

Rezone

Sarah Mayer *Public Comment - Tree Amigos of Orcutt*

**From:** Bell, Allen  
**Sent:** Tuesday, April 23, 2024 4:44 PM  
**To:** sbcob  
**Cc:** Alamilla, Breanna  
**Subject:** FW: Key Site 11 Rezoning Objection  
**Attachments:** Tree Amigos 4-21-24 Letter.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Clerk of the Board:

Please forward the attached comment letter on the Housing Element Rezone Amendments to the Board of Supervisors. The Board will conduct hearings on the rezone amendments on April 30 and May 3, 2024.

Thanks,



**Allen Bell**  
**Supervising Planner**  
Planning & Development  
Long Range Planning Division  
123 E. Anapamu Street  
Santa Barbara, CA 93101  
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<https://www.countyofsb.org/160/Planning-Development>

**From:** The Tree Amigos of orcutt <thetreeamigosoforcutt@msn.com>  
**Sent:** Monday, April 22, 2024 11:40 AM  
**To:** Bell, Allen <abell@countyofsb.org>  
**Subject:** Key Site 11 Rezoning Objection

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Dear Mr, Bell,

This is an email we just sent to Jesse Steele whose automated reply directed us to email you. See Below.

I understand that you are the planner assigned to Key Site 11. Attached are the Tree Amigos of Orcutt's public comments concerning the rezoning slated for the 4/30 special meeting before the Board of Supervisors. Would you ensure our comments are included when the matter is sent to the Board?

Would you also please keep us informed of future developments concerning Key Site 11? For instance, has a project actually been submitted for Key Site 11? If so, may we have a copy of that project?

Thank you,

Ryan and Teri Schwab  
The Tree Amigos of Orcutt  
[thetreamigos@msn.com](mailto:thetreamigos@msn.com)  
805-938-0173

April 21, 2024

Dear Santa Barbara County Board of Supervisors and Santa Barbara County Planning Commission,

The Tree Amigos of Orcutt, a California 501(c)(3) nonprofit corporation (Tree Amigos), objects to the rezoning of Key Site 11 from recreational open space to commercial and residential (157 apartments, grocery store, retail outlets and athletic fields, according to Orcutt Pioneer April 2024 <https://www.orcuttpioneer.com/general-8-6>). The site is incompatible for building because it is a creek-bed with much of the site in a flood zone and home to potentially protected plant and animal species.

Under the Government Code, the Santa Barbara County Planning Commission has a legal requirement to ensure that minimum environmental standards are met. The area of Orcutt surrounding Clark Avenue is under increased environmental threat due to increasing traffic, decreasing air quality, as well as lack of adequate protection of protected plant and animal species. Key Site 11 acts as a wildlife corridor for key species such as coyote and deer. The creek at the center of the site is subject to flooding, as well as potentially providing habitats for critically endangered species such as tiger salamander. Rezoning the space for commercial and residential use will lead to the detriment of the local environment, as well as increased traffic and lower air quality. It is also a site that is unsuitable for habitation due to its proximity to high levels of traffic, meaning that families who live on the site will be subject to worse health outcomes as a result of exposure to poor air quality.

Orcutt Ranch Clark Avenue LLC, owner of Key Site 11, and the "Splash and Dash Car Wash" on the corner of Key Site 11 appear to be owned by the same person (corporationwiki.com). In 2008, a proposed development was submitted for Key Site 11. It was on a much smaller scale than the proposed use of the rezoning. At that time the Splash & Dash Carwash was a derelict gas station. However, even at that stage the project was unable to meet air quality and traffic standards.<sup>1</sup>

Since the opening of Splash & Dash Carwash traffic has exponentially increased in the area. Newly approved developments in adjacent key sites such as the Oasis Senior Center (700 yards away), will increase the traffic further in an area known for collisions. Rezoning Key Site 11 to allow for further development will violate air quality and traffic requirements and fundamentally change the nature/character of this tranquil, peaceful site.

Because of the environmental pressures on the space, we believe that Key Site 11 should be zoned for recreational open space or conservation use only. The preservation of the site allows for essential protections of animals and plants already under threat from building. If Key Site 11 was to be redeveloped, people residing in the area would be subject to high pollution, unsustainable traffic, and higher mortality rates due to the health impact of living near high traffic areas.

Thank you, and please enthusiastically deny this inappropriate rezoning request.

Ryan and Teri Schwab

The Tree Amigos of Orcutt, a California nonprofit corporation  
thetreeamigosoforcutt@msn.com

cc: Environmental Defense Center  
Sierra Club, Arguello Group, Los Padres Chapter  
Mark Chytilo, Esq.  
Luis Oasis Senior Center  
Rancho Maria Golf Club  
Splash & Dash Carwash  
Orcutt Ranch LLC

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<sup>1</sup> See the attached letter excerpt dated April 9, 2008, to County of Santa Barbara Planning Commissioners entitled Mitigated Negative Declaration for English-Joseph Property Investments, Key Site 11, 07DVP-00000-00021, 07CUP-00000-00058, 05SPP-00000-00002, pages 8-11, under paragraph 4.3 Air Quality.

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### **Proposed Mitigation Measures**

**AES-1:** The requirement of a minimum 50 foot landscaped buffer along the eastern boundary, while desirable to block view of the monstrous proposed development, will also block the view of the open space from that direction. This setback is not compliant with OCP DevStd KS11-16 requiring a 75-foot landscaped buffer. This policy inconsistency creates a significant visual and land use impact, and is grounds for mandatory project denial.

**AES-2:** As stated above, the mitigation measure requiring minimum 35 foot landscaped buffer along Clark Avenue with sufficient density to screen all parking areas from public view and to break-up and partially obscure building masses actually aids the complete loss of public view of the open space that is wiped out by this proposed development. Further, there is no mention of the median improvements on Clark Avenue that are identified in the Orcutt Community Plan.

**AES-3:** Should the proposed development be approved with no modification to the building plans, this mitigation measure is inadequate. The entire project should be screened from view from the residences to the south, not just the parking structure. Even with this measure, views of the open space will be lost and impacts will remain significant.

There is no measure for planting native species in the open space. There is also no measure for ensuring that the landscaping measures will be completed or that they will be maintained for the life of the development. There is no landscape plan in the MND and no performance standard to ensure successful mitigation. Therefore, the visual impact mitigation measures are inadequate. Visual impacts are significant.

### **4.3 AIR QUALITY**

The Environmental Review Guidelines for the Santa Barbara County Air Pollution and Control District, list the following criteria to be used when determining if a project has a significant environmental impact.

Operation of the project will:

- emit from all project sources, mobile and stationary, less than the daily trigger for offsets set in the APCD New Source Review Rule, for any pollutant; and
- emit less than 25 pounds per day of oxides of nitrogen (NO<sub>x</sub>) or reactive organic compounds (ROC) from motor vehicle trips only; and

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- not cause or contribute to a violation of any California or National Ambient Air Quality Standard (except ozone); and
- not exceed the APCD health risk public notification thresholds adopted by the APCD Board; and
- be consistent with the adopted federal and state Air Quality Plans.

*Guidelines for the Implementation of the California Environmental Quality Act of 1970, as amended* (revised November 16, 2000), page 10.

The MND states that the threshold for combined emissions does not exceed 55 lbs per day, and states that those calculations include the NO<sub>x</sub> from vehicles. However this contradicts the *Guidelines* (supra) which clearly states that the total threshold does **not** include NO<sub>x</sub> emissions from vehicles. NO<sub>x</sub> from vehicles emissions are to be evaluated on their own to demonstrate that NO<sub>x</sub> individually is under the thresholds.

The URBEMIS calculations provided in the MND have been altered from the actual URBEMIS report provided by Michael Hays (copy attached as Exhibit 2). The true numbers reflected in that report are NO<sub>x</sub> 31.33 for operational (vehicle) emission estimates. This is well in excess of 25 lbs per day limit set by the County Thresholds of Significance. There is a handwritten note on the report indicating that the APCD instructed Mr. Hays (or his associate) to factor the emission calculations by 0.7 which coincidentally reduces the net calculations to 21.95, less than the threshold. When we contacted the APCD by telephone we were unable to receive corroboration of this 0.7 factor and in fact several air quality experts we spoke to were unfamiliar with this factoring and stated that the raw number should be used.

Mr. Hays sent us an e-mail regarding the URBEMIS report saying that the handwritten note was based on a conversation he had with someone at the APCD who told him to multiply the numbers by 0.7. He stated "however, it should be noted that even without the factor being used, the total amount of emissions from this project did not exceed the threshold to be considered a significant impact for air quality." Mr. Hays said that the **total** amount did not exceed the threshold. The NO<sub>x</sub> however, did exceed the threshold and was the only factor brought under the threshold by multiplying it by 0.7. Scott Johnson, formerly of the Ventura APCD said that he had never heard of combining two factors, in this case the RO and NO<sub>x</sub> numbers, to make the total be regarded as under the threshold. The numbers are recorded individually to ascertain impact for air quality. A copy of Mr. Hays February 7, 2008, e-mail is attached as Exhibit 3.

In addition to the above, there is no indication of how the raw calculations were achieved, whether the projected vehicle emissions included day trips to the picnic area. There was also no Michael Hays

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calculation for possible emissions from gasoline powered gardening equipment for the proposed development.

The true raw calculations for vehicle emissions are clearly in excess of the threshold and there is no mitigation outlined in the MND to offset this significant environmental impact. The .7 factor applied is not explained and not supported by substantial evidence. Therefore the impacts of the project NOx emissions are significant Class 1. An EIR is clearly required concerning this proposed development on air quality standards alone.

*With the submittal of the "Recirculated" MND, the Impact Discussion section on page 8 was revised to reflect the findings of a second URBEMIS model run prepared by the APCD. The significant numbers in the second run showed ROC of 24.95 lbs per day (0.05 lbs under the threshold), and ROx of 21.66 pounds per day. It is interesting to note that when the actual model run is viewed, these numbers reflect the NOx and ROG figures respectively. (There are no ROC or ROx numbers indicated on the February 19, 2008, model run provided by the Planning Division. See copy of the February 19, 2008, model run attached as Exhibit 11.)*

*The Tree Amigos have serious concerns over the propriety of the APCD preparing model runs for the developer of Key Site 11. Unless the APCD provides model runs for all developers in Santa Barbara County, which we have been advised they do not, there appears to be a conflict of interest and breach of fiduciary duty.*

*Regardless of the concerns noted above, a comparison of the first model run and the second, reveals significant differences. In the second model run, the NOx figure has been reduced approximately twenty percent (20%). According to Vijaya Jammalamadaka of the APCD this is due to the updated version of the URBEMIS program used and the improved vehicle fleet mix. However, the creator of the URBEMIS program, Tim Rimpo, advised us that this is not possible, new raw information had to have been used to obtain such a large difference.*

*It is also suspicious that the original figure was 31.33 – in excess of the 25 pound per day limit established by CEQA, and somehow the second run is 24.95 pounds per day – 0.05 pounds per day under the CEQA limit. It appears that both model runs were manipulated in order to bring this project into CEQA compliance. The first by the multiplication of the unexplained 0.7 factor, and the second by a new model run that is able to barely bring the project into compliance. These factors obviously need further examination and the preparation of an EIR is the only appropriate avenue. We respectfully request that an EIR be required of this project and that these suspect model runs be examined very closely by the appropriate authorities.*

*At this time the Tree Amigos have been unsuccessful in obtaining raw data information from the Planning Division. Multiple requests have been made for a complete copy of the first model run (only the first page has been provided), and there is currently an outstanding request for public Michael Hays*

*records. Once the complete file has been provided, the Tree Amigos will be in a better position to obtain expert review of the air quality with respect to the proposed project.*

### **Greenhouse Gas emissions**

AB 32 requires reduction of greenhouse gas emissions. While there are no thresholds yet, AB 32 creates a de facto threshold and any increase is a significant impact of the project. Unless the project is greenhouse gas neutral, there should be a significant impact finding.

### **4.4 BIOLOGICAL RESOURCES**

The MND indicates “potentially significant impacts to the wildlife habitat of Orcutt Creek and the adjacent pond, both through direct removal of habitat and an increase in long term wildlife disturbance.” The mitigation measures include confining development to the north side of Orcutt Creek and replanting embankments with native trees and shrubs after grading. While the proposed project entails significant grading of the building site with the movement of 37,000 cubic yards of fill, the description is incomplete. It does not say whether the flood plain will or will not be filled. The MND states, “should portions of the flood plain be filled...” Thus it does not define the project with enough clarity to enable assessment of impacts. From a lay person’s standpoint if only minimal fill is to be imported as stated in the MND, the only place the majority of fill will come from to shore up the development will be from the lower banks leading down towards Orcutt Creek. The movement of this amount of soil will disturb the wildlife presently in the low lying areas of Key Site 11, removing them from the site permanently. Key Site 11 is home to various species of wildlife.

The MND further implies that no endangered species will be affected, however, until an EIR is conducted that fact remains unfounded. Attached as Exhibit 4 is a letter dated February 8, 2008, from Vince Semonsen, a Wildlife Biologist. Mr. Semonsen reviewed the MND and concluded that at the very least protocol level surveys are required due to the potentially significant impact the development may have on two species of special interest, California tiger salamanders, and California red-legged frogs, as well as on two additional species of special concern, the Western spadefoot toad, and the Southern Pacific pond turtle. Mr. Semonsen’s testimony makes clear that no protocol surveys have apparently been conducted on Key Site 11 to determine if these four species exist as residents or migrants on the site. He states further that the site is within the range of the California tiger salamanders and that California red-legged frogs are known to reside in Orcutt Creek just downstream of Key Site 11.

The introduction of a storm drain into Orcutt Creek at Key Site 11 will also further endanger all species, including those of special interest, at Key Site 11 and at all sites downstream from that location and the sensitive creek habitat itself. However, the Biological Resources section of the MND does not even state that a storm drain will be constructed into Orcutt Creek. This information is in the Geology Section, and omitted from the Biological Resources Section