



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: September 20, 2013
Board Meeting Date: October 8, 2013
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 (1) an Urgency Ordinance extending the Interim Ordinance amending, on an interim basis, the San Mateo County Ordinance Code, Zoning Annex, Division VI, Part One, Chapter 15, Neighborhood Business District, 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, for a period of one year or until such time that non-interim zoning regulations are adopted for the subject parcel, whichever comes first, and (2) issuance of a written report as required by California Government Code Section 65858(d) describing the measures taken to alleviate the condition which led to the adoption of said Urgency Ordinance.

County File Number: PLN 2012-00315

RECOMMENDATION:

Adopt and extend, for one year, the Urgency Ordinance that was initially adopted by the Board of Supervisors on November 20, 2012, and that was then extended by the Board of Supervisors on December 11, 2012 and that amends, on an interim basis, the San Mateo County Ordinance Code, Zoning Annex, Division VI, Part One, Chapter 15, Neighborhood Business District, 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, for a period of one year or until such time that non-interim zoning regulations are adopted for the subject parcel, whichever comes first, and waive the reading of the Ordinance in its entirety.

BACKGROUND:

Report Prepared By: Matt Seubert, Senior Planner, 650/363-1829

Owner: Jaime Gonzalez

Location: 3821 Fair Oaks Avenue, corner of San Benito Avenue, North Fair Oaks

APN: 060-123-360

Parcel Size: 5,400 sq. ft.

Existing Interim Zoning: C-1/NFO/Fair Oaks (Neighborhood Commercial) by Ordinance No. 04640

General Plan Designation: Neighborhood Mixed-Use (Medium Density)
Commercial/Residential/Public

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

Setting: Corner lot surrounded by single-family residential land uses on all sides

DISCUSSION:

Prior Board of Supervisors Action

On November 20, 2012, your Board adopted an Urgency Interim Ordinance under the provisions of Section 65858 of the California Government Code, which authorizes the County to adopt as an urgency measure an Interim Ordinance prohibiting uses that may be in conflict with a contemplated zoning proposal that the County is considering or studying or intends to study within a reasonable period of time. As a result, the subject parcel now carries the (interim) zoning designation C-1/NFO/Fair Oaks (Neighborhood Commercial/North Fair Oaks/Fair Oaks). The prior zoning was C-1, Neighborhood Commercial. In adopting the Urgency Ordinance, your Board found that the lack of clarity in the 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. The initial Ordinance was in effect for 45 days. Your Board also directed staff to analyze how the existing use (the catering business) provides, or can be made to provide, a neighborhood benefit. This item was subsequently analyzed as part of the preparation of the staff report for the Planning Commission hearing of September 11, 2013. On December 11, 2012, your Board extended the initial Urgency Ordinance for 10 months and 15 days, that is, until October 26, 2013.

Report Required by Section 65858(d) of the Government Code and Planning Commission Action

Section 65858(d) of the California Government Code stipulates that ten days prior to the expiration of the Interim Ordinance or any extension, the legislative body must issue a

written report describing the measures taken to alleviate the condition which led to the adoption of the Ordinance.

The Ordinance constitutes this Board's written report, which is also summarized here. County staff took a number of measures to alleviate the condition leading to the adoption of this Ordinance. Specifically, and 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 owners 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 owners modify their operations to alleviate the impacts on the surrounding neighborhood. Also, prior to the adoption of the Urgency Ordinance, on November 20, 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.

Pursuant to the above-referenced Board action, on March 13, 2013, the Planning Commission held an information-item public hearing and a field trip regarding this item. The Commission directed staff to further explore a number of zoning options for this property, conduct additional research, and report back. On September 11, 2013, the Planning Commission held a second public hearing on this issue and directed staff to prepare for review by the Planning Commission a rezoning of the subject parcel to R-1/S-73 (Single-Family Residential). Planning staff is currently preparing this amendment, including the necessary California Environmental Quality (CEQA) review, for consideration by the Planning Commission, and ultimately recommendation to your Board.

All of the above actions were intended to resolve the condition that led to the adoption of the Urgency Ordinance. However, as of today's hearing date, new zoning regulations that would resolve the situation have not been adopted, thus requiring an extension of the Urgency Ordinance for an additional year, or until such time as non-interim zoning regulations are adopted for the subject parcel, whichever comes first. Other than the extension under consideration today, no further extensions may be adopted under California Government Code.

At its September 11, 2013 hearing, the Planning Commission also queried staff if additional performance standards could be added to the Urgency Ordinance at the time of its extension. The Commission did discuss modifying the performance standards in the existing Urgency Ordinance. For example, there was some discussion of further limitation on the number of employees allowed. In addition, one of the options presented to the Commission for consideration at this hearing would have added and/or modified performance standards in the C-1/NFO/Fair Oaks Ordinance and made them permanent. However, the Commission ultimately did not favor this option, instead directing staff to prepare an amendment rezoning the subject parcel to R-1/S-73. There was no consensus among or direction to staff from the Commission as to what changes

or additions to the performance standards that they would recommend. Furthermore, although California Government Code Section 65858 allows your Board to extend the Interim Ordinance, it does not expressly provide for amendments to an existing Interim Ordinance. County Counsel has advised that amendment of an urgency ordinance in connection with its extension can potentially endanger its validity in the courts. For these reasons, the Ordinance prepared by staff is an extension of the previously adopted Interim Ordinance.

Adoption of these regulations is exempt from review under CEQA 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 8.15 of the General Plan, which calls for ensuring that commercial development is compatible with adjacent land uses, and 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:

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. During the period that the extension of the Interim Ordinance will be in effect, staff will prepare a recommendation to the Planning Commission to rezone the project parcel to R-1/S-73, which would then be forwarded to your Board upon recommendation by the Planning Commission.

FISCAL IMPACT:

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