



Received by: K. Valdovinos  
Via: Counter  
Copy to: CAO, City Manager,  
Planning, CC

Attachment 6

City Clerk Department  
300 North Coast Highway  
Oceanside, CA 92054  
Tel (760) 435-3000 Fax (760) 967-3922

RECEIVED

NOV 01 2024

OCEANSIDE CITY CLERK

## APPEAL OF PLANNING COMMISSION ACTION

APPEALS MUST BE FILED WITH THE CITY CLERK'S OFFICE WITHIN 10 CALENDAR DAYS OF  
THE DATE OF FINAL ACTION

PROJECT/ACTION BEING APPEALED			
PROJECT NAME		DATE OF FINAL DECISION <u>October 28, 2024</u>	
RESOLUTION NUMBER <u>D 23-00009</u>			
FORM OF APPEAL			
APPEAL FEE - \$1,838		<input type="checkbox"/> PETITION <input checked="" type="checkbox"/> (PLEASE SEE BELOW FOR EXPLANATION/SIGN OFF)	
LETTER INCLUDING A STATEMENT SPECIFICALLY IDENTIFYING THE PORTION(S) OF THE DECISION BEING APPEALED AND THE BASIS FOR THE APPEAL IS ATTACHED <input checked="" type="checkbox"/>			
PERSON FILING APPEAL			
NAME <u>Oceanside Community Assoc.</u>		Daytime Telephone: <u>(702) 596-6219</u>	
ADDRESS	CITY	STATE	ZIP
APPEALED BY APPLICANT <input type="checkbox"/> INTERESTED PARTY <input checked="" type="checkbox"/> PROPERTY OWNER <input type="checkbox"/> (COMPANY/REP)		WITHIN NOTICE AREA	
SIGNATURE <u>Ellen Marciel</u>		DATE <u>October 31, 2024</u>	
CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)			
NAME <u>Ellen Marciel</u>			
ADDRESS <u>3848 Vista Campana S, #40</u>	CITY <u>Oceanside</u>	STATE <u>CA</u>	ZIP <u>92057</u>
Daytime Telephone <u>(702) 596-6219</u>	Fax Number	Email Address <u>ellenmarciel39@gmail.com</u>	
<p><b>Section 4604:</b> To appeal by petition for a waiver of the appeal fee, the appeal must be accompanied by the signatures of 50% of the property owners within the noticed area or 25 signatures of the property owners or tenants within the noticed area, whichever is less.</p> <p>I hereby certify that this appeal is being submitted in accordance with the Zoning Ordinance and meets the criteria specified in Section 4604 for an appeal by petition.</p> <p>Signature: <u>Ellen Marciel</u> Date: <u>October 31, 2024</u></p> <p>NOTE: All petitions must contain <u>original</u> signatures, along with the printed name and address of each signer.</p>			

Oceanside City Clerk  
300 N. Coast Highway  
Oceanside, CA 92054

October 31, 2024

Subject: Appeal of Planning Commission Action 10/28/2024  
D23-00009

Dear Sir/Madam,

Please allow this letter to serve as the required statement to accompany the appeal form for the subject land use application. The residents of Oceana are requesting that the City Council hear this item for the following reasons:

- 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
- 2) The Planning Commission's action 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 building 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
- 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 provisions 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.
- 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.

Sincerely,



Ellen Marciel, Chair  
Oceana 503 Vista Bella Ad Hoc Committee

503 Vista Bella

D23-00009

Petition to waive appeal fee

The undersigned respectfully request that the \$1,838 appeal fee be waived.

- 1 Diedre Burke 3685 Vista Campana N Unit # 54 Oceanside, CA 92057  
Name Diedre Burke Address
- 2 Daniel Velez 3685 Vista Campana N Unit # 55 Oceanside, CA 92057  
Name Daniel Velez Address
- 3 Georgette S. Velez 3685 Vista Campana N Unit # 55 Oceanside, CA 92057  
Name Georgette Velez Address
- 4 Lynne Riddell 3685 Vista Campana N Unit # 61 Oceanside, CA 92057  
Name Lynne Riddell Address
- 5 KATRINA Skelton 3685 Vista Campana N Unit # 52 Oceanside, CA 92057  
Name KATRINA Skelton Address
- 6 Toni Hayward 3685 Vista Campana N Unit # 73 Oceanside, CA 92057  
Name Toni Hayward Address
- 7 Marinella Marcovini 3685 Vista Campana N Unit # 35 Oceanside, CA 92057  
Name Marinella Marcovini Address
- 8 Gerald Hopkins 3685 Vista Campana N Unit # 54 Oceanside, CA 92057  
Name Gerald Hopkins Address
- 9 Diane Gonzalez 3685 Vista Campana N Unit # 71 Oceanside, CA 92057  
Name Diane Gonzalez Address
- 10 William Gonzalez 3685 Vista Campana N Unit # 71 Oceanside, CA 92057  
Name William Gonzalez Address
- 11 Cirilla Amoruso 3685 Vista Campana N Unit # 40 Oceanside, CA 92057  
Name Cirilla Amoruso Address
- 12 Sandy O'Rourke 3685 Vista Campana N Unit # 60 Oceanside, CA 92057  
Name Sandy O'Rourke Address

503 Vista Bella  
D23-00009  
Petition to waive appeal fee

The undersigned respectfully request that the \$1,838 appeal fee be waived.

*Suzanne L. Schaefer*  
1 *Suzanne L. Schaefer* 3685 Vista Campana N Unit # *9* Oceanside, CA 92057  
Name Address  
*Ken Schaefer*  
2 *Ken* 3685 Vista Campana N Unit # *9* Oceanside, CA 92057  
Name Address  
*Alan W.B. Nash*  
3 *Alan W.B. Nash* 3685 Vista Campana N Unit # *58* Oceanside, CA 92057  
Name Address  
*Caroline Greyshock*  
4 *Caroline Greyshock* 3685 Vista Campana N Unit # *74* Oceanside, CA 92057  
Name Address  
5 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address  
6 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address  
7 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address  
8 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address  
9 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address  
10 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address  
11 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address  
12 3685 Vista Campana N Unit # Oceanside, CA 92057  
Name Address

503 Vista Bella  
D23-00009  
Petition to waive appeal fee

The undersigned respectfully request that the \$1,838 appeal fee be waived.

2 Karin Messaros 3685 VCN #8, 92057  
Name Karin Messaros Address

1a Armand Schwab 3655 Vista Campana N. # Oceanside, CA  
Name Armand Schwab Address

4 Ella Russell Attery 3685 Vista Bella #5 Oceanside, CA 92057  
Name Ella Russell Attery Address

2 Karen McGwire 3685 Vista Campana N. # O'side 92057  
Name Karen McGwire Address

Name Address

Name Address

Name Address

Name Address

Name Address

Name Address

Name Address

Name Address



503 Vista Bella

D23-00009

Petition to waive appeal fee

The undersigned respectfully request that the \$1,838 appeal fee be waived.

✓ Stephen Graves 3621 Vista Campana S. #105 9205  
Name Stephen Graves Address 3621

✓ Suzanne Kurhaja ~~300~~ Vista Campana S #7 92057  
Name Suzanne Kurhaja Address

✓ Janice Hoople 3621-8 VISTA CAMPANA S. 92057  
Name Janice Hoople Address

✓ Karen Lipsig 3621-8 Vista Campana S. 92057  
Name Karen Lipsig Address

✓ BALDEV LAKHANPAL 3621-5 VISTA CAMPANA S CA 92057  
Name Baldev Lakhanpal Address

✓ Poornan Lakhanpal 3621-5 Vista Campana S. 92057  
Name Poornan Lakhanpal Address

✓ Lori Nichols 3621 ~~8~~ Vista Campana S #100 92057  
Name Lori Nichols Address

✓ Mike Nelson 3621 VISTA CAMPANA S #100 92057  
Name Mike Nelson Address

✓ April 3621 Vista Campana S #109 O.S. 92057  
Name Address

? Angie Wenz 3621 Vista Campana S #36 92057  
Name Address

✓ Lynn Leszynski 3621 Vista Campana S #65 92057  
Name Lynn Leszynski Address

✓ JACQUI GOYETTE 3621 Vista Campana S. #88 92057  
Name Jacqui Goyette Address

503 Vista Bella  
D23-00009  
Petition to waive appeal fee

Unit 8 The undersigned respectfully request that the \$1,838 appeal fee be waived.

? Edward Morales 3621 Vista Campana S. #72 O'side  
Name Address

? Robin Whelan 3621-72 Vista Campana So #72  
Name Address

✓ David Will 3621-70 Vista Campana S. #70  
Name David Will Address

? Jani Marink 3621 Vista Campana S. #97  
Name Address

? Barbara B. Banta 3621 Vista Campana S. #37  
Name Address

? Peter Cornog 3621 Vista Campana S #36 Oceanside  
Name Peter Cornog Address

? Ken Hing 3621 VISTA CAMPANA S #32 OSIDE  
Name Address

4 Jaaleah Finlaye 3615 VISTA BELLA #7 92057  
Name Jaaleah Finlaye Address

Name Address

Name Address

Name Address

Name Address

Manuel Baeza

---

From: Ellen Marciel <ellenmarciel39@gmail.com>  
Sent: Thursday, November 7, 2024 4:24 PM  
To: Zeb Navarro  
Cc: cityclerk@oceansidecs.org; Manuel Baeza; Jonathan Telles  
Subject: 503 Vista Bella appeal

**Warning: External Source**

---

Hello Dr. Navarro,

I am writing to submit an additional point for our appeal regarding the decision on the proposed development at 503 Vista Bella. While I understand that the office closed at 4 PM today, I appreciate your consideration of this additional information via email.

Additional Point for Appeal:

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.

Per city code, this request still falls within the 10-day period for submission in writing to the city clerk. Thank you for your attention to this matter.

If you require any further information, please feel free to contact me.

-Ellen Marciel  
(702) 596-6219





12/11/2024

Mayor Sanchez and Honorable Members of the City Council,

This letter responds to the Oceanside Community Association's ("Oceana") appeal of the Vista Bella Mixed-Use Project. By way of background, the Planning Commission approved the Project on October 28, 2024, and at that meeting, our team addressed all of the concerns Oceana has now raised on appeal. Each issue is addressed below. Our team values community feedback and remains committed to addressing all concerns thoroughly and transparently.

### **1. Health and Safety**

Oceana claims five purported health and safety impacts: ingress/egress for Oceana residents, emergency vehicle safety/access, pedestrian safety, slope instability, and health of residents.

The Fire Department reviewed the Project and determined that there is no safety issue, either with respect to the Project's ingress/egress or with respect to Oceana's ingress/egress. The Project is not in a high fire zone and does not present any emergency vehicle safety or access concerns. Likewise, neither the Fire Department nor City Planning identified any pedestrian safety or health concerns. Finally, a traffic study was prepared for the Project and did not identify any significant traffic impacts or safety issues.

With respect to slope stability, a preliminary geotechnical report has been prepared and did not identify any soil conditions that would represent a risk to Oceana or any other neighboring properties. The Project, including its retaining walls, wastewater, and storm water systems, will be designed with careful consideration of the slope adjacent to the site and the soil underlying the site. Further, the City will review and approve all engineering plans prior to the issuance of permits. There is simply no basis for a slope instability concern. Finally, the grading and construction of the retaining walls will be observed by the City engineering staff, the Project geo-technical engineer and the engineer tasked to design grading and the retaining walls.

### **2. Mitigation Measures**

Oceana requests five mitigation measures to be incorporated into the Project, listed below with the reason each is not warranted.

<b>Requested Mitigation Measure</b>	<b>Reason Mitigation Measure Is Not Warranted</b>
The developer should participate in the cost of the City acquiring land to create an evacuation plan for Oceana	The Fire Department concluded that the Project is not in a high fire zone and would not pose a safety concern to ingress/egress for Oceana. Because there is no environmental impact, an evacuation plan is not warranted and cannot be imposed as a mitigation measure.
Make the Project age restricted to reduce vehicular traffic	The traffic study prepared for the Project concluded that the Project would not result in a traffic impact. Therefore, no mitigation measures to reduce traffic are

Utah  
Nevada  
Washington  
California

1177 Idaho Street  
Suite 200  
Redlands, California 92374  
P 909.335.7400  
F 909.335.7299  
An Architectural Corporation

	warranted.
Install pedestrian flashing beacons with call buttons at the intersection of Vista Campana and Vista Bella	The Project has been analyzed in a traffic study and no safety issues were identified. As such, a flashing beacon is not warranted and cannot be imposed as a mitigation measure.
Provide engineered drawings now, before final approval, showing the building and the retaining walls can be supported	The Project engineer designed retaining walls to be supported. Further, the conditions of approval for the Project require that grading plans must be reviewed and approved by the City prior to issuance of building permits. As the preliminary soil report did not identify conditions that cannot be mitigated through proper design, requiring the applicant to design final grading and retaining walls prior to entitlement is unnecessary and would force City staff to review them prematurely.
Establish a trust fund of \$200,000 to help neighbors restore their interior home temperatures	There is no evidence that interior home temperatures in Oceana will be affected by the Project. As such, no mitigation is justified.

In addition to the measures above not being warranted as mitigation measures under CEQA, they cannot be imposed on the Project as conditions under the Housing Accountability Act because they would have a substantial adverse impact on the viability of the Project and there is no health or safety impact justifying the measures. (Government Code §65589.5(d), (h)(7), and (i).)

### **3. State Density Bonus Law Applicability to Charter Cities**

Oceana alleges that based on Article 5, Section 55 of the City's Charter, State Density Bonus Law should not apply to the Project.

Contrary to Oceana's statement, there is no "home town" rule with respect to Density Bonus Law. State law is clear that State Density Bonus Law applies to charter cities. (Government Code §65918 ["The provisions of this chapter shall apply to charter cities."].)

### **4. Coastline Shared Parking Agreement**

Oceana claims that that the Planning Commission did not consider the Reciprocal Parking Easement between the applicant and Coastline Baptist Church, and did not consider the Religious Land Use and Institutionalized Persons Act (RLUIPA).

As an initial matter, the Agreement for Reciprocal Parking Easement between the applicant and Coastline is a private agreement that the City need not consider in its decision on the Project. Nonetheless, when the City in 2021 processed an Administrative Development Plan and Administrative Conditional Use Permit for Coastline, the City determined that parking at Coastline was in excess of the City's Zoning Code. Further, the Project meets applicable parking requirements with approval of requested Density Bonus Law concessions/waivers. For these reasons, there is no parking issue caused by the Agreement and no RLUIPA violation because the City has not burdened Coastline's religious exercise in any way by approving the Project.

\*\*\*\*\*

The Vista Bella Mixed-use Project has been developed with careful consideration of all relevant standards, community input, and the City of Oceanside's planning requirements. As outlined in our responses, the allegations raised in the appeal lack merit. We respectfully request that the City Council uphold the Planning Commission's approval of the project .



MILLER architectural corporation

Gary Miller

Gary Miller, AIA  
President MILLER Architectural Corporation