

SANTA BARBARA COUNTY PLANNING COMMISSION
Staff Report for Stoltey Appeal of Director's Decision that the Richards Ranch, LLC,
Application is Incomplete

Hearing Date: March 19, 2025

Staff Report Date: March 11, 2025

Case Nos.: 24TRM-00003, 24DVP-00018, and
24CUP-00033

Deputy Director: Travis Seawards

Division: Development Review

Supervising Planner: Gwen Beyeler

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OWNER/APPLICANT:

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Richards Ranch, LLC
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AGENT:

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This site is identified at Assessor's Parcel Nos. 107-250-019, -020, -021, and -022 located at East Union Valley Parkway and Orcutt Road in the Orcutt Community Plan area, Fourth Supervisorial District

1.0 REQUEST

Hearing on the request of Michael Stoltey, appellant and owner, to consider the following:

- Case No. 25APL-00007, to consider the Stoltey Appeal (herein after Appeal), in compliance with Chapter 35.102 of the County Land Use and Development Code (LUDC), of the Director's decision that the Richards Ranch, LLC, Multifamily Housing, Commercial Development, and Tentative Tract Map discretionary application (herein after Application) for a Development Plan (Case No. 24DVP-00018), Conditional Use Permit (Case No. 24CUP-00033), and Tentative Tract Map (Case No. 24TRM-00003) is incomplete, as provided by Government Code Section 65943.

The Application involves Assessor Parcel Numbers (APNs) 107-250-019, -020, -021, and -022, located at East Union Valley Parkway and Orcutt Road, on property zoned C-2 (Retail Commercial) in the Orcutt Community Plan area, Fourth Supervisorial District.

2.0 RECOMMENDATION AND PROCEDURES

Your Commission's motion should include the following:

1. Deny the Appeal, Case No. 25APL-00007.
2. Determine that the Application, Case Nos. 24DVP-00018, 24CUP-00033, and 24TRM-00003, is incomplete.
3. Find that the proposed action is an administrative activity of the County, which will not result in direct or indirect physical changes in the environment and is therefore not a "project" defined for purposes of the California Environmental Quality Act (CEQA) under CEQA Section 15378(b)(5).

Refer back to staff if the County Planning Commission takes other than the recommended action.

3.0 JURISDICTION

This is an Appeal of the Director's decision that the Richards Ranch, LLC, Application for a Development Plan (Case No. 24DVP-00018), Conditional Use Permit (Case No. 24CUP-00033), and Tentative Tract Map (Case No. 24TRM-00003), is incomplete pursuant to Chapter 35.102 of the LUDC.

This Appeal is being considered by the County Planning Commission based on Section 35.102.040 of the LUDC, which states that "any determination that a discretionary permit application or information submitted with the application is incomplete as provided by Government Code Section 65943" may be appealed to the Planning Commission.

Additionally, this Appeal is processed in accordance with Government Code Section 65943(c), which states:

"If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both."

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant’s written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

3.0 ISSUE SUMMARY

The Applicant failed to provide requested information for application completeness based on items required by Planning and Development (P&D) and based on information requested from the Department of Public Works, Transportation Division. The following information provides a high-level outline of these issues, which are further detailed in the Background Information Section 4.2 and Appeal Section 5.0, below.

Table 1. Incompleteness Determination Timeline

| Application Dates | Incomplete Letter Dates | Incomplete Items |
|--|--------------------------------|---|
| SB 330 Pre-Application: December 5, 2023 | N/A | N/A |
| Initial Application: May 31, 2024 | June 28, 2024 | Plan set items, Conditional Use Permit application, Intent to Serve letters, items from other departments, technical studies, etc. (see Incomplete Letter – Attachment B-1) |
| 1 st Resubmittal: September 23, 2024 | October 23, 2024 | Plan set items and items from other departments, etc. (see Incomplete Letter – Attachment B-2) |
| 2 nd Resubmittal: January 21, 2025 | February 20, 2025 | Floor plans and Public Works Transportation items (see Incomplete Letter – Attachment B-3) |

On Friday, February 28, 2025, the Applicant/Appellant submitted an appeal application (Case No. 25APL-00007), to appeal the Director’s decision that the Application is incomplete. The Appeal issues and staff’s responses are discussed in detail in Section 5, below.

4.0 APPLICATION INFORMATION

4.1 Site Information

| Site Information | |
|--------------------------------|--|
| Comprehensive Plan Designation | Urban Area; General Commercial/Office and Professional/Planned Development-3.3 |
| Ordinance, Zone | Land Use and Development Code, C-2 (Retail Commercial) Zone District |
| Site Size | Four parcels consisting of 2.27 acres (APN 107-250-019), 1.81 acres (APN 107-250-020), 12.16 acres (APN 107-250-021), and 27.40 acres (APN 107-250-022), totaling 43.64 acres. |
| Present Use & Development | Vacant lots |
| Surrounding Uses/Zone(s) | <p><u>North:</u> Single Family Residential uses within the 10-R-1 [Single Family/10,000 square feet (sq. ft.) Minimum Lot Size] Zone District</p> <p><u>South:</u> Single Family Residential within the 10-R-1 (Single Family/10,000 sq. ft. Minimum Lot Size) Zone District</p> <p><u>East:</u> Residential uses (Foxenwood Circle Townhomes) and cultivated agricultural uses located within the City of Santa Maria</p> <p><u>West:</u> Residential uses (Mariposa Townhomes) to the south and vacant land to the north within the DR-3.3 (Design Residential/3.3 units/gross acre) Zone District</p> |

4.2 Background Information

On December 5, 2023, the Applicant submitted a complete Senate Bill (SB) 330 *Preliminary Application* (Case No. 23PRE-00019) for a proposed housing development project (occasionally referred to by the Applicant as “Orcutt Commons”). The purpose of an SB 330 Preliminary Application is to establish “vesting” of a proposed housing development project under applicable standards in place at the time of submittal of the complete preliminary application. Because a complete SB 330 Preliminary Application was received during the period of time when the County did not have a compliant Housing Element, the SB 330 Preliminary Application “vested” the Applicant’s ability to submit the full housing development application under the “Builder’s Remedy” provision of the HAA.

On May 31, 2024, the Applicant provided a timely submittal of the *full application* for a Development Plan and Tentative Tract Map for the Richards Ranch, LLC, Multifamily Housing, Commercial Development, and Tentative Tract Map Project under Builder’s Remedy. The full application submittal was timely pursuant to Government Code Section 65941.1, because it was provided within

180 days of the date that the Preliminary Application was received. As such, the Applicant had a Builder's Remedy project.

Applications under the HAA are required to be reviewed for Completeness/Incompleteness within 30 days of receipt. If found to be Incomplete, applicants are required to respond to all incompleteness items within 90 days of the Incompleteness determination. The following table provides a timeline for the County's Incompleteness determinations:

- SB 330 Pre-Application: The complete SB 330 Pre-Application was received on December 5, 2023. The Applicant was required to submit a Full Application within 180 days by June 2, 2024.
- Full Application Submittal: On May 31, 2024, P&D received the Applicant's Full Application submittal, for a Builder's Remedy application, pursuant to the HAA. P&D was required to provide a Completeness/Incompleteness determination by June 30, 2024.
- 1st Incompleteness Determination: On June 28, 2024, P&D sent a timely Incomplete Letter to the Applicant (Attachment B-1). The Applicant was required to respond to the Incomplete Letter by September 26, 2024, pursuant to the HAA.
- 1st Applicant Resubmittal: On September 23, 2024, P&D received a timely resubmittal from the Applicant in response to P&D's Determination of Application Incompleteness Letter. P&D was required to provide a Completeness/Incompleteness determination by October 23, 2024.
- 2nd Incompleteness Determination: On October 23, 2024, P&D sent a timely Incomplete Letter to the Applicant (Attachment B-2), finding the 1st Applicant Resubmittal incomplete. The Applicant was required to respond to the Incomplete Letter by January 21, 2025, pursuant to the HAA.
- 2nd Applicant Resubmittal: On January 21, 2025, P&D received a timely resubmittal from the Applicant in response to P&D's Determination of Application Incompleteness Letter. P&D was required to provide a Completeness/Incompleteness determination by February 20, 2025.
- 3rd Incompleteness Determination: On February 20, 2025, P&D sent a timely Incomplete Letter to the Applicant (Attachment B-3), finding the 2nd Applicant Resubmittal Incomplete. As detailed in the Determination of Application Incompleteness Letter dated February 20, 2025, the following items were not provided:
 1. Accurate floor plans for the convenience store, carwashes (2), and drive-through restaurant; and
 2. Transportation Division incompleteness items.

Builder's Remedy Forfeiture

It should be noted that in an email dated February 27, 2025, P&D informed the Applicant that the Builder's Remedy application had been forfeited. This conclusion is based on the amount of construction square footage identified in the SB 330 preliminary application (Case No. 23PRE-

00019) as compared to the square footage provided on the full application (Case Nos. 24DVP-00018, 24CUP-00033, 24TRM-00003).

Pursuant to Government Code § 65941.1(d), if after submittal of the preliminary application, the applicant revises the project such that the "square footage of construction changes by 20 percent or more" the applicant shall not be deemed to have submitted a preliminary application until it resubmits the required information so that it reflects the revisions.

The cover letter for the SB 330 Preliminary Application (Attachment C, highlighted by staff) states that the project will have a total construction square footage of 761,365 square feet (604,080 sq. ft. residential and 157,285 sq. ft. nonresidential). However, the full Application includes a total construction square footage of 1,191,596 square feet (1,030,823 sq. ft. residential and 160,773 sq. ft. nonresidential). This results in an increase of over 70% in the residential construction square footage and 56% in the total construction square footage, well in excess of the 20% threshold identified in Government Code § 65941.1(d) above. The County notified the Applicant of their forfeiture as soon as it was discovered. The delay in its discovery is because the Applicant repeatedly failed to identify the total square footage of proposed construction on their full application plans, which is a listed requirement on P&D's application submittal checklist (Plan Set Checklist – Attachment E). This information was also specifically requested in the County's first Incomplete Letter dated June 28, 2024 (Attachment B-1).

The Applicant has disputed this conclusion in their appeal application and has identified it as an additional appeal issue. However, this is not a director determination and is not subject to appeal, and no action by the Planning Commission is requested on this topic.

The Applicant argues two additional points in terms of the forfeiture of their Builder's Remedy project, however, as previously stated, the forfeiture is not subject to appeal to the Commission.

5.0 APPEAL ISSUES

The Applicant/Appellant identified three issues as the basis of the appeal. The appeal issues and Staff's analysis is provided below.

Appeal Issue 1 – 30-day timeline

The Applicant asserts that their resubmittal application was submitted to P&D on January 20, 2025, and that P&D missed the deadline to respond to their resubmittal application, thus their application should automatically be deemed complete.

For reference, Government Code Section 65943(a) states, *"not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project..."* and Section 65943(b) states, *"...If*

the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter”.

Staff Response

P&D received the Applicant's resubmittal of the Richards Ranch Project on January 21, 2025, and issued a timely response to the Applicant's resubmittal on February 20, 2025, within 30 calendar days of receipt, in accordance with the Permit Streamlining Act requirement (Government Code Section 65943(a)).

Government Code Section 65943(a) states: *“Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project.”* The Government Code specifies that the timeline to respond is based off the date of receipt. P&D could not have received the Applicant's resubmittal on January 20, 2025, because P&D was closed for a federal holiday. Therefore, while the Applicant submitted it online on January 20, 2025, the Applicant's resubmittal was received by the County on January 21, 2025.

Further, the Permit Streamlining Act does not specifically set out how days are counted. However, California Rule of Court 1.10, which is relied on in other contexts to count days, excludes holidays and provides that the days are calculated by excluding the first day and including the last. Because January 20, 2025, was a holiday, it is not counted as the “first day”; rather January 21, 2025, is the “first day”. Accordingly, January 22, 2025, would be Day 1, which results in Day 30 being February 20, 2025. As stated above, P&D provided a timely determination of application incompleteness by Incompleteness Letter dated February 20, 2025.

Appeal Issues 2 and 3 – Violation of PSA and HAA, and Sufficient Submittal

In Appeal Issue 2 the Applicant asserts that the County's determination of application incompleteness is in violation of the Permit Streamlining Act and Housing Accountability Act because, (1) the County cannot require items for completeness that were not on an applicable application intake checklist, (2) the County cannot request new information for completeness that was not identified in the initial incompleteness determination, (3) the County cannot characterize consistency items as incompleteness items, and (4) the County cannot “require submittal of the informational equivalent of an environmental impact report as part of a complete application”. In Appeal Issue 3 the Applicant asserts that, notwithstanding Appeal Issue 2, their resubmittal was responsive to all incompleteness items and should be deemed complete.

Staff Response

The remaining incompleteness items that were identified in the Incompleteness Letter dated February 20, 2025, (Attachment B-3) were submittal of floor plans and Transportation Division items. A response to Appeal Issues 2 and 3 with respect to these remaining incompleteness items is provided below.

Floor Plans

The Applicant did not provide the required floor plans with required details specified on P&D's application intake checklist ("Plan Set Checklist" Attachment E – specific items highlighted). As identified on the Plan Set Checklist, floor plans are to include the following basic details:

- Dimensions of the exterior footprint
- Interior layout of the structure including bathrooms/fixture layout, windows and doors, etc.
- Dimension of rooms and proposed use of rooms/areas

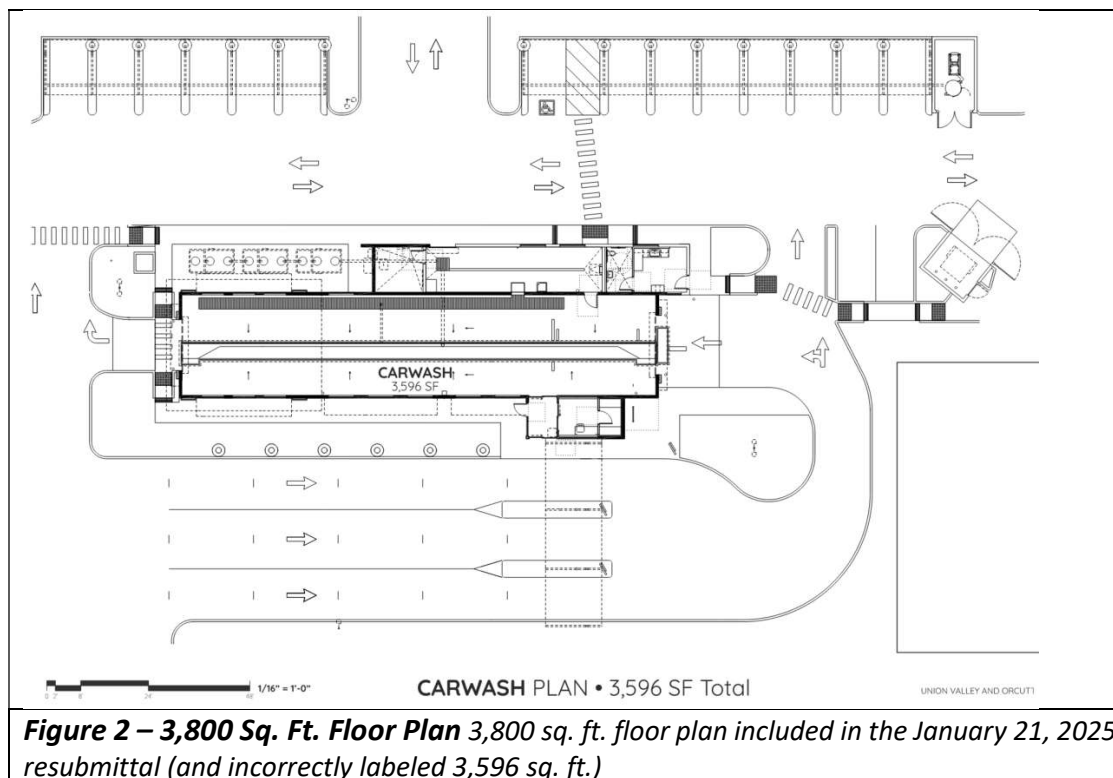
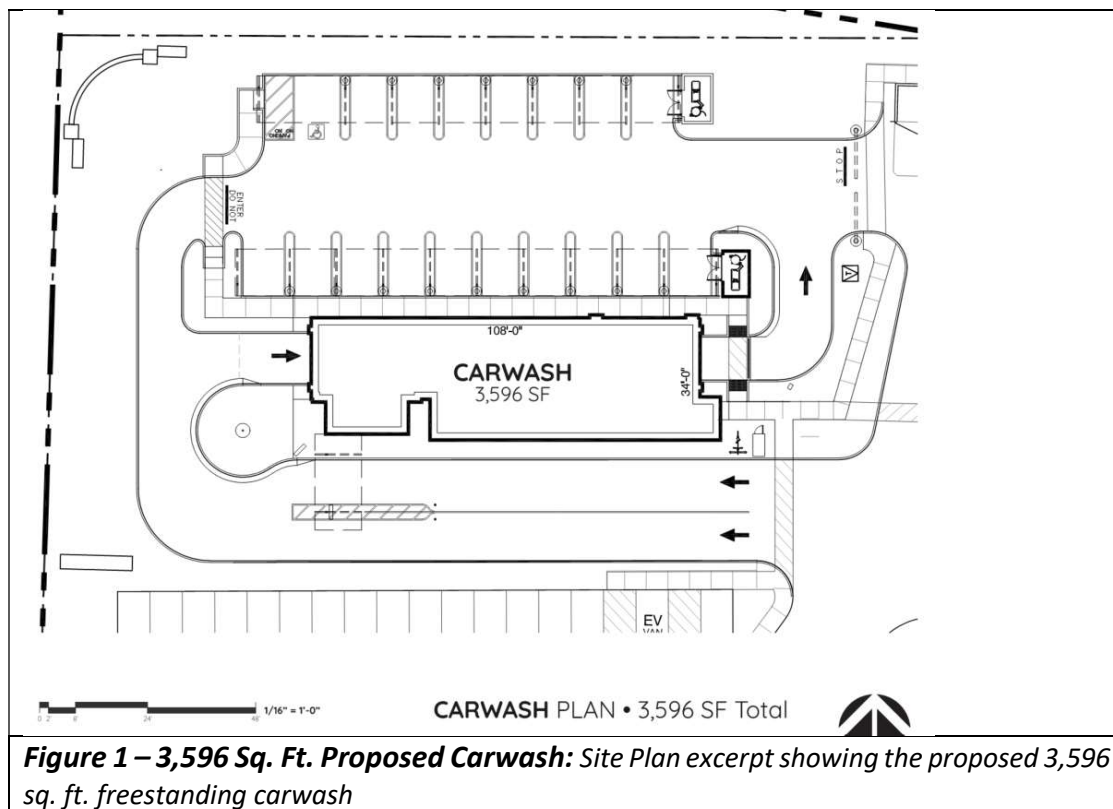
The Applicant's site plan and project description (provided in the full application submittal and subsequent resubmittals) has repeatedly identified the proposed convenience store, carwash, and drive through restaurant with the square footage and exterior dimensions as listed below:

- 4,512 sq. ft. (48 ft. x 94 ft.) convenience store with an attached 848 sq. ft. (16 ft. x 53 ft.) carwash
- 3,596 sq. ft. freestanding carwash
- 3,419 sq. ft. (34 ft.-10 in. x 98 ft.) drive through restaurant.

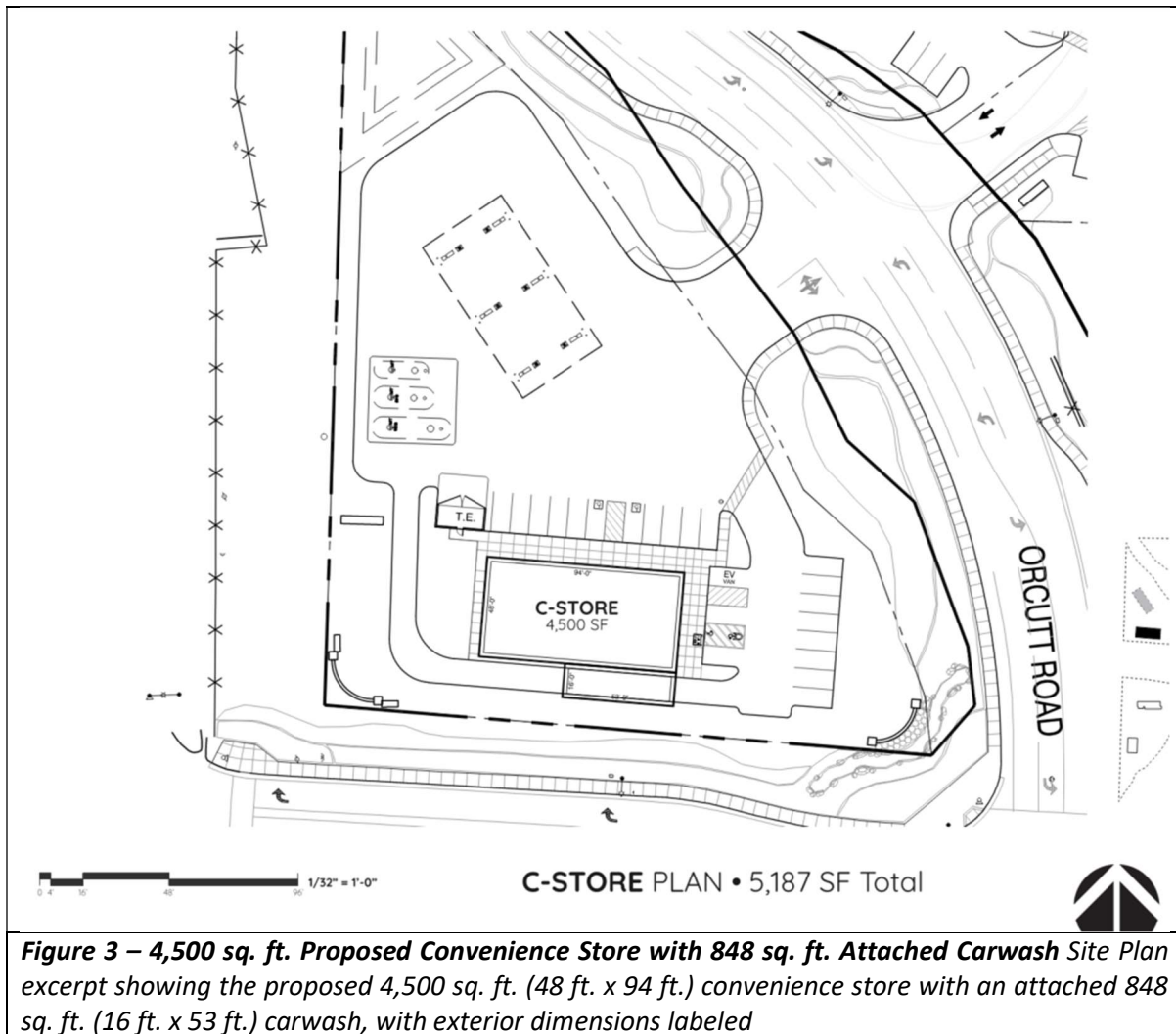
Floor plans for these proposed structures (listed above) were requested in both Incomplete Letters dated June 28, 2024, and October 23, 2024 (Attachments B-1 and B-2). The Applicant's January 21, 2025, resubmittal did not provide floor plans that align with the proposed structures listed above, or that include the required details listed in the Plan Set Checklist.

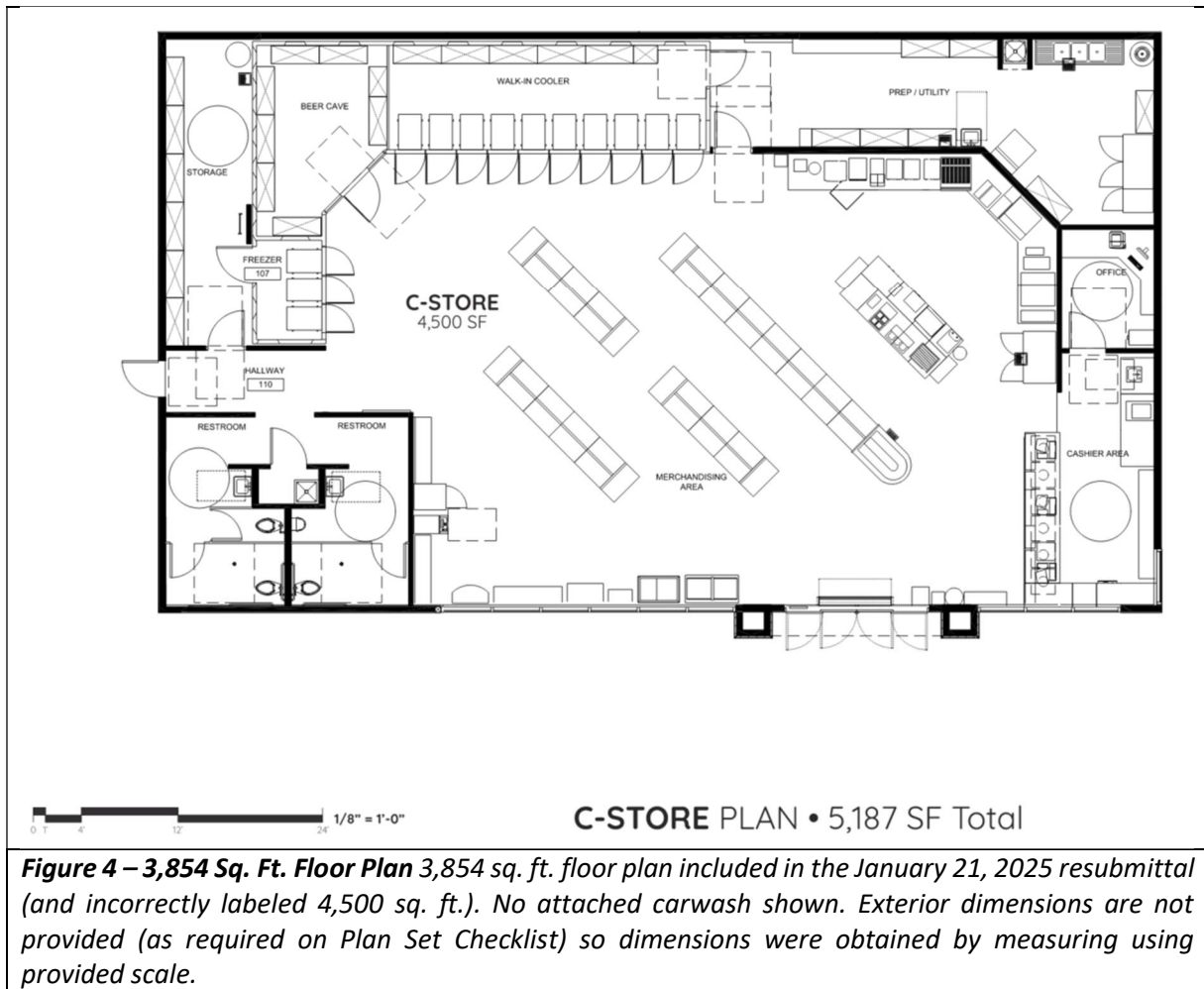
To illustrate, the Applicant's site plan and project description that have been repeatedly submitted to P&D show the proposed convenience store, carwashes, and drive through restaurant with the square footage and exterior dimensions listed above. However, the floor plans that were provided as part of the January 21, 2025, resubmittal are for structures that are not part of this Application. Specifically, the exterior dimensions and shape of the provided floor plans do not align with the proposed structures.

For example, Figure 1 below shows the proposed 3,596 sq. ft. carwash that has been consistently provided in the Applicant's site plan and project description. Figure 2 below shows the floor plan that was included in the January 21, 2025, resubmittal. This floor plan is missing exterior dimensions (as required on the Plan Set Checklist), so P&D obtained the dimensions and square footage by measuring the floor plan using the provided scale. Using the obtained dimensions, P&D found that the area of the Figure 2 floor plan is actually 3,800 sq. ft., which differs from the proposed 3,596 sq. ft. carwash shown in Figure 1. Additionally, the shape of the structure shown in Figure 2 is fundamentally different than the proposed carwash shown in Figure 1. For instance, the structure shown in Figure 2 includes building projections that the proposed carwash structure shown in Figure 1 does not have. Therefore, it is clear that the floor plan provided is not for the proposed project.



Similarly, Figure 3 below shows the proposed 4,500 sq. ft. (48 ft. x 94 ft.) convenience store with an attached 848 sq. ft. (16 ft. x 53 ft.) carwash, that has been repeatedly provided in the Applicant's site plan and project description. Figure 4 below shows the floor plan that was included in the January 21, 2025, resubmittal. This floor plan is missing exterior dimensions (as required on the Plan Set Checklist), so P&D obtained the dimensions and square footage by measuring the floor plan using the provided scale. Using the obtained dimensions, P&D found that the area of the Figure 4 floor plan is actually 3,854 sq. ft., which differs from the proposed 4,500 sq. ft. convenience store shown in Figure 3. Additionally, the shape of the structure shown in the Figure 4 floor plan is fundamentally different than the proposed convenience store structure shown in Figure 3. For instance, the structure shown in Figure 4 does not include an attached carwash and is shorter in length than the proposed convenience store/carwash structure shown in Figure 3. Therefore, it is clear that the floor plan provided is not for the proposed project.





Lastly, Figure 5 below shows the proposed 3,419 sq. ft. (34 ft.-10 in. x 98 ft.) drive through restaurant that has been repeatedly provided in the Applicant's site plan and project description. Figure 6 below shows the floor plan that was included in the January 21, 2025, resubmittal. This floor plan is missing exterior dimensions (as required on the Plan Set Checklist), so P&D obtained the dimensions and square footage by measuring the floor plan using the provided scale. Using the obtained dimensions, P&D found that the area of the Figure 6 floor plan is actually 4,045 sq. ft., which differs from the proposed 3,419 sq. ft. drive through restaurant shown in Figure 5. Additionally, the shape of the structure shown in the Figure 6 floor plan is fundamentally different than the proposed drive through restaurant structure shown in Figure 5. For instance, the structure shown in Figure 6 is shorter in length and longer in width than the proposed drive through restaurant structure shown in Figure 5. Therefore, it is clear that the floor plan provided is not for the proposed project.

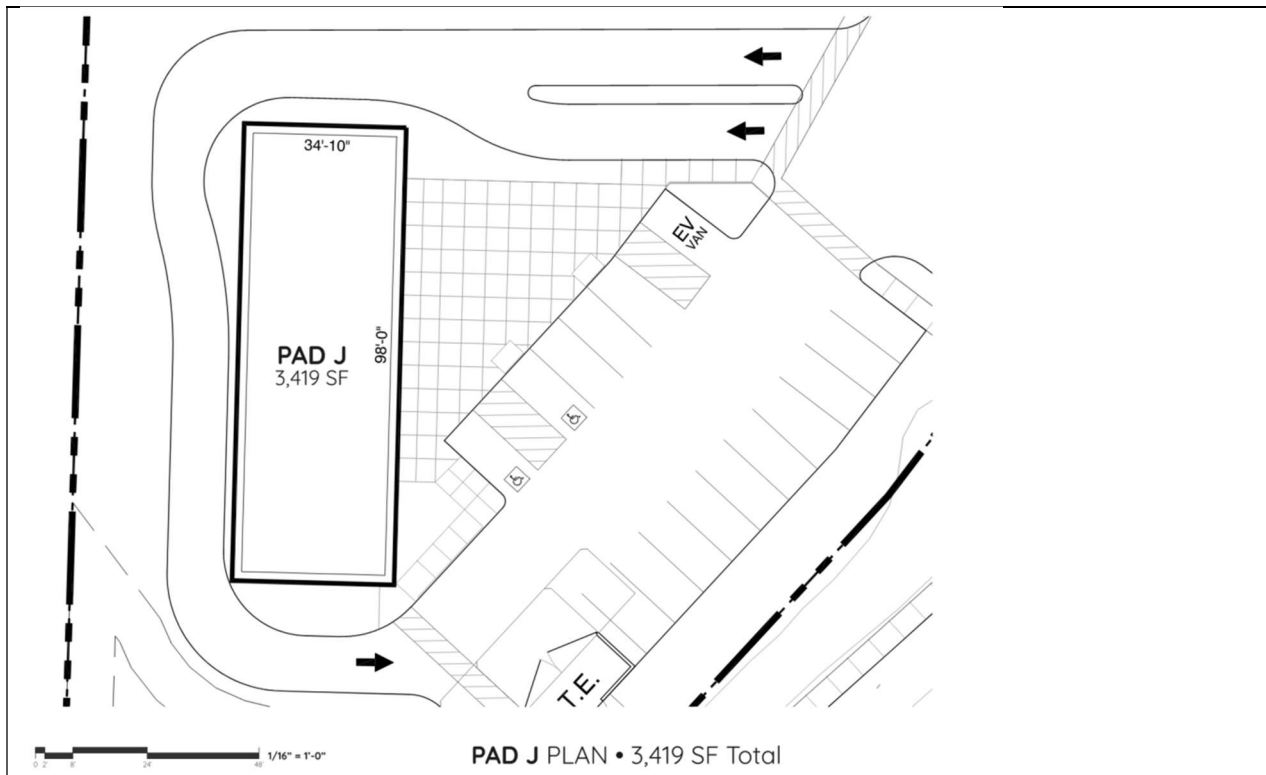


Figure 5 – 3,419 sq. ft. Proposed Drive Through Restaurant: Site Plan excerpt showing the proposed 3,419 sq. ft. (34 ft.-10 in. x 98 ft.) drive through restaurant, with exterior dimensions labeled

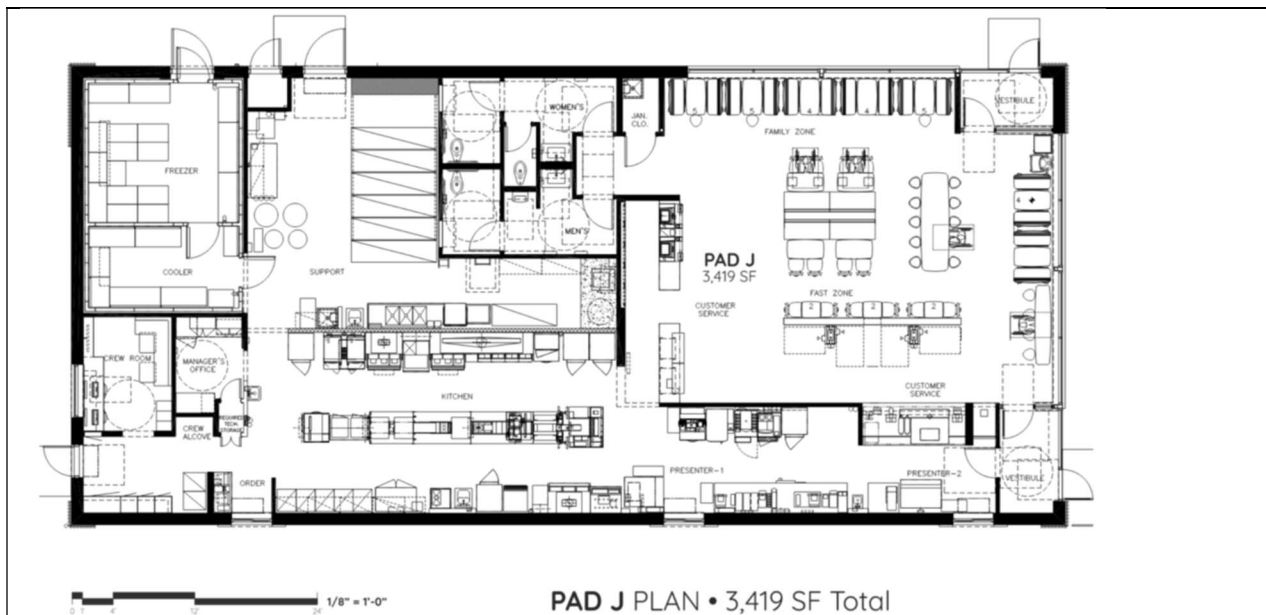


Figure 6 – 4,045 Sq. Ft. Floor Plan: 4,045 sq. ft. (42 ft.-7 in. x 95 ft.) floor plan included in the January 21, 2025 resubmittal (and incorrectly labeled 3,419 sq. ft.). Exterior dimensions are not provided (as required on Plan Set Checklist) so dimensions were obtained by measuring using provided scale.

As discussed above, the Applicant did not provide floor plans for their proposed carwash, drive through restaurant, or convenience store/carwash with the required details listed on the Plan Set Checklist. The Plan Set Checklist is an application intake checklist that was in place at the time of the Applicant's initial SB 330 Preliminary Application submittal. This item is required for completeness and has not been provided.

The request for floor plans with the required details identified in the Plan Set Checklist is not merely a consistency item. In the appeal the Applicant states: *"Preliminary floor plans were provided. It is normal and typical for preliminary floor plans to have minor inconsistencies, and for those to be clarified through the process."* However, the differences between the provided floor plans (shown in Figures 2, 4, and 6) and the proposed structures (shown in Figures 1, 3, and 5) are not an issue of inconsistency with County requirements; rather, the provided floor plans are missing required information and conflicting with the other application materials. The provided floor plans are for different structures than those that are proposed. Even the basic shape of the structures shown in floor plans (Figures 2, 4, and 6) differ from the shape of the proposed structures (Figures 1, 3, and 5).

In the Appeal, the Applicant also states: *"...since the timing for completion of the project is uncertain, the property owner is effectively being blocked from identifying or formally engaging with the ultimate tenants for the convenience store, car washes, and drive-through. It continues to be true that the tenant's needs will determine certain aspects of the business such as the final internal floor plan."* There is nothing preventing the Applicant from providing preliminary floor plans with the basic details required by the Plan Set Checklist, and this information is necessary to have a complete application. This request is not a consistency item. For example, the required number of parking spaces for a drive through restaurant is 1 space per 300 sq. ft. of space devoted to patrons. Providing plans that show fewer parking spaces than are required per the code may be an example of a consistency item. However, failing to provide floor plans (consistent with the provided site plans) as required by an application submittal checklist, which are necessary to enable staff to review the project against applicable standards, is an example of a completeness item.

In summary, the Applicant did not provide required floor plans with required details specified on the application intake checklist (Plan Set Checklist – Attachment E). The request for such floor plans was made in each of the prior Incompleteness Letters and is not a request for new information. The request for such floor plans is required for completeness. Therefore, the application remains incomplete.

Public Works Transportation Division Items

The first Incomplete letter dated June 28, 2024, (Attachment B-1) included a list of items required by the Public Works Department Transportation Division for application completeness. This list of items was repeated in the October 23, 2024, and February 20, 2025, Incompleteness Letters (Attachments B-2 and B-3). A list of the items that Public Works indicated were not fully

addressed in the Applicant's January 21, 2025, resubmittal is provided on Page 4 of the attached Incompleteness Letter, dated February 20, 2025. Therefore, Public Works has indicated that these outstanding items remain application incompleteness items.

7.0 APPEALS PROCEDURE

The action of the County Planning Commission may be appealed to the Board of Supervisors within 10 calendar days of said action. The appeal fee to the Board of Supervisors is \$793.06.

ATTACHMENTS

- A. Appeal Application
- B. Incomplete Letters
 - B-1. Incomplete Letter Dated June 28, 2024
 - B-2. Incomplete Letter Dated October 23, 2024
 - B-3. Incomplete Letter Dated February 20, 2025
- C. SB 330 Preliminary Application Form and Cover Letter
- D. Application Resubmittal Package, received January 21, 2025
- E. Applicable Plan Set Checklist