

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Consider the Sunnyvale Historical Society and Museum Association's Proposed Addition to the Sunnyvale Heritage Park Museum and Find that the Project is Exempt from California Environmental Quality Act

BACKGROUND

The Sunnyvale Historical Society and Museum Association (SHSMA) has proposed a new 1,600 square-foot, single-story addition (Project) to the Sunnyvale Heritage Park Museum. The Museum is located across from the Sunnyvale Community Center at 570 E. Remington Drive, see Attachments 1 and 2. The addition, as proposed in Attachment 3, will remove three to four existing apricot trees, with the possibility of removing up to six to seven apricot trees, and potentially affecting up to a total of 10 existing apricot trees by removal or trimming within a 10-acre orchard. The proposed addition would be used to house historical items from the closed Onizuka Air Force Base's "Blue Cube," and would also serve as a research library.

On June 12, 2019, the Parks and Recreation Commission considered an item brought forward from SHSMA to expand the existing Heritage Park Museum (RTC No. 19-0355). The Commission voted at that time to recommend to City Council not to proceed with the museum expansion, noting that a study issue was underway (DPW 17-05 Orchard Heritage Park and Heritage Park Museum - Analysis and Options for the Long-Term Operations and Maintenance of Orchard Heritage Park and Review of the Sunnyvale Historical Society and Museum Association Proposed Expansion of the Sunnyvale Heritage Park Museum Site).

On July 16, 2019, the City Council reviewed the potential expansion (RTC No. 19-0699) and chose Alternative 1: Direct staff to develop modifications to the Orchard Heritage Park Master Plan and associated agreements and documents, including appropriate CEQA review, of Alternative Plan 1 - add an addition to the Museum at the location preferred by SHSMA, with all costs including CEQA to be fully funded by SHSMA.

On February 4, 2020, the City Council considered funding the CEQA Environmental Review for the Orchard Heritage Park Museum Expansion and Approved Budget Modification Number 22 to Appropriate Funding for a New Project (RTC No. 20-0171) and chose Alternative 4: Do not provide funding for staff to procure a consultant to perform the environmental review or preparation of a technical memoranda and Categorical Exemption for the Proposed Expansion of the Heritage Museum and maintained Council's initial direction for SHSMA to provide funding for the environmental review.

Subsequently, SHSMA agreed to fund the environmental review. On December 2, 2020, staff executed a contract with Kimley-Horn & Associates that was fully funded by SHSMA. Staff authorized

Kimley-Horn & Associates to move forward with the first stage of performing the technical analyses, which included the Agricultural Resources Memorandum and Cultural Resources Report.

EXISTING POLICY

General Plan, Chapter 3, *Land Use and Transportation - Open Space*, Goal LT-8

Adequate and Balanced Open Space: Provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the City to finance, construct, maintain and operate these facilities now and in the future.

From the Orchard Heritage Park Master Plan Action Statements:

2. Maintain a working fruit orchard throughout the largest portion of Orchard Heritage Park for as long a time period as practical within the resources made available by the City. Provide public access to the greatest extent possible while meeting the goal of maintaining a working fruit orchard.
5. Assist the Sunnyvale Historical Society per written agreements, and to the greatest extent practical, in developing a Heritage Museum facility at Orchard Heritage Park consistent with City Council direction.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) is a state law that requires agencies to consider the environmental consequences of proposed projects. The CEQA Guidelines (contained within Title 14 of the California Code of Regulations) include a number of categorical exemptions for projects that are presumed not to have significant environmental effects. If a project is exempt, the agency does not have to perform additional environmental review.

CEQA Guidelines Section 15301, known as the “Class 1 exemption,” is a broad exemption that applies to “the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” The Class 1 exemption (CEQA Guidelines Section 15301(e))

specifically includes “Additions to existing structures provided that the addition will not result in an increase of more than:

- (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
- (2) 10,000 square feet if:
 - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
 - (B) The area in which the project is located is not environmentally sensitive.”

In addition to the Class 1 exemption, CEQA Guidelines Section 15303, known as the “Class 3 exemption,” creates an exemption for “construction and location of limited numbers of new, small facilities or structures.” The Class 3 exemption (CEQA Guidelines Section 15303(c)) specifically covers a “store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area.”

The Sunnyvale Heritage Park Museum is approximately 8,500 square feet in size. Ordinarily, a proposal to add a small addition (less than 2,000 s.f.) to the building or the site would fall under the Class 1 and Class 3 categorical exemptions. However, the use of categorical exemptions is subject

to certain limitations stated in CEQA Guidelines Section 15300.2. In particular, CEQA Guidelines Section 15300.2 provides that categorical exemptions “shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.” Categorical exemptions are also disallowed if the project would have a significant effect due to “unusual circumstances.” Finally, the use of the Class 3 exemption is prohibited if the project is located in an area designated as an “environmental resource of hazardous or critical concern” by any federal, state or local agency.¹

After reviewing the proposed Museum expansion, staff felt that additional information was needed to assess the project’s impact on the site’s historical and agricultural resources. If these impacts are potentially significant, then the Project would not be exempt from CEQA and the City would have to prepare either a mitigated negative declaration or an environmental impact report.

Cultural Resources.

CEQA’s cultural resources category considers whether the project would result in a “significant adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5.” Section 15064.5 defines a “significant adverse change” as “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.” “Material impairment” means that the project demolishes or materially alters the physical characteristics of the historic resource that convey its historic significance and justify its inclusion in a state or local listing of historical resources.

Heritage Park is not listed in the City of Sunnyvale Heritage Resources Inventory as a Heritage Resource, Heritage Tree, or as a Local Landmark. The report prepared by PaleoWest, LLC (Attachment 6) finds that the orchard would not be eligible for listing on the California Register of Historical Resources because it lacks sufficient historic integrity, but it would be eligible for local listing. Therefore, it is a historical resource protected by CEQA.

The report concludes that the removal of up to 10 out of 752 trees in the orchard would not result in physical demolition, destruction, or alteration of the apricot orchard or its immediate surroundings such that the significance of the historical resource would be materially impaired or would no longer be able to physically convey its historic significance.

Agricultural Resources.

CEQA’s Agricultural Resources category requires agencies to evaluate whether a project would convert “Farmland” to a non-agricultural use. Farmland is defined as land with soil characteristics that are designated “Prime Farmland,” “Unique Farmland,” or “Farmland of Statewide Importance” in the California Department of Conservation (CDOC) Farmland Mapping and Monitoring Program, or land protected by a Williamson Act contract. As further detailed in the Agricultural Resources Memorandum (Attachment 5) prepared by Brad Stoneman of Kimley-Horn, the Sunnyvale Heritage Orchard is designated “Unique Farmland” which is the lowest of the three tiers of farmland protected by CEQA. The area is not under a Williamson contract.

¹ With regard to the other exceptions listed in Section 15300.2, the proposed project does not include scenic highways or hazardous waste sites, and there is no likelihood of successive projects at the same location over time.

The Sunnyvale General Plan designates the orchard site as “Public Facilities (PF)” which allows for public and quasi-public uses such as parks, schools, places of assembly, and civic facilities. There are no designated agricultural areas within the Sunnyvale and the entire city is considered “developed area” in the Santa Clara County Agricultural Plan (County of Santa Clara, Jan. 2018). The Sunnyvale General Plan encourages maintenance of the orchard for as long as feasible because of its cultural and social benefits. However, there is no evidence that the City intended to maintain the orchard in order to preserve the agricultural economy or to have a profitable business. The site is too small to be considered “viable farmland” as defined in the Santa Clara County Agricultural Plan.

The report concludes that while the proposed Project would result in the loss of apricot production of up to 10 trees, “the City would continue to use the remainder of the orchard for production of this resource. The Project would also increase the availability, access, and study of historical resources consistent with the intended uses of the overall site. Therefore, the effects of the proposed Project on agricultural production would be less than significant in consideration of all factors at hand. The proposed Project would not result in significant project-level or cumulative impact to agricultural resources as defined by CEQA.”

Conclusion

Staff concludes that the proposed project is categorically exempt from CEQA under the Class 1 and Class 3 exemptions. The project will not have significant impacts on either cultural or agricultural resources that could preclude reliance on these exemptions and require preparation of a mitigated negative declaration or environmental impact report. A Notice of Exemption will be filed with the County upon project approval by the Sunnyvale Planning Division.

Having completed the environmental review, the remaining funds from the Kimley-Horn & Associates contract will be returned to SHSMA.

DISCUSSION

Staff reviewed the current Orchard Heritage Park (OHP) Master Plan, most recently updated on September 27, 2011. Staff determined that in anticipation of the Orchard Heritage Park and Heritage Park Museum - Analysis and Options for the Long-Term Operations and Maintenance of Orchard Heritage Park Study (DPW 17-05), which is expected to begin in the near term, the existing OHP Master Plan maintains its purpose in providing guidelines for “operations, maintenance and development of the park... to preserve the agricultural and historical heritage of the City of Sunnyvale” and no amendment or revision to the master plan is recommended.

Associated Heritage Park agreements reviewed by staff also included the SHSMA Lease Agreement (dated September 12, 2006) with executed Amendments 1 through 4, and the Olson Orchard Maintenance Agreement (dated December 15, 1992). While the Olson Maintenance Agreement is unaffected by the Museum expansion project, if approved, the SHSMA Lease Agreement will require a fifth amendment to capture the building addition. A draft Fifth Amendment is included with this report as Attachment 7.

The next steps for the project would be for SHSMA to execute the Fifth Amendment, by signing and delivering the original copy to staff for execution by the City. The amendment requires all future design, construction, operation and maintenance costs for the addition to be paid for by the SHSMA. If minor revisions are requested by SHSMA, staff will review the revisions within two to three weeks of receipt. After the amendment has been executed, SHSMA is then able to submit a Planning

Application to the City for review and approval. The application will include a civil site plan, architectural floorplans and elevations of the addition, and any supporting documents to the Planning Division. Upon receipt of the planning application approval, SHSMA shall follow standard procedures for construction permitting, including Building Permit approval of detailed construction plans.

FISCAL IMPACT

This proposal will have no fiscal impact to the City as the SHSMA would incur all costs of the expansion as they proposed, if approved.

Remaining unused funds from Environmental Review will be returned to SHSMA.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, Sunnyvale Public Library and Department of Public Safety. In addition, the agenda and report are available at the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Find that the project is categorically exempt from CEQA pursuant to CEQA Guideline Sections 15301(e) and 15303(c), accept the Heritage Museum Expansion Project concept proposed by SHSMA, and direct the City Manager to execute the Fifth Amendment to the SHSMA Lease Agreement in substantially the same form as Attachment 7 to the report when all necessary conditions have been met.
2. Find that the project is categorically exempt from CEQA pursuant to CEQA Guideline Sections 15301(e) and 15303(c), and decline the request from the SHSMA to expand the museum building.
3. Find that the project is not exempt from CEQA and direct staff to complete further appropriate environmental review before the project is approved.
4. Other actions as directed by Council.

RECOMMENDATION

Staff makes no recommendation.

Prepared by: Marlon Quiambao, Senior Engineer

Reviewed by: Jim Stark, Superintendent of Parks and Golf

Reviewed by: Jennifer Ng, Assistant Director of Public Works

Reviewed by: Chip Taylor, Director of Public Works

Reviewed by: Rob Boco, Sr. Assistant City Attorney

Reviewed by: Rebecca Moon, Sr. Assistant City Attorney

Reviewed by: John Nagel, City Attorney

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Orchard Heritage Park Area Map
2. Orchard Heritage Park Site Map
3. Orchard Heritage Park Site Map with Addition Project Site
4. RTC No. 19-0699 - Sunnyvale Historical Society and Museum Association's Proposed Expansion of the Sunnyvale Heritage Park Museum (without attachments)

5. Agricultural Resources Technical Memorandum by Kimley-Horn & Associates, Inc., dated June 11, 2021
6. Cultural Resource Report and Impacts Assessment by PaleoWest, LLC, dated July 21, 2021
7. Draft Fifth Amendment to the SHSMA Lease Agreement