



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Planning and Building



**Date:** November 26, 2012  
**Board Meeting Date:** December 11, 2012  
**Special Notice / Hearing:** Newspaper/10-Day  
Notice/Property Owners  
**Vote Required:** Four-Fifths

**To:** Honorable Board of Supervisors

**From:** Jim Eggemeyer, Community Development Director

**Subject:** Public hearing to consider extension of an Urgency Ordinance amending, on an interim basis, Chapter 15 (Neighborhood Business District) of the San Mateo County Zoning Regulations to add Sections 6252.5 through 6252.8 to the "C-1" Zoning District to create the "C-1/NFO/Fair Oaks" District, for the parcel located at 3821 Fair Oaks Avenue, in the unincorporated North Fair Oaks area of San Mateo County.

**RECOMMENDATION:**

Adopt and extend, for ten months and fifteen days, the Urgency Ordinance that was adopted by the Board of Supervisors on November 20, 2012 and that amends, on an interim basis, Chapter 15 (Neighborhood Business District) of the San Mateo County Zoning Regulations, to add Sections 6252.5 through 6252.8 to the "C-1" Zoning District to create the "C-1/NFO/Fair Oaks" District, for the parcel located at 3821 Fair Oaks Avenue, in the unincorporated North Fair Oaks area of San Mateo County and waiver of reading the Ordinance in its entirety.

**BACKGROUND:**

Report Prepared By: Michael Schaller, Senior Planner, 650/363-1849

Location: 3821 Fair Oaks Avenue, North Fair Oaks

APN: 060-123-360

Size: 5,400 sq. ft.

Existing Zoning: C-1/NFO/Fair Oaks by Ordinance No. 04639 (Neighborhood Commercial)

General Plan Designation: Neighborhood Commercial

Existing Land Use: Commercial catering business and single-family dwelling.

History: On November 20, 2012, your Board adopted an Urgency Ordinance that rezoned the property located at 3821 Fair Oaks Avenue from “C-1” to “C-1/NFO/Fair Oaks.” In adopting the Urgency Ordinance, the Board found that the lack of clarity in existing C-1 (Neighborhood Commercial) Zoning District Regulations has given rise to commercial uses in the North Fair Oaks area that are at an intensity that presents a current and immediate threat to the welfare and safety of residents in the area and that are inconsistent with the intent of the General Plan and the existing character of the neighborhood surrounding 3821 Fair Oaks Avenue.

At the hearing, five members of the public spoke on the item, with the majority speaking in support of the Urgency Ordinance. Those speaking in favor of the Urgency Ordinance cited concerns regarding the very late and very early hours of operation and mentioned a number of issues regarding noise, odors, and parking. After hearing a presentation by staff and testimony from the public, your Board found that there was a current and immediate threat to the public welfare and safety and adopted the Urgency Ordinance under the provisions of Section 65858 of the California Government Code. The Urgency Ordinance expires 45 days from the date of adoption (i.e., January 4, 2013). By law, the Urgency Ordinance can be extended for ten months and fifteen days, and for a period of one year thereafter (i.e., for a total period of up to two years), to afford the County an opportunity to consider or study changes to land use regulations to address the threat to public welfare and safety identified by the Board. At the time the Board initially adopted the Urgency Ordinance on November 20, 2012, the Board also directed staff to analyze how this use provides, or can be made to provide, a neighborhood benefit. During the requested ten and a half month extension, staff will be analyzing the project and working with the business owner to address this issue raised by the Board.

**DISCUSSION:**

**Report Required by Section 65858(d) of the Government Code**

Section 65858(d) of the California Government Code stipulates that ten days prior to the expiration of the Interim Ordinance or any extension, the County must issue a written report describing the measures taken to alleviate the condition which led to the adoption of the Ordinance. This report satisfies that requirement. Prior to the adoption of the Urgency Ordinance by the Board, County staff met several times with members of the public and the North Fair Oaks Community Council, as well as the business owner to resolve the conflicts between the parties. Staff employed the services of the Peninsula Conflict Resolution Center to assist in these discussions. Staff issued letters requesting the business owner modify their operations to alleviate the problems they were generating within the neighborhood. Also, prior to the adoption of the Urgency Ordinance, on November 15, 2012, Planning staff met with the public and the North Fair Oaks Community Council to discuss the proposed Ordinance and explain the Urgency Ordinance process. Staff took comments at that time as well as subsequent to the

Ordinance's adoption by the Board. All of these actions were intended to resolve the condition that led to the adoption of the Urgency Ordinance. Staff has also received correspondence from the public since the adoption of the Urgency Ordinance on November 20, 2012, regarding proposed modifications and additions to the performance standards for the Department and Planning Commission to consider. The suggestions include: reducing the noise (decibel) limitations, reducing the weekday and weekend operational hours, limiting the number of employees on-site, reducing the types of allowable uses on the property, prohibiting commercial vehicle storage and parking on-site except for loading and unloading purposes, and addressing parking and delivery vehicles. However, as of this hearing date, new zoning regulations that would comprehensively resolve the situation have not been formulated, thus requiring an extension of the Urgency Ordinance for an additional ten months and fifteen days.

Staff is not proposing any changes to the Urgency Ordinance at this time.

Adoption of these regulations is exempt from review under the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that these regulations, which impose further restrictions on development, will have the potential to cause a significant effect on the environment.

County Counsel has reviewed and approved the Ordinance as to form.

The extension of this Urgency Ordinance contributes to the 2025 Shared Vision outcome of a Livable Community by reinforcing Policy 8.18 of the General Plan, which regulates commercial land uses by enforcing development and performance standards to ensure high quality commercial development and compatibility with adjacent land uses.

**NEXT STEPS:**

During the ten and one-half month period that the interim regulations will be in effect, Planning staff will work quickly to bring to this Board proposed permanent regulations, based on the proposed interim regulations, with modifications if necessary.

Section 6552 of the County Zoning Regulations requires that the Planning Commission review and provide a recommendation to the Board of Supervisors on any proposed zoning amendment. County staff intends to schedule a Planning Commission workshop regarding the permanent regulations, tentatively for the first quarter of the New Year at a location near 3821 Fair Oaks Avenue. Following the workshop, staff will provide any necessary information to the Planning Commission for their review, deliberations, and recommendation to your Board.

**FISCAL IMPACT:**

There is no anticipated fiscal impact to the County as a result of this amendment.