

# **CRACKING THE CONUNDRUM: PROVIDING QUALITY AFFORDABLE HOUSING IN DEL MAR WHILE FACING A BALLOT MEASURE**

By Dwight Worden

State law requires Del Mar to provide new affordable housing. Like it or not, this state obligation is mandatory. According to the state, as reflected in our Housing Element, Del Mar needs to provide 12 units at the extremely low, very low, and low income levels, and 49 at the moderate to above moderate income levels<sup>1</sup>. But is affordable housing just something being forced down our throats by the state? I think not.

Providing affordable places to live in Del Mar for our seniors, for our firefighters, young families with children, students, schoolteachers, and others in the middle class contributes positively to the fabric of our community. Now, we have two predominant populations in Del Mar: a declining population of those who bought a long time ago at affordable prices, and those coming recently and paying very high prices. The former group are aging and are often house rich but money poor, living on Social Security or other retirement income. It can be a challenge for these folks to “age in place” and maintain their homes as viable housing for their changing needs. We need to create options for them to stay, and that is one of the key goals of our housing programs.

The ability to afford to move to Del Mar now overwhelmingly favors the retired wealthy. Typically, with some exceptions for the younger wealthy, they are the only demographic able to absorb the high costs. While these new residents are welcome and often take on valued community roles, they reflect less diversity in terms of age, family status, and income levels. If we value keeping Del Mar vibrant and healthy, we need to counter that trend, at least in the modest way contemplated by our Housing Element. This is something we should be doing regardless of state mandates.

We have a Housing Element now that addresses these issues and that has already been approved by the state. I call it Plan A. But, we also face a ballot measure this November that may preclude implementation of key portions of that Housing Element. Thus, the conundrum: Where do we stand, and what do we do, if the voters prevent implementation of Plan A? Answer: We need a Plan B. Before delving into Plan B, though, let’s review some basics, distilling a very complex system to its essentials.

The state has adopted an overall goal to provide decent, safe, housing for all economic segments. To achieve this goal the state requires that housing be inventoried in each community. Then, taking into account population and demographics, regional and local housing needs are identified, i.e. the numbers and types of housing needed to meet current and projected populations are identified. Each city is then allocated its “fair share” to help the region meet overall needs. In Del Mar it is no surprise that we are doing fine at providing housing at the upper end of the price spectrum and falling short at the affordable end.

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<sup>1</sup> These and all other facts and figures are taken from Del Mar’s current Housing Element.

The state has created the following categories of affordable housing, all based around how much a family should spend on its housing costs as a percent of the median income for the area (AMI).

**Extremely Low Income:** Households earning up to 30 percent of the AMI, (\$16,900 for a one-person household and up to \$26,050 for a five-person household in 2012).

**Very Low Income:** Households earning between 31 and 50 percent of the AMI, (\$28,150 for a one-person household and up to \$43,400 for a five-person household in 2012).

**Low Income:** Households earning between 51 percent and 80 percent of the AMI, (\$45,000 for a one-person household and up to \$69,400 for a five-person household in 2012).

**Moderate Income:** Households earning between 81 percent and 120 percent of the AMI, (\$98,400), depending on household size, in 2012.

**Above Moderate Income:** Households earning over 120 percent of the AMI.

Combined, the extremely low, very low, and low income groups are referred to as lower income.

Buying or renting a home in Del Mar is beyond the reach of persons and families with income levels even in the Moderate and Above Moderate Income categories, the two highest categories. The maximum affordable home price for a moderate income household is \$267,000 for a one-person household and \$395,000 for a five-person family. Good luck buying something in Del Mar at that price! The maximum affordable rent payment for moderate income households is between \$1,554 and \$2,366 per month.

To meet our state mandated goals as set out in our Housing Element Del Mar needs to provide the following number of new units:

<b>Extremely low:</b>	4 units
<b>Very Low:</b>	3 units
<b>Low:</b>	5 units
<b>Moderate:</b>	15 units
<b>Above moderate:</b>	34 units
<b>Total:</b>	<b>51 units</b>

Current state policy relies primarily on private market incentives to meet our housing goals. It relies on mandated increases in density as the way to lower costs. Here's the rub: increasing density brings real local problems of traffic congestion, crowding, loss of community character, and so on. Yet, in places like Del Mar where the supply and demand curve is so far out of balance, adding more new units still leaves demand way higher than supply and is unlikely to produce affordable housing or to meet state goals. At a gut level we know this to be true. Implementing state policy in a small coastal town like Del Mar is likely to add significant density without achieving much affordable housing.

The state strategy may work in large inland communities like Riverside where vacant land is available and where supply and demand can be better balanced, but not in expensive, small, built out coastal towns like Del Mar where land costs are so high. Once again, I find myself frustrated that the state has imposed a “one size fits all” approach to a complex issue.

Traditionally, the state does not control housing density. Density and development rules are controlled by local zoning. To implement its “market approach,” however, the governor and state are now passing laws usurping local control and dictating that local zoning must change to increase density and remove impediments to building more housing. What the state calls “impediments” we at the local level perceive to be important tools, such as environmental review and density limits. The state’s intrusion into what has traditionally been controlled locally through zoning has started a war, reflected in the many local initiatives qualifying for the ballot.

These ballot measures would purport to allow local voters to override these state-driven mandates. Such measures are on the ballot, not only in Del Mar, but also in Costa Mesa, Santa Monica, Cupertino, Gilroy, El Dorado, and Los Angeles. One has already passed in Encinitas. It remains to be seen if these local initiative measures will be upheld in the courts. There are real issues about the ability to override state policy by local initiative. Our city attorney has raised issues in this regard about Del Mar’s ballot measure. What you can count on, however, is fierce ongoing efforts by locals to protect the towns they live in from the perceived assault from the state—especially where the locals perceive that a market approach produces more density and its attendant local problems but not necessarily more affordable housing.

While the state has set mandatory housing goals for Del Mar, we have flexibility in how we get there. There are a variety of strategies that can be used. Many are included in our current Housing Element. If the Del Mar *Voter Approval For Certain Development Projects* Initiative passes this November some of the key strategies in our current Housing Element will be subject to voter approval. That means they could be voted down, and that means Del Mar could be found to be out of compliance with our Housing Element and subject to severe state penalties—including the courts ordering our zoning to be changed to accommodate more density<sup>2</sup>. So, a priority for me is for Del Mar to have a “Plan B,” a way to show we can meet our housing goals no matter how things turn out on the ballot. We simply cannot let our local zoning control be usurped by the state or by the courts.

Plan A as set out in our current Housing Element is well thought out and crafted, and already contains most of the pieces for an effective Plan B<sup>3</sup>. We don’t need to reinvent the wheel. But, if it can’t get the job done for one or more reasons, including possible voter disapproval of key provisions, here are some additional components I could see working in a Plan B:

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<sup>2</sup> See, e.g. Cal Gov’t Code Section 65587(d) adopted in 2008 that authorizes private lawsuits to compel zoning changes within 60 days to implement housing elements, and authorizing court imposition of sanctions on cities that are not in compliance.

<sup>3</sup> Del Mar’s Housing Element was adopted and certified by the state in 2013. Per city staff it contains 60 actions/programs, of which 17 have been completed (primarily ordinance changes), 4 projects are underway, 28 are monitoring or ongoing, 10 are deferred or not yet initiated, and 1 is duplicative.

**Granny Flats.** These are allowed now in Del Mar up to 550 square feet in size, but they are counted as part of allowed Floor Area (FAR) and they are not required to be rented at affordable rates. Very few, if any, have actually been built in Del Mar. We could encourage such units as one strategy for meeting our housing goals by exempting them from FAR if the owner agrees to rent them at affordable rates, by reducing permit fees and otherwise facilitating their development. This could potentially increase intensity on a given lot up to a maximum of 550 square feet, but I think that is a tolerable trade off. I would much rather have a few dozen or so of these small units judiciously scattered around town in areas where they fit in than new high density complexes mandated by the state or courts.

I think these can work in Del Mar. Seniors could add one to their property for a caretaker as they get older, they could build and move into one on their property when they no longer need as much space, enabling them to rent their larger home for income. Families could provide housing for college students or adult children, and so on. These kinds of small units can integrate into our community in a way that can be absorbed consistently with our Community Plan and community character.

**Del Mar Could Buy Units to Rent.** Del Mar could buy an existing small to medium, or even large, size complex in town. Del Mar could rent some units out at market rates to help cover costs and rent some at affordable rates, subsidizing the difference. Del Mar already has a rental assistance program administered by DMCC and funded by the City. But, because Del Mar doesn't own the units, when our funds for this program are gone, we're done. The annual subsidies cost more than the in lieu housing fees that are paid in, so this program is not self-sustaining. If Del Mar owned rental units we would be secure for the long term and protected against inevitably rising property costs.

**Del Mar Could Buy Apartments and Convert Some or All to Condos.** Del Mar could buy an existing apartment complex, convert it to condos, and sell some at market rates to help recoup costs, and sell or rent some at affordable rates to meet our housing goals.

These ownership strategies, whether units are rented or converted to condos and sold at affordable prices, would not jeopardize our community character as they do not require any new construction (other than perhaps interior and access improvements) and would enable Del Mar to control how the units are used long term. I have thoughts on how to pay for these ownership strategies but that's for another article.

In any of these options Del Mar could partner with a private non-profit housing corporation to provide assistance and ongoing management. Becoming an owner isn't free, but this strategy looks like it could work for Del Mar. Options based on Del Mar ownership have the benefit of being the opposite of giving in to state control—they maximize local control. Del Mar would decide what to buy, how the units would be used for the long term, and what construction changes would be acceptable.

**Fairgrounds.** The current Housing Element identifies options for providing affordable housing at the Fairgrounds. The Fairgrounds needs this housing for its purposes for its employees and for the fair and races. Del Mar can get "credit" for such units if they are built to state standards. There is backtrack housing at the fairgrounds now, but it does not meet standards. I say it is time to pursue working with the fairgrounds to upgrade these units to meet their needs and city needs. If we are to be forced by the

state to have higher density projects in Del Mar, which we will be if we don't otherwise get the job done, the fairgrounds can be as good a location as we have within our corporate limits for such housing. And, wouldn't it be nice, for a change, to work with the fairgrounds on a project of mutual benefit?

**Use or Trade Del Mar Property.** Del Mar can inventory its property and see if there is anything surplus that could accommodate a Del Mar affordable housing project, or that could be traded or sold as a revenue source to help fund a housing project. This program is already in our current Housing Element.

## **CONCLUSION**

Del Mar already has a well-crafted Housing Element approved by the state. It has 60 programs in it to meet our state and local goals. Del Mar can and should fashion a Plan B, using those parts of Plan A that work and supplementing those with new programs, to meet state requirements that will serve our community in positive ways even if voters disapprove parts of Plan A. Even apart from what the ballot initiative brings, pursuit of these goals is important and worthwhile. We need to do the best we can regardless. We can craft a Plan B to meet our local needs, creatively using some of the options identified above. That's miles better than having a program imposed on us by the state or by the courts. Don Mosier and I have reactivated our Housing Element Committee. We'll be working on all these issues and welcome your input.