodate growing families. Down on San Dieguito Drive, a family needed more space. The father, a dentist, was also the Scoutmaster. It was the kind of family that Del Mar should

have revered. But they were not allowed to expand their home, even though they had 1/2 acre of land. They sold and moved to Solana Beach where they could build a house suited to their needs. Del Mar's loss!

The Community Plan contains a Transportation Element, which would seem to have been violated when the City Council did nothing to keep the train stop in town. There are also statements supporting the viability of the business district, which get only lip service from the City Council. For example, when the Transient Occupancy Tax was enacted back in the early '60's, the City Council allocated one-third of the funds to the Chamber of Commerce for promotion purposes, a reasonable "nexus," since the revenue was derived from tourists. In 1974, Nancy Hoover and John Weare cut the Chamber out of the picture, and allocated all the revenue to the Open Space Fund. The City has not made a regular contribution to the Chamber of Commerce in 22 years. Today the Transient Occupancy Tax income from just one source, the L'Auberge Del Mar, is \$400,000 per year.

Are there things wrong with the Community Plan? Probably. The Plan recommends the narrowing of Camino Del Mar to one lane at the south end of town. The work on the Camino Del Mar Streetscape Plan reflects the dictate of the Community Plan. But does anyone today think that such narrowing would serve the residents of the community? Or would it just create one massive traffic jam?

The Community Plan lists properties that are environmentally sensitive, and places restrictions on their development. Properties that were slated for possible acquisition by the City were so designated, and many of them have been purchased. But Councils have also purchased lands that were not designated in the Community Plan for acquisition. Might this not be construed as a violation of the Plan? If the Plan controls what a property owner can do, shouldn't it also limit what government can do?

A case in point is the acquisition of four lots on San Dieguito Drive. in 1992. These properties are not designated for acquisition in the Plan. But when they came on the market, the City was in such haste to implement the purchase that the taxpayers were charged \$500,000 for four lots in the Floodway Zone plus one dilapidated concrete block building, and no appraisal was ever conducted to confirm the value.

There was apparently no thought given to using the power of eminent domain, and requiring an impartial appraisal to establish the market value of the property. According to the then City Manager, Gloria Curry, the Tax Assessor's value was used as Fair Market Value. However, there is information in the County Recorder's deeds to illustrate how the assessed value was artificially inflated by dummy transactions.

Back to the Community Plan, a recent purchase of a lot on Crest Road by neighbors plus public money is another case in point. If that lot had been judged desirable open space by the planners, it would have been so designated in the Community Plan. The fact that the City Council spent public money to acquire the property can be construed as a violation of the

Community Plan. The process is available to amend the plan by four votes of the City Council, which would then have authorized the use of public funds for that purpose.

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