

## **MEASURE G FREQUENTLY ASKED QUESTIONS**

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**Under the Initiative, Del Mar would be required to grant Marisol encroachment permits for 2 City owned (publicly owned) parcels: One parcel is .12 acres near Border Ave. The second is .78 Acres along Camino Del Mar. The total area of both is .9 acres, or about 40,000 sq. ft. 16.55 Acres of private property, and .9 acres of public to get to 17.45 acres covered in the Marisol Initiative Specific Plan. Under Section 2.8.1, the City would be forced to grant those encroachment easements as soon as the voters approve the initiative. Is Del Mar receiving any compensation for having .9 acres incorporated into the Marisol Specific Plan?**

**Answer:** First, the City is unaware of the cited language, as we don't see a Section 2.8.1 listed in the Initiative language or the Marisol Specific Plan. The use of City property and right-of-way would require an encroachment permit and it would be subject to City Council action. With regard to your question regarding compensation, that would be determined by the City Council at the time of project and encroachment permit review.

**What is the legal status of this .9 acres if the Initiative is passed?**

**Answer:** The .78 acres would remain as part of the Camino del Mar right-of-way and the .12-acre parcel would remain a City-owned lot. Encroachment Permits would be required for any proposed private improvement of the lot and right-of-way.

**Under the Initiative, Marisol, would build and maintain a loop trail on the private property, and a public access staircase across the .78-acre City property with the encroachment permit.**

**Answer:** City clarification: The public access staircase would be located entirely on private property, the property currently known as 103 Border Avenue. The Initiative further requires Marisol to "dedicate" the loop trail and the staircase to the City of Del Mar.

**If the Initiative passes, Is the City of Del Mar required to accept the dedication of the loop trail?**

**Answer:** No, the City has the option to accept easements it is not required to do so.

**If the City is required to accept the dedication of the Loop Trail, is the City exposed to any potential liability for injuries incurred on the trail?**

**Answer:** There is a governmental immunity for the condition or use of trails (Government Code sections 831.4(a)-(b))

**With regard to the .78-acre City parcel along Camino Del Mar, if that City-owned hillside collapses under the building of the staircase, what if any, is the potential liability of the City?**

**Answer:** The staircase would be located entirely on private property, not on the .78-acre portion of Camino del Mar right-of-way. The Initiative is silent on the amount of money that Marisol would provide annually to the City for sand replenishment.

**Is that a public benefit?** (relates to the above)

**Answer:** The amount of the endowment would be subject to negotiation and acceptance by the City Council. As indicated in subsection #11 of the 9212 Report, “Extraordinary public benefits which have not been included as conditions to project approval (i.e., sand replenishment endowment, affordable housing over and above existing requirements, public art requirements) are the type of benefits that can be included in the Development Agreement.”

**The Initiative says there will be a subterranean parking garage with 408 spaces. Where will the garage be located?**

**Answer:** To be determined when a development project is submitted for discretionary permits.

**How many levels down will the garage descend into the bluff, and how many feet below does that equal?**

**Answer:** To be determined when a development project is submitted for discretionary permits.

**What happens to the dirt that is removed to create that hole for the garage?**

**Answer:** To be determined when a development project is submitted for discretionary permits.

**Will that dirt be used to create a grade higher than the natural grade?**

**Answer:** To be determined when a development project is submitted for discretionary permits.

**The Initiative states that where the natural grade cannot be determined by the City’s Planning Department Marisol will make that determination. Is that true?**

**Answer:** No. The Marisol Specific Plan states the following: “N. Natural Grade (for Measurement of Building Height). The original grade level that historically existed on a site prior to any site preparation, grading, or construction, as established to the satisfaction of the Del Mar Planning Department. If natural grade cannot be determined, the existing grade shall be considered as the natural grade.”

**Maps B1 and B2 show not all of the Scripps Bluff Preserve is shaded. Why is that?**

**Answer:** Map B1 is a copy of the City's existing LCP map regarding the Coastal Bluff Overlay Zone. Map B2 shows how the City's certified LCP map would be amended if the Initiative is approved. That portion of the Preserve is not shaded because it is currently

not in the Coastal Bluff Overlay Zone and would remain that way if the Initiative is approved.

**There is presently an emergency road up to the Preserve. The Initiative states in Section 2.3.1 that there are no roads except within the Plan Area. If the Initiative passed, do we lose that emergency access to the Preserve?**

**Answer:** Section 3.6.2 of the Specific Plan requires “an emergency access pathway shall be provided around the perimeter of the Plan Area to allow for emergency vehicles to access the Plan Area.” This required access could provide emergency entry to the Preserve, which currently relies on the private property owner allowing and providing access (opening the driveway gate).

**Sect. 2.1 of the Initiative states that the Scripps Bluff Preserve is a 4-acre park. In fact, SBP is 4.33 acres. The Initiative becomes the controlling force if passed. Is that a factual error in the Initiative?**

**Answer:** For clarification, that language is stated in Section 3 of the Initiative text and is actually quoting the existing text of the Community Plan, there is no error. Nothing in the Initiative changes the actual size of the preserve.

**If the Initiative is passed, does the City necessarily have to give up a third of an acre of its Preserve to Marisol?**

**Answer:** No, the area affected by the Initiative excludes ALL of the Preserve.

**Passage of the Initiative would require the City to amend the Community Plan with changes that Marisol dictates, with no right of negotiation by the City. Same with the Local Coastal Program, Land Use Plan, and Implementing Ordinances, and Del Mar’s Zoning Maps. Is that true?**

**Answer:** Voter approval of the Initiative would amend the Del Mar Community plan with the language that was provided in the Initiative.

**The Initiative states the Specific Plan is consistent with the Community Plan goals as soon as the Initiative amends the Community Plan. What does that mean?**

**Answer:** This is a question for the Initiative proponents.

**The Initiative states that the Loop Trail will have linkages (PLURAL) to the trail in Scripps Bluff Preserve. Only last February, the City Council approved the Goals, Policies and Standards for the Scripps Bluff Preserve, which specifically state that the Preserve shall have only one access point to the private property, not multiple. If the Initiative is passed, can Marisol create multiple “linkages” to the Preserves trails?**

**Answer:** Per City Council direction, there should be only one access point into the Preserve from the private property to the north. If the developer wants to propose a change to that, it would require City Council approval.

**Will the “Goals, Policies and Standards” be enforceable if the Initiative passes?**

**Answer:** Yes, however the Goals, Policies and Standards applicable to the North Bluff Preserve are only enforceable on that property. Potential impacts to the Preserve would be reviewed relative to the provisions of the Design Review Ordinance.

**The initiative allows 3 story buildings, 46 feet high, with a 30-foot set-back from the boundary of the Preserve. Does this violate the “Goals, Policies and Standards?”**

**Answer:** That would be determined by the City Council during discretionary review of a project proposal.

**The depictions of the Marisol hotel building show a 3-story building with practically an all glass frontage facing south toward the Preserve. The initiative states that the glass will not be tinted. The design guidelines recommend against color tinting of glass, but do not explicitly prohibit it. If the sun on the glass causes glare in the eyes of people in the Preserve, would that glare or reflected sun violate the City’s “Goals, Policies and Standards” for the Preserve?**

**Answer:** If the Specific Plan is approved by the voters, and a project comes forward for design review, the Council would review the project for consistency with the Design Review Ordinance.

**The 9212 Report section on Legislative Actions (page 22) states that if the Marisol Initiative is passed by the voters, the City must take a series of legislative actions as described on page 22, subsections a through f as follows:**

- a. Amendments to the City of Del Mar Community Plan.**
- b. Amendments to the City of Del Mar Land Use Map/Community Development Plan Map.**
- c. Amendments to the Land Use Plan of the City of Del Mar Local Coastal Program.**
- d. Amendment to the Implementing Ordinance of the City of Del Mar Local Coastal Program.**
- e. Amendment to the City of Del Mar Zoning Map.**

**f. Adoption of the Marisol Specific Plan.**

**After taking these legislative actions will the City have retained the legal right to enforce the Goals, Policies and Regulatory Standards for the North Bluff Preserve as approved by City Council on February 11, 2019?**

**Answer:** The Goals, Policies and Regulatory Standards for the North Bluff Preserve are in effect for that City property. If the Initiative is approved by the voters, that will have no effect on the Council's ability to make decisions regarding the Preserve.

**Why aren't the Goals Policies and Regulatory Standards for the North Bluff Preserve included in the 9212 Report discussion regarding Discretionary Project approvals?**

**Answer:** Only the codified standards of review were included in the 9212 discussion of the various permits a project would require. That does not prevent the City Council from considering their policies regarding the Preserve when reviewing a proposed development on the adjacent private property for consistency with those (codified) standards of review.

**The 9212 Report lists the Required Legislative Actions (page 22) that must be taken by the City if Measure G passes. Why isn't the Adoption of Design Guidelines also included as a necessary legislative action?**

**Answer:** The Design Guidelines are part of the Specific Plan and do not need separate adoption.

**Does State Law governing Citizen Initiatives require the applicant to include changes to the applicable Design Guidelines?**

**Answer:** The State Elections Code governs citizen initiatives and does not govern the required content of a Specific Plan. Government Code 65451(a) governs the content of Specific Plans. This section requires that Specific Plans include standards and criteria by which any proposed development under the Specific Plan would proceed. The proposed Specific Plan under the Marisol Initiative includes development standards and design guidelines.

**The Marisol Initiative talks about the 17.45 acres Specific Plan (SP), which is comprised of: 16.55 private acres (to be purchased by Marisol), a .78 acre public right of way along CDM, and a .12 acres City of Del Mar coastal viewing access parcel near Border Ave. Is any of the .78 acre parcel a part of the Scripps Bluff Preserve?**

**Answer:** No

**Is there a map that can show where this .78-acre parcel is located?**

**Answer:** Yes, see map below.



**Will Scripps Bluff Preserve maintain its public park land zoning?**

**Answer:** Yes, it is not part of the Initiative.

**Was the .9 acre of land a gift from the City to Marisol? If not, what is the compensation to the City for the .9 acres of land?**

**Answer:** The City would not be giving any land to Marisol. The two public parcels would be utilized for public access/pathways and landscaping. City Encroachment Permits would be required for use of those areas.

**Were the Goals, Policies and Regulatory Standards for North Bluff codified?**

**Answer:** No

**Section 1.11 of the Initiative says, “where there is a conflict between the provisions of the Specific Plan and the DMMC, the provisions of the Specific Plan shall prevail”. How will the Council be able to enforce the Goals, Policies and regulatory Standards given this language in the Initiative?**

**Answer:** The Goals, Policies and Regulatory Standards for the North Bluff Preserve are not in the Del Mar Municipal Code (DMMC). They were developed when the intention of the Council was to include the Preserve in Del Mar Resort Specific Plan. However, after developing that language, they opted to remove the Preserve from the Specific Plan. The Goals, Policies and Regulatory Standards for the North Bluff Preserve now serves as an uncodified guidance document for the Council when considering issues pertaining directly to the Preserve.