



COUNTY OF SANTA BARBARA

Planning and Development

2019 AUG 22 PM 4:08 @sbcountyplanning.org

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Appeal to the Board of Supervisors or Planning Commission (County or Montecito)

APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL) on the issuance, revocation, or modification of:

- All Discretionary projects heard by one of the Planning Commissions
- Board of Architectural Review decisions
- Coastal Development Permit decisions
- Land Use Permit decisions
- Planning & Development Director's decisions
- Zoning Administrator's decisions

THIS PACKAGE CONTAINS _____

- ✓ APPLICATION FORM
- ✓ SUBMITTAL REQUIREMENTS

AND, IF ✓'D, ALSO CONTAINS _____

South County Office 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	North County Office 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	Clerk of the Board 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax : (805) 568-2249
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SUBMITTAL REQUIREMENTS

_____ 8 Copies of the attached application.

_____ 8 Copies of a written explanation of the appeal including:

- If you are not the applicant, an explanation of how you are an “**aggrieved party**” (“Any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either.”);
- A clear, complete and concise statement of the **reasons or grounds for appeal**:
 - Why the decision or determination is consistent with the provisions and purposes of the County’s Zoning Ordinances or other applicable law; or
 - There was error or abuse of discretion;
 - The decision is not supported by the evidence presented for consideration;
 - There was a lack of a fair and impartial hearing; or
 - There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

_____ 1 Check payable to County of Santa Barbara.

Note: There are additional requirements for certain appeals including:

- a. **Appeals regarding a previously approved discretionary permit** – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) How the discretionary permit’s conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed; 3) How the approval is inconsistent with Section 35.106 (Noticing).
- b. **Appeals regarding Residential Second Units (RSUs)** – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).



PLANNING & DEVELOPMENT
APPEAL FORM

SITE ADDRESS: Key Site 2 of the Orcutt Community Plan for Orcutt, California

PARCEL NUMBER: APN 129-280-001; APN 129-280-003 and APN 129-280-004

Are there previous permits/applications? [X]no []yes numbers: (include permit# & lot # if tract)

Is this appeal (potentially) related to cannabis activities? [X]no []yes

Are there previous environmental (CEQA) documents? []no [X]yes numbers: 95-EIR-01 and Amendment, dated as of July 15, 2019

1. Appellant: Residents for Orcutt Sensible Growth Phone: FAX:

Mailing Address: 633 W. 5th Street, 28th Floor, Los Angeles, CA 90071 E-mail: tfinney@falawyers.com
Street City State Zip

2. Owner: Phone: FAX:

Mailing Address: E-mail:
Street City State Zip

3. Agent: Phone: FAX:

Mailing Address: E-mail:
Street City State Zip

4. Attorney: Tal C. Finney, Esq. Phone: (310) 729-7266 FAX:

Mailing Address: FINNEY ARNOLD LLP 633 W. 5th Street, 28th Floor, Los Angeles, CA 90071
Street City State Zip

E-mail tfinney@falawyers.com

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 APPEAL TO THE:

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title Orcutt Gateway Retail Commercial Center

Case Nos. 16TPM-00000-00001/TPM 14,824, 16DVP-00000-00009, 16CUP-00000-00017, 16CUP-00000-00018, and 16OSP-00000-00002

Date of Action August 14, 1019

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? Santa Barbara Planning 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:

Residents for Orcutt Sensible Growth is an unincorporated association of local residents that will be greatly negatively impacted by the development of the Orcutt Gateway Retail Commercial Center as it has been approved.

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.

The decision is not supported by the evidence presented for consideration. Residents for Orcutt Sensible Growth is an unincorporated association of local residents that will be greatly negatively impacted by the development of the Orcutt Gateway Retail Commercial Center as it has been approved. Several issues related to the development present themselves for reconsideration, including the following:

The Environmental Impact Report, 95-EIR-01, as amended by the Addendum, dated as of July 15, 2019, fails to adequately consider several types of significant negative environmental impact to local residents, including traffic/circulation, air quality and greenhouse gas emissions as well as safety issues.

Traffic: As a threshold matter morning, afternoon and other peak-hour commute times will be permanently greatly increased throughout the area if the project is developed as currently approved (particularly if the densely packed Key Site 1 is eventually approved).

Key Site 2 is located directly adjacent to the Sunny Hills Mobile Home Park, which will be seriously negatively impacted by the development in several ways. Firstly, prior to construction, during construction, and for an unknown period of time thereafter, 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. This will make ingress and egress to and from the property onerous by creating a situation where residents who are coming from the direction of the 101 freeway will be forced to drive several blocks out of their way to make a U-turn to get back to Sunny Hills Mobile Home Park. The need to make a U-turn in traffic increases the risk that a major traffic accident will occur. The more often residents make that U-turn, the greater the probability that a major accident will occur. This situation will persist for an unknown period of time.

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 this unwelcome change to their ingress and egress, and during general travel throughout the area, because of the extended presence of large construction vehicles in the area that are moving massive amounts of earth and rock. As previously stated, there is no indication of when this change to the residents' ingress, egress and general travel access will be made. More importantly, as noted above, there is no indication of how long this situation will persist.

Key Site 2 is located across Clark Avenue from Key Site 1. The two sites are eventually supposed to be connected via a private driveway. However, at this time, the two site plans show the driveways not matching up. Residents in the area are being told to just "trust" that the situation will be rectified without causing even further congestion and uncertainty in the area. Indeed, the developer of Key Site 2 is only responsible for making improvements to the yellow line in the center of Clark Avenue. The developer of Key Site 1 (whoever that may eventually be) will be responsible for making the improvements from the yellow line in the center of Clark Avenue to the edge of Key Site 1. There is no indication that Clark Avenue will be safe and fully navigable during the span of these two developments, or that a dangerous situation will not occur due to the staggered improvement schedule along Clark Avenue.

The plans for Key Site 1 present additional worries for the Residents for Orcutt Sensible Growth because this multi-use complex is slated to include a very densely packed residential area. Key Site 1 is in early phases of public review and hasn't been presented to the public for comments yet. This

planned use will create the most densely packed residential/commercial area of Orcutt. Traffic patterns and commute times in the area will be greatly negatively impacted.

The fact that Key Site 1 and Key Site 2 are in such different stages of entitlements approval is extremely concerning to the Residents for Orcutt Sensible Growth. The permitting process has been rushed and disjointed. The public's concerns regarding the planning and entitlements process has not been properly taken into account.

Air Quality: Key Site 2 is located directly adjacent to the Sunny Hills Mobile Home Park. Many of the residents there are older and/or are otherwise considered to be sensitive receptors. The dust, soot, exhaust, fumes and other particulate matter that will necessarily increase due to large construction vehicles, and further due to permanently increased traffic in the area, will create negative health impacts on the residents of Sunny Hills Mobile Home Park, and other area residents, who are sensitive receptors.

Additionally, while it is admirable that the County and the developer sought to reduce noise and traffic from the loading dock of the building to be erected, the choice to approve a 15-foot reduction of the required 25-foot rear yard setback to just 10 feet is not justified. Several problems are created by this reduction in space.

The presence of a building that is taller than the homes in Sunny Hills Mobile Home Park will block sunlight and airflow, which may increase the residents' cost of utilities and will potentially worsen the effects on them of the increased pollution in the area.

The area's air quality is certain to be negatively impacted by the planned construction, which between Key Site 2, and the later construction of Key Site 1, will create negative impacts for area residents for an unknown period of time (at least 2 to 3 years given the size of the development projects). Sensitive receptors may experience prolonged and significant impacts to their health.

These negative health effects on area residents will be exacerbated by the construction of a 12-pump gas station as part of Key Site 2. Not only will this increase poor air quality and soil contamination during construction, but nearby residents will be permanently 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. This may negatively affect the water table in addition to the health of nearby residents.

Additionally, detergents, waxes and other chemicals used by the car wash will be rinsed away, and may flow into the ground, eventually reaching the water table. This will have deleterious effects on nearby residents.

Safety: Although the findings of the Santa Barbara County Planning Commission stated that no cars will be able to drive behind the building to be erected on Parcel 1, of Site 2, no provisions have been made to ensure that no one can walk back there undetected. 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.

The proximity of homes just over the fence in the Sunny Hills Mobile Home Park presents an opportunity for criminals to victimize these residents under cover of a building that shields such criminals from the eyes of security and the police.

The significant issues raised, above, and the failure of the Santa Barbara County Planning Commission (Planning Commission) to comprehensively consider the issues presented by Key Site 1 and Key Site 2, and public concerns in relation to these issues, require the Santa Barbara County Board of Supervisors to reverse the Planning Commission's approval of Case Numbers 16TPM-00000-00001/TPM 14,824, 16DVP-00000-00009, 16CUP-00000-00017, 16CUP-00000-00018, and 16OSP-00000-00002, and to reopen the matter for further public comments.

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

- a. The Addendum, dated as of July 15, 2019
- b. The previously certified Environmental Impact Report, 95-EIR-01
- c. Case No. 16TPM-00000-00001/TPM 14,824
- d. Case No. 16DVP-00000-00009
- e. Case No. 16CUP-00000-00017
- f. Case No. 16CUP-00000-00018
- g. Case No. 16OSP-00000-00002

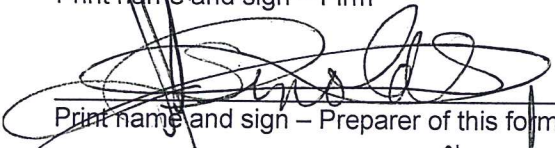
Please include any other information you feel is relevant to this application.

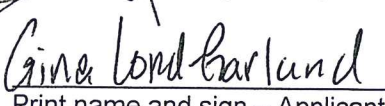
CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

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.

	Tal C. Finney, Esq. Of, FINNEY ARNOLD LLP	August 22, 2019
Print name and sign – Firm		Date

	Shaune B. Arnold, Esq., Of FINNEY ARNOLD LLP	August 22, 2019
Print name and sign – Preparer of this form		Date

	Residents of Orcutt Sensible Growth	August 23, 2019
Print name and sign – Applicant		Date

Print name and sign – Agent	Date

Print name and sign – Landowner	Date