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CITY COUNCIL STAFF REPORT

April 5, 2022

Subject

Consider Approval of Letter to the Santa Clara County Local Agency Formation Commission in Support of Annexation of Lawrence Expressway and Mitty Avenue Properties

Recommended Action

Approve sending a letter to the Santa Clara County Local Agency Formation Commission in support of annexation of Lawrence Expressway and Mitty Avenue properties

Discussion

The Lawrence-Mitty properties are made up of two parcels (APNs 375-21-001 and 375-22-001), which together total about 7.83 gross acres, located along the westerly edge of Lawrence Expressway near Mitty Avenue. The properties are currently located within the City of San Jose but separated from the rest of that city by Lawrence Expressway.

Santa Clara County (County) previously owned the Lawrence-Mitty properties and the County's Roads and Airports Department used the properties for materials storage and construction staging. In September 2020, the City purchased the Lawrence-Mitty properties from the County with the intent to seek incorporation of the property into the City of Cupertino and to develop the properties into a public park.

On August 17, 2021, the City Council adopted Resolution No. 21-072, supporting the annexation of Lawrence-Mitty properties into the City of Cupertino, and authorized the City Manager to submit to the Local Agency Formation Commission of Santa Clara County (LAFCO) applications for Sphere of Influence (SOI) and Urban Service Area (USA) amendments, and annexation and detachment of the properties. (Attachment A.)

In February 2022, following the San Jose City Council's approval of a resolution in support of detachment of the parcel from the City of San Jose, City of Cupertino staff submitted an application for annexation and detachment of the Lawrence-Mitty properties to LAFCO. The hearing on the application is set for April 6, 2022. Staff recommends that the City Council authorize the Mayor to submit a letter to LAFCO in

support of the City's application. A draft letter is included in the agenda packet as Attachment B.

Sustainability Impact

Chapter 3 (Measure C-G-1) of the Cupertino Climate Action Plan (CAP) contains measures to expand Green Infrastructure, Open Space and the Urban Forest throughout the City. Annexation of the Lawrence-Mitty properties is consistent with these measures.

California Environmental Quality Act (CEQA)

In 2020, the City Council adopted Resolution No. 20-092, which determined that the acquisition of the Lawrence-Mitty properties was exempt pursuant to CEQA Guidelines section 15316 (Class 16), which exempts acquisition of land in order to establish a park where the land is in a natural condition and the Management Plan for the proposed park has not been prepared, as well as CEQA Guidelines section 15061(b)(3), the "common sense" exemption, because it could be seen with a certainty that the City's acquisition of the properties would not have a significant effect on the environment because the purchase would only result in a change of ownership and a cessation of the County's activities on the site.

The preparation of a letter in support of the properties' annexation is not a project under CEQA.

Fiscal Impact

In December 2013, a Development Agreement between Cupertino and Apple Inc. was approved by City Council. The Development Agreement included a provision for a parkland contribution of \$8,270,994. The use of these funds is restricted for the acquisition of at least 1.1 acre of land and the costs associated with improvements, the purchase of park equipment, and the maintenance and capital replacement for a 20-year period. Cupertino budgeted funds for the purchase and improvement of the Lawrence-Mitty properties as part of the Fiscal Year (FY) 2015-16 Capital Improvement Plan and purchased the properties in September 2020 for \$2,690,000.

There is no direct fiscal impact to the adoption of the recommended action.

Prepared by: Christopher D. Jensen, City Attorney
Approved for Submission by: Jim Throop, City Manager

Attachments:
A – Resolution No. 21-072
B – Letter to LAFCO Re Lawrence Mitty Annexation

Prepared by: Chris Jensen, City Attorney
Reviewed by: Jim Throop, City Manager
Approved by: Jim Throop, City Manager