



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Adopt a Resolution to Approve the Annexation of the Butcher Property and Find the Project Categorically Exempt under the California Environmental Quality Act

#### **BACKGROUND**

On August 27, 2013, the City Council initiated a request to the Local Agency Formation Commission (LAFCO) to annex the Butcher property, an over 5-acre county "island" located at the intersection of East El Camino Real, South Wolfe Road and East Fremont Avenue, with LAFCO offering to assume the cost for processing that annexation (RTC 13-201). Around the same time, the property owner, De Anza Properties, submitted a concept plan (Preliminary Review) to redevelop the property.

LAFCO accepted the City's initiation of annexation, and on October 8, 2013, the City Council considered a draft resolution to complete the annexation of the Butcher property. At the request of the property owner and residents, the City Council decided to postpone the annexation to allow the property owner to further develop plans and share them with the community for input.

On July 28, 2015, the City Council directed staff to move forward with the annexation process independent of and prior to action on the pending rezoning and development applications. In addition, the City Council deferred consideration of the two-year "changed circumstance" finding until action on the rezoning and development applications (Attachment 4, Meeting Minutes from the July 28, 2015 City Council Public Hearing).

Staff recommends that the City Council approve Alternatives 1 and 2: find that the annexation is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to guideline 15319(a), and adopt a resolution to approve the annexation of the Butcher property (Attachment 1, Resolution to Adopt the Annexation of the Butcher Property Island Area). Annexation does not change the City's existing General Plan or zoning designations for the property, and no Council action on the proposed project is being considered at this time.

#### **EXISTING POLICY**

##### **Sunnyvale: General Plan**

**Policy LT-4.1** - Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

**Goal HE-4** - Provide adequate sites for the development of new housing through appropriate land use and zoning to address the diverse needs of Sunnyvale's residents and workforce.

##### **Santa Clara LAFCO: Island Annexation Policies**

**Policy 1.** - In order to fulfill the intent of the state legislature and implement the joint urban

development policies of the cities, County and LAFCO, and in the interests of efficient service provision and orderly growth and development, the cities should annex unincorporated urban islands.

## **ENVIRONMENTAL REVIEW**

The annexation is categorically exempt under CEQA Guideline 15319(a) since it does not constitute any form of development approval and, thus, would not result in any environmental impacts.

An Environmental Impact Report (EIR) is being prepared for the proposed rezoning and development applications. The Draft EIR is expected to be available for public review in January 2016. Public hearings to consider certification of the Final EIR are expected in May 2016.

## **DISCUSSION**

### **Annexation Process**

LAFCO encourages cities to annex island areas that are currently unincorporated but within the Urban Service Areas (USA), such as the Butcher property. The following steps are required to complete the annexation of the island areas into the City of Sunnyvale:

1. A public hearing to adopt resolutions to initiate the annexation process for two sites (*completed on August 27, 2013*).
2. A second public hearing to adopt a resolution approving the annexations (*action associated with this RTC*).
3. Sending the signed resolutions to LAFCO.
4. Recordation of Certificates of Completion (within 7-10 days after receiving the resolution) by LAFCO. This step results in the formal incorporation into the City of Sunnyvale.

### **Butcher Property**

The unincorporated island is comprised of six parcels and is currently developed with two residential homes, several accessory structures and mature landscaping. Four of the parcels within this island are privately-owned by De Anza Properties, and total just over 5 acres in size. The remaining two parcels are City-owned right-of-way and are located at the northeast edge of the Butcher property. The City-owned parcels total approximately 1,200 square feet and are currently paved as a part of the sidewalk and street (Wolfe Road) (Attachment 2, Information and Map from LAFCO).

The four De Anza Properties parcels are prezoned Residential Medium Density/Precise Plan for El Camino Real (R-3/ECR) and designated Residential High Density (RHI) in the General Plan. The site is also within the area designated as a Node in the Precise Plan for El Camino Real. Since the October 2013 Council meeting, it has been determined that the two City-owned parcels are part of the roadway system which are not subject to zoning regulations. No action to change the General Plan designation or rezone the parcels is proposed at this time.

Annexation does not pre-approve a project. If the Butcher properties are annexed into Sunnyvale, the prezoning designations would remain. Separate actions and public hearings are required for any rezoning or development applications. The Cortese-Knox-Hertzberg Act, governing annexation, provides that any change to the zoning of the property, within two years of annexation requires a finding that there has been “substantial change” in circumstances that “necessitate a departure from the prezoning.” As stated previously, Council has deferred consideration of this finding until the review process on the proposed rezoning and development applications, and this finding is independent of action on annexation.

The primary benefit of annexing the Butcher property is that it would secure and clarify that the City of Sunnyvale has land use authority over future development of the property. Annexation allows for more efficient delivery of services, such as fire and police. If annexation is not approved and the property remains unincorporated, land use authority over the property would remain with Santa Clara County (see further discussion in Attachment 3, Report to Council from the July 28, 2015 City Council Public Hearing).

### **FISCAL IMPACT**

The County of Santa Clara has agreed to cover all of LAFCO's costs related to the island annexation because they wish to incorporate the land into the appropriate USA. No additional fees are required to complete the annexation process. Should the Butcher parcels be annexed into the City, the City would receive property taxes and utility user tax.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. In addition, the public hearing notice was placed in the newspaper at least 21 days before the hearing. Notices were also sent to all property owners and tenants within 2,000 feet of the site, to nearby neighborhood associations (SunnyArts, Braly Corners, Ponderosa, Stratford Gardens, Gavello Glen, Wisteria Terrace, Raynor Park, Birdland, Panama Park, and Ortega Park), and to the pending planning application (2014-7373) project mailing list.

### **ALTERNATIVES**

1. Find that the project is categorically exempt from CEQA pursuant to guideline 15319(a).
2. Adopt the resolution to approve the annexation of the Butcher property.
3. Do not adopt the resolution to annex the Butcher property and take no further action at this time.

### **STAFF RECOMMENDATION**

Alternatives 1 and 2: 1) Find that the project is categorically exempt from CEQA pursuant to guideline 15319(a); and 2) Adopt the resolution to approve the annexation of the Butcher property.

Prepared by: Noren Caliva-Lepe, Associate Planner

Reviewed by: Hanson Hom, Director, Community Development

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Resolution to Adopt the Annexation of the Butcher Property Island Area
2. Information and Map from LAFCO
3. Report to Council from the July 28, 2015 City Council Public Hearing
4. Minutes of July 28, 2015 City Council Public Hearing