

**CLASS 32 CHECKLIST FOR FILE NO. 2019-7415 (N. FAIR OAKS 18-UNIT TOWNHOME PROJECT)**

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| Project Title                                    | N. Fair Oaks 18-Unit Townhome Project  |
| Permit Number                                    | 2019-7415  |
| Lead Agency Name and Address                     | City of Sunnyvale<br>456 W Olive Avenue, P.O. Box 3707<br>Sunnyvale, CA 94088-3707 |
| Contact Person/Project Planner                   | Cindy Hom<br>(408) 730-7411<br>chom@sunnyvale.ca.gov                               |
| Project Location and Address                     | 475 N. Fair Oaks and 585 to 595 Columbia Ave                                       |
| Project Applicant                                | Aron Developers  |
| General Plan Designation                         | Medium Density Residential (RMED)  |
| Zoning   | Medium Density Residential (R-3) and Planned Development Combining District (PD)   |
| Other Public Agencies whose Approval is Required | None   |

**BRIEF PROJECT DESCRIPTION**

The project consists of the following permit request:

- REZONE: To extend PD Combining District boundary to include the Columbia Avenue parcels that provide a combined area of 0.64-acres.
- SPECIAL DEVELOPMENT PERMIT: To allow demolition of existing residential structures and construction of 18-unit residential subdivision consisting of three-story townhomes and associated site improvements. The project requests deviations from SMC 19.34.030 for reduced front and rear setback, SMC 19.48.030, which requires a 26-foot distance between three-story buildings and SMC 19.38.030 (K) which requires recycling and solid waste enclosures shall be located within one hundred fifty feet from any dwelling unit.
- VESTING TENTATIVE MAP: To create 18 residential lots and one common area lot.

**DETAILED PROJECT DESCRIPTION**

The project is located on a 0.80-acre site at the northwest corner of the intersection of N. Fair Oaks Avenue and Columbia Avenue. The site is currently developed with one 11-unit multifamily residential apartment building and two duplexes (4 units). The project proposes to demolish the existing site improvements including the removal of 17 on-site trees and constructing four new three-story multi-family residential buildings that provide a total of 18 townhomes and associated site improvements including new perimeter landscaping and fencing, hardscape for common driveway and walkways, and a new masonry trash enclosure. The project proposal also includes extending the Planned Development Combining District to cover the entire project site. Currently one out the three parcels has the Planned Development Combining district. The Planned Development Combining district provide flexibility with design standards to allow for a superior design and layout that would not be possible under the strict application of the zoning standards.

## **CEQA EXEMPTION:**

Article 19 of the California Environmental Quality Act (CEQA) Guidelines, Section 15300 to 15333, identifies classes of projects that do not have a significant effect on the environment and, therefore, are exempt from review under CEQA.

### **CLASS 32 (INFILL DEVELOPMENT)**

Among the classes of projects that are exempt from CEQA review are those that are specifically identified as urban infill development. CEQA Guidelines Section 15332 state that the term *infill development* (or the Class 32 exemption) is applicable to projects that meet the following conditions:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as applicable zoning designations and regulations.
- (b) The proposed development occurs within the city limits, on a project site that is no more than 5 acres and surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare, or threatened species.
- (d) Approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

The analysis presented in the following section provides substantial evidence that the Project qualifies for an exemption under CEQA Guidelines Section 15332, as a Class 32 urban infill development, and would not have a significant impact on the environment.

### **EXCEPTIONS**

Even if a project is ordinarily exempt under the potential categorical exemptions, CEQA Guidelines Section 15300.2 provides specific instances where exceptions to otherwise applicable exemptions apply. Exceptions to a categorical exemption apply in the following circumstances, effectively nullifying a CEQA categorical exemption:

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located. A project that is ordinarily insignificant in its impact on the environment may, in a particularly sensitive environment, be significant. Therefore, these classes are considered to apply in all instances, except that the project may affect an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type and in the same place over time is significant.
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

The following analysis presents substantial evidence that there are no exceptions that apply to the Project or its site, that the Project would not have a significant effect on the environment, and that the Class 32 exemption remains applicable.

### **CITY OF SUNNYVALE – STANDARD CONDITIONS OF APPROVAL**

As stated above, the Project site is within the Sunnyvale General Plan area. Therefore, the Project is subject to the Standard Conditions of Approval (SCA), which apply to all projects within the General Plan area. These conditions incorporate development policies and standards from several adopted plans and policies (such as the Sunnyvale Municipal Code, City General Plan, and other requirements of jurisdictional agencies) and substantially mitigate potential environmental impacts from projects. These conditions are included in the discussion and analysis of subsequent environmental review for all development projects within the General Plan area.

In reviewing project applications, the City determines which SCAs apply, depending on the specific characteristics of the project type and/or project site. Because these SCAs are mandatory City requirements, this analysis assumes that the SCAs would be imposed and implemented by the Project and not imposed as mitigation measures under CEQA. If a project is determined to have a significant environmental impact, even with implementation of these conditions, other feasible mitigation measures shall be developed.

### **CEQA EXEMPTION CHECKLIST:**

The following analysis provides substantial evidence to support a conclusion that the Project qualifies for an exemption under CEQA Guidelines Section 15332 as a Class 32 urban infill development and would not have a significant effect on the environment.

#### **CRITERION SECTION 15332(a): GENERAL PLAN AND ZONING CONSISTENCY**

The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.  Yes  No

The Sunnyvale General Plan and Zoning designates the site as Medium Density Residential which allows a density of 15-24 units to the acre. Townhomes, apartments, and condominiums are typical within this residential designation. The Sunnyvale General Plan deems Medium density neighborhoods and developments as appropriate along arterials and residential collector streets and may also be located in close proximity to industrial or commercial areas. The project proposes an 18-unit townhome development with a residential density of 22 units to the acre. The project generally complies with the development standards for the R-3 zoning district but requires deviations for reduced setbacks, minimum distance between buildings and trash servicing requirements which can be allowed through the Special Development Permit process. The requested deviations and proposed PD Overlay would not result in a project that is inconsistent with the R-3 zoning district. The proposed multi-family development is considered compatible with the surrounding residential uses and neighborhood character.

#### **CRITERION SECTION 15332(b): PROJECT LOCATION, SIZE, AND CONTEXT**

The proposed development occurs within city limits on the project site of no more than 5 acres substantially surrounded by urban uses.  Yes  No

The project site is within the City limits and is located on a 0.82-acre site. The project site is within a developed, urban area of Sunnyvale and is surrounded by other residential buildings consisting of single-family homes, duplexes, and multi-family residential buildings.

**CRITERION SECTION 15332(c): ENDANGERED, RARE, OR THREATENED SPECIES**

The project site has no value as habitat for endangered, rare, or threatened species.  Yes  No

The project site is within an urbanized area of Sunnyvale and is developed with existing improvements and buildings. The project site is not an active habitat for known special status biological resources or wildlife. According to the City of Sunnyvale Land Use and Transportation Element (LUTE) Draft Environmental Impact Report (EIR) Biological Resources section, there are no special-status species or ecological communities on or surrounding the project site, nor is the project site designated for conservation or protection. The project site has no value as a habitat or special-status species and, therefore, adheres to the criteria of CEQA Guidelines Section 15332(c).

An Arborist Report dated January 2020 was prepared by Kielty Arborist Services for the project. The report surveyed a total of 18 on-site trees which includes 13 trees that are deemed “protected” under SMC Chapter 19.94. A protected tree is defined as having a trunk size of at least 38 inches in circumference, as measured 4.5 feet from the ground. Protected sized trees are required to be replaced per the City’s Tree Replacement Policy. The City’s Tree Replacement Policy requires a minimum of one 24” box or three 15-gallon trees for tree sizes removed between 12” to 18” diameter; one 36” box or two 24” box trees for tree sizes removed between 19” to 24” diameter; and one 48” or two 36” box or four 24” box trees for tree sizes removed over 24” diameter. The project proposes to remove 17 on-site trees and preservation of one Zelkova street tree. The proposed trees for removal are non-native trees consisting of Silver Dollar trees, Norway Maple trees, Avocado tree, Shamel Ash trees, Redwood trees, Southern Magnolia trees, and Italian Stone Pine trees. As conditioned, the project will install 33 new 24-inch box trees, which complies with the City’s tree replacement standards.

The existing trees can be habitat for common nesting birds. The City of Sunnyvale is required to comply with all local, state and federal regulations pertaining species and habitat protection. In addition, Sunnyvale’s standard conditions of approval will include the following:

1. Avoidance. Demolition and construction activities should be scheduled between September 1 and January 31 to avoid the nesting bird season. If construction activities are scheduled to take place outside the nesting season, all impacts on nesting birds protected under the MBTA and California Fish and Game Code will be avoided.
2. Preconstruction/Pre-disturbance Surveys. If it is not possible to schedule demolition and construction activities between September 1 and January 31 then preconstruction surveys for nesting birds should be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. We recommend that these surveys be conducted no more than 14 days prior to the initiation of demolition/construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, grasslands, buildings) in and immediately adjacent to the impact areas for nests.
3. Buffers. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a construction-free buffer zone to be established around the nest (typically 300 ft for raptors and 100 ft for other species), to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation.

4. Inhibition of Nesting. If construction activities will not be initiated until after the start of the nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the project may be removed prior to the start of the nesting season (e.g., prior to February 1). This will preclude the initiation of nests in this vegetation, and prevent the potential delay of the project due to the presence of active nests in these substrates.

**CRITERION SECTION 15332(d): TRAFFIC**

Approval of the project would not result in any significant effects related to traffic.  Yes  No

The project will not result in any significant traffic impacts. The project proposes to demolish 15 existing residential units and construct 18 new residential units, resulting in a net increase of 3 units. The net increase of 3 units will not generate over 100 peak hour trips and will not result in a traffic impact.

**CRITERION SECTION 15332(d): NOISE**

Approval of the project would not result in any significant effects related to noise.  Yes  No

An Environmental Noise Study for the project was prepared by Charles M. Salter Associates Inc., in February 2020. The study provides site-specific analysis of existing noise conditions and the extent of project noise impacts. The assessment concludes the project operation would not result in a significant increase and the site will continue to meet Sunnyvale standards.

The project would generate temporary noise during construction. The following LUTE standard conditions would apply to the project if approved.

- New development and public projects shall employ site-specific noise attenuation measures during construction to reduce the generation of construction noise and vibration. These measures shall be included in a Noise Control Plan that shall be submitted for review and approval by the City. Measures specified in the Noise Control Plan and implemented during construction shall include, at a minimum, the following noise control strategies:
- Equipment and trucks used for construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds;
- Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools; and
- Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or include other measures.
- Noise and vibration reducing pile-driving techniques shall be employed during construction and will be monitored to ensure no damage to nearby structures occurs (i.e., vibrations above peak particle velocity (PPVs) of 0.25 inches per second at nearby structures). These techniques shall include:
  - Installing intake and exhaust mufflers on pile-driving equipment;
  - Vibrating piles into place when feasible, and installing shrouds around the pile-driving hammer where feasible;

- Implementing “quiet” pile-driving technology (such as pre-drilling of piles and the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- Use cushion blocks to dampen impact noise, if feasible based on soil conditions. Cushion blocks are blocks of material that are used with impact hammer pile drivers. They consist of blocks of material placed atop a piling during installation to minimize noise generated when driving the pile. Materials typically used for cushion blocks include wood, nylon and micarta (a composite material); and
- At least 48 hours prior to pile-driving activities, notifying building owners and occupants within 600 feet of the project area of the dates, hours, and expected duration of such activities.

**CRITERION SECTION 15332(d): AIR QUALITY**

Approval of the project would not result in any significant effects related to air quality.  Yes  No

The Air District developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether a proposed project could result in potentially significant air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency or applicant would not need to perform a detailed air quality assessment of their project’s air pollutant emissions. These screening levels are generally representative of new development on greenfield sites without any form of mitigation measures taken into consideration. For projects that are mixed-use, infill, and/or proximate to transit service and local services, emissions would be less than the greenfield type project that these screening criteria are based on. The proposed 18-unit residential development is below the screening criteria for Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes and therefore no further analysis is needed.

Furthermore, the project would be consistent with land use and zoning designations and would not include any development beyond that assumed and analyzed in the LUTE EIR. The project proposes to remove 15 residential units and construct 18 townhome units which is within the residential density analyzed in the LUTE EIR. Therefore, the findings of the certified LUTE EIR concerning consistency with air quality plans remain valid and no further analysis is required.

Standard conditions required in the LUTE EIR require construction projects to implement BAAQMD’s basic construction mitigation measures, which include the following dust control measures:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
- All vehicle speeds on unpaved roads shall be limited to 15 mph;
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used; and
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours.

### CRITERION SECTION 15332(e): UTILITIES AND PUBLIC SERVICES

Yes     No

The Project will result in redevelopment of a similar allowed use. While the proposed structure would be larger than the existing, current building standards include more efficient usage of energy and water and changes in solid waste generation would be minimal. The impact on utilities and service systems would be less than significant. The project site is already served by water, sewer and other municipal services. Furthermore, the project is consistent with the development assumptions analyzed in the LUTE Draft EIR.

### EXCEPTIONS TO CATEGORICAL EXEMPTIONS CHECKLIST:

In addition to investigating the applicability of CEQA Guidelines Section 15332 (Class 32), this CEQA document also assesses whether any of the exemptions to qualifying for the Class 32 categorical exemption for an Infill Project are present. The following analysis compares the criteria of CEQA Guidelines Section 15300.2 (Exceptions) to the Project.

### CRITERION SECTION 15300.2(a): LOCATION

Is there an exception to the Class 32 exemption for the project due to its location in a particularly sensitive environment, such that the project may impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies?     Yes     No

The project is not located with a mapped hazard zone. A Phase I and II Environmental Site Assessments (ESAs) was prepared for the project site by PIERS Environmental Services in May 2019. The Phase I ESA investigation revealed no evidence of recognized environmental conditions (RECs), historical (HRECs) or controlled (CRECs) for the subject property. The following compounds were detected but below the Environmental Screening Level (ESL):

- Organochlorine
- Lead
- Arsenic

However, two environmental issues were identified based on surficial soils samples collected to address the previous agricultural use and potential groundwater contamination due to the former adjacent gasoline service station (625 Taylor Street?). Soil and shallow soil vapor sampling were collected from the site. Four compounds were detected in the soil vapor samples which includes: tetrachloroethene (PCE), trichloroethene (TCE), acetone, and toluene. The detected compounds were tabulated and compared to the Sub-slab/Soil-Gas Vapor Intrusion Human Health Risk Levels (Table SG1). Acetone and toluene concentrations were significantly less than their respective ESLs. Tetrachloroethene was detected in two samples at concentrations of 47 and 22 micrograms per cubic meter (ug/m<sup>3</sup>), respectively, is in excess of the ESL of 15 ug/m<sup>3</sup> (residential – cancer risk). Trichloroethene was detected only in sample at a concentration of 18 ug/m<sup>3</sup>, which is in excess of the ESL of 16 ug/m<sup>3</sup> (residential – cancer risk).

Because the impacts from the 625 Taylor Street site to groundwater and soil vapor are not defined at the Property, the Phase II report recommended further investigation to assess the soil vapor contamination and determine if soil vapor mitigation strategies or engineering controls such as a vapor barrier are needed.

The project is required to comply with all local, state and federal regulations. Furthermore, with implementation of standard requirements and conditions of approval impacts would be less than significant.

**CRITERION SECTION 15300.2(b): CUMULATIVE IMPACT**

Is there an exception to the Class 32 exemption for the project due to significant cumulative impacts of successive projects of the same type and in the same place, over time?  Yes  No

The Project would not result in cumulative impacts considering the land use and development intensity is consistent with what was analyzed in the LUTE Draft EIR.

**CRITERION SECTION 15300.2(c): SIGNIFICANT EFFECT**

Is there an exception to the Class 32 exemption for the project because there is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances?  Yes  No

The Project would not result in significant impacts considering the land use and development intensity is consistent with what was analyzed in the LUTE Draft EIR.

**CRITERION SECTION 15300.2(d): SCENIC HIGHWAY**

Is there an exception to the Class 32 exemption for the project because project may result in damage to scenic resources, including but not limited to trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a State scenic highway?  Yes  No

The project is located within an existing developed residential area that does not have any scenic resources, features or any scenic vistas. The City of Sunnyvale does not have any designated scenic highways.

The project proposes to replaces 15 existing residential units with 18 new townhomes. The proposed contemporary style architectural design of the three-story townhomes consists of stucco, fiber cement horizontal, vinyl windows, metal awnings and railings that would enhance and be consistent with the developed conditions (multi-family residential and single family homes) along N. Fair Oaks and Columbia Avenue. The project design and landscaping would enhance the existing visual character of the street frontages. The sidewalks would be widened to meet City standards and new street trees would be planted.

**CRITERION SECTION 15300.2(e): LOCATION**

Is there an exception to the Class 32 exemption for the project because the project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code?  Yes  No

The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

### **CRITERION SECTION 15300.2(f): HISTORICAL RESOURCES**

Is there an exception to the Class 32 exemption for the project because the project may cause a substantial adverse change in the significance of a historical resource?  Yes  No

The archaeological report and historic resource form prepared by the project consultants indicate that the project site does not include any known archaeological or historic resources. The project site or structures are not on Sunnyvale's Heritage Resources list. A records search by the California Historical Resources Information System/Northwest Information Center of Sonoma State University (CHRIS/NWIC) was conducted for the project area in March 2019. The project area contains no previously recorded archaeological resources. The State Office of Historic Preservation Historic Property Directory (OHP HPD) (which includes listings of the California Register of Historical Resources, California State Historical Landmarks, California State Points of Historical Interest, and the National Register of Historic Places) lists no recorded buildings or structures within the proposed project area.

Based on CHRIS letter, the single family homes meet the minimum age to be potentially eligible for listing in the California Register of Historic Resources, however, they would not meet any of the other eligibility criteria, such as association with historic events, important persons or would be individually significant for its architecture. The 11-unit apartment building is less than 50 years old and would not meet the criteria.

Based on an evaluation of the environmental setting and features associated with known sites, Native American resources in this part of Santa Clara county have been found along the general margin of the bay and its associated wetland areas. The following standard conditions of approval are included to reduce the potential impact to less than significant level:

- If archaeological resources are encountered during construction, work shall be temporarily halted in the vicinity of the discovered materials and workers shall not alter the materials and their context until a qualified professional archaeologist has evaluated the situation and provided appropriate recommendations.
- Project personnel shall not collect cultural resources. Native American resources include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic-period resources include stone or adobe foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.
- Any identified cultural resources shall be recorded on DPR 523 historic resource recordation forms. The conditions will become valid when the Use Permit is approved and prior to building permit issuance.

### **CONCLUSIONS**

On the basis of the evidence provided above, the Project is eligible for a Class 32 categorical exemption, in accordance with Section 15332, Infill Development Projects, of the CEQA Guidelines. Based on the above analysis, no additional substantial adverse impacts beyond those discussed above are anticipated. Because the Project meets the criteria for categorically exempt infill development projects, and because it would not have a significant effect on the environment, this analysis finds that a Notice of Exemption may be prepared for the Project. No further review is needed.