



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and
Development
Department No.: 053
For Agenda Of: November 5, 2019
Placement: Set hearing on 11/5/19
for 11/19/19
Estimated Time: 1 hour on 11/19/19
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning & Development
Director: (805) 568-2086
Contact Info: Jeff Wilson, Assistant Director, Planning & Development
(805) 568-2085
SUBJECT: Residents for Orcutt Sensible Growth Appeal of the Orcutt Gateway Retail
Commercial Center (Key Site 2) Project, Fourth Supervisorial District

County Counsel Concurrence

As to form: Yes
Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On November 5, 2019, set a hearing for November 19, 2019 to consider the appeal of the Planning Commission's August 14, 2019 approval of the Orcutt Gateway Retail Commercial Center (Key Site 2) project, Case Nos. 16TPM-00000-00001, 16DVP-00000-00009, 16CUP-00000-00007, 16CUP-00000-00018, and 16OSP-00000-00002.

On November 19, 2019, staff recommends that your Board take the following actions:

- a) Deny the appeal, Case No. 19APL-00000-00027;
- b) Make the required findings for approval specified in Attachment 1 of this board letter, including CEQA findings;
- c) After considering the environmental review documents [Addendum dated July 15, 2019 (included as Attachment 3)] together with the previously certified Final EIR included as Attachment 4], determine that as reflected in the CEQA findings, no subsequent Environmental Impact Report shall be prepared for this project;

- d) Grant *de novo* approval of Case No. 16TPM-00000-00001 subject to the conditions included as Attachment 2.1 of this board letter;
- e) Grant *de novo* approval of Case No. 16DVP-00000-00009, including a modification to the setback requirements, to develop a new retail commercial center subject to the conditions included as Attachment 2.2 of this board letter;
- f) Grant *de novo* approval of Case No. 16CUP-00000-00017 allowing for a drive-through fast food restaurant on proposed Parcel 2 subject to the conditions included as Attachment 2.3 of this board letter;
- g) Grant *de novo* approval of Case No. 16CUP-00000-00018 allowing for a mechanical carwash on proposed Parcel 4 subject to the conditions included as Attachment 2.4 of this board letter;
- h) Grant *de novo* approval of Case No. 16OSP-00000-00002 for an Overall Sign Plan, including a modification to the number and size of wall signs and to the design of the freestanding sign, subject to the conditions included as Attachment 2.5 of this board letter.

The project site is identified as Assessor Parcel Number 129-280-001, located on a 5.95 gross acre portion of Key Site 2 at the southwest corner of the Highway 101 and Clark Avenue intersection in the Orcutt Community Plan area, Fourth Supervisorial District.

Summary Text:

Project Description

The proposed Orcutt Gateway Retail Commercial Center project includes a request for the approval of a Tentative Parcel Map, Development Plan, two Conditional Use Permits and an Overall Sign Plan to subdivide a 5.95-acre portion of Key Site 2 in the Orcutt Community Plan area into 4 parcels, and to develop the site with a new 49,921 sq. ft. retail commercial center including a new grocery store, gas station, drive-through restaurant and retail commercial building space. Please refer to Condition No. 1 in Attachments 2.1 through 2.5 to this board letter for a detailed project description.

Background

On August 14, 2019, the Planning Commission approved the Orcutt Gateway Retail Commercial Center Project. As part of their approval, the Planning Commission found the proposed project to be in conformance with applicable Santa Barbara County Comprehensive Plan and Orcutt Community Plan Policies and Development Standards as well as the Santa Barbara County Land Use and Development Code zoning requirements. These policies, development standards, and zoning requirements are discussed in detail in the Planning Commission staff report, dated July 25, 2019 (Attachment 6). In their decision to approve the project, the Planning Commission weighed all of the evidence presented to them, including public testimony by all parties and review of all materials.

Appellant Appeal Issues and Staff Responses

On August 22, 2019, the appellant's attorney filed a timely appeal of the Planning Commission's August 14, 2019 decision to approve the project. The appeal application (Attachment 7), contains a letter summarizing the issues raised in the appeal, which focuses on concerns related to traffic/circulation, air quality, and safety. These issues and staff's responses are summarized below.

Appeal Issue #1: Traffic/Circulation

- a) **Issue 1a.:** The appellant states that the Orcutt Community Plan Environmental Impact Report, 95-EIR-01, as amended by the Addendum, dated July 15, 2019, fails to adequately consider significant traffic/circulation impacts from the proposed project to local residents. The appellant states that peak-hour commute times will be permanently increased throughout the area if the project is developed as currently approved. The appellant references the proposed project on Key Site 1 to the north as a contributing concern to traffic/circulation impacts.

Staff Response: The Orcutt Community Plan Environmental Impact Report (95-EIR-01, Attachment 4) analyzed the potential impacts to traffic resulting from the future development of 283,500 sq. ft. of commercial development on the entirety of Key Site 2, which is approximately 18-acres in size. A Traffic and Circulation Study (Associated Transportation Engineers, March 27, 2019) was completed for the proposed project, which includes 42,921 sq. ft. of commercial development on 5.95-acres of Key Site 2. The traffic analysis completed for the proposed project indicates that the level of impacts to traffic resulting from the proposed project are anticipated to be at the same or less levels than the analysis completed in the OCP EIR (95-EIR-01). This includes impacts resulting from full-build-out of the OCP (including the surrounding Key Sites 1, 3 and 4 projects), the remainder portions of Key Site 2, as well as cumulative impacts.

The proposed project will share access with the Key Site 4 project located directly to the west. The Key Site 4 retail commercial project has been approved by the County and is under construction. The analysis completed in the traffic study assumes that both the Key Site 2 and Key Site 4 projects are constructed and operational. The roadway volumes under this scenario show that the study-area roadways are forecasted to carry volumes within their acceptable capacity ratings. The proposed project would not significantly impact the study-area roadway segments, and intersections would continue to operate at the County's Level of Service (LOS) C standard.

The traffic generated by both approved and pending projects was added to the existing traffic volumes to develop a cumulative traffic volume forecast for projects located within the Orcutt Community Plan area. The results of this study indicate that roadways are forecasted to carry volumes within their acceptable capacity ratings under the cumulative plus project traffic conditions and would therefore not generate significant cumulative impacts to study-area roadway segments. A full build-out analysis was completed assuming the development of the remainder portions of Key Site 1 and Key Site 2 which were not included in the cumulative analysis. The analysis confirms that the current improvement designs proposed for the new Clark Avenue/Key Site 1/2 intersection would operate in the LOS B-C range and will accommodate future volumes with full build-out of Key Sites 1-4.

- b) **Issue 1b.:** The appellant states that Sunny Hills Mobile Home Park residents will be forced to make right-turns only out of their mobile home park to and from Clark Avenue for an unknown duration of time during construction of the project, and that this will create traffic circulation issues due to residents being forced to make u-turns to access the Sunny Hills Mobile Home Park when traveling west from Highway 101.

Staff Response: There are two existing mobile home parks located adjacent to the project site. The Town and Country Mobile Home Park is located directly south of the project site. Access to this Mobile Home Park is provided from Stillwell Road located west of the project site to an existing signalized intersection at Clark Avenue. No changes to the Town and Country Mobile Home Park access are proposed. The Sunny Hills Mobile Home Park is located southeast of the project site. Access to this Mobile Home Park is provided from Clark Avenue via an existing unnamed access road that is located on the adjacent parcel to the east of the project site. In accordance with the requirements of Orcutt Community Plan Development Standard KS2-4, primary access to the project site is proposed from a new signalized intersection from Clark Avenue located at the “preferred access point” shown on Orcutt Community Plan Figure KS2-1 (Attachment 3). The design of the new signalized intersection is included on sheet A1.1 of the project plans (Attachment 9). Residents living in the Sunny Hills Mobile Home Park will be able to make left-turns on to Clark Avenue through the new signalized intersection. The existing unnamed Sunny Hills Mobile Home Park access road will be restricted to right-turns in/out following the completion of the new signalized intersection and roadway improvements including the landscaped center median that will be installed on Clark Avenue fronting the project site.

- c) **Issue 1c.:** The appellant states that there is no indication that any precautions have been made by the developer to protect area residents from property damage and injury that may result from the changes to ingress/egress, general travel throughout the area, and large construction vehicles moving through the area.

Staff Response: In order to protect adjacent property owners in the Town and Country Mobile Home Park located to the south of the project site from noise, dust, and ongoing construction related activities, the project includes the construction of an 8-ft. tall CMU block wall along the entire rear property line. This wall would be constructed at the start of the grading phase of the project and would remain in place after the project has been completed. In addition, the project is conditioned (Condition No. 1, Attachment 2.2) to restrict construction vehicles from being parked or stored on the Sunny Hills Mobile Home Park access road. Construction equipment will enter and exit the site from the new access road on the Key Site 4 project site to the west and will utilize the new intersection through the site once it is completed. As discussed in appeal issue 1b, above, the Sunny Hills Mobile Home Park access road will remain open and accessible during grading and construction activities and will only be restricted to a right turn-in/out design once the proposed new intersection through the project site is constructed and operational. Residents living in the Sunny Hills Mobile Home Park will be able to make left turns out to Clark Avenue through the proposed new signalized intersection. The design of the new signalized intersection is included on sheet A1.1 of the project plans (Attachment 9).

- d) **Issue 1d.:** The appellant references the Orcutt Marketplace Project located on Key Site 1 to the north of the site which is currently under review, and states that the proposed driveway between the two sites do not line up, and there is no indication that Clark Avenue will be safe and fully navigable due to the staggered improvement schedule of the two projects. The appellant states that traffic patterns and commute times in the area will be negatively impacted by the Key Site 1 project. Concerns are also discussed regarding the different stages of entitlements between the Key Site 1 and Key Site 2 projects and states that the permitting process has been rushed and disjointed and that the public's concerns regarding the planning and entitlement process has not been properly taken into account.

Staff Response: The permit applications for the Orcutt Marketplace Project proposed on Key Site 1 located to the north of the project site are currently under review and have not been approved. The two projects are under separate ownership and are not required to be processed and approved concurrently. However, in accordance with required Orcutt Community Plan Development Standards DevStd KS2-1, and DevStd KS2-12, the developers for the Key Site 1 and Key Site 2 projects have coordinated the intersection alignment and engineered the design of the intersection to be acceptable to Santa Barbara County Public Works Department requirements. The final engineered design of the new intersection will be reviewed and approved by the Public Works Department prior to construction.

In response to concerns raised by neighboring property owners during the initial review of the project regarding safety, noise, and air quality, the applicant revised the project's design to include the construction of an 8-ft. tall CMU block wall along the rear property line, and eliminated vehicular access to the rear of the grocery store building. The loading and unloading docks were relocated along the sides of the proposed grocery store building away from adjacent residences. These revisions were presented and discussed at two North Board of Architectural Review (NBAR) public hearings held on September 23, 2016 and September 28, 2018 as well as at the August 14, 2019 Planning Commission hearing when the project was approved.

With respect to concerns regarding site access and traffic flow, the existing Sunny Hills Mobile Home Park access road would be maintained with a right-turn in/out design that does not conflict with turning movements associated with the new intersection design (Attachment 9, sheet A1.1). As discussed in appeal issue 1a above, the traffic analysis completed for the proposed project indicates that the level of impacts to traffic resulting from the proposed project are anticipated to be at the same or less levels than the analysis completed in the OCP EIR (95-EIR-01). This includes impacts resulting from full-build-out of the OCP (including the surrounding Key Sites 1, 3 and 4 projects), the remainder portions of Key Site 2, as well as cumulative impacts.

Appeal Issue #2: Air Quality

- a) **Issue 2a.:** The appellant states that the Orcutt Community Plan Environmental Impact Report, 95-EIR-01, as amended by the Addendum, dated July 15, 2019, fails to adequately consider significant air quality impacts from the proposed project to local residents. The appellant states that the increase in dust, soot, exhaust, fumes and other particulate matter from prolonged construction activities associated with Key Sites 1 and 2 and additional vehicles will create negative health impacts on the residents of Sunny Hills Mobile Home Park, and other area residents who are sensitive receptors.

Staff Response: The Orcutt Community Plan EIR (Section 5.11, Air Quality) analyzed the short-term (construction-related) and substantial long-term (primarily from motor vehicles) emissions resulting from full build-out of the Orcutt Community Plan, including a maximum of 283,500 sq. ft. of structural development on Key Site 2. In order to mitigate potential impacts associated with construction related emissions and the deposition of wind-borne sediment on adjacent properties and roadways, the project is conditioned (Condition Nos. 49, 77 of Attachment 2.2) to implement dust control measures. These measures include the use of water trucks or sprinklers to keep all areas damp enough to prevent dust from leaving the site, to minimize the amount of disturbed area, and reduce on-site vehicle speeds to 15 miles per hour or less. Stockpiled soil is required to be covered or treated with soil binders to prevent dust generation, and graded areas are required to be watered, revegetated or a soil binder applied until the area is paved or otherwise developed. The applicant is required to designate a person(s) to monitor the dust control program to prevent the transport of dust off the site. These conditions are required to be adhered to throughout all grading and construction periods and any nuisance complaints would be immediately responded to by P&D permit compliance staff. As detailed in the Addendum to the Orcutt Community Plan, dated July 15, 2019 (Attachment 3), project emissions would not exceed the County's thresholds.

The Santa Barbara County Air Pollution Control District (APCD) has reviewed the proposed project and has issued a condition letter that requires contractors to obtain required permits from APCD, and comply with California Air Resource Board (CARB) and off-road diesel fueled fleets regulations. These requirements will be included on grading/building plans and adhered to throughout all grading and construction periods.

- b) **Issue 2b.:** The appellant states that approving a 15-ft. reduction in the required 25-ft. setback is not justified as the height of the building will block sunlight and airflow to the adjacent mobile homes which may increase the residents cost of utilities and potentially expose them to increased pollution in the area.

Staff Response: The proposed grocery store and retail commercial buildings would be located to the north of the Town and Country Mobile Home Park. The proposed project includes a request for a modification pursuant to LUDC section 35.82.080.H for a 15 ft. reduction in the 25 ft. rear yard setback to allow the proposed structural development on this parcel to be located 10 ft. from the rear property line. LUDC section 35.82.080.H states that the review authority may modify setback distances when they find that the modification is justified. In their decision to approve the project, the Planning Commission found the requested setback reduction to be justified and it was approved. The reduced amount of space between the proposed buildings on proposed parcel 1 and the Town and Country Mobile Home Park does not allow for vehicle or pedestrian access to this area which will buffer residents from vehicle noise associated with loading and unloading operations and vehicle air emissions. The area is proposed to be landscaped with trees and shrubs and a new 8-ft. tall CMU block wall is proposed to be constructed along the rear property line between the existing mobile home park and the proposed project site. The buildings are oriented so that they will not block the adjacent residents from eastern and southern sun exposure or westerly airflow. As discussed in appeal issue 2a above, the proposed project is conditioned to implement measures to minimize construction-related emissions and wind-borne sediment deposition. As discussed in the Addendum to the OCP EIR dated July 15, 2019 (Attachment 3), the long-term emissions from the project would not exceed the County's thresholds.

- c) **Issue 2c.:** The appellant states that the construction of the gas station will increase poor air quality and soil contamination during construction activities. The appellant also states that residents living nearby will be negatively impacted by known carcinogens that will be pumped into underground tanks, as well as exhaust and fumes created by cars using the gas station and that this may negatively affect the water table in addition to the health of nearby residents.

Staff Response: The proposed gasoline pumps would be located approximately 325 feet north of the property line of the Town and Country Mobile Home Park and approximately 545 feet southeast of the property line of the nearest single family residence to the north of the project site. According to the *Air Quality and Land Use Handbook: A Community Health Perspective* (California Environmental Protection Agency, California Air Resources Board, 2005), a 50 foot separation is recommended for typical gas dispensing facilities such as the proposed project which would have a throughput of up to 3.6 million gallons per year. The location of the proposed gasoline pumps exceeds the recommended 50 foot separation.

The proposed gasoline dispensing facility would be subject to APCD and Environmental Health Services (EHS) permitting requirements. Prior to building permit issuance, an APCD Authority to Construct (ATC) permit must be obtained for the proposed gas station facility, and a Health Risk Assessment would be required. The Certified Unified Program Agency (CUPA) section of EHS is responsible for the enforcement and administration of underground fuel storage tanks. The project is conditioned (Condition No. 77, Attachment 2.2) to require the applicant to contact CUPA and obtain all required permits. Underground storage tanks in Santa Barbara County must conform to California Health and Safety Code requirements and are required to be designed with an underground storage tank leak detection system. The fuel dispensing area is required to be covered, and any storm water run-off directed away from the fuel dispensing area to prevent drainage across the fueling area (Condition No. 44, Attachment 2.2). The project is conditioned (Condition No. 77, Attachment 2.2) that prior to zoning clearance issuance the required APCD, Regional Water Quality Control Board, and Fire Department requirements are noted on the grading and building plans and a sign-off from these Departments is required to ensure that all required permits have been obtained. As discussed in appeal issue 2a above, the proposed project is conditioned to implement measures to minimize construction-related emissions and wind-borne sediment deposition. The long-term emissions from the project would not exceed the County's thresholds.

Appeal Issue #3: Safety.

- a) **Issue 3a.:** The appellant states that detergents, waxes and other chemicals used by the carwash will be rinsed away and may flow into the ground, eventually reaching the water table and that this will have deleterious effects on nearby residents.

Staff Response: The proposed carwash will utilize a reverse osmosis water system that is designed to treat and filter recovered wash water. In addition, the project is conditioned (Condition Nos. 34, 37, 39, Attachment 2.2) to require the construction of a biofiltration system to treat stormwater runoff onsite. All vehicle/equipment washing/steam cleaning areas must be self-contained or covered, equipped with a clarifier or other pretreatment facility, and properly connected to a sanitary sewer or other appropriately permitted disposal facility.

- b) **Issue 3b.:** In their appeal letter, the appellant states that no provisions have been made to keep people from walking behind the grocery store building undetected on proposed parcel 1, and that this creates an opportunity for a homeless enclave to develop, and additional opportunities for criminal activities like drug use, prostitution, gang violence and other nefarious activities to occur.

Staff Response: In response to this concern, the applicant has revised the project description for the Development Plan (Condition No. 1, Attachment 2.2), to include the following wording:

The rear area of the building behind the proposed grocery store and retail commercial building will be gated and locked to prevent unauthorized access.

The gates will remain locked at all times and will only be accessible by the owner or tenant of the property.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$9,665.20 (40 hours of staff time). The costs for processing appeals are partially offset by a fixed appeal fee and General Fund subsidy in Planning and Development's adopted budget. The fixed appeal fee was paid by the appellant in the amount of \$685.06. Funding for processing this appeal is budgeted in the Planning and Development Permitting Budget Program, as shown on page D-269 of the adopted 2019-20 Fiscal Year budget.

Special Instructions:

The Clerk of the Board shall fulfill all noticing requirements. The notice shall appear in the Santa Maria Times and mailed to neighboring property owners (labels attached). A minute order of the hearing and copy of the notice and proof of publication shall be forwarded to the Planning and Development Department, Hearing Support, Attention: David Villalobos.

Attachments:

1. Board of Supervisors Findings
2. Board of Supervisors Conditions of Approval:
 - 2.1 – Tentative Parcel Map; 16TPM-00000-00001
 - 2.2 – Final Development Plan; 16DVP-00000-00009
 - 2.3 – Conditional Use Permit; 16CUP-00000-00017
 - 2.4 – Conditional Use Permit; 16CUP-00000-00018
 - 2.5 – Overall Sign Plan; 16OSP-00000-00002
3. CEQA Addendum to 95-EIR-01 dated July 15, 2019
4. Orcutt Community Plan EIR (95-EIR-01):
<https://cosantabarbara.app.box.com/s/r2fr8dq9fgxa7shv8xykxfym5p1mas90>
5. Planning Commission Action Letter, dated August 19, 2019
6. Planning Commission Staff Report, dated July 25, 2019
7. Appeal Application to the Board of Supervisors
8. Project Plans

Authored by:

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