

# ***Lompoc City Council Agenda Item***

**CITY COUNCIL MEETING DATE:** July 6, 2010

**TO:** Laurel M. Barcelona, City Administrator

**FROM:** Keith C. Neubert, Principal Planner  
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**SUBJECT:** An appeal, submitted by Shellan Miller of Pacific West Communities, Inc., the applicant, of the Planning Commission determination of June 9, 2010. The Planning Commission denied modifications to an approved Conditional Use Permit (CUP 08-05) for construction of the Cypress Court development consisting of 60 affordable apartment units for seniors and persons with disabilities and approximately 14,493 square feet of commercial space at 1420 East Ocean Avenue (Assessor Parcel Number: 85-150-17).

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## **RECOMMENDATION:**

1. Hold the public hearing;
2. Consider the material presented in the staff report;
3. Take one of the following actions:
  - a. Grant the appeal and approve the proposed modifications to Conditional Use Permit (CUP 08-05) by adopting Resolution No. 5654 (10) approving modifications to Conditional Use Permit (CUP 08-05) including a 21% density bonus, and Resolution No. 5655 (10) approving Vesting Tentative Parcel Map (LOM 586-P); or
  - b. Uphold the Planning Commission decision of June 9, 2010 and deny the project modifications by directing staff to prepare and return with a resolution delineating its findings;
4. Or provide alternate direction.

**BACKGROUND:**

- Dec. 2008                      The City Council changed the General Plan Land Use Designation for the project site to *Office Commercial* (GP 08-02) and the Zoning to *Commercial Office* on the subject property, which allows multi- family housing with a Conditional Use Permit.
- April 7, 2009                      The City Council adopted Resolution No. 5528 (09) approving a Conditional Use Permit (CUP 08-05) including a 35% density bonus request.
- March 29, 2010                      An application was submitted for modifications to the previously approved project.
- June 9, 2010                      The Planning Commission adopted Resolution No. 673 (10) denying proposed modifications to Conditional Use Permit (CUP 08-05).
- June 11, 2010                      An appeal of the Planning Commission action was received from the applicant.

**APPEAL:**

Shellan Miller of Pacific West Communities, Inc., the applicant, has filed a timely appeal requesting that the Council review the Planning Commission action of June 9, 2010 (Attachment No. 1).

The applicant has requested that the Council:

*“Uphold the appeal and approve the revised project: CUP 08-05 and LOM 586-P.”*

In the appeal request, Ms. Miller refers to Government Code Sections 65589.5(d), 65915(b)(1&2), and 65915(d)(2)(C), which are State Housing Code Sections. The referenced sections require the local jurisdiction to grant increased density and concessions to projects that contain affordable components.

Ms. Miller outlines the reasons that she believes the project modifications should be approved under these Sections in her appeal. Due to timing requirements to apply for State funding opportunities, the applicant is requesting City Council approval of the land use entitlements at the July 6, 2010 Council meeting.

## PLANNING COMMISSION ACTION:

On June 9, 2010, the Planning Commission held a duly noticed public hearing to review the requested changes to the project due to a change in the project applicant.

- 1) CUP 08-05 - A Conditional Use Permit, including a 21% density bonus, for sixty (60) affordable apartment units for seniors and persons with disabilities and approximately 14,493 square feet of commercial space; and
- 2) LOM 586-P - A Vesting Tentative Parcel Map for subdivision of an approximately 2.28 acre site to create five (5) commercial condominiums and one (1) residential condominium.

After reviewing the staff report, taking public testimony, and discussing the project with the applicant, the Planning Commission adopted Resolution No. 673 (10) denying the modifications to Conditional Use Permit (CUP 08-05) on a 3-2 vote with Commissioners Free, Hain, Gonzales voting to deny the request. The Planning Commission staff report, signed Resolution, and draft minute excerpts for the June 9 meeting are attached for Council review (Attachments 2, 3, 4).

## ANALYSIS:

The original Ocean Plaza Project approval was for 78 affordable apartment units for seniors and persons with disabilities, including a 33% density bonus, and approximately 17,330 square feet of commercial and office space. The revised project has been reduced in size and density. The applicant is proposing 60 affordable apartments units for seniors and persons with disabilities, including a 21% density bonus, and approximately 14,493 square feet of commercial space. The proposed modifications to the previously approved Conditional Use Permit (CUP 08-05) have been analyzed in the Planning Commission staff report of June 9, 2010 (Attachment No. 2).

The State Legislature has adopted language requiring *that “. . . local governments make a diligent effort through the administration of land use and development controls and the provision of regulatory concessions and incentives to significantly reduce housing developments costs and thereby facilitate the development of affordable housing, including housing for elderly persons and families . . . ”* The Legislature has provided local government with tools to approve specific projects for the benefit of the community when the strict adherence with zoning regulations might require denial of the project. The Cypress Court project, as modified, meets the technical requirements for density bonus and development standard concessions as requested. A specific Density Bonus Agreement would be returned to the City Council for final approval should the project proceed.

**AUTHORITY:**

Section 17.144.030 B 2 of the Zoning Ordinance provides that Council may affirm, deny, or modify the decision of the Planning Commission. The Council may grant the requested land use entitlements based upon the findings of fact outlined in Resolutions 5654 and 5655 (Attachments No. 5 & 6).

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Keith C. Neubert, Principal Planner

**Attachments:**

1. [Notice of Appeal received June 11, 2010](#)
2. [Planning Commission Staff Report dated June 9, 2010](#) (without attachments)
3. [Draft minutes of the June 9, 2010 Planning Commission Meeting](#)
4. [Planning Commission Resolution No. 673 \(10\) – CUP 08-05](#)
5. [City Council Resolution No. 5654 \(10\) – CUP 08-05](#)
6. [City Council Resolution No. 5655 \(10\) – LOM 586-P](#)
7. Site Plan, Elevations, and Map  
(City Council only, available in Planning Division for review)

**APPROVED FOR SUBMITTAL TO THE CITY ADMINISTRATOR:**

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Lucille T. Breese, AICP  
Planning Manager

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Arleen T. Pelster, AICP  
Community Development Director

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Laurel M. Barcelona, City Administrator