



City of Oceanside

Staff Report

Attachment 5

300 North Coast Highway,
Oceanside, California 92054

File #: 25-520

Agenda Date: 1/22/2025

Agenda #: 17.

DATE: January 22, 2025

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

TITLE: ADOPTION OF A RESOLUTION UPHOLDING PLANNING COMMISSION RESOLUTION NO. 2024-P16 APPROVING A DEVELOPMENT PLAN (D23-00009) AND DENSITY BONUS (DB23-00004) TO ALLOW THE DEMOLITION OF AN EXISTING TWO-STORY OFFICE BUILDING AND THE CONSTRUCTION OF A SIX STORY MIXED-USE DEVELOPMENT CONSISTING OF 73 APARTMENTS, INCLUDING EIGHT AFFORDABLE UNITS, FOUR LIVE WORK UNITS, AND 688 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE ON 1.739-ACRE SITE LOCATED GENERALLY AT 503 VISTA BELLA - VISTA BELLA MIXED USE - APPLICANT: VISTA BELLA INVESTMENTS GROUP LLC; APPELLANT: ELLEN MARCIEL

RECOMMENDATION

Staff recommends that the City Council adopt a resolution upholding Planning Commission Resolution No. 2024-P16 approving Development Plan (D23-00009), and Density Bonus (DB23-00004) on a 1.739-acre site located at 503 Vista Bella.

BACKGROUND AND ANALYSIS

Project Location

The subject property is comprised of two parcels with an area of approximately 1.74 acres located at the southwest corner of Vista Bella and Vista Rey in the Oceana Neighborhood Planning Area. The project site is irregularly-shaped and contains steep slope across a majority of the site and along its boundaries. The eastern parcel maintains street frontage on both Vista Bella and Vista Rey and is developed with a two-story vacant office building and parking lot, with both proposed for demolition. The western parcel has an "L" shaped configuration and is undeveloped, containing significant sloping and vegetation that extends down to El Camino Real. Surrounding uses includes a multifamily development to the north, a church and ancillary uses to the south, the Oceana age restricted community to the east and a gas station and open space preserve to the west. The project site has a General Plan Land Use designation of General Commercial (GC). With regard to zoning, the east parcel (containing the office development) is located in Limited Commercial (CL) District, while the west parcel is located in General Commercial (CG) District. The project site and surrounding area are depicted in Figure 1 below.

Figure 1 - Location Map:



An application for a Development Plan and Density Bonus was submitted to the City on June 7, 2023 and analyzed in accordance with the City's standard review process. The proposed project was reviewed by the following departments/disciplines: Development Services (Planning, Building, Engineering, Geotechnical, Storm Water, and Landscaping), Fire, Public Works (Transportation Engineering) and Water Utilities.

The project has undergone six rounds of review by City staff beginning with the first submittal on June 7, 2023 and ending with the final review of plans (6th Round) submitted on August 12, 2024. Although State Law limits a City's ability to require changes to projects involving Density Bonus applications, staff's review and comments resulted in the applicant incorporating additional architectural enhancements, residential amenities, and redesigned parking from 54 on-site parking spaces, supplemented with 35 street parking stalls, to providing 87 on-site stalls.

Proposed Project

The project application is comprised of a Development Plan and Density Bonus request. The entitlement request is intended to permit:

- the demolition of an existing vacant two-story office building and surface parking lot and to approve a Mixed-Use Development Plan for the construction of a 108,621-square foot vertical mixed-use building containing 73 apartments, four (4) live-work units, 688 square feet of ground floor commercial space, and surface and subterranean parking. Pursuant to Section 3042 of the Zoning Ordinance, a Mixed-Use Development Plan is required for any proposal to establish commercial and residential uses together as a single project. This entitlement

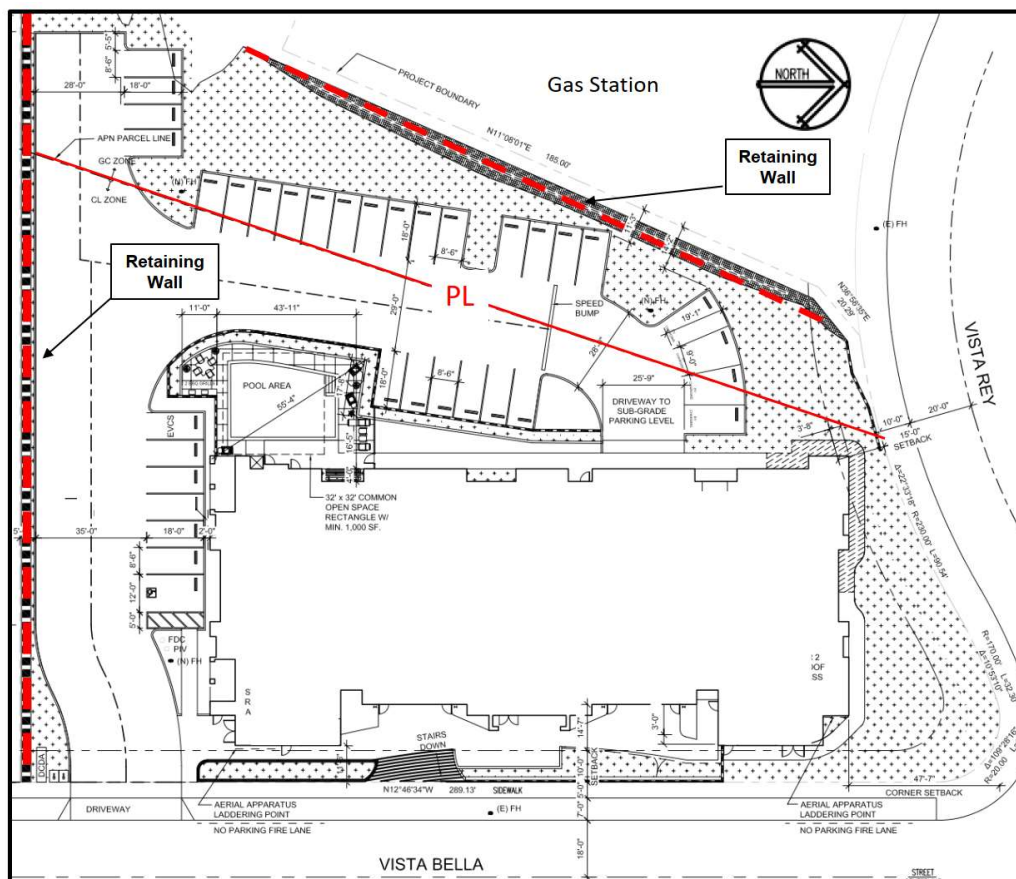
includes the review and approval of project architecture, floor plans, landscaping, grading, and walls (Development Plan); and,

- an increase in density over the maximum permitted density of 29 dwelling units per acre per Section 3042 of the Zoning Ordinance for Mixed Use Plans, in return for reserving 15 percent of the units for very low-income households. In accordance with State Density Bonus Law (SDBL) and the City's Density Bonus Ordinance, a project that provides 15 percent very low-income units is entitled to a density bonus of 50 percent of the allowable base density. The Density Bonus application would allow the proposed project to exceed the maximum potential density of 51 units on the 1.739-acre site by 50 percent, for a total of 77 units, in exchange for reserving eight (8) units (or 15 percent of the base units) for very low-income (VLI) households. In addition, the Density Bonus application affords the applicant the opportunity to seek waivers from development standards that would physically preclude the development at the density proposed and incentives/concessions which lead to identifiable cost savings to provide for affordable housing costs pursuant to Government Code Section 65915 and Zoning Ordinance Section 3032 (Density Bonus).

DEVELOPMENT PLAN

Development Plan (D23-00009) represents a request to:

Allow the demolition of an existing vacant two-story office building and surface parking lot and to approve a Mixed-Use Development Plan for the construction of a mixed-use building containing 73 apartments, four (4) live-work units, 688 square feet of ground floor commercial space, and surface and subterranean parking.



Project Layout and Design

The layout of the proposed project is largely driven by the site's topography. Existing flat areas of the project site are found only on the developed parcel. This proposed project will expand flat developable areas with the use of large retaining walls along the south property line of the developed parcel (max height 28'-0") and along the west property line of the undeveloped parcel (max height of 25'-0"). To fully utilize flat developable area, the new building will be located close to the Vista Bella street frontage just beyond the minimum ten-foot setback. A single point of access is proposed from Vista Bella connecting to driveways and surface parking located on the remaining flat portions of the site (south and west of the building). The main drive aisle veers around the back of the building and into a single level parking garage underneath the building.

The mixed-use building locates commercial areas on the ground floor consisting primarily of four (4) live-work units that could be converted to purely commercial suites along with one (1) 688 square foot commercial space at the center of the ground floor. The remaining areas of the ground floor will consist of nine (9) standard apartments (5-1BR and 4-2BR). Above the first floor, five (5) additional stories are proposed each having a combination of studio, 1-bedroom, and 2-bedroom apartments as well as indoor amenity space. The unit mix for each floor, square footage per unit and percentage breakdown of units are provided in Table 1 below:

Table 1: Floor Unit Mix Summary

Floor	Live Work (786 SF)	Studio (364 SF)	1 BR (705 SF)	2 BR (1,043 & 1,155)	Unit Count
1	4	0	5	4	13
2	0	2	6	4	12
3	0	2	7	4	13
4	0	2	7	4	13
5	0	2	7	4	13
6	0	2	7	4	13
	4 (5%)	10 (13%)	39 (51%)	24 (31%)	77

Floors 2 through 6 generally have the same mix of units. As show in the table, the majority of units (69 percent) are under 800 square feet in area and thus are likely to be occupied by smaller households. Units will be accessed through interior hallways, and have balconies ranging in size from 79 square feet for studio units up 137 square feet for two-bedroom units, serving as private open space for residents.

The proposed project also provides usable common open space consisting of a swimming pool with surrounding patio area (2,290 square feet) and roof top deck (1,400 square feet). Inside the building, on the second floor, a small gym space and separate 682 square foot storage/amenity space is provided. Above this level, each floor will contain two (2) 682 square foot common areas. The description and justification suggest common areas could be used as meeting/ lounge/ indoor dining space, or for recreation equipment (ping pong/foosball tables) however a final amenity plan has not been provided. Given the small size of units and limited outdoor common open space, higher quality common improvements would be welcome, such as a clubhouse that could accommodate resident gatherings such as birthday or holiday parties. This could be accomplished by shifting of units and the joining of two amenity spaces side by side without the loss of apartment units however some construction efficiencies would be lost.

Parking

The parking requirement for residences is based on standards established in SDBL. Per the SDBL standards studio and one-bedroom units require one (1) on-site space and two-bedroom units require one and a half (1.5) parking spaces. For the commercial space, parking is required at a rate of one (1) space for every 300 square feet. Based on these standards the proposed project is required to provide a total of 92 spaces as shown in the table below.

Table 2: Parking Summary

Use	Unit Count	Area	Parking Ratio	
Studio units	10		1.0 space per unit	10
1 BR units	39		1.0 space per unit	39
Live work units	4		1.0 space per unit	4
2 BR units	24		1.5 spaces per unit	36

Commercial		688 SF	1.0 space per 300 SF	3
			Total	92

Parking for the proposed project would be provided at the ground level and in a subterranean parking structure underneath the building with access to the site taken from Vista Bella. The subterranean parking would include 10 tandem stalls (20 vehicle spaces), which will most likely be used by tenants of two-bedroom units. In addition, a number of electric vehicle (EV) charging stalls and EV ready stalls are provided. The underground garage also includes a bike storage and general storage area near building elevators. Residents of the project would be assigned parking by the apartment manager to optimize the use of stalls. Staff notes that the applicant has applied for relief from parking requirements through the use of a Density Bonus Incentive/Concession to provide only 87 stalls. This topic is addressed in more detail under the Density Bonus discussion of this report.

Reciprocal Parking Easement

The developed portion of the project site is subject to a reciprocal parking agreement (agreement) with the property immediately to the south owned by Coastline Baptist Church. The agreement allows 547 Vista Bella (church site) to use parking at the project site on Sundays and allows the project site to use parking at the church Monday through Saturday. In addition, as a condition of the reciprocal easement, the parties agree that no building or other structure shall be placed, installed or constructed within the areas covered by the agreement in a manner as to obstruct or impair the ingress or egress and parking on parcels nor diminish the number of parking spaces without the written consent of the other party and City.

During the review of the Church's most recent expansion (approved in April 2021) through the review of Administrative Development Plan (ADP20-00005) and Administrative Conditional Use Permit (ACUP20-00002), staff noted that the parking requirements (as outlined in Article 31 of the Zoning Ordinance) for the church use are satisfied on the church site. The stalls available to the church at the project site are not necessary for the church to meet the parking requirements of the Zoning Ordinance. Representatives of the church have expressed concern about the project and the impact that project implementation would have on the availability of the parking spaces they have the right to utilize under the agreement. Church representatives have asked the City to enforce the agreement. The City's written consent, as required by the agreement, to modify the site is provided in the form of staff's recommendation of approval of the project. The City is not party to the agreement and the Church's expressed concerns regarding the enforceability of the agreement is a civil matter between two private parties.

Architectural Design

The applicant has proposed a mixed-use/apartment building with Spanish style architecture utilizing materials, colors, accent elements, and façade details typically associated with this style including white stucco building walls, "S" tile roofing, arched balcony and staircase openings and black metal/wrought iron balcony rails, stair rails, light fixtures and window grills. Although the proposed building is much larger than buildings found in this neighborhood, the design make some effort to break up the building mass and large expanses of blank walls. The building provides articulation through the stepping and recessing of external walls, especially along the front elevation facing Vista

Bella. Staircases on both ends of the front elevation project outward from the main part of the building forming tower-like elements. Stepped and recessed walls provide articulation at the center of the main building elevation, further emphasized with changes in exterior materials. Human scale is provided at lower levels through the use of wood trellises at storefronts, stone veneers, a roof cornice at the second floor, as well as accent lighting and landscaping. Building articulation, and the use of accent materials is carried over to the other elevations providing 360-degree architectural treatment to all sides of the building. The building also provides breaks in the roof line following the stepped and recessed building surface through alternating use of hip, shed, and gable roofs.

Main (East) Elevation



Rear (West) Elevation



Landscaping

The proposed landscaping is designed to complement different parts of the project and address the future loss of existing trees. The existing site contains a number of mature trees that are proposed for removal. Pursuant to the conceptual landscape plan, there are 62 trees in the area of construction 51 of which cannot be preserved. The conceptual landscape plan addresses the loss of trees and cumulative loss of tree size/diameter, by proposing 49 new trees in 15 gallon, 24-inch and 36-inch box sizes. The conceptual plan proposes tall growing Eucalyptus Lemon Scented Gum and Canary Island Pines in front and around the building to soften and shade building walls/balconies at elevated heights and proposes large canopy Australian Willow and Fern Pines in parking areas for the shading of vehicles. The plan also provides a wide variety of shrubs and ground cover with flowering plants (Bougainvillea, Fortnight Lily, Statice) used in highly visible areas around the building. All landscape and irrigation improvements as shown on the conceptual plan have been review by the City's landscape architect and found to be consistent with City standards.

Project Grading

Grading for the proposed project would be designed to follow the site's existing topography which slopes downward to the north and west. A flat building pad is carved out of the site, through the use of retaining walls placed around the building and at the south and west property lines. The grading plan estimates earthwork quantities of 13,687 cubic yards of cut and 2,138 cubic yards of fill, thereby resulting in an export of approximately 11,549 cubic yards of material from the project site.

Neighboring property owners have expressed concern with the stability of the site as the existing building and retaining appear (to some) to be failing. The Engineering Division has reviewed the proposal and preliminary geotechnical investigation prepared for the site for consistency with applicable engineering standards and code requirements. With regard to the project design, the Engineering Division has stated that the building foundation will generally extend one story below the current parking lot. At this depth, the Geotechnical Engineer/Geologist has identified the existence of bedrock to support the building. Bedrock support of structures is broadly considered to be adequate.

With regard to the existing two-story office building, its performance may be informative of the current conditions and quality of construction, but is not necessarily indicative of the future performance of a new building founded at substantially greater depths and in different material than the current building.

As for the concern regarding the weight of the proposed building; structures are substantially lighter than soil. A 10-story building is estimated to have a similar weight as a six-foot thick layer of soil. As such the excavation of one story and construction of six stories is expected to result in a hillside that is lighter than what exists currently. In conclusion, the Engineering Division has determined that enough information has been provided at this stage to move the project forward for consideration by the Planning Commission. However, the applicant will need to provide more detailed information during final engineering in order to be able to move forward with the project.

DENSITY BONUS

Density Bonus (DB23-00004) represents a request to:

Allow an increase in density over the maximum density of 29 dwelling units per acre per Section 3042 of the Zoning Ordinance for Mixed Use Plans, by reserving 15 percent of the units for very low income households. In accordance with SDBL and the City's Density Bonus Ordinance, a project that provides 15 percent very low income units is entitled to a density bonus of 50 percent of the allowable base density.

The Density Bonus application would allow the proposed project to exceed the maximum potential density of 51 units on the 1.739-acre site by 50 percent, for a total of 77 units, in exchange for reserving eight (8) units (or 15 percent of the base units) for very low-income (VLI) households. VLI households are defined as those earning between 31 to 50 percent (31% - 50%) of the area median income, or AMI. The current AMI for San Diego County is \$116,800 for a family of four. The Density Bonus calculation for the project as is provided in Table 3 below.

Table 3: Density Bonus Dwelling Unit Calculation

Base Allowable Units:
1.739 acres x 29 du/ac = 50.431 = *51 dwelling units
Very Low Income Units Proposed:
15% x 51 units = 7.65 = *8 dwelling units
Density Bonus Awarded:
50% x 51 units = 25.5 = *26 dwelling units
Total Units Allowed:
51 (base units) + 26 (density bonus units) = 77 dwelling units

* Per Density Bonus Law fractional units to be rounded up

The City's Density Bonus Ordinance states that affordable units must be proportional to the project's market rate units in terms of unit mix and square footage and must be reasonably dispersed throughout the development. In addition, the project's income restricted units must be at least 80 percent of the average square footage of all market rate units with the same bedroom count. The proposed project complies with both requirements. No difference between affordable units and

market rate units is proposed by the applicant. The proposed income restricted units would be comprised of one (1) studio unit (12.5 percent), four (4) one-bedroom units (50 percent) and three (3) two-bedroom units (37.5 percent); this unit mix is consistent with the unit mix provided for the overall project.

The developer is entitled to all benefits of SDBL including incentives and/or concessions, waivers from development standards that would physically preclude the development of the project at the density proposed, and reduced parking ratios. The granting of waivers does not reduce the number of incentives allowed for a project, and the number of waivers that may be requested and granted is not limited. State Law prohibits the City from denying any requested incentives/concessions or waivers unless findings are made that granting the requested incentive/concession or waiver would result in a *“Specific Adverse Impact.”* State law defines this term as *“a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.”* State law also provides that “the receipt of a density bonus, incentive, concession, waiver, or reduction of development standards shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision . . .”

By reserving 15 percent of the project units for VLI households the project is entitled to three (3) incentives/concessions; however, two (2) two are being sought.

Incentives/Concessions and Waivers

The applicant is requesting the following incentives/concessions and waivers.

Incentive/Concession No. 1: In order to reduce costs, the applicant request to remove the requirement to provide renewable energy onsite would result in identifiable and actual cost reductions of at least \$847,800.

Incentive/Concession No. 2: In order to reduce costs, the applicant request to decrease amount of density bonus required parking from 92 to 87 would result in identifiable and actual cost reductions of at least \$556,040.

State Density Bonus Law requires that a City shall grant a concession or incentive requested by an applicant unless the City can make written findings based on substantial evidence that: 1) the concession or incentive does not result in identifiable and actual cost reductions to provide affordable housing cost as defined in Section 50052.5 of the Health and Safety Code or does not result cost reductions for rents for the targeted units; 2) that the incentive would be contrary to state or federal law; or 3) would have a specific adverse and unavoidable impact on public health, safety or on a listed historic property.

The applicant has provided “reasonable documentation,” in the form of an estimate that shows the requested concession results in identifiable and actual cost reductions. Requested incentives are presumed to result in cost reductions and it is reasonable to infer here that reduced development costs from incentives/concessions would contribute significantly to the feasibility of lower income housing in the proposed project. Conversely, it would be difficult for the City to make a written finding

to the contrary that is supported by substantial evidence. The estimate has been included in the Description and Justification (Attachment 4) for reference.

Waivers: In order to accommodate the proposed density and provide a mixed-use project that includes 73 residential units, 4 live work units, and 688 square feet of commercial space the applicant has requested 15 waivers from the following development standards pursuant to Density Bonus law:

1. Setbacks
2. Courtyard requirements
3. Minimum useable open space per dwelling unit (private and common)
4. Minimum number of large common open space areas
5. Minimum individual common area, dimension, and location requirements
6. Minimum usable common open space requirements
7. Maximum residential space within live/work unit
8. Maximum Floor Area Ratio
9. Maximum building height
10. Parking stall dimensions width next to columns, and the use of small car and tandem stalls in lieu of standard size stalls
11. Required front yard walls
12. Additional building wall setback
13. Minimum wall offset requirements
14. Maximum fence/wall and retaining wall heights
15. Maximum retaining wall height in front setback
16. Plantable wall requirements

Table 4 below provides further details regarding the proposed waivers:

Table 4 Proposed Waivers from Development Standards

Development Standard	Regulation per Zoning Ordinance	Project as Proposed	Notes
Minimum Lot Area	10,000 SF	75,750 SF	Complies with code
Maximum Lot Area Mixed Use	2 acres	1.739 acres	Complies with code
Minimum Lot Width	-	289 feet	Complies with code
Minimum Setbacks			
Front: Vista Rey Side Corner: Vista Bella Rear	15 feet 0 10 feet 0	11.3 feet 53.0 feet 11.5 feet 60'	Waiver (W-1) Required setback would reduce developable area and preclude ability to develop at the density proposed

Maximum Height Maximum Wall Height at Setback	50 feet - Building 60 feet - Architectural Elements 50 feet	68 feet -Building 74 feet- Top of Elevator 68 feet	Waiver (W-9) Required height limit would preclude ability to develop at the density proposed Waiver (W-12) Required height limit would preclude ability to develop at the density proposed
Floor Area Ratio	Up to 1.2 (max + bonus for underground parking)	1.42	Waiver (W-8) FAR limitation would preclude ability to develop at the density proposed
Minimum Site Landscaping Minimum Yard Landscaping Front Side Corner Side Rear	10% 50% - 50% -	47% 94% 55%	Complies with Code Complies with Code
Open Space			
Useable Open Space per unit	300 sf/unit	246sf/unit	Waiver (W-3) Required open space would reduce developable area and would preclude ability to develop at the density proposed
Courts Opposite Windows	Courts provided with minimum depth of 10 feet and 12 feet wide, 6 feet on either side of window centerline	None	Waiver (W-2) Required court would reduce developable area and would preclude ability to develop at the density proposed
Useable Common Open Space	50% of usable open space 11,550 square feet	48% (11,194 square feet)	Waiver (W-6) Required open space would reduce developable area and would preclude ability to develop at the density proposed
Open Space (minimum large space)	Minimum two 4,000 square foot areas	To allow spaces less than 4,000 square feet in area	Waiver (W-4) Required open space would reduce developable area and would preclude ability to develop at the density proposed
Open Space (minimum common open space dimension)	For projects over 25 du, minimum horizontal rectangle inscribed dimension of 20 ft., minimum 1,000 sq. ft. open to sky.	Minimum horizontal rectangle inscribed dimension of 7'-10", minimum open spaces of 682 square feet and be either indoor/ outdoor.	Waiver (W-5) Required open space would reduce developable area and would preclude ability to develop at the density proposed
Fences and Walls			

Max Wall or Retaining Wall Height Within Setbacks Front Side Corner Side Rear	3.5 feet 6.0 feet 6.0 feet 6.0 feet	6.5 feet 25.0 feet 10.4 feet 28.0 feet	(W-15) Adhering to wall height limits in required yards abutting a street and in other areas of the site (W-14) would reduce developable area and would preclude ability to develop at the density proposed
Planted Visible Retaining Walls	Any retaining walls over 4' in height shall be a plantable wall.	Non-planted retaining walls proposed.	Waiver (W-16) Adhering to wall planting requirements would reduce developable area and would preclude ability to develop at the density proposed
Required yards to be Enclosed with a Wall Front Side Corner Side Rear	Enclosed - Enclosed -	Not enclosed - Not enclosed -	Waiver (W-11) required yard enclosures would reduce developable area and would preclude ability to develop at the density proposed
Max Building Wall Length	Minimum 20 feet deep at $\frac{1}{4}$ of building length or 40 foot intervals with 4 foot deep recess	Minimum 2.5 foot deep recesses at 40-foot intervals	Waiver (W-13) required recesses would reduce developable area and would preclude ability to develop at the density proposed
Renewable Energy	Per Section 3047 Residential Projects with 25 or more units shall install and maintain renewable energy facilities that supply at least 50% of forecasted electricity demand	0%	Incentive/ Concession to accommodate development at density proposed
Urban Forestry Program	Tree canopy: 12% (on site) Permeable surface area: 22%	Tree canopy: 18.1% Permeable Area: 47%	Complies with Code Complies with Code
Parking			
Required Residential	92 stalls total	87 stalls	Incentive/ Concession to accommodate development at density proposed
EV Parking	15% of parking spaces	41% of parking spaces	Complies with Code
Parking Stall Offset	12" increase in width from walls or columns	No increase provided	Waiver (W-10) required offset would reduce resident parking and preclude ability to develop at the density proposed

Parking Space Dimensions	All required spaces shall be large-car spaces. Spaces provided in addition to the number required may be small-car spaces. Large-car 8.5'x18' deep Small-car 7.5' x 15' deep	To allow the use of small-car spaces in lieu of large-car spaces and tandem parking spaces. 2 small car spaces 10 tandem spaces	Waiver (W-10) required stall dimensions and individual stall requirements would reduce parking and preclude the ability to develop at the density proposed.
Live/Work	Maximum 33% of floor area shall be used for residential purposes	No maximum residential floor area to accommodate live/ work units.	Waiver (W-7) limiting residential floor area would result in less units and preclude the ability to accommodate development at density proposed

Planning Commission Consideration

The proposed project was considered by the Planning Commission at its regular meeting on October 28, 2024. See staff report included as Attachment 4. After presentations from staff and the applicant and receiving testimony from the public, the Planning Commission voted to approve, by a 3-1 vote, (with three Commissioners absent) Development Plan (D23-00009) and Density Bonus (DB23-00004) through adoption of Resolution No. 2024-P16.

On November 1, 2024, a timely appeal of the project was filed by Ellen Marciel. The appeal petition is included as Attachment 3 and the Planning Commission Resolution approving the project is included as an exhibit to Attachment 2.

Appeal of Planning Commission Project Approval

Pursuant to Section 4605(C) of the Zoning Ordinance, the City Council may consider only the issues that were raised in the appeal filed with the City. The following is a summary of the Appellant's reasons, as understood by staff, for filing an appeal of the Planning Commission's decision to approve the project. Each identified reason for filing the appeal is followed by a response from staff. The Appellant's letter of appeal, which includes the full text of each appeal point, has been included as Attachment 3.

Issue 1: "Planning Commission approved the application even though we had demonstrated 5 health/safety impacts:

1. Ingress/egress for Oceana residents
2. Emergency vehicle safety/access
3. Pedestrian safety
4. Slope instability, including the design of the wastewater/ stormwater cistern adjacent to the 28' retaining wall; and
5. Health of residents whose homes will be impacted"

City Response:

The Oceanside Community Association, representing residents of the Oceana community, identified five (5) health and safety impacts generated by the project during the Planning Commission meeting of October 28, 2024. The condensed list of impacts provided in their appeal letter refers back to the

five (5) impacts they attempted to demonstrate at the Planning Commission meeting. Both the impact listed in the appeal letter (underlined) and information presented to the Planning Commission are provided below followed by staff's response.

1. **Ingress/egress for Oceana residents.** Two single lane roadways Vista Rey and Vista Oceana both exiting onto El Camino Real are the only egress and ingress points for an area that now encompasses over 1265 homes. With the inclusion of other residential projects in the area and the proposed project traffic flow will be further compromised.

A Local Transportation Analysis (LTA) was prepared for the proposed project and reviewed and approved by Traffic Engineering. It was determined that studied nearby intersections will operate at an acceptable Level of Service (LOS) in the existing plus project condition with the exception of El Camino Real and Vista Rey. For this intersection, the delay did not increase significantly with the addition of the project and was therefore deemed acceptable by Traffic Engineering staff. Moreover, a traffic signal will be installed at the intersection of El Camino Real and Vista Rey as a requirement of a different nearby project that is currently under construction. Because the project would not result in significant traffic impacts to studied intersections and future levels of service with development of the project are acceptable, approval of the project would not result in significant quantifiable health and safety impacts.

2. **Emergency vehicle safety/access.** With an aging population struggling with chronic health issues, Oceana finds itself requiring the frequent emergency services. Traffic backing up at Vista Oceana and Vista Rey will hinder emergency vehicle access. Additionally, reduced parking proposed by the project will result in cars relying on street parking further impacting emergency vehicle access.

As explained in response to health/safety concern No. 1 above, Traffic Engineering staff has determined that traffic impacts would not be significant and future intersection LOS generated by the project meet City standards. As for the use of street parking by project residents, it is common for residential neighborhoods to have vehicles parked along streets throughout the City and the use of street parking does not present a hazardous condition that would be unique to this neighborhood. In addition, the project site is a party to a parking agreement with the neighboring church which affords project residents access to at least 100 additional parking stalls six days a week (Monday through Saturday) which should reduce reliance on street parking.

The applicant has applied for a Density Bonus and has requested relief from the parking requirements through utilization of a concession available to applicants proposing Density Bonus projects. The requested concession would allow the applicant to provide 87 parking spaces instead of the 92 spaces required for the project by SDBL and the Zoning Ordinance. The applicant is entitled to this concession and State Law prohibits the City from denying any requested incentives/concessions or waivers unless findings are made that a "Specific Adverse Impact," which is defined as "means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact on public health or safety," will occur. Relief from parking standards does not represent a quantifiable, direct, and unavoidable impact, based on objective,

identified written public health or safety standards, or policies. In addition, a concession or incentive may be denied if its approval would violate state or federal law or if the approval of the concession or incentive would not result in identifiable and actual cost reductions to provide for affordable housing costs or for rents for the targeted units to be set as required by state law. Staff has no evidence the granting of the concession violates state or federal law or would not result in identifiable and actual costs to assist in providing the affordable units.

- 3. Pedestrian safety.** Many of Oceana's residents are daily walkers, and several are vision or hearing impaired. Because the developers of the apartment tower are marketing to young professionals, the new residents will likely be people who live at a much faster pace than we do. Oceana's current inadequate infrastructure, including a lack of bike lanes, and sidewalks within two feet of the roadway, are an accident waiting to happen.

The Oceana neighborhood enjoys an extensive network of sidewalks along Vista Oceana, Vista Campana, and Vista Bella which include a parkway buffer between the roadway and sidewalk on both sides of the street. There are portions of sidewalk along El Camino Real that do not include a parkway between the sidewalk and roadway; however, this roadway is steep sloping and relatively more difficult to traverse than flatter-topography sidewalks found in the immediate area. In addition, the belief that new residents will not be cautious when driving in their own residential neighborhood is speculative. Given the availability of fully developed sidewalks throughout the Oceana neighborhood and the likelihood that drivers are expected to exercise reasonable caution, it has not been proven that the project would result in a significant quantifiable, direct, and unavoidable impact based on objective identified written public health or safety standards, policies, or conditions.

- 4. Slope instability, including the design of the wastewater/stormwater cistern adjacent to 28' retaining wall.** The site of the proposed tower is on a slope which has proven to be unstable. Landslides have occurred for decades. Climate change has increased total rainfall which in turn is causing flooding and slope failures in our area. The existing two-story office building on the proposed tower site is shifting and has structural cracks and broken windows as a result. The site is clearly unstable. Another, larger, slope failure at this particular location could result in an environmental disaster due to the hazardous materials at the existing gas station being in the direct landslide path.

As outlined in the Planning Commission staff report, the Engineering Division has reviewed the conceptual project plans and preliminary geotechnical investigation prepared for the site for consistency with applicable engineering standards and code requirements. With regard to the project design, the Engineering Division has stated that the building foundation will generally extend one story below the current parking lot. At this depth, the Geotechnical Engineer/Geologist has identified the existence of bedrock to support the building. Bedrock support of structures is broadly considered to be adequate. With regard to the existing two-story office building, its performance may be informative of the current conditions and quality of construction, but is not necessarily indicative of the future performance of a new building founded at substantially greater depths and in different material than the current building. As for the concern regarding the weight of the proposed building; structures are substantially lighter than soil. A 10-story building is estimated to have a similar weight as a 6-foot thick layer

of soil. As such the excavation of one story and construction of six stories would be expected to result in a hillside that is lighter than what exists currently.

At the Planning Commission meeting concerns were raised regarding the proximity of a proposed cistern detention tank to a proposed 28-foot retaining wall and the possibility of cistern water leaking or otherwise undermining the retaining wall in some way. The Engineering Division advises that a cistern detention tank is not the same as an infiltration basin. A cistern tank slows the release of storm water into the City Storm Drain, and is not designed to let water seep into the ground/behind the wall. Although leaks can occur, storm water quality devices are subject to a maintenance agreement and periodic inspection by City personnel; which will require the tank to be inspected, maintained, and repaired in perpetuity. Thus, proposed construction on slopes and the use of a cistern detention tank would not result in a significant quantifiable direct, and unavoidable impact based on objective identified written public health of safety standards, policies, or conditions.

5. Health of residents whose homes will be impacted. Proposed tower will block the cooling ocean breezes, obstruct the warming sun, and adversely affect the ventilation within nearby homes.

The proposed six-story building has a finished grade approximately 30 feet lower than Oceana development and would be located over 100 feet away from the closest residence located across the street (Vista Bella) from the project, so there is limited potential for the proposed building to shade existing residences. Although the building could obstruct winds from the west, they would not be eliminated but would be redirected over and around the building on either side. The redirection of winds is not included among the topical categories considered under the California Environmental Quality Act (CEQA) or any other objective health and safety standard that staff is aware of, thus it has not been proven that the project would result in a significant quantifiable direct, and unavoidable impact based on objective identified written public health of safety standards, policies, or conditions.

Staff recommends that the City Council find that the Appellant has not provided any basis to warrant overturning the Planning Commission's decision based on Oceana residents having alluded to five (5) potential health and safety impacts as outlined above.

Issue 2: "The Planning Commission's actions did not include, as conditions of approval, any of the 5 mitigating measures that we had requested:

- 1. The developer should participate in the cost of the City acquiring land to create an Evacuation Plan for Oceana**
- 2. Make the new buildings age restricted, to reduce vehicular traffic**
- 3. Install pedestrian flashing beacons with call buttons at the intersection of Vista Campana and Vista Bella**
- 4. Provide engineered drawings now, before final approval, showing the building and the retaining walls can be supported; and**
- 5. Establish a trust fund of \$200,000 to help neighbors restore their interior home temperatures"**

City Response:

The Planning Commission appreciated the Oceana community's attempt to develop mitigation that would address their concerns; however, the Commission elected not to include these measures as conditions of approval. At the hearing the applicant voluntarily offered to evaluate four of the proposed mitigation measures for 1) an evacuation plan, 2) flashing pedestrian beacons, 3) final retaining wall plans and 4) the \$200,000 trust fund and agreed to work with staff on their evaluation in order for staff to report back to the Planning Commission on their ultimate decision. The applicant also agreed to have "robust and thorough" communications with the Oceana community to provide updates on their evaluation of the four options. Reasons for why the proposed measures were not included as conditions of approval are given below.

1. The developer should participate in the cost of the City acquiring land to create an Evacuation Plan for Oceana

As explained in the Planning Commission staff report, in areas classified as Very High, High, or Moderate Severity Zones the Fire Department is authorized to require the preparation of a fire protection plan (FPP). Because the project site is not in any high fire zone, an FPP was not required by the Fire Department nor is it mandated by any other applicable regulation. Thus, the Commission did not require the preparation of an evacuation plan.

2. Make the new buildings age restricted, to reduce vehicular traffic

This measure was rejected by the Commission because the project site is not subject to age restriction covenants as is the case with properties located within the Oceana residential community. Furthermore, the unilateral imposition of an age restriction by the City would likely constitute discrimination on the basis of familial status in violation of federal and state anti-discrimination laws.

3. Install pedestrian flashing beacons with call buttons at the intersection of Vista Campana and Vista Bella

As explained to the Planning Commission, the installation of pedestrian beacons had not (at the time of the meeting) been warranted by way of a technical study thus, there was no nexus to require beacons of the project at this time. It was also explained at the meeting that if there is no nexus for the beacons, the requirement if imposed, could fall to the City as a Capital Improvement Project and which could also result in future maintenance cost. This request for beacons or alternative suitable to Oceana residents and the City is being studied at this time. However, the nexus that the project would result in the need for flashing pedestrian beacons has not been established. One alternative is for the establishment of continental crosswalks at existing intersections that have already have controlled stops and accessibility ramps. This type of crosswalk has prominent striping and would not result in substantial maintenance costs.

4. Provide engineered drawings now, before final approval, showing the building and the retaining walls can be supported; and

As with all projects, before any grading or building permits are issued for on-site work,

including buildings and retaining walls, the developer will be required to prepare fully engineered plans that are subject to City review and approval. Staff recommended to the Planning Commission that the project be allowed to follow the normal permitting process of completing final engineering prior to issuance of a permits. The Planning Commission thus did not add this measure as a condition of approval. Staff also notes that as part of the density bonus request, the applicant has requested two (2) incentives/concessions to reduce project costs; relief from on-site renewable energy requirements (a \$847,800 cost reduction) and relief from parking requirements (a \$556,040 cost reduction) as provided for in SDBL. Requiring preparation of final engineered plans for walls during the entitlement (project approval) phase would conflict with the intent of SDBL as it would impose a significant cost to the project before it becomes necessary for permitting.

5. Establish a trust fund of \$200,000 to help neighbors restore their interior home temperatures”

No supporting information was provided as a basis for the establishing of a \$200,000 trust fund. There has been no nexus established that implementation of the project would somehow result in impacts to nearby residences’ ambient temperature. In addition, because the need for a trust fund and \$200,000 funding amount is unsubstantiated, there is no nexus to require a trust fund. Finally, the trust fund would represent a significant cost which works against the objective of reducing costs for density bonus projects.

Staff recommends that the City Council find that the Appellant has not provided any basis to warrant overturning the Planning Commission’s decision based on the Planning Commission decision not to include Oceana resident’s proposed mitigation measures as conditions of approval on the project for the reasons explained above.

Issue 3: “Oceanside is a California Charter City, and Article 5, Section 500 of the City’s Charter reads, in part: “In the event of any conflict between the provisions of this Charter and the provision of the laws of the State of California, the provisions of this Charter shall control.” The state Density Bonus Laws should not apply here. As found in <https://www.law.berkeley.edu/files/Albuquerque3> the home rule provision should allow the City of Oceanside to deny land use application D23-00009.”

City Response:

The Appellant is correct that Oceanside is a charter city and that the quoted language appears in the City charter. However, there is no conflict between the City charter and SDBL nor has the Appellant identified any conflict. To the contrary, the City has adopted an ordinance (Oceanside Zoning Ordinance, Section 3032) specifying how compliance with SDBL will be implemented, as required by Government Code section 65915(a)(1). Moreover, Density Bonus Law expressly states that it applies to charter cities. (Govt Code section 65918).

Staff recommends that the City Council find that the Appellant has not provided any basis to warrant overturning the Planning Commission’s decision based on a conflict between the City charter and SDBL.

Issue 4: “The Planning Commission’s action did not take into account the Coastline Baptist

Church's easement and parking agreement, nor the Religious Land Use and Institutionalized Persons Act (RLUIPA), which prohibits zoning and landmarking laws that substantially burden the religious exercise of churches."

City Response:

As explained to the Planning Commission at the public hearing, the applicant intends to abide by the parking agreement (easement) and thus there would be no impact to the church. The church's rights are not at issue with the project and approval of the project does not impair the church's ability to enforce its easement rights under the agreement.

Staff recommends that the City Council find that the Appellant has not provided any basis to warrant overturning the Planning Commission's decision based on the Commission's disregard of the existing parking easement or RLUIPA.

Issue 5: "Structural Protection Due to Soldier Pile Wall Construction

The City should take into account the potential impacts of the proposed soldier pile wall construction on Coastline Baptist Church's property. Soldier pile walls, which involve driving large beams into the ground and excavating from the developer's side, may pose significant vibration risks to the church's building due to the proximity of the construction site. This method, while effective when excavation onto neighboring property is not an option, generates strong vibrations that could lead to structural damage. A proactive approach ensures responsible development and protects adjacent community structures, especially given the church's role as a long-standing institution in Oceanside."

City Response:

The Appellant states that soldier pile wall construction will involve the driving of large beams into the ground (a.k.a., pile driving). Although a soldier pile wall is proposed for the project, this refers to vertical beams in the wall rather than a method of construction utilizing pile driving. Construction of a soldier pile wall does not necessarily require the use of pile driving. In discussing this question with the applicant, they have indicated that they do not intend to use vibration/pile driving and will use a different method of construction for the setting vertical beams. As such, this method is unlikely to be utilized. Staff therefore finds that the Appellant's claims are speculative, making assumptions about construction methods that have not yet been determined and are unlikely to be utilized.

Staff recommends that the City Council find that the Appellant has not provided any basis to warrant overturning the Planning Commission's decision based on concerns of vibration risk from pile driving activities.

In summary, the points raised by the Appellant does not constitute adequate grounds for overturning the Planning Commission decision for approval. The proposed project does not result in health and safety impacts with regard to ingress/egress, emergency access, pedestrian safety, slope instability, building obstruction and soldier pile wall construction. Nor does the omission of conditions of approval for an evacuation plan, flashing beacons, age restrictions, engineered retaining wall drawings before the granting of an entitlement, or \$200,000 trust fund constitute grounds for

overturning an approval. Approval of the proposed project would not conflict with the City charter nor would it deprive the Coastline Baptist Church of parking or violate the Church's rights under RLUIPA.

As previously stated, pursuant to Section 4605(C) of the Zoning Ordinance, the City Council may consider only the issues that were raised in the appeal filed with the City. The extensive analysis provided above clearly demonstrates that the Appellant has not provided any basis to warrant overturning the Planning Commission's approval of the proposed project.

FISCAL IMPACT

None.

COMMISSION OR COMMITTEE REPORT

The Planning Commission considered the proposed project on October 28, 2024. During the public hearing, the Planning Commission received testimony from the applicant and the public and voted to approve the project by adopting Resolution No. 2024-P16 approving Development Plan (D23-00009), and Density Bonus (DB23-00004) (3-1 vote; Commissioner Balma - no; 3 Commissioners absent).

CITY ATTORNEY'S ANALYSIS

The City Council is authorized to hold a public hearing on this matter. Consideration of the matter should be based on the testimony and evidence presented at the hearing. After conducting the public hearing, the Council shall affirm, modify, or deny the project. The supporting documents have been reviewed and approved as to form by the City Attorney.

Prepared by: Manuel Baeza, Principal Planner

Reviewed by: Darlene Nicandro, Development Services Director

Submitted by: Jonathan Borrego, City Manager

ATTACHMENTS:

1. Staff Report
2. City Council Resolution
3. Letter of Appeal and Response
4. Planning Commission Staff Report
5. Planning Commission City Presentation