

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUE GALLAGHER, CITY ATTORNEY
JEN SANTOS, DEPUTY DIRECTOR - PARKS
TRANSPORTATION AND PUBLIC WORKS DEPARTMENT,
PARKS DIVISION
SUBJECT: ROSELAND CREEK COMMUNITY PARK MASTER PLAN:
RESCISSION OF MITIGATED NEGATIVE DECLARATION AND
PROJECT APPROVALS AND DIRECTION FOR PREPARATION
OF ENVIRONMENTAL IMPACT REPORT

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the City Attorney's Office and the Transportation and Public Works Department, Parks Division, that, in order to avoid the significant expense and delays associated with engaging in litigation filed against the City by Roseland Action and Duane DeWitt challenging the Council's prior approval of the Roseland Creek Community Park Master Plan, the Council, by Resolution: 1) rescind Resolution No. RES-2021 which adopted the Mitigated Negative Declaration for the Roseland Creek Community Park Master Plan and approved the Roseland Creek Community Park Master Plan; and 2) direct staff to prepare an Environmental Impact Report (EIR) for the Roseland Creek Community Park Master Plan as currently drafted.

EXECUTIVE SUMMARY

On September 28, 2021, the Council unanimously adopted Resolution No. RES-2021-162, which adopted the Mitigated Negative Declaration prepared for the Roseland Creek Community Park Master Plan and approved the Park Master Plan. On October 28, 2021, Roseland Action and Duane DeWitt filed a lawsuit against the City under the California Environmental Quality Act (CEQA), challenging the City's adoption of the Mitigated Negative Declaration and approval of the Park Master Plan. The City remains confident in its project approvals and believes that a court would uphold the City's approval of the Mitigated Negative Declaration and Park approvals. That said, the City is also aware that defending the lawsuit could delay development of the Community Park for one to three years and could cost the City more than \$150,000 to litigate. Preparing an EIR would take less time, expend fewer resources, and would enable the City to deliver the Community Park to its residents in the most timely manner. In light of

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these considerations and in order to allow development of the Community Park to move forward most expeditiously under these circumstances, the City Attorney's Office and the Transportation and Public Works Department, Parks Division, recommend that the Council: (1) adopt a resolution to rescind Resolution No. RES-2021-162, which adopted the Mitigated Negative Declaration and Roseland Creek Community Park Master Plan, and (2) direct staff to prepare an Environmental Impact Report (EIR) for the Park Master Plan as currently drafted. It is estimated that the EIR could be completed within seven months and thereafter the EIR and Master Plan would be returned to the Council for consideration and approval.

BACKGROUND

The Roseland Creek Community Park is approximately 20 acres in size, and is located in southwest Santa Rosa on McMinn and Burbank Avenues, across Burbank Avenue from Roseland Creek Elementary School. The property is bisected by Roseland Creek in its southern portion and will be an important natural and recreational resource for the surrounding community.

Over the course of many years, Recreation and Park staff have worked with the Roseland community to develop a Master Plan for the Community Park. More than 20 public meetings and listening sessions were held over approximately 12 years. Developed with tremendous community input, the final Community Park Master Plan leaves more than 80% of the land in a natural open state. Traditional park amenities will primarily be centered in the southern parts of the Park and will include picnic tables, playground, sport court area, restrooms, lawn and community garden/outdoor classroom and nature center. A multipurpose trail will serve pedestrians and bicycles and a pathway will loop the entire Park with interpretive signage in at least three languages.

On September 28, 2021, after two public hearings, the Council adopted a Mitigated Negative Declaration for the Roseland Creek Community Park in accordance with the California Environmental Quality Act (CEQA) and approved the Park Master Plan. Development of the Community Park was slated to begin in Summer 2022.

PRIOR CITY COUNCIL REVIEW

On January 14, 2020, Council held a Public Hearing and received a staff presentation regarding approval of the Community Park Master Plan and Mitigated Negative Declaration. As part of the public comment, a citizen submitted a separate Park plan option for Council. Council asked that staff utilize the plan prepared by the citizen to solicit further feedback regarding the future Master Plan amenities. Staff conducted a meeting where the citizen's plan was presented on March 4, 2020, and further met with community members through a series of listening sessions held by Council Member Alvarez (District 1).

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On September 28, 2021, the City Council held a Public Hearing and adopted Resolution RES-2021-162, which adopted the Mitigation Negative Declaration and approved the Master Plan for Roseland Creek Community Park.

ANALYSIS

After twelve years and well over 20 meetings with community members and recommended approval from the Board of Community Services, the City Council unanimously approved the Roseland Creek Community Park Master Plan and associated Mitigated Negative Declaration (MND) on September 28, 2021.

On October 28, 2021, Roseland Action and Duane DeWitt filed a CEQA lawsuit against the City, challenging the City's adoption of the Mitigated Negative Declaration and approval of the Park Master Plan. The lawsuit seeks to compel the City to rescind the Mitigated Negative Declaration and the Park project approvals and to instead prepare an Environmental Impact report (EIR) for the Roseland Creek Community Park Master Plan.

After review of the lawsuit, City Staff determined that engaging in the litigation could delay development of the Community Park for up to three years and would likely cost the City over \$150,000 to defend its project approvals. On the other hand, although not legally required, preparing an EIR could be completed within approximately seven months at an estimated cost of approximately \$100,000.

The City remains confident that a court would uphold the previously adopted Mitigated Negative Declaration and all Park project approvals, however, the City is also very mindful of the significant delay and costs associated with defending its approvals. The City's primary focus is on delivering the Community Park to Roseland residents and it remains committed to realizing the vision that resulted from over a decade of community input.

Roseland Action and Duane DeWitt have placed the City in the unenviable position of choosing to spend its limited resources either on legal fees to defend its valid CEQA document and Park approvals or on an additional layer of environmental review that is not legally required.

From a simple perspective of time and money, the City believes that it would better serve the Roseland community by allocating its resources toward preparing an EIR and delivering a Park to the City's residents as expeditiously as possible rather than toward engaging in baseless litigation. For the reasons discussed herein and in the proposed Resolution rescinding prior project approvals, the City Attorney's Office and the Transportation and Public Works Department, Parks Division, recommend that the Council: (1) adopt a resolution to rescind Resolution No. RES-2021-162, which adopted

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the Mitigated Negative Declaration and the Roseland Creek Community Park Master Plan, and (2) direct staff to prepare an Environmental Impact Report (EIR) for the Park Master Plan as currently drafted.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund. Funds sufficient for the preparation of an EIR are available from Zone 2, Park Development Impact fees for Roseland Creek Community Park in JL Key 09701.

ENVIRONMENTAL IMPACT

CEQA does not apply to projects that are rejected or disapproved by a public agency. *Las Lomas Land Co. v. City of Los Angeles*. In addition, or in the alternative, the action is exempt from CEQA pursuant to CEQA Guidelines section 15061, subdivision (b)(3) in that there is no possibility the action may have a significant effect on the environment. Future consideration of the Park will be subject to CEQA review.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On February 10, 2010 the Board of Community Services (BOCS) received an update of the master planning process from city staff. The BOCS received public comments, discussed the draft master plan process and provided recommendations to city staff.

On July 22, 2015 the BOCS received an update of the master planning process from city staff. The BOCS received public comments, discussed the draft master process thus far and provided recommendations to city staff regarding minor updates to the plan.

On August 26, 2015 the BOCS received an update of the master planning process from city staff regarding updates requested by the BOCS at the July 22, 2015 meeting. The BOCS received public comments, discussed the draft master process and provided recommendations to city staff regarding the plan and process.

On February 28, 2018 the BOCS received an update of the master planning process after Design Workshop began assisting city staff with the Master Plan. The BOCS received public comments, discussed the draft master process and provided recommendations to city staff regarding the plan.

At the March 28, 2018 BOCS meeting, city staff presented a very detailed and thorough review of all collected data, summaries of community meetings and outreach and every update to the draft master plan. The BOCS received public comments, discussed the draft master plan and voted unanimously in favor of the proposed park master plan and recommending Council approval of the same.

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At the July 21, 2021 Special BOCS meeting, city staff presented a very detailed and thorough review of all collected data, summaries of community meetings and outreach and every update to the draft master plan. All information from the Listening Sessions conducted by Council Member Alvarez were provided to the BOCS for their review. The BOCS received public comments, discussed the draft master plan and voted unanimously in favor of the proposed park master plan and recommends Council approval of the same.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution
- Exhibit A – Roseland Creek Master Plan
- Exhibit B – Roseland Creek Community Park Initial Study (November 2019)

CONTACT

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