#### COUNTY OF SAN MATEO PLANNING AND BUILDING DEPARTMENT

DATE: May 16, 2024

- **TO:** Zoning Hearing Officer
- FROM: Planning Staff
- **SUBJECT:** Consideration of a Use Permit and Off-Street Parking Exception, pursuant to Sections 6137, 6503, 6570.5.5. and 6570.5.9.(d) of the County's Zoning Regulations, to legalize two single-story attached residential units with two uncovered parking spaces, a minimum building height of 9 feet, 3 inches where 36 feet is the minimum building height required, and a 0 feet left side yard setback where 2 feet is required, on a conforming 5,000 sq. ft. parcel located at 424 Dumbarton Avenue in North Fair Oaks. No tree removal and no grading are proposed.

County File Number: PLN2023-00216 (Tran/Rodighiero)

# **PROPOSAL**

The applicant proposes to legalize the conversion of a commercial building into two single-story attached habitable residential units (Units A and B) that were converted without permits. Each habitable unit is approximately 268 square feet. The attached habitable units are located at the front of the existing parcel in the CMU-3 (Commercial Mixed Use-3, North Fair Oaks) Zoning District where 5,000 sq. ft. is the minimum lot size.

A detached 1,211 sq. ft. commercial office building is also located on the property; no changes are proposed to this commercial building or use. Legalization of the two 268 sq. ft. residential units result in a horizontal commercial-residential mixed-use that requires a Use Permit in the CMU-3 Zoning District. A Non-Conforming Use Permit is required to maintain 0 feet left side yard setback where 2 feet is required and a building height of 9 feet, 3 inches where 36 feet is the minimum required. A Use Permit is also required to waive the requirement for one EV parking space for the residential units.

#### **RECOMMENDATION**

That the Zoning Hearing Officer approve the Use Permit and Off-Street Parking Exception, County File Number, PLN2023-00216, by making the required findings and adopting the conditions of approval listed in Attachment A.

# BACKGROUND

Report Prepared By: Olivia Boo, Project Planner, oboo@smcgov.org

Applicant: Kyle Tran

Owner: Mario Rodighiero, Rodighiero Properties LLC

Public Notification: Ten (10) day advanced notification for the hearing was mailed to property owners within 300 feet of the project parcel and a notice for the Zoning Hearing Officer hearing was posted in a newspaper (San Mateo Times) of general public circulation on May 4, 2024.

Location: 424 Dumbarton Avenue, Unit A and B, North Fair Oaks

APN: 054-222-300

Size: 5,000 sq. ft.

Existing Zoning: CMU-3 (Commercial Mixed Use-3 District, North Fair Oaks)

General Plan Designation: Commercial Mixed-Use (Medium High Density)

Sphere-of-Influence: Menlo Park

Existing Land Use: Commercial office (building no.1), and two residential units (building no.2) proposed to be legalized.

Water Supply: Existing service by California Water Service-Bear Gulch

Sewage Disposal: Existing service by Fair Oaks Sewer District

Flood Zone: Zone X (area of minimal flood hazard), FEMA Panel Number 06081C0302E, effective date: October 16, 2012.

Environmental Evaluation: The project is categorically exempt pursuant to California Environmental Quality Act Guidelines Section 15301, Class 1(a), consisting of the minor alteration of an existing private structure including interior alterations involving such things as interior partitions, plumbing and electrical conveyances.

Setting: The property is located in the unincorporated community of North Fair Oaks and is developed with one single-story 1,211 sq. ft. commercial office building located at the rear of the parcel and two attached single-story residential units, totaling 268 sq. ft. each, located at the front of the parcel (being the subject of this Use Permit). The property has uncovered parking spaces for more than four cars onsite, but there is no existing covered parking. The area is developed with both commercial and residential uses.

# DISCUSSION

# A. <u>KEY ISSUES</u>

# 1. <u>Compliance with the General Plan/North Fair Oaks Community Plan</u>

The County's North Fair Oaks Community Plan designates the parcel as Commercial Mixed-Use (Medium High Density). The current permitted commercial use on the property is consistent with this designation. The proposed legalization of two residential units requires the subject Use Permit. All public services and infrastructure are available to serve the project.

# 2. <u>Compliance with the Zoning Regulations</u>

#### a. <u>Development Standards</u>

The project parcel is zoned CMU-3 and complies with the development standards, except for the left side yard setback which the applicant is seeking the subject (Non-Conforming) Use Permit to address.

	CMU-3 Development Standard	Existing	Proposed Addition
Minimum Lot Size	5,000 sq. ft.	5,000 sq. ft.	No change
Minimum Front Setback	8 feet (combination of setback and existing sidewalk)	14 feet (9 feet setback + 5 feet existing sidewalk)	No change
Minimum Rear Setback	10 feet.	>50 feet (to residential building)	No change
Minimum Side Setbacks	8 feet (combination of setback and existing sidewalk)	6 feet sidewalk, left side* 27 feet, right side	No change
Minimum/Maximum Building Height	36 feet minimum height	9 feet, 3-inch*	No change

	75 feet maximum height		
Floor Area Ratio	200% (mixed-use)	34%/1,747 sq. ft.	No change

Non-Conforming Use Permit required.

## 3. Parking Requirements

Section 6570.8 (*Parking*) supersedes Section 6119 of the County Zoning Regulations (*Parking Spaces Required*) regarding the minimum number of off-street parking spaces required. Table 1, A.2 (*Residential Development*) states dwelling units in a Mixed-Use Development require one (1) covered parking space for each unit with 0-2 bedrooms.

Two (2) total covered parking spaces are required for the two units proposed to be legalized as each unit has 1 bedroom. There is no existing covered parking on site for the residential units, nor is there adequate free and clear space to propose covered parking onsite, thus, an Off-Street Parking Exception is required. There is adequate space between the commercial building (Building No. 1) and the residential units (Building No. 2) to provide clear unobstructed uncovered parking onsite. Building No. 1 includes an attached one car garage to an existing 980 sq. ft. office and storage use which requires one covered or uncovered parking space (1 space per 850 square feet). Therefore, a total of three (3) parking spaces, minimally 2 of which must be covered, are required where three (3) parking spaces are provided, including one existing garage space plus two (2) uncovered on-site parking spaces.

Sections 6570.8.A.5 and 6570.8.A.7 identify that parking for residential development requires 0.25 covered or uncovered private bicycle parking spaces on site per dwelling unit and a minimum of one dedicated electrical vehicle (EV) parking space per project. There is adequate space onsite to accommodate uncovered bicycle parking for more than one bicycle. The project is requesting to legalize the conversion of commercial use to residential use within an existing building where no additional changes are proposed. No EV parking is proposed, and the applicant is requesting an exception to the EV parking requirement.

#### 4. Conformance with Use Permit Findings

The following findings, as required by Zoning Ordinance Sections 6503 (*Procedures*) and 6570.5.9 (*Horizontal Mixed-Use Development - Additional Standards*), must be made in order to grant approval of the Use Permit. In order to grant the use permit, the findings of the Zoning Hearing Officer must include:

a. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

The two attached residential units utilize an existing legal building onsite. Horizontal residential space in conjunction with a commercial use is allowed upon approval of a Use Permit. The two units will be required to comply with all San Mateo County Building Inspection Section requirements. The Building Inspection Section has reviewed the proposed development and has conditionally approved the project. As conditioned, the project will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood. The building has already been converted to residential use and only minor modifications are necessary to comply with building code. Minimal changes, if any, are expected to the exterior. Legalizing the residential units contributes to fulfilling the County's goal of providing needed affordable housing in the bay area. The project site is not located within the coastal zone; thus, no coastal resources will be impacted.

#### b. That the horizontal mixed-use development is compatible with the surrounding uses, and will not detract from the commercial, pedestrian-oriented character of the street.

The surrounding area includes a mix of commercial and residential uses. The commercial and residential uses are operating in existing one-story buildings, thus the residential use proposed to be legalized in an existing one-story building matches with the surrounding uses and is not expected to detract from existing commercial uses or the pedestrian-oriented character of the street.

c. That the horizontal mixed-use development has been designed so as to most closely match the intent of mixed use development in this district, as described in Chapter 2 of the North Fair Oaks Community Plan.

The two residential units proposed to be legalized constitutes horizontal mixed use (residential and commercial) thus matching the intent of mixed-use development. d. That the horizontal alignment of the uses is necessary due to specific characteristics of the type or mix of uses in the proposed development, or due to the specific character of the parcel or location of the development

The horizontal alignment is necessary given the building already exists, the interior use of the building for residential has already been converted, and no significant changes are proposed to the structure with exception of compliance with building code regulations.

#### e. That provision of the same uses in a vertical mixed-use design would be unduly costly, burdensome, or would not meet the intent of mixed-use development in this district, as described in Chapter 2 of the North Fair Oaks Community Plan.

The building conversion proposed to be legalized already exists, thus requiring a vertical mixed-use design would be costly and burdensome as it would require that one of the existing buildings, building #1 or #2, be reconstructed atop the other.

#### 5. <u>Compliance with the Off-Street Parking Exception Findings</u>

In addition to the ability to obtain a use permit for off-site parking and, in accordance with Zoning Regulations Section 6570.9.2.d., the Director of Planning and Building may grant an exception to modify the number of (vehicle) parking spaces, size, location, or design of required parking areas upon finding that extenuating and/or unusual circumstances exist that impair compliance with Section 6570.8 of the Zoning Regulations. As discussed in Section A.3 above, the project seeks to provide 2 uncovered parking space for the residential units where a minimum of 2 covered parking spaces is required and waive the requirement for one EV parking space.

Due to the location of the existing buildings, there is not adequate space to construct a new two-car garage or carport without obstructing existing access to the rear building's existing (commercial) garage doors. Additionally, the construction of an EV parking space would be costly and burdensome to the project which consists of the reuse of existing development. Requesting an Off-Street Parking Exception to provide two uncovered parking spaces located between the buildings will be as nearly in compliance with the parking regulations as reasonably possible.

#### B. NORTH FAIR OAKS COMMUNITY COUNCIL

The North Fair Oaks Community Council considered the project at their March 28, 2024, meeting and recommended approval.

# C. ENVIRONMENTAL REVIEW

The project is categorically exempt pursuant to California Environmental Quality Act Guidelines Section 15301, Class 1(a), consisting of the minor alteration of an existing private structure including interior alterations involving such things as interior partitions, plumbing and electrical conveyances.

#### D. <u>REVIEWING AGENCIES</u>

Building Inspection Section Department of Public Works Fair Oaks Sewer District California Water Service-Bear Gulch Menlo Park Fire Protection District

#### **ATTACHMENTS**

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Plans

#### County of San Mateo Planning and Building Department

# **RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN2023-00216 Hearing Date: May 16, 2024

Prepared By: Olivia Boo, Project Planner For Adoption By: Zoning Hearing Officer

# RECOMMENDED FINDINGS

#### For the Environmental Review, find:

1. That the project is categorically exempt pursuant to California Environmental Quality Act Guidelines Section 15301, Class 1(a), consisting of the minor alteration of an existing private structure including interior alterations involving such things as interior partitions, plumbing and electrical conveyances.

#### For the Off-Street Parking Exception, find:

- 2. That the number of spaces, location, and design of existing bicycle parking would adequately serve the new building occupants. That there is more than adequate space on site to provide one designated bicycle parking in compliance with the CMU-3 district.
- 3. That extenuating and/or unusual circumstances exist relating to existing site conditions, burden, and existing location of development that limit the applicant from providing two covered parking spaces and one EV space for the residential units in compliance with the parking requirements of Zoning Regulations Section 6570.8. Requesting an Off-Street Parking Exception to provide two uncovered parking space located between the existing buildings will be as nearly in compliance with the parking regulations as reasonably possible.

#### For the Use Permit find:

4. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood. The building has already been converted to residential use and only minor modifications are necessary to comply with building code. Minimal changes, if any, are expected to the exterior.

- 5. That the horizontal mixed-use development is compatible with the surrounding uses, and will not detract from the commercial, pedestrian-oriented character of the street. The commercial and residential uses are operating in existing one-story buildings, thus the residential use proposed to be legalized in an existing one-story building matches with the surrounding uses and is not expected to detract from existing commercial uses or the pedestrian -oriented character of the street.
- 6. That the horizontal mixed-use development has been designed to most closely match the intent of mixed-use development in the district, as described in Chapter 2 of the North Fair Oaks Community Plan. The two residential units proposed to be legalized constitute horizontal mixed use (residential and commercial) thus matching the intent of mixed-use development.
- 7. That the horizontal alignment of the uses is necessary due to specific characteristics of the type or mix of uses in the proposed development, or due to the specific character of the parcel or location of the development. The horizontal alignment is necessary given the building already exists, the interior use of the building for residential has already been converted, and no significant changes are proposed to the structure with the exception of compliance with building code regulations.
- 8. That provision of the same uses in a vertical mixed-use design would be unduly costly, burdensome, or would not meet the intent of mixed-use development in the district, as described in Chapter 2 of the North Fair Oaks Community Plan. The building conversion proposed to be legalized already exists, thus requiring a vertical mixed-use design would be costly and burdensome as it would require that one of the existing buildings, Building No. 1, or No. 2, be reconstructed atop the other.

# **RECOMMENDED CONDITIONS OF APPROVAL**

#### **Current Planning Section**

- This approval applies only to the proposal, documents, and plans described in this report and materials approved by the Zoning Hearing Officer on May 16, 2024. The Director of Planning and Building may approve minor revisions or modifications to the project if they are consistent with the intent of and in substantial conformance with this approval.
- 2. The Use Permit is valid for one (1) year from the date of final approval in which time a valid building permit shall be issued. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees sixty (60) days prior to expiration.

- 3. The applicant shall apply for a building permit and shall adhere to all requirements from the Building Inspection Section and Menlo Park Fire District. Additionally, construction shall not commence until a valid building permit is issued.
- 4. No significant trees are proposed for removal. Any removal of trees greater than 12 inches in diameter at breast height is subject to the San Mateo County Tree Ordinance and will require a separate permit for removal.
- 5. To reduce the impact of construction activities on neighboring properties, comply with the following:
  - a. All debris shall be contained on-site; a dumpster or trash bin shall be provided on-site during construction to prevent debris from blowing onto adjacent properties. The applicant shall monitor the site to ensure that trash is picked up and appropriately disposed of daily.
  - b. The applicant shall remove all construction equipment from the site upon completion of the use and/or need of each piece of equipment which shall include but not be limited to tractors, back hoes, cement mixers, etc.
  - c. The applicant shall ensure that no construction-related vehicles impede through traffic along the right-of-way on Dumbarton Avenue and Crocker Avenue. All construction vehicles shall be parked on-site outside the public right-of-way or in locations which do not impede safe access on Dumbarton Avenue and Crocker Avenue. There shall be no storage of construction vehicles in the public right-of-way.
- 6. A planning final inspection is required prior to the final building inspection of any associated building permit to verify the final size and location. The addition to be legalized shall match the single-family residence in color and material.
- 7. The applicant shall include an erosion and sediment control plan to comply with the County's Erosion Control Guidelines on the plans submitted for building permit. This plan shall identify the type and location of erosion control measures to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
- 8. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m., weekdays, and 9:00 a.m. to 5:00 p.m., Saturdays. Said activities are prohibited on Sundays, Thanksgiving, and Christmas (San Mateo County Ordinance Code Section 4.88.360).

# **Building Inspection Section**

9. The project requires a building permit.

## Menlo Park Fire Protection District

The following conditions apply to the converted residential units:

- 10. The project shall comply with the 2022 CA Building / Fire Codes and local amendments.
- 11. Install smoke detectors in each sleeping area and the area outside sleeping areas. Install carbon monoxide detector outside sleeping areas. Smoke and carbon monoxide detectors shall be hardwired and inter-connected for alarm.
- 12. The applicant shall provide at least 4-inch-tall with 1/2-inch stroke illuminated address numbers. Addresses must be illuminated from dusk till dawn via photocell on timer (no switches allowed). No solar illumination allowed. The addresses shall be visible from the street and contrasting to its background. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.
- 13. The approved project plans and approval letter must be on site at the time of inspection.
- 14. Final acceptance of this project is subject to field inspection.

Note: Upon completion of work and prior to closing the ceiling, contact Deputy Fire Marshal Bob Blach of the Menlo Park Fire Protection District at 650-688-8430 to schedule a final inspection. 48 HOURS NOTICE IS REQUIRED FOR ALL INSPECTIONS.

#### California Water Service-Bear Gulch

15 The project will need to install a backflow on the existing service and if they require a separate service then 2 backflows will be required. Please send these requests to Carlos Castro, Business Superintendent at <u>Ccastro@calwater.com</u>.

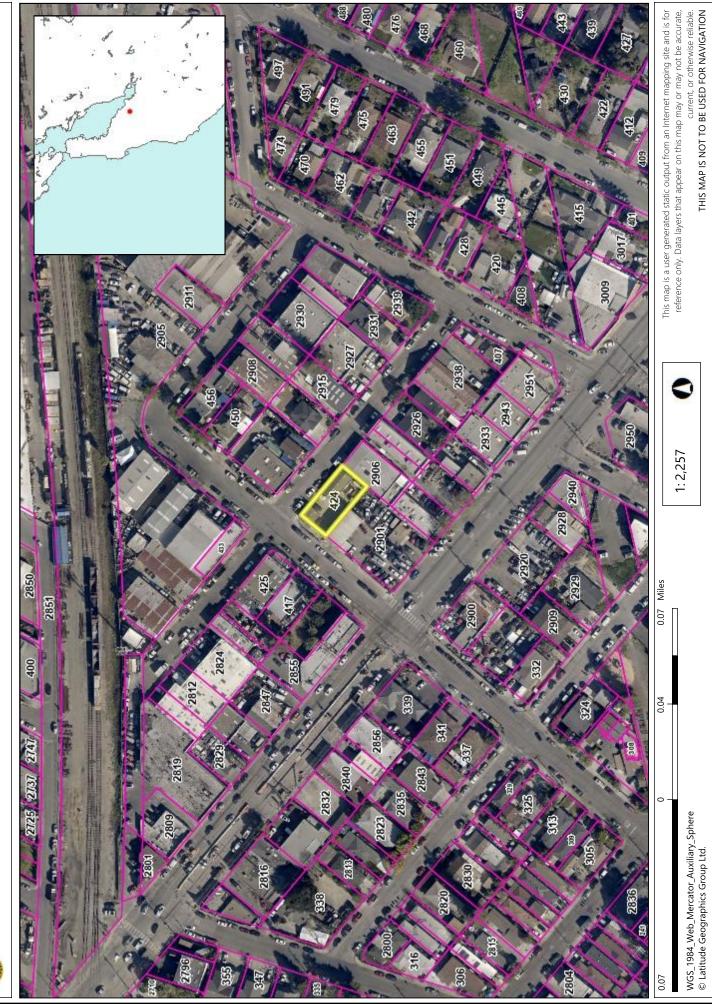
# ATTACHMENT B



**COUNTY OF SAN MATEO -** PLANNING AND BUILDING DEPARTMENT



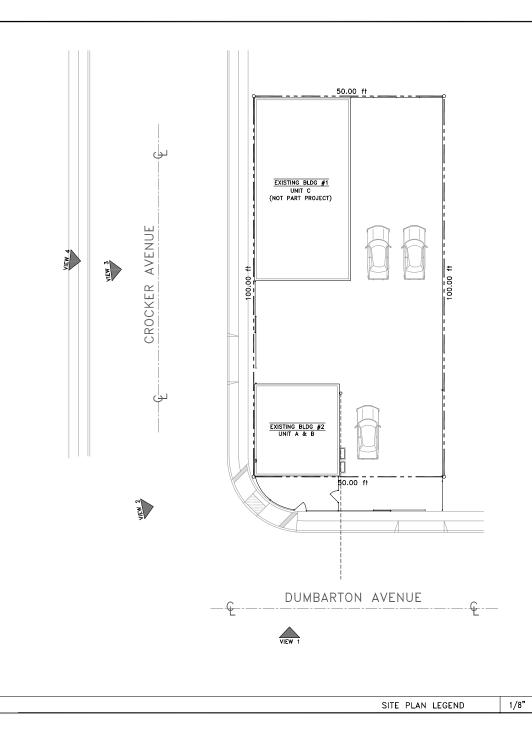
County San Mateo, CA



# ATTACHMENT B



**COUNTY OF SAN MATEO -** PLANNING AND BUILDING DEPARTMENT









 $\begin{array}{l} 01.02.23 \qquad \text{issued for building review} \\ 02.02.23 \underline{1} \\ \text{Responding to comments} \\ 04.18.23 \underline{2} \\ \text{Responding to comments} \\ 07.03.23 \qquad \text{issued} - \text{use permit review} \\ \end{array}$ 

PHOTOS OF STREET VIEWS



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