



PUBLIC WORKS DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: July 2, 2024

Subject

Review Lawrence-Mitty Park and Trail Project Final Conceptual Design and consider the proposed Initial Study/Mitigated Negative Declaration.

Recommended Action

1. Adopt Resolution No. 24-XXX, adopting Lawrence-Mitty Park and Trail Project's Initial Study/Mitigated Negative Declaration; and
2. Approve the Lawrence-Mitty Park and Trail Project Final Conceptual Design.

Reasons for Recommendation

Background

The 7.83-acre Lawrence-Mitty Park and Trail Project site is located west of Lawrence Expressway and east of Saratoga Creek, between Calvert Drive and Bollinger Road (see Figure 1 below).



Figure 1: Site Location

The City of Cupertino has envisioned the Lawrence-Mitty site as a public park since 2002. The land use on this property was pre-zoned to "Pre-PR" in 2006 to align the zoning with the City's intended use as parks and open space. This helped with furthering plans to acquire the property for recreational purposes, including the extension of the existing San Tomas-Aquino-Saratoga Creek Trail. The City acquired the Lawrence-Mitty property from the County of Santa Clara in 2020 and subsequently annexed the property from the City of San Jose into Cupertino's jurisdiction in August 2022. The PR zoning for the property became effective at the time of the annexation.

The City's plan to develop the site into a recreational facility includes an extension of the San Tomas Aquino/Saratoga Creek Trail, which was originally envisioned by the County of Santa Clara Parks and Recreation Department in 1999.¹ As a first step in the park's development, the City produced this Final Conceptual Plan which reflects community input and the goals laid out in the City's 2020 Parks and Recreation System Master Plan.² Throughout the design development, the City solicited public input, presented at numerous commission meetings, and to the City Council, to gather input and ideas on the park design and amenities.³

Proposed Final Conceptual Design

After many public events and meetings in 2022, the design team developed three options for the community's consideration:

- Concept A – Wheel Fun;
- Concept B - Story Trail; and
- Concept C - Play It Up

These options were presented at various commissions, including the 11/16/2022 Bicycle Pedestrian Commission meeting and the 11/17/2022 Parks and Recreation Commission meeting. Based on the commission and community's input, the preferred option was identified as Concept B, "Story Trail," with the inclusion of some features from Concept C, "Play It Up."

Subsequently, at the 1/17/2023 meeting (Attachment H), the City Council approved the design direction for the conceptual plan and the project team proceeded with the preparation of the Final Conceptual Design (Attachment B).

This Final Conceptual Plan is reflective of the following considerations:

- (a) Represents directives received to date from the community, commissions, and City Council;
- (b) Is consistent with the Goals, Policies, and Strategies of the General Plan and the Parks and Recreation System Master Plan;
- (c) Will not have a significant negative impact on the environment; and
- (d) Provides the design intent for the future phases of design and construction of the park and trail.

The Final Conceptual Design includes an extension of the Saratoga Creek/San Tomas Aquino trail, as well as nature play areas, and picnic groves among other features as shown in Attachment B.

¹ Available online at <https://parks.sccgov.org/sites/g/files/exjcpb961/files/S-T-A-Saratoga%20crk%20Trl%20Mstr%20Plan%206.29.99.pdf>

² Available online at <https://parksmp.cupertino.org/index.html>

³ Community engagement events are listed on the Engage Cupertino website: <https://engagecupertino.org/lawrencemitty>

Planning Commission Review

Section 19.92.040 of the Cupertino Municipal Code (CMC) requires that the development plans for any proposed park be reviewed by the Planning Commission “for its recommendation to include an environmental assessment of the plans and a finding that the proposal is consistent with the General Plan.” On May 28, 2024, the Planning Commission considered the item and made the following unanimous recommendation to the Council (Attachment E, F):

1. Find that the Lawrence-Mitty Park and Trail Project Final Conceptual Design is consistent with the City of Cupertino General Plan; and
2. Recommend that the City Council adopt the Initial Study/Mitigated Negative Declaration, Mitigation Measures and Mitigation Monitoring and Reporting Program for the Lawrence-Mitty Park and Trail project.

Parks and Recreation Commission Review

On June 11, the Parks and Recreation Commission considered the proposed final conceptual design and made a favorable recommendation to the City Council, as required by CMC section 19.92.040.

California Environmental Quality Act (CEQA) Review: Initial Study/Mitigated Negative Declaration

A Draft Initial Study/Mitigated Negative Declaration (IS/MND) (Attachment C) was prepared by MIG, Inc. to analyze the potential environmental effects of the development of the Final Conceptual Design. The proposed project scope includes the development of a new public park and the extension of an existing trail on the Lawrence-Mitty property. The CEQA Guidelines Section 15070 state a public agency shall prepare a negative declaration or a mitigated negative declaration when the initial study shows there is no substantial evidence that the project may have a significant effect on the environment, or when those effects can be mitigated to a point where no significant effects would occur.

The Draft IS/MND concluded that all the environmental effects can be mitigated to a less than significant level, therefore, City staff in consultation with its environmental consultant, MIG, Inc., determined that an MND is the appropriate environmental review document for the Lawrence-Mitty Park and Trail Project.

Due to the proximity of the project to Saratoga Creek, the IS/MND identified the following mitigation measures, summarized below, which must be implemented to ensure that the environmental impacts of the project are reduced to a less than significant level.

Biological Resources

- **Mitigation Measure BIO-1a. Conduct Preconstruction Survey.** No more than 24 hours prior to the date of initial ground disturbance, a pre-construction survey for

the southwestern pond turtle will be conducted within the impacted area by a qualified biologist.

- **Mitigation Measure BIO-1b. Worker Environmental Awareness Program.** All construction personnel will participate in a worker environmental awareness program prior to construction operations.
- **Mitigation Measure BIO-1c. Install Wildlife Exclusion Barrier.** Prior to any ground disturbance in the work area, a temporary wildlife exclusion barrier will be installed along the limits of disturbance.
- **Mitigation Measure BIO-1d. Construction Monitoring.** A qualified biologist or biological monitor will be onsite during all project activities that may result in the take of any special-status species.
- **Mitigation Measure BIO-2a. Pre-Construction Survey for San Francisco Dusky-Footed Woodrats.** Within 30 days prior to the start of construction activities, a qualified biologist shall map all San Francisco dusky-footed woodrat nests within a 50-foot buffer around the project footprint.
- **Mitigation Measure BIO-2b. Relocation of Woodrat Houses.** In the unlikely event that one or more woodrat houses are determined to be present and physical disturbance or destruction of the houses cannot be avoided, the nest shall be relocated outside of the disturbance area, prior to onset of activities that would disturb the nest.
- **Mitigation Measure BIO-3a. Pre-Construction Survey for Roosting Bats.** A survey of culverts within the project site, including a 50-foot buffer (as feasible) shall be conducted by a qualified bat biologist no less than 30 days before the start of construction-related activities.
- **Mitigation Measure BIO-3b. Acoustic Survey.** If suitable habitat is present and signs of bat occupancy are detected, a follow-up dusk emergence survey shall be conducted no less than 30 days prior to construction activities.
- **Mitigation Measure BIO-3c. Roost Buffer.** If a day roost or a maternity colony is detected and is found sufficiently close to work areas to be disturbed by construction activities, a qualified biologist shall determine the extent of a construction-free buffer zone to be established around the roost in consultation with the California Department of Fish and Wildlife (CDFW).
- **Mitigation Measure BIO-4. Pre-Construction/Pre-Disturbance Survey for Nesting Birds.** To the extent feasible, construction activities should be scheduled to avoid the nesting season. If it is not possible to schedule construction activities between September 1 and January 31, then preconstruction surveys for nesting birds shall be conducted by a qualified biologist to ensure that no nests would be disturbed during project implementation.

Cultural Resources

- **Mitigation Measure CUL-1.** The City of Cupertino shall note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources including prehistoric Native American burials.
- **Mitigation Measure CUL-2.** It is recommended that prior to the start of ground disturbing construction, the City should implement a Worker Awareness Training program for cultural resources.
- **Mitigation Measure CUL-3.** The City shall retain a Professional Archaeologist on an “on-call” basis during ground disturbing construction to review, identify, and evaluate any potential cultural resources that may be inadvertently exposed during construction.
- **Mitigation Measure CUL-4.** In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, immediately notify the lead agency and the Santa Clara County Coroner of the discovery.
- **Mitigation Measure TRIB-1.** In the event that Native American archaeological resources are discovered, or are suspected to have been discovered, Native American monitoring will be required before further ground disturbance is allowed.

In accordance with CEQA procedural requirements, the Draft IS/MND was circulated for public review for a period of 30 days. The IS/MND was made available for review on the City’s website, legal notices were published, and nearby residents were notified via physical mailers and interested parties were notified via email. Comments received during the public review period from public agencies and the general public were addressed in the attached Final Memo and Response to Comments (Attachment D). It should be noted that the comments received during the public review period did not alter any of the mitigation measures identified in the Draft IS/MND. The Final IS/MND is comprised of the Draft IS/MND (Attachment C) and the Final Memo and Response to Comments (Attachment D).

Next Steps

If the City Council adopts the IS/MND and approves the Final Conceptual Design, the project team will continue the project by preparing design and engineering drawings. These documents will be used to obtain any required permits, solicit bids for construction, and construct the park and trail. Completion of the project is anticipated in Summer 2027.

Sustainability Impact

This project aligns with multiple objectives outlined within the City’s Climate Action Plan 2.0. In particular, the development of the Lawrence-Mitty site will enhance bike and pedestrian paths (Measure TR-1) and create new natural areas in existing open spaces (Measure CS2.1).

Fiscal Impact

Receiving the Reports and Presentation does not incur fiscal impact. Lawrence-Mitty

Park was funded in Fiscal Year 2015 at \$8,270,994. The current available balance for the project (280-99-009) is \$5,940,457 after expenditures for the acquisition and annexation of the property, and consultant services. The available balance will be used to prepare construction design documents and to construct the project.

California Environmental Quality Act

The proposed Final IS/MND is attached.

Prepared by: Susan Michael, Capital Improvement Programs Manager

Reviewed by: Chad Mosley, Director of Public Works

Approved by: Pamela Wu, City Manager

Attachments:

A – Draft Resolution

B – Conceptual Plan Report

C – Draft IS/MND and Appendices

D – Final Memo and Response to Comments

E – PC RES-2024-06 Lawrence-Mitty General Plan Consistency

F – PC RES 2024-07 Lawrence-Mitty IS-MND

G – SCVAS Support Lawrence-Mitty 06-06-24

H- 01-17-2023 Council Staff Report