

**DIABLO MUNICIPAL ADVISORY COUNCIL  
REGULAR MEETING AGENDA<sup>1</sup>  
DIABLO COUNTRY CLUB PORTABLE LOUNGE  
TUESDAY, JUNE 13, 2023, 7:35 P.M.  
(IMMEDIATELY FOLLOWING DCSD MEETING)**

**CALL TO ORDER:**

**President: Kathy Urbelis**

**ROLL CALL:**

**Secretary: Christine Chartier**

**Directors: Urbelis, Cox, Chartier, Lorenz, Slavonia**

**PUBLIC COMMENTS:** *Public comments will be taken on any subject including items on this agenda and are limited to 3 minutes per person when speaking in English, and 6 minutes per person when using a translator. Comments by the audience are not intended to result in a dialogue between members of the audience or between the audience and the Board. Please note that under Brown Act regulations, no member of the Board may engage in any discussion, other than a brief comment or request for clarification, of any item raised by any member of the audience unless that item is included as an agenda item*

**1. ADMINISTRATIVE COMMUNICATION AND ACTIONS:** None

**2. LAND USE COMMUNICATION AND ACTIONS:**

- a) Directors Cox and Lorenz to present the County proposed 3-foot setback ordinance for walls, fences, and similar structures. Existing structures are exempt from ordinance.

**3. CONSENT CALENDAR**

- a) Approve the minutes of the October 11, 2022, Regular Meeting.

**4. CALL OF NEXT MEETING/ADJOURNMENT:**

The next DMAC Regular Board meeting is scheduled for August 8, 2023, at 7:30 p.m.

Diablo Municipal Advisory Council by,

Kathy Torru, General Manager  
generalmanager@diablocsd.org

DMAC Board Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to participate in this meeting; or who have a disability and wish to request an alternative format for the agenda, meeting notice, agenda packet, or other writings that may be distributed at the meeting should contact the General Manager at least one working day before the meeting at generalmanager@diablocsd.org. Notification in advance of the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Public records that relate to any item on the open session agenda are available for public inspection by contacting the General Manager and on the District's website <http://diablocsd.org>.

<sup>1</sup> Agenda attachments are available on the DCSD's website ([www.diablocsd.org](http://www.diablocsd.org)) home page under Agenda.

## STAFF REPORT

**DATE:** June 13, 2023  
**TO:** DCSD Board Members  
**RE:** County 3-foot Setback Ordinance

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### BACKGROUND/SUMMARY

In the Winter of 2022, a property owner on La Cadena erected a 6-foot wall spanning the entire length of the property at the edge of the paved road. This wall violates the DCSD's 1993 Ordinance Code section 6-6-203 (b) which forbids encroachments within 3-feet of the road. The District general manager contacted the property owner and was informed that the Contra Costa County Department of Conservation and Development permitted the wall.

The roads in Diablo are narrow, there are no sidewalks adjacent to the roads, and the roads are used by pedestrians, children, cyclists, golf carts and other mechanical and personal modes of transportation and play. These narrow roads are the only access for emergency vehicles to service property and persons within Diablo so any wall, fence or similar structure located at the edge of the road could result in inconvenience or dangerous conditions to Diablo residents, including but not limited to increased response times for emergency vehicles. To ensure the safety of residents and property within Diablo the DCSD established Ordinance Code 6-6-203 (b) which forbids encroachments within 30 feet of the road.

Thus, the County's Building Codes and Ordinances allows for walls, fences, and other similar structures to be built at the edge of the District's roads, while the DCSD's Ordinance Code forbids them. To address this inconsistency, the Diablo Municipal Advisory Council (DMAC) requested that the County amend its ordinance code to align with the DCSD Ordinance Code. Without an amendment of the County Building Codes and Ordinances there is no way to prevent County-permitted construction of future walls, fences, and similar structures as the road's edge.

At the June 14, 2022, DMAC Board meeting, the general manager presented the Board with the issue described above and proposed that DMAC recommend to the County that a 3-foot setback fence and wall provision be added to the County Building Codes and Ordinances. The DMAC Board discussed the proposed language to recommend to the County and directed the general manager to notify Diablo residents of the proposed language.

On June 23, 2022, an email was sent to all Diablo residents notifying them of the proposed County Ordinance amendment request. Two residents provided comments and both comments were considered in the final language.

At the September 13, 2022, DMAC Board meeting the Directors unanimously approved (President Kathy Urbelis was absent and VP Leonard Becker was acting President) the following language:

*No fence, retaining wall, or similar structure may be established within three feet of any private road measured from the edge of the road established by use. Existing fences and structures will be grandfathered.*

There were no objections or comments by Directors or members of the public at the September 13, 2022 DMAC meeting.

On September 14, 2022, a letter addressed to CCC Board Supervisor Candace Andersen requested the above language be added to the County Building Codes and Ordinances.

In March 2023, concern was expressed by a DMAC Director and a handful of residents about the setback language that the County might propose in their final document and requested that the setback language approved by DMAC at its September 2022 Board meeting be reconsidered at the April 11, 2023, DCSD Board meeting. At the April 11, 2023, DCSD Board meeting the DCSD President explained that the 3-foot setback issue is a land use issue and that the DCSD does not have land use authority and that only DMAC has the authority to advise the County on land use issues. To address the concerns, Directors Cox and Lorenz, who are in charge of the DCSD's own encroachment ordinance update, agreed to work with the general manager and general counsel to review the draft County 3-foot set back language once it is available, to reconcile it with the language approved by DMAC in September 2022 and, to resolve any discrepancies identified.

In early May 2023 the draft County 3-foot setback language was received.

An email was sent to all residents on June 1, 2023 explaining the draft County 3-foot Setback, providing copies of the proposed ordinance documents and notifying residents of a Q&A session that would be held by Directors Cox and Lorenz on June 8, 2023.

On June 8, 2023 Directors Cox and Lorenz held an Q&A session to answer resident questions concerning the proposed County 3-foot Setback Ordinance.

At the June 13, 2023, DMAC meeting Directors Cox and Lorenz will present the results of their review of the County 3-foot setback proposal and their recommendation.

Please note that the draft County 3-foot Setback Ordinance is forward- looking and would not impact any legal structures in existence at the time of their adoption. Due process afforded by the state and federal constitutions requires a newly adopted ordinance to apply going forward; it does not apply to past actions. So, permanent structures like walls and fences that exist today would not be impacted by the County's 3-foot Setback Ordinance.

ORDINANCE NO. 2023-XX

PRIVATE ROAD CLEARANCE COMBINING DISTRICT

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

**SECTION I. SUMMARY.** This ordinance adds Chapter 84-90 to the County Ordinance Code to establish the Private Road Clearance (-PC) Combining District. The ordinance prohibits the establishment of certain obstructions within three feet of a private road.

**SECTION II.** Chapter 84-90 is added to the County Ordinance Code, to read:

**Chapter 84-90  
PRIVATE ROAD CLEARANCE (-PC) COMBINING DISTRICT**

**84-90.002 Private road clearance (-PC) combining district.** All land within a land use district combined with an private road clearance (-PC) combining district is subject to the additional regulations set forth in this chapter. (Ord. 2023-XX § 2).

**84-90.004 Applicability.** The -PC district may be combined with and made applicable to land in any residential land use district. (Ord. 2023-XX § 2).

**84-90.006 Obstructions prohibited.** A fence, retaining wall, or similar structure may not be established within three feet of any private road measured from the edge of the road. (Ord. 2023-XX § 2).

**84-90.008 Priority.** If there is any conflict between the regulations of this chapter and those of the underlying zoning district, the requirements of this chapter govern. (Ord. 2023-XX § 2).

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**SECTION III. EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: MONICA NINO,  
Clerk of the Board of Supervisors  
and County Administrator

\_\_\_\_\_  
Board Chair

By:

\_\_\_\_\_  
Deputy

[SEAL]

KCK:

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ORDINANCE NO. 2023-  
(Re-Zoning Land in the

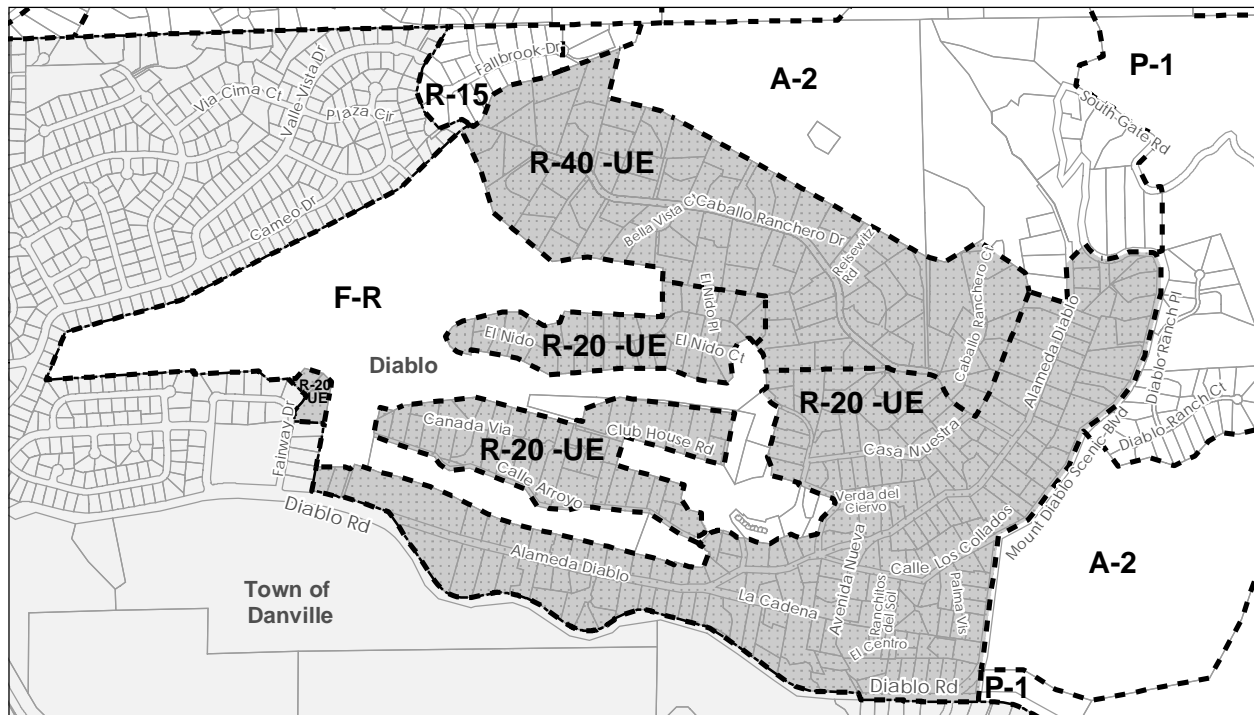
Diablo Area)

The Contra Costa County Board of Supervisors ordains as follows:

**SECTION I:** Pages R-17, S-17 of the County's 2005 Zoning Map (Ord. No. 2005-03) is amended by re-zoning the land in the above area shown shaded on the map(s) attached hereto and incorporated herein (see also Department of Conservation and Development File No. RZ23-3269.)

**R-20 -UE Single Family Residential -Urban Farm**  
FROM: Land Use District **R-40 -UE (Animal Exclusion Combining District)**

**R-20 -PC -UE Single Family Residential -Private Road Clearance**  
TO: Land Use District **R-40 -PC -UE (and Urban Farm Animal Exclusion Combining District)**  
and the Department of Conservation and Development Director shall change the Zoning Map accordingly, pursuant to Ordinance Code Sec. 84.2.002.



**SECTION II. EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days of passage shall be published once with the names of supervisors voting for and against it in the \_\_\_\_\_, a newspaper published in this County.

PASSED on \_\_\_\_\_ by the following vote:

Supervisor	Aye	No	Absent	Abstain
1. J. Gioia	( )	( )	( )	( )
2. C. Andersen	( )	( )	( )	( )
3. D. Burgis	( )	( )	( )	( )
4. K. Carlson	( )	( )	( )	( )
5. F.D. Glover	( )	( )	( )	( )

ATTEST: Monica Nino, County Administrator  
and Clerk of the Board of Supervisors \_\_\_\_\_

By \_\_\_\_\_, Dep. \_\_\_\_\_  
Chair of the Board  
(SEAL)

ORDINANCE NO. 2023-

**DIABLO MUNICIPAL ADVISORY COUNCIL  
BOARD OF DIRECTORS  
MINUTES  
TELECONFERENCE VIA THE APPLICATION ZOOM  
OCTOBER 11, 2022, 7:30 p.m.**

**CALL TO ORDER:** President Kathy Urbelis called the meeting to order at 8:06 p.m.

President Urbelis welcomed Directors and the public and explained the rules for public comment.

**ROLL CALL:** Secretary Jeff Eorio called the roll as follows:

**Directors present: Urbelis, Becker, Eorio, Isom**  
**Directors absent: Cox**

**PUBLIC COMMENTS:** None

**ADMINISTRATIVE COMMUNICATION AND ACTIONS:** None

**LAND USE COMMUNICATION AND ACTIONS:** None

**CONSENT CALENDAR:**

On motion of Director Eorio, second by Director Urbelis, the Directors in attendance unanimously approved the consent calendar.

**CALL OF NEXT MEETING/ADJOURNMENT:**

President Urbelis called the next meeting for November 8, 2022. The meeting will be conducted via Zoom. There being no further business, the President adjourned the meeting at 8:10 p.m.

Diablo Community Services District by,

Kathy Torru, General Manager