



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

Submitted on:
(COB Stamp)

Department Name: Planning and Development
Department No.: 053
Agenda Date: April 8, 2025
Placement: Departmental Agenda
Estimated Time: 45 min.
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director(s): Lisa Plowman, Planning and Development, (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, (805) 568-2518
SUBJECT: Hearing to Consider the Stoltey Appeal of the Incomplete Application Determination for the Richards Ranch (Key Site 26) Project, Fourth Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Deny the Appeal, Case No. 25APL-00009;
- b) Determine and find that the Application, Case Nos. 24DVP-00018, 24CUP-00033, and 24TRM-00003, is incomplete for the reasons discussed in this Board Letter and the Staff Report included as Attachment G; and
- c) Determine that the above recommended action is an administrative activity of the County that will not result in direct or indirect physical changes in the environment and is therefore not a "project" defined for the purposes of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15378(b)(5).

Your Board may take the following alternative action:

- a) Uphold the Appeal, Case No. 25APL-00009;
- b) Determine that the Application, Case Nos. 24DVP-00018, 24CUP-00033, and 24TRM-00003, is complete; and
- c) Determine that the above recommended action is an administrative activity of the County that will not result in direct or indirect physical changes in the environment and is therefore not a "project" defined for the purposes of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15378(b)(5).

Summary Text:

Michael Stoltey (Applicant) requests a hearing to consider an appeal of the County Planning Commission's action on March 19, 2025, (Attachment F – Action Letter) to determine 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.

On February 20, 2025, Planning and Development (P&D) issued a Determination of Application Incompleteness Letter to the Applicant identifying two remaining incompleteness items, which are floor plans and Public Works Department (PW) Transportation Division items. On February 28, 2025, the Applicant filed an appeal of the P&D Director's determination (Attachment H – Planning Commission Appeal Application), and on March 19, 2025, the Planning Commission considered the appeal and took action to deny the appeal and determine that the Application is incomplete. The Planning Commission only took action to determine the Application is incomplete. The Planning Commission did not take action on other issues identified in the Appeal letters (Attachment A – Board of Supervisors Appeal Application and Attachment H – Planning Commission Appeal Application), including the dispute on the counting of 30 days, the forfeiture of the Builder's Remedy project, or the limit of two resubmittals after incompleteness determinations.

On March 31, 2025, the Applicant filed a timely appeal of the Planning Commission's decision.

This appeal is being considered by the Board of Supervisors (Board) in accordance with Section 35.102.050 of the Land Use and Development Code (LUDC), which provides that *“any final action on decisions that are appealed to the Planning Commission in compliance with Section 35.102.040”*, may be appealed to the Board. Additionally, the processing of this appeal is subject to Section 65943(c) of the Permit Streamlining Act (PSA), which requires that *“there shall be a final written determination by the [County] on the appeal not later than 60 calendar days after receipt of the applicant's written appeal”*. Therefore, the last regularly scheduled hearing at which the Board can make a determination on the appeal is April 8, 2025.

The Applicant identified three issues as the basis of their appeal related to the application incompleteness determination. The appeal issues and staff's responses are discussed in detail in Section 5.0 of the Planning Commission Staff Report (Attachment G), and are summarized below in the *Appeal Issues and Staff Responses* Section of this Board Letter.

Background:

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 Housing Accountability Act (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 SB 330 Preliminary Application was filed. As such, the full application was filed as a Builder's Remedy project.

Applications are required to be reviewed for completeness/incompleteness within 30 calendar days of receipt. If found to be incomplete, Builder's Remedy/SB 330 applicants are required to respond to all incompleteness items within 90 days of the incompleteness determination. The following list provides a timeline of the Applicant's submittals and the County's incompleteness determinations:

- SB 330 Preliminary Application: On December 5, 2023, P&D received the Applicant's SB 330 Preliminary Application for a housing development project. In accordance with the PSA, the Applicant was required to submit the 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 housing development project under the Builder's Remedy provision of the HAA. In accordance with the PSA, P&D was required to provide a completeness/incompleteness determination within 30 days, by June 30, 2024.
- 1st Incompleteness Determination: On June 28, 2024, P&D sent a timely Incomplete Letter to the Applicant (Attachment B-1) finding the Full Application Submittal incomplete. In accordance with the PSA, the Applicant was required to respond to the Incomplete Letter within 90 days, by September 26, 2024.
- 1st Applicant Resubmittal: On September 23, 2024, P&D received a timely resubmittal from the Applicant in response to P&D's Incomplete 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.
- 2nd Applicant Resubmittal: On January 21, 2025, P&D received a timely resubmittal from the Applicant in response to P&D's Incomplete 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 Incomplete Letter dated February 20, 2025, the following items remained incomplete:
 1. Floor plans for the convenience store, carwashes (2), and drive-through restaurant; and
 2. Transportation Division incompleteness items.

Additionally, on January 1, 2025, AB 1893 took effect, which made changes to the HAA including Builder's Remedy provisions within the HAA. AB 1893 allows existing Builder's Remedy applications (with a preliminary application that was deemed complete before January 1, 2025) to choose whether to be subject to the previous Builder's Remedy provisions that were in effect when the complete preliminary application was submitted, or to be subject to new/modified Builder's Remedy provisions established by AB 1893. To date, the Applicant has not requested that their application be converted to an application under AB 1893, nor has the Applicant provided any information to demonstrate compliance with the AB 1893 requirements.

Builder's Remedy Forfeiture

On February 27, 2025, P&D informed the Applicant that the Builder's Remedy application had been forfeited, as discussed in the attached Staff Report (Attachment G).

The Applicant has disputed this conclusion in their appeal application and has identified it as an additional appeal issue. However, as discussed in the Staff Report (Attachment G), this is not a Director determination, is not subject to appeal, and is not before the Board of Supervisors for a decision.

Appeal Issues and Staff Responses

The Applicant identified three issues related to application incompleteness 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 PSA 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 online on January 20, 2025, the Applicant's resubmittal was received by the County on January 21, 2025.

Further, the PSA 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 via the Incomplete 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 PSA and HAA because the County cannot (1) require items for completeness that were not on an applicable application intake checklist, (2) request new information for completeness that was not identified in the initial incompleteness determination, (3) characterize consistency items as incompleteness items, or (4) "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 Incomplete Letter dated February 20, 2025, (Attachment B-3) were submittal of application checklist required floor plans, and requested 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 floor plans with the required details specified on P&D's application intake checklist ("Plan Set Checklist" Attachment E – specific items highlighted). The request for floor plans was made in each of the Incomplete Letters and was not a request for new information. Further, the lack of corresponding floor plans (with the details required) is not merely an issue of inconsistency with County standards as argued by the Applicant. Finally, the requirement for floor plans is not solely to enable the completion of environmental review under CEQA, as discussed further below.

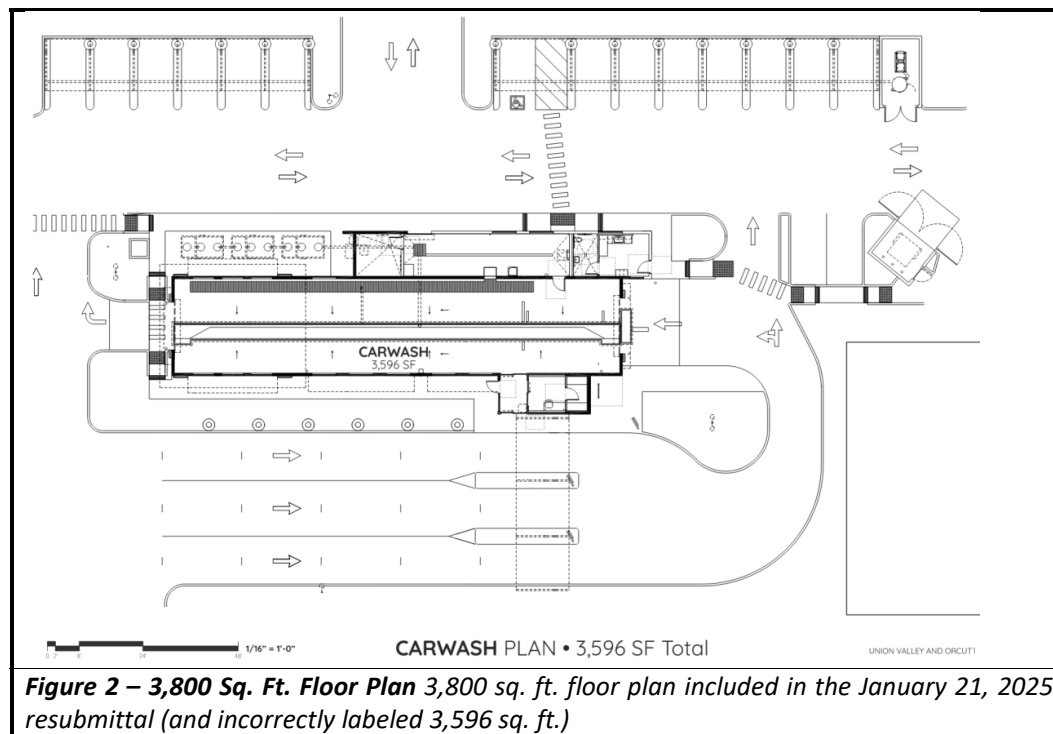
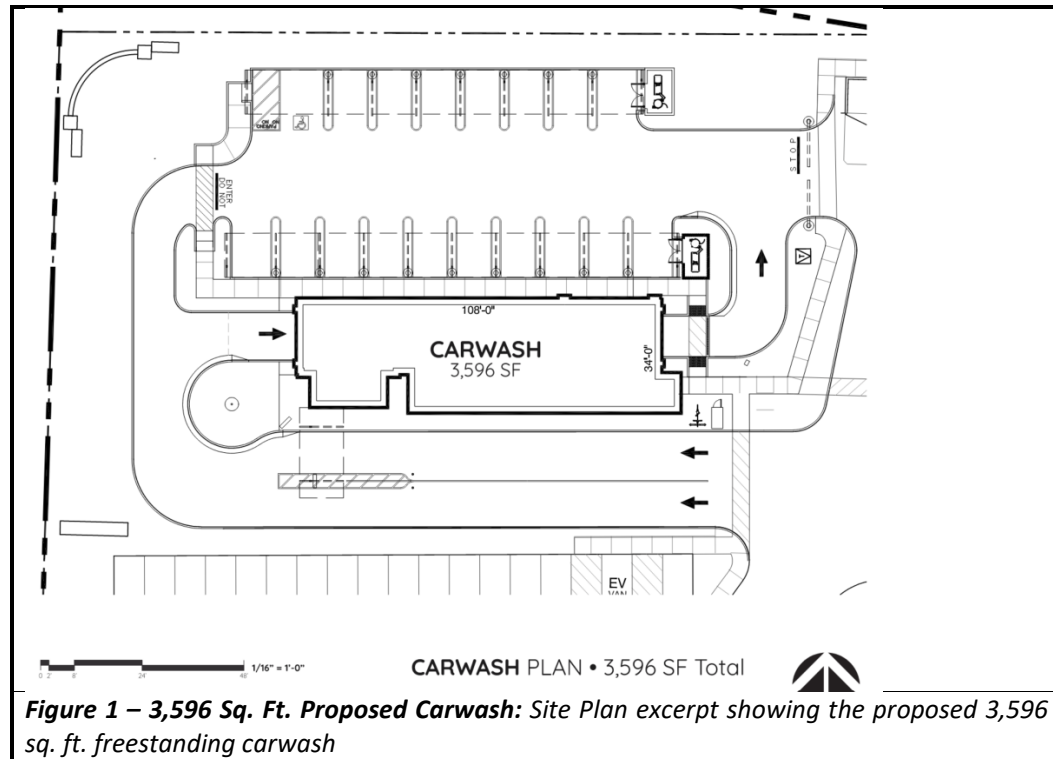
As identified on the Plan Set Checklist (Attachment E), floor plans are required to include the following basic details:

- 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 Planning Commission Staff Report (Attachment G) describes in detail how the Applicant's site plan and project description (provided in the full application submittal and subsequent resubmittals) have repeatedly and consistently identified the square footage, dimensions, and shape of the proposed convenience store, carwash, and drive through restaurant. However, the floor plans that were included in the applicant's resubmittal are lacking the required details listed in the Plan Set Checklist, and depict structures that are fundamentally different than the structures proposed. One example is provided below. Further figures and details to illustrate this are provided in Section 5.0 of the Staff Report (Attachment G).

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.



Further, the request for floor plans with the required details identified in the Plan Set Checklist is not merely a consistency item. The differences between the provided floor plans and the proposed structures (shown in site plan and project description) are not an issue of inconsistency with County requirements; rather, the provided floor plans are missing required information and are conflicting with the other application materials. In short, the provided floor plans are for different structures than those that are proposed.

Lastly, the requirement for floor plans with the details specified on the Plan Set Checklist is not solely to enable the completion of environmental review under CEQA. Floor plans with the specified details are required for application completeness and are necessary to enable staff to review the project against applicable standards, such as parking requirements.

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.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$8,760 (30 hours of staff time). The costs for processing project appeals are partially offset by a fixed fee of \$648.00. Funding for processing the appeal is budgeted in the Planning and Development Department's Permitting Budget Program as shown on Page 317 of the County of Santa Barbara Fiscal Year (FY) 2024-25 Adopted Budget.

Special Instructions:

Planning and Development will publish a legal notice in the *Santa Maria Times* at least 10 days prior to the hearing on April 8, 2025, and will fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing to the attention of David Villalobos, Planning and Development Department Hearing Support.

Attachments:

Attachment A – Application for Appeal to the Board of Supervisors

Attachment 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

Attachment C – SB 330 Preliminary Application Form and Cover Letter

Attachment D – Application Resubmittal Package, received January 21, 2025

Attachment E – Applicable Plan Set Checklist

Attachment F – Planning Commission Action Letter

Attachment G – Planning Commission Staff Report

Attachment H - Application for Appeal to the Planning Commission

Authored by:

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