



**Notice of Appeal to the Board of Supervisors
REQUEST FOR FACILITATION**

DATE: JULY 9, 2019
 TO: Rachel Van Mullem, County Counsel
 FROM: David Villalobos, PC Hearing Support *DVV*
 Case Name: Ni Tennis Court
 Case Number: 18CDP-00000-00062, 19APL-00000-00006
 PC Hearing: June 26, 2019
 Appeal Date: July 8, 2019
 Appellant: Po Wang

An appeal to the Board of Supervisors of the Planning Commission's decision on the above case has been filed and will be scheduled for hearing before the Board of Supervisors. A copy of the appeal is attached and a list of the names and addresses of the affected parties are shown below.

Please consult with the case planner in setting facilitation meeting date. Please send a copy of the meeting notification letter to Hearing Support staff of Planning & Development, Attn: David Villalobos at ext. 2058.

- Attachments:
- Appeal to the Board of Supervisors dated July 8, 2019
 - Planning Commission Action Letter dated June 28, 2019
 - Planning Commission Staff Report dated June 18, 2019
 - Planning Commission Staff Memorandum dated June 19, 2019

Names/Addresses of affected parties:

Appellant: Po Wang, 1217 Lomita Lane, Carpinteria, CA 93013; (805) 452-4800
Owner: Wayne Ni, 1221 Lomita Lane, Carpinteria, CA 93013; (805) 745-8600

NOTE TO PLANNERS: County of Santa Barbara procedures provide for an informal consultation meeting among parties involved in land use permit appeals. The consultation meeting occurs after an appeal is filed, and prior to the Board appeal hearing. County Counsel's office will arrange for the meeting.

The purpose of the meeting is to clarify issues pertaining to the appeal, to identify possible solutions, and to notify parties in route of available mediation services which may assist in resolving disagreements. An experienced County meeting facilitator will conduct the meeting, and will prepare a report for meeting participants and the County decision-maker on issues and options identified which may assist resolution of the appeal.

cc: Case File: 18CDP-00000-00062, 19APL-00000-00006
Lisa Plowman, Director, Planning and Development
Jeff Wilson, Assistant Director
Joe Dargel, Supervising Planner
Ciara Ristig, Planner
Records Management
David Villalobos, Hearing Support

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**PLANNING COMMISSION DECISION
 APPEALED TO THE BOARD OF SUPERVISORS
 July 9, 2019**

Case Numbers: 19APL-00000-00006 18CDP-00000-00062 APN: 001-190-036 Area: Carpinteria District: First	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Title:</td> <td>Appeal of Ni Tennis Court</td> </tr> <tr> <td>Applicant:</td> <td>Wayne Ni</td> </tr> <tr> <td>Appealed by:</td> <td>Po Wang</td> </tr> <tr> <td>Date appealed:</td> <td>July 8, 2019; 3:21 P.M.</td> </tr> <tr> <td>Planner:</td> <td>Ciara Ristig x2077</td> </tr> <tr> <td>Supervising Planner:</td> <td>Joe Dargel x3573</td> </tr> </table>	Title:	Appeal of Ni Tennis Court	Applicant:	Wayne Ni	Appealed by:	Po Wang	Date appealed:	July 8, 2019; 3:21 P.M.	Planner:	Ciara Ristig x2077	Supervising Planner:	Joe Dargel x3573
Title:	Appeal of Ni Tennis Court												
Applicant:	Wayne Ni												
Appealed by:	Po Wang												
Date appealed:	July 8, 2019; 3:21 P.M.												
Planner:	Ciara Ristig x2077												
Supervising Planner:	Joe Dargel x3573												
	Planning Commission	Board of Supervisors											
Hearing Dates:	June 26, 2019	Denied the appeal and approved the project.											
Fee Paid:		\$668.06											
APPELLANTS REASON FOR APPEAL: See attached appeal letter FACILITATION: N/A OUTCOME OF BOS HEARING:													

cc: Lisa Plowman, Director
 Jeff Wilson, Assistant Director
 Petra Leyva, Supervising Planner
 Ciara Ristig, Planner
 Records Management
 Accounting
 Joe Dargel
 David Villalobos, Hearing Support



PLANNING & DEVELOPMENT
APPEAL FORM

SITE ADDRESS: 1221 Lomita Lane, Carpinteria, CA 93013

ASSESSOR PARCEL NUMBER: 001-190-036

Are there previous permits/applications? No Yes numbers: 186 RD - 00000 - 00009
(include permit# & lot # if tract)

Is this appeal (potentially) related to cannabis activities? No Yes

Are there previous environmental (CEQA) documents? No Yes numbers: _____

1. Appellant: Po Wang Phone: (805) 452-4800 FAX: _____

Mailing Address: 1217 Lomita Ln., Carpinteria, CA 93013 E-mail: po.wang17@gmail.com
Street City State Zip

2. Owner: Wayne Ni Phone: _____ FAX: _____

Mailing Address: 1221 Lomita Ln., Carpinteria, CA 93013 E-mail: _____
Street City State Zip

3. Agent: _____ Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

4. Attorney: _____ Phone: _____ FAX: _____

Mailing Address: _____ E-mail: _____
Street City State Zip

COUNTY USE ONLY

Case Number: _____ Companion Case Number: _____
Supervisorial District: _____ Submittal Date: _____
Applicable Zoning Ordinance: _____ Receipt Number: _____
Project Planner: _____ Accepted for Processing _____
Zoning Designation: _____ Comp. Plan Designation _____

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Shirley de Guerra 2019 JUL 8 - 8 PM 3:21
7-8-19

COUNTY OF SANTA BARBARA APPEAL TO THE:

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title Ni Tennis Court Appeal

Case No. 19 APL-00000-00006

Date of Action 6/26/2019

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? _____

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and “aggrieved party” as defined on page two of this appeal form:

1. The decision is not supported by the evidences presented for consideration.
2. There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

*Attached please see the letters
as well as supporting evidences from
the aggrieved parties.*

Specific conditions imposed which I wish to appeal are (if applicable):

- a. _____
- b. _____
- c. _____
- d. _____

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

 Po Wang  7/7/19
Print name and sign – Firm Date

Print name and sign – Preparer of this form Date

Print name and sign – Applicant Date

Print name and sign – Agent Date

Print name and sign – Landowner Date

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Dear Board of Supervisors:

On behalf of the aggrieved parties for the approved coastal Development Permit # 18CDP-00000-00009, we would like to appeal the aforementioned permit for the following reasons which present new and significant evidence relevant to the decision:

Inconsistent and unauthorized construction

- During our hearing on June 26, 2019, the Planning Commission echoed our following concerns:
 - Chair Parker:
 - Closing Comments: "Pick up the 2 ft. in elevation with winding around a bit and would have the same result. Little distributed that there wasn't this discussion with neighbors on what we are going to do and making a big change...I join the neighbors that this was done a little haphazard....I don't like this, I don't like the way it came to us, don't like the lack of communication...No, because I don't want to encourage retroactive as built applications to this degree"
 - Vice Chair Brown:
 - "Just a 4 ft wall instead of a 6 ft? With no retaining wall here, doesn't it make the slope more vulnerable to failure in rain events."
 - Closing Comments: "just looking at the map it kind of concerns me. Looks like the whole property has been reshaped here, just for a tennis court. My concern is, is this retaining wall sufficient in the north wall when we get a big huge rain event? I don't know, I don't have a lot of confidence. Glad the neighbors live far away from the wall. Don't know what the 2:1 slope look like. I can not support what they are doing. Three basins here to capture run off and seem quite a lot for this property."
 - Commissioner Blough:
 - "You are telling me you missed this by 1,100 cy from the original permit? I'm having a hard time wrestling with this..huge mistake.
 - Closing Comments: "You had an approved plan and deviated from a great deal! 1,100 cy of additional work was not contemplated when issue is a problem for me. We have a little history of not complying with original permit."
- Based on the past history, Mr. Ni had shown a lack of respect for the County's permitting process either by carrying out construction works prior to obtaining a permit or defiantly deviated from the approved plans. In those occasions, he dismissed his neighbors' concerns for their property safety and neighborhood compatibility. This happened in 2012 when he was forced to apply for a permit to move his gate because the Caprinteria Water District found out that Mr. Ni had knowingly poured concrete over their water pipe when building the footing for their

gate. Before his permit was approved, Mr. Ni began work over the long weekend to move over 600 cy of dirt to raise his gate posts and fence while the County was closed on Monday. Please see my 2012 email to Mr. Tony Bohnett informing him about the repercussion of Mr. Ni not putting in the proper drainage required from his permit. This time, it was no exception. Mr. Ni and his team knew exactly how high and how much dirt he would need when he applied for his original permit 18GDRD-00000-00009, yet he chose to go above and beyond what the permit allowed him to do by raising the height of his entire tennis court and its surrounding areas by an extra 2 to 2.5 feet. This deviation from the original plan was not accidental or inconsequential. Based on the planner's calculations, Mr. Ni would have had to perform an excessive cut and fill by 1050 cy of dirt including importing 500 cy of dirt. This was a drastic change in topography especially when the entire neighborhood is on a septic system which raised the concerns of soil erosion, soil retention, water run-offs, and drainage issues.

Excessive run-off and flooding

- Mr. Ni has made dramatic changes to the topography of his property without considering his neighbors' safety. From the pictures you can see that even with the required silt from Planning and Development, the amount of water and dirt run-off that washed down Mr. McIntyre's property and our property was beyond the basin control of the water from his property.
- He changed the basin structure from two locations, middle of the property and west end of the property, thus increasing the likelihood of excessive run off.
- As a result, you can see the dramatic changes to our community's topography which subsequently affected Mr. McIntyre and our property dramatically earlier this year after the rainfall. The excessive dirt and flooding can be seen in the enclosed pictures, showing the erosion from his unapproved changes and lack of proper soil retention and drainage plan. Though it can be attributed to ceased work, but without sewer draining system even Jane Montague, Ni civil engineer, said for sure the three-basin proposal would definitely stop soil run off since it is the lowest point.

Structures are inconsistent with the local landscape

- Having increased his tennis court from 8 ft to 10 ft elevation from the bottom of the McIntyre's property and the north end of Wang's property, the proposed plan is not at all consistent with the neighborhood topography, neither is adding a 10 ft fence chain link fence on top of the 10 ft high tennis court consistent with the neighborhood character.
- Given the elevation of his tennis court, all that the surrounding neighbors will see is the cement wall and a chain link fence like a prison compound.
- In addition, an extra 15.9 ft grading extension towards the Wang property was not included in the original plan.