



## Legislation Text

File #: 14-0810, Version: 2

Adopt a resolution certifying the Final Environmental Impact Report, making Findings of Fact, adopting a Statement of Overriding Considerations, and adopting the Mitigation Monitoring and Reporting Program for the Middle Green Valley Specific Plan Project; Adopt an ordinance adopting the Middle Green Valley Specific Plan and rezoning the Middle Green Valley Specific Plan Area; and Adopt an ordinance approving the Master Development Agreement among the Middle Green Valley Landowners and the County of Solano for the Middle Green Valley Specific Plan

Published Notice Required? Yes  No   
Public Hearing Required? Yes  No

### **DEPARTMENTAL RECOMMENDATION:**

The Department of Resource Management recommends that the Board of Supervisors:

1. Read the proposed ordinances by title only and waive further reading of the ordinances, and
2. **ADOPT** a resolution (**Attachment A**):

**CERTIFYING** the Final Environmental Impact Report for the Middle Green Valley Specific Plan consisting of:

- i. Draft Environmental Impact Report for the Middle Green Valley Specific Plan, December 2009, (on file with the Clerk of the Board);
- ii. Final Environmental Impact Report for the Middle Green Valley Specific Plan (Responses to Comments on and Revisions to the Draft EIR), April 2010 and Errata #1, (on file with the Clerk of the Board);
- iii. Revised Recirculated Draft Environmental Impact Report for the Middle Green Valley Specific Plan, June 2014; and
- iv. Responses to Comments on and Revisions to the Revised Recirculated Draft Environmental Impact Report for the Middle Green Valley Specific Plan, November 2014.

**ADOPTING** the following related to the Middle Green Valley Specific Plan Project (Attachment A):

- i. Statement of Findings of Fact;
- ii. Statement of Overriding Considerations; and
- iii. Mitigation Monitoring and Reporting Program (MMRP).

3. **ADOPT** an ordinance (**Attachment B**):

**ADOPTING** the Middle Green Valley Specific Plan and Rezoning the Middle Green Valley Specific Plan Area, including Exhibit A to the ordinance consisting of: (1) the "Middle Green Valley Specific Plan, Solano County, California, Adopted July 27, 2010" together with "Specific Plan Errata No. 1," which together reflect the action of the Board of Supervisors in adopting the Specific Plan on July 27, 2010 (including matters approved and authorized by the Board at its hearing on July 27, 2010, the Specific Plan draft dated December 2009, and revisions recommended by Attachment G to the July 27, 2010 Staff Report "Recommended Text Amendments, Amended Figures, and Amended TDR Table"); together with (2) the "Text Added to the Middle Green Valley Specific Plan Describing Water Supply Option C (SID Surface Water)."

**4. ADOPT an ordinance (Attachment C):**

**APPROVING** the Master Development Agreement (DA) among the Middle Green Valley Landowners and the County of Solano for the Middle Green Valley Specific Plan Area, which includes the related Sales Participation Agreement.

**SUMMARY:**

The Board of Supervisors is requested to adopt the documents set forth in staff's recommendation relating to the approval of the Middle Green Valley (MGV) Specific Plan ("Plan"), Development Agreement ("DA"), and associated compliance with the California Environmental Quality Act.

***These items are back before the Board for consideration and action due to litigation on the previously approved Specific Plan and EIR. The Plan was originally approved by the Board on July 27, 2010 and later rescinded on May 22, 2012 following a Court order. The Court issued a writ of mandate directing the County to provide greater analysis in the EIR of a second potable water source for the proposed development. In accordance with the Court's direction, this analysis was completed, and a third option for water supply (SID) was identified and analyzed. Other than the addition of Water Supply Option C (SID), the Plan is unchanged. The Board's action now would reapprove the Plan and EIR components previously approved by the Board on July 27, 2010, with the addition of a revised water supply discussion in the Specific Plan (which adds the SID option) and a revised water supply discussion in the EIR (which provides additional analysis of groundwater and adds analysis of the SID option). The revised water supply analysis demonstrates that sufficient potable water is available under each of the three water supply options: City of Fairfield, groundwater, and SID. The revised EIR document that was circulated for public review analyzed these water supply options and provided ample analysis. If the Plan is re-approved by the Board, the Court will be asked to discharge the writ.***

The Plan itself encompasses approximately 1,900 acres, consisting of the Green Valley floor and extending west into the foothills of the Western Hills. The Plan implements the 2008 General Plan which included this area as a special study area with specific requirements as noted in the analysis section of this report. The Plan is unique in that it provides for 400 new single family attached and detached homes in combination with the permanent protection of about 1,500 acres in conservation and agricultural easements through tools such as clustering of homesites and a transfer of development rights (TDR) program. The Plan not only serves as a Specific Plan, addressing all requirements under California planning law (i.e. land use, utility infrastructure, standards for development and conservation, implementation, and relationship to the General Plan), but also serves to rezone the area. It provides for an array of housing types, community buildings, and neighborhood commercial uses, and includes design review standards to ensure that all development meets the intent of the Plan and is in harmony with the rural and agricultural setting of MGV. The Plan and DA also include a mechanism for the County to recover its planning investment as building permits are issued, including return of principal as well as interest. The Plan enhances the future of agriculture, supporting institutional and financial arrangements to advance agriculture in the area. The Plan accomplishes conservation, and addresses development pressures in the area in a reasonable way. The Plan is well-designed, requiring that portions that are to be developed will be aesthetically attractive, and incorporating advanced principles and techniques of sustainable development.

Approval of the Plan provides the overall land use and zoning entitlement of the area. The Plan area will not likely be developed all at one time. Though it could happen, it is more likely that tentative map applications will be filed separately depending on finances and market demand.

**FINANCIAL IMPACT:**

The MGV Specific Plan budget has been part of Resource Management's approved budget since FY2008/09, amounting to \$1,447,888, and is funded by the County General Fund. The contract amount, for consultant assistance in developing the EIR, Specific Plan, and Master Development Agreement, in addition to Resource

Management and County Counsel staff time, will be reimbursed to the County. Section 3.12 of the Master DA requires landowners to reimburse the County for these initial county planning costs through a fee applied to each building permit. Though these initial County costs will be reimbursed through the building permit process, there would be additional project related costs if the Plan is implemented. There will be costs associated with the processing of tentative subdivision maps and establishment of a County Service Area and Community Facilities District. At this time it is anticipated that these costs will be funded by applicants for development.

## **DISCUSSION:**

### **History and Background**

The MGV area has a long history as a small farming community. Agricultural operations have included grape vines, orchards, row crops and grazing in the hills. Over the last few decades, the success of commercial farming in the area waned, due to urban encroachment and a changing agricultural marketplace. The valley landowners have long expressed an interest in more flexible development options to increase the value of their lands, as the agricultural value declined. There have been previous proposals in the past to develop the area to urban densities, including a draft proposal by the City of Fairfield to annex the area and develop up to 8,000 homes. These types of proposals were often met with staunch resistance by the neighboring communities who enjoyed the rural nature and open lands of the area. Community concerns and County policies which prohibited the conversion of agricultural lands combined to severely limit the development options for the landowners in the valley.

When the County began the process of updating its General Plan, the landowners requested that the County take another look at the MGV area. MGV was identified as one of many special study areas in the County that had very unique characteristics and issues that needed to be addressed in greater detail. As such, six public workshops were held during the spring and summer of 2007 as part of a resident driven planning process for the special study area. The workshops included input from residents to develop goals and policies to be incorporated into the General Plan. The process focused on finding solutions that would resolve several issues, including maintaining rural character, serving development with water and wastewater services, protecting natural resources, and keeping agriculture viable while deciding how the area should grow. As a result of these workshops, policies were developed and incorporated into the 2008 General Plan as described further below.

### **2008 General Plan Update**

In August 2008, Solano County completed and adopted a comprehensive update to its General Plan. The General Plan update process included working with a Citizens Advisory Committee to identify various and unique specific project areas for which further planning and analysis was required. The MGV area was among these designated special project areas.

The primary goal of the General Plan for this area is to maintain the rural character of MGV while allowing opportunities for compatible residential development in accordance with the Plan's goals and policies.

The approval of the 2008 General Plan, which was adopted by a vote of the people of Solano County, resulted in all land use designations from the previous General Plan applicable to this area being removed, in anticipation that the intended Specific Plan would provide new land use designations for this area once its developed and adopted. The proposed MGV Specific Plan not only implements the General Plan, but also helps to complete the General Plan in terms of assigning area specific land use designations. Please see Attachment H for General Plan Goals & Policies for the MGV Specific Plan.

### **Twelve Public Meetings, the Citizens Advisory Committee Process and Recommendations**

In August 2008, the Board of Supervisors established a six-person Citizens Advisory Committee (CAC) to help guide the development of the plan. The CAC consisted of three representatives from the Green Valley

Landowners Association (GVLA) and three representatives of the property owners within the Specific Plan area boundary, and two alternates. The CAC held twelve publicly noticed meetings over a 16 month period.

The effort culminated in the creation of a draft MGV Specific Plan, a draft Final EIR, and a draft Master DA. In its final meeting, the CAC recommended approval of the Specific Plan.

#### Planning Commission Hearing & Recommendations (2010)

The Final EIR, MGV Specific Plan and Master DA were then reviewed by the Planning Commission on May 20, 2010. After hearing public testimony, the Commission recommended that the Board adopt and approve them, as amended by staff and the Planning Commission.

#### Public Process for Specific Plan

Since the first meeting of the CAC in November 2008, the development process for the Specific Plan was open to the public. Meeting agendas, minutes, and handouts were regularly posted online and available to the public. The following summarizes the public process for the development of the originally approved Specific Plan and EIR in 2010:

Twelve open public CAC meetings (November 2008 to February 2010)

May 7, 2009: Planning Commission, Study Session

May 12, 2009: Board of Supervisors, Study Session

August 6, 2009: Planning Commission, Review of Preliminary Draft Specific Plan

January 28, 2010: Planning Commission, Public comments on Draft EIR

May 20, 2010: Planning Commission, Recommendation to Board on Plan, EIR, & DA

July 27, 2010: Board of Supervisors' certification of FEIR and approval of Plan and DA

#### **Specific Plan, EIR, and DA Update and Court Ruling**

Soon after the Board took action to approve the Specific Plan and DA in 2010, a petition was filed with the Solano County Courts by a group called the Upper Green Valley Homeowners (UGH). In its petition, UGH cited various concerns with the approved project. The court, however, rejected all issues raised by the group with one exception. The court found that only the analysis of available water supply was deficient and a more thorough and detailed analysis of groundwater availability was warranted.

The Specific Plan originally proposed use of City of Fairfield water as its preferred source of domestic water supply (Option A) and provided a secondary option of utilizing onsite groundwater (Option B) if Option A proved infeasible. The City had previously passed a local measure, Measure L, which could limit the City's ability, under Option A, to serve water outside its service boundary, the city limits. The court did not ultimately rule on the limitations posed by Measure L but did emphasize that Measure L creates "legal uncertainty" requiring that the EIR include additional analysis of Option B.

In response to the court's direction, the County vacated its original approvals of the Specific Plan, and the DA, and withdrew its certification of the previously circulated EIR. It then commenced to expand its analysis for utilizing groundwater to serve the future Plan area. The County retained the consulting services of Luhdorff & Scalmanini (L&S), an engineering firm with specialty in groundwater, as well as Ascent Environmental, a firm with expertise in CEQA compliance and EIRs. L&S was charged with developing a Water Supply Assessment (WSA) to evaluate how much groundwater is available to serve the project at build-out.

After the completion of the groundwater WSA, Chapter 16 of the EIR was updated in late 2013 with the additional groundwater analysis and was circulated for public comment (Recirculated Draft EIR (RDEIR)).

#### SID and Option C

During the comment period for the RDEIR, the Solano Irrigation District (SID) indicated that, as the current purveyor of potable and non-potable water to portions of the MGV, it should be considered as an option for the

source of water to serve the future development. Though SID's current service to the area is primarily for agricultural water, it indicated that it was possible to provide raw water to be treated to potable standards by the City of Fairfield and then delivered to the community by SID. After further discussion with city staff, SID staff, and landowners, it was determined that this was a feasible option which avoided the "legal uncertainty" of utilizing City of Fairfield water, and further bolstered viable additional water supply options, as directed by the court. SID prepared and approved its own WSA for the project, and SID water was then incorporated as Option C for water supply to the Specific Plan area.

A notable point is that the current SID service area does not encompass the entire development area proposed in the Specific Plan. Approximately 40-50 units will be located outside the current SID service area boundary. To allow SID to serve the entire development, the service area will need to be expanded, as will the Place of Use (PoU) boundary, which is a state established boundary that identifies the outer edge of SID's growth potential related to its ability to serve Solano Project water. The State Water Resources Control Board would ultimately need to approve the expansion of the PoU. This will be pursued should the Plan be approved.

If, for any reason, the PoU boundary cannot be changed, the majority of the water serving the development would still come from SID as 350 to 360 units are in its service area. However, SID would be precluded from supplying water to areas outside its service area. In such an event, either City of Fairfield or groundwater would be required to supplement the SID water supply. Since both the groundwater WSA and the WSA for City of Fairfield water each identify enough water to serve the entire development on their own, utilizing either source to supplement the SID water supply for this small portion of the Plan area is a viable option.

With potential Option C in place, the previous RDEIR was updated to incorporate Option C for water supply. This Revised Recirculated DEIR (RRDEIR) analyzed the potential impacts of having SID provide the water to the Plan area. The RRDEIR was submitted to the State Clearinghouse on June 26, 2014 and was published in the newspaper on June 27, 2014. Public comments were submitted on the RRDEIR by the Upper Green Valley Homeowners, Kamman Hydrology & Engineering, Inc., the Yocha Dehe Wintun Nation, and the Green Valley Landowners Association. Responses to all comments have been developed, and are incorporated into the Final EIR (Attachment A).

Chapter 16 in the RRDEIR is included in Attachment A. Since the remaining chapters of the originally circulated DEIR were found adequate by the court, they have not been updated. As such, the County did not solicit any new comments on those original chapters an approach which is provided for under the CEQA Guidelines. Public comments were solicited in early 2010, and the County responded to those comments. All other previously submitted public comments and County responses are included in the Final EIR that the Board is being asked to certify. Those other chapters are not made a part of this staff report but are available for review with the Clerk to the Board and can found online at:

[https://admin.solanocounty.com:4433/depts/rm/planning/middle\\_green\\_valley\\_specific\\_plan.asp](https://admin.solanocounty.com:4433/depts/rm/planning/middle_green_valley_specific_plan.asp)

### **Description and Key Elements of the Middle Green Valley Specific Plan**

The Specific Plan will guide the long term realization of a vision for MGJV in which long-term conservation of agriculture is accomplished harmoniously with a series of connected and sustainable rural neighborhoods. This Plan is a result of community, landowner, and County consensus building and cooperation, recognizing the need to protect the unique rural qualities of the area, while providing the means for strategically sited development to take place.

The General Plan policies for the Study Area served as a backbone for the development of the Plan; however, those policies were also considered minimum requirements in its development. Not only does the Plan directly address the policies laid out in the General Plan concerning the MGJV area, but it also strives to address many of the other goals, objectives, and policies set forth in the General Plan. Appendix C to the Plan provides a matrix identifying over 100 of the General Plan's goals and policies with which the Specific Plan can be found to be consistent. They relate to agriculture, water use, energy resources, biological and

recreational resources, public health, sustainable land use, and many others. This matrix is an important reference tool which shows how the complexities of the proposed Specific Plan advance and build upon the important goals and policies set forth in the General Plan.

The heart of the Specific Plan is an emphasis toward preserving, maintaining, and managing the open lands and agricultural areas while utilizing the Plan's community development as a tool to achieve this goal. As the Plan states, what development will take place is viewed as a "community within a conservation framework."

The Plan's support and protection of the agricultural landscape cannot be overstated. Links to the valley's agricultural heritage are found intertwined within all aspects of the vision, the community Plan, implementation strategies and the Neighborhood Code. For much of the century, Green Valley has served as a vital agricultural resource for the production of grapes, orchards, and row crops. Over the last 20 years, agricultural success has been intermittent. Urban encroachment has threatened the local farming economy, while there is increased competition in the global marketplace for food products. As one landowner stated, "We can grow anything. We just can't sell it." This Plan provides for and encourages the sale of locally grown agricultural products, consistent with the objectives of the 2008 General Plan.

This Plan helps enhance long term financial stability for farming in MGCV. Concepts such as clustered development, the transfer of development rights program, establishment of the Green Valley Agricultural Conservancy, transfer fees used to fund the Conservancy, agricultural easements, and establishment of the Green Valley Farm Stand to provide access to locally produced products will all serve to support the viability and success of local agriculture in the valley, while allowing for it to be a more visible part of day to day life. While these tools directly serve the local farming economy, the allowed land uses and Neighborhood Design Code will ensure that the built environment, both in land use and in design, reflects the rural agricultural history of California and this area.

Please see Attachment G for a more detailed discussion of the key components of the Specific Plan.

### **Master Development Agreement and Financial Reimbursement to the County**

In order to more easily implement the policies in the General Plan for this area, notably the TDR program, both the County and the landowners preferred to enter into a Master Development Agreement (DA) between the underlying landowners participating in the TDR program and the County. The Master DA will vest provisions of the Specific Plan for the duration of the agreement, so that those provisions do not change for those landowners who sign the agreement. The term of the agreement is 25 years. The Master DA promotes and encourages the orderly development and conservation of the plan area by providing a greater degree of requisite certainty to landowners that rules and regulations do not change. Landowners not signing the Master DA will not obtain the vesting that it provides, but will still be subject to the Specific Plan.

The Master DA-and the Sales Participation Agreement incorporated in it-also establishes the transfer of development rights ("TDR") program discussed above. The TDR program makes it possible for significant acreages of agricultural land to be conserved in an area of fragmented ownership, through the clustering of non-agricultural uses. By means of the TDR program, a mechanism is instituted for specified landowners to voluntarily commit to forgoing development on their property, while being compensated by other landowners whose properties will be designated for higher development densities.

The Master DA is consistent with the goals, objectives, and policies of the General Plan and the MGCV Specific Plan. The 2008 General Plan designated the MGCV Area as a special study area. The Sales Participation Agreement provides mechanisms and incentives to achieve clustering, conservation, and balancing of protection and development, all of which are called for in the General Plan policies for this area. Appendix C of the Specific Plan is a matrix setting forth the references between the plans and the specific points of consistency between them.

The proposed Master DA could provide a substantial benefit to the community. The Sales Participation Agreement provides for recordation of conservation easements. By conserving agriculture and providing for a transfer tax to fund a conservancy, the agreement is expected to facilitate not only the preservation of open

space but also an institutional structure to promote the viability of agriculture in the valley, together with the active conservation of this working landscape and the natural features within it.

The approximate cost to date for developing the Specific Plan is \$1,447,882.20 (not including staff time). As provided for in the DA, the costs associated with this Plan's development will be reimbursed to the County through project build-out. As building permits are issued, the permit fee will include a proportional reimbursement of the overall cost, with interest included.

Following Board action certifying the EIR, adopting the Specific Plan and approving the Master DA, including the Sales Participation Agreement, the agreements will be signed and recorded again. The agreements presented for approval with this Board action include non-substantive changes from the 2010 versions, to reflect changed dates and obsolete references to zoning ordinance section numbers.

### **Comments on the Revised Recirculated DEIR (RRDEIR)**

As previously described, the court directed the County to provide further environmental analysis of a second water supply for the proposed development. Since nothing else was required to be changed or updated, the only portion of the Specific Plan that has been revised since the Board's approval in July 2010 is the discussion of potable water supply options to serve the area. The revision adds SID water as a possible option for water supply and delivery. As a result of this revision, Chapter 16 (Public Service and Utilities - Water) of the RRDEIR has been updated with a greater analysis of Option B (Groundwater) and an analysis of Option C (SID water). Because only Chapter 16 was revised, it was the only section of the RRDEIR to be circulated for public comment, and the public was advised to only comment on issues resulting from the changes in this chapter. After the close of the 45-day comment period, comments had been submitted by the Yocha Dehe Wintun Nation, the Upper Green Valley Homeowners (UGH), Kamman Hydrology and Engineering, and the Green Valley Landowners Association (GVLA).

The majority of the questions and comments submitted relate to concerns over the availability of groundwater to serve the development and SID's ability to provide enough water to the development. Responses to these comments have been developed in coordination with the County's consulting water engineers, Luhdorff and Scalmanini, and SID staff. As analyzed and discussed in the FEIR, both groundwater and SID provide an ample and viable water supply both as individual water supply options and as a combined source of water. The City of Fairfield's Measure L, which limits expansion of city services, and the County's Measure T, which promotes city centered development, were also brought up within the context of comments on the RRDEIR. County Counsel has provided responses to these comments on the two measures in the FEIR, Attachment A.

The comment letters and the County's responses to these comments can be found in the FEIR, Attachment A. The FEIR not only includes the recent changes to Chapter 16, and associated comments and responses, but also includes the originally circulated DEIR and all of the comments and responses from the first circulation of that document. The resolution to certify the FEIR includes a discussion of the significant environmental impacts that cannot be mitigated to a less than significant level and a finding for a Statement of Overriding Considerations which allows the County to certify the EIR and to approve the project in light of these impacts. As part of certifying the EIR, the Board also approves the three water supply assessments that have been prepared in connection with each of the three water supply options that have been analyzed.

### Note on Attachments

Due to file size, not all documents referenced as part of the attachments are directly attached to this report. The text of the Ordinances and Resolution are attached; however, in addition to being on file with the Clerk to the Board, the Specific Plan, CEQA documents, and Master Development Agreement can all be found on the MGV Specific Plan webpage at:[https://admin.solanocounty.com:4433/depts/rm/planning/middle\\_green\\_valley\\_specific\\_plan.asp](https://admin.solanocounty.com:4433/depts/rm/planning/middle_green_valley_specific_plan.asp)

### **ALTERNATIVES:**

The Board could choose not to certify the Final EIR, adopt the MGV Specific Plan or approve the Master DA.

Staff does not recommend this alternative. The Plan before the Board at this time represents approximately five years of intensive work, cooperation, and coordination among County staff, consultants, landowners, the neighboring community, and many helpful agencies. The Plan, as proposed, meets the Goal and all Policies set forth in the 2008 General Plan relating to the MGV Special Study Area.

**OTHER AGENCY INVOLVEMENT:**

As described above, the MGV Specific Plan was prepared with guidance from a Citizens' Advisory Committee (CAC). The CAC convened twelve times to review and provide input on the various aspects of the draft Plan during its development. The draft Specific Plan and associated Draft EIR were submitted for review to regional and state agencies for consistency with their respective plans and policies as required by state law, including the Solano County Airport Land Use Commission, the Department of Fish and Game, the US Fish and Wildlife Service, Department of Conservation, and the Regional Water Quality Control Board.

On May 7, 2009 and August 6, 2009 the Planning Commission conducted public study sessions to provide comments on the Specific Plan development process. Another study session was provided before the Board on May 12, 2009. On January 28, 2010, the Planning Commission conducted a public hearing to receive public comments on the original Draft EIR, and on May 20, 2010 made recommendations to the Board on the Draft Specific Plan, EIR, and Master DA.

As described, SID is now a potential source of water for the development, and has approved its own WSA for the future development in MGV. The SID Board of Directors will need to authorize supplying water to the Plan area as its next step.

The County Administrator and County Counsel have reviewed this item and concur with the recommendations.

**CAO RECOMMENDATION:**

**APPROVE DEPARTMENTAL RECOMMENDATION**