MEMORANDUM
LOCAL AGENCY FORMATION COMMISSION

TO: Local Agency Formation Commission
FROM: Stephen Lucas, Executive Officer
DATE: December 19, 2016 for the meeting of January 5, 2017

Summary

On November 3, 2016, the Butte Local Agency Formation Commission (LAFCo) approved the Olive Highway Annexation No. 1 for the Lake Oroville Area Public Utility District (LOAPUD), which annexed four parcels into LOAPUD’s jurisdictional boundaries. After hearing concerns about potential traffic on Hildale Avenue, the Commission attached a condition of project approval that restricted LAFCo Staff from recording the Certificate of Completion (COC) for the annexation until such time as any driveway or road access off of Hildale Avenue from any of the annexed parcels be gated and used only for emergency access. Staff is requesting the Commission to reconsider this condition. This reconsideration request has been re-noticed as a public hearing to all the original public notice recipients.

Discussion

The approved condition would read as follows:

LOAPUD shall not activate service to any portion of the Annexation Territory prior to issuance of a Certificate of Completion (COC) by LAFCo. LAFCo will not issue the COC until the District has confirmed in writing that a gate or other barrier has been installed to prevent access to Hildale Avenue except for emergency vehicle access on to Hildale Avenue.

The directed condition is problematic in that proposed development is to be phased over time. The RV park, fueling station and market uses to be located adjacent to, and taking access from, Olive Highway are currently under development/site preparation as seen in Figure 1 below.

Figure 1: Site development along Olive Highway for RV park, fueling station and market 12/21/16.
The housing component as shown in Figure 2 below, is proposed at a later phase, perhaps five years out. It is the latter housing development that plans/requires emergency access off Hildale Avenue and has the potential to impact Hildale Avenue. Under the current condition, the COC could not be recorded and the annexation completed until the residential component is completed and any access to Hildale is permanently restricted. This means LOAPUD could not extend sewer to any portions/ phases of the development until all phases are completed. As can be seen in Figure 3 below, the entire length of the tribe’s parcels fronting Hildale are currently fully fenced with a newer chain link fence which at present, does restrict any vehicular or pedestrian access.

Figure 2: Development as Proposed
Staff Recommendation is to retain the access restriction condition along Hildale Avenue as revised below, but allow the COC to be recorded allowing initial phases of the project to proceed.

LOAPUD shall not activate sewer service to any uses within the Annexation Territory that are planned to, require, or take vehicle access, emergency or otherwise, from Hildale Avenue until the District has confirmed in writing to LAFCO that either a gate or other barrier or combination of, has been installed along Hildale Avenue OR the County of Butte has issued a Encroachment Permit to the landowners (Tribe) for access to Hildale Avenue.

This revised condition will allow the initial phases of the development to proceed and be connected to sewer services while restricting the provision of sewer service to the housing development until a permanent solution to managing access to Hildale Avenue is resolved. Staff is comfortable with this revised condition for two reasons:

1. There is currently existing fencing along Hildale Avenue that prevents vehicular or pedestrian access to Hildale Avenue; and

2. Staff has confirmed with the County of Butte Public Works Department that it will not grant an encroachment permit allowing access to Hildale unless the access point is gated for emergency access only or until an appropriate traffic study has been completed and any necessary mitigations or improvements are implemented. This is further supported by the County’s comments on the Initial Study for the proposal below.
Traffic Impacts
The project layout shown with the Draft IS/MND shows a connection of the proposed new residential development connecting to Hilldale Ave which is a County maintained road. Hilldale Ave is a relatively narrow road with no shoulders and relatively low volumes of traffic. At a meeting on August 1, 2016 with members of the Berry Creek Rancheria, LOAPUD, Northstar Engineering and county staff, we were informed that that the 42 residential lots with the connection to Hilldale Ave. was only a concept and not moving forward at this time but may in a 2-3 year period. The Rancheria also told us that the residential concept was being revised and that any access to Hilldale Ave. would be gated and used for emergency access. In addition, a second future gated emergency access to Hilldale Ave was discussed that would be located on existing Trust Land and would be connected to the Casino parking lot.

If these two future road connections to Hilldale Ave are to be gated for emergency access only, Public Works only requires that the Rancheria obtain an Encroachment Permit.

However, if either of these two future roads are to be un-gated and open to the public, then the Public Works Department recommends that a Traffic Impact Study be conducted to determine impacts to Hilldale Ave. and the surrounding street network and determine any necessary improvement that need to be made to mitigate those impacts. In addition similar projects that would be proposed in the County would also be required to pay the County Wide Traffic Impact Mitigation fee which pays for the impacts that development has on the County Road network as a whole.

Recommended Action: Consider staff recommendation, accept public comments and approve the reconsideration request to amend the condition concerning Hilldale Avenue access in Resolution No. 07 2016/17 as attached to read as follows:

LOAPUD shall not activate sewer service to any uses within the Annexation Territory that are planned to, require, or take vehicle access, emergency or otherwise, from Hilldale Avenue until the District has confirmed in writing to LAFCO that either a gate or other barrier or combination of, has been installed along Hilldale Avenue OR the County of Butte has issued a Encroachment Permit to the landowners (Tribe) for access to Hilldale Avenue.

Attachments: 1. LAFCO Resolution No. 07 2016/17 (amended).
RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
MAKING DETERMINATIONS AND ORDERING THE ANNEXATION OF
TERRITORY DESIGNATED AS 17-03
LAKE OROVILLE AREA PUBLIC UTILITY DISTRICT
OLIVE HIGHWAY ANNEXATION NO. 1

RESOLVED, by the Local Agency Formation Commission of the County of Butte, State of California, that

WHEREAS, a proposal for the annexation of certain territory to the Lake Oroville Area Public Utility District in the County of Butte was heretofore filed by the Lake Oroville Area Public Utility District and accepted for filing on October 13, 2016, by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set November 3, 2016, as the hearing date on this proposal and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report, including recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission called for and held a hearing on November 3, 2016, and at the hearing this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, this Commission considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and

NOW, THEREFORE, the Local Agency Formation Commission of the County of Butte DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. Environmental Findings:

A. The Commission certifies that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared and adopted by the Lake Oroville Area Public Utility District for the annexation of the subject territory to the District. The Initial Study/Mitigated Negative Declaration identified three environmental impacts associated with the annexation but determined that these environmental impacts can be mitigated to a less than significant level. The Commission finds no compelling grounds to require supplementing the Initial Study/Mitigated Negative Declaration prepared by the Lake Oroville Area Public Utility District.

Section 2. General Findings and Determinations:

A. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Butte LAFCo Policies and Procedures, Sphere of Influence and General
Plan consistency, the Lake Oroville Area Public Utility District Sphere of Influence Plan and Municipal Service Review and Sphere of Influence Plan, the Domestic Water and Wastewater Service Providers Municipal Service Review, and other factors specified in Government Code Section 56668 and as described in the staff report dated October 26, 2016, for the meeting of November 3, 2016.

B. The Commission finds that the proposal has 100% support of the affected property owner and orders the annexation complete without a protest hearing pursuant to Government Code Section 56663.

C. The annexation area shall consist of five (5) parcels, Assessor’s Parcel Numbers 068-160-019, 068-160-066, 068-160-076, 068-160-077, and 068-341-030, and the adjacent portions of the Olive Highway (SR 162) and Hildale Avenue right-of-ways, totaling approximately 61.9 acres, as submitted by the Lake Oroville Area Public Utility District and described in Exhibit “A.”

D. The subject area is found to be uninhabited, and is assigned the following short form designation: 17-03 – LOAPUD – Olive Highway Annexation No. 1.

E. The purpose of the annexation to the Lake Oroville Area Public Utility District is to support orderly jurisdictional boundaries and allow for the provision of sanitary sewer service to future development on the territory.

F. The proposal is consistent with the Lake Oroville Area Public Utility District Sphere of Influence.

G. Pursuant to Butte LAFCO Policy 2.13.1, the Commission determines that agricultural and/or open space lands will not be adversely affected by this proposal as the territory is contiguous to lands that have been developed with urban uses and the territory does not contain any agricultural uses and is not considered to be “prime agricultural land” as defined in California Government Code §56064. Therefore, no conversion of designated agricultural or open space lands will occur as a result of the proposed annexation.

H. A Master Property Tax Exchange Agreement between the Lake Oroville Area Public Utility District and the Butte County Board of Supervisors was executed on April 26, 2005.

Section 3. Conditions requested by LAFCO:

A. All LAFCO, County of Butte and State of California fees must be paid in full prior to filing the Certificate of Completion.

B. The legal description and map, if amended by action of the Commission, will be revised at the expense of the applicant, prior to filing the Certificate of Completion.

C. The map and legal description shall comply with the State Board of Equalization requirement and if rejected by the State Board of Equalization, will be revised at the expense of the applicant.
D. **LOAPUD shall not activate service to any portion of the Annexation Territory prior to issuance of a Certificate of Completion (COC) by LAFCo. LAFCo will not issue the COC until the District has confirmed in writing that a gate or other barrier has been installed to prevent access to Hildale Avenue except for emergency vehicle access on to Hildale Avenue.**

D. **LOAPUD shall not activate sewer service to any uses within the Annexation Territory that are planned to, require, or take vehicle access, emergency or otherwise, from Hildale Avenue until the District has confirmed in writing to LAFCO that either a gate or other barrier or combination of, has been installed along Hildale Avenue OR the County of Butte has issued an Encroachment Permit to the landowners (Tribe) for access to Hildale Avenue.**

**Section 4.** The boundaries, as set forth in the proposal or as amended by action of the Commission, are hereby approved as submitted and are as described in Exhibits A and B attached hereto and by this reference incorporated herein.

**Section 5.** Further protest proceedings are waived and the Commission orders the annexation, pursuant to Part 4 commencing with Section 57000.

**Section 6.** The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Section 56882 of the Government Code.

**PASSED AND ADOPTED** by this Local Agency Formation Commission of the County of Butte, on the 3rd day of November 2016 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINS:**

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Clerk of the Commission

CARL LEVERENZ, Chair

Butte Local Agency Formation Commission