

Special Notice / Hearing: 10-day notice publication

Vote Required: Majority

To: Honorable Board of Supervisors
From: Steve Monowitz, Community Development Director
Subject: Certification of an Environmental Impact Report and consideration of zoning and general plan amendments to specified areas of North Fair Oaks.

RECOMMENDATION:

Public hearing to consider certification of an Environmental Impact Report and zoning and general plan amendments to specified areas of North Fair Oaks:

- A) Open public hearing
- B) Close public hearing
- C) Recommendation to:
 - 1. Adopt a resolution making findings and certifying the Environmental Impact Report and adopting a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the North Fair Oaks Rezoning and General Plan Amendment Project; and
 - 2. Adopt an ordinance (1) amending the County Ordinance Code, Division VI, Part One (Zoning Regulations) to amend Chapters 21C (NMU Neighborhood Mixed Use Zoning District), 28.1, Section 6565.18 (Standards For The Design Of Commercial Structures On Middlefield Road In North Fair Oaks), 29 (Design Review and Site Development Permit), 29.1 (CMU-1 Zoning District), 29.2 (CMU-2 Zoning District), 29.3 (NMU-ECR Zoning District), and 29.4 (CMU-3 Zoning District); and (2) amending the County Ordinance Code Division VI, Part One, Chapter 2, Section 6115 (Zoning Maps), previously introduced to the Planning Commission on June 21, 2023, and waive reading of the ordinance in its entirety; and
 - 3. Adopt a resolution amending the text of the North Fair Oaks Community Plan, and the San Mateo County General Plan Land Use Maps to change the land use designations for specified areas in North Fair Oaks from Medium High Density Residential to High Density Residential and Mixed-use land use categories.

BACKGROUND:

Report Prepared By: Will Gibson

Applicant: Planning and Building Department

Owner: N/A

Public Notification: Notice for the hearing was posted in the San Mateo Times

Location: Unincorporated North Fair Oaks, various areas

APN(s): Various

Existing Zoning: Various

General Plan Designation: Various

Sphere-of-Influence: Redwood City

DISCUSSION

A. BACKGROUND

In 2011, San Mateo County adopted the North Fair Oaks Community Plan, based on extensive community input and assessment of community needs and goals. The Community Plan establishes goals and policies for the development of North Fair Oaks over the next 25 to 30 years. Subsequently, the County adopted new Zoning Regulations for various areas of North Fair Oaks, implementing the broader land use and development goals and policies in the Community Plan through more refined and specific development regulations. These new zoning districts included higher density commercial-residential mixed-use districts along El Camino Real (CMU-1, NMU-ECR), 5th Avenue (CMU-1, CMU-2), Middlefield Road (NMU, CMU-3), and the areas around the crossing of Middlefield Road and the Dumbarton Rail line (CMU-3).

Since adoption of the zoning districts listed above, implementation of the regulations has revealed areas that could be improved for clarity and ease of implementation, and to address various inconsistencies and minor errors in the zoning text. In addition, a number of new or amended State laws regarding housing production, including California Density Bonus law, the Housing Accountability Act, AB 2097 (2022), AB 2011 (2022) and others have made some provisions of the Zoning Regulations inapplicable to many projects in these zoning districts. The County, like most jurisdictions, is also experiencing housing shortages, and foresees the eventual inability to provide sufficient housing to meet its share of regional need without identifying additional areas for higher density housing production.

To address these issues, the North Fair Oaks Rezoning and General Plan Amendment Project was initiated in January 2022, with the following interrelated components:

1. Amendments to the existing commercial mixed-use and neighborhood mixed-use zoning districts along Middlefield Road, El Camino Real, and 5th Avenue (NMU, NMU-ECR, CMU-1, CMU-2 and CMU-3 zoning districts,

Chapters 21C, 29.1, 29.2, 29.3 and 29.4 of the County Zoning Regulations), the Design Review and Site Development Zoning Regulations (Chapter 29) and the Middlefield Road Design Review Regulations (Chapter 28.1, Section 6565.18) to ensure that the Zoning Regulations are consistent with recent changes to State law, to improve clarity and usability of the regulations, and to ensure the Zoning Regulations are implementing the goals of the [North Fair Oaks Community Plan](#).

2. Amendments to the North Fair Oaks Community Plan for clarity, elimination of redundancy, and consistency with the amended Zoning Regulations and State law.
3. Rezoning and General Plan land use designation changes for several [residentially-zoned areas adjacent to El Camino Real and Middlefield Road](#) from, variously, the existing R-1 One-Family Residential and R-3 Multiple-Family Residential zoning designations to either CMU-1, CMU-3, or NMU, to allow more multifamily and commercial-residential mixed-use development. The rezoning portion of the project would result in increased heights and densities in these areas: the areas zoned R-3 adjacent to El Camino Real would change from the currently allowed 36-foot height and 60 units per acre to the 60-foot height and 80 units per acre allowed by the adjacent CMU-1 zoning and Commercial Mixed Use land use designation; the R-3-zoned areas along Middlefield Road would change from 36-foot height and 60 units per acre to the 70-foot height and 60-120 units per acre allowed by the adjacent CMU-3 zoning and Commercial Mixed Use land use designation, and; the few parcels zoned R-1 adjacent to Middlefield Road would change from the currently allowed 28-foot height and 24 units per acre to the 40-foot height and 60 units per acre allowed by the adjacent NMU zoning and Neighborhood Mixed Use land use designation. No changes to the allowed heights, densities, or intensities of development are proposed for the existing CMU-1, CMU-2, CMU-3, NMU or NMU-ECR zoning districts.

B. PROJECT TEAM, COMPONENTS, TIMELINE, AND PUBLIC OUTREACH

Project Team. To undertake the project, the County obtained the services of a consultant team, comprised of:

- Wallace, Roberts, & Todd, LLC (lead)
- Rincon Consulting (environmental analysis)
- W-Trans (transportation and environmental analysis)
- Nuestra Casa (community outreach)
- Peninsula Conflict Resolution Center (community outreach)
- Martha Miller Associates (planning/policy)

Technical Advisory Committee. The County convened a Technical Advisory Committee (TAC), to provide input on existing conditions and community needs, technical expertise, and policy guidance. The TAC was comprised of two members of the North Fair Oaks Community Council, one youth member of the Community Council, representatives from the Department of Housing, Public Works Department, Office of Sustainability, County Executive's Office, Office of Community Affairs, District 4 Supervisor's Office, and Caltrans. The TAC met seven times throughout the process, helping draft and review the proposed amendments.

Community Outreach. The project included extensive outreach to notify the community of the details of the project, solicit input on community goals and needs, assess opinion on various project components, and ensure community members were aware of opportunities for participation in the project. Outreach included:

- Stakeholder Focus Groups. PCRC and Nuestra Casa engaged multiple stakeholder groups, including various community members, business owners, developers, and relevant agency and department staff, to solicit input on current zoning and land use regulations, current community conditions and needs, and potential changes to policies and regulations.
- Pop-ups and Other Public Engagement. The project team held 6 pop-ups at various locations in the community, to distribute project information, publicize the community survey, and directly gather input. The project team also had a booth at the North Fair Oaks Festival, for the same purpose.
- Door-to-Door Outreach. Nuestra Casa distributed information door-to-door on multiple occasions, to all household within the project areas.
- Project Website. Information on the project, various outreach efforts and presentations, the community survey, project analysis, and other information was made available on the project website:
<https://www.rezoningnorthfairoaks.org/>
- Community Survey. The project team distributed a community survey to gather input on community priorities and opinions on potential policy changes, and solicited survey participation through door hangers, flyers, pop-up booths, the North Fair Oaks festival, the project website, the North Fair Oaks Community Council, and other channels. Survey results are available on the project website.

North Fair Oaks Community Council. The North Fair Oaks Community Council reviewed the project and offered input at various stages, at five hearings over the course of 2022 and 2023.

Project Timeline. The basic project stages are as follows:

- *Project Initiation* (February-March 2022)
- *Community Outreach Kickoff, Existing Conditions Analysis, Environmental Analysis Scoping* (April-June 2022)
- *Development of Zoning and General Plan Draft Alternatives* (July-November 2022)
- *Draft Zoning Regulation Amendments with Draft Environmental Report* (December 2022–February 2023)
- *Final Draft Zoning & General Plan Amendments with Final EIR* (March-July 2023)
- *North Fair Oaks Community Council final review and recommendation* (April 27, 2023)
- *County Planning Commission final review and recommendation* (June 21, 2023)

The proposed amendments shown in the attached materials and described below reflect the analysis and assessment completed throughout the project, incorporating community, stakeholder, and technical advisory committee input, contemporary best practices, and achieving compliance with State law.

C. PROPOSED AMENDMENTS

The project is a zoning text and map amendment, and a General Plan text and map amendment, to amend both the County Zoning Regulations and the North Fair Oaks Community Plan. The proposed amendments are summarized below, by category. The entirety of the proposed amendments to the Zoning Regulations are included in the adopting ordinance, Attachment B to this report. The proposed amendments to the Community Plan are included in the adopting resolution, Attachment C to this report.

1. ZONING CHANGES

Residential Uses Allowed by Right. Entirely residential uses would be allowed by right (i.e., without a requirement for any discretionary approvals) in the CMU-3 areas along southern Middlefield Road, and the CMU-1 areas along El Camino Real. Ground floor commercial uses would continue to be required in the NMU areas on southern Middlefield Road, in the NMU-ECR district, and in the CMU-1 and CMU-2 areas on 5th Avenue, with the intent of preserving these as key commercial areas serving the community.

Rezoning to Higher Densities. Multiple parcels along El Camino Real, adjacent to Blenheim Avenue, would be rezoned from R-3 to CMU-1. Multiple parcels along Middlefield Road adjacent to Huntington Avenue

would be rezoned from R-3 to CMU-3. Several parcels currently designated R-1, northeast of Middlefield Road and adjacent to the NMU zoning district, would also be rezoned to NMU. Like the adjacent districts, these areas would allow higher density residential and/or residential mixed-use development. The areas proposed for rezoning to residential/commercial-residential mixed-use are indicated on the maps included as attachments to the adopting ordinance, Attachment B.

Parking Requirements. The amendments would standardize parking requirements across project types and zoning districts and achieve consistency with State law. The current standards have some unintended variance in requirements across project types in different zoning districts, and in some cases require more parking than is now allowed by State law. The amendments address those issues. It should be noted however that while the Zoning Regulations still impose minimum parking standards, new State laws have removed the County's ability to impose *any* parking requirements for many projects in North Fair Oaks, due to the community's proximity to transit corridors and future transit facilities. For qualifying projects in these locations, the County will default to State law and waive otherwise applicable parking requirements.

Electric vehicle charging station requirements would also be removed from the parking standards, as these requirements have been superseded by similar requirements in California's Building Code.

Design Regulations. The proposed amendments would:

- a. Eliminate Section 6565.18 of the Zoning Regulations, which consists of design regulations previously in effect for commercial structures on Middlefield Road. These regulations were already superseded by the later-adopted Chapter 29 of the Zoning Regulations, Design Review and Site Development Permit, but the prior regulations, although no longer in effect, were not removed from the County's Zoning Regulations.
- b. For consistency with State law, replace all subjective design standards with objective standards intended to, as nearly as possible, achieve the same outcome. In addition, staff would evaluate a project's consistency with design standards, without public hearings. State law now largely prohibits the imposition of most subjective standards and most other discretionary approval processes, including discretionary hearings, for multifamily residential and residential mixed-use projects in the unincorporated County.
- c. Eliminate the need for public hearings for minor permits (grading permits, tree removal permits, and others) for projects that otherwise require no hearings. Per State law, these regulations are also largely required to be applied in an objective manner, precluding discretion associated with hearing-level approvals.

- d. Eliminate a number of energy efficiency and green building standards that have, subsequent to their adoption as part of the Zoning Regulations, been superseded and exceeded by the California Building Code, and similarly eliminate several standards related to water-efficient landscaping, low-impact design, and stormwater treatment that are covered by other County ordinances, including the Water Efficient Landscaping Ordinance, stormwater treatment regulations, and others which are more frequently updated to comply with State and regional regulations.
- e. Modify or eliminate some architectural standards that are no longer best practices.

Setbacks and Stepbacks. The proposed amendments standardize rear setbacks and stepbacks across areas and development types in the CMU-1, CMU-2, CMU-3, and NMU-ECR Zoning Regulations. A 10-foot rear setback and an additional 10-foot stepback at or below 20 feet of building height would be required. Rear setbacks and stepbacks in the NMU district would not be modified.

To address concerns with the potential height and bulk of structures in the area to be rezoned from R-3 to CMU-3 between Middlefield Road and Huntington Avenue, which are directly across Huntington Avenue from an area that, while zoned for multifamily residential development, has a number of lower-density single-family residences, an additional 5-foot front stepback would also be required for development fronting on Huntington, minimizing impacts to single-family residences.

2. COMMUNITY PLAN AMENDMENTS

Land Use Standards. The land use standards in Table 2.1: Neighborhood Mixed-Use, Table 2.2: Commercial Mixed-Use, and Table 2.3: Commercial Mixed-Use (within 1/4 mile of Potential Multi-Modal Transit Hub) would be clarified to indicate that floor area ratio (FAR) limits apply only to non-residential portions of development projects. Residential size and intensity would continue to be limited by maximum density. This amendment is solely for clarity and does not alter the existing standards.

Elimination of Community Benefits Section. The Community Plan contains a general policy goal of creating a community benefits program, which would offer projects additional density or reduce various development standards (such as setbacks, parking, height, or others) in exchange for the provision of community benefits, potentially including affordable housing, public recreational space, or other benefits. However, since adoption of the Community Plan, the State Density Bonus Law has superseded this program, and all residential projects receive significantly greater density and guaranteed reductions in development standards by default. As the

community benefits program is no longer able to be implemented, the policy would be eliminated from this section of the Community Plan.

Elimination of Duplicative Standards. The Community Plan and the Zoning Regulations contain various identical standards, including those governing parking, setbacks and stepbacks. Typically, General Plan/Community Plan standards include base density, allowed uses, and various other more general standards, goals and policies, but not precise development standards, which are typically provided by zoning. The proposed amendments would retain maximum density, FAR, and height in the Community Plan, but eliminate the other standards from Tables 2.1, .2.2 and 2.3, incorporating them exclusively in the Zoning Regulations, for consistency with County practice. Various design standards included in Chapter 7 of the Community Plan are also replicated in the revised Chapter 29 of the Zoning Regulations and therefore the proposed amendments would also delete the duplicative design standards from the Community Plan. The full proposed amendments to the Community Plan are shown in the adopting resolution attached to this report as Attachment C.

Minor Rewording of Various Policies. The proposed amendments include revisions to various policies for clarity, including clarifying whether they are requirements or recommendations, elimination of redundant language, and other minor language amendments that do not significantly alter the substance of the Community Plan policies.

Map Amendments for Consistency Between Community Plan and Zoning. The maps in the North Fair Oaks Community Plan would be amended to change the R-3 zoned areas along Middlefield and El Camino Real, proposed for rezoning to CMU-1 or CMU-3, from Medium High Density Residential, to the Commercial Mixed Use land use designation. The areas currently zoned R-1, proposed for rezoning to NMU, would be changed from Medium Density Residential to the Neighborhood Mixed Use land use designation.

D. NORTH FAIR OAKS COMMUNITY COUNCIL

The North Fair Oaks Community Council reviewed this project on April 27, 2023 and voted to recommend that the Planning Commission recommend that the Board of Supervisors adopt the proposed amendments.

E. PLANNING COMMISSION

The County Planning Commission reviewed this project on June 21, 2023 and voted to recommend that the Board of Supervisors adopt the proposed amendments.

F. ENVIRONMENTAL IMPACT REPORT

Pursuant to the requirements of the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared for the project, assessing all potential environmental impacts from adoption of the proposed amendments, and identifying available mitigation to lessen or eliminate these impacts. The Draft EIR (DEIR) was released in April, and the comment period closed on June 13, 2023. After close of the review period, a Final EIR (FEIR) was prepared, taking into account all comments received during the review period. The DEIR and FEIR are available at: <https://www.smcgov.org/planning/north-fair-oaks-rezoning-and-general-plan-amendment-project-eir>.

The EIR assessed all areas of potential environmental impact required by CEQA, and determined whether impacts in those areas are: 1) nonexistent 2) less than significant 3) potentially significant but mitigable, or 4) potentially significant and potentially unmitigable (listed as “significant and unavoidable” in the EIR).

For the most part, the EIR identified either no potential impact, or potential impacts that can be reduced to less-than-significant by mitigation measures described in the EIR. However, there are four impacts identified in the EIR as potentially significant and unavoidable. As the proposed amendments do not change the allowed scale or intensity of potential development in any of the existing mixed-use zoning areas, these potentially significant and unavoidable impacts only relate to development that could be facilitated by the rezoning of existing residentially zoned areas to mixed-use zoning. The potentially unavoidable impacts are as follows:

1. Significant and Potentially Unavoidable Impacts

- a. Impact AQ-2. *The project would not result in a cumulatively considerable net increase of construction criteria pollutants. The project would result in a cumulatively considerable net increase of operational criteria pollutants. Impacts from construction would be less than significant with mitigation. Impacts from operation would be significant and unavoidable.*

This impact was also identified in the EIR for the 2011 North Fair Oaks Community Plan and relates to the fact that new development by necessity increases criteria pollutants in a manner that, while reducible by various kinds of construction techniques, filtration methods, and other mitigations, cannot be reduced with certainty to insignificant amounts. The existence and ongoing operation of new development de facto increases criteria pollutants.

- b. Impact CUL-1. *The project has the potential to cause a significant impact on a historic resource if development facilitated by the project would cause a substantial adverse change in the significance of that resource. This impact would be significant and unavoidable.*

This impact was also identified in the EIR for the 2011 Community Plan and relates to the fact that while development projects can be

held to standards that mitigate impacts on various historic resources, North Fair Oaks may have unidentified historic resources of unknown type and quantity, and the ability to mitigate impacts to such unknown resources by types of development as yet unspecified cannot be foreseen with certainty. However, the County will implement the identified mitigation measures to mitigate any potential impacts to the greatest extent possible.

- c. *Impact NOI-1. Construction of development facilitated by the project would temporarily increase noise levels that could affect nearby noise-sensitive receivers. Operation of development facilitated by the project would introduce new on-site noise sources and contribute to traffic noise. Construction, on-site operational noise impacts, and traffic noise impacts would be significant and unavoidable despite the implementation of feasible mitigation measures.*

This impact was also identified in the EIR for the 2011 Community Plan, and relates to the fact that, while construction-related noise impacts can be mitigated, they may temporarily exceed thresholds of significance despite mitigation measures. These impacts are the typical and inevitable consequence of most development of any significant size.

- d. *Impact TRA-2. The proposed project would conflict with CEQA Guidelines Section 15064.3(b) by resulting in increased VMT from future office-only commercial development facilitated by the project. It cannot be guaranteed that mitigation would reduce office-only commercial VMT to acceptable levels; therefore, impacts would be significant and unavoidable.*

This impact was not identified in the EIR for the 2011 Community Plan and is a new impact that is the consequence of 1) new environmental assessment methodologies required by State law related to generation of Vehicle Miles Traveled (VMT), and 2) the interim nature of the County's VMT assessment methodology.

The assessment of VMT as an impact in environmental analysis is a relatively new requirement of State law (SB 375, adopted in 2008), and the methodology for conducting such analyses has been developed over a period of years by the California Air Resources Board, and locally by the Metropolitan Transportation Commission/Association of Bay Area Governments, the San Mateo County's City/County Association of Governments, and local San Mateo County jurisdictions. The law requires jurisdictions to adopt thresholds for significant impacts of increased vehicle miles traveled related to different types of development and land use, replacing the previously typically used Level of Service (LOS) standards. If new development increases VMT in amounts that cannot be reduced below certain established thresholds, the VMT impact is considered

significant. Mitigation would then be required, but if the impacts could not be adequately mitigated, they would be significant and unavoidable.

The County has developed interim guidelines for assessment of VMT impacts, available [here](#). The County guidelines address various discrete single-use land uses (residential, commercial, etc.) but do not establish a standard for assessing the potential VMT impact of mixed-use development (residential and retail, residential and office, etc.). Because the County's guidelines do not address mixed-use development, the EIR relies on the State's recommended method of assessing each potential use as a discrete use, rather than assessing the VMT impact of the mix of uses.

The EIR demonstrates that various residential uses and retail uses that would be allowed by the rezoning are not projected to generate significant VMT into or out of the area, and do not exceed the significance thresholds established by the County's VMT methodology. However, because office uses are considered regional in nature, and travel to and from these uses is assumed to include travel of substantial distances, significant amounts of new office development could generate VMT that exceeds the County's established thresholds.

The theoretical impact of potential future office development is largely an artifact of the assessment of office uses as discrete, single-use projects, despite the fact that any projects developed in the rezoned areas that are not 100% residential will be required to be mixed-use, and predominantly residential. The VMT generated from these projects as a whole, including residential and non-residential components in aggregate, would likely be below the threshold criteria for impacts.

In addition, future individual projects developed in the project area would likely be exempt from detailed VMT analysis and considered to have less-than-significant VMT impact, based on the exemptions in the County's [VMT criteria](#). However, because the exact nature of future development is unknown, it cannot be assumed that every project would be exempt.

Finally, the County has received few if any applications for ground-floor office development of any kind since adoption of the existing NMU and CMU mixed-use zoning districts, although substantial new development has been completed. While the requirements of the current VMT assessment methodology requires identifying VMT from office uses as a potential impact, it is highly unlikely that any project developed in the proposed rezoning areas will generate such an impact.

2. Certification of EIR and Adoption of Statement of Overriding Consideration

In tandem with project adoption, the Board of Supervisors must also certify that the EIR has been completed in accordance with CEQA, that it has been presented to the Board, and that the Board has taken into account the EIR analysis in its consideration of the project. Because the project may result in significant and unavoidable impacts, the Board must also adopt a statement of overriding consideration, describing the project benefits that outweigh any potential impacts.

At the time of North Fair Oaks Community Plan adoption, the Board of Supervisors adopted a statement of overriding considerations, stating that while the EIR identified impacts might be significant and unmitigable, the benefits of the project outweighed those potential impacts. It should be noted that in the twelve years since adoption of the Community Plan, development and redevelopment in the area has not resulted in notable adverse environmental impacts.

Staff recommendation for the project is that the Board adopt a statement of overriding considerations included in the resolution certifying the EIR.

FISCAL IMPACT:

There is no fiscal impact to the County from adoption of the proposed rezoning and General Plan amendments.

ATTACHMENTS:

- A. Resolution making findings and certifying EIR and adopting a statement of overriding consideration and mitigation monitoring program.
- B. Ordinance adopting zoning text amendments and related map changes.
- C. Resolution adopting North Fair Oaks Community Plan text amendments and related map changes.