



DATE: December 6, 2016
TO: Mayor and City Council
FROM: Development Services Director

SUBJECT

Approval of the Preliminary Engineer's Report, setting the date for the Public Hearing, and Ordering the mailing of Ballots and Associated Waiver for the formation of Benefit Zone No. 15 of the Consolidated Landscaping and Lighting District 96-1 for the Cadence Development in the South Hayward BART area

RECOMMENDATION

That the City Council adopts the attached Resolution (Attachment II), which would approve the Preliminary Engineer's Report (Attachment III), set the date for the Public Hearing, and order the mailing of Ballots and Associated Waiver for the formation of Benefit Zone No. 15 of Consolidated Landscaping and Lighting District 96-1 for the Cadence property.

SUMMARY

As required by the conditions of approval and related Owner Participation Agreement, a landscape lighting and assessment district, or park maintenance district, is required to be formed to fund the maintenance of the public park being developed associated with the Cadence Development located across Dixon Street, east of the South Hayward BART station site. This action is the second step associated with such formation.

BACKGROUND

The Landscaping and Lighting Act of 1972 (Streets and Highways §22500) is a flexible tool used by local government agencies to form Landscaping and Lighting Districts for the purpose of financing the costs and expenses of operating, maintaining and servicing landscaping (including parks) and lighting improvements in public areas.

In 1996, six (6) separate Landscaping and Lighting Districts, Benefit Zones 1-6, were consolidated into one district, Consolidated Landscaping and Lighting District No. 96-1 (the District), by the adoption of Resolution No. 96-63. In subsequent years, Benefit Zones 7-14 were individually created and annexed into the District, including Benefit Zone No. 14 that was annexed to the District in June of this year.

The City Council approved a master plan, including a General Plan Amendment and Rezone, for the South Hayward BART station area in March of 2009, and approved a subsequent amendment, including rephrasing of the master plan, in 2011. A Precise Plan was approved for the master development by the Planning Commission in 2012. Also, an Owner Participation Agreement (OPA) and several other agreements were executed between the City of Hayward, Eden Housing, BART, and the original project developers in 2012. Section 5.17 of that OPA requires that a Park Maintenance District, or new zone to the City's Landscape Lighting and Assessment District, be formed prior to issuance of a certificate of occupancy for the AMCAL Multi-Housing (market rate) development. Staff expects a certificate of occupancy to be requested with final inspections in February of next year.

The City approved the park improvement plans on September 25, 2014 and the park construction is currently underway and is anticipated to be complete by February 2017.

On October 7, 2016, SCI Consulting Group (Consultant) was hired to assist the City of Hayward with the formation and/or annexation of benefit zones to the District.

The Cadence Property, developed by AMCAL Multi-Housing (AMCAL) under the previously referenced Owner Participation Agreement (OPA), consists of a 206-unit rental complex (constructed on the property owned by AMCAL) and a public park (constructed on property owned by the City). The Conditions of Approval for the South Hayward BART TOD Project (Planned Development District No. PL-2008-0547 PD), modified by the City, including but not limited to technical revisions made in response to the rephrasing and minor modification of the South Hayward BART TOD Project issued on June 8, 2011, and pursuant to Resolution No. 11-140 adopted on July 26, 2011, required the construction of specified park improvements on a city owned parcel and the adoption of a landscape lighting and assessment district, or park maintenance district, to pay for the maintenance of the park. The formation and annexation of the Cadence property into Benefit Zone No. 15 of the District is proposed to provide funding for the maintenance and improvements to the public park serving the development and public, including landscaping, irrigation and lighting facilities in compliance with the Conditions of Approval and in satisfaction of Section 5.17 of the OPA.

DISCUSSION

The attached resolution, if adopted, would preliminarily approve the Engineer's Report, set January 17, 2017 as the date for the public hearing, and order the mailing of the ballots and waiver. Noteworthy is that the total assessment and rates as shown in the seventh item in the resolution for the fiscal year 2018 assessment is \$238.88 per Single Family Equivalent (SFE). The cost escalator mechanism describing the changes in the maximum assessment rate, calculated in accordance with the Bay Area consumer price index (CPI), is contained in item ten in the resolution.

ECONOMIC IMPACT

Funding generated by the assessments will ensure sufficient maintenance of the park, enhancing the quality of life within the area and increasing the value of the development.

FISCAL IMPACT

There is no fiscal impact to the City's General Fund from this recommendation because expenditures related to maintenance of the public park are to be paid for by the District Benefit Zone No. 15 fund account.

SUSTAINABILITY FEATURES

There are no sustainability features associated with this action, which is essentially an action to establish funding source for maintenance of a public park.

PUBLIC CONTACT

A meeting with the property owner was held on October 12, 2016 to discuss the timing and scheduling of the formation of Benefit Zone No. 15. At the meeting, staff was available to explain the Benefit Zone's responsibilities and the property owner was given the opportunity to ask questions regarding the timing of the formation. On November 15, 2016, City Council adopted a resolution to initiate proceedings for the formation of Benefit Zone No. 15.

Should City Council approve the attached resolution, a Proposition 218 ballot and a related waiver will be mailed to the property owner and a Public Hearing would be held on January 17, 2017, where the property owner will have an opportunity to raise concerns about the assessments.

NEXT STEPS

Assuming the City Council adopts the attached resolution, it will preliminarily approve the Engineer's Report and initiate the balloting procedures required by Proposition 218. Ballots will be mailed on December 7, 2016 to all property owners within the proposed annexation. A Waiver of the 45 Day Balloting Period required by law will also be sent on December 7, 2016 (the balloting period may be waived if there is only one property owner).

If the property owner elects to proceed with the Waiver, which is expected, this will remove the need for the 45 day balloting period and allow the City Council to consider final approval of the Engineer's Report and a Resolution to Levy Assessments at a Public Hearing on the next available City Council meeting agenda, anticipated for January 17, 2017.

A noticed Public Hearing is anticipated to be held on January 17, 2017. At that time, the property owner will have an opportunity to raise concerns about assessments. Following the conclusion of the public input portion of that public hearing, the City Council will order the close of the balloting and commence tabulation of the results. After tabulation of the ballots is completed, the Council may consider a Resolution to Levy the Assessments for fiscal year 2018, provided a majority protest does not exist.

Prepared by: Allen Baquilar, PE, Development Review Engineer

Recommended by: David Rizk, AICP, Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager