



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION STAFF REPORT

Meeting: May 28, 2024

#### Subject

Lawrence-Mitty Park and Trail project Final Conceptual Design General Plan Consistency and Initial Study/Mitigated Negative Declaration.

#### Recommended Action

That the Planning Commission:

1. Adopt a Resolution (Attachment 1) finding that the Lawrence-Mitty Park and Trail project Final Conceptual Design is consistent with the City's General Plan; and
2. Adopt a Resolution (Attachment 2) recommending that the City Council adopt the Initial Study/Mitigated Negative Declaration for the Lawrence-Mitty Park and Trail project.

#### Discussion

##### *Background*

The 7.83-acre Lawrence-Mitty Park and Trail project site is located west of the 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 (City) has envisioned the Lawrence-Mitty site as a public park facility since 2002. The land use on this property, which has long been within the City's Sphere of Influence is "Parks and Open Space," and was subsequently pre-zoned to "Pre-PR" in 2006 to align the zoning with the General Plan Land Use. This helped with furthering plans to acquire the property for recreational purposes, including 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 the same time as the annexation became effective.

The City's plan to develop the site into a park facility includes an extension of the San Tomas Aquino/Saratoga Creek Trail, as was originally envisioned by the County of Santa Clara Parks and Recreation Department in 1999.<sup>1</sup> As a first step in its development, the City produced this Final Conceptual plan which reflects community needs and the goals laid out in the City's 2020 Parks and Recreation System Master Plan.<sup>2</sup> Throughout the development of the facility planning and design, the City worked with the public, numerous Commissions, and the City Council to solicit input and ideas on the park design and amenities to provide at the site.<sup>3</sup>

After many public events and meetings, the design team developed three options ("Concept A – Wheel Fun," "Concept B - Story Trail" and "Concept C - Play It Up") for the community's consideration. These options were presented at the 11/16/2022 Bicycle Pedestrian Commission meeting, the 11/17/2022 Parks and Recreation Commission meeting, and at the 1/17/2023 City Council meeting. The Community's preferred option was identified as Concept B, "Story Trail," with the inclusion of some features from Concept C, "Play It Up." Council approved the design direction for the conceptual plan, and the project team proceeded with preparation of the final Conceptual Design (see Attachment 3).

Section 19.92.040 of the Cupertino Municipal Code (CMC) requires that the development plans for any proposed park be submitted to 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." An Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed Conceptual Design of the Park, in compliance with the California Environmental Quality Act (CEQA). The finding made at this hearing regarding consistency with the General Plan will be forwarded to the Parks and Recreation Commission as required by the Municipal Code and the recommendation regarding the adoption of the IS/MND will be forwarded to the City Council for its consideration of the final approval of the project. Approval of, or a recommendation on, the Final Conceptual Design itself is not within the Planning Commission's purview.

#### *Consistency with the Cupertino General Plan*

The Recreation, Parks and Community Services (RPC) Element of the "Cupertino General Plan, Community Vision 2015-2040" includes goals, policies and strategies for the development and maintenance of an exceptional and integrated system of high-quality parks, recreational amenities and community services that support current and future needs anticipated in Community Vision 2040. The Lawrence-Mitty Park and Trail

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

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

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

Conceptual Design, which includes natural play areas, creation of a park facility on the eastern side of the City where park facilities are fewer and a plan to extend an existing trail, aligns with the following Goals in the RPC Element of the General Plan:

- Goal RPC-3: Preserve and enhance access to parks that have significant natural resources. Preserve natural areas, utilizing natural features, topography, natural habitat, native planting and by establishing Nature Play Areas.
- Goal RPC-4: Integrate parks and public facilities within neighborhoods and areas.
- Goal RPC-5: Trails: create an interconnected system of multi-use trails and provide safe pedestrian and bicycle access through the City and connections to local nodes and destinations.
- Goal RPC-7: Provide high-quality, flexible, and well-maintained community facilities that meet the changing needs of the community and are a source of community identity.

Attachment 4 – “Excerpts from the Cupertino General Plan” – provides more detail on the goals, policies and strategies listed above, to demonstrate that this project is consistent with the General Plan.

*CEQA: Initial Study/Mitigated Negative Declaration*

A Draft Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to analyze the potential environmental effects of the development of the Final Conceptual Design (See Attachment 5). As previously described, the Final Conceptual Design includes the development of a new public park and extension of an existing trail on the Lawrence-Mitty property. 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, has 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 the Saratoga Creek, the IS/MND identified the following mitigation measures, summarized below, which must be implemented to ensure that environmental impacts of the project are reduced to a less than significant level.

- **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.

- **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 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.
- **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. 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 (see Attachment 6). 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 5) and the Final Memo and Response to Comments (Attachment 6).

#### *Next Steps*

The Planning Commission's finding of General Plan consistency will be presented to the Parks and Recreation Commission, who will then make a recommendation to the City Council on the Final Conceptual Design for the Lawrence-Mitty Park to the City Council. The City Council will tentatively consider the Final Conceptual Design in Fall 2024. If approved by the City Council, the project team will prepare design and engineering drawings. These documents will be used to obtain any required permits, solicit bids for construction, and construct the park and trail.

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Prepared by: Susan Michael, Capital Improvement Programs Manager

Reviewed by: Piu Ghosh, Planning Manager

Approved by: Luke Connolly, Assistant Director of Community Development

- 1 – Draft Resolution, General Plan Consistency
- 2 – Draft Resolution, IS/MND
- 3 – Conceptual Plan report
- 4 – Excerpts from the Cupertino General Plan
- 5 – Draft IS/MND and Appendices
- 6 – Final Memo and Response to Comments