


City of Lompoc Community Development Department – Planning Division	
NOTICE OF APPEAL Of Planning Commission Action	

Site address of decision 1420 E. Ocean St. Lompoc, CA  
(Street Number) (Direction) (Street)

Case/Reference Number: CUP 08-05, LOM 586-P

TO: City Council  
City of Lompoc  
100 Civic Center Plaza, PO Box 8001  
Lompoc, CA 93438-8001

In accordance with the provisions of law, I hereby appeal the decision of the Planning Commission on, which was given on June 9 2010

The decision was as follows: PC denied request to revise approved project

The grounds of appeal are: see attached

I request the City Council take the following action: Uphold the appeal and approve the revised project: CUP 08-05 & LOM 586-P

Name of Appellant: Shellan Miller, Pacific West Communities Inc

Address: 430 E. Stutz St. Suite 100 Eagle ID 83616

Telephone Number 208 461 0022 Fax 208 461 0033 E-mail shellanm@tpchousing.com

Was appellant an applicant for, or the subject of, the Commission's decision? If not, state basis for filing appeal as an aggrieved person:

The appellant is the applicant

Fee: See Fee Schedule

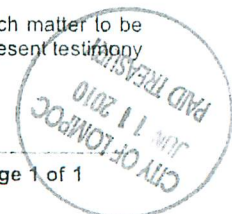
Account No. 40010-46242 City Treasurer  
Stamp here

Shellan Miller  
Signature of Appellant

June 10, 2010  
Date

NOTE: This form must be completed by the appellant in triplicate and filed with the City Clerk of the City of Lompoc not later than 10 calendar days after the date of decision by the Planning Commission.

This appeal will be heard on the date as scheduled, unless it is in the public interest for such matter to be continued to a later date. Testimony will be taken; and failure of the appellant or his representative to present testimony may be cause for denial.



## Basis of Appeal of Planning Commission Denial of CUP 08-05 and LOM 586-P

The proposed project which includes a mix of affordable residential units and commercial development is a State Density Bonus (SDB) Project under Government Code Section 65915. The project includes 59 housing units that will be affordable to very low and low income seniors and one on-site manager's unit. Under State Law when a project provides up to 30% of the units to low income individuals the project is guaranteed a 35% increase in allowed density and three concessions or waiver/modification of development standards [See Sec. 65915 (b)(1&2) and Sec. 65915 (d)(2)(C)].

In addition to the guaranteed density bonus and concessions provided under SDB Law, under the Housing Accountability Act - Govt. Code § 65589.5(d) an agency can only deny a project of this nature and level of affordability if "... one of five possible findings is made, supported by substantial evidence in the record." These findings and an explanation of why they cannot be made are provided below:

1. *The jurisdiction has....met or exceeded its share of the regional housing need allocation (RHNA) pursuant to Section 65584 for the planning period for the income category proposed for the housing development project.*

The City of Lompoc has not met its RHNA allocation for very low and low income senior units.

2. *A "specific, adverse impact" 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 the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.*

An example of a significant public health or safety impact would be: 1) the project is proposed within the floodplain and the lowest floor not sufficiently elevated above the base flood elevation for the area; 2) the building height beyond fire fighting capacity; or 3) the proposed internal streets are too narrow for police and fire access or trash collection. Like the approved Ocean Plaza Project, this proposed revision to that project would not result in a significant public health or safety impact. It should also be noted that a mitigated negative declaration (MND) was approved for the Ocean Plaza Project. The MND found that the project would not have a significant un-mitigable impact on the environment or to public health or public safety. As noted in the June 9, 2010, staff report to the Planning Commission on the Cypress Court project, this proposed revision to the Ocean Plaza Project would only reduce the scope of the development and therefore reduce any potential impacts.

3. *The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without*

*rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.*

There is no State or Federal Law that requires the denial of the project.

4. *The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.*

The project site is zoned for commercial uses and the City of Lompoc's Municipal Code allows for residential uses with a conditional use permit.

5. *The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.*

The proposed development is consistent with the City of Lompoc's General Plan designation and zoning ordinance as they existed at the time the application was deemed complete.

**Conclusion:**

The Planning Commission did not make any discernable findings for denial of the project nor did they cite any one of the findings outlined above. As such, Pacific West Communities, Inc. believes that the Planning Commission's denial of the project is in violation of the State Housing Accountability Act (Govt. Code Sec. 65589.5) and is appealing the Planning Commission decision to the City Council to resolve this matter.