

ATTACHMENT 2.3: CONDITIONS OF APPROVAL

Orcutt Gateway Retail Commercial Center Conditional Use Permit

Case No. 16CUP-00000-00017

Date: November 19, 2019

I. PROJECT DESCRIPTION

- 1. Proj Des-01 Project Description.** This Conditional Use Permit is based upon and limited to compliance with the project description, the hearing exhibits marked A-G, dated August 14, 2019, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations.

The project description is as follows:

The project is for a Conditional Use Permit to allow for the operation of a drive-through fast food restaurant on proposed parcel 2. The drive-through would allow for space for the stacking of ten cars. Access to the drive-through would be provided from Clark Avenue via the proposed new signalized intersection. Grading and associated infrastructure improvements would be permitted under the companion Development Plan, Case No. 16CUP-00000-00009.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

- 2. Proj Des-02 Project Conformity.** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

II. MITIGATION MEASURES FROM ADDENDUM TO 95-EIR-01

- 3. Mitigation KS2-VIS-7:** To the extent feasible, overall project design, architecture, landscaping and signage shall be suited for a semi-rural community.

Plan Requirement and Timing: The applicant shall submit architectural drawings and landscape plans of the project for review and approval by the Board of Architectural Review prior to Zoning Clearance. Materials shall be denoted on building plans. Structures shall be painted prior to occupancy clearance.

Monitoring: P&D shall inspect structures and landscaping prior to occupancy clearance.

4. Mitigation KS2-VIS-8: All night lighting shall be hooded and shielded away from surrounding residential areas, Highway 101, and Clark Avenue. Night lighting fixtures adjacent to residential areas shall be of a minimum height and intensity required for security/safety. The owner/applicant shall develop a Lighting Plan which shall incorporate the following elements:

- a. Wall and pole mounted lighting fixtures throughout the entire project area shall be consistent with the architectural theme and character.
- b. Lighting levels shall be kept to a minimum to provide for safety and building identity. Permanent fixtures that illuminate entire tree canopies are prohibited.
- c. All parking light fixtures shall be a maximum of 25 feet high. Pole supports shall have a dark finish to reduce glare.
- d. Building may have wall mounted light fixtures placed no higher than 16 feet high. Pole mounted pedestrian walkway lighting fixtures shall be no taller than 12 feet high. The use of low bollard lights and step lights shall be used wherever possible.
- e. Parking lot lighting shall be automatically phased down to 20% of normal brightness by 10:00 p.m.
- f. All exterior lighting fixtures shall be hooded and designed to direct light downward.

Plan Requirements and Timing: The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the BAR prior to Zoning Clearance approval for the first structure.

MONITORING: Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

III. COUNTY RULES AND REGULATIONS/LEGAL REQUIREMENTS

5. Rules-01 Effective Date-Not Appealable to CCC. This Conditional Use Permit shall become effective upon the date of the expiration of the applicable appeal period provided an appeal has not been filed. If an appeal has been filed, the planning permit shall not be deemed effective until final action by the final review authority on the appeal. No

entitlement for the use or development shall be granted before the effective date of the planning permit. [LUDC §35.82.020].

- 6. Rules-03 Additional Permits Required.** The use and/or construction of any structures or improvements authorized by this approval shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.
- 7. Rules-05 Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.
- 8. Rules-08 Sale of Site.** The project site and any portions thereof shall be sold, leased or financed in compliance with the exhibit(s), project description and the conditions of approval including all related covenants and agreements.
- 9. Rules-12 CUP Expiration.** The Owner/Applicant shall obtain the required Zoning Clearance within the 5 years following the effective date of this Conditional Use Permit. If the required Zoning Clearance is not issued within the 5 years following the effective date of this Conditional Use Permit, or within such extended period of time as may be authorized in compliance with Section 35.84.030 of the Land Use and Development Code, and an application for an extension has not been submitted to the Planning and Development Department, then the Conditional Use Permit shall be considered void and of no further effect.
- 10. Rules-18 CUP and DVP Revisions.** The approval by the Board of Supervisors of a revised Final Development Plan shall automatically supersede any previously approved Final Development Plan upon the effective date of the revised permit.
- 11. Rules-29 Other Dept Conditions.** Compliance with Departmental/Division letters required as follows:
 - a. Air Pollution Control District dated July 17, 2019;
 - b. Environmental Health Services Division dated May 22, 2019;
 - c. Fire Department dated November 5, 2018;
 - d. Flood Control Water Agency dated September 1, 2016;
 - e. Public Works Department Project Clean Water dated May 21, 2019
 - f. Community Services Department dated June 21, 2019;
 - g. Transportation Division dated July 9, 2019.

- 12. Rules-30 Plans Requirements.** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 13. Rules-31 Mitigation Monitoring Required.** The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:
- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;
 - b. Sign a separate Agreement to Pay for compliance monitoring costs and remit a security deposit prior to approval of zoning clearance as authorized by ordinance and fee schedules. Compliance monitoring costs will be invoiced monthly and may include costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute. Monthly invoices shall be paid by the due date noted on the invoice;
 - c. Note the following on each page of grading and building plans “This project is subject to Mitigation and Condition Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval, and mitigation measures from the Addendum to 95-EIR-01”;
 - d. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.
- 14. Rules-32 Contractor and Subcontractor Notification.** The Owner/Applicant shall ensure that potential contractors are aware of County requirements. Owner / Applicant shall notify all contractors and subcontractors in writing of the site rules, restrictions, and Conditions of Approval and submit a copy of the notice to P&D compliance monitoring staff.
- 15. Rules-33 Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void,

or annul, in whole or in part, the County's approval of this project. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

- 16. Rules-37 Time Extensions-All Projects.** The Owner / Applicant may request a time extension prior to the expiration of the permit or entitlement for development. The review authority with jurisdiction over the project may, upon good cause shown, grant a time extension in compliance with County rules and regulations, which include reflecting changed circumstances and ensuring compliance with CEQA. If the Owner / Applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.